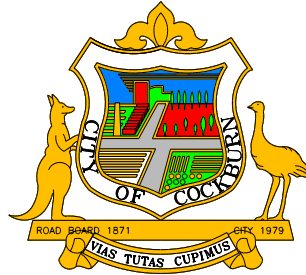


CITY OF COCKBURN



ORDINARY COUNCIL

AGENDA PAPER

**FOR
TUESDAY 21 AUGUST 2001**

CITY OF COCKBURN

SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON TUESDAY, 21 AUGUST 2001 AT 7:30 P.M.

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CITY OF COCKBURN

AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON TUESDAY, 21 AUGUST 2001 AT 7:30 P.M.

- 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 (by Presiding Member)**

- 5. APOLOGIES AND LEAVE OF ABSENCE**

- 6. ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

- 7. PUBLIC QUESTION TIME**

8. CONFIRMATION OF MINUTES

8.1 (Ocm1_8_2001) - ORDINARY COUNCIL MEETING - 17/7/2001

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on Tuesday, 17 July 2001 be confirmed as a true and accurate record.

COUNCIL DECISION

8.2 (Ocm1_8_2001) - SPECIAL COUNCIL MEETING - 30/7/2001

RECOMMENDATION

That the Minutes of the Special Council Meeting held on Monday, 30 July 2001 be confirmed as a true and accurate record.

COUNCIL DECISION

9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE

10. DEPUTATIONS AND PETITIONS

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

Nil

12. DECLARATION BY COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS PAPER PRESENT BEFORE THE MEETING

13. COUNCIL MATTERS

13.1 (Ocm1_8_2001) - REPORT OF INTERNAL AUDIT COMMITTEE (5017) (DMG) (ATTACH)

RECOMMENDATION

That Council receive the Minutes of the Internal Audit Committee Meeting dated 9 August 2001, and the recommendations contained therein be adopted.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION**Background**

The inaugural meeting for the current Council of the Internal Audit Committee was conducted on 9 August 2001. The committee considered two major reviews undertaken since the previous Committee Meeting which was held in August 2000. The minutes and relevant documentation are attached to the Agenda.

Submission

N/A

Report

The Financial Compliance Review is in its second year of a four year schedule and indicates a high level of compliance. The review of certain Internal controls focused in six areas of specific internal process, as approved by Council in August 2000. This review can be amended to include new issues which require monitoring, or to retain all or some of those matters which are currently under review.

Strategic Plan/Policy Implications

Key Result Area - "Managing Your City" refers

Budget/Financial Implications

N/A

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

Nil

13.2 (Ocm1_8_2001) - APPROVAL OF COUNCIL DELEGATION WITH SOUTH WEST GROUP (1320) (DMG) (ATTACH)

RECOMMENDATION

That Council:

- (1) grant approval to the Mayor and Chief Executive Officer (CEO) to be included in a delegation of representatives from South West Group Councils to Canberra in September/October, 2001; and
- (2) adopt proposed Policy AES9 "Approval to Participate in Representative Delegations" and relative instrument of Delegated Authority for inclusion in Council's Manuals.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

In the past, the South West Group, represented by the Mayor and CEO of each member council, arranged a delegation to Canberra for the purpose of lobbying Federal politicians on issues of critical importance to the Region generally on at least one of the member councils. In recent years however, there has been no tangible benefits identified in taking this action, hence the delegation was not arranged. However, with a Federal election looming, it is perceived to be an excellent opportunity for the Region to raise important issues of Regional significance and endeavour to obtain some commitments from those likely to be able to influence outcomes in the next Federal Parliament.

Submission

N/A

Report

At the July 2001 South West Group Meeting, a decision was made to form a delegation of representatives from each of the Member councils to visit Canberra in September or October this year, with a view to arranging meetings with key Federal politicians for the purpose of briefing them on the role and purpose of the Groups generally, and to make them aware of specific projects occurring in the Region which may be of interest to them.

In the past, such delegations have been successful in obtaining support and/or commitments of support to the Group in effecting an outcome aligned to the position taken by the Region, or of one or more of its constituent councils.

With the Federal election to be conducted by the end of the year, an opportunity presents itself for Councils of the Region to communicate issues of high priority and importance to those in a position to influence favourable outcomes for the South West Metropolitan Area.

Of even greater significance, is the possibility that the next Prime Minister and a likely Senior Minister, could represent the next Government as Members of Parliament in two electorates which are contained within the Region.

Consequently, it is considered appropriate for the Mayor and CEO to participate in the delegation to ensure the interests of the City of Cockburn are supported.

In addition, it is proposed that such decisions to attend these, or similar, delegations in the future, be made without the necessity for specific Council approval on each occasion. Such a procedure can be facilitated by the adoption of an appropriate Council Policy, as attached, together with a corresponding delegation of authority to the CEO.

Strategic Plan/Policy Implications

Key Result Area "Managing Your City" refers.

Budget/Financial Implications

Funds available in Conference (Governance) A/c's 110290 and 116290.

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

Nil

**13.3 (Ocm1_8_2001) - APPOINTMENT OF DELEGATE/
REPRESENTATIVE TO COMMITTEES/EXTERNAL
ORGANISATIONS (1701) (DMG)**

RECOMMENDATION

That due to the resignation of Clr Rennie as Councillor of the City of Cockburn, Council appoints the following Council Delegates/Representatives to the Committees/Organisations as listed below:-

Community Services Division - Social Services Unit

MUSEUM MANAGEMENT COMMITTEE

(Meets 4th Tuesday - March each year - 5:30pm meeting followed by dinner)

Delegate: _____

COCKBURN SPORTS COUNCIL

(Meets 1st Wednesday each quarter - Feb, May, Aug, Nov – Old Council Chambers at 8:00pm)

Delegate: _____

Coordinator Recreation Services - Adrian Jarvis

Planning and Development Division - Environmental Services

BEELIAR REGIONAL PARK ADVISORY COMMITTEE

(Meets as necessary)

Deputy Delegate: _____

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

Council, at its Special Meeting of 12 December 2000, appointed delegates/representatives to various Committees and Organisations.

Submission

N/A

Report

Clr Susan Rennie has resigned from Council, with such resignation taking effect from 18 July 2001.

Clr Rennie represented Council as delegate to the Cockburn Sports Council and Museum Management Committee. Clr Rennie was also Deputy Delegate to the Beeliar Regional Park Advisory Committee.

Council is to consider appointing another elected member to the Committees/Organisation as from and including 19 July 2001. The appointment will remain until May 2003 unless otherwise determined by Council.

It should be noted that it is the Mayor's prerogative to nominate to represent Council on the Museum Management Committee, which is a Committee established by Council.

In addition, it is appropriate to include Mr Adrian Jarvis as Council's delegate to the Cockburn Sports Council in his capacity as Council's Recreation Services Coordinator, owing to the resignation of the previous incumbent, Andrew Ward.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

Nil

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

Nil

13.4 (Ocm1_8_2001) - LOCAL LAW RELATING TO STANDING ORDERS. (1148) (DMG) (ATTACH)

RECOMMENDATION

That Council:

- (1) based on the opinion provided by McLeod & Co, Barristers and Solicitors, inform the Joint Committee on Delegated Legislation that it does not consider Clause 4.14 (Declaration of Due Consideration) of its Local Law relating to Standing Orders either ultra vires or inconsistent with the provisions of the Local Government Act, 1995, which relate to role of Councillors and accordingly, it is not prepared to provide an agreement to the

Committee that it will remove the Clause or any part of it from its Standing Orders; and

- (2) inform the Hon. Minister for Local Government and the Western Australian Municipal Association of Council's decision, seeking their support of Council's position.

COUNCIL DECISION

Background

The 1999/2000 Inquiry into the City of Cockburn headed by Mr Neil Douglas, produced a comprehensive Report on the matters contained within its Terms of Reference. In addition, the Report made reference to many other practices and incidents, which were ancillary in nature and, although not directive in their findings, were seen to act as a guidance to be considered by Council.

One such matter was the observation by the Inquirer (Ref P.616-617 "Douglas Inquiry" Report) that some previous Councillors of Cockburn had formed an undesirable habit of not familiarising themselves with the contents of Council Agenda Papers prior to considering these matters at a formal meeting.

This was a matter which was of concern to some elected members dating back as far as 1996. Consequently, there was an attempt to remedy this inadequacy when a review of Council's Standing Orders Local Law was undertaken in 1998.

However, the matter was unable to receive the necessary Council support for it to be included as a requirement in Council's meeting procedures and therefore, was not pursued any further.

It was only when the issue was noted again during the Douglas Inquiry, that Council's administration deemed it appropriate to raise the issue with the Council of the day.

Subsequently, Council agreed that the Standing Orders Local Law should contain a Clause which required all Elected Members to familiarise themselves with the contents of Council's Meeting Papers, prior to the opening of the Meeting.

This Clause was ultimately adopted as Clause 4.14 of the Standing Orders and is entitled "Declaration of Due Consideration". The effect of the declaration is that, should a Councillor(s) indicate that they have

not given consideration to all or part of the contents of the Council Agenda Paper prior to the commencement of the Meeting, then they should declare that fact and excuse themselves from participating in the decision making processes of those parts of the Meeting Agenda with which they are not in a position to consider their merits.

The justification for this action is based on the inability of a decision maker to give fair reasoning to the matters being addressed by Council if they have not been able to brief themselves on the subject matter.

Submission

N/A

Report

With the election of a new Council in December 2000, the newly constituted Council members were appraised of the requirements of their elected duties, one part of which was meeting procedure and the Standing Orders. Council, as a unit, is generally comfortable with the Standing Orders, including the "Due Consideration" requirement and its effect if not complied with.

However, in very recent times, Council has been contacted by the Joint Standing Committee on Delegated Legislation which advises that the Committee is unhappy with the amendment and will, in all probability, be seeking its deletion from Council's Standing Orders, in so far as it requires Elected Members making the declaration, to disqualify themselves from participating in the discussion or voting.

The main reason cited in the correspondence (attached to the Agenda), is that such a requirement could deny an Elected Member not only the right to participate in the decision making processes of Council, but that they would be unable to fulfil their responsibilities as required under the Local Government Act, 1995. Therefore, the Committee is challenging the legality of the "Due Declaration" Clause, particularly as it relates to Elected Members not being able to participate in the decision making process.

It is the opinion of Council's Solicitors (as attached), that such a notion is unfounded, given that it is a responsibility of the Council to provide for the good governance of its District. It is difficult to reconcile how good government can be administered by Council decision makers if they are not required to be familiar with the very matters upon which they are passing judgement. This comment is supported and expanded upon in the legal opinion.

Given that the concerns of the Committee appear to be baseless and that Council's meeting processes are not being adversely impacted by

the “Due Consideration” Clause, it is recommended that Council not agree to remove Clause 4.14 from its Standing Orders Local Law.

Furthermore it is suggested that Council informs both the Minister for Local Government and the Western Australian Municipal Association of this issue, with a view to seeking the support of these key stakeholders of Local Government in ensuring that the basic principle of Local Government being able to determine its own affairs, within general competence framework presented under Section 3.1 of the Local Government Act, 1995 is applicable to this case.

Strategic Plan/Policy Implications

Key Result Area – “Managing Your City” Refers

Budget/Financial Implications

N/A

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

Nil

13.5 (Ocm1_8_2001) - ESTABLISHMENT OF THE ATWELL RESERVE MANAGEMENT COMMITTEE (8146) (RA)

<p>RECOMMENDATION That Council:-</p> <p>(1) establish the Atwell Reserve Management Committee to comprise of representation from the following organisations:-</p> <ul style="list-style-type: none"> • City of Cockburn (1) • South Fremantle Football Club (1) • Jandakot Jets Football Club (1) • Jandakot Eagles Softball Club (1) • Southern Districts Softball Association (1); and <p>(2) appoint Councillor as Council's Delegate to the Committee.</p> <p style="text-align: center;">TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL</p>
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COUNCIL DECISION

Background

The Atwell Reserve Clubrooms have been completed and an association formed to manage the facility on behalf of Council.

Submission

N/A

Report

Council has had the long-term practice of involving clubs and associations in the management of club/changerooms they utilise.

It is a requirement under the Local Government Act, for Council to formalise the club/association membership of the Atwell Reserve Management Committee. These member club/associations are listed in the recommendation.

The Management Committee Agreement calls for an independent chairperson to be appointed by Council. It is customary that the Council Delegate to the Committee fulfill this role.

Strategic Plan/Policy Implications

"Managing the City in a Competitive, Open and Accountable Manner" refers.

Budget/Financial Implications

N/A

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

Nil

13.6 (Ocm1_8_2001) - NATIONAL YOUTH CONFERENCE 21 - 23 SEPTEMBER 2001 (1027) (DMG) (ATTACH)

RECOMMENDATION

That Council nominate Deputy Mayor Graham and Cllr Tilbury as delegates to attend the National Youth Conference to be conducted from 21 – 23 September 2001, at the Sheraton Hotel, Perth.

COUNCIL DECISION

Background

The National Youth Conference will provide an opportunity for young people aged between 18-25, to come together from all over Australia. It is anticipated that approximately 300 young Australians will attend to discuss issues and concepts relating to young people and the future and to make recommendations to government at all levels.

Submission

N/A

Report

The following information is provided in support of the nominated Councillors attending the Conference on Council's behalf .

- (1) Local Governments are asked to support the Conference by sponsoring one or more young people as delegates.
- (2) Deputy Mayor Graham and Councillor Tilbury are within the criteria of "young people".
- (3) The purpose of the conference is to develop a vision for the future of Australia in its second 100 years of Federation.
- (4) Statutory duty under S2.10 of the Local Government Act 1995, is to provide leadership and guidance to the community.
- (5) Conference will provide delegates with a forum to discuss leadership of young people in the community.

Items for discussion include:

- Roles and responsibilities in a local and global context;
 - The future role of governments.
- (6) A delegate (Junior Mayor) from the Youth Advisory Council will also be attending.

Strategic Plan/Policy Implications

Key Result Area "Managing Your City" refers.

Budget/Financial Implications

Registration Fees (\$220 per delegate) are available in the Elected Members Conference Account.

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

Nil

13.7 (Ocm1_8_2001) - ELECTED MEMBER DEVELOPMENT PROGRAM - 24-26 AUGUST 2001, BUSSELTON (1705) (RWB)**RECOMMENDATION**

That the costs associated with Elected Members' partners joining with the Elected Members at the Development Program to be held at Busselton on 24-26 August 2001, be met by Council.

COUNCIL DECISION**Background**

Various enquiries into local governments have determined that a need exists to ensure that elected members are fully informed. It is critical therefore, that elected members are afforded the opportunity to attend development sessions. On occasions, it is appropriate that elected members' partners accompany the elected member.

Submission

Nil

Report

Elected members will be participating in a Development Program at Busselton on 24-26 August 2001.

The program has been developed in consultation with South West People Care.

The program requires that elected members stay overnight on the 24th and 25th.

All elected members are attending.

Elected members were requested to advise if their partner would wish to accompany them. There will be no additional cost other than meals and refreshments which could either be borne by Council or the elected member.

Advice is that four(4) partners of elected members have expressed an interest.

It is considered appropriate that Council pay the cost of meals and refreshments for the partners.

Strategic Plan/Policy Implications

Nil

Budget/Financial Implications

It is estimated that expenses would be in the region of \$500-\$600. Funds will be available in Account 110290.

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

Nil

13.8 (Ocm1_8_2001) - REPRESENTATIVE TO THE SOUTH METROPOLITAN MIGRANT RESOURCE CENTRE COMMITTEE (8928) (RA)

RECOMMENDATION

That Council appoints the Manager – Community Services as its Delegate to the South Metropolitan Migrant Resource Centre Committee.

COUNCIL DECISION

Background

A number of years ago, Council appointed the Manager of Community Services as a delegate to the then Fremantle Migrant Resource Centre. This group is now known as the South West Migrant Resource Centre (MRC) but remains located at the same address on the corner of Ord and High Streets in Fremantle.

Submission

N/A

Report

The MRC provides welfare, employment and training to high need immigrants who frequently arrive through the Australian Refugee Program. The funds for the services provided come from Commonwealth and State Government sources. Of all the local authorities south of the river of metropolitan Perth, the City of Cockburn has the highest number of high need immigrants as defined by the Department of Immigration and Ethnic Affairs.

The MRC hence serves an important role for a disadvantaged group within the City of Cockburn area. The Manager of Community Services has fulfilled an official role on the Committee for many years and wishes to continue as it is relevant to his position within the City.

