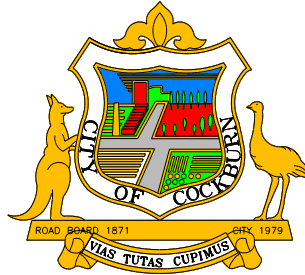


# **CITY OF COCKBURN**



**ORDINARY COUNCIL**

**AGENDA PAPER**

**FOR**

**TUESDAY 18 JULY 2000**



# CITY OF COCKBURN

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## CITY OF COCKBURN

### AGENDA TO BE PRESENTED TO THE ORDINARY COUNCIL MEETING TO BE HELD ON TUESDAY, 18 JULY 2000 AT 7:30 P.M.

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1. **DECLARATION OF OPENING**

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 (by Presiding Member)**

5. **APOLOGIES AND LEAVE OF ABSENCE**

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

**Mr L. Humphreys - Public Question Time - Ordinary Council Meeting - 20 June 2000** - Referred to a recent article in the Cockburn Soundings which gave statistics and percentages from a survey on Ward Boundaries. Mr Humphreys did not feel the article and its statistics accurately portrayed the survey.

A response dated 4 July 2000 referred to statistics and comments made in the Community Representation Survey (on Councillor representation and Ward boundaries) undertaken by Australian Marketing Intelligence in September

1999. It closed with the following extract taken from the Executive Summary of the Survey:-

*"Given that 66.9% of respondents indicated a preference for an alternative system of representation, it is recommended that the City of Cockburn investigate alternative Ward boundaries. However, it is not recommended that a "no-Wards" system of representation be introduced as it was favoured by only 22.4% of respondents. Any changes to the current Ward boundaries must take account of anticipated demographic trends to assure evenness of representation within Wards. Depending on the number and composition of any new Wards, it is strongly recommended that there be equal numbers of elected members for each of the Wards to address a perceived imbalance of representation between Wards."*

**Mr Stephen Lee - Public Question Time - Ordinary Council Meeting - 20 June 2000** - queried if landscaping had been addressed in relation to the temporary closure of Dollier Road and the City's Greening Plan.

A response dated 3 July 2000 advised that a letter had been forwarded to the developer's engineers, requesting that revegetation is undertaken on the road reserve in Dollier Road. The letter also stated that it may not be possible to revegetate until the lots have been built on but negotiations will be undertaken to try to ensure the revegetation takes place as soon as possible.

**7. PUBLIC QUESTION TIME**

**8. CONFIRMATION OF MINUTES**

**8.1 (ocm1\_7\_2000) - ORDINARY COUNCIL MEETING - 20/6/2000**

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

Nil

**10. DEPUTATIONS AND PETITIONS**

Nil



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

Nil

**12. COUNCIL MATTERS****12.1 (ocm1\_7\_2000) - COMMUNITY CONSULTATION PROCESS (1034)(DMG) (ATTACH)****RECOMMENDATION**

That Council demonstrates its formal commitment to the development of a Community Consultation Strategy by adopting the following Policies:

C2.1 “Consultation with Community Stake Holders” and

C2.3 “Establishment of Community Based Committees”

as attached to the Agenda.

**COUNCIL DECISION****Background**

At a Strategic Planning Workshop conducted in December 1999 involving the Commissioners and the Executive team and facilitated by K.P.M.G. Management Consultants, nine Corporate issues were highlighted as requiring some attention, as a means by which Council and its administrative processes could be positively enhanced.

This paper addresses one of those identified issues, being:

- Need to develop a strategy and process for engaging the community at an appropriate level on decisions that have an impact on the Corporate Strategic Plan.

Further consideration of this issue required the preparation of a “methodology paper on examining the benefits of alternative representation frameworks reviewing lessons learned from examples in Fremantle and North Sydney.”

The Fremantle example, with which local government in this State will be most familiar, is based on the establishment of "Precinct Committees." As suggested, these are Committees formed by the City of Fremantle based on clearly defined physical areas in the District, known as "precincts." Generally, precincts are aligned to suburb areas which are subject to some form of impactful development, or re-development, proposal which would, or could, substantially alter the amenity and / or ambience of that specific area.

The primary purpose of the Committee is to act as a reference source for Council to seek comment on a specific proposal which would affect any precinct, prior to determining its resolution to the proposal.

Concerns raised (by Council officers) relative to this system include-

1. The Committees seem to expect Council will follow their recommendation on all occasions which can lead to conflict should staff recommendations differ to precinct Committee wishes, and
2. Allows elected members to take an easy option of supporting a precinct Committee position for political gain, rather than consider proposals on their individual merits.

The history of establishing precinct Committees is primarily as a result of the North Sydney example, which formed these Committees in response to community concerns over extensive inner city development proposals being initiated primarily through the State Government.

The main issues of concern were of residential re-development and height restrictions on new development. Retention of "historic" landmarks, under threat from development proposals, were also matters of concern to local residents.

Therefore, the issues of relevance between Fremantle and North Sydney were complemented by the similarity in make up of the two Councils.

Both are small in area, fully developed and comprise of a mix of commercial activity and residential re-development as their major stakeholder base. Heritage issues are also an important factor in both Council areas.

However, a major difference between the two models is that there are significant legislative differences existing between New South Wales and Western Australia which affect the influence of precinct Committees. For example, Town Planning legislation in New South Wales is less prone to State Government interference and local government is far more autonomous in deciding local planning matters.

Accordingly, the effectiveness of such Committees can be more clearly demonstrated in North Sydney than in Fremantle.

Notwithstanding this obvious impediment, precinct Committees have some benefit in Councils such as Fremantle, which are basically constant in terms of physical identity and limited in overall growth and development potential, thus providing it with an opportunity to focus on issues of strictly local impact.

The City of Cockburn is a vastly different proposition however, because of its size, development potential and the type of Council it intends to become.

Therefore, while there should be consideration given to involving specific community interest in the decision making process of Council, it is not appropriate to establish precinct Committees as part of the regime in the City of Cockburn, because of the varying degree of issues which will confront the community in this District.

For the purposes of specific and localised community input into Council decisions, a more flexible and issue orientated approach is recommended, which can suit a variety of circumstances and involve the community along the lines of a pre-determined procedure both endorsed and controlled by the Council.

### **Submission**

N/A

### **Report**

The primary objective of this report is to provide information which could lead to improved Council consultative processes, if adopted and integrated with Councils current practices. It should also be kept in mind that in isolation, no single strategy can dramatically affect the status quo.

Currently, Council employs an independent qualified opinion survey expert to undertake its community survey programme.

This comprises a comprehensive survey of community needs and a less rigorous, but more regular poll of community opinion on the degree of service satisfaction provided by Council.

It is considered that by formalising this consultation process, a more thorough appreciation of Council's decision-making mechanisms will be demonstrated. The rationale behind Councils future planning and resource prioritisation will then be totally transparent and capable of standing up to any scrutiny.

Of similar importance is that Council can demonstrate its willingness to become involved in any worthwhile consultancy which may affect the District.

In this respect, the opportunity to establish Community Based Committees (C.B.C's) should be considered. It is suggested that Council introduces a Policy which governs this process and allows it ultimate control. However, it would provide a mechanism which could effectively enable representative and interest groups, both internal and external to Council, to address specific issues via a process which would not impose on the ongoing role and responsibilities of Council operations.

The proposed Policy clearly indicates that Council can consider establishing such Committees on an as required basis and allows each forum to be formalised prior to potential conflict arising over particular proposals or issues of concern.

Significantly, if pro-active in this process, council would send a clear message to the community of its preparedness to adopt an accountable style of consultative decision making.

An imperative (and benefit) of this style of consultation is that the objectives and method of operation of each C.B.C are developed in advance and the intent and outcomes of their operations are clearly understood.

The merits of establishing such C.B.C.'s are aligned with the principles of local government. That is, it allows for local issues to be addressed, with some formality, at a local level. With that ability, comes a responsibility to ensure that all information and facts surrounding specific matters are provided to these forums and are eventually translated to a Council decision which is representative of that process.

As the controlling authority, Council also retains a responsibility to ensure C.B.C.'s are effective and credible in their operation and that they have a brief and objectives which are outcome based. That is, their existence should be limited and their resources concentrated on the resolution of particular issues. They should not be seen as a general lobby group or watchdog for a particular area or section of the community, such as a Progress Association or Action Group. C.B.C's would be disbanded once their objectives have been achieved.

The issue of consultation with the community is a matter which is assuming growing importance in Cockburn.

If conducted with a narrow focus, it can be lead to scepticism in the community and ultimately then is poor use of resources and of little benefit as a strategic tool.

