

CITY OF COCKBURN

SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 18 MAY 2004 AT 7:00 PM

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CITY OF COCKBURN**MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 18
MAY 2004 AT 7:00 PM**

PRESENT:**ELECTED MEMBERS**

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

IN ATTENDANCE

Mr R. Brown	-	Chief Executive Officer
Mr D. Green	-	Director, Community Services
Mr 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 18/05/2004) - APOLOGIES AND LEAVE OF ABSENCE

Deputy Mayor Graham - Apology

6. ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

7. PUBLIC QUESTION TIME

Nil

8. CONFIRMATION OF MINUTES

8.1 (MINUTE NO 2402) (OCM 18/05/2004) - SPECIAL COUNCIL MEETING - 13/04/2004

RECOMMENDATION

That the Minutes of the Special Council Meeting held on Tuesday, 13 April 2004 be accepted as a true and accurate record.

COUNCIL DECISION

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

CARRIED 9/0

8.2 (MINUTE NO 2403) (OCM 18/05/2004) - ORDINARY COUNCIL MEETING - 20/04/2004

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on Tuesday, 20 April 2004, be accepted as a true and accurate record.



COUNCIL DECISION

MOVED Cllr L Goncalves SECONDED Cllr A Tilbury 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 2404) (OCM 18/05/2004) - TIMING OF FUTURE LOCAL GOVERNMENT ELECTIONS (1700) (DMG)

RECOMMENDATION

That the City of Cockburn supports May as the preferred time for conducting local government elections.

COUNCIL DECISION

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

CARRIED 9/0



Background

Several of the W.A. Local Government Association's Zones have requested that consideration be given to changing the date for the conduct of biennial Local Government elections. Currently all elections are held on the first Saturday in May every two years, with the next election due in May 2005.

Under Section 4.7 of the Local Government Act 1995, elections for a Mayor or President are to be held on the first Saturday in May each four years and in regard to the election of councillors, on the first Saturday in May every two years, with one half of the seats (or as near to) being filled for a four year term.

Submission

To support the status quo for the timing of local government elections in this State.

Report

Zones suggested a date later in the year, possibly September or October, as this will allow all newly elected members to participate in the budget process for the following financial year, in a meaningful way rather than being elected in May when a larger number of councils have already established their budget parameters. With the proposed change to the budget timetable where councils will be able to adopt the budget during June, this situation could be exacerbated.

One Zone suggested holding Local Government elections on the first Saturday in October and another proposed it be held during September.

The State Council at its April meeting, decided to survey all members to determine if there is general support for the suggested change in date for the biennial Local Government elections from May to October. It was felt that this change would enable Elected Members to be better informed before having to vote on the adoption of the Local Government's annual budget.

As the Department of Local Government and Regional Development has already indicated that it is undertaking a review of this electoral provision, it was seen as appropriate for the Association to develop a position on the proposal after consultation with members.

Member Councils are invited to provide their views on the proposal of changing the date from May to October. Alternatively if Council feels that the date should be changed but do not agree with October,



WALGA would also be prepared to have those comments along with reasons for the suggested alternative.

Historically, the City of Cockburn has not encountered any difficulties with the introduction of newly elected members in May. Therefore, it would not seem necessary to support a change to the status quo on this basis.

Strategic Plan/Policy Implications

Key Result Area "Managing Your City" refers.

Budget/Financial Implications

Nil. Cost of conducting election by Postal Ballot is currently built in to Council's Operating Budget.

Legal Implications

Sec. 4.7 of the Local Government Act, 1995, refers.

Community Consultation

All member councils of the W.A. Local Government Association invited to provide comment.

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

Nil.

13.2 (MINUTE NO 2405) (OCM 18/05/2004) - DELEGATED AUTHORITIES, POLICIES AND POSITION STATEMENTS COMMITTEE - 21 APRIL, 2004 (1054) (DMG) (ATTACH)

RECOMMENDATION

That Council receive the Minutes of the Delegated Authorities, Policies and Position Statements Committee, as attached to the Agenda, dated 21 April 2004 and adopts the recommendations contained therein.

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Clr M Reeve-Fowkes SECONDED Clr L Goncalves that the recommendation be adopted.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 9/0



Background

The Delegated Authorities, Policies and Position Statements Committee conducted a meeting on 21 April 2004. 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 are 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.



13.3 (MINUTE NO 2406) (OCM 18/05/2004) - ESTABLISHMENT OF 'ELECTED MEMBERS FACILITIES CONSTRUCTION COMMITTEE' (4602) (DMG)

RECOMMENDATION

That Council:

- (1) pursuant to section 5.8 of the Local Government Act, 1995, establish the "Elected Members Facilities Construction Committee";
- (2) nominates the Terms of Reference of the Committee to be "*to co-ordinate the extension of the Elected Members Facilities being constructed in conjunction with the refurbishment of the Administration Building*";
- (3) appoints Elected Members _____, _____, and _____ as Members of the Committee; and
- (4) disbands the "Elected Members Area Refurbishment Committee" established on 19 November 2002, as its functions are no longer relevant.

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Cllr M Reeve-Fowkes SECONDED Cllr S Limbert that Council:

- (1) pursuant to section 5.8 of the Local Government Act, 1995, establish the "Elected Members Facilities Construction Committee";
- (2) nominates the Terms of Reference of the Committee to be "*to co-ordinate the extension of the Elected Members Facilities being constructed in conjunction with the refurbishment of the Administration Building*";
- (3) appoints Elected Members Mayor Lee, Deputy Mayor Graham, Cllr Oliver, Cllr Reeve-Fowkes, Cllr Allen and Cllr Limbert as Members of the Committee; and
- (4) disbands the "Elected Members Area Refurbishment Committee" established on 19 November 2002, as its functions are no longer relevant.

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 9/0



Background

In November 2002, Council established the “Elected Members Area Refurbishment Committee”, the brief of which was to co-ordinate a planned refurbishment of the Elected Member facilities comprising Council Chambers, Reception Room, Foyer and Dining Room, in the current administration building.

However, following advice from an Architect that the associated works would require additional funds to those Council had allocated for the project, together with information that extra staff associated with the growth of the District would be required over the next 10 -15 years, it was decided to curtail the activities of this committee.

Subsequently, tenders were sought from qualified architects to provide Council with options to extend the current Administration Building to provide for new Council and related Elected Members facilities to be made available.

This process has resulted in Council being provided with four alternative design options to extend the current building.

Submission

To establish a new committee to co-ordinate the extension of the Elected Members Facilities.

Report

It would appear that there is no current avenue to be followed for the administration to receive guidance from Council on the progress of the extensions.

Accordingly, it is suggested that a committee be established to provide some direction on the planning and co-ordination of the facilities required to conduct the business of Council and related functions. The main purpose of the committee would be to provide input to the functional design of the premises to ensure an outcome commensurate with expectations and requirements is achieved. This could be achieved in conjunction with the refurbishment of the existing building, which will be required to accommodate staff growth into the future.

With this process determined, the previous committee established in November 2002, can be formally disbanded as its function has been superseded.

Strategic Plan/Policy Implications

Key Result Area “Managing Your City” refers.



Budget/Financial Implications

Nil

Legal Implications

Sections 5.8 and 5.11 of the Local Government Act, 1995 refer.

Community Consultation

N/A

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

Nil

Declaration of a Conflict of Interest

Clr Goncalves declared a Conflict of Interest in Agenda Item 14.1. The nature being that her boyfriend's father's business is involved in the sale of the land.

AT THIS POINT THE TIME BEING 7.06PM, CLR GONCALVES LEFT THE MEETING.

14. PLANNING AND DEVELOPMENT DIVISION ISSUES

14.1 (MINUTE NO 2407) (OCM 18/05/2004) - ACQUISITION OF PORTION OF LOT 59 TINDAL AVENUE YANGEBUP, FOR THE WIDENING OF BEELIAR DRIVE (4412817) (AJB)

RECOMMENDATION

That Council:

- (1) agree to purchase 207m² from lot 59 Tindal Avenue Yangebup for the widening of Beeliar Drive for the sum of \$45,000 in accordance with the submitted valuation report, with funds for the purchase being allocated from DCA 5 – Yangebup East Reserve Fund ; and
- (2) advise the owner's agent, Evans and Gianoli accordingly and that Council will be prepared to settle the matter either on the creation and transfer of the land to Council or if prior to subdivision, the signing of a legal agreement between the owners and the City and the registration of a caveat on the title



of the land.

TO BE CARRIED BY ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

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

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 8/0

Background

N/A

Submission

Evans and Gianoli have submitted a valuation report prepared by Pember Wilson & Eftos Licensed Valuers for the owners of Lot 59 Tindal Avenue, Yangebup.

Report

Construction of Beeliar Drive between Spearwood Avenue and the roundabout west of the railway line resulted in earthworks extending outside of the dedicated road reserve into private land in some instances. Where this has occurred, Council has negotiated the acquisition of additional land to accommodate the earthworks.

Just west of the intersection with Spearwood Avenue, Beeliar Drive is in a cutting which has resulted in earthworks extending into Lots 58 and 59 Tindal Avenue. Additional land has already been purchased from lot 58.

There has been extensive discussions and negotiations with the owners of Lot 59 Tindal Avenue and their Project Manager Evans and Gianoli, in an endeavour to avoid the owners suing the City for trespass and illegal works, two alternative strategies have been assessed. These were as follows;

1. The construction of a retaining wall on the current cadastral boundary and back filling to raise the land to its previous natural level.
2. Acquiring the additional land required from Lot 59 Tindal Avenue being 207 m².



The cost of the retaining wall option estimated by Bruechle Gilchrist and Evans Consulting Engineers for the City was \$139,610. The cost of acquiring the land as per the valuation prepared by Pember Wilson & Eftos for the owners was \$45,000. It is clearly a better option to acquire the additional land. Acquisition of the land would also tie in with the additional land already acquired from adjoining Lot 58.

