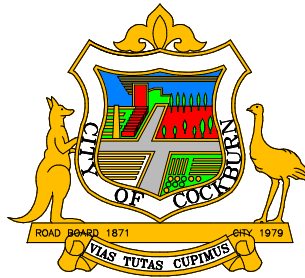


# **CITY OF COCKBURN**



## **ORDINARY COUNCIL**

## **AGENDA PAPER**

**FOR**

**THURSDAY, 10 MARCH 2011**

# CITY OF COCKBURN

## SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 10 MARCH 2011 AT 7:00 PM

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**CITY OF COCKBURN****AGENDA TO BE PRESENTED TO THE ORDINARY  
COUNCIL MEETING TO BE HELD ON  
THURSDAY, 10 MARCH 2011 AT 7:00 PM**

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1. **DECLARATION OF MEETING**
2. **APPOINTMENT OF PRESIDING MEMBER (If required)**
3. **DISCLAIMER (To be read aloud by Presiding Member)**

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

4. **ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (by Presiding Member)**
5. **APOLOGIES AND LEAVE OF ABSENCE**
6. **ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**  
Nil
7. **PUBLIC QUESTION TIME**
8. **CONFIRMATION OF MINUTES**
  - 8.1 **(OCM 10/3/2011) - ORDINARY COUNCIL MEETING - 10 FEBRUARY 2011**

**RECOMMENDATION**

That Council adopt the Minutes of the Ordinary Council Meeting held on Thursday 10 February 2011, as a true and accurate record.

**COUNCIL DECISION**

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

**10. DEPUTATIONS AND PETITIONS**

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

Nil

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

**13. COUNCIL MATTERS**

**13.1 (OCM 10/3/2011) - PROPOSED AMENDMENT TO POSITION STATEMENT PSES11 'STRUCTURE FOR ADMINISTERING THE CITY OF COCKBURN' (CC/P/001) (D GREEN/S DOWNING) (ATTACH)**

**RECOMMENDATION**

That Council adopt the proposed amendments to Position Statement PSES11 'Structure for Administering the City of Cockburn', as shown in the attachment to the Agenda.

**COUNCIL DECISION**

**Background**

The structure for administering the City of Cockburn depicts the management structure of Council and illustrates the service and reporting functions of the City. Any amendments to the structure requires Council endorsement of the proposed changes.

## Submission

To amend the structure for administering the City of Cockburn, as shown in the attachment to the Agenda.

## Report

### Administration & Community Services

Since the establishment of the Communications Service Unit in the early 2000s, there has been a gradual increase in the diversity of activity and associated accountability of the functions undertaken by this Unit. The number of staff accountable to the Unit Manager has also increased and covers issues relative to:

- Media Liaison
- Advertising
- Publications
- Consultation
- Marketing and Promotion
- Front line customer contact
- Events co-ordination

These functions have become increasingly demanding and have reached a point where more stringent monitoring and strategic oversight of outcomes is required, such as the Communications Strategy. This has involved a review of the structure and roles of the incumbent staff resulting in the proposed installation of a higher level management regime with extended organisational responsibilities and associated accountabilities. This has already been identified in the recent Mercer review of managerial positions within the organisation.

Since early 2010, the position of Communications Manager has been undertaken in an acting capacity, following the resignation of the then incumbent. This position was taken to conduct a review of the function and responsibilities associated with the role and whether the timing was right to implement any benefits which could be identified in the review.

Initially, the current position description for the role was assessed by an external consultant as being significantly undervalued, in comparison to both the private sector and local government related roles. Having established the quantum of the position's worth, it was considered appropriate to review how the role could be extended to one of strategic significance, thus warranting an elevation in job status aligned to its responsibilities and expected task outcomes.

This is justified on the basis of the increased customer services role, particularly the Call Centre operations and the area of events management, which requires a greater monitoring emphasis as these take on a higher and more active profile in the community. It is proposed to extend the area of community events to incorporate the Cultural Services, which currently lies within the Recreation Services Unit for no other reason than the historical alignment with the 'Recreation and Culture' Accounting Schedule as it appears in the Council's financial records.

Overall, the proposed Divisional Structure for Community Services more properly defines the higher level managerial roles of the associated Business Units and better aligns functions at the relevant Service Unit levels.

### Finance & Corporate Services Division

The changes to the Finance and Corporate Services Division structure comes from the broadening of the Rates Department role by the inclusion of the other revenues the City invoices and collects. This will then see all revenues (on the balance sheet) reporting to a specific person to ensure that the City is consistent in the application of policy and practice. This will also provide for a succession plan to be put in place for the Revenue Team by the reallocation of duties across a broader number of staff. The title has also included Land as all land created in the City's property system is created by this team of employees.

The change will see a Manager, Revenue created with a specific rates team leader created from the existing staff positions. Although additional revenue will not be directly created from the implementation of a Revenue Manager position, it will provide the City with more time to review all rates and other revenue sources looking for ways to collect more revenue or make it more efficient for the City to collect revenue. It is anticipated that a current Level 8 position will need to be upgraded to a Level 9 position. The additional cost is approximately \$5,000 p.a.

The second change is the re-alignment of functions in the Accounting and Budgeting and Financial Reporting Business Units. This change streamlines all monthly and annual financial reporting under the former business unit, whilst the budgeting and financial systems comes under the latter business unit.

The changes proposed by this re-alignment of functions undertaken by the two business units will not involve the appointment of more staff (other than those identified in the Plan for the District 2010 – 2020). No additional costs are expected either other than a possible regrading of



one staff member due to more work and responsibility. The additional cost will be \$5,000 per annum.

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

#### **Governance Excellence**

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

### **Budget/Financial Implications**

#### Administration & Community Services Division

The Communications Manager's position, if accepted, will need to be provided for in the forthcoming (2011/12) Budget. In addition to the extra salary cost of the position (\$15,000 est.) a vehicle will be required and modifications to the office layout to accommodate an office. The Graphic Design position is currently listed in the Plan for the District for 2013/14 and it is proposed to bring this position forward to 2011/12 and reschedule the Call Centre position, which is proposed for this timeframe, resulting in only a minor increase in the overall cost of staff requirements for the Unit.

#### Finance & Corporate Services Division

The overall cost of the adjustment will be approximately \$10,000 on a full year basis. This is being provided to adjust grades for existing staff as they take more responsible positions within the administrative structure.

### **Legal Implications**

Sec. 5.2 of the Local Government Act, 1995 refers.

### **Community Consultation**

N/A

### **Attachment(s)**

1. Proposed amended Position Statement PSES11 'Structure for Administering the City of Cockburn.
2. Current Position Statement PSES11 'Structure for Administering the City of Cockburn'.

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

N/A

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

Nil.

**13.2 (OCM 10/3/2011) - LOCAL GOVERNMENT STATUTORY RETURN COMPLIANCE AUDIT RETURN 2010 (CC/L/002) (P WESTON) (ATTACH)**

**RECOMMENDATION**

That Council adopt the Local Government Compliance Audit Return for the period 1 January 2010 to 31 December 2010, as attached to the Agenda.

**COUNCIL DECISION**

**Background**

Since 2000, completion of the Local Government Compliance Audit Return has been mandatory for all local governments in this State in accordance with Regulations 14 and 15 of the Local Government (Audit) Regulations 1996.

**Submission**

To adopt the Compliance Audit Return in its submitted form.

**Report**

The annual Compliance Audit Return is to be presented to, and adopted by, a meeting of Council.

Following adoption by Council, a certified copy of the Return, signed by the Mayor and Chief Executive Officer, along with a copy of the relevant section of the Council Minutes, is submitted to the Director General, Department of Local Government and Regional Development in accordance with Regulations 14 and 15 of the Local Government (Audit) Regulations 1996.

The Return indicates a conformity rating of 98.5% for the year, compared with the previous year's rating of 99%.

For the year 2010 the formal performance reviews improved from 84% for the previous year to 93%, a substantial improvement, but still not at the required 100%. As a result the Chief Executive Officer has directed that for future years the matter will be brought to the attention of the Executive by 1 December of each subsequent year to enable compliance. (See Q10 - Local Government Employees – p15 of the Compliance Audit Return).

The other matter which affected the conformity rating was one complex industrial relations matter which was conciliated via a confidential FairWork Australia Settlement. (See Q18 – Local Government Employees – p15 of the Compliance Audit Return).

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

#### **Governance Excellence**

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

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Regulations 14 and 15 of the Local Government (Audit) Regulations 1996 refer.

### **Community Consultation**

N/A

### **Attachment(s)**

Compliance Audit Return 2010.

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

N/A

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

Nil.

## 14. PLANNING AND DEVELOPMENT DIVISION ISSUES

### 14.1 (OCM 10/3/2011) - PROPOSED SCHEME AMENDMENT NO. 88 - LOCATION: LOTS 1 AND 2 BELLION DRIVE, HAMILTON HILL - OWNER: KARISMA P/L - APPLICANT: PETER D WEBB AND ASSOCIATES (93088) (C CATHERWOOD) (ATTACH)

#### RECOMMENDATION

That Council:

(1) in pursuance of Section 75 of the Planning and Development Act 2005 ("Act"), initiate an amendment to City of Cockburn Town Planning Scheme No. 3 ("Scheme") for the purposes of:

1. Rezoning Lots 1 and 2 Bellion Drive, Hamilton Hill from 'Mixed Business' to 'Special Use No. 27'; and
2. Introducing a new 'Special Use No. 27' into Schedule 4 as follows:

No.	Description of Land	Special Use	Conditions
SU 27	<p><b>Mixed Use</b> <b>(Cockburn Coast District Structure Plan)</b></p> <p>Lots 1 and 2 Bellion Drive, Hamilton Hill.</p>	<ol style="list-style-type: none"> <li>1. Bed and Breakfast Child Care Premises Civic Use Office Club Premises Motel Reception Centre Recreation - Private Restaurant Consulting Rooms Health Studio Convenience Store Lunch bar Bank Cinema/Theatre Funeral Parlour Hardware Store</li> <li>2. Dwellings (R160): Aged or Dependent Persons Caretaker's Dwelling Grouped Dwelling Multiple Dwelling</li> <li>3. Showroom</li> <li>4. Residential Building Tourist Accommodation Garden Centre Market Veterinary Consulting Rooms Veterinary Hospital Amusement Parlour Betting Agency Medical Centre Hospital</li> </ol>	<ol style="list-style-type: none"> <li>1. These uses shall be treated as 'P' uses pursuant to clause 4.3.3.</li> <li>2. Where buildings front the public street these uses are only permissible where the ground floor (street level) is designed to accommodate future non-residential uses, and in all cases these uses shall be treated as 'D' uses in accordance with clause 4.3.3</li> <li>3. Showroom limited to a floor area of 750m<sup>2</sup> as a stand-alone development unless it is part of a comprehensive mixed use development, and shall be treated as a 'D' use pursuant to clause 4.3.3.</li> <li>4. These uses shall be treated as 'D' uses pursuant to clause 4.3.3.</li> <li>5. This use shall be treated as a 'D' use, pursuant to clause 4.3.3 however advertising of development applications may be required.</li> <li>6. This use is only permissible where it does not support drive through facilities, and it shall be treated as a 'D'</li> </ol>

		Motor Vehicle Hire Premises Motor Vehicle Wash Petrol Filling Station Service Station Cottage Industry Light Industry Service Industry Warehouse Motor Vehicle Repair Hotel/Tavern 5. Place of Worship 6. Fast Food Premises 7. Shop	use pursuant to clause 4.3.3. 7. Shop floor area restricted to a floor area between 150m2 and 750m2, and this use shall be treated as a 'D' use pursuant to clause 4.3.3.
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3. Amend the Scheme map accordingly.

(2) note as the amendment is in the opinion of Council consistent with Regulation 25(2) of the *Town Planning Regulations 1967* ("Regulations"), and upon preparation of the necessary amendment documentation, the amendment be referred to the Environmental Protection Authority ("EPA") as required by Section 81 of the Act, and on receipt of a response from the EPA indicating that the amendment is not subject to formal environmental assessment, be advertised for a period of 42 days in accordance with the Regulations.

**COUNCIL DECISION**

**Background**

The subject land comprises Lots 1 and 2 Bellion Drive, Hamilton Hill and is zoned 'Urban' under the Metropolitan Region Scheme ("MRS") and 'Mixed Business' pursuant to City of Cockburn Town Planning Scheme No. 3 ("Scheme").

The land is located within the planning area known as Cockburn Coast which stretches between South Beach and Port Coogee marina. The Western Australian Planning Commission ("WAPC") has endorsed a District Structure Plan for this area known as the Cockburn Coast District Structure Plan ("CCDSP").

Consistent with the policy requirements provided through the CCDSP, and especially height and built form requirements, a development application was approved by Council for the subject land on 2 September 2010. This provided for an eight storey mixed use

development to take place, comprising a mix of commercial, residential and tourism based uses.

According to the landowner, the tourism component of the building (short stay apartments) is not financially feasible. An option to maximise the occupancy rate of the apartments known as 'twin key' was also explored. This involves a floor plan with a one bedroom apartment being adjacent to a motel suite which together forms a two bedroom apartment. The rooms can be let either together or separately. The landowner has advised that this option is also not feasible.

The landowner still wishes to build the same size building but with the replacement of the short stay apartments with ordinary residential apartments. Approval of this use with the current residential density (R60) would not be possible as the development standards at this density would result in a lower rise building than previously approved. To enable consideration of a building of eight stories on these sites as previously approved, a residential density of R160 would be required.

An eight storey building at this location would be consistent with the proposed Local Planning Policy for the Newmarket Precinct as this would function as the nominated gateway site.

This scheme amendment seeks to effectively enable more of the building to be utilised for residential purposes, than is currently the case. The scheme amendment seeks to impose a residential coding of R160, compared with the current density of R60, as well as a clear mixture of uses for the land which are consistent with the CCDSP.

### **Submission**

The proposed rezoning has been requested by the applicant to facilitate the higher residential density of R160 on the subject land, while still providing for the variety of permissible uses envisaged for the Newmarket Precinct. This is to be pursued through a Special Use type zoning arrangement.

This 'special use' proposes that ground floors (street level) of buildings within this Precinct are designed to accommodate non-residential uses such as restaurants and cafes to contribute to the vibrancy of this area. The applicant has submitted scheme amendment documentation in support of this proposal.

## Report

### Background

The land is located within the planning area known as Cockburn Coast. The WAPC has endorsed a District Structure Plan for this area known as the Cockburn Coast District Structure Plan. The CCDSP was developed to provide guidance for future land uses and transport initiatives. The CCDSP area is divided into seven separate precincts, generally based upon precinct characteristics and objectives. The subject site is situated within the Newmarket Precinct which is bound by Rockingham Road to the north, Cockburn Road to the west and the 'Primary Regional Roads' reservation to the south and east.

The Newmarket Precinct is the only land within the CCDSP and City of Cockburn which has current urban development opportunities by virtue of pre-existing zoning. For this reason, management of the existing zoning provisions under the Scheme against the CCDSP is very important.

The City is currently progressing with an amendment to the Scheme within the Newmarket Precinct, being Amendment No. 82, which introduces new special use provisions. While Amendment No. 82 included the subject land at Lots 1 and 2 Bellion Drive, the applicant has requested changes which affect the original intent of the amendment. Specifically the applicant wishes to provide for an increase in the residential density from R60 to R160, to enable more of the approved development on the subject land to be utilised for residential purposes, as opposed to tourism purposes.

To deal with this change, it is necessary for the applicant to propose this new scheme amendment. The purpose of this report is to consider the scheme amendment proposal.

### Consistency with the Cockburn Coast District Structure Plan

The greater portion of the Cockburn Coast area (beyond the Newmarket Precinct) is currently zoned 'Industry' under the MRS and the Scheme. Once the area is zoned 'Urban' under the MRS, the intention is for this area to be rezoned to 'Development' and placed within a 'Development Area' and a 'Development Contribution Area'.

This will facilitate the requirement for local structure plans to control land use and development, and facilitate consistency with the CCDSP.

In terms of the Newmarket Precinct, the CCDSP designates three different areas:

- Local activity node
- Residential area
- Mixed use area (includes Lots 1 and 2 Bellion Drive).

The subject land is currently zoned 'Mixed Business' pursuant to the Scheme, therefore without this area being rezoned there is no mechanism to implement the outcomes of the CCDSP.

All of the Newmarket Precinct, with the exception of the subject land, will be rezoned to 'Special Use' via Amendment No. 82 (also the subject of this Council agenda). This proposes the following 'Special Use' areas - SU23, SU24, SU25 and SU26.

Similar to Amendment No. 82, this new proposed Scheme amendment seeks to include an appropriate land use mix and arrangement as anticipated by the CCDSP. The proposed range of permissible uses has been based on achieving the objectives of the Newmarket Precinct as set out in the CCDSP.

The implications of the proposed zoning changes are that the provisions of the existing zoning will be replaced by the requirements set out in the applicable new 'Special Use' zone.

#### Integration with the Landcorp Preferred Concept Plan for Cockburn Coast

Landcorp have held stakeholder workshops in recent months to discuss implementing the vision for Cockburn Coast outlined in the CCDSP. Their area of interest is adjacent to, but does not include the Newmarket Precinct as this is already zoned 'Urban' under the MRS.

The preferred draft conceptual plan which Landcorp has prepared indicates the properties adjacent to Cockburn Road as 'Mixed Use R120'. It is considered that the subject land which is immediately north of the Rollinson Rd extension forms an appropriate 'gateway' site where a slightly higher density is appropriate to ensure the built outcome as a 'gateway' into Cockburn Coast can be accommodated.

#### Relationship with Proposed Local Planning Policy – Newmarket Precinct

A Local Planning Policy for the Newmarket Precinct has been prepared to ensure that new developments within the Newmarket Precinct are designed with regard to the CCDSP.



The function of this Policy is to support developments which conform to the general Precinct provisions, however with the important requirement that the designation of gateway and landmark elements (which have significant height allowances) must be undertaken in a comprehensive manner.

An existing development approval which was granted for this land was assessed against this policy and was considered to be consistent. It functions as the nominated gateway site, enabling a height of eight stories.

#### Mixed Use Area – Proposed Special Use No. 27 (SU27)

This portion of the Newmarket Precinct has been identified as 'mixed use' under the District Structure Plan. The subject lots are currently zoned 'Mixed Business', and while Lot 1 is vacant, Lot 2 has been previously used for a motor repair business. It is proposed to rezone these lots to 'Special Use No. 27' (SU27).

The purpose of the mixed use area is to allow the opportunity for a mix of uses to promote the redevelopment of the Cockburn Coast into a vibrant and sustainable environment that integrates living, working and leisure opportunities.

The CCDSP outlines that uses in the mixed use area should demonstrate a positive contribution to promoting a vibrant mixed use urban environment, contribute to a continuous active street frontage and encourage pedestrian use of Cockburn Road. It outlines that planning controls should not be overly prescriptive in terms of use. Therefore on this basis the proposed 'Special Use No. 27' identifies a wide variety of permissible uses. Where it is considered that such uses could potentially impact on residential development they have been designated as 'D' uses to enable an assessment to be made of any potential impacts ('D' uses require planning approval pursuant to clause 4.3.3 of the Scheme).

Showroom uses that are stand-alone have been identified as permissible only where they have a floor area of no more than 750m<sup>2</sup>, unless they are part of a comprehensive mixed use development. This restriction is proposed to prevent a large showroom(s) consuming a

large proportion of the mixed use area, which would be contrary to the objective of creating a vibrant mixed use urban environment.

Residential uses at a density of R160 (in recognition this is a 'gateway' site) have been identified as permissible only where the ground floor (street level) is designed to accommodate future non-residential uses, and in all cases these uses shall be treated as 'D' uses in accordance

with clause 4.3.3. The purpose of this requirement is to ensure that mixed use potential is created even at the early stages of development when the market might not yet support non-residential use. The Local Planning Policy for the Newmarket Precinct outlines design measures to be considered in this regard.

While the CCDSP identifies small retail as being appropriate, there is concern that if small retail is permissible in the mixed use area there will be no ability to ensure that the local activity nodes will be the focal point for retail. It is considered imperative that there is a distinction between the mixed use and local activity node; otherwise Cockburn Road will become a long stretch of mixed use development with no focal points. Restricting 'shop' uses in the mixed use area will provide a better framework to ensure that the objectives of the local activity node are achieved. This is why it is recommended that shop floor area in the mixed use area be restricted to a floor area between 150m<sup>2</sup> and 750m<sup>2</sup>.

The CCDSP identifies that 'service industry' is not appropriate in the mixed use area, however it is considered that such uses at an appropriate scale could serve the resident population in this area, rather than residents having to travel outside the area for such services. Therefore this use has been identified as a 'D' use, which requires planning approval.

### Conclusion

This proposal, Amendment No. 88, will complement Amendment No. 82 in proposing a new Special Use No. 27 and will ensure the entire Newmarket Precinct is appropriately zoned to implement the objectives of the Cockburn Coast District Structure Plan.

Accordingly it is recommended that Council adopt Scheme Amendment No. 88 and undertake landowner, government agency and community consultation in accordance with the normal amendment procedures.

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

#### **Demographic Planning**

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

**Employment and Economic Development**

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

**Natural Environmental Management**

- To ensure development of the district is undertaken in such a way that the balance between the natural and human environment is maintained.

**Budget/Financial Implications**

The Scheme Amendment fee for this proposal has been calculated in accordance with the *Planning and Development Regulations 2009*, including the cost of advertising and this has been paid by the applicant.

**Legal Implications**

N/A

**Community Consultation**

In accordance with the *Town Planning Regulations 1967* consultation is to be undertaken subsequent to the local government adopting the Scheme Amendment and the Environmental Protection Authority (EPA) advising that the proposal is environmentally acceptable. This requires the amendment to be advertised for a minimum of 42 days.

Advertising of the proposal will include a copy being available for inspection at the City's administration office and the WA Planning Commission's office as well as advertising in a newspaper circulating in the district. The City can also choose to send letters to nearby landowners and other stakeholders. In this case it would be appropriate to directly notify landowners within a 150m radius (including those within the adjacent City of Fremantle area) as well as the Cockburn Coast DSP project officer at the Department of Planning. A copy of the proposed amendment should also be provided to the Cockburn Coast Steering Committee to keep them updated.

**Attachment(s)**

1. Cockburn Coast District Structure Plan
2. Scheme Amendment (extracts)

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

N/A

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

Nil

**14.2 (OCM 10/3/2011) - NOMINATION OF ELECTED MEMBER FOR JAMES POINT STAKEHOLDER REFERENCE GROUP (HS/E/004) (D ARNDT)**

**RECOMMENDATION**

That Council:

- (1) endorse \_\_\_\_\_ as the Elected Member representative on the James Point Stakeholder Reference Group; and
- (2) note that Roberto Colalillo will act as a technical officer to support the interests of the City of Cockburn on the Reference Group.

