

CITY OF COCKBURN



SPECIAL COUNCIL

AGENDA PAPER

FOR

THURSDAY, 25 FEBRUARY 2010

CITY OF COCKBURN

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CITY OF COCKBURN

AGENDA TO BE PRESENTED TO THE SPECIAL COUNCIL MEETING TO BE HELD ON THURSDAY, 25 FEBRUARY 2010 AT 7:00 PM

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

Members of the public, who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.
- 4. ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (by Presiding Member)**
- 5. APOLOGIES & LEAVE OF ABSENCE**
- 6. PUBLIC QUESTION TIME**
- 7. DECLARATION BY COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS**

8 (SCM 25/02/2010) - PURPOSE OF MEETING

The purpose of the meeting is to consider:

1. Indemnification to Department of Environment and Conservation for site works at Poore Grove, Coogee (*open to the public*); and
2. Results of mediated negotiations with Australand on Port Coogee Structure Plan (*a confidential matter which will not be open to the public*).

9. COUNCIL MATTERS

9.1 (SCM 25/02/2010) - AUTHORITY FOR CEO TO ISSUE INDEMNIFICATION FOR COUNCIL PROJECTS ON NON COUNCIL CONTROLLED LAND (8004) (K SIM) (ATTACH)

RECOMMENDATION

That Council:

- (1) indemnify the Department of Environment and Conservation against all suits, claims, demands, costs and losses associated with the development of facilities on Reserve 49220, Poore Grove, Coogee; and;
- (2) adopt the instrument of Delegated Authority to the Chief Executive Officer, as contained in the attachment to the Agenda.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

Council at its meeting held on 12 July 2007 resolved to enter into a Memorandum of Understanding with the Coogee Beach Surf Life Saving Club to develop a Regional Surf Life Saving and Multipurpose Community Facility at Poore Grove, Coogee. The development site occupies portion of Reserve 24306 which is managed by the City, and

Reserve 49220 which is currently managed by the Conservation Commission of Western Australia (Department of Environment and Conservation being the relevant State Government department).

Submission

The Department of Environment and Conservation ("DEC") has written to the City requesting that the City indemnify the DEC against all suits, claims, demands, costs and losses prior to the City commencing civil works on the site. This is due to portion of these works being within Reserve 49220, which is currently in the process of being adjusted to place the entire facility within an enlarged Reserve 24306 which is under the City's control.

Report

DEC, as the management agency for the Conservation Commission of WA, has agreed to amend the common boundary between the two reserves such that the proposed facility will be entirely within the City's Reserve 24306. The transfer will take some time to complete however, as the matter has to be attached to a future Reserves Bill and considered by both Houses of Parliament as per the legislative requirements concerning A Class reserves.

In the interim period DEC have consented to the project commencing subject to the Chief Executive Officer of the City providing an indemnity to DEC against all proceedings, actions, suits, claims, demands, costs and losses as a result of the City's involvement on the site. It is considered prudent to make the delegated authority applicable to this and future projects that may require similar forms of indemnity. All indemnities provided will be in a form that protects the City's interest and will not be issued until the particular project has been accepted by the City's insurer as being covered by the City's insurance policy.

It is proposed that Council provides the authority for the Chief Executive Officer to approve similar indemnities in the future, in order to avoid potential delays in Council projects while Council permission is sought.

Strategic Plan/Policy Implications

Infrastructure Development

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

Governance Excellence

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

Budget/Financial Implications

Nil

Legal Implications

Section 9 .49A (1) (4) of the *Local Government Act 1995* refers.

Community Consultation

N/A

Attachment(s)

1. Delegated Authority LGAES 11 "Execution of Documents"
2. Copy of correspondence from Department of Environment and Conservation
3. Plan of Proposed Common Boundary Reserves 24306 & 49220.

Advice to Proponent(s)/Submissioners

N/A

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

Nil

- 9.2 (SCM 25/02/2010) - STATE ADMINISTRATIVE TRIBUNAL MEDIATION - REVISED PORT COOGEE LOCAL STRUCTURE PLAN - OWNER: AUSTRALAND HOLDINGS PTY LTD - APPLICANT: TAYLOR BURRELL BARNETT (9662) (D ARNDT) (ATTACH)

RECOMMENDATION
That Council advise the State Administrative Tribunal that it is prepared to approve the revised Port Coogee Local Structure Plan, the Marina Village Masterplan and Port Coogee Transport Report, in accordance with the Grounds for Settlement, as provided under separate, confidential cover.

COUNCIL DECISION

Background

On 16 October 2009 Australand lodged an Application for Review (Appeal) with the State Administrative Tribunal on the basis that the Structure Plan was deemed refused, as the City had not made a determination within the specified timeframe under the Scheme.

Submission

To receive the Officer's Report and adopt its recommendation.

Report

The City's Director of Planning & Development Services and three Elected Members have attended numerous mediation meetings with Australand and their consultants. Following extensive negotiations, this matter appears to be the subject of general agreement and is now referred to Council for its consideration. If Council accepts the mediation outcomes, the State Administrative Tribunal will issue Minute Consent Orders and the Appeal will have deemed to have been settled by agreement.

Section 54(6) of the State Administrative Tribunal Act 2004 requires mediation to be held in private, unless the Mediator directs otherwise. Accordingly, the Grounds for Settlement remain confidential.

Strategic Plan/Policy Implications

Employment and Economic Development

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

Natural Environmental Management

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

Budget/Financial Implications

Costs of \$32,867 have been billed to 01 February 2010. This includes a briefing to Council by Council's solicitors in October 2009, an independent planning consultant who has been engaged to assist in the preparation of respondent statements, attendance at mediation, site meetings and drafting of conditions and an independent economic analysis of the retail study. These costs are covered within the 2009/10 budget.

Legal Implications

Planning and Development Act 2005
State Administrative Tribunal Regulations 2004

Community Consultation

N/A

Confidential Attachment(s)

- (1) Officer's Report and Recommendations.
- (2) Revised Structure Plan.

Advice to Proponent(s)/Submissioners

Australand Holdings Pty Ltd has been advised that this matter is to be referred to a Special Meeting of Council on 25 February 2010.

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

Nil.

10. (SCM 25/02/2010) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)

RECOMMENDATION

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

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

COUNCIL DECISION

11. CLOSURE OF MEETING