Taken in the wider perspective, a Community Consultation Strategy, under pinned through Council Policy, can provide a dynamic and systematic approach to enabling Councils future planning and decision making to be intrinsically linked with the aspirations of the community.

By openly demonstrating a willingness to complement its formal processes with ongoing community input Council is positioning itself to be better prepared in justifying its future planning priorities and resource allocation.

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

Key Result Area "Managing Your City" refers.

### **Budget/Financial Implications**

\$100,000 each triennial (three yearly) budget allocation required for ongoing community needs assessments including the annual Customer Satisfaction Survey.

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

Nil

## **12.2 (ocm1\_7\_2000) - PROPOSED POLICY - CORPORATE STRATEGIC PLANNING PROCESS (1034) (DMG) (ATTACH)**

### **RECOMMENDATION**

That Council adopt Policy C2.4 "Corporate Strategic Planning Process" as attached to the Agenda.

### **COUNCIL DECISION**

### **Background**

There exists a need to link the Corporate Strategic Plan to the Council decision making process and develop a process by which the elected members can embrace the Corporate Strategic Plan as the focus of the organisation.

There seems to be no point in having a Corporate Strategic Plan for the organisation if it is not used as the focus of the organisation in all that it does.

Both the Administration and the Council need to be committed to the Plan, to give it effect.

The Corporate Strategic Plan is prepared by the Administration and presented to the Council for consideration and adoption.

Once adopted the Plan should remain a prominent factor in the decision making process, however, this has not been the case in the City of Cockburn in the past.

The Council's role is to focus on the strategic and policy direction of the organisation rather than daily operational matters.

In addition to the Corporate Strategic Plan there is a need to maintain the Council's awareness of and support for the Principal Activities Plan which is an important organisational document.

It is also important to structure the budget and the resources of the Council to align with the corporate mission, objectives and strategies.

The Organisation must be aware that the Corporate Strategic Plan is driven by the Community Needs Survey as this is the principal way that community needs can be identified, quantified and prioritised by the Council in an appropriate and accountable way.

Currently, the Council Agendas contain a reference to "Corporate Plan/ Policy Implications".

The provision in the Agenda is used as a way of advising the Council that they can refer to other documents (reference No's, sections, policies etc) for further background information.

Other than this there is no overt link between matters considered and decided by Council and the Corporate Strategic Plan. The connection should be made clearer and stronger.

Another issue of concern is the preparedness of Council to circumvent the Corporate Strategic Planning process by introducing/amending previously agreed to priorities which have been proposed for the community through the preparation of the Principal Activities Plan.

### **Submission**

N/A

## Report

1. A formal Council commitment is required to the Corporate Strategic Planning process and identified outcomes and priorities through the establishment of Council Policy. Policy will highlight Council's commitment by stipulating that its annual Budget process will be a reflection of the adopted Principal Activities Plan.

Policy will highlight Council's flexibility by conducting a review of the Corporate Strategic Plan annually in December.

If, as a result of the annual review of the Corporate Strategic Plan, Council agrees to amend or re-arrange its planned funding priorities, any such changes will require a concurrent adoption by Council of a "*new proposal*" document, which clearly identifies the nature, extent and cost of the initiative(s). (see attached format)

2. It is recommended to expand the heading "Corporate Strategic Plan / Policy Implications" in the Agenda report, and

make it a staff requirement that this section be completed for every report.

The Report is to advise the Council that the "recommendation" **not** the decision, made by staff is in accordance with the :-

- Corporate Strategic Plan - Strategic Objective
- Council Policy, if appropriate
- Relevant Principal Activity
- Budget / Financial Implications
- Sec 3.18 (3) of Local Government Act, 1995

If the staff recommendation is not in accordance with an objective of the Corporate Plan, a Principal Activity, or the terms of a Policy then it is the responsibility of the officer to explain why. Moreover, the officer should examine the appropriateness of the objective, activity or policy and recommend whether or not it should be reviewed.

3. These initiatives will ensure a direct and tangible link between the Corporate Strategic Plan, the Principal Activities Plan, Budget and Council resources.

The Mission, Vision and Key Result Areas will be displayed in a prominent position in Council facilities and in Council publications to keep reinforcing commitment to the plan.

These procedures will involve the Councillors in the assessment of the Corporate Strategic Plan to review the appropriateness and performance of the Plan.

The Annual Report will have a separate section dedicated to discussing the Corporate Strategic Plan, its importance, relevance and its success in achieving the Council's Mission, Vision and Key Result Areas.

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

Key Result Area "Managing Your City" refers.

### **Budget/Financial Implications**

N/A

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

Nil.

## **12.3 (ocm1\_7\_2000) - PROPOSED POLICY - BRIEFING SESSIONS FOR ELECTORAL CANDIDATES AND ELECTED MEMBERS (1034) (DMG) (ATTACH)**

### **RECOMMENDATION**

That Council adopts Policy C2.6 - "Briefing Sessions for Electoral Candidates and Elected Members" as attached to the Agenda.

### **COUNCIL DECISION**

### **Background**

The recent report of the Inquiry into the City of Cockburn highlighted some specific instances where the role of elected members was found to be at odds with the principle of good government. These identified issues related to individual areas of elected member functions and the relative recommendations contained in the Report were specific to those issues.

That is, the Report concluded that the awareness of elected members in areas such as Tenders, Conflicts of Interest and the Code of Conduct needed to be specifically addressed.



While there is merit in these recommendations, the opportunity exists to extend such awareness sessions to cover a wide range of functional roles and skills required to be known and embraced by elected members.

Accordingly, it is suggested that elected member training and skills development should be a priority area of consideration available to prospective new elected members. Such development sessions should lead to a greater understanding of Council processes and the wider role of the elected Council, both individually and collectively, in addition to the statutory obligations under which they are required to operate.

In addition, it is considered that the new Council once elected should be made aware of the increasing importance of strategic planning and policy development in the role of Councillors as well as the need to ensure legal compliance with the statutory responsibilities assigned to individual elected members and the Council as an entity.

Hopefully, the information session conducted prior to the elections for people interested in becoming Councillors would have given many of the elected members a good background from which they can better understand their roles.

However, it is then imperative that Council acts quickly to focus the attention of the new Council on the issues of greatest importance to enhance their understanding of the Corporate goals and unite them as a strong alliance committed to effective outcomes aligned to the overall vision for the District.

With this in mind, it is recommended that Council conduct an elected members briefing session focussing on these important matters and highlighting their relevance to the manner in which the Council decision making processes are managed.

### **Submission**

N/A

### **Report**

#### **Suggested Briefing Process - Pre-Election**

It is recommended that a programme be conducted approximately two months in advance of the date to conduct the Council election.

It is proposed the seminar be conducted in the Civic Centre Lesser Hall on a day and date to be determined.

Once a programme has been agreed upon and prepared by the facilitator, the seminar would be extensively promoted through Cockburn Soundings and the newspaper "half page". The programme and registration form would be produced in house and made available in Council facilities on a widespread basis.

Prospective candidates for Council elections in Cockburn would be invited to attend by completing the registration form and lodging it with the coordinating officer (Executive Assistant)

It may be that some interest is expressed from people outside the District (i.e non-electors) wishing to attend. In these circumstances it would be appropriate for a registration fee to be payable.

### **Suggested briefing processes - Post-Election**

It is recommended that a programme be conducted within a month of the new Council being elected. An imperative of this process would be for the newly elected Mayor and all the Councillors to be present at the session.

It is proposed the seminar be conducted in the Council Reception Area on a day and date to be determined and agreed to by the in coming Mayor.

It is expected that all elected members will make themselves available to attend the Seminar, even if this means conducting it on a weekend day. The format of the Seminar will be more informative than workshop orientated, notwithstanding that there will be the capacity for elected members to question and seek clarification on matters of importance to them as an individual and collective member of the Council team. This seminar should be seen as an opportunity to reinforce the important mechanisms and processes currently in place which are so important to the efficient and effective operation of the Council.

Council's Executive team should also be present, mainly to ensure important questions and queries are addressed, however, it should not be perceived an officer dominated forum.

The opportunity to build relationships and encourage a sense of team approach to the exercise is important, however, officers should endeavour to be selective with their input at this stage and preferably be drawn into discussion by the facilitator of each session.

However, the essence of the session is to ensure that the new Council is AWARE of the critically important issues which are being discussed and UNDERSTAND the implications.

Having achieved that, there is no further influence this process can have at the time and it is hoped that a strong sense of commitment to these matters will be displayed by the elected members, in harmony with the Executive team, into the future.

