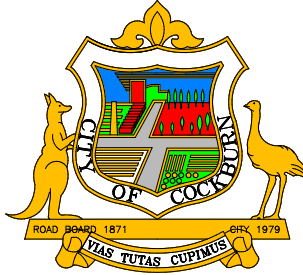


# **CITY OF COCKBURN**



**ORDINARY COUNCIL**

**AGENDA PAPER**

**FOR**

**THURSDAY, 9 FEBRUARY 2017**

# CITY OF COCKBURN

## SUMMARY OF AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON THURSDAY, 9 FEBRUARY 2017 AT 7:00 PM

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	Page
1. DECLARATION OF MEETING .....	1
2. APPOINTMENT OF PRESIDING MEMBER (IF REQUIRED) .....	1
3. DISCLAIMER (TO BE READ ALOUD BY PRESIDING MEMBER) .....	1
4. ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (BY PRESIDING MEMBER) .....	1
5. APOLOGIES AND LEAVE OF ABSENCE .....	1
6. WRITTEN REQUESTS FOR LEAVE OF ABSENCE .....	1
7. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....	1
8. PUBLIC QUESTION TIME .....	1
9. CONFIRMATION OF MEETING .....	1
9.1 (OCM 09/02/2017) - MINUTES OF THE ORDINARY COUNCIL MEETING - 8/12/2016 .....	1
10. DEPUTATIONS .....	2
11. PETITIONS .....	2
12. BUSINESS LEFT OVER FROM THE PREVIOUS MEETING (IF ADJOURNED) .....	2
13. DECLARATION BY MEMBERS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS PAPER PRESENTED BEFORE THE MEETING .....	2
14. COUNCIL MATTERS .....	2
14.1 (OCM 09/02/2017) - 2017 LOCAL GOVERNMENT ELECTIONS (085/007) (D GREEN) .....	2
14.2 (OCM 09/02/2017) - REVIEW OF WARD BOUNDARIES AND COUNCILLOR REPRESENTATION (089/004) (D GREEN) (ATTACH) .....	5
14.3 (OCM 09/02/2017) - MID-YEAR REVIEW OF THE ANNUAL BUSINESS PLAN 2016/17 (021/002) (M TOBIN) (ATTACH) .....	16
15. PLANNING AND DEVELOPMENT DIVISION ISSUES .....	19
15.1 (OCM 09/02/2017) - DEVELOPMENT ASSESSMENT PANELS - NOMINATION OF TWO (2) MEMBERS AND TWO (2) ALTERNATE MEMBERS BY COUNCIL TO THE SOUTH WEST METROPOLITAN AREA JOINT DEVELOPMENT ASSESSMENT PANEL (052/002) (L JAKOVCEVIC) (ATTACH) .....	19

15.2	(OCM 09/02/2017) - AMENDMENTS TO HEALTH (ASBESTOS) REGULATIONS TO ALLOW FOR INCREASED PENALTIES AND NEW POWERS TO ISSUE INFRINGEMENTS (139/018) (N JONES) (ATTACH) .....	23
15.3	(OCM 09/02/2017) - CHANGE OF USE FROM FACTORY TO CLUB PREMISES- LOCATION: 4/13 PORT KEMBLA DRIVE, BIBRA LAKE - OWNER: HAYLEY LOUISE BOND, KRISTOPHER GRAHAM BOND, PETA NICOLE RYAN & SULTENE PTY LTD – APPLICANT: TERRY JOSEPH NAPOLI (DA16/0422 & 052/002) (G ALLIEX) (ATTACH) .....	27
15.4	(OCM 09/02/2017) - ADOPTION OF PROPOSED SCHEME AMENDMENT NO. 120 – LOCATION: PORTION OF LOT 9501 BARTRAM ROAD, SUCCESS – OWNER: ALLVIVID PTY LTD – APPLICANT: PLANNING SOLUTIONS / JOHN CHAPMAN TOWN PLANNING CONSULTANT (109/121) (T VAN DER LINDE) (ATTACH) .....	33
15.5	(OCM 09/02/2017) - PROPOSED SCHEME AMENDMENT NO. 121 – LOT 100 PORT KEMBLA DRIVE AND LOT 4 GEELONG COURT, BIBRA LAKE (FINAL ADOPTION) (109/122) (D DI RENZO) (ATTACH) .....	38
15.6	(OCM 09/02/2017) - INITIATION OF PROPOSED SCHEME AMENDMENT NO. 118 – LOCATION: PARTS OF NORTH LAKE, BIBRA LAKE AND SOUTH LAKE AND THE ASSOCIATED ‘FREIGHT RAIL NOISE AREA’ LOCAL PLANNING POLICY- OWNER: VARIOUS - APPLICANT: THE CITY OF COCKBURN (L SANTORIELLO) (109/118) (ATTACH) .....	46
15.7	(OCM 09/02/2017) - PROPOSED STRUCTURE PLAN – LOT 559 (NO 332) WENTWORTH PARADE, SUCCESS – OWNER: GOLD ESTATES HOLDINGS PTY LTD – APPLICANT: ROBERTS DAY (110/157) (T VAN DER LINDE) (ATTACH).....	70
15.8	(OCM 09/02/2017) - MIXED USE 11 UNIT COMMERCIAL DEVELOPMENT- LOCATION: 52 & 56 (LOTS 370 & 369) ENTRANCE ROAD, SPEARWOOD – OWNER: HOLDEN DEVELOPMENTS PTY LTD (DA16/0723 & 052/002) (D J VAN RENSBURG) (ATTACH).....	78
15.9	(OCM 09/02/2017) - RECREATION (BOWLING AND RECREATION CENTRE) – LOCATION: 40 (LOTS 510 & 511) BIRCHLEY ROAD, YANGEBUP – OWNER: STATE OF WA (MGT ORDER: CITY OF COCKBURN) – APPLICANT: CITY OF COCKBURN – (DA16/0892 & 052/002) (D J VAN RENSBURG) (ATTACH) .....	93
15.10	(OCM 09/02/2017) - TELECOMMUNICATIONS INFRASTRUCTURE – LOCATION: NO. 111 (LOT 32) HARPER ROAD, BANJUP – OWNER: NEIL & MIRANDA MCCRUDDEN – APPLICANT: PLANNING SOLUTIONS (DA16/0823) (R TRINH) (ATTACH).....	108
15.11	(OCM 09/02/2017) - PROPOSED STRUCTURE PLAN - HAMMOND GROVE WEST – OWNER: MULTIPLE LANDOWNERS – APPLICANT: ROBERTS DAY (110/160) (R PLEASANT) (ATTACH) .....	118
15.12	(OCM 09/02/2017) - ACQUISITION OF LAND FOR ROAD WIDENING PURPOSES, INTERSECTION OF GIBBS AND LIDDELOW ROADS, BANJUP (041/001) (K SIM) (ATTACH).....	130

15.13	(OCM 09/02/2017) - ACQUISITION OF LAND FOR ROAD WIDENING PURPOSES, JANDAJOT AND SOLOMON ROAD JANDAKOT (041/001) (K SIM) (ATTACH) .....	133
15.14	(OCM 09/02/2017) - ACQUISITION OF LOT 9501 VIVALDI STREET HAMMOND PARK (041/001) (K SIM) (ATTACH).....	136
15.15	(OCM 09/02/2017) - PROPOSED STRUCTURE PLAN – LOT 558 (19) LAUDERDALE DRIVE, SUCCESS – OWNER: GOLD ESTATES HOLDINGS PTY LTD – APPLICANT: ROBERTS DAY (110/158) (G LILLEY) (ATTACH) .....	138
15.16	(OCM 09/02/2017) - PROPOSED STRUCTURE PLAN – LOT 21 (NO 583) ROCKINGHAM ROAD, MUNSTER – OWNER: M AND S OREB – APPLICANT: HARLEY DYKSTRA (110/159) (G LILLEY) (ATTACH) ....	147
16.	FINANCE AND CORPORATE SERVICES DIVISION ISSUES.....	155
16.1	(OCM 09/02/2017) - LIST OF CREDITORS PAID - NOVEMBER & DECEMBER 2016 (076/001) (N MAURICIO) (ATTACH) .....	155
16.2	(OCM 09/02/2017) - STATEMENT OF FINANCIAL ACTIVITY AND ASSOCIATED REPORTS - NOVEMBER AND DECEMBER 2016 (071/001) (N MAURICIO) (ATTACH).....	156
16.3	(OCM 09/02/2017) - SALE OF LAND FOR RECOVERY OF OUTSTANDING RATES (150/011; 2205979; 6001553) (S DOWNING) (ATTACH) .....	166
16.4	(OCM 09/02/2017) - MID-YEAR REVIEW OF 2016/17 MUNICIPAL BUDGET (075/011) (S DOWNING) (ATTACH) .....	168
17.	ENGINEERING AND WORKS DIVISION ISSUES.....	174
17.1	(OCM 09/02/2017) - TEMPORARY TRAFFIC CONTROLS – NORTH LAKE ROAD/BERRIGAN DRIVE INTERSECTION (157/008) (C SULLIVAN) (ATTACH).....	174
17.2	(OCM 09/02/2017) - WASTE SERVICE AGREEMENT BETWEEN CITY OF COCKBURN AND SMRC (028/006 & 091/006) (C SULLIVAN) (ATTACH).....	178
18.	COMMUNITY SERVICES DIVISION ISSUES.....	181
18.1	(OCM 09/02/2017) - SCHEDULE OF FEES AND CHARGES - COCKBURN AQUATIC AND RECREATION CENTRE (154/006) (B MCEWIN) (ATTACH).....	181
18.2	(OCM 09/02/2017) - LEASE OF LOT 104 VETERANS PARADE, COCKBURN CENTRAL FROM LANDCORP ( R AVARD ) (6028116 & 041/008) ( ATTACH).....	186
19.	EXECUTIVE DIVISION ISSUES.....	189
20.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....	189
21.	NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING .....	189
22.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY MEMBERS OR OFFICERS .....	190
23.	MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE .....	190
24.	CONFIDENTIAL BUSINESS .....	190

25	(OCM 09/02/2017) - RESOLUTION OF COMPLIANCE .....	190
26	(OCM 09/02/2017) - CLOSURE OF MEETING .....	190



**CITY OF COCKBURN****AGENDA TO BE PRESENTED TO THE ORDINARY  
COUNCIL MEETING TO BE HELD ON  
THURSDAY, 9 FEBRUARY 2017 AT 7:00 PM**

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

Members of the public, who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.
4. **ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (by Presiding Member)**
5. **APOLOGIES AND LEAVE OF ABSENCE**
6. **WRITTEN REQUESTS FOR LEAVE OF ABSENCE**
7. **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
8. **PUBLIC QUESTION TIME**
9. **CONFIRMATION OF MEETING**
  - 9.1 **(OCM 09/02/2017) - MINUTES OF THE ORDINARY COUNCIL MEETING - 8/12/2016**

**RECOMMENDATION**

That Council confirms the Minutes of the Ordinary Council Meeting held on Thursday 8 December 2016, as a true and accurate record.

**COUNCIL DECISION**

**10. DEPUTATIONS**

**11. PETITIONS**

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

**13. DECLARATION BY MEMBERS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS PAPER PRESENTED BEFORE THE MEETING**

**14. COUNCIL MATTERS**

**14.1 (OCM 09/02/2017) - 2017 LOCAL GOVERNMENT ELECTIONS (085/007) (D GREEN)**

**RECOMMENDATION**

That Council:

- (1) declare, in accordance with Section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2017 Ordinary Elections, together with any other elections or polls which may be required; and
- (2) decide, in accordance with Section 4.61(2) of the Local Government Act 1995, that the method of conducting the election will be as a postal election.

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

**COUNCIL DECISION**



## **Background**

Council is required to conform to legislation procedures prior to each ordinary election day, if it wishes to undertake its elections by postal voting. This relates to declaring the Electoral Commissioner to be responsible for the elections and that the method of voting be by postal vote.

## **Submission**

N/A

## **Report**

There will be six (6) vacancies on Council for the 2017 Elections, being the Mayor, two Councillors each in West and Central Wards and one in East Ward.

Retiring are Mayor Howlett and Councillors Allen and Sweetman (West), Councillors Eva and Houwen (Central) and Councillor Smith (East).

Council has recently received correspondence from the Western Australian Electoral Commissioner advising of its agreement to be responsible for the conduct of these elections, plus any extraordinary elections and/or polls of electors.

The correspondence also contains an implied invitation for Council to utilise the Commissioner's services to undertake the elections on Council's behalf.

To comply with the provisions of the Act, Council is required to adopt the recommendations relative to the decisions to utilise the Commissioner to conduct the elections and to conduct them by postal vote.

Council first used this method at the inaugural elections of a new Council (Mayor and 9 Councillors) in December, 2000, following the dismissal of the previous Council.

The resultant voter turnout of over 43% was a vast improvement on previous "in person" elections held by Council, which typically attract about 10% voter participation.

Even the more than 32% participation rate in the 2007 elections was encouraging, given that there were only four (4) vacancies contested. The most recent Mayor and Councillor Elections in 2013 attracted a 24% participation rate for the Mayoral plus five (5) Councillor

vacancies, while the 2015 Elections rate for four (4) Councillor vacancies was 31%.

As Council's budget has accommodated estimated costs of conducting the elections by post, it is recommended that Council continue with this method which should guarantee healthy community input to these elections.

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

#### **Leading & Listening**

- Deliver sustainable governance through transparent and robust policy and processes

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

\$246,000 is required within the Governance (Elections) Account in 2017/18 to cover costs associated with the election.

#### **Legal Implications**

Part 4 of the Local Government Act, 1995, and the Local Government (Elections) Regulations, 1997 (as amended) refer.

#### **Community Consultation**

N/A

#### **Risk Management Implications**

A moderate level of non-compliance with statutory requirements exists should Council not support the recommendation.

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

N/A

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

N/A

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

Nil.

**14.2 (OCM 09/02/2017) - REVIEW OF WARD BOUNDARIES AND COUNCILLOR REPRESENTATION (089/004) (D GREEN) (ATTACH)****RECOMMENDATION**

That Council recommend to the Local Government Advisory Board the making of an Order under Schedule 2.2(9) of the Local Government Act 1995, pursuant to Section 2.2(1) (c) of the Act, to change the boundaries of the existing Wards, depicted as **Option 1** in the Report.

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

**COUNCIL DECISION****Background**

At the Council Meeting conducted on 13 October 2016, the following resolution was carried:

*That Council, in accordance with Clause 7 Schedule 2.2 of the Local Government Act 1995:*

- 1. gives public notice advising of the review of Ward boundaries and Councillor numbers per Ward, and*
- 2. invites submissions from the public in respect of the review for a period closing 1 December 2016.*

Following from this decision, the matter has been widely advertised for public comment and submissions invited. The closing date for submissions was advertised as 1 December 2016; however, was extended to 23 December 2016 at the request of some Community Organisations which were due to consider the matter at their December meeting.

**Submission**

N/A

## Report

On 29 August 2016, correspondence was received from the Local Government Advisory Board reaffirming the requirements of the Local Government Act 1995, in relation to the statutory provisions regarding a review of the current Ward structure and Councillor numbers.

The Board's assessment of Council's current structure (2015) is portrayed as follows:

Ward	No. of Councillors 2015	No. of Electors	Ward Ratio	Deviation
West	3	17,364	5,788	+16.9%
Central	3	20,892	6,964	0.0%
East	3	24,450	8,150	-17.0%
<b>TOTAL</b>	<b>9</b>	<b>62,706</b>	<b>6,967</b>	<b>0.0%</b>

To ensure that the required changes can be implemented in time for the October 2017 local government elections, the review and recommendations must be submitted to the Board by 31 March 2017.

It is therefore necessary that this process be dealt with in accordance with the timeframe committed to in Council's October 2016 decision to enable the Board's requirements to be satisfied. The proposed Options have been promoted in Council publications and website, as well as provided directly to the City's numerous Resident Groups, as a means of soliciting public comment on these and any other alternatives for Council's consideration, which is required as part of the full report following the close of the submission period. This report will also consider other factors such as financial, physical / topographical features and community of interest issues in addition to the demographic make - up of the District, as required by the Act.

At the close of the public comment period, 24 submissions had been received. 13 of these submissions provided written commentary in support of their preference. These are summarised in the attachment (4) to the Report and the conclusion drawn from them and further supported by the updated statistical data, is that Option 1 be the Council's preferred position. It is considered this Option best addresses the future development of the City of Cockburn by generally standardising representation levels and being able to make adjustments to Councillor numbers to reflect this, on a consistent basis, over time.

This Option also presents as the one which allows for a consistent continuity of Councillor representation for both the current and longer terms, as it allows for a future scenario which enables Councillor representation to be distributed evenly across the three Wards initially

and increased on an even and rational basis over time and in line with the anticipated development of the district over the next two decades.

The assessment process has been simplified to a large extent by the recent receipt of the latest elector numbers from the WA Electoral Commission. These figures accurately represent the elector base across the City of Cockburn and, when used in conjunction with the City's "population id" software, enables forecast population growth and densities to be more reliably predicted. This tool is able to quantify the statutory development and planning processes at both local and state planning levels to provide much greater clarity in assessing longer term population growth outcomes for the City of Cockburn, although the future timing of such growth remains somewhat unclear, given the uncertainty of the economy.

However, what the latest elector and population data estimates also reveals, is that the growth rate is not as high as has been predicted in the past. It was previously assumed that the district would be effectively fully developed, in terms of residential stock, by mid – 2020's. Given the increase in electors since the previous review in 2008 equates to around 15,000, there will be at least one more electoral review required by Council prior to the full development of the City. Broader economic data would tend to support this premise, with property affordability likely to be a factor in reducing the rate of population growth across Cockburn for the short term future at least. If this proves to be the case, there is no doubt that development within the district will be curtailed and have a consequential impact on the population growth by up to 10 years. This will have a flow on effect on the manner in which any representative structure of the Council will be managed into the future.

What was considered to be the "ultimate" scenario at the time of the previous review in terms of full development for the district (i.e.2026) is now likely to be 2036 at least, which is well beyond the next statutory timeframe for a formal review to be conducted in accordance with the requirements of the Act.

Therefore, it is likely that at least two further "interim" assessments will be required before Council contemplates what would be its "ultimate" developed scenario.

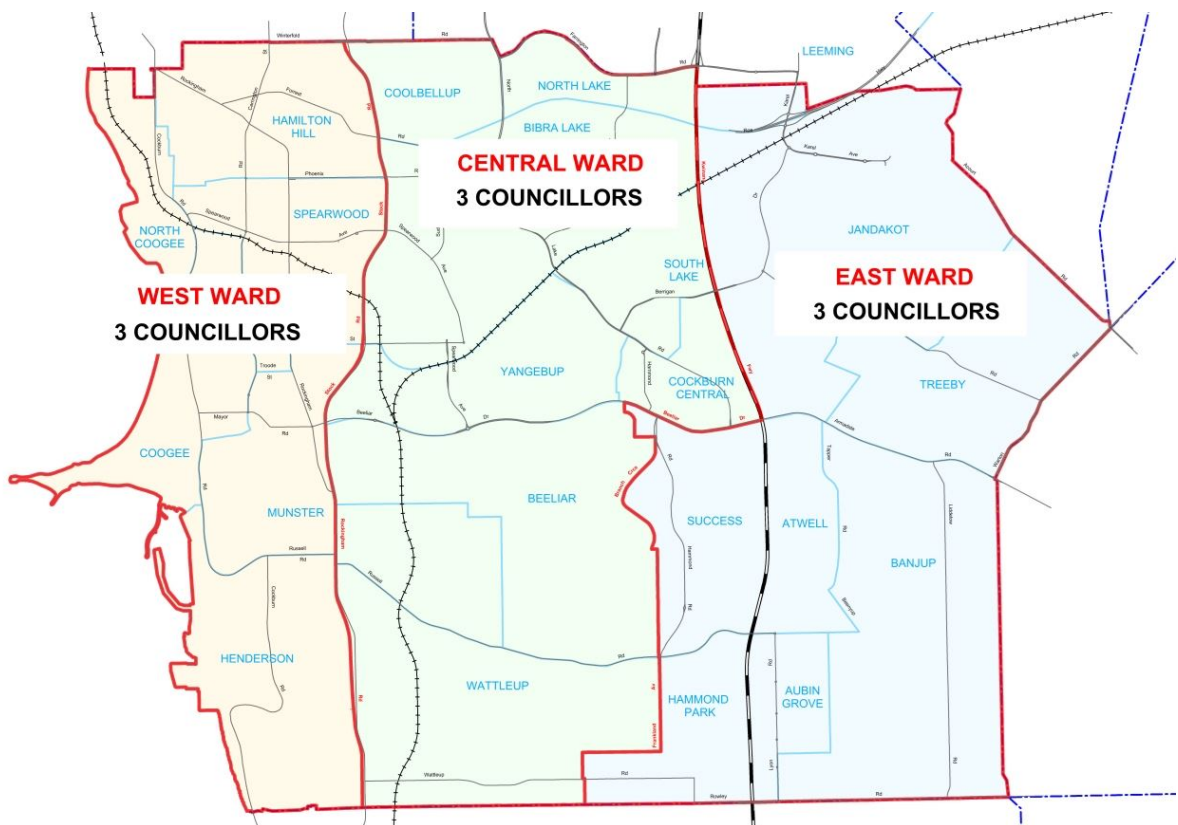
Accordingly, it is recommended that Council does not consider a reflection of its district development beyond the 2026 forecasts provided in this Report, thus enabling a modified amendment to the current structure and providing for a shorter term solution which is more closely aligned with the current situation in terms of familiarity and elector / councillor ratios.

This scenario is best reflected in **Option 1** and is achieved by:

- relocating the suburbs of South Lake and Cockburn Central from East ward to Central ward;
- extending the boundary of West ward and Central ward to follow the Stock Road / Rockingham Road alignment to the southern district boundary with the City of Kwinana;
- annexing the more recently residentially developed portion of the Munster locality (west of Rockingham Road) from Central ward into West ward, with the more rural focussed part of that locality (east of Rockingham Road) retained in Central ward; and
- transferring the industrial locality of Henderson from Central ward to West ward, although this has little impact on elector numbers given there are no traditional residential landholdings within this area.

In effect, this outcome will provide the redrawn Central ward with the majority of the current (2016) elector base, but not to the extent that it will unduly impact on the ratio criteria, which is endeavoured to represent an equitable distribution of electors to councillors between and within each ward.

The proposal, as suggested, is illustrated as follows:



Ward	No. of Councillors	No. of Electors	Ward Ratio	Deviation
West	3	22,039	1:7,346	+2.7%
Central	3	24,025	1:8,008	-6.1%
East	3	21,866	1:7,287	+3.4%
<b>TOTAL</b>	<b>9</b>	<b>67,930</b>	<b>1:7,548</b>	<b>0.0%</b>

While these figures may, at first glance, appear to represent a level of under representation for Central ward councillors and a likely over representation scenario for East and West ward councillors in the short term, it is expected that any disparity will soon be absorbed in the medium term, according to the “population id” forecast, which presents a very different look, according to its 2021 estimates. If these figures transpire, as predicted, the ratios are likely to be reduced to a much lesser deviation margin, as illustrated in the following Table:

Ward	No. of Councillors	No. of Electors	Ward Ratio	Deviation
West	3	26,958	1:8,986	-1.0%
Central	3	26,535	1:8,845	+0.5%
East	3	26,535	1:8,845	+0.5%
<b>TOTAL</b>	<b>9</b>	<b>80,028</b>	<b>1:8,892</b>	<b>0.0%</b>

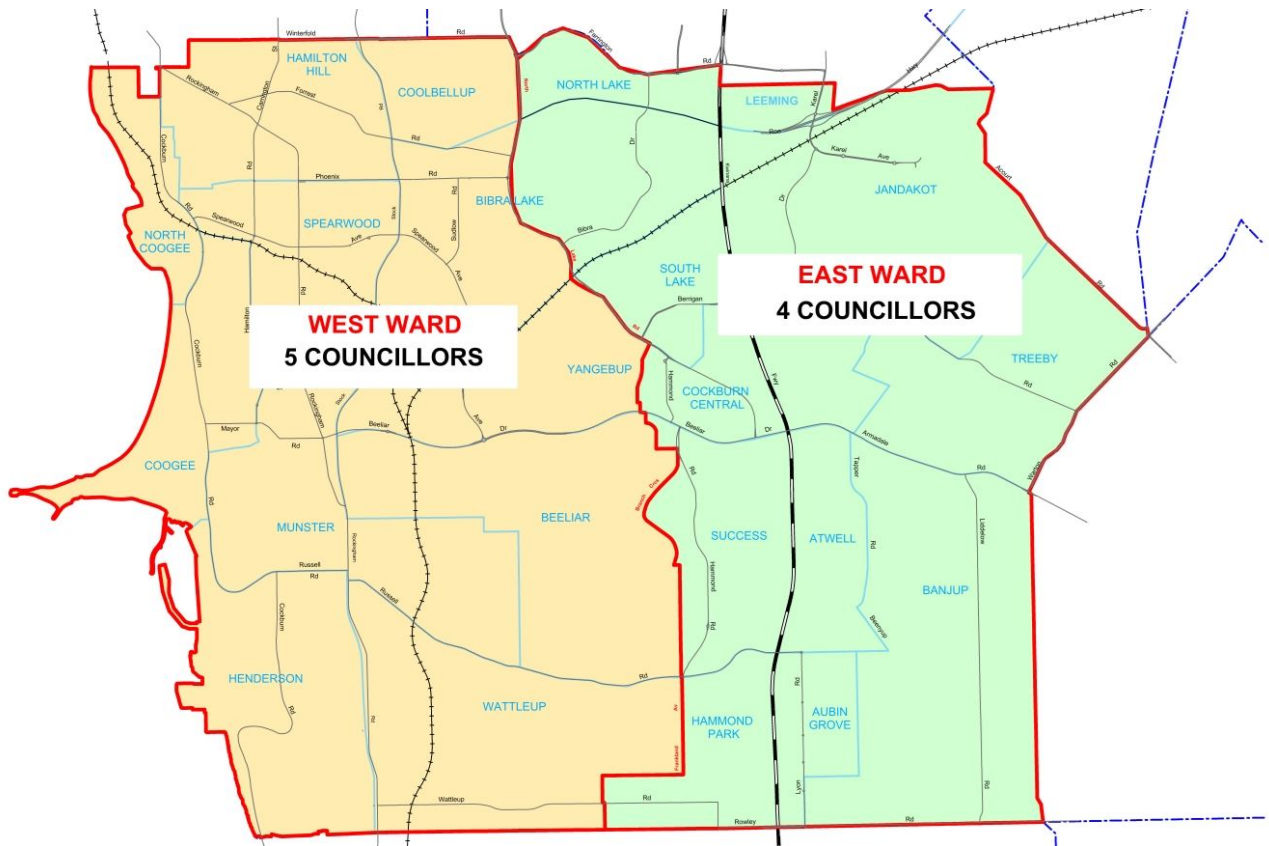
As can be seen, this scenario represents a near perfect councillor/elector ratio and continues to remain within an acceptable deviation as development and growth unfold, assuming the “population id” estimates are maintained until 2026, as demonstrated below:

Ward	No. of Councillors	No. of Electors	Ward Ratio	Deviation
West	3	30,636	1:10,212	-3.3%
Central	3	28,972	1:9,657	+2.3%
East	3	29,378	1:9,793	+1.0%
<b>TOTAL</b>	<b>9</b>	<b>88,986</b>	<b>1:9,887</b>	<b>0.0%</b>

At this stage, “population id” estimates the residential development of the City to be substantially (85% - 90%) completed by then. However, as another statutory review of the situation will be required in 2024, this will provide an opportunity for the statistics to be refreshed and applied to the reality of the time, as the growth of the City reaches its final stages.

Of the other Options released for public comment, only Option 2 (2 wards) was able to meet an acceptable level of percentage deviation, when the predicted elector numbers are modelled to that scenario. However, the 2 wards structure is not enhanced by a lessened Community of Interest factor and it is difficult to justify the elimination of one ward on that basis, as that scenario produces an imbalance in the number of councillors per ward (5 for West and 4 for East), whereas

the recommended Option provides for an equal distribution of 3 councillors for each ward across the district.



Consideration factors relevant to the preferred **Option 1** are described as follows.

This option clearly divides the City into East, Central and West Wards, thus retaining the current descriptors for the three Ward models that has been in place since 2000.

Community of Interests

(1) West Ward

The older well established suburbs of Hamilton Hill, Spearwood and Coogee are retained and are supplemented by the newer mixed residential stock contained in North Coogee and Munster. Also included in the Ward is the marine industrial strip of Henderson.

There is a range of Council services throughout the Ward to service the broader area. Notable among these facilities are the Coogee Beach Surf Life Saving Club, Wally Hagan Stadium, home of the State Basketball League team, Cockburn Cougars, Spearwood Library and a significant number of facilities for



senior citizens, being the Cockburn Seniors Centre, in Spearwood, the Cockburn Senior Citizens Association, in Hamilton Hill and the Jean Willis Centre, in Hamilton Hill, which provides a range of Home and Community Care (HACC) services to aged and infirmed clients residing in the City of Cockburn.

A range of active sporting reserves also exist within the Ward, primarily Davilak Reserve, in Hamilton Hill and Beale Park, in Spearwood, in addition to a number of smaller reserves to service the growing number of sporting clubs across the district. Added to this are a number of community halls, highlighted by the Hamilton Hill Memorial Hall, which cater for a range of community based and artistic pursuits. The iconic Manning Park, featuring the historic Azelia Ley Museum, is also located in Hamilton Hill, and is used for many passive purposes, as well as being the focus of several large scale community events and concerts.

Not for profit Clubs, such as the Spearwood Dalmatinac Club and the Cockburn Returned Services League, in Hamilton Hill, also service the City from this Ward.

The rapidly developing Port Coogee Marina will become a future entertainment and leisure hub for the City. The Phoenix Park Shopping Centre, in Spearwood, serves as the main commercial precinct for the Ward, supported by smaller centres in each of the other suburbs.

## (2) Central Ward

Traditionally, this Ward contains those established suburbs such as Coolbellup, Bibra Lake and North Lake in the northern part of the City and moves south to include Yangebup and the newer suburb of Beeliar. Further south is the current rural area of Munster, in addition to Wattleup, which is earmarked to become an extension of the Kwinana Heavy Industry zone, to be known as "Latitude 32", in the future. This Option also seeks to include the established suburb of South Lake and the newly developing "heart" of the City, being Cockburn Central.

This will provide Central Ward with a major development focus going forward, integrating an exciting new hub with the mostly fully developed residential areas which make up the majority of the rest of the Ward. The "Cockburn Central West" development is strategically the most important integrated project ever undertaken by the City of Cockburn. In conjunction with the State Government's development arm (Land Corp), this will see

the collaboration of the City's (and Region's) most extensive community facility, the Cockburn Aquatic and Recreation Centre, with a large multi residential development which will cater for the residential needs of those who seek higher end apartment style living alternatives. Located within this development will be community playing fields, including the training and administration base of the Fremantle Dockers Football Club.

The Ward is well serviced by a large industrial estate in Bibra Lake, together with a number of smaller commercial centres distributed among the suburbs to provide for the shopping needs of its residents.

Each suburb within the Ward also contains a variety of active and passive reserves, as well as community halls to serve the needs of the population. A significant number of important lakes, forming part of the Beelihar Wetlands chain, are also located centrally in this Ward.

In addition, the City's premier upper school, Lakelands High School, is located within this Ward, in South Lake.

### (3) East Ward

East Ward is the "growth" area of Cockburn, in terms of "traditional" residential development for young families. This includes the significant new residential areas of Aubin Grove, Hammond Park, Success and Treeby, as well as the semi – rural areas of Banjup and Jandakot. The Ward also includes the Jandakot Airport, with its substantial industrial and commercial holdings. Added to this is an extensive range of large retail stores located in southern Jandakot, branded as "Cockburn South Central".

The Cockburn Gateways Shopping Centre is not only the centrally focussed commercial area within the Ward, but also one of Regional significance, given its vast array of shops and services located on its Success site. Supplementing this large Centre are significant other large community facilities located on the adjoining property. These include the Cockburn Youth Centre, Success Public Library and the Cockburn Integrated Health Facility which provides a range of specialist and general health practitioners available for community access.

A large sporting facility is located in the western portion of the Ward (Success) and is complemented by a significant active reserve in Atwell, which is also home to the City's premier skate

park. Significant community buildings and playing fields are also located within the Ward in Hammond Park, Aubin Grove and Atwell to ensure the needs of a rapidly developing community are adequately allowed for.

A number of educational facilities are located in the newer suburbs within the Ward, with the most notable being the City's largest High School, situated in Atwell.

### Physical and Topographic Features

The major physical feature of the Ward boundaries in the proposed Option is that they are aligned, in all but one case, with locality (suburb) boundaries. This has been consciously done to eliminate any confusion which could be caused at having Ward boundaries which cross over suburb boundaries, effectively separating residents of the same suburb into different Wards.

The one exception to this scenario is that it is proposed to dissect the current suburb of Munster into separate Wards, using Stock / Rockingham Road as the defining boundary. This will create two distinct parts of the locality – the traditional rural area to the east of Cockburn Cement and the new residential developments to the west of Stock / Rockingham Road.

The boundaries of the proposed West and Central Wards are clearly separated by Stock Road in the north which continues in a southerly direction to join Rockingham Road as a major arterial link.

The separation between Central and East Wards, while less clear, is aligned with locality boundaries and follows major roads in a north/south direction along the Kwinana Freeway to Beeliar Drive and then follows the western boundaries of the suburbs of Success and Hammond Park from Beeliar Drive in a southerly direction until it connects to the boundary with the City of Kwinana.

### Demographic Trends

Population growth will occur primarily in North Coogee in the West Ward, particularly as the "Cockburn Coast" is developed by the State Government (Land Corp) as a high end residential and mixed commercial / retail sector over the next 20 years.

Growth in the East Ward will be most noticeable in the suburbs of Hammond Park and Treeby as these residential cells are completed over the next decade.

Increased population in the Central Ward will be seen in the suburb of Cockburn Central, which will be mostly in the form of high density apartments and will take place mostly over the next 5 – 8 years.

#### Economic Factors

From the City's perspective, there is a reasonable equality in the distribution of rates revenue and property land usage classification across the three Wards in the recommended Option, as demonstrated in the following tables:

#### % of Rate Revenue Collected

West .....	31.2%
Central .....	36.0%
East.....	32.8%

#### Number of Rateable Properties

West.....	32.8%
Central .....	36.0%
East.....	31.2%

#### Residential Land Use

West.....	32.9%
Central .....	34.5%
East.....	32.6%

#### Commercial / Industrial Land Use

West.....	25.9%
Central .....	37.3%
East.....	36.8%

#### Ratio of Councillors to Electors

As previously mentioned and illustrated in this Report, the preferred Option demonstrates an acceptable level of equity in terms of Councillor / Elector ratios initially and is more evenly distributed into the future, using the population forecast data currently available. These figures will be amended as updated information becomes available, but is unlikely to dramatically impact on the figures in the foreseeable (5 year) future. If the need to further adjust Ward boundaries within this timeframe becomes evident because of an unacceptable imbalance in the level of Councillor / Elector ratio numbers, then the City's administration will inform the Council (and the Local Government Advisory Board), of its intention to undertake that exercise.

Short Term Current Scenario (2016)

Ward	No. of Councillors	No. of Electors	Ratio
West	3	22,039	1:7,346 (+2.7%)
Central	3	24,025	1:8,008 (-6.1%)
East	3	21,866	1:7,287 (+3.4%)
<b>TOTAL</b>	<b>9</b>	<b>67,930</b>	<b>1:7,548</b>

Long Term Ultimate Scenario (2026)

Ward	No. of Councillors	No. of Electors	Ratio
West	3	30,636	1:10,212 (-3.3%)
Central	3	28,972	1:9,657 (+2.3%)
East	3	29,378	1:9,793 (1.0%)
<b>TOTAL</b>	<b>9</b>	<b>88,986</b>	<b>1:9,887</b>

It is considered appropriate to retain the current allocation of 9 Councillors spread equally across the three Wards, in addition to retaining the Mayor being elected independently at large, making a total of ten elected members to represent the Cockburn district for the term of this review (i.e. 2016 – 2026).

Upon the undertaking of the next 8 yearly statutory review (circa 2024), it may be more appropriate to consider the allocation of extra councillor positions to represent the community at the time when the district will be nearing full development.

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

- Deliver sustainable governance through transparent and robust policy and processes

**Budget/Financial Implications**

N/A

**Legal Implications**

Section 2.2 (1) and Schedule 2.2 (9) of the Local Government Act 1995 refer.

**Community Consultation**

Widespread advertising of the Review was undertaken to solicit public comment on the Options and other alternatives. In addition, a Discussion Paper was prepared and sent to Resident Groups within

the City as an encouragement for those Groups to consider preparing a submission on the matter.

Consequently, 24 responses were received, 13 of which provided additional commentary in support of their preferred Option.

### **Risk Management Implications**

A *Moderate* risk level for non-compliance exists should Council not adopt the recommendation and provide a response to the Local Government Advisory Board prior to 31 March 2017, as requested, recommending an amended Ward structure be endorsed and introduced in time for the 2017 local government elections.

### **Attachment(s)**

1. Correspondence Local Government Advisory Board
2. Schedule of Submissions
3. Discussion Paper

### **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 9 February 2017 Council Meeting.

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

Nil.

## **14.3 (OCM 09/02/2017) - MID-YEAR REVIEW OF THE ANNUAL BUSINESS PLAN 2016/17 (021/002) (M TOBIN) (ATTACH)**

### **RECOMMENDATION**

That Council note the information in the 2016/17 Annual Business Plan mid-year review, as attached to the Agenda.

### **COUNCIL DECISION**

## **Background**

Council adopted its Annual Business Plan 2016/17 at the Special Council Meeting on 23 June 2016. It ties the objectives of the Strategic Community Plan and the activities listed in the Corporate Business Plan to the activities and services delivered by Business and Service Units. A midyear review of the Annual Business Plan takes place to formally report what has been achieved, what is outstanding and what new significant projects are identified.

The budget for 2016/17 is reviewed at the same time and is the subject of a separate report.

## **Submission**

N/A

## **Report**

This year's Annual Business Plan has two significant areas of business change for the City in the handover of Port Coogee Marina and the building of Cockburn ARC. The handover of the Port Coogee Marina to the City was successful and a small team is in place to manage the facility. Progress is being made toward improvements to marina security and services as well as addressing incomplete or defective infrastructure items, including fuel supply.

Our biggest project to date, Cockburn ARC (Aquatic and Recreation Centre), is on schedule with building works almost complete. The next stage will be the fit out of the complex followed by testing of equipment and procedures prior to the grand opening.

An update on these is listed on the first few pages of the attachment under Plan Update, along with other major activity for each strategic theme. This is followed by a table for each Business and Service Unit which shows updated financial information; key performance indicators; progress toward targets; and year to date FTE (Full Time Equivalent employees). The narrative text for each unit has a brief progress report on the activities and initiatives planned for 2016/17. Additionally, new projects not previously identified have been added if deemed significant.

