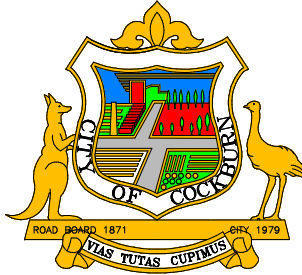


# **CITY OF COCKBURN**



**ORDINARY COUNCIL**

**AGENDA PAPER**

**FOR**

**THURSDAY, 12 JULY 2012**

# CITY OF COCKBURN

## SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 12 JULY 2012 AT 7:00 PM

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## CITY OF COCKBURN

### AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 12 JULY 2012 AT 7:00 PM

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

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

4. **ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (by Presiding Member)**
5. **APOLOGIES AND LEAVE OF ABSENCE**
6. **ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
7. **PUBLIC QUESTION TIME**
8. **CONFIRMATION OF MINUTES**
  - 8.1 **(OCM 12/07/2012) - SPECIAL COUNCIL MEETING - 07/06/ 2012**

**RECOMMENDATION**

That Council confirm the Minutes of the Special Council Meeting held on Thursday 7 June, 2012, as a true and accurate record.

**COUNCIL DECISION**

**8.2 (OCM 12/07/2012) - PART REVOCATION OF COUNCIL DECISION - MINUTE NO.4797 - ORDINARY COUNCIL MEETING - 14/06/2012 (CC/C/001; IM/B/006; IM/B/007)**

**RECOMMENDATION**

That Council amends the Minutes of the Ordinary Council Meeting conducted on 14 June 2012, by revoking Clause (3) 4 of Minute No.4797, as follows:

- (3) 4. Pursuant to section 6.51(1) and subject to section 6.51(4) of the Local Government Act 1995 and Regulation 70 of the Local Government (Financial Management) Regulations 1996, impose an interest rate of 4% for rates (and service charges) and costs of proceedings to recover such charges that remains unpaid after becoming due and payable.

and substitute the following:

- (3) 4. Pursuant to section 6.45 of the Local Government Act 1995 and regulation 68 of the Local Government (Financial Management) Regulations 1996, Council adopts an interest rate of 4% where the owner has elected to pay rates and service charges through an installment option.

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

**COUNCIL DECISION**

Reason for Decision

Reference to the incorrect sections of the Local Government Act and Regulations were included in the Council resolution, when adopting the Budget. To ensure accuracy of the Council Minutes, these references

should be deleted from the record and then substituted with the correct provisions.

**8.3 (OCM 12/07/2012) - ORDINARY COUNCIL MEETING - 14/06/2012**

**RECOMMENDATION**

That Council subject to the above amendments, confirm the Minutes of the Ordinary Council Meeting of 14 June 2012, as a true and accurate record.

**COUNCIL DECISION**

**8.4 (OCM 12/07/2012) - SPECIAL COUNCIL MEETING - 21/06/2012 (ATTACH)**

**RECOMMENDATION**

That Council confirm the Minutes of the Special Council Meeting held on 21 June 2012, as a true and accurate record.

**COUNCIL DECISION**

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

**9.1 (OCM 12/07/2012) - REQUEST FOR LEAVE OF ABSENCE - DEPUTY MAYOR ALLEN (CC/U/002; CC/U/006) (D GREEN)**

**RECOMMENDATION**

That Council grant leave of absence to Deputy Mayor Allen for the period 1 August 2012 to 31 August 2012 and, if necessary, to be extended to include 13 September 2012, Ordinary Council Meeting.

**COUNCIL DECISION**

**Background**

By email received 27 June 2012 Deputy Mayor Allen has requested leave of absence from Council duties for the period 1 to 31 August, 2012, with consideration to extend this period to include the Ordinary Council Meeting scheduled for 13 September 2012.

**Submission**

To grant Deputy Mayor Allen leave of absence, as requested.

**Report**

Council may, by resolution, grant leave of absence to a member. Approval is recommended on this occasion.

**Strategic Plan/Policy Implications**

**Governance Excellence**

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

**Budget/Financial Implications**

N/A

**Legal Implications**

Sec. 2.25(1) of the Local Government Act, 1995, refers.

**Community Consultation**

N/A

**Attachment(s)**

N/A

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



N/A

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

Nil.

**10. DEPUTATIONS AND PETITIONS**

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

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

**13. COUNCIL MATTERS**

**14. PLANNING AND DEVELOPMENT DIVISION ISSUES**

**14.1 (OCM 12/07/2012) - FINAL ADOPTION - CITY OF COCKBURN JETTIES, WATERWAYS AND MARINA AMENDMENT LOCAL LAW 2012 (CC/P/099) (D GREEN) (ATTACH)**

**RECOMMENDATION**

That Council pursuant to section 3.12(4) of the Local Government Act 1995 proceed to make the City of Cockburn Jetties, Waterways and Marina Amendment Local Law 2012

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

**COUNCIL DECISION**

**Background**

The City of Cockburn Jetties, Waterways and Marina Local Law 2012 was gazetted in the Government Gazette on 23 February 2012; however, the Joint Standing Committee – Delegated Legislation (JSCDL) requested certain amendments be implemented in the local law.

## **Submission**

To make the City of Cockburn Jetties, Waterways and Marina Amendment Local Law 2012.

## **Report**

At its meeting of Council on 10 May 2012 (Minute No.4775) Council resolved to amend the City of Cockburn Jetties, Waterways and Marina Local Law 2012 subsequent to the local law being gazetted in the Government Gazette. The proposed local law was forwarded to the Parliamentary Joint Standing Committee – Delegated Legislation (JSCDL) for review.

The JSCDL has required the City to amend the local law as follows:

1. In clause 1.3 delete “AS 3191”, “AS 3679.1” and AS “3679.2” and insert “AS/NZS 3191”, “AS/NZS 3679.1” and “ AS/NZS 3679.2”;
2. Delete the references to “the Standards Association of Australia” and insert with to “Standards Australia”;
3. Delete the definition of “reasonable notice”; and
4. Delete clause 4.12(e).

The JSCDL is of the view that the 1929 Standards Association of Australia dropped the term “Association” from its name in 1988 and became known as “Standards Australia” and subsequently changed its name to Standards Australia International Limited becoming incorporated as an Australian company limited by guarantee and thus is known colloquially as “Standards Australia”.

Further, the JSCDL is of the view that the definition be amended to reflect “AS/NZS” as indicated at point (1) above.

Originally the local law provided for a requirement for licensing, however, during the drafting process it was found that the term “reasonable notice” was no longer required as the licensing provisions were not considered applicable to the marina as most of the moorings were incorporated in the residential dwellings lots within the marina itself and thus the JSCDL considers the term “reasonable notice” is superfluous and as a matter of accuracy the JSCDL seeks an undertaking that this definition be deleted.

Finally, the JSCDL considered the “miscellaneous prohibitions” inclusive of the offences involving anti-social behaviour and civil

disturbance should be dealt with by the Police Service and as such the Committee requests an undertaking to delete Clause 4.12(e).

The Committee indicated it had resolved to move a 'protective' *Notice of Motion* to disallow the Local Law in Parliament pending the outcome of exchange of information and to initiate the amending process whilst protecting the Parliament's right to disallow the Local Law should matters not be resolved. The Notice of Motion should not be taken as indication the Local Law will be disallowed, however, this agenda item expedites the amending process.

As there were no submissions received, it is now proposed that Council resolve to make the *City of Cockburn Jetties, Waterways and Marina Amendment Local Law 2012* and have it gazetted in the Government Gazette ultimately bringing the local law into force.

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

#### **Governance Excellence**

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

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Section 3.12 of the Local Government Act refers.

### **Community Consultation**

N/A

### **Attachment(s)**

Copy of the City of Cockburn Jetties, Waterways and Marina Amendment Local Law 2012.

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

N/A

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

Nil.

**14.2 (OCM 12/07/2012) - CARAVAN STORAGE (RETROSPECTIVE) -  
LOCATION: 234 (LOT 21) HENDERSON ROAD MUNSTER -  
OWNER: LAURENCE ELLEMENT - APPLICANT: LAURENCE  
ELLEMENT (4411250) (A LEFORT) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) grant retrospective planning approval for caravan storage at 234 (Lot 21) Henderson Road Munster subject to the following conditions and advice notes:

**CONDITIONS**

1. Caravan drop offs and collections shall be arranged by appointment only and shall be restricted to between 9:00 a.m. and 5:00 p.m. on any day and there shall be a minimum of 30 minutes between each appointment.
2. Caravans and other similar vehicles are restricted to being parked within the 400m<sup>2</sup> shed with no caravans to be parked on the property anywhere outside the shed.
3. This approval is for the storage of caravans only and does not permit any person to be accommodated in any of the caravans at any time.
4. All stormwater to be contained on site. In this instance a drainage plan is required to be submitted to and approved by the City and any drainage upgrade works identified in the plan shall be carried out to the satisfaction of the City in a timeframe agreed upon between the City and landowner.
5. The crossover to Henderson Road shall be upgraded to the satisfaction of the City within a timeframe agreed upon between the City and the landowner.
6. No person shall install or cause or permit the installation of outdoor lighting otherwise than in accordance with the requirements of Australian Standard AS 4282 – 1997 "Control of the Obtrusive Effects of Outdoor Lighting".

**ADVICE NOTES**

1. This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, with any requirements of the City of Cockburn Town Planning Scheme No. 3, or the requirements of any other external agency.
  2. With regard to Condition Nos 4 & 5, you are advised to contact the City's Engineering Services on 9411 3554 for further information regarding the City's drainage and crossover requirements.
- (2) notify the applicant and those who made a submission of Council's decision; and
- (3) issue a Directions Notice under section 214 of the *Planning and Development Act* for the removal of all caravans, sea containers, disused vehicles currently being stored on site which are located outside the shed; and revegetation of the area currently being used for open storage in accordance with Condition 7 of the Planning Approval issued by the City for the oversized shed on 27 November 2006.

**COUNCIL DECISION****Background**

The subject site is 2.289 hectares in area and is located on the north western corner of Henderson and Holmes Roads in Munster. The site is well vegetated with some cleared areas containing an existing dwelling and several outbuildings. The site, located within the rural zone is also within the Kwinana Air Quality buffer and is approximately 320m from the Hope Valley-Wattleup Redevelopment Area (Latitude 32).

On 27 November 2006, the City of Cockburn issued planning approval for a 400m<sup>2</sup> oversized shed. In his submission to Council, the applicant stated that he intended to apply to planning for a permit to park 5 caravans in the shed and specified movement times. There is no

further record on file of any planning approval lodged for the parking of caravans in the shed. The planning approval issued in 2006 did not specify any conditions relating to the storage of caravans but did specify a condition No.7) requiring a large portion of the site to be revegetated with native vegetation.

The area required to be revegetated in the 2006 approval is the same place as where the landowner has been storing caravans without an approval.

In December 2011 it came to the City's attention that a portion of the site was being used for the storage of approximately 20 caravans with 10 being stored within an existing oversized shed and the remaining 10 being stored in an open cleared area. The landowner subsequently lodged an application for retrospective planning approval.

### **Submission**

The applicant is seeking retrospective planning approval for the storage of 20 caravans on site with 10 of those being located within an existing shed structure and 10 being located in an open storage yard on a cleared portion of the lot. The applicant has advised that the caravans are simply stored on the site with no maintenance, construction or destruction of caravans being undertaken on the site. The applicant advises that many of the caravans are taken out only once or twice per year.