Pember Wilson & Eftos have prepared a detailed report with valuations based on before and after plans having regard to recent sales evidence and development costs. The City's Land Officer has reviewed the valuation report and is of the view that the methodology applied is in accordance with normal practice and the valuation of \$45,000 for both the land component and injurious affection is consistent with current market prices and is supported.

It is recommended that Council proceed to acquire an area of 207m² from Lot 59 Tindal Avenue, Yangebup at a price of \$45,000 for the purpose of accommodating earthworks associated with Beeliar Drive. The land is to be transferred to the crown as a road widening.

The cost of the land has been included in the Development Contribution Plan for DCA 5 – Yangebup East. There are sufficient funds in the DCA account for this purpose.

Under most circumstances, owners are responsible for all costs associated with the preparation and execution of legal agreements. In this instance, Council is purchasing the land at its own initiation and hence will be responsible for all costs associated with the preparation and registration of a legal agreement. This is expected to be minimal given a similar document has been prepared for the adjoining land. There is no provision for the recovery of legal costs in the Development Contribution Plan. As the land is being purchased on behalf of Engineering Services, the legal costs for the agreement are to be drawn from the appropriate Beeliar Drive account.

Payment for the land can be made either when the land is transferred to Council for vesting for road purposes as part of a subdivision of the land, or the finalisation of a legal agreement between the City and the landowners and caveat registered on the title of the land. The legal agreement would set out the owner's responsibilities in respect to seeking and finalising the subdivision of the land, the transference of the land to Council and obligations if the land is sold. A similar legal agreement has been signed with the owners of adjoining Lot 58 Tindal Avenue.

Strategic Plan/Policy Implications

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



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

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

Budget/Financial Implications

The cost of the land has been included in the Development Contribution Plan for DCA 5 – Yangebup East. There are sufficient funds in the DCA account for this purpose.

Council will be responsible for all costs associated with the preparation and registration of a legal agreement. This will be drawn from Engineering Services Account No CW 2024 – Beeliar Drive which has sufficient funds for this purpose.

Legal Implications

Nil

Community Consultation

Nil required.

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

Nil.

AT THIS POINT THE TIME BEING 7.07PM, CLR GONCALVES RETURNED TO THE MEETING.

14.2 (MINUTE NO 2408) (OCM 18/05/2004) - SALE OF LOTS 190 TO 198 MONTGOMERY DRIVE, SUCCESS (6000473) (KJS) (ATTACH)

RECOMMENDATION

That Council accept the offers to purchase Lots 190 to 198 Montgomery Drive Success, subject to:-

1. The sale price being at least market value as determined by a Licensed Valuer; and



2. The provisions of Section 3.58 of the Local Government Act 1995, being complied with.

COUNCIL DECISION

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

CARRIED 9/0

Background

Council at its meeting on 21 October 2003, resolved to:-

- "(1) *proceed with the major land transaction being the development and sale of nine (9) residential lots on portion of Lot 9050 Bartram Road, Success, subject to no objections to the proposal being received by the close of business on 15 October 2003;*
- (2) *accept the fee proposal to undertake the civil works provided by Gold Estates of Australia (1903) Ltd for the amount of \$249,405; and*
- (3) *transfer \$249,405 from the Land Development Reserve Fund to meet the costs of the civil works and a further \$40,000 for the future upgrade of Bartram Road paid as a bond to the Council's Engineering and Works Department to enable the clearance of the subdivision to be given by the local government."*

Submission

N/A

Report

The Business Plan was prepared and advertised. At the conclusion of the 6 week advertising period on 15 October 2003, there were no responses.

The civil works have been completed and the plan of subdivision is in order for dealings at the Department of Land Information. Duplicate copies of the individual certificates of title are expected to be available around 28 June 2004.

Licensed Valuer Jeff Spencer has reviewed his original valuations now that all of the site works have been completed. Currently there is a shortage of lots available in the vicinity of the site. There has been



keen interest from potential purchasers and it is expected that the lots will sell quickly at prices above the valuations determined by the valuer.

Strategic Plan/Policy Implications

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

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

Budget/Financial Implications

Refer to the attachment.

Costs to date are:-

• Construction	\$249,405
• Developer Contributions	40,000
• Planning Approval fees	<u>3,300</u>
	\$292,705

The income from sales could range between \$983,000 and \$1,073,000.

Legal Implications

Section 3.58 of the Local Government Act 1995.

Community Consultation

Conducted as part of the advertising of the Business Plan.

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

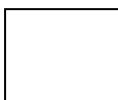
Nil.

- 14.3 **(MINUTE NO 2409)** (OCM 18/05/2004) - PROPOSED AGREEMENT WITH WATER CORPORATION FOR THE ONGOING MANAGEMENT AND MAINTENANCE OF THE BYPASS CHANNEL - LOT 1 HAMMOND ROAD, SUCCESS - OWNER: AUSTRALAND HOLDINGS LTD - APPLICANT: ROBERTS DAY GROUP (9659) (JW) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the draft Memorandum of Understanding prepared by



the Water Corporation;

- (2) agree to enter into an agreement (Memorandum of Understanding) with the Water Corporation to formalise the joint management responsibilities for the bypass channel area in Lot 1 Hammond Road, Success;
- (3) adopt the draft Memorandum of Understanding as the basis for progressing and finalising the agreement with the Water Corporation subject to point 2 of the Water Corporation Commitment being modified as follows:
 2. *The Water Corporation will repair any damage to the grassed swale caused by bypass flows or other works including maintenance within the drainage channel.*
- (4) advise the applicant and the Water Corporation of Council's decision accordingly.

COUNCIL DECISION

MOVED Mayor S Lee SECONDED Cllr K Allen that Council:

- (1) receive the draft Memorandum of Understanding prepared by the Water Corporation;
- (2) agree to enter into an agreement (Memorandum of Understanding) with the Water Corporation to formalise the joint management responsibilities for the bypass channel area in Lot 1 Hammond Road, Success;
- (3) adopt the draft Memorandum of Understanding as the basis for progressing and finalising the agreement with the Water Corporation subject to point 2 of the Water Corporation Commitment being modified as follows:
 2. *The Water Corporation will repair any damage to the grassed swale caused by bypass flows or other works including maintenance within the drainage channel, and any such repairs or other works are to be commenced within 5 working days of any damage being reported.*
- (4) advise the applicant and the Water Corporation of Council's decision accordingly.

CARRIED 9/0



Explanation

It is important that when damage to the grassed swale in the drain is reported, that the necessary repairs or other works be undertaken by the Water Corporation without delay.

Background

ZONING:	MRS:	Urban
	DZS:	Development Zone and falls within Development Area 8, and Development Contribution Area 2.
LAND USE:	Vacant	
LOT SIZE:	14 ha (approx)	
AREA:		
USE CLASS:	N/A	

Council, at its meeting held on 17 February 2004, considered a revised Structure Plan and report for Lot 1 Hammond Road and resolved that Council was prepared to adopt the proposed Structure Plan subject to certain conditions, including:

1. Finalisation of satisfactory arrangements with the Water Corporation regarding the ongoing management, maintenance and operational requirements for the bypass channel (minute No 2314).

The area of the drain and public open space is approximately 1.6ha.

Submission

A draft Memorandum of Understanding, together with other information on the proposed Russell Road Buffer Lake design and drainage overflow channel, was submitted by the developer (Australand) in January 2004. The draft Memorandum of Understanding was prepared by the Water Corporation, and defines the maintenance and improvement responsibilities for Russell Road Buffer Lake Bypass Channel between the City and the Water Corporation (see Agenda attachment).

The details of the draft Memorandum of Understanding are:

City of Cockburn Commitments

1. *The City is responsible for grounds maintenance of the bypass channel swale to provide passive recreational amenity for the local community.*



2. *The City will consult with the Water Corporation on proposals to implement changes to profile or landscaping of the bypass channel where the proposals are likely to affect the flow carrying performance of the channel.*

Water Corporation Commitments

1. *The Corporation will review the performance of the bypass channel annually in order to determine whether maintenance is required.*
2. *The Corporation will repair any damage caused to the grassed swale by bypass flows.*
3. *The Corporation is responsible for implementation of its maintenance plan for the bypass channel swale. This may include periodic lowering of the invert of the swale, when required to overcome the expected rise over time in grass level.*
4. *The Corporation is responsible for public safety relating to the use of the landscaped swale as a bypass channel for the Russell Road Buffer Lake.*
5. *The Corporation will provide any necessary safety signage required at the bypass channel.*

Report

The bypass channel is an integral part of the regional drainage system – Russell Road Buffer Lake. At its meeting held on 17 February 2004, Council resolved to accept it as part of the estates open space drainage area to be managed and maintained by the City based upon the confirmation from the Water Corporation that:

- flows in the bypass will be infrequent and only for short periods given it has a piped outlet;
- it is prepared to enter into a Memorandum of Understanding with the City to formalise the joint management responsibilities for the bypass channel area;
- under its legislation the Water Corporation will be required to advise the City of any works to be undertaken within the bypass channel and that any disturbance will be reinstated to the satisfaction of the City.

The draft Memorandum of Understanding prepared by the Water Corporation has been reviewed by Council officers from Planning Services, Engineering Services and Parks Services. The draft Memorandum of Understanding is considered satisfactory and meets



the City's expectation in the joint management responsibilities for the bypass channel area subject to point 2 of the Water Corporation responsibilities being expanded to include repairs of any damage caused by maintenance works.

The bypass channel will be grassed and landscaped at the cost of Australand, and be maintained for the initial two years by Australand and thereafter by the City together with the surrounding open space area.

Upon the receipt of Council's confirmation of its satisfaction with the draft Memorandum of Understanding, the applicant will undertake to have the Water Corporation progress the preparation of the formal agreement.

Summary

It is recommended that Council accept the draft Memorandum of Understanding as the basis of progressing and finalising the agreement with the Water Corporation subject to point 2 of the Water Corporation responsibilities being modified as outlined above, and advise the applicant and the Water Corporation of its decision accordingly.

