

CITY OF COCKBURN

SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 15 APRIL 2003 AT 7:30 PM

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CITY OF COCKBURN

SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 15 APRIL 2003 AT 7:30 PM

PRESENT:

ELECTED MEMBERS

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

IN ATTENDANCE

Mr R. Brown	-	Chief Executive Officer
Mr D. Green	-	Director, Community Services
Mr A. Crothers	-	Director, Finance & Corporate Services
Mr S. Hiller	-	Director, Planning & Development
Mr B. Greay	-	Director, Engineering & Works
Mrs S. Ellis	-	Secretary to Chief Executive Officer
Mr C. Ellis	-	Communications Manager
Mr A. Blood	-	Manager, Planning Services

1. DECLARATION OF MEETING

The Presiding Member declared the meeting open at 7.30pm.

2. APPOINTMENT OF PRESIDING MEMBER (If required)

Nil.

3. DISCLAIMER (Read aloud by Presiding Member)



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

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

Written advice of financial interest has been received from Deputy Mayor Graham in regards to item 13.5 which will be read aloud at the appropriate time.

5. APOLOGIES AND LEAVE ABSENCE

Nil

6. ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Andrew Sullivan – Ordinary Council Meeting – 18 March 2003 – Mr Sullivan asked a number of questions regarding the Port Coogee Marina Project Area. In a letter dated 25 March 2003, the following answers were provided:-

Q How does the Council know that the community will agree with the proposal that Ocean Road will need to be closed or relocated as part of the redevelopment of the Port Catherine site?

A The Council was requested by the WAPC to initiate the closure of portions of Ocean, Ahoy and Robb Roads, subject to the finalisation of MRS Amendment 1010/33. In respect to Ocean Road, the proposed closure applies to that section west of the proposed realignment of Cockburn Road and it is understood that the closure will not take effect until the realigned Cockburn Road is built or an alternative access is provided. The closure of a public road is required to be advertised for a period of at least 35 days. At the end of the public comment period, the Council assesses any submission received and makes recommendations to DOLA accordingly. DOLA makes the final decision in respect to the closure. Until such time as the Council considers any public submissions, it would not be in a position to know what the community opinion might be.

Q How does the Council know that the community wants the existing beaches and sand dunes, which form part of the foreshore reserve, to be handed back to the WAPC as proposed by Council in this resolution?



A The Council was requested by the WAPC to initiate proceedings to cancel the management order for Reserve 43701. This request was made to facilitate the remediation of the land. The reserve is owned by the State and is only vested in the Council for its care and management. The transference of the reserve to the WAPC only applies to the southern portion which is located within the Port Coogee development agreement area. The Council passed this resolution at its meeting on 18 March 2003 and the decision has been acted on.

Q Will the Council consider deferring these road closures and reserve transfers until after the MRS Amendment, the TPS Amendment and the Structure Plan have been fully considered and finalised so that the community can participate in the coming consultation process without being hindered by the perception that the Council has already decided the outcomes?

A The Council considered the questions you raised at the meeting on 18 March 2003 and resolved to adopt the recommendations contained in Item 14.3 of the Agenda without modification.

Q Will the Council provide more detailed information about the timing and purpose of these road closures and foreshore reserve transfers to the community through the local newspapers?

A The Council is required to advertise proposed road closures and this is currently being done. As far as the transfer of the management responsibilities for portion of the State Government Foreshore Reserve 43701 within the Port Coogee Project Area to the WAPC is concerned, it is unlikely that this administrative change would need to be advertised for either public comment or information.

7. PUBLIC QUESTION TIME

The Presiding Member read aloud the following letter received from Leith Maddock of Hamilton Hill :-

"I am very unhappy that Cockburn Council is not making a firm stand against the Sea Swap program. Does the Council realize that supporting the Sea Swap means supporting a war that the great majority of Australians oppose? I would appreciate this question being tabled at the AGM. Thank you "



The Presiding Member stated that the Sea Swap Program was a matter on the agenda at this meeting and that at the March Meeting, Council opposed the war in Iraq.

Logan Howlett, North Lake firstly wanted to commend the Cockburn Libraries for the excellent advertisement advising on the range of services they provide, their cost effectiveness and the access of these services by the general community.

He took the opportunity to acknowledge Cllr Nola Waters and Cllr Laurie Humphreys as this is their last Council Meeting and on behalf of the community, he thanked them for providing an excellent service and commitment to the Council for many years.

With regard to the Special Council Meeting that has been called for the 6th May, he asked who called the meeting, under what section of the Act and does the calling of that meeting give prospective new Councillors adequate time to prepare. Mr Howlett said that he has asked questions using the Council website regarding the tender to be considered at the Special Meeting but has not had any response. He asked Council to consider rescheduling the meeting to give new Councillors adequate time to prepare themselves.

Mayor Lee advised that Special Council Meetings are called by the Mayor under the Standing Orders and that it has been common practice for Cockburn to hold this meeting immediately following the elections. The Chief Executive Officer will investigate the difficulty with on-line questions regarding the tender. He also advised that successful candidates would receive their packages on Saturday night after the count so they will have a few days to read the documents.

Greg Paterson, Coolbellup querying if Council was planning to offer Len Packham Reserve to the Education Department as a site for a new school. His concerns about this issue are that the community has not been advised, there hasn't been wide advertising and the seeming lack of openness on this process. He tabled a petition containing 350 signatures that the people in Coolbellup do not wish to see the reserve compromised in any way and want it protected as a recreation area. He asked the following questions:

- Has the City of Cockburn committed itself to transferring use of this reserve?
- Who has been consulted in this process and what are the results of that consultation?



- Which stakeholders have not been consulted and why?
- Why has there not been a notice of this action in the Cockburn Soundings?
- Is there a problem with financing the management of Coolbellup's Parks & Reserves?
- How will our community be compensated for the loss of an organised recreation space?
- Will Council guarantee community access to facilities if a school is built on Len Packham Reserve?
- Do Councillors believe adequate consultation has taken place regarding this matter?

The Presiding Member advised that a written response will be provided to his questions including a copy of the last Council decision on the matter.

Manager, Planning Services added that consultation to date has been undertaken by the Education Department as part of their Local Area Planning Group. Council made the suggestion to the Department that the Len Packham Reserve may be a possible site which was then considered through the school consultation process. Council received a formal application to support the suggestion and Council's current position is that it is prepared to consider it however, there needed to be more public consultation and that the sporting facilities were not to be compromised. There are a number of processes that are still to be undertaken.

Alasdair Wardle, Coolbellup also spoke on the Len Packham Reserve issue and quoted various statements made by people in recent articles. He referred to the lack of information in the Cockburn Soundings publication on this matter. He felt that this was the biggest issue involving Coolbellup in the last 30 years and the community doesn't know about it. He referred to comments in the document "Standing For Your Council" regarding Councillors understanding their constituents views and relaying information to and from the residents and suggested that the current Council was not doing that at present.

Wally Spry, Bibra Lake gave notice to Council that he and his wife will be opposing the proposed extensions to the Blue Gum Montessori School. His concerns were its location as it is a commercial business in a residential area;



the primary school is too small for the block and should relocate to Meller Park; the noise from extra children will increase the problem to nearby residents; increased traffic; inadequate parking facilities; and inadequate buffer zone around the school.

Patrick Thompson, Spearwood in regards to a bus stop on Edeline Street that he raised at the March Council Meeting, was very glad of the prompt action to remove the glass from the rear section however, the other 2 panels are still glass which has been smashed twice in the last month. He asked for someone to clean up the pile of glass still left behind and have the 2 panels replaced with something else.

Bert Renner, Spearwood referred to the Cockburn Gazette article 'Mayoral pay to continue' which he found offensive, unfair and incomplete. He explained the breakdown of allowances the Mayor receives to the gallery, that it was understood at the time that the City needed a full time Mayor and that as a full time Mayor, Mr Lee would not be able to work to support his family and therefore the full amount of \$60,000 was accepted as appropriate by the Councillors.

Sandra Walker, representing the Coolbellup Primary School P&C Association, clarified to those present, with regards to the proposed new school at Len Packham Reserve, that the public meeting held late last year was widely advertised. Every child at all 3 schools had a letter to take home advising of the meeting, the school newsletters mentioned it, it was publicised in local paper, posters at the local shops and the local library. Unfortunately there was not a good turn out but those present supported it. She also stated that most people did not realise that the new school would only have 12 classrooms and would not take up all of Len Packham Reserve and that they wanted to share the current facilities with the existing users, not take over the whole thing. She reiterated that the 3 schools are in support of the proposal to build a new state-of-the-art school for the kids of the future.

Vicky Moroni, Secretary of the Soccer Club, referred to the last speaker's comments that only a portion of the reserve was required and stated that there are 4 pitches on the reserve and if the Club has 4 home games at the same time, all 4 pitches were used. As a new Committee Member, she didn't feel a great deal of consultation was done and as the last sporting club left in Coolbellup, they should be given more consideration.

Logan Howlett, ratepayer, referred to the following items on the agenda:

- Item 16.4 - tabled a document relating to the survey conducted of North Lake residents which strongly supports traffic calming being provided on Progress Drive.



- Circus Policy – he does not support exotic animals in circuses and asked Councillors to support that proposal that those animals not be allowed to perform on Council owned land.
- Asked if the typed notes that Councillors have in front of them are a public document from briefing sessions.
- Mayoral Allowance – felt it should be set at \$30,000 per annum. In previous years, the maximum amount paid to the Mayor was \$25,000, they also worked diligently for the community and he believed that an amount of \$30,000 per annum for the next 2 years with a review in 2005 was sufficient and asked Councillors to support that.

The Presiding Member advised that the typed notes given to Councillors are not public documents but are just notes for their information.

Bert Renner, Spearwood, regarding item 13.4, stated that he could not accept the Officer's recommendation of an additional \$8,000 to be paid to the Deputy Mayor per annum. He said that Councillors are elected to serve the ratepayers without any money-grabbing attitude and all Councillors are fairly reimbursed for the work they do. He suggested that the Mayor should share his \$60,000 with the Deputy Mayor when he does his work. The Mayor is paid \$6,000 per year to chair meetings whether he takes the chair or not. He asked Director Finance to explain his reasons for the recommendation.

Director Finance explained that the amount of \$60,000 per year for the Mayoral Allowance was set at the initial meeting of the Council after the last elections. A report went to Council and it came to the decision the Mayor's allowance should be \$60,000 and was based on the fact of the time commitment and that recommendation was carried forward to this meeting.

Patrick Thompson, Spearwood in regards to item 16.2, commented that it looked like Council presumably employs Gerard Healy, Landscape Architects who provided an estimate for this item. But the recommendation is to accept another tender which is a blow out of \$45,000. He asked that if Council is saying the industry should decide the rate to be paid, why has Council bothered to employ Gerard Healy in the first place.

Mayor Lee explained that Gerard Healy tendered a quote for certain works but when the scope of the works increased and the prices came in, Council staff decided to try and cost it out and do the work themselves and the officer's recommendation is a result.



Mr Thompson suggested that the agenda item should have better explained the facts. He also wished to comment on item 13.1 and the recommendation that Council not take a position on the Sea Swap issue. He felt that position was typical of decisions made in the last few months and that if or when the Cockburn Sound gets polluted, will Council then introduce a rate levy to clean it up or will that not be its concern either.

Mayor Lee responded that the matter will be deliberated later in the meeting.

Alasdair Wardle, ratepayer, regarding the tender for item 16.2, asked if the scope of the tender changed after the tender was called?

Mayor Lee advised that the scope was changed prior to tenders being called, after Gerard Healy provided his estimates but prior to the tender being called.

Dawn Lowe, representing Circus Watch WA, asked if any Councillor or a family member have or has had a personal or business interest or relationship with Stardust Circus and/or their management?

The Presiding Member stated that he was not aware of any Councillor having declared a Conflict of Interest in this matter in the past however, if a Councillor feels they have an interest, they can declare that interest when the matter is for discussion later in the meeting.

Ms Lowe offered and was prepared to provide further advice to the Chief Executive Officer to assist in any investigation he may wish to undertake.

Mayor Lee offered advice that Ms Lowe should be careful of making any statements that reflect adversely on Elected Members as she does not have the protection of privilege.

Ms Lowe stated that she would do it privately.

Helena Street, representing the circus, showed Councillors the document "New South Wales Code of Practice" which has been officially passed for Western Australia through Parliament.

Susan Conree, does not live in the area, was concerned about exotic animals and wanted to know why, in this day and age, people still seem so intent on continuing to use animals in circuses. It is not the circus itself that people are against, just the use of exotic animals.



Terry Connell, Coolbellup, stated that this meeting is a forum for the ratepayers of Cockburn and therefore asked that Council rescind the comments made by the previous 2 speakers as they do not live in Cockburn.

Mayor Lee explained that the meeting is not exclusive to ratepayers of the area and Council welcomes everyone's comments.

Yvonne Pallier, Vice President of the RSPCA, wished to clarify some issues on legislation and the role of local authorities in that legislation. The RSPCA has a National Policy against exotic animals in circuses; a copy of that document is in all libraries. She explained the responsibilities and authorities of the National Consultative Committee on Animal Welfare and the current Prevention of Cruelty to Animals Act. Under that Act, every Ranger in every local government is officially an inspector and that empowers any Council to inspect.

Hugh Needham, Coolbellup felt that the recommendation for item 23.1 was ambiguous with regards to "the restoration of the beach area ..." He has previously asked all Councillors to walk the beach from South Beach to the Power Station to see the erosion. If the marina is approved, Coogee Beach will be decimated and the café can be forgotten because people won't go. He again offered Councillors to walk the beach with him to see the rubble that has been dumped there.

Mayor Lee stated that he has walked the beach many times but would be happy to take up Mr Needham's offer.

Janet Moore, Wattleup stated that in his absence, Jim Scott MLC sent all Councillors a letter against exotic animals in circuses and asked that it be read out at the meeting and asked why it hasn't been read.

Mayor Lee responded that he does not read letters at question time. People can stand up and make a statement but he does not read letters out, he will read out questions but not statements.

8. CONFIRMATION OF MINUTES

8.1 (MINUTE NO 1969) (OCM 15/04/2003) - ORDINARY COUNCIL MEETING - 18/3/2002



RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on Tuesday, 18 March 2003 be confirmed as a true and accurate record.

COUNCIL DECISION

MOVED Deputy Mayor R Graham SECONDED Cllr I Whitfield that the Minutes of the Ordinary Council Meeting held on Tuesday, 18 March 2003 be confirmed as a true and accurate record subject to Item 16. 1 part (3) being amended to read '(3) nominate the Cultural Advisory Committee to recommend the design of the Entry Statement.'

CARRIED 10/0

Explanation

Correcting a typographical error in point (3) where the word 'sign' is replaced with 'design'.

9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE

Nil

10. DEPUTATIONS AND PETITIONS

Nil

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

Nil

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

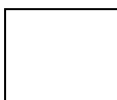
Nil

13. COUNCIL MATTERS

13.1 (MINUTE NO 1970) (OCM 15/04/2003) - SEA SWAP PROGRAM (1247) (DMG) (ATTACH)

RECOMMENDATION

10



That Council not adopt a position on the Sea Swap Program, as it is a program in which the City of Cockburn has no role or involvement, however, it recognises that the program would produce economic benefits to Western Australia.