The application does not propose any new buildings or further clearing of land and no employees work from the site. The applicant has also advised that the use generates very little noise and drop off and collection of caravans occurs by appointment only during day time hours with no late night or early morning drop offs or collections.

### **Report**

#### Statutory Framework

##### *Metropolitan Region Scheme (MRS)*

The subject site is zoned 'Rural' under the Metropolitan Region Scheme (MRS).

##### *Town Planning Scheme No. 3 (TPS 3)*

The site is zoned 'Rural' under the City of Cockburn's TPS 3. The open storage yard portion of the site is defined as a 'Storage Yard'. TPS 3 does not define a 'Storage Yard', only the more general 'Storage' which 'means premises used for the storage of goods, equipment, plant or

*materials.* A 'Storage Yard' is an 'A' use in the scheme which means that the use is not permitted unless the local government has exercised its discretion and has granted planning approval after giving special notice in accordance with clause 9.4.

The 400m<sup>2</sup> shed which is being used to store caravans also fits into the 'Storage' definition although the use is not included in the use class table of the scheme. For the purposes of this assessment, the building and open area are deemed to have a similar impact on amenity and are therefore being treated the same.

#### *State Planning Policy 2.5 Agricultural and Rural Land Use Planning*

SPP 2.5 applies to all rural land in Western Australia. The objective of the policy is to conserve productive agricultural land. Relevant to this application is the requirement for planning to ensure adequate separation distances between potential conflicting land uses in rural areas, such as industrial and rural residential land uses.

#### *Latitude 32 Master Plan*

The development is located approximately 200m east of the Hope Valley Wattleup Redevelopment Area. The Hope Valley Wattleup Redevelopment Project Master Plan identifies Precinct 9 – North East Gateway“ as being the closest precinct to the subject lot. The Master Plan (amended April 2008), proposes this precinct serve as a buffer to heavier industrial uses located more centrally within Latitude 32. Land uses identified for development in this precinct include educational establishments, while lighter commercial and industrial uses such as car parks, light industry and offices are identified as discretionary. Based on this, the amenity and rural nature of the subject lot and surrounding properties will be protected to some degree from general industrial uses situated in Latitude 32.

#### *Community Consultation*

This proposal was advertised to nearby potentially affected landowners for comment. The City received two submissions which included one non-objection and one objection. The following reasons for concern were given for the objection:

1. Items including old car bodies, trucks, buses, caravans, dongas and sea containers have been stored on this property not just caravans.
2. Property is a fire risk in this rural area and they would have contacted Council earlier if they were aware that there was no planning approval issued.

3. There are people living permanently in some of the stored caravans.
4. There is a purpose built shower and toilet facility on the site and whether the septic and leach drains are suitable for this.
5. Long towed caravans enter and exit the property at all times onto Henderson Road which causes traffic danger and that they may cause an accident.
6. Property values as a result of this business.
7. Loss of rural lifestyle and amenity.
8. The visual impact of the use.
9. The erosion of non-rural uses and the preservation of one of the last remaining bushland areas on the western side of Thompsons Lake.

### Issues

#### *Visual Impact and Rural Amenity*

Storage of caravans in a cleared area is having a negative visual impact on adjoining landowners. Should the area continue to be developed with cleared, open storage yards, there will be further detrimental impacts on the visual amenity and the rural lifestyle enjoyed by residents in the area. Should Council consider granting approval to the proposal, it is recommended a condition be imposed restricting storage of the caravans to within the shed only. This would ensure that there is no visual impact on the adjoining landowners and the site can then be remediated and returned to a having a rural appearance and character.

#### *Traffic*

The City's Traffic Engineer has reviewed the proposal and inspected the site and has advised that the impact of the proposal on traffic movements is minimal. However, it is noted that the crossover to Henderson Road used for access is in poor condition at the road edge and needs to be repaired/resurfaced. This is likely to make drivers turning slower than desirable which would unnecessarily affect through traffic on Henderson Road. The crossover should therefore be repaired/upgraded and then maintained in a safe condition in the future.

There is also evidence that the verge is being scoured by storm water collecting on the internal access road and running off crossover. That scouring of the verge is starting to create a drop off at the pavement edge which is a safety issue for road users. To prevent that happening, the applicant should be required to capture and contain that storm water on-site to the City's satisfaction.

#### *Noise*



The main noise emanating from the site is from the drop off and collection of caravans which has the potential to cause some disturbance to adjoining landowners. Should Council consider granting approval to this proposal, a condition could be imposed restricting the times whereby caravans can be dropped off and collected to day time hours. Conditions can also be used to restrict the number of caravans stored and ensure that all collections and drop offs are done by appointment. Restricting the activity to storage to within the shed will also serve to greatly reduce the number of movements..

### *Environmental*

When planning approval was issued in 2006 for the construction of the existing 400m<sup>2</sup> oversized shed, a condition of approval required the applicant to revegetate the cleared area which is currently being used as an open storage yard. This was never completed and the City has not taken any action against the landowner.

A further resolution is recommended instructing the City to issue a Directions Notice under the Planning and Development Act 2005 to enforce compliance with the condition 7 of the Development Approval granted on 27 November 2006 for revegetation of the open storage areas.

### *Fire Risk*

The proposal is not considered by the City to cause a fire risk.

### *Person's Alleged to be Residing in Caravans*

The City Health Services has conducted an inspection of the property and has identified person(s) residing in a disused bus and appropriate action for their vacation from the premises. The inspection revealed that the remainder of caravans on site were not occupied and being stored there as per the proposal.

### Conclusion

It is clear from the evidence gathered that that the owners have not acted in accordance with their approvals, have undertaken an unapproved use (storage) which has impacted on the amenity and rural character of the area and allowed illegal camping on their site. While approval is recommended it is on a basis that will significantly curtail the activity and ensure that the affected portions of the site are returned to a rural character within a short period of time.

The application is supported with modification on the basis that only the existing oversize shed be used for caravan storage with no approval for the open storage yard component based on the following reasons:

1. Caravan storage restricted to inside the shed will not cause any detrimental visual impact to the adjoining residents or surrounding area.
2. The use (as recommended for approval) is of a relatively small scale and is unlikely to impact on the rural amenity of the area or cause an unreasonable level of noise.
3. The impact of the proposal on traffic is considered to be within the design parameters of the road.
4. The crossover is to be upgraded.
5. The objections raised by a nearby landowner can be overcome by the imposition of a condition requiring all storage of caravans to be contained inside the existing shed building.
6. Compliance with the planning approval from 2006 which required the open storage area to be revegetated will further assist in reducing the impact of the proposal from adjoining landowners and will also assist to preserve the rural amenity of the area.

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

#### **Demographic Planning**

- To ensure development will enhance the levels of amenity currently enjoyed by the community.

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

- To facilitate and provide an optimum range of community services and events.
- To conserve the character and historic value of the human and built environment.
- To identify community needs, aspirations, expectations and priorities for services that are required to meet the changing demographics of the district.

#### **Natural Environmental Management**

- To conserve, preserve and where required remediate the quality, extent and uniqueness of the natural environment that exists within the district.
- To ensure development of the district is undertaken in such a way that the balance between the natural and human environment is maintained.

### **Budget/Financial Implications**

Nil.

### **Legal Implications**

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

### **Community Consultation**

The application was advertised to nearby landowners and this is discussed in more detail in the Community Consultation section of the report.

### **Attachment(s)**

1. Location Plan
2. Site Plan
3. 2006 Planning Approval

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 12 July 2012 Council Meeting.

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

Nil.

### **14.3 (OCM 12/07/2012) - DEMOLITION OF SOUTH COOGEE PRIMARY SCHOOL - LOCATION: 183 RUSSELL ROAD MUNSTER - OWNER: STATE OF WESTERN AUSTRALIA - APPLICANT: DONALD CANT WATTS CORKE (3411196) (A LEFORT) (ATTACH)**

#### **RECOMMENDATION**

That Council recommend to the Western Australian Planning Commission that the planning application for demolition of the heritage buildings associated with South Coogee Primary School be approved subject to the following conditions and advice notes:

#### **CONDITIONS**

1. A Traffic Management Plan is to be submitted to the satisfaction of the City to ensure works associated with the demolition will not adversely affect the safe

movement of traffic on Russell Road or Rockingham Road.

2. A screen (shade cloth or the like) is to be erected on the fence along the southern and eastern boundaries of the site.
3. No existing trees shall be removed as part of the demolition works approved as part of this application.
4. A tree survey identifying all trees on site shall be conducted prior to the commencement of demolition works and measures shall be used to ensure any trees within close proximity of the buildings being demolished are protected to the satisfaction of the City of Cockburn.
5. A Heritage Interpretation Plan shall be submitted to and approved by the City of Cockburn prior to the commencement of demolition works. The plan shall include appropriate heritage interpretation measures to ensure acknowledgement of the pioneers and former attendees of the school.

#### ADVICE NOTES

1. The applicant is advised that they are required to obtain a Demolition Permit from the City of Cockburn's Building Services in accordance with the Building Act.
2. Asbestos is to be handled in accordance with the Health (Asbestos) Regulations 1992 and disposed of in accordance with the Environmental Protection (Controlled Waste) Regulations 2001. Any queries regarding this should be directed to the City of Cockburn's Health Services.

#### COUNCIL DECISION

#### Background

An application for the demolition of heritage listed buildings associated with South Coogee Primary School was presented to Council for

consideration at its ordinary meeting held on 8 March 2012. Council resolved to defer consideration of the application pending provision of further information as per the following resolution:

*'MOVED Cllr C Reeve-Fowkes SECONDED Deputy Mayor K Allen that Council defer consideration of the application to demolish the former South Coogee Primary School, pending the provision of further information, specifically addressing the following points:*

1. *A Native Flora Management Plan in accordance with section 5.14 of Town Planning Scheme No. 3 and a vegetation survey and report shall be prepared addressing identification, protection and practical retention of as many mature trees on site and along adjacent boundaries to the A class reserve and to the South Coogee Agricultural Hall.*
2. *How the application to demolish the South Coogee School is able to be considered under the current Town Planning Scheme given the associated pre-condition of Special Use 9 requiring "the retention and conservation of the heritage listed Agricultural Hall and the former schools buildings"?*
3. *What investigations have been undertaken to consider the retention and conservation or renovation of any of the school buildings and what alternative uses have been considered.*
4. *How are we going to acknowledge the original pioneers and attendees of the school and how that recognition is to be addressed?'*

Council specified in its reasons for the decision that the officer's report did not address significant mature trees on site which could be destroyed if not protected and further consideration is required regarding the protection of local history.

On 30 May 2012, the City received a letter from the Department of Finance (Building Management and Works) confirming that it is exercising its powers under the *Public Works Act 1902* and as such the proposed demolition constitutes a public work undertaken by a public authority. Under Section 6 of the *Planning and Development Act 2005*, approval from the local government is not required. Despite this, approval is still required under the Metropolitan Region Scheme (MRS) where the Western Australian Planning Commission (WAPC) is the determining authority. The City subsequently forwarded the application

to the WAPC for determination advising that its recommendation will follow (based on a resolution of Council from this meeting).

The application is therefore presented back to Council in order to provide a recommendation to the WAPC.