Accordingly, it is appropriate to formalise the appointment in recognition of its relevance to the Cockburn community.

Strategic Plan/Policy Implications

To facilitate a range of services responsive to community needs.

Budget/Financial Implications

The position filled by the officer on the committee can be met within his existing role. The meetings of the management committee are usually outside of standard work hours.

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

Nil

13.9 (Ocm1_8_2001) - SOUTHERN METROPOLITAN ZONE - LOCAL GOVERNMENT ASSOCIATION - DELEGATES (RWB) (1701; 1332)

RECOMMENDATION

That :-

- (1) Deputy Mayor Graham be appointed as Council's delegate to the Southern Metropolitan Zone - Local Government Association, in lieu of Mr Brown, Chief Executive Officer; and

- (2) that Mr Brown be appointed as Deputy Delegate to the Council's Zone Delegates.

COUNCIL DECISION

Background

Council is entitled to appoint three delegates as voting members of the Southern Metropolitan Zone - Local Government Association.

Council, at its meeting of 12 December 2000, appointed Cllr Humphreys, Cllr Waters and the Chief Executive Officer as delegates, with Deputy Mayor Graham as Deputy for the Councillor delegates and Mr Green as Deputy for the CEO.

Submission

N/A

Report

Traditionally, the Council has been represented on the Southern Metropolitan Zone by two Councillors and the Chief Executive Officer. However in 1998/99, three Councillor delegates were appointed with the CEO as the Deputy.

Deputy Mayor Graham has expressed an interest in attending the Zone meetings as a Council Delegate. This position is supported by the CEO who proposed that the matter be placed before Council to seek alternative Council representation.

It is proposed that Deputy Mayor Graham replace the CEO as Council's delegate with the CEO being appointed as Deputy to the elected members.

Mr Green will remain as Deputy for the CEO as the CEO would continue to attend the Zone Meetings as a non-voting delegate.

Strategic Plan/Policy Implications

Key Result Area "Managing Your City" refers.

Budget/Financial Implications

Nil

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

Nil

14. PLANNING AND DEVELOPMENT DIVISION ISSUES

14.1 (Ocm1_8_2001) - SAND MINING - FRANKLAND RESERVE WATTLEUP (4412178) (SMH)

RECOMMENDATION

That Council:

- (1) receive the report;
- (2) reconfirm its strong opposition to the sand mining within Frankland Reserve;
- (3) instruct its solicitor, McLeod & Co, to represent the Council in the Mining Wardens Court to oppose the issue of a mining license to Amity Holdings Pty Ltd to quarry sand from Frankland Reserve;
- (4) advise the Frankland Reserve Community Committee and the Environmental Defenders Office of the Council's decision; and
- (5) write to the Minister for Energy requesting that the Mining Act be reviewed as a matter of urgency to prevent mining as a right within local and regional reserves.

COUNCIL DECISION

Background

Council at its meeting held on 17 July 2001, resolved that Council:

- "(1) *advise Porter Mathews and Amity Holdings that;*
1. *a proposal to exchange alternative land for Frankland Reserve is not supported.*
 2. *strongly objects to the mining of sand within Frankland Reserve.*

3. *as the vestee for the Frankland Reserve it is not prepared to sign the Application for Approval to Commence Development for an extractive industry to become established within this local Reserve.*

(2) *advise the Frankland Reserve Community Committee of Council's decision."*

The Council decision was based on the Officer's report and recommendation.

Since the preparation of that report, the Environmental Defenders Office has brought to the Council's attention, the fact that under the Mining Act 1978, minerals are defined as:-

" "minerals" includes all naturally occurring substances, not being soil or a substance the recovery of which is governed by the Petroleum Act 1967 or the Petroleum (Submerged Lands) Act 1982, obtained or obtainable from any land by mining operations carried out on or under the surface of the land, including evaporites, limestone, rock, gravel, shale (whether or not oil shale) sand and clay except that where --

(a) *limestone, rock or gravel;*

(b) *shale, other than oil shale;*

(c) *sand, other than mineral sands, silica sand or; sand or*

(d) *clay, other than kaolin, bentonite, attapulgite, montmorillonite,*

occurs on private land, that limestone, rock, gravel, sand or clay shall not be taken to be minerals;"

Until this advice was received, the Planning and Development Division did not appreciate that a distinction was drawn between minerals on "private" land and "minerals" on public land.

Because of this, Part II of the Council's District Zoning Scheme No. 2 relating to Local Reserves does not apply, contrary to the advice contained in the staff report presented to Council on 17 July 2001.

In respect to the Local Scheme, Section 120 of the Mining Act states:-

"120. Town planning schemes and local laws to be considered not to derogate from this Act.

(1) *In considering any application for the grant of a mining tenement the Minister, warden or mining registrar, as the case requires, shall take into account the provisions of any town planning*

scheme in force under the Town Planning and Development Act 1928 or local laws in force under affecting use of the land concerned, but the provisions of any such scheme or local laws shall not operate to prohibit or affect the granting of a mining tenement or the carrying out of any minor operations authorized by this Act.

- (2) *Without affecting subsection (1) where -*
- (a) *an application has been made for a mining lease or a general purpose lease; and*
 - (b) *the local government has, in writing, informed the Minister and the Minister for the time being administering the Town Planning and Development Act 1928, that the mining lease or general purpose lease would, if granted, authorize the carrying on or mining operations contrary to the provisions of a town planning scheme or local laws referred to in subsection (1),*

the Minister shall not dispose of the application until he has consulted the Minister for the time being administering the Town Planning and Development Act 1928 and obtained his recommendation thereon."

This means that private and public land within the district, including that set aside on local reserves, cannot be protected from mining of minerals by the local scheme, regardless of whether or not a reserve is vested in the care and control of the local government.

The provisions of clauses 2.3 and 2.4 of the local scheme therefore, are rendered totally ineffective in respect to local reserves, which is not only surprising but also disappointing.

Submission

In a facsimile dated 20 July, the Environmental Defenders Office wrote:-

"Further to our discussion of this morning, I doubt that the City of Cockburn can prevent the mining from proceeding using the provisions of its town planning scheme. This is because:

- *the mining is for "minerals" and therefore the Mining Act applies; and*
- *the Mining Act provides that a town planning scheme may not operate to prevent mining authorized by that Act.*

Following are relevant provisions from the Mining Act and extracts from Hunt, Mining Law in Australia (3rd edition).

In these circumstances, I would be grateful if you could confirm that the City of Cockburn proposes to oppose the mining lease application in the Warden's Court."

The Environmental Defenders Office is understood to be representing the Frankland Reserve Community Committee in its endeavours to prevent the mining of Frankland Reserve.

The facsimile also contained extracts from the Mining Act and other relevant information.

The advice received from the Environmental Defenders Office was also confirmed informally by the Council's Solicitor.

Report

The purpose of this report is to correct the advice given to Council at its previous meeting.

Despite this however, the Officer recommendation would have remained the same because of the inherent difficulty in achieving the land exchange, the fact that the land is already reserved for public open space and because of the high level of public interest in the quarry proposal.

If the Council continues to object to the proposal to quarry all or part of Frankland Reserve, then the Council should engage its solicitor to oppose the application for a mining licence, as it is the only avenue available for it to be formally heard.

In the circumstances, it would be appropriate for the Council to write to the Minister for Energy requesting that the Mining Act be reviewed as a matter of urgency, to prevent mining as a right within local and regional reserves particularly within the metropolitan region and provincial centres.

Strategic Plan/Policy Implications

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

2. Planning Your City
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
3. Conserving and Improving Your Environment

- "To conserve the quality, extent and uniqueness of the natural environment that exists within the district."

5. Maintaining Your Community Facilities

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

Budget/Financial Implications

Legal costs will be incurred if the Council is represented in the Warden's Court by its solicitor.

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

The Mining Act overrides the Council's District Zoning Scheme No. 2, in respect to Local Reserves contained in Part II of the Scheme.

The Council objected to the level of assessment by the Environmental Protection Authority in respect to the application for mining licence for Frankland Reserve by Amity Holdings on two occasions and in each case, the Council's objections were dismissed.

The Council's actions are not in contravention of Section 3.18(3) of the Local Government Act.

14.2 (Ocm1_8_2001) - PERTH TO MANDURAH RAILWAY LINE (9635) (SMH) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the report;
- (2) advise the Minister for Planning and Infrastructure that Council supports, in principle, the proposal to re-align the Perth to Mandurah railway line to follow the Kwinana Freeway south to Glen Iris via the Narrows Bridge and Mt Henry Bridge, as it will provide a faster service to and from the Perth CBD for passengers using the Thomsons Lake station; and
- (3) bring to the attention of the Minister, the incidental issues as outlined in this report that may require further consideration as part of the implementation of the railway line project.

COUNCIL DECISION

Background

The State Government had determined that the railway line between Perth and Mandurah would be built using the Kwinana Freeway and the standard gauge railway reserve via Kenwick.

Initially, the railway south of Glen Iris was to follow the Kwinana Freeway down the western side and the reservation had been created accordingly.

Due to intense lobbying by residents affected by the railway reservation, the previous Premier announced that the railway line would be relocated into the median of the Freeway, the same as the Perth to Joondalup line along the Mitchell Freeway.

This caused the two north-bound lanes of the relatively new Freeway to be abandoned and rebuilt further to the west to enable the railway to be located in the median, at great public expense.

With the road relocation completed the railway tunnels were built. North of South Street, the bus lanes are currently under construction including the ramps off Canning Bridge to provide express services into and out of the City.

These works were progressing well, up to the announcement.

Without any forewarning the State Government announced on 16 July 2001 that it had decided that the railway link between Perth and Mandurah would not use the Kenwick line initially, but go directly along the Kwinana Freeway using the Narrows Bridge and the Mt Henry Bridge.

This would reduce the travel time between Mandurah and Perth by 12 minutes.

To fund the revised works, the link to the Rockingham Town Centre as originally proposed was eliminated.

The works are planned to be completed by 2006.

The impact on the City of Cockburn is minimal, however, the South Lake park and ride station at Berrigan Drive has been deleted, leaving only the Thomsons lake Regional Centre station to serve this district.

This reinforces the importance of Thomsons Lake. With the exception of Perth CBD and Mandurah, it is the only other Town Centre on the line.

The decision benefits the City of Cockburn.

Submission

Attached are copies of some of the documents provided at the announcement by the Minister for Planning and Infrastructure on 16 July 2001.

A press release by the Western Australian Municipal Association on 27 July 2001 said:-

"HALT SOUTHERN RAIL LINK: WA COUNCILS

Local Governments from across the southern Perth metropolitan area have demanded the State Government immediately halt all further developments on the Perth-Rockingham-Mandurah rail link until genuine consultation occurs with the community.

At a meeting on Wednesday, seven Local Governments criticised the State Government's lack of consultation in regard to the revised route for the rail link.

Chairman of the meeting and President of the WA Municipal Association Cr Ian Mickel said WAMA and the affected Councils were disappointed at Government's handling of the new project and called on the Premier to immediately meet with all involved Councils to discuss the implications of the revised route. "The Government came to power on the commitment of consultation with the community. So far we've seen too many occasions where they have breached this commitment. Local Governments are getting frustrated with this blinkered approach to decision-making, and are feeling extremely disenfranchised.

Wednesday's meeting resolved to call on the Government to immediately stop any further developments on this rail link until they've adequately consulted with those groups that have the most at stake, that is, the communities and Councils in the southern metro area.

We had over 2 years of consultation on the previously agreed route, and the new Government has come into power and destroyed much of the progress achieved through this process.

The new rail link impacts on each Council and community in a different way and no Council was consulted over the project prior to the public announcement of the changes last week.

While we congratulate the Government on its commitment to a southern rail transport network, we have been told that the new route and budget have been set, and these aspects are not negotiable.

We firmly believe this new plan is based on short term economic and budgetary constraints, and not on transport service, community needs and long term catchment areas.

It appears this deal was done in the back room, obviously many months ago. It's now time for the Government to step back from their autocratic approach and bring this plan out in the open for real and genuine solution to the issue."

Those present at the meeting who voiced concern included representatives from the City of Perth, the City of South Perth, the Town of Victoria Park, the City of Canning, The City of Gosnells, the City of Rockingham, and the City of Melville. The Cities of Armadale and Belmont were present, and while not directly affected by the new route, acknowledged the position of the meeting."

As can be seen, the City of Cockburn did not form part of this group of concerned local governments.

The City of Cockburn would not have or is unlikely to experience the concerns about the proposed railway that some of the other local governments may have about the proposed alignment or impacts the line may have on the local community.

Report

It is important that the Council establish a position on the proposal by the State Government to re-route the Perth to Mandurah railway line to follow the full length of the Kwinana Freeway. This is an important public project.

The changes to the alignment are north and south of the City of Cockburn and therefore have no direct impacts on the district.

The benefits of the new alignment are:-

- Thomsons Lake is the only "on-line" Town Centre directly served by the passenger rail service.
- Between Perth and Thomsons Lake trains will operate every 5 minutes during the day.
- The journey between Perth and Thomsons Lake will be quicker than as previously planned because of the direct connection.
- The Thomsons Lake station retains the 400 park and ride bays.

The likely disbenefits of the new alignment are:-

- The establishment of the Thomsons Lake station has been put back from 2004 to 2006.
- The apparent deletion of the bus interchange at Thomsons Lake (understood to be an oversight in the preparation of the plans)
- The South Lake park and ride station has been deleted with the loss of 510 bays.
- The Karel Avenue "phantom" station has been eliminated because the link to Kewdale has been deleted at this stage. This connection, however, could be achieved in the long term.

Obviously the deletion of the South Lake station saves money for the new works, but is a service that should be retained to serve the suburbs of Bibra Lake, South Lake, Yangebup and Jandakot.

The next park and ride station north of Thomsons Lake will be at Murdoch on South Street.

Of concern is the apparent oversight in not nominating Thomsons Lake as a bus interchange, as applies to Canning Highway, Leach Highway and Murdoch. It is understood that Thomsons Lake Regional Centre will remain the major bus/rail interchange on the Perth to Mandurah line, this needs to be formally clarified. At a meeting with the Mayor, CEO and planning staff on Tuesday 31 July 2001, arranged by the project manager of the rail project, it was confirmed that Thomsons Lake station would remain the most important bus/rail interchange on the Perth to Mandurah line.

If the main reason for the proposed re-routing of the Perth to Mandurah line is to save 12 minutes travel time for the long haul passengers from the ends of the line, then there may be adverse consequences for the middle and inner passenger services.

At the present time buses from the Booragoon Bus Station and other express bus routes serving the south-west sector of the Perth Metropolitan Area to the Perth CBD converge towards the Kwinana Freeway to enter the bus express lane at either South Street or Canning Bridge. The Freeway bus lane currently provides a fast and direct link to the City.

If the express bus lanes are replaced with the railway reserve, then this means that the buses will either have to mix with the car traffic on either the Kwinana Freeway or Canning Highway to and from Perth. In this situation an express bus service cannot be retained and therefore the advantage for those public transport patrons is lost.

Although it is not clear, it appears on the limited information available, for bus passengers to get to Perth in a reasonable time they will need

to leave the bus and connect into the train at either Thomsons Lake, Murdoch, Leach Highway or at Canning Bridge. This will cause a delay for those passengers.

Moreover, even though the trains will operate at 5 minute intervals during the day, which will suit commuters travelling to Perth in the morning, this time table may not suit the bus service, and therefore in the afternoons, commuters may be delayed in making their bus connections.

Simply, while the Mandurah/Rockingham long haul passengers may benefit by 12 minutes, those up the line may actually be disadvantaged compared to the existing level of service provided by the express bus lane system.

Other issues that the Council should raise on the proposal are:-

- At Thomsons Lake, the station should be connected by a footbridge to the eastern side of the Freeway to provide access to future park and ride facilities. The amount of park and ride in the Town Centre should be minimised to ensure that long term parking areas do not have a detrimental effect on the optimum integration and operation of the Town Centre.
- The South Lake park and ride station must be retained in the plan because this station has an important role to play in the provision of "over-spill" parking not able to be accommodated in the Thomsons Lake Town Centre.
- It would be desirable for the operation of the Perth to Mandurah line to be brought forward from 2006 if at all possible. Even if the section between Perth and Thomsons Lake was completed and operating prior to the section between Thomsons Lake and Mandurah.

