

# **CITY OF COCKBURN**



## **ORDINARY COUNCIL**

## **AGENDA PAPER**

**FOR**

**THURSDAY, 13 NOVEMBER 2008**



# CITY OF COCKBURN

## SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 13 NOVEMBER 2008 AT 7:00 PM

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**CITY OF COCKBURN****AGENDA TO BE PRESENTED TO THE ORDINARY  
COUNCIL MEETING TO BE HELD ON  
THURSDAY, 13 NOVEMBER 2008 AT 7:00 PM**

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

Members of the public, who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

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

Nil

**5 (OCM 13/11/2008) - APOLOGIES AND LEAVE OF ABSENCE**

Mayor Stephen Lee - Leave of Absence

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

Nil

7. **PUBLIC QUESTION TIME**

Nil

8. **CONFIRMATION OF MINUTES**

- 8.1 **(OCM 13/11/2008) - CONFIRMATION OF MINUTES**

**RECOMMENDATION**

That the minutes of the Ordinary Council Meeting held on 9 November 2008, be adopted as a true and accurate record.

**COUNCIL DECISION**

**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 (OCM 13/11/2008) - MINUTES OF THE GRANTS AND DONATIONS COMMITTEE MEETING HELD ON 21 OCTOBER 2008 (5930) (R AVARD) (ATTACH)**

**RECOMMENDATION**

That Council receive the Minutes of the Grants and Donations Committee Meeting held on 21 October 2008 and adopt the recommendations contained therein.

**COUNCIL DECISION**



## **Background**

The Council of the City of Cockburn established the Grants and Donations Committee to recommend on the level and nature of grants and donations provided to external organisations and individuals.

## **Submission**

To receive the Minutes of the Grants and Donations Committee and adopt the recommendations of the Committee.

## **Report**

On Council's 2008/09 Budget the sum of \$714,000.00 was identified for distribution as grants, donations and sponsorship to external organisations and individuals.

At its meeting of 15 July 2008 the Committee gave consideration to the level and nature of a range of grants, donations and sponsorship allocations for 2008/09 which were duly adopted by Council on 14 August 2008.

The September 2008 round of Grants, Donations and Sponsorship funding opportunities was advertised and closed on 30 September 2008. The Committee considered the donations and sponsorship applications at its meeting on 21 October 2008. A revised summary of grants, donations and sponsorship recommended allocations for 2008/09, made by the Committee, is attached along with the Minutes of the Grants and Donations Committee.

## **Strategic Plan/Policy Implications**

### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

### **Budget/Financial Implications**

All grants and donations will be considered in the context of Council Policy SC35 which establishes that 2% of rateable income will be available for this purpose.

### **Legal Implications**

N/A

**Community Consultation**

In the lead up to the September 2008 round, grants, donations and sponsorship funding opportunities were promoted through the local media and Council networks. The promotional campaign has comprised:

- Three advertisements running fortnightly in the Cockburn Gazette’s City Update on 19/08/08, 02/09/08 and 16/09/08.
- One advertisement in the September edition of the Cockburn Soundings.
- Promotion to community groups through the Community Services email networks and contacts.
- All members of the Regional Community Development Group, Regional Parents Group and Regional Seniors Group have been encouraged to participate in the City’s grants program.

**Attachment(s)**

Minutes of the Grants and Donations Committee Meeting – 21 October 2008.

**Advice to Proponent(s)/Submissioners**

N/A

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

Nil.

**13.2 (OCM 13/11/2008) - APPOINTMENT OF ELECTED MEMBER TO AUDIT COMMITTEE, DELEGATED AUTHORITIES, POLICIES AND POSITION STATEMENTS COMMITTEE (DAPPS) AND CHIEF EXECUTIVE OFFICER'S (CEO) PERFORMANCE AND SENIOR STAFF KEY PROJECTS APPRAISAL COMMITTEE (5017) (R AVARD)**

**RECOMMENDATION**

That Council:

- (1) pursuant to Section 7.1A of the Local Government Act, 1995 appoints ..... (1 elected member) to the Audit Committee; and
- (2) pursuant to Section 5.8 of the Local Government Act, 1995

1. appoints ..... (1 elected member) to the Delegated Authorities, Policies and Position Statements Committee (DAPPS); and
2. appoints ..... (1 elected member) to the Chief Executive Officer's (CEO) Performance and Senior Staff Key Projects Appraisal Committee.

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

#### **COUNCIL DECISION**

#### **Background**

Mr Richard Graham has resigned from the Council of the City of Cockburn resulting in a vacancy on the Audit Committee, the Delegated Authorities, Policies and Position Statements Committee (DAPPS) and the Chief Executive Officer's (CEO) Performance and Senior Staff Key Projects Appraisal Committee. The appointment of an elected member to these committees will assist in ensuring that there are sufficient elected members in attendance for a quorum.

#### **Submission**

N/A

#### **Report**

Council is required to review its Delegation of Authorities to Officers Register on an annual basis. There is also an ongoing requirement to adopt new policies, position statements and delegate new authorities throughout the year. The DAPPS Committee has been established to make recommendations to Council on these matters.

Part 7 of the Local Government Act, 1995 prescribes matters dealing with Audits and financial accounts in local government and requires all Councils to establish an Audit Committee and appoint at least three persons to the Committee.

As these committee meetings are run in sequence it is proposed that the same elected member be appointed to each committee.

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

#### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.
- To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way.

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

Nil

#### **Legal Implications**

Part 7 of the Local Government Act, 2005 refers.

#### **Community Consultation**

N/A

#### **Attachment(s)**

Nil

#### **Advice to Proponent(s)/Submissioners**

N/A

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

Nil

## **14. PLANNING AND DEVELOPMENT DIVISION ISSUES**

### **14.1 (OCM 13/11/2008) - SINGLE DWELLING (THIRD STOREY EXTENSION) - LOCATION: 1 (LOT 111) CHARLOTTE VIEW COOGEE - OWNER: W GARRARD & S KEEGAN - APPLICANT: W GERRARD (3318070) (A LEFORT) (ATTACH)**

#### **RECOMMENDATION**

That Council refuse the application for a single house (third storey extension) at 1 (Lot 111) Charlotte View Coogee as follows:-

- (1) the proposal does not comply with Council's Coogee Residential Height Requirements Policy APD 53;

- (2) the proposed height of the dwelling will set an undesirable precedent for residential development in the area; and
- (3) the proposal will result in a building of excessive bulk and scale in relation to the street.

## COUNCIL DECISION

### Background

Zoning:	MRS:	Urban
	TPS3	Residential R20
Land use:	Single Dwelling	
Lot size:	706sqm	
Use class:	"P"	

The subject site is located on the corner of Charlotte View and Richardson Road in Coogee. It contains a two storey single residential dwelling which has its frontage and vehicle access from Charlotte View.

### Submission

The applicant proposes to construct a third storey extension to the existing dwelling. The third storey is proposed to consist of a games room and balcony which wraps around the southern and western sides of the dwelling. The proposed addition results in an overall building wall height of 8.34 m.

The proposal does not comply with the height limits specified in Council's Coogee Residential Height Requirements Policy APD 53. The proposal was therefore advertised to surrounding neighbours and objections were received which is why the proposal is being referred to Council for determination.

### Report

The following section provides a discussion of the various issues affecting the proposal.

### Coogee Residential Height Requirements Policy APD 53

The Coogee Residential Height Requirements Policy APD 53 was prepared to guide the height of residential development in the suburb of Coogee and was adopted by Council on 14 August 2008. The policy states that:

*“Maximum building height of residential development shall be limited to :*

- (i) Top of wall (roof over) – 7 m*
- (ii) Top of Wall (parapet) – 8 m*
- (iii) Top of pitched roof – 10 m”*

Whilst the overall height of the development complies with this policy (9.22 m), the proposed wall height (8.34 m) exceeds the maximum wall height provided for by this policy, which is 7 m where there is a roof over the wall. The policy states that building heights for residential development shall be limited to those specified in the policy and that any proposal that exceeds the requirements is to be advertised for public comment. The subject proposal was advertised to adjoining neighbours where three submissions were received (refer to Community Consultation section of the report below).

Although recommended by the City, the applicant is unwilling to amend the design to comply with the policy.

#### Building Height

As mentioned above, the proposal will result in a building with a wall height of 8.34 m which exceeds the maximum wall height specified by Council policy by 1.23 m. The top of the roof which will be 9.24 m complies with the policy which allows a height of 10m to the top of the pitched roof. So whilst the top of the walls exceed Council's policy, the height of the building to the top of the roof complies. It should be noted that when the dwelling was constructed, the western portion of the lot was filled and retained by approximately 0.5 m due to the sloping nature of the lot. The height of the dwelling above natural ground level would therefore be increased on the western boundary (from Richardson Road).

Council should be advised that if the proposed extension did not contain a roof over the wall then the proposed wall height would be permitted to 8 m which means that it would only exceed the policy by 0.3 m.

#### Visual Privacy and Overlooking

The proposal complies with the requirements of the Residential Design Codes (R-Codes) in relation to privacy and overlooking as there are no

major openings on the northern and eastern sides of the third storey which are the two sides that have properties. The balconies comply with the cone of vision setbacks as required by the acceptable development provisions of the R-Codes. There is therefore no visual privacy or overlooking issues caused by the proposal.

### Streetscape

The adjoining dwelling on Richardson Road is three storeys with a pitched roof, but the ground floor has been cut into the sloping lot as an undercroft which reduces its overall height and impact on the streetscape. The proposed development however is likely to exceed the height of the adjoining three storey dwelling as the lot has been filled with no undercroft. This coupled with the fact that there are no other three storey dwellings in Charlotte View, may result in a negative impact on existing streetscape.

The proposal does however match the existing dwelling in terms of design and should Council approve the proposal, it is recommended that a condition be imposed that all colours and material for the extension match the rest of the dwelling.

### **Conclusion**

Based on the above discussion, Council is presented with two options as follows:

#### Option 1

That the proposed development be refused based on the following reasons:

- The proposal does not comply with Council's Coogee Residential Height Requirements Policy APD 53.
- The proposed height of the dwelling will set an undesirable precedent for residential development in the area.
- The proposal will result in a building of excessive bulk and scale in relation to the street.

or

#### Option 2

That the proposed development be approved based on the following reasons:

- The dwelling's overall height complies with Council's policy.
- The proposal does not cause any privacy or overlooking issues to adjoining properties.

- The proposal does not result in a loss of direct sun or adequate daylight to adjoining properties.
- The proposal does not negatively affect any views of significant of adjoining properties.

It is recommended that Council refuse the application based on the reasons mentioned in Option 1 above.

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

#### **Demographic Planning**

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

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Town Planning Scheme No. 3  
Planning and Development Act 2005  
State Administrative Tribunal Regulations

### **Community Consultation**

In accordance with Council's policy APD53, the proposal was advertised to surrounding five neighbours for comment. Three neighbours responded consisting of two objections and one non-objection. The reasons specified in the objections were:

- The proposal does not comply with Council's Policy; and
- The proposal will set an undesirable precedent in the area which could be sited by nearby property owners and could affect my views. I am already impacted by a three storey dwelling to the north which keeps my property in perpetual shade.

The objections received raise valid points but do not relate directly to the proposal. Council's policy APD53 provides guidance to Council in decision making related to heights of residential dwellings in Coogee. However proposals that do not comply with the policy provisions but which provide an acceptable built form outcome can still be supported by Council.



**Attachment(s)**

1. Location Plan
2. Site Plan
3. Floor Plans
4. Elevations

**Advice to Proponent(s)/Submissioners**

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 13 November 2008 Council Meeting.

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

Nil

**14.2 (OCM 13/11/2008) - MODIFIED STRUCTURE PLAN FOR LOTS 18 AND 19 GAEBLER ROAD, AUBIN GROVE - OWNER: REGENTS GARDEN GROUP PTY LTD - APPLICANT: TAYLOR BURRELL BARNETT (9671) (M CARBONE) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt the modified structure plan for Lots 18 and 19 Gaebler Road, Aubin Grove prepared by Taylor Burrell Barnett as shown within attachment 3, subject to the deletion of Commercial/Home Base Business within the legend and adding to the site notation the words "and / or child care centre";
- (2) adopt the officers recommendations on the Schedule of Submissions contained in the Agenda attachments and forward a copy of the modified Structure Plan and Schedule of Submissions to the Western Australian Planning Commission; and
- (3) advise the proponent and submissioners of Council's decision accordingly.

**COUNCIL DECISION**

## **Background**

The original local structure plan for the site was approved by Council in January 2005 and endorsed by the Western Australian Planning Commission in March 2005. The approved structure plan incorporates Public Open Space (POS), a Retirement Village (R40), Restricted Use Dependant Aged Care (R40) and Restricted Use Child Care Centre. (refer attachments)

## **Submission**

Taylor Burrell Barnett has submitted a modified structure plan for Lots 18 and 19 Gaebler Road, Aubin Grove. The modified structure plan proposes to change the Child Care Centre to a Medical Centre and replace portion of the POS with the Retirement Village (R40) and accordingly provide 1376m<sup>2</sup> as cash in lieu. (refer attachments)

## **Report**

The two components of the modified structure plan are discussed below:

### Child Care Centre to Medical Centre

The south eastern corner of the site is nominated as a Child Care Centre within the existing structure plan which occupies an area of 1918m<sup>2</sup>. The modified structure plan proposes this as a Medical Centre.

