

# CITY OF COCKBURN

## SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON THURSDAY, 8 NOVEMBER 2012 AT 7:00 PM

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	Page
1. DECLARATION OF MEETING.....	1
2. APPOINTMENT OF PRESIDING MEMBER (IF REQUIRED) .....	4
3. DISCLAIMER (TO BE READ ALOUD BY PRESIDING MEMBER).....	4
4 (OCM 08/11/2012) - ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (BY PRESIDING MEMBER) .....	4
5 (OCM 08/11/2012) - APOLOGIES AND LEAVE OF ABSENCE .....	5
6. ACTION TAKEN ON PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....	5
7 (OCM 08/11/2012) - PUBLIC QUESTION TIME .....	5
8. CONFIRMATION OF MINUTES.....	12
8.1 <u>(MINUTE NO 4892)</u> (OCM 08/11/2012) - CONFIRMATION OF MINUTES.....	12
9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE.....	12
10 (OCM 08/11/2012) - DEPUTATIONS AND PETITIONS .....	12
11. BUSINESS LEFT OVER FROM THE PREVIOUS MEETING (IF ADJOURNED) .....	13
12 (OCM 08/11/2012) - DECLARATION OF COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS IN THE BUSINESS PAPER.....	13
13. COUNCIL MATTERS.....	13
13.1 <u>(MINUTE NO 4893)</u> (OCM 08/11/2012) - MINUTES OF THE GRANTS AND DONATIONS COMMITTEE MEETING - 16 OCTOBER 2012 (CR/G/003) (RAVARD) (ATTACH).....	13
<u>(MINUTE NO 4894)</u> (OCM 08/11/2012) - FREMANTLE HOSPITAL RESEARCH FOUNDATION (CR/G/003) (J GREENAWAY)	15
<u>(MINUTE NO 4895)</u> (OCM 08/11/2012) - PORTUGUESE CULTURAL AND WELFARE CENTRE (CR/G/003) (J GREENAWAY)	15
<u>(MINUTE NO 4896)</u> (OCM 08/11/2012) - ITEM 9.3 (MINUTE NO. 60) - HALO LEADERSHIP DEVELOPMENT COLLEGE DONATION (CR/G/003) (J GREENAWAY)	17
<u>(MINUTE NO 4897)</u> (OCM 08/11/2012) - MINUTES OF THE GRANTS AND DONATIONS COMMITTEE MEETING - 16 OCTOBER 2012 (CR/G/003) (J GREENAWAY)	18

13.2	<u>(MINUTE NO 4898)</u> (OCM 08/11/2012) - MINUTES OF THE AUDIT AND STRATEGIC FINANCE COMMITTEE MEETING - 25 OCTOBER 2012 (FS/A/001) (S DOWNING) (ATTACH).....	21
14.	PLANNING AND DEVELOPMENT DIVISION ISSUES .....	22
14.1	<u>(MINUTE NO 4899)</u> (OCM 08/11/2012) - TATTOO PARLOURS (HS/L/001) (G BOWERING).....	22
14.2	<u>(MINUTE NO 4900)</u> (OCM 08/11/2012) - REPORT INTO THE ACTIVITIES AND IMPACTS OF COCKBURN CEMENT LIMITED (3411123) (N. JONES, S DOWNING, D ARNDT) (ATTACH) .....	28
14.3	<u>(MINUTE NO 4901)</u> (OCM 08/11/2012) - PROPOSED STRUCTURE PLAN - LOCATION: LOTS 14 - 18, 41 AND 500 OCEAN ROAD, SPEARWOOD - OWNER: VARIOUS - APPLICANT: TERRANOVIS PTY LTD (SM/M/072) (M CAIN/R COLALILLO) (ATTACH).....	37
14.4	<u>(MINUTE NO 4902)</u> (OCM 08/11/2012) - HAMILTON HILL REVITALISATION STRATEGY LOCATION: CITY OF COCKBURN - OWNER / APPLICANT: N/A (SM/M/044) (R SERVENTY) (ATTACH) .....	41
14.5	<u>(MINUTE NO 4903)</u> (OCM 08/11/2012) - WOODMAN POINT WASTE WATER TREATMENT PLANT ODOUR BUFFER ISSUE AND REQUEST FROM WAPC TO PROVIDE RESPONSE OF LIFTING OF URBAN DEFERMENT FOR MUNSTER PRECINCT (A TROSIC) (3400024) (ATTACH) .....	57
14.6	<u>(MINUTE NO 4904)</u> (OCM 08/11/2012) - LEASE OF LAND LOCATION: PORTION OF UNMADE ROAD WELLARD ROAD SOUTH OF BARRINGTON STREET, BIBRA LAKE - APPLICANT: ZENTNER SHIPPING PTY LTD (4413912) (K SIM) (ATTACH) .....	66
14.7	<u>(MINUTE NO 4905)</u> (OCM 08/11/2012) - ANNUAL UPDATE OF CITY OF COCKBURN LOCAL GOVERNMENT INVENTORY - LOCATION: CITY OF COCKBURN - OWNER: VARIOUS - APPLICANT: N/A (PS/L/002)(R COLALILLO) (ATTACH) .....	69
14.8	<u>(MINUTE NO 4906)</u> (OCM 08/11/2012) - INDUSTRY - GENERAL (LICENSED) (CLOSED SYSTEM LIQUID COMPOSTING FACILITY) - LOCATION: 203 (LOT 186) ACOURT ROAD JANDAKOT - OWNER: A RICHARDS PTY LTD - APPLICANT: GEOFF RICHARDS (5513304) (L REDDELL) (ATTACH).....	74
14.9	<u>(MINUTE NO 4907)</u> (OCM 08/11/2012) - REVISED COCKBURN CENTRAL TOWN CENTRE DETAILED AREA PLAN INCORPORATING DESIGN GUIDELINES LOCATION: N/A OWNER: N/A APPLICANT: LANDCORP (PS/A/001) (A LEFORT) (ATTACH) .....	80
15.	FINANCE AND CORPORATE SERVICES DIVISION ISSUES .....	88
15.1	<u>(MINUTE NO 4908)</u> (OCM 08/11/2012) - LIST OF CREDITORS PAID - SEPTEMBER 2012 (FS/L/001) (N MAURICIO) (ATTACH) .....	88
15.2	<u>(MINUTE NO 4909)</u> (OCM 08/11/2012) - STATEMENT OF FINANCIAL ACTIVITY AND ASSOCIATED REPORTS - SEPTEMBER 2012 (FS/S/001) (N MAURICIO) (ATTACH) .....	89
15.3	<u>(MINUTE NO 4910)</u> (OCM 08/11/2012) - 2011/12 CARRIED FORWARD WORKS AND PROJECTS & CLOSING MUNICIPAL FUNDS (FS/B/001) (N MAURICIO) (ATTACH).....	94

16.	ENGINEERING AND WORKS DIVISION ISSUES.....	97
16.1	<u>(MINUTE NO 4911)</u> (OCM 08/11/2012) - PROPOSED NATURAL AREA MANAGEMENT STRATEGY 2012 - 2022 (1) (HS/E/004) (C. BEATON) (ATTACH).....	97
16.2	<u>(MINUTE NO 4912)</u> (OCM 08/11/2012) - THE STATE OF SUSTAINABILITY REPORT 2012 (HS/E/003) (H JESTRIBEK) (ATTACH) .....	101
17.	COMMUNITY SERVICES DIVISION ISSUES.....	104
17.1	<u>(MINUTE NO 4913)</u> (OCM 08/11/2012) - 2011/12 ANNUAL REPORT ON RECONCILIATION ACTION PLAN (CR/M/113) (G BOWMAN) (ATTACH) .....	104
17.2	<u>(MINUTE NO 4914)</u> (OCM 08/11/2012) - AMENDMENT TO CITY OF COCKBURN LOCAL LAW - CONSTRUCTION OF FIRE BREAKS (RS/J/002) (R AVARD) (ATTACH) .....	108
18.	EXECUTIVE DIVISION ISSUES .....	112
19.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....	112
20.	NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING.....	112
21.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY COUNCILLORS OR OFFICERS .....	113
22	(OCM 08/11/2012) - MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE .....	113
23.	CONFIDENTIAL BUSINESS.....	114
23.1	<u>(MINUTE NO 4915)</u> (OCM 08/11/2012) - MINUTES OF CHIEF EXECUTIVE OFFICER PERFORMANCE AND SENIOR STAFF KEY PROJECTS APPRAISAL COMMITTEE MEETING - 25 OCTOBER 2012 (CC/P/098) (S CAIN) (ATTACH).....	114
24	<u>(MINUTE NO 4916)</u> (OCM 08/11/2012) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995).....	116
25	(OCM 08/11/2012) - CLOSURE OF MEETING .....	116



# CITY OF COCKBURN

## MINUTES OF ORDINARY COUNCIL MEETING HELD ON THURSDAY, 8 NOVEMBER 2012 AT 7:00 PM

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### PRESENT:

#### ELECTED MEMBERS

Mr L Howlett	-	Mayor (Presiding Member)
Mr Y Mubarakai	-	Councillor
Mr S Portelli	-	Councillor
Ms L Smith	-	Councillor
Mrs C Reeve-Fowkes	-	Councillor
Mr T Romano	-	Councillor
Mr S Pratt	-	Councillor
Mrs V Oliver	-	Councillor
Mr B Houwen	-	Councillor

#### IN ATTENDANCE

Mr S. Cain	-	Chief Executive Officer
Mr D. Green	-	Director, Administration & Community Services
Ms M. Tobin	-	Acting Director, Finance & Corporate Services
Mr M. Littleton	-	Director, Engineering & Works
Mr D. Arndt	-	Director, Planning & Development
Mrs L. Jakovich	-	PA to Dirs. Planning and Development / Engineering and Works
Ms L. Boyanich	-	Media Liaison Officer

### 1. DECLARATION OF MEETING

The Presiding Member formally declared the November 2012 ordinary meeting of Council open at 7:00 p.m.

Mayor Howlett acknowledged the Noongar people who are the Traditional Custodians of the Land on which we are meeting tonight and paid respect to the Elders both past and present of the Noongar Nation and extend that respect to other Indigenous Australians who may be present.

Mayor Howlett welcomed Ms Margot Tobin, A/Director Finance and Corporate Services to the meeting.



## Metropolitan Local Government Review

On 24 October 2012 Mr Cain (Chief Executive Officer) and Mayor Logan Howlett joined other Perth metropolitan mayors and chief executive officers to hear from Premier Barnett, Local Government Minister Castrilli and Professor Robson on the recommendations of the Robson Report.

The Robson Report put forward 30 recommendations on moving towards more effective local governance.

Recommendation 15 outlined a proposed structure of local government in metropolitan Perth reducing the number of local governments from 30 to 12 with boundaries shown in a two option format.

In relation to Option A (amalgamations only), local governments in the south west metropolitan Perth would be as follows:

- Fremantle, East Fremantle and Melville, and Rottnest;
- Cockburn; and
- Kwinana and Rockingham.

In relation to Option B (amalgamations and splitting local government's areas) the outcome would be as follows:

- Fremantle less North Fremantle, East Fremantle and most of Melville, part of Hamilton Hill and all of Coolbellup and North Lake and Rottnest);
- Cockburn less part of Hamilton Hill and all of Coolbellup and North Lake; and
- Kwinana and Rockingham.

The City supports Option A, where there is no significant change and will strongly oppose any boundary changes to the north of our City.

The pleasing outcome is that Cockburn is one of the 12 local governments identified going into the future.

The Robson Report is now available for public comment until Friday 5 April 2013. Mayor Howlett recommended that ratepayers and residents read the report and take the opportunity to have a say in the future of local government in the Perth metropolitan area.

A copy of the report will be available on the City's website, administration building and libraries or online at: [www.dlg.wa.gov.au](http://www.dlg.wa.gov.au)



**Narma Kullarck Boardwalk**

On Saturday 13 October 2012 Mayor Howlett officially opened the Narma Kullarck Boardwalk at Bibra Lake, another step in progressing the Bibra Lake Management Plan.

Following a Welcome to Country by Reverend Sealin Garlett and Mayor Howlett's acknowledgement, Mayor Howlett and Reverend Sealin Garlett cut the official ribbon allowing those present to explore the latest investment by the City in this locality.

**Regents Garden Group - Official Opening of Residential Home at 248 Lyon Road, Aubin Grove**

Mayor Howlett was pleased to be invited to officially open the latest residential care facility in Cockburn on Monday 5 November 2012 together with the first resident to move into the facility, Marie.

The facility offers low and high care accommodation and includes a dementia wing.

According to national and international residential and aged care providers in Perth for an international conference, this particular facility is in a class of its own.

**FESA Awards**

Mayor Howlett was pleased to advise that Mr Keith Drayton of the Cockburn State Emergency Services Unit was awarded the prestigious Peter Keillor Award at the recent 2012 State Emergency Service Awards.

In his recognition speech, Fire and Emergency Services Commissioner Wayne Gregson said the award nominees had each demonstrated outstanding commitment and dedicated countless hours to serving their local communities.

Keith is an SES veteran of 32 years and is dedicated to emergency service volunteering. He has served as a rescue team leader, Deputy Manager and Local Manager of the unit, as well as a Senior Training Assessor.

Keith willingly travels state wide in his own time to qualify trainer and assessors to enhance response capability at regional SES units.

Our congratulations go to Mr Keith Drayton and the Cockburn SES Unit on an excellent outcome.

The Youth Achievement Award in the 2012 Fire Fighting Awards resulted in joint winners.



Mr Joshua Lourenco from the Bassendean Volunteer Fire & Rescue Service and Mr Nathan Ramage from the South Coogee Bush Fire Brigade.

Fire and Emergency Services Commissioner Wayne Gregson said that Nathan had demonstrated a high level of commitment as a volunteer fire fighter with the South Coogee Bush Fire Brigade.

He was with fire crews who travelled to the Margaret River bushfires at Prevelly and worked tirelessly in difficult conditions, helping to save many homes.

Nathan's community spirit has also extended to participating in a local winter storm recovery team.

Our congratulations go to Mr Nathan Ramage and the South Coogee Bush Fire Brigade on an excellent outcome.

#### **Milestone Events**

Mayor Howlett was pleased to announce that Mrs Myra Gibson of Success recently turned 100 years of age and Mrs Tonka Barbarich of Hamilton Hill will be turning 90 years of age tomorrow.

Our best wishes have been extended to both residents.

## **2. APPOINTMENT OF PRESIDING MEMBER (If required)**

Nil.

## **3. DISCLAIMER (To be read aloud by Presiding Member)**

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

## **4 (OCM 08/11/2012) - ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (BY PRESIDING MEMBER)**

Clr Lee-Anne Smith	-	Financial Interest – Item 13.1 : Minute # 650
Clr Bart Houwen	-	Proximity Interest – Item 14.5





## 5 (OCM 08/11/2012) - APOLOGIES AND LEAVE OF ABSENCE

Deputy Mayor Kevin Allen - Apology  
Mr Stuart Downing - Apology

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

Nil

## 7 (OCM 08/11/2012) - PUBLIC QUESTION TIME

### ***Ms Amanda Joy, Hamilton Hill***

#### *Item 14.7 Annual Update of City of Cockburn Local Government Inventory*

Q1. *I would like to know what guidelines will be used to determine the area of protection around significant trees as per Part 7.6 of the Town Planning Scheme?*

A1. The provisions of the Town Planning Scheme state "Planning approval is required prior to the removal, destruction of and/or interference with any tree included on the Local Government Inventory Significant Tree List." This is supported by Local Planning Policy APD64 'Heritage Conservation Design Guidelines' which provide guidance to the exercise of discretion in respect of Clause 7.6. The onus is on a person/applicant/landowner undertaking development to ensure they comply with the requirements of the Scheme i.e. if the development interferes with the significant tree prior planning approval, supported by appropriate expert evidence, is required to be submitted to Council.

Q2. *In support of Part 4.1 of Policy APD64 'Heritage Conservation Guideline' governing the pruning of significant trees', will a heritage agreement as per Clause 7.3 of the Town Planning Scheme be applied to the owners of land entered by the significant tree's branches and root systems, not only the land but also where the trunk is located on?*

A2. Clause 7.3 of the Town Planning Scheme relates specifically to Heritage Agreements in respect to the protection of buildings, but does not extend to trees. The way in which a significant tree is given elevated consideration in respect of the Town Planning Scheme is by listing it as a significant tree on the Local Government Inventory. It must be emphasised however that the Town Planning Scheme cannot absolutely guarantee the protection in perpetuity of significant trees. Instead, if a person/landowner/applicant seeks to remove, destruct of interfere with any tree included on the Local Government Inventory,



they must apply to Council for planning approval in which to do so. It then becomes a discretionary decision for Council to either approve or refuse such planning approval and of course noting that an aggrieved applicant also has the opportunity to seek a review of the Council's determination by the State Administrative Tribunal.

Q3. *Will this be based on the Australian Standards for Protection of Trees on Development sites or will the Australian Standards "not be broadly applied in Western Australia".*

A3. As per the previous response, the provisions of the Town Planning Scheme state "Planning approval is required prior to the removal, destruction of and/or interference with any tree included on the Local Government Inventory Significant Tree List." This is supported by Local Planning Policy APD64 'Heritage Conservation Design Guideline' which provide guidance to the exercise of discretion in respect of Clause 7.6 of the scheme. As indicated before, the onus is on a person/applicant/landowner undertaking the proposal to ensure they comply with the requirements of the Scheme i.e. they will need to actually provide to the City prior to obtaining any approvals appropriate expert evidence, and to justify why Council should give consideration to the removal and or interference of a significant tree.

Q4. *I would like to know when the advertising period for the Tuart Tree at 178 Healy Road will commence as per section 7.2.3 of the Town Planning Scheme?*

A4. This is not applicable as Clause 7.2.3 of the Town Planning Scheme relates to a provision of a Heritage Area. The issue of the tree has been dealt with via Clause 7.6 of the scheme and its associated listing on the Local Government Inventory.

**Ms Alison Bolas, Hamilton Hill**

*Item 14.7- Annual Update of City of Cockburn Local Government Inventory*

Q1. *I wish to ask about the protection afforded to the trees if they are included on the significant tree registry, the trees being, the palm trees, Norfolk Island Pines, and Tuart Trees near the stables.*

A1. As previously indicated in the responses to the last question the trees are protected in terms that they are listed or included on the Local Government Inventory Significant Tree List" and the provisions of the Town Planning Scheme require the prior approval of the City before an individual can undertake any development which would interfere or result in the removal of a significant tree that requires the applicant to submit appropriate expert evidence to justify why Council should support the removal or destruction of a tree on that Significant Tree List. As indicated previously, it should also be noted that it becomes a



discretionary decision of Council as to whether or not that tree or any interference removal or destruction of a tree on the Significant Tree list should be permitted and then it is also available for an agreed applicant to seek a review of Councils determination by the State Administration Tribunal.

**Mr Lincoln Drakken, Hamilton Hill**

*Item 14.7 Annual Update of City of Cockburn Local Government Inventory*

Q1. *What input was received/regarded in the creation of the significant tree list criteria?*

A1. The City's staff developed the criteria through a process of internal dialogue supported by research based on approaches taken by other local governments across Australia. This information was then synthesised to form the basis of the significant tree list criteria developed by the City. The City also wrote specifically to the State Heritage Office, who provides the administrative guidance to the state's highest authorities on heritage - being the Heritage Council and responsible minister. They advised in response that:

*"The City of Cockburn is supported in providing a detailed assessment criteria for significant trees, in particular its comprehensiveness and scope. With your approval the State Heritage Office would like to use this document as an example to guide other local governments in developing assessment criteria for significant trees lists."*

The City also wrote to Arboculture Australia, the peak national body representing tree workers, arborists, professional tree management and urban forestry throughout Australia; however, no response was received in relation to the City's request.

Q2. *What dialogue was entered into with the community and rate payers?*

A2. The City did not consult with the community in respect of the wording of the criteria. Instead, the City sought the expert advice of the State Heritage office, which has advised that it fully supports the City's criteria.

Q3. *Who will enforce the Heritage Conservation Guidelines governing significant trees and ensuring their protection and preservation?*

A3. As previously indicated in prior responses, the responsibility is that of the City through the provisions of its Town Planning Scheme which requires as previously indicated *"Planning approval is required prior to the removal, destruction of and/or interference with any tree included on the Local Government Inventory Significant Tree List."*



Q4. *Where will accountability be when guidelines are contravened?*

A4. The City is responsible for the enforcement of its Town Planning Scheme, and significant penalties can be pursued should a contravention of the Town Planning Scheme be proven in a court of competent jurisdiction.

