

CITY OF COCKBURN

SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON THURSDAY, 11 AUGUST 2005 AT 7:00 PM

	Page
1. DECLARATION OF MEETING.....	1
2. APPOINTMENT OF PRESIDING MEMBER (IF REQUIRED)	1
3. DISCLAIMER (TO BE READ ALOUD BY PRESIDING MEMBER).....	2
4 (OCM 11/08/2005) - ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (BY PRESIDING MEMBER)	2
5 (OCM 11/08/2005) - APOLOGIES AND LEAVE OF ABSENCE	2
6. ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	2
7 (OCM 11/08/2005) - PUBLIC QUESTION TIME.....	2
8. CONFIRMATION OF MINUTES.....	8
8.1 <u>(MINUTE NO 2900)</u> (OCM 11/08/2005) - ORDINARY COUNCIL MEETING - 14/07/2005.....	8
8.2 <u>(MINUTE NO 2901)</u> (OCM 11/08/2005) - SPECIAL COUNCIL MEETING - 20/07/2005.....	8
9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE.....	9
10. DEPUTATIONS AND PETITIONS	9
11. BUSINESS LEFT OVER FROM THE PREVIOUS MEETING (IF ADJOURNED)	9
12. DECLARATION OF COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS IN THE BUSINESS PAPER	9
13. COUNCIL MATTERS.....	9
13.1 <u>(MINUTE NO 2902)</u> (OCM 11/08/2005) - PROPOSED AMENDMENTS TO COUNCIL'S STANDING ORDERS LOCAL LAW (1148) (DMG) (ATTACH)	9
13.2 <u>(MINUTE NO 2903)</u> (OCM 11/08/2005) - MINUTES OF AUDIT COMMITTEE MEETING 29 JUNE, 2005 (5017) (DMG) (ATTACH)	14
13.3 <u>(MINUTE NO 2904)</u> (OCM 11/08/2005) - DELEGATED AUTHORITIES, POLICIES AND POSITION STATEMENTS COMMITTEE MEETING MINUTES 27 JULY 2005 (1054) (DMG) (ATTACH)	16

	(MINUTE NO 2905) (OCM 11/08/2005) - DAP&PS20050727 - MINUTE NO. 154 - PROPOSED AMENDMENT TO COUNCIL POSITION STATEMENT - PSFC14 - 'RUBBISH SERVICE CHARGES' (4902; 5229) (KL) (ATTACH)	17
14.1	(MINUTE NO 2906) (OCM 11/08/2005) - CLOSURE OF PORTION OF ALACRITY PLACE, HENDERSON (450900) (KJS) (ATTACH)	18
14.2	(MINUTE NO 2907) (OCM 11/08/2005) - PROPOSED AMENDMENT NO. 16 TO TOWN PLANNING SCHEME NO. 3 - LOT 858 BANINGAN AVENUE, SUCCESS - OWNER: GOLD ESTATES OF AUSTRALIA (1903) LTD - APPLICANT: DEVELOPMENT PLANNING STRATEGIES (93016) (MD) (ATTACH)	20
14.3	(MINUTE NO 2908) (OCM 11/08/2005) - PROPOSED AMENDMENT NO. 35 TO TOWN PLANNING SCHEME NO. 3 - RESERVE 7756 HAMMOND ROAD, SUCCESS (93035) (MD) (ATTACH)	23
14.4	(MINUTE NO 2909) (OCM 11/08/2005) - SCHEME AMENDMENT 25 - THE LAKES SHOPPING CENTRE - 620 NORTH LAKE ROAD, SOUTH LAKE - OWNER: DEALDOVE PTY LTD; THE CITY OF COCKBURN - APPLICANT: CITY OF COCKBURN (93025) (CP) (ATTACH)	27
14.5	(MINUTE NO 2910) (OCM 11/08/2005) - CLOSURE OF PORTION OF TEA TREE CLOSE, JANDAKOT (450956) (KJS) (ATTACH)	31
14.6	(MINUTE NO 2911) (OCM 11/08/2005) - LEASE OF LOT 100 RIVERS STREET, BIBRA LAKE (4412345) (KJS) (ATTACH)	33
14.7	(MINUTE NO 2912) (OCM 11/08/2005) - PROPOSED INITIATION OF AMENDMENT NO. 27 - TOWN PLANNING SCHEME NO. 3 - VARIOUS LOTS, IMLAH COURT / PRINSEP ROAD, JANDAKOT (93027) (MD) (ATTACH)	35
14.8	(MINUTE NO 2913) (OCM 11/08/2005) - PROPOSED AMENDMENT TO TOWN PLANNING SCHEME NO. 3 - RECODING FROM R20 TO R40 - LOT 330; 79 LYDON BOULEVARD, ATWELL (5517904) (MR) (ATTACH)	39
14.9	(MINUTE NO 2914) (OCM 11/08/2005) - PROPOSED HOME OCCUPATION - BEAUTY THERAPY - 5A NAPIER MEWS, YANBUP - OWNER: L R POLETTI - APPLICANT A SCIASCIA (4413021) (TC) (ATTACH)	43
14.10	(MINUTE NO 2915) (OCM 11/08/2005) - PROPOSED INITIATION OF AMENDMENT NO. 28 TO TOWN PLANNING SCHEME NO. 3 - SOUTHERN SUBURBS STAGE 3 - HAMMOND PARK / WATTLEUP (93028) (MD) (ATTACH)	47
14.11	(MINUTE NO 2916) (OCM 11/08/2005) - WITHDRAW LEGAL PROCEEDINGS - COOGEE 'CRAB SHACK'- LOTS 1 AND 2 (NOS. 355 AND 357) COCKBURN ROAD, COOGEE - OWNER: G J & D E LOHMAN - APPLICANT: KEN STYLES (3309389) (GB) (ATTACH)	54

14.12	<u>(MINUTE NO 2917)</u> (OCM 11/08/2005) - PROPOSED HALL, ABLUTION BLOCK AND GROUPED DWELLING FOR PRIEST ACCOMMODATION - LOT 154 (NO. 31) OMMANNEY STREET AND LOT 155 (NO. 1) DIANNE STREET, HAMILTON HILL - OWNER: ROMAN CATHOLIC BISHOP OF PERTH - APPLICANT: GLENWAY HOMES (2204235) (2200873) (JB) (ATTACH).....	57
14.13	<u>(MINUTE NO 2918)</u> (OCM 11/08/2005) - NURSERY - PROPOSED CAR PARK AND OFFICE - LOT 5; 348 BEENYUP ROAD, BANJUP - OWNER: MR & MRS J COLE - APPLICANT: ERWIN BIEMEL & ASSOCIATES (5513087) (SS) (ATTACH).....	67
14.14	<u>(MINUTE NO 2919)</u> (OCM 11/08/2005) - RECONSIDERATION OF CONDITION 7 (RETROSPECTIVE APPROVAL FOR RETAINING WALLS) - LOT 719; 7 AIRLIE PLACE, COOGEE - OWNER/APPLICANT: DA & G L NORMAN (3300331) (ACB) (ATTACH)	73
14.15	<u>(MINUTE NO 2920)</u> (OCM 11/08/2005) - PROPOSED AMENDMENT NO. 40 TO TOWN PLANNING SCHEME NO. 3 - LOT 197 PRINSEP ROAD, JANDAKOT - OWNER: SPORTLINE HOLDINGS PTY LTD - APPLICANT: TUSCOM SUBDIVISION CONSULTANTS PTY LTD (5518291) (JB) (ATTACH).....	77
14.16	<u>(MINUTE NO 2921)</u> (OCM 11/08/2005) - BEELIAR REGIONAL PARK MANAGEMENT PLAN (9509) (PS) (ATTACH).....	80
14.17	<u>(MINUTE NO 2922)</u> (OCM 11/08/2005) - PROPOSED HOME OCCUPATION - SPANISH DANCE CLASS - LOT 272; 36 MASEFIELD AVENUE, NORTH LAKE - OWNER/APPLICANT: F RABIH (1105319) (1105319) (SS) (ATTACH)	86
14.18	<u>(MINUTE NO 2923)</u> (OCM 11/08/2005) - NOISE COMPLAINTS PROCEDURE (2711) (CW) (ATTACH)	92
14.19	<u>(MINUTE NO 2924)</u> (OCM 11/08/2005) - SOUTHERN SUBURBS DISTRICT STRUCTURE PLAN - STAGE 3 - HAMMOND PARK/WATTLEUP (9669) (AJB/JU) (ATTACH)	100
14.20	<u>(MINUTE NO 2925)</u> (OCM 11/08/2005) - CONTROLLING PEST ANIMALS IN COUNCIL'S CONSERVATION RESERVES (6119) (PS) ...	112
14.21	<u>(MINUTE NO 2926)</u> (OCM 11/08/2005) - PROPOSED RETAINING WALLS AND RETROSPECTIVE PLANNING APPLICATION FOR ILLEGAL FILLING - LOT 163; 1 SEAVIEW TERRACE, COOGEE - OWNER/APPLICANT: M G BLANCH (3316855) (ACB) (ATTACH).....	120
14.22	<u>(MINUTE NO 2927)</u> (OCM 11/08/2005) - PROPOSED MINOR MODIFICATIONS TO STRUCTURE PLAN - PORT COOGEE - OWNER: AUSTRALAND HOLDINGS AND PORT CATHERINE PTY LTD - APPLICANT: TAYLOR BURRELL BARNETT (9662) (MR) (ATTACH)	126
15.	FINANCE AND CORPORATE SERVICES DIVISION ISSUES	130
15.1	<u>(MINUTE NO 2928)</u> (OCM 11/08/2005) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH).....	130

16.	ENGINEERING AND WORKS DIVISION ISSUES.....	131
16.1	<u>(MINUTE NO 2929)</u> (OCM 11/08/2005) - BIBRA LAKE CAFE/KIOSK - LOT 309 PROGRESS DRIVE, BIBRA LAKE - OWNER: CITY OF COCKBURN (1114553) (KW) (ATTACH).....	131
16.2	<u>(MINUTE NO 2930)</u> (OCM 11/08/2005) - INTERSECTION OF SPEARWOOD AVENUE AND YANGEBUP ROAD, YANGEBUP (450007) (450008) (SMH) (ATTACH).....	136
16.3	<u>(MINUTE NO 2931)</u> (OCM 11/08/2005) - DISABLED PERSONS' ACCESS RAMP - COOGEE BEACH (1903) (8409) (JR)	143
16.4	<u>(MINUTE NO 2932)</u> (OCM 11/08/2005) - TENDER NO. 15/2005 - PURCHASE OF SIDE-LOADING WASTE COMPACTOR TRUCKS (4408) (GG) (ATTACH)	146
16.5	<u>(MINUTE NO 2933)</u> (OCM 11/08/2005) - TENDER NO. 16/2005 - HOT ASPHALT ROAD SURFACING - SUPPLY AND LAYING (4437) (IS) (ATTACH)	149
17.	COMMUNITY SERVICES DIVISION ISSUES.....	151
17.1	<u>(MINUTE NO 2934)</u> (OCM 11/08/2005) - LEN PACKHAM RESERVE COOLBELLUP CLUB/CHANGEROOMS TENDER 14/2005 (8070) (RA) (ATTACH) (ATTACH).....	151
17.2	<u>(MINUTE NO 2935)</u> (OCM 11/08/2005) - ESTABLISHMENT OF A GRANTS AND DONATIONS COMMITTEE (5930) (RA) (ATTACH)	157
18.	EXECUTIVE DIVISION ISSUES	160
19.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	160
20.	NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING.....	160
21.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY COUNCILLORS OR OFFICERS	160
21.1	<u>(MINUTE NO 2936)</u> (OCM 11/08/2005) - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1960, SECTION 245A - AUTHORISED PERSONS, PRIVATE SWIMMING POOLS (3211) (JW).....	160
22	(OCM 11/08/2005) - MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE	162
23.	CONFIDENTIAL BUSINESS	163
24	<u>(MINUTE NO 2937)</u> (OCM 11/08/2005) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)	163
25	(OCM 11/08/2005) - CLOSURE OF MEETING	164

CITY OF COCKBURN

MINUTES OF ORDINARY COUNCIL MEETING HELD ON THURSDAY, 11 AUGUST 2005 AT 7:00 PM

PRESENT:

ELECTED MEMBERS

Mr S Lee	-	Mayor	
Mr R Graham	-	Deputy Mayor	
Ms A Tilbury	-	Councillor	
Mr I Whitfield	-	Councillor	
Mr K Allen	-	Councillor	(Until 8.26pm)
Mr T Romano	-	Councillor	
Mrs J Baker	-	Councillor	
Mrs S Limbert	-	Councillor	

IN ATTENDANCE

Mr S. Cain	-	Chief Executive Officer
Mr D. Green	-	Director, Administration & Community Services
Mr A. Crothers	-	Director, Finance & Corporate Services
Mr S. Hiller	-	Director, Engineering & Works
Mr M. Ross	-	Acting, Director, Planning & Development
Mr A. Jones	-	Communications Manager
Ms V. Viljoen	-	Personal Assistant to the CEO

1. DECLARATION OF MEETING

The Presiding Member declared the Meeting open at 7.00pm.

Mayor Lee advised the meeting that there would be changes to the procedure for Public Question Time. Mayor Lee then read procedures which had been decided and which were available on the Council's website, at the front counter of the Administration Building and at each of the three libraries in the City.

2. APPOINTMENT OF PRESIDING MEMBER (If required)

N/A



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 (OCM 11/08/2005) - ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (BY PRESIDING MEMBER)

The Presiding member advised the meeting that he had received two written declarations of interest from Deputy Mayor Graham and Cllr Allen in relation to Item 14.22, which would be read at the appropriate time.

5 (OCM 11/08/2005) - APOLOGIES AND LEAVE OF ABSENCE

Cllr Val Oliver - Apology
Cllr Linda Goncalves - Apology

6. ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

7 (OCM 11/08/2005) - PUBLIC QUESTION TIME

Ron Kimber, Fanstone Avenue, Beeliar

Agenda Item 13.1 – Proposed Amendments to Council's Standing Orders
Local Law

Q1 *Registered some disappointment with the Council's new Public Question Time (PQT) format. Requested confirmation that the Council is acting to return due respect for the legally legislated process of the meetings of the City of Cockburn and its democratically Elected Members.*

A1 Yes.

Q2 *Does Council appreciate that my comments at PQT in January 2005 re the liberal interpretation taken by Council on PQT may no longer apply?*

A2 Yes. It is not quite as liberal but it is an endeavour to be more professional in our business, to regain control and to allow people to ask questions in a reasonable and professional manner and to be answered in a reasonable and professional manner.



Q3 *Is it fair that others may miss out due to the disrespect shown by a mere few, who were jeopardising the liberal interpretation which the Council had been applying to PQT?*

A3 Nobody will miss out. If people put their questions forward, in accordance with our protocols then we will extend past the 15 minutes of PQT provided the questions relate to the Agenda and are in written form. Any questions submitted in accordance with the newly established protocols will be provided with a response.

Q4 *Is there any chance that the tightening of the rules may be loosened once again in the future?*

A4 It may be possible. Nothing in Council's processes and procedures is cast in stone. Council business will always be professional and strive for best practice, and if it continues to be so then Council may wish to try something else. It is a little difficult to answer that question at this stage.

Agenda Item 14.22 – Proposed Minor Modifications to Structure Plan – Port Coogee

Q *In November 2004 Mr Kimber questioned Council on the costs associated with defending the CCAC legal challenge on the legally legislated, democratic process on the development at Port Coogee. Is the Council now in a position to provide the figures?*

A Council has spent approximately \$44,000 in legal fees defending the failed CCAC legal challenge in the Supreme Court. Council's solicitors are seeking a claim for legal costs for the maximum permitted amounts allowed by the Supreme Court, which is approximately \$28,000.

Agenda Item 14.20 – Controlling Pest Animals in Council's Conservation Reserves

Mayor Lee advised Mr Kimber he was over his time limit and requested the Chief Executive Officer to provide a written response to this question.

Glen Diggins, Nancy Way, Coogee

Agenda Item 14.22 – Proposed Minor Modifications to Structure Plan – Port Coogee

Q1 *Will the proposed modifications have the effect of delaying the commencement of the development?*

A1 No.



- Q2 *When is it likely that residents of the City of Cockburn will be able to see when the development has commenced?*
- A2 Construction is expected to commence on the breakwaters later this year, at the earliest, but that could flow over into the New Year bearing in mind how the building and construction industry is at the moment.
- Q3 *What will be noticed in the first stage of the development?*
- A3 The construction of the breakwaters will be the first major stage of Port Coogee.
- Q4 *Is the current fenced off area on the coastal side of Cockburn Road part of the development or is it work being undertaken by the State Government?*
- A4 Maps are available at the City and on its website showing the location of the proposed Port Coogee development. It is not clear precisely what land is being referred to. If you wish to send a letter to the Chief Executive Officer with some more detail, he will endeavour to answer your question.

Libby Hocking, Nancy Way, Coogee

Agenda Item 14.22 – Proposed Minor Modifications to Structure Plan – Port Coogee

- Q1 *Will these modifications have the effect of delaying the commencement of the marina?*
- A1 No.
- Q2 *When does Council expect that residents will be able to view work on the marina proper?*
- A2 Earthwork details are being finalised. A subdivision application has been lodged with the West Australian Planning Commission. Earthworks are expected to commence later this year at the earliest. Construction time may be reduced if work on both the northern and southern breakwater is carried out simultaneously.
- Q3 *Will the re-routing of Cockburn Road be affected by the proposed modifications?*
- A3 The re-routing of Cockburn Road will not be affected by the proposed modifications to the Port Coogee Structure Plan.



Mr & Mrs Chalmers, Carter Street, Hamilton Hill

Agenda Item 14.12 – Proposed Hall, Ablution Block and Grouped Dwelling for Priest Accommodation – Lot 154 (No. 31) Ommanney Street and Lot 155 (No. 1) Dianne Street, Hamilton Hill

- Q1 *We ask for a response to our objection letter dated 21 June 2005.*
- A1 A formal response to your letter will be provided by Council staff. The objection letter has been summarised into the Agenda report and Officer's comments have already been made in response to these concerns through stringent conditions of approval.
- Q2 *Can this matter be deferred until it has been thoroughly investigated and the Council inform more residents about the proposed Hall, as there was only a couple of residents informed and also 14 days was not much time to respond?*
- A2 This application is a matter on tonight's Agenda for deliberation where Council is expected to discuss this item. The City's Town Planning Scheme requirements for notification of owners was complied with which is based on a 14 day period.
- Q3 *Is there any compromise with the position of the hall so it is not on the residential boundaries?*
- A3 Council must consider the current application on its merits. Changing the plan could only be an action of Council or a decision of the applicant as an outcome of any decisions, meetings or consultations that may or may not occur.
- Q4 *Has there been any conflict of interest disclosed on this matter and, if so, will they abstain from commenting?*
- A4 This is a matter for Elected Members to abstain from voting if any Members have a declaration of interest under the Act. At this stage there have been no declarations received.

Daryll Smith, 3 Castellon Cr, Coogee: President, Coogee Beach Progress Association

Agenda Item 16.3 - Disabled Persons Access Ramp Coogee Beach

- Q1 *Will Council expeditiously move to provide safe and useable beach access facilities for disabled and aged persons at Coogee Beach, by proper capital expenditure to resolve the public beach access safety and usability issues before the 2005 summer arrives?*



A1 I hope Council will be able to do so. This matter is up for debate this evening and there is a recommendation contained in the Agenda which is an alternative to what you would like to see. Council must be more inclusive, so I hope it does. Not only does Council need disabled access throughout the Port Coogee Marina development but also at Coogee Beach. This is a matter for Council to decide this evening.

Allan Perkins, Mayor Road, Coogee

Agenda Item 14.21 – Proposed Retaining Walls and Retrospective Planning Application for Illegal Filling – Lot 163; 1 Seaview Terrace, Coogee

Q1 *Why has not due process of obtaining final Council approval prior to commencement of development being followed?*

A1 The owner has not complied with the approval granted for retaining walls and filling issued on 27 October 2003. The City's Development Compliance Officer undertook site inspection to investigate a complaint regarding extra fill placed on the lot without prior approval. The owner was notified to remove the extra fill or alternatively bring the property into conformity with the City's Town Planning Scheme.

Q2 *Why has my letter of 15 May 05 to the Council seeking advice on what approvals had been granted not been answered?*

A2 A response from the City has not been provided but these concerns are responded to in the Officer's report for Council's consideration, but this letter instigated action by Council's Development Compliance Officer that has lead to this matter being considered by Council. On the matter of overshadowing the extra fill complies with Clause 3.9.1. of the Residential Design Codes, based on a shadow cast at midday 21 June. The shadow cast onto adjoining lots doesn't exceed 25% of the site area.

Q3 *How can the Council approve a proposal that presents even a modicum of risk or disadvantage to one ratepayer to the advantage of another? I refer to:*

- *engineering of the retaining wall;*
- *drainage/seepage from 1 Seaview Terrace into 2 Mayor Road;*
- *privacy;*
- *increased shadow over 2 Mayor Road;*
- *devaluation of 2 Mayor Road;*
- *aesthetics;*
- *unnecessary elevation.*

A3 This is a matter for deliberation on tonight's Agenda where the item may be discussed. Council will give full consideration of all the issues



raised before making its decision on whether or not to approve these works retrospectively.

Menno Hoogland, Seaview Terrace, Coogee

Agenda Item 14.21 – Proposed Retaining Walls and Retrospective Planning Application for Illegal Filling – Lot 163; 1 Seaview Terrace, Coogee

- Q1 *How can M. Blanch fill his block without planning approval?*
- A1 The owner was notified by the City's Development Compliance Officer to remove the extra fill or, alternatively, bring the property into conformity with the City's Town Planning Scheme.
- Q2 *All houses are at the same level, are cut and fill blocks. Why is 1 Seaview Terrace 1 metre higher?*
- A2 Yes, if Council approves the extra fill, this land will have a higher elevation than the adjoining house at 3 Seaview Terrace, and possibly other homes on the west side of that street.

Jakica Zaknic, Fluellen Way, Hamilton Hill

Agenda Item 13.1 – Proposed Amendments to Council's Standing Orders Local Law

- Q1 *Expressed alarm at the changes to Public Question Time. What rational reason is there for this radical, reactionary change? These changes affect people from non English backgrounds, people who have problems with reading and writing, as well as people who do not have access to the internet. Some people are intimidated and out of fear will not question authority in writing.*
- A1 Nothing in the procedures or processes is set in stone. However, changes will always occur. The reason for the new process is so that the orderly conduct of Council Meetings is not compromised by superfluous matters. If there is a person whose primary language is other than English, Council has people within the Staff who can help them write their question and I believe it will be far easier to assist them to ask the question by having it in writing and far easier for myself and the Officers to have the questions in writing to enable them to provide a substantial answer.
- Q2 *Your explanation in the media is that the changes are necessary because "Council has been exposed to bullying and abuse". What evidence is there to support this statement?*



A2 Unruly behaviour from some members of the public has been apparent at previous Council Meetings. It was the Mayor's opinion that the process of PQT had been out of order for some time. It began about two years ago when PQT started going downhill and Council felt it was because there was strong public feeling regarding Port Coogee and it would go away once Port Coogee had been dealt with, whatever the outcome. However, that has not been the case and the time now is to act as Council does not wish for the Councillors or this Council to be under any further stress than they already experience with having such a responsible job.

Ms Zaknic did not believe the Mayor had answered her question regarding "bullying".

8. CONFIRMATION OF MINUTES

8.1 **(MINUTE NO 2900)** (OCM 11/08/2005) - ORDINARY COUNCIL MEETING - 14/07/2005

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on Thursday, 14 July 2005 be adopted as a true and accurate record.

COUNCIL DECISION

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

CARRIED 8/0

8.2 **(MINUTE NO 2901)** (OCM 11/08/2005) - SPECIAL COUNCIL MEETING - 20/07/2005

RECOMMENDATION

That the Minutes of the Special Council Meeting held on Thursday, 20 July 2005 be adopted as a true and accurate record.

COUNCIL DECISION

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

CARRIED 8/0



9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE

Nil

10. DEPUTATIONS AND PETITIONS

Nil

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

Nil

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

Nil

13. COUNCIL MATTERS

13.1 (MINUTE NO 2902) (OCM 11/08/2005) - PROPOSED AMENDMENTS TO COUNCIL'S STANDING ORDERS LOCAL LAW (1148) (DMG) (ATTACH)

RECOMMENDATION

That Council amend its Standing Orders Local Law, as shown in the attachments to the Agenda.

COUNCIL DECISION

MOVED Deputy Mayor R Graham SECONDED Cllr S Limbert that Council amend its Standing Orders Local Law, as shown in the attachments to the agenda, subject to:

- (1) the deletion of proposed clause 4.13(4), and the subsequent subclauses in proposed clause 4.13 being renumbered accordingly; and
- (2) include in proposed clause 4.4(1), sub-clause 7 after the word "matter", the words "affecting the local government with priority given to items".

CARRIED 8/0



Reason for Decision

(1) The existing clause 4.13(3) of Council's Standing Orders provides that documents deemed confidential by the CEO are not to be disclosed to any person other than the Mayor, Councillors or relevant employees. Therefore, confidential documents are already required to be kept confidential by Elected Members. Elected Members are also already provided with the option of returning confidential documents to Council's Administration. It is not necessary for Council to require Elected Members to return documents that are deemed confidential. Some Elected Members have expressed disquiet in relation to the proposal. Elected Members should be able to have ready access to confidential documents on which they have based their decision-making and for which they are responsible, both for protection during legal proceedings and also record-keeping purposes.

(2) This allows for questions to be presented on items not on the Agenda, if time permits.

Background

Since the most recent amendments to Council's Standing Orders Local Law were passed in January 2005, some issues have arisen which are recommended to be best addressed by further amendments to the Standing Orders. These are:-

- Clause 4.9 – Declaration of Due Consideration – The Joint Standing Committee on Delegated Legislation has moved a disallowance motion relative to this Clause because it believes the Clause is illegal. It has proposed a “compromise” position, as shown in the attachments.
- Clause 4.12 – Councillor Tilbury had concerns regarding the retention of confidential documents by elected members, following their determination by Council.
- Clause 4.4 – Proposed changes to the format of Public Question Time are in conflict with some of the protocols mentioned in this clause and it is recommended they be amended to remove any uncertainties.

Submission

To amend the clauses of Council's Standing Orders Local Law, as highlighted in the attachments (Sections 4.4, 4.9 and 4.13), in addition to minor content amendments.



Report

The purpose and effect of the proposed amendments are to:-

- (a) remove the requirement for elected members, having declared they have not given due consideration to items on the Agenda, to leave the meeting during determination of these matters by Council;
- (b) include a requirement for confidential documents provided to elected members and employees of Council to be returned to Council for retention, following them being dealt with by Council;
- (c) remove some of the procedures involved with Public Question Time which are in conflict with the protocols established and agreed to by elected members; and
- (d) correct some minor drafting anomalies.

1. Proposal to Amend Clause 4.9 – Declaration of Due Consideration

This clause was included in the major re-draft of the Standing Orders in 1999, following the release of the Report into the Inquiry into the City of Cockburn, in which reference was made of the lack of preparation from some elected members when it came to making decisions at Council meetings. More specifically, mention was made that it was apparent that some members at the time had not familiarised themselves with the agenda paper for Council meetings and that inclusion of some obligatory statement in the Standing Orders from members that they were familiar with the content of the items contained within the agenda paper should be considered.

The Committee's opposition to the subsequent clause supported by Council and thereafter included in the Standing Orders was the requirement for any member declaring they were not familiar with all or any part of the Agenda to leave the chamber and not participate in the decision making process of the item or items with which he or she is not familiar.

The Committee contends that such a prohibition is unlawful, given the Local Government Act, 1995, requires attending members to vote on matters which come before Council for consideration. While the Committee correctly identifies that this was not a formal recommendation of the Inquiry Report, it is noted that Council received a legal opinion which concluded that it was not unlawful for Council to include such a prohibition in its Standing Orders.

Given that there has not been a single occurrence of the declaration in nearly six years of the Local Laws existence, the Committee's compromise position to retain the declaration provisions but remove



the requirement for declarants to leave the meeting, does not on the surface seem unreasonable. However, it could also be construed that the discipline of ensuring that members familiarise themselves with the Agenda Paper has been brought about by the presence of the due declaration clause. Therefore, while the retention of the clause in its present terminology is favoured, the Committee is the recommending authority in terms of its final legal application. Accordingly, as it has indicated that it will not accept the clause in its current form, the alternative, as recommended, is proposed.

2. Proposal to Amend Clause 4.13 – Confidential Business

Councillor Tilbury has expressed concern that there is no requirement or procedure for dealing with confidential information provided to elected members, once that information has been considered and determined by Council. Accordingly, Council's legal advisor, McLeods, have provided a comprehensive re-draft of the confidential business clauses of the Standing Orders to include a requirement for such documents to be returned to and retained by the CEO, following final resolution by Council. This will be effected administratively by the minute clerk collecting such documentation at the conclusion of each Council meeting at which the relevant information was the subject of a final Council decision, or as soon as practicable thereafter in the absence of an elected/staff member to whom the information has been previously provided.

Apart from the requirement to return confidential documents for safekeeping and eventual destruction, there are two other notable aspects to the proposed new clause 4.13.

A new clause (5) highlights that other avenues of applying for or gaining access to confidential documents in the custody of the City exist and clarifies that there may be occasions when documents can be accessed by third parties without specific approval given by way of a Council decision. This includes instances where ex members or employees of Council may require access to such documents to defend any potential claim made against them in relation to a matter which occurred while they were a member or servant of Council.

In addition, a new clause (6) clarifies that the provision of confidential information or documentation does not necessarily extend to members of Council appointed committees who are not elected or staff members.

3. Proposal to Amend Clause 4.4 – Public Question Time

As Public Question Time will, in future, be handled by way of a protocol as set by the Presiding Member, or the majority of members present at a meeting, it is suggested that any present



provisions of the Standing Orders which may be in conflict with the intended procedures be amended.

It should be noted that this should be done to remove any confusion that may surround the legality of setting the rules for Public Question Time.

As the Local Government Act, 1995, and its associated Regulations are superior to Council's Local Laws, any conflict between the two must be conducted in favour of the overriding legislation. Therefore, while it is not strictly necessary to amend the Standing Orders in this respect, removal of any conflicting provisions will clarify that the new processes are being legally implemented.

4. Minor Amendments

The Committee has recommended a number of drafting anomalies be corrected. These are non-contentious and have the effect of simply using consistent terminology throughout the Local Law and correcting some minor typographical errors.