The co-location of a Residential Aged Care facility and Retirement Complex with a Medical Centre will represent a logical and efficient use of land, given the medical support and attention required by the elderly. The proximity of the three uses will also allow for some sharing of services and operation activities.

The Medical Centre is suitably located along Lyon Road and will complement the proposed local centre located across Lyon Road, creating a suitable commercial node.

If considered that the site is appropriate for both the existing nominated use of Child Care Centre and the proposed use of Medical Centre then the site should be appropriately notated to permit either use.

### Portion of POS converted to Retirement Village (R40)

The POS within the south-west corner is proposed to be decreased from 10% to 5.25%. This results in an additional 1376 m<sup>2</sup> being included into the retirement village (R40) site. The reduction in the physical area of POS will be provided in the form of cash in lieu.

The enlargement of the retirement village will enable the inclusion of private recreational activities including a bowling green for residents' and community use, increasing the overall amenity of the development to residents.

The bowling green and clubhouse will provide a safe environment for physical activity and socialisation for what will be a predominately elderly population.

A number of car parking bays are also proposed within the Gaebler Road reserve to serve the proposed bowling green within the Retirement Village and the POS. The specific number of bays will be determined at the development application stage

Overall, the Aubin Grove area has a sufficient amount of POS and the minor reduction in POS will not significantly impact on the POS provision but results in the provision of a better facility.

### Consultation

The modified Structure Plan was advertised for public comment for 21 days. Three submissions were received from service authorities/government agencies. Two providing advice and one (Department for Planning and Infrastructure) objecting to the functionality and integration of the POS. As a result of the submission, the applicant has submitted a revised plan which has increased the size of the POS by 263m<sup>2</sup> and increased its frontage to the proposed POS to the south to improve its integration. The revised POS configuration is satisfactory to the Parks and Strategic Planning Officers and is considered to satisfy the concerns of the DPI as further explained in the Schedule of Submissions.

### Recommendation

It is recommended that Council adopt the modified structure plan and advise the Western Australian Planning Commission accordingly. Reference to Commercial/Home Base Business within the legend of the structure plan requires deletion as this zone is not consistent with the Council's Town Planning Scheme and the use be modified to allow both the Child Care Centre and Medical Centre.

## **Strategic Plan/Policy Implications**

### **Demographic Planning**

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

### **Infrastructure Development**

- To construct and maintain community facilities that meet community needs.
- To provide an appropriate range of recreation areas that meets the needs of all age groups within the community.

The Planning Policy which apply to this item is:

SPD4 - 'Liveable Neighbourhoods'

### **Budget/Financial Implications**

POS cash in lieu will be used to enhance other parks in the Aubin Grove locality in accordance with the provisions of the Planning and Development Act.

### **Legal Implications**

Nil

### **Community Consultation**

The structure plan was advertised in the local paper and letters were sent to the affected landowners and the servicing authorities.

### **Attachment(s)**

1. Location plan
2. Existing approved structure plan
3. Proposed modified structure plan
4. Proposed development site plan
5. Schedule of submissions

### **Advice to Proponent(s)/Submissioners**

The proponents and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 13 November 2008 Council Meeting.

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

Nil.

**14.3 (OCM 13/11/2008) - FINAL APPROVAL OF MURIEL COURT DISTRICT STRUCTURE PLAN - DEVELOPMENT AREA 19 - LANDOWNER: VARIOUS - APPLICANT: CITY OF COCKBURN (9681) (M CARBONE) (ATTACH)**

That Council:

- (1) subject to the Structure Plan being modified in accordance with the recommendations in this report and the Schedule of Submissions for the revised plan, adopt the Muriel Court District Structure Plan - DA19 under Clause 6.2 of Town Planning Scheme No. 3, to guide future subdivision and development applications;
- (2) not require Local Structure Planning for the DA 19 area given the level of detail provided within the District Structure Plan;
- (3) investigate the opportunity to provide a local water management strategy for the entire DA 19 area using funds from proposed Development Contribution Area 11 as per Scheme Amendment No. 67;
- (4) adopt both Schedule of Submissions contained in the Agenda attachments;
- (5) advise those who made submissions of Council's decision;
- (6) advise the Western Australian Planning Commission of Council's decision; and
- (7) write to the Western Australian Planning Commission requesting lifting of the Urban Deferred zone.

**COUNCIL DECISION**

**Background**

At its meeting on the 13 December 2007 (Item 14.8) Council resolved to adopt the Draft Muriel Court District Structure Plan – Development Area 19 for the purpose of advertising.

The Original Draft District Structure Plan (see Agenda attachments 1) was advertised in accordance with the Scheme provisions which

included consultation with affected/adjoining landowners and government/service authorities. All property owners and any consultants acting in the area were also invited to a meeting on 23 January 2008 presenting the draft District Structure Plan.

A number of issues were raised during the advertising period which resulted in the plan being revised and presented to Council on 10<sup>th</sup> July 2008. The revised plan was changed to the extent that it required readvertising with the affected and adjoining landowners and government agencies/service authorities. The advertising period has finished and the revised Draft District Structure Plan is presented to Council for final approval.

Town Planning Scheme Amendment No. 67 which involves the introduction of Development Contributions to the DA19 area (DCA 11) was recently advertised and will be presented to a future Council meeting for final adoption.

### **Submission**

N/A

### **Report**

The Structure Plan covers that area of 'Urban Deferred' land under the Metropolitan Region Scheme between North Lake Road, Semple Court, Verna Court, Kwinana Freeway and Kentucky Court. The land is zoned Development under the City's Town Planning Scheme, except for the land fronting North Lake Road which is zoned Mixed Business.

The original advertised Draft District Structure Plan (DSP) is located in attachment 1 and consists of three different density codes, R20, R40 and R160.

### Advertising of original District Structure Plan

The original DSP attracted 30 submissions, 21 from landowners raising concerns and requesting changes, 8 from government agencies/service authorities providing advice and 1 no objection from a landowner. It is noted that most of the landowners who raised concerns supported the overall structure plan however had specific concerns in relation to how it affects their property. The Agenda attachments contain the Schedule of Submissions summarising all of the submissions made.

The main concerns can be summarised as follows:

1. The financial impact of the deviation of Semple Court on landowners affected by the new alignment. In the main owners sought higher densities as well as the proposed payment to offset the financial impact of losing the land required for the road.
2. Owners adjoining the R160 area in the south eastern portion of the Structure Plan area sought a more gradual R Code transition between the proposed R160 and R40 development. They proposed an area of R80 and R100 development.
3. Owners in the south western portion of the Structure Plan area fronting Semple Court sought higher density than proposed to ensure consistency with the remainder of Semple Court.
4. Officers at the Department for Planning and Infrastructure (DPI) requested the reduction in POS in the south eastern portion of the Structure Plan area to maximise the number of dwellings within the walkable catchment of the Cockburn Central station and the inclusion of a link between North Lake Road and the R160 area through the mixed business zone in the south east corner to improve permeability.
5. Support for the development of office and integrated residential fronting the eastern frontage of North Lake Road.

As a result of the submissions, the City engaged MacKay Urban Design to review the Draft Structure Plan. The review concluded that the Structure Plan should be amended to reflect the general thrust of the submissions. In particular the changes relating to the R-Code designations with the base code being generally increased from R20 to R25 and a greater diversity of medium and high density codes to include R60 and R80. Overall this will result in greater housing choice and diversity and maximise the development potential of this key area of land.

To ensure consistency and justify the variety of densities within the structure plan area, the following 'rules' have been applied to the revised DSP:

<b>Rule</b>	<b>R-Code</b>
1. Within 800m of train station	R160
2. Adjoining the south eastern park	R160
3. Muriel Court (Boulevard frontage) east of the realigned Semple Court	R80
4. Realigned Semple Court frontage	R60
5. Adjoining parks outside 800m catchment	R60
6. Adjoining to R160 land	R80
7. Adjacent to Freeway	R40
8. Street frontage and rear laneway access	R40
9. Land abutting the Mixed Business area	R20

10. Land immediately north of 9 above	R25
11. Provide a local centre zone on the northern corners of the Muriel and the realigned Semple Court intersections.	R80

It was also considered appropriate to reduce the south eastern area of POS as per the DPI comments. This resulted in the loss of a minor amount of vegetation around the edges of the damp land which are cleared or degraded but in environmental terms this will be more than replaced by the required enhancement works on the balance area and the resultant significant increase in the population in the walkable catchment of the Cockburn Central railway station which adds to general sustainability.

#### Advertising of revised District Structure Plan

The changes to the revised DSP (see Plan 2 in the Agenda attachments) are reasonably significant and given the overall strategic importance of the project, it was readvertised with the affected/adjoining landowners and government/service authorities.

The revised plan attracted 19 submissions, 13 from landowners raising concerns and/or requesting changes, 3 from government agencies/service authorities providing advice and 3 no objections from landowners. The schedule of submissions for the revised plan is contained within Agenda attachment 4. The main concerns relate to landowners wishing to maximise the development potential though changes to road alignments or requesting higher coding. Some concerns were also raised in regards to the proposed Development Contribution schedule which is subject to Scheme Amendment No. 67 and will be considered as part of a separate report to Council in due course.

Overall as a result of the submissions a few minor changes to the plan are proposed which are discussed in the Schedule of Submissions (attachment 4) and are detailed below:

- The north-south road on Lot 31 Muriel Court being repositioned so that it is shared equally with the adjoining Lot 9.
- The R25 area nominated on Lot 31 and portion of Lot 30 Muriel Court be nominated as a grouped housing site.
- The rear laneway on lots 14 and 15 Semple Court be deleted.
- The east-west road on the southern side of the south-western POS being reduced in width to 16.5m and 15m (where it abuts the POS). This is for the section of road abutting the POS and continuing to Semple Court.
- Extend the R80 area within Lot 7 Muriel Court to the south to align with the southern extent of the R80 area within Lot 2.



- A minor change to the alignment of the extension of Beroona Way so that it is more equally positioned between the owners of Lots 41 and 42 Semple Court.
- Delete the notation of Church on Lot 1 Verna Court.

Some requested changes to density codes have not been supported due to the principle of providing for a diverse range of densities and dwelling types and the requested changes not satisfying the 'rules' of the structure plan relating to density selection as discussed within the Schedule of Submissions.

### Planning Process

The land is currently zoned "Urban Deferred" under the Metropolitan Region Scheme. The WAPC will be requested to lift the "Urban Deferred" zoning as part of the approval of the DSP to enable the area to develop for residential purposes.

The district structure planning process is usually followed by the local structure planning process and then the subdivision application. In this case the DSP has provided much more information than is usually provided at the DSP stage. Usually a DSP only shows the broad zoning/reservations and main roads. Instead, the structure plan shows the equivalent information that would be found within a local structure plan (such as all roads, zones and reserves). This questions the necessity for the local structure planning process in this case as it will produce the same plan and not resolve any additional planning issues. There is sufficient information within the DSP to enable landowners to proceed to the subdivision stage. It is therefore recommended that the Council request the WAPC not to require the local structure planning process in this case. This will avoid duplication and fast track the planning process.

However, a Local Water Management Strategy is usually produced at the local structure planning stage in accordance with the Department of Water (DoW) requirements. This strategy deals with water management issues and feeds into the Urban Water Management Plan at the subdivision stage. To resolve this issue, it is recommended that the City engage a consultant to prepare a Local Water Management Strategy for the entire DA19 area to satisfy the DoW requirements. This is more efficient as it avoids landowners or groups of landowners producing separate strategies and the Council and DoW assessing the individual strategies. The cost of producing the strategy can be included into the proposed Development Contribution Area (DCA11) with the cost shared by all landowners.

This strategy should be commenced as soon as possible to enable landowners to use this information in the subdivision design and incorporated into subsequent urban water management plans.

Once the structure plan is approved by Council, the City will also engage an Urban Designer to produce design guidelines for the entire DA19 area. The City will also commence the survey and design work for the realigned Semple Court. These costs are to be pre-funded by the City and included in the DCA costs.

### Conclusion

Subject to the minor modifications to the DSP outlined and recommended in the Schedule of Submissions, it is recommended that the revised plan be adopted by Council. The DSP addresses the relevant planning issues to support the lifting of the "Urban Deferred" zone. The DSP provides sufficient information to act as both a district and local structure plan and accordingly it is recommended that the WAPC exempt the need for a local structure plan in this case. A comprehensive Local Water Management Strategy can be carried out for the entire DA 19 area, using the funds from the proposed development contribution plan as part of Scheme Amendment No. 67.

