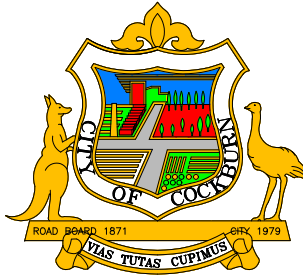


CITY OF COCKBURN



ORDINARY COUNCIL

AGENDA PAPER

FOR

THURSDAY, 10 DECEMBER 2009

CITY OF COCKBURN

SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 10 DECEMBER 2009 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 DECEMBER 2009 AT 7:00 PM**

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 10/12/2009) - ORDINARY COUNCIL MEETING - 12/11/2009**

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on Thursday, 12 November 2009, be adopted 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 10/12/2009) - MINUTES OF THE AUDIT & STRATEGIC FINANCE COMMITTEE MEETING - 19/11/2009 (5009; 5103) (S DOWNING) (ATTACH)

RECOMMENDATION

That Council receive the Minutes of the Audit Committee Meeting held on Thursday, 19 November 2009, as attached to the Agenda and the recommendations contained therein be adopted.

COUNCIL DECISION

Background

A meeting of the Audit and Strategic Finance Committee was conducted on 19 November 2009.

Submission

To receive the Minutes of the Audit and Strategic Finance Committee and adopt its recommendation.

Report

The Audit and Strategic Finance Committee received and considered the following items:

1. The summary of all legal advice and action taken by the City in the last twelve months. The report was divided into actions/advice that remained active and those that have been closed since the last report in 2008.
2. The annual financial statements of the City for the year ended 30 June 2009 together with the report from the Auditor (Grant Thornton's Mr. Michael Hillgrove) to the Ratepayers of the City of Cockburn. The report detailed a review of the City's finances and comments on the Audit Report including the qualification contained in the Auditors Report about the City's remaining structured investments. This qualification has applied to all Councils in Australia with such structured investments in their portfolios.
3. A series of reports of internal audit projects was submitted as part of the approved two year internal audit program.

Strategic Plan/Policy Implications**Governance Excellence**

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

Budget/Financial Implications

As contained in the Minutes.

Legal Implications

As contained in the Minutes.

Community Consultation

N/A

Attachment(s)

Minutes of the Audit & Strategic Finance Committee Meeting held on 19 November 2009.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

13.2 (OCM 10/12/2009) - TENDER PROCUREMENT - POLICIES, DELEGATED AUTHORITIES & POSITION STATEMENTS (5015) (K LAPHAM) (ATTACH) (File Size: 5MB)

RECOMMENDATION

That Council:

- (1) adopt proposed amendments to Policy SC38 'Sustainable Procurement';
- (2) adopt proposed amendments to Policy SES3 'Evaluation of Tenders and associated delegated authority';
- (3) adopt proposed amendments to Delegated Authority LGAES4 'Local Government Act 1995 – Contract Variations';
- (4) delete Position Statement PSES15 'Reports to Council - Tenders'; and
- (5) update the Delegated Authority Register accordingly.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

Implementation of Policy SC37 'Sustainability', first adopted by Council on 8 June 2006, has identified impacts on other Council Policies and

Position Statements, necessitating a review of the same to ensure compatibility and effectiveness.

In this report two Policies, two Delegated Authorities and one Position Statement have been reviewed:

- Policy SC38 'Sustainable Procurement'
- Policy SES3 'Evaluation of Tenders'
- Delegated Authority SES3 'Evaluation of Tenders'.
- Delegations made pursuant to the Local Government Act 1995 – LGAES4 'Contract Variation'.
- Position Statement PSES15 'Reports to Council – Tenders'

Submission

That Council delete Position Statement PSES15 "Reports to Council - Tenders". Endorse changes to Policy SC38 – Sustainable Procurement, SES3 - Evaluations of Tenders and associated Delegation, and LGAES4 – Contract Variations.

Report

Implementation of Policy SC37 'Sustainability', first adopted by the Council on 8 June 2006, has identified impacts on other Council Policies and Position Statements, necessitating a review of the same to ensure compatibility and effectiveness. Accordingly, a panel of Staff from the following department of the City:

- Finance
- Parks
- Environmental Services

(with support from all Directors and their endorsement) have undertaken a review of:

1. Policy SC38 'Sustainable Procurement';
2. Policy SES3 'Evaluation of Tenders'; and
3. Delegated Authorities LGAES4 'Local Government Act 1995, 'Contract Variation' and SES3 'Evaluation of Tenders'.
4. Position Statement PSES 15 'Reports to Council – Tenders';

It is recommended that Position Statement PSES15 'Reports to Council – Tenders' is deleted and its content incorporated into Policy SES3 'Evaluation of Tenders'.

Policies SC38 and SES3 are attached, with recommended changes tracked. The major recommended changes, and reasons for the changes, to each of these is summarised below:

Policy SC38 'Sustainable Procurement'

Sustainability Section

The section on sustainability expanded for clarity and to reflect its priority within the existing policy. Sustainability will be introduced into procurement procedures and processes. The aim is to minimise environmental, social and economical impacts, and encourage the City's suppliers to adopt similar policies.

Procurement Thresholds Increased

The procurement thresholds have been altered. Currently, two written quotes are required for purchases between \$2,001 and \$10,000. Three for values between \$10,001 to \$49,999. A formal RFQ is required for \$50,000 to \$99,000. It is proposed that the ceiling limit on this be raised to \$99,000. It is difficult for the organisation to police and enforce the current threshold, and it is envisaged that increasing this will enable greater efficiency of purchasing procedures within the organisation. A formal request for quotation (RFQ) shall only be required to be called where a specification, selection criteria and conditions of contract are required.

Policy SES3 'Evaluation of Tenders'

Policy Background Condensed

The background to the policy has been enhanced. The previous policy section was too detailed, and as such has been modified for clarity.

Qualitative criteria have been expanded, particularly with regard to sustainability, and including examples for reader clarity.

Tender Weightings Changes

Weightings have been altered to accommodate sustainability. Price has been allocated a 50% maximum weighting to greater reflect the importance to the City that the tender outcome is of high economic importance.

10% Allocated for Sustainability Goods and Services

Sustainability can attract a higher cost and up to 10% price differential has been allowed for in the evaluation process. This will give greater support for sustainability in the evaluation of tenders.

Insertion of Evaluation Panel

An Evaluation panel has been inserted, which stipulates a minimum of three staff. The panel must specifically contain a member of the

Strategic Business Group, and should not contain more than 2 members from the same service or business unit proposing the tender. An officer from the Environmental Services unit can be used where specific expertise is required in the area of sustainability. However, it is expected that each member of every evaluation panel will have sufficient expertise to address the sustainability components when required.

Delegated Authority SES3 'Evaluation of Tenders'

The delegation to the CEO and Directors has been increased from \$500,000 to \$1 million. This amendment will give authority to two Directors or the CEO and one Director to accept a tender that has a total value of less than \$1 million (excluding GST). A summary of tenders that would have fallen into this range that Council has approved, over the past 12 month period is attached to the Agenda. In summary, this delegation would have affected the purchasing of the following services/equipment:

- Pre-mixed Concrete – two year contract \$597,000;
- Two rubbish trucks - \$642,000;
- Tree watering service – three year contract \$717,000;
- Weed and Turf/Plant pest control – three year contract \$958,000;
- Landscape maintenance (Atwell) – three year contract \$787,000 ;
- Plant hire (wet & Dry) – three year contract - \$719,000;
- Crushed Stone metal – three year contract \$560,000;
- Mowing of road verges – three year contract \$942,000;
- Architectural services (library and super clinic) - \$958,000.

Please note that this expenditure has already been approved by Council through the annual budget process and this change is affecting the contract acceptance only. All tenders are noted in the Elected Members bulletin and can be withdrawn and considered by Council at the request of an Elected Member(s).

PSES15 – Reports to Council – Tenders

This Position Statement has been deleted as a stand alone document, and the majority of this has been incorporated into Policy SES3 'Evaluation of Tenders'. There is an existing Position Statement PSES7 'Reports to Council', and the specific requirements for reports to Council for tenders have been added to Policy SES3 'Evaluation of Tenders'.

Delegations made pursuant to the Local Government Act 1995 – LGAES4 'Contract Variation'

The delegation to approve price variations for a specific contract has been modified to include Managers who constitute the Strategic Business Group. These Managers are responsible for the day to day

management of their own budgets, and are accountable for expenditure of Council funds. Such responsibility should encompass the conditions/guidelines as listed under LGAES4.

Strategic Plan/Policy Implications

Governance Excellence

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.
- To develop and maintain a financially sustainable City.

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

Attachment(s)

1. Proposed amended Policy SC38 'Sustainable Procurement'
2. Proposed amended Policy SES3 'Evaluation of Tenders'
3. Proposed amended Delegated Authority SES3 'Evaluation of Tenders'
4. Proposed amended Delegated Authority LGAES4 'Contract Variation'
5. Proposed deleted Position Statement PSES15 'Reports to Council – Tenders'
6. Details of policy effect - Council endorsed Tenders

Advice to Proponent(s)/Submissioners

N/A

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

Nil

**13.3 (OCM 10/12/2009) - PROPOSED AMENDMENT TO POLICY SC26
'REIMBURSEMENT OF ELECTED MEMBERS EXPENSES' (1705)
(D GREEN) (ATTACH)**

RECOMMENDATION

That Council adopts proposed amendments to Policy SC26 'Reimbursement of Elected Members Expenses', as shown in the attachment to the Agenda.

COUNCIL DECISION

Background

Council has a Policy for the reimbursement of a comprehensive range of expenses incurred by Elected Members in the course of carrying out their civic duties. However, the Policy does not specify a time limit on the period for which such claims are payable in arrears. This could leave Council exposed to the potential for claims to be back-dated indefinitely and is considered to be an unacceptable risk.

Submission

To include a time period in the Policy within which expenditure reimbursement claims may be submitted.

Report

It has recently been brought to the attention of Council's Administration that the current Policy is open ended and provides no guidance to members in terms of time limitations within which claims for reimbursement of expenditure may be submitted. This will overcome any doubts about such timeframes and provide some specific guidelines to members relative to the submission of expenditure claims. This is considered particularly important given that there is no statutory provisions to govern this process.

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

Funds are allocated within Council's Municipal Budget to cover Elected Members expenditure.

Legal Implications

N/A

Community Consultation

N/A

Attachment(s)

Proposed amended Policy SC26 'Reimbursement of Elected Members Expenses'.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

13.4 (OCM 10/12/2009) - PROPOSED NEW POLICY SC45 'FLYING OF FLAGS - CITY OF COCKBURN ADMINISTRATION CENTRE' (4602) (D GREEN) (ATTACH)

RECOMMENDATION
That Council adopts proposed new Policy SC45 'Flying of Flags – City of Cockburn Administration Centre', as shown in the attachment to the Agenda.

COUNCIL DECISION

Background

Council often receives requests from members of the community to fly a representative or special flag in recognition of a significant day or event. Similarly, requests are also received to fly the flags located at

the City of Cockburn Administration Building at half mast upon the death of a long term resident of the District, on the day of that person's funeral.

Approvals to such requests have not been subject to any processes or procedures and have been granted on an adhoc basis as requests are received.

Submission

N/A

Report

It is considered appropriate for Council to establish a Policy to provide guidance for the administration in processing requests for the use of Council's flag poles located at the City of Cockburn Administration Building.

These occasions include approaches made to the City for flags representing a significant event (eg. Aboriginal Flag during NAIDOC week) and as a request for the City to mark the passing of notable local citizens by flying the flags at half mast on the day of the funeral.

It is considered beneficial for Council to set minimum guidelines to be able to clearly identify when it is appropriate to consider requests and grant approvals for such requests which require the placement, or replacement, of flags on Council's masts.

The Draft Policy proposes that the State Flag may be substituted on occasions deemed to be of local significance/interest, noting that the Australian Flag is a constant.

In addition, it provides a definition for the identification of local notable citizens, for when the lowering of flags on display at the Council Administration Building at the time, would be an appropriate mark of respect on the day of their funeral.

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

Flags Act, 1953 refers.

Community Consultation

N/A

Attachment(s)

Proposed new Policy SC45 'Flying of Flags – City of Cockburn Administration Building'.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

13.5 (OCM 10/12/2009) - 2008/09 ANNUAL REPORT (1712) (P WESTON) (ATTACH)

RECOMMENDATION

That Council accepts the 2008/09 Annual Report as attached to the Agenda, in accordance with Section 5.54(1) of the Local Government Act, 1995.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

Council is required to accept the 2008/09 Annual Report to enable it to be available for the Annual Electors Meeting, scheduled to be held on Tuesday, 2 February 2010. The Act requires Council to accept the Report no later than 31 December each year. Elected Members were provided with the Financial Report and Auditor's Report, in November. The consolidated report is now presented for acceptance.

Submission

N/A

Report

The 2008/09 Annual Report is in conformity with the following requirements of the Act and contains:

1. Mayoral Report
2. Chief Executive Officer's Report
3. Measuring our performance data
4. Overview of the plan for the future of the district
5. Report in relation to the Complaints Register
6. Report required under Section 29(2) of the *Disabilities Services Act 1993*
7. Divisional Reports
8. Financial Report
9. Auditor's Report

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

The cost of producing 100 copies of the Report is provided for in Council's Governance Budget.

Legal Implications

As provided in the Report.

Community Consultation

N/A

Attachment(s)

Draft 2008/09 Annual Report.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

13.6 (OCM 10/12/2009) - COUNCIL AMALGAMATIONS (1054) (D GREEN) (ATTACH)

RECOMMENDATION

That Council:

- (1) not pursue an amalgamation with the City of Fremantle, in recognition of the rejection of the proposal at the referendum held on 17 October 2009; and
- (2) inform the Minister for Local Government and the City of Fremantle of Council's decision.

COUNCIL DECISION

Background

At the Council Meeting held on 12 November 2009, Cllr Attrill listed the following, as a 'Matter to be Noted for Investigation, Without Debate':

prepare a report for the December 2009 Ordinary Meeting of Council that contains the results on the recent referendum conducted on the proposed Local Government Amalgamations.