### **Facilitation - Pre-Election Seminar**

It is proposed that an external provider be commissioned to facilitate a half day programme covering the following matters in some detail. Prospective candidates for Council elections in Cockburn would be advised of the workshop and invited to attend, in the manner explained earlier in the paper.

The facilitator would need to assure Council of the quality and suitability of the programme presenters, as this will be crucial to the success of the exercise. Appropriate staff from the Department of Local Government, recently retired, high profile elected members and / or practitioners would be ideal.

Preferred qualities for the presenters would be knowledge and experience of local government with clear and concise delivery style.

Clearly the exercise is one of disseminating information and not one of ascertaining participant opinions. Therefore, this message needs to be conveyed to people, both in lead up advertising and during the programme itself.

It would be expected that there will be questions which relate specifically to issues affecting the City of Cockburn and will be unfamiliar to external presenters.

These questions could be noted by a Council staff member present and then passed on to the appropriate Council officer for a response, hopefully on the same day, but in any case, within 2-3 days.

### **Proposed Programme Topics (subject to change)**

- Role of Elected Members
- Statutory Compliance Issues
  - Code of Conduct
  - Standing Orders Local Law
  - Declaration of Council Authority to Staff
  - Other Important Legislation
- Conflict of Interest Provisions - Local Government Act, 1995
- Tender Regulations

## **Facilitation - Post Election Seminar**

It is proposed that an external provider be commissioned to facilitate a one day programme to cover the following matters in some detail. It is suggested that the strategic planning part of the programme be presented by someone with both a strong commitment to the values of this tool, as well as having the knowledge and experience of the local government system.

The second half of the programme would require the services of a senior officer from the Department of Local Government to ensure that statutory and other compliance matters are both comprehensively explained and highlighted as issues of vital importance in the delivering of good local government.

It would be expected that the Executive team would be present at this session, primarily to explain issues of local significance and answer questions relative to their position with which the presenter may not be familiar.

The emphasis of this programme should be on requiring the elected members to adhere to practices and policies which are in place and explaining the reasons and importance of doing so. Notwithstanding this emphasis, it should be made clear to participants that the strategic planning process is flexible enough to be reviewed at a future stage and, if appropriate, amended accordingly should circumstances warrant such change.

However, it should be clearly emphasised to incoming elected members that strict adherence to statutory requirements must be observed, to ensure the integrity of Council is not compromised at a time when the new council will be under intense scrutiny by the community.

### **Proposed Programme Topics (subject to change)**

- Corporate Identity and Organisation Structure
- Council Processes (highlighting Corporate Strategic Plan)
- Role of Elected Members
- Statutory Obligations (highlighting Code of Conduct)

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

Key Result Area "Managing Your City" refers

### **Budget/Financial Implications**

Funds to be provided in Administration (Governance) Operating Budget

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

Nil.

**12.4 (ocm1\_7\_2000) - CITY OF COCKBURN INQUIRY - COSTS - MINISTER FOR LOCAL GOVERNMENT (RWB) (1335) (ATTACH)****RECOMMENDATION**

That Council:

- (1) receive the letters from the Hon. Minister dated 15 June and 22 June 2000;
- (2) request the Hon. Minister for Local Government to use his discretion as provided for under Section 8.27 of the Local Government Act 1995, to apportion the cost of the Inquiry between the State Government and the Council, on the basis that the conclusions and recommendations would also be of widespread interest to the local government industry in this state as:-
  - a) of the 26 recommendations made in the Inquiry Report, 81% can be considered to be of a general local government relevance; and
  - b) of the 296 Inquiry findings of an adverse or critical nature, 93% can be considered to be of general local government relevance.
- (3) request the Hon. Minister, in the interests of public accountability, to provide Council with an itemised account of the costs applicable to each of the issues investigated by the Inquirer, in the event that the Minister orders the Council to pay all or portion of the cost of the Inquiry into the City of Cockburn;
- (4) request the Hon. Minister to agree that any payment to be made by the City of Cockburn, be spread equally over four(4) consecutive financial years, with the first payment due in February 2001, which allows for:
  1. Council to levy and collect a supplementary general rate, pursuant to Section 6.32(3)(a) of the Local Government Act for the financial year 2000/2001, as Council's budget will be adopted on the 25th July 2000.
  2. the inclusion of the costs to be collected from rates for the financial years 2001/02, 2002/03 and 2003/04 with payment in February of each financial year.

- (5) use the agenda report as the basis of the submission to the Hon. Minister to use his discretion under Section 8.27 of the Local Government Act 1995.

## COUNCIL DECISION

### Background

In April 1999, the Hon. Minister for Local Government suspended the Council and appointed Commissioners to manage the affairs of Council.

An Inquiry was instigated under Division 2 - Part 8 of the Local Government Act 1995. This followed an Inquiry under Division 1 - Part 8 of the Act (Martin & Vicary).

An Inquiry Panel consisting of Mr Neil Douglas was appointed to inquire into the operations and affairs of the City of Cockburn.

The Inquiry Panel was to inquire into -

- (1) matters identified in the Report to the Executive Director, Department of Local Government, into the City of Cockburn, dated 29 March 1999;
- (2) the Council's response to the letter of 13 February 1997 from the Parliamentary Commissioner for Administrative Investigations regarding the Council's handling of the application to rezone Lot 17 Hamilton Road, Spearwood;
- (3) the Council's decision of 19 January 1999 and subsequent revocation motion in relation to the intended distribution of funds collected under s20C of the *Town Planning and Development Act 1928* to landowners in the Packham Development Area;

and any other matters which arise during the course of the inquiry concerning the government of the City of Cockburn, for the purposes of reporting on the extent to which there is or has been failure to provide good government in the City of Cockburn.

The Inquiry concluded in April 2000.

The Hon. Minister for Local Government tabled the Report in Parliament on 4 May 2000.

There were 66 findings against Councillors and former Councillors and 11 against two staff, namely the CEO and former City Planner.

Council, at its special meeting held on 23 May 2000, has since responded to the recommendations of the Inquiry. It also considered the findings against the CEO and found them to be essentially of procedural nature and declared their full support for, and confidence in the CEO.

### **Submission**

By letter dated 15 June 2000 (received 19 June), the Hon. Minister for Local Government advised:

*"Section 8.27 of the Local Government Act 1995 provides that if an Inquiry Panel makes findings adverse to a local government, or its Council or any member, or to any of its employees the Minister may order the local government to pay all or part of the costs of the inquiry. This determination is irrespective of whether the suspended Council is dismissed or reinstated.*

*It is clear from the Report of the Inquiry that there are sufficient adverse findings to warrant consideration of S8.27.*

*I have given careful consideration to the question of whether the State Government should bear any proportion of the cost. I have formed the view that there are no, or insufficient, issues of a general Local Government nature which would warrant the State Government paying part of the cost of the Inquiry.*

*Accordingly I have determined that the City will pay the whole of the costs of the Inquiry.*

*At this stage the estimated total cost is \$1.8m.*

*I am prepared to consider spreading the cost over several years and to consider submissions in that regard.*

*I therefore invite you to put a submission to me in regard to the recovery of costs arising from the Inquiry Report. Such submissions should be received by my office by 30 June 2000".*

The Chief Executive Officer requested an extension of time to respond to the issue and by letter dated 22 June 2000, the Hon. Minister advised that it would be in order to receive the response "on or about 21 July 2000".

A news media statement released on 27 June 2000 for the Minister stated :

*"Mr Omodei added that the determination would be made later in relation to what part of the \$1.8 million cost of the inquiry would be paid by the city".*

## **Report**

The Hon. Minister for Local Government, by way of letter dated 15 June 2000, has "determined that the City will pay the whole cost of the Inquiry".

This position has been put forward on the basis that "there are no, or insufficient, issues of a general local government nature, which would warrant the State Government paying part of the cost of the Inquiry".

The Hon. Minister has invited a submission in regard to the recovery of the cost, the intent being to consider an approach to pay the estimated \$1.8 million over several years.

Section 8.27 of the Local Government Act 1995, provides that if adverse findings are made against a local government, or to its Council or any member or any of its employees, "the Minister may order the local government to pay all or part of the cost of the inquiry and the local government is to comply with that order".

Whilst the Minister has presented the view that the City should pay the full amount, no order has been made at this stage.

Through a company called Media Monitors, summaries of interviews with the Minister in various radio stations have recorded differing views on the requirement for Council to pay the full cost of the Inquiry. Some note that Council may be forced to help pay the cost whilst others say Council will bear the cost.