Design issues that should be re-considered, are:-

- The Perth to Mandurah line should be located closer to the Rockingham Town Centre. It is fundamental that such a significant public infrastructure should serve as many strategically important centres as possible to maximise potential patronage and level of service. Regardless of the final decision, it is important that the railway station be connected to the Rockingham Town Centre by some form of high frequency public transit loop system.
- The South Lake park and ride station should be retained.
- Provision needs to be made for a future passenger rail link between Thomsons Lake and Fremantle, as part of a long term public transport strategic plan for the Perth Metropolitan Area.

- The proposed Esplanade station should be deleted given its proximity to the Central station and the fact that the station catchment is limited. With the apparent demise of the southern bus network, the City Busport will operate at a low level of service and the proposed Multiplex Convention Centre is unlikely to warrant a station to service its needs. This station appears superfluous.
- If the Esplanade station is deleted, then the Central Station could be moved further south towards St George's Terrace. St George's Terrace is the major location for office employees, who will be the primary rail users, and yet close enough to the shopping malls for shoppers.
- The proposed Fitzgerald Street station should be relocated eastwards to between the Wellington Street Bus Station and the Entertainment Centre. There does not appear to be any substantiated reason to locate a station at the end for Fitzgerald Street. The long term car parking areas on the periphery of the CBD are adequately served by the free CAT Bus system to move people quickly and conveniently around the City. The Fitzgerald Street station would not compete with this convenience for patrons using the nearby car parking areas.
- Due to the likely adverse affects that the railway line could have for the upstream users because of the deletion of the express bus service, consideration should be given to maintain the peak hour express lane for buses between the Murdoch Station to the City or at least between Canning Bridge and the City, to maintain the existing service.

Observations are:-

- There is no doubt that if the railway line proceeds as proposed, that it will have a significant impact on the City in terms of land values, land use and the orientation (axis) of the City.
- The railway system in Perth will change from being east-west, to north-south and at the same time because of the existing and future populations along the Joondalup to Mandurah line, the north-south line will dominate the rail passenger network.
- Experience in the north-west corridor was that when the passenger rail service was introduced, patronage rapidly grew to exceed expectations, however, this apparently was at the expense of bus usage. Given the linear nature of the proposed rail system, and the fact that patrons can drive directly and conveniently to the kiss and ride and park and ride facilities, together with the fact that there is unlikely to be no express bus lanes into and from the City, that the same experience could occur, in the south-west urban corridor.

In conclusion, the Council should support the re-routing of the Perth to Mandurah railway line subject to drawing the State Government's attention to some of the issues, suggestions and observations made in this report.

Strategic Plan/Policy Implications

Managing the 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.

Facilitating the needs of your community

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

Budget/Financial Implications

N/A

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

Nil.

14.3 (Ocm1_8_2001) - TRANSPORTATION OF SOLID SODIUM CYANIDE - ATA ENVIRONMENTAL (9510) (SMH)

RECOMMENDATION

That Council:

- (1) advise ATA Environmental, that it has no objection to the proposal to transport solid sodium cyanide by road using Rockingham Road and Stock Road within the City of Cockburn;
- (2) support in (1) above, is subject to:-
 1. an emergency management plan being prepared for and approved by the Department of Environmental Protection; and
 2. the Council being advised of any proposed change to the transportation route through the City of Cockburn.

COUNCIL DECISION**Background**

A Sodium Cyanide Plant is proposed to be built in the Town of Kwinana.

The product from the plant is proposed to be exported through the Port of Fremantle. This means the transportation of the material will be through the City of Cockburn.

Submission

In a facsimile from ATA Environmental dated 26 July 2001 they advised:-

"Further to your discussions with Noel Davies, the proposed transportation for export of the solid NaCN via the Port of Fremantle will follow main roads from the Kwinana site to the North Fremantle container terminal, ie Kwinana Beach Road, Patterson Road, Rockingham Road, Stock Road, Leach Highway, Stirling Highway, Tydeman Road, Napier Road, Port of Fremantle.

Could you please confirm that the City of Cockburn does not have any comments regarding this proposal."

Report

Should the Proposed Sodium Cyanide Plant be built in the Town of Kwinana, then access to and from the plant will need to be provided.

It is proposed that vehicles transporting solid sodium cyanide use Rockingham Road and Stock Road through the City of Cockburn, which are Primary Distributor Roads designed and located for the purpose of providing for freight transport.

It should be acceptable to use these roads to access the Port of Fremantle, subject to an emergency plan being prepared in the case of an accident. The emergency management plan should be prepared and approved by the Department of Environmental Protection.

While the use of Rockingham Road and Stock Road is an acceptable route for the transportation of solid sodium cyanide, the Council should be informed of any proposed change to the route so that it has the opportunity to comment prior to implementation.

It is pointed out that the proposed route follows roads controlled by Main Roads WA, and therefore the Council has no ability to prohibit their use for the transportation of hazardous materials.

Strategic Plan/Policy Implications

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

2. Planning Your City

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

Budget/Financial Implications

N/A

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

Nil

14.4 (Ocm1_8_2001) - ADMINISTRATION CENTRE - RELOCATION PLANNING ASSESSMENT (1101294) (MR) (ATTACH)

RECOMMENDATION

That Council:

- (1) support the relocation of the City's Administration Centre to Thomsons Lake 'in principle'; and
- (2) investigate the financial implications, timing and land requirements to facilitate the relocation of the City's Administration Centre.

COUNCIL DECISION

Background

At the Ordinary Meeting of the Council on 19 June 2001, it was resolved to instruct the Director Planning and Development to prepare

a report on the options for Council to establish a presence in the proposed Thomsons Lake Town Centre.

The background to this matter is contained in OCM19/06/01 item 14.5.

Submission

N/A

Report

A detailed report on the proposal is included in the Agenda attachments.

The report is self-explanatory and does not need elaboration.

The recommendation is to endorse the report, which supports the relocation of the Administration Centre, and to undertake a detailed feasibility study.

Strategic Plan/Policy Implications

1. Managing Your City

- *"To deliver services and to manage resources in a way that is cost competitive without compromising quality."*

2. Planning Your City

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

4. Facilitating the needs of Your Community

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

Budget/Financial Implications

No funds are available to undertake this investigation. The work will be done in-house using Council staff and resources.

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

Nil

14.5 (Ocm1_8_2001) - FINAL ADOPTION OF NOXIOUS INDUSTRY SCHEME AMENDMENT NO 225 - DISTRICT ZONING SCHEME NO. 2 (92225) (MR)

RECOMMENDATION

That Council:

- (1) adopt the modifications requested by the Minister for Planning and Infrastructure to comply with the Western Australian Planning Commission requirements on Amendment 225 to District Zoning Scheme No 2 pursuant to Section 7 of the Town Planning & Development Act by:-

deleting the definition of Industry – Noxious from the Seventh Schedule – Interpretations and replace with:-

“Industry-Noxious means an industry in which the processes involved constitute an offensive trade within the meaning of Schedule 2 Health Act but where an offensive trade is also included as a category of prescribed premises or premises subject to registration under the Environmental Protection Regulations, Schedule 2 of the Health Act prevails, and includes a landfill site, but does not include a fish shop, dry cleaning premises, laundromat, piggery, poultry farm or rabbit farm.”

- (2) in anticipation of the Hon Minister’s advice that final approval will be granted, the modified Amendment documents be signed, sealed and forwarded to the Western Australian Planning Commission.

COUNCIL DECISION

Background

On 19 December 2000, the Council initiated Amendment 225 to District Zoning Scheme No 2 (DZS2). The Scheme amendment proposes to delete the definition of industry – noxious and replacing it with –

“Industry – noxious means an industry in which the processes involved constitute an offensive trade within the meaning of the Health Act 1911, and in addition to the Offensive Trades specified in Schedule 2 of the Act also includes:-

any trade, business, process, or manufacture whatsoever causing effluvia, offensive fumes, vapours or gases, or discharging dust, foul liquid, blood or other impurity, or other noxious or offensive trade, business or manufacture, and any trade that, unless preventative measures are adopted, may become a nuisance to the health of the inhabitants of the district, but does not include a fish shop, dry cleaning premises, marine collectors yard, laundromat, piggery or poultry farm;

a waste disposal site for disposal of liquid and dry waste of any nature.”

The background to this matter was extensively discussed in item 14.1 (OCM1 12 00) and item 14.12 (OCM1 3 01).

The Ministry for Planning and the Health Department of WA were involved in changing Schedule 2 of the Health Act gazetted on 17 November 2000 (Gazette 6289) which deleted the following words:

“..or any trade, business, process, or manufacture whatsoever causing effluvia, offensive fumes, vapours or gases, or discharging dust, foul liquid, blood or other impurity, or any noxious or offensive trade, business, or manufacture:

and any trade that, unless preventative measures are adopted, may become a nuisance to the health of the inhabitants of the district.”

The above statement restricted the ability to provide for ‘traditional’ types of industries in the general Industrial zone. The change to the Act now makes the definitions contained in proposed Town Planning Scheme No 3 (TPS3) relating to General Industry (Licensed) superfluous. TPS3 can now be made to comply with the Model Scheme text in relation to the definition of General Industry, subject to reference to noxious industry being included.

Council at its ordinary meeting on 20 March 2001 deferred the final adoption of Amendment 225 to seek the support of the Hon. Minister for Planning and Infrastructure to reintroduce the former closing words of Schedule 2 *Health Act*. A letter was sent to the Minister on 26 March 2001 and a reply has only recently been received.

Submission

N/A

Report

The request of the Council to modify the definition of “Industry Noxious” in the Scheme to effectively reinstate the closing words of Schedule 2 of the *Health Act*, is not supported by the Minister.

The Minister considered that any industry requiring preventative measures described in the former Schedule 2 of the Health Act were an offensive trade even though no emissions result. Thus, regardless of any actual environmental or health impacts any industrial proposal which employs measures designed to prevent atmospheric or other emissions must necessarily be classified as a noxious industry.

The Health Act has been amended to resolve the considerable difficulties and uncertainty experienced by Local Government and business in establishing traditional types of industries in general industrial zones. This has occurred with the support from the WA Municipal Association. The Minister concluded that it would not be appropriate for the former definition of the Health Act to be reintroduced into the current Scheme No 2 or the proposed Scheme No 3. This would in the opinion of the Minister clearly nullify any previous action to delete the closing words of Schedule 2 and would be contrary to the prevailing local government view.

In response to the City seeking further clarification of the definitions of noxious and general industry, further advice from the Ministry for Planning was received below:-

“The ‘industry – general (licensed)’ category is understood to refer to categories of general industry which exist or are likely to occur within the Scheme area, which are subject to licensing as ‘prescribed’ under the Environmental Protection Act. Noxious Industry is limited to other industries subject to licensing under the Environmental Protection Regulations together with any trade, business or occupation connected with works or establishments specifically listed in Schedule 2 of the Health Act. In this way the City has attempted to include what would normally be considered to be noxious or offensive industries from the Environmental protection Regulations and Health Act within the definition of ‘noxious industry’.

I noted that ‘general industry (licensed)’ is a discretionary use in the industry zone thus enabling the City to consider any impacts before granting approval. Noxious industry is prohibited in all zones. The establishment of any noxious industry would, therefore, require a scheme amendment.”

There are only two options available to the Council:-

- Option One - adopt the Scheme Amendment in accordance with the Minister’s direction to comply with the WAPC recommendations
- Option Two - not adopt the Scheme Amendment and advise the Minister accordingly.

Option One is preferred to comply with the Minister’s directions. These changes to the definition of Noxious Industry are also set out in the

Schedule of modifications from the Minister regarding Town Planning Scheme No 3 covered in a separate report on this agenda.

Strategic Plan/Policy Implications

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

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

Advertising costs associated with public notification is approx. \$1000

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

Nil

14.6 (Ocm1_8_2001) - PROPOSED RELOCATION OF WESTERN POWER SUBSTATION SITE - PT LOT 6 MIGUEL ROAD, BIBRA LAKE (4413025) (MR) (ATTACH)

RECOMMENDATION

That Council:

- (1) support the proposed relocation of the Western Power Substation subject to the approval being granted from Western Power and provision being made for screen landscaping along the southern and eastern boundaries; and
- (2) advise Zone Holdings Pty Ltd accordingly that an amendment to District Zoning Scheme No 2 and Town Planning Scheme No 3 (draft) is required.

COUNCIL DECISION

Background

The applicant approached Western Power regarding the possible land exchange to position a proposed substation from Lot 201 Miguel Road to Lot Pt 6 Miguel Road owned by Zone Holdings Pty Ltd.

According to Zone Holdings, Western Power have expressed some reservations over the proposed location for the following reasons:-

- (1) The proposed sub-station will be supplied from the west along Barrington Street, Spearwood Avenue and as such the detail is critical. Western Power was advised by Council such detail was not yet at hand, specifically the railway bridge and possible drainage requirements over Pt Lot 6.
- (2) Potential loss of frontage to Miguel Road by proposed long term cul-de-sac.
- (3) Zoning.
- (4) Existing site is approved, proven and ready to go versus Pt Lot 6.

According to Zone Holdings, Western Power indicated that should the unknown aspects, as listed above, be resolved and they could demonstrate that the site could function as a substation site then they would reconsider their position.

Submission

Zone Holdings believe that the land exchange, which seeks to locate the future sub-station on Pt Lot 6 ("Light Industry" zoned) would be a better transitional use to residential land on the opposite side of the railway line than light industrial development. The proposed sub-station site would negate the possible off-site nuisances or impacts towards the residential area.

Report

At the ordinary meeting of the Council on 17 July 2001, concern was expressed over the visual appearance of the substation and the appropriateness as an interface with the residential locality of Yangebup. Western Power sent the City photographs (as attached) of a sub-station recently completed in the City of Wanneroo on the corner of Clarkson Avenue and Wanneroo Road. The sub-station accommodates transformers, switchgear and a metering room. The perimeter of the site includes security fencing and some landscaping at the main entrance. The report recommendation has been expanded to require screen landscaping along the southern side lot boundary to better address the visual interface with the adjacent residential area.

The following details were taken from the previous report to OCM17/07/01.

City of Cockburn is the responsible authority for Spearwood Avenue extension as a regional road under the Metropolitan Region Scheme. Spearwood Avenue (Stock to Sudlow) has been a priority and the City has secured funding in the 2001/02 financial year to construct the second carriageway. Further funding has also been secured for the 2002/03 financial year to work towards the construction of the bridge over the railway and single carriageway between Yangebup Road and Barrington Street.

There is an initial funding allocation for the design and forward planning of the project. Detailed engineering drawings were prepared by G B Hill engineers on behalf of the City in 1994 that depict the Spearwood Avenue extension and bridge construction requirements over the railway. These drawings show the extent of earthworks and drainage being generally contained within the road reservation. There is a proposed drainage basin with an area of 570m² shown on the south-western corner of Lot Pt 6 Miguel Road. This future drainage basin is outside of the reservation for the Spearwood Road extension and would need to be reassessed in the review of the 1994 plans.

The construction of the Spearwood Avenue extension would enable the termination of Miguel Road, which currently crosses the railway line at grade. Miguel Road would then be terminated as a cul-de-sac, which could be accommodated within the existing road reserve, based on a 9.0 metre wide radii with 1.0 metre of verge. The cul-de-sac head would be tight to achieve within the 20.0 metre wide road reserve but feasible.

The proposed land exchange is acceptable on planning grounds and would provide a suitable transitional use to the adjacent residential area. A sub-station use would be the least impact use for this site. Light industries similarly must not generate emissions in terms of noise, dust, odour etc.

The zoning of land would need to be addressed by way of an amendment to the City of Cockburn Town Planning Scheme – District Zoning Scheme No 2 in the following regard:-

1. Zone Lot 201 Miguel Road from “Public Purpose – SEC” to “General Industry”.
2. Delete the “Light Industry Zone” and Reserve Lot Pt 6 Miguel Road “Public Purpose – SEC”.

Further changes would be required in relation to Town Planning Scheme No 3.

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

N/A

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

Nil

14.7 (Ocm1_8_2001) - POSITION: PROPOSED HEALTH (POULTRY MANURE) REGULATIONS 2001 (6003) (WJH) (ATTACH)

RECOMMENDATION

That Council advise the Department of Health that:

- (1) the City of Cockburn wishes to be included in the table of districts to which the Health (Poultry Manure) Regulations 2001 apply, and
- (2) the City of Cockburn will only apply these regulations in response to complaints and will not require Council Environmental Health Officers to carry out routine, regular inspections of horticultural premises which may use poultry manure.

COUNCIL DECISION

Background

In the late 1980's, the stable fly emerged as a significant problem to livestock (cattle and horses) and humans. Both the severity and extent of stable fly outbreaks have increased around the Perth Metropolitan region in recent years. In particular, the Gingin, Wanneroo and

Kwinana local government areas have been badly affected with outbreaks as far north as Northampton and as far south as Bunbury and Capel.