Submission

N/A

Report

At the local government elections conducted on 17 October 2009, the following referendum question was submitted for elector consideration:

Do you support the Council of the City of Cockburn pursuing an amalgamation with the City of Fremantle?

The results were:

Yes	5,467 (33.71%)	East Ward 1,740	Central Ward 1,790	West Ward 1,937
No	10,752 (66.29%)	3,245	3,750	3,757
Total Valid Votes	16,219	4,835	5,540	5,694
Total Enrolled Electors	53,631			
TurnoutRate	30.36%			

As indicated, the distribution across the Wards was reasonably consistent.

Given the strong rejection of the proposal by the community, together with the lack of interest in an amalgamation by the City of Fremantle, it is considered opportune for Council to indicate to its community and other interested stakeholders that it sees no necessity to continue to pursue a formal union of local governments with Fremantle. Should Council agree with this position, then it would also be appropriate to advise the Minister for Local Government of this outcome.

Notwithstanding this, the submission previously provided to the Structural Reform Steering Committee can still be used as a reference document, should the City of Cockburn be the subject of any future reform proposals by the State Government.

Strategic Plan/Policy Implications

Governance Excellence

- To develop and maintain a financially sustainable City.

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

Referendum conducted on 17 October 2009, in conjunction with the Local Government Elections.

Attachment(s)

Results of Referendum.

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 10/12/2009) - PROPOSED METROPOLITAN REGION SCHEME AMENDMENT NO. 1161/41 - LOCATION: VARIOUS - OWNER: VARIOUS - APPLICANT: N/A (9116141) (R DONG) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the Metropolitan Region Scheme Amendment No. 1166/41 (Parks and Recreation Reservations for Public Lands); and
- (2) make a submission to the Western Australian Planning Commission as follows:
 1. For proposal 2, recommend the proposed 'Urban' zone for the subject section of Hope Road not be supported, and be retained in the regional 'Parks & Recreation' reservation.
 2. For proposal 4, recommend the proposed 'Urban' zone for the subject section of Bibra Drive not be supported, and be retained in the regional 'Parks & Recreation' reservation.
 3. For Proposal 6, recommend the proposed regional 'Parks & Recreation' reservation for the subject land not be supported, and be retained in the 'Urban' zone.
 4. Support remaining Proposals 1, 3, 5, 7 and 8.

COUNCIL DECISION**Background**

The Western Australian Planning Commission (WAPC) has recently resolved to amend the Metropolitan Region Scheme (MRS) in accordance with the provisions of the Planning and Development Act 2005. The purpose of the proposed amendment (Amendment No. 1161/41) is to update zones and reservations in the MRS in relation to public lands to ensure that reservations match cadastral boundaries and to ensure that the MRS is kept up to date as the statutory regional plan for Perth.

The WAPC recently commenced advertising of the proposed MRS amendment. Submissions are due by 29 January 2010. In the proposed amendment, there are eight proposals (Attachment 1 refers) which directly affect public lands within the City of Cockburn. It is therefore necessary that the City makes submission on the amendment.

Submission

N/A

Report

As mentioned above, eight proposals (numbered 1 to 8) fall within the City of Cockburn's jurisdiction, and form the consideration of this report. The eight proposals are listed below with an explanation to clarify their purposes:

Proposal 1

Proposal 1 serves two purposes: 1) to transfer Lot 820 Fraser Road, Banjup from the 'Rural' zone to the 'Parks & Recreation', and concurrent 'Water Catchments' reservations; and 2) to align the boundary of Bush Forever Site 390 with the cadastral boundary of Lot 820.

- 1) Lot 820 is a 20.5ha property, which is contained within Bush Forever Site 390. The acquired portion was nominated for acquisition to offset land developed by Main Roads WA for stage 7 of the Roe Highway, as it contains declared rare flora (*Caladenia Huegelii*). The land is currently owned by the Department of Housing and Works.

- 2) Aligning the boundary of Bush Forever Site 390 with the cadastral boundary dividing Lot 820 from Lot 821 will increase the Bush Forever area and more clearly define its boundary.

Officer Comment

The inclusion of the property within the 'Parks & Recreation' and 'Water Catchment' reservations and adjustment of the Bush forever boundary is consistent with WAPC policy to protect regionally significant vegetation and public drinking water areas. It is therefore recommended that Proposal 1 be supported.

Proposal 2

Proposal 2 is to transfer portion of Hope Road, Bibra Lake from the regional 'Parks & Recreation' reservation to the 'Urban' zone.

The subject portion of the road reserve contains a constructed road, which serves an urban purpose by providing access to residential development. The Amendment report states that the section of road reserve is more appropriately zoned 'Urban', and it will also provide a distinct boundary to Beeliar Regional Park.

Officer Comment

There are many similar instances throughout the City where a road reserve falls within a regional park has a regional 'Parks & Recreation' reservation over it. There is no negative planning implication for having the road retained within the regional 'Parks & Recreation' reservation. As such, there is no reason why the subject portion of Hope Road has to be transferred to 'Urban' zone whereas other road reserves in a similar situation are still retained in the regional 'Parks & Recreation' reservation.

Secondly, while the final outcome of Roe Highway Stage 8 (Attachment refers) have not been determined yet, it is too early to suggest that rezoning to the subject portion of Hope Road "will provide a distinct boundary to Beeliar Regional Park". In fact, Roe Highway Stage 8 would form a more distinct boundary to Beeliar Regional Park if it was approved and constructed.

For the above reasons, it is recommended that Proposal 2 not be supported until such time as the outcome of Roe 8 has been determined.

Proposal 3

Proposal 3 serves two purposes: 1) to transfer Lot 72 Farrington Road, North Lake from the regional 'Parks & Recreation' reservation to the

'Public Purposes (WSD)' reservation; and 2) to transfer portion of Farrington Road, North Lake to the 'Urban' zone.

- 1) Lot 72 contains infrastructure owned by the Water Corporation. The proposed change reflects the current purpose and status of the property under the terms of the MRS and will also provide a distinct boundary to Beeliar Regional Park.
- 2) The subject portion of the Farrington Road reserve contains a constructed road, which serves an urban purpose by providing access to residential development. The section of road reserve is more appropriately zoned 'Urban' in the MRS.

Officer's Comment

As mentioned in the above, Lot 72 contains Water Corporation's infrastructure and is owned by Water Corporation. It is logical to have the site transferred to the regional 'Public Purpose (WSD)' reservation.

The majority portion of Farrington Road is zoned 'Urban' except for the subject small portion which is still under the regional 'Parks & Recreation' reservation. The proposed rezoning will remove the zoning inconsistency on Farrington Road and therefore it should be supported.

In view of the above, it is recommended that Proposal 3 be supported.

Proposal 4

Proposal 4 is to transfer portion of Bibra Drive, North Lake from the regional 'Parks & Recreation' reservation to the 'Urban' zone.

The subject portion of road reserve contains a constructed road, which serves an urban purpose by providing access to residential development. The Amendment report states that the section of road reserve is more appropriately zoned 'Urban', and it will also provide a distinct boundary to Beeliar Regional Park.

Officer Comment

Similar to the reasons provided for Proposal 2 above, it is recommended that Proposal 4 not to be supported until such time as the outcome of Roe 8 has been determined.

Proposal 5

Proposal 5 serves two purposes: 1) to transfer Lot 195 Phoenix Road, Bibra Lake from the 'Industrial' zone to the 'Parks & Recreation' reservation; and 2) include it within Bush Forever Site 254.

The WAPC acquired this 22 ha lot because of its established conservation values and its contiguity with the existing 'Parks & Recreation' reservation over South Lake. The South Lake area is contained within Beeliar Park and Lot 195 should be included in the park and adjoining Bush Forever Site 254.

Officer Comment

The subject land is in the local 'Parks & Recreation' reservation in the City's Town Planning Scheme No. 3 (TPS No. 3). Accordingly, Proposal 5 will ensure the MRS zoning for the land is consistent with the TPS zoning. It is therefore recommended that Proposal 5 be supported.

Proposal 6

Proposal 6 is to transfer Crown Reserve 48161 (Lot 60) and Lot 25 Astroloma Drive, Success from the 'Urban' zone to the regional 'Parks & Recreation' reservation.

Reserve 48161 is a 9577 m² reserve created as a condition of subdivision for public recreation and drainage. It adjoins Beeliar Regional Park. Lot 25 has been transferred to the State of Western Australia as a condition of subdivision. The property will be given the same status as Reserve 48161.

The Amendment report states that the proposal extends the regional 'Parks & Recreation' reservation of Beeliar Regional Park to ensure consistent management of the area.

Officer Comment

The subject land is zoned 'Development' in the TPS No. 3 and shown as POS on approved structure plan, which was ceded as a condition of subdivision. The City already has the responsibility in managing and maintaining this POS and the drainage. Proposed inclusion of this POS into the regional 'Parks & Recreation' reservation may have the following planning implications:

- Any development proposal such as a playground for this POS would require the WAPC's approval given that it is a regional reserve rather than a local one. This would complicate the approval process should there be any proposal for a playground in the POS in the future. The City's Parks Services have indicated that the City may propose a playground in this POS in the future.
- This local park represents 10% of POS credit for the relevant subdivision area. Inclusion of the park into the regional 'Parks and Recreation' reservation could lead to a shortfall in future local POS calculations in this area.

Given the above reasons, it is therefore recommended Proposal 6 not be supported.

Proposal 7

Proposal 7 is to transfer Crown reserve 32715 (Lot 2302) Mills Street and portion of Lot 9002 Christine Court, Coogee from the urban zone to the regional 'Parks & Recreation' reservation.

Reserve 32715 is a 1012 m² reserve managed by the City. The land adjoins an existing regional parks and recreation reservation. The proposal will extend the parks and recreation reservation to a constructed road and simplify management of the area.

Lot 9002 is owned by the WAPC and is zoned parks and recreation. The proposal extends the parks and recreation reservation to the cadastral boundary of the property.

Officer Comment

The subject land comprises two parts: one is Reserve 32715 (rectangular shape) which is in the local 'Drainage' reservation in the TPS No. 3; the other is a small portion of Lot 9002 (triangular shape) which is not zoned land in the TPS No. 3. Both parts have no POS credit. Furthermore, it is unlikely that the City would construct any playground on the subject land given the size of the land. Hence, there are no negative planning implications for including the land into the regional 'Parks & Recreation' reservation. The inclusion would ensure consistent management of the area.

In view of the above, it is therefore recommended Proposal 7 be supported.

Proposal 8

Proposal serves two purposes: 1) to transfer portion of Lots 15 and 126 Anderson Road, Henderson from the 'Industrial' zone to the regional 'Parks & Recreation' reservation; and 2) include them in Bush Forever Site 346.

Part of Lot 15 was included in the 'Parks and Recreation' reservation in a previous amendment to the MRS. These lots are located at the northern end of Brownman Swamp, which is contained within the Beeliar Regional Park. The WAPC negotiated the acquisition of 7.36ha from Lot 15 and 6413 m² from Lot 126 from LandCorp / the WA Land Authority to increase the buffer between the Regional Park and the industrial development.

Officer Comment

The proposal increases the regional 'Parks and Recreation' reservation and the adjoining Bush Forever Site 346, and is consistent with the regional significance of this area of Beeliar Regional Park and its bushland values. It also ensures consistent management and responsibility of the area. The drainage (including the verge) within the subject land will be maintained by the DEC as a part regional park. It is recommended Proposal 8 be supported.

Conclusion

In summary, it is recommended that Council make a submission to the Western Australian Planning Commission as follows:

1. For Proposal 2, it is recommend the proposed 'Urban' zone for the subject section of Hope Road not be supported, and be retained in the regional 'Parks & Recreation' reservation. This is due to the following two reasons:
 - a. It is premature to rezone the subject section of Hope Road while the final outcome of Roe Highway Stage 8 has not been determined yet.
 - b. There is no negative planning implication for having the road retained within the regional 'Parks & Recreation' reservation.
2. For Proposal 4, it is recommend the proposed 'Urban' zone for the subject section of Bibra Drive not be supported, and be retained in the regional 'Parks & Recreation' reservation, for same reasons stated in 1 above.
3. For Proposal 6, it is recommend the proposed regional 'Parks & Recreation' reservation for the subject land not be supported, and be retained in the 'Urban' zone. This is due to the following two reasons:
 - a. Proposed rezoning would complicate the planning approval process should the City propose a playground in this POS in the future.
 - b. Proposed rezoning would lead to a shortfall in future local POS calculations in this area.
4. Support remaining Proposals 1, 3, 5, 7 and 8, for better protection to the bushlands and consistent management.

Strategic Plan/Policy Implications

Infrastructure Development

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

Natural Environmental Management

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

Budget/Financial Implications

There will be a loss of income totalling \$2,626 p.a. for Proposal 1. The owner of the property currently pays rates and this will cease when the land is zoned as a Park, with Bush Forever.

Legal Implications

N/A

Community Consultation

Submissions are due to the WAPC by 29 January 2010. No consultation is required by the City of Cockburn. Affected landowners have also been advised by the WAPC.

Attachment(s)

Proposals 1 to 8.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

- 14.2 (OCM 10/12/2009) - PROPOSED OUTBUILDING - LOCATION: LOT 33 (NO. 26) MORTIMER STREET, WATTLEUP - OWNER: GUISEPPE PAPANONE - APPLICANT: GABLE CONSTRUCTIONS (4411459) (M SCARFONE) (ATTACH)**

RECOMMENDATION

That Council:

- (1) grant planning approval for the erection of an outbuilding on Lot

33 (No.26) Mortimer Street, Wattleup, in accordance with the submitted plans and subject to the following conditions and footnotes:

CONDITIONS

1. The outbuilding shall be used for domestic purposes only. No human habitation or commercial activities are permitted to take place within the outbuilding at any time.
2. During the construction phase, no activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays.

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.

3. The materials proposed for use in the construction hereby approved shall match with and/or be complementary to the existing buildings on the subject lot, to the satisfaction of the Manager Statutory Planning. Non reflective materials and colours should be used.

FOOTNOTES

1. This is a Planning Approval only, and does not obviate the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the Council, or with any other requirements of the City of Cockburn Town Planning Scheme No. 3.
2. Prior to the commencement of development, a Building Licence may be required.