Strategic Plan/Policy Implications

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

2. Planning Your City
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
3. Conserving and Improving Your Environment
 - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
5. Maintaining Your Community Facilities
 - *"To construct and maintain 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:-

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

Budget/Financial Implications

The open space and drainage areas are to be maintained by Council two years after its development. The overall annual maintenance cost is to be within the \$15,000 per hectare set by Council, which in this case will be in the order of \$24,000 per annum to maintain 1.6ha of POS and drainage.

Legal Implications

Nil

Community Consultation

N/A.

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

Nil.

14.4 (MINUTE NO 2410) (OCM 18/05/2004) - PROPOSED DRAFT COOGEE BEACH STRUCTURE PLAN AND REPORT - COOGEE BEACH BETWEEN PORT COOGEE AND POORE GROVE (9668) (JW) (ATTACH)

<p>RECOMMENDATION</p> <p>That Council:</p> <ul style="list-style-type: none">(1) receive the Draft Coogee Beach Structure Plan and report;(2) adopt the Draft Coogee Beach Structure Plan and Report for the purpose of public consultation; and(3) advertise the Draft Coogee Beach Structure Plan in accordance with the provisions of Clause 6.2 of Town Planning Scheme No.3.
--



COUNCIL DECISION

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

CARRIED 9/0

Background

Council requested the preparation of a detailed plan for the future conservation, rehabilitation and development of Coogee Beach due to its importance to the Cockburn Community and to the wider region.

Submission

A Structure Plan has been prepared by Council's Planning Services for the coastal area from the southern end of the Port Coogee development site to Poore Grove.

The Structure Plan represents an overview of the coastal environment, land use planning and management, recreational facilities, cultural and social values as well as potential economic activities. It incorporates three major coastal-related development proposals including:

- Port Coogee Marina
- Coogee Café/Kiosk Development
- Proposed location of Coogee Beach Surf Life Saving Club

It also identifies some issues raised by current and previous plans and studies and includes a number of proposals. This includes:

- Connection with the proposed Port Coogee Marina development
- Possible construction of a café/kiosk
- Expansion of the car parking area
- Possible closure of the existing shop
- New vehicle accesses from Cockburn Road
- Future of the Caravan Park
- Possible reuse of the unused Railway reserve
- Proposed development of the Surf Life Saving Club
- Pedestrian/cyclists network
- Access to the beach
- Rehabilitation/protection of the foredune and important vegetation

Report

Preparing an overall structure plan for the coastal area provides for:-



- A design approach to be developed;
- Better integration of parking needs and access for both Coogee Beach and the proposed Port Coogee development,
- Surf life saving club and the café/kiosk,
- Active and passive recreational uses.

A comprehensive report on the proposed Coogee Beach Structure Plan is attached to the agenda providing details of the proposal including design objectives, existing land use and ownership, policy and legislation framework, future land use components and environmental considerations.

Subject to Council support, the advertising of the Structure Plan is to be undertaken in accordance with the provision of Clause 6.2 of Town Planning Scheme No.3.

At the conclusion of the public comment period, Council Planning Officers will provide a combined set of comments and recommendations to Council based on submissions received from the public and agencies.

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."*
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:-

SPD1 Bushland Conservation Policy
 SPD3 Native Fauna Protection Policy
 APD30 Road Reserve And Pavement Standards

Budget/Financial Implications

N/A



Legal Implications

Nil

Community Consultation

The recommendation facilitates community consultation.

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

Nil.

14.5 (MINUTE NO 2411) (OCM 18/05/2004) - RETROSPECTIVE APPROVAL - SHED - WALL HEIGHT EXCEEDS 3M - LOT 16; 39 LACHLAN WAY, BIBRA LAKE - OWNER/APPLICANT: R J BRYANT (1100176) (MD) (ATTACH)

RECOMMENDATION

That Council:

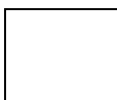
- (1) grant retrospective approval to the overheight shed on Lot 16 (No. 39) Lachlan Way, Bibra Lake, subject to the following conditions:

STANDARD CONDITIONS

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
4. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays.
5. The shed shall be used for domestic purposes only associated with the property, and not for human habitation.

SPECIAL CONDITIONS

6. The upper portion of the western wall shall be clad in a



green colour as specified in the application dated 27 April 2004 to the satisfaction of the Council.

FOOTNOTES

1. The development is to comply with the requirements of the Building Code of Australia.
 2. The development is to comply with the *Environmental Protection Act 1986* which contains penalties where noise limits exceed that prescribed by the *Environmental Protection (Noise) Regulations 1997*.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval to the applicant;
- (3) waive the requirement for the planning application fee of \$100; and
- (4) advise the complainant of Council's decision.

COUNCIL DECISION

MOVED Cllr S Limbert SECONDED Cllr I Whitfield that Council:

- (1) grant retrospective approval to the overheight shed on Lot 16 (No. 39) Lachlan Way, Bibra Lake, subject to the following conditions:

STANDARD CONDITIONS

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
4. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays.
5. The shed shall be used for domestic purposes only associated with the property, and not for human



habitation.

SPECIAL CONDITIONS

- 6. The upper portion of the western wall shall be clad in a green colour as specified in the application dated 27 April 2004 to the satisfaction of the Council.

FOOTNOTES

- 1. The development is to comply with the requirements of the Building Code of Australia.
- 2. The development is to comply with the *Environmental Protection Act 1986* which contains penalties where noise limits exceed that prescribed by the *Environmental Protection (Noise) Regulations 1997*.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval to the applicant; and
- (3) advise the complainant of Council's decision.

CARRIED 7/2

Explanation

Despite the fact that a building licence was issued for the shed, this does not exempt the owner from receiving all necessary approvals, including a planning approval. The shed as constructed, would have required a planning approval and a fee of \$100 would have been paid. In addition, the City has suffered costs associated with the investigation of this matter and therefore, there appears to be no valid reason why the fee should be waived.

Background

ZONING:	MRS:	Urban
	TPS3:	Residential R20
LAND USE:	House and Garden	
LOT SIZE:	700 m ²	
SHED AREA:	39.61 m ²	
USE CLASS:	Single (R-Code) House 'Permitted'	

The City issued a building licence for the shed the subject of this application on the 19 December 2003. A complaint from an adjoining landowner was later received on the 14 April 2004 relating to certain design elements of the shed. The key concerns raised by the complainant include:



- Location of the door on the west wall will result in activities generating noise along the western boundary abutting the complainant's property;
- concern that the door on the west wall overlooks complainant's outdoor living area;
- Concern that the west wall will be clad in zincalume;
- Concern that the height of the shed will result in overshadowing on the adjoining landowners property; and
- The need to retain all stormwater on site.
- concern that the presence of the shed may attract intruders which may have an impact on the security of the complainant's property.

Council officers subsequently investigated the shed on site on the 21 April 2004. At this time the approved plans were reviewed and it was discovered that the height of the shed walls shown on the approved plans exceeded that prescribed by the City's policy on outbuildings.

The applicant was instructed to lodge a retrospective planning application to seek a variation to authorise the 4 metre high walls.

Submission

The applicant seeks retrospective approval for an existing overheight shed.

Refer site and elevation plans contained in the agenda attachments.

Report

In order to encourage the applicant to lodge the planning application after the building licence had already been issued a planning application fee of \$100 was not taken. It is recommended that the Council use its discretion and waive the planning application fee in this instance.

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 City's Outbuildings policy (APD18) allows a maximum wall height of 3 metres within the Residential zone. The shed, which is substantially constructed, has a wall height of 4 metres on the eastern side and 3.9 metres on the western wall.



The 4m high walls of the shed are appropriate and reasonable given that the shed will be used to house a caravan and for other legitimate domestic purposes.

The shed does not have a significant impact on the amenity of the complainant's property for the following reasons:

- The Residential Design Codes allow for outbuildings within the Residential zone to have a maximum ridge height of 4.2 metres. The existing shed does not exceed this, as the maximum ridge height of the shed is 4 metres;
- The shed is setback 1.8 metres from the adjoining property which complies with the Codes;
- Vegetation on the adjoining property effectively reduces the visual impact of the shed; and
- The upper half of the western wall of the shed will be clad in colourbond green, which will blend in with the vegetation on the adjoining lot.

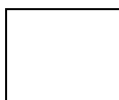
The objectors concerns are outlined in the schedule of submissions and can be addressed as conditions of approval.

In view of the above comments, it is recommended that Council grant retrospective approval to the shed, given that the variations to Council Policy have been justified by the applicant and the development would not have an adverse impact on the amenity of the area.

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 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:-

APD10 Discretion to Modify Development Standards
APD18 Outbuildings

Budget/Financial Implications

N/A

Legal Implications

Nil

Community Consultation

The application was referred to an adjoining affected landowner for comment, in accordance with Clause 9.4 of the City's Town Planning Scheme No.3.

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

Nil.

14.6 (MINUTE NO 2412) (OCM 18/05/2004) - ALTERATIONS AND ADDITIONS (FRUIT AND VEGETABLE STORE) - LOT 7 HAMMOND ROAD, YANGEBUP - OWNER: C C ALESSANDRINI - APPLICANT: MAROCCHI ENGINEERING GROUP (4313047) (ACB) (ATTACH)

RECOMMENDATION
That Council:

(1) grants approval to the alterations and additions to the Fruit and Vegetable Store on Lot 7 Hammond Road, Yangebup subject to the following conditions:

STANDARD CONDITIONS

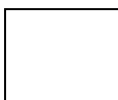
1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.

