

CITY OF COCKBURN

SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 19 AUGUST 2003 AT 7:00 PM

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CITY OF COCKBURN

MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 19 AUGUST 2003 AT 7:00 PM

PRESENT:

ELECTED MEMBERS

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

IN ATTENDANCE

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

1. DECLARATION OF MEETING

The Presiding Member declared the meeting open at 7.00pm.

2. APPOINTMENT OF PRESIDING MEMBER (If required)

Nil.

3. DISCLAIMER (Read aloud by Presiding Member)

Members of the public, who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking



clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

4 (OCM 19/08/2003) - ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS (BY PRESIDING MEMBER)

Mayor Lee advised that he had received written advice of a Conflict of Interest from Clr Oliver in regards to Item 13.3 and a Conflict of Interest from the Chief Executive Officer in regards to item 16.1.

5. APOLOGIES AND LEAVE ABSENCE

Nil

6. ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

7 (OCM 19/08/2003) - PUBLIC QUESTION TIME

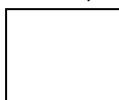
Patrick Thompson, Spearwood queried the amount of \$100,000 set aside just for consultancy fees for the Coogee Surf Life Saving Club and asked if that amount was correct as he was very surprised at how much Council has estimated for this project.

Mayor Lee confirmed that \$100,000 consultancy was correct and that other club facilities ranging from Leighton to Mullaloo, were in the vicinity of \$3-\$5million and stated that the plans for the Coogee Club were quite big.

Patrick Thompson then asked why the plans for the Life Saving Club weren't incorporated into the plans for the Coogee café/kiosk.

Mayor Lee stated that there was not enough room for the two facilities to be built as one. He believed the Poore Grove area was the best location for the Club and the Club itself indicated that this was their preferred location and negotiations are being held between Council, the Club and also with the Department of Environment.

Pauline Connolly, Munster, stated that she lives next to the Beeliar Market Garden Swamps and two years ago, rang Council in regard to the removal of a bridle creeper. Ms Connolly stated that she offered to remove the creeper herself, however the Council officer at the time advised that they had been to



look at the area and were planning some work be done in the area. Ms Connolly stated that she visited the wetlands recently and was very pleased with the work that was carried out, that it looked beautiful and was thriving with fauna. She asked Council to pass on her thanks to those involved in the rejuvenation of this area.

Ron Kimber, Munster in regard to the article in the Cockburn Herald on 9 August titled "Toxic Gas Breach". Mr Kimber tabled information to clarify some of the technical details associated with sulphur dioxide and advised that there was a wide array of information available to the public on this topic from the Department of Environmental Protection, Council's Health Services or any of the delegates of the DEWCP Cockburn Cement Community Working Group. Mr Kimber was outraged at the media reports indicating that Cockburn was a "dangerous and toxic place to live". He does not defend Cockburn Cement, nor the Department of Environmental Protection as their actions are their responsibility, but he does support the presentation of honest and full facts to the community so the community can judge whether or not they are being adequately protected by government agencies. He stated that he will speak out loudly when articles such as this are put in front of the community in such a way to unjustly attack the reputation of the area in which he lives.

Mr Kimber went on to say that sulphur dioxide emissions were measured in the metropolitan area at Rockingham north, Hope Valley, Wattleup and South Lake by the Department of Environment and at Abercrombie Road, Fanstone Avenue and Miguel Road by the Kwinana Industry Council. It has been said that the levels in Perth are insignificant to below detection levels, with sulphur dioxide levels decreasing significantly over the last 20 years whilst asthma has increased. So how can we make a comparison with these apparently conflicting figures and asked Council's Health Officers to assist with an answer.

Bert Renner, Spearwood, on behalf of another person, stated that Council has allocated \$300,000 towards the greening of Phoenix Road. However, before they do that, he requested that Council improve the condition of some footpaths that are in very poor condition.

Mayor Lee stated that footpaths are important and Council put \$1million on the budget to replace the rest of the slab footpaths within the City and if Mr Renner could advise the staff of the location of the footpath he mentioned, they will investigate.

Patrick Thompson, Spearwood wished to query agenda item 15.1 and in particular, cheque EF003556 to Earthcare for \$34,476.54 and asked what that was for.

Mr Thompson added that there was a similar payment to Earthcare of



\$90,968.95 and one for the Australian Taxation Office, both which were listed on the July agenda as 'Meeting Allowance' and queried that explanation. He stated that if he can see such an obvious error, why the relevant officers did not notice the error.

Mayor Lee advised that the Acting Director Finance will take the query on notice and will advise in writing.

Mr Thompson, in relation to Item 16.2, stated that he could not see any mention regarding improving pedestrian access by a walkway over Rockingham Road or something to make it safer for pedestrians.

Mayor Lee agreed and that it was the purpose of the report to make Rockingham Road more people friendly.

8. CONFIRMATION OF MINUTES

8.1 **(MINUTE NO 2114)** (OCM 19/08/2003) - ORDINARY COUNCIL MEETING - 15/7/2003

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on Tuesday, 15 July 2003, be accepted as a true and accurate record.

COUNCIL DECISION

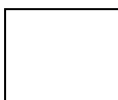
MOVED Clr M Reeve-Fowkes SECONDED Clr V Oliver that the recommendation be adopted.

CARRIED 10/0

8.2 **(MINUTE NO 2115)** (OCM 19/08/2003) - SPECIAL COUNCIL MEETING - 29/7/2003

RECOMMENDATION

That the Minutes of the Special Council Meeting held on Tuesday, 29 July 2003, be accepted as a true and accurate record.



COUNCIL DECISION

MOVED Clr M Reeve-Fowkes SECONDED Clr A Tilbury that the recommendation be adopted.

CARRIED 10/0

9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE

Nil

10. DEPUTATIONS AND PETITIONS

Nil

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

Nil

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

Nil

13. COUNCIL MATTERS

13.1 (MINUTE NO 2116) (OCM 19/08/2003) - AMENDMENTS TO THE CITY OF COCKBURN (LOCAL GOVERNMENT ACT) LOCAL LAWS 2000 (1116) (LJCD) (ATTACH)

NOTE: THE PURPOSE AND EFFECT OF THE AMENDMENTS WAS READ ALOUD TO THE MEETING

RECOMMENDATION

That Council:

- (1) pursuant to section 3.12(2) of the Local Government Act 1995, resolve to amend the City of Cockburn (Local Government Act) Local Laws 2000, as recorded in the attachment to this report; and
- (2) implement the necessary statutory procedures to ensure the promulgation of the amendments.



COUNCIL DECISION

MOVED Clr I Whitfield SECONDED Clr A Tilbury that the recommendation be adopted.

CARRIED 10/0

Background

The City of Cockburn (Local Government Act) Local Laws 2000 came into force on 24 October 2000 and the Local Laws have been amended on at least three occasions since then to ensure better management of the district.

Submission

N/A

Report

The proposed amendment to Part II “Animals” is to enable a process to be put in place whereby Council Rangers have the authority to make application for the seizure of dogs where it is apparent that owners will not register them, as required under the Dog Act 1976.

The Rangers are having difficulties with dog owners who are not registering their dogs according to the Dog Act 1976. Infringement notices can be issued for an unregistered dog and despite having issued three infringements to a dog owner, a dog can still remain unregistered, which means Council has the onus of being required to pursue the owner for the registration fee and still missing out on licensing revenue. There is no appropriate mechanism within the Dog Act 1976 to deal with this problem.

There are also circumstances where it is apparent that the issue of multiple infringements will not result in the registration of the dog being effected, in which case a warrant could be applied for after a prescribed period, recommended to be two (2) months.

In an effort to overcome this problem, an amendment has been drafted to deal with the issue thereby providing the Rangers with more ability to resolve the issue of unregistered dogs through the Court system.

The other proposed amendments to the Local Laws in Part IX “Streets and Public Places”, are clarification measures to make the Local Laws more operational, by better defining areas which are subject to traffic control such as roads, carriageways and nature strips.



Strategic Plan/Policy Implications

Key Result Areas “Facilitating the Needs of Your Community” refers.

Budget/Financial Implications

Minor advertising expenditure available within Council’s Operational Budget

Legal Implications

Part 3 Division 2 Subdivision 2 of the Local Government Act 1995 refers.

Community Consultation

If Council accepts the amendments, the Statutory Process requires that an advertisement is published in a newspaper twice, informing the community of the proposed amendment to the Local Laws 2000 and pointing out that the community has the opportunity to lodge a submission in relation to the amendments within a stipulated period, which is a minimum of forty-two [42] days after the date of the first notice published in the newspaper.

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

Nil.

13.2 (MINUTE NO 2117) (OCM 19/08/2003) - APPOINTMENT TO 'CITIZEN OF THE YEAR AWARDS' SELECTION COMMITTEE (DMG) (1610)

RECOMMENDATION
That Council appoint Sylvia Jackson as a member of the Citizen of the Year Awards Selection Committee, pursuant to Sec. 5.10(1)(a) of the Local Government Act, 1995.
TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION
MOVED Clr A Tilbury SECONDED Clr A Edwards that the recommendation be adopted.
CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 10/0



Background

At a Special Meeting of Council held on 6 May 2003, Council established a Citizen of the Year Awards Selection Committee and appointed three(3) Elected Members to the Committee. It was also resolved that the Committee include two(2) community members to assist in the review of the Awards process by the Committee.

Submission

To appoint Mrs Sylvia Jackson of Yangebup, as a member of the Committee and leave the second vacancy unfilled at this stage.

Report

Following the establishment of the Committee, nominations from the community were invited through advertisements appearing in the local newspapers and "Cockburn Soundings" during June 2003.

Only one formal nomination has been forthcoming from Mrs Sylvia Jackson of Yangebup. Mrs Jackson is a Justice of the Peace and has had extensive experience in the past as a member of Lions International and Aged and Disabled Services, receiving a Certificate of Recognition for Volunteers in 2001.

She recently retired from full time employment and has been a resident of Cockburn for 20 years.

Given these credentials, it would appear Mrs Jackson has the necessary experience to capably assist the Committee in the performance of its functions.

While Council is not in a position to recommend a second person to fill the remaining vacancy at this stage due to the lack of other nominations, it is considered best to retain the position to enable another appointment in the future, should an adequate nominee be brought to the Committee for consideration.

Strategic Plan/Policy Implications

Key Result Area "Managing Your City" refers.

Budget/Financial Implications

N/A



Legal Implications

Sec. 5.10 of the Local Government Act, 1995, refers.

Community Consultation

Community nominations invited through local newspapers and "Cockburn Soundings" in June 2003.

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

Nil.

DECLARATION OF INTEREST

Clr Oliver declared a Conflict of Interest in Item 13.3, the nature being that she is a community representative and Vice President of the Committee.

AT THIS POINT THE TIME BEING 7.21PM, CLR OLIVER LEFT THE MEETING.

13.3 (MINUTE NO 2118) (OCM 19/08/2003) - CO-ASSIST COUNCIL DELEGATE (8700) (RA)

RECOMMENDATION

That Council appoint the Social Services Manager - Gail Bowman, as its delegate to the Co-Assist (Inc) and advise Co-Assist accordingly.

COUNCIL DECISION

MOVED Clr M Reeve-Fowkes SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED 9/0

Background

Council at its Special meeting of 6 May 2003, appointed Elected Member Sue Limbert and Social Services Manager, Gail Bowman as delegates to the Co-Assist (Inc) Committee. Subsequently, Co-Assist requested Council to provide only one delegate, as required under its Constitution. A recommendation to appoint the Social Services Manager was provided to Council in July 03, however the matter was



deferred to obtain advice on Council representation on the Co-Assist Committee.

Submission

Co-Assist has written to the City requesting that Council nominate only one delegate to its committee as the association's constitution only allows for one Council delegate, however a deputy is not contemplated.

Report

Co-Assist receives grants from Commonwealth and State authorities to provide for those who are under financial stress for various reasons. This is an important community service. The meetings of the committee are usually held during the day and hence an officer is readily able to attend. Clr Limbert is prepared to step aside and to have an officer of the City on the committee.

Strategic Plan/Policy Implications

Key result area "Managing Your City" applies.

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

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

Nil.

AT THIS POINT THE TIME BEING 7.22PM, CLR OLIVER RETURNED TO THE MEETING.

14. PLANNING AND DEVELOPMENT DIVISION ISSUES



14.1 (MINUTE NO 2119) (OCM 19/08/2003) - INTEGRATED REGIONAL TRANSPORT PLAN FOR SOUTH WEST METROPOLITAN PERTH - TRAVELLING TOGETHER (SMH) (9303) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the report;
- (2) adopt the “Integrated Regional Transport Plan for South West Metropolitan Perth – Travelling Together” dated April 2003, as the basis for working cooperatively with the other South West Group local governments to implement the common vision for transport in the region;
- (3) participate in the cooperative implementation of the common vision to the extent provided for within the scope of the transport plan and the limits of Council’s financial resources;
- (4) have due regard for the objectives and recommendations contained in the Transport Plan when reviewing its Corporate Strategic Plan, its 10 Year Financial Plan, the Principal Activities Plan and the Annual Budget; and
- (5) congratulates the South West Group Transport Committee for preparing the report in an endeavour to improve transportation in the south west corridor.

COUNCIL DECISION

MOVED Clr L Goncalves SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED 10/0

Background

The Integrated Regional Transport Plan for South West Metropolitan Perth was prepared by Sinclair Knight Merz on behalf of the South West Group Transport Committee.

The Plan was prepared to achieve better collective transport outcomes for the south west corridor and to complement the State Government’s initiative to build the Perth to Mandurah railway line.

The Transport Committee comprised elected members and technical officers from the local governments of Melville, Cockburn, Mandurah,



East Fremantle and Kwinana, along with representatives from Fremantle, Mandurah and Canning.

The current City of Cockburn representatives are Cllr Martin Reeves-Fowkes and Cllr Val Oliver who are supported by technical officers.

The Committee also included representatives from the Department for Planning and Infrastructure.

The Committee met regularly during the preparation and finalisation of the Transport Plan.

Submission

All Elected Members received a copy of the Transport Plan however, a copy of the executive summary is attached to the agenda.

Report

The contents of the Transport Report are self explanatory.