COUNCIL DECISION

Background

Zoning:	MRS:	Rural
	TPS3:	Rural
Land use:	Residential/Rural Living	
Lot size:	9594 m ²	
Use class:	House – Single 'P' (Permitted)	

Lot 33 (No. 26) Mortimer Street, Wattleup (herein referred to as the 'subject site') is located on the south side of Mortimer Street with a secondary street frontage to Collis Road. The subject site currently houses a single dwelling and a number of outbuildings. The wider locality is typically rural residential in character, with a mix of dwellings varying in age, design and appearance, and interspersed with numerous lots used for:

- both residential and rural living/agricultural purposes; or
- used solely for intensive agricultural purposes (market gardening, orchards etc).

Submission

Application is made to erect an additional Outbuilding on the subject site, setback 7.5 metres from the Collis Road frontage and located directly abutting another similarly sized outbuilding.

The proposed outbuilding is 18.3 metres in length, 12.2 metres in width, and has a total floor area of 223.26 m². The wall height is proposed to be 4.8 metres, rising to a ridge height of 6.0 metres.

The proposal does not comply with the maximum floor area of outbuildings (combined) as specified in Council Policy APD18 'Outbuildings' or the setback requirements contained in Town Planning Scheme No. 3. The proposal was advertised to the affected neighbour and no objections were received however given the total floor space proposed, the application has been presented to Council for determination.

Report

Development Framework

Development of the subject lot is dictated to by the provisions of TPS No. 3 and Council Policy APD18 'Outbuildings'.

Town Planning Scheme No. 3

Under the provisions of Clause 5.10.2 (d) of TPS No 3, and in the absence of a building envelope, buildings in the rural zone should be

setback a minimum of 10 metres from any boundary or 20 metres from a road reserve.

As previously indicated, the proposed outbuilding in this case will be setback 7.5 metres from the Collis Road boundary, in lieu of the required 20 metres. This reduced setback represents a variation to the provisions of TPS No. 3 but is supported in this instance on the grounds that the proposed outbuilding is sited adjacent to an existing outbuilding of similar design and proportion, and also setback 7.5 metres from the Collis Road boundary. Collis Road is a minor secondary road that exists to provide access from Mortimer Street to the neighbouring rural lot to the south. The fact that this is a secondary road, coupled with the fact that the proposed outbuilding is sited alongside an existing outbuilding, mitigates against any adverse visual impact than might otherwise result, thereby safeguarding the amenity of the area in accordance with TPS No. 3 requirements.

The proposed outbuilding will be used for the storage of a boat, various motor vehicles and farm equipment, all of which are currently stored out in the open. The ability to store these items under cover will further enhance the visual appearance of the subject lot in the interests of visual amenity in accordance with TPS No. 3 objectives.

Council Policy APD 18 'Outbuildings'

Council Policy APD 18 'Outbuildings' exists to guide the development of outbuildings in the 'Residential', 'Rural Living', 'Resource' and 'Rural' zones. The Policy was initially adopted in August 1997, and last reviewed in December 2008. The following table is extracted from APD 18 and relates solely to outbuilding development in the 'Rural' zone.

Zone	Maximum floor area of all outbuildings combined (m²)	Maximum wall height of outbuildings (metres)	Maximum ridge height of outbuildings (metres)
Rural	300	5.0	7

While the above table sets a maximum floor area of 300 m² in the 'Rural' zone, Clause 5 of APD 18 permits this to be increased to 400 m² in areas zoned 'Rural' under the Metropolitan Region Scheme, as is the case with the subject lot, provided that the proposed use of the outbuilding complies with the scheme.

The subject proposal will result in a total of approximately 520 m² of floor space within outbuildings at the lot. This represents a 30% increase on the 400 m² considered acceptable under the provisions of APD 18. Given this proposed variation, the matter is referred to Council for its consideration.

Conclusion

Based on the advice given to the City by the applicant and landowner, officers are confident that the proposed use of the outbuildings is consistent with the objectives of the 'Rural' zone, and will not have an adverse impact on the amenity of the locality. The proposal may actually serve to improve visual amenity by allowing various items to be stored in an enclosed structure out of open view.

Strategic Plan/Policy Implications

Demographic Planning

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

Budget/Financial Implications

N/A

Legal Implications

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

Community Consultation

In accordance with TPS No. 3 and Council's Policy APD18 'Outbuildings', the proposal was the subject of consultation with one adjoining neighbour. No submissions on the proposed development were received as a result of this consultation exercise.

Attachment(s)

1. Location Plan
2. Site Plan
3. Elevations

Advice to Proponent(s)/Submissioners

The Proponent has been advised that this matter is to be considered at the Ordinary Meeting of the Council on 10 December 2009.

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

Nil.

14.3 (OCM 10/12/2009) - PROPOSED AMENDMENT TO PSPD16 'DESIGN GUIDELINES FOR LAKE YANGETUP BUSINESS PARK ESTATE' - LOCATION: LAKE YANGETUP BUSINESS PARK ESTATE, COCKBURN CENTRAL - OWNER: VARIOUS - APPLICANT: SAS GLOBAL PROPERTY GROUP (4279) (R COLALILLO) (ATTACH)

RECOMMENDATION

That Council adopts proposed amendments to Position Statement PSPD16 'Design Guidelines for Lake Yangebup Business Park Estate', as shown in the attachments to the Agenda.

COUNCIL DECISION

Background

The purpose of the City's PSPD16 "Design Guidelines for Lake Yangebup Business Park Estate" was to ensure that all prospective purchasers of lots located within the Lake Yangebup Business Park were informed of and guided by the criteria contained within the Business Park Design Guidelines and that development assessment was consistent with achieving those desired outcomes.

In order to achieve this, and prior to the submission of a planning application, to the City, PSPD16 required applicants to submit plans for assessment to the estate developers - SAS Global Yangebup Ltd (SAS). SAS's role in the process was to ensure that proposed development was consistent with the adopted Design Guidelines.

Following endorsement/approval from SAS, the applicant was required to submit the approved stamped plans to the City as part of the development application submission and determination process.

Submission

A request from SAS to remove them from the approval process has been received. This request has been made as all lots within the Business Park Estate have been sold, and all new landowners are aware of the Design and Development Guidelines, as these form part of the contract of sale process.

Report

It is considered that on that basis, the requirements of PSPD 16 can be varied to remove SAS from the development assessment procedure. In addition to the fact that all lots within the business park have been sold, over 50% have been developed in accordance with the specific design guidelines. The removal of the requirement for SAS to endorse the details of development proposals within the Business Park will not prejudice the achievement of desired design outcomes in relation to this development. Furthermore, this revision will streamline the approval process as the two stage assessment undertaken by SAS and the Council will cease.

The Statutory Planning Team has the necessary technical expertise to assess and approve proposed development in accordance with the Design Guidelines and Town Planning Scheme No. 3.

In view of this, PSPD16 and the associated Design Guidelines document have been amended to remove reference to the requirement for endorsement by SAS. The revised PSPD 16 is attached to 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.

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

Attachment(s)

Proposed amended Position Statement PSPD16 'Design Guidelines for Lake Yangebup Business Park Estate'.

Advice to Proponent(s)/Submissioners

The Proponent has been advised that this matter is to be considered at the 10 December 2009 Council Meeting.

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

Nil.

14.4 (OCM 10/12/2009) - OUTBUILDING - LOCATION: LOT 235 (NO. 114) FANSTONE AVENUE, BEELIAR - OWNER: W J & P J POOT - APPLICANT: W POOT (3411425) (R COLALILLO) (ATTACH)

RECOMMENDATION

That Council:

- (1) approve the application for an Outbuilding at Lot 235 (No. 114) Fanstone Avenue, Beeliar subject to the following conditions:-
 1. Development may be carried out only in accordance with the details of the application as approved herein and any approved plan.
 2. Nothing in the approval or these conditions shall excuse compliance with all other relevant written laws in the commencement and carrying out of the development.
 3. Plans submitted with the building licence application are to demonstrate the outbuilding being reduced to no more than 200 sqm in building footprint area to the satisfaction of the City.
 4. The outbuilding shall be used for domestic and purposes only associated with the existing dwelling on site and not for human habitation. No commercial activities are permitted to take place within the outbuilding.
- (2) advise the applicant of Council's decision accordingly.

COUNCIL DECISION

Background

Zoning:	MRS:	Rural
	TPS3	Rural Living
Land use:	Single House (Outbuilding)	
Lot size:	4047sqm	
Use class:	P	

The subject site contains an existing dwelling, stables (100 sqm), and garage (100 sqm).

The proposal does not comply with the City's Policy APD 18 "Outbuildings" with regards to maximum aggregate floor area. Applications for outbuildings which are not in accordance with this policy require full Council determination.

Submission

The applicant proposes to construct a 280 sqm colorbond outbuilding with a wall height of 5 metres and a ridge height of 5.97 metres. The outbuilding is proposed to be located 65 metres from the front (south) boundary and 3 metres from the side (east) boundary. The outbuilding comprises 200 sqm of general storage area, 80 sqm ground floor garage area for car parking and 80sqm of mezzanine floor space for gym and other domestic activities. (Refer to the attachments to this report). The façade of the outbuilding is proposed to be rendered or treated to match the existing dwelling on site.

The City is advised that the proposed outbuilding is required as the property is situated near Cockburn Cement and due to associated dust emissions; adequate cover is required to provide protection to vehicles and boats. The applicant has confirmed that the existing shed is to be removed, and the proposed outbuilding will be used for domestic storage purposes only.

Report

Development Framework

Development of the subject lot is dictated to by the provisions of TPS No. 3 and Council Policy APD18 "Outbuildings".

Town Planning Scheme No. 3

Under the provisions of Town Planning Scheme No. 3 (TPS No. 3), outbuildings are required to be setback 10 metres from side boundaries within the rural living zone. The proposed outbuilding is located 3 metres from the east side boundary. This is considered acceptable in this case given that the lot is only 30 metres in width and there are a number of other examples of outbuildings in the immediate vicinity

which have similarly reduced side setbacks. These exist without prejudice to visual or residential amenity in accordance with TPS No. 3 requirements.

The proposed development has not been the subject of consultation with owners of adjoining properties as it is sited approximately 90 metres away from surrounding dwellings, and as such will have no adverse impact on the levels of residential amenity currently enjoyed by those neighbours.

Whilst the proposed outbuilding is located in an area already cleared of vegetation, its construction will necessitate the removal of one tree which is located within the proposed new driveway.

Council Policy APD18 "Outbuildings"

Council Policy APD18 "Outbuildings" exists to guide the development of outbuildings in the 'residential', 'rural living', 'resource' and 'rural' zones. The Policy was initially adopted in August 1997, and last reviewed in December 2008. The following table is extracted from APD18 and relates solely to outbuilding development in the 'rural' zone.

The following table summarises the floor area and height requirements of Policy APD18, including reference to the actual details associated with this proposal:

Policy Criteria	Policy Requirement	Proposed	Comment
Floor Area (Building Footprint)	200 sqm	280 sqm	Variation (40%)
Wall Height	4 m	5 m	Variation (25%)
Ridge Height	6 m	5.97 m	Complies

As demonstrated in the above table, the proposed development does not comply with the floor area and wall height requirements for an outbuilding in the rural living zone and therefore approval of the proposal would constitute a variation to the policy.

In this instance, the proposed variation to Council's policy in terms of wall height is considered to be acceptable as the increased height is not overly excessive and it will not have a detrimental impact on the amenity of the area given its location within the subject lot and distance from surrounding residences.

Whilst the additional wall height is considered an acceptable variation to the policy, the increased floor area is not supported. The applicant proposes to create an additional 80.sqm of mezzanine floor space, facilitated by the increase to the wall height, and this, together with the existence of a 100.sqm stable outbuilding, would result in an excessive

level of outbuilding floor space inconsistent with the objectives of Council Policy.

It is recommended therefore, that the applicant be advised to reduce the footprint of this proposal by 80.sqm. This requirement should be a condition of any approval issued.

Conclusion

Subject to a reduction in footprint area of 80 sqm, the proposed outbuilding is supported for the following reasons:

- The proposed outbuilding is not considered to detract from the amenity of the area.
- The proposed outbuilding will not result in an excessive loss of existing vegetation on the site.
- The proposed outbuilding is located centrally on the subject site and is sufficiently setback from surrounding dwellings.

Strategic Plan/Policy Implications

Demographic Planning

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

The Planning Policy which applies to this item is Policy APD18 "Outbuildings".

Budget/Financial Implications

N/A

Legal Implications

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

Community Consultation

N/A

Attachment(s)

1. Aerial Photo
2. Site Plan

3. Floor Plan
4. Elevations

Advice to Proponent(s)/Submissioners

The Proponent has been advised that this matter is to be considered at the 10 December 2009 Council Meeting.

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

Nil.

- 14.5 (OCM 10/12/2009) - VARIATION OF POLICY SPD7 'DUST MANAGEMENT PLANS' TO ALLOW SUBDIVISIONAL BULK EARTHWORKS ON LOT 11 LYON ROAD, AUBIN GROVE - OWNER: ALBERT STEVEN MAKJANICH - APPLICANT: DEVELOPMENT ENGINEERING CONSULTANTS (5513262) (J GRIFFITHS) (ATTACH) (File Size: 3MB)**

RECOMMENDATION

That Council:

- (1) approves an exemption to Policy SPD7 "Dust Management" to allow bulk earthworks during the moratorium period on Lot 11 Lyon Road, Aubin Grove subject to compliance with the following standard and special conditions:
 1. All dust management measures outlined in the dust management plan and supporting information must be adhered to at all times.
 2. All proposed clearance strategies, timing and dust suppression measures undertaken by the developer must be effective in controlling dust and sand drift from the site to ensure that adjacent properties are not adversely impacted upon.
 3. Burning of green waste or cleared vegetation on this site is prohibited.
 4. Times of operation are to be limited to 7.00 a.m. to 7.00 p.m., Mondays to Saturdays inclusive. No works on site (other than dust suppression works) are permitted outside these hours without prior written approval of the City's Health Service.
 5. Bulk earth works will be permitted to be undertaken on the sites over the period 1 October to 31 March, subject

to an ongoing program of stabilisation on all exposed land prior to the completion of works on the lots, to the satisfaction of the City's Principal Environmental Health officer.