## **Strategic Plan/Policy Implications**

### **City Growth**

Plan for population growth of our City and maintaining our strong financial position.

**Moving Around**

Facilitate safe, efficient, connected and sustainable movement around the City.

**Community, Lifestyle & Security**

Provide safe, attractive, healthy programs and infrastructure for a diverse range of activity and people.

**Economic, Social & Environmental Responsibility**

Enable a sustainable future economically, socially and environmentally including business activity, job opportunities and sustainable use of resources.

**Leading & Listening**

Continue being accountable to our community and engaging with you through multiple effective communication channels.

**Budget/Financial Implications**

The Annual Business Plan is budgeted in the Annual Budget 2016/17, as reviewed mid-year.

**Legal Implications**

N/A

**Community Consultation**

External community consultation is not required for this report. Key internal stakeholders have been consulted and have provided significant input to this report.

**Risk Management Implications**

It is recommended that Council only note the information contained in the Annual Business Plan 2016/17 mid-year Review so there is little risk should it decide not to note the information.

**Attachment(s)**

Annual Business Plan – Mid-year Review 2016/17

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

N/A

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

Nil.



## 15. PLANNING AND DEVELOPMENT DIVISION ISSUES

### 15.1 (OCM 09/02/2017) - DEVELOPMENT ASSESSMENT PANELS - NOMINATION OF TWO (2) MEMBERS AND TWO (2) ALTERNATE MEMBERS BY COUNCIL TO THE SOUTH WEST METROPOLITAN AREA JOINT DEVELOPMENT ASSESSMENT PANEL (052/002) (L JAKOVCEVIC) (ATTACH)

#### RECOMMENDATION

That Council

- (1) nominate \_\_\_\_\_ and \_\_\_\_\_ as its two members to the South West Metropolitan Area Joint Development Assessment Panel ("SWMAJDAP");
- (2) nominate \_\_\_\_\_ and \_\_\_\_\_ as its two alternate members to the South West Metropolitan Area Joint Development Assessment Panel ("SWMAJDAP"); and
- (3) advise the Director General of the above appointments to the SWMAJDAP online by 28 February 2017.

#### COUNCIL DECISION

#### Background

The City has recently been notified by the Director General of the Department of Planning that the appointments of the current local government DAP members expire on 26 April 2017.

The City is requested to nominate four Elected Members of the Council, comprising two local members and two alternate local members to sit on the respective DAP as required. Two Councillors will be local members, with the two deputy local members to be called upon if an issue of quorum arises. The Minister will appoint the local government representatives following receipt of all local government nominations. The term of office must not exceed (2) two years, expiring in April 2019.

All appointed local members will be placed on the local government member register and advised of DAP training dates and times. It is a mandatory requirement, pursuant to the DAP regulations, that all DAP members attend training before they can sit on a DAP and determine applications. Local government members who have previously undertaken training are not required to attend further training, but are encouraged to attend refresher training as the DAP are changing from 1 February 2017.

When selecting nominees, Council should consider that local government elections may result in a change to DAP membership if current Councillors, who are DAP members, are not re-elected. If members are not re-elected, the local government will need to re-nominate for the Minister's consideration. DAP members are entitled to be paid for their attendance at DAP meetings and training, unless they call within a class per persons excluded from payment.

### **Submission**

N/A

### **Report**

The 2010 Amendment Act resulted in a number of amendments to the *Planning and Development Act 2005* (PD Act). Part 3 in particular, introduced Part 11A – Development Assessment Panels, into the PD Act. To give new effect to these provisions, the *Planning and Development (Development Assessment Panels) Regulations 2011* ('DAP Regulations') were introduced. The DAP Regulations provide the heads of power enabling the operation, constitution and administration of DAPs.

As described in the Western Australian Planning Commission (WAPC) Planning Bulletin 106/2011, *DAPs* are panels comprising a mix of technical experts and local government representatives with the power to determine applications for development approvals in place of the relevant decision making authority. The introduction of DAPs is one of the fundamental principles of the national Development Assessment Forum's leading practice model for development assessment.

There is a total of 9 DAPs Local Government Members established by the Minister for Planning. All DAPs comprise the following membership:

- Two (2) Local Government representatives.
- Three (3) Specialist Members, one of whom will be the Presiding Member, one who will be the Deputy Presiding Member, and one

who will otherwise possess relevant qualifications and/or expertise.

A local authority is required to nominate two (2) members and two (2) alternate members. The alternate members replace permanent local government DAP members when required (due to illness, leave or other cause). Alternate members will be used when an issue of quorum arises or when a DAP member is unable to act by reason of illness, absence or other cause. Deputy local members cannot sit in the place of specialist members, just as deputy specialist members cannot sit in the place of local members.

In all instances, nominated DAP members and alternate members are required to undergo mandatory training before they can sit on a DAP. Training addresses the Western Australian planning and development framework, planning law, the operation of a DAP, the DAP Code of Conduct and the expected behaviour of DAP members.

DAP members will be paid by the Department of Planning where they successfully complete the required training. DAP members attending a DAP meeting will also be paid a sitting fee per meeting. Similarly, reimbursement of all travel expenses incurred when attending a DAP meeting is provided for by the DAP Regulations. Current fees and reimbursements are available on the Department of Planning's website.

All DAP members are appointed for a term of two (2) years.

DAPs meet on an irregular basis as applications that fall within the criteria are received. The City of Cockburn forms part of a Joint Development Assessment Panel (JDAP) for the South West Metropolitan Area. Other local authorities comprising this JDAP include the Cities of Fremantle, Kwinana and Rockingham, and the Town of East Fremantle. Occasionally the City of Mandurah may be included.

The two appointed local government members are required to attend a JDAP meeting when an application for development within their local authority is to be determined. If they are unable to attend notice is to be given to the DAP secretariat and an alternate member is contacted by the secretariat. Meetings may be held at any of the member Councils offices or Department of Planning in Perth at the direction of the DAPS secretariat. These meetings are between 15 minutes – 60 minutes. Members only need to attend for the City of Cockburn items, not for other local government authority items.

In 2016, there were 16 JDAP meetings for which the City of Cockburn had submitted items. Most of these meetings were held at the City of

Cockburn; although some were held at the Department of Planning in Perth and a couple of meetings were held in the City of Fremantle and the City of Kwinana.

Sitting fees are paid by the Department of Planning and are as follows:

- Consideration of a Form 1 application a local government member is paid \$425.
- Consideration of a Form 2 application a local government member is paid \$100.
- If considering a Form 1 and 2 together, \$425 only will be paid.

This information is available on the Department of Planning, Development Assessment Panel website for members to view.

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

#### **City Growth**

- Ensure planning facilitates a desirable living environment and meets growth targets.

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

There are no budgetary or financial implications arising from the nomination and appointment of Councillors to the JDAP.

#### **Legal Implications**

Planning and Development Act 2005 (as amended).  
Approvals and Related Reforms (No. 4) (Planning) Act 2010.  
Planning and Development (Development Assessment Panels) Regulations 2011.

#### **Community Consultation**

N/A

#### **Risk Management Implications**

Should the local government fail to nominate four representatives, the Minister has the power to appoint two alternative community representatives to ensure local representation is always present on a panel. The regulations require that these alternate representatives are residents of the local area and have relevant knowledge or experience that, in the opinion of the Minister, will enable them to represent the interests of their local community.

**Attachment(s)**

1. Letter from JDAP outlining nomination details.
2. JDAP Nomination Forms

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

N/A

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

Nil.

**15.2 (OCM 09/02/2017) - AMENDMENTS TO HEALTH (ASBESTOS) REGULATIONS TO ALLOW FOR INCREASED PENALTIES AND NEW POWERS TO ISSUE INFRINGEMENTS (139/018) (N JONES) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) approve the position of Manager Health Services as an “Approved Officer” for the purposes of Part 2 of the Criminal Procedures Act 2004 and;
- (2) approve all Environmental Health officers (EHOs) as “Authorised Officers” for the Purposes of Part 2 of the Criminal Procedures Act 2004.

**COUNCIL DECISION**

**Background**

During the consultation of the Public Health Act 2016, local governments indicated that the penalties under the Health (Asbestos) Regulations 1992 (“the Regulations”) are inadequate and are of particular concern in the context of the management of asbestos where the costs of complying with the Regulations can greatly exceed the penalty for non-compliance. The previous penalties were a maximum of \$1000 with a daily penalty not exceeding \$100.

## **Submission**

The City wrote to the Minister of Health about the inadequate penalties contained within the Health (Asbestos) Regulations 1992 and has encouraged the Department of Health to review and increase the penalties.

## **Report**

The penalties under the Regulations are inadequate and did not act as a deterrent, in the context of the management of asbestos where the costs of complying with the regulations can greatly exceed the penalty for non-compliance.

Due to the significant potential public health risks associated with the mishandling of asbestos cement materials, the City, with many other Local Governments have advocated for higher penalties and the ability to issue infringement notices as an immediate measure to deter unlawful conduct and encourage compliance.

As such, the Regulations will be amended to increase the penalties for offences under the Regulations and to enable local governments to issue infringement notices for specified offences.

Although the Regulations will be repealed as part of the broader implementation of the Public Health Act 2016, this will not occur until the final stages of implementation, which is still approximately 3 to 5 years away. Therefore, as an interim measure until the modern penalty framework of the Public Health Act 2016 applies, the penalties under the Regulations are to be increased and local governments given the ability to issue infringement notices for offences.

These changes will come into operation on 24 January 2017 and have been confirmed in the recent Government Gazette dated 10 January 2017.

### Increased penalties

The penalties for offences under the Regulations are to be increased to provide that a person who commits an offence against the Regulations is liable upon conviction to:

- a penalty of not more than \$10,000, and
- if the offence is of a continuing nature, to an additional daily penalty of not more than \$1,000.

- A corporation may be fined up to five times this amount under section 40(5) of the Sentencing Act 1995.
- The Regulations provide Local Government ability to issue infringements from \$1000 to \$2000 for various offences under the Regulations.

### Infringement notices

An infringement notice is a notice that the person to whom it is directed has committed an alleged specified offence under a regulation, and requires payment of a specified monetary amount for the offence within a specified time.

Infringement notices provide a cost effective and efficient method of dealing with some offences. Non-payment of an infringement notice can result in referral to a court for hearing or enforcement action may be taken under the Fines, Penalties and Infringement Notices Enforcement Act 1994.

A local government may appoint a person or class of persons to be:

- authorised officers; or
- approved officers

for the purposes of Part 2 of the Criminal Procedure Act 2004. This appointment must be in writing.

Authorised officers for the purposes of Part 2 of the Criminal Procedure Act 2004 are the persons who are authorised to issue infringement notices under the Regulations on behalf of the local government. It is proposed that EHOs be approved by Council to be Authorised Officers under these circumstances.

Approved officers for the purposes of Part 2 of the Criminal Procedure Act 2004 are the persons authorised to extend the period to pay or withdraw an infringement notice. It is proposed that the City's Manager Health Services be approved by Council to be an Approved Officer for these circumstances.

### Infringement notice offences and forms

The offences under the Regulations for which an infringement notice may be issued will be listed in "Schedule 1 Prescribed offences and modified penalties" of the amended Regulations (Table 1 below). The modified penalty applicable to each offence is the amount adjacent to the specified offence. It should be noted that the modified penalty is a fixed amount and cannot be changed.

Table 1: Prescribed offences and modified penalties from schedule 1 of the Health (Asbestos) Regulations 1992

Asbestos Regulation	Description of offence	Modified penalty
r. 6	Selling or supplying asbestos cement product	\$1,000
r. 7(1)	Using an asbestos cement product	\$1,000
r. 7(3)	Storing, breaking, damaging, cutting, maintaining, repairing, removing, moving, or disposing of, or using any material containing asbestos without taking reasonable measures to prevent asbestos fibres entering the atmosphere	\$2,000
r. 7A(1)	Moving a dwelling-house built wholly or partly with an asbestos cement product	\$2,000
r. 7A(3)	Failing to comply with a condition on an approval	\$2,000
r. 7A(4)	Cutting or deliberately breaking an asbestos cement product for the purpose of, or in the course of, moving a dwelling-house built wholly or partly with an asbestos cement product	\$2,000
r. 8	Failing to comply with a direction in a notice	\$1,000
r. 11(1)(a)	Supplying material containing asbestos to another for the purpose of having another person dispose of it.	\$1,000
r. 11(1)(b)	Transporting material containing asbestos	\$1,000
r. 12	Failing to inform a person that material is or contains asbestos	\$1,000

### Strategic Plan/Policy Implications

#### Environment & Sustainability

- Identification and minimisation of impacts to human health risk.

#### Budget/Financial Implications

Prosecutions and the issue of infringements may contribute to some additional income for the City, however, it is not seen to be significant and likely to be cost neutral.

#### Legal Implications

The City's Health Services undertake prosecutions and issue infringements through several other pieces of legislation. It is not envisaged that these additional powers are any different from those already being utilised from time to time for various other compliance issues.



**Community Consultation**

N/A

**Attachment(s)**

1. Copy of the Regulations
2. Copy of the Government Gazette pertinent to the Regulations

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

N/A

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

Nil.

**15.3 (OCM 09/02/2017) - CHANGE OF USE FROM FACTORY TO CLUB PREMISES- LOCATION: 4/13 PORT KEMBLA DRIVE, BIBRA LAKE - OWNER: HAYLEY LOUISE BOND, KRISTOPHER GRAHAM BOND, PETA NICOLE RYAN & SULTENE PTY LTD – APPLICANT: TERRY JOSEPH NAPOLI (DA16/0422 & 052/002) (G ALLIEX) (ATTACH)**

**RECOMMENDATION**

That Council approve the application for a Change of Use from Factory to Club Premises, at 4/13 Port Kembla Drive Bibra Lake, subject to the following conditions and footnotes:

Conditions

1. This planning approval is for a temporary period of two (2) years only from the date of issue.
2. The club premises is only permitted to operate during the following times and with the following maximum number of occupants:
  - a) Monday to Thursday between 9.00am to 10.30pm with a maximum of 40 members.
  - b) Friday between 9.00am to 12.00am (midnight) with a maximum of 40 members.
  - c) Saturday once a month for social events between 9.00am to 12.00am (midnight) with a maximum of 70 members.
3. The premises are not approved as a licensed premise. The bar, indicated on the floor plan is not to be used for the sale of alcoholic liquor or supplies to the public unless a change

of use for that purpose is approved by the City and Liquor Control Act requirements are complied with.

4. The premises are not to be hired or permitted to be used by a third party, without the prior approval of the City.
5. No external signage advertising the 'Club Premises' or the operator of the 'Club Premises' is permitted.

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 Local Planning Scheme No. 3, or the requirements of any other external agency.
2. The primary use of the development hereby approved is 'Club Premises', defined in the City of Cockburn Local Planning Scheme No. 3 as *'premises used by a legally constituted club or association or other body of persons united by a common interest'*.

**COUNCIL DECISION**

**Background**

The subject site at 4/13 Port Kembla Drive Bibra Lake is one of six units on the lot and has an internal floor area of 302m<sup>2</sup>. A brief history of the premises has been outlined below:

1. Council approved a Change of Use to a 'Club Premises (Rebels Motorcycle Club)' at its meeting held on 12 June 2014, subject to conditions. It was approved temporarily for two (2) years subject to conditions restricting the number of patrons to 25 at any given time and limited opening hours. This approval expired on 12 June 2016.

2. An application was lodged with the City to gain permanent approval with an increase in maximum club members to 70 at any one time and different operating hours on 16 June 2016.
3. Council refused the application at its meeting held on 11 August 2016 for safety and amenity reasons.
4. On 3 September 2016 the applicant appealed the decision with the State Administrative Tribunal.
5. First Directions Hearing was held on Friday 7 October 2016 which resulted in the agreement to conduct an on-site mediation on 10 November 2016 at the premises 4/13 Port Kembla Drive, Bibra Lake.
6. On-site mediation on 10 November 2016 occurred and subsequently a revised proposal was suggested by the applicant. The revised proposal is as follows:
  - (a) The new proposed club hours being:
    - Monday to Thursday 9.00am to 10.30pm;
    - Friday 9.00am to 12.00am;
    - Saturdays once a month 9.00am to 12.00am.
  - (b) Occupants:
    - Maximum of 40 members and guests at any one time other than for the twice monthly social events; and
    - Social events limited to two per month, with a maximum of 70 people at any one time including members, their families and guests.
7. Mediation on 6 January 2017 resulted in an order pursuant to section 31 of the *State Administrative Tribunal Act 2004* which invites the Council to reconsider its decision in relation to the amended proposal.

### **Submission**

N/A

### **Report**

#### Amended Proposal

The amended proposal differs from the original proposal in that the applicant has reduced the proposed club hours and the number of occupants at any given time as follows:

Club hours:

- Monday to Thursday 9.00am to 10.30pm;
- Friday 9.00am to 12.00am;
- Saturdays once a month 9.00am to 12.00am.

Occupants:

- Maximum of 40 members and guests at any one time other than for the twice monthly social events; and
- Social events limited to two per month, with a maximum of 70 people at any one time including members, their families and guests.

Community Consultation

The amended proposal was not advertised to other tenants/owners given no submissions of objection were received for the previous application which was more onerous in relation to club hours and number of occupants at any given time.

Planning Framework

*Local Planning Scheme No. 3*

The site is zoned 'Mixed Business' under Council's Local Planning Scheme No. 3 (LPS 3), the objective of which is to:

*'provide for a wide range of light and service industrial, wholesaling, showrooms, trade and professional services, which, by reason of their scale, character, operation or land requirements, are not generally appropriate to, or cannot conveniently or economically be accommodated within the Centre or industry zones.'*

A 'Club Premises' is classified as a Discretionary ('D') use within the 'Mixed Business' zone, meaning a use that is not permitted unless the local government has exercised its discretion by granting planning approval

The land use 'Club Premises' is defined in LPS 3 as:

*'premises used by a legally constituted club or association or other body of persons united by a common interest.'*

*Car Parking*

The amended proposal does not result in any changes to the number of parking bays required, which is 6 bays for the subject unit, as

parking bays are calculated on gross leasable area as opposed to occupant numbers therefore the number of parking bays is compliant.

#### Maximum Persons Accommodated & Operating Hours

The proposed amended club hours and maximum number of occupants represents an attempt by the applicant to address the City's concerns with regards to safety and amenity. By reducing the number of proposed maximum occupants to 40 (other than for social events), the likelihood of safety and amenity issues arising is decreased to an extent. The applicant also intends to reduce the number of Saturday sessions from two per month as per the original proposal to one per month which will further reduce safety and amenity concerns at the subject premises.

The applicant is however still seeking to have two social events per month with a maximum of 70 people to attend at any one time. This part of the proposal is still a concern as the City has not yet trialled this number of occupants in the premises and therefore there is ambiguity as to whether or not this will result in safety and amenity issues on site. If council resolve to approve the amended proposal, it is recommended that the number of social events be limited to only one per month, with a maximum of 70 occupants and it is also recommended that Council consider this application as temporary for a period of two years given the ambiguity in relation to the impact of the large scale social events and the subsequent safety and amenity concerns.

#### Public Building Approvals

Under the *Health (Public Buildings) Regulations 1992* it should be noted that the unit can accommodate a maximum of 100 persons at any one time. However, any restriction on the number of persons under planning legislation (through a planning approval) would have to be adhered to by the proponent as it is a requirement to comply with all relevant legislation.

#### Conclusion

The applicant has amended the proposal in an attempt to address the City's concerns in relation to safety and amenity and whilst this is a good outcome the proposal does still include elements of concern such as the social events with a maximum of 70 occupants. Should Council approve the amended proposal, it is recommended that only one social event be allowed a month and that the proposal be approved on a temporary basis for two years given the City has not trialled 70 people in the premises at any given time.

## **Strategic Plan/Policy Implications**

### **Community, Lifestyle & Security**

- Provide safe places and activities for residents and visitors to relax and socialise.

### **Economic, Social & Environmental Responsibility**

- Create opportunities for community, business and industry to establish and thrive through planning, policy and community development.

## **Budget/Financial Implications**

McLeod's Barristers and Solicitors have estimated the likely legal costs and expenses in defending the application at the SAT, if the matter progresses to a full hearing (Refer to attached confidential document).

## **Legal Implications**

N/A

## **Community Consultation**

The proposal was not advertised to adjoining tenants or landowners.

## **Risk Management Implications**

Please refer to attached confidential document in relation to the financial risk of Council refusing the application and likelihood of succeeding at a full SAT hearing. Should Council approve the proposal, there is a risk as the Rebels Motorcycle Club have been linked to criminal activity, which could pose a risk to the area including adjoining tenants and landowners.

## **Attachment(s)**

1. Site Plan
2. Floor Plan
3. Confidential document (provided under separate cover)

## **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 9 February 2017 Ordinary Council Meeting.

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

Nil.

#### 15.4 (OCM 09/02/2017) - ADOPTION OF PROPOSED SCHEME AMENDMENT NO. 120 – LOCATION: PORTION OF LOT 9501 BARTRAM ROAD, SUCCESS – OWNER: ALLVIVID PTY LTD – APPLICANT: PLANNING SOLUTIONS / JOHN CHAPMAN TOWN PLANNING CONSULTANT (109/121) (T VAN DER LINDE) (ATTACH)

##### RECOMMENDATION

That Council

- (1) endorse the Schedule of Submissions prepared in respect of Amendment No. 120 to the City of Cockburn Town Planning Scheme No. 3 (“the Scheme”);
- (2) adopt Scheme Amendment No. 120 for final approval for the purposes of:
  1. Reclassifying a portion of Lot 9501 Bartram Road from ‘Residential R40’ to ‘Local Road’ as depicted on the Scheme Amendment Map.
  2. Reclassifying a portion of Lot 9501 Bartram Road from ‘Local Road’ to ‘Residential R30’ as depicted on the Scheme Amendment Map.
  3. Amending the Scheme Map in accordance with recommendation 1 and 2 above.
- (3) note the amendment referred to in resolution (2) above is a ‘standard amendment’ as it satisfies the following criteria of Regulation 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015*:
 

*an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;*

*an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;*

*an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;*

*any other amendment that is not a complex or basic amendment.*

- (4) ensure the amendment documentation, be signed and sealed and then submitted to the Western Australian Planning Commission along with a request for the endorsement of final approval by the Hon. Minister for Planning; and
- (5) advise the applicant and those parties that made a submission of Council's decision accordingly.

## COUNCIL DECISION

### Background

At its ordinary meeting on 13 October 2016, Council resolved to initiate Amendment No. 120 to City of Cockburn Town Planning Scheme No.3 ("the Scheme") for the purpose of advertising an amendment to relocate a portion of an existing, unconstructed road reserve over Lot 9501 Bartram Road, Success. This amendment requires a portion of 'Residential R40' zoned land to be reclassified to 'Local Road' and a portion of 'Local Road' zoned land to be reclassified to 'Residential R30' as depicted on the Scheme Amendment Map at Attachment 2.

The Scheme Amendment was referred to the Environmental Protection Authority ("EPA") in accordance with Section 82 of the *Planning and Development Act 2005*. The EPA advised that the overall environmental impact of the amendment would not be severe enough to warrant formal assessment under the Environmental Protection Act.

The amendment was subsequently advertised seeking public comment between 22 November 2016 and 10 January 2017, a period of 49 days in accordance with the minimum requirements of clause 47(4) of the *Planning and Development (Local Planning Schemes) Regulations 2015* ("Regulations").

A total of 11 submissions were received all from government agencies, none of which raised any objection to the proposal. These submissions are set out within the Schedule of Submissions (Attachment 4).

As per clause 50(3) of the Regulations, this matter is now presented for Council's consideration of submissions.



## **Submission**

N/A

## **Report**

### Subject Site and Zoning

The subject land is 4.2982 hectares and is bound by Bartram Road to the south, Wentworth Parade to the east, Hanbury Loop to the west and land reserved for Parks and Recreation to the north (Attachment 1 – Location Plan refers). The site is currently vacant of any development.

The subject land is zoned 'Urban' under the Metropolitan Region Scheme ("MRS"), and was previously zoned "Development" and included within Development Area 14 under the Scheme and coded 'Residential R20'. In February 2016, under Scheme Amendment No. 106, the subject land was removed from Development Area 14 and rezoned to 'Residential R30', 'Residential R40' and 'Residential R60' codings, as well as 'Local Roads' and 'Parks and Recreation' reserves.

### Proposal

The proposed Scheme Amendment seeks to relocate a portion of road reserve within the subject land to allow for additional, regular shaped R30 lots and a single row of R40 lots adjacent to Bartram Road. This arrangement requires a portion of 'Residential R40' coded land to be reclassified to 'Local Road', which is to provide access to the R40 lots, and a portion of 'Local Road' reserve to be reclassified to 'Residential R30' as depicted on the Scheme Amendment Map at Attachment 2. The Amendment affects a relatively small portion of the subject land area. A concept Plan of Subdivision depicting lot location and access is included at Attachment 3.

### Roads and Access

The portion of Bartram Road adjacent to the subject land is reserved as 'Primary Regional Road' under the MRS and thus direct lot access is not permitted from the subject land onto Bartram Road. The proposed amendment seeks to provide access to the R40 lots adjacent to Bartram Road by relocating the internal road reserve directly north of these lots.

The proposed Amendment is unlikely to have any impact on existing residents within the locality in terms of traffic or streetscape amenity, and all other road reserves within the subject land providing future access to the surrounding road network will remain unchanged.

## Conclusion

In summary, it is recommended that the City adopt the proposed Scheme Amendment No. 120.

## **Strategic Plan/Policy Implications**

### **City Growth**

- Ensure planning facilitates a desirable living environment and meets growth targets

### **Moving Around**

- Improve connectivity of transport infrastructure

## **Budget/Financial Implications**

The Scheme Amendment fee for this proposal has been calculated in accordance with the *Planning and Development Regulations 2009*, including the cost of advertising and this has been paid by the applicant.

The subject land is located within Developer Contribution Area 1 (DCA 1) – Success North, which requires contributions towards the widening and upgrading of Hammond Road, between Beeliar Drive and Bartram Road. This contribution is required to be paid on a per hectare basis at the development stage.

The subject land is also located within Developer Contribution Area 13 (DCA 13) – Community Infrastructure, which requires contributions towards community facilities. This contribution is required to be paid on a per lot/dwelling basis at the subdivision/development stage.

## **Legal Implications**

*Planning and Development Act 2005*

City of Cockburn Town Planning Scheme No. 3

*Planning and Development (Local Planning Schemes) Regulations 2015*

## **Community Consultation**

As a standard amendment, the proposal was required to be advertised for a minimum of 42 days in accordance with the Regulations. Due to the advertising period falling over the Christmas/New Year break, the proposal was advertised for an additional week for a total of 49 days commencing on the 22 November 2016 and concluding on 10 January 2017.

A total of 11 submissions were received, all from government agencies providing no objection to the proposal.

### **Risk Management Implications**

The officer's recommendation takes into consideration all the relevant planning factors associated with this proposal and is appropriate in recognition of making the most appropriate planning decision. There is minimal risk to the City if the amendment is adopted as it will not have any impact on existing landowners or residents in the locality and is thus considered minor.

If the Scheme Amendment is not progressed, the R40 portion of land adjacent to Bartram Road will be too wide to develop as a single row of lots. Since direct access from lots onto Bartram Road is not permitted, rear access will be necessary between the two rows of R40 lots to service those adjacent to Bartram Road, which could be provided via a laneway. However, this would result in these lots either fronting a laneway or fronting Bartram Road with relatively high volumes of traffic, neither of which are desirable streetscape amenity outcomes for residents. The Scheme Amendment thus allows for a more desirable option in terms of access to the R40 coded land.

### **Attachment(s)**

1. Location Plan
2. Scheme Amendment Map – Existing and Proposed
3. Concept Plan of Subdivision
4. Schedule of Submissions

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 9 February 2017 Council Meeting.

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

N/A

**15.5 (OCM 09/02/2017) - PROPOSED SCHEME AMENDMENT NO. 121 – LOT 100 PORT KEMBLA DRIVE AND LOT 4 GEELONG COURT, BIBRA LAKE (FINAL ADOPTION) (109/122) (D DI RENZO) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) adopt Scheme Amendment No. 121 for final approval for the purposes of:  
  
Rezoning Lot 100 (No. 35) Port Kembla Drive and Lot 4 (No. 2) Geelong Court, Bibra Lake from 'Local Centre' to 'Mixed Business'.
- (2) note the amendment referred to in resolution (1) above is a 'standard amendment' as it satisfies the following criteria of Regulation 34 of the Planning and Development (Local Planning Schemes) Regulations 2015:  
  
*an amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area, other than an amendment that is a basic amendment;*  
  
*an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;*  
  
*an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;*  
  
*any other amendment that is not a complex or basic amendment.*
- (3) ensure the amendment documentation, be signed and sealed and then submitted to the Western Australian Planning Commission along with a request for the endorsement of final approval by the Hon. Minister for Planning; and
- (4) advise the proponent and landowners of the subject land of Council's decision accordingly.

**COUNCIL DECISION**

## Background

A request has been received to rezone Lot 100 (No. 35) Port Kembla Drive and Lot 4 (No. 2) Geelong Court, Bibra Lake, from 'Local Centre' to 'Mixed Business'.

The subject land comprises two adjoining sites fronting Port Kembla Drive, Spearwood Avenue and Geelong Court in the Bibra Lake Industrial Area (see Attachment 1).

The land is located on the north-eastern corner of the intersection of Spearwood Avenue and Port Kembla Drive, with Geelong Court forming the northern boundary.

Lot 100 Port Kembla Drive is currently occupied by a tavern and drive-through bottle shop, which have recently ceased trading. Lot 4 Geelong Court is located on the south-east corner of the intersection of Port Kembla Drive and Geelong Court, and is currently occupied by two motor vehicle repair and parts premises.

The subject land is zoned 'Industrial' under the Metropolitan Region Scheme, and 'Local Centre' pursuant to City of Cockburn Town Planning Scheme No. 3 ("the Scheme") (shown in Attachment 1).

Council at the Ordinary Meeting of 13 October 2016 resolved to initiate the Amendment as a 'standard amendment', and it was subsequently advertised for public comment with no submissions received.

## Submission

N/A

## Report

The purpose of this report is for Council to consider adopting Amendment No. 121 to City of Cockburn Town Planning Scheme No. 3 ("the Scheme") for final approval subsequent to community consultation.

The Amendment proposes to rezone Lot 100 (No. 35) Port Kembla Drive and Lot 4 (No. 2) Geelong Court, Bibra Lake, from 'Local Centre' to 'Mixed Business'.

The following justification for the proposed rezoning has been provided by the proponent:

- \* *The proposed rezoning of the two subject sites from 'Local Centre' to 'Mixed Business' will match the zoning of all other*

*properties in the western part of the Bibra Lake industrial area bounded by Spearwood Avenue, Stock Road and Phoenix Road.*

- \* *The Mixed Business Zone is a type of industrial zone that will facilitate land uses and development that complement existing development in the locality. As such, the proposal is consistent with the relevant State and local planning frameworks. State planning strategies, including the draft Perth and Peel@3.5 Million documents and the Economic and Employment Lands Strategy, seek to maintain and protect the Bibra Lake industrial precinct.*
- \* *The City's Local Planning Strategy includes the land within the 'Bibra Lake Industrial' precinct and also aims to consolidate this and other industrial precincts, due to the employment benefits for the local and regional communities. The land is located within the Bibra Lake Industrial Centre in the Local Commercial and Activity Centre Strategy; it is not identified as one of the 32 'Local Centres'.*
- \* *The proposed rezoning will complement the existing Mixed Business zoning within the western part of the Bibra Lake industrial area, consistent with the relevant State and local planning frameworks. The Mixed Business Zone is a type of industrial zone that will facilitate land uses and development that complement existing development in the locality. Further, the Scheme Amendment will correct an existing zoning anomaly in TPS 3 by ensuring the permissible uses for the subject land are more appropriate for its location within an industrial precinct.*

### Zoning History

Under City of Cockburn Town Planning Scheme No. 1 ("TPS 1") Lot 100 Port Kembla Drive was zoned 'Special Use -Tavern'; Lot 4 Geelong Court was zoned 'Special Use - Service Station'; and the surrounding area was zoned 'General Industry'. TPS 1 itself was characterised by a large number of zones, including numerous 'Special Use' zones that reflected a range of very specific uses.

Under City of Cockburn District Zoning Scheme No. 2 ("DZS 2") there was a reduction in the number of zones within the Scheme, and both lots were then zoned 'Commercial', presumably to reflect the uses facilitated under TPS 1 for the site. The surrounding area was zoned 'General Industry' at that time, and was later zoned 'Mixed Business'.

The introduction of TPS 3 saw a further reduction in the number of zones, and a shift towards broader, more general zones. Under TPS 3

the subject land was zoned 'Local Centre'. This would have been the most comparable zoning to 'Business', which is not a specified zone under TPS 3.

Based on this examination of the history of the site it is not considered that there is any specific purpose for the current 'Local Centre' zoning of the subject land.

It is likely that this zoning merely reflects an evolution of the original zoning of the land under TPS 1, which was put in place to accommodate some specific businesses at the time, rather than any specific intent to facilitate a local centre in this location.

This is supported by the fact that it was not identified as a 'local centre' in the original City of Cockburn Local Commercial Strategy (1996), nor subsequently in the current Local Commercial and Activity Centre Strategy, discussed further in this report.

Furthermore, it is not considered that the subject land has ever fulfilled a 'local centre' function. On this basis, there is not considered to be a specific reason to retain the 'Local Centre' zoning in this location.

#### Objectives of the 'Local Centre' and 'Mixed Business' zones

The Scheme sets out objectives for each zone, and the objective of the 'Local Centre' is as follows:

*Local Centre Zone: To provide for convenience retailing, local offices, health, welfare and community facilities which serve the local community, consistent with the local - serving role of the centre.*

The subject site does not, and has not in the past contained uses that are specifically consistent with this objective. The historical use of the site and the current uses are more consistent with the objectives of the 'Mixed Business' zone as follows:

*Mixed Business Zone: To provide for a wide range of light and service industrial, wholesaling, showrooms, trade and professional services, which, by reason of their scale, character, operation or land requirements, are not generally appropriate to, or cannot conveniently or economically be accommodated within the Centre or industry zones.*

#### Permissible Uses

In assessing the proposed Amendment it is important to consider the range of uses permissible under the current 'Local Centre' zone, and those permissible under the proposed 'Mixed Business' zone.

Attachment 2 provides a comparison of the permissibility of all uses for each zone.

Of particular note, 'Grouped' and 'Multiple' dwellings are 'P' uses in the 'Local Centre' zone. Given the adjacent 'Mixed Business' zoning, and the fact that the subject land is located within an industrial area, it is considered undesirable to have dwellings as a 'P' use, and more appropriate to have them as a 'D' use, as they are in the 'Mixed Business' zone.

By having grouped and multiple dwellings as 'D' uses this allows the City/Council to consider whether grouped and multiple dwellings are appropriate for the site should they be proposed, having regard for the amenity impacts of the established industrial/commercial uses in the surrounding industrial precinct.

In terms of commercial uses, there are a greater range and number of permissible commercial uses under the 'Mixed Business' zone than the 'Local Centre' zone. For example, 'Light Industry', 'Service Industry' and 'Cottage Industry' are not permissible in the current 'Local Centre' zone, and are permissible ('D' uses) under the 'Mixed Business' zone. Given that the subject land is located in an industrial area, surrounded by 'Mixed Business' zoned land, it is considered appropriate that such uses are permissible.

The proposed 'Mixed Business' zone is therefore considered to facilitate a more appropriate range of uses for the subject land, compatible with the surrounding area.

The 'Mixed Business' zone will give landowners a greater range of permissible commercial land uses, while providing Council with greater control over possible development of grouped and multiple dwellings on the subject land.

There are some uses that are currently permissible under the 'Local Centre' zone, that will not be permissible under the proposed 'Mixed Business' zone. For example, under the 'Mixed Business' zone 'shop' uses will not be permissible (currently permissible in the 'Local Centre' zone), however 'showroom' uses will be permissible.

The current uses on Lot 4 Geelong Court will be permissible uses under the 'Mixed Business' zone, and will more closely align with the objectives of the 'Mixed Business' zone than the 'Local Centre' zone.



## City of Cockburn Local Commercial and Activity Centre Strategy

While currently zoned 'Local Centre', the subject land is not identified as one of the 32 local centres in the City of Cockburn Local Commercial and Activity Centre Strategy ("LCACS").

It is also noted that it was not previously identified as a local centre in the now superseded City of Cockburn Local Commercial Strategy (1996), where it was identified as being within the Bibra Lake 'Mixed Business' area.

The LCACS identifies the subject land as being within the Bibra Lake Industrial Centre, which is a Strategic Employment Centre.

The performance of the Bibra Lake Industrial Centre as a whole has been measured in the LCACS across three key principles - Intensity; Diversity and Employment. The possible impact of the proposed rezoning on each of these principles is outlined and discussed below:

**Intensity:** Intensity is the measure of the ratio of floor space to total land area. The proposed rezoning will not negatively impact on this potential ratio, and by increasing the range of possible uses for the subject land it will increase floor area potential.

**Diversity:** Diversity seeks co-location of complementary activity which can yield positive externality benefits. The proposed rezoning is not considered to negatively impact diversity of the centre, as the majority of uses that will no longer be permissible are not considered to be appropriate complementary uses in the area. In addition, the proposed rezoning increases the number of commercial uses that would be permissible, and therefore may facilitate increased diversity.

**Employment:** In terms of employment opportunities within the Bibra Lake Industrial Centre, the proposed rezoning is not considered to detrimentally impact this performance. It will even assist in ensuring that residential development of the land, which is possible under the current zoning, does not reduce the employment generating potential of the subject land.

It is therefore considered that the proposed rezoning of the subject land to 'Mixed Business' is consistent with the LCACS, and will provide greater flexibility that could impact positively on the three key principles used to measure the performance of the Bibra Lake Industrial Centre.

## State Planning Context

In May 2015, the Western Australian Planning Commission ("WAPC") released the draft Perth and Peel@3.5 Million documents, which

include strategies for accommodating an expected population of 3.5 million by 2050. The Spatial Plan shows the subject land as 'Industrial Zoned – Existing', with no change proposed.

The Strategy is supported by four draft sub-regional planning frameworks. The subject land is located within the draft South Metropolitan Peel Sub-Regional Planning Framework, which identifies the area as 'Industrial'.

Therefore the proposal to rezone the land from 'Local Centre' to 'Mixed Business' is considered to be consistent with the draft strategies, and will not prejudice any objectives in respect to commercial/industrial land.

#### Community Consultation

The proposed Scheme Amendment was advertised for public comment from 15 November 2016 until 6 January 2017. The Regulations require a 42 day advertising period for standard amendments, however in this case a 42 day advertising period would have ended on 27 December 2016. Given that this was during the City of Cockburn office closure period some additional time was added to the advertising period to ensure sufficient opportunity was given for community consultation. The proponent was informed of this extension and did not object.

Advertising included an advertisement in the newspaper, and letters to government agencies and adjoining landowners seeking comments. Letters were also sent to landowners and tenants of the subject land. No submissions were received.

