

# CITY OF COCKBURN

## SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 16 DECEMBER 2003 AT 7:00 PM

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## CITY OF COCKBURN

### MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 16 DECEMBER 2003 AT 7:00 PM

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#### PRESENT:

##### ELECTED MEMBERS

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

##### IN ATTENDANCE

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

#### 1. DECLARATION OF MEETING

The Presiding Member declared the meeting open at 7.00pm.

#### 2. APPOINTMENT OF PRESIDING MEMBER (If required)

Nil

#### 3. DISCLAIMER (Read aloud by Presiding Member)

Members of the public, who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking clarification of Council's position. Persons are advised to wait for written



advice from the Council prior to taking action on any matter that they may have before Council.

**4. ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS (by Presiding Member)**

Nil

**5 (OCM 16/12/2003) - APOLOGIES AND LEAVE ABSENCE**

Mayor S Lee - Apology

**6 (OCM 16/12/2003) - ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

**Andrew Sullivan – Public Question Time – Ordinary Council Meeting 18/11/03** – in respect to the consultation process relating to the advertising of the local scheme amendment and Structure Plan for Port Coogee, asked a number of questions, the answers of which were provided in a letter dated 20 November 2003 as shown below:

- .. *the advertisements to date have only mentioned the Town Planning Scheme Amendment and not the Structure Plan*

On 24 October 2003, the Commission gave its consent for the “Amendment and associated Structure Plan to be advertised for public inspection for a period of 42 days”. The Structure Plan is not being advertised separately. The initial adverts in the West Australian Newspaper and the local community newspapers only made reference to the Amendment. Due to the need to clarify the fact that submissions are also invited on the Structure Plan, which is integral to the Amendment, subsequent public notices made reference to both the Amendment and the Structure Plan.

- .. *the site signs advertising the Town Planning Scheme Amendment were only erected today and again only mentioned the TPS Amendment”*

The signs were finally erected on 18 November 2003. The signs do invite submissions on both the Amendment and the Structure Plan.

- .. *the consultation period is only 42 days which is too short for such a major project*

The public advertising period was specified by the Commission as provided for under the Town Planning Regulations. The Council is of the opinion that because of the extensive consultation and the community awareness of the marina which has been a topic of public discussion over



recent years, 42 days is an adequate submission period.

- .. *the consultation period includes the lead up to Christmas when people are already on holidays and quite distracted by the festive season.*

The Council was aware of the need to ensure that the advertising period did not extend into the Christmas and New Year holidays and because of this worked back from December to identify the earliest date to commence advertising the Amendment and Structure Plan. Given the date of the Commission's approval to advertise the Amendment and the time required to make the necessary preliminary arrangements, the most appropriate date was 12 November 2003.

- .. *the consultation finishes Christmas Eve which is considered wholly inappropriate.*

The closing date for submissions is 24 December 2003, resulted from the date of receipt of the Commission's advice and the need to accommodate the required advertising period.

- .. *the documents and submission forms were not immediately available at the Libraries and the displays were not erected until several days after the consultation period had started.*

The documents and submission forms were available on 12 November at the Council's Administration Centre, the Spearwood Library and the Coolbellup Library, together with the necessary statutory displays. On 14 November, the documents and submission forms were made available at the Success Library. The large display panels of the Structure Plan, provided by the proponent at the request of the City, were also displayed at the above locations on 14 November.

- .. *the Council, DPI and the developers have refused to make a copy of the Structure Plan available for use at CCAC's roadshow displays which are attended by thousands of interested citizens.*

The proponent is only required to provide the requisite number of documents for public inspection. The Structure Plan documents are the property of the proponent and therefore, the proponent will decide if any copies will be made available to the public. The CCAC's roadshow is not a formal part of the public consultation process. Never-the-less, the proponent has provided the City with copies of the Structure Plan document so that it can be accessed through the Council website. The website [www.cockburn.wa.gov.au](http://www.cockburn.wa.gov.au) makes available to the public, copies of the Amendment, the Structure Plan Report and the numerous plans. If necessary, hard copies of the website information can be printed.

- .. *the Council does not intend to conduct any workshops or public forums for the community to familiarize itself with the detail in the plan before making comments.*



The Council does not intend to conduct any workshops or public forums. From a probity point of view, this is the correct position to take. The Council is not the proponent. The Council is responsible for evaluating the proposal and for assessing and making accommodations in relation to any submissions received during the public advertising period. The Council cannot be seen to be presenting the project on one hand and then being required to assess the proposal on the other. Given this, it is appropriate for the proponent to conduct public information sessions during the advertising period. It is understood that the proponent will be arranging two public information sessions and in addition to this, the Australian Democrats will also be holding a public forum on the Port Coogee proposal. In respect to the specific requests made of the Council, I provide the following responses:

1. *extend the consultation period until at least the end of February 2004*

The Mayor, Stephen Lee, as Presiding Member and spokesperson for the Council, responded that it was his understanding that the Council was not going to extend the statutory advertising period which had been specified by the Commission.

2. *to provide to CCAC one of the Structure Plan documents provided by the developer.*

The Mayor advised that the Structure Plan and Maps were available on the Council's website.

3. *to conduct a series of at least three professionally facilitated workshops, to include a general information forum to explain the plan and to seek general comments and then follow up workshops that focus in on the salient concerns by the community.*

The Mayor advised that to his knowledge, 3 workshops were planned to be conducted during the public advertising period, 2 by the proponent as information sessions and 1 by the Australian Democrats which was to be a public forum.

4. *to establish an advisory committee of all major stakeholders to review the structure plan and to advise the Council on any issues of concern.*

The Mayor did not respond to this request because the time allowed for you to present your submission to the Council expired. Despite the fact that this occurred, it is unlikely that this could be contemplated and effectively implemented within the 42 days advertising period.

**John Grljusich – Public Question Time – Ordinary Council Meeting 18/11/03** – in respect to his request for Council to reconsider reimbursement of his legal expenses in relation to the Douglas Inquiry, tabled a letter.





The response dated 5 December 2003 advised "You again indicate in your letter that no adverse findings were made against you. As advised by letter of 7<sup>th</sup> November 2003, Council at its meeting of 17<sup>th</sup> October 2000, considered that the Douglas Inquiry findings against you were of a nature that it considered that you had either acted illegally or dishonestly against the interests of the City or otherwise in bad faith. These findings can therefore be considered as adverse.

In his statement to the Legislative Assembly regarding the results of the Douglas Inquiry, the then Minister for Local Government, Paul Omodei MLA, stated, "*There were 16 adverse findings against the former mayor John Grljusich*". This statement was repeated in his media release and was included in reports in the West Australian newspaper and local papers. Clearly the Minister considered that the findings were adverse in nature.

Council now considers this matter finalised and is therefore not willing to further consider any request by you for reimbursement of legal expenses in respect of the Douglas Inquiry, unless you were successful in having the findings of the Douglas Inquiry overturned through a judicial process.

Finally, as requested in Council's letter dated 7<sup>th</sup> November 2003, your advice is again sought as to how you came to be in possession of a legal advice document that is a confidential document of the City and is the property of the City."

## 7 (OCM 16/12/2003) - PUBLIC QUESTION TIME

**Mr Roland Marlow**, Hamilton Hill asked the following questions:

- 1) Seeing the Mayor has stated he does not want outsiders to tell Cockburn what to do, I hereby ask Cockburn Council to hold a referendum of all ratepayers on the subject of the marina. Make it easily understood, for example: Do you agree to fill in 24 hectares of Cockburn Sound for housing and a Marina? – yes or no.
- 2) If the marina goes ahead will the Council in conjunction with Australand sign a legally binding document to give the public access to the marina and surrounds for all time? If no why not?
- 3) Seeing Australand has complete faith in their advisers, will the Council demand \$5million to be placed in a trust fund for 20 years, to cover any messups caused by the marina. This is so ratepayers will not be left holding the baby.
- 4) In their advertising in the local papers Australand says the City of Cockburn's Tall Ship Project will be built and moored in the marina.



They also stated to me they have had several meetings with the Mayor about this boat. Now I have a letter signed by the Mayor saying the Council has no involvement in this project. Who is lying?

- 5) In the papers, the Mayor and Australand all state this is a \$500million project. The project costs are what it costs the developer. Therefore with 640 blocks that means each block will have to sell for at least \$700,000 to break even. Please explain or is this figure just a figment of their imagination. If so what is the real cost?

Director Planning and Development took the questions on notice and will respond in writing.

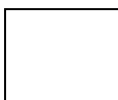
**Ms Zoe Inman**, ratepayer and representing the Coogee Coastal Action Coalition, presented to Council a copy of the petition that was given to Barbara Scott MLC to present to State Parliament. The CCAC is aware that unfounded accusations concerning the veracity of this petition have been circulating "sight unseen" since no one has yet viewed the document. She presented it to refute these rumours. Signatures were collected at venues and events only within local areas. The bulk of the approximately 6,000 signatures are from people within the catchment area of the region and the majority of those live within the Cockburn district.

**Mr Bob Poole**, Coogee queried that as the Mayor has declared in his Annual Return that he has received \$2,700 from Australand, is there a conflict of interest?

Presiding Member stated that his understanding is that it does not amount to a conflict of interest.

**Mr Ron Kimber**, Munster thanked Council for the "hard miles" they have put in during the year.

**Mr Gene Koltasz**, Planning Consultant representing Wedge Point Pty Ltd, spoke in relation to item 14.10. He asked if Council was aware of the circumstances of the clearing that was undertaken by a contractor who was engaged by his client. The contractor was to do some clearing on the corner of Armadale and Solomon Roads as well as the property in question, but was only engaged to commence work on the Armadale Road property only because it was already approved for clearing and earthworks. When the client was aware of the clearing, they ceased any work on the subject land and prior to that, had already commissioned a geotechnical report to be undertaken for the submission of plans for the clearing and earthworks of the land which have been lodged at Council. Their client acknowledges the clearing was undertaken without authority, stopped work 3 months ago and no further work was undertaken on the site. They are now awaiting approval



to do the earthworks required to achieve the necessary groundwater clearance to finished levels being done under current approval on the land and are now seeking Council to cease action on the illegal clearing. In regards to the burning, that was outside his client's responsibility. We now seek Council to acknowledge the circumstances under which the clearing was undertaken and the background on the land in regard to the approvals and any approval to subdivisions.

The Presiding Member advised that Council did receive his letter dated 15 December and will be taken into consideration when the item is discussed.

**Mrs Svetlana Novakovic**, Bibra Lake in regards to item 14.15, asked Council to support their request for retrospective approval for their patio given that the patio is already constructed, would cost in the vicinity of \$12,000 to move/replace and they believed that they had the neighbours signature of consent prior to purchase.

**Mr Marko Ascic**, Bibra Lake in response to the previous comments, disputed that his consent was given for the current patio. He believes he consented to a patio being constructed as long as he saw and approved the plans prior to construction, which he stated had not occurred. Therefore he asked Council to reject the application.

## 8. CONFIRMATION OF MINUTES

### 8.1 (MINUTE NO 2234) (OCM 16/12/2003) - ORDINARY COUNCIL MEETING - 18/11/2003

#### **RECOMMENDATION**

That Council adopt the Minutes of the Ordinary Council Meeting held on Tuesday, 18 November 2003, to be a true and accurate record.

#### **COUNCIL DECISION**

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

**CARRIED 9/0**

### 8.2 (MINUTE NO 2235) (OCM 16/12/2003) - SPECIAL COUNCIL MEETING - 25/11/03

#### **RECOMMENDATION**

That the minutes of the Special Council Meeting held on Tuesday 25 November 2003, be adopted as a true and accurate record.



**COUNCIL DECISION**

MOVED Cllr L Goncalves SECONDED Cllr A Edwards that the recommendation be adopted.

**CARRIED 9/0**

**9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE**

Nil

**10. DEPUTATIONS AND PETITIONS**

Nil

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

Nil

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

Nil

**13. COUNCIL MATTERS**

**13.1 (MINUTE NO 2236) (OCM 16/12/2003) - ANNUAL REPORT 2002/2003 (1712) (DMG) (ATTACH)**

**RECOMMENDATION**

That Council accept the Annual Report for the 2002/2003 Financial year as presented, in accordance with Section 5.54(1) of the Local Government Act, 1995.

**COUNCIL DECISION**

MOVED Deputy Mayor R Graham SECONDED Cllr A Tilbury that Council:

- (1) in accordance with s5.54 of the Local Government Act 1995 (WA), accept the Annual Report for the 2002/2003 Financial Year as presented; and



- (2) forward a copy of the Annual Report to members of the State and Commonwealth Parliaments representing the City of Cockburn.

**CARRIED 9/0**

### **Explanation**

Council believes there is benefit in keeping its Members of Parliament informed of its activities.

### **Background**

Council is required to accept the 2002/2003 Annual Report to enable it to be available for the Annual Electors Meeting, scheduled to be held on Tuesday 3 February, 2004. The Act requires Council to accept the Report no later than 31 December, 2003. Elected Members were provided with a Draft Report, minus the Financial Report and Auditor's Report, in November for comment prior to finalising the Consolidated Report for acceptance at the December 2003 Meeting.

### **Submission**

N/A

### **Report**

The Annual Report for the 2002/2003 Financial Year is in conformity with the following requirements of the Act and contains:

- (1) Mayoral Report
- (2) Chief Executive Officer's Report
- (3) 2002/03 Principal Activities Report and assessment against performance.
- (4) Legislative Review Report / Competitive Neutrality Statement.
- (5) Financial Report
- (6) Auditor's Report
- (7) Overview of Principal Activities proposed during the 2003/04 Financial Year.

### **Strategic Plan/Policy Implications**

Key Result Area "Managing Your City" and Council Policy AES1 refers.

### **Budget/Financial Implications**

The cost of producing 300 copies of the Report (estimated \$7,920 Inc. GST) is provided for in Council's Governance Budget.



**Legal Implications**

As provided in report.

**Community Consultation**

N/A

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

Nil

**13.2 (MINUTE NO 2237) (OCM 16/12/2003) - DELEGATED AUTHORITIES, POLICIES AND POSITION STATEMENTS COMMITTEE - 19 NOVEMBER, 2003 (1054) (DMG) (ATTACH)**

**RECOMMENDATION**

That Council receives the Minutes of the Delegated Authorities, Policies and Position Statements Committee, as attached to the Agenda, dated 19 November 2003, and adopts the recommendations contained therein.

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

**COUNCIL DECISION**

MOVED Cllr M Reeve-Fowkes SECONDED Cllr A Tilbury that Council receive the Minutes of the Delegated Authorities, Policies and Position Statements Committee dated 19 November 2003, and adopts the recommendations contained therein, with the exception of Items 12.1 and 13.1 which are to be dealt with separately.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 9/0**

**Background**

The Delegated Authorities, Policies and Position Statements Committee conducted a meeting on 19 November 2003. The Minutes of the Meeting are required to be presented to Council and its recommendations considered by Council.

**Submission**

The Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting is attached to the Agenda. Items dealt with at the Committee Meeting form the Minutes of that Meeting.



**Report**

The Committee recommendations are now presented for consideration by Council and if accepted, are endorsed as the decisions of Council.

Any Elected Member may withdraw any item from the Committee Meeting for discussion and propose an alternative recommendation for Council's consideration.

Any such items will be dealt with separately, as provided for in Council's Standing Orders.

**Strategic Plan/Policy Implications**

Key Result Area "Managing Your City" refers.

**Budget/Financial Implications**

Committee Minutes refer.

**Legal Implications**

Committee Minutes refer.

**Community Consultation**

Committee Minutes refer.

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

Committee Minutes refer.

**(MINUTE NO 2238) (OCM 16/12/2003) – NEW COUNCIL POSITION STATEMENT – PSEW16 'UNKEMPT VERGE MOWING' (4700) (AC)**

**COUNCIL DECISION**

MOVED Cllr M Reeve-Fowkes SECONDED Cllr I Whitfield that the matter be referred back to the Committee for further consideration.

**CARRIED 9/0**

**Explanation**

The item is a little ambiguous with regards to the mowing of verges four times a year and needs clarification.



**(MINUTE NO 2239) (OCM 16/12/2003) – PROPOSED AMENDMENT TO DELEGATED AUTHORITY ACS3 ‘APPROVAL TO CONDUCT CIRCUSES’ (1054) (DMG)**

**COUNCIL DECISION**

MOVED Clr M Reeve-Fowkes SECONDED Clr A Tilbury that Council:

- (1) revoke Delegated Authority ACS3 ‘Approval to Conduct Circuses’; and
- (2) require that any application to approve of a circus performing on Council land be referred to Council.

Amendment

MOVED Clr L Goncalves that a detailed report be provided to Council on each occasion that an application is received.

Amendment Withdrawn

**LOST 5/4**  
**DUE TO LACK OF ABSOLUTE MAJORITY**

MOVED Clr K Allen SECONDED Clr A Edwards that the Committee recommendation be adopted.

**LOST 4/5**  
**DUE TO LACK OF ABSOLUTE MAJORITY**

MOVED Deputy Mayor R Graham SECONDED Clr S Limbert that this matter be deferred to the January Ordinary Meeting of Council.

**CARRIED 6/3**

**Explanation**

To give Council more time to consider the ramifications of amending the relevant Delegated Authority.

**14. PLANNING AND DEVELOPMENT DIVISION ISSUES**





**14.1 (MINUTE NO 2240) (OCM 16/12/2003) - PROPOSED REVOCATION OF MINUTE NO. 2180 (AGENDA ITEM 14.10) COUNCIL MEETING 21 OCTOBER 2003 - RETROSPECTIVE APPROVAL - SHED PARAPET WALL HEIGHT - LOT 612(51) FORILLION AVENUE, BIBRA LAKE - OWNER: M & A ASCIC - APPLICANT: M ASCIC (1108029) (CP)**

**RECOMMENDATION**

That Council revoke Minute No. 2180 (Agenda Item 14.10) as adopted by Council at its meeting of 21 October 2003, as follows:-

“That Council:

- (1) refuse the application to permit the construction of a parapet wall for the shed on Lot 612 (51) Forillion Avenue Bibra Lake, as outlined in the application for the following reasons:
  1. Given the ground level of the subject land, there is ample scope to design a shed to meet the needs of the owner without it impacting on the amenity of the adjoining property. As such, there is insufficient justification to warrant approval of the application in the circumstances;
  2. The adjoining property owners have objected to the proposal and have requested that the wall be reduced in height to that shown on the approved building licence.
- (2) require the applicant to reduce the parapet wall height to the level shown on the approved building licence plans (RL50.04) within 28 days of the date of this decision;
- (3) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Refusal; and
- (4) advise the submitter of this decision. “

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

**COUNCIL DECISION**

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

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 9/0**

**Background**

Council at its meeting held on 18 November 2003, resolved:-



*“defer the proposed revocation of Minute No. 2180 in relation to the parapet wall height of the shed on Lot 612 (51) Forillion Avenue, Bibra Lake, owned by M and A Ascic, to the December Council meeting.”*

The explanation for the decision was that it is understood that the owner of the adjoining Lot 613 (No. 53) Forillion Avenue Bibra Lake, has requested the Council to consider issuing a retrospective planning approval for a pergola which has been constructed closer to the side boundary than provided for under the building licence.

The owner of Lot 613 has objected to the owner of Lot 612 (No. 51) Forillion Avenue erecting a parapet wall to an outbuilding not in accordance with the planning approval.

Given this, it would be preferable for the requests from both owners to be dealt with at the same Council Meeting, with a view to the owners coming to a mutual agreement about their respective structures which are located adjacent to a common side boundary.

By way of background, the Council at its meeting held on 21 October 2003, carried the above resolution refusing approval to increase the height of a parapet wall on Lot 612 (51) Forillion Avenue Bibra Lake.

### **Submission**

By facsimile letter dated 27 October 2003, a notice of intention to revoke the Council decision was received with the required number of signatures, being Mayor Lee, Deputy Mayor Graham, Clr Reeve-Fowkes and Clr Oliver.

### **Report**

The notice of intention to revoke the decision advised that the reason for seeking the revocation was *“that the removal of the additional height of the parapet wall does not seem justified given the minor nature of the additional height.”*

Following Council’s meeting of October and November 2003, the owner has removed the two offending brick courses and lowered the boundary wall to the height of the dividing fence and withdrew the planning application.

Should the Council decision of 21 October 2003 be revoked, then it is suggested that the following recommendation be considered in its place, namely :-

“That Council:



- (1) acknowledge that the owner has withdrawn the application and that no further action on this matter is required; and
- (2) advise the submitter accordingly.”

This action has addressed the neighbour’s objection and because of this, the Council decision of 21 October is no longer relevant.

The Local Government Act 1995, provides that an Absolute Majority of Council (ie: six) must support the revocation, otherwise the original Council decision to refuse the application stands.

### **Strategic Plan/Policy Implications**

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

1. Managing Your City
  - “To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.”
2. Planning Your City
  - “To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens.”
  - “To ensure that the development will enhance the levels of amenity currently enjoyed by the community.”
3. Conserving and Improving Your Environment
  - “To conserve the quality, extent and uniqueness of the natural environment that exists within the district.”
  - “To conserve the character and historic value of the human and built environment.”

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Nil

### **Community Consultation**

Advertised for comment to the potentially affected party.

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

Nil



**14.2 (MINUTE NO 2241) (OCM 16/12/2003) - PROPOSED STRUCTURE PLAN - PT LOT 38 ROCKINGHAM ROAD, MUNSTER - OWNER: CHANDLER HOLDINGS PTY LTD - APPLICANT: SJB TOWN PLANNING AND URBAN DESIGN (9660) (JLU) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt the Structure Plan for Pt Lot 38 Rockingham Road, Munster dated October 2003, under clause 6.2.9 of Town Planning Scheme No. 3;
- (2) adopt the Schedule of Submissions as contained in the Agenda attachment;
- (3) forward the adopted Structure Plan to the Western Australian Planning Commission for endorsement under clause 6.2.10 of Town Planning Scheme No. 3; and
- (4) advise those persons who made a submission of Council's decision.