A media statement from the Minister dated 27 June 2000, states *"Mr Omodei added that the determination would be made later in relation to what part of the \$1.8 million cost of the inquiry will be paid by the city".*

It would therefore seem open to Council, to pursue the issue of apportionment of costs.

It is important to note that in the West Australian on 5 May 2000, the Hon. Minister was quoted as saying ***"the report should be compulsory reading for everyone in local government, particularly in relation to financial interests and tenders"***.

In addition, in the Local Government Update No.35 - June 2000, the Hon. Minister has said *"Although the three volumes and almost 1,200 pages of the Report are specific and localised in their focus upon the*



*City of Cockburn, there are clearly issues relevant to local government generally".*

The Fremantle Gazette (9-15 May 2000) states "whilst some of Mr Douglas's recommendations related to Council Policy, others required change to the Local Government Act, **giving it ramifications for all local governments**".

These statements confirm that there are wide implications for local government.

Before looking at the recommendations and findings, it is important to note:-

- 1) That the term of the Inquiry was extended twice. Originally the Inquiry Panel was to report by the end of October 1999 at an estimated cost of \$731,000 (West Australian 19/8/99). It was then extended to February 2000 at an estimated cost of \$1million (West Australian 19/8/99). A further extension was granted to April 2000 at an estimated cost of \$1.3million (West Australian 21/1/2000). The final cost is estimated to exceed \$1.8m. This is demonstrated as follows:-

Extension	Date	\$	% Increase on Original
Original	November '99	731,000	
1	February '00	1.0 million	37%
2	April '00	1.3 million	78%
Final	May '00	1.8 million	146%

- 2) The Inquiry proved to be a far ranging inquiry with the general public being invited to put forward matters for investigation. The report does not provide details of the number and type of submissions received from the public.
- 3) A number of the matters investigated, did not result in any findings against the Council, Councillors or staff (Refer to Chapter 10 of the Report).
- 4) A previous inquiry at the City of Canning, which resulted in the Council being dismissed, occurred prior to the introduction of the Local Government Act 1995 (June 1996).

There was no provision in the Local Government Act 1960 for the costs of the inquiry to be ordered against the Council. Therefore the City of Canning ratepayers did not pay.

The City of Wanneroo was subject to a Royal Commission which concluded in September 1997 when the 'Commission' handed down its final report.

*"The report of the Royal Commission into the City of Wanneroo, identified a number of poor practices as well as improper and corrupt dealings by certain Councillors and staff at the City"* (Department of Local Government publication - "In the Public Interest" - Minister's Foreword).

The Royal Commission was estimated to cost some \$7 million. The Royal Commission Act does not allow for an order for costs to be paid, therefore the ratepayers of Wanneroo were not required to pay for the cost of the Royal Commission.

Following the Royal Commission, the Council was suspended on the 12th November 1997. An inquiry under the Local Government Act 1995 ('Lawrence Inquiry') was instigated. That Inquiry did not make any findings against the Council, Councillors or staff.

The Inquiry concluded *"Overall, in our assessment there is a culture within the Council and a restructure and associated cultural change within the staff, which causes us to believe that there is good reason to distinguish the activities of the Council from that of their predecessors."*

There obviously was a problem at Wanneroo which had been highlighted by the Royal Commission.

The 'Lawrence Inquiry' concluded that the Council had gone past that stage.

The cost of that Inquiry was approximately \$200,000.

As there were no adverse findings by the 'Lawrence Inquiry', the cost of the Inquiry was not able to be passed to the Council.

If the Royal Commission at Wanneroo had in fact been a Division 2 Part 8 Inquiry, then potentially given the findings, the City of Wanneroo would have been required to pay the cost.

The equity of such a situation is questionable. The City of Cockburn being asked to bear the cost, but because the former City of Wanneroo investigation was undertaken through a Royal Commission, the ratepayers of that local government were not required to pay despite "a number of poor practices as well as improper and corrupt dealings by Councillors and staff of the City".

Discussions at seminars being conducted by the Department of Local Government during 2000 which are pivotal to the review of the Local Government Act 1995, have included discussion on Part 8 Division 1 and 2 Inquiries. A streamlining of the process is being canvassed so that the lengthy and costly procedure may be eliminated.

This review has been highlighted by the Cockburn Inquiry.

There is a possibility that there will only be one inquiry of this nature, therefore the fairness of the Cockburn ratepayers shouldering the full cost, must be questionable.

- 5) It is a fundamental principle of the system of justice within the State of Western Australia, that the service is provided as a key organising principle of government. The fees that are paid to Courts or Tribunals by parties taking action, are not calculated to fund the system. Nor do the costs that are usually awarded against the unsuccessful party, include any component to pay the costs of the system of justice.

Because the system of justice is considered so fundamental to an organised society, its costs are borne by the members of that society generally.

The same principle as applied with other forms of Inquiry which are fundamental to the system of justice including:

- Ombudsman Inquiries;
- Carrying out of reviews and determination of complaints by the FOI Commissioner;
- All kinds of administrative review and appeal bodies;
- Royal Commissions.

Where costs are awarded by a judicial or quasi judicial body, it is always the costs between parties. That is, the unsuccessful party may be ordered to pay the costs of the successful party.

If the principle applied in local government Inquiries was that a local government will be ordered to pay the costs of the Inquiry where unfavourable findings are made against the Council, or against any member, or against any employee, that is likely to produce two responses which will be detrimental to the administration of that part of the system of justice as follows -

- a) It will encourage the local government to become a party to the Inquiry, in the sense of contesting the Inquiry and engaging legal representation to contest every suggestion of impropriety. The local government would have a clear interest in contesting and disproving

inappropriate conduct on the part of the Council, any member of the Council and any employee (whereas it might be said that the Council properly should not contest an Inquiry, but should assist the Inquiry to reach the most appropriate conclusion). That could produce the undesirable consequence of Inquiries being conducted as a contest between the State Government appointed Inquiry on the one hand and the local government on the other, with the local government vigorously contesting all avenues of Inquiry that might lead to an unfavourable finding against its Council, any member or any employee, as such unfavourable finding could result in the local government bearing the costs of the Inquiry.

- b) the ratepayers, being the ones who will ultimately pay the cost, would be discouraged from making complaint against the Council, members or employees for fear of the financial burden that might result for them as a body.

Against that analysis, the circumstances will seldom arise where it would be appropriate to require the ratepayers of a specific local government to bear the costs of an Inquiry.

It is a fundamental principle of the Part 8 Inquiry provisions of the Local Government Act 1995, that the Inquiry will be for the good of the particular local government district. If that principle is to be protected and fostered, then it must be possible for the public of the district to look back and say that the Inquiry was on balance beneficial.

In the present case, there is a risk of the ratepayers of the City of Cockburn, putting the Inquiry into a financial balance as follows:

- The events that precipitated the suspension of the Council and the setting up of the Inquiry, were associated with the determination of a number of Councillors to commit approximately \$17,000 of Municipal Funds for a controversial payment of compensation for excess POS contribution.
- Because of changes in Council membership relative to other complaints, the possible dismissal of the Council could only be relevant to that issue.
- Even on that issue, only 3 of the continuing Councillors could be said to have acted improperly in the final analysis.
- The improper determination of 3 members to commit approximately \$17,000 of the Municipal Funds may lead to a \$1.8 million burden of cost for the ratepayers.

There is no justice in the imposition on the City of the \$1.8 million costs of the Inquiry. In fact, in all of the circumstances, the City should not be required to pay what in this case equates to the administration of the system of justice within the State, as it applies to local government administration.

### Inquiry Recommendations

An analysis of the twelve(12) recommendations which totalled 26 parts from the Inquiry, indicate that 58% of the Inquiry findings have industry wide impact, 23% are matters that are to be attended to by the City of Cockburn with potential for industry wide impact, with 19% being matters which relate only to the City.

Therefore, 81% of the recommendations could be considered to have industry wide impact.

The following chart summarises that assessment. Supporting analysis is attached to the agenda.

<b>The Inquiry Into the City of Cockburn Impacts of Recommendations Recommendations R1 - R12</b>			
<b>Recommendation</b>	<b>Industry Wide Impacts</b>	<b>Matters to be attended to by the City of Cockburn with potential for Industry Wide Impacts</b>	<b>Matters to be addressed by the City of Cockburn</b>
R1	R1(a) - (f) (6)		
R2	R2 (1)		
R3		R3(a) (1)	
R4		R4(a) (1)	R4(b) (1)
R5		R5(a) (1)	R5(b) (1)
R6		R6(a) (1)	R6(b) (1)
R7		R7(a) & (b) (2)	
R8	R8(a)(b) (2)		
R9	R9(a)(b) (2)		
R10			R10 (1)
R11	R11(a)-(d) (4)		
R12			R12 (1)
	15 (58%)	6 (23%)	5 (19%)

### Inquiry Findings

An analysis of the individual findings of the Inquiry, demonstrates that 93% of the 296 findings which were either adverse or critical in their nature, could have practical implications on a widespread basis across local government.