#### Conclusion

To summarise, it is considered that the proposal to rezone the subject land from 'Local Centre' to 'Mixed Business' be supported for the following reasons:

- \* The proposal is consistent with the MRS zoning and will provide a zoning that matches the surrounding area.
- \* There is not considered to be a specific purpose for the current 'Local Centre' zoning, given that the subject land is not identified in the LCACS as a local centre (including the superseded Local Commercial Strategy), and it has never functioned as a local centre.
- \* The range of permissible uses, and the permissibility of uses under a 'Mixed Business' zoning is more appropriate for the

area given it is located within the Bibra Lake Industrial area, and will provide greater control over possible residential uses.

- \* The range of permissible uses under a 'Mixed Business' zoning will assist in achieving the targets set out in LCACS for the Bibra Lake Industrial area, given it will provide more flexibility for commercial uses.

It is therefore recommended that Amendment No. 121 be adopted by Council and referred to the Western Australian Planning Commission with a request for the endorsement of final approval by the Hon. Minister for Planning.

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

#### **Economic, Social & Environmental Responsibility**

- Create opportunities for community, business and industry to establish and thrive through planning, policy and community development.
- Increase local employment and career opportunities across a range of different employment areas through support for economic development.

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

The Scheme Amendment fee has been calculated by the City and has been paid by the applicant.

#### **Legal Implications**

N/A

#### **Community Consultation**

As per Part 5 of the Planning and Development (Local Planning Schemes) Regulations, there are three amendment types: basic, standard and complex. These are defined in Part 5, Division 1, Regulation 34.

A standard amendment (such as this) requires 42 days consultation.

Subsequent to being initiated by Council the Amendment was referred to the Environmental Protection Authority ("EPA") pursuant to section 48A of the *Environmental Protection Act*. The Amendment was deemed to be 'not assessed' and was advertised for 42 days, with an additional 10 days so that it did not end during the City of Cockburn Christmas office closure time.

Advertising included an advertisement in the newspaper, and letters to adjoining landowners seeking comments. Letters were also sent to landowners and tenants of the subject land and government agencies. There were no submissions were received.

### **Risk Management Implications**

The officer's recommendation takes in to consideration all the relevant planning factors associated with this proposal. It is considered that the officer recommendation is appropriate in recognition of making the most appropriate planning decision.

It is important for the landowners to understand the implications of the proposed zoning changes, in that there will a number of land uses currently permissible under the 'Local Centre' zone, that would no longer be permissible under the proposed 'Mixed Business' zone.

In this regard the City's consultation will encourage the landowners and tenants of the subject land and adjacent landowners to consider how these changes may impact their future plans for their property.

### **Attachment(s)**

1. Location Plan and Zoning
2. Table 1 (Land Use Table) Comparison of Land uses

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

The Proponent(s) has been advised that this matter is to be considered at the 9 February 2017 Ordinary Council Meeting.

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

Nil.

- 15.6 (OCM 09/02/2017) - INITIATION OF PROPOSED SCHEME AMENDMENT NO. 118 – LOCATION: PARTS OF NORTH LAKE, BIBRA LAKE AND SOUTH LAKE AND THE ASSOCIATED 'FREIGHT RAIL NOISE AREA' LOCAL PLANNING POLICY- OWNER: VARIOUS - APPLICANT: THE CITY OF COCKBURN (L SANTORIELLO) (109/118) (ATTACH)**

#### **RECOMMENDATION**

That Council

- (1) in pursuance of Clause 75 of the *Planning and Development Act 2005* ('the Act') and Part 5, Division 2 Regulation 37 (1) (b) of the

*Planning and Development (Local Planning Schemes) Regulations 2015* ('the Regulations') initiate the proposed scheme amendment, to the City of Cockburn Town Planning Scheme No. 3 ("Scheme") as shown below, and subject to (6) below, proceed to advertise the amendment for a period not less than 60 days:

1. Recoding various residential zoned properties within parts of the suburbs of 'South Lake', 'Bibra Lake' (east) and parts of 'North Lake' to 'Residential R30', 'Residential R40', 'Residential R60' and 'Residential R80'. To be generally in accordance with the City of Cockburn adopted Lakes Revitalisation Strategy (May 2016) and the Lakes Revitalisation Strategy Background Report (December 2015). Reclassifying incorrectly zoned land to the 'Parks and Recreation' and 'Local Road' Local Scheme Reserves.

2. Modifying Clause 5.1.1 by including an additional sub-clause as follows:

*The Freight Rail Noise Area is shown on the Scheme Map as FRNA.*

(a) Modifying Clause 5.1 by inserting a new Clause after Clause 5.1.1, as follows, and renumbering the subsequent Clauses accordingly:

*Notwithstanding the exemptions to the need for development approval set out in Part 7 of the Deemed Provisions, and this Scheme, development approval is required where the following development is included in the Freight Rail Noise Area, as defined by Part 5 of the Scheme, but not for minor extensions:*

- a. The erection or extension of a single house;*
- b. The erection or extension of an ancillary dwelling*
- c. The erection or extension of a grouped dwelling.*
- d. The erection or extension of a multiple dwelling.*

(b) *Include a new Clause 5.7 within Part 5 – Special Control Areas as follows:*

*5.7 The purpose of the Freight Rail Noise Area is to:*

- (a) implement State Planning Policy No. 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning ('SPP 5.4') and the associated SPP 5.4 Implementation Guidelines ;*

- (b) *define noise and vibration affected areas, based on SPP 5.4 and site specific noise and vibration measurements, within parts of the suburbs of Bibra Lake and South Lake;*
- (c) *protect current and/or future inhabitants, with applications for noise-sensitive land uses, from unreasonable levels of transport noise by implementing a pre-determined standardised set of noise and vibration attenuation measures, or alternatively site specific assessments and measures prepared by a suitably qualified acoustical consultant, at the development application stage;*
- (d) *encourage noise mitigation best-practice advancements, design and construction standards for new development proposals in proximity to major transport corridors; and*
- (e) *recognise in some few instances it may not be reasonable and practicable to meet the full extent of the expected vibration criteria thus, in these few instances, Local Governments may exercise some level of flexibility, where appropriate, in decision making.*

*5.7.2 The Freight Rail Noise Area is defined on the Scheme Map within 300 metres of the central line of the nearest railway track of the Freight Railway Line within the suburbs of Bibra Lake and South Lake pursuant to State Planning Policy 5.4, which applies to noise-sensitive land uses. The Freight Rail Noise Area is informed by a site specific Freight Train Noise and Vibration Assessment prepared in accordance with State Planning Policy No. 5.4.*

*Note: The designation of particular parts of the district as a Freight Railway Noise Area should not be interpreted to imply that areas outside the Freight Railway Noise Special Control Area are un-affected by noise and vibration.*

*5.7.3 In determining an application to carry out development in the Freight Rail Noise Area, the Local Government may impose conditions on any planning approval as to:*

- (a) *require noise and vibration attenuation measures to be incorporated into the design of buildings; and*
- (b) *require the registration of notifications on title advising of the potential for Freight Rail Noise*

*and Vibration nuisance.*

5.7.4 *The Local Government may consult with the Department of Environment Regulation, or any other such acoustic or building industry experts the Local Government considers necessary, in the consideration and determination of an application for planning approval to ensure appropriate noise and vibration attenuation measures are incorporated into the design of buildings.*

(c) Amending the Scheme Legend accordingly.

(d) Amending the Scheme Map accordingly.

(2) note the amendment referred to in resolution (1) above falls within the definition of a 'complex amendment' as per Part 5 Division 1 Regulation 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as follows:

- (a) "an amendment that is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
- (b) an amendment that is not addressed by any local planning strategy;
- (c) *an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality;*
- (d) *an amendment made to comply with an order made by the Minister under section 76 or 77A of the Act; and*
- (e) *an amendment to identify or amend a development contribution area or to prepare or amend a development contribution plan*".

Pursuant to Regulation 35 (2), note the proposed amendment satisfies (a), (b) and (c) of the above criteria. In particular, the proposal is not countenanced in any local planning strategy, endorsed by the Commission or otherwise. The amendment is of a scale with potential impacts, relative to the current development in the locality, principally in relation to higher density codes which has the potential to result in changes to the residential environment.

(3) pursuant to Clause 81 of the Act, refer the proposed scheme amendment to the EPA by giving to the EPA written notice of this resolution and such written information about the amendment as is sufficient to enable the EPA to comply with section 48A of the EP Act in relation to the proposed scheme

amendment;

- (4) note the proposed scheme amendment will not be advertised under section 84 until the EPA has advised their review has been undertaken in accordance with instructions pursuant to Clause 82 (2) of the Act;
- (5) pursuant to Part 5 Division 2 Regulation 37 (2) of the Regulations submit 2 copies of the proposed amendment to the Commission prior to advertising of the proposed scheme amendment and request of the commission, pursuant to 37 (4), that the Commission examine the documents and advise the City of Cockburn if the Commission considers that any modification to the documents is required before the amendment to the local planning scheme is advertised; and
- (6) subject to Clause 81 and 82 of the Act, if the Commission advises the City of Cockburn that it is satisfied that the complex amendment is suitable to be advertised, as per (4) and (5) above, advertise the proposed amendment pursuant to the details prescribed within Regulation 38. Regulation 38 specifies advertising must not be less than a period of 60 days.

## COUNCIL DECISION

### Background

On 10 December 2015 item 14.5 'The [then draft] Lakes Revitalisation Strategy' was considered and adopted by Council as follows:

1. *“adopt the draft Lakes Revitalisation Strategy for the purposes of advertising;*
2. *adopt the draft Lakes Background report for the purposes of advertising;*
3. *adopt the proposed residential density plans and note that the density plan is intended for public comment at this stage and not yet adopted for the purposes of a Scheme Amendment pursuant to City of Cockburn Town Planning Scheme No. 3; and*



4. *advertise the Background Report and Strategy for 60 days, including a public forum for North Lake / Bibra Lake and for South Lake”.*

Following the formal public advertising process of the then draft Strategy, as identified by point ‘4’ above, the Lakes Revitalisation Strategy was presented to Council under Item 14.1 of the 12 May 2016 Council meeting for final adoption.

At the 12 May 2016 meeting Council resolved to:

1. *“endorse the schedule of submissions;*
2. *Adopt the Lakes Revitalisation Strategy, subject to 14 points [which have not been listed here, please refer to the formal Minutes for details];*
3. *proceed to implement the Lakes Revitalisation Strategy in accordance with the actions and timeframes provided in the Strategy; and*
4. *advise in writing all residents within the project area of the outcome of this decision.”*

In accordance with the above two formal decisions of Council, and the associated public consultation, City of Cockburn Staff have since actioned the above mentioned resolutions of Council

Pursuant to the above, the ‘Lakes Revitalisation Strategy Scheme Amendment No. 118’ has been prepared and is presented before Council for consideration to initiate.

This report does not aim to reiterate the points already provided within the above mentioned Council decisions, those being:

- (a) Item 14.5 of the 10 December 2015 Council Meeting; and
- (b) Item 14.1 of the 12 May 2016 Council meeting

Rather this report involves the specific reporting on the proposed Scheme Amendment. For further background as to Councils previous resolutions please refer to the formal decisions of Council as referred to above under points ‘A’ and ‘B’ above.

### **Submission**

N/A

## Report

The proposed Amendment to the City of Cockburn's Town Planning Scheme No. 3 ("Scheme") aims to implement the density codes as prescribed within the Lakes Revitalisation Strategy ('the Strategy') and its associated 'Background Report' inclusive of the correction of Local Scheme Reserve anomalies.

The Strategy is the latest of the City's revitalisation projects and is intended to guide how future urban infill can be delivered within the suburbs of 'South Lake', 'Bibra Lake' (east) and parts of 'North Lake'.

The strategy aims also to identify improvements and infrastructure required to support the expected population growth as outlined by the State Governments' 'Directions 2031 and Beyond - Metropolitan Planning Beyond the Horizon August 2010' document.

The Lakes Strategy follows on from the following revitalisation strategies, namely; Coolbellup (2014), Hamilton Hill (2012), and the Phoenix Revitalisation Strategy (2009).

The subject area is considered to be an appropriate area to revitalise due, but not necessarily limited to, the following factors:

- The subject area is strategically placed within the heart of the rapidly expanding south west corridor.
- The subject area is a well-connected area in proximity to the new Fiona Stanley Hospital, Murdoch University Precincts and the emerging Cockburn Central Activity Centre.
- The subject area has an established level of infrastructure with various forms of public transport facilities including passenger rail, high frequency bus and also motor vehicular access via the Kwinana Freeway in close proximity.
- The physical age of built form within the subject area being such that decisions for redevelopment and/or renewal are expected to be made by landowners over the coming years, providing the opportunity to consider whether redevelopment to other forms of housing (grouped and multiple) should take place.

### Metropolitan Region Scheme ('MRS')

The land which is the subject of the proposed Amendment is primarily zoned 'Urban', with a single 'Public Purpose Reserve – High School' ('HS') reserved, under the Metropolitan Region Scheme ('MRS').

The Western Australian Planning Commissions identifies “Urban” as:

*“Areas in which a range of activities are undertaken, including residential, commercial recreational and light industry.”*

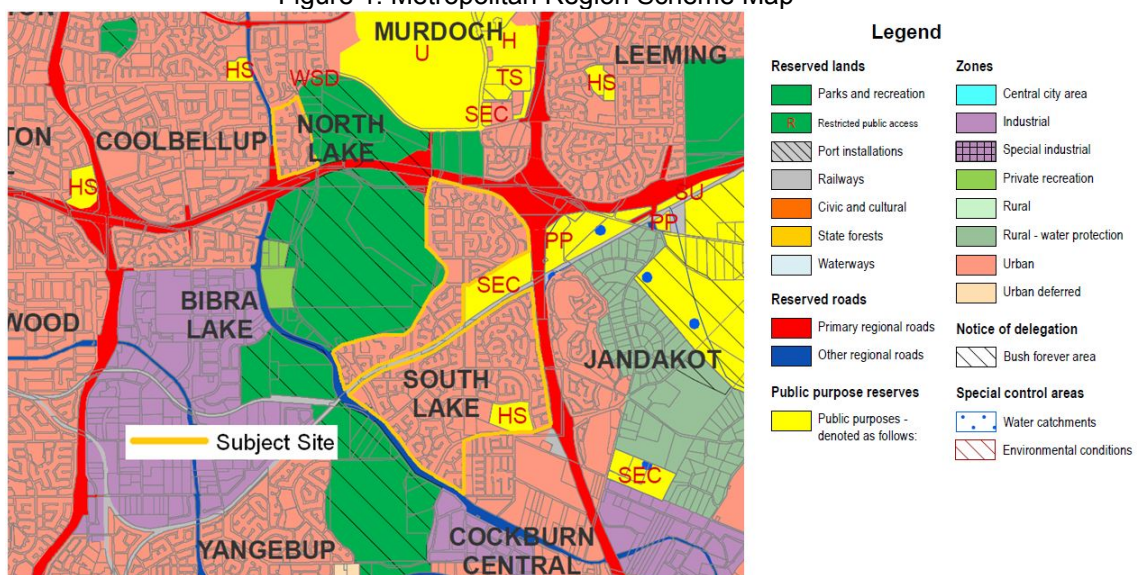
The subject site abuts a ‘Bush Forever’ Area comprising a series of interconnected wetlands namely ‘North Lake’, ‘Bibra Lake’ and ‘Yangebup Lake’. This land is reserved as ‘Parks and Recreation’ under the MRS and shown as dark green below.

A portion of land in-between the suburbs of North Lake and Bibra Lake, dissecting the wetlands, is partially reserved for the future Roe Highway extension. This land is formally reserved as ‘Primary Regional Roads’ under the MRS and shown in red below in east-west delineation. The north-south ‘Primary Regional Road’ provides for the Kwinana Freeway which bounds the subject site to the east.

Parts of each of the three suburbs about North Lake Road which is identified in blue below and reserved under the MRS as ‘Other Regional Roads’.

A portion of the land in-between the suburbs of South Lake and Bibra Lake is reserved as ‘Railways’. Figure 1 below provides a broad MRS Zoning map which generally identifies the subject land by the orange border.

Figure 1: Metropolitan Region Scheme Map



City of Cockburn Town Planning Scheme No. 3 (‘TPS No. 3’)

The land which is the subject of the proposed Amendment is primarily zoned ‘Residential’, with ‘Local Centre’ and ‘Mixed Business’ zones included within the subject site.

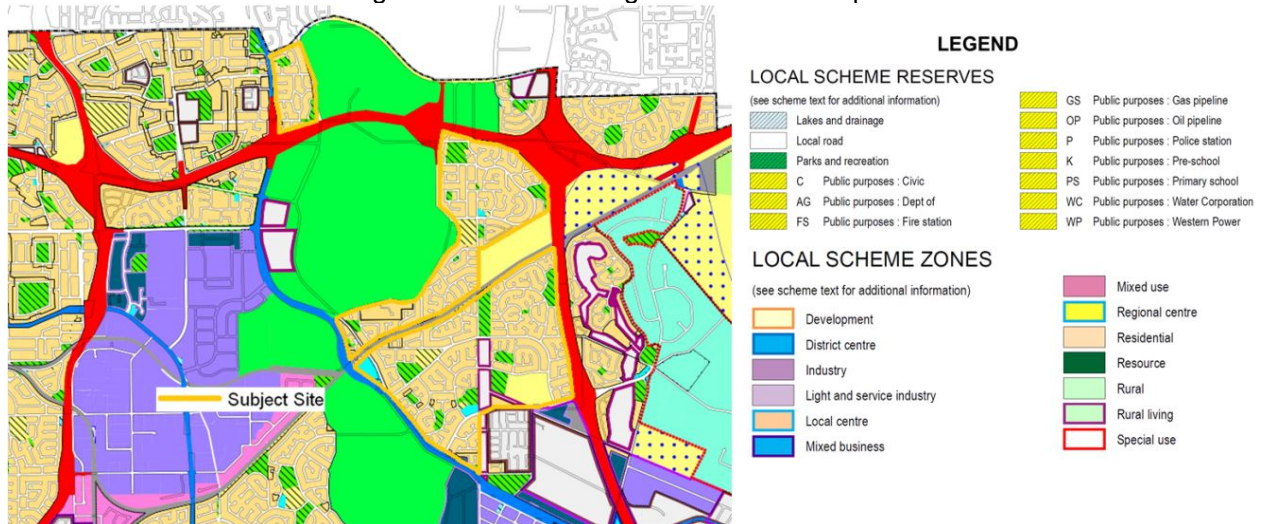
The subject site comprises the following Local Scheme Reserves under TPS No. 3 namely; ‘Local Road’, ‘Parks and Recreation’, ‘Public Purpose – Primary School’, ‘Public Purpose – High School’, ‘Public Purpose – Civic’ and ‘Lakes and Drainage’.

Pursuant to Clause 4.2.1 (a) of Town Planning Scheme No.3 the objective of the ‘Residential’ Zone is;

*“To provide for residential development at a range of densities with a variety of housing to meet the needs of different household types through the application of the Residential Design Codes.”*

A portion of the Residential Zoned land within the subject site is coded ‘R25’ however the majority is coded ‘R20’. Figure 2 below provides a broad Scheme Zoning map which generally identifies the subject land by the orange border.

Figure 2: Town Planning Scheme No.3 Map



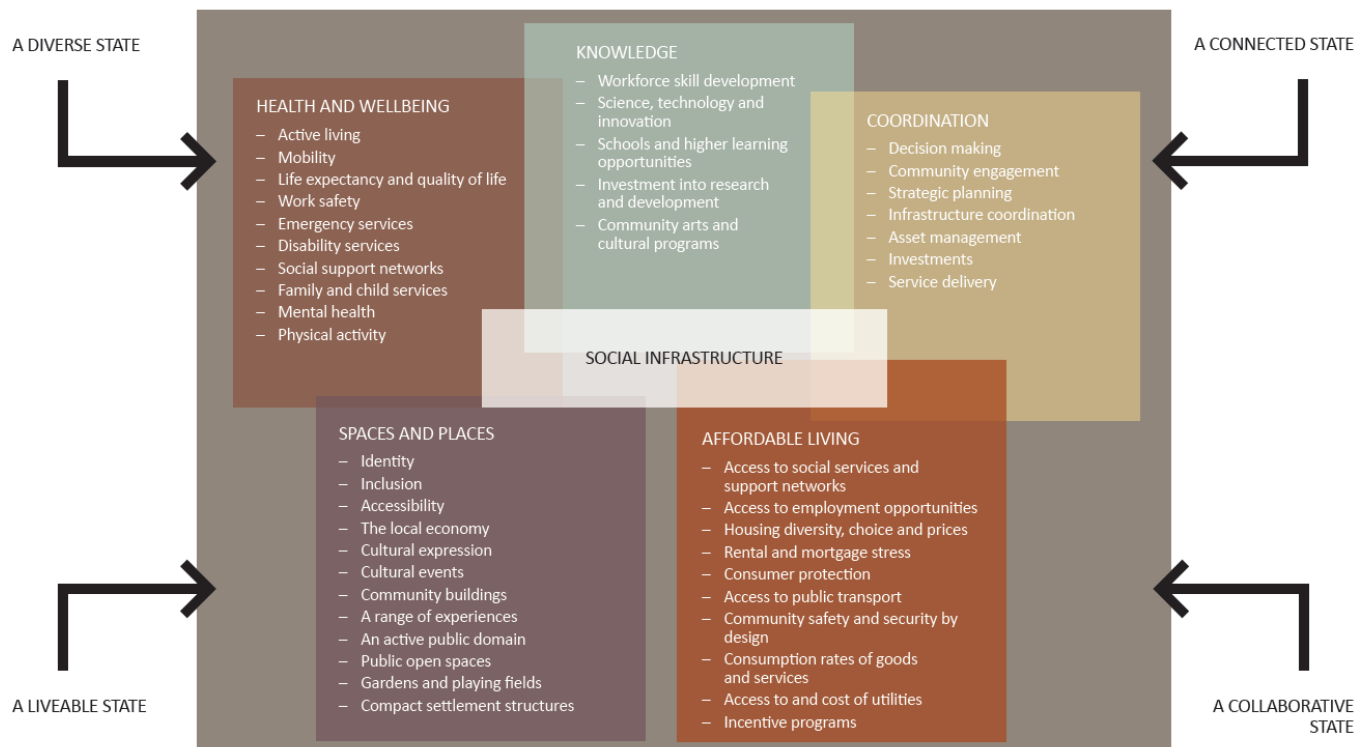
### State Planning Strategy ‘SPS’

The SPS highlights Western Australia’s population is expected to increase at a faster rate than the Australian average.

On this basis social infrastructure planning is required to consider not only the needs of the current community but also plan for the future residents.

The below figure provides a visual representation of the broader strategic social infrastructure planning considerations as directed by the State government.

Figure 3: Planning for Social Infrastructure  
 Source: SPS, 2014



This Amendment, in conjunction with the Lakes Strategy and its associated suite of recommendations, is broadly in accordance with the strategic objectives of the State Planning Strategy.

Directions 2031

‘Directions 2031’ is a high level spatial framework and strategic plan that establishes a vision for future growth of the metropolitan Perth and Peel region. Directions 2031 identifies local population housing and job targets, managing growth principles and how to develop the activity centre concept.

Directions 2031 helps provide for a growing population whilst ensuring we live within available land, water and energy resources. It provides State direction on where development should be focused and what patterns of land use and transport will best support this development pattern.

Under the ‘connected city’ scenario it is estimated by 2031 the population of the south-west sub-region will have grown by 34 per cent to 278,000. Directions 2031 expects the sub-region to increase its employment self-sufficiency rate from its current 60 per cent rate to 70 per cent, which will require 41,000 new jobs by 2031.

Figure 17 on page 86 of Directions 2031, identifies the subject site as being well connected to major transport infrastructure and adjacent to key industrial employment sites. The subject site benefits also from proximity to the Cockburn secondary centre and the Jandakot Airport 'specialised centre'. These locational criteria coupled with the population growth expectations for the region make the subject site an ideal location for urban infill.

### State Planning Policies

Part 3 Section 25 of the *Planning and Development Act 2005* provides for the details pertaining to *State Planning Policies*. A State Planning Policy is to be directed primarily towards broad general planning and facilitating the coordination of planning through the State by local governments. On this basis this report is required to have 'due regard' to the relevant State Planning Policies. The below sections provide for a general overview in this regard and are provided as follows.

### State Planning Policy No. 3 – Urban Growth and Settlement (2006)

Similar to abovementioned, SPP No. 3 reiterates that the State is growing and changing. SPP No. 3 goes further into the associated planning issues with regards to a growing metropolitan area. It identifies there is a cost involved with the States dependence on cars for meeting the daily travel needs when it is in most cases easier for people to walk or cycle to their destinations.

The overall aim of the policy is to facilitate sustainable patterns of urban growth and settlement by setting out the requirements of sustainable settlements and communities and the broad policy in accommodating growth and change.

This Amendment, in accordance with the Lakes Revitalisation Strategy, the Background Report and the suite of associated recommendations, adhere to and complement SPP No.3 as outlined above.

### State Planning Policy No. 2.3 - Jandakot Groundwater Protection (2014)

The subject site does not fall within the 'Priority One, Two or Three' groundwater protection areas as prescribed under Figure 1 of SPP 2.3. The Priority Groundwater areas are generally located to the east of Kwinana Freeway. The subject site is wholly to the west of Kwinana Freeway and therefore the subject site is not within an identified Priority Groundwater protection area.

Notwithstanding the above, the subject site is in close proximity to the priority groundwater protection areas. Pursuant to proper and orderly

planning principles, this Amendment is required to have due regard to the policy objectives.

The Amendment does not propose to give effect to mass rezone or reclassification of the subject land nor does the proposal aim to clear significant areas of natural vegetation. Whilst some vegetation may be required to be cleared over time as a result of redevelopment of residential properties (to facilitate new houses) the strategy provides for street tree and public space planting to offset the expected loss. These details, with respect to tree planting, are prescribed within Councils approved Lakes Strategy.

The proposed Amendment on this basis is considered to be consistent with the objectives of SPP 2.3.

#### State Planning Policy No. 3.1 - Residential Design Codes (2015)

The Residential Design Codes ('R-Codes') apply throughout Western Australia, including the Lakes area, to all residential development. This includes permanent accommodation for people, and may include all dwellings, the residential component of mixed-use development, and residential buildings proposing permanent accommodation.

The purpose of the R-Codes is to provide a comprehensive basis for the control of residential development. In assessing and determining proposals for residential development, as a result of the increased density codes within the Lakes area, the decision maker is required to have due regard to 1.3.2 of the R-Codes, the R-Codes generally and the scheme.

Any future proposals for residential development will be guide by the decision making requirements of the R-Codes. This Amendment is consistent with the objectives of SPP 3.1 subject to due process being adhered to with regards to future residential development proposals.

#### State Planning Policy No. 3.7 Planning in Bushfire Prone Areas (2015)

Parts of the Scheme Amendment area is designated as Bushfire Prone under the State Bush Fire Prone Area Map, see Figure 4 below for details.







Pursuant to the Building Code of Australia ('BCA') and as mentioned by section 5.8.2 of the *Guidelines for Planning in Bushfire Prone Areas*; for development of Class 1, 2 or 3 buildings or Class 10a buildings or decks associated with Class 1, 2 or 3 buildings in a bushfire prone area, the bushfire construction requirements of the BCA will be applied at the building permit stage irrespective of the planning assessment process.

The City of Cockburn engaged the services of *Bushfire Prone Planning* to prepare a '*Bushfire Management Plan Strategic BAL Contour Mapping dated 27 October 2016*'. Figures 5.2 of that document provides an appropriate BAL Contour Map prepared under the requirements of SPP 3.7 which identifies a small proportion of the existing residential lots within the study area fall within the BAL-40 and the BAL-FZ range.

On the above basis it is important to note, 142 residential lots within the Amendment area are under the BAL-40 or BAL -FZ. Of the 142 residential lots 130 of these residential lots are less than 1,100m<sup>2</sup> in area with 12 lots more than 1,100m<sup>2</sup> in area.

*Bushfire Prone Planning's* BAL Contour Report, in the view of the City of Cockburn, meets the requirements of SPP 3.7. This includes the consideration of '*minor development*' as per section 6.7 and 6.7.1 of SPP 3.7.

On the above basis and as per the formal Scheme Amendment justification, in the view of the City of Cockburn the proposed Scheme Amendment is compliant with SPP 3.7. Notwithstanding, landowner/(s) within the Scheme Amendment area planning to develop or redevelop their properties, as a result of higher densities, are encouraged to investigate and consider the implications of AS 3959-2009 on their property/ properties at the earliest stage of their development/ re-development considerations. This is to avoid unexpected costs or surprises relating to AS 3959-2009 bushfire building standard requirements.

#### State Planning Policy No. 5.3 – Land Use Planning in the Vicinity of Jandakot Airport (January 2017)

The City of Cockburn was invited by the WAPC to provide comment on the preliminary version of the 2015 *draft State Planning Policy 5.3 Land Use Planning in the Vicinity of Jandakot Airport* ('draft SPP') on 15 December 2015. The [then] advertising period closed on 16 March 2016.

Item 14.4 of the 10 March 2016 Council Meeting outlined the City of Cockburn's formal response to the WAPC in relation to the draft SPP 5.3. The City's recommendation was as follows;

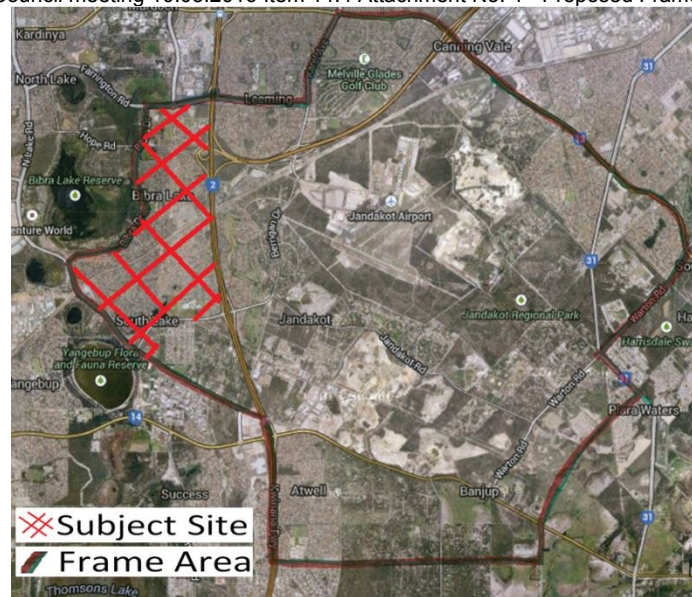
"That Council make a submission to the Department of Planning on the basis of the officer's report, which recommends the draft 2015 State Planning Policy 5.3 be amended to incorporate the following:

1. *The policy should recognise that Jandakot Airport is unique and differs considerably from Perth Airport, and other airports. This being due to the training airfield and general aviation function, which results in bursts of more frequent but less intense noise in the immediate vicinity of the Airport, as well as the considerable variability in the types and age of aeroplanes used.*
2. *The policy should recognise that there is an increasing reality that Jandakot is in an urbanised / urbanising environment, and therefore management of the actual aeroplane operations may also need consideration as it is these elements that can influence the ANEF shape. There is a need to build in to the policy a process whereby the community are invited to engage in the process of formulating the ANEF.*
3. *The policy should recognise that as a long term planning document, the ANEF should not be expected to drastically change, as given the strategic expectation associated with land use planning.*
4. *The requirement for notifications on land titles for all new noise sensitive development within the 'Frame Area' and also the N60 100 daily noise event contours.*
5. *The requirement for 6.38mm laminated glass on all new noise sensitive development within the existing/ proposed 'Frame area' under SPP 5.3;*
6. *Include frequency-based noise charts (N60, N65 & N70 Noise Contours) to supplement the ANEF within SPP 5.3 as recommended in NASF Guideline A.*
7. *Expand the 'Frame Area' boundary within SPP 5.3 to be consistent with Attachment 4 of this report for the purposes of notifications on title".*

In relation to point 7 above, the City's proposed Frame Area – 'N' Contours was identified as follows;

Figure 5: CoC SPP 5.3 Proposed Frame Area – 'N' Contour

Source: CoC Council meeting 10.03.2016 Item 14.4 Attachment No. 4 - Proposed Frame Area (SPP 5.3)



As can be seen by Figure 5 above, areas of Bibra Lake and South Lake fall within the City's proposed 'SPP 5.3 Frame Area'. Following the WAPCs receipt of the City of Cockburn's comments in relation to the [then] draft SPP 5.3 the WAPC has since finalised SPP 5.3 which was Gazetted on 11 January 2017.

The 'Frame Area' in the new (January 2017) SPP 5.3, although expanded from the WAPCs first draft, is not as encompassing as the City of Cockburn Councils preferred option (as per figure 5 above).

Councils' recommended and preferred option (which is also supported by Jandakot Airport and the Department of Transport) includes parts of South Lake and Bibra Lake. Council has previously recommended points 4 and 5 of the above Council resolution are implemented for those lots identified in the red hatching above in Figure 5.

On this basis, in light of the recent WAPC decision on the January 2017 SPP 5.3, the City of Cockburn Council may consider preparing an appropriate Scheme Amendment to potentially incorporate a Special Control Area ('SCA') for the reasons of the points raised above. Any contemplation of a SCA for Aircraft Noise would extend beyond the Lakes Scheme Amendment portions of South Lake and Bibra Lake.

It may be appropriate of the City to consider addressing this issue as part of a separate report to Council which could apply to an area beyond the geographical bounds of this amendment area. This is a consideration which may need to be presented to the City of Cockburn Council for consideration. Additionally the further exploration and consideration of this issue will need to be discussed also with JAH and other stakeholders such as the WAPC. The proposed Lakes Scheme

Amendment proposes to defer this issue potentially to a separate report to Council on the January 2017 SPP 5.3 in relation to the above points and potentially into the review of the City's upcoming Local Planning Strategy.

Notwithstanding the above, the Lakes Scheme Amendment as prepared by the City of Cockburn adheres to the requirements of the January 2017 SPP 5.3. This amendment will be formally referred to JAH during the advertising period; to better understand their views on the recently Gazetted January 2017 SPP 5.3; and whether they consider further actions in relation to the above to be appropriate or not.

State Planning Policy No. 5.4 – Road and Rail Transport Noise and Freight Considerations in Land Use Planning (September 2009)

Excessive noise has the potential to affect the health and amenity of a community as a whole as well as the wellbeing of an individual. There is documented evidence that long-term exposure to high levels of noise may cause serious health, learning and development problems. Some people are more sensitive to noise than others, and tolerance to noise can vary depending on the time of day or the day of the week.

The efficient movement of people and freight is critical to the economic sustainability of Western Australia. As the population and resource industry grow, the increase in the volume of freight and the vast distances involved in distribution will put further pressure on transport infrastructure.

SPP 5.4 aims to promote a system in which sustainable land use and transport are mutually compatible. It is recognised, in the future, noise criteria is likely to become more demanding than those contained in the September 2009 version of SPP 5.4. Improvements in technology in both infrastructure and development industries are therefore encouraged; with the aim of a long-term reduction in noise experienced by noise-sensitive land uses.

The objective of SPP 5.4 is based around protecting people from transport noise; whilst simultaneously encouraging best-practice design and construction standards for new development proposals. In applying SPP 5.4 the WAPC specifies it is expected that consideration will be given to a 15-20 year transport planning horizon, which allows for the impact of future traffic growth.

Bibra Lake and South Lake are dissected by a freight railway line and therefore in accordance with SPP 5.4 and its associated Guidelines principles, noise (and vibration) needs to be addressed regarding the freight railway line. Ground-borne vibration is most commonly

associated with freight rail transport. SPP 5.4 recognises vibration, and regenerated noise, can result from freight railways.

Roads carrying more than 20,000 vehicles per day are classified under SPP 5.4 section 5.2.2 as 'Major Roads'. *'Major transport corridors' are defined under SPP 5.4 as; "land set aside for the movement of road/or rail traffic, including railways and major roads"*.

North Lake Road, Farrington Road, Kwinana Freeway and the freight railway line are considered to be *'major transport corridors'* within the Lakes Revitalisation Strategy Scheme Amendment area. These major transport corridors are located in the vicinity of existing residential development and potential future residential development sites. As North Lake, Bibra Lake and South Lake evolve (and redevelop) as suburbs over time these transport routes will be flanked by higher density housing.

SPP 5.4 specifies, for new noise-sensitive developments, noise assessments should generally be conducted as early in the planning process as practical, typically at the 'Scheme Amendment' stage. In this instance, as outlined within the Lakes Revitalisation Strategy, noise and vibration are particularly important Scheme Amendment issues in need of due consideration at this stage of planning.

It is recognised building construction techniques, for the purposes of noise management and mitigation, includes such things as upgrading glazing, ceiling insulation and sealing of air gaps. Noting SPP 5.4, and this proposed Scheme Amendment, does not act retrospectively to existing dwellings with respect to noise mitigation.

It is recognised it may not be reasonable and practicable to meet the noise target criteria. Where transport noise is above the target level, measures are expected to be implemented that best balance reasonable and practicable considerations, such as noise benefit, cost, feasibility, community preferences, amenity impacts, safety, security and conflict with other planning and transport policies.

Similarly as mentioned under section 5.8 of SPP 5.4, it may not always be practicable to achieve acceptable indoor noise levels if new development is located very close to the transport corridor. In these situations the primary focus should be on achieving the lowest level of noise, with other reasonable and practicable considerations being secondary to this objective.

Section 6 of SPP 5.4 recognises, in cases in which there are serious noise issues, such as the freight railway line dissecting Bibra Lake and South Lake, special control areas ('SCA') may be a suitable planning mechanism. A 300m in width SCA is proposed over the freight railway

line and areas of Bibra Lake and South Lake based on SPP 5.4 requirements.

Table 4.1 of the SPP 5.4 Guidelines: *'Noise management during planning stages'* stipulates; at the Scheme Amendment stage the scope should address the suitable land use density options adjacent to major roads and freight handling facilities. Preparation of detailed noise assessment and noise management plans is required by the proponent. On this basis the City of Cockburn and the Public Transport Authority have worked together to engage the services of Lloyd George Acoustics to prepare a suitable Acoustic report for the amendment area which meets the requirements of SPP 5.4.

The focus of the Acoustic report is to define freight rail noise and vibration affected areas, based on recent noise and vibration measurements, prior to any future development occurring. The purpose of this will allow the City of Cockburn and land owners (residential) to identify lots that are affected by rail noise and vibration and apply deemed to satisfy (DTS) construction packages for redevelopment of the site/(s) as, and before, development applications are submitted. Alternatively site specific assessments may be requested by the City or may be undertaken by the developer rather than adopting the DTS standard. This provides ultimate flexibility to the community (see Clause 5.7 (c) above for details).

The Acoustic study follows the scientific method and is compliant with best practice including;

1. AS 2107:2000 Acoustics – Recommended design sound levels and reverberation times for building interiors; and
2. AS 2670.2:1990 Evaluation of Human Exposure to Whole Body Vibration, Part 2: Continuous and Shock Induced Vibration in Buildings (1 to 80Hz).