The full extent of these amendments can be found in the attachment from the Joint Standing Committee.

Strategic Plan/Policy Implications

Key Result Area "Managing Your City" refers.

Budget/Financial Implications

Nil.

Legal Implications

Sec. 3.12 of the Local Government Act, 1995, refers.

Community Consultation

Proposed amendments to be advertised for public comment in accordance with statutory requirements.

Attachment(s)

Proposed amendments to Standing Orders Local Law text
Letter from Joint Standing Committee on Delegated Legislation
(relative to Clause 4.9)
Letter from McLeods, Barristers & Solicitors, (relative to Clause 4.13)



Advice to Proponent(s)/Submissioner(s)

N/A

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

Nil.

13.2 (MINUTE NO 2903) (OCM 11/08/2005) - MINUTES OF AUDIT COMMITTEE MEETING 29 JUNE, 2005 (5017) (DMG) (ATTACH)

RECOMMENDATION

That Council receives the Minutes of the Audit Committee Meeting held on 29 June, 2005 and the recommendations contained therein be adopted.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

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

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 8/0

Background

The inaugural meeting of the Audit Committee, formed as a requirement pursuant to amendments to the Local Government Act, 1995, was conducted on 29 June 2005. The meeting considered items referred from the now defunct Internal Audit Committee, the functions of which are now the responsibility of the Audit Committee.

Submission

To receive the Minutes of the Committee and adopt its recommendations.

Report

Items carried over from the previous meeting of the Internal Audit Committee have been dealt with as follows:-

- (1) Compliance Review for year ending 30 June, 2004 - A summary of action taken to address outstanding matters from the audit



review identifies the manner in which the relevant issues have been dealt with.

- (2) Review of Internal Audit Charter – The review has resulted in the preparation of a Charter for the Internal Audit function to be carried out as a separate exercise to those required by the Council appointed Auditor as required under Part 7 of the Local Government Act, 1995.
- (3) Investigation of Incomplete Works 2003/04 Environmental Section – An audit of these matters has been undertaken and a report prepared which recommends the manner in which this issue can be managed in future.

The issue of elected members insurance has been deferred to enable further information to be obtained on the adequacy of coverage, applicable conditions, preliminary information required and effect on premiums.

With recent changes to the Audit provisions of the Act, there are a number of relevant issues which require Council to be aware of in respect of the future role and responsibilities of the Audit Committee. These have been listed in the report on this item to the committee and recommends the committee be delegated the authority to meet with the Auditors, on at least an annual basis, as required by the legislation.

Strategic Plan/Policy Implications

Key Result Area “Managing Your City” refers.

Budget/Financial Implications

N/A

Legal Implications

Local Government (Financial Management) Regulation 5(2)(c) refers. Part 7 of the Local Government Act, 1995 and Local Government (Audit) Regulations refer.

Community Consultation

N/A

Attachment(s)

Minutes of Audit Committee 29 June, 2005



Advice to Proponent(s)/Submissioner(s)

N/A

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

Nil.

13.3 (MINUTE NO 2904) (OCM 11/08/2005) - DELEGATED AUTHORITIES, POLICIES AND POSITION STATEMENTS COMMITTEE MEETING MINUTES 27 JULY 2005 (1054) (DMG) (ATTACH)

RECOMMENDATION

That Council receives the Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting dated 27 July 2005, as attached to the Agenda, and adopts the recommendations contained therein.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Clr K Allen SECONDED Clr S Limbert that the recommendation be adopted with the exception of Item 11.1, which is to be withdrawn and considered separately.

CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL 7/1

Background

The Delegated Authorities, Policies and Position Statements Committee conducted a meeting on 27 July 2005. The minutes of the meeting are required to be presented to Council and its recommendations considered by Council.

Submission

The minutes of the Committee meeting are attached to the Agenda. Items dealt with at the Committee meeting form the basis of the Minutes.



Report

The Committee recommendations are now presented for consideration by Council and if accepted, are endorsed as the decisions of Council. Any elected member may withdraw any item from the Committee meeting for discussion and propose an alternative recommendation for Council's consideration. Any such items will be dealt with separately, as provided for in Council's Standing Orders.

Strategic Plan/Policy Implications

Key Result Area "Managing Your City" refers.

Budget/Financial Implications

Committee Minutes refer.

Legal Implications

Committee Minutes refer.

Community Consultation

Committee Minutes refer.

Attachment(s)

Minutes of the Delegated Authorities, Policies and Position Statements Committee Meeting dated 27 July 2005.

Advice to Proponent(s)/Applicant

N/A

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

Nil.

(MINUTE NO 2905) (OCM 11/08/2005) - DAP&PS20050727 - MINUTE NO. 154 - PROPOSED AMENDMENT TO COUNCIL POSITION STATEMENT - PSFC14 - 'RUBBISH SERVICE CHARGES' (4902; 5229) (KL) (ATTACH)

COUNCIL DECISION

MOVED Clr K Allen SECONDED Clr S Limbert that the matter be referred back to the Delegated Authorities Policies & Position Statements Committee for further clarification.

CARRIED 8/0



Reason for Decision

There are unintentional consequences to this matter and further clarification is required.

14.1 (MINUTE NO 2906) (OCM 11/08/2005) - CLOSURE OF PORTION OF ALACRITY PLACE, HENDERSON (450900) (KJS) (ATTACH)

RECOMMENDATION

That Council:

- (1) request that the Minister for Planning and Infrastructure close portion of Alacrity Place, Henderson pursuant to Section 58 of the Land Administration Act 1997.
- (2) advise the owners of the adjoining land, Landcorp of Council's decision.

COUNCIL DECISION

MOVED Clr T Romano SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED 8/0

Background

Alacrity Place was created as part of an industrial subdivision in 1997.

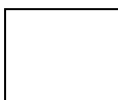
Submission

Landcorp have written to the City outlining their program to subdivide the land as part of Australian Marine Complex. The subdivision layout includes a portion of Alacrity Place becoming a portion of a new lot. A request for closure was included.

Report

The configuration of the road network in the proposed subdivision of the adjoining land has changed since the original proposal in 1997.

This has resulted in the end section of Alacrity Place being redundant as road reserve and more appropriate to be included in a new lot to be created in the proposed Marine Complex Industrial subdivision. The area of the section is only 520 square metres.



The closure of the portion of road and inclusion into the proposed lot should be supported as the City has given conditional support for the associated Marine Complex subdivision.

The proposal was advertised and at the conclusion of the statutory period there were no objections.

Strategic Plan/Policy Implications

1. Managing Your City
 - *“To deliver services and to manage resources in a way that is cost effective without compromising quality”*
 - *“To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practises”.*
 - *“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

Nil.

Community Consultation

The proposal was advertised in the Herald Newspaper.

Attachments

(1) Site Map

Advice to Proponent(s)/Submissioner(s)

The Proponents have been advised that this matter is to be considered at the August Council Meeting.

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

Nil.



14.2 (MINUTE NO 2907) (OCM 11/08/2005) - PROPOSED AMENDMENT NO. 16 TO TOWN PLANNING SCHEME NO. 3 - LOT 858 BANINGAN AVENUE, SUCCESS - OWNER: GOLD ESTATES OF AUSTRALIA (1903) LTD - APPLICANT: DEVELOPMENT PLANNING STRATEGIES (93016) (MD) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the recommendations made in the Schedule of Submissions attached to the Agenda;
- (2) adopt the final modifications requested by the Minister for Planning and Infrastructure to Amendment No. 16 to the City of Cockburn Town Planning Scheme No. 3 as follows:
 1. Rezoning Lot 858 Banning Avenue, Success from 'Local Centre' Zone to 'Residential' Zone with a residential density coding of R40;
 2. Amending the Scheme Map accordingly.
- (3) advise those who made submissions of the Minister for Planning and Infrastructures directive and Council's decision accordingly; and
- (4) advise the applicant of Council's decision and that approval of the amendment should not be construed as support for the Grouped Housing Concept Plan which formed part of the amendment report.

COUNCIL DECISION

MOVED Clr T Romano SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED 8/0

Background

Council at its meeting held 21 September 2004 resolved that Amendment 16 be adopted for final approval subject to the amendment being modified to reflect a residential density of 'R20' rather than 'R40' due to a majority of the submissions that were received did not support the proposed R40 density.



Submission

The Western Australian Planning Commission by letter dated 18 July 2005 advised the following:

The amended documents, copies of the submissions and schedule of submissions were referred to the Minister for Planning and Infrastructure for consideration. The Minister upheld the submissions supporting the amendment, dismissed the submissions opposing the amendment and the submissions relating to modifying the residential density from R40 to R20, and has decided not to approve the amendment until such time as the following modification is effected:

1. Replace the R20 density coding with R40 on Lot 858 Banning Avenue, Success.

The rezoning will facilitate a strata development with approximately 38 lots ranging in size from 220m² to 308m² and a communal open space area of 694m².

Report

The Minister has required that the Council modify the scheme amendment documentation in accordance with the Ministers directive made pursuant to Section 7(2a) of the Town Planning and Development Act 1928.

Regulation 21(2) of the Town Planning Regulations requires Council to carry out the modifications to the amendment documents in the manner prescribed by the Minister within 42 days of being notified of the determination.

This report seeks the Council's support to rezone the subject land from 'Local Centre' to 'Residential' with a residential density of R40 in accordance with the Minister for Planning and Infrastructures directive.

Previous Community Consultation

Council received twenty-three (23) submissions. Three (3) submissions were from Government agencies raising no objection to the proposal, 19 objections were received during the advertising period and 1 objection was received outside the advertising period.

The Minister upheld the submissions supporting the amendment, dismissed the submissions opposing the amendment and the submissions relating to modifying the residential density from R40 to R20.



Conclusion

It is recommended that Council resolve to finally adopt Amendment No. 16 to rezone the subject lot from 'Local Centre' to 'Residential' with a residential density of R40 in accordance with the Minister's directive made pursuant to Section 7(2a) of the Town Planning and Development Act 1928.

Strategic Plan/Policy Implications

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

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

The Council Policies which apply to this item are:-

SPD4 'Liveable Neighbourhoods'
APD4 'Public Open Space'

Budget/Financial Implications

N/A

Legal Implications

Section 7(2a) of the Town Planning and Development Act 1928
Regulation 20(5) of the Town Planning Regulations 1967
Town Planning Scheme No. 3

Community Consultation

The Scheme Amendment was previously advertised in accordance with the Town Planning and Development Act and Regulations (as amended).

Attachment(s)

- (1) Locality plan



- (2) Western Australian Planning Commission letter dated 13 July 2005.

Advice to Proponent(s)/Submissioner(s)

The proponent and those who lodged a submission on the proposal have been advised that this matter is to be considered at the August 2005 Council Meeting.

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

Nil.

14.3 (MINUTE NO 2908) (OCM 11/08/2005) - PROPOSED AMENDMENT NO. 35 TO TOWN PLANNING SCHEME NO. 3 - RESERVE 7756 HAMMOND ROAD, SUCCESS (93035) (MD) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the following amendment:-

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED)

RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME – DISTRICT ZONING SCHEME NO. 3

AMENDMENT NO. 35

Resolved that Council, in pursuance of Section 7 of the Town Planning and Development Act 1928, amend the above Town Planning Scheme by:

1. changing the reserve status of Portion of Reserve 7756 Hammond Road, Success from “Local Reserve – Lakes & Drainage” to “Local Reserve – Parks & Recreation”; and
 2. amending the Scheme Map accordingly.
- (2) sign the amending documents, and advise the WAPC of Council’s decision;
- (3) forward a copy of the signed documents to the Environmental Protection Authority in accordance with Section 7(A)(1) of the Town Planning and Development Act;



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

COUNCIL DECISION
 MOVED Cllr T Romano SECONDED Cllr I Whitfield that the recommendation be adopted.

CARRIED 8/0

Background

ZONING:	MRS:	Urban Deferred, Other Regional Road
	TPS:	Development Area (DA 8) Development Contribution Area (DCA 2) Local Reserve – Lakes & Drainage Region Reserve – Other Regional Roads
LAND USE:	Drainage	
APPLICANT:	27.8 ha	

Reserve No. 7756 is a large 27ha site vested in the City of Cockburn on the eastern side of Hammond Road, south of Bartram Road in Success. The Reserve is currently set aside for drainage purposes and includes a portion of the power line easement which runs on the western side of the Kwinana Freeway.

In May 2004 the City engaged the YMCA Perth to undertake a needs assessment and to prepare a preliminary concept plan for a



recreational and community facility for the eastern suburbs of the City. This assessment concluded that Reserve No. 7756 is the most appropriate site for such a facility. The facility will service the suburbs of Atwell, Aubin Grove, Banjup, Hammond Park, Jandakot, South Lake and Success.

Council at its meeting held on the 9 June 2005 considered a report for the adoption of a structure plan proposing the development of Reserve 7756 Hammond Road for district recreational purposes and resolved that the Structure Plan be adopted.

The adopted Structure Plan proposes the construction of 12 tennis courts, 8 netball courts, 4 hard courts marked for a number of sports, clubrooms, shop, skate park, seniors building, community facilities and active grassed areas to accommodate Australian Rules Football, Soccer and Softball and a number of other sports.

Refer to copy of the Structure Plan contained with the Agenda attachments.

Submission

Amendment No. 35 to Town Planning Scheme No. 3 proposes the following:

1. rezoning Reserve 7756 Hammond Road, Success from "Local Reserve – Lakes & Drainage" to "Local Reserve – Parks & Recreation"; and
2. amending the Scheme Map accordingly.

Report

The subject land is zoned Development Area (DA 8), Development Contribution Area (DCA 2) and reserved as "Lakes and Drainage" under the City of Cockburn Town Planning Scheme No.3 (TPS No. 3). A portion of the western boundary of the Reserve is zoned "Other Regional Roads" under the Metropolitan Region Scheme.

Given that the ultimate purpose intended for Reserve 7756 is to develop it for district recreational and community facilities it is considered that the proposed "Local Reserve – Parks & Recreation" is more appropriate than the current zoning of "Local Reserve – Lakes & Drainage". It is still proposed to retain the Scheme Map reference of "Development Area" (DA 8) and "Development Contribution Area" (DCA 2) over the Reserve.

Refer proposed zoning map with the Agenda attachments.



Metropolitan Region Scheme (MRS)

The land is zoned "Urban Deferred" and "Other Regional Roads" under the MRS. The proposed recreation and community facilities for the Reserve are considered to be consistent with this zoning. It is also considered that the proposed reserve status change from "Local Reserve – Lakes & Drainage" to "Local Reserve – Parks & Recreation" is consistent with the "Urban Deferred" zoning under the MRS.

Drainage

The Reserve will still provide a drainage function for the region, however, given that the predominant use for the site is for the provision of recreation and community facilities, the proposed Scheme Amendment is considered appropriate.

Conclusion

The proposed Local Reserve - Parks & Recreation is appropriate because the ultimate use of the reserve will be for recreation and community purposes. Drainage requirements can also be accommodated within this reservation.

Strategic Plan/Policy Implications

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

2. Planning Your City
 - *"To foster a sense of community within the district generally and neighbourhoods in particular."*
3. Conserving and Improving Your Environment
 - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
 - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*
4. Facilitating the needs of Your Community
 - *"To facilitate and provide an optimum range of community services."*

Budget/Financial Implications

Normal administrative costs are associated with the Scheme Amendment documents being prepared by the City.



Legal Implications

Nil

Community Consultation

The proposed scheme amendment will be advertised to the community for a period of 42 days upon initiation of the amendment.

Attachment(s)

- (1) Location Plan
- (2) Reserve 7756 Structure Plan
- (3) Proposed Zoning Map

Advice to Proponent(s)/Submissioner(s)

N/A

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

Nil.

14.4 (MINUTE NO 2909) (OCM 11/08/2005) - SCHEME AMENDMENT 25 - THE LAKES SHOPPING CENTRE - 620 NORTH LAKE ROAD, SOUTH LAKE - OWNER: DEALDOVE PTY LTD; THE CITY OF COCKBURN - APPLICANT: CITY OF COCKBURN (93025) (CP) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the amendment for final approval without modification;
- (2) adopt the recommendations made in the Schedule of Submissions attached to the report;
- (3) in anticipation of the Hon. Minister's advice that final approval will be granted, the documents be signed, sealed and forwarded to the Western Australian Planning Commission;
- (4) advise landowners within the Local Centre zone that it expects that the amended RU 4 limitations on retail and commercial non-retail floorspace be strictly adhered to when leasing vacant tenancies and that further non-compliance will result in enforcement action; and
- (5) advise the landowners and those who made submissions of Council's decision accordingly.



COUNCIL DECISION

MOVED Clr T Romano SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED 8/0

Background

At its Ordinary Meeting on 15 February 2005, Council resolved to amend the Scheme Text - Schedule 3 (Restricted Uses) relating to the RU 4 provisions affecting Lots 101, 102, 103, 104 and 105 Omeo Street, South Lake. These lots comprise the Lakes Shopping Centre, which is zoned Local Centre on the Scheme Maps.

The intent of the scheme amendment is to increase the maximum permissible "retail" floorspace at the shopping centre from 4,500m² to 5,500m². At the same time the amount of other "commercial non-retail" floorspace is proposed to be reduced from 4,000m² to 3,000m² to maintain the overall floorspace for the centre at the existing level of 8,500 m².

Retail shopping floorspace is limited in extent in order to maintain a hierarchy of centres in the district. This is particularly important for the Lakes Shopping Centre given its proximity and potentially vulnerability from the Gateways Regional Centre and the District Centre at Phoenix Park.

The need for the amendment is due to changes occurring to uses and tenancies at the shopping centre whereby it has become apparent that the amount of floorspace currently occupied by retail uses exceeds the 4,500m² maximum permitted in TPS3. Retail floorspace at the centre is currently estimated to be 5,596m².

The proposed amendment is consistent with the recommendations in the City's draft Local Commercial Strategy that apply to the Lakes Shopping Centre, which has been finally adopted by Council and is awaiting endorsement by the Western Australian Planning Commission.

The Amendment has been advertised and is referred to Council for final adoption.

Report

The Amendment was forwarded to the EPA in March 2005. The Amendment was not assessed by the EPA and no environmental advice was provided.



All relevant Government agencies and 17 nearby property owners were notified in writing of the Amendment and invited to make comments. Five submissions were received. The issues raised are addressed in the Schedule of Submissions contained in the Agenda attachments.

The main issue raised in submissions requests that Lot 103 Omeo Street, owned by the City of Cockburn, be excluded from the Amendment provisions on the basis that it is a freehold Lot which is not physically or commercially connected to the shopping centre complex. In this regard it is noted that existing Restricted Use 4 (RU4) provisions cover five lots comprising the local centre zone including lot 103. The purpose of the provisions of RU 4 was to provide for the proper and orderly development of the whole of the Lakes shopping centre complex and therefore the fact that lot 103 is not physically connected to main shopping centre building is not a valid consideration. It should be noted that the service station on Lot 102 and fast foods on lots 104 and 105 are similarly not connected physically or commercially but form part of RU 4.

Lot 103 was originally transferred to Council free of cost to be developed for community purposes. There was no allocation of retail floor space to lot 103 nor was there any expectation that the lot could be developed for retail purposes. There is the ability for the site to be developed for community and non retail uses and the changes proposed by Amendment No 25 do not alter that position.

It would be inappropriate to exclude one lot from RU4 based on ownership by the City and that doing so could undermine the objectives of the draft Local Commercial Strategy which has been finally adopted by Council. The deletion of Lot 103 would also represent a significant departure from the advertised purpose of Amendment No 25 which was to modify the retail–non retail floor space mix and accordingly if included would most likely require the readvertising of the amendment. For the above reasons it is recommended that the submission be dismissed.

Council's retail planning consultant had previously advised that the current 'retail' limits in TPS3 for the Lakes Shopping Centre could be raised to 5,500m² without adversely impacting on the operation of this or other centres in the catchment area. Amendment No 25 is consistent with and gives effect to that recommendation from the Local Commercial Strategy

Finally, for the scale of the shopping centre to be maintain in proportion with the TPS3 limits, the Shopping Centre owner needs to actively manage leasing and maintain an appropriate mix of tenancies, with the proposed limits on 'retail' and 'commercial non-retail' in mind. It is recommended the owners be advised that Council will closely monitor



the situation and that they should take appropriate action in maintaining the required mix.

Conclusion

Increasing the extent of 'retail' floorspace in the Lakes Shopping Centre to 5,500m² while decreasing the 'commercial non-retail' floorspace component to 3000m² should enable the shopping centre to maintain a more appropriate mix of tenancies while not adversely impacting on the longer term viability of this or other shopping centres in the district. It is therefore recommended that Council finally adopt Scheme Amendment No. 25 without modifications.

Strategic Plan/Policy Implications

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

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

Budget/Financial Implications

Nil

Legal Implications

Nil

Community Consultation

All relevant Government agencies and 17 nearby property owners were notified in writing of the Amendment and invited to make comments.

Attachment(s)

- (1) Locality Map
- (2) Schedule of Submissions

Advice to Proponent(s)/Submissioner(s)

Proponents of the affected land and the submissioners have been advised the matter will be determined at the Council meeting on 11 August 2005.



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

Nil.

14.5 (MINUTE NO 2910) (OCM 11/08/2005) - CLOSURE OF PORTION OF TEA TREE CLOSE, JANDAKOT (450956) (KJS) (ATTACH)**RECOMMENDATION**

That Council:

- (1) request that the Minister for Planning and Infrastructure close portion of Tea Tree Close, Jandakot pursuant to Section 58 of the Land Administration Act 1997.
- (2) advise the owners of the adjoining land, Landcorp, of Council's decision.

COUNCIL DECISION

MOVED Cllr T Romano SECONDED Cllr I Whitfield that the recommendation be adopted.

CARRIED 8/0

Background

Tea Tree Close was formerly a section of the then Forrest Road. With the construction of the Kwinana Freeway, Forrest Road was re-directed and the remnant roads became cul-de-sacs, Tea Tree Close on the west and Knock Place on the east side.

Submission

Landcorp has written to the City requesting the closure of Tea Tree Close to facilitate further development of Cockburn Central.

Report

Tea Tree Close is a cul-de-sac that only gives access to properties owned by Landcorp or other government agencies. Service authorities have been contacted and have forwarded their responses to both the City and Landcorp's consultant.



The closure of the portion of road and inclusion into the proposed adjoining lot should be supported as the City has given conditional support for the associated Cockburn Central Project.

The proposal was advertised in the Herald newspaper and at the conclusion of the statutory period there were no objections.

Strategic Plan/Policy Implications

1. Managing Your City
 - *“To deliver services and to manage resources in a way that is cost effective without compromising quality”*
 - *“To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practises”.*
 - *“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

Nil.

Community Consultation

The proposal was advertised in the Herald Newspaper.

Attachments

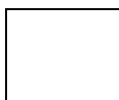
(1) Site Map

Advice to Proponent(s)/Submissioner(s)

The Proponents have been advised that this matter is to be considered at the August Council Meeting.

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

Nil.



14.6 (MINUTE NO 2911) (OCM 11/08/2005) - LEASE OF LOT 100 RIVERS STREET, BIBRA LAKE (4412345) (KJS) (ATTACH)

RECOMMENDATION

That Council:

- (1) lease Lot 100 Rivers Street, Bibra Lake to PIV Engineering Pty Ltd subject to the proposal being advertised in accordance with Section 3.58 of the Local Government Act 1995;
- (2) advise PIV Engineering Pty Ltd that all necessary statutory approvals must be obtained prior to undertaking any works which include a requirement for development approval pursuant to the City of Cockburn Town Planning Scheme No. 3 and full compliance with any approval granted will be expected;
- (3) subject to Council receiving no submissions on the advertised proposal, enter into a formal lease arrangement for a period of five (5) years at a rental to be based on the Licensed Valuer's report;
- (4) the provisions of the lease include a requirement of the lessee to remove all improvements at the end of the lease period, if required.

COUNCIL DECISION

MOVED Clr T Romano SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED 8/0

Background

Lot 100 is owned in freehold by the City and has an area of 3636m².

Submission

PIV have written to the City requesting the lease of the property.

Report

Lot 100 is a vacant land parcel zoned industry with an area of 3636m². River Road comprises of 9 developed industry lots with the subject lot and one other as yet undeveloped.



The City's provisional land strategy identifies Lot 100 as being land possibly available for sale. The land could be sold as is, although consideration may be given to developing the site into individual factory units in a joint venture arrangement.

A risk benefit analysis of such a proposal will need to be undertaken. The limit to (5) five years for the term of the lease will allow the City to enjoy an income stream from the land while the development strategy for Lot 100 is formulated.

PIV Engineering are located at 8 Rivers Road and will use the site for storage for raw material. PIV are about to expand their site which has necessitated the requirement for additional storage space. PIV will fence and place hard stand material on site. They are aware that they will require planning approval. Section 3.58 of the Local Government Act 1995 requires that an advertisement be placed in a state wide publication with details of the proposed rent and a valuation of the rent as determined by a Licensed Valuer.

Strategic Plan/Policy Implications

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

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

Budget/Financial Implications

Nil.

Legal Implications

Nil.

Community Consultation

N/A

Attachment(s)

- (1) Location plan.
- (2) PIV's Engineering Pty Ltd letter dated 29 July 2005.

Advice to Proponent(s)/Submissioner(s)

The Proponent(s) have been advised that this matter is to be considered at the August 2005 Council Meeting.



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

Nil.

14.7 (MINUTE NO 2912) (OCM 11/08/2005) - PROPOSED INITIATION OF AMENDMENT NO. 27 - TOWN PLANNING SCHEME NO. 3 - VARIOUS LOTS, IMLAH COURT / PRINSEP ROAD, JANDAKOT (93027) (MD) (ATTACH)**RECOMMENDATION**

That Council:

- (1) receive the report;
- (2) adopt the following amendment:-

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

AMENDMENT NO. 27

Resolved that Council, in pursuance of Section 7 of the Town Planning and Development Act 1928, amend the above Town Planning Scheme by rezoning part of Lots 24, 23, 22, 21, 69 and 19 Imlah Court and Lot 18 Prinsep Road Jandakot from 'Residential R20' to 'Residential R40' and extending the 'Residential' zone area in accordance with the Scheme Amendment Map.

Amend the Town Planning Scheme No. 3 Scheme Map accordingly;

Dated this day of August 2005.

Chief Executive Officer

- (3) sign the amending documents, and advise the WAPC of Council's decision;
- (4) write to the Western Australian Planning Commission requesting that Development Area 22 (DA 22) proposed in Amendment No. 12 to TPS 3 be changed to "Development Area 25" (DA 25) as DA 22 is already proposed under Scheme Amendment No. 3 to TPS 3;
- (5) forward a copy of the signed documents to the Environmental Protection Authority in accordance with Section 7(A)(1) of the Town Planning and Development Act;



- (6) following receipt of formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, advertise the Amendment under Town Planning Regulation 25 without reference to the WAPC;
- (7) notwithstanding (6) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to the Council for its consideration following formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, as to whether the Council should proceed or not proceed with the Amendment;
- (8) should formal advice be received from the Environmental Protection Authority that the Scheme Amendment should be assessed or is incapable of being environmentally acceptable under Section 48(A) of the Environmental Protection Act, the Amendment be referred to the Council for its determination as to whether to proceed or not proceed with the Amendment.
- (9) request the Western Australian Planning Commission to lift the 'Urban Deferred' zoning under the Metropolitan Region Scheme and replace with an 'Urban' zone;

COUNCIL DECISION

MOVED Cllr T Romano SECONDED Cllr I Whitfield that the recommendation be adopted.

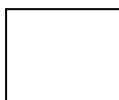
CARRIED 8/0

Background

Council at its meeting held on 16 March 2004 resolved to adopt Amendment No. 12 to Town Planning Scheme No. 3 (the scheme). Amendment No. 12 relates to the subject land and proposes to rezone the land abutting the Kwinana Freeway from 'Railways' to 'Residential', 'Mixed Business', 'Development' and 'Industry' zones.

Amendment No. 12 proposes to include the following provisions into Schedule 11 – (Development Area DA22) of the scheme:

1. *An approved Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development.*



2. *To provide for Residential development along the Imlah Court frontage and Mixed Business development with coordinated access from Prinsep Road, in accordance with an approved Structure Plan.*

Amendment No. 12 is currently with the WA Planning Commission for final adoption.

The DA 22 number is already proposed to be used by Amendment No. 3 to TPS 3, which introduces DA 22 to the proposed Port Coogee Development Area. It is recommended that Council write to the WAPC requesting that Amendment 12 DA 22 be altered to "Development Area 25" (DA 25).

Amendment No. 27 will affect Lots 24, 23, 22, 21, 69 and 19 Imlah Court and Lot 18 and Lot 303 Prinsep and Reserve 43679 Imlah Court.

Lot 24 (2244m²), Lot 22 Imlah Court (6467m²) and Lot 303 Prinsep Road (6537m²) are owned by the City of Cockburn and Reserve 43679 Imlah Court (330m²) is a Council reserve.

Submission

Amendment No. 27 proposes to rezone an area of land adjoining Imlah Court from 'Residential R20' to 'Residential R40'. The amendment will also extend the residential zoning further to the south in order to facilitate appropriate residential development. This proposal to modify the zoning of the subject land has come about as a result of investigations undertaken during the preparation of a structure plan for the area.

Report

The subject land is zoned 'Urban Deferred' under the Metropolitan Region Scheme (MRS) which reflects that the land may be suitable for urban development subject to investigation of environmental matters and opportunities for connection to essential services. The 'Urban Deferred' zoning does not reflect the 'Residential' and 'Mixed Business' zoning under the City's Town Planning Scheme No. 3 (the 'Scheme'). There are no reasons why the land should not be zoned 'Urban' under the MRS. Council should write to the WA Planning Commission requesting the lifting of the 'Urban Deferred' zoning to 'Urban' to reflect the City's Scheme.

Rezoning of the railway land was initiated in August 2003 (Scheme Amendment No.12) is currently with the WA Planning Commission for final adoption. A draft Structure Plan has been prepared and discussions undertaken with the landholders on the preferred layout. The options for road access and alignment on the site are constrained



by the triangular configuration of the land, the elongated nature of the lots and the 'Residential' zone which prevents access to Imlah Court.

The proposed scheme amendment provides for an increase in the size of the 'Residential' zone and a proportional decrease to the 'Mixed Business' zone. Further, it is proposed to increase the density and expand the 'Residential' zone from R20 to R40. This will in conjunction with a structure plan:

- a) allow existing sheds, garages and other structures at the rear of the dwellings to be retained within the 'Residential' zone.
- b) enable owners to develop the land at a similar density as the residential area west of the golf course on Imlah Court.