The eight subject matters attracted 267 adverse findings or comments from the Inquirer which Council considers to have industry wide impacts.

The 267 findings of most interest, can be broken down into the following categories :-

1. Handling of Planning Issues - 43% of all adverse findings/comments
2. Handling of Tenders - 28% of all adverse findings/comments
3. Conflicts of Interest - 15% of all adverse findings/comments
4. Unlawful (illegal) Decisions - 9% of all adverse findings/comments
5. Code of Conduct Issues - 4% of all adverse findings/comments

It is submitted that each of these matters are of importance to all local governments and should be promoted throughout the industry, as examples of issues of critical importance which should be addressed by all councils to ensure the industry can benefit, on a widespread basis, from those matters highlighted by the Inquirer.

The following chart summarises that assessment. Supporting analysis is attached to the agenda.

<b>Inquiry Into the City of Cockburn Impacts of Findings F1 - F74</b>			
Finding No.	Industry Wide	City of Cockburn with potential for Industry wide	City of Cockburn
F1	F1(a) - F1 (d) (4)		
F2	F2(a) - F2(d) (4)		
F3	F3(a) (1)		
F4	F4(a) - F4(c), F4(e) (4)		
F5	F5(a) - F5(d) F5(f) (5)		F5(e)
F6	F6(a) - F6(d) (4)		
F7			F7(a) and F7(b)
F8	F8(b) - F8(d) (3)		
F9	F9(b) & F9(d) - (f) (5)		
F10	F10(a) - F10(e) (5)		
F11	F11(a) - F11(c) (3)		
F12	F12(a) - F12(i) (9)		
F13	F13(c) (1)		
F14	F14(d) - F14(g) (4)		
F15	F15(a) - F15(j) (10)		
F16	F16(c) (1)	F16(a) & F16(d)	
F17	F17(a) - F17(c) (3)		
F18	F18(a); F18(b) F18(d) - F18(f) (2) (3)		
Tenders Issues	(75)	(2)	(3)

Finding No.	Industry Wide	City of Cockburn with potential for Industry wide	City of Cockburn
F19	N/A	N/A	N/A
F20	F20(b) (1)		
F21	F21(a) (1)		
F22	F22(a) - F22(d) (4)		
F23	F23(a) & (b) (2)		
F24	F24(a) - F24(c) (3)		
Lot 1 Berrigan Drive Issues	(11)		
F25	F25(a) (1)	F25(b) & F25(d) (3)	
F26	F26(a) - F26(j) (10)		
F27	F27(a) & (b) (2)		
F28	F28(a) & (b) (2)		
F29	F29(b) (1)		F29(a) (1)
F30	F30(b) - F30(d) (3)		F30(a) (1)
F31	F31(a) - F31(c) (3)		
F32	F32(a) - F32(g) (7)		
F33	F33(a) - F33(b) (2)		
F34	F34(a) - F34(d) (4)		
F35	F35(a) & F35(b) (2)		
F36	F36(a) - F36(g) (7)		
F37	F37(a) & F37(b) (2)		
F38	F38(a) - F38(g) (7)	F38(h) (1)	
Packham Development Area Issues	(52)	(4)	(2)
F39	F39(a) (1)		
F40		F40(b) (1)	
F41	F41(b)(d)(e)(f)(i)(j) (6)		
F42	F42(a) - F42(c) (3)		
F43	F43(a) & (b) (2)		
F44	F44(a) - (c) (3)		F44(d)-(k) (8)
F45	F45(a) - (d) (4)		
F46	F46(a) (1)		F46(b) (1)
F47	F47(a) & (b) (2)		
F48	F48(a) - (c) (3)		
F49	F49(a) - (c) (3)		
F50	F50(a) - (c); (e) - (h) (7)		
F51	F51(c); (e) & (f) (3)		
F52	F52(a) - F52(h) (8)		
F53	F53(b) - (f) & (i) (6)		
F54	F54(b) - (d) (3)		
Compensation to Clr Grljusich Issues	(55)	(1)	(9)
F55	F55(e) - (g) (3)		F55(a) - (d) (4)
F56	F56(a) - (c) (3)		
F57	F57(a) - (f) (6)		
F58	F58(a) - (d) (4)		
F59	F59(a) - (d) (4)		

Finding No.	Industry Wide	City of Cockburn with potential for Industry wide	City of Cockburn
F60	F60(a) - (d) (4)		
Illegal Decisions Jan/Feb '99 Issues	(24)		(4)
F61	F61(a) - (d) (4)		
F62	F62(a) - (d) (4)		
F63	F63(a) - (d) (4)		
F64	F64(a) - (d) (4)		
F65	F65(a) - (d) (4)		
F66	F66(a) - (e) (5)		
F67	F67(a) - (e) (5)		
F68	F68(a) - (e) (5)		
F69	F69(a) - (e) (5)		
Conflict of Interest Issues	(40)		
F70 (Code of Conduct)	F70(b)(d) - (i)(m) (8)	F70(k) (1)	F70(a); (l) (2)
F71	N/A	N/A	N/A
F72 (Lot 14 Progress Drive)	F72(b) (1)		
F73		F73(a) (1)	
F74	F74(e) (1) (1)		
Lot 14 Progress Drive Issues	(2)	(1)	

In summarising the findings, they can be broken down into the following categories:-

Subject	Industry Wide Impacts	City of Cockburn with Potential for Industry Wide Impacts	City of Cockburn Impacts Only
1. Tenders	75 (28%) *	2	3
2. Lot 1 Berrigan Drive	11 (4%) *	-	-
3. Packham Development Area	52 (19%) *	4	2
4. Compensation to Grljusich	55 (20%) *	1	9
5. Illegal Decisions	24 (9%) *	-	4
6. Conflict of Interest	40 (15%) *	-	-
7. Code of Conduct	8 (4%) *	1	2
8. Lot 14 Progress Drive	2 (1%) *	1	-
<b>TOTAL</b>	<b>267 (90%) **</b>	<b>9 (3%) **</b>	<b>20 (7%) **</b>

\* These percentages relate to an overall percentage of the industry wide impacts ie: 267

\*\* These percentages relate to the percentage of the total number of findings ie: 296 (267+9+20)



## Costs of the Inquiry

### FUNDING

There are five ways in which the payment of \$1.8m could be funded should Council be ordered to do so:

- reserve funds
- sale of assets
- reduction in services
- loan
- rate increase

### RESERVE FUNDS

The Council currently has 19 cash backed reserves which fall into three major areas:

- 1) funds to cover future employee entitlements;
- 2) funds to cover capital expenditure from year to year to allow internal businesses to function efficiently and in a cost effective manner;
- 3) funds to cover large expenditures for infrastructure work required in the future

If funds from reserve funds are used to pay the \$1.8 million for the Inquiry, then there will be a need in future to:

- 1) borrow funds, and/or
- 2) increase rates income

to provide the funds for the identified and approved projects.

It is therefore considered that this is not an appropriate option.

### SALE OF ASSETS

Some of the assets that could be sold are:

- light car fleet;
- heavy plant fleet;
- freehold land.

The sale of these assets is not recommended because:

- 1) it is not recommended business practice to sell assets (capital) to fund operating costs;
- 2) the assets were accumulated to provide services in a cost effective manner;

- 3) the assets are being accumulated to provide for future infrastructure works.

The loss of the asset will mean either:

- 1) an increase in operating expenditure, or
- 2) rates will have to be increased in the future to fund future projects.

The sale of assets is therefore not considered to be an appropriate option

### REDUCTION IN SERVICES

The Council currently provides a wide range of services such as roads, parks, library, welfare, planning, building, rangers and health services.

A reduction in service to achieve the cost savings required, would have a significant impact on the level of service to the community.

The community has in the most recent Community Satisfaction Survey, indicated that they wish current services to be retained. A reduction in services is therefore not considered to be an appropriate option.

### LOANS

The Council could borrow the \$1.8m from the W.A. Treasury. Repayments over a period of say 10 years would be \$257,000 per year based on current interest rates, a total repayment of \$2.57m. This would represent a rate increase of 1.6% in the first year based on current rate revenue with the 1.6% dropping off in the 11th year.