As Council would be aware, the provision of primary distributor roads and public transport is the responsibility of the State Government. Local Governments may make recommendations to State agencies about the provision of major transport facilities or lobby local members of parliament.

Local Government is primarily involved in the repair and maintenance of local roads, the construction of secondary distributor roads, the provision of bus shelters and the construction of pedestrian and dual use paths.

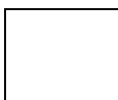
The purpose of the Transport Plan is to enable the South West Group to collectively and cooperatively communicate to the State Government, the group's concerns on a vision and action plan for the transport future of the area.

The Transport Plan serves to achieve integration of an inter-regional and local multi-modal transport network into a predominately established urban development pattern.

The vision for the south west region is:-

"A Region of vitality that embraces diversity of activity and actively promotes sustainable growth opportunities for employment, education, healthy living, recreation and social interaction".

The Transport Plan which essentially promotes public transport rather than integrated transportation, evolved through consensus outcomes agreed to by the members of the Transport Committee.



The Transport Plan is a guide rather than a blue print for the future, designed to coordinate regional transportation priorities across the region to achieve beneficial collective outcomes, rather than transport initiatives undertaken on an ad hoc individual local government basis.

The Transport Plan accepts the State Government's six-step solution for freight transport in Perth's southern suburbs and therefore does not address the advantages and disadvantages to the region of retaining or removing the Fremantle Eastern Bypass or Roe 8 from the regional road network.

The recommendations made in the Transport Plan are contained in the Executive Summary.

Given the Council's involvement in the preparation and finalisation of the Transport Plan, it is recommended that it be adopted by the Council as the basis of working cooperatively with the other member councils, within the Council's financial constraints.

In addition, the Council should have due regard for the Transport Plan when reviewing or formulating corporate and financial strategies for the district in order to identify any initiatives that could be supported or implemented in the short or long term.

Strategic Plan/Policy Implications

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

2. Planning Your City

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

5. Maintaining Your Community Facilities

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



Budget/Financial Implications

The local governments are limited in their ability to increase expenditure by increasing rates or borrowing, or by utilising additional funds from government grants. The State Government currently has recurrent budget limitations within the Transport portfolio. The PURD capital budget is generally limited to items which are directly related to the operation of the train and/or immediate access to the train including station facilities and rail crossings. The bus operations, non-station area bicycle network and pedestrian facilities are not funded by the rail project capital budget.

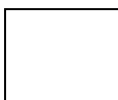
The proportion of total funding (National, State and local government) allocated to transport is unlikely to increase on a sustainable basis, given the demands on health, education and law and order.

The Transport Plan recommends that the South West Group Transport Committee manage the implementation of the Regional Integrated Transport Plan as an ongoing process and that the South West Group Management Board uses its collective influence to advocate for the necessary funding required to achieve this. The South West Group will work alongside the Department for Planning and Infrastructure to develop an appropriate funding strategy for the region up to the year 2007 when the South West Metropolitan railway becomes operational to Mandurah.

The Transport Plan recommends Funding Strategy prior to 2007 where the funding strategy could be guided by a number of key principles including:

- Transport funding in the region in the next five years to maximise the leverage and advantage to be obtained from the South West Metropolitan railway.
- A high proportion of transport funding be allocated to improving the overall public transport system, including ensuring that the bus system is properly integrated with the rail system.
- A flexible funding arrangement be put in place to ensure that priority funding can be made available for improving TravelSmart and other projects such as improved access to rail stations.
- Proposals that achieve transport/land use integration or are outputs of local integrated transport plans would receive priority in funding consideration.

Also, the Transport Plan recommends Longer Term Priorities Beyond 2007. As the Naval Base Port is progressively developed, road and rail freight access will become a high priority, and in this regard the DPI develop a freight road and rail access implementation plan in



consultation with the South West Group and South West Metropolitan Councils.

Legal Implications

Nil.

Community Consultation

According to the SKM Transport Plan report, there was no public consultation included in the report preparation process.

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

Nil.

14.2 (MINUTE NO 2120) (OCM 19/08/2003) - PROPOSED PEDESTRIAN ACCESSWAY CLOSURE BETWEEN CHRISTIE COURT AND YANGETUP ROAD, YANGETUP - APPLICANT: S & R ANSTEY (450662) (JW) (ATTACH)

RECOMMENDATION

That Council:-

- (1) not initiate procedures to close the pedestrian accessway between Christie Court and Yangebup Road, Yangebup given that:
 1. it provides convenient access to and from Lakelands Shopping Centre and Yangebup Primary School as well as major public transport routes in Yangebup Road;
 2. the PAW is used extensively by children going to Yangebup Primary School; and
 3. the closure of the PAW would significantly affect the aged persons accessibility to the community facilities and bus services.
- (2) arrange for overhanging vegetation to be removed to increase visibility and effectiveness of lighting in the PAW and removal of graffiti; and
- (3) advise the applicant of Council's decision.



COUNCIL DECISION

MOVED Clr L Goncalves SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED 10/0

Background

This report concerns an application for the closure of a Pedestrian Access Way (PAW) between Christie Court and Yangebup Road in Yangebup (see Agenda attachments for location details).

Council's records show that Council has been continually dealing with this issue since 1991. Council has undertaken investigations in 1998 and 1999 on the feasibility of closing the PAW. The proposal was also referred to different servicing departments for comments including Telstra, Western Power, Water Corporations. Although there was no objection raised from the servicing departments, the option of closing the PAW was met with much opposition from the community. Therefore Council resolved to keep this PAW open.

Council planning services have received letters of complaint. Site inspections and file check have been undertaken to gain an understanding of the current situation and to work out a better solution for the problems identified in the complaint.

Submission

A letter was received on 26 June 2002 from the owners (236 Yangebup Road) requesting that the public walkways between Yangebup Road and Christie Court be closed. The owners stated that their health and safety were being compromised on a daily basis due to the antisocial behaviours happened on the Pedestrian Access Way (Letter attached).

Council's Policy APD 21 – *Pedestrian Accessway Closures* requires that residents seeking to have a PAW closed make a written request to Council for the PAW closure signed by at least two of the residents abutting the PAW, with supporting justification for the closure. The latest application for the closure of Christie PAW has been signed only by the owners of 236 Yangebup Road. However, this has been completed by the virtue of another request dated 17/1/2002 from the owners of 234 Yangebup Road as well as the previously received letters and petition, which have been signed by residents of more than one local property.



Report

The PAW in question is approximately 65-metres long and 3-metres wide and is flanked by 1.8 – 2 metres high fibrous cement fencing. Grab rails are installed at the northern entrance and the middle of PAW. Pole lighting is installed in the middle of the PAW. A recent site inspection held on 17 July 2003 found that the PAW was in a reasonably clean condition with a small amount of rubbish and graffiti. It was also found that the southern entrance of the PAW and the pole lighting were screened with the overhanging vegetation.

Council's Policy APD 21 provides a framework for evaluating proposals to close a PAW. In considering the application, Council should:

- balance the negative impacts experienced by residents living near a PAW against the wider community need for it;
- ensure that efficient and effective pedestrian/cyclist movement systems will not be adversely effected by closing a PAW,

The details of the assessment are as follows:

1. THE LOCATION

400m and 800m Walkable Catchment to Community Facilities and Primary School

Walkable Catchment maps were produced showing the 400m and 800m walkable catchment to Lakelands Shopping Centre and Yangebup Primary School with the PAW open and closed respectively (See Agenda attachments).

With the closure of the PAW from Christie Court to Yangebup Road, 35 surrounding properties from Nallan Place, Willshire Way, Christie Court, Pardoo Rise and Manberry Way would be excluded from the 800m walkable catchment to the Lakelands Shopping Centre and Yangebup Primary School. This is a 57% reduction in the walkability of the immediate area, which is considered as a significant reduction. The potential increase in their walking distance to those facilities is shown in Table 1.

Table 1 Approximate Walking Distance to shopping centre and primary school



Property location	Walking distance with PAW open	Walking distance with PAW closed
Christie Court: No.1, 3,5,7,8,6,4, and Willshire Way: No. 5,7,10, 11,12, 13,14, 15, 16,17, 18, 19,20, 21,23,	700 metres	1100 metres
Pardoo Rise: No.1, 3,4, 5,6,7,8,and Manberry Way, No.20	800 metres	1150 metres – 1300 metres
Nallan Place: No.1, 3, and Willshire Way: No.4, 6,8	800 metres	870 metres – 950 metres

For most residents who will be potentially affected by the closure of the PAW, there would be a substantial increase in their walking distance by approximately between 300 metres and 500 metres depending on their property location.

It should be noted that the PAW provides a short cut for children going to Yangebup Primary School. A site inspection held in July 2002 found that there were 18 children walking via the PAW from school back home. This indicates that the PAW is extensively used by children going to school.

Bus Routes and Stopping Points

The bus route servicing this area is 136 from Success Park 'n' Ride to Fremantle with bus stops either side of Yangebup Road at the vicinity of the accessway.

The Walkable Catchment map shows that with the closure of the PAW, 12 properties at Pardoo Rise and Willshire Way would be excluded from 400m walkable catchment to the bus stops (see Agenda attachments). The preferred alternative access routes to the nearest bus stop and the approximate walking distance required are shown in Table 2:

Table 2: Approximate Walking Distance to Bus Stops

Property location	PAW open:	PAW closed:
	To bus stop 1	To bus stop 2
20,21,22,23 Willshire Way	390 metres	480 metres (via Willshire Way, Williambury Drive, Yangebup Road)
1,3,4,5,6,7,8 Pardoo Rise and 20 Manberry Way	320 metres	500 metres (via Pardoo Rise, PAW from Pardoo Rise to Christie Court, Willshire Way, Williambury Drive, Yangebup Road)



The closure of the PAW would result in an increased walking distance for those 12 properties by approximately between 100 metres and 200 metres depending on their exact location. This is not considered a significant reduction in the walkability of the immediate area as shown in the walkable catchment map.

However, there is an Aged Persons development on 8 Christie Court abutting the subject PAW. For aged residents there, with the closure of the PAW, the alternative access routes to both Lakelands Shopping Centre and bus services would be via Christie Court, Willshire Way and Williambury Drive. This would result in a substantial increase in their walking distance as shown in Table 3.

Table 3: Approximate Walking Distance for Aged Persons

To Shopping Centre		To nearest Bus Stops (corner of Yangebup Road and Williambury Drive)	
PAW Open	PAW Closed	PAW Open	PAW Closed
630 metres	1080 metres	200 metres	380 metres

Furthermore, Christie Court has a relatively steep gradient as it approaches Willshire Way, which would likely discourage aged persons walking to the community facilities and bus stops. Therefore the PAW plays an important role in increasing aged people's accessibility to community facilities and bus services. This was considered as a main reason to keep this PAW open as indicated in Council's previous resolution.

Public Open Space

There are two public open space areas located to both the east and west side of the PAW. The closure of the PAW would not affect residents' accessibility to the two open space areas.

The Role of the PAW

The Christie Court accessway does not form part of Cockburn Bike Plan network and will not form part of the overall future plan. However, the PAW is located within 800m walkable catchment from Lakelands Shopping Centre and Yangebup Primary School and 400m walkable catchment from bus stops. It is also in close proximity to an Aged Persons Accommodation on lot 77, 8 Christie Court. The closure of the PAW would not only result in a significant reduction in the walkability of the immediate area to Lakelands Shopping Centre and Yangebup Primary School, but also significantly affect the aged persons' accessibility to the community facilities and bus services.



The degree of nuisance experienced by residents living near the PAW

Claims of nuisance and hardship experienced by residents living next to or near the PAW are said to include:

1. violent drunken individual
2. abusive language
3. drug taking
4. motor bike riding
5. damaging fences, windows and motor vehicles
6. continual accumulation of garbage
7. violent incidents happened to children
8. graffiti on fences
9. dog teasing

Summary of Assessment

Based on the above assessment and following the provisions of APD21, it is considered that it would not be appropriate to initiate proceedings to close the PAW given that:

- The PAW plays an important role in increasing people's accessibility to community facilities;
- The closure of the PAW would result in a significant reduction in the walkability of the immediate area to Lakelands Shopping Centre and Yangebup Primary School;
- The closure of the PAW would significantly affect aged persons' walkability to community facilities and bus services with a substantial increase in their walking distance;
- The closure of the PAW would result in aged persons walking through Christie Court, which has a relatively steep gradient and is not considered as a preferable alternative route for them to access the community facilities and bus stops; and
- It is extensively used by school children.

It is therefore recommended that the Christie Court to Yangebup Road PAW not be closed. It is considered that overhanging vegetation should be removed to increase the effectiveness of lighting and visibility and the graffiti be removed.

Strategic Plan/Policy Implications

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



2. Planning Your City
 - "To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."
 - "To ensure that the development will enhance the levels of amenity currently enjoyed by the community."
5. Maintaining Your Community Facilities
 - "To construct and maintain roads, which are the responsibility of the Council, in accordance with recognised standards, and are convenient and safe for use by vehicles, cyclists and pedestrians."

The Planning Policies which apply to this item are:-

SPD 4 'Liveable Neighbourhoods'
APD 21 Pedestrian Access Way Closures

Budget/Financial Implications

The proposed works associated with this can be accommodated within the current budget.

Legal Implications

N/A

Community Consultation

Nil to date. Consultation will be undertaken if Council resolves to proceed with the closure of the PAW.

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

Nil.