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

#### **Demographic Planning**

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

#### **Lifestyle and Aspiration Achievement**

- To foster a sense of community spirit within the district generally and neighbourhoods in particular.

#### **Transport Optimisation**

- To ensure the City develops a transport network that provides maximum utility for its users, while minimizing environmental and social impacts.

The Planning Policies which apply to this item are:

SPD4	'Liveable Neighbourhoods'
SPD5	Wetland Conservation Policy
APD4	Public Open Space

### **Budget/Financial Implications**

There has been considerable cost saving to Council by producing the majority of the draft Muriel Court District Structure Plan in-house. Administrative costs have been incurred in the preparation and

consultation on this planning document. Consultants' costs are to be included in the DCA.

The Structure Plan report and Amendment No. 67 foreshadow the City pre-funding the realignment of Semple Court. This is also highlighted in the Plan for the District. This is a matter that Council will need to give further consideration to and for appropriate budget allocations to be made accordingly. The estimated cost of the realignment is \$7.0 million.

### **Legal Implications**

Town Planning Scheme No. 3  
Local Planning Strategy

### **Community Consultation**

The original and revised Draft DSPs were advertised in accordance with the Scheme provisions which included consultation with affected/adjoining landowners and government/service authorities. All property owners and any consultants acting in the area were also invited to a meeting on the 23 January 2008 presenting the original draft District Structure Plan.

The original plan attracted 30 submissions, 21 from landowners raising concerns and requesting changes, 8 from government agencies/service authorities providing advice and 1 no objection from a landowner.

The revised plan attracted 19 submissions, 13 from landowners raising concerns and/or requesting changes, 3 from government agencies/service authorities providing advice and 3 no objections from landowners.

### **Attachment(s)**

1. Original Muriel Court DSP (Development Area 19)
2. Revised Muriel Court DSP (Development Area 19)
3. Schedule of Submissions for original DSP
4. Schedule of Submission for revised DSP

### **Advice to Proponent(s)/Submissioners**

All landowners and those who made submissions have been advised in writing that the matter will be considered at the 13 November meeting of Council.

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

Nil.

**14.4 (OCM 13/11/2008) - FINAL ADOPTION OF PROPOSED AMENDMENT NO. 20 TO TOWN PLANNING SCHEME NO. 3 - LOCATION: SOLOMON ROAD DEVELOPMENT AREA - OWNER: VARIOUS - APPLICANT: CITY OF COCKBURN (93020) (R DONG) (ATTACH)**

**RECOMMENDATION**

That Council:-

- (1) adopt the Schedule of Submissions;
- (2) adopt the amendment for final approval subject to the following modifications:

1. Deleting Provisions 8 and 11 in Schedule 11.
2. Replacing Provision 9 (renumber it as Provision 8) in Schedule 11 with the following wording:

“Landowners within DA 20 whose land is Reserved “Other Regional Road” in the MRS and TPS No. 3 for the purpose of the extension of North Lake Road shall be responsible for the following:

- a) Land required for the extension of North Lake Road reserved as “Other Regional Road” in the MRS is expected to be ceded as a condition of subdivision approval granted by the Western Australian Planning Commission or as a condition of development approval where appropriate.
- b) Construction of North Lake Road extension as a two-lane kerbed road to be a condition of subdivision approval granted by the Western Australian Planning Commission or as a condition of development approval where appropriate, and shall include the following:
  - Full earthworks
  - Dual use path (one side)
  - Lighting
  - Landscaping
  - Traffic management devices
  - Provision of drainage infrastructure“

3. Insert new Provision 9 as follows;

“9. In the case of Lot 11 Solomon Rd, the landowner’s obligation to construct the part of the North Lake Road

extension within Lot 11 in accordance with clause 8 (b) will arise upon the commencement of any works associated with Stage 2 of the development shown on Drawing 9211-00-0-100 Revision C stamped approved on 7 March 2000 as an amendment to Development Approval reference 5513480, unless another condition of subdivision or development approval has first imposed that obligation in any event.

The road extension must be completed by the landowner to the standard approved by the City prior to the commencement of the use of Stage 2, unless another arrangement satisfactory to the city is made”.

4. Retain Provision 10 as originally proposed.
- (3) In anticipation of the Hon. Minister’s advice that final approval will be granted, the final documents be signed, sealed and forwarded to the Western Australian Planning Commission; and
  - (4) advise persons lodging submissions of Council’s decision accordingly.

## **COUNCIL DECISION**

### **Background**

Council at its meeting held on 15 February 2005 resolved to initiate Scheme Amendment No. 20 to Town Planning Scheme No. 3 for the purpose of advertising.

Generally speaking, the Scheme amendment is to:

1. Including the Solomon Road area as Development Contribution area No. 8 in Schedule 12 – Development Contribution Plan of the Scheme to cover arterial drainage requirements.
2. Amending the Scheme map to introduce ‘Development Contribution Area No. 8’ (DCA 8) over part of the suburb of Jandakot.
3. Amending Schedule 11 Development Area 20 (DA20) to include provisions relating to the North Lake Road extension Vehicle

Access Policy Plan and landowner obligations for the provision and construction of North Lake Road extension.

The proposal has been advertised for a period of 42 days. A Council agenda item was prepared for Council meeting on 13/12/2007 recommending final adoption of the proposed amendment (Minute No 3633 refers). However, the item was deferred as Anchor Legal Lawyers on behalf of the owner of Lot 11 Solomon road raised additional issues regarding the construction of North Lake Road, which need to be given further consideration by the Council.

### **Submission**

N/A

### **Report**

#### EPA Clearance and Public Consultation

The scheme amendment was referred to the Environmental Protection Authority ("EPA") in accordance with Section 7A(1) of the EPA Act.

The EPA considers that the proposed Scheme amendment should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* and nevertheless provides some advice and recommendations. These advice and recommendations have been suitably addressed in the Schedule of Submissions (Attachment 3 refers).

Following clearance from the EPA, the amendment was advertised for public comment for a period of 42 days, concluding on 1 May 2007. The advertising procedure included an advertisement being placed in the Cockburn Gazette newspaper, affected landowners being invited to comment on the proposal, and information made available at Council's Administration Office and on Council's website.

Advertising of the amendment has resulted in the receipt of 7 submissions including three submissions of objection. The issues raised in the submissions are suitably addressed in the Schedule of Submissions (Attachment 3 refers).

#### Main Issues from the Submissions Relating North Lake Road extension

Recommendations have been made to delete Provisions 8 and 11, and amend Provision 9 in Schedule 11 of the proposed amendment document in order to address some of the issues raised in the submissions relating the North Lake Road extension. These modifications were made after extensive discussion with the Council's Solicitor McLeods in order to address the following issues:

### Submission No. 3

Submission No 3 (Attachment 3 refers) made by Lavan Legal on behalf of Lot 9501 Armadale Road raises objections mainly relating to the proposed Provisions 8 and 9 of Schedule 11 concerning the land provision and construction of the North Lake Road extension.

The construction contributions required in the WAPC Policy DC 1.7 and Planning Bulletin No. 18 for roads classified as a District Distributor include "earthworks, a 2 lane unkerbed road, dual use path on one side only, grade separated pedestrian crossings where required, drainage". It is understood that the North Lake Road extension is classified as a District Distributor (although zoned Other Regional Road). It is therefore recommended that Provision 9 be amended to more closely align with the provisions of the WAPC DC 1.7 and Planning Bulletin No. 18. Furthermore, the amended Provision 9 (refer to recommendations) reflects the negotiated requirements relating to the North Lake Road construction for the Showroom/Bulky Goods development approval on Lot 9501 dated 4/02/2008 (Attachment 5 refers).

### Submission No. 4

Submission No 4 made by Anchor Legal Commercial Lawyers on behalf of Lot 11 Solomon Road raises objections generally relating to Provisions 8, 9 and 11 of Schedule 11 which also concern the land provision and construction contribution of the North Lake Road extension within Lot 11 boundaries.

The detailed grounds for the objection are included in the Schedule of Submissions (Attachment 3 refers). Council Officer had made recommendations addressing the issues raised by Anchor Legal and prepared Council agenda item for the Council meeting held on 13/12/2007, recommending final adoption to proposed Amendment 20. However, Anchor Legal contacted the Officer and requested the agenda item to be postponed as they raised additional issues which need to be given further consideration.

The additional issues were relating to the land and construction of the North Lake Road extension, the deletion of the existing vehicle access which was affected by the North Lake Road extension, and the possible new access into Lot 11 off North Lake Road. Anchor Legal believed that Provisions 9 and 11 which require Lot 11 to contribute land and construct North Lake Road in the event of further development or subdivision proposals occurring on Lot 11, were unfair for the owner of Lot 11 as there is no benefit to Lot 11 for its existing use of the property. Also, Lot 11 has already been substantially developed with only a portion of the final stage 2 of the cold store development to be undertaken.

Following two meetings with Anchor Legal (on 29/01/2008 and 28/02/2008) and numerous discussions and negotiations relating to the above issue, it was considered that there were grounds for the all requirement relating to Lot 11 to be reviewed. As a result, the officers were prepared to recommend to Council that the obligation in respect to Lot 11 be modified as follows (refer to Attachment 6 -- City's letter dated 6/03/2008):

1. The Owner of Lot 11 provides the land required for North Lake Road free of cost.
2. The City be totally responsible for the construction of North Lake Road. This would include modification to the existing fence and construction of a new access into Lot 11 off North Lake Road.

It was considered that this proposition was fair and reasonable having regard to the particular circumstances and had the potential to speed up the process of the construction of future North Lake Road between Solomon Road and the light controlled intersection with Armadale Road which would be of significant benefit to Lot 11. In addition, the City requested a written advice from Anchor Legal on behalf of the owner of Lot 11 regarding the City's offer in the above.

The City however had not received any written advice from Anchor Legal until a letter was instead received from Gadens Lawyers on behalf of the owner of Lot 11 dated 16 July 2008. The letter (Attachment 7) objected to the proposed Scheme Amendment and hence effectively rejected the City's offer to Swire Cold Storage. The letter claims that "the proposed Amendment is not consistent with the framework provided for government authority to acquire land. By acting in a manner outside of this framework, the Council will be acting beyond its powers and in any event will be liable for compensation for injurious affection. It is our opinion that proper compensation be proposed for the acquisition of land for the North Lake Road extension from Swire Cold Storage Pty Ltd."

The City sought further legal advice from McLeods Barristers & Solicitors in respect of the matters raised by Gadens Lawyers. McLeods advise that it is appropriate to include DA provisions relating to the land provision and construction of North Lake Road, but note the provisions in respect to the land for the road should be modified for the following reasons:

1. Landowners whose land is reserved for the North Lake Road extension under the MRS are entitled to compensation for injurious affection. As matters presently stand it is the WAPC that will be liable to pay any compensation for injurious affection as a result of the MRS reservation.



2. The WAPC has the legitimate power to acquire the road land free of cost without compensation as a condition of any subdivision approval.
3. By requiring the road land to be given up free of cost by the landowners through Amendment No. 20 as was proposed, the City could be liable to compensation for injurious affection as a result of the TPS3 amendment instead of the WAPC.

It should be noted that upon approval of Amendment No. 20, the owners of Lot 11 Solomon Rd will be responsible for the construction of North Lake Road if the land is subdivided, the subject of a new Development Approval or if the current use is extended over the balance of the site in accordance with the current approval.

For the above reasons, the recommended modifications contained in the Recommendation are important for the City to avoid unnecessary legal challenges whilst still providing the City the necessary statutory power to ensure the implementation of the North Lake Road extension.

#### DCA 8 Development Contribution

The City is still working towards the finalisation of development contribution plan for DCA 8. Engineering consultant David Wills and Associates who has been appointed by the City to prepare the Arterial Drainage Scheme Review has recently provided the City with the detailed cost of the arterial drainage system for the DCA 8 area. However, the City will need to determine the exact location and cost of the land component required for the infiltration basin. Once the exact location and accurate cost of the land for infiltration basin is decided, the City will be able to provide a cost contribution schedule for DCA 8.

#### Conclusion

Proposed Amendment No. 20 includes the introduction of DCA 8 and adding more Scheme provisions in Schedule 11 for DA 20. The introduction of DCA 8 to TPS3 will provide a cost sharing planning mechanism for landowners/subdividers to share the cost of arterial drainage system which will benefit the area as a whole. Given the increasing number of subdivisions and developments occurring in the area which puts the pressure on the need of the arterial drainage system and the need of the DCA 8 contribution rate for cost sharing, it is recommended that Council adopt proposed Scheme Amendment No. 20 with the recommended modifications in order to facilitate the development of this area.

## **Strategic Plan/Policy Implications**

### **Infrastructure Development**

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

### **Employment and Economic Development**

- To plan and promote economic development that encourages business opportunities within the City.
- To pursue high value employment opportunities for our residents.