### **Submission**

N/A

### **Report**

The applicant has supplied the following further information to address Council's specific concerns about the proposal:

#### **1. Native Flora Management Plan**

The proposal submitted for approval is for demolition of the heritage buildings associated with the former South Coogee Primary School and does not include removal of any trees on site including the mature trees on the periphery of the site which were of concern to Council.

The applicant advised that measures can be put in place to protect any trees that are close to the building to ensure their protection. Should Council support the demolition, condition/s can be recommended to the WAPC requiring existing trees to be retained and required measures be undertaken to the satisfaction of the City to protect trees close to the buildings being demolished.

#### **2. Town Planning Scheme No. 3 (TPS 3)**

The proposal is being commissioned by the Department of Finance (Building Management and Works) and constitutes a public work by a public authority.

As discussed in the Background section above, the proposal is therefore exempt from requiring planning approval under the City's TPS 3. The WAPC is the determining authority and Council's resolution will be form the recommendation to the WAPC.

#### **3. Conservation/Renovation**

It is evident from the minutes from the Council meeting held on 14 June 2006 that the State Government was unwilling to commit funds for the restoration and upgrading of the school buildings as

they were at that time in a state of disrepair and would require substantial capital investment to upgrade to current standards. Since 2006, the buildings have further deteriorated and the Department of Finance (Building Management and Works) remains unprepared to fund any retention and conservation of the buildings. The Department of Finance also advises that there are no suitable uses or occupants that have been identified for the existing buildings.

#### 4. Acknowledgement of Original Pioneers

The applicant suggests that original pioneers and attendees of the school can be acknowledged through information plaques, interpretive material and naming of future roads in the immediate vicinity. Clause 7.1 of Council's Policy APD64 'Heritage Conservation Design Guidelines', discusses the need for interpretation and interpretation plans of heritage buildings where demolition is to occur. The policy states that the City may require the preparation of interpretive material as a condition of development approval for proposals involving the demolition of a heritage place.

Should Council support the proposal for demolition, a condition requiring an interpretive plan can be recommended as a condition to be imposed by WAPC on the approval.

#### Conclusion

The application is recommended for approval as the additional information provided by the applicant to address concerns raised by Council at its meeting held on 8 March 2012 provides suitable further information and responses to those matters. In addition, the six reasons that the proposal was recommended for approval as contained in the minutes of 8 March 2012 were:

1. The heritage buildings are of limited architectural, historical and cultural significance as evidenced by the sites downgrading from a "B" to a "C" Management Category on the Local Government Inventory.
2. The Main Classroom Building and Shelter Shed have been extensively vandalised and damaged.
3. Repairs to the damaged building would be prohibitively expensive given the presence of asbestos.
4. It is unlikely that an appropriate ongoing use of the buildings would be found if the buildings were repaired and upgraded.
5. Public notification of the proposed demolition resulted in no objections.

6. The demolition of the heritage buildings would allow a more efficient and integrated approach to the development of land within the Marine Industry Technology Park.

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

#### **Demographic Planning**

- To ensure development will enhance the levels of amenity currently enjoyed by the community.

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

- To facilitate and provide an optimum range of community services and events.
- To conserve the character and historic value of the human and built environment.
- To identify community needs, aspirations, expectations and priorities for services that are required to meet the changing demographics of the district.

#### **Natural Environmental Management**

- To conserve, preserve and where required remediate the quality, extent and uniqueness of the natural environment that exists within the district.
- To ensure development of the district is undertaken in such a way that the balance between the natural and human environment is maintained.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

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

### **Community Consultation**

The application was advertised in the 'Cockburn Gazette' for a period of two weeks and by letter to three objectors to the 2006 application for demolition. At the close of the advertising period one submission was received from the Cockburn Historical Society indicating that they do not object to the proposal as the site and buildings have been



neglected and too much damage has occurred for any heritage value to be of relevance.

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

1. Archival Record – May 2003
2. Addendum to Archival Record – October 2011
3. Extract from the Minutes of 14/06/2006 OCM – previous application.
4. Extract from the Minutes of 08/03/2012 OCM – current application.

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 12 July 2012 ordinary meeting of Council.

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

Nil.

#### **14.4 (OCM 12/07/2012) - PROPOSED STRUCTURE PLAN - LOTS 12, 13 AND 81 HAMMOND ROAD, LOT 500 HIRD ROAD AND LOT 80 BEELIAR DRIVE, SUCCESS - OWNER: VARIOUS - APPLICANT: JOHN HAMMOND TOWN PLANNING CONSULTANT (SM/M/051) (C HOSSEN) (ATTACH)**

##### **RECOMMENDATION**

That Council:

- (1) in pursuance of Clause 6.2.9.1 of City of Cockburn Town Planning Scheme No. 3 ("Scheme") adopts the Structure Plan for Lots 12, 13 and 81 Hammond Road, Lot 500 Hird Road and Lot 80 Beeliar Drive, Success;
- (2) subject to compliance with (1) above, in pursuance of Clause 6.2.10.1 of the Scheme, the Structure Plan be sent to the Western Australian Planning Commission for endorsement;
- (3) endorse the Schedule of Submissions prepared in respect to the Structure Plan;
- (4) advise the landowners within the Structure Plan area and those who made a submission of Council's decision accordingly; and
- (5) advise the proponent that Development Contribution Area 13 -

Community Infrastructure is now in operation under the Scheme. Landowners subdividing to create residential allotments and/or developing grouped/multiple dwellings will therefore be required to make contributions in accordance with the development contribution plan requirements.

## COUNCIL DECISION

### Background

The purpose of this report is to consider for adoption the Proposed Structure Plan for Lots 12, 13 and 81 Hammond Road, Lot 500 Hird Road and Lot 80 Beeliar Drive, Success ("subject land"). The Proposed Structure Plan seeks to provide for urban development of the subject land, comprising a range of densities and reservations as well as the associated structural elements to facilitate an urban outcome.

The Proposed Structure Plan has been advertised for public comment and also referred to authorities for comment. This report now seeks to specifically consider the Proposed Structure Plan for adoption, in light of the advertising process and assessment by officers.

### Submission

John Chapman Town Planning has lodged the proposal for the subject land.

### Report

#### Planning Background

The subject land area is 27.4846 hectares in size and generally bound by the existing road network and existing residential development to the east. Attachment 2 contains a location plan.

The subject area is zoned 'Urban' and 'Other Regional Roads' under the Metropolitan Region Scheme ("MRS") and 'Development' under City of Cockburn Town Planning Scheme No. 3 ("Scheme"). The subject land is also located within Development Contribution Area No. 1 ("DCA 1") and No. 13 ("DCA 13").

A Conservation Category Wetland runs broadly east to west through the southern portion of the subject land. This wetland is commonly referred to as 'Hammond Swamp'.

The land is predominantly vacant though features a number of single residences and outbuildings. Jandakot Caravan Park and an associated 'corner store' are also located on Lot 12 Hammond Road. These will all be replaced by an intended urban development across the subject land.

Pursuant to Clause 6.2.4 and Schedule 11 of the Scheme, a structure plan is required to be prepared and adopted to guide future subdivision and development.

#### Proposed Structure Plan

The Proposed Structure Plan as shown on Attachment 3 provides for predominately residential development, with three areas of Public Open Space ("POS") and an associated road network. Based on the design, approximately 420 dwellings (comprising single, grouped and multiple dwellings) will eventuate.

The Proposed Structure Plan satisfies density objectives, POS requirements and provides a suitable road network.

#### Residential Density

Proposed densities allow for the provision of variety in lot sizes and dwelling types and are conducive to the density found in the surrounding residential developments. Densities range from R25 to R60; with R30 and R40 being the predominant zoning.

Lots fronting the existing residential development on Hird Road and Bannigan Avenue are coded R25. The level of development expected will be conducive to that already found in the area and will not negatively impact the existing amenity of the streets. This is an important objective to achieve.

An area of R60 zoned land, being approximately 1.12ha in size, is identified south of the proposed intersection of extension of Jubilee Avenue and Hammond Road. It would be expected that this site would be developed for higher density townhouses or low level apartments.

In general the lot yield and proposed densities are consistent with those outlined in Directions 2031 and the Outer Metropolitan Perth and Peel Sub-Regional Strategy.

#### Public Open Space

The Structure Plan provides for a total of 5.93 ha of POS, approximately 20% of the overall area. Within the subject site four specific areas of POS are proposed, these will be discussed in detail below. All proposed lots will be within 200m of an area of POS.

A Conservation Category Wetland features within the Structure Plan area, being 3.4640ha in size. The wetland retains water year round and is ringed by native vegetation, particularly to the south.

It is proposed that the wetland area be buffered on either side by areas of restricted POS. These buffers extend a minimum of 50m from the boundary of the wetland, as required by State Policy. The northern and southern areas of restricted POS are 2.278ha and 1.536ha in size, respectively. In total the wetland and adjoining buffers take up an area of 7.27ha. The areas adjoining the wetland will be revegetated in consultation with the City, as part of the subdivision and development requirements.

Two dual use paths run broadly east to west on both the northern and southern sides of the wetland. These will provide strong pedestrian connection and additional opportunities for passive and active recreation.

The area of POS, noted as Neighbourhood Park on the Structure Plan, being 1.577ha in size is located in the north east of the subject land. The subject land is heavily vegetated with native flora and will allow for passive and informal active recreation. A dual use path fronts the urban edge of the park and will allow for strong pedestrian connectivity to Beeliar Drive.

The smaller area of POS, noted as restricted POS on the Structure Plan, is located in the north western portion of the site. The site is 0.54ha and for the purposes of drainage and active recreation. A drainage basin, to be landscaped to a high standard, is located fronting Hammond Road and designed to hold a 1 in 5 year storm event. A grassed area of 2,520 m<sup>2</sup> will allow for non organised active recreational activities of residents on the eastern portion of the site.

All areas of public open space will be ceded to the Crown free of cost pursuant to Section 152 of the *Planning and Development Act 2005*, as per the normal process.

#### Land Swap with City of Cockburn

Lot 80 Beeliar Drive is held in freehold by the City of Cockburn and is 1,667 m<sup>2</sup> in size. Lot 80 has been identified in the City's Land

Management Strategy 2011-2016 as having future development potential. Lot 80 forms part of the Structure Plan area.

The Structure Plan proposes to zone the area Residential R30 and as such has development potential. The nature of Lot 80, being broadly an isosceles triangle, limits the ability to develop the lot for residential purposes. As such, the City plans to enter into an agreement in the future with the owner of Lot 81 Hammond Road to initiate a land swap to allow for a more orderly development to occur.

In general the land swap will see the City transfer the eastern portion of Lot 80 to Lot 81 Hammond Road. In turn an adjoining portion of Lot 81 would be transferred to the City. This would ensure that the City's landholding would have direct street access to the proposed internal subdivision road. (Attachment 4).

The final arrangements of this will be negotiated at a later stage and is not a matter being brought to Council for consideration at this stage of the Proposed Structure Plan.

### Traffic

The movement network of the Proposed Structure Plan can be broadly described as an interconnected grid network; providing a strong emphasis on connectivity, amenity and integration.

The proposal will gain access to the surrounding street network through an extension of Jubilee Avenue through the site through to Hammond Road. The proposed intersection of Jubilee Avenue and Hammond Road will feature a roundabout that will also allow connection to Branch Circus.

Jubilee Avenue will be the primary traffic route in the subdivision and will connect Alabaster Drive, a Local Distributor road, to Hammond Road, a District Distributor B road.