**Ms Robyn O'Brien, Munster**

*Item 14.5 Woodman Point Waste Water Treatment Plant Odour Buffer Issue and Request from WAPC to Provide Response of Lifting of Urban Deferment for Munster Precinct*

Q1. *Have Councillors been made aware of the attachments to our application to lift a permit that the officer received that has not been included here in his report?*

A1. This question will be taken on notice as this is unclear as to which specific documents are being referred to.

Q2. *The documents from the WAPC sent to the officer include Annual Reports from the Water Corp, advices from an odour expert, and the attachments to our application sent to the Manager.*

A2. This question will be taken on notice to locate these documents referred to.

Q3. *Are Councillors aware that the Local Planning Strategy is the only document that has the buffer line of 750 metres drawn on it and that the Local Planning Strategy says on page 2 of the Local Planning Strategy that it does not form part of the scheme and any changes to the local structure plan does not require a formal amendment?" This is opposite to what the officer had in his report which is before Council tonight.*

A3. The City is not a decision making authority in respect of technical commentary on whether the Munster Urban Deferred Precinct is subject to odour impacts currently or likely to be subject to odour impacts into the future. In accordance with Council's previous resolution of 12 April 2012, the City wrote detailed letters on 24 April 2012 to:

1. The Minister for Planning
2. The Chairman of the WAPC
3. The Director General of the Department for Planning
4. The EPA
5. The DEC.

These letters sought a clear position from these agencies on whether



there was scientific justification to support the maintenance of the current 750m buffer. The response provided by the Department for Planning/Western Australian Planning Commission and Hon. Minister for Planning, describe their respective positions in respect of the odour buffer. A copy of their response is contained as an attachment to the report on the agenda. The following is an extract from their letter:

*"Although the Odour Improvement Plan has resulted in the reduction of odour, it cannot guarantee that there will not be odours from the plant. The report indicates that there will still be an odour impact extending to roughly the eastern edge of the urban deferred land and accordingly, that the current buffer should be retained."*

The Local Planning Strategy Figure 18 depiction of the odour buffer reflects the urban deferred/urban zone interface which exists within the Munster Locality. Its relationship with City of Cockburn Town Planning Scheme No. 3 is consistent with the requirements of the *Planning and Development Act 2005*, as amended, specifically Section 123(1). The process for amending a Local Planning Strategy although the Town Planning strategy is provided for under the *Town Planning Regulations 1967*, as amended and must apply with state and regional planning policy as per Regulation 12A(3).

Q4. *Are you aware that the Local Planning Strategy page 2 says "that any changes to the LPS do not require a formal amendment" as the officer in his reports states that they do?*

A4. The process for amending a Local Planning Strategy is provided for under the *Town Planning Regulations 1967 as amended*. Regulations 12A, 12B and 12C of the *Town Planning Regulations 1967* as amended set out the process by which a Local Planning Strategy may be made or amended. In respect of amending a Local Planning Strategy, this is subject to determination by the Western Australian Planning Commission under [Regulation 12C(1)].

Regulation 12C(3) requires an amendment to a Local Planning Strategy to be dealt with under the advertising and approval regime set out in Regulation 12B(2). Any Local Planning Strategy amendment must apply state and regional planning policy as per Regulation 12A(3).

Until such time that the buffer issue is fully resolved by the WAPC in respect of the WPWWTP, there appears no ability to advance amendments to the Local Planning Strategy or Town Planning Scheme in specific respect to reducing the extent of the odour buffer. Such amendment would be inconsistent with the relevant statutory



framework presented through the *Planning and Development Act 2005* as amended and *Environmental Protection Act 1986* as amended.

- Q5. *Are Councillors aware that they can direct planning officers to amend the buffer line in Fig 18 to the east edge of Lake Coogee despite what is written in the report and what is said here tonight?*
- Q5. *Are Councillors aware that the officer did not send my application, which included the PAE homes definition study to the EPA or DEC when asking for their technical advice? How can an agency make technical advice, which is what Councillors asked for in April, without the applicant's Buffer Definition Study? The state wide buffer review requires proponents, (in this case myself) to have a buffer definition study done when Odour impacts are alleged on the area. We had a buffer definition study done and the officer does not include any reference to that buffer definition study or what this contains in his report; the officer only references the Water Corp report.*

**Ms Robyn O'Brien, Munster**

*Item 14.5 Woodman Point Waste Water Treatment Plant Odour Buffer Issue and Request from WAPC to Provide Response of Lifting of Urban Deferment for Munster Precinct*

- Q1. *Are Councillors aware of the 2006 Odour as a community problem in the vicinity of the East Edge Lake Coogee report and in the text of that report which says "that this modelling was done with the help and support of the water Corp odour expert Ian Wallis"? On page 114 of this report it says "that the buffer zone outlined in 4.6 in this report is a result of modelling activities undertaken and include the variations in defining a buffer zone". They say the odour buffer represents the best guess of the effective odour footprint under current knowledge and that the implementation of the proposed buffer will provide an effective tool in further community planning and development. In figure 4.4 shows a modelling line for 580 units at 99.9% and using Ausplan modelling exactly the same as the Water Corp has used in its latest odour modelling report using the yellow line, and that yellow line is on the east edge of Lake Coogee. This modelling report was done in 2006 using the 2005 odour emission which was a mass of 297,000. The odour emissions currently modelled by the Corp using the same odour criteria 99.9 are done on 104,000 and they are still saying that odour line is an extra 300 m to the east and this one doubles the emissions.*

*Are Councillors aware that the review of the Kwinana Air Quality Buffer which was started in 2002 to reduce the planning constraints from the Kwinana Air Quality Policy where industry had reduced their emissions as per the air policy directions that this has now been researched and*



*is used to expand and extend buffers over areas to such as the urban deferred area in Munster which is located no-where near Kwinana?*

*Are Councillors aware that there is no Kwinana Air Quality Buffer Policy in any Statutory Planning framework yet and that the Minister for Planning's letters and the DEC and EPA letters included in the attachment to 14.5 that refer to a decision by the WAPC on the Kwinana Air Quality Buffer referred to a decision on a new buffer that is not in place yet and that never has been.*

- Q2. *Will Councillors please make a decision on whether they will reduce the buffer tonight and not put it off or deny it any further as we have waited years and there is scientific evidence that there is no reason for a 750m buffer. Please make a decision tonight and not put it off until next year for other reasons?*

**Paul Watson, Hamilton Hill**  
*Significant Tree Register*

- Q1. *How will the Council ensure the public that any decision that they make is an informed decision made with expert opinion and independent opinion before exercising that opinion.*

- A1. If an individual does want to undertake any actions which would interfere or result in the interference of the removal or destruction of that tree or the City's Heritage Tree list as indicated before, they would have to lodge an application. With that application, they would have to provide detail justification as to why Council should permit the removal, destruction or interference of that significant heritage tree. It would then be up Council and its technical officers to assess that information and that may involve engaging an independent arborculturist to provide advice on that particular matter. Realistically, an applicant would have to provide detail justification as to why Council should consider the request and then officers would have to prepare a report indicating whether or not the officers agree or not and that would be up to Council to make a decision as to whether or not the request should be granted or refused.

**Christine Dougan**

- Q1. *Given the Council commitment to sustainability and the documents in tonight's agenda on the Green Plan, regarding corridors and revegetation of the City of Cockburn, why the recent planting of trees on Clontarf and Healy Roads have been non native species which require greater amounts of water. The residents in both of these streets welcomed the planting of the tress and were very pleased to see that the City of Cockburn were doing something about a long neglected area of the City of Cockburn, but became shocked when*



*these non native species appeared.*

- A1. We have a street tree planting strategy so the plantings on Clontarf and Healy Roads were consistent with that. The tree species that were selected were done to maximise amenity and minimise broad damage to the City's infrastructure. We take a lot of things into consideration when selecting appropriate species for that sort of environment.

## 8. CONFIRMATION OF MINUTES

### 8.1 (MINUTE NO 4892) (OCM 08/11/2012) - CONFIRMATION OF MINUTES

#### **RECOMMENDATION**

That Council adopt the Minutes of the Ordinary Council Meeting held on Thursday, 11 October 2012, as a true and accurate record.

#### **COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr S Pratt that the recommendation be adopted.

**CARRIED 9/0**

## 9. WRITTEN REQUESTS FOR LEAVE OF ABSENCE

Nil

## 10 (OCM 08/11/2012) - DEPUTATIONS AND PETITIONS

Banjup Residents Group – represented by Mr Ian Thurston, in relation to proposed amendments to Local Laws concerning fire breaks and related matters.

Landowners in Munster – represented by Mr Michael Swift (Michael Swift & Associates Town Planners) in relation to the Woodman Point Waste Water Treatment Plan buffer.





AT THIS POINT IN THE MEETING, THE TIME BEING 8.07 PM, ACTING DIRECTOR OF FINANCE MS MARGOT TOBIN LEFT THE ROOM.

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

Nil

**12 (OCM 08/11/2012) - DECLARATION OF COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS IN THE BUSINESS PAPER**

Nil.

**NOTE:** AT THIS POINT IN THE MEETING, THE FOLLOWING ITEMS WERE CARRIED BY AN “EN BLOC” RESOLUTION OF COUNCIL:

13.2	14.2	15.1	16.1	17.1
	14.3	15.2	16.2	
	14.4	15.3		
	14.7			
	14.8			
	14.9			

THIS POINT IN THE MEETING, TIME BEING 8.12 PM THE ACTING DIRECTOR OF FINANCE AND CORPORATE SERVICES MS MARGOT TOBIN RETURN TO THE MEETING.

**13. COUNCIL MATTERS**

**13.1 (MINUTE NO 4893) (OCM 08/11/2012) - MINUTES OF THE GRANTS AND DONATIONS COMMITTEE MEETING - 16 OCTOBER 2012 (CR/G/003) (RAVARD) (ATTACH)**

**RECOMMENDATION**

That Council receive the Minutes of the Grants and Donations Committee Meeting held on 16 October 2012 and adopt the recommendations contained therein.

**COUNCIL DECISION**

MOVED Cllr C Reeve – Fowkes that Council adopt the Minutes of the Grants and Donations Committee meeting of 16 October, 2012, subject to:



- (1) an allocation of \$2,000 be approved to Daniella Palazzo with the funds to be drawn from the Sponsorship grant allocation;
- (2) a report on the criteria for Sponsorship allocations to consider the inclusion of student exchange eligibility be prepared for consideration by the Grants and Donations Committee;
- (3) separate consideration of the proposed donation of \$15,000 to the Fremantle Hospital Medical Research Foundation;
- (4) separate consideration of the proposed donation of \$5,000 to the Portuguese Cultural and Welfare Centre; and
- (5) withdrawal of Item 9.3 (Minute No. 60) "Halo Leadership Development College donation" to be considerate separately.

At this point of the meeting, the Presiding Member declared this to be a complex motion pursuant to Standing Orders Local Law Clause 10.5, and for it to be put in the form of five (5) separate motions dealing with (1) and (2) combined, (3), (4) and (5) separately, and a motion adopting the remainder of the committee minutes.

**COUNCIL DECISION**

MOVED Clr C Reeve-Fowkes SECONDED Clr T Romano that Council adopt the Minutes of the Grants and Donations Committee meeting of 16 October, 2012, subject to:

- (1) an allocation of \$2,000 be approved to Daniella Palazzo with the funds to be drawn from the Sponsorship grant allocation; and
- (2) a report on the criteria for Sponsorship allocations to consider the inclusion of student exchange eligibility be prepared for consideration by the Grants and Donations Committee

**CARRIED 8/1**

**Reason for Decision**

Council's criteria regarding student exchanges needs clarification, hence the request for a report to be provided to a future Grants and Donations Committee Meeting.



Currently, Daniella Palazzo, a Cockburn Resident, has been chosen by her school as one of just three students to attend a student language exchange programme and has requested assistance through Councils Grants and Donations allocation.

Ms Palazzo should not miss out on this educational and cultural exchange opportunity whilst Council prepares its report, rather she should be supported in this instance.

**(MINUTE NO 4894) (OCM 08/11/2012) - FREMANTLE HOSPITAL RESEARCH FOUNDATION (CR/G/003) (J GREENAWAY)**

**COUNCIL DECISION**

MOVED Cllr S Portelli that Council deny approval of the donation to the Fremantle Hospital Medical Research Foundation and direct the funds to residents or organisations that are within the boundaries of Cockburn and that have a tangible benefit to our residents that are either individually disadvantaged or to a greater number of residents of our City.

**MOTION LAPSED FOR WANT OF A SECONDER**

**(MINUTE NO 4895) (OCM 08/11/2012) - PORTUGUESE CULTURAL AND WELFARE CENTRE (CR/G/003) (J GREENAWAY)**

**COUNCIL DECISION**

MOVED Cllr L Smith SECONDED Cllr V Oliver that Council approve a \$2,000 donation to the Portuguese Cultural and Welfare Centre, subject to receipt of:

- (1) Minutes of the last four (4) meetings of the organisation that show proper Governance procedures to the satisfaction of the Manager Community Services;
- (2) audited financial statements for the previous financial year; and
- (3) confirmation from the organisation outlining attendance rates of Cockburn residents, services being delivered, viability of the services and how these services are benefiting Cockburn residents.

**CARRIED 5/4**



OCM 08/11/2012



**Reason for Decision**

After attending the AGM of Friends of the Community and a follow up meeting it would seem there are some major concerns with the running of the Portuguese group that are not in line with the expectations of the City.

Accordingly, Council should insist that the governance of this organisation warrants financial support being provided.

CLR SMITH LEFT THE MEETING THE TIME BEING 8.42 PM.

**DECLARATION OF INTEREST**

The Presiding Member advised he had received a declaration of financial interest from Clr Smith on Item 9.3 of the "Grants and Donations Committee Minutes – 16 October 2012", pursuant to Section 5.62(1)(b) of the Local Government Act, 1995.

The nature of her interest is that her employer is an applicant for funding by the City of Cockburn and she is therefore deemed to be a "closely associated person".

**(MINUTE NO 4896) (OCM 08/11/2012) - ITEM 9.3 (MINUTE NO. 60) - HALO LEADERSHIP DEVELOPMENT COLLEGE DONATION (CR/G/003) (J GREENAWAY)**

**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr C Reeve-Fowkes that the recommendation contained in the Minutes of the committee be adopted.

**CARRIED 8/0**

**Reason for Decision**

In the absence of Clr Smith, this recommendation requires separate consideration.

CLR SMITH RETURNED TO THE MEETING THE TIME BEING 8.44 PM.



THE PRESIDING MEMBER ADVISED CLR SMITH OF THE DECISION OF COUNCIL IN HER ABSENCE.

**(MINUTE NO 4897) (OCM 08/11/2012) - MINUTES OF THE GRANTS AND DONATIONS COMMITTEE MEETING - 16 OCTOBER 2012 (CR/G/003) (J GREENAWAY)**

**COUNCIL DECISION**

MOVED Clr C Reeve-Fowkes SECONDED Clr S Pratt that Council, subject to the foregoing, adopt the remainder of the recommendations contained in the Minutes of the Grants and Donations Committee meeting of 16 October, 2012.

**CARRIED 9/0**

**Reason for Decision**

This being a complex motion, the remainder of the committee recommendations needs to be adopted.

**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. The Committee is also empowered to recommend to Council on donations and sponsorships to specific groups and individuals.

**Submission**

NA

**Report**

Council approved a budget for grants and donations for 2012/13 of \$1,010,000 to be distributed as grants, donations and sponsorship.

At its meeting of 16 July 2012 the Committee recommended a range of allocations of grants, donations and sponsorship which were duly adopted by Council on 9 August 2012.

The September 2012 round of grants, donations and sponsorship funding opportunities has now closed and the Committee at its meeting of 16 October 2012, considered revised allocations for the grants and donations budget, as well as the following applications for donations and sponsorship.



A summary of the donations for general operating expenses recommended to Council are as follows:

1. Federation of Housing Collectives	\$0
2. Cockburn Community & Cultural Council	\$9,000
3. Yangebup Family Centre	\$7,000
4. Port School	\$15,000
5. Returned Services League - City of Cockburn	\$9,000
6. Portuguese Cultural and Welfare Centre	\$5,000
7. Birthrites: Healing After Caesarean Inc.	\$0
8. Lions Club of Atwell	\$1,000
9. Meerilinga Young Children's Services Inc.	\$0
10. Fremantle Hospital Medical Research Foundation	\$15,000
11. Cockburn Toy Library	\$4,000.00
12. Halo Leadership Development College	\$8,000

A summary of the sponsorship recommended by the Committee is as follows:

1. Phoebe Wilcox- World Challenge Expedition	\$2,000
2. (Cooby Now) Coolbellup Community Association	\$6,000
3. Daniella Palazzo- Student Exchange Italy	\$0
4. Natasha Read- World Challenge Expedition	\$2,000
5. Bryan Williams - World Transplant Games	\$2,000

The Committee has recommended an allocation of \$5,000 to establish the Toby Playpad Subsidy; a \$100 subsidy for families with children with autism or who are suspected to have autism to purchase the Toby Playpad software application.

### **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 2012/13 of \$1,010,000 to be distributed as grants, donations and sponsorship.

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



Description	Allocated 2012/13	Proposed Allocations Oct 2012	Balance remaining for next round
Committed/Contractual Donation	\$392,756	\$385,863	NA
Specific Grant Programs*	\$426,150	\$433,043	N/A
Donations	\$120,000	\$73,000	\$47,000
Sponsorship	\$ 82,000	\$12,000	\$70,000
<b>Total</b>	<b>\$1,020,906**</b>	<b>\$895,906</b>	<b>\$117,000</b>

\*Specific Grant Programs include a range of funding programs with varying expenditure and committed future expenditure to date.

\*Includes \$10,906 Alcoa funding carried forward

The next round of grants, donations and sponsorship funding will be advertised in February/March 2013.

### Legal Implications

Nil

### Community Consultation

In the lead up to the September 2012 round, grants, donations and sponsorship funding opportunities were promoted through the local media and Council networks. The promotional campaign has comprised of:

- Advertisements running fortnightly in the Cockburn Gazette's City Update.
- Advertisement in the Soundings.
- Promotion to community groups through the Community Development Service Unit email networks and contacts.
- All members of the Cockburn Community Development Group, Regional Parents Group have been encouraged to participate in the City's grants program.

### Attachment(s)

1. Minutes of the Grants and Donations Committee Meeting on 16 October 2012.
2. Grants and Donations Allocations 2012/13 as recommended by the Committee.





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

N/A

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

Nil

**13.2 (MINUTE NO 4898) (OCM 08/11/2012) - MINUTES OF THE AUDIT AND STRATEGIC FINANCE COMMITTEE MEETING - 25 OCTOBER 2012 (FS/A/001) (S DOWNING) (ATTACH)**

**RECOMMENDATION**

That Council receive the Minutes of the Audit and Strategic Finance Committee Meeting held on the 25 October 2012 and adopt the recommendations contained therein.

**COUNCIL DECISION**

MOVED Clr Y Mubarakai SECONDED Clr S Pratt that the recommendation be adopted.

**CARRIED 9/0**

**Background**

A meeting of the Audit and Strategic Finance Committee was held on 25 October 2012.

**Submission**

N/A

**Report**

The Audit and Strategic Finance Committee received and considered the following items:

1. A Summary of the Legal Proceedings commenced or responded to by the City during the financial year. A detailed listing was provided to Elected Members including those legal actions currently open.



2. Annual Financial Statements (including the amended Rate Setting Statement) and External Audit Report from Mr Tony Macri of Macri Partners.

**Strategic Plan/Policy Implications**

**Leading & Listening**

- Manage our financial and infrastructure assets to provide a sustainable future.
- A culture of risk management and compliance with relevant legislation, policy and guidelines

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

Minutes of the Audit and Strategic Finance Committee – 25 October 2012.

**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 (MINUTE NO 4899) (OCM 08/11/2012) - TATTOO PARLOURS (HS/L/001) (G BOWERING)**

**RECOMMENDATION**

That Council take no further action on this matter.



**COUNCIL DECISION**

MOVED Clr T Romano SECONDED Clr S Pratt that the recommendation be adopted.

**CARRIED 9/0**

**Background**

At the Ordinary Council Meeting on 10 May 2012 Cr Steven Portelli requested that a report be presented to a future Council meeting to see whether Council can look at avenues to be able to have jurisdiction over planning approvals for shops such as tattoo parlours, as a matter to be investigated without debate.

At the same meeting of Council Cr Carol Reeve-Fowkes subsequently requested that a report be presented to a future Council Meeting to see whether Council could look to amend its Town Planning Scheme, so that it can identify something like a tattoo parlour as being a use not listed to ensure that Council considers whether or not a tattoo parlour is an appropriate use in a particular locality.