The site measurements for this Acoustic report, were taken from 19 October to 30 November 2016.



Figure 6: Location of Noise and Vibration Monitoring  
 Source: Freight Train Noise & Vibration Assessment Bibra Lake and South Lake



It is interesting to note of the 13 properties within the study the highest number of trains per night (10:00pm to 6:00am) was 9 and the lowest being 6 (source Table 4.1 of the Acoustic report). The highest night time noise was recorded at 94.6dB and the lowest at 82.4dB (source Table 4.2 of the Acoustic report).

The overall outcome of the Study is a series of buffers, at which different requirements may be applicable for new development only (this will not act retrospectively to existing dwellings). These requirements may vary depending on whether or not the development is single or multiple storeys, as permitted under the proposed higher density codes.

Figure 7: Freight Train Noise & Vibration Impacts (Ground Level)  
 Source: Figure 7.1 from the Freight Train Noise & Vibration Assessment Bibra Lake & South Lake



The above lots correlate to the below mentioned construction packages, as outlined within the 12 January 2017 Freight Train Noise & Vibration Assessment - Acoustic report. See below for details.

Figure 8: Example Construction for Freight Packages  
 Source: Freight Train Noise & Vibration Assessment Bibra Lake & South Lake

Area	Orientation to Road or Rail Corridor	Freight Rail Package CF (up to 92 dB L <sub>Amax</sub> )	Freight Rail Package BF (up to 88 dB L <sub>Amax</sub> )	Freight Rail Package AF (up to 80 dB L <sub>Amax</sub> )
All Habitable Rooms (Including Kitchens)	Facing	<ul style="list-style-type: none"> <li>Walls: 2 x 110mm double brick wall with 50mm cavity and 50mm fibreglass insulation within the cavity.</li> <li>Window: 10.5mm VLam Hush awning windows (up to 40% of room floor area).</li> <li>External Doors: 10mm fully glazed hinged door (up to 20% of room floor area).</li> <li>External doors to bedrooms are not recommended.</li> <li>Roof and ceiling: Clay roof tiles with sarking and 10mm plasterboard ceiling, or, Colorbond roof sheeting with sarking, 4mm fibre cement sheeting fixed to the roof purlins and 2 x 10mm plasterboard ceiling.</li> <li>Mechanical ventilation.</li> </ul>	<ul style="list-style-type: none"> <li>Walls: 2 x 90mm double brick wall with 20mm cavity.</li> <li>Windows: 6mm awning windows (up to 40% of room floor area); or, 10mm awning windows (up to 60% of room floor area).</li> <li>External Doors: 10mm sliding glass doors (up to 20% of room floor area).</li> <li>External doors to bedrooms are not recommended.</li> <li>Roof and ceiling: Clay roof tiles with sarking and 10mm plasterboard ceiling, or, Colorbond roof sheeting with sarking, 4mm fibre cement sheeting fixed to the roof purlins and 2 x 10mm plasterboard ceiling.</li> <li>Mechanical ventilation.</li> </ul>	<ul style="list-style-type: none"> <li>Walls: 2 x 90mm double brick wall with 20mm cavity.</li> <li>Windows: 6mm awning or 10mm sliding windows (up to 40% of room floor area); or, 6mm awning windows (up to 60% of room floor area).</li> <li>External Doors: 6mm sliding glass doors (up to 20% of room floor area).</li> <li>Roof and ceiling: Colorbond roof sheeting with 10mm plasterboard ceiling.</li> <li>Mechanical ventilation.</li> </ul>
	Side	<ul style="list-style-type: none"> <li>As above.</li> </ul>	<ul style="list-style-type: none"> <li>As above.</li> </ul>	<ul style="list-style-type: none"> <li>As above.</li> </ul>
	Opposite	<ul style="list-style-type: none"> <li>As above, except -</li> <li>Windows: 6mm awning windows (up to 40% of room floor area); or, 10mm awning windows (up to 60% of room floor area).</li> <li>External Doors: 6mm fully glazed hinged door (up to 20% of room floor area).</li> </ul>	<ul style="list-style-type: none"> <li>As above, except -</li> <li>Windows: 6mm awning or 10mm sliding windows (up to 40% of room floor area); or, 6mm awning windows (up to 60% of room floor area).</li> <li>External Doors: 6mm sliding glass doors (up to 20% of room floor area).</li> </ul>	<ul style="list-style-type: none"> <li>As above, except -</li> <li>Windows: 4mm awning or 6mm sliding windows (up to 40% of room floor area); or, 6mm awning or 10mm sliding windows (up to 60% of room floor area).</li> </ul>
Outdoor Living Area		<ul style="list-style-type: none"> <li>Where practicable, locate an outdoor living area on the opposite side of the rail corridor or in an alcove on the side of the house.</li> </ul>	<ul style="list-style-type: none"> <li>Where practicable, locate an outdoor living area on the opposite side of the rail corridor or in an alcove on the side of the house.</li> </ul>	<ul style="list-style-type: none"> <li>Where practicable, locate an outdoor living area on the opposite side of the rail corridor or in an alcove on the side of the house.</li> </ul>

The current version of the Acoustic report relates to freight rail only. A future Acoustic report will directly address noise from 'major roads' which will be finalised separately in the near future. The City of Cockburn is currently working with Main Roads Western Australia and Lloyd George Acoustics on preparing the above mentioned further Acoustic report. The future report is expected to be finalised prior to the potential final adoption consideration of this amendment by Council. Road noise is considered to be less complex than the issue of freight rail noise. As such this approach is considered to be acceptable and practicable.

As provided above the proposed Scheme Amendment text and the accompanying freight railway Acoustic report have been formulated to address the requirements of SPP 5.4.

In addition to the above it has been considered appropriate to prepare a draft accompanying Freight Railway Noise Local Planning Policy simultaneously with the proposed Scheme Amendment so Council, the Community, WAPC, PTA and other stakeholders can better understand the proposed specific workings of the planned future development assessment process approach.

The full suite of planning instruments will ultimately provide landowners with flexibility in decision making whilst being given an upfront



indication of potential acoustic treatment measures for lots within 300m of the freight railway line.

It is important to note the potential Acoustic treatment requirement for properties within 300m of the freight railway line is as per the current requirements of SPP 5.4.

Any new development within 300m of the freight railway line is currently required under SPP 5.4 to adhere to noise mitigation requirements. The City's proposed approach therefore provides land owners with the option to apply DTS construction packages rather than having to engage an Acoustic consultant of their own to advise them of site specific Acoustic requirements.

Notwithstanding the above, should landowners seek to engage their own acoustic consultant that option will still be available to them under the proposed draft scheme text and LPP. On this basis the above approach offers a fair and reasonable solution to the community aiding them to meet the current requirements of SPP 5.4 (see Clause 5.7 (c) above for details).

The proposed Scheme Amendment meets the requirements of SPP 5.4 and its associated guidelines, with potential further work on road noise being prepared by the City with assistance from MRWA. This should be finalised shortly and presented to Council at the final adoption stage of the process.

### Conclusion

The proposed Scheme Amendment and Local Planning Policy meet the broad State and local government policy requirements. Western Australia's population is expected to increase at a faster rate than the Australian average.

On this basis social infrastructure planning is required to consider not only the needs of the current community but also plan for the future residents.

It is estimated by 2031 the population of the south-west sub-region will have grown by 34 per cent to 278,000. Directions 2031 expects the sub-region to increase its employment self-sufficiency rate from its current 60 per cent rate to 70 per cent, which will require 41,000 new jobs by 2031.

There is a cost involved with the States dependence on cars for meeting the daily travel needs when it is in most cases easier for people to walk or cycle to their destinations.

The overall aim is to facilitate sustainable patterns of urban growth and settlement by setting out the requirements of sustainable settlements and communities and the broad policy in accommodating growth and change.

The subject area is considered to be an appropriate area to revitalise due, but not necessarily limited to, the following factors:

- The subject area is strategically placed within the heart of the rapidly expanding south west corridor.
- The subject area is a well-connected area in proximity to the new Fiona Stanley Hospital, Murdoch University Precincts and the emerging Cockburn Central Activity Centre.
- The subject area has an established level of infrastructure with various forms of public transport facilities including passenger rail, high frequency bus and also motor vehicular access via the Kwinana Freeway in close proximity.
- The physical age of built form within the subject area being such that decisions for redevelopment and/or renewal are expected to be made by landowners over the coming years, providing the opportunity to consider whether redevelopment to other forms of housing (grouped and multiple) should take place.

Accordingly it is recommended Council resolves to initiate the proposed Scheme Amendment inclusive of the associated FRNA Local Planning Policy and refer the documents to the EPA and WAPC prior to advertising as per the above mentioned details.

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

#### **Leading & Listening**

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

#### **Environment & Sustainability**

- Identification and minimisation of impacts to human health risk.

### **Budget/Financial Implications**

As the City of Cockburn is the applicant for the proposed Scheme Amendment, the required fee was not calculated, issued or paid.

### **Legal Implications**

Nil.

### **Community Consultation**

Pursuant to Clause 81 of the *Planning and Development Act 2005*, following Councils support, the proposed amendment will be referred to the EPA for their review.

Pursuant to Part 5 Division 2 Regulation 37 (2) of the Regulations, officers will also submit 2 copies of the proposed amendment to the Commission prior to advertising.

Subject to Clause 81 and 82 of the Act, if the Commission advises the City of Cockburn that it is satisfied that the complex amendment is suitable to be advertised the amendment can then be advertised pursuant to the details prescribed within Regulation 38. Regulation 38 specifies advertising must not be less than a period of 60 days.

### **Risk Management Implications**

Should the amendment not be initiated, the City's Town Planning Scheme No. 3 would still remain consistent with the Metropolitan Region Scheme.

There is no risk of the City encountering a compliance manner in this regard.

### **Attachment(s)**

1. Location Map
2. Current and Proposed Scheme Amendment Maps
3. Draft Freight Railway Noise Area ('FRNA') Policy

### **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 9 February 2017 Ordinary Council Meeting.

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

Nil.

**15.7 (OCM 09/02/2017) - PROPOSED STRUCTURE PLAN – LOT 559 (NO 332) WENTWORTH PARADE, SUCCESS – OWNER: GOLD ESTATES HOLDINGS PTY LTD – APPLICANT: ROBERTS DAY (110/157) (T VAN DER LINDE) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) adopts the Schedule of Submissions prepared in respect to the proposed Structure Plan (Attachment 3);
- (2) pursuant to *Schedule 2, Part 4, clause 20(2)(e) of the deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015* (“deemed provisions”), recommend to the Commission the proposed Structure Plan for Lot 559 (No. 332) Wentworth Parade, Success (“Structure Plan”) be approved subject to the following modifications:
  1. Amend Part One, section 4.3 Public Open Space and Part Two, section 3.3 Open Space to reference that 10% equivalent applicable to the Residential proportion of the previously zoned ‘Local Centre’ portion of the site will need to be provided as Public Open Space whether physically or as cash-in-lieu.
  2. Amend Part One, section 5.1 Developer Contributions, remove text in brackets referring to payment of DCA liability. Discussion should be limited to the fact a DCA applies, what it is for, and that triggers for liability reside within the scheme. It is not appropriate to discuss the amount as this is subject to annual review.
  3. Amend Part One, section 6.0 Additional Information to include the requirement for a traffic study to be prepared and submitted with any development application for the site to be approved by the City of Cockburn.
  4. Amend Part Two, section 3.1.2 to include discussion on future development applications being required to incorporate design elements to reduce potential negative impacts of non-residential land uses on residential dwellings within the development such as noise, odour, light and other activities.

5. Amend the Structure Plan documentation to provide the relevant information demonstrating how stormwater will be managed within the structure plan layout for both quality and quantity including the strategy for the first 15mm of rainfall, 20% Annual Exceedance Probability (AEP) event and 1% AEP event, as requested in the Department of Water submission.
- (3) request the applicant advise the current or future landowner of the site to liaise with the City as early as possible during preparation of a Development Application for the site to discuss traffic generation and management, access strategies and parking in accordance with the Department of Planning's Transport Impact Assessment Guidelines; and
  - (4) advise the landowners and those persons who made a submission on the Structure Plan of Council's recommendation.

## COUNCIL DECISION

### Background

The proposed Structure Plan applies to 1.0942 hectares of vacant land, namely Lot 559 (No. 332) Wentworth Parade, Success ("subject land"). It is bound by Wentworth Parade to the south, Wentworth Parade Park to the east, and a power line easement to the west. Existing residential dwellings exist to the north of the site, separated by an open air landscaped drain (see Attachment 1). The Structure Plan was received on 25 October 2016 and a copy of the Structure Plan Map is included at Attachment 2.

The subject land is zoned 'Urban' under the Metropolitan Region Scheme ("MRS") and is included within the previously approved Phase 1 Magnolia Gardens Structure Plan which zones the majority of the site 'Residential R40' and a portion of the site adjacent to Wentworth Parade as 'Local Centre'. The subject land is located within Development Area 8 ("DA8") and Development Contribution Areas No. 13 ("DCA13") and No. 2 ("DCA2").

The subject land is in a strategic location being situated along Wentworth Parade which provides direct access to Cockburn Central,

Armadale Road and Hammond Road, as well as being in close proximity to the major transport routes of Russell Road and the Kwinana Freeway. Wentworth Parade Playground, Success Primary School and Success Recreational Facility are located adjacent east, approximately 350m south-west and approximately 250m west of the site respectively. The subject land is one of the few lots remaining vacant within the Phase 1 Magnolia Gardens Structure Plan area and is located approximately 400m from the future Aubin Grove train station, expected to be completed in early 2017. Thus, the site offers one of the last opportunities in the locality for high density development in close proximity to the future train station and existing community facilities and major transport routes.

The Phase 1 Magnolia Gardens Structure Plan was endorsed by the Western Australian Planning Commission ("Commission") in 2002. Since this Structure Plan is considerably dated and the majority of land within the Structure Plan area has been developed, the City considered it most appropriate that a new Structure Plan be prepared over the subject land with up-to-date supporting documentation, justification report and technical appendices. This is particularly due to the uniqueness of the site being relatively large in size, in a strategic location and the last vacant site in the Phase 1 Magnolia Gardens Structure Plan area resulting in opportunity for high quality and high density housing to be developed in accordance with a site specific planning structure.

The purpose of this report is for Council to consider this Structure Plan proposal in light of the information received during the advertising process and discussed below.

### **Submission**

N/A

### **Report**

#### *Land Use and Density*

The Structure Plan proposes to rezone the subject land from 'Residential R40' and 'Local Centre' to 'Mixed Use (R100)'. A new Structure Plan for Lot 559 Wentworth Parade was considered more appropriate than amending the existing Phase 1 Magnolia Gardens Structure Plan as stated above. Like the current zoning, the 'Mixed Use (R100)' zoning permits both residential and non-residential land uses on site but allows this development to occur at a higher density. Given the site's proximity to the future Aubin Grove train station, the proposed Structure Plan is consistent with the City's Local Planning Strategy which seeks to maximise development close to public transport routes.

State government documents also promote higher density surrounding public transport with a key purpose of Liveable Neighbourhoods being “Increased emphasis on achieving density targets and lot diversity, particularly around activity centres and public transport nodes.” An objective of Liveable Neighbourhoods is to provide lots capable of supporting high density development in and around town centres, public transport stops and parks. Liveable Neighbourhoods also promotes a range of residential densities that translate into a range of future household types. The proposed Structure Plan provides this opportunity. Perth and Peel@3.5million also encourages urban consolidation and higher density development surrounding public transport corridors and station precincts, in order to reduce dependency on the private vehicle.

The majority of Phase 1 Magnolia Gardens Structure Plan is coded R20 and R25 and has been developed as single detached dwellings at a relatively low density considering the proximity of Cockburn Central, the future Aubin Grove train station, and other community facilities and services. The proposed rezoning will allow higher density housing to be developed on site and thus provide greater diversity in dwelling size and cost in the locality, as well as increase the dwelling yield of the Structure Plan. This will provide some compensation for the lack of medium or high density development within the Structure Plan area.

Furthermore, a considerable disconnect exists between allowed and actual density of development within the Phase 1 Magnolia Gardens Structure Plan area. According to the allocated residential densities and the average lot size requirements under the R-Codes, approximately 480 dwellings were permitted within the Structure Plan area. However, only 320 dwellings have been created. The proposed Structure Plan has the potential to facilitate the development of a maximum of 160 dwellings at the subject site, which would bring the total dwelling count within the Phase 1 Magnolia Gardens Structure Plan area to 480 dwellings: the same number of dwellings that was originally permitted to be developed in this area.

### *Public Open Space*

The Structure Plan references Public Open Space (“POS”) requirements as being satisfied by the POS provided by the Phase 1 Magnolia Gardens Structure Plan. However, a portion of the subject land is zoned ‘Local Centre’ and, in accordance with Liveable Neighbourhoods, was treated as a deduction to POS calculations, meaning a POS contribution has not been provided for this land. Thus, a 10% POS contribution applicable to residential land uses developed within the portion of the subject site currently zoned ‘Local Centre’ is still required to be provided. For example, development may be

proposed as 4 storey with the ground floor comprising commercial/non-residential land uses and all other floors being residential. The 10% POS contribution would then be calculated on  $\frac{3}{4}$  of the area of land within the 'Local Centre' zoned portion of the site. If the 'Local Centre' zoned portion is 3000m<sup>2</sup>, a 10% POS contribution would be required applicable to 2250m<sup>2</sup>. This requirement has been included in recommendation (2)1 above.

### *Design Guidelines*

The subject land is the only relatively large lot yet to be developed within the Phase 1 Magnolia Gardens Structure Plan area that has the potential to be developed at high density. Given its close proximity to the Aubin Grove train station and other facilities and services it is important that this opportunity is capitalised on so that the development potential of the site is maximised whilst still providing a desirable and functional living environment for future residents.

To ensure that this is the case, the Structure Plan provides a number of Design Objectives and principles to guide future development in terms of setbacks, communal open space, height, orientation, vehicle access and parking, and interface with the public domain. These objectives and guidance principles have been included in Part One of the Structure Plan so that they can be required of any future development proposal to ensure a good design outcome is eventually developed on site. This approach is considered appropriate for this site given its uniqueness in being one of the last vacant lots in close proximity to the future Aubin Grove train station.

### *Traffic*

No internal roads are proposed within the Structure Plan area and access to future development at the site is encouraged from the south-west corner of the site, adjacent to the Western Power Easement.

The Traffic Impact Statement lodged in support of the application has been reviewed by the City and the City is satisfied that future development as a result of the rezoning of the subject land will not have a significant impact on the local road network.

### *Community Consultation*

In accordance with clause 18(2) of the deemed provisions, the Structure Plan was advertised for a period of 28 days commencing on 8 November 2016 and concluding on 6 December 2016.

In total Council received five submissions from landowners and twelve submissions from government agencies. None of the government



agencies objected to the proposal and the Public Transport Authority provided support for the proposal.

All landowner submissions objected to the proposal arguing that high density should not be permitted at the subject land due to inconsistency with existing development in the locality, as well as the potential for increased traffic congestion on local roads.

These objections are not accepted as the subject land has always been zoned for development at a higher density than surrounding lots under the Phase 1 Magnolia Gardens Structure Plan, prior to existing landowners moving into the area. The proposed Structure Plan will provide the opportunity to diversify the housing product and density in the locality to cater for various household sizes and incomes, for whom single detached housing may not be appropriate or affordable. High density development in this location is also entirely appropriate due to the close proximity of the Aubin Grove Train Station. The proposal will also assist in achieving the number of dwellings consistent with what was originally permitted under the Phase 1 Magnolia Gardens Structure Plan as discussed previously in this Report. Any development application for the site will be required to comply with the design objectives detailed in the Structure Plan document concerning building height, setbacks, and public domain interface which will help to minimise the visual impact of the building on nearby residents.

Furthermore, the increase in density and subsequently the likely increase in height of any development proposed on the subject land will have minimal impact on surrounding residents as the subject land is separated from residential lots on all sides by Wentworth Parade to the south, Wentworth Parade Playground and park to the east, a drainage corridor to the north, and the Western Power easement to the west.

In terms of traffic, as discussed above, additional traffic from development at the subject site is not expected to have a significant impact on the local road network. Much of the residential land in the locality has been underdeveloped as lot sizes are much larger than the minimum allowed under the Phase 1 Magnolia Gardens Structure Plan, as discussed previously in this Report. Thus, traffic numbers are far less than what would have been allowed had lots been subdivided at the minimum lot size allowed. Increased traffic as a result of the proposed Structure Plan is unlikely to exceed traffic numbers anticipated had the locality been developed to its full potential.

Further traffic reporting is expected to be lodged with any development application for the site as required in recommendation (2)3 above, and future applicants will be required to liaise with the City early on during preparation of a development application to achieve the best possible

outcome in terms of traffic generation, management and access to and from the site as per recommendation (3).

Traffic concerns in relation to the future Aubin Grove Train Station parking areas are the responsibility of the Public Transport Authority who are responsible for engaging in traffic studies relevant to that development and ensuring the road network can accommodate the expected vehicle numbers including buses.

Concerns were also raised regarding increased crime and threats to security as a result of future development at the site and insufficient provision of parking. It is not accepted that the rezoning, increase in density or construction of future development at the site will result in a rise in crime or concerns over security. On the contrary, any development application for the site will be required to demonstrate how the design will minimise opportunities for crime and increase passive surveillance both within and surrounding the development, including the adjacent park. Parking bays will need to comply with the provisions of the Residential Design Codes (R-Codes) at development application stage.

The Department of Health have provided comment on the potential negative impacts of future non-residential uses on future residential dwellings within the subject site, advising that development should be designed to minimise impacts such as noise, odour, light and other lifestyle activities. Since the Structure Plan provides a Mixed Use zoning over the site but does not prescribe the specific uses to be developed on site, design of non-residential uses to minimise negative impacts will need to be addressed at the Development Application stage. Acknowledgement of this is to be included within the Structure Plan document in accordance with recommendation (2)4 above.

Further analysis of the submissions has been undertaken within the attached Schedule of Submissions included at Attachment 3.

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

#### **City Growth**

- Ensure planning facilitates a desirable living environment and meets growth targets
- Ensure growing high density living is balanced with the provision of open space and social spaces
- Ensure a variation in housing density and housing type is available to residents

### **Budget/Financial Implications**

The required fee was calculated on receipt of the proposed Structure Plan and has been paid by the proponent. There are no other direct financial implications associated with the Proposed Structure Plan.

### **Legal Implications**

Clause 20(1) of the deemed provisions requires the City to prepare a report on the proposed structure plan and provide it to the Commission no later than 60 days following the close of advertising.

### **Community Consultation**

In accordance with clause 18(2) of the deemed provisions, the Structure Plan was advertised for a period of 28 days commencing on 8 November 2016 and concluding on 6 December 2016. Advertising included a notice in the Cockburn Gazette and on the City's webpage, letters to landowners in the vicinity of the Structure Plan area, and letters to relevant government agencies.

In total Council received five submissions from landowners and twelve submissions from government agencies. No government agencies provided objections to the proposal with the Public Transport Authority providing support for the proposal. All landowner submissions objected to the proposal.

Analysis of the submissions has been undertaken within the above report, as well as the attached Schedule of Submissions. See Attachment 3 for details.

### **Risk Management Implications**

If the subject land is not rezoned, future development will only be permitted at the R40 coding, and some local centre development adjacent to Wentworth Parade, despite the subject land's proximity to the future Aubin Grove train station. This results in an underutilisation of land, lost opportunity for residents to live in close proximity to the train station and lost opportunity to implement State and Local strategic documents setting dwelling targets and promoting high density surrounding train stations.

### **Attachment(s)**

1. Location Plan
2. Structure Plan Map (existing and proposed)
3. Schedule of Submissions

### Advice to Proponent(s)/Submissioners

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 9 February 2017 Ordinary Council Meeting.

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

Nil.

**15.8 (OCM 09/02/2017) - MIXED USE 11 UNIT COMMERCIAL DEVELOPMENT- LOCATION: 52 & 56 (LOTS 370 & 369) ENTRANCE ROAD, SPEARWOOD – OWNER: HOLDEN DEVELOPMENTS PTY LTD (DA16/0723 & 052/002) (D J VAN RENSBURG) (ATTACH)**

#### **RECOMMENDATION**

That Council grant planning approval for an 11 unit commercial development at 52 & 56 (Lots 370 & 369) Entrance Road, Spearwood, subject to the following conditions and footnotes:

#### Conditions

1. Development shall be carried out only in accordance with the details of the application as approved herein and any approved plan. This includes the use of the land and/or tenancies. The approved development is for 11 commercial units consisting of shop, office, fast food outlet, restaurant & medical centre, as shown on the approved plan.
2. The restaurant use, including alfresco dining, shall be limited to a maximum of 72 seats.
3. If the development is staged, the surface finish of all walls exposed to the public realm shall be rendered the same colour as the external appearance of the development or otherwise treated appropriately in consultation with and to the satisfaction of the City prior to the occupation of the development. In all instances, the standard of work is to be high.
4. A schedule of the material finishes and colours shall be submitted to and approved by the City prior to the issue of a Building Permit Application. The schedule shall include details of the type of materials proposed to be used, including their colour and texture. The development shall thereafter be maintained in accordance with the approved materials schedule.

5. Landscaping shall be established and reticulated in accordance with the approved detailed landscaping plan prior to the occupation of the dwellings. Landscaped areas shall be maintained thereafter in good order to the satisfaction of the City.
6. All service areas and service related hardware, including antennae, satellite dishes and air-conditioning units, being suitably located away from public view and/or screened.
7. The approved Waste Management Plan (received and approved by the City dated 16 September 2016) shall be implemented and maintained thereafter to the satisfaction of the City.
8. A minimum of thirteen (13) bicycle parking bays shall be designed and installed to comply with Australian Standard 2890.3, some of which shall be provided in the verges on Hamilton Road and Entrance Road. Details of the bicycle parking shall be submitted to the City for assessment and approval prior to lodgement of a Building Permit application.
9. Prior to the initial occupation of the development hereby approved, the parking bays, driveways and points of ingress and egress shall be designed, sealed, kerbed, drained, line marked and maintained to comply with AS2890.1, to the specification and satisfaction of the City.
10. The proposed crossovers shall be constructed to the specification and satisfaction of the City and all existing footpaths shall be retained.
11. Walls, fences and landscaped areas are to be truncated within 1.5 metres of where they adjoin vehicle access points, where a driveway and/or parking bay meets a public street or limited in height to 0.75 metres to the satisfaction of the City.
12. All stormwater being contained and disposed of on-site to the satisfaction of the City.
13. The approved development must clearly display the street number/s.
14. All earthworks, cleared land and batters shall be stabilised to prevent sand or dust blowing to the satisfaction of the

City.

15. The development site shall be connected to the reticulated sewerage system of the Water Corporation before commencement of any use.
16. An Acoustic Report shall be submitted to and approved by the City, prior to the issue of a Building Permit, and implemented thereafter, to the satisfaction of the City.
17. Written confirmation from a recognised acoustic consultant that all recommendations made in the Acoustic Report required under Condition 16 have been incorporated into the proposed development, shall be submitted to the City at the time of lodgement of the Building Permit Application.
18. Prior to the submission of a Building Permit Application for the café/restaurant developments, a Noise Management Plan shall be prepared to the City's satisfaction demonstrating that noise emissions will comply with the requirements of the *Environmental Protection (Noise) Regulations 1997 (as amended)*. All noise attenuation measures, identified by the plan or as additionally required by the City, are to be implemented prior to occupancy of the development (or as otherwise required by the City) and the requirements of the Noise Management Plan are to be observed at all times.
19. No wash-down of plant, vehicles or equipment is permitted on the premises. Industrial, commercial or wash-down wastes shall not enter stormwater disposal systems or otherwise be discharged to the environment.
20. All waste and recycling materials shall be contained within bins.
21. The bin enclosure shall be of an adequate size to contain all waste bins fitted with a gate and graded to a 100mm diameter industrial floor waste with a hose cock, all connected to sewer. The minimum provisions for internal bin storage is a concrete wash-down pad of at least 1m<sup>2</sup> graded to a 100mm diameter industrial floor waste with a hose cock, connected to an approved waste disposal system. This can be centrally located within the development.
22. A Construction Management Plan shall be submitted to and approved by the City prior to the lodgement of a

Building Permit application and all measures, including but not limited to traffic and pedestrian management identified in the plan are to be implemented during the construction phase to the satisfaction of the City.

23. Any damage during construction to the existing streetscape infrastructure (including hard and soft landscaping) adjacent to the subject site shall be rectified to the satisfaction of the City.
24. A streetscape infrastructure bond in respect of Condition 23 shall be lodged with the City prior to the issue of a building permit and held in trust until Condition 25 has been completed to the satisfaction of the City.
25. Crash attenuation bollards shall be installed on the corner of Hamilton Road and Entrance Road, to the specification and satisfaction of the City's Engineering Services unit.
26. Prior to the issue of a Building Permit, the owner/applicant shall:
  - submit to the City for approval a preliminary proposal for an art work designed by a professional artist at a cost of 1% of the total project cost (to a maximum of \$250,000), to be located within the subject site as an integral part of the development;
  - submit to the City for approval an 'Application for Art Work Design';
  - enter into a contract with a professional artist/s to design and install (if appropriate) the art work approved by the City.

The art work shall then be installed prior to occupation of the building/development and maintained thereafter to the satisfaction of the City.

#### 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, or with any requirements of the City of Cockburn Local Planning Scheme No. 3. Prior to commencement of any works associated with the development, a building permit is required.
2. With regards to Condition 1, a change of use application is not required for the uses mentioned where more than one

option is depicted on the approved plan however a change of use to any other use may require Development Approval.

3. With regards to Condition 8, the bicycle parking facilities shall consist of rails, stands, locker or any other type of equipment designed for this purpose in accordance with Australian Standard AS 2890.3-1993 Parking Facilities-Bicycle Parking Facilities.
4. With regards to Condition 8 and the provision of bicycle bays in the verge, the City's Engineering Department should be contacted at 9411 3444.
5. With regards to Condition 9, the parking bay/s, driveway/s and points of ingress and egress are to be designed in accordance with the Australian Standard for Off-street Car parking (AS2890.1) and are to be constructed, drained and marked in accordance with the design and specifications certified by a suitably qualified practicing Engineer and are to be completed prior to the development being occupied and thereafter maintained to the satisfaction of the City.
6. With regards to Condition 12, all stormwater drainage shall be designed in accordance with the Australian Standard, and the design shall be certified by a suitably qualified practicing Engineer or the like, to the satisfaction of the City, and to be designed on the basis of a 100 year 24 hour storm event. This shall be provided with the associated Building Permit Application.
7. With regards to Condition 16, the Acoustic Report shall be prepared by a suitably qualified and recognised acoustic consultant and demonstrate that the design and location of plant and other sources of noise within the development (such as air-conditioners, entry gates and café break out noise) will not exceed the assigned noise levels set out in the *Environmental Protection (Noise) Regulations 1997 (as amended)*.
8. The builder shall provide written confirmation that the requirements of the Acoustic Report referred to in Condition 16 have been incorporated into the completed development with the Form BA7 Completion Form, prior to occupation of the development
9. With regards to Condition 18, the Noise Management Plan shall be prepared by a suitably qualified and recognised



acoustic consultant and demonstrate that the development will comply with the requirements of the *Environmental Protection (Noise) Regulations 1997 (as amended)* and the City of Cockburn Noise Attenuation Policy (LPP 1.12).

The Noise Management Plan is to include:

- (a) Predictions of anticipated noise emissions associated with activities, plant or equipment (such as bin areas, air-conditioners, refrigeration or pools);
  - (b) Predictions of anticipated break out noise levels;
  - (c) Sound proofing measures proposed to mitigate noise;
  - (d) Control measures to be undertaken (including monitoring procedures); and
  - (e) A complaint response procedure
10. All food handling operations shall comply with the Food Act 2008 and Chapter 3 of the Australia New Zealand Food Standard Code (Australia Only). Under the Food Act 2008 the applicant shall complete and return the enclosed Food Business Notification/Registration Form to the City of Cockburn's Health Services. Operation of this food business may be subject to the requirement to pay an Annual Assessment Fee under the Act.
11. All food businesses shall comply with the Food Act 2008 and Chapter 3 of the Australia New Zealand Food Standard Code (Australia Only). Under the Food Act 2008 the applicant shall obtain prior approval for the construction or amendment of the food business premises.
12. An Application to Construct or Alter a Food Premises shall be accompanied by detailed plans and specifications of the kitchen, dry storerooms, coolrooms, bar and liquor facilities, staff change rooms, patron and staff sanitary conveniences and garbage room, demonstrating compliance with Chapter 3 of the Australia New Zealand Food Standard Code (Australia Only).

The plans are to include details of:

- (a) the structural finishes of all floors, walls and ceilings
- (b) the position, type and construction of all fixtures, fittings and equipment (including cross-sectional drawings of benches, shelving, cupboards, stoves, tables, cabinets, counters, display refrigeration, freezers etc.); and
- (c) all kitchen exhaust hoods and mechanical

ventilating systems over cooking ranges, sanitary conveniences, exhaust ventilation systems, mechanical services, hydraulic services, drains, grease traps and provisions for waste disposal.

These plans are to be separate to those submitted to obtain a Building Permit.

13. All commercial kitchen facilities in the development are to be provided with mechanical ventilation flued to the outside air, in accordance with the requirements of Australian Standard S1668.2-1991 "The use of mechanical ventilation for acceptable indoor air quality".
14. The occupier of premises in which clinical waste is produced shall comply in all respects with the Environmental Protection (Controlled Waste) Regulations 2004. For further information please contact the Department of Environment and Conservation.

Any liquid waste disposal via the sewer shall be with approval of the Water Corporation.

15. If dust is detected at adjacent premises and is deemed to be a nuisance by an Environmental Health Officer, then any process, equipment and/or activities that are causing the dust nuisance shall be stopped until the process, equipment and or activity has been altered to prevent the dust to the satisfaction of the City's Manager of Health Services.
16. Outdoor lighting must be in accordance with the requirements of Australian Standard AS 4282-1997: '*Control of the Obtrusive of Outdoor Lighting*'.
17. Advertising signs are to be in accordance with the requirements of the City of Cockburn Local Planning Scheme No. 3 and relevant local planning policy. Non-exempt signage will require separate planning approval.
18. The City may, for the purpose of giving effect to Condition 23, draw from the bond, whether from corpus or income or both, in payment of the reasonable costs of the City's officers', employees' and agent's time, and/or the costs of the contractors and subcontractors engaged by the City for such purpose, and to pay for the materials, equipment, hire of machinery and other costs involved in giving effect or partial effect to Condition 23.

19. Upon completion of construction, if Condition 23 has been complied with to the satisfaction of the City, the City shall on request from the bond applicant, pay back to the bond applicant (or the nominee appointed in writing by the bond applicant) the balance (if any) of corpus and income of the bond then standing to the credit of the City.
20. With regards to Condition 25 and the provision of crash attenuation bollards in the verge, the City's Engineering Department should be contacted at 9411 3444.
21. With regard to Condition 26, the art work shall be in accordance with Council's Local Planning Policy LPP 5.13 Percent for Art and the 'Application for Art Work Design' and shall include a contract between the owner/applicant and the artist, full working drawings (including an indication of where the art work is located) and a detailed budget being submitted to and approved by the City. Further information regarding the provision of art work can be obtained from the City's Community Arts Officer on 9411 3444.

## COUNCIL DECISION

### Background

The subject site is vacant, relatively flat and comprises two lots with a total area of 2306m<sup>2</sup> and is located on the corner of Hamilton Road and Entrance Road in Spearwood.

Other land uses in the immediate vicinity include future medium density housing to the north and south-west, public open space to the east and directly across Hamilton Road to its west as well as another mixed use commercial and residential development directly across the road on the southern side of Entrance Road.

### Submission

N/A

## Report

### Proposal

The proposed development entails a two (2) storey commercial development comprising:

- Ground Floor Commercial Tenancies with Under Croft Carpark:
  - Tenancy 1 – 87sqm – Shop / Office / Fast Food Outlet
  - Tenancy 2 – 72sqm – Shop / Office / Fast Food Outlet
  - Tenancy 3 – 60sqm – Fast Food Outlet
  - Tenancy 4 – 71sqm - Fast Food Outlet
  - Tenancy 5 – 74sqm - Fast Food Outlet
  - Tenancy 6 – 172sqm – Restaurant
- First Floor Tenancies with Mezzanine Carpark:
  - Tenancy 7 – 159sqm – Office
  - Tenancy 8 – 118sqm – Office
  - Tenancy 9 – 73sqm – Office
  - Tenancy 10 – 150sqm – Office
  - Tenancy 11 – 314sqm – Medical Centre
- 59 car bays and 2 delivery bays
- Two left-in / left-out points of access are provided, one each from Hamilton Road and Entrance Road.

### Community Consultation

The application was advertised to adjoining and nearby land owners as the proposal includes a Restaurant which requires to be advertised in this zone. The proposed development also has a shortfall of 12 parking bays. A total of 59 bays are provided in lieu of the requirement of 71 car parking bays under the City's Local Planning Scheme No. 3 (LPS 3).

In total, seven (7) submissions were received of which two (2) were objections and five (5) were non-objections.

The two objections can be summarised as follows:

- There is already an over-provision of commercial premises in the area as there are difficulties leasing them out.
- These uses are already available at Phoenix.
- Did not buy in the area to live next to any more commercial units than what was originally planned.
- This would detract from the area.
- It would lead to increased traffic.

- It would lead to an increase in rubbish.

### Zoning and Use

The site in question is located within the development zone and has a designated zoning of 'Local Centre' under the Eliza Ponds Local Structure Plan (EPLSP).

Under the Local Centre zone, the level of permissibility of the various land uses is listed as follows in Table 1 of Local Planning Scheme No. 3 (LPS 3):

- Shop: 'P' (Permitted)
- Office: 'D' (Discretionary)
- Fast Food Outlet: 'D' (Discretionary)
- Restaurant: 'A' (Discretionary but requires advertising)
- Medical Centre: 'D' (Discretionary)

Under Part of LPS 3 the proposed land uses are defined as follows:

*Shop: means premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom, fast food outlet, bank, farm supply centre, garden centre, hardware store, liquor store and nursesey.*

*Office: means premises used for administration, clerical, technical, professional or other like business activities.*

*Fast food outlet: means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises but does not include a lunch bar.*

*Restaurant: means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licenced under the Liquor Licencing Act 1988.*

*Medical centre: means premises, other than a hospital, used by one or more health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling).*

Any objections stating the commercial nature of the proposed land use is not in keeping with the current planning for the locality is therefore unfounded, as all the proposes uses are uses that can be considered under LPS 3.

## Planning Considerations

### *Car Parking*

The applicant has provided a total of 59 car bays in lieu of the 71 car bays and 5 delivery bays required under LPS 3. Even though there is a slight shortfall in parking supply, the proposed 59 parking bays should be adequate due to the different times of peak parking demand by the different land uses. It can reasonably be assumed that some of the trips generated by the land uses will be by local residents walking or cycling to the site, rather than by car and some of the generated trips will be from within the site (e.g. office workers going to the food businesses).

