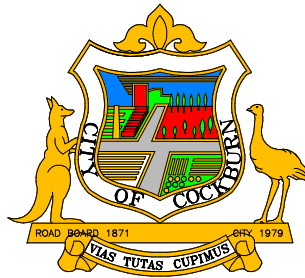


CITY OF COCKBURN



ORDINARY COUNCIL

AGENDA PAPER

FOR

THURSDAY, 13 AUGUST 2009

CITY OF COCKBURN

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CITY OF COCKBURN

AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 13 AUGUST 2009 AT 7:00 PM

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

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

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

Nil

5. **APOLOGIES AND LEAVE OF ABSENCE**

Nil

6. **(OCM 13/8/2009) - ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

A response to Ms Mandy Clark on an item not on the Agenda at the Ordinary Council Meeting held on 9 July 2009 was forwarded to her in writing.

7. **PUBLIC QUESTION TIME**

Nil

8. CONFIRMATION OF MINUTES

8.1 (OCM 13/8/2009) - ORDINARY COUNCIL MEETING - 09/07/2009

RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held on Thursday 9 July 2009, be adopted as a true and accurate record.

COUNCIL DECISION

9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE

Nil

10. DEPUTATIONS AND PETITIONS

Nil

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

Nil

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

Nil

13. COUNCIL MATTERS

13.1 (OCM 13/8/2009) - MINUTES OF THE GRANTS AND DONATIONS COMMITTEE MEETING - 7 JULY 2009 (5930) (R AVARD) (ATTACH)

RECOMMENDATION

That Council receive the Minutes of the Grants and Donations Committee meeting held on 7 July 2009, and adopt the recommendations contained therein.

COUNCIL DECISION

Background

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

Submission

N/A

Report

Council allocated in its 2009/10 budget a sum of \$643,000 to be distributed as grants, donations and sponsorship. The Grants and Donations Committee is empowered to recommend to Council how these funds should be distributed.

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

Council approved a budget for grants and donations for 2009/10 of \$643,000.

Following is a summary of the proposed grants, donations and sponsorship allocations proposed by the Committee.

Initial Implementation

Committed/ Contractual Donations	\$121,100
* Specific Grant Programs	\$301,900
* Donations	\$180,000
Sponsorship	\$40,000
	<u>\$643,000</u>
Total Funds Available	\$643,000
<u>Less Total of Proposed Allocations</u>	<u>\$643,000</u>
Balance	\$0

* These allocated funds are available to be drawn upon in response to grants and donations applications from organisations and individuals.

Legal Implications

N/A

Community Consultation

The availability of the Grants, Donations and Sponsorship is proposed to be advertised in August and September 2009.

Attachment(s)

Minutes of the Grants and Donations Committee Meeting – 7 July 2009.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

14. PLANNING AND DEVELOPMENT DIVISION ISSUES

14.1 (OCM 13/8/2009) - PROPOSED AMENDMENTS TO DELEGATED AUTHORITY REGISTER - BUILDING SERVICES (1015) (J WEST) (ATTACH)

RECOMMENDATION

That Council:

- (1) adopt the following proposed amendments to the Delegated Authority Register:
 1. APD 9 'Subdivision Retaining Walls'.
 2. LGAPD1 'City of Cockburn (Local Government Act) Local Laws 2000 (As Amended) – Signs, Hoardings, Bill Posting'.
 3. LGAPD2 'Local Government (Miscellaneous Provisions) Act 1960 – Building Plans and Specifications'.
 4. LGAPD3 'Local Government (Miscellaneous Provisions) Act 1960 – Complaint to Magistrates Court, Notices Under Part XV'.
 5. OLDP12 'Applications For Public Buildings Approvals'.
 6. OLDP15 'Caravan Parks And Camping Grounds Act 1995 – Appointment of Authorised Persons'.

7. LGAES8 'Local Government (Miscellaneous Provisions) Act, 1960 – Dangerous Building Notices'.
 8. LGAES9 'Local Government (Miscellaneous Provisions) Act, 1960 – Issue of Demolition Licences'.
- (2) update the Delegated Authority Register accordingly.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

A review of Building Services delegations has revealed that a number of delegations need to be altered to reflect contemporary legislative changes, job title changes and facilitate a new staff structure when implemented. The new structure will ultimately include the position of Co-ordinator Building Services. The Building Service staff structure will then be commensurate with the Health, Statutory and Strategic Planning Services.

Delegation changes have also been made to facilitate more notice and complaint prosecutions forms being initiated and signed within the Building Services by the Manager, Building Service.

The specific proposed changes to each delegation are discussed in more detail in the report.

Submission

N/A

Report

APD9 – Subdivision Retaining Walls

Function Delegated:

The authority to require and issue building licences/building approval certificates for retaining walls constructed as part of subdivisional works.

Proposed changes:

- Extend Delegation to Co-ordinator, Building Services.

LGAPD1 – City of Cockburn (Local Government Act) Local Laws 2000 (As Amended) – Signs, Hoardings, Bill Posting.

Function Delegated

The authority to undertake the functions of the Council in respect to the City of Cockburn (Local Government Act) local law relevant to part VIII of the aforementioned local laws.

Proposed changes

- Change title and body of delegation to reflect current local laws.
- Refer to Manager, Building Services not the Principal Building Surveyor.
- Extend delegation to Co-ordinator, Building Services and Senior Building Surveyor/s.

LGAPD2 – Local Government (Miscellaneous Provisions) Act 1960 – Building Plans And Specifications

Function Delegated

The authority to approve or refuse to approve building plans and specifications as prescribed by Section 374 (1) (b), (1b) & 374AAB of the Local Government (Miscellaneous Provisions) Act 1960.

Proposed Changes

- Refer to Manager, Building Services not Principal Building Surveyor. Extend delegation to Co-ordinator, Building Services and Building Surveyors qualified in accordance with legislative requirements.
- Extend delegation to include authority to issue Building Approval Certificates for retrospective building applications, as facilitated by recent legislative changes.

LGAPD3 – Local Government (Miscellaneous Provisions) Act 1960 – Complaint to Court of Petty Session, Notices under Part XV.

Function Delegated

1. The authority to complain to the Court of Petty Sessions against persons who do not comply with the requisition of Notices issued under Part XV of the Local Government (Miscellaneous Provisions) Act 1960 Sections 401 (1), 403, 408 (1), 409 (1) and 411(1);
2. The authority to complain to the Court of Petty Sessions against persons in relation to the recovery of expenses incurred by Council under Sections 410 (1) and 411 (4).

Proposed changes

- Refer to the Magistrates Court not the Court of Petty Sessions
- Refer to Manager, Building Services not Principal Building Surveyor.
- Include Manager, Building Services on Delegate Authorised list together with Chief Executive Officer.

OLDP12 – Applications For Public Buildings Approvals.*Function Delegated*

The authority to co-ordinate the necessary administration to ensure all applications for Public Buildings requirements are compliant.

Proposed changes:

- Refer to Manager, Building Services not Principal Building Surveyor.

OLDP15 – Caravan Parks and Camping Grounds Act 1995 – Appointment of Authorised Persons*Function Delegated: (Parts relevant to Building Services)*

- grant approval for a person to bring a park home onto a facility (Regulation 30).
- grant approval to change the use of a park home or rigid annexe (Regulation 38);
- grant approval to construct carport or pergola under (Regulation 39).

Proposed changes:

- Refer to Manager, Building Services not Principal Building Surveyor.
- Extend delegation to Co-ordinator, Building Services.

LGAES8 – Local Government (Miscellaneous Provisions) Act, 1960 Dangerous Building Notices.*Function Delegated:*

The authority to issue and withdraw “Dangerous Building” Notices in accordance with Section 403 of the Local Government (Miscellaneous Provisions) Act, 1960.

Proposed changes

- Include Manager, Building Service as Delegate Authorised.

LGAES9 – Local Government (Miscellaneous Provisions) Act 1960 – Issue of Demolition Licences.

Function Delegated

Approval of applications for a demolition licence under Section 374A of the Local Government (Miscellaneous Provisions) Act, 1960.

Proposed changes

- Refer to Town Planning Scheme No. 3 not Town Planning Scheme No. 2.

Extend delegation to include Co-ordinator, Building Services and Senior Building Surveyors.

Strategic Plan/Policy Implications

Governance Excellence

- 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

Local Government (Miscellaneous Provisions) Act 1960.
Local Government Act 1995.
Caravan and Camping Grounds Act 1995.

Community Consultation

N/A

Attachment(s)

Proposed amended Delegated Authorities:

1. APD 9 'Subdivision Retaining Walls'.
2. LGAPD1 'City of Cockburn (Local Government Act) Local Laws 2000 (As Amended) – Signs, Hoardings, Bill Posting'.
3. LGAPD2 'Local Government (Miscellaneous Provisions) Act 1960 – Building Plans and Specifications'.
4. LGAPD3 'Local Government (Miscellaneous Provisions) Act 1960 – Complaint to Magistrates Court, Notices Under Part XV'.
5. OLDP12 'Applications For Public Buildings Approvals'.

6. OLDP15 'Caravan Parks And Camping Grounds Act 1995 – Appointment of Authorised Persons'.
7. LGAES8 'Local Government (Miscellaneous Provisions) Act, 1960 – Dangerous Building Notices'.
8. LGAES9 'Local Government (Miscellaneous Provisions) Act, 1960 – Issue of Demolition Licences'.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

14.2 (OCM 13/8/2009) - CAR PARKING ISSUES IN THE MIXED BUSINESS ZONE - LOCATION: N/A - OWNER: N/A - APPLICANT: N/A (9003) V LUMMER

RECOMMENDATION

That Council:

- (1) continue to treat each application for change of use in a mixed business zone on it's individual merits; and
- (2) continue to monitor the compliance with conditions of approval in developments where car parking conditions have been imposed.

COUNCIL DECISION

Background

On 12 March 2009 at the Ordinary Council meeting, the following matter was noted for investigation without debate:

Clr Helen Attrill – that the City investigate the feasibility of a mechanism to monitor the cumulative impact of 'change of use' application where it impacts on parking requirements in 'mixed business zone' in order to provide a comprehensive parking report when considering changes of use applications having regard to community amenity and orderly and proper planning.

This was raised as a result of two items on the March Council Agenda Item 14.2 which proposed a change of use from showroom/warehouse to Health Studio at 22 Hammond Road, Cockburn Central and Item 14.3 which proposed a change of use from showroom/warehouse to Dance Studios at 26 Hammond Road, Cockburn Central.

Both applications had parking implications which required Council's consideration.

Submission

N/A

Report

An audit was undertaken of change of use applications approved by the City within the last 18 months (to April 2009). 14 applications were examined, 8 of which were within Cockburn Central. Withdrawn applications were not included in the table.

Issues examined were:

- The type of change of use and proposed development
- The parking issue that arose during assessment and how they were dealt with
- Current compliance with conditions of development approval.

<i>Address</i>	<i>DA No.</i>	<i>Proposed Development</i>	<i>Parking Issues</i>		<i>Compliance</i>
13 Baling St Cockburn Central	DA09/0238	Warehouse to office	Footnote 1. The application has been approved with 19 vehicle parking bays on the basis that the applicant is willing to utilise a tandem parking arrangement where necessary, in order to accommodate a maximum of 25 vehicles at any one time. In the event that a parking problem occurs, the City may request additional bays to be constructed (potentially to the extent of the parking variations granted in this approval), or other arrangements being made to solve the parking problem.	Approved	Currently vacant – still being fitted out.

Address	DA No.	Proposed Development	Parking Issues		Compliance
7/9 Parkes St Cockburn Central	DA09/0139	Motor Vehicle Repair (Car customisation)	<p>1. With regards to Condition 5 the applicant is advised that the application has been supported on the basis of one staff member and no more than three (3) client vehicles on-site at any one time. Should an increase in business activity lead to these numbers being inadequate the City's Statutory Planning Services should be consulted, as an amended planning application may need to be submitted.</p> <p>2. With regards to Condition 6 the applicant is advised that the car parking provision for Unit 9 has been calculated at 2 bays (based on a ratio of 1 car parking bay per 100m² GLA). If the business requires the temporary parking of more than two vehicles (excluding client vehicles) the additional vehicles are to be accommodated within Unit 9 for the duration they are required to be parked on-site.</p>	Approved	<p>Change of use, Motor Vehicle Repair – Car Customisation. On 18 May 2009 a site inspection conducted in regard to Footnote 3. ".....one staff member and no more than three (3) client vehicles on site at any one time".</p> <p>Only 2 client vehicles were in the workshop and the employee's vehicle. 1 employee being Raul Campana, "Cartel Customs".</p>
814 North Lake Road Cockburn Central	DA09/0177	Service station to Stock and pet Supplies	1. Temporary use. Condition to provide and mark 4 car bays on site. Proposal complies with TPS parking requirements.	Approved	Recently approved
4/26 Hammond Road Cockburn Central	DA08/1081	Warehouse to Fitness Training Facility	<p>1. The use herein approved is limited to one on one training in accordance with the applicant's submission (by email dated 21/01/2009) with an interval of at least 10 minutes between clients and a maximum of two clients on site at any given time.</p> <p>Condition</p>	Approved	Inspection reveals compliance
22 Hammond Road	DA09/0040	Office/showroom/warehouse to use	1 In relation to reason 1, the approved 'Office / Showroom/Warehouse'	Refused	N/A

<i>Address</i>	<i>DA No.</i>	<i>Proposed Development</i>	<i>Parking Issues</i>		<i>Compliance</i>
Cockburn Central		Fitness centre	development has been approved with a total of 9 car parking bays per Unit. The proposed 'Health Studio' use is not listed in Table 3 of TPS No. 3 and as such the required vehicle parking is determined by the City. A comparison of other Local Government Authorities car parking requirements for a 'Health Studio' reveals an average requirement of 1 bay per 15 sqm resulting in a requirement for 32 parking bays to be provided to this development and an onsite shortfall 23 parking bays.		
19 Baling Street Cockburn Central	DA08/0514	Warehouse to Light Industry (Cabinet Making)	1. The tenancy is limited to 2 (two) persons working at the premises at any one time (excluding admin staff).	Approved	Change of use from Warehouse to Light Industry, Cabinet Making. This application (approval) was subject to the sale of the unit. Approval was granted 2 July 2008. The property was sold 19 September 2008 to Dorel Usca, an electrician who stores his equipment. The cabinet making business was not pursued by the applicant.
11 Blackly Row Cockburn Central	DA08/0275	Factory to Light industry (food preparation)	1. Due to the restricted number of car parking bays allocated to the tenancy, the number of persons employed at the premises at any one time is restricted to 5 (five).	Approved with condition	Currently Vacant
13/9 Parkes St Cockburn Central	DA09/0113	Indoor play centre Showroom to private	1. This approval is limited to 12 children at these premises at any one time as detailed in application	Approved	Currently vacant – still being fitted out.

Address	DA No.	Proposed Development	Parking Issues		Compliance
		recreation	information lodged with the City. Any change to children numbers requires the submission of a further Development Application for determination.		
5 Abaya St Jandakot	DA08/0877	Warehouse to Light Industry	1. Room on site for the required 20 bays to be provided.	Approved	No Issues
9/125 Rockingham Road Hamilton Hill	DA08/0916	Light & Service Industry (commercial kitchen) & Fast food	1. The application has been approved on the basis that the peak car parking demand for the proposed use occurs outside normal business hours. In the event that a parking problem occurs, the City may request additional bays to be constructed or other arrangements being made to solve the parking problem. (footnote)	Approved	No issues have arisen
4/752 North Lake Road, South Lake	DA08/0676	Medical centre (Chiropractor)	1 A maximum number of two (2) Professional Practitioners are permitted to operate on these premises at any one time. 2. The number of consulting rooms is limited to a maximum of four (4). 3 These 2 conditions imposed to eliminate parking issues	Approved	No issues
676 Beelias Drive Success	DA08/0351	Showroom to Commercial printer	1. No parking issues – ratio the same for both uses.	Approved	N/A
65 Coolbellup Ave Coolbellup	DA07/1007	Child care centre to Dialysis clinic	1 Reduction in car bays from 25 to 15 (shortfall of 10 bays)	Approved	Change of use, Home Therapies Dialysis Clinic. On 19 May 2009 conducted a site inspection in respect to Condition 14. The provision of 15 parking bays. 15 parking bays are provided including 1 disabled bay.

<i>Address</i>	<i>DA No.</i>	<i>Proposed Development</i>	<i>Parking Issues</i>		<i>Compliance</i>
6/44 Port Kembla Drive Bibra Lake	DA09/0056	Cold Store to motor vehicle repair	1. Complies with parking provision	Approved	No issues

It is noted from the information contained in the above table that generally applications for change of use in a mixed business zone present a parking issue. This is largely due to the wide range of uses that can be approved in the mixed business zone and their varying car parking requirements.

The cumulative effects of change of use applications on the parking provisions can only be assessed on a case by case basis. There is no standard mechanism that can be applied as each application will present differently. In addition to the availability of on site parking spaces, a planning assessment will also consider the location and convenience of any nearby public parking, the availability and suitability of public transport to the use proposed and the parking situation on adjacent properties, if relevant.

As evidenced from the table, most uses in the mixed business zone can be accommodated with particular attention given to the individual circumstances presented in each case. This is the general philosophy that each application should be determined on its own merits. It is recommended that this method of assessing change of use applications be maintained as due to the individuality of each application, it is not possible to implement a standard mechanism for assessment.