These requests followed a decision made under delegated approval for a change of use from Veterinary Consulting rooms to Shop (tattoo parlour) in Jandakot on Berrigan Drive. The approval having raised community concerns about the suitability of tattoo parlours in proximity to residential development.

Residents also indicated concerns with perceived links to organised crime and such other matters that lie outside of the development control provisions of the Planning and Development Act 2005 and the City's Town Planning Scheme No. 3.

**Submission**

N/A

**Report**

This report examines statutory planning matters and around the control and management of tattoo parlours and the prevalence of this activity.



### How are Tattoo Parlours it dealt with in the City's Scheme?

The City's Town Planning Scheme No.3 (TPS3) does not specifically identify tattoo parlours as being a separate defined land use. The definition of 'Shop' under TPS 3 includes 'a premise used to ... provide services of a personal nature (including a hairdresser or beauty therapist'. Clause 4.4.2 of TPS3 identifies that if a use 'is not specifically mentioned in the Zoning Table – Table and cannot be reasonably determined as falling within the type class or genus of activity of any other use category in the table the local government may

–

- (i) *determine the use is consistent with the objectives of the particular zone and is therefore permitted;*
- (ii) *determine that the use may be consistent with the objectives of the zone and thereafter follow the advertising procedures...; or*
- (iii) *determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.*

The City has previously and consistently taken the position that tattoo parlours provide a service of a personal nature similar to hair dressers, tanning salons, nails and beauty therapists and as such are determined as a 'shop'.

As a tattoo parlour is considered a shop under TPS 3 they are therefore permitted as of right in commercial zones such as the Regional, District and Local Centre zones. Where a development, such as a shopping centre, already has an existing approved shop use, a further development approval is not required for a tattoo parlour to occupy those premises already approved as a shop. This is the case for all activities that fall into the definition of "shop" under the Scheme.

### Tattoo Parlours in Other Jurisdictions

The Western Australian Planning Commission's Model Scheme Text (MST) does not include a separate definition of tattoo parlour. The definition of "shop" in the MST encompasses tattoo parlours in the same manner as TPS 3.

In this regard the TPS3 definition of "shop" is the same as the definition in the MST and therefore tattoo parlour falls under the "shop" land use definition in all Local Government areas where the MST land use definition is used.



A text search of all of the Local Government schemes in Western Australia via the Western Australian Planning Commission's website reveals that there are no planning schemes that include a specific definition of tattoo parlour or list them as a separate use.

A survey of several metropolitan Local Government scheme texts indicate how a tattoo parlour is dealt with in other jurisdictions:

Scheme Area	Applicable Definition
Model Scheme Text	Shop
City of Swan	Shop
City of Stirling	Personal Care Services
City of Wanneroo	Use not Listed
City of Rockingham	Shop
City of Canning	Shop

There are no examples in WA that have been identified where this activity has been provided with a separate land use definition and/or specific town planning scheme development standards.

#### State Administrative Tribunal Decisions

In the State Administrative Tribunal (SAT) the matter ([2012] WASAT 195) *Ronin Indelible Aesthetics Pty Ltd vs the Town of Cottesloe DR359 of 2011* published on 27 August 2011 (Attachment 1), it was determined that the definition of "shop" under the Town's Scheme included service based activities such as tattoo parlours.

In reaching his decision Senior Member Mr P McNab specifically characterised tattoo parlours as being consistent with the common understanding of the term "shop" and the prevailing interpretations of "shop" in the Model Scheme Text, town planning schemes and the decisions of local and international courts.

Mr McNab noted that the use of the terms tattoo parlour, tattoo shop or tattoo studio are used interchangeably in the United States examples he cited where the activity was described.

In reaching his decision Mr McNab also highlighted the definition of 'parlour' in the *Oxford English Dictionary* (3<sup>rd</sup> ed, 2005) which is as follows:

orig. *U.S.* (in commercial use). A shop or business premises (originally one comfortably or lavishly furnished and decorated) which provides a particular service or commodity. *Usu.* with a distinguishing word, as *beauty, beer, funeral, ice-cream, pizza parlour*, etc.



Paragraph 22 of Mr McNab's decision on that matter specifically addressed the issue of whether a tattoo parlour can be described as a shop:

*“As has been noticed, according to the Oxford English Dictionary, a beauty parlour can be considered as a form of shop. It therefore seems that, conceptually, for town planning purposes, a tattoo parlour could comfortably (and could do so even at the time that the extant approval commenced, which was 1981) fall within the land use criteria describing or limiting the use as a 'shop'.”*

It is clear based on this decision of the SAT that for the purposes of town planning assessment and decision making that a tattoo parlour falls comfortably under the land use definition of “shop”.

#### Prevalence of Tattoo Parlours in Perth and Cockburn

A search of the internet provides a listing of over 50 tattoo parlours in the greater Perth area. Of these, three are listed in Cockburn.

- The Ink Inn Tattoos Shop 1 337 Carrington St, Hamilton Hill in a shop on land zoned Local Centre under TS3 and is known not to be affiliated with any Organised Motorcycle Gang (OMG).
- Lost City Tattoos – Shop 2, 218 Rockingham Rd, Spearwood in a Shop zoned District Centre under TPS3 and is known to be associated with an OMG.
- Modern Ink – Unit 1, 233 Berrigan drive, Jandakot (now closed due to suspected arson) in a Shop zoned Local Centre under TPS3 and was known not to be associated with any OMG.

The prevalence of tattoo parlours in the City is considered to be very low with only two legitimate businesses currently operating in the City. At this stage it is not known whether the Jandakot premises will reopen. Due to their definition as a “shop” tattoo parlours are confined to commercial zones which are appropriate to the personal service nature of the activity.

#### Perceived Tattoo Parlour Associations

Association of any particular use or activity with criminal activity (known or suspected) is not a matter that can be dealt with under the Planning and Development Act 2005. Any planning decisions made on the basis of perceived links with criminal activities or organisations could not be found to be consistent with the Act or the powers of the Scheme.

In this regard if the offices of a taxation accountant are implicated in committing tax fraud, planning legislation is not changed to in response



to the criminal activity. Changes are not made to Schemes to restrict their permissibility. Neither in this example could a refusal be validly issued for an application for a taxation accountant's office on the basis that fraud might be committed by the owner or staff.

### Conclusion

In town planning terms it is demonstrated that there is no distinct difference between a tattoo parlour and any other service of a personal nature characterised as a "shop". The existing Scheme definition is consistent with the Model Scheme Text definition of "shop" and it is commonly held that tattoo parlours are a shop.

While there may be a desire amongst some members of the community to seek to control this particular activity there is no valid planning purpose being served by doing so. It is recommended that Council note the content of this report and no action be taken in this regard.

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

#### **Community & Lifestyle**

- Community environments that are socially cohesive and embrace diversity.

#### **A Prosperous City**

- Promotion and support for the growth and sustainability of local businesses and local business centres.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

N/A

### **Community Consultation**

N/A

### **Attachment(s)**

1. [2012] WASAT 195 Ronin Indelible Aesthetics Pty Ltd vs the Town of Cottesloe DR359 of 2011 published on 27 August 2011



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

Nil.

**14.2 (MINUTE NO 4900) (OCM 08/11/2012) - REPORT INTO THE ACTIVITIES AND IMPACTS OF COCKBURN CEMENT LIMITED (3411123) (N. JONES, S DOWNING, D ARNDT) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) continue to participate in CCL's community relations program including attendance at Community Forums and on the Stakeholder Advisory Group;
- (2) consider a report on the status of CCL's environmental performance when bag filters on kiln 5 have been commissioned and operating for at least 6 months; and
- (3) seeks permission from the Department of Local Government to apply a higher differential rating for Cockburn Cement Limited in 2013/14 and engage with Cockburn Cement Limited using "targeted consultation.

**COUNCIL DECISION**

MOVED Clr Y Mubarakai SECONDED Clr S Pratt that the recommendation be adopted.

**CARRIED 9/0**

**Background**

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

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

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





2. *Council reviewing and quantifying the damage to community member's assets such as buildings, infrastructure, vehicles etc caused by the existing emissions and repeated additional emissions coming from CCL's Munster plan.*
3. *Council seeks permission from the Department of Local Government to apply higher differential rates to CCL, if dot point 1 above proves not to be possible.*
4. *Council investigating with 'class action lawyers' the possibility of establishing and supporting a residents claim against CCL for injurious harm to health and property.*
5. *Council partnering with the Cockburn Sound Management Council to review the damage to Cockburn Sound from activities undertaken by CCL.*
6. *Council investigating the costs of retaining CCL in the City by way of consumption of Council infrastructure and assets, such as roads and associated road reserve's assets.*
7. *Council reviewing and quantifying the damage to Council assets such as buildings, parks, waterways and lakes caused by the existing emissions and repeated emissions coming from CCL's Munster Plant.*
8. *Council investigating the introduction of a specified area rate to recover the excessive wear and tear on said assets. This is to apply to other functions beyond the normal expectations of standard commercial/industrial facilities.*
9. *Council investigate the legal implications of these items and other issues considered relevant by the officer compiling the report.*

A report on the above issues was tabled at the Ordinary Council Meeting on 12 July 2012, where Council resolved to defer the item for further consideration until the Ordinary Council Meeting scheduled for October 2012.

The reason for this decision was that the Council considered that it was still too early to adopt a position on the matter. The Council felt that it should have absolute certainty on CCL's position. As the report was predicated around the fact that a bag house filter would be installed on kiln 5 and the City had not received confirmation that the CCL Board had approved the capital expenditure to allow for this provision to occur. By deferring its determination until October it provided time for



confirmation that CCL Board has approved expenditure and it will proceed.

On 20 August 2012 the General Manager Operations, Cement and Lime Division, Adelaide Brighton Ltd, Mr Michael Williams confirmed that at the Adelaide Brighton Board meeting on 14 August 2012 final approval of expenditure of \$18 million was given to the installation of a bag filter to kiln 5.

Mr Williams has subsequently advised the City:- that the exhaust bag filter on Kiln 6 is performing very well with minimal stack emissions; and that the new exhaust bag filter on Kiln 5 is on schedule for completion by end of June 2013 (both Works Approval and Development Approval applications having being submitted), with works having commenced for the removal of internals of former Kiln 6 precipitator in preparation for the conversion.

Mr Williams has also advised that in respect to Clinker Kilns 3 & 4, as these kilns are much smaller than the lime kilns and have much greater reliability (trip far less often) the exhaust emissions are far less than the lime kilns and the precipitators are performing satisfactorily.

### **Submission**

Nil.

### **Report**

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

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

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



matter it is extremely likely that CCL will remain at the Munster site for at least 20 years.

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

Measures have included:

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

Other measures have included additional staff resources:-

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

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

Under the circumstances where CCL is in the process of installing significant new emission control equipment it would be prudent to reconsider the adoption of a Council position once the effectiveness of the equipment is evaluated.

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

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

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



number of vehicles, solar panels and the like across several suburbs where there lime dust emissions have been the cause of complaint.

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

Under these circumstances and where CCL is in the process of installing significant new emission control equipment it would be prudent to reconsider the review of damage to community assets once the effectiveness of the equipment is evaluated.

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

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

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

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

Officer recommendations – the City applies for a higher differential rating in 2013/14 and engages with CCL using “targeted consultation”.

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

A class action lawyer was consulted and general advice on the establishment of a class action case was obtained. Typically there will



be a need for a meeting and a submission with proposed evidence to be provided to the lawyers for consideration of the case.

In order to obtain evidence the first step would involve placing an advert in the local newspaper inviting affected residents to nominate to participate in the class action. A Council officer would need to interview about 10 residents and gather evidence of damage to property or their health and present this in a report to the lawyer. It is estimated that this would take 2 months and cost about \$3,000. The legal costs are likely to be in the order of \$20,000.

If the lawyer determines that there may be a case worth pursuing then interviews with as many additional residents would be necessary after a media campaign inviting additional affected residents to come forward. The likely cost of the additional interviews is unknown (maybe between \$10,000 and \$30,000). The likely cost of the legal fees for preparing and lodging the case base upon experience with a recent Liquor Licence case in the Supreme Court is at least \$50,000.

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

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

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

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

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

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

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

CSMC were consulted (Attachment 2) and concluded that they could achieve a better outcome by putting pressure on and providing advice



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

Officer recommendation – no further action required.

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

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

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

Officer recommendation – take no further action at this time.

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

It would be extremely difficult to review and quantify possible damage to assets including environmental assets in the proximity of CCL over the history of the plant in Munster. It would also be difficult to identify and quantify damage due to existing and repeated emissions of dust and leaks or overflows from the shell-sand pipeline because the current levels of these emissions is almost certainly less than occurred in the past and should be in compliance with DEC licence conditions



so should not be harmful to the environment. Furthermore the level of emissions has recently reduced due to the baghouse on Kiln 6 and will further be reduced within 12 months with a similar baghouse on Kiln 5.

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

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

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

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

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

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

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

### Conclusion

It is important to acknowledge that CCL are (since early 2011) in the process of investing considerably in upgraded technology to significantly reduce their emissions. Their Environmental Improvement Plan (EIP) 2012–2013 document was released in June 2012 and “outlines CCL's activities to address community concerns regarding



impacts from its Munster operations.” It is recommended that people access CCL’s web site and view the 13 EIP projects aimed principally at reducing dust and odour from the plant, and turbidity from the wash plant. Particular focus has also been given to improving communications with the community through regular forums, a Stakeholder Advisory Group, Neighbourhood briefings and a significantly improved web site with Continuous Emissions Monitoring (CEMS) data.

That is not to say that dust and odour emissions have not been excessive in the past 15 plus years. The WA Government Standing Committee into CCL found that “CCL’s attitude towards its role and responsibility in the Munster and surrounding communities has, at times, been complacent”. However, under the circumstances where CCL are implementing major improvements it would not appear to be prudent to spend Council resources on investigating responses to address the impacts of emissions that are predicted to be appreciably reduced by the end of 2013.

The predicted future of the Munster plant sees in 2 years both lime kilns emitting near zero dust levels due to new bag filters consistent with their DEC licence conditions. CCL are also addressing odour sources and they are improving the coal stockpile management to reduce the number of odorous fires. CCL are also considering the business case to relocate its clinker operations to its Kwinana plant and closing down its clinker kilns at Munster in the longer term. The business case is subject to long term tenure of additional land at Kwinana and other considerations such as Port capacity and upstream clinker supply contracts. Therefore the predicted future emissions from the plant are almost certainly going to be appreciably reduced and considerably more controllable.

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

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

#### **Environment & Sustainability**

- Identification and minimisation of impacts to human health risk.

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

Nil





**Legal Implications**

Nil

**Community Consultation**

Nil

**Attachment(s)**

1. State Government's response to the report and recommendations of the Standing Committee.
2. Advice from CSMC (Cockburn Sound Management Council).

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

Nil

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

Nil.

**14.3 (MINUTE NO 4901) (OCM 08/11/2012) - PROPOSED STRUCTURE PLAN - LOCATION: LOTS 14 - 18, 41 AND 500 OCEAN ROAD, SPEARWOOD - OWNER: VARIOUS - APPLICANT: TERRANOVIS PTY LTD (SM/M/072) (M CAIN/R COLALILLO) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt the Structure Plan for Lots 14 – 18, 41 and 500 Ocean Road, Spearwood (as shown within Attachment 3); pursuant to Clause 6.2.9.1 of City of Cockburn Town Planning Scheme No. 3;
- (2) endorse the Schedule of Submissions prepared in respect of the Structure Plan;
- (3) advise the proponent, Western Australian Planning Commission and those persons who made a submission of Council's decision; and
- (4) advise the proponent that Developer Contribution Area 13 - Community Infrastructure is now operational under the Scheme. Landowners subdividing to create residential allotments and/or developing grouped/multiple dwellings will therefore be required to make contributions in accordance with the developer contribution plan requirements.



**COUNCIL DECISION**

MOVED Clr Y Mubarakai SECONDED Clr S Pratt that the recommendation be adopted.

**CARRIED 9/0**

**Background**

The subject land is 4.047 ha in size and consists of 7 lots all with frontage on Ocean Road. The western boundary is delineated by Cross Street, and Beeliar Regional Park sits beyond this separating the site from Port Coogee. A well vegetated damp land sits at the eastern edge of the site and the land to the north consists of undeveloped land that is generally cleared of vegetation. A location Plan is shown in Attachment 1.

The subject area is zoned 'Urban' under the Metropolitan Region Scheme ('MRS') and Development Area (31) under the City of Cockburn Town Planning Scheme No. 3 ('Scheme'). The subject land is also subject to both Development Contribution Areas No. 12 (DC1A12) and No. 13 (DCA13).

Pursuant to Clause 6.2.4 and Schedule 11 of the Scheme, a Structure Plan is required to be prepared and adopted prior to any subdivision and development of land within a development area.

In accordance with the above, a proposed plan has been submitted to the City by Whelans Town Planning on behalf of Terranovis Pty Ltd.

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

**Submission**

N/A

**Report**

**Packham North District Structure Plan**

The subject area forms part of the Packham North District Structure Plan ("PNDSP") area as shown in Attachment 2. The purpose of the



District Structure Plan is to facilitate the development of the former Watsons plant and surrounding land (that was previously within the odour buffer of the plant) for residential and associated uses. It outlines the broad land use framework including the major road network, neighbourhood structure, commercial and significant public open space areas.

The submitted Structure Plan is considered to be generally in accordance with the provisions of the District Structure Plan. This has been determined on the basis of the Proposed Structure Plan's proposed street network, street blocks and associated densities and area of public open space ("POS") conforming to the locations as prescribed on the District Structure Plan and each design element meeting the associated criteria within the District Structure Plan report. Further analysis of the Proposed Structure Plan's conformity is contained within the following section.

#### Proposed Structure Plan

The Proposed Structure Plan provides for a diversity of lot sizes and housing types with 68 residential lots proposed. The existing and proposed dwellings on Ocean Road are proposed to be zoned R25. All the lots accessed off of the new internal roadway are proposed to be zoned R30. The remainder of the site consists of open space, roadway and drainage.

#### Residential Density

The proposed R25-R30 density provides a character in keeping with existing and proposed development along Ocean Road.

#### Community Consultation

The Proposed Structure Plan was referred to the Western Australian Planning Commission ("WAPC") for comment in accordance with Clause 6.2.7.2 of the Scheme as it proposes the subdivision of land. The WAPC provided comments requiring changes to the current Proposed Structure Plan and noted that they would not approve the Proposed Structure Plan at this time.

The Structure Plan was advertised for comment from 25 September to 16 October 2012 in accordance with the scheme requirements. Ten submissions were received from surrounding landowners and government/service authorities. Five of the submissions expressed no objection subject to certain conditions and/or advice, one objected and four stated supported. The submissions that were received are set out and addressed in detail within the Schedule of Submissions (Attachment 4).



The views of Main Roads Western Australia (“MRWA”) have been noted, however, their concerns relating to increased vehicle movement in the area are not supported by the City. It is the position of the City that future development proposed as part of the Local Structure Plan is consistent with current density targets that have been set by the WAPC and can be integrated into the existing road network with minimal impact to the surrounding area.

The Department of Water (“Dow”) reviewed the Proposed Structure Plan and submitted that they had no objections to the Proposed Structure Plan. The DoW provided advice in their submission relating to the Proposed Structure Plan having a Local Water Management Strategy, noting that the supporting document, addendum to Packham North District Water Management Strategy/Local Water Management Strategy, was deemed satisfactory to the DoW.

No modifications to the proposed Structure Plan are recommended as a result of the formal advertising process.

### Conclusion

The Proposed Structure Plan is generally in accordance with Liveable Neighbourhood and the PNDSP. As such, it is recommended that Council adopts the Proposed Structure Plan and requests WAPC endorsement.

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

#### **Growing City**

- To grow our City in a sustainable way by: using land efficiently, protecting the natural environment and conserving biodiversity.
- Development that is soundly balanced between new and existing areas.

#### **Environment & Sustainability**

- To protect, manage and enhance our natural environment, open spaces and coastal landscapes.

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

The Structure Plan fees for this proposal have been calculated in accordance with the *Planning and Development Regulations 2009*, including the cost of advertising and have been paid by the applicant.

Subdivision and development of the subject land is subject to the requirements of the City’s Development Contribution Plan 12 –



Packham North and Development Contribution Plan 13 – Community Infrastructure.

### **Legal Implications**

N/A

### **Community Consultation**

Community consultation was carried out for a period of 21 days, from 25 September to 16 October 2012. The proposed Structure Plan was advertised in the newspaper, on the City's website and letters were sent to affected landowners and government/servicing authorities in accordance with the Scheme requirements. A total of 10 submissions were received.