The Traffic and Parking Assessment report prepared by Riley Consulting (Attachment 9) notes that the proposed land uses will have different periods of peak operation and that the level of parking provided is adequate for the proposed land uses. The aforementioned report concludes that with the expected attraction to the individual land uses proposed, a maximum of 58 bays would be required to cater for the peak attraction.

In this regard it should be noted that none of the objections raised the issue of parking shortfall. Whilst a technical shortfall of car parking is provided, it is considered that an appropriate level of parking is provided for the proposed development.

### *Delivery bays*

The applicant has provided a total of two delivery bays in lieu of the five delivery bays required under LPS 3.

In the Traffic and Parking Assessment report it is noted that one service bay should be adequate to serve the development as it is a relatively small scale mixed use development with the fast food uses having up to two deliveries per unit per day, however these deliveries will not occur during peak hours of land use activity. The medical centre might get a delivery per day whilst the office uses are not expected to have any regular deliveries.

Given the size of the units being developed, it can be expected that the maximum size of delivery vehicle would be a small van. These vehicles can easily use standard parking bays should two vehicles arrive at the same time.

The provision of two delivery bays is deemed more than sufficient given the scale of the development and the nature of the proposed land uses.

### *Bicycle bays*

No bicycle racks are shown on the plan, but the provision of thirteen bicycle bays, as required under Table 3 of LPS 3, will be conditioned should Council resolve to approve the application. The City's traffic engineer has proposed that some of these bicycle bays are to be provided in the verges on Hamilton Road and Entrance Road. The purpose of this is to provide a number of small groups of parking rails at convenient locations near the fast food outlets for use by locals cycling to/from those businesses. Encouraging cycling to those businesses will help address the overall shortfall of parking on-site.

### *Traffic*

Access to the site is provided via a left-in/left-out access to Hamilton Road and a left-in/left-out access to Entrance Road. At this location, there are already existing Right of Carriageway easements in place along the joint boundary between Lots 370 and 369 to the benefit of the applicable adjoining property as notated on the relevant deposited plan (DP 402404).

The City's traffic engineer considers the content and conclusions of the traffic study as contained in the Traffic and Parking Assessment report to be sound, in that the traffic generated by the proposed development will have no material impact on the performance of the surrounding road network.

The trip generation rates used are sound as they are from published industry recognised sources. Objections based on increased level of traffic is regarded as unfounded as the level of traffic generated will be low and would be considered to have no material impact.

### *Waste Management*

The City of Cockburn requires a Waste Management Plan (WMP) to be included as part of a development application. The objective is to ensure that waste disposal is undertaken effectively, efficiently and sustainably to minimise the effects on the community and the environment. In this regard, Local Planning Policy 1.14 – Waste Management in Multiple Unit Developments provides for waste management of development proposals during the demolition, construction and operation of large residential developments. It is noted that the City's manager Waste Services has approved a Waste Management Plan relating to the proposed development.

Suitable conditions relating to the treatment and storage of waste together with a condition requiring the implementation of the approved WMP will be included as part of the approval should Council resolve to approve the application. The objection relating to the increase in 'rubbish' will therefore be appropriately addressed.

#### *Setbacks and Interface with adjoining land*

Nil setbacks are proposed for the development in line with the previously approved commercial component of the mixed use development directly to the south in order to facilitate active frontages. This is considered to be a desirable outcome with the front façade being activated with Hamilton Road and Entrance Road. The awnings that protrude into the verge area provide weather protection and facilitate pedestrian amenity.

The applicant has appropriately addressed the interface with the adjoining Public Open Space (POS) by avoiding a blank façade. The proposed alfresco decking will overlook the POS with glass balustrading proposed on top of the retaining wall.

The proposed development is separated from the adjoining POS by existing uniform estate fencing consisting of limestone retaining walls with a 0.6m high permeable metal fence on top.

It will not be possible to completely obscure the parking to the rear of the site without causing harm to the amenity. Partial screening is already provided by the adjoining well vegetated POS consisting of several semi-mature trees.

#### *Landscaping*

Clause 4.9.2 of LPS 3 requires a minimum of 10% landscaping of the site whilst approximately 7% is provided, some of which in the verge area. A variation is sought on the basis that the provision of nil setbacks to activate the streetscape is a far superior outcome. Furthermore, the proposed development directly adjoins a manicured area of public open space which will enhance the feeling of an appropriately landscaped environment.

#### *Public Art*

In accordance with City's Local Planning Policy (LPP 5.13 – Percent for Art), a condition is proposed requiring the applicant to make a contribution to public art. The policy aims to ensure that proposals for development in excess of \$1 million (commercial development) and \$2 million (multiple dwellings) construction cost contributes toward public



artworks that improve the attractiveness and functionality of the built environment, develop and promote community identity, increase social, cultural and economic value, making streets and buildings more identifiable, produce landmarks that act as focal points and icons and provide opportunities to celebrate a place, generate vibrancy, contribute to cultural identity.

The applicant has provided plans (Attachment 8) indicating the intent of how this might be incorporated into the design of the building. The intent will be to incorporate a laser cut and etched aluminium artwork integrated into the paving directly east of tenancy 4 and to run it up the adjacent wall surface. This is intended to reflect the history and heritage of the site and will be the subject of future detailed design. The proposed public art does not form part of this approval.

#### *Public Open Space Contribution*

In accordance with Liveable Neighbourhoods, a minimum of 10% of the gross subdivisible area of a Structure plan area will be set aside as Public Open Space (POS).

The EPLSP makes provision for a certain component of the Local Centre zone to provide for POS based on the likelihood of providing for a mixed use development that includes a residential component, however since the proposal does not include a residential component, it does not trigger the requirement for a Public Open Space contribution.

#### Conclusion

The proposed development is consistent with the relevant Structure Plan as well as other relevant planning controls that apply to the land including LPS 3. Variations to the parking standards are considered justified and reasonable.

The proposed development is considered to be a good built form outcome for the subject site which will significantly improve the level of interaction and visual amenity to the surrounding area, contributing to the sense of place. The proposed building is visually appealing, provides a mix of materials and will contribute to an interesting and varied streetscape. Therefore, it is recommended that Council resolve to conditionally approve the proposal.

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

N/A

### **Community, Lifestyle & Security**

- Provide safe places and activities for residents and visitors to relax and socialise.
- Foster a greater sense of community identity by developing Cockburn Central as our regional centre whilst ensuring that there are sufficient local facilities across our community.

### **Economic, Social & Environmental Responsibility**

- Increase local employment and career opportunities across a range of different employment areas through support for economic development.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

N/A

### **Community Consultation**

Refer to the community consultation section of this report.

### **Risk Management Implications**

Should the applicant lodge a review of the decision with the State Administrative Tribunal, there may be costs involved in defending the decision, particularly if legal Council is engaged.

### **Attachment(s)**

1. Site Plan
2. Landscaping Plan
3. Waste Management and Traffic Movement
4. Ground Floor Plan
5. First Floor Plan
6. Elevations
7. Perspectives
8. Public Art Intent
9. Traffic and Parking Assessment

### **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 9 February 2017 Ordinary Council Meeting.

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

Nil.

### 15.9 (OCM 09/02/2017) - RECREATION (BOWLING AND RECREATION CENTRE) – LOCATION: 40 (LOTS 510 & 511) BIRCHLEY ROAD, YANGETUP – OWNER: STATE OF WA (MGT ORDER: CITY OF COCKBURN) – APPLICANT: CITY OF COCKBURN – (DA16/0892 & 052/002) (D J VAN RENSBURG) (ATTACH)

#### RECOMMENDATION

That Council

- (1) grant approval for a Bowling and Recreation Centre at 40 Birchley Road (Lots 510 & 511), Yangebup subject to the following conditions and footnotes:

#### Conditions

1. Development may be carried out only in accordance with the details of the application as approved herein and any approved plan. This includes the use of the land and/or a tenancy. The approved development has approval to be used for Bowling Club & Recreation Centre purposes only. In the event it is proposed to change the use, a further application needs to be made to the City for determination.
2. This development has been defined as a public building and shall comply with the relevant provisions of the Health Act 1911 (as amended), and the Health (Public Buildings) Regulations 1992. A Building Permit Application shall be submitted for approval, prior to works commencing.
3. Prior to the issue of a Building Permit, the owner/applicant shall:
  - submit to the City for approval a preliminary proposal for an art work designed by a professional artist at a cost of 1% of the total project cost, to be located within the subject site as an integral part of the development;
  - submit to the City for approval an 'Application for Art Work Design';
  - enter into a contract with a professional artist/s to design and install (if appropriate) the art work approved by the City.

The art work shall then be installed prior to occupation of

the building/development and maintained thereafter to the satisfaction of the City.

4. The premises shall be kept in a neat and tidy condition at all times by the owner/occupier to the satisfaction of the City.
5. The car park and access road shall be designed, constructed, sealed and kerbed and thereafter maintained to comply with the requirements of AS2890 and to the City's satisfaction.
6. The proposed facilities shall be limited to the following maximum number of people being present on site at any given time:
  - Function Room: 360 people
  - Bowling Club Members Area: 290 people
7. Earthworks over the site and batters shall be stabilised to prevent sand or dust blowing, and appropriate measures shall be implemented within the time and in the manner directed by the City in the event that sand or dust is blown from the site.
8. The development shall ensure that pedestrian access around Visko Park is maintained. Where and if required, appropriate modifications shall be made to the site plan to enable pedestrians to walk around the perimeter of the site unobstructed.
9. Crossovers shall be located and constructed in accordance with the City's requirements and be located no closer than 0.5m from any side boundary or street pole. Redundant crossovers, if any, shall be removed and the verge reinstated prior to or at the time of the installation of the approved new crossover(s).
10. All stormwater shall be contained and disposed of on-site to the satisfaction of the City.
11. No bunting shall be erected on the site (bunting includes streamers, streamer strips, banner strips or decorations of similar kind).
12. The development site shall be connected to the reticulated sewerage system of the Water Corporation before commencement of any use.

13. A landscape plan shall be submitted prior to the commencement of works associated with this approval and must show the location, quantity, type and maturity of all proposed plants. The planting shall include at minimum semi-mature trees with adequate foliage to provide screening to the satisfaction of the City.
14. A further Acoustic Report shall be submitted to and approved by the City, prior to the issue of a Building Permit, and implemented thereafter, to the satisfaction of the City.
15. Written confirmation from a recognised acoustic consultant that all recommendations made in the Acoustic Report prepared by Herring Storer Acoustics and the further Acoustic Report required under Condition 14 have been incorporated into the proposed development, shall be submitted to the City at the time of lodgement of the Building Permit Application.
16. Prior to the submission of a Building Permit Application for the development, a Noise Management Plan shall be prepared to the City's satisfaction demonstrating that noise emissions will comply with the requirements of *the Environmental Protection (Noise) Regulations 1997 (as amended)*. All noise attenuation measures, identified by the plan or as additionally required by the City, are to be implemented prior to occupancy of the development (or as otherwise required by the City) and the requirements of the Noise Management Plan are to be observed at all times.
17. Shared path linkages shall be provided between the proposed facility and the surrounding path network to ensure that safe and convenient path access is provided to facilitate cyclist and pedestrian access to the satisfaction of the City's Engineering Services unit.
18. On-street parking bays shall be provided in the verge along Birchley Road and Bayview Terrace, adjacent to the site in consultation with and to the satisfaction of the City's Engineering Services unit.
19. The creation of a four-way intersection at the Birchley Road/Mandu Way/site access intersection shall be designed and constructed to the satisfaction of the City's Engineering Services unit.

20. Bicycle parking bays shall be designed and installed to comply with Australian Standard 2890.3. Details of the bicycle parking shall be submitted to the City for assessment and approval prior to lodgement of a Building Permit application to the satisfaction of the City's Engineering Services unit.
21. Prior to the issue of a Building Permit, arrangements shall be made to the satisfaction of the Chief Executive Officer for the pro-rata development contributions towards those items listed in the City of Cockburn Local Planning Scheme No. 3 for Community Infrastructure (DCA 5).

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 Council, or with any requirements of the City of Cockburn Local Planning Scheme No. 3 or with the requirements of any external agency. Prior to the commencement of any works associated with the development, a Building Occupancy Permit is required.
2. With respect to Condition 1, the approved use for the subject lot is for Bowling Club & Recreation Centre however, if this changes an application for change of use must be submitted to the City for determination.
3. With regards to Condition 3, the art work shall be in accordance with Council's Local Planning Policy LPP 5.13 Percent for Art and the 'Application for Art Work Design' and shall include a contract between the owner/applicant and the artist, full working drawings (including an indication of where the art work is located) and a detailed budget being submitted to and approved by the City. Further information regarding the provision of art work can be obtained from the City's Community Arts Officer on 9411 3444.
4. With regards to Condition 5, the parking bay/s, driveway/s and points of ingress and egress are to be constructed, drained and marked in accordance with the design and specifications certified by a suitably qualified practicing Engineer and are to be completed prior to the development being occupied and thereafter maintained to the satisfaction of the City.

5. Access and facilities for people with disabilities is to be provided in accordance with the Building Code of Australia.
6. All food businesses shall comply with the Food Act 2008 and Chapter 3 of the Australia New Zealand Food Standard Code (Australia Only). Under the Food Act 2008 the applicant shall obtain prior approval for the construction or amendment of the food business premises.

An Application to Construct or Alter a Food Premises shall be accompanied by detailed plans and specifications of the kitchen, dry storerooms, cool rooms, bar and liquor facilities, staff change rooms, patron and staff sanitary conveniences and garbage room, demonstrating compliance with Chapter 3 of the Australia New Zealand Food Standard Code (Australia Only).

The plans are to include details of:

- (a) the structural finishes of all floors, walls and ceilings;
- (b) the position, type and construction of all fixtures, fittings and equipment (including cross-sectional drawings of benches, shelving, cupboards, stoves, tables, cabinets, counters, display refrigeration, freezers etc.); and
- (c) all kitchen exhaust hoods and mechanical ventilating systems over cooking ranges, sanitary conveniences, exhaust ventilation systems, mechanical services, hydraulic services, drains, grease traps and provisions for waste disposal.

These plans are to be separate to those submitted to obtain a Building Permit.

7. All food handling operations shall comply with the Food Act 2008 and Chapter 3 of the Australia New Zealand Food Standard Code (Australia Only). Under the Food Act 2008 the applicant shall complete and return the enclosed Food Business Notification/Registration Form to the City of Cockburn's Health Services. Operation of this food business may be subject to the requirement to pay an Annual Assessment Fee under the Act.
8. The landscaping/screening as identified and required by Condition 13 above is to ensure partial screening from nearby residents. Landscape screening in accordance with the approved landscape plan must be planted prior to occupation and be maintained thereafter to the satisfaction of the City of Cockburn.

9. With regard to Condition 16 above, the acoustic report shall be prepared by a suitably qualified and recognised acoustic consultant and demonstrate that the design of the development meets the following requirements:

- (a) the design and location of plant and other sources of noise within the development (such as air-conditioners, entry gates and break out noise) will not exceed the assigned noise levels set out in the Environmental Protection (Noise) Regulations 1997 (as amended); and
- (b) that indoor noise levels will comply with the requirements of the National Construction Code (Building Code of Australia) with regard to sound transmission between units and floors of the development.

10. With regard to Condition 18, the Noise Management Plan shall be prepared by a suitably qualified and recognised acoustic consultant and demonstrate that the development will comply with the requirements of the Environmental Protection (Noise) Regulations 1997 (as amended) and the City of Cockburn Noise Attenuation Policy (LPP 1.12).

The Noise Management Plan is to include:

- (a) Predictions of anticipated noise emissions associated with activities, plant or equipment (such as bin areas, air-conditioners, refrigeration etc.);
- (b) Predictions of anticipated break out noise levels;
- (c) Sound proofing measures proposed to mitigate noise;
- (d) Control measures to be undertaken (including monitoring procedures); and
- (e) A complaint response procedure.

11. All outdoor lighting shall be installed and maintained in accordance with Australian Standard AS 4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting".

(2) notifies the applicant and those who made a submission of Council's decision.



**COUNCIL DECISION****Background**History

At its October Meeting of 2011, Council resolved to consider the future relocation of the Cockburn Bowling Club to Visko Park in Yangebup (the subject site). At this time, the City had received approval to excise a portion of the Reserve to allow for the construction of a recreational and community purpose facility and for leasing. At its meeting held in April 2013, Council recommitted to the relocation of the bowling club.

In May 2013 Council resolved to enter into a contract with the Fratelle Group for architectural services for the design of facilities to be located at Visko Park. The concept designs and costing prepared by the Fratelle Group in consultation with the Cockburn Bowling Club formed the basis of an application to the Commonwealth for funding under the National Stronger Regions Fund (NSRF) Round One. In May 2015 the City was advised that its application was unsuccessful.

In July 2015, Council resolved to submit an application for funds from the Commonwealth NSRF for new recreation and community facilities to be located at Visko Park and to include the relocation of the Cockburn Bowling and Recreation Club. On 7 December 2015 the City was informed that the application under Round Two of the NSRF was successful and that a funding grant for the construction of a Bowling and Recreation Facility at Yangebup had been approved.

Subsequently, at its Ordinary Meeting held on 11 February 2016, Council resolved to place on its 2016/17 and 2017/18 Municipal Budget a contribution to the construction of the aforementioned new Bowling and Recreation Facility at Visko Park. At this meeting Council further resolved to enter into a funding agreement with the Commonwealth in accordance with the NSRF.

At the above meeting, Council also noted that an important consideration will be the establishment of a management structure that addresses the need of the bowling club and the other users including the private investor with the City playing a key ongoing role in its operation.

## Site

The site is located directly north of Beeliar Drive (classified as a Distributor A under the Main Roads WA Functional Road Hierarchy) and is further bound by a railway reserve to the west, Bayview Terrace to the north and Birchley Road to the east.

The site consists of two properties, namely Lot 510 and Lot 511. Lot 510 is located wholly within the boundaries of Lot 511 and both these lots are owned by the State of WA with a management order to the City of Cockburn.

Currently the site is levelled, grassed and reticulated with a significant slope on the south-east corner running up to Beeliar Drive and Birchley Road. Residential development is located further to the north, east and south and land zoned for commercial development further west.

## **Submission**

N/A

## **Report**

## Proposal

The proposal includes:

- A Function Room for 360 patrons with access to an external verandah and playing fields. It has its own entry and lobby and access to male, female and accessible toilet facilities;
- New Bowling Club members area for 290 patrons with a members bar, TAB and direct access to two new bowling greens. The Bowling Club has its own entry and lobby and access to male, female and accessible toilet facilities and change rooms;
- Commercial Kitchen, cool room & dry store servicing both the Function Room and Bowling Club;
- Meeting and Office facilities;
- Toilets and change rooms available for use by groups using sporting and recreational facilities;
- Volleyball and Futsal courts;
- Parking area consisting of 150 car bays including accessible car bays; and

- Vehicle access from Birchley Road.

The tennis courts shown are planned for a future stage of development and do not form part of this development application.

### Consultation

#### *Neighbour Consultation*

The application was advertised to adjoining and nearby landowners. During this time 68 submissions were received of which 29 were objections. Of the 39 non-objections, several included comments and/or requests which are included in the following short summary of the objections:

Location/Land Use	<p>Older part of Yangebup is being neglected. Do not want park turned into giant car park. Perhaps some more social equipment put in such as football posts, soccer posts, BBQ facilities, etc.</p> <p>It would be far more beneficial to the community to enhance this park with additional recreational facilities without a 360 seat function centre.</p> <p>Cockburn needs to preserve large open spaces amongst housing developments not build on them. The park should be kept as a greened park only. Many more trees should be planted to add to the cooling of the area and provide shade.</p> <p>TAB facility should be excluded from the design. Is there a possibility of adding a gym within the facility? Do not have enough open spaces for the community and it would be very damaging to lose another one.</p> <p>Developments which are only accessible to 'members' are non-inclusive and do not support the local community's interests.</p> <p>This is the only park on this side of Yangebup suitable to walk my dog.</p> <p>This is against Council's previous policy to increase health through use of public spaces as there are no other green spaces that we can use.</p> <p>Should be used as an off leash dog park. Will the council support the Bowling club financially, or will the bowling club deteriorate and be left as an eyesore on the park?</p> <p>Do not understand why such an endeavour</p>
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	<p>needs to include gambling and alcohol.</p> <p>Ludicrous to put in beach volleyball facilities when we have kilometres of undeveloped beaches that could be used.</p> <p>Playground facilities need to be up-graded and fenced off.</p> <p>Move carpark to Western side adjoining drainage site and railway line. Consolidate the development towards the Western side of Visko Park away from the steeply contoured Southern and Eastern sides.</p> <p>These suggestions would provide better aesthetic appearance and a greater contiguous area of free space for enjoyment by local residents.</p>
Anti-social behaviour / Safety and security:	<p>Don't want TAB customers hanging around playground, not good environment for children.</p> <p>Anti-social behaviour from serving of alcohol will be the result in this quiet and peaceful area. Gambling facilities are antisocial and detrimental to those that use them.</p>
Dust/Noise:	<p>TAB and Sports will be very noisy for locals of Bayview Terrace.</p> <p>The volume of traffic associated with a development of this type and size would be enormous. Proposal will only add to the noise and heat in this area.</p> <p>Will there be any time restrictions for functions to end while operating within a residential area?</p> <p>What is the construction impact for residents i.e. noise, dust. Construction work will produce a huge amount of dust which will be blown up over the residences on Birchley Road and beyond by the strong sea breezes.</p>
Traffic:	<p>Birchley/Beeliar intersection is dangerous and is accident waiting to happen. Entry to the carpark would be better for residents if it came off Beeliar drive to keep minimal traffic off of Birchley as the new Beeliar/Birchley intersection hasn't been well designed.</p> <p>Increased traffic through the area will be a danger to the local children and animals. Bayview Terrace will be used as a through-road. The traffic on this road is bad enough with motorists speeding up and down the hill. Birchley Road and Bayview Terrace needs</p>

	speed control measures to be put in place with or without access to the bowling club. Worried about extra traffic and parking in street. Has consideration been given to overflow parking?
Landscaping:	Landscaping to be installed and maintained to minimise the vision of a carpark in front of properties. Parks needed with lakes and streams with fish, big trees with grass around it.

### *External Agency Consultation*

As the subject site abuts a 'Blue Road' (Other Regional Roads) it was referred to the Department of Planning (DoP) for comments who advised that they have no comment as there is no access from Beeliar Drive.

### Planning Framework

#### *Zoning and Use*

The site is located in the Development zone and is shown as a Local Reserve for Parks & Recreation on the approved Local Structure Plan that applies to the area, namely Cell 9, Yangebup and Cell 10, Beeliar.

The Local Structure Plan dated 2 April 2015 shows the above Public Open Space (POS) area with the future areas earmarked for the 'Bowling Club Lease Area' (including three 'Bowling Greens' and 'Club Rooms') within Lot 510 and the future 'Car Park' and 'Tennis Courts' within Lot 511.

Under LPS 3 'recreation – private' is defined as: *"premises used for indoor or outdoor leisure, recreation or sport which are not usually open to the public without charge."*

### Planning Considerations

#### *Land use*

Although several objections were received relating to the proposed use of the land, the proposal for a Bowling Club and Recreation Centre is in sync with the proposed land use for the area under the relevant Local Structure Plan and accords with several previous Council resolutions that relates to the future use of the subject site.

*Anti-social behaviour / Safety and security*

Anti-social behaviour as well as safety or security issues are not valid planning considerations and are therefore not included in the assessment.

*Dust / Noise*

Several objectors have raised the issue of increased dust during construction and noise as a result of the proposed land use. Appropriate standard conditions have been included to address any potential future issues relating to noise and dust.

Earthworks over the site and batters will have to be stabilised to prevent sand or dust blowing, and appropriate measures shall be implemented within the time and in the manner directed by the City in the event that sand or dust is blown from the site.

The City's Health Services has requested a further acoustic report and appropriate conditions to ensure the implementation and maintenance of recommendations contained in both the acoustic report and further acoustic report.

*Traffic*

The City's traffic engineer advised that the new driveway servicing the proposed facility will form a 4-way intersection with Birchley Road and Mandu Way which is a potential safety issue as it is important that the intersection is legible and defines that through priority is along Birchley Road and that road users exiting the development site or Mandu Way must give-way. This could be achieved by providing a similar entry statement in the entry to the development site as has been provided in Mandu Way and have Main Roads WA approve and install Give-Way control on both sides of the intersection.

The City's traffic engineer also noted that whilst the report states that "*All roads surrounding the site connect to the greater local bicycle network and therefore provide capacity for cyclists to access the site*", the site plan shows no actual connectivity between the proposed facility and the surrounding path network. As this is a recreational facility and the City is keen to promote movement by walking, cycling and public transport it is important that safe and convenient path access is provided for cyclists and pedestrians (including people in mobility scooters). In this regard it is suggested that shared path linkages be provided between the proposed facility and the surrounding path network to ensure that safe and convenient path access is provided to facilitate cyclist and pedestrian access.

### *Landscaping*

In order to provide partial screening of the proposed development from the surrounding residential development, it is suggested that should Council resolve to approve the application, a suitable condition be included requiring the submission a landscaping plan that shows the location, quantity, type and maturity of all proposed plants. The planting is to include at minimum semi-mature trees with adequate foliage to provide suitable screening.

Landscape screening will be expected to be planted prior to occupation and be maintained thereafter.

### *Parking*

Under LPS 3, the required parking bays for private recreation are calculated at one bay for every four people. At a combined maximum total of 650 people as proposed, the required number of bays will be 163. A total of 150 bays are proposed as part of the development.

The City's Traffic Engineer noted that whilst the proposed parking supply almost satisfies the LPS 3 requirements there is an established history of overflow parking occurring at the City's recreational facilities e.g. Coogee Beach Surf Lifesaving Club, Santich Park, Success Reserve etc. that shows that the provided parking (whether or not it was provided in accordance with LPS requirements) tends to be inadequate. This results in operational issues on the sites and adjacent roads with illegal or undesirable parking practices that need to be monitored / addressed by the City' Rangers and/or additional parking provided post development. It is also noted that the future tennis courts will result in the loss of a reasonable proportion of the car parking bays to be provided and it is assumed that those bays will be provided for on-site when the time comes, but this has not been shown on the site plan or mentioned in the traffic study.

The traffic statement prepared by Shawmac (Attachment 5) notes that overflow parking could be accommodated on Bayview Terrace but in reality if the demand exists then motorists will park on Birchley Road as well, potentially partly or fully on the footpath which is undesirable. To provide for potential overflow parking and ensure that both Birchley Road and Bayview Terrace can operate safely for all road users on-street parking bays, preferably parallel, should be provided in the verges adjacent to the subject site.

The City of Cockburn LPS 3 sets out bicycle parking requirements for "Private Recreation" as "Not Applicable" but considering the recreational nature of the development and surrounding lot it is reasonable to expect that some local residents will choose to cycle

to/from the facility and it is something that the City would encourage. Therefore, it is recommended that bicycle parking rails be provided close to the building entries, and/or that a parking bay(s) be forfeited for use as bicycle parking.

### *Bushfire*

Although a very small portion in the south-western section of the site is within a designated bushfire prone area, a Bushfire Management Plan is not required. Areas designated as bushfire prone include a 100 metre buffer from the bushfire prone vegetation. This means that the proposed building on the subject site is some 145 metres away from bushfire prone vegetation and would therefore be classified as BAL-LOW.

### Conclusion

The proposed project will relocate the current Cockburn Bowling Club from its 50-year old premises in Rockingham Road, Spearwood to the new location, with a high growth population catchment and what is expected to be a more sustainable operation model. The facility will accommodate additional sports such as football/soccer and beach/volleyball that are currently lacking in the region to encourage youth participation, as well as increase visitor numbers and new business with a local commercial kitchen.

It is considered that the development will contribute to the amenity of the area. When suitably landscaped with partial screening from surrounding residential development, the proposed development is considered to be a good built form outcome for the subject site as it will not be visually intrusive due to its limited height and setback distance from surrounding roads. The development is expected to facilitate an improved level of interaction and visual amenity to the surrounding area, contributing to the sense of place.

The proposed development is consistent with the relevant structure plan and is generally compliant with the planning controls that apply to the land including the City's Local Planning Scheme No. 3 and relevant local planning policies. Therefore, it is recommended Council resolve to conditionally approve the proposal.

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

#### **City Growth**

- Ensure planning facilitates a desirable living environment and meets growth targets.



- Ensure growing high density living is balanced with the provision of open space and social spaces.

### **Community, Lifestyle & Security**

- Provide for community facilities and infrastructure in a planned and sustainable manner.
- Provide safe places and activities for residents and visitors to relax and socialise.
- Create and maintain recreational, social and sports facilities and regional open space.

### **Budget/Financial Implications**

At its Ordinary Meeting held on 11 February 2016, Council noted that the total estimated project cost for the establishment of the new Bowling and Recreation Facility inclusive of all costs will be \$9.5 million (ex-GST) of which a \$4,556,287 grant has been approved by the Federal Government and \$400,000 will be approved by Area 5 Football.

Council further noted that the balance of \$4,062,877 million of the project budget is being requested from the Council Budget for 2016/17 noting \$150,000 was committed in the 2015/16 financial year and that there will be \$4,655,453 (48.94% of the total cost) available from the developer contribution fund toward the project.

### **Legal Implications**

The current lease for the Cockburn Bowling and Recreation Club expired in December 2016.

### **Community Consultation**

The application was advertised for 28 days from 7 December 2016 until 3 January 2017 (inclusive).

On 13 December 2016 Council officers attended an on-site meeting with residents to answer questions by the public on request of the Yangebup Progress Association.

### **Risk Management Implications**

Should Council resolve to refuse the application, the Federal Government funding of the project will be lost.

**Attachment(s)**

1. Site & Location Plan
2. Floor Plan
3. Elevations
4. Perspectives
5. Traffic Statement
6. Acoustic Assessment Report
7. Respondent Map

**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 9 February 2016 Council Meeting.

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

Nil.

**15.10 (OCM 09/02/2017) - TELECOMMUNICATIONS INFRASTRUCTURE – LOCATION: NO. 111 (LOT 32) HARPER ROAD, BANJUP – OWNER: NEIL & MIRANDA MCCRUDDEN – APPLICANT: PLANNING SOLUTIONS (DA16/0823) (R TRINH) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) refuse the application for the Telecommunications Infrastructure at No. 111 (Lot 32) Harper Road, Banjup, subject to the following reasons:
  1. The benefit of improved telecommunications services is not balanced with the visual impact on the surrounding area and therefore inconsistent with State Planning Policy 5.2 – Telecommunications Infrastructure.
  2. The proposed use is incompatible with the surrounding area which does not constitute orderly and proper planning and is therefore inconsistent with the aims of Local Planning Scheme No. 3.
  3. The proposed use is likely to detract from the amenity of the area with regards to the rural character.
  4. The proposed telecommunications infrastructure is likely to have detrimental impact on the visual amenity of the area and the streetscape.

- (2) notifies the applicant and those who made a submission of Council's decision.

## COUNCIL DECISION

### Background

The lot is 22,413m<sup>2</sup> in area and consists of a single dwelling with several outbuildings. The lot is surrounded by lots of similar size and used for predominantly residential uses that extend southwest from the intersection of Armadale Road and Tapper Road to the City borders that adjoin the City of Armadale and Kwinana. The lot is located approximately 900m from the nearest urban residence located on the western side of Tapper Road. The lot is also within close proximity to Bosworth Reserve (a regional reserve approximately 60m north-west of the lot) that extends to the southwest to a Regional Reserve via a walking trail.

The proposed development is being referred to Council for determination as objections were received during the public consultation period.

### Submission

N/A

### Report

#### Proposal

The telecommunications infrastructure is proposed towards the northern side of the lot and 5.5m from the western boundary. The proposed development is behind the dwelling, outbuildings and rainwater tank as viewed from the street and surrounded by vegetation to the north, east and south with no significant vegetation proposed to be removed as part of the development.

The proposed telecommunications infrastructure consists of a 96m<sup>2</sup> fenced compound that includes:

- Low-impact equipment shelter

- 38m monopole with turret headframe
- 3x panel antennas
- 1x GPS antenna

The top of the antennas would reach a total height of 41.5m from the natural ground level. The monopole and attachments are proposed to be green and the equipment shelter is proposed to be pale eucalypt to blend in with the surroundings.

An Electro Magnetic Emissions (EME) report dated 24/10/2016 was supplied with the application which demonstrated that the maximum EME level calculated for the proposed systems at this site is 3.18V/m; equivalent to 26.9 mW/m<sup>2</sup> or 0.36% of the public exposure limit (Attachment 6).

### Consultation

#### *Neighbour Consultation*

The proposal was advertised to 55 nearby landowners to a radius of 500m that were seen to potentially be affected by the proposal in accordance with the requirements of Local Planning Scheme No. 3 (LPS 3). The application was advertised on the City's website and advertised further by landowners within the vicinity of the area and resulted in comments being received from landowners beyond 500m of the lot. A total of 62 submissions were received, three (3) indicating no objection and 59 objecting to the proposal. A total of 36 of the 59 objections and all three (3) of the non-objections were from landowners within the 500m radius. The remaining 23 objections were received from landowners beyond the 500m radius. Multiple objections were received from some properties that equated to 56 households providing a response.

The main issues raised during consultation include:

- Visual amenity
- Height
- Inappropriateness and inconsistency within a rural area
- Should be located in alternative location
- Negative impact on property values
- Impact on future development potential
- Health concerns and risks
- Diminished aesthetic value
- Good mobile coverage currently available
- Approval would set precedence
- Impact on natural environment
- Aircraft safety

### *Referral to external agencies*

The application was referred to the Department of Water (DoW) as required by State Planning Policy 2.3 – Jandakot Groundwater Protection (SPP 2.3). The DoW advised they had no objection to the development subject to conditions 13 and 22 of Water Quality Protection Note No. 25 (WQPN 25). Conditions 13 and 22 refer to the storage control of hazardous substances to minimise and eliminate risk of groundwater contamination.

### Statutory Framework

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

The subject site is zoned ‘Rural – Water Protection’ under the Metropolitan Region Scheme (MRS) and the proposal is consistent with this zone.

#### *Local Planning Scheme No. 3 (LPS 3)*

The subject site is located within the ‘Resource’ zone, Development Contribution Area 13 and the Bushfire Vulnerability Area under LPS 3.

The objective of the ‘Resource’ zone under LPS 3 is to provide for the protection of the Perth Metropolitan underground water resource. The lot is located within the Jandakot Groundwater Protection Area and subject to SPP 2.3.

‘Telecommunications Infrastructure’ is defined by LPS 3 but not listed in the zoning table. Therefore the use is considered a ‘use not listed’ and is considered an ‘A’ use (discretionary subject to advertising) and is generally not permitted unless the local government has exercised its discretion and has granted planning approval giving special notice in accordance with clause 64(3) of the deemed provisions within the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The proposed location of the telecommunications infrastructure is 5.5m from the western boundary in lieu of 10m required by LPS 3 within the Resource zone. There is no maximum height limit within the area and would therefore need to comply with the requirements of State Planning Policy 5.2 – Telecommunications Infrastructure.

#### *State Planning Policy 2.3 – Jandakot Groundwater Protection (SPP 2.3)*

The lot is located within the Jandakot Groundwater Protection Area contained within SPP 2.3 and therefore subject to assessment under

this policy. The objectives of SPP 2.3 are to ensure that any development does not compromise the groundwater.

The use is considered as 'Telecommunications Infrastructure' under SPP 2.3, which has the same definition as LPS 3 and means "land used to accommodate any part of the infrastructure network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use in or in connection with, a telecommunications network". This is considered a use that is 'compatible with conditions' under SPP 2.3 and means that the Local Council may use its discretion to determine an application after having due regard for the advice from the Department of Water.

*State Planning Policy 5.2 – Telecommunications Infrastructure (SPP 5.2)*

The intention of SPP 5.2 is to balance the need for telecommunications infrastructure with the visual character of local areas. The proposed development is not considered a 'low-impact facility' and therefore not exempt under the Commonwealth *Telecommunications Act 1997*.

SPP 5.2 notes that telecommunications infrastructure is generally located at high points to be effective. This means that these structures are likely to be visible to the public. SPP 5.2 requires assessment of the benefit of improved telecommunications services balanced with the visual impact on the surrounding area.

The policy measures of SPP 5.2 consider the following criteria:

- Context
- Visual impact
- Social/Cultural Heritage impact
- Design
- Height
- Materials/Colours
- Environment
- Network Coverage
- Co-location of infrastructure

Planning Considerations

LPS 3, SPP 2.3 and SPP 5.2 allow for telecommunications infrastructure to be developed on this lot if the benefits of improved telecommunications services are balanced with the visual impact on the surrounding area.

### *Context*

The area consists of lots greater than 2 hectares and used predominantly for residential purposes. Lots within this area generally consist of dwellings that are single or double storey with associated outbuildings. LPS 3 and SPP 2.3 restrict the clearing of land for any purpose other than approved development. Most lots within this area are heavily vegetated with native trees and shrubs.

This lot consists of a single storey dwelling and associated outbuildings that do not exceed the height 12m. The trees located on this property are approximately 30m in height and located to the north, east and south of the proposed location of the development. A firebreak is located on the western side of the proposed development with no vegetation on the lot screening the structure from the western boundary.

The aesthetics of the area would be disrupted by the proposed telecommunications infrastructure and appear out of place in the rural setting. Telecommunications infrastructure is a use that can be considered within the Resource zone but the impact of such development can only be measured by those directly impacted within close proximity of the development.

### *Visual Impact*

The proposed telecommunications infrastructure would be visible from most properties throughout the area. The scale of the development would result in the views of the natural environment from Bosworth Reserve and walking trail being obstructed by the telecommunications tower that protrudes well above trees and other structures in the area. The lot has trees that would screen a majority of the structure from the north, east and south but would still be visible from other residences. There is no screening from the western boundary and therefore the lot located to the west would have unobstructed views of the structure.

The structure would be visible from the street and three times greater in height than the tallest structure on the property. Trees on the property would slightly alleviate the visual impact of the tower but would not completely screen the tower from view in any direction.

### *Social/Cultural Heritage Impact*

SPP 5.2 states that social and cultural heritage values should be considered when assessing any telecommunications infrastructure that requires a development approval. The social impact of the development can be seen by the number of comments received by nearby landowners. The comments received during the advertising

period demonstrate that there is a strong objection to the development for a variety of reasons.

Many of the objections recommended alternative lots for the development to be located. This is not considered as a valid planning consideration as the application is assessed for that particular lot and Council cannot recommend alternative locations on different lots.

### *Height*

The proposed height of the telecommunications infrastructure will protrude well above most trees in the area. Many objections were received regarding the height of the structure and feel that it is an unreasonable height that is taller than most trees in the area. The height is necessary for telecommunications infrastructure because they should be above any obstructions to operate effectively. Therefore the proposed height of the structure is reasonable given the optimal requirements for telecommunications infrastructure to operate as mentioned in SPP 5.2.