Conclusion

The proposed Scheme Amendment will bring the zoning in accordance with the proposed structure plan and the increased residential density will facilitate appropriate residential development along Imlah Court.

The Scheme Amendment in conjunction with a Structure Plan will provide an equitable solution for the landowners, giving a number of options for the development of the land while maintaining the primary use of the land as a mixed business area with residential adjoining to the north.

The Scheme Amendment in conjunction with a Structure Plan will facilitate the subdivision and development of the 'Mixed Business' area, which is currently predominantly vacant unused land.

It is recommended that the Scheme Amendment be initiated for the purposes of advertising. The proposed Structure Plan will be advertised in conjunction with the Scheme Amendment.

Strategic Plan/Policy Implications

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

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



3. Conserving and Improving Your Environment
- *"To conserve the character and historic value of the human and built environment."*

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

Preliminary consultation with affected landowners was undertaken to determine the level of support for the proposal.

The proposed scheme amendment will be formally advertised upon Council initiation of the amendment.

Attachment(s)

- (1) Site Plan
- (2) Proposed Zoning Map
- (3) Schedule of submissions

Advice to Proponent(s)/Submissioner(s)

The Proponents have been advised that this matter is to be considered at Council's August 2005 meeting.

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

Nil.

14.8 (MINUTE NO 2913) (OCM 11/08/2005) - PROPOSED AMENDMENT TO TOWN PLANNING SCHEME NO. 3 - RECODING FROM R20 TO R40 - LOT 330; 79 LYDON BOULEVARD, ATWELL (5517904) (MR) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the following Amendment:-

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



AMENDMENT NO 41

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

Amending the Scheme Map by recoding No 79, Lot 330 Lydon Boulevard, Atwell from Residential R20 to Residential R40.

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

COUNCIL DECISION

MOVED Clr T Romano SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED 8/0



Background

There is no background available regarding this property.

ZONING:	MRS:	Urban
	TPS:	Residential R20
APPLICANT:	Allerding Burgess	
OWNER:	Iwona & Leszek Rusin	
LAND USE:	Vacant	
LOT SIZE:	2,874m ²	

Submission

The applicant has provided the following request:-

- A density Coding of R30 or greater such as R40 is sought;
- A number of Residential R30 clusters are located in close proximity to our client's property, including sites at O'Farrell Close, Dreier Court, Shadwell Retreat, Gilbride Cove, Lipton Mews and Loamee Gardens. Residential R40 sites are located on Lanao Way and Barcroft Court
- A precedent for the successful creation of higher density sites in the locality
- The size of the site is well-suited to development at a higher density (in excess of 2,800m²),
- Proximity to local shopping, transport and recreation services, and the proximity of the Thompson's Lake regional centre.

The applicant's client was requested by the City to demonstrate how a proposal to change the land to a density Coding of R40 provides a community benefit by the improvement of the adjacent open space which was suggested as an option.

The landowner is agreeable to exploring the potential for making a contribution to the reserve to achieve a community benefit.

"To this end, we note the intended future use of the reserve as an access lane associated with the nearby Thompson's Lake town centre. The temporary nature of the open space is such that there is little incentive for Council to undertake any improvements and, therefore, the site is likely to remain under-developed until such time as it is required for access purposes."

In the interim, we believe that the local community would benefit from some form of beautifying of the reserve by way of temporary landscaping or similar. This would improve the outlook from adjacent residences (onto the reserve) as well as the overall useability and appeal of the space.



...there may be scope for our client to provide temporary landscaping and improvements up to a maximum of \$6000."

Report

The subject site is located at the western end of Lydon Boulevard and borders an undeveloped reserve to the north and the Kwinana Freeway to the west.

The proposed scheme amendment would permit 13 residential units based on 220m² average site area applicable under the proposed R40 Code as opposed to 5 residential units at based on an average of 500 m² based on the current R20 Code.

The proposed scheme amendment has been adequately justified on planning grounds for Council to consider initiating the amendment. The size and configuration of the site and location opposite a reserve all support the site being developed for grouped housing rather than lower density suburban development. There is also a community benefit afforded by the landowner agreeing to financially contribute towards the landscaping of the adjoining reserve.

If Council initiates a scheme amendment it must be referred to the Environmental Protection Authority for determination of the level of assessment. If the scheme amendment is not assessed the proposal can proceed to be advertised for public comment.

Environmental Services suggests a figure of approximately \$16,000 to provide tree planting and establish lawns. These costings need to be investigated further with the applicant as part of the scheme amendment process.

Strategic Plan/Policy Implications

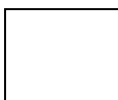
The Corporate Strategic Plan Key Result Areas which apply to this item are:-

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

No Policy Implications

Budget/Financial Implications

Costs associated with the scheme amendment will be absorbed by the documents being prepared externally by a planning consultant. An application fee of \$2,200 is applicable with advertising costs being an extra amount.



Legal Implications

Town Planning and Development Act
 Town Planning Regulations
 Town Planning Scheme No 3

Community Consultation

Community consultation will be required in accordance with legislation for a period of 42 days if Council initiates the scheme amendment. Signage would be erected informing of the proposed scheme amendment being available for inspection at the City's Administration Building.

Attachment(s)

- (1) Location Plan.

Advice to Proponent(s)/Submissioner(s)

The Proponent has been advised that the matter will be considered at the meeting of Council on 11 August 2005.

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

Nil.

14.9 (MINUTE NO 2914) (OCM 11/08/2005) - PROPOSED HOME OCCUPATION - BEAUTY THERAPY - 5A NAPIER MEWS, YANGETUP - OWNER: L R POLETTI - APPLICANT A SCIASCIA (4413021) (TC) (ATTACH)

RECOMMENDATION

That Council:

- (1) grant approval for a Beauty Therapy Home Occupation on Lot 66 (No. 5A) Napier Mews, Yangebup, subject to the following conditions:

STANDARD CONDITIONS

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. The home occupation may be withdrawn by the Council upon receipt of substantial complaints.



3. A maximum of 5 clients per day only in accordance with the applicant's submission, with an interval of at least 10 minutes between clients.
4. Hours of operation are limited to 9am to 5pm Monday to Friday and 9am to 1pm Saturday, and not at all on Sunday and Public Holidays.
5. The development complying with the Home Occupation provisions and definition set out in the Town Planning Scheme.
6. On the sale of the property or change in ownership of the land the home occupation entitlement ceases pursuant to clause 5.8.5 (a) (iii) of Town Planning Scheme No 3.

FOOTNOTES

1. Home Occupation means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:-
 - (a) does not employ any person not a member of the occupier's household;
 - (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
 - (c) does not occupy an area greater than 20 square metres;
 - (d) does not display a sign exceeding 0.2 square metres;
 - (e) does not involve the retail sale, display or hire of goods of any nature;
 - (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and
 - (g) does not involve the use of an essential service of greater capacity than normally required in the zone.
2. It is a requirement of the Health (Skin Penetration Procedure) Regulations 1998, that skin penetration processes be conducted and the premises maintained in accordance with the requirements of the Code of Practice for Skin Penetration Procedures. An Environmental



Health Officer must inspect the premises prior to the applicant commencing operation.

(2) the applicant be advised of Council's decision.

COUNCIL DECISION
 MOVED Cllr T Romano SECONDED Cllr I Whitfield that the recommendation be adopted.

CARRIED 8/0

Background

ZONING:	MRS:	Urban
	TPS:	Residential R20
LAND USE:	House	
LOT SIZE:	376m ²	
USE CLASS:	Single (R-Code) House – Not Permitted “D” Use	

Submission

The applicant seeks approval from Council to operate a beauty therapy home occupation. No more than 5 clients will attend the Home Occupation per day and there will be a 10 minute interval per client. The applicant has stated that there is sufficient parking for the clients off street.

Report

The City advertised the proposed development in accordance with clause 9.4 of Town Planning Scheme No. 3. Surrounding residents were notified by mail and were invited to comment.

At the close of the submission period, a total of 5 submissions were received. There were 4 submissions of no objection and 1 submission of objection. The main issue raised in submissions related to an increase in traffic congestion.

The proposal is acceptable from a planning point of view, as the home occupation will not add to the traffic congestion of Napier Mews. The beauty therapy can only operate with one customer at a time. There will also be intervals of 10 minutes between customers. There are ample parking spaces available on-site (as shown in the photos of attachment 3). It is concluded that the impact of the home occupation



in general will be minimal and the application is supported subject to compliance with the recommended conditions.

Strategic Plan/Policy Implications

The Planning Policies which apply to this item are:-

APD17 Standard Development Conditions and Footnotes
APD29 Development Compliance Process

Budget/Financial Implications

N/A

Legal Implications

Town Planning Scheme No. 3

Community Consultation

All surrounding landowners were invited to comment on the proposal.

Submission No	Details	Comment
1. 2 Napier Mews, Yangebup	No objection	Main concern is traffic volume. Neighbour teaches swimming lessons. But they have been assured that it is only short term.
2. 3 Napier Mews, Yangebup	No objection	No comment
3. 4 Napier Mews, Yangebup	No objection	No comment
4. 5B Napier Mews, Yangebup	No objection	Full support of the home occupation.
5. 6 Napier Mews, Yangebup	Objection	The street is already congested without the customers of a home occupation making it worse
6. 7 Napier Mews, Yangebup	No Comment	No comment

Attachment(s)

- (1) Location plan
- (2) Site Plan
- (3) Photo's of carparking

Advice to Proponent(s)/Submissioner(s)

The Proponent and submissioners were advised that the matter will be considered at the meeting of Council on 11 August 2005.



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

Nil.

14.10 (MINUTE NO 2915) (OCM 11/08/2005) - PROPOSED INITIATION OF AMENDMENT NO. 28 TO TOWN PLANNING SCHEME NO. 3 - SOUTHERN SUBURBS STAGE 3 - HAMMOND PARK / WATTLEUP (93028) (MD) (ATTACH)

RECOMMENDATION

That Council:

(1) adopt the proposed amendment for final approval as set out in the Agenda attachments subject to the following modifications:-

1. amend Development Area 23 in Schedule 11 to Development Area 26 and Development Area 24 in Schedule 11 to Development Area 27;

2. provision 1 point 2 in proposed DCA 9 of Schedule 12 being amended as follows:-

“Make a proportional contribution of 50% of the cost of constructing Rowley Road between the Kwinana Freeway and Hammond Road reservation.”

3. provision 5 point 2 in proposed DCA 9 and DCA 10 of Schedule 12 being amended as follows:-

“A 50% proportional contribution towards the purchase of a nominal 40 metre wide road reserve for Rowley Road and where necessary to accommodate channelisation at intersections and drainage to the extent that Rowley Road abuts DCA 9 & DCA 10.”

4. amend proposed DCA 9 of Schedule 12 by inserting the following additional provision:-

“All landowners within DCA 9 and DCA 10 shall make a 1% Public Open Space cash-in-lieu contribution to the cost of the purchase of land for the conservation of a wetland in excess of the normal 10% public open space requirement located on Lots 41 Gaebler Road and 42 Frankland Avenue, Hammond Park.”

5. provision 1 point 2 in proposed DCA 10 of Schedule 12 being amended as follows:-

“Make a proportional contribution of 50% of the cost of constructing Rowley Road between the Hammond Road



reservation and Lot 81 Wattleup Road.”

6. amend proposed DCA 10 of Schedule 12 by inserting the following additional provision:-

“All landowners within DCA 9 and DCA 10 shall make a 1% Public Open Space cash-in-lieu contribution to the cost of the purchase of land for the conservation of a wetland in excess of the normal 10% public open space requirement located on Lots 41 Gaebler Road and 42 Frankland Avenue, Hammond Park.”

7. amend provision 1 of proposed DA 23 and DA 24 in Schedule 11 as follows:-

“Local Structure Plan adopted to guide subdivision, land use and development.”

8. amend provision 2 of proposed DA 23 and DA 24 in Schedule 11 as follows:-

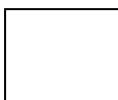
“To provide for Residential development and associated uses including schools, open space, shops and community infrastructure.”

9. amend proposed DA 23 of Schedule 11 by inserting the following additional provisions:-

“All landowners within DA 23 and DA 24 will be required to provide 1% cash-in-lieu and generally 9% land for public open space. The 1% cash-in-lieu contribution will be used to purchase land for the conservation of a wetland in excess of the normal 10% public open space requirement located on Lots 41 Gaebler Road and 42 Frankland Avenue, Hammond Park.

In the event that Rowley Road is designated as a primary freight route, landowners of lots abutting Rowley Road within DA 23 and DA 24 will be required to construct noise walls in accordance with a qualified acoustic engineers report at the time of subdivision and/or development.

Landowners of lots within DA 23 abutting the Western Power easement adjacent to the Kwinana Freeway will be required to engage a suitably qualified acoustic engineer to prepare an acoustic report to determine appropriate strategies to ameliorate any noise issues generated by the proximity to the Kwinana Freeway and Railway.”



10. amend provision 6 point 2 of proposed DA 24 of Schedule 11 as follows:-

“Market gardens on Lots 1, 2, 70, 71 and 117 Wattleup Road”

11. amend proposed DA 24 of Schedule 11 by inserting the following additional provisions:-

“All landowners within DA 23 and DA 24 will be required to provide 1% cash-in-lieu and generally 9% land for public open space. The 1% cash-in-lieu contribution will be used to purchase land for the conservation of a wetland in excess of the normal 10% public open space requirement located on Lots 41 Gaebler Road and 42 Frankland Avenue, Hammond Park.

In the event that Rowley Road is designated as a primary freight route, landowners of lots abutting Rowley Road within DA 23 and DA 24 will be required to construct noise walls in accordance with a qualified acoustic engineers report at the time of subdivision and/or development.”

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

COUNCIL DECISION

MOVED Clr T Romano SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED 8/0

Background

Council at its meeting held 15 February 2005 (Item 14.12 minute no. 2079) resolved to initiate Amendment 28 for the purpose of advertising in accordance with Town Planning Scheme No. 3. At that meeting Council also resolved to request that the Western Australian Planning Commission (WAPC) lift the ‘Urban Deferred’ zoning under the Metropolitan Region Scheme (MRS) and adopt the Draft Southern



Suburbs District Structure Plan – Stage 3 for the purposes of advertising.

Submission

Scheme Amendment 28 proposes to introduce two new Development Contribution Areas (DCA 9 & 10) in order to facilitate equitable developer cost sharing arrangements and two new Development Areas (DA 23 & 24) in order to facilitate the structure planning of the Southern Suburbs Stage 3 – Hammond Park/Wattleup area.

Scheme Amendment 28 has been advertised and is presented to Council for final adoption.

Report

Metropolitan Region Scheme (MRS) – ‘Urban Deferred’

On the 11 March 2005, the Council wrote to the WA Planning Commission requesting that the ‘Urban Deferred’ zoning for Southern Suburbs Stage 3 (SSS 3) area under the MRS be lifted and replaced with ‘Urban’ to allow for future subdivision and development.

The ‘Urban Deferred’ zoning is likely to be lifted after the adoption of the Southern Suburbs District Structure Plan Stage 3. Further, the Southern Suburbs Stage 3 Structure Plan Agenda Item recommends writing to the Commission again requesting the Southern Suburbs Stage 3 (SSS 3) area be transferred to ‘Urban’.

Noise Attenuation – Rowley Road

The Fremantle Ports Authority made a submission regarding Rowley Road being identified as a potential primary freight route under draft Statement of Planning Policy (SPP) – Metropolitan Freight Network. The main issues raised were with respect to noise attenuation.

Rowley Road has not been designated as an ‘Other Regional Road’ (blue road) or ‘Primary Regional Road’ (red road) under the Metropolitan Region Scheme yet, however Planning Control Area No. 76 (PCA 76) has been designated over the alignment to secure the land required for the reserve. This Planning Control Area shows a width of 90 metres being provided for the widening and upgrading.

Fremantle Ports have suggested that appropriate buffers be provided to Rowley Road. Given that PCA 76 designates a 90 metre wide road reserve it is considered that the road reserve width will be adequate to provide for the required buffers and noise attenuation. Even if the road reserve width is reduced to 40 metres if it does not provide access to the outer harbour as recommended in the Southern Suburbs Stage 3 Structure Plan Agenda Item, it is considered that buffers outside the



road reserve will not be appropriate given the need to achieve density targets within close proximity to transport nodes (Freeway & Train Station) as acknowledged in draft SPP – Road and Rail Transport Noise.

The following provisions raised by Fremantle Ports to address noise are supported:

noise walls to be provided by developers of lots abutting Rowley Road (to be undertaken by developer and included by way of provision in DA 23 & DA 24);

building design guidelines addressing noise attenuation for houses affected by Rowley Road (to be undertaken by developer and included by way of provision in DA 23 & DA 24);

notifications on titles affected by Rowley Road (to be undertaken by developer at subdivision stage);

noise mitigation through design and management of Rowley Road infrastructure (to be undertaken within Road Reserve by infrastructure provider).

It is considered that the above provisions are sufficient to address noise and will be implemented during the local structure plan and subdivision stage and during construction of Rowley Road.

The Southern Suburbs Stage 3 Structure Plan Agenda Item deals with these issues further.

Cash-In-Lieu

Normally subdividers are required to give up 10% of their land for public open space (POS) free of cost. The City's administration is proposing to reduce this amount to 9% with subdivider's then required to provide 1% cash-in-lieu to make up the shortfall. The 1% cash-in-lieu would be used by the City to acquire a portion of a wetland located in the north-western portion of the southern suburbs stage 3 (SSS 3) that is in excess of the normal 10% POS requirement.

A survey was provided to all landowners within the SSS 3 area to determine the level of support for the POS/Cash-In-Lieu proposal. Nine (9) submissions were received, of which 7 submissions had no objection to the proposal and 2 submissions objected to the proposal.

Refer Schedule of Submissions contained with the Agenda attachments.

Given the level of support to the proposal it is recommended that the cash-in-lieu proposal be supported, as it will facilitate the conservation of an important wetland located in the north-western portion of SSS 3 area.



The provisions under proposed DCA 9 and DCA 10 have been modified to include the cash-in-lieu scheme described above.

Additional modifications to Scheme Amendment

The recommendation section of the report proposes the following modifications to the proposed provisions of the scheme amendment:

1. modify the provision “A 50% proportional contribution towards the purchase of land for Rowley Road as identified in Planning Control Area No. 76” to “A 50% proportional contribution towards the purchase of a nominal 40 metre wide road reserve for Rowley Road and where necessary to accommodate channelisation at intersections and drainage to the extent that Rowley Road abuts DCA 9 & DCA 10”. This change is recommended to ensure landowners are only required to contribute to the upgrading of Rowley Road to a residential standard with a standard “blue road” reserve width of 40m rather than having to contribute an additional 50m to provide a 90m wide road reserve required by the State Government to provide a freight route;
2. modify DA23 and DA 24 to provide additional provisions requiring the construction of noise walls along Rowley Road and the requirement for acoustic reports to be prepared for lots abutting the Freeway and Railway;
3. modify DCA 9, DCA 10, DA23 and DA 24 to provide additional provisions relating to the provision of 1% cash-in-lieu towards the cost of the purchase of land for the conservation of a wetland in excess of the normal 10% public open space requirement located on Lots 41 Gaebler Road and 42 Frankland Avenue, Hammond Park as outlined in “Cash-In-Lieu” section above;
4. modify Part 6 (point 2) of Development Area - 24 in Schedule 11- Development Areas by removing reference to Lot 801 Wattleup Road as it is no longer used as a market garden.
5. modify DA 23 and DA 24 to DA 26 and DA 27 respectively, as DA 23 and DA 24 are already proposed to be introduced to Cockburn Central under Amendment No. 1 to TPS 3.

Conclusion

It is recommended that Amendment No. 28 be adopted by the Council and referred to the WA Planning Commission for final consideration subject to the modifications outlined in the recommendation section of the report.



Strategic Plan/Policy Implications

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

1. Managing Your City
 - *"To deliver services and to manage resources in a way that is cost competitive without compromising quality."*
 - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*

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

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

Budget/Financial Implications

There will be costs involved in the administration of the Development Contribution Plan however these costs are no different from the costs that are already incurred by Council for the other Development Contribution Plans within the City. These administration costs are to be recouped through the Contribution Plan.

Legal Implications

Town Planning Scheme No. 3

Community Consultation

The amendment was advertised from the 19 May 2005 to 6 July 2005 by the following methods:

- advertisement in the West Australian and local newspapers;
- direct referral to landowners affected by the Scheme Amendment; and
- referral to relevant planning consultants.

Twelve (12) submissions were received; of these; 8 government agencies providing no objections subject to requirements, 2



submissions stating no objection subject to comments and 2 letters of objection.

Refer schedule of submissions contained with the Agenda attachments.

Attachment(s)

- (1) Site Plan;
- (2) Schedule of submissions;
- (3) Schedule of submissions for POS proposal;
- (4) Scheme amendment document.

Advice to Proponent(s)/Submissioner(s)

Submissioners have been advised that the matter will be considered at the meeting of council on 11 August 2005.

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

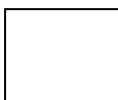
Nil.

14.11 (MINUTE NO 2916) (OCM 11/08/2005) - WITHDRAW LEGAL PROCEEDINGS - COOGEE 'CRAB SHACK'- LOTS 1 AND 2 (NOS. 355 AND 357) COCKBURN ROAD, COOGEE - OWNER: G J & D E LOHMAN - APPLICANT: KEN STYLES (3309389) (GB) (ATTACH)

RECOMMENDATION

That Council:

- (1) withdraw legal proceedings against the owners of the premises known as the Coogee Crab Shack based on the Department for Planning and Infrastructure commencing proceedings to acquire the land to facilitate the deviation of Cockburn Road, subject to the owner reimbursing Council's legal costs to date;
- (2) resolve that conditions 5, 11, 15 and 16 of approval granted on 20 April 2004 issued to G J & D E Lohman have no further effect and advise the landowner accordingly;
- (3) advise the owners and the Council's Solicitors accordingly.



COUNCIL DECISION

MOVED Clr T Romano SECONDED Clr I Whitfield that the recommendation be adopted.

CARRIED 8/0

Background

ZONING:	MRS:	Primary Regional Roads
	TPS:	Primary Regional Roads
LAND USE:	General Store	
LOT SIZE:	1204m ²	
AREA:	250m ²	

Council at its Meeting held on Tuesday 20 April 2004 resolved to grant its approval of a Retrospective Application relating to the illegal extensions undertaken by the tenants of the Crab Shack. A Schedule 9 Approval was issued on 22 April 2004. The proponent had to comply with various conditions within 60 days of the approval date. This approval involved the demolition of the dwelling at the rear of the General Store to facilitate car parking as the applicant had been unsuccessful in negotiating a lease with the Western Australian Planning Commission to use the adjoining lot for the purposes of car parking.

The Applicant requested a reconsideration of the 60 days to 120 days in order to comply with the conditions. Council at its Meeting held on Tuesday 18 May 2004 agreed to modify Conditions 5, 11, 15 and 16 and issue a fresh approval.

Council at its Ordinary Meeting on 18 May 2004, resolved to approve a revised retrospective approval for the general store extensions on Lot 1 Cockburn Road Coogee, in accordance with the approval granted on 20 April 2004, and the following modified conditions 5, 11, 15 and 16 as follows:-

- “5. *Landscaping and tree planting to be undertaken in accordance with the approved plan within 120 days of the approval being granted; and*
- 11. *The street verge adjacent to the Lot being landscaped in accordance with the approved plans within 120 days of the approval being granted and thereafter maintained to the Council's satisfaction; and*
- 15. *Demolition of the dwelling at the rear of the General Store being completed within 120 days of the approval; and*



16. *Reconfiguration and construction of the car bays and driveway as marked red on the approved plan within 120 days of the approval.*

An approval was issued on 21 May 2004 with the revised conditions that were proposed by the applicant. The applicant did not consult with the owners and they did not give permission for the demolition of the rear dwelling.

The applicant was subsequently successful in negotiating a lease arrangement with the Western Australian Planning Commission to utilise the adjoining lot for car parking and a fresh approval was issued on 20 October 2004.

On 23 May 2005 the Department for Planning and Infrastructure advised that the permit to use the Western Australian Planning Commission's land next door for parking was not taken up and no longer available.

On this basis the application issued on 20 October 2004 is no longer applicable and the applicant is in breach of the approval issued 18 May 2004.

On 2 June 2005 Council instructed its lawyers McLeods Barristers and Solicitors to commence with the prosecution against the owners of the land.

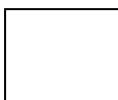
Submission

The City is in receipt of a letter from the operator of the Coogee Crab Shack, Mr Ken Styles, dated 4 July 2005. The letter revealed that the Crab Shack owner has been given a timeframe of approximately 18 months before this land is required for the Cockburn Road realignment. The purpose of the letter was to request a common sense approach to allow the Crab Shack operator to trade for the remainder of their time without penalty therefore requested the City withdraw legal proceedings.

Report

The Department for Planning and Infrastructure has advised that formal acquisition procedures of land has been initiated for the proposed realignment of Cockburn Road included under the future Port Coogee development.

Given that the Crab Shack will be demolished in the near future following completion of land acquisition it doesn't seem appropriate to proceed with legal action against the owner, however Council's legal costs to date should be recovered.



The Crab Shack has existed in its present state for many years without any problems. Improvements to the premises would only have been appropriate if the building was to be retained.

Strategic Plan/Policy Implications

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

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

APD29 DEVELOPMENT COMPLIANCE PROCESS

Budget/Financial Implications

The City has incurred legal advice costs of \$451.00 as of the 04 July 2005.

Legal Implications

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

Community Consultation

N/A

Attachment(s)

- (1) Letter from McLeods Solicitors dated 13 July 2005.

Advice to Proponent(s)/Submissioner(s)

The Proponent and owner of the property have been advised that this matter is to be considered at the August 2005 Council Meeting.

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

Nil.

14.12 (MINUTE NO 2917) (OCM 11/08/2005) - PROPOSED HALL, ABLUTION BLOCK AND GROUPED DWELLING FOR PRIEST ACCOMMODATION - LOT 154 (NO. 31) OMMANNEY STREET AND LOT 155 (NO. 1) DIANNE STREET, HAMILTON HILL - OWNER: ROMAN CATHOLIC BISHOP OF PERTH - APPLICANT: GLENWAY HOMES (2204235) (2200873) (JB) (ATTACH)



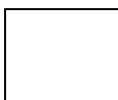
RECOMMENDATION

That Council:

- (1) grant approval for a proposed hall, ablution block & grouped dwelling for priest accommodation on Lot 154 (No. 31) Ommanney Street & Lot 155 (No. 1) Dianne Street, Hamilton Hill, subject to the following conditions:-

STANDARD CONDITIONS

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. Retaining wall(s) being constructed in accordance with a suitably qualified Structural Engineer's design and a building licence being obtained prior to construction.
4. The premises shall be kept in a neat and tidy condition at all times by the owner/occupier to the satisfaction of the Council.
5. The existing church must be upgraded externally to an equivalent maintenance standard and appearance, where possible, to the rest of the development.
6. Landscaping and tree planting to be undertaken in accordance with the approved plan prior to the occupation of the site.
7. A landscape plan must be submitted to the Council and approved, prior to applying for building licence and shall include the following:
 - (1) the location, number and type of existing and proposed trees and shrubs;
 - (2) any lawns to be established;
 - (3) any natural landscape areas to be retained;
 - (4) those areas to be reticulated or irrigated; and
 - (5) verge treatments.
8. The landscaping installed in accordance with the approved detailed landscape plan, must be reticulated or irrigated and maintained to the satisfaction of the Council.



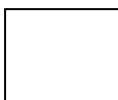
9. No development or building work covered by this approval shall be commenced until the landscape plan has been submitted and approved, by the Council.
10. No wall, fence or landscaping greater than 0.75 metres in height measured from the natural ground level at the boundary, shall be constructed within 2.0 metres of a vehicular accessway unless the wall, fence or landscaping is constructed with a 2.1 metre truncation.
11. The applicant demonstrating that the proposed development will comply with the Environmental Protection (Noise) Regulations 1997 at all times.
12. All stormwater drainage shall be designed in accordance with the document entitled "Australian Rainfall and Runoff" 1987 (where amended) produced by the Institute of Engineers, Australia, and the design is to be certified by a suitably qualified practicing Engineer, designed to a 1:100 year return period, to the satisfaction of the Council.
13. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
14. As indicated on the site plan a minimum of 2 disabled carbays designed in accordance with Australian Standard 2890.1 - 1993 being provided in a location convenient to, and connected to a continuous accessible path to, the main entrance of the building or facility. Design and signage of the bay(s) and path(s) is to be in accordance with Australian Standard 1428.1 - 1993. Detailed plans and specifications illustrating the means of compliance with this condition are to be submitted in conjunction with the Building Licence application.
15. Works depicted on the approved parking plan shall be maintained to the satisfaction of the Council.
16. The vehicle parking area shall be sealed (or paved), kerbed, drained and line marked in accordance with the approved plans and specifications certified by a suitably qualified practicing Engineer to the satisfaction of the Council.
17. The parking bay/s, driveway/s and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS/NZ2890.1) unless otherwise specified by this approval and are to be constructed, drained and marked in accordance with the

design and specifications certified by a suitably qualified practicing Engineer and are to be completed prior to the development being occupied and thereafter maintained to the satisfaction of the Council.

18. Lots must be amalgamated/subdivided to reflect the proposed new boundaries that form a part of this application prior to issuance of a Building Licence.

SPECIAL CONDITIONS

19. The existing Place of Public Worship and proposed hall hours of operation must not overlap at any time.
20. No alcohol is to be sold on site as stated in the "Archdiocesan Letter" dated 12 July 2005.
21. A maximum number of 100 persons shall be accommodated on the premises at any given time, unless otherwise approved in writing by Council
22. The proposed hall shall only be used once a month as a meeting place where parishioners celebrate liturgical events associated with the church; and at no time shall members of the general public or parishioners hire out the proposed hall as a venue for any function, as stated in the "Archdiocesan Letter" dated 12 July 2005
23. The recommendations stipulated within the Herring Storer Acoustics Report dated 19 July 2005 must be incorporated into the fit-out of the proposed hall and associated store and toilet block. These include:
 - (a) Windows on the western and south-western side being 10mm laminated glass in awning type windows with mechanical windows.
 - (b) Roof being metal deck with 50mm insulation under roof sheeting with one layer of 13mm fire rates plasterboard underside of purlins, 50mm insulation laid above 13mm plasterboard ceiling and enclosed eaves.
 - (c) A barrier wall, with sheet metal roof constructed between the hall and store on the southern side.
24. Noise levels on the premises are to comply with the Environmental Protection Act 1986, which contains penalties where noise limits exceed those prescribed by the Environmental Protection (Noise) Regulations 1997.
25. The development must be connected to the reticulated



sewerage system in accordance with the Water Corporation requirements prior to commencement of the use herein approved.