Whilst this is a viable option, the \$770,000 in interest can be avoided by a rates increase of 2.8% for four years (see Rates option below).

### RATE INCREASE

The rate income for the 2000/01 financial year is budgeted to be \$16.0m. If the \$1.8 million requested by government is to be repaid in one year, the rate increase would be in the order of 11.25% which is above the 1.5% increase advertised.

If the Minister gives approval for the \$1.8 million to be repaid over 4 years, the rate increase would be in the order of 2.8% in the first year to cover the payment of \$450,000 in each of those years with the 2.8% dropping off in the fifth year.

For the following three years, in addition to the 2.8% loading which will be built into the budget, there will also be a proposed increase of about 2.5% each year to provide for the services demanded by a growing local government. In the fifth year with the repayment not being required, there would not be any need for an increase in rates based on these figures.

As the Budget for 2000/01 will be adopted before the final decision of the Minister for Local Government is made, a supplementary general rate (LGA S6.32(3)(a)) will need to be levied for 2000/01 once the final amount to be paid by Council is known.

The supplementary general rate will be based on the Gross Rental Value or Unimproved Value of properties as appropriate. The amount paid by each ratepayer will vary accordingly. Properties with lower values, will be levied less than those with higher values.

It is anticipated that the Minister will not levy any interest on the repayment if a suitable repayment period can be agreed.

A rate increase of 2.8% in year one of the repayments held for four years, is the preferred option provided that such a repayment period is agreed to by the Minister.

#### KEY ELEMENTS OF SUBMISSION

In addition to the three(3) key points contained in the recommendation, the response to the Hon. Minister should also raise the following issues:-

- 1) that the Minister has acknowledged that "*the report should be compulsory reading for everyone in local government*" and "*there are clearly issues relevant to local government generally*";
- 2) that the costs of the open ended inquiry grew to a magnitude well beyond everyone's expectations;
- 3) that the City of Cockburn is likely to be the only local government to be required to pay or contribute towards the cost of a far ranging inquiry;
- 4) that a large number of issues did not conclude with any findings against Council, Councillors or staff.
- 5) that the Council should not be expected to contribute to the system of justice within the State.

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

Key Result Area "Managing Your City" applies.

### **Budget/Financial Implications**

The final decision by the Hon. Minister may have significant budget implications for the City.

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

Nil

## **12.5 (ocm1\_7\_2000) - SOUTHERN CROSS CLEANING SERVICES - TENDERS, CLEANING SERVICES - INQUIRY INTO THE CITY OF COCKBURN - COMPENSATION AND APOLOGY (RWB) (4435)**

### **RECOMMENDATION**

That Council advise Mr Frank Holguin of Southern Cross Cleaning Service, on a "without prejudice" basis that Council:

- (1) acknowledges the findings of the Inquiry Into the City of Cockburn in regard to tenders for cleaning contracts in 1996 and apologises for any concerns which arose due to the decision making process undertaken by Council in selecting a successful tenderer;
- (2) in making the foregoing apology, is unable to offer an apology for statements made by individual Councillors, nor pay legal costs associated with such comments; and
- (3) is not willing to pay legal costs incurred by Mr Holguin for the "Inquiry".

### **COUNCIL DECISION**

### **Background**

One of the lines of Inquiry Into the City of Cockburn, related to the manner in which cleaning contracts were awarded by Council in 1996.

Council staff had recommended Southern Cross Cleaning Services be awarded tenders for the cleaning of the Council Administration Building and Civic Centre Hall; Libraries and Public Toilets.

Council did not accept the recommendation and after a considerable time lapse in which the tendering process was changed with new tenders being called, Council accepted a tender from the current cleaning contractor at the time.

During debate on the issue, it was claimed by Southern Cross Cleaning Service, that they had been defamed by two Council Members.

The Report of the Inquiry Into the City of Cockburn contains expansive analysis of the issue.

### **Submission**

On 20 June 2000, Mr Holguin of Southern Cross Cleaning Service met with Cmr Jorgensen and the Chief Executive Officer.

Mr Holguin expressed the view that Council should apologise to him for the inconvenience and possible loss of reputation due to statements made by two Councillors during discussions on the issuing of cleaning tenders in 1996.

He advised that the issue had been stressful and was looking to Council to rectify the position by the issuing of an apology for the statements made by the two Councillors and the payment of compensation for legal costs and stress.

By facsimile dated 20 June 2000, Mr Holguin provided advice of legal expenses paid in 1996 regarding the statements made by the Councillors, totalling \$208.60. He also provided advice for legal expenses totalling \$650.00 for costs incurred for the "Inquiry".

These accounts were accompanied by a letter from Mr Holguin to the Inquirer, Mr Douglas, asking Mr Douglas *"to consider the following when you make your final recommendations:-"*

1. *That the Council make a full written apology for the untrue remarks made by Councillors John Grljusich and Joe Ostojich that were reported in the local newspaper.*
2. *That we receive compensation for our legal costs (sic: the Councillors who appear before the Commission has their legal costs paid by the City of Cockburn. As ratepayers we feel we should be given the same consideration, we also believe we should receive some form of compensation for the unnecessary stress and aggravation, and damage caused to the good reputation of our company, to my wife and myself. "*

Mr Holguin and his wife, considered they had been denied natural justice. Cmr Jorgensen advised Mr Holguin that the issue would be considered by Council.

## **Report**

Mr Holguin's approach to Council is for Council to apologise for the statements made by Councillors during the Council debate on the cleaning contracts in 1996 and to pay legal expenses incurred as the result of those statements, together with legal costs associated with the 'Douglas Inquiry'.

It would not be appropriate for Council to accept responsibility for statements made by individual Councillors during debate on an issue at a Council meeting. This applies to both the request for an apology and the payment of legal expenses incurred in ascertaining if defamation had occurred.

A request for an apology was refused by both Councillors.

Whilst Council is not in a position to apologise for the statements made, nor pay the associated legal costs, it would be appropriate for Council to make an apology without prejudice, for any concerns which arose due to the decision making process undertaken by Council in selecting a successful tenderer.

This apology could be given on the basis of the findings of the Inquiry Into the City of Cockburn that *"had the Council based its decision on relevant considerations alone, it would have adopted the recommendations of both the officer's report and the Works and Parks Committee and awarded the tenders to Southern Cross"*.

From Mr Holguin's meeting with Cmr Jorgensen on 20 June, it was evident that Mr Holguin had raised with the Inquiry, the issue of Council's handling of the cleaning contracts. His decision to seek legal assistance did not occur due to any Council actions pertaining to the Inquiry. It is therefore not considered appropriate for Council to reimburse the legal expenses incurred.

It should be noted that the Report by the Inquirer did not make any recommendation in regards to Mr Holguin's request to Mr Douglas, for the payment of compensation for legal costs and stress, nor the making of an apology.

Whilst the recommendation does not provide for any financial compensation to Mr Holguin, it does provide for a "without prejudice" apology.

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

Key Result Areas - "Managing Your City" applies.

### **Budget/Financial Implications**

Funds could be drawn from Account 110312 Investigation Expenses if necessary.

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

Nil

## **12.6 (ocm1\_7\_2000) - PROPOSED POLICY - INTERNAL COMMUNICATION AND INFORMATION DISSEMINATION (1034) (DMG) (ATTACH)**

### **RECOMMENDATION**

That Council adopt Policy C2.5 - "Internal Communication and Information Dissemination" as attached to the Agenda.

### **COUNCIL DECISION**

### **Background**

The issue of redeveloping a process for engaging the Executive and Council team in ongoing dialogue, analysis, responsibility assignment, action planning and review arose as the result of the KPMG Planning Workshop conducted in December, 1999.

Up until the Council was suspended, a process existed for open dialogue between Council and Directors. However, it was rare, if ever, that elected members and the executive team ever attended pre-meeting briefing sessions as a means of clarifying matters which were to be raised at the next Council Meeting.

Attempts to have strategic sessions on key issues such as the Strategic Plan, Henderson Landfill and the CATS computer system also failed to gain high level participation and endeavours to have Saturday morning workshops were a failure.

The intention of this workshop issue, is to get Councillors and Directors together for:-

- Discussions
- Briefings
- Understanding
- Action Planning
- Allocation of Responsibility and
- Feedback

### **Submission**

N/A

### **Report**

The issue itself may be broken down into two parts :-

- 1) Matters which fall out of the Corporate Strategic Plan and their impact on the Principal Activity Plan.
- 2) Other matters going before Council.

Addressing the first issue, it is proposed that Council hold an annual planning workshop.