### *Materials/Colours*

The proposed materials and colours of the telecommunications infrastructure are non-reflective and green to blend in with the surrounding tree canopies. The equipment shelter is pale eucalypt to blend in with tree trunks. These colours and materials appear sympathetic to the surrounding landscape and consistent with the requirements of SPP 5.2.

### *Environment*

The lot and surrounding area is located within Jandakot Groundwater Protection Area and the objectives of SPP 2.3 are to protect the groundwater and to maintain or increase natural vegetation cover over the policy area. The proposed development is consistent with this objective and is located in a position that results in no vegetation to be removed.

### *Network Coverage*

Objections were raised during the advertising period regarding the network coverage currently available onsite and within the surrounding area. The objections state that the proposed telecommunications infrastructure is for the Optus carrier that currently demonstrates good coverage throughout the surrounding area of the lot. This is demonstrated on the Optus Mobile Network Coverage Map that is available on the Optus website:

[www.optus.com.au/shop/mobile/network/coverage](http://www.optus.com.au/shop/mobile/network/coverage)



The community has expressed their objection for the structure that will not improve or benefit their existing network coverage. The low density in the vicinity of the proposed structure may not require additional telecommunications infrastructure. Objections were also received that state that the structure would not provide an immediate benefit to the surrounding lots in the area and would be placed in that location for the benefit of future urban areas in Treeby and Piara Waters.

#### *Co-location of Infrastructure*

The assessment criteria for all planning applications are conducted on a case by case basis. SPP 5.2 requires the visual impact of telecommunications infrastructure to be assessed on a case by case basis. SPP 5.2 also requires that the location of telecommunications infrastructure should be co-located where possible. Comments received in objections state that approval of the structure would set precedence for other telecommunications infrastructure. These comments are not considered to have planning merit because it would be inconsistent with SPP 5.2 and the planning framework.

The applicant supplied a map demonstrating the location of the nearest telecommunications infrastructure. The distance shown between the existing telecommunications infrastructure in Success and Atwell to Forrestdale is greater than 6km.

#### *Objections not previously addressed*

The 59 objections that were received during the advertising period were assessed and considered under LPS 3, LPP 2.3 and 5.2. The comments considered to have planning merit have been addressed throughout this report.

Health concerns and risks are noted as a major concern for most objectors. The applicant provided an EME report dated 24/10/2016 (Attachment 6) but during the assessment an updated version of this report was found on the Radio Frequency National Site Archive website (<http://www.rfnsa.com.au>). The updated version dated 02/11/2016 demonstrated a greater maximum EME level calculated for the proposed systems at this site as 3.51V/m; equivalent to 32.59 mW/m<sup>2</sup> or 0.42% of the public exposure limit (Attachment 7).

The acceptable EME levels are required to comply with the Australian Communications and Media Authority (ACMA) *Radio communications Licence Conditions (Apparatus Licence) Determination 2003*. The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) is the Commonwealth agency that measures and limits the EME levels for human exposure to radiofrequency and therefore

local planning controls should not address health or safety standards for telecommunications infrastructure. Therefore the health concerns and risks mentioned are not valid planning considerations.

The lot and surrounding area is located within the Jandakot Groundwater Protection Area and the objectives of SPP 2.3 are to protect the groundwater and to maintain or increase natural vegetation cover over the policy area. SPP 2.3 also considers land use intensification as a potential threat to the Groundwater Protection Area. Majority of objections received commented on the impact of the structure on any future development potential. The lot and surrounding area is zoned 'Rural – Water Protection' under the MRS and there is no seriously entertained documents to the contrary. Therefore the impact on future development potential is not a valid planning consideration as the application can only be assessed under the current statutory framework or seriously entertained documents and not speculation.

The vast majority of objections mention the negative impact on property values. The statutory framework does not have criteria to measure or consider property values. Therefore the impact on property values is not a valid planning consideration.

Aircraft safety was a concern of several surrounding landowners that submitted comments during the advertising period. Jandakot Airport provided an Obstacle Limitation Surfaces (Attachment 4) map that demonstrates the acceptable heights of structures within the vicinity of Jandakot Airport. The proposed telecommunications infrastructure is permitted to stand up to 100m AHD but is only proposed at 68.3m AHD. Therefore the impact to Jandakot Airport or aircrafts in the vicinity is insignificant.

### Conclusion

The benefits of improved telecommunications services do not appear to be balanced with the visual impact on the surrounding area in accordance with SPP 5.2. The objections received during the advertising period demonstrate a significant impact on the surrounding landowners and therefore does not comply with SPP 5.2. The proposed telecommunications infrastructure does not constitute orderly and proper planning and is therefore inconsistent with the aims of LPS 3. It is therefore recommended that Council refuse the application, subject to the reasons contained in the recommendation.

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

#### **City Growth**

- Ensure planning facilitates a desirable living environment and meets growth targets.

### **Community, Lifestyle & Security**

- Provide for community facilities and infrastructure in a planned and sustainable manner.
- Advocate for improvements to information technology infrastructure such as the NBN rollout.

### **Economic, Social & Environmental Responsibility**

- Create opportunities for community, business and industry to establish and thrive through planning, policy and community development.
- Sustainably manage our environment by protecting, managing and enhancing our unique natural resources and minimising risks to human health.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

N/A

### **Community Consultation**

The application was advertised to 55 nearby landowners within a 500m radius in accordance with clause 64(3) of the deemed provisions within the *Planning and Development (Local Planning Schemes) Regulations 2015*. A total of 62 submissions were received during the advertising period.

See the Consultation section of the report for further details.

### **Risk Management Implications**

Should the applicant lodge a review of the decision with the State Administrative Tribunal, there may be costs involved in defending the decision, particularly if legal Counsel is engaged.

### **Attachment(s)**

1. Location Map
2. Respondent Map
3. Obstacle Limitation Surfaces Map
4. Existing Coverage Map
5. Proposed Coverage Map
6. Electro Magnetic Emissions Report

7. Electro Magnetic Emissions Report - Updated
8. Aerial Plan
9. Site Specifications
10. Site Plan
11. Site Layout and Set out Plan
12. Elevation Plan
13. Photo Montage 1
14. Photo Montage 2

### **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 9 February 2017 Council Meeting.

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

Nil.

### **15.11 (OCM 09/02/2017) - PROPOSED STRUCTURE PLAN - HAMMOND GROVE WEST – OWNER: MULTIPLE LANDOWNERS – APPLICANT: ROBERTS DAY (110/160) (R PLEASANT) (ATTACH)**

#### **RECOMMENDATION**

That Council

- (1) adopts the Schedule of Submissions prepared in respect of the proposed Structure Plan;
- (2) endorse the Bushfire Management Plan prepared by Emerge and Bushfire Planning Consulting, (July 2016) subject to the modifications listed within the Schedule of Submissions;
- (3) pursuant to *Schedule 2, Part 4, clause 20 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015*, recommend to the Western Australian Planning Commission that the proposed Structure Plan for Lots 71, 74-75 and 303-305 Wattleup Road Hammond Park (Structure plan) be approved subject to the following modifications:
  1. Part one - include additional Subdivision and Development Requirements within Part 1, section 4.2 of Structure Plan report to require the full upgrade of Wattleup Road fronting the Structure Plan area to the satisfaction of the City of Cockburn.
  2. Amend the Structure Plan map to:
    - a. Remove the road reserve and battering along the

- southern boundary within Lot 304, to connect the Access streets to the north of Lot 304 - to the east with a 15m road reserve and remove the cul-de-sac within lot 304. As a result of these changes provide a coding of R30 across the entirety of Lot 304.
- b. Adjust the annotation for the road reserve between Whadjuk Road and Wattleup Road to provide for the extension and connection of 3.5m lanes as required by the Neighbourhood Connector typology.
  - c. Include the proposed movement network hierarchy to include references to street types, cycle and pedestrian paths.
3. Update the Bushfire Management Plan Emerge and Bushfire Planning Consulting, (July 2016) with the modifications listed in the Schedule of Submissions.
  4. Update as per the provisions of Liveable Neighbourhoods the POS schedule on page 36 of the Structure Plan to recognise that a portion of the "POS 1" area proposes steep battering as illustrated in the resubmitted "Preliminary Earthworks Strategy Option 6". Following the recalculation, update where necessary the Structure Plan map and relevant documentation supporting the Structure Plan.
  5. Update the Engineering Report at Appendix B and the Structure Plan map to identify a suitable location (identifying staging and earthworks considerations particularly relating to levels) to demonstrate how temporary secondary access can be provided as per the Bushfire Management Guidelines.
  6. The Local Water Management Strategy is to be updated to the Department of Water and the City of Cockburn's satisfaction.
  7. Update the Traffic and Transport Assessment supporting the Structure Plan at Appendix C to include.
    - a. Amend all references to "realigned Wattleup Road" to "Whadjuk Drive."
    - b. Ensure all references to the existing Wattleup Road refer to the current road reserve being 20m.

- c. Identify the upgrade requirements in the context of forecasted traffic volumes for Wattleup Road, providing recommendations accordingly including the desired road typology. This information will be used to assess the adequacy of the emerging concept plan upgrades for Wattleup Road.
- 8. Replace the SSDSP map at Figure 6 within the Structure Plan report with the latest adopted version.
- (4) refer the updated Traffic and Transport Assessment to the City of Cockburn for final approval; and
- (5) advise the proponent and those persons who made a submission on the Structure Plan of Council's recommendation.

#### **COUNCIL DECISION**

#### **Background**

Located on the northern side of Wattleup Road and covering the 5 most western lots identified within the Southern Suburbs District Structure Plan (SSDPS), the proposed Structure Plan seeks to guide subdivision and development to facilitate medium density residential development.

The Structure Plan applies to 15.37 hectares of land bound to the west by rural zoned land with an operational market garden and to the north is the Harry Warring Marsupial Reserve (Bush Forever site 932). The adjacent eastern lot accommodates a single dwelling and is a relatively undeveloped parcel identified within the SSDSP as the planned location for the western portion of a future primary school and further residential development.

A Locality Plan and Context Plan is provided at Attachment 1.

The structure plan was first submitted for assessment on 24 June 2016 at which time the City required the applicant to undertake a detailed spring Level 1 Flora and Fauna study consistent with the requirements of the City's Town Planning Scheme No. 3 (The Scheme). The study

was required due to the presence of approximately 19.42 hectares of vegetation within the Structure Plan area. Subsequently the applicant undertook a flora and fauna study in September 2016 and resubmitted a revised Structure Plan on 24 November 2016, also addressing several more minor elements at the City's request.

The proposal was advertised for 28 days from 6 December 2016 to 3 January 2017, noting a 3 day extension as a result of December public holidays.

The purpose of this report is for Council to consider the Structure Plan for final approval, and to consider making a recommendation in light of the information received during advertising and the assessment details provided below.

### **Submission**

N/A

### **Report**

#### Planning policy

The Structure Plan was prepared and lodged by RobertsDay on behalf of Qube who are the landowner of 3 (one under contract to Qube) of the 6 lots subject to the Structure Plan.

The land is zoned 'Urban' under the Metropolitan Region Scheme ("MRS") and 'Development' under City of Cockburn Town Planning Scheme No. 3 ("Scheme"). The land is located within Development Area 27 ("DA27") and Development Contribution Areas No. 13 ("DCA13") and No. 10 ("DCA10").

Pursuant to clause 15(a)(ii) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, a Structure Plan is required to be prepared and adopted to guide future subdivision and development.

#### The site

The 15.37 hectares of land is comprised of 6 lots containing:

- Lot 71 – An operating market garden;
- Lot 305 – A single residential dwelling with the rear of the lot previously used as a market garden until 2003 and now used as a storage yard;
- Lot 303 – A 225m<sup>2</sup> parcel owned by the City of Cockburn (CoC) has historically been the location of a sump given the low point in this location collects water runoff from Wattleup Road. It is noted

that an agreement is in place between CoC and the landowner of Lot 304 for the sump to be located within Lot 304 given the landowners request to utilise Lot 303 for vehicle access.

- Located on lot 304 is a relatively new residential dwelling and large shed of which is unlikely to be developed at the time of the remainder of the structure plan area.
- Parts of Lots 74 and 76 and all of Lot 75 have never been cleared and contain native vegetation ranging from good to excellent condition.

### The proposal

The advertised draft Structure Plan is provided at Attachment 2, illustrating a relatively formal street grid pattern. The extension of Whadjuk Road (also commonly referred to as realigned Wattleup Road) runs through the centre of the site providing a boulevard type road that will provide good access for a range of transport modes to development to the east including the proposed primary school.

The Structure Plan proposes the creation of 233 residential lots, with densities ranging from R30 to R60. The densities are consistent with the objectives of the SSDSP and are consistent with emerging developments and approved structure plans to east.

Four Public Open Space (POS) areas are proposed of which two are long and linear in shape as a result of requiring a vegetated buffer to the operational market garden to the west, in addition to the need for a buffer between development and the Harry Warring Marsupial Reserve to the north.

The proposal includes the removal of all vegetation including 11.57 hectares of non-native and 7.85 ha of native vegetation present across the Structure Plan area. Following significant discussions with the applicant, the Structure Plan (Structure Plan document, Part 2, page 30) details the reasons why vegetation cannot be retained across any of the lots, these relate to the need to undertake significant re-contouring of lots to:

- Ensure finished lot levels are able to transition and “tie in” with lot levels already set in place by development in the eastern portion of the SSDSP area.
- Address interface needs of the Harry Warring Marsupial Reserve located to the north and the existing Wattleup Road to the south of the site.
- Meet drainage requirements associated with maximum ground water levels.



It is recognised the spring Flora and Fauna Survey (Emerge, September 2016) submitted with the Structure Plan identified the Threatened Ecological Community Banksia Woodland as being present on the site. QUBE property Group have stated they are aware of their obligations under the EPBC Act and have commissioned Emerge Associates to assess the potential impacts to Matters of National Environmental Significance as a result of the proposed development, and prepare and lodge referral documentation on their behalf.

### Consideration of key issues

#### *Local centre zone – Wattleup Road*

The SSDSP indicatively identifies a Local Centre zone straddling the boundary of Lots 75 and 76 along Wattleup Road. The zones provided within the SSDSP are indicative only and require refining at the structure plan stage.

Given the current uncertainty regarding the delivery of development south of Wattleup Road, this suggests a viable catchment for a local centre in this location. However it is noted that under the proposed residential zone of which is proposed this location certain commercial uses are possible subject to advertising, these include a convenience store, and a lunch bar.

In addition to the abovementioned the City suggests that an improved location for a local centre zone is along the central spine of Whadjuk Road and as a result when the structure plans are lodged for the remaining lots to the east, the City will request consideration of a local centre along this spine and in the immediate proximity of the proposed school.

#### *Wattleup Road Upgrade*

Wattleup Road is required to be upgraded from a rural to an urban standard road as per the SSDSP. It is recognised Wattleup Road does not require significant changes to the current levels provided along the length of Wattleup road fronting the subject structure plan area (in contrast to other locations) and the 20m road reserve does not require widening. It is recognised as a result that the Structure Plans connection to Wattleup Road and the delivery of the road upgrade can be addressed at the subdivision stage, recognising the need for:

- Part One of the Structure Plan to be updated to include a subdivision and development requirements within Part 1, section 4.2 of Structure Plan report to require the full upgrade of Wattleup Road fronting the Structure Plan area to the satisfaction of the City of Cockburn;

It is noted also that when an Urban Water Management Strategy (UWMS) is prepared at the subdivision stage, a key requirement will be to ensure any runoff from Wattleup Road does not negatively impact on any privately owned lots including Lot 304 – as per the concepts detailed within the Local Water Management Strategy (LWMS) accompanying the Structure Plan.

The Structure Plan, including the Traffic and Transport Report require updating accordingly.

#### *POS upgrades*

The POS Schedule on page 36 of the Structure Plan indicates the provision of 1.0609ha of unrestricted POS within the northern linear “POS area 1”. This is despite the earthworks plan indicating a portion of this area being identified as containing 1:3 and 1:4 slopes which is unacceptable as it can't be used. The POS Schedule requires updating accordingly.

#### *Market garden separation distance*

Market gardens operate in the vicinity of the structure plan area including, of most relevance, the market garden still operating adjacent to the west of the Structure Plan area.

The provisions of *State Planning Policy 2.5 Rural Planning (SPP 2.5)* require the Structure Plan to demonstrate an adequate separation distance between proposed residential uses and the market garden. As a result the Structure Plan is required to be updated to reference SPP2.5.

The City suggests the recommendations of the Structure Plan with regard to separation distances are adequate. These measures include:

- A 20m wide vegetated, linear POS area with 1.8m high fencing (constructed from semi-porous material or solid with the top 300mm constructed from porous material) is proposed in addition to the 15m road reserve’;
- Prospective purchasers will be advised of the existence of the market garden and memorials to be placed on title of all residential lots within 300m of the boundary of the market garden.
- The applicant recognises in accordance with SPP 2.5, section 5.12 – the above approach ensures an adequate separation distance in terms of spray drift from the market garden and

prospective purchasers are made aware of the market garden before they purchase.

*Transport Assessment* (Transcore, November 2016)

With regard to the transport assessment accompanying the Structure Plan, there is some confusion regarding references to Wattleup Road and Whadjuk Road. The traffic report is referring to the commonly referred to “realigned Wattleup Road”, that being Whadjuk Road of which is identified as a 22m road reserve accommodating a boulevard type road including on road cycle lanes and car parking.

The traffic report is required to be updated to provide clarity over road references and required upgrades. In particular page 9 requires a review to provide greater clarity both within the body of text, Table 1, and Figure 8. It is further recommended to include a comment in the report that clarifies that the estimated traffic volumes along Whadjuk Road, in particular, are likely to increase when the existing Wattleup Road is either closed or modified to be left-in/left-out at Hammond Road.

Additionally the Transport Assessment and the Structure Plan does not discuss the requirement to upgrade Wattleup Road from a rural to an urban standard, additionally the current road reserve is referenced as being 22m, rather than the actual 20m provided. The applicant is required to discuss the Wattleup Road upgrade requirements including the provision of a shared path.

The Transport Assessment incorrectly references a superseded version of the SSDSP at Appendix B and requires updating.

Under the current proposal, Whadjuk Road (22m) terminates into a 13.5m road reserve of which connects down to Wattleup road (20m). The City requires the portion of road connecting the two neighbourhood connectors to provide for the same functions and as a result requires an amendment to this portion of the road reserve. The City notes the full 20-22m is unlikely to be required as the adjacent linear POS makes provision for pedestrians and cycling.

Furthermore the City reconfirms the need for a round-about where the same road intersects Wattleup Road. This request recognises:

- A roundabout at the western intersection will create an entry statement at the western end of the residential area;
- The installation of two roundabouts will provide safety and amenity benefits by breaking up a long straight section of Wattleup Road and discouraging undesirable high speeds;

- Roundabouts at this intersection will modify intersection priority and assist turning traffic.

The Transport Assessment is to be updated to address these requirements.

#### Community consultation

The Structure Plan was advertised for 28 days from 6 December 2016 to 3 January 2017 noting a 3 day extension as a result of December public holidays. Letters were sent to all affected landowners and residents explaining the structure plan.

A total of 18 submissions were received, of which included:

- 2 objections from landowners within the immediate vicinity - one of which is located within the proposed Structure plan area;
- 4 of support, and;
- 7 from Government agencies and service providers requiring further information and/or amendments.

All of the submissions are outlined and addressed in Attachment 3.

#### Consideration of key issues

The below details the City's response to the matters arising as part of the assessment of submissions received.

##### *Western Coast Trade Protection Area (WCTPA) buffer*

Submissions received from State agencies and service agencies suggest the need to recognise the South-Western corner of the Structure Plan area is located within the Western Trade Coast Protection Area (WTCPA) buffer and accordingly should be identified on the Structure Plan map, preventing residential development from occurring in this location.

In response the City notes the WTCPA buffer and associated Bill are drafts and have no statutory force or affect. Instead, a commitment to the protection of the rural interface and transition area should be ensured of which the Structure Plan adequately identifies through the inclusion of the linear POS buffer described above addressing market garden separation.

##### *Development staging - Lot 304 Wattleup Road*

A submission made by the owner of Lot 304 expressed concern regarding negative impacts on his property as a result of the proposed Structure Plan. Specifically relating to the negative impacts resulting

from finished lot levels proposed surrounding Lot 304, drainage and the potential conflict of future homes to the east of his site and the 6-8m shed currently situated on the eastern side of Lot 304. The landowner has requested a road along the eastern boundary to address some of these issues.

Concern also relates to ensuring equitable options exist to develop Lot 304 in the future and questioning the need for the earthworks battering proposed in what appears to be identified as a road reserve within the southern portion of the structure plan area, within Lot 304, and fronting Wattleup Road.

Of relevance a residential dwelling built in 2006 is located on Lot 304 and as a result it is highly unlikely this lot will be developed at the same time as the surrounding structure plan area given the young age and good condition of the dwelling. Staging considerations relating to Lot 304 are therefore a key requirement to identify both at the Structure Plan stage and the subdivision stage to ensure an equitable outcome for both Lot 304 and the lots within the wider structure Plan area.

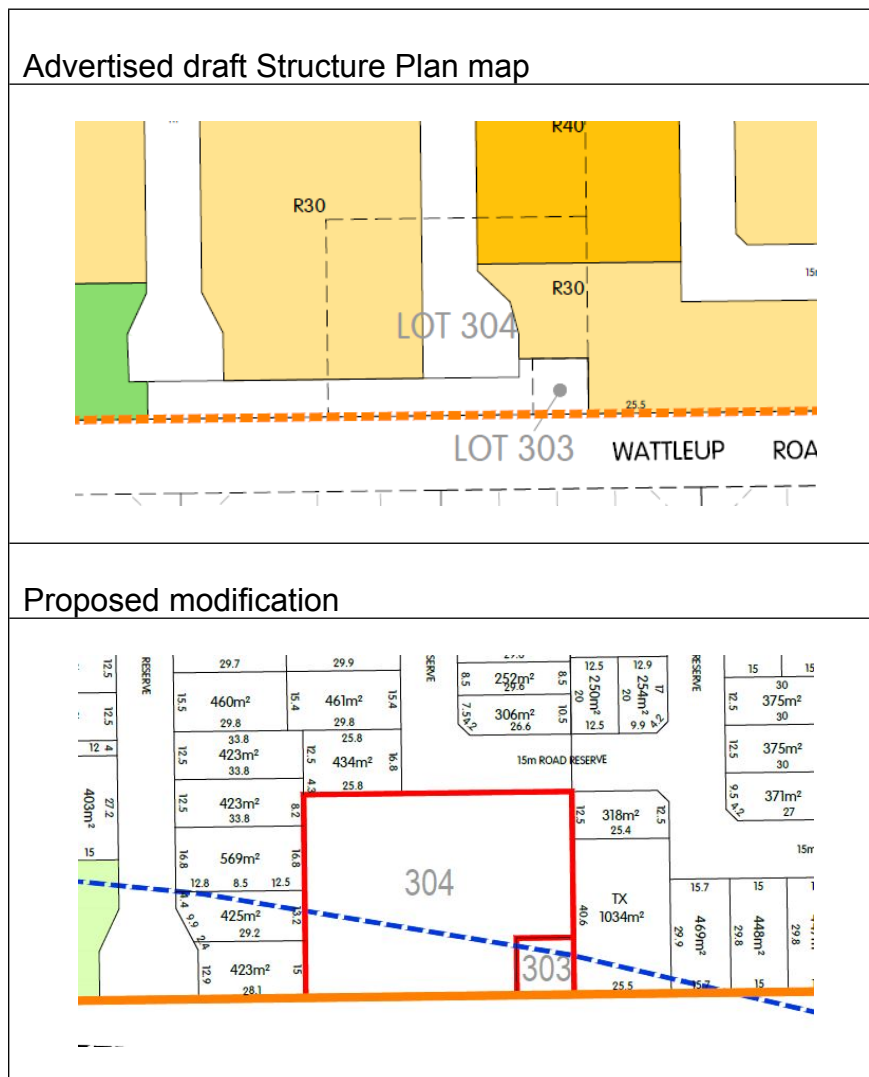
It is also noted that as a result of an agreement in place between the landowner of Lot 304 and the City regarding drainage on Lot 303, any proposal relating to these lots is required to consider both lots comprehensively.

In response to these concerns the City has addressed the relevant issues by:

- Recognising that the upgrade to Wattleup Road is unlikely to impact on Lot 304. As highlighted previously, Wattleup Road does not require any significant level changes in front of Lot 304. However it is noted as a stated previously that the UWMP at the subdivision stage is required to demonstrate drainage from Wattleup Road and the surrounding lots does not impact on Lot 304 – particularly in the short term while the owner of Lot 304 chooses to not develop.
- The applicant at the City's request has reviewed the proposed earthworks plan and has reduced the finished lot level and retaining wall proposed along lot 304's eastern boundary by 2m. This results in a 4m level change along the eastern boundary. Given the eastern portion of lot 304 is occupied by a 6-8m shed, this is considered to be an acceptable outcome – both in terms of reducing the impact of excessive retaining walls and reducing the impact of the shed on future residents to the east. It is also recognising that when Lot 304 comes to develop, it is likely the lot will be required to be raised at least 2m for the purposes of drainage and servicing, resulting in an acceptable relationship with surrounding lots.

- It is noted the requested road to the east of Lot 304 is not supported given wider design considerations relating to site levels and drainage requirements, the need to minimise roads accessing Wattleup Road, and the adjacent school site requiring a road along its boundary.
- The applicant has also agreed to amend the Structure Plan map and relevant documentation to remove the unnecessary road reserve and battering along the southern boundary, within Lot 304, to connect the access streets to the north of Lot 304 (to the east) and remove the cul-de-sac within lot 304 and as a result of these changes provide a coding of R30 across the entirety of Lot 304. The proposed modification is illustrated in Table 1.

**Table 1** – Recommended changes to the Structure Plan map.



Further analysis and discussion of the submissions has been undertaken within the attached Schedule of Submissions included at Attachment 3.

## **Strategic Plan/Policy Implications**

### **City Growth**

- Ensure planning facilitates a desirable living environment and meets growth targets
- Ensure growing high density living is balanced with the provision of open space and social spaces

### **Economic, Social & Environmental Responsibility**

- Improve the appearance of streetscapes, especially with trees suitable for shade

## **Budget/Financial Implications**

The required fee was calculated on receipt of the proposed structure plan and has been paid by the proponent. There are no other direct financial implications associated with the proposed Structure Plan.

## **Legal Implications**

Clause 20 (1) of the deemed provisions requires the City to prepare a report on the proposed structure plan and provide it to the Commission no later than 60 days following the close of advertising.

## **Community Consultation**

The Structure Plan was advertised for 28 days from 6 December 2016 to 3 January 2017 noting a 3 day extension as a result of December public holidays. Letters were sent to all affected landowners and residents explaining the structure plan.

## **Risk Management Implications**

If the Structure Plan is not supported, there will be no planning structure over the subject land to guide future subdivision and development. The subject land is within the boundary of an approved district structure plan - the Southern Suburbs District Structure Plan of which was approved by the Western Australian Planning Commission (WAPC) in September 2012. The proposed structure plan is immediately adjacent to a future primary school site and 2km from the Kwinana Freeway providing direct access to the north and south.

If the Structure Plan is not adopted, there will be a missed opportunity to develop this land for residential dwellings to assist in meeting density targets and meet the objectives of State level planning policy including Perth and Peel @3.5 million.

**Attachment(s)**

1. Locality Plan and Context Plan
2. Draft Structure Plan
3. Schedule of submissions

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 9 February 2017 Council Meeting.

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

Nil.

**15.12 (OCM 09/02/2017) - ACQUISITION OF LAND FOR ROAD WIDENING PURPOSES, INTERSECTION OF GIBBS AND LIDDELOW ROADS, BANJUP (041/001) (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) purchase land required for road widening from 3 adjoining properties to facilitate the construction of a roundabout at the intersection of Gibbs and Liddelw Roads Banjup subject to purchase prices being supported by valuation reports, prepared by a Licensed Valuer, that refers to the relevant provisions of the Land Administration Act 1997 for the taking of land for a public purpose;
- (2) request that the Minister for Lands finalise the application for the extinguishment of native title over portion of Reserve 41438 pursuant to Section 24KA of the Native Title Act to facilitate the excision of minor road widening from Reserve 41438; and
- (3) delegate to the Chief Executive Officer the authority to negotiate an outcome with the relevant interest holders of Reserve 41438 subject to any compensation being commensurate with that paid to the three (3) freehold properties.

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



**COUNCIL DECISION****Background**

The intersection of Gibbs and Liddelow Road, Banjup is currently a 4 way intersection. The intersection is dangerous and has been the site of several fatalities as a result of traffic accidents. Funds have been allocated in the current budget to construct a roundabout which will greatly improve road safety at the intersection

**Submission**

Valuation reports have been prepared for 3 of the adjoining properties.

**Report**

The engineering design requires that land be acquired from all 4 properties that adjoin the intersection.

Three of the properties are freehold while the property on the north-west corner is an unmanaged crown reserve.

Plans of the three freehold lots showing the extent of road widening have been forwarded to our Licensed Valuer. Compensation reports for each of the lots have been provided by the Valuer. An executive summary of the pertinent Valuation Report has been sent to each of the owners together with requests for comment and indication on whether an offer by the City based on the valuation report would be acceptable.

One owner has indicated that they will proceed based on the valuation report. A second owner has indicated a reluctance to proceed and has obtained a valuation from a second Licensed Valuer. This valuation has arrived at the same compensation amount as was shown in the first valuation. The third owner has been offered the opportunity to engage a Licensed Valuer of their choosing but is yet to accept this overture.

If Council resolves to adopt the recommendation, contracts for acquisition will be prepared by the Cities Lawyers as agreements are reached with individual owners.

The Land Administration Act has a provision for the acquisition of land for a public purpose by agreement. This is the preferred option. The Act does have provision for the taking of land for a public purpose without agreement which should be as a last resort.

Drawing information from the valuation reports undertaken by our Licensed Valuer it is estimated that the total sum required for the road land acquisition could be in the order of \$50,000.

Reserve 41438 is a crown reserve that has not had a Management (Vesting) Order issued. As such Native Title has not been extinguished.

Section 24KA of the Native Title Act provides a means to facilitate the provision of services to the public. A public road is deemed to be a service to the public. The Department of Lands acting for the Minister for Lands will be the agency making the application on behalf of the City.

It is anticipated that the City as the proponent will need to contact South West Aboriginal Land and Sea Council on behalf of the Whadjuk People to determine whether further assessment of the area and identification of possible Aboriginal Heritage sites in the area of the works is required.

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

#### **Moving Around**

- Reduce traffic congestion, particularly around Cockburn Central and other activity centres

### **Budget/Financial Implications**

Funds are available in the 2016/2017 Budget.

### **Legal Implications**

The Land Administration Act 1997 refers

### **Community Consultation**

N/A

### **Risk Management Implications**

The Risk to the City if the recommendation is not followed or is deferred is that the construction of the roundabout will be delayed

**Attachment(s)**

Site Plan of subject area.

**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 9 February 2017 Ordinary Council Meeting.

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

Nil.

**15.13 (OCM 09/02/2017) - ACQUISITION OF LAND FOR ROAD WIDENING PURPOSES, JANDAJOT AND SOLOMON ROAD JANDAKOT (041/001) (K SIM) (ATTACH)**

**RECOMMENDATION**

That Council purchase land required for road widening from approximately 20 properties to facilitate the upgrade of Jandakot Road between Solomon Road and Fraser Road and Solomon Road between Cutler Road and Jandakot Road to a 4-lane dual carriageway road subject to purchase prices being supported by a valuation report, prepared by a Licensed Valuer that refers to the relevant provisions of the Land Administration Act 1997 for the taking of land for a public purpose.

**COUNCIL DECISION****Background**

Jandakot Road is a 4.86 kilometre long Regional Distributor road that connects Berrigan Drive in the west to Warton Road in the east. The road is currently a single carriageway built to rural standard in a 20 metre wide road reserve.

The volume of traffic using Jandakot Road has increased substantially in recent years (up to 85% west of Skotsch Road between 2010 and 2015), primarily due to the creation of new residential suburbs to the east of the City of Cockburn such as Harrisdale and Piara Waters.

Further residential development south of Jandakot Road will add to the anticipated increase in traffic volumes. There is increasing safety and congestion issues' being experienced with the road as the volume of traffic grows. The most recent traffic data available for Jandakot Road is an average Weekday Traffic volume of 17,335 vehicles, recorded east of Berrigan Drive in December 2016 by Main Roads WA, which exceeds the 15,000 vehicle per day traffic volume used as a flag for consideration of upgrading a road to a dual-carriageway. The City's District Traffic Study forecasts for Jandakot Road in 2031 predict a weekday traffic volume of approximately 26,000 vehicles near Berrigan Drive and 18,000 vehicles near Warton Road.

To ensure that Jandakot Road will be able to perform its distributor road function safely and efficiently and accommodate the increasing volume of traffic it is necessary that the road be widened to 4-lane dual carriageway. Understanding the requirement for the upgrade of these regional roads the City and the developers of the residential development south of Jandakot Road have entered into a voluntary agreement whereby the developer will make financial contributions to the regional roads where they adjoin the development. The City is developing plans for the widening of the remainder of Jandakot Road. It is anticipated that more road widening land will need to be purchased to complete the project between Warton Road and Berrigan Drive.

### **Submission**

An engineering design has been completed for the Solomon Road and the first stage of the Jandakot Road section of the proposed 4-lane dual carriageway. This engineering design has identified a number of land requirements from adjoining properties. Plans of these excisions have been passed onto a Licensed Valuer who has provided compensation reports to the City for each of the affected lots. An executive summary of the Valuation Report has been sent to each of the owners together with requests for comment and indication on whether an offer by the City based on the valuation report would be acceptable. Approximately 50% of the owners have responded positively.

### **Report**

The first stage of the project is the section of Solomon road north of Cutler Road and the portion of Jandakot Road between Solomon and Fraser Road including the merging of the new road with the existing road. 16 properties are affected by the first stage of the project.

If Council resolves to adopt the recommendation contracts for acquisition will be prepared by the City's Lawyers as agreements are reached with individual owners.

For the owners that have indicated a reluctance to proceed further contact will be made offering those owners the opportunity to appoint Licensed Valuer's of their choosing. The City will meet the reasonable costs of these Valuations on the basis that the Valuations will be used in a negotiated acquisition. The Land Administration Act has a provision for the acquisition of land for a public purpose by agreement. This is the preferred option. The act does have provision for the taking of land for a public purpose without agreement which would be as a last resort.

Drawing information from the valuation reports undertaken by the Licensed Valuer it is estimated that the total sum required for the road land acquisition is in the order of \$1.2 million.

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

#### **Moving Around**

- Reduce traffic congestion, particularly around Cockburn Central and other activity centres.

### **Budget/Financial Implications**

The 2017/18 Municipal Budget will need to ensure that sufficient funds are available to complete the required acquisitions.

### **Legal Implications**

The Land Administration Act refers

### **Community Consultation**

NA

### **Risk Management Implications**

The Risk to the City if the recommendation is not followed or is deferred is that the 4-lane dual carriageway upgrade will not be proceed in a timely manner.

### **Attachment(s)**

Site plan of the subject area.

**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 9 February 2017 Ordinary Council Meeting.

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

Nil.

**15.14 (OCM 09/02/2017) - ACQUISITION OF LOT 9501 VIVALDI STREET HAMMOND PARK (041/001) (K SIM) (ATTACH)**

<p><b>RECOMMENDATION</b> That Council</p> <ol style="list-style-type: none"><li>(1) purchase Lot 9501 Vivaldi Street, Hammond Park for a consideration of \$10,000;</li><li>(2) consents to transfer a total amount of \$10,000 from the Land Development and Community &amp; Investment Reserve to cover the costs of purchase; and</li><li>(3) amend the 2016/17 Municipal Budget by transferring a total amount of \$10,000 from the Land Development and Investment Reserve to fund the purchase of Lot 9501 Vivaldi Street Hammond Park.</li></ol> <p><b>TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL</b></p>
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<p><b>COUNCIL DECISION</b></p>
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**Background**

Lot 9501 Vivaldi Street Hammond Park is a fully developed lot that is being used as an access easement for the benefit of public at large. The easement was imposed on the developer of the subdivision primarily so that trucks entering Chelina Lane can continue through to Vivaldi Street without the need to reverse out of Chelina Lane. The easement is for the benefit of the City of Cockburn.

**Submission**

N/A

**Report**

A search of the relevant service authorities reveals that Lot 9501 is connected to all services. The access provided to the public will be required until the adjoining property at Lot 114 Wattleup Road is developed. Lot 114 is the subject of a structure plan which shows a road reserve immediately to the west of Lot 9501. There is no guarantee that Lot 114 will be subdivided in the near future. It could be 10 years before Lot 114 is subdivided but when it is subdivided the structure plan configuration ensures that Lot 9501 will no longer be required for an access easement.

It is not considered worthwhile to engage a Licensed Valuer to value the lot. A similar lot being 18 Snowden Street Hammond Park sold for \$168,500 in November 2016. The only holding costs that the City will incur will be the maintenance of the temporary pavement on the lot and the cost to remove the pavement once the access easement is no longer required.

**Strategic Plan/Policy Implications****City Growth**

- Ensure planning facilitates a desirable living environment and meets growth targets

**Budget/Financial Implications**

The adopted 2016/17 Municipal Budget will be required to be amended to facilitate the land purchase.

**Legal Implications**

Nil

**Community Consultation**

N/A

**Risk Management Implications**

The risk to the City if the recommendation is not followed is that an opportunity to add value to a land parcel over an extended period will be lost.

The risk to the City if the recommendation is accepted and the adjoining land is not developed for an extended period is that the \$10,000 may have a greater return if deposited in a term deposit.

**Attachment(s)**

Site Plan of the subject area.

**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 9 February 2017 Ordinary Council Meeting.

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

Nil.