The provision of a roundabout at the connection to Hammond Road is considered a desirable design outcome as it will provide more efficient and safer accessibility for residents on both sides of Hammond Road and also assist with the management of speed along Hammond Road by breaking it into reasonably regular sections of road.

An increase in traffic is expected on the existing portion of Jubilee Avenue. Total post development traffic on the existing portion of Jubilee Avenue is expected to be in the order of 1,700 vehicles a day, well below the 3,000 trip limit of such a road. This amount is also approximately 500 vehicles below the original traffic modelling undertaken as part of the Thomsons Lake Estate Structure Plan. It is

noted that the majority of traffic generated is expected to exit the Structure Plan area via the intersection of Hammond Road and Jubilee Avenue.

As per the requirements of DCA1 the land currently zoned 'Other Regional Roads' under the MRS within the Structure Plan boundary has been indicated to be seeded to allow for the future widening and upgrade of Hammond Road.

An Acoustic Report has been prepared and satisfies the requirements of the City and State Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning. Changes were made to the Acoustic Report post advertising to reflect the issues which were raised during the advertising period. These went to ensuring that compliance with SPP 5.4 was undertaken through measures occurring on land included in the Proposed Structure Plan area and not on adjoining land.

#### Fire Management

A Fire Management Plan ("FMP") has been prepared as part of the Structure Plan process. The FMP has been prepared in keeping with the requirements of the WAPC's Guidelines for Bushfire Protection.

The Structure Plan area will retain significant remanent and revegetated areas post development. The FMP shoes how these areas and the associated risks will be addressed at the appropriate stages.

Particular attention is given to lots directly fronting areas of POS, location of fire access, location of low fuel areas and also location of dual use paths. Any future Wetland Management Strategy will be integral in ensuring that the interface with the buffer and the residences in handled in an appropriate manner.

#### Vegetation Protection

Significant areas of native vegetation have been identified on site. These are primarily located surrounding 'Hammond Swamp' and the north east portion of the site.

The location of POS within the Structure Plan area will allow for the protection of these sites and further rehabilitation in the future.

#### Community Consultation

The Proposed Structure Plan was advertised for public comment from 17 April to 15 May. The Proposed Structure Plan was advertised to

nearby and affected land owners, published in the Cockburn Gazette for 21 days and also referred to relevant government authorities.

In total 30 submissions were received for the proposed structure plan, including:

- 17 from adjoining landowners
- 1 from the applicant
- 2 from a representative of an adjoining landowner
- 10 from government agencies.

All of the submissions that were received are set out and addressed in the Schedule of Submissions (Attachment 5).

The 17 submissions from surrounding and affected landowners included; 14 submissions of support for the proposal, 2 providing support with comment and 1 objection to the proposal.

The objection, which is comprehensively addressed in the Schedule of Submissions, was broadly concerned with the following:

1. Increased traffic along the existing Jubilee Avenue causing adverse impact on their amenity and safety.
2. The possibility of the Public Transport Authority utilising the extended Jubilee Avenue for a Transperth bus route in the future.
3. The development and upkeep of the POS around the 'Hammond Swamp'.
4. Concern that traffic reading utilised in the traffic assessment was outdated and didn't reflect the recent issues affecting the area.

The submission raised concerns that the extension of Jubilee Drive through to Hammond Road will lead to not only increased traffic from the Proposed Structure Plan but additional traffic utilising the route to access Gateways Shopping Centre and surrounding facilities.

Traffic Modelling undertaken by Transcore as part of the supporting documentation for the Proposed Structure Plan noted that an additional 820 vehicles would utilise the existing section of Jubilee Avenue. The number of vehicles using that stretch of road post development would therefore be approximately 1,700.

This volume of traffic falls well within the desirable maximum of 3,000 vehicles per day for an Access road, the functional road classification that Jubilee Avenue currently has. It should also be noted that the extension of Jubilee Drive through to Hammond Road had always been planned to provide access to future residential development. Accordingly this objection is considered to be overcome.

The two comments provided by the representative of an adjoining landowner noted inconsistencies within the acoustic report and had particular concern around the treatment of Lot 176 Beeliar Drive within the acoustic report. These concerns were upheld and changes undertaken to remove any mention of Lot 176 Beeliar Drive from the acoustic report. This addresses these concerns.

Submissions received from Government agencies and authorities generally provided support and comment on the Structure Plan. A number of changes have occurred to the Structure Plan and supporting documentation in response to comments from government authorities. Of particular noting is changes made to the Local Water Management Strategy as request by the Department of Water.

### Conclusion

It is recommended that Council adopt the Structure Plan for Lots 12, 13 and 81 Hammond Road, Lot 500 Hird Road and Lot 80 Beeliar Drive, Success and pursuant to clause 9.2.10 of the Scheme refer it to the Western Australian Planning Commission for their endorsement.

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

#### **Demographic Planning**

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

### **Budget/Financial Implications**

The required fee was calculated on receipt of the proposed Structure Plan and has been paid by the proponent. There aren't any other direct financial implications associated with the Proposed Structure Plan.

### **Legal Implications**

Clause 6.2.9.1 of the Scheme requires Council to make a decision on the application within 60 days from the end of the advertising period of such longer period as may be agreed by the applicant. The advertising period concluded on November 21 2011.

### **Community Consultation**

In accordance with Clause 6.2.8 of the City's Scheme the proposed local structure plan Public consultation was undertaken from 17 April to



15 May. This included a notice in the Cockburn Gazette, letters to landowners within the Structure Plan area, adjoining landowners and State Government agencies.

Analysis of the submissions has been undertaken within the 'Report' section above, as well as the attached Schedule of Submissions (Attachment 4).

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

1. Location Plan
2. Site Context Plan
3. Proposed Local Structure Plan
4. Proposed land swap arrangements
5. Schedule of Submissions

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

The proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 12 July Council Meeting.

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

Nil.

#### **14.5 (OCM 12/07/2012) - REPORT INTO THE ACTIVITIES AND IMPACTS OF COCKBURN CEMENT LIMITED (3411123) (N. JONES, S DOWNING, D ARNDT) (ATTACH)**

##### **RECOMMENDATION**

That Council:

- (1) continue to participate in Cockburn Cement Limited's community relations program including attendance at Community Forums and on the Stakeholder Advisory Group;
- (2) consider a report on the status of Cockburn Cement Limited's environmental performance when bag filters on Kiln 5 have been commissioned and operating for at least six months; and
- (3) seeks permission from the Department of Local Government to apply a higher differential rating for Cockburn Cement Limited in 2013/14 and engage with Cockburn Cement Limited using "targeted consultation".

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<b>COUNCIL DECISION</b>
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**Background**

At the Ordinary Council Meeting on 10 November 2011 Councillor Allen requested that officers prepare a report into the activities and associated citywide impacts of Cockburn Cement Limited (CCL).

*The report is to focus on, but not be limited to the following issues:*

- 1. Council adopting a position requesting CCL to relocate to a more suitable non urban environment.*
- 2. Council reviewing and quantifying the damage to community member's assets such as buildings, infrastructure, vehicles etc caused by the existing emissions and repeated additional emissions coming from CCL's Munster plan.*
- 3. Council seeks permission from the Department of Local Government to apply higher differential rates to CCL, if dot point 1 above proves not to be possible.*
- 4. Council investigating with 'class action lawyers' the possibility of establishing and supporting a residents claim against CCL for injurious harm to health and property.*
- 5. Council partnering with the Cockburn Sound Management Council to review the damage to Cockburn Sound from activities undertaken by CCL.*
- 6. Council investigating the costs of retaining CCL in the City by way of consumption of Council infrastructure and assets, such as roads and associated road reserve's assets.*
- 7. Council reviewing and quantifying the damage to Council assets such as buildings, parks, waterways and lakes caused by the existing emissions and repeated emissions coming from CCL's Munster Plant.*

8. *Council investigating the introduction of a specified area rate to recover the excessive wear and tear on said assets. This is to apply to other functions beyond the normal expectations of standard commercial/industrial facilities.*
9. *Council investigate the legal implications of these items and other issues considered relevant by the officer compiling the report.*

Cockburn Cement Limited's Munster plant has emitted dust and odour for many years. Recently there has been some concerns raised by the City, the local community, and by their regulator the Department of Environment and Conservation (DEC). CCL have acknowledged a need to improve their environmental performance and major capital expenditure is ongoing for this purpose.

### **Submission**

Nil.

### **Report**

Clr Kevin Allen requested that officers prepare a report into the activities and associated citywide impacts of Cockburn Cement Limited. The report is to focus on, but not be limited to nine issues and each issue is addressed separately below:-

1. Council adopting a position requesting CCL to relocate to a more suitable non urban environment.

CCL is located to take advantage of proximity to the freight rail line for transporting bulk materials such as coal into the plant, limestone quarries for limestone and for landfill disposal of bulk waste materials, and Cockburn Sound for shell-sand via the dedicated pipeline off Woodman Point. There is a compelling argument to suggest that CCL is in fact not currently located in an urban area and that the technology exists to enable CCL to retain its emissions within its buffer of 1500 – 2000m. CCL was established at the Munster site in the mid 1950's through a State Agreement Act. This agreement with the State Government was renewed in 2010 and it grants approval to CCL to continue extraction of shell sand from Cockburn Sound until 2030. Therefore notwithstanding the City's ability to adopt a position on this matter it is extremely likely that CCL will remain at the Munster site for at least 20 years.

CCL advise that they have spent approximately \$100m in capital improvements since 2005 on measures to improve plant reliability and reduce environmental impact on the local area.

Measures have included:

- Kiln 6 bag filter
- Electrostatic precipitator major works
- Coal stockpile management changes
- Extensive rehabilitation to reduce fugitive dust
- Ceasing quarrying in sensitive quarry areas
- Extensive use of dust suppressants on stockpiles and haul roads
- Improvements to kiln combustion control to improve reliability

Other measures have included additional staff resources:-

- Co-ordinator of Community Relationships.
- Environmental Co-ordinator – community liaison and licence reporting.
- An additional Process Engineer -to provide extra focus improving process stability to reduce emissions due to kiln trips.

CCL is currently in the advanced design stages for the new Kiln 5 bag filter that will be installed by the end of the first half of 2013 at a cost of about \$15m

Given that CCL is in the process of installing significant new emission control equipment it would be prudent to reconsider the adoption of a Council position once the effectiveness of the equipment has been able to be evaluated.

Officer's recommendation – this issue to be reviewed when bag filters on Kiln 5 have been commissioned and operating for at least six months.

2. Council reviewing and quantifying the damage to community member's assets such as buildings, infrastructure, vehicles etc caused by the existing emissions and repeated additional emissions coming from CCL's Munster plant.

This would be extremely onerous undertaking given the alleged extent of the fall-out from CCL over the past decades. Each individual premises and vehicle would need to be assessed and evidence gathered to prove that the damage was without doubt caused by emissions from CCL. The most likely emission that may cause damage to property would be the corrosive effect of lime dust due to its high alkalinity. In many cases over the years CCL have cleaned a significant number of vehicles, solar panels and the like across several suburbs where there lime dust emissions have been the cause of complaint.