- 14.3 **(MINUTE NO 2121) (OCM 19/08/2003) - SCHEME BOUNDARY MODIFICATION WITH THE CITY OF MELVILLE - PROPOSED TOWN PLANNING SCHEME AMENDMENT (93013) (MR) (ATTACH)14.3 (OCM19 8 2003) - SCHEME BOUNDARY MODIFICATION WITH THE CITY OF MELVILLE - PROPOSED TOWN PLANNING SCHEME AMENDMENT (93013) (MR)**

RECOMMENDATION

That Council:

- (1) adopt the following modifications to Amendment 13:-



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

AMENDMENT NO. 13

Resolved that Council, in pursuance of section 7 of the Town Planning and Development Act 1928 (as amended) to amend the above Town Planning Scheme as follows:-

Amending the Scheme Maps as depicted on the Amendment Map by:-

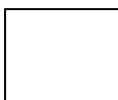
1. Amending the Scheme Boundary in accordance with the Districts of Melville and Cockburn (Change of District Boundaries) Order 2003 (LG405) published in the Government Gazette WA, gazetted on 27 June 2003.
2. Deleting the zones and reserves and Restricted Use 8 notation from that portion of the Scheme Maps occurring outside of the new district boundary described in (1) above falling within the City of Melville as set out in the Government Gazette, WA (LG405), Schedule 1 and Schedule 2, gazetted on 27 June 2003.
3. Adding the Primary Regional Road over a portion of Lot 0 on P13682 and D78591 (north of Leeming Rd), and portion of R39704 CSL2849 west of the centre line of the Kwinana Freeway and south of the centre line of Farrington Road.
4. Adding a Local Road Reserve south of the centre line of Farrington Road from R46840 to Lot 4065.
5. Adding the Special Use notation to the Scheme Legend.
6. Adding Lot 4065 on Plan 191259 and Lot 4066 on Plan 191260 and Lot 5 on Diagram 66412 and Lot 1 on Diagram 63519 and Lot 0 on Diagram 78591 (Loc 630) and R46840 Farrington Road within a Local Reserve - Public Purpose – Special Use reserve.

Amending the Scheme Text by:-

1. *Deleting from Schedule 3 - Restricted Use 8 applying to CSL 4254 and Portion of Reserve 44544 (Loc. 4253) Murdoch Drive, North Lake from the Scheme Text.*

Dated this Tuesday 19th day of August 2003

Chief Executive Officer



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

COUNCIL DECISION

MOVED Clr L Goncalves SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED 10/0

Background

Council at its Ordinary Meeting of 18 February 2003, resolved as follows:-

- “(1) *It supports the relocation of the District boundary between the Cities of Melville and Cockburn to follow the northern side of the Farrington Road Reserve between North Lake Road eastwards to the point where the road becomes a dual carriageway and then becoming the central alignment from that point extending eastwards to the Kwinana Freeway (as per the attachment), at this stage; and*



- (2) *it commits to a review of the Boundary alignment should this be necessary once the Murdoch University Development Plan has been finalised."*

Submission

Districts of Melville and Cockburn (change of District Boundaries) Order 2003 (LG405), published in the Government Gazette WA, gazetted on 27 June 2003.

Report

An amendment to Town Planning Scheme No. 3 (TPS3) is required due to the district boundary change between the City of Cockburn and City of Melville. Clause 1.3 of TPS3 describes the Scheme Area as that reflected on the Scheme Map. The Scheme boundary is inconsistent with the new district boundary gazetted on 27 June 2003 and hence the need for a scheme amendment. The new lots transferred to the district also need to be zoned or reserved on the Scheme Map.

An unusual situation has resulted from the district boundary change whereby the City of Cockburn TPS3 still applies to the land now within the district of the City of Melville and visa versa. The administration of the City of Cockburn and City of Melville schemes still applies until both town planning schemes can be amended. In the interim, the City could find itself in a position of being responsible for all planning applications within that portion of the district that has been exchanged with the City of Melville.

The scheme amendment proposes the following four changes to the Scheme Maps:-

1. Amend the Scheme boundary to reflect the new District boundary (refer to attached legal description).
2. Include a Local Reserve - Public Purpose: (Special Use) over land east of the Murdoch Chase Estate to the edge of the Freeway reserve and south of Farrington Road.
3. Add a new portion of Farrington Road as a Local Road Reserve.
4. It is also proposed to include the Kwinana Freeway within a Primary Regional Road reserve.

The proposed scheme amendment is generally consistent with the City of Melville Community Planning Scheme No. 5, except that Lots 1 & 5 & Portion of Lot 0 Farrington Road & Allendale Entrance are included in an M2 Living Area Precinct in Appendix 1. The City of Melville Scheme omits a purpose or intent for this land, that was to be the



subject of a subsequent scheme amendment. It is recommended that the subject land be included within a Local Reserve for Public Purpose, which facilitates the land being used by the State Government and affords a better opportunity to retain the existing urban bushland on what is presently vacant land.

Strategic Plan/Policy Implications

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

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

Budget/Financial Implications

The Scheme Amendment documents are being prepared in-house where costs incurred relate to the administration, advertising of the documents and reporting to Council.

Legal Implications

Nil.

Community Consultation

Consultation with the residents of the affected area of North Lake has already been undertaken, resulting in a majority support for the boundary amendment.

The proposed Scheme Amendment will be subject to community consultation requirements as set out in the Planning Regulations.

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

Nil.

14.4 (MINUTE NO 2122) (OCM 19/08/2003) - SALE OF LOTS 95 AND 101 HOWSON WAY, BIBRA LAKE AND THE LAND THE SUBJECT OF CERTIFICATE OF TITLE 1306/642 TO PIHA PTY LTD (4114403) (KJS)

RECOMMENDATION

That Council disposes of Lots 95 and 101 Howson Way Bibra Lake, together with the land the subject of Certificate of Title 1306/642 to Piha Pty Ltd, in accordance with Section 3.58(3) of the Local Government Act, provided that:



- (i) the purchase price is supported by a valuation by a Licensed Valuer; and
- (ii) preparation of a Business Plan for the land as required under Section 3.59 of the Local Government Act, because the potential sale price will be in excess of \$500,000.

COUNCIL DECISION

MOVED Deputy Mayor R Graham SECONDED Cllr K Allen that Council:

- (1) authorise the sale of Lots 95 and 101 Howson Way Bibra Lake, together with the land the subject of Certificate of Title 1306/642, to Piha Pty Ltd, in accordance with section 3.58(3) of the Local Government Act, 1995; and
- (2) direct that pursuant to section 3.59 of the Act, a Business Plan be presented to a future Council Meeting in relation to the sale referred to in (1) above.

CARRIED 10/0

Explanation

This resolution clarifies the requirement that the Business Plan, referred to in the recommendation, will be considered by Council.

Background

Lots 95 and 101 were purchased by the City as a landfill site in 1975. The former railway land (Certificate of Title 1306/642) was purchased in 1989. The front section of the land was a former sand quarry which was used as landfill. The balance of the land which includes land formerly railway reserve is unencumbered by the landfill. The landfill section is only suitable as hard stand. An example of this land use is on the adjoining Lot 100 where long sections of steel are stored. Lot 100 was also part of the former landfill site.

Submission

Complex Land Solutions acting for Piha Pty Ltd have written to the City registering an interest in the purchase of the land.



Report

Piha Pty Ltd own Lot 3 (25) Wellard Street which adjoins the rear boundary of the subject land. The company has indicated that they need additional land as their business is expanding. They have two options, one being to move to larger premises elsewhere, or purchase the subject land and expand.

They have been made aware of the limitations of the former landfill section of the total land portion. Approximately 2 hectares of the site is affected by the former landfill. The total site is 4.98 hectares so the landfill portion represents 40% of the site. Piha Pty Ltd manufacture polyethylene pipe fittings and have a requirement for additional storage areas.

If an agreement is reached with Piha then a Business Plan pursuant to section 3.59 of the Local Government Act will have to be prepared and advertised. A period of at least 6 weeks is to be allowed for public comment.

At the conclusion of the submission period, Council will need to have regard for any submissions made when deciding to proceed with the sale of the land.

Strategic Plan/Policy Implications

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

1. Managing Your City
 - *"To deliver services and to manage resources in a way that is cost effective without compromising quality."*

Budget/Financial Implications

The sale of this Council owned land is in accordance with the Council decision to liquidate existing assets as provided for in the Principal Activities Plan.

Legal Implications

Nil.

Community Consultation

Because of the need to prepare a Business Plan prior to the negotiated sale of this lot, the community will be advised of Council's intention to sell the land through advertising of the Business Plan as required under the Local Government Act.



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

Nil.

14.5 (MINUTE NO 2123) (OCM 19/08/2003) - PROPOSED SCHEME AMENDMENT NO. 12 - IMLAH COURT AND PRINSEP ROAD AREA AND FORMER SOUTHERN RAILWAY ALIGNMENT - VARIOUS OWNERS (93012) (JLU) (ATTACH)

RECOMMENDATION
That Council:

(1) adopt the following amendment:-

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

AMENDMENT NO. 12

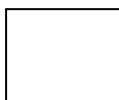
Resolved that Council, in pursuance of Section 7 of the Town Planning and Development Act 1928, amend the above Town Planning Scheme by

1. The City of Cockburn under and by virtue of the powers conferred upon it in that behalf by the Town Planning and Development Act, 1928 (as amended), hereby amends the above Town Planning Scheme by:

1. Including the following in Schedule 11 – Development Areas of the Scheme:

Ref. No.	Area	Provisions
DA 22	Imlah Court and Prinsep Road, Jandakot	<p>1. An approved Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</p> <p>2. To provide for Residential development along the Imlah Court frontage and Mixed Business development with co-ordinated access from Prinsep Road, in accordance with an approved Structure Plan.</p>

2. Amending the Scheme Maps to include Lots 19, 21, 22,



23, 24, 69 and Reserve 43679 Imlah Court and Lots 18 and 303 Prinsep Road within Development Area – DA 22.

3. Amending the Scheme Map to rezone the following:
- a) Portion Lots 316 – 331 The Lakes Boulevard, Jandakot from Railways Reserve to Residential R40 Zone;
 - b) Portion Reserve 43679 Imlah Court from Railways Reserve to Residential R20 Zone,
 - c) Portion Lot 24 Imlah Court from Railways Reserve to Residential R20 Zone and Mixed Business Zone;
 - d) Portion Lots 19, 21, 22, 23 and 69 Imlah Court and Portion Lot 303 Prinsep Road from Railways Reserve to Mixed Business Zone; and
 - e) Portion Lot 801 Prinsep Road from Railways Reserve to Industry Zone and Development Zone;
 - f) Portion Lot 801 Prinsep from Development Zone (DA 20) to Industry Zone;
 - g) Amend the boundary of DA 20 to include portion of Lot 801 to correspond with the modified boundary of the Industry Zone; and
 - h) Portion of Prinsep Road from Local Road to Industrial.

as shown on the Scheme Amendment Map.

Dated this day of.....2003

Chief Executive Officer

- (2) sign the amending documents and advise the WAPC of Council's decision;
- (3) forward a copy of the signed document to the Environmental Protection Authority in accordance with Section 7 (A)(1) of the Town Planning and Development Act;
- (4) following the receipt of formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, forward copies of the signed documents to the Western Australian Planning Commission requesting consent to advertise be granted;
- (5) notwithstanding (4) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to the Council for its consideration following formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, as to whether the Council should proceed or not



- proceed with the Amendment;
- (6) following formal advice from the Environmental Protection Authority that the Scheme Amendment should be assessed or is incapable of being environmentally acceptable under Section 48(A) of the Environmental Protection Act, the Amendment be referred to the Council for its determination as to whether to proceed or not proceed with the Amendment; and
 - (7) advise all landowners of Council's decision.

COUNCIL DECISION
 MOVED Clr S Limbert SECONDED Clr K Allen that the recommendation be adopted.

CARRIED 10/0

Background

ZONING:	MRS:	Railway (currently being rezoned to Urban) and Urban
	DZS:	Railway, Residential R20/R40 and Mixed Business
LAND USE:	Residential and vacant	
LOT SIZE:		
AREA:		
USE CLASS:		

Submission

N/A

Report

Amendment No. 12 is being initiated to achieve the following;

Rezoning land previously reserved for railway purposes

The area bounded by Imlah Court, Prinsep Road and Kwinana Freeway and the rear lots fronting the Lakes Boulevard is currently the subject of a Metropolitan Region Scheme (MRS) Amendment (Amendment No. 1032/33), which will facilitate finalisation of the land requirements for the South West Metropolitan Transit system including land for the passenger rail between Perth and Mandurah.



The MRS amendment proposes rezoning the previously defined railway route on the eastern side of the Kwinana Freeway to Urban, Urban Deferred and Industrial as this land is no longer required given that the railway has been relocated to the median of the Freeway. At its meeting of 15 January 2002, Council supported the proposed MRS amendment which is currently with the WAPC pending finalisation of the environmental issues relating to the railway alignment. It is understood that the Minister for the Environment has recently announced that these issues have now been resolved and the amendment may proceed. DPI has advised that it is likely that the amendment will be considered by Parliament during the Autumn sitting.

Upon finalisation of the MRS amendment, the subject land will be unzoned in Council's TPS and as such, it is necessary to initiate Amendment No. 12 to put in place appropriate zoning. It should be noted that the City of Cockburn is required to initiate an amendment to TPS 3 to rezone this area within 3 months of the finalisation of the MRS amendment.

The surrounding land is Residential R20 and R40, Mixed Business, Industry and Development (see Agenda attachments). It is appropriate to continue the surrounding zonings across the subject land to ensure consistency in development types and requirements.

The zoning required for each of the affected properties is as follows:

Lot 316 to Lot 331 The Lakes Boulevard, Jandakot	Residential R40
Reserve 43679	Residential R20
Lot 24 Imlah Court, Jandakot	Residential R20 and Mixed Business
Lot 23 Imlah Court, Jandakot	Mixed Business
Lot 22 Imlah Court, Jandakot	Mixed Business
Lot 21 Imlah Court, Jandakot	Mixed Business
Lot 69 Imlah Court, Jandakot	Mixed Business
Lot 19 Imlah Court, Jandakot	Mixed Business
Lot 303 Prinsep Road, Jandakot	Mixed Business
Part Lot 801 Prinsep Road, Jandakot	Industrial and Development

Designation of land bounded by Imlah/Prinsep/Freeway as a Development Area:

Currently Lots 19, 21, 22, 23, 24, 69 and Reserve 43679 Imlah Court and Lot 18 Prinsep Road, have a dual zoning with the front portion being zoned Residential R20 and the rear portion being zoned Mixed Business. The front portion of these lots and reserve 43679 were zoned Residential R20 in order to retain a consistent residential frontage to Imlah Court.



The rear portion of the lots and some of Lot 303 Prinsep Road were zoned Mixed Business to ensure compatible land uses with the Jandakot Industrial Area on the eastern side of Prinsep Road. It is proposed to continue these zonings under Amendment No. 12.