26. The rear portion of Lot 154 proposed for the new hall being amalgamated with Lot 155 occupied by the Place of Public Worship and carpark. Lot amalgamation must be completed prior to issue of a building license.

FOOTNOTES

1. The development is to comply with the requirements of the Building Code of Australia.
2. Access and facilities for disabled persons is to be provided in accordance with the requirements of the Building Code of Australia.
3. The use of the premises (kitchen) must comply with the Health (Food Hygiene) Regulations 1993 and Chapter 3 of the Australian New Zealand Food Standards Code (Australia Only). It is anticipated that the kitchen will be a Class 3.
4. The proposed hall is a public building and therefore must comply with the requirements of the Health (Public Building) Regulations 1992. An application to Construct, Alter or Extend a Public Building must be lodged with the Building Licence Application. Once building is complete, Council's Environmental Health Services Section will assess the premises in accordance with the Regulations and provide the proprietor with a final accommodation number. This number is based on floor area, patron toilet facilities, exit widths and ventilation.
5. In regards to Condition No. 24, should complaints be received regarding the premises and noise monitoring reveal that noise levels exceed the prescribed levels, Council will consider taking formal action.
6. The applicant is advised that adequate crowd control measures should be implemented in order to minimise noise levels, and to ensure patrons leaving the building do so in an acceptable manner.
7. In regards to Condition No. 23, the applicant must obtain written confirmation from Herring Storer Acoustics certifying that, once all buildings are complete, they have assessed the premises and that all recommendations stipulated within their report have been complied with.

Herring Storer Acoustics must also confirm that noise emissions emanating from the premises (during liturgical events) meet legislative requirements. In doing this, guidance shall be provided to the applicant indicating what 85dB(A) equates to. A copy of the written confirmation shall be forwarded to the City's Health Services prior to the issue of the accommodation certificate (public building approval) for the hall. In addition, it is noted that the Acoustics Report is based on all windows remaining shut during liturgical events.

- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval (inclusive of MRS Form 2 Notice of Approval); and
- (3) advise the proponent and all submitters of Council's decision;
- (4) request the City's Compliance Officer to ensure compliance with the stated conditions within 60 days of development completion.

COUNCIL DECISION

MOVED Cllr S Limbert SECONDED Cllr I Whitfield that Council:-

- (1) defer consideration of the application;
- (2) invite the applicant to attend a meeting with City Officer's, Ward Members and submissioners to examine resident concerns regarding car parking, hall location, hall size, visual appearance and use of the hall and its management;
- (3) refer the application to the next Ordinary Meeting of Council on 8 September 2005; and
- (4) advise the applicant and submissioners accordingly.

CARRIED 8/0

Reason for Decision

Neighbours to the proposed development should be given an opportunity to meet with the applicant and Council to discuss their concerns. The City's Health Services have received numerous noise complaints with regards to the premises in the past.

A site meeting was held on Monday 8th August 2005 with Mike Ross, Cr Limbert and four concerned residents. These residents raised a



number of concerns in respect to the hall proposal and its use and should be given the opportunity to meet with the Applicant and Council prior to the application being determined.

Background

ZONING:	MRS:	URBAN
	TPS:	RESIDENTIAL R40 & R20
LAND USE:	HALL, ABLUTION BLOCK & GROUPE DWELLING	
LOT SIZE:	LOT 154 = 728M ² & LOT 1 = 1518M ²	
AREA:	TOTAL AREA = 2246M ²	
USE CLASS:	HALL ADDITION TO PLACE OF WORSHIP "D USE".	

The City's Health Services have received numerous noise complaints with regards to this premise in the past. Complaints have generally referred to unruly behaviour after liturgical events throughout the year, as well as regular gatherings of people in a shed, which is located at the rear of the premises.

Planning approval was granted on 16 May 2005 for the demolition of the existing hall, ablution block and priest accommodation. It should be noted the shed (existing hall) located at the premises was not an approved structure, nor was it formally approved for use as a Public Building. The metal shed was not attenuated in any way so as to reduce noise emissions.

As a part of the development application process the applicant was asked to provide the City with an acoustic report, outlining how the proposed double brick hall with a metal deck roof will be constructed to comply with the provisions of the Environmental Protection (Noise) Regulations 1993. "Herring Storer Acoustics" compiled an acoustic report dated 19 July 2005, with the following conclusion being made:

'Noise emissions from the activities associated with the meeting hall (including feast days) will comply with the Regulations during the day (including Sundays and Public Holidays) and evening period, provided the noise amelioration as listed in the section – Calculations is included in the construction of the hall'.

It is noted that this is based on the assumption that noise limits from the church hall do not exceed 85dB(A).

Submission

The application proposes to construct a hall for celebrating liturgical events associated with the existing church, an ablution block & grouped dwelling for priest accommodation.



Report

The proposed hall, ablution block and grouped dwelling satisfy with scheme requirements and relevant legislation.

The proposed church hall is defined in Town Planning Scheme No. 3 (TPS No.3) as a: *“premises used for religious activities such as a church, chapel, mosque, synagogue or temple”*.

The proposal is a use that is not permitted unless Council has exercised its discretion by granting planning approval.

Surrounding landowners were invited to comment on the proposal, with three objections being received at the completion of the consultation period (see community consultation).

The concerns raised in these submissions include:

- Increased noise;
- Parking and traffic problems; and
- Anti-social behaviour.

The following Council responses are provided:

- All noise emissions from the hall must comply with the assigned levels specified in the Environmental Protection (Noise) Regulations 1993. If complaints are received and substantiated by the City's Health Services, further formal action in the way of Infringement Notices, service of an Environmental Protection Notice and prosecution action may be taken.
- Any vehicles parked illegally can be reported to Council's Ranger Services where infringement notices may be issued where appropriate.
- As a condition of approval and as stated in the "Archdiocesan Letter" dated 12 July 2005 no alcohol will be sold on site at any time.

Conclusion

The proposed hall, ablution block and grouped dwelling for priest accommodation satisfy the scheme and relevant legislation. There are no objections to the proposed development proceeding from a planning viewpoint. It is believed that actual or perceived impacts from the development can be adequately dealt with through the enforcement of appropriate planning conditions.

Strategic Plan/Policy Implications

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



SUBMISSION		COUNCIL'S RESPONSE
1. 10B Carter St, Hamilton Hill	Objection 1. Will be exposed to the full blast of noise from the proposed hall. 2. The proposed hall should be located along side the existing church. 3. The 'church group' park on verges.	1. Note. The applicant has provided a noise attenuation report illustrating the proposal can comply with Environmental Protection (Noise) Regulations 1997. 2. Note. 3. It is the responsibility of landowners to report any illegally parked vehicles to Council's Ranger Services where infringement notices may be issued where appropriate.
2. 2 Meadley Mews, Hamilton Hill	Objection 1. The hall will facilitate noise, disruptive behaviour with alcohol consumption, parking and traffic problems. 2. More wide spread consultation should occur with the local community as a hall used for functions will have an adverse impact on residential development in the area.	1. Note. The applicant has provided a noise attenuation report illustrating the proposal can comply with Environmental Protection (Noise) Regulations 1997. No alcohol will be sold on site and any vehicles parked illegally can be referred to Councils Ranger Services for appropriate action. 2. Note.
3. 12 Carter St, Hamilton Hill	Objection 1. Noise issues inside/outside the hall. 2. Young people climbing into property. 3. Rubbish over fence. 4. Loss of privacy. 5. Property taken from backyard. 6. Vehicle parking on verges impacts on access and egress to our property, and restricts emergency services. 7. The proposed hall will lower property values.	1. See comments above. 2. This comment is unsubstantiated. 3. Note. Would have to be dealt with as a civil matter by the affected landowner. 4. Disagree, the proposed hall complies with the privacy requirements of the R-Codes. 5. Note. Would have to be dealt with as a civil matter by the affected landowner. 6. Any vehicles parked illegally can be reported to Council's Ranger Services where infringement notices may be issued where appropriate. 7. Property values are not relevant to planning consideration and no evidence has been provided to justify the lower property values

Attachment(s)

- (1) Location Plan
- (2) Site Plans
- (3) Herring Storer Acoustics Report



- (4) Archdiocesan Letter dated 12 July 2005

Advice to Proponent(s)/Submissioner(s)

The Proponent and those who lodged a submission on the proposal have been advised that this matter is to be considered at the July 2005 Council Meeting.

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

Nil.

14.13 (MINUTE NO 2918) (OCM 11/08/2005) - NURSERY - PROPOSED CAR PARK AND OFFICE - LOT 5; 348 BEENYUP ROAD, BANJUP - OWNER: MR & MRS J COLE - APPLICANT: ERWIN BIEMEL & ASSOCIATES (5513087) (SS) (ATTACH)

RECOMMENDATION

That Council:

- (1) grants its approval for the proposed car park and office at Lot 5 (348) Beenyup Road, Banjup, in accordance with the approved plan subject to the following conditions:-

STANDARD CONDITIONS

1. Development may be carried out only in accordance with the terms of the application as approved herein and any approved plan.
2. Nothing in the approval or these conditions shall excuse compliance with all relevant written laws in the commencement and carrying out of the development.
3. No person shall install or cause or permit the installation of outdoor lighting otherwise than in accordance with the requirements of the Australian Standards AS 4282 – 1997 “Control of the Obtrusive Effects of Outdoor Lighting”.
4. No activities causing noise and/or inconvenience to neighbours being carried out after 7.00pm or before 7.00am, Monday to Saturday, and not at all on Sunday or Public Holidays.
5. The premises shall be kept in a neat and tidy condition at all times by the owner/occupier to the satisfaction of the Council.



6. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
7. No wall, fence or landscaping greater than 0.75 metres in height measured from the natural ground level at the boundary, shall be constructed within 1.5 metres of a vehicular accessway unless the wall, fence or landscaping is constructed with a 2.1 metre truncation, as depicted on the approved plan.
8. The parking bay/s, driveway/s and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890) unless otherwise specified by this approval and are to be constructed, drained and marked in accordance with the design and specifications certified by a suitably qualified practicing Engineer and are to be completed and thereafter maintained to the satisfaction of the Council.
9. A minimum of one disabled carbay designed in accordance with Australian Standard 2890.1 – 1993 is to be provided in a location convenient to, and connected to a continuous accessible path to, the main entrance of the building or facility. Design and signage of the bay(s) and path(s) is to be in accordance with Australian Standard 1428.1 – 1993. Detailed plans and specifications illustrating the means of compliance with this condition are to be submitted in conjunction with the building licence application.
10. The vehicle parking area shall be sealed (or paved), kerbed, drained and line marked in accordance with the approved plans and specifications certified by a suitably qualified practicing Engineer to the satisfaction of the Council.
11. Carbay grades are not to exceed 6% and disabled carbays are to have a maximum grade 2.5%.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

12. The parking area, driveways and points of ingress and egress to be designed, constructed, drained and marked in accordance with the plan certified by a suitably qualified practicing Engineer and thereafter maintained to the satisfaction of the Council. A minimum of 25 carbays and 1 delivery bay are required to be constructed onsite. These works are to be done as part of the building construction.



13. An approved effluent disposal system to the satisfaction of Council's Health Service and/or the Department of Health must be installed prior to the occupation of any habitable building to be erected on the land.

SPECIAL CONDITIONS

14. This approval includes those conditions included on the development approval for a Garden Centre & Office, issued on 9 September 2005.
15. The car park, floors and pathways shall be sealed and impervious. Wastewater (including stormwater and other run off) containing leachate from car parks, nursery production and wash down areas shall be managed and disposed of appropriately (see attached *Water Quality Protection Note: Nurseries and Garden Centres*).
16. Grease traps shall be installed in the soak wells prior to occupation of the office.

FOOTNOTES

1. This approval is issued by the Council under its Town Planning Scheme, and approvals or advice by other agencies may be required, and it is the responsibility of the applicant to ensure that all other approvals/advice are issued prior to commencing development or use of the land, and a copy of the approval/advice should be provided to the Council.
2. The development is to comply with the requirements of the Building Code of Australia.
3. Until Council has issued a Certificate of the Classification under Regulation 20 of the Building Regulations 1989, there shall be no approval to use the building for the purposes of the development herein conditionally approved and the land shall not be used for any such purpose.
4. The development is to comply with the *Environmental Protection Act 1986*, which contains penalties where noise limits exceed the prescribed by the *Environmental Protection (Noise) Regulations 1997*.
5. The existing and proposed septic installations must comply with the requirements of the Government Sewerage Policy and the *Health Act 1911*. Application for



the approval of the construction of septic tanks is to be made to Council's Health Service

6. It is recommended that an Alternative Treatment Unit (ATU) be installed for the public toilet, where approved by the Department of Health.
 7. The project area is located within the Jandakot Groundwater Area, which is proclaimed under the Rights in Water and Irrigation Act 1914. This means there is a requirement to obtain a Groundwater Licence should groundwater draw be necessary for purposes other than domestic. The issue of a Licence is not guaranteed but if issued will contain a number of conditions including the quantity of water that can be pumped each year. If there is an existing license for the property, it may need to be amended to change the purpose or area. Please contact the Allocation Section of the Kwinana-Peel Region Office on 9419 5500 for more detailed information on licensing.
 8. The subject land is located within the Jandakot Underground Water Pollution Control Area, which is gazetted for Priority 2 (P2) source protection. P2 source protection areas are defined to ensure that there is no increased risk of pollution to the water source. P2 areas are declared over land where low intensity development (such as rural) already exists. Protection of public water supply sources is a high priority in these areas. P2 areas are managed in accordance with the principle of risk minimisation. As described in the Water and Rivers Commission's Water Quality Protection Note: Land Use Compatibility in Public Drinking Water Source Areas, nurseries and garden centres are a conditional land use.
 9. This approval relates only to the relocation of the proposed car park and office. Any proposal to change or intensify the use beyond that the subject of this approval will necessitate a fresh application to Council.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Approval (inclusive of MRS Form 2 Notice of Approval); and
 - (3) advise those who lodged a submission of Council's decision.



COUNCIL DECISION

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

CARRIED 8/0

Background

ZONING:	MRS:	Rural – Water Protection
	TPS:	Resource Zone
LAND USE:	House and Plant Nursery	
LOT SIZE:	4.0464 Ha	
USE CLASS:	AA – SPP 2.3 (“Discretionary use”).	

Council under delegated authority approved an application for development approval for the establishment of a garden centre on Lot 5 (No.348) Beenyup Road, Banjup, on 9 September 2004. The approval superseded the planning approval previously held in respect to the adjoining Lot 700 (No.335) Beenyup Road, for the operation of a plant nursery (refer to Attachment 1 – Locality Plan). The current proposal provides for a car park (refer to Attachment 3 – Car Parking Plan) to facilitate retail customers and trade customers, as well the relocation of an existing transportable to operate as an office.

Submission

The applicant seeks Council approval to relocate the car park and transportable office (refer to Attachment 2 – Site Plan).

Report

Under Council’s Town Planning Scheme No. 3 (TPS3), the subject land is zoned, Resource zone, and therefore the application was referred to the Department of Environment (DoE) for their comments on the proposal. The application was also referred to the adjoining neighbour at Lot 64 (No.334) Beenyup Road, Banjup. The DoE responded with no objection to the proposal however, the adjoining neighbour did object.

The predominant concern from the adjoining neighbour related to the use of the proposal, specifically, a commercial enterprise in a rural locality. The submissioner’s belief being, the proposal would have detrimental impacts on the “enjoyment of his property”. However the use of the subject site (Garden Centre) was already granted approval on the 9 September 2004. Further, the applicant’s proposal represents a reduction in the operating capacity of the subject lot when compared to the adjoining property, and therefore there is some reduction in environmental impacts or amenity issues.



In summary the issues raised by the adjoining landowner objecting to the proposal can be addressed and controlled as conditions of Planning Approval.

Strategic Plan/Policy Implications

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

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

The Planning Policies which apply to this item are:-

APD17 Standard Development Conditions and Footnotes

Budget/Financial Implications

Nil

Legal Implications

Nil

Community Consultation

The proposal was referred to the adjoining neighbour for comment. An objection was received regarding the impact of the proposal on the amenity of the area.

Attachment (s): -

- (1) Locality Plan
- (2) Site Plan
- (3) Car parking Plan
- (4) Submission objection.



Advice to Proponent(s)/Submissioner(s)

The Proponent and the Submissioner have both been advised that this matter is to be considered at the August 2005 Council Meeting.

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

Nil.

14.14 (MINUTE NO 2919) (OCM 11/08/2005) - RECONSIDERATION OF CONDITION 7 (RETROSPECTIVE APPROVAL FOR RETAINING WALLS) - LOT 719; 7 AIRLIE PLACE, COOGEE - OWNER/APPLICANT: DA & G L NORMAN (3300331) (ACB) (ATTACH)

RECOMMENDATION

That Council:

- (1) takes no action on Sub-recommendation (2) Minute No. 2871 of the Council Meeting held on 14 July 2005 relative to this item as follows:
 - “(2) not agree with the applicant’s request to delete the requirements of Special Condition 7 of retrospective development approval for retaining walls approved by Council at its meeting on 20 April 2004 on Lot 179 (No. 7) Airlie Place, Coogee.”*
- (2) issue a revised retrospective approval for the retaining walls on Lot 719; 7 Airlie Place, Coogee, in accordance with the approval granted on 22 April 2004, and a modified plan depicting the 1.6 metre screen beginning from the top of the 1 metre high solid wall;
- (3) issue a fresh Schedule 9 Notice of Approval accordingly;
- (4) advise the owner that because the retaining walls have been constructed the Council is unable to issue a building license retrospectively;
- (5) advise the complainant of Council’s final decision.

COUNCIL DECISION

MOVED Clr S Limbert SECONDED Clr K Allen that Council adopts the recommendation subject to amendment, as follows:-

- (1) renumber the current sub-recommendation (5) to become sub-



- recommendation (7); and
- (2) the addition of the following sub-recommendations (5) and (6):
- (5) require the owner of 7 Airlie Place, Coogee to erect a privacy screen within 28 days;
- (6) require the City's Development Compliance Officer to inspect the property to ensure the applicant has complied with the conditions of development approval that include the erection of the privacy screen.
- CARRIED 8/0**

Reason for Decision

The only way to ensure that privacy is afforded to 12 Howick Court is to require the screen to be erected in accordance with the approval for that part of the screen needed above the height of the boundary wall. A Council Compliance Officer is required to inspect that the work has been carried out to Council's satisfaction.

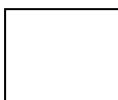
Background

ZONING:	MRS:	Urban
	TPS:	Residential R20
LAND USE:	Residential	
LOT SIZE:	944sqm	
AREA:	N/A	
USE CLASS:	Single (R Code) Dwelling (Retaining Walls)	

Council at its Ordinary Meeting on 20 April 2004, resolved to approve the existing retaining walls subject to various conditions which included Special Condition 7 as follows:-

“7. The owner to provide a 1.6 metre high permanent screen to restrict views from the new terrace into the adjoining property (being No. 12 Howick Court) as shown on the attached plan within 3 months from the date of the approval.”

The length of the required privacy screen was approximately 6.5 metres. This requirement is consistent with the Privacy requirements of the Residential Design Codes, which adopts a 7.5 metre cone of vision from all major habitable openings high than 500mm from natural ground level (refer site plan). Although the extent of the cone of vision is greater than marked in red, it was considered that the privacy screen could terminate at the base of the next ascending terrace.



The applicant recently requested reconsideration of this condition in order to remove the need for a screen as the applicant claimed the aperture between the parapet wall and the roof of the adjoining patio is so minor that a privacy screen is an anomaly.

A site inspection was undertaken by the Acting Director Planning and Development and it was determined that overlooking into the adjoining property (No.12 Howick Court) from the constructed terraces is possible as the height of the wall was well below the required 1.6 metre height. The Acting Director however agreed that the length of the privacy screen could be reduced to approximately 2 metres in lieu of the 6.5 metre requirement and that the screen could begin from the top of the existing brick wall to a height of 1.6 metres from the terrace ground level.

Council Officers at its meeting of 14 July 2005 recommended that the extent of the screen was indeed not required and agreed to support reducing the screen as indicated above.

The Council however adopted an alternative recommendation and resolved to not agree with the applicant's request to delete the requirements of Special Condition 7 of retrospective development approval for retaining walls approved by Council at its Meeting on 20 April 2004 on Lot 179 (No. 7) Airlie Place, Coogee.

Submission

The approval issued by Council at its Meeting on 20 April 2004 required a privacy screen with a length of approximately 6.5 metres and height of 1.6 metres. This inadvertently meant that the screen would be erected from the ground level of the courtyard which is unnecessary and this is the reason why this matter was referred back to Council.

The owner has discussed with Council staff their concerns regarding the extent of the privacy screen and requested that the screen be permitted to begin at the top of the existing wall to a height of 1.6 metres from the terrace ground level.

This was not clearly communicated to Council at its last meeting on 14 July 2005 and therefore, there is a need that this matter be reconsidered by Council.

Report

Given the existing solid wall with a height of approximately 1 metre at this location it is unreasonable to require the installation of a full 1.6 metre high privacy screen from the terrace ground level rather a screen can be attached to this wall up to a height of 1.6 metres from the



terrace ground level and achieves the same outcome of Council's resolution at its Meeting on 14 July 2005 (refer plan in Agenda Attachments).

Strategic Plan/Policy Implications

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

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

The Planning Policies which apply to this item are:-

APD9	Retaining Walls
APD17	Standard Development Conditions and Footnotes
APD29	Development Compliance Process
APD32	Residential Design Codes
APD33	Town Planning Scheme No. 3 Provisions

Budget/Financial Implications

Nil.

Legal Implications

Nil.

Community Consultation

Nil.

Attachments

- (1) Site Plan
- (2) Elevation

Advice to Proponent(s)/Submissioner(s)

The Proponent and Submissioner have been advised that this matter is to be considered at the August 2005 Council Meeting.



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

Nil.

14.15 (MINUTE NO 2920) (OCM 11/08/2005) - PROPOSED AMENDMENT NO. 40 TO TOWN PLANNING SCHEME NO. 3 - LOT 197 PRINSEP ROAD, JANDAKOT - OWNER: SPORTLINE HOLDINGS PTY LTD - APPLICANT: TUSCOM SUBDIVISION CONSULTANTS PTY LTD (5518291) (JB) (ATTACH)**RECOMMENDATION**

That Council:

- (1) adopt the following amendment:-

TOWN PLANNING AND DEVELOPMENT ACT 1928 (AS AMENDED)

RESOLUTION DECIDING TO AMEND CITY OF COCKBURN TOWN PLANNING SCHEME – DISTRICT ZONING SCHEME NO. 3

AMENDMENT NO. 40

Resolved that Council, in pursuance of Section 7 of the Town Planning and Development Act 1928, amend the above Town Planning Scheme by:

1. rezoning the unconstructed portion of Prinsep Road Reserve, Jandakot from “Resource” to “Local Centre” with a “Restricted Use (RU 6)” applying to the site; and amending the Scheme Map accordingly.
- (2) sign the amending documents, and advise the WAPC of Council’s decision;
- (3) forward a copy of the signed documents to the Environmental Protection Authority in accordance with Section 7(A)(1) of the Town Planning and Development Act;
- (4) following the receipt of formal advice from the Environmental Protection Authority that the Scheme Amendment should not be assessed under Section 48A of the Environmental Protection Act, advertise the Amendment under Town Planning Regulation 25 without reference to the Western Australian Planning Commission;
- (5) notwithstanding (4) above, the Director of Planning and Development may refer a Scheme or Scheme Amendment to



- the Council for its consideration following formal advice from the Environmental Protection Authority that the Scheme Amendment should be assessed under Section 48A of the Environmental Protection Act, as to whether the Council should proceed or not proceed with the Amendment; and
- (6) should formal advice be received from the Environmental Protection Authority that the Scheme Amendment should be assessed or is incapable of being environmentally acceptable under Section 48(A) of the Environmental Protection Act, the Amendment be referred to the Council for its determination as to whether to proceed or not proceed with the Amendment.
 - (7) advise the applicant of Council's Decision and request the applicant to prepare the amendment documents as well as an MRS amendment report to be lodged separately with the Western Australian Planning Commission;
 - (8) refer the proposed amendment to the Western Australian Planning Commission for approval to advertise as this amendment may be inconsistent with the provisions of the MRS.

COUNCIL DECISION

MOVED Clr I Whitfield SECONDED Clr T Romano that the recommendation be adopted.

CARRIED 8/0

Background

ZONING:	MRS:	Rural – Water Protection
	TPS:	Resource
LAND USE:	Road Reserve (unmade)	
LOT SIZE:	N/A	
AREA:	2820m ²	

On 13 May 2005 the WAPC referred a subdivision application to the City (WAPC Ref: 128324) to amalgamate Lot 197 Prinsep Road, Jandakot with the adjacent road reserve. The adjacent road reserve became redundant when a new section of Prinsep Road was created to meet Berrigan Drive at right angles.

Council resolved at its meeting on 9 June 2005 to request the Minister for Planning and Infrastructure close that portion of road pursuant to section 58 of the Land Administration Act 1997, subject to there being



no objections at the close of the statutory advertising period. The 35-day statutory period for receiving objections ended on 20 June 2005.

The owner of Lot 197 Prinsep Road, has requested a scheme amendment to include the adjacent road reserve with the existing Local Centre Zone (RU 6). Both parcels of land are included within the Jandakot Groundwater Mound Protection Area.

Submission

The applicant has provided the following justification for the proposed Scheme Amendment (see also the submission attachment):

- Provides for a consolidated commercial development at the intersection of Berrigan Drive and Prinsep Road which emphasises the importance of the local centre within the local area;
- Provides for the rounding off of the commercial zone without adversely impacting on the amenity of the locality;
- Does not impact on the Jandakot Groundwater Protection Area or Jandakot Underground Water Pollution Control Area; and
- Future development on the site can be designed and constructed in an environmentally responsible and sustainable manner.

Report

It is considered that the subject site has planning merit in rezoning the portion of Prinsep Road Reserve from "Resource" to "Local Centre" with a "Restricted Use (RU 6)" applying to the site; as this would allow the applicant to amalgamate the two lots to provide for a more consolidated commercial development.

Restricted Use 6 provides for the following uses:

"Office, Restaurant and Fast Food Outlet, veterinary consulting rooms, reception centre, health studio, medical centre, shop, showroom."

If Council initiates the scheme amendment, the proposal will be referred to the EPA and subject to approval, be advertised for public comment in accordance with the Town Planning Regulations. The EPA will then determine a level of assessment of the proposal having regard to its environmental implications on the Jandakot UWPCA.

Strategic Plan/Policy Implications

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

2. Planning Your City
 - *"To foster a sense of community within the district generally and neighbourhoods in particular."*



3. Conserving and Improving Your Environment
 - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
 - *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*
4. Facilitating the needs of Your Community
 - *"To facilitate and provide an optimum range of community services."*

Budget/Financial Implications

N/A

Legal Implications

Nil

Community Consultation

The proposed scheme amendment will be advertised to the community for a period of 42 days upon initiation of the amendment.

Attachment(s)

- (1) Location Plan
- (2) Submission

Advice to Proponent(s)/Submissioner(s)

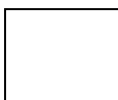
The Proponent has been advised that this matter is to be considered at the August 2005 Council Meeting.

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

Nil.

14.16 (MINUTE NO 2921) (OCM 11/08/2005) - BEELIAR REGIONAL PARK MANAGEMENT PLAN (9509) (PS) (ATTACH)

<p>RECOMMENDATION That Council:</p> <ol style="list-style-type: none">(1) agree to the transfer of the management for Brownman Swamp, Mount Brown and the Henderson Foreshore (Areas 39, 40, 41 and 42) to CALM in accordance with the Beelihar Regional Park Management Plan;



- (2) prior to accepting any of the management responsibilities proposed in the Beeliar Regional Park Management Plan of the Manning Lake Area (Areas 30, 31 and 32) that Council write to CALM and the WAPC seeking details of the proposed financial arrangements for the future management of these areas; and
- (3) not accept the Yangebup Lake waterbody until the contamination issue is resolved with the WAPC to the satisfaction of the Council.

COUNCIL DECISION

MOVED Cllr J Baker SECONDED Cllr S Limbert that Council

- (1) note the Officer's report;
- (2) defer consideration of the proposed management changes set out in the Beeliar Regional Park Management Plan to examine the option of achieving greater cooperation and improved communication in the form of a Joint Management Agreement for works undertaken in conservation reserves by CALM, Local Environmental Groups and the City of Cockburn;
- (3) support the facilitation of discussions to be held with CALM and Local Environmental Groups and the City's Environmental Services;
- (4) refer the item back to the October 2005 Meeting of Council for further consideration following these discussions referred to in (2) and (3) above; and
- (5) advise CALM accordingly.

CARRIED 8/0

Reason for Decision

More consultation between groups is needed including looking into the forming of a Joint Management Agreement for sharing of knowledge and resources. This could also be of benefit when applying for and implementing Grant funding, as Wetland management can be seasonal with need for intense activity over short amounts of time. This usually includes the use of volunteers where being well trained and managed has the most benefit to the end results of the projects.



Background

The Beeliar Regional Park is a system of bushland areas that extend from Blue Gum Reserve in Melville, through Cockburn, and ending at the Spectacles in Kwinana (Attachment 1 Map of Park). It comprises of 19 lakes located in two parallel channels.

There are 12 bushland areas which reside within the City of the Cockburn. These include Manning Lake, Market Garden Swamp, Lake Coogee, Henderson Foreshore, Brownman Swamp, Mount Brown, North Lake, Bibra Lake, Yangebup Lake, Kogolup Lake, Thomson's Lake and Banganup Lake. Of these areas the City manages Market Garden Swamp, Lake Coogee, Bibra Lake, Little Rush Lake, Yangebup Lake, and a portion of the Manning Lake Area; with the remaining areas managed by CALM.

The Beeliar Regional Park Management Plan will guide the management of both CALM and the City's bushland areas, as well as rationalise the ownership of the different bushland areas to facilitate better management. Ultimately CALM seeks the Council's adoption of the Beeliar Regional Park Management Plan.

Submission

CALM have sought the support from Council to facilitate land exchanges in order to improve land management responsibilities of land within the Beeliar Regional Park. Details of the proposed land exchanges are set out in the following report.