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

### **Attachment(s)**

1. Location Plan
2. Packham North District Structure Plan
3. Local Structure Plan Map
4. Schedule of Submissions

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 8 November 2012 Council Meeting.

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

Nil

#### **14.4 (MINUTE NO 4902) (OCM 08/11/2012) - HAMILTON HILL REVITALISATION STRATEGY LOCATION: CITY OF COCKBURN - OWNER / APPLICANT: N/A (SM/M/044) (R SERVENTY) (ATTACH)**

#### **RECOMMENDATION**

That Council

- (1) adopts the Schedule of Submissions;
- (2) adopts the Hamilton Hill Revitalisation Strategy, subject to the below modification:



1. Include the Rockingham Road Centre in a Development Area, as per Attachment 4.
  2. Include a discussion within Section 2.1.7 of the Strategy of the principles to be imbedded in the future Development Area provisions for the Rockingham Road Centre, to be included in Schedule 11 of TPS3. These principles will include:
    - Retention of local shopping facilities.
    - Improved public realm.
    - Creation of new community gathering areas.
    - A sensitively built form response to the surrounding residential areas.
    - Improved relationship between the Centre, Rockingham Road and surrounding residential areas (north and south of Rockingham Road).
    - Allow for minor modifications and expansions to the centre prior to the preparation of a structure plan.
  3. Identify Greenslades shop (77 Rockingham Road) as local centre zone, as per Attachment 4.
  4. Remove the Development Areas zoning over lots adjacent to Millan Place and Chesham Way and identify with coding of R30/40/60, as per Attachment 4.
  5. Replace the R20/60 coding with a R30/40/60 coding, as per Attachment 4.
  6. Include new proposed development criteria for the R30/40/60 which are feasible to achieve but ensure higher densities (R40 and R60) are of a high quality built form and relate appropriately to public streets and POS.
  7. Require the Feasibility Study to include an examination of alternative sites for the location of a cafe and garden and examine detailed design issues such as traffic management and garden design in order to ensure any proposal created a safe and efficient urban form.
  8. Extend the R40 coding, as per Attachment 4.
- (3) proceed to implement the Hamilton Hill Revitalisation Strategy in accordance with the actions and timeframes provided in Table 4 of the Strategy (Attachment 5); and
- (4) advise in writing all residents of Hamilton Hill of the outcome of this decision.



**COUNCIL DECISION**

MOVED Clr Y Mubarakai SECONDED Clr S Pratt that the recommendation be adopted.

**CARRIED 9/0**

**Background**

The Hamilton Hill Revitalisation Strategy is the latest of the City of Cockburn's revitalisation projects. In September 2011 Council resolved to endorse the Hamilton Hill Revitalisation Strategy Project Plan and support the preparation of the Hamilton Hill Revitalisation Strategy as described within the Project Plan. The draft Hamilton Hill Revitalisation Strategy was adopted for advertising by Council at its 14 June 2012 meeting. It was then advertised for 60 days from 27 June to 28 August 2012.

The purpose of this report is to examine the outcomes of the advertising of the draft Hamilton Hill Revitalisation Strategy and recommend responses to the issues raised in the consultation process.

The Hamilton Hill Revitalisation Strategy follows on from the Phoenix Revitalisation Strategy which was finalised in May 2009. The City is now implementing the Phoenix Strategy, with the majority of the area's residential land being up-coded to R30, R30/40, R40 and R60 in 2010. Resulting redevelopment is now becoming evident across the project area.

In 2010 the Western Australian Planning Commission released its latest Strategic Plan for Perth and Peel, *Directions 2031 and beyond: Metropolitan planning beyond the horizon ('Directions 2031')*. *Directions 2031* sets a target that 47% of the additional dwellings required by 2031 to be delivered through urban infill. Hamilton Hill, as a well connected inner ring suburb is well situated to contribute to the delivery of these infill targets.

**Submission**

N/A

**Report**

The Hamilton Hill Revitalisation Strategy will guide the form of future development within the established suburb of Hamilton Hill. The draft



Strategy proposes how future urban infill will be delivered within the suburb and the works required to facilitate improvements in the urban environment.

The draft Strategy is structured in two parts, the proposed Revitalisation Plan and the Background Report. The Revitalisation Plan includes:

- A draft Residential Densities Plan (Attachment 1);
- A proposed land consolidation bonus;
- Proposed changes to the *APD58- Residential Design Guidelines Policy*;
- A Public Open Space Improvement Strategy;
- Recommendations for delivering improvements to the suburb's Neighbourhood Centres;
- A Movement Network Assessment; and
- A Strategy Implementation Table.

The background report includes a policy analysis, site analysis, contextual studies, stakeholder consultation outcomes, and an analysis of how urban infill and medium density development is occurring in Cockburn and lessons for future planning for medium density development.

Figure 1 outlines the process for preparing the draft Strategy. The City is now at the final phase of the preparation of the draft Strategy which involves reviewing community feedback on the draft Strategy and preparation of a final Strategy based on the outcomes of the consultation.





## Phases of Strategy Preparation



Figure 1 Phases Strategy preparation

The vision for the draft Strategy is:

*“To plan in a proper and orderly manner for the revitalisation of Hamilton Hill through appropriate urban infill and investment in the urban environment”*

The objectives of the draft Strategy are to:

1. Maintain and enhance the local character of Hamilton Hill through development and investment that complements the existing urban fabric;
2. Provide opportunities for urban infill that meet the needs of the existing and future community of Hamilton Hill;
3. Contribute to the urban infill aspirations of *Direction 2031*; and
4. Provide for a more sustainable, accessible and compact urban form within Hamilton Hill.

### Consultation Undertaken Prior To Preparation Of Draft Strategy

Consultation with the Hamilton Hill community was undertaken upfront to ensure their views could be used to inform the preparation of the draft Strategy. In September and October 2011 the City engaged the community through a survey and two community visioning forums, which was very well attended.

The key outcomes of this initial community visioning were:

#### Support for urban infill

- The majority of residents support urban infill in Hamilton Hill. Support is generally for modest change throughout the suburb and moderate change in targeted areas.
- There is a portion of the community that do not support urban infill in Hamilton Hill.

#### Hamilton Hill Centres

- There is no readily identifiable “heart” in Hamilton Hill and this is regarded as a major shortcoming.
- There is strong support for a community hub or hubs to be created within the suburb. These should be available as community gathering spaces, and ideally contain cafés, retail uses, meeting rooms and other community facilities, as well as local medical facilities and small, passive open space areas of high quality.
- The community expressed unhappiness with the standard of presentation of buildings and parking areas, the high number of vacant tenancies, the lack of al fresco eating/drinking areas and good landscaping, the limited variety of retail premises and the inability of these centres to function as true multi-purpose community hubs and gathering spaces.
- The Winterfold Road centre and the Rockingham Road centre are very well patronised by Hamilton Hill residents, more so than the large Phoenix Shopping centre nearby.

#### Public Realm: Streetscapes and POS

- The community is not satisfied with the general appearance of the streets in Hamilton Hill. They wish to see more street trees planted.
- The many trees in Hamilton Hill are important to the community.
- The community is generally satisfied with the quality of their local parks and the provision of various park infrastructures, with the exception of access to good picnic areas, adequate seating and lighting.



- The community feels that the potential of Hamilton Hill's parks are largely unrealised and the opportunity exists to upgrade and improve them.

#### Movement Network

- The community is not satisfied with the cycle paths in Hamilton Hill. They wish to see more bike lanes and cycle paths.

#### Character

- The heritage of Hamilton Hill is important to the community.

This variety of feedback was important and very informative to the preparation of the draft Strategy. The feedback was used in a rigorous manner, to enable the testing of various scenarios that could take place in respect of the draft Strategy. This enabled refinement of the draft Strategy to occur, before being released for public advertising.

#### Advertising of the Draft Strategy

Following Council endorsement of the draft Strategy, it was advertised for 60 days from 27 June to 28 August 2012. All landowners and residents were notified of the advertising via letters. During the advertising period the City ran two community open days, one at Memorial Hall in Hamilton Hill and one at the City offices.

A total of 132 submissions were received, eight of these were from Government agencies. The submissions are set out and addressed in detail within the Schedule of Submissions (Attachment 2). The key issues are discussed following.

#### Consultation Outcomes

Of the 132 responses submitted to council during the community advertisement period, 72% of responses supported the strategy, 22% opposed the strategy and 6% were still undecided on their view (See Figure 2).



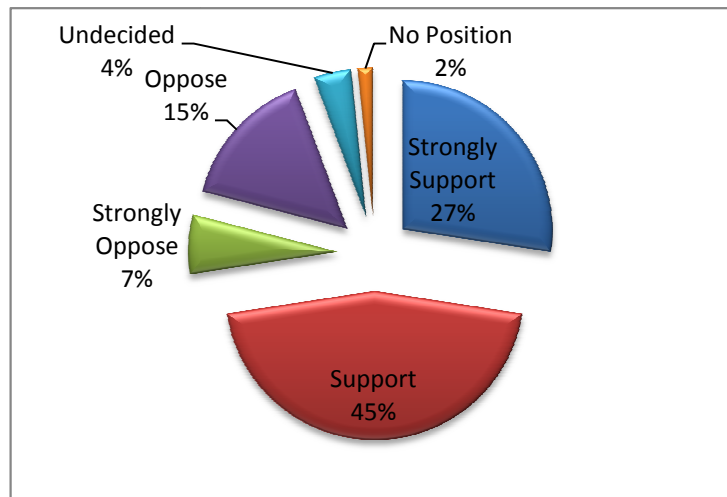


Figure 2 Public advertising outcomes

There were two clear reasons respondents gave for their support for the draft Strategy, ‘wishing to redevelop’ and ‘achieving a sustainable urban development outcome’, representing 23% and 16% of supporting reasons respectively. Less common reasons for supporting the draft Strategy included ‘improved aesthetics, ‘personal financial benefits for residents’ and ‘increased residential densities’. Attachment 4 shows a breakdown of the respondents' reasons for supporting the draft Strategy.

The most commonly stated reason for opposition to the draft Strategy was ‘increased traffic, congestion, parking issues’, receiving a total of 23 mentions in submissions, making up almost 1/3 of submission responses opposing the proposed strategy. Similar to the submissions received in relation to the residents and property owner’s survey undertaken in September 2011, the second most commonly mentioned concerns related to ‘removal of street trees’ and ‘decreased safety for children when playing’. Each was each mentioned a total of eight times amongst the submissions received, making up a total of 20% of the overall reasons opposed to the draft Strategy. Together, these three reasons make up 50% of the total submissions opposing the strategy. Attachment 5 shows the reasons for not supporting the draft Strategy.

Recommended Resulting from Consultation Outcomes

Traffic Considerations

In response to the various submissions which raised concerns regarding ‘increased traffic, congestion, parking issues’, the City has already identified that roads across the City will need to evolve as part of forecast future growth. This work forms part of a current project being undertaken by the City, in terms of updating the District Traffic Study to 2031. Similar to the Phoenix Central Revitalisation Strategy, what is important to be understood is how increasing residential



densities will lead to new rates of development, and how these rates of development may decrease the timeframe to which road upgrades need to be undertaken.

As has occurred in the Phoenix Central Revitalisation Strategy area, development within Hamilton Hill will occur gradually. The density changes proposed in the Hamilton Hill Revitalisation Strategy are expected to result in an additional 800 dwellings by 2032. This means a 32% increase in dwelling numbers within the current study area. The incremental nature of the increase in dwelling numbers and associated increase in traffic allow the City to plan appropriately for the road upgrades required to accommodate this change. But importantly there needs to be the appropriate processes in place to ensure that forecasting traffic growth and resulting needs for road upgrades is done in a proactive manner.

To start this process the City has engaged ARUP to undertake a preliminary traffic study to model at a broad scale the traffic changes of the proposed density changes over the next 20 years. This study has identified a number of streets which require attention before 2031. These roads include:

- Carrington Street, north of Healy Road and Rockingham Road and west of Bellion Drive;
- Clontarf Road;
- Carrington St south of Healy Road;
- Healy Road;
- Forrest Road.

These road upgrades will inevitably be required with or without the proposed density changes of the Hamilton Hill Revitalisation Strategy. However the 800 additional dwellings resulting from the density changes will draw this time period for road upgrades closer.

It is proposed that ARUP's high level study is followed up by a more detailed traffic modelling exercise that covers both the Phoenix Central Revitalisation Strategy area and the Hamilton Hill Revitalisation Strategy area. The detailed modelling would then be used to inform the development of a local traffic management plan for both Phoenix Central and Hamilton Hill, which can be used to guide future budget allocation of the Council such that funds for road upgrades are made available according to the local traffic management plans.

#### Development Area Zoning over Rockingham Road Centre

Allerding & Associates, acting on behalf of Scarvaci Nominees Pty Ltd, made a detailed submission seeking a change to the zoning of the Rockingham Road Centre to enable the development of a mixed use



development with medium (R60) to high (R100) residential densities. Responding to the submission it is recommended that the draft Strategy be amended so as to include the Rockingham Road Centre in a Development Area. The proposed modification is shown in Attachment 3. The Development Area's purpose is to allow for the future redevelopment of the centre in a comprehensive manner, which will meet the Hamilton Hill community's aspirations for the Centre and the future development intentions of Scarvac Nominees Pty Ltd, the major landowner in the Centre.

Development Areas under Town Planning Scheme No. 3 require a structure plan to be prepared prior to subdivision or development approval. Structure planning will designate land uses (generally residential), densities and POS (where appropriate/required).

The structure plan process will allow the City to consider the community's needs and aspirations for the Centre and the future structure plan would be required to consider the outcomes of community consultation undertaken in 2011 as part of preparing the Strategy.

It is intended that this Development Area zoning will facilitate the development of the Centre as a mixed use development with a mix of medium to high densities which respond sensitively to the surrounding residential areas. The Development Area provisions for the Centre (to be included in Schedule 11 of TPS3) should require:

- Retention of local shopping facilities.
- Improved public realm.
- Creation of new community gathering areas.
- A sensitively built form response to the surrounding residential areas.
- Improved relationship between the Centre, Rockingham Road and surrounding residential areas (north and south of Rockingham Road).

The Development Area provisions should also allow for minor modifications and expansions to the Centre prior to the preparation of a structure plan. This provides the Centre the ability to respond to Centre user and tenants needs in the period between the implementation of the Development Area zone and the point at which broad scale redevelopment of the Centre can be undertaken.

The recommended Development Area zoning aligns to the approach taken to the Coolbellup Centre which was rezoned to Development Area 7 in 2004.



### Local Centre Zoning over Greenslades

The owners of the Greenslades site requested the rezoning of the site to allow the use of the important heritage site for a wider variety of commercial uses, in particular a cafe. The site currently accommodates a pet supplies store which operates under non-conforming use rights. It is recommended that the site be rezoned to Local Centre to allow for a variety of commercial uses to be undertaken. The proposed modifications are shown in Attachment 3.

The rezoning would not increase the impact on the surrounding residential land uses, as the uses allowed under the Local Centre zone create no more impact than the current use. Potential issues relating to commercial uses adjacent to residential uses such as noise, spill over parking and increased traffic can be considered and mitigated against as part of the development approval process under the Local Centre Zone.

The use of the Greenslades site as a cafe, as suggested by the landowners, would provide a valuable gathering point for the Hamilton Hill community. The community consultation undertaken in October 2011 and various submissions made during the advertising period raised the desire for more cafes and social hubs within the area. The site's location adjacent to Davilak Park makes it an ideal location for a cafe.

As also one of the most prominent and important heritage buildings in the suburb, it would serve as a fantastic opportunity for compatible use of the building into the future. This building accommodated one of the first shops in the suburb. John Greenslade established the business in 1926 after constructing the building out of limestone rock blasted from the site. John Greenslade became a well known personality who contributed to many community organisations.

### Removal of Millan Place and Chesham Way Development Area

The large underdeveloped lots adjacent to Millan Place and Chesham Way were proposed to be zoned Development Area. This zoning was primarily a result of the opportunities for more comprehensive urban infill offered by the potential for the extension of the public road network through the blocks. In both the proposed Millan Place and Chesham Way Development Areas, land has already been ceded for public road as part of previous subdivision approvals for the purpose of extending the road network through the residential block.

It is recommended that the Development Areas for these two blocks be replaced with a coding of R30/40/60. The proposed modifications are shown on Attachment 3. These modifications are driven by a lack of



support from landowners within the proposed Development Area and the prohibitive cost of extending Millan Place and Chesham Way. Without such support, a Development Area and structure planning process would have proved incapable of implementation. Accordingly, a more traditional zoning approach as recommended by the modifications is seen as an adequate alternative.

In explaining this, the particular lack of landowner interest was gauged from the discussions between staff and land owners at the information session run for landowners within the two Development Areas during the advertising period and submissions received during the advertising period.

As part of these discussions and preparing preliminary cost estimates for road extensions (including the purchase of land and the cost of constructing the road), it was estimated that the total cost for the extension of Millan Place and Chesham Way would be \$678,800 and \$1,199,000, respectively. These costs were considered to be prohibitively expensive and make the development of the land financially unfeasible.

The proposed alternative density coding of R30/40/60 would enable landowners to be able to develop without a structure plan and independently of adjoining landowners. Access to new developments would be via private access ways linking to the existing road network.

#### Modification of R20/60 Coding to R30/40/60 Coding

The respondents concerns regarding the practicality of the R20/60 coding and the possible sterilisation (to redevelopment) of land under this coding are noted and generally supported. It is recommended that the Strategy be amended in response to these issues.

This will provide greater flexibility for landowners when developing their land. The landowner will still be able to develop to the higher coding of R60.

The intention of the R20/60 coding was to incentivise development to R60 (rather than a lower density i.e. R30-40) The R20/60 coding prevented a medium density development of a density lower than R60. The coding also mandated the assembly of large development parcels to promote comprehensive redevelopment.

The proposed R20/60 coding included quite strict criteria for development at the density of R60, including:

- Development assembles more than two existing lots.
- Total development area is over 2,000m<sup>2</sup>.
- The majority of dwellings (80%) are two storeys or more.





- Development achieves 75% of the maximum dwelling yield under R60.
- The development should ensure passive surveillance of the access way and adjoining public roads is achieved.

The first four of these development criteria were particularly stringent. It is now considered that these criteria would most likely stifle development and redevelopment, rather than try to facilitate good forms of redevelopment taking place.

To overcome this, it is recommended that the Strategy be amended to replace the R20/60 coding with a R30/40/60 coding. This coding would allow a gradient of density options from R30 to R60 with additional development criteria as the density increases. Importantly the new proposed coding would only require the assembly of land parcels for development under the R60 coding. Refer to Section 6.1.6 of the Final Strategy for the proposed development criteria for the R30/40/60 dual coding.

#### Simms Road Cafe and Garden Feasibility Study

The City received a number of submissions recommending alternative locations for a new Cafe and Garden in Hamilton Hill. The consultation undertaken in 2011 with the Hamilton Hill community revealed a high demand for community gathering points such as a cafe. The draft Strategy identified a site in the Simms Road Reserve with the potential for development of a small cafe and urban garden. The Strategy proposes a feasibility study for the proposal be undertaken within 6 months to 1 year of the Strategy's adoption. One submission recommended that the cafe site be moved to a site adjacent to the existing POS within the Centre. Another submission recommended the cafe/garden be located on the City's land at the corner of Hillier Crescent and Redmond Road. One respondent suggested the cafe be located within a park.

These were all important feedback to obtain, and really provide good justification for a detailed feasibility study to be proceeded with to determine the appropriateness of a café being established with the Hamilton Hill area by way of a proactive intervention by the local government. In response to the various submissions it is recommended that the Strategy be modified to require the Feasibility Study to include an examination of alternative sites for the location of a cafe and garden. A cost benefit analysis will be prepared to compare sites.

A number of submissions also raised concerns regarding traffic management and associated safety issues resulting from the proposed location of the cafe and garden adjacent to Simms Road. It is recommended that the Strategy be amended to require that the



cafe/garden feasibility study examine detailed design issues such as traffic management and garden design in order to ensure any proposal created a safe and efficient urban form.

Minor Extension to R40 Coding

A number of submissions were received suggesting minor, but logical extensions to the R40 coding. These proposed modifications include the following:

- Re-code lots directly adjacent to Hamilton Road as R40 based on the presence of a public transport route down Hamilton Road.
- Re-code lots adjacent to Forrest Road as R40 based on the presence of a high frequency bus route along this section of Forrest Road.
- Re-code the lots east of Carrington Street along Healy Road and Mortlock Street to Bakers Square and the eastern side of Hood Street to R40, in order to create a more logical transition between the R40, R30/40 and R30 coding.