**COUNCIL DECISION**

**Background**

Correspondence has been received from the Chairman of James Point Pty Ltd (JPPL), inviting Council to nominate a representative to join the Stakeholder Reference Group established for the proposed Stage 1 of the James Point Port (Bulk and General Facility).

**Submission**

To nominate an Elected Member as Council's representative, with technical support from an appropriate staff member.

**Report**

The Group is being established for the proposed Bulk and General Facility which is also known as Stage 1 of the James Point Port.

An independent person, Dr Des Lord, will chair the Group, and JPPL is responsible for the 'reasonable resourcing' of the Group.

The Terms of Reference are as follows:

1. Provision of advice to the Minister for the Environment on the environmental aspects of the construction and operation of the proposal generally.
2. Provision of feedback and input into the preparation and standard of implementation of the environmental management plans and programs.
3. Provision of advice and input into the mitigation for loss of coastal access, as a consequence of the proposal.
4. Provision of advice on the proponent's environmental performance.

The membership of the group is not specified, but implicitly the following organisations are being invited to nominate a representative:

- JPPL (CEO)
- Cockburn Sound Management Council
- Office of the EPA
- Department of Transport
- Department of Planning
- Department of Fisheries
- Water Corporation
- Town of Kwinana
- City of Rockingham
- City of Cockburn
- Kwinana Industries Council
- Conservation Council
- Conservation of Rockingham Environment (CORE)
- Kwinana Progress Association

It is envisaged that the first meeting will be held in April 2011, and that meetings will be held about every 6 – 8 weeks in Kwinana.

The initial focus will be on the pre-construction conditions attached to the ministerial approval, which comprise:

- Noise Management Plan
- Contamination investigations
- Sediment contamination

- Coastal processes investigations should an offshore breakwater be required
- Dredging monitoring set-up
- Dredging Management Plan
- Seagrass Monitoring Program
- Coastal Access – Mitigation for Loss of Beach Access for Recreation Use
- Marine Habitat Studies and Programs
- Dust Management Plan

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

#### **Demographic Planning**

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

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

N/A

#### **Legal Implications**

N/A

#### **Community Consultation**

N/A

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

N/A

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

The Proponent has been advised that this matter is to be considered at the March 2011 Council Meeting.

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

Nil.

**14.3 (OCM 10/3/2011) - PROPOSED INDUSTRY GENERAL (LICENCED) - CONCRETE BATCHING PLANT LOCATION: LOT 201 (NO. 33) MIGUEL ROAD, BIBRA LAKE - OWNER: BIAGIONI NOMINEES PTY LTD - APPLICANT: TDC PTY LTD (4413025) (M SCARFONE) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) approve the application for 'General Industry (Licenced) – Concrete Batching Plant' at Lot 201 (No. 33) Miguel Road, Bibra Lake subject to the following conditions and footnotes.

CONDITIONS

1. All noise management measures identified in the Noise Assessment Report and Draft Works Approval, shall be implemented and complied with at all times, as follows:
  - a. Installation of the acoustic screen detailed on plan as required by the acoustic report prepared for the use of the land.
  - b. Installation of broadband beepers to all agitator trucks and loaders.
  - c. Limiting vehicle movement on the premises between 5:45 a.m. – 7:00 a.m. to two agitator trucks at a time (one being filled and one waiting to be filled).
  - d. Limiting operations to wet batch mixing only before 7:00 a.m. (this process reduces noise from vehicles agitating on site).
  - e. No filling of hopper bins before 7:00 a.m. or after 6:00p.m.
  - f. Noise monitoring shall be carried out for six months after commissioning of the plant in accordance with the DEC Works Approval associated with this site.
2. Prior to the issue of a building licence a revised landscaping plan, shall be submitted to and approved by the Manager Parks and Environmental Services.
3. Landscaping is to be installed, reticulated and / or irrigated in accordance with the approved plan and maintained thereafter to the satisfaction of the City. The landscaping shall be implemented during the first available planting season post completion of development. Any species which fail to establish within a period of 12 months from planting shall be replaced to the satisfaction of the City.

4. Where a driveway and/or parking bay abuts a public street, associated walls, fences and / or adjacent landscaping areas are to be truncated within 1.5 metres or limited in height to 0.75 metres.
5. If dust is detected at any adjacent premise and is deemed to be a nuisance by an Environmental Health officer, any process, equipment and/or activities causing the dust nuisance shall be stopped until the process, equipment and or activity has been altered to prevent the dust to the satisfaction of the City's Manager Environmental Health Services.

A Waste Management Strategy shall be submitted to and approved in writing by the City, prior to the issue of a Building Licence. This Strategy should have regard to Council Policy SPD 9 'Waste Minimisation, Storage and Collection'. The use must, once operational, take place in accordance with the recommendations of the approved Waste Management Strategy, to the ongoing satisfaction of the Manager Statutory Planning.

6. All waste and recycling materials must be contained within bins. These must be stored within the buildings or within an external enclosure located and constructed to the satisfaction of the City's Manager Environmental Health Services.
7. Unless otherwise approved by the Department of Environment and Conservation, industrial liquid wastes, including wash-down wastes, are not permitted to enter any storm water system. The disposal of industrial liquid waste is to comply with the City of Cockburn (Health) Local Laws 2000 and meet one of the following requirements:
  - a. discharge to sewer as a approved by the Water Corporation;
  - b. discharge to an on-site effluent disposal system as approved by the Manager Environmental Health; or
  - c. collection and disposal in an approved manner at an approved liquid waste disposal site.
8. Prior to the commencement of the use, the 18 parking bay/s, driveway/s, hardstand areas and points of ingress and egress shall be sealed, kerbed, drained and line marked in accordance with the approved plans and



specifications, and certified by a suitably qualified practicing Engineer to the satisfaction of the City.

9. Crossovers are to be located and constructed to the City's specifications. Copies of specifications are available from the City's Engineering Services.

Existing crossovers that are not required as part of the development, shall be removed and the verge reinstated within a period of 60 days, to the satisfaction of the City.

10. The development site must be connected to the reticulated sewerage system of the Water Corporation before commencement of use.
11. Earthworks over the site and batters must be stabilised to prevent sand or dust blowing, and appropriate measures shall be implemented within the time and in the manner directed by the City in the event that sand or dust is blown from the site.
12. During construction, no building (or related) activities associated with this approval causing noise and/or inconvenience to neighbours being carried out after 7.00 pm or before 7.00am, Monday to Saturday, and not at all on Sunday or public holidays.
13. The installation of outdoor lighting (if proposed) is to be in accordance with the requirements of Australian Standard AS 4282-1997: 'Control of the Obtrusive of Outdoor Lighting'.
14. All stormwater being contained and disposed of on-site.
15. All stormwater drainage shall be designed in accordance with the latest release of the document entitled "Australian Rainfall and Runoff" produced by the Institution of Engineers, Australia, and the design is to be certified by a suitably qualified practicing Engineer or the like, to the satisfaction of the City, and to be designed on the basis of a 1:100 year storm event. See City's specification, enclosed. This is to be provided at the time of applying for a building licence.
16. Security fencing around the site if erected is to be 1.8 metre high black P.V.C. coated or galvanised link mesh plus 3 strands of barbed wire and all gate posts and associated fittings to be painted black or other fencing construction details of a similar standard to the

satisfaction of the City.

#### FOOTNOTES

1. This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or with any requirements of the City of Cockburn Town Planning Scheme No. 3 or with the requirements of any other external agency. Prior to the commencement of any works associated with the development, a building license may be required.
2. The applicant is advised that vehicle parking requirements have been assessed on the basis of the information provided. Future changes to on site operations which result in increased Gross Leasable Area or a significant change in employee numbers will require a new application to be lodged with and approved by the City.
3. With regard to Condition 1, the Acoustic barrier is to be solid, continuous and minimum density of 20kg/m<sup>3</sup>. Barrier is to extend 2 metres past the front and rear of the trucks and 1 metre above the mixing drum.
4. With regard to Condition 2, the applicant is advised that a number of the proposed species on the submitted landscaping plan are not considered suitable for the location and are required to be substituted. Please contact the City's Parks and Environmental Services prior to the submission of a revised landscape plan.
5. With regard to Condition 6 the external enclosure must be and of an adequate size to contain all waste bins, at least 1.8 m high, fitted with a gate and graded to a 100mm diameter industrial floor waste with a hose cock, all connected to sewer. The minimum provisions for internal bin storage is a concrete wash-down pad of at least 1m<sup>2</sup> graded to a 100mm diameter industrial floor waste with a hose cock, all connected to sewer. This can be centrally located within the development.
6. In reference to Condition 8, the 18 parking bay/s, driveway/s, hardstand and points of ingress and egress are to be designed in accordance with the relevant Australian Standards for off-street car parking unless otherwise specified agreed by the City.

7. The development is to comply with the noise pollution provisions of the Environmental Protection Act 1986, and more particularly with the requirements of the Environmental Protection (Noise) Regulations 1997.
  8. The approval of the Department of Environment and Conservation may be required prior to development under the provisions of the Environmental Protection Act 1986.
- (2) issue a Notice of Determination of Application for Planning Approval under the City of Cockburn Town Planning Scheme No. 3; and
  - (3) advise the applicant of the Council's decision.

## COUNCIL DECISION

### Background

At the Ordinary Council Meeting held 9 December 2010, Council resolved to defer consideration of the abovementioned item to allow for consultation with residential landowners to the south of the subject site and the Yangebup Progress Association (YPA).

On 7 February 2011, the applicant met with members the YPA and other interested parties, presenting details of the proposed application and fielding a number of queries. The YPA has since provided a detailed submission (please see Attachment 6) and the applicant has provided a further detailed response to this submission (Please see attachment 7).

On 29 December 2010, the City received confirmation the applicant had lodged an application for review (appeal) with the State Administrative Tribunal (SAT). The appeal was based on a deemed refusal i.e. the City had failed to determine the application within the 60 day statutory timeframe indicated by Clause 10.9.2 of the City of Cockburn Town Planning Scheme No. 3.

A directions hearing in relation to the above was held 12 January 2011, and attended by the applicant and the City's legal representative. From

this hearing a set of orders has been set out and a final hearing date has been set aside for 17 and 18 May (copy attached).

This report is presented to Council for its determination, given community consultation has now been finalised.

Lot 201 (No. 33) Miguel Road, Bibra Lake (herein referred to as 'the subject site'), is located on the north western corner of Miguel Road and Barrington Street (see attached location plan). Land to the north and east of the subject site is zoned 'Industry' and is characterised by large 'Warehouse', 'Office' and 'General Industry' uses typically associated with this type of land. Land directly to the south and west is zoned 'Industry', beyond which is a strip of 'Light and Service Industry' zoned land which acts as a buffer to the residential land beyond (see attached zoning plan). The closest dwellings to the subject site are located within approximately 250 metres.

The table below summarises the relevant zoning and site characteristics pertaining to the proposal.

Zoning:	MRS:	Industrial
	TPS3	Industry
Proposed Land use:	General Industry (Licenced)	
Lot size:	1.1686 Hectares	
Use class:	D	

The proponents have been granted a draft Works Approval from the Department of Environment and Conservation, which provides conditional support for the proposal.

### **Submission**

The proposed 'Concrete Batching Plant' is proposed to produce up to 135,000 tonnes of premixed concrete annually. The development will comprise of infrastructure such as conveyors, silos, feed hoppers, aggregate storage areas, wash out pits, slurry pits, on-site parking, landscaping and a site office.

Aggregate materials will be delivered to the site and stored in three sided bins on the western side of the lot. To manage dust the aggregate will be delivered in covered trucks and kept in a moist condition. Cement will be delivered to the site from external suppliers and deposited directly into the proposed silos. The production of concrete is a generally an automated process controlled by the plant manager with the final product being transferred directly to waiting trucks for delivery to commercial and domestic users.

The 'Concrete Batching Plant' will operate between the hours of 5.45am and 6pm Monday to Saturday, with the first concrete truck expected to leave the site at approximately 6am each morning. 20 – 30 concrete trucks are expected to leave the site on a daily basis with 4-5 deliveries of aggregate and cement occurring per day.

The proposed site plan, elevations and landscaping plan are attached.

## **Report**

The main issue for consideration in determining this proposal relates to whether the development of the site for a 'Concrete Batching Plant' is acceptable in land use terms, in accordance with the provisions of TPS No 3, and if so whether it can be accommodated without detriment to the amenity of surrounding land owners.

Additionally, the City must be satisfied that sufficient justification has been provided by the applicant to permit the operation of the proposed facility within the nominal buffer indicated by the relevant EPA guidance note and can comply with the provisions of the relevant State Planning Policy.

The proposal's compliance with the provisions of TPS No. 3 and the relevant state policies is demonstrated below.

### Town Planning Scheme No. 3

Within the 'Industry Zone', the proposed 'Concrete Batching Plant' is designated as a 'D' use in Table 1 of Town Planning Scheme No. 3 (TPS No. 3). As indicated by Clause 4.3.3 a 'D' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval.

The following paragraphs outline the proposal's compliance with relevant provisions of TPS No. 3

### General Development Requirements

Part 5 of TPS No. 3 outlines the requirements for development across the City. Clause 5.9 deals specifically with the requirements for commercial and industrial uses. The development requirements for these uses are split into five main components, these being: building setbacks, landscaping, amenity, convenience and functionality, and car parking.

### 5.9.1 Building setbacks

Clause 5.9.1(b) states:

*A building shall be setback from boundaries or erected on boundaries so that the impact on the use and amenity of adjoining buildings is minimised and the scale and bulk of the buildings is compatible with the streetscape.*

The proposed transportable building to be utilised as the site office is proposed to be setback a minimum of 9.0 metres from the Barrington Street and Miguel Road boundaries and should be well screened by bulk plantings as per the submitted landscape plan.

The main operational infrastructure including silos, conveyor, feed hoppers, agitator and noise attenuation walls are generally setback more than 40 metres beyond the Barrington Street and Miguel Road boundaries. Given the setback distance, the undulating nature of the site and proposed landscaping, the feed hoppers will be largely obscured from view, while the silo and noise attenuation wall will remain prominent features. Despite this, the structures are consistent with the industrial nature of the surrounding area and are not considered likely to negatively impact on amenity.

The bulk and scale of the proposed built form is much less than typically expected in 'Industry' zones, will not have an impact on adjoining buildings or the amenity of the location, and as such is supported.

### 5.9.2 Landscaping

TPS No. 3 requires that a minimum of 10% of the total lot area or the area subject of the application, be dedicated to landscaping purposes. Further, the TPS No. 3 provisions state that the landscaping on the lot shall have a minimum width of 1.5 metres and be provided in areas of not less than four square metres.

In this regard the applicant proposes a total landscaped area of 1650m<sup>2</sup> which represents 14% of the site and as such exceeds the minimum Scheme provisions. The landscape plan is considered to meet the objectives of Clause 5.9.2 of TPS No. 3. Despite compliance with Scheme provisions, a number of the species proposed are not supported by the City's Parks and Environment Services and as such a revised landscaping plan is required as per Condition 1. Proposed Condition 2 requires the applicant/owner establish and maintain the proposed on site landscaping to the satisfaction of the City, ensuring on-going screening of the proposed operations and a positive impact on the amenity of the location.

### 5.9.3 Amenity

Clause 5.9.3 of TPS No. 3 in essence requires new buildings be designed in a fashion which ensures they complement the streetscape and do not negatively impact on surrounding properties. As indicated above, the built form proposed as a part of the application is of a bulk and scale compatible with the surrounding area and is setback from all boundaries in such a way that it will not impact on adjoining property owners. In addition, large expanses of landscaping should ensure the development will be seen in a landscaped setting; this will complement the locality.

### 5.9.4 Convenience and Functionality

Clause 5.9.4 is particularly concerned about ensuring development is designed so that it is convenient for those who use it. Located on the corner of Miguel Road and Barrington Street with access to the subject site occurring from both roads, the proposed 'Concrete Batching Plant' will be served by roads which have been designed to cater for large volumes of traffic.

In addition to being accessible from the surrounding suburbs, the proposed site plan allows for safe and convenient vehicle and employee movement across the site.

### 5.9.5 Vehicle Parking

Parking requirements for a 'General Industry' use are generally calculated at the rate of 1 bay per 50 m<sup>2</sup> of Gross Lettable Area in accordance with Table 4 of TPS No. 3.

In this instance applying the standards of Table 4 is not considered to be an appropriate manner to deal with parking requirements. A performance approach to parking provision has instead been applied to this application. The applicant has proposed 18 parking bays to accommodate the proposed 13 employees and any potential increase in employee numbers over time. Footnote number 2 advises the applicant that parking has been assessed on the basis of the information provided and future changes to on site operations which result in increased GLA or a significant change in employee numbers will require a new application to be lodged with an approved by the City.

'Guidance for the Assessment of Environmental Factors Western Australia (in accordance with the Environmental Protection Act 1986) Environmental Protection Authority No. 3 June 2005 – Separation distances between industrial and sensitive land uses'

The above document herein referred to as the 'Guidance Note' recommends minimum buffer distances between sensitive uses such as residential development, hospitals, hotels etc and various types of industrial uses, encompassing a range of industrial, commercial and rural land uses. Where a 'Concrete Batching Plant' is proposed the Guidance Note recommends a minimum buffer distance to sensitive uses of 300 to 500 metres, measured from boundary to boundary rather than from the source to the sensitive use. In this instance there is approximately 250 metres between the boundary of the subject site and the nearest residential property.

The buffer distances recommended by the 'Guidance Note' are generic in nature and are intended to provide a guide to relevant authorities, and landowners with regard to the suitability of a land use in a particular area. The distances may be reduced if a satisfactory site specific technical study is provided to support this variation.

The main impacts associated with Concrete Batching Plants are dust and noise. With regard to dust, the applicant has provided a detailed analysis of the activities likely to create dust impacts and has outlined measures to be implemented to ensure these do not impact on nearby residents. Dust management measures will include:

- Receipt of aggregate in a moist state and maintaining this state through the use of water sprays.
- Fully covered incline conveyors and overhead bins.
- Windshields to all ground bins, and roofs to aggregate bins where appropriate.
- Filter and pressure relief systems to all silos.
- Overfill alarm systems to silos.
- An immediate stop to all operations in the case of a spill of aggregate materials or concrete batching materials.
- Installation of rumble bars on crossovers to prevent materials leaving the premise.

A full list of proposed measures is contained on page 13 of the attached Environmental Assessment Report (EAR).

With regard to noise, a site specific acoustic report has been provided by the applicant (a copy of this report is attached). The report includes details of noise levels permitted to be received by sensitive premises and an indication of the modelling undertaken to measure the likely impacts on nearby dwellings. The key findings of the report can be found on page 4.

Based on the modelling by the acoustic consultants, residents to the south east of the plant would likely be impacted upon during the day by noise, above that permitted by the regulations in the absence of



mitigation measures. This impact would be due to the noise from agitator trucks and front end loaders. In order to comply with the regulations, the acoustic consultant recommends the placement of an acoustic wall extending two (2) metres beyond the front and rear of the truck loading area and one metre above the mixing drum.

In addition to the acoustic report, a range of measures to be undertaken by the applicant have been included in the EAR. Noise management measures include:

- Installation of an acoustic screen along the southern side of the truck loading area as recommended in the acoustic report.
- Installation of broadband beepers to onsite vehicles.
- Limiting vehicle movement on the premises before 7:00 a.m.
- Limiting operations to wet batch mixing before 7:00 a.m. (this process reduces noise from vehicles agitating on site).
- No filling of hopper bins before 7:00 a.m. or after 6:00 p.m.

The EAR indicates that the Department of Environment and Conservation - Noise Assessment Branch have advised that compliance with the Environmental Protection (Noise) Regulations is achievable. Despite this the DEC has indicated ongoing monitoring will be required at the premise and at surrounding sensitive sites as a condition of the works approval. If monitoring indicates the Regulations are not being met, additional measures would be required to be undertaken by the proponent to ensure compliance.

The measures outlined in the acoustic report and draft works approval and has been considered by the City's Environment Health Department. This department has indicated these measures once implemented and complied with on an ongoing basis, should ensure the operations will comply with the Regulations at all times and are considered satisfactory for the purpose of ensuring the amenity of nearby residents is not unduly impacted upon. Should the applicant not act in accordance with the dust and noise management measures indicated above, the applicant may be in breach of planning approval and action taken under the provisions of the Planning and Development Act 2005.

#### Draft State Planning Policy 4.1 – State Industrial Buffer (Amended)

This policy applies across Western Australia, to planning decisions relating to a number of matters including the '*expansion or change in the operations of existing industry*' and aims to avoid conflict between sensitive and industrial land uses. Part 5 of the policy indicates that new industry should demonstrate via an appropriate technical analysis how emissions will be contained on site. In addition, the policy provides detailed information as to the type of information required as a part of

the technical analysis. As indicated above, a technical analysis of the proposal has been provided to the City's satisfaction and may be supported.

### Conclusion

It is considered the development of the site for a 'Concrete Batching Plant' is acceptable in land use terms and the details of the proposal are considered acceptable when judged against the standard development criteria of TPS No. 3. Additionally, sufficient technical justification has been provided by the applicant to satisfy the City that despite a breach of the generic buffer distance indicated in the relevant EPA guideline, the proposal can operate without detrimental impact on surrounding landowners.

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

#### **Governance Excellence**

- To develop and maintain a financially sustainable City.

#### **Employment and Economic Development**

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

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Matter subject to an application for review with the State Administrative Tribunal.

### **Community Consultation**

As indicated previously in this report, at the Ordinary Council Meeting held 9 December 2010, Council resolved to defer consideration of the abovementioned item to allow for consultation with residential landowners to the south of the subject site and the Yangebup Progress Association (YPA).

On 7 February 2011, the applicant met with members the YPA and other interested parties including the CEO and the Director of Planning and Development, presenting details of the proposed application and fielding a number of queries. The YPA has since provided a detailed submission and the applicant has provided a further detailed response to this submission (both submissions are attached).

The YPA's submission, indicates an objection to the proposed development on the basis of non – compliance with the generic buffer distance contained in the EPA Guidance Note, questions relating to impacts on the health and wellbeing of landowners, and uncertainty that the proposed development can operate within the relevant noise regulations.

In reply to the above, the applicant reiterates that the buffer distances outlined in the EPA Guidance Note, are a guide only and may be if a satisfactory site specific technical analysis is provided. Further details in respect to the proposed operation are provided in a table format, including specific activities to be undertaken to ensure dust and noise from the site is minimised.