Report

The Beeliar Regional Park Management Plan has been developed by CALM to serve as a guiding document on the development and management of the entire Regional Park, respective of ownership. CALM has been involved with consultation with the Beeliar Regional Park Committee and City officers during the development of the draft plan, as well as receiving community input through the public comment period held between 14/11/2001 – 14/2/2002. There was also a community workshop held at the Lesser Hall, Cockburn on the 10th October 1998. The Council endorsed the draft Beeliar Regional Park Plan at the 12/2/2002 meeting.

One of the pressing needs for the management plan was to define the management responsibilities for all land owners, including local government authorities and CALM, in particular remove the situation where a number of different land agencies maybe involved in the management of one parcel of bushland. To facilitate ease of management the plan indicates certain land exchanges. The areas to be exchanged are outlined in the correspondence from CALM dated 23



March 2005 (Attachment 2). The land exchanges outlined in the plan (Attachment 3) are as follows;

1. Brownman Swamp Mount Brown and Henderson Foreshore (Areas 39, 40, 41 and 42) transferred from City of Cockburn to CALM for management
2. Transfer parts of the Manning Area from CALM management to the City of Cockburn (Area 30, 31 and 32)
3. Transfer of Area 14 to the City of Cockburn for management
4. The management responsibility for the water body of Yangebup Lake (Area 21) to be transferred to the City of Cockburn.

1. Brownman Swamp Mount Brown and Henderson Foreshore (Areas 39, 40, 41 and 42) transferred from City of Cockburn to CALM for management.

The total area of these sites currently vested in the City is approximately 298 hectares. Since 1998 there has been no management undertaken by the City as CALM decided to undertake the management of the site due to the areas high biodiversity value. Since that time CALM has undertaken maintenance of the site with a recurrent maintenance budget of \$27,000. This has since been supplemented by 2 million dollars provided by the Jervoise Bay Enhancement Plan for capital works through Brownman Swamp, Mount Brown and Woodman Point.

The officer's understanding is that the agreement to have CALM undertake the management of the site stemmed from discussion with CALM and past Council staff over 7 years ago. Apparently during these discussions it was agreed that the high conservation value of the site warranted its management by CALM who at the time were best equipped with the expertise to manage the area. This was apparently conditional on the City undertaking the management of the Manning Park Area. While this may have been the case there has been no known formal adoption of this position. The current City officers have emphasised that the Council will consider the proposal on its merits rather than relying on past informal discussions.

2. Transfer parts of the Manning Area from CALM management to the City of Cockburn (Area 30, 31 and 32)

There are number of implications with the City undertaking sole responsibility for the management of Manning Lake Area. The total area of the land to be managed is approximately 98 hectares, but currently over half of this area (approximately 58 hectares) is already managed by the City through a lease with the Western Australian Planning Commission that expires in 2011.

One of the main implications is the increased funds needed for the area. One source of money available to the Council, if it accepted the



ownership of the land, is the Area Assistance Grant Scheme (AAGS). AAGS is available for capital works, but not maintenance, and was accessed by the City when accepting the management of Little Rush Lake and Yangebup Lake from the WAPC. There would need to be negotiations with the WAPC to determine a suitable package that is satisfactory to the Council. While this could fund works such as the upgrade of the trail, lookouts, signage etc, the Council would still need to provide extra funding for the maintenance of the facilities.

Currently funds are spent around Manning Lake and adjacent grassed areas, playground facilities and other nearby buildings. In accepting the land, outside the leased area, the minimum maintenance required would be firebreak maintenance, rubbish removal and possibly fence maintenance. These activities would cost approximately \$7000 per annum which the City would need to provide. This doesn't include any community expectations of bushland rehabilitation or other works that would protect and enhance the conservation of the area. For example the undertaking of weed control of high priority weeds could be within the range of \$10,000; while undertaking rehabilitation of the bushland area would range from \$10,000 upwards depending on the condition of the bushland. Ultimately, more on ground assessment is required before assessing the extent of weed control and rehabilitation required before accurate costs can be provided.

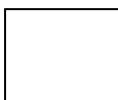
Another issue with the management of this land is the fact that there is vacant land managed by Landcorp and private land owners that abut the western side of this parcel of land onto Cockburn Road. This is an entry point for illegal vehicles and dumping. An essential part of the management of bushland area is the need for fencing. This is integral to the prevention of rubbish dumping and illegal vehicles entering and damaging the bushland areas. An important part to accepting to the land exchange is the establishment of a fence line that will require a fence along Cockburn Road to prevent vehicle access.

3. Transfer of Area 14 CALM management to the City of Cockburn

As the site is adjacent to Bibra Lake it would be practical for the City to accept management of this land as part of the management of the Bibra Lake.

4. Accepting the waterbody (Area 21) of Yangebup Lake

When the City accepted the management of Yangebup Lake the City intentionally omitted accepting the water body due to the arsenic contamination caused by the Jandakot Wool Scourers. This position has not changed, and in particular is further emphasised because of the consequences of the Draft Contamination Bill that may place the responsibility of any possible clean up onto the City, if the City was the land manager. The City will seek a legal assurance that the City will not



be liable for any clean work prior to accepting the management of the water body.

In summary, accepting the above land exchanges there will need to be funding provided for the management of these areas. Areas 14 and 21 could be accommodated in current annual budget allocation, but the Manning Lake area will require ongoing funds to maintain the bushland areas and maintain any capital works that would be implemented as part of the AAGS. The basic maintenance of these sites, which includes fence repair and rubbish removal, would be approximately \$7000 per annum.

If the Council decided not to proceed with the above land exchanges then it would be a matter for CALM to determine whether it will continue to undertake management of Council's land within Area 39, 40, 41 and 42 or whether the Council would be asked to resume management of the site. If Council resumed management of the land then it would be expected that the community would insist the same expenditure (27,000 p.a.) and maintenance on the site as provided by CALM, plus the maintenance of the capital works implemented by the Jervoise Bay Enhancement Plan.

As well as the issue of defining the different areas to be managed by the City, there is the potential impact of the management plan on how the City would intend to manage bushland areas under its control, in particular pest animal control. It has been established that CALM's role, with respect to the City's management of the conservation value of these bushland areas, is advisory in nature. This ensures the Council can undertake the management of bushland, inline with the conservation value stated in the plan, without undue interference from outside agencies. This position ensures that both the City of Cockburn and CALM can work in partnership towards the management of Beeliar Regional Park

Strategic Plan/Policy Implications

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

2. Planning Your City
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
3. Conserving and Improving Your Environment
 - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
 - *"To conserve the character and historic value of the human and built environment."*



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

Budget/Financial Implications

Financial implications relating to capital and bushland management will be determined after discussions with WAPC, with respect to the AAGS, and submitted to Council for approval and appropriate matching funding.

Legal Implications

N/A

Community Consultation

N/A

Attachment(s)

- (1) Beeliar Regional Park map
- (2) CALM request for land exchange
- (3) Land exchanges which affect the City of Cockburn

Advice to Proponent(s)/Submissioner(s)

N/A

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

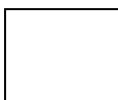
Nil.

14.17 (MINUTE NO 2922) (OCM 11/08/2005) - PROPOSED HOME OCCUPATION - SPANISH DANCE CLASS - LOT 272; 36 MASEFIELD AVENUE, NORTH LAKE - OWNER/APPLICANT: F RABIH (1105319) (1105319) (SS) (ATTACH)

RECOMMENDATION

That Council:

- (1) refuse the proposed home occupation – Spanish Dance Classes on Lot 272 (No.36) Masefield Avenue, North Lake for the following reason:-
 1. The proposal fails to comply with the definition of a Home Occupation under Town Planning Scheme No. 3.
 2. The proposal is considered to be an inappropriate scale



for the 'Residential Zone' and will detrimentally impact on the preservation of the amenity of the adjoining and nearby land owners by way of: -

- Noise impacts,
- Evening - Hours of operation, and
- Traffic/Car parking/Congestion.

- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Refusal (inclusive of MRS Form 2 Notice of Refusal);
- (3) advise the submissioners of Council's decision accordingly.

COUNCIL DECISION

MOVED Cllr A Tilbury SECONDED Cllr I Whitfield that Council:-

- (1) note the officers report;
- (2) approve the proposed Home Occupation – Spanish Dance Class on Lot 272, No 36 Masefield Avenue, North Lake subject to the following conditions:-

STANDARD CONDITIONS

1. The development complying with the Home Occupation provisions and definition set out in the Town Planning Scheme.
2. All materials and/or equipment used in relation to the Home Occupation shall be stored within the residence or an approved outbuilding.
3. The Home Occupation Approval may be withdrawn by the Council upon receipt of substantiated complaints.
4. The Home Occupation can only be undertaken by the owner of the land and is not transferable pursuant to clause 5.8.5 (a) (ii) of Town Planning Scheme No 3.
5. On the sale of the property or change in ownership of the land the home occupation entitlement ceases pursuant to clause 5.8.5 (a) (iii) of Town Planning Scheme No 3.

1.1. SPECIAL CONDITIONS

6. Dance class operating times being limited to:-
Monday 5:00pm to 8:30pm;
Tuesday 5:00pm to 8:30pm;

Thursday 5:00pm to 8:30pm; and the dance classes must not be undertaken on Saturday and Sunday and not at all on Public Holidays.

7. A maximum of 8 clients per day with an interval of at least 20 minutes between dance classes with a maximum of 6 clients per class.
8. All client car parking must be on-site and no street parking is permitted on the verge or on Masefield Avenue.
9. The applicant carrying out the schedule of works outlined in the acoustic report prepared by Herring Storer Acoustics dated 13 July 2005, prior to undertaking any further dance classes associated with this approval.
10. Following the completion of schedule of works required by Special Condition 9 the applicant must engage a qualified acoustic consultant to:-
 - (a) verify that the noise attenuation measures are compliant with the Environmental Protection (Noise) Regulations 1997.
 - (b) undertake any further noise attenuation measures where such additional works are required to comply with the Regulation prior to continuing with dance classes; and
 - (c) notify the City accordingly.
11. This approval is limited to a period of 12 months only. Following the expiry of this period a fresh approval from Council will be required.

FOOTNOTE

1. Means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which:-
 - (a) does not employ any person not a member of the occupier's household;
 - (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
 - (c) does not occupy an area greater than 20 square metres;
 - (d) does not display a sign exceeding 0.2 square metres;
 - (e) does not involve the retail sale, display or hire of goods of any nature;
 - (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than



normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and

- (g) does not involve the use of an essential service of greater capacity than normally required in the zone.

CARRIED 8/0

Reason for Decision

The applicant is willing to undertake all necessary acoustic works outlined by Herring Storer Acoustics to ensure that the premises complies with the Environmental Protection (Noise) Regulations 1997.

Council should give the ability for the applicant to continue with this home business subject to stringent compliance with conditions of approval that are intended to ameliorate any adverse impact of the dance classes on the amenity of neighbours. By limiting the approval to a period of 12 months it allows Council to review the matter before deciding on an extension of approval.

Background

ZONING:	MRS:	Urban
	TPS:	Residential R-20
LAND USE:	Residential	
LOT SIZE:	789m ²	
AREA:	20m ²	
USE CLASS:	'D' – Discretionary Use – “Home Occupation”	

Council received complaints from adjoining landowners that a business was operating in the above property. After further investigation, Council's Development Compliance Officer then informed the business operator of the need for planning approval to conduct a home occupation in a residential zone, in the City's letter dated the 18 March 2005.

The applicant subsequently submitted the above application for a Home Occupation – Spanish Dance Classes on the 23 March 2005 but still continued to conduct classes until 12 July 2005.



Submission

The applicant seeks approval for a home occupation. The proposal involves the teaching of Spanish dancing. The applicant has noted that the operation is small scale and often semi-private and conducted four days per week – (approximately 13 hours in total). The proposed timetable is as follows: -

- Monday – 6:30pm – 9:00 pm
- Tuesday – 6:00pm – 8:30pm
- Thursday – 5:00pm – 8:30pm
- Saturday – 11:30am – 4:00pm

The number of clients would be 7 – 12 per day. Each class would only be a maximum of 6 clients.

Report

Home occupations are a discretionary use under Council's Town Planning Scheme No.3 and as such the application was advertised to surrounding landowners. Nine (9) landowners were advised of the development application. Four (4) provided no objections, three (3) objected and two (2) did not respond.

The adjoining landowners objecting to the proposal were mainly concerned with noise from the footwork and instruments, and car parking. The applicant on a number of occasions was requested to cease operations until a determination of the application was made, however several complaints were received in regards to cars parking not only on the subject property, but also along adjoining neighbour's verges and on the road. This is in conflict with Council's requirements for 'Matters to be Considered by Council', specifically clause 10.2.1 (q) "*the amount of traffic likely to be generated by the proposal...*" of the scheme. The applicant has stated that a 15-minute interval will be placed to allow for a 'change over' period between classes, however the practicality of this approach has already proven ineffective through continued complaints from neighbours.

Because of the nature of the application originating from noise complaints, the City asked the applicant to provide an acoustic report from an independent consultant to measure and assess the noise emissions associated with the activity and provide possible amelioration methods that could be employed to rectify noise levels and assist in determining the application.

A review of the acoustic report received from Herring and Storer Acoustics revealed that noise emissions from the Spanish Dance Classes being conducted at the premises significantly exceed the Assigned Noise levels specified by the *Environmental Protection (Noise) Regulations 1997*. Measured noise levels were categorised into three (3) main noise sources being: - (1) Castanets, (2) Footwork, & (3)



Drum. To comply with assigned noise levels during the daytime and evening periods, reductions of 14 and 19 dB (decibels) respectively were required.

The report also suggested four noise control techniques to lower noise emissions being: -

- Rubber vinyl surfaces being used for flooring;
- 10mm laminated glazing being applied to the glazing surrounding the dance floor;
- Solid barriers/shutters being constructed to act as a seal to keep in noise; and
- Reduction in class size.

The above methods of amelioration whilst identified as ways of reducing noise levels, still incur certain constraints in their effectiveness. Varying floor surfaces could result in only footwork noise levels being inaudible at the receiver locations however it would not change the drum or castanet levels. Further, as suggested in the report, this method may be impractical to be applied, as a hard surface is required for the form of dance instruction and the possibility of removing flooring on occasions to achieve full effect of the dance style could also impede on the effectiveness further.

Although a letter of undertaking dated the 14 July 2005 from the applicant, stating that all amelioration works outlined in the acoustic report would be implemented, the underlying fact is that this type of activity is not suitable for a residential area due to noise emissions produced, and compliance with these regulations is not guaranteed. The activity should be contained within designated community centres/public halls, which have been designed to address acoustic issues and as such approval is not recommended.

Strategic Plan/Policy Implications

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

1. Managing Your City
 - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
2. Planning Your City
 - *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
 - *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*



The Planning Policies which apply to this item are:-

APD17 Standard Development Conditions and Footnotes

Budget/Financial Implications

Nil

Legal Implications

Nil

Community Consultation

14-Day period in which adjoining properties along Masfield Avenue were sent letters requesting comments.

Attachments

- (1) Location Plan
- (2) Site Plan

Advice to Proponent(s)/Submissioner(s)

The Proponent and those who lodged a submission on the proposal have been advised that this matter is to be considered at the August 2005 Council Meeting.

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

Nil.

14.18 (MINUTE NO 2923) (OCM 11/08/2005) - NOISE COMPLAINTS PROCEDURE (2711) (CW) (ATTACH)

RECOMMENDATION

That Council note the City's Health Service enforcement policy and current procedure for dealing with noise complaints and after hours noise monitoring by the City's Environmental Health Officers.

COUNCIL DECISION

MOVED Deputy Mayor R Graham SECONDED Cllr T Romano that Council:

- (1) note the officer's report;



- (2) require the City's *Noise Complaints Procedure* to be enhanced by the provision of an on-line *Noise Complaint Logging System* that enables customers to enter details of a noise complaint online, which is then submitted electronically as a customer service request for actioning;
- (3) direct that the new *Noise Complaint Logging System* is to be user-friendly, and easy to navigate from Council's homepage;
- (4) publish an article in an upcoming edition of *Cockburn Soundings* advising customers of the new service.

CARRIED 8/0

Reason for Decision

The City's Website contains a Health Service Request Form that can be used as a Noise Complaint Form but the system needs to be changed to make it clearer and easier for the City's customers to log their noise complaint on-line, and submit their request to the City on-line.

Background

At the Ordinary meeting of Council held on 15 March 2005 at item 22 the following Matter was noted for investigation, without debate:

"Deputy Mayor Graham has requested that a report be provided to a future Council Meeting, outlining options available to Council to improve the effectiveness of its noise complaints procedure.

The report should focus on:

- (1) *making it easier for residents to make complaints regarding noisy neighbours; and*
- (2) *canvassing any improvements to current processes that would result in more effective resolution to a complaint.*

The report should canvass the following options :

- *an electronic logging system using Council's website;*
- *a telephone hotline;*
- *after hours use of Council's security patrol officers to deal with noise complaints;*
- *use of Council's Rangers to deal with noise complaints;*
- *Council's Environmental Health Officers being on call after hours;*
- *amendments to Council's local laws.*



The report should provide a detailed outline of the current:

- (1) legal remedies available to complainants; and,*
- (2) process followed by Council when it receives a complaint”*

This report does not include discussion regarding noise emissions from barking dogs. Rangers Services deal with Noise from barking dogs under the provisions of the Dog Act.

Submission

N/A

Report

Current Procedure

In June 2002 the Health Service adopted “*Procedure B 01 Principles of Good Enforcement*” (see attachment) to complement the City’s Customer Service Charter. The procedure is based heavily on similar documents adopted in the United Kingdom. It sets out what the community, business and others being regulated can expect from Health Service Officers. It commits the Service to positive enforcement policies and procedures.

The primary function of Health Service enforcement work is to protect the public, the environment, consumers and residents, and at the same time, carry out the enforcement function in an equitable, practical and consistent manner.

The effectiveness of legislation in achieving its protective function depends crucially on the compliance of those regulated. The procedure recognises that most businesses and individuals want to comply with the law. The Health Service will, therefore, take care to help business and others meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly.

The emission of noise by equipment and noise complaints are legislated for in the Environmental Protection Act 1986 and *Environmental Protection (Noise) Regulations* 1997. Presently the City’s Environmental Health Officers are the only staff authorised by the Department of Environment Pollution Prevention Division (DoE) to administer the noise provisions of the Act and Regulations. Any person wishing to become an authorised person must first complete the required training course conducted by the Noise Section of the DoE. Due to the complexities and intricacies of noise, noise measurement and the application of the legislation, Environmental Health graduates or practicing Environmental Health Officers are



generally the only persons accepted into the course as they have the necessary background knowledge and skills.

Currently the City's Health Service accepts complaints from residents and businesses within the District by way of a formal medium – ie complaint form, letter and fax. The Health pages on the City's Website currently detail how noise is enforced and includes both a contact number and e-mail address for any resident wishing to make an initial enquiry into a noise complaint. A complainant can also download a Service Request form from the website, complete and then mail to the City.

Where a complaint is received via the telephone or e-mail, the complainant is advised of the course of action to be taken and is provided with a service request form to complete and return as well as a "Record of Events" to log when the noise is occurring. Single event noise (ie residential parties and sporadic events) are not investigated by the City's Health Service and residents contact the police in the first instance. It should be noted that the police have similar powers and delegations under the Act to enforce noise legislation as other "authorised persons".

Once a formal complaint has been received, an Environmental Health Officer will attend the premises which is alleged to be emitting the noise to advise them of the provisions of the Act and their rights and responsibilities. The advice is tailored to the type of noise being emitted as there are some instances where the Regulations allow excessive noise to be emitted. The Regulations define where excessive noise is not deemed unreasonable. Such instances include noise sources such as church bells, hobby power tools, lawn mowers and musical instruments which are exempt for certain time periods during the day, approved non-complying noise events and construction noise in some circumstances.

Both parties are formally advised of the result of the assessment and advice provided.

Where the City is advised by the complainant the unreasonable noise emission is continuing (this notification can be made by phone), Environmental Health Officers will attend the source of the noise and remind them of their obligations and enforcement options available to the City, followed by formal warning letters if necessary.

Enforcement Options

The enforcement options available to the Environmental Health Officer where the noise continues and is found to be unreasonable include:-

- Infringement Notice – Final warning with no fine attached
- Infringement Notice – Initial Penalty \$250.00, second penalty \$500.00.



- Court Action – maximum penalty of \$5000 plus daily penalty where applicable
- Service of A Noise Abatement Direction (NAD) – resident cannot make the noise for 7 days, \$25,000 maximum penalty (Court).
- Seizure of Equipment – for a maximum of 7 days, generally done in conjunction with a NAD.
- Service of an Environmental Protection Notice – the resident is required to undertake certain specified actions and works, failure to do so results in a \$62,500 (individual), or \$125,000 (body corporate). If the breach of the EPN is intentional or criminal, penalties double.

The evidence of persons complaining to the City about a noise problem is of paramount importance in establishing whether the noise is unreasonable, the commission of offences and hence the basis for the imposition of fines and penalties. While it is sometimes the case that prosecutions can be provided by evidence given solely by the City's Environmental Health Officers relating to noise level readings taken from properties adjoining noisy premises and the Officers own observations, due to the peculiarities and vagaries of the *Environmental Protection (Noise) Regulations 1997* it is the additional evidence provided by the complainant which makes the case far easier for the City's Solicitors to prove. The City's Solicitors believe that it will almost always be the case that the evidence of "complainants" is vital to establishing that unreasonable noise is being emitted from a premises and in proving offences against the Environmental Protection Act 1986.

The current after hours service provided by the City's Health Service is based on data recorded in the "Record of Events" form. Where there is a continuing, regular noise emission, an officer will provide the complainant with a mobile phone number and will attend if available. Environmental Health Officers are not currently paid "stand-by" rates and are only paid if they attend to the complaint – Minimum of 3 hours at the applicable overtime rate. When officers attend, they will gather evidence for service of an infringement notice but will generally not attend the noise emitting premises for safety reasons. The majority of noise complaints can be assessed and monitored during business hours. Officers very rarely have to make themselves available after hours (ie less than once per month).

The City's Public Health Co-ordinator has contacted the City of Rockingham and the City of Mandurah (similar population/number of complaints) who have advised that they follow the same procedure. The City of Joondalup has an agreement with an acoustic engineer whereby he will attend the noisy premises on behalf of the City, monitor the noise and provide a report to the City the following working day. He is not an authorised officer and does not undertake any enforcement role (ie service of infringements). The costs of the service



provided is additional to the general operating budget of the Joondalup Environmental Health Service.

Possible Improvements to current process

Option 1- Electronic Logging

As mentioned previously, an electronic copy of the Health Service Request Form is included on the City's Website. Further to this, the Health pages within the website includes an automatic enquiry e-mail to all of the City's Environmental Health Officers which would be responded to within 5 working days. A separate electronic logging system would be superfluous as this is adequately catered for within the current website.

Recommended Action:- This option is already provided within the current City of Cockburn website.

Option 2 – telephone hotline

The City's after hours telephone service includes noise as a specific enquiry. Where the noise relates to a single event such as a party, the complainant is advised to contact the police. Where the complaint relates to an ongoing matter, the complainants details are recorded and then forwarded to the City's Health Service the following working day. The City's Health Service would then respond to the complainant within 5 working days, including forwarding a Service Request Form and Record of Events Form. The provision of a separate noise "hotline" would be superfluous as this service is adequately provided within the current after hours service.

Recommended Action:- This option is already provided by the current after hours telephone service.

Options 3 & 4 – Use of Rangers or Security Officers

Advice from the City's Solicitors in relation to the use of "non-authorised" City of Cockburn Officers (ie Rangers and Security Staff) for formal action indicates that their role would be limited to evidence gathering only. Even so, the evidence they gather would be limited to what they heard at the time, rather than noise readings, components of the noise and whether or not the noise is deemed "unreasonable". Accordingly their evidence would be no different to that of the initial complainant, who would have logged such an event on their Record of Events form.

The City's Solicitors believe it is preferable to have City Officers who are authorised persons under the Act to attend premises and investigate complaints about noise emissions. It may be possible to have the City's Rangers or Security Officers trained to enable them to



become authorised officers however at present this would require completion of an authorised officer course at either the Department of Environment or privately through "Noise & Vibration Management Systems Pty Ltd". The course is expensive and has a prerequisite that the officer has skills and knowledge in the physics of noise, the measurement of noise, noise monitoring and noise management.

Currently the City's Security Patrol does attend some noise complaints in the first instance, however receipt of formal complaint, follow-up and enforcement is carried out by the City's Health Service.

Recommended Action:- This option is not recommended due to initial costs of training additional staff, and that the City of Cockburn currently employs authorised persons.

Option 5 – Environmental Health Officers being rostered on call

Were the City to consider having an officer on stand-by permanently, the current Award would require that officer to be paid their usual hourly rate while on stand by and then the applicable overtime rate should they attend the complaint. Where an officer attended and was required to serve an infringement at the time that the noise was emitted, Police would also be required to attend to ensure the safety of the City's Officer. Whether the Police would be able to attend at such short notice is unknown. The City's Health Service would not be fulfilling its obligations under Occupational Health & Safety legislation should it not provide for the safety of it's officers.

Recommended Action:- This option is not recommended due to the significant increase in costs incurred to the City. This could equate to employing two new Environmental Health Officers. Furthermore the low number of complaints which require after hours attendance would not justify the implementation of this type of system.

Option 6 –Amendment to the City of Cockburn Local Laws

The *City of Cockburn (Local Government Act) Local Laws 2000* were amended in November 2001 to remove "noise" from the definition of a nuisance, the reason being that noise was already legislated for in the Environmental Protection Act 1986. The City's Solicitors have advised that any prosecution action taken under the Local Laws by a Ranger or Security Officer for a noise offence would be found to be beyond the power of the Local Laws, in that they are inconsistent with the Act, ie those officers were carrying out powers and duties reserved for authorised persons under the Act. Therefore the use of an unauthorised person for enforcement action is not an option.

Recommended Action:- This option is not recommended due to lack of legal standing.



Other options available to complainants

Should a resident wish to act independently of the City, or if they are dissatisfied with the response of the City's Health Service in relation to the enforcement of the noise provisions of the Act, Section 79 (2) and (3) of the Act provides them the ability to commence civil action against the owners or occupiers of premises from which the unreasonable noise is being emitted.

This is rarely done however since such proceedings are both complex and expensive, and also likely to be more protracted than prosecution proceedings brought by the City of Cockburn in a Court of Petty Sessions. The results obtained by a City of Cockburn prosecution action may well have the effect of curtailing the unreasonable emission for the noise from the premises quicker than civil litigation.

After reviewing the current noise complaint practices and comparing to similar Local Government Authorities, the City's Health Service believes it provides an excellent service to the City's residents without unwarranted and unnecessary expenditure. Residents have a wide variety of contact mediums accessible to them for the lodging of a complaint and have the option of contacting the Police where they require immediate action

The City's Health Service recommends that the current procedure for dealing with noise complaints, and after hours monitoring be continued unchanged.

Strategic Plan/Policy Implications

"To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way."

Budget/Financial Implications

Should the Council agree with the report recommendation, there is little financial implication since current costs are absorbed in the Health Services current operating budget. If the Council decides to implement a 24 hour "on call" service, it is likely that there will be a significant financial implication due to the need to employ additional staff and provide additional fleet vehicles.

Legal Implications

The enforcement of the provisions of the Environmental Protection Act 1986 and *Environmental Protection (Noise) Regulations* 1997 already lie with the City's Environmental Health Officers.



Community Consultation

Nil

Attachments

(1) Procedure B 01 Principles of Good Enforcement

Advice to Proponent(s)/Submissioner(s)

N/A

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

Nil.

14.19 (MINUTE NO 2924) (OCM 11/08/2005) - SOUTHERN SUBURBS DISTRICT STRUCTURE PLAN - STAGE 3 - HAMMOND PARK/WATTLEUP (9669) (AJB/JU) (ATTACH)

<p>RECOMMENDATION That Council:</p> <ol style="list-style-type: none">(1) receive the report;(2) not adopt the Southern Suburbs District Structure Plan – Stage 3 Hammond Park/Wattleup under clause 6.2 of Town Planning Scheme No 3;(3) adopt the Southern Suburbs District Structure Plan – Stage 3 Hammond Park/Wattleup for the purpose of an advisory document, to guide and coordinate the preparation of Local Structure Plans subject to the following modifications being made;<ol style="list-style-type: none">1. The notation on the Structure Plan for Lot 41 Gaebler Road being amended to state an Urban Density Target of UDT 30 will be supported subject to Local Structure Plan requirements and the report being amended accordingly.2. Including a notation on the Structure Plan stating that landowners of properties adjacent to Rowley Road, Freeway and Railway and affected by noise will be required to address noise through acoustic studies, noise walls, building design guidelines and notifications on titles at the local structure plan and subdivision stages and the report being amended accordingly.3. Modify the ‘Existing Land Uses’ and ‘Opportunities and
--



Constraints' plans contained in the Structure Plan Report to remove reference to the use of Lot 801 Wattleup Road as a market garden as the use of market garden has ceased on that land.

4. Modify page 27 of the Structure plan report to incorporate the Water Corporation's comments in submission 32 of the attached Schedule of Submissions.
 5. Modify Figure 4 of the Structure Plan report to include reference to the correct 500 metre buffer as opposed to an 800 metre buffer to the poultry farm.
 6. Modify the Structure Plan to include "Mixed Business / Local Centre / Home Business / Home Occupation – other uses" on Lot 301 Barfield Road extending from Barfield Road towards the Freeway and modify the report accordingly.
 7. Section 6.6 of the Structure Plan report being amended to note comments made in submission 35 point 8 of the attached Schedule of Submissions.
 8. Modify the Structure Plan report to reflect the correct methodology for calculating urban density targets as raised in point 1 of Submission 36 of the attached Schedule of Submissions.
 9. Modify the Structure Plan report advising that the densities will be reviewed at the Local Structure Plan stage.
 10. Modify the Structure Plan report to address the role, function, requirements and landowner obligations regarding the construction of Rowley Road.
 11. Modify the Structure Plan report to reflect the POS cash-in-lieu proposal recommended in this agenda item.
- (3) adopt the Schedule of Submissions contained in the Agenda attachments;
 - (4) advise those who made submissions of Council's decision;
 - (5) advise the Western Australian Planning Commission of Council's decision;
 - (6) write to the Western Australian Planning Commission requesting a response to the proposal to transfer the Structure Plan area



from 'Urban Deferred' to 'Urban' under the Metropolitan Region Scheme referred to the Commission on 11 March 2005; and

- (7) advise the Western Australian Planning Commission and Main Roads WA that whilst Planning Control Area No 76 designates 90 metres for the future Rowley Road, this can only be justified in the event that the road provides direct access to the proposed outer harbour and in any event the liability of landowners contributions to this road should not exceed that of a normal district distributor with a notional width of 40 metres and works being limited to those in Planning Bulletin PB 18 Development Contributions Item 6.2 - District Distributors and additional land and works over and above this should be the requirement of the relevant state authority.