6. Supervisory staff of the contractor shall visit the site each non working day when adverse weather conditions are conducive for the production of dust and commence dust suppression measures if necessary.
7. Advisory notices shall be issued to adjoining land occupiers, the local government and the Department of Environment and Conservation at least 24 hours before site works commence. The notices shall include the name and after hours contact number of the developer, engineer and contractor, the contact number for the City's Health Services, and the expected completion date.
8. Wind fencing, as agreed to in the dust management plan, shall be erected before any part of the site surface is disturbed.
9. An amount of wind fencing, sufficient to surround the exposed boundaries of the site needs to be stored on site or available within one hour of being required by the engineer for the developer/local government/Department of Environment and Conservation.
10. The nominated wind fencing is to remain in position until the disturbed surface is stable. Any damaged fencing is to be repaired prior to commencement of site works on that day.
11. Surface stabilisation is to be applied to the disturbed area of each section of the site upon completion of the works in that section.
12. The engineer for the developer shall maintain strict control of works with dust-creating potential. Material which has been excavated for trenching shall be stabilised if the trench is to be left exposed for longer than 72 hours.
13. After all site works are completed, and before the contractor has vacated the site, the developer should ensure that the entire site is stable. The developer then retains responsibility for site stability until change of ownership/control takes place. After the change of ownership/control has taken place, the new owner or controlling party will inherit responsibility for site stabilisation.

14. Suitable water-carts in good working condition and of not less than 10,000 litres capacity per 5 hectares of disturbed site, or an appropriate alternative, shall be available to commence immediate watering on the site.
15. Surface stabilisation equipment shall be available to commence operation on site within 48 hours of being required to do so by the engineer for the developer/local government/Department of Environment and Conservation and with sufficient capacity to cover the disturbed site area within a further 48 hours.
16. Additional wind fencing shall be erected within 18 hours of the contractor being required to do so by the engineer for the developer/local government/Department of Environment and Conservation. Dust generating works on the site shall cease in the interim.
17. Include an allowance for water-cart operation, wind fencing and surface stabilisation during the construction period for the purposes of dust and wind-borne material suppression.
18. Include an allowance for surface stabilisation for the purposes of dust and wind-borne material suppression to be maintained after the construction period and until change of ownership/control takes place.
19. Details of any complaints received are to be logged and forwarded immediately to the City's Health Service.
20. Where unfavourable wind conditions exist for works with respect to dust nuisance to neighbouring premises, the Site Manager is to determine whether works can proceed without causing such a nuisance. Works must be ceased in extreme wind conditions, and the site sufficiently stabilised or water carts operated until such a time as the wind conditions are appropriate to resume works.
21. Should dust visibly cross the site boundary, operations must be modified and dust management measures increased immediately. Should dust continue to be generated, all operations must cease immediately and the site sufficiently stabilised or water carts operated until such a time as the wind conditions are appropriate to resume works.
22. No work is to be undertaken on the site between 25 December 2009 and 4 January 2010.

23. If at any time complaints are received and/or the City's Environmental Health Officer has sufficient evidence to believe operations cannot feasibly continue without affecting neighbouring properties, operations will be required to cease until the Manager Environmental Health Services is satisfied that dust management measures are sufficient to allow the continuation of works. During this time the site must be sufficiently stabilised to ensure that dust is not generated from the site and affects neighbouring properties.
- (2) ensure the timing of the work and control of dust emissions as specified above is strictly adhered to. Failure to do so may result in the rescinding of the approval to operate during the moratorium and/or subject the Developer to possible legal action; and
- (3) advise the applicant of the decision of Council.

COUNCIL DECISION

Background

Local Law 5.9 of the City of Cockburn (Local Government Act) Local Laws 2000 requires owners or occupiers of land who intend to undertake any work involving the clearing of land from which any sand or dust is likely to be released to submit a Dust Management Plan (hereafter referred to as DMP) in accordance with Council's "Guidelines for the Preparation of a Dust Management Plan for Development Sites within the City of Cockburn", and obtain written approval of the plan before the commencement of any work (see City of Cockburn website). When approving DMPs, the City's Environmental Health Officers assess the site and procedures for the management of dust lift-off against the Department of Environment and Conservation Land development sites and impacts on air quality (hereafter referred to as the 'DEC Guideline'), and complete a checklist and risk matrix for assessing submitted plans (see City of Cockburn website and attachments titled 'Checklist' and 'Site Classification Assessment Chart').

DMPs are approved subject to compliance with the above guideline and Council's Policy SPD7 "Prevention of Sand Drift from Subdivision

and Development Sites” (see City of Cockburn website). This policy was adopted on 21 October 2003, and prohibits bulk earthworks, defined as site clearance, land re-contouring and cut and fill operations, between 1 October and 31 March annually (‘moratorium period’) on Class 3 (medium risk) and 4 (high risk) sites.

Submission

The engineers and contractors responsible for Lot 11 Lyon Road have submitted a DMP and requested that the Council policy be varied to allow bulk earthworks to be carried out on the site during the ‘moratorium period’. The submission includes correspondence from Development Engineering Consultants that outlines a summary of the dust suppression measures that will be followed (see attachment titled ‘cover letter’). A copy of the specifications that the contractors must follow with regards to dust and wind borne material control in their contract is also provided (see attachments titled ‘contract specifications’ and ‘Dust Management Plan’). A sample notification letter to surrounding residents was also provided in the contract specifications Appendix B (see ‘Notice to Residents’).

Report

The engineers and contractors responsible for Lot 11 Lyon Road have submitted a DMP and requested that the Council policy be varied to allow bulk earthworks to be carried out on the site during the ‘moratorium period’. The resulting development will form Stage 1 of subdivision of Lot 11 Lyon Road and Lot 1001 Gaebler Road, Aubin Grove. The submission outlines that a borrow pit will be established at the western end of Lot 11 Lyon Road for supply of fill required. The extraction of fill from borrow pit shall be staged in two parts in order to minimise exposed area. Cut Area 1 of borrow pit shall be stabilised before extracting fill from Cut Area 2. Lot 11 Lyon Road has been earth worked previously, is relatively flat and as such each of the four proposed staged areas require varying degrees of cut and fill to establish required finish levels. Topsoil has been previously stripped and remaining soil appears to be leached yellow Tamala/Bassendean sand.

The land is currently owned and being developed by Albert Steven Makjanich (Lot 1001 Gaebler Road, Aubin Grove). The engineers for the project are Development Engineering Consultants, and the contractors, Marsh Civil (Engineering Contractors Pty Ltd). Development Engineering Consultants and Marsh Civil have been responsible for the earthworks on several subdivisions within the City, and the City’s Environmental Health Officers have a good working relationship with the senior management and site supervisors. Few complaints have been received from sites being worked on by these companies, and any complaints have been responded to promptly and effectively.

The preventative measures that can be used by Marsh Civil are outlined as part of their standard environmental procedure policy. A site map is provided showing the staging and the location of wind fencing (see attachment titled 'Site Map – Staged Works Areas').

The classification of a site is determined using a chart outlined in the DEC Guideline (Appendix 1), and is based on criteria such as nuisance potential of soil, size of the site, distance to housing, type of works (bulk earthworks are known to create more dust), and effect of prevailing winds.

The site classification assessment chart in this case determined that the development is a Class 3 site, and considered medium risk under the DEC Guideline. The guidelines however require that where other land uses are located within 100m from the site, sites assessed as Class 3 will be upgraded to Class 4. Therefore, the DMP is assessed against the Class 4 provisions of the DEC guideline. The Checklist for assessing submitted plans was also completed to assess if all required information had been provided (see attachment titled 'Checklist').

Although the site is in close proximity to the houses to the west and south and the works (cut and filling) are such that there is a high potential for a dust nuisance to be created, the size of the site that is exposed at any one time is limited to 1 hectare. The score options given to the various categories to produce a Class 3 classification are outlined:

Part A – Nature of Site

1. The nuisance potential of the soil when disturbed is considered 'medium' due to the leached yellow Tamala/Bassendean sands located on Lot 11 Lyon Road. Fine black topsoil generally associated with high risk nuisance potential has been previously stripped.
2. Little protection is provided by the existing vegetation, however the site is somewhat protected from the south by established residences. A 4 metre contoured batter exist between Lot 11 Lyon Road (29 m AHD) and Lot 1001 Gaebler Road (33 m AHD) providing some protection to residences located to the north of the proposed works. In general the site would be considered as having 'little screening'.
3. The area that is disturbed at any one time is 'less than 1 ha'. The remaining site will either be undisturbed, or stabilised.
4. The works involve cut and filling, and are therefore considered as 'bulk earthworks'.

Part B – Proximity of the site to other land uses

1. The houses to the west and south are 'less than 100 m' from the site boundary.
2. The surrounding land uses are 'dense land uses affected by prevailing winds'. The winds in this area are easterly in the mornings, moving south westerly in the afternoon. Easterly winds are unlikely to cause a nuisance, however the south westerly winds have the potential to cause dust to blow to the north eastern properties unless adequate dust suppression measures are used.

In order to minimise the dust nuisance to surrounding properties the plan proposes that the area to be cleared and earth worked at any one time will be limited to 1 hectare. The sequence of works will be staged as Area 1, Area 2, Area 3, and Area 4, with only one Cut Area supplying fill at any one time. Development Engineering Consultants anticipate it will take approximately 1 week to complete cut and filling operations for each area. Once the works in each stage has been completed, the area will be stabilised (hydro-mulched) before moving onto the next stage. This staging will ensure that the exposed area can be more adequately managed with the dust management measures outlined.

The application of water to disturbed soil can be effective in reducing dust lift-off. The dust management measures that the contractor will adopt include the provision of water carts, provision for sprinkler systems and storage of Dustex soil stabilising agent on site. It is Development Engineering Consultants, Marsh Civil's intention to apply Dustex to site each Friday prior to end of shift where weather forecast warrants this. A provision for after hour's water cart has also been provided to ensure that dust is controlled during non-standard working hours.

The use of wind fencing to aid in controlling dust has proved to be effective in most situations. The site boundary to the north is largely protected by existing topography along with 1.8 m wind fencing on top of 4 m elevation difference. Wind fencing (1.8 m) will be fixed to existing chain mesh fence on eastern boundary. Provision for additional wind fencing within the Lot to prevent sand lift off has been considered by Development Engineering Consultants and where warranted shall be erected. Additional wind fencing will be available to be erected within 24 hours if required.

Exposed areas and stockpiles can be temporarily stabilised by the use of hydro-mulch or stabiliser, or by covering areas with appropriate materials such as geofabric. The use of hydro-mulch or stabiliser can be effective as a short-term measure; provided the area is not disturbed (i.e. the crust is broken). Seed can be added to the products

for long-term stabilisation. Marsh Civil's dust management commitments specify the use of hydro-seeding, spray emulsion or geofabric to stabilise areas that would otherwise be left bare for extended periods, and keeping dust suppression equipment on line or when needed. An amount of Dustex (chemical stabiliser) will be stored on site for use in the water carts. A standard condition placed on dust management plan approvals also requires that stockpiles must be stabilised if they are to be left exposed for longer than 72 hours.

Experience has shown that the use of wind fencing, water carts and stabilisation equipment is effective in normal wind conditions, however if extreme wind conditions are present, it is likely that dust will be generated despite these provisions. In these instances, it is imperative that the site manager assesses the wind conditions and the site works to determine if works can feasibly continue without causing a dust nuisance to surrounding residents. The dust management plan provided by Development Engineering Consultants confirms that works will be ceased in extreme wind conditions.

Previous experience has shown that surrounding residents feel they have more control over situations when they are clearly informed, and provided with the contact details of the parties involved. For this reason prior to the commencement of works on Class 4 sites, it is compulsory to distribute advisory notices to surrounding residents providing the proposed finish date for the works, an after hours contact number for the engineer, and a contact number for the local government Environmental Health officer. A sample letter to residents is provided, with confirmation that this will be distributed to neighbouring properties.

An assessment of the dust management measures outlined in the DMP show they adequately address the provisions required for a Class 4 site as outlined in the DEC Guideline, and all the information required, as per the Checklist is provided. The standard conditions for dust management plan approvals will be placed on the approval, as well as the additional conditions as above. These conditions allow the City's Environmental Health officers to require the works to cease at any time where a dust nuisance is being created, and to prohibit any further works in the moratorium period until the City's Manager Environmental Health Services is satisfied that the works can continue without causing a nuisance.

The *City of Cockburn (Local Government Act) Local Laws 2000* provides a nuisance provision that specifically addresses dust. Local Law 5.10 states, '*An owner or occupier of land or premises, from which any sand or dust is released or escapes, whether by means of wind, water or any other cause, commits an offence*'. Under this Local Law, an infringement of \$500.00 can be issued, or court action initiated. Should complaints be received from surrounding residents, and evidence is gathered to confirm that a dust nuisance has been created

from Lots 9003 and 24 Lyon Road, Aubin Grove, an infringement notice will be issued, and the above condition enforced.

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.

The Planning Policy which applies to this item is SPD7 "Prevention of Sand Drift from Subdivision and Development Sites".

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

No community consultation is required. Residents that will potentially be affected will be advised of the works prior to commencement.

Attachment(s)

1. Site Classification Assessment Chart
2. Letter to Residents (Sample)
3. Cover letter
4. Contract specifications
5. Dust Management Plan
6. Site map – Staged Works Areas
7. Aerial - Site
8. Aerial - Topography

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 December 2009 Council Meeting.

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

Nil.