### **Transport Optimisation**

- To ensure the City develops a transport network that provides maximum utility for its users, while minimizing environmental and social impacts

## **Budget/Financial Implications**

The cost of land required from Lot 11 Solomon Road for the extension of North Lake Road is estimated to be in the order of \$1.76m.

## **Legal Implications**

Town Planning Scheme No. 3 (TPS3)  
Metropolitan Region Scheme  
Planning and Development Act 2005  
Town Planning Regulations 1967 (as amended)

## **Community Consultation**

Following receipt of advice from the EPA, the amendment was advertised for a 42 day period in accordance with Town Planning Regulations 1967. The 42 day public consultation period for Scheme Amendment No 20 concluded on 1 May 2007. At the close of advertising, 7 submissions were received.

## **Attachment(s)**

1. Locality Map
2. Scheme amendment document
3. Schedule of Submissions
4. Council approval letter dated 12/01/1998 – Stage 1 development approval for Lot 11 Solomon Road.
5. Development approval letter dated 04/02/2008 – Showroom/bulky Goods Development – Lot 9501 Armadale Road.
6. City's Letter to Anchor Legal dated 6/03/2008
7. Letter from Gadens Lawyers dated 16/07/2008

### Advice to Proponent(s)/Submissioners

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 13 November 2008 Council Meeting.

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

Nil

#### 14.5 (OCM 13/11/2008) - REVOCATION AND CHANGE TO PREVIOUS COUNCIL DECISION - MINUTE NO. 3813 ORDINARY COUNCIL MEETING 9 OCTOBER 2008 (6006998; 6006999) (D ARNDT) (ATTACH)

##### RECOMMENDATION

That Council:-

- (1) revokes the following decision carried at the Ordinary Council Meeting held on 9 October 2008:-

##### **COUNCIL DECISION**

*MOVED Clr H Attrill SECONDED Clr I Whitfield that the Council:*

- 1. refuse to grant its approval for the development of supermarket, shops, tavern and drive-through bottle shop on Lots 453 and 454 (No's 1 and 2) Macquarie Boulevard, Hammond Park due to insufficient car parking for the proposed development provided on-site, in accordance with Council's Town Planning Scheme requirements;*
- 2. issue a Schedule 9 Notice of Determination on Application for Planning Approval / Refusal and an MRS Form 2 Notice of Refusal; and*
- 3. advise the applicant and submissioners of Council's decision accordingly.*

##### **CARRIED 5/2**

- (2) and resolves to:-

- (1) grant its approval to the development of a supermarket, shops, a tavern and drive through bottle shop on Lots 453 and 454 (Nos 1 and 2) Macquarie Boulevard, Hammond Park, in accordance with the approved plan and related details subject to the following conditions:

1. Development can only be undertaken in accordance with the details of the application as approved herein and any approved plans.
2. Nothing in the approval or these conditions shall excuse compliance with all other relevant written laws in the commencement and carrying out of the development.
3. The tavern Management Plan being reviewed in detail to ensure the content of the document is comprehensive and complete for the purpose of addressing all aspects of the tavern use capable of being managed. This includes noise management, on-site patron behaviour and parking use. The Plan is to be reviewed to the City's satisfaction prior to the release of a building licence for the development.
4. The tavern being designed in consultation with a qualified acoustic consultant and/or engineer who must certify in an accompanying report that the building proposed will be suitably attenuated to ensure noise generated by amplified music and the like complies with the requirements of the Environmental Protection (Noise) Regulations 1997 (taking into account the use and proximity of surrounding properties). The certification must be provided to the City's satisfaction prior to the release of a building licence for the development.
5. The preparation and submission of a comprehensive signage package that deals with (but is not limited to) the availability of, and use by patrons of parking across Lots 453 and 454; and crowd behaviour on the site and in the vicinity of surrounding residential development. The details of the signage package are to be provided to the City's satisfaction prior to the release of a building licence for the development.
6. The Yarra Promenade egress point being redesigned to minimise the extent to which car headlight(s) spill impacts on adjacent residential properties. The details of the redesigned egress point are to be provided to the City's satisfaction prior to the release of a building licence for the development.

7. The preparation and submission of a detailed landscaping plan, dealing with (but is not limited to), landscaping (both soft and hard elements) intended for the perimeter of the tavern site. In this regard, the height of the boundary wall around the tavern site is to be determined having regard for the protection of privacy and amenity of adjacent residential properties. The landscaping plan is to be provided to the City's satisfaction prior to the release of a building licence for the development.
8. All landscaping is to be undertaken and completed in accordance with the approved landscape plan prior to the occupation any buildings the subject of the application.
9. The landscaping installed in accordance with the approved landscape plan is to be reticulated/irrigated and maintained to the City's satisfaction.
10. Walls, fences and landscape areas are to be truncated within 1.5 metres of where they adjoin vehicle access points where a driveway and/or parking bay meets a public street or limited in height to 0.75 metres.
11. The submission of materials, finish and colour details for the development to the City's satisfaction prior to the releases of a building licence for the development.
12. All car parking and access complying with the minimum requirements of the applicable Australian Standard and the Building Code of Australia (including disabled parking), the details of which are to be provided to the City's satisfaction prior to the release of a building licence for the development.
13. Prior to the release of a building licence for the proposed development the owner shall effect easements for car parking purposes over both Lots 453 and 454 for the purpose of protecting the reciprocal use of parking for the different uses proposed across the two lots to the satisfaction of the City. The City is to be a party to the easements, whilst the owner shall be responsible for all costs of and incidental to the preparation of

the easement, including all stamping and registration fees.


14. The provision of bicycle parking for visitors to the development. The bicycle parking details are to be provided to the City's satisfaction prior to the release of the building licence for the development.
15. All service areas and related hardware, including antennae, satellite dishes and air-conditioning units, being suitably located from public view and/or screened, the details of which are to be provided to the City's satisfaction prior to the release of a building licence for the development.
16. The premises shall be kept in a neat and tidy condition at all times by the owner/occupier to the satisfaction of the City.
17. Any retaining wall(s) are to be constructed in accordance with a qualified Structural Engineer's design.
18. Earthworks over the site and batters must be stabilised to prevent sand or dust blowing, and appropriate measures shall be implemented within the time and in the manner directed by the City in the event that sand or dust is blown from the site.
19. The development must not cause a sand drift or airborne dust nuisance to neighbours. The developer must prepare and implement a Dust Management Plan in accordance with the City's Policy of the Preparation on Dust Management Plans for development sites within the City of Cockburn. The plan is to be submitted and approved by the City's Health Services prior to the release of the building licence for the development and is to be complied with during construction.
20. The installation of outdoor lighting (if proposed) is to be in accordance with the requirements of Australian Standard AS 4282-1997: 'Control of the Obtrusive of Outdoor Lighting'.
21. All stormwater being contained and disposed of on-site to the satisfaction of the City.
22. All stormwater drainage shall be designed in

accordance with the latest release of the document entitled "Australian Rainfall and Runoff" produced by the Institution of Engineers, Australia, and the design is to be certified by a suitably qualified practicing Engineer or the like, to the satisfaction of the City, and to be designed on the basis of a 1:100 year storm event. See City's specification, enclosed. This is to be provided at the time of applying for a building licence.

23. No building (or related) activities associated with this approval causing noise and/or inconvenience to neighbours being carried out after 7.00 pm or before 7.00am, Monday to Saturday, and not at all on Sunday or public holidays.
24. Application being made for any signage that is not exempt by the requirements of Town Planning Scheme No. 3.
25. The submission of a construction management plan to the City's satisfaction prior to the release of a building licence for the development, detailing how it is proposed to manage:
  - a) access to and from the site
  - b) the delivery of materials and equipment to the site
  - c) the storage of materials and equipment on the site
  - d) the parking arrangements for contractors and subcontractors
  - e) other matters likely to impact on the surrounding properties.

#### FOOTNOTES

1. The application has been determined on the basis of the plans and information provided to the City for assessment. In this regard, and with respect to conditions 1 and 2, the City is highly unlikely to support any increase in the size of floor areas shown on the development application plans.
2. In the event there are any questions regarding the requirements of this approval, or the planning controls applicable to the land and/or location, the City's Planning Services should be consulted.

3. Conditions 3 – 7 are specifically concerned with protecting the amenity of property owners in the vicinity and the locality generally.
  4. If the development the subject of this approval is not substantially commenced within a period of 2 years, the approval shall lapse and be of no further effect.
- (2) issue a Notice of Determination of Application for Planning Approval under the City of Cockburn Town Planning Scheme No. 3; and
  - (3) advise the applicant and submissioners of Council's decision accordingly.
- 

## COUNCIL DECISION

### Background

The application was formally considered by Council at its meeting on 9 October 2008 (Item 3813 refers) where it was resolved to refuse the application on the grounds that insufficient onsite car parking was proposed for the development.

This matter has been the subject of a request from the applicant for Council to reconsider its previous decision to refuse its application. By notice received on 21 October, 2008, a notice to revoke the previous Council decision and consider a change to the matter has been received, signed by the requisite number of Elected Members. A copy of which is attached.

The lots subject of this item are located either side of Macquarie Boulevard, on the south side of Russell Road where it is being realigned in Hammond Park. The lots are zoned Local Centre under the City's Town Planning Scheme No. 3 and sit adjacent to land zoned Residential R25 and R40 (occupied by single residential dwellings).

In addition to the Local Centre zoning, the land is subject to the Development Area provisions contained in Schedule 11 of the Scheme. Within Development Area 9 (DA 9), specific design requirements provide for an envisaged 'Mainstreet' builtform. Without diminishing



the potential of desired outcomes, the Council at its 11 September 2008 adopted Scheme Amendment No. 65 for final approval.

Scheme Amendment No. 65 incorporates several changes to the design requirements for DA 9. The changes provide a higher degree of flexibility taking into account site specific considerations including: the location of the two lots at a significant intersection, vehicular access and parking provision.

### **Submission**

Application has been made for the development of a supermarket and five (5) shops on Lot 453 Macquarie Boulevard (east side of the road), and a tavern, including a bottle shop, on Lot 454 Macquarie Boulevard (west side of the road). In detail, the plans show the following.

#### Lot 453

- A centrally located supermarket (800m<sup>2</sup>);
- Five shops (totalling 407m<sup>2</sup>); and
- 69 on-site parking bays.

Access/egress points to the parking are proposed to/from Russell Road, Macquarie Boulevard and Deanmore Bend. The architectural style of the building is contemporary in appearance.

#### Lot 454

- A tavern including: a lounge area (64 m<sup>2</sup>), cocktail area (86 m<sup>2</sup>), bistro (58 m<sup>2</sup>) and bistro/function area (63 m<sup>2</sup>), bottle shop (176 m<sup>2</sup>) and an alfresco dining area (157 m<sup>2</sup>); and
- 101 on-site parking bays.

Access / egress points to the parking are proposed to / from Russell Road, Macquarie Boulevard and Yarra Promenade. Similar to the supermarket and shops, the style of the tavern building is contemporary.

In support of the proposal, the project architect states the following:

*“The tavern model proposed is a small but typical neighbourhood tavern, with a focus on food as the primary generator of trade. The arrangement, size and furnishing style of the spaces limits the possibility of large groups, and precludes the ‘sports bar environment’ or ‘drinking barn’.*

*The rooms are designed to be separable to allow a suitable ambience to be maintained even with smaller groups.*

*The external areas have been located to have access to northern and western (afternoon) sun and splay the building away from the residential, but to the 'benefit' of the intersection.*

*It should be noted that the previously submitted management plan goes to great lengths to minimise any potential disturbances to neighbours, including limiting deliveries between the hours of 7.00 am and 7.00 pm, restricting keg movement and rubbish clearing between 10.00 am and 7.00 pm and maintenance of a logbook for any complaints regarding noise or any disturbance in the area."*

*"The Neighbourhood Retail Centre ("The Centre") will comprise a total retail net area of 1,207 m<sup>2</sup>, which will comprise of a supermarket of 800 m<sup>2</sup> and a mix of speciality retailers comprising a total of 407 m<sup>2</sup>.*

*The centre like many neighbourhood centres of this type are designed to be a convenience based offering which sees the typical customer spend and buy less during a greater number of shorter visits. The centre will draw its patronage from the immediate surrounds as is the case with other centres of this nature with a large number of its customer base not arriving by car."*

The proposed hours of trade of the tavern are:

- Monday to Saturday: 10.00 am – 12 00 midnight; and
- Sunday: 10 00 am – 10.00 pm.

## **Report**

The following report deals with the use of land and development of the lots in question, including issues and/or concerns associated with such. It also deals with the public consultation undertaken in respect of the proposed tavern.

## Uses

The proposed supermarket and shops are 'P' (permitted) uses under the scheme. The tavern, however, is an 'A' use which means that it is not permitted unless the Council has exercised its discretion and granted approval following consultation. The matter of consultation is dealt with in a following section. From a planning perspective, the proposed tavern use is supported.