COUNCIL DECISION

MOVED C/r J Baker SECONDED C/r A Tilbury that Council adopt the recommendation subject to the addition of sub-recommendations (8) and (9) as follows:-

- (8) Require proponents of future Local Structure Plans in the Southern Suburbs District Structure Plan – Stage 3 to determine the existence, extent and management plans for any lots affected by Acid Sulphate Soils in accordance with the Planning Bulletin Number 64 prepared by the Western Australian Planning Commission and in consultation with the Department of Environment.
- (9) instruct Council staff to:-
- (a) notify all landowners within the Structure Plan area of the final Modified Structure Plan and an explanation as to the basis upon which the plan was prepared and how it is to be applied.
- (b) implement an internal process to ensure that prospective purchasers are notified on Zoning Statements issued by the City's Statutory Planning Service of the Council's adoption of the Southern Suburbs District Structure Plan – Stage 3 Hammond Park/ Wattleup

MOVED C/r Richard Graham to amend (9)(a) to replace the words "the Structure Plan area" with "the Southern Suburbs District Structure Plan – Stage 3".

CARRIED 8/0



Reason for Decision

Acid Sulphate Soils have the potential to create environmental problems and infrastructure damage caused by development that involves the disturbance of acid sulphate soils. The WAPC in their planning bulletin No 64 explain how Acid Sulphate soils occur and indicate the likely risk areas and environmental principles to guide development responses. The Southern Suburbs area must be fully assessed at the detailed Structure Plan stage to ensure that any acid sulphate soils are identified and appropriate management responses are put in place to militate against any adverse impacts.

It is also important that Council Staff notify existing landowners and future purchasers of the Council adopted Structure Plan to ensure there is effective information dissemination on the Council's Vision for the future planning and development of the area.

Background

At its meeting on the 15 February 2005 (Item 14.12 minute no.2709) Council resolved to adopt the Draft Southern Suburbs District Structure Plan – Stage 3 – Hammond Park/Wattleup (see Agenda attachments for a copy of the Plan) for the purposes of advertising in accordance with par 6 of Town Planning Scheme No. 3. The Structure Plan covers that area of 'Urban Deferred' land under the Metropolitan Region Scheme from Gaebler Road to Rowley Road on the western side of the Kwinana Freeway. At that meeting Council also resolved to request that the Western Australian Planning Commission (WAPC) lift the 'Urban Deferred' and initiate Amendment No. 28 to Town Planning Scheme No. 3. A report on Scheme Amendment No. 28 is presented to Council separately in this Agenda.

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

Submission

The draft District Structure Plan was advertised for public comment from the 16 February to the 23 March 2005 (5 weeks). Advertisements were placed in both local papers and the West Australian. All property owners and any consultants acting in the area were invited to a meeting on the 16 February 2005 presenting the draft District Structure Plan. They were also notified of the draft Plan and asked to comment (59 letters sent to property owners and six to consultants). Infrastructure agencies, the Department for Planning and Infrastructure, the Department for Environment, Town of Kwinana and other government agencies were notified of the Plan and requested to



comment (Ten agencies in total where notified of the draft Plan, seven responses where received). Council Officer's met with officer's from the Department for Planning and Infrastructure, the Department of Education and Training and Alcoa to present the draft Structure Plan. The Plan was also placed on Council's web page and subscribers to Council's electronic newsletter 'Pass it On' where also made aware of the plan. Forty two submissions where received, thirty two during the advertising period and ten outside the advertising period. Ten objections (24%) where received on the Structure Plan with the remaining 32 (76%) generally supporting the Structure Plan or making comments on the Plan.

The Agenda attachments contain a Schedule of Submissions summarising all of the submissions made.

The main issues raised in the submissions requiring detailed comment are as follows:

1. Rowley Road widening and upgrading: Nine of the submissions raised concerns with the width reserved for Rowley Road widening and upgrading. The Department for Planning and Infrastructure has identified the upgrading of Rowley Road to a dual carriageway which could potentially provide the main link from the Kwinana Freeway to the future outer port. Whilst Rowley Road has not been designated as an 'Other Regional Road' (blue road) under the Metropolitan Region Scheme, Planning Control Area No. 76 has been designated over the alignment. This Planning Control Area shows a width of 90 metres being provided for the widening and upgrading. The objections raised in the submissions relate to the 90 metre width of the reservation, given that other 'blue roads' in the City of Cockburn only have a road reservation width of 40 metres. Those making submissions suggest that they are willing to provide a 40 metre road reserve for Rowley Road similar to other district distributors reservations in the City, however believe that if further width is required that this should be purchased by those requiring the extra width. Fremantle Ports (Submission No. 18 in the Schedule of Submissions) however suggest that a 200 metre buffer from Rowley Road be applied given that it is currently being investigated as a key transport link to the proposed Outer Harbour. Fremantle Ports also requests that appropriate building design guidelines be applied to those properties that could potentially be affected by freight noise, access onto Rowley Road be limited to Barfield Road and Hammond Road and that these intersections be designed to accommodate freight traffic.

Given that other district distributor roads within the City such as Russell Road, Hammond Road and Beeliar Drive are only 40 metres in width, it is considered unreasonable that the landowners be responsible for the total 90 metre wide reservation for Rowley Road in accordance with PCA 76 be given up free of cost by the land owners as a condition of subdivision as clearly it is not their development that is generating that



need. It is however considered reasonable that the owners contribute to a notional 40 metre wide reserve consistent with other district distributors in the City, be responsible for construction in accordance with the requirements of section 6.2 District Distributors in Planning Bulletin PB 18 Developer Contributions. Appropriate building design guidelines, appropriate notifications on title of abutting lots, limited access and designing of intersections to cater for freight traffic must also be accommodated by owners. Noise attenuation features should be incorporated into both the road reservation and within developments backing onto Rowley Road.

The Structure Plan report should be modified to reflect the above requirements.

The Manager of Planning Services has also been informed by officer's from Main Roads that the proposed connection of Barfield Road and Rowley Road is likely to be required to be grade separated given the closeness of this intersection with the Freeway. This separation will occur if and when Rowley Road is upgraded. The Barfield Road link is important to provide access to the future Mandogalup railway station and link to residential development planned to the south of Rowley Road.

2. Location of the proposed Primary School and High School: Two government schools are proposed within the Southern Suburbs Stage 3 area. Two objections were received strongly opposing the location of the proposed primary school. A further two strongly oppose the location of the high school. A further submission was received suggesting that the primary school be located further to the east, towards Hammond Road. Submission No. 25 from the Department for Education and Training (DET) advises that the Department is satisfied with the general location of the two school sites and that they intend to engage a consultant to provide geo-technical, environmental and other advice as to the suitability of these sites for future schools. As outlined in the Structure Plan Report (p. 22) school sites have been located in accordance with Liveable Neighbourhood principles, being on the edge of 400 metre or 800 metre walkable catchments, on neighbourhood connector roads and on largely flat sites. During the preparation of the draft Structure Plan no alternative suitable sites were identified for the high school based on the above principles.

In respect to the primary school the site could be moved northwards to the boundary of the Harry Waring Reserve, however this location is not favoured as it is less central to the catchment and would result in longer walking/cycling distances for students south of Wattleup Road. The relocation of the primary school to the north would not satisfy those objecting to the location to the primary school site who are requesting that the site be relocated eastwards towards Hammond Road on other owners land. This is not supported for the following reasons:



- The current location is acceptable to DET as it is fairly central to its catchment (which will include the semi rural areas in West Wattleup) and is located away from proposed Hammond Park Primary School and North Mandogalup Primary School sites;
- A school located in the proposed location will better service potential urban land that may be developed in the future further to the west of the southern suburbs stage 3 area;
- The contour map shows that the proposed location is probably the flattest site in the area north of Wattleup Road.

A site south of Mandogalup Road is not favoured as the land is generally steeper and in terms of fairness and equity it would be unreasonable to locate the school on this land given that all of the owners are already losing considerable potential due to the requirements of Rowley Road.

The location of the High School is central to the 4 feeder primary schools (Hammond Park, Aubin Grove, East Wattleup and Mandogalup North). The contour map indicates that the land proposed for the high school is reasonably flat land. It is also surrounded by a good network of roads and is close to the future Mandogalup railway station which will provide access for senior students. The alternative site adjacent to Frankland Reserve to the south is far too steep and provides no locational advantages.

The Department for Education and Training has confirmed they will acquire the land when subdivision commences in the area and the nearby existing schools are under enrolment pressure. DET usually acquires land 18 months in advance for a primary school and 24 months in advance for a high school prior to the scheduled opening. The timing of the schools will depend on the rate of development in the area and the DET is unable to predict when these schools might be required but it is likely to be some time off.

In summary the location of the school sites has been given considerable thought and the sites have been determined in accordance with sound planning principles and in consultation with the Department for Education and Training. No special consideration or favouritism was given to any land owner as was suggested in one submission.

3. Urban Densities: This was a significant issue raised in the submissions received and contains two parts,

- a) the way Urban Density Targets (UDT) are calculated, and
- b) the density of the targets proposed.



Twelve submissions in total were received on the issue with two requesting that the densities be lowered, eight requesting the densities be increased and two stating that they support the proposed density targets on their land. Council officer's met with a number of developers, consultants (including the authors of Liveable Neighbourhoods 3) and land owners individually to discuss the issue of urban densities proposed for the area.

The proposed residential development codings shown on the plan differ from the traditional R Codings used throughout the City. The UDT are in line with those included the draft Liveable Neighbourhoods 3 (LN3) which encourages a mixture of lot sizes distributed throughout neighbourhoods to provide housing choice. This is achieved through what is referred to as urban density targets which are the number of dwellings per hectare less deductions for non-residential uses such as roads, drainage sites and public open space. The use of urban density targets rather than R Codings provides greater flexibility for lot sizes within designated areas and provides opportunity for increasingly diverse household types.

The Report will discuss the two parts of this issue separately.

a) Calculation of Urban Density Targets – Page 169 of Liveable Neighbourhoods 3 defines Urban Density as “*the dwelling yield from a hectare of residential land comprising 10 percent public open space, 25 percent streets and 65 percent lots*”. This is the formula that the City has calculated its Urban Density Targets. The draft Liveable Neighbourhoods was prepared by Taylor Burrell Barnett for the WAPC who have significant experience in land development and it is therefore considered that the proposal of 65 percent of land being available for development has been tested. A comparison between the proposed 40% land required for public purpose as outlined in submission no. 36 and Council's 35% requirement is shown in the following tables:

UDT code	LN3 target dwellings	Average lot size	UDT code	Submission no. 36 target dwellings	Average lot size	Difference
U30	(10ha – 35%) / 300 =	217m ²	U30	(10ha – 40%) / 300 =	200m ²	-17m ²
U20	(10ha – 35%) / 200 =	352m ²	U20	(10ha – 40%) / 200 =	300m ²	-25m ²
U15	(10ha – 35%) / 150 =	433m ²	U15	(10ha – 40%) / 150 =	400m ²	-33m ²
U12	(10ha – 35%) / 120 =	542m ²	U12	(10ha – 40%) / 120 =	500m ²	-41m ²
Total		379m ²	Total		350m ²	-29m ²



If more that 35 percent of the land is required for infrastructure and public open space purposes the consequences will be a minor increase in the number of smaller lots required to achieve the urban density target. This is not considered a concern given that the Structure Plan is now only proposed as an advisory document and the intention of the Urban Density Targets is to provide for lot diversity and choice which is something that the current R Codes do not achieve.

It should be noted that the actual target density/coding will be determined at the local structure Plan stage with those shown on the District Structure plan being a guide. The Structure Plan report should be modified to reflect this.

b) Proposed Urban Density Targets – Of the twelve submissions that specifically raised the issue of urban density two of these submissions requested that the targets be lowered, eight requested they be raised and two were happy with the designated targets for their land. The arguments for lowering and raising the targets is outlined in the Schedule of Submissions attached to this Agenda Item and largely relate to market readiness and lot location within walkable catchments.

A comparison of the proposed Urban Density Targets shown on the District Structure Plan and the R Codes is given in the following table:

Urban Density Target (UDT)	Average Lot Size UDT (m ²)	Approx. R Code Equivalent
30	217	R40
20	325	R25
15	433	R20
12	541	R17.5

Submission 36 proposes a down grading of the Urban Density Targets put forward in the draft Structure Plan. The following table shows the proposed modifications to the Urban Density Targets compared to the draft Structure Plan:

Structure Plan UDT	Structure Plan Target Dwellings	Modified UDT	Modified Target Dwellings
30	450	20	300
20	832	15	624
15	420	12	335
12	1074	10	895
Totals	2776		2154

As can be seen above the difference in the number of dwellings is approximately 622 between the draft Structure Plan and the proposal put forward in submission no. 36. The Urban Density Targets put forward in the Structure Plan were derived from LN3. Page 72, R12 of LN3 states that “a residential density of at least 25 dwellings per site



hectare within 400m of railway stations, and at least 15 dwellings per hectare from 400m to 800m of stations". LN3 goes on further to state that "at least 15 dwellings per site hectare within 400m of town centre and major bus stops".

Given the above information and the proposals put forward in LN 3 it is considered that the densities shown on the draft Structure Plan are not substantially higher as put forward in submission no. 36 and Gold Estates submission no 35. The reason for officer's using the Urban Density Targets as provided for in LN 3 to prepare the draft Structure Plan was to promote flexibility and housing choice within the area. The Structure Plan is an advisory document only and the detailed densities that will eventually be constructed in the area will be determined through the Local Structure Plan and subdivision processes. The Plan offers the opportunity for developers to investigate and challenge the current market trends of large lot sizes within walkable catchments of activity centres. The current Plan not only offers opportunities for flexibility but also promotes the State Governments vision of providing housing choice and using public infrastructure in a much more sustainable manner by promoting higher densities in appropriate locations.

Adoption of draft Structure Plan: Part 6 of Town Planning Scheme No. 3 outlines the process for the preparation and formal adoption of structure plans. Given the issues raised during advertising the draft Plan, particularly in relation to the location of the primary and high schools, and the proposal to continue with the Urban Density Targets outlined in LN 3 it is recommended that the Southern Suburbs District Structure Plan – Stage 3 – Hammond Park/Wattleup not be adopted in accordance with Town Planning Scheme No. 3 but rather be adopted by Council as an advisory document only.

If Council was to adopt the District Structure Plan in accordance with clause 6.2 of Town Planning Scheme No. 3 then the Structure Plan forms part of the Scheme and all zonings and proposals put forward on the Structure Plan are formalised. It is considered that this more appropriately done at the local structure plan stage where there is more detailed consideration given to the proposals. The Southern Suburbs District Structure Plan report should be amended to clearly state the status of the plan and its function.

POS cash-in-lieu proposal: During the advertising of Amendment No. 28 the City canvassed property owners within the Structure Plan area as to their thoughts on a proposal to take 9% land for POS in the area and the remaining 1% to be provided as cash-in-lieu. This proposal was supported by a number of submissions and given that only two objections were received or that the issue was not raised as a concern by landowners in the area it is recommended that this proposal be adopted. This proposal needs to be incorporated into the Structure Plan Report and a notation should be placed on the Structure Plan



advising of the 9% land 1% cash-in-lieu proposal. Further information on this proposal is outlined in the Scheme Amendment No. 28 report included separately in this Agenda.

Lifting of the 'Urban Deferment': As previously advised the Structure Plan area is zoned 'Urban Deferred' under the Metropolitan Region Scheme and requires the transferring into the 'Urban' zone prior to development of the area. Council wrote to the Western Australian Planning Commission in March 2005 following the adoption of the Structure Plan for advertising purposes requesting that the land be transferred from 'Urban Deferred' to 'Urban'. To date Council has not received a response to this request. It is therefore recommended that Council again write to the Commission and request that the land be transferred.

Conclusion

The draft Southern Suburbs District Structure Plan Stage 3 – Hammond Park/Wattleup has been prepared by Council's Strategic Planning Services as the basis for an application to the Western Australian Planning Commission to transfer the subject area from 'Urban Deferred' to 'Urban' in the MRS, and to coordinate local structure plans for land within the Structure Plan area. The District Structure Plan is based on Liveable Neighbourhood 3 principles and sound planning practice.

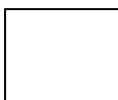
The District Structure Plan shows approved proposals for the surrounding land which provides a context for the subject land and is based on Liveable Neighbourhood principles which have been adopted by Council as a policy and the application of sound planning principles.

It is recommended that the District Structure Plan be amended to reflect the modifications outlined above and in the Schedule of Submissions and adopted by Council as an advisory document and the Western Australian Planning Commission be advised of Council's decision.

Strategic Plan/Policy Implications

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

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



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

3. Facilitating the needs of Your Community
 - *"To facilitate and provide an optimum range of community services."*
 - *"To determine by best practice, the most appropriate range of recreation areas to be provided within the district to meet the needs of all age groups within the community."*

The Council Policies which apply to this item are:-

SPD1	BUSHLAND CONSERVATION POLICY
SPD2	COMMUNITY FACILITIES INFRASTRUCTURE - 10 YEAR FORWARD PLAN
SPD3	NATIVE FAUNA PROTECTION POLICY
SPD4	LIVEABLE NEIGHBOURHOODS'
SPD5	WETLAND CONSERVATION POLICY
APD4	PUBLIC OPEN SPACE
APD12	AGED PERSONS ACCOMMODATION - DEVELOPMENT GUIDELINES
APD20	DESIGN PRINCIPLES FOR INCORPORATING NATURAL MANAGEMENT AREAS INCLUDING WETLANDS AND BUSHLANDS IN OPEN SPACE AND / OR DRAINAGE AREAS
APD26	CONTROL MEASURES FOR PROTECTING WATER RESOURCES IN RECEIVING ENVIRONMENTS
APD28	PUBLIC OPEN SPACE CREDIT CALCULATIONS
APD30	ROAD RESERVE AND PAVEMENT STANDARDS

Budget/Financial Implications

There has been considerable cost saving to Council by producing the draft Southern Suburbs District Structure Plan – Stage 3 for Hammond Park/Wattleup in-house. Administrative costs have been incurred in the preparation and consultation on this planning document.

Legal Implications

Nil

Community Consultation

The District Structure Plan was advertised for public comment from the 16 February to the 23 March 2005 (5 weeks). Advertisements were



placed in both local papers and the West Australian. All property owners and any consultants acting in the area where invited to a meeting on the 16 February 2005 presenting the draft District Structure Plan. They were also notified of the draft Plan and asked to comment (59 letters sent to property owners and six to consultants). Infrastructure agencies, the Department for Planning and Infrastructure, the Department for Environment, Town of Kwinana and other government agencies where notified of the Plan and requested to comment (Ten agencies in total where notified of the draft Plan, seven responses where received). Council Officer's met with officer's from the Department for Planning and Infrastructure and the Department of Education and Training to present the draft Structure Plan. The Plan was also placed on Council's web page and subscribers to Council's electronic newsletter 'Pass it On' where also made aware of the Plan.

Forty one submissions where received, thirty one during the advertising period and ten outside the advertising period. Ten objections (24%) where received on the Structure Plan with the remaining 31 (76%) generally supporting the Structure Plan or making comments on the Plan.

Attachment(s)

- (1) Southern Suburbs District Structure Plan Stage 3 – Hammond Park/Wattleup
- (2) Schedule of Submissions

Advice to Proponent(s)/Submissioner(s)

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

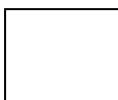
Implications of Section 3.18(3) Local Government Act, 1995

Nil.

14.20 (MINUTE NO 2925) (OCM 11/08/2005) - CONTROLLING PEST ANIMALS IN COUNCIL'S CONSERVATION RESERVES (6119) (PS)

RECOMMENDATION
That Council receive the report regarding controlling pest animals in Council's Conservation Reserves.

COUNCIL DECISION
MOVED Clr I Whitfield SECONDED Clr S Limbert that Council:-



- (1) receive the report regarding controlling pest animals in Council's Conservation reserves;
- (2) require a future report to Council on the value of implementing local laws for cats similar to those used in the City of Stirling and Shire of Busselton; and
- (3) seek information from the City of Armadale and Murdoch University regarding cat dispersal.

CARRIED 8/0

Reason for Decision

The City of Cockburn has one of the richest expanses of natural habitat in the metropolitan area, as seen from Item 14.16. With fast encroaching housing and existing housing, Council needs to be proactive in the protection of native fauna. The report will explain the practicalities of the Local Cat Laws, their cost and the value of these laws to the sustainable development of natural heritage.

Background

At the Ordinary Meeting of Council on 17 May 2005, Cllr Whitfield raised a matter to be noted for investigation regarding controlling pest animals within Conservation Areas. The City has gathered the information contained in this report.

Submission

N/A

Report

Urban vertebrate pests such as rabbits, foxes and cats (both feral and domestic) can have a large impact on remnant bushland areas. This is no exception within the district where a recent fauna survey of Bibra Lake found evidence of rabbits, foxes and cats within the bushland area.

Rabbits compete with native animals (sometimes to the point of exclusion), for food and shelter, and can severely affect the type and quality of vegetation in a reserve. Foxes and cats can also affect endemic animal populations, largely through predation. These animals are a problem in bushland management where their presence not only



affects the existing state of bushland reserves, but also hinders the effective rehabilitation of these sites (e.g. rabbits grazing revegetation).

Unfortunately, while the problems are obvious and widespread, there are no simple solutions to urban vertebrate pests. Control methods for all three of the above mentioned species tend to impact either on the bushland values themselves (e.g. warren/den fumigation and ripping) or on the public access of the reserves (e.g. chemical baiting). As well as the actual removal of these pest animals there is a role for education and the use of enforcement that can play a role.

Effective pest management of urban reserves will need to be on a case-by-case basis. This report will briefly list the different control methods available for rabbits, foxes and cats in urban reserves, as well as a brief summary of the advantages and disadvantages of each method.

Rabbits

There are two chemicals used extensively in rabbit baiting programs. Pindone and 1080. Both can be used very effectively for rabbit control. Both are relatively economical and need little time/labour investment to perform. Both also have potential non-target impacts, and for this reason as well as the negative connotations that the use of poisons holds for many people, any pest management involving poisons needs to be highly restricted to the public (and/or public pets). The public also has to be very well notified, in advance, of treatment as well as at the time of treatment.

Pindone is a non-specific toxin which will kill any animal that ingests enough of the treated bait. For this reason the potential for killing non-target species is high. Some non-target effects can be nullified by using bait stations which exclude any animals above rabbit size, and by carefully placing stations in areas where rabbits alone are likely to feed. Pindone is generally mixed with oats. This excludes any animals that will not eat oats. However, even with these precautions, some native animals are still at risk. The types of animals likely to be at risk from pindone baiting for rabbits are bandicoots and parrots (and larger animals such as kangaroos where bait stations are not employed). Pindone does have an antidote. Pindone also has no secondary poisoning effects (i.e. an animal feeding on an animal killed by pindone, is not exposed to the effects of the poison in the target animal, and will suffer no ill effects).

1080 is a more specific poison. Many native plants (especially those found in the south-west-corner of Western Australia) have naturally occurring, high-levels of 1080 in their foliage. The presence of this toxin was presumably a natural strategy to help prevent grazing of foliage by native animals. Over time as native animals became resistant to this chemical in native plants, the plants increased 1080 levels to gain greater effects. Native animals then became resistant to these higher



toxin concentrations. This led eventually to many native animals (especially herbivores, but also to an extent carnivores) becoming relatively resistant to 1080. For this reason the non-target effects of 1080 on local native species are significantly reduced. However local native species are only relatively resistant and so care needs to be undertaken when applying the poison.

1080 is also usually mixed with oats, and all of the measures used to reduce non-target impacts in pindone can also be employed for 1080. 1080 does not have an effective antidote (especially if the poisoning is not diagnosed for some time). 1080 can have some secondary poisoning effects. For example a bird of prey feeding on a rabbit killed with 1080, can also be poisoned. This increases the non-target risk.

There are several physical control methods that can be used to manage rabbits. All are relatively labour/time intensive and as such not practical for use on a large scale problem. However all of these methods can often be used effectively on a small scale. Warren ripping and harbourage destruction - destruction of rabbit warrens can be very effective in removing small, localised rabbit populations. However this method has some drawbacks in bushland areas. Firstly warren ripping can destroy the vegetation structure where the warren occurs. This will also be an ineffective method in many of Cockburn's Conservation Areas where rabbits utilise the thick vegetation for shelter rather than warrens. Harbourage destruction also has the potential to cause damage to native vegetation structure. Both these methods may impact on any native animals that also utilise warrens and their surrounding vegetation (e.g. lizards and snakes in warrens, and bandicoots in long thick grass).

Fumigation is the chemical poisoning of rabbits in a warren by depositing a fumigant in the warren and closing all of the exits. This can be a very effective method of removing small localised rabbit populations. However this is also an ineffective method of removing rabbits where the majority of rabbits live above ground (as is the case in many of Cockburn's Conservation Areas). Fumigation has the potential to impact on some native species such as snakes and lizards, that often utilise rabbit warrens for shelter.

Trapping can be effective in removing small populations of rabbits, but usually only if the area is enclosed, or if competing food sources are removed. Otherwise trapping is unlikely to capture enough rabbits to produce any significant effects in a reserve. The other consideration is how to dispose humanely of the trapped rabbits once they have been caught. Shooting is not a viable method in urban areas.

Rabbit-proof or exclusion fencing can be very successful in keeping rabbits out of specific areas, or in limiting a population so that it can be effectively controlled with other methods. However fencing is very labour intensive and potentially costly to install, and requires consistent



vigilant maintenance to be effective. Fencing in conjunction with other methods (such as chemical baiting, fumigation or trapping) can be particularly effective especially for specific small areas (e.g. small rehabilitation sites). It is important to realise that fencing can impact native animals also as it may restrict their access to food, shelter and other resources.

There are two forms of biological control available in Australia at present. Myxomatosis and Rabbit Calicivirus Disease, either which can be sourced by the Council but it was felt appropriate to at least advise Council of their presence.

Myxomatosis was released in Australia in 1950 to initial results of around 99% mortality. Since that time the effectiveness of Myxomatosis has decreased as rabbits gained immunity to the disease. However, outbreaks of Myxomatosis still occur especially in the early summer months (usually related to increases in mosquito numbers) and can still effect young rabbits without passive immunity.

Rabbit Calicivirus Disease was accidentally released in Australia in 1995 with mixed results. Results vary depending on the time at which a rabbit population is exposed to the virus (e.g. breeding or non-breeding season), and whether the population has been previously exposed to the virus.

Both viruses are likely to have some effect on some rabbit populations, however neither are effective rabbit control methods on their own.

Foxes

Chemical control of foxes is largely restricted to different forms of 1080 baiting. Fox baits are commonly 1080 poison impregnated in: dried meat baits, oat baits, or egg baits. Baiting is a cost effective and efficient method of removing foxes. The advantages and disadvantages of 1080 use for fox control are very similar to those for rabbit control however there are some important differences. Meat and egg baits expose a different range of non-target animals to the poison. Native carnivores are at risk from meat baits (e.g. birds of prey and lizards), and pet dogs and cats are much more likely to take meat baits. Also due to the nature of meat/egg baits (i.e. single lethal dose in one bait), baits are at higher risk of being totally removed from the area exposing a totally different range of animals to the poison, than those intended. This is to some extent mitigated by tethering and burying the baits. Similar methods of physical control are used for fox baiting as for rabbit baiting.

Trapping for foxes can be successful in small scale areas if carried out by experienced personnel in particular problem areas. However trapping is unlikely to be viable on a large scale. Trapping is also unlikely to be viable in areas of high public access where traps (especially leg traps) are likely to pose some risk to both the public and



their pets. With some types of leg traps non-target animals can be released, often with minimal damage.

Fumigation of fox dens (in a similar manner to fumigation of rabbit dens) can be effective in reducing fox numbers. Fox dens are not always active and fumigation is most successful when the dens are treated at a time (usually August to September) when they are being utilised for cub production. Non-target risks are likely to be snakes and lizards utilising non-active dens. The effectiveness of this method is totally reliant on being able to identify the fox dens when they are active, and when the mother will not leave the den on disturbance due to her cubs.

Exclusion fencing for foxes needs to be on a large scale and extensive to have an effect as foxes are capable of scaling very large fences. The main restriction to this method is purely the cost as it is a very labour/time intensive management method.

Shooting is very labour intensive and not particularly successful in areas where fox densities are relatively low. Shooting is not a viable control method in urban areas.

Cats

Chemical control of cats is also restricted to different forms of 1080 baiting. Cat baits are commonly 1080 poison impregnated in: dried meat baits, oat baits, egg baits, and an experimental sausage bait. Baiting is a cost effective and efficient method of removing cats. The advantages and disadvantages of 1080 use for cat control are very similar to those for fox control. The effectiveness of 1080 baiting for cat control is also dependent on season, with best results achieved in late Autumn when other competing food resources are naturally reduced. Experimental sausage baits may also have more non-target effects as they are easier to chew and ingest than dried meat baits (thus potentially making the baits accessible to smaller carnivores). There is also a very large problem in exposing domestic cats to feral-cat meat baits. This is a very real problem in urban areas.

Similar methods of physical control are used for cat baiting as for fox baiting. As for foxes, trapping for cats can be successful in small scale areas if carried out by experienced personnel in particular problem areas. However trapping is labour intensive and unlikely to be viable on a large scale. While the techniques vary slightly, the advantages and disadvantages of trapping for cats are the same as those for trapping foxes.

An advantage of trapping cats would be to educate the community on the movement of their domestic cats and help educate the community on the reasons why cats need to be managed. Currently there is work being undertaken by Murdoch University within the City of Armadale which intends to examine the dispersal of domestic cats during the day.



This work is expected to be completed within the next couple of months.

Fumigation of rabbit warrens and/or fox dens being utilised by cats for shelter can be effective in removing problem cats. However feral cats are very wary and can often evacuate a den/warren being fumigated before the process is complete. Non-target risks are likely to be snakes and lizards utilising non-active dens.

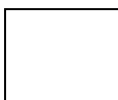
Exclusion fencing for cats is not a particularly successful control method as cats are extremely agile and can scale most fences. Exclusion fencing for cats needs to be electrified to have any significant impact on restriction of cat movement. This is obviously a very costly control method.

As with foxes, shooting to control feral cats is very labour intensive and not particularly successful in areas where cat densities are low. Feral cats are also very wary animals that may be difficult to locate. Shooting is not a viable control method in urban areas.