Figure 5 shows these recommended extensions to the R40 coding. It is recommended that the Strategy be amended to adopt the requested modifications.



Figure 5 - Recommended extensions to the R40 coding.



## Conclusion

It is recommended that Council endorse the draft Hamilton Hill Revitalisation Strategy for final approval, including an updated Implementation Table (Attachment 5). The Strategy is considered to represent an excellent policy guide to the future development of Hamilton Hill, most specifically concerning changes in residential densities and improvement in the overall civic realm. The changes recommended are there to respond to specific findings coming from the consultation process, and will help to ensure the Strategy provides the most effective planning framework going forward.

## **Strategic Plan/Policy Implications**

- To grow our City in a sustainable way by: using land efficiently, protecting the natural environment and conserving biodiversity.
- Development that is soundly balanced between new and existing areas.
- Diversity of housing to respond to changing needs and expectations.

## **Budget/Financial Implications**

N/A

## **Legal Implications**

N/A

## **Community Consultation**

Consultation with the Hamilton Hill community has been an important aspect to the draft Strategy. This has seen a detailed community visioning process undertaken, which was further expanded through an initial visioning survey being sent to all landowners. The outcomes of this visioning revealed a great deal of important information which resulted in construction of the first version of the draft Strategy.

Upon Council adopting the draft Strategy for advertising, a further detailed phase of community engagement took place. This involved a direct letter to all landowners within the project area, as well as two open house events to enable individual landowners to talk with staff on specific questions they had.

This was further supplemented through staff presenting to the Hamilton Hill Residents Association, which enabled the Association to prepare



their own detailed submission following specific questions being answered at their presentation. The City further undertook group based consultation with landowners within the proposed Development Areas, which resulted in tangible changes to the draft Strategy being recommended.

The City also specifically wrote to landowners around the Bakers Square public open space, noting a previous requested by Councillors to ensure this group of residents were specifically consulted on issues. All feedback from residents has informed the recommendations and discussions contained within this report.

### **Attachment(s)**

1. Draft Residential Densities Plan
2. Proposed Final Residential Density Plan
3. Breakdown of the respondents reasons for supporting the draft Strategy
4. Breakdown of the respondents reasons for not supporting the draft Strategy.
5. Schedule of Submissions

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

All submissions have been advised that this matter will be considered at the 8 November 2012 Ordinary Council Meeting.

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

N/A

CLR HOUWEN LEFT THE MEETING THE TIME BEING 8.48 PM.

### **DECLARATION OF INTEREST**

The Presiding Member advised the meeting that he had received a declaration of proximity interest from Clr Houwen in relation to Item 14.5 "Woodman Point Waste Water Treatment Plant Odour Buffer Issue and Request from WAPC to provide response of lifting of Urban Deferment for Munster Precinct" pursuant to Section 5.60B(1)(c) of the Local Government Act, 1995.

The nature of his interest is that he is a landowner within the current odour buffer area.



**14.5 (MINUTE NO 4903) (OCM 08/11/2012) - WOODMAN POINT WASTE WATER TREATMENT PLANT ODOUR BUFFER ISSUE AND REQUEST FROM WAPC TO PROVIDE RESPONSE OF LIFTING OF URBAN DEFERMENT FOR MUNSTER PRECINCT (A TROSLIC) (340024) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) seek a meeting with the Hon Minister for Environment and Water; the Director General of the Department of Environment and Conservation and; the CEO of the Water Corporation to discuss the issue of improved industry regulation and capital funding upgrades for the Woodman Point Waste Water Treatment Plant in order to overcome the odour buffer issues affecting the Munster Locality; and
- (2) respond to the Department for Planning advising that, as no appropriate evidence has been provided to demonstrate that constraints to urban development associated with the WPWWTP buffer have been overcome, the Council cannot support the request to lift Urban Deferment for the Munster locality.

**COUNCIL DECISION**

MOVED Cllr C Reeve-Fowkes SECONDED Cllr S Pratt that Council:

- (1) acknowledge receipt of the correspondence from the Hon Minister for Planning; the Chairman of the Western Australian Planning Commission ("WAPC") and Director General of the Department for Planning; the Office of the Environmental Protection Authority ("EPA") and the Department of Environment and Conservation ("DEC") in response to Council's resolution of 12 April 2012;
- (2) advise the Hon Minister for Planning; Hon Minister for Environment and Water; Chairman of the WAPC; Director General of the Department for Planning; Director General of the DEC and; CEO of the Water Corporation that:
  - a. Landowners and stakeholders require certainty and clarity in respect of the future of a buffer associated with the Woodman Point Waste Water Treatment Plant ("WPWWTP") and its broader setting within the Western Trade Coast.

- b. To deliver this clarity, the WAPC and associated Heads of State Government commit to undertaking funding and completion of a buffer definition study to determine the future of the buffer associated with the WPWWTP and its broader setting within the Western Trade Coast by no later than 1 July 2013 and request that the State Government provide a budget and time line for the carrying out of that study by an independent expert.
  - c. If the deadline of 1 July 2013 cannot be achieved, the WAPC and associated Heads of State Government advise the Council of an alternative deadline by 31 December 2012.
- (3) conduct a statistically valid telephone survey of all residential properties within 1.5km of the centre of the WPWWTP, in order to obtain up-to-date feedback from residents as to the current situation in respect of odour associated with the WPWWTP. The results of this survey to be presented to the February 2013 Ordinary Council Meeting;
  - (4) following the February 2013 Ordinary Council Meeting, write to the Hon Minister for Planning; Hon Minister for Environment and Water; Chairman of the WAPC; Director General of the Department for Planning; Director General of the DEC and; CEO of the Water Corporation, advising of the results of the telephone survey;
  - (5) note the advice of the City's Environmental Health Services that zero complaints have been received regarding odour associated with the WPWWTP;
  - (6) note the advice from the Department of Environment and Conservation confirming that a total of eight complaints were received during the last three years following the odour reduction upgrades to the WPWWTP;
  - (7) reaffirm its position that the buffer associated with the WPWWTP and its broader setting within the Western Trade Coast should be reduced to the eastern foreshore of Lake Coogee; and
  - (8) approve the funding for the telephone survey to be sourced from contingency funds to a maximum amount of \$10,000.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 8/0**



## Reason for Decision

The MLA for Cockburn, the Hon Fran Logan, Deputy Mayor Allen and Councillor Reeve-Fowkes have participated in meetings with the Hon Bill Marmion, Minister for Environment in relation to amending the buffer zone back to the eastern edge of Lake Coogee. Minister Marmion made it very clear that if the City of Cockburn provided survey evidence from local residents that the odour problems from the WPWWTP had been considerably reduced, that it would provide the necessary evidence to assist the review of the buffer zone.

This matter has been discussed with Officers from the City and has not yet eventuated in the required survey. Council should now proceed as a matter of urgency and advise the relevant parties that we should have relevant data by 1 December, with final report to be provided to the February Council Meeting 2013 for formal approval prior to providing formal comment as requested by the WAPC. Any review of the State Buffer Policy needs to be determined scientifically. This method will provide an independent assessment of the impact of odours from the WPWWTP.

## Background

This report has two key purposes. The first purpose is to report to Council on the responses received to Council's resolution of 12 April 2012. This resolution was as follows:

*that Council:*

- (1) *immediately advises the WAPC and the State Planning Minister of:*
  1. *Council's long standing policy position to support landowners in reducing WPWWTP odour buffer back to the eastern edge of Lake Coogee, if possible.*
  2. *Council's intention to reduce the 750m buffer guideline back to the eastern edge of Lake Coogee (approx 500m) immediately if there is no scientific objection to do so.*
- (2) *immediately write to the EPA and DEC to give notice that, if there is no scientific justification to maintain the 750m buffer, it is the City's intention to amend the local planning strategy as soon as possible to reflect the new buffer definition at the eastern edge of Lake Coogee and remove the provision which restricts development on DA5 in Schedule 11 of TPS3."*



The second purpose is to recommend a response to the request for comment received from the Western Australian Planning Commission ("WAPC") regarding the lifting of Urban Deferment for the Munster Urban Precinct.

Both these issues are relevant to each other, being specifically related to the Woodman Point Waste Water Treatment Plant ("WPWWTP") buffer.

### **Submission**

The WAPC has written to the City of Cockburn ("City") on 19 September and 25 September requesting comments on the request to lift the Urban Deferment over the eastern extent of the Munster Urban Precinct. The City has also received responses from the Hon Minister for Planning, Department for Planning, Environmental Protection Authority ("EPA") and Department of Environment and Conservation on the issue of the WPWWTP buffer. These responses provide commentary of the issues captured in Council's resolution of 12 April 2012. These responses are provided as Attachments 1, 2, 3 and 4.

### **Report**

The two purposes of this report are:

1. To report to Council on the responses received to Council's resolution of 12 April 2012;
2. To recommend to Council a response to the request for comment received from the WAPC regarding the lifting of Urban Deferment for the Munster Urban Precinct.

### Council resolution of 12 April 2012

Council at its 12 April 2012 meeting passed the following resolution in respect of the WPWWTP buffer:

*that Council:*

- (1) *immediately advises the WAPC and the State Planning Minister of:*
  1. *Council's long standing policy position to support landowners in reducing WPWWTP odour buffer back to the eastern edge of Lake Coogee, if possible.*





2. *Council's intention to reduce the 750m buffer guideline back to the eastern edge of Lake Coogee (approx 500m) immediately if there is no scientific objection to do so.*
- (2) *immediately write to the EPA and DEC to give notice that, if there is no scientific justification to maintain the 750m buffer, it is the City's intention to amend the local planning strategy as soon as possible to reflect the new buffer definition at the eastern edge of Lake Coogee and remove the provision which restricts development on DA5 in Schedule 11 of TPS3."*

In accordance with Parts 1 and 2 of Council's resolution, the City wrote detailed letters on 24 April 2012 to:

6. The Minister for Planning
7. The Chairman of the WAPC
8. The Director General of the Department for Planning
9. The EPA
10. The DEC.

A full copy of the Council report and resolution accompanied this letter.

As per Part 2 of Council's resolution, there was a specific intent to ascertain scientific justification to support the maintenance of the current 750m buffer. The EPA has not seen it appropriate to attempt to confirm the scientific basis of a buffer. This is on the basis that the decision making responsibilities of such a decision lie with the WAPC. The DEC responded similarly, advising of their role in respect of providing advice and not as a decision maker, and also advised that the DEC were not able to "to comment outside of this process." It is correct that the actual decision making responsibilities do not exist with either the DEC or EPA; instead they do so with the WAPC and Hon Minister. This is explained following.

The process for the WAPC to determine the extent of any industrial buffer is provided for under Clause 4 of State Planning Policy No. 4.1 (*State Industrial Buffer Policy*). This provides the key role for the WAPC in "evaluat[ing] buffer definition study recommendations when considering land use decisions that may need to be made in the relevant area."

The WAPC's "Review of the Kwinana Air Quality Buffer - Position Paper 2008" showed a buffer to the WPWWTP as 'Area 7'. This is the same buffer shown by Figure 18 of the Local Planning Strategy, which also coincides with the extent of the 'Urban Deferred' zone under the MRS.



The critical issue captured by Council's resolution, is to understand whether there exists any scientific basis to the WPWWTP buffer. This has been discussed by the Hon Minister and WAPC.

The responses from both the Hon Minister and Department of Planning on behalf of the WAPC state as follows:

*"The Water Corporation released the report Results of the Odour Monitoring and Modelling Program (2010), for comment. The Water Corporation has now finalised its report in order to assess the success of the Stage 1 odour control upgrade works and this was issued to the DEC to close out the works approval for the upgrade.*

*The Water Corporation advised the WAPC in March 2012 that it had finalised its odour monitoring and modelling report, which recommends the retention of the existing 750 metre odour buffer.*

*Although the Odour Improvement Plan has resulted in the reduction of odour, it cannot guarantee that there will not be odours from the plant. The report indicates that there will still be an odour impact extending to roughly the eastern edge of the urban deferred land and accordingly, that the current buffer should be retained."*

The emphasis added in the last paragraph is critical to the consideration of this matter. Being the view that there is still an odour impact, and that the current buffer and Urban Deferment under the MRS which prevents residential development should be retained.

#### Recommended Response

It is clear that the City's aspirations for the reduction in the buffer to the eastern foreshore of Lake Coogee appear unachievable at this point in time based on the current and future operations (and industry regulations) of the WPWWTP. This calls into question whether:

1. The current and future operations of the WPWWTP, as regulated by the DEC, and;
  2. The associated capital improvements that have taken place to the WPWWTP, and that which are forecast to take place to the WPWWTP;
- are appropriate.

To achieve this requires an intervention at the State Government level, both in terms of the industry regulation of the WPWWTP by the DEC, and of course the direct injection of further (likely significant) funds to once and for all solve the odour issues plaguing the WPWWTP. Only if this can take place with certainty will there appear to be a viable option to improve the buffer problem.



The response of the EPA in respect of the prospect of initiating and amendment to the Local Planning Strategy and Town Planning Scheme is important. This states:

"It is the OEPA's strong preference for amendments to the City of Cockburn's Local Planning Strategy and scheme, where it relates to the buffer definition, to be aligned with the outcome of the DoP's process and ultimately the decision of the WAPC. Hence, it is recommended that the amendments to the local planning strategy, as set out in Council's resolution, should not be initiated until the WAPC has considered the advice from the relevant agencies and made a decision on the matter."

This can be further expanded by considering the realities associated with such amendments under the *Planning and Development Act 2005*.

Council's Local Planning Strategy and Town Planning Scheme create the statutory framework in respect of the odour buffer. Both the Town Planning Scheme and Local Planning Strategy provide the position that it is not appropriate to consider further residential development in areas which are affected by odour and which are currently not zoned or indicated for residential development to occur. This statutory framework is posited against the role of the WAPC, as mentioned previous, in determining the extent of the buffer under its powers of SPP4.1

In terms of planning responsibilities, the point of the dominant role of both the WAPC and Hon Minister needs to be mentioned. In terms of the Local Planning Strategy, the following explains the process by which a modification would need to take place.

Regulations 12A, 12B and 12C of the *Town Planning Regulations 1967* set out the process by which a Local Planning Strategy may be made or amended. In respect of amending a Local Planning Strategy, this is subject to determination by the Western Australian Planning Commission [Regulation 12C(1)].

Regulation 12C(3) requires an amendment to a Local Planning Strategy to be dealt with under the advertising and approval regime set out in Regulation 12B(2). Any Local Planning Strategy amendment must apply State and regional planning policy as per Regulation 12A(3).

Until such time that the buffer issue is fully resolved by the WAPC in respect of the WPWWTP, there appears no ability to advance amendments to the Local Planning Strategy or Town Planning Scheme in specific respect to reducing the extent of the odour buffer. Such



amendment would be inconsistent with the relevant statutory framework presented through the *Planning and Development Act 2005* and *Environmental Protection Act 1986*.

It is therefore recommended that Council seek to lobby both the DEC and State Government to ensure industry regulation of the WPWWTP by the DEC and capital improvements are vastly improved to reduce the odour impacts on the Munster Locality.

#### Request to lift Urban Deferment

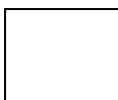
The second purpose of this report concerns the request received from the Department for Planning for the City to provide a response on the request made by a landowner to lift the Urban Deferment over the Munster Urban Locality.

As Council would be aware, land may be included in the urban deferred zone under a regional planning scheme. As provided by the WAPC guidelines on the lifting of Urban Deferment, "this zone provides a strong indication that the land is physically and locationally suitable for urban purposes, although certain requirements have to be met before the Western Australian Planning Commission (WAPC) will agree to the land being transferred to the urban zone."

The criteria for considering lifting of Urban Deferment are quite logical, covering the following issues:

1. Acceptable evidence that land is capable of being provided with essential services and agreement has been reached between the developers and service providers with regard to the staging and financing of services.
2. Acceptable evidence that planning is sufficiently advanced to depict an acceptable overall design to guide future development.
3. Acceptable evidence that the proposed urban development represents a logical progression of development.
4. Acceptable evidence that regional requirements (such as regional roads, open space and public purposes) have been satisfied or provision made for them.
5. Acceptable evidence that any constraints to urban development can be satisfactorily addressed.

It is opinion of officers that the Issues 1 to 4 could be adequately overcome through the orderly and logical planning processes of the Scheme and specifically structure planning. However, quite clearly Issue 5 cannot be overcome for the Munster Urban Locality. The constraint to urban development, being the odour impacts associated with the WPWWTP, need to be overcome in the opinion of both the



WAPC and Hon Minister before this land can be transferred to the Urban zone.

Accordingly it is recommended that Council note that, according to Issue 5, it would not be appropriate for the lifting of Urban Deferment to take place.

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

#### **Growing City**

- To grow our City in a sustainable way by: using land efficiently, protecting the natural environment and conserving biodiversity.

#### **Leading & Listening**

- A responsive, accountable and sustainable organisation.

#### **Environment & Sustainability**

- Identification and minimisation of impacts to human health risk.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Metropolitan Region Scheme  
Town Planning Scheme No. 3  
*Planning and Development Act 2005*  
*Town Planning Regulations 1967*

In terms of the request to lift Urban Deferment, it should be noted that Clause 35 of the Metropolitan Region Scheme and rule 9(c) of the State Administrative Tribunal Rules 2004 allows for an appeal to the State Administrative Tribunal within 28 days of the WAPC's refusal to lift urban deferment. This may be an option that is taken up by the requesting landowner.

### **Community Consultation**

Nil.

### **Attachment(s)**

1. Response from the Hon Minister for Planning
2. Response from Department for Planning
3. Response from Environmental Protection Authority
4. Response from Department of Environment and Conservation



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

N/A

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

Nil.

CLR HOUWEN RETURNED TO THE MEETING THE TIME BEING 9.09 PM.

THE PRESIDING MEMBER ADVISED CLR HOUWEN OF THE DECISION OF COUNCIL IN HIS ABSENCE.

**14.6 (MINUTE NO 4904) (OCM 08/11/2012) - LEASE OF LAND  
LOCATION: PORTION OF UNMADE ROAD WELLARD ROAD  
SOUTH OF BARRINGTON STREET, BIBRA LAKE - APPLICANT:  
ZENTNER SHIPPING PTY LTD (4413912) (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) accept the offer from Zentner Shipping Pty Ltd to lease from the City of Cockburn portion of (unmade) Wellard Street, Bibra Lake which is an area of 2000 square metres for a 5 year term at an annual rent of \$21,000 and subject to annual rent increases being no less than the CPI increase;
- (2) subject to no objections being received following the statutory advertising pursuant to Section 3.58 of the Local Government Act 1995, formally enter and execute the required lease documents;
- (3) amend the 2012/13 Municipal Budget by increasing proceeds from leased land by \$21,000 and transferring the proceeds to the Land Development and Community Infrastructure Reserve Fund; and
- (4) advise the applicant and adjoining landowners/tenants of the decision of Council.

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



**COUNCIL DECISION**

MOVED Clr S Pratt SECONDED Clr Y Mubarakai that the recommendation be adopted.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL 9/0**

**Background**

The section of Wellard Street south of Barrington Street, Bibra Lake has never been constructed. The road reserve terminates at the northern boundary of Lot 466 Timberyard Way, Bibra Lake.

**Submission**

An offer from Zentner Shipping Pty Ltd has been received to lease the southern portion of (unmade road) Wellard Street, Bibra Lake having an area of 2000 square metres. The term is for 5 years. A valuation report has been prepared by McGees Valuation Services that supports the rate per square metre contained in the offer presented.

**Report**

The City has no immediate plans to construct the subject section of Wellard Street. The section of road reserve terminates at Lot 466 Timberyard Way, Bibra Lake. Lot 466 is a large parcel of land mostly utilised as storage and appears to have been informally divided and leased to several organisations. Lot 466 has a constructed access to the east via Timberyard Way and back to Barrington Street.

Zentner Shipping Pty Ltd owns the adjoining property at 149 Barrington Street, Bibra Lake operating a shipping business. Zentner Shipping plan to utilise the land for the storage of containers associated with their operations and plan to load and unload from their existing premises.

Advice from the City's solicitors is that there is a mechanism pursuant to the *Local Government Act 1995* for the City to lease a portion of road reserve.

Being unzoned the proposed site is not subject to planning provisions of TPS3. A lease agreement to be drafted following any approval will include clauses requiring adherence to appropriate Australian construction standards, compliance to the requirements of Western Power, appropriate insurance coverage and indemnities to the City.



Advertising as required by Section 3.58 of the *Local Government Act 1995* is currently being undertaken. The closing date for submissions is 15 November 2012 and if any submissions are received they will need to be presented back to Council for the consideration of a further report to Council.