Strategic Plan/Policy Implications

Demographic Planning

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

Budget/Financial Implications

N/A

Legal Implications

N/A

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.

14.3 (OCM 13/8/2009) - FINAL ADOPTION OF LOCAL PLANNING POLICIES (9003) V LUMMER ATTACH**RECOMMENDATION**

That Council:

- (1) Finally adopts :
 - APD21 – Pedestrian Accessway Closures
 - APD27 – Subdivision Policy for Sand Extraction Sites and Other Sites in Jandakot and Banjup North of Armadale Road
 - APD30 – Access Street, Road Reserve and Pavement Standards
 - APD31 – Detailed Area Plans
 - APD34 – Industrial and Residential Fencing
 - APD35 – Filling of Land
 - APD36 – Shopping Centres and Service Stations
 - APD44 – Child Care Centres within Residential Areas
 - APD48 - Sea Containers

as Local Planning Polices without modification in accordance with clause 2.5 of Town Planning Scheme No.3.

- (2) publish a notice in the local newspaper in accordance with clause 2.5.3 (b) of Town Planning Scheme No. 3; and
- (3) forwards a copy of the policies to the Western Australian Planning Commission in accordance with Clause 2.5.3 (b) of Town Planning Scheme No. 3.

COUNCIL DECISION

Background

At the Council meeting of 9 April 2009 Council resolved to adopt the minutes of the Delegated Authorities, Policies and Position Statements Committee meeting held on 19 March 2009 which included amendments to existing Policies APD21, APD26, APD27, APD30, APD31, APD36, APD35 and APD48.

The DAPPS resolutions included the necessity to advertise the policies in accordance with Town Planning Scheme No. 3 in order that they become properly adopted Local Planning Policies.

These policies have now completed advertising.

Submission

N/A

Report

The policies listed have been advertised for public comment in The Gazette over 2 consecutive weeks on 28 April 2009 and 5 May 2009. A period of 21 days was provided for written submissions to be received by the City, closing on 19 May 2009.

No submissions were received in regard to the listed policies.

It is recommended that the advertised policies be finally adopted as Local Planning Policies without modification.

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 cost of placing a notice in the newspaper will be covered in the operational budget.

Legal Implications

In accordance with Town Planning Scheme No. 3 requirements

Community Consultation

Advertised from 28 April to 19 May in The Gazette. See above.

Attachment(s)

1. APD21 – Pedestrian Accessway Closures
2. APD27 – Subdivision Policy for Sand Extraction Sites and Other Sites in Jandakot and Banjup North of Armadale Road
3. APD30 – Access Street, Road Reserve and Pavement Standards
4. APD31 – Detailed Area Plans
5. APD34 – Industrial and Residential Fencing
6. APD35 – Filling of Land
7. APD36 – Shopping Centres and Service Stations
8. APD44 – Child Care Centres within Residential Areas
9. APD48 – Sea Containers

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

14.4 (OCM 13/8/2009) - AMENDMENT NO. 74 - REZONING OF LOTS 512 - 515 COCKBURN ROAD, AND PORTIONS OF KIESEY STREET AND BEACH ROAD, COOGEE - APPLICANT: CITY OF COCKBURN - OWNER: MAIN ROADS WA (93074) (D DI RENZO) (ATTACH)

RECOMMENDATION

That Council:

- (1) In pursuance of Section 75 of the Planning and Development Act 2005 ("Act"), initiate an amendment to City of Cockburn Town Planning Scheme No. 3 for the purposes of:
 1. Rezoning Lots 512, 513, 514 and 515 Cockburn Road, Coogee from 'no zone' and 'Residential R20' to 'Development Zone' as shown on the Scheme Amendment map.
 2. Rezoning unzoned portions of Kiesey Street and Beach

Road, Coogee to 'Local Road'.

3. Amend the scheme map to designate Lots 512, 513, 514 and 515 Cockburn Road, Coogee as 'DA 31'.
4. Amend 'Schedule 11 – Development Areas' by including 'DA 31 – Cockburn Road, Coogee' as follows:

Schedule 11 – Development Areas

REF No.	AREA	PROVISIONS
DA 31	Cockburn Road (Development Zone)	<ol style="list-style-type: none"> 1. An approved structure plan together with all approved amendments shall apply to the land in order to guide subdivision and development. 2. The structure plan is to provide for residential development and may include the sympathetic adaptation of the Heritage Places for commercial and tourist related uses that are compatible with residential amenity and consistent with the Conservation Plan.
		<ol style="list-style-type: none"> 3. The structure plan is to facilitate the conservation and protection of the cultural heritage significance of the Heritage Places and their setting, consistent with the Conservation Plan. 4. The structure plan is to provide coordinated access to Lots 513 - 515 Cockburn Road from Kiesey Street. 5. The provisions of the scheme shall apply to the land uses classified under the structure plan in accordance with Clause 6.2.6.3.
		<ol style="list-style-type: none"> 6. No subdivision or development will be supported within the Development Area until the structure plan has been approved by the local government and endorsed by the Western Australian Planning Commission (WAPC).
		<ol style="list-style-type: none"> 7. The local government may adopt Detailed Area Plan(s) pursuant to Clause 6.2.15 for any part of the Development Area as defined on the approved structure plan. All

		subdivision, land use and development for a particular lot(s) the subject of a Detailed Area Plan shall accord with the adopted Detailed Area Plan including any incorporated special development controls and guidelines in addition to any other requirements of the approved structure plan and the scheme.
<p>(2) That as the amendment is in the opinion of Council consistent with Regulation 25(2) of the <i>Town Planning Regulations 1967</i> (“Regulations”), and upon receipt of the necessary amendment documentation, the amendment be referred to the Environmental Protection Authority (“EPA”) as required by Section 81 of the Act, and on receipt of a response from the EPA indicating that the amendment is not subject to formal environmental assessment, be advertised for a period of 42 days in accordance with the regulations. In the event that the EPA determines that the amendment is to be subject to formal environmental assessment, this assessment is to be prepared by the proponent prior to advertising of the amendment.</p> <p>(3) That the City approach Main Roads WA to provide an indication of the timeframes for the construction of a second carriageway for Cockburn Road.</p>		

COUNCIL DECISION

Background

Lots 512 to 515 Cockburn Road and adjacent portions of Kiesey Street and Beach Road, Coogee were rezoned on 1 May 2007 from ‘Primary Regional Road’ to ‘Urban’ under the Metropolitan Region Scheme (“MRS”). A Scheme Amendment is now required to ensure the City of Cockburn Town Planning Scheme No. 3 (“the Scheme”) is consistent with the MRS, in accordance with clause 124(3) of the *Planning and Development Act 2005*.

Lot 512 Cockburn Road, Coogee contains the Coogee Hotel and Post Office, and these places are included on the City’s Municipal Heritage Inventory (“MHI”), and the Heritage List pursuant to the Scheme. Together they are also included on the State Register of Heritage Places pursuant to section 46 of the *Heritage of Western Australia Act 1990* (Place no. 03648).

A Conservation Plan was prepared for the Coogee Hotel and Post Office in December 1999 on behalf of Main Roads Western Australia. It outlines the heritage significance of Coogee Hotel and Post Office, and identifies general conservation policies to provide guidance and direction in their future use, development and conservation.

Submission

Main Roads WA has indicated their intention to dispose of the subject land. Given that the subject land is unzoned this is an opportune time to zone the land consistent with the MRS, and introduce provisions to restrict access to Cockburn Road, which is a 'Regional Road'.

Report

A Scheme Amendment has been prepared for Lots 512 to 515 Cockburn Road, and portions of Beach Road and Kiesey Street, Coogee.

The Scheme Amendment proposes the following:

1. Rezoning

The subject land has been rezoned under the MRS from 'Primary Regional Road' to 'Urban', and it is now unzoned pursuant to the scheme, with a portion of Lot 512 currently zoned 'Residential R20'. To ensure the Scheme is consistent with the MRS it is proposed to rezone Lots 513 to 515 Cockburn Road, Coogee to 'Development Zone', within a 'Development Area'. This will allow the land to be subdivided and developed once a structure plan and all relevant approvals have been prepared and adopted. This is the usual zoning for development areas within the City, and provides an excellent degree of flexibility particularly with regard to focusing on a performance based planning outcome. It also allows the initiation of a Scheme Amendment in advance of detailed proposals being prepared, expediting the process.

Importantly, the inclusion of all lots within a 'Development Area' will provide the opportunity for an integrated development, focused on protection of cultural heritage values.

The amendment also proposes to rezone portions of Kiesey Street and Beach Road, Coogee to 'Local Road', consistent with the MRS and Scheme. Council may also recall the recent Draft MRS Omnibus Amendment No. 8, which was referred to the City for comment. In commenting on this, Council recommended that a portion of Beach Road adjoining Lot 512 be retained within an 'Urban' zoning under the MRS, in order to ensure appropriate legal access to the land. This is consistent with the proposed Scheme amendment map.

2. Development Area (DA 31) provisions

The subdivision and development of all land in the City that is zoned 'Development' is controlled by appropriate provisions contained in 'Schedule 11 - Development Areas' of the Scheme. It is proposed to designate this area as 'DA 31 – Cockburn Road'. The proposed DA provisions include the requirement for the adoption of a structure plan as required by the scheme. A structure plan will effectively zone and designate R-Codes to the land, and outline development requirements.

The proposed 'Development Area' provisions stipulate that the structure plan is to provide for residential development and may include the sympathetic adaptation of the Heritage Places for commercial and/or tourist based uses that are compatible with residential amenity and the conservation plan. This will provide the opportunity for the Coogee Hotel and Post Office to have an appropriate viable use into the future.

The proposed 'Development Area' provisions also outline that the structure plan is to facilitate the conservation and protection of the cultural heritage significance of the Heritage Places and their setting, in accordance with the Conservation Plan. The Conservation Plan outlines general conservation policies that provide guidance and direction in the future use, development and conservation of the places. This includes policies relating to the physical context of the Coogee Hotel and Post Office, to ensure that any future development retains an appropriate setting for these buildings.

The proposed 'Development Area' provisions also stipulate that the structure plan is to provide coordinated access to Lots 513 - 515 Cockburn Road from Kiesey Street, so that there is no new access provided to Cockburn Road.

The proposals outlined above and shown on the Scheme Amendment map included in the Agenda attachments are consistent with the normal practice applied to development areas within the City. They will ensure coordinated development of the subject land, and the appropriate integration and protection of the Coogee Hotel and Post Office. Accordingly it is recommended that Council adopt Scheme Amendment No. 74 and undertake landowner, government agency and community consultation in accordance with the normal amendment procedures. This includes referral to the Heritage Council of Western Australia for advice, given that the subject land contains a place included on the State Register of Heritage Places.

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 foster a sense of community spirit within the district generally and neighbourhoods in particular.
- To conserve the character and historic value of the human and built environment.

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.

Transport Optimisation

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

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

In accordance with the *Town Planning Regulations 1967* consultation is to be undertaken subsequent to the local government adopting the Scheme Amendment and the Environmental Protection Authority (EPA) advising that the proposal is environmentally acceptable.

Attachment(s)

1. Location Plan
2. Scheme Amendment map

Advice to Proponent(s)/Submissioners

The landowner of the subject land has been advised that this matter is to be considered at the 13 August 2009 ordinary meeting of Council.

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

Nil

14.5 (OCM 13/8/2009) - PROPOSED SCHEME AMENDMENT NO. 75 TO TOWN PLANNING SCHEME NO. 3 - MINOR REZONING PROPOSALS FOR LOTS 144 AND 145 THE COVE, COOGEE AND THE CLOSED PEDESTRIAN ACCESS WAY BETWEEN EGEUS WAY AND WAVERLEY ROAD, COOLBELLUP - OWNER: VARIOUS - APPLICANT: CITY OF COCKBURN (93075) (M CARBONE) (ATTACH)

RECOMMENDATION

- (1) That Council, in pursuance of Section 75 of the *Planning and Development Act 2005* ("Act"), initiate Amendment No. 75 to City of Cockburn Town Planning Scheme No. 3 ("Scheme") for the purposes of:
1. Rezoning portion of Lots 144 and 145 The Cove and Lot 230 (Reserve 46261) Mayor Road, Coogee from Local Reserve - 'Parks and Recreation' to 'Residential R20'.
 2. Rezoning portion of Lot 149 Shoal Court, Coogee from Local Reserve - 'Local Road' to 'Residential R20' and portion of Reserve 44789 from Local Reserve - 'Local Road' to Local Reserve - 'Parks and Recreation'.
 3. Rezoning portion of the Egeus Way/Waverley Road closed pedestrian access way adjacent to Lot 1 Egeus Way, Coolbellup from 'No Zone' to 'Residential R40'.
 4. Rezoning portion of the Egeus Way/Waverley Road closed pedestrian access way adjacent to Lots 386 and 387 Waverley Road, Coolbellup from 'No Zone' to 'Residential R20'.
 5. Amending the scheme map accordingly.
- (2) That as the amendment is in the opinion of Council consistent with Regulation 25(2) of the *Town Planning Regulations 1967* ("Regulations"), and upon the preparation of the necessary amendment documentation, the amendment be referred to the Environmental Protection Authority ("EPA") as required by Section 81 of the Act, and on receipt of a response from the EPA indicating that the amendment is not subject to formal environmental assessment, be advertised for a period of 42 days in accordance with the Regulations. In the event that the EPA determines that the amendment is to be subject to formal environmental assessment, this assessment is to be prepared by the proponent prior to advertising of the amendment.

COUNCIL DECISION

Background

The amendment seeks to correct two minor zoning anomalies which have occurred as a result of minor land rationalisation, following the closure of a redundant road reserve and pedestrian access way ("PAW"). The affected lots are within the localities of Coogee and Coolbellup.

Submission

N/A

Report

The City has recently become aware of two zoning anomalies within the localities of Coogee and Coolbellup. The background to both circumstances is described following:

The first anomaly concerns three privately owned residential properties within The Cove and Shoal Court, Coogee, which each comprise an incorrect zoning over portion of their land. Specifically, Lots 144 and 145 The Cove are zoned Local Reserve - 'Parks and Recreation' and portion of Lot 149 Shoal Court is zoned Local Reserve - 'Local Road'. In addition, portion of Reserve 44789 is zoned Local Reserve - 'Local Road' rather than 'Parks and Recreation'.

This anomaly has occurred as a result of the road closure and the Scheme Map not being updated to reflect changes to the cadastral boundaries. The cadastral changes included the adjoining landowners purchasing and amalgamating portion of the former road reserve into their properties and the remainder of the former road reserve being amalgamated into the adjoining recreation reserve.

Lots 144 and 145 The Cove and Lot 149 Shoal Court are residential properties and accordingly should be entirely zoned residential. It is also noted that there are outbuildings and structures which have been approved by the City within the incorrectly zoned portion of privately owned land. The City is therefore required to update its Scheme to correctly zone the residential properties as well as appropriately zone portion of the adjoining recreation reserve which is still zoned Local Reserve - 'Local Road'. In addition, Lot 203 Mayor Road (PAW) extends along the northern boundary of Lot 144 The Cove and should

be rezoned from Local Reserve - 'Parks and Recreation' to 'Residential R20' to reflect the zoning of the remainder of the PAW.

In terms of the second anomaly, this concerns rezoning portion of the pedestrian access way which runs between Egeus Way and Waverley Road, Coolbellup. This is in the final stages of being closed, with the whole northern portion set to be amalgamated with Lot 1 Egeus Way and the southern portion being split between Lots 386 and 387 Waverley Road. As closure process (by way of public advertising and Council consideration) has been finalised, and that the necessary amalgamation actions are now starting, it is prudent that the City change the zoning of this strip of land to be consistent with the zoning of the respective adjoining lots. To this end the portion adjoining Lot 1 Egeus Way should be zoned 'Residential R40' and the portion adjoining Lots 386 and 387 Waverley Road zoned 'Residential R20'.

Conclusion

The proposed Scheme Amendment will resolve zoning anomalies which have resulted from the closure of a road reserve and pedestrian access way. The zoning changes are required in order to reflect changes to cadastral boundaries. The proposed changes will ensure that the subject lots and reserves are correctly and entirely zoned for their intended purpose.

It is therefore recommended that Council proceed to initiate the Scheme Amendment.

Strategic Plan/Policy Implications

Infrastructure Development

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

Natural Environmental Management

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

Budget/Financial Implications

N/A

Legal Implications

Planning and Development Act 2005
Town Planning Scheme No. 2
Town Planning Regulations 1967

Community Consultation

The proposed Scheme Amendment will be advertised for a period of 42 days with notices in the local paper and letters sent to relevant government agencies, affected landowners and surrounding community upon initiation of the amendment.