Two other forms of controlling the impacts of cats on Conservation areas is education and enforcement, especially when dealing with domestic cats. The City on a regular basis advises residents of the impacts of cats upon the native fauna within Cockburn, as well as provide a \$20 subsidy to Cockburn residents who have their cats sterilized. Alternatively, there is an opportunity to have local laws introduced which could supplement the education and other control measures. Two examples of local laws for cats are the City of Stirling and the Shire of Busselton. The City of Stirling have indicated prohibited areas where cats are not allowed. These "prohibited areas" are certain bushland areas, plus a 200 meter buffer around these bushland areas. In these areas cats may be trapped and impounded. Plus anyone with a cat in these areas require a permit, while anyone with two cats anywhere in the City of Stirling require a permit. Shire of Busselton also have local laws for cats, similar to the City of Stirling, which encompasses registration, infringements and ability to impound cats. The local laws also refers to "cat prohibition areas" (ie conservation areas) which have an increased infringements for cat owners not obeying the laws.

Summary - There are several things that need to be noted for all control methods used in rabbit, fox and cat management.

Rabbits, foxes and cats are widespread. Even the most successful small-scale control method is of little consequence if animals from other areas can readily recolonise the cleared area. For this reason methods such as: small scale exclusion-fencing and localised physical/chemical treatment methods can be a most effective tool. Any management method that is not fairly specific for the target animals (such as baiting and trapping) will require extensive public notification



and consultation, and possibly fairly large restrictions to public access. Chemical controls may even require some form of non-target monitoring to ensure the baiting is performed efficiently and responsibly.

The management of cats through the use of education is beneficial to at least inform residents of the impacts of their cats. The use of local laws, while beneficial, will require further investigation and the support of the Council to be successful.

There are no solutions to urban vertebrate pest control that will work for all circumstances, and management needs to be on a case-by case basis. Some control may be possible in some circumstances however it will need to be well considered and researched and take into account public access and sentiment, and most importantly community consultation.

Strategic Plan/Policy Implications

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

3. Conserving and Improving Your Environment
 - *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*

Budget/Financial Implications

Nil.

Legal Implications

Nil.

Community Consultation

N/A

Attachment(s)

Nil.

Advice to Proponent(s)/Submissioner(s)

N/A

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

Nil.



14.21 (MINUTE NO 2926) (OCM 11/08/2005) - PROPOSED RETAINING WALLS AND RETROSPECTIVE PLANNING APPLICATION FOR ILLEGAL FILLING - LOT 163; 1 SEAVIEW TERRACE, COOGEE - OWNER/APPLICANT: M G BLANCH (3316855) (ACB) (ATTACH)

RECOMMENDATION

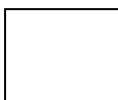
That Council:

- (1) refuse to grant retrospective approval to additional retaining walls and the illegal fill on Lot 163; 1 Seaview Terrace, Coogee for the following reasons:-
 1. The planning approval for filling and retaining walls issued on 23 October 2003 took into consideration the median natural ground levels applicable to the land.
 2. The proposal does not comply with the Acceptable Development/ Performance Criteria in accordance with the Residential Design Codes (2002).
 3. Additional retaining/ fill will adversely impact on the privacy of neighbours and exacerbate overshadowing into adjoining properties.
- (2) issue a Schedule 9 Notice of Determination on Application for Planning Approval – Refusal and an MRS Form 2 Notice of Refusal.
- (3) instruct the owner to remove the illegal fill within 28 days of the refusal or face prosecution for undertaking illegal works under the Town Planning and Development Act 1928.
- (4) advise those persons who made submissions, of Councils decision accordingly.

COUNCIL DECISION

MOVED Clr S Limbert SECONDED Clr J Baker that Council:-

- (1) note the report;
- (2) issue a retrospective approval to additional retaining walls and the existing fill on Lot 163; 1 Seaview Terrace, Coogee subject to the following conditions:-
 - 2.1.1. STANDARD CONDITIONS
 1. Development can only be undertaken in accordance with



the terms of the application as approved herein and any approved plans;

2. Nothing in this approval or these conditions shall excuse compliance with all written laws in the commencement and carrying out of the development.
3. All stormwater being contained and disposed of on-site to the satisfaction of the Council.
4. Retaining wall(s) being constructed in accordance with a qualified Structural Engineer's design and a building licence being obtained prior to construction.

SPECIAL CONDITIONS

5. The existing fill being removed within 28 days, within a 2.5 metre setback area from the southern side boundary taken above the height of the approved retaining wall to the satisfaction of Council.
6. The installation of a 1.5m high privacy screen (or less with agreement of the adjoining owner) along the side boundary to No 2 Mayor Road, Coogee above existing filled levels.
7. Install a soak well in the south-east corner of the lot to ensure no drainage overspill into the neighbours lot at No 3 Seaview Terrace.

Footnote

1. The installation of a 1.8m high privacy screen along the 2.5m side setback area to No 3 Seaview Terrace upon the construction of a house.
 2. The development is to comply with the requirements of the Building Code of Australia.
- (3) issue a Schedule 9 Notice of Determination on Application.
- (4) Advise those persons who made submissions, of Councils decision accordingly.

CARRIED 5/3



Reason for Decision

The concerns raised by the adjoining residents can be resolved by conditions of approval designed to protect the privacy and mitigate against any impacts of overshadowing.

By increasing the setback of retaining walls from the side boundary any impacts are internalised, which is in accordance with the objectives of the Residential Design Codes 2002.

Background

ZONING:	MRS:	Urban
	TPS:	Residential R20, Development Area 1
LAND USE:	Vacant	
LOT SIZE:	710m ²	
USE CLASS:	Single (R-Code) Dwelling – (“filling”).	

On 27 October 2003 the City issued an approval for Filling and Retaining Walls at Lot 163; 1 Seaview Terrace, Coogee. This approval permitted the construction of 300mm to 1500mm high retaining walls in lieu of the 500mm maximum requirement stipulated under the Residential Design Codes (R Codes). The height of the fill/ retaining wall was based on the median natural ground level of 11.5 m AHD. This practice of adopting the median ground level contour is standard when assessing the finished floor level for any development, particularly in the absence of plans depicting the details of the future dwelling.

A concerned neighbour approached the City in regards to additional fill that had been deposited on No. 1 Seaview Terrace, Coogee after the retaining walls had been constructed and the land filled up to the height of these retaining walls. The neighbour was very concerned that the height of the fill was almost 900mm higher than the height of the recently constructed retaining walls and considered the height unacceptable and an adverse impact to their neighbouring property.

The City's Compliance Officer undertook a site inspection to investigate the complaint and encountered that additional fill had been placed on the subject site without planning approval. The owner of the property was notified of this and advised to remove the fill or alternatively bring the property into conformity with the City's Town Planning Scheme.

Submission

The owner of No 1 Seaview Terrace, Coogee has now submitted a Retrospective Planning Application for additional retaining walls to retain the illegal fill on the land.



The reason for the extra fill was to bring the land level with the Seaview Terrace road alignment.

Report

A site inspection was undertaken to determine the severity of the proposed retaining walls and the potential impacts on the adjoining properties. The neighbouring properties are on the western (No. 2 Mayor Road) and southern (No. 3 Seaview Terrace) boundaries of the subject site. No. 2 Mayor Road will lose its morning sun and No. 3 Seaview Terrace will be significantly impacted in winter when the angle of the sun is at its lowest. No. 3 Seaview has its major living areas and outdoor living area immediately adjacent to the southern boundary of the subject site.

The owners of No. 2 Mayor Road reluctantly gave their consent to the applicant when originally approached. This was after the fill had been deposited on the land. However, upon further reflection of the proposal considered the height to be unacceptable for the following reasons:

- The originally approved fill level is above the top of the boundary fence between the two properties.
- No provision has been made for drainage or seepage and this is a potential risk to the property at No. 2 Mayor Road.
- The originally approved height allows unrestricted ocean views over the roof of the house at No. 2 Mayor Road without the need for additional fill.
- The extra height will cast shadow over No. 2 Mayor Road for much of the day, result in a loss of privacy and have a detrimental impact on the streetscape in general.
- The owner should have sought the necessary approvals prior to undertaking the additional fill on his property.

The owners of No. 3 Seaview Terrace objected to the fill and additional retaining for the following reasons:

- Invasion of privacy. The height gives a clear view into the kitchen, meals/ family room, main bedroom and outdoor living area.
- No approval was issued for the additional land fill height prior to undertaking the works.
- Overshadowing from the proposed dwelling.
- Water run off problems already existing into the garage and on the driveway.

Water runoff was depositing the fill into the property at No. 3 Seaview Terrace therefore the owner removed the fill away from the boundary by digging a trench along the boundary.

The applicant should not have undertaken the additional fill without getting the necessary approvals from the City. The Officer that dealt with the original approval issued approval up to the 11.5m AHD on the basis that the level was the median natural ground level of the land. It



is unreasonable and inappropriate to permit a higher ground level to the owner when the surrounding residents were required to address the slope of the land at the time of their development.

Water runoff and drainage of the land must be contained within the property and is not permitted to flow onto adjoining properties. This is an issue that the City's Building Services deals with when taking into consideration proposed retaining walls along property boundaries.

The adjoining properties will be adversely affected by overshadowing and overlooking and visual privacy cannot be ensured.

It is therefore considered that the concerns raised by the adjoining neighbours are valid.

Given the median natural contour level was taken into account as part of the original retaining wall approval and the current application results in overshadowing and overlooking, it is recommended that the application for additional retaining / fill be refused.

Strategic Plan/Policy Implications

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

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

The Planning Policies which apply to this item are:-

APD9	Retaining Walls
APD10	Discretion to Modify Development Standards
APD17	Standard Development Conditions and Footnotes
APD29	Development Compliance Process
APD32	Residential Design Codes
APD33	Town Planning Scheme No. 3 Provisions



Budget/Financial Implications

Legal costs could be incurred by the City without prosecution of the owner, which can be absorbed by the 2005/06 Budget.

Legal Implications

If the owner of 1 Seaview Terrace fails to remove the unauthorised fill within 28 days as recommended, legal action could commence for breaching the Town Planning and Development Act.

Community Consultation

The proposal was referred to adjoining neighbours for comment. Two objections were received from both owners.

Attachment(s)

- (1) Site Plan
- (2) Elevations
- (3) Photographs

Advice to Proponent(s)/Submissioner(s)

The Propoment(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the August 2005 Council Meeting.

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

Nil.

DECLARATION OF FINANCIAL INTEREST

Clr Allen declared a financial interest in Item 14.22. The nature of the interest being due to the proximity of his property to the proposal.

Deputy Mayor Graham declared a financial interest in Item 14.22. The nature of the interest being that he has been a legal advisor to Clr Allen during the previous 12 months and therefore Clr Allen is a person closely associated with himself.

Mayor Lee advise the meeting that Council had received letters from the Department of Local Government and Regional Development advising that the Minister, through the Director Governance and Statutory Support had given approval for Deputy Mayor Graham and Clr Allen to fully participate in the discussion and decision making process relating to the proposed Port Coogee Marina Development.



14.22 (MINUTE NO 2927) (OCM 11/08/2005) - PROPOSED MINOR MODIFICATIONS TO STRUCTURE PLAN - PORT COOGEE - OWNER: AUSTRALAND HOLDINGS AND PORT CATHERINE PTY LTD - APPLICANT: TAYLOR BURRELL BARNETT (9662) (MR) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the proposed variations to the Port Coogee Structure Plan on the basis that they do not in its opinion materially alter the intent of the structure plan in accordance with Clause 6.2.14.1 of the City of Cockburn Town Planning Scheme No. 3, and substitute the proposed variations where these have been duplicated from Minute 2832 at the Ordinary Meeting of Council on 9 June 2005;
- (2) forward the revised Port Coogee Structure Plan to the Western Australian Planning Commission for its endorsement;
- (3) require the parties to the agreement to amend Annexure D – Local Structure Plan contained in the Port Coogee Waterways Management Transfer Facilitation Agreement, with the amended Port Coogee Structure Plan referred to in (1) above, and amend Annexure A – Marine Reserve Plan accordingly; and
- (4) advise the applicant of Council's decision accordingly.

COUNCIL DECISION

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

CARRIED 6/2

Background

Council adopted the Port Coogee Structure Plan in conjunction with the proposed local scheme amendment at its Ordinary Meeting on 16 March 2004 subject to various requirements.

The Council at its meeting on 9 June 2005 adopted some minor variations to the Port Coogee Structure Plan on the basis that they do not in its opinion materially alter the intent of the structure plan.



Submission

The Applicant has recently identified four further modifications and submitted a request to have these considered by Council.

The proposed Structure Plan variations are summarised as follows:-

1. Proposed recoding from R25 to R35 opposite the public beach area, fronting onto the marina adjacent to extended foreshore;
2. Proposed recoding from R40 to R20 for lots along Main Street and opposite POS (to be consistent with originally approved structure plan);
3. Proposed change from Residential R80 to Local Centre/ R80 for 3 lots within the Neighbourhood Centre;
4. Proposed modification to lot configuration and indicative building footprints (removal of single lots and laneway in favour of 2 lots in street block – will not change lot/dwelling yield);

A copy of the applicant's submission and plans are contained in the agenda attachments.

Report

The proposed variations to the adopted Structure Plan do not materially change the intent of the structure plan and therefore pursuant to Clause 6.2.14.1 of the City of Cockburn Town Planning Scheme No. 3 the Council may vary a structure plan by resolution.

It is noted with interest that some of the proposed changes to the Port Coogee Structure Plan apply to land that is already the subject of minor modifications agreed to by Council at its meeting on 9 June 2005. The applicant should have given more detailed consideration of their suggested changes that could have averted the need to carry out more amendments. Nevertheless the applicant's submission was considered on its merits.

The proposed variations to the Structure Plan, are not significant enough to warrant being readvertised for public comment for the following reasons:-

- The proposed variations to the Structure Plan will provide greater flexibility in the built form and improved urban design outcome;
- The recoding of proposed residential lots to permit medium-density development opposite the public beach area, fronting onto the marina will facilitate an improved urban design outcome in a high amenity location.

The proposed road network will not change and the general land use configuration of the marina is unchanged.



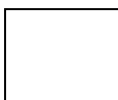
Council's adoption of the variations to the Port Coogee Structure Plan is supported to enable a consolidated plan to be forwarded to the Western Australian Planning Commission for its endorsement.

It is important to note that although there is no material impact on the agreement, the parties are required to amend the Port Coogee Management Transfer Facilitation Agreement executed by the City of Cockburn, Australand Holdings and Port Catherine Pty Ltd in April 2005, which is based on the completion of the construction of the Marina in accordance with the Council adopted local structure plan annexed to this agreement as Annexure D and reflected in Annexure A – Marine Reserve Plan, as described in clause 3.1 and 6.2(c) of the agreement. Changes to the Structure Plan adopted by Council must also be reflected in these Annexures of the agreement.

Strategic Plan/Policy Implications

The Corporate Strategic Plan Key Result Areas that apply are:

- *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
- *"To ensure that the planning of the City is based on an approach which has the potential to achieve high levels of convenience for its citizens."*
- *"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*
- *"To foster a sense of community within the district generally and neighbourhoods in particular."*
- *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
- *"To ensure that the development of the district is undertaken in such a way that the balance between the natural and human environment is maintained."*
- *"To facilitate and provide an optimum range of community services."*
- *"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*
- *"To determine by best practice, the most appropriate range of recreation areas to be provided within the district to meet the needs of all age groups within the community."*



The Council Policies that are relevant are:

APD4	Public Open Space
APD28	Public Open Space Credit Calculations
APD30	Access Street/Road Reserve & Pavement Standards
APD31	Detailed Area Plans
APD32	Residential Design Codes

Budget/Financial Implications

Nil

Legal Implications

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

Community Consultation

Public consultation has already occurred in relation to the Port Coogee Structure Plan, which was advertised for public comment in conjunction with the Local Scheme Amendment. At the close of the public comment period, there was a total of 4030 valid submissions received.

Agenda Attachment(s)

1. Applicant's submission
2. Proposed modifications to Local Structure Plan
3. Consolidated Local Structure Plan

Advice to Proponent(s)/Submissioner(s)

The Proponent has been advised that this matter has been referred to the August Ordinary Meeting of Council.

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

Nil.



15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES

15.1 (MINUTE NO 2928) (OCM 11/08/2005) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)

RECOMMENDATION

That Council receive the List of Creditors Paid for July 2005, as attached to the Agenda.

COUNCIL DECISION

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

CARRIED 8/0

Background

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

Submission

N/A

Report

N/A

Strategic Plan/Policy Implications

N/A

Budget/Financial Implications

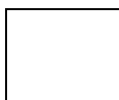
N/A

Legal Implications

N/A

Community Consultation

N/A



Attachment(s)

List of Creditors Paid – July 2005

Advice to Proponent(s)/Submissioner(s)

N/A

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

Nil.

16. ENGINEERING AND WORKS DIVISION ISSUES

16.1 (MINUTE NO 2929) (OCM 11/08/2005) - BIBRA LAKE CAFE/KIOSK - LOT 309 PROGRESS DRIVE, BIBRA LAKE - OWNER: CITY OF COCKBURN (1114553) (KW) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the report;
- (2) not proceed with the project;
- (3) amend the Municipal Budget for 2005/06 by deleting accounts CW 4087 Bibra lake Café/Kiosk and CW 4164 Bibra Lake Café/Kiosk Stage 2;
- (4) advise those concerned with the project of the Council's decision accordingly.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

MOVED Clr T Romano SECONDED Clr A Tilbury that Council adopt the recommendation subject to amending sub-recommendation (4) as follows:-

- (4) advise those who submitted a tender and registered an expression of interest that no tenders received for RFT 13/2005 have been accepted and the submission received for EOI 05/2005 is declined.

CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL 8/0



Reason for Decision

It needs to be made clear that although the Council is not proceeding with the project, the Council will not be accepting the tenders and expression of interest received in relation to the construction and operation of the proposed café/kiosk.

Background

Development of a proposed café/kiosk at Lot 309 Progress Drive, Bibra Lake has been the subject of reports to Council in March 2002, June 2003, September 2003, April 2004 and June 2004.

Submission

Expressions of Interest (EOI) 05/2005 for Lease of a New Kiosk at Bibra Lake Reserve were called for and closed at 2pm on 21st June 2005. One submission was received. It was from Ken and Carol Styles.

Request for Tenders (RFT) 13/2005 for Building Construction Services for a Kiosk at Bibra Lake Reserve were called for and closed at 2pm on 14th July 2005. Two submissions were received. They were from Dalcon Construction Pty Ltd and Classic Contractors.

Report

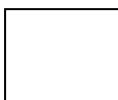
1. Expressions of Interest - Kiosk Operation Lease

Expressions of Interest (EOI) for the operation of Bibra Lake Kiosk was called and 25 sets of documents were collected by interested parties. However, only one submission was received.

Should it be decided that one submission is insufficient to go to tender, then the City can re-advertise the EOI with changes based on research of parties who collected documents but did not submit.

Given that only one EOI was received, a survey was conducted to determine why others did not respond and this was primarily due to the poor commercial viability of the project.

This opinion is supported by a feasibility report conducted by McGees in April 2003. While that report recommended a design and construct option may be viable as a return on capital at finance cost, it also recommended an evaluation of market interest be undertaken through an EOI process. That process resulted in minimal market interest.



Given there was only one EOI for operating the kiosk, there is concern that the proposed venture is not viable and therefore it is recommended that Council not proceed.

2. Kiosk Construction Tender

Two tenders were received. One for \$543,187.00 from Dalcon Contractors, and the other from Classic Constructions for \$571,310.94, both included GST.

Assessment of Tenders

The tenders were assessed as follows:-

Compliance Criteria

	Classic Contractors	Dalcon Construction
Specification	Yes	Yes
Conditions	Yes	Yes
Registered Builder	Yes	Yes
Quality Assurance	No	Yes
Experience and Referees	Yes	Yes
Insurance	Yes	Yes
Price Schedule	Yes	Yes

Qualitative Criteria

• Demonstrated Experience (30%)	20% no new buildings	30%
• Skills and Experience		
• Personnel (10%)	10%	10%
• Tenderer's Resources (10%)	5% no equipment	8% limited equip
• Methodology (10%)	10%	0% provide later
• Tender Price (40%)	38%	40%
<u>Total</u>	83%	88%

Should the project proceed then it is recommended that Dalcon Construction be awarded the construction tender.

3. Aboriginal Issues

Consultation with the Aboriginal Consultation Committee is ongoing, as required by the Department of Indigenous Affairs in granting approval to modify an Aboriginal site. The purpose of the consultation is to identify and likely cost required to recognise the cultural significance of the site in a way that would be acceptable to the Committee. It is suggested that consultation continue only if the Council resolves to proceed with the project.



Strategic Plan/Policy Implications

- Managing your City - To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.
- Facilitating the needs of your community - To identify current community needs, aspirations, expectations and priorities of the services provided by the Council.

Budget/Financial Implications

1. Budget

The approved budget for the Bibra Lake Kiosk in 2004/05 was \$371,968 of which \$25,372 has been spent or committed, leaving a balance of \$347,596, funded from the Land Development Reserve Fund.

An additional \$135,000 towards this project was approved by Council in the 2005/06 budget from the Community and Recreational Facility Reserve Fund, making a new total of \$482,596.

2. Other Items Requiring Expenditure

The likely cost of incorporating items to recognise the Aboriginal importance of the site in the project, as negotiated with the Committee and as required by the Acting Minister for Indigenous Affairs in a letter dated 6th January 2005 is anticipated to be \$15,000.

The Development Application has been lodged with the Western Australian Planning Commission for the proposed café/kiosk. There is some concern regarding acid sulphate soils. In response to this a Geotechnical Consultant was commissioned to take samples, analyse them and report on the presence or otherwise of acid sulphate soils. That report was recently received and confirmed the presence of acid sulphate soils. Advice on this matter should be sought from an appropriately qualified, experienced structural engineer.

The anticipated cost of this advice could be \$5,000. The cost for soil treatment and any consequential changes to the building structure are not known at this stage.

3. On-going Costs

The ongoing costs could be as follows:-

- Building Insurance – approximately \$1,000 per annum
- Building Maintenance – First year nil. Thereafter approximately \$25,000 per annum. This is relatively high but is a reflection of



possible vandalism and breakages in relation to the type of business to be operated in the isolated location.

- Depreciation over forty years using straight line method on \$550,000 equates to \$13,750 per annum.

Therefore the indicative annual operating costs will be in the order of \$39,750.

4. Financial Summary

Current funds available		\$482,596
Less		
Lowest construction tender	\$543,187	
Aboriginal recognition items	\$ 15,000	
Engineers' fees	\$ 5,000	
Total	<u>\$563,187</u>	
Shortfall		\$ 80,591

It should be noted that the shortfall is likely to be far greater than this because of the additional costs required to deal with the presence of the acid sulphate soils.

Legal Implications

Nil

Community Consultation

Limited to Aboriginal Consultative Committee at this stage.

Attachment(s)

Tender submissions forwarded under separate cover.

Advice to Proponent(s)/Submissioner(s)

Those who submitted tenders and the single applicant who submitted an EOI have been verbally advised that Council will consider this matter at the meeting of Council to be held on 11 August 2005.

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

Should the Council proceed with the project and offer the operation of the café/kiosk to the only EOI received at a non-commercial / subsidised lease, then it could be challenged by other commercial operators competing in the vicinity of the Bibra Lake Café/Kiosk as being anti-competitive.



16.2 (MINUTE NO 2930) (OCM 11/08/2005) - INTERSECTION OF SPEARWOOD AVENUE AND YANGEBUP ROAD, YANGEBUP (450007) (450008) (SMH) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the report;
- (2) adopt the six options for the purpose of seeking public comment on the proposal to modify the intersection of Spearwood Avenue and Yangebup Road;
- (3) advise affected residents, the Yangebup Progress Association, South West Transit Bus Services and Main Road Western Australia, of the Council decision, and invite comments;
- (4) allow 28 days for comments to be received from the date of the letter of advice in (3) above;
- (5) following receipt of any submissions the matter be referred back to the Council for a final decision on the redesign of the Spearwood Avenue and Yangebup Road intersection.

COUNCIL DECISION

MOVED Mayor S Lee SECONDED Cllr S Limbert That Council:-

- (1) receive the report;
- (2) adopts option 6 as its preferred option;
- (3) advise affected residents, the Yangebup Progress Association, South West Transit Bus Services and Main Roads Western Australia of Council's decision; and
- (4) amend the Municipal budget by increasing the allocation to Account CW2182 Spearwood Avenue/Yangebup Road Intersection from \$50,000 to \$250,000 with funds for the increase of \$200,000 being drawn from the Roads and Drainage Infrastructure Reserve Fund.

CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL 7/1



Reason for Decision

If this intersection is as dangerous and life threatening as people allege and accident statistics demonstrate, then despite receiving ticks from a technical and engineering perspective, Council must do the right thing and see that it is amended to be as safe as possible whilst still allowing for the efficient flow of traffic.

Background

There has been concern expressed by residents living near the intersection of Spearwood Avenue and Yangebup Road about the danger to traffic using this intersection. This concern has been brought to the City's attention on a number of occasions with a request to review the current design to make it safer.

The intersection was designed by qualified engineering consultants on behalf of the City and approved by Main Roads WA.

The intersection was built by the City in accordance with the approved plans, and the linemarking and signage was undertaken by Main Roads WA.

The intersection was designed to accommodate the installation of traffic lights in the future, should it be required following the closure of Yangebup Road and Miguel Road at the railway line.

Because of the accident record at the intersection, the City applied to Main Roads WA for Black Spot Funding of \$20,000 to reduce the lanes in Yangebup Road from two lanes to a single lane.

Submission

Mr Ken Hynes has made a number of written submissions to the City and made presentations to the Council during public question time in the past 12 months.

Mr Hynes has indicated that he represents the concerns of a number of residents in Yangebup Road.

The most recent letter from Mr Hynes was received on 17 May 2005:-

"It should not be a surprise to this meeting that I wish to draw your attention to the intersection of Spearwood Ave and Yangebup Rd in Yangebup. I have brought to you many details and accident reports, even photographs relating to the reason why this intersection has created so much concern.



At times I have felt that this council has turned a very big blind eye to not only my verbal and also written details that have been presented on a regular basis.

At the monthly meeting 15/02/05 I asked "had the intersection been monitored and what was the outcome"

Mr Radaich advised that from the feedback received the situation seemed to have improved but the intersection would still be monitored as it was too early to gauge the overall effect.

Mr Radaich also advised that Council would review the statistics in a few months and gauge whether there was a need to do more work .

Maybe what I found in this weekend Sunday Times newspaper may then help you. Page 17 top right corner we see that the intersection of Spearwood Ave and Yangebup Rd is listed as a black spot. This has been placed by insurance specialists Western QBE under the policy of NO CRASH DAY (avoidance through awareness.) Did we have to wait for a insurance company to let us know what blind Charlie was telling us, also why was I telling you at the November and December council meetings that alarm bells were already ringing with the details of traffic accidents.

Do you accept that this said intersection is now a black spot?

May I say that now is not the time to run for cover, action is the only remedy but we need it now.

Take time out and go and watch school children trying to negotiate this intersection and also watch the Transperth buses using the left turn lane to proceed straight ahead.

Now is the time for the City Of Cockburn to show us that you are not viewing this intersection at the end of a long white cane?

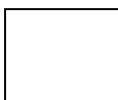
We have all cast our votes , show us that we were important to you all."

Report

Since receiving complaints, the City organised surveillance of the intersection. This confirmed that most people are not observing the traffic rules, and this is what is causing the problem.

Also the City has applied for Black Spot funding to modify the intersection, which was lodged in June, for Main Roads WA to evaluate and advise for the next financial year 2006/07.

The future treatment of the Spearwood Avenue / Yangebup Road intersection needs to be put into context. Currently, Yangebup Road is the bus route through the suburb. Ultimately the railway level crossing at Yangebup Road will be closed and the buses together with all other traffic will have to use Beeliar Drive. The closure of the level crossing cannot occur until the right hand turn is built at the corner of Beeliar Drive and Birchley Road, which will provide the new access route into the suburb. This work is in the 2005/06 Budget.



Also, now that the road bridge has been built over the railway line at Spearwood Avenue, the existing level crossing at Miguel Road will be closed. Action to close this section of road has already commenced.

In addition to Birchley Road, a new road connection is planned as part of the future subdivision of the area, to connect Spinnaker Heights south into Beeliar Drive. It could be some time before this connection is built.

Given this, 6 options have been examined, each of which is discussed in turn. Each option is illustrated in the attachments to the agenda.

Option 1 – Narrowing Yangebup Road

This is a straight forward option which forms the basis to the current Black Spot funding application.

It proposes to eliminate the turning lane and only have a single lane connect into Spearwood Avenue from Yangebup Road.

This would make the intersection safer and could be implemented at a cost of only \$20,000 to the City, being one-third of the estimated cost of \$60,000. However, this is subject to Main Roads approval to the Black Spot funding application.

Option 2 – Cul-de-sac Yangebup Road - West

This option proposes to cul-de-sac Yangebup Road on the western side of Spearwood Avenue, and by so doing reduce the intersection of a '4-way' to a 'T' junction with the connection restricted to traffic from Yangebup – East only onto Spearwood Avenue.

In conjunction with this, median islands would be installed in Spearwood Avenue at the intersection to provide protection to traffic turning right into Yangebup Road from Spearwood Avenue.

This option is estimated to cost \$75,000.

Option 3 – Cul-de-sac Yangebup Road – west – connection to Bonito Place

This option proposes to cul-de-sac Yangebup Road and install medians in Spearwood Avenue as described in Option 2, except that a connection would be made into Bonito Place to allow Bonito Place residents to circulate more easily, together with rubbish collection services and postal deliveries.

Because the cul-de-sac is retained as part of this proposal, any extraneous traffic is unlikely to proceed east of Spinnaker Heights or



where this did occur the traffic can turn around in the cul-de-sac without the need to enter Bonito Place.

The connection to Bonito Place could be connected differently, by using a coloured bitumen or brick paving to alert any traffic that this was a slow residential street environment.

The cost of these works is estimated to be in the order of \$90,000.

Option 4 – Loop Yangebup Road – West into Bonito Place

This option is the same as Option 3 above, except that the cul-de-sac is not included.

Although an acceptable proposal, any extraneous traffic that proceeds past Spinnaker Heights, will need to turn into Bonito Place to return to Yangebup Road to travel west along Yangebup Road. There is a low likelihood of this occurring because Yangebup Road will be closed at the railway line once the alternate bus route via Beelias Drive is operating.

This option is estimated to cost in the order of \$75,000.