The Structure Plan report for the area, which addresses the neighbourhood centre, refers to the establishment of a range of uses including: a fast food outlet, service station and medical centre. The report also refers to cafes and restaurants. The proposed tavern is a similar use in many respects, and will incorporate some of the uses (food and beverage) identified for the locality.

If approved, the tavern will contribute to the level of service and lifestyle of the area.

Whilst, therefore, concerns have been raised by the local community, on balance and subject to a range of management measures, the tavern is considered suitable as a use that can successfully co-exist with residential development in the vicinity. Typical management measures applied to a use of the type proposed include:

- The attenuation of the establishment for the purposes of noise management.
- Limitations on the hours of operation.
- The application of a Management Plan (dealing with amongst matters, patron behaviour and servicing).
- Traffic and parking management.

It is noted that an Acoustic Report and a Management Plan has been lodged with the application by the proponent.

#### Development

The buildings proposed for both lots are considered to be of an appropriate scale and design, representative of their local centre function.

Whereas the shopping centre and shops are centrally located amongst on-site parking, the tavern is positioned to address the intersection of Russell Road and Macquarie Boulevard. The location of shops amongst parking provides for a functional arrangement consistent with the shop/retail use proposed. The tavern, however, will mark the entry to the neighbourhood centre with activity while providing a separation to residential uses to the south.

The main concern with respect to the assessment of the development relates to the provision of parking. As proposed, the tavern in isolation i.e. on Lot 454, is deficient 51 bays. Under the scheme, the tavern including the bottle shop requires 152 bays. In total, 101 bays are proposed on-site. This includes 4 bays in the bottle shop drive through.

Although the disparity in parking is quite significant, the calculation reflects the specific (and maximum) requirements of the scheme for the type of establishment. As advised by the project architect though, the need for maximum parking provision is anticipated to be necessary on Friday and Saturday nights only (at peak times). That is, for the majority of the time the establishment will have sufficient on-site parking.

Nonetheless, and recognising the need to ensure sufficient parking for the use is available at all times i.e. peak times and at the time of

special events (Melbourne Cup day for e.g.), the applicant also proposes the reciprocal sharing of parking with the supermarket and shops. Conversely, given demand for parking at alternate times by tavern patrons, shoppers will be able to use tavern parking during the day.

The use of tavern parking by shoppers is made available in the knowledge that the supermarket (like the tavern) is also short in on-site parking. Under the scheme, the supermarket and shops require 101 bays (69 proposed). In essence, the sharing of parking between the two uses is proposed on the basis of their complementary operating characteristics.

In support of the proposed reciprocal use of parking, the proponents have engaged Uloth and Associates (traffic consultants). Uloth's question the appropriateness of the scheme in requiring all parking for the tavern to be calculated at 1 bay for every 2 m<sup>2</sup> of drinking area. Their position in this regard is considered reasonable and 1 car bay for every 4 seats has been applied in the City's assessment of seating areas within the tavern (as it typically would for a restaurant).

The view though, that the retail parking provision in the Scheme is too onerous has not been applied. Uloth's believe that a lesser parking rate should be applied to smaller supermarkets similar to that proposed. Bearing this in mind, there are some discrepancies between bay numbers determined by the City and the consultant. When all is considered, however, the reciprocal use of parking provided is fundamental to the combined development.

In support of the proposed arrangements, Uloth states the following:

*"... that although the Tavern will generate a peak demand for 133 spaces on a Saturday evening, it is estimated that the retail parking demand at the same time will be 30 percent for the supermarket and just 10 percent for the shops, resulting in an overall shared parking demand for 149 spaces. It can also be seen that when the Retail Developments require their peak parking demand of 72 spaces, the Tavern will only require 53 spaces (40 percent), resulting in an overall parking demand for 125 spaces."*

It should be noted that the numbers mentioned above are based on Uloth's rates and are different to the Scheme (notably 1 bay / 5 m<sup>2</sup> for seating areas in the tavern – as against 1/4 m<sup>2</sup>, and 1/16.67 m<sup>2</sup> for shops as against 1/12 m<sup>2</sup>). Based on the Scheme requirements and using the 'demand' percentages detailed in the Uloth report, the total number of bays required across the two sites is calculated at 176 (170 proposed). Combined with the use of 14 kerbside bays in the road reserves adjoining the lots, the total number of bays across the two lots is considered sufficient.

To facilitate the orderly and successful sharing of the reciprocal car parking bays, the project architects recommend the following parking management initiatives:

- timed shopper parking to ensure tavern parking does not obstruct shopper parking
- signage clearly informing tavern patrons of the availability of shopper parking
- street parking management.

The initiatives listed are all supported subject to the detail of each being further resolved. The design of the egress from the tavern site to Yarra Boulevard also requires further resolution to ensure the extent to which light spill occurs is minimised.

### Consultation

In accordance with the use classification of the tavern, the proposal has been advertised as per the requirements of Section 9.4 of the Scheme. In total, 22 adjacent property owners were advised in writing of the proposal. Signs displaying notice of the proposal were also erected on-site.

In response to the consultation, 14 individual submissions objecting to the proposal were received by the City. It is noted one (1) of these submissions was received after the closing date. A petition objecting to the proposal and signed by 102 persons living in the vicinity of the site has also been received by the City.

In support of the proposal, the City has received 5 individual submissions. Similarly, one (1) of these was received after the closing date.

### Objections

The concerns raised in respect of the proposal relate to the tavern only. Many submissions made specific reference to support for the supermarket and shops. The main concerns raised are as follows:

- incompatibility of the use with the residential/family nature of the locality
- noise generated by the use and traffic movements
- anti-social behaviour
- the car park egress to Yarra Promenade
- the lack of a demand/need for the use given proximity to “*The Gate*”
- depreciation in property values.

With respect to anti-social behaviour, reference was made in a number of submissions to ‘The Gate’ tavern in Success, whilst points 5 and 6 above aren’t strictly planning considerations.

### Support

In support of the proposal, those that made submissions offered the following:

- community to benefit from “*walkable*” shopping and social facilities
- the creation of a positive and vibrant village atmosphere (lifestyle)
- the establishment of a facility (tavern) that provides a social/meeting place for the community and sporting clubs
- proximity to the bistro, providing a dining outlet.

A number of submissions also made reference to the delay in the development of the neighbourhood centre as promoted by the developers (including shopping and social outlets).

### Comment

The concerns raised in opposition to the proposal, specifically the tavern component, are typical of concerns raised in respect of this type of use. Whilst they are acknowledged, they are not necessarily considered valid as they relate more to the management of the use, not the use itself. Ensuring the design and development of the building responds to the use also assists preventing problems.

Bearing the above in mind, and noting that the parking arrangements and building designs are considered acceptable, it is recommended the application be approved subject to a set of rigorous conditions that deal with the management of the use and detailed building design. The following specific conditions are proposed:

- The Management Plan being reviewed in detail to ensure the content of the document is comprehensive and complete for the purpose of addressing all aspects of the tavern use capable of being managed. This includes noise management, patron behaviour and parking use.
- The development (tavern) being designed in consultation with a qualified acoustic consultant and/or engineer who must certify in an accompanying report that the building proposed will be suitably attenuated to ensure noise generated by amplified music and the like complies with the requirements of the Environmental Protection (Noise) Regulations 1997 (taking into account the use and proximity of surrounding properties).
- The preparation and submission of a comprehensive signage package that deals with/addresses amongst matters: the availability of, and use by patrons of parking across the two sites; and crowd behaviour on the site and in the vicinity of surrounding residential development.

- The preparation and submission of a detailed landscaping plan, dealing with amongst matters, landscaping (both soft and hard elements) intended for the perimeter of the tavern site. In this regard, the height of the boundary wall is to be determined having regard for the protection of privacy and amenity of adjacent residential properties.
- The Yarra Promenade egress point being redesigned to minimise the extent to which car light spill impacts on adjacent residential properties.

Point 2 above takes into account the Acoustic Report already lodged, but more specifically applies to the design and construction of the tavern building. Other typical conditions are also recommended.

On balance, Officers support the application in its presented form, and consider the reasons for Council originally refusing it have been addressed following a presentation by the applicant's professional representatives.

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

#### **Demographic Planning**

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

#### **Lifestyle and Aspiration Achievement**

- To foster a sense of community spirit within the district generally and neighbourhoods in particular.
- To facilitate and provide an optimum range of community services and events.
- To identify community needs, aspirations, expectations and priorities for services that are required to meet the changing demographics of the district.

### **Budget/Financial Implications**

In the event an application for review to the State Administrative Tribunal arises in respect of any of the conditions proposed to be imposed on approval, there may be a cost to be borne by the City.

**Legal Implications**

Town Planning Scheme No. 3  
Planning and Development Act 2005  
Regulation 10 of the Local Government (Administration) Regulations,  
refers to revocation and changing Council Decision.

**Community Consultation**

Adjacent property owners were consulted on the proposal. Signs  
advising of the proposal were also erected on-site.

**Attachment(s)**

1. Site plan, floor plans and elevations;
2. Submissions received - support and objections;
3. Letter of Notice to Revoke Item 14.3 (Minute No. 3813)

**Advice to Proponent(s)/Submissioners**

The Proponent(s) and those who lodged a submission on the proposal  
have been advised that this matter is to be considered at the  
13 November 2008 Council Meeting.

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

NIL

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

**15.1 (OCM 13/11/2008) - LIST OF CREDITORS PAID - SEPTEMBER 2008  
(5605) (K LAPHAM) (ATTACH)**

**RECOMMENDATION**

That Council receive the List of Creditors Paid for September 2008, as  
attached to the Agenda.

**COUNCIL DECISION**



**Background**

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

**Submission**

N/A

**Report**

The list of accounts for September 2008 is attached to the Agenda for consideration. The list contains details of payments made by the City in relation to goods and services received by the City.

**Strategic Plan/Policy Implications**

**Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

List of Creditors Paid – September 2008.

**Advice to Proponent(s)/Submissioners**

N/A

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

Nil.

**15.2 (OCM 13/11/2008) - STATEMENT OF FINANCIAL ACTIVITY - SEPTEMBER 2008 (5505) (N MAURICIO) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) receive the interim Statement of Financial Activity and associated reports for September 2008, as attached to the Agenda; and
- (2) adopt a materiality threshold of \$50,000 or 10% (whichever is the greater) for the 2008/09 financial year in accordance with Financial Management Regulation 34(5).

**COUNCIL DECISION**

**Background**

Regulation 34(1) of the Local Government (Financial Management) Regulations 1996 prescribes that a local government is to prepare each month a Statement of Financial Activity.

Regulation 34(2) requires the Statement of Financial Activity to be accompanied by documents containing:–

- (a) details of the composition of the closing net current assets (less restricted and committed assets),
- (b) explanations for each material variance identified between YTD budgets and actuals; and
- (c) any other supporting information considered relevant by the local government.

Regulation 34(4)(a) prescribes that the Statement of Financial Activity and accompanying documents are to be presented to the Council.

**Submission**

N/A

## Report

Attached to the Agenda is the Statement of Financial Activity for September 2008. This includes explanations for material variances within operating revenue and expenditure, as well as capital works & projects expenditure.

Note 1 shows the program split for grants and contributions received towards asset purchase and development.

Note 2 provides a reconciliation of Council's net current assets (adjusted for restricted assets and cash backed reserves). This provides a financial measure of Council's working capital and an indication of its liquid financial health.

Also provided are Reserve Fund and Restricted Funds Analysis Statements. These assist to substantiate the calculation of Council's net current assets position.

The Reserve Fund Statement reports the budget and actual balances for Council's cash backed reserves, whilst the Restricted Funds Analysis summarises bonds, deposits and infrastructure contributions held by Council. The funds reported in these statements are deemed restricted in accordance with Australian Accounting Standards

### Material Variance Threshold

For the purpose of identifying material variances in Statements of Financial Activity, Financial Management Regulation 34(5) requires Council to adopt each financial year, a percentage or value calculated in accordance with Australian Accounting Standard AAS5 - Materiality. This standard defines materiality in financial reporting and states that materiality is a matter for professional judgement. Information is material where its exclusion may impair the usefulness of the information provided. AAS5 does offer some guidance in this regard by stating that an amount that is equal to or greater than 10% of the appropriate base amount may be presumed to be material.

The materiality threshold adopted by Council for the 2008/09 financial year is \$50,000 or 10% (whichever is the greater). In applying the threshold, officers give due regard to the nature of the data and how it is best consolidated (e.g. at an individual project level, specific works program, distinct activity, nature and type level etc).

## **Strategic Plan/Policy Implications**

### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

### **Budget/Financial Implications**

Where variances reported are of a permanent nature (i.e. not due to timing issues), they will impact Council's end of year surplus/deficit position. These should be addressed at the mid-year Budget Review.

### **Legal Implications**

Section 6.4 of the Local Government Act, 1995 and Regulation 34 of the Local Government (Financial management) Regulations 1996, refer.

### **Community Consultation**

N/A

### **Attachment(s)**

Statement of Financial Activity and associated reports – September 2008.