The proposed lease is considered a prudent use of land managed by the City and at the same time benefits a local Cockburn business. Zentner have indicated that the additional storage space allows them to remain at their current premises.

It is therefore recommended that Council accept the offer from the Zentner Shipping Pty Ltd to lease portion of (unmade road) Wellard Street, Bibra Lake.

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

#### **Leading & Listening**

- A responsive, accountable and sustainable organisation.
- Manage our financial and infrastructure assets to provide a sustainable future.

#### **A Prosperous City**

Promotion and support for the growth and sustainability of local businesses and local business centres.

### **Budget/Financial Implications**

Proceeds of the lease totalling \$105,000 (ex GST) over a 5 year term will be transferred to the Land Development and Community Infrastructure Reserve Fund.

### **Legal Implications**

Provisions of Section 3.58 of the *Local Government Act 1995* apply.

### **Community Consultation**

N/A.

### **Attachment(s)**

1. Site Plan





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

The proponent has been advised this matter will be considered at the 8 November Council meeting.

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

Nil.

**14.7 (MINUTE NO 4905) (OCM 08/11/2012) - ANNUAL UPDATE OF CITY OF COCKBURN LOCAL GOVERNMENT INVENTORY - LOCATION: CITY OF COCKBURN - OWNER: VARIOUS - APPLICANT: N/A (PS/L/002)(R COLALILLO) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) amend the City of Cockburn Local Government Inventory by:
1. Including the Tuart Tree located on the BP Australia Pty Ltd High Pressure Oil Pipeline Corridor adjacent to 178 Healy Road, Hamilton Hill on the Significant Tree List.
  2. Include the two Norfolk Island Pines trees; three Palm trees and stand of Tuart trees located within the northern extent of the Primary Regional Roads reservation south of Healy Road in Hamilton Hill on the City's 'Significant Tree' list.
  3. Include the newly developed Significant Tree List – Assessment Criteria within the appropriate section of the LGI.
- (2) advise all submissioners and the State Heritage Office of Council's decision accordingly.

**COUNCIL DECISION**

MOVED Clr Y Mubarakai SECONDED Clr S Pratt that the recommendation be adopted.

**CARRIED 9/0**

## Background

In 2011, the City of Cockburn undertook a comprehensive review of its Local Government Inventory ("LGI") in accordance with the requirements of the *Heritage of Western Australia Act 1990* ("Act"). Section 45 of the Act stipulates that the City is required to annually update its LGI and ensure suitable consultation is undertaken as part of any update process.

In relation to this requirement, Council at its Ordinary Meeting held on 9 August 2012 resolved as follows:

*"That Council:*

- (1) advertises its intention to undertake an update to its Local Government Inventory, as required by Section 45(2)(b) of the Heritage of WA Act 1990 and requests nominations from the community for new buildings and places (including significant trees) to be included on the Local Government Inventory, as well as any other proposed changes to buildings, places or significant tree currently included on the Local Government Inventory;*
- (2) advises BP Refinery (Kwinana) Pty Ltd, as the landowner of the Tuart Tree adjoining Lot 208 (No. 178) Healy Road, Hamilton Hill, that it intends to include the Tuart Tree on the Local Government Inventory and invites their comment on the proposed listing; and*
- (3) develops an appropriate selection criteria for the assessment of any trees nominated for inclusion on the Local Government Inventory.*

The City has now undertaken consultation in accordance with Parts (1) and (2) above and has developed appropriate selection criteria in accordance with Part (3) also. The purpose of this report is for Council to consider nominations/submissions received during advertising and the inclusion of the significant tree list assessment criteria for inclusion within the LGI.

## Submission

N/A



## Report

### Community Consultation

The annual update of the LGI was advertised for a period of 31 days. Advertising was undertaken in the form of notices being placed in the local newspaper, the City's website and City's administration centre. Letters were also sent to all resident associations/groups within the City, and also to the Historical Society of Cockburn. A specific letter was also sent to BP Refinery (Kwinana) Pty Ltd, seeking their comment on the Healy Road tuart tree as per Council's resolution outlined above.

At the conclusion of the advertising period, a total of four nominations/submissions were received. Each nomination/submission is outlined in detail within Attachment 3 – Schedule of Nominations/Submissions to this report.

As a result of the consultation process it is recommended that the following additions/modifications be made to the LGI as part of this annual update:

1. Include the Tuart Tree located on the BP Australia Pty Ltd High Pressure Oil Pipeline Corridor adjacent to 178 Healy Road, Hamilton Hill on the City's 'Significant Tree' list.
2. Include the two Norfolk Island Pines trees; three Palm trees and stand of Tuart trees located within the northern extent of the Primary Regional Roads reservation south of Healy Road in Hamilton Hill on the City's 'Significant Tree' list (refer Attachment 2).

In respect of No. 1, the previous report to Council dated 9 August 2012 and the supporting arboricultural assessment is considered to justify the listing of this tree according to the following criteria:

- Exceptional size, age and form;
- Rare or localised.

In respect of No. 2 above, this has been nominated by two members of the community. Assessment against the proposed Assessment Criteria results in these trees being considered as significant on the following basis:

Historical significance - the trees contribute to the unique heritage setting of the Randwick Stables. It is considered that the trees provide a historical reference to the former use of the area for horse stabling.



Rare or localised - the stand of remnant Tuart trees are very rare in the local area context. Their relationship as a biodiversity extension of the remnant vegetation located within Clontarf Hill is considered both rare and important.

Location or context - the trees provide a landmark for the Randwick Stables heritage setting, and particularly help define the undulating landform as it rise towards Clontarf Hill. Its context as an extension of the Randwick Stables heritage setting and Clontarf Hill is worthy of protection.

Social, cultural or spiritual value - the association of the trees with the Randwick Stables and broader equestrian uses in the surrounding locality is socially important.

### Significant Trees – Assessment Criteria

The second equally important task of the annual update is to formalise the significant tree assessment criteria to help apply rigor to both current and future tree nominations.

In order to ensure that the community, assessing officers and other interested parties are aware of what constitutes a 'Significant Tree' and the associated requirements for inclusion within the LGI, the City has developed what it considers appropriate assessment criteria. This is contained within Attachment 1.

The criteria are the basis for the analysis of trees nominated as 'significant' to the City, either by a resident, community group or the City of Cockburn. The criteria are based upon principles which are used to determine the suitability of heritage sites and buildings, and adapted to suit a natural context.

In developing the criteria the City sourced examples within Western Australia and interstate. Comments and/or support of the State Heritage Office were also sought to add further rigour and validity to the assessment criteria. Comments have been received from the State Heritage Officer, who provided extensive support for the City's initiative. They specifically state that:

*"The City of Cockburn is supported in providing a detailed assessment criteria for significant trees, in particular its comprehensiveness and scope. With your approval the State Heritage Office would like to use this document as an example to guide other Local Governments in developing an assessment criteria for significant trees list."*

Given the positive comments of the State Heritage Office it is considered appropriate as part of the 2012 annual update of the LGI to



include the criteria as contained within Attachment 1 within the relevant section of the LGI. The City will also advise the State Heritage Office of its support for the criteria to be used by other local governments, provided Council are supportive of the criteria.

### Conclusion

It is recommended that Council endorse the identified modifications and additions to the LGI discussed above and include the newly developed Significant Tree List – Assessment Criteria within the appropriate section of the LGI.

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

#### **Growing City**

- To grow our City in a sustainable way by: using land efficiently, protecting the natural environment and conserving biodiversity.

#### **Community & Lifestyle**

- Conservation of our heritage and areas of cultural significance

#### **Environment & Sustainability**

- To protect, manage and enhance our natural environment, open spaces and coastal landscapes.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Town Planning Scheme No. 3  
*Heritage of Western Australia Act 1990*

### **Community Consultation**

In accordance with Section 45(2)(b) of the *Heritage of WA Act 1990*, the City undertook extensive consultation in relation to the LGI annual update. Community consultation was carried out for a period of 31 days from 28 August to 28 September 2012. This included advertising in the local newspaper, on the City's website and letters were sent to resident groups and the Historical Society of Cockburn.

A total of four nominations/submissions were received. Analysis of these has been undertaken within the 'Report' section above, as well as the attached Schedule of Nominations/Submissions.



**Attachment(s)**

1. Significant Tree List – Assessment Criteria
2. Photos
3. Schedule of Nominations/Submissions

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 8 November 2012 Council Meeting.

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

N/A.

**14.8 (MINUTE NO 4906) (OCM 08/11/2012) - INDUSTRY - GENERAL (LICENSED) (CLOSED SYSTEM LIQUID COMPOSTING FACILITY) - LOCATION: 203 (LOT 186) ACOURT ROAD JANDAKOT - OWNER: A RICHARDS PTY LTD - APPLICANT: GEOFF RICHARDS (5513304) (L REDDELL) (ATTACH)**

**RECOMMENDATION**

That Council grant planning approval for industry – General (Licensed) (Closed System Liquid Composting Facility) at 203 (Lot 186) Acourt Road, Jandakot, in accordance with the attached plans and subject to the following conditions and footnotes:

Conditions

1. No expansion of the existing composting use in respect to capacity or production is permitted by this approval.
2. All stormwater being contained and disposed of on-site to the satisfaction of the City.
3. The premises shall be kept in a neat and tidy condition at all times by the owner/occupier to the satisfaction of the City.
4. The wastewater management system and lined ponds (shown on the site plan) shall be capable of managing:
  - a) A 72 hour duration, 1 in 10 year ARI critical rainfall event without overflow.
  - b) Sufficient storage for a 90<sup>th</sup> percentile wet year with enough freeboard to prevent overflows from wave action.



- c) Store the above rainfall flows plus the total maximum liquid volume of the anaerobic digestion plant.
5. The pond liner shall be at least 2m above the maximum groundwater level.
  6. Storage of the composting materials should be in a fully enclosed weatherproof cover on an impermeable surface as per *Table 1: Recommended designs according to rainfall and type of organic material*.
  7. The compost storage area shall be bituminous concrete with membrane underlay and perimeter containment bund, graded and maintained to provide efficient surface drainage and slope towards the contained water storage or treatment system.
  8. Any spillage shall be cleaned up immediately.
  9. A contingency plan should be prepared to address emergency responses in the event of any accidents, fires, chemical spills and vandalism that may affect water resources to the satisfaction of the City on advice from the Department of Water. This plan shall be made readily available for staff reference at all times.

#### Footnotes

1. This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, with any requirements of the City of Cockburn Town Planning Scheme No. 3, or the requirements of any other external agency.
2. In regards to Condition 1, as per advice from the applicant dated 27 September 2012, the application does not propose an expansion to the existing composting facilities at the premises but rather represents an interim step in the processing of organic waste, so as to extract energy before composting in the normal way.  
  
As per the Department of Water's advice to the City of Cockburn dated 5 March 2009, no expansion of the development will be supported by the Department of Water.
3. In regards to Condition 2, the City requires the on-site storage capacity be designed to contain a 1 in 20 year



storm of five minute duration. This is based on the requirements to contain surface water by Building Codes of Australia.

4. In regards to Condition 10, Water quality protection note No. 10 Containment Spills, emergency response can be used for further guidance on spills response.
5. Any spill or contamination should be reported to DEC (ph: 1300 762 982) and the Water Corporation immediately (ph: 131375, all hours).
6. Water quality protection notes, drinking water source protection plans and environmental guidelines are available online at [www.water.wa.gov.au](http://www.water.wa.gov.au) to provide information on the best environmental practices in public drinking water source areas or contact the Department of Water regional office on (08) 9550 4222.

**COUNCIL DECISION**

MOVED Clr Y Mubarakai SECONDED Clr S Pratt that the recommendation be adopted.

**CARRIED 9/0**

**Background**

The subject site is located on the southern side of Acourt Road in Jandakot and comprises a 41.5 hectare lot developed with an existing composting business 'Richgro'.

Composting is an 'Industry – General (Licensed)' as defined by the City of Cockburn Town Planning Scheme No. 3 as 'compost manufacturing and soil blending' is designated a prescribed premises by Schedule 1 of the Environmental Protection Regulations 1987.

The Environmental Protection Authority (EPA) document 'Separation Distances between Industrial and Sensitive Land Uses' suggests a setback distance of between 150m-250m is appropriate for the proposed facility. As the site directly abuts a residential property the application requires Council determination as there is no Officer level





delegation to determine applications which do not meet the required buffer distances (Part 1.6 of APD54).

### **Submission**

The proposal seeks to allow the construction and use of a closed system liquid composting facility also known as an anaerobic digestion plant for the purpose of extracting energy from organic waste which can then be used to reduce the on-going electricity requirements of the existing composting business. The applicant has indicated that the proposal does not seek to increase the capacity or production of the existing composting operations but rather is an interim process to harvest the energy in the organic wastes that they work with.

### **Report**

#### Zoning and Use

The site is located within the Resource Zone, the objective of which is to provide for the protection of the Perth Metropolitan underground water resource. The site is located within a Priority 2 public drinking water source protection area. This area is managed in accordance with State Planning Policy 2.3 'Jandakot Groundwater Protection Policy' (SPP 2.3).

The proposal represents development in association with the existing use of the site for composting and soil blending. While the composting operation is deemed an incompatible land use in this area, because the land use was established prior to the Gazettal of SPP 2.3, Richgro is permitted to continue to operate in line with the 'non-conforming uses' section of this policy.

#### Development

The physical development proposed involves the construction of an insulated shed and a series of tanks on the western edge of the existing development on site, adjacent to two retention dams. The insulated shed, which constitutes a receivable area for the organic waste, has canvas walls and a hooped roof to match other enclosed composting plant on the site. The shed has a maximum ridge height of 10.5m while the tanks vary in height between 5.7m up to a maximum of 14.3m (top of dome above tank). The plant will be constructed on an impermeable concrete base which grades down to the adjacent, lined retention dams.

The plant includes anaerobic digester tanks which allow the conversion of organic waste using bacteria in a controlled environment to produce



methane gas or 'biogas'. Recovered biogas is then used as a fuel for co-generation engines to produce electricity.

### Amenity Impacts

The Environmental Protection Authority document 'Guidance for the Assessment of Environmental Factors - Separation Distances between Industrial Development and Sensitive Land Uses No. 3' (June 2005) suggests a buffer distance of between 150m – 250m for this type of composting (enclosed windrows with odour control/in-vessel composting with odour control). The proposed plant will have a physical distance of approximately 295m from the nearest residential property boundary on Merritt Loop and 350m from the building envelope of this property, which is yet to be developed.

While it is acknowledged that it has been the practice of the City to apply the setback distance to the property boundaries in the past, it is considered unreasonable to do so given that the definition for separation distance in the EPA guidelines specifies *'the shortest distance between the boundary of the area that may potentially be used by an industrial land use, and the boundary of an area that may be used by a sensitive land use'*. Given that any site plan endorsed in association with a development approval would specify the exact location of the proposed plant, it is considered appropriate that the buffer distance be calculated from the edge of the area that is actually developed. If this approach is taken, the proposal can easily satisfy the recommended 150m-250m buffer distance to the nearest residential boundary. The large setback provided between the proposed plant and the nearest residential boundary and the closed nature of the plant should prevent any adverse amenity impact in relation to odour for nearby properties. The built form of the plant is considered in keeping with the existing structures on site and will not unreasonably impact on nearby properties in respect to visual amenity.

It is noted that a review of the City's records indicate that there has not been an odour complaint lodged in relation to the site since early 2006 and that the proposed development is subject to a separate Works Approval from the Department of Environment and Conservation.

### Referrals

The application was referred to the Department of Water (DoW) for comment as the site is located in the Resource Zone where composting is considered an incompatible land use. The DoW initially objected to the proposal as they do not support any expansion of the existing composting facilities given the sites location on a public drinking water source protection area. Subsequent discussion between the applicant, DoW and the City resolved that the proposal



involves a modification to the existing composting processes to include the opportunity for an energy recycling function rather than an expansion of production. The DoW has provided revised advice to the City that they have no objection to the proposal subject to conditions – see recommendation above.

### **Conclusion**

In light of the above comments, the support of the DoW and the requirement for separate DEC approval, it is recommended that Council approve the application, subject to appropriate conditions.

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

#### **Growing City**

- Reduction in energy dependency and greenhouse gas emissions within our City.

#### **Environment & Sustainability**

- A community that uses resources in a sustainable manner.
- Community and businesses that are supported to reduce resource consumption, recycle and manage waste.

#### **Employment and Economic Development**

- To pursue high value employment opportunities for our residents.

### **Budget/Financial Implications**

Nil.

### **Legal Implications**

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

### **Community Consultation**

The application was not advertised for public comment on the basis that the proposal does not represent an expansion of the existing use in respect to production or capacity and given the closed nature of the facility should not result in any off-site amenity impacts.

### **Attachments**

- (1) Location Plan
- (2) Submitted Plans



### Advice to Proponents

The Proponent has been advised that this matter is to be considered at the 8 November 2012 Council Meeting.

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

Nil.

**14.9 (MINUTE NO 4907) (OCM 08/11/2012) - REVISED COCKBURN CENTRAL TOWN CENTRE DETAILED AREA PLAN INCORPORATING DESIGN GUIDELINES LOCATION: N/A OWNER: N/A APPLICANT: LANDCORP (PS/A/001) (A LEFORT) (ATTACH)**

#### RECOMMENDATION

That Council

- (1) approve the revised Detailed Area Plan for Cockburn Central Town Centre in accordance with Clause 6.2.15 of Town Planning Scheme No. 3;
- (2) advise the applicant accordingly; and
- (3) investigate the development of a TPS 3 provision and/or a Local Planning Policy to guide the collection and implementation of public art within the Cockburn Central Town Centre and/or across the entire City of Cockburn.

#### COUNCIL DECISION

MOVED Clr Y Mubarakai SECONDED Clr S Pratt that the recommendation be adopted.

**CARRIED 9/0**

### Background

The Cockburn Central Town Centre Detailed Area Plan (DAP) was first approved by Council on 12 April 2007 for the parcel of land adjacent to the Cockburn Central Rail Station on the western side of the freeway. Since then, Stage 1 of the town centre has been subdivided and



building construction on most lots has occurred or is nearing completion. Landcorp have obtained subdivision approval for Stage 2 of the town centre and have commenced civil works and are seeking interest from developers for lots in this stage. It was considered by Landcorp (and the City) an opportune time for the DAP to be revised, updated and improved.

Approval of the revised DAP is required to be considered by Council as it is outside the functions delegated to planning staff outlined in Delegation APD54 which provides for:

*'The authority to approve Detailed Area Plans, pursuant to clauses 6.2.15 and 6.2.16 of the City of Cockburn Town Planning Scheme No. 3, other than those for Cockburn Central (Town Centre) and Port Coogee Structure Plan Areas which are to be referred to Council for consideration.'*

### **Submission**

The revised Detailed Area Plan presented to Council for consideration contains the following key modifications:

1. Overall formatting, layout and minor administrative changes;
2. Introduction of a revised format for provisions incorporating a mandatory and desirable criteria;
3. Introduction of dwelling diversity requirements;
4. Introduction of public art provisions;
5. Introduction of vehicle parking provisions;
6. Introduction of detailed waste and construction management provisions;
7. Inclusion of Lots 23 and 24 into the DAP;
8. Deletion of the sustainability schedule; and
9. Introduction of a signage strategy.

Provisions relating to facade types, building heights and setbacks have not been significantly modified.

### **Report**

#### *Statutory Context*

Cockburn Central Town Centre is zoned 'Regional Centre' and is located in 'Development Area 23' (DA23) under the City of Cockburn's TPS 3 (TPS 3) and is also subject to a Local Structure Plan (LSP) which was adopted by Council on 12 October 2006. DA23 which is contained in Schedule 11 of TPS 3 covers the Cockburn Central Town Centre and Gateways precincts and makes provision for the adoption of a DAP pursuant to Clause 6.2.15 for any part of the development area as defined in the approved structure plan.



In accordance with the DA23 provisions and clause 6.2.15 of TPS 3, the DAP was approved to elaborate on the details of the LSP by providing clear built form guidelines for the development of lots within the Town Centre. Clause 6.2.15.8 allows the local government to vary a DAP provided the variations do not prejudice the intention of any related structure plan. The proposed modifications to the DAP will not prejudice the intention of the approved structure plan. Rather, they will provide further clarity and will result in better built form outcomes within the Town Centre.

The revised DAP has not been advertised to existing town centre residents as it is not considered to impact them. Landcorp is the landowner of the undeveloped stage 1 lots and all land within stage 2 to which the DAP applies.