**COUNCIL DECISION**

MOVED Clr S Limbert SECONDED Clr A Tilbury that the recommendation be adopted.

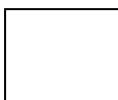
**CARRIED 9/0**

**Background**

ZONING:	MRS:	Urban
	DZS:	Development Zone (No.5) and within Development Contribution Area No.6
LAND USE:	Residential	
LOT SIZE:	4775m <sup>2</sup>	
AREA:		
USE CLASS:	N/A	

The following summarises the background to the subject Structure Plan:

- Early this year, the applicant approached Council wanting to prepare a Structure Plan for Pt Lot 38 Rockingham Road, Munster. Council officers advised that it was preferable for a Structure Plan to be prepared for the area bounded by Mayor, Rockingham, Stock Roads and Howe Street.



- The applicant contacted all affected land owners in the area in April 2003, prior to lodging the Structure Plan with Council, to ascertain if they wished to participate in the Plan and if so what their requirements for future development were. Following this the applicant received one submission of objection stating that they do not wish to develop their land (owners of Lot 34, 39 and 40), and the owners of Lot 42 advised verbally that they did not wish to be included in the Structure Plan. The owners of Lots 35 and 36 said that they would like to develop their property in the future and requested they meet with the applicant. This meeting did not take place. Based on this information the applicant prepared an overall Structure Plan for the area bounded by Stock, Rockingham and Mayor Roads and Howe Street (see Agenda Attachment A).
- Prior to Council advertising the proposed Plan the applicant was asked to seek comments from the adjoining property to the south, Pt Lot 37, as the Plan proposed access to Pt Lot 38 across Pt Lot 37. The owner of Pt Lot 37 objected to the Plan stating that they *“do not support the plan and do not wish to subdivide and develop their property”*. The owners of Pt Lot 37 did not make any comments when originally contacted by the applicant in April.
- As a result of the objection from Pt Lot 37 the plan was modified to show development over Pt Lot 38 only (see Agenda Attachment B). Upon receipt of the modified plan, the City, acting under delegated authority of Council, determined that the proposal was suitable to be advertised for public comment.

The Structure Plan has now been advertised and is presented to Council for consideration.

### **Submission**

SJB Town Planning and Urban Design, acting on behalf of Chandler Holdings Pty Ltd, is seeking approval for a Structure Plan for Pt Lot 38 Rockingham Road, Munster (see Agenda Attachment C – Letter received from the applicant).

### **Report**

The subject Structure Plan proposes the development of 12 residential (R30) lots and one lot being set aside for future acquisition for road widening of Stock Road. The lots range in size from 294m<sup>2</sup> to 386m<sup>2</sup>. The plan also shows a 6m wide common access laneway along the southern boundary. Two existing dwellings are located on Pt Lot 38 fronting Rockingham Road.

The proposed Structure Plan was advertised for public comment for a period of 21 days, with the comment period ending on the 10



November 2003. Surrounding land owners and government agencies were invited to comment. The proposal was also advertised in the Cockburn Gazette on the 21 October 2003. Eight submissions were received including comments from Alinta Gas, Department of Environment – Water and Rivers Commission, Main Roads WA and Water Corporation. A schedule of submissions and the recommended responses is included in the attachments (see Agenda Attachment D – Schedule of Submissions) .

Four of the eight submissions objected to the proposed Structure Plan and four provided advice. The main issues raised in the objections were:

- Lots sizes being too small and the proposed R30 density is inappropriate. Development should accommodate larger family living lots;
- The proposed Plan does not provide an overall Structure Plan for the area;
- The proposed Plan sets an undesirable precedent for unit development in the area; and
- Rockingham Road has a high traffic flow.

These issues have been addressed below.

It is not usual practice for a Structure Plan to be considered for individual lots within a Development Area. However given the fragmentation of ownership (10 individual owners) and the initial objection to the overall Structure Plan in this instance it is considered that an individual Structure Plan is appropriate and will not jeopardise future development of the area.

The following comments are made in relation to the issues raised in the objections:

1. Lot size and density – The proposed Structure Plan shows a density of R30. The Residential Design Codes prescribe a minimum lot size of 270m<sup>2</sup> and an average of 300m<sup>2</sup> for R30 development. The proposed Structure Plan complies with the R Codes. R30 is considered appropriate for the subject land given its close proximity to a local centre which includes a general store, butcher and hairdresser (approx. 500m to the south), the Stargate Spearwood Shopping Centre (approx. 1.3km to the north) and the high frequency bus service (920) travelling along Rockingham Road with a bus stop located 140m on Rockingham Road to the north.
2. Overall structure plan – The applicant did provided an overall Structure Plan for the area. This Plan was not supported by the owners of Pt Lot 37 and therefore was replaced with the current plan. Given the fragmentation of the ownerships and the previous attempts by the applicant to involve all of the landowners between



Rockingham, Stock and Mayor Roads and Howe Street, and the lack of interest shown, it is considered that the subject Plan is acceptable and appropriate.

3. Undesirable precedent for unit development – The Structure Plan shows the development of 12 units, however, a duplex already exists fronting Rockingham Road and will remain. As the majority of the lots are 294m<sup>2</sup> it is likely that unit development will occur on the site. Given the reasons provided in point 1 regarding the proposed density, unit development is considered appropriate. It should also be noted that the site is zoned 'Development' which allows for a wide range of development types including units. The development of the subject site separate to the surrounding area will not prejudice the future development of the area as it is an individual parcel, to which access and services can be provided. If development was to occur in the future over the surrounding lots there is opportunity for a joint access leg to be provided between the boundaries of Pt Lot 37 and Pt Lot 38, which will result in a reduced number of crossovers onto Rockingham Road. The area is already significantly constrained by a lack of access and by the long thin lots and because of this the proposed Structure Plan does not set an undesirable precedent.
4. Traffic volumes along Rockingham Road – All existing properties gain access from Rockingham Road as access is not permitted to Stock Road. The proposed Structure Plan illustrates a 6 metre wide common property laneway to the units. Traffic counts provided by Council's Engineering Section for Rockingham Road, south of Mayor Road show an average daily count of 6183 cars (April 2002). These figures are for traffic travelling in both directions. It should also be noted that Rockingham Road south of Mayor Road will not be connected to Stock Road when Stock Road is upgraded and Beeliar Drive connected to Stock Road. Therefore, traffic will decline south of Mayor Road in the future.

The proposed Structure Plan does not show any Public Open Space (POS), because the total site area is only 4,789m<sup>2</sup> the 10% requirement of POS is only 478.9m<sup>2</sup> which is too small to be given up as land. A significant area of POS is provided at Lake Coogee (approx. 1.2km to the south-west) and Market Garden Swamp No. 3 (approx. 500m to the west) which could be accessed by the future residents of the development and therefore cash – in – lieu is acceptable. Any cash – in – lieu collected should be used to enhance the POS in the area.

The proposed Structure Plan demonstrates that the proposal for Pt Lot 38 can be subdivided and developed independently and is therefore recommended for approval, without compromising the future development potential of the adjoining land.



## **Strategic Plan/Policy Implications**

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

1. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
  - *"To foster a sense of community within the district generally and neighbourhoods in particular."*
  
2. Conserving and Improving Your Environment
  - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*

The Council Policies which apply to this item are:-

SPD4	'LIVEABLE NEIGHBOURHOODS'
APD4	PUBLIC OPEN SPACE
APD28	PUBLIC OPEN SPACE CREDIT CALCULATIONS
APD30	ROAD RESERVE AND PAVEMENT STANDARDS

## **Budget/Financial Implications**

N/A

## **Legal Implications**

Ni

## **Community Consultation**

Nine surrounding landowners were notified of the proposed Structure Plan. Four submissions objecting to the proposal were received. (See Agenda Attachment D - Schedule of Submissions)

Five government agencies were notified of the proposed Structure Plan. Four submissions were received which provided comments.

The Structure Plan was advertised in Cockburn Gazette on the 21 October 2003.

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

Nil.





**14.3 (MINUTE NO 2242) (OCM 16/12/2003) - ROAD CLOSURE - PORTION OF RECREATION ROAD AND STRODE AVENUE, HAMILTON HILL (450178; 450177) (KJS) (ATTACH)**

**RECOMMENDATION**

That Council not proceed with the closure of Portion of Recreation Road and Strode Avenue, Hamilton Hill.

**COUNCIL DECISION**

MOVED Clr S Limbert SECONDED Clr A Tilbury that the recommendation be adopted.

**CARRIED 9/0**

**Background**

Lot 800 Strode Avenue, Hamilton Hill, was created many years ago with a rounded truncation at the intersection with Recreation Road.

There have been no previous requests to alter the configuration of the truncation. The request is not supported by any substantiated reasons.

**Submission**

A written request has been received from Giudice Surveys on behalf of the owner of Lot 800, T & M Orlando, to close portions of the two roads to convert the rounded truncation to the standard 6 metre by 6 metre splayed truncation.

**Report**

The request received from Giudice Surveys quotes the benefit of creating a standard 6 x 6 metre truncation as that it would maintain the uniformity of the intersection and conform with normal truncation requirements. This is not sufficient justification to modify the truncation.

Without justification the request is not supported.

**Strategic Plan/Policy Implications**

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



2. Planning Your City

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

**Budget/Financial Implications**

Nil.

**Legal Implications**

Nil.

**Community Consultation**

The proposal to be advertised and 35 days allowed for the receipt of objections.

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

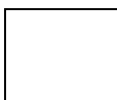
Nil.

**14.4 (MINUTE NO 2243) (OCM 16/12/2003) - FREMANTLE EASTERN BYPASS - MRS AMENDMENT 1055/33 (9105533) (SMH) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the report;
- (2) advise the Western Australian Planning Commission that given the decision by the State Government to reclassify the Fremantle Eastern Bypass Primary Road Reserve to Urban under Metropolitan Region Scheme Amendment 1055/33, that it is important that recommendations made by the Commission associated with the decision be implemented as a matter of priority;
- (3) request the Western Australian Planning Commission to:-
  1. commence the upgrade of the road network in accordance with the State Government's 6 Point Plan as a matter of urgency, particularly in respect to the intersection improvements at:-
    - Stock Road and Leach Highway
    - Stock Road and South Street



- High Street and Stirling Highway;
2. finalise the planning of the Rowley Road extension, with a view to constructing this important regional road link as soon as possible to serve the Hope Valley-Wattleup Redevelopment Area and the proposed outer harbour;
  3. achieve the necessary approvals for the proposed outer harbour without delay so that the construction of the harbour can be commenced as early as possible; and
  4. implement noise attenuation measures along the proposed freight routes and railway corridors to protect the community against any existing and potential adverse impacts that may be associated with the increase in freight movements on the existing and preferred road and rail freight routes.

#### **COUNCIL DECISION**

MOVED Cllr A Edwards SECONDED Cllr K Allen that Council:

- (1) receive the report;
- (2) advise the Western Australian Planning Commission that given the decision by the State Government to reclassify the Fremantle Eastern Bypass Primary Road Reserve to Urban under Metropolitan Region Scheme Amendment 1055/33, that it is important that recommendations made by the Commission associated with the decision be implemented as a matter of priority;
- (3) request the Western Australian Planning Commission to:-
  1. commence the upgrade of the road network in accordance with the State Government's 6 Point Plan as a matter of urgency, particularly in respect to the intersection improvements at:-
    - Stock Road and Leach Highway
    - Stock Road and South Street
    - High Street and Stirling Highway;
  2. finalise the planning of the Rowley Road extension, with a view to constructing this important regional road link as soon as possible to serve the Hope Valley-Wattleup Redevelopment Area and the proposed outer harbour;
  3. achieve the necessary approvals for the proposed outer

harbour without delay so that the construction of the harbour can be commenced as early as possible; and

4. implement noise attenuation measures along the proposed freight routes and railway corridors to protect the community against any existing and potential adverse impacts that may be associated with the increase in freight movements on the existing and preferred road and rail freight routes.
- (4) request the Director Planning and Development to prepare a report on the potential impacts that could arise within the City of Cockburn as a result of the decision by the State Government to delete the Fremantle Eastern Bypass Primary Regional Road Reserve from the Metropolitan Region Scheme; and
- (5) send copies of the advice sent to the Western Australian Planning Commission referred to in (2) and (3) above, to members of the Legislative Assembly and Legislative Council who represent constituents in the City of Cockburn.

**CARRIED 8/1**

### **Explanation**

The residents of the City of Cockburn should be made aware of the potential impacts that may arise as a result of the State Government's decision to delete the Fremantle Eastern Bypass from the Metropolitan Region Scheme. Some Elected Members have received enquiries from ratepayers about this and the Elected Members need to have sufficient knowledge to be able to provide an adequate response.

Given the State Government's decision to delete the Fremantle Eastern Bypass from the Metropolitan Region Scheme, Local Members of Parliament who represent the residents of the City of Cockburn should be made aware of Council's desire for the Government to initiate the commitments made in respect to implementing alternative strategies for moving traffic and freight through the southern suburbs. The Council should look to the support of the Local Members of Parliament to achieve the recommendations made by the WAPC in its support for the Metropolitan Region Scheme Amendment 1055/33.

### **Background**

The Western Australian Planning Commission (WAPC) sought public submissions on a proposal to amend the Fremantle Eastern Bypass Primary Road Reserve to Urban under the Metropolitan Region Scheme, referred to as Amendment No. 1055/33.



The submission period closed, hearings have been completed and a report was prepared by the WAPC to the Minister for Planning and Infrastructure for consideration and recommendation.

The WAPC concluded that the amendment be supported, subject to a number of complementary recommendations.

The Commission produced 3 reports:-

- Volume 1 – Report of Submissions.
- Volume 2 – Submissions
- Volume 3 – Transcript of Public Hearings.

In accordance with a Council Decision, the City of Cockburn lodged a submission supporting the Amendment.

### **Submission**

On 21 November 2003, the WAPC advised all those who lodged a submission of the Commission's decision. Attached to the advice were the recommendations made to the Minister for Planning and Infrastructure.

A copy of the WAPC recommendations is attached to the Agenda.

In summary there were 9736 submissions, of which:-

• Objections	8290	(85.1%)
• Supporters	1392	(14.3%)
• Not stated	54	(0.6%)

The Hearings Committee recommended that the Amendment should not proceed at the current time or in its current form.

Despite this, the Commission, for a variety of reasons, recommended that the Amendment be supported.

### **Report**

In relation to the City, the recommendations made by the Commission that may affect the City of Cockburn are contained in Recommendation 4, namely:-

4.1 Accelerate planning for the improvement of the major road network generally between Kewdale Industrial Area, Fremantle Port and Kwinana Industrial Area. This road improvement program should:

- (i) Implement traffic management measures to ensure efficient freight movement and separation of modes;



- (ii) identify priorities for road and intersection upgrades or traffic management on the network, especially Leach Highway and Stock Road;
- (iii) undertake safety audits of major roads and intersections in the South West Corridor as the basis for future planning. Intersections with higher than average crash rates should be examined and measures set in place to improve safety;
- (iv) identify areas where noise is in excess of acceptable standards and implement noise mitigation measures along major routes;
- (v) develop and implement traffic management plans to improve vehicle segregation and safety, including the investigation of methods of spreading peak hour demand of freight traffic on major roads;
- (vi) plan and program for the upgrade Anketell and Rowley Roads as a priority and in conjunction with planning for the new Outer Harbour;
- (vii) examine opportunities for land use change to protect the functions of the major road network, in particular, High Street, Leach Highway, North Lake Road, Stock Road and O'Connor;
- (viii) Review land use controls and zonings along major roads to ensure that the functions of the major road network are maintained.,
- (ix) prepare and implement landscape plans along all major regional roads;
- (x) review and upgrade pedestrian and bicycle access at all major intersections, especially along Leach Highway, Stock Road and South Street;
- (xi) undertake full public consultation during the preparation of plans, noting that certain proposals may require further amendments to the Metropolitan Region Scheme;
- (xii) identify where short-term development control and compensation measures are required and implement Planning Control Areas where necessary to protect future route and intersection options,



- (xiii) identify where land use measures could complement intersection and road planning.
- 4.2 Identify priorities for the road network and firm funding commitments from Government in future Capital Works Programs taking into account the views of the Local Impacts Committee, including proposals for design, location, timing and cost.
- 4.3 Ensure the funding model for future freight growth of rail infrastructure (rail, track, terminals and rolling stock) is detailed and agreed by Government as part of the future Capital Works Program. Future rail planning and upgrades should ensure that noise and vibration impacts on local communities adjoining the railway are minimised through relevant mitigation measures.
- 4.4 Continue the implementation of the 'Six Point Plan' as a matter of urgency and ensure that improved public information is made available about the coordination and outcomes of these processes.
- 4.5 Expedite the planning and environmental approval process for the Outer Harbour, including:
- (i) Identifying a funding and implementation model for future Outer harbour investment as part of the planning process for the Outer Harbour.
  - (ii) Establishment of a monitoring program for Fremantle Harbour operations to determine thresholds for the social and environmental acceptability of the build-up of container operations in the Inner Harbour. The results of this program should be used as the basis for a decision on the timing of the establishment of the new Outer Harbour.
- 4.6 Prepare an overall integrated public transport strategy for the SW Corridor, which is linked to forward Capital Works Programs. This strategy should reflect the outcomes of the Greater Perth process and the Metropolitan Transport Strategy.

It can be seen that most of the recommendations have implications for the City of Cockburn in relation to:-

- Stock Road
- North Lake Road
- freight routes
- accelerated approval and construction of the outer harbour



As a consequence of the decision to delete the Fremantle Eastern Bypass it is likely that the Fremantle to Rockingham Highway will be downgraded or deleted, the majority of district and regional traffic within Cockburn will be confined to the Kwinana Freeway, Stock/Rockingham Road, and to a lesser extent North Lake Road.

With the number of containers being handled at Fremantle Port increasing from 350,000 to 430,000 units in less than 3 years (WAPC Vol Report pp9) an average increase of 80,000 or 23%, it is expected that by 2017 the number of units will increase to around 1.5 million per annum. This will have a significant impact on the City. Given the plan to commence construction of the outer harbour in 2010 and associated with this the current plans to create large transport/container areas within the Hope Valley-Wattleup Redevelopment Area. Traffic serving these areas will need to use the primary distributor road network, namely Rowley Road (if constructed), Russell Road, Stock Road and North Lake Road within the district, to reduce the pressure on the local roads.

Moreover, if 30% of all containers are to be conveyed by rail by 2012, this will mean that around 330,000 to 350,000 units per year will be travelling through the suburbs of South Lake, Bibra Lake, Yangebup, Spearwood, Port Coogee and South Beach, and this has the potential to have a major impact on these residential areas if adequate measures are not introduced as part of this freight movement initiative.

These are significant issues for the City and therefore, given the State Government's decision, it is important that the Council support the Commission's recommendations to ensure the future capital works programs are adopted by government to provide for the recommended road improvements.

In addition it is recommended that the Council request that the State Government proceed as quickly as possible with the upgrade of the Stock Road/ Leach Highway, Stock Road/ South Street and High Street/Stirling Highway intersections, together with the construction of Rowley Road and the outer harbour. These network and transport improvements need to be implemented without delay, to facilitate the objectives and commitments to the "6 point plan".

### **Strategic Plan/Policy Implications**

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

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





**Budget/Financial Implications**

N/A

**Legal Implications**

Nil.

**Community Consultation**

Completed as part of the MRS 1055/33 process.

The outcome of this public participation process has significant implications for local government in respect to the value of public submissions in decision making and the reliance of planning authorities on strategic long term plans to provide reliable and robust planning frameworks.

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

Nil.

**14.5 (MINUTE NO 2244) (OCM 16/12/2003) - COOLBELLUP NEW LIVING PROGRAM RECODING SELECTED MULTIPLE UNIT SITES - PROPOSED TOWN PLANNING SCHEME AMENDMENT (93014) (MR) (ATTACH)**

**RECOMMENDATION**

That Council:

(1) adopt the following modifications (in italics) to Amendment 14:-

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

AMENDMENT NO. 14

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

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

1. Recoding 15 Rosalind Way, Coolbellup (known as Gunya Apartments) from R40 to R60.
2. Recoding 32 Malvolio Road, Coolbellup (known as Orara



Apartments) from R40 to R60.

3. Recoding 68 Cordelia Avenue, Coolbellup (known as Wirrana Apartments) from R50 to R60.
4. Recoding 2 (Lot 147) Curan Street and 71 (Lot 135) Coolbellup Avenue from R20 to R30 inclusive of the adjoining Pedestrian Accessway.

Dated this 16 day of December 2003

Chief Executive Officer

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

**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

The three sites are currently occupied by three apartment blocks built by the Department of Housing and Works more than 30 years ago.



Council initiated the scheme amendment at its Ordinary Meeting held on 21 October 2003.

### **Submission**

The submission details are outlined in item 14.11 of OCM21/10/03.

An amendment to Town Planning Scheme No. 3 (TPS) is required to facilitate the redevelopment plans for three apartment sites.

### **Report**

An administrative error needs to be corrected in relation to the address of the Curan Street property, which should have referred to No 2 (Lot 147 Curan Street) not No 1 (Lot 204). The reason why the Curan Street property is proposed to be included in this scheme amendment is outlined below.

The City held preliminary discussions with the private owners of the two adjoining lots to the Wirrana Apartment site (subject of proposed amendment to TPS3). This opened the possibility of reclassifying the PAW as a Right of Way to enable vehicular access to the rear of lots.

For this to occur, an increase in residential density from R20 to R30 is needed to facilitate increased residential development on 2 Curan Street (not 1 Curan Street) and 71 Coolbellup Avenue. A ROW will retain a pedestrian access link to the Coolbellup Shops from Curan Street while improving surveillance and security for pedestrians and reduce the potential of crime and vandalism.