### **Advice to Proponent(s)/Submissioners**

N/A

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

Nil.

## **16. ENGINEERING AND WORKS DIVISION ISSUES**

### **16.1 (OCM 13/11/2008) - PROCLAMATION OF CONTROL OF ACCESS TO KWINANA FREEWAY BETWEEN BERRIGAN DRIVE AND ROWLEY ROAD (9703) (J. RADAICH) (ATTACH)**

#### **RECOMMENDATION**

That Council agree to the proposal by Main Roads WA to proclaim control of access over the section of Kwinana Freeway in the City of Cockburn between Berrigan Drive and Rowley Road, as shown in Main Roads WA Drawing Nos. 0360-065 and 0360-066.

**COUNCIL DECISION****Background**

Main Roads WA has a policy to control access onto roads under its car and control, in particular freeway standard roads.

**Submission**

Main Roads WA needs to formalise their control over access onto the Kwinana Freeway. Consequently, they are seeking Council's approval to proclaim Control of Access over the section between Berrigan Drive and Rowley Road.

**Report**

The proclamation will formalise Main Roads' ability to minimise or eliminate access from developments on abutting properties and ensure that the traffic carrying capacity of the road is maintained. The proclamation wasn't enacted when the Freeway was built and should be supported.

**Strategic Plan/Policy Implications****Transport Optimisation**

- To construct and maintain roads which are convenient and safe for vehicles, cyclists and pedestrians.

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

- Letter from Main Roads regarding the Proclamation of Control of Access Kwinana Freeway.

- Main Roads WA Drawing Nos. 0360-065 and 0360-066 showing the Kwinana Freeway sections to be formally proclaimed.

**Advice to Proponent(s)/Submissioners**

N/A

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

Nil.

**16.2 (OCM 13/11/2008) - PROCLAMATION OF CONTROL OF ACCESS TO ROE HIGHWAY BETWEEN KWINANA FREEWAY AND SOUTH STREET (9703) (J. RADAICH) (ATTACH)**

**RECOMMENDATION**

That Council agree to the proposal by Main Roads WA to proclaim control of access over the section of Roe Highway located in the City of Cockburn between Kwinana Freeway and South Street, as shown in Main Roads WA Drawing Nos. 9125-086-1 and 0360-882.

**COUNCIL DECISION**

**Background**

Main Roads WA has a policy to control access onto roads under its care and control, in particular freeway standard roads.

**Submission**

Main Roads WA needs to formalise their control over access onto Roe Highway. Consequently, they are seeking Council's approval to proclaim control of access over the section within the City between Kwinana Freeway and South Street.

**Report**

The proclamation will formalise Main Roads ability to minimise or eliminate access from developments on abutting properties and ensure that the traffic carrying capacity of the road is maintained. The

proclamation wasn't enacted when the highway was built and should be supported.

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

#### **Transport Optimisation**

- To construct and maintain roads which are convenient and safe for vehicles, cyclists and pedestrians.

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

N/A

#### **Legal Implications**

N/A

#### **Community Consultation**

N/A

#### **Attachment(s)**

- Letter from Main Roads regarding the Proclamation of Control of Access Roe Highway.
- Main Roads WA Drawing Nos. 9125-086-1 and 0360-882 showing the Roe Highway section to be formally proclaimed.

#### **Advice to Proponent(s)/Submissioners**

N/A

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

Nil.

### **16.3 (OCM 13/11/2008) - PUBLIC CONSULTATION - PROPOSED TREE PLANTING - LOCATION: FORREST ROAD HAMILTON HILL (450497) (A CONROY) (ATTACH)**

#### **RECOMMENDATION**

That Council:

1. endorses the planting of Marri Red Gum (*Corymbia calophylla*) trees in the median of Forrest Road between Stock Road and Blackwood Avenue and low native plants at selected locations between Blackwood Avenue and Rockingham Road; and

2. advise the residents who responded to the community survey of Council's decision.

## COUNCIL DECISION

### Background

At the ordinary council meeting held Thursday 14 August 2008 the Council considered a petition received on 10 July 2008 containing 138 signatures stating:

*"We the undersigned petition Council to reconsider the plan to plant Norfolk Island Pines down the centre of Forrest Road Hamilton Hill.*

*We the residents of the area and with other concerned Cockburn residents do not wish this species of plant along this local road.*

*We ask that our native local plants be considered".*

The Council resolved to:

- (1) *defer the planting of Norfolk Island Pines in the median strip of Forrest Road, Hamilton Hill;*
- (2) *undertake further consultation with the local community regarding the preferred species to be planted; and*
- (3) *a report be presented to a future Council meeting on the updating of the City's Greening Plan.*

### Submission

N/A

### Report

This report addresses points 1 and 2 of the Council's resolution.



Planting of Norfolk Island pines in the median strip of Forrest Road, Hamilton Hill has been deferred pending the Council's consideration of this report.

In accordance with the Council's requirement further consultation was undertaken with the local community by way of a prepaid reply letter to the householder of residences in Forrest Road and adjacent streets. The reply period was open for twenty one days, closing on Friday 26 September 2008. Information provided to householders included:

1. A letter describing a choice between two options.

#### Option 1

Plant Norfolk Island Pines (*Araucaria heterophylla*) in the median of Forrest Road between Stock Road and Blackwood Avenue and at selected locations between Blackwood Avenue and Rockingham Road.

#### Option 2

Plant Marri Red Gum (*Corymbia calophylla*) trees in the median of Forrest Road between Stock Road and Blackwood Avenue and low native plants at selected locations between Blackwood Avenue and Rockingham Road.

2. A map indicating the planting locations.
3. An artist's impression of mature Norfolk Island pines growing in a section of Forrest Road.

Table 1.1 provides statistical information regarding the public consultation and results.

<b>Public Consultation Results</b>		
Number of letters posted	970	100%
Number of replies received	214	24%
Number of letters unanswered	756	76%
<b>Number supporting Option 1 Norfolk Pines</b>	<b>85</b>	<b>9%</b>
<b>Number supporting Option 2 Redgum etc</b>	<b>121</b>	<b>12%</b>
<b>Number not supporting either option (no trees)</b>	<b>8</b>	<b>1%</b>

Table 1.1

Of those replies received

- 40% were supportive of option 1 - Norfolk Island Pines;
- 56% were supportive of option 2 - Redgum etc; and
- 4% did not want any trees at all.

The ratio of those supporting option one to those supporting option two is 1:1.4.

A response of 25% is considered sufficient to reasonably conclude that the results represent the opinion of the rest of the community within the target locality.

Although officers contend that option one, which has significant support in the community despite the concerted campaign against it, is the more advantageous in the long term to the residents of Hamilton Hill, it is recommended that the community's majority choice of option two proceeds.

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

#### **Lifestyle and Aspiration Achievement**

- To conserve the character and historic value of the human and built environment.
- To identify community needs, aspirations, expectations and priorities for services that is required to meet the changing demographics of the district.

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

N/A

#### **Legal Implications**

N/A

#### **Community Consultation**

In accordance with the Council's requirement further consultation was undertaken with the local community by way of a prepaid reply letter to the householder of residences in Forrest Road and adjacent streets. The reply period was open for twenty one days, closing on Friday 26 September 2008. The majority of respondents indicated a preference for option two:

*Plant Marri Red Gum (Corymbia calophylla) trees in the median of Forrest Road between Stock Road and Blackwood Avenue and low native plants at selected locations between Blackwood Avenue and Rockingham Road.*

#### **Attachment(s)**

1. Forrest Road Trees Community Survey Area Map
2. Forrest Road Trees Community Survey Artists Impression
3. Forrest Road Tree Planting Consultation Letter

**Advice to Proponent(s)/Submissioners**

N/A

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

Nil.

**16.4 (OCM 13/11/2008) - RFT14/2008 - PRE MIXED CONCRETE - SUPPLY AND DELIVERY TWO (2) YEAR CONTRACT (RFT 14/2008) (C MACMILLAN) (ATTACH)**

**RECOMMENDATION**

That Council accept the tender submitted by WA Premix for a two year tender at their submitted schedule rates for the estimated lump sum for \$597,550 (ex GST) for the 2 year period terminating on 30 October 2010.

**COUNCIL DECISION**

**Background**

Pre mixed concrete supply and delivery are required by the City of Cockburn for completion of capital works road construction projects and operational budgets for a two (2) year period.

The current contract no. RFT 09/2006 expired 30 June 2007 so accordingly, the necessary documentation and specification were prepared and tenders called.

**Submission**

Tender submissions closed at 2:00pm (AWST) on Thursday 7 August 2008; three (3) tender submissions were received from:

1. Cemex
2. Ransberg PTY LTD Trading as WA Premix  
Boral Concrete

## Report

All tenders submitted and evaluated met with the requirements of the request for tender and completed the price schedule included.

### Evaluation Criteria

EVALUATION CRITERIA	WEIGHTING PERCENTAGE
Relevant Experience	15%
Demonstrated Safety Management and References	20%
Delivery Response Time	30%
Tendered Price	35%
<b>TOTAL</b>	<b>100%</b>

### Tender Intent / Requirements

Supply and Delivery Pre Mixed concrete product to locations with in the City of Cockburn.

### Evaluating Officers

The tender submissions were evaluated by:

1. Acting Works Manager
2. Manager Engineering

### Compliant Tenderers

All tender submissions were deemed compliant with the conditions of tendering and compliance criteria outlined in the table below.

### Scoring Table – Combined Table

Tenders	Non Cost Evaluation Score %	Cost Evaluation Score %	Total Score %
<b><i>WA Pre-mix**</i></b>	<b><i>60.1</i></b>	<b><i>35</i></b>	<b><i>95.1</i></b>
Boral Concrete	58.95	31.05	90
Cemex	60.48	27.92	88.4

\*\* Recommended Submission

### Evaluation Criteria Assessment

The three (3) tenders considered all demonstrated within their submissions that they have the capacity to meet the City of Cockburn's requirements as detailed in the Specifications as well as comply with

the General and Special Conditions of Contract as stated in the tender document.

The WA Premix tender submission provided the best assessment against the selection criteria.

#### Relevant Experience

All tenders were each considered to have a high level of relevant experience.

#### Demonstrated Safety Management and References

WA Premix provided a Safety Management Policy, organisational structure and eight (8) referees.

Referees were consulted and same day delivery was possible and no cases of failure to deliver if 24 hours notice given. Overall all referees were satisfied with the level of service provided.

WA Premix are currently supplying the City of Cockburn's concrete requirements on a quotation basis and the level of service has always excellent.

Boral provided safety management plan and organisation profile and indicated in the index that referees were listed although the page it referred to was missing. Boral have previously been awarded the tender and if 48 hours notice was given there were no delivery problems.

Cemex (formerly Readymix) included a safety management plan and three (3) referees, no organisation structure information provided. Referees indicated on most occasions same day delivery was possible and were happy with the level of service provided.

#### Delivery Response Times

All tenders delivery response times are of a satisfactory level as well as having batching plants with in the City of Cockburn.

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

#### **Infrastructure Development**

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

#### **Transport Optimisation**

- To construct and maintain roads which are convenient and safe for vehicles, cyclists and pedestrians.

### **Budget/Financial Implications**

The cost of Pre Mixed Concrete is covered in the Annual Budget allocations for road construction and maintenance projects and Operational Budgets.

The estimated expenditure for 2008 – 2010 financial years is \$597,550.00 (Ex GST).

### **Legal Implications**

Section 3.57 of the Local Government Act 1995 and Part 4 of the Local Government (Functions and General) Regulations 1996 refers.

### **Community Consultation**

Tender number RFT 14/2008 Pre Mixed Concrete – Supply and Delivery was advertised on Wednesday 23 July 2008 in the Local Government Tenders section of 'The West Australian' newspaper.

The Tender was also displayed on the City's website between Wednesday 23 July and Thursday 7 August 2008 inclusive.

### **Attachment(s)**

1. Tendered Prices – 'Confidential' – Forwarded under separate cover.
2. Tender Evaluation Sheet – 'Confidential' – Forwarded under separate cover.
3. Compliance Criteria Checklist

### **Note**

The tendered prices are not disclosed at the opening of Tenders nor entered into the Tenders Register.

In accordance with *Part 4, Regulation 16-3(c) and 17-3 of the Local Government (Functions and General) Regulations 1996* the Principal is only required to record the price of the winning Tenderer/s in the Tenders Register.

### **Advice to Proponent(s)/Submissioners**

N/A

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

Nil.

