

CITY OF COCKBURN

SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 12 OCTOBER 1999 AT 7:30 P.M.

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CITY OF COCKBURN

MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 12 OCTOBER 1999 AT 7:30 P.M.

PRESENT:

COUNCIL MEMBERS

Mr J F Donaldson	-	Chairperson of Joint Commission
Ms J L Smithson	-	Joint Commissioner
Mr M A Jorgensen	-	Joint Commissioner

IN ATTENDANCE

Mr R W Brown	-	Chief Executive Officer
Mr D M Green	-	Director Community Services
Mr A T Crothers	-	Director, Finance & Corporate Services
Mr S Ryan	-	Acting Director, Planning & Development
Mr B K Greay	-	Director, Engineering
Mrs S Ellis	-	Secretary to Chief Executive Officer

260. (AG Item 1) DECLARATION OF OPENING

The Presiding Member declared the meeting open at 7:30pm.

261. (AG Item 2) APPOINTMENT OF PRESIDING MEMBER (IF REQUIRED)

Nil

262. (AG Item 3) DISCLAIMER

The Presiding Member read aloud the following disclaimer:



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.

263. (AG Item 4.1) (OCM1_10_1999) - ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS (by Presiding Member)

Cmr Donaldson advised that he had received written advice from Cmr Smithson of a financial interest in agenda item 15.2.

264. (AG Item 5.1) (OCM1_10_1999) - APOLOGIES & LEAVE OF ABSENCE

Nil

265. (AG Item 6.1) (OCM1_10_1999) - ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Ms Wendy Blake - Public Question Time - 14 September 1999 - queried whether Council had a further breakdown of the mix of native and exotic vegetation proposed to be used for the Coolbellup redevelopment.

A response dated 20 September 1999 informed Ms Blake that Council did not have a detailed breakdown of plant species of either the native or exotic plant types to be installed as part of the proposed Coolbellup New Living Programme being implemented by the Fini Group. However, when the planting details are known, Council felt sure that this information would be readily available from the Fini Group.

266. (AG Item 7.1) (OCM1_10_1999) - PUBLIC QUESTION TIME

Mrs Mary Jenkins in regards to agenda item 13.2, wished to voice her concern that there was no precise protection for public open space outlined in the proposal and felt that Council needed to specify an amount of green space on every development. Mrs Jenkins felt that the Council needs a policy to protect greenbelt areas in every development.



Cmr Donaldson thanked Mrs Jenkins for her comments and advised that they would be considered when the item was discussed later in the meeting.

267. (AG Item 8.1) (OCM1_10_1999) - ORDINARY MEETING OF COUNCIL - 28/9/99

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the Minutes of the Ordinary Council Meeting held on Tuesday, 28th September 1999 be confirmed as a true and accurate record.

CARRIED 3/0

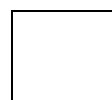
268. (AG Item 12.1) (OCM1_10_1999) - COMMUNITY REPRESENTATION SURVEY RESULTS (1035) (DMG) (ALL WARDS)

RECOMMENDATION

That Council:

- (1) pursuant to section 2.11(2) of the Local Government Act, 1995, change the method of filling the office of Mayor of the City of Cockburn to be elected by the electors of Cockburn under Part 4 of the Act;
- (2) pursuant to section 4.20(4) of the Local Government Act, 1995, declare the Electoral Commissioner to be responsible for all future elections, polls and referendums to be conducted by the City of Cockburn;
- (3) pursuant to section 4.61(2) of the Local Government Act, 1995, conduct all future Council elections, polls and referendums as postal elections; and
- (4) require Administration to prepare a Report providing options for Ward Boundaries and Councillor representation numbers to include the immediate, medium and long term future scenarios, with the information provided to take into consideration, the findings and recommendations of the "Community Representation Survey" recently undertaken by Australian Marketing Intelligence.

TO BE CARRIED BY A SPECIAL MAJORITY OF COUNCIL



COUNCIL DECISION

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

CARRIED 3/0

Background

Council previously resolved to conduct a survey of residents of the District on the following issues relative to Community Representation methodology:-

- Postal Voting for elections
- Method of electing the Mayor
- Requirement of the Ward System of representation
- Review of total elected member numbers.

The survey was conducted by Australian Marketing Intelligence during August, 1999 and involved telephone contact with 1000 residents of the City, evenly distributed across the current 5 Wards within Cockburn.

The tele-survey involved a Council approved list of questions being provided to respondents. The survey results have since been tabulated and a Report provided to Council on these results, together with a number of suggested recommendations from the Consultant.

A representative of the Consultancy presented the findings to Commissioners on the 28th September, 1999. A copy of the report will be available to the public at the Customer Service Desk of the Administration Building and at both Libraries.

Submission

N/A

Report

The survey results are able to provide conclusive recommendations for Council to consider in favour of introducing Postal Voting for elections in Cockburn and changing the method of election of its Mayor to election by the people.

On face value, the survey indicates that opinion is evenly divided on whether Postal or "in person" voting at Council elections is preferred.



However on further investigation, it is revealed that nearly two out of every three persons who said they did not vote at the 1997 local government elections (nearly 60%), preferred Postal Voting to "in person" voting.

This finding assumes that those persons would participate in Council elections conducted by post and, added to the traditional turnout of 10%, would result in a total voter turnout of about 50%. This is the figure commonly used as the benchmark for local government elections conducted by post.

Therefore, it is reasonable to assume that there would be a significant increase in voter participation rates as the result of a Postal election, particularly when coupled with the election of the Mayor by popular vote rather than by the Council.

The second recommendation, that of changing the method of election of Mayor from Council elected to popularly elected, was clearly favoured by nearly 70% of those surveyed. This is an emphatic statement which should be supported by Council and requires no further comment.

The further issues of Councillor numbers and the Ward System, are less clear and somewhat more complex when the survey results are considered in detail.

Accordingly, it is suggested that no final decision be made at this time on either of these issues and that a comprehensive Report be prepared, outlining options for possible Ward structures and Councillor numbers which would be appropriate for the present time as well as with the future development of the District in mind.

It is anticipated that such a Report could be generated for Council consideration by the end of 1999, as much of the work on projected population growth has already been compiled and some modelling undertaken as a result of this information.

Strategic Plan/Policy Implications

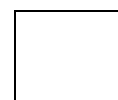
Strategic Plan item 1.7 "Council Administration" refers.

Budget/Financial Implications

Approximately \$100,000 would be required to conduct a Postal Election in 2000/2001.

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

Nil



269. (AG Item 12.2) (OCM1_10_1999) - LEGAL REPRESENTATION - MOSENSONS FOR MR M. PECOTIC - INQUIRY INTO THE CITY OF COCKBURN (1335) (RWB)

RECOMMENDATION

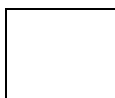
That Council:

- (1) receive the letters dated 28th September and 5th October 1999 from Mossensons - Barristers and Solicitors; and
- (2) consider the request.

COUNCIL DECISION

MOVED Cmr Jorgensen SECONDED Cmr Smithson that Council:

- (1) receive the letters dated 28th September, 5th October and 11th October 1999 from Mossensons - Barristers and Solicitors;
- (2) reaffirm to Mossensons that Council's support for the payment of legal costs is conditional upon Mr Pecotic's written confirmation of the appointment of Mossensons as his legal representation for the Douglas Inquiry and his signing of Council's Policy A1.18;
- (3) reaffirm to Mossensons that Council is not prepared to provide financial assistance for legal costs incurred for Part 8 Division 1 inquiries;
- (4) advise Mossensons that after due consideration of the letter dated 5th October 1999 which further details the nature and extent of the legal services required, in accordance with Policy A1.18 and having given due consideration to Mr Pecotic's part in the Inquiry, Council is prepared to contribute up to \$13,000 by way of reimbursement of legal expenses on production of an itemised statement of costs and following the outcome of the Inquiry subject to item (7) below, subject to Policy A1.18 which provides for the payment to be made if a person has not acted illegally or dishonestly against the interests of the City or otherwise in bad faith;
- (5) advise Mossensons that Council's decision to conditionally contribute up to \$13,000 has taken into consideration, the request for \$30,000 with that sum being reduced by the cumulative midpoint of the estimates provided for in their advice of the 11th October 1999, as Council:

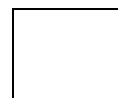


1. is not prepared to make a contribution towards the Cleaning Contract line of inquiry as Mr Pecotic was not summoned to give evidence at the Inquiry; and
 2. is not prepared to make a contribution for any matter which Mr Pecotic may wish to bring to the Inquiry which is not formally pursued by the Inquirer.
- (6) advise Mossensons that the general thrust of the Inquiry is to examine if Councillors and Staff have provided good governance for the City and should any adverse findings relating to any issue, be made against Mr Pecotic by the Inquirer Mr Douglas relating to good governance, then Council will not make any contribution towards legal expenses;
- (7) in consideration of Mr Pecotic's claim of financial hardship, Council is prepared to reimburse \$3,000 of the \$13,000 upon receipt of an itemised statement of account for work to this amount. The balance of up to \$10,000 will only be made following the outcome of the Inquiry provided there are no adverse findings against Mr Pecotic. It should be noted that the \$3,000 is repayable to Council in accordance with Policy A1.18;
- (8) advise Mossensons that the basis of Council's support relates to all lines of Inquiry whether it be in the public forum or by private interview and the level of Council's financial support which is limited to \$13,000 will be determined once the itemised statement of costs identified to a particular issue has been produced following the outcome of the Inquiry;
- (9) advise Mossensons that, due to the potential increased Council contribution, this decision supersedes Council's previous decision in respect to items (2) 2.2 and 2.3 of the 13th July 1999 with the further advice that it is still open to Mr Pecotic to accept the terms of that offer.

CARRIED 3/0

Explanation

Cmr Jorgensen explained that Council is prepared to assist Mr Pecotic with his legal expenses in accordance with the Policy but only if the conditions of the policy are complied with and in particular, those points relating to adverse findings and good governance.



The variation in the amount offered above and that requested by Mossensons, was that Council was not prepared to contribute to costs for matters which Mr Pecotic was not required by the Inquirers to participate in (ie: Cleaning Contract) nor for matters which were not under investigation (ie: Dropulich/Clancy issues) or for the initial investigation conducted by Martin-Vicary.

Background

As a result of the Minister for Local Government's determining that an Inquiry into the City of Cockburn would be held under Section 8.16 Part 8 - Division 2 of the Local Government Act 1995, an Inquiry known as the "Douglas Inquiry" is presently underway.

As a result of requests from suspended and ex Councillors, for the City to pay for their legal representation during the course of the Douglas Inquiry and previous Martin-Vicary investigation, Council adopted Policy A1.18 - Legal Representation which gives clear guidelines to applicants and the Chief Executive Officer, acting under delegated authority, in regards to claims for reimbursement of legal expenses.

Council, at its meeting of the 13th July 1999, considered a request for financial assistance for Mr Marinko Pecotic. Council determined:-

"That Council:

- (1) receive the letter dated 18th June 1999 from Mossensons;*
- (2) subject to written confirmation from Mr Pecotic that he has engaged Mossensons to represent him at the 'Douglas Inquiry', Council:-*
 - 2.1 advise Mossensons that it will be inappropriate for Council's solicitors to represent Mr Pecotic and therefore, Council will recognise the appointment of Mossensons by Mr Pecotic for the provision of legal representation for the 'Douglas Inquiry', subject to the provisions contained in Council's Policy A1.18 and specific decisions of Council relating to Mr Pecotic's request for financial assistance;*
 - 2.2 advise Mossensons that Council will reimburse Mr Pecotic legal expenses up to \$3,000 as per Policy A1.18 on the condition that the Policy is signed by Mr Pecotic pursuant to Clause 20;*
 - 2.3 advise Mossensons that in accordance with Clause 10 of the Policy, Council will be prepared to contribute a further sum not exceeding \$3,000 by way of reimbursement of legal expenses on production of an itemised statement of*



costs following the outcome of the Inquiry subject to Policy A1.18 which provides for the payment to be made if a person has not acted illegally dishonestly against the interests of the City or otherwise in bad faith;

- 2.4 *advise Mossensons that as the Inquiry may consider various issues, a detailed statement separating (apportioning) the cost across the issues will be required;*
- 2.5 *advise Mossensons that Council is not prepared to contribute towards Queen's Counsel costs."*

In addition, at the 13th July 1999 meeting, Council determined to:-

- "(1) receive the request dated 25th June 1999 from Mossensons for Mr M. Pecotic, for Council to reimburse legal expenses incurred as a result of the Executive Director for Local Government's Inquiry into the City of Cockburn; and*
- (2) advise Mossensons that Council is not prepared to provide financial assistance for legal costs incurred for Part 8 - Division 1 Inquiries."*

Submission

By way of letter dated 28th September 1999, Mossensons sought Council's reconsideration of its decision of the 13th July 1999. The letter, copy of which is attached to the agenda, sought funding of approximately \$30,000 with \$15,000 to Mossensons and approximately \$15,000 to Counsel.

The Administration considered that the request did not provide sufficient details for Council to make a decision and therefore, further information was requested.

In a letter dated 5th October 1999, Mossensons advised:-

"... We envisage that funding from this stage until the completion of the Inquiry will be in the vicinity of \$30,000, which would be comprised of \$15,000 for this firm and approximately \$15,000 for Counsel. These estimates would cover the following:

- 1. *representation by Counsel at the Inquiry:*
 - 1.1 *while Mr Pecotic is being interviewed and giving evidence;*



- 1.2 *where necessary, to protect Mr Pecotic's interests while other individuals give evidence which concerns him;*
- 1.3 *where it is dealing with matters and submissions Mr Pecotic has raised with Counsel assisting beforehand;*
2. *representation by this office at the Inquiry:*
 - 2.1 *where Counsel is not available to attend on that day;*
 - 2.2 *by way of preparatory work in the collation of documents;*
 - 2.3 *detailed proofing of Mr Pecotic and other potential witnesses;*
 - 2.4 *investigation and preparation of submissions.*

The specific areas in which Mr Pecotic will require legal funding, are detailed as follows:

(i) Cleaning Contract

In relation to this matter, our client has instructed this office that he believed that there was a certain preferential treatment given by a certain individual in the administration of the City of Cockburn to a particular cleaning service provider. Our client believes that the administration did not investigate the matters adequately and provide the Council with sufficient information when deciding as to which party was to be awarded a cleaning contract for the Council.

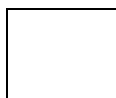
(ii) Battalis Property

In relation to this matter, our client instructs that he had no direct personal financial interest in this matter. However, a relative was contracted to do signage, which was declared to the Chief Executive Officer who deemed that our client had no financial interest in the matter. Our client had a minimal role in relation to this matter.

(iii) Lot 14 Progress Drive

In relation to this project, our client is of the opinion that the administration did not do its job properly due to the fact that:

- (a) *they did not adhere directly to Council resolutions;*
- (b) *it is the opinion of our client that the administration was fighting with Council to destroy or hamper the progress of the project.*



Our client has significant submissions to make on this topic of discussion, however, these submissions could only be made after the obtaining of legal advice from Counsel and solicitors.

(iv) Public Open Space - Lot 17

Our client is of the opinion that the administration refused to implement Council resolutions and also used deceitful tactics to deny migrant market gardeners to receive proper compensation for land vested in the Crown to be used as public open space. In relation to this matter, our client also has several submissions to make, however, such submissions could only be made after the advice of Counsel and a solicitor is obtained with respect to its content.

(v) Miscellaneous Topics

Our client would also wish to raise several other issues before the Inquiry, which have not been listed for discussion at this stage. Our client believes the following issues should be raised at the Inquiry:

1. *the Dropulic & Clancy issue;*
2. *racial discrimination in employment;*
3. *other issues which were not raised in the Martin & Vicary report.*

In relation to the funding, the majority of the funding provided by the Council would go into items numbered (iii) and (iv). Items numbered (i) and (v) would comprise only a small portion of the funding, and item (ii) would comprise a trivial if not insignificant portion. It is difficult to give exact pricing as to what amount of money will be spent in relation to each portion, as this office is yet to sit down with client to obtain detailed instructions and detailed submissions which our client intends to make in relation to each matter, and to investigate the matter thoroughly.

It is also difficult to provide in advance submissions or arguments which our client intends to make with respect to certain issues, as our client has little or no funding at this state(sic) to discuss the matter in its entirety with solicitors and Counsel. As a result, this office can only provide the limited outlook as detailed above.

The fee of \$30,000 is arrived at, based on the following estimations:

1. Counsel: * Preparation for hearings and perusal of documents:

25 hours @ \$200/hour

\$ 5,000(E)
- * Attendance at the Inquiry:



	10 days x 5 hours @ \$200/hour	\$10,000(E)
2. Solicitor:	* Preparation for Inquiry (senior solicitor):	
	- Proofing client	
	- Reviewing transcripts	
	- Perusing client records	
	30 x \$195/hour	\$ 5,850(E)
	* Attendance at Inquiry (senior solicitor):	
	5 days x 5 hours \$195/hour	
	* Junior solicitor work:	\$ 4,875(E)
	- Photocopying	
	- Research	
	20 hours @ \$150/hour	
	* Disbursements	\$ 3,000(E)
	- Photocopying	
	- File set up fee	
	- Travelling	
	- General Disbursements	
	- Postage & telephone	
		\$ 1,275(E)
		\$30,000(E)

Our client has also advised this office that he would request that the money be paid directly to Counsel and to this solicitors' office as our client is not in a position to pay for solicitors and Counsel as they are rendering the fees, and in the event that an adverse finding is made against our client, he does not have the means with which to repay the funds.

Given the above, it can be clearly seen that if Mr Pecotic was properly advised and in a position to provide meaningful submissions to the Inquiry, it would be an asset to the Inquiry. This is only achievable with legal representation, and therefore funding is essential for Mr Pecotic's continued and important contribution.

We therefore seek from the City of Cockburn the following:



1. *approval for Mr Pecotic to be represented by Mr Davis and his firm;*
2. *a grant be allowed to the extent of \$30,000 initially;*
3. *authorisation be granted for Council to approve the payment to Mr Pecotic for his expenses;*
4. *that the \$30,000 be paid forthwith, and not at the end of the Inquiry.*

Your urgent attention and reply in relation to the above would be greatly appreciated."

The Administration considered that Council would require advice on the cost apportioned to the "Cleaning Contract" issue and "Other Matters" to determine if it were appropriate for Council to commit funds to these issues.