In affected areas, cattle marketing strategies are disrupted and levels of animal distress and weight loss force stock to be agisted in non-affected areas. The fly has also increasingly disrupted human lifestyle, especially in rural and rural-residential areas, by restricting outdoor activities and seriously affecting domestic pets. The use of poultry manure in horticulture (principally vegetable, turf and strawberry production) is the major source of stable fly breeding.

In response to these increasing problems, the Minister for Primary Industry and Fisheries initiated the Stable Fly Management Project in early 1996. The project was established to develop and implement management practices and other strategies that would control Stable Fly breeding associated with horticultural and agricultural practices, to levels that will no longer interfere with livestock industries and the Community. Council was approached to provide funding for the project on a number of occasions but declined to contribute.

This project resulted in the development of a strategy, which aims to restrict the use of raw poultry manure in areas which have the potential to be, or are affected by stable fly. This strategy was recently approved by State Cabinet and a set of proposed regulations, the Health (Poultry Manure) Regulations 2001, has been drafted.

Submission

A copy of a letter and draft Health (Poultry Manure) Regulations 1911 was received on 1st August 2001 (copies attached to the agenda).

The letter seeks comments on the draft regulation and asks for confirmation on whether the City of Cockburn wishes to be included in the table of districts to which the regulations will apply.

Report

The City of Cockburn has not been significantly affected by stable flies, although several minor outbreaks have occurred. These outbreaks were not of the magnitude experienced by Wanneroo and Kwinana, possibly due to low numbers of livestock being kept in the district.

The local horticultural industry is a significant user of poultry manure and has the potential to cause outbreaks of stable fly. On a number of occasions, significant fly breeding has been detected in poultry manure stored and used on horticultural premises within the district.

Further, discussions at officer level, with the Town of Kwinana indicate that premises within the City may have been partially to blame for stable flies affecting livestock within the Town of Kwinana.

Certainly the potential exists for premises in the City to be a source of stable flies which could effect people and livestock inside and outside the district.

Currently the *Fly Eradication Regulations* are the main tool used to minimise fly breeding in these circumstances, but enforcement is difficult due to the need to differentiate the degree of breeding.

The strength of the draft regulations is the total ban on the use of untreated poultry manure during the most problematic months. This minimises evidentiary issues and simplifies enforcement.

The Department of Health suggests that procedures to be adopted by the poultry industry and manure cartage contractors will minimise the number of breaches thus minimising EHO enforcement duties. EHO manpower required to enforce these regulations is unlikely to exceed that expended dealing with this issue under the present arrangements, provided regular inspections of horticultural premises are not required by the Executive Director, Public Health.

It is recommended that the City of Cockburn advises the Department of Health that it wishes to be included in the table of districts to the draft regulations but will not carry out regular routine inspections of horticultural premises, which may use poultry manure.

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. 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 environment is maintained."*

Budget/Financial Implications

It is envisaged that this resolution will be cost neutral.

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

Nil

14.8 (Ocm1_8_2001) - PROPOSED EXTENSIONS TO EXISTING SCHOOL FACILITIES (NEW KINDERGARTEN AND HIGH SCHOOL CLASS ROOM) - LOT 10 GWILLIAM DRIVE, BIBRA LAKE (1117395) (MR) (ATTACH)

RECOMMENDATION

That Council:

- (1) approve the proposed extension to the existing school facilities (new kindergarten and high school classroom) on Lot 10 Gwilliam Drive, Bibra Lake subject to the following conditions.

Standard Conditions

1. Standard Conditions and footnotes as contained in Council Policy APD17 as determined appropriate to this application by the delegated officer under clause 7.6 of the City of Cockburn District Zoning Scheme No 2 and;

Special Conditions

1. All over-flow of car parking during school functions and events being accommodated on-site or other arrangements as agreed to by the City.
2. The car park on Lots 1,2,3 & 4 North Lake Road are not to be used by the school.
3. The existing verge car parking on Gwilliam Drive is to be removed and the verge must be reinstated to the satisfaction of the City.
4. A temporary 15 minute car park being provided on-site in a convenient location to the entrance of Gwilliam Drive and North Lake Road in addition to the existing temporary set-down area (3-4 bays). The car park is to include signage. The displaced staff parking will need to be accommodated elsewhere on-site.

Footnote

1. It is recommended that the school plan towards a long-term solution to resolving traffic conflict with right turn movement of traffic entering the school from Gwilliam Drive, in

consultation with the Council's Engineering Services.

COUNCIL DECISION

Background

ZONING:	MRS:	Urban
	DZS:	Commercial – Additional Use Education Establishment etc.
LAND USE:	Perth Waldorf School	
APPLICANT:	Hammond & Green Pty Ltd – Architects	
OWNER:	Perth Waldorf School for Steiner Education	
LOT SIZE:	4.398ha	
USE CLASS:	'P' – Permitted Use	

The Council has approved of various additions to the Waldorf School relating to new school facilities, classrooms and playing field. The initial school buildings were believed to have been constructed over 15 years ago.

Submission

The applicant seeks approval for additions to the Waldorf School including a new kindergarten and two new high school classrooms. Access to the kindergarten is via Gwilliam Drive, while the new classrooms would overlook the playing fields closer to North Lake Road.

- The two new classrooms are proposed in a location 37 metres from North Lake Road and 10.0 metres from the southern side boundary.
- The new kindergarten is situated behind existing buildings 90 metres from Gwilliam Drive and 6.0 metres from the side boundary.

The total development of the site (including the proposal) would comprise of a playgroup, kindergarten, primary school (7 classrooms) and high school (8 classrooms), oval and amenities.

Report

The subject site is situated behind commercial properties fronting North Lake Road (ie Chinese Restaurant, BC Body Club and Red Rooster). The land has access from both North Lake Road and Gwilliam Drive.

A prominent characteristic of the site is the extent of natural bushland within which the school is situated.

Adjoining Owner Responses

The adjoining owners were notified about the development and given the opportunity to comment on the proposal in accordance with the Scheme requirements. At the close of the advertising period three submissions were received, of which one submission was in support and the remaining two submissions raised the following concerns outlined below:-

- Submission Two - Strong objection to the proposed expansion unless adequate parking is provided. Experience a loss in business whenever the school holds evening functions. Their patrons take up all the parking facilities at the frontage of these centres. This matter has been raised before with the City without any resolution.
- Submission Three – Concerned about the existing access arrangements into the school from Gwilliam Drive where illegal turning occurs when vehicles turn across double white lines while entering and leaving the school. The merging of lanes further adds to the traffic congestion. The extensions will increase traffic and therefore increase the risk to parents and children accessing the school.

Car Parking

The proposed development complies with the parking requirements of District Zoning Scheme No 2. A total of 41 car parking bays are required as opposed to 66 bays provided (10 on the verge). The provision of on-site parking (56) satisfies Scheme requirements but falls short in reality of the actual parking needs of the school. The provision of unauthorised verge parking on Gwilliam Drive is evidence of the shortfall of on-site parking.

The applicant also indicated that the owner of the Perth Waldorf School is the owner of Lot 5 North Lake Road where shared car parking with the commercial developments is available and noted on their certificate of title. The title shows that Lot 5 has a right of carriageway over Lot 4 – Chinese Restaurant, Lot 2 and Lot 1 – Red Rooster (Lot 3 – BC Body Club does not appear to be included). The intent of the right of carriageway was to control access onto North Lake Road and allow sharing of internal access and parking between commercial developments. The school owns Lot 5 North Lake Road and has a legal right of carriageway over Lot 2, Lot 4 and Lot 104 as set out on their certificate of title.

To address the above objection, the school should be directed as a condition of approval to:-

- Provide all function parking on-site by providing an overflow area either on the school oval or the nearby carpark at Adventure World, subject to their consent. The school site is large enough to cater for its own parking requirements.
- Allocate a temporary 15-minute parking area for parents to safely park on-site. This will displace staff parking which is consuming most of the on-site parking and even overflowing onto the verge to Gwilliam Drive. Alternative arrangements will be required to satisfy staff parking requirements.
- Verge parking on Gwilliam Drive is not acceptable from a traffic and pedestrian safety viewpoint and seems to have been formalised more recently despite the concerns expressed earlier to the school by the City in early 2000.

Vehicle Access

Vehicle access into the school is via two separate crossovers on North Lake Road (left in/left out) and Gwilliam Drive. Access from North Lake Road is restricted to south-bound traffic and not restricted for Gwilliam Drive. There are no access concerns with North Lake Road crossover. One submission of objection raised concern about traffic conflict caused by the school on Gwilliam Drive, which is discussed in more detail below.

Gwilliam Drive narrows from a dual carriageway at its intersection with North Lake Road to single lanes with double white line dividing the single lanes at the entrance to the Waldorf School. Traffic entering and leaving the school often cross these painted lines. Under the Road Traffic Act double white lines signify a dangerous zone where it is an offence to overtake and do a “U” turn movement but it is not an offence to turn across these lines into a property. There is also no evidence to suggest that the Gwilliam Drive crossover has caused accidents over the past 4 years according to Main Roads WA.

Nevertheless this school crossover is still the source of traffic conflict with right turn movements from east bound school traffic which requires vehicles travelling behind to slow down or stop, close to a traffic controlled intersection and within a 40 km speed limit. A passing lane and dedicated turning lane would be a practical long-term solution to improve traffic safety that could be investigated further by the school.

Conclusion

The matters raised above could be satisfied by way of conditions of approval. The proposal satisfies Scheme requirements and therefore it is recommended the Council grant its approval.

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

N/A

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

Nil

14.9 (Ocm1_8_2001) - TELECOMMUNICATIONS POLICY REVIEW (9018) (MR) (ATTACH)**RECOMMENDATION**

That Council:

- (1) receive the report and note the planning issues related to mobile telephone facilities and the future expansion of these facilities within the City of Cockburn;
- (2) not modify the City's Telecommunications Policy – High Impact Facilities APD13, given that the policy was recently modified and readopted at the Ordinary Meeting of Council on 19 June 2001, and that it has been a useful guide to the assessment and determination of mobile telephone towers;
- (3) acknowledge that planning consent under the City of Cockburn Town Planning Scheme – District Zoning Scheme No 2, is not required for telecommunication facilities that are deemed to be "low impact facilities" as defined under the Telecommunications (Low-impact facilities) Determination 1997 (as amended). Any proposals on this basis are to be considered by the Principal Planner having regard to minimising the cumulative visual impact of the facilities; and
- (4) requires a further report on the Statement of Planning Policy – Telecommunications Infrastructure upon its finalisation.

COUNCIL DECISION

Background

At the Ordinary Meeting of Council on 21 November 2000, an application for a mobile phone tower on Lot 103, 7 Emplacement Crescent, Hamilton Hill was approved subject to various conditions. In reaching this decision, the Commissioners also decided to review the policy, in light of the community opposition and try to identify exclusion zones or appropriate locations to confine mobile phone towers to.

The phone tower along Emplacement Crescent was proposed in a location within a Clause 32 Area under the Metropolitan Region Scheme relating to the North Coogee Master Plan Review Study. The application was referred to the Western Australian Planning Commission for determination, in accordance with the MRS Clause 32 – Resolution No 57 (North Coogee). The WAPC granted unconditional approval to the proposal on 15 September 2000, prior to the Council's decision. The site is zoned "Light Industry" under the District Zoning Scheme No 2 and "Industry" under the MRS. The background to this matter is included in Item 14.5 OCM21/11/00.

The existing Council Policies were recently reviewed and readopted on 19 June 2001 which included the *Telecommunications Policy – High Impact Facilities APD13*.

Telecommunication Facilities

During the past several months, two Mobile Telecommunication Carriers have approached the City to establish and expand their communication network within the City of Cockburn. During this time, carrier One-Tel has collapsed due to financial difficulties and their network and customers are moving over to other carriers. There is still a push for additional telecommunication facilities as a result of the following developments within the industry:-

- additional mobile telecommunication licences being issued by the Federal Government;
- increased customer and community demand for new services;
- increased competition for market share;
- increasing demand for improved network coverage.

The City's past experience in dealing with telecommunication facilities, has shown that most common community concern relates to health issues from microwave transmissions, loss in amenity due to height and visual aspect of structures, loss of property value. On the other side of the debate, there is support for the telecommunication facilities from the broader community.

Telecommunications Act

During the major "roll out" of mobile telecommunication facilities in the early 1990's, carriers were given powers by the Federal Government to

construct mobile telecommunication towers and equipment without requiring Local or State Government approval. This immunity provided the carriers with the potential to set up a national telecommunication network within a short time frame.

The Telecommunications Act 1997 was subsequently amended to require that all new telecommunication facilities obtain approval to commence development, pursuant to Town Planning Schemes from Local Governments for “high impact” facilities. Some of these facilities are exempted under the Telecommunication (Low-impact Facilities) Determination 1997 (as amended).

- High Impact Facilities include new mobile telephone towers, antennas and dishes if they were greater than a prescribed size.
- Low Impact Facilities include the installation of additional telecommunication facilities onto an existing phone tower. The size of the additional facility varies according to the appropriateness of the location. For example an antenna or dish may not be greater than 1.2 metres within a residential, commercial, industrial or rural area or 1.8 metres in diameter within an industrial or rural area. Both situations are defined as low impact.

Mobile Phone Demand

Use of mobile phones is growing, according to Optus, at the rate of 15 percent each year. Optus predict that there would be in the order of 7.5 million mobile phone users in Australia. Residents, general public and business community makes up a small portion of this demand.

Telecommunication Carriers

The following list includes current telecommunication carriers in Australia:-

- Optus
- Telecom
- Vodaphone
- AAPT
- Hutchinson (Orange)

There are approximately a dozen mobile telephone towers and base stations in the City of Cockburn (site plans available on request). Most of these facilities are on industrial land within the district.

The two major issues that arise in dealing with mobile phone towers are stated below:-

- Health risks with emissions of electromagnetic energy (EME) from towers; and
- Visual impact of towers on the amenity of land.

Planning Approvals

High impact proposals on reserved land or Clause 32 areas (North Coogee and Henderson) under the Metropolitan Region Scheme, require determination by the Western Australian Planning Commission ("WAPC"). The WAPC take into consideration comments from the City and Government Agencies. The Town Planning and Development Act stipulates the process of determining development, rights of appeal and non-compliance.

The City determines all high impact facilities on land zoned under the District Zoning Scheme No 2.

How Mobile Phones Work

Mobile telephones are essentially a sophisticated two-way radio. Telecommunication facilities work by simply sending and receiving radio signals (radio frequency (RF) or electromagnetic energy (EME) signals to and from an antenna attached to a radio transmitter. These are called mobile phone base stations. These base stations link mobile phones to the rest of the telephone network. A base station consists of radio receivers and transmitters which provide coverage to a geographic area known as a cell. As a user travels from one cell to the next a call is transferred from one base station to the next allowing the call to be uninterrupted. "Cells" vary in radius from 100m to 35 km. The reason why some carriers are not able to co-locate with other carriers is the different wave bands each carrier has and cell coverage which require alternative and new sites to be built.

Electromagnetic energy (EME) is energy that travels through air. It occurs naturally in the form of invisible light. Some household equipment that emits EME includes television, radio and even microwave ovens. The electromagnetic spectrum covers a large range of frequencies. EME is also known as non-ionising radiation. This means that it is not capable of breaking chemical bonds in biological structures (humans) or removing electrons according to carriers.

Health Risks?

There is growing community concern over the possible long term health risks associated with mobile phone towers and facilities. Some community groups recommend that a precautionary approach needs to be taken.

International and national scientific studies conclude that there is no substantial evidence to suggest living near a mobile phone tower causes adverse health effects. Telecommunication carriers follow safety limits regulated by the Australian Communications Authority (ACA). The prescribed limits are based on scientific experience and reviews from such bodies as the International Commission for Non-Ionizing Radiation Protection (ICNIRP). Furthermore, the Committee on Electromagnetic Energy Public Health Committee, fact sheet states the following:-

- *"The weight of national and international scientific opinion is that there is no substantiated evidence that living near a mobile phone tower causes adverse health effects;*
- *The Australian Standard AS2772.1 has established exposure limits to EME and EME from a tower is far below that limit;*
- *EME has been around for 100 years or more, when wireless telegraphs were developed."*

The Commonwealth Government has set aside around \$4.5 million dollars to support research into the health issues associated with mobile phones and mobile telephone towers. On current available evidence, it cannot be held that mobile phone towers are a health risk however this is not a guarantee that evidence of health risks will not become available in the future as research is on-going into the long-term effects. As it stands, the Council's position should be based on current available evidence.