**16.5 (OCM 13/11/2008) - DRAFT BIBRA LAKE LANDSCAPE, RECREATIONAL AND ENVIRONMENTAL MANAGEMENT PLAN - LOCATION: BIBRA LAKE - OWNER: CITY OF COCKBURN AND VARIOUS - APPLICANT: CITY OF COCKBURN (6143) (J SMITH) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) advertise the draft Bibra Lake Landscape, Recreational and Environmental Management Plan for public consultation for a period closing sixty (60) days from the date of advertisement;
- (2) refer the draft Bibra Lake Landscape, Recreational and Environmental Management Plan to the relevant stakeholder agencies and groups for their review and comment; and
- (3) receive a further report to consider amongst other things
  1. Community and Stakeholder Agency Feedback
  2. Prioritisation of recommendations
  3. Timeframes for implementation
  4. Costs of recommendations, potential sources of funds and potential impact on Councils Municipal Budget

prior to amendment and adoption of the Bibra Lake Landscape, Recreational and Environmental Management Plan.

**COUNCIL DECISION**

**Background**

Requests for quotations were called on 20 November 2007 for a suitably qualified and experienced multi-disciplinary consultancy to prepare a management and development plan for Bibra Lake and immediate environs. The project was awarded on 14 January 2008 to environmental consultants *Strategen*, who enlisted the services of landscape architectural company *PlanE* to produce a draft landscape, recreational and environmental management plan.

A first draft was issued to the working group members representing major stakeholders and community members, for review and comment, in May 2008. Officers of the City provided a substantial list of amendments and queries and the draft document was revised and reissued in August 2008.

### **Submission**

Council to consider the draft Bibra Lake Landscape, Recreational, Environmental Management Plan (MP) and endorse it for advertising for public comment for a period of sixty days.

### **Report**

The draft management plan report (MP) is set out into 9 sections related to an introduction, management, historical context, physical characteristics, a SWAT analysis, recommendations (Attachment 1), master plan (Attachment 2), an implementation program (Attachment 3) and references. Some key recommendations are discussed under separate headings:

#### Water Management

Essential to the recreational viability of the lake surrounds, is the issue of water quality. Poor water quality provides suitable conditions for midge breeding. It is in recent memory that midge infestations have prevented recreational use of the parklands near dusk and at night time. A review of available data and the preparation of more detailed water management recommendations are essential to the success of this important regional recreational resource.

#### Aboriginal Heritage

Bibra Lake and its hinterlands contain sites of great significance to indigenous peoples. This draft document and any proposed construction projects are to be considered in close consultation with the traditional custodians of the land and waters.

#### Bibra Lake Visitors Centre

This recommendation for a multiple use information and café facility relies on increased interest in Bibra Lake as a regional or district destination point. It is essential to upgrade and develop high quality recreational, access and interpretive facilities to encourage sufficient demand for an appropriate high cost service and facility.

#### Bibra Lake Reference Group

Such a group requires clear terms of reference to ensure that the MP is implemented and reviewed in a programmed and efficient manner. Councils can sometimes invest large amounts of resources into



forming and supporting stakeholder groups that are 'derailed' when objectives and outcomes are not clearly defined and adhered to.

### Sustainability Precinct

A key attractant to Bibra Lake is the *Sustainability Precinct* adjacent to Hope Road on the northern side and comprising the *Cockburn Wetlands Education Centre*, *Native ARK Animal Rehabilitation Centre* and *Bibra Lake Scouts*. This area is currently undergoing a strategic plan development process and a concept plan for the area is included in the draft MP. The precinct is largely community operated and provides an important educational service regarding Bibra Lake conservation values.

### Commercial Revenue

The recommendations of the MP are estimated at an annual cost approximately three times the current capital and operational budget allocations to the project area. A number of recommendations for commercial activities within and adjacent to the park require further investigation for business viability. These ideas include the Visitor's Centre/café, environmental and heritage tours, better promotion of the *Sustainability Precinct*, wedding facility hire, a dog park, bike and game equipment hire.

### Implementation Program

In the current municipal capital works program funds have been allocated to this project area. The table below sets out recommended priorities for expenditure over the forthcoming six months.

PROJECT	DESCRIPTION	RECOMMENDATION	BUDGET
CW 5565	Bibra Lake re-contour south bank	Remove surface dumping and reshape to a more natural contour for landscaping	\$20,000
CW 5549	Bibra Lake Picnic Area	Upgrade playground area on western side of the lake	\$25,000
CW 5182	Bibra Lake Master Plan Stage 1	Rehabilitate and enhance the area immediately south and west of the Sustainability/Education precinct Rehabilitate and enhance the south eastern conservation area using the path as an edge between grass and natural vegetation Rehabilitate and enhance the south western lake edge and recreational area	\$400,000
2009/10	Bibra Lake Master Plan Stage 2	Redevelop & rehabilitate the northern edge against Hope Road	TBA

Conservation Zone rehabilitation works  
 Children's play space development adjacent to Bibra Drive & Primary School  
 Develop Water Management Study for lake body

**Strategic Plan/Policy Implications**

**Infrastructure Development**

- To construct and maintain parks and bushland reserves that is convenient and safe for public use, and does not compromise environmental management.

**Lifestyle and Aspiration Achievement**

- To conserve the character and historic value of the human and built environment.

**Natural Environmental Management**

- To conserve, preserve and where required remediate the quality, extent and uniqueness of the natural environment that exists within the district.

**Budget/Financial Implications**

Table 26 appended to this report identifies the annual cost and proposed implementation of the recommendations contained within the Draft Master Plan. \$22 million has not been identified in the Plan For The District nor is their a capacity to fund this level of capital from the City's Municipal Budget. The consultation and final review of the draft Master Plan will need to prioritise recommendations dependant on the available funding.

Recommendations and associated costs (in the vicinity of \$2million each year) include "business as usual" current programs for maintenance and asset upgrades, in addition to new capital works for the construction of recreation and education facilities. Funding of maintenance and capital works is and can be funded from a variety of sources, including volunteer resources.

In the current operational works program the following projects have funds allocated to this project area:

- OP 8104 Bibra Lake natural area management \$99,625
- OP 7302 Bibra Lake (Picnic Area) \$113,000
- OP 7414 Bibra Lake (Dry Grass Area) \$47,500

In the current capital works program the following projects have funds allocated to this project area:

- |           |                                  |           |
|-----------|----------------------------------|-----------|
| • CW 5565 | Bibra Lake re-contour south bank | \$20,000  |
| • CW 5182 | Bibra Lake Master Plan Stage 1   | \$400,000 |
| • CW 5549 | Bibra Lake Picnic Area           | \$25,000  |

### Legal Implications

N/A

### Community Consultation

You are referred to Section 1.4 of the MP with regard to the formation of the project working group and consultation with stakeholder groups during draft document preparation.

Copies of the draft *Bibra Lake Landscape, Recreational and Environmental Management Plan* are available in the City Libraries and on the City's website. A public comment period of 60 days will be advertised in local papers and in the City's other usual media. Given this will carryover through the Christmas holiday break and Council's leave, the statutory 60 day period will be extended to February 2009 for the convenience of interested parties. Council are therefore likely to consider the recommended final MP at the March 2009 OCM.

A request for comment and approval will be issued with copies of the draft document to:

- Department for Environment and Conservation
- Heritage Council of Western Australia
- The City of Cockburn Aboriginal Reference Group
- Main Roads Western Australia
- Department of Water
- Water Corporation
- Cockburn Wetlands Education Centre
- 1<sup>st</sup> Bibra Lake Scouts Group
- Bibra lake Residents Association

An invitation to comment with directions to the City's website will be issued to:

- Native Arc Wildlife Rehabilitation Centre
- North Lakes Residents Association
- Adventure World
- Waldorf Steiner School
- Swan Catchment Council

Officers will make themselves available for briefing presentations to representative groups and Authorities during the comment period. Comments will be collated, and presented to Council at consideration of adopting the finalised management plan.

**Attachment(s)**

1. Bibra Lake Management Plan Table of Recommendations
2. Bibra Lake Master Plan
3. Bibra Lake Management Implementation Plan

**Advice to Proponent(s)/Submissioners**

The applicants and those who have lodged a submission on the proposal have been advised that this matter is to be considered at the 13 November Council Meeting.

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

Nil.

**16.6 (OCM 13/11/2008) - RFT 20/2008 - TWO(2) REFUSE COMPACTOR TRUCKS - SIDE LOADING (RFT20/2008) (S WHITE) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) accept the tender submitted by WA Hino for the purchase of two  
(2) 29 cu.m Hino 500 Series refuse compactor domestic side loader units for a total cost to the City of Cockburn of \$642,610.00 (ex GST);
- (2) increase the budget allocations of CW 7758 and CW 7759 to \$341,305 each (ex GST);
- (3) increase the transfer from the Plant Replacement Reserve by the sum of \$2,610 (ex GST).

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

**COUNCIL DECISION**

## Background

The purpose of purchasing these two (2) additional units is to look at the long term establishment of weekly pickup of recycle waste along with the expansion of our current fleet to take into account of City of Cockburn growing urban development.

## Submission

Tenders closed at 2:00pm (AWDT) on Thursday, 28 August 2008; four (4) submissions were received from:

1. Geraldine Nominees Pty Ltd trading as Skipper Trucks
2. WA Hino;
3. Major Motors Pty Ltd; and
4. Wastemaster

Tender submissions from Skipper Trucks, WA Hino and Major Motors included options for 23m<sup>3</sup>, 25m<sup>3</sup> and 29m<sup>3</sup> refuse compactor trucks and all units were optioned with the McDonald Johnson GENVSL compactor unit.

## Report

### Compliant Tenderers

Tender submissions from Skipper Trucks, WA Hino and Major Motors were deemed compliant with the conditions of tendering and compliance criteria.

Wastemaster submitted a tender for the body only; therefore their submission was deemed non compliant and not evaluated.

### Evaluation Criteria

<b>EVALUATION CRITERIA</b>	<b>WEIGHTING PERCENTAGE</b>
Technical Specifications	10%
Workshop Serviceability	15%
Backup Services	10%
Operators/Operations Suitability	15%
References	10%
Tendered Price – Lump Sum	40%
<b>TOTAL</b>	<b>100%</b>

### Tender Intent/Requirements

The purpose of purchasing these two additional units is to look at the long term establishment of weekly pickup of recyclable waste along with the expansion of our current fleet to take into account of the City of Cockburn's growing urban development.

Evaluating Officers

The tender submissions were evaluated by the:

Facilities & Plant Manager;  
Workshop Coordinator (Facilities and Maintenance); and  
Waste Collection Supervisor.

Scoring Table

<b>SCORES</b>			
<b>Tenderers Name</b>	<b>Non-Cost Evaluation Score 60%</b>	<b>Cost Criteria Evaluation Score 40%</b>	<b>Total Score</b>
WA Hino (Option 2)	50.50	40.00	90.50
<b>WA Hino (Option 1)</b>	<b>51.68</b>	<b>38.62</b>	<b>90.30**</b>
Skipper Trucks	51.86	37.14	89.00
Major Motors Pty Ltd	51.51	35.59	87.10

*\*\*Recommended Submission*

Evaluation Criteria Assessment*Technical Specification*

After reviewing all of the units, the Evaluation Panel concluded that the WA Hino (Option 2) Model Hino 2627 should not be considered due to the belief that this unit lacked suitable horsepower for our operations.

The alternative WA Hino (Option 1) Model Hino 2630 was a better-suited option to be compared against other tender submissions with similar technical specifications.

*Criteria*

All tender submissions offered the same compactor body being a McDonald Johnston GENVSL29 as well as meeting the minimum technical specifications.

All other vehicles had comparable technical specifications similar transmissions specifications and output specifications and offered diesel in line 6-cylinder engine

Due to the new model release of the WA Hino 2630, the Evaluation Panel concluded that the recommended vehicle be demonstrated to the two City of Cockburn operators as well as the Workshop Coordinator with particular attention being given to the turning circle and braking capacity.

Both operators found the unit to be suitable for operations within the City of Cockburn.

*Workshop Serviceability*

All tendered submissions are easily serviced by the City of Cockburn Plant Workshop.

It was the opinion of the Workshop that both the Isuzu and Hino offered slightly better braking setup systems than the Iveco.

*Backup Services*

All vehicles offered have suitable backup service.

*Operators/Operations Suitability*

All Tender submissions were comparable in their suitability for City of Cockburn operators.

The Evaluation Panel concluded after discussions with the City of Cockburn operators believed the cab on the WA Hino vehicle offered better sound resistance; the cab layout and operator comfort and suitability was slightly better suited with the WA Hino model.

*References*

References provided by the three (3) Tenderers proved satisfactory.

It was noted by the Evaluation Panel that WA Hino has a new unit on the market with limited referees, however after extensive trials and speaking with other Local Governments utilising the WA Hino vehicles, the City of Cockburn specification criteria was satisfied.

*Additional Information – Bio Diesel Suitability*

Currently, the City of Cockburn's bulk fuel consists of bio-fuel ranging from 5% - 20% depending on seasonal variations.

Two (2) of the submissions noted that their vehicles can only accept up to 5% bio fuel (B5); the other submission does not recommend the use of any bio-fuel.

Summary

Two (2) of the three (3) Evaluation Panel members concluded that WA HINO (Option1) represented the best value for money to City of Cockburn and therefore the WA Hino (Option1) submission should be supported

**Strategic Plan/Policy Implications**

**Governance Excellence**

- To maximise use of technology that contributes to the efficient delivery of Council's services.