The Mixed Business portion of the lots bounded by Imlah Court, Prinsep Road and the Kwinana Freeway have difficulties with access as a result of their long rectangular shape and as such, it is desirable to include this area in a Development Area under the Town Planning Scheme which will require the preparation, advertising and adoption of a Structure Plan that will co-ordinate access and development/subdivision of the lots.

Development Area (DA 22) is proposed to be included within Schedule 11 of TPS No. 3 and the specific provisions that are to be introduced include:

An approved Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.

To provide for Residential development along the Imlah Court frontage and Mixed Business development with co-ordinated access from Prinsep Road, in accordance with an approved Structure Plan.

Council's Strategic Planning Services will facilitate the preparation of a structure plan for the area in consultation with the landowners.

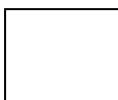
Rezoning portion of Lot 801 from Development to Industry and rationalisation of the boundary of Development Area No. 22

The City has been approached by the owners of Lot 509 Cutler Road (Fremantle Steel Fabrication) and Lot 801 Prinsep Road (LandCorp) regarding the excision of Pt Lot 801 for amalgamation with Lot 509 to facilitate the expansion of Fremantle Steel's activities. Pt Lot 801 is zoned Development under the TPS and is subject to the draft Solomon Road Structure Plan, a copy of which is included in the Agenda attachments.

The Structure Plan shows the extension of Prinsep Road to connect with North Lake Road. The inclusion of Pt Lot 801 in the Industry zone is considered appropriate and will facilitate the expansion of the steel works site and is therefore reflected in this amendment.

Rezoning a portion of Prinsep Road to Industry

Previous drafts of the Solomon Road Structure Plan proposed road access, from Prinsep Road into the industrial area, further to the north than the current draft Structure Plan. The amendment will rezone that portion of Prinsep Road, previously vested, back to Industry to allow it



to be developed. The modified road access is catered for in the Development zone.

The initiation of this amendment to TPS 3 will ensure that land in the previous Railway Reserve is appropriately zoned to assist in the administration of Scheme requirements for those lots, will facilitate the proper and orderly planning of a multiple ownership area fronting Imlah Court and Prinsep Road through its inclusion in a Development Area which requires and formalises a structure plan for that area and rationalises the extent of the General Industrial zone to enable the logical expansion of an existing activity. It is recommended that Council proceed to initiate the amendment and advise all of the affected landowners of this decision.

With regard to the progression of Amendment No.12 given the length of time the MRS amendment may take to be finalised, DPI have advised that as the proposal is not consistent with the existing MRS, consent to advertise the amendment will be required from the WAPC. However, as Amendment No.12 is consistent with the MRS amendment, it is envisaged that it can be advertised prior to the finalisation of the MRS amendment.

Strategic Plan/Policy Implications

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

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

The Planning Policies which apply to this item are:-

SPD4	'Liveable Neighbourhoods'
APD31	Detailed Area Plans
APD33	Town Planning Scheme No. 3 Provisions

Budget/Financial Implications

N/A

Legal Implications

Nil



Community Consultation

The Scheme Amendment process provides for public advertising of the proposal.

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

Nil.

14.6 (MINUTE NO 2124) (OCM 19/08/2003) - FINAL ADOPTION - AMENDMENT NO. 5 TO TOWN PLANNING SCHEME NO. 3 - PORTIONS OF PROUT WAY ROAD RESERVE, BIBRA LAKE - APPLICANT: ALLERDING BURGESS (93005) (ACB) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the amendment as follows:-
 - a) Reclassifying a portion of Prout Way from Local Reserve – ‘Local Road, ROW, PAW’ to Residential R25 and R20 and Local Reserve – Parks and Recreation; and
 - b) Amending the scheme maps accordingly.
- (2) forward the Council decision to the Western Australian Planning Commission requesting that the Hon. Minister for Planning and Infrastructure grant final approval under Town Planning Regulation 21;
- (3) in anticipation of the Hon. Minister for Planning and Infrastructure granting final approval, the Scheme Amendment documentation be signed by the Mayor and Chief Executive Officer ready to be forwarded to the Western Australian Planning Commission upon receipt of the Hon. Minister’s advice under Town Planning Regulation 24; and
- (4) advise those who made submissions of Council’s decision accordingly.

COUNCIL DECISION

MOVED Clr S Limbert SECONDED Clr K Allen that the recommendation be adopted.

CARRIED 10/0



Background

The background to this matter is outlined in Item 14.23 OCM18/02/03.

Submission

The Scheme Amendment was referred to the Environmental Protection Authority (“EPA”) in accordance with Section 7A(1) of the Act.

The EPA advised that under Section 48A of the *Environmental Protection Act*, the overall environmental impact of the amendment would not be severe enough to warrant assessment under Part IV of the *Environmental Protection Act*, the preparation of an Environmental Review and the subsequent setting of formal conditions by the Minister for the Environment and Heritage. The amendment was subsequently advertised in accordance with the Regulations for not less than 42 days.

A copy of the proposed amendment is included in the Agenda attachments.

Report

The 42 day public consultation period for Amendment 5 concluded on 30 July 2003. At the close of the advertising period, 1 submission was received. The owner of Lot 368 (No. 17) Inn Close, Bibra Lake (refer to site plan in Agenda attachments) objected to the proposal for the following reason:

“The proposed conversion of local reserve area at the corner of Prout Way and Hatch Place is a beautiful natural garden of Australian native plants. This garden along with others makes Bramley Waters what it is today. Destroying the garden for houses “would be a shame on our community.” “

Lot 301 is currently zoned Residential R25, not Parks and Recreation. The land is privately owned and presently has the potential to be developed with a total of 5 units under the Residential Design Codes. The closure and inclusion of a portion of Prout Way road reserve into this land will facilitate the development of an additional unit on the land.

The objection is therefore noted and dismissed in this instance as the land currently has development potential as it is not public open space under the Town Planning Scheme.

It is recommended that Council proceed to adopt the scheme amendment.



Strategic Plan/Policy Implications

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

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

Budget/Financial Implications

Nil.

Legal Implications

Nil.

Community Consultation

Community consultation is required pursuant to the Town Planning Regulations

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

Nil.

14.7 (MINUTE NO 2125) (OCM 19/08/2003) - SWAN CATCHMENT COUNCIL MEMBERSHIP - NATURAL HERITAGE TRUST GRANTS (CB) (9331) (ATTACH)

RECOMMENDATION

That Council:

- (1) confirm an affiliation with the South West Catchment Council for that section of the district that lies within the Peel-Harvey Catchment with the balance of Cockburn continuing to be represented by the Swan Catchment Council for the purposes of obtaining funding at a regional level once the restructuring of the National Heritage Trust is complete;
- (2) advise the Swan Catchment Council, South West Catchment Council, Town of Kwinana, City of Rockingham and the Cockburn Sound Management Council accordingly; and



- (3) initiate discussions to facilitate a memorandum of understanding between the respective Catchment Councils and the City of Cockburn.

COUNCIL DECISION

MOVED Cllr V Oliver SECONDED Mayor S Lee that Council:

- (1) confirm an affiliation with the South West Catchment Council for the purpose of attaining funding at a regional level once the restructuring of The National Heritage Trust is complete; and
- (2) advise the Swan Catchment Council, South West Catchment Council, Town of Kwinana, City of Rockingham and the Cockburn Sound Management Council accordingly.

CARRIED 8/2

Explanation

The Swan Catchment group is made up of large incorporated bodies who have been operating as tourist destination proprietors. With strong ties to the metropolitan area, it is considered that Cockburn would have a better representation by the South West Catchment Council, which is more in keeping with Council's 'Wetland to Waves' concept.

Background

At the Council meeting of 15 July 2003, Council deferred a decision on the matter until such time as a presentation to Elected Members from the Swan Catchment Council and the South West Catchment Council could be arranged.

A presentation by the Swan Catchment Council and South West Catchment Council was arranged for Tuesday 12 August 2003 (this report was prepared prior to the presentations).

Natural Heritage Trust funds, which in the past have been accessed by Council via various grant schemes, are now to be delivered at three levels, namely, national investments, regional investments, and local actions.

National Investments will cover national priorities, addressing activities that have a national or broad-scale, rather than a regional or local, outcome. This will include Commonwealth activities, statewide activities and those that cross State, Territory and regional boundaries.



Regional Investments will become the principal delivery mechanism for the Trust. Under this model, investment is made on the basis of a regional natural resource management plan, incorporating the major natural resource management issues in the area.

Under the new structure, regional communities comprising landowners, industries, non-government organisations, local and State or Territory governments and other interested parties will participate in putting together regional plans to be called Accredited Natural Resource Management Plans and deciding which are the most important issues for action and funding.

Arrangements for regional boundaries and regional bodies will usually depend on local geography and existing State or Territory arrangements. A State or Territory plan will be assessed against a set of criteria agreed to by the Natural Resource Management Ministerial Council. When these criteria are met, the plan will be accredited. Once a plan has been accredited, a regional investment strategy will be developed detailing what funds are needed to implement the plan. These investment strategies will be used for the purposes of investment under the Trust and the National Action Plan for Salinity and Water Quality. The Commonwealth and the States/Territories will jointly agree on activities that are to be given funding at the regional level and which meet the main objectives of the Natural Heritage Trust.

Because of the restructuring it is necessary for Cockburn to confirm an affiliation with the appropriate Natural Resource Management (NRM) Region, these being the Swan Region or South West Region. Confirming our affiliation is necessary so that we can contribute to the preparation of the Accredited Natural Resource Management Plans and have our issues listed for consideration in future funding applications.

Submission

As part of the accreditation process for regional NRM plans, regional groups must undertake an assessment of natural resource conditions to enable a process of target setting to commence and the development of management actions to proceed. The issue of boundary definition needs to be addressed immediately to enable regional groups to specifically identify the extent of their areas and enable assessments of natural resources to be undertaken. To this end, the City of Cockburn needs to confirm an affiliation with the appropriate Natural Resource Management Regions so that regional boundaries can be finalised.

Report

There are two regions that Cockburn is able to become affiliated with, the Swan Region (represented by the Swan Catchment Council who



primarily deal with metropolitan catchment issues) and the South West Region (represented by the South West Catchment Council that largely deals with rural catchment issues).

Cockburn is primarily a metropolitan Council but also has a good representation of rural properties. Although we are not strictly part of any particular catchment, as most of our drainage flows directly to the coast, our proximity to the Swan River and our metropolitan orientation has resulted in Cockburn being considered to be a sub region of the Swan Catchment Council as shown on the map in the Agenda attachments. There is only a small portion of land in the southeast corner of Cockburn that could be considered to be within the Peel-Harvey Catchment and thus part of the South West Region.

Peel-Harvey Catchment Council would like Cockburn to become part of the South West Catchment Council. Their reasoning is because the Town of Kwinana and City of Rockingham are expected to be confirmed as members of the South West Catchment Council and Cockburn is considered to have a history of co-operation with Kwinana and Rockingham on common issues such as the management of Cockburn Sound. It must be noted that the majority of problems that affect the Sound are issues that emanate from urban industry as well as agricultural practices. At the time of writing this report, the City of Rockingham and Town of Kwinana had not yet made a final determination with regard to their choice of region.

The Swan Catchment Council is also keen to retain Cockburn as a member.

The Cockburn Sound Management Council would prefer the Cockburn Sound catchment area to be in a single NRM region for ease of securing and administering funding for projects within the catchment area.

As the Natural Heritage Trust restructuring is still taking place, there are interim funding measures in place for this year to allow the momentum of past NHT funding programs to continue. A list of this years funding allocation to each of the councils is listed below. The list gives an indication of what type of programs are funded in each of the two regions.

South West Region

\$100,000 for the Dumbleyung Strategic Water Management Strategy

\$36,000 for regional surface water management support

\$227,500 for Peel-Harvey river care action

\$153,000 for strategic support in the Blackwood Basin



\$30,640 for Peel–Harvey Catchment Council Administration

\$54,000 for the Peel-Harvey ICLIE Water Campaign

\$145,000 for the Western Dairying for tomorrow project

\$255,370 for the conservation and management of regional biodiversity projects

Total \$1,001,510

Swan Region

\$296,500 for recovery actions for nine threatened ecological communities

\$434,212 for community support roles – Catchment Groups

\$238,100 for the Perth Biodiversity Project

\$119,400 for the Western Swamp Tortoise recovery plan

\$140,908 for Community Education and Training

Total \$1,229,120

Although Cockburn has been considered to be part of the Swan Region, we have been ineligible to apply for grants from the Swan Catchment Council. The logic for this was because Alcoa, in conjunction with Agriculture WA, already funded projects in this area. (See map attached to the Agenda). Cockburn was also ineligible to apply for grants available to the South West Region because Cockburn was not considered to be part of that region. Cockburn therefore has no history of accepting funds from either of the NRM Regions.

Summary of reasons given by the Swan Catchment Council Facilitator as to why Cockburn should confirm their affiliation with the Swan Catchment Council are as follows:

- Cockburn is currently considered to be part of the Swan Catchment Council
- Cockburn largely covers urban suburbs and is within the Metropolitan Region Scheme boundaries thus, from a planning view point, it seems logical to be within the Swan Catchment Council which deals primarily with the Perth Metropolitan Region.
- The City of Cockburn contains a number of Bushforever sites and it is primarily the Swan Catchment Council that deals with the issues



pertaining to these sites in the same way that it deals with them for other metropolitan councils.

- Issues relating to impacts on Cockburn Sound, which are primarily industrial, are best dealt with by the Catchment Council that deals more with urban issues.
- There is significant downstream influence on Cockburn Sound carried by ocean currents that originate from the Swan-Canning Estuary. Management of impacts under this influence would be best dealt with within the same region.
- Common issues relating to drainage and water quality.

Summary of reasons given by Peel-Harvey Catchment Council as to why Cockburn should become affiliated with the South West Catchment Council are as follows:

- History of working with Kwinana and Rockingham on common issues relating to Cockburn Sound.
- Common issues relating to drainage and water quality.
- The Peel-Harvey Catchment Area extends into the southwest corner of the district.

Prior to the 15 July 2003 Council meeting, neither Rockingham nor Kwinana Councils had made a decision in regard to which NRM Region they would be represented by. The dilemma facing each of these councils is more complicated than Cockburn as both Rockingham and Kwinana equally encompasses both coastal drainage and drainage to the Peel-Harvey Catchment and both have a good representation of rural and metropolitan land use.