Attachment(s)

1. Location plans
2. Existing/proposed zoning plans

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

- 14.6 (OCM 13/8/2009) - RETROSPECTIVE DEVELOPMENT APPLICATION FOR STORAGE YARDS AND TRANSPORT DEPOTS AND ASSOCIATED WORKS - LOCATION: LOT 446 BARRINGTON STREET, BIBRA LAKE - OWNER: STIRLING BAY HOLDINGS PTY LTD AND SWAN BAY HOLDINGS PTY LTD - APPLICANT: WA LIMESTONE COMPANY (4314896) (T WATSON) (ATTACH)**

RECOMMENDATION

That Council:

- (1) grant retrospective approval to the use of Lot 446 Barrington Street, Bibra Lake, for storage and transport depot purposes and associated works in accordance with the approved plan/s and accompanying information subject to the following conditions:
 1. Development may be carried out only in accordance with the details of the application and any approved plan/s unless otherwise required by a specific condition in this approval. This includes the use of the land and/or any associated buildings. The approved use of the land is for storage and transport depot purposes only. In the event it is proposed to vary or change the use/s of the land, a further application needs to be made to the City for determination.
 2. Nothing in the approval or these conditions shall excuse compliance with all other relevant written laws and/or legislation in the commencement and carrying out of the

use and development.

3. With the exception of areas B and C, the land subject of the application is limited to storage use as shown on the application plan reference: WAL33 – March'09.
4. The use of the land being limited to the following hours: 7:00 a.m. to 6.00 p.m. Monday to Friday, 7:00 a.m. to 4.00 p.m. on Saturday for storage use; and 6:00 a.m. to 6:00 p.m. Monday to Friday, and 7:00 a.m. to 4.00 p.m. on Saturday for transport depot use. No access to, or use of the site outside of the prescribed hours is permitted.
5. A sign being erected at the entrance to the site detailing the hours of operation applicable to the respective uses on the land, the details in respect of which are to be provided to the City's satisfaction within 60 days of the date of approval (and to be erected no more than 30 days following the approval of the City).
6. The preparation and submission of a detailed landscaping plan, dealing amongst matters the landscaping of the batter extending up from the freight rail line, and the first five (5.0) metres of land at the top of the batter. The landscaping plan is to be prepared in consultation with the City's Parks and Environment team, and is to be provided to the City's satisfaction within 60 days of the date of approval.
7. All landscaping and reticulation is to be undertaken and completed in accordance with the approved landscaping plan prior to the commencement of Summer 2009 (i.e. 1 December 2009).
8. The landscaping installed in accordance with the approved landscaping plan is to be reticulated/irrigated and maintained to the City's satisfaction.
9. A fence at least 1.2 metres in height being erected along the southern lot boundary adjoining the freight rail line, the details in respect of which are to be provided to the City's satisfaction within 60 days of the date of approval. The fence is to be erected within 120 days of the date of approval.
10. Walls, fences and landscape areas are to be truncated within 1.5 metres of where they adjoin vehicle access points where a driveway and/or parking bay meets a public street or limited in height to 0.75 metres.

11. The installation of outdoor lighting (if proposed) is to be in accordance with the requirements of Australian Standard AS 4282-1997: 'Control of the Obtrusive of Outdoor Lighting'.
12. All stormwater being contained and disposed of on-site to the satisfaction of the City.
13. All stormwater drainage shall be designed in accordance with the document entitled "Australian Rainfall and Runoff" 1987 (where amended) produced by the Institute of Engineers, Australia. The design is to be certified by a suitably qualified practicing Engineer or the like, to the satisfaction of the City, and to be designed on the basis of a 1:100 year storm event. The required certification is to be provided within 60 days of the date of the approval.
14. Areas B and C (transport depot use) being sealed with asphalt and suitably drained to the City's satisfaction. The details are to be provided to the City's satisfaction within 60 days of the date of approval, whilst the works are to be completed prior to the commencement of Summer 2009 (i.e. 1 December 2009).
15. If dust is detected at an adjacent premises and is deemed to be a nuisance by an Environmental Health officer, then any process, equipment and/or activities that are causing the dust nuisance shall be stopped until the process, equipment and or activity has been altered to prevent the dust to the satisfaction of the City's Manager of Health Services.
16. All abrasive blasting and spray painting activities must be carried out within an approved booth/enclosure. Abrasive blasting and/or spray painting activities shall not be carried out on the premises without further approval from the City.
17. If an odour detected at an adjacent premise is deemed to be offensive by an Environmental Health officer, then any process, equipment and/or activities that are causing the odour shall be stopped until the process, equipment and or activity has been altered to prevent odours to the satisfaction of the City's Manager of Health Services.
18. The development is to comply with the noise pollution provisions of the *Environmental Protection Act 1986*, and more particularly with the requirements of the *Environmental Protection (Noise) Regulations 1997*.

19. Earthworks over the site and batters must be stabilised to prevent sand or dust blowing, and appropriate measures shall be implemented within the time and in the manner directed by the City in the event that sand or dust is blown from the site.
20. Application being made for a Building Approval Certificate (BAC) for the unapproved transportable building/s, abolition block/s and retaining walls within 60 Days of the date of approval. In this regard, it appears the building setbacks do not comply with the BCA.
21. The development site must be connected to the reticulated sewerage system of the Water Corporation.
22. No major repairs are to be carried out at any time on the site, the verge or the road. Minor servicing, including small mechanical repairs and adjustments and cleaning (except degreasing) that generates easily contained liquid waste may be carried out on-site
23. Any liquid wastes, including washdown wastes, from the minor maintenance or servicing of a commercial vehicle, must be disposed of in one of the following ways so as not to create a nuisance or pollution: discharge to sewer; discharge to on-site effluent disposal; collection and disposal at an approved liquid waste disposal site. Washdown wastes are not permitted to enter the public street or a stormwater.
24. All car parking and access complying with the minimum requirements of the applicable Australian Standard and the Building Code of Australia (including disabled parking), the details of which are to be provided to the City's satisfaction prior to the release of a building licence for the development.
25. The premises shall be kept in a neat and tidy condition at all times to the satisfaction of the City.
26. Any retaining wall(s) are to be constructed in accordance with a qualified Structural Engineer's design following receipt of Development Approval and a Building Licence from the City of Cockburn.

FOOTNOTES

1. The application has been determined on the basis of the plans and information provided to the City for assessment.

2. In the event there are any questions regarding the requirements of this approval, or the planning controls applicable to the land and/or location, the City's Statutory Planning team should be consulted.
 3. Conditions 3-8, 11, 15, 17-18 are in part concerned with protecting the amenity of and the locality generally, including residential land use in Yangebup.
 4. Condition 9 was required by the Government of Western Australia Public Transport Authority.
 5. The *Environmental Protection (Noise) Regulations 1997* establish night time noise levels so that residential amenity is protected from 10pm until 7am. Industries are able to operate at any time, but attention must be given to ensure that noisy activities including truck deliveries to the site are minimised after 10pm. Failure to comply with the night time noise limits may result in further action and significant penalties to be paid by the owner and/or occupier.
 6. Access and facilities for disabled persons is to be provided in accordance with the requirements of the Building Code of Australia.
- (2) issue a Notice of Determination of Application for Planning Approval under the City of Cockburn Town Planning Scheme No. 3; and
 - (3) advise the applicant and Public Transport Authority of Council's decision accordingly.

COUNCIL DECISION

Background

In February 2009, the City's Statutory Planning team became aware of the use of the subject land for storage and transport depot purposes. Development associated with these uses involved the delivery of material to the site and the filling of the land. In addition to the storage and transport activities taking place, it was visually apparent the western end of the land had been substantially filled.

As a matter of priority, the applicant was advised to cease the use of the site and all works taking place (s.214 Notice under the Planning and Development Act 2005 served 3 March 2009). The cessation of works did not happen, however, and the City is duly in the process of prosecuting the property owners. The initial filling of the site commenced in the first quarter of 2008 (January to March). Prior to filling, the land represented undeveloped scrub. This is confirmed by aerial photos of the site.

The land comprises part of the southern edge of the Bibra Lake industrial area. Whilst the majority of Bibra Lake is zoned 'Industry' for general industrial development, the subject land is zoned 'Light and Service' industry. This takes into account the proximity of the land to residential land use in the northern part of Yangebup.

Approximately 35% of the southern part of the land sits adjacent to the residential land in Yangebup. The remaining 65% sits adjacent to the northern part of the Simper Road business park (also zoned Light and Service Industry). Dividing the subject land and these areas to the south is the Fremantle freight rail line (serving the inner harbour). Land adjoining to the north, extending to Barrington Street, is occupied by general industrial uses and development

Submission

An application seeking retrospective development approval for the use and development of the land has been received by the City. The application report, prepared and lodged by RPS Koltaz Smith on behalf of the property owners, details the following:

1. Uses of 'hardstand', 'storage' and 'transport depot' with the predominate use of the site ... for storage purposes.
2. The site ... caters for two (2) transport logistic companies, including the management, parking and maintenance of vehicles and associated trailers. The two (2) transport logistic companies have their respective headquarters based nearby in the locality of Bibra Lake.
3. The facility is operated on a lease basis and is divided ... into six (6) individual areas.
4. The central access way has been constructed to a subdivisional road standard, and includes road-side drains and swales, which collect stormwater run-off and direct it towards the existing open drainage sump, ensuring all stormwater is collected and contained on-site.
5. The site has also been filled and re-contoured to bring the level of Lot 446 closer to the levels of the adjoining development to the north. The fill has been battered down towards the southern boundary, adjoining the railway reserve.

Access to the site is gained via Timberyard Way, which extends south from Barrington Street.

In support of the application, the report states “*The proponent has established the facility in a central and accessible location to enable the safe storage of equipment and plant for businesses within the Bibra Lake Industrial Area*”. For the purpose of minimising the impact of the use and development on the locality, the following initiatives are identified:

1. Traffic management, including one access point to the facility, speed limitations and the maintenance of vehicles to a high standard.
2. Limitation of operational hours to between 06:00 and 18:00 Monday to Friday and 06:00 and 16:00 on Saturday.
3. Dust management, including the watering of gravel hard stand areas.
4. Landscaping of the site, particularly the southern edge.

Additional to the above, certification has been provided by a geotechnical specialist confirming the landfill is suitable for use as a hardstand and general temporary storage area. Certificates of Compliance have also been provided for the drainage system on-site.

Report

Town Planning Scheme No. 3

The use of the land for the purposes of storage and transport depot is permissible ('P') where land is zoned Light and Service Industry. Use of land, however, is just one consideration. The City equally needs to be satisfied the operating characteristics and management of the uses are adequate for the purposes ensuring minimal impact on the surrounding location.

The main concern raised in respect of the application and the continuation of the current activities on-site relate to the potential impact on existing residential development to the south. Whilst the initiatives recommended as part of the application documentation are noted, the opportunity exists to review these.

It is recommended the use of the site be limited to storage with the exception of Areas B and C shown on the application plan. Whilst this is generally consistent with what is shown, imposing an explicit condition stating as much reinforces the underlying objective of ensuring the more active use of the land (transport depot) takes place at the greater distance from residential.

The above requirement has regard for the Environmental Protection Authority's 'Separation Distances between Industrial and Sensitive

Land Uses'. Issued by the EPA, this document provides guidance to responsible authorities. For a transport depot, a buffer distance of 200 metres is recommended between the boundaries of the proposed and sensitive uses. Whilst this not possible, an actual distance of approximately 140 metres exists. This is considered acceptable given the impact of other influences, most notably the freight rail line separating the respective uses.

In addition, it is recommended the use of the land be further limited in terms of hours of operation. The following is proposed:

- 7:00 a.m. to 6:00 p.m. Monday to Friday, and 7:00 a.m. to 4:00 p.m. on Saturday for storage use; and
- 6:00 a.m. to 6:00 p.m. Monday to Friday and 7:00 a.m. to 4:00 p.m. on Saturday for transport depot use.

Further, no access to, or use of the site outside of the prescribed areas is permitted.

Limiting activity associated with the storage use (to after 07:00am) is not considered unreasonable noting the facility has been established for businesses within the Bibra Lake area (as advised in the application). That is, activity can commence off-site prior to 7:00 a.m., but is only permitted to commence on-site (in terms of storage) after this time. Limiting the commencement of all activity on-site till after 7:00 a.m. on Saturdays takes into account the proximity of the land to residential dwellings in Yangebup.

To ensure all persons associated with business operations on the land are aware of the above hours, a condition requiring the erection of a sign at the entrance to the site that displays the hours is recommended.

For the purpose of screening the use and development on the land, comprehensive landscaping is also required. This is fundamental, particularly given the 'now' increased level of the land relative to adjacent land. Whilst the landscaping information submitted provides an appreciation of intent, the City's expectation is for far greater detail. To this end, a condition very clearly explaining the City's requirements is recommended.

Consistent with the practice of achieving a visual buffer between the Light and Service Industry and the northern part of Yangebup, a minimum landscaping width of five (5.0) metres is required at top of the batter that rises from the railway line. Whilst this will result in a small reduction in storage land, this is the most effective location to implement landscaping for the purpose of screening activities on-site. The comprehensive landscaping of the batter is also expected given the appearance of this new feature in the landscape.

Other conditions recommended to be imposed on approval for the purpose of protecting amenity include:

- The requirement for all areas subject to transport depot vehicle movement to be suitably sealed.
- Lighting erected on-site to be suitably located and orientated to limit light spill.
- The prevention of spray painting and/or abrasive blasting type activities.

Consultation

Given the immediate relationship of the land to the freight rail line, the application was referred to the Government of Western Australia Public Transport Authority (PTA) for consideration and comment. In a response received 3 July 2009, the PTA advised that it has no objections subject to the following conditions being met:

1. All water drainage is to be contained within the site. There is to be no water run off onto (sic) rail corridor which might contravene Rail Freight System (Corridor Land) Regulations 2000. Developers must meet storm water criteria 1:100 year.
2. Fencing to a minimum 1.2 m height must be installed to all rail corridor boundaries.

The PTA also advised drainage needs to comply to and be monitored by the City of Cockburn to ensure adherence to appropriate standards. This is requested, due to Westnet Rail being subjected to a derailment due to slip from water run off in this area in 2008, which resulted in substantial delays to its operations.

It is recommended the conditions be imposed on approval. With respect to monitoring, this is not the City's responsibility for privately owned land.

To conclude, it is recommend Council resolve to conditionally approve the application, including those conditions recommended by the PTA.

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.

Employment and Economic Development

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

Budget/Financial Implications

In the event an application for review to the State Administrative Tribunal arises in respect of the Council's determination, there may be a cost to be borne by the City (out of the existing operational budget).

Legal Implications

Town Planning Scheme No. 3.

Community Consultation

Not undertaken. A copy of the application was referred to the Public Transport Authority for consideration and comment.

Attachment(s)

1. Location Plan
2. Application Plan

Advice to Proponent(s)/Submissioners

The applicant has been advised that this matter is to be considered at the Councillors Briefing 6 August 2009 and 13 August 2009 Council Meeting.

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

Nil.

- 14.7 (OCM 13/8/2009) - LEASE OF LOT 4158 SALPIETRO STREET, BIBRA LAKE - OWNER: STATE OF WESTERN AUSTRALIA (MANAGEMENT ORDER TO CITY OF COCKBURN) - APPLICANT: LARLEY PTY LTD (3316681) (K SIM) (ATTACH)**

RECOMMENDATION

That Council:

- (1) lease Lot 4158 Salpietro Street, Bibra Lake to Larley Pty Ltd subject to the proposal being advertised in accordance with Section 3.58 of the *Local Government Act 1995*;

- (2) subject to Council receiving no submissions in the advertised proposal, enter into a formal lease arrangement for a period of ten years, with a further ten year option term at an initial annual rental of \$12,000 plus GST;
- (3) advise Larley Pty Ltd that at their cost all necessary statutory approvals must be obtained prior to undertaking any works, including a requirement for development approval pursuant to the City of Cockburn Town Planning Scheme No. 3 and full compliance with any approval granted;
- (4) the provisions of the lease include a requirement for the lessee to remove all improvements at the end of the lease period, if requested by the Council; and
- (5) delegate to the Chief Executive Officer the authority to negotiate a rent review strategy that provides a mechanism for the annual rent to be increased by no less than CPI and a market review at least every five years.

COUNCIL DECISION

Background

Lot 4158 Salpietro Street, Bibra Lake is a Crown Reserve (No. 44210) for the purposes of Drainage and Car Parking. The City has care, control and maintenance responsibilities for the reserve by way of a Management Order, which includes the power to lease for up to 21 years. The lot area is 732 m².

Submission

Larley Pty Ltd has written to the City requesting the lease of the lot for ten years, plus an option for a further ten year term for an annual rent starting at \$12,000 plus GST. They have included in their offer a rent review provision for the rent to increase by CPI each year, with a market review at the end of the first ten year term.

Report

Lot 4158 Salpietro Street is a vacant land parcel zoned 'Industry' with an area of 732 m². Properties in this section of Salpietro Street are fully developed for industrial purposes. Larley Pty Ltd operates a car sales business (Purely Commercial) on the adjoining land at Lot 302

Salpietro Street. If granted the lease of Lot 4158, Larley Pty Ltd state that they will pave the area, erect a dwarf wall around the perimeter and install lighting. This will all be subject to planning approval under the Scheme.

The additional space will alleviate a shortage of space currently experienced by on Lot 302. Specifically, a lease will enable car parking which currently occurs on the adjacent verge area to be more suitably located within a secured area on Lot 4158, thus helping improve the local amenity. The drainage function of Lot 4158 is not required anymore, with stormwater having been redirected north to an alternate drainage sump.