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. The premises shall be kept in a neat and tidy condition at all times by the owner/occupier to the satisfaction of the Council.
4. 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.
5. No bunting is to be erected on the site. (Bunting includes streamers, streamer strips, banner strips or decorations of similar kind).
6. Landscaping and tree planting to be undertaken in accordance with the approved plan.
7. The landscaping installed in accordance with the approved detailed landscape plan, must be reticulated or irrigated and maintained to the satisfaction of the Council.
8. No development or building work covered by this approval shall be commenced until the landscape plan has been submitted and approved, by the Council.
9. The provision of bicycle facilities to be provided in the locations marked on the attached plans, and are to be installed prior to the extensions being occupied.
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 the Council.
12. 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 1:10 yr storm event.
13. A minimum of 1 disabled car bay 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.

14. Disabled car bays are to have a maximum grade 2.5%.
15. 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.
16. 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.
17. The development must display the street number and where there is no street number allocated to the property, the lot number shall be displayed instead.

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

18. A landscape plan must be submitted to the Council and approved, prior to applying for building licence and shall include the following:-
 - (1) the location, number and type of existing and proposed trees and shrubs;
 - (2) any lawns to be established;
 - (3) any natural landscape areas to be retained;
 - (4) those areas to be reticulated or irrigated; and verge treatments.

FOOTNOTES

1. The development is to comply with the requirements of the Building Code of Australia.
3. Access and facilities for disabled persons is to be provided in accordance with the requirements of the Building Code of Australia.
4. Until the Council has issued a Certificate of Classification under Regulation 20 of the Building Regulations 1995, there shall be no approval to continue the use of the



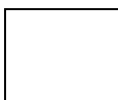
building for the purposes of the development herein conditionally approved and the land shall not continue to be used for any such purpose.

5. Detailed plans and specifications of the kitchen, dry storerooms, cool 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).

6. 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 1995 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.



COUNCIL DECISION

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

CARRIED 9/0

Background

ZONING:	MRS:	Urban
	TPS3:	Light and Service Industry
LAND USE:	Commercial	
LOT SIZE:	2.2283ha	
AREA:	Additional 138.5sqm	
USE CLASS:	Non-Conforming Use – Shop	

Council approved the original bulk vegetable store currently operating as Tony Ales on Lot 7 Hammond Road on 14 December 1979 (180sqm). Subsequent extensions were later approved on 14 June 1985 (330sqm) and 9 February 1988 (45sqm). The 9 February 1988 approval was renewed on 4 August 1993 together with the sale of a wider range of goods from the premises. As part of this latter application, the Council at the time advised the applicant that it would not entertain a further expansion of the shop while the property is not zoned 'Commercial.' At the time, the property was zoned Rural under Town Planning Scheme No. 2. The property is now zoned Light and Service Industry under Town Planning Scheme No. 3 and a shop is an 'X' use.

Submission

The applicant has submitted an application for some minor modifications and additions to the fruit and vegetable store. The application proposes an additional retail floorspace area of approximately 120.5sqm and an entrance area of 18sqm. This will facilitate room for the division of the store into four areas for the sale of meat, fish, breads and fruit and vegetables.

A plan depicting the proposal is included in the Agenda Attachments.

Report

As a shop is not permitted within the Light and Service Industry Zone, the current fruit and vegetable store is a Non-Conforming Use which means: *"a use of land which, though lawful immediately prior to the coming into operation of a town planning scheme, is not in conformity with any provision of that scheme."*



The application was advertised in accordance with clause 9.4 of Town Planning Scheme No. 3 by way of notice of the proposed development to nearby owners. Of the 20 notification letters sent by the City, 3 submissions of no-objection were received.

The store has been operating since December 1974, prior to the gazettal of Town Planning Scheme No. 1 (June 1974). The owner has over time expanded the store to increase the floorspace in order to keep up with demand.

The subject site complies with car parking and landscaping requirements. The site is neat and tidy. The store is widely used by the local community and provides a good service to the locality. It is considered the additions to the proposal will have no detrimental impact to the surrounding locality.

Council's rationale to advise the applicant back in 1993 that it would not entertain a further expansion of the shop while the property is not zoned 'Commercial' is unclear. Its location immediately adjacent to a Local Centre site, however, makes it an appropriate location for the use to continue.

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
APD33 Town Planning Scheme No. 3 Provisions

Budget/Financial Implications

Nil

Legal Implications

Nil



Community Consultation

Adjoining and nearby neighbour notification

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

Nil.

Declaration of Conflict of Interest

Clr Whitfield declared a Conflict of Interest in Agenda Item 14.7. The nature being that his wife owns a property on Latrobe Mews Success, which has a boundary on the Western Power easement.

AT THIS POINT THE TIME BEING 7.14PM, CLR WHITFIELD LEFT THE MEETING.

14.7 (MINUTE NO 2413) (OCM 18/05/2004) - CLEARING OF VEGETATION - THOMSONS LAKE ESTATE - STEINER AVENUE AND SCIANO AVENUE, SUCCESS (118981; 116441) (MR) (ATTACH)

RECOMMENDATION

That Council:

- (1) advise Gold Estates of Australia Ltd c/o Richard Noble & Co, of its strong concern that it has not reinstated bushland cleared within the Western Power corridor on former Pt Lot 18 Hammond Rd (cnr Steiner Avenue) and on Pt 4, Pt 5 & Lot 22 Sciano Avenue, Success, being the subject of subdivision works;
- (2) request Gold Estates of Australia Ltd to prepare and implement a Rehabilitation Plan using local endemic species to the satisfaction of Council; and
- (3) advise Gold Estates that any works to be undertaken on land not included in a subdivision approval issued by the Western Australian Planning Commission requires a separate development approval to be granted by the Council under its local scheme prior to any works being commenced.

COUNCIL DECISION

MOVED Clr A Tilbury SECONDED Clr S Limbert that Council:



- (1) advise Gold Estates of Australia Ltd c/o Richard Noble & Co, of its strong concern that it has not reinstated bushland cleared within the Western Power corridor on former Pt Lot 18 Hammond Rd (cnr Steiner Avenue) and on Pt 4, Pt 5 & Lot 22 Sciano Avenue, Success, being the subject of subdivision works;
- (2) request Gold Estates of Australia Ltd to prepare and implement a Rehabilitation Plan using local endemic species to the satisfaction of Council;
- (3) advise Gold Estates that any works to be undertaken on land not included in a subdivision approval issued by the Western Australian Planning Commission requires a separate development approval to be granted by the Council under its local scheme prior to any works being commenced; and
- (4) request the process for the City's assessment of subdivisional earthworks plans be revised to ensure that the City's "implied" approval to earthwork plans doesn't give rise to unauthorised works occurring outside the scope of subdivision approvals.

CARRIED 8/0

Explanation

The inclusion of the fourth point is needed to reinforce the Council's positive contribution to amending processes and continuous improvement. Subdivisional works must be carried out in accordance with the subdivisional approval granted by the Western Australian Planning Commission.

Background

Steiner Avenue Easement Area

On 10 April 2003, the Western Australian Planning Commission granted approval to subdivide Pt Lot 19 Hammond Road, Success into 44 residential lots (cnr Steiner Ave/Hammond Rd). The subject land is owned and was developed by Gold Estates of Australia. The high voltage power lines affected the western portion of the subject land (1.4ha). The Commission's approval didn't include any conditions of approval that dealt with the land constrained by the power line corridor. This land was not within the subdivision area and therefore technically not part of the application.

A subsequent engineering drawing by GHD was submitted to the City Engineering Division to extract soil from within the power line easement



to use as fill within the subdivision but did not form part of the approval. The area within the power line easement was then recontoured and hydro mulched to stabilise the soil and prevent sand drift. The City, on the basis that all of the conditions relevant to the Local Government were satisfied, supported subdivision clearance. Clearly however, the subdivisional earthworks undertaken have extended beyond the physical extent of the subdivisional area approved by the Western Australian Planning Commission.

Sciano Avenue Easement Area

On 21 May 2003, the Western Australian Planning Commission granted approval to subdivide Pt 4, Pt 5 & Lot 22 Beenyup Road, Success into 18 residential lots (South Sciano Ave). The land is owned and is being developed by Gold Estates of Australia. The high voltage power lines affect the adjoining land also owned by Gold Estates of Australia. The Commission's approval didn't include any conditions of approval that dealt with the land constrained by the power line corridor. This land was not within the subdivision area and therefore technically not part of the application.

A subsequent engineering drawing by GHD was submitted to the City's Engineering Division to extract soil from within a disused road reserve to use as fill within the subdivision and to create a deep drainage basin but did not form part of the approval. The City has not yet been requested to issue subdivision clearance as works are still in progress. If the subdivision conditions were satisfied, then there would be no reason to withhold clearance of conditions. Clearly however the subdivisional earthworks undertaken have extended beyond the physical extent of the subdivisional area approved by the Western Australian Planning Commission.

Submission

Concerns regarding the extent of development occurring and clearing of vegetation within the power line corridor were raised by Ward Member, Clr Whitfield. It is understood that the local residents association are also concerned about the loss of vegetation and absence of any plans by the developer to reinstate bushland.

Report

Both subdivision approvals for Sciano Avenue and Steiner Avenue granted by the Commission didn't include any conditions affecting the land within the powerlines corridor of the subject land because these areas were not included as part of the subdivisional area on the applicants plans. Consequently the earthworks carried out over the easement areas could not fall within the approval of the subdivisional works. It seems the works have been linked to the subdivision by the subdivider by default and the works have progressed on this basis.



The City in both instances, accepted the engineering plans as integral to the subdivisional works, but did not form part of the approval.

Where land within the district is to be excavated and no clear end use can be established for the land it is a usual requirement for the owner/operator to undertake the rehabilitation of the land to Council's satisfaction. The subdivider in this instance has utilised the fill source in the easement, therefore it should be expected that the land should be revegetated to the satisfaction of Council and not left in an unacceptable condition devoid of any vegetation. Earthworks and land clearance should be approved by the Council prior to any works proceeding.

It is recommended that Council seek the support of the owner – Gold Estates of Australia to rehabilitate both areas of land to the satisfaction of Council. In addition, Gold Estates be advised that in the future any works outside a subdivision requires development approval, otherwise it is an illegal activity under the scheme.