COUNCIL DECISION

MOVED Mayor S Lee SECONDED Cllr K Allen that Council recognises that the concept of Sea Swaps provides benefits for our City and the region and therefore, Council supports Sea Swaps.

CARRIED 7/3

Explanation

The motion is self-explanatory.

Background

At recent Council Meetings and the Annual General Meeting (AGM) of Electors held on 4 February, 2003, questions have been raised relating to Council's stance on the Sea Swap Program, involving United States Navy personnel exchanging duties on a fly in fly out basis using Western Australia Port facilities.

Submission

At the AGM, it was mentioned that a Council position on the program would be considered.

That Council consider a formal position on the Sea Swap project.

Report

It would appear that there is some opposition in the community in relation to the Sea Swap Program. The main community concerns seem to be based on the possibility of specific locations becoming a military target because of strategic alliances formed with the United States.

While this may be a legitimate community concern, the role of local government in such circumstances is contained in response planning to emergency situations as stipulated in the Local Emergency Management Plan.

Local Government has no influence on where the program would operate from, although business and government leaders in this State



have expressed support for the program remaining in Western Australia as an economic benefit to local communities.

A resolution of opposition could indicate that the program and its personnel are not welcome in the local community however, even in such circumstances, the motion would be ineffectual unless it was accompanied by some form of direct communication to the program coordinators expressing an unwillingness to cooperate in the program's objectives. Council is not party to these arrangements.

Opponents of the program also cite potential pollution of waterways as a factor against the program. This is an issue which should be referred to the State Government constituted Cockburn Sound Conservation Council.

The Mayor has also been questioned in Council forums regarding the role of the City of Cockburn in hosting a welcome function for the initial Sea Swap Program. The Mayor has explained that Council provides funds for the hosting of civic receptions on a discretionary basis. Such functions are held at the Mayor's discretion and are not subject to specific approval of Council, as per Council Policy.

Similarly, the Mayor has stated repeatedly in response to public questions that, although he personally supports the objectives of the Sea Swap Program, it is not a formal position of Council.

It is an established practice that, in the absence of a formally adopted Council position on any matter, the Mayor may speak on behalf of the local government.

This is not a matter which traditionally falls within the domain of local government. In addition, it is not necessary for Council to adopt a formal position on the Sea Swap project because a Council decision is not likely to affect its operation in any way.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

Westpoll results 3-4 February 2003, as attached, refers.



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

The Sea Swap project is not subject to any approvals, compliances or requirements of the City of Cockburn.

13.2 **(MINUTE NO 1971) (OCM 15/04/2003) - DELEGATED AUTHORITIES, POLICIES AND POSITION STATEMENTS COMMITTEE - 10 MARCH, 2003 (1054) (DMG) (ATTACH)**

RECOMMENDATION

That Council receives the Minutes of the Delegated Authorities, Policies and Position Statements Committee dated 10 March 2003, and adopts the recommendations contained therein.

COUNCIL DECISION

MOVED Cllr L Humphreys SECONDED Cllr M Reeve-Fowkes that the presentation of the Committee Minutes be deferred to the May Ordinary Council Meeting.

MOTION LOST 2/8

MOVED Mayor Lee SECONDED Cllr L Humphreys that the Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting held on 10 March 2003 be received and the recommendations therein adopted, with the exception of items 10.3, 10.5, 11.3, 14.4 and 15.2 which are to be dealt with separately.

CARRIED 10/0

Item 10.3 – Proposed Amendment to Council Policy ‘Mayoral and Deputy Mayoral Allowance’

MOVED Cllr L Humphreys SECONDED Cllr N Waters that the existing policy remain as adopted on 17 September 2002 and that Council seek, through the Department of Local Government, an independent review of the time commitment required to fulfill the role of Mayor, taking into account the role as prescribed in the Act and the amount of assistance provided by the Administration to the Mayor.

MOTION LOST 3/7

MOVED Deputy Mayor R Graham SECONDED Cllr A Tilbury that the Committee recommendation be adopted.

CARRIED 7/3



**Item 10.5 – Proposed Amendment to Council Policy SC26
‘Reimbursement of Elected Members Expenses’**

MOVED Clr L Humphreys SECONDED Clr N Waters that the existing policy remain as adopted on 17 September 2002.

MOTION LOST 4/6

MOVED Deputy Mayor R Graham SECONDED Clr A Edwards that the Committee recommendation be adopted.

CARRIED 8/2

**Item 11.3 – Strategic Policy – Policy SC17 ‘Request for
Reconsideration of Refused Applications’**

MOVED Mayor S Lee SECONDED Clr N Waters that the Committee recommendation be adopted.

CARRIED 9/1

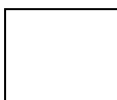
Item 14.4 – Council Policy ACS3 – ‘Approval to Conduct Circuses’

MOVED Clr K Allen SECONDED Clr V Oliver that Council amend Policy ACS3 ‘Approval to Conduct Circuses’ to read as follows :-

“That Council allow circuses with or without animals to operate within the City of Cockburn subject to the following conditions:

1. The circus complies with current Western Australian legislation relevant to the welfare of animals, health and public buildings.
2. The circus complies with the National Circus Standards (NCCAW Position Statement No. 26) as recommended by the Federal Government’s National Consultative Committee for Animal Welfare, applicable to all areas of animal care – transportation, housing, exhibition, husbandry and training.
3. The circus owners provide to Council before the circus is held, a certificate from a Qualified Structural Engineer certifying that temporary structures including the seating and animal training performance cages are safe and secure.
4. Circuses be charged the appropriate ground fee and bond.”

MOVED CLR L HUMPHREYS FOR THE SUSPENSION OF
STANDING ORDERS TO ALLOW FOR OPEN DISCUSSION ON THIS
MATTER.



THE PRESIDING MEMBER DID NOT ACCEPT THE MOTION AS COUNCIL WAS ALREADY DELIBERATING ON A SUBSTANTIVE MOTION.

MOVED CLR L HUMPHREYS FOR A MOTION OF DESCENT ON THE CHAIR'S RULING.

PRESIDING MEMBER STATED HIS RULING IS FINAL, AS PER THE STANDING ORDERS AND REFERRED CLR HUMPHREYS TO STANDING ORDER NUMBER 22.2. HOWEVER TO ALLOW FOR OPEN DISCUSSION ON THIS MATTER, THE PRESIDING MEMBER ALLOWED COUNCILLORS TO SPEAK IF THEY WISHED.

MOTION PUT AND CARRIED 5/5
BY CASTING VOTE OF THE PRESIDING MEMBER

**Item 15.2 – Proposed Amendment to Council Policy AES7
'Approval of Research/Study Visits'**

MOVED Clr K Allen SECONDED Deputy Mayor R Graham that the Committee recommendation be adopted.

CARRIED 5/5
BY CASTING VOTE OF THE PRESIDING MEMBER

Explanation

With regard to Item 14.4 - the current Policy is not clear with regards to current safety certificate requirements. Animal training cages also need to be included to ensure there is adequate public safety.

Background

The Delegated Authorities, Policies and Position Statements Committee conducted a meeting on 10 March 2003. The Minutes of the Meeting are required to be presented to Council and its recommendations considered by Council. The Minutes were unable to be presented to the March Council Meeting, owing to the Agenda closure deadline of 28 February 2003.

Submission

N/A

Report

Items dealt with at the Committee Meeting form the Minutes of that Meeting.



The Committee recommendations are now presented for consideration by Council and if accepted, are endorsed as the decisions of Council.

Any Elected Member may withdraw any item from the Committee Meeting for discussion and propose an alternative recommendation for Council's consideration.

Any such items will be dealt with separately, as provided for in Council's Standing Orders.

Strategic Plan/Policy Implications

Key Result Area "Managing Your City" refers.

Budget/Financial Implications

Committee Minutes refer.

Legal Implications

Committee Minutes refer.

Community Consultation

Committee Minutes refer.

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

Committee Minutes refer.

DURING DISCUSSION OF THE ABOVE ITEM, THE MANGER PLANNING SERVICES LEFT THE MEETING AT 8.30pm.

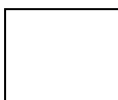
13.3 (MINUTE NO 1972) (OCM 15/04/2003) - REFERENDUM - PRESIDENCY - W.A. LOCAL GOVERNMENT ASSOCIATION (W.A.L.G.A.) (1331) (DMG)

RECOMMENDATION

That Council endorses the merit principle of "best person for the job" in relation to determining the entitlement of the position of Presidency of W.A.L.G.A.

COUNCIL DECISION

MOVED Clr N Waters SECONDED Clr I Whitfield that the recommendation be adopted.



Background

In developing the single association proposal, feedback obtained during consultation supported two alternative methods for determining the entitlement to President of the WA Local Government Association.

The first proposition was that determining the presidency should be based upon the merit principle of 'best person for the job', with all representatives to State Council, irrespective of their constituency, eligible to nominate for President. The second proposal was for the adoption of a rotational policy whereby the entitlement to President would alternate every two years between the metropolitan and country constituencies.

Submission

N/A

Report

The architects behind the single association framework reconciled this issue by including a specific provision (sub-clause 30(6)) within the Constitution requiring that a referendum be held prior to August 2003 to allow member Local Governments to determine whether they supported rotation of the presidency.

If a majority were in favour of rotation, the Association's Constitution would be amended so as to provide a rotational entitlement alternating between the country and metropolitan constituencies. If a majority preferred determining the President on the merit principle of 'best person for the job', the existing provisions of the Constitution would be retained.

A non-exhaustive list of advantages to the two methods of determining the President is outlined below for consideration.

Rotation of President:

- Promotes equity between constituencies by ensuring that the entitlement to President of the Association rotates between each constituency every second term; and
- Injects 'new blood' into the leadership of the Association.

Merit-Based Determination:



- Accords with the Association's merit-based selection policy and reflects the best practice principles of effective corporate governance;
- Allows a representative to serve consecutive terms as President where he or she retains the confidence of State Council; and
- Improves the stability of leadership and increases the capacity for a President to implement his or her strategic vision for the Association.

There is no compelling evidence to suggest that a change to the current method of electing the President will provide any benefits to the operations of W.A.L.G.A., therefore, it is suggested that the City of Cockburn support the status quo position.

Strategic Plan/Policy Implications

Key Result Area "Managing Your City" refers.

Budget/Financial Implications

Nil.

Legal Implications

Nil.

Community Consultation

Nil.

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

Nil.

13.4 (MINUTE NO 1973) (OCM 15/04/2003) - REVIEW OF MAYORAL AND DEPUTY MAYORAL ALLOWANCE (1335; 1701) (ATC)

RECOMMENDATION

That :-

- (1) the Mayoral Allowance be set at \$60,000 per year, payable monthly in arrears until April 2005; and
- (2) the Deputy Mayoral Allowance be set at \$8,000 per year, payable monthly in arrears until April 2005.

COUNCIL DECISION



MOVED Cllr L Humphreys SECONDED Cllr N Waters that :-

- (1) the current allowance of \$60,000 for the Mayor continue but that Council seek, through the Department of Local Government & Regional Development, an independent review of the time commitment required to fulfil the role of Mayor taking into account the role as prescribed in the Act (Part 2 Division 2 Section 2.8) and the amount of assistance provided by the Administration to the Mayor; and
- (2) the Deputy Mayor's allowance not continue to be paid at the current rate and an amount be set after a review of the time spent undertaking Mayoral duties in the absence of the Mayor during the last financial year.

EXTENSION OF TIME

MOVED Mayor S Lee SECONDED Cllr I Whitfield that the meeting time be extended to 10.00pm.

CARRIED 10/0

ORIGINAL MOTION LOST 4/6

MOVED Deputy Mayor R Graham SECONDED Mayor S Lee that the Officer's recommendation be adopted.

CARRIED 6/4

Background

Policy SC14 states that *"In accordance with the provisions of Section 5.98(5) and 5.98A(1) of the Local Government Act, an "allowance" determined by Council at the April Council meeting each ordinary elections year, shall be paid to the Mayor and Deputy Mayor payable in arrears each month.*

The Council shall review the allowance at its April Meeting each ordinary elections year."

Submission

Nil.

Report



At a Special Council Meeting in December 2000, Council determined that the Mayor be paid a Local Government Allowance of \$60,000 per year. This was made on the basis that the position of Mayor required a full-time commitment and the Mayor should be paid an allowance commensurate with the time and responsibilities required of the position as the leader of the Council and the community.

The amount of the allowance was reviewed in April 2001, at which time Council decided that the allowance should remain at \$60,000. This is the maximum amount allowed under the provisions of the Local Government Act.

As there are no known changes to the circumstances under which the allowance is provided, it is proposed that the Mayoral Allowance remain at \$60,000.

At a Special Meeting of Council in December 2000, Council determined that the Deputy Mayor be paid an allowance for the duration of any periods of absence of the Mayor for which leave has been granted by Council, or for periods when the Mayor is out of the State on Council business.

The payment was made at the same daily rate which would apply should the Mayoral Local Government Allowance be calculated on that basis. The allowance was reviewed by Council at its April 2001 meeting where it was decided to pay the Deputy Mayor an allowance of \$8,000 per year, paid monthly in arrears.

It should be noted that the Mayor has not formally applied for any leave.

As there are no known changes to the circumstances under which the allowance is provided, it is proposed that the Deputy Mayoral Allowance remain at \$8,000 per year.

Strategic Plan/Policy Implications

Council Policy SC14 refers.

Budget/Financial Implications

Allowances provided for in the Budget.

Legal Implications

Nil.

Community Consultation

N/A



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

Nil.

DECLARATION OF FINANCIAL INTEREST

Deputy Mayor Graham declared a financial interest in Item 13.5. The nature and extent being that he is employed by legal firm Hammond Worthington.

The Presiding Member stated that Council had received a letter from the Department of Local Government advising that the Deputy Mayor could take part in discussions on this matter and therefore, is not required to leave the room.

13.5 (MINUTE NO 1974) (OCM 15/04/2003) - TENDER FOR THE PROVISION OF LEGAL SERVICES (1157) (KL)**COUNCIL DECISION**

MOVED Deputy Mayor R GRAHAM SECONDED Cllr L HUMPHREYS that pursuant to s4.1(c) of Council's Standing Orders, this item be considered as part of Confidential Business, as Item 23.2.

CARRIED 10/0

Explanation

The background to this matter involves legal advice, affects Council's employees and relates to a contract which may be entered into by the local government. These are qualifying categories for a matter to be confidentially considered pursuant to s5.23(2) of the Local Government Act 1995 (WA). It is therefore believed Council should consider this matter under the Confidential Business section of its Agenda Paper.