At the time of Agenda preparation, a response had not been received.

Report

In response to the letter dated 28th September 1999, the Chief Executive Officer sought further information. That information was provided in Mossensons' letter dated 5th October 1999.

The Chief Executive Officer then sought further clarification. Due to the timing of the exchange of letters, that advice had not been received in time to be included in the Agenda.

Given the budget constraints, the delegated authority to the CEO to determine applications to a limit of \$3,000 and the Council's decision of 13th July 1999, this matter is placed before Council without officer recommendation other than the issue be considered by Council.

Matters which Council would need to take into consideration are:-

- (1) The available budget.
- (2) Council's request for Mr Pecotic to formally advise of the appointment of Mossensons to represent him.
- (3) Mr Pecotic signing Policy A1.18.
- (4) The appropriateness of Council contributing to the line of Inquiry into the Cleaning Contract, considering that the Public Inquiry has concluded. Council assisting the Inquirer has advised that Mr Pecotic was not required on this issue.



- (5) Whether any offer of assistance will only be for matters which are part of the Public Inquiry.
- (6) Matters which Mr Pecotic may wish to bring to the Inquiry which are not the subject of investigation.
- (7) Council's decision of 28th September 1999 where it approved a request from Hammond Worthington, reportedly representing Mr Grljusich, for \$40,000 on the basis that there would be no payout if any adverse findings were made against Mr Grljusich.
- (8) the request for Council to pay the legal expenses incurred direct during the course of the Inquiry.

Council's decision in relation to Mr Grljusich's request, provided that any payment would be by way of reimbursement of legal expenses.

Following the outcome of the Inquiry, legal expenses paid during the Inquiry are deemed to be recoverable under the Policy (Clause 19). It should be noted that Mossensons state that "*in the event that an adverse finding is made against our client, he does not have the means with which to repay the funds*".

- (9) Payment of legal expenses incurred as a result of the Martin-Vicary Inquiry - Part 8 Division 1 of the Local Government Act.

Council has previously declined to reimburse same. The Policy provides/relates to Part 8 Division 2 Inquiries.

Strategic Plan/Policy Implications

Council's Policy A1.18 adopted by Council on the 13th July 1999 relating to Legal Representation applies.

Budget/Financial Implications

The draft budget provides for \$100,000 for the cost of the Inquiry legal expenses. To date, the following funds are committed: -

Mr Grljusich	\$40,000
Mr Pecotic	\$ 6,000
Mr Ostojich	\$ 3,000
Mr Brown	\$ 3,000
Mr Hiller	\$ 3,000
Mr Ryan	\$ 3,000
Mr O'Sullivan	\$ 3,000
McLeod & Co	\$ 4,000 (approx.)



Total Committed **\$65,000**

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

Nil

- 270. (AG Item 13.1) (OCM1_10_1999) - 19 AGED PERSONS UNITS AND 1 DISABLED PERSONS UNIT - LOT 42 JEAN STREET, HAMILTON HILL - OWNER: MINISTRY OF HOUSING - APPLICANT: KENNETH YEWERS ARCHITECT (2200639) (MT) (WEST) (MAP 6)**

RECOMMENDATION

That Council:

- (1) approve the application for 19 aged persons dwellings and 1 disabled persons dwelling on Lot 42 Jean Street, Hamilton Hill subject to the following conditions:

Standard Conditions

1. Standard conditions contained in Council Policy PD 17 as determined appropriate to this application by the delegated officer under clause 7.6 of Council's District Zoning Scheme N° 2;

Special Conditions:

1. Separate access being provided for pedestrians from Jean Street onto the site.
2. Occupation of the dwellings shall be restricted to at least one person in each dwelling being an aged or dependent person, or the surviving spouse of that person.
3. A Notification under Section 70A of the Transfer of Land Act 1893 must be registered over the certificate of title to the land the subject of the proposed development, prior to the issue of a building licence.

Special Footnotes:

1. With regard to Condition 3, the Section 70A Notification shall be prepared by the City's solicitors to the satisfaction of the City of Cockburn and all costs of and incidental to the preparation of and registration of the Section 70A



- Notification including the City's solicitor's costs, shall be met by the applicant or the owner of the land.
- (2) issue a Form 2 Approval to Commence Development to the applicant.
 - (3) amend Council Policy PD6 "Aged Persons Accommodation – Development Guidelines" by:
 1. deleting part "(c)" under the heading "2. Site Planning";
 2. deleting part "(b)" under the heading "4. Design".

COUNCIL DECISION

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

CARRIED 3/0

Background

ZONING:	MRS:	URBAN
	DZS:	RESIDENTIAL R-40
LAND USE:	VACANT	
LOT SIZE:	3448m ²	
AREA:	3448m ²	
USE CLASS:	AA	

At its meeting held on the 12th January 1999, Council resolved to adopt Amendment 200 to its Scheme, re zoning the subject lot from R-15 to R-40. The amendment was advertised and recommended for final approval at Council's meeting on the 20th April 1999. It was gazetted on the 9th June 1999.

Point 5 of Council's resolution on the 20th April 1999 was as follows:-

"require the submission of revised plans at the Development Approval stage showing the screening of the balconies of Units 4, 7, 8, 11, 12, 15, 16, 19 and 20;"

Point 7 of that same resolution was as follows:-

"enter into a suitable arrangement with Homeswest to ensure that residents of the development are 55 years of age or older."



Submission

The submitted plans are attached to this agenda. They show a total of 5 two storey dwellings and 2 single storey dwellings. All road access is off Jean Street and pedestrian access is to be provided through a gate at the rear of the site to the shops along Carrington Street. A total of 23 car bays are provided, 3 being visitor bays.

The attached documentation states that the architect has concerns with Council's requirement to screen the balconies. It is "*simply unacceptable in terms of amenity and aesthetics*". He has suggested other amendments to the original proposal to address the overlooking issue. The amendments include increased setbacks, redesign of balconies, addition of screening to balconies, reduction of floor levels, alterations to boundary retainers and alterations to paving gradients and parking.

Report

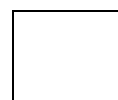
The development application does not comply with a previous Council resolution (20th April 1999) to screen the balconies of the second storey units and so the proposal is referred to Council for its determination.

Balcony screening and alternative arrangements

In the architect's opinion and the Planning Office, to screen the balcony of all the second storey dwellings will create a situation that is unacceptable for the future inhabitants of those units. The architect has experimented with louvres up to a height of 1.5 metres that allow in light but prevent the occupant looking down off the balcony. While these would work effectively to prevent overlooking, they impede all views from the unit, especially when the occupant is sitting down. To not allow an 'outlook' will seriously affect the future occupant's enjoyment of their home.

The architect has worked with Council officers on alternative measures to minimise overlooking from the units. On the northern side of the lot, overlooking should not occur with the revised arrangements. The building has been setback a further 2 metres from the boundary (to 6 metres) and lattice on top of the existing fence brings it up to 2.2 metres high. It is possible to prevent overlooking because the properties to the north of the subject lot are higher.

Along the southern boundary, some overlooking of the backyard of the two western-most properties will occur under the proposed site arrangements. The gradient of the land is such that it is not possible to implement measures (other than screens on the balconies) that will totally prevent overlooking. The lots to the south are lower, to the extent that a 1 - 1.5 metre retaining wall is proposed along the southern boundary. However, to minimise views into the neighbouring properties,



the building has been setback a further 2 metres from the boundary. It is worth noting that the development, as originally proposed, met all the Residential Planning Code requirements in regard to setbacks. Further, the floor level of the buildings have been lowered 300mm and a screening lattice to 2.25 metres high is proposed along much of the boundary.

The density bonus

The application seeks Council's consent to apply the 50% density bonus available in the R-codes where the housing is to be developed for aged or dependent persons. This provision means 20 units can be developed on the site instead of 13 units. The Codes state Council can require the owner to enter a legal agreement to bind at least one occupant (of each unit) to be an aged or dependent person. This requirement was reflected in Council's resolution of 20th April 1999. It is proposed that Council's approval be conditioned accordingly and that the owner prepares a Section 70 Notification to this effect. S.70 Notifications have been used by Council staff in the place of a 'deed and caveat' recently, because they are more simple to administer but still afford the same prosecution rights. The Codes also stipulate that aged or dependent housing must include design features that are specific to this type of housing, for example handrails in the bathroom. Detail provided in the building license will need to demonstrate this has been adhered to.

Residential Planning Code & Council policy requirements

The development meets all the Scheme and R-code requirements except for three. Where there are ten units or more developed, separate pedestrian access to the lot is required. This has not been provided from Jean Street onto the site. The applicant has advised they are prepared to provide the separate access and so it is recommended that it be conditioned accordingly. Similarly, garbage storage facilities have not been shown. It is a standard condition of approval that these be detailed on the plans submitted with the building license. The final aspect of non-compliance is the requirement for 20% communal open space for multiple dwellings. It is recommended the development be approved with a reduced amount of communal open space (approximately 11%). The amount was reduced substantially when the buildings were setback 2 metres from the northern and southern boundaries. The communal open space was effectively transferred into the private open space afforded to each of the ground units. The Codes provide discretion to vary any other provision of the Codes to achieve the 50% density bonus for aged or dependent persons dwellings.

Council Policy PD 6 provides guidelines for the development of aged persons accommodation. The development satisfies the guidelines except for those dealing with them being only single level. Discussion of this aspect of the Policy is contained in the following section. The site is



appropriate for this type of housing because, among other factors, it is located within close walking distance to the shops on Simms and Dodd Roads and buses running up Carrington Street.

Strategic Plan/Policy Implications

Policy PD6 “Aged Persons Accommodation – Development Guidelines” applies to this application. It is recommended that the guideline that aged persons accommodation be only single level, be removed from the policy. While some aged persons would be confined to single storey accommodation, there are many persons over 55 years of age capable of climbing stairs to a second storey unit. The Ministry of Housing has advised that many of their tenants are in this category.

In its current form, the Policy states:

- “2. (c) *Group dwellings for the aged should be situated on the ground floor, and be single level.*
4. (b) *The density bonus should apply to single storey units.”*

Budget/Financial Implications

N/A

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

Nil

271. (AG Item 13.2) (OCM1_10_1999) - MODIFICATIONS TO AMENDMENT - AMENDMENT NO. 192 (PART 8) - STRUCTURE PLANNING AND DEVELOPMENT AREAS (92192) (SOS) (ALL)

RECOMMENDATION

That Council:

- (1) Adopt the following modified amendment text:
1. *Adding “Development” to the list of Zones contained within Clause 3.1.1.*
 2. *Adding “Development” to the list of Zones contained within the First Schedule Zoning Table with the notation “in accordance with Part 8 of the Scheme” in the associated column.*
 3. *Deleting the text in Part 8 and replacing it with the following:*

PART 8 - DEVELOPMENT AREAS AND STRUCTURE PLANS

8.1 Interpretation

In Part 8, unless the context otherwise requires:

'Structure Plan' means a Proposed Structure Plan that has been adopted by both the local government and the Commission in accordance with clause 8.5;

'Proponent' means any owner or owners of land to which the Proposed Structure Plan relates;

'Proposed Structure Plan' means a structure plan, which may apply to either a local area or a district, that has been prepared in accordance with clause 8.4

'Development Area' means an area as shown on the Scheme Map as "DA" with a number and included by reference in the Ninth Schedule.

'Detailed Area Plan' means a plan approved by the local government in accordance with clause 8.7

8.2 Purpose

8.2.1 *To identify areas requiring comprehensive planning prior to subdivision and development;*

8.2.2 *To co-ordinate subdivision, land use and development in areas requiring comprehensive planning.*

8.2.3 *Except as otherwise provided in this Scheme, in respect of the Development Areas shown on the Scheme Map, the provisions of the Development Area apply in addition to the provisions of the underlying zone, reserve and the general provisions of the Scheme.*

8.3 Planning Requirements

8.3.1 *The local government requires the preparation and adoption of a Structure Plan for a Development Area, or for any particular part or parts of a Development Area, before recommending subdivision or approving development of land within the Development Area.*

8.3.2 *Where a Structure Plan exists, the subdivision and development of land is to generally be in accordance with the Structure Plan and any associated provisions*



contained in the Ninth Schedule.

8.3.3 *The local government or the Commission may, as a condition of adopting a Proposed Structure Plan, require the preparation and adoption of a more detailed Structure Plan if the local government or the Commission considers a further Structure Plan is necessary to provide additional detail to the proposals contained in the Proposed Structure Plan.*

8.3.4 *The Ninth Schedule describes the Development Areas in more detail and sets out the purpose and particular requirements that may apply to the Development Area.*

8.4 Preparation of Structure Plans

8.4.1 *A Structure Plan may consist of plans and other documents.*

8.4.2 *A Structure Plan may, with the agreement of the local government, be prepared and implemented in stages.*

8.4.3 *A Structure Plan may relate to part or all of a Development Area or more than one Development Area.*

8.4.4 *A Structure Plan is to contain such detail as, in the opinion of the local government, is required to satisfy the planning requirements of the Development Area, and, without limiting the generality of the foregoing, may include the following details:*

- (a) *the area to which the Structure Plan applies;*
- (b) *key opportunities and constraints of the Development Area including landform, topography, hydrology, landscape, vegetation, soils, conservation and heritage values, ownership, land use, roads and public transport, and services;*
- (c) *the planning context for the Development Area including the regional and neighbourhood structure, relevant strategies, Scheme provisions and policies and where appropriate, indicating how the Proposed Structure Plan is to be integrated into the surrounding area;*
- (d) *proposed major land uses, in particular, residential areas, public open space, school sites, civic and community uses, commercial uses (including the location and hierarchy of commercial centres),*

mixed use, industrial and mixed business areas;

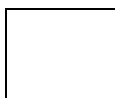
- (e) *the proposed indicative lot pattern and general location of any major buildings;*
- (f) *estimates of future lots, dwellings, population, employment and retail floor space;*
- (g) *provision for major infrastructure, including main drainage, sewerage, water supply and other key infrastructure services.*
- (h) *the proposed road network and hierarchy, public transport services, and bicycle and pedestrian networks.*
- (i) *the timeframe and staging of subdivision and development, and method of implementation*
- (j) *details as appropriate relating to:*
 - i) *vehicular access and parking;*
 - ii) *the location, orientation and design of buildings and the space between buildings;*
 - iii) *conservation areas;*
 - iv) *heritage places; and*
 - v) *special development control provisions.*
- (k) *such other information as may be required by the local government*

8.4.5 *In considering a Proposed Structure Plan for part of a Development Area, the local government may require the Proponent to demonstrate how planning for the subject land may be integrated with planning for the balance of the Development Area, including how broad land uses, essential services, main movement systems and major conservation and recreation areas are to be integrated and provide information on the arrangements for implementation.*

8.5 Adoption of Structure Plans

8.5.1 *A Proposed Structure Plan may be prepared by the local government or a Proponent. Where prepared by a Proponent, the Proposed Structure Plan is to be submitted to the local government.*

8.5.2 *Upon receiving a Proposed Structure Plan, the local government is to either -*



- (a) *determine that the Proposed Structure Plan is satisfactory for advertising;*
 - (b) *determine that the Proposed Structure Plan is not to be advertised until further details have been provided or modifications undertaken; or*
 - (c) *determine that the Proposed Structure Plan is not satisfactory for advertising and give reasons for this to the Proponent.*
- 8.5.3 *If within 60 days of receiving a Proposed Structure Plan for approval for advertising, or such longer period as may be agreed in writing between the Proponent and the local government, the local government has not made one of the determinations referred to in clause 8.5.2, the local government is deemed to have determined that the Proposed Structure Plan is not satisfactory for advertising.*
- 8.5.4 *Where a Proponent is aggrieved by a determination of the local government under clause 8.5.2 b) or c) or clause 8.5.3, the Proponent may request the local government by notice in writing to forward the Proposed Structure Plan to the Commission;*
- 8.5.5 *Within 21 days of receiving notice from the Proponent under clause 8.5.4, the local government is to forward to the Commission -*
- (a) *a copy of the Proposed Structure Plan;*
 - (b) *details of the local government's determination including any modifications to the Proposed Structure Plan required by the local government; and*
 - (c) *any other information the local government considers may be relevant to the Commission's consideration of approval of the Proposed Structure Plan for advertising;*
- 8.5.6 *Upon receiving a Proposed Structure Plan in accordance with clause 8.5.5, the Commission is to make one of the determinations referred to in clause 8.5.2 and advise the local government and the Proponent accordingly;*
- 8.5.7 *If the Commission requires modifications to the Proposed Structure Plan, the Commission is to consult with the local government prior to making its determination under clause 8.5.6.*
- 8.5.8 *If within 60 days of receiving a Proposed Structure Plan under clause 8.5.5, or such longer period as may be agreed in writing between the Proponent and the*

Commission, the Commission has not made one of the determinations referred to in clause 8.5.2, the Commission is deemed to have determined that the proposed Structure Plan is not satisfactory for advertising.

8.5.9 Where the local government, or the Commission under clause 8.5.6, has determined that the Proposed Structure Plan is satisfactory for advertising, the local government is to -

- (a) advertise, or require the Proponent to advertise, the proposed Structure Plan for public inspection by one or more of the methods of advertising proposals for development as set out in clause 6.2.3 of the Scheme; and*
- (b) give notice or require the Proponent to give notice in writing to -*
 - (i) all landowners affected by the Proposed Structure Plan; and*
 - (ii) such public authorities and other persons as the Council nominates,*

and such advertisement and notice are to explain the scope and purpose of the Proposed Structure Plan, when and where it may be inspected, and invite submissions to the local government by a specified date being at least 21 days from the date of the notice and advertisement.

8.5.10 Within 7 days of determining that a Proposed Structure Plan is satisfactory for advertising, the local government is to forward a copy of the Proposed Structure Plan to the Commission.

8.5.11 The local government is to consider all submissions received and within 60 days of the latest date specified in the notice under clause 8.5.9 is to either -

- (i) adopt the Proposed Structure Plan with or without modifications; or*
- (ii) refuse to adopt the Proposed Structure Plan and give reasons for this to the Proponent.*

8.5.12 If within the 60 day period, or such further time as may be agreed in writing between the Proponent and the local government, the local government has not made one of the determinations referred to in clause 8.5.11, the local government is deemed to have refused to adopt the Proposed Structure Plan.