Subsequent investigations by Rockingham have revealed that they can possibly be affiliated with both the Swan NRM Region for that portion of land that is considered part of the Cockburn Sound catchment and be represented by the South West Region in respect to the balance, which is in the Peel-Harvey catchment. The Shire of Gingin has a similar arrangement with the Swan Catchment Council and the Northern Agricultural Region. A Memo of Understanding between each of NRM regions and the Shire of Gingin is used to facilitate this arrangement. Accordingly there is a precedent for membership of NRM regions based on physical attributes as opposed to arbitrary Council boundaries and it is therefore open to Council to nominate that specific areas be within nominated NRM regions.

To maintain the close relationship with both Kwinana and Rockingham and to represent and cater for the portion of Cockburn that lies within the Peel-Harvey Catchment, it is therefore recommended that



Cockburn takes a similar approach to Rockingham and confirms an affiliation with both the Swan Region and the South West Region by way of a memo of understanding. This would result in the southeast portion of Cockburn that is considered part of the Peel-Harvey catchment being represented by the South West Catchment Council with the balance of Cockburn, including the Cockburn Sound Catchment, being represented by the Swan Catchment Council.

It is considered that this approach would satisfy the objectives of the Cockburn Sound Management Council and be the best outcome for the City.

Strategic Plan/Policy Implications

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

3. Conserving and Improving Your Environment
 - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*

Budget/Financial Implications

N/A

Legal Implications

Nil.

Community Consultation

N/A

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

Nil.

14.8 (MINUTE NO 2126) (OCM 19/08/2003) - OUTBUILDING (90SQM) - LOT 5; 48 HOLMES ROAD, MUNSTER - OWNER/APPLICANT: CA & WCM KOEMAN (4411503) (ACB) (ATTACH)

RECOMMENDATION

That Council:

- (1) grant approval for the proposed outbuilding on Lot 5 (48) Holmes Road, Munster subject to the following conditions:-

STANDARD CONDITIONS



1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
4. 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.
5. Retaining wall(s) being constructed in accordance with a qualified Structural Engineer's design and a building licence being obtained prior to construction.

SPECIAL CONDITIONS

1. The shed is to be setback a minimum of 10 metres from the side boundary adjacent to Lot 6.
2. The shed shall be used for domestic and/or rural purposes only associated with the property and not for human habitation.
3. Any fuels and/or oils are to be stored securely and in such a manner as to limit potential damage to the environment through accidental spillage.
4. The owner or occupier of the premises shall comply with the requirements of the *Health (Garden Soil) Regulations 1998*.
5. The owner or occupier of the premises must apply for an Offensive Trade Licence for a manure works if they intend to hold, store or blend animal manure products.
6. An owner or occupier of premises where fertiliser is stored in bulk for sale shall:
 - (a) keep all fertiliser in a building:
 - (i) of which the walls, floors and ceilings or undersides of the roof are constructed of durable and non-absorbent materials finished internally with a smooth surface; and
 - (ii) free from damp and properly ventilated;

- (b) take proper precautions to prevent the emission of dust or offensive effluvia from the building to the satisfaction of the Principal Environmental Health Officer;
 - (c) ensure that all artificial fertiliser despatched from the premises is packed in such a manner as to prevent any nuisance arising during transit.
7. The owner or occupier of premises where fertiliser or compost is stored or used shall:
- (a) prevent the escape of odours, dust or particles of fertiliser or compost;
 - (b) treat the fertiliser or compost in such a manner as to effectively prevent it attracting or being a breeding place for flies or other vectors of disease; and
 - (c) store only such amounts of fertiliser or compost as can be readily used within a reasonable period.
8. An owner or occupier of premises shall not use or keep for the purpose of use, as fertiliser any pig manure, human faeces or urine.
- FOOTNOTES
- 1. The development is to comply with the *Environmental Protection Act 1986*, which contains penalties where noise limits exceed that prescribed by the *Environmental Protection (Noise) Regulations 1997*.
 - 2. The development is to comply with the Building Code of Australia.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval to the applicant.

COUNCIL DECISION

MOVED Clr M Reeve-Fowkes SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED 10/0



Background

ZONING:	MRS:	RURAL
	TPS:	RURAL
LAND USE:	RURAL INDUSTRY	
LOT SIZE:	2.0285ha	
AREA:	90m ²	
USE CLASS:	NURSERY	

The site has been operating as a Wholesale Cutflower Nursery since 1992. A list of approvals issued by the City are as follows:

- 20 February 1991 - Council issued an approval for a 90sqm Rural Shed.
- 25 September 1992 - Council issued an approval for a 3000sqm Greenhouse and Facilities for a Wholesale Cut Flower Nursery on the subject site.
- 6 October 1992 - Council issued an approval for Ancillary Accommodation (32sqm).
- 29 May 1997 - Council issued an approval for an additional Greenhouse (3000sqm).

Submission

The Applicant proposes to erect a 7.5 metre by 12 metre (90m²) steel frame zincalume shed on the subject site. The shed is proposed to be setback a distance of 8 metres from the adjoining landholding (Lot 6).

The shed is to be included as part of the Nursery operation. The Applicant has confirmed that the purpose of the shed is to store fertilisers and goods associated with the Nursery. The storage area will enable the business to purchase larger quantities of goods to save costs. The shed will possibly facilitate a future boiler room for heating of the greenhouse. This boiler room will operate with gas. There will be no noise resulting from this activity.

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

Report

A shed is defined as an outbuilding under Town Planning Scheme No. 3. An outbuilding means a roofed structure that is enclosed on more than half of its perimeter used for domestic or rural purposes consistent with the Town Planning Scheme.



The subject land is zoned 'Rural' under Town Planning Scheme No.3. The intent of the Rural Area is to provide for a range of rural pursuits, which are compatible with the capability of the land and retain the rural character and amenity of the locality.

The proposed outbuilding fails to comply with Council Policy APD18, which specifies that the combined floor area of existing and proposed outbuildings and the wall height of proposed outbuildings are not to exceed 200m² and 4.5 metres height, respectively within the rural zone. The existing sheds with an approximate area of 360m² already exceed the maximum size requirements for outbuildings in the rural zone. Notwithstanding, the additional shed is considered appropriate in this instance given the nature of the use and its purpose for storage/boiler room as part of the Nursery operations.

It is considered that the proposed shed will not have an adverse effect on the visual amenity of the street and the adjoining properties given the existing use and structures already located on the site. This is on the proviso that it maintains a minimum setback of 10m from the adjoining property. This requirement can be imposed as a special condition on the approval.

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

Strategic Plan/Policy Implications

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

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

The Planning Policies, which apply to this item are:-

APD18 Outbuildings

Budget/Financial Implications

Nil

Legal Implications

Nil



Community Consultation

The City did not refer the proposal to adjoining landowners for comment as it was considered the proposal would not adversely affect the amenity of adjoining landholdings.

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

Nil.

14.9 **(MINUTE NO 2127) (OCM 19/08/2003) - COCKBURN SOUND MANAGEMENT COUNCIL - MEMORANDUM OF UNDERSTANDING (9334) (AJB) (ATTACH)**

RECOMMENDATION

That Council:

- (1) note Council's obligations under the Memorandum of Understanding;
- (2) note the commitments of the Cockburn Sound Management Council set out in the Memorandum of Understanding;
- (3) agree to sign the Memorandum of Understanding with the Cockburn Sound Management Council, Town of Kwinana and the City of Rockingham; and
- (4) advise the Cockburn Sound Management Council, Town of Kwinana and City of Rockingham accordingly.

COUNCIL DECISION

MOVED Clr M Reeve-Fowkes SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED 10/0

Background

Cockburn Sound has already suffered extensive loss of its seagrass meadows and a decline in water quality. Such past deterioration can be largely attributed to waste inputs from land-based sources, particularly industrial pipeline discharges. However, as industry continues to reduce the amounts of nutrients, which will be further reduced with the proposed wastewater recycling project, the focus of



management is now moving towards diffuse discharges originating from the broader catchment.

At present, groundwater is the main source of contaminants into the Sound, contributing more than 70% of the nitrogen load. In the longer term, it will be groundwater contaminants originating from diffuse land uses within the catchment that will be responsible for a large portion of nutrient contamination in the Sound.

Future land uses and activities in the catchment may cause further groundwater contamination unless suitable controls are implemented as part of the approval process. A coordinated approach to land use planning and on-going management is required as a matter of urgency, so that threats to the long-term environmental health of Cockburn Sound can be contained.

Most land use is controlled by the three local councils in the catchment; the City of Cockburn, Town of Kwinana and City of Rockingham. To achieve consistent catchment management in order to protect Cockburn Sound, the Cockburn Sound Management Council and the three councils need to work together within an appropriate framework.

Submission

The Cockburn Sound Management Council has requested the Cities of Cockburn and Rockingham and the Town of Kwinana to sign a joint Memorandum of Understanding (MoU) to work cooperatively to prepare a strategy that will manage land use activities to protect water quality and marine habitat in the sound from contamination originating within the catchment area.

Report

The State Government is in the process of finalising an Environmental Protection Policy (EPP) for Cockburn Sound and its catchment area which, within the City of Cockburn, includes all the land south of Beeliar Drive and west of the Kwinana Freeway. The EPP is a statutory document which, when finally approved, will require local authorities and government agencies to effectively manage land use activities within the catchment area. Given that the catchment area includes land under the jurisdiction of the City of Cockburn, Town of Kwinana and the City of Rockingham, it is considered practical and effective that the three authorities work together to develop a common approach to achieve the outcomes required by the EPP.

A Memorandum of Understanding (MoU) for Cockburn Sound has already been signed by the seven state governments whose activities have the potential to impact on Cockburn Sound and the Cockburn Sound Management Council.



It is also appropriate that the three local councils in the catchment show their support for preserving Cockburn Sound through signing an MoU affirming current council practice in undertaking to:

- Ensure that Council Activities are undertaken sensitively so as to minimise impact on Cockburn Sound.
- Support the activities and involvement of the community in environmental planning and management of the Sound and its catchment.
- Encourage developers, industry and the community to manage stormwater in a responsible manner so that it does not contribute to groundwater contamination.
- Notify the Cockburn Sound Management Council, on an informal basis, of current and planned works with the potential to significantly affect the Sound, either directly or through groundwater contamination.

The MoU also commits the three councils to work together over the next six months to identify and develop a Local Planning Mechanism to reduce contaminants such as nutrient inputs in the Cockburn Sound catchment.

The MoU commits the Cockburn Sound Management Council to:

- Facilitate and coordinate the preparation of a Local Planning Mechanism in conjunction with the three local governments.
- Promote the importance of limiting and controlling land use in the catchment area to reduce impacts on the Sound.
- Undertake monitoring and research within the catchment area.
- Provide integrated advice to planning and decision making on potential environmental impacts.

The commitments by the Cockburn Sound Management Council to provide ongoing resources, advice and research are of particular importance in the process given that this is a state government initiative and that the local governments may not have the required level of expertise or resources in-house to deal with some of the more complex catchment management issues.

There have been several drafts of the MoU which have been the subject of ongoing discussions between the Cockburn Sound Management Council and the three councils. The draft MoU included in the Agenda attachments responds to the concerns previously raised by Council officers and is supported. The City of Rockingham and Town of Kwinana have both agreed to sign the MoU. It is recommended that Council agree to be a signatory to the MoU and to advise the Cockburn Sound Management Council, the Town of Kwinana and the City of Rockingham accordingly.



Strategic Plan/Policy Implications

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

1. Managing Your City
 - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
3. Conserving and Improving Your Environment
 - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
 - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*

Budget/Financial Implications

Nil identified at this time.

Legal Implications

The proposed Environmental Protection Policy (EPP) for Cockburn Sound and associated Environmental Management Plan (EMP) requires that the catchment is managed so as to reduce nutrients entering the Sound. This MoU and resultant local planning mechanism allows the City of Cockburn to fulfil their obligations under the EPP and EMP.

Community Consultation

Major community stakeholders including Community Networking, Recfishwest, Cockburn Powerboat Association and the Conservation Council have been involved through the Cockburn Sound Management Council and are supportive of this approach. The broader community has also been regularly briefed at the Cockburn Sound Community Forums.

Land use controls prepared through the MoU process will need to be advertised for public comment. The process will depend on the finally agreed implementation mechanism.

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

Nil.



14.10 (MINUTE NO 2128) (OCM 19/08/2003) - PRIVATE SWIMMING POOL INSPECTION PROGRAM FOR 2003/2004 - TENDER NO. 22/2003 AND FUTURE INSPECTIONS (3211) (JW)

RECOMMENDATION

That Council:

- (1) authorise the revision of the contract between C.E. Nicholls & Son Pty Ltd and the City of Cockburn for Inspection Services Private Swimming Pools 22/2003, by allowing provision of at least \$1,000,000 Professional Indemnity Insurance instead of \$10,000,000 subject to C.E. Nicholls & Son Pty Ltd providing a Certificate of Currency for \$1,000,000 Professional Indemnity Insurance coverage within a time frame determined by the Chief Executive Officer;
- (2) agree in the event that the required Certificate of Currency (\$1,000,000) is not provided as required by C.E. Nicholls & Son Pty Ltd, the contract between C.E. Nicholls & Son Pty Ltd and the City be terminated;
- (3) authorise the Chief Executive Officer to negotiate suitable alternate arrangements if required with the Royal Life Saving Society Australia, to ensure that private swimming pools within the City are inspected so as to satisfy the requirements of Section 245A of the Local Government (Miscellaneous Provisions) Act 1960; and
- (4) authorise the Chief Executive Officer to make alternate arrangements as required should negotiations with C.E. Nicholls & Son Pty Ltd or Royal Life Saving Society Australia WA Branch (Inc) not be acceptable to the City, so as to ensure that private swimming pools within the City are inspected so as to satisfy the requirements of Section 245A of the Local Government (Miscellaneous Provisions) Act 1960.