14. PLANNING AND DEVELOPMENT DIVISION ISSUES**14.1 (MINUTE NO 1975) (OCM 15/04/2003) - PROPOSED AMENDMENT TO TOWN PLANNING SCHEME NO. 3 - LOTS 194, 195, 196 & 197 BERRIGAN DRIVE, JANDAKOT - OWNER: SPORTLINE HOLDINGS PTY LTD - APPLICANT: HENDER & FARRIS REAL ESTATE (93007) (MR) (ATTACH)**

RECOMMENDATION

That Council:

- (1) adopt the following amendment:-

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME NO. 3

AMENDMENT NO. 7

Resolved that Council, in pursuance of Section 7 of the Town Planning and Development Act 1928 amend the above Town Planning Scheme by

1. amending the Scheme Text, Schedule 3 – Restricted Uses RU6 to include Child Care Premises and Showroom and modifying the description of land to read as follows:-

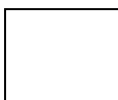
“Lots 100 on Plan 34223, 196 on Plan 23231 and 197 on Diagram 96391 Berrigan Drive, Jandakot and Reserve 45747”

2. amending the Scheme Map accordingly.

Dated this.....day of2003

Chief Executive Officer

- (2) following the receipt of formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, advertise the Amendment under Town Planning Regulation 25 without reference to the Western Australian Planning Commission.
- (3) notwithstanding (2) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to the Council for its consideration following formal advice from the Environmental Protection Authority that the Scheme Amendment should be assessed under Section 48A of the Environmental Protection Act, as to whether the Council should proceed or not proceed with the Amendment;
- (4) following formal advice from the Environmental Protection Authority that the Scheme Amendment should be assessed or is incapable of being environmentally acceptable under Section 48(A) of the Environmental Protection Act, the Amendment be referred to the Council for its determination as to whether to



- proceed or not proceed with the Amendment; and
- (5) advise the applicant of the Council's decision.

COUNCIL DECISION

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

CARRIED 10/0

Background

Council approval has been granted for a local commercial centre development on Lots 194 & 195 (now Lot 100) Berrigan Drive. Construction work has recently commenced. For locations, see plans attached.

Submission

The applicant has provided the following justification for the proposed scheme amendment:-

“Under your current Town Planning Scheme No 3 all lots are zoned Local Centre – Restricted Use. The restricted uses include office, restaurant fast food, veterinary consulting rooms, reception centre, health studio, medical centre and shop.

The Owner would like to extend the uses to include Child Care Centre and Showroom.

We have already had a preliminary meeting with you to discuss the development of a child care centre on lot 197. A substantial public company who operate some 140 child care outlets throughout Australia is keen to operate a child care facility from this site.

ABC DEVELOPMENT LEARNING CENTRES PTY LTD are leading child care providers in Australia who operate from state of the art buildings specifically designed for learning and child care. They are renowned for providing a safe, secure environment for children serviced and supervised by experienced staff.

...Whilst proposing a rezoning amendment for Child Care the Owners also wish to apply for an additional use of SHOWROOM. The lots are already zoned for shops/fast food and restaurant and there would



seem to be no reason why showroom, being a more passive use, should not be permitted.

There are no plans to develop showrooms for any of the lots but the flexibility should be there to provide this facility should the requirement arise."

Report

Lots 194, 195, 196, 197 and 218 Prinsep Road (cnr Berrigan Drive) are all zoned Local Centre – Restricted Use ("RU6") which is limited in Schedule 3 of Town Planning Scheme No 3. Lots 194 & 195 have recently been amalgamated to form Lot 100. TPS3 restricts the development and use of the subject land as follows:-

"Office, Restaurant and Fast Food Outlet, veterinary consulting rooms, reception centre, health studio, medical centre, shop."

The applicant seeks approval to amend TPS3 by adding the uses of Child Care Premises and Showroom. The proposal is consistent with the objective of the Local Centre Zone which is to provide for convenience retailing, local offices, health, welfare and community facilities which serve the local community, consistent with the local – serving role of the centre. Accordingly there are no objections to TPS3 being amended to increase the scope of uses to include a child care premises and showroom.

If the scheme amendment is initiated by the Council, the proposal will be referred to the Department of Environment and Water Catchment Protection and will be advertised for public comment in accordance with the Town Planning Regulations.

Strategic Plan/Policy Implications

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

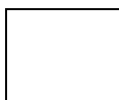
2. Planning Your City

- *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
- *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
- *"To foster a sense of community within the district generally and neighbourhoods in particular."*

4. Facilitating the needs of Your Community

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

The Planning Policies which apply to this item are:-



Budget/Financial Implications

Nil

Legal Implications

Nil

Community Consultation

Community consultation is required pursuant to the Town Planning Regulations

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

Nil.

14.2 (MINUTE NO 1976) (OCM 15/04/2003) - METROPOLITAN REGION SCHEME AMENDMENT - COCKBURN ROAD - APPLICANT: GRAY & LEWIS (450002) (MR) (ATTACH)

RECOMMENDATION

That Council:

- (1) request the Western Australian Planning Commission initiate an amendment to the Metropolitan Region Scheme ("MRS") to reclassify that portion of the Regional Road Reservation west of the re-aligned section of Cockburn Road to an Industry zone with the exception of a 30 metre wide buffer strip along Cockburn Road which is to be included in the road reservation;
- (2) request LandCorp to carry out additional supplementary revegetation within the 30 metre wide "buffer strip" to achieve a similar level of natural screening to future development as that which would have existed by retaining the current Primary Regional Road reservation; and
- (3) advise the applicant accordingly.

COUNCIL DECISION

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

CARRIED 10/0



Background

N/A

Submission

Gray & Lewis act for LandCorp for the land adjoining the Henderson industrial area that is surplus to Main Roads WA requirements. Gray & Lewis have provided the following justification in support of the changes to the MRS.

“The subject land is portion of Cockburn Sound Lot 4622 on the western side of the Cockburn road reserve, generally between Possner Way and Alacrity Place as shown on the attached plans. It is Reserved for Primary Regional Road in the Metropolitan Region Scheme, and this classification is reflected in the City’s Town Planning Scheme No 3.

Cockburn Road has been constructed on the eastern and southern perimeter of the Henderson industrial area, and the subject land is not required for regional road purposes.

The Reserve for Primary Regional Road in Metropolitan Region Scheme now far exceeds the land requirements for this section of Cockburn Road. The subject land should be removed from the Reserve for Primary Regional Road and include in the Industrial Zone in the Metropolitan Region Scheme.

The attached “Proposed Land Acquisition” plan shows the extent of land that is not required for regional road requirements, and the extension of Stuart Drive to a junction with Cockburn Road. Quill Way is to remain as a cul-de-sac. The areas shown are estimates only, and are subject to survey.

A 30 metre wide “buffer strip” is to be provided between Cockburn Road and industrial development, to the point where Cockburn Road turns to the west. It is appropriate that the “buffer strip” be in the Industrial Zone in the Metropolitan Region Scheme, as it will not be of regional significance. The “buffer strip” may be included in the Special Use Zone in the City’s Town Planning Scheme No 3 and shown for its intended purpose in the Structure Plan for Development Area 15.

That part of the subject land excluding the “buffer strip” may readily be incorporated in the Henderson industrial area. A preliminary plan of subdivision is attached for information..

The subject land will not be zoned in the City’s Town Planning Scheme No 3 when it is reclassified from Regional Reserve to Industrial zone in the City’s Town Planning Scheme No 3 when it is reclassified from



Regional Reserve to Industry zone in the Metropolitan Region Scheme. An amendment to Town Planning Scheme No 3 will be required to include the subject land in the adjoining Special Use zone (SU 2). A Structure Plan for Development Area 15 is also to be modified.

An amendment to Town Planning Scheme No 3 is being prepared and a draft copy will be sent to the City soon.

On behalf of LandCorp I ask that the City request the Western Australian Planning Commission to amend the Metropolitan Region Scheme, to reclassify the subject land from Regional Reserve for Primary Regional Road to Industry Zone.”

Report

The proposal will reduce the amount of remnant bushland along the western edge of Cockburn Road, which presently varies in width up to 100 metres near the “elbow” of the road and diminishes to zero north of Quill Way. An area of 3.91ha of the surplus road reserve is proposed to be included in the Industrial Zone in the MRS and a balance of approximately 3.4ha of land is to be retained in the “buffer strip”. The existing remnant bushland on both sides of Cockburn Road provides a pleasant natural quality to the landscape, which diminishes further north of Quill Way where industrial development becomes more visually apparent.

The proposed MRS amendment has been justified based on the balance of the road reservation not being required by Main Roads WA according to the applicant. It is appropriate that the subject land be incorporated into the adjoining Henderson Industrial area on the provision that the natural landscape screen along Cockburn Road will be maintained within the 30 metre wide buffer strip.

The vegetation screen to future development will not be as effective as retaining the existing bushland. The 30 metre wide buffer strip however is still appropriate in terms of width, size and location. Additional supplementary revegetation is required to further screen future industrial development from Cockburn Road by LandCorp as a conditional acceptance to this proposal. The 30 metre wide buffer should be included in the road reservation.

Once the amendment to the MRS is finalised and the boundary of the Primary Regional Road Reservation is modified in the MRS the subject land will be “un-zoned” land in the City’s Town Planning Scheme No 3. An amendment to Town Planning Scheme No 3 will be required to include the land in the adjoining Special Use Zone (SU 2).

Strategic Plan/Policy Implications



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

2. Planning Your City
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
3. Conserving and Improving Your Environment
 - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
 - *"To conserve the character and historic value of the human and built environment."*
 - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*

The Planning Policies which apply to this item are:-

SPD1	Bushland Conservation Policy
SPD3	Native Fauna Protection Policy
APD2	Industrial Subdivision Policy
APD19	North Coogee, Robb Jetty and Henderson Industrial Area - Development Control

Budget/Financial Implications

Nil

Legal Implications

Nil

Community Consultation

Community consultation will be required if an amendment to the MRS is initiated by the WAPC.

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

Nil.

- 14.3 (MINUTE NO 1977) (OCM 15/04/2003) - PROPOSED OUTBUILDING - LOT 44 COLLIS ROAD, WATTLEUP - OWNER: W M GRAHAM - APPLICANT: WA SHED COMPANY PTY LTD (4411396) (AB) (ATTACH)**

RECOMMENDATION

That Council:



- (1) refuse the application for an Outbuilding on Lot 44 Collis Road, Wattleup for the following reasons:-
1. Although there are larger sheds on the property the combined area of the sheds is excessive and could further reduce the amenity of the area.
 2. The proposal fails to comply with the strict size limit of 200m² for sheds in the rural zone pursuant to Councils Outbuildings Policy APD18.
- FOOTNOTE:
- The applicant be advised that the Council is not convinced of the need for the additional shed given the large outbuildings already constructed on the property some of which do not appear to have Council approval.
- (2) issue a Schedule 9 Refusal Notice of Determination for Planning Approval.

COUNCIL DECISION

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

CARRIED 10/0

Background

ZONING:	MRS:	Rural
	TPS3:	Rural
LAND USE:	Residential	
LOT SIZE:	1.0547ha	
AREA:	72m ² shed	
USE CLASS:	Single House (R Code)	

The City is presently investigating the activities being undertaken on the subject site by the proponent as a result of formal complaints received from neighbouring properties. A property inspection by the City revealed that the site is being used as a 'Transport Depot,' a use not permitted within the Rural zone in accordance with the provisions of Town Planning Scheme No. 3.

On this basis, the landowner was advised by correspondence on 14 November 2002, that an illegal activity is being undertaken on the site



and was given an opportunity to apply to the Council to carry on with the activity. On 8 January 2003, the City advised the landowner that the use is still continuing on the land without the approval of the City and advised to cease the activity within 28 days or legal action may be undertaken for the breach of the City's Town Planning Scheme No. 3. On 12 February 2003, the landowner was advised for a final time that the use is in breach of Town Planning Scheme No. 3 and constitutes an offence under section 10.4(a) of the Town Planning and Development Act 1928 and that legal proceedings may commence.

The landowner has since provided a response to the City under letterhead of 'Vintage & General Tanker Service – Transporters of Wine, Demineralized Water, Bulk Liquids and General Haulage' dated 18 February 2003. The business address on this letterhead confirms that the business is operating from the subject site. The landowner advised there are six Prime Movers and one 8 wheeler parked on the site from time to time. A forklift is used to load and unload wine and water demountable tanks. Approximately four to five trucks are used in a day to transport these goods.

This matter remains unresolved.

Submission

The Applicant proposes to erect a 6 metre by 12 metre (72m²) steel frame shed with Merino Colorbond walls and Zinalume roof on the subject site. The shed is proposed to be setback a distance of 30 metres from Power Avenue and 6 metres from the southern boundary adjacent to Lot 45.

The Applicant has confirmed that the purpose of the proposed shed will be to park two family motor cars and storage of household items.

A locality map, a copy of the site plan and elevations are included in the agenda attachments.

Report

A shed is defined as an outbuilding under Town Planning Scheme No. 3. An outbuilding means a roofed structure that is enclosed on more than half of its perimeter used for domestic or rural purposes consistent with the Town Planning Scheme. Policy APD18 specifies that the combined floor area of existing and proposed outbuildings and the wall height of proposed outbuildings are not to exceed 200m² and 4.5 metres height within the rural zone.

The proposed outbuilding fails to comply with Council Policy *APD18 Outbuildings* in the following respects:



- There are numerous existing outbuildings on the site with a total area of approximately 479m² of which 162m² was approved on 13 July 1984 and 72m² approved on 15 October 1987 (refer to aerial photograph in the agenda attachments).
- An additional outbuilding with a proposed area of 72m² will further exceed the land area requirement of outbuildings on the site.

The site has dual road frontage onto Collis Road and Power Avenue. The site contains a residential dwelling at the Power Avenue end of the site. At the opposite end, the site contains ancillary accommodation for aged or dependent persons, various sheds and equipment. In addition, the proponent parks numerous heavy trucks on the site at the centre of the property.

The City has liaised with the landowner, Mr Warren Graham in relation to the use of the existing sheds. The landowner has confirmed that the existing shed with an approximate area of 407m² is used for parking a motor vehicle and storage of office archives. In addition, the shed with an approximate area of 72m² is used as a general workshop and houses tools for vehicle repairs. The landowner confirmed that the purpose of the new shed is for personal use so as to separate work from private use.

As stated in the background section of this report, the City is presently investigating the illegal activities being undertaken on the subject site. Portions of the existing sheds on the property appear to have been constructed without Council approval and are being utilised as part of these illegal operations. The sheds are not considered ancillary to the residential use of the property.

In having regard for the proposed use of the outbuilding and other amenity matters, it is considered that an additional shed at this location is promoting the illegal uses. It is considered that an area of 407m² to merely house two motor vehicles and storage of archives is excessive and that rationalisation of the existing sheds as a result of ceasing the illegal use will free up space for storage of personal items by the landowner. In addition, ceasing these operations will remove the separation issue of work and private use of the property, therefore not requiring a separate 'private' storage space.

Strategic Plan/Policy Implications

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

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



The Planning Policies which apply to this item are:-

APD18 Outbuildings

Budget/Financial Implications

N/A

Legal Implications

Nil

Community Consultation

N/A

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

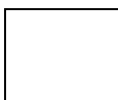
Nil.