The only issue that requires further consideration is the period for market review. In this respect, it is recommended that a five year market review period be incorporated as part of the lease. Discussion with the City's valuer, McGees, indicates that for a ten plus ten ground lease, it is usual for a lease to stipulate a market rent review mid term and at the end of the first lease term (i.e. every five years). This is at odds with the offer from Larley Pty Ltd, who seeks a market review at the end of the first ten year term. There is a risk to the City that if commercial rents outstrip CPI, the City would be at a disadvantage financially. It is considered prudent to therefore have an option to increase the rent in accordance with a market review every five years.

The proponent is aware that they will require development approval, as well as the obligation on Council in respect of Section 3.58 of the *Local Government Act 1995*. This requires that details of the proposed rent, the market rent as determined by a licensed valuer and the name of the lessee be given state wide notice. Given that the adjoining landowner is the only viable lessee of the property, it is not considered advantageous to engage a real estate company to market the proposed lease.

Larley is aware that the market rent as determined by the City's licensed valuer is \$14,000 per annum. They have qualified their offer of \$12,000 per annum by noting the improvements that they will be making to the site. These improvements, in the form of a levelled paving and lighting, will cost Larley Pty Ltd in the vicinity of \$10,000 to \$15,000. The proposed lease being a standard commercial lease means that outgoings including Council rates will be paid by the lessee. The recommended \$12,000 per annum lease achieves a balance between the licensed valuer's report, the long term improvements that will take place to the site and the fact that the land probably only has value to the adjoining property.

Strategic Plan/Policy Implications

Governance Excellence

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

Employment and Economic Development

- To plan and promote economic development that encourages business opportunities within the City.

Budget/Financial Implications

Council will receive a starting rental return of \$12,000 per annum plus rates, should it proceed with the leasing of the subject land. The officer's recommendation also builds in annual increases of CPI plus a market review every five years.

Legal Implications

Section 3.58 of the *Local Government Act 1995*

Community Consultation

Advertising in the West Australian will be undertaken as a requirement of Section 3.58 of the *Local Government Act 1995*.

Attachment(s)

1. Location Plan

Advice to Proponent(s)/Submissioners

The Proponent(s) and those who lodged a submission the proposal have been advised that this matter is to be considered at the 13 August 2009 Council Meeting.

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

Nil.

14.8 (OCM 13/8/2009) - DEDICATION OF LAND AS ROAD RESERVE PURSUANT TO SECTION 56 (1)(B)(I) OF THE LAND ADMINISTRATION ACT 1997 - PORTION OF LOT 810 (RESERVE 48301) WENTWORTH PARADE, SUCCESS (451856, 451855) (K SIM) (ATTACH)

RECOMMENDATION

That Council:

- (1) request the Minister for Lands to dedicate as road reserve a standard truncation at the south west corner of Lot 810 (Reserve 48301) Wentworth Parade, Success (Deposited Plan 40296) pursuant to Section 56(1)(b)(i) of the *Land Administration Act 1997*; and
- (2) indemnify the Minister for Lands against reasonable costs incurred in considering and granting this request

COUNCIL DECISION

Background

The land to be dedicated is a standard truncation on the south western corner of Lot 810 (Reserve 48301) Wentworth Parade, Success.

Submission

RM Surveys Licensed Surveyor (on behalf of the adjoining landowner at Lot 9001 Pearson Drive, Success) has written to the City requesting that a standard truncation be dedicated as road reserve.

Report

The landowner of Lot 9001 Pearson Drive is developing the land as a multi lot residential subdivision, incorporating several new road access points to Wentworth Parade. One of these new roads runs along the southern boundary of Lot 810 Wentworth Parade. This is a Crown Reserve (No. 48301), and has a stated purpose for a (future) Police Station. In order to facilitate this new road along the southern boundary of Lot 810 Wentworth Parade and form a safe intersection with Wentworth Parade, a standard truncation needs to be created in the southwest corner of Lot 810. This is the purpose of this report.

State Land Services have indicated that the landowner/developer of Lot 9001 Pearson Drive will have to purchase the land and pay for any alterations to services as a consequence of the dedication. The landowner/developer has agreed to these requirements, and indemnified the City against any costs arising out of this request to the Minister for Lands.

It is recommended that the City request the Minister for Lands to vest portion of Lot 810 (approximate area 18m²) as a public road reserve. The procedure for the dedication is set out in Section 56 of the *Land Administration Act 1997*. Clause 4 of Section 56 requires the local government to indemnify the Minister in respect to all costs and expenses reasonably incurred by the Minister in considering and granting the request.

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 dedication is pursuant to Section 56 of the *Land Administration Act 1997*, which requires the City to indemnify the Minister in respect to all costs and expenses, incurred considering and granting the request. These cannot be quantified at this time, but are expected to be minor and will be met by the landowner/developer.

Legal Implications

Land Administration Act 1997

Community Consultation

N/A

Attachment(s)

1. Location Plans

Advice to Proponent(s)/Submissioners

The proponent(s) have been advised that this matter is to be considered at the 13 August 2009 Council Meeting.

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

Nil.

- 14.9 (OCM 13/8/2009) - DEVELOPMENT APPLICATION FOR 16 STOREY MIXED USE BUILDING COMPRISING SHOWROOMS, A HOTEL (AND ASSOCIATED FACILITIES), SERVICED APARTMENTS, AN OFFICE AND MULTIPLE (RESIDENTIAL DWELLINGS) - LOCATION: LOTS 1 AND 2 BELLION DRIVE (CORNER COCKBURN ROAD) HAMILTON HILL - OWNER: KARRISMA PTY LTD - APPLICANT: SJB TOWN PLANNING AND URBAN DESIGN (2207502) (T WATSON) (ATTACH)**

RECOMMENDATION

That Council:

- (1) refuse to grant approval to the proposed development of a 16 storey mixed use building including showrooms, a hotel (and associated facilities), serviced apartments, and office and multiple (residential) dwellings on Lots 1 and 2 Bellion Drive, corner Cockburn Road, Hamilton Hill, on the following grounds:
1. The majority of the proposed development, including the majority of uses within, not having access via the southern boundary of the land subject of the application. Despite what is intended (as detailed on the application plans) access via the Primary Regional Road reservation (or a dedicated road within) does not exist to the hotel port cochure, hotel lobby (and therein hotel rooms, suites and serviced apartments), restaurant/function rooms, and 45 on-site parking bays.
 2. The likely impact of the proposed development on the local road network and existing uses in the locality in the absence of traffic information accurately reflecting on the composition and layout of the proposed development (including, but not limited to taking into account the lack of access via the southern boundary of the land).
 3. The suitability of the proposed access points and service crossover in Bellion Drive in the absence of traffic information taking into account the use of this road by heavy vehicles associated with a number of commercial/industrial developments to the south and west of the land subject of the application.
 4. Concerns regarding the servicing of the proposed development (in the absence of information regarding such) including waste disposal given: the size of the

proposal, the complex mix of uses within the proposed building, and the capacity of Bellion Drive for such purposes given the elevated grade of this road and the impact of existing heavy vehicle movement (mentioned in point 3 above).

5. Insufficient justification being provided in respect of the height of the proposed development having regard for the relevant provisions of the City's Town Planning Scheme No. 3, notably the considerations expressed in Part 5 'General Development Requirements' (cl5.9.1(b) in particular), and under 'Matters to be Considered by Council', clauses 10.2.1(i) and (o).

6. The height of the proposed development being contrary to the content of the 'draft' Cockburn Coast District Structure Plan to the extent the draft Structure Plan identifies a site north east of the land the subject of the application for the development of a 16 storey landmark building.

(2) issue a Notice of Determination for Refusal under the City of Cockburn Town Planning Scheme No. 3; and

(3) advise the applicant and submissioners of the Council's decision accordingly.

COUNCIL DECISION

Background

The land subject of this application comprises two (2) lots situated on the south-east corner of Cockburn Road and Bellion Drive in Hamilton Hill. At present a number of dilapidated non-residential buildings occupy the lots. Access to the buildings is gained from Bellion Drive.

Adjoining to the east, the land shares a common boundary with a lot occupied by 10 three (3) storey grouped dwellings. Developed in recent years, this development is representative of the increasing mix of development occurring in the locality. Other development characterising the mixed-use nature of the area includes residential units on the north side of Bellion Drive, the adjacent Craft Decor site, and further mixed development to the north.

The southern side of the application land is bound by land reserved under the Metropolitan Region Scheme (MRS) for 'Primary Regional Road' purposes. This land is owned by the Western Australian Planning Commission (WAPC) and is identified for access into the northern part of Cockburn Coast (in the Draft 'Cockburn Coast District Structure Plan' prepared by the WAPC).

Prior to receiving the application a number of pre-lodgement meetings took place with the applicant and architect. During these meetings, items including building design, access and parking provision were discussed. The matter of building height, whilst discussed, was left open to be justified by the applicant, and assessed and determined upon receipt of a proposal.

Given an intention to in part access the site via the Primary Regional Road reserve, the applicant was routinely advised to pursue the development with the Department of Planning and Infrastructure (DPI) and WAPC concurrent with the application to the City.

Submission

The application lodged with the City is for a 16 storey mixed use building. In detail, the following is proposed:

Ground Floor Level

- three (3) showrooms totalling 630 m² fronting Cockburn Road; and
- a hotel lobby and bus bay adjacent to the southern boundary of the site, access to which is intended via the adjoining Primary Regional Road reserve.

First Floor

- a hotel lounge bar, restaurant, 'back of house' rooms and a separate office tenancy (350 m²); and
- residential lobby (accessed via Bellion Drive).

Second Floor

- a function room lobby, function room, back of house rooms and a gymnasium.

Third Floor

- hotel amenities, including a bar/servery and swimming pool; and
- 16 hotel rooms, 4 hotel suites (20 in total).

Levels 5-8

- 64 hotels rooms, 16 suites (80 in total).

Levels 9-11

- 18 serviced apartments.

Levels 12-16

- 20 residential apartments (multiple dwellings).

Parking for the development is proposed across five (5) levels, including several basement levels. In total, 329 bays are proposed. Access to the parking is proposed via two (2) Bellion Drive crossovers (north side) and one (1) via the Primary Regional Road reserve (south side). Vehicular and pedestrian access to the hotel port cochure/lobby and restaurant, function room and serviced apartments is also proposed via the Primary Regional Road.

In addition to the on-site parking, the Traffic Report states that *an additional 43 on-street parking bays are proposed adjacent to the development.* The plans lodged with the application show and note these bays: 37 within the Primary Regional road reserve, six (6) within Cockburn Road reserve.

In support of the proposal, the applicant states the following:

The surrounding area supports commercial and residential land uses and is proposed for residential, commercial, mixed use and retail. The proposed uses would be compatible with those uses.

The site has a magnificent setting and views to the west and up and down the coast. Future development of the site should take advantage of this setting.

The surrounding area is proposed to be developed for residential purposes and this includes South Beach with densities up to R160, the area to the east, currently zoned R60 and the possible future residential development of the former South Fremantle Tip site (currently being investigated by the City of Fremantle).

With respect to the height of the proposed building, the applicant draws from the content of the draft Cockburn Coast District Structure Plan.

The building will be located on the corner of the main north-south road (Cockburn Road) and the extension of one of the two east-west road (Rollinson Road). This makes the site a strategic location and major entrance point to the area. Rollinson Road provides one of two view

corridors to the beach. The site falls outside of 300 metres of the coast and as such does not fall under the height limits of the SPP 2.6.

In view of the above, the subject site is a landmark site.

Report

The proposal has been assessed against the relevant requirements of the City's Town Planning Scheme No. 3, including applicable 'Matters to be Considered by Council' listed under cl10.2.1. Consideration has also been given to the content of the Cockburn Coast District Structure Plan. Notwithstanding the 'draft' status of this document, it informs the local community, property owners and developers alike of the future direction for development along this important stretch of coast line. Additionally, the applicant has based aspects of the proposal, notably height, on this draft Plan.

Use of Land

The subject land is zoned Mixed Business under Town Planning Scheme No. 3.

The uses proposed as part of the development are either 'Permitted' (office, showroom, restaurant and function (reception) centre) or 'Discretionary' (hotel and residential) within a Mixed Business zone. Under both the current zoning and the draft Cockburn Coast District Structure Plan, the uses are generally considered acceptable. They are consistent with the developing mixed use character of the locality described above.

It is important to note, however, that even though the uses are considered acceptable, a range of other considerations apply. These include the development itself (builtform) and management of the uses to ensure successful coexistence both on-site and in the locality. The City can only assume the development will proceed if approved. These additional considerations, therefore, are fundamental.

Relationship to Surrounding Development

The City's Scheme makes reference to the need for commercial development to take into account the scale and bulk of development in the locality. This requirement is expressed in Part 5 of the Scheme, General Development Requirements, cl5.9.1(b) in particular. It is also expressed under 'Matters to be Considered by Council', Clauses 10.2.1(i) and (o).

In assessing the application having regard for the above considerations, one of the challenging aspects of the subject proposal is the 16 storey building height. At 16 storeys, this far exceeds existing building heights in the locality. At present, the tallest building in the

locality is five (5) storeys in height, some 300 metres to the north on Rockingham Road. The tallest buildings in the immediate vicinity are three (3) storeys in height.

In seeking the height proposed, the applicant pays limited attention to the content or requirements of the City's Scheme.

Rather, the height of the proposal is based primarily on building heights proposed in the draft Cockburn Coast District Structure Plan. The draft Plan refers to a hierarchy of building heights within the Structure Plan area, including landmark and gateway sites on which buildings of greater height can be developed.

Using the principle of defining particular sites or locations with structures of greater height, the applicant has formed the view the subject land is landmark in nature, and therein appropriate for development with a 16 storey building. As proposed, however, this does not accord with the content of the draft Cockburn Coast District Structure Plan.

The subject land is currently identified for a four to five (4-5) storey development under the draft Cockburn Coast District Structure Plan. Furthermore, the Plan identifies a site elsewhere within the location for a building up to 16 storeys in height. As stated in the draft plan, *a landmark development is encouraged on the eastern corner at the high point that forms the gateway to the project area from the east.* The application, therefore, does not comply with the heights identified in the Structure Plan area, nor does it challenge the merits of the subject land viz a viz that currently identified for a building up to 16 storeys high.

Accordingly, and in the absence of justification that gives greater consideration to the provisions of Town Planning Scheme No.3, the height proposed is not supported.

As stated by the WAPC in a submission to the City, *The application for a 15 storey building seeking landmark status under the Cockburn Coast District Structure Plan is considered premature.* From a planning perspective, the height proposed is premature for a number of reasons, including the lack of a detailed urban design analysis discounting the site currently identified for significant building height in favour of that proposed on the subject land.

Whilst a building of height is expected on the land, and it is anticipated to be greater than existing development in the locality, the extent to which this is greater than heights currently proposed in the Cockburn Coast District Structure Plan (given the already identified alternative location) needs to be examined. It also needs to be determined in the context of the broader development objectives for the location.

Functionality

The function of the development includes considerations such as access, parking provision, traffic movement and servicing. Specifically, cl5.9.4(b) of the Scheme refers to the need for a development to *demonstrate convenience and functionality*, whilst cl10.2.1(p) refers to *whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking*.

Access

Vehicular access to the development is proposed via three (3) Bellion Drive crossovers (one service related) and two (2) via the Primary Regional Road. The main concern raised in respect of the Bellion Drive crossovers relates to the servicing of the development. This is covered in greater detail below. The issue of access via the adjoining Primary Regional Road Reserve to the south, however, is paramount to the determination of the application.

As mentioned, the reserve is owned by and under the control of the WAPC. In accordance with the relevant Notice of Delegation, the application was referred to the WAPC for comment prior to determination by the City. In response, the following advice was received.

The proponent of the development has not sought the approval of the WAPC for such access and use of the WAPC's land in the manner proposed, which is evident by the WAPC not being a signatory on the Form 1 accompanying the application.

Furthermore, the WAPC has ownership of this land for the purposes of Primary Regional Roads reservation. Without further detailed planning to determine the form and function of this reservation, the WAPC does not support the use of its land for the purposes outlined above, and therefore would not be willing to be a signatory to such an application.

Despite the showing of works within and access via the reserve, therefore, the WAPC has not signed the application form as the owner of the land. Without consent to the application, the works – and more importantly access proposed do not form part of the application for determination. To this end these aspects of the proposal cannot be assessed, nor can a determination be made in respect of such. Simply put, the proposal does not currently enjoy access via the Primary Regional Road reserve (or a dedicated road within).

Given the fundamental importance of access in particular to the development proposed, the City has repeatedly recommended the proposal be pursued by the applicant in close consultation with the DPI (now the Department of Planning) and the WAPC.

Parking Provision

Based on the provisions of Town Planning Scheme No. 3, 341 bays are determined to be required, whilst 329 bays are proposed. As stated in the Traffic Report and as shown on the plans, a further 43 bays are possible. These, however, cannot be included given the ownership of the land on which they are proposed. In terms of numbers, the amount of parking proposed is considered acceptable. This is on the basis reciprocal use of parking is likely given the mix of uses intended within the building.

Traffic Movement and Servicing

Clause 10.2.1(q) of the Scheme is considered for the purpose of ensuring traffic movement is acceptable.

A Traffic Report has been provided to assist with the assessment of the application. The report provides an appreciation of traffic movements likely to be generated by the development and how these will integrate with volumes (current and proposed) on the local road network. Based on the information provided, the development will integrate into the local road network. This information, however, is considered questionable in some respects and is deficient in a number of important areas.