With respect to noise the applicant indicates the proposed acoustic screen will measure 15 metres in length, 6 metres in height, and 150 mm in width, thus exceeding the Noise Assessment's recommendation in terms of both size and density. Further the applicant has agreed to ongoing monitoring of the site for a period of up to 6 months rather than the one month required by the works approval issued by the DEC. This has been added as a condition of approval.

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

1. Location Plan
2. Zoning Plan
3. Development Application Plans (Site Plan, Elevations, Landscaping)
4. Environmental Assessment Report
5. Acoustic Information
6. Response to Yangebup Progress Association from Technical Design Concrete (TDC)
7. Yangebup Progress Association Submission
8. State Administrative Tribunal Orders (Confidential, provided under separate cover)

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

The Proponent(s) has been advised that this matter is to be considered at the 10 March 2011 Council Meeting.

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

Nil.

**14.4 (OCM 10/3/2011) - PROPOSED NEW POSITION STATEMENT  
PSPD21 'UNINHABITABLE PREMISES' (HS/P/003) (N JONES)  
(ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt proposed new Position Statement PSPD21 'Uninhabitable Premises', as attached to the agenda.

**COUNCIL DECISION**

**Background**

Recent experience suggests that there are a growing number of cases where people are found to be living in severe domestic squalor. The traditional option of using the powers of the Health Act to force clean up and sometimes prosecution are inappropriate in these cases because there is a need to recognize that many of these people are vulnerable and need help from the City.

**Submission**

N/A

**Report**

It is proposed that where officers determine that an occupier is vulnerable, the City arrange for clean up works to be carried out and if appropriate the cost placed as a charge on the land to be recouped at a later date.

Attachment 1 is the Position Statement that outlines a proposed procedure for dealing with vulnerable people found to be living in severe domestic squalor in uninhabitable homes in the City of Cockburn. Officers appear to be finding a growing number of residents who are living in houses that are dirty/unhealthy. Councillors and neighbours are becoming frustrated at the time it sometimes takes for officers to deal with these cases. The residents often have a functional disability that may be caused by dementia, psychiatric illness, drug and alcohol dependency or a range of other disabilities, or they are frail aged or sick. Importantly the properties are owned by the resident

and/or their family. These people do not have the capacity to arrange clean up of their premises to the required standard.

It is inappropriate to deal with these cases using the normal provisions of the Health or Local Government Act. This represents an example of the need for the community to recognise and be more accommodating to mental illness within the community.

The City's focus is on providing a high quality service to this group of residents, and the Position Statement is designed to provide a method of dealing with these cases while ensuring that the City recovers any funds that are expended.

It is proposed that the City pay for the cost of cleaning and repairing the houses to the minimum standard required by the Health Act. Links have been developed with charities and cleaning companies with the capacity to carry out these works at a low cost with high levels of compassion and discretion. Section 371 of the Health Act enables the City to serve Notices in relation to a property, carry out the works, and then place the cost as a charge on the land to be recovered when the property is sold. The provision does not allow the charge to include incidental costs such as legal expenses nor does it allow interest to accrue over time.

It is proposed that the Position Statement be adopted by Council and that the existing Health Services operational account clean-up activities 210 – 9851 be increased from \$8000 to \$40,000. There are currently 4 cases that are predicted to cost a total of up to \$40,000.

<b>Premises</b>	<b>Description of Works</b>	<b>Total Cost</b>
<b>A</b>	<b>House - Bibra Lake.</b> Repair Roof. Clean& repair throughout. Replace kitchen fixtures. Repairs to bathroom fixtures. Replace defective electrics. Clean up yard.	\$13 610
<b>B</b>	<b>House – Coolbellup.</b> Clean up front yard.	\$2 280
<b>C</b>	<b>House – Coolbellup.</b> Thorough clean up & repair inside & outside. Significant pest issues. Case on hold as owner is in hospital.	\$17 544 (up to)
<b>D</b>	<b>House – Spearwood.</b> Thorough clean up. Large number of cats/animals.	\$5000
<b>E</b>	<b>Unit – Spearwood.</b> Thorough clean up. Large number of	\$?

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cats/animals.

<b>F</b>	<b>House – Spearwood.</b> Asbestos roof structure damaged by termites. Problem with rats.	\$?
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There are also additional legal costs associated with placing the charge on the title of the land but these are not recoverable. The Health Services legal account may also need to be increased by about \$600 per case to accommodate this extra expense.

These cases will always be complex and extremely time consuming for Council officers especially the Disability Access and Inclusion Officer (DAIO) who will be called upon to explain the actions to residents and family who will undoubtedly want a comprehensive explanation delivered before, during, and after the clean up event. Many of these people are known to have prior mental illness which places unique demands on the skills of the DAIO.

The attached Position Statement does not recognise the fact that the proposed new approach will generate significant additional workload for several Council officers. It is common for the houses to be extremely filthy and squalid requiring substantial care and commitment of officers.

On referral of a complaint about a premises and where the Environmental Health Officer identifies that the occupant may have a disability or be frail aged, the City's Disability Access and Inclusion Officer (DAIO) will undertake an initial assessment. If the result of this assessment is that the resident is unable to bring the premises up to a suitable standard without support, then the DAIO will refer to appropriate agencies including the City of Cockburn's Family Support Services, Financial Counseling Services, and Home and Community Care Services.

The Environmental Health officer will obtain an estimate of the costs, e.g. quote for cleaners to clean a house or property. Each case will be assessed by the Manager of Environmental Health and based upon a two tiered approach.

Tier 1 – If the cost of the clean-up is predicted to be minor (less than \$2,500) then the funds will be taken out of the Community Services emergency fund at the discretion of the Manager Community Services.

Tier 2 – If the predicted costs are greater than \$2500 then Health Act Notices will be served and the costs will be placed as a charge on the property title.

The public health notice will require that the cost of the cleanup be repaid over a period of time or the cost placed on the property requiring funds for the cleanup cost to be returned to the City at the point of sale of the property. If necessary, and if viable, Financial Counseling Service will be arranged to develop a re-payment plan suited to the individual's needs.

If the resident requires ongoing support, the Disability Access and Inclusion officer will refer the resident assessment for Home and Community Care Support.

### **Strategic Plan/Position Statement Implications**

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

- To foster a sense of community spirit within the district generally and neighbourhoods in particular.
- To deliver our services and to manage resources in a way that is cost effective without compromising quality.
- To identify community needs, aspirations, expectations and priorities for services that are required to meet the changing demographics of the district.

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

There will be an additional cost to Council because the provision of this service will inevitably involve more officer time, legal fees and loss of interest on the funds as they are locked into the property until the property is sold. It is likely that in some cases the minor costs may not be recouped. The predicted annual cost is about \$40,000 with about \$35,000 recouped in future. The accuracy of this prediction is based upon variables that may change over time. Officers predict that there will be up to 5 premises each year. Note one of the current cases has cost about \$15,000 including new kitchen cupboards and roof repairs.

#### **Legal Implications**

The Health Act - Section 371 provides the head of power for the City to take action and place the cost as a charge against the property.

#### **Community Consultation**

N/A

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

Proposed new Position Statement PSPD21 'Uninhabitable Premises'

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

N/A

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

Nil.

**14.5 (OCM 10/3/2011) - PROPOSED PACKHAM NORTH DISTRICT STRUCTURE PLAN - LOCATION: PACKHAM NORTH PROJECT AREA, SPEARWOOD AND COOGEE OWNER: VARIOUS - APPLICANT: N/A (SM/M/056) (R COLALILLO) (ATTACH)**

**RECOMMENDATION**  
That Council

- (1) endorse the Draft Packham North District Structure Plan (“Draft District Structure Plan”) for the purposes of providing a guiding document to inform the preparation of future Local Structure Plans within the District Structure Plan area;
- (2) advertise the Draft District Structure Plan for a period of 30 days, with advertising to generally follow the procedural requirements established under Clause 6.2.8.1 of City of Cockburn Town Planning Scheme No. 3; and
- (3) following advertising, consider the Draft District Structure Plan for endorsement as a guiding document in light of submissions or further information received during the advertising period.

**COUNCIL DECISION**

**Background**

The purpose of this report is to consider the Draft Packham North District Structure Plan for endorsement for public advertising.

The Draft District Structure Plan provides guidance for the preparation of Local Structure Plans (“LSP’s”) over the subject land by prescribing land uses, the local street network and local parks. It is based upon achieving an appropriate response to the environmental characteristics of the land, as well as providing a mixture of residential densities based around a highly permeable neighbourhood design.



The Draft District Structure Plan has been prepared on Liveable Neighbourhoods design principles, and allows for future development of the land for urban purposes in a co-ordinated manner. It is recommended that Council endorse the Draft District Structure Plan for endorsement for public advertising.

### **Submission**

N/A

### **Report**

#### Packham North District Structure Plan

In order to facilitate proper and orderly planning across Development Area 31 (Packham North), the City of Cockburn ("City") has prepared the Draft District Structure Plan.

The area comprised by Development Area 31 is shown in the attachments to this report. The Draft District Structure Plan will facilitate the development of the former Watsonia Abattoir and Small Goods Factory, together with the surrounding land that was previously zoned 'Rural' and was within the odour buffer of the abattoir.

The Draft District Structure Plan is provided within the attachment to this report and includes the following components:

1. A Draft District Structure Plan report.
2. The Draft District Structure Plan.
3. Associated technical reports regarding district/local drainage, servicing, environmental studies etc.

The Draft District Structure Plan will provide an overall planning framework to guide future LSP's, given the fragmented nature of landownership which exists.

#### Design Principles

The Draft District Structure Plan is consistent with the Directions 2031 and Beyond Strategic Plan, through providing new housing within infill areas. In accordance with Liveable Neighbourhoods and the City's Local Planning Strategy, the Draft District Structure Plan will also provide for a range of residential densities and housing types. Medium to high density housing will be located in high amenity areas, such as adjacent to the proposed local centre and public open space reserves. Larger lots will be provided as a transition between the established residential areas immediately surrounding the Draft District Structure Plan area.

The Draft District Structure Plan retains the existing major network roads, while providing for a new east-west road connection between Hamilton Road and Mell Road through the northern section of the former Watsonia Factory site. An interconnecting network of shared paths will also be provided, utilising the existing road network and new local roads. New pedestrian links will also provide connections to the existing and proposed local centres on Hamilton Road, and to the new areas of public open space.

There is no provision for regional open space within the Draft District Structure Plan as there are no park or recreation areas of regional significance. However the subject area is bound to the west by Beeliar Regional Park, and an appropriate interface and link to this will be required. A series of local neighbourhood parks have been shown throughout the residential areas on the Draft District Structure Plan. The location of public open space within the Draft District Structure Plan is notional, and will be accurately determined through the future detailed LSP process.

The rationale for the distribution and layout of public open space is based on:

- Retention of quality vegetation and wetlands.
- Providing linear open space for walking and cycling.
- Safe walking distance from most dwellings.
- Ownership boundaries, to enable most landowners to be able to satisfy a 10% public open space requirement within their landholding.
- Providing high level residential amenity and to promote passive surveillance.
- Appropriate integration of drainage facilities.

#### District Water Management Strategy

In accordance with Department of Water (“DoW”) requirements, landowners or groups of landowners within Development Areas need to prepare a District Water Management Strategy (“DWMS”), Local Water Management Strategy (“LWMS”) and Urban Water Management Plan as part of structure planning and subdivision processes. Given the fragmented landownership within the project area and its relative size, the City has prefunded a hybrid DWMS/LWMS for the project area, with these monies to be recouped through the developer contribution arrangements being introduced for the project area under Scheme Amendment No. 87.

The City engaged the consultant Cardno to prepare the DWMS/LWMS. In order to facilitate an informed and higher quality DWMS/LWMS document, the City invited the input of the two major developers within

the project area - DTZ (on behalf George Weston Foods) and Terranovis (on behalf of approximately 22 land parcels and associated landowners). Participation and involvement of the two major developer groups has lead to further refinements to the DWMS/LWMS, to the point that it is now in the process of being finalised as a draft. Once finalised, the draft DWMS/LWMS will form an appendix to the Draft District Structure Plan prior to future advertising.

### Conclusion

It is recommended that Council endorse the Draft District Structure Plan for the purposes of community consultation. Officers are of the view that it adequately responds to the site characteristics of the land, and provides a robust guideline to help in the preparation of future LSP's. It is recommended that the Draft District Structure Plan be advertised for community consultation for a period of 30 days, following which the Draft District Structure Plan will be presented back to Council for formal endorsement in light of any submissions and further information which may be received during advertising.

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

#### **Demographic Planning**

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

#### **Infrastructure Development**

- To provide an appropriate range of recreation areas that meets the needs of all age groups within the community.

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

- To conserve the character and historic value of the human and built environment.

#### **Natural Environmental Management**

- To ensure development of the district is undertaken in such a way that the balance between the natural and human environment is maintained.

### **Budget/Financial Implications**

The Draft District Structure Plan falls within draft Development Contribution Area 12 – Packham North which is the subject of Amendment No. 87 to the Scheme and is yet to be formally adopted by Council or approved by the WAPC. Once adopted, all landowners within DCA 12 will be required to make a proportional contribution to land, infrastructure, works and all associated costs required as part of

the development and subdivision of the Packham North Development Contribution Area.

Such future subdivision and development will also be subject to the recently endorsed Scheme Amendment No. 81 dealing with community based infrastructure contributions.

### **Legal Implications**

As mentioned, it is proposed to consider the Draft District Structure Plan as a guiding document. It is important this distinction is made from a Local Structure Plan, given the way in which the Scheme deals with a Local Structure Plan as an extension to the statutory requirements of the Scheme.

### **Community Consultation**

Once adopted as a draft, it is recommended that District Structure Plan be advertised for a period of 30 days. Advertising is to be undertaken generally in accordance with the procedural requirements established under Clause 6.2.8.1 of the Scheme. This will include sending letters to affected landowners, placing notices in the local newspaper and on the City's website. A display of the proposal will also be placed within the foyer of the City's Administration Centre.

### **Attachment(s)**

Draft Packham North District Structure Plan Report

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

N/A

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

N/A

- 14.6 (OCM 10/3/2011) - PROPOSED 'GENERAL INDUSTRY LICENCED' - (CRUSHING FACILITY - BUILDING MATERIALS) - LOCATION: LOT 1 ROCKINGHAM ROAD, HENDERSON - OWNER: COMSE NOMINEES PTY LTD - APPLICANT: GREG ROWE & ASSOCIATES (3411117) (M SCARFONE) (ATTACH)**

### **RECOMMENDATION**

That Council advises the Western Australian Planning Commission ("WAPC") that the City of Cockburn recommends refusal of the application for the proposed 'General Industry (Licenced)' (Crushing Facility – Building Materials), at Lot 1 Rockingham Road Henderson for the following reasons, and that this report be referred to the WAPC as supporting documentation:

1. The use of the land for the purposes outlined would prejudice the levels of residential amenity enjoyed by nearby residents, particularly by virtue of the resultant dust and noise impacts. As such, the proposed use conflicts with the provisions of Clause 10.2.1 (i) and (n) of the City of Cockburn Town Planning Scheme No. 3.
2. The subject proposal is not sited in accordance with the generic buffer outlined in the document 'Guidance for the Assessment of Environmental Factors Western Australia (in accordance with the Environmental Protection Act 1986) Environmental Protection Authority No. 3 June 2005 – Separation Distances between Industrial and Sensitive Land Uses'.
3. Given the breach of the generic buffer referred to in condition No. 3, the proposed development would result in a land use conflict between 'General Industry (Licenced)' and the sensitive residential land uses that surround it. As such, the development conflicts with the provisions of the draft State Planning Policy 4.1 – State Industrial Buffer (Amended).

## COUNCIL DECISION

### Background

At the Ordinary Council Meeting held 11 November 2010, Council resolved to carry the officer's recommendation, and recommend refusal of an Application for Retrospective Planning Approval 'General Industry – Licenced (Crushing Facility - Building Materials) (herein referred to as 'Crushing Facility' at Lot 20 (No. 962) Rockingham Road, and Lot 4 (No. 13) Musson Road, Henderson.

Following the issue of this recommendation and several sessions of mediation at the State Administrative Tribunal the applicant has withdrawn the application for a 'Crushing Facility' at the abovementioned site and instead seeks approval to continue to store materials while it seeks an alternative 'Crushing Facility' site. The application for ongoing storage is the subject of another report in this month's agenda.

The applicant seeks to approval to establish a 'Crushing Facility' on the north eastern portion of Lot 1 Rockingham Road, Henderson (herein referred to as the 'Subject Site' to allow its client 'Brajkovich Demolition Pty Ltd' to recycle building materials associated with its demolition business. The subject site is located approximately 200 metres from the proponent's previous operations at Lot 20 (No. 962) Rockingham Road, and Lot 4 (No. 13) Musson Road, Henderson.

In accordance with the provisions of the *Hope Valley Wattleup Redevelopment Act 2000* ("Act"), the details of the application were referred to the Western Australian Planning Commission ("WAPC") on 19 January 2011 in their role as determining authority for the development.

### **Submission**

As indicated below the applicant acts on behalf of Brajkovich Demolition Pty Ltd' an established building demolition company which operates across the Perth Metropolitan area. The applicant has provided a detailed submission outlining the proposed operations and in addition has provided a detailed Environmental Assessment and Management Plan (EAMP) to support the application. The applicant's submission inclusive of the EAMP is attached.

The following points summarise the activities proposed at the subject site:

1. Receive, store and crush building materials obtained through the demolition activities conducted by Brajkovich Demolition Pty Ltd'.
2. Use of a range of machinery to undertake the above, including a crusher, screener, three (3) excavators, one (1) wheeled loader and a water cart.
3. A staff amenity block, two (2) on site storage containers and parking to be installed on site.
4. Creation of seven (7) metre high bunding on the north, east and south boundaries to act as a noise and dust attenuation measure. The subject site was previously utilised as a quarry and the existing topography provides a 'natural bund' to the east and as such further bunding is not proposed on this boundary.
5. Various stockpiles of processed and unprocessed materials within the subject site up to 10 metres in height.
6. An 8.0 metre wide profiled bitumen driveway from Rockingham Road to the subject site.
7. All vehicle assess and egress from existing crossover on Rockingham Road.

Development site plan attached indicates the location of features described above.

## **Report**

### Hope Valley Wattleup Redevelopment Act 2000

The subject site is located within the Hope Valley Wattleup Redevelopment Area and is affected by the provisions of the *Hope Valley Wattleup Redevelopment Act 2000*. Under the provisions of the Act, the City's Town Planning Scheme No. 3 ceases to apply and the WAPC becomes the determining authority. Under the provisions of Clause 26 of the Act, the City may make recommendations to the WAPC within 42 days of receiving an application for planning approval, or within a longer timeframe if agreed with the WAPC.

On 4 February the WAPC published in the government gazette delegation for the cities of Cockburn and Kwinana to determine Applications to Commence Development within the Hope Valley Wattleup Redevelopment Area. Despite this event, Clause 1.1. (d) of this delegation indicates that the local government may elect to forward a copy of the application to the WAPC for its determination, thus maintaining the status quo in this locality.

The application was been referred to WAPC for determination on 19 January 2011 prior to the issue of the new delegation. The WAPC have since undertaken consultation with the relevant stakeholders, including the Department of Environment and Conservation, the Department of Health, Landcorp and Main Roads. As such it is recommended the WAPC continue to take carriage of the determination of this proposal.

### Hope Valley Wattleup Redevelopment Project Master Plan – Proposed Amendment No. 4

The Hope Valley Wattleup Redevelopment Project Master Plan ("Master Plan") should be read in conjunction with the *Hope Valley Wattleup Redevelopment Act 2000* and essentially acts as a de facto planning scheme for the locality. Amendment No. 4 to this document is currently undergoing public consultation. The Master Plan identifies the subject site as being located within 'Precinct 7 – Northern Transport'. The proposed Crushing Facility would be considered to meet the definition of 'General – Industry (Licenced)' which is a 'Use Not Listed' in the Masterplan; however, 'General – Industry' is a 'D' use in this precinct meaning that the use is not permitted unless the WAPC has exercised its discretion by granting planning approval.

### Hope Valley Wattleup Draft District Structure Plan

The Draft Hope Valley Wattleup District Structure Plan (DSP) has been prepared by Landcorp and its partners to guide future development of the area. The DSP identifies the subject site as being within Planning Area No. 2, an area considered likely to be used for land uses such as logistics, warehouses, container handling, storage and distribution.

It is considered that the proposed use is not consistent with the future vision for the locality set out by the DSP, and as such its approval is considered unacceptable in land use terms. This is fundamental to the City's consideration of the subject proposal, and is one of the key considerations in recommending refusal of the application.

### Guidance for the Assessment of Environmental Factors Western Australia (in accordance with the Environmental Protection Act 1986) Environmental Protection Authority No. 3 June 2005 – Separation distances between industrial and sensitive land uses

The Environmental Protection Authority 'Guidance Note' recommends minimum buffer distances between sensitive uses such as residential development, hospitals, hotels etc and various types of industrial, commercial and rural land uses. Where the crushing of building materials is included, the Guidance Note recommends a minimum buffer distance of 1000 m to sensitive uses measured from boundary to boundary rather than from the source to the sensitive use. In this instance there is 170 metres separation between the proposed development and the nearest sensitive use.

In its consideration of the current proposal, an appraisal of the actual distances that exist between the crusher and stockpiles has found that:

- The closest residence is sited approximately 465 metres from the proposed noise and dust bunds, and approximately 540 metres from the proposed crusher and screener if the operations are approved.
- There are at least 3 dwellings located within 500 metres of the stockpiles and crusher.
- Up to 50 dwellings are located within 1000m of the crusher and stockpiles.

The buffer distances recommended by the 'Guidance Note' are generic in nature and are intended to provide a guide to relevant authorities, and landowners with regard to the suitability of a land use in a particular area. The distances may be reduced if a satisfactory site specific technical study is provided to support this variation.



Clearly the application does not comply with the recommended buffer distance therefore as stated in the EPA Guidance Statement No.3 “the proponent is expected to put a well-researched, robust and clear justification arguing the need to deviate from the recommended buffer distance”. The proponent is expected to go beyond the standard of “best practice”. The applicant has provided a comprehensive EAMP which outlines various management practices proposed by Brajkovich Demolition Pty Ltd. The document covers issues such as waste acceptance and handling.

A technical analysis of the applicants EAMP has been undertaken by the City’s Environmental Health Services and they have indicated that the document is not of a sufficient standard to enable the application to be supported. The applicant has indicated that further information cannot be provided prior to the deadline for this month’s Ordinary Council Meeting and have requested the application be determined on the basis of information provided.

Given ongoing concerns with regard to dust emissions in the locality, concerns relating to the supporting documentation provided, and the lack of compliance with the standard buffer, the proposal is considered to conflict with the provisions of the ‘Guidance Note’, and should not be supported on that basis.