14.4 (MINUTE NO 1978) (OCM 15/04/2003) - COCKBURN CENTRAL - RAILWAY STATION CAR PARKING AND BUSWAY DRAINAGE DISPOSAL (9629; 9635) (SMH) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the report;
- (2) agree to the establishment of temporary stormwater drainage basins to cater for the railway station car parking and busway areas on the future town centre land, until such time as a permanent drainage basin or other outlet has been determined, subject to the agreement of the WAPC and Landcorp and to the satisfaction of the Director Engineering and Works;
- (3) agree to the disposal of stormwater drainage from the railway station car park and busway areas under the control of Western Australian Government Railways (WAGR), being disposed of into a common drainage basin or other outlet vested in the City of Cockburn;
- (4) require the proponents to undertake a Drainage and Nutrient Management Plan for the Cockburn Central Town Centre consistent with the requirements of the "South Jandakot Drainage Management Plan" and "Environmental Management Programme for the South Jandakot Drainage Scheme"



completed to the satisfaction of the Director Engineering and Works prior to the subdivision of land within the Town Centre Precinct;

- (5) require WAGR, at their own cost, to enter into a legal agreement with the City of Cockburn where the WAGR agrees that it will meet the cost of any works or remediation of the drainage system as a result of a pollution event or other occurrence within the car park or busway areas which adversely affects the drainage system vested in the City of Cockburn; and
- (6) in agreeing to accept stormwater from the WAGR car park and busway areas, it is understood that WAGR will install and regularly maintain the gross pollutant traps within its land and 1 in 1 year storm events will be contained on site.

COUNCIL DECISION

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

CARRIED 10/0

Background

The design of the Cockburn Central Railway Station and associated car parking and busway is currently being finalised, in order to call tenders for the works.

These works are being undertaken as part of the Perth to Mandurah railway line. The development is occurring on State owned land.

The car parking and busway areas are located on land owned by the Western Australian Planning Commission and form part of the Cockburn Central Town Centre Precinct. The car parking area and busway will serve the station.

These facilities are being planned in accordance with the agreed Structure Plan for the Town Centre and will be established well ahead of the Town Centre.

To provide for the staged development of the Town Centre, the proponent has requested that temporary drainage sumps be constructed to serve the car park and busway areas until such time as the detailed planning and subdivision of the Town Centre is undertaken.



Submission

A submission from the proponent is attached to the Agenda.

At the meeting it was advised that a decision on the Council position in respect to the drainage needed to be made before 23 April 2003.

Report

A meeting to discuss this matter was held on Tuesday 25 March 2003, with the project Architect and Engineer.

The issues that require Council direction relate to:-

1. The acceptance of the Council to receiving stormwater drainage, in excess of 1 in 1 year return into the Council's drains and drainage basins.
2. The preparation of a Drainage and Nutrient Management Plan to satisfy the requirements of the "South Jandakot Drainage Management Plan" and "Environmental Management Programme for the South Jandakot Drainage Scheme" prior to subdivision.

Given the importance of Cockburn Central to the City and the fact that the Perth to Mandurah Railway Project is proceeding so that it can be operating from Thomsons Lake by 2007, it seems appropriate to facilitate the staging of the project.

The detailed design and development of the Town Centre adjacent to the Cockburn Central Station by LandCorp may be some years away and therefore temporary arrangements for drainage are considered acceptable.

In the meantime, the proponent can prepare the necessary plans and drainage designs to satisfy the South Jandakot Drainage Management Plan requirements so as to ensure that when the permanent drainage facilities are installed, that they are consistent with the regional drainage plan.

Because Cockburn Central will become a regional centre, based on Main Street principles, it is important that it is not impacted on by locating drainage sumps within the Town Centre. It is therefore desirable that a common drainage basin be located in the best interests of the Town Centre design, vested in the local government and collects stormwater from public use areas is the preferable approach, even if some of those areas are owned and controlled by State agencies such as the WAGR.



Subject to agreements being made between the Council and the WAGR to protect the Council interest, the Council could accept the submission by the proponent in accordance with the recommendation.

Strategic Plan/Policy Implications

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

1. Managing Your City
 - *"To deliver services and to manage resources in a way that is cost effective without compromising quality."*
2. Planning Your City
 - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
5. Maintaining Your Community Facilities
 - *"To construct and maintain roads, which are the responsibility of the Council, in accordance with recognised standards, and convenient and safe for use by vehicles, cyclists and pedestrians."*

Budget/Financial Implications

N/A.

Legal Implications

It is recommended that the Council enter into a legal agreement with WAGR, so that WAGR accepts the responsibility for the maintenance of any gross pollutant traps on its site and for any pollution events that may occur on the car parking and busway areas under its control which could adversely affect the Council's drainage system.

Community Consultation

N/A.

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

Nil.

- 14.5 (MINUTE NO 1979) (OCM 15/04/2003) - PROPOSED OUTBUILDING - LOT 2; 3 WEST CHURCHILL AVENUE, MUNSTER - OWNER: S & H MCGUINESS - APPLICANT: S MCGUINESS (3309336) (SM) (ATTACH)**



RECOMMENDATION

That Council:

- (1) grant approval to the proposed outbuilding on Lot 2 (No 3) West Churchill Avenue, Munster subject to the following conditions:-

STANDARD CONDITIONS

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays.

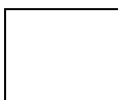
SPECIAL CONDITIONS

4. No major repairs to the racing car are to be carried out at any time on the site, the verge or the road. Minor servicing, including small mechanical repairs and adjustments and cleaning (except degreasing) that generates easily contained liquid waste may be carried out on-site.
5. Any fuels and/or oils are to be stored securely and in such a manner as to limit potential damage to the environment through accidental spillage.

FOOTNOTES

1. The development is to comply with the *Environmental Protection Act 1986* which contains penalties where noise limits exceed that prescribed by the *Environmental Protection (Noise) Regulations 1997*.
 2. The development is to comply with the Building Code of Australia.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval to the applicant.

COUNCIL DECISION



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

CARRIED 10/0

Background

ZONING:	MRS:	URBAN
	TPS:	DEVELOPMENT (DA 5 – MUNSTER)
LAND USE:	SINGLE HOUSE	
LOT SIZE:	1409m ²	
AREA:	112.5m ²	
USE CLASS:	HOUSE - SINGLE (R-CODE)	

Submission

The applicant is proposing to construct a gabled roof, colorbond garage (15m length x 7.5m width x 3.6m height) with an area of 112.5 sqm. The garage is for the storage of a trailer used to transport a racing car. The customised trailer is 13.5m in length, 2.5m wide and 3.0m high.

The car trailer is currently located on the front lawn of the property. The applicant's submission states that an on-site storage facility is required, as locating the trailer in a garage will improve the visual amenity of the street, provide security for the racing car and specialist items stored in the trailer and prevent the deterioration of the trailer's exterior. The applicant has stated that no commercial activities will be undertaken in the garage.

Report

Planning Approval Requirements

The subject land is zoned 'Development' under Town Planning Scheme No.3 to provide for future residential development. Planning consent is required for the proposed garage as it exceeds the permitted area and height restrictions for outbuildings in the Development zone as specified in Council Policy APD 18 – Outbuildings. Any outbuilding exceeding the above requirements requires the approval of Council.

The subject land was rezoned from 'Rural' to 'Development' with the gazettal of Town Planning Scheme No.3 in December 2002. Planning consent would not have been required under the previous zoning, as Policy APD 18 permitted outbuildings up to 200m² and 4.5 metres in height in the Rural Zone. The applicant states that if they had been



aware of the implications of the change in zoning they would have applied for the shed prior to the gazettal of Scheme No.3.

The two aspects for consideration of the proposal are the impact the garage would have on the visual amenity of adjoining properties and the potential for noise from maintenance of the racing car.

Visual Amenity

The extent of the variation sought from that required by Policy APD 18 is a minor one, with the garage only being 12.5m² greater than allowed by right. The 3.6m wall height is required to provide clearance for the door mechanism above the door opening. The garage will be screened from the view of adjoining properties to the west, north and east by the existing house and mature vegetation. The proposed outbuilding will be visible from the street and has subsequently been designed with 'doe-skin' colorbond to match the existing house. It is considered that the proposed garage will not have an adverse effect on the visual amenity of the street and will in fact be an improvement on the existing situation of the trailer being parked on the front lawn.

Noise

The applicant has stated that any maintenance carried out on the racing car creates little noise, that it is extremely rare that the engine of the racing car is operated and that the permission of adjoining owners is always sought before doing so. The applicant has had a similar racing car parked at the property for approximately 2 years and Council has no record of any noise complaints.

Conclusion

For the reasons detailed above, it is recommended that Council approve the garage subject to the conditions contained in the recommendation.

Strategic Plan/Policy Implications

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

1. Planning Your City

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

The Planning Policies which apply to this item are:-

APD17 Standard Development Conditions and Footnotes



APD18 Outbuildings

Budget/Financial Implications

Nil

Legal Implications

None

Community Consultation

The applicant sought and received letters of no objection to the proposal from the two occupied properties adjoining the subject land. The City did not refer the proposal to adjoining landowners for comment as it was considered the proposal would not adversely affect the amenity of adjoining landholdings.

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

Nil.

14.6 (MINUTE NO 1980) (OCM 15/04/2003) - PROPOSED STRUCTURE PLAN - LOT 203 AND PT 11 BARFIELD ROAD, HAMMOND PARK - OWNER: MASTERPLAN CONSULTANTS - APPLICANT: PEET & CO LTD (9643B) (SOS) (ATTACH)

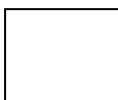
RECOMMENDATION

That Council:

- (1) adopt the revised structure plan for Lots 203 and Pt 11 Barfield Road Hammond Park;
- (2) advise the applicant that the following requirements are to be addressed prior to Council supporting any subsequent subdivision or development applications for the subject land;
 1. A Drainage and Nutrient Management Plan being prepared for the development of the subject land, providing for the adequate drainage and protection of environmental attributes and qualities of the site and demonstrating that development will be undertaken in accordance and in compliance with the requirements of the South Jandakot Drainage Management Plan, the Environmental Management Programme for the South Jandakot Drainage Scheme and the associated Southern Suburbs District Planning Area - Russell Road Arterial Drainage Scheme report;



2. An adequate mechanism being proposed to the satisfaction of the Director – Planning and Development to ensure the proposed open space area is ceded free of cost to the Crown and vested in the care and control of the City of Cockburn as a reserve for public recreation;
 3. Demonstration that provision can be made for satisfactory access for maintenance purposes and the public to the proposed open space area;
- (3) advise the applicant that Council will seek to have the following requirements applied as conditions on the approval of any subsequent subdivision or development applications for the subject land:
1. The preparation and implementation of a Detailed Area Plan outlining an appropriate treatment of the interface between the proposed open space area and adjoining development;
 2. The preparation and implementation of a Parkland Development and Management Plan, which should provide for the protection and enhancement of the environmental attributes and qualities of the dampland and surrounds and at least a basic level of information detailing earthworks, vegetation to be retained and protected, irrigation, any revegetation/tree planting, public accessways and structures and grassing;
 3. Arrangements being made for the payment of developer contributions towards the construction of Frankland Avenue and Russell Road in accordance with the relevant Development Contribution Plan for the Gaebler Road Development Contribution Area No.3;
 4. Should land required for drainage purposes be greater than the figure indicated in the open space schedule contained within the proposed structure plan report, Council requires that an equivalent area be provided additional to the area to be set aside for open space;
 5. Satisfactory arrangements being made with the City for the portion of Barfield Road abutting the subject land to be upgraded to an urban standard.
- (4) advise the applicant that no applications for subdivision or development of the land within the noise buffer associated with the piggery on Lot 15 Lyon Road, as defined by the Department of Environmental Protection by letter dated 13 November 2000,



will be supported by Council unless the piggery permanently ceases operation or written confirmation is provided from the Department that the buffer has been redefined such that it no longer affects Lot 203; and

- (5) advise the Western Australian Planning Commission of Council's decision.

COUNCIL DECISION

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

CARRIED 10/0

Background

ZONING:	MRS:	Urban
	DZS:	Development (DA 9)
LAND USE:	Vacant	
LOT SIZE:	Lot 203 – 4.59ha, Pt Lot 11 – 1.57ha	
AREA:	N/A	
USE CLASS:	N/A	

For the past twelve months, Masterplan Consultants on behalf of Peet & Company Limited, has pursued approval to a proposed structure plan for Lot 203 Barfield Road Hammond Park. Key events to this date include:

- 1 May 2002 – Structure plan submitted for Lot 203 Barfield Road, simply proposing a “R40” residential coding over the site.
- 14 June 2002 – Officers under delegated authority refuse to consent to advertising the proposed structure plan, primarily due to the proposal's failure to protect a Resource Enhancement-category dampland existing on the site;
- 20 August 2002 – Following the proponent's request for the proposal to be reconsidered, Council resolve to allow the plan to be advertised for public comment, primarily on the basis that it would enable consideration of government and community attitudes to the dampland and its development;
- 19 November 2002 – Following public comment period, Council consider proposal again and resolve to adopt the structure plan to



the extent that it provides for R40 housing development, but subject to a more detailed plan being submitted showing protection of the dampland;

- 27 February 2003 – Revised structure plan submitted showing an area set aside for protection of dampland. The proposal has also been revised to include the former dog kennel site recently acquired by Peet & Company on the adjacent Pt Lot 11 Barfield Road. The addition of Pt Lot 11 to the plan necessitates its readvertising for public comment.

Submission

The revised structure plan for Lots 203 and Pt 11 proposes a R40 residential coding across the site, but for a 1.12ha area, incorporating the dampland and an adjoining buffer, to be set aside for open space. On-site drainage is proposed to be accommodated within the dampland. No other development layout is shown, but if endorsed, the plan will allow for subsequent subdivision and/or development applications to be supported, most likely being for medium-density housing. A retirement village has been suggested by the proponent as a possible future use of the site.

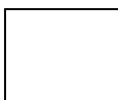
Report

Advertising of the revised structure plan proposal was undertaken during March 2003. No public submissions were received.

Issues requiring reporting on include:

Dampland protection and open space

The revised structure plan has satisfactorily addressed the main concerns expressed in response to the original proposal, given that the dampland and an adjoining buffer are now to be protected within an open space area. The area to be set aside equates to 17.06% of the total site, though portion of that is dampland to accommodate drainage and as a result, will only receive partial open space credit. However, after application of Council's wetland and drainage credits policy, the minimum 10% open space provision appears to be satisfied. Additional areas of open space are proposed to add to the width of the buffer around the dampland and the proponent has indicated it intends to enhance the area to allow it to perform a passive recreational function. Provided there is appropriate treatment of the interface between the dampland and development and environmentally and technically sound drainage and parkland management arrangements are established, the revised proposal has the potential to both preserve and enhance environmental values of the dampland and provide for passive recreational opportunities for the community. The proposal is considered to generally satisfy the Key Result Areas of Council's



Strategic Plan relating to environmental protection, balanced development and community recreation needs and is more in accordance with the original planning objectives established for the site by the Southern Suburbs District Structure Plan than the earlier structure plan proposal.