14.6 (OCM 10/12/2009) - DEVELOPMENT APPLICATION FOR A LIQUOR STORE (DAN MURPHY'S) - LOCATION: LOT 202 BEELIAR DRIVE, SUCCESS - OWNER: PERRON INVESTMENTS PTY LTD - APPLICANT: TPG TOWN PLANNING AND URBAN DESIGN (5518348) (T WATSON) (ATTACH) (File Size: 2MB)

RECOMMENDATION

That Council:

- (1) grant approval to the use and development of a Liquor Store on Lot 202 Beeliar Drive, Success, in accordance with the approved plan/s and accompanying information subject to the following conditions:
 1. Development may be carried out only in accordance with the details of the application and any approved plan/s unless otherwise required by a specific condition in this approval. In the event it is proposed to vary or change the use/s of the land, a further application needs to be made to the City for determination.
 2. Nothing in the approval or these conditions shall excuse compliance with all other relevant written laws and/or legislation in the commencement and carrying out of the use and development.
 3. The submission of drawings showing the pedestrian crossing and associated pedestrian refuge area to be established between the proposed use/development and the Gateways shopping centre car parking, the details in respect are to be provided to the City's satisfaction prior to the issue of a Building Licence.
 4. The preparation and submission of a detailed landscaping plan. The landscaping plan is to be prepared in consultation with the City's Parks and Environment team, and is to be provided to the City's satisfaction within 60 days of the date of approval.
 5. All landscaping and reticulation is to be undertaken and completed in accordance with the approved landscaping plan prior to the occupation of the premises.
 6. The landscaping installed in accordance with the approved landscaping plan is to be reticulated/irrigated and maintained to the City's satisfaction.
 7. 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'.

8. All stormwater being contained and disposed of on-site to the satisfaction of the City.
9. All stormwater drainage shall be designed in accordance with the document entitled "Australian Rainfall and Runoff" 1987 (where amended) produced by the Institute of Engineers, Australia. The design is to be certified by a suitably qualified practicing Engineer or the like, to the satisfaction of the City, and to be designed on the basis of a 1:100 year storm event. The required certification is to be provided within 60 days of the date of the approval.
10. The development is to comply with the noise pollution provisions of the *Environmental Protection Act 1986*, and more particularly with the requirements of the *Environmental Protection (Noise) Regulations 1997*.
11. All car parking and access complying with the minimum requirements of the applicable Australian Standard and the Building Code of Australia (including disabled parking), the details of which are to be provided to the City's satisfaction prior to the release of a building licence for the development.
12. The premises shall be kept in a neat and tidy condition at all times to the satisfaction of the City.

FOOTNOTES

1. The application has been determined on the basis of the plans and information provided to the City for assessment.
2. In the event it is proposed to vary or change the use of the land or approved development, a further application needs to be made to the City for determination.
3. In the event there are any questions regarding the requirements of this approval, or the planning controls applicable to the land and/or location, the City's Statutory Planning team should be consulted.
4. The *Environmental Protection (Noise) Regulations 1997* establish night time noise levels so that residential amenity is protected from 10:00 p.m. until 7:00 a.m. Industries are able to operate at any time, but attention must be given to ensure that noisy activities including truck deliveries to the site are minimised after 10:00 p.m. Failure to comply with the night time noise limits may result in further action and

significant penalties to be paid by the owner and/or occupier.

5. Access and facilities for disabled persons is to be provided in accordance with the requirements of the Building Code of Australia.
- (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 Council's decision accordingly.

COUNCIL DECISION

Background

The land subject of this application (Lot 202 Beeliar Drive) adjoins the Gateways Shopping complex in Success. Elongated in shape, the lot in question extends south from Beeliar Drive and is currently occupied by a BP service station and two (2) fast food franchises - Red Rooster and McDonalds. The Dan Murphy's liquor store is proposed across the balance of the lot.

The location within which the land sits is characterised by a mix of land uses. Adjacent to the east is at-grade, open air parking associated with Gateways shopping centre. To the south is 'The Gate' tavern, including a Cellarbrations drive-through bottle shop. Adjoining to the east is the City's Youth Centre which includes the Café Nocello restaurant.

It is noted the City's Youth Centre occupies the southern portion of a larger two (2) hectare site that extends north to Beeliar Drive. Intentions for this land include development of a medical 'Superclinic', health services allied to the Superclinic, a City library and commercial (office) floor space. The design of the buildings that will accommodate these uses is about commence.

Access to the precinct and the uses within currently occurs via internal roads that extend from the major intersection of Beeliar Drive and North Lake Road, and Wentworth Parade from the west.

Submission

An application seeking approval for the use and development of a liquor store on the subject land has been received by the City. The application report, prepared and lodged by TPG Town Planning and Urban Design on behalf of the property owners Perron Investments Pty Ltd, details the following:

1. *the construction of a building and car park on the southernmost extent of Lot 202; and*
2. *the establishment of a Dan Murphy's liquor store, having a net lettable area (NLA) being no greater than 1,400 m².*

In support of the proposal, the applicant states:

The proposal provides for the use of the subject land consistent with the objectives of the Regional Centre Zone and Development Area 24.

Car parking provision is demonstrated to be viable, satisfying demonstrated demand associated with the liquor store. In addition, the development will not include drive-through facilities for alcohol purchase.

The development will feature excellent access to public transport, reducing the number of cars required by employees and customers travelling to and from the store, in conjunction with shopping trips to the Cockburn Gateway Shopping Centre.

The building will feature an attractive façade that addresses and adds to the amenity of the internal street system, in addition to landscaping treatments to be established on-site.

Report

The proposal has been assessed against the relevant provisions of the City's Town Planning Scheme No. 3. These include those pertaining to both the use and development of the land.

Use of Land

The subject land is zoned Regional Centre under Town Planning Scheme No. 3. The use, however, is not listed in the Zoning Table and its permissibility therefore is not explicit. In the event a use is not specifically mentioned, the Scheme enables the City to:

- (i) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;

- (ii) determine that the use may be consistent with the objectives of the zone and thereafter follow the advertising procedures of Clause 9.4 in considering an application for planning approval; or
- (iii) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

In the subject instance, the use is considered consistent with the objectives of the Regional Centre Zone. These are to *provide for a full* range of shopping, office, administrative, social, recreation, entertainment and community services, consistent with the region-serving role of the centre and including residential uses.

Whilst a liquor store is expressly excluded from the definition of “shop”, referred to as suitable in the above objective, the nature of the use is tantamount to that of a shop in the absence of a provision stating or precluding otherwise. In this regard, liquor stores within the City are generally found in Local Centre zones which, like the Regional Centre zone, provide for shopping and related services.

Landscaping

Town Planning Scheme No. 3 requires a minimum 10% landscaping to be provided on-site in association with the development of land. Where agreed, the 10% may be reduced to 5% providing the street verge in front of a property is developed and maintained for the same purpose (landscaping).

To ensure compliance with the Scheme requirement, noting the presence of existing development on Lot 202, the applicant was asked to provide further information regarding landscaping. In advice received, the applicant confirms the provision of sufficient landscaping in association with the development of Lot 202, including the Dan Murphy’s proposal.

Specifically, 9.4% of Lot 202 will be landscaped. Inclusion of the landscaping across the northern frontage (Beeliar Drive) increases this by 2.7% to 12.1%.

Car Parking

The applicant presents the case the parking proposed is sufficient; a total of 60 bays are proposed, including two disabled bays. The applicant’s position is based on the same parking standard applied to Gateways shopping centre (1/20 m²). Presented as a ‘destination specific’ use; however, concern in respect of this aspect of the proposal has been expressed to the applicant.

For development up to 5,000 m² in size, the Scheme requirement for shop use (applying this as the most relevant standard) is 1 bay/12 m². There is also the less onerous requirement of 1 bay/16 m² that applies to floor areas in excess of 10,000 m² - still more onerous; however, than the 1/20 m² standard presented in support of the application.

In response to the concerns expressed, the applicant has provided the following additional justification:

1. *Customers that use big box liquor stores spend on average the following time shopping in stores:*
 - *Under 5 minutes – 24%*
 - *5-9 minutes – 35%*
 - *10-14 minutes – 22%*
 - *15-19 minutes – 10%*
 - *20 minutes+ - 9%*
2. *This compares to the more traditional retail shopping centres where customers tend to stay a minimum of 60 minutes.*
3. *On the basis of the above information it can be demonstrated that 59% of customers for the Dan Murphy's will stay less than 9 minutes, whilst 81% will stay for less than 14 minutes. This equates to more than 6 and 4 times the turnover of car parking bays respectively when compared to a traditional retail shopping centre and has the effect of significantly reducing the demand for car parking bays through more efficient usage.*
4. *The pattern of usage of big box liquor stores is different to traditional retail shopping centres, both in the behavioral patterns of customers and also in that under the current retail opening hours regime, whilst general retail trading hours are restricted, the liquor store will be open from 9:00 a.m. – 8:00 p. m. Monday/Tuesday/Wednesday/Thursday, and 9.00 a.m.– 9.00 p.m.Friday/Saturday and 10:00 a.m. – 6:00 p.m. on Sundays. In terms of customer behavior patterns it is noted that many people purchase liquor on their way home in the evenings and that the heaviest period of trading extends into the early evening after more conventional retail shops and other commercial activities have closed for the day.*

On the basis of the additional information provided, the proposed number of bays is considered acceptable. The number of bays is also supported recognising some customers will park off-site in the vicinity of the store and will visit by foot. It is in this respect, however, that a

related concern arises, notably the provision of safe pedestrian connections to and from the site (covered below).

Functionality

Pedestrian Movement

Given the nature of the use and the likelihood for pedestrian movement between the subject and adjoining sites, safe and convenient pedestrian movement is fundamental. This was raised with the applicant prior to lodgement of the application, at which time a pedestrian movement plan was requested.

The plan initially lodged with the application shows the connection of the proposed establishment with the fast food outlets adjoining to the north. This meaningful connection has also been accommodated in the design of the building with the inclusion of an awning for a section of the eastern elevation and a pedestrian crossing to the McDonalds store.

The primary concern with respect to pedestrian movement, however, relates that between the proposed store and the Gateways shopping centre car park. The dividing internal road in this location currently carries approximately 16,000 vehicles per day. In this knowledge, the expectation of a dedicated pedestrian crossing has been met by the applicant with the submission of amended plans.

As stated by the applicant; To accommodate the City's concern about pedestrians moving between the shopping centre on Lot 203 and the liquor store site a pedestrian crossing point has now been accommodated on the internal vehicle carriageway as depicted on the amended plans. The pedestrian crossing point includes a pedestrian refuge to maximize safety.

The applicant has been advised the pedestrian crossing is to be constructed concurrent with the construction of the liquor store and is to be completed for use prior to occupancy of the store. It is noted the requirement for the crossing responds to specific scheme provisions for the balance of the Gateways locality which requires safe and efficient pedestrian connections between the Cockburn Central Railway Station, the Town Centre Precinct and the Gateways Precinct.

Vehicular Movement and Servicing

Vehicular access to the site is proposed via:

- the same access serving the City's Youth Centre (extending between Wentworth Parade and the internal street network); and

- an access way extending west from the main north south internal road, between McDonalds and the proposed Dan Murphy's store.

It is noted both access ways extend across land protected by an easement, in place to facilitate functional traffic movement and connectivity around and across the benefited lots.

Initially, as part of the application before the City, one way movement was proposed across the majority of the easement to enable large articulated vehicles to service the store. The use of the easement for predominantly this purpose; however, is not supported and the relevant plan has been amended accordingly (to show two-way movement). Dependant on the layout of the future Superclinic, the easement in question may also be used to facilitate access to this and other uses within the street block.

Conclusion

Having regard for the above comments the subject proposal is conditionally supported from a planning perspective. Importantly, the matter of access, notably two way movement across the easement extending around the land and between the City's Youth Centre has been resolved via the application process. The commitment on the part of the developer to providing a designated pedestrian crossing between the subject land and Gateways shopping centre parking bays (including a pedestrian refuge for improved safety) is also noted as being fundamental to the support offered in respect of the application. The detail design and construction of this aspect to the development is to be resolved in accordance with the condition relating to such.

Strategic Plan/Policy Implications

Governance Excellence

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.
- To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way.

Employment and Economic Development

- To plan and promote economic development that encourages business opportunities within the City.
- To pursue high value employment opportunities for our residents.

Budget/Financial Implications

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

Legal Implications

Town Planning Scheme No.3.

Community Consultation

Not Undertaken

Attachment(s)

1. Location plan
2. Application plans

Advice to Proponent(s)/Submissioners

The applicant has been advised that this matter is to be considered at 10 December 2009 Council Meeting.

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

Nil.

14.7 (OCM 10/12/2009) - PROPOSED SCHEME AMENDMENT NO. 80 - REZONING LOT 9012 WENTWORTH PARADE, SUCCESS FROM 'RESIDENTIAL R20' TO 'RESIDENTIAL R25' - OWNER: GOLD ESTATES OF AUSTRALIA - APPLICANT: ROBERTS DAY (93080) (D DI RENZO) (ATTACH)

RECOMMENDATION

That:

- (1) Council 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 for the purposes of rezoning portion of Lot 9012 Wentworth Parade, Success from 'Residential R20' to 'Residential R25' as shown on the Scheme Amendment Map;
- (2) as the amendment is in the opinion of Council consistent with Regulation 25(2) of the *Town Planning Regulations 1967* ("Regulations"), and upon receipt 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. In the event that the EPA determines that the amendment is to be subject to formal environmental assessment, this assessment is to be prepared by the proponent prior to advertising of the amendment; and

- (3) the amendment documentation be prepared in accordance with the standard format prescribed by the Regulations, with the specific addition of a commitment to requiring Detailed Area Plan(s) for the lots adjacent to Wentworth Parade, and proposed Lot 17.

COUNCIL DECISION

Background

Portion of Lot 9012 Wentworth Parade, Success (“subject land”) is currently zoned ‘Residential R20’ pursuant to City of Cockburn Town Planning Scheme No. 3 (“Scheme”).

The portion of the subject land proposed to be rezoned is 1.06 ha in area, and is bound by Wentworth Parade to the west, ‘Primary Regional Roads’ reservation to the south and a drainage reserve to the east. The land to the north has been subdivided and developed in accordance with the ‘Residential R20’ zoning.

Submission

The proposed rezoning has been requested by the applicant, who has submitted Scheme Amendment documentation and a subdivision concept plan in support of the proposal.

Report

A Scheme Amendment has been prepared for a portion of the subject land proposing to rezone it from ‘Residential R20’ to ‘Residential R25’. The Scheme Amendment documentation includes a proposed subdivision plan, demonstrating the road and lot layout at a density of R25 (Attachment). The proposed subdivision concept indicates an extension of existing Minerva Loop (15m road reserve); with a laneway

to provide access to three lots in the south western corner of the subject land adjacent to Wentworth Parade.