Lime dust is normally emitted from Kilns 5 and 6 and only rarely from Kilns 3 or 4 under unusual circumstances such as while the bag filters were being fitted to Kiln 6 in February 2012. Dust emissions from Kiln 6 are and will continue to be effectively zero due to the capture performance of the bag filters. Lime dust emissions from CCL are predicted to be effectively zero once similar bag filters are installed on Kiln 5 before the end of 2013.

Given that CCL is in the process of installing significant new emission control equipment it would be prudent to reconsider the review of damage to community assets once the effectiveness of the equipment is evaluated.

Officer's recommendation – This issue to be reviewed when bag filters on Kiln 5 have been commissioned and operating for at least six months.

3. Council seeks permission from the Department of Local Government to apply higher differential rates to CCL, if dot point 1 above proves not to be possible.

The City currently applies a higher differential rate to CCL than other commercial/ industrial properties. This is sanctioned by the Local Government Act and approved by the Minister for Local Government. The City did apply two years ago for a significantly higher differential rate to be imposed on the land owned by CCL but this application was rejected by the Minister for Local Government who approved the current differential rate. In his response to the City, the Minister indicated that he would not entertain a rate proposed by the City without evidence of "Targeted Consultation" with the landowner.

The City has written three times to CCL attempting to engage them on the issues of differential rating of the land owned by CCL but to date we have not received a response to any correspondence. The City can apply for a higher rate in 2013/14 using this as evidence of the City's attempt at Targeted Consultation.

Officer's recommendation – The City applies for a higher differential rating in 2013/14 and engages with CCL using "targeted consultation".

4. Council investigating with 'class action lawyers' the possibility of establishing and supporting a residents claim against CCL for injurious harm to health and property.

The City has consulted with a recognised class action lawyer, who provided general advice on the establishment of a class action case. They advised that typically there will be a need for a meeting and a

submission with proposed evidence to be provided to the lawyers for consideration of any case.

In order to obtain evidence the first step would involve placing an advertisement, in newspaper circulating in the area, inviting affected residents to nominate to participate in the class action. The City would then need to undertake detailed interviews of a number of those residents who had nominated to participate and gather evidence of alleged damage to property or their health and present this in a report to the lawyer. It is estimated that this would take over two months and cost about \$5,000. The legal costs are likely to be in the order of \$20,000.

If the lawyer then determines that there may be a case worth pursuing the City would need to conduct a more extensive media campaign inviting additional affected residents to come forward. Further detailed interviews with those additional residents would then be necessary. The likely cost of the additional interviews is unknown (potentially the cost could be between \$10,000 and \$30,000). The likely cost of the legal fees for preparing and lodging the case based upon the City's recent experience with a Liquor Licence case in the Supreme Court, would be at least \$50,000.

In the State Government's response (Attachment 1) to the report and recommendations of the Standing Committee they noted that the DoH has undertaken two detailed investigations of the potential health impacts of CCL's emissions on the surrounding community and they will not be undertaking another health study.

It is important to recognise that a successful class action would require proof beyond reasonable doubt that:-

- Damage to property and/or health has occurred, and
- That the damage was caused by emissions from CCL

Although evidence has not been gathered to date, it is the officers' opinion that such a case would be difficult to prove in court.

Given that CCL is in the process of installing significant new emission control equipment it would be prudent to reconsider the value of a "class action" once the effectiveness of the equipment is evaluated.

Officer recommendation – This issue to be reviewed when bag filters on Kiln 5 have been commissioned and operating for at least six months.

5. Council partnering with the Cockburn Sound Management Council to review the damage to Cockburn Sound from activities undertaken by CCL.

CSMC were consulted (Attachment 2) and concluded that they could achieve a better outcome by putting pressure on and providing advice to the Office of the EPA (OEPA) and DEC to improve the Ministerial and/or licensing conditions on the operation of CCL's wash plant. They advised that the Minister for Environment has recently approved an OEPA review of the current State Environmental (Cockburn Sound) Policy 2005, to include assessing formal incorporation of Owen Anchorage into the Policy. This includes the incorporation of Environmental Management Zones with Environmental Quality Criteria that will address water quality issues around the wash plant. This process may help to address the issue of undertaking a joint "review of the damage to Cockburn Sound from activities undertaken by CCL.

Officer's recommendation – No further action be taken in relation to this issue.

6. Council investigating the costs of retaining CCL in the City by way of consumption of Council infrastructure and assets, such as roads and associated road reserve's assets.

It should be acknowledged that Cockburn Cement gain primary access from Russell Road which is part of the heavy haulage route (hierarchy 3) and classified as a District Distributor A. The road is therefore designed to cater for the types of vehicle movement derived from the CCL business.

Whilst it is theoretically possible to identify generic deterioration of roads as a result of Cockburn Cement's operation, we can only do so based on actual traffic and transport derived from the business. To develop an appropriate proportional deterioration model, the City will need to conduct a detailed traffic assessment of both the Cockburn Cement operation as well as assess the broader traffic usage of Russell Road to understand the relative proportion of usage. Officers believe that it would cost approximately \$30,000 to undertake such a study although that value of the study is questioned given the function and hierarchy of Russell Road.

Officer's recommendation – No further action be taken in relation to this issue.

7. Council reviewing and quantifying the damage to Council assets such as buildings, parks, waterways and lakes caused by the existing emissions and repeated emissions coming from CCL's Munster Plant.

It would be extremely difficult to review and quantify possible damage to assets including environmental assets in the proximity of CCL over

the history of the plant in Munster. It would also be difficult to identify and quantify damage due to existing and repeated emissions of dust and leaks or overflows from the shell-sand pipeline because the current levels of these emissions is almost certainly less than occurred in the past and should be in compliance with DEC licence conditions so should not be harmful to the environment. Furthermore the level of emissions has recently reduced due to the baghouse on Kiln 6 and will further be reduced within twelve months with a similar baghouse on Kiln 5.

Officer's recommendation – this issue to be reviewed when bag filters on Kiln 5 have been commissioned and operating for at least six months.

8. Council investigating the introduction of a specified area rate to recover the excessive wear and tear on said assets. This is to apply to other functions beyond the normal expectations of standard commercial/industrial facilities.

The City is not able to introduce a Specified Area Rate (SAR) without the work being identified to justify the imposition of a SAR. The City already has a differential rating structure in place and this directly impacts on CCL. No such works have been planned in or around the CCL properties. The use of the road network which is used extensively by CCL and its fleet of heavy haulage vehicles are already covered by the imposition of the differential rate. CCL currently pay a higher rate than a standard industrial property in the City.

Officer's recommendation – No further action be taken in relation to this issue.

9. Council investigate the legal implications of these items and other issues considered relevant by the officer compiling the report.

The legal implications of the items are addressed under each issue. The regulator of CCL is DEC through an operating licence. The WA Government Standing Committee into CCL found that the DEC had not adequately ensured CCL's compliance with the licence relating to the Munster plant, nor had they adequately enforced the licence. The DEC has at least one active prosecution against CCL and they have improved and tightened conditions on the licence on several occasions in recent times. The City does not have the power to regulate CCL because this would duplicate the powers of the DEC.

Officer recommendation – this issue to be reviewed when bag filters on Kiln 5 have been commissioned and operating for at least six months.



## Conclusion

It is important to acknowledge that CCL are (since early 2011) in the process of investing considerably in upgraded technology to significantly reduce their emissions. Their Environmental Improvement Plan (EIP) 2012-2013 document was released in June 2012 and “outlines CCL’s activities to address community concerns regarding impacts from its Munster operations.” It is recommended that people access CCL’s web site and view the 13 EIP projects aimed principally at reducing dust and odour from the plant, and turbidity from the wash plant. Particular focus has also been given to improving communications with the community through regular forums, a Stakeholder Advisory Group, Neighbourhood briefings and a significantly improved web site with Continuous Emissions Monitoring (CEMS) data.

That is not to say that dust and odour emissions have not been excessive in the previous fifteen years. The WA Government Standing Committee into CCL found that “CCL’s attitude towards its role and responsibility in the Munster and surrounding communities has, at times, been complacent”. However given that CCL are currently implementing major improvements to the plant it would not appear to be prudent to spend Council resources on investigating responses to address the impacts of emissions that are predicted to be appreciably reduced by the end of 2013.

The predicted future of the Munster plant sees in two years both lime kilns emitting near zero dust levels due to new bag filters consistent with their DEC licence conditions. CCL are also addressing odour sources and they are improving the coal stockpile management to reduce the number of odorous fires. CCL are also considering the business case to relocate its clinker operations to its Kwinana plant and closing down its clinker kilns at Munster in the longer term. The business case is subject to long term tenure of additional land at Kwinana and other considerations such as Port capacity and upstream clinker supply contracts. Therefore the predicted future emissions from the plant are almost certainly going to be appreciably reduced and considerably more controllable.

The issues raised by Councillor Allen are valid and may need to be further progressed if the new technology is not considered to have reduced dust and odour to levels acceptable to the community in early 2014.

## **Strategic Plan/Policy Implications**

### **Lifestyle and Aspiration Achievement**

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

**Governance Excellence**

- To provide effective monitoring and regulatory services that administer relevant legislation and local laws in a fair and impartial way.
- To develop and maintain a financially sustainable City.

**Natural Environmental Management**

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

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

1. State Governments response to the report and recommendations of the Standing Committee.
2. Advice from Cockburn Sound Management Council.

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

N/A

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

Nil.

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

**15.1 (OCM 12/07/2012) - LIST OF CREDITORS PAID - MAY 2012 (FS/L/001) (N MAURICIO) (ATTACH)**

**RECOMMENDATION**

That Council receive the List of Creditors Paid for May 2012, as attached to the Minutes.

**COUNCIL DECISION**

**Background**

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

**Submission**

N/A

**Report**

The List of Accounts for May 2012 is attached to the Agenda for consideration. The list contains details of payments made by the City in relation to goods and services received by the City.

**Strategic Plan/Policy Implications**

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

List of Creditors Paid – May 2012

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

N/A

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

Nil.

**15.2 (OCM 12/07/2012) - STATEMENT OF FINANCIAL ACTIVITY AND ASSOCIATED REPORTS - MAY 2012 (FS/S/001) (N MAURICIO) (ATTACH)**

<b>RECOMMENDATION</b>		
That Council		
(1) receive the Statements of Financial Activity and associated reports for May 2012, attached to the Agenda; and		
(2) amend the charges for underground power (Coolbellup East) in the 2011/12 Municipal Budget as follows:		
	<b>Revised Budget \$</b>	<b>Adopted Budget \$</b>
Loan No.3 – Underground Power	0	(1,000,000)
TF from Res – Land Development & Investment	(1,035,000)	0
TF from Res – Underground Power	786,485)	(400,000)
Underground Power Expenses	1,821,485	1,680,000
Net impact on Municipal Budget	0	280,000
<b>TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL</b>		

<b>COUNCIL DECISION</b>

## **Background**

Regulations 1996 prescribes that a local government is to prepare each month a Statement of Financial Activity.

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

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

Regulation 34(4)(a) prescribes that the Statement of Financial Activity and accompanying documents be presented to Council within 2 months after the end of the month to which the statement relates.

The regulations require the information reported in the statement to be shown either by nature and type, statutory program or business unit. The City chooses to report the information according to its organisational business structure, as well as by nature and type.

Financial Management Regulation 34(5) requires Council to annually set a materiality threshold for the purpose of disclosing budget variance details. To this end, Council has adopted a materiality threshold variance of \$100,000 for the 2011/12 financial year.