One aspect of the revised proposal that is unclear is the proponent's intention for future tenure of the area to be set aside for open space. It is not explicitly stated in the proposal that the open space area is to be ceded to the Crown and ultimately managed by the City for public recreational and conservation purposes, even though the proposal seeks to satisfy public open space requirements. It is common practice for the smaller locally significant wetland areas to come into the City's care and control, generally through the subdivision process and this is preferred to ensure adequate conservation and public access. If the site is developed through a development application alone, a mechanism is needed to protect the dampland and ensure the wider public and not just the residents within the subject development, have access to it. This matter needs to be flagged with the proponent.

Residential Coding/Density

Council has previously supported the designation of Lot 203 for R40 development and the extension of a similar R-Code over the adjoining Pt Lot 11 is a reasonable proposition given the amenity benefits likely to be derived by the integration of development and the open space area to be protected. Medium density development is also likely to make the enhancement of the dampland area more viable for the proponent and ensure it becomes an environmental feature the community can enjoy. R40 is also appropriate given the site's proximity to the future Success rail station and associated public transport infrastructure to be delivered by the Perth-Mandurah rail project.

Regional Drainage

The issue of compliance with the requirements of the South Jandakot Drainage Scheme requires reporting. David Wills and Associates (DWA), Consulting Engineers, has recently investigated the requirements and reported back with a draft strategy for accommodating regional drainage in the Russell Road drainage catchment area (RRDCA). This draft strategy is soon to be presented to Council for endorsement. The Engineering Division would prefer that the proposed structure plan not be approved until there is an understanding of what is required to implement the DWA drainage strategy. The need to comply with regional drainage requirements is acknowledged by the proponent and has consistently been flagged on Council responses to other structure plan proposals within the RRDCA. However, it has not been a basis upon which either Council or the Western Australian Planning Commission has rejected structure plan proposals previously.



Adoption of a structure plan simply provides an indication the site may be able to be developed within the parameters established by the plan and subject to conditions imposed on subsequent and more detailed planning processes. Development cannot proceed in any event until either a subdivision or a development application is approved and the applicable conditions satisfied. Drainage requirements will be one of those conditions. It is however, certainly reasonable, for Council to require this particular issue to be satisfactorily addressed prior to supporting subdivision or approving development proposals for the site.

Piggery Buffer

A piggery remains operational on Lot 15 Lyon Road which lies on the eastern side of Kwinana Freeway. A generic buffer with a radius of 1000 metres normally applies to a piggery. Town Planning Scheme No.3 requires that no subdivision or development of incompatible use be supported within the generic buffer unless the buffer is redefined by the Department of Environmental Protection or the piggery ceases operation. In November 2000, the Department advised it had reviewed the buffer associated with the Lyon Road piggery and redefined separate noise and odour buffers. The odour buffer was significantly reduced in area such that it no longer affected Lot 203, whereas a small portion at the northern end of the site remained within the reduced noise buffer.

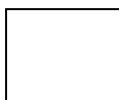
The proponent has claimed that the noise buffer no longer applies to Lot 203, having again been redefined by the Department. While it is difficult to comprehend how noise from the piggery (which essentially only relates to occasional use of a farm tractor) could be heard above that generated by Kwinana Freeway, written confirmation that further buffer redefinition has been agreed to by the Department has not been provided.

The status of the noise buffer needs to be confirmed in writing. Until this is confirmed, the buffer that was illustrated in the plan attached to the Department's letter of 13 November 2000 will continue to apply. The uncertainty of the buffer's status does not prevent Council from supporting a structure plan, but it does prevent it supporting development or subdivision proposals for land inside the buffer. The proponent should be advised of this accordingly.

Further Proposal Details

More specific details of the development of the site will largely be provided through the submission of subdivision and/or development proposals for the site. Council should require that these proposals, in addition to usual planning requirements, address the following:

(prior to approval)



- Compliance with the requirements of the South Jandakot Drainage Scheme and related strategies;
- A mechanism to ensure the ceding of the dampland area and its margins into a public open space reserve; and
- Demonstration that public access will be provided to the open space area;

(as a condition of approval)

- Preparation of a Parkland Development and Management Plan, including appropriate management of the dampland area and surrounds; and
- A Detailed Area Plan to address the treatment of the interface between the dampland and adjoining development and future access to the dampland for public enjoyment and periodic maintenance;

It is recommended that the structure plan be adopted, subject to the proponent addressing the above requirements through subsequent subdivision and/or development proposal processes.

Strategic Plan/Policy Implications

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

2. Planning Your City
 - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
 - *"To foster a sense of community within the district generally and neighbourhoods in particular."*
3. Conserving and Improving Your Environment
 - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
 - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*
4. Facilitating the needs of Your Community
 - *"To determine by best practice, the most appropriate range of sporting facilities and natural recreation areas to be provided within the district to meet the needs of all age groups within the community."*



5. Maintaining Your Community Facilities
- *"To construct and maintain parks which are owned or vested in the Council, in accordance with recognised standards and are convenient and safe for public use."*

The Planning Policies which apply to this item are:-

- SPD1 Bushland Conservation Policy
SPD3 Native Fauna Protection Policy
SPD5 Wetland Conservation Policy
APD4 Public Open Space
APD20 Design Principles For Incorporating Natural Management Areas Including Wetlands And Bushlands In Open Space And / Or Drainage Areas
APD26 Control Measures For Protecting Water Resources In Receiving Environments
APD28 Public Open Space Credit Calculations

Budget/Financial Implications

N/A

Legal Implications

Nil.

Community Consultation

N/A

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

Nil.

14.7 (MINUTE NO 1981) (OCM 15/04/2003) - STRUCTURE PLAN FOR LOT 70 YANGEBUP ROAD & LOTS 69, 71, 72 BIRCHLEY ROAD, YANGEBUP (DA4) (115060) (AJB) (ATTACH)

RECOMMENDATION
That Council:

- (1) receive the report;
- (2) adopt the advertised preferred Structure Plan for Lot 70 Yangebup Road and Lots 69, 71 & 72 Birchley Road Yangebup subject to the following:-
 1. The layout for Lot 69 being modified in accordance with the submitted alternative plan prepared by Taylor Burrell,



- plan 02/072/04 dated March 2003;
2. A legal agreement between the owners for the sharing of the proposed road along the common boundary of Lots 69 and 70 being executed to the satisfaction of the Director Planning and Development.
 3. A legal agreement relating to the provision of the required 10% public open space as shown being completed and prepared at the cost of the proponents cost, by the owners of Lots 70 and 71 to the satisfaction of the Director Planning and Development.
- (3) adopt the Schedule of Submissions as contained in the Agenda attachments;
 - (4) advise the owners of Lots 70 and 71 that in the event that the required legal agreement for the provision of the public open space as shown is not finalised, in a timely manner, but no longer than 3 months, Councils support for the preferred Structure Plan will be withdrawn and an alternative plan showing each owners required open space being provided on their own land and in the common corner of the lots will be pursued; and
 - (5) advise the Western Australian Planning Commission and those persons who made a submission of Council's decision.

COUNCIL DECISION
 MOVED Clr L Humphreys SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED 10/0

Background

ZONING:	MRS:	Urban
	DZS:	Development Zone, Development Area No 4 – Yangebup, (DA 4) Development Contribution Area No 5 –Yangebup East (DCA 5)

Submission



Nil

Report

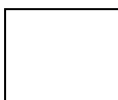
During the early part of 2000, Council prepared and processed a Structure Plan for Cells 9 and 10 Yangebup which included the subject land. The Structure Plan was a composite of proposals prepared by Urban Focus and BSD Consultants for various land owner groups. In respect to the subject land, the plan for Lots 69 – 71 was prepared by BSD Consultants in conjunction with Evans and Gianoli Land Development Consultants with Urban Focus preparing the plan for Lot 72 and other adjoining lots to the south and west. Following public consultation, the structure plan was adopted by Council at its meeting held on 21 November 2000. A copy of the relevant portion of the adopted Structure Plan is shown as Figure 1 in the Agenda attachments.

In respect to Lots 69 - 71, the adopted structure plan showed the required area of public open space located at the northern boundary of the land adjacent to Yangebup Road. The POS was primarily on Lot 69 with a small area on Lot 70 and accordingly, the critical element to the implementation of this plan was the agreement of all three land owners to jointly subdivide their land given the inequities in the provision of POS and the need for land exchanges where the subdivision did not follow existing cadastral boundaries. Lot 72 was included in the Urban Focus application and accordingly, its POS was satisfied through the provision of a large open space area located at the corner of Beeliar Drive and Birchley Road.

This agreement between the owners of Lots 69 - 71 was not forthcoming, primarily as a result of the then owner of Lot 69 not agreeing to provide the additional POS in excess of the 10% required for that lot that was shown on the adopted structure plan or cooperate in a joint subdivision arrangement as originally indicated. Instead the owner requested that Lot 69 be made stand alone so that it could be sold.

A number of alternative schemes were prepared and discussed with the owners over a period of 2 years without agreement. Lot 69 was finally sold in late 2002 and is to be subdivided independently of Lots 70 and 71 save for the sharing of a road down the common boundary with Lot 70.

BSD Consultants, in conjunction with Evans and Gianoli, have prepared an overall plan for the structure plan area on behalf of the owners of Lots 70 and 71 whilst Taylor Burrell prepared an overall plan of the structure plan area on behalf of the owner of Lot 69. The BSD plan showed the required area of POS adjacent to Yangebup Road generally in accordance with the adopted structure plan whilst the Taylor Burrell plan showed the POS in the southern portion of Lots 69



and 70. Despite extensive discussion over the past 3 - 4 months between the owners and Council officers, it was not possible to develop a plan that was agreeable to all the owners.

The essential difference between the BSD and Taylor Burrell options for the structure plan area and the point of disagreement, was the location of the POS.

More recently, officers from Landstart advised they wish to modify proposals for Lot 72 Birchley Road which tie in with the alternative layout for Lots 69 - 71.

Following an assessment of the alternative structure plans, Council's Strategic Planning Services prepared a preferred Draft Structure Plan to be used as the basis of public consultation. This was primarily based on the BSD and Landstart plans.

The preferred Draft Structure Plan shown as Figure 4 in the Agenda attachments was advertised for public comment in accordance with the requirements of TPS 3. Copies of the structure plan and report were sent to all owners within and abutting the structure plan area and an advertisement placed in the local paper. The structure plan was not sent to the servicing authorities given that it was similar to the previously adopted plan.

At the close of the advertising period, 9 submissions had been received. The submissions are summarised in the Agenda attachments. The submissions support the preferred Structure Plan with the qualification that final agreement be concluded on the public open space between the owners of Lots 70/71 and also the cost sharing of the road located on the common boundary of Lots 69/70. Taylor Burrell, on behalf of the owner of Lot 69, also requested a change in the lot configuration for that land including additional R40 lots along the Birchley and Yangebup Road frontage.

It is recommended that Council recommend to the Western Australian Planning Commission that the Preferred Structure Plan be adopted subject to being modified in accordance with the plan submitted by Taylor Burrell and finalisation of the required agreements between the owners as detailed.

Strategic Plan/Policy Implications

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

2. Planning Your City
 - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*



- *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
 - *"To foster a sense of community within the district generally and neighbourhoods in particular."*
3. Conserving and Improving Your Environment
- *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*

The Planning Policies which apply to this item are:-

SPD4 'Liveable Neighbourhoods'

APD4 Public Open Space

Budget/Financial Implications

Nil

Legal Implications

Nil

Community Consultation

Owners of the subject land those living immediately adjacent were sent letters advising of the proposal and inviting comment during the 21 day advertising period and a copy of the draft Structure Plan. A notice advertising the proposal for public comment was placed in the Gazette.

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

Nil.

15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES

15.1 (MINUTE NO 1982) (OCM 15/04/2003) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)

RECOMMENDATION

That Council receive the List of Creditors Paid for March 2003, as attached to the Agenda.

COUNCIL DECISION

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



CARRIED 10/0

Background

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

Submission

N/A

Report

N/A

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

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

Nil.

15.2 (MINUTE NO 1983) (OCM 15/04/2003) - REPORT ON FINANCIAL STATEMENTS (5505) (NM) (ATTACH)

RECOMMENDATION

That Council receive the Report on the Financial Statements for the second triennial period ending 28 February 2003.



COUNCIL DECISION

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

CARRIED 10/0

Background

Section 6.4 of the Local Government Act 1995 requires the City to prepare financial reports as are prescribed. Regulation 34 (1) (b) of the Local Government (Financial Management) Regulations 1996, prescribes that a local government is to prepare either quarterly or triennial financial reports. Council has elected to receive triennial financial reports, which are due for periods ending 31 October, 28 February and 30 June.

Further, Regulation 34 (1a) allows council to resolve not to receive a report for periods ending 30 June. Council has previously resolved not to receive this report as it is deemed unnecessary due to the preparation and presentation of annual financial statements.

Submission

Attached to the Agenda are the following financial statements for the period ending 28 February 2003 contained below.

Report

Operating Statement

The Operating Statement details operating income and expenditure at a statutory program level and compares it to the adopted budget, as well as the revised budget (after first budget review). As at the 28 February, 2003, income and expenditure to date should approximate 67% of the revised budget (ie. 8 out of 12 months), except where it is impacted by factors such as seasonal (eg. rates, dog registrations, leisure centre etc.) or programming (projects or activities planned for certain times).

Overall, Council's operational budget is on track with no areas of major concern to address. Both income and expenditure are within budget parameters as evidenced by the favourable budget review (subject of Item 15.3 of this Agenda).

Council's operational expenditure (at 62%) is slightly ahead of target with any significant variation of a permanent nature being addressed in the budget review.



Council's income (at 89%) is ahead of the pro-rata budget target, mostly due to the raising of rates income at the start of the year. Areas of increased income activity have been identified and included in the budget review such as forfeited bonds, deposits and engineering supervision fees.

Municipal Summary

The Municipal Summary reports both operating and capital income and expenditure and reconciles these back to a cash position.

Also included in this statement is a 'Projected Budget' column that incorporates the changes proposed in the budget review. This addresses the requirement of Regulation 35 (1) (e) of the Local Government (Financial Management) Regulations, to provide financial projections that factor in the effects of any permanent significant variations.

The capital works budget (at 33% after elimination of transfers to reserve) is well within budget parameters. This is due to several major works not having been commenced or completed. The majority of uncompleted works comprise the areas of Transport (\$6 million), Recreation and Culture (\$3.7 million) and Community Amenities (\$2.6 million).

The budget review has addressed known changes to several roads' capital works. All other significant variations to the budget are due to the timing and programming of the works.

Statement of Reserve Funds

This statement reports the current balance for all reserve funds and provides details of interest earnings and of transfers in and out of each reserve.

As at 28 February, minimal transfers had been made in and out of the reserves as budgeted. Transfers to reserve will be completed before the end of the financial year. Transfers from reserve will be governed by the extent of expenditure on projects/works being funded.