8.5.13 Within 21 days of the local government making its



determination under clause 8.5.11, or deemed refusal under clause 8.5.12, the local government is to forward to the Commission -

- (a) a summary of all submissions and comments received by the local government in respect of the Proposed Structure Plan, and the local government's decisions or comments in relation to these;*
- (b) the local government's recommendation to the Commission to adopt, modify or refuse to adopt the Proposed Structure Plan; and*
- (c) any other information the local government considers may be relevant to the Commission's consideration of the Proposed Structure Plan.*

8.5.14 The Commission is to either -

- (a) adopt the Proposed Structure Plan with or without modifications; or*
- (b) refuse to adopt the Proposed Structure Plan and give reasons for its decision to the Proponent and the local government.*

8.5.15 If within 60 days of receiving the information referred to in clause 8.5.13, or such further time as may be agreed in writing between the Proponent and the Commission, the Commission has not made one of the determinations referred to in clause 8.5.14, the Commission is deemed to have refused to adopt the Proposed Structure Plan.

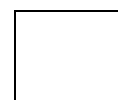
8.5.16 If the Commission adopts the Proposed Structure Plan it is to notify the local government and Proponent of its decision within 14 days of the date of the Commission's resolution.

8.5.17 If the Commission requires modifications to the Proposed Structure Plan, the Commission is to consult with the local government prior to adopting the Proposed Structure Plan under clause 8.5.14.

8.5.18 If the local government, following consultation with the Commission, is of the opinion that any modification to the Proposed Structure Plan is substantial, the local government may -

- a) readvertise the Proposed Structure Plan; or*
- b) require the Proponent to readvertise the Proposed Structure Plan;*

and, thereafter, the procedures set out in clause 8.5.9 onwards are to apply.



8.5.19 *As soon as practicable after receiving notice of the adoption of the Proposed Structure Plan by the Commission, the local government is to adopt the Proposed Structure Plan and forward a copy of the Structure Plan to -*

- a) the Proponent;*
- b) the Commission; and*
- c) any other appropriate person or public authority which in the opinion of the local government is to receive a copy.*

8.5.20 *A Structure Plan is to be kept at the local government's administrative offices, and is to be made available for inspection by any member of the public during office hours.*

8.6 Minor Modification to Structure Plan

8.6.1 *The local government may adopt a minor change to, or departure from, a Structure Plan if, in the opinion of the local government, the change or departure does not materially alter the intent of the Structure Plan.*

8.6.2 *The local government is to forward a copy of the details of any modification to the Commission within 10 days from the date of adopting such modification.*

8.6.3 *If the Commission considers that the change or departure adopted by the local government under clause 8.6.1, materially alters the intent of the Structure Plan, then the Commission -*

- a) may require the local government to follow the procedures set out in clause 8.5 in relation to the change or departure; and*
- b) is to notify the local government of this requirement within 10 days;*

8.6.4 *Any change to or departure from a Structure Plan that is not within clause 8.6.1 is to follow the procedures set out in clause 8.5.*

8.7 Detailed Area Plans

8.7.1 *The local government or the Commission may require the preparation and submission to the local government of a Detailed Area Plan.*

8.7.2 *A Proponent may prepare and submit to the local government a Detailed Area Plan.*

8.7.3 *A Detailed Area Plan is to relate to a particular lot or*



lots and may be prepared and submitted -

- a) to enhance, elaborate or expand on the details or provisions contained in either a proposed or adopted Structure Plan; or*
- b) in place of a development approval required to comply with clause 2.5 of the Residential Planning Codes; or*
- c) for any other planning purpose.*

8.7.4 The local government is to -

- a) approve; or*
 - b) refuse to approve*
- the detailed area plan;*

8.7.5 Once approved by the local government, the Detailed Area Plan is to be used as the basis for –

- (a) making recommendations to the Commission with respect to subdivision applications; and*
 - (b) determining development applications;*
- with respect to the land subject to the Detailed Area Plan*

8.7.6 A Detailed Area Plan may include details as to -

- a) building envelopes;*
- b) distribution of land uses within a lot;*
- c) private open space;*
- d) services*
- e) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;*
- f) the location, orientation and design of buildings and the space between buildings;*
- g) advertising signs, lighting and fencing;*
- h) landscaping, finished site levels and drainage;*



- i) protection of sites of heritage, conservation or environmental significance;*
- j) special development controls and guidelines; and*
- k) such other information considered relevant by the local government;*

8.7.7 An approved Detailed Area Plan may be modified or varied with the approval of the local government providing such modifications or variations conform with the intent of the Structure Plan;

8.7.8 If within 60 days of receiving a Detailed Area Plan under clauses 8.7.1 or 8.7.2, or such longer period as may be agreed in writing between the Proponent and the local government, the local government has not made one of the determinations referred to in clause 8.7.4, the local government is deemed to have refused to approve the Detailed Area Plan.

8.8 Operation of Structure Plan

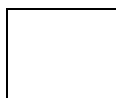
8.8.1 A Structure Plan commences operation on the date it is adopted by the local government pursuant to clause 8.5.19.

8.8.2 Where a Structure Plan imposes a classification on the land included in it by reference to reserves, zones, or Residential Planning Codes, until it is replaced by a subsequent amendment to the Scheme or a new Scheme imposing such classifications -

- (a) the provisions of the Structure Plan apply to the land within the area as if its provisions were incorporated into this Scheme and it is binding and enforceable in the same way as corresponding provisions incorporated in the Scheme; and*
- (b) the provisions in the Scheme applicable to land in those classifications under the Scheme are to apply to the Development Area.*

8.8.3 Without limiting the generality of clause 8.8.2 under a Structure Plan -

- (a) in the areas designated as zones, the permissibility of uses is to be the same as set out in the Zoning Table as if those areas were zones under the*



Scheme having the same designation;

- (b) *the standards and requirements applicable to the zones and Residential Codings under the Scheme apply to the areas having corresponding designations under the Structure Plan;*
- (c) *the development control procedures including (without limitation) the procedures for the approval of uses and developments under the Scheme are to apply as if the land was correspondingly zoned or reserved under the Scheme;*
- (d) *where land is classified as a local reservation, the rights, provisions and procedures, and the obligations of the Council in regard to compensation set out in the Act apply as if the land was correspondingly reserved under the Scheme;*
- (e) *any other provision, standard or requirement in the Structure Plan is to be given the same force and effect as if it was a provision, standard or requirement of the Scheme.*

8.8.4 *A Structure Plan may distinguish between the provisions, requirements or standards which are intended to have effect as if included in the Scheme, and any provisions, requirements, or standards which are only for guidance or such other purposes as stipulated in the Structure Plan.*

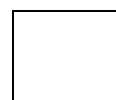
8.9 Appeals

8.9.1 *The Proponent may appeal, in accordance with Part V of the Act, any -*

- (a) *determination or decision made by the Commission;*
- (b) *requirement imposed by or modification sought by the Commission; or*
- (c) *determinations deemed to have been made by the Commission under clauses 8.5.4 and 8.5.15*

- in the exercise of the Commission's powers under Part 8 of the Scheme.

8.9.2 *The Proponent may appeal in accordance with Part V of the Act, any decision made by the local government*



under clause 8.7.4.

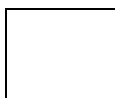
(End of Part 8)

4. *Inserting the following information to form the Ninth Schedule listing the Development Areas and associated provisions;*

NINTH SCHEDULE

DEVELOPMENT AREAS

REF NO.	AREA	PROVISIONS
DA 1	PACKHAM	<p>1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i></p> <p>2. <i>Not less than seventy-five percent (75%) of all land within the Residential Zone shall be developed for the purpose of single houses.</i></p>
DA 2	PHOENIX ROAD	<p>1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i></p> <p>2. <i>Notwithstanding any provision of this Scheme to the contrary, land within the Owner Development Scheme can be developed to a maximum R Code density of R12.5, however, the Council may permit the land north of Forrest Road being developed to a maximum R Code density of R40, in accordance with an adopted Structure Plan.</i></p> <p>3. <i>In the case of dwellings designed for the accommodation of aged or dependent persons, the Council shall not exercise its discretion to permit up to fifty percent (50%) greater the number of dwellings provided by the Residential Planning Codes applying to the site.</i></p>
DA 3	BEELIAR (Cell 11)	<p>1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i></p> <p>2. <i>Subdivision of the land for single housing shall conform with the requirements of the</i></p>



		<i>R Code density of R20, except that the minimum lot size may be reduced to 350m², but the minimum average lot size must remain at 500m², however, the Council may permit portions of the land being developed to a maximum R Code density of R40, in accordance with an adopted Structure Plan.</i>
DA 4	YANGEBUP <i>(Cells 6, 8, 9 & 10)</i>	1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i>
DA 5	MUNSTER <i>(Cell 5)</i>	1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i>
DA 6	MARINE TECHNOLOGY PARK	1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i>
DA 7	PORT CATHERINE MARINA <i>(Cell 1)</i>	1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i>
DA 8	SUCCESS LAKES <i>(Cells 22 & 23)</i>	1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i>
DA 9	GAEBLER ROAD <i>(Cell 29)</i>	1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i>
DA 10	ATWELL SOUTH <i>(Cell 28)</i>	1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i>
DA 11	LYON ROAD <i>(Cell 30)</i>	1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i>
DA 12	NORTH COOGEE	1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i>



DA 13	SUCCESS NORTH <i>(Cell 19)</i>	1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i>
DA 14	BEENYUP ROAD <i>(Cell 25)</i>	1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i>
DA 15	JERVOISE BAY	1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i>
<p>5. <i>Amending the Scheme Map to delete Urban Development Areas and to include the Development Areas.</i></p> <p>6. <i>Amending the legend on the Scheme Map by deleting Urban Development Areas and adding the reference to "Development Area" and "Development Zone".</i></p> <p>(2) Advise the Western Australian Planning of Council's decision accordingly.</p>		

COUNCIL DECISION

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

CARRIED 3/0

Background

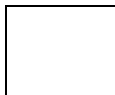
This report deals with Amendment No. 192 to District Zoning Scheme No.2 and the need for a series of modifications to its form and content.

Submission

N/A

Report

This Amendment proposes the introduction of Development Areas into the Scheme, coupled with associated requirements for the preparation and adoption of Structure Plans within these areas. There is a link



between this Amendment and Amendment No. 193, which formalises Developer Contribution requirements in the Scheme.

The main component of Amendment No. 192 is the introduction of procedures and requirements to be applied in preparing and adopting a Structure Plan. The other key component is the introduction of a Ninth Schedule into the Scheme whereby the specific Scheme provisions for each Development Area are established. A total of 15 individual Development Areas are proposed for inclusion into the Scheme by reference in the proposed Ninth Schedule and delineation on the Scheme Map. The provisions to be introduced by this Amendment represent the parent requirements for Amendments 206, 207 and 211.

It has been 12 months since initiating this Amendment and during that time, the Commission has progressed the adoption of draft Model Text Provisions relating to Structure Plans. The Commission has advised that it requires substantial modification to the Amendment to reflect the Model Text Provisions and correct other anomalies, prior to the Amendment being advertised for public comment.

There is no objection to the modifications suggested by the Commission. It should be noted that the draft Town Planning Scheme No.3 closely follows the Model Text Provisions for Structure Plans and it is recommended that Amendment 192 be modified in accordance with the Model Text.

Given the extent of modification to the Amendment, the complete modified text is reproduced in its entirety in the Recommendation for Council's adoption.

Strategic Plan/Policy Implications

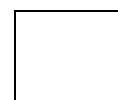
N/A

Budget/Financial Implications

N/A

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

Nil



272. (AG Item 13.3) (OCM1_10_1999) - MODIFICATIONS TO AMENDMENT - AMENDMENT NO. 193 (PART 12) - DEVELOPMENT CONTRIBUTION AREAS (92193) (SOS) (ALL)

RECOMMENDATION

That Council:

(1) Adopt the following modified amendment text:

1. *Inserting a new part to the Scheme text titled PART 12 – DEVELOPMENT CONTRIBUTION AREAS and inserting the following:*

PART 12 – DEVELOPMENT CONTRIBUTION AREAS

12.1 Purpose

12.1.1 *To identify areas (DCA) requiring Cost Contributions that relate to subdivision and development;*

12.1.2 *To provide for the equitable sharing of costs between Owners for Infrastructure, and in particular, to ensure that Cost Contributions are only required towards such Infrastructure as is reasonably required as a result of the subdivision and development of land in the Development Contribution Area (DCA);*

12.1.3 *To co-ordinate the timely provision of Infrastructure.*

12.2 Interpretation

In Part 12, unless the context otherwise requires —

"Cost Contribution" means the contribution to the cost of Infrastructure payable by an Owner under Part 12 and the applicable Development Contribution Plan;

"Development Contribution Plan" means a proposed Development Contribution Plan that has been both approved by the Commission under clause 12.5.14 a) and adopted by the local government under clause 12.5.11 a);

"Infrastructure" means services and facilities which, in accordance with the Commission's policy, it is reasonable for Owners to make a Cost Contribution towards;

"Owner" means an owner of land that is located within a Development Contribution Area; and



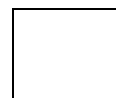
"Proposed Development Contribution Plan" means a Development Contribution Plan that has been prepared in accordance with clause 12.4.

12.3 Development Contribution Plan Pre-requisite to Subdivision and Development

- 12.3.1 *Where a Development Contribution Area is prescribed in the Scheme, all Owners within that Development Contribution Area are required to make a Cost Contribution in accordance with the applicable Development Contribution Plan and the provisions of Part 12;*
- 12.3.2 *The local government is not to support subdivision, issue a subdivision clearance advice or approve development in a Development Contribution Area until a Development Contribution Plan has been made under clause 12.5 and the Owner the subject of the application for subdivision or development has made arrangements in accordance with clause 12.8.1 or 12.8.2 for the payment of the Owner's Cost Contribution;*
- 12.3.3 *Clause 12.3.2 does not apply to the development of a single house or outbuildings associated with a single house on a lot which has not been subdivided since the coming into operation of Part 12.*

12.4 Content and Principles of Development Contribution Plans

- 12.4.1 *The Development Contribution Plan is to specify -*
- (a) *the Development Contribution Area to which the Development Contribution Plan applies;*
 - (b) *the Infrastructure to be funded through the Development Contribution Plan; and*
 - (c) *the method of determining the Contribution Cost of each Owner towards the Infrastructure to be funded through the Development Contribution Plan;*
- 12.4.2 *A Development Contribution Plan may specify the period during which it is to operate, and where a period is specified the Development Contribution Plan shall describe how relevant provisions of the Plan are to be dealt with on termination in the event that the subdivision*



or development is not complete or the recovery of costs remains outstanding;

12.4.3 The Development Contribution Plan for any Development Contribution Area is to be prepared in accordance with the following principles -

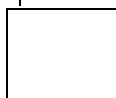
- (a) it is to provide for Cost Contributions to only the cost of such Infrastructure as fairly and reasonably relates to, and is reasonably required as a result of, the subdivision and development of land in the Development Contribution Area;*
- (b) it is to provide for Cost Contributions generally in accordance with the Commission's policies on developer contributions for Infrastructure;*
- (c) matters requiring land contribution, such as public open space, are to be treated as the cost of Infrastructure with any necessary adjustments to establish, where appropriate, a money equivalent;*
- (d) the Cost Contribution is to be based upon the proportion that the area of that Owner's land bears to the total area of land within the Development Contribution Area; and*
- (e) the cost of Infrastructure is to be based on amounts expended, but when an expenditure has not occurred, it is to be based on the best and latest estimated costs available to the local government;*

12.4.4 For the purposes of clause 12.4.3 d), in calculating both the area of an Owner's land and the total area of land in a Development Contribution Area, the area of land provided or required in that Development Contribution Area for -

- (a) roads designated under the Metropolitan Region Scheme as Primary Regional Roads and Other Regional Roads;*
- (b) government primary and secondary schools; and*
- (c) such other land as is set out in the Development Contribution Plan,*

is to be excluded;

12.4.5 Where a Development Contribution Plan contains



estimated costs, such estimated costs are to be revised at least annually by the local government in accordance with the best and latest information available to the local government until the expenditure on the relevant item of Infrastructure has occurred;

12.4.6 Where any Cost Contribution has been calculated on the basis of an estimated cost for Infrastructure, the local government may:

- (a) adjust the Cost Contribution of any Owner in accordance with the revised estimated costs or the final expenditure; or*
- (b) accept a Cost Contribution based upon estimated costs as a final Cost Contribution; and*

may enter into agreements with Owners accordingly;

12.4.7 The local government, on receiving a request in writing from an Owner, is to provide a copy of estimated costs and the calculation of adjustments, where an Owner's Cost Contribution is adjusted under clause 12.4.6.

12.5 Procedure for making a Development Contribution Plan

12.5.1 A Proposed Development Contribution Plan may be prepared by the local government or an Owner and where prepared by an Owner, the proposed Development Contribution Plan is to be submitted to the local government.