**15.15 (OCM 09/02/2017) - PROPOSED STRUCTURE PLAN – LOT 558 (19) LAUDERDALE DRIVE, SUCCESS – OWNER: GOLD ESTATES HOLDINGS PTY LTD – APPLICANT: ROBERTS DAY (110/158) (G LILLEY) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) adopt the Schedule of Submissions prepared in respect of the proposed Structure Plan (Attachment 4);
- (2) pursuant to Schedule 2, Part 4, clause 20 of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, recommend to the Western Australia Planning Commission that the proposed Structure Plan for Lot 558 (No. 19) Lauderdale Drive, Success be approved subject to the following modifications:
  1. Amend Part One, section 4.3 Public Open Space and Part Two, section 3.3 Open Space to reference that 10% equivalent applicable to the Residential proportion of the previously zoned 'Local Centre' portion of the site will need to be provided as Public Open Space whether physically or as cash-in-lieu.
  2. Amend Part One, section 5.1 Developer Contributions - remove text in brackets referring to payment of DCA liability. Discussion should be limited to the fact a DCA applies, what it is for, and that triggers for liability reside within the Scheme. It is not appropriate to discuss the



- amount as this is subject to annual review.
3. Amend Part One, section 6.0 Additional Information to include the requirement for a traffic study to be prepared and submitted with any Development Application for the site to be approved by the City of Cockburn.
  4. Amend Part One, section 6.0 to require further noise assessment at Development Approval Stage.
  5. Amend Part Two, section 3.0 to include discussion on Herring Storer Acoustic Assessment.
  6. Amend Structure Plan report to include Herring Storer Acoustic Assessment as an Appendix and modify Contents page accordingly.
  7. Amend Part Two, section 3.1.2 to include discussion on future development applications being required to incorporate design elements to reduce potential negative impacts of non-residential land uses on residential dwellings within the development such as noise, odour, light and other activities.
  8. Amend the Structure Plan documentation to provide the relevant information demonstrating how stormwater will be managed within the structure plan layout for both quality and quantity including the strategy for the first 15mm of rainfall, 20% Annual Exceedance Probability (AEP) event and 1% AEP event, as requested in the Department of Water submission.
  9. Amend Part Two, section 3.4.1 Movement Hierarchy paragraph to include the paragraph "Lauderdale Drive – it is recommended that any subsequent development extends the path on the southern side of the road reserve which currently stops immediately west of the site".
  10. Correct all typographical and formatting errors.
- (3) request the applicant advise the current or future landowner of the site to liaise with the City as early as possible during preparation of a Development Application for the site to discuss traffic generation and management, access strategies and parking in accordance with the Department of Planning's Transport Impact Assessment Guidelines;
- (4) advise the landowners within the structure plan area and those

who made a submission of Council's recommendation accordingly.

## **COUNCIL DECISION**

### **Background**

The proposed Structure Plan applies to a 6,294sqm property of vacant land, namely Lot 558 (No. 19) Lauderdale Drive, Success ("subject land"). It is bounded by Lauderdale Drive and existing residential housing to the north and west, Russell Road to the south and the proposed future station access road to Aubin Grove Train Station to the east (refer to Attachment 1). The subject land is the only large lot yet to be developed within the Phase 2 Magnolia Gardens Structure Plan area and due to its size it has the potential to be developed at a higher density.

The purpose of this report is for Council to consider submissions received during the advertising process. In total the City received forty-nine (49) submissions during the advertising period of which six (6) supported the proposal, five (5) made no comment and thirty eight (38) objected to the proposal. The submissions are discussed in the 'Report' section below and in Attachment 4.

### **Submission**

N/A

### **Report**

#### Planning Background

The subject land contains no development and is cleared of significant vegetation. Residential development and the Aubin Grove Train Station infrastructure surround the land as can be seen on the aerial photograph (Attachment 1).

The proposed Structure Plan site is located in a strategic position being situated in close proximity to transport infrastructure, being approximately 250 metres west of the Russell Road-Kwinana Freeway interchange and a similar distance to the Aubin Grove Train Station.

The site is also located in close proximity to a number of Public Open Spaces (POS), with Baler Reserve located 40 metres to the south, Milkwort Park 130 metres to the north-west and the Success Regional Sporting Facility 600 metres to the north-west. The site is well-serviced commercial facilities, being located approximately 700 metres west of Harvest Lakes Shopping Centre and 800 metres east of Park Hive Shopping Centre. The site offers one of the last opportunities in the locality for high density development in close proximity to the future train station and existing community facilities and major transport routes.

The subject land is zoned 'Urban' under the Metropolitan Region Scheme ("MRS") and is included within the previously approved Phases 2 and 3 Magnolia Gardens Structure Plan which zoned the westernmost two thirds of the site designated as site 'Residential R40' (R40) and easternmost third as 'Local Centre' (refer to Attachment 3). The subject land is located within Development Contribution Area No. 2 ("DA2") and No. 13 ("DCA13").

#### Land Use and Density

The Structure Plan proposes development of the land for residential land uses in a manner that is in accordance with State and Local planning policy relating to transit-orientated, infill development and the provision of diverse and affordable housing. Prior development of the Magnolia Gardens locality, within which the site is located, was governed by the Success Lakes Structure Plan (SP8A) and the latter revisions known as the Magnolia Gardens Phase 1, Phase 2 and Phase 3. The majority of Phase 2 and 3 Magnolia Gardens Structure Plan is coded R20 and R25 and has been developed as single detached dwellings at a relatively low density considering the proximity of Cockburn Central, the future Aubin Grove Train Station, and other community facilities and services. This Structure Plan proposes to rezone this undercapitalised transit-orientated location to 'Mixed Use (R100)' zoning permitting both residential and non-residential land uses on site and allowing development to occur at a higher density (refer to Attachment 2).

This is consistent with the existing State and Local government planning framework. State government documents promote higher density surrounding public transport with a key purpose of *Liveable Neighbourhoods* being "increased emphasis on achieving density targets and lot diversity, particularly around activity centres and public transport nodes." An objective of *Liveable Neighbourhoods* is to provide lots capable of supporting high density development in and around town centres, public transport stops and parks. *Liveable Neighbourhoods* also promotes a range of residential densities that translate into a range of future household types. The proposed

Structure Plan provides this opportunity. *Perth and Peel@3.5million* also encourages urban consolidation and higher density development surrounding public transport corridors and station precincts, in order to reduce dependency on the private vehicle.

The subject land has always been zoned for development at a higher density than surrounding lots under the Phase 2 Magnolia Gardens Structure Plan, as the Local Centre zoning currently allows up to Residential R60. The majority of Phase 2 and 3 Magnolia Gardens Structure Plan is coded R20 and R25 and has been developed as single detached dwellings at a relatively low density considering the proximity of Cockburn Central, the future Aubin Grove Train Station, and other community facilities and services. The proposed rezoning will allow higher density housing to be developed on site and thus provide greater diversity in dwelling size and cost in the locality, as well as increase the dwelling yield of the Structure Plan. Thus, the proposed amendment to increase the density of the subject land allows for an increased number of dwellings at the site to compensate for the lack of density provided for in surrounding development within the Structure Plan area.

A considerable disconnect exists between allowed and actual density of development within the Phase 2 and 3 Magnolia Gardens Structure Plan area. According to the allocated residential densities and the average lot size requirements under the R-Codes, approximately 184 residential dwellings were permitted. However, only 107 single residential dwellings, 1 duplex lot and 1 multiple dwelling has been created. The proposed Structure Plan has the potential to facilitate the development of a higher density of residential dwellings at the subject site, which would increase it to the original density.

#### Urban Design Guidelines

The subject land is the only relatively large lot yet to be developed within the Phase 2 Magnolia Gardens Structure Plan area that has the potential to be developed at high density (refer to Figure 1). Given its close proximity to the Aubin Grove Train Station and other facilities and services it is important that this opportunity is capitalised on so that the development potential of the site is maximised whilst still providing a desirable and functional living environment for future residents.

To ensure that this is the case, the Structure Plan provides a number of Design Objectives and principles to guide future development in terms of setbacks, communal open space, height, orientation, vehicle access and parking, and interface with the public domain. These objectives and guidance principles have been included in Part One of the Structure Plan so that they can be required of any future development proposal to ensure a good design outcome is eventually developed on

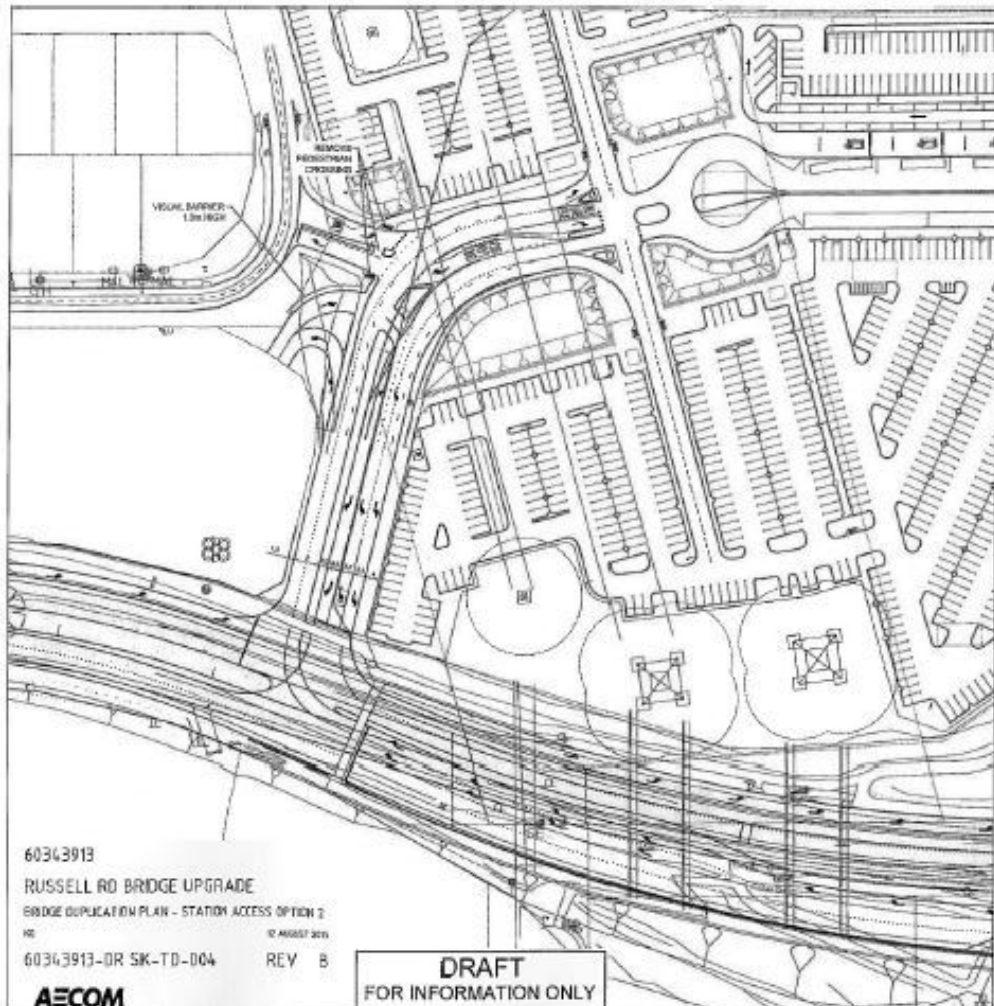


The Structure Plan references Public Open Space (“POS”) requirements as being satisfied by the POS provided by the Phase 2 and 3 Magnolia Gardens Structure Plan. However, a portion of the subject land is zoned ‘Local Centre’ and, in accordance with *Liveable Neighbourhoods*, was treated as a deduction to POS calculations, meaning a POS contribution has not been provided for this land. Hence a 10% contribution on any residential development within this ‘Local Centre’ zoned portion of the lot will be required. This requirement has been included in recommendation (2)2 above.

Traffic

An analysis of the surrounding residential density indicates that it has been developed at a significantly lower density than expected. The Residential Design Codes for the area permit a minimum lot size of 220sqm which would produce 184 lots supporting 184 dwellings and approximately 460 people. However, the actual lot size that has been developed is 378sqm which produced only 109 lots supporting 115 dwellings and approximately 287 people. This represents a shortfall of dwellings and population density to the area. The development of Lot 558 will partly reconcile this shortfall as density coding of R100 will create an estimated population of between 80-160 people of which the current road infrastructure was designed to support.

The Traffic Impact Statement (TIS) lodged in support of the application has been reviewed by the City, and the City is satisfied that future development as a result of the rezoning of the subject land will not have a significant impact on the local road network. The TIS estimates



that the structure plan will generate peak hour (two-way) trips of 47 in the AM peak and 46 in the PM peak, of which 75% would be distributed via the Aubin Grove Station access road onto Russell Road (with the remaining 25% distributed as local trips on Lauderdale Drive). The trip generation has been reviewed by the Public Transport Authority (PTA) and appear to be reasonable estimates and is agreed as falling within the thresholds as stated within the WAPC Transport Impact Assessment (TIA) Guidelines. However, the PTA is unsupportive of the proposed entry/exit access road connecting to the future Station Access Road and requires further analysis to be undertaken by the Applicant (refer to Figure 2).

Figure 2 Applicants' Proposed Entry/Exit Access to Future Station Access Road

The City requires additional traffic reporting to be lodged with any development application for the site as required in recommendation (2)4 above, and future applicants will be required to liaise with the City early in the preparation of a development application to achieve the best possible outcome in terms of traffic generation, management and access as per recommendation (3).

Traffic concerns in relation to the future Aubin Grove Train Station future access road is the responsibility of the PTA. The PTA has committed to undertake an assessment of the existing localised transport network within 6 months of Aubin Grove Station becoming operational (refer to Attachment 4 – Submission 19). The PTA are committed to ensuring the road network can accommodate the expected vehicle numbers including buses using the Aubin Grove Train Station.

### **Aubin Grove Train Station**

#### Amenity

This is the last lot in the locality with the potential of being developed at a higher density, whilst still contributing positively to infill dwelling targets as outlined previously in this report. The City believes that the proposed development will not have a negative impact on the amenity of existing landowners in the vicinity as the future development will be required to be designed in an attractive way that minimises impacts on surrounding landowners and increases the amenity of the area.

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

##### **City Growth**

- Ensure planning facilitates a desirable living environment and meets growth targets
- Ensure growing high density living is balanced with the provision of open space and social spaces

- Ensure a variation in housing density and housing type is available to residents

### **Budget/Financial Implications**

The required fee was calculated on receipt of the proposed Structure Plan and has been paid by the proponent. There are no other direct financial implications associated with the Proposed Structure Plan.



## Legal Implications

*Clause 20 (1)* of the deemed provisions requires the City to prepare a report on the proposed structure plan and provide it to the Commission no later than 60 days following the close of advertising.

## Community Consultation

Pursuant to *Schedule 2, Part 4, clause 18* of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, public consultation was undertaken for 42 days commencing on 29 November 2016 and concluding on 10 January 2017. This is an extension of the 28 days required by *Clause 18(2)* of the deemed provisions. The rationale for this extension was that the advertising period fell over the Christmas period and for the benefit of submissioners an extra 14 days was given. The applicant was consulted and agreed to the extension date for advertising.

In total the City received forty-nine (49) submissions in total, thirty-eight (38) from landowners and eleven (11) submissions from government agencies. Six (6) submissions supported the proposal, five (5) submissions made no comment and thirty-eight (38) submissions objected to the proposal.

The majority of landowner submissions objected to the proposal arguing that high density development should not be permitted at the subject land due to inconsistency with existing development in the locality, as well as the potential for increased traffic congestion on local roads. These objections are not supported by the City as the proposed Structure Plan will provide the opportunity to diversify the housing product and density in the locality to cater for various household sizes and incomes, for whom single detached housing may not be appropriate or affordable. Any development application for the site will be required to comply with the design objectives detailed in the Structure Plan document which include provisions to ensure future development is at a high quality standard and does not have a negative impact on existing residents in the locality. Furthermore, as discussed above, additional traffic from development at the subject site is not expected to have a significant impact on the local road network.

A detailed analysis of the submissions has been undertaken within the attached Schedule of Submissions included at Attachment 4.

## Risk Management Implications

This is the last portion of land of this size in close proximity to the future Aubin Grove Train Station. If the subject land is not rezoned, development will only be permitted at the R40 coding, and this will

result in an underutilisation of land, lost opportunity for residents to live in close proximity to the train station and lost opportunity to implement State and Local strategic documents setting dwelling targets and promoting high density surrounding train stations.

**Attachment(s)**

- 1 Location Map
- 2 Proposed Lot 558 (19) Structure Plan Map
- 3 Approved Phase 2 and 3 Magnolia Structure Plan
- 4 Schedule of Submissions

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 9 February 2017 Ordinary Council Meeting.

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

Nil.

**15.16 (OCM 09/02/2017) - PROPOSED STRUCTURE PLAN – LOT 21 (NO 583) ROCKINGHAM ROAD, MUNSTER – OWNER: M AND S OREB – APPLICANT: HARLEY DYKSTRA (110/159) (G LILLEY) (ATTACH)**

<p><b>RECOMMENDATION</b> That Council</p> <ul style="list-style-type: none"><li>(1) adopts the Schedule of Submissions prepared in respect to the proposed structure plan;</li><li>(2) pursuant to <i>Schedule 2, Part 4, clause 20</i> of the deemed provisions of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>, recommend to the Western Australian Planning Commission that the proposed Structure Plan for Lot 21 (No. 583) Rockingham Road, Munster (“Structure Plan”) be approved; and</li><li>(3) advise the landowners within the structure plan area and those who made a submission of Council’s recommendation accordingly.</li></ul>
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**COUNCIL DECISION****Background**

The proposed Structure Plan applies to Lot 21 (583) Rockingham Road, Munster. The subject site is approximately 0.8018 hectares of vacant land (refer to Attachment 1 of this report for a recent aerial photograph). It is bound by Rockingham Road to the east and lots to the south, currently being redeveloped as residential dwellings under approved Structure Plans. A Structure Plan has also recently been submitted to the City of Cockburn over Lots 22 and 51 Mayor Road to the north and west for residential dwellings. Lot 21 is one of the few remaining lots in the immediate locality to lodge a Structure Plan. The proposed Structure Plan aims to complete the development of the surrounding lots. See Attachment 3 for details of the approved and proposed contextual plan for the surrounding development areas.

The purpose of this report is for Council to consider submissions received during the advertising process. In total the City received seventeen (17) submissions during the advertising period of which eleven (11) supported the proposal and the remaining six (6) objected to the proposal. The submissions are discussed in the 'Report' section below and are elaborated on in Attachment 4.

**Submission**

N/A

**Report**Planning Background

The subject land contains a single residential dwelling fronting Rockingham Road and several outbuildings. The remainder of the site contains no development and remains cleared of significant vegetation as historically it was used for market gardening. These operations have since ceased. Progressive residential redevelopment of surrounding land is now occurring. The aerial photograph (refer to Attachment 1) depicts the existing land use.

The proposed Structure Plan site is located within a key development zone - situated approximately 20km south of Perth CBD, 2.5km east of

the Indian Ocean coastline, 250m south-west of the Stock Road/ Beeliar Drive intersection and 7km west of Cockburn Central and the Kwinana Freeway. South Coogee Primary School is located 900m east and 630m north-west of the subject site respectively. Santich Park and Radonich Park are located 260m north-east and 630m east of the subject land respectively and offer both passive and active recreational opportunities.

The subject land is zoned 'Urban' under the Metropolitan Region Scheme and 'Development' under City of Cockburn *Town Planning Scheme No. 3*. The subject land is also located within Development Contribution Area No. 6 (DCA 6) and No. 13 (DCA 13).

#### Land Use and Residential Density

The Structure Plan proposes to facilitate the subdivision and development of the land for residential land uses in a manner that is compatible with those of the endorsed and proposed Structure Plans surrounding the subject site.

The intended land uses within the Structure Plan include:

- Eleven (11) residential lots including one (1) grouped dwelling lot and one (1) multiple dwelling lot at density coding's R30, R40 and R60.
- One (1) area of Public Open Space (POS) located along the western boundary of the Structure Plan area, linking to the identified POS on Lot 20 to the south and proposed POS over Lot 51 Mayor Road to the west.

The proposal will assist in ensuring the State's dwelling targets for the South Metropolitan Perth area, as identified within *Perth and Peel@3.5 million* strategic land use planning document, are reached whilst also providing additional housing diversity to the locality.

#### Road Alignment of East-West Road

The subject site shares its northern boundary with Lot 22 Mayor Road. The landowners of this lot lodged a Structure Plan proposal with the City prior to that for Lot 21 Mayor Road. As a result, the Lot 22 Structure Plan indicates that the width of the east-west road would be 10.5m. To be consistent with this, the subject site Structure Plan indicates that the remainder of the 15m road (that of 4.5m) would be placed on their site (refer to Attachment 2). Both structure plans will ultimately need to be considered by the WAPC, when subdivisions are considered it is likely whichever proposal proceeds first will need to accommodate the 10.5m road to be capable of having titles cleared.

To address the issue of uneven costs associated with road construction to the initial developer, the *Planning and Development Act 2005* states:

Subdivision and Development Control Part 10 – Division 4

*“s.159 Subdivider may recover portion of road costs from later subdivider.*

*(1) Where –*

*(a) A person (in this section called the later subdivider) has subdivided land in which*

*(i) A lot or lots has or have a common boundary with;*  
*or*

*(ii) A road joins an existing road to which there is access from the subdivided land;*

*and*

*(b) A person (in this section called the original subdivider) who previously subdivided land that also has a common boundary with that existing road, in connection with that subdivision, contributed to or bore solely the cost of providing or upgrading the existing road; and*

*(c) The latter subdivider did not contribute to that cost, the original subdivider may, in accordance with this Division, recover from the later subdivider a sum representing one-half of so much of the reasonable costs as was borne by the original subdivider of providing or upgrading the part of the existing road which has a common boundary with the lot or lots, or is joined by a subdivisional road, as referred to in paragraph (a).....*

*s.160 Money payable under s.159, recovery of,*

*An amount payable under section 159 may be recovered by the original subdivider in a court of jurisdiction as a debt due to the original subdivider by the later subdivider; but no proceedings for recovery of the debt are to be commenced after the expiration of 6 years from the date of the later subdivision.”*

#### Road Alignment of North- South Road

The alignment of the proposed north-south road and its connection to the adjoining Lot 22 to the north is problematic. The City has been in discussion with both applicants, however no resolution was established. As a result, there is a misalignment between Lot 21 and Lot 22 at this connection point.

Therefore the City proposes a realignment of the proposed north-south road on the common boundary between Lots 21 Rockingham Road and Lot 22 Mayor Road is unnecessary. The non-aligned road reserve can be designed and embellished to incorporate the additional road reserve over Lot 22 appropriately without any need for either proposed roads to be realigned. There are many examples of them throughout Cockburn (refer to Figure 1).



Figure 1 Additional road reserve incorporated within the road reserve

#### Landlocked 'Residential R40- LDP' Area

The applicant of the proposed Lot 21 Structure Plan has been made aware of the possibility that the proposed Lot 22 and 51 Mayor Road Structure Plan development may not occur at a time congruent with development on Lot 21. In order to overcome the possibility of a landlocked development area, the applicant of the Lot 21 Structure Plan may choose one of the following:

- Develop or subdivide the subject area once the east-west road along the northern boundary of the site is constructed to its full width.
- Apply a 'Balance of Title' over the most northern block on the site (refer to Appendix 5 – Concept Subdivision Plan) which would act as an entry/ exit access way from the north-south road to development of the said 'Residential R40' area - LDP site.

However, either landowner/s may decide not to wait out the other landowner/s and could do a subdivision to do the 10.5m on their land and then obtain gazetted road access.

## Conclusion

The Structure Plan proposes residential densities of R30, R40 and R60 to facilitate the development of an estimated eleven (11) residential lots, provide for approximately 24 new dwellings. The density targets are consistent with *Directions 2031 and Beyond* and *Liveable Neighbourhoods*, and is therefore considered to be consistent with the State Government vision for increased urban densities.

The proposed Structure Plan is considered to provide sufficient flexibility to facilitate the infill development of a diverse housing stock while ensuring the character of the area is not compromised, and residential amenity is protected.

It is therefore recommended that Council recommend to the WAPC that the Structure Plan be approved.

## **Strategic Plan/Policy Implications**

### **City Growth**

- Ensure planning facilitates a desirable living environment and meets growth targets
- Ensure growing high density living is balanced with the provision of open space and social spaces
- Ensure a variation in housing density and housing type is available to residents

### **Community, Lifestyle & Security**

- Provide for community facilities and infrastructure in a planned and sustainable manner
- Provide safe places and activities for residents and visitors to relax and socialise
- Create and maintain recreational, social and sports facilities and regional open space

## **Budget/Financial Implications**

The required fee was calculated on receipt of the proposed Structure Plan and has been paid by the proponent. There are no other direct financial implications associated with the Proposed Structure Plan.

## Legal Implications

Pursuant to *Clause 20 (1)* of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires the City to prepare a report on the proposed structure plan and provide it to the Commission no later than 60 days following the close of advertising.

## Community Consultation

Pursuant to *Schedule 2, Part 4, clause 18* of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, public consultation was undertaken for 28 days commencing on the 8 November 2016 and concluding on the 6 December 2016. Advertising included a notice in the Cockburn Gazette and on the City's webpage, letters to landowners in the vicinity of the Structure Plan area, and letters to relevant government agencies.

In total Council received seventeen (17) submissions during the advertising period, five (5) from landowners, one (1) from a private planning firm on behalf of the landowners, and eleven (11) submissions from government agencies. Eleven (11) submissions supported the proposal and six (6) submissions objected. Analysis of the submissions has been undertaken within the attached Schedule of Submissions, and summarised below.

The primary concerns of objections from submissioners were in regard to the POS and crime rates. It is believe a POS will lead to increased crime rates in the area. The City is not supportive of these objections as the proposed POS layout aligns with the Department of Planning's *Liveable Neighbourhoods* objectives for Public Parkland:

*"To provide public open space that is safe and overlooked by nearby buildings";* and

*"To ensure that public open space is integrated into the urban structure to produce both land use efficiency and long-term sustainability."*

Additionally, a Local Development Plan (LDP) will be prepared for the area of the site abutting the POS, pursuant to the provisions of the City of Cockburn's *Town Planning Scheme No. 3* and the *Planning and Development (Local Planning Schemes) Regulations 2015*. The LDP must be consistent with *Liveable Neighbourhoods* which specifically mentions that lot, street and landscape layout should provide good visual supervision of POS which significantly increase the opportunities for passive surveillance of the POS thus decreasing the issue of unseen and unreported criminal behaviour.



The secondary concerns of objections from submissioners were opposed to the block sizes of the proposed Structure Plan. The City is not supportive of these objections as all residential coding's suggested in the Structure Plan are consistent with the minimum and average lot sizes under the R-Codes. The planning framework, in particular the Department of Planning's strategic land use planning document *Perth and Peel @3.5million*, advocates for increased housing density and diversity to accommodate a growing population and diverse range of needs.

In addition, the City's *Housing Affordability and Diversity Strategy* recognises that not all households within the City of Cockburn require large homes and many households may not be in a position financially to purchase a large home. Thus, provision of a diversity of housing sizes i.e. smaller homes is important to cater for smaller households. This is particularly relevant within the City of Cockburn with population forecasts and ABS statistics predicting that lone person and couple only households will be the dominant household type within the City of Cockburn by 2031.

### **Risk Management Implications**

The officer's recommendation takes in to consideration all the relevant planning factors associated with this proposal. It is considered that the officer recommendation is appropriate in recognition of making the most appropriate planning decision.

### **Attachment(s)**

1. Location Plan
2. Proposed Structure Plan
3. Proposed Contextual Plan of Surrounding Lots
4. Schedule of Submissions

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

The Proponent(s) and those who lodged a submission on the proposal have been advised that this matter is to be considered at the 9 February 2017 Ordinary Council Meeting.

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

Nil.

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

**16.1 (OCM 09/02/2017) - LIST OF CREDITORS PAID - NOVEMBER & DECEMBER 2016 (076/001) (N MAURICIO) (ATTACH)**

**RECOMMENDATION**

That Council adopt the List of Creditors Paid for November and December 2016, as attached to the Agenda.

**COUNCIL DECISION**

**Background**

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

**Submission**

N/A

**Report**

The list of accounts for November and December 2016 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**

- Deliver sustainable governance through transparent and robust policy and processes.
- Listen to and engage with our residents, business community and ratepayers with greater use of social media.

**Budget/Financial Implications**

N/A

**Legal Implications**

N/A

**Community Consultation**

N/A

**Risk Management Implications**

The list of accounts for October 2016 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.

**Attachment(s)**

List of Creditors Paid for November and December 2016.

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

N/A

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

Nil.

**16.2 (OCM 09/02/2017) - STATEMENT OF FINANCIAL ACTIVITY AND ASSOCIATED REPORTS - NOVEMBER AND DECEMBER 2016 (071/001) (N MAURICIO) (ATTACH)**

<b>RECOMMENDATION</b>		
That Council		
(1)	adopt the Statement of Financial Activity and associated reports for November and December 2017, as attached to the Agenda; and	
(2)	amend the 2016/17 Municipal Budget in accordance with the detailed schedule in the report as follows:	
	Revenue Adjustments	Increase \$1,251,578
	Expenditure Adjustments	Increase \$1,300,322
	TF from Reserve Adjustments	Increase \$48,744
	<b>Net change to Municipal Budget Closing Funds</b>	<b>0</b>
<b>TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL</b>		

**COUNCIL DECISION**

**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) explanation 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.

Local Government (Financial Management) Regulations – Regulation 34 (5) states:

- (5) *Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

This regulation requires Council to annually set a materiality threshold for the purpose of disclosing budget variances within monthly financial reporting. At its August meeting, Council adopted to continue with a materiality threshold of \$200,000 for the 2016/17 financial year.

Detailed analysis of budget variances is an ongoing exercise, with any required budget amendments submitted to Council each month in this

report or included in the City's mid-year budget review as considered appropriate.

### Submission

N/A

### Report

Given there was no Council meeting in January, the November statement needs to be adopted by Council together with the December statement. However, this report only addresses the December financial results.

#### *Opening Funds*

The opening funds of \$9.3M (representing closing funds brought forward from 2015/16) have been audited and budget has been amended to reflect this final position.

#### *Closing Funds*

The City's closing funds for December of \$64.4M were \$7.7M higher than the budget forecast of \$56.8M. This result comprises net favourable cash flow variances across the operating and capital programs (as detailed in this report).

The 2016/17 revised budget is showing an EOFY surplus of \$0.37M, no change from last month.

#### *Operating Revenue*

Consolidated operating revenue of \$116.71M was over the YTD annual budget target by \$0.89M.

The following table shows the operating revenue budget performance by nature and type:

Nature or Type Classification	Actual Revenue \$M	Revised Budget YTD \$M	Variance to Budget \$M	FY Revised Budget \$M
Rates	93.34	92.50	(0.85)	95.70
Specified Area Rates	0.31	0.33	0.02	0.33
Fees & Charges	13.17	13.90	0.73	24.43
Service Charges	0.44	0.45	0.00	0.45
Operating Grants & Subsidies	5.89	5.75	(0.14)	11.03
Contributions, Donations,	0.56	0.34	(0.22)	0.66

Nature or Type Classification	Actual Revenue \$M	Revised Budget YTD \$M	Variance to Budget \$M	FY Revised Budget \$M
Reimbursements				
Interest Earnings	2.99	2.56	(0.44)	4.77
<b>Total</b>	<b>116.71</b>	<b>115.82</b>	<b>(0.89)</b>	<b>137.37</b>

The significant variances at month end were:

- Rates – Part year rating was \$0.85M ahead of YTD budget mainly due to several significant commercial properties becoming rateable.
- Fees & Charges - Commercial landfill fees were \$0.43M behind the budget target, reflecting general economic conditions and activity.
- Interest Earnings – Investment earnings from the City's financial reserves were \$0.38M ahead of budget.

#### *Operating Expenditure*

Reported operating expenditure (including asset depreciation) of \$64.26M was under the YTD budget by \$3.4M.

The following table shows the operating expenditure budget variance at the nature and type level. The internal recharging credits reflect the amount of internal costs capitalised against the City's assets:

Nature or Type Classification	Actual Expenses \$M	Revised Budget YTD \$M	Variance to Budget \$M	FY Revised Budget \$M
Employee Costs - Direct	24.43	23.78	(0.65)	49.13
Employee Costs - Indirect	0.45	0.44	(0.01)	1.40
Materials and Contracts	18.25	20.13	1.89	40.17
Utilities	2.20	2.26	0.06	4.67
Interest Expenses	0.39	0.48	0.09	0.93
Insurances	2.11	2.24	0.13	2.24
Other Expenses	4.35	5.28	0.93	9.03
Depreciation (non-cash)	12.62	13.65	1.03	27.30
Amortisation (non-cash)	0.55	0.60	0.05	1.19
Internal Recharging-CAPEX	(1.08)	(1.20)	(0.12)	(2.23)
<b>Total</b>	<b>64.26</b>	<b>67.66</b>	<b>3.40</b>	<b>133.84</b>

The significant variances at month end were:

- Employee Costs – \$0.5M out of the \$0.65M variance is due to the inclusion of 17.5% leave loading in the calculation which was

recommended by the external audit. This variance has been reported in the previous month's report.

- Material and Contracts - were \$1.89M under the YTD budget with the significant contributors to this result being:
  - Recreation Services under by \$0.30M,
  - Facilities Maintenance under by \$0.34M,
  - Waste Disposal under by \$0.28M,
  - IT Services under by \$0.21M.
  
- Depreciation – Buildings (\$0.45M) and Roads (\$0.77M) depreciation were both under the YTD budget, partially offset by Parks (\$0.39M) depreciation exceeding YTD budget. Depreciation charges are impacted by the annual revaluation of infrastructure assets.

### *Capital Expenditure*

The City's total capital spend at the end of the month was \$50.3M, representing an under-spend of \$15.1M against the YTD budget of \$67.1M.

The following table details the budget variance by asset class:

<b>Asset Class</b>	<b>YTD Actuals \$M</b>	<b>YTD Budget \$M</b>	<b>YTD Variance \$M</b>	<b>FY Revised Budget \$M</b>	<b>Commit Orders \$M</b>
Roads Infrastructure	5.4	11.7	6.3	21.9	7.0
Drainage	0.2	0.9	0.6	1.7	0.0
Footpaths	0.3	0.7	0.5	1.2	0.1
Parks Infrastructure	4.5	6.6	2.1	10.8	1.5
Landfill Infrastructure	0.2	0.2	0.0	0.4	0.0
Freehold Land	0.3	1.1	0.8	1.8	0.0
Buildings	36.7	39.8	3.1	58.3	7.1
Furniture & Equipment	0.1	0.0	-0.1	2.6	0.6
Information Technology	0.2	0.8	0.6	1.5	0.2
Plant & Machinery	2.4	3.6	1.1	8.2	4.1
<b>Total</b>	<b>50.3</b>	<b>65.4</b>	<b>15.1</b>	<b>108.3</b>	<b>20.6</b>

These results included the following significant project variances:

- Roads Infrastructure – Projects behind YTD budget were Berrigan Drive Jandakot Improvement Works (\$3.5M), Lyon & Gibbs Signalisation and Upgrade (\$1.1M), North Lake Road [Hammond to Kentucky] (\$0.59M), Beeliar Drive [Spearwood to Stock] (\$0.49M), Phoenix and North Lake Roads Intersection (\$0.21M).

- Drainage Infrastructure – was collectively \$0.73M behind the YTD budget with very little expenditure and commitments to date.
- Footpath Infrastructure – the footpath construction program was collectively \$0.64M behind the cash flow budget.
- Parks Infrastructure – the capital program was behind the YTD budget by \$1.8M across the board.
- Freehold Land – various land development projects were collectively \$0.83M behind the YTD cash flow budget
- Buildings – Significant variances were Cockburn ARC (\$2.3M) and community men’s shed (\$0.47M) behind YTD budget, whilst the New Operations Centre was ahead of the YTD budget (\$0.78M).
- Information Technology – was collectively \$0.59M under YTD budget due to a number of under spent software and website projects.
- Plant & Machinery – replacement program was behind YTD budget by \$1.1M as several heavy plant items are ordered and awaiting delivery.

#### *Capital Funding*

Capital funding sources are highly correlated to capital spending, the sale of assets and the rate of development within the City (developer contributions received).

Significant variances for the month included:

- Capital grants were \$1.3M behind YTD budget mainly due to Roads to Recovery Grant not yet received for Mayor Road Rockingham to Fawcett (timing issue).
- Transfers from financial reserves were \$8.8M behind the cash flow budget due to the capital program under spends for buildings, roads and plant assets (timing issue).
- Proceeds from sale of assets were \$11.2M behind the YTD budget comprising land (\$10.7M) and plant (\$0.48M).

#### *Transfers to Reserve*

Transfers to financial reserves of \$27.5M were \$10.0M behind the YTD budget, mainly due to unrealised land sales.

#### *Cash & Investments*

The closing cash and financial investment holding at month’s end totalled \$151.9M, down from \$166.62M the previous month. \$97.6M of this balance represents the current amount held for the City’s cash/investment backed financial reserves. The balance comprises



\$5.0M held for deposit and bond liabilities and \$49.3M to meet operational liquidity needs.

### *Investment Performance, Ratings and Maturity*

The City's investment portfolio made a weighted annualised return of 2.84% for the month, decreased from 2.86% last month and from 2.87% the month before. However, this still compares quite favourably against the UBS Bank Bill Index (2.05%) and has been achieved through diligent investing at optimum rates and investment terms. The cash rate was reduced 25bp to 1.50% at the August meeting of the Reserve Bank of Australia and this reduction has impacted the investment rates achievable for new deposits (2.50% to 2.75%).

The annualised return will continue to fall as the City places new funds at these lower rates. However, the City's interest earnings are currently ahead of the conservative budget setting adopted by \$0.27M.

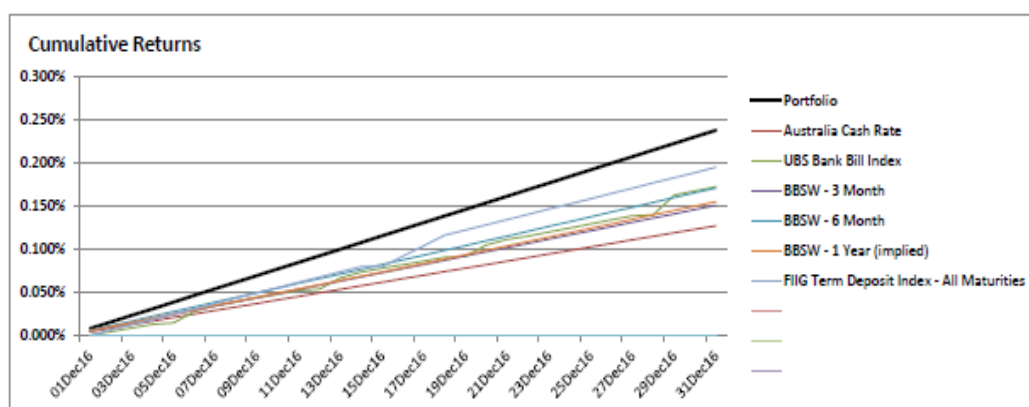


Figure 1: COC Portfolio Returns vs. Benchmarks

The majority of investments are held in term deposit (TD) products placed with highly rated APRA (Australian Prudential Regulation Authority) regulated Australian and foreign owned banks. These are invested for terms ranging from three to twelve months. All investments comply with the Council's Investment Policy other than those made under previous statutory provisions and grandfathered by the new ones.