### *Modifications*

#### Format/Layout

The revised DAP has been reformatted with a new layout. The new format has been designed to improve the readability and usability of the document. Text within the document has been rewritten, with some areas having been summarised and other areas expanded for clarification purposes.

#### Assessment Criteria

The revised DAP has introduced a form of assessment that includes mandatory development controls and design guidance which differs from the current version. This revised form of assessment provides clear and measurable mandatory controls and non-mandatory design guidance which simplifies the assessment process for planning staff and is therefore supported.

#### Residential Diversity

In accordance with the Multiple Dwelling requirements of the Residential Design Codes (R-Codes), provisions for dwelling diversity has been introduced in to the revised DAP. This consists of the provision of minimum 20% one bedroom dwellings and 40% two bedroom dwellings. This will lead to a good mix of households and more affordable housing product which will result in a more socially diverse and interesting town centre.



### Public Art

The revised DAP introduces a requirement for those developing land in the town centre to submit public art elements for the approval of the Design Guideline Review Panel along with the application for Design Guidelines Endorsement. The public art will then be integrated into the design of the building. The objective of this requirement is to develop a stimulating and creative urban environment that enhances the experience of the town centre; to ensure public art is an integral part of all buildings in the town centre; and to enhance and expand the quality of the built environment to improve amenity.

The Design Guidance also refers to developments considering a contribution for public art to the public realm on or adjacent to their lot to the value of 1% of total construction cost. Whilst this would be desirable, currently the City has a Policy (PSCS16), but not a scheme provision in place to enforce the collection of these funds and/or on how monies should be spent. Therefore, Council should consider whether to further investigate whether a scheme provision relating to public art should be developed so that a developer funded public art provision or cash-in-lieu scheme may be implemented. This could also apply elsewhere within the City.

### Vehicle Parking

The previously approved DAP does not contain vehicle parking provisions as they are provided for under the 'Cockburn Central Parking Strategy' which was adopted by Council in 2007 but has no statutory weight. The strategy provides parking ratios which differ to those contained in TPS 3 and which have been utilised for Stage 1. However, the City recommended to Landcorp to include the parking provisions in the DAP so that those involved in building design and development assessment have all provisions contained in one document. Inclusion of the parking standards in the DAP also provides statutory weight to the provisions rather than reliance on a strategic document.

Upon inclusion of vehicle parking standards in the DAP the parking provisions have been reviewed as demonstrated in the comparison table below:

Land Use	Cockburn Central Parking Strategy June 2007	Proposed Parking Standards DAP
Residential	1 bay per dwelling minimum 2 bays per dwelling maximum 1 bay for one & two	Dwellings < 75m <sup>2</sup> floor area - 0.75 bays per dwelling Dwellings >75m <sup>2</sup> floor area – 1 bay per

	bedroom dwellings 2 bays for three bedroom dwellings	dwelling Maximum of 2 bays per dwelling
Residential Visitor	10% total car parking bays (in addition to required bays)	10% total car parking bays (in addition to required bays)
Showroom	1 bay/50m <sup>2</sup> (expressed as 2 bays/100m <sup>2</sup> GFA)	1 bay/50m <sup>2</sup> gla
Retail/Shop	1 bay/25m <sup>2</sup> (expressed as 4 bays/100m <sup>2</sup> GFA)	1 bay/25m <sup>2</sup> gla
Office	1 bay/40m <sup>2</sup> (expressed as 2.5 bays/100m <sup>2</sup> )	1/50m <sup>2</sup> gla
Mixed Use (where built form facilitates Office or Retail)	1 bay/33.3m <sup>2</sup> (expressed as 3 bays/100m <sup>2</sup> )	1/33m <sup>2</sup> gla
Convertible Units	Based on residential use no further bays required on conversion from residential to commercial.	Based on residential use no further bays required on conversion from residential to commercial.
Service Bays	2 service bays/super lot.	2 service bays/super lot.
Restaurant/Cafe	No provision	1 per 6 seats/persons accommodated
Bicycles (secured) residential	1 space per 3 dwellings	1 space per 3 dwellings
Bicycles (visitors) residential	1 space per 10 dwellings	1 space per 10 dwellings
Bicycles (secured) commercial	1 space/200m <sup>2</sup> gla	10% total number of car parking bays (additional)
Motorcycles (and scooters)	No provision	5% total number of car parking bays (additional)

An explanation of the changes to the vehicle parking standards is as follows:

1. The residential car parking standards have been changed to be in accordance with the multiple dwelling standards contained in the R-Codes. The residential standards contained in the Cockburn Central Parking Strategy are more onerous than those in the R-Codes which is undesirable given Cockburn's Central's status as a Transit Oriented Development (TOD). The R-Code standard which has been included in the revised DAP provides a different rate depending on the size of the dwelling (rather than the number of bedrooms) and retains the maximum of 2 bays per dwelling. The minimum is reduced to 0.75 bays per dwelling for small dwellings (which may be single bedroom, studio or bedsit) and the visitor car parking remains the same;





2. Office car parking contained in the current strategy is 1/40m<sup>2</sup> which is more onerous than the TPS 3 office provision which is 1/50m<sup>2</sup>. This appears to have been an oversight and should be amended accordingly;
3. Introduction of a new standard for restaurant/cafe. The current strategy does not provide a separate standard and it is unclear whether the “retail” standard in the strategy should be used or the “restaurant” standard in TPS 3. The new standard introduced (1/6 seats/persons accommodated) is slightly less onerous than the standard in the scheme (which is 1/ 4 seats or 4 people accommodated). This is considered appropriate given the TOD nature of the development and that many restaurant patrons would comprise those living and /or working in the town centre;
4. Introduction of motorcycle (and/or scooter) bays which were are not provided for in the current strategy. Feedback has been received from various residents and visitors to the town centre that there is a distinct lack of motorcycle parking which is why the provision has been included. This also may assist in discouraging car dependence for residents, workers and visitors to the Town Centre.

### Signage

The revised DAP contains templates for marketing and advertising signage to ensure that signage is consistent and that the Cockburn Central Town Centre branding. This will contribute to the sense of place which will reinforce the town centre as a key destination within the City of Cockburn.

### Car Park Sites (Lots 23 & 24)

Lots 23 and 24 within the Town Centre are owned by the Landcorp and leased to the Public Transport Authority (PTA) for use a park and ride facilities associated with the rail station. The leases are approximately 5 years into the 20 year lease period and the vision for these sites is for development to occur on expiry of the leases. The acknowledgement of these sites as future development sites on the DAP is important. In response to this, these sites have been recognised on the Facade Type Masterplan with a reference that facade types are to be determined at a later date.

### Waste and Construction Management Provisions

In response to experiences during the implementation of stage 1, more detailed waste and construction management provisions have been introduced into the DAP. These provisions will provide applicants and



development assessment staff with a clear, detailed set of requirements which aim to minimise disruption to the town centre during construction and ensure that waste management is considered early in the design stage.

### Sustainability Schedule

The current DAP includes a sustainability schedule which in some cases contradicts the requirements of the National Construction Code. Also, many items in the schedule are not known at the planning application stage and are difficult for the City to mandate and enforce compliance (such as types of AAA rated dish washers and washing machines). The sustainability provisions in the modified DAP focus on higher level building design requirements including solar access, openings and ventilation, screens and awnings, shading and water conservation as well as a requirement for buildings to achieve a minimum 5 star NatHERS rating which supersedes the requirements of the current DAP.

### Conclusion

The revised DAP for the Cockburn Central Town Centre is supported for the following reasons:

1. The proposed assessment format incorporating mandatory and design guidance criteria provides more clarity for applicants and assessment staff.
2. The introduction of residential dwelling diversity provisions brings the document in line with the most recent version of the R-Codes and will assist in the provision of different dwelling sizes to suit a variety of residents and household types.
3. The inclusion of vehicle car parking and the TPS 3 use class permissibility into the DAP provides all design and assessment requirements in one integrated document, provides statutory weight in lieu of the current parking strategy which has not been adopted as a planning instrument and brings the DAP in accordance with the parking requirements of the R-Codes for multiple dwellings.
4. The introduction of public art provisions will add to the social fabric of the town centre and provide an impetus for the City to develop a comprehensive policy and/or amend TPS 3 to effect implementation.



5. Modifications to the signage provisions ensure that marketing and advertising signage is cohesive and will assist in branding of the town centre.
6. Deletion of the sustainability schedule which was considered to potentially conflict with requirements of the National Construction Code and included provisions which were unknown during the planning phase.
7. The general building design provisions (e.g. heights, setbacks) and facade types have not substantially changed as these are considered to have achieved good built form outcomes in stage 1.
8. The modifications will result in better built form outcomes for the remaining stage 1 lots and for the future stage 2 lots and will not negatively affect current town centre residents or other affected stakeholders.

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

#### **Growing City**

- Diversity of housing to respond to changing needs and expectations.

#### **Community & Lifestyle**

- Community environments that are socially cohesive and embrace diversity.

#### **A Prosperous City**

- Sustainable development that ensures Cockburn Central becomes a Strategic Regional Centre.

#### **Moving Around**

- Infrastructure that supports the uptake of public transport and pedestrian movement.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

N/A

### **Community Consultation**

The revised Detailed Area Plan has not been subject to community consultation. The proposed changes to the DAP are not considered to



impact on the amenity of any nearby resident and Landcorp owns all the land within the land subject to the changes.

**Attachment(s)**

1. Revised Detailed Area Plan

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

The Proponent(s) has been advised that this matter is to be considered at the 8 November 2012 Council Meeting.

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

Nil.

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

**15.1 (MINUTE NO 4908) (OCM 08/11/2012) - LIST OF CREDITORS PAID - SEPTEMBER 2012 (FS/L/001) (N MAURICIO) (ATTACH)**

**RECOMMENDATION**

That Council receive the List of Creditors Paid for September 2012, as attached to the Agenda.

**COUNCIL DECISION**

MOVED Clr Y Mubarakai SECONDED Clr S Pratt that the recommendation be adopted.

**CARRIED 9/0**

**Background**

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

**Submission**

N/A



**Report**

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

**Strategic Plan/Policy Implications****Leading & Listening**

- Effective and constructive dialogue with all City stakeholders.
- A responsive, accountable and sustainable organisation.

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

List of Creditors Paid – September 2012.

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

N/A

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

Nil.

**15.2 (MINUTE NO 4909) (OCM 08/11/2012) - STATEMENT OF FINANCIAL ACTIVITY AND ASSOCIATED REPORTS - SEPTEMBER 2012 (FS/S/001) (N MAURICIO) (ATTACH)**

**RECOMMENDATION**

That Council adopt the Statement of Financial Activity and associated reports for September 2012, as attached to the Agenda.



**COUNCIL DECISION**

MOVED Clr Y Mubarakai SECONDED Clr S Pratt that the recommendation be adopted.

**CARRIED 9/0**

**Background**

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

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

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

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

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

Financial Management Regulation 34(5) requires Council to annually set a materiality threshold for the purpose of disclosing budget variance details. To this end, Council has adopted a materiality threshold variance of \$100,000 for the 2012/13 financial year.

**Submission**

N/A

**Report**

**Closing Funds**

The City's closing municipal position of \$71.9M was \$11.1M higher than the revised YTD budget target of \$60.8M at the end of September



2012. The revised budget closing funds position (currently showing a \$134k surplus) will fluctuate throughout the year as it is impacted by various Council decisions and minor system adjustments and corrections. Details of these are outlined in Note 3 to the financial report.

### Operating Revenue

Operating revenue at \$83.9M is tracking ahead of budget by \$2.6M. The key contributor to this result is \$1.8M of additional revenue from Waste Services fees & charges. Rates and interest earnings are collectively \$0.4M ahead of budget targets and Human Services grant funding is also \$0.5M ahead of the budget.

Details of material variances within the service units are disclosed in the Agenda attachment.

### Operating Expenditure

Operating expenditure (including depreciation) is tracking under budget by an overall \$3.0M.

Financial Services are \$0.5M under budget due to the final instalment of insurance premiums not yet received at month end. Parks and Environment Services have a current underspend surplus of \$0.7M.

Waste Services is over budget by \$0.6M due to an additional accrual of landfill levy.

Details of material variances within the service units are disclosed in the agenda attachment.

The following table shows operating expenditure budgetary performance at a nature and type level:

Nature or Type Classification	Actual	YTD Amended Budget	Variance to Budget
	\$	\$	%
Employee Costs	\$9.09M	\$9.64M	5.7%
Materials and Contracts	\$6.81M	\$8.34M	18.3%
Utilities	\$0.85M	\$1.14M	25.4%
Insurances	\$1.00M	\$1.47M	31.7%
Other Expenses	\$2.64M	\$2.22M	-19.3%
Depreciation (non cash)	\$5.15M	\$5.54M	7.2%

Other expenses are impacted by the additional accrual of landfill levy.



### Capital Expenditure

The City's capital budget has incurred expenditure of \$10.1M versus the YTD budget of \$24.6M, resulting in a ytd variance of \$14.5M.

Building works in progress contributes \$6.8M and Roads works in progress contributes \$3.3M to the variance.

This demonstrates that the cash flow budgets for major projects are not very accurate and the Engineering division will be revising these in the coming months.

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

### Capital Funding

Settlement of land sales is \$15.7M behind budget targets, comprising mainly the sale of lot 9001 Ivankovich Ave (\$11.9M balance owing) and Grandpre Crescent development (\$2.1M balance still to settle).

Grants and developer contributions were collectively \$1.1M below YTD targets.

Loan funds of \$1.0M are still to be raised causing a \$0.75M variance at September month end. These will be raised in the second half of the year as it is expected lending rates might fall further.

Transfers to and from Reserves are \$15.0M and \$10.8M behind budget respectively. These are correlated with capital underspending and reduced capital income from land sales.

### Cash & Investments

Council's cash and current/non-current investment holdings increased to \$113.2M (from \$99.8M at the end of August). This has risen in line with the collection of property rates and charges.

\$58.9M of this total cash and investment holding represents the City's cash reserves.

Another \$5.4M of the cash position represents funds held for other restricted purposes such as bonds, restricted grants and capital infrastructure contributions. The remaining balance of \$48.9M represents the cash and investment component of the City's working capital, available to fund ongoing operations and the capital program.





The City's investment portfolio made an annualised return of 5.37% for the month, down from 5.47% the previous month. The benchmark BBSW performance for September was 3.88%.

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

Whilst the Reserve Bank has reduced interest rates over the past several months by 100 basis points the City's investment strategy of rolling over TD's for six monthly terms has somewhat buffered the City's investment performance from significant and sudden falls. The 2012/13 interest budget was premised on a reduced investment earnings capacity as interest rates are likely to continue facing downward pressure and the balance of funds to invest will diminish as a result of the large capital works budget.

### Description of Graphs and Charts

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

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

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

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

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

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

#### **Leading & Listening**

- A responsive, accountable and sustainable organisation.



- Manage our financial and infrastructure assets to provide a sustainable future.
- A culture of risk management and compliance with relevant legislation, policy and guidelines

**Budget/Financial Implications**

Material variances identified of a permanent nature (ie. not due to timing issues) may impact on Council's final budget position (depending upon the nature of the item) and may need to be addressed at the mid-year budget review.

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

Statement of Financial Activity and associated reports – September 2012.

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

N/A

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

Nil.

**15.3 (MINUTE NO 4910) (OCM 08/11/2012) - 2011/12 CARRIED FORWARD WORKS AND PROJECTS & CLOSING MUNICIPAL FUNDS (FS/B/001) (N MAURICIO) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) adopt the post audit Statement of Financial Activity and associated reports for June 2012;



- (2) amend the 2012/13 budget by adding the Carried Forward Works and Projects as set out in the schedule attached to the agenda and summarised in the following table:

Capital Expenditure	20,252,187
Operating Expenditure	207,974
Transfers to Reserves (Saving)	13,897,727
Capital Income – Sale of Asset Proceeds	(14,112,727)
Transfers from Reserves (Funding)	(14,262,544)
Grants & Contributions	(3,442,888)
Restricted Funds	(19,685)
<b>Municipal Funding required for carried forwards*</b>	<b>(2,520,044)</b>

- (3) amends the 2012/13 budget by bringing in the 2011/12 closing municipal funds and allocating these as follows:

Closing funds as per June 12 Statement of Financial Activity (budget surplus)	6,355,912
Less: Municipal funding required for carried forwards*	(2,520,044)
Less: Transfer to Community Infrastructure Reserve	(3,835,868)
Net Impact on budget position	Nil

#### **COUNCIL DECISION**

MOVED Cllr Y Mubarakai SECONDED Cllr S Pratt that the recommendation be adopted.

**CARRIED 9/0**

#### **Background**

When Council adopted its Budget for the 2012/13 financial year at the June meeting, carried forward works and projects were not included as they were unknown at that time. Post 30 June 2012 end of financial year processing and external audit activities have now been concluded for the 2011/12 year, allowing the closing municipal position and value of carried forward works and projects to be declared.

#### **Submission**

N/A



## Report

The interim statement of financial activity presented to the August Council meeting showed closing municipal funds of \$6,387,207. Now that end of financial year processing has been completed and the final figures calculated, the closing funds position has changed to \$6,355,912 (a net reduction of \$31,295). This position is consistent with the figures included in the audited annual financial statements presented to the October meeting of the Audit & Strategic Finance Committee.

The closing funds incorporate the municipal funding requirement for carried forward works and projects. A schedule of the carried forwards is attached to the Agenda, showing a net municipal funding requirement totalling \$2,520,044.

This leaves an uncommitted balance of \$3,835,868 to be addressed. As per Council policy SC34 Budget Management, surplus closing municipal funds identified at the end of each financial year are to be transferred to reserves or other financial contingencies with the objective of attaining the target values set. Accordingly, it is proposed that this amount be transferred into the Community Infrastructure Reserve.

Council is required to adopt the carried forward works and projects as amendments to the 2012/13 budget. The carried forward works and projects include capital and operating expenditure totalling \$20,460,161. These are funded from reserves, grants and contributions, in addition to municipal funding.

Whilst there are 153 projects carried forward, 38 of these comprise 96% of the total expenditure value and the top ten comprise 61% of the value. Most of the larger projects represent works in progress as they are taking longer to deliver due in part to resourcing issues and regulatory impacts.

Also carried forward are outstanding asset sales totalling \$14,112,727, comprised primarily of land sales and some plant trade-ins. This includes the \$11.85M balance owing on the sale of lot 9001 Ivankovich Ave for \$12.1M. These funds are channelled into the Land Development and Investment Fund Reserve as per Council's Land Development Strategy.

## Strategic Plan/Policy Implications

### Leading & Listening

- A responsive, accountable and sustainable organisation.



- Manage our financial and infrastructure assets to provide a sustainable future.
- A culture of risk management and compliance with relevant legislation, policy and guidelines

**Budget/Financial Implications**

The 2012/13 Budget will be amended to include \$6,355,912 of opening funds brought forward from 2011/12 and the carried forward works and projects from 2011/12.

**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

1. Statement of Financial Activity and associated reports – June 2012.
2. 2011/12 Schedule of Carried Forwards.

**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 (MINUTE NO 4911) (OCM 08/11/2012) - PROPOSED NATURAL AREA MANAGEMENT STRATEGY 2012 - 2022 (1) (HS/E/004) (C. BEATON) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) adopt the proposed Natural Area Management Strategy (NAMS) 2012 – 2022, as shown in the attachment to the Agenda;



- (2) prepare the 2013/14 budget submission on the basis of the financial model outlined at option 2; and
- (3) consider and present the long term funding implications of the Natural Area Management Strategy in the Long Term Financial Plan currently being prepared.

**COUNCIL DECISION**

MOVED Clr Y Mubarakai SECONDED Clr S Pratt that the recommendation be adopted.

**CARRIED 9/0**

**Background**

Presently the City of Cockburn has management responsibility for more than 82 separate bushland reserves, many of which contain wetlands. The total area contained within reserves is approximately 1091 hectares. In line with Councils Bushland Conservation policy it is expected that more natural areas will become the responsibility of Council as green field development continues.

A Natural Area Management Strategy (NAMS) is required to ensure that the Cities natural areas are managed in a manner that will maintain and enhance biodiversity, ecological function and ensure that these areas are available for future generations to enjoy. The need for a NAMS is further justified due to the expected impacts of climate change and the need to build resilience within our natural areas by addressing existing threats.

**Submission**

N/A

**Report**

The Natural Area Management Strategy outlines an approach to manage the Cities natural areas and to build and enhance Council's capacity to effectively manage these areas for the conservation of biodiversity and ecological function.



The management approaches identified within the NAMS will enhance the overall condition of the existing bushland with the ultimate long term goal of upgrading the condition of all of Councils natural areas to a minimum vegetation condition rating of good or better.