12.5.2 Upon receiving a Proposed Development Contribution Plan, the local government is to either —

- (a) determine that the Proposed Development Contribution Plan is satisfactory for advertising;*
- (b) determine that the Proposed Development Contribution Plan is not to be advertised until further details have been provided or modifications undertaken; or*
- (c) determine that the Proposed Development Contribution Plan is not satisfactory for advertising and give reasons for this to the Proponent.*



- 12.5.3 *If within 60 days of receiving a proposed Development Contribution Plan for approval for advertising, or such longer period as may be agreed in writing between the Owner and the local government, the local government has not made one of the determinations referred to in clause 12.5.2, the local government is deemed to have determined that the Proposed Development Contribution Plan is not satisfactory for advertising;*
- 12.5.4 *Where a Owner is aggrieved by a determination of the local government, the Owner may request the local government by notice in writing to forward the Proposed Development Contribution Plan to the Commission;*
- 12.5.5 *Within 21 days of receiving notice from the Owner under clause 12.5.4, the local government is to forward to the Commission:*
- (a) a copy of the Proposed Development Contribution Plan;*
 - (b) details of the local government's determination including any modifications to the Proposed Development Contribution Plan required by the local government; and*
 - (c) any other information the local government considers may be relevant to the Commission's consideration of approval of the Proposed Development Contribution Plan for advertising;*
- 12.5.6 *Upon receiving a Proposed Development Contribution Plan in accordance with clause 12.5.5, the Commission is to make one of the determinations referred to in clause 12.5.2 and advise the local government and the Owner accordingly;*
- 12.5.7 *If the Commission requires modifications to the Proposed Development Contribution Plan, the Commission is to consult with the local government prior to making its determination under clause 12.5.6;*
- 12.5.8 *If within 60 days of receiving a Proposed Development Contribution Plan under clause 12.5.5, or such longer period as may be agreed in writing between the Owner and the Commission, the Commission has not made one of the determinations referred to in clause 12.5.2, the Commission is deemed to have determined that the Proposed Development Contribution Plan is not satisfactory for advertising;*



12.5.9 *Where the local government, or the Commission under clause 12.5.5, has determined that the Proposed Development Contribution Plan is satisfactory for advertising, the local government is to:*

- (a) *advertise, or require the Owner to advertise, the Proposed Development Contribution Plan for public inspection by one or more of the methods of advertising proposals for development as set out in clause 6.2.3 of the Scheme; and*
- (b) *give notice or require the Owner to give notice in writing to:*
 - (i) *all landowners affected by the Proposed Development Contribution Plan; and*
 - (ii) *such public authorities and other persons as the local government nominates,*

and such advertisement and notice are to explain the scope and purpose of the Proposed Development Contribution Plan, when and where it may be inspected, and invite submissions to the local government by a specified date being at least 21 days from the date of the notice and advertisement;

12.5.10 *Within 7 days of determining that a Proposed Development Contribution Plan is satisfactory for advertising, the local government is to forward a copy of the Proposed Development Contribution Plan to the Commission;*

12.5.11 *The local government is to consider all submissions received and within 60 days of the latest date specified in the notice under clause 12.5.9 is to either:*

- (a) *adopt the Proposed Development Contribution Plan with or without modifications; or*
- (b) *refuse to adopt the Proposed Development Contribution Plan and give reasons for this to the Owner;*

12.5.12 *If within the 60 day period, or such further time as may be agreed in writing between the Owner and the local government, the local government has not made one of the determinations referred to in clause 12.5.11, the local government is deemed to have refused to adopt*



the Proposed Development Contribution Plan;

12.5.13 Within 21 days of the local government making its determination under clause 12.5.11, or deemed refusal under clause 12.5.12, the local government is to forward to the Commission:

- (a) a summary of all submissions and comments received by the local government in respect of the Proposed Development Contribution Plan, and the local government's decisions or comments in relation to these;*
- (b) the local government's recommendation to the Commission to approve, modify or refuse to approve the Proposed Development Contribution Plan; and*
- (c) any other information the local government considers may be relevant to the Commission's consideration of the Proposed Development Contribution Plan;*

12.5.14 The Commission is to either:

- (a) approve the Proposed Development Contribution Plan with or without modifications; or*
- (b) refuse to approve the Proposed Development Contribution Plan and give reasons for its determination to the Owner and the local government;*

12.5.15 If within 60 days of receiving the information referred to in clause 12.5.13, or such further time as may be agreed in writing between the Owner and the Commission, the Commission has not made one of the determinations referred to in clause 12.5.14, the Commission is deemed to have refused to approve the Proposed Development Contribution Plan;

12.5.16 If the Commission approves the Proposed Development Contribution Plan it is to notify the local government and Owner of its determination within 14 days of the date of the Commission's determination;

12.5.17 If the Commission requires modifications to the Proposed Development Contribution Plan, the Commission is to consult with the local government



prior to approving the Proposed Development Contribution Plan under clause 12.5.14;

12.5.18 If the local government, following consultation with the Commission, is of the opinion that any modification to the Proposed Development Contribution Plan is substantial, the local government may:

- (a) readvertise the Proposed Development Contribution Plan; or*
- (b) require the Owner to readvertise the Proposed Development Contribution Plan,*
- (c) and, thereafter, the procedures set out in clause 12.5.9 onwards are to apply;*

12.5.19 As soon as practicable after receiving notice of the approval of the Proposed Development Contribution Plan by the Commission, the local government is to adopt the Proposed Development Contribution Plan and forward a copy of the Development Contribution Plan to:

- (a) the Owner;*
- (b) the Commission; and*
- (c) any other appropriate person or public authority which in the opinion of the local government is to receive a copy;*

12.5.20 A Development Contribution Plan is to be kept at the local government's administration offices, and is to be made available for inspection by any member of the public during office hours;

12.5.21 A Development Contribution Plan commences operation on the date it is adopted by the local government under clause 12.5.19.

12.6 Change or Departure from Development Contribution Plan

12.6.1 The local government may adopt a minor change to or departure from a Development Contribution Plan if, in the opinion of the local government, the change or departure does not materially alter the intent of the Development Contribution Plan;

12.6.2 The local government is to forward a copy of the minor change or departure to the Commission within 10 days



from the date of adopting the minor change or departure;

12.6.3 If the Commission considers that the change or departure adopted by the local government under clause 12.6.1 materially alters the intent of the Development Contribution Plan, then the Commission:

(a) may require the local government to follow the procedures set out in clause 12.5 in relation to the change or departure; and

(b) is to notify the local government of this requirement within 10 days;

12.6.4 Any change to or departure from a Development Contribution Plan that is not within clause 12.6.1 is to follow the procedures set out in clause 12.5.

12.7 Liability for Cost Contributions

An Owner's liability to pay the Owner's Cost Contribution to the local government arises on the sooner of:

(a) The local government confirming to the Commission that conditions of subdivision approval supervised by the local government and imposed on an application to subdivide the Owner's land within the Development Contribution Area have been complied with;

(b) The Commission endorsing its approval on the Diagram or Plan of Survey of the subdivision of the Owner's land within the Development Contribution Area;

(c) At the time of carrying out any development or commencing any new or extended use on the Owner's land within the Development Contribution Area; or

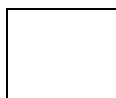
(d) At the time of applying to the local government or Commission for approval of any new or extended use, or any other development on the Owner's land within the Development Contribution Area.

12.8 Collection and Enforcement

12.8.1 The Owner, with the agreement of the local government, may pay the Owner's Cost Contribution by:

(a) cheque or cash;

(b) transferring to the local government land to the



value of the Cost Contribution;

- (c) some other method acceptable to the local government; or*
- (d) any combination of these;*

12.8.2 The Owner, with the agreement of the local government, may pay the Owner's Cost Contribution in a lump sum, by instalments or in such other manner as agreed with the local government;

12.8.3 If an Owner does not pay to the local government the Owner's Cost Contribution and any interest due, the local government may compulsorily acquire the whole or a portion of the Owner's land within the Development Contribution Area;

12.8.4 The local government may sell the land compulsorily acquired and deduct from the proceeds of sale the Cost Contribution, and the costs described in clause 12.8.6 and after payment of such moneys as are due upon any encumbrance notified on the title to the land, the local government may put aside a sufficient sum to provide for any future Cost Contribution by that Owner under Part 12 and the local government is to pay any balance to that Owner or recover from the Owner any amount by which the balance of the proceeds of sale falls short of the Cost Contribution to be paid;

12.8.5 For the purpose of clause 12.8.3, the local government may subdivide the Owner's land and compulsorily acquire only such portion as the local government thinks necessary to discharge the liabilities of the Owner under Part 12 and the local government may transfer back to that Owner any land not required;

12.8.6 For the purposes of clause 12.8.4, the local government may recover costs necessary and incidental to the compulsory acquisition, subdivision and transfer of the Owner's land under clause 12.8.3.

12.9 Administration of Funds

12.9.1 The local government is to establish and maintain a reserve account in accordance with the Local Government Act 1995 for each Development Contribution Area into which Cost Contributions for that Development Contribution Area will be credited and from which all payments for the cost of Infrastructure



within that Development Contribution Area will be paid;

12.9.2 The local government is to provide to every Owner an audited annual statement of accounts for that Development Contribution Area as soon as practicable after the audited annual statement of accounts becomes available.

12.10 Shortfall or Excess in Cost Contributions

12.10.1 If there is a shortfall in the total of Cost Contributions when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the local government may:

- (a) make good the shortfall from its municipal fund;*
- (b) enter into agreements with Owners to fund the Infrastructure shortfall; or*
- (c) raise loans or borrow from a financial institution,*

but nothing in clause 12.10.1a) restricts the right or power of the local government to impose a differential rate to a specified Development Contribution Area in that regard;

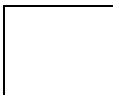
12.10.2 If there is an excess in the total of Cost Contributions when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the local government is to use the excess funds in the provision of additional facilities in that Development Contribution Area.

12.11 Valuation

12.11.1 Unless section 241 of the Land Acquisition Act 1997 applies, clause 12.11 applies if it is necessary to ascertain the value of any land for the purposes of Part 12;

12.11.2 In clause 12.11:

- a) "Value" means the capital sum which an unencumbered estate in fee simple of the land might reasonably be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require:*
 - i) on the basis that there are no buildings, fences or other improvements of a like nature*



on the land;

- ii) on the assumption that any rezoning necessary for the purpose of the development has come into force; and*
- iii) taking into account the added value of all other improvements on or appurtenant to the land;*

- b) "Valuer" means a licensed valuer agreed by the local government and the Owner, or where the local government and the Owner are unable to reach agreement, a valuer appointed by the President of the Institute of Valuers for the time being;*

12.11.3 If any Owner objects to a valuation made by the Valuer, the Owner may give notice to the local government requesting a review of the amount of the Value, at the Owner's expense, within 28 days after being informed of the Value;

12.11.4 If the Valuer does not change the Value of the land to a figure acceptable to the Owner, the Value is to be determined under clause 12.11.7;

12.11.5 At the request of the local government or the Owner, the Value placed upon the land of an Owner may be revised from time to time by a Valuer;

12.11.6 The Valuer may:

- a) reconsider the Values placed on other land in the Development Contribution Area; and*
- b) make such revisions as considered just and equitable to those Values*

if the Valuer considers this is necessary as a result of a revaluation made under clause 12.11.3;

12.11.7 The date of valuation is the date that the Owner's liability to pay the Owner Cost Contribution to the local government arises under clause 12.7, or such other date as is agreed between the local government and the Owner;

12.11.8 Where there is a dispute or difference between the local government and the Owner regarding a Value, the dispute or difference is to be resolved as follows:



(a) *by any method agreed upon by the local government and the Owner; or*

(b) *if the local government and the Owner cannot agree, by arbitration in accordance with the Commercial Arbitration Act 1985;*

12.11.9 In any case, mediation of the dispute is to be attempted without prejudice to the rights of either the local government or the Owner.

12.12 Land Acquisition

The local government may acquire land required for the carrying out of any Infrastructure works either by agreement or compulsorily under the powers conferred by section 13 of the Act.

12.13 Arbitration

Subject to clause 12.11.8, any dispute between any Owner and the local government in connection with the Cost Contribution required to be made by an Owner under Part 12 is to be resolved by arbitration in accordance with the Commercial Arbitration Act 1985.

12.14 Limitation

The development Contribution Plan is limited to those Cost Contributions towards works and infrastructure within public reserves for which the local government is responsible to provide, and is not to include the cost of works and infrastructure normally undertaken by an owner in accordance with the terms and conditions of a subdivision or development approval for the land.

(End of Part 12)

2. *Inserting a Tenth Schedule into the Scheme Text:*

TENTH SCHEDULE

DEVELOPMENT CONTRIBUTION AREAS

REF NO.	AREA	PROVISIONS

3. *Adding to the legend on the Scheme Map the reference*



to Development Contribution Areas (DCA)

- (2) advise the Western Australian Planning Commission accordingly.

COUNCIL DECISION

MOVED Cmr Smithson SECONDED Cmr Jorgensen that Council:

- (1) Adopt the following modified amendment text:

1. *Inserting a new part to the Scheme text titled PART 12 – DEVELOPMENT CONTRIBUTION AREAS and inserting the following:*

PART 12 – DEVELOPMENT CONTRIBUTION AREAS

12.1 Purpose

12.1.1 *To identify areas (DCA) requiring Cost Contributions that relate to subdivision and development;*

12.1.2 *To provide for the equitable sharing of costs between Owners for Infrastructure, and in particular, to ensure that Cost Contributions are only required towards such Infrastructure as is reasonably required as a result of the subdivision and development of land in the Development Contribution Area (DCA);*

12.1.3 *To co-ordinate the timely provision of Infrastructure.*

12.2 Interpretation

In Part 12, unless the context otherwise requires —

"Cost Contribution" means the contribution to the cost of Infrastructure payable by an Owner under Part 12 and the applicable Development Contribution Plan;

"Development Contribution Plan" means a proposed Development Contribution Plan that has been both approved by the Commission under clause 12.5.14 a) and adopted by the local government under clause 12.5.11 a);

"Infrastructure" means services and facilities which, in accordance with the Commission's policy, it is reasonable for Owners to make a Cost Contribution towards;

"Owner" means an owner of land that is located within a



Development Contribution Area; and

"Proposed Development Contribution Plan" means a Development Contribution Plan that has been prepared in accordance with clause 12.4.

12.3 Development Contribution Plan Pre-requisite to Subdivision and Development

12.3.1 *Where a Development Contribution Area is prescribed in the Scheme, all Owners within that Development Contribution Area are required to make a Cost Contribution in accordance with the applicable Development Contribution Plan and the provisions of Part 12;*

12.3.2 *The local government is not to support subdivision, issue a subdivision clearance advice or approve development in a Development Contribution Area until a Development Contribution Plan has been made under clause 12.5 and the Owner the subject of the application for subdivision or development has made arrangements in accordance with clause 12.8.1 or 12.8.2 for the payment of the Owner's Cost Contribution;*

12.3.3 *Clause 12.3.2 does not apply to the development of a single house or outbuildings associated with a single house on a lot which has not been subdivided since the coming into operation of Part 12.*

12.4 Content and Principles of Development Contribution Plans

12.4.1 *The Development Contribution Plan is to specify -*

- (a) *the Development Contribution Area to which the Development Contribution Plan applies;*
- (b) *the Infrastructure to be funded through the Development Contribution Plan; and*
- (c) *the method of determining the Contribution Cost of each Owner towards the Infrastructure to be funded through the Development Contribution Plan;*

12.4.2 *A Development Contribution Plan may specify the period during which it is to operate, and where a period is specified the Development Contribution Plan shall*



describe how relevant provisions of the Plan are to be dealt with on termination in the event that the subdivision or development is not complete or the recovery of costs remains outstanding;

12.4.3 The Development Contribution Plan for any Development Contribution Area is to be prepared in accordance with the following principles -

- (a) it is to provide for Cost Contributions to only the cost of such Infrastructure as fairly and reasonably relates to, and is reasonably required as a result of, the subdivision and development of land in the Development Contribution Area;*
- (b) it is to provide for Cost Contributions generally in accordance with the Commission's policies on developer contributions for Infrastructure;*
- (c) matters requiring land contribution, such as public open space, are to be treated as the cost of Infrastructure with any necessary adjustments to establish, where appropriate, a money equivalent;*
- (d) the Cost Contribution is to be based upon the proportion that the area of that Owner's land bears to the total area of land within the Development Contribution Area; and*
- (e) the cost of Infrastructure is to be based on amounts expended, but when an expenditure has not occurred, it is to be based on the best and latest estimated costs available to the local government;*

12.4.4 For the purposes of clause 12.4.3 d), in calculating both the area of an Owner's land and the total area of land in a Development Contribution Area, the area of land provided or required in that Development Contribution Area for -

- (a) roads designated under the Metropolitan Region Scheme as Primary Regional Roads and Other Regional Roads;*
- (b) government primary and secondary schools; and*
- (c) such other land as is set out in the Development Contribution Plan,*



is to be excluded;

12.4.5 *Where a Development Contribution Plan contains estimated costs, such estimated costs are to be revised at least annually by the local government in accordance with the best and latest information available to the local government until the expenditure on the relevant item of Infrastructure has occurred;*

12.4.6 *Where any Cost Contribution has been calculated on the basis of an estimated cost for Infrastructure, the local government may:*

- (a) adjust the Cost Contribution of any Owner in accordance with the revised estimated costs or the final expenditure; or*
- (b) accept a Cost Contribution based upon estimated costs as a final Cost Contribution; and*

may enter into agreements with Owners accordingly;

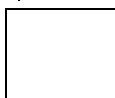
12.4.7 *The local government, on receiving a request in writing from an Owner, is to provide a copy of estimated costs and the calculation of adjustments, where an Owner's Cost Contribution is adjusted under clause 12.4.6.*

12.5 Procedure for making a Development Contribution Plan

12.5.1 *A Proposed Development Contribution Plan may be prepared by the local government or an Owner and where prepared by an Owner, the proposed Development Contribution Plan is to be submitted to the local government.*

12.5.2 *Upon receiving a Proposed Development Contribution Plan, the local government is to either —*

- (a) determine that the Proposed Development Contribution Plan is satisfactory for advertising;*
- (b) determine that the Proposed Development Contribution Plan is not to be advertised until further details have been provided or modifications undertaken; or*
- (c) determine that the Proposed Development*



Contribution Plan is not satisfactory for advertising and give reasons for this to the Proponent.