This would be best held in December of each year. This timing would allow new Councillors to have settled in after receiving the Councillors briefing session, receipt of the Community Needs Survey (3 yearly) and Customer Satisfaction Survey (annually).

At this session, Councillors/Directors would workshop issues relevant to the Corporate Strategic Plan. The session could also be a focal point for a review of the Plan at a time period considered appropriate.

Issues which came forward as the result of developing actions, could impact on the Principal Activity Plan. Therefore it would be an appropriate time for discussion on the Principal Activity Plan as that timing coincides with the review period already established.

Agreed actions, responsibilities and timeframes would then flow into the Staff Service Unit Plans and Performance Appraisals.

The monitoring of the actions could be undertaken by the way of distribution of a status note on each issue. If briefing sessions are maintained, then progress reports could be made at the briefing sessions.

Addressing the second issue, Council should maintain briefing sessions relating to Council agenda issues and other pertinent issues.



Contact has been made with other local governments to ascertain their briefing processes. Advice received is summarised below.

Three councils were contacted, whose processes involve a non-Committee, direct reporting to Council system of decision making. These were:-

- Town of Kwinana
- City of Wanneroo
- City of Joondalup

1. Town of Kwinana - operate a twice monthly Council Meeting cycle. The Agenda is prepared by the Executive team, following agreement by the CEO that all items are sufficiently well documented to support the recommendations made.

The Agenda is circulated to the Councillors 7 days prior to the Council Meeting. Thereafter, Councillors with concerns on any item, are expected to raise these matters with the relevant senior officer in order to clarify their concerns or receive any additional information which will assist them in their deliberations.

When this system was first initiated, briefing sessions were established to achieve the same outcome however, Councillors saw little value in attending these, particularly if there were no issues of concern to any individual Councillor. Accordingly, this practice was abandoned in favour of the current position.

2. City of Wanneroo - is a newly constituted Council and has only been in existence since late December 1999. The meeting cycle of this Council is somewhat unusual. It operates on a mixture of Standing Committees, portfolios and two Council Meetings per month.

Only one Standing Committee meets regularly, on a monthly basis, with the other meeting quarterly or otherwise on an as required basis.

This means that one of the bi-monthly meetings is subject to a Committee Report, while the other is dealt with on a direct reporting basis to the Council Meeting.

It is the direct reporting meeting where Councillor allocated portfolio matters are the main focus. While no formal arrangements are currently in place to process these matters, there is an expectation that Councillors will liaise with senior staff associated with their portfolios on a regular basis to

ensure topical matters are focused on and dealt with as priorities.

3. City of Joondalup - is similar to the City of Wanneroo in that it is a newly constituted Council formed in December 1999, as a result of the split from the former City of Wanneroo.

Joondalup appears to have a much more structured approach to its meeting procedures and is reliant upon the participation of all Councillors and executive staff. It operates a two Council Meeting per month with no Committees system. A draft agenda is prepared for a briefing session to be held seven days prior to each Council Meeting.

Councillors attend the briefing sessions, which are open for the public to observe (note: no public question time).

Each Agenda item is considered at the session where Councillors discuss any items with which they may have a concern or require additional explanation or information. Officers responsible for the reports contained in the Agenda Paper, are given the opportunity to explain the contents of their report and the reasons for their recommendation.

In more complex matters, officers may make a presentation as a means of clarifying or supporting their report, or indeed, if requested to do so by one or more Councillors, on a particular issue of importance or sensitivity.

Discussions on each item concludes with either general agreement with the principles of the report and recommendation or a specific statement by one or more Councillors that they are at odds with all or part of the report and its recommendation and that they will be moving an amendment to the extent of their disagreement.

It should be noted that significant amendments to the recommendations are not made at this stage and the Agenda Paper will contain the same officer reports and recommendations when it is prepared in its final form.

However, minor amendments which have no significant affect on the purport of the recommendation, can be agreed to and reflected in the final Agenda Paper to be prepared for distribution.

Once this process has been completed for each item on the agenda, the final Meeting Business Papers are prepared and circulated.

At the subsequent Council Meeting, each item is considered separately and voted on individually, whether debate occurs or not.

Joondalup also utilises this opportunity to discuss other matters of significance, ranging from issues about which Council staff may be seeking some Council direction or disseminating information on forthcoming Council events, receptions or other matters of local significance.

In addition to this, any detailed presentations of strategic significance, particularly forward planning matters pertinent to the future of the district, are provided at these sessions.

In conclusion, the City of Joondalup briefing sessions are well structured and separate issues to be dealt with in an orderly manner and a participative, collective approach.

The Draft Agenda for these sessions is colour coded into three sections, being :-

**Yellow** Agenda items and attachments for following week's Council Meeting;

- Green**
- (i) items for which Council officers are seeking some direction from Council.
  - (ii) items of a civic nature featuring notification of upcoming events or functions, including announcements of local significance.

**Blue** relating to future issues of an important strategic nature which is likely to be presented to Council in the future (ie: beyond the immediate Council Meeting process)

For Cockburn, it is proposed that briefing sessions be held on the following basis :-

- To consider draft agenda items (Wednesday prior to Council Meeting)
- Non agenda item issues
- Matters of a civic nature (announcements of future civic functions and events)
- Strategic issues - explanation or presentation of important matters likely to affect the district or community in the future.

The attached policy provides the framework.

**Strategic Plan/Policy Implications**

Key Result Area "Managing Your City" refers.

**Budget/Financial Implications**

N/A

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

Nil

**12.7 (ocm1\_7\_2000) - PROPOSED POLICY - RESPONSE TO ENQUIRIES FROM THE STATE OMBUDSMAN (1306) (DMG) (ATTACH)**

**RECOMMENDATION**

That Council adopt Policy C4.4 - "Response to Enquiries from the State Ombudsman" as attached to the Agenda.

**COUNCIL DECISION**

**Background**

At the Special Council Meeting of 23 May, 2000, Council resolved to adopt a Policy and associated administrative procedures to ensure that Ombudsman and other external reviews are equitably treated. This resolution was in response to a recommendation contained in the "Douglas Enquiry" which was critical of Council's handling of the Ombudsman's review of Lot 17 Hamilton Road, Spearwood.

**Submission**

N/A

**Report**

The proposed Policy represents a uniform approach by Council to the treatment of letters requesting information from the Ombudsman.

This will provide guidance to the Mayor and staff in ensuring Council related issues being investigated by the Ombudsman are treated in a consistent manner.

It is considered that the Policy and associated procedures pay due respect to the position and function of the Ombudsman, while allowing a response procedure to be easily followed and monitored to ensure adherence to its principles.

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

Key Result Area "Managing Your City" refers.

### **Budget/Financial Implications**

N/A

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

Nil

## **12.8 (ocm1\_7\_2000) - CITY OF COCKBURN ELECTIONS 6 DECEMBER, 2000 (1700 (DMG))**

### **RECOMMENDATION**

That Council:

- (1) pursuant to section 4.20(4) of the Local Government Act, 1995, declare the Electoral Commissioner to be responsible for the elections to be conducted in the City of Cockburn on 6 December, 2000; and
- (2) pursuant to section 4.61(2) of the Local Government Act, 1995, conduct these elections as postal elections.

**TO BE CARRIED BY A SPECIAL MAJORITY OF COUNCIL**

### **COUNCIL DECISION**

### **Background**

Council previously carried this resolution at its Meeting of 12 October, 1999. However, the Electoral Commissioner has since responded to Council requesting that this decision be re-affirmed once the date of Council elections for the City of Cockburn have been published.

**Submission**

N/A

**Report**

By Gazettal Notice dated 30 June, 2000, the date for elections to be conducted for the election of a Council for the City of Cockburn has been sent down for 6 December, 2000. Hence, it is now appropriate to formalise that these elections be held by postal ballot under the responsibility of the Electoral Commissioner.

**Strategic Plan/Policy Implications**

Key Result Area "Managing Your City" refers.

**Budget/Financial Implications**

Cost of Postal Elections, estimated at \$100,000, is available within the "Governance" function of Council's Budget.

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

Nil

**12.9 (ocm1\_7\_2000) - REVIEW OF WARDS AND COUNCILLOR REPRESENTATION (1035) (DMG) (ATTACH)**

**RECOMMENDATION**

That Council:-

- (1) recommends to the Local Government Advisory Board the making of an Order under Schedule 2.2(9) of the Local Government Act, 1995, to:-

Pursuant to Sections 2.2(1), 2.3(3) and 2.18(3) of the Act,

1. abolish the existing West, North, Coastal, South and East Wards of the City of Cockburn;
2. create three new Wards, being West, Central and East Wards, as designated on the attachment "Preferred Option Ward Structure (Current) and Proposed Suburb Boundaries";
3. reduce the number of offices of Councillor for the District of Cockburn from 14 to 9;

4. appoint three Councillors for each of the West, Central and East Wards, to take effect from the date of the next elections to fill the offices of Councillor; and
- (2) informs the Board of Council's decision taken on 12 October, 1999, changing the method of filling the office of Mayor of the City of Cockburn to be elected by the electors of Cockburn.