### **Budget/Financial Implications**

There is an allocation as follows in Council's 2008/09 Municipal Budget.

- \$320,000.00 (Ex GST) under account number CW7758 in the 2008/09 Budget.
- \$320,000.00 (Ex GST) under account number CW7759 in the 2008/09 Budget

An increase from plant reserve will be necessary to cover the extra cost associated with the purchase of these vehicles being the sum of \$2,610.00 (ex GST).

There will be an increase in operational costs of approximately \$120,000.00 p.a. in the recovery of depreciation in the 2008/09 Budget.

### **Legal Implications**

Section 3.57 of the Local Government Act 1995 and Part 4 of the Local Government (Functions and General) Regulations 1996 refers.

### **Community Consultation**

Tender No.RFT 20/2008 Two (2) Side Loading Refuse Compactor Trucks was advertised on Wednesday, 13 August 2008 in the Local Government Tenders section of the The West Australian newspaper.

The Tender was also listed on the City's website under Tenders between 12 August and 26 August 2008 inclusive.

Complementary tenders were also electronically sent to the following potential suppliers:

1. WA Hino
2. Major Motors Pty Ltd
3. Skipper Trucks
4. MacDonald Johnston Pty Ltd

### **Attachment(s)**

1. Tendered Prices – 'Confidential' – Forwarded under separate cover.
2. Tender Evaluation Sheet – 'Confidential' – Forwarded under separate cover.
3. Compliance Criteria Checklist

#### **NOTE:**

The tendered prices are not disclosed at the opening of Tenders nor entered into the Tenders Register.



In accordance with Part 4, Regulation 16-3(c) and 17-3 of the Local Government (Functions and General) Regulations 1996 the Principal is only required to record the price of the winning Tenderer(s) in the Tenders Register.

**Advice to Proponent(s)/Submissioners**

N/A

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

Nil.

**17. COMMUNITY SERVICES DIVISION ISSUES**

**17.1 (OCM 13/11/2008) - COCKBURN YOUTH CENTRE LEASE WITH SIX FOUR (8648) (M ASHE)**

**RECOMMENDATION**

That Council:

- (1) pursuant to the provisions of section 3.58 of the Local Government Act 1995, give notice of Council's intention to enter into a lease agreement with Six Four for the lease of up to 138 sq. m. of the Cockburn Youth Centre property situated at 25 Wentworth Parade, Success;
  1. At a rental of \$315 per sq. m. payable 3 months from commencement of the lease; plus all outgoing costs payable from the commencement of the lease.
  2. With rent subject to an annual CPI (Perth Groups) increase and market rent review on exercise of the options to extend the lease.
  3. For an initial lease term of three years, with the option to extend the lease for a further term of 3 years.
- (2) require all other terms and conditions of the lease be to the satisfaction of the Chief Executive Officer.

**COUNCIL DECISION**

## **Background**

At the Ordinary Council Meeting held on 12 April 2007 Council adopted a Management Plan that identified the need to find compatible tenants for the 300 sq. m. of commercial lease space available within the Youth Centre.

McGees Property was appointed to provide professional services to source prospective commercial lease tenants.

Subsequent advertising of the available lease space has occurred. In September 2008, a lease agreement was entered into with the Tre-Colori Family Trust, trading as Café Nocello, for the lease of 165 sq. m. of the commercial lease space in the Youth Centre to operate a family friendly Italian Pizzeria and Cafe. The arrangement between City of Cockburn and Café Nocello is working successfully.

## **Submission**

Six Four has submitted an offer to lease the remaining commercial lease space in the Youth Centre, namely 133.5 sq. m. Six Four propose to operate a youth-focussed retail clothing, BMX and skate goods store. Trading hours would be between 8 am and 6 pm Monday, Tuesday Wednesday and Friday, until 9 pm Thursday and between 8 am and 5 pm on Saturday. The clothing and equipment for sale would consist of skate, BMX and urban wear products. The proponents have secured relationships with reputable distributors for the described retail products.

The proponent has offered rent of \$315 per sq. m. plus all outgoing costs and is aware that the rent will be subject to CPI increases and market rental reviews. The proponent has requested an initial three year lease with an option to renew for a further three years. They have identified that they have the financial ability to fit out the retail store.

The proponent has requested three months rent free use of the building to compensate for, the installation of air-conditioning and a sink with requisite plumbing, the capital outlay for fit out, the time it will take to fit out the premises and the time to establish the business.

## **Report**

The community consultation and needs analysis for the Cockburn Youth Centre undertaken by Matrix Consulting identified that young people would prefer to have a Café, a retail clothing or music shop within the facility. The proponents have identified that they would operate a youth friendly, youth-focussed retail clothing store with products which are attractive to the Centre's target market. The identified purpose of a retail clothing store is therefore compatible with

the findings and will complement the activities and services within the Youth Centre.

McGees Property has advised that the \$315 per sq. m. offered is a very reasonable rental figure. The Lessee would also be responsible for all outgoing costs and for a proportion of the costs associated with the common areas of the overall building. In addition to this the rent would be increased on an annual basis according to CPI. At the exercise of the options to extend the lease the rent would also be subject to a market review and increased on that basis.

The Lessee has agreed to be responsible for the full fit out to a high standard retail outlet including the ceilings, floor coverings, lighting, furniture and equipment. McGees property has advised that due to the capital outlay estimated at \$93 000, a three month rent free term would be considered reasonable and necessary to attract a tenant.

The proposed rental income from the tenancy was intended to offset some of the operational costs for the Youth Centre. The proponent requests an initial term of three years and then an option to renew for a further three year period. This period is considered necessary for the proponent to regain the large capital outlay and develop the business to its potential.

The proponent has requested that the City be responsible for the installation of air-conditioning and a sink with requisite plumbing. These variations to the Building contract have been costed and would be able to be easily accommodated within the existing construction and contingency budget.

If no submissions are received from the response to the advertisements placed in accordance with the requirements of section 3.58 of the Local Government Act it is proposed that the City will proceed to enter into a lease agreement with the proponent Six Four.

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

#### **Infrastructure Development**

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

#### **Lifestyle and Aspiration Achievement**

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

#### **Governance Excellence**

- To develop and maintain a financially sustainable City.

### **Budget/Financial Implications**

In the first twelve months, due to the delay in building completion, additional two months vacancy plus the three month rent free period, the estimated income will be \$32 500 less than what was projected in the 2008/09 municipal budget.

The costs to Council of the air conditioner and the sink work can be met with the current fit out budget for the centre.

### **Legal Implications**

Section 3.58 of the Local Government Act applies to this matter.

McLeods has provided a draft standard commercial lease document which is required to be submitted prior to an Offer to Lease under Commercial Tenancy legislation.

### **Community Consultation**

Extensive community consultation has been undertaken by the City through the Youth Centre Feasibility Study. Section 3.58 of the Local Government Act 1995 requires an advertisement to be lodged in the Local Government Notices Section of the West Australian Newspaper outlining the Offer to Lease and request submissions within two weeks of the notice.

### **Attachment(s)**

N/A

### **Advice to Proponent(s)/Submissioners**

The Proponent(s) has been advised that this matter is to be considered at 13 November 2008 Council Meeting.

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

Nil.

## **17.2 (OCM 13/11/2008) - PROPOSED DEVELOPMENT OF LOT 855 WENTWORTH PARADE SUCCESS (5518347) (R AVARD) (ATTACH)**

### **RECOMMENDATION**

That Council:

- (1) seek Expressions of Interest for the development of Lot 855 Wentworth Parade, Success and

- (2) require the Chief Executive Officer to prepare a Business Plan in accordance with the requirements of section 3.59 of the Local Government Act for the project for presentation to Council.

## COUNCIL DECISION

### Background

Council owns 2 hectares of freehold land on the corner of Wentworth Parade and Beeliar Drive in Success. On the southern 1 hectare portion of the site a youth centre has been constructed with associated car parking.

There are no current plans for the northern balance of the site which has excellent exposure being on the corner of Beeliar Drive and Wentworth Parades in Success.

### Submission

N/A

### Report

It is clearly evident that there is a shortage of General Practitioners in the area and associated medical services such as pathology, medical specialists and ancillary services. This is confirmed by the Fremantle Division of General Practice and the State Health Department.

There are currently approximately 49 General Practitioners (please note that, in this case, Full Time Equivalent has not been calculated) for an estimated population for the City of 80,000 which equates to 1:1633 per head of population. In comparison to divisional and national ratios which are 1:1357 in the Fremantle GP Network and 1:1403 in Australia respectively the City of Cockburn is well below average and therefore the benefits of the proposed Primary Health Care Clinic would be catering to both the current need and future needs of the area and aims to attract more General Practitioners and specialists to the area.

As the City of Cockburn has also been identified as a District of Workforce Shortage and falls within an affected Division of General Practice, there are certain incentives in place to attract more staff and workforce from elsewhere (overseas etc).

### Location

The proposed site is near the new Fiona Stanley Hospital in Murdoch and the aim of the Primary Health Care Clinic would be to complement the services provided by the Hospital. Also, as the Fiona Stanley Hospital is a major trauma and emergency centre for the State, the Primary Health Clinic would assist in catering to the less serious, non-emergency patients and save the resources of the Fiona Stanley Hospital in these cases. The aim of the Primary Health Care Clinic would be to work in synergy with services of the Fiona Stanley Hospital and the other surrounding health services and provide specialist services where there is a need.

The site also abuts the new Regional Gateways Shopping Centre, is across from the new City of Cockburn Youth Centre and also close to Murdoch University, Jandakot Airport and the Bibra Lake industrial area and will therefore attract a number of patients who work, live and study in the area.

### Land

The City holds the land in fee simple and the area is zoned for commercial purposes with a Health facility being an approved use within the City's Town Planning Scheme. There is scope for parking on site and reciprocal parking arrangements can be negotiated with adjoining land owners. The site is fully serviced and ready for immediate development. In summary, there are no planning or infrastructure constraints for the site to be developed as an integrated health facility.

### Accessibility

The site offers excellent public and private transport accessibility due to its proximity to the new Cockburn Central train station, the Kwinana Freeway, Jandakot Airport and is a regional transport hub. Extensive transport links are also provided by Forrest Road to the east and Beeliar Drive west to the coast.

There is an opportunity for Council to develop this site into an integrated primary health centre that would have the dual benefits of providing a valuable community service and the opportunity establish an income source through the leasing of premises to commercial operators.

Health provision is a complex area of activity that requires specialist knowledge that the city does not have at its disposal. There are a number of private sector health providers that also develop health services with whom the city could join to progress this proposal.

### Other Options

There have been a number of Government Agencies that have indicated an interest in leasing office accommodation within the Cockburn Central / Success area. In addition several real estate agencies have approached the City with offers to lease for identified clients. Should the City development at Cockburn Central be delayed for an extended period accommodation may be required on a temporary basis for the Success Library as the lease is due to expire in December 2009.

It is recommended that Council seek expressions of interest for the development of the site for which may include an integrated Primary Health Centre.

The following steps are proposed:

1. The City calls an Expressions of Interest for development possibilities and partnership arrangement over Lot 855.
2. Develop a Business Plan for the project in accordance with requirements of section 3.59 of the Local Government Act;
3. Council will receive a report to:
  - 1) adopt the Business Plan; and
  - 2) consider funding opportunities which may include joint venture or other capital funding possibilities.

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

#### **Lifestyle and Aspiration Achievement**

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

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

Details of financial implications will be incorporated in the yet to be completed Business Plan.

#### **Legal Implications**

Section 3.59 of the Local Government Act requires the development and publishing of a 'major land transaction' and a 'major trading undertaking'.

It also requires that any land transaction worth more than \$1,000,000 or 10% of the operating expenditure incurred by the local government from its municipal funds in the last completed financial year is deemed to be a 'major land transaction' and requires a Business Plan. The

value of the land is under normal market circumstances valued at approximately \$3,500,000 and hence is deemed as a “major land transaction”.

If the final project leads to the creation of portions of the building for sale the requirements of the Strata titles Act 1985 would need to be met

### **Community Consultation**

A Business Plan for the project would be prepared by which members of the public and other interested parties would comment on the project.

### **Attachment(s)**

Location Plan.

### **Advice to Proponent(s)/Submissioners**

N/A

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

There is an expectation that government either provides and or facilitates the provision of health services for its local community.

The proposed Business Plan for the project gives the community and the private sector notice of Council’s intent to proceed with a commercial activity. The involvement of a private joint venture partner does to some extent mitigate the issue of local Government involvement in a commercial activity as the risk of such activity is shared with another party who has experience in this type of venture.

## **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**

Nil

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

Nil

**23. CONFIDENTIAL BUSINESS**

Nil

**24 (OCM 13/11/2008) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

**RECOMMENDATION**

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

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

**COUNCIL DECISION**

**25 (OCM 13/11/2008) - CLOSURE OF MEETING**