- 12.5.3 *If within 60 days of receiving a proposed Development Contribution Plan for approval for advertising, or such longer period as may be agreed in writing between the Owner and the local government, the local government has not made one of the determinations referred to in clause 12.5.2, the local government is deemed to have determined that the Proposed Development Contribution Plan is not satisfactory for advertising;*
- 12.5.4 *Where a Owner is aggrieved by a determination of the local government, the Owner may request the local government by notice in writing to forward the Proposed Development Contribution Plan to the Commission;*
- 12.5.5 *Within 21 days of receiving notice from the Owner under clause 12.5.4, the local government is to forward to the Commission:*
- (a) *a copy of the Proposed Development Contribution Plan;*
 - (b) *details of the local government's determination including any modifications to the Proposed Development Contribution Plan required by the local government; and*
 - (c) *any other information the local government considers may be relevant to the Commission's consideration of approval of the Proposed Development Contribution Plan for advertising;*
- 12.5.6 *Upon receiving a Proposed Development Contribution Plan in accordance with clause 12.5.5, the Commission is to make one of the determinations referred to in clause 12.5.2 and advise the local government and the Owner accordingly;*
- 12.5.7 *If the Commission requires modifications to the Proposed Development Contribution Plan, the Commission is to consult with the local government prior to making its determination under clause 12.5.6;*
- 12.5.8 *If within 60 days of receiving a Proposed Development Contribution Plan under clause 12.5.5, or such longer period as may be agreed in writing between the Owner and the Commission, the Commission has not made one of the determinations referred to in clause 12.5.2, the Commission is deemed to have determined that the*

Proposed Development Contribution Plan is not satisfactory for advertising;

12.5.9 Where the local government, or the Commission under clause 12.5.5, has determined that the Proposed Development Contribution Plan is satisfactory for advertising, the local government is to:

- (a) advertise, or require the Owner to advertise, the Proposed Development Contribution Plan for public inspection by one or more of the methods of advertising proposals for development as set out in clause 6.2.3 of the Scheme; and*
- (b) give notice or require the Owner to give notice in writing to:
 - (i) all landowners affected by the Proposed Development Contribution Plan; and*
 - (ii) such public authorities and other persons as the local government nominates,**

and such advertisement and notice are to explain the scope and purpose of the Proposed Development Contribution Plan, when and where it may be inspected, and invite submissions to the local government by a specified date being at least 21 days from the date of the notice and advertisement;

12.5.10 Within 7 days of determining that a Proposed Development Contribution Plan is satisfactory for advertising, the local government is to forward a copy of the Proposed Development Contribution Plan to the Commission;

12.5.11 The local government is to consider all submissions received and within 60 days of the latest date specified in the notice under clause 12.5.9 is to either:

- (a) adopt the Proposed Development Contribution Plan with or without modifications; or*
- (b) refuse to adopt the Proposed Development Contribution Plan and give reasons for this to the Owner;*

12.5.12 If within the 60 day period, or such further time as may be agreed in writing between the Owner and the local government, the local government has not made one of



the determinations referred to in clause 12.5.11, the local government is deemed to have refused to adopt the Proposed Development Contribution Plan;

12.5.13 Within 21 days of the local government making its determination under clause 12.5.11, or deemed refusal under clause 12.5.12, the local government is to forward to the Commission:

- (a) a summary of all submissions and comments received by the local government in respect of the Proposed Development Contribution Plan, and the local government's decisions or comments in relation to these;*
- (b) the local government's recommendation to the Commission to approve, modify or refuse to approve the Proposed Development Contribution Plan; and*
- (c) any other information the local government considers may be relevant to the Commission's consideration of the Proposed Development Contribution Plan;*

12.5.14 The Commission is to either:

- (a) approve the Proposed Development Contribution Plan with or without modifications; or*
- (b) refuse to approve the Proposed Development Contribution Plan and give reasons for its determination to the Owner and the local government;*

12.5.15 If within 60 days of receiving the information referred to in clause 12.5.13, or such further time as may be agreed in writing between the Owner and the Commission, the Commission has not made one of the determinations referred to in clause 12.5.14, the Commission is deemed to have refused to approve the Proposed Development Contribution Plan;

12.5.16 If the Commission approves the Proposed Development Contribution Plan it is to notify the local government and Owner of its determination within 14 days of the date of the Commission's determination;

12.5.17 If the Commission requires modifications to the Proposed Development Contribution Plan, the



Commission is to consult with the local government prior to approving the Proposed Development Contribution Plan under clause 12.5.14;

12.5.18 If the local government, following consultation with the Commission, is of the opinion that any modification to the Proposed Development Contribution Plan is substantial, the local government may:

- (a) readvertise the Proposed Development Contribution Plan; or*
- (b) require the Owner to readvertise the Proposed Development Contribution Plan,*
- (c) and, thereafter, the procedures set out in clause 12.5.9 onwards are to apply;*

12.5.19 As soon as practicable after receiving notice of the approval of the Proposed Development Contribution Plan by the Commission, the local government is to adopt the Proposed Development Contribution Plan and forward a copy of the Development Contribution Plan to:

- (a) the Owner;*
- (b) the Commission; and*
- (c) any other appropriate person or public authority which in the opinion of the local government is to receive a copy;*

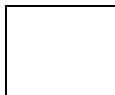
12.5.20 A Development Contribution Plan is to be kept at the local government's administration offices, and is to be made available for inspection by any member of the public during office hours;

12.5.21 A Development Contribution Plan commences operation on the date it is adopted by the local government under clause 12.5.19.

12.6 Change or Departure from Development Contribution Plan

12.6.1 The local government may adopt a minor change to or departure from a Development Contribution Plan if, in the opinion of the local government, the change or departure does not materially alter the intent of the Development Contribution Plan;

12.6.2 The local government is to forward a copy of the minor



change or departure to the Commission within 10 days from the date of adopting the minor change or departure;

12.6.3 If the Commission considers that the change or departure adopted by the local government under clause 12.6.1 materially alters the intent of the Development Contribution Plan, then the Commission:

- (a) may require the local government to follow the procedures set out in clause 12.5 in relation to the change or departure; and*
- (b) is to notify the local government of this requirement within 10 days;*

12.6.4 Any change to or departure from a Development Contribution Plan that is not within clause 12.6.1 is to follow the procedures set out in clause 12.5.

12.7 Liability for Cost Contributions

An Owner's liability to pay the Owner's Cost Contribution to the local government arises on the sooner of:

- (a) The local government confirming to the Commission that conditions of subdivision approval supervised by the local government and imposed on an application to subdivide the Owner's land within the Development Contribution Area have been complied with;*
- (b) The Commission endorsing its approval on the Diagram or Plan of Survey of the subdivision of the Owner's land within the Development Contribution Area;*
- (c) At the time of carrying out any development or commencing any new or extended use on the Owner's land within the Development Contribution Area; or*
- (d) At the time of applying to the local government or Commission for approval of any new or extended use, or any other development on the Owner's land within the Development Contribution Area.*

12.8 Collection and Enforcement

12.8.1 The Owner, with the agreement of the local government, may pay the Owner's Cost Contribution by:

- (a) cheque or cash;*



- (b) *transferring to the local government land to the value of the Cost Contribution;*
- (c) *some other method acceptable to the local government; or*
- (d) *any combination of these;*

12.8.2 *The Owner, with the agreement of the local government, may pay the Owner's Cost Contribution in a lump sum, by instalments or in such other manner as agreed with the local government;*

12.8.3 *If an Owner does not pay to the local government the Owner's Cost Contribution and any interest due, the local government may compulsorily acquire the whole or a portion of the Owner's land within the Development Contribution Area;*

12.8.4 *The local government may sell the land compulsorily acquired and deduct from the proceeds of sale the Cost Contribution, and the costs described in clause 12.8.6 and after payment of such moneys as are due upon any encumbrance notified on the title to the land, the local government may put aside a sufficient sum to provide for any future Cost Contribution by that Owner under Part 12 and the local government is to pay any balance to that Owner or recover from the Owner any amount by which the balance of the proceeds of sale falls short of the Cost Contribution to be paid;*

12.8.5 *For the purpose of clause 12.8.3, the local government may subdivide the Owner's land and compulsorily acquire only such portion as the local government thinks necessary to discharge the liabilities of the Owner under Part 12 and the local government may transfer back to that Owner any land not required;*

12.8.6 *For the purposes of clause 12.8.4, the local government may recover costs necessary and incidental to the compulsory acquisition, subdivision and transfer of the Owner's land under clause 12.8.3.*

12.9 Administration of Funds

12.9.1 *The local government is to establish and maintain a reserve account in accordance with the Local Government Act 1995 for each Development Contribution Area into which Cost Contributions for that Development Contribution Area will be credited and*



from which all payments for the cost of Infrastructure within that Development Contribution Area will be paid;

12.9.2 *The local government is to provide to every Owner an audited annual statement of accounts for that Development Contribution Area as soon as practicable after the audited annual statement of accounts becomes available.*

12.10 Shortfall or Excess in Cost Contributions

12.10.1 *If there is a shortfall in the total of Cost Contributions when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the local government may:*

- (a) make good the shortfall from its municipal fund;*
- (b) enter into agreements with Owners to fund the Infrastructure shortfall; or*
- (c) raise loans or borrow from a financial institution,*

but nothing in clause 12.10.1a) restricts the right or power of the local government to impose a differential rate to a specified Development Contribution Area in that regard;

12.10.2 *If there is an excess in the total of Cost Contributions when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the local government is to use the excess funds in the provision of additional facilities in that Development Contribution Area.*

12.11 Valuation

12.11.1 *Unless section 241 of the Land Acquisition Act 1997 applies, clause 12.11 applies if it is necessary to ascertain the value of any land for the purposes of Part 12;*

12.11.2 *In clause 12.11:*

- a) "Value" means the capital sum which an unencumbered estate in fee simple of the land might reasonably be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require:*
 - i) on the basis that there are no buildings,*



fences or other improvements of a like nature on the land;

ii) on the assumption that any rezoning necessary for the purpose of the development has come into force; and

iii) taking into account the added value of all other improvements on or appurtenant to the land;

b) "Valuer" means a licensed valuer agreed by the local government and the Owner, or where the local government and the Owner are unable to reach agreement, a valuer appointed by the State President for the time being of the Western Australian Division of the Australian Property Institute;

12.11.3 If any Owner objects to a valuation made by the Valuer, the Owner may give notice to the local government requesting a review of the amount of the Value, at the Owner's expense, within 28 days after being informed of the Value;

12.11.4 If the Valuer does not change the Value of the land to a figure acceptable to the Owner, the Value is to be determined under clause 12.11.7;

12.11.5 At the request of the local government or the Owner, the Value placed upon the land of an Owner may be revised from time to time by a Valuer;

12.11.6 The Valuer may:

a) reconsider the Values placed on other land in the Development Contribution Area; and

b) make such revisions as considered just and equitable to those Values

if the Valuer considers this is necessary as a result of a revaluation made under clause 12.11.3;

12.11.7 The date of valuation is the date that the Owner's liability to pay the Owner Cost Contribution to the local government arises under clause 12.7, or such other date as is agreed between the local government and the Owner;

12.11.8 Where there is a dispute or difference between the local



government and the Owner regarding a Value, the dispute or difference is to be resolved as follows:

- (a) by any method agreed upon by the local government and the Owner; or*
- (b) if the local government and the Owner cannot agree, by arbitration in accordance with the Commercial Arbitration Act 1985;*

12.11.9 In any case, mediation of the dispute is to be attempted without prejudice to the rights of either the local government or the Owner.

12.12 Land Acquisition

The local government may acquire land required for the carrying out of any Infrastructure works either by agreement or compulsorily under the powers conferred by section 13 of the Act.

12.13 Arbitration

Subject to clause 12.11.8, any dispute between any Owner and the local government in connection with the Cost Contribution required to be made by an Owner under Part 12 is to be resolved by arbitration in accordance with the Commercial Arbitration Act 1985.

12.15 Limitation

The development Contribution Plan is limited to those Cost Contributions towards works and infrastructure within public reserves for which the local government is responsible to provide, and is not to include the cost of works and infrastructure normally undertaken by an owner in accordance with the terms and conditions of a subdivision or development approval for the land.

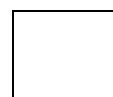
(End of Part 12)

2. *Inserting a Tenth Schedule into the Scheme Text*

TENTH SCHEDULE

DEVELOPMENT CONTRIBUTION AREAS

REF NO.	AREA	PROVISIONS



3. *Adding to the legend on the Scheme Map the reference to Development Contribution Areas (DCA)*
- (2) advise the Western Australian Planning Commission accordingly.

CARRIED 3/0

Explanation

Clause 12.11.2(b) of the Officer's Recommendation was amended to reflect the correct organisation.

Background

This report deals with Amendment No. 193 to District Zoning Scheme No.2 and the need for a series of modifications to its form and content.

Submission

N/A

Report

Amendment 193 proposes the introduction of Scheme provisions applying to land included within identified Owner/Developer Contribution Areas. In particular, the Amendment will provide the statutory basis for formalising developer obligations in regard to the contributions to be made towards the provision of certain development infrastructure items. The provisions to be introduced by this Amendment represent the parent requirements for Amendments 197, 206, 207 and 210.

It has been 12 months since initiating this Amendment and during that time, the Western Australian Planning Commission has progressed the draft Model Text Provisions relating to Developer Contributions. The Commission has advised that it requires substantial modification to the Amendment to reflect the Model Text provisions, prior to the Amendment being advertised for public comment. The modifications required by the Commission are essentially changes to terminology and other minor anomalies.

As is the case with Amendment 192, the draft Scheme No.3 closely follows the Model Text provisions and it is recommended that Amendment 193 is modified in accordance with comments from the Commission and the Model Text.



Given the extent of modification to the Amendment, the complete modified text is reproduced in its entirety in the Recommendation for Council's adoption.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

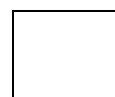
This Amendment will provide Council and Developers with a clearer indication of the extent to which development infrastructure is to be provided and a better mechanism for determining and tracking the financial arrangements in place in Development Contribution Areas.

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

Nil

273. (AG Item 13.4) (OCM1_10_1999) - MODIFICATIONS TO AMENDMENT - AMENDMENT NO. 197 - DEVELOPMENT CONTRIBUTION AREA NO. 1 - SUCCESS NORTH (92197) (SOS) (EAST)

<p>RECOMMENDATION That Council:</p> <p>(1) adopt the following modified Amendment text:</p> <p style="margin-left: 40px;">1. <i>Adding to the Tenth Schedule Development Contribution Area No. 1 – Success North (DCA 1) including the following provisions:</i></p>		
TENTH SCHEDULE		
DEVELOPMENT CONTRIBUTION AREAS		
REF NO.	AREA	PROVISIONS
<i>DCA 1</i>	<i>Success North</i>	<p><i>All landowners within DCA 1 shall make a proportional contribution to the widening and upgrade of Hammond Road between Beelias Drive and Bartram Road, Success.</i></p> <p><i>The proportional contribution is to be determined in accordance with the provisions of Part 12 and outlined on the Development Contribution Plan.</i></p>



		<p><i>Contributions shall be made towards the following items:</i></p> <ul style="list-style-type: none"> • <i>Land reserved for Hammond Road under the Metropolitan Region Scheme;</i> • <i>Full earthworks;</i> • <i>Construction of a two-lane road with kerbing to the verge side only;</i> • <i>Dual use path (one side only);</i> • <i>Pedestrian crossings (where appropriate at the discretion of the local government);</i> • <i>Drainage;</i> • <i>Costs to administer cost sharing arrangements – preliminary engineering design and costings, valuations, annual reviews and audits and administrative costs;</i> • <i>Servicing infrastructure relocation where necessary.</i>
<p style="text-align: center;">2. <i>Amending the Scheme Map to include the Development Contribution Area (DCA 1) for Success North.</i></p>		

COUNCIL DECISION

MOVED Cmr Jorgensen SECONDED Cmr Smithson that Council:

(1) adopt the following modified Amendment text:

1. *Adding to the Tenth Schedule Development Contribution Area No. 1 – Success North (DCA 1) including the following provisions:*

TENTH SCHEDULE

DEVELOPMENT CONTRIBUTION AREAS

REF NO.	AREA	PROVISIONS
DCA 1	Success North	<p><i>All landowners within DCA 1 shall make a proportional contribution to the widening and upgrade of Hammond Road between Beeliar Drive and Bartram Road, Success.</i></p> <p><i>The proportional contribution is to be determined in accordance with the provisions of Part 12 and outlined on the Development Contribution Plan.</i></p> <p><i>Contributions shall be made towards the following items:</i></p>



		<ul style="list-style-type: none"> • <i>Land reserved for Hammond Road under the Metropolitan Region Scheme;</i> • <i>Full earthworks;</i> • <i>Construction of a two-lane road and where the reserve width is less than 40 metres wide, kerbing to the verge side of the carriageway shall be provided;</i> • <i>Dual use path (one side only);</i> • <i>Pedestrian crossings (where appropriate at the discretion of the local government);</i> • <i>Drainage;</i> • <i>Costs to administer cost sharing arrangements – preliminary engineering design and costings, valuations, annual reviews and audits and administrative costs;</i> • <i>Servicing infrastructure relocation where necessary.</i>
<p style="text-align: center;">2. <i>Amending the Scheme Map to include the Development Contribution Area (DCA 1) for Success North.</i></p> <p style="text-align: right;"><u>CARRIED 3/0</u></p>		

Explanation

A minor amendment was made to the Officer's Recommendation to clarify contributions relating to road construction requirements.

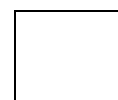
Background

This report deals with Amendment No. 197 to District Zoning Scheme No.2 and the need for a series of modifications to its form and content.

Report

Council, at its meeting held on 20 October 1998, initiated Amendment 197. This Amendment proposes the introduction of developer contribution requirements for a defined area referred to as "Success North". This area is characterised by a large number of small landholdings in the Urban and Urban Deferred zone.

The Ministry for Planning has advised that given the extent of modification required for Amendment 193, it is necessary to modify Amendment 197 to reflect these changes. The schedule of works to be provided by developer contributions has also been updated.



Given the extent of modification to the Amendment, the complete modified text is reproduced in its entirety in the Recommendation for Council's adoption.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

This Amendment will provide Council and Developers with a clearer indication of the extent to which development infrastructure is to be provided and a better mechanism for determining and tracking the financial arrangements in place in Development Contribution Areas.