In anticipation of the Council's acceptance of this minor change, the Scheme Amendment documents have been sent to the Department of Environment and Water Catchment Protection in accordance with legislative requirements. Upon receipt of comments the scheme amendment will be advertised if the Council agrees with this modification to the address details of the Curan Street property.

### **Strategic Plan/Policy Implications**

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

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



**Budget/Financial Implications**

Costs incurred relate to the administration, advertising of the scheme amendment documents and reporting to the Council. Application fees are \$4,400 in accordance with the Planning Regulations.

**Legal Implications**

City of Cockburn Town Planning Scheme No 3.  
Town Planning & Development Act 1928 (as amended)  
Metropolitan Region Scheme  
Planning Regulations

**Community Consultation**

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

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

Nil.

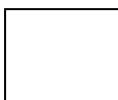
**14.6 (MINUTE NO 2245) (OCM 16/12/2003) - EASEMENT TO WATER CORPORATION - LOT 11 ROCKINGHAM ROAD, SPEARWOOD (2202282) (KJS) (ATTACH)**

**RECOMMENDATION**  
That Council grant an easement over a 64 square metre portion of Lot 11 Rockingham Road for pipeline purposes to the Water Corporation for a consideration of \$500, subject to:-

- (a) the Water Corporation covering all costs associated with the creation of the easement; and
- (b) providing a suitable gravity connection point to serve the Davilak Oval change rooms to the satisfaction of the City.

**COUNCIL DECISION**  
MOVED Clr S Limbert SECONDED Clr I Whitfield that the recommendation be adopted.

**CARRIED 9/0**



## Background

The Water Corporation have constructed sewer lines within a portion of Lot 11 Rockingham Road (Daviak Oval) as part of an infill sewage project.

## Submission

A written request has been received from the Water Corporation for the City to grant the easement. The request includes an offer based on a valuation report of \$500.

## Report

The easement will not have any impact on current or future utilisation of the land parcel. The offer of \$500 appears reasonable given the minimal impact that the easement will have on the land. It is not considered worthwhile getting an independent valuation as the cost of the valuation would exceed the value of the interest.

The Water Corporation have not been able to provide a suitable sewer connection point for the Daviak Oval Clubrooms on Lot 11 and this should also be resolved as part of the easement request.

The disposition is exempt from the provisions of Section 3.58 of the Local Government Act due to the minimal dollar value.

## Strategic Plan/Policy Implications

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

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

## Budget/Financial Implications

N/A.

## Legal Implications

Nil.

## Community Consultation

N/A



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

Nil.

**14.7 (MINUTE NO 2246) (OCM 16/12/2003) - RETROSPECTIVE APPLICATION - HOME BUSINESS - FISH SUPPLY - LOT 41; 28 OWEN ROAD, HAMILTON HILL (2201832) (MD) (ATTACH)**

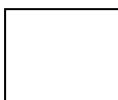
**RECOMMENDATION**

That Council:

- (1) Grant retrospective approval to a Home Business (fish supply) on Lot 41 (No. 28) Owen Road, Hamilton Hill under clause 8.4 of Town Planning Scheme No. 3 subject to the following conditions:

STANDARD CONDITIONS

1. Development may be carried out only in accordance with the terms of the application dated 8 August 2003 as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
4. The loading and unloading of fish and crustacea on the premises is limited to between 7 am and 7pm Monday to Saturday and not at all on Sunday or Public Holidays and can only be undertaken on-site.
5. No direct retail sales being permitted from the premises at any given time.
6. The development complying with the Home Business provisions and definition set out in the Town Planning Scheme.
7. All materials and equipment used in relation to the Home Business shall be stored within the residence or outbuilding.
8. The Home business Approval may be withdrawn by the Council upon receipt of substantiated complaints.
9. Approval is specific to the applicant only and does not run



with the land.

### SPECIAL CONDITIONS

10. The boat and fishing equipment is not to be washed down on-site or on Owen Road.
11. This approval does not include the processing, sorting, gutting or filleting of fish on the premises.
12. The use is not to interfere with the amenity of the locality or cause nuisance by reason of the emission of noise, odour or otherwise.
13. All vehicles connected with the home business to be parked or garaged when not in use on the property at all times.

### FOOTNOTES

1. This approval is issued by the Council under its Town Planning Scheme, and approvals or advice by other agencies may be required, and it is the responsibility of the applicant to ensure that all other approvals/advice are issued prior to commencing development or use of the land, and a copy of the approval/advice should be provided to the Council.
2. The development is to comply with the Environmental Protection Act 1986 which contains penalties where noise limits exceed those prescribed by the Environmental Protection (Noise) Regulations 1997.
3. "Home Business" is defined in the Council's Town Planning Scheme as "a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which -
  - (a) does not employ more than 2 people not members of the occupier's household;
  - (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
  - (c) does not occupy an area greater than 50 square metres;
  - (d) does not involve the retail sale, display or hire of goods of any nature;
  - (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare

- weight; and  
does not involve the use of an essential service of greater capacity than normally required in the zone”.
4. The box that the fish is stored in must be labelled with the words ‘Food Cabinet’ in lettering not less than 100mm as prescribed in regulation 22 (1) (e) of the Health (Food Hygiene) Regulations 1993.
  - (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval to the applicant accordingly; and
  - (3) advise those who lodged submissions of the Council’s decision.

**COUNCIL DECISION**  
 MOVED Clr V Oliver that Council:

- (1) receive the report; and
- (2) refuse to grant retrospective approval to an application for a Home Business (fish supply) on Lot 41 (No. 28) Owen Road Hamilton Hill, because this is considered to be an inappropriate use in a residential area.

**MOTION LAPSED FOR WANT OF A SECONDER**

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

**CARRIED 8/1**

**Background**

ZONING:	MRS:	Urban
	TPS3:	Residential (R20)
LAND USE:	Home Business (Fish Supply)	
LOT SIZE:	1000 m2	
AREA:	20 m2	
USE CLASS:	Home Business “A”	

The home business activity was brought to Council’s attention through receipt of a written complaint from a nearby resident. The written complaint raised issues of odour and noise generated from the business activities. Council officer’s subsequently investigated the complaint, which verified that a home business was being conducted





from the premises. As a result, the operator submitted a retrospective application to Council.

### **Submission**

On 13 October 2003, a retrospective application was received for a Home Business involving fish supply.

The applicant has provided the following information in support of the retrospective application, which has been summarised under sub-headings in italics below:

#### Operation

*"In summary the primary activity of the business is the catching of whole fish and supplying to wholesalers. No filleting and/or gutting of fish takes place at 28 Owen Road, Hamilton Hill. No fish related to the commercial business is stored on the premises. The key activities taking place at 28 Owen Road, that are directly related to the home business are:*

1. *Parking of fishing Vessel in rear garage (occupying no more than 13m<sup>2</sup>).*
2. *The reversing of a 4WD motor vehicle up the driveway to enable the hooking of the boat trailer onto the 4WD. In the main, this takes place between 5.30 and 6.00am. This process takes no more than 3 minutes.*
3. *Once the vessel is hooked the vehicle drives away to the Ramp at Cockburn Power Boats Association.*
4. *All fishing activity takes place out in the ocean.*
5. *The time of return to 28 Owen Rd, is in the main at 12pm (may vary between 11am and 1pm).*
6. *The boat is reversed into the rear garage.*
7. *Whole fish (packed out in the ocean in ice boxes) are then unloaded manually from the boat to the back of the 4WD vehicle. This process takes 30 minutes at the most.*
8. *In the event that a big load has been caught (this occurs once/twice every two months), the boat is reversed to position B on the map. The fish stored in a sealed ice box are then unloaded from the boat using a small forklift, and loaded onto the rear of the 4WD vehicle. The forklift has been installed with a noise minimiser/eliminator on the exhaust, minimising any noise pollution...Given that this process of unloading/loading involves the use of a small forklift, it takes approximately 2-3 minutes. This unloading process occupies less than 2.5m<sup>2</sup> of space (see C on the attached map).*
9. *Once the fish is loaded onto the rear of the 4WD, the vehicle drives off for delivery. Fish is delivered to seafood wholesalers in the Perth Metropolitan area. On a typical day this takes place at 12.30pm. The 4WD does not return to 28 Owen Rd for the day".*



### Days and Hours of Operation

Refer Table contained in the Agenda Attachments.

### Odour

*"I understand that the complaint lodged made mention of a smell/odour. I wish to bring to your attention that this business activity has taken place at this premises for at least 18 years, and during this time no complaints of any nature were made...It must be noted that in the last 8 weeks or so there has been a strong sewerage like smell filtering through the neighbourhood. It has been in the most recent past that we have noticed that it comes from the sewerage repository built on our front yard...Council representatives [subsequently have] replaced the valves and removed "wastes" from the repository...Since this repair has taken place there has been no smell".*

The application plan is contained in the Agenda Attachments.

### **Report**

#### Scheme Requirements

The subject land is zoned Residential (R20) under Council's Town Planning Scheme No.3 ("TPS3"). A home business is a use that is not permitted unless Council has exercised its discretion and has granted planning approval after giving special notice to affected persons in accordance with clause 9.4.

The application is retrospective in that the fish supply home business has been operating from the premises, without approval, for the past 18 years. Clause 8.4.1 gives Council the power to grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme which is the case in this instance.

The application was referred to surrounding landowners, in accordance with the requirements of Council's TPS3 and to provide nearby residents the opportunity to provide comment on the application.

The application has been referred to Council for determination following receipt of a submission objecting to the application from a nearby landowner.

#### Community Consultation

In accordance with Clause 9.4 of the Scheme, the application was advertised to nearby owners that are likely to be affected by the proposal. At the close of the advertising period, one letter of objection



and one letter of no objection were received. The following table is a summary of the issues raised in the submission:

Submitter	Objection/ Support/ Neutral	Summary of Submission
Requested to remain anonymous.	Objection	<p>The business operates 7 days per week and not 5 as stated in the application.</p> <p>The fish odour has been there for 18 years. The odour is more noticeable when the net is hosed and repaired during the summer months.</p> <p>The weight of the boat and 4WD is more than 2 tonnes. The dividing fence at the front is twisting due to the weight of the boat and the 4WD on the driveway.</p> <p>The main issue is the dog on the premises, which barks during the loading and unloading of the boat, which is believed not to be registered with Council.</p>

### Discussion

The concerns raised in the table of submissions are addressed below:

1. The applicant has clarified on-site that the hours of the fishing operation vary depending on the weather and may take place on weekends occasionally. It is recommended that a condition be placed on the approval limiting the hours of operation and to control any nuisance that may arise as a result of the operation of the home business.
2. On-site it was noted that any fish odour was minimal and was limited to within the garage, where the boat and nets were kept. It was considered that the fish odour noticed on the site inspection conducted on the 26 November 2003 was not significant enough to impact on the neighbouring properties.
3. Dividing fences are not an issue that local government's have the power to deal with. However, uses that may have an adverse impact on the amenity of an area is. On site it was acknowledged that a portion of the dividing fence was twisted. However, the paved driveway was in good condition and did not appear to be cracked or compacted. The portion of fence that was twisted was the top portion, the twisting did not start from the bottom of the fence. It is more likely that the fence was hit with an object at some stage, or the twisting was caused by the strong South-Westerly winds. It is considered that the weight of the boat and 4WD is not the cause of the twisting of the fence. Fence repairs could be carried out between the two owners.
4. The issue to do with the dog barking is not directly related to the application for the home business and is not considered relevant in the assessment of the application for a home business. The dog was registered with Council on the 14 April 1997.



### Conclusion

The primary commercial fishing activity occurs out in the ocean and the premises is only being used for the loading, unloading and storage of the boat. Given this, it is considered that any potential issues that may arise from the operation of the home business can be adequately addressed through appropriately conditioning the planning approval. It is recommended that the retrospective application be conditionally approved.

### **Strategic Plan/Policy Implications**

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

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

### **Budget/Financial Implications**

N/A

### **Legal Implications**

N/A

### **Community Consultation**

Application advertised. One letter of no objection and one letter of objection received.

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

Nil.

## **14.8 (MINUTE NO 2247) (OCM 16/12/2003) - CLOSURE OF PORTION OF O'CONNOR CLOSE, HAMILTON HILL (451356) (KJS) (ATTACH)**

### **RECOMMENDATION**

That Council request the Minister for Planning and Infrastructure to close portion of O'Connor Close, Hamilton Hill, pursuant to Section 58 of the Land Administration Act 1997.



**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

The portion of the proposed closure has for some time been utilised as hardstand storage by the adjoining properties. The area is shown on the South Beach Structure Plan to be developed and will not be required as a road reserve.

**Submission**

MGA Town Planning Consultants representing the proponents of South Beach Development have made a written request to close portion of road, to facilitate the subdivision and development of the South Beach Village project.

**Report**

The proposal was advertised and at the conclusion of the 35 day period there were no objections. Council should request the Minister to close portion of O'Connor Close.

**Strategic Plan/Policy Implications**

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

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

**Budget/Financial Implications**

N/A

**Legal Implications**

Nil.

**Community Consultation**

Adjoining owners have been contacted.



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

Nil.

**14.9 (MINUTE NO 2248) (OCM 16/12/2003) - BUILDING ENVELOPE MODIFICATION AND RETROSPECTIVE APPROVAL FOR EXISTING SHED - 22 PEPPERWORTH PLACE, JANDAKOT - OWNER: AV & DN CAREY - APPLICANT: AV CAREY (5517888) (ACB) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) grant retrospective approval to the building envelope modification and to an existing Shed on Lot 113 (22) Peppworth Place, Jandakot, subject to the following conditions:

Standard Conditions

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. All stormwater being contained and disposed of on-site to the satisfaction of the Council. All buildings and structures must be located within the Building Envelope on the approved plan.
4. No removal of vegetation is permitted, except in the following circumstances:-
  - (i) To build a house and any associated outbuildings or other approved structures;
  - (ii) To construct a driveway;
  - (iii) To remove vegetation that is dead, diseased or dangerous; or
  - (iv) To construct a three metre wide fire break around the perimeter of the property.

Footnotes

1. Any development is to comply with the requirements of the Building Code of Australia.



2. A licence must be obtained from the Water and Rivers Commission for the installation of a water bore, prior to the commencement of the development or the use of the land.
  3. With regards to Condition No. 4, the following advice is provided:  
  
 “Landowners of properties in the Resource Zone may have an expectation of being able to clear the native vegetation and replace it with lawn or similar. Whilst it is reasonable to have a small lawn area, particularly around the house (within the Building Envelope), clearing other than in the circumstances detailed in Condition No. 2 is not permitted.”
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval to the applicant;
  - (3) advise the owner that because the shed has been constructed the Council is unable to issue a building licence retrospectively;

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

**CARRIED 9/0**

**Background**

ZONING:	MRS:	Rural – Water Protection
	TPS3:	Resource Zone
LAND USE:	Residential	
LOT SIZE:	2ha	
AREA:	Proposed Envelope - 2804m <sup>2</sup> / Shed - approx 48m <sup>2</sup>	
USE CLASS:	Permitted	

The City issued a Building Licence for a Residential Dwelling and Granny Flat in 2001 and a Swimming Pool in 2002. The majority of these structures have been constructed outside the building envelope (refer to plan in agenda attachments).

On 16 September 2003 Building Services received a building application for a patio. This application was referred to Planning Services to confirm whether the structure was located within the building envelope.



Planning Services identified that previous approvals were constructed predominantly outside the building envelope. In addition a shed had been constructed on the site without a Planning Approval or Building Licence. The applicant was contacted and Planning Services requested a planning application for a building envelope modification and retrospective planning approval of the shed, given that the shed is setback 5m from the side boundary.

### **Submission**

On 20 October 2003 the applicant lodged a planning application for the existing shed and building envelope modification.

The shed has dimensions of approximately 6m by 8m and an area of approximately 48sqm. The proposed building envelope has dimensions of 53m by 52m and a 6m by 8m extension at the south east corner. The area of the envelope is approximately 2804sqm. A plan depicting the proposed building envelope modification is included in the Agenda attachments.

The Applicant has justified the application by not being aware that the buildings had been constructed outside the building envelope and that the shed was constructed by a shed company who assured they would make the necessary arrangements.

### **Report**

#### Existing Shed

Council has the discretion to grant planning approval to development retrospectively, pursuant to Clause 8.4 of Town Planning Scheme No. 3 (the Scheme), provided the development conforms to the provisions of the Scheme.

The existing shed does not conform to clause 5.10.2 of the Scheme, which requires all buildings on a lot with a building envelope being located within the boundaries of the building envelope.

The application however seeks to modify the location of the building envelope to bring the existing shed into compliance with clause 5.10.2 of the Scheme.

In addition there is a requirement that all buildings proposed on lots without a building envelope be erected no closer than 10 metres from a side or rear boundary. The existing shed, however is located 5 metres from the side boundary.

Council has the discretion to vary side setbacks, pursuant to clause 5.6 of the Scheme, provided the development has no adverse effect upon the occupiers, the inhabitants of the locality or the likely future





development of the locality, as is the case in this instance. The side boundary is adjacent to a 5 metre wide battleaxe access leg, which effectively achieves the 10 metre setback requirement (refer plan in Agenda attachments).

### Building Envelope Modification

A larger building envelope will ensure that all existing buildings are contained within an approved building envelope. This will result in no additional vegetation removal as the area is already developed.

The majority of the building envelope will be setback a distance of 10 metres from the boundary with the exception of the portion which accommodates the existing shed. Approximately 8 metres of the building envelope will be setback 5 metres from the boundary, however this is sufficient to achieve the 3m firebreak requirement around the perimeter of the allotment.

On this basis, it is considered the building envelope modification is acceptable.

### Conclusion

No further action is recommended in respect to the unlawful development, given that the owner has now sought approval and that the existing shed does not adversely affect the occupiers, inhabitants of the locality or the likely future development of the locality.

It should be noted that a building licence for the existing shed cannot be issued retrospectively and the owner should be advised of this.

### **Strategic Plan/Policy Implications**

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

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

The Planning Policies which apply to this item are:-

APD17	Standard Development Conditions and Footnotes
APD18	Outbuildings
APD33	Town Planning Scheme No. 3 Provisions



**Budget/Financial Implications**

Nil.

**Legal Implications**

Nil.

**Community Consultation**

Nil.

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

Nil.

**14.10 (MINUTE NO 2249) (OCM 16/12/2003) - ILLEGAL VEGETATION CLEARING AND BURNING - LOT 9001; 1 KNOCK PLACE, JANDAKOT - OWNER: SOLTOGGIO HOLDINGS P/L & FFI HOLDINGS P/L (6000744) (DB) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the report;
- (2) instruct its Solicitors to commence legal proceedings against Wedgepoint Pty Ltd (ACN 105 461 309) and Soltoggio Holdings Pty Ltd (ACN 008 785 055) in accordance with section 10AB(1)(a) of the *Town Planning and Development Act 1928* for a breach of the City of Cockburn Town Planning Scheme No. 3; and
- (3) seek further legal advice on the illegal burning of vegetation and add this issue to the complaint, subject to confirmation that a breach of the law administered by the Council has occurred.

**COUNCIL DECISION**

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

**CARRIED 9/0**



## Background

ZONING:	MRS:	Industry
	TPS:	Development Zone (Structure Plan)
LAND USE:	Vacant land	
LOT SIZE:	12.25 Ha	
AREA:	6 Ha (approx)	
USE CLASS:		

The City recently became aware that approximately half the remnant bushland on the lot was cleared and the vegetation stockpiled into large piles and subsequently burnt.

The vegetation clearing had not received the prior planning approval of the Council and was therefore undertaken illegally. The extent of the clearing is illustrated in the agenda attachments.

## Submission

The landowner has advised that a prospective purchaser, Wedgepoint Pty Ltd, was responsible for the vegetation clearing. A copy of the landowner's submission to the City is included in the agenda attachments. This advice from the landowner suggests that neighbourhood arsonists may have been responsible for the burning of the cleared vegetation, however this cannot be verified.

## Report

The Council has previously expressed a concern that illegal vegetation clearing is not tolerated within the district. It is recommended that Council makes a stand, as illegal clearing of vegetation has occurred and regardless of the end use of the land, in this case Industry, it should not be ignored.

The area that has been cleared is 5-hectares and contained Banksia and Spearwood vegetation in good condition. A flora and fauna survey should have been submitted along with a development application prior to clearing the lot.

It is recommended that Council initiate legal action pursuant to section 10AB(3) of the Town Planning and Development Act 1928 against the purchaser Wedgepoint Pty Ltd and the current owner, Soltoggio Holdings Pty Ltd who is ultimately responsible for ensuring that the land complies with the City's Town Planning Scheme No. 3.

As the illegal action has been carried out, serving notices seeking compliance with TPS3 is inappropriate. Further legal advice will need to be obtained from Council's solicitor regarding the illegal burning of vegetation.



The clearing has occurred without any regard for environmental principles or the requirements of the Town Planning Scheme. Therefore the Council should commence legal action without delay.

### **Strategic Plan/Policy Implications**

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

1. Managing Your City
  - *“To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way.”*
  
3. Conserving and Improving Your Environment
  - *“To conserve the quality, extent and uniqueness of the natural environment that exists within the district.”*
  - *“To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained.”*

The Planning Policies which apply to this item are:-

APD29          Development Compliance Process

The Development Compliance Process requires a minimum of two notices or “Directions” to be given. However section 10AB(3) of the *Town Planning and Development Act 1928* allows the Local Government to prosecute a person or persons for a breach of the Town Planning Scheme regardless of whether or not a direction has been given. As the vegetation clearing has already been carried out, there would be little point in issuing a direction to stop. Therefore the Council should set aside the requirements of APD29 and proceed with legal action immediately.