COUNCIL DECISION

MOVED Clr K Allen SECONDED Clr A Tilbury that Council:

- (1) agree that Contract 22/2003 between C.E. Nicholls & Son Pty Ltd and the City be terminated as the Certificate of Currency for \$10 million Professional Indemnity Insurance coverage has not been provided as required by Section 2.2.8 and 3.2.7 of the contract; and



- (2) initiate the tender process to facilitate the provision of services to carry out the inspection of private swimming pools within the City so as to meet the statutory requirements of the Local Government (Miscellaneous Provisions) Act 1960, s245A, with the tender document including a revised requirement for the provision of \$1 million Professional Indemnity Insurance coverage by the tenderer/contractor.

CARRIED 10/0

Explanation

The recommendation has been altered due to legal advice obtained from Council's Solicitors. The advice confirms the situation is somewhat difficult and reviews the applicable sections of the Local Government (Function and General) Regulations 1996 and their implementation in this instance. After considering the options open to Council, the Solicitors advise 'On balance we feel it is preferable that the City invites tenders again.'

Background

Tenders were called in May/June 2003 for the provision of a service to carry out inspection of the estimated 3400 private swimming pools within the City so as to meet legislative obligations of the City.

The tender process resulted in two submissions as follows :

- C.E. Nicholls & Son Pty Ltd
\$26.10 per pool x 3400 estimated pools = \$88,740
- Royal Lifesaving Society Australia WA Branch (Inc)
\$28.54 per pool x 3400 estimated pools = \$97,036

Council resolved at the Ordinary Meeting on 17 June 2003, to accept the tender submitted by C.E. Nicholls & Son Pty Ltd for Tender No. 22/2003 – Inspection Services Private Swimming Pools, for an all inclusive price of \$26.10 per pool.

The contract required that within five(5) working days of acceptance, a Certificate of Currency for the required insurances be provided to the City. Professional Indemnity Insurance in the sum of at least ten million dollars (\$10m) was required.

Submission

N/A



Report

C.E. Nicholls & Son Pty Ltd have advised they are attempting to provide the necessary Professional Indemnity Insurance however, at this stage the Certificate of Currency has not been provided. The Certificate should have been provided to the City by no later than 1 July 2003.

The City wrote to Mr C. Nicholls (Company Director) advising that it requires the Certificate of Currency for Professional Indemnity Insurance (\$10m) to be provided by no later than 9am on Monday, 11 August 2003. If not, the City will consider terminating the contract. Mr Nicholls agreed formally to terminate the contract if the Certificate of Currency was not provided to the City by that time.

C.E. Nicholls & Son Pty Ltd has however, advised they can get \$1m Professional Indemnity coverage and would be keen to continue with the contract subject to a contract variation allowing for a minimum of \$1m Professional Indemnity Insurance.

The other tenderer, Royal Life Saving Australia WA Branch (Inc), as part of their submission, advised they have Professional Indemnity Insurance however, only for \$1m and not the requested amount of at least \$10m in the tender document.

The City's Insurer, Municipal Liability Scheme (MLS) Mr John Abercrombie has confirmed:

"Under current government statutory policy, the need for councils to carry out these inspections and complete them within the legislated time frame is mandatory. Under these circumstances only, the MLS will agree to the City of Cockburn accepting a \$1m Professional Indemnity sum insured from the successful tenderer. Please ensure that confirmation of insurances are sighted before executing contract."

So as to permit the program to commence, the contract with C.E. Nicholls & Son Pty Ltd should be varied to permit a minimum of \$1m Professional Indemnity Insurance instead of \$10m.

In the unlikely event C.E. Nicholls for any reason is not able to provide a Certificate of Currency for \$1m Professional Indemnity, alternatives to ensure that the program can commence in the near future need to be available. As such, the recommendation allows for the Chief Executive Officer to negotiate with the other tenderer or other persons if required.

Strategic Plan/Policy Implications

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



1. Managing Your City
 - To deliver services and to manage resources in a way that is cost competitive without compromising quality.
 - To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.
2. Facilitating the Needs of Your Community
 - To identify current community needs, aspirations, expectations and priorities of the services provided by the Council.

Budget/Financial Implications

The program has been costed on the C.E. Nicholls & Son Pty Ltd tender price so as to be cost neutral to Council. In the unlikely event of Royal Surf Life Saving undertaking the program, an additional cost of about \$7,000 is likely however, a contingency sum has been included in the estimated administration costs and with envisaged savings in some areas, the program should still be cost neutral to Council.

Legal Implications

Local Government (Functions and General) Regulations 1996 – Tenders do not have to be publicly invited according to the requirements of Part 4 - Tenders for providing goods or services, 11(2) (c) if within the last 6 months the local government has according to the requirements of Part 4, publicly invited tenders for the supply of the goods and services but no tender was submitted that met the tender specifications.

“If a local government has accepted a tender and acceptance of the tender creates a contract and within six(6) months of the day on which the tender was accepted, the local government and the successful tenderer agree to terminate the contract, the local government may accept from the other tenderers, the tender which it thinks it would be most advantageous to the local government to accept.”

Compliance with the Local Government (Miscellaneous Provisions) Act 1960.

Community Consultation

None required. It is a legal requirement to undertake inspections.

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

Nil.



15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES

15.1 (MINUTE NO 2129) (OCM 19/08/2003) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)

RECOMMENDATION

That Council receive the List of Creditors paid for July 2003, as attached to the Agenda.

COUNCIL DECISION

MOVED Clr V Oliver SECONDED Clr M Reeve-Fowkes that the recommendation be adopted.

CARRIED 10/0

Background

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

Submission

N/A

Report

N/A

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A



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

Nil.

DECLARATION OF INTEREST

Chief Executive Officer declared a Conflict of Interest in Item 16.1, the nature being that he has relatives who live and own property in that section of Rockingham Road under consideration.

AT THIS POINT THE TIME BEING 7.38PM, ROD BROWN LEFT THE MEETING.

16. ENGINEERING AND WORKS DIVISION ISSUES

16.1 (MINUTE NO 2130) (OCM 19/08/2003) - PROPOSED ROCKINGHAM ROAD UPGRADE BETWEEN PHOENIX ROAD AND SPEARWOOD AVENUE (450498) (JR)

RECOMMENDATION

That Council:

- (1) confirm its favoured position for the re-development of Rockingham Road between Phoenix Road and Spearwood Avenue is to traffic calm the road to one lane in each direction;
- (2) support the undergrounding of powerlines for that section of Rockingham Road;
- (3) survey all affected property owners and tenants fronting that section of Rockingham Road with the concept plan to seek support –
 - (a) For the proposed revised road pattern, and
 - (b) To contribute to the cost of undergrounding power;
- (4) forward the proposed concept plans of the road modifications to the Department for Planning and Infrastructure and request comments on its impact for proposed public transport links; and
- (5) extend the brief of Sinclair Knight Merz to investigate the possible traffic impacts on the adjoining road system in the event that Rockingham Road is reduced to one lane in each direction, between Phoenix Road and Spearwood Avenue and also to report on the effects to the road system if traffic flows



increase along Rockingham Road in the future.

COUNCIL DECISION

MOVED Clr V Oliver SECONDED Clr L Goncalves that Council:

- (1) confirm its favoured position for the re-development of Rockingham Road between Phoenix Road and Spearwood Avenue is to traffic calm the road to one lane in each direction;
- (2) support the undergrounding of powerlines for that section of Rockingham Road;
- (3) survey all affected property owners and tenants fronting that section of Rockingham Road with the concept plan to seek support –
 - (a) For the proposed revised road pattern, and
 - (b) To contribute to the cost of undergrounding power;
- (4) forward the proposed concept plans of the road modifications to the Department for Planning and Infrastructure and request comments on its impact for proposed public transport links; and
- (5) extend the brief of Sinclair Knight Merz to investigate the possible traffic impacts and potential resultant upgrading on the adjoining road system in the event that Rockingham Road is reduced to one lane in each direction, between Phoenix Road and Spearwood Avenue and also to report on the effects to the road system if traffic flows increase along Rockingham Road in the future.

MOTION LOST 4/6

MOVED Clr K Allen SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED 9/1

Background

Council's current budget has an amount of \$900,000 allocated to upgrade and refurbish Rockingham Road between Phoenix Road and Spearwood Avenue.



Submission

The purpose of the upgrade is to reduce traffic flows from two lanes in each direction to one lane each way so as to create a more people friendly environment.

Report

To upgrade and refurbish Rockingham Road as proposed will require consideration of a number of issues:

- Rockingham Road is classified as a District Distributor A in the City of Cockburn Road Hierarchy and its principal function is as a major district traffic artery.
- The proposed treatment skirts the current commercial development and does not bisect it as is common with a main street treatment. The treatment will need to integrate with sympathetic land use planning and development on both sides of the road to achieve the desired effect. Otherwise there is the danger of a Hampton Road type effect, as in Beaconsfield, rather than a main street effect.
- Due to the reduction in through lanes and the possible slowing effect to through traffic, traffic flows in adjacent minor through roads may increase. It is reasonable that Sinclair Knight Merz, Consulting Engineers, provide a report on this possibility.
- A survey of the public and abutting property owners will need to be undertaken to determine whether they favour a treatment and what type of treatment. One preliminary survey has resulted in favour of leaving the road the way it is. The abutting commercial property owners and operators may not support such a development and may object strongly. Owners may not be prepared to contribute to the undergrounding of powerlines.
- Even if the concept is supported, there is a danger that abutting business property owners will not embrace the treatment and not upgrade their frontages.
- It is not intended to undertake a land use planning study of the area to establish a main street centre road.
- The undergrounding of power, for which funding of half may be available under the State Underground Power Program for Localised Enhancement Projects may be available, may be considered as a first stage of the treatment. Localised Enhancement Projects are those that replace overhead distribution lines with underground supply at "gateways", traffic routes of scenic significance and centres with tourism and/or heritage value.



However, any street light installations will need to consider the future arrangement of the traffic/median islands.

- The treatment may conflict with the proposed Fremantle-Rockingham Transitway.
- The Integrated Regional Transport Plan for South West Metropolitan Perth Report recommends a bus priority treatment for the Cockburn/South Fremantle link. It is assumed this will be along Rockingham Road.

An indicative estimate of the costs of such a project, depending on the final concept and design is as follows:

Western Power quote (underground power)	\$420,000
House Connection	\$60,000
Lighting (not WP Standards)	\$37,500
Lighting + Banner Poles	\$63,500
Roadwork	\$359,000
Drainage	\$82,000
Landscaping	\$75,000
Consulting	\$100,000

Total: \$1.2M

Sinclair Knight Merz Pty Ltd, Consulting Engineers, completed a feasibility study in early 2002 of transforming Rockingham Road from a four lane road to a two lane road with turning pockets. The result of their study concluded that on a local basis and based on existing traffic volumes, Rockingham Road could be calmed to provide for one lane of traffic in each direction. This is achieved by separating all left and right turning movements so they don't delay the main traffic stream.

The summary and recommendations from the report state:

"This study has shown that, based on existing traffic volumes, Rockingham Road could be traffic calmed to provide for one lane of traffic in each direction. Our analysis suggests that an overall safer environment could be provided with only a moderate increase in traffic delay from traffic using Rockingham Road.

However, we believe that a decision on the future development of Rockingham Road must take account of potential future traffic volumes. These volumes will be highly dependent on strategic transport planning and demand management strategies adopted by the Council and the Department for Planning and Infrastructure.

Should the Council decide to proceed with the traffic calming of Rockingham Road, it will be necessary to agree on a design that balances the needs of different community groups, including:



- *Property owners and traders who desire convenient access to properties;*
- *Drivers who use Rockingham Road as a traffic artery for sub-regional, non-local travel;*
- *Public transport users and community groups who seek better public transport service and a higher proportion of trips by public transport;*
- *Residents in the neighbourhood who may be concerned with diversion of traffic to adjacent streets;*
- *Community members generally who are seeking a safer road environment along Rockingham Road.”*

At the Ordinary Meeting of Council held in May 2002, it was resolved that Council:

- “(1) receive the report from Sinclair Knight Merz on the redevelopment of Rockingham Road between Phoenix Road and Spearwood Avenue; and*
- (2) raise the issue as Council's favoured position for consideration in the Integrated Transport Plan to be developed for the South West Group/City of Cockburn.”*

The Integrated Transport Plan that has been produced is generic in nature and does not specifically address the possible downgrade of Rockingham Road as a traffic artery between Phoenix Road and Spearwood Avenue.

Strategic Plan/Policy Implications

The Corporate Strategic Plan Key Result Area which applies to this item is:-

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

Budget/Financial Implications

An amount of \$900,000 has been allocated on the current Budget for this project and may be inadequate.

Legal Implications

Nil.



Community Consultation

Substantial consultation will be required with the abutting commercial and residential property owners and operators.

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

Nil.

AT THIS POINT THE TIME BEING 7.46PM, MR BROWN RETURNED TO THE MEETING.

16.2 (MINUTE NO 2131) (OCM 19/08/2003) - REQUEST TO REMOVE TREE GROWING ON VERGE - 3 PAUSIN CRESCENT, BIBRA LAKE (1108113) (AC)

RECOMMENDATION

That Council authorise removal of the Eucalyptus grandis tree growing on the street verge adjacent to number 3 Pausin Crescent, Bibra Lake, subject to:

- (1) Removal being at full cost to the property owner who made the request for removal;
- (2) The tree not being removed until the City has received payment for the full cost of removal;
- (3) The tree being removed by a suitable contractor engaged by the City for the purpose;
- (4) The tree being dismantled to the ground, removed from the site and the stump ground out; and
- (5) The City planting a replacement tree suitable for the location, within six months of removing the original tree, at the Council's cost.

COUNCIL DECISION

MOVED Cllr I WHITFIELD SECONDED Cllr M REEVE-FOWKES that the recommendation be adopted.

CARRIED 9/1



Background

On the 19th December 2002, the City received a written request from Ms Julie Regan of 3 Pausin Crescent Bibra Lake, requesting the removal of a tree growing on the street verge adjacent to her residence. Reasons given by Mrs Regan for removal of the tree include claims that:

1. The tree is a danger to the people and houses in the street.
2. The tree will cause damage to the drive, as had previously occurred, which was repaired by the Council;
3. She is worried that large branches may fall off in windy conditions, which may cause damage to the house or injure an adult or child;
4. Branches up to ten feet long have already fallen from the tree causing minor damage to vehicles;
5. Both she and her husband work full time and therefore do not have time or money to maintain the garden and remove all the debris caused by the tree to avoid any injury occurring; and
6. Neighbours are not happy about the danger caused by the tree and have complained to her.