The proposed subdivision plan shows the creation of 20 lots that are consistent with the R25 requirement pursuant to the Residential Design Codes of Western Australia ("R-Codes"), including a minimum lot frontage of 8 m, and an average lot size of 416.5 m². This plan demonstrates that the proposed rezoning will achieve four additional lots than would be possible under the existing R20 coding.

Directions 2031 Draft Spatial Framework for Perth and Peel is a document prepared by the Western Australian Planning Commission ("WAPC") that will set the direction for how the metropolitan region will grow, building on the themes identified in *Network City: Community Planning Strategy for Perth and Peel*. It seeks to ensure urban growth is managed, and to make the most efficient use of available land and infrastructure, particularly prioritising the development and use of land that is already zoned urban. It seeks to achieve an average of 15 dwellings per zoned hectare, which equates to a residential coding of at least R25 - this is consistent with this proposal.

Liveable Neighbourhoods is an operational WAPC policy for the design and assessment of new development areas, and seeks to facilitate new development which supports the efficiency of public transport systems where available, and provide safe, direct access to the system for residents. The subject land is located within 500 m of a bus stop on Wentworth Parade which directly connects to the Cockburn Central train station.

Given the subject land's proximity to public transport, and the objectives of *Directions 2031*, a coding of R25 is considered appropriate in this case.

The existing lots to the north of the subject land that are located adjacent to Wentworth Parade are subject to a Detailed Area Plan ("DAP") (Wentworth Gardens Stage 9B) to ensure that dwellings are oriented to face Wentworth Parade with open style pillar and iron fencing, with garages located to the rear and vehicle access from Minerva Loop. The proposed lots adjacent to Wentworth Parade should achieve the same orientation, setback and access arrangements to ensure a consistent streetscape. Therefore a DAP will be required for these seven lots, and it is recommended that the Scheme Amendment documentation be amended to reflect this requirement. It is also recommended that a DAP be required for proposed Lot 17, which is an unusual shape, to ensure appropriate location of the garage and fencing.

Conclusion

The proposed rezoning is considered to achieve a more efficient use of urban zoned land, consistent with *Liveable Neighbourhoods*, *Network City*, and *Directions 2031*. Accordingly it is recommended that Council initiate Scheme Amendment No. 80, and undertake landowner, government agency and community consultation in accordance with the *Town Planning Regulations 1967*, and 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.

Transport Optimisation

- To achieve provision of an effective public transport system that provides maximum amenity, connectivity and integration for the community.

Budget/Financial Implications

The Scheme Amendment fees for this proposal have been calculated in accordance with the *Planning and Development Regulations 2009*, including the cost of advertising, which 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.

Attachment(s)

1. Aerial Photo
2. Scheme Amendment Map
3. Proposed Subdivision Plan

Advice to Proponent(s)/Submissioners

The proponent has been advised that this matter is to be considered at the 10 December 2009 Council Meeting.

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

Nil.

- 14.8 (OCM 10/12/2009) - PROPOSED NEW POSITION STATEMENT PSPD20 'NAMING OF PARKS AND RESERVES' AND PROPOSED DELETION OF POSITION STATEMENT PSCS12 'NAMING OF PAVILIONS - COUNCIL CONTROLLED RESERVES' - LOCATION: VARIOUS - OWNER: VARIOUS - APPLICANT: VARIOUS (1050) (A TROSIC) (ATTACH)**

RECOMMENDATION

That Council:

- (1) adopts proposed new Position Statement PSPD20 'Naming of Parks and Reserves', as shown in the attachment to the Agenda; and
- (2) deletes Position Statement PSCS12 'Naming of Pavilions - Council Controlled Reserves', as shown in the attachment to the Agenda.

COUNCIL DECISION

Background

The City is responsible for processing applications for the naming of parks and reserves (including ovals, pavilions, playgrounds etc) which exist throughout the City of Cockburn. It is considered appropriate to adopt a Position Statement to set out clear guidelines for this process, which is based upon the state wide processes which exist.

Submission

N/A

Report

A new Position Statement (PSPD20) has been prepared to provide acceptable and up-to-date guidelines to be used in the consideration of naming of parks and reserves within the City of Cockburn. This has been based upon the Geographic Names Committee Western Australia Principles, Guidelines and Procedures document, as well as Part 2 (Naming of Parks and Reserves) of the Land Administration Act 1997.

The Position Statement provides acceptable guidelines for the initial naming of parks, reserves, ovals, pavilions, playgrounds etc, and for the circumstances in which renaming may be considered.

Currently the naming of pavilions on Council controlled reserves is covered by Position Statement PSCS12 "Naming of Pavilions - Council Controlled Reserves". These guidelines are proposed to be incorporated into the new Position Statement, therefore it is recommended that Council delete PSCS12, and adopt Position Statement PSPD20 "Naming of Parks and Reserves".

Strategic Plan/Policy Implications

Infrastructure Development

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

Lifestyle and Aspiration Achievement

- To foster a sense of community spirit within the district generally and neighbourhoods in particular.
- To conserve the character and historic value of the human and built environment.

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

Attachment(s)

1. Proposed new Position Statement PSPD20 'Naming of Parks and Reserves'.

2. Proposed deletion of Position Statement PSCS12 'Naming of Pavilions – Council Controlled Reserves'.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

14.9 (OCM 10/12/2009) - DETAILED AREA PLANS FOR PORT COOGEE, NORTH COOGEE - STAGE 2B (LOT 642), STAGE 2C, STAGE 3B AND STAGE 8A (LOT 502) - PREPARED BY: TAYLOR BURRELL BARNETT - PROPONENT: AUSTRALAND (9022) (T WATSON) (ATTACH)

RECOMMENDATION

That Council:

- (1) approve the Detailed Area Plan's presented for Stage 2b (Lot 642), Stage 2c, Stage 3b and Stage 8a (Lot 502) Port Coogee, North Coogee, prepared by Taylor Burrell Barnett for Australand, pursuant to the provisions contained under Clause 6.2.15 of the City of Cockburn Town Planning Scheme No. 3; and
- (2) advise the applicant accordingly.

COUNCIL DECISION

Background

Stages 2b and 2c are located south of Pantheon Avenue in the 'Dry Land Residential' area within Port Coogee. Stages 3b and 8a are located north of Pantheon Avenue, again within the 'Dry Land Residential' area. Under the Local Structure Plan, the land covered by the relevant Detailed Area Plans (DAP's) is identified for low-medium density residential development (R20-R50).

It is noted the DAP for Stages 2b and 2c includes one (1) lot from Stage 2b (Lot 642). This lot was mistakenly left off the DAP for Stage 2b, approved by Council in March 2008.

Submission

The attached DAP's (in the case of Stages 2b, 2c and 3b) address amongst matters:

- Key elements to be considered in the design of dwellings.
- Dwelling setback requirements, including the extent to which parapet walls can be erected on side boundaries.
- Dwelling height.
- Access and garage requirements.

Where the DAP's do not refer to an alternate standard, the applicable standard is that prescribed in the Residential Design Codes (R-Codes) or the City's Town Planning Scheme No. 3 and/or Policies where the R-Codes do not apply.

The DAP presented for Stage 8a deals with the required garage setback for Lot 502. Due to a greater disparity between the laneway and lot levels than originally anticipated, the garage setback for this lot is now required to be 1.5 metres; 1.0 metre originally approved by Council in March 2008.

Report

The DAP's for Port Coogee provide a site-specific layer of planning information, to be considered in the design and development of the lots covered by the respective documents. The information is to be considered within the framework of the Structure Plan adopted by Council for Port Coogee, as well as the R-Codes and the City's Planning Scheme and/or Policies.

Presentation of the DAP's to the City was by the planning consultant for Port Coogee. Subsequent to an initial assessment, several minor changes have been made to the documents to assist all stakeholders in the interpretation of their content. No major changes to the technical content of the DAP's has been made. In this regard, the technical content reflects the ongoing refinement in DAP content for Port Coogee, noting 18 DAP's have been approved to date by Council (commencing with Stage 1 in December 2006).

Conclusion

The amended DAP's provide detailed controls for small lot development identified in the Structure Plan for the Stages in question. It is, therefore, recommended that the DAP's be approved by Council.

The approval of the DAP's is in accordance with the provisions of 6.2.15 of the Scheme. The provisions identify planning considerations to be included in DAP's and the process for adopting such. Where a DAP may affect landowners other than the owner of the land subject of the plan, the City may undertake consultation. As Australand owns the majority of surrounding land in the case of 3b, and as the content of the DAP's for Stages 2b and 2c reflect the content of the Structure Plan (and future development will occur as anticipated), consultation has not occurred. In the case of Stage 8a, the change is considered minor and will not impact on adjoining property owners.

Clause 6.2.15.8 provides scope for a DAP to be amended.

Strategic Plan/Policy Implications

The Planning Policy which applies to this item is Policy APD31 "Detailed Area Plans".

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

Town Planning Scheme No. 3
Planning and Development Act 2005

Community Consultation

The DAP's have not been the subject of consultation for the reasons detailed above.

Attachment(s)

1. Structure/Location Plan
2. Detailed Area Plan

Advice to Proponent(s)/Submissioners

The proponent has been advised that this matter is to be considered at the 10 December 2009 Council Meeting.

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

Nil.

14.10 (OCM 10/12/2009) - DELEGATED AUTHORITY - SECTION 374 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1960 (3108) (J WEST)

<p>RECOMMENDATION</p> <p>That Council:</p> <p>(1) delegate its authority to approve or to refuse to approve plans and specifications or unauthorised building work to Council's Building Surveyor, Kuan Seng Tan;</p> <p>1. Under Section 374 & 374AAB of the Local Government (Miscellaneous Provisions) Act 1960.</p> <p>2. To the extent permitted by the Local Government (Building Surveyors) Regulations 2008, as a Level 1 Building Surveyor. (i.e. all types of building proposals).</p> <p>(2) issue to Kuan Seng Tan a Certificate of Authorisation in relation to recommendation (1) above as required by Section 9.10(2) of the Local Government Act 1995.</p> <p><u>TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL</u></p>

<p>COUNCIL DECISION</p>

Background

Mr Kuan Seng Tan commenced work with the City on 30 November 2009. Part of Mr Tan's duties is to approve or refuse to approve Building Licence applications and Building Approval Certificate Applications under delegated authority of Council.

Submission

N/A

Report

Mr Tan is qualified as a Level 1 Building Surveyor and as such has the qualifications to accept this delegation to the extent permitted under legislation (ie. to consider all types of building proposals).

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

Mr Tan has been appointed due to the resignation of another officer. The position is permanent and is within budget.

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

15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES

15.1 (OCM 10/12/2009) - LIST OF CREDITORS PAID - OCTOBER 2009 (5605) (N MAURICIO) (ATTACH)

RECOMMENDATION

That Council receive the List of Creditors Paid for October 2009, 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 – October 2009.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

15.2 (OCM 10/12/2009) - STATEMENT OF FINANCIAL ACTIVITY AND ASSOCIATED REPORTS (5505) (N MAURICIO) (ATTACH)

RECOMMENDATION

That Council receive the Statements of Financial Activity and associated reports for October 2009, as attached to the Agenda.

COUNCIL DECISION

Background

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

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

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

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

Regulation 34(4)(a) prescribes that the Statement of Financial Activity and accompanying documents 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 & type, statutory program or business unit. The City has chosen to report the information according to its organisation structure and also by nature & type.

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

Submission

N/A

Report

Council's closing funds within the Statement of Financial Activity (adjusted net current position) stands at \$48.7M. This is approximately \$9M more than the YTD budget forecast. The major factors behind this result is the operating and capital expenditures both trailing the cashflow forecasts by some degree.

Council's cash position (including restricted cash) stands at a healthy \$80.5M. Cash reserves and other restricted cash accounts for \$39.3M of this total, with the balance available to fund remaining commitments and operations for the 2008/09 year.

On a YTD budget comparison basis, operating income is slightly ahead by \$305k. Landfill income is below YTD budget by \$735K but is offset by additional revenue from rubbish removal charges. Income on investments is performing well to date, due to favourable rates being received on our term deposit investments. With likely rate rises later in the financial year, this area should out perform the budget target. See the attached report for other variations for this month.

Cash operating expenses continue tracking behind budget by \$4.2M, mainly in material and contract costs. Large variances appear within the Waste Services, but are mainly due to timing issues. The Parks and Environmental Business Unit are also tracking behind budget by about \$655k. See the attached report for specific details of the variances.

Council's capital spend is \$6.1M below YTD budget, with the main contributors to this being the recreation facility projects at Success and Aubin Grove, the Coolbellup Community Centre upgrade and implementation of the Bibra Lake Management Plan. However, these are temporary in nature only, as the funds have already been committed. Details for the specific projects contributing to this variance can be found in the attached report.

Description of Graphs & Charts included within Statements

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. Comparing with prior years, the Council's liquidity remains strong.

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

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

Where variances reported are of a permanent nature (ie. not due to timing issues), they will impact Council's end of year budget surplus/deficit position and will be assessed during the mid-year budget review.

Legal Implications

N/A

Community Consultation

N/A

Attachment(s)

Statements of Financial Activity and associated reports – October 2009.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

15.3 (OCM 10/12/2009) - PROPOSED AMENDMENT TO POSITION STATEMENT PSFCS1 'EQUAL OPPORTUNITY' (1030; 2350) (M TOBIN) (ATTACH)

RECOMMENDATION

That Council adopt proposed amendment to Position Statement PSFCS1 'Equal Opportunity', as attached to the Agenda.

COUNCIL DECISION

Background

The current Position Statement has been reviewed to ensure currency particularly as the Fair Work Act 2009 has references to equal opportunity.

Submission

That Council adopt the revised Position Statement PSFCS1 'Equal Opportunity'.

Report

The Equal Opportunity Position Statement has been reviewed to ensure it is current and in accordance with the Fair Work Act 2009. Mostly there have only been minor changes to terminology. The reference to contact officers has also been changed as Council no longer has a contact officer network, this having fallen from best practice guidelines in the 1990's. Any issues are now dealt with through the normal grievance procedure.