There are two alternative approaches to the siting of new facilities:-

- Adopt a precautionary approach to the siting of new mobile telephone towers in view of the need for further evidence regarding health impacts;
- Adopt a pragmatic approach to the siting of new telephone towers based on current scientific knowledge of the health implications in applying the current Australian Standards.

The adoption of the pre-cautionary principle is appropriate in this instance by siting towers away from residential areas and other sensitive uses such as schools until there is conclusive scientific evidence to the contrary that there are no health risks.

Visual Impact

The other major concerns regarding mobile phone towers is the visual impact on the amenity of a locality. Carriers, however, need to maintain the line of sight between other mobile phone towers and facilities in order to create the linkages and coverage required for phone usage. This is why carriers prefer prominent locations to maintain unbroken network coverage. As the number of sites increases, the City must manage the location of new towers to minimise their impact on the skyline. Clearly preference is for the mobile phone towers to be in industrial areas.

Effects of Telecommunication Towers on Property Values

There is a community concern that property values could be reduced by proximity to mobile telecommunication towers. There is no known published findings to suggest that land/property values are affected by mobile telephone facilities.

Co-location of Facilities

The Telecommunication Act requires carriers to investigate co-location of facilities. The potential in doing so for new structures is therefore greatly reduced. Co-location is the first preference for carriers due to significant financial and commercial benefits to be gained. With detailed attention at the assessment stage, innovative and compatible designs relating to size, shape and colour could be achieved, thereby reducing the visual impact of such structures. Mobile telephone antennas could be sited on rooftops, existing radio masts, freeway overpasses, industrial sites or other existing structures. Within the City of Cockburn there is a mix of residential, industry, rural and reserved land for the freeway and other public purposes.

Reduction in size and proliferation of new facilities is important as the community concerns generally follow that the bigger the structure, the more impact they will have on their quality of life. As such, co-location may not be the best solution if the existing telecommunication facility is already a large structure. This would be dependent upon the circumstances of the case and the use of the adjoining land.

Current Approach

The City's 2001 Telecommunication Policy also places an emphasis on co-location of telecommunication facilities and considers the siting of new towers as the last possible option. When telecommunication tower proposals are lodged with the City the assessment criteria includes acceptability of location, impact on amenity, proximity to sensitive uses such as schools and houses and whether there are any other alternative sites or co-location of facilities.

Planning assessments are conducted on this basis and any new mobile phone towers are referred to Council for determination following advertising in the community. A planning determination is then required from the Council pursuant to the City of Cockburn District Zoning Scheme No 2 taking into consideration the merits of the proposal and any submissions for or against the proposal.

Low impact facilities are currently referred to the City by way of a letter and plan of the proposal with reference back to the Telecommunications Act that the proposal does not require planning approval from the city due to its low impact statutes. In this situation the City has no legal basis to require an approval under DZS2 and this is acknowledged to the carrier accordingly.

Any 'low impact' telecommunication proposals on reserved land and building vested in the City are referred to the Council for determination including lease approvals.

WAMA Stance

The Western Australian Municipal Association ("WAMA") has been involved in the issue for several years, and played a major role in the

development of an “information kit” to assist Local Government in the assessment of applications (developed in 1997).

WAMA recently established a working group, which includes involvement of the City Principal Planner. The role of the group is to contribute towards the preparation of a Telecommunications Infrastructure (“High Impact Facilities”) - Statement of Planning Policy (“SPP”) under the Town Planning and Development Act. The draft policy sets out the broad planning considerations in the design and siting of facilities. The current City Policy is “in keeping” with the direction of the SPP.

Submission

N/A

Report

Purpose

The purpose of this report is to examine the planning issues and the City’s approach to telecommunication facilities relative to *Telecommunications Policy – High Impact Facilities APD13*. This report recommends that the existing Policy be retained (unmodified) and be used to guide Council's decision making.

Council Policy in Context

As mentioned previously, the current Telecommunications Policy was reviewed and readopted by the Council on 19 June 2001. The new Policy includes an expanded background section and sets out clearer and simpler policy measures than the 1997 Council Telecommunications Policy.

The 2001 Telecommunication Policy sets out appropriate locations for new telecommunications infrastructure (high impact) indicating that Council will have regard to the following matters:-

“2.1 The siting of mobile telephone towers is to be located where possible mobile telephone towers are to be located within industrial, commercial or other non-residential zoned land within the district and as far as possible from any residences.

2.2 Mobile telephone facilities are to be co-located with existing infrastructure where the opportunity exists.

2.3 The location and appearance of facilities should be chosen to minimise the visual impact on the locality. In particular the amenity of residential inhabitants should not be affected.”

The 2001 Policy was reassessed by cross-referencing the location of approved telecommunication facilities within the district with the

acceptable locations for high impact facilities. Since 1997 when the Telecommunications Act was modified mobile telephone towers have been appropriately located on land zoned Light Industry, General Industry, Commercial, Local Reserve – Public Purpose under District Zoning Scheme No 2. In one instance the Council decided not to lease reserved land for a high impact facility on the Rotary Lookout site due to its potential impact.

These telecommunication locations generally conform to the 2001 Telecommunication Policy – location of facilities. There seems to be little point therefore in undertaking a further review of the current Policy since it already provides sufficient guidance to direct appropriate locations for telecommunication facilities (high impact). The current approach of recommending suitable locations is preferable than identifying specific exclusion locations other than obviously residential areas. If the Policy was too specific or prescriptive it would give greater certainty at a cost of being flexible. This is always a difficult balance to find in preparing a Policy.

The WAMA SPP for Telecommunications Infrastructure once finalised would enable the Council to also have due regard to the SPP in addition to its own Policy when determining the suitability of “high impact” facilities which also include *“Guidelines for Location, siting and design of Telecommunication Infrastructure”*.

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

N/A

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

Nil

14.10 (Ocm1_8_2001) - TOWN PLANNING SCHEME NO. 3 - MINISTER FOR PLANNING AND INFRASTRUCTURE FINAL MODIFICATIONS (9485) (MR)**RECOMMENDATION**

That Council:

- (1) note the modifications to Town Planning Scheme No. 3 requested by the Minister for Planning and Infrastructure; and
- (2) commence advertising the modifications to Town Planning Scheme No. 3 in accordance with Minister's instructions and include other minor changes listed in this report.

COUNCIL DECISION**Background**

Town Planning Scheme No. 3 public comment period commenced on 11 February 2000 and closed on 11 May 2000.

The advertising requirements set down by the WAPC, together with the Town Planning Regulations, were complied with. The display methods used were well attended by the public and the scheme proposals were given a high level of exposure. A total of 90 submissions were received which included 2 petitions.

Council at its ordinary meeting on 18 July 2000, adopted Town Planning Scheme No. 3 ("TPS3") subject to various modifications. TPS3 was forwarded to the Western Australian Planning Commission ("WAPC") requesting that the Hon. Minister for Planning grant final approval under Town Planning Regulation 21.

The WAPC endorsed TPS3 subject to further modifications in early 2001 and forwarded its recommendations to the Minister. The Minister for Planning and Infrastructure notified the City by letter dated 17 July 2001, regarding further modifications to the Scheme and advertising requirements.

Submission

N/A

Report

The Minister for Planning and Infrastructure has noted and determined the submissions in accordance with Schedule 3 and has decided not to approve the Scheme until the following modifications are effected:-

1. modify the Scheme in accordance with the modifications set out in Schedules 1, 2, 3 & 4. These schedules were too large to include in this report and include technical changes to the content of TPS3 Text. The substantial modifications to the TPS3 Maps are outlined below. Copies of all four schedules are available to Councillors on request, and;
2. further modify the Scheme to incorporate any relevant amendments to Town Planning Scheme No 2 which will be gazetted for final approval, prior to final approval of Town Planning Scheme No 3.

The Minister requires the proposed modifications to be advertised concurrently with other components of Town Planning Scheme No 3 which are to be re-advertised.

The Minister has determined that the following modifications are substantial and require re-advertising for a period of 28 days:

- (a) the introduction of a base density coding of R20 for those areas currently zoned or proposed in the advertised scheme to be rezoned for R12.5 and R15 (Schedule 3/4);
- (b) rezoning Lots 15, 71 Rockingham Road, Lots 21, 22 Lucius Road and Lot 14 Davilak Avenue, from Residential R15 to Residential R30 (Schedule 2/32);
- (c) rezoning Lots 194, 195, 196 and 218 Berrigan Drive from Residential (R12.5) and Commercial to Residential R20 and associated modifications to the Restricted Use (Local Centre) provisions for Lot 155 Berrigan Drive (Schedule 3/90);
- (d) rezoning of land bounded by Mell Road, Rigby Avenue and Rockingham Road, from Rural to Residential R30 and including in DA1 (Schedule 2/30);
- (e) the modifications to the provisions of Schedule 12 (DCA5 Yangebup East) to introduce owner contributions for the construction of Spearwood Avenue (Schedule 1/100); and
- (f) the modifications to the provisions of Schedule 12 to introduce DCA6 and owner contributions for Munster (Schedule 1/101).

The Minister has given specific directions on advertising requirements for the substantial modifications.

The Minister also advised the Council in respect to the proposed modification to TPS3 and District Zoning Scheme No. 2, regarding changes to the definition of Noxious Industry. The request from the Council to delete the definition of “industry-general (licensed)” and modify the definitions of “industry-general and industry-noxious” in the Scheme, to effectively reinstate the former closing words of Schedule 2 of the *Health Act* is not supported. This matter is discussed in more detail within a separate item OCM21/08/01 dealing with Amendment 225.

Further modifications requested by the Council (Item 14.4 OCM17/4/01) have been accepted, subject to deletion of the component relating to the Coogee Primary School site, which is no longer necessary.

The Residential Planning Code variations (Amendment 229 DZS2) relating to changes to open space (ie. site cover increase for single dwellings at building licence stage) and setbacks on residential lots within the district, was only accepted in part. The discretion accepted only relates to the minimum open space for new Residential Development Areas only.

There is an opportunity for the Council to review Town Planning Scheme No. 3 in regard to any submissions received following advertising. The Minister should then be in a position to grant final adoption to TPS3 later this year or early next year, provided that:-

- due regard has been given to the submissions and their validity from a planning perspective; and
- the Council has followed the specific instructions regarding the modifications to TPS3.

Other Changes

The following minor modifications have not yet been considered by the Minister yet could be included in the advertised version of TPS3:-

1. Amend the Scheme Text by adding the following words underlined to allow for variations to the Residential Planning Codes for residential lots where a Detailed Area Plan sets out specific design controls (ie open space, building setbacks etc.):-

8.2.1 (j) the erection of a single house and two grouped dwellings including any ancillary outbuildings and swimming pools which comply with the provisions of a Detailed Area Plan.

5.4.1 Except for development within a Detailed Area Zone where a detailed area plan is approved, there are no exclusions or variations to the Residential Planning Codes.

6.2.16 Notwithstanding clause 5.2, where it is considered desirable to, elaborate or expand the details or provisions contained in a Structure Plan for a particular lot or lots a detailed area plan may be prepared by-

2. Amend the eastern boundary of Development Area 3 to include the adjoining land reserved for public open space, lakes and public purposes. This land will be included in the Structure Plan for Panorama Gardens Estate to allow for flexibility in the final locations of the community purpose site and drainage.
3. Amend the Scheme Map to show Lot 196 Berrigan Drive as Residential zone - R20 and Lots 195 and 194 as Local Centre - Restricted Use - RU6 and modify the Scheme Text Schedule 3 - Restricted Uses RU6 to apply to Lots 194, 195 and 197 Berrigan Drive, Jandakot. The owner of the land has requested this change which is similar to that currently contained in DZS2 except that Lot 196 is proposed to change from Commercial to Residential as a lot overlooking the Glen Iris Golf Course.

The Council must comply with the Minister's directions in order to progress Town Planning Scheme No. 3.

Strategic Plan/Policy Implications

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

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."*

Conserving and Improving Your Environment

- *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*

- *"To conserve the character and historic value of the human and built environment."*
- *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*

Facilitating the needs of Your Community

- *"To facilitate and provide an optimum range of community services."*
- *"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*
- *"To determine by best practice, the most appropriate range of sporting facilities and natural recreation areas to be provided within the district to meet the needs of all age groups within the community."*

Budget/Financial Implications

The total expenditure for the preparation of TPS No. 3 is \$29,702 (approx). TPS3 has been prepared in-house, using the Model Scheme Text, which has resulted in the Council saving a large amount of money in the preparation of a Local Planning Strategy, Scheme Text and Scheme Map. To have contracted out this work would have been very expensive, based on the costs expended by other comparable local governments.

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

The preparation of a Town Planning Scheme for the district is a requirement under the Town Planning and Development Act.

14.11 (Ocm1_8_2001) - FINAL ADOPTION OF AMENDMENT NO. 194 TO DISTRICT ZONING SCHEME NO. 2 - R24309 COCKBURN ROAD, HENDERSON - APPLICANT: GRAY & LEWIS (92194) (SA) (MAP 5) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the amendment for final approval with the following modification/s to the amendment documents:
 1. modification of the amendment map and text to reflect the revised Cockburn Road realignment (as per WAPC Subdivision No. 110428);

- (2) re-state to the Hon. Minister for Planning, that Council is not prepared to amend its recommendation in line with the applicant's submission;
- (3) in anticipation of the Hon. Minister's advice that final approval will be granted, the modified amendment documents be signed, sealed and forwarded to the Western Australian Planning Commission; and
- (4) advise the applicant and those who made submissions of Council's decision accordingly.

COUNCIL DECISION

Background

ZONING:	MRS:	Industrial
	DZS:	Unzoned
LAND USE:	N/A	
LOT SIZE:	N/A	
AREA:	N/A	
USE CLASS:	N/A	

Amendment No. 194 will rezone Portion of Reserve 24309 Cockburn Road, Henderson from "Regional Reserve - Parks & Recreation Reserve" to "General Industry (Restricted Use: Ship Building and the manufacture, fabrication and assembly of components for use by the offshore petroleum industry)" and portion of Cockburn Road from 'Local Reserve - Local Road" to "General Industry (Restricted Use: Ship Building and the manufacture, fabrication and assembly of components for use by the offshore petroleum industry)".

The proposed transfer of the subject land to General Industry is for the development of the Southern Harbour project on Jervoise Bay.

It is intended that the Southern Harbour will support the fabrication and loadout of purpose-built modules and jackets; the fit out of floating production and storage vessels; naval vessel refits and maintenance; and module and specialist plant fabrication for the mining and mineral processing industries.

The Southern Harbour will be divided into two precincts:- the Heavy Fabrication/Ship Building precinct and the Marine-Related Heavy Industry precinct.

The development of the Heavy Fabrication/Ship Building precinct will require the construction of a major offshore breakwater to provide a fully protected waterfront and reclamation of approximately 50 ha of waterfront land. The reclaimed area is intended to be largely developed as a common use Fabrication/Laydown Facility with direct access to waterfront berths and loadout wharves.

As a large portion of the Jervoise Bay Infrastructure Development Area lies outside the City of Cockburn's Municipal Boundary, Council had no jurisdiction to assess the proposal. Therefore the amendment process became staged, with the first stage being the land area within the Council's boundary, namely Amendment No. 194. The next stage will be the realignment of the Municipal Boundary to include the Heavy Fabrication/Ship Building precinct in Council's Municipal area, and the final stage will be the rezoning of this precinct.

Council previously resolved at its Ordinary Meeting, held on the 15 February 2000 the following:

- (1) *request the Western Australian Planning Commission for a deferment and extension of time for the Council to make a recommendation on the amendment, under Regulations 17(2) and 18(1) of the Town Planning Regulations, until the realignment of Cockburn Road and subdivision of Part Lot 2 and Reserve 24309 Cockburn Road has been finalised (WAPC Ref 110428);*
- (2) *advise the applicant of Council's decision accordingly; and*
- (3) *write to the Minister for Planning advising that Council is not prepared to amend its recommendation in line with the submission on behalf of Landcorp.*

Submission

Council resolved to initiate Amendment No. 194 in April 1999, and advertising closed on 5 January 2000. One submission was received, refer to the Agenda Attachments for further details.

Final adoption was deferred pending the realignment and subdivision of Cockburn Road (Ref No. 110428) in February 2000. Council has responded to the WAPC abovementioned subdivision application for Cockburn Road, but as yet no decision has been issued by the Commission.