At the time of the original request, an officer from the city inspected the tree and advised Ms Regan that the tree did not meet the usual requirements for removal and therefore the City could not agree to her request.

Since that time, Mrs Regan has contacted the City by telephone each month reiterating her request. On each occasion Mrs Regan was advised that the decision would not be reviewed until the Council had considered and adopted a position regarding the removal or pruning of trees growing on land under the direct care, control and management of the City.

At its meeting held on Tuesday 20th May 2003, the Council resolved to adopt position statement PSEW15 – Removal and Pruning of Trees.

Submission

N/A

Report

An officer from the City reinspected the tree on the 29th May 2003 and reports that the tree is a healthy and vigorous *Eucalyptus grandis* of approximately thirty metres in height with a crown spread of approximately twenty metres.



The tree does not meet the general criteria for removal detailed in the Council's Position Statement PSEW15 – Removal of Trees, in that it is **not**:

1. dead;
2. in a state of decline to the point that survival is unlikely;
3. structurally unsound, to the point of constituting imminent danger to persons or property;
4. damaging or likely to damage property, where alternatives to prevent damage are not possible;
5. part of a tree replacement program; or
6. obstructing a Council approved works program, such as road and drainage works.

Position Statement

Position Statement PSEW15 – Removal and Pruning of Trees states, in part, that:

“Trees growing on land under the direct care, control and management of the City, that are considered to be unduly interfering with the amenity available to adjacent residents in the use of their land, may be removed at the discretion of the Council.

In such circumstances, trees shall not be removed unless:

1. *A request in writing for removal of the tree has been received from the adjacent property owner by the City's Officers, clearly stating the reasons for requesting removal;*
2. *An Officer's report detailing the request and associated issues has been presented to the Council for its consideration, including any consultation undertaken; and*
3. *The Council has formally resolved to authorise removal of the tree.*

Where the Council has resolved to authorise removal of a tree at the request of an adjacent property owner:

1. *Removal shall be at full cost to the property owner who made the request for removal;*
2. *The tree shall be dismantled to the ground, removed from the site and the stump shall be ground out;*
3. *The tree shall be removed by a suitable contractor engaged by the City for the purpose;*
4. *The tree shall not be removed until the City has received payment for the full cost of removal; and*
5. *The City at the Council's cost shall plant a replacement tree suitable for the location, within six months of removing the original tree.”*



Officers Comments

Eucalyptus grandis are large trees that have a propensity to shed considerable quantities of bark, nuts, twig, leaf and floral debris over an extended period of time throughout the summer season. Because of their size and the amount of debris cast off by them, these trees are now unlikely to be planted as part of a residential streetscape. Therefore, it may be considered that the tree is unduly interfering with the amenity available to Mrs Regan in the use of her land

Strategic Plan/Policy Implications

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

3. Conserving and Improving Your Environment
 - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*

Budget/Financial Implications

Nil. The estimated cost for removal of the tree is \$1,000, recoverable from the resident requesting removal.

Planting of a replacement tree is accounted for within parks maintenance account number 7601-*Street Trees*, established for the maintenance and replacement of street trees.

Legal Implications

Nil

Community Consultation

Consultation has not been undertaken with the community.

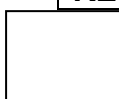
Implications of Section 3.18(3) Local Government Act, 1995

Nil.

17. COMMUNITY SERVICES DIVISION ISSUES

17.1 (MINUTE NO 2132) (OCM 19/08/2003) - PROPOSED DONATION - KWINANA HERITAGE GROUP (1032) (RA)

RECOMMENDATION



That Council approves of the proposal by the Historical Society of Cockburn to donate the diorama of the Kwinana BP Refinery and Oil Tanker to the Kwinana Heritage Group, in recognition of the 50th Anniversary of the Town of Kwinana, subject to the Kwinana Heritage Group making arrangements for the relocation of the diorama of the Kwinana BP Refinery Oil Tanker.

COUNCIL DECISION

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

CARRIED 9/1

Background

The matter of the donation of the Diorama to the Kwinana Heritage Group was deferred from the May Council Meeting to enable Elected Members to view the diorama prior to making a decision on whether to agree with a request to gift the works to the Kwinana Heritage Group.

Council again deferred the matter at its June meeting and resolved:

“that the matter be deferred to the July or August Ordinary Council Meeting until an article can be placed in the local newspapers seeking community feedback as to whether or not Council should donate the item”.

Submission

N/A

Report

On 18 June 2003, Council’s Communications Manager issued a media release to the *Cockburn Herald* and *Cockburn Gazette* seeking public input on the subject of the diorama donation. The closing date for submissions was 18 July 2003.

Articles calling for public input on the diorama donation were published in the *Gazette* on 17 and 24 June 2003, and in the *Herald* on 20 and 28 June 2003.

During the public submission period, the Communications Manager received one phone call on the matter. The caller said the Council should keep and display the diorama until the end of 2004, then it



should be donated to the Kwinana Heritage Group. This was the only public submission received on the matter by Council staff.

The Historical Society of Cockburn, as custodians of the BP Diorama, see this as an appropriate gesture to recognise the Kwinana Heritage Group, by gifting it a memento of particular relevance to the history of Kwinana.

The piece has only slight significance to the history of the Cockburn district and was simply a deed of goodwill on behalf of a corporate neighbour at the time it was donated.

Accordingly, it is suggested that Council approves of the Historical Society of Cockburn presenting the diorama to the Kwinana Heritage Group to enable the works to be housed in a more relevant environment.

Strategic Plan/Policy Implications

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

Budget/Financial Implications

Nil.

Legal Implications

N/A

Community Consultation

Publicity placed in the Local newspaper seeking public comment.

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

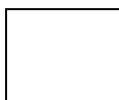
Nil.

17.2 (MINUTE NO 2133) (OCM 19/08/2003) - LAKESIDE CINEMA DEBT (2207525) (RA)

RECOMMENDATION

That Council:

- (1) write off the Debt of \$12,495.88 owed by the Lakeside Cinema Pty Ltd;
- (2) give notice to the Lakeside Cinema Fremantle Pty Ltd of the termination of the Licensee Agreement between it and the City



- for the operation of an Outdoor Cinema at Manning Park; and
- (3) have no further dealings with Mr Marcus Ahern or Lakeside Cinema Fremantle Pty Ltd in relation to a cinema within the City, unless collection of the write off amount is forthcoming and an advance is made for any proposed future lease arrangements.

COUNCIL DECISION

MOVED Cllr K Allen SECONDED Mayor S Lee that Council:

- (1) write off the Debt of \$12,495.88 owed by the Lakeside Cinema Pty Ltd;
- (2) give notice to the Lakeside Cinema Fremantle Pty Ltd of the termination of the Licensee Agreement between it and the City for the operation of an Outdoor Cinema at Manning Park;
- (3) have no further dealings with Mr Marcus Ahern or Lakeside Cinema Fremantle Pty Ltd in relation to a cinema within the City, unless collection of the write off amount is forthcoming and an advance is made for any proposed future lease arrangements;
- (4) notwithstanding (3) above, advise Lakeside Cinema Fremantle Pty Ltd that it would be prepared to investigate the potential for it to re-establish an Outdoor Cinema to operate from Manning Park; and
- (5) in the event that no satisfactory arrangements can be made with Lakeside Cinema Fremantle Pty Ltd in respect of (4) above, seek expressions of interest from other suitable operators to provide an outdoor cinema at Manning Park.

CARRIED 10/0

Explanation

Whilst it is acknowledged that Lakeside Cinema Fremantle Pty Ltd should be accountable for funds owing to the City as a result of its venture, it should also be taken into consideration that a form of public entertainment was provided to the community. Council should endeavour to continue with the operation of a cinema and given Mr Ahern's statement that he wishes to pursue an optional arrangement with Council, this avenue should be explored in the first instance. Should such an alternative not be to Council's satisfaction, other operators could be invited to express an interest in providing this public entertainment service.



Background

The Lakeside Cinema Fremantle Pty Ltd has a License Agreement with the City of Cockburn for the use of a portion of Manning Park to operate an outdoor Cinema. Included in the License Agreement is the requirement for the licensee to pay a fee. There was also some reimbursement to be paid to the City for minor infrastructure works such as power connection to the site. The Lakeside Cinema has an outstanding debt owed to the City of \$12,495.88.

The City through Solicitors McLeod's, sent a letter of demand to Lakeside Cinemas on 14 November 2002, seeking to recover monies owed to the City. There had been no response to this letter.

Submission

N/A

Report

Council's Solicitors advise that the City could issue a plaint (summons) out of the Fremantle Local Court to seek judgement for the outstanding debt. However, the situation could arise where there is a judgement in favour of the City but there are no assets to satisfy the debt. This appears to be a likely scenario.

Under section 6.12(1)(c) of the Local Government Act, there is a requirement for the Council to formally write off a debt. It is proposed that this line of action be taken.

As Lakeside Cinema Fremantle is in breach of the terms of the License Agreement due to it not paying the agreed fee, the City may give notice and terminate the agreement. Given that the licensee has not responded to the letter of demand or proposed any payment option, it is recommended that the License agreement between the City and Lakeside Cinema Fremantle Pty Ltd be terminated.

In a letter dated 6 November 2002, Lakeside Cinema's Mr Marcus Ahern advised that it would not be operating the outdoor cinema in 2002/03 but advised that they wish to put an option to the Council for the 2003/04 season. To date there has been no options provided.

As the lessee is in breach of the terms of the lease and has an outstanding debt to the City, it is proposed that Council have no further dealings with Mr Marcus Ahern or the Fremantle Lakeside Cinema Pty Ltd in relation to a cinema within the City, unless collection of the write off amount is forthcoming and an advance is made for any proposed future lease arrangements.



Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

The City carried out and oversaw \$6,207.78 worth of Infrastructure costs such as plumbing and electrical works to accommodate the needs of Lakeside Cinema, which was to be reimbursed, but remains outstanding. The works carried out do have some long-term value to the City as they can be used for other activities run by the City on the site.

A further \$658.61 was owed for the drawing up of the lease agreement by Council's Solicitors. There are also outstanding electrical accounts to the value of \$1,063.21.

Based on the estimates provided by Lakeside Cinemas Council budgetted for an income of \$35,000 based on 10% of ticket sales. The actual income owed by the Cinema only came to \$7,536.28 which was also not paid. The total amount then owed by Lakeside Cinemas was \$15,465.88.

The City owed Lakeside Cinema the sum of \$2,970 for cleaning of the toilets and the site for event run by the City. This amount has been receipted against the amount owed by the Cinema giving a revised total amount owed of \$12,495.88.

Legal Implications

Section 6.12 (1)(c) of the Local Government Act 1995 refers.

Council could legally pursue recovery of the debt however, it is likely that even if a decision was brought down in favour of the Council, it is unlikely that the funds would be recovered.

Community Consultation

N/A

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

Nil.



17.3 (MINUTE NO 2134) (OCM 19/08/2003) - PRINTING SERVICES CITY OF COCKBURN NEWSLETTER 'COCKBURN SOUNDINGS' (1022) (CHE)

RECOMMENDATION

That Council accept the tender submitted by PK Print for Tender No. 23/2003 to undertake the printing of the City of Cockburn newsletter 'Cockburn Soundings' at a cost of \$42,537.00 (incl. GST) per year, for 6 issues of 12 pages each with a print run of 35,000.

COUNCIL DECISION

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

CARRIED 10/0

Background

For the last three years, the printing of 'Cockburn Soundings' has been done by Show Ads Digital (a division of PMP Print). During this time the printing has been quite satisfactory. There have been several delays to the publishing which have been beyond the control of Show Ads Digital.

In accordance with Delegation SES3, Deputy Mayor Richard Graham has required that the tender for the printing of the Cockburn Soundings be presented to Council for a decision.

Council's latest contract for the printing of 'Cockburn Soundings' ended on 31 July 2003. Tenders were invited under delegated authority by advertising in 'The West Australian' and at the close of the tender period, six (6) submissions were received.

Submission

N/A

Report

The six tenders received have been assessed under the following criteria, which were outlined in the invitation to tender:-



Description of Criteria	Weighting
Demonstrated experience in completing similar projects/supply similar goods and services.	20%
Skills and experience of key personnel.	15%
Tenderer's resources.	15%
A demonstrated understanding of the required tasks.	10%
Tendered price	40%

Tenderers were required to provide adequate information in their tender submissions to allow for scoring each criterion.

The assessments made under these criteria, as determined by the Purchasing Coordinator and Communications Manager, are as follows:-

Tenderer	Assessment	Price per year
Worldwide Print	57.4%	\$71,364.00
PMP Print	65.4%	\$68,211.00
Smallprint	50.3%	\$71,854.20
New Formula Print	50.7%	\$61,215.00
Scott	64.0%	\$55,770.00
PK Print	67.2%	\$42,537.00

PK Print has both the lowest price and highest qualitative score out of the tenderers.

Before the latest contract with Show Ads Digital (a division of PMP Print), PK Print printed the newsletter. PK and PMP were the only tenderers with past experience in printing 'Cockburn Soundings'.

An important specification in the tender for the printing of 'Cockburn Soundings' is that the contractor, for the duration of this contract, shall provide for Council's staff use:

- a) One (1) G3 Apple Mac or equivalent preferred computer hardware; and:
- b) One (1) full suite of software, including QuarkXpress Suitcase, or equivalent computer software.

PK Print has addressed this specification in writing. Of the tenderers, only New Formula Printers did not specifically address this specification.



Strategic Plan/Policy Implications

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

1. "Managing the City in a competitive, open and accountable manner."
2. "To deliver services and to manage resources in a way that is cost effective without compromising quality."

Budget/Financial Implications

Funds are provided in the 2003/04 Budget for Cockburn Soundings with the recommended tender being within the budget allocation.

Legal Implications

Nil.

Community Consultation

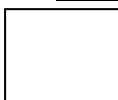
N/A

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

Nil.