### **Budget/Financial Implications**

Undertaking legal action will require the use of funds from the Council’s legal expenses budget. If the prosecution is successful, legal costs and fines may be imposed at the discretion of the Courts.

### **Legal Implications**

Town Planning and Development Act 1928  
Town Planning Scheme No. 3

### **Community Consultation**

N/A



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

Nil.

**14.11 (MINUTE NO 2250) (OCM 16/12/2003) - PROPOSED CHILD CARE CENTRE (ABC) - LOT 48; NO. 2 MURIEL COURT, JANDAKOT (5513191) (MR) (ATTACH)****RECOMMENDATION**

That Council:

- (1) approve the proposal for a Child Day Care Centre at Lot 48 (No 2) Muriel Court (cnr Semple Court), Jandakot, subject to the following conditions:-

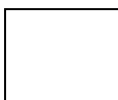
Standard Conditions:

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. Retaining wall(s) being constructed in accordance with a suitably qualified Structural Engineer's design and a building licence being obtained prior to construction.
4. No building construction activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7:00am Monday to Saturday and not at all on Sunday or Public Holidays.
5. A plan or description of all signs for the proposed development (including signs painted on a building) shall be submitted to and approved by Council as a separate application. The application (including detailed plans) and appropriate fee for a sign licence must be submitted to Council prior to the erection of any signage on the site/building.
6. Landscaping and tree planting to be undertaken in accordance with the approved plan prior to the occupation of the site.
7. The landscaping installed in accordance with the approved detailed landscape plan, must be reticulated or



irrigated and maintained to the satisfaction of Council.

8. No development or building work covered by this approval shall be commenced until the landscape plan has been submitted and approved by Council.
9. Earthworks over the site and batters must be stabilised to prevent sand or dust blowing and appropriate measures shall be implemented within the time and in the manner directed by Council, in the event that sand or dust is blown from the site.
10. All stormwater being contained and disposed of on-site.
11. Works depicted on the approved parking plan shall be maintained to the satisfaction of Council.
12. The vehicle parking area shall be sealed, kerbed, drained and line marked in accordance with the approved plans and specifications certified by a suitably qualified practicing Engineer to the satisfaction of Council.
13. The site car parking bay/s, driveway/s and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890) unless otherwise specified by this approval and are to be constructed, drained and marked in accordance with the design and specifications certified by a suitably qualified practicing Engineer and are to be completed prior to the development being occupied and thereafter maintained to the satisfaction of Council.
14. A minimum of 1 disabled carbay designed in accordance with Australian Standard 2890.1 – 1993 is to be provided, in a location convenient to and connected to a continuous accessible path to the main entrance of the building or facility. Design and signage of the bay(s) and path(s) is to be in accordance with Australian Standard 1428.1 – 1993. Detailed plans and specifications illustrating the means of compliance with this condition are to be submitted in conjunction with the building licence application.
15. Car bay grades are not to exceed 6% and disabled car bays are to have a maximum grade 2.5%.
16. Landscaping is to be undertaken in the street verge adjacent to the Lot(s) in accordance with the approved plans and be established prior to the occupation of the building; and thereafter maintained to the Council's satisfaction.



17. The development site must be connected to the reticulated sewerage system of the Water Corporation before commencement of any use, or to such alternative system of effluent disposal as may be approved by the Department of Health prior to commencement of any use.

**CONDITIONS TO BE COMPLIED WITH PRIOR TO APPLYING FOR A BUILDING LICENCE**

18. All stormwater drainage shall be designed in accordance with the document entitled "Australian Rainfall and Runoff" 1987 (where amended) produced by the Institute of Engineers, Australia and the design is to be certified by a suitably qualified practicing Engineer and designed on the basis of a 1:100 year storm event.
19. A landscape plan must be submitted to the Council and approved, prior to applying for a building licence and shall include the following:-
- (1) the location, number and type of existing and proposed trees and shrubs including calculations for the landscaping area being in conformity with the City of Cockburn Greening Plan;
  - (2) any lawns to be established;
  - (3) any natural landscape areas to be retained;
  - (4) those areas to be reticulated or irrigated; and
  - (5) verge treatments.

Special Conditions

20. The owner entering into a caveatable agreement with the Council giving a legally binding commitment that Lot 48 (No 2) Muriel Court, Jandakot will not be subdivided until Council has adopted a Structure Plan and received endorsement of the Structure Plan from the Western Australian Planning Commission for Development Area 19.
21. The applicant engaging a qualified engineer (with experience) to certify that the land does not contain any unsuitable landfill associated with or prior to development works and that the land is physically capable of development to the satisfaction of Council.
22. Connection to reticulated sewer and reticulated water supply being provided prior to occupation of the development.

Footnotes

1. The development is to comply with the requirements of the Building Code of Australia. The proposal for the purpose of the BCA and must comply with:-

- All boundary setbacks to be in accordance with the BCA;
- Access & facilities for persons with disabilities are to be provided in accordance with the BCA to the site and within the building; and
- All ablution facilities are to be in accordance with the BCA.

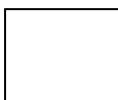
2. Detailed plans and specifications of the kitchen, dry storerooms, coolrooms, bar and liquor facilities, staff change rooms, patron and staff sanitary conveniences and garbage room, are to be submitted to and approved by the Council's Health Services prior to the occupation of the premises. The plans to include details of:

- (a) the structural finishes of all floors, walls and ceilings;
- (b) the position, type and construction of all fixtures, fittings and equipment (including cross-sectional drawings of benches, shelving, cupboards, stoves, tables, cabinets, counters, display refrigeration, freezers etc.); and
- (c) all kitchen exhaust hoods and mechanical ventilation systems over cooking ranges, sanitary conveniences, exhaust ventilation systems, mechanical services, hydraulic services, drains, grease traps and provision for waste disposal.

These plans are to be submitted separately to those submitted to obtain a building licence.

The application must be in accordance with the Health (Food Hygiene) Regulations 1993 and Chapter 3 of the Australian New Zealand Food Standards Code (Australia Only) and also include any information about the existing facilities to be retained and used. (refer to the attached form)

3. Submission of mechanical engineering design drawings and specifications, together with certification by the design engineer that satisfy the requirements of the Australian Standard 3666 of 1989 for Air Handling and Water Systems, should be submitted in conjunction with the Building Licence application. Written approval from the Council's Health Service for the installation of air





handling system, water system or cooling tower is to be obtained prior to the installation of the system.

4. The development is to comply with the *Environmental Protection Act 1986* which contains penalties where noise limits exceed that prescribed by the *Environmental Protection (Noise) Regulations 1997*.
5. The proposal be referred by the applicant to the EPA in relation to the works required to ensure the site is suitable for the intended use, given the previous use of the land for cement products which may have caused on-site contamination.

- (2) issue a Schedule 9 Notice of approval accordingly; and
- (3) advise those who lodged a submission of Council's decision.

#### **COUNCIL DECISION**

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

**CARRIED 9/0**

#### **Background**

ZONING:	MRS	Urban
	TPS3:	Development Zone (DA19)
LAND USE:	Existing House, Shed, Horse shelters and paddocks	
LOT SIZE:	0.8219 HA	
APPLICANT:	Koltasz Smith	
OWNER:	Jeanny Lie	
AREA:	0.2728 HA (development site)	
USE CLASS:	Not Listed ("discretionary use")	

#### **Submission**

The applicant has provided the following information in support of the proposal:-

- The proposal is to redevelop the property for a child care centre that will cater for 99 children up to five years of age;
- The hours of operation are between 6:30am to 6:30pm Monday to Friday;
- Up to 16 staff would care for the children;



- The centre would service the urban areas of Jandakot and South Lake with most children residing within 2 kilometres of the centre;
- Access into the site would be obtained from Muriel Court and exit onto Semple Court.
- The building area 695sqm is to be designed with an applied finish over rendered masonry with a typical gable roof with colourbond corrugated sheet. The design also includes verandas to reflect the ultimate residential character of the surrounding area;
- Car parking is provided at the rate of one bay per 10 children accommodated and one additional bay per staff member with a total of 26 bays provided.

The applicant has justified the proposal on the following basis:-

- *“The use is an ideal use in a location that is less desirable for normal residential use given the site’s exposure to Semple Court;*
- *Regular lot configuration;*
- *The design is residential in appearance and recognises the need to provide access off Muriel Court;*
- *The proposed development will comply with the space and built requirements if the “Community Services (Child Care) Regulations 1988” and*
- *The land is of adequate size to accommodate all facilities required for the Centre including services, outdoor play areas, landscaping and car parking.”*

## **Report**

The proposal to redevelop the property is one that the Council has the discretion to either approve, with or without conditions, or refuse pursuant to Town Planning Scheme No 3.

The proposed development complies with Town Planning Scheme No 3 in relation to car parking and relevant standards.

### Submissions

The proposed development was advertised for a period of 14 days by way of letters of notification sent to the surrounding owners. At the close of the submission period 21 submissions were received 12 (57%) not objecting and 9 objecting (43%) to the proposed development. One submission was disregarded as both ‘tick boxes’ of objection and no objection were ticked. The location of each submission was mapped where local responses were received. Refer to the attachment. From the submissions received there is no clear majority view on the suitability of the proposal as the response was fairly even. The objectors are located both adjacent to the subject land and towards the end of Muriel Court.

The following concerns were raised from the objections received:-



- Traffic congestion/impact – 4 responses
- Unsuitable location in residential area – 4 responses
- Need not demonstrated when other child care centres nearby have vacancies – 1 response
- Not on sewerage – 1 response
- Building size too big to close – 1 response
- Noise from development – night shift worker – 1 response
- Reduce property values – 1 response

The concerns identified in the public submissions have either been addressed by the applicant or can be addressed as conditions of approval in the following regard:-

- The applicant has provided a traffic impact statement, which addresses concerns about traffic congestion at the intersection, which now has a round-a-bout at Semple and Muriel Court. Access into the site is based on a one-way system with access via Muriel Court and an exit onto Semple Court.
- It is not uncommon for child centre developments to be located in appropriate locations within or adjacent to residential areas.
- The existence of other child care centres in the area with or without vacancies is not a relevant planning consideration. Economic demand is dictated by market.
- The development must also be connected to reticulated sewer and reticulated water supply.
- The development must comply with the *Environmental Protection (Noise) Regulations 1997*. The position of the outdoor play area is also at the rear of the proposed building which would provide an additional screen and acoustic barrier to the adjacent owners on Muriel Court.
- The concern about impact on property values is not substantiated and is not a relevant planning consideration in any event.

#### Future Planning

Clause 6.2.4.1 of TPS3 requires the Council not to approve development of land within the Development Area unless there is a structure plan for the Development Area or relevant part of the Development Area. The Council, however, has the authority to approve development of the land in this instance if it is satisfied the development will not prejudice the coordinated subdivision and development of the area. The subject site is situated on the corner of Muriel and Semple Court on the periphery of the development area and will therefore not prejudice future planning options.



There are no objections to the approval of the proposed development, which is low scale (single storey) and residential in design which will blend into the area and be compatible with future residential development. Objections are raised over the applicant applying to subdivide the subject land into two parcels to enable the childcare centre to be on-sold. An application for subdivision approval was previously lodged with the Western Australian Planning Commission and not supported by the Council. Further fragmentation of land by subdivision could prejudice the preparation of a Structure Plan for Development Area 19. It is recommended that a special condition be imposed on the approval that the owner enter into an agreement with the Council to ensure that the land is not subdivided unless it is consistent with an adopted Structure Plan.

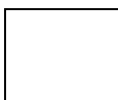
### **Strategic Plan/Policy Implications**

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

1. Managing Your City
  - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
  - *"To foster a sense of community within the district generally and neighbourhoods in particular."*
3. Conserving and Improving Your Environment
  - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
  - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*
4. Facilitating the needs of Your Community
  - *"To facilitate and provide an optimum range of community services."*

The Planning Policy that applies to this item is:-

APD17 Standard Development Conditions and Footnotes



**Budget/Financial Implications**

If the applicant appeals the Council could be required to cover the cost associated with defending an appeal in the Town Planning Appeal Tribunal.

**Legal Implications**

The applicant has the right of appeal if aggrieved by the decision of Council pursuant to Part V of the TP&D Act.

**Community Consultation**

The application was advertised in accordance with the requirements of Town Planning Scheme No 3.

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

Nil.

**14.12 (MINUTE NO 2251) (OCM 16/12/2003) - FINAL ADOPTION OF SOUTH BEACH STRUCTURE PLAN (MR) (9653) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) re-adopt the modified South Beach Structure Plan, December 2003, pursuant to Clause 6.2.14 of the City of Cockburn Town Planning Scheme No 3, as contained in the attachment;
- (2) refer a copy of the Revised Structure Plan to the Western Australian Planning Commission seeking the endorsement of the modifications pursuant to Clause 6.2.14.4 of Town Planning Scheme No 3; and
- (3) advise Stockland of the Council's decision accordingly.

**COUNCIL DECISION**

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

**CARRIED 9/0**



## **Background**

The Council adopted South Beach Structure Plan ("Structure Plan") was forwarded to the Western Australian Planning Commission ("Commission") for endorsement following its Ordinary Meeting in July 2002. The Commission reviewed the Structure Plan and expressed concern in relation to various matters particularly that the resolution to adopt the Structure Plan be under District Zoning Scheme No 2 rather than proposed Town Planning Scheme No. 3. The Council complied with this direction.

Further background to this matter is outlined in Item 14.3 OCM16/07/02 and OCM 19/09/02.

The land the subject of the Structure Plan is zoned Development in TPS3 and is zoned Urban in the Metropolitan Region Scheme ("MRS"). Subsequently the Structure Plan was referred to the January 2003 Ordinary Meeting of Council where it was adopted pursuant to Town Planning Scheme No 3, following its gazettal in December 2002.

A subdivision plan was lodged by planning consultants acting on behalf of South Beach Pty Ltd in April 2003. The City recommended that the application be supported subject to several conditions. The subdivisional plan is generally in accordance with the adopted structure plan pursuant to Clause 6.2.3.2 of TPS3. Clause 6.2.14 of TPS3 however, allows Council to adopt variations to structure plans. A precautionary view is that the Council should consider the changes to the road layout as a variation to the adopted structure plan.

## **Submission**

Stockland have submitted a subdivision plan for Lot 100 Rollinson Road with the Commission to create residential lots. The subdivision layout generally is in accordance with the adopted South Beach Structure Plan. The subdivisional road layout was modified by Stockland following further investigations into:-

- Reducing the likelihood of through traffic via Cockburn Road, Rollinson Road, and the internal subdivisional roads linking to South Terrace, by deleting the eastern link onto Rollinson Road in favour of creating a four-way intersection at the T-junction with Bennett Avenue as required by the Commission.
- Reconfiguring the lots so as to back onto the public open space rather than a road.

## **Report**

Variations to the South Beach Structure Plan evolved through the course of detailed planning within the subdivisional area.



Council has the discretion to adopt a variation to the Structure Plan pursuant to Clause 6.2.14.1 of TPS3 by resolution where in the opinion of Council the variation does not materially alter the intent of the Structure Plan. In this instance the variation does not alter the intent of the Structure Plan and therefore it is not considered necessary for the variation to be advertised for public comment.

The structure plan variations only apply to the internal subdivisional roads as follows:-

#### Rollinson Road Access

Council initially adopted the structure plan with one road link from Rollinson Road. The Commission subsequently adopted the structure plan with the condition that an additional requirement of Bennett Avenue being extended across Rollinson Road into the Structure Plan area in the form of a right-of-way for conversion into a road reserve should proposed development planned for the land south of Rollinson Road require this.

Stockland subsequently met with City Officers in the presence of their traffic engineer where the proposal was put that two road links would facilitate an easier path for vehicles to travel through the subdivisional area to link with South Terrace. This was a concern raised by the City of Fremantle officers. To address this matter Stockland have proposed changes to access that increase journey times through the subdivisional area by deleting the eastern road connection onto Rollinson Road. The replacement road accords with the road connection required by the Commission. The revised connection onto Rollinson Road is a better link as it maintains future access options for land south and provides a less direct route through the subdivision onto South Terrace. When coupled with traffic management devices within the subdivision through traffic will be discouraged as far as practicable.

#### POS Loop Road deleted

The second change is to delete the southern section of the loop road around the central public open space. The northern section of the road would still be along the public open space while the southern and eastern portion would have residential lots backing onto future POS. Preliminary designs were prepared by Stockland showing a high level interface between the high-density residential development (ie balconies, habitable windows) directly overlooking the POS area, which will promote surveillance and security of this area. There are no objections to the modifications proposed from a planning viewpoint.

#### WA Planning Commission's endorsement

If the Council varies the structure plan and the variation does not propose the subdivision of land the Council is required to forward a copy of the variation to the Commission within 10 days of making the resolution. The Commission is required to determine whether or not to



endorse the proposed variation as soon as practicable after receiving the structure plan variation.

### **Strategic Plan/Policy Implications**

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

2. Planning Your City

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

3. Conserving and Improving Your Environment

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

Council Policies that apply are:-

SPD4            Liveable Neighbourhoods

### **Budget/Financial Implications**

N/A

### **Legal Implications**

The applicant has the right of appeal if aggrieved by the decision of Council pursuant to Part V of the TP&D Act.

### **Community Consultation**

The South Beach Structure Plan has already been through a comprehensive public consultation program, which included workshops. The proposed road layout changes do not materially alter the intent of the Structure Plan and therefore no further public consultation is required.

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

Nil.





**14.13 (MINUTE NO 2252) (OCM 16/12/2003) - PROPOSED STRUCTURE PLAN FOR PORTION OF DEVELOPMENT AREA NO. 18 - BRIGGS STREET (DA18); LOT 27 & LOT 9 BRIGGS STREET, LOT 16 THOMAS STREET, SOUTH LAKE - VARIOUS OWNERS (9628) (JW) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the report;
- (2) adopt the advertised Structure Plan for portion of Development Area No.18 – Briggs Street, South Lake dated 8 October 2003;
- (3) adopt the Schedule of Submissions as contained in the Agenda attachment;
- (4) advise the Western Australian Planning Commission and those persons who made a submission of Council's decision.

**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

ZONING:	MRS:	Urban
	TPS:	Development Zone and falls within Development Area 18
LAND USE:	vacant	
LOT SIZE:	Lot 9 Briggs Street: 2.0234ha Lot 27 Briggs Street: 1.8552ha Lot 16 Thomas Street: 2.0234ha	
AREA:		
USE CLASS:	N/A	

This structure plan and report has been prepared for portion of Development Area No.18 – Briggs Street, South Lake.

In July 1995 Council adopted the Thomas Street/Briggs Street Outline Development Plan, which covered an area of land bound by Thomas Street, Semple Court, Berrigan Drive and the high voltage transmission line corridor, South Lake. Since the adoption of this plan, much of the land has been developed on a lot by lot basis. Although the



development was in general accordance with the adopted plan, the road layout has been altered.

Accordingly, in 2002, to reflect the changes occurred during subdivision and to comply with the requirements of the proposed TPS 3 for Structure Plans, the City advertised an amended 'Briggs Street Structure Plan', which was conditionally adopted by Council at its meeting held on 20 August 2002. The Structure Plan was forwarded to the Western Australian Planning Commission for endorsement on 30 August 2002. A copy of the August 2002 'Briggs Street Structure Plan' is shown as Figure 1 in the Agenda attachments.

### **Submission**

Council has received a subdivision application for Lot 16 Thomas Street in October 2003, based on the revised Structure Plan, the basis of this report.

### **Report**

Council has received alternative proposals for Lot 9 Briggs Street and Lot 16 Thomas Street since the adoption of the August 2002 'Briggs Street Structure Plan'. The subdivision application for Lot 27 Briggs Street was the subject of consideration by the Town Planning Appeal Tribunal. These proposals result in minor variations to the adopted 'Briggs Street Structure Plan'. The City's Strategic Planning Services have prepared a revised Structure Plan to reflect these variations. A copy of the revised Structure Plan is shown as Figure 2 in the Agenda attachments. The changes include the redesign of Lot 9 Briggs Street and 16 Thomas Street

The concept for Lot 16 is revised from a loop road joining the subdivision and development on previous Lot 17 Thomas Street to the east to a single cul-de-sac terminating at the public open space.

The concept for Lot 9 is revised from a continuous road joining the subdivision and development on previous Lot 8 Briggs Street to the east to a single cul-de-sac terminating at the public open space.

Compared to the August 2002 Briggs Street Structure Plan, the revised plan shows a marginally decreased POS area on Lots 9 & 16, which was previously approximately 25% of each land holding. The lot yield on both lots has been increased. The reduction on POS and increase in lot yields will not compromise any recreational value nor community benefit, but rather stimulate the development of these two lots, without which, the land would most likely not be subdivided and remain undeveloped in the area for the foreseeable future. Council's records show that Lots 9 & 16 have not been the subject of any previous application.



It is considered that the revised Structure Plan is more equitable and will facilitate the subdivision of Lot 27 Briggs Street

The subdivision for lot 27 Briggs Street dated 20 December 2002 was the subject of consideration by the Town Planning Appeal Tribunal. In September 2003 the Tribunal agreed to approve a revised subdivision plan dated 1 August 2003, which shows the following changes:-

- A loop road joining the subdivision and development on previous Lot 70 Briggs Street to the east being disconnected and terminated at the POS as a single cul-de-sac;
- The POS provision and location;
- The protection of the significant existing vegetation along the frontage to Berrigan Drive;
- The provision of a separate lot for drainage purposes,
- The provision of pedestrian/cyclist linkage to existing community facilities to the north, and
- The provision of Water Corporation easement.

Council officers supported the revised subdivision for Lot 27 Briggs Street. The revised Structure Plan will reflect this approved subdivision proposal.

### Summary

Given the nature and scope of the changes outlined above, it is considered the revised Structure Plan satisfies the requirements of TPS No.3 and is in accordance with sound planning principles. It is recommended that Council resolve to adopt the Structure Plan for portion of Development Area 18 – Briggs Street, South Lake.