#### Draft State Planning Policy 4.1 – State Industrial Buffer (Amended)

The provisions of this policy apply throughout Western Australia, and aim to ensure that conflict between competing sensitive and industrial land uses is avoided. Specifically, Part 5 of the policy requires that proposals for new industrial development demonstrate, via an appropriate technical analysis, how emissions from them will be contained on site. The policy provides detailed guidance as to the type of information required to be submitted as part of any technical analysis. As indicated above, a sufficient technical analysis of the proposal has not been provided and as such the proposed development is considered contrary to the provisions of the State Industrial Buffer policy.

#### Comment

As indicated previously, the applicant has provided a detailed submission in support of its current application for a Crushing Facility on the subject site. This application outlines why the proposed ‘Crushing Facility’ on the subject site should be supported, citing that there is no resultant conflict between it and sensitive adjoining land uses, it does not conflict with the future intended use for the area, and it does not conflict with future structure planning for the area.

While the applicant indicates that the proposed activities will not result in conflict with surrounding landowners, the City's technical officers do not consider sufficient supporting documentation has been provided to permit a reduction in the recommended buffer indicated by the Guidance Note. In addition, operators in the industry have a poor record of compliance with relevant legislation.

Given ongoing concerns with regard to dust emissions in the locality, concerns relating to the supporting documentation provided, and the lack of any standard buffer, the proposal is considered to conflict with the provisions of the 'Guidance Note', and should not be supported on that basis.

### Conclusion

The proposed 'General Industry (Licenced)' - Crushing Facility – Building Materials is not considered to be an appropriate land use given its proximity to surrounding dwellings, its conflict with the long term provisions of the Hope Valley Wattleup District Structure Plan, and the fact that the development breaches the 1000m EPA buffer.

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

#### **Demographic Planning**

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

#### **Governance Excellence**

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

#### **Natural Environmental Management**

- To ensure development of the district is undertaken in such a way that the balance between the natural and human environment is maintained.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Nil

### **Community Consultation**

The application was advertised to approximately 50 landowners located within 1000 metres of the proposed development and 13 objections have been received (schedule of submissions is attached). The objections received generally raise concerns with regard to the previous operations to the south, the potential for noise and dust impacts and the lack of compliance with the relevant buffer outlined in the 'Guidance Note'.

### **Attachment(s)**

1. Site plan
2. Development Application Report – Proposed Crushing Recycling Facility
3. Environmental Assessment and Management Plan
4. Schedule of submissions

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 10 March 2011 Council Meeting.

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

Nil

### **14.7 (OCM 10/3/2011) - (3316540 AND 3411594) (M SCARFONE) (ATTACH )**

#### **RECOMMENDATION**

That Council advises the Western Australian Planning Commission ("WAPC") that the City of Cockburn recommends refusal of the application for the 'Storage' (Building Materials), at Lot 20 (No. 962) Rockingham Road and Lot 4 (No. 13), Henderson for the following reason and that tis report be referred to the WAPC as supporting documentation.

1. The proposed scale of the development involves a fourfold increase of the size of the existing stockpiles which could have a detrimental impact on the amenity of the area.
2. Lack of a detailed acoustic consultants report indication that noise emissions will comply with the noise regulations.

**COUNCIL DECISION**

**Background**

On 29 September 2010 the WAPC issued a 'direction to cease development' for the crushing of building materials and associated works on the subject site.

On 11 October 2010 an Application for Review (Appeal) was lodged by the applicant with the State Administrative Tribunal (SAT) in respect of the said Directions Notice. A directions hearing was held on 29 October 2010, with the results of this meeting being summarised and presented to Council as part of the report relating to this site, in the November Ordinary Council Meeting.

During mediation it was indicated to the applicant that approval would not be granted for continuing crushing operations on the subject site and as such this aspect of the application has been withdrawn.

The application subject of this report, is for temporary stockpiling of building materials on the subject site where indicated on the submitted site plan, to enable Brajkovich to fulfil its contractual obligations while it continues its search for an appropriate location to crush the material.

The proposed stockpiling operation does not attract a nominal buffer under the provisions of the EPP guidance note. The current application has been accompanied by a Dust Management Plan, which has been assessed by the City's Manager Environmental Health. This technical analysis indicates the proposed measures to control dust are likely to ensure negative impacts on adjoining landowners are minimal. However, there is a need for additional information including an acoustic assessment.

In accordance with the provisions of the Hope Valley Wattleup Act 2000, the details of the application were referred to the Western Australian Planning Commission (WAPC) on 22 December 2010 in its role as the determining authority.

**Submission**

The applicant has, on behalf of the owner/operator, provided correspondence detailing the proposed applicant and its merits relative to the Hope Valley Wattleup Redevelopment Act, the Hope Valley Wattleup Masterplan and the Draft District Structure Plan. In addition the applicant has provided a detailed dust management plan outlining

the measures to be undertaken to ensure the development can continue to operate without detriment to surrounding landowners.

The following points provide a summary of the proposal

1. The applicant has requested temporary approval for ongoing storage activities on the subject site. The applicant has indicated they require approval for 6-9 months to allow the applicant to store materials while searching for an alternative site for its 'Crushing Facility'.
2. Once an alternative site is found and approvals are in place the applicant requires a further 9 months to remove the materials from the site.
3. No buildings are proposed as a part of the current application.
4. Approximately 30,000m<sup>3</sup> stockpile material is currently on site with this expected to increase to a total volume of 120,000m<sup>3</sup> by the end of the 9 month period.
5. Stockpiles of various materials are proposed. Stockpiles of building materials such as bricks and concrete are likely to be up to 10 metres high, with metal and greenwaste stockpiles 3-4 metres in height.
6. Proposed dust management measures include regular hydro-mulching of stockpiles, regularly watering the vehicle access, a vehicle speed limit and watering down materials as they are offloaded from vehicles (Hydro mulching plan attached).

## **Report**

### Hope Valley Wattleup Redevelopment Act 2000

The subject site is located within the Hope Valley Wattleup Redevelopment Area and is affected by the provisions of the Hope Valley Wattleup Redevelopment Act 2000. Under the provisions of the Act, the City's Town Planning Scheme No. 3 ceases to apply and the WAPC becomes the determining authority. Under the provisions of Clause 26 of the Act, the City may make recommendations to the WAPC within 42 days of receiving an application for planning approval, or within a longer timeframe if agreed with the WAPC.

On 4 February the WAPC published in the government gazette delegation for the cities of Cockburn and Kwinana to determine Applications to Commence Development within the Hope Valley Wattleup Redevelopment Area. Clause 1.1. (d) of this delegation indicates that the local government may elect to forward a copy of the application to the WAPC for its determination, thus maintaining the status quo in this locality.

The application was been referred to WAPC for determination on 22 December 2011 prior to the issue of the new delegation. The WAPC have since undertaken consultation with the relevant stakeholders, including the Department of Environment and Conservation, the Department of House, Landcorp and Main Roads. As such it is recommended the WAPC continue to take carriage of the determination of this proposal.

#### Hope Valley Wattleup Redevelopment Project Master Plan – Proposed Amendment No. 4

The Hope Valley Wattleup Redevelopment Project Master Plan (“Master Plan”) should be read in conjunction with the Hope Valley Wattleup Redevelopment Act 2000 and essentially acts as a de facto planning scheme for the locality. Amendment No. 4 to this document is currently undergoing public consultation. The Master Plan identifies the subject site as being located within ‘Precinct 7 – Northern Transport’. ‘Storage’ is a ‘P’ use under the provisions of Table 1 of the Master Plan and as such may be supported.

The Draft Hope Valley Wattleup District Structure Plan (DSP) has been prepared by Landcorp and its partners to guide future development of the area. The DSP identifies the subject site as being within Planning Area No. 2 - Northern Transport, an area considered likely to be used for land uses such as logistics, warehouses, container handling, storage and distribution.

The proposal to use the site for ‘Storage’ is consistent with the objectives for the area under the DSP and as such may be supported.

Guidance for the Assessment of Environmental Factors Western Australia (in accordance with the Environmental Protection Act 1986) Environmental Protection Authority No. 3 June 2005 – Separation distances between industrial and sensitive land uses

There is no recommended buffer for the stockpiling and/or storage of recycled building materials because this activity does not trigger a DEC licence. While a nominal buffer is not applicable to the proposed land use the applicant has provided a detailed by a Dust Management Plan (see attached), which has been assessed by the City’s Manager Environmental Health. This technical analysis indicates the proposed measures to be implemented to control dust and is likely to ensure negative impacts on adjoining landowners are minimal. Measures indicated in the proposed Dust Management Plan included regular hydro mulching of stockpiles, regularly watering the vehicle access, a vehicle speed limit and watering down materials as they are offloaded from vehicles

While there is no nominal buffer for the proposal under the provisions of the above policy, the City's Manager Environmental Health has provided the nominal buffer for a similar use/activity as a comparison point:-

- Waste disposal – inert landfill site – 150m for single residence and an internal buffer of 25m from boundary (total 175m).

There is scope to use a distance from emission source to the residents house but the buffer is normally required to be measured from boundary to boundary to enable the industry and/or the resident to use all of their land. Lot 20 Rockingham Rd is an unusually shaped lot which shares a boundary with 8 other properties of which 4 are currently occupied residential properties.

In this case there is zero buffer measured boundary to boundary from lot 20 Rockingham Road to 4 residential lots. However there are no houses located within 175m of the proposed operational stockpile areas and the nearest house to the proposed stockpiles is 200m away. The proposed stockpiling activity has been carried out on the site for several months and recent evidence indicates that noise and dust emissions appear to have been managed effectively through the use of extensive watering and good site management. The use of hydromulch on the completed stockpiles is expected to be an effective dust control measure.

#### Draft State Planning Policy 4.1 – State Industrial Buffer (Amended)

The provisions of this policy apply throughout Western Australia, and aim to ensure that conflict between competing sensitive and industrial land uses is avoided. Specifically, Part 5 of the policy requires that proposals for new industrial development demonstrate, via an appropriate technical analysis, how emissions from them will be contained on site. The policy provides detailed guidance as to the type of information required to be submitted as part of any technical analysis.

As indicated above, there is no recommended buffer for 'Storage' as no DEC licence is required. The provisions of the Draft State Planning Policy 4.1 – State Industrial Buffer (Amended) therefore do not apply and the application may be supported.

#### Comment

As indicated previously, the applicant has provided a detailed letter and dust management plan to provide support for the retention and continuation of the activities on site. This correspondence has been

further complemented by additional emails from the applicant and the Environmental Consultant.

The measures outlined in the Dust Management Plan have been assessed by Manager of Environmental Health and are considered likely to be effective in mitigating against dust. In addition, recent evidence indicates noise and dust are being managed through watering and good site management. However a technical analysis of this information has been carried out and there is a need for additional information including an acoustic assessment to be provided to confirm that these emissions can be controlled. The applicant has indicated that further information cannot be provided prior to the deadline for this month's Ordinary Council Meeting and have requested that the application be determined on the basis of the information provided.

Furthermore, there is significant uncertainty surrounding the future use of the stockpiled materials. There are concerns about the potential cost of removing the stockpiles if the majority of the materials require processing, especially as the proponent's application for a processing facility on the adjacent Lot 1 Rockingham Rd has not been determined. In view of this uncertainty it is inappropriate for approval to be granted to increase the size of the existing stockpiles fourfold.

### Conclusion

The proposed 'Storage' (Building Materials) use is considered to be an appropriate land use for the area, given its consistency with the legislative and statutory planning documents for the Hope Valley Wattleup area and compliance with relevant state planning policies and guidelines. However the stockpiling of significant volumes of additional materials should not be approved until the adjacent processing facility has been approved. Should the processing facility be refused by WAPC then the continued stockpiling on the site should cease as soon as possible. Should the processing facility be approved then the stockpiling operations should be relocated to the approved site without delay.

Therefore the stock piling of significant volumes of additional materials on the site should not be approved until the adjacent processing facility has been approved or refused. Given the above it is recommended the proposal be refused and the Western Australian Planning Commission advised accordingly.

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

#### **Governance Excellence**

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



**Natural Environmental Management**

- To manage the City's waste stream to achieve sustainable resource management, in an environmentally acceptable manner.

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

The subject proposal has been advertised to the seven (7) landowners to the west given the stockpiles will be visible from these properties and dust has been a problem in the past for these landowners. From this exercise two objections have been received, with both citing the previous problems associated with dust and noise. The temporary nature of the proposal is also questioned in one of the submissions.

A technical analysis of the proponent's environmental management information has been carried out and while it is likely that emissions can be controlled, there is a need for additional information including an acoustic assessment to be provided to confirm this.

**Attachment(s)**

1. Location Plan
2. Site Plan
3. Dust Management Plan
4. Hydro Mulching Plan

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 10 March 2011 Council Meeting.

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

Nil.

**14.8 (OCM 10/3/2011) - RETROSPECTIVE APPROVAL ' INDUSTRY - GENERAL (LICENCED) (GREENWASTE TRANSFER AND PROCESSING STATION) - LOCATION: PORTION OF LOT 20 ROCKINGHAM ROAD, HENDERSON - OWNER: RCG PTY LTD - APPLICANT: GREG ROWE AND ASSOCIATES (3316540) (M SCARFONE) (ATTACH)**

**RECOMMENDATION**

That Council advises the Western Australian Planning Commission ("WAPC") that the City of Cockburn recommends refusal of the application for the 'General Industry' (Greenwaste Transfer and Processing Station), at Lot 20 (No. 962) Rockingham Road, Henderson for the following reasons, and that this report be referred to the WAPC as supporting documentation:

1. The proposed development will have an unacceptable impact on the amenity of nearby residents, particularly with regard to dust and noise impacts. As such, it would conflict with the provisions of Clause 10.2.1 (i) and (n) of the City of Cockburn Town Planning Scheme No. 3.
2. The subject proposal is not sited in accordance with the generic buffer outlined in the document 'Guidance for the Assessment of Environmental Factors Western Australia (in accordance with the Environmental Protection Act 1986) Environmental Protection Authority No. 3 June 2005 – Separation Distances between Industrial and Sensitive Land Uses'.
3. Given the breach of the generic buffer referred to in condition No 3, the proposed development will result in a land use conflict between it and the sensitive residential land uses that surround it. As such, the proposed development conflicts with the provisions of the draft State Planning Policy 4.1 – State Industrial Buffer (Amended).

**COUNCIL DECISION**

**Background**

On 29 September 2010 the WAPC issued a 'direction to cease development' for the current activities on the site inclusive of the

stockpiling of greenwaste materials associated with the applicant's demolition activities (copy of direction attached).

On 14 October 2010 an Application for Review (Appeal) was lodged by the applicant with the State Administrative Tribunal (SAT) in respect of the said Directions Notice. A directions hearing was held on 29 October 2010, with the results being as follows:

- Representatives of the State Solicitor's Office and the WAPC will conduct interviews interested in participating in proceedings by 26 November 2010.
- Mediation scheduled for 3 December 2010.
- A full hearing scheduled for 8 March 2011.

At the mediation held 3 December 2010, the applicant was given advice that the application should be supported by a qualified consultant's report to address issues of noise attenuation and dust management. The advice has not been followed and as such the application does not adequately address the City's concerns with regard to potential dust and noise impacts on surrounding residential properties. As such it is concluded that the application should be recommended for refusal and the WAPC advised as such.

In accordance with the provisions of the Hope Valley Wattleup Redevelopment Act 2000 ("Act"), the details of the application were referred to the Western Australian Planning Commission, on 30 November 2010 ("WAPC") in their role as determining authority for the development.

### **Submission**

The proponent has provided a letter (refer to Agenda attachments) which describes the activities to be undertaken on the subject site.

The operation requires the retention of two storage containers and a transportable building on site and the use of various equipment such as a tree grinder, an excavator, a water truck, and semi trailers.

The applicant indicates the stump grinder will be operational on average two (2) times a month, with no more than five (5) semi trailer loads of material being transported to and from the site.

### **Report**

#### Hope Valley Wattleup Redevelopment Act 2000

As stated, the subject site is located within the Hope Valley Wattleup Redevelopment Area and is affected by the provisions of the Hope

Valley Wattleup Redevelopment Act 2000. Under the provisions of the Act, the City's Town Planning Scheme No. 3 ceases to apply and the WAPC becomes the determining authority. Under the provisions of Clause 26 of the Act, the City may make recommendations to the WAPC within 42 days of receiving an application for planning approval, or within a longer timeframe if agreed with the WAPC. It is important to note that the City is a referral agency only, and the WAPC is the ultimate determining authority.

#### Hope Valley Wattleup Redevelopment Project Master Plan – Proposed Amendment No. 4

The Hope Valley Wattleup Redevelopment Project Master Plan ("Master Plan") acts as a defacto Town Planning Scheme for the Hope Valley Wattleup Redevelopment Area. Amendment No. 4 to this document is currently undergoing public consultation. The Master Plan identifies the subject site as being located within 'Precinct 7 – Northern Transport'. The proposal would be considered to meet the definition of 'Industry – General' a use identified as a 'D' use within Precinct 7 by Table 1 of the Master Plan. A 'D' use is not permitted unless the WAPC has exercised its discretion in granting planning approval. Given the lack of appropriate supporting evidence provided as a part of this application it is not considered appropriate for the WAPC to exercise its discretion in this instance.

#### Hope Valley Wattleup Draft District Structure Plan

The Draft Hope Valley Wattleup District Structure Plan has been prepared by Landcorp and its partners to guide future development of the area. The Draft District Structure Plan identifies the subject site as being within Planning Area No. 2, an area considered likely to be used for land uses such logistics, warehouses, container handling, storage and distribution.

The proposed land use is not contemplated, by the Master Plan or Draft District Structure Plan and given that noise and dust concerns have not been adequately addressed the City is not in a position to support the current proposal.

'Guidance for the Assessment of Environmental Factors Western Australia (in accordance with the Environmental Protection Act 1986) Environmental Protection Authority No. 3 June 2005 – Separation distances between industrial and sensitive land uses'.

The above document herein referred to a the 'Guidance Note' recommends minimum buffer distances between sensitive uses such as residential development, hospitals, hotels ect and various types of

industrial uses, encompassing a range on industrial, commercial and rural land uses.

There is no recommended buffer for a greenwaste processing facility. The most appropriate buffer would be guided by the following similar uses/activities:-

- Composting facility including greenwaste – 150.m to sensitive premises.
- Waste disposal – putrescible landfill site – 150.m for single residence and an internal buffer of 35m (total 185.m).
- Waste depot – 200.m to sensitive premises

There is scope to use a distance from emission source to the residents house but the buffer is normally required to be measured from boundary to boundary to enable the industry and/or the resident to use all of their land. Lot 20 Rockingham Rd is an unusually shaped lot which shares a boundary with 8 other properties of which 4 are currently occupied residential properties.

In this case there is zero buffer measured boundary to boundary from lot 20 Rockingham Road to 4 residential lots. Three houses are located within 185 m of the proposed operational greenwaste area. Based upon this fact alone it is impossible to support the application.

The applicant has not provided detailed reports in support of its proposal and the City's technical officers do not consider the application can operate without detriment to adjoining landowners. This is a key consideration in recommending refusal of this application.

#### Draft State Planning Policy 4.1 – State Industrial Buffer (Amended)

This policy applies across Western Australia, to planning decisions relating to a number of matters including the 'expansion or change in the operations of existing industry' and aims to avoid conflict between sensitive and industrial land uses. Part 5 of the policy indicates that new industry should demonstrate via an appropriate technical analysis that indicates how emissions will be contained on site. In addition, the policy provides detailed information as to the type of information required as a part of the technical analysis. As indicated above, a technical analysis of the proposal has not been provided and as such may not be supported.

#### Conclusion

The proposed 'General Industry' (Greenwaste Transfer and Processing Station) use is considered to be an inappropriate land use for the area, given its inconsistency with the legislative and statutory planning

documents for the Hope Valley Wattleup area and general non-compliance with relevant state planning policies and guidelines. Given the above it is recommended the proposal be refused and the Western Australian Planning Commission advised accordingly.

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

#### **Governance Excellence**

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

#### **Natural Environmental Management**

- To manage the City's waste stream to achieve sustainable resource management, in an environmentally acceptable manner.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

N/A

### **Community Consultation**

The subject proposal has been advertised to the two (2) landowners to the south given the ongoing operation on this site is most likely to impact on those closest to the subject site. One objection has been received citing on-going, dust and odour issues, potential fire risks, the storage of materials other than greenwaste, and the use of heavy machinery/explosive to break up the materials on site. These concerns have been taken into consideration in the officer's recommendation.

### **Attachment(s)**

1. State Administrative Tribunal Orders
2. Direction to cease development
3. Application to commence development

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 10 March 2011 Council Meeting.

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

Nil.

**14.9 (OCM 10/3/2011) - PROPOSED VEHICLE ACCESS LOCAL PLANNING POLICY - LOCATION: CITY COCKBURN - OWNER / APPLICANT: N/A (SM/P/005) (R SERVENTY) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) in pursuance of Clause 2.5.3 of City of Cockburn Town Planning Scheme No. 3 ("Scheme"), resolves to adopt the Vehicle Access Local Planning Policy; and
- (2) publishes notice of the adopted Policy in accordance with Clause 2.5.3(a) of the Scheme.

**COUNCIL DECISION**

**Background**

At its Ordinary Meeting held on 9 December 2010 Council resolved to prepare a Vehicle Access Local Planning Policy and publish notice of the proposed policy.

Community consultation occurred between 4 December and 18 December 2011, a period of 21 days. A number of submissions were received and as per the requirements of City of Cockburn Town Planning Scheme No. 3 ("Scheme"), this matter is now presented for Council's final consideration.

The Department of Planning and Main Roads WA objected to the Draft Vehicle Access Local Planning Policy. They made comment that, in light of the current review of the regional road network around the interchange of Kwinana Freeway, Armadale Road and Beeliar Drive, being undertaken by the City of Cockburn, Main Roads, Department of Transport and Department of Planning, the adoption of a Vehicle Access Policy was premature.

These comments are considered reasonable. However, the Vehicle Access Policy's purpose, to provide a mechanism to coordinated

vehicle access along regional roads to ensure vehicle movement is appropriately planned and managed, remains important and valid. The Vehicle Access Policy allows for the preparation, adoption and modification of Vehicle Access Policy Plans throughout the City and the Policy is considered flexible enough to accommodate changes in the regional road network.

The City acknowledges that the Vehicle Access Policy Plans may change over time and may only provide an interim measure, depending on the outcome of future road and land use planning decisions.

### **Submission**

N/A

### **Report**

#### Planning Discussion

The City has prepared and advertised for public comment a Draft Vehicle Access Local Planning Policy, including two Vehicle Access Policy Plans for a portion of North Lake Road and North Lake Road Extension (Verde Drive).