Restricted Trust Analysis

This statement summarises bonds, deposits and infrastructure contributions held by Council as at the reporting date. These funds are deemed restricted in accordance with Accounting Standard AAS27.

Investments Report



Council's Investments Policy (Corporate Policy - SFCS1 - Investments) requires a report to be submitted to Council with details of the investment portfolio including performance figures and the extent of exposure to categories restricted by the Policy.

Council's investments as at 28 February were fully compliant with the investment policy. Of all funds invested, 84% were held in A1+ credit rated investment products. This is the highest credit rating available. The balance was held in A1 rated investments.

Council's policy restricts investment with any one organisation to 60%. Citibank currently holds 47% of Council's funds due to consistently quoting the best rates of return.

Interest earnings are ahead of budget. Reserve interest has already surpassed budget due to the delay in commencement of reserve-funded works. Municipal interest earned is ahead of budget at 73%. However, earnings will reduce in the final months of the year as the municipal bank balance is consumed.

Council's balance of investments (\$41.8 million) is also healthy when compared to this time last year (\$35.4 million). This is once again due to the amount of capital works not yet commenced or completed.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

The February 2003 Budget Review addresses all significant variations of a permanent nature identified as at the 28 February, 2003.

Legal Implications

N/A

Community Consultation

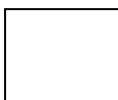
N/A

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

Nil.

15.3 (MINUTE NO 1984) (OCM 15/04/2003) - BUDGET REVIEW - PERIOD ENDING 28 FEBRUARY 2003 (5402) (ATC) (ATTACH)

RECOMMENDATION



That Council amend the Municipal Budget for 2002/03 as follows:

Ledger Code	Activity of Project No.	Natural A/c.	Description	Current Budget	Proposed Budget
GL	845	5915	Forfeited Bonds/Deposits	0	-200,917
GL	845	6998	Grant Exp - Youth Network	-1,250	0
GL	845	6998	SMRC Governance	17,100	0
GL	165	5355	Impounding fees	-12,750	-15,000
GL	180	6000	Salaries	359,150	369,503
GL	165	6316	Veterinary Expenses	4,800	9,400
GL	165	6252	Dog registration expenses.	5,500	12,226
GL	560	5307	Joe Cooper- Client Fees	-38,000	-28,000
GL	625	5358	Lake Side Cinema Fees	-9,000	0
OP	9370	6200	Initiate Arts and Culture Activity	10,000	9,000
OP	9374	6200	Sunset Concerts	14,000	12,000
OP	9371	6200	Heritage Festival	4,000	13,000
OP	9369	6810	Community Fair	22,000	18,000
GL	500	5323	Fines & Penalties	-10,000	-45,000
GL	500	5426	Zoning Statement Fees	-70,000	-84,000
GL	500	5772	Reimbursement - Legal Fees	-1,000	-7,000
GL	500	6110	Conferences & Seminars	4,000	2,000
GL	500	6206	Advertising Expenses	10,000	4,000
GL	500	6229	Consultancy Expenses	5,000	1,000
GL	500	6233	Consultancy - Review of Municipal Inventory	3,500	1,500
GL	500	6267	Legal Expenses	25,000	37,000
GL	500	6287	Printing & Stationary	15,000	12,000
GL	500	6306	Town Planning Studies	10,000	7,000
GL	500	6307	Town Planning Scheme No 3 - Public Consultation	25,000	10,000
GL	871	5423	Supervision fee	-70,000	-100,000
CW	2031	6200	Waters Ave Traffic Treatment	4,159	0
	NEW		Multifunction A0 Printer	0	33,000
CW	3007	6200	Tomislav PI - Slab replacement footpath	2,745	0
CW	3030	6200	Whitmore PI - New footpath	5,400	0
CW	3054	6200	Curven St - Slab replacement footpath	39,200	41,410
CW	2002	6200	Spearwood Ave [Sudlow / Stock] - 2nd carriageway	0	530
CW	2004	6200	North Lake Rd [Bibra / railway] - Mill & overlay	58,320	75,000
CW	2010	6200	North Lake Rd / Forrest Rd - Modify signals / resurface	26,874	23,600
CW	2011	6200	Farrington Rd / Bibra Dr - Non skid treatment	0	2,210
CW	2012	6200	Rockingham Rd / Spearwood Ave - Non skid treatment	0	880
CW	2027	6200	Dunraven Dr - Traffic management treatment	23,399	26,430
CW	2066	6200	Phoenix Rd / Grandpre Cr - Modification	42,054	11,600
CW	5013	6200	Osprey Dr - Landscaping footpath north side	30,000	45,000
GL	605	6282	Promotion	5,000	8,000
COW	5032	6200	Mill Street New Bore and Electrics	9,000	5,100
COW	5035	6200	Southwell POS Replace Bore and Electrics	45,000	34,400
CW	5030	6200	Hopbush Infield Irrigation	49,000	63,500
CW	5018	6200	Civic Centre - Replace Irrigation	45,841	50,231
CW	5009	6200	Mears Park - Extend Irrigation	15,000	10,610

	NEW		Consultancy Services	0	10,000
			subdivision approvals /		
OP	7375	6200	clearances		
			Emergency Irrigation	40,000	92,000
	NEW		Maintenance		
			Anning Park Relocate bollards	0	3,000
			for parking		
CW	5004	6200	Civic Centre Grounds Paving	77,424	120,000
CW	5520	6200	Atwell Community Square	15,962	1,191
CW	4026	6200	General Access for Disabled	11,018	165
OP	8301	6200	Bore Monitoring at Tip	10,000	15,000
OP	8306	6200	Greenwaste Shredding	117,694	85,000
OP	9551	6200	Annual Junk Collection	47,000	51,500
OP	8201	6200	Mobile Rubbish Bins	128,653	100,000
GL	200	5301	Administration Fees	-5,500	-7,500
GL	200	5323	Fines and Penalties	-4,850	-3,500
GL	200	5417	Septic Tank Application Fees	-4,800	-2,000
GL	200	5418	Septic Tank Inspection Fees	-3,200	-1,500
GL	200	6265	Inspection expenses	3,200	1,500
GL	200	6264	Insecticides	4,500	3,000
GL	200	6322	Foodsafe expenses	6,500	5,500
GL	212	6000	Salaries	224,543	230,000
GL	116	6229	Consultancy Expenses	105,076	80,000
OP	9911	6501	Davilak Changerooms	8,164	12,000
OP	9916	6501	Enright Changerooms	6,300	13,000
OP	6010	6501	South Coogee VFB Shed	6,000	12,000
OP	6011	6501	Jandakot VFB Shed	8,500	12,000
OP	6022	6502	Jess Thomas Kindergarten	4,817	15,000
OP	6034	6501	Hope Rd House (Brick)	1,350	3,500
OP	9883	6502	Manning Reserve Toilets	7,580	13,000
OP	9884	6502	Bibra Lake Toilets	17,673	28,000
CW	4013	6200	Pineview Kindergarten -	4,500	6,176
			Connect to sewer		
CW	4031	6200	Cockburn Tennis- connect to	4,500	8,147
			sewer		
CW	4038	6210	Tempest Park Changerooms	2,800	3,596
CW	4046	6200	Cockburn Tennis- connect to	6,000	4,765
			sewer		
CW	4035	6502	Goodchild Reserve	130,000	105,000
			Changerooms		
CW	4068	6502	Scout hall Frederick St -	6,000	2,370
			connect to sewer		
	NEW		Beeliar East Reserve - install	0	25,000
			sport lighting		
CW	4006	6200	Admin. Building - modify copy	4,500	3,737
			room		
OP	9613	5124	Safe Streets Program	-11,000	-20,000
GL	160	6805	Statutory contribution WAFB	320,000	343,699
GL	960	7132	Major Building Refurbishment	250,000	430,387
			Reserve Fund		

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Clr V Oliver SECONDED Clr L Humphreys that the recommendation be adopted.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 10/0



Background

Council reviews its Budget twice each year for the periods ending October and February.

Submission

N/A

Report

A report on the review of the Municipal Budget for the period 1 July 2002 to 28 February 2003 is attached to the Agenda.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

A number of amendments to the Budget are recommended.

Legal Implications

N/A

Community Consultation

N/A

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

Nil.

16. ENGINEERING AND WORKS DIVISION ISSUES

16.1 (MINUTE NO 1985) (OCM 15/04/2003) - SOUTH JANDAKOT MAIN DRAINAGE (4858) (BKG)

RECOMMENDATION

That Council:

- (1) adopts the report – Russell Road Arterial Drain Scheme for the Southern Suburbs District Planning Area dated December 2002 prepared by David Wills & Associates, subject to no modifications being required by DEWCP;



- (2) requires all subdivisions within the boundaries of the South Jandakot Drainage Area to conform to this plan;
- (3) advise Western Australian Planning Commission of (1) and (2) above and request they obtain the agreement of the Minister for the Environment to the requirement that all subdivisions within the boundaries of the South Jandakot Drainage Area conform to the plan in (1) and therefore satisfy Ministerial Condition 2 as set out in EPA Bulletin 429 published in March 1990 and EPA Bulletin 891 published in July 1996;
- (4) approve of the engagement of suitably qualified consultant on an as required basis to assess that proposed subdivision and large developments do conform to this plan;
- (5) advise Western Australian Planning Commission that the condition for compliance with the South Jandakot Drainage Plan is a requirement of the Water & Rivers Commission and its approval is also required to ensure the groundwater levels in the area do not rise to an extent where flooding damage may occur or be lowered so as to affect the wetlands and natural vegetation in the area; and
- (6) request the Water Corporation to advise of their proposals and programme to construct the Russell Road buffer lake and the connecting drain to the Hammond Road buffer lake.

COUNCIL DECISION

MOVED Cllr N Waters SECONDED Cllr L Humphreys that Council not consider the report 'Russell Road Arterial Drain Scheme' prepared by David Wills & Associates until officers have given further consideration to the submissions from the developers and their consultants and a report be presented to a future Council Meeting.

CARRIED 10/0

Explanation

The developers and their consultants that are affected by this report have requested changes to the report. Time is required for these submissions to be assessed.

Background



In 1989, LandCorp and Gold Estates requested rezoning for land that was then rural to residential in the Jandakot area. These have become the suburbs of Atwell and Success.

As a condition of rezoning imposed by the Department of Planning and Urban Development, a drainage management plan had to be prepared. This was necessary because the land to be developed is on the Jandakot Water Mound. The water from this mound supplies a significant amount of the drinking water for the residents of the metropolitan area. This Council objected strongly to the rezoning of the land east of the Freeway that is now Atwell.

The South Jandakot Drainage Management Plan was completed by Consulting Engineers GB Hill & Partners in association with the Water Authority of Western Australia. It was published in January 1990 and rezoning occurred soon after.

Submission

Applications for subdivision are being lodged for land at the southern end of this catchment and one of the conditions to be complied with is.

The subdivider shall prepare and implement a Drainage and Nutrient Management Plan for the subdivision which shall be consistent with the South Jandakot Drainage Management Plan and the Environmental Management Programme for the South Jandakot Drainage Scheme to the satisfaction of the Western Australian Planning Commission.

Report

When subdividers are submitting their plans and requesting Council staff to verify that their drainage management plans conform to the South Jandakot Drainage Management Plan, staff have found there is insufficient detail in the current South Jandakot Drainage Management Plan for this to occur.

To assist in this, Council staff commissioned a Consulting Engineer, David Wills, to prepare a report as an adjunct to the original report and show in more detail, a plan to handle the main drainage requirements in the area of Hammond Road South, Russell Road and Lyon Road south of Gibbs Road.

As this area is over the Jandakot Water Mound, the groundwater is to be maintained at a set level and because development is to occur it cannot rise much above that level because it may cause flooding of properties.

The staff in the Engineering Division do not have experience or expertise in designing regional drainage systems that control groundwater. Because of this, a consultant has been employed to



produce a plan. Previous to this, State Government agencies such as the Water Authority of WA performed this role.

The plan has now been completed and it is recommended that all subdividers be advised that they need to comply with this plan and that compliance be verified by a qualified consultant.

The implementation of this plan requires the Water Corporation to construct a drainage receival basin north of Russell Road and an open drain from this basin to the one at the intersection of Hammond and Bartram Roads. There is an outlet from there to Cockburn Sound so that stormwater in heavy rainfall years can be collected from the area to prevent flooding.

A copy of the report by David Wills & Associates titled "Southern Suburbs District Planning Area – Russell Road Arterial Drainage Scheme" dated December 2000 is available from the Director Engineering and Works.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

There will be an ongoing cost for payment to David Wills as his services are required utilising funds from the appropriate consultancy account.

Legal Implications

Nil.

Community Consultation

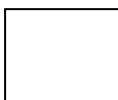
N/A

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

Nil.

16.2 (MINUTE NO 1986) (OCM 15/04/2003) - TENDER RFT 04/2003 - LANDSCAPE DEVELOPMENT - COCKBURN CIVIC SQUARE (4618) (BKG)

RECOMMENDATION
That Council, subject to allocating additional funds in the April 2003 Budget Review, accept Tender No. RFT 04/2003 - Landscape Redevelopment – Cockburn Civic Square from Earthcare for



\$130,005.26 (GST included).

COUNCIL DECISION

MOVED Mayor S Lee SECONDED Cllr I Whitfield that the recommendation be adopted.

CARRIED 10/0

Background

An amount of \$60,000 was placed on the 2002/03 Budget for the replacement of brick paving in the Civic Square. In the October budget review, a further amount of \$17,424 was transferred from surplus funds from the Administration Centre reticulation replacement project.

As a result, a total of \$77,424 is available in the 2002/2003 budget for landscaping and brick paving at the Civic/Administration Centre.

Four landscape concept plans were prepared by consulting landscape architects Gerard Healy and Associates during 2002, for consideration by the City's Greening Plan Reference Group. The option selected required removal of existing planter boxes, removal and reconstruction of the steps connecting the lower courtyard area to the colonnade walkway of the Administration Centre and relocation of the disability access ramp.

This was an increase in the extent of the work that was originally planned.

Submission

Two tenders were received.

Environmental Industries submitted a lump sum price of \$153,667.23 (Inc. GST); and Earth Care submitted a lump sum price of \$130,005.26 (Inc. GST).

Report

Tenders for landscape development of the Cockburn Civic Square were advertised in the West Australian Newspaper and closed on 6 March 2003.

Two tenders were received and complied with all the criteria set out in the tender documents.



Earthcare is a known contractor and is currently undertaking works in Beeliar and is Council's contractor for the landscaping maintenance in Coolbellup.

The submitted price is more than the estimate provided by the landscape architect Gerard Healy and Associates – Council budgeted \$77,424 excluding GST.

The nett cost of Earth Care's tender is \$118,186.60 excluding GST. To enable the project to proceed on the basis of the Earth Care tender, Council needs to provide an additional \$40,762.60.

The recommendation is based on Council approving same in the April 2003 Budget Review.

Council is required to accept a tender which included the GST amount, but budget for the actual cost.