## **Submission**

N/A

## **Report**

### Closing Funds

The City's closing municipal funds of \$18.7M were \$15.7M higher than the YTD revised budget. This is representative of favourable operating revenue and expenditure positions and underspending across the capital program for significant projects. These areas are offset somewhat by a deficit in the proceeds from sale of assets, notably land. Variances in the transfers to and from the City's cash reserves have also had a major impact on the position, but these contrast somewhat against the capital spend and sale proceeds variances.

The full year revised budget is showing a closing funds position of \$714k, a change of \$310k from last month's figure. This increase reflects the net impact from the recommended budget change to the Underground Power project of \$280k (see Budget/Financial Implications section) and LGIS bonus pool funding received of \$40k.

The budgeted closing funds position will fluctuate throughout the year as it is impacted by various Council decisions and minor system adjustments and corrections. Details of these are outlined in Note 3 to the financial report.

#### Operating Revenue

Operating revenue at \$106.1M is tracking ahead of budget by \$3.8M, which is up on last month's variance by \$0.8M.

#### Governance

Interest earnings on investments were \$0.5M ahead of the YTD budget due to the continuing strong cash flow position. Rates revenue was \$0.6M ahead of budget boosted by part year rating of properties.

#### Community Services

Service charges for CoSafe were \$0.1M greater than the full year budget.

#### Human Services

HACC Grant funding and childcare subsidies are current \$0.6M above budget, although these are balanced off at year end and do not flow to the closing budget position.

#### Building Control Services

Income from building licences/permits was down \$0.3M against budget projections. This has been impacted by a general slow down in building activity across the district and the introduction of the new Building Act requirements resulted in a weaker number of applications being approved for April.

#### Waste Services

Revenue from the Henderson Waste Recovery Park was \$0.9M ahead of the YTD budget, little changed from last month. This result is expected to be retained to the end of the financial year.

### Operating Expenditure

Operating expenditure is showing an overall underspend of \$2.9M, being 3.3% of the YTD budget. This variance has reduced slightly by \$0.2M from last month.

Key contributors to the result this month include:

- Human Resource spending is \$0.2M below budget.
- Council functions and receptions are \$0.2M below budget.
- A YTD under spend of the Council grants program of \$0.3M,
- General budget under spend within Parks and Environmental Services of \$0.4M,
- Waste collection and disposal operating costs are \$0.4M over their YTD budgets.
- Overall budget under spend within Roads Maintenance and Construction Services of \$0.5.

The following table shows the budgetary performance from a nature or type perspective:

Nature or Type Classification	Actual	Amended YTD Budget	Variance to YTD Budget
	\$	\$	%
Employee Costs	\$32.5M	\$33.3M	2.4%
Materials and Contracts	\$25.9M	\$28.3M	9.2%
Utilities	\$3.0M	\$3.7M	23.3%
Insurances	\$1.73M	\$1.71M	-0.9%
Other Expenses	\$6.7M	\$6.4M	0.5%
Depreciation (non cash)	\$20.2M	\$19.6M	-2.9%

There is normally a slight lag effect in the recognition of materials and contracts and utility expenses which is not a factor for the June reporting due to end of financial year processing.

Depreciation is ahead of budget due to the impact of the revaluation on road infrastructure performed during the 2011/12 end of year financial reporting.

### Capital Program

The City's capital budget is showing an overall under spend of \$16.8M against an YTD budget of \$47.4M and full year budget of \$60.8M. The majority of this variance comprises several large infrastructure projects that are under construction. These will be carried forward when brought to Council in October.

Capital related funding sources and reserve transfers are conversely down a net \$8.33M against the ytd budget, largely as a result of the

capital expenditure underspend and yet to be received sale of land proceeds from Grandpre Crescent and Ivankovich Avenue.

The more significant project spending variances are disclosed in the attached CW Variance analysis report.

### Cash & Investments

Council's cash and current/non-current investment holdings reduced to \$92.7M (from \$95.8M last month). This is \$6.6M ahead of the YTD budget as a result of the capital budget underspending, as well as the favourable operating results. This continues to contribute to the City's interest earning capacity on its cash investments.

\$65.5M of the total cash and investment holding represents the City's cash reserves, which has increased by \$19.7M over the previous month's total. This is due to the City's annual program of Municipal fund transfers into reserves being completed during the month of May. This results in an expected marked drop to the municipal liquidity position.

Another \$6.2M of the cash position represents funds held for other restricted purposes such as bonds, restricted grants and capital infrastructure contributions. The remaining balance of \$21.0M represents the cash and investment component of the City's working capital, available to fund ongoing operations and the municipal funded portion of the capital program.

The City's investment portfolio made an annualised return of 5.9% for the month, versus the benchmark BBSW performance of 4.5%.

The majority of investments held continue to be in term deposit (TD) products placed with highly rated APRA (Australian Prudential Regulation Authority) regulated Australian banks. These are mainly placed in terms of up to six months, as this is where the market value in the yield curve lies.

Whilst the Reserve Bank has reduced interest rates over the past several months by 75 basis points the City's investment strategy of rolling over TD's for six monthly terms has buffered the City's investment performance from a sudden and significant fall. However the reduced income potential has been factored into the 2012/13 budget.



### Funding of Coolbellup East Underground Power Project

The 2011/12 municipal budget and funding sources for the Coolbellup East Underground Power Project (UGP) is proposed for amendment as per the following:

1. Increase spend budget of \$1.68M by \$0.14M to \$1.82M to match the cash call payments to Western Power for 2011/12.
2. In lieu of taking out a loan for \$1M from WATC, it is proposed the City now prefund \$1.03M of its total estimated contribution of \$1.37M for both the Coolbellup and Hamilton Hill UGP projects in line with Council's Policy on Funding for Underground Power Projects. This will be drawn from the Land Development and Investment Reserve and will be repaid to the reserve through the Municipal budget over the 2013/14 to 2015/16 financial years.
3. Increase the transfer from the Underground Power Reserve by \$0.3 M to reflect the additional amount of service charges raised in 2011/12.

The above changes result in a net saving to the municipal budget of \$0.28M for the financial year 2011/12. It was believed that this was the best course of action, that is prefunding Council's contribution up front from the Reserve then repaying the reserve as ratepayers contribute their instalments over the five years they are obliged to make the said instalments.

### Description of Graphs and Charts

There is a bar graph tracking Business Unit operating expenditure against budget. This provides a very quick view of how the different units are tracking and the comparative size of their budgets.

The Capital Expenditure graph tracks the YTD capital spends against the budget. It also includes an additional trend line for the total of YTD actual expenditure and committed orders. This gives a better indication of how the capital budget is being exhausted, rather than just purely actual cost alone.

A liquidity graph shows the level of Council's net current position (adjusted for restricted assets) and trends this against previous years. This gives a good indication of Council's capacity to meet its financial commitments over the course of the year.

Council's overall cash and investments position is provided in a line graph with a comparison against the YTD budget and the previous year's position at the same time.

Pie charts included show the break-up of actual operating income and expenditure by nature and type and the make-up of Council's current assets and liabilities (comprising the net current position).

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

#### **Governance Excellence**

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

### **Budget/Financial Implications**

Other material variances identified of a permanent nature (ie. not due to timing issues) may impact on Council's final budget position (depending upon the nature of the item).

### **Legal Implications**

N/A

### **Community Consultation**

N/A

### **Attachment(s)**

Statements of Financial Activity and associated reports – May 2012.

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

N/A.

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

Nil.

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

### **16.1 (OCM 12/07/2012) - TENDER NO. RFT 11/2012 - HOT ASPHALT - SUPPLY AND LAYING (RFT 11/2012) (J KIURSKI) (ATTACH)**

#### **RECOMMENDATION**

That Council accept a panel of two (2) service providers, Boral Asphalt and Asphalt Services, for Tender No. RFT 11/2012 – Hot Asphalt Road Surfacing (Supply and Laying) for an initial one (1) year contract period, based on the schedule of rates submitted.

**COUNCIL DECISION****Background**

The supply and laying of hot asphalt is required for road surfacing, which includes new works as well as road resurfacing works, at locations throughout the City of Cockburn area. These materials are also required on a “supply only” basis, to be collected by the principal from the contractor’s nominated manufacturing plant that shall be within a reasonable distance of the City of Cockburn.

The contract to supply and lay hot asphalt involves the provision of all labour, plant, tools and equipment, materials, chemicals, transportation, cartage, administrative costs, travelling expenses etc and anything else necessary for the completion of the proposed contract.

The proposed contract may be in place for a period of up to three (3) years from the date of award; with an initial period of twelve months and principal instigated options to extend the period for a subsequent one (1) year period and up to an additional twelve (12) months after that.

The current contract RFT 22/2009 is due to expire on the 31 July 2012, and the necessary documentation and specification were prepared in conjunction with Procurement Services and tenders called in accordance with the Local Government Act 1995 and the associated Regulations.

Tender Number RFT 11/2012 – Hot Asphalt – Supply and Laying was advertised on Wednesday 30 May 2012 in the Local Government Tenders section of “The West Australian” newspaper. It was also displayed on the City’s E-Tendering website between the 30 May and 13 June 2012.

An addendum was issued on 1<sup>st</sup> June 2012 amending the initial contract period from three (3) years to one (1) year to provide the City with time to consider WALGA’s (Western Australian Local Government Association) new Road Building Materials and Services contract that is due to commence in July 2012.

## Submission

Tenders closed at 2:00 p.m. (AWST) on Wednesday 13 June 2012 and five (5) tender submissions were received from:

1. Boral Asphalt – Trading as Boral Resources
2. Downer EDI Works
3. Asphaltech Pty Ltd
4. Roads2000 Pty Ltd
5. Asphalt Surfaces Pty Ltd

## Report

### Evaluation Criteria

Evaluation Criteria	Weighting Percentage
Demonstrated Experience	20%
Key Personnel and Experience	20%
Resources	20%
Tendered Price – Estimated Lump Sum Contract Value	40%
<b>TOTAL</b>	<b>100%</b>

### Evaluating Officers

The tender submissions were evaluated by the following City of Cockburn officers:

1. Colin McMillan – Works Coordinator
2. Martin Lugod – Operations Manager
3. Jadranka Kiurski – Manager Engineering

### Scoring Table

SCORES			
Tenderer's Name	Non-Cost Criteria Evaluation Score 65%	Cost Criteria Evaluation Score 35%	Total Score 100%
Boral Asphalt	54.94%	31.70%	86.64%
Downer EDI Works	53.11%	30.64%	83.75%
Asphaltech Pty Ltd	46.61%	34.42%	81.03%

Roads2000 Pty Ltd	46.61%	34.43%	81.05%
Asphalt Surfaces Pty Ltd	43.50%	40.00%	83.50%

### *Evaluation Criteria Assessment*

#### General

All Tenderers evaluated have the necessary relevant experience and personnel to satisfy the contract with an established history of experience in the supply and laying of hot asphalt.

#### Specification Compliance

All tenderers completed and were considered compliant with all the specification compliance criteria.

#### Evaluation Criteria Assessment

The Evaluation Panel (the Panel) found that all tenders considered have the capacity to meet the City of Cockburn requirements as detailed in the specifications as well as comply with the general and special conditions of contract as stated in the tender document.

#### Demonstrated Experience

Boral Asphalt provided details of similar works carried out, especially those provided to other local government Councils. They have completed asphalt programmes for many years for Kwinana, Mandurah, Rockingham, Belmont, Melville, Stirling and Gosnells metropolitan councils and provided details of projects completed.