The Vehicle Access Policy provides a framework for the planning and development of safe and efficient movement of motorists, public transport users, pedestrians and cyclists, where such a coordinated approach to vehicle access is required. The Policy provides guidance for the preparation of Vehicle Access Policy Plans and a means of adopting Vehicle Access Policy Plans. The Draft North Lake Road Vehicle Access Policy Plan and Draft North Lake Road Extension (Verde Drive) Vehicle Access Policy Plan are appendices to the Policy and will be adopted as part of the proposed Policy.

The Vehicle Access Policy Plans were prepared in consultation with Main Roads WA, the Department of Planning and effected landowners, and in conjunction with structure planning for the surrounding areas. The Vehicle Access Policy Plans coordinate vehicle access along the two roads to ensure adjoining development maintains safe and efficient movement for motorists, heavy vehicles operators, public transport users, pedestrians and cyclists.

The Vehicle Access Policy will ensure that the Vehicle Access Policy Plans are given adequate recognition through the planning process. This will make them readily identifiable as an important component of the planning assessment process, when applications for planning approval are received and assessed.



## Response to Issues Raised through Community Consultation

Community consultation was carried out for a period of 21 days, from 4 January till 18 January 2011. Two advertisements were placed in the Cockburn Gazette during this period. A total of six submissions were received. There were three main issues raised in submissions. These issues and the City's responding comments are detailed below:

1. In-light of the current review of the regional road network around the interchange of Kwinana Freeway, Armadale Road and Beeliar Drive, being undertaken by the City of Cockburn, Main Roads, Department of Transport and Department of Planning, the adoption of a Vehicle Access Policy, including a Vehicle Access Policy Plans for North Lake Road and Verde Drive is premature.

Officer Response – These comments are not supported. The Vehicle Access Policy allows for the preparation, adoption and modification of Vehicle Access Policy Plans throughout the City. The North Lake Road and North Lake Road Extension (Verde Drive) Vehicle Access Policy Plans reflect the current road and land use planning for the surrounding areas. If the planning for the regional road network and adjoining and surrounding land was to change as a result of the review, the relevant Vehicle Access Policy Plans could be modified to reflect the new planning.

2. Objection to proposed easement in gross on private land for which landowners are not being compensated.

Officer Response – These comments are not supported. The Vehicle Access Policy does not resume any land and therefore the question of compensation is not relevant. The land required for parking and the public access easement under the Vehicle Access Policy Plans does not require any more land than what would normally be set aside for parking, internal driveways and landscaping under the Scheme. What the easement is gross will ensure however is that car parking areas on adjoining properties are able to function and be used in an overall integrated way. Specifically as development adjoining North Lake Road is identified for commercial purposes, it is important to ensure that strategic access points are provided at appropriate junctions, rather than at every individual property as would otherwise be the case. The easement in gross instrument therefore allows for comprehensive planning and access to occur.

3. The Vehicle Access Policy Plan for North Lake Road and North Lake Road Extension (Verde Drive) will interrupt efficient vehicle movement.

Officer Response – In the case of North Lake Road, the full access crossover points are well spaced between the intersections and will not create any conflict points. Slip lanes will also be installed to have minimum impact on the through traffic flow and speed. In case of Verde Drive, there are no full access crossover points. Full access is provided via existing road network. The driveway accesses are left in left out only and will not create conflict points.

Details of individual submissions are included in the Schedule of Submissions appended to this report. A full response to all submissions is provided in the Schedule.

In response to a submission made by Property Development Solutions, on behalf of South Central WA Pty Ltd, the North Lake Road Extension (Verde Drive) has been amended to reflect an agreement between the City and the landowner in 2008, to allow a left in left out, with right in (no right out) access arrangement into their site. This access arrangement was negotiated when this section of Verde Drive was being constructed and is considered to ensure safe and efficient access arrangements to the site. The agreed access arrangements were supported also by Main Roads WA.

### Conclusion

Apart from the single modification generated from the submission received from Property Development Solutions on behalf of South Central WA Pty Ltd, no other modifications to the Policy are recommended. The policy is considered to provide an important additional tool to ensure that priorities for coordinated and safe road access along important regional roads is achieved. The Policy will also be able to be amended into the future to add additional roads, or to modify existing arrangements should the need occur. On this basis it is recommended for adoption by Council.

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

#### **Transport Optimisation**

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

**Budget/Financial Implications**

N/A

**Legal Implications**

Once adopted as a Local Planning Policy, planning assessment performed pursuant to City of Cockburn Town Planning Scheme No. 3 will be required to take into account the requirements in relation to vehicle access.

**Community Consultation**

Community consultation was carried out for a period of 21 days, from 4 January till 18 January 2011. Two advertisements were placed in the Cockburn Gazette during this period. A total of six submissions were received. Analysis of the submissions has been undertaken within the 'Report' section above, as well as the attached Schedule of Submissions.

**Attachment(s)**

1. Draft Vehicle Access Policy
2. North Lake Road Vehicle Access Policy (01)
3. North Lake Road Verde Drive Vehicle Access Policy (02)
4. Schedule of Submissions

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

N/A

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

Nil.

**14.10 (OCM 10/3/2011) - PROPOSED MODIFICATION TO SOUTH BEACH STRUCTURE PLAN - LOCATION: LOT 259 (NO. 2) SOUTH BEACH PROMENADE, NORTH COOGEE - OWNER: BASE DEVELOPMENTS (WA) PTY LTD - APPLICANT: ECOLIBRIUM PROJECTS (SM/M/013) (R COLALILLO) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopts the Schedule of Submissions;
- (2) adopts the modified South Beach Village Structure Plan ("Structure Plan") prepared by Ecolibrium Projects as shown

within Attachment 4;

- (3) advise the Western Australian Planning Commission, the proponent and submissioners of Council's decision accordingly;
- (4) advise the proponent that adoption of the modified Structure Plan affects a density change only, and that future development of the land will be subject to planning approval based upon the requirements of the modified Structure Plan, City of Cockburn Town Planning Scheme No. 3 and associated Detailed Area Plan; and
- (5) advise the proponent of the modified Structure Plan that Council is currently in the process of progressing an amendment to City of Cockburn Town Planning Scheme No. 3, which seeks to introduce new developer contribution arrangements across the district towards community infrastructure. Landowners subdividing to create residential allotments will be required to make contributions in accordance with the new developer contribution arrangements once the Scheme Amendment becomes operational.

## COUNCIL DECISION

### Background

The original Structure Plan was approved by Council in July 2002 and endorsed by the Western Australian Planning Commission ("WAPC") in April 2003. Since then, the Structure Plan has been subject to minor modifications, which were dealt with in accordance with the statutory requirements of City of Cockburn Town Planning Scheme No. 3 ("Scheme"). The current version of the Structure Plan is dated November 2010, a copy of which is contained in Attachment 2 to this report.

Ecolibrium Projects (on behalf of the landowner) has submitted a proposal to modify the Structure Plan pertinent to Lot 259 South Beach Promenade, North Coogee ("subject land"). This is in order to affect a density change for the subject land, taking it from the current density coding of R40 – R80 to R100. Consideration of this proposed modification to the structure plan forms the basis of this report.

Consideration of this proposed modification to the structure plan forms the basis of this report. A number of objections were received in relation to the proposed modification, however the majority of these raised issues which were not planning related (e.g. impact on property values). There were however, some concerns raised which were planning related, and these have formed the specific basis of consideration as part of this report.

### **Submission**

N/A

### **Report**

Ecolibrium Projects has submitted a proposal to modify the South Beach Village Structure Plan specifically relating to Lot 259 South Beach Promenade, North Coogee. The subject land had a previous existing development approval in place for three grouped dwellings, which was granted by the City of Cockburn ("City") on 28 March 2008, and has now expired.

The applicant is now proposing to construct an eight multiple dwelling residential development with a mix of apartment sizes within the existing design constraints of the site (e.g. height, setbacks etc). The future development is proposed to be comprised of a basement car park plus three levels of residential apartments consisting of two 1 bedroom apartments, four 2 bedroom apartments and two 3 bedroom apartments.

In order to achieve the above, the current structure plan would require a density code change from Residential R40 – R80 to Residential R100 for the subject land (shown in attachment 4). The proponent has identified the following main supporting arguments for the modification to the structure plan:

- The site provides a key opportunity to increase affordable and diverse accommodation in the South Beach Village. The lower entry price is important to ensure a diverse and vibrant population base within the South Beach Village.
- By increasing density the potential for a greater level of affordability is increased. This is achieved through the lower land cost to unit ratio being a saving for development. Also smaller unit average sizes allow for a greater diversity of product, such as the mix of 1, 2 and 3 bed units.
- Increasing density can have significant benefits for enhancing sustainable outcomes. Increased residential density can result in

smaller more efficient homes. It can also increase population nodes, allowing for increased public transport services. Enhancing density close to activity centres and within cycling distance of Fremantle, a key Strategic City Centre, is critical in ensuring reduced reliance upon car transport:

- The proposed design depicted for the R100 recoding will create an enhanced streetscape to the neighbours in Heywood Lane by removing the need for rows of garages in a lower density grouped housing development. The economics rules out the construction of a basement car park for the existing lower density development.
- It will provide further diversity in housing product to the South Beach Village which has not been built out at the expected or nominated densities under the South Beach Village Structure Plan.

Consideration of this justification, together with the officer's assessment of the proposed structure plan, is contained following.

#### Current South Beach Village Structure Plan

The subject land currently has a density coding of Residential R40 – R80 within the existing structure plan and is one of approximately 70 similarly coded lots across the estate. The flexible coding system was provided within the structure plan area in order to ensure South Beach fulfils its objective to deliver an urban village-style development within a coastal environment. It was also aimed at providing opportunities for different dwelling types and yields whilst encouraging suitable diversity in terms of its affordability and population demographics within the overall estate. This is reflected in Section 9.4 – Community Issues of the South Beach Structure Plan Report (2002) which states:

“It is recognised that the beach is a highly valued asset to the local community and therefore sensitive design methods need to be employed to ensure existing community access and privileges are maintained and the current 'feel' which has been identified as easy-going, laid back and relaxed is retained and enhanced. This can be achieved by providing community facilities such as a café within close proximity to the beach, retention of the area as a dog and horse beach and public accessibility to open space areas both within and surrounding the development.

It is recognised that in order to achieve the objectives of the development the area should be accessible and affordable to the general public. An overwhelming response from the community indicates that the area should not be developed as exclusive and up-

market; but rather caters for a wide range of community groups. This can be achieved through the provision of diverse lot types at a range of land prices. Whilst it is accepted that certain areas of the development will, by nature of their location, be expensive, there is the opportunity to provide more affordable lots and group dwellings in the development.”

The proposed modification to the structure plan, which seeks to increase the density coding of Lot 259 to R100, is considered to be consistent with the objectives of the current structure plan. Particularly as the modification provides added scope for a greater dwelling mix to what has been provided by existing developments within the estate.

### Directions 2031

Directions 2031 are the latest strategic document and framework for the future growth and development of the Perth Metropolitan Area and Peel Region. In recognising Perth’s existing built environment and anticipated population growth, the Strategy reinforces the need for Perth to be more compact and ensure more efficient use of land and infrastructure. One of the key methods of achieving these objectives is providing for higher densities and innovative dwelling designs to cater for a variety of housing types and improved affordability.

It is noted that the ultimate purpose of the structure plan modification is to provide a higher density of residential development for the subject land. Though of significant importance, such will also achieve a greater mix of dwelling types as well as providing a greater design response (compared with the previously approved development) to the surrounding context. In this regard, the proposed structure plan modification is considered to meet the strategic themes and requirements of Directions 2031.

### Liveable Neighbourhoods

The current edition of Liveable Neighbourhoods reinforces the requirement for structure plan and subdivision design to provide for site-responsive design, enhanced local identity, development of frontages to streets, open spaces and a wider choice of housing, together with increased residential density.

In considering the proposed structure plan modification in respect of the above, it is noted that the subject land is within an area of high amenity value and can thus support higher densities of residential accommodation. Through the development assessment process it can also be ensured that street frontage activation is maximised by creating active residential street frontages across the entire site. The proposed minor increase in density also proposes to accommodate a wider range of housing options within the subject site. As such, the modified

structure plan proposal conforms to the key elements of Liveable Neighbourhoods.

### Residential Design Codes of Western Australia

In November 2010, the WAPC amended the Residential Design Codes of Western Australia (R-Codes) to introduce additional multiple dwelling provisions. The amendments sought to address the previous provisions of the R-Codes for multiple dwellings and mixed use developments which did not encourage housing diversity, affordability and flexibility. As a result, the previous density control of requiring minimum site areas per dwelling (or unit/apartment) have been removed as these were considered to create a significant disincentive to multiple dwelling developments by limiting the number of dwellings permitted within a development and thus restrict the diversity of housing stock.

Given that minimum site areas per dwelling have now been removed from the R Codes for multiple dwelling developments above an R30 coding and above, density and thus dwelling yield is limited only by plot ratio and design requirements such as minimum dwelling size, heights, setbacks, open space, parking etc. As such, the number of dwellings a site is able to contain is effectively determined by its three dimensional 'building envelope' which is determined by height and setback controls of the R-Codes (and associated Detailed Area Plan or guidelines) and how many dwellings/units it can readily accommodate.

Under the revised R-Codes and associated Detailed Area Plan, the subject site has the potential under the maximum R80 density code to accommodate six to eight apartments of varying sizes (single bedroom up to three bedrooms). This is based on R80 under the R-Codes having a maximum plot ratio area of 1.0 which effectively means the site's maximum plot ratio is equal to its site area (614m<sup>2</sup>). Therefore it is important to note that the proposed rezoning is not tantamount to an increase in density for the site but rather an increase in floorspace as only the plot ratio area will be increased should an R100 coding be approved.

In light of the above, the applicant has advised that the proposed rezoning seeks to enable some of the proposed apartments to be of a slightly larger size in order to accommodate couples and families which are in keeping with the existing demographic within the area.

### Statutory Planning Considerations

Officers reviewed the proposed modification to the structure plan and are supportive of the changes subject to a suitably designed development proposal for the subject land. The increase in density coding for the site provides an opportunity to deliver a better alternative



to the previously approved development, both in terms of built form and accommodation type (i.e. different to 'common' single residential development in South Beach Village).

The facilitation of a stronger mix and increase in dwelling type within the overall locality is supported given recent indications from developers that flexible coded sites are likely to be developed to the lower density code as a result of current market trends.

A formal development application has not been submitted to the City for its consideration however this is anticipated to be lodged pending approval of the required modification to the structure plan. The draft development plans which have been submitted to the City in support of the structure plan modification demonstrate general compliance with the R Codes and the Detailed Area Plan. In particular the development proposal sits within the 'building envelope' applicable to the site in terms of height and setbacks and complies with car parking requirements. The built form of the development is also consistent with the provisions of the South Beach Design Guidelines and provides a suitable 'frame' to the adjacent public open space and 'bookend' to the south east area of South Beach Promenade.

The only major area of non-compliance in terms of statutory planning requirements is plot ratio which is why a modification to the current density coding of the site is required prior to entertaining any proposal.

#### Traffic Management

It is considered that the proposed increase in density coding of the subject land would not have a detrimental impact on existing and future traffic levels and circulation in the locality. Given that the site can currently accommodate 6 - 8 apartments (of varying sizes) under the recently revised R Codes, the difference between car parking bay requirements and thus vehicle movements if the site was developed under the existing or modified structure plan is minimal. The City has assessed the proposal and confirms that the development's access/egress and projected vehicle movements can be integrated within the existing road network with minimal impact.

#### Consultation

The modified Structure Plan was not referred to the WAPC for comment in accordance with Clause 6.2.7.2 of the Scheme as it does not propose the subdivision of land. As such, the modified Structure Plan could proceed to public consultation without the comment of the WAPC.

The modified structure plan was advertised for public comment from 24 December 2010 to 21 January 2011 in accordance with the Scheme requirements. Twenty two submissions were received from adjoining and surrounding landowners stating various objections and/or concerns. The submissions that were received are set out and addressed in detail within the Schedule of Submissions (Attachment 5).

Many of the issues raised in the surrounding landowners objecting submissions have been dismissed as they either relate to non-planning related matters such as property values or matters of compliance which any future development on the site (regardless of any coding change) would need to comply with. Valid concerns raised in relation to potential vehicle movement and parking problems the future development would potentially create have been addressed by the City's Engineering Services.

No modifications to the proposed modified structure plan are recommended as a result of the formal advertising process. In essence concerns about impacting property values cannot be considered as valid planning concerns, given the almost impossible nature of determining whether or not any proposal will have on individual property values (both positive and negative).

Rather, the planning assessment which has been undertaken as part of the proposed structure plan modification has considered the stated principles of proper and orderly planning as required by the Scheme. This has taken into account built form, traffic management, environment values and community impacts, which have a focus on broad public interest principles. This assessment has concluded that the proposed structure plan modification is considered to be consistent with proper and orderly planning, and will help promote maintenance of residential amenity, character and aesthetics of a place.

### Conclusion

It is recommended that Council approve the proposed Structure Plan modification. Approval is recommended on the basis that it will facilitate a better built form design for the subject land as well as a greater mix and diversity of dwelling types for the locality. The modified structure plan is considered to reflect the objectives of the Directions 2031 Strategic Plan, Liveable Neighbourhoods design code, and the revised R-Codes in particular.

The re-coding of the site from R40 – R80 to R100 does not impact on its potential dwelling yield as under the revised R-Codes, density is no longer attributed to an applicable R-Coding. Rather density and dwelling numbers are now only limited by plot ratio area and design controls which are attributed to each R-Code. Therefore the increase

in plot ratio area afforded to the site under an R100 coding is not considered to have an adverse impact on the locality and will facilitate a better alternative to the previously approved development in terms of built form and accommodation type.

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

The Planning Policy which applies to this item is SPD4 'Liveable Neighbourhoods'.

### **Demographic Planning**

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

### **Budget/Financial Implications**

N/A

### **Legal Implications**

N/A

### **Community Consultation**

The modified structure plan was advertised in the newspaper, on the City's website and letters were sent to affected landowners.

### **Attachment(s)**

1. Location Plan
2. Existing approved South Beach Village Structure Plan
3. Perspectives of Proposed Future Residential Development
4. Proposed modified South Beach Village Structure Plan
5. Schedule of Submissions

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 10 March 2011 Council Meeting.

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

Nil.

**14.11 (OCM 10/3/2011) - OUTBUILDING - LOCATION: LOT 4 TRIANDRA COURT BANJUP - OWNER: JOHN WAGHORN - APPLICANT: JOHN WAGHORN (5519745) (A LEFORT) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) refuse the application for an Outbuilding at Lot 4 Triandra Court Banjup for the following reasons:
  1. The proposed outbuilding is inconsistent with the provisions of Clause 5.10.2 of the City of Cockburn's Town Planning Scheme No. 3 in relation to development within building envelopes and if approved would result in development being distributed across the lot rather than contained within the clearly defined and restricted building envelope.
  2. The proposed wall height and floor area of the proposal are considered excessive for domestic purposes and exceed the requirements of the outbuilding is inconsistent with the City of Cockburn's Outbuilding Policy.
  3. The proposal if approved would result in an undesirable precedent with regards to the approval of buildings outside designated building envelopes or the approval of two separate building envelopes on one lot.
  4. The proposal if approved may detract from the visual amenity of the adjoining neighbour and the rural character of the area.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Refusal and an MRS Form 2 Notice of Refusal.

**COUNCIL DECISION**

**Background**

Zoning	MRS: Rural – Water Protection TPS 3: Resource
Land Use	Outbuilding

Lot Size	2.000500 ha
Use Class	P

The subject site is located on the corner of Beenyup Road and Triandra Court within the 'Resource' zone of Banjup and contains an existing single dwelling, a 36 m<sup>2</sup> outbuilding and a water tank. The site is generally clear of vegetation except for a number of densely planted mature trees forming a screen around the perimeter of the site. The site contains vehicle access from Triandra Court and a 4700m<sup>2</sup> building envelope. The existing buildings are contained within the building envelope.

The proposal has been referred to Council as it does not comply with Council's Outbuilding Policy APD 18 with regard to maximum floor area of outbuildings on site and maximum wall height of the outbuilding. The proposal also fails to comply with the City's Town Planning Scheme No. 3 (TPS 3) in relation to buildings being contained within building envelopes. by landowners and several objections to the proposal were received.

### **Submission**

The applicant seeks approval to construct an outbuilding with a floor area of 336 m<sup>2</sup>, a wall height of 4.5 m and a ridge height of 5.67 m<sup>2</sup> on the western portion of site. The applicant has advised that the outbuilding is to be used to accommodate various vehicles, boat, campervan and trailers belonging to the residents and other family members.

The proposed outbuilding is to be constructed of colourbond "deep ocean" coloured walls with a zincalume roof. The outbuilding is proposed to be set back 22.73 m from the western boundary of the site, 12 m from the northern boundary of the site and approximately 58m from the southern boundary of the site in the north-western corner of the site. The proposed outbuilding is located outside the designated building envelope.

The applicant provides the following justification for the proposal (in summary):

- Require the additional outbuilding floor area to provide sufficient storage for vehicles, boat, campervan, trailers and undercover recreational area.
- The north and west sides of the shed will be screened by existing mature trees around the perimeter of the site, many of which are the same height as the proposed shed.

- There is no indigenous vegetation on the site as it used to be a market garden..
- There is no net increase in building envelope area therefore no increase in building foot print will result from the proposal.
- Provision of additional vegetation screening around the boundaries of the outbuilding to make it invisible from the external view of the property.
- The proposal will not result in any removal of vegetation from the site.
- The proposed outbuilding location is behind the dwelling.
- There is precedent set for various other lots in close proximity all exceeding the outbuilding area requirements of Council's policy.

## Report

### Statutory Framework

The subject land is zoned 'Resource' under the City of Cockburn's Town Planning Scheme No. 3 (TPS 3). In accordance with TPS 3, Council has the discretion to approve (with or without conditions) or refuse the application. The proposed development has been assessed against the standards and provisions of:

- TPS No. 3
- Council Policy APD18 'Outbuildings'
- Statement of Planning Policy No 2.1 Peel-Harvey Coastal Plain Catchment Policy
- Statement of Planning Policy No. 2.3 Jandakot Groundwater Protection Policy
- Statement of Planning Policy No. 2.4 Basic Raw Materials.

The proposal constitutes a variation to Council's Outbuilding Policy APD 18 in relation to maximum floor space of outbuildings and wall height as per the following table:

APD Element	18	Required	Provided	Assessment
Outbuilding Floorspace combined		200m <sup>2</sup> maximum	336m <sup>2</sup>	Non-compliant
Outbuilding Wall Height		4m	4.5m	Non-compliant
Outbuilding Ridge Height		6m	5.67m	Compliant

As seen in the table above, whilst the floor area and wall height proposed both constitute variations to the policy, the ridge height is compliant with Council's policy.