Option 5 – Roundabout

This option has been previously evaluated as part of the initial intersection design. It was dismissed because it is not a 'usual' design in terms of the intersection approaches and because of the imbalance in traffic numbers.

For a roundabout to operate correctly, there needs to be approximately equal numbers of vehicles entering the intersection from all directions.

The traffic volumes on Spearwood Avenue as at September 2004, were 4865 (north of Yangebup) and 2637 (south of Yangebup).

The traffic volumes on Yangebup Road as at September 2004 were 4982 (east of Spearwood) and 4032 (west of Spearwood).

These figures were taken not long after the intersection was operating, when Yangebup Road and Miguel Road were both connected across the railway line. As soon as these connections are closed, the traffic will be forced to use Spearwood Avenue, a Secondary Distributor Road, (Blue Road in the Metropolitan Region Scheme), thereby causing a greater imbalance between the traffic flows on the two roads at the intersection. Traffic counts will need to be taken once the closures are implemented.

It is estimated that the roundabout could cost in the order of \$300,000.



Option 6 – Traffic Signals

This option proposes to maintain the existing road junction, but erect traffic signals to control traffic movement at the intersection.

Although the intersection has been planned to accommodate traffic lights, there would be a need to construct extra lanes to provide for two straight ahead lanes and exclusive turning lanes in Yangebup Road.

Approval to install traffic signals and the road re-design would need to be gained from Main Roads WA.

It is estimated that the cost to install traffic lights would be in the order of \$150,000 and it could cost another \$100,000 to modify the existing road junction to suit traffic light controlled movements.

The ongoing maintenance costs for the traffic lights is \$10,000 per annum, and this is undertaken at the cost of Main Roads WA.

Preferred Option

From a Staff point of view, Option 4 is preferred because it is the simplest solution and provides for greater landscaping at the junction of Spearwood Avenue and Yangebup Road. This would provide greater convenience to local residents and service vehicles such as rubbish collection and postal deliveries.

After Yangebup Road is closed at the railway level crossing, very little external traffic will need to use Yangebup Road. Yangebup Road will become an internal subdivision road serving the local residents.

Through traffic between Stock Road and Spearwood Avenue will need to use Beeliar Drive.

For internal traffic to travel to Spearwood Avenue it will be required to use either:

- Birchley Road via Beeliar Drive
- Spinnaker Heights (extended Beeliar Drive)
- Spinnaker Heights and Mainsail Terrace.

The cost of Option 4 is estimated to be \$75,000.

Prior to Council making a final decision on the preferred treatment for this intersection, it is recommended that community and stakeholder comments be sought.

The connection between Bonito Place and Yangebup Road could be brick paved to make it an “entrance” into this short residential street.



Disconnecting Yangebup Road from Spearwood Avenue on the western side should substantially increase the safety at this intersection.

It must be pointed out that Yangebup Road cannot become a cul-de-sac on the eastern side of Spearwood Avenue as Yangebup Road provides the only convenient link onto this secondary distribution road from the east, following the closure of Miguel Road at the railway line.

Before a final decision is made about the future of the Spearwood Avenue or Yangebup Road intersection, the proposal needs to be circulated to affected ratepayers, the ratepayers association, the bus company and Main Roads WA for comment.

Strategic Plan/Policy Implications

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

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

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

Budget/Financial Implications

In the 2005/06 Budget, \$50,000 has been included to fund possible changes to the Spearwood Avenue / Yangebup Road intersection to improve traffic safety.

Should the Black Spot Funding application be successful for the 2006/07 Financial Year, then the contribution by the City would be \$20,000 as a one-third contribution with the two-thirds balance of \$40,000 being provided by the State. The total of the works is estimated to be \$60,000.

Legal Implications

The existing intersection was approved by Main Roads WA, and the signage and line marking was undertaken by Main Roads.



It appears from video surveillance that any traffic hazards that arise at the intersection are due to the public disobedience of the signs and road markings, together with rules of the road.

Therefore, any claims against the City as a result of an accident should be low risk.

Community Consultation

None has occurred to date, but depending upon the Council decision to proceed with plans to re-design or modify the intersection, then it should advise affected stakeholders and seek their comments prior to finalisation.

Attachment(s)

- (1) Copy of contextual plan and the 6 options described in the report.

Advice to Proponent(s)/Submissioner(s)

The submissioner, Mr. Ken Hynes, has been notified that the matter will be considered at the Council Meeting to be held on 11 August 2005.

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

Nil.

16.3 (MINUTE NO 2931) (OCM 11/08/2005) - DISABLED PERSONS' ACCESS RAMP - COOGEE BEACH (1903) (8409) (JR)

RECOMMENDATION

That Council does not extend the existing disabled persons' access ramp at Coogee Beach.

COUNCIL DECISION

MOVED Cllr S Limbert SECONDED Mayor S Lee that Council:-

- (1) defer the item to enable Council officers to do a more thorough investigation into extending the disabled persons access ramp and improve beach access options for people at Coogee Beach; and



- (2) an onsite meeting to be arranged between Council's Engineering staff and representatives of Coogee Beach Progress Association together with any interested Elected Members.

CARRIED 8/0

Reason for Decision

Further investigation needs to be undertaken in determining the requirements for improved beach access for the disabled at Coogee Beach.

Background

Following funding from the Local Capital Works Grant Program, Lotteries Commission and Council, a wheelchair access ramp was built at Coogee Beach in 1993 on the south side of the jetty abutment. This provided access from the jetty abutment landing past the dune area to the flatter beach area. However, due to the open sea exposure, sand drift movements (up to 2 metres in height) and severe storm scouring, surging and undermining, maintenance of the ramp, particularly the bottom section closest to the shore, was a difficult and expensive exercise.

Continuing storm damage required replacement of the old Coogee Beach jetty in 1999. In order to provide some safety and useability of the access ramp, the bottom section was removed as part of the new jetty works. However, this has increased the distance to the water's edge from the base of the access ramp.

Submission

At the Ordinary Meeting of Council held on Tuesday 15 February 2005, under Matters to be Noted for Investigation Without Debate, Mayor Lee requested that Council investigate the possibility of extending the existing disabled persons' access ramp at Coogee Beach. The proposed extension would be to enable full wheelchair access down to the waterline and to act like a mini boat ramp. The report should address all issues, including but not limited to problems with the existing disabled ramp, such as sand encroachment, and provide engineering solutions or whatever solutions are necessary to solve the issue of full access to the water at Coogee Beach for all its citizens.



Report

The provision and maintenance of an access ramp for the disabled to the waterline from the existing ramp will never be successful at Coogee Beach due to the open exposure of the site to the weather elements. There are also sand drift movements of up to 2 metres in height and tide movements of the water's edge by up to 20-30 metres. Council's Disability Services Advisory Committee have examined and addressed this issue and concluded that Coogee Beach was not feasibly suitable for the provision of a wheelchair access ramp to the waterline. In this regard a protected location such as the proposed Port Coogee Marina was identified as a safer and more practical location for wheelchair access, particularly with substantially reduced exposure to surf and waves.

Consequently, the Advisory Committee has met with the developer (Australand – David Rowe) and is working with them towards providing protected beach and water access at the marina for people with a physical disability.

Notwithstanding the preferred location for water access being at the proposed marina, a specialist study can be undertaken in determining the requirements of a low maintenance character to improve beach access for the disabled at Coogee Beach. This may need to include solid protective beach fencing or a breakwater, or it may be possible to provide a ramp back to the shore from the existing jetty. A quotation of \$12,591 (plus GST and travelling/disbursements) has been obtained from Kellogg Brown & Root Pty Ltd, a specialist civil infrastructure and maritime consultancy, to investigate and provide concept sketches of two alternative designs (from the existing ramp and from the jetty) and cost estimates.

In view of the more appropriate marina location for disability access to the waterline, upgrading of disability access at Coogee Beach should not be considered until after the marina is completed.

Strategic Plan/Policy Implications

- Planning the development of the City to achieve high levels of convenience, amenity and a sense of community.
- Facilitating a range of services responsive to the community needs.

Budget/Financial Implications

The provision of facilities for disability access at the Port Coogee Marina should be provided by the developer. There are no specific Budget funds available for a specialist study into disability access at Coogee Beach, estimated to cost \$14,000 with overheads.



Legal Implications

The jetty and seabed licence may need to be reviewed should a ramp be built off the Coogee Jetty.

Community Consultation

N/A.

Attachment(s)

Nil.

Advice to Proponent(s)/Submissioner(s)

N/A

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

Nil.

CLR KEVIN ALLEN LEFT THE MEETING AT 8.26PM AND DID NOT RETURN.

16.4 (MINUTE NO 2932) (OCM 11/08/2005) - TENDER NO. 15/2005 - PURCHASE OF SIDE-LOADING WASTE COMPACTOR TRUCKS (4408) (GG) (ATTACH)

RECOMMENDATION
That Council:

- (1) accept the tender from Skipper Trucks for Tender No. 15/2005 – Purchase of Side Loading Waste Compactor Trucks for three (3) Acco F2350G/260 6x4 trucks with MacDonald Johnston compactor bodies for a net changeover price to Council of \$729,124 including GST, following trade-in of Plant No’s 7541, 7491 and 7641, with the fitted upgrade options of,
 - (a) Two (2) trucks supplied with 29m3 MacDonald Johnston bodies with semi automatic bin lifter system in lieu of 22m3 bodies for \$8,261 each (incl GST);
 - (b) A semi automatic bin lifter system to the third (22m3) truck for \$1,650 (incl GST); and
 - (c) Hopper debris enclosure and spray suppressant to the



wheels for \$3,641 per truck (incl GST), and

- (2) remove Plant Nos. 7541,7491 and 7641 from the Assets Register.

COUNCIL DECISION

MOVED Clr S Limbert SECONDED Deputy Mayor R Graham that the recommendation be adopted.

CARRIED 7/0

Background

At the Ordinary Meeting of Council held on Thursday 14 July 2005, it was resolved that Council undertake the in house collection of domestic recyclables, which requires the purchase of two waste compactor trucks with funding from the Plant Replacement Reserve. By using a larger capacity body (29m³ in lieu of 22m³) for recyclables this will provide a more efficient collection service.

For the third truck there is a changeover allocation of \$256,800 plus GST in the current Budget for the purchase of one (1) Side Loading Waste Compactor Truck to replace the existing Plant 7491 for the Waste Collection Services.

Accordingly, tenders were called for the supply and delivery of the trucks. Due to the very long lead time for new compactor truck deliveries, tenders were called for up to four (4) trucks prior to the Budget being approved and Council's decision on the recyclables collection service. This covered all possible outcomes. Only three (3) will be required.

Submission

At close of tender period, eight (8) submissions were received with various options as detailed in the summary table attached to the Agenda. Three of the submissions did not comply with the specifications. One submission was for outright purchase of trade-in vehicles.

Report

The most advantageous purchase to Council at this time is from Skipper Trucks with the alternative option for two of the trucks being a MacDonald Johnston 29m³ side loading refuse compactor with stated options of the trucks at a total changeover purchase price of \$758219



including GST. These larger bodied trucks are specifically for recyclables collection, but can also be utilised for domestic collection.

A weighted evaluation was carried out as per the qualitative criteria in the tender. This involved Council's Fleet Consultant and Waste Services and Plant Departments to evaluate the whole of life costs, technical specifications, daily service, serviceability, delivery time and operator suitability.

The top 3 collective weightings of the complying tenders are as follows:

Tender		Non-cost criteria	+ Cost criteria	=Assessment score
Skipper Trucks	Acco with MacDonald Johnston body	55.47	39.23	94.7
Major Motors	Isuzu with MacDonald Johnston body	54.40	40.00	94.4
WA Hire	Hino with MacDonald Johnston body	54.13	39.27	93.4

The most advantageous purchase to Council is from Skipper Trucks fitted with the appropriately sized MacDonald Johnston bodies and options as indicated in the recommendation.

Strategic Plan/Policy Implications

To manage a fleet of plant and vehicles that contribute to the efficient operation of Council's services.

Budget/Financial Implications

The replacement purchases with the fitted options as recommended can be accommodated within the current Major Plant Budget, taking into account the reimbursement of the GST component on the new purchase price. The total changeover purchases as recommended would cost \$689,290 (plus GST), whilst the total Budget allocation is \$770,400.

Legal Implications

N/A

Community Consultation

N/A



Attachment(s)

- (1) Schedule of tender results.

Advice to Proponent(s)/Submissioner(s)

The tenderers have been advised that this matter is to be considered at the August 2005 Council Meeting.

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

Nil.

16.5 (MINUTE NO 2933) (OCM 11/08/2005) - TENDER NO. 16/2005 - HOT ASPHALT ROAD SURFACING - SUPPLY AND LAYING (4437) (IS) (ATTACH)

RECOMMENDATION

That Council accept the tender submitted by Asphalt Surfaces Pty Ltd Tender No. 16/2005 for Hot Asphalt Road Surfacing – Supply and Laying - at the fixed rates indicated in their tender submissions for the two year period.

COUNCIL DECISION

MOVED Clr S Limbert SECONDED Deputy Mayor R Graham that the recommendation be adopted.

CARRIED 7/0

Background

Council has a program of calling tenders each year for the regular supply of materials and services to facilitate Council's roads and parks programs.

Submission

Tenders were for the Supply and Laying of Hot Asphalt Road Surfacing and Supply only – Ex Plant for the next two financial years. Six (6) tenders were received, the details of which are attached to the Agenda.



Report

There are basically two parts to this tender, being "Supply and Lay", and "Supply only – Ex Plant", and the tender lends itself to be split if it proves beneficial.

The tenders have been assessed under the following criteria, which were outlined in the tender documents:

	<u>Weighting</u>
1. Price	35%
2. Technical conformance	10%
3. Demonstrated safety management	15%
4. Delivery response performance	20%
5. Quality endorsement	5%
6. References	10%
7. Insurance	5%

Tenderers were required to provide adequate information in their tender submission to allow for scoring each criteria. Where information was not supplied the particular criteria was not scored.

The top assessments under these criteria, as determined by Council's Road Services Unit, are as follows:

Tenderer	Non-cost Criteria %	+ Cost Criteria %	= Assessment Score %	Estimated Costs \$ per year
1. Hotmix P/L	60	34.11	94.11	\$1,545,426
2. Asphaltech P/L	63	28.54	91.54	\$1,843,506
3. BGC Asphalt	10	27.55	37.55	\$1,905,763
4 Asphalt Surfaces P/L	65	35.00	100.00	\$1,510,756
5. Pioneer Road Surfaces	48	28.58	76.58	\$1,840,804
6. Boral Asphalt	58	28.92	86.92	\$1,820,595

The tender for the Supply and Laying of Hot Asphalt Road Surfacing and Supply only – Ex Plant as a result of the evaluation criteria being implemented, shows that Asphalt Surfaces Pty Ltd is the most advantageous to Council. Asphalt Surfaces hold the current contract for "Supply and Lay" of hot asphalt road surfacing and "Supply only – Ex Plant", they have performed satisfactorily and are considered to be a reputable company within the road construction and asphalt industry. Hence the tender submitted by Asphalt Surfaces Pty Ltd in this instance should be supported.



Strategic Plan/Policy Implications

Construction and maintenance of roads is a principal objective of the Corporate Strategic Plan. Asphalt is an essential component of maintaining and constructing roads.

Budget/Financial Implications

The cost of asphalt is covered in the Budget allocations for road maintenance and construction.

The estimated fixed rate contract value over 2 years is \$3 million with GST included.

Legal Implications

N/A

Community Consultation

N/A

Attachment(s)

(1) Tendered Prices

Advice to Proponent(s)/Submissioner(s)

The tenderers have been advised that this matter is to be considered at the 11 August 2005 Council Meeting.

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

Nil.

17. COMMUNITY SERVICES DIVISION ISSUES

17.1 (MINUTE NO 2934) (OCM 11/08/2005) - LEN PACKHAM RESERVE COOLBELLUP CLUB/CHANGEROOMS TENDER 14/2005 (8070) (RA) (ATTACH) (ATTACH)

RECOMMENDATION

That Council:-

- (1) receive tenders from Robinson Buildtech, Myers Construction, Lakis Construction, Duwal Pty Ltd, Freo Constructions and Dalcon Constructions for the construction of club/changerooms on Len Packham Reserve, Coolbellup;



- (2) accept the tender from Duwal Pty Ltd for \$1,348,635.02;
- (3) transfer the sum of up to \$329,755 from the Community and Recreation Facilities Reserve Fund to CW 4153 Len Packham Club/Changerooms; and
- (4) seek a further contribution from the Department of Education to meet the shortfall in funds for the development of the club/changerooms on Len Packham Reserve as required in the Council decision (minute No. 2593) of the 19th October 2004.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

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

CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 7/0

Background

Council at its meeting of the 17th December 2002 resolved to support the construction of a new primary school on a portion of Len Packham Reserve subject to a number of conditions including *“the location of the school and its ovals allows for the shared use of ovals and the establishment of club/changerooms for use by the general community and to accommodate current users of the reserve and clubrooms.”*

At its meeting of the 19th October 2004 Council resolved in part as follows:-

- “3. It is expected that the Department of Education and Training will provide, at its cost, the following as part of the development of the new school on part of Len Packham Reserve:
 - (i) All costs associated with the preparation of the site including the removal of all existing infrastructure.
 - (ii) Three multi use hard courts with lighting and fencing.
 - (iii) Approximately 90 car parking bays, which will also be available to the community out of school hours.



- (iv) The balance of funds for the replacement of the club change rooms on the reserve with the total figure being dependent on the level of grants from other sources.”

A request for tender for the construction of new club/changerooms for the Len Packham Reserve in Coolbellup was advertised in The West with tenders closing on Thursday 7th July 2005.

Submission

A total of 6 tenders were received by the closing of tenders.

As the tender prices received were above the Council's budgetted amount in accordance with Council's Policy the matter has been put to Council for its consideration.

Report

Tenders were received from the following firms:

Building Contractor	Tender (inc GST)	Tender (ex GST)	Status
Robinson Buildtech	\$1,906,097.26	\$1,732,815.00	Conforming
Myers Construction	\$1,653,696.00	\$1,503,360.00	Non-conforming
Lakis Construction	\$1,733,622.00	\$1,576,020.00	Conforming
Duwal Pty Ltd	\$1,483,498.52	\$1,348,635.02	Conforming
Freo Constructions	\$1,569,000.00	\$1,426,363.64	Conforming
Dalcon Constructions	\$1,604,286.00	\$1,458,442.00	Conforming

The criteria and weighting for the tenders were as follows:-

Demonstrated experience in completing similar projects	20%
Skills and experience of key personnel	10%
Tenders Resources	10%
Tendered Price	60%

The tender assessment was carried out by the project architect Terry Holton from Holton Connor Architects. The results of the assessment are as follows:-



	Non Cost Criteria	Cost Criteria	Assessment Score
Robinson Buildtech	16	46.7	62.7%
Myers Construction P/L	28	54.64	82.6%
Lakis Construction P/L	36	52.13	88.1%
Duwal Constructions	40	60	100%
Freo Constructions		Non Conforming Tender	
Dalcon Constructions P/L	27	56.2	83.2%

The tender with the highest score Duwal Constructions Pty Ltd was approached by the Architect with a list of possible variations to the specifications seeking cost saving opportunities.

The following possible savings have been considered and placed in priority order.

Item	Value
1. Selection of an alternative perforated Mini-strip ceiling to Coruline specified for the main hall.	1,800.00
2. Deletion of the gas heaters to the main hall (retain gas reticulation for future installation).	4,016.00
3. Deletion of the tiered viewing steps (alternative use of grass embankment) and retention of a single 1600 wide access stair.	11,600.00
4. Use of Austral clay brick pavers in lieu of concrete stylepave.	4,500.00
5. Use of grey concrete for paths instead of cream colour	1,500.00
6. Deletion of evaporative cooling to the main hall.	18,020.00
7. Deletion of air-conditioning unit to the meeting room.	3,100.00
8. Deletion of street lighting to the carpark.	6,235.00
9. Deletion of lighting to the tennis courts.	7,946.00
Total Savings	\$58,717.00

Any acceptance of variations to the contract is not recommended as it will compromise the building. There would be additional costs for these items to be put back in future. However, should Council seek to reduce the costs for the project it is proposed that it delete items 1 to 5 inclusive which would result in a saving of \$23,116.

The project as tendered using Duwal Constructions Pty Ltd as the preferred tenderer is over budget by \$327,546. It ought to be noted that the cost estimates prepared by the Quantity Surveyor for the project were developed in October 2004 for submissions for grants



from the Department of Sport and Recreation and a contribution from the Department of Education. There was some delay in the project going to tender awaiting a response from the Department of Education to increase its contribution toward the project from \$400,000 to \$456,652. This combined with the rapid escalation in building costs resulted in the significant increase in the price tendered over the estimated tender price.

The Council decision of the 19th October 2004 required that the Department of Education meet any shortfall costs for the replacement of the club/changerooms on Len Packham Reserve. The Department has met the other requirements of the Council decision of October 2004 and increased its contribution toward the project in response to a previous approach by the City. It is unknown whether the Department would again increase its contribution as it would also need to find additional funds to meet the probable increase in the cost of constructing the new school. Notwithstanding this, it should be acknowledged that the cost increases are not directly attributable to the City and therefore a further contribution from the Department should be sought. Additionally, the City has recently written to the Department seeking a further \$65,000 toward the cost of relocating the main lines for the reticulation of the ovals to allow the school to be constructed. As the enquiry by design process which resulted in the relocation of the school to its new site was a joint State/Local Government initiative it can be argued that the City and the State have a joint commitment to the project which requires it to meet the budget shortfall.

There is some urgency in progressing the development of the Len Packham Reserve facilities as demolition of the hardcourts and club/changerooms is due to begin in early August 2005 to make way for the school. Given the rate of cost escalation for construction a delay in the project which requires the calling for new tenders will result in a further increase in the tender price.

Strategic Plan/Policy Implications

“To construct and maintain community buildings, which are owned or managed by the Council, to meet community needs”.

Budget/Financial Implications

Capital Cost

Council has a total of \$1,153,980 (ex GST) on its budget for the project. Included in the sum is \$150,000 provided by the Department of Education for the replacement of the hardcourts. The total contributions from the funding sources within this figure are as follows:



Department of Education	\$456,328
Department of Sport and Recreation	\$347,652
City of Cockburn	<u>\$350,000</u>
	<u>\$1,153,980</u>

Operating Costs

Services (power/water)	\$5,000
Maintenance	\$6,000
Insurance	<u>\$2,500</u>
	<u>\$13,500</u>

Income

Regular Users (12 hrs per week)	\$6,864
Casual Users (1 function/month)	<u>\$4,080</u>
	<u>\$10,944</u>

Arrangements have been put in place for a cost share arrangement with the Education Department for the maintenance of the grassed areas associated with the school and the club/changerooms. The annual cost of \$37,500 for the maintenance of Len Packham Reserve has been borne by the City. The City's portion of the cost will reduce, resulting in a saving of \$12,350 per annum. All costs for major expenditure, for example bore replacement will also be shared on a 50/50 basis with the Department of Education.

Envisaged Commitments

Building Construction (tender price)	\$1,348,635
Architectural Fees (8%)	\$110,100
Furniture	<u>\$25,000</u>
	\$1,483,735
Less Budget	<u>-\$1,153,980</u>
Short Fall	<u>\$329,755</u>

Legal Implications

Tendering for the building works has been carried out in accordance with Section 3.57 of the Local Government Act and associated Regulations.

Community Consultation

Not applicable at the tender stage of the project.

Attachment(s)

- (1) Tender assessment.



Advice to Proponent(s)/Submissioner(s)

Tenderers to be advised that the matter is to be presented to Council for consideration at the Council meeting to be held on 11th August, 2005.

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

Nil.

17.2 (MINUTE NO 2935) (OCM 11/08/2005) - ESTABLISHMENT OF A GRANTS AND DONATIONS COMMITTEE (5930) (RA) (ATTACH)

RECOMMENDATION
That Council:

- (1) pursuant to section 5.8 of the Local Government Act, 1995, establish a Grants and Donations Committee;
- (2) adopt the Terms of Reference for the Committee as attached to the Agenda;
- (3) pursuant to section 5.10 of the Act, appoint up to four (4) Elected Members to the Committee:-

 _____, _____, _____,
 _____; and
- (4) require the Chief Executive Officer to allocate the necessary administrative support for the purposes of the Committee.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION
MOVED Deputy Mayor R Graham SECONDED Cllr S Limbert that Council:-

- (1) pursuant to s5.8 of the Local Government Act 1995 (WA) ("the Act"), and in accordance with s5.9(2)(d) of the Act, establishes the Grants and Donations Committee ("the Committee");
- (2) pursuant to s17.7 of the Standing Orders, resolves that:
 1. the Committee comprises 5 members;



2. the qualification for membership is that members are to be Council members;
3. the Terms of Reference for the Committee are to:
 - (i) make recommendations to Council in relation to all matters regarding Council's grant and donations program, including:
 - (a) the allocations of grants and donations to specific program areas;
 - (b) donation allocations in response to requests made by not for profit organisations;
 - (c) assessments of applications from not for profit organisations against the criteria contained in Policy SC35;
 - (ii) review all grant, donation and subsidy allocations made in the preceding year to identify those to which Council is contractually committed, and advise Council accordingly;
 - (iii) monitor the expenditure of funds from the Grants and Donations annual budget, as required;
 - (iv) report to Council when deemed necessary by Council or the Committee;
- (3) directs the CEO to ensure adequate administrative support is provided to the Committee not limited to, but including, the attendance of relevant Council staff at Committee meetings; and
- (4) appoints Deputy Mayor Graham, Cr Oliver, Cr Whitfield, Cr Limbert and Cr Romano as members of the Committee, and appoints Cr Baker as a deputy member of the Committee.

CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL 7/0

Reason for Decision

The motion provides the Committee a general power to make recommendations to Council in relation to Council's grant and donations program.



Background

The DAPPS committee recommended at its meeting of the 27 July 2005 that Council establish a Grants and Donations Committee to consider the allocation of funds approved in the annual budget for not for profit organisations and for individuals.

Submission

N/A

Report

Council has placed on its 2005/06 budget the sum of \$447,000 to be allocated for grants and donations. Of this figure a portion is provided to not for profit organisations under contractual arrangements.

The balance of funds has been historically apportioned to specific grants programs for individuals (eg. Sports Travel Assistance and Youth Academic Scholarships), subsidies for the use of Council facilities and services and specific donations to organisations.

It is envisaged that the Grants and Donations Committee will review the nature of the grant and donations presently provided and the level of funding allocated and make recommendations to Council on these matters. The committee would then meet from time to time to consider requests for donations from not for profit organisations.

A terms of reference for the Committee has been prepared and is attached to the Agenda.

In brief the Committee will be charged with the responsibility of making recommendations to Council on the distribution of the funds budgetted for Grants and Donations across the various program areas and for the distribution of donations to specific not for profit organisations. It is anticipated that once Council has allocated a level of funding to be provided to a particular program area, the existing procedures will be instigated for the distribution of funds. For example once the level of funding for junior sports travel awards are established the Recreation Advisory Committee will reconsider applications and make recommendations to the Recreation Services Coordinator who will under delegated authority approve a grant.

Strategic Plan/Policy Implications

“To conduct Council business in open public forums and to manage Council’s affairs by employing publicly accountable practices”



Budget/Financial Implications

Council has adopted the 2005/06 Municipal Budget that allocates a total of \$447,000 for grants and donations.

Legal Implications

Nil.

Community Consultation

Not required at this stage of the proposal for a Grants and Donations Committee.

Attachment(s)

Terms of Reference for Grants and Donations Committee.

Advice to Proponent(s)/Applicant

N/A

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

Nil.

18. EXECUTIVE DIVISION ISSUES

Nil

19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Nil

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

21.1 (MINUTE NO 2936) (OCM 11/08/2005) - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1960, SECTION 245A - AUTHORISED PERSONS, PRIVATE SWIMMING POOLS (3211) (JW)



RECOMMENDATION

That Council endorse Mr David Lynley Rees as an authorised person pursuant to Part VIII, Section 245A of the Local Government (Miscellaneous Provisions) Act 1960.

COUNCIL DECISION

MOVED Cllr A Tilbury SECONDED Cllr S Limbert that Council endorse Mr David Lynley Rees as an authorised person pursuant to Part VIII, Section 245A of the Local Government (Miscellaneous Provisions) Act 1960.

CARRIED 7/0

Background

The Local Government (Miscellaneous Provisions) Act 1960, Section 245A requires that private swimming pools be inspected every 4 years. A person who is required to oversee or carry out this inspection function must be authorised by the local government for the purpose of Section 245A and have appropriate experience and/or qualifications.

Background

The Local Government (Miscellaneous Provisions) Act 1960, Section 245A requires that private swimming pools be inspected every 4 years. A person who is required to oversee or carry out this inspection function must be authorised by the local government for the purpose of Section 245A and have appropriate experience and/or qualifications.

Submission

N/A

Report

Mr David Rees is to commence employment with the City as a Swimming Pool Inspector on Monday 22 August 2005. It is required that Mr Rees be endorsed as an authorised person in regard to private swimming pools.

In order to implement publicly accountable practices and methods, the person nominated in the recommendation needs to be endorsed as an authorised person for the purposes of Section 245A of the Act.



Strategic Plan/Policy Implications

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

Nil.

Community Consultation

N/A

Attachment(s)

Nil.

Advice to Proponent(s)/Submissioner(s)

N/A

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

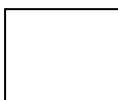
Nil.

22 (OCM 11/08/2005) - MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE

1. Cllr Limbert has requested that a report be prepared on the following;
 - (1) Establishing a Sister City Library Corner in the Spearwood Library.
 - (2) Erecting signage on Council's main entry statements promoting our Sister Cities.

2. Cllr Limbert requests that a report be prepared on the following;

Producing a Rates and Budget Information Brochure that would go



out annually with the Council Rate Notices to Ratepayers.

3. Cllr Julie Baker requests a report on the potential to join the Swan Catchment Council as a representative instead of the Peel/Harvey Catchment Council.

(Background: Cllr Julie Baker was voted by Council to take over from Mayor Lee as a representative on the Peel/Harvey Catchment Council but as this was a 1 year term which has now expired other options need to be looked at.)

23. CONFIDENTIAL BUSINESS

Nil

24. (MINUTE NO 2937) (OCM 11/08/2005) - 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

MOVED Cllr Tilbury SECONDED Cllr Whitfield that the recommendation be adopted.

CARRIED 7/0



25 (OCM 11/08/2005) - CLOSURE OF MEETING

MEETING CLOSED 8.34PM

CONFIRMATION OF MINUTES

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

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