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)

Proposed amended Position Statement PSFCS1 'Equal Opportunity'.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

15.4 (OCM 10/12/2009) - PROPOSED AMENDMENT TO POSITION STATEMENT PSFCS22 'SALARY PACKAGING' (1030) (M TOBIN) (ATTACH)

RECOMMENDATION

That Council adopt proposed amendment to Position Statement PSFCS22 'Salary Packaging', as attached to the Agenda.

COUNCIL DECISION

Background

The current Position Statement has been reviewed to ensure currency as it has now been in place for two years and there have been some changes to relevant legislation.

Submission

That Council adopt the revised Position Statement PSFCS22 'Salary Packaging'.

Report

The Salary Packaging Position Statement has been reviewed to ensure it is current and in accordance with relevant legislation. Three changes are proposed:

- That novated vehicles be available to part time and full time staff, rather than just full time;
- That laptops can be packaged each fringe benefits tax (FBT) year not each financial year (legislative change); and
- That a reference to Council amalgamations be included.

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)

Proposed amended Position Statement PSFCS22 'Salary Packaging'.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

15.5 (OCM 10/12/2009) - ACCESS TO INTERNET SERVICES - VARIOUS LOCATIONS WITHIN THE COCKBURN DISTRICT (1402) (S DOWNING)**RECOMMENDATION**

That Council:

- (1) through the City's Administration call a public meeting for the purpose of discussing and attempting to resolve the issue of the lack of relevant infrastructure for the provision of high speed internet access to facilitate business communication;
- (2) invite the following participants to the public meeting:
 1. Members of the business community from the Cockburn Commercial Park.
 2. Telstra and other telecom providers.
 3. The developer of the Cockburn Commercial Park, Landcorp.
 4. Federal Member of Parliament, Melissa Parkes MP.
 5. State Members of Parliament, Fran Logan MLA and Joe Francis MLA.
 6. Elected Members of the City of Cockburn.
 7. Melville-Cockburn Chamber of Commerce.
 8. Print media, Cockburn Gazette and the Herald.
- (3) write to the WA Planning Commission, WALGA and UDIA, with the purpose of seeking changes to State Planning Policies so as to ensure suitable infrastructure and provision of high speed broadband are a mandatory service similar to water, power and roads; and
- (4) make a submission to the Department of Planning and Infrastructure on recently released State Industrial Land Strategy, so as to reflect the needs of the business community.

COUNCIL DECISION

Background

The City has been approached by a number of ratepayers and businesses in Cockburn Business Park, Atwell, Aubin Grove and North Lake to assist them, if possible to obtain access to broadband internet access, after direct approaches to Telstra have proved fruitless. At the November 2009 Ordinary Council Meeting, the Deputy Mayor, Kevin Allen requested that a report be prepared on the following:

in conjunction with the South West Group, to look at issues currently faced by businesses in the Bibra Lake area where they cannot access full internet services.

Submission

N/A

Report

Role of the City of Cockburn

Telecommunications in Australia comes under the Minister for Federal Telecommunications and the Telecommunications Act 1997, with statutory oversight by the Australian Communications and Media Authority (ACMA manages the Federal Government's portfolio of Broadband, Communications and the Digital Economy) and Australian Competition and Consumer Commission (ACCC). As such the Act provides power/authority to override all State and Local Government Acts, regulations and local laws, including the State Planning and Development Act 2005. This legislative power has been effectively used by telecom companies to erect/install mobile phone towers almost anywhere ignoring the normal planning requirements of local Councils and the State Government.

The role of the City of Cockburn in a regulatory sense is quite inconsequential, however, as the closest level of government to the people and to business, local government can facilitate and communicate responses from the community to the national telecom companies through communication with Federal and State Members of Parliament, the regulators as well as the telecom companies themselves.

Communications with the City's counterparts about the lack of broadband access, Federal and State Members of Parliament indicate similar reports to their offices. They in turn have contacted the Federal Minister's Office but mostly to no avail.

Accessibility

The City has been approached by business proprietors of the Cockburn Commercial Park frustrated at the lack of high speed broadband internet with which to run their business. Without wired ADSL, businesses within the precinct have to use Telstra's mobile data network for the provision of internet and email services. The only service unavailable with this technology is the ability to create a point to point VPN link between an office in the precinct and an office in another location. Without a VPN service businesses cannot link back to a corporate system that is running on servers in another location.

Telstra control both the Rim and the Exchange that together provide an ADSL link into a business or home. Telstra has advised that both the RIM and Exchange are at capacity and that there is no forward plan to upgrade either in the near future.

In addition, the developer of the Estate did not roll optic fibre which would assist in any upgrade. This is different for Lattitude 32, where the developer, Landcorp has committed to a rollout of optic fibre as a competitive advantage over other industrial estates in the region.

Business proprietors have tried a number of solutions including wireless internet access but to no avail. The lack of broadband access through the provision of ADSL1 and ADSL2 prevents the business proprietors from accessing the necessary twenty first technologies to run their businesses. The City has been advised, but is yet to confirm, that high speed access was said to be available to prospective land purchases, but has subsequently been either withdrawn or the service has reached it capacity.

This problem has been in the Cockburn Commercial Park and would appear not to have impacted on the Phoenix Business Park (to the north). Apparently, this later land subdivision will access the exchange in the St. Paul's Estate where there is sufficient capacity for the provision of relevant high speed internet access.

Planning Issues

One concern raised by the business proprietors is the City of Cockburn should have imposed the planning condition for the provision of high speed telecommunication internet access. The Council does not have the power to impose such a condition on a telecom company. Land subdivision is the sole responsibility of the WA Planning Commission. Under the State Planning Policies issued by the WA Planning Commission (WAPC), all land subdivisions must have water, sewage, drains, roads and power. This is because the State controls or can impose its will on the entity supplying these infrastructure services, such as Water Corporation, Western Power and Councils. The State Planning Policies does not have the legislative authority to impose its

will over the Federal Government and its Acts, in this case the Telecommunications Act. As such, it can only suggest a minimum standard. To date this standard has been the implementation of voice communications and data of up to 4800 bits per second (the old modem speed). If Council imposed a much higher standard, the relevant authority could and would appeal the condition through SAT, just as a State Authority would if a condition was imposed higher than the State Planning Policy. This is one reason why the National Broadband Network has become a major issue and the Federal Government has committed to spend \$43billion over the next ten years.

As part of the approval conditions for the subdivision of land in the Cockburn Commercial Park, the WAPC noted the following advice from Telstra:

Telstra advises that there may be inadequate communications in services to the subject land and that a developer contribution to new infrastructure may be required. The applicant should liaise with Telstra on the provisions of trenches as part of the subdivisional works.

NGAA Councils in the Eastern States

The City is a member of the National Growth Alliance, a body set up to lobby Federal Government for the provision of money and additional services for high growth Councils Australia wide. The issue raised by the City's business proprietors is not isolated to Cockburn or WA, but would appear linked to high growth areas nationally, where growth of population and businesses have exceeded the planning by the telecom companies. One example from the City of Whittlesea in Victoria is very similar to the Cockburn Commercial Park, where 800 businesses in a newly established business park could not get access to ADSL Broadband. They approached their local Council, who called a public meeting, invited the telecom companies, State and Federal MP's, the local media and of course the business proprietors. The outcome was the installation of technology which met the needs of 800 growing businesses. The overriding comment from the City of Whittlesea is that Telstra appears to change its mind, mostly for competitive reasons, in addition to the installation of alternative technology which retained their rim exchange and its exclusivity arrangements.

Communication with Telstra has indicated that there is no planned upgrade to the local rim exchange.

The City will undertake and facilitate a public meeting of Councillors, State and Federal Members of Parliament, affected ratepayers and residents, telecom companies and regulators in an attempt to improve the current level of infrastructure for the Cockburn Business Park and other such affected areas in the City of Cockburn.

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

Sec. 142 and Sec. 143 of the Planning and Development Act 2005

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.

16. ENGINEERING AND WORKS DIVISION ISSUES

Nil

17. COMMUNITY SERVICES DIVISION ISSUES

17.1 (OCM 10/12/2009) - LEASE - PART OF RESERVE 41007 - SOUTH LAKE DRIVE, SOUTH LAKE - DEPARTMENT FOR COMMUNITIES (5515210) (B FREEMAN) (ATTACH)

RECOMMENDATION

That Council enter an agreement with the Department for Communities to lease part of Reserve 41007, Location 2994, South Lake Drive, South Lake, as attached to the Agenda subject to the following conditions:

- (1) a lease period of 10 years with an option for a further period of ten (10) years;
- (2) for a peppercorn rental annually and the payment of all outgoings and charges;
- (3) capacity to sub-let the premises or portions of the premises subject to the agreement with the City;
- (4) the Lessees or Assignees to maintain, repair and keep the premises in good and substantial repair (fair wear and tear accepted); and
- (5) other terms and conditions which may be required to protect the interests of the City.

COUNCIL DECISION

Background

Reserve No. 41007, Location 2994, South Lake Drive, Southlake, is the property of the Crown with the care, control and management of the Reserve vested in the City of Cockburn. The purpose of the Vesting Order is for Child Care and Family Centre with the power to lease for a period of twenty one (21) years. The land area is 5891sq.m.

An agreement was made with the then Department of Community Welfare for the use of the land for a period of twenty-one (21) years, commencing on 20 November 1988. A lease was entered into between the City and the Minister for Community Welfare dated March 1996, effective 20 November 1988.

The Department of Community Welfare used this piece of land to build a Family Centre (South Lake Ottey Family and Neighbourhood Centre) and a Child Care Centre (South Lake Child Care Centre).

The South Lake Ottey Centre has been operating as a community centre since the official opening in October 1990, providing programs such as playgroup and parenting groups, counselling, craft groups, a number of services for Aboriginal families, health programs and community events. It is run by a Management Committee and is highly regarded in the community.

The South Lake Child Care Centre is located next to the Ottey Centre and is an efficient and well-used centre.

Submission

N/A

Report

The current lease agreement expired on 20 November 2009 and the Department for Communities has requested the lease be renewed for a period of ten (10) years with an option for a further ten (10) years.

This proposed timeframe for the lease will allow the Ottey Family Centre the time required to plan and source funding for possible extensions to the current building. The Centre is basically operating at full capacity with a comprehensive range of programs, and has had a strong focus on services and programs for Aboriginal residents.

This timeframe will also provide stability for both the Ottey Family Centre and the South Lake Child Care Centre, both being successful services which are meeting identified needs within the City of Cockburn across a diverse population.

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 of Cockburn.

The costs for the preparation of the lease agreement will be borne by Department for Communities.

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 Department for Communities 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

N/A

Attachment(s)

1. Site Plan.
2. Aerial map of property.

Advice to Proponent(s)/Submissioners

The Proponent(s) have been advised that this matter is to be considered at the 10 December 2009 Council Meeting.

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

Nil.

17.2 (OCM 10/12/2009) - REVISED SPORT AND RECREATION STRATEGIC PLAN 2009 (8163) (S HARRIS) (ATTACH) (File Size: 5MB)

RECOMMENDATION

That Council:

- (1) adopt the Sport and Recreation Strategic Plan 2009 (Revised) for the City of Cockburn, as attached to the Agenda;
- (2) undertake further consultation with the community and sporting clubs regarding the implementation of merger / relocation plans; and
- (3) update the Plan for the District to include items identified in the Sport and Recreation Strategic Plan 2009.

COUNCIL DECISION

Background

The Sport and Recreation Strategic Plan for the City of Cockburn was presented at the October 2009 Ordinary Council Meeting. With regard to the plan, Council resolved as follows:

- (1) *receive the Sport and Recreation Strategic Plan 2009 for the City of Cockburn, as attached to the Agenda;*
- (2) *advertise the Plan for public comment;*
- (3) *provide a copy of the Plan to all sporting clubs and associations which have participated in the preparation of the Plan, seeking feedback from these organisations; and*
- (4) *reconsider the Plan in December 2009, following the receipt of feedback and public comment.*

Accordingly, the Sport and Recreation Strategic Plan for the City of Cockburn was advertised for public comment. The plan was placed on the City's website and a notice was placed in the Cockburn City Update page of the Cockburn Community Gazette on 20 October 2009 advertising the plan and inviting feedback by 16 November 2009. Proponents were invited to download a copy of the plan or contact the City for a copy of the plan if required.

In addition to advertising the plan in the Community Gazette, sporting clubs and associations within the City of Cockburn were sent a letter advising of the consultation period, how to access the plan and inviting responses by 16 November 2009.

Officers from the City of Cockburn met with representatives of a number of sport clubs and sport associations to discuss the plan and encourage feedback. These clubs and the meeting dates are identified below.

Date	Club/Association	Sport	Ground
15/10/09	South Metro Cricket Assoc.	Cricket	N/A
15/10/09	Cockburn Lakes FC	AFL	Anning Park
16/10/09	South Fremantle District Council	AFL	N/A
19/10/09	Southern Districts Softball Association	Softball	N/A
19/10/09	Lakes JFC	AFL	Nicholson Reserve
20/10/09	South West Metro Junior Cricket Council	Cricket	N/A
21/10/09	Cockburn Little Athletics Assoc.	Little Athletics	Santich Park
21/10/09	Southern Spirit SC	Soccer	Watsons Reserve
22/10/09	South Coogee JFC	AFL	Santich Park
22/10/09	Bibra Lake JFC	AFL	Mellor Park

Submission

N/A

Report

At the close of the consultation and advertising, 13 submissions were received. Given the complexity of the plan and the wide ranging issues addressed in the plan, the responses were varied and focused only on those areas that affected the respondent. The Schedule of Submissions is attached and identifies the party making the submission, main issues raised and council response.

In general, respondents were supportive of the plan and the overall direction that the plan sets. Significant issues raised in the submission are identified by sport below.

AFL

Recommendation:

Consolidation of Lakes and Bibra Lakes Junior Clubs, to be located at Mellor Park (2012 – 2014)

The proposal was accepted by the Bibra Lake Junior Football Club, but not accepted by the Lakes JFC. The Bibra Lake JFC had concerns about the implementation costs of the merger, facility upgrades and the size of the facility.