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

Nil

274. (AG Item 13.5) (OCM1_10_1999) - MODIFICATIONS TO AMENDMENT - AMENDMENT NO. 206 - SUCCESS LAKES REZONING, DEVELOPMENT AREA AND DEVELOPMENT CONTRIBUTION AREA (92206) (SOS) (EAST)

RECOMMENDATION

That Council:

(1) adopt the following modified Amendment text;

1. *Rezoning Lot 501, Loc 458 Lots 1, 4, 5, 6, 7, 8, Pt 9, 500, 10, 11, 42, 19, 20, 21 and JAA Lot 261 Hammond Road, Ptn JAA Lot 202, CSL Loc Pt 458, JAA Ptn Lot 212 and Pt 214 Russell Road from "Rural" to "Development" zone, Lot 14 Hammond Road, Lot 258 Russell Road and Lot 13 Bartram Road from "Lakes and Drainage" to "Development" zone and portion of Russell and Bartram Roads from "Local Road, POW, PAW" to "Development" zone;*
2. *Adding to the Ninth Schedule Development Area No.8 - Success Lakes (DA8) including the following provisions:*

NINTH SCHEDULE

DEVELOPMENT AREAS

REF NO.	AREA	PROVISIONS
DA8	Success Lakes	1. An adopted Structure Plan together with all approved amendments shall apply to the land in



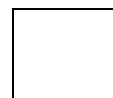
		<p><i>order to guide subdivision and development.</i></p> <p><i>2. The provisions of the Scheme shall apply to the land use areas created under the Structure Plan.</i></p> <p><i>3. The local government may adopt Design Guidelines for any development precincts as defined on the Structure Plan. All development in such precincts is to be in accordance with the adopted guidelines in addition to any other requirements of the Scheme, and where there is any inconsistency between the design guidelines and the Scheme, the Scheme shall prevail.</i></p> <p><i>4. No subdivision or development of incompatible use will be supported within the generic buffer area associated with the poultry farm on Lot 19 Hammond Road and the piggery on Pt Lot 15 Lyon Road until the use of the land ceases or the buffer area is scientifically determined and approved by the Department of Environmental Protection. Buffer areas are to be shown on the Structure Plan.</i></p> <p><i>5. No residential development will be supported within the midge buffer area or Water Corporation treatment plant buffer area.</i></p> <p><i>6. Development of Shops (retail uses) within the Development Area shall be a maximum of 1,000m² NLA for the local centre associated with the railway precinct and 200m² NLA maximum in other centres.</i></p> <p><i>7. As and when required, the local government shall initiate procedures to close portion of the existing Russell Road upon construction of the deviation of Russell Road in accordance with the Metropolitan Region Scheme and shall recommend to the Department of Land Administration that the land be amalgamated with the adjoining Lot 202 and transferred free of cost to that land owner.</i></p>
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3. Adding to the Tenth Schedule Development Contribution Area No.2 – Success Lakes (DCA 2) including the following provisions:

TENTH SCHEDULE

DEVELOPMENT CONTRIBUTION AREAS

REF NO.	AREA	PROVISIONS
DCA 2	Success Lakes	All landowners within DCA 2, with the exception of Lot 500 Hammond Road, shall make a proportional contribution to the cost of common infrastructure.



		<p><i>The proportional contribution is to be determined in accordance with the provisions of Part 12 and outlined on the Development Contribution Plan.</i></p> <p><i>Contributions shall be made towards the following items:</i></p> <p><i>1. Land and works for Hammond Road between Bartram Road and Russell Roads; and</i></p> <p><i>50% of Russell Road between Hammond Road/Frankland Avenue and Kwinana Freeway.</i></p> <p><i>This comprises the following:</i></p> <ul style="list-style-type: none"> <i>• Land reserved for Hammond and Russell Roads under the Metropolitan Region Scheme;</i> <i>• Full earthworks;</i> <i>• Construction of a two-lane road with kerbing to the verge side of the carriageway where the reserve is less than 40 metres wide;</i> <i>• Dual use path (one side only);</i> <i>• Pedestrian crossings (where appropriate at the discretion of the local government);</i> <i>• Drainage;</i> <i>• Costs to administer cost sharing arrangements – preliminary engineering design and costings, valuations, annual reviews and audits and administrative costs;</i> <i>• Servicing infrastructure relocation where necessary;</i>
<p>4. Amending the Scheme Maps accordingly;</p>		

COUNCIL DECISION

MOVED Cmr Smithson SECONDED Cmr Jorgensen that Council:

(1) adopt the following modified Amendment text;

1. *Rezoning Lot 501, Loc 458 Lots 1, 4, 5, 6, 7, 8, Pt 9, 500, 10, 11, 42, 19, 20, 21 and JAA Lot 261 Hammond Road, Ptn JAA Lot 202, CSL Loc Pt 458, JAA Ptn Lot 212 and Pt 214 Russell Road from “Rural” to “Development” zone, Lot 14 Hammond Road, Lot 258 Russell Road and Lot 13 Bartram Road from “Lakes and Drainage” to “Development” zone and portion of Russell and Bartram Roads from “Local Road, POW, PAW” to “Development” zone;*
2. *Adding to the Ninth Schedule Development Area No.8 -*



Success Lakes (DA8) including the following provisions:

**NINTH SCHEDULE
DEVELOPMENT AREAS**

REF NO.	AREA	PROVISIONS
DA8	Success Lakes	<ol style="list-style-type: none"> 1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i> 2. <i>The provisions of the Scheme shall apply to the land use areas created under the Structure Plan.</i> 3. <i>The local government may adopt Design Guidelines for any development precincts as defined on the Structure Plan. All development in such precincts is to be in accordance with the adopted guidelines in addition to any other requirements of the Scheme, and where there is any inconsistency between the design guidelines and the Scheme, the Scheme shall prevail</i> 4. <i>No subdivision or development of incompatible use will be supported within the generic buffer area associated with the poultry farm on Lot 19 Hammond Road and the piggery on Pt Lot 15 Lyon Road until the use of the land ceases or the buffer area is scientifically determined and approved by the Department of Environmental Protection. Buffer areas are to be shown on the Structure Plan.</i> 5. <i>No residential development will be supported within the midge buffer area or Water Corporation treatment plant buffer area.</i> 6. <i>Development of Shops (retail uses) within the Development Area shall be a maximum of 1,000m² NLA for the local centre associated with the railway precinct and 200m² NLA maximum in other centres.</i> 7. <i>As and when required, the local government shall initiate procedures to close portion of the existing Russell Road upon construction of the deviation of Russell Road in accordance with the Metropolitan Region Scheme and shall recommend to the Department of Land Administration that the land be amalgamated with the adjoining Lot 202 and transferred free of cost to that land owner.</i>
3.	<p><i>Adding to the Tenth Schedule Development Contribution Area No.2 – Success Lakes (DCA 2) including the following provisions:</i></p>	

TENTH SCHEDULE		
DEVELOPMENT CONTRIBUTION AREAS		
REF NO.	AREA	PROVISIONS
DCA 2	Success Lakes	<p><i>All landowners within DCA 2, with the exception of Lot 500 Hammond Road, shall make a proportional contribution to the cost of common infrastructure.</i></p> <p><i>The proportional contribution is to be determined in accordance with the provisions of Part 12 and outlined on the Development Contribution Plan.</i></p> <p><i>Contributions shall be made towards the following items:</i></p> <p><i>1. Land and works for Hammond Road between Bartram Road and Russell Roads; and</i></p> <p style="padding-left: 40px;"><i>50% of Russell Road between Hammond Road/Frankland Avenue and Kwinana Freeway.</i></p> <p style="padding-left: 40px;"><i>This comprises the following:</i></p> <ul style="list-style-type: none"> <i>• Land reserved for Hammond and Russell Roads under the Metropolitan Region Scheme;</i> <i>• Full earthworks;</i> <i>• Construction of a two-lane road and where the reserve width is less than 40 metres wide, kerbing to the verge side of the carriageway should be provided;</i> <i>• Dual use path (one side only);</i> <i>• Pedestrian crossings (where appropriate at the discretion of the local government);</i> <i>• Drainage;</i> <i>• Costs to administer cost sharing arrangements – preliminary engineering design and costings, valuations, annual reviews and audits and administrative costs;</i> <i>• Servicing infrastructure relocation where necessary;</i>
4. Amending the Scheme Maps accordingly;		
<u>CARRIED 3/0</u>		

Explanation

A minor amendment was made to the Officer's Recommendation to clarify contributions relating to road construction requirements.



Background

This report deals with Amendment No. 206 to District Zoning Scheme No.2 and the need for a series of modifications to its form and content.

Submission

N/A

Report

Council, at its meeting held on 20 April 1999, initiated Amendment 206. This Amendment proposes the creation of the Success Lakes Urban Development area and associated structure planning and developer contribution requirements. The Amendment forms a part of the future development of the Southern Suburbs District Structure Plan area.

The Ministry for Planning has advised that given the extent of modification required for Amendments 192 and 193, it is necessary to modify Amendment 206 to reflect these changes.

Given the extent of modification to the Amendment, the complete modified text is reproduced in its entirety in the Recommendation for Council's adoption.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

This Amendment will provide Council and Developers with a clearer indication of the extent to which development infrastructure is to be provided and a better mechanism for determining and tracking the financial arrangements in place in Development Contribution Areas.

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

Nil



275. (AG Item 13.6) (OCM1_10_1999) - MODIFICATIONS TO AMENDMENT - AMENDMENT NO. 207 - GAEBLER ROAD REZONING, DEVELOPMENT AREA AND DEVELOPMENT CONTRIBUTION AREA (92207) (SOS) (EAST)

RECOMMENDATION

That Council:

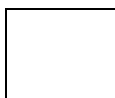
(1) adopt the following modified Amendment text;

1. *Rezoning Lot 202 Russell Road, Lot 412 Gaebler Road, Pt Lot 8, Pt Lot 9, Pt Lot 10, Pt Lot 11, Pt Lot 203, Lot 208 and Pt Loc 458 Barfield Road from "Rural" to "Development" zone;*
2. *Adding to the Ninth Schedule Development Area No.9 - Gaebler Road (DA9) including the following provisions:*

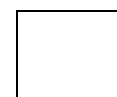
NINTH SCHEDULE

DEVELOPMENT AREAS

REF NO.	AREA	PROVISIONS
DA9	Gaebler Road	<ol style="list-style-type: none"> 1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i> 2. <i>The provisions of the Scheme shall apply to the land use areas created under the Structure Plan.</i> 3. <i>The local government may adopt Design Guidelines for any development precincts as defined on the Structure Plan. All development in such precincts is to be in accordance with the adopted guidelines in addition to any other requirements of the Scheme, and where there is any inconsistency between the design guidelines and the Scheme, the Scheme shall prevail.</i> 4. <i>No subdivision or development of incompatible use will be supported within the generic buffer area associated with the kennels on Pt Lot 11 Barfield Road or the piggery on Pt Lot 15 Lyon Road until the use of the land ceases or the buffer area is scientifically determined and approved by the Department of Environmental Protection. Buffer requirements associated with the market gardens on Lot 37 Gaebler Road to be determined in consultation with the local government and Department of Environmental Protection. Buffer areas are to be shown on the Structure Plan.</i> 5. <i>Development of Shops (retail uses) within the</i>



		Development Area shall be a maximum of 5,000m ² NLA within the neighbourhood centre immediately south of Russell Road and 200m ² NLA maximum in other centres.
3. Adding to the Tenth Schedule Development Contribution Area No.3 – Gaebler Road (DCA 3) including the following provisions:		
TENTH SCHEDULE		
DEVELOPMENT CONTRIBUTION AREAS		
REF NO.	AREA	PROVISIONS
DCA 3	Gaebler Road	<p>All landowners within DCA3 shall make a proportional contribution to the cost of common infrastructure.</p> <p>The proportional contribution is to be determined in accordance with the provisions of Part 12 and outlined on the Development Contribution Plan.</p> <p>Contributions shall be made towards the following items:</p> <ol style="list-style-type: none"> 1. Land and works for Hammond Road/Frankland Avenue between Russell Roads and Gaebler Road; and <p style="padding-left: 40px;">50% of Russell Road between Hammond Road/Frankland Avenue and Kwinana Freeway.</p> <p>This comprises the following:</p> <ul style="list-style-type: none"> • Land reserved for Hammond and Russell Roads under the Metropolitan Region Scheme; • Full earthworks; • Construction of a two-lane road with kerbing to the verge side of the carriageway where the reserve is less than 40 metres wide; • Dual use path (one side only); • Pedestrian crossings (where appropriate at the discretion of the local government); • Drainage; • Costs to administer cost sharing arrangements - preliminary engineering design and costings, valuations, annual reviews and audits and administrative costs; • Servicing infrastructure relocation where necessary; <ol style="list-style-type: none"> 2. The cost of a set of traffic signals at the intersection of Russell and existing Hammond Road. 3. A proportional contribution to the provision of a



		<i>pedestrian/cyclist bridge across Kwinana Freeway in the vicinity of Gaebler Road.</i>
4. <i>Amending the Scheme Maps accordingly.</i>		

COUNCIL DECISION

MOVED Cmr Jorgensen SECONDED Cmr Smithson that Council:

(1) adopt the following modified Amendment text;

1. *Rezoning Lot 202 Russell Road, Lot 412 Gaebler Road, Pt Lot 8, Pt Lot 9, Pt Lot 10, Pt Lot 11, Pt Lot 203, Lot 208 and Pt Loc 458 Barfield Road from "Rural" to "Development" zone;*
2. *Adding to the Ninth Schedule Development Area No.9 - Gaebler Road (DA9) including the following provisions*

NINTH SCHEDULE

DEVELOPMENT AREAS

REF NO.	AREA	PROVISIONS
DA9	Gaebler Road	<ol style="list-style-type: none"> 1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i> 2. <i>The provisions of the Scheme shall apply to the land use areas created under the Structure Plan.</i> 3. <i>The local government may adopt Design Guidelines for any development precincts as defined on the Structure Plan. All development in such precincts is to be in accordance with the adopted guidelines in addition to any other requirements of the Scheme, and where there is any inconsistency between the design guidelines and the Scheme, the Scheme shall prevail.</i> 4. <i>No subdivision or development of incompatible use will be supported within the generic buffer area associated with the kennels on Pt Lot 11 Barfield Road or the piggery on Pt Lot 15 Lyon Road until the use of the land ceases or the buffer area is scientifically determined and approved by the Department of Environmental Protection. Buffer requirements associated with the market gardens on Lot 37 Gaebler Road to be determined in consultation with the local government and</i>



		<p><i>Department of Environmental Protection. Buffer areas are to be shown on the Structure Plan.</i></p> <p>5. <i>Development of Shops (retail uses) within the Development Area shall be a maximum of 5,000m² NLA within the neighbourhood centre immediately south of Russell Road and 200m² NLA maximum in other centres.</i></p>
<p>3. <i>Adding to the Tenth Schedule Development Contribution Area No.3 – Gaebler Road (DCA 3) including the following provisions:</i></p>		
TENTH SCHEDULE		
DEVELOPMENT CONTRIBUTION AREAS		
REF NO.	AREA	PROVISIONS
DCA 3	Gaebler Road	<p><i>All landowners within DCA3 shall make a proportional contribution to the cost of common infrastructure.</i></p> <p><i>The proportional contribution is to be determined in accordance with the provisions of Part 12 and outlined on the Development Contribution Plan.</i></p> <p><i>Contributions shall be made towards the following items:</i></p> <p>1. <i>Land and works for Hammond Road/Frankland Avenue between Russell Roads and Gaebler Road; and</i></p> <p><i>50% of Russell Road between Hammond Road/Frankland Avenue and Kwinana Freeway.</i></p> <p><i>This comprises the following:</i></p> <ul style="list-style-type: none"> <i>• Land reserved for Hammond and Russell Roads under the Metropolitan Region Scheme;</i> <i>• Full earthworks;</i> <i>• Construction of a two-lane road and where the reserve width is less than 40 metres wide, kerbing to the verge side of the carriageway shall be provided;</i> <i>• Dual use path (one side only);</i> <i>• Pedestrian crossings (where appropriate at the discretion of the local government);</i> <i>• Drainage;</i> <i>• Costs to administer cost sharing arrangements - preliminary engineering design and costings, valuations, annual reviews and audits and administrative costs;</i> <i>• Servicing infrastructure relocation where necessary;</i>



		<p>2. <i>The cost of a set of traffic signals at the intersection of Russell and existing Hammond Road.</i></p> <p>3. <i>In the event that a high school site is included on the Southern Suburbs District Structure Plan within the area south of Gibbs Road and east of the Kwinana Freeway, a proportional contribution shall be made to the provision of a pedestrian/cyclist bridge across the Freeway in the vicinity of Gaebler Road.</i></p>
<p>4. <i>Amending the Scheme Maps accordingly.</i></p>		<p style="text-align: right;"><u>CARRIED 3/0</u></p>

Explanation

A minor amendment was made to the Officer's Recommendation to clarify the requirements relating to road construction contributions. In addition, the contribution towards the provision of a bridge across the freeway was made dependent upon a high school site being included in the Structure Plan.

Background

This report deals with Amendment No. 207 to District Zoning Scheme No.2 and the need for a series of modifications to its form and content.

Submission

N/A

Report

Council, at its meeting held on 20 April 1999, initiated Amendment 207. This Amendment proposes the creation of the Gaebler Road Urban Development area and associated structure planning and developer contribution requirements. The Amendment forms a part of the future development of the Southern Suburbs District Structure Plan area.

The Ministry for Planning has advised that given the extent of modification to Amendments 192 and 193, it is necessary to modify Amendment 207 to reflect these changes.



Given the extent of modification to the Amendment, the complete modified text is reproduced in its entirety in the Recommendation for Council's adoption.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

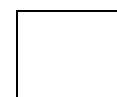
This Amendment will provide Council and Developers with a clearer indication of the extent to which development infrastructure is to be provided and a better mechanism for determining and tracking the financial arrangements in place in Development Contribution Areas.

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

Nil

276. (AG Item 13.7) (OCM1_10_1999) - MODIFICATIONS TO AMENDMENT - AMENDMENT NO. 210 - YANGEBUP WEST AND YANGEBUP EAST DEVELOPMENT CONTRIBUTION AREAS (92210) (SOS) (COASTAL / SOUTH)

RECOMMENDATION		
That Council:		
(1) adopt the following modified Amendment text:		
1. <i>Adding to the Tenth Schedule Development Contribution Area No. 4 – Yangebup West (DCA 4) including the following provisions:</i>		
TENTH SCHEDULE		
DEVELOPMENT CONTRIBUTION AREAS		
REF NO.	AREA	PROVISIONS
DCA 4	Yangebup West	<p><i>All landowners within DCA 4 shall make a proportional contribution to the construction of Beeliar Drive between Stock Road and Spearwood Avenue.</i></p> <p><i>The proportional contribution is to be determined in accordance with the provisions of Part 12 and outlined on the Development Contribution Plan.</i></p> <p><i>Contributions shall be made towards the following items:</i></p>



		<ul style="list-style-type: none"> • Land requirements for the Other Regional Road Reservation between Watson Road and the Railway Reserve as reserved under the Metropolitan Region Scheme; • Land requirements for an average 45 metre road reserve between Watson Road and Stock Road; • Full earthworks; • Construction of a two-lane unkerbed road; • Dual use path (one side only); • Pedestrian crossings (where appropriate at the discretion of the local government); • Drainage; • Costs to administer cost sharing arrangements – preliminary engineering design and costings, valuations, annual reviews and audits and administrative costs; • Servicing infrastructure relocation where necessary. • Costs for the repayment of any loans raised by the local government for the purchase of any land for Beeliar Drive or any of the abovementioned works.
<p>2. Adding to the Tenth Schedule Development Contribution Area No. 5 – Yangebup East (DCA 5) including the following provisions:</p>		
TENTH SCHEDULE		
DEVELOPMENT CONTRIBUTION AREAS		
REF NO.	AREA	PROVISIONS
DCA 5	Yangebup East	<p>All landowners within DCA 5 shall make a proportional contribution to the construction of Beeliar Drive between the Railway Reserve and Spearwood Avenue.</p> <p>The proportional contribution is to be determined in accordance with the provisions of Part 12 and outlined on the Development Contribution Plan.</p> <p>Contributions shall be made towards the following items:</p> <ul style="list-style-type: none"> • Land requirements for the Other Regional Road Reservation between the Railway Reserve and Spearwood Avenue as reserved under the Metropolitan Region Scheme; • Full earthworks; • Construction of a two-lane unkerbed road; • Dual use path (one side only);



		<ul style="list-style-type: none"> • <i>Pedestrian overpass;</i> • <i>Drainage;</i> • <i>Costs to administer cost sharing arrangements – preliminary engineering design and costings, valuations, annual reviews and audits and administrative costs;</i> • <i>Servicing infrastructure relocation where necessary.</i> • <i>Costs for the repayment of any loans raised by the local government for the purchase of any land for Beeliar Drive or any of the abovementioned works.</i>
<p>3. <i>Amending the Scheme Map to include the Development Contribution Areas for Yangebup West DCA 4) and Yangebup East (dca 5).</i></p>		

COUNCIL DECISION

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

CARRIED 3/0

Background

This report deals with Amendment No. 210 to District Zoning Scheme No.2 and the need for a series of modifications to its form and content.