### Neighbour Consultation

The proposal was advertised to the adjoining neighbour to the west of the subject site with regards to wall height and floor space variations, and as the outbuilding is proposed to be located outside the existing building envelope. An objection was received by the neighbour based on the following reasons:

- The proposed outbuilding will detract from their visual amenity;
- Potential noise from the outbuilding which is proposed in close proximity to their home.
- The proposed outbuilding being closer to their home than the applicant's home;
- The proposed outbuilding will set an undesirable precedent for other resource zoned lots.

The neighbour has no objection to the size of the outbuilding, just to the fact that it is proposed outside the existing building envelope closer to his own dwelling therefore impacting on his visual amenity

### Assessment

#### *Floor Area*

The proposed outbuilding combined with the existing outbuilding on site (36 m<sup>2</sup>) results in a variation of 172m<sup>2</sup> to Council's AD18 "Outbuilding Policy". Whilst the policy affords staff delegation to approve outbuildings which are within 10% of the policy, this proposal represents an 86% variation. The outbuilding floor area proposed for the new outbuilding of 336m<sup>2</sup> is considered excessive for domestic storage needs.

The applicant has referred to other larger buildings within the area, however many of those referred to have been approved as non-residential uses and are therefore not defined as outbuildings in the City's TPS 3 and are not subject to the same floor space restrictions.

#### *Wall Height*

The proposed wall height variation is 0.5m and is considered minor.

#### *Building Envelope*

The subject site contains a building envelope with an area of 4700 m<sup>2</sup> which is some 2700 m<sup>2</sup> larger than most of the lots within the Resource zone. Approval for an extension to the former building envelope was granted by the City on 22<sup>nd</sup> October 2004. Clause 5.10.2 (b) of TPS 3 states that:

*“where a building envelope is shown on a lot in accordance with clause 5.10.12 (a) and clause 5.10.12(b) every building erected on that lot shall be located within the boundaries of the building envelope”.*

Clause 5.10.2(c) also states that:

*“the local government may on the written request of the landowner relocate or modify the shape or area of a building envelope if in the opinion of the local government the relocation or modification of the building envelope will not have a detrimental impact on the neighbours, the amenity of the area, the use of the land or the environment.”*

The applicant has therefore requested that he extract off the area required for the outbuilding and create an additional building envelope on site resulting in two envelopes on site with the same building envelope area (4700m<sup>2</sup>). It should be noted that there are no other resource or rural zoned properties within the City of Cockburn that contain more than one building envelope.

The intention of building envelopes is to ‘contain’ development on large rural-type lots and minimise the clearing of vegetation to protect the rural amenity of the area and be sympathetic to the environment. The applicant argues that the previous use of the land meant that it was completely cleared and devoid of vegetation when purchased resulting in the relatively clear portion of land where the outbuilding is proposed.

#### Visual Amenity

The proposed outbuilding if approved is likely to be well screened and out of view from the both Triandra Court, Beenyup Road and adjoining properties due to the existing mature trees located around the perimeter of the site. In addition, the applicant has advised that he is willing to plant additional screening directly around the perimeter of the proposed outbuilding, whilst the outbuilding can be coloured green or brown (to the City’s satisfaction) in order reduce its visual dominance.

#### Noise

The proposed outbuilding is to be used for domestic storage so noise from the outbuilding is not anticipated. However, the applicant has advised that they are willing to install additional thermal insulation into the outbuilding to ensure that any potential noise from the outbuilding is mitigated.

#### Conclusion

Whilst the proposed oversized outbuilding is within an already cleared area and there are existing semi-mature and mature trees around the boundary of the property, approval of the proposed outbuilding outside



of the designated building envelope (or creating two separate building envelopes) is considered to contrary to orderly and proper planning. Building envelopes are in place to contain development within defined areas so as to avoid buildings being widely distributed across a site. This property already contains a building envelope much larger than most in the area which provides ample area for an outbuilding to be constructed within, even if it is not in the location the applicant desires.

Therefore, based on the detailed assessment contained within this report, it is recommended that the proposal be refused for the following reasons:

- The proposal is inconsistent with the provisions of Clause 5.10.2 of the City of Cockburn's Town Planning Scheme No. 3 in relation to development within building envelopes.
- The proposal is inconsistent with the Council's Outbuilding Policy in relation to maximum wall heights and maximum floor space of outbuildings.
- The proposal if approved would result in an undesirable precedent with regards to the approval of a building outside a building envelope or the approval of two separate building envelopes on one lot.
- The proposal if approved would result in an outbuilding with an excessive floor area for domestic use.
- The proposal if approved would result in development being distributed across the site rather than being contained within a clearly defined and restricted building envelope.
- The proposal if approved may detract from the visual amenity of the adjoining landowner.
- The proposal if approved may detract from the rural character of the area.

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

#### **Demographic Planning**

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

**Budget/Financial Implications**

Nil

**Legal Implications**

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

**Community Consultation**

Nearby neighbours were consulted about the proposal

**Attachment(s)**

1. Location Plan
2. Site Plan
3. Floor Plan & Elevations
4. Neighbours Submission

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 17 March 2011 Council Meeting.

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

Nil

**14.12 (OCM 10/3/2011) - OUTBUILDING - LOCATION: LOT 150 (NO 44) WHITLOCK CRS, SOUTH LAKE - OWNER: LEVENT BODUR - APPLICANT: NATIONAL SHED BUILDERS (5114167) (P HIRST) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) grant approval for an outbuilding at Lot 150 (No. 44) Whitlock Crs, South Lake, in accordance with the attached plans and subject to the following conditions:
  1. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
  2. No construction related activities causing noise and/or

inconvenience to neighbours after 7.00 p.m. or before 7.00 a.m., Monday to Saturday, and not at all on Sunday or Public Holidays.

3. Prior to the construction of the outbuilding subject of this application, the existing outbuilding located on the property must be demolished and removed from the property (not relocated on site).
- (2) advise the applicant/owner that the limited manoeuvring space behind the eastern and western entry points may restrict vehicular access to and from the outbuilding hereby approved; and
- (3) advise the applicant of Council's decision accordingly.

## COUNCIL DECISION

### Background

Zoning:	MRS: Urban
	TPS3: Residential (R20)
Land use:	Single House
Lot size:	689 m <sup>2</sup>
Use class:	Single House (Outbuilding)

The subject site contains an existing single house and a small outbuilding. The owner intends to remove the existing outbuilding, replacing it with the outbuilding subject of this application.

### Submission

The applicant seeks approval to construct an outbuilding with a wall height of 3.0 metres and a ridge height of 3.8 metres. Upon completion of the construction of the outbuilding (including the demolition of the existing outbuilding) the floor area of outbuildings on the property will be 57.4 m<sup>2</sup>.

The development of the proposed outbuilding conflicts with height restrictions of Council Policy APD 18 "Outbuildings" and the Residential Design Codes of Western Australia 2008 in the following manner:

- A proposed outbuilding wall height of 3m in lieu of the 2.4m considered acceptable under the Council Outbuilding Policy (APD18) provisions and the Residential Design Codes of Western Australia 2008.

The applicant has provided justification for this departure from Council Policy, (see attachment) which is summarised as being required “to provide for the secure storage of a boat”.

### **Report**

While the proposed development is not consistent with Council's Outbuildings Policy APD18, it is considered to be consistent with the performance criteria relating to outbuildings under Clause 6.10.1 of the Residential Design Codes, whereby outbuildings do “not detract from the streetscape or the visual amenity of residents or neighbouring properties”.

It is considered the variation can be supported as the proposed outbuilding will not have a significant impact on the amenity of the streetscape, nor the amenity of adjoining property owners. The outbuilding is to be located behind the existing dwelling; therefore, it will be adequately screened from the primary street. A 5.4m setback from the secondary street will reduce the impact the over height building will have on the secondary street. Mature trees located along the secondary street boundary will also provide some screening to the outbuilding.

The applicant has proposed a rear setback of 1m, in lieu of the nil setbacks considered acceptable for an outbuilding that complies with the height requirements of Council Policy. The application was advertised to the adjoining property owner. No response was received.

It is noted that the 5.4m and 4.3m minimum setback distances from the eastern and western side lot boundaries do not allow for sufficient vehicle manoeuvring space. The applicant has been advised of this and the 6m manoeuvring space generally required by the City. The applicant has declined opportunity to submit amended plans, however, stated that they wish to proceed with the application due to other constraints on the site. It is recommended an advice note stating the 6m manoeuvring space generally required for vehicle parking bays has not been provided, however a lack of manoeuvring space is not considered to be adequate grounds to refuse the application.

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

#### **Demographic Planning**

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

#### **Infrastructure Development**

- To provide an appropriate range of recreation areas that meets the needs of all age groups within the community.

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

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

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

Nil

#### **Legal Implications**

Nil

#### **Community Consultation**

Five (5) surrounding property owners were consulted with regards to the proposed development. One response was received which stated no objection to the proposal.

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

1. Site plan
2. Elevation plan
3. Justification
4. Photographs from Secondary Street

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 10 March 2011 Council Meeting.

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

Nil

**14.13 (OCM 10/3/2011) - PROPOSED SCHEME AMENDMENT NO. 82 - REZONING OF VARIOUS PROPERTIES WITHIN THE COCKBURN COAST DISTRICT STRUCTURE PLAN AREA (ADOPTION FOR FINAL APPROVAL) - APPLICANT: CITY OF COCKBURN - OWNER: VARIOUS (93082) (D DI RENZO) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) endorse the Schedule of Submissions prepared in respect of Amendment No. 82 to City of Cockburn Town Planning Scheme No. 3 ("Scheme");
- (2) adopt for final approval and subject to modifications Amendment No. 82 to the Scheme for the purposes of:
  1. Rezoning Lots 100 and 101 Cockburn Road, Hamilton Hill from 'Mixed Business' to 'Special Use No. 23', and introducing a new 'Special Use No. 23' into Schedule 4 as follows:

No.	Description of Land	Special Use	Conditions
<b>SU 23</b>	<b>Local Activity Node (Cockburn Coast District Structure Plan)</b>  Lots 100 and 101 Cockburn Road, Hamilton Hill	<ol style="list-style-type: none"> <li>1. Child Care Premises Civic Use Home Occupation Home Office Bank Office Restaurant Consulting rooms Convenience Store Lunch Bar</li> <li>2. Garden Centre Place of Worship Tourist Accommodation Amusement Parlour Betting Agency Public Amusement Reception Centre Recreation - Private Health Studio Bed and Breakfast Hotel/Tavern</li> <li>3. Dwellings (R60): Aged or</li> </ol>	<ol style="list-style-type: none"> <li>1. These uses shall be treated as 'P' uses pursuant to clause 4.3.3.</li> <li>2. These uses shall be treated as 'D' uses pursuant to clause 4.3.3.</li> <li>3. These uses are permissible only where there are non-residential uses at ground floor (street level), and they shall be treated as 'P' uses in accordance with clause 4.3.3</li> <li>4. This use is only permissible where it does not support drive through facilities, and it shall be treated as a 'D' use pursuant to clause 4.3.3.</li> <li>5. This use is permissible where the</li> </ol>

		Dependent Persons Caretaker's Dwelling Grouped Dwelling Multiple Dwelling Residential Building  4. Fast Food Outlet  5. Shop	gross lettable area is no more than 200m <sup>2</sup> , and shall be treated as a 'P' use pursuant to clause 4.3.3.
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2. Rezoning Lots 37 and 102 Cockburn Road, Lot 1 and 2 Bellion Drive, Portion Lot 2 Bellion Drive, Lots 52 and 202 Boyd Crescent, Lots 21 and 201 Rockingham Road, Hamilton Hill from 'Mixed Business', 'Residential' and 'Local Centre' to 'Special Use No. 24' and introducing a new 'Special Use No. 24' into Schedule 4 as follows:

No.	Description of Land	Special Use	Conditions
<b>SU 24</b>	<b>Mixed Use (Cockburn Coast District Structure Plan)</b> Lots 37 and 102 Cockburn Road, Lots 1 and 2 Bellion Drive, Lots 6, 52 and 202 Boyd Crescent, Lots 4, 5, 11, 21, 51 and 201 Rockingham Road, Portion Lot 2 Rockingham Road, 14 Boyd Crescent, Hamilton Hill.	1. Bed and Breakfast Child Care Premises Civic Use Office Club Premises Motel Reception Centre Recreation - Private Restaurant Consulting Rooms Health Studio Convenience Store Lunch bar Bank Cinema/Theatre Funeral Parlour Hardware Store  2. Dwellings (R60): Aged or Dependent Persons Caretaker's Dwelling Grouped Dwelling Multiple Dwelling  3. Showroom	1. These uses shall be treated as 'P' uses pursuant to clause 4.3.3.  2. Where buildings front the public street these uses are only permissible where the ground floor (street level) is designed to accommodate future non-residential uses, and in all cases these uses shall be treated as 'D' uses in accordance with clause 4.3.3  3. Showroom limited to a floor area of 750m <sup>2</sup> as a stand-alone development unless it is part of a comprehensive mixed use development, and shall be treated as a 'D' use pursuant to clause 4.3.3.

		<p>4. Residential Building Tourist Accommodation Garden Centre Market Veterinary Consulting Rooms Veterinary Hospital Amusement Parlour Betting Agency Medical Centre Hospital Motor Vehicle Hire Premises Motor Vehicle Wash Petrol Filling Station Service Station Cottage Industry Light Industry Service Industry Warehouse Motor Vehicle Repair Hotel/Tavern</p> <p>5. Place of Worship</p> <p>6. Fast Food Premises</p> <p>7. Shop</p>	<p>4. These uses shall be treated as 'D' uses pursuant to clause 4.3.3.</p> <p>5. This use shall be treated as a 'D' Use, pursuant to clause 4.3.3 however advertising of development applications may be required.</p> <p>6. This use is only permissible where it does not support drive through facilities, and it shall be treated as a 'D' use pursuant to clause 4.3.3.</p> <p>7. Shop floor area restricted to a floor area between 150m<sup>2</sup> and 750m<sup>2</sup>, and this use shall be treated as a 'D' use pursuant to clause 4.3.3.</p>
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3. Rezoning Lots 44 and 45 Boyd Crescent, and No. 7 and No. 11 Boyd Crescent, Hamilton Hill from 'Mixed Business' and 'Residential' to 'Special Use No. 25' and introducing a new 'Special Use No. 25' into Schedule 4 as follows:

No.	Description of Land	Special Use	Conditions
SU 25	<p><b>Residential (Cockburn Coast District Structure Plan)</b></p> <p>No. 7, No. 11 Boyd Crescent, Lot 44 and Lot 45 Boyd Crescent,</p>	<p>1. Home Occupation Home Office Multiple Dwellings (R-Code)</p> <p>2. Ancillary Accommodation Bed and Breakfast Child Care Premises Civic Use</p>	<p>1. These uses shall be treated as 'P' uses pursuant to clause 4.3.3.</p> <p>2. These uses shall be treated as 'D' uses pursuant to clause 4.3.3.</p> <p>3. Where buildings front the public street these uses are only</p>



	Hamilton Hill	<p>Educational Establishment Home Business Lodging House Single House</p> <p>3. Dwellings (R60): Aged or Dependent Persons Caretaker's Grouped</p> <p>4. Residential Building Home Store</p>	<p>permissible where the ground floor (street level) is designed to accommodate future non-residential uses, and in all cases these uses shall be treated as 'D' uses pursuant to clause 4.3.3</p> <p>4. These uses shall be treated as 'D' uses, pursuant to clause 4.3.3, however advertising of development applications may be required.</p>
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4. Deleting 'Additional Use No. 13' from Lot 52 Boyd Crescent, Hamilton Hill.
5. Amending 'Restricted Use No. 9' by deleting the existing restricted uses, and replacing them as follows:

No.	Description of Land	Restricted Use	Conditions
<b>RU 9</b>	Industrial zoned lots bounded by Rollinson Road, Railway Reserve, Fremantle Lot 2104 McTaggart Cove, Cockburn Road and Region Parks and Recreation, Hamilton Hill.	Light Industry Service Industry Health Studio Warehouse Recreation - Private Trade Display	Planning Approval that will be subject to a five year limit.

6. Deleting 'Additional Use No. 16' from Schedule 2.
7. Deleting 'Restricted Use No. 9' from Lot 102, pt Lot 4 and 8 Rollinson Road, Lot 303 Darkan Avenue, Lots 9 - 18, Pt Lot 1 Garston Way, Hamilton Hill.
8. Including a new 'Special Use No. 26' as follows:

No.	Description of Land	Restricted Use	Conditions
<b>SU 26</b>	Lot 102, pt Lot 4 and 8 Rollinson Road, Lot 303 Darkan Avenue, Lots 9 - 18, Pt Lot 1 Garston Way, Hamilton Hill	Industry - Light Industry - Service Industry - Cottage Health Studio Warehouse Recreation - Private Trade Display	Planning Approval that will be subject to a five year limit.

		Educational Establishment Office Public amusement Showroom Shop Reception Centre	
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(3) that the modifications to Amendment No. 82 referenced under (2) above be as per the following schedule of modifications:

1. Exclusion of Lots 1 and 2 Bellion Drive, Hamilton Hill from proposed SU 24, and exclusion from Amendment No. 82.
2. Inclusion of 'storage yard' in 'Restricted Use No. 9', subject to the condition that planning approval will be subject to a five year limit.
3. Exclusion of No. 12 and 14 Boyd Crescent, Hamilton Hill from proposed 'Special Use No. 24' (Mixed Use), and inclusion within proposed 'Special Use No. 25' (Residential).
4. Modification to the boundary of proposed SU 24 to reflect the modified Primary Regional Road reservation.
5. Removal of Lot 1 Bennett Avenue, North Coogee from proposed 'Special Use No. 26', and inclusion within a new proposed 'Restricted Use No. 16', as follows:

No.	Description of Land	Restricted Use	Conditions
RU 16	Lot 1 Bennett Avenue, North Coogee	1. Industry - Light Industry - Service Industry - Cottage Health Studio Warehouse Recreation - Private Trade Display Educational Establishment Office Public amusement Showroom Shop Reception Centre Storage Yard	1. Planning Approval that will be subject to a five year limit.  2. The existing planning approval (DA09/0442) for the general industry (material recovery facility) located on Lot 1 Bennet Avenue North Coogee expires on 12 January 2013. The local government may grant an extension to this planning approval subject to it being satisfied that:  i. An extension in planning approval will not inhibit the ability for adjoining or nearby land to be developed for residential

		2. General Industry (material recovery facility)	<p>or other urban purposes;</p> <p>ii. An extension in planning approval will facilitate the orderly transition of the existing use away from the land;</p> <p>iii. An extension in planning approval will be no more than a single, once off, five year term.</p>
<p>(4) ensure the amendment documentation once modified in accordance with the schedule of modifications under (3) above be signed and sealed and then submitted to the Western Australian Planning Commission along with the endorsed Schedule of Submissions and steps taken to advertise the amendment with a request for the endorsement of final approval by the Hon. Minister for Planning; and</p> <p>(5) notify those parties that made a submission, of the decision of Council.</p>			

## COUNCIL DECISION

### Background

Council previously adopted Amendment No. 82 to City of Cockburn Town Planning Scheme No. 3 ("Scheme") at the meeting of 13 May 2010 (Min No. 4255). The amendment was subsequently advertised for public comment ending on 23 December 2010.

The amendment seeks to modify the Scheme in such a way so as to implement the outcomes of the Cockburn Coast District Structure Plan ("CCDSP") for the Newmarket Precinct, as well as to facilitate appropriate interim uses on the current 'Industry' zoned land within the CCDSP area. It seeks to ensure the Scheme is appropriately placed to control development within the Newmarket Precinct as per the CCDSP, and also ensure industrial uses become subject to greater limitations than what is currently provided for under the Scheme. This latter point is very important given the CCDSP and its strategic planning to transform Cockburn Coast into a highly urbanised, vibrant coastal village. With an urban zoning under the Metropolitan Region Scheme in the process of being finalised for the Cockburn Coast area, it is

important that the City of Cockburn ("City") ensure the Scheme is set to manage the transition of industrial uses away from the area.

As a result of public advertising, a number of submissions were received. The purpose of this report is to consider the amendment for final adoption in light of the advertising which has taken place, and the comments which have been received.

### **Submission**

N/A

### Background

The purpose of Amendment No. 82 is to implement the outcomes of the CCDSP for the Newmarket Precinct, and to facilitate appropriate interim uses on the 'Industry' zoned land. It seeks to ensure there is an appropriate framework in place to achieve the outcomes for the Newmarket Precinct as identified in the CCDSP.

### Cockburn Coast District Structure Plan

The Cockburn Coast District Structure Plan ("CCDSP") has been prepared to guide future land use and transport initiatives within the area stretching between South Beach and the Port Coogee marina. The Western Australian Planning Commission ("WAPC") resolved to endorse the CCDSP in August 2009.

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

The WAPC has resolved to amend the Metropolitan Region Scheme ("MRS") to rezone the North Coogee industrial area to reflect the outcomes of the CCDSP (MRS Amendment No. 1180/41). At the meeting of 8 April 2010, Council resolved to make a submission to the WAPC supporting the proposed MRS amendment, subject to some minor modifications.

### Newmarket Precinct

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

The Newmarket Precinct is the only land within the CCDSP area and the City of Cockburn which has current urban development opportunities; given that it is zoned 'Urban' under the MRS, and 'Residential', 'Business', 'Mixed Business' and 'Local Centre' under the Scheme. For this reason, management of the existing zoning provisions against the CCDSP's anticipated outcomes is critical.

The Newmarket Precinct is an emerging residential area characterised by existing commercial development along Cockburn and Rockingham Roads, which are currently zoned 'Local Centre' and 'Mixed Business'. The majority of residential development within the precinct is located on Boyd Crescent and Bellion Drive, which is currently zoned 'Mixed Business' and 'Residential'. In addition to the existing medium density residential development, Boyd Crescent and Bellion Drive also contain a mixture of other uses such as automotive mechanics and cabinetmakers on the 'Mixed Business' zoned land.

It is noted that most of this area is developed, and most properties are unlikely to be redeveloped in the short to medium term. However, there are some key sites on Cockburn Road that may be redeveloped in the short term and it is still important to ensure that the zoning framework reflects the outcomes of the CCDSP to enable consideration of future development proposals. In particular there may be proposals for changes of use, and it is important that such proposals are considered in the context of the future vision for this area as set out in the CCDSP.

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

A Local Planning Policy (Newmarket Precinct Design Guidelines) was approved by Council on 12 August 2010. The Policy seeks to ensure that new developments within the Newmarket Precinct are designed with regard to the built form outcomes outlined in the CCDSP.