### **Strategic Plan/Policy Implications**

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

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



- *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*
4. Facilitating the needs of Your Community
- *"To facilitate and provide an optimum range of community services."*
  - *"To determine by best practice, the most appropriate range of sporting facilities and natural recreation areas to be provided within the district to meet the needs of all age groups within the community."*
5. Maintaining Your Community Facilities
- *"To construct and maintain roads, which are the responsibility of the Council, in accordance with recognised standards, and are convenient and safe for use by vehicles, cyclists and pedestrians."*
  - *"To construct and maintain parks which are owned or vested in the Council, in accordance with recognised standards and are convenient and safe for public use."*

The Planning Policies which apply to this item are:-

SPD1	Bushland conservation Policy
APD4	Public Open Space
APD20	Design Principles for Incorporating Natural Management Areas Including Wetlands and Bushlands in Open Space and / or Drainage Areas
APD26	Control Measures for Protecting Water Resources in Receiving Environments
APD28	Public Open Space Credit Calculations
APD30	Road Reserve and Pavement Standards
APD31	Detailed Area Plans

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Nil

### **Community Consultation**

The Structure Plan proposal was advertised for public comment for a period of 28 days, with the comment period concluding on 14 November 2003. Owners of property near the subject land and relevant agencies and servicing authorities were invited to comment by letter. The local newspapers circulating in the locality carried advertisements of the proposal. A total of 11 submissions were received including comments from W&RC, Alinta Gas and adjoining owners. A schedule



of submissions and the recommended responses is included in the Agenda attachments. The responses to the issues raised are self-explanatory and it is not considered necessary to provide further comment in this report.

The proposed Structure Plan is acceptable to the agencies and adjoining landowners consulted. Issues raised from the submissions can either be appropriately addressed through the subdivision process, or dismissed on the basis of misinterpreting or irrelevance to the proposal.

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

Nil.

#### **14.14 (MINUTE NO 2253) (OCM 16/12/2003) - SUBDIVISION DECISION RECONSIDERATION - LOT 6 HENDERSON ROAD, MUNSTER - OWNER: BETTABAR PTY LTD - APPLICANT: GAETANE VAN DER BEKEN (120300) (CP) (ATTACH)**

##### **RECOMMENDATION**

That Council:

- (1) advise the Western Australian Planning Commission that it does not support the request for reconsideration for the subdivision of Lot 6 Henderson Road, Munster, for the following reasons:
  1. The site is partially affected by the Kwinana (EPP) Air Quality Buffer, whereby the proposal, if approved, could set a precedent for further subdivision of a similar kind, which collectively would jeopardise present planning objectives.
  2. The proposed subdivision conflicts with the Council's Local Planning Strategy (September 1999) and Rural Subdivision Policy (APD7) relating to the subject land and surrounding area;
  3. The need for the subdivision has not been justified on relevant planning grounds;
  4. It has not been demonstrated that relevant, unique circumstances apply that would prevent the creation of an undesirable precedent for the area.
  5. No reticulated water is available to the subject land.
- (2) advise the proponent of Council's decision.



**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

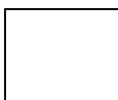
ZONING:	MRS:	Rural
	TPS3:	Rural
LAND USE:	Vacant rural property	
PROPOSED LOT SIZES:	Lot 1 = 9877m <sup>2</sup> Lot 2 = 9877m <sup>2</sup>	
CURRENT LOT AREA:	1.9754 ha	
OWNER	Bettabar Pty Ltd	
APPLICANT	Gaetane Van Der Beken	

At the Ordinary Council Meeting on 17 December 2002, it was resolved that in respect to the land at Lot 6 Henderson Road, Munster, Council shall:

“(1) not support the subdivision application in its recommendation to the Western Australian Planning Commission for the following reasons:

1. *The site is affected by the Kwinana (EPP) Air Quality Buffer, whereby the proposal, if approved, could set a precedent for further subdivision of a similar kind, which collectively would jeopardise present planning objectives.*
2. *The land is zoned 'Rural' in the Metropolitan Region Scheme and in the Local Government's Town Planning Scheme. The purpose and intent of this zoning is to preserve the area's current rural use and intensity of development. Subdivision in the manner proposed would create the potential for additional building development and the introduction of increased non-rural activity in conflict with the zoning objectives;*
3. *The proposed subdivision has not been justified on planning grounds;*
4. *The proposed subdivision does not comply with the City of Cockburn Rural Subdivision Policy.”*

On 17 February 2003, the Western Australian Planning Commission (the “WAPC”) refused the subdivision application. A copy of that decision, including the reasons for refusal, is contained in the Agenda attachments.



## Submission

A request has been received for reconsideration of the decision by the WAPC to refuse the application (by G Van Der Beken) to subdivide Lot 6 Henderson Road, Munster.

The applicant in support of the reconsideration request has submitted the following points:

- That zoning of the land should not be an overriding consideration in determining the application to subdivide.
- The subdivision is not inconsistent with the objectives of the Rural zone.
- The subdivision of the land into two lots of 9877m<sup>2</sup> each would not lead to much closer development.
- The subdivision is necessary to enable two family members who have been gifted the land, to retain and protect their interests in it. One family member does not intend to build for at least 5 years.
- It is acknowledged the property is not serviced by a reticulated water supply.
- Approval of the subdivision need not set an undesirable precedent for further subdivision of surrounding lots. The subject land is unique in that it is vacant land.
- There are a number of small lots near the subject land.

A copy of the request for reconsideration is contained in the Agenda attachments.

## Report

It is proposed to subdivide the land into two lots, each comprising 9877m<sup>2</sup>.

The property is affected by the Kwinana (Cockburn Cement) Air Quality Buffer and is also affected by a midge buffer around Thomson Lake. These residential development constraints reinforce the Rural zoning in both the Metropolitan Region Scheme and the Town Planning Scheme (No.3).

Item 14.7 OCM 17/12/02 discussed the proposed subdivision and the various planning issues, which are considered here to be equally relevant today, notwithstanding the points submitted in support of the request for reconsideration.

However, the following comments are made in response to the issues submitted in support of the reconsideration:

### Zoning:

The zoning of the land is a significant matter to consider in that it represents the primary mechanism by which to implement a Local and



State Government planning strategy for the area. It is therefore appropriate to apply high importance to the zoning when considering this application.

Policy:

The proposal seeks to fragment the land into two rural-residential lots in an area identified being close to heavy industry as well as a lake with a known midge problem. Subdivision of the subject land *is* contrary to Policy APD7 “*Rural Subdivision*”, which clearly states: “The Council will not support further subdivision of land within this zone”.

Furthermore, the proposal is inconsistent with the Statement of Planning Policy 2.5 *Agriculture and Rural Land Use Planning* in that the land is not zoned Rural-Residential in a town planning scheme and Clause 5.3.1. (iii) which states “The Commission will only support Rural-Residential and Rural Smallholdings where the land has been appropriately zoned within the town planning scheme and the provisions of Policy No. DC 3.4(2001) Clause 6 can be complied with.”

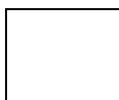
Industrial/ Residential Land Use Conflict:

The subdivision of 1.9754 ha into two lots of 9877m<sup>2</sup> constitutes low-density residential development, occurring in an area that currently exhibits a predominantly rural character. The cumulative adverse effects of similar density subdivision occurring elsewhere in the zone are considered to be potentially significant, not only from a servicing perspective but also in relation to the issue of increasing population in an area affected by an EPP (air quality) buffer, which intends to protect large scale industry from conflicts associated with residential development and vice versa.

Precedent:

Approval of this application may create a precedent that could compel the Commission to approve other similar applications to subdivide in the Rural zone. The statement that the land is currently vacant is not a matter of any planning significance. No evidence has been submitted to demonstrate the application has any unique circumstance that could not be applied to other land in the zone, and therefore somehow make it different from a planning perspective.

The other small lots located around the zone predate the FRIAR’s report (March 1999) and Council’s current rural subdivision policy. If approved, the current application would represent the first subdivision in the zone in this area, establishing the precedent referred to above.





Justification:

The need to subdivide in order to protect one's interests in the land is not a valid planning argument, on the basis that the land doesn't need to be subdivided in order to enable multiple ownership to occur. Once fragmented, there would be nothing preventing each new title being sold at any time, irrespective of the stated intentions of not constructing a new dwelling on one of the lots for at least 5 years.

In conclusion, although not all of the site is located within the Kwinana (EPP) Air Quality Buffer, Council's Local Planning Strategy (September 1999) encourages the retention of a rural zone land bank to act as a "greenbelt" between urban areas and the Kwinana industrial strip. The current proposal conflicts with this strategy and could potentially create a precedent.

In addition, the issues submitted in support of the reconsideration effectively restate the matters submitted previously.

On the basis of the above, it is recommended that Council not support the request for reconsideration.

**Strategic Plan/Policy Implications**

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

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

The Planning Policies which apply to this item are:-

APD6 Residential Rezoning and Subdivision Adjoining Midge Infested Lakes  
 APD7 Rural Subdivision Policy



### **Budget/Financial Implications**

Increased pressure on Council for urban level services should this and other similar subdivisions be approved in the future.

### **Legal Implications**

Potential costs defending the WAPC decision in the event an appeal is lodged.

### **Community Consultation**

N/A

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

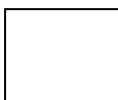
Nil.

**14.15 (MINUTE NO 2254) (OCM 16/12/2003) - RETROSPECTIVE APPROVAL - CODES VARIATION - PATIO - LOT 613 (53) FORILLION AVENUE, BIBRA LAKE - OWNER/APPLICANT: S & S NOVAKOVIC (1118030) (CP) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) refuse the retrospective application to permit the construction of a patio 0.5m from the northern boundary on Lot 613 (53) Forillion Avenue, Bibra Lake, as outlined in the application for the following reasons:
  1. There is ample scope to design and site a patio with a setback of 1m from the northern boundary that will meet the needs of the owner without it impacting on the amenity of the adjoining property. As such, there is insufficient justification to warrant approval of the application in the circumstances.
  2. The adjoining property owner has a valid objection to the proposal and has requested the patio located in the location shown on the approved building licence;
- (2) require the owner to relocate the patio to a setback of 1m from the northern boundary, within 60 days of the date of this decision;
- (3) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Refusal, and an MRS Form 2 Notice of Refusal and an MRI Form 2 Notice of Refusal;



- (4) require the owner to ensure that all stormwater runoff from Lot 613 Forillion Avenue is contained and disposed of onsite to the satisfaction of the Council;
- (5) advise the submitter of this decision.

#### **COUNCIL DECISION**

MOVED Cllr S Limbert SECONDED Cllr L Goncalves that Council:

- (1) receive the report;
- (2) grant retrospective approval to permit the construction of a patio 0.5m from the northern boundary on Lot 613 (53) Forillion Avenue Bibra Lake, under clause 8.4.1 of Town Planning Scheme No. 3, subject to:
  - 1. Development is to be in accordance with the retrospective approval granted by the Council.
  - 2. Nothing in the approval or these conditions shall excuse compliance with all written laws in the continuance of the development.
  - 3. The premises shall be kept in a neat and tidy condition at all times by the owner to the satisfaction of the Council.
  - 4. All stormwater run off from the lot is to be contained and disposed of on site to the satisfaction of the Council.
  - 5. The redesign and construction of the stormwater drainage system referred to in condition 4 is to be undertaken and completed within three months of the date of this approval and following completion, the amended drainage system is to be certified by a suitably qualified practicing engineer certifying that condition 4 has been complied with.
- (3) issue a Schedule 9 Notice of Determination on Application for Planning Approval – with conditions;
- (4) advise the owner that the Council is unable to issue a retrospective Building Licence for the patio; and
- (5) advise the owner of Lot 612 Forillion Avenue of the Council's decision.

**CARRIED 8/1**

**Explanation**

The patio was granted approval in June 2003 and therefore has only been recently erected. Given this, together with the fact that the patio is only marginally closer to the side boundary than the approved position and the high cost to relocate the custom built structure, retrospective planning approval should be granted, subject to the owner rectifying the drainage of the patio area so that no water discharges onto the adjoining properties.

**Background**

ZONING:	MRS:	Urban
	TPS3:	Residential R-20
LAND USE:	Residential dwelling	
LOT SIZE:	600m <sup>2</sup>	
USE CLASS:	Single (R-Code) House = Discretionary (R-Codes)	

The City issued a building licence on 4 June 2003 for the construction of a dome patio on the subject land, to be constructed 1.026m back from the northern boundary as indicated on the site plan submitted by the owner and contained in the agenda attachments.

In the course of inspecting the adjoining property at Lot 612 Forillion Avenue in response to a complaint from the owners of Lot 613 and for the purpose of reporting to the Ordinary Council meeting on 21 October 2003 (Minute number 2180), it was observed that the patio on Lot 613 was erected approximately 0.5m from the northern boundary. It was subsequently confirmed that the patio failed to comply with the building licence and the relevant setback specified in the Residential Design Codes of WA (i.e. the "R-Codes").

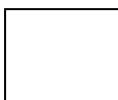
The owners were informed of the situation, which resulted in the lodging of a retrospective application for development approval (R-Code variation).

**Submission**

The applicant has sought retrospective planning approval for the patio to remain in its current location 0.5m from the northern side boundary.

The applicant has submitted that siting of the patio closer to the boundary than permitted was an honest mistake and a result of a misunderstanding with the designer.

The application was advertised to the adjoining potentially affected owner at Lot 612 Forillion Avenue, who lodged an objection on the following grounds:



- The visual dominance of the patio when viewed from the lower ground level of adjoining Lot 612;
- The domed shape of the patio roof acts like an echo chamber, which amplifies noise and reflects it down onto the submitters land;
- Stormwater and other water runoff from the subject land drains onto the submitters lower lying land.

The submitter seeks to have the application refused and the patio repositioned to the location approved on the building licence and the stormwater prevented from flowing onto Lot 612.

### Report

Under the Acceptable Development criteria of the R-Codes, the patio columns should be sited at least 1 metre back from the northern side property boundary. In order to site it closer, a variation to the R-Codes is required, whereupon the Performance Criteria of the Codes need to be satisfied.

The relevant Performance Criteria state that new development should meet the following (Element 3.3.1, P1):

*“Buildings set back from the boundaries other than street boundaries so as to:*

- *Provide adequate direct sun and ventilation to the building;*
- *Ensure adequate direct sun and ventilation being available to adjoining properties;*
- *Assist in protecting privacy between adjoining properties.”*

Being located to the south of the submitter’s property, the patio will not restrict direct sun or affect ventilation to the submitters land.

An existing 1.8m high fence erected along the top of the boundary retaining wall effectively screens views between living areas on the two respective properties. However, from the lower ground level of the objectors land, the patio is more visually dominant in the position erected than would have been the case had it been constructed 1 metre back from the boundary. This is a concern for the submitter as evidenced in the objection.

The issue regarding the effects of noise emanating from the patio area is a matter controlled by the Environmental Protection (Noise) Regulations 1997. As such, the noise issue is not a matter of planning relevance in this instance.

In terms of stormwater runoff, every property owner has an obligation to contain and dispose of stormwater on the site from which it originates. It is suggested that an appropriate condition requiring the



satisfactory onsite disposal of stormwater be included in the Council decision regardless of the outcome of this application.

The following additional points are noted:

- The owner of Lot 612 Forillion Avenue, after having sought retrospective approval from the Council for a shed parapet wall on the boundary with Lot 613 (refer to Minute No. 2180; OCM 21/10/03 and Minute No. 2203; OCM 18/11/03), has now reduced the height of the parapet wall due to ongoing delays experienced in determining his application. This outcome is consistent with the outcome sought by the owners of Lot 613, being objectors to his application.
- There is ample area available between the house on Lot 613 and the northern side boundary for a patio to be erected in a complying location that will provide adequate shade for the outdoor living area.
- Given all the above circumstances including the relevant concerns of the objector, and for reasons of consistency, it is considered reasonable to require the patio columns to be shifted back to a location 1m from the boundary and the eaves 0.75m setback.

It is important to note that neither the issue of the minor height of the shed on Lot 612 or the non-compliant patio on Lot 613 would have come to the attention of the Council had the owner of Lot 613 not lodged a complaint about the height of the shed wall. However, the owner of Lot 613 has a right to lodge a complaint for the Council to investigate, and this right also applies to the owner of Lot 612.

It should be pointed out that the owner of Lot 612 did not complain about the patio on Lot 613. The non-compliance of the patio was discovered while investigating the complaint made by the owner of Lot 613 about the shed wall on Lot 612.

Of importance is that the owner of Lot 613 cannot apply two standards about “non-compliance”, one for the owner of Lot 612 and another for the owner of 613. For consistency both “non-compliances” must be treated the same, and the owner of Lot 613 has no grounds to object to this approach in relation to her request for a variation to allow the non-compliant patio.

For these reasons, the recommendation is to make the patio compliant with the building licence. The non-compliant patio can never be issued with a retrospective building licence. In the circumstances, it is not recommended that the Council initiate legal action against the owner of Lot 613.



**Strategic Plan/Policy Implications**

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

1. Managing Your City
  - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
3. Conserving and Improving Your Environment
  - *"To conserve the character and historic value of the human and built environment."*

The Planning Policies which apply to this item are:-

APD17 Standard Development Conditions and Footnotes

**Budget/Financial Implications**

Potential cost of defending an appeal.

**Legal Implications**

The owner of Lot 613 could appeal against the Council decision to grant retrospective approval with unacceptable conditions or issue a refusal.

**Community Consultation**

Application advertised.

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

Nil.

**14.16 (MINUTE NO 2255) (OCM 16/12/2003) - ROAD NETWORK IMPROVEMENTS - WATSON ROAD, YANGEBUP ROAD, BEELIAR DRIVE AND SOUTH COOGEE PRIMARY SCHOOL (451153) (AJB) (ATTACH)**

**RECOMMENDATION**

That Council:



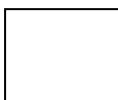
- (1) improve safety at the intersection of Watson and Yangebup Roads, access to and congestion around the South Coogee Primary School, the connectivity between Ivankovich Ave and Beeliar Drive by undertaking the following works:-
1. Construction of a link road between Beeliar Drive roundabout and Ivankovich Avenue through Lot 621.
  2. Extend Beeliar Drive from the east to connect to Watson Road and modify the intersection of Watson Road and Yangebup Road to only allow for left turn movements from Watson Road into Yangebup Road.
- (2) amend the 2003/04 Budget to accommodate the works as follows:-
1. Reduce the outstanding budget for Account No. CW2117, in Beeliar Drive/Merevale Gardens – Construct Connection, from \$59,260 to \$0.
  2. Reduce the outstanding budget for Account No. CW2024, Beeliar Drive (Spearwood/Watson) – Construct Road, from \$21,811 to \$0.
  3. Reduce the outstanding budget for Account No. CW2038, Traffic/Safety Management – Minor Works, from \$43,740 to \$21,811.
  4. Create a new Account No. for Beeliar Drive/Ivankovich Avenue – Construct Basic Road, with an allocation of \$65,000.
  5. Create a new Account No. for Beeliar Drive/Watson Road/Yangebup Road – Connection and Modifications, with an allocation of \$38,000; and
- (3) advise Mrs M Fardella accordingly.

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

**COUNCIL DECISION**

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

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 9/0**





## Background

There is a Budget allocation for the construction of a road link through Council owned freehold land between Merevale Gardens and Beeliar Drive next to the new South Coogee Primary School in Beeliar. This has been identified to improve traffic accessibility at the school.

## Submission

June 2003 - Council received an 81 signature petition which stated:

“We the residents of Beeliar (Stanford Gardens & Churchill Heights) are setting up a petition regarding the traffic build up at Watson Road and Yangebup Road. As our estate is now fully grown, and with the opening of a new school, traffic at Watson Road and Yangebup Road is very congested and dangerous. We would like the road at Ivankovich and Merevale Gardens to be completed, so it can join on to Beeliar Drive. Thank you and please take the time to consider our request as we are starting to get very frustrated”.

June 2003 - Letter received from Mrs M. Fardella to Mr Simon Lee of Council’s Engineering Department:

“I spoke to you a while ago regarding our situation in our area. Marked on the map is the road we would like completed it would make traffic flow better so please look at our petition and consider our request. Also if we has access to the ‘closed section’ of Beeliar Drive we would also use this road. Why have a road we can’t use? As you know this road was made months and months ago. Hoping to see something happening soon. Residents of Beeliar”.

February 2003 - Correspondence from Reverend S. Good, Director Chaplaincy Services Anglican Homes (inc) regarding safety issues at the intersection of Watson and Yangebup Roads.

October 2003 - Email from W. Fernie requesting update on the completion of Beeliar Drive and closure of Yangebup Road.

## Report

There are growing community concerns regarding the road network in that section of Beeliar between Stock Road and the railway line and in particular congestion and safety at the intersection of Watson and Yangebup Roads, access to and congestion around the new school, the lack of connectivity between Ivankovich Ave and Beeliar Drive, the lack of progress in completing Beeliar Drive through to Stock Road and the subsequent closure of Yangebup Road. This has been highlighted in numerous letters and emails to Council, an 81 signature petition and an article in the Cockburn Gazette 22-28 July 2003 – “Dispute continues over road to nowhere”.



Given the number and frequency of accidents, the intersection of Watson and Yangebup Road is designated a blackspot and as such grant funding for upgrade works has been recommended to the Minister for approval under the 2004/05 State Blackspot Program.

There have been unsuccessful attempts by Council to negotiate the acquisition of land for Beeliar Drive between Watson Road and Stock Road. Councils Strategic Planning Services have been actively pursuing this matter with the Western Australian Planning Commission since January 2003. As a result the Commission recently wrote to Mrs Bucat to determine if she is prepared to negotiate the sale of the land required for the extension of Beeliar Drive between Watson Road and Stock Road and land required for the future grade separation of this intersection as reserved in the Metropolitan Region Scheme.