The City's TD investments fall within the following Standard and Poor's short term risk rating categories. The A-1+ investment holding has decreased from 50% to 41% during the month:

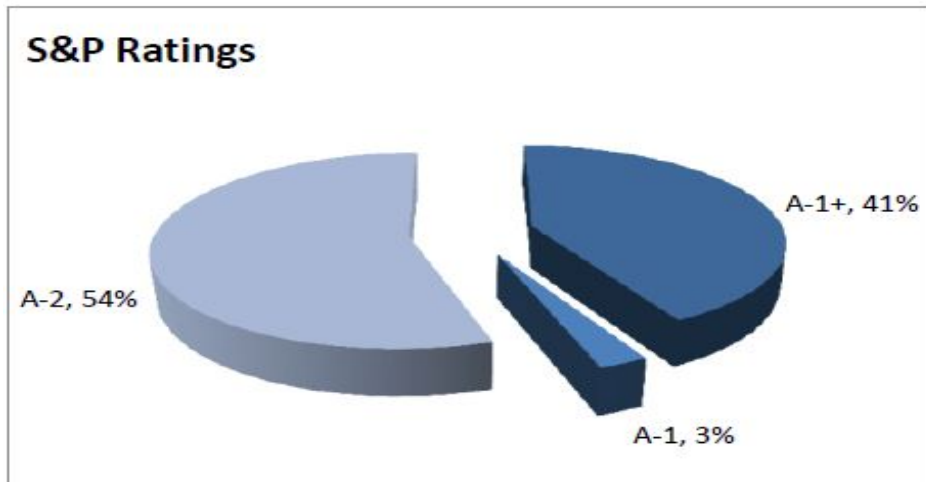


Figure 2: Council Investment Ratings Mix

The current investment strategy seeks to secure the highest possible rate on offer over the longest duration (up to 12 months for term deposits), subject to cash flow planning and investment policy requirements. Value is currently being provided within 4-12 month investment terms.

The City's TD investment portfolio currently has an average duration of 157 days or 5.2 months (slightly down from 169 days the previous month) with the maturity profile graphically depicted below:

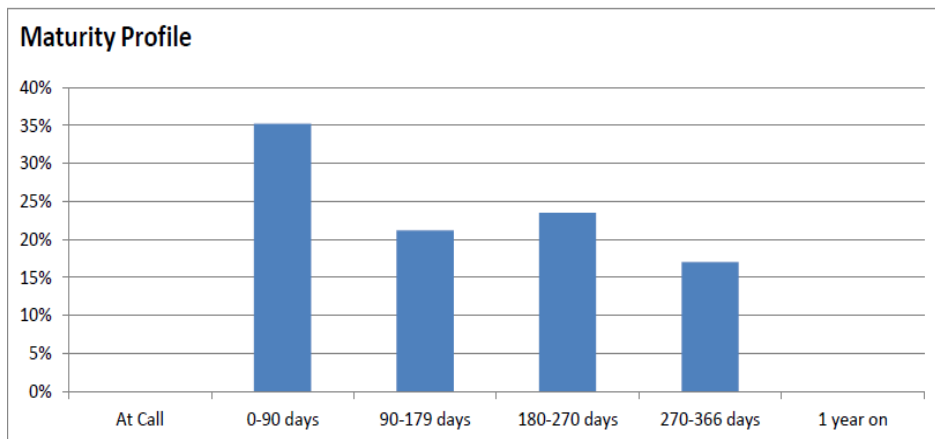


Figure 3: Council Investment Maturity Profile

### Investment in Fossil Fuel Free Banks

At month end, the City held 58% (\$89M) of its TD investment portfolio with banks deemed as free from funding fossil fuel related industries. This was up slightly from 55% the previous two months.

*Budget Revisions*

Budget amendments identified during the month and requiring Council adoption are as per the following schedule:

PROJECT/ACTIVITY LIST	USE OF FUNDING + / (-)		FUNDING SOURCES (+) / -		
	EXP \$	TF to RESERVE \$	TF FROM RESERVE \$	REVENUE \$	MUNI \$
Cockburn ARC WiFi Lease - 6 months until end of FY	48,744		(48,744)		
Increased federal subsidy - Family Day Care	416,000			(416,000)	
Increased federal subsidy - In-Home Care	750,000			(750,000)	
Ravello Reserve Improvements	65,578			(65,578)	
Limestone Fire Access Tracks - Gwilliam Drive (completed last year)	(20,000)				20,000
Port Coogee Dive Trail – extra funding required	20,000				(20,000)
Budget contingency fund (for CCS Phase 3)	(70,000)				70,000
CCS Phase 3 funded from Contingency Fund and City of Armadale	90,000			(20,000)	(70,000)
<b>Totals</b>	<b>1,300,322</b>		<b>(48,744)</b>	<b>(1,251,578)</b>	<b>0</b>

The budget amendment is required to pay for Wi-Fi lease at the Cockburn ARC facility on a yearly basis. This amount is for the 6 months period until end of this financial year. It includes documentation fee.

*Description of Graphs & Charts*

There is a bar graph tracking Business Unit operating expenditure against budget. This provides a 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**

- Deliver sustainable governance through transparent and robust policy and processes.
- Ensure sound long term financial management and deliver value for money.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

N/A

### **Community Consultation**

N/A

### **Risk Management Implications**

Council's budget for revenue, expenditure and closing financial position will be misrepresented if the recommendation amending the budget is not adopted.

### **Attachment(s)**

Statement of Financial Activity and associated reports for November and December 2016.

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

N/A

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

Nil.

**16.3 (OCM 09/02/2017) - SALE OF LAND FOR RECOVERY OF OUTSTANDING RATES (150/011; 2205979; 6001553) (S DOWNING) (ATTACH)**

**RECOMMENDATION**

That Council pursuant to Sections 6.68(2) (b) and 6.56 of the Local Government Act 1995, adopts the recommendation as outlined in the confidential report, provided under separate cover.

**COUNCIL DECISION**

**Background**

Under Section 6.64(1)(b) of the *Local Government Act 1995*, if any rates or service charges due to a local government have been unpaid for at least three years, the local government may take possession of the land and proceed to sell it.

**Submission**

N/A

**Report**

There are currently two properties that have rates and charges outstanding in excess of three years for which it has not been possible to enter into acceptable and successful arrangements for the payment of the balance owing. In each instance, written notification has been directed to the last known postal address of the ratepayers advising that it is the City's intention to refer the matter to Council with a recommendation to sell the property in order to recover the outstanding balance. It should be noted that both properties are currently unoccupied.

**Strategic Plan/Policy Implications**

**Leading & Listening**

- Deliver sustainable governance through transparent and robust policy and processes

- Ensure sound long term financial management and deliver value for money

Council has previously resolved as part of its Debtors Management Policy (AFCS9) to actively pursue the recovery of rate arrears as specified in the *Local Government Act 1995*, including the power to sell land.

### **Budget/Financial Implications**

Sale of the properties will benefit the City of outstanding rates and charges (as at 9 December 2016). Any additional costs associated with the sale of the properties will also be able to be recovered from the proceeds of sale.

### **Legal Implications**

Sections 6.64, 6.56 and 6.68(2) (b) of the *Local Government Act 1995* refers.

### **Community Consultation**

N/A

### **Risk Management Implications**

If the City does not proceed with recovery action it will negatively impact the rates debtors balance as rates and charges will continue to accumulate on the rate accounts for both properties.

### **Attachment(s)**

Report on the sale of two properties provided under separate confidential cover.

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

N/A

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

Nil.

**16.4 (OCM 09/02/2017) - MID-YEAR REVIEW OF 2016/17 MUNICIPAL BUDGET (075/011) (S DOWNING) (ATTACH)****RECOMMENDATION**

That Council amend the Municipal Budget for 2016/17 as set out in the Schedule of Budget amendments, as attached to the Agenda.

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

**COUNCIL DECISION****Background**

Section 33A (1) of the Local Government (Financial Management) Regulations 1996 requires Council to review its annual budget between 1 January and 31 March each year.

Council adopted its annual Municipal Budget at the Ordinary Council Meeting in June 2016. In accordance with the Local Government Act and associated Regulations a formal report on the progress of the Budget is presented to the February 2017 Ordinary Council Meeting.

**Submission**

N/A

**Report***Mid-Year Budget Review*

A detailed schedule on the review of the Municipal Budget for the period 1 July 2016 to 31 December 2016 is attached to the Agenda. The report sets out details of all proposed changes recommended by City Officers and a brief explanation as to why the changes are required. All forecasts are post allocation of ABC cost charges or income recoveries. A list of significant revenue and expenditure items are noted below with a detailed budget reference linking to the attached schedules. The recommended adjustments are in addition to the normal monthly adjustments to the adopted budget that are presented for Council's consideration and determination as part of the ordinary course of Council business.

*Rating Income*

Rating income for 2016/17 is in line with the Budget and no changes are forecast for the balance of the financial year. The industry is currently awaiting the determination as to whether rates paid in advance are income for accounting purposes. Interim rates are in line with budget. No changes are proposed for the MYBR.

*Interest Income*

Interest income is slightly ahead of budget, but this is due to the slower forecast expenditure on a number of capital projects such as Rockingham Road upgrade and the Visko Park Bowling Facility. A change of \$100,000 is forecast for the balance of the financial year for this item.

*Fees and Charges - Waste Disposal and Collection*

The Henderson Waste and Recovery Park will fall approximately 11,000 tonnes below budget for 2016/17 due to competition from other landfill sites. This is equivalent to \$1.58 million. This revenue shortfall is offset with a reduction in landfill levy and other costs of \$0.73 million. All funds are quarantined from the municipal fund and as such this shortfall of revenue will have no impact on services by Council.

Waste Collection Levy income is in line with the budget for 2016/17. Lower collection tonnes from MSW to 31 December 2016 should see a small surplus on this account. This will be closely monitored in the second half of the financial year and any surplus transferred to the Waste Collection Reserve.

*Fees and Charges – Other*

The City received \$70,000 more in Dog Registration fees for 2016/17 than budget. Both Building and Statutory Planning have seen a reduction in fee income by \$100,000 for each business unit due to slower construction activity. Both have also seen a reduction in staff costs to offset this reduction in income. Health licences income has also increased by \$78,000.

All other operating revenue items are running in line with the budget.

*Major Expenditure Items*

Comments are provided on major items although the attached schedules detail all expenditure where a budget adjustment is required and presented.



The significant item for the MYBR revolves around accounting for the annual leave loading expense. The Auditors indicated in their 2015/16 audit that the City needed to accrue for annual leave loading on the balance sheet rather than expense it as annual leave is taken. (This is the treatment approved since the introduction of accruing for annual leave). The cost is \$550,000. This is a one - off expense.

The additional costs are:

Procurement - \$40,000 – Backfilling for military leave

Software support - \$30,000 – Support for Servers

Software support - \$30,000 – Cyber security measures

Postage - \$20,000 – additional cost as Australia Post increases fees for “snail” mail

Salaries - \$59,000 – Marketing and Media

Salaries - \$50,000 – Customer services (impact of Roe Hwy on call centre)

Legal Fees - \$60,000 – cost of action for Verde Drive challenge to land acquisition

Salaries - \$108,000 – Waste collection to cover sick leave without pay

Capital expenditure for 2016/17

Below is a table of where the current capital expenditure program will be by 30 June 2017 given the current trends in the program.

*Summary of Capital Expenditure to 31 December 2016*

<b>Asset Class</b>	<b>YTD Actuals \$M</b>	<b>FY Revised Budget \$M</b>	<b>YTD Spend %</b>	<b>Full Year Estimate \$M</b>	<b>Full Year Estimate %</b>
Roads Infrastructure	5.4	21.9	24.6%	15.0	68.5%
Drainage	0.2	1.7	11.7%	1.2	70.5%
Footpaths	0.3	1.2	25.0%	1.2	100.0%
Parks Infrastructure	4.5	10.8	41.6%	7.8	72.2%
Landfill Infrastructure	0.2	0.4	50.0%	0.4	100.0%
Freehold Land	0.3	1.8	16.7%	1.2	66.6%
Buildings	36.7	58.3	62.9%	48.3	82.8%
Furniture & Equipment	0.1	2.6	3.8%	2.6	100.0%
Information Technology	0.2	1.5	13.3%	1.2	80.0%

Asset Class	YTD Actuals \$M	FY Revised Budget \$M	YTD Spend %	Full Year Estimate \$M	Full Year Estimate %
Plant & Machinery	2.4	8.2	29.2%	6.1	74.4%
<b>Total</b>	<b>50.3</b>	<b>108.3</b>	<b>46.4%</b>	<b>85.0</b>	<b>74.5%</b>

### Comments on the Progress of the 2016/17 Capital Expenditure Program

#### *Major Projects – Cockburn ARC (\$109.02m)*

At the time of this report the project is 93% complete with official handover now with Cockburn. Fitout of the facility is occurring as is the final stages of geothermal bore which will provide heat for all pools at the ARC. The only additional costs will be with geothermal contract. At this stage the additional cost will be \$550,000 including cost of additional heat exchange equipment.

#### *Depot Project Stage 1*

The depot stage 1 will be completed in March/April 2017. The cost of building \$8.67 million will have \$0.2 million variations. The sewer which is budgeted to cost \$1.6m will be delivered for \$1.45 million. The fitout cost will be \$0.5 million versus the budget of \$0.3 million as a result additional staff being transferred to the facility. The animal facility will be best in the metro area and will cater for dogs, cats and other animals including livestock. The City is still in discussions with the Health Department to levy local property owners so as to recover costs for the infill sewer. This income will be approximately \$300,000.

#### *Bibra Lake Regional Playground*

This facility was opened in December 2016 to great support from the local community. Additional costs relating to safety and shading have been identified with \$160,000 being allocated to address these urgent issues. The cost of the project will be \$139,000 over budget as a result of the toilet facilities grant \$70,000 being accounted for in 15/16 rather than in 16/17.

#### *Visko Park – Bowling and Community Facility*

The tender for the project will go to the market in late February 2016 due to late design changes. A report will then come to Council in May 2017. Work will commence in June/July depending on mobilisation of the successful contractor. \$6.2 million of the 16/17 budget of \$7.2

million has been placed back into the respective reserves and will be budgeted for 2017/18.

### Other Projects

Several projects have been deferred and will be rescheduled for next year, these include:

The Rockingham Road upgrade project for \$4 million will be deferred to 2017/18. Funds totalling \$3.5 million will be placed into the Road Reserve. The road to recovery annual grant of \$0.5 million will be allocated to road resurfacing projects to match successful MRRG grants on a matching basis. This is done so as to ensure compliance with annual spending requirements of R2R grant guidelines. Future R2R funds will be allocated to the project when it is approved by Council to proceed.

Verde Drive – These funds have been allocated to other road projects pending legal review. If and when the City resolves the dispute, funds will be allocated to cover the project costs. The other projects include:

- the roundabout at Liddelow and Gibbs (\$85 thousand – Western Power relocation Costs),
- Breaksea Drive, Warton Road (joint project with the City of Armadale), Mayor Road (widening and reconstruction) and
- Hamilton Road (flooding).

There are a range of other adjustments to capital projects as detailed in the attachment to the report.

### *Municipal Budget position as at 31 December 2016*

Based on the attached budget amendments, the City's municipal budget position for 2016/17 is projected to 30 June 2017 as follows:

*Projected Budget Position of 2016/17 and adoption of these recommendations:*

Adopted Closing Municipal Position for 2016/17	\$299,049	Surplus
LESS net budget adjustments before statutory budget review	\$69,880	Reported in monthly Agenda
<b>Closing Municipal Position before mid-year review</b>	<b>\$368,929</b>	<b>Surplus</b>
<b>Mid-year budget review items:</b>		

Net revenue (external funding)	-\$5,093,263	Reduced revenue
T/F from Reserves	-\$1,708,289	Reduced transfer from Reserves
Net adjustment - capital expenditure	\$6,825,438	Reduced capital spending
Net adjustment - operating expense	-\$937,064	Reduced operating spending
T/F to Reserves	\$917,503.00	Reduced transfer to Reserves
<b>Net mid-year budget review adjustment</b>	<b>-\$4,326</b>	<b>Reduced Surplus</b>
<b>Closing Municipal Position after mid-year review</b>	<b>\$373,255</b>	<b>Surplus</b>

Any additional funds arising from an end of financial year surplus the Mid-Year Budget Review are intended to be allocated to the Road Reserves for capital expenditure in 2016/17.

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

#### **City Growth**

- Maintain service levels across all programs and areas

#### **Community, Lifestyle and Security**

- Provide residents with a range of high quality, accessible programs and services.

#### **Leading & Listening**

- Ensure sound long term financial management and deliver value for money
- Attract, engage, develop and retain our employees in accordance with the Workforce Plan and the Long Term Financial Plan

### **Budget/Financial Implications**

The Municipal Budget will be amended in accordance with the recommended changes as contained in the attachment.

### **Legal Implications**

N/A

**Community Consultation**

N/A

**Risk Management Implications**

The City is required to prepare and adopt a Mid-Year Budget Review as part of the financial reporting requirements of the Local Government Act. Failure to adopt the report will make the City non-compliant with Local Government Act.

**Attachment(s)**

Schedule – Mid-year Municipal Budget Review 2016/17

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

N/A

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

Nil.

**17. ENGINEERING AND WORKS DIVISION ISSUES****17.1 (OCM 09/02/2017) - TEMPORARY TRAFFIC CONTROLS – NORTH LAKE ROAD/BERRIGAN DRIVE INTERSECTION (157/008) (C SULLIVAN) (ATTACH)****RECOMMENDATION**

That Council

- (1) receive the report;
- (2) continue with the temporary traffic controls currently in place until the proposal agreed with the Main Roads WA can be implemented;
- (3) request a further report from City officers after six months on the safety of the intersection; and
- (4) advise all stakeholders of Council's decision.

**COUNCIL DECISION**

**Background**

During 2016, an increasing number and severity of traffic accidents occurred at the intersection of North Lake Road and Berrigan Drive, South Lake which became a cause of extreme concern for the Council and the local community.

The most severe accidents took place between vehicles making a right hand turn into the service station site from Berrigan Drive and vehicles travelling west along Berrigan Drive in the left turn slip lane leading to North Lake Road. The service station is located on the south east side of the intersection, while the property on the opposite side has five medical practices based there.

In December 2016, the situation was of such concern to the community and Council that urgent action had to be taken to prevent further risk of severe accidents resulting in death or injury.

**Submission**

N/A

**Report**

The City had completed an upgrade of the intersection as part of the State Black Spot program in 2015/16. The project included lighting upgrade, extension of the left turn slip lanes from North Lake Road and Berrigan Drive as well as resurfacing, anti-skid overlays and signage/line marking improvements. The total cost of the project was \$279,600.

The current street lighting at North Lake Road and Berrigan Drive intersection was also assessed and upgraded to AS1158 Street Lighting Standard. The end result was improved capacity and mitigation of the rear end crashes that were the dominant crash mode upon which the Black Spot Funding application was approved. There had been 98 reported crashes in the five year period prior to the funding application, including 25 resulting in personal injury.

The intersection was well known for congestion in peak hours and also during times when the service station was advertising discounted petrol prices. Regardless of any congestion issue, by December 2016 the City had to take preventative action to mitigate severe vehicle accidents as noted above.

The City had made a submission to the Main Roads WA (MRWA) dated 8 September 2016 (included as Attachment 1) to install Keep Clear marking on the pavement to delineate the driveway access into the service station to warn drivers approaching along the left turn slip lane of possible conflict with vehicles turning from Berrigan Drive. This proposal was rejected by MRWA on the grounds that the driveway access to the service station is a private driveway and such pavement marking is only approved as part of intersection line marking.

City officers realised that the only way to eliminate the critical vehicle movement was the extension of the existing median island on Berrigan Drive to prevent the right turn into the service station. The temporary median island extension had to be of such length to prevent drivers doing a U turn across Berrigan Drive to access the service station, which would also have created a dangerous situation.

The driveway access off Berrigan Drive into the medical practices on the north-west side of the intersection is almost directly opposite the driveway into the service station so the extension of the median island resulted in prevention of the right turn off Berrigan Drive into this property as well as preventing the right turn out.

Prior to installation of such temporary traffic controls, public notification was necessary so a letter drop to the properties along Berrigan Drive was carried out (copy of correspondence included for reference as Attachment 2). Direct contact was made with the Woolworths Group prior to the issue of the notification since their service station would be most directly impacted.

Woolworths Group responded with correspondence dated 23 December 2016 (refer Attachment 3) protesting most strongly about the City's action in relation to the impact on the business. Following the installation of the temporary traffic controls on 3 January 2017, protests were received from the medical practices based on the property opposite the service station.

A site meeting was held with senior Main Roads staff on 17 January 2017 to revisit the City's proposal of September 2016. Agreement was reached and confirmed by e-mail from MRWA dated 19 January 2017 (refer to Attachment 4), which will now be implemented and monitored over the coming months. A revised proposal was submitted by the City to the MRWA which is included as Attachment 5.

## **Strategic Plan/Policy Implications**

### **Moving Around**

- Reduce traffic congestion, particularly around Cockburn Central and other activity centres
- Improve connectivity of transport infrastructure

### **Leading & Listening**

- Listen to and engage with our residents, business community and ratepayers with greater use of social media

## **Budget/Financial Implications**

The cost of installation of the temporary traffic controls was \$7,000, including public notifications and the continuing cost of the electronic sign boards is \$240 per week.

## **Legal Implications**

The City has powers to install temporary traffic controls on public road reserves of which the City has care, control and maintenance under the City Local Laws and the Road Traffic Act 2000 (as amended), the Section 3.50A of the Local Government Act, and City of Cockburn Delegated Authority LGAEW2.

## **Community Consultation**

Prior to the installation of the temporary traffic controls, a letter of notification was delivered to the properties along Berrigan Drive as well as direct contact with Woolworths Group. A public notification was placed on the City website and in the local newspaper but due to the Christmas closedown the newspaper advertisement was not published until after the installation. Electronic notice boards were positioned on both roads on either side of the intersection as part of the installation and remain in place.

## **Risk Management Implications**

Had the City taken no action, continual severe reputational damage to the City would have resulted, as well as potential liabilities if a fatality or severe injury had taken place when the City clearly had knowledge of a continuing dangerous traffic condition.

## **Attachment(s)**

- 1 City of Cockburn submission to MRWA dated 8 September 2016



- 2 City of Cockburn correspondence dated 22 December 2016
- 3 Correspondence received from Woolworths Group dated 23 December 2016.
- 4 E-mail from MRWA dated 19 January 2017
- 5 Revised Proposal for Signage and Pavement Marking

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

N/A

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

Nil.

**17.2 (OCM 09/02/2017) - WASTE SERVICE AGREEMENT BETWEEN CITY OF COCKBURN AND SMRC (028/006 & 091/006) (C SULLIVAN) (ATTACH)**

**RECOMMENDATION**

That Council authorises the CEO to sign the Waste Services Agreement and the Deed of Settlement and Release between the City of Cockburn and the SMRC.

**COUNCIL DECISION**

**Background**

At the OCM of 9 June 2016, Council resolved as follows:

*That Council:*

- (1) *endorses the Implementation Plan for the Third Bin (Green Waste);*
- (2) *issues a Notice of Withdrawal from the Project Participant's Agreement Regional Resource Recovery Centre Project of the Southern Metropolitan Regional Council (SMRC) prior to 30 June 2016, under clause 2.8 of that Agreement, in order to give effect to its decision to introduce this garden organic service;*

- (3) *remains a Member of the Project Establishment Agreement and assists the SMRC to undertake a restructure of its operations to enable transition to alternate waste disposal solutions; and*
- (4) *commence negotiations on a contract of service with the SMRC for the processing of MSW prior to the withdrawal of the Project Participant's Agreement taking effect.*

The Notice of Withdrawal was issued and negotiations commenced with the SMRC on the Waste Services Agreement for the disposal of municipal solid waste for a period of three years. Associated with this process was the emergence of a dispute between the two parties on the compensation payable to the SMRC for the tonnage of green waste from the City's third bin trial that was not delivered to the SMRC but processed at the Henderson Waste Recovery Park.

This report seeks Council's endorsement of the closure of both matters with the signing of the Deed of Settlement and Release (included as Attachment 1) and the Waste Services Agreement (included as Attachment 2).

### **Submission**

N/A

### **Report**

The Deed of Settlement and Release brings to an end the matter of the dispute between the SMRC and the City regarding the loss of green waste tonnage to the SMRC as a result of the third bin for green waste implemented by the City. In particular, the rate per tonne paid as compensation by the City to the SMRC which was the subject of legal advice sought by both parties and has now been agreed at the rate specified in the Deed. The rate is \$77.70 (ex-GST) being the equivalent gate fee for green waste at the SMRC for 2016/17. The period of time covered by the Deed expires on 30 June 2017, the date that the withdrawal of the City from the Project Participants Agreement (PPA) becomes effective.

The Waste Services Agreement has also been the subject of scrutiny and comment by legal advisers for both parties and ensures that the City pays the same gate fee as the other PPA members for the duration of the agreement, which in the current financial year is set at \$239.09 per tonne (ex. GST) by the SMRC budget process.

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

**City Growth**

- Maintain service levels across all programs and areas.

**Community, Lifestyle & Security**

- Provide residents with a range of high quality, accessible programs and services.

**Leading & Listening**

- Ensure sound long term financial management and deliver value for money.
- Provide for community and civic infrastructure in a planned and sustainable manner, including administration, operations and waste management.

**Budget/Financial Implications**

The current 2016/17 budget allows for the SMRC gate fee for the delivery of MSW (\$239.009 per tonne) and allowance will need to be made in the forthcoming budgets for an increase to this gate fee as determined by the SMRC budget process.

By way of comparison, had the Council decided to take the MSW to landfill for the next three financial years, this would have represented a saving of approximately \$8.9 million to \$10.6 million over the three years of the waste supply agreement.

The compensation for the SMRC for green waste not taken to the RRRC is already part of the 2016/17 adopted municipal budget.

**Legal Implications**

Nil.

**Community Consultation**

Not required for this item as the waste collection for the community remains unchanged.

**Risk Management Implications**

The risk if Council does not authorise the signing of the two agreements is that the dispute over the green waste delivery of tonnage to the SMRC would be reactivated with the associated costs to Council. Not signing the waste service agreement would appear to be different to Council's decision from the OCM of June 2016 as well as necessitating City officers tendering for the disposal of the City MSW by other means, with any associated potential costs.

**Attachment(s)**

1. Deed of Settlement and Release
2. Waste Services Agreement

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

N/A

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

Nil.

**18. COMMUNITY SERVICES DIVISION ISSUES**

**18.1 (OCM 09/02/2017) - SCHEDULE OF FEES AND CHARGES - COCKBURN AQUATIC AND RECREATION CENTRE (154/006) (B MCEWIN) (ATTACH)**

**RECOMMENDATION**

That Council

- (1) endorse the Schedule of Fees and Charges, as attached to the Agenda;
- (2) in accordance with Section 6.19 of the Local Government Act advertise the Schedule of Fees and Charges for Cockburn Aquatic and Recreation Centre; and
- (3) request for a detailed report to be provided on the performance of the facility after 12 months of operation.

**COUNCIL DECISION**

**Background**

Construction of the Cockburn Aquatic and Recreation Centre (Cockburn ARC) commenced in July 2015 and the project has now reached the 90% completion milestone. The facility is scheduled to open in mid-2017 and therefore the City needs to adopt its fees and charges

schedule outside of the annual corporate budget process to ensure the Cockburn ARC pre-opening marketing campaign is timely and successful.

At the February 2015 Ordinary Council Meeting, Council endorsed the Business Operations and Management Plan (BOMP) prepared by Warren Green Consulting and the Business Plan developed by the City's Administration.

The objective of the BOMP was to provide the City with a detailed account of management considerations, financial forecasts and proposed fees and charges, all critical information that will inform the future management of the facility with a detailed road map to ensure the facility is managed in an efficient and financially sustainable manner.

One of the key concerns for Council has been the impact on the Municipal budget in operating Cockburn ARC given the high cost of running aquatic facilities in particular. Traditionally, aquatic and recreation facilities operate at a loss with the local government authority providing a subsidy to operate the facility. The challenge of facility managers is to ensure the level of subsidy is not a financial burden on the Council's budget.

Council endorsed a strategic framework as part of the BOMP that aimed to ensure Cockburn ARC operations were self-sufficient and met all operating costs over time. In order to meet the financial projections, the City has proposed to set fees and charges at a level to encourage community participation whilst providing sustainable operations to the City of Cockburn.

The City's Administration presented a summary of the proposed fee structure including an analysis of the projected operating financials to the Cockburn Central West Reference Group at the meeting held on the 24 January 2017 with the aim for Council to consider the proposed fees and charges for all programs and services for Cockburn ARC at its February 2017 Ordinary Council meeting.

### **Submission**

N/A

### **Report**

As part of the BOMP the Consultant recommended a number of proposed key price points. The table below provides a summary of the proposed key price points compared to the 2016/17 South Lake Leisure Centre (SLLC) fees and charges. A further review of pricing

was to be conducted prior to opening once the Facility Manager was appointed.

*Table 1 – 2016/17 SLLC fees compared to Warren Green Operations & Business Management Plan.*

	<b>2016-17 Fees and Charges SLLC</b>	<b>Operations &amp; Business Management Plan</b>
Adult Swim	\$6.20	\$7.00
Child Swim	\$5.20	\$6.00
Base Membership	\$16.00	\$20.95
Swim School	\$15.70	\$17.00
Casual Gym	\$21.00	\$24.95
Team sport fees – Adult	\$69.50	\$70.00
Family Swim	\$19.00	\$21.00
Waterslide – Adult/Child	N/A	\$9.00/\$7.00

As part of the City's own due diligence process, following the appointment of the Cockburn ARC Manager and leadership team the City's Administration has conducted a detailed competitor analysis comparing similar services against those of other Local Governments and private enterprise to inform the recommended price point specific to all programs, services, memberships and public offerings.

Below is a table that draws a comparison between key price points for selected programs and services proposed for Cockburn ARC compared to the BOMP proposed fees and industry average in Perth.

*Table 2 – Proposed fees and charges compared to the Warren Green Operations and Business Management Plan and Industry Average.*

	<b>Proposed Fees &amp; Charges</b>	<b>Operations &amp; Business Management Plan</b>	<b>Industry Average</b>
<b>Casual Swimming</b>			
Adult Swim	\$7.00	\$7.00	\$6.20
Child Swim	\$5.20	\$6.00	\$4.65
Family Swim	\$19.00	\$21.00	\$17.70
Waterslide Adult/Child	\$15.40/\$12.00	\$9.00/\$7.00	NA
Spectator	\$2.50	\$3.00	\$2.10
Spa/Sauna/Steam	\$14.00	\$12.00	\$11.00
<b>Casual Fitness &amp; Membership</b>			
Casual Gym	\$22.00	\$24.95	\$21.95
Casual Group Fitness	\$22.00	\$15.95	\$16.00
Base Membership	\$20.00	\$20.00	\$20.23
Swim School	\$17.00	\$17.00	\$16.50
Joining Fee	\$49/\$99	\$99	\$69
<b>Stadium</b>			
Team Fee	\$70.00	\$70.00	\$65.00

The proposed fees and charges for Cockburn ARC will enable the City of Cockburn to continue to offer a diverse range of facilities, programs and services that are fair and competitively priced within the leisure industry. Cockburn ARC provides an expanded range of services compared to the average recreation centre which accounts for the slightly higher costs than the industry average.

### Discounts & Concessions

It is imperative that Council gives careful consideration in setting any level of discount and concession to programs and services at Cockburn ARC.

The issue of discount access to leisure facilities has always been supported if the programme and discount strategy correctly targets those in the community who need assistance. In proposing any discount or concession at Cockburn ARC, it is important that the City is consistent in the concession it offers.

The City presently offers discounts to seniors and other concessions for other services provided by Council (Attachment 2).

By taking into account current discounts offered to seniors and concession cardholders throughout the City and including analysis of both commercial and community businesses, the City would suggest a 20% discount is offered to seniors and concession cardholders at the Cockburn ARC.

The 20% discounts offered by the City are intended to be on the following services:

- Membership – the City offers a range of membership options for customers of Cockburn ARC. One of the payment options include direct debit. Single entry gym access is not eligible for a discounted rate.
- Single pool entry – access to the swimming pools at Cockburn ARC is a popular fitness activity. The offer to make available single entry discounts to seniors, concession cardholders and full time students is seen as being one way of enabling enhanced levels of health and fitness in the community.

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

#### **Community, Lifestyle & Security**

- Provide residents with a range of high quality, accessible programs and services.

- Foster a greater sense of community identity by developing Cockburn Central as our regional centre whilst ensuring that there are sufficient local facilities across our community.

### **Leading & Listening**

- Ensure sound long term financial management and deliver value for money.

### **Budget/Financial Implications**

The City will operate and evaluate Cockburn ARC in a highly accountable manner. The financial performance of the facility is a primary indicator as to the success or otherwise of the operation of the facility.

The original budget and financial implications included in the BOMP were revised as part of the fees and charges review. A summary of the financial implications is outlined below for Year 1.

A four year financial model is included as attachment 3.

*Table 3 – Year 1 financial projection comparison.*

<b>Year 1</b>	<b>Operations and Business Management Plan (2014 projections)</b>	<b>CoC Fees &amp; Charges Financial Model (2017 projections)</b>
Attendances	738,143	868,193
Income	\$7,032,126	\$7,377,378
Expenditure	\$7,643,304	\$7,815,190
Operating surplus/deficit	-\$611,178	-\$437,812
Subsidy/profit per visit	-\$0.83	-\$0.50

The table above highlights that operationally the facility is projected to perform better than the 2014 projections prepared by Warren Green. This is not unreasonable considering the operations and Business Management Plan was based on 2014 expenditure and income projections and 2017 financial projections are based on more accurate income and expenditure assumptions.

Attendances are estimated to increase by 130,050 (17%) per annum. The increase is based on the additional attendances associated with the additional waterslide installed and swimming lessons likely to exceed the 2014 projections by Warren Green.

A detailed operational budget will be required to be included in the 2017/18 proposed Municipal budget for Council's consideration.

### **Legal Implications**

Section 6.16 to 6.19 of the Local Government Act 1995, refers.



**Community Consultation**

N/A

**Risk Management Implications**

The risk to the City in considering fees and charges is to set prices that are competitive in the industry yet allow the Centre to operate with minimal subsidy from the City's residents and ratepayers.

Fees and charges need to be set at a level to enable strong levels of community participation whilst providing sustainable operations to the City.

**Attachment(s)**

1. Proposed Schedule of Fees and Charges
2. Existing Council discounts
3. Financial Model

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

N/A

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

Nil.

**18.2 (OCM 09/02/2017) - LEASE OF LOT 104 VETERANS PARADE, COCKBURN CENTRAL FROM LANDCORP ( R AVARD ) (6028116 & 041/008) ( ATTACH)**

**RECOMMENDATION**

That Council delegate authority to the Chief Executive Officer to enter into a lease agreement with Landcorp for a period of three years for the whole of the land to be known as Lot 104 Veterans Parade Cockburn Central subject to the following key terms:

1. A peppercorn lease fee.
2. The City to pay all costs incurred by Landcorp for the ownership of the land including where and if applicable land tax and shire rates.
3. The lease conditions to have the ability for the City or Landcorp to surrender the lease with one month's notice.
4. The City to remove the hardstand and return the land to its natural state upon the expiration of the lease term, unless otherwise agreed to by both parties.

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

## COUNCIL DECISION

### Background

Landcorp are the owners of Lot 9002 Beeliar Drive Cockburn Central. An approved conditional subdivision application No.149999 exists which details a portion of Lot 9002 that the City proposes to lease as future Lot 104 (Lot 104). A copy of the sketch from application number 149999 is shown at Attachment 1.

Brookfield Multiplex Construction Pty Ltd (Brookfield) has leased Lot 104 from Landcorp since 9 September 2016 and the lease expires on 8 February 2017. Brookfield has constructed a hardstand on a portion of Lot 104 to enable their site offices to be established on the lot.

### Submission

The City has written to Landcorp to request their consent to a peppercorn lease agreement for lot 104, a copy of the letter is shown at Attachment 2.

### Report

The City is proposing that Brookfield, who has been leasing Lot 104, leave the hardstand they placed on the lot to enable the City to potentially utilise it for overflow car parking for the Cockburn ARC.

The car parking facilities for the Cockburn ARC will be fully constructed at the date of the opening of the new facility. However, the City anticipates that the facility may be very popular and an additional overflow car park will alleviate some of the parking concerns in the area.

Brookfield has been utilising Lot 104 for their site office during the construction of the Cockburn ARC and intend to vacate the site in February 2017.

Landcorp has consented to the City leasing Lot 104 on a short term lease arrangement (say 3 years) for the purpose of overflow car parking when it is vacated by Brookfield.

The new lease arrangement between Landcorp and the City will require the City to remove the hardstand at the end of the City's lease term.

The City has expressed an interest to Landcorp in purchasing Lot 104 however at this time these negotiations have not been finalised. If the parties reach an agreement for the sale/purchase of the land the lease arrangement would come to an end at the date of settlement.

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

#### **Moving Around**

- Reduce traffic congestion, particularly around Cockburn Central and other activity centres
- Improve parking facilities, especially close to public transport links and the Cockburn town centre

#### **Community, Lifestyle & Security**

- Provide for community facilities and infrastructure in a planned and sustainable manner
- Create and maintain recreational, social and sports facilities and regional open space

### **Budget/Financial Implications**

The outgoings for Landcorp are Land Tax and Shire Rates which total \$34,800 pa. The City has been advised that Landcorp are required to pay the State Treasury a sum equivalent to the Council rates even if they would have been exempt. As the land will be leased to a third party, the City believes the rating income would come to the City as is the case of similar land leases in the AMC. However and until this is confirmed, a provision will be made to pay for this in the mid-year budget review.

There is understood to be no ESL payable on this land as there are no buildings or other improvements beyond the hardstand. The ESL would be immaterial if by chance it was payable, say \$375.

The monthly cost is approximately \$3,000 per month which will equate to approximately \$12,000 to June 30 2017.

To hardstand the 4,000 sq m block (which already has 2,000 sq m of hardstand on the block) will cost approximately \$20,000. This is also provided in the mid-year budget review.

### **Legal Implications**

There are no legal implications for the City in leasing land from Landcorp beyond the obligations imposed under the terms of the lease.

### **Community Consultation**

N/A

### **Risk Management Implications**

If Council refuse to consent to the lease there is a risk that future patrons of the Cockburn ARC will be unable to park their cars to attend the facility. There may also be additional parking demands in the area due to the popularity of the ARC.

If Council defer the decision to consent to the lease there is a risk that Landcorp will require Brookfield to remove the hardstand when they vacate the lot and if the lease is then consented to the City will have to bear the extra cost of re-establishing the hard stand. The City has agreed as an interim arrangement to remove the limestone should an agreement to lease the land or any other arrangement not be reached. There will be a minimum cost as the limestone can be used by the City of Cockburn Engineering division.

### **Attachment(s)**

1. Sketch from Application No. 149999
2. Letter to Landcorp

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

Landcorp has been advised that the matter will be considered by Council at its 9 February 2017 ordinary meeting of Council.

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

Nil.

## **19. EXECUTIVE DIVISION ISSUES**

## **20. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

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

- 22. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY MEMBERS OR OFFICERS**
- 23. **MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE**
- 24. **CONFIDENTIAL BUSINESS**
- 25. **(OCM 09/02/2017) - RESOLUTION OF COMPLIANCE**

**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**

- 26. **(OCM 09/02/2017) - CLOSURE OF MEETING**

The meeting closed at