#### Restricted Use No. 9 (RU 9)

The majority of freehold land within the Cockburn Coast area that falls outside the Newmarket Precinct is currently zoned 'Industry' under the Scheme, and included within Restricted Use No. 9 ("RU 9") (refer Attachment 3). RU 9 stipulates that the only uses permissible are those associated with the production of meat and allied products. Portions of this area are also covered by 'Additional Use No. 16'.

This area of land is subject to the MRS amendment and is proposed to be rezoned from 'Industry' to 'Urban', and ultimately this area will be rezoned from 'Industry' to 'Development' under the Scheme, and placed within a 'Development' Area. In the context of the MRS amendment and the outcomes of the CCDSP the current RU 9 provisions and 'Additional Use No. 16' provide a very inappropriate range of interim uses for the area. Part of the intent of Scheme Amendment No. 82 has been to address this, in conjunction with establishing new zoning provisions for the Newmarket Precinct.

#### Advertising of Scheme Amendment No. 82

Council adopted Scheme Amendment No. 82 at the meeting of 13 May 2010 (Min No. 4255). It was subsequently advertised for public comment ending on 23 December 2010.

All of the submissions that were received are outlined and addressed in Attachment 4, and further discussion is also included in this report in the relevant sections.

#### Proposed Scheme Amendment

The CCDSP designates three different areas within the Newmarket Precinct as follows:

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

The Newmarket Precinct is currently zoned 'Local Centre', 'Mixed Business and 'Residential R60' pursuant to the Scheme, therefore without this area being rezoned there is no mechanism to implement the outcomes of the CCDSP.

The remaining area of the CCDSP is currently zoned 'Industry' under the MRS and the Scheme. Once the area is zoned 'Urban' under the MRS the intention is for this area to be rezoned to 'Development' under the Scheme and placed within a 'Development Area' and a 'Development Contribution Area'. This will facilitate the requirement for local structure plans to be produced to control land use and development, and facilitate consistency with the CCDSP. The local structure plans will set out the land uses, and in conjunction with the provisions of the 'Development Area' they will control land use and development in the area.

The existing zoning within the Newmarket Precinct does not correspond with the three areas designated in the CCDSP. In addition, the types of land uses that are outlined in the CCDSP for the three

designated areas do not fit within any of the other zones under the Scheme.

Therefore, in this context, the amendment proposes to include each of these areas within a new 'Special Use' zone. 'Special Use' zones apply to special categories of land use which do not comfortably sit within any other zone in the Scheme. For 'Special Use' zones the permissibility of land use is set out in Schedule 4 of the Scheme, rather than being included in Table 1.

Therefore each of these 'Special Use' zones will be included in Schedule 4 of the Scheme, setting out the permissible uses. The proposed range of permissible uses has been based on achieving the objectives of the Newmarket Precinct as set out in the CCDSP. The CCDSP does not specify all of the permissible uses; however, it provides an indicative list of uses that are considered suitable and unsuitable for the designated areas.

The implications of the proposed zoning changes are that the provisions of the existing zoning will be replaced by the requirements set out in applicable the 'Special Use' zone. Any existing lawful development within the area that would not ordinarily be permitted under the new proposed 'Special Use' zoning would be afforded non-conforming use rights under the Scheme. Pursuant to Clause 4.8 of the Scheme, the continued use of land is allowed for the purpose for which it was being lawfully used immediately prior to the date of gazettal of the zoning change. Non-conforming use rights also allow the carrying out of development that was approved prior to the date of gazettal of the zoning change.

Pursuant to Clause 7.9 of the Scheme a person cannot alter or extend a non-conforming use without planning approval. If a non-conforming use is discontinued for a period of six months the use of the land and buildings thereafter must be consistent with the provisions of the Scheme relating to the new zoning.

Each of the proposed 'Special Use' zones are discussed below. However, it should be noted that while this discussion includes an overview of the permissible land uses, reference should be made to the proposed 'Special Uses' (outlined in the recommendation) for the full list of proposed permissible uses and the conditions associated with these uses.

#### Local Activity Node - Proposed Special Use No. 23

Within the Newmarket Precinct the local activity node is identified on the southern corner of Boyd Crescent and Cockburn Road (Lots 100

and 101 Cockburn Road, Hamilton Hill). It is intended to support the northernmost transit stop within the CCDSP area.

It is proposed to rezone Lot 100 and 101 Cockburn Road, Hamilton Hill from 'Mixed Business' to 'Special Use No. 23' (SU 23) to reflect the local activity node.

The CCDSP outlines the following key characteristics for the local activity node:

- \* Intended to contain the vast majority of the area's retail floor space, with only limited retail use considered appropriate outside of these nodes;
- \* Retail uses to be street-based in its built form;
- \* Residential uses would be supported and encouraged should they be proposed.

To ensure that these objectives are realised the proposed SU 23 identifies a range of permissible commercial uses, such as office, restaurant and consulting rooms.

A number of uses have been identified as permissible, but with conditions on the area of floor space. For example, 'shop' uses have been identified as being permissible only where the gross lettable area is no more than 200 m<sup>2</sup>. Take away outlets are proposed to only be permissible where they do not support takeaway facilities. The purpose of these restrictions is to prevent one or two large retail premises consuming the entire local activity node, which would not provide the variety and vitality that is being sought in the local activity nodes.

Residential uses at a density of R60 have been identified as permissible only where there are non-residential uses at ground floor (street level). The purpose of this is to prevent the local activity node from being developed solely for residential development, losing its ability to function as the retail focal point in the area.

#### Mixed Use Area - Proposed Special Use No. 24

The majority of the Newmarket Precinct has been identified as 'mixed use' under the CCDSP. These lots are currently zoned 'Mixed Business', 'Residential' and 'Local Centre', and contain a mixture of residential and commercial development.

It is proposed that the mixed use area of the Newmarket Precinct be rezoned to 'Special Use No. 24' (SU 24).

The purpose of the mixed use area is to allow the opportunity for a mix of uses to promote the redevelopment of Cockburn Coast into a vibrant and sustainable environment that integrates living, working and leisure opportunities.



The CCDSP outlines that uses in the mixed use area should demonstrate a positive contribution to promoting a vibrant mixed use urban environment, contribute to a continuous active street frontage and encourage pedestrian use of Cockburn Road. It outlines that planning controls should not be overly prescriptive in terms of use. Therefore on this basis the proposed SU 24 identifies a wide variety of permissible uses. Where it is considered that such uses could potentially impact on residential development they have been designated as 'D' uses to enable an assessment to be made of any potential impacts ('D' uses require planning approval pursuant to Clause 4.3.3 of the Scheme).

Showroom uses that are stand-alone have been identified as permissible only where they have a floor area of no more than 750m<sup>2</sup>, unless they are part of a comprehensive mixed use development. This restriction is proposed to prevent a large showroom(s) consuming a large proportion of the mixed use area, which would be contrary to the objective of creating a vibrant mixed use urban environment.

Residential uses at a density of R60 have been identified as permissible only where the ground floor (street level) is designed to accommodate future non-residential uses, and in all cases these uses shall be treated as 'D' uses in accordance with Clause 4.3.3. The purpose of this requirement is to ensure that mixed use potential is created even at the early stages of development when the market might not yet support non-residential use. The Local Planning Policy (Newmarket Precinct Design Guidelines) outlines design measures to be considered in this regard.

While the CCDSP identifies small retail as being appropriate there is concern that if small retail is permissible in the mixed use area there will be no ability to ensure that the local activity nodes will be the focal point for retail. It is considered imperative that there is a distinction between the mixed use and local activity node; otherwise Cockburn Road will become a long stretch of mixed use development with no focal points. Restricting 'shop' uses in the mixed use area will provide a better framework to ensure that the objectives of the local activity node are achieved. This is why it is recommended that shop floor area in the mixed use area be restricted to between 150m<sup>2</sup> and 750m<sup>2</sup>.

The CCDSP identifies that 'service industry' is not appropriate in the mixed use area, however it is considered that such uses at an appropriate scale could serve the resident population in this area, rather than residents having to travel outside the area for such services. Therefore this use has been identified as a 'D' use, which requires planning approval.

### Outcomes of Community Consultation - SU 24

Seven landowners of No. 12 Boyd Crescent, Hamilton Hill (site of 13 grouped dwellings) objected to the proposed rezoning of this land from 'Residential R60' to SU 24 (Mixed Use) on the basis that the wide range of uses proposed to be permissible for SU 24 may be incompatible with residential amenity. No. 12 and 14 Boyd Crescent have been recently developed for residential development (grouped dwellings), or are currently undergoing development for grouped dwellings.

The proposed rezoning of these two lots was intended to reflect the CCDSP outcomes for the land, which was identified as mixed use. The proposed zoning intended to put a framework in place to ensure that if the subject land were to be redeveloped it would facilitate mixed use development. However, given that the land has been recently developed for residential purposes (and strata titled), the likelihood of the area being redeveloped in the medium term is unlikely, and in the meantime the concerns raised by landowners are noted, as the wide range of uses permissible by SU 24 may not be appropriate in the context of current development on the subject land.

It is therefore recommended that Council adopt Scheme Amendment No. 82 subject to No. 12 and 14 Boyd Crescent being rezoned from 'Residential R60' to SU 25 (Residential), rather than SU 24 (Mixed Use) to reflect the current 'Residential' zoning and to acknowledge the existing residential development of the subject land.

A submission was received from the proponents of Lots 1 and 2 Bellion Drive, seeking a higher residential coding for the subject land than the proposed R60. It is recommended that this matter be dealt with separately, and a separate Scheme Amendment is proposed for these lots. It is therefore recommended that Lots 1 and 2 Bellion Drive be removed from proposed SU 24 and excluded from Amendment No. 82.

### Residential Area - Proposed Special Use No. 25

The CCDSP identifies that the residential development in the Cockburn Coast area will be of a density mix and built form character more intensive and vibrant than that typically created in greenfield locations on the urban fringe.

The majority of the area within the Newmarket Precinct that is identified for 'Residential' under the CCDSP is currently zoned 'Residential R60', and it includes the 64 residential units (known as 'Ocean View Villas') between Boyd Crescent and Bellion Drive.

Lots 44, 45 and No. 7 Boyd Crescent, Hamilton Hill are currently zoned 'Mixed Business'. These 'Mixed Business' zoned lots currently contain

primarily a mixture of light/service industry type uses. Under the new proposed zoning (SU 25) these uses would be afforded non-conforming use rights pursuant to the Scheme.

The CCDSP outlines that a range of residential uses and home based business are suitable uses for the residential area. Accordingly the proposed SU 25 outlines a range residential uses as permissible at a density of R60, which is the current residential density for the 'Residential' zoned land in this area. A range of other uses have been identified as permissible where it is considered they have the potential to be accommodated without having a negative impact on residential amenity.

As outlined in the previous section, it is also recommended that No. 12 and No. 14 Boyd Crescent be included in SU 25, in acknowledgement of the existing residential zoning and development.

#### Deletion of Additional Use No. 13

Currently there is an 'Additional Use No. 13' over Lot 52 Boyd Crescent, Hamilton Hill, which is zoned 'Mixed Business'. 'Additional Use No. 13' allows for grouped and multiple dwellings, subject to planning approval. Under a 'Mixed Business' zoning the Scheme provides that residential development is to be at a density of R60 (Clause 5.8.3b).

Lot 52 Boyd Crescent was zoned 'Light Industry' under the City of Cockburn Town Planning Scheme No. 2 (now superseded), and when the City of Cockburn Town Planning Scheme No. 3 was gazetted on 20 December 2002 it was zoned 'Mixed Business' and included within 'Additional Use No. 13'.

Planning approval was granted by the City for fourteen grouped dwellings on the subject land on 5 October 2009 (valid for two years). Subsequently the WAPC granted conditional approval for a survey strata proposing 14 survey strata lots and an area of common property (corresponding with the grouped dwellings identified on the development approval) on 28 October 2009, and this is valid for four years.

Lot 52 Boyd Crescent is identified as being within the mixed use area under the CCDSP. It is therefore proposed that this 'Additional Use No. 13' for grouped and multiple dwellings be deleted. Under the proposed SU 24 (mixed use), residential uses are still permissible at a density of R60, where the ground floor (fronting a public street) is designed to accommodate future non-residential uses, and Local Planning Policy (Newmarket Precinct Design Guidelines) provides more guidance in this regard. The proposed R60 coding is the same density that is

currently applicable to this land. The development of fourteen grouped dwellings on Lot 52 Boyd Crescent can still be undertaken in accordance with the development approval issued on 5 October 2009.

### Restricted Use (RU 9)

The 'Industry' zoned land within the CCDSP area is subject to the provisions of RU 9. A 'Restricted Use' is the only use or uses that are permitted on a specific portion of land and other uses that would otherwise be permissible in the zone are not permitted.

Currently RU 9 only facilitates uses associated with the production of meat and related products. In addition to being very limited, most of these uses are offensive trades as defined under the *Health Act 1911*.

In light of the MRS Amendment No. 1180/41 for the CCDSP area, it is proposed that these uses be deleted and replaced with a set of benign light industrial uses that are unlikely to create conflict with future urban development. The draft RU 9 provisions that were advertised for public comment included the following uses:

- \* Industry - Light
- \* Industry - Service
- \* Health Studio
- \* Warehouse
- \* Recreation - Private
- \* Trade Display.

In addition, to ensure there is no conflict with future urban development, it is proposed that such uses will be subject to five year planning approvals. This is proposed to be included as a condition to the RU 9.

Any existing lawful development within the RU 9 area will be given non-conforming use rights pursuant to Clause 4.8 of the Scheme.

### Outcomes of Community Consultation - RU 9

During the community consultation a submission was received requesting the inclusion of 'storage yard' in RU 9. This is considered to be an appropriate interim use, and it is therefore recommended that this be included.

It is considered that the proposed modifications to RU 9 will facilitate interim uses in the area that will not adversely impact on future urban development. This is also in recognition that development in this area

(particularly Emplacement Crescent) is relatively new and there are a number of vacant premises.

### Special Use No. 26 and deletion of Additional Use No. 16

Currently 'Additional Use No. 16' applies to Lot 102, pt Lot 4 and 8 Rollinson Road, Lot 303 Darkan Avenue, Lots 9 - 18, Pt Lot 1 Garston Way, Hamilton Hill within the CCDSP area. 'Additional Use No. 16' is for a 'Fashion Leather Park', and includes uses such as office, public amusement, private recreation, light industry, cottage industry, general industry, shop and showroom.

RU 9 also applies to this land, which creates ambiguity regarding the permissibility of uses under the Scheme. This is because pursuant to Clause 4.5 of the Scheme 'Additional Uses' are intended to be permissible in addition to those of the underlying zone, whereas under Clause 4.6 of the Scheme 'Restricted Uses' are intended to be the only uses permissible, notwithstanding other permissible uses in the underlying zone. This creates an unclear statutory framework for this area, and it is considered timely to clarify this matter, while also ensuring that the permissible uses in this area facilitate a range of appropriate interim uses.

It is therefore proposed to delete the 'Additional Use No. 16' and RU 9 from this area, and to include it within a new 'Special Use No. 26' (SU 26). The intention is to facilitate most of these existing uses that are permissible under 'Additional Use No. 16', in addition to those uses proposed to be facilitated within the revised RU 9.

A 'Special Use' zone is considered to be the most appropriate zone, given that the range of uses does not correspond to any of the existing zones under the Scheme, and some of the uses that are currently permissible in 'Additional Use No. 16' (i.e. 'restaurant', 'shop', and 'reception centre;') are not permissible in the 'Industry' zone.

The majority of the uses outlined in 'Additional Use No. 16' are not considered to have the potential to conflict with future urban development, with the exception of 'Industry - General'. It is therefore proposed that 'Industry - General' be excluded from the new SU 26, given the potential for general industrial uses to conflict with urban development. Light, service and cottage industry uses are still proposed to be permissible. Any existing lawful uses within the area that are 'Industry - General' will be afforded non-conforming use rights.

Currently 'Additional Use No. 16' includes 'Factory unit building' as a permissible use. This use was defined under the City of Cockburn Town Planning Scheme No. 2 (now superseded), when these additional uses were originally applied, however this is not defined

under the current Scheme. It is considered undesirable to refer to uses that are not defined in the Scheme unless they are a special type of use, given there is no description to determine whether a use fits within the use class. It is therefore recommended that instead of including 'Factory unit building' the new SU 26 include 'Warehouse' as a permissible use.

It is also proposed that all of these uses be subject to five year planning approvals, given that these are only interim uses in this area ahead of the ultimate zoning ('Development').

#### Outcomes of Community Consultation - SU 26

A number of submissions were received from landowners within the proposed SU 26 area during the advertising period proposing additional uses for inclusion in proposed SU 26. All of these submissions are outlined in the attached Schedule of Submissions; however, the following list is a summary of the additional land uses that were suggested by submissions for inclusion:

- \* Commercial vehicle parking
- \* Distribution centre
- \* Motor vehicle, boat or caravan sales
- \* Storage
- \* Transport depot
- \* Garden centre.

It is not considered that 'commercial vehicle parking', 'distribution centre', and 'transport depot' are appropriate uses for inclusion in the proposed SU 26 area. The City is not seeking to facilitate the establishment of a wide range of new uses in the area, particularly uses that have the potential to generate a significant increase in heavy traffic movements in the area. The purpose of the proposed amendment is to facilitate low impact uses. The City is aware of concerns from existing landowners/business operators within the Cockburn Coast area regarding heavy vehicle traffic generated from existing businesses, and it is not recommended that additional uses be facilitated that will increase heavy vehicle movements.

However, it is considered that 'storage' (referred to as 'storage yard' in Table 1 of the Scheme) is an appropriate use for inclusion in SU 26 (also recommended for inclusion in RU 9), as it will facilitate the potential for land to be used with minimal capital investment.

It is also considered that 'garden centre' and 'motor vehicle, boat or caravan sales' be included, as it is not considered that these uses will impact on the area to a greater extent than the other uses included in proposed SU 26.

A submission was received from the proponent of Lot 1 Bennett Avenue, North Coogee requesting that consideration be given to allowing the existing use (material recovery facility) to be granted an extension to the current planning approval. This site has a large existing building that is unlikely to be suitable for any of the proposed uses set out in SU 26. It is therefore recommended that Lot 1 Bennett Avenue be removed from proposed SU 26, and alternatively be rezoned from 'Industry', RU 9 and AU 16 to a new 'Restricted Use' area (RU 16). It is recommended that the following provisions apply for RU 16:

*The existing planning approval for the general industry (material recovery facility) located on Lot 1 (No. 10) Bennet Avenue, North Coogee expires on 12 January 2013. The local government may grant an extension to this planning approval subject to it being satisfied that:*

- 1.. *An extension in planning approval will not inhibit the ability for adjoining or nearby land to be developed for residential or other urban purposes.*
2. *An extension in planning approval will facilitate the orderly transition of the existing use away from the land.*
3. *An extension in planning approval will be no more than a single, once off, five year term.*

The Water Corporation raised concerns in relation to a number of uses proposed to be permissible within SU 26, due to proximity to the existing Bennett Street wastewater pumping station. The wastewater pumping station currently has an assumed 50m radius odour buffer, which extends partly over the adjacent land, which is proposed to be rezoned to SU26.

The Water Corporation have advised that the revised wastewater planning for the locality, taking into account the level of development anticipated by the CCDSP and increasing residential codings to the north, has determined that the capacity of the station may need to be increased. As a result, in the future the odour buffer may increase from the current 50m notional buffer to 150m.

Accordingly, the Water Corporation did not support the following 'odour sensitive' land uses proposed by SU 26:

- \* Health Studio
- \* Recreation - Private
- \* Educational Establishment
- \* Office
- \* Public amusement
- \* Shop
- \* Recreation centre.

City officers acknowledge the need for increased capacity within this wastewater pumping station, and that this may lead to a potential change to its associated odour buffer. However, the proximity of existing and future residents within South Beach (to the north) is such that a 150m odour buffer (compared with the current 50m buffer) would have a significant deleterious impact. From an orderly and proper planning view point, this is not supported by officers. It should be noted that a 150 m buffer to this wastewater pumping station would take in existing single houses along Breaksea Drive and Heirisson Way, Coogee, and the impact of this would be severe and unacceptable.

Therefore rather than accept a buffer of this magnitude, officers see the need to be involved with future planning of the wastewater pump station, so as to ensure the amenity and expectations of existing residents within South Beach is represented. The notion of creating a 150 m exclusion zone is fundamentally opposed on this basis, given it disregards the reality which exists within the South Beach estate.

It therefore not recommended that any proposed uses be removed from SU26. It should also be noted that these 'odour sensitive' land uses are already permissible under the current AU16 provisions.

### Conclusion

The proposed amendment will ensure that future development within the Newmarket Precinct is consistent with the objectives of the CCDSP.

The proposed amendment to the RU9 provisions, and other 'Additional Uses' throughout the CCDSP area will provide a range of interim uses for this area that will minimise conflict with future urban uses.

Accordingly it is recommended that Council adopt Scheme Amendment No. 82 for final approval, subject to the modifications outlined in this report.

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

#### **Demographic Planning**

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

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



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

### **Budget/Financial Implications**

N/A

### **Legal Implications**

N/A

### **Community Consultation**

In accordance with the *Town Planning Regulations 1967* consultation was undertaken subsequent to the Environmental Protection Authority (EPA) advising that the proposal is environmentally acceptable. The amendment was advertised for 42 days. Letters were sent to all landowners and an advertisement was published in the Cockburn Gazette.

Extensive community consultation has also been undertaken previously in the preparation of the CCDSP, and the purpose of the proposed Amendment is to implement this Structure Plan.

### **Attachment(s)**

1. Existing zoning
2. Scheme Amendment Map (Proposed zonings)
3. 'Restricted Use No. 9' Area
4. Schedule of Submissions

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

All submissioners have been advised that this matter was to be considered at the 10 March ordinary meeting of Council.

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

Nil.

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

### **15.1 (OCM 10/3/2011) - LIST OF CREDITORS PAID - JANUARY 2011 (FS/L/001) (N MAURICIO) (ATTACH)**

<b>RECOMMENDATION</b>
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That Council receive the List of Creditors Paid for January 2011, as attached to the Agenda.

## **COUNCIL DECISION**

### **Background**

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

### **Submission**

N/A

### **Report**

The list of accounts for October 2009 is attached to the Agenda for consideration. The list contains details of payments made by the City in relation to goods and services received by the City.

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

#### **Governance Excellence**

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

### **Budget/Financial Implications**

N/A

### **Legal Implications**

N/A

### **Community Consultation**

N/A

**Attachment(s)**

List of Creditors Paid – January 2011.