Negotiated acquisitions generally occur over a relatively long period of time and the outcome can not be guaranteed. In the event that negotiations to purchase the land for Beeliar Drive were successful, it is unlikely that the Beeliar Drive extension would be completed within 3 years, particularly given that there is currently no funding allocated on Council's budget.

Given the current road network problems outlined above and the likely time delay in constructing the ultimate carriageways of Beeliar Drive between Watson Road and Stock Road, it is considered that interim works should be completed to resolve residents current circulation and safety concerns.

Options assessed by Council's Engineering and Strategic Planning Services include the following:

- Option 1. Construction of a link road between Ivankovich Ave and Beeliar Drive roundabout.
- Option 2. The extension of Merevale Gardens at the eastern side of the South Coogee Primary school through to Beeliar Drive.
- Option 3. The temporary direct connection of Yangebup Road to Beeliar Drive utilising a short section of Watson Road with two right angle bends.

For options 1 and 2 associated works would include modification of Watson Road at its intersection with Yangebup Road to allow for left out only for improved road geometry (i.e. one way northbound from Beeliar Drive to Watson Road) and connection of Beeliar Drive to Watson Road which will:

- Eliminate the potential of rear end crashes for eastbound traffic on Yangebup Road at its intersection with Watson Road.



- Require the use of the roundabouts further east on Yangebup Road which provide for safer turning than at Watson Road.
- Allow vehicles travelling west on Beeliar Drive to Stock Road to turn right into Watson Road without interference or delays due to vehicles travelling south on Watson Road.

Option 3 was rejected for the following reasons:

- Unsatisfactory left turn geometry for truck traffic turning left from Watson Road into Yangebup Road.
- Would result in reduced safety to through traffic.
- If a direct connection was not created it is likely that there would be unacceptable delays and congestion for westbound traffic in Beeliar Drive at its intersection with Watson Road which could result in significant diversion of traffic onto Watson Road south as a rat run to Stock Road via East Churchill Avenue, Wells Road and Fancote Avenue.
- Would significantly affect bus services.

Option 1 being the construction of a link road between Ivankovich Ave and Beeliar Drive roundabout is recommended over Option 2 for the following reasons:

- Safer access to Beeliar Drive at the existing roundabout than would be the case for a new intersection for Merevale Gardens extension with Beeliar Drive.
- Lesser distance for traffic from the Stock Road direction wanting to access Watson Road.
- Keeps the options open for the development of Lot 621.
- Bus services will be unaffected.

Residents on the south side of Yangebup Road between Watson Road and the freight line have requested the connection of Beeliar Drive to Watson Road and the closure of this section of Yangebup Road as is proposed with the construction of Beeliar Drive and shown on the adopted Structure Plan for DA 4 (copy included in the Agenda attachments). In respect to this section of Yangebup Road, the proposed modifications to the road network can be expected to increase the traffic flow in the easterly direction due to traffic not being able to turn south into Watson Road and reduce the traffic in the westerly direction with Beeliar Drive traffic being able to use Watson Road to access Stock Road.

The priority at this time is to increase traffic safety at the intersection of Yangebup Road and Watson Road which is the location of an increasing number of accidents. It is considered that the modifications proposed in Option 1 provide the best level of service and safety until such time as Beeliar Drive is constructed between Watson Road and Stock Road in accordance with the Metropolitan Region Scheme.



The cost of works is estimated as follows:

- |   |                   |
|---|-------------------|
| • Link Road – Beeliar Drive roundabout to Ivankovich Avenue   | \$ 65,000         |
| • Beeliar Drive/Watson Road/Yangebup Road works for Beeliar Drive Extension and left turn out only for Watson Road at Yangebup Road | \$ 38,000         |
|   | <u>\$ 103,000</u> |

Funds can be made available as follows:

- Reduce the outstanding budget for Account No. CW2117, in Beeliar Drive/Merevale Gardens – Construct Connection, from \$59,260 to \$0.
- Reduce the outstanding budget for Account No. CW2024, Beeliar Drive (Spearwood/Watson) – Construct Road, from \$21,811 to \$0.
- Reduce the outstanding budget for Account No. CW2038, Traffic/Safety Management – Minor Works, from \$43,740 to \$21,811.
- Create a new Account No. for Beeliar Drive/Ivankovich Avenue – Construct Basic Road, with an allocation of \$65,000.
- Create a new Account No. for Beeliar Drive/Watson Road/Yangebup Road – Connection and Modifications, with an allocation of \$38,000.

### **Strategic Plan/Policy Implications**

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

1. Managing Your City
  - *"To deliver services and to manage resources in a way that is cost competitive without compromising quality."*
2. Planning Your City
  - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
5. Maintaining Your Community Facilities
  - *"To construct and maintain roads, which are the responsibility of the Council, in accordance with recognised standards, and are convenient and safe for use by vehicles, cyclists and pedestrians."*



### Budget/Financial Implications

The estimated cost of the recommended works, viz. \$103,000, could be funded by the following Budget adjustments:

<u>Project a/c No.</u>	<u>Description</u>	<u>Current Budget</u>	<u>Proposed Budget</u>	<u>Budget Amendment</u>
CW2117	Beeliar Dr/Merevale Gdns - Construct Connection	\$59,260	0	-\$59,260
CW2024	Beeliar Dr/(Spearwood/Watson) – Construct Road	\$21,811	0	-\$21,811
CW2038	Traffic/Safety Mngmt – Minor Works	\$43,740	\$21,811	-\$21,929
NEW	Beeliar Dr/Ivankovich Ave - Construct Basic Road	0	\$65,000	\$65,000
NEW	Beeliar Dr/Watson Rd/ Yangebup Rd – Connection & Modifications	0	\$38,000	\$38,000
				\$0

### Legal Implications

Nil

### Community Consultation

No formal consultation undertaken.

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

Nil.

#### 14.17 (MINUTE NO 2256) (OCM 16/12/2003) - VARIATION TO THE STRUCTURE PLAN FOR LOTS 3, 13, 9001, 625, 15, 16, 17 ROCKINGHAM ROAD AND LOTS 12, 51 WEST CHURCHILL AVENUE, MUNSTER (9642) (AJB) (ATTACH)

#### RECOMMENDATION

That Council:

- (1) not continue with the proposed variation to the Structure Plan for lots 3, 13, 9001, 625, 15, 16 & 17 Rockingham Road and lots 12 & 51 West Churchill Avenue Munster;

- (2) recommend subdivision of the land prior to a Structure Plan coming into effect in accordance with clause 6.2.4.2 of TPS 3 on the basis that this will not prejudice the specific purposes and requirements of the Munster Development Area (DA5) with the Council recommendation being made under delegated authority APD2 for sub-division applications referenced 122857, 122891 and 123387;
- (3) advise the owners of lots 9001 and 13 Rockingham Road and lots 12 and 51 West Churchill Avenue, that they could give consideration to entering into a private arrangement between any or all of the owners in the area for the coordinated provision of public open space and drainage, subject to such arrangements not being contrary to the Planning Act; and
- (4) advise the Western Australian Planning Commission together with those who made submissions of the Council decision and provide them with a copy of the Agenda report and Schedule of Submissions.

**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

At its meeting held on 4 February 1997, Council resolved to adopt the Munster Cell 5 Structure Plan and to forward it to the then State Planning Commission.

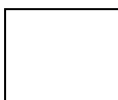
In November 2000, the then Ministry for Planning approved the subdivision of the subject land (Ref 112031). This approval has recently expired.

At its meeting held on 18 December 2001, Council resolved to support a modified structure plan for lots 15 and 16 Rockingham Road.

**Submission**

Council has received the following subdivision applications for land within the DA5 Munster Structure Plan area;

- Lots 9001 & 13 Rockingham Road (Urban Focus on behalf of Coburg Nominees) - WAPC Ref 122857.



- Lot 12 West Churchill Ave (Greg Rowe & Assoc on behalf of V & PM Jakovcevic) - WAPC Ref 122891.
- Lot 51 West Churchill Ave (Taylor Burrell Barnett on behalf of TA, ER & M Erceg) - WAPC Ref 123387.

A plan showing the location of the above applications is included in the Agenda attachments.

Urban Focus has submitted an amended Structure Plan for lots 9001 and 13 Rockingham Road. The submitted plan was deficient in terms of linkages with lot 51 and considered not in accordance with the proper and orderly planning of the area. Accordingly it has not been progressed. Rather it has been modified and incorporated into a revised overall structure plan for the area prepared by Councils Strategic Planning Services.

### **Report**

Earlier plans for the subdivision of lots 13, 14 (now lots 625 and 9001) Rockingham Road and lots 12 and 51 West Churchill Avenue (WAPC Ref 112031) were based on a private agreement between the owners at that time to participate in the joint subdivision of the land. Accordingly ownership boundaries and equities in the provision of open space and drainage were largely ignored in the planning of the area as these were to be resolved through private arrangements between the owners as part of the joint development of the land.

Lots 13 and 14 Rockingham Road were recently acquired by Coburg Nominees (Urban Focus). It is understood that Urban Focus subsequently had discussions with the owners of lot 12 (V & PM Jakovcevic) and lot 51 (TA, ER & M Erceg) West Churchill Avenue regarding options for their land including purchase and project management and discussions on finding an equitable arrangement in regard to public open space and drainage provision that falls largely on lot 51. The outcome of those discussions was that Urban Focus and Jakovcevic wished to proceed independently of the Ercegs. However, it is understood that Urban Focus and Jakovcevic have agreed to coordinate the planning of their land.

There are currently no powers in City of Cockburn TPS 3 or the Town Planning and Development Act which requires or compels owners to cooperate in the subdivision of their land. The only legislation that would have this effect would be a guided or resumptive Town Planning Scheme which is not contemplated. There is also no ability to impose conditions on the subdivision approval of one parcel of land requiring agreement to be reached with an adjoining owner. Such a condition would be ambulatory.



Given the previous joint subdivision approval (WAPC 112031) has now expired Council has no option other than to process the four separate applications for subdivision approval that have been lodged with the Western Australian Planning Commission and for Council to coordinate the proposals through the structure planning provisions of the Scheme. There are minor variations between the previously approved plan of subdivision and those now submitted as well as discrepancies between the planning of lots 9001/13 and lot 12 with lot 51.

To coordinate the subdivision of the land and formalise its zoning in accordance with the Development Area provisions in TPS 3, Council's Strategic Planning Services prepared a revised Structure Plan for the relevant portion of Development Area 5 (DA5) that includes the subject applications and relevant adjoining land.

As the differences between the earlier and current Structure Plans were only minor in nature and did not affect anyone other than the owners, it was determined that a revised Structure Plan should be processed as a variation to the previously approved Structure Plan in accordance with Clause 6.2.14 of TPS No 3. The Scheme does not prescribe any consultation process for variations. Notwithstanding this it was considered appropriate that the consolidated structure plan be forwarded to the owners for their input prior to Council's consideration. A revised structure plan and supporting report was forwarded to the directly affected owners and their consultants on 24 November 2003 for consideration and comment by 1 December 2003. A copy of the earlier overall plan and the revised Structure Plan is included in the Agenda attachments.

Five submissions were received during the advertising period. These are summarised in the Schedule of Submissions included in the Agenda attachments. In general the comments and recommendations on the Schedule of Submissions are self explanatory. However, more detailed comment is provided on the following matters;

The processing of the structure plan as a variation as provided for by clause 6.2.14 of TPS 3.

Hardy Bowen Lawyers in submission No 5 lodged on behalf of the Erceg's who own lot 51 West Churchill Avenue contended that it was not open to Council to process a structure plan variation as had been promoted.

In response to the points made in that submission a review of Council's files has been undertaken. The outcomes are as follows;

In 1996 Council processed a structure plan for all land bounded by West Churchill Avenue, Rockingham Road, Mayor Road and Market Garden Swamp No 3 was processed as part of Amendment No 76 to TPS No 2. This initially did not include lot 51 which was subsequently





to be included as a result of a submission by Taylor & Burrell and Mr WA Evans.

Council at its meeting held on 4<sup>th</sup> February 1997 resolved to adopt the Munster Structure Plan and by correspondence dated 5<sup>th</sup> February 1997 forwarded the plan to the Western Australian Planning Commission for approval as required under Part 8 of the then TPS No 2 at that time.

Council's files indicate that no formal response was received from the Commission in respect to the approval of the Munster Structure Plan. This being the case, the Munster Structure Plan for which the variation was sought has no effect. A structure plan was included in the documentation for Amendment No 76 but that did not include Lot 51 and its inclusion therein does not constitute approval under the requirements of TPS 2 applying at that time.

Consequently it is concluded that there is no approved structure plan for the area except for that which was separately processed for lots 15, 16 and 17 Rockingham Road in 2000. As there is no approved structure plan it is not possible to proceed with the variation as proposed.

Currently there are three subdivision applications that have been referred to Council for consideration being WAPC Ref 122857, 122891 and 123387 as detailed in submissions above and the extensions of time to process the applications are about to expire.

Given the situation the following four options are considered to be open to Council:-

#### Option 1

- Terminate the structure plan variation process commenced by Council Officers,
- Commence the process of processing a new structure plan for the area (which would be the same plan already advertised as a variation)
- Advise the Western Australian Planning Commission that Council will not respond to the subdivision applications until the new structure plan has been advertised and processed in accordance with the provisions of part 6.2 of TPS No 3.

This option would probably be favoured by the owners of lot 51 West Churchill Avenue but most likely opposed by the owner of lot 12 West Churchill Avenue and the owner of Lots 13 and 9001 Rockingham Road.



Option 2

- Terminate the structure plan variation process commenced by Council Officers
- Pursuant to clause 6.2.4.2 of the Scheme recommend subdivision of the land to the Western Australian Planning Commission prior to a structure plan coming into effect
- Initiate the statutory structure plan process to formalise the relevant zoning and R Codes for the land following the determination of the subdivision applications by the Western Australian Planning Commission.

This option would probably be favoured by the owner of lot 12 West Churchill Avenue and the owner of Lots 13 and 9001 Rockingham Road, but most probably opposed by the owners of lot 51 West Churchill Avenue.

Option 3

- Terminate the structure plan variation process commenced by Council officers,
- Commence the process of processing a new structure plan for the area excluding lot 51
- Advise the Western Australian Planning Commission that Council will not respond to the subdivision applications until the new structure plan has been advertised and processed in accordance with the provisions of part 6.2 of TPS No 3.
- Proceed separately with a structure plan for lot 51 West Churchill Avenue when issues relating to the allocation of POS there on have been resolved.

This option does not address or resolve any of the issues raised or facilitate the development of the area.

Option 4

- Terminate the structure plan variation process commenced by Council officers
- Advise the Western Australian Planning Commission that Council will not respond to the subdivision applications.
- Not initiate any further processes in respect to this land.
- This option does not address or resolve any of the issues raised or facilitate the development of the area.

Option 2 is supported for the following reasons:-

- Notwithstanding that provision No 1 of DA5 Munster (Schedule 11 in TPS 3) requires an approved Structure Plan to guide subdivision and development, there is no approved structure plan for the area and accordingly it is open to Council to respond to the Western Australian Planning Commission on the subdivision prior to formally



processing a structure plan for the area in accordance with clause 6.2.4.2 of the Scheme.

- In physical terms there are only minor variations between the three subdivision applications with that previously approved.
- Advertising of the structure plan did not identify any issues of planning principle or inconsistencies with WAPC policies. The objections raised by Hardy Bowen Lawyers in submission No 5 on behalf of the owners of lot 51 West Churchill Avenue are outside the scope of the structure plan or subdivision process to resolve as they involve past private arrangements with adjoining owners, one of whom is no longer a landowner.
- The advertised structure plan variation was supported by 3 of the 4 owners.
- Formal readvertising of the structure plan is unlikely to result in any other public comments being submitted.
- The approval of the subdivisions will not prejudice the specific purposes and requirements of the Development Area.
- The Western Australian Planning Commission is not bound by the Structure Plan requirements in TPS 3 and will most likely determine the current applications. Given the specific environmental and development requirements of this area, it is considered that Council must ensure that appropriate conditions are imposed and hence respond to the current applications. It is then up to the Commission to determine if it can proceed in the absence of an adopted and endorsed local structure plan.

Having considered the submissions and having regard to the proper and orderly planning of the area it is considered that Council should proceed in accordance with Option 2, and advise the Western Australian Planning Commission and those who made submissions accordingly.

### **Strategic Plan/Policy Implications**

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

1. Managing Your City
  - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City



- *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
  - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
  - *"To foster a sense of community within the district generally and neighbourhoods in particular."*
3. Conserving and Improving Your Environment
- *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*

The Planning Policies which apply to this item are:-

SPD4	'Liveable Neighbourhoods'
APD4	Public Open Space
APD28	Public Open Space Credit Calculations

#### **Budget/Financial Implications**

N/A

#### **Legal Implications**

Nil

#### **Community Consultation**

Previous plans for the area have been advertised for public comment. There are only minor differences between earlier approved plans and those now submitted and these do not have implications for the wider community.

In view of this and the nature of the changes it was determined that the plans of subdivision should be processed as variations to a Structure Plan as provided for by Clause 6.2.14 of TPS No 3. The revised plan prepared by Councils Strategic Planning Services was referred to all landowners and their consultants for comment.

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

Nil.

#### **14.18 (MINUTE NO 2257) (OCM 16/12/2003) - OMNIBUS AMENDMENT - TOWN PLANNING SCHEME NO. 3 (93006) (MR)**

#### **RECOMMENDATION**

That Council:



- (1) defer consideration of this item to the 17 February 2004 Council Meeting; and
- (2) conduct a workshop to brief Elected Members at the Councillor Briefing session on 13 January 2003, on the proposed Omnibus Amendment to Town Planning Scheme No.3.

#### **COUNCIL DECISION**

MOVED Cllr S Limbert SECONDED Cllr K Allen that Council:

- (1) defer consideration of this item to the 17 February 2004 Council Meeting; and
- (2) conduct a workshop to brief Elected Members on the proposed Omnibus Amendment to Town Planning Scheme No. 3 at a time to be determined by the Deputy Mayor.

**CARRIED 9/0**

#### **Explanation**

Alternative times for the workshop need to be considered to ensure that a convenient time can be arranged suitable to the Elected Members.

#### **Background**

The City of Cockburn Town Planning Scheme No 3 ("TPS3") was gazetted on 20 December 2003. There are various improvements and corrections that are required identified through the course of application and administration of TPS3. The amendments necessary are a reflection of the significant number of changes that were required by the Minister for Planning and Infrastructure that lead to the final gazettal of TPS3.

Council at its Ordinary Meeting held on 18 November 2003 resolved in respect of the Omnibus Amendment to:-

- "(1) defer consideration of this item to the December Council Meeting;*
- (2) provide a printed copy of its Town Planning Scheme No.3 Text and Maps (as amended) to Elected Members, on request; and*
- (3) conduct a workshop to brief Elected Members on Town Planning Scheme No.3 Text and Maps (as amended)."*



## **Submission**

The proposed changes to the Scheme Text and Scheme Map were set out in Schedule 1 of attachments from the Council Minutes of 18 November 2003.

## **Report**

It was not possible to arrange and prepare for the Councillor Workshop within the 1 week period between Council Meeting of 18 November 2003 and the deadline for the December Council Agenda. It is proposed to defer the Councillor Workshop until after the Christmas break.

Arrangements are proposed for the workshop session with Elected Members to be conducted at the Councillor Briefing session on Tuesday, 13 January 2004. This should afford more time for Elected Members to consider the scope of the proposed omnibus amendment and consider the item at the Ordinary Meeting of Council in February 2004.

## **Strategic Plan/Policy Implications**

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

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

## **Budget/Financial Implications**

Costs incurred relate to the administration, advertising of the scheme amendment documents and reporting to the Council.

## **Legal Implications**

City of Cockburn Town Planning Scheme No 3.  
Town Planning & Development Act 1928 (as amended)  
Metropolitan Region Scheme  
Planning Regulations

## **Community Consultation**

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



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

Nil

**15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES**

**15.1 (MINUTE NO 2258) (OCM 16/12/2003) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)**

**RECOMMENDATION**

That Council receive the List of Creditors Paid for November 2003, as attached to the Agenda.

**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

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

**Submission**

N/A

**Report**

N/A

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A



**Community Consultation**

N/A

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

Nil

**15.2 (MINUTE NO 2259) (OCM 16/12/2003) - REQUEST FOR REIMBURSEMENT OF PENALTY INTEREST FOR LOT 18 BARFIELD ROAD, - R F AND D J PHILLIPS AND I A AND J A HOWELL (5513101; 5230) (KL)**

**RECOMMENDATION**

That Council advise R F & D J Phillips and I A & J A Howell, it is not prepared to make any contribution to costs incurred in selling Lot 18 Barfield Road, Banjup.

**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

Council had, for a number of years been pursuing the previous owner (C O Sullivan) of Lot 18 Barfield Road, for outstanding rates, penalties and other outstanding charges on this property and one in Coolbellup. The Barfield Road property was taken over by the mortgagees (Howell and Phillips) because of non-payment by Mr Sullivan.

The Mortgagees previous request to Council was to give consideration to paying 50% of the settlement costs of the property plus waive the penalty interest accrued. The total request was that \$8,497.59 be reimbursed.

Council at its meeting held on 21 November 2000 resolved that:

*“Council advise Mr & Mrs Howell and Mr & Mrs Phillips that while it is sympathetic to that situation in regard to Lot 18 Barfield Road, it will not make any contribution to the costs of selling the land or waive any of the penalty interest due.”*





## Submission

The previous mortgagees of Lot 18 Barfield Road (R F & D J Phillips and I A & J A Howell) have requested that Council reconsider the previous decision from 21 October 2000, with a view to now considering calculating the penalty interest at a rate of 4%, instead of the calculated rate of 11%.