Submission

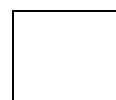
N/A

Report

Council, at its meeting held on 25 May 1999, initiated Amendment 210. The Amendment is to introduce provisions into the Scheme to formalise contributions from owner developers in the Yangebup locality for the construction of Beeliar Drive.

Given the extent of modification to Amendment 193, it is necessary to modify Amendment 210 to reflect these changes.

Given the extent of modification to the Amendment, the complete modified text is reproduced in its entirety in the Recommendation for Council's adoption.



Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

This Amendment will provide Council and Developers with a clearer indication of the extent to which development infrastructure is to be provided and a better mechanism for determining and tracking the financial arrangements in place in Development Contribution Areas.

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

Nil

277. (AG Item 13.8) (OCM1_10_1999) - MODIFICATIONS TO AMENDMENT - AMENDMENT NO. 211 - ATWELL SOUTH REZONING AND DEVELOPMENT AREA (92211) (SOS) (EAST)

RECOMMENDATION
That Council:

(1) adopt the following modified Amendment text;

1. *Rezoning JAA Lots 210, Pt 211, Pt 212 and Pt 214 Lyon Road and JAA Pt 209 Beenyup Road from "Rural" to "Development" zone in accordance with the Scheme Amendment Map;*
2. *Adding to the Ninth Schedule Development Area No.10 - Atwell South (DA10) including the following provisions:*

NINTH SCHEDULE		
DEVELOPMENT AREAS		
Ref no.	Area	Provisions
DA10	Atwell South	<ol style="list-style-type: none"> 1. <i>An adopted Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.</i> 2. <i>The provisions of the Scheme shall apply to the land use areas created under the Structure Plan.</i> 3. <i>The local government may adopt Design Guidelines for any development precincts as defined on the Structure Plan. All development in such precincts is to be in accordance with the adopted guidelines in</i>



		<p><i>addition to any other requirements of the Scheme, and where there is any inconsistency between the design guidelines and the Scheme, the Scheme shall prevail.</i></p> <p>4. <i>No subdivision or development of incompatible use will be supported within the generic buffer area associated with the piggery on Pt Lot 15 Lyon Road until the use of the land ceases or the buffer area is scientifically determined and approved by the Department of Environmental Protection. Buffer areas are to be shown on the Structure Plan.</i></p> <p>5. <i>Development of Shops (retail uses) within the Development Area shall be a maximum of 2700m² NLA for the Village Centre and 200m² NLA for the Local Centre.</i></p> <p>6. <i>The Structure Plan for Pt 212 is to include a strong pedestrian connection between the proposed Success Railway Station and the Village Centre, in addition to Gibbs Road.</i></p> <p>7. <i>The Structure Plan shall retain the existing remnant vegetation in the Reserve of Beenyup Road unless the local government agrees in particular circumstances that some of the vegetation may be removed.</i></p>
<p>3. <i>Amending the Scheme Maps accordingly;</i></p> <p>(2) Advise the Western Australian Planning Commission of Council's decision accordingly.</p>		

COUNCIL DECISION

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

CARRIED 3/0

Background

This report deals with Amendment No. 211 to District Zoning Scheme No.2 and the need for a series of modifications to its form and content.



Submission

N/A

Report

Council, at its meeting held on 22 June 1999, initiated Amendment 211. This Amendment proposes the creation of the Atwell South Urban Development area and associated structure planning requirements. The Amendment forms a part of the future development of the Southern Suburbs District Structure Plan area.

Given the extent of modification to Amendment 192, it is necessary to modify Amendment 211 to reflect these changes.

Given the extent of modification to the Amendment, the complete modified text is reproduced in its entirety in the Recommendation for Council's adoption.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

278. **(AG Item 13.9) (OCM1_10_1999) - SECTION 401(7) OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1960 - COMPLAINT TO A COURT OF PETTY SESSIONS - JAA LOTS 231 AND 233, BEING PART OF LOT 1002 COOPER ROAD, POLETTI ROAD AND BEELIAR DRIVE, JANDAKOT (5518087) (VG)**

RECOMMENDATION

That Council complain to a Court of Petty Sessions that the owner of the land has not so complied with any of the requisitions in the Notice issued on 30 August 1999 and that the requisition in respect of which the complaint is made is not subject to appeal to the Minister.



COUNCIL DECISION

MOVED Cmr Jorgensen SECONDED Cmr Smithson that Council:

- (1) following the failure of Oakwall Holdings Pty Ltd to comply with requisitions in a Notice issued under Section 401 of the Local Government (Miscellaneous Provisions) Act 1960, dated 27th August 1999, within the time provided for in the Notice and there being no appeal against the Notice, issue a complaint against Oakwall Holdings Pty Ltd out of the Court of Petty Sessions, seeking an order that Oakwall Holdings Pty Ltd comply with the Notice and also further seeking an order for the imposition of a penalty and payment of part of the City's costs; and
- (2) delegate the carriage and conduct of proceedings in the matter of the prosecution to the Chief Executive Officer.

CARRIED 3/0

Explanation

The Officer's Recommendation was amended to clarify the offence being pursued and to delegate the carriage of the matter to the Chief Executive Officer.

Background

Council served a 401(1)(c) Notice under delegated authority on 30 August 1999, to pull down fences and retaining walls. A person on whom a Notice is served may appeal to the Minister within 35 days of the service of a Notice. An appeal against the Notice has not been made by the owner.

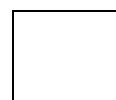
Submission

N/A

Report

If the owner on whom notice is served does not appeal to the Minister or carry out the requisitions of the notice within 35 days, a local government may complain to a Court that the notice has not been complied with. A Court may order the person to comply with the requisition within a time to be fixed by order, and may make such order as to the costs and incidentals to the proceedings as it thinks fit.

Copy of Notice is attached.



Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

Nil if successful.

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

Nil

279. (AG Item 14.1) (OCM1_10_1999) - LEASE PORTION OF LOT 2 HENDERSON LANDFILL SITE, HENDERSON TO WASTE GAS RESOURCES PTY LTD (4900) (KJS)

RECOMMENDATION

That Council lease 500 sq.m. of Lot 2 on Diagram 17998 to Waste Gas Resources Pty Ltd for an annual rental of \$100 for the production life of the methane management contract but not exceeding 21 years.

COUNCIL DECISION

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the recommendation be adopted.

CARRIED 3/0

Background

Council at its meeting held on the 13th July 1999, resolved to lease 500 sq.m. of the landfill site in conjunction with the acceptance of a tender by Waste Gas Resources Pty Ltd, to supply and install a landfill gas extraction and utilisation system.

Submission

N/A

Report

Section 3.58 of the Local Government 1995, requires that any proposal to dispose of property including a lease by Council, should be



advertised. The notice set out the annual rental of \$100 together with the market rental value of \$175 as determined by a licensed valuer.

The annual rental of \$100 as offered by Waste Gas Resources Pty Ltd, is considered fair given the benefits of the principle contract to the City of Cockburn. These benefits include the installation of infrastructure, gas management services and potential royalty payments.

The notice was placed in the West Australian Newspaper on Saturday 4th September 1999, with a period of 14 days for the receipt of objections. At the expiration of the 14 day period, there were no objections.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

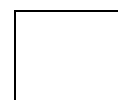
Nil

280. (AG Item 14.2) (OCM1_10_1999) - INTERNAL AUDIT GROUP - MEMBERSHIP (5017) (ATC)

RECOMMENDATION

That Council:

- (1) cancel the membership of the Internal Audit Group as adopted by Council on Tuesday, 11th May 1999; and
- (2) adopt the following membership to the Internal Audit Group:
 - Cmr Donaldson and Jorgensen with Cmr Smithson acting as Deputy for both; and
 - the Chief Executive Officer and Director, Community Services with Director, Engineering and Works acting as Deputy for both.



COUNCIL DECISION

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

CARRIED 3/0

Background

Council at its Meeting on 11th May 1999, set up an Internal Audit Group consisting of Cmr Donaldson and Jorgensen, the Chief Executive Officer and Director, Finance and Corporate Services. The External Auditor, Barrett and Partners is a non-voting member of the Group.

At its Meeting held on 14th September 1999, Council appointed KPMG as its Internal Auditor.

Submission

N/A

Report

The Director, Finance and Corporate Services was appointed a member of the Internal Audit Group. Subsequent investigations show that he is ineligible to be a member of this Group. The Local Government (Financial Management) Regulations 1996 Section 6 states as follows:

Independent performance reviews

6. *A local government is to ensure that an employee to whom is delegated responsibility for the day to day accounting or financial management operations of a local government is not also delegated the responsibility for-*

- (a) conducting an internal audit; or*
- (b) reviewing the discharge of duties by that employee,*

or for managing, directing or supervising a person who carries out a function referred to in paragraph (a) or (b).

The Director, Finance & Corporate Services is therefore ineligible to be appointed to the Group. This has been confirmed by the Department of Local Government. The Department advises that:

The financial management regulation arose from the long standing principle that the person in charge of financial management should not also be in charge of the person auditing and reporting upon financial management.



The reason is to avoid any conflict of interest or perceived conflict of interest that might arise.

For example, it could be perceived that a finance manager might be consciously or sub-consciously biased when assessing the performance of a person who has lodged (or might lodge) a critical audit report on the finance manager's work. The person doing the audit or conducting the performance review must not only be free from any duress (or potential duress) but also be seen to be free.

It is therefore proposed that the Director, Finance and Corporate Services be replaced on the Group by the Director, Community Services. It is further proposed that the Director, Engineering be Deputy for both positions.

It is also considered prudent to appoint Cmr Smithson as Deputy for Cmr Donaldson and Jorgensen.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

N/A

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

Nil

281. (AG Item 15.1) (OCM1_10_1999) - REVIEW OF WASTE MANAGEMENT POLICY (4909) (BKG)

RECOMMENDATION

That Council:

- (1) confirms its commitment to the corporate strategy for waste minimisation to *Achieve a reduction in the volume of waste generated from residences in Cockburn being disposed of at landfill;*
- (2) confirms its commitments to the performance measurement for this strategy of: *80% of waste generated from residences within Cockburn will be diverted from landfill;* and
- (3) note the action plan as outlined in the Waste Management

Department's Recycling Service Unit Plan and attached as Appendix I to the agenda, to meet the corporate strategy for waste minimisation and its associated performance measurement target.

COUNCIL DECISION

MOVED Cmr Jorgensen SECONDED Cmr Smithson that the matter be deferred to enable the Director, Engineering & Works to further review the issue.

CARRIED 3/0

Background

At the Council meeting held on 13th July 1999, it was resolved that staff prepare a waste minimisation strategy which addresses issues such as recycling, tip passes, fees etc. and this report be presented to Council within 3 months.

Submission

N/A

Report

The community has identified recycling as one of the major issues that they want Council to pursue.

In the most recent community survey (1998), it was considered second in importance to security, as the issue most important to the community.

This Council has always been very aware of this desire. In 1992 it introduced kerbside recycling and soon after, introduced kerbside greenwaste recycling.

The growth in expenditure is illustrated by:

1989/90	nil expenditure
1999/00	\$680,000
2001/02	expected expenditure \$1.5 million

There will be a reduction in landfill disposal costs in 2001/02.

In the year 2001/02 financial year, 80% of the waste that used to go to landfill from households will be reused.



So in

1989/90	22,000 tonnes of waste went to landfill	(0% diversion)
1999/00	3,000 tonnes will be diverted from landfill	(13% diversion)
2001/02	18,000 tonnes will be diverted from landfill	(80% diversion)

The current waste management policy as developed in 1996, has the following objective:

1. To provide a waste management service that allows for household and industrial waste to be removed from every property and disposed of in a safe manner and to encourage a minimisation of waste that has to be thrown away.

There was accompanying information on the actions to be taken to achieve this objective. A copy is attached to this report as Appendix 2.

2. In 1999 the Corporate Strategic Plan was reviewed and one of the visions is:

"Conserving and influencing a balance between development and the natural and human environment."

Flowing on from this is the objective:

"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."

3. The other objective that is relevant is:

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

The following strategies have been developed to support this objective in the waste management area:

- 3.2.3 Have an environmentally sound management strategy of the Council controlled waste system.
- 3.2.4 Achieve a reduction in the volume of waste being disposed of to landfill.
- 3.2.5 Ensure that the Henderson landfill site is managed in accordance with EPA licence conditions.



The relevant managers have been requested to develop service unit plans that outline the actions that are going to be taken to allow these strategies to be achieved.

These service plans are currently being developed with an anticipated completion date of 31st October 1999. Target dates will be determined on an overall basis taking into regard, all other projects identified in other action plans.

The 3 service unit plans being developed are for:

- Collection Services
- Disposal Services
- Recycling Services

The strategy 3.2.4 will be amended to state:

"Achieve a reduction in the volume of waste generated from residences, being disposed of at landfill."

This is necessary as the executive management group, in finalising the business plan for the Henderson landfill site, decided the vision statement will be:

"To own and manage a landfill site in order to optimise financial return, customer service and environmental sensitivity"

and this Statement of Purpose will be:

"To create a highly efficient and profitable organisation which will operate at a peak capacity of 220,000 tonnes per annum by the year 2004 and generate an annual return of \$4.0 million."

The relevant section has been extracted from the Recycling Service Unit Plan to be the waste minimisation strategy. It is attached as Appendix 1.

This plan outlines the actions that have been or will be taken to meet the recycling objectives of Council.

The desired outcomes from the actions that are or will be undertaken are:

- all greenwaste from residences re-used/recycled
- all dry recyclables from residences reused/recycled
- all foodstuffs and small greens from residences reused/recycled
- convenient receptacles provided for recycling
- 75% of waste going to landfill in trailers being reused/recycled



Strategic Plan/Policy Implications

See report above.

Budget/Financial Implications

The introduction of more sophisticated recycling involves greater costs. These costs have been identified and are included in the principal activities plan for the period 2000-2004.

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

Nil

DECLARATION OF FINANCIAL INTEREST

Cmr Donaldson read aloud a written declaration from Cmr Smithson.

Cmr Smithson - Item 15.2 - The nature being that her employer, BSD Consultants, is one of the tenderers.

AT THIS STAGE THE TIME BEING 8:05PM, CMR SMITHSON LEFT THE MEETING.

- 282. (AG Item 15.2) (OCM1_10_1999) - TENDER NO. 42/99 - ENGINEERING CONSULTING SERVICES FOR PLANNING AND DEVELOPMENT OF HENDERSON LANDFILL SITE (BKG/RNJ) (4900)

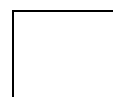
RECOMMENDATION

That Council accept the tender from Halpern Glick Maunsell for the provision of Engineering Consulting Services for Planning and Development of Henderson Landfill Site, for the lump sum price of \$96,795 less the allowance for supervision of construction of Cell 4 (\$47,648), giving a net lump sum price of \$49,147.

COUNCIL DECISION

MOVED Cmr Jorgensen SECONDED Cmr Donaldson that:

- (1) the late submission by Kaiser Engineers be rejected as it was not lodged in accordance with the general conditions of Council's tender policy; and



- (2) consideration of the submitted tenders be deferred to the next Council meeting to give Commissioners the opportunity to review the assessment procedure and further evaluate the tenders.

CARRIED 2/0

Background

Tenders were called for the provision of engineering consulting services for Planning and Development of Henderson Landfill Site.

The specific services are:

- Review of existing master plan for Henderson Landfill Site drafted in 1992
- Recommendations on the design of Cell 4
- Obtain D.E.P. approval for the design
- Prepare tender and contract documentation for Cell 4 and associated works
- Supervision of the construction of Cell 4
- Prepare concept designs of on site Waste Transfer Station

Submission

N/A

Report

Four submissions were received:

- Halpern Glick Maunsell
- BSD Consultants
- Sinclair Knight Merz
- Kaiser Engineers

Kaiser Engineers' tender was not considered as it was not lodged in the Tender Box at the time for closing of tenders at 12 noon. Kaiser's courier had advised the consultant that he had been delayed by road construction and did not expect to make the delivery before 12 noon. Kaisers then rang the officer responsible for opening the tenders and requested permission to email the Tender Form in case the tender missed the cut off. The emailed Tender Form was received by the responsible officer at 11.43am, however Kaiser Engineers were advised that if their original signed tender was not received before 12 noon, that



it may not be considered. The original tender eventually arrived at 12:18pm.

The tenders were assessed under the following criteria:

	<u>Weighting</u>
1. Interpretation, Methodology, Implementation	40%
2. Experience and Qualifications of Management and Technical Staff	25%
3. Total Cost	20%
4. Experience of firm in this type of work	15%

Using these criteria to assess the above tenders, it is recommended that Halpern Glick Maunsell be awarded the contract, if Council accepts that Kaiser Engineers' late lodgement precludes consideration of their tender.