Boral Resources provided safety policies and procedures including safety management plan related to the works they perform, completed the OH&S requirement and also attached an organisational profile.

Referees scored Boral for overall service and quality of workmanship 8.7 out of 10.

Three referees were consulted and all rated Boral highly in the areas of contract administration, quality of product and supply and laying hot asphalt. There were no reports of failing to deliver within specified timeframes, with the weather being the only source of delays.

Downer EDI Works have demonstrated that they carried out asphalt contracts for a number of local governments and Main Roads Western Australia. Widening Kwinana Freeway, improvement of Kwinana

Freeway and Interchange of Great Eastern Highway and Roe Highway are three of the biggest road contracts that they have completed recently.

Downer EDI Works provided safety policies and procedures related to the works they perform, including organisational profile and a safety management plan with risk assessments and safe work practices.

Referees scored Downer EDI for overall service and quality of workmanship 8.0 out of 10.

Three referees were consulted and feedback suggests they were satisfied with the level of service and the quality of product was rated highly. Some concerns were raised over the length of notice to be provided, and minor non conformance specifications but overall referees were happy with the service.

Asphaltech's plant and offices are located in Malaga and currently are providing the service of asphalt production, delivery and the laying of asphalt to the Cities of Joondalup, Bayswater, Swan and Nedlands and the Town of Victoria Park.

Asphaltech Pty Ltd provided a record of similar work, safety policies and procedures related to the works they perform, including organisational profile and safety management plan with risk assessments and safe work practices. Referees scored Asphaltech for overall service and quality of workmanship 7.7 out of 10.

Three referees were consulted and 4 written references were include in submission for recent projects completed. Overall referees were satisfied with the service with minor non conformance issues reported.

Roads2000 Pty Ltd demonstrated competency and provide a track record of achieving outcomes of asphalt work within a number of local governments such as Wanneroo, Armadale, Claremont, Cottesloe, Subiaco and Stirling.

Roads2000 Pty Ltd provided safety policies and procedures related to the works they perform, including organisational profile and safety management plan with risk assessments and safe work practices.

Referees scored Roads2000 for overall service and quality of workmanship 6.7 out of 10.

Three referees were consulted with two being satisfied with performance and one not satisfied completely. No specific faults or service deficiencies were communicated.

Asphalt Surfaces Pty Ltd provided details of similar works carried out with most recently Local Government Councils of, Rockingham, Armadale, Fremantle and Cockburn. Asphalt Surfaces are our current service provider.

They provided safety policies and procedures related to the works they perform, including organisational profile and safety management plan with risk assessments completed the OH&S requirement, and safe work practices.

Referees scored Asphalt Surfaces for overall service and quality of workmanship 6.7 out of 10. Plant breakdowns and equipment faults in last 12 months of current contract with the City is an issue.

Two additional referees were consulted. Four plant breakdowns have caused significant delays and the percentage of non conformance is too high. The Works Co-ordinator was not satisfied with the grading on three major projects. Asphalt Surfaces have changed personnel and structure which is leading to improvement in recent projects.

#### Key Personal Skills and Experience

Boral Asphalt demonstrated that the key management and supervision personnel that will be used for this contract have extensive experience in the supply and laying of hot asphalt.

Downer EDI Works submission demonstrated that they have personal skills and experience that could complete the works within the required time frame. No subcontractors will be used on this contract.

Asphaltech Pty Ltd's submission demonstrated that they have the necessary labour workforce capacity and experience in asphalt production, delivery and the laying of asphalt. The details of sub-contractors for contract completion also supplied.

Downer EDI Works's submission demonstrated that they have the necessary labour workforce capacity to undertake the works detailed in the scope of works. The details of sub-contractors for contract completion provided.

Roads2000 Pty Ltd's submission demonstrated that they have sufficient experience in the supply and laying of hot asphalt. The details of sub-contractors for contract completion provided.

Asphalt Surfaces Pty Ltd's submission demonstrated that they have sufficient experience in the supply and laying of hot asphalt. The details of sub-contractors for contract completion provided. New contracts

management and supervisor were recently appointed showing signs of improvement in quality of asphalt placed.

### Tenderer's Resources

Boral's submission demonstrated a high quality plant and multiple crews to deliver the contract including 6 pavers in equipment list. Plant modernised in 2007 making more sustainable mixes and reducing emissions whilst maintaining high levels productivity and output. Plant is capable of producing 220 tonne hot asphalt per hour. Boral imports its own bitumen that provided a confidence that material demand for this contract can be met without delay or shortfall.

Downer EDI's submission demonstrated their plant is capable of delivering the contract and listed two times eight man asphalt crews with back up equipment listed also.

Asphaltech's submission demonstrated they have the capability to deliver the required tonnage. They also listed key personnel. Sub contractors list provided.

Roads 2000 demonstrated they have the capability to deliver the required tonnage. The listed two asphalt crew, a 5 men primary crew and 7 men in secondary crew; sub contractors list provided.

Asphalt Surfaces have demonstrated they can deliver the required tonnage required. Listing crews and sub contractors. New Contract manager and team leader recently appointed showing signs of improvement. Overall Cockburn Council was disappointed with the level of service in 2011/12 with issues of plant reliability and machinery faults causing sub standard works. Non compliance in last 12 months is an issue.

### Summation

Boral Asphalt provided the best overall score from the evaluation criteria and Asphalt Surfaces were ranked third overall. The panel believe that Council should award to both of these service providers as it will give the construction team the opportunity to better schedule their work and meet the timeframes established in our capital program delivery.

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

#### **Governance Excellence**

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



### **Transport Optimisation**

- To ensure the City develops a transport network that provides maximum utility for its users, while minimizing environmental and social impacts.
- To construct and maintain roads which are convenient and safe for vehicles, cyclists and pedestrians.
- To achieve provision of an effective public transport system that provides maximum amenity, connectivity and integration for the community.

### **Budget/Financial Implications**

The cost of hot asphalt road surfacing services and products is in the annual budget allocations for road construction capital works budgets.

### **Legal Implications**

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

### **Community Consultation**

N/A

### **Attachment(s)**

The following attachments were provided under separate confidential cover.

1. Compliance Criteria Assessment
2. Tendered Prices
3. Consolidated Evaluation Score Sheet

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

Those who lodged a tender submission have been advised that this matter is to be considered at the 12 July 2012 Council Meeting.

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

Nil.

**17. COMMUNITY SERVICES DIVISION ISSUES**

**17.1 (OCM 12/07/2012) - PROPOSED CALENDAR OF EVENTS FOR THE SUMMER OF FUN 2012-13 (CR/F/008) (S SEYMOUR-EYLES) (ATTACH)**

**RECOMMENDATION**

That Council adopt the proposed 2012/13 Calendar for the Summer of Fun Events, as attached to the Agenda, including the cost of hiring a marquee for the Australia Day BBQ, Regional Concert, Coogee Beach Festival and Ward Concert, to enable Elected Members to interact with the public attending these events.

**COUNCIL DECISION**

**Background**

Council is required to determine the Calendar for the 2012/13 Summer of Fun Events.

The Events Team has reviewed the Summer of Fun Program for the forthcoming season, in light of attendance and feedback from Elected Members, Staff and the public.

It is necessary to consider the calendar early in the financial year, as:

1. Marketing for the season needs to commence in September;
2. There is a proposal to work with the West Australian Symphony Orchestra (WASO) and if that is to occur they need to have dates and a program set by the end of July 2012, to give them time to print their event season brochure.

There is interest from WASO in a combined event with John Williamson and at the time of preparing this report there are dates in February, 2013, only where the two acts are available together.

**Submission**

N/A

## Report

In addition to the Strategic Plan and policy implications, which relate to the Summer of Fun Events Season, it is proposed that the Summer of Fun Events:

1. Provide the opportunity for the community to experience different lifestyles and cultures,
2. Showcase local WA talent; and
3. Change the demographic that the Regional concert targets each year, as it is unlikely that one style will appeal to all ages.

Dates have been considered in light of key events around Perth, such as state elections, sporting events and community events, as well as other City of Cockburn events, which the City supports.

The recommendations in this proposal are based on discussions between officers and Elected Members (21 May 2012) in relation to feedback from the 2011/12 season. The recommendations are for:

1. Two concerts - the regional (at Manning Park) and one other (at Hammond Road Success).
2. The Australia Day family event becomes a breakfast (due to the potential for heat and the volume of people who are at Coogee Beach early on Australia Day).
3. Movie nights are reduced to two with current release movies, rather than old favourites.
4. The Seniors evening events to increase from two to three per year.
5. The following events are retained in current format due to their popularity and good attendance:
  - Christmas Concert,
  - Teddy Bear's Picnic;
  - Coogee Beach Festival.
6. The Cultural and Arts Co-ordinator liaise with high schools and the Events Team to investigate the potential for High School Jazz Bands to play at the WASO concert and/or Spring Fair, for example.

There continues to be a bias towards the West Ward for venues. This is due to the high suitability of certain West Ward venues for events, such as the Dalmatinac Club for Seniors nights (capacity).

Manning Park (shade, parking, road safety) is rated the most popular venue for events by the community (Community Perceptions Survey, Catalyse, 2011), and Coogee Beach Reserve is a highly suitable event location on the coast. Notwithstanding, officers have made every effort to accommodate events outside West Ward. A key factor in selecting Success as the second concert venue was that there is sufficient parking at the venue to accommodate large numbers of vehicles and reduce indiscriminate parking.

#### *West Australian Symphony Orchestra (WASO)*

It was requested by some Elected Members at a meeting held 29 June, 2010, to discuss the Calendar for the 2011/12 Summer of Fun Events, that staff investigate the feasibility of engaging WASO to perform in the City of Cockburn. The Events Team met with WASO who have expressed keen interest in the suggestion. They have made a site visit to Manning Park and believe the venue could accommodate them well. There was also interest expressed by some Elected Members in securing John Williamson to play at a concert for the City; however, as there are no dates in either February or March 2013 when both acts are available to perform together, this has not been able to materialise.

#### *Ward Concert*

##### Option 1

John Williamson to perform at a concert by himself. This would require taking some of the extra money allocated to the regional concert for John Williamson's fee and re-allocating it to a standalone concert. In case of this not being acceptable (or act not being available).

##### Option 2

Interest was expressed by Elected Members at the meeting in May 2012 to continue to have a tribute style band for one of the concerts, but to move away from heavy music. An Abba tribute band and Freddie Mercury tribute band has been sourced and will be proposed for the Ward concert.

##### Option 3

To source an act like Johnny Ruffo or Karise Eden.

Johnny Ruffo was a runner up in Australian Idol in 2011 (to Reece Mastin) and won dancing with the stars in June 2012. He is from Western Australia and very popular.

Karise Eden (blues/soul) won “The Voice” in June 2012.

These are all subject to availability and if Council wishes to have these acts, Events Staff will book them immediately after Council approval.

#### *Cockburn Idol*

It is proposed that Cockburn Idol is restricted to Cockburn residents only this year. Staff opened the competition beyond Cockburn when limited applications were received from Cockburn artists previously, but in the last two years, there have been adequate Cockburn performers apply. This reduction in numbers also means that the first rounds could be accommodated at the two movie nights and that the Cockburn Idol Finals would still be a feature at the regional concert. Importantly, the prizes would go to Cockburn residents.