Firstly, the distribution of trips in the local road network is based on access to the development via Bellion Drive only. Access though, is also proposed via the southern boundary of the land – to the hotel, serviced apartments and other uses as well as 45 on-site parking bays. This will impact on the trip destinations presented, bringing into question this information.

The Traffic Report also fails to cover heavy vehicle or commercial traffic movements in the vicinity of the site and the suitability of the proposal taking this type of traffic into account. The Cockburn Coast location is still home to several significant industrial and commercial establishments including Fremantle City Coldstores and Alba Edible Oils. There is also considerable industrial/commercial development around Emplacement Crescent. These activities generate considerable heavy vehicle movement, just under 10% of which is shown to use Bellion Drive (approximately 50 movements per day).

The impact of heavy vehicle movement on the proposed development, and conversely the development itself on heavy vehicle movement (which is likely to remain for some time), represent important considerations. This issue is also particularly important if development were to proceed prior to the completion of the Primary Regional Road assuming support by the WAPC for interim access via the southern boundary of the land.

Related to the above concern is the matter of servicing. The development proposed is significant in scale and will have considerable servicing needs including those relating to waste disposal. The servicing of the site will also be complex given the mix of different uses within.

It is reasonable for the City to be satisfied in advance of development (cl10.2.1(p)) that what is proposed can be successfully serviced both now and in the future, taking into account traffic and without unreasonable impact on the locality (which includes the amenity of existing and future residents). For these reasons, the applicant was specifically requested to provide a detailed appreciation of servicing details and on-going management. Despite this request, however, no additional information was provided, whilst the final version of the Traffic Report deleted reference to the matter.

Consultation

Given the nature and size of the proposal, consultation of local residents and a number of commercial property owners has taken place. In total, 78 letters were sent out by the City. Two (2) signs advising of the application were also erected on-site. In response, 26 submissions were received (excluding submissions received from Tourism Western Australia and the WAPC/Department of Planning following referral to these state government agencies).

Of the submissions received, eight (8) raised no objection to the proposed development. The remainder, however, objected to the proposal (18 submissions). The main concerns raised in objection to the proposal are listed below, followed by a planning comment in respect of such.

- social issues and Anti-Social Behaviour - the proposal will result in anti-social behaviour and issues such as noise.

Comment: In the event a proposal including a hotel use was approved, the City would require a Detailed Management Plan as part of an application, the content of which would in part deal with patron behaviour etc.

- building height - the proposed building is too high.

Comment: The matter of building height is covered above.

- Draft Cockburn Coast District Structure Plan. The Structure Plan is a 'draft' only, whilst the height proposed is not in accordance with the Plan.

Comment: The City is aware the District Structure Plan is a draft only. Clause 10.2.1(b) of the City's scheme does state though, that *the*

requirements of orderly and proper planning including any relevant proposed new Town Planning Scheme or Amendment, or Region Scheme or Amendment, which has been granted consent for public submissions to be sought. The same relevance is considered to apply to the Draft Cockburn Coast District Structure Plan. Despite drawing on the principles of the draft plan to justify the building height, however, the location of the proposed building is in contrast to, and has no regard for the location identified in the draft Plan. Comments regarding the proposal and Structure Plan content are also made above under '*Relationship to Surrounding Development*'.

- overshadowing/overlooking - the proposed building will result in these impacts.

Comment: The impact of overshadowing caused by the building would be minimal. Whilst overlooking would be possible, perception in this regard is more likely to be the case. As Cockburn Coast moves toward 'urban' development, including medium to high density development, the emphasis on minimising overlooking will diminish as an issue.

- parking and traffic - the proposal will result in traffic and parking issues.

Comment: Parking and traffic have been covered above.

- conflict/impact of the proposal on existing land uses, notably existing long term non-residential uses.

Comment: The City shares this concern and recognises the need for future use and development of land to take into account existing use and development. There are several means (memorials on Title, purchaser information packages) to ensuring future residents are informed of juxtapositions to non-residential development that may impact on typical expectations in terms of residential amenity. If the application were to be approved, it is likely these would be applied to the subject proposal.

- loss of views/impact on property values.

Comment: There are no rights to views, whilst planning decisions are made independent of property value considerations or speculation regarding such.

Tourism Western Australia

In accordance with WAPC Planning Bulletin 83 dealing with Planning for Tourism, the application was referred to Tourism Western Australia for consideration and comment. In response, a submission was received generally stating that *high occupancy rates have generated demand for additional accommodation facilities; however, no suitable*

land/sites have been identified for tourist development and there is currently a shortage of accommodation in Fremantle. The submission also made reference to design and parking considerations.

In its submission, the WAPC states *The Draft Cockburn Coast District Structure Plan identifies the power station precinct as preferred location of tourist accommodation.*

Western Australian Planning Commission

The application was referred to the WAPC given the common boundary to the Primary Regional Road. In response, the City received two (2) submissions, one from the WAPC, the other the Department of Planning. The pertinent comments made in both have been covered above. In addition to these, the following comment was made regarding the status of the application in the absence of the WAPC's authorisation of the use of the Primary Regional Road reservation:- *it is the DoP's view (on behalf of the WAPC) that the application is invalid and no determination can be made or issued by either the City of Cockburn or the WAPC.*

With respect to the final point above, the City has obtained legal advice confirming it can determine the application in so far as it relates to zoned land under the City's Town Planning Scheme, whilst the City should decline to make any determination in relation to the land reserved Primary Regional Road under the MRS as this aspect of the proposal is not valid in the absence of the WAPC's signature as the owner of the land. .

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

Governance Excellence

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

Employment and Economic Development

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

Transport Optimisation

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

Budget/Financial Implications

In the event an application for review to the State Administrative Tribunal arises in respect of the Council's determination, there may be a cost to be borne by the City (out of the existing operational budget).

Legal Implications

Town Planning Scheme No. 3.

Community Consultation

Consultation was undertaken as detailed in the report above. A copy of the application was also referred to Tourism Western Australia and the WAPC.

Attachment(s)

1. Location Plan
2. Application plans and Elevations
3. Schedule of Submissions
4. Responses from Tourism Western Australia and WAPC/DoP

Advice to Proponent(s)/Submissioners

The applicant and submissioners have been advised that this matter is to be considered at the Councillors Briefing 6 August 2009 and 13 August 2009 Council Meeting.

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

Nil.

14.10 (OCM 13/8/2009) - REVISED PORT COOGEE LOCAL STRUCTURE PLAN - LOCATION: PORT COOGEE - OWNER: AUSTRALAND HOLDINGS LIMITED - APPLICANT: TAYLOR BURRELL BARNETT (TOWN PLANNERS) (9662) (T WATSON/J RADAICH) (ATTACH)

RECOMMENDATION

That Council:

- 1) resolve to approve the Port Coogee Revised Local Structure Plan, Marina Village Master Plan and Port Coogee Transport Report prepared by Taylor Burrell Barnett Town Planners and

Sinclair Knight Merz (Transport Report) on behalf of Australand pursuant to the provisions contained under Clause 6.2.14.1(b) and 6.2.14.3 of the City of Cockburn Town Planning Scheme No 3 (in the case of the Port Coogee Revised Local Structure Plan), subject to the following:

1. Pedestrian and bicycle access being maintained around the marina side of the 'Icon' building to be developed at the western end of the southern peninsula, this access to be permanent if the land in question is to be privately owned in which instance the City is to be granted a public access easement for the purpose of protecting public accessibility in perpetuity.
2. The hotel required in accordance with Provision 20 under DA22 in the City's Town Planning Scheme No. 3 being developed on land immediately adjacent to the marina (that is, on either Chieftan Esplanade or the north side of the southern peninsula) and designed to the satisfaction of the City.
3. The design and development of 'The Corsos' being undertaken in a manner that has equal regard for the underlying role of the following three (3) elements:
 - a) the establishment of physical and visual links across the southern peninsula;
 - b) for the purpose of clearly breaking the extent of building bulk and frontage across the southern peninsula; and
 - c) for providing sufficient wind protection to the leeward side of the peninsula;to the satisfaction of the City in the preparation of the Builtform Guidelines, Detailed Area Plans and at Development Application stage.
4. The Builtform Guidelines for the Marina Village addressing and including sections dealing with the following to the satisfaction of the City:
 - a) 'Crime Prevention Through Environmental Design' (CPTED) and
 - b) Servicing and Waste Management.
5. The Builtform Guidelines being presented to the City for consideration and approval no later than four (4) months

after the approval of the Revised Local Structure Plan and Marina Village Master Plan by Council.

6. The initiation of an Amendment to Town Planning Scheme No.3 deleting reference to Provision 10 in DA22. The Amendment process is to be commenced within four (4) months of the approval of the Revised Local Structure Plan and Marina Village Master Plan by Council.
7. The following minimum parking provisions be allowed for in the Port Coogee Revised Structure Plan:
 - Marina Village residential permanent on-site - 2188 bays;
 - Marina Village residential visitor on-site - 121 bays;
 - Marina Village residential visitor on-street - 122 bays; and
 - Marina Village Non residential public parking - 705 bays.
8. A staged Parking management and Strategy Plan being presented to the City for consideration and approval no later than four (4) months after the approval of the Revised Local Structure Plan and Marina Village Master Plan by Council.
9. Strategic taxi ranks and pick-up and set-down locations be identified and provided to the satisfaction of the City during the design of road reserves for the Marina Village.
10. The management of parking so as not to cause problems for residents in Stage 4A and 5, the details in respect of which are to be presented to the City for consideration and approval no later than four (4) months after the approval of the Revised Local Structure Plan and Marina Village Master Plan by Council.
11. Australand be responsible for the provision of traffic signals at: Pantheon Avenue and Cockburn Road, Orsino Boulevard and Cockburn Road and Pantheon Avenue and Orsino Boulevard, and to enter a suitable arrangement for their provision to the satisfaction of the City.
12. Australand to address and resolve the negative impact of any vehicle queuing on Pantheon Avenue residents when traffic signals are installed on Cockburn Road, to be presented to the City for consideration and approval no later than four (4) months after the approval of the Revised Local Structure Plan and Marina Village Master Plan by Council.

13. All road carriageway widths be a minimum of 6.0 metres for 2-way traffic.

- (2) resolve to delegate to the Manager Statutory Planning/Coordinator Statutory Planning authority to approve Detailed Area Plan's in the knowledge comprehensive Builtform Guidelines are to be prepared and lodged with the City within four (4) months of the approval of the Revised Local Structure Plan and Marina Village Master Plan (for consideration by Council);
- (3) resolve to forward the amended Port Coogee Structure Plan to the Western Australian Planning Commission for endorsement on the basis of point 1) above; and
- (4) advise the applicant and submissioners of the Council resolution to approve the amended Structure Plan and refer it to the Western Australian Planning Commission for endorsement on the basis of point 1) above.

COUNCIL DECISION

Background

In March 2004 the Council adopted the Port Coogee Local Structure Plan in conjunction with the local Scheme Amendment providing for Development Area 22. DA22 sets out development requirements for Port Coogee. The amendment was gazetted in June 2005.

Subsequent to initial adoption, the Structure Plan has been amended on a number of occasions. The Structure Plan was amended in June and August 2005, July 2006, and most recently following support for changes adopted by Council in September 2008.

Since September 2007, however, and notwithstanding the minor changes adopted by Council in September 2008, representatives of the City's Planning and Engineering Directorates have been involved in on-going discussions with Australand and its consultants' regarding numerous more significant changes to the Local Structure Plan. The focus of the changes is the future development of the Marina Village.

The culmination of the discussions resulted in the submission of the Port Coogee Revised Local Structure Plan in November 2008. At the

same time, the Marina Village Masterplan and Port Coogee Transport Report were lodged with the City.

The purpose of the Marina Village Masterplan is to:

- Establish a framework for the development of the Marina Village;
- Build upon and provide additional detail to the existing Master and Structure Plan Reports for Port Coogee, in order to provide more information regarding the Marina Village; and
- Develop broad principles for urban design guidelines that will ultimately lead the implementation of the development.

The Masterplan complements the Port Coogee Local Structure Plan (LSP) to provide more illustrative detail to the Marina Village component of the development and present a concept plan as an intention of how the LSP might be implemented.

Both the Port Coogee Revised Local Structure Plan and the Marina Village Masterplan have been prepared on behalf of Australand by Taylor Burrell Barnett as the head consultant.

The purpose of the Port Coogee Traffic Report is to provide transport and parking advice for the Revised Local Structure Plan, with particular emphasis on the more substantive changes proposed within the Marina Village. The document is to be read in conjunction with the Revised Local Structure Plan and Marina Village Masterplan.

The Traffic Report has been prepared for Australand by SKM.

Submission

The Port Coogee Revised Local Structure Plan proposes the following main changes:

1. The extension of the Marina Village Precinct to include:
 - Lot 786 Orsino Boulevard; and
 - the land on the southern peninsula currently outside the village and zoned Residential R80.
2. The relocation of the southern Neighbourhood Centre to the Marina Village.
3. An increase in dwellings numbers. In this regard, the amended Structure Plan approved in 2006 provided for 1630 dwellings. The revised Local Structure Plan provides for just over 2300 dwellings. The majority of the increase in dwelling numbers is within the Marina Village (an increase of approximately 650 dwellings).

4. Removal of the R160 density previously shown across the Marina Village.
5. The replacement of the Building Height “Guide” Plan in the Local Structure Plan with a ‘Building Height Plan’. The Building Height Plan shows a general increase in building heights within the Marina Village, including the southern peninsula when compared with the Building Height ‘Guide’ Plan.
6. Comprehensive parking provision within the Marina Village.
7. The introduction of a Waterfront Park within the Marina Village (4701 m²).
8. An increase in the public boardwalk area, changes to public access links and minor road changes.
9. Reconfiguration of the boat pen layout and boat pen sizes within the Marina.
10. Relocation of the community purpose space.
11. An increase in density across the northernmost street block (dry land residential) from R25 – R35.

In support of the proposed changes, the applicant states the following:

In the context of Port Coogee and the wider Cockburn region, the Marina Village is to be a significant public asset which will play an important role as a regional attractor. The co-location of community facilities and well designed public open spaces, including a new Waterfront park, will provide important recreational spaces for people living, working in and visiting the area.

To realise this potential, however, the Marina Village requires a critical mass of residential population to support the various activities envisaged, including; retail, commercial, community and residential uses, and to contribute life, vibrancy and a sense of safety to the area as well as to support local businesses.

To achieve the necessary critical mass of residents, the proposed LSP provides a framework for the development of residential apartments as the primary housing type within the Village Centre Precinct.

The proposed building heights are intended to facilitate development that brings more residents to the Marina Village Precinct, which will provide many benefits to the quality of the place, including:

1. *Activation, vibrancy and safety – bringing a population density that activates the streets, achieves vibrancy and enhances the*

feeling of safety by providing passive surveillance and a 'people presence'.

- 2. Housing diversity and choice - increasing the scope for residential opportunities via housing diversity and choice in apartment types and sizes.*
- 3. Greater demographic diversity - through the provision of housing diversity, encouraging demographic diversity within the residential population in the Marina Village in terms of household size, composition and age groups.*
- 4. Support for Marina Village local businesses – It is critical to ensure the Marina Village has a catchment population to support a good range of local businesses, particularly those shopping, food and beverage businesses that are envisaged for the enjoyment of the wider community. Such businesses cannot be sustained without an adequate permanent population base.*
- 5. The creation of Waterfront Park – Waterfront Park is proposed in the location of a former building on the waterfront. The building edge has been 'pulled back' from the Marina edge allowing for the creation of a substantial open space in its place. The park's sloping lawn will make for a 'natural amphitheatre' and the perfect focal point for performances, celebrations and other community events and gatherings. The built form density 'displaced' by the park will be replaced in the increased heights of the buildings on the southern side of the peninsula.*
- 6. Wind protection - a relatively well protected open space can be achieved by providing building height. As previously discussed with Council, wind amelioration is provided for a horizontal distance by a factor of 5x the height of the building. This will be of particular value to Waterfront Park and the mixed use land uses around the waterfront, where it will be important to create a comfortable environment in the public realm. Creating sheltered public spaces will also contribute to the provision of optimum opportunities for a sustainable food and beverage precinct.*

Establishing the Marina Village as a community and recreational asset will be important in establishing a sense of place. Density is necessary to create sufficient population to facilitate the creation of activated streets and provide opportunities for cafes, restaurants, retail and community uses to be supported. Density in appropriate locations can create great places to live and achieve wider community aspirations by creating vibrant places.

Consultation

Upon receipt of the Revised Local Structure Plan, Marina Village Master Plan and Transport Report, the documents were reviewed internally by the City's Planning and Engineering Directorates. Following this, a period of comprehensive consultation was undertaken. For the period 3 February to 3 March 2009, all three documents were made available for inspection and comment by the public.

Consultation included the following:

1. Newspaper ads in The Gazette and Herald commencing 3.2.09, then 10.2.09 and 17.2.09;
2. Details on the City's website, including:
 - a media release;
 - an item in the 'news' section;
 - a separate Port Coogee link connecting users to the Revised Local Structure Plan, Marina Village Masterplan and Transport Reports;
 - an on-line submission form; and
 - an online, downloadable submission form (hard copy)
3. The sending of letters to 180 Port Coogee property owners.
4. Advising 11 relevant State Government agencies and or infrastructure providers.
5. The erection of two (2) 'Static' displays, one at the City's Phoenix Library, the other at Phoenix Shopping Centre.
6. An Elected Members newsletter posting.