17.4 (MINUTE NO 2135) (OCM 19/08/2003) - JESS THOMAS INFANT HEALTH CENTRE (RA) (8211)

<p>RECOMMENDATION That:</p> <ol style="list-style-type: none">(1) Council agree to allocate \$20,000 in the current budget towards the cost of installing a reverse cycle air-conditioner at the Jess Thomas Infant Health Centre, with funding of \$10,000 being contributed from the State Health Department, the balance of \$10,000 being transferred from the Major Building Refurbishment Reserve Fund;(2) the 2003/04 Budget be amended accordingly by:<ul style="list-style-type: none">• Account CW-4125-6210 Purchase of Airconditioner – Jess Thomas \$20,000• Account CW-4125-4133 Transfer from Major Building Refurbishment Reserve Fund \$10,000
--



- Account CW-4125-5110 Grant Income – State Health Department \$10,000

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Cllr V Oliver SECONDED Cllr S Limbert that :

- (1) Council agree to allocate \$20,000 in the current budget towards the cost of installing a reverse cycle air-conditioner at the Jess Thomas Infant Health Centre, with funding of \$10,000 being contributed from the State Health Department, the balance of \$10,000 being transferred from the Major Building Refurbishment Reserve Fund;
- (2) the 2003/04 Budget be amended accordingly by:
 - Account CW-4125-6210 Purchase of Airconditioner – Jess Thomas \$20,000
 - Account CW-4125-4133 Transfer from Major Building Refurbishment Reserve Fund \$10,000
 - Account CW-4125-5110 Grant Income – State Health Department \$10,000
- (3) a report be prepared for consideration by Council on the possible refurbishment of the crèche and toilets at the Jess Thomas Infant Health Centre, including the costs involved and any funding that the Health Department may be willing to contribute.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 10/0

Explanation

Following inspection of this venue by a Councillor, it was felt that there is a need to brighten the walls of the creche area and change the children's toilet seats as they are the original seat from when the venue was first built and are in need of replacement. Cockburn should only offer and provide the best facilities for our younger generation. Council should only be providing the best facilities for its users.



Background

The City and the Health Department jointly funded the establishment of a consolidated Infant Health Clinic in the refurbished Jess Thomas Pre School. The City and the Health Department contributed \$70,000 and \$56,000 respectively. At the time of the refurbishment, there was recycling air-conditioning placed in the Infant Health Clinics. The existing evaporative air-conditioner was left in the main meeting area and the heaters in the area moved at the request of the Health Department, as they were deemed unsafe.

The Health Department had administratively agreed to replace the heaters. Since the centre has reopened, there has found to be a problem also with the evaporative air-conditioner which had been installed many years ago.

Submission

The Western Australian Health Department has contacted the City requesting that the cost of a reverse cycle air conditioner be shared on a 50/50 basis.

Report

This area has proven to be very well utilised by parents with young children and the lack of heating and cooling has proved to be a problem for young children. Furthermore, the evaporative air-conditioner currently in place has proven to be very noisy and not worth repairing due to its age. The Health Department is seeking a spirit of cooperation with the City and has proposed that the cost of the provision of reverse cycle air-conditioning to this area be shared on a 50/50 basis which will require a contribution by the City of \$10,000. The provision of infant health clinics has been a long standing arrangement between local government and State government with the local authority being responsible for the cleaning, maintenance and operating expenses of the building with the Health Department paying wages.

Given the circumstances and the need to provide a reasonable standard of amenity for centre users, the Health Department request is not unreasonable.

Strategic Plan/Policy Implications

Construct and maintain community buildings, which are owned by Council, to meet community needs.



Budget/Financial Implications

There are funds available within the Building refurbishment fund for a purpose such as that proposed. The State Health Department will provide a \$10,000 contribution towards the project.

Legal Implications

Nil.

Community Consultation

This matter has been the subject of a number of complaints from users of the Infant Health Clinic.

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

Nil.

18. EXECUTIVE DIVISION ISSUES

Nil

19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

20. NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING

Nil

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

- 21.1 (MINUTE NO 2136) (OCM 19/08/2003) - CONTAINER REFRIGERATION PTY LTD - LOT 121 O'CONNOR CLOSE, HAMILTON HILL - TOWN PLANNING APPEAL 40/2001 AND PROSECUTION (2213440) (SMH)**

RECOMMENDATION

That Council:

- (1) receive the report;
- (2) advise McLeods that the Council is prepared to agree to:-



1. discontinue Town Planning Appeal No. 40/2001 between the City of Cockburn and Container Refrigeration Pty Ltd subject to:-
 - (i) the appellant agreeing to pay to the Council all reasonable costs expended by the Council as respondent to the appeal as negotiated by Council's Solicitors;
 - (ii) the Council applying to the Town Planning Tribunal for an order of costs, in the event that the appellant does not agree to pay to the Council all reasonable costs expended by the Council as respondent to the appeal;
2. defer the action commenced to prosecute Container Refrigeration Pty Ltd for using Lot 121 O'Connor Close (No. 46 Rollinson Road), Hamilton Hill to store containers without Council approval until after 28 February 2004, and reserves the right to recommence the prosecution should Container Refrigeration Pty Ltd not sell the land as advised in a letter from Hardy Bowen, Lawyers, to the Council's Solicitor dated 13 August 2003 and vacate the property by 28 February 2004.

COUNCIL DECISION

MOVED Clr M Reeve-Fowkes SECONDED Clr V Oliver that the recommendation be adopted.

CARRIED 10/0

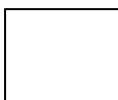
Background

The Council at its meeting held on 21 May 2002, resolved in relation to the appeal and prosecution of Container Refrigeration Pty Ltd as follows:-

“(1) receive the report;

(2) advise the appellant that if:

1. *a formal response is not received by Thursday, 30 May 2002 to the Council's offer to settle the appeal as set out in the letter dated 7 November 2001 to Phillips Fox, from McLeods on behalf of the City of Cockburn, the Council*



inform the Tribunal that it does not believe any purpose will be served by continuing mediation in respect of Tribunal Appeal No.40 of 2001.

- (3) *commence prosecution action, but defer the hearing until the outcome of Tribunal Appeal No.40 of 2001 is known. At that time the Council can decide which options to adopt in regard to continuation of the prosecution, as discussed in the report.*

CARRIED 6/2

The appeal was lodged by Container Refrigeration with the Town Planning Appeal Tribunal on 27 April 2001. Since this time, a period of almost 2¹/₂ years, the appellant has deferred the appeal hearings.

The dates currently set down by the Tribunal to hear the appeal are 26, 27, 28 and 29 August 2003.

The appeal will continue on these dates if the appellant decides to continue with the appeal.

Submission

On 14 August 2003, a facsimile was received from McLeods, attached to which was a letter dated 13 August 2003 from Hardy Bowen, Lawyers, acting on behalf of Container Refrigeration which stated:-

“Town Planning Appeal Tribunal: Container Refrigeration Pty Ltd

We refer to these appeals, to be heard concurrently before the Tribunal at the end of this month.

We are instructed by our client that discussions have been taking place in relation to the sale of Lots 119, 120 and 121 O'Connor Close by our client to South Beach Pty Ltd. Our understanding is that final sale documentation is about to be signed. We are instructed that if the documentation is concluded then the appeals will not proceed. Indeed, we are instructed that one of the conditions of sale is that the appeals be discontinued.

We are instructed by our client that it is prepared to discontinue both appeals, on the following basis:

- 1. The sale documentation is finalised and executed.*
- 2. None of the Western Australian Planning Commission, South Beach Pty Ltd or the City of Cockburn seeks any costs in relation to the appeals.*



3. *Neither the City nor the WAPC seek any payment from Container Refrigeration Pty Ltd either now or at any time in the future, associated with the use of the lots referred to above for the period 1995 to February 2004 (being the date upon which it is expected our client will vacate the land). We understand this to be a reference to any prosecution of our client for the use of the property."*

Hardy Bowen are seeking an urgent response.

Report

Because of the decision to proceed with the appeal and initiate action to prosecute Container Refrigeration, it is necessary for the Council to determine the response to Hardy Bowen.

Based on the Hardy Bowen letter it appears that Container Refrigeration are close to finalising the sale of Lots 119, 120 and 121 O'Connor Close to South Beach Pty Ltd.

Given this, Container Refrigeration is prepared to discontinue the appeal, which they have the right to do. However, they have stipulated 3 conditions of which 2 relate to the Council.

In the circumstances, it is recommended that:-

- The Council recover all reasonable costs expended to date in preparing a response to the appeal, as this is a cost that should not be borne by Council (ratepayers).
- The Council retain the right to continue prosecution action in the event that the land does not sell and/or be vacated by the end of February 2004.

The recommendation to the Council has been prepared accordingly.

Strategic Plan/Policy Implications

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

1. Managing Your City
 - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*



The Policies which apply to this item are:-

APD1	Clause 32 Approvals
APD29	Development Compliance Process
APD39	Response to Appeals

Budget/Financial Implications

It is estimated that the legal cost incurred by the Council in respect to the appeal is in the order of \$15,400. Of this amount, only about \$5,000 - \$6,000 is likely to be recovered through the Tribunal following an order of costs.

Given this, the Council should seek the full recovery of the costs of \$15,400 from Container Refrigeration and if they are not prepared to negotiate with the Council, instruct Council's Solicitor to seek an order of costs from the Tribunal.

In respect to the Prosecution, legal expenses only amount to \$110.

None of the above costs include the inordinate amount of staff time investigating the matter and preparing the appeal. This said, the appellants have a right to appeal and a right to discontinue the appeal.

Should the appellant not agree to the Council conditionally agreeing to discontinue the appeal, then the appeal would continue and despite the outcome, no costs would be awarded.

Legal Implications

The appeal and the prosecution are part of a legal process. However, there are 2 appeals, namely:-

- 40/2001 is Container Refrigeration vs the City of Cockburn and in this case, South Beach Pty Ltd has joined the Council as a co-respondent.
- 39/2001 is Container Refrigeration vs the WAPC.

These are separate appeals but were to be heard together for convenience.

Because the Council cannot respond on behalf of the other respondents, the appellant will need to get agreement from the other parties also. The discontinuance of the appeals will depend on the response of South Beach Pty Ltd and the WAPC.



Community Consultation

The right of appeal exists under Council's Town Planning Scheme and is a public process.

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

The appeal under the Town Planning Scheme is independent from the appeal made by the appellant against the WAPC decision (Clause 32) under the Metropolitan Region Scheme.

21.2 (MINUTE NO 2137) (OCM 19/08/2003) - PREPARATION OF BUSINESS PLAN - DEVELOPMENT AND SALE OF 9 RESIDENTIAL LOTS - LOT 9050 BARTRAM ROAD, SUCCESS (6000473) (KJS) (ATTACH)

RECOMMENDATION

That Council prepare a Business Plan to enter into a major land transaction, being the development and sale of nine (9) residential lots on portion of Lot 9050 Bartram Road Success, pursuant to section 3.59 of the Local Government Act 1995.

COUNCIL DECISION

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

CARRIED 10/0

Background

Council at its meetings held on 21 December 1999 and 18 June 2002, resolved to exchange portions of Lots 12 and 13 Bartram Road, owned by the City, for an area of land part of Lot 9050 owned by Gold Estates.

The area of the land to transfer to the City is 6862 square metres.

Submission

Gold Estates have lodged Engineering Plans and informed the City that they will be developing the next Stage of Magnolia Gardens which includes the City's land.



Report

This matter requires the urgent attention of Council because of the contractual arrangements with Gold Estates and the time required to produce and publish a Business Plan for public comment.

The agreement between the City and Gold Estates stipulates that the City develop its land to synchronise with the development and sales program undertaken by Gold Estates. Gold Estates are proposing to commence civil works within 2 months and conduct a sales marketing program in December 2003.

It is estimated that the sale price of the lots will exceed \$500,000 and therefore a Business Plan is required to be prepared, under section 3.59 of the Local Government Act.

The Business Plan will include an overall assessment of the major land transaction and will include details of:-

- (a) its expected effect on the provision of facilities and services by the local government;
- (b) its expected effect on other persons providing facilities and services in the district;
- (c) its expected financial effect on the local government;
- (d) its expected effect on matters referred to in the local government's current plan (Principal Activities Plan) prepared under section 5.56;
- (e) the ability of the local government to manage the undertaking or the performance of the transaction; and
- (f) any other matter prescribed for the purposes of this transaction.

State wide notice of the plan will be published with at least 6 weeks being given for the receipt of submissions on the plan.

At the conclusion of the process, Council will need to consider the submissions received and formalise its intentions by resolution.

At this stage the exact cost of the development is not known. As the City is required to develop the land at the same time as Gold Estates, the most cost effective development strategy will be to use the same civil consultants and contractors as used by Gold Estates. Contracts are yet to be negotiated for this stage of Magnolia Gardens.



The marketing and sale of the resultant 9 lots can be undertaken by either Gold Estates Marketing Agent, Richard Noble, or other experienced companies.

It is important to have the Business Plan prepared, advertised and considered early so that the lots can be marketed prior to Christmas. Currently there is strong demand for residential lots in Success, while it is reported that pre-Christmas is the best time to have lots on the market.

Strategic Plan/Policy Implications

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

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

Budget/Financial Implications

The budget and financial implications will be determined through the preparation of the Business Plan. It is expected that the price of the lots will be between \$85,000 and \$95,000, which would generate a gross return from 9 lots of between \$765,000 and \$855,000.

Legal Implications

Contractual arrangements between Gold Estates and the City have already been entered into.

Section 3.59 of the Local Government Act, 1995 refers.

Community Consultation

The notification of the Business Plan will advise the public of the Council's intention and invite comment prior to Council formally proceeding.

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

Nil



22 (OCM 19/08/2003) - MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE

Mayor Lee requested that a report be prepared on safety issues at Jandakot Airport in light of recent accidents. The report should address the lack of a full time fire service at one of Australia's busiest airports, manning hours in the Control Tower and any other issues of safety that may be pertinent to the users of the airport and residents of the City.

23. CONFIDENTIAL BUSINESS

Nil

24. (MINUTE NO 2138) (OCM 19/08/2003) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)

RECOMMENDATION

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

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

COUNCIL DECISION

MOVED Cllr M Reeve-Fowkes SECONDED Cllr S Limbert that the recommendation be adopted.

CARRIED 10/0

25 (OCM 19/08/2003) - CLOSURE OF MEETING

MEETING CLOSED AT 7.58PM.



CONFIRMATION OF MINUTES

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

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