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

Nil

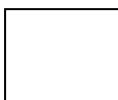
Legal Implications

Subdivisional works are not deemed to be development and therefore are exempt from any planning approval. However, any works undertaken outside a subdivision approval without the planning approval of the Council is illegal under the local scheme.

It is difficult in this instance to pursue legal action given that the engineering drawings included the earthworks in the powerline easement and was not brought to the attention of either the subdivider or the Council's Statutory Planning Service. The engineering assessment process will need to be revised to ensure that "implied" approval of engineering drawings does not give rise to illegal works occurring.

Community Consultation

N/A



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

Nil.

AT THIS POINT THE TIME BEING 7.16PM, CLR WHITFIELD RETURNED TO THE MEETING.

14.8 (MINUTE NO 2414) (OCM 18/05/2004) - RECONSIDERATION OF CONDITIONS (COOGEE GENERAL STORE) - LOT 1; 355 COCKBURN ROAD, COOGEE - OWNER: G J & D E LOHMAN - APPLICANT: PETER D WEBB & ASSOCIATES (3309389) (ACB)

RECOMMENDATION

That Council:

- (1) issue a revised retrospective approval for the general store extensions on Lot 1 Cockburn Road Coogee, in accordance with the approval granted on 20 April 2004, and the following modified conditions 5, 11, 15 and 16 as follows:-
 - “5. Landscaping and tree planting to be undertaken in accordance with the approved plan within 120 days of the approval being granted; and
 11. The street verge adjacent to the Lot being landscaped in accordance with the approved plans within 120 days of the approval being granted and thereafter maintained to the Council's satisfaction; and
 15. Demolition of the dwelling at the rear of the General Store being completed within 120 days of the approval; and
 16. Reconfiguration and construction of the car bays and driveway as marked red on the approved plan within 120 days of the approval.”
- (2) issue a fresh Schedule 9 Notice of Approval accordingly.

COUNCIL DECISION

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

CARRIED 9/0



Background

ZONING:	MRS:	Primary Regional Roads
	TPS3:	Primary Regional Roads
LAND USE:	General Store	
LOT SIZE:	1204m ²	
AREA:	250m ²	
USE CLASS:	N/A	

Council at its Ordinary Meeting on 20 April 2004, resolved to approve the existing General Store (known as “The Crab Shack”) subject to various conditions which included Standard Conditions 5, 11 and Special Conditions 15 & 16 as follows:-

- “5. *Landscaping and tree planting to be undertaken in accordance with the approved plan within 60 days of the approval being granted.*
- 11. *Landscaping is to be undertaken in the street verge adjacent to the Lot in accordance with the approved plans within 60 days of the approval being granted and thereafter maintained to the Council's satisfaction.*
- 15. *Demolition of the dwelling at the rear of the General Store being completed within 60 days of the approval.*
- 16. *Reconfiguration and construction of the car bays and driveway as marked red on the approved plan within 60 days of the approval.”*

Submission

The applicant requests consideration and approval of an amendment to the 60 day compliance conditions in items 5, 11, 15 and 16 to a period of 120 days for the following reason:-

“The applicant is the Store Manager acting on behalf of the owners who reside in Lake Grace and communication and meetings are difficult. In addition, the dwelling to be demolished has tenants and it would seem fair if a reasonable period could be allowed for the transition.”

Report

There are no objections from a planning point of view to the modification of standard conditions 5, 11 and special conditions 15 and 16 of approval. In the circumstances the extra time period to complete the works seems reasonable.



Strategic Plan/Policy Implications

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

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

Budget/Financial Implications

Council's decision is appealable. Legal representation will be required if an appeal is lodged with the Tribunal.

Legal Implications

Town Planning Scheme No 3

Community Consultation

N/A

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

Nil.

- 14.9 (MINUTE NO 2415) (OCM 18/05/2004) - APPLICATION FOR RETROSPECTIVE PLANNING APPROVAL - DISPLAY PERGOLAS AND NURSERY OPERATION - 248 HAMMOND ROAD, SUCCESS - OWNER & APPLICANT: G R SMITH (5513445) (CP) (ATTACH)**

RECOMMENDATION

That Council:

- (1) grants the retrospective development approval for the extension of the existing plant nursery, incorporating display pergolas and associated signage at Lot 9 (248) Hammond Road, Success, subject to the following 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.

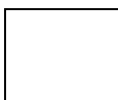
3. No retail or wholesale sales being carried out from the premises unless the sales are incidental and ancillary to the approved use of the premises.
4. The premises shall be kept in a neat and tidy condition at all times by the owner/occupier to the satisfaction of the Council.
5. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
6. The 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 and thereafter maintained to the satisfaction of the Council.
7. No bunting is to be erected on the site. (Bunting includes streamers, streamer strips, banner strips or decorations of similar kind).

SPECIAL CONDITIONS

8. Advertising signage shall be limited to being no greater than 6m² in area in total for the site. All existing advertising signage in excess of this limit shall be removed immediately.
9. The crossover and driveway from Hammond Road to Lot 81 (the Water Corporation site) shall not be used for the purpose of this development.

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 applicant is advised to make arrangements with the Water Corporation for the entrance to Lot 81 from



Hammond Road to be gated and locked to prevent usage in relation to the use the subject of this approval.

3. The applicant is advised the Council will require a Developer Contribution towards Hammond Road upon the subdivision or additional future development of the land occurring.
 4. The development is to comply with the requirements of the Building Code of Australia.
 5. The development is to comply with the *Environmental Protection Act 1986* which contains penalties where noise limits exceed the prescribed by the *Environmental Protection (Noise) Regulations 1997*.
 6. The drainage of all car parking areas and access ways so as to ensure that the site is drained and provision is made for the disposal, to the satisfaction at all times of the Council, of roof water, water from paved areas and all other stormwater PROVIDED THAT the approval of a particular design to achieve the foregoing purposes or the issue of a building licence shall not imply that the Council is satisfied once and for all that the applicant has complied with this condition and the Council may require compliance with this condition at any time in the future if it is not satisfied that the site has been drained in accordance with this condition.
 7. Uncovered parking bays shall be a minimum of 5.5 x 2.5 metres, clearly marked on the ground and served by a 6 metre wide paved accessway.
 8. A Deed of Agreement should be entered into between the applicant and the Water Corporation as indicated in the letter from the Water Corporation addressed to the applicant dated 10 March 2004.
- (2) issue a Schedule 9 Notice of Determination for an Application for Planning Approval to the applicant; and
- (3) advise those who lodged a submission of Council's decision.

COUNCIL DECISION

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

CARRIED 9/0



Background

ZONING:	MRS:	Urban Deferred
	TPS3:	Development (DA13), (DCA1)
LAND USE:	Nursery operation including pergola displays	
LOT SIZE:	2.0462ha	
USE CLASS:	N/A	

The Council at its ordinary meeting on 2 June 1992, approved an application for development approval for the establishment of a plant nursery on Lot 9 (248) Hammond Road, Success.

The operation subsequently commenced operation, however signage has been erected advertising the nursery, but which does not appear to have development approval. In addition, the applicant who is a builder, has also constructed a series of pergolas which essentially complement the nursery operation, but which also serve as displays of examples of his product. The extent of pergolas constructed exceeds the scale of the development approval granted in 1992.

Submission

A development application has been submitted to provide for the extension of the nursery operation, incorporating retrospective approval for various pergola structures and associated signage.

Report

The Site:

The subject land is located in the Development zone ("DA13") on the western side of Hammond Road, Success. Hammond Road is identified as a Region Reserve ("Other Regional Road") in TPS3. The site is also located within a Development Contribution Area ("DCA1"). In addition, the site adjoins Lot 81 which is classified as a Local Purpose Reserve (Water Corporation) to the south.

Access to the site from Hammond Road can at present be gained by two crossovers. The southern crossover directly serves Lot 81, which is land owned by the Water Corporation but which is unfenced along the common boundary with the subject land.

Submissions:

The application was referred to the Water Corporation as access into the parking area from Hammond Road is currently provided over Lot 81 Hammond Road, which accommodates the Armadale/Thomsons Lake water pipeline. The Water Corp responded by indicating it is willing to



allow the use of a limited portion of Lot 81 for parking, subject to entering into a deed of agreement with the applicant, at the applicant's expense.

The application was also referred to the Department for Planning and Infrastructure ("DPI") which responded by indicating that for traffic safety reasons it does not support a proposal involving two access/egress points. Specifically, the DPI opposes the use of the crossover from Hammond Road to Lot 81 as part of this proposal, but would be prepared to support the application in the event of using only a single access point.

Town Planning Scheme 3:

Under TPS3, the Council is required not to approve development of land within a Development zone unless there is a structure plan for the development area in place. In this instance, there is currently no structure plan adopted that affects the subject land. However, the Council does have the ability to approve development prior to a structure plan coming into effect if it is satisfied it will not prejudice the specific purposes and requirements of the Development Area. In this instance, none of the structures for which approval is being sought are permanent or substantial. The applicant is aware of the implications of the current zoning and intends the current landuse proposal to be an interim arrangement until the land is subdivided in accordance with an adopted structure plan. On this basis, it is considered that approval be granted in the absence of a structure plan, given the development will not compromise the future structure planning for the area.

Similarly, given the minor nature of this development the provision of a developer contribution is not considered warranted at this stage. A developer contribution will however be required upon the subdivision of the subject land or redevelopment occurring of a more substantial nature.

Assessment:

It is noted that advertising signage has proliferated along the road boundary of the site, with at least 12 signs erected along the road boundary. A balance needs to be maintained between providing for commercial exposure for the applicant and maintaining streetscape amenity. Although some signage can be permitted, in this instance, the current level of signage is considered to be excessive. It is recommended that a lesser extent of signage be permitted in the event of approving the application.