## Report

Council's problems with collecting rates from Mr Sullivan in respect of Lot 18 Barfield Road continued for a period over ten years. Mr Sullivan avoided Summonses issued on behalf of Council for several years. In February 1999, a Summons was successfully served on Mr Sullivan and he took Council to Court to defend the action. His appeal was dismissed and Council was awarded judgement against him. The Bailiff was given instruction to proceed to sell Lot 18 Barfield Road.

In October 1999, Godfrey Virtue, Solicitors acting on behalf of the Mortgagee, requested that the sale action be deferred as they were of the opinion that the Mortgagees in possession, would realise a higher price than Council was likely to obtain. This was agreed to as the money owing to Council would be paid at settlement. Subsequently, it was learned that another warrant to sell the land was in force.

Unfortunately, it appears that at no time, did the firms acting on behalf of the Mortgagees, (the Financial Advisor and Mortgage Broker) inform them of the rates debt outstanding on the property, even at the time the mortgage was renegotiated. As a result of high legal costs in pursuing Mr Sullivan and the outstanding rates debt, the Mortgagees indicate that they lost \$30,000 on the mortgage.

The reason given for seeking a Council contribution is that the Mortgagees have made substantial efforts to bring the matter to a close and wish Council to recognise their efforts.

It must be noted that had the Bailiff continued with the successful sale of the property in 1999, Council would have recovered the full amount due to it with all costs associated with the sale being deducted from the sale price. However, informal advice from the Bailiff is that the property may have been difficult to sell in view of the costs outstanding against the property. A Supreme Court Writ was required in the end to obtain possession of the property.

The applicants have suggested that the rate penalty percentage rate, which, if 11% is harsh and should be calculated at 4%, however, this rate is competitive in market terms compared to a credit card rate of 16%.



The Mortgagees previous request to Council was to give consideration to paying 50% of the settlement costs of the property plus waive the penalty interest accrued. The total request was that \$8,497.59 be reimbursed. The mortgagees new request to Council would be in the vicinity of \$2,000.

There is no reason to make any reduction in the rates penalty calculated on the outstanding debt. Reducing the penalty calculation on this particular instance could create an unnecessary precedent.

Council has the authority however, to waive all or part of the penalty interest if it so chooses.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

There are no funds provided in the current Budget for refund of rates or contributions of this nature.

**Legal Implications**

N/A

**Community Consultation**

N/A

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

Nil.

**15.3 (MINUTE NO 2260) (OCM 16/12/2003) - REPORT ON FINANCIAL STATEMENTS (5505) (NM) (ATTACH)**

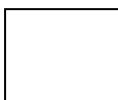
**RECOMMENDATION**

That Council receive the Report on the financial Statements for the first triennial period ending 31 October 2003.

**COUNCIL DECISION**

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

**CARRIED 9/0**



## **Background**

Section 6.4 of the Local Government Act 1995 requires the City to prepare financial reports as are prescribed. Regulation 34 (1) (b) of the Local Government (Financial Management) Regulations 1996, prescribes that a local government is to prepare either quarterly or triennial financial reports. Council has elected to receive triennial financial reports, which are due for periods ending 31 October, 28 February and 30 June.

Further, Regulation 34 (1a) allows Councils to resolve not to receive a report for periods ending 30 June. Council has previously resolved not to receive this report as it is deemed unnecessary due to the preparation and presentation of annual financial statements.

## **Submission**

N/A

## **Report**

Attached to the Agenda are the following financial statements for the period ending 31 October 2003.

### Operating Statement

The Operating Statement details operating income and expenditure at a statutory program level and compares it to the adopted budget, as well as the projected budget (including changes from the October budget review). As at 31 October 2003, year to date income and expenditure should approximate 33% of the budget (ie. 4 out of 12 months), except where it is impacted by factors such as those which are seasonal (eg. rates, dog registrations, leisure centre etc.) or programming (projects or activities planned for certain times).

Overall, Council's operational budget is on track with no areas of major concern to address. Both income and expenditure are within budget parameters as evidenced by the favourable budget review (subject of Item 15.4 of this Agenda).

Council's operational expenditure (at 29%) is slightly better than target with any significant variation of a permanent nature being addressed in the budget review.

Council's income (at 74%) is ahead of the pro-rata budget target, mostly due to the raising of rates income at the start of the year. Areas of increased income activity have been identified and included in the budget review such as building licences, rubbish tip fees and Health



Act fines and penalties (offset to some extent by increased legal expenses).

### Municipal Summary

The Municipal Summary reports both operating and capital income and expenditure and reconciles these back to a cash position.

Also included in this statement is a 'Projected Budget' column that incorporates the changes proposed in the October Budget Review. This addresses the requirement of Regulation 35 (1) (e) of the Local Government (Financial Management) Regulations, to provide financial projections that factor in the effects of any permanent significant variations.

The budget review has addressed known changes to several roads capital works. All other significant variations to the budget are due to the timing and programming of the works.

### Statement of Reserve Funds

This statement reports the current balance for all reserve funds and provides details of interest earnings and of transfers in and out of each reserve.

As at 31<sup>st</sup> October, minimal transfers had been made in and out of the reserves as budgeted. Transfers from reserve will be governed by the extent of expenditure on projects/works being funded.

### Restricted Trust Analysis

This statement summarises bonds, deposits and infrastructure contributions held by Council as at the reporting date. These funds are deemed restricted in accordance with Accounting Standard AAS27. There has been minimal movement in the value of restricted funds during the reporting period.

### Investments Report

Council's Investments Policy (Corporate Policy - SFCS1) requires a report to be submitted to Council with details of the investment portfolio including performance figures and the extent of exposure to categories restricted by the Policy.

Council's investments as at 31<sup>st</sup> October were fully compliant with the investment policy. Of all funds invested, 81% were held in A1+ credit rated investment products, which is the highest credit rating available. The balance of 19% was held in A1 (second highest) rated investments, which is well within the policy limit of 50%.



Council's policy restricts investment with any one organisation to 60%. Citibank currently holds 47% of Council's funds due to consistently offering the best rate of return.

During the reporting period, Council closed their investments in the Alliance and CFS Wholesale managed funds due to poor performance over a period of time, in particular the start of the 2003/04 financial year. This resulted in direct investments (4.87% annualised) outperforming the managed funds (4.47%). These funds were placed into managed cash funds with Perennial & Macquarie as per advice from Council's investment advisor and have performed extremely well in the first month.

Interest earnings are slightly ahead of budget for both reserve and municipal funds. With the recent cash rate increases by the Reserve Bank, Council's interest earnings have the capacity to comfortably exceed budget expectations. A review of the investment policy is currently being undertaken by management with a view to maximising the return on council's longer-term cash reserves within acceptable risk levels.

#### **Strategic Plan/Policy Implications**

N/A

#### **Budget/Financial Implications**

The October 2003 Budget Review addresses all significant variations of a permanent nature identified as at the 31<sup>st</sup> October 2003.

#### **Legal Implications**

N/A

#### **Community Consultation**

N/A

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

Nil.

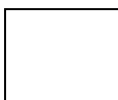
#### **15.4 (MINUTE NO 2261) (OCM 16/12/2003) - BUDGET REVIEW - PERIOD ENDING 31 OCTOBER 2003 (5402) (ATC) (ATTACH)**

#### **RECOMMENDATION**

That Council amend the Municipal Budget for 2003/04 as follows:



A/c No.	Description	Current Budget \$	Proposed Budget \$
GL-730-5305	Building Licences	-552,500	-580,000
GL-730-6255	Engineering Expenses	1,500	4,500
GL-730-6278	Minor furniture and equipment	1,500	2,250
GL-380-5403	Rent Received - Coolbellup Community Centre	-5,967	0
GL-475-5403	Lease Revenue - Hope Road	-4,800	0
GL-520-5366	Hall Hire Revenue	-47,000	-43,407
GL-355-4193	TF from Res-Community Recreation Facilities Reserve fund	-25,000	0
CW-4077-4193	Success Facilities - Community Recreation Facilities Reserve Fund	-39,976	0
CW-New	Extra Storage Space for South Lake Children's Activity	0	8,000
CW-4085-6200	Community Facilities - Cockburn Central	25,000	0
OP-9416-6200	Needs Analysis Success Sporting Facility	15,000	25,000
OP-New	Donation to Spearwood Dalmatinac Club re. Fencing	0	300
OP-9343-6810	Cockburn Sea Search and Rescue Donation	5,000	0
CW-4077-6210	Success Facilities	39,976	0
OP-New	Donation towards rent for Co-Scope/Job Link	0	3,000
OP-New	Citizen of the Year Awards	0	1,000
CW-2104-5131	Hamilton Road (Rockingham/Spearwood) - Mill/Overlay	-141,357	0
CW-New	North Lake Road/Bibra Drive - Intersection and Road Upgrade	0	-141,357
CW-New	Kemp Road - Construction of Basic Road	0	-24,000
CW-New	North Lake Road (Berrigan/Hammond) - Dual Carriageway Stage 1	0	-300,000
CW-New	North Lake Road (Berrigan/Hammond) - Dual Carriageway Stage 1	0	-150,000
CW-3016-6200	Lombe Gardens (Folland/Waters) - New Footpath	11,468	0
CW-3035-6200	Rockingham Road (Forrest/Leda) - New Footpath	10,000	0
CW-3066-6200	Berrigan Drive (Freeway/Dean) - New shared paths	14,138	9,130
CW-New	Minor Footpath Works	0	15,000
CW-2104-6200	Hamilton Road (Rockingham/Spearwood) - Mill/Overlay	196,500	0
CW-New	North Lake Road/Bibra Drive - Intersection and Road Upgrade	0	180,000
CW-2025-6200	Tapper Road/Lydon Blvd - Roundabout	17,811	1,094
CW-2030-6200	Progress Drive (Gwilliam/Hope) - Traffic Calming	13,570	25,000
CW-2051-6200	Hammond Road (Beeliar/Bartram) - Upgrade Shoulders	100,000	0



CW-New	Kemp Road - Construction of Basic Road	0	48,000
CW-New	Beeliar Drive/Hammond Road - Traffic Signals	0	80,000
CW-2067-6200	Rockingham Road/Carrington Street - Area Upgrade	40,000	0
CW-2114-6200	Anderson Road (at Russell Road) - Modifications Contribution	30,000	25,823
CW-2118-6200	Beeliar Drive (west of Hammond Road) - Extend dual carriageway	14,680	30,000
CW-2804-6200	Archidamus Road - Upgrade Drainage Stage 2	9,935	35,577
CW-New	North Lake Road (Berrigan/Hammond) - Dual Carriageway Stage 1	0	450,000
CW-New	Dean Road - Relocate Street Lights	0	17,000
CW-New	The Grange - Relocate Street Lights	0	7,000
GL-820-6060	Wages - Meetings	0	8,000
GL-820-6080	Long Service Leave	0	25,000
GL-820-8710	Wages Overhead Recovered	-1,063,604	-1,096,604
CW-5030-6200	Hopbush infield irrigation	49,640	42,686
CW-5146-6200	Turnbury/Berrigan Entry Statement	14,000	20,954
OP-New	Land Clean-up Project	0	20,000
CW-1204-4123	Computer Reserve Fund	0	-62,613
CW-1204-6210	Computer Equipment	0	8,000
CW-1204-6210	Computer Equipment	0	3,500
CW-1204-6210	Computer Equipment	0	18,000
CW-New	Library Computer Equipment	0	33,113
CW-New	PC workstation for Azelia Ley Museum	0	2,390
OP-9825-6200	Record Museum Collection	15,800	13,410
GL-130-6286	Postage Expenses	48,000	56,000
GL-125-6257	Memory Upgrade for GIS Server	62,000	64,400
GL-200-5323	Fines and penalties	-3,500	-42,000
GL-200-6267	Legal Expenses	10,000	35,000
GL-200-6208	Analytical Costs	23,500	26,000
GL-New	Elected Members - Minor Hospitality Expenses	0	3,000
OP-New	Portrait of Vice-Admiral Sir George Cockburn	0	2,000
CW-4035-6501	Goodchild Reserve Changerooms - Upgrade	105,000	80,102
CW-4037-6501	South Coogee Agricultural Hall - Upgrade Kitchen	14,902	39,800
CW-4004-6501	Atwell Clubrooms - Storage Area	0	9,755
New	Admin. Eastern car park upgrade signage, linemarking, lighting	0	7,500
OP-6040-6200	East Beeliar Community Centre - Cash Expenses	0	32,000
OP-6040-6904	East Beeliar Community Centre - Depreciation	0	18,000
GL-999-1461	Accum. Depreciation - Buildings	-8,382,136	-8,400,136
GL-160-6289	Promotion	1,000	2,000
GL-160-6310	Training Expenses - 4WD	8,994	0
OP-New-6200	Youth Workshop/Conference	0	7,500
CW-4080-4193	Community Recreation Facilities Reserve Fund	-694,303	-712,838
CW-4080-6210	Pool refurbishment - South Lake Leisure Centre	694,303	712,838
GL-605-5110	Non-Recurrent Grant - Libraries	0	-1,155

GL-605-5413	Sale Promotional Material - Libraries	-500	-4,200
GL-605-6600	Communication Expenses - Libraries	11,000	16,864
GL-605-6290	Promotional Material - Libraries	500	4,200
GL-620-6295	Rent - Success Library	34,985	55,985
CW-New	Purchase new PC - Management Accountant	0	2,800
GL-485-5560	Rubbish Tip Fees	-3,000,000	-3,101,102
GL-New	Sale of Land - Bartram Road	0	-900,000
GL-960-7152	Land Development Reserve	700,000	1,600,000
<b>TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL</b>			

**COUNCIL DECISION**

MOVED Cllr K Allen SECONDED Cllr M Reeve-Fowkes that the recommendation be adopted subject to the following amendments:-

- (1) addition of new account 'Installation of Street Lighting Cocos Drive/Barrington Street Industrial Area' - \$31,000;
- (2) addition of new account 'Youth Advisory Council Planning Day' - \$500;
- (3) addition of new account 'Landscaping near Aparia Court' - \$50,000;
- (4) increase account no. OP7604-6200 'Unkempt Verge Mowing' from \$5,000 to \$15,000;
- (5) increase account no. OP9420 'Sporting Wall of Fame' from \$25,500 to \$30,500;
- (6) increase account GL485-5560 'Rubbish Tip Fees' by a further \$58,500;
- (7) reduce account OP9427 'Landscaping under Power Lines in South Lake' from \$40,000 to \$0;
- (8) inclusion of the notation "*subject to a report being presented to a future Council Meeting before work commences on the project*" alongside items for:-
  - North Lake Road/Bibra Drive – Intersection and Road Upgrade
  - Progress Drive (Gwilliam/Hope) Traffic Calming
  - Beeliar Drive/Hammond Road – Traffic Signals
  - South Coogee Agricultural Hall – Upgrade Kitchen
  - Sports Wall of Fame Rammed Earth Wall





- (9) the addition of new account 'Youth Academic Donations' - \$2,000 with a donation of \$250 to be made from this account to Mr Alan Gill of Atwell, to attend the 2004 National Science Summer School in Canberra.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 9/0**

### **Explanation**

- (1) The installation of street lighting in Cocos Drive/Barrington Street industrial area is required to complete street lighting in the area.
- (2) Funds are required for the Youth Advisory Council to hold a Planning Day.
- (3) After the Cockburn Community Development Strategy and various discussions with the Mayor, Councillors and members of 'Connecting South Lake', it was decided that the highest priority was to improve the land adjacent to Apará Court. This land is an eye-sore and has a huge impact on the amenity of the area. It is proposed to install landscaping to the road verges and supply and install screen fencing along the property lines of those sections of Apará Court and Elderberry Drive, adjacent to property number 5114446 located at property address 38583R Apará Court South Lake. This is to screen properties facing onto Apará Court from the powerlines.
- (4) A change in policy in regard to unkempt verge mowing will require additional funds to be provided.
- (5) An increase of \$5,000 is required for the Sporting Wall of Fame Project to provide funds for a rammed earth wall to place plaques upon. Existing funds provide \$12,000 for brass plaques to be placed in the wall, \$4,500 for plaques for the successful nominees, \$7,000 for the function at which the plaques are presented, advertising/promotion \$1,000 and the plaque installation of \$2,000.
- (6&7) Funding for these projects is available from anticipated additional tip fees to be received and reallocating funds in account OP9427 'Landscaping under Power Lines in South Lake'.
- (8) It is considered further information is required by Council on the works referred to above, before work is commenced on the projects.
- (9) There are policies and funds available to permit donations to talented young sporting and artistic individuals to pursue these areas of interest. There are no such arrangements in place for academically talented young students. An approach has been made by a resident to attend a National Young Science Summer School in Canberra in January 2004. A policy will need to be established by Council for the distribution of funds from the



Youth Academic Donations Account, prior to any further expenditure of funds from the account.

**Background**

Council reviews its Budget twice each year for the periods ending October and February.

**Submission**

N/A

**Report**

A report on the review of the Municipal Budget for the period 1 July 2003 to 31 October 2003 is attached to the Agenda.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

A number of amendments to the Budget are recommended.

**Legal Implications**

N/A

**Community Consultation**

N/A

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

Nil.

**15.5 (MINUTE NO 2262) (OCM 16/12/2003) - WRITE-OFF OF VARIOUS DEBTS (5651) (KL)**

<b>RECOMMENDATION</b>	
That Council write off the following debts totally \$2,514.04:	
<u>Debtor</u>	<u>Amount</u>
	\$
Dance Zone	50.00
E McCormack	90.00
D Brenzi	529.35



Elke WinKens School of Dance	402.50
K J Sue	60.00
D Smith	228.50
K D Sherlock Drafting	198.00
L J Gordon	636.00
S Evans	319.69

**COUNCIL DECISION**

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

**CARRIED****Background**

Council's Auditors have completed the audit for 2002/03 and have suggested that where all avenues for the recovery of outstanding debts have been fully examined and exhausted that those debts be removed from the Debtors Ledger.

**Submission**

N/A

**Report****Dance Zone - Hall Hire - \$50.00 - (Community Services):**

This amount represents a balance outstanding from hall hire at Coogee Community Centre. The bond for the hall was paid to the Coogee Beach Progress Association who were responsible for managing bookings at the time the original booking was made by Dance Zone. The receipting of this bond to the Debtors account was omitted in 2000/01.

**E McCormack - Youth Outrage School Holiday Program - \$90.00 - (Community Services):**

This debt relates to a booking for a participant at the October 2002 youth Outrage School Holiday Program. In view of the small debt outstanding, engaging a debt collector is considered uneconomical. Participants in future programs are required to pay for the cost of the program up-front.

**D Brenzi - Oil Spill Clean-up - \$529.35 - (Roads):**

The above was responsible for a large oil spill at Yangebup and Miguel Roads, Yangebup. Invoices were sent to the address given by the



offender, but were returned unclaimed. Efforts to collect the debt by D and B have proved unsuccessful.

Elke WinKens School of Dance - \$402.50 - (Community Services):  
Elke WinKens School of Dance hired the Atwell Parklands Centre from May 2002 until September 2002, when access to the hall was terminated due to non-payment of accounts. All efforts to contact the Principal of the Business have been unsuccessful. No further services have been provided to this hirer.

K J Sue - Cost of Vandalism - \$60.00 - (Rangers):  
The above was reported to Hilton Police for incurring vandalism at Manning Park in October 2002. the offender paid \$50, but the remaining balance of \$60 remains unpaid. The Debtor has not responded to official demands for payment.

D Smith - Dog Impounding Costs - \$228.50 - (Rangers):  
The above was invoiced for the cost of impounding two dogs. Efforts in trying to recover the debt have failed as the Debtor has moved address and has been unable to be located since.

K D Sherlock Drafting - Administration Services - \$198.00 - (GIS Services):  
Sherlock was provided with data from GIS Services in June 2001. Attempts by D and B to recover any funds have been unsuccessful. No further services have been provided to Mr Sherlock since the debt was incurred.

L J Gordon - Eating House Licence - \$636.00 - (Health Services):  
Two Eating House Licences were issued to Pizza Hut, Hamilton Hill and Yangebup.

Advice was received from an insolvency service advising that Mr Gordon was listed as a bankrupt. There are no assets or dividends that will arise from this bankruptcy.

S Evans - Communication Costs - \$319.69 - (Human Resources):  
Ms S Evans previously employed by the City utilised Council's mobile telephone for calls which were not related to her duties. All attempts to locate Ms Evans have failed.

### **Strategic Plan/Policy Implications**

Managing Your City refers.

### **Budget/Financial Implications**

Outstanding debts to Council totalling \$2,514.04 are proposed to be written-off.



**Legal Implications**

Debts which are irrecoverable require Council's authorisation to be written off under the provisions of the Local Government Act, Section 6.12(1)(c).

**Community Consultation**

N/A

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

Nil.

**16. ENGINEERING AND WORKS DIVISION ISSUES****16.1 (MINUTE NO 2263) (OCM 16/12/2003) - TENDER NO. 43/2003 - PROVISION OF A BULK VERGE COLLECTION SERVICE (4903) (BKG) (ATTACH)****RECOMMENDATION**

That Council:

- (1) does not accept any of the submitted offers for Tender No. 43/2003 – Provision of a Bulk Verge Collection Service;
- (2) advise the Southern Metropolitan Regional Council that it requests under section 8.12 of the Establishment Agreement to become a project participant for the Greenwaste and Bulk Waste Collection Service and authorise the Chief Executive Officer and Mayor to sign the agreement;
- (3) engage D & M Contractors to carry out the verge-side bulk collections in March and at the rates specified in the Southern Metropolitan Regional Council contract; and
- (4) allocate an additional \$25,000 to Account No.OP9551 - Annual Junk Collection and increase the budget for Account No.GL-481-5110 - Recycling Grant by \$25,000.