Strategic Plan/Policy Implications

One of the commitments in the Strategic Plan is *"To construct and maintain parks which are owned or vested in the Council in accordance with recognised standards and convenient and safe for public use."*

Budget/Financial Implications

The additional funds have been included as part of the April budget review for Council consideration.

Legal Implications

Nil.

Community Consultation

N/A

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

Nil.

16.3 (MINUTE NO 1987) (OCM 15/04/2003) - CYCLING ON FOOTPATHS - WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (4003) (BKG) (ATTACH)

RECOMMENDATION

That Council advise the Western Australian Local Government Association it supports the riding of bicycles on footpaths by:-



- (a) children under 12 years; and
- (b) the rider of a bicycle 18 years or older who is accompanying a child under 12 years of age who is riding a bicycle on the footpath and the child is under the rider's supervision.

COUNCIL DECISION

MOVED Cllr I Whitfield SECONDED Cllr M Reeve-Fowkes that Council advise the W.A.L.G.A. that it supports the riding of bicycles on footpaths by riders of all age.

CARRIED 8/2

Explanation

This is based on the recommendations listed on page 10 of the Discussion Paper attached to the Agenda and the fact that this will bring us into line with legislation in Tasmania, Queensland, ACT and Northern Territory.

Background

Under the Western Australian Road Traffic Act it is legal for those under 12 to ride their bikes on a footpath. It is illegal for any other age.

It is legal for people of any age to ride on shared paths.

Submission

A letter has been received from the Western Australian Local Government Association seeking comment from councils on whether the Regulation should be changed to allow riders of all ages to ride on footpaths.

Report

On 5 February 2003, the Association's State Council considered an Office of Road Safety Discussion Paper identifying issues regarding existing Regulations in Western Australian which limit use of footpaths to cyclists under the age of 12.

A copy of the discussion paper and the letter from the WALGA is attached.



The views being expressed to support the proposal are:-

- (1) it is safer for all cyclists to be allowed to ride on footpaths;
- (2) as riders on footpaths are usually recreational riders they go at low speeds and will respect pedestrians' rights to be there;
- (3) there is no evidence of high incidence of bike/pedestrian collisions;
- (4) it is safer to ride on footpaths than roads.

The views against the proposal are:-

- (1) footpaths were built for pedestrians;
- (2) pedestrians feel intimidated by cyclists especially the elderly and the very young;
- (3) pedestrians are concerned they may be injured in a collision with a cyclist;
- (4) it would be unacceptable to have cyclists on crowded footpaths such as outside shops and in pedestrian only shopping malls;
- (5) there is an extensive network of shared paths and bicycle lanes on roads for use by cyclists.

The Australian Standard for shared footpaths is 2-4 metres wide which has been established as being able to cater safely for cyclists and pedestrians using it jointly. Most of the footpaths in Cockburn are 1.5 – 1.8 metres wide.

The recommendation is based on a compromise position as adopted by NSW and Victoria.

Strategic Plan/Policy Implications

One of the commitments in the Strategic plan is:

To construct and maintain roads which are the responsibility of the Council in accordance with recognised standards and convenient and safe for use by vehicles, cyclists and pedestrians.

Budget/Financial Implications

There are no obvious financial outlays in the belief if a footpath has been constructed so pedestrians can use it safely, then it should be safe for cyclists. There may have to be an increase in inspections for overhanging branches. It is assumed a collision on a narrow footpath (say 1.2 metres in width) would not implicate Council in any way.

Legal Implications

Nil.

Community Consultation



N/A

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

Nil.

16.4 (MINUTE NO 1988) (OCM 15/04/2003) - PROPOSED TRAFFIC TREATMENT AT PROGRESS DRIVE, NORTH LAKE (450691) (SL) (ATTACH)

RECOMMENDATION

That Council:

- (1) not proceed with the proposed budgeted traffic treatment at Progress Drive between Hope Road and Farrington Road, North Lake;
- (2) consider in the 2003/04 budget, the installation of a footpath on the western side of Progress Drive between Hope Road and Farrington Road;
- (3) not proceed with the partial or full closure of Progress Drive near Hope Road; and
- (4) advise the respondents to the community consultation of Council's decision.

COUNCIL DECISION

MOVED Deputy Mayor R Graham SECONDED Cllr A Tilbury that Council defer making a decision on the proposed traffic treatment on Progress Drive and request that the North Lake Residents Association Inc. :-

- (a) forward further details of its survey results to enable comparison with the results of the Council's survey; and
- (b) be requested to advise Council on what traffic calming devices would be preferred by the residents of North Lake;

and that this information be taken into account in any future report to Council on traffic treatments on Progress Drive, North Lake.

CARRIED 10/0



Explanation

A survey has been received from the North Lake Residents Association Inc. which shows support for traffic calming in Progress Drive. A survey undertaken by Council regarding the installation of chicanes in Progress Drive showed there was no support for traffic calming. It is considered a comparison needs to take place between the two opposed survey results before Council makes a decision.

Background

This item was deferred from the Council Meeting of 18 March 2003. (Minute No. 1964).

Funds are available in the 2002/03 Budget for the installation of traffic measures in Progress Drive between Hope Road and Farrington Road. This is due to residents' requests and the prevailing traffic speed remaining high at 68km/h.

A proposal involving modifying the existing traffic calming devices was developed. The North Lake residents were consulted on the proposal.

The consultation involved:

- sending an explanatory covering letter, plans and questionnaires to the residents and owners of properties on Progress Drive;
- the same letter and plans were also displayed at the Spearwood and Coolbellup Libraries and on Council's website; and
- information signs were erected on Progress Drive and the adjoining roads to alert motorists of the proposed modifications.

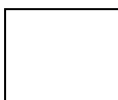
Submission

At the Council meeting held on 18 March 2003, it was resolved "*that this matter be deferred until the April 2003 Council Meeting to enable further consideration of this matter by Elected Members*".

This was to allow some input from the North Lake Residents' Association to the Elected Members.

Report

A good response to the consultation was received. Many people telephoned, emailed and came to the Council Offices to request further information or to voice their opinions.



The results of Council's community consultation are as follows:

- A total of twenty-six (26) submissions were received from the suburb of North Lake - 9 in favour and 19 against.
- 12 out of the 19 not in support of the proposal, requested that Progress Drive be fully or partially closed at the Hope Road roundabout.
- Half of the total submissions came from the householders in Progress Drive, in which 3 are in favour of the proposal and 10 against.
- The North Lake Residents' Association was in support of the proposal. In addition, it proposed to cul-de-sac Progress Drive and/or Hope Road and the provision of further dual used paths in Progress Drive.

A member of the North Lake Residence (sic) Support Group (NLRSG) (not the North Lake Residents Association), delivered leaflets to all residents of North Lake and arranged a meeting to discuss the "pros and cons" of the proposal. Council Officers were not made aware of or invited to attend this meeting. Following this meeting, a questionnaire was distributed to all North Lake residents by NLRSG. The City was not made aware of this until a few days after the distribution.

The results of the NLRSG's survey are that:

- A total of 21 responses were sent to Council instead of NLRSG, as no return address was specified in the survey – 8 in favour of the proposed traffic treatment and 13 against.
- 5 out of the 13 who are not in support of the proposal, requested that as an alternative treatment, Progress Drive be fully or partially closed at the Hope Road roundabout.

There are 26 submissions to Council's community consultation and the NLRSG's survey requesting the installation of a footpath on the western side of Progress Drive.

It is concluded that the majority of respondents:

- Do not support the proposed modifications/improvement to the existing traffic treatment in Progress Drive;
- Consider a more effective treatment would be to partially or completely close Progress Drive at the Hope Road roundabout; and



- Would like a footpath to be installed on the western side of Progress Drive, starting from Rossetti Court and linking to the bus stop in Farrington Road.

Despite there being 18 submissions to suggest a partial or full closure of Progress Drive at the Hope Road end, this cannot be interpreted as the wishes of the North Lake residents, as the City has not consulted the North Lake residents on this issue. Many residents rang to express their concerns about the closure of Progress Drive. They were assured that the City only consulted them on the proposed traffic calming treatment and not on the closure of Progress Drive, as the City has not recommended it.

Progress Drive is a scenic route. It should be kept open for all people to enjoy. Traffic calming measures should be used to encourage the general compliance with the speed limit, not road closure. Road closure does not solve the speeding problems as they occur along Progress Drive, not at the Hope Road roundabout. Furthermore, the elimination of through traffic does not guarantee the reduction of high prevailing speeds in Progress Drive.

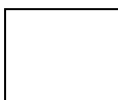
Strategic Plan/Policy Implications

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

1. Managing Your City
 - *"To deliver services and to manage resources in a way that is cost competitive without compromising quality."*
 - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Facilitating the needs of Your Community
 - *"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*
3. Maintaining Your Community Facilities
 - *"To construct and maintain roads, which are the responsibility of the Council, in accordance with recognised standards, and are convenient and safe for use by vehicles, cyclists and pedestrians."*

Budget/Financial Implications

There is \$50,000 in the current Budget for the capital work (CW2037). Should the project be cancelled, funds can be transferred to other projects.



Legal Implications

Nil.

Community Consultation

Residents in Progress Drive, North Lake were consulted on the proposal. Plans were also displayed at the Spearwood and Coolbellup Libraries and on Council's website and information signs were erected on Progress Drive and the adjoining roads to alert motorists of the proposed modifications.

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

Nil.

17. COMMUNITY SERVICES DIVISION ISSUES

17.1 (MINUTE NO 1989) (OCM 15/04/2003) - POOL REDEVELOPMENT - SOUTH LAKE LEISURE CENTRE (8143) (SH) (ATTACH)

RECOMMENDATION

That Council:

- (1) amend the 2002/03 Budget as follows:-
 - (i) increase the allocation for the Pool Shell Upgrade project from \$750,000 to \$887,500;
 - (ii) create a new account to reflect the income of \$137,500 from a CSRFF Grant; and
- (2) accept the tender price for Tender No. 06/2003 from Perkins Builders of \$831,600 plus an allowance of \$14,503 for specified items not included in their tendered price.

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Clr I Whitfield SECONDED Clr M Reeve-Fowkes that the recommendation be adopted.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 10/0



Background

Council at its meeting in May 2002, resolved to approve funds for redevelopment works for the South Lake Leisure Centre. The works focus on expanding the pool bowl, resurfacing the pool shell and general renovations to the South Lake Leisure Centre facilities.

At its September 2002 meeting, Council resolved to appoint Thomson Marquis Project Management to oversee the design, prepare tender documentation, analyse the tenders and project manage the builder during the redevelopment.

Council, within its 2002/2003 Municipal Budget, has committed \$750,000 for this project.

The City applied to the State Government for funding through the Community Sport and Recreation Facilities Fund (CSRFF) for the redevelopment project. It was announced in March 2003, that the City received funding to the amount of \$137,500 for the project.

Submission

A request for tender was advertised on 1 March 2003. Three (3) companies submitted tenders for the redevelopment works.

Report

The three (3) companies who tendered submitted bids with the following base tender prices (incl GST):

Freo Machinery	\$818,051.30
Perkins Builders	\$755,700*
Southdown Construction	\$1,047,187

* - Perkins Builders, in their tendered price noted that they did not allow for some painting items and grinding of the floor concourse surface. These items are required and have been costed at \$14,503. This gives Perkins Builders an adjusted price of \$770,203.

As part of the tender documentation, tenderers were asked to provide lump sum options for fully tiling the pool and a UV disinfection system for the spa. These options were specifically requested, as they are the recommended options for the pool surface and spa disinfection treatment. The tiled surface will provide a far longer lifespan than a vinyl liner and will not suffer lifting, bubbling and vandalism damage that is common to a number of vinyl liners and can force a full pool shut down to effect repairs. UV disinfection has become the norm when



constructing new spas. UV reduces chlorine usage and provides a much higher level of disinfection and therefore bather safety and comfort.

Adjusted tender prices (incl GST) including the above items are as follows:

Freo Machinery	\$970,890.80
Perkins Builders	\$846,103**
Southdown Construction	\$1,121,327

** - Inclusive of \$14,503 adjustment amount

Thomson Marquis Project Management analysed each tender and prepared a report evaluating the tenders. The results are as follows:

Tender Compliance

	Perkins	Freo M.	Southdown
Compliance with the following:			
Specification	Yes	Yes	Yes
Conditions of Responding	Yes	Yes	Yes
Financial capability criteria	Yes	Yes	Yes
Experience in completing similar projects	Yes	No	Yes
Completion of the pricing schedule	Yes	Yes	Yes

Tender Evaluation

	Weighting Maximum	Perkins	Freo M	Southdown
Demonstrated experience in completing similar projects	15%	14%	0%	13%
Skills and experience of key personnel	5%	4%	2%	4%
Tender's resources	3%	3%	2%	2%
Methodology	2%	2%	1%	2%
Tender Price	75%	75%	65.4%	56.6%

100% 98% 70.4% 77.6%

Based on the tender evaluations, Thomson Marquis Project Management have recommended that the tender be awarded to Perkins Builders for the sum of \$831,600 plus an allowance of \$14,503 for specified items not included in their tendered price.

Given the above tender price and the Project Management fees committed to the project, there is a residual sum of \$5,290 from the committed Council funds and CSRFF grant funds. When considering items such as the pool leak, which has been difficult to estimate repair costs, it is recommended that these funds be left as a provisional sum for the project.

Strategic Plan/Policy Implications

Key Result Area "Facilitating the Needs of Your Community" refers.

Budget/Financial Implications

Council, in its 2002/2003 Budget, provided \$750,000 for the project. The addition of the CSRFF Grant of \$137,500 results in a total of \$887,500 being available.

The tender of \$831,600 plus the allowance of \$14,503 total \$846,103 (GST inclusive). When GST is deducted from this figure, the cost is \$769,185. To this figure must be added the project management fees of \$113,025 (GST excluded). The total cost of the project is therefore \$882,210. The recommendation provides for the balance of \$5,290 to remain as a contingency amount.

Legal Implications

Local Government (Functions and General) Regulations Part 4 refer.

Community Consultation

N/A

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

The South Lake Leisure Centre is a commercial activity which actively competes for patronage with other public and privately owned centres in the region and is subject to the principles of National Competition Policy.

17.2 (MINUTE NO 1990) (OCM 15/04/2003) - ESTABLISHMENT OF AN ABORIGINAL ADVISORY COMMITTEE (8978) (GB) (ATTACH)



RECOMMENDATION

That Council:

- (1) establish an Aboriginal Advisory Committee and appoint and (2 Elected Members) to the Aboriginal Advisory Committee with (Elected Member) as Deputy Delegate; the Social Services Manager (or Delegate Advisor), 6 local Aboriginal Community representatives, 3 Aboriginal representatives from local Community Service provider organisations, 1 Aboriginal and Torres Strait Islander Commission Councillor (or deputy), and 2 Aboriginal Youth representatives;
- (2) adopt the attached terms of reference for the Aboriginal Advisory Committee; and
- (3) allocate \$2000 for the 2003/2004 financial year to the committee for administration purposes.