It is considered the current application should be approved for the following reasons:



- The application is for retrospective approval for a use that was originally approved by the Council in 1992;
- Conditions can be imposed that address the concerns raised in submissions from the DPI and the Water Corp;
- Approval of the application will not compromise the future structure planning for the area due to the minor nature of the development and the lack of permanent structures involved.

Strategic Plan/Policy Implications

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

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

The Planning Policies which apply to this item are:-

APD17 Standard Development Conditions and Footnotes

Budget/Financial Implications

Nil

Legal Implications

Possible costs involved in defending any appeal to the Planning Tribunal on the Council decision.

Community Consultation

Referred to affected parties for comment.

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

Nil.



14.10 (MINUTE NO 2416) (OCM 18/05/2004) - PROPOSED SUBDIVISION - LOT 10; 222 HAMILTON ROAD, SPEARWOOD - OWNER: M & K DONJERKOVICH - APPLICANT: D DONJERKOVICH (123032) (ACB) (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 10 (222) Hamilton Road, Spearwood, for the following reasons:
1. The land is within a Department of Environmental Protection odour buffer to the Watsons Abattoir in Spearwood where further subdivision is not encouraged.
 2. The proposed subdivision would create a residential size lot (759m²) in a locality which is zoned Rural in Council's Town Planning Scheme that would conflict with the intent and purpose of that zone.
 3. The proposal is ad hoc and if approved, could set a precedent for further subdivision of a similar kind, which collectively could jeopardise present planning objectives.
 4. The subject land forms part of a large area, which requires comprehensive planning (including agreement to an overall road pattern, the allocation of land for recreation and other public uses, provision for essential infrastructure and equitable arrangements for developer contributions), and approval to the subdivision would be premature and could prejudice the overall planning for the area.
 5. The proposal creates unsewered lots. This is contrary to the Government Sewerage Policy for the Perth Metropolitan Region.
- (2) advise the proponent of Council's decision.

COUNCIL DECISION

MOVED Cllr S Limbert SECONDED Mayor S Lee that Council:

- (1) receipt the report;
- (2) advise the Western Australian Planning Commission that it supports the request for reconsideration for the subdivision of Lot 10 (222) Hamilton Road, Spearwood, and recommends the



approval of the proposed subdivision, subject to standard conditions:-

1. The proposed lot sizes to comply with the minimum area of lot per dwelling specified in the Residential Planning Code – R20 to the satisfaction of the Western Australian Planning Commission.
2. Notification in the form of a memorial to be placed on the Certificates of Title of the lots advising of the existence of a hazard or other factor, in accordance with section 12A of the Town Planning and Development Act 1928, and notice of this memorial to be included on the Diagram or Plan of Survey (Deposited Plan), to the satisfaction of the Western Australian Planning Commission and at the applicant's cost.

This memorial to state as follows: *“This land is within the existing odour buffer of Watsons Foods located on Hamilton Road.”*

3. All buildings and effluent disposal systems, having the necessary clearance from the new boundaries as required under the relevant legislation to the satisfaction of the Western Australian Planning Commission.
4. All buildings having the necessary clearance from the new boundaries as required by the relevant Town Planning Scheme to the satisfaction of the Western Australian Planning Commission.
5. Any buildings or structures closer than 1.0 metres from new boundaries must be shown on a separate survey plan with setback dimensions drawn.
6. The location of any on-site effluent disposal systems must be identified and where appropriate, the septic tank and leach drains must be decommissioned and removed.

MOTION LOST 5/4

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

CARRIED 7/2



Background

ZONING:	MRS:	Urban
	TPS3:	Rural
LAND USE:	3 houses (1 x house and duplex)	
LOT SIZE:	8827m ²	
AREA:	Proposed Lot 1 – 8068m ² and proposed Lot 2 - 759m ²	
USE CLASS:	N/A	

At the Ordinary Council Meeting on 21 October 2003, it was resolved that in respect to the land at Lot 10 Hamilton Road, Spearwood, Council shall:

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

1. *The land is within a Department of Environmental Protection odour buffer to the Watsons Abattoir in Spearwood where further subdivision is not encouraged.*
2. *The proposed subdivision would create a residential size lot (759m²) in a locality which is zoned Rural in Council’s Town Planning Scheme that would conflict with the intent and purpose of that zone.*
3. *The proposal is ad hoc and if approved, could set a precedent for further subdivision of a similar kind, which collectively would jeopardise present planning objectives.*
4. *The subject land forms part of a large area, which requires comprehensive planning (including agreement to an overall road pattern, the allocation of land for recreation and other public uses, provision for essential infrastructure and equitable arrangements for developer contributions), and approval to the subdivision would be premature and prejudice the overall planning for the area.*
5. *The proposal creates unsewered lots. This is contrary to the Government Sewerage Policy for the Perth Metropolitan Region.”*

On 2 December 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 by Mr D. Donjerkovich for reconsideration of the decision by the WAPC to refuse the application to subdivide Lot 10 Hamilton Road, Spearwood.

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

- The subdivision is on a main road of Hamilton Hill between two well established and well maintained dwellings and it is not likely to be affected by any proposals for roads or infrastructure as it is serviced by all amenities.
- The site is not sewered but expected to be within the next three years. The owner is prepared to enter into a covenant specifying the connection of sewer when available and contribution to the cost of sewerage connection when the residual land is further subdivided.
- The subdivision is in an area which will be developed in the very near future as a result of Watsonia Foods ceasing its abattoir operations. It is believed that subdivision now of an existing dwelling will not have any bearing on the future of the area.
- The rural zoning within the area is unlikely to remain, as all market gardens in the area are now vacant, owners have retired and it is uneconomical that the land be used as market gardens.
- There is precedence for subdivision of land within the area, cases which are identical to the current application.
- It would be inconsistent and unfair to disallow subdivision in this case.
- Subdivision will facilitate the sale of the property as the owners are experiencing financial hardship.

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

Report

It is proposed to subdivide the land into two lots with areas of 759m² and 8068m².

The property is currently affected by the Watson Food Odour Buffer and is also affected by a 500m midge buffer around Market Garden Swamp. These development constraints reinforce the existing Rural zoning in Town Planning Scheme No. 3.



Item 14.16 OCM 21/10/03 discussed the proposed subdivision and the various planning issues, which are considered to continue to be equally relevant, 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:

Existing Development

Notwithstanding that the existing duplex is well maintained and unlikely to have proposed roads designed through the property or orders for demolition, support of the subdivision is premature in lieu of an adopted structure plan.

It is noted that the subdivision will not cause a change in land use or intensity of existing residential development on the subject site given the existence of two dwellings, however it will result in a lot currently in single ownership being converted into multiple ownership. Multiple ownership causes potential complications for future planning, development and cost sharing arrangements.

Precedence

There have been other subdivisions permitted within the immediate vicinity, however these applications were generally refused by the Commission and upheld on Appeal by the Hon. Minister for Planning on compassionate grounds. It should be noted there is no longer a right of appeal to the Minister and the Tribunal is bound to consider cases on their technical merits.

Hardship

Council includes a specific reference to compassionate considerations within Policy APD7 as follows:-

“That Council will not make recommendations in support of an application referred to it by the WAPC, on compassionate or hardship grounds as these are irrelevant matters that are not taken into account by the Western Australian Planning Commission.”

The reference to compassionate and hardship grounds in this Policy has been included because of the recognition of past ad hoc decisions made by the Council in respect to subdivision proposals that were not based on planning grounds. The determination of such application on compassionate grounds is therefore not a planning consideration.



Future Development of Area

Redevelopment of the land is premature. As previously stated, the City's position is to not support subdivision until such time as:

- The Watsons Abattoir odour buffer no longer affects the property,
- The Packham Urban Development Structure Plan is reviewed and adopted, and
- The land is rezoned to either "Development" or "Residential" under Town Planning Scheme No. 3.

In conclusion, it is considered premature to support the subdivision in lieu of a revised odour buffer, an adopted structure plan and appropriate zonings over the area.

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:-

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:-

APD3	Packham Urban Development Area
APD6	Residential Rezoning and Subdivision Adjoining Midge Infested Lakes
APD7	Rural Subdivision Policy
APD16A	Standard Subdivision Conditions and Reasons for Refusal
APD22	Watsons Buffer

Budget/Financial Implications

N/A



Legal Implications

Nil.

Community Consultation

Council Policy APD22 required Council to advise Watsons Food of the proposal for information only.

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

Nil.

14.11 (MINUTE NO 2417) (OCM 18/05/2004) - DANGEROUS BUILDING - LOT 301; NO. 1 ROCKINGHAM ROAD, HAMILTON HILL - NEWMARKET HOTEL SITE (2212274) (JW) (ATTACH)

RECOMMENDATION

That Council:

- (1) declare that the building at Lot 301, 1 Rockingham Road (Newmarket Hotel) is a dangerous building as defined in Section 403 of Local Government (Miscellaneous Provisions) Act 1960, because of the two inadequate temporary verandah posts supporting the verandah roof adjacent to Cockburn Road;
- (2) issue a Notice under Section 403 of the Local Government (Miscellaneous Provisions) Act 1960, requiring the owner of the land to take down the affected portion of verandah and the temporary supporting posts.

COUNCIL DECISION

MOVED Clr K Allen SECONDED Clr S Limbert that Council:

- (1) declare that the building at Lot 301, 1 Rockingham Road (Newmarket Hotel) is a dangerous building as defined in Section 403 of Local Government (Miscellaneous Provisions) Act 1960, because of the two inadequate temporary verandah posts supporting the verandah roof adjacent to Cockburn Road;
- (2) advise the building owners they must make an application to the City's satisfaction on or before 26 May 2004, to obtain a Building Licence and Development Approval to rectify the problems. Within 28 days of approvals being given, all works to rectify the problems are to be completed; and



- (3) in the event (2) above is not complied with to the City's satisfaction, issue a Notice under Section 403 of the Local Government (Miscellaneous Provisions) Act 1960, requiring the owner of the land to take down the affected portion of verandah and the temporary supporting posts.