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

**COUNCIL DECISION**

MOVED Cllr A Edwards SECONDED Cllr K Allen that Council accepts the offer from Kwinana Recycle Services for Tender No. 43/2003 -

Provision of a Bulk Verge Collection Service.

**CARRIED 9/0**

### **Explanation**

Council considers the lower cost of the Kwinana Recycle Services tender is a greater advantage than the advantages associated with the Southern Metropolitan Regional Council proposal listed in the Agenda Report.

### **Background**

The City of Cockburn currently provides 3 greenwaste collections and one junk collection from the verge for every residential property in the area. There is one collection of combined greenwaste and junk once per year for rural properties.

The district is split into 3 residential areas and one rural area. In the residential areas greenwaste is collected in March, June and November and the junk collection is in August/September.

Tenders were called to provide the service for the next 2 years with an option to extend to a third.

### **Submission**

Three submissions were received, details of which are attached to the Agenda. Two conforming tenders were received and a proposal from the Southern Metropolitan Regional Council for Cockburn to be included in the service they currently provide on behalf of Rockingham, Fremantle and Melville.

### **Report**

#### Previous Tender

In March 2001 tenders closed for the provision of a bulk verge waste collection. Only one tender was received from CWD, but the price was too high.

A resolution was passed that no tender be accepted and that hourly rates be negotiated to provide the service for the next 2 years. This resulted in the most economical solution. For every hour the contractor worked he was paid a rate for his trucks and a set rate for his bobcats.

#### Current Tender

Tender No. 43/2003 closed on the 30<sup>th</sup> October 2003.



Two submissions were received.

	Total GST inclusive	Greenwaste	Junk	Rural
(1) Kwinana Recycling	\$297,415	\$99/tonne	\$105/tonne	\$145/tonne
(2) W A Recycling	\$298,787.50	\$99/tonne	\$110/tonne	\$104.5/tonne

The proposal from the Southern Metropolitan Regional Council equates to \$329,061.51 (GST included).

The current contractors, CWD, did not submit a price. When they were contacted they advised that the rounds had grown to a stage where they could no longer complete the work in the 3 areas within the 2 week period and recommended the areas be expanded to 4.

#### Financial Analysis

The service being carried out by CWD on hourly rates equates to the greenwaste service being provided for \$63.00 per tonne and \$72.00 per tonne for bulk collection.

The total budget for 2003/04 is \$216,000.

Based on the estimated 26,000 residential properties in the area this equates to \$8.30 per property per year.

The lowest tender price submitted is \$270,000 (excluding GST) which is \$54,000 higher than the current estimated expenditure for a full year or \$10.28 per property per year.

The proposal from SMRC is for \$299,105.92 or \$11.50 per ratepayer per year.

#### SMRC Proposal

In 2002, the Southern Metropolitan Regional Council had a request from one of its member councils to carry out the bulk verge waste collection service on its behalf.

The Council prepared a project participants agreement for this to occur. Melville, Rockingham and Fremantle agreed to be a participant. The City of Cockburn declined at that time as it was getting the service done cheaper by using CWD and the hourly plant hire method.

The SMRC went to tender for a 5 year term and D & M Waste were successful in being awarded the contract. They have been carrying out the service for the above councils for the past 18 months.



The SMRC tender with D & M Waste provides for a unit rate per rateable property for separate collections of greenwaste and junk. Rural areas are carried out on a truck hourly hire rate basis.

Advantages

- Stable collection costs for next 4 years and known estimates as based on rate per household.
- Reduced workload on Cockburn staff to call, administer and supervise contract.
- Allows Regional Council to control flow of greenwaste to processing plant to maximise its efficiency. Cockburn Council effectively owns 25% of the greenwaste grinding machine and associated facilities.

Disadvantages

- Melville has a higher participation rate of around 65% so has higher tonnages, but pays same rate. Cockburn has lower participation rate around 30%. This is probably due to all residents getting free vouchers (tip passes) to allow them to dispose of greenwaste. Melville ratepayers have to pay \$18.00 per trailer to dispose of their greenwaste.

The SMRC has also stated that Cockburn be divided into four collection areas and a rural area rather than the current three, to allow the contractor sufficient time to collect the greenwaste in the two week specified period.

Conclusion

It is not possible to continue with the current contractor as the contractor did not submit a price.

Prices were received from two tenderers which are higher than the current costs.

SMRC have a contract with D & M Waste to supply the service. Previously Cockburn volumes were low and hence it was not economic to join the SMRC contract. However, because of increasing greenwaste volumes and to take advantage of a regional approach to greenwaste and junk collection and processing, it is recommended that the Council request the SMRC amend their Project Participants Agreement to allow Cockburn to participate in the regional bulk verge collection service.





### Strategic Plan/Policy Implications

One of the commitments in the Corporate Strategic Plan is: “*To manage the City’s waste stream in an environmentally acceptable manner.*”

### Budget/Financial Implications

In the 2003/04 budget there is:

Account No. 9552	Greenwaste Bulk Pick-up	\$163,738.00
Account No. 9551	Annual Junk Collection	<u>\$ 53,000.00</u>
		<u>\$216,738.00</u>

Two greenwaste collections and the annual junk collection have been completed. If the SMRC rates are accepted, an additional \$25,000 will need to be allocated to Account No. 9552 to allow the March collection to be undertaken. This can be funded from increased income in Recycling Grants.

In 2004/05 it will be necessary to increase the bulk and greenwaste collection from \$216,738 to \$306,000, an increase of \$90,000.

This will result in an increase to the rubbish rate of around \$3.20.

Because the agreement may not be finalised by March 2004, it is recommended that Council authorises the March greenwaste collection at D & M’s contract rate which approximates to 26,000 properties x \$2.86 = \$74,360.

### Legal Implications

Nil.

### Community Consultation

N/A

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

If SMRC carry out the service, it will be via a contractor who was selected in an open tendering environment.

### 16.2 (MINUTE NO 2264) (OCM 16/12/2003) - COMMERCIAL 'HOT SPOT' STREET LITTER REMOVAL (6108) (JR) (ATTACH)

#### RECOMMENDATION

That Council receive the report on the City’s street litter pickup program and the effectiveness of the current intervention levels be



reviewed in 12 months time.

**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

At the Ordinary Meeting of Council held on 18 November 2003, in matters to be noted for investigation, Mayor Lee requested that a report be prepared on the issue of rubbish on the Council verge outside residential properties located opposite or in the vicinity of high rubbish generators such as fast food outlets and other commercial ventures eg: Rockingham Road, Spearwood. The report is to address issues such as cost, frequency and viability of Council conducting rubbish patrols in these areas.

**Submission**

N/A

**Report**

The current Budget has an allocation of \$357,000 for the clearance of litter from the City's street system. As specific funds for a street litter pickup program has only been in place since the 2002/03 Budget, a set program and intervention levels is only just being established. Attached to the Agenda is a frequency schedule of patrolled streets for the street litter pickup program. Litter "hot spots" have also been identified, and these receive additional attention as indicated in the attachment to the Agenda.

Currently, there is only one permanent full time litter crew allocated to the program supplemented by a part time crew, and this is being increased to establish the intervention levels set in the program on a regular basis. The "hot spots" will become more regularly cleared in accordance with the program once crew numbers are increased.

This has not been undertaken to date as there has been a requirement for intermittent intervention from the City's other crews to supply large plant and trucks to clear up a backlog of illegal dumpings and street litter. It is hoped that this backlog has now been reduced to a manageable level for the full time litter crew. With 42% of the year gone, about 47% of the litter budget has been expended.



It is considered that the intervention levels should be monitored to check their effectiveness and reviewed in 12 months.

### **Strategic Plan/Policy Implications**

The commitments of the Corporate Strategic Plan is: *“To manage the City’s waste stream in an environmentally acceptable manner.”*

### **Budget/Financial Implications**

The current Budget adequately allows for the planned intervention levels for street litter pickup. If there is a desire to have the intervention levels broadly raised to a higher service level, then there will need to be an increase in funding.

### **Legal Implications**

Nil.

### **Community Consultation**

N/A

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

Nil.

## **17. COMMUNITY SERVICES DIVISION ISSUES**

### **17.1 (MINUTE NO 2265) (OCM 16/12/2003) - USE OF RESERVE 12892 POLLETTI ROAD, JANDAKOT (5514364) (RA)**

#### **RECOMMENDATION**

That Council:

- (1) enter into negotiations with the River of Life Community Church for the lease of Reserve 12892 Polletti Road, Jandakot for the purposes of establishing a Church / Community Centre on the site; and
- (2) lease Reserve 12612 to the River of Life Community Church, subject to terms and conditions as agreed by the Chief Executive Officer.



**COUNCIL DECISION**

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

**CARRIED 9/0**

**Background**

Council, at its Meeting of the 21 January, 2003, resolved as follows:-

- (1) seek approval from the Department of Land Administration to alter the vesting of Reserve 12692 from recreation purposes to community purposes;
- (2) subject to (1) above, call for registrations of interest from not for profit organisations to develop reserve 12692 for the provision of community services in accordance with the vesting of the land for consideration by Council; and
- (3) advise the Portuguese Cultural and Recreational Centre WA (Inc) of the Council decision and invite them to submit a proposal at the appropriate time.

The Department of Land Administration was duly advised of Council's decision and responded on the 25<sup>th</sup> July, 2003 that a duplicate Management Order would be forwarded upon the completion of the registration process with the purpose of the reserve change to 'Community purposes'.

Advertisements appeared in The West Australian on the 13<sup>th</sup> August 2003 and in the Cockburn Gazette on the 12<sup>th</sup> August, 2003, calling for expressions of interest from not for profit organisations to construct facilities on the site for the needs of its membership and clients. The submissions closed on the 17<sup>th</sup> October, 2003. Advice provided in the expression of interest was that proposals were to be based on the assumption that no Council funding would be provided.

**Submission**

At the close of the expression of interest period, submissions were received from the Portuguese Cultural and Recreation Centre W.A. Inc., and the River of Life Community Church.

**Report**

The submissions were required to include:-



- A copy of the Association's constitution.
- Copies of the Audit Statements.
- Overview of the envisaged facilities and how they will be funded.
- Anticipated catchment population within the City of Cockburn.

The Portuguese Cultural and Recreation Centre (Inc.) submission did not provide a copy of its constitution nor copies of audited statements. The Association was contacted in relation to the audit statements and advised that although the Association was established in 1994 it had not had the need for an audit. Its estimate for the construction of the building was \$460,000 which was to be raised as follows:-

- \$40,000 cash in kind from 160 members;
- \$200,000 from the Lotteries Commission; and
- \$200,000 from a bank loan.

Concept plans for the site presented by the Portuguese Association shows a building of 480m<sup>2</sup> with car parking for 24 vehicles.

The Association states that there are 3,000 Portuguese-speaking people in the area. The Australia Bureau of Statistics identified in 1996, 1,419 Portuguese-speaking people within the City of Cockburn and 1509 in the 2001 Census.

The submission put in by the River of Life Community Church provided the requisite information and was comparatively a strong submission.

The River of Life Community Church promotes itself as a church established to serve the English speaking needs of migrants primarily from Malaysia, Indonesia and Singapore. The church currently has a membership of 90 and leases a private property in Jandakot. It sees a great potential in its growth commensurate with the growth in the population of the City,

The submission provided by the River of Life Community Church indicates the organisation has strong management and accounting practices, is financially self sufficient and able to draw upon funds from sources other than from Government. The Architects concept plan for the site shows a building of 250m<sup>2</sup> and a car park for approximately 100 vehicles.

Of the two submissions presented the River of Life Community Church appears as the most viable.

It is proposed that Council empower the Chief Executive Officer to enter more detailed discussion with the River of Life Community Church for the possible lease of Reserve 12892 Polletti Road, Jandakot, subject to terms and conditions of the lease being to the satisfaction of the Chief Executive Officer.



It is considered important that the lease has in place a requirement for a building to be constructed within say two (2) years from the date of signing of the lease. If it so happens that the building is not constructed within this time the lease can be terminated and the land held for future consideration.

### **Strategic Plan/Policy Implications**

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

### **Budget/Financial Implications**

All costs associated with the development of the facilities will be borne by the proponent. The reserve is set aside for community purposes. Furthermore, the site is within an industrial area and has limited value to the City for its community service provision.

### **Legal Implications**

Lease Agreement required to be entered into.

### **Community Consultation**

The public request for submissions of expression of interest meets reasonable community consultation requirements.

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

Nil.

## **17.2 (MINUTE NO 2266) (OCM 16/12/2003) - BUSH FIRE ADVISORY COMMITTEE MEETING - 2 DECEMBER, 2003 (1550) (RA) (ATTACH)**

### **RECOMMENDATION**

That Council receives the Minutes of the Bush Fire Advisory Committee dated 2 December, 2003, and adopts the recommendation contained therein.

### **COUNCIL DECISION**

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

**CARRIED 9/0**



**Background**

The Bush Fire Advisory Committee conducted a meeting on 2 December, 2003. The Minutes of the Meeting are required to be presented to Council and its recommendations considered by Council.

**Submission**

The Minutes of the Bush Fire Advisory Committee Meeting is attached to the Agenda. Items dealt with at the Committee Meeting form the Minutes of that Meeting.

**Report**

The Committee recommendations are now presented for consideration by Council and if accepted, are endorsed as the decisions of Council.

Any Elected Member may withdraw any item from the Committee Meeting for discussion and propose an alternative recommendation for Council's consideration.

**Strategic Plan/Policy Implications**

Key Result Area "Managing Your City" refers.

**Budget/Financial Implications**

Committee Minutes refer.

**Legal Implications**

Committee Minutes refer.

**Community Consultation**

Committee Minutes refer.

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

Committee Minutes refer.

**17.3 (MINUTE NO 2267) (OCM 16/12/2003) - NAVAL BASE HOLIDAY ACCOMMODATION - APPLICATION FOR CONSENT TO CARRY OUT WORKS (1911) (DMG) (ATTACH)**

**RECOMMENDATION**  
That Council:  
  
(1) adopts the Design and Building/Development/Other Works



Guidelines for Reserve 24308, described as the Naval Base Caravan Park, Cockburn Road, Henderson, as attached to the Agenda;

- (2) advise Hilda Shroy and Aaron Johnson that the application to construct a new Chalet on Site 515, as shown in the attached Plan, is approved, subject to:-
- (i) conforming with any approval requirements of the owner of the Reserve (Department of Planning and Infrastructure) in respect of the proposal; and
  - (ii) completion and submission of an Application Form NBHA1 and associated documentation as required by the Guidelines referred to in sub-recommendation (i) above.

**COUNCIL DECISION**

MOVED Clr K Allen SECONDED Clr M Reeve-Fowkes that the recommendation be adopted.

**CARRIED 9/0**

**Background**

This matter was deferred from the November, 2003, Council Meeting to enable the applicant to consult with affected neighbouring Chalet owners in respect of the dimensions of the proposed new structure, which exceeds the previously generally accepted dimensions which applied to structures at the Park (5.25m x 5.25m).

Elected Members have been verbally informed of the consent process which would now be required to be complied with before approvals for building renovations / other works would be granted to chalet owners at the Naval Base Caravan Park.

Attached is a copy of the procedures which have been agreed to in consultation with the relevant State Government agencies.

The requirements are quite prescriptive to ensure certain standards are maintained at the Park in the future, given that there has been irregular supervision of works in recent times due to uncertainty surrounding the tenure of the Park.

While all endeavours have been made for a smooth implementation of these guidelines, there have been some applications held in abeyance, pending the establishment of the Guidelines. In some instances, these





relate to minor refurbishment works which have been reasonably easy to deal with and have achieved satisfactory outcomes for the applicants. In one case, however, being Site 515, an application has been forthcoming from Hilda Shroy and Aaron Johnson for a new structure to be built, the dimensions of which are far greater than those allowed for in the Guidelines.

### **Submission**

To approve an application to construct a new Chalet at the Park which does not comply with guidelines administratively accepted as being of a reasonable standard to impose as minimum requirements.

### **Report**

In February, 2003, Messrs Shroy and Johnson purchased Chalet 515 at the Naval Base Caravan Park.

In March, Ms Shroy made enquiries with Council regarding a refurbishment of the Chalet and was informed of the required procedure, involving applying to the Department of Land Administration and the W.A. Planning Commission, as the owners of the land, for the necessary approvals.

These approvals were duly received by the applicants. The applicants then claim that, while they were stripping the interior wall cladding in preparation for refurbishment, they discovered a significant termite infestation in the interior beams, which they felt could not be repaired. They then turned their attention to the possibility of demolishing the Chalet and rebuilding a new one.

The applicants claim they contacted Council's Building Department staff to clarify requirements for this process and were given verbal approval to demolish the current structure and re-submit plans for a new proposal.

Upon receiving the plans for the proposed new structure, Building Department staff noted the design was more elaborate than structures normally associated with the Park and, accordingly, were unable to determine if a Building Licence could be issued for the proposed structure, because it did not comply with a classification for which approval could be given.

Following that, staff met with Council's Solicitors about the extent of involvement for Council in such circumstances. Staff were informed that, as the land is a Crown Reserve, it was exempted from Council's statutory requirements and, therefore, the issuing of a Building Licence was not appropriate.



It then became apparent that was the reason applications for structural alterations and renovations had not been subject to a formal process in the past, and that the only requirement for Council involvement was through the Memorandum of Agreement (Lease) between Council and each individual Chalet owner.

It was at that stage that Council's Solicitors advised Council to prepare some Guidelines to reflect the requirements for altering / refurbishing the Chalets. This process was commenced immediately and involved senior staff from Council's Building, Planning and Executive Service departments.

Once the Guidelines and processes were internally agreed to, the procedure for dealing with all such applications was transferred from the Building Department to Administrative Support, as the internal area responsible for monitoring the Leases at the Park.

Simultaneously, all applications which had been received during the interim period, including Site 515, were transferred from Building to Administrative Support. Subsequently, all applications were assessed against the Guidelines and Site 515 was identified as being well in excess of the dimensions permitted. The Guideline dimensions stipulate a floor dimension of 5.2m x 5.2m maximum, a height of 3m, or thereabouts and a Patio/Pergola 1.8m wide. In addition, no building or structure is to be closer than 1.8m to an adjacent building.

The original proposal for Site 515 is for a structure of 6.6m x 6.7m with a verandah of 2.0m located on the western side, a 1.2m roof overhang on the eastern side, with a retaining wall adjacent to the cliff face. Therefore, a total length of the proposed structure is 9.9m or thereabouts.

Having assessed the proposal against the newly introduced Guidelines, there was little alternative but to refuse the application due to the size of the discrepancy with the Guidelines, particularly with the floor size. The plan depicting the proposal as overlaid on the footprint of the previously demolished structure, is attached.

Accordingly, a letter refusing approval was forwarded to the applicants on 22 September, 2003. In response to this, the applicants have sought to have the decision reviewed, claiming that they have been led to believe by Council staff that there were no concerns with the proposal registered by staff and they had done everything asked of them to ensure conformity with the processes required.

Although there is no formal record of the discussions which took place between the applicants and Council staff, it has been ascertained that at no time were there any concerns raised by Council staff on the quality of the application, and that it was only the internal processes which required clarification before the application could be addressed.



A revised application indicates a structure of 6.0m x 6.0m with a verandah of 2.0m located on the western side and a roof overhang of approximately 1.0m on the eastern side. However, this overhang has been truncated on the north eastern corner parallel with the roof line of Chalet 403A, to comply with the 1.8m setback requirement. Letters of consent to the proposal have been obtained by the owners of chalet 403A and 516.

In compiling the Guidelines, standards which have been informally applied to the Park in the past have now been included as requirements to be adhered to. From a viewpoint of consistency, this would appear to be a fair and proper application of the rules and regulations which have existed in the past.

It should also be noted that building alterations of varying magnitude have taken place to many chalets at the Park in the past in an ad-hoc manner without Council approval, formal or otherwise. In more recent times, this is primarily due to the State Government's unclear position on the tenure of the Reserve. However, now that this issue has been resolved, there is no reason why Council should not apply some form of controls to the sites.

Because of the delays in deciding on this matter originally Council may consider the application in a lenient light and grant approval on the basis that the Guidelines were not in place at the time the original application had been lodged and there had been no suggestion that the original proposal was inadequate or non-compliant at any time.

In addition, the applicant has demonstrated a desire to ensure minimal impact on surrounding chalet owners.

In any circumstance, it is imperative for Council to adopt the Guidelines to ensure that all future proposals can be assessed without any query over the requirements.

### **Strategic Plan/Policy Implications**

Key Result Area "Maintaining Your Community Facilities" refers.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

As stipulated in a Memorandum of Agreement, applicable to all Chalets located on Reserve 24308, between the Department of Planning and Infrastructure (land owner), the City of Cockburn and individual Chalet owners



**Community Consultation**

The owners of the two immediate impacted neighbouring Chalets (516 and 403A) have been consulted for their opinion on the effect of the proposal on their Chalet.

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

Nil.

**18. EXECUTIVE DIVISION ISSUES**

Nil

**19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**20 (OCM 16/12/2003) - NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING**

**ILLEGAL STRUCTURES WITHIN DISTRICT (CLR OLIVER)**

That Council undertake a public awareness campaign to advise ratepayers that the Council will not tolerate the erection of illegal structures within the district and where such structures are identified, then Council will consider legal action and/or the removal of the structures as provided for under the Act.

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

Nil

**22. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE**

Nil

**23. CONFIDENTIAL BUSINESS**

Nil



24. **(MINUTE NO 2268) (OCM 16/12/2003) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

**RECOMMENDATION**

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

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

**COUNCIL DECISION**

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

**CARRIED 9/0**

25 **(OCM 16/12/2003) - CLOSURE OF MEETING**

MEETING CLOSED AT 7.52PM.

**CONFIRMATION OF MINUTES**

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

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