Report

The reason for the deferment is that when new lots boundaries are created, as a result of the Cockburn Road realignment and subdivision

application, it will create split zonings on the proposed new lots. However, final adoption can now be granted as approval of realignment/subdivision for Cockburn Road is imminent, and the amendment documents can be modified to reflect the correct alignment and zonings for both the east and west of Cockburn Road.

The applicants noted their concerns in their submission, and requested that Council change the proposed zoning to:

"Marine related Industry restricted to:

Marine Engineering and general industries which are directly related to or in support of Marine Engineering, together with other general industries restricted to the carrying out of any process for and incidental to the fabrication, manufacture and repair of structure for large scale industrial uses in the energy, transport, chemical and mining industries."

This proposed wording change deletes reference to the need to require the industries to transport their product by sea. This was the wording agreed by the Minister and should continue to apply and the matter is totally irrelevant to Amendment 194.

The applicant stated that the revision of the definition would provide greater opportunities for other industries that may not require transport of primary products by sea.

Council's Planning Department takes the position that the Council has agreed to the original rezoning as proposed by Gray and Lewis, which is *"General Industry - Restricted Use - Ship Building and manufacture, fabrication and assembly of components for use by the off shore petroleum industry"*.

There is not sufficient justification for changing the rezoning, as the land on the west side of Cockburn Road is a limited and scarce resource and should only be developed for Marine related industries. The Council has made its position clear, that only those industries which need to be located on the coast, should be located on the coast. Other non-marine industries should be located elsewhere.

The Western Australian Planning Commission has updated the Metropolitan Region Scheme (MRS) for the proposed Jervoise Bay Infrastructure Project. The MRS Amendment No. 1001/33, which was subject to Section 38 Assessment by the Environmental Protection Authority, was finalised in early 1999.

This development has been adopted as a priority initiative by the State and the Council must comply with the Metropolitan Regional Scheme.

The scheme was the subject of an environmental review (formal assessment) by the Environmental Protection Authority, as a part of the MRS Major Amendment procedure. The Minister for Environment granted Ministerial approval to the proposed amendment, subject to conditions in December 1998.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

14.12 (Ocm1_8_2001) - PROPOSED TEXT AMENDMENT TO DISTRICT ZONING SCHEME NO. 2 -NO 231 DETAILED AREA PLANS (92229) (MR)

RECOMMENDATION

That Council:

- (1) not proceed with Amendment 229 to Town Planning Scheme No 2 and advise the Western Australian Planning Commission accordingly.
- (2) adopt the following amendment:-

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED) RESOLUTION DECIDING TO AMEND A TOWN PLANNING SCHEME CITY OF COCKBURN - DISTRICT ZONING SCHEME NO. 2.

AMENDMENT NO. 231

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 by:-

Modifying the Scheme Text as outlined below in bold:-

*“5.1.3 (b) the erection on a Lot of a single house, two grouped dwellings, including ancillary outbuildings which comply with the provisions of the Residential Planning Codes **or Detailed Area Plan**, in a zone where the proposed use is designated with the*

symbol "P" in the cross-reference to that zone in the zoning table, provided the Place is not included in the Heritage List referred to in Clause 5.8.1;"

"5.3.5 (2) (a) where land is within a Development Area in the Scheme, the local government **may vary the minimum open space provisions** of the Residential Planning Codes within an area of a structure plan or any part of the area stipulated in a structure plan, in accordance with development guidelines or detailed area plan forming part of the structure plan." (this clause has been adjusted to comply with the direction given by the Minister)

"8.2.16.1 **Notwithstanding clause 5.3**, where it is considered desirable to enhance, elaborate or expand the details or provisions contained in a structure plan for a particular lot or lots, a detailed area plan may be prepared by:-" etc.

"8.2.16.2 **Where the Council has discretion under the Residential Planning Codes** a detailed area plan may include **variations to the provisions of the Codes and** include details as to:- " etc.

- (3) Sign the amending documents, and forward a copy to:-
1. The Environmental Protection Authority in accordance with Section 7A(1) of the Act;
 2. The Western Australian Planning Commission for information;
 3. Roberts Day Group and Masterplan Town Planning Consultants.
- (4) subject to the advice of the Environmental Protection Authority under Section 48A of the Environmental Protection Act that the amendment not be assessed, advertise the amendment in accordance with the Town Planning Regulations for not less than 42 days.

COUNCIL DECISION

Background

Council at its Ordinary Meeting held on 17 April 2001, decided to initiate Amendment 229 to the City of Cockburn Town Planning Scheme – District Zoning Scheme No 2 (“DZS2”), as follows:-

Amend the Scheme Text by adding the following words to Clause 5.3.5:-

“(2) where an area is in a:-

Residential Zone in the Scheme, the local government may vary the minimum total percentage of open space and minimum setback provisions of the Residential Planning Codes provided that it has regard to the objectives of the Codes.

Development Area in the Scheme, the local government may vary the minimum requirements of any provision of the Residential Planning Codes within an area of a structure plan or any part of the area stipulated in a structure plan, in accordance with development guidelines or detailed area plan forming part of the structure plan.”

The Scheme Amendment was referred to the Western Australian Planning Commission (“Commission”) for consent to advertise due to the implications regarding the Residential Planning Codes – Statement of Planning Policy.

Submission

N/A

Report

The Commission advised recently that the Minister for Planning and Infrastructure has:-

- “1. in respect of proposed Clause 5.3.5 (2) (a): declined Council’s request; and
2. in respect of proposed Clause 5.3.5 (2) (b): support the Council’s request in part only, and requires that the clause be modified to state that the discretion relates only to the minimum open space provision.”

The Scheme Amendment would only allow the City to vary open space requirements of new dwellings within the Development Zone under DZS2. This does not entirely satisfy the reason why the Scheme Amendment was initiated in the first instance. It is recommended that the Council not proceed with Amendment 229 and instead initiate a new Scheme Amendment to deal with this matter in a different format that will hopefully satisfy the requirements of the Minister.

The Scheme Amendment proposals were revised following discussions with representatives from the Ministry for Planning, Roberts Day Group, Masterplan and the City. Ministry Officers seemed to accept that further Scheme provisions were needed to avoid individual development applications being lodged seeking variation to the R-Code requirements for residential development covered by a detailed area plan. Further changes were also required to clarify that the requirements of detailed area plans prevail can vary from the standards of the R-Codes.

To simply modify Amendment 229 in the above regard may be difficult to achieve since the Minister has already made a decision on this matter and for this reason a new scheme amendment although starting 'afresh' was a better approach. Similar Scheme provisions are proposed within Town Planning Scheme No 3 to address this matter.

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 the Council.

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

Nil

14.13 (Ocm1_8_2001) - REVISED STRUCTURE PLAN - CELL 11 BEELIAR (PANORAMA GARDENS) - LOT PT 4 BEELIAR DRIVE, BEELIAR - OWNER: HOMESWEST - APPLICANT: CHAPPELL & LAMBERT (9519) (CC) (MAPS 9 & 15) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the revised structure plan for Beelihar Heights Cell 21 (Panorama Gardens) subject to the following requirements and

understandings:

1. The northern portion of the central public open space Reserve 45286 being retained and the adjacent road pattern and lot layout being redesigned to accommodate and to include an interface road between the public open space and residential land to the satisfaction of Council.
 2. All lots directly adjacent to the gas pipeline buffer not being greater than Residential R20 in density and the closest setback from the centre line of the pipe to a residential lot not being less than 32 metres. All prospective land owners within 96 metres on the pipeline being notified of restrictions on land use resulting from the pipeline.
 3. A 50 percent credit applies to the 2.0660 ha public open space adjacent to the gas pipeline easement and the artificial lake adjacent to the town centre. Additional public open space to be allocated within the revised structure plan area. The proponent is to submit a revised public open space schedule showing the aforementioned and demonstrating that the required 13.8953 ha is allocated in the structure plan area.
 4. A detailed area plan being prepared and submitted to Council in accordance with the provisions of District Zoning Scheme No. 2 (clause 8.2.16) for the neighbourhood centre and adjacent residential R40 precincts to guide subdivision and development.
 5. Drainage within the revised structure plan area to incorporate the principles of water sensitive design and the drainage for the 1 in 10 storm not to be part of the POS land requirement unless Council determines otherwise.
 6. Road design, access and outlook issues identified on the plan (attached) being addressed to the satisfaction of the City of Cockburn and adequate provision being made for on street parking adjacent to the Residential R40 zones at subdivision stage.
- (2) forward the revised structure plan and schedule of submissions to the Western Australian Planning Commission for endorsement in accordance with District Zoning Scheme No. 2 (clause 8.2.12); and

- (3) advise the consultants, referral authorities and those who made submissions on the structure plan of the Council's decision.

COUNCIL DECISION

Background

ZONING:	MRS:	URBAN
	DZS:	RESIDENTIAL R20/40
LAND USE:	Vacant Land	
LOT SIZE:	85 ha	
AREA:	N/A	
USE CLASS:	N/A	

Beeliar Heights structure plan area is bounded by Beeliar Regional Park to the east and south, Beeliar Drive to the north and the future Spearwood Avenue extension to the west. *See agenda attachments - Adopted Structure Plan*

Housing development commenced in 1994, including the establishment of the St Lukes and Beeliar Primary Schools and a large central park on the main thoroughfare - The Grange. A balance area of 85 hectares (the western portion of the land) remains to be developed.

Various issues have arisen within the structure plan area chiefly crime, narrow roads, and the lack of community and commercial facilities resulting from delayed development of the neighbourhood centre.

Delays, in part, resulted from a review of the existing structure plan, which has included an extensive developer driven public consultation program. As a result, a Community Development Plan has been prepared by the developer.

A revised structure plan for the balance land (renamed Panorama Gardens) was displayed and discussed at two community days of 15th and 16th of October 2000. 61 people attended the meetings and there was unanimous support for the plan with the exception of the petrol station proposal at the intersection of Beeliar Drive and Spearwood Avenue, which has subsequently been deleted.

Submission

The revised structure plan retains the essential landuse elements of the original plan, but updates the subdivision design philosophy in line

with the Western Australian Planning Commission's Liveable Neighbourhoods Policy Manual and in response to outcomes of the public consultation program. See *Agenda Attachments - Revised Plan*.

The revised plan has a more connective road network for improved vehicle and pedestrian movement, and boulevard style roads leading to a centrally located town centre. Additional link roads to the future Spearwood Avenue will increase neighbourhood connectivity to the future residential area (Cell 10) to the east.

The main street style town centre has provision for retail, medical and community centres adjacent to an artificial lake and public open space. This will create an attractive and vibrant community focus.

The residential areas are redesigned around the modified grid style with smaller lot development (R40) being serviced by rear laneways. These smaller lots are strategically placed around the town centre, public open space and on land where aspect to views or landscape is provided.

Report

In accordance with District Zoning Scheme No. 2, the revised structure plan was advertised by way of notice in a local newspaper (19 May 2001), direct letter drop to landowners adjoining the revised structure plan area and landowners affected by revised road layouts and traffic movements, and relevant government agencies.

Public Consultation

Objections were raised by the owners of 4, 6 and 8 Catspaw Avenue to a proposed new through road connection from the town centre to The Grange, which requires the creation of a T-style road junction with Catspaw Avenue adjacent these properties.

The grounds of objection are:

- ❑ bought properties on the basis of the existing structure plan, which indicated only houses on both sides of Catspaw Avenue;
- ❑ increased traffic on Catspaw Avenue;
- ❑ car headlights shining in bedroom windows at night;
- ❑ cars crashing into their property;
- ❑ property devaluation and pedestrian safety.

See agenda attachment - Summary of Public Submissions

In response to these concerns the proposed through road only occurs in front of No. 4 Catspaw Avenue. The owners of Nos 6 and 8 would still have outlook to housing on the opposite side of the street, and traffic volumes on their section of Catspaw would remain unchanged

form the original structure plan. The curvature of the proposed through road is within safety design limits and north bound traffic on the through road begins to curve about 40 metres before No. 4, head-lights at night and the possibility of cars crashing into No.4 are considered remote.

See agenda attachments -Proposed Intersection Treatment

Referral Authorities

Referral authorities raise no objection to the proposal but have advised of their servicing or development requirements. Most of the issues may be dealt with as advice to the consultants or as conditions on subdivision approvals. Specific issues raised by authorities relevant to the structure plan are discussed below.

See agenda attachments - referral authority submissions

Public Open Space & Drainage

A total of 13.8587 hectares of public open space is required to be provided. There are several issues in respect to POS provision and allocation.

A 50 percent credit shall apply to the POS adjacent to the gas easement due to its linear configuration, gas pipe-line risk and drainage function. This is in accordance with previous approvals.

The existing central POS is proposed to be reduced at the northern section (bushland) by about 3500m². This area was originally retained for its quality bushland and in view of this should be retained as there will be a POS shortfall due to the 50 percent credit for the linear POS mentioned above. This land is already vested and its retention will negate the need for divesting procedures.

The POS details of the report need to be refined to reflect the above and include the community purpose site and credit sought for the lake component. Council Policy *APD 20 Public Open Space Credit Calculations*, and Liveable Neighbourhoods indicates a maximum 50 percent credit for artificial lakes.

The Waters and Rivers Commission has requested the incorporation of WSD (Water Sensitive Design) as part of the stormwater management. The essential elements of WSD include vegetated swales, filterstrips, extended detention basins and constructed wetlands aimed at improving water quality before reaching groundwater. Consulting Engineers and Council have discussed the incorporation of WSD elements where practicable.

Road Network and Lot Layout

The Revised Plan accords with District Zoning Scheme No. 2 (Ninth Schedule) in respect to density allocation of a base density of R20 and R40 at approximately 20 percent.

There are several road design, property access and outlook issues (especially for R40 housing) that need to be highlighted to the consultants so that they may be addressed at subdivision stage. There are no major impediments to consideration of the Revised Plan.

A traffic study in support of the Revised Plan has been submitted and the allocated road reserve widths for traffic volumes and hierarchy generally accord with the Liveable Neighbourhoods requirements.

In respect to the Catspaw Avenue issue, an increase in vpd (vehicle trips per day) on the portion of Catspaw Avenue between the Grange and the new north-south boulevard road from 1096 to 2930 is indicated. The existing 16 metres road reserve width is within Liveable Neighbourhoods design limits for such volumes.

Gas Pipeline

A risk assessment for the pipeline undertaken as part of the original structure plan and outlined in EPA Policy, determined the following requirements:

- a setback of 32 metres from the centre of the pipeline to the nearest residential site.
- a 96 metre buffer from facilities such as schools, hospitals, child care and other facilities attracting people.

In view of the risk associated with the pipe-line, it is considered appropriate that only lower density Residential R20 abut the pipe-line easement. At subdivision stage Council will request the WAPC to advise prospective owners within 96 metres of the pipeline of restrictions imposed on the use of their property.

CMS Energy – the owner of the pipeline - has provided recommendations in respect to the treatment of the pipeline and need for consultation during subdivision works. A copy of the CMS advice is to be forwarded to consultants.

It is considered that the main elements of the Revised Structure Plan are acceptable to Council and a significant improvement over the current plan. The plan can therefore be adopted subject to the following revisions and understandings.

1. The northern portion of the central public open space Reserve 45286 being retained and the adjacent road pattern and lot layout being redesigned to accommodate and to include an interface road between the public open space and residential land to the satisfaction of Council.
2. All lots directly adjacent to the gas pipeline buffer not being greater than Residential R20 in density and the closest setback from the centre line of the pipe to a residential lot not being less than 32 metres. All prospective land owners within 96 metres on the pipeline being notified of restrictions on land use resulting from the pipeline.
3. A 50 percent credit applies to the 2.0660 ha public open space/drainage area adjacent to the gas pipeline easement and the artificial lake adjacent to the town centre. Additional public open space to be allocated within the revised structure plan area. The proponent is to submit a revised public open space schedule showing the aforementioned and demonstrating that the required 13.8953 ha is allocated in the structure plan area.
4. A detailed area plan being prepared and submitted to Council in accordance with the provisions of District Zoning Scheme No. 2 (clause 8.2.16) for the neighbourhood centre and adjacent residential R40 precincts to guide subdivision and development.
5. Drainage within the revised structure plan area to incorporate the principles of water sensitive design where in the opinion of Council to be practicable.
6. Road design, access and outlook issues identified on the plan (attached) being addressed to the satisfaction of the City of Cockburn and adequate provision being made for on street parking adjacent to the Residential R40 zones at subdivision stage.