CARRIED 8/1

Explanation

Provides owner with the opportunity to attempt to comply with the decision of Council and to rectify the current dangerous verandah prior to Council proceeding with legal action.

Background

The background relevant to this proposal is:-

- A dangerous building Notice was previously issued in regard the building on 18 October 2002. That Notice was in part complied with.
- The Notice (18 October 2002) required that the temporary timber posts supporting part of a verandah roof (adjacent to Cockburn Road) be secured and made safe and required that permanent columns similar to the existing verandah columns be installed. Some immediate works were carried out on the temporary posts to more adequately secure them.
- A Demolition Licence was issued in April 2003 for the removal of the Lounge Bar of the Hotel. A Condition was put on the Demolition Licence requiring that the upper floor verandah roof /structure and temporary posts on the Cockburn Road side, be demolished as part of the works.
- The Principal Building Surveyor carried out an inspection of the site on 16 April 2004. The demolition is now complete, however the temporary posts and verandah have not been removed nor have the temporary posts been replaced.
- The Principal Building Surveyor immediately arranged for temporary barriers to be put in place to limit access near the base of the temporary posts by pedestrians on Cockburn Road.
- A letter was sent to the owners of the land Kee-Vee Properties Pty Ltd requiring that the offending temporary posts and verandah roof structure be immediately removed and appropriate paper work obtained from the City to do so.



- The issue of removing a portion of the verandah roof has been discussed with the Planning Service. This is acceptable and poses no problems in relation to the heritage listing of the building.

Submission

N/A

Report

In response to the City's most recent letter to the owners of the land Mr Thompson of Thompson and Ong, Architects, has made contact and advised that they are likely to act as an agent for the owners to resolve this matter. Mr Thompson was advised again of the City's requirements as defined in its letter. Mr Thompson advised it is likely that the owner may seek to retain the verandah. To date written advice has not been received from the building owner or their agent.

The temporary verandah posts have now been in place too long. A notice requiring the removal of temporary posts and verandah roof should be issued, so as to facilitate the on going safety of all persons passing the building adjacent to Cockburn Road.

The Principal Building Surveyor is of the view that the building is dangerous as defined under section 4.03 of the Local Government (Miscellaneous Provisions) Act and a Notice is to be issued accordingly.

Strategic Plan/Policy Implications

The City's Policy OLES2 provides for the Chief Executive Officer to issue a dangerous building Notice.

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."*
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."*



Budget/Financial Implications

Should the City need to enforce this matter the City may incur legal costs. Depending on the building owner, the City may need to execute the required work identified under the requisitions in the Notice and recoup the costs.

Legal Implications

Section 403 of the Local Government (Miscellaneous Provisions) Act 1960.

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

Nil.

15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES

15.1 (MINUTE NO 2418) (OCM 18/05/2004) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)

RECOMMENDATION

That Council receive the List of Creditors Paid for April 2004, as attached to the Agenda.

COUNCIL DECISION

MOVED Clr V Oliver SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED 9/0

Background

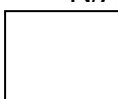
It is a requirement of the Local Government (Financial Management) Regulations 1996, that a List of Creditors be compiled each month and provided to Council.

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 2419) (OCM 18/05/2004) - DRAFT PRINCIPAL ACTIVITIES PLAN 2004/05 - 2007/08 (5406) (ATC) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the Draft Principal Activities Plan 2004/05 to 2007/08, as attached to the Agenda; and
- (2) advertise the Principal Activities Plan for public comment on Thursday, 20 May 2004 with public comment closing on Wednesday, 1 July 2004, at 4.00 pm.

COUNCIL DECISION

MOVED Clr V Oliver SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED 9/0

Background

Under the Local Government Act 1995, each year the City is required to prepare a Plan of its principal activities for the next four years. The Plan must be developed in conjunction with the community and when



finalised, will be the basis for adoption of the annual budget for the Council.

Submission

N/A

Report

The Draft Principal Activities Plan for the period 2004/05 to 2007/08 is attached to the Agenda.

The Draft Plan is required to be available for public comment for a period of six weeks. It is intended to advertise the Plan as being available from Thursday, 20 May 2004, with public comment closing on Thursday, 1 July 2004 at 4.00 pm. Comments on the Plan and the proposed final Plan would then be submitted to Council at its meeting on 20 July 2004.

Strategic Plan/Policy Implications

The Draft Principal Activities Plan describes its links to the Corporate Strategic Plan.

Budget/Financial Implications

The Principal Activities Plan when adopted, forms the basis of the budget for 2004/05. Any significant variances from the Principal Activities Plan must be detailed in the Budget document.

Legal Implications

N/A

Community Consultation

The Draft Plan be made available for public comment on Thursday, 20 May 2004 until 1 July 2004.

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

Nil



15.3 (MINUTE NO 2420) (OCM 18/05/2004) - TENDER NO.05/2004 - AUDITING SERVICES - EXTERNAL (5017) (KL)

RECOMMENDATION

That Council accepts the tender from Barrett and Partners – DKF for Tender No.05/2004, Auditing Services – External, for a four(4) year period (2004-2007), at the sum of \$46,200.00 (GST inclusive).

COUNCIL DECISION

MOVED Clr V Oliver SECONDED Clr S Limbert that the recommendation be adopted.

CARRIED 9/0

Background

The External Audit Contract expired after the completion of the 2002/03 financial year audit.

Tenders were called for the provision of External Audit Services for a four year period commencing with the 2003/04 financial year audit and concluding with the audit for 2006/07. This contract will be linked to the same period as the internal audit.

Submission

Six tenders were received in response to the advertised tender. These were from Barrett and Partners, Haines Norton, KPMG, PKF, Deloitte Touche and MacLeod & Partners.

Report

Five (5) compliant tenders were received following the closure of the advertising period on 6 April 2004.

The following criteria and weighting values were used to assess each Tender.

Criteria Description	Weighting
Demonstrated experience in providing and completing similar services	20%
Skills/experience of key personnel	25%
Tenderers Resources	5%
Approach/methodology to the scope of the Audit	10%
Tendered price/evaluated cost	40%
TOTAL	100%



The scope of the Audit requires the successful Tenderer to provide an independent audit opinion of the accounts and annual financial reports of the City of Cockburn for each financial year covered by the term of the Contract.

The Audit for each financial year will cover the financial year from 1 July to 30 June. The Auditor is to carry out such work as is necessary to form an opinion as to whether:

- (a) The accounts are properly kept.
- (b) The annual financial report:
 - 1. Is prepared in accordance with the financial records.
 - 2. Represents fairly the results of the operations of the local government and the financial position of the local government at 30 June in accordance with the:
 - Australian Accounting Standards;
 - Local Government Act 1995 (as amended);
 - Local Government (Financial Management) Regulations 1996 (as amended);
 - Local Government (Administration) Regulations 1996 (as amended);
 - The Local Government (Functions and General) Regulations 1996 (as amended); and
 - Other mandatory professional reporting requirements.
- (c) The Auditor is required to comply with the requirements of Section 7.9 of the Local Government Act 1995 (as amended) and the Local government (Audit) Regulations 1996 (as amended).

Tenders were assessed by the Director, Finance and Corporate Services and Manager, Finance. The tender received from Haines Norton did not comply. Tendered prices were:

Tenderer	\$
Barrett & Partners	46,200
KPMG	61,600
PKF	55,000
Deloitte Touche	102,300
MacLeod & Partners	99,000



Scores were assessed as follows:

Tenderer	Non-cost criteria %	+Cost Criteria %	=Assessment Score %
Barrett & Partners	59	40	99
KPMG	48	34	82
PKF	48	36	84
Deloitte Touche	60	18	78
MacLeod & Partners	49	20	69

On balance, Barrett and Partners represents the best value tender on the basis that it is able to demonstrate a clear understanding of the required outcomes and undertake the task in a timely, cost efficient manner.

Strategic Plan/Policy Implications

Key Result Area "Managing Your City" refers.

Budget/Financial Implications

Annual allocation of funds in Council's Municipal Budget for this purpose.

Legal Implications

Sec. 7.3 of the Local Government Act, 1995 - Part 4 of the Local Government (Functions and General) Regulations.

Community Consultation

Advertisement placed in *The West Australian* Newspaper closed 6 April 2004.

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

Nil.

15.4 **(MINUTE NO 2421) (OCM 18/05/2004) - TENDER NO.RFT08/2004 - TENDER FOR LEGAL SERVICES (RFT08/2004) (KL)**

RECOMMENDATION

That Council:

- (1) accept Tender No.RFT08/2004 for the provision of legal services for the City of Cockburn, to form a panel from the following firms for a period of 3 years commencing 1 July 2004:

1. McLeods
2. Jackson McDonald
3. Mullins Handcock

(2) appoint McLeods to act on a retainer basis for legal advice for a period of 3 years commencing 1 July 2004.

COUNCIL DECISION

MOVED Clr S Limbert SECONDED Clr K Allen that Council defer this matter to the June Council Meeting.

MOTION LOST 5/4

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

CARRIED 6/3

Background

At its meeting on 15 April 2003, Council decided to call tenders for the provision of legal services for the period of one year on the basis of the appointment of a panel. That period will expire on 1 July 2004.

Accordingly tenders were called for the provision of legal services for a period of 3 years.

Submission

Six (6) tenders were received in response to the advertised tender request. These were:

1. Watts and Woodhouse
2. Kott Gunning
3. Jackson McDonald
4. McLeods
5. Minter Ellison
6. Mullins Handcock

Report

Tenders for the provision of legal services for the City of Cockburn were advertised in *The West Australian* and closed on 21 April 2004.

Six (6) tender responses were received but only 5 of those fully complied with the criteria set out in the tender document.



The purpose of the tender was to select a panel of firms that were suitable to provide legal services for the City of Cockburn. The qualitative criteria used in the evaluation process was:

- a. Demonstrated experience in supplying similar services to local governments (25%).
- b. Skills and experience of key personnel (25%).
- c. Free services and value adding (5%).
- d. A demonstrated understanding of the required tasks (5%)

Weighted cost criteria:

- a. Fee structures (40%).