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

N/A

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

Nil.

**15.2 (OCM 10/3/2011) - STATEMENT OF FINANCIAL ACTIVITY AND ASSOCIATED REPORTS - JANUARY 2011 (FS/S/001) (N MAURICIO) (ATTACH)**

**RECOMMENDATION**

That Council receive the Statement of Financial Activity and associated reports for January 2011, as attached to the Agenda.

**COUNCIL DECISION****Background**

Regulations 1996 prescribes that a local government is to prepare each month a Statement of Financial Activity.

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

- (a) details of the composition of the closing net current assets (less restricted and committed assets);
- (b) explanations for each material variance identified between YTD budgets and actuals; and
- (c) any other supporting information considered relevant by the local government.

Regulation 34(4)(a) prescribes that the Statement of Financial Activity and accompanying documents be presented to Council within 2 months after the end of the month to which the statement relates.

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

Financial Management Regulation 34(5) requires Council to annually set a materiality threshold for the purpose of disclosing budget variance details. To this end, Council has adopted a materiality threshold variance of \$100,000 for the 2010/11 financial year.

### **Submission**

N/A

### **Report**

The City had a closing actual position of \$45.9M for January, \$2.8M higher than the forecast ytd budget of \$43.1M. This result is impacted by the continuing out-performance of the budget by several key revenue sources, general under-spending of operating budgets, and is off-set to some extent by the net ytd shortfall in capital funding (mainly from grants and Council's cash reserves).

The full year revised budget is currently forecasting a surplus of \$0.43M, versus the balanced annual budget adopted last June (nil surplus or deficit). Budget adjustments made throughout the year have contributed to this as outlined in Note 3 of the financial report. However, the budget will be returned to a balanced position via the mid-year budget review adopted in February.

### **Operating Revenue**

Income streams for the Waste Services Unit continue to outperform the budget. Commercial revenue from the Henderson Waste Recovery Park is \$1.4M ahead of budget at \$7.9M, whilst the waste services levy has yielded an extra \$447K for Waste Collection. However, this additional levy will be needed to cover higher operating costs for junk collection and the take up of trailer passes.

Interest earnings continue to out-perform the budget performing well (\$1.1M ahead of budget) due in part to increased investment rates courtesy of the rise in the official cash rate, and to the healthy state of the City's cash position at around \$90M. Earnings on Reserve funds in particular are well above budget projections (by \$0.7M). However, the additional interest on Reserves is quarantined within the Reserves and hence does not impact the overall budget position.

Property rating income is also showing a strong result, ahead of the ytd budget by \$0.7M. However, the mid-year budget review has recast targets for both rates and investment income.

### Operating Expenditure

Operating expenditure is generally running within budget for most business units of the City (\$2.5M below YTD). Some of this is due to a general lag in receiving of accounts or delays in receiving the goods or services.

Employee costs contribute to this variance as several new and existing positions remain vacant. This is expected to abate somewhat as positions become filled over the coming months.

The Parks and Environment unit is showing an under-spend of \$0.6M across their operational budgets. However, this is not regarded as a permanent variance and should reduce during the remaining months of the year.

One area exceeding budget is the State Landfill Levy (by \$1.3M). This has eventuated as a consequence of higher revenues received for commercial waste through the landfill. This has been addressed in the mid-year budget review and should not impact the budget in future reports.

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

### Capital Program

The City's capital budget is showing an overall underspend of \$4.6M on a YTD basis against a budget of \$12.7M. However, when committed orders are factored in, there is no real variance. This indicates that the works have been scoped and are progressing, albeit behind cash flow projections.

The overall underspend includes some outstanding major plant acquisitions (\$1.0M) and the City's roads resurfacing program which is yet to commence (\$0.9M). The majority of the underspend is spread out across the capital program with very few triggering the \$100k material variance threshold.

### Cash & Investments

Council's cash and current/non-current investment holdings reduced to \$89.5M (from \$93.6M in December). However, this is well above the ytd budget forecast of \$63.7M due to a number of contributing factors.

Of this total cash and investment holding, \$41.4M represents the City's cash reserves, whilst another \$4.7M is held for other restricted purposes such as bonds and capital contributions. The balance of \$43.4M represents the cash component of the working capital required to fund the City's operations and the Municipal funded portion of the capital program over the remainder of the financial year.

### Description of Graphs and Charts

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

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

A liquidity graph shows the level of Council's net current position (adjusted for restricted assets) and trends this against previous years. This gives a good indication of Council's capacity to meet its financial commitments over the course of the year.

Council's overall cash and investments position is provided in a line graph with a comparison against the ytd budget and the previous year's position at the same time.

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

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

#### **Governance Excellence**

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

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

Material variances identified of a permanent nature (ie. not due to timing issues) may impact on Council's final budget position (depending upon the nature of the item). Some of these were addressed in the mid-year budget review as adopted at the February Council meeting, which will be incorporated within the February statement.

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

Statement of Financial Activity and associated statements – January 2011.

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

N/A

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

Nil.

**16. ENGINEERING AND WORKS DIVISION ISSUES**

**16.1 (OCM 10/3/2011) - PUBLIC LIABILITY ISSUES RELATING TO TREES ON PUBLIC LAND (FS/I/002) (D SMITH)**

**RECOMMENDATION**

That Council receive a report dealing with public liability issues relating to trees on public land at the 14 April Ordinary Council Meeting in order to obtain all the necessary information pertaining to the matter.

**COUNCIL DECISION**

**Background**

Mayor Howlett requested that a *report be provided to the 10 March 2011 Ordinary Meeting of Council outlining the coverage provided by the City's insurance policy in terms of damage to private property by street trees on verges, including falling trees, falling branches, invasive tree roots etc.*

*The report was to provide details of deficiencies, if any, in the current policy coverage provided by the City's insurer, Local Government Insurance services, and the timeliness of decisions of the Insurer and address any recent claims against the City and/or its insurer.*

*A briefing was to be provided to Elected Members by Local Government Insurance Services during the course of the report being prepared on the current policy coverage and potential changes, if any, required in addressing claim issues.*

The purpose for the deferment is to enable a comprehensive overview of the assessment of trees on public land to be presented as well as permit LGIS representatives to attend the meeting to provide expert advice that relate to the public liability claims process.

### **Submission**

N/A

### **Report**

Due to the recent increase in claims relating to trees and tree roots received by the City, officers have met with representatives of LGIS on a number of occasions. The meetings have addressed and clarified a range of issues associated with requests by claimants requesting financial restitution for damage to private property allegedly caused by street trees on verges, falling trees and branches as well as damage caused to private property by tree roots.

Representatives of LGIS were requested to address the Elected Members and provide a briefing on the current extent of the City's Public Liability Policy, potential future amendments to the policy and the management of current claims relating to street trees. The report was then to be presented at the March 2011 Ordinary Meeting of Council.

Due to a range of issues LGIS representatives were unable to meet the timeframes required for the March 2011 Ordinary Meeting of Council.

A comprehensive report will now be presented to the 14 April 2011 Ordinary Meeting of Council.

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

#### **Governance Excellence**

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



**Budget/Financial Implications**

Legal implications will be discussed when the report is presented

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

N/A

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

N/A

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

Nil.

**17. COMMUNITY SERVICES DIVISION ISSUES**

**17.1 (OCM 10/3/2011) - LEASE- PORTION OF RESERVE 32581 - 219 WINTERFOLD ROAD, COOLBELLUP - MEERILINGA YOUNG CHILDREN'S FOUNDATION (CR/L/001; 1100709 ) (G BOWMAN) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) enter an agreement with Meerilinga Young Children's Foundation to lease the premises situated at 219 Winterfold Road, Coolbellup, in accordance with the proposal, as attached to the Agenda, subject to the following conditions:
1. An initial lease period of 5 years with an option to renew for a further term of 5 years.
  2. For a peppercorn rental annually and the payment of all outgoings and charges.
  3. The capacity to sub-let the premises or portions of the premises subject to the agreement of the City.
  4. Insurance of the building, contents and public liability to be the responsibility of Meerilinga.

5. Any redevelopment of the property is to comply with Building Code of Australia requirements.
  6. The Lessees or Assignees to maintain, repair and keep the premises in good and substantial repair (fair wear and tear accepted);
  7. Other terms and conditions which may be required to protect the interests of the City.
- (2) further investigate the future potential to rezone and redevelop portion of Reserves 32581 and 35431 in line with the proposal identified in Attachment 1.

## COUNCIL DECISION

### Background

Reserve 32581 is described as being Lot 4612 on Plan 195364 Winterfold Road, Coolbellup.

In 1984 a Management Order was granted to the City of Cockburn for the purpose of Child Care Centre. The Management Order grants to the City of Cockburn a Power to Lease for periods up to 21 years.

A search of Landgate records indicates that the purpose of the reserve in 1983 was for Public Recreation and that earlier records show that the land was given up as a condition of subdivision.

The Land was then leased by the City to the Department of Communities and the premises located at 219 Winterfold Road was constructed by the Department for Communities for the purpose of a "child care centre". The term of the lease with the Department of Communities has ended, so the land and property has reverted to the control of the City. The City used the premises for the temporary location of City of Cockburn Support Services staff in 2009 and 2010 whilst the Coolbellup Hub building was being re-developed. The building was also used during this time for the temporary operation of the Samson Kindergarten whilst their building was being redeveloped.

### Submission

Meerilinga Young Children's Foundation a not-for-profit charity for children and their families has written to the City requesting a lease of the premises located at 219 Winterfold Road, Coolbellup. Their proposal for the premises is to take over the property in its current state and redevelop the premises into a Children and Family Centre. In summary, the proposed uses would be for a licenced sessional child care area for 3 year old children, a parent link service, professional child nutritionist service, supported play groups, and Aboriginal child and family support groups. Meerilinga has committed to working with the City to work collaboratively to meet both organisations strategic vision for children, families and the community. Meerilinga Young Children's Foundation is seeking a medium term lease and a peppercorn rent. Being a not-for-profit charitable organisation Meerilinga has indicated that the cost associated with rent coupled with the building maintenance and grounds maintenance cost for the building would not be affordable. Meerilinga will be seeking a Lotterywest grant for the refurbishment of the premises to meet the needs of the revised purpose, current day disability access and Building Code of Australia requirements (see attached proposal).

### Report

The City has a Management Order for Reserve 32581 for the designated purpose of *Child Care Centre* with the power to lease (or sub-lease or licence) for up to 21 years, pursuant to provisions of the Land Administration Act 1997.

The proposal outlined by Meerilinga to work collaboratively with the City in achieving both organisations goals will assist in the implementation of the City of Cockburn's Children's Services Strategic Plan. Meerilinga has agreed to provide services for children aged 6 to 9 years of age. This is a gap area identified in the Children's Services Strategic Plan, which states, '*The City's Human Services Team and Youth Services Team to review services for children aged 7-9 years on a six monthly basis, identifying any emerging gaps and opportunities for service provision....*' The Children's Services Strategic Plan has also identified the need for additional Early Years Services and options for pre-kindy and 3 year old programs to enhance services for children in Cockburn. The development of the Meerilinga Children and Family Centre - Cockburn, will provide additional Early Years and Family Support Services in Cockburn. The location of this Early Year Service in Coolbellup is also desirable because the 2010 Australian Early Development Index Survey results identified that Coolbellup had the highest percentage of vulnerable children aged 4 years in Cockburn. Facilitating Meerilinga to develop their proposal by provision of an appropriate lease facility in Cockburn will be meeting a number of identified community needs.

In the 6 month period ended December 2010, support services were provided by Meerilinga to 446 clients at its current premises, 54% of whom live in the City of Cockburn.

The City is therefore in a position to enter into a Lease Agreement with Meerilinga for a peppercorn rent. The purpose and intent of the land use will remain unchanged with over half of the proposed use of the building being for a *Child Care Centre*.

Merrilinga has outgrown its current premises, which is located in rental premises at Kardinya for an annual rate of \$8,200. This is a normal tenancy arrangement, for which the landlord is responsible for maintaining and the tenant pays for utility costs.

Under the proposed arrangements, Meerlinga will be responsible for ongoing building and grounds maintenance, (\$10,300 in 2009/10 and \$4,700 YTD 2010/11) outgoings and approved upgrades and on that basis, a peppercorn rental is considered reasonable.

The proposed ten year lease will provide stability for Meerilinga due to the significant economic investment that the Lotterywest Commission will make towards the refurbishment, disability access requirements, and change of purpose for a section of the building to be suited to a family centre.

Crown land is exempt from the requirements of the Building Code of Australia, so it is proposed that the Lease include a clause to ensure that the Building Code of Australia Standards apply to the redevelopment.

The adjacent Lot 76 was previously occupied by the Family Day Care Administration and has been relocated to the Coolbellup Hub; therefore, leaving the land available for sale or redevelopment.

Advice received from the City's Land Administration staff in accordance with the above information indicates that it is open to the City to use the 5% rule to sell this reserve property. The 5% rule allows the City of Cockburn to acquire the land for 5% of its market value and then resell the property at full market value. The funds generated have to be utilized to either purchase alternative recreation land or be spent on improvements to reserves in the vicinity of the subject land. An initial assessment indicates that this process would return in the order of \$1M which would then need to be re-invested in local reserves. Coolbellup has sufficient public recreation reserves and reserve infrastructure to meet identified community need. In addition to this the proposed Coolbellup three school sites redevelopment proposes further reserve upgrade and development which will be funded by the developer.

Another option is to rezone and redevelop the land, which would require the boundaries with the adjoining Reserve 35431 (purpose Health Purposes) to be realigned to maximize the potential of Reserve 32581. The attached plan shows the proposed new boundary. Two additional lots could be created leaving the building on current Reserve 32581 with sufficient area for its proposed purpose of a Children and Family Centre.

The two surplus lots to be created (one on Mopsa Way and the other with frontage to Winterfold Road) could generate approximately \$600,000 of funds by utilizing the 5% rule. The lot created on Winterfold Road could be redeveloped jointly with the Council freehold Lot 76 which is immediately to the west of the subject land.

Pursuit of this option is recommended because it will meet the identified community need for Children's Services and also leave the majority of the reserve available to be purchased with the 5% rule at a future date to maximise the redevelopment opportunity of the site. (see attached plan).

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

#### **Infrastructure Development**

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

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

The lease arrangement will not result in any increase in costs for the City; however, the location of the reserve is adjacent to a freehold Lot 76 where a redevelopment opportunity exists.

A proposed condition of lease is that Meerilinga will be responsible for all building and grounds maintenance, creating a cost saving to the City of around \$10,000 p.a.

The costs for the preparation of the lease agreement will be borne by Meerilinga Young Children's Foundation.

#### **Legal Implications**

The Local Government is exempted from the requirements of Section 3.58 of the Local Government Act by way of the Clause under the Local Government (Functions and General regulations) 1996 Section 30 (b) (i) that the Meerilinga Young Children's Foundation is deemed to be an organisation that has the *objects of which are of a charitable*,

*benevolent, religious, cultural, educational, recreational, sporting or other like nature.*

### **Community Consultation**

Extensive community consultation was undertaken in 2010 whilst undertaking the review of the City of Cockburn Children's Services Strategic Plan 2010-2015. The consultation identified insufficient services in Cockburn for children aged 7 to 9 year of age.

### **Attachment(s)**

1. Site Plan identifying portion of Reserve 32581 to be leased and potential redevelopment option.
2. Certificate of Crown Land Title for Reserve 32581.
3. Proposal from Meerilinga Young Children's Foundation (Extract).
4. Current site - Location Plan.
5. Option site - Location Plan.

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

The Proponent(s) have been advised that this matter is to be considered at the March 2011 Council Meeting.

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

Nil.

## **18. EXECUTIVE DIVISION ISSUES**

Nil

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

### **19.1 (OCM 10/3/2011) - REVIEW OF COUNCIL POLICY SC5 'CORPORATE STRATEGIC PLANNING PROCESS' (1054) (SCAIN) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) note the process for preparation of the City's next iteration of its Strategic Plan and not delegate this as a function of Council;

and

- (2) amend policy SC5 'Corporate Strategic Planning Process' as per the agenda attachment.

## COUNCIL DECISION

### Background

At the February 2011 Ordinary Council Meeting Cllr Houwen moved the following motion:

*That Council immediately establish a working group for the major review of the City's Strategic Plan 2006-2016.*

While preparatory work for the next iteration of the City's Strategic Plan had been underway for several months, the framework upon which the Plan is structured is not as well articulated as it could be. An update to this policy framework was to have been presented to the March Ordinary Council Meeting; Cllr Houwen's motion has only precipitated this outcome.

### Submission

N/A

### Report

The City Strategic Plan 2006 – 2016 was adopted by Council in June 2006. This Plan was the third iteration of the main corporate strategy, with previous versions adopted in 1999 and 2001. Each of these had a ten-year timeframe, but was updated at their midpoint to ensure their ongoing relevance.

While the current version of the Strategic Plan is due for revision this year, preparatory work was undertaken in late 2010 in a workshop with senior staff. The same presentation was given to Elected Members on 24 February 2011, having been delayed from 2010 to allow inclusion of a new Councillor following the January extraordinary election.

The presentation to Elected Members outlined the policy framework that underpins the City's strategic planning construct, as well as the inputs that are required before the next iteration of the Strategic Plan can be prepared. One of the key inputs is the triennial 'Community Needs Survey', which is being conducted in March 2011.

### Policy Framework

Policy SC5 'Corporate Strategic Planning Process', adopted in July 2000 and amended in October 2006, is the primary guidance directive for preparation of the Strategic Plan. The last update to the policy, which occurred after acceptance of the 'Strategic Plan 2006 – 2016' and 'Plan for the District 2006 – 2016' in June 2006, adopted a more hierarchical approach to building the corporate strategy.

Since that time Council has adopted new versions of the 'Plan for the District' on a biennial basis. It has also adopted a range of subsidiary specific issue strategies, such as the 'Sport and Recreation Strategic Plan' in 2010.

In 2008, the Chief Executive Officer reviewed the framework with his senior managers to ensure the City's administrative structure was aligned to its strategic direction. In August 2008, Council subsequently endorsed modifications to Position Statement PSES11 'Structure for Administering the City of Cockburn'. The workshop also identified strategy gaps; where parts of the administrative structure were not clearly linked to delivery of strategic outcomes. In turn this generated production of additional strategy documents, many of which have been the subject of Council decisions since that time.

While the relationship between the various strategic planning elements is well known to the City's Administration, it is the Chief Executive's view that the current policy could be better presented to the public. In 2010 he directed staff to prepare a new entry to go onto the City's website. This report outlines modifications to the policy and what additional information should be made available on the City's website to overcome this deficiency.

### Policy Modifications

Subsequent to issue of the 2006 version of the Strategic Plan it was recognised that policy SC5 'Corporate Strategic Planning Process' needed to be updated to reflect changes to the planning governance framework. Although the Strategic Plan has a ten-year horizon, the policy ensured that it was reviewed every five years, as this allowed



for realistic intermediate goals to be developed while still working within the longer timescale.

Since this time the City has continued to develop its Strategic Planning framework; adopting a range of supporting / subsidiary strategies as well as producing major revisions to the 'Plan for the District'. While the latter is governed by a statutory requirement for biennial review, the City has not applied a formal review process to other adopted subsidiary strategies. Some of these documents have not been reviewed since they were first adopted in 1999.

Within the existing policy document there is only limited explanation as to how the overall Strategic Plan, subsidiary strategies and operational implementation program are delivered through the annual Business Planning and Budget process. This should be better articulated as well as how the Plan's achievements are reported through the City's Annual Report.

While the development of subsidiary strategies has occurred within the strategic planning framework, the relationship between these documents and the Strategic Plan need to be clear. The revised version of policy SC5 will require these to:

- Including a statement referencing the need for the strategy and its relationship to specific Strategic Initiative(s) contained in the 'Strategic Plan'.
- Outline clear objectives to be achieved and the relevant timescale anticipated.
- Include performance measures that can be reported to the Council and community.
- Use a ten-year development timeframe that includes consideration of longer term objectives.
- Review and report progress to Council every five years, with the report to include details of the achievements over the previous five years.

#### Informing the Community

While the City's strategies and policies are formally adopted by Council and available for public review as part of the Council Agenda process, subsequently locating these documents after their adoption can be difficult.

The primary method for the community to access this type of information is via the City's website ([www.cockburn.wa.gov.au](http://www.cockburn.wa.gov.au)). Each

month there are around 15,000 visitors to the website, which has a wide variety of information available. The website includes a subsection entitled 'Corporate Strategic Plans', but although this has a list of current strategy plans, the webpage has limited explanation as to the linkages between these or to the 'Strategic Plan'.

A more informative way of providing an understanding of these linkages and displaying the relevant documents is intended. The modifications to the webpage will include:

- Providing an overview of what the strategic planning process entails, how the City's Strategic Plan has evolved and what it aims to achieve.
- Showing the hierarchy of Strategic Initiatives and what subsidiary strategies have been developed for each category.
- Providing an interactive web link to each subsidiary strategy and associated documents.

#### Strategic Plan 2011 – 2021.

The next iteration of the Strategic Plan will extend beyond the current timeframe for the adopted 'Plan for the District 2010 – 2020'. But it will also be prepared in the context of the State's new demographic policy, Directions 2031. The City's commentary on that document was adopted by Council at the November 2010 Ordinary Council Meeting.

Directions 2031 provides guidance on land use and activities within the district, however, this is only one aspect that guides development of the corporate strategy. Community input is provided through the triennial 'Community Needs' survey, which is being undertaken during March 2011. This data, along with other guidance material, will be presented to all Elected Members in a workshop to be held mid-year. As a further consultation initiative it is proposed to use the City's website, along the lines of a community noticeboard, to seek input on what residents consider the 'big issues' that should be addressed in the Strategic Plan.

As with the last planning exercise, it is the Chief Executive Officer's recommendation that the development of the next Strategic Plan should involve all Elected Members and the senior staff, not just a smaller sub-set as would be the case under the proposed working group structure.

#### Conclusion

With the City forecast to have significant growth out to 2031, it is critical that a well developed Strategic Planning process is maintained by Council. Since its inception in 1999 the current process and associated policy guidance have evolved, but are not well articulated. The modifications outlined above will improve the community's understanding of this process and access to relevant data.

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

#### **Governance Excellence**

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

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

N/A

#### **Legal Implications**

N/A

#### **Community Consultation**

N/A

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

Draft Policy SC5 'Corporate Strategic Planning Process'.

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

N/A

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

Nil.

- 20. NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING**
- 21. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY COUNCILLORS OR OFFICERS**
- 22. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE**

**23. CONFIDENTIAL BUSINESS**

**24 (OCM 10/3/2011) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

**RECOMMENDATION**

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

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

**COUNCIL DECISION**

**25. CLOSURE OF MEETING**