During the consultation period, Australand also held a Community Open Day on-site (21 February 2009).

One of the pleasing aspects of the consultation was the extent to which the City's website was accessed for the purpose of gaining information on the proposed changes. The Port Coogee page was accessed 661 times for the period 3 February 2009 to 3 March 2009. Additionally across this timeframe there were 76 'Returning Visitors'.

In response to the consultation, the City received 39 submissions. Of these, 10 either support or raised no objection to the Revised Local Structure Plan and related documents. The remaining 29 submissions either objected to, or raised concerns in respect of what is proposed. A summary of all submissions can be viewed in the attached 'Schedule of Submissions'.

In summary, the majority of objections and/or concerns related to the following matters:

1. Increase in development density (dwelling numbers) and building heights.
2. The impact of the proposed changes on views and property values.
3. Traffic and parking concerns.
4. Relocation of the Local Centre into the Marina Village.
5. Claims of misrepresentation at the time of property purchase.
6. Impact of wind/planning for wind.
7. The changes will result in an increase in crime and anti-social behaviour.

The above list descends in order based on the number of times an issue was raised either specifically or generally in the submissions received. Very clearly, the three (3) areas of most concern arising out of consultation relate to dwelling numbers and building heights, impacts on property views and values, and traffic and parking concerns or considerations. It is noted quite a number of separate points were made on one or a number of occasions.

The City's comments in respect of the main points above will be largely covered in the following section. The Schedule of Submissions has been referenced to highlight where this occurs. Where relevant or necessary, additional comments are provided in the Schedule of Submissions in respect of one-off points or concerns. This approach is particularly applicable to three (3) larger submissions received by the City.

Report

Following the completion of consultation and the review of all submissions, the City's planning and engineering directorates focussed on identifying the City's position in respect of the changes proposed, including concerns and/or issues arising out of the consultation. The City's standings from Planning and Engineering perspectives were then put to Australand and its consultant team. The following comments provide an appreciation of the dialogue that has transpired in respect of the main concerns or issues, including resultant outcomes or changes.

Dwelling Density (Numbers) and Building Heights

Concerns raised in response to consultation in respect of the proposed increase in density/dwelling numbers are not shared. Rather, concern is expressed from a planning perspective in regard to how these changes will be effected in a manner that contributes to the overall success of Port Coogee as a place to live, work and/or visit.

Accordingly, the position of the applicant and developer is accepted. That is, a certain critical mass in terms of local population is necessary to support local commercial development and the lifestyle always envisioned for the project. The manner, in which this occurs, however, particularly for the purpose of ensuring a diversely strong future population, needs to be determined.

Whilst additional dwelling numbers are supported, it is qualified on the basis that a far greater mix of dwelling type, design and size take place. Whereas a largely generic or predictable range of accommodation types has been expected to date, or certainly that has been the perception, there is an expectation that if an increase in dwelling numbers is to take place, there equally needs to be an increase in their mix.

To support the now identified intent for a stronger mix of dwelling type, the Design Philosophy in the Structure Plan has been amended to include the following objective – *To create density and a diverse residential population that will help to bring vibrancy and activity to the Marina Village.* In addition, the Marina Village Masterplan, to be read in conjunction with, and supporting the Structure Plan, has also been amended to include a section titled *Objective for Housing in the Marina Village.* The content of this section reads:

In addition to the variety of densities provided for within the LSP, the following overarching objective applies to all development within the Marina Village to encourage diversity in dwelling size and design:

A densified and diverse residential population will help to bring vibrancy and activity to the Marina Village.

To this end it is a key aim to encourage a diverse residential population in the Marina Village, in terms of household size, composition and age groups, through the provision of a range of living options.

Diversity of housing product may be provided in a number of ways, for example, designation of a particular precinct area, development site or a building within a site for a particular residential typology, or mixing different products within buildings.

Built form control mechanism(s) will be formulated with due regard to the following objectives:

- *Achieving diversity in dwelling size and design, to accommodate different household types, including:*
- *1-2 bedroom apartments of up to 80 m² - more affordable accommodation for single persons, young professionals and retirees.*
- *2-4 bedroom apartments of between 80 and 200 m² - family friendly apartment living.*

- *2-4 bedroom high end luxury apartments.*
- *The juxtaposition of dwelling types throughout the Marina Village will be considered further through the Built Form Codes or guidelines, DAPs and subsequent development applications.*
- *Regardless of dwelling types, residential design should strive to create high quality developments, particularly on landmark sites, through high quality design and architecture.*

As a precursor to the development of more buildings comprising a strong mix of dwelling types, design and size, Australand in a pre-lodgement meeting has presented initial plans for the development of Lot 786. The plans provide for a diversity in apartment types and sizes ranging from 40 m² 'bed-sits' to 120 m² three (3) bedroom apartments. The proposal accommodates these dwellings in 'grouped' and 'multiple' formats, with scope for "live-work" arrangements where dwellings abut the street.

The proposal for Lot 786 represents the new design philosophy, and to this end is in stark contrast to that already approved by the City for Lot 785 adjacent to the south. This development comprises 38 dwellings, all approximately 138 m² in size and aimed largely at one section of the residential property market.

In terms of building heights, the following comments are made:

Provision 21 in DA22 (Town Planning Scheme No. 3) provides for building heights across the currently delineated Marina Village up to eight (8) storeys. Specifically, *Within the Marina Village, and local centre areas coded R80, development is restricted to a maximum of eight storeys.*

The current Local Structure Plan includes a 'Building Height Guide Plan' showing heights in the Marina Village ranging from 2-8 storeys (and the majority of street blocks shown for development up to five (5) storeys). This was included *as a guide to represent the building heights likely to occur within the framework of DA22.* All building heights could, however, be up to eight (8) storeys based on Provision 21.

The Revised Local Structure Plan now includes a 'Building Height Plan'. This plan shows the change in heights referred to during consultation, essentially a general increase in building heights across the Marina Village. In every instance, however, the heights shown are either below or at the 8 storeys permitted by Provision 21.

In addition to depicting building heights, the Building Height Plan has been notated to specify a minimum four (4) storey requirement on the two lots abutting the south side of proposed Waterfront Park. Whilst the notation provides the qualification that four (4) storeys is required unless an alternative solution to wind amelioration is provided, it is

expected the lots will be occupied by buildings at least four (4) storeys in height for the purpose of wind protection (to Waterfront Park).

Under Provision 21 in DA 22, *The height of buildings in residential R60 and R80 areas should be limited to a maximum of five storeys (and not exceeding 21 metres) in height. Higher structures up to a maximum of eight storeys (and not exceeding 32 metres) in height may be permitted where, amongst matters including design and environmental considerations, there is broad community support for the higher buildings following a process of full consultation.*

The extension of the Marina Village to include the R80 zoned land on the southern peninsula equally extends the eight (8) storey Village height restrictions across this land. This simple extension, it could be argued, provides for increased height where consideration of the listed criteria would have otherwise been required. Given this and despite heights less than 8 storeys shown on the Building Height Plan for some of this land, an assessment against the applicable criteria in the Town Planning Scheme is considered appropriate.

The criteria deal with, or require the following:

- broad community support;
- builtform, topography and landscape character;
- the location being a part of a major tourist or activity node;
- the amenity of the location (coastal foreshore) is not affected by overshadowing; and
- there is visual permeability of the location.

Given the lack of submissions objecting to building heights, particularly in the context of the extensive consultation undertaken, point one above is considered to have been satisfied. Invariably, consultation results in the submission of objections to a proposal. If a proposal is considered to be generally acceptable, consulted persons will not be concerned to make a submission, inferring support (or at worst indifference to a matter). This is considered to apply in the subject case.

The remaining criteria are also considered to have been addressed. As part of the Marina Village, the land in question will be subject to the same objectives and design principles/considerations applicable to the balance of the precinct (which is tourist/activity node in nature).

With respect to overshadowing, the City required the submission of an Overshadowing Plan. The plan reveals a relatively benign situation in terms of this potential impact. On 21 June at 12 noon, the greatest overshadowing impact is across parking areas on the southern side of the peninsula.

Impact of the Proposed Changes on Views and Property Values

Whilst the concerns regarding views are acknowledged, there are typically no rights protecting such and the issue is not a valid planning consideration. With respect to the change in building heights between the Building Height Guide Plan in the current Local Structure Plan and that (Building Height Plan) now proposed, those concerned with views also need to be mindful of the eight (8) storey building height afforded by Provision 21 of DA 21 across the Marina Village.

Planning decisions are also made independent of property value considerations or speculation regarding such.

Traffic and Parking Concerns (J Radaich)

An update of the Port Coogee Transport Report (July 2009) prepared by Sinclair Knight Merz was presented following a peer review of their previous report dated December 2008. The July 2009 report addressed the issues and uncertainties raised through the independent technical review process undertaken by Uloth and Associates in April 2009.

The City is satisfied that the report has provided sufficient justification for the parking and traffic generation calculations and believe the conclusions are logical. The following points are made to support the recommendation:

1. The peak parking demand (residential plus non-residential) occurs on a weekend. Design standards and a comparative survey of the Mandurah Ocean Marina were used to assist in the review. Parking provisions required are as follows :

Marina Village Residential including their visitors	2431 bays
Non-residential	655 bays
Non-residential general beach visitors	50 bays
TOTAL	3136 bays

The Marina Village residential car parking provision of 2431 bays is conservative, with a figure of 1740 bays plus visitors' bays shown to be sufficient. It is also unlikely that the peaks for each non-residential use will occur at the same time, thus additional capacity will be achieved (when applying the methodology across the combined uses). The non-residential uses include: retail, commercial, food and beverage, community uses and boat pens.

Consequently, the following minimum parking demand provision proposed by Sinclair Knight Merz is acceptable.

Marina Village residential permanent on-site	2188 bays
Marina Village residential visitor on-site	121 bays
Marina Village residential visitor on-street	122 bays
Non residential public parking	705 bays
TOTAL	3136 bays

The 100 room hotel will also require 100 parking bays on-site; however, this would form part of the separate hotel development conditions.

2. The preparation of an effective Parking Management and Strategy Plan will be necessary to detail how the on-street and off-street non-residential public parking facilities will be shared between short term and long term commercial and recreational uses.
3. Strategically located taxi ranks and pickup/set down areas was not addressed in the report and these will need to be identified or allowed for in the development. A convenient pickup and set down location will also need to be provided to support the marina users.
4. The provision of parking at the end of the residential groyne and residential island is a concern as they may affect the living amenity of residents. How this parking is to be managed so as to not cause problems for residents will need to be demonstrated.
5. The peak traffic demand on the external road system is projected to be 11,948 weekend trips/day and 12,535 weekday trips/day (satisfactory). The impact of the Port Coogee development on Spearwood Avenue was estimated to increase demand by 2890 weekday trips/day (2006). This has now been refined to 1880 weekday trips/day in the 2009 report.
6. There will ultimately be a requirement for traffic signals at the Pantheon Avenue and Orsino Boulevard intersections with Cockburn Road. The provision of these signals should be the responsibility of the developer.
7. The report has identified the requirement for traffic signals at the Pantheon Avenue/Orsino Boulevard intersection. The provision of these signals should be the responsibility of the developer.
8. Although the traffic signals on Cockburn Road will operate satisfactorily, the analysis of the Pantheon Avenue intersection indicates that traffic queuing in Pantheon Avenue could be past the second intersection for 5 percent of the time in the morning peak period. This will need to be further addressed due to the possible impact on the local residents fronting Pantheon Avenue.

9. There was an indication that some minor access streets should have a reduced carriageway width of 5.5 metres. However, to facilitate traffic movement and turning and service vehicles, the minimum width should be 6.0 metres.
10. The pedestrian, cycling and public transport provisions and amenities have been adequately address and catered for.

Relocation of the Neighbourhood Centre into the Marina Village

The relocation of the neighbourhood centre into the Marina Village is proposed for the following reasons (as provided by the applicant).

- *Successful places usually emanate from a single point; the Marina Village will establish a core precinct and focus for the community.*
- *The concentration of uses will provide greater activity, vitality and activation of the public realm within the Marina Village.*
- *The provision of a separate Neighbourhood centre will detract focus from the Marina Village.*
- *The consolidation of uses will improve economic viability and accordingly the success of the centre as a vibrant place.*

An expert retail analysis by PRACSYS raised concerns about the distributed nature of the retail and commercial uses within the previous LSP and recommended the consolidation of these activities to give the centre the best chance of success for the benefit of business owners and the immediate and wider community.

PRACSYS identified that a high concentration of uses is likely to be more economically successful than lower concentrations i.e. commercial uses focussed on particular areas of the Marina Village will be more economically viable than commercial uses spread through the Centre PRACSYS states that 'the logic is that by focusing car parking and foot traffic around a few contained nodes, all businesses will have a greater chance of surviving seasonal trading fluctuations and therefore will provide a higher standard of amenity for residents and visitors all year round. This is particularly true for seasonal water front locations such as the Marina Village, where foot traffic tends to dissipate very quickly as it moves further from activity nodes.

For the above reasons, the subject change to the Structure Plan is accepted. It is important to note; however, that not all non-residential activity is being transferred into the Village. Despite initial concerns about a *Possible Local Centre* on the Neighbourhood Centre land, an agreed position in this regard has been reached.

It is believed the development of part of this southern site for the purposes of a shop, café or convenience store should be mandatory. These types of uses will serve the local community as well as visitors to this part of the project given the adjacent foreshore reserve and

beach for recreation. It is also believed the required floor area should be a minimum of 200 m². This is sufficient in size for achieving a meaningful presence without eroding the reasons for shifting the neighbourhood centre into the Marina Village.

To effect the above, changes have been made to the latest version of the Revised Local Structure Plan. The southern part of the land in question is noted as an Additional Use Site, whilst the Structure Plan text refers to the following preferred uses: shop; restaurant, exhibition centre and convenience store. Both the plan and text also refer to the requirement for the site to contain a minimum gross lettable area of 200 m².

Claims of misrepresentation at the time of property purchase

A number of submissions and/or enquiries received by the City made claims information provided at the time of purchasing land within Port Coogee is no longer relevant based on what is now proposed by the developer. Similar to the issues of views and property values, this issue is not a planning consideration. When claims along these lines were made, the City's officers recommended the matter be taken up with Australand.

Impact of Wind/Planning for Wind

In addition to providing for the development of additional dwellings within the Marina Village, the increased building height shown on the Building Height Plan is equally relevant to addressing the major impact of wind in this coastal location. The introduction of Waterfront Park as one of the major changes in the Revised Local Structure Plan further highlights the need for appropriate wind management.

As stated by the applicant ... a relatively well protected open space can be achieved by providing building height. As previously discussed with Council, wind amelioration is provided for a horizontal distance by a factor of 5x the height of the building. This will be of particular value to Waterfront Park and the mixed use land uses around the waterfront, where it will be important to create a comfortable environment in the public realm. Creating sheltered public spaces will also contribute to the provision of optimum opportunities for a sustainable food and beverage precinct.

The Changes will Result in an Increase in Crime and Anti-Social Behaviour

The concerns regarding an increase in crime and anti-social behaviour as a result of the proposed changes are not shared by the City. One of the primary objectives of the Revised Local Structure Plan is the establishment of a Marina Village that is highly successful in respect of street and public activity levels across the day and during the evening.

If delivered as expected, crime and anti-social behaviour should be minimal in the face of a vibrant, active village.

Additional to the above and fundamental to well developed 'urban' locations, a high degree of emphasis is to be placed on ensuring new development is responsive to the public environment. There is great potential via this approach to prevent inappropriate behaviour and criminal activity from occurring. This is in addition to the requirement for all development to engage across the private/public realm through simple opportunities such as natural surveillance.

Other Matters for Consideration

In addition to the matters arising out of the consultation undertaken, the City's Planning Directorate has been in separate discussion with Australand and its consultants regarding the following matters.

Dual Use Paths (DUP's)

The extent of DUP access through the project area has been raised as a concern. In particular, concern based on the extent of information depicted on the Structure Plan itself has been raised in relation to public access (pedestrian and bike movement) around the 'Icon' building to be developed at the western end of the southern peninsula.

Provision 6 in DA22 refers to a *continuous dual use path along the foreshore connecting into the existing pathway system*. Whilst both the current and Revised Local Structure Plan show essentially the same in terms of DUP's, the DUP extending towards the northern tip of the southern peninsula is not shown to extend in its entirety around the 'Icon' site marking the end of the peninsula. For the purpose of continuous access, this is considered important.

In response to the City's concerns, Australand and its consultant have advised permanent public access (pedestrian and bicycle) is to be made available around the 'Icon' site and this part of the peninsula, albeit at a lesser dimension/standard to the DUP extending to this point. In this knowledge, the extent of DUP shown on the Revised Local Structure Plan is supported subject to a condition requiring the access to be permanent.

Language use throughout both documents

The language throughout both documents (the revised Local Structure Plan and Marina Village Master Plan) reads non-committal (*potential, possible*) when compared with the requirements of Provision 20 in DA 22 which requires *a site of not less than 3500 m² for the development of a hotel, located and designed to the satisfaction of the Council*.

Consequently, advice confirming the development of a hotel within the Marina Village has been sought, particularly given the progression towards greater clarity generally in the planning of the Village. In response, the language in the documents has been changed to refer to *Potential Site for Required Hotel*. Currently, the word “*Required*” is not included.