The main threats to our natural areas are considered to be environmental weeds, feral animals, illegal access, illegal rubbish dumping, increased fire frequency, disease such as dieback, untreated storm water and climate change.

A series of management actions have been identified to address each of these threats and future funding requirements have been noted.

Implementation of this strategy will provide long-term benefits to the City through the following areas:

- Economic benefits: The cost of managing existing issues will continue to grow if left unchecked and therefore, it is more cost-effective to implement actions in the short and medium rather than long term.
- Increased public amenity: Through enhancement of bushland condition and provision of access points and trails.
- Meet public expectations for bushland management: Through more intensive maintenance regimes.
- Conservation of biodiversity by the protection and enhancement of natural areas.
- Maintain genetic diversity: Through the creation of bushland corridors and enhancement of habitat.
- Offset greenhouse gas emissions: Revegetating degraded areas captures and stores carbon.
- Retain the uniqueness of the City of Cockburn: By retaining, conserving and enhancing our unique natural areas.
- Reducing bushfire risks: By reducing the amount of weeds and thus the fuel loads.

A reduction in bushland condition would be deleterious to native fauna and flora, suburban amenity, release greenhouse gases and not be aligned with community expectations.

It is important that our natural areas are prioritised for management and allocated appropriate resources. The NAMS outlines a prioritisation



system which can be used to evaluate the importance of our natural areas to ensure that resources are expended in a cost effective manner.

Three funding options have been considered the primary difference being the length of time to reach the desired funding per hectare calculated to achieve the goal of having all of the bushland in the City reach a vegetation condition rating of good or better.

Option 1 proposes a 30 year time frame, Option 2 a 35 year timeframe and Option 3 a 40 year timeframe.

Each option is similar with the main difference being the years in which additional bushland maintenance teams are employed.

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

#### **Governance Excellence**

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

#### **Natural Environmental Management**

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

### **Budget/Financial Implications**

Funding Option 1: Three additional bushland maintenance team employed in 2013/14, 2016/17 and 2020/21 at an estimated increase in costs of \$957,390 over 10 years.

Funding Option 2: Two additional bushland maintenance teams employed in 2016/17 and 2020/21 as proposed in the Plan for the District 2010-2020 at an estimated cost of \$685,965 over 10 years.

Funding Option 3: One additional bushland maintenance team employed in 2019/20 at an estimated cost of \$370,125 over 10 years.

These costs do not consider general forecast cost increases.

### **Legal Implications**

N/A





**Community Consultation**

N/A

**Attachment(s)**

Natural Area Management Strategy

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

N/A

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

Nil.

**16.2 (MINUTE NO 4912) (OCM 08/11/2012) - THE STATE OF SUSTAINABILITY REPORT 2012 (HS/E/003) (H JESTRIBEK) (ATTACH)****RECOMMENDATION**

That Council adopt the State of Sustainability Report 2012.

**COUNCIL DECISION**

MOVED Clr Y Mubarakai SECONDED Clr S Pratt that the recommendation be adopted.

**CARRIED 9/0****Background**

In 2011, Council adopted its inaugural *State of Sustainability (SoS) Report*, which enabled the City to transparently communicate its progress towards sustainability. This report is the City's expression of its key areas of focus in sustainability, *Governance, Society, Economy and Environment*, reflecting a TBL+1 system of reporting.

As part of the original adoption, Council requested that the report be reviewed annually to ensure results are being achieved and Key Performance Indicators remain current.



On March 8 2012, Council adopted the City's Sustainability Strategy, which, guided by Policy SC37, is the overarching document for sustainability in the City to 2016. On June 14 2012, Council adopted the Sustainability Action Plan (SAP). The SoS is the annual reporting mechanism through which progress toward achieving the SAP can be transparently communicated to the Community.

The next stage will be to present an updated SAP to Council in March 2013, to inform the next SoS report.

### **Submission**

N/A

### **Report**

The SoS Report aligns with section 1.3 (3) of the *Local Government Act 1995* and the City's corporate approach to strategic planning and reporting. Because this report is aligned to the 11/12 financial year, it is relevant to the City's Corporate Strategic Plan 2006 – 2016.

The SoS Report is in line with the City's amended Policy SC37 and its definition of sustainability as adopted by Council at its meeting on 13 October 2011. The City's definition of sustainability is:

*Pursuing governance excellence to meet the needs of current and future generations through integration of the environment, society and economy.*

The SoS Report is structured along the four sustainability themes of Environment, Social and Economic plus Governance, which reflects a modern triple bottom line plus one (TBL+1) approach to sustainable development.

The KPI's in the Report were developed in conjunction with the Executive and Strategic Business Managers and directly relate to the sustainability principles contained in the Sustainability Strategy.

The report also uses the traffic light symbols to provide a visual snapshot of progress towards achieving a particular KPI.

Green indicates that the City is on track in achieving its stated KPI; Amber indicates that while the City is making progress, more work is needed; and Red indicates that the City is yet to make progress in achieving a particular KPI.

A summary of the KPIs under the four TBL+1 headings and main achievements are provided below.



Governance

The SoS reports on 19 KPIs that measure the City's current progress towards achieving Governance Excellence. The City is making progress toward achieving 17 of its 19 KPIs in this area (12 are complete.)

Environment

The SoS reports on 14 KPIs that measure the City's current progress towards achieving Environmental Management. The City is making progress in achieving 9 of its 14 KPIs in this area (5 are complete).

Society

The SoS reports on 16 KPIs that measure the City's current progress towards achieving a more socially equitable, diverse and inclusive community. The City is making progress toward achieving 16 of its 17 KPIs in this area (11 are complete).

Economy

The SoS reports on 16 KPIs that measure the City's current progress towards achieving Financial Management. The City is making progress in achieving 11 of its 16 KPIs in this area (Five are complete).

**Strategic Plan/Policy Implications****Growing City**

- To grow our City in a sustainable way by: using land efficiently, protecting the natural environment and conserving biodiversity.

**Infrastructure**

- Community facilities that meet the diverse needs of the community now and into the future.

**Environment & Sustainability**

- To protect, manage and enhance our natural environment, open spaces and coastal landscapes.

**Moving Around**

- An integrated transport system which balances environmental impacts and community needs.

**Budget/Financial Implications**

N/A



**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

1. State of Sustainability Report 2012.

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

N/A

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

Nil.

**17. COMMUNITY SERVICES DIVISION ISSUES**

**17.1 (MINUTE NO 4913) (OCM 08/11/2012) - 2011/12 ANNUAL REPORT ON RECONCILIATION ACTION PLAN (CR/M/113) (G BOWMAN) (ATTACH)**

**RECOMMENDATION**

That Council receive the Reconciliation Action Plan Progress Report for 2011/12.

**COUNCIL DECISION**

MOVED Clr Y Mubarakai SECONDED Clr S Pratt that the recommendation be adopted.

**CARRIED 9/0**

**Background**

*At the Ordinary Council Meeting held in May 2011 Council resolved to:*



- (1) *adopt the City of Cockburn Reconciliation Action Plan, as attached to the Agenda; subject to confirmation of the spelling of the word "Nyungar" by the Aboriginal Reference Group;*
- (2) *ensure that any financial implications of the Plan are included for consideration in Council's Strategic and Annual Budget planning documents; and*
- (3) *require a progress report to be received by Council in July 2012.*

### **Submission**

N/A

### **Report**

Following the Council decision in May 2011, the City commenced implementation of the Reconciliation Action Plan (RAP) 2011 – 2013.

The City also confirmed with the Aboriginal Reference Group the spelling of the word "Nyungar" contained within the Reconciliation Action Plan which was the preferred spelling by the majority of the members.

### The Reporting Process

Reconciliation Australia is a national not-for-profit community organisation that assists other organisations Australia-wide to develop Reconciliation Action Plans (RAP's), and is the designated body which oversees this national RAP development and reporting process.

There is a requirement by Reconciliation Australia that an annual report be provided to them on the progress of each organisation's RAP in achieving the identified measurable targets.

City of Cockburn was advised in 2012 that it would be able to complete an Annual Impact Measurement Report for Reconciliation Australia, instead of an annual progress report, as previously required. By doing this, organisations also contribute to Reconciliation Australia's commitment to measure and report on the collective impact of RAPs through the Annual RAP Impact Measurement Report.

The RAP Impact Measurement Questionnaire, which the City completed, has been designed to provide a simple, transparent, and time-effective way for RAP partners to report. Through the Questionnaire, Reconciliation Australia (RA) collects both quantitative and qualitative data relating to the three RAP categories, Relationships, Respect, and Opportunities, and covering a number of



key indicators, for example: partnerships with Aboriginal and Torres Strait Islander organisations, the implementation of cultural awareness training, and Aboriginal and Torres Strait Islander employment.

The City's Impact Measurement Report was sent to Reconciliation Australia in July 2012. It is included here as an attachment and will also be made available to the public on the City's website.

### Summary of Achievements in first year of the RAP

The City of Cockburn was the first Local Government in the Perth Metro area to complete and adopt a Reconciliation Action Plan (RAP) under the present system overseen by Reconciliation Australia. It is now into the second year of the City's RAP and will be reviewing and developing a new 2 year RAP within this financial year for 2013-15.

Currently 80% of all Actions outlined in the RAP have been achieved so it is realistic to expect that 100% will be completed by June 2013 as planned.

The requirements by Reconciliation Australia in approving each RAP is that it is realistic and achievable, so that organisations can be accountable and taking clearly identified steps forward. The City of Cockburn is on track to achieve all actions for its first RAP.

Some of the more significant and tangible achievements of the Plan are listed below:

1. **Steering Group and administrative support**  
A casual administrative assistant was required to support the functions of the RAP Steering Group, follow up on RAP Actions with other staff and assist the Aboriginal Community Development Officer and the Family Services Manager to report progress on the RAP. This was for 2 hours/week.
2. **Cultural Bus Tour**  
These community cultural tours are held in Reconciliation Week, May, each year. In 2011 a bus tour was organised in partnership with other Local Government Authorities and the Walyalup Reconciliation Group, to visit local Aboriginal heritage sites, with about 60 people attending. A similar event was held in May 2012, once again with the same partners, and similar attendance. Positive feedback has been received from these events.
3. **Printing of Aboriginal History Brochure**  
This was completed, as well as ensuring the booklets are distributed generally to the public via front counter and at



events, there is also a strategy to deliver to schools in partnership with the District Department of Education, who will train school staff in the use of the history booklets in the classroom.

4. Installation of 4 flag poles at Administration Building  
This was completed in time for Naidoc Week 2012, and the Aboriginal and Torres Strait Islander flags now fly daily, as well as being raised again in Flag Raising Ceremonies.
5. Feasibility Study for an Aboriginal Cultural Centre  
Contingent upon matching municipal funds from a TQUAL grant application. The \$15,000 grant funding was achieved and the feasibility study completed, with recommendations now being discussed through consultation with a range of people and community.

See attachments for detail of the actions achieved and on-going progress.

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

#### **Infrastructure**

- Facilities that promote the identity of Cockburn and its communities.

#### **Community & Lifestyle**

- The significance and richness of our local Indigenous people and diverse multicultural community will be recognised and celebrated.

#### **Leading & Listening**

- Effective and constructive dialogue with all City stakeholders.

Policy SC45 'Flying of Flags – City of Cockburn Administration Building' refers.

Policy SC44 'Acknowledgement of Traditional Owners' refers.

### **Budget/Financial Implications**

As contained in the Plan, the net cost to Council for 2011/12 financial year was \$31,200 which is made up of the following items:

- \$3,500 RAP Steering Group and administrative support
- \$2,000 Cultural Bus Tour
- \$3,000 printing of Aboriginal History Brochure
- \$4,700 installation of 4 flag poles at Administration Building
- \$15,000 Feasibility Study for an Aboriginal Cultural Centre with Matching grant funds of \$15,000
- \$3000 Aboriginal Student Award



**Legal Implications**

N/A

**Community Consultation**

N/A

**Attachment(s)**

1. City of Cockburn Reconciliation Action Plan 2011-2013 Impact Measurement Questionnaire and Report 2012.
2. RAP Actions 2011/12 update.

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

N/A

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

Nil.

**17.2 (MINUTE NO 4914) (OCM 08/11/2012) - AMENDMENT TO CITY OF COCKBURN LOCAL LAW - CONSTRUCTION OF FIRE BREAKS (RS/J/002) (R AVARD) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) pursuant to sec.3.12 of the Local Government Act, 1995, make a local law to amend the City of Cockburn (Local Government Act) Local Law, 2010, by repealing Part IIA – Firebreaks and Related Matters;
- (2) give State-wide public notice stating that:
  1. A copy of the proposed local law may be inspected or obtained at any place specified in the notice.
  2. Submissions about the proposed local law may be made to the City before the day specified in the notice, being not less than 6 weeks after the notice is given.
- (3) provide a copy of the proposed local law and notice to the Minister for Local Government and Minister for Emergency Services;





- (4) prior to further consideration of the amendment by Council, refer the matter to the Bushfire Reference Group and the Banjup Residents Group for consideration and comment; and
- (5) further consider the content of the annual firebreak notice for the 2013/14 period following the forthcoming fire season.

#### **COUNCIL DECISION**

MOVED Clr Y Mubarakai SECONDED Clr S Pratt that that Council adopt the recommendation subject to including the following additional clause (6):

- (6) advertise for public comment for a period of 6 weeks the proposed City of Cockburn Fire Order prior to a final decision on the Fire Order being made by Council.

**CARRIED 9/0**

#### **Reason for Decision**

Before making a determination, Council needs to ensure that all stakeholders have the opportunity to see, understand and comment on any proposed changes.

This additional point will give residents more time to respond and ensures that appropriate community consultation is undertaken.

#### **Background**

Council at its meeting of 13 September, 2012, resolved to defer the decision on the firebreak period applicable to properties in the District to enable further consultation between residents, Council and Cockburn Bushfire Reference Group.

Submissions were received from the Banjup Residents Group and Mr Stephen Dobson in a private capacity and have been previously considered by Council. The Banjup Residents Group also presented a delegation to the September, 2012, meeting of Council on this matter.

Subsequent to the Council decision of September, 2012, elected members on the Bushfire Reference Group and officers of the City met



with representatives of the Banjup Residents Group to seek to come to an understanding of the concerns of the Group and a means by which these concerns could be addressed.

The matter was again considered by the Cockburn Bushfire Reference Group at a meeting on 9 October, 2012, where the general intent of the proposed amendments was again supported.

### **Submission**

N/A

### **Report**

It is evident that changes to local laws is a lengthy and complex process that takes some time which mitigates against making expedient changes that may be necessary. The consultation to date with stakeholders has demonstrated a great deal of difference in views on firebreak periods and requirements.

Section 33 of the Bush Fires Act provides for two provisions available to local governments in regards to matters relating to dates by which firebreaks and fire mitigation measures on land within the district must be completed and maintained.

These are:

1. Local governments may make local laws in regards to dates by which firebreaks and fire mitigation measures on land within the District must be completed and maintained.
2. Local governments may adopt through Council and publish a notice relating to dates by which firebreaks and fire mitigation measures on land within the District must be completed and maintained.

It is proposed that given the time taken and the complexity of changing local laws, that Council adopt option 2 above which will require the City of Cockburn to repeal part IIA – Firebreaks and Related Matters in the *City of Cockburn (Local Government Act) Local Law, 2010*.

**Purpose:** To repeal the requirement to make notices in regards to dates by which firebreaks and fire mitigation measures on land within the district must be completed and maintained from *City of Cockburn (Local Government Act) Local Law, 2010*.



**Effect:** To create the power for notices of dates by which firebreaks and fire mitigation measures on land within the District must be completed and maintained under sec 33 of the *Bush Fires Act, 1954*, which allows Council to adopt bush fire control and prevention notices without creating and amending local laws.

### *Summary*

The City of Cockburn Local Laws, 2010, part IIA – Firebreaks and Related Matters, stipulates the dates by which firebreaks and fire mitigation measures on land within the District must be completed and maintained.

Therefore any changes that are adopted by Council in regards to this matter could create inconsistency between the annual fire break notice issued by Council and the local law. The Bush Fires Act section 33 (5d) provides that where provisions of local laws made under this section are inconsistent with those of a notice given under section 33(1), 34 or 35, the provisions of that notice shall, to the extent of the inconsistency, prevail.

It is therefore considered good practice to repeal the City of Cockburn local laws, 2010, Part IIA – Firebreaks and Related Matters, in order to let the provisions of the Bush Fires Act prevail. This will allow for Council to be able to adopt notices in regards to the dates by which firebreaks and fire mitigation measures on land within the District must be completed and maintained without confusion and to amend these, as required, when necessary, by Council resolution.

In the mean time Officers will confer with the Bushfire Reference Group and Banjup Residents Group and refer this matter to Council before the start of the 2013/2014 fire break period. If considered necessary, a supplementary policy may be formulated by Council to provide guidance on bush fire control and prevention.

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

#### **Growing City**

- To grow our City in a sustainable way by: using land efficiently, protecting the natural environment and conserving biodiversity.

#### **Community & Lifestyle**

- Safe communities and to improve the community's sense of safety.

#### **Leading & Listening**

- A responsive, accountable and sustainable organisation.



**Budget/Financial Implications**

N/A

**Legal Implications**

The *Local Government Act, 1995*, section 3.12, states the requirements to be followed for proposed amendments to local laws.

**Community Consultation**

The amendment to a local Law requires public advertising and notification. In addition, the Bushfire Reference Group and the Banjup Residents Group will be directly consulted on the proposal.

**Attachment(s)**

Proposed amendment – City of Cockburn (Local Government Act) Amendment Local Law 2012 – Firebreaks.

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 8 November 2012 Council Meeting.

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

Nil.

**18. EXECUTIVE DIVISION ISSUES**

Nil

**19. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

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

Nil



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

Nil

**22 (OCM 08/11/2012) - MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE**

**1. Clr S Portelli – Policy AEW1 ‘Street Verge Improvements’**

That our verge policy be reworded to make clear that Cockburn wants a street friendly and safe environment. User friendly illustrations showing appropriate and not appropriate verges.

Please investigate and report back the proposed action by the next DAPPS meeting in January 2013.

Note

Clr Portelli provided comprehensive information which will be transcribed and provided to the relevant department for consideration.

**2. Clr Houwen – Latitude 32/Wattleup Area**

That the City investigates and reports back on any adverse or potentially adverse impacts caused by the rapid expansion of the hard stand areas in the Latitude 32/Wattleup area.

**3. Clr Smith – Dog Exercise Park**

That Council prepare a report on a dog exercise park. Since 2005, residents have been asking for this. I believe in 2005 there was a proposal supported by Council but with objections so this did not go ahead. In the report I would like the following:

- a. Suitable sites
- b. Costings
- c. Time frames for construction
- d. Community consulted.

**4. Clr Smith – Fire Prevention Annual Notice**

It is understood that Fire Prevention Officers are ignoring the clearance that has to be made around the house to comply with the notice. I would like to know:

- a. Why this is being ignored?
- b. What the repercussions are for the City should there be a substantial fire?



- c. If they are being ignored for valid reasons, can there be amendments made to this notice for clearance areas around the homes?

**23. CONFIDENTIAL BUSINESS**

**23.1 (MINUTE NO 4915) (OCM 08/11/2012) - MINUTES OF CHIEF EXECUTIVE OFFICER PERFORMANCE AND SENIOR STAFF KEY PROJECTS APPRAISAL COMMITTEE MEETING - 25 OCTOBER 2012 (CC/P/098) (S CAIN) (ATTACH)**

**RECOMMENDATION**

That Council receive the Minutes of the Chief Executive Officer Performance and Senior Staff Key Projects Appraisal committee dated 25 October 2012 as attached to the Agenda, and adopt the recommendations contained therein.

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

**COUNCIL DECISION**

MOVED Cllr T Romano SECONDED Cllr Y Mubarakai that the recommendation be adopted.

**CARRIED BY ABSOLUTE MAJORITY OF COUNCIL**

**9/0**

**Background**

The Chief Executive Officer Performance and Senior Staff Key Projects Appraisal Committee met on 25 October 2012. 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

### Leading & Listening

- A skilled and engaged workforce.
- A culture of risk management and compliance with relevant legislation, policy and guidelines

## 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 25 October 2012 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 the 8 November 2012 OCM.

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

Committee Minutes refer.



**24 (MINUTE NO 4916) (OCM 08/11/2012) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

**RECOMMENDATION**

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

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

**COUNCIL DECISION**

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

**CARRIED 9/0**

**25 (OCM 08/11/2012) - CLOSURE OF MEETING**

The Meeting closed at 9.21 p.m.

**CONFIRMATION OF MINUTES**

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

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