HGM have 15 years involvement with City of Cockburn's waste management and the development of the Henderson Landfill site. They have the staff and demonstrated expertise to review the Master Plan they developed in 1992 and commence development of Stage 2 cells. Waste Services are generally satisfied with their level of service over this period, particularly in regard to their expertise in leachate treatment. However, it is recommended that Council accept HGM's lump sum of \$96,795 less their allowance for supervision of construction of Cell 4 (\$47,648), giving a new lump sum of \$49,147. HGM's allowance for supervision was 5-6 times that of the other consultants, so Waste Services will discuss the basis for their supervision costs with a view to minimising these costs. The \$75,000 budgeted for these projects, will be sufficient to enable all works to proceed this financial year.

Kaiser put together a team of very experienced consultants covering all aspects of waste management as it relates to deliverables under this tender and it was seen as a good opportunity to obtain a truly independent review of the Master Plan.

Strategic Plan/Policy Implications

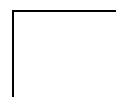
The further development of the landfill site is in accordance with the objectives and strategies of the Corporate Plan.

Budget/Financial Implications

\$75,000 have been provided for the design of Cell 4 and the cost of its construction will be from funds in the Henderson Landfill Site Reserve account.

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

Nil



AT THIS POINT THE TIME BEING 8:07PM, CMR SMITHSON RETURNED TO THE MEETING.

283. (AG Item 15.3) (OCM1_10_1999) - ADVERTISING BIN TRIAL (STREET LITTER BINS) (4900) (RNJ)

RECOMMENDATION

That Council:

- (1) proceed with calling of quotations for the replacement of selected street and park litter bins throughout the City of Cockburn, there being no significant objection raised during the past 6 month trial period; and
- (2) adopt the attached policy E6.4 "Advertising Litter Bins" setting out guidelines for approval for the supply and installation of Advertising Litter Bins.

COUNCIL DECISION

MOVED Cmr Smithson SECONDED Cmr Jorgensen that the recommendation be adopted.

CARRIED 3/0

Background

Natsales Australia Pty Ltd approached Council last year with a proposal to provide a street litter bin replacement program at no cost to Council, in return for the advertising rights on the bins.

At the meeting of Council held on 18th August 1998, it was resolved to grant Natsales permission to carry out a six month trial with 15 of the moulded plastic bin surrounds and if there were no significant objections, Waste Services would call tenders for the replacement of existing street and some park litter bins. A copy of the agenda item CDC8/98 11.1 is attached.

Following Council's approval, Natsales were requested to proceed with the installation of 15 bins to agreed locations on Rockingham Road, Hamilton Road, Carrington Street, North Lake Road and Coolbellup Avenue.



Some modifications to the material and design of the green roto-moulded (4 sided) plastic bin surrounds were agreed and the City of Cockburn logo panel design was approved and printed.

Advertising bins were installed at the end of January 1999 and the respective street litter bins were returned to Waste Services. Since this time, Waste Services have only been advised of a couple of minor problems with the door locking mechanisms, generally arising from vandalism and the lack of availability of advertising sites from businesses.

Submission

N/A

Report

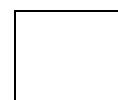
For the past 6 months, Waste Services have monitored the siting, servicing and any public feedback relating to the introduction of these advertising bins and have received no significant negative comment.

The benefits of replacing the street litter bins with these advertising bins are:

- New bins and surrounds are supplied and maintained by Natsales (contractor) at no cost to Council. This represents a saving of approximately \$4,500 on waste services 1998/99 repair/maintenance costs for street litter bins.
- Bin surrounds provide local businesses with access to 3 uniform advertising panels, replacing unsightly and dangerous tyre/verge advertising signs.
- The fourth panel is available for promotion of Council services and community events.
- The restricted opening to the top of the bin surround has reduced the volume of domestic waste being collected.

A copy of correspondence from City of Gosnells' Manager Design and Client Liaison which includes additional information from their trials, is attached to the agenda.

On the negative side, some may see the advertising bins as adding to "visual pollution" of the streetscape and waste collection crews advise they do require approximately 2 minutes per bin longer than existing street litter bins to service.



It is felt that the impact of street advertising can be managed under the proposed contract with the following review controls:

- All advertising content is as per the adopted Policy.
- The location of new advertising bins is subject to compliance with the attached Policy E6.4 for the Supply and Installation of Advertising Litter Bins.
- Approval to extend the provision of these bins to areas beyond the Road Reserve, such as some of the City's Regional Parks, be considered only if approved by the above review groups and a successful public trial is conducted in each area prior to official agreement to these services.

The proposed contract for the supply and maintenance of the advertising bins is for a 5 year period with the option, at Council's discretion, to extend the service for a further 5 years.

Waste Services currently service 65 street litter bins which could be replaced with these advertising bins. These bins are predominantly located at bus stops, 15 of which are currently participating in this trial.

The proposed introduction of these advertising bins to the City's streets has been discussed with the Roads, Parks and Planning Services to determine if they foresee any potential conflict with standards likely to come from the Greening Cockburn Plan or other regulatory controls. No conflict was identified and it was felt that the benefits of commercial access to a uniform advertising medium and the consequent removal of the proliferation of ad hoc road signs, outweighed possible and future concerns with the aesthetics of the bin or advertising implications.

Strategic Plan/Policy Implications

Refer to attached proposed Policy E6.4.

Budget/Financial Implications

The introduction of advertising litter bins will save Council \$4-\$5,000 per annum in maintenance costs and the return of the existing (approximately 50) 140 and 240 MGB's to stock, will save Waste Services a further \$2,500 in lost/stolen/damaged bin replacement costs. These savings will be reflected in Waste Services 2000/2001 budget. No funding will be required for the introduction of this service and this allows for the anticipated additional time taken by waste collection crews to service these bins.



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

Nil

284. (AG Item 16.1) (OCM1_10_1999) - COOLBELLUP LIBRARY EXTENSION (RA) (4604)**RECOMMENDATION**

That:

- (1) Council purchase and fit out a transportable building to serve as office workspace for the Coolbellup Library and for this building to be placed in the courtyard area behind the library;
- (2) the rent for the Cockburn Vocation Centre (Inc) remains at \$8,585 for an area of 214m², with the lease to be extended to the 30th of June 2001; and
- (3) Council donate \$17,095 as a subsidy towards the rental of the Cockburn Vocation Centre and the budget be adjusted accordingly; and

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL**COUNCIL DECISION**

MOVED Cmr Smithson SECONDED Cmr Jorgensen that:

- (1) Council purchase and fit out a transportable building to serve as office workspace for the Coolbellup Library and for this building to be placed in the courtyard area behind the library;
- (2) the rent for the Cockburn Vocation Centre (Inc) remains at \$8,585 for an area of 214m², with the lease to be extended to the 30th of June 2001;
- (3) Council donate \$17,095 as a subsidy towards the rental of the Cockburn Vocation Centre and the budget be adjusted accordingly; and
- (4) Council acknowledge that this is a temporary arrangement and will be reviewed when either;
 - (i) sewerage works planned for the area are undertaken, or
 - (ii) negotiations with the Fini Group for the construction of a

purpose built facility to accommodate the Cockburn Vocation Centre activities are completed.

Explanation

It was considered appropriate to inform all parties involved, that this decision represents a temporary arrangement only and a further decision on refurbishment of the building will be required in the future.

Background

Council at its meeting of the 14th of September 1999, resolved to investigate several additional alternative options in respect to creating additional space for the Coolbellup Library. The additional options investigated by Administration, include the possibility of placing a transportable building in the courtyard area of the facility to serve as additional workspace for the Library. An alternative of exchanging the area used by the Cockburn Vocation Centre with that used by the staff of the Coolbellup Community Centre, has also been considered and included in the report.

The Cockburn Vocation Centre Committee views have been canvassed on this issue and the requirements of the Coolbellup Library staff and the Council staff who currently occupy the Coolbellup Community Centre, have been considered in arriving at the recommendation proposed.

Council at its meeting of the 16th of March 1998, resolved to lease the area previously occupied by Cockburn Skillshare to the Cockburn Vocation Centre (Inc). This area is included within the complex, which includes the Coolbellup Library and Centenary Hall. Council's decision and advice to the Cockburn Vocation Centre (CVC) was based on the understanding that the Cockburn Vocation Centre would be given access to the total area of 214m² until such time as Council took up the option of extending the Coolbellup Library. The advice to the Cockburn Vocation Centre at the time, was that Council would take up to 48m² of the area. In the meantime, the Cockburn Vocation Centre would have the use of this area at no charge. The rent for the balance of the area of 166m² was set at \$67m² pa (\$11,122pa) which was considered to be approximately 50% of the market value.

Subsequently, following a request from the Cockburn Vocation Centre, Council resolved at its meeting of the 16th March 1999, to reduce the rent to \$51.72m² pa (\$8,585) for the 166m² and the lease to expire on the 30th June 2000. At this time, the Cockburn Vocation Centre was again advised that Council administration would be seeking a budget



allocation for 1999/2000 to extend the Library into the Cockburn Vocation Centre area, in accordance with the previous advice.

Council placed on its 1999/2000 budget, the sum of \$35,000 to carry out the necessary alteration to the building to expand the Library. The work will be totally funded by Council with no financial contribution required from the Cockburn Vocation Centre. This work was deemed necessary on the advice of Council's Occupational, Health and Safety Officer as the cramped conditions presented the possibility of staff injury, particularly in the placement and recovering of stored equipment and material. The minimum area deemed necessary was 35m².

In the design of the new Coolbellup Library, allowance was made for the future expansion of the Library into the total area now occupied by Cockburn Vocation Centre (Inc.). The required additional Library area to meet all current requirements, is estimated by the library staff as 48m². The reduction of the actual area to 35m² has been a compromise to allow for the entry into the Vocation Centre to remain from Cordelia Avenue.

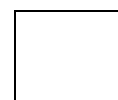
Submission

The Cockburn Vocation Centre has written to Council in response to the layout options prepared by Vernon Drafting and Design. Firstly the Centre preference is for no changes to be made to their portion of the building and have requested that instead, the Library review its layout to accommodate the additional space requirements. They are concerned about the ability of the Centre to be able to accommodate the anticipated future growth in the Centre services. If required to choose, the preferred layout option is 4. The suggestion is also made for the courtyard area to be expanded in the future, when the area is deep sewered in approximately 2001 and the septic tanks under the courtyard can be moved. A copy of the letter from the Cockburn Vocation Centre is attached for information.

Following the Council decision of the 14th September, 1999 and subsequent request by Council administration for the Cockburn Vocation Care to consider the options of -

- A transportable building
- Move to the Coolbellup Community Centre
- The Library to expand into 35m² of the Cockburn Vocation Centre area,

the Cockburn Vocation Centre advised that their preferred option is for a transportable building for use by the Library.



Report

The St Vincent de Paul Society and Cockburn Rotary Club, as the previous sponsors of Cockburn Skillshare, have allowed the Cockburn Vocation Centre to utilise the equipment previously the property of Cockburn Skillshare. The Cockburn Rotary Club has continued to provide management expertise and advice to the Cockburn Vocation Centre, the core staff having previously been staff of the Cockburn Skillshare. The Cockburn Vocation Centre provide a valuable service to the local community through the provision of computer training, advice and assistance on seeking employment and resources for preparation of resumes. Income is generated through Government training contracts, fees from agencies dealing with workers compensation matters and fees from individuals using the facilities. Council has clearly indicated its previous support for this service.

On a number of occasions over the past several months, officers of Council have met with representatives of Cockburn Vocation Centre seeking to reach a compromise on the means by which the previous decisions of Council could be implemented. Various options have been put to the Cockburn Vocation Centre including floating the idea of the group taking over the larger area of the Coolbellup Community Centre, which is on the same site. Following Council's resolution of the 14th September 1999, the Vocation Centre was once again approached on this matter and expressed the view that it did not want to pursue this option. This view is supported by Council administration as the moving of the current occupants of the Community Centre to the alternative Vocation Centre area, would not provide areas for children's activities such as mothers and play groups. Furthermore, Council is awaiting advice from the Lotteries Commission on the availability of funds for the establishment of an Aboriginal Family Violence Program due to operate from the Coolbellup Community Centre. It is unlikely that there would be sufficient space to also include this activity in the area. Whilst detailed costing of this option has not been carried out due to the limitations and views expressed, it is likely that this option will cost in the vicinity of \$80,000 to modify both buildings to meet the needs of the respective parties.

It became evident that the Administration and Cockburn Vocation Centre would not be able to reach mutual agreement on the issue of space allocation. The decision was made to contract Vernon Design and Drafting who are experienced in office requirements and design, to provide impartial advice to Council and the Cockburn Vocation Centre on the options available. The brief given to Vernon was to initially seek, in discussion with Cockburn Vocation Centre, means by which the Library could expand its area by 35m² and meet the needs of the Cockburn Vocation Centre. If an agreement could not be reached to achieve this requirement, then a design would be developed which maximised the area available to the Library while still satisfying the needs of the



Cockburn Vocation Centre. A copy of Council's letter of appointment of Vernon Drafting and Design was provided to the Cockburn Vocation Centre for information. Vernon met with the Cockburn Vocation Centre on four separate occasions to discuss the issue. As a result of these meetings, four layout options were developed by Vernon and copies sent to Cockburn Vocation Centre and Council. Layout options 1 and 2 allowed for a Library allocation of 35m² and layout option 3 with 20m² and layout option 4 of 30m². Administration requested that Cockburn Vocation Centre write to Council identifying its preferred layout options. Their response is included within the submission section of this report.

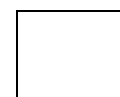
The expansion of the Library into the courtyard area has been considered. The cost of this work is likely to be in excess of \$100,000 as a complete new area will need to be constructed, not a modification to existing areas. Further, the expansion to the Library area is seen as pressing due to the cramped nature of the existing Library work area. An investigation has been made into the option of placing a transportable building in the courtyard area of the facility, which would provide additional space for the Library to serve as a work area. The size of the transportable building able to be placed in the courtyard, is limited by the need to allow access to the septic tanks which are under ground in the area. Nevertheless, a transportable building of 40m² (4.2m x 9.6m) can be placed in the area. The purchase price of the proposed transportable building is \$14,300 and with transport and fitting out, the overall price is estimated to be \$29,600, well within the budget of \$35,000. The lease price for such a building is \$100 p.w. which over the estimated period of requirement for the building of three years, equates to \$15,600 above the initial purchase price. This option is the one preferred by the Cockburn Vocation Centre and acceptable to the requirements of the Coolbellup Library.

In conclusion, Council made it clear that it always intended to expand the Coolbellup Library by up to 48m² and the Cockburn Vocation Centre has been given ample notice of Council's intention. Administration has made a concerted effort to seek mutual agreement on the matter and has made significant compromises to date. Council administration could quite legitimately progress this matter without reference to Council, but has referred it to ensure the views of the Cockburn Vocation Centre are heard and that the process can be seen to be impartial.

The option of the placement of a transportable building in the courtyard area for use by the Library, appears to be the best short term 'win-win' option.

Strategic Plan/Policy Implications

N/A



Budget/Financial Implications

Funds have been budgeted for 1999/2000.

As is Council's current practice to accurately reflect the cost of service provision, it is necessary to make a book entry donation to the Cockburn Vocation Centre of \$17,095. This is calculated on an opportunity rental of \$120 per sq.m. p.a. for 214m² which equates to \$25,680 p.a. A rental of \$8,585 is paid leaving a balance of \$17,095.

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

Nil

285. (AG Item 17.1) (OCM1_10_1999) - CHIEF EXECUTIVE OFFICER'S ORGANISATIONAL STATUS REPORT (1054) (RWB)

RECOMMENDATION

That Council receive the Organisational Status Report from the Chief Executive Officer dated October 1999.

COUNCIL DECISION

MOVED Cmr Jorgensen SECONDED Cmr Smithson that Council:

- (1) receive the Organisational Status Report from the Chief Executive Officer dated October 1999; and
- (2) commend the staff for the comprehensive overview of the activities of the City of Cockburn.

CARRIED 3/0

Background

At its meeting of the 9th March 1999, Council determined that a report on matters of interest be provided to Council on a quarterly basis.

The Organisational Status Report replaced the report previously prepared relating to performance measurement.

As Council received the first Status Report in July 1999, it is now time for the next report to be provided.



Submission

N/A

Report

Directors, Managers and staff have generally contributed to the information report which has been titled "Organisational Status Report".

The Status Report will be provided to Council on a quarterly basis highlighting issues that may be of interest to Council.

The Report provides a snapshot of issues at a particular point of time, even though they may currently be in the process of being considered by Council.

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

Nil

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

Nil

286. (AG Item 20.10) (OCM1_10_1999) - NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

20.1 LEGAL REPRESENTATION - HAMMOND WORTHINGTON FOR MR J. GRLJUSICH - INQUIRY INTO THE CITY OF COCKBURN (1335) (RWB)

287. (AG Item 20.1) (OCM1_10_1999) - LEGAL REPRESENTATION - HAMMOND WORTHINGTON FOR MR J. GRLJUSICH - INQUIRY INTO THE CITY OF COCKBURN (1335) (RWB)**COUNCIL DECISION**

MOVED Cmr Jorgensen SECONDED Cmr Smithson that Council:

- (1) receive the letter dated 6th October 1999 from Hammond Worthington, advising of the preparedness of Mr Grljusich to accept the terms and conditions of financial assistance as determined by Council on the 28th September 1999, subject to conditions;

- (2) advise Hammond Worthington that Council's position with regard to financial support remains unaltered in that no payment will be made by Council, should there be any adverse findings on any issue against Mr Grijusich; and
- (3) clarify to Hammond Worthington, that the basis of Council's support relates to all lines of the Inquiry whether it be in the public forum or by private interview and the level of Council's financial support which is limited to \$40,000 will be determined once the itemised statement of costs identified to a particular issue has been produced, following the outcome of the Inquiry.

CARRIED 3/0

288. (AG Item 23.1) (OCM1_10_1999) - RESOLUTION OF COMPLIANCE (Section 3.18(3), Local Government Act 1995)

MOVED Cmr Jorgensen SECONDED Cmr Smithson that Council is satisfied that resolutions carried at this Meeting and applicable to items concerning Council provided services and facilities, are:-

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

CARRIED 3/0

MEETING CLOSED AT 8:15PM

CONFIRMATION OF MINUTES

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

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