The merging of these clubs was proposed due to the changing demographic in the catchment areas and declining numbers for both clubs. The merger was aimed at ensuring that the history of the clubs survive, with club numbers after the merger expected to be similar to the current club numbers currently at Mellor Park. As such, the facilities will not require major upgrades and the reserve size is suitable. The Strategic Plan has been updated to identify that the City of Cockburn will assist with non-capital implementation costs for club mergers and relocations.

The rejection of the proposal by the Lakes JFC has lead to this recommendation being modified. The City is still concerned that the two clubs are not sustainable into the future, with this view being supported by the South Fremantle District Football Development Council (SFDFDC). In order to encourage the sustainability of AFL in this area, and allow for the possible merger of these clubs, the recommendation has been modified so that the clubs are encouraged to develop a closer relationship, as has occurred previously with the clubs pooling players to form teams, and maintain a focus on long term club viability. In the event of one or both clubs becoming non-viable, it is anticipated that the relationship will result in the survival of at least one of the clubs. The City of Cockburn and SFDFDC will work with both clubs to promote long term club viability. The ongoing usage of Nicholson Reserve by the Lakes JFC is not expected to impact on other parts of the Strategic Plan.

Recommendation:

Relocation of Cockburn Lakes FC from Anning Park to Santich Reserve (2012 -2014).

The proposal was generally well received by Cockburn Lakes FC, South Coogee FC and the SFDFDC. The main issues identified revolved around costs for the move, the cultural differences of the clubs and the upgrade of facilities required. A local resident raised concerns about a licensed club being located at Santich Park.

The City of Cockburn and the SFDFDC have committed to working with both clubs to ensure that the collocation is mutually beneficial. Further consultation on the implementation of the move will be required as the plan is progressed and will address issues including club committees, facility usage and implementation costs. The issue of the liquor licence and behaviour will be addressed in the usage agreements for the facility and as per liquor licensing regulations. The facility upgrade requirements have been addressed in the plan and will be refined during the concept design phase for building upgrades.

In addition to these recommendations, reserve lighting has been identified by the SFDFDC as an integral part of the required infrastructure for AFL. The City has identified a number of reserves requiring upgrades to Australian Standards within the plan; however a more detailed review of lighting and costing will be required to implement these changes.

Little Athletics*Recommendation:*

Relocation of Phoenix Park LAC from Edwards Reserve to Santich Park

The Cockburn Little Athletics Association and Phoenix Park LAC are supportive of the move but have identified that additional storage space is required at Santich Park. Concerns were expressed over the increased usage of the reserve and the impact that would have on the condition of the reserve.

Given the size and current condition of the reserve, the City is confident that the increased usage from the AFL club relocation and Phoenix Park LAC training will not significantly impact on the reserve. The additional space required will be addressed in the facility upgrade at Santich Park.

Recommendation:

Merging East Hamilton Hill LAC and Spearwood LAC to Len Packham Reserve (2012).

The Cockburn Little Athletics Association identified that they can only close or force a club to merge if they have fewer than 10 members. Given the low number at these clubs, the City will work with the clubs to encourage a merger, in the interests of developing one sustainable club.

The Cockburn Little Athletics Association noted that there were no plans to introduce a new club in the East Ward. The plan has been modified to include the development of a new East Ward Club, with the site still to be determined.

Cricket

Recommendation:

Introduction of a senior cricket club in the East Ward (2011-2013)

Cockburn Cricket Club proposed an expansion of their club to the East Ward and relocation of the club in the future. At the same time, the club identified a number of minor capital items required at Davilak Reserve.

The City of Cockburn and South Metro Cricket Association have both identified that the introduction of a new club in the East Ward is the preferred option for the development of Cricket in the City of Cockburn. The Strategic Plan does not attempt to address minor capital items for all reserves and facilities across the City, such as those identified by the Cockburn Cricket Club.

Hockey

Recommendation:

Introduction of a Junior / Senior Club in the West Ward in the short term (2011-2013).

Hockey WA have supported the need for Hockey facilities in Cockburn due to the lack of provision. They are concerned that Watsons / Edwards reserves are too close to Fremantle and may better serve as an overflow facility.

The City of Cockburn's view is that the use of these reserves as overflow grounds is not inconsistent with the plan and may serve as a good start for hockey provision within the City of Cockburn as a short term measure.

Recommendation:

Development of dedicated Hockey facility in the East Ward (2017-2019).

Hockey WA feels that this plan needs to be accelerated to meet the gap in provision in the area.

The Hockey development is proposed for Atwell Reserve. The development of Hockey, including a turf pitch, has been identified for Atwell Reserve due to the collocation of the High School at the site, and the potential for the school to develop a specialist hockey program. Based on current usage, Atwell reserve will not be available for use by Hockey until the development of reserves at Cockburn Central. Given the size of the reserve and proposed facilities, it is anticipated that the site will become a regional hub for Hockey. Interim arrangements in the East Ward have not been identified given the lack of suitable available facilities.

Conclusion

Based on the feedback received from the community consultation, a number of minor changes, as discussed, have been made to the Sport and Recreation Strategic Plan for the City of Cockburn. As identified within the plan, and supported by the feedback received, sport provision within the City is inadequate to meet the current needs of the community. Given the current inadequacies in sport and recreation provision, changing demographics and the considerable resources required to meet future needs, the City needs to adopt a proactive approach to recreation and sport provision. It is recommended that the revised Sport and Recreation Strategic Plan for the City of Cockburn be adopted by Council and that the Plan for the District be updated to reflect the capital items identified within the plan.

Strategic Plan/Policy Implications

Infrastructure Development

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

Lifestyle and Aspiration Achievement

- To foster a sense of community spirit within the district generally and neighbourhoods in particular.
- To identify community needs, aspirations, expectations and priorities for services that are required to meet the changing demographics of the district.

Budget/Financial Implications

The proposed capital works program identifies a number of capital items and significant financial commitment to the City of Cockburn over the next 15 years. The existing Plan for the District identifies \$56.4m in recreation projects for the period 2010 to 2018 (including \$12m for the

golf course), whereas the new plan for the district has identified \$72.0m in recreation projects over the period 2010 to 2020. The increase includes an allocation of funds for refurbishment as well as \$12m for a golf course (of which \$6m will be spent in each of 2020 and 2021). Further funds totalling \$11.2m have been allocated for 2021 to 2023.

A cash flow of the works program has been included in the Plan. It is proposed that this is reviewed bi annually for inclusion in the Plan for the District.

Legal Implications

N/A

Community Consultation

Sport clubs throughout the City were surveyed in late 2008 and early 2009, with information derived from the survey included in the Sport and Recreation Strategic Plan.

The Plan was advertised for public comment with a notice in the Cockburn Community Gazette on October 20 2009 and via the City of Cockburn Website. Letters were sent to sporting clubs and meetings were held with a number of clubs directly affected by recommendations within the plan. The consultation period closed on Monday 16th November 2009.

Additional community consultation with clubs, local residents and state sporting associations will be undertaken as part of the implementation of recommendations from the Plan.

Attachment(s)

1. Sport and Recreation Strategic Plan 2009 (Revised)
2. Schedule of Submissions - Sport and Recreation Strategic Plan 2009
3. Record of Club / Association Meetings

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 December 2009 Council Meeting.

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

Local Government traditionally provides the majority of sporting/leisure facilities in the community on a subsidised basis to the public. Some additional facilities are provided by the private sector.

The City of Cockburn has made a conscious decision to contribute to the ongoing cost of construction and maintenance of its sporting/leisure facilities and services.

18. EXECUTIVE DIVISION ISSUES

Nil

19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

19.1 (OCM 10/12/2009) - NOTICE OF MOTION - CLR O'BRIEN - LOT 9500 MAYOR ROAD MUNSTER - DANGEROUS EXCAVATION (134491) (J RADAICH) (ATTACH)

RECOMMENDATION

That Council notes the officer's comments and actions to date in relation to the matters associated with the excavation of soil on private property located at Lot 9500 Mayor Road Munster.

COUNCIL DECISION

Background

Councillor O'Brien has provided notice of her intention to present the following motion at the Ordinary Meeting of Council on 10 December 2009:

That Council take immediate action by covering two open wells and fill in the huge hole in the ground on the development site to the side and back of Lot 12 Mayor Road Munster.

Conditional planning and engineering approval has been given for the subdivisional development and civil road construction works of Lot 9500 Mayor Road Munster, which is located on the north side opposite the intersection with Fawcett Road.

Preliminary works have been undertaken by the property owners to remove contaminated soil from the site and stockpile sandfill, which resulted in an excavation and two uncovered wells being left.

Subsequently, the project has been put on hold pending sale of the property.

Submission

N/A

Report

Mr Daniel Mastaglia, a property owner adjacent to the development site, has been concerned over the past 12 months regarding the excavation, uncovered wells and stockpiles of sand fill on the site, and the potential hazards to the public, particularly children that wander onto the site.

The site has been visited numerous times by Council officers, and the complaints extensively addressed; however, as it is private property and any approved works had not commenced, there are no statutory avenues for the Council to require the property owner to remedy the potentially hazardous situation.

In reference to specific issues raised, the following comments have been the response:

1. Who is liable if any person or child is hurt through falling into the wells or large hole in the ground?

The property owners are liable.

2. Were there development or building conditions put on the developer when Council gave approval for the Mayor Rd and Fawcett Rd subdivision and if so, were there any regarding the filling of land above the level of the land, or leaving the land in a certain condition?

It is the owner's responsibility to maintain the worksite during construction. Earthworks plans were submitted for information, but development works were never commenced. The excavation work undertaken was to remove contaminated soil.

3. In the opinion of Council officers, who is responsible for covering the wells, putting up warning signs, securely fencing the land from trespassers, and remediating the site to Council's satisfaction?

The property owners are responsible, and Council officers will continue to follow this matter up with the developer.

4. What have the officers from Council who have attended the site in the last months done so far?

This complaint was extensively addressed by the Health Dept and the Building Dept. The City's Development Engineer has also followed up the excavation issues with the developer at the request of Mr Mastaglia. All of the City's officers have responded to Mr Mastaglia directly on each occasion and he has been satisfied with the City's feedback (in that he understands that this is an issue for the owners of the land to address).

5. This has been an ongoing security issue with the potential for vandalism, theft and damage to adjacent property and the safety of children. Who is responsible for putting up a fence between the development land and Mr Mastaglia's parent's back yard?

It is understood Mr Mastaglia had an agreement with the developer to erect the fence between his mother's house and the development. It is clearly a matter between the parties however legally it is covered under the Dividing Fences Act. It is assumed the damaged fence is the responsibility of the developer, and they have indicated that it will be repaired. In any case, it has been noted for inspection at the completion of the engineering subdivision works.

6. Mr Mastaglia has spoken with the developer, Phillip Grove of Citibond, who originally told him that they would fix the problems, but two weeks ago in another conversation he was told that nothing will now be done. DM Civil is doing the construction at Munster Phase Two, on West Churchill Ave and Coogee Rd. Can they be asked by Council to level the site behind Mayor Rd properties and cover and sign the wells and have any asbestos removed?

It is assumed that until the ownership and further development of the land is resolved, very little works will proceed on the site. It is understood that the site will soon be presented for sale so the future development may be clearer at that time.

7. The piles of soil on the Mayor Rd land is very close and in some places over the pink tape on the surveyors pegs that looks like they are the line between the wetlands and swamp area and the boundary of the land. This looks like in some places the fill is in the wetland area or buffer to it that should not be touched. This may be an infringement of the Development Approval Plan?

The City's Environmental Services Dept will check this out.

8. What action, if any, can Council take? Who is responsible for taking the action, or is it Council plus the developer, DM Civil or Citibond?

The City has taken appropriate action, and officers will continue liaising with the developer. In the end it is the owner's responsibility.

Of the issues identified, the potential danger presented by the uncovered wells was considered to be the highest priority. Council officers have tried on several occasions to make contact with the Project Manager, Mr Philip Grove, from Citibond. It was our hope that the matters referred to could be resolved amicably and in a timely manner. An email seeking action to cover the wells sent on the 13th November 2009 has not been acknowledged and efforts to make direct contact with Mr Grove have failed. In a further inspection of the site on the 1st December 2009 it was confirmed that one of the wells remained uncovered. The City has since covered that well with a gattic lid from its stores to overcome any potential or perceived hazard.

The current stockpile of rubble and fill (refer to aerial photograph) does not appear to represent a significant dust nuisance as the pile appears to be well covered by natural grasses and vegetation. If it becomes a nuisance and our officers can substantiate that fact, the complaint would be dealt with in the normal manner by issuing a notice to the landowner. No notice has been issued at this point in time. Our officers will be available to attend the site to substantiate any concerns at the request of Mr Mastaglia. Of course if the land ownership is in question (and that fact has not been substantiated), our ability to follow up the notice with prosecution may be impacted and the City may need to take legal advice at that time.

The excavation adjacent to Mr Mastaglia's property commenced some time before January 2009 (date of the aerial photograph) and appears to be destabilising his rear fence. Mr Mastaglia had spoken directly to the owners representatives regarding this matter and been given assurances that the matter would be addressed. The land ownership issues have created some uncertainty for Mr Mastaglia as he now does not know if they will honour their commitment. Mr Mastaglia is also seeking to sell his property and believes that the subsidence is impacting the sale. To date and on behalf of Mr Mastaglia, the City's officers have been endeavouring to negotiate an outcome which would see the excavation addressed. Given the lack of response received by Mr Grove, the City's next course of action will be to issue a formal notice to the land owner to rectify the destabilisation. The first course of action therefore is to confirm the status of the land ownership and issue a formal notice. Kevin Sim has been instructed to undertake a title search and confirm the status of the land. Once the owners have been identified, the City will formally advise them to stabilise the

excavation. Councils ability to litigate beyond the initial notice will be the subject of legal advice should it be necessary.

The fencing issues will be a matter for Mr Mastaglia to address with the owners of the land.

Strategic Plan/Policy Implications

Demographic Planning

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

Lifestyle and Aspiration Achievement

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

Budget/Financial Implications

N/A

Legal Implications

Sec.3.21 (1) (a) (iii) refers.

Community Consultation

Consultation was undertaken as detailed in the report above.

Attachment(s)

1. Aerial Photos
2. Planning approval for the subdivision development.
3. File note on officer's attendance to the complaints.

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 10/12/2009) - 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**