Scores were assessed as follows:

Tenderer	Non-Cost Criteria %	Cost Criteria %	Assessment Score %
McLeods	60	40	100
Watts & Woodhouse	52	29	81
Minter Ellison	57	27	84
Mullins Handcock	52	37	89
Jackson McDonald	56	34	90

After evaluating the tenders from those firms, it is believed that Jackson McDonald, Mcleods, Mullins Handcock would be suitable firms to form a panel of legal advisors for Council. Of the firms considered suitable, all three tenders provided information on operating on a retainer basis. For this Mullins Handcock can be appointed to the panel, without the retainer service.

McLeods should also be appointed on a retainer basis, as both firms have a high level of expertise in their appropriate fields of Local Government compliance and commercial.

An analysis of the use of the Tenders Panel for the period July 2003 to March 2004, indicates that although all four legal advisors who were appointed to the panel have been used, the higher percentage of work has gone to McLeods, with Jackson McDonald and Mullins Handcock being utilised occasionally.

Strategic Plan/Policy Implications

“Managing Your City” refers.



Budget/Financial Implications

Funds are contained in Council's annual budget for legal services.

Legal Implications

The firms appointed would be available to provide legal advice to Council.

Community Consultation

N/A

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

Nil.

16. ENGINEERING AND WORKS DIVISION ISSUES

Nil

17. COMMUNITY SERVICES DIVISION ISSUES

**17.1 (MINUTE NO 2422) (OCM 18/05/2004) - COCKBURN
FREMANTLE PISTOL CLUB (INC.) (6955) (RA)**

RECOMMENDATION

That Council supports the application to the Department of Racing, Gaming and Liquor by the Cockburn-Fremantle Pistol Club (Inc.) for a Club Liquor Licence in accordance with the terms of the current lease.

COUNCIL DECISION

MOVED Cllr L Goncalves SECONDED Cllr M Reeve-Fowkes that the recommendation be adopted.

CARRIED 9/0

Background

The Cockburn-Fremantle Pistol Club (Inc.) have a lease for the use of Reserve 8129 Warton Road, Banjup, (Rose Shanks Reserve) which expires on 6 July, 2011.



Submission

An application has been received from the Cockburn-Fremantle Pistol Club seeking Council approval to make an application for a Club Liquor Licence.

Report

As owners of the land used by the Cockburn-Fremantle Pistol Club, Council approval is required by the Department of Racing, Gaming and Liquor for an application for a Club Liquor Licence.

The Club wishes to apply for a liquor licence that allows for the sale of alcohol at the following times:

- Wednesday 6.30pm to 10.30pm
- Friday 6.00pm to 11.30pm
- Saturday 1.00pm to 11.30pm
- Sunday 1.00pm to 6.00pm

The Club Licence being applied for allows for the sale of alcohol over the bar and for the sale of packaged liquor to club members.

The Club advises that a Club Licence will support the social aspect of the Club while allowing the administration to keep control over safe drinking practices, which may not be capable of being enforced under casual, ad hoc arrangements.

The new clubhouse includes an area with bar facilities that can be locked and secured from the main facility and kitchen. The bar section is only accessible to committee personnel. The bar will only be manned by the designated persons during the hours allowed by the licence. The rest of the facility will be available for use by members if required.

The Cockburn-Fremantle Pistol Club (Inc.) has been a self sufficient and independent lessee of the reserve for many years. There have been no known complaints on the operation of the club in recent times. The operation of the club has limited impact on the community of local residents and it is unlikely this would change should the club gain a Club Liquor Licence.

Should the Club Liquor Licence be approved the adherence to the terms and conditions of the Liquor Licence are the responsibility of the club as set out in the terms of the lease between the City and the Club.

Strategic Plan/Policy Implications

“Facilitating the Needs of Your Community” refers.



Budget/Financial Implications

Nil.

Legal Implications

Nil.

Community Consultation

Included in the process required by the Department for Racing, Gaming and Liquor is a requirement to advertise that an application for a Club Liquor Licence is being sought.

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

Nil.

17.2 (MINUTE NO 2423) (OCM 18/05/2004) - SUCCESS COMMUNITY CENTRE SITE - RESERVE 46894 (RA) (5518347)

RECOMMENDATION

That Council seek the agreement of the Minister for Planning and Infrastructure to alter the purpose of reserve 46894 from Community Centre to Community and Auxiliary Purposes.

COUNCIL DECISION

MOVED Clr L Goncalves SECONDED Clr M Reeve-Fowkes that the recommendation be adopted.

CARRIED 9/0

Background

There is an area of land on the corner of Wentworth Parade and Beelias Drive in Success that is set aside for a community centre (reserve 46894), which is of 2.004 Hectares. The current vesting of the land for a community centre is somewhat limiting in definition.

Submission

N/A



Report

In accordance with a Council decision a consultant has been appointed and has been working with a Council reference group on the need for youth facilities to be located in the Cockburn Central area to serve primarily youth of the City. A likely location for such a facility is on the community centre site in Success.

It is evident that the purpose of the reserve as community centre is limiting and would not allow for a facility that was not strictly within the definition of a community centre. The general understanding of 'Community Centre' is that it provides for non-profit community organisation activities. The scope for Council to lease a portion of the facility for a commercial purpose, which was incidental and complementary to the operation of the overall facility currently does not exist. If however approval was gained from the Minister to change the use to community and auxiliary purposes such arrangements could be established with the benefit of the Council being able to create a source of income to supplement operation and maintenance of the other facilities on the site. Furthermore, changing the use of the reserve would allow for an experienced operator to provide a service for which the City was unable or unprepared to provide.

The change of purpose of the site to community and auxiliary purposes still provides the scope for a community centre, library, youth facilities and the like should Council so decide in the future.

Strategic Plan/Policy Implications

To facilitate and provide an optimum range of community services.

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

Budget/Financial Implications

The proposal to change the vesting of the land to allow for alternative users to that presently permitted and for a lease to be entered into with another party provides the opportunity for an alternative source of revenue to assist in defraying the cost of operating facilities and services on the site.

Legal Implications

Formal process for amending the purpose of the Reserve is required through the Minister for Planning and Infrastructure.



Community Consultation

The alteration of the purpose of the reserve requires a consultation and public comment period on the proposed change of use in accordance with the requirements of the Department of Planning and Infrastructure.

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

The proposed action enables Council to offer commercial opportunities through leasing arrangements to third parties.

18. EXECUTIVE DIVISION ISSUES

Nil

19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Nil

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

21.1 (MINUTE NO 2424) (OCM 18/05/2004) - MEETING BEHIND CLOSED DOORS

COUNCIL DECISION

MOVED Cllr M Reeve-Fowkes SECONDED Cllr S Limbert that pursuant to Section s7.7(1)(a) of the Local Government Act, 1995, Council move behind closed doors, the time being 7.37pm, to discuss the following item.

CARRIED 9/0

AT THIS POINT, THE CHAMBER WAS CLOSED.

DIRECTORS OF COMMUNITY SERVICES, PLANNING & DEVELOPMENT AND ENGINEERING & WORKS, AND EXECUTIVE SECRETARY LEFT THE MEETING AND DID NOT RETURN.



21.2 (MINUTE NO 2425) (OCM 18/05/2004) - PROCEDURES FOR APPOINTMENT OF CHIEF EXECUTIVE OFFICER (ATC) (2612; 003)

RECOMMENDATION

That the Confidential Report circulated at the meeting be received.

COUNCIL DECISION

MOVED Clr K. Allen SECONDED Clr I. Whitfield that Council accept with regret, the resignation of the Chief Executive Officer, Mr R.W. Brown, with effect from 10 September 2004.

CARRIED 9/0

MOVED Clr A. Tilbury SECONDED Clr L. Goncalves that Council:

- (1) pursuant to section 5.8 of the Local Government Act 1995, establish the "Co-ordination of the Appointment of a New Chief Executive Officer Committee";
- (2) nominates the Terms of Reference of the Committee to be "to co-ordinate all necessary documentation, advertising and short listing of candidates for the position of Chief Executive Officer";
- (3) appoints Mayor Lee, Clr Reeve-Fowkes, Mr Gary Hunt, and the consultant from Beilby Corporation Pty Ltd as Members of the Committee; and
- (4) disband the Committee once Council appoints the Interview Committee.

Amendment to Motion

MOVED Clr K. Allen that a representative from the Australian Institute of Management be appointed to the Committee in place of Mr Hunt.

MOTION LAPSED FOR WANT OF A SECONDER

CARRIED 8/1

Explanation

Mr Brown, tendered his resignation with effect from 10 September 2004 after 36 years of service to the City. It is considered appropriate for a Committee to be set up to co-ordinate the recruitment of a new Chief Executive Officer. A consultant should be appointed to assist the Committee in the process. The Director Finance & Corporate Services



or his representative will also provide assistance to the Committee in gathering the necessary information. The Committee will review and prepare all necessary documentation and prepare a short list of preferred candidates for consideration by Council. Council will then appoint an interview panel that will make a recommendation to Council as to the preferred candidate(s) for final decision.

21.3 (MINUTE NO 2426) (OCM 18/05/2004) - MEETING OPENED TO THE PUBLIC

COUNCIL DECISION

MOVED Clr L Goncalves SECONDED Clr M Reeve-Fowkes that the meeting be opened to the public, the time being 7.55pm.

CARRIED 9/0

The Presiding Member read aloud the decision of Council taken behind closed doors.

22. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE

Nil

23. CONFIDENTIAL BUSINESS

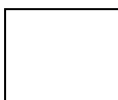
Nil

24. (MINUTE NO 2427) (OCM 18/05/2004) - 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 M Reeve-Fowkes SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED 9/0

Meeting closed at 7.58pm.

CONFIRMATION OF MINUTES

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

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