With respect to the location of the future hotel, a condition is recommended requiring this to be adjacent to the marina itself. This is consistent with the objective of activating the waterfront, preventing the establishment of this required use elsewhere within the marina village.

In addition to the language used in respect of a hotel, the Revised Local Structure Plan initially referred to a *Potential Site for Community Purpose*. Similarly, this aspect of the Plan and documents has been amended to refer to the *Potential Site for Required Community Purpose Space*, the operative word being “*Required*”.

Marina services building

Currently identified to be two (2) storeys in height, the Marina Services Building is now identified for a building height of up to three (3) storeys. This minor increase is commensurate with the *Icon Building* status applicable to the site.

Not less than 300 m² of floor space within this building is to be transferred to the City free of cost, for use in association with the management of the Marina. The Revised Local Structure Plan also refers to *additional facilities for refuelling and sullage disposal ... if there are any such facilities at the time of transfer*.

Active use of the Peninsula at the ground floor level

Provision 17 of DA22 refers to the non-residential use of ground floor space across the extent of the Marina Village. In this regard, the expectation has always been that the ground level of peninsula development where it abuts the southern part of the marina will be activated with lifestyle type activities including food and beverage establishments (cafes and restaurants), specialty retail and appropriate commercial use.

Reinforcing the above expectation, the ‘Land Use Precincts’ plan in the current Structure Plan depicts in a diagrammatic form non-residential development for the extent of the southern peninsula. The extent of this, however, has been reduced to approximately half the width of the southern peninsula in the Revised Local Structure Plan. In this regard, the applicant states the following.

The proposed Land Use Precincts plan (Figure No.10) in the revised LSP shows a total of 893.4 linear metres of non-residential frontage (747.2 m excluding the peninsula). Excluding the peninsula, the plans are roughly comparable with only 50.5 m (or approximately 6%) less frontage in the proposed LSP. The difference is generally attributable to the change in road layout and the focus of the Revised LSP to concentrate the non-residential uses within the central precinct of the Marina Village and fronting Waterfront Park.

On the peninsula, it is no longer intended to require non-residential use at ground floor for buildings westward of Waterfront Park. It is still intended that this area will be available for mixed use development and may attract some non residential use at ground floor to take advantage of the northern aspect, views over the marina and protection from the prevailing breezes. To ensure this opportunity is allowed for, it will be required that ground floors be designed robustly to accommodate land use change to commercial over time where viable.

The PRACSYS report indicates that just over 9,000 m² of retail floor space would be viable and would support a number of business types including a full line supermarket, fruit and veg, bakery, tavern/bar, delicatessen, café's, restaurants and specialty retail. Given the development of the Trade Coast zone (the Trade Coast includes the Kwinana Industrial Area, the Australian Marine Complex, Latitude 32, East Rockingham Industrial Area and the proposed Fremantle Outer Harbour Development) and the increasing support of commercial activity in the area, PRACSYS suggests that 1,500 to 2,000 square metres of office space is likely to be viable. The linear frontage requirements to accommodate this floor space are reflected on the proposed Land Use Precinct Plan.

Simply requiring a non-residential use at ground floor will not necessarily mean that space becomes occupied. If there is simply too much space to support, then it will remain vacant. This is not a desirable outcome for any centre. Empty shops convey an 'unfinished' atmosphere, or worse, one of failure. Empty shopfronts contribute nothing to the public realm, the vibrancy or the sense of safety of a place. And this can become a self fulfilling situation where new shops are put off by the association with a place that is not a success. It is imperative to ensure that the provisions of the LSP do not inadvertently create such a situation.

To summarise, the reasons for a reduction in non-residential frontage to the southern part of the marina relates to:

- The uncertain viability of requiring all of this to be developed for active purpose, both in terms of achieving previously conceived land use/urban design objectives - as well as from a commercial perspective.

- The concern to ensure the new Waterfront Park location is maximised through the development of viable active uses, and ensuring the intensity of this Village focal point is maintained rather than eroded by the more significant requirement for the entire peninsula to be developed with non-residential use.

On the above grounds and the supporting information provided by the applicant, the reduction in the designated requirement for the entire southern peninsula to be activated at the ground floor level with intensive non-residential use is accepted. This support is qualified though, on the recognition that for the balance of peninsula not shown for active use, the builtform at the ground floor level is designed to a “robust” standard. This requirement has been built into the requirements of the Revised Local Structure Plan and Marina Village Master Plan, providing for a commercial built outcome that caters for low scale/low impact non-residential use (when viable) in the future.

The Corsos (links across the southern peninsula)

The City’s expectation for builtform on the southern peninsula should be for a collection of buildings, independent and separate, with clearly defined spaces in between to break the extent of building bulk and frontage. This approach will also assist with the extension of views across the peninsula. The main concern in this regard relates to a potential for a “walling” effect of development if there isn’t a number of clearly defined breaks.

Recent discussion regarding the manner in which the Corsos are developed has focussed on the need to respect the underlying functions of these links (mentioned above). It has been identified more recently, however, that the design and execution of these elements in a builtform sense is integral to wind management. To this end, the Revised Local Structure Plan states these *links may not necessarily be in a straight line between the waterfronts, but may be kinked or aligned so as to manage or soften wind effects.*

Whilst the need to consider wind in the design and development of these spaces is appreciated, their importance as physical/visual links across the peninsula and for breaking the extent of builtform is equally fundamental. Accordingly, a condition reiterating the underlying objectives for these elements is recommended, elaborated to explain the City’s expectations in this regard.

It is noted the City will have no role in the ownership of these links. Rather, they will be in private ownership, across which the City will be party to an ‘Easement in Gross’ protecting public access in perpetuity.

Landmark site (western end southern peninsula)

Similar to the situation regarding the language used to describe the Hotel and City's Community Space, the Revised Local Structure Plan initially referred to the *expected* development of the western most point of the southern peninsula with an 8 storey building. This has subsequently been amended to ensure a landmark building is developed on the site, to be set apart from adjoining builtform through iconic architecture and a *minimum height of 30 m*.

Indigenous heritage and public art

The Marina Village Master Plan states that *the opportunity exists to engage with the local indigenous heritage associated with Cockburn Sound*. It also refers to the opportunity to *interpret and engage with indigenous, maritime, agricultural and industrial history of the site*. With respect to public art, the document refers to the *Incorporation of public art to interest and engage the community and add visual appeal to the area*. A strategy referring to *Significant and high quality public art* is also mentioned.

To better understand what is intended in respect of these matters, the City has been advised the following:

We understand Australand, together with its consultant Landscape Architect, Hassell Pty Ltd and community development consultant Creating Communities, is working closely with the Port Coogee People, Places, Working Group (which includes community representatives) to develop an Interpretation Strategy for Port Coogee. We understand the Strategy will be forwarded to the City Of Cockburn in draft form in late August 2009, and will incorporate public realm (park names); public art and landscaping design planned for the site.

Builtform Guidelines and DAP's

To better guide development within the Marina Village for the purpose of achieving high quality urban outcomes that take into account local environmental considerations, a set of Builtform Guidelines are to be prepared. These guidelines for the most part will describe and detail uniform requirements for the purpose of achieving development that is suitably active and engaging at the street level, and visually interesting and sufficiently animated (with balconies and the like) above street level. The Guidelines will also provide direction on design, development and the environment.

As listed in the Revised Local Structure Plan, the Builtform Guidelines will deal with the following amongst matters: building form and typology, setbacks, street address and activation, the development of landmark and gateway buildings, and wind amelioration. In addition to these elements and having regard for the concerns raised regarding

crime and anti-social behaviour, it is recommended Crime Prevention through Environmental Design (CPTED) also form part of the Guidelines. Attention to detail with respect to servicing and waste management as important aspects of future development is also recommended for inclusion in the Guidelines.

In addition to the Design Guidelines and has been the case across Port Coogee, Detailed Area Plans (DAP's) will also be prepared. This layer of control will sit subordinate to the Revised Local Structure Plan and Design Guidelines and will focus on site specific planning considerations. Where a DAP does not refer to an alternate standard, the applicable standard/s are those prescribed in the Residential Design Codes (R-Codes) and Town Planning Scheme No.3 where the R-Codes do not apply.

To date, Council resolution (March 2004) has required the presentation of all Detailed Area Plans to Council for consideration and approval. Over 15 Port Coogee DAP's have been referred to Council. With the exception of a number of minor changes to a small number of these DAP's, all have been approved by Council without change. The need to continue the current practice, therefore, is no longer considered necessary, particularly given the supporting role of the Marina Village Master Plan and the preparation of the Builtform Guidelines (to be presented to Council for approval prior to implementation given their role in informing new development). Instead, it is recommended Council resolve to delegate authority to the Manager of Statutory Planning/Coordinator Statutory Planning to approve DAP's in the future.

Scheme Amendment

One change in particular to the Revised Local Structure Plan requires the amendment of the City's Town Planning Scheme No. 3 DA22 provisions. By virtue of the relocation of the Neighbourhood Centre into the Marina Village, Provision 10 is now superfluous. Accordingly, the Scheme needs to be amended and this provision removed. A condition requiring this is recommended.

Conclusion

Having regard for the content of the above report, the consultation that has occurred, and the considerable on-going negotiation and refinement that has taken place in respect of the Revised Local Structure Plan, Marina Village Master Plan and Transport Report, it is recommended these documents and their respective contents be adopted as the basis for guiding and controlling the on-going development of the Port Coogee project.

The approval of the Port Coogee Revised Local Structure Plan is in accordance with the provisions of 6.2.14.1(b) and 6.2.14.3 of Town

Planning Scheme No. 3. In accordance with the requirements of 6.2.14.3, the Port Coogee Revised Local Structure Plan is to be referred to the Western Australian Planning Commission if approved by Council

Strategic Plan/Policy Implications

Demographic Planning

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

Lifestyle and Aspiration Achievement

- To foster a sense of community spirit within the district generally and neighbourhoods in particular.
- To identify community needs, aspirations, expectations and priorities for services that is required to meet the changing demographics of the district.

Governance Excellence

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.
- To develop and maintain a financially sustainable City.

Employment and Economic Development

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

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.

Transport Optimisation

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

Budget/Financial Implications

N/A

Legal Implications

Town Planning Scheme No. 3
Planning and Development Act

Community Consultation

A community consultation undertaken as detailed in the above report; a summary of all submissions can be viewed in the attached 'Schedule of Submissions'.

Attachment(s)

1. Current Structure Plan
2. Amended Structure Plan
3. Schedule of Submissions

Note: Copies of the Port Coogee Revised Local Structure Plan, Marina Village Master Plan and Port Coogee Transport Report have been provided to each Councillor.

Advice to Proponent(s)/Submissioners

The proponent and submissioners have been advised this matter is to be considered at the Councillors Briefing 6 August 2009 and 13 August 2009 Council Meeting.

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

Nil.

15. FINANCE AND CORPORATE SERVICES DIVISION ISSUES

**15.1 (OCM 13/8/2009) - LIST OF CREDITORS PAID - JUNE 2009 (5605)
(K LAPHAM) (ATTACH)**

RECOMMENDATION

That Council receive the List of Creditors Paid for June 2009, as attached to the Agenda.

COUNCIL DECISION

Background

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

Submission

N/A

Report

The list of accounts for June 2009 is attached to the Agenda for consideration. The list contains details of payments made by the City in relation to goods and services received by the City.

Strategic Plan/Policy Implications

Governance Excellence

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

Budget/Financial Implications

N/A

Legal Implications

N/A

Community Consultation

N/A

Attachment(s)

List of Creditors Paid – June 2009.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

15.2 (OCM 13/8/2009) - INTERIM STATEMENT OF FINANCIAL ACTIVITY AND ASSOCIATED REPORTS - JUNE 2009 (5505) (S DOWNING / N MAURICIO) (ATTACH)

RECOMMENDATION

That Council:

- (1) receive the Interim Statements of Financial Activity and associated reports for June 2009, as attached to the Agenda;
- (2) adopt a materiality threshold of \$100,000 variance from the appropriate base amount for the 209/10 financial year in accordance with Financial Management Regulation 34(5); and
- (3) receive the Investment Report for monetary and non-monetary investments for the period 2008/09.

COUNCIL DECISION

Background

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

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

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

Regulation 34(4)(a) prescribes that the Statement of Financial Activity and accompanying documents 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. Commencing with the May 2009 Statement, the City changed its reporting format from program to business unit.

Submission

N/A

Report

Interim Statement for June

Due to the continuance of processing for the end of financial year (EOFY) and the unaudited nature of the accounts, the June statement can only be considered interim in nature. The final amounts will be reported to Council in due course through the audited annual financial statements.

Whilst the interim statement is currently showing a very healthy surplus position, this will reduce and cannot be ratified until all EOFY processing is complete (and the carried forwards reconciled). The declared surplus position for 2008/09 will be reported to Council along with the review of carried forward works and projects at the September meeting.

Material Variance Threshold – Establish for 2009/10

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

It is proposed that Council increase the materiality threshold for the 2009/10 financial year to a variance of \$100,000 from the appropriate base amount (previously \$50,000 or 10% [whichever the greater]). It is management's belief that a flat variance threshold of \$100,000 is better suited to our reporting structure and its intended purpose. This higher threshold will reduce the number of variances reported and guide attention and focus to issues of significance. It should be noted here that the vast majority of variances reported to date have related to timing differences between budgets and actuals.

An anomaly of the current adopted threshold allows non-reporting of substantial amounts due to the 10% rule. For example, 9% of a \$2M project is \$180,000, but does not need to be disclosed being less than 10% of the base amount. However, in practice, all variances greater than \$50k have been reported, ignoring the 10% rule.

In applying any threshold, officers give due regard to the nature of the base amount and how it is best determined (eg. at an individual project level, specific works program, distinct activity, nature and type level etc). The increase in variance is similar to other aspects of financial reporting such as tendering of council services.

Annual Performance Review of Monetary and Non Monetary Investments

As required under Council Policy SFCS1, the City reports on an annual basis for the performance of its monetary investments against a benchmark agreed by Council.

Report on Monetary Investment Returns for 2008/09.

The following table indicates the performance of the City's funds over the last two financial years

Table 1 – Cash Interest Returns on Monetary Investments 07/08 & 0809

Financial Year	Average Cash Holding	Benchmark	Portfolio	Variance	Value
2007/08	\$52,404,274	7.30%	5.20%	-2.10%	\$1,100,490
2008/09	\$49,645,021	4.80%	7.49%	2.69%	\$1,337,649

The Council's cash investments which include its structured investments and term deposits returned a rate of 7.49% over the twelve months against a benchmark of 4.8%. Both the portfolio and benchmark rates are a weighted interest rate given the falling interest rate environment over the reporting period. The higher return was primarily due to have a range of term deposits locked in for longer periods at the commencement of the financial year. Interest rates fell as the RBA intervened in monetary policy by lowering the official cash rate from 7.25% to 3.00% over the reporting period.

Table 1, above does not include the capitalised interest of the Argon investment, if it did the portfolio return for 2008/09 would be 7.9%. It has not been included as interest is capitalised against the value of the Argon investment. All other interest is received in cash and booked to interest income.

The average interest rate currently being earned (in 2009/10) by the Council's investments is approximately 4.25% against a budget rate for 2009/10 of 3.25%. Any additional interest income will be reflected in a mid year budget review.

As noted in monthly reports to Council, the City is still facing a period of uncertainty with two CDO investments in its remaining structured investment portfolio. Although the "market value" has recovered from their lows in January 2009, it is clearly not back to a full value of the original investment as the following table indicates:

Table 2 – Value of CDO Investments

Investment	Face Value	Market Value	Maturity	Current Interest rate
Obelisk CDO	\$1.0m	\$0.7m	Jul-10	4.49%
Ashwell CDO	\$2.5m	\$1.09m	Jul-11	4.80%
Total	\$3.5m	\$1.79m		

The investment advice received from Oakvale Capital (the City's independent investment adviser) is that the City should hold onto the investments till maturity as there is currently sufficient "security" within the structure. Both investments continue to pay interest as and when it falls due.

The City's other monetary investments are as follows:

Table 3 – Value of Non CDO Monetary investments 0809 (excluding cash on hand and at bank).

Investments	Face Value	Market Value	Current Interest Rate
Floating Rate Notes	\$4.385m	\$3.922m	3.81%
Reverse Mortgages	\$3.5m	\$3.2m	3.86%
Term Deposits	\$32.8m	\$33.2m	4.10%
Argon	\$2.0m	\$2.28m	7.17%
Total	\$42.685m	\$42.602m	

The City continues to invest money only in term deposits with Australian Banks. Funds from maturing structured investments will also be treated similarly. To date the City has not availed itself of the Australian Government Bank Deposits Guarantee, but is monitoring the position daily.

The term deposits will generally mature over the next twelve months and are structure in such a manner so as to coincide with the City's cash flow requirements. Floating rate notes mature evenly over the next five years and the reverse mortgages mature in July 2011 although one investment for \$0.5m is due to mature in December 2009.

The City will need to prudently provide, as a provision, for the "mark to market" adjustment for the CDO's. If they successfully mature then the City will write back the provision.