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

3. Conserving and Improving Your Environment

- *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
- *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*

4. Facilitating the needs of Your Community

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

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

APD 4 Public Open Space
SPD 4 Liveable Neighbourhoods

Budget/Financial Implications

N/A

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

Nil

14.14 (Ocm1_8_2001) - ESTABLISHMENT OF A RESTAURANT/CAFE - LOT 309 PROGRESS DRIVE, BIBRA LAKE (1114553) (KJS)

RECOMMENDATION

That Council:

- (1) appoint a suitable consultant to undertake the market research to determine community acceptance and patronage of a restaurant/café/kiosk located on Lot 309 Progress Drive, Bibra Lake;

- (2) appoint a suitable consultant to undertake environmental and geotechnical investigation on a site adjacent to and just south of the playground equipment located on Lot 309 Progress Drive, Bibra Lake, to determine the suitability of the site for a restaurant/café/kiosk; and
- (3) transfer \$15,000 from the Land Development Reserve Fund to undertake (1) and (2) above.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

At the Council meeting held on 15th May 2001 Council resolved that a report be presented to a future Council Meeting on the possibility of establishing a restaurant, café or fixed building kiosk on the Bibra Lake Reserve 6208.

Submission

N/A

Report

Close examination of the Land Tenure reveals that Reserve 6208 is on an "A" class reserve with no power to lease. Lot 309 is a freehold land parcel formerly owned by the Ministry for Planning, but now being processed by the Department of Land Administration to be a Reserve for Recreation and Education, with a power to Lease for periods of up to 21 years to be managed by the City of Cockburn. The nominated location for initial investigation purposes is within Lot 309 and close to the recently erected playground equipment. The location is also close to the northern car park and clear of the cycleway/footpath.

The nominated site will provide good views of the lake. A market research survey will provide valuable information in regard to the community's attitude about the facility, the type of facility preferred, the range of products that need to be provided and the level of patronage that can reasonably be expected.

The environmental report will tabulate any issue that will potentially detract from the site and its enjoyment by future patrons. The Geotechnical report will ascertain the suitability of the site for various

classes of buildings. The information from each of the reports will assist in any future deliberations concerning the possible construction, operation and leasing of a future facility. The proposed reserve will be for the purpose of recreation and education. The education purpose relates to the wetlands education centre that is also within the proposed reserve. The recreational purpose requires that any facility constructed on the site is seen to be as peripheral to the recreational nature of the reserve and not drawing patrons on its own account. The location close to the playground equipment, parking area, foot and cycle paths is thus important in satisfying this requirement.

It is estimated that \$10,000 will cover the costs of the consultants.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

Funds can be made available from the Land Development Reserve Fund.

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

Nil

14.15 (Ocm1_8_2001) - PROPOSED SATELLITE DISH - LOT 102, 19 LA FAYETTE BOULEVARD, BIBRA LAKE - OWNER/APPLICANT: FORTUNATO FERNANDEZ (1117888) (SC) (MAP 20.186) (ATTACH)

RECOMMENDATION

That Council:

- (1) approve the proposed satellite dish on Lot 102, 19 La Fayette Bvde, Bibra Lake in accordance with the approved plans subject to the following conditions:

Standard Conditions

1. Standard conditions contained in Council Policy APD 17 as determined appropriate to this application by the delegated officer under clause 7.6 of Town Planning Scheme – District Zoning Scheme No. 2.

Special Conditions

1. The applicant erecting additional lattice or landscaping along the side fence to screen the dish from the adjoining

owner.

Footnote

1. The applicant is reminded of their 'obligation' under the Strata Titles Act to obtain the approval of the other Strata lot owner or body corporate for the satellite dish.
- (2) Issue an MRS Form 2 Notice of Approval valid for a period of 24 months;
- (3) advise those who had made a submission of Council's decision accordingly.

COUNCIL DECISION

Background

ZONING:	MRS:	Urban
	DZS:	R12.5
LAND USE:	House	
LOT SIZE:	444m ²	
AREA:	N/A	
USE CLASS:	Single House 'P'	
OWNER:	FORTUNATO FERNANDEZ	
APPLICANT:	FORTUNATO FERNANDEZ	

The owner has already erected the satellite dish, however, the owner is willing to dismantle and re-erect the dish in order to gain a valid approval, which is acceptable.

To reduce the visual impact of the dish on the street the owner erected lattice on top of the fence facing La Fayette Boulevard and has agreed to complete an infill section to the side Strata Lot owner. (Refer to the Agenda Attachments for photographs of the installed lattice) The lot is on the corner of La Fayette Boulevard and Mireabeau Mews.

Submission

The application is for a domestic satellite dish, 3 metres in diameter erected on a 1.5 metre high pole. The dish is situated approximately 1.5 metres away from the lot's western boundary to La Fayette Boulevard and about 10.0 metres from the side boundary of the adjoining Strata lot. To gain reception, the dish needs to be on an

angle of 45 degrees, therefore it is approximately 2.2 metres in height. Lot 102 is Strata titled into two strata lots. Refer to the Agenda Attachments for a copy of the application and submitted plans.

Report

The surrounding landowners were notified of the application and given the opportunity to comment within a period of 21 days. At the close of the advertising period, 1 submission of objection was received from the adjoining Strata lot owner. The submission expressed a concern with the size and height of the dish and the effects on the value of their property.

The visual aspects of the dish (as shown in the attachments) were photographed from the adjoining owner's Strata lot where it was thought that the satellite dish would not have any adverse impact on the amenity. Once the lattice is erected on the fence dividing the adjoining Strata lot owners the dish would be hardly visible. There is also no evidence to suggest the dish would reduce property values.

Although the dish has already been erected, the Council cannot legally issue a retrospective development approval under District Zoning Scheme No. 2 (DZS 2). The Scheme requires approval to be sought and obtained prior to carrying out any development requiring planning consent. Notwithstanding the above, the Council could still approve the proposal based on a planning application being received and approved by the Council and the applicant complying with the conditions imposed.

Strategic Plan/Policy Implications

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

2. Planning Your City

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

The Planning Policies which apply to this item are:-

APD17* Standard Development Conditions and Footnotes
APD14* Domestic Satellite Dishes Policy

Budget/financial Implications

N/A

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

Nil

14.16 (Ocm1_8_2001) - TRIBUNAL APPEAL 40/2001 - CONTAINER REFRIGERATION PTY LTD VS CITY OF COCKBURN: LOT 121 O'CONNOR CLOSE/ 46 ROLLINSON ROAD, HAMILTON HILL (2213440) (SMH) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the report;
- (2) is prepared to consider a compromise 'without prejudice' subject to:-
 1. requiring the appellant, Container Refrigeration Pty Ltd, to enter into an agreement with the City of Cockburn that the company will cease using Lot 121 Rollinson Road, Hamilton Hill for the storage, repair and painting of containers by a pre-determined date and in the event that the appellant (owner) does not vacate the site by the pre-determined date then a significant penalty will apply, and that the entering into the agreement will be a pre-requisite to the Council agreeing to any compromise to enable a planning approval to be issued for the land;
 2. the execution of the agreement referred to in 1. above, the Council is prepared to issue a time limited approval of a maximum of 3 years from date of the consent order issued by the Tribunal, for the storage and repair of containers on Lot 121 O'Connor Close, Hamilton Hill, subject to conditions;
- (3) advise Council's solicitor of the Council's decision and request that this be conveyed to Phillips Fox, as a 'without prejudice' response to its compromise proposal dated 23 July 2001; and
- (4) instruct its solicitors, McLeod & Co, to initiate legal action against Cleland Nominees Pty Ltd (Sealanes) for the storage of containers on Lot 112, (No. 43) Rollinson Road, Hamilton Hill, without first applying for and receiving the planning approval of the Council, in the event that the containers on the land have not been removed by the date of Council meeting held on 21 August 2001.

COUNCIL DECISION**Background**

An application was received from Container Refrigeration Pty Ltd to construct an undercover storage area and to permit to store sea containers on Lot 121 O'Connor Close, following a site inspection which found that containers were being stored and repaired without the Council's approval.

The lot has an area of 1.4 ha, and is located within a Clause 32 call-in area for North Coogee implemented by the WAPC under the MRS, which means that the WAPC must also determine the application.

The application was referred to the WAPC, where it was refused. The date of refusal was 21 February 2001.

The Council resolved on 28 September 1999, that once the WAPC decision was known in relation to applications determined under the North Coogee Clause 32 call-in, that the Council would make its decision under the local scheme consistent with the Commission.

In accordance with the Council resolution, the Council refusal was issued under delegated authority on 2 March 2001. The reasons were the same as those given by the WAPC.

The applicant lodged two appeals to the Town Planning Tribunal on the 27 April 2001. The applicant appealed against the decision of the WAPC and the Council separately.

A response to the appeal was prepared and sent to the Council's solicitor, in the event that the appeal proceeded to the Tribunal.

To date an informal mediation meeting has been held with the appellants representative, Greg Rowe, of Greg Rowe & Associates, Town Planners, and from this the appellants solicitors, Phillips Fox have proposed a compromise.

Submission

Distributed under separate cover, is a copy of the compromise proposal by Phillips Fox dated 23 July 2001.

Report

The situation is that it appears based on the Council's records that the applicant is using the land for the storing, repairing and painting sea containers without Council approval.

The owner was advised of this and asked to provide evidence of any approval that the company may have. This was not provided, so instead the owner applied to the Council/ WAPC for approval. This was refused and the appeal lodged.

The site is a large 1.4 ha and is almost totally occupied by sea containers stored 4 high.

The land in O'Connor Close, together with the surrounding sites of Wesfarmers, the railway land and the old Bradken foundry are currently proposed under the MRS to be rezoned from industry to urban.

The rezoning of this land has been due to the initiatives of the Council in an endeavour to reduce the amount of industry on the Cockburn coast and provide for more appropriate coastal uses such as housing.

The Amendment (1008/33) is in its final stages and hopefully will be presented to Parliament in the spring session.

This means the amendment to the MRS could be gazetted in November, but there is no guarantee. Should this occur, then the local scheme amendment could be gazetted by say July/August 2002, and subject to the structure planning having been completed in parallel, the subdivision plans could be approved ready for construction by the end of 2002. This is all speculative, however, because the time frames could be affected by the community consultation, environmental approvals, technical compliance and planning approvals.

The Council could proceed with the Tribunal hearing, however, the main problem with Container Refrigeration continuing to operate on Lot 121 is not so much the short-term issues, but rather its potential detrimental impact on the abutting future urban development.

Given this, the Council may be prepared to agree to a time limited approval for the current activity so that it vacates the site on or before the commencement of the proposed urban development, so that it cannot have an adverse impact on the development area. If this can be achieved by a time limited approval, then this could suit the appellant, who would need time to relocate, and the Council and the WAPC, who would seek to ensure that the use of the site ceases before "urban" development begins. This approach seems reasonable in the circumstances.

Based on the indicative time frame it could be that urban development could commence on site by say 2002/2003, at the earliest, but at least by 2004. This means that a time related approval of 3 years could be appropriate.

A three year period should also be sufficient for the owner to find another site.

The appellant proposes that the limited approval period commence from the date of gazettal of either the MRS or the local scheme. Although this has merit, the problem is that at this stage it is not certain when this is likely to occur, and given that the appellant appears to have already been using the site for some time without approval and has not ceased to operate since receiving the refusals, the owner has already enjoyed a benefit.

Based on discussions with officers in the MFP and Council's solicitors, it seems that a preferred date on which to commence the time limited approval would be the date of the consent order issued by the Tribunal. Subject to the outcome of the negotiations, this date is likely to be determined within the next month. If negotiations fail, then the outcome will be decided by the Tribunal.

Therefore it is recommended that the Council provide a 'without prejudice' response to Phillips Fox through Council's solicitor, to the appellant's compromise proposal dated 23 July 2001.

Of concern is that Lot 112 Rollinson Road, immediately south of the appellant's site in O'Connor Close was being used for the storage of containers, as at the 10 July 2001.

The land is owned by Cleland Nominees Pty Ltd c/- 178 Marine Terrace, South Fremantle (Sealanes), and is 3 ha in area. The land is vacant and no approvals have been issued for it.

Accordingly, from a site inspection conducted at 3.00pm on Friday 10 July 2001, it appeared that between 150 to 180 sea containers were on the site stacked 2 high. Enquiries with Greg Rowe and Associates revealed that the containers belonged to Container Refrigeration according to Mr Rowe. This was confirmed on Monday 13 September by a representative from Sealanes.

These containers had been placed on the land without approval. Mr Rowe advised that they would be removed by around 17 August 2001.

This is a cause for concern, given that Container Refrigeration are currently in the Tribunal to defend its position in respect to the refusal and the apparent unlawful use of Lot 121.

It is recommended that in the circumstances, the Council initiate legal action against the owner of Lot 112 Rollinson Road immediately, rather than follow its policy of warnings, because this could delay legal action by another 42 days. This blatant disregard for the Council's scheme, when Container Refrigeration is fully aware of the need to gain the Council's approval because of the appeal, is not acceptable.

If, however, the containers are removed from Lot 112 by the date of the Council meeting, namely 21 August 2001, then there would be no point in proceeding with the action. Sealanes have been advised that any use of the land requires Council approval, even for a temporary period.

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 cost of legal advice and representation at the mediation and the Tribunal hearing should it eventuate. Legal expenses are provided for in the budget in Account 500320.

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

Nil

15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES

15.1 (Ocm1_8_2001) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)

RECOMMENDATION

That Council receive the List of Creditors Paid for July 2001, as attached to the Agenda.

COUNCIL DECISION

Background

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

Submission

N/A

Report

N/A

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

15.2 (Ocm1_8_2001) - REQUEST FOR FINANCIAL ASSISTANCE TO APPEAL AGAINST DOUGLAS INQUIRY FINDINGS - MR J GRLJUSICH (1335) (ATC)

RECOMMENDATION

That Council advise Mr J P Grljusich that it is not prepared to finance an appeal on his behalf against the Martin and Vicary and Douglas Inquiry findings.

COUNCIL DECISION**Background**

At its meeting of 19 April 2001, Council rejected a claim by Mr J Grljusich for reimbursement of legal and other expenses incurred as a result of the Martin and Vicary and Douglas Inquiries.

Submission

Mr Grljusich has written to Council as follows:

Thank you for the letter from Mr Crothers dated 20 April 2001 regarding my request for reimbursement of legal fees appertaining to the Martin Vicory and Douglas Inquiries.

I note that there are no specific reasons given for rejecting the claim. Could you please clarify the reasons as to why the claim has been rejected.

I would like to bring your attention to Council's Policy A1.18, "legal representation" adopted 8 June 1999 which makes provision at 18 (b) for appealing against or otherwise challenging the findings of any inquiry.

In respect to this policy, is Council prepared to finance an appeal on my behalf?

These matters are of the utmost importance to me and I would appreciate a response to the above as soon as possible.

Report

At its meeting of 19 April 2001, Council rejected Mr Grljusich's claim for reimbursement of legal and other expenses incurred as a result of the Martin and Vicary and Douglas Inquiries. Council considered that the authorisation of financial assistance was revoked pursuant to Clauses 18 and 19 of the previous Policy A1.18 at the Council Meeting on 17 October 2000. This explanation has been provided to Mr Grljusich in response to his query as to why the claim was rejected in a letter dated 11 July 2001.

Mr Grljusich has requested Council to finance an appeal on his behalf against the findings of the Martin and Vicary and Douglas Inquiries.

The previous Policy A1.18 (which was revoked at the 17 October 2000 Council Meeting) reads as follows:

18. *an indemnity or authority given under this Policy, or a contingent authorisation under Clause 15 shall be and is hereby revoked, in the following circumstances:*
 - (a) *if in the Inquiry or otherwise, it is found that a person has acted illegally, dishonestly, against the interests of the City or otherwise in bad faith in connection with the*

matter for which the person was granted financial support or given contingent authority; and

- (b) all opportunities for appealing against or otherwise challenging that finding have been exhausted; or*
- (c) information provided to the CEO in the application is materially false or misleading.*

This was one of the clauses considered by Council on 17 October 2000 when revoking any authorisation of financial assistance.

It is considered that Section 18(b) of the previous Policy A1.18 was not intended to provide funding for individuals to appeal against an inquiry, but rather to provide a timeframe to consider when determining when an authority for financial assistance should be revoked.

However, the policy is no longer in effect and therefore, the request needs to be considered on its merits. Over 12 months has passed since the Douglas Inquiry handed down its report. Previous legal advice has indicated that no known grounds are available for any valid appeal against the Douglas Inquiry findings.