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Deputy Mayor R Graham SECONDED Cllr A Edwards that Council:

- (1) establish an Aboriginal Advisory Committee and appoint Cllr V Oliver to the Aboriginal Advisory Committee with Cllr I Whitfield as Deputy Delegate; the Social Services Manager (or Delegate Advisor), 6 local Aboriginal Community representatives, 3 Aboriginal representatives from local Community Service provider organisations, 1 Aboriginal and Torres Strait Islander Commission Councillor (or deputy), and 2 Aboriginal Youth representatives and that the names of the community representatives and service provider organisations be presented to Council for adoption when known;
- (2) adopt the attached terms of reference for the Aboriginal Advisory Committee and that terms of reference be assigned identifying clause numbers;
- (3) direct that the Committee's terms of reference not be changed without Council's approval; and
- (4) allocate \$2000 for the 2003/2004 financial year to the committee for administration purposes.



CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 10/0**Explanation**

The Local Government Act 1995 provides for Council to appoint the persons nominated for positions on the Committee. In addition, it is considered that the terms of reference will be enhanced by the inclusion of identifying clause numbers.

Background

Currently the City has no Aboriginal people represented on any of the Council appointed Advisory Committees. The City has attempted to gain Aboriginal representation on a number of occasions and has not succeeded in gaining more than short-term representation.

In April 2002, the City requested a meeting with Aboriginal Community members to discuss a proposed Aboriginal community art project. At this meeting general issues were also raised and this led to the formation of an Aboriginal Working Party. This working party has been meeting on a regular basis since May 2002.

During this period, the City sought Expressions of Interest from Aboriginal people wishing to become involved in the ongoing development of Aboriginal and Torres Strait Islander cultural activity, services and projects within the District. From this expression of interest, the working party has achieved a broad representation from the Aboriginal Community, key Aboriginal Organisations within the district, Aboriginal staff from government organisations and the two Aboriginal and Torres Strait Islander Councillors for the district.

Submission

The informal City of Cockburn Aboriginal Working Party has requested that a Council appointed Aboriginal Advisory Committee be established. The working party has discussed that it is important for Council to establish a formal communication process and partnership with the Aboriginal Community. The working party has discussed that this would be achieved through the establishment of the Aboriginal Advisory Committee and the adoption of the terms of reference.

The two Councillors from the Aboriginal and Torres Strait Islander Commission (ATSIC) that represent the City of Cockburn have also approached the City requesting that Council establish a formal Aboriginal Advisory Committee. They have requested that they have a representative on the Council Committee and have expressed a clear interest in working in partnership with the City of Cockburn.



Report

There is a need for the City to consult with the Aboriginal Community on a broad range of issues and there is currently no coordinated process to enable this to occur. For example, when there is a need to consult with the Aboriginal Community regarding social issues, culturally appropriate protocols and services, a public meeting needs to be called. This process is often not efficient or timely and can result in a poor representation of Aboriginal Community members.

Due to similar issues, a number of other Local Government Authorities have also identified the need for the establishment of Aboriginal Advisory Committees for example the City of Armadale, the City of Melville and the City of Fremantle.

The 2001 Local Government Minister's Conference also highlighted the need for Local Government Authorities to advance reconciliation between the Local Government sector and Aboriginal and Torres Strait Islander peoples and agreed to take action in fostering partnerships and linkages.

It is therefore proposed that the Council establish an Aboriginal Advisory Committee to ensure adequate communication and a partnership approach between the Council and the Aboriginal Community within the district.

The Aboriginal Advisory Committee will be a Council appointed committee under section 5.9 (2) (c) of the Local Government Act 1995.

This Council appointed committee would promote, support and generate awareness of Nyungar culture and will advise and assist the City of Cockburn in creating a strong and proactive partnership with the local Aboriginal community.

As with other Council appointed committees, the Aboriginal Advisory Committee will have the ability to make recommendations to Council within the scope of the terms of reference.

The membership of this committee comprises of:

- 2 Elected Members (and Deputy)
- Social Services Manager – City of Cockburn (or Delegate Advisor)
- 6 Aboriginal Community Members (a member from each local Aboriginal family group where possible)
- 3 Aboriginal Representatives from community service providers and Aboriginal organisations operating in the District
- 1 ATSIC Councillor for the district (and deputy)
- 2 Aboriginal Youth Representatives
- Other representatives as invited to attend.



NB. A gender balance of these members would be sought.

At an informal meeting of membership from the proposed Aboriginal Advisory Committee, a Terms of Reference was agreed upon with the mission being *“This committee through a commitment to make Cockburn the “most attractive place to live, work and visit in the metropolitan area”, will advise and assist the City of Cockburn in creating a strong and proactive partnership with the local Aboriginal community”*.

The main objectives of the committee are:

- To provide an advisory role in the development of relevant policy and programs through consultation with the wider Aboriginal Community.
- To develop strong links with other Aboriginal and Torres Strait Islander people within the City of Cockburn and surrounding areas.
- To inform the community of Aboriginal achievements and issues through regular community gatherings, newsletters and other media.
- To provide an advisory role regarding strategies to build a stronger local community by recognising the importance of family kinship networks.
- To advise and assist in the development of suitable programmes and employment opportunities for Aboriginal people.
- To advise and assist regarding cultural projects and work collaboratively in seeking access to additional funding.
- To provide and maintain a forum for the flow of information between the Aboriginal community and Council.
- To advise the City of Cockburn regarding the development of strategies that will promote respect and recognition of the Nyungar culture.
- To provide an advisory role regarding the development and implementation of policy and programmes that respect and recognise Nyungar culture and issues, using the appropriate protocols.
- To advise the City of Cockburn regarding the development of strategies that promote a broader understanding, awareness and



participation by Council through promoting and valuing Nyungar culture.

A full copy of the Terms of Reference is attached.

The Aboriginal Advisory Committee will also require a budget allocation of \$2000 to assist with administration costs for the Committee.

Strategic Plan/Policy Implications

Key Result Area “Facilitating the needs of your community” refers.

Budget/Financial Implications

A budget allocation of \$2000 will need to be provided to the committee for administration purposes

Legal Implications

Sec. 5.9 and 5.10 of the Local Government Act, 1995 refer.

Community Consultation

Broad community consultation has taken place during the time that the working party has been meeting.

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

Aboriginal affairs have traditionally been the responsibility of Federal Government however, the principles of reconciliation require pro-active participation at the local community level.

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

Nil



21. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY COUNCILLORS OR OFFICERS

Nil

22. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE

22.1 (OCM 15/04/2003) – MATTERS TO BE NOTED FOR INVESTIGATION WITHOUT DEBATE

- (1) Mayor Lee requested Officers to investigate and report to Council through the normal budget process, on the cost of installing reticulation to Phoenix Road and Spearwood Avenue between Hamilton Road and Stock Road. The report is also to consider the potential lifting of the height of the foliage canopy in the median island on Phoenix Road.
- (2) Mayor Lee requested Officers to investigate the feasibility/legality of requiring that all new residences within the City of Cockburn, be provided with water tanks to complement the existing potable water supply. The report is to include details of the existing government rebates etc for provision of water tanks, type/size of tank required in relation to lot size etc.
- (3) Mayor Lee requested that, in light of the monies being spent on the Civic Centre Area, Officers investigate and report to Council through the normal budget process, on the possibility of either:
 - a) upgrading the time spent by the various gardening crews on the Civic Area; or
 - b) investigate whether a gardener should be provided on site full time.
- (4) Cllr Reeve-Fowkes requested an Officers Report be prepared on the proposal to treat sullage and grease trap waste at the Water Corporation Woodman Point Waste Water Treatment Facility. The outcome to give a Council position on the possible development.

22.2 (MINUTE NO 1991) (OCM 15/04/2003) - MEETING BEHIND CLOSED DOORS

COUNCIL DECISION

MOVED Cllr L Humphreys SECONDED Deputy Mayor R Graham that pursuant to Section 5.23(2) (d) of the Local Government Act, 1995, Council move behind closed doors, the time being 9.55pm, to discuss the Confidential Items on the Agenda.



CARRIED 10/0**23. CONFIDENTIAL BUSINESS****23.1 (MINUTE NO 1992) (OCM 15/04/2003) - PORT COOGEE WATERWAYS MANAGEMENT PROGRAM - SPECIFIED AREA RATING (3209006; 9101033) (ATC)****RECOMMENDATION**

That Council receive the advice provided by McLeods on the subject of Specified Area Rates for the Port Coogee Project Area.

COUNCIL DECISION

MOVED Cllr N Waters SECONDED Deputy Mayor R Graham that the recommendation be adopted.

CARRIED 10/0**Background**

At its October 2002 Meeting, when considering an item of the Port Coogee (then Port Catherine) Waterways Environmental Program, decided in part to:

“(3) *advise Australand that in the event that the marina proceeds:*

1. *It is prepared to be the nominated management body to implement the Waterways Environmental Management Program, subject to the program being financially and technically acceptable to the Council subject to:*

(ii) *the management and implementation of the Waterways Environmental Management Program will need to be cost neutral to the Council through the utilisation of seed capital and the imposition of a Specified Area Rate, applying to the land within the project area, and the funds collected being used within the marina as well as for recreational betterment and coastal improvements in the areas located to the north and south of the marina facility, subject to confirmation that Council is able to utilise the funds for those purposes....”*

At its meeting of 19 November 2002, Council decided to seek legal advice to ascertain:

- (1) if funds which may be raised in future through the levy of a Specified Area Rate within the proposed Port Coogee Project Area, can be used for the provision of the following works and services:
 1. Restoration of beach areas outside the project area which have been subject to erosion prior to the adoption of the Specified Area Rate.
 2. Restoration of beach areas outside the project area which may be subject to erosion following the adoption of the Specified Area Rate and which Council, having taken appropriate advice, considers such erosion occurred due to the development within the project area.
 3. Boardwalks, cycle paths and other recreational improvements such as pontoons and barbecues, outside the project area.
- (2) with regard to the matters listed (1) above, whether funds raised by a Specified Area Rate can be spent within a designated mapped area embracing land located outside the project area, or if the funds may be spent outside the designated mapped area, through the provision of adequate definition within the State of Purpose for which the Specified Area Rate is to be levied.

Submission

N/A

Report

A confidential report and copies of legal advice sought from McLeods have been forwarded under separate cover.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

There are no implications for Council's Budget until the five year management period by Australand expires.

Legal Implications



Legal advice has been obtained and copies forwarded to Elected Members under separate cover.

Community Consultation

N/A

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

Nil

13.5 (MINUTE NO 1974) (OCM 15/04/2003) - TENDER FOR THE PROVISION OF LEGAL SERVICES (1157) (KL)

RECOMMENDATION

That Council proceed to call tenders for the provision of Legal Services for a period of 3 years on the basis of the appointment of a panel.

COUNCIL DECISION

MOVED Deputy Mayor R Graham SECONDED Mayor S LEE that Council proceed to call tenders for the provision of legal services for the period of one year on the basis of the appointment of a panel.

CARRIED 10/0

Explanation

The Chief Executive Officer recommended that a panel be appointed and as this is the first time this service has been put out to tender, it is considered appropriate that it be reviewed in one year's time.

Background

Council Policy SES1 refers to obtaining legal and other specialist advice. The Chief Executive Officer is authorised to obtain legal and other specialist advice as is deemed necessary to maintain the proper administration of Council affairs, subject to other conditions as stated in Policy SES1. Delegated Authority SES1 refers (authorised delegates are Chief Executive Officer and Directors).

Council's current practice is to seek legal advice from an appropriate legal firm according to the nature of the advice being sought. In the majority of cases this has been the firm of McLeods. It is considered that the advice provided by this firm for many years has been most satisfactory.



Due to the nature of the work, it is possible that legal costs may escalate above \$50,000 in any financial year at which time tenders should be called. It is therefore proposed to call tenders for a panel of legal advisors which then covers any eventuality in relation to escalated costs. The establishment of a panel would formalise the current practice. It is intended that the practice of using a retainer would continue and this would be part of the tender document.

Submission

N/A

Report

Council Policy SES1 Point 4 states that "*Council maintain its retainer arrangement with its Solicitors for the purpose of ascertaining matters of an administrative nature where procedural verbal advice is obtained and that advice sought be recorded as a file note on the appropriate file*".

In this regard, McLeods have been on a retainer basis for a number of years.

Recently, councils have been tendering out their legal services and appointing a panel of legal advisors, who provide expertise in various aspects of local government issues. There are two options for councils to pursue when a service is being market tested: that is either by tender or registration of interest.

If a local government thinks that there is a good reason to make a preliminary selection from amongst prospective tenderers, it may seek Expressions of Interest, with respect to the supply of the goods and services. In considering this option, the cost to prepare plans, specifications and other information for the purpose of adequately developing the services should be examined.

Council, through this process, can assess which person or persons would be capable of satisfactorily supplying the goods and services. A short list can be determined and then invitation to tender can be arranged.

For the provision of this type of service (legal services), the same result can be achieved by going out to tender. The specifications for the tender would not be complex and there is no requirement to produce any plans or drawings. Through the specifications and selection process, it can be determined whether it will be an advantage to appoint a panel of legal advisors.



It is intended that through the appointment of a panel, the panel will be able to:

- Provide advice on the interpretation of the Local Government Act (1995) and its Regulations.
- Provide legislative interpretation and provide advice on a broad range of legal issues ranging from planning and development, industrial law, commercial contracts, prosecutions and civil matters in which councils may become involved.
- Prepare and review documentation, including deeds, contracts and leases and arrange document stamping.

The advantage of having a panel of legal firms is that legal advisors have expertise in particular aspects of local government issues. The use of a panel would enable Council staff to select the appropriate firm that was considered to have the required expertise (this would form part of the tender specification).

Fee structure including retainer would also be part of the specification.

Selection of the panel will be made in accordance with delegated authority given in relation to tenders.

The matter is placed from Council due to the proposal to appoint a panel, otherwise the decision to tender would have been taken administratively.

Strategic Plan/Policy Implications

Managing Your City refers.

Budget/Financial Implications

Council provides funds in its Budget for legal advice.

Legal Implications

The Local Government (Functions and General) Regulations 1996 apply to the calling of tenders.

Community Consultation

N/A

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

Nil.



23.3 (MINUTE NO 1994) (OCM 15/04/2003) - MEETING OPEN TO THE PUBLIC

COUNCIL DECISION

MOVED Clr L Humphreys SECONDED Clr I Whitfield that the meeting be opened to the public, the time being 9.57 pm.

CARRIED 10/0

24. (MINUTE NO 1995) (OCM 15/04/2003) - RESOLUTION OF COMPLIANCE (Section 3.18(3), Local Government Act 1995)

RECOMMENDATION

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

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

COUNCIL DECISION

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

CARRIED 10/0

Before closing the meeting, Mayor Lee passed on best wishes to Clrs Tilbury and Whitfield for the forthcoming elections. He wished all the candidates good luck and congratulated them on taking the step to nominate.

He also acknowledged the impending retirement of Clrs Waters and Humphreys and thanked them for their many many years of service to this Council and to the community.

25. CLOSURE OF MEETING



MEETING CLOSED AT 10.00 PM.

CONFIRMATION OF MINUTES

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

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