#### *Elected Member’s Marquee*

The events staff provide a City of Cockburn customer service tent for the duration of the event. By request, provision has been made in the budget for a marquee with a banner at the entrance titled “Meet your Elected Members” or similar. These are proposed for the Australia Day BBQ, Regional Concert, Coogee Beach Festival and Tribute Concert.

Staff needs confirmation that Elected Members require this, in order that adequate marquees are ordered for the events. It is expected that, if accepted, at least some Elected Members would attend the tent for these events, as such a tent, unattended, could create a negative perception with the public.

Option 2 is that staff orders a larger Customer Service tent for members to share and that there is an area assigned to “Meet your Elected Members”.

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

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

- To foster a sense of community spirit within the district generally and neighbourhoods in particular.
- To facilitate and provide an optimum range of community services and events.
- To deliver our services and to manage resources in a way that is cost effective without compromising quality.

**Budget/Financial Implications**

Funds of \$495,000.00 are available in the 2012/13 budget for these events.

**Legal Implications**

N/A

**Community Consultation**

In 2011 the Community Perceptions Survey (Catalyse) showed 87% of those surveyed were familiar with festivals, events and cultural opportunities in the City of Cockburn. 77% were satisfied and 34% of residents were delighted. Those least satisfied were families with children aged 13+.

Previously, the 2010 Community Perceptions Survey (Catalyse) was used to determine alternative music genres, which the Cockburn public indicated they would be interested in and to determine the most popular venues for events.

**Attachment(s)**

Proposed Calendar for the 2012/13 Summer of Fun Events.

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

N/A

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

Nil.

**17.2 (OCM 12/07/2012) - CITY OF COCKBURN DISABILITY ACCESS AND INCLUSION PLAN 2012-17 (CR/M/006) (G BOWMAN) (ATTACH)**

<p><b>RECOMMENDATION</b> That Council</p> <p>(1) adopt “the Disability Access and Inclusion Plan 2012-2017”, as attached to the Agenda;</p> <p>(2) include any financial implications of the Plan for consideration in Council’s strategic and annual budget planning documents;</p>
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- (3) request an annual progress report of the Disability Access and Inclusion Plan to be provided by 31 July each year to the Disability Services Commission;
- (4) request progress on the Implementation of the Disability Access and Inclusion Plan to be included in the City of Cockburn Annual Report; and
- (5) review the Disability Access and Inclusion Plan by July 2017.

## COUNCIL DECISION

### Background

The Disability Services Act (1993) was amended in December 2004, and requires public authorities to develop and implement Disability Access and Inclusion Plans (DAIP's). The requirements of DAIP's build on those of service providers, so that people with disabilities can access services provided by public authorities in Western Australia in a way that facilitates increased independence, opportunities and inclusion within the community.

Access and inclusion is about ensuring that all public services, facilities and information are available to all community members, including those who have a disability, so that they have the opportunity and choice to participate in all aspects of community life.

Disability Access and Inclusion plans outline strategies to achieve a minimum of six identified outcomes, and create time-lines for their completion across the five years of the Plan. These outcome areas provide a framework for translating the principles and objectives of the Disability Services Act into tangible and achievable results.

The principle of this legislation is to ensure that a person with a disability has the right to be respected for their human worth and dignity and has the same human rights as other community members, regardless of the degree and nature of the disability.

Following a process of research, and consultation, the City's first Disability Access and Inclusion Plan 2007-2012 was developed and adopted by Council in July 2007.

## **Submission**

N/A

## **Report**

It is a requirement of the amended Disability Services Act (1993) that the City review its DAIP at least every 5 years. The City has therefore undertaken a process to review the City of Cockburn Disability Access and Inclusion Plan 2007-2012 by the required date.

Following a Request for Tender Process for Consultancy Services the City contracted the Multiple Sclerosis Society to undertake the review and develop a new 5 year plan in collaboration with the Manager Human Services and the Disability Access and Inclusion officer.

The consultant has:

- Reviewed the existing Council Disability Access and Inclusion Plan 2007-12.
- Consulted with relevant Council staff, consumers, community organisations and Service Providers to identify existing and potential access and inclusion issues within the City.
- Developed a revised Disability Access and Inclusion Plan 2012-17 (DAIP) that meets with the requirements of the Disability Services Act, the City's Position Statement on Access and Equity, and the identified consultation and research process.
- Developed a DAIP which outlines specific strategies, and actions related to each outcome area.
- Consulted with relevant Business Unit Managers regarding whether the actions are; achievable; timely; and whether they have resource implications.
- Included the City of Cockburn Disability Reference Group in the review process, and ensured that the revised plan will require their ongoing involvement in the evaluation process.
- Presented a briefing to Elected Members on the revised DAIP.

The consultation and research process has found that the City of Cockburn DAIP 2007 – 2012 has provided a sound framework to develop and maintain a wide range of initiatives, and support systemic changes within council processes to promote access and inclusion.

A list of initiatives undertaken by the City of Cockburn from 2007 – 2012 to promote access and inclusion initiatives representative of Schedule 3 of the Disability Services regulations 2004 are included in the reviewed Plan. Some of the key initiatives were the creation of a full time Disability Access and Inclusion Officer position; Development of the Manning Park Universal Playground and Liberty Swing; Celebrate



Ability Event; and a wide range of improvements in access to parks, beaches, events, facilities, and services.

The community consultation included the following key findings:

- The City of Cockburn provides many events, and there is a strong emphasis on accessibility. Generally accessibility at events and to services was rated high by respondents. Some respondents indicated improvement opportunities include signage, having adequate shade, and accessing information on available support resources.
- Support with transport was an emerging issue for respondents at both the forums and in the surveys.
- Service providers related ongoing concerns about the safety of people with disabilities using public transport, and the ongoing need for additional shelter. Using public transport is also expressed as challenging by older participants.
- The City of Cockburn has valued open spaces, and there is a strong desire for these to be accessible for all residents. Service providers have a unique perspective of using public facilities and spaces for groups with special needs.
- People with disabilities and their carers rely heavily on having access to accessible toilets, and generally planning of excursions revolves around toilet access. Issues put forward included physical access issues, numbers and location (of toilets), toilet hygiene in parks, and catering for adults who receive carer support in using continence products.
- Difficulties with all forms of parking emerged as one of the strongest issues
- Interest was expressed in the provision of additional services and programs for children and young adults with disabilities, or to assist with being included in existing community programs.
- The library service emerged as a facility that was used by many respondents, with generally positive responses.
- Print media remains an important source of information for residents. Several respondents commented on the timing of receiving the local papers resulting in reading about events too late. While there is a provision for information to be provided in alternative formats, there remains scope for individuals who have difficulties accessing information (eg the elderly) to receive notifications of items of interest. Overall however, less than 10% of survey respondents identified having any difficulties accessing information provided by the City of Cockburn.
- Responses identified issues with businesses within the City of Cockburn regarding accessibility, general staff attitudes and accessibility of toilets.

The review and consultation process has identified the need for the City of Cockburn DAIP 2012- 2017 to include the following seven outcomes areas:

1. All people have equitable access to services and events organised by the City of Cockburn
2. Buildings and facilities within the management control of the City of Cockburn are systematically improved to achieve universal access
3. All information provided by the City of Cockburn shall be available in alternative formats upon request
4. The City of Cockburn provides consistent and equitable service to all people
5. The City of Cockburn provides accessible means for a person to make a complaint, and these complaints are fully investigated and communicated in an accessible format
6. All people are effectively extended the opportunity to equitably contribute in all public consultations and decision making processes
7. Businesses and services within the City of Cockburn are encouraged to improve the access and inclusion of their businesses for people with disabilities

The DAIP also includes strategies and actions. Each action identifies the estimated time for completion, the Manager responsible, and the estimated resource implication. This level of detail will assist the City to implement the DAIP in accordance with the requirements of the Act.

The City of Cockburn's revised Disability Access and Inclusion Plan is due to be lodged with the Disability Services Commission by 31 July 2012 and the Commission requires the DAIP to be adopted formally by Council.

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

#### **Infrastructure Development**

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

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

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

- To identify community needs, aspirations, expectations and priorities for services that are required to meet the changing demographics of the district.

### **Budget/Financial Implications**

It is a requirement that Council take all practicable measures to ensure that the DAIP is implemented by the authority, its officers, employees, and relevant agents and contractors, subsequent to it being accepted by Disability Services Commission. Actions included in the reviewed plan have been circulated to Management and additional resource requirements have been estimated and included within the plan.

All actions which require additional Municipal resources will need to be considered by Council through Council's strategic and annual budget process.

The majority of resource implications are minor in nature and could be achieved within existing budgets.

### **Legal Implications**

The Western Australian Disability Services Act (1993) 2004 part 5 requires state government agencies and local governments to:

- develop a DAIP which furthers the principles and objectives of the Act and meets the six Standards in Schedule 2 of the Disability Services Regulations 2004;
- lodge the finalised plan with the Disability Services Commission;
- take all practicable measures to ensure that the plan is implemented by the authority, its officers, employees, and relevant agents and contractors;
- review their plan at least every five years;
- lodge review reports, amended plans or new plans with the Disability Services Commission;
- report to the Commission by 31<sup>st</sup> July each year about their progress in achieving the six desired DAIP outcomes, progress made by any of their agents and contractors in achieving the desired DAIP outcomes and the strategies used to inform agents and contractors about the plan; and
- report in their annual report about the implementation of their plan.
- Make the DAIP available in alternative formats on request by a person with disability.

Other legislation that impact on the provision of accessible information, services, and facilities for people with disabilities include:

- The Commonwealth Discrimination Act (1992)
- The Equal Opportunity Act (Western Australia amended 1988)

### **Community Consultation**

Public authorities are required to undertake public consultation, as specified in the regulations, when preparing, reviewing or amending their Disability Access and Inclusion Plan (DAIP).

A total of 68 residents, and 84 individual service provider views were captured as part of the consultation process. Ensuring extensive promotion and multiple opportunities for participation were key goals, and the community consultation program therefore consisted of:

- An online survey was linked to the City of Cockburn home page between 20 February and 16 March 2012.
- A distribution list was established with the key service providers. 900 letters and 350 hard copy surveys were posted or distributed by service providers. A total of 27 on line and 23 hard copy survey responses were received.
- 120 posters were distributed to community buildings and service providers
- 14 key Services Providers were individually contacted by email and phone. Five staff presentations were provided to a total of 70 staff and managers.
- Four individual feedback sessions were conducted involving 10 people with disabilities and 8 carers.
- Feedback booths were set up at Cockburn Central and Phoenix shopping centres on consecutive Thursday afternoon / early evenings
- Three public consultations were advertised to accommodate day, evening and alternative venues:
- All Councillors, the Mayor during March/April 2012, the CEO and all Business Unit managers were individually contacted by phone and email to invite feedback

### **Attachment(s)**

The City of Cockburn, Disability Access and Inclusion Plan 2012–2017.

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

N/A

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

Nil.

18. **EXECUTIVE DIVISION ISSUES**
19. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
20. **NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING**
21. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY COUNCILLORS OR OFFICERS**
22. **MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE**
23. **CONFIDENTIAL BUSINESS**
24. **(OCM 12/07/2012) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

**RECOMMENDATION**

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

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

**COUNCIL DECISION**

**25. CLOSURE OF MEETING**

Nil