In a letter to Mr Grljusich dated 11 July 2001, he was advised by the Chief Executive Officer that, *"the advice I have received is that the policy made provision for financial assistance in respect of Inquiries and not appeals against the findings of Inquiries"*.

Mr Grljusich was requested to provide substantiation for his request for Council to fund an appeal on his behalf.

On 8 August 2001, Mr Grljusich has sought further clarification regarding the revocation of Policy A1.18 and the revocation of the authorisation of financial assistance to him. A reply will be forwarded administratively to his queries.

In the same letter, in response to the request to provide substantiation for his request to fund an appeal on his behalf, he states:

"As to your views, my request for Council to finance an "appeal", I can say that the Policy A1.18 in words does not exclude financial assistance by the City. There is an appeal process specifically referred to in the Policy therefore it cannot be said that funding is to be excluded for appeals."

It is not considered that this statement provides substantiation for Council to fund an appeal against the findings of the Inquiries. As stated by the Chief Executive Officer in his letter dated 11 July 2001, the Policy made provision for financial assistance in respect of Inquiries and not appeals against the findings of Inquiries.

Strategic Plan/Policy Implications

No policy exists on this matter.

Budget/Financial Implications

No funds are set aside for the purpose of funding appeals against Inquiries.

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

Nil

16. ENGINEERING AND WORKS DIVISION ISSUES

16.1 (Ocm1_8_2001) - USE OF TIP PASSES TO DEPOSIT GREENWASTE AT REGIONAL COUNCIL FACILITY AT CANNING VALE (4900; 4904) (BKG)

RECOMMENDATION

That Council:

- (1) encourage residents to use the Regional Council Facility at Canning Vale for the disposal of greenwaste in their trailers, by allowing entry to the site using a City of Cockburn voucher (tip pass) and paying the Regional Council \$16.00 for each pass presented; and
- (2) agree not to accept any greenwaste at the Henderson Landfill Site in trailers from non-ratepayers from 4 weeks after the opening of the Regional Council Greenwaste Processing Plant at Canning Vale.

COUNCIL DECISION

Background

At the Council meeting held on 15 August 2000, it was resolved that Council agrees to the variations as outlined in the Deed of Variation of the project participants agreement for the Regional Resource Recovery Centre prepared by Watts & Woodhouse dated 19 July which was attached to that agenda.

A new clause (5.5) was part of the variation which states:-

"5.5 Use of Greenwaste facility by residents

Each project participant shall take all reasonable steps to encourage its residents to use the greenwaste facility established at the RRRC."

At the Council meeting in February 2000, an item was discussed by Council on the Implementation Schedule for Recycling Projects and Associated Costs.

One of the attachments to this item was the proposal that Cockburn residents be encouraged to take their trailers with greenwaste to the facility at Canning Vale.

Submission

N/A

Report

The City of Cockburn has joined with four other local governments (Melville, Canning, Fremantle and East Fremantle) to develop an integrated Waste Processing Facility at Bannister Road, Canning Vale.

The Southern Metropolitan Regional Council are managing this project. A Project Participants Agreement has been developed and signed by the five local governments outlining the outcome and commitment for each participant.

The principal components are:-

- (1) All contents from the inorganic recycling bin (yellow top bin) are taken to the facility at Canning Vale.
Each participating local government pays a gate fee of approximately \$16.00 per tonne.
- (2) As from October 2002, all the contents from the organic recycling bin (green top bin) will be taken to the facility at Canning Vale for processing into compost.
Each participating local government will pay a gate fee of approximately \$35.00 per tonne.
- (3) All the greenwaste from vergeside collections and parks are to be taken to the greenwaste mulching facility at Canning Vale.
Each participating local government will pay a gate fee of approximately \$25.00 per tonne.

- (4) Each local government pays its contribution to the loan taken out to build the facility on a population basis. This year Cockburn's contribution is \$678,000. This will increase as Cockburn's population increases. Cockburn at present owns about 25% of the facility at Canning Vale.

As a greenwaste facility has been provided it is important the maximum amount of greenwaste is taken to the site. At present Cockburn ratepayers can deposit greenwaste at Henderson landfill site. They use one entry voucher (tip pass) per trailer load. The greenwaste is stockpiled in an area and a contractor is employed to grind the greenwaste into mulch. This costs approximately \$30.00 per tonne to mulch and dispose.

As Fremantle, Melville, East Fremantle and Canning do not have a landfill site or issue tip passes it is also important that they are not allowed to bring their greenwaste to Henderson. Therefore it is proposed that when the Canning Vale site is operational, no greenwaste from trailers other than Cockburn ratepayers will be allowed to go to Henderson.

It is also recommended that Cockburn ratepayers be encouraged to use the facility for the depositing of their greenwaste rather than go to Henderson landfill site.

It is probably more convenient for residents in Leeming, Bibra Lake, South Lake and Jandakot to go to Canning Vale and it may be just as convenient for those residents in Coolbellup, Hamilton Hill and perhaps Atwell and Success to go to Canning Vale instead of Henderson.

The entry to the Canning Vale site would be by voucher (tip pass). The redeemable cost of this is \$16.00 per trailer.

Strategic Plan/Policy Implications

One of the objectives of the Corporate Strategic Plan is to divert the maximum amount of waste going to landfill. This has resulted in the establishment of a major waste processing (recycling) facility at Canning Vale. Cockburn is a 25% owner of the facility and it is in the residents best interest to maximise the use of the facility.

Budget/Financial Implications

It is envisaged that up to 3,000 Cockburn residents will contribute their trailer loads of greenwaste to Canning Vale instead of Henderson. This will mean $3000 \times \$16.00 = \$48,000$ will need to be paid to the Regional Council for the mulching and disposal of the greenwaste.

Funds will be drawn from Account No. 480472 - Tip Passes.

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

Nil

16.2 (Ocm1_8_2001) - REGIONAL VERGE GREEN AND BULK WASTE COLLECTION (4904) (BKG) (ATTACH)**RECOMMENDATION**

That Council advise the Southern Metropolitan Regional Council that it endorses the Project Participants Agreement for the Greenwaste and Bulk Waste Collection Service Project and authorises the Chief Executive Officer and Mayor to sign the document.

COUNCIL DECISION**Background**

At the Council meeting held on 17 April 2001, it was resolved:-

"That Council advise the Southern Metropolitan Regional Council it supports and will participate in a Regional verge green and bulk waste collection service."

The Regional Council advises that City of Fremantle, City of Melville, City of Rockingham and Town of East Fremantle have indicated they also wish to be part of the Project Participants Agreement.

The City of Canning and Town of Kwinana have elected not to participate.

Submission

A copy of the Proposed Participants Agreement for a greenwaste and bulk waste collection project of the Southern Metropolitan Regional Council is attached.

Report

The Project Participants Agreement outlines the responsibilities and requirements of the local governments of Cockburn, East Fremantle, Fremantle, Melville and Rockingham for a greenwaste and bulk waste collection service to be provided to each residential property in those local government areas.

The Southern Metropolitan Regional Council will prepare a tender for the 3 greenwaste and 1 bulk waste collection services to be provided to each residential property.

It is estimated there are 32,000 properties in Melville, 24,000 in Cockburn, 25,000 in Rockingham, 8,000 in Fremantle and 2,000 in East Fremantle.

It is hoped that this tender, because of the 91,000 properties, will result in a competitive price for the service.

The main points about this agreement are:-

- (1) The service will be for 3 greenwaste and 1 bulk waste kerbside collections per year.
- (2) Southern Metropolitan Regional Council is the manager but the agreement is between the 5 local governments listed above.
- (3) The agreement is ongoing but each time a contract is let, the opportunity is available for a Council to withdraw.
- (4) The clause for withdrawal is outlined in Clause 2.9. It states that:-
 - "(1) (a) *if the CEO of a project participant gives notice of intention of that project participant to withdraw from the project within 14 days after receipt of the tender report then the withdrawal of that project participant takes effect from the date of receipt by the regional local government of the notice; and*
 - (b) *subject to paragraph (1) Clause 8.11 continues to apply.*
 - (2) *In this clause "Tender Report" means a report prepared by the CEO of the Regional local government with details of the tender recommended for acceptance by the Regional local government for the provision of the collection service contemplated by the Project."*
- (5) If a local government signs the agreement and at some time after that, wishes to withdraw, it must continue to pay the amount of money so that the remaining participants are paying no more than they were advised by the Regional Council.
- (6) Each local government will be charged on the number of developed residential properties.

- (7) Rural, commercial and industrial may have the service but the costs will be by quotation.
- (8) The contract will be for all households not on a Council by Council basis.

From discussions with other participants, it could seem the quantity of greenwaste and the number of participating ratepayers is significantly higher in Melville and to a lesser extent Rockingham, than Cockburn. This may be due to no tip passes being issued to Melville residents. It also may mean more of the suburbs in Rockingham and Melville have mature gardens.

It was therefore important that Clause 2.9 is included which allows Cockburn to withdraw within 14 days of being advised of the proposed change. Although it will have to contribute to the cost to date of preparing the establishment agreement and contract documentation.

The decision not to proceed will be based on the cost charged to Cockburn Council.

An amount of funds is on the budget for 3 greenwaste and one bulk collection and this cannot be exceeded without Council approval.

Currently approximately 5,500 residents place greenwaste on their verges for each of the four annual collections. There is approximately 23,000 developed residential properties in Cockburn.

It is recommended that Cockburn agrees to the participants agreement, but is aware the CEO has 14 days to withdraw after the contract report outlining the details of the cost and service program are received by him.

Strategic Plan/Policy Implications

The Cockburn Council has a commitment to reducing the amount of material going to landfill at the lowest possible price to its ratepayers. A regional contract for greenwaste and bulk waste collection may lead to a lower price than the current method of hiring in trucks on a daily basis to carry out the service.

Budget/Financial Implications

There is an allocation in the budget for 3 kerbside greenwaste and 1 kerbside bulk waste collections for each residence. It is anticipated that Council will accept the offer to participate in a Regional Collection, only if the total service and administrative costs are less than the current rates and that the level and program for this service, are of an equivalent standard.

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

Nil

17. COMMUNITY SERVICES DIVISION ISSUES

17.1 (Ocm1_8_2001) - CINEMA PROPOSAL - MANNING PARK (2207525) (RA)

RECOMMENDATION

That Council:-

- (1) approve of an amendment to the License Agreement with Bainton Nominees Pty Ltd, adopted by Council at its meeting of 19 June 2001, by deleting Bainton Nominees Pty Ltd as the licensee and substituting Lakeside Outdoor Cinema Fremantle in its stead; and
- (2) delete Clause 2(a) of the Council resolution of 19 June 2001, and insert the following "allow a license fee of 10% of ticket sales for the first two years and if agreed between the two parties thereafter, the license fee be established at 10% of gross revenue and the license period be extended for a further two years to a total of 7 years".

COUNCIL DECISION

Background

Council at its meeting of 19 June 2001, resolved to enter a license agreement for an Outdoor Cinema proposal at Manning Park with a license fee payable of 10% of the ticket sales for the first 2 years and to be renegotiated thereafter for the subsequent years.

Council's Resolution was as follows:

"That Council:-

- (1) *enter a 5 year license agreement with Bainton Nominees Pty Ltd subject to:-*

1. *The Western Australian Planning Commission approving the Licence Agreement with Bainton Nominees Pty Ltd in accordance with the terms of the lease with Council.*
2. *Bainton Nominees Pty Ltd agreeing to:-*
 - (a) *a license fee of 10% of the ticket sales for the first 2 years and to be re-negotiated thereafter for the subsequent years;*
 - (b) *providing at its cost all additional infrastructure required in establishing the outdoor cinema with aesthetics of the infrastructure to be in keeping with the area and to the requirements of the Council;*
 - (c) *ensuring that the area used for its activities, including the toilets, are kept clean and will pay for all costs associated with the removal of rubbish and clean up;*
 - (d) *ensuring there is adequate security on the site and ensure the reserve is locked up each night in accordance with Council requirements;*
 - (e) *ensuring that at the end of each outdoor cinema season, that all equipment and structures established will be removed and the area reinstated to the satisfaction of Council;*
 - (f) *pay all costs that may arise in the establishment and ongoing operation of the outdoor cinema;*
 - (g) *the Licence will be operative for the period 1 December to 31 March annually, with Council reserving a right of exclusive access to the area for a period of up to 14 days during the Licence period for the conduct of Council initiated functions and events; and*
 - (h) *provide a deposit or bank guarantee of \$10,000 in favour of Council to cover against any disputed expenses associated with the operation.*
- (2) *permit Bainton Nominees Pty Ltd to sell alcohol on site on the understanding that Council reserves the right to withdraw this permission if it believes the sale of liquor is creating problems on the park or adjoining areas."*

Submission

The Sole Director of Bainton Nominees Pty Ltd, Marcus Ahern, has written to Council seeking agreement to have the license agreement established between the entity, Lakeside Outdoor Cinema Fremantle, and the City. It is understood that this request is for commercial purposes only and does not involve the transfer or assignment to another operator.

Report

There appears to be no reason why Council should not enter an agreement with respect to the license agreement changing from Bainton Nominees Pty Ltd to Lakeside Outdoor Cinema Fremantle. The proponent, Marcus Ahern, has been advised that Council would not support any promotional or advertising material that implied or suggested that the cinema was in Fremantle.

Administration has negotiated with the proponent for Council to give consideration to entering a license agreement that would allow for a license fee of 10% of ticket sales for the first two years and should it be mutually agreed between the two parties, this fee become 10% of gross revenue. Should the license fee be increased to 10% of gross revenue, then the license period would be increased by a further two years giving a total license period of 7 years if this clause was not invoked then the period of the license agreement would remain at 5 years.

This proposed change to the license agreement will allow for the relationship between the two parties to be clear from the time of instigation of the agreement. The current position of Council does leave a significant area of potential uncertainty in respect to the review of the license fee.

Strategic Plan/Policy Implications

Facilitating a range of services responsive to the community needs.

To deliver services and to manage resources in a way that is cost competitive without compromising quality.

Budget/Financial Implications

The income generated through the license agreement will assist in defraying the cost to Council of maintaining the Manning Reserve.

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

Nil

17.2 (Ocm1_8_2001) - CO-SCOPE/JOB LINK (8351) (RA)**RECOMMENDATION**

That Council advise Co-Scope/Job Link that:-

- (1) it does not consider it necessary to appoint a Council representative to the Co-Scope Job Link Committee as it is not represented on any similar organisations which service the district; and
- (2) it will write to the Minister of Employment and Training in support of Co-Scope/Job Link for the continuation of funding for the valuable programs run.

COUNCIL DECISION**Background**

There are a number of community based employment and training services offered within the City and in adjoining areas, serving residents of the City. Council has no representation on the committees.

Submission

The Co-Scope/Job Link Committee has written to Council providing an overview of its services and activities. It has also made two specific requests.

Report

The Co-Scope/Job Link Inc. became incorporated as a non-profit organisation with Gift Recipient status and is a Quality Endorsed Training Organisation with the Western Australian Department of Employment and Training.

In the 13 years the service has operated from the Southwell Community Centre, it has assisted more than 10,000 local job seekers. It has at all times, handled a caseload of a minimum of 100 indigenous Australians, the most employment disadvantaged in our community.

The Committee has written to Council seeking the appointment of a representative to the Co-Scope/Job Link Committee.

Co-Scope/Job Link is one of a number of community based employment and training services that operate within the City. Council does not have representation in the management structure of any of these committees and should it do so for Co-Scope/Job Link, similar organisations within the City such as Cockburn Vocational Centre and Mission Australia may also call for Council representation.

The new State Government is currently reviewing all Job Link programs. There is some concern as to how the programs may be treated in the review process although a commitment has been made by the State Government to utilise a consultative process in this review. The Co-Scope/Job Link Inc. Committee, in its submission to Council, has requested a letter of support from the City for Co-Scope/Job Link. From the information provided by Co-Scope/Job Link and anecdotal evidence, this service is highly effective and efficient. It is in the interests of the residents of the City, for the Co-Scope/Job Link to remain.

It is proposed that Council write to the Minister of the Department of Employment and Training to this effect.

Strategic Plan/Policy Implications

"Facilitating a Range of Services Responding to the Community Need" refers.

Budget/Financial Implications

Nil

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

Nil

18. EXECUTIVE DIVISION ISSUES

19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

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

- 21. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY COUNCILLORS OR OFFICERS**
- 22. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE**
- 23. CONFIDENTIAL BUSINESS**
- 24. 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 coordinated, 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

- 25. CLOSURE OF MEETING**