The City provided for the write down of two CDO's last financial year and they did default as expected, even though both paid interest for most of the financial year, (approximately \$80,000) The Helium portion of the Helium/Argon investment defaulted during this financial year and in accordance with the contract, the City received back \$2m, with the balance of \$4m to be received in 2018. In effect the City will miss out on interest on \$2m and this has been provided for.

The City is in negotiation with its Auditor to determine if it possible to receive an unqualified audit opinion as a result of actions taken above.

The City will continue its classification of the investments as current and non current as required by the accounting standards.

Report on Non-Monetary Assets for 2008/09

The City has a second range of assets it manages that is non-monetary assets. The largest of these is the freehold land assets owned by the City. The summary below highlights a number of land assets currently being developed to improve the financial position of the City.

Tapper Road, Atwell

The City approved last financial year the development of a 45 lot residential sub-division. The proceeds, after development costs, from the development will be transferred to the Land Development Reserve.

As at the 30 June 2009, all of the lots bar one in the Tapper Road land subdivision have been sold, with 18 settlements to occur in July and August 2009. The one remaining 2,000 sq m lot is zoned R5. It is the City's intention to seek re-zoning in due course so as to coincide with the other lots.

An analysis of the sale of the land is as follows:

Table 4 - Land Sales for Tapper Road

Land Sales (net of GST)	\$9,342,500
Original Cost of Land	\$682,500
Development Cost	\$2,000,000
Cash Profit	\$6,660,000
Revaluation of Land	\$5,000,000
Accounting Profit	\$1,660,000
Cash into Reserve	\$7,342,500

The amount to be transferred into the Land Development Reserve is earmarked for the development of land that will return a commercial return similar to interest income on surplus cash. The intention is for returns on commercial property to be invested into community assets and services. This is similar to the City of Fremantle recurring parking revenue. That way services have a continue source of income.

Lot 7, Cockburn Central

This development has been impacted by the global financial crisis and its overall financial viability is now under close scrutiny. A report to Council is being prepared as to the future of the overall development. The City retains ownership of the land at Cockburn Central and the value attached to that land is \$2.2m.

This retains approximately \$9m in reserves from 2008/09 and 2009/10 for the development of the Success Library.

Wentworth Parade, Success

The City has been able to purchase Lot 855 Wentworth Parade, Success. The City will be able to use its current zoning of Regional Centre with Restricted Use to potentially construct an Integrated Health Facility to serve the southern suburbs of the municipality. Concept plans have been completed but an appropriate plan for Council consideration is still to be finalised. This has been delayed due to how such a facility would fit into the overall "super clinic" concept as put forward by the Federal Government.

There is also a portion of land next to the Cockburn Youth Centre still to be utilised potentially as a Library or other council facilities.

Other Freehold Properties

The City has a number of properties currently being investigated for development or sub-division. The City has been in discussion with the Department of Housing in regards to land swaps or sales of land to assist them in meeting their funding programs in relation to the Federal Governments "Affordable Housing Strategy. These discussions are ongoing.

The 2009/10 budget has provided funds for the development of land in 18 Grandpre Road, Hamilton Hill totalling \$1.4m. This is similar to Tapper Road and the City will see the sale proceeds come back to the City within two to three years. Smaller amounts have also been budgeted for 183 Southwell Cres and Lot 702 Bellier Place.

The City sold a portion of land known as Lot 14 Hammond Road Success now known as Lot 8008 Suttor Road Success. This was a portion of land linking two properties. The Council approved the sale after advice from an independent valuer. The sale price was \$50,204.

Strategic Plan/Policy Implications

Governance Excellence

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

Budget/Financial Implications

Where variances reported are of a permanent nature (i.e. not due to timing issues), they will impact Council's end of year surplus/deficit position.

Legal Implications

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

Community Consultation

N/A

Attachment(s)

Statement of Financial Activity and associated reports – June 2009.

Advice to Proponent(s)/Submissioners

N/A

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

Nil.

16. ENGINEERING AND WORKS DIVISION ISSUES

16.1 (OCM 13/8/2009) - TENDER NO. RFT 21/2009 - CRUSHED STONE/ METAL - SUPPLY AND DELIVERY (RFT 21/2009) (C MACMILLAN) (ATTACH)

RECOMMENDATION

That Council accept a panel of two (2) Contractors for Tender No. RFT 21/2009 – Crushed Stone/ Metal – Supply and Delivery consisting of:

- (1) WA Bluemetal at the tendered schedule of rate, with an estimated Contract value of \$470,000.00 GST exclusive (\$517,000.00 GST inclusive) over three (3) years.

- (2) C & D Recycling at the tendered rates, with an estimated Contract value of \$90,000.00 GST exclusive (\$99,000.00 GST inclusive) over three (3) years.

COUNCIL DECISION

Background

The City of Cockburn requires the following materials to deliver capital works road construction projects for a three (3) year period from the date of award of Contract:

- Crushed Stone Products

The previous Contract RFT 15/2007 expired on the 30 June 2009; 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.

Submission

Tenders closed at 2:00 p.m. (AWST) on Tuesday 15 July 2009 and four (4) tender submissions were received from:

1. WA Bluemetal
2. C & D Recycling - Alternative Recycled Products
3. All Earth Group
4. All Earth Group - Alternative Recycled Products

Report

Compliant Tenders

	Compliance Criteria
A	Compliance with the Specification
B	Compliance with the Conditions of Tendering
C	Compliance with Insurance Requirements and completion of Clause 3.2.6
C1	Public Liability Insurance \$10,000,000.00 Australian
C2	Workers Compensation Insurance

C3	Full Comprehensive Motor Vehicle Insurance
D	Compliance with the Fixed Price Clauses
E	Compliance with and completion of the Price Schedule
F	Compliance with the Occupational Safety & Health Requirements and completion of Appendix A

Tenderer's Name		Compliance Criteria Overall Assessment
1	WA Bluemetal	Compliant
2	C & D Recycling – Alternative Products	Compliant
3	All Earth Group	Compliant
4	All Earth Group – Alternative Products	Compliant

WA Bluemetal and All Earth Group submitted compliant tenders in accordance with the conditions of tendering and compliance criteria, the specification and fully completed the price schedule.

C & D Recycling submitted an alternative tender for sustainable recycled road base and ballast products.

All Earth Group also submitted an alternative tender for sustainable recycled road base and ballast products.

Evaluation Criteria

Evaluation Criteria	Weighting Percentage
Specification Compliance	10%
Demonstrated Safety Management, Organisational Structure and References.	15%
Delivery Response Time	20%
Quality Assurance	5%
References	10%
Insurance Coverage	5%
Tendered Price – Estimated Lump Sum Contract Value	35%
TOTAL	100%

Tender Intent/ Requirements

For the Supply and Delivery of Crushed Stone Products to the City of Cockburn's Operations Centre or to nominated locations throughout the City of Cockburn; with these products provided in a range of various sizes and forms.

The proposed Contract is for a period of three (3) years from the date of award.

As a sustainable option it is optimal that Council have a recycled product for projects such as car parks, cycle ways and minor roads. A panel of Contractors provides Council with multiple options in both road and drainage design.

Evaluating Officers

The tender submissions were evaluated by:

1. Colin MacMillan – Works Coordinator
2. Dave Hall (Colin Lane) – Works Construction Supervisor
3. John Radaich – Manager Engineering

Scoring Table

SCORES			
Tenderer's Name	Non-Cost Criteria Evaluation Score 65%	Cost Criteria Evaluation Score 35%	Total Score 100%
WA Bluemetal	64.4	35.0	99.4
C & D Recycling - Alternative	62.6	35.0	97.6
All Earth Group	62.8	31.9	94.7
All Earth Group - Alternative	65.0	28.1	93.1

Evaluation Criteria AssessmentGeneral

WA Bluemetal and All Earth Group tenders have the capacity to meet all the City of Cockburn's requirements as detailed in the Specifications as well as comply with the General and Special Conditions of Contract as required in the tender document.

C & D Recycling have the capacity to meet most of the City of Cockburn requirements as detailed in the Specifications but are unable to supply the metal crushed stone products required for spray seals.

WA Bluemetal has been previously contracted to the City of Cockburn. Referees were contacted and no complaints with quality or delivery reported.

WA Bluemetal provided the best overall score and therefore their tender should be supported.

Specification Compliance

WA Bluemetal and All Earth Group complied with all items listed in the Specification.

C & D Recycling did not submit prices for crushed bluemetal products used for spray seals. Their sustainable recycled products comply with Main Roads WA Standards for road base.

All Earth Group's alternative tender did not submit prices for crushed bluemetal products used for spray seals. Their sustainable recycled products comply with Main Roads WA standards for road base.

Quarries listed for All Earth Group included WA Bluemetal's and Cemix's. Also referees indicated that All Earth Group also use C & D Recycling's quarry.

Demonstrated Safety Management

All tenderers completed the Occupational Health and Safety clause and provided OH&S Policy and Safety Management Plans.

Delivery Response Time

WA Bluemetal is the City's current contractor for the supply of these materials and provides a reliable and quality service. Referees were consulted for all Tenderers with no instances were reported that any of them failed to deliver within a reasonable time.

C & D Recycling from discussions with referees may struggle to supply large volumes in a short time frame but referees noted that they will always advise of delays.

All Earth Group from discussions with referees have always supplied within the time frame required however most referees were for sand supplies and not crushed stone.

Quality Assurance

WA Bluemetal and All Earth Group included certification that their products have been quality assured.

C & D Recycling and All Earth Group alternative recycled road base products comply with Main Roads WA standards for use as sub base material.

References

WA Bluemetal provided 15 local governments and 4 major civil companies as references for supply of crushed stone/metal products. Referees were contacted and no reports of failure to supply a quality product were provided.

All Earth Group provided 4 local governments and 2 major civil companies as references for supply of the tendered products. Referees were contacted and no reports of failure to supply a quality product were provided.

C & D Recycling listed 2 local governments and Waste Management Association of Australia for references. Referees were contacted and reported back that C & D Recycling struggle with large orders from time to time. Customers were invoiced in cubic metres, instead of per tonne, as their quarry has no weighbridge. Referees commented on their dissatisfaction with having to calculate the conversions themselves.

Insurances

WA Bluemetal, All Earth Group and C & D Recycling all complied with and provided all the requested insurance information.

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 Crushed Stone products are covered in the annual Budget allocations for road construction capital works budgets. The estimated expenditure for 2009-2012 is \$560,000 GST exclusive over 3 years. The price submitted by WA Bluemetal represents a 3.4% increase from the current contracted prices. The recycled product has not been purchased under contract before and a cost comparison is unavailable.

Legal Implications

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

Community Consultation

Tender RFT 21/2009, Supply and Delivery Crushed Stone Products were advertised on Saturday 27 June 2009 in the Local Government Tenders section of 'The West Australian' newspaper. The Tender was also displayed upon the City of Cockburn's website during the tender response period from 27 June 2009 until the closing date 15 July 2009.

Attachment(s)

1. Compliance Criteria Checklist – "Confidential" (provided under separate cover).
2. Tendered Prices – "Confidential" – (provided under separate cover).
3. Tender Evaluation Sheet – "Confidential" (provided under separate cover).

Note

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

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

Advice to Proponent(s)/Submissioners

Those who lodged a tender submission have been advised that this matter is to be considered at the 13 August 2009 Council Meeting".

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

Nil.

17. COMMUNITY SERVICES DIVISION ISSUES

Nil

18. EXECUTIVE DIVISION ISSUES

Nil

19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

19.1 (OCM 13/8/2009) - NOTICE OF MOTION - CLR SMITH - PROPOSED AMENDMENT TO STANDING ORDERS LOCAL LAW (1148) (D GREEN) (ATTACH)

RECOMMENDATION

That Council adopt Policy SC44 – Acknowledgement of Traditional Owners.

COUNCIL DECISION

Background

In recent times, it has become customary to acknowledge that various Aboriginal communities throughout Australia are the traditional custodians of the land. Such acknowledgement is generally provided in the form of a short statement in recognition of the local Aboriginal community whose ancestors originally inhabited the place upon which an event is occurring.

It is a practice which is now widely promoted as public policy and is popularly used at official functions and events as a show of respect for the cultural significance of the locality.

Submission

For Council to formally recognise the traditional owners of the land upon which Council meetings, functions and forums are conducted.

Report

By email received on 15 July, 2009 Clr Smith submitted the following Notice of Motion for consideration at the August 2009 Council Meeting:

I would now like to submit a notice of motion at the upcoming August Council Meeting that includes the following:

1. *An amendment to COC Standing Orders – Code of Meeting Practice. This would be a minor amendment that inserts ‘Acknowledgement of Traditional Owners’ into the General Order of Business Schedule after*
 - (4) *Acknowledgement of receipt of written declarations of financial interest and conflicts of interest (by Presiding Member);*

and before

 - (5) *Apologies and Leave of Absence.*
2. *An acknowledgement of the traditional owners of the land conducted at all public Council forums and Council run Civic functions.*
3. *A public acknowledgement of the traditional owners of the land on our web site.*

Clr Smith cites that such action would be in line with the protocols of many local governments in the Eastern States and the current Federal Government’s move towards reconciliation. The NSW Port Macquarie-Hastings Council was provided as the example of a local government commitment to this process through its Statement of Reconciliation and Commitment.

A review of Perth Metropolitan area local governments identified that four (4) Councils include an acknowledgement of the traditional custodians in the Council meeting process. These Councils are Fremantle, East Fremantle, South Perth and Victoria Park. None, however, have it entered formally in their business protocols by inclusion in the Council’s official Standing Orders and the acknowledgement is made by the Presiding Member (Mayor) upon the opening of the Council Meeting.

Only one Council (Fremantle) has a Policy which reflects its recognition of indigenous heritage.

Other Councils demonstrate their support in different ways, such as flying of the Aboriginal and Torres Strait Island’s flags from their Administration Building (Bassendean) and the formation of a formal

Advisory Committee of Council to consider associated issues (Armadale). Many other Councils address the issues as part of its overall Community Development programme, whereas the City of Cockburn has been a tangible supporter by resourcing an employee dedicated to directly liaise with the Cockburn (and broader) indigenous community to effectively address relevant matters. Cockburn also has an active Aboriginal Reference Group which meets as necessary to provide guidance to the City on matters of importance to the Aboriginal community.

While many may consider this an adequate demonstration of Cockburn's commitment in this area, it does no harm to adopt a more formal position in recognition of its support.

While this can be achieved by formalising an amendment to its Standing Orders Local Law, this is an exhaustive and resource intensive process which will take between 3 and 6 months to finalise. The timeframe must allow for publication of the proposed amendment, a consultation period of at least six weeks and a second deliberation of the matter by Council to consider any submissions received and formally adopt the amendments, which then must be sent to State Parliament for approval and ratification, prior to final Gazettal.

Given this timeline, it would require the Council to reconsider the item post October, 2009, when the new Council is sworn in.

On the basis of this scenario, it is suggested that, should the current Council wish to positively support the intent, a Policy could be drafted which includes the principles of the motion and endorsed by Council prior to the Elections, thus providing guidance for Council meetings and Civic functions with immediate effect.

It is notable that Mayor Howlett has chosen to recognise the traditional owners of the land at a number of ceremonies since his election and is a reflection of the contemporary manner by which the matter has become an accepted public practice.

However, should Council wish to proceed with an amendment to its Standing Orders Local Law, it is recommended that the inclusion be inserted in the Order of Business, immediately following

“(2) Appointment of Presiding Member (if required)”

to ensure the priority of the statement.

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

Minor advertising costs apply if the Standing Orders Local Law is amended.

Legal Implications

Should Council proceed to amend the Standing Orders Local Law, Secs.3.12 to 3.15 of the Local Government Act, 1995, apply.

Community Consultation

A six week public submission period is required for any proposed amendment to Council's Standing Orders Local Law.

Attachment(s)

Draft Policy "SC44 - Acknowledgment of Traditional Owners".

Advice to Proponent(s)/Submissioners

Clr Smith has been advised tht that the matter will be considered at the August, 2009 Council Meeting.

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

Nil.

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

Nil

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

Nil

22. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE

Nil

23. CONFIDENTIAL BUSINESS

23.1 (OCM 13/8/2009) - CHIEF EXECUTIVE OFFICER PERFORMANCE AND SENIOR STAFF KEY PROJECTS APPRAISAL COMMITTEE (1192) JULY 2009 (S CAIN) (ATTACH)

RECOMMENDATION

That Council receive the Minutes of the Chief Executive Officer Performance and Senior Staff Key Projects Appraisal Committee dated 16 July 2009, as attached to the Agenda, and adopts the recommendations contained therein.

TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL

COUNCIL DECISION

Background

The Chief Executive Officer Performance and Senior Staff Key Projects Appraisal Committee met on 16 July 2008. The minutes of that meeting are required to be presented to Council and its recommendations considered by Council.

Submission

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

Report

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

Strategic Plan/Policy Implications

Governance Excellence

- To maintain a professional, well-trained and healthy workforce that is responsive to the community's needs.

Budget/Financial Implications

Committee Minutes refer.

Legal Implications

Committee Minutes refer.

Community Consultation

N/A

Attachment(s)

Minutes of the Chief Executive Officer Performance and Senior Staff Key Projects Appraisal Committee 16 July 2008 are provided to the Elected Members as confidential attachments.

Advice to Proponent(s)/Submissioners

The CEO and Senior Staff have been advised that this item will be considered at August 2009 OCM.

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

Committee Minutes refer.

24 OCM 13/8/2009 - 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