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

## **COUNCIL DECISION**

### **Background**

#### **Previous Review**

The last review of the Ward Structure and Councillor Representation in the City of Cockburn was undertaken in 1988. At that time Council maintained a total of 14 Councillors spread across 5 Wards, with a minimum of 2 Councillors to represent each Ward, as illustrated on page 44.

The elector base at that stage was heavily focussed on the West and North Wards and, as a result of the new distribution these Wards were allocated 4 and 3 Councillors respectively to reflect this. Coastal Ward also was allocated 3 Councillors as its quotient was nearly equal to the Councillor / Elector ratio which was the main factor in determining representation at that time.

While South and East Wards were both over represented at that time with 2 Councillors each, the decision was influenced by the knowledge that the bulk of residential development was to occur in those Wards in the future.

#### **Reason for Current Review**

The 1988 structure was an accurate assessment of the requirements at the time and has served the District in an equitable manner (Councillors / Electors) until recently.

It has now become apparent that the regional development occurring in the East Ward and the less than expected development rate of South Ward has made the current allocation redundant.

Another factor which has influenced the need for a review is a finding of the recent survey undertaken in 1999 which highlighted a dissatisfaction in the community with what was a perceived imbalance in representative levels. This perception suggested the community would prefer the Wards to be "equalised" with Councillor numbers being proportionate with the electorate within each Ward.

### **Resolutions of Council**

Previous recent Council decisions in relation to this matter are as follows:-

- (a) At its November 1998 Meeting, Council resolved to:
  - (1) take no action in respect to changing Ward boundaries at this stage, due to the insignificant effect any change would have on the current status;
  - (2) consider the matter further in early 1999 following the preparation of a Report covering a variety of options open to Council, in accordance with Schedule 2.2 of the Local Government Act 1995, for possible implementation in time for either the 2001 or 2003 Elections;
- (b) At its 8 June 1999 Meeting, Council resolved:
  - (1) to engage the services of a Market Research consultant to undertake an opinion survey on the District on the topics of Councillor/Ward Representation, Method of Election of Mayor and Postal Voting;
  - (2) the survey document be approved by Commissioners prior to the commencement of the research program;
  - (3) the Minister for Local Government be informed of Council's decision;
  - (4) prior to conducting the survey, Council staff initiate a balanced information dissemination campaign through the local media and Cockburn Soundings, to ensure the community is informed of the pros and cons of each of the issues to be covered in the survey.
- (c) At its 12 October 1999 Meeting, Council resolved to:
  - (1) pursuant to section 2.11(2) of the Local Government Act, 1995, change the method of filling the office of Mayor of the City of Cockburn to be elected by the electors of Cockburn under Part 4 of the Act; and



- (2) require Administration to prepare a Report providing options for Ward Boundaries and Councillor representation numbers to include the immediate, medium and long term future scenarios, with the information provided to take into consideration, the findings and recommendations of the "Community Representation Survey" recently undertaken by Australian Marketing Intelligence.

**NOTE:** Subsequent to this latest Council resolution, Council staff have compiled a variety of alternative scenarios using the most up to date demographic data available and presented these in a report to Council, as follows.

- (d) at its 16 May, 2000 Meeting, Council resolved to
- (1) endorse Option 6 of the Report as that choice which is most appropriate to determine the future Ward Boundaries and Councillor numbers for the City of Cockburn, based on its relevance to the findings of the recent Community Survey conducted on this matter;
  - (2) formally advertise its intent to review Ward Boundaries and Councillor numbers, in accordance with the provisions of the Local Government Act, 1995, and invite public submissions on the review, to be accepted by Council for a period up to and including 30 June 2000, with the intention of further considering the issue at the July 2000 Council Meeting;
  - (3) in conjunction with sub-recommendation (2) above, publicise the option for public comment via the "Cockburn Soundings" to be distributed to
    1. all residences, and;
    2. businesses which may be affected by any proposed suburb boundary changes;

and at Council's Administration Building, Libraries and South Lake Leisure Centre;
  - (4) ensure the information produced contains sufficient details on the implications of the changes the proposal would have on the status quo should it be implemented, particularly as it relates to the amendment to the suburb of Bibra Lake in the short term; and
  - (5) advise the Minister for Local Government of Council's decision.

**Submission**

N/A

**Report****CURRENT WARD STRUCTURE (MAY 1999)**

<b>WARD NAME</b>	<b>NO. OF COUNCILORS</b>	<b>NO. OF ELECTORS</b>	<b>RATIO COUNCILLORS / ELECTORS</b>	<b>AREA</b>
<b>WEST</b>	4	11103	1 : 2774 (-4%)	1,181ha
<b>NORTH</b>	3	8916	1 : 2972 (+2%)	1,752ha
<b>COASTAL</b>	3	8282	1 : 2761 (-5%)	2,888ha
<b>SOUTH</b>	2	4687	1 : 2344 (-19%)	3,141ha
<b>EAST</b>	2	7608	1 : 3804 (+31%)	5,836ha
<b>TOTAL</b>	14	40596	1 : 2900	14,798ha

A map of this structure is illustrated in the attachments.

**THE REVIEW PROCESS****Publicity and Promotion**

The Review, having been resolved to be undertaken by Council on 16 May, 2000, was formally advertised in the Cockburn Herald Newspaper on 20 May, 2000, and the Cockburn Gazette Newspaper on 23 May, 2000, advising the public that submissions on the review could be made for a six week period, closing on 30 June, 2000.

In addition to this Notice being placed on the Notice Boards of Council facilities, a display has been set up at Council's Administration Building, two Libraries and South Lake Leisure Centre. The display features the preferred option endorsed by Council (in both its short term and ultimate forms) and the Ward structure in its current form.

In addition, the Options Paper and Community Survey Results Report are available for public perusal at these facilities to enable interested residents the opportunity to familiarise themselves with the review process.

Furthermore, information on the review was included in the June edition of Council's Newsletter, which is circularised to all households in the District. Both local newspapers also ran editorial articles on the matter.

## Submissions Received

## SCHEDULE OF SUBMISSIONS

No	Name and Address	Submission (abbreviated)	Council Comment
1.	L P Humphreys 43/79 Waverley Road, Coolbellup, 6163	<ul style="list-style-type: none"> <li>Proposes retain 5 Ward Structure, as illustrated at Option 11, with 2 Councillors per Ward.</li> </ul>	<ul style="list-style-type: none"> <li>This Option satisfies most of the criteria with the exception of Councillor / Elector ratio in the short term, even though this Option does equalise this criteria when the Council is ultimately developed. Another factor against this submission is that it does not allow for any increase in Councillors as the District grows, without creating the same potential for the irregularities that have occurred in the current system, that is, there could be a tendency to allocate Councillors to satisfy the imbalance which is apparent in the short term, thus creating the inequity which was perceived in the Survey results.</li> </ul>
2.	John Cooper 21 Counsel Road Coolbellup, 6163	<ul style="list-style-type: none"> <li>Proposes a 4 Ward structure, each with 3 Councillors, by combining North and West Wards with the remaining 3 Wards remaining "largely untouched".</li> </ul>	<ul style="list-style-type: none"> <li>Similarly to submission 1, this submission generally satisfies the criteria and could be accommodated in Option 8. However, this proposal, like submission 1, does not allow for an increase in the number of Councillors, on an equitable basis, to accommodate for the future growth of the District. This could only be achieved if the initial allocation was for 2 Councillors per Ward (a total of 8) plus an elected Mayor, which would then leave the elected membership short of the optimum numbers (between 10-15) as indicated in the</li> </ul>

No	Name and Address	Submission (abbreviated)	Council Comment
			Survey.
3.	Jeff Capper 14 Ebert Street Coolbellup, 6163	<ul style="list-style-type: none"> <li>Proposes that the status quo should remain, at least for North Ward boundaries.</li> </ul>	<ul style="list-style-type: none"> <li>There is no proposal in the Option Paper which leaves the current boundaries of any Ward intact, as it was a finding of the Survey that Ward boundaries which are not aligned with suburb boundaries are inappropriate, because of the confusion of residents living in the same suburb but being in different Wards for election purposes.</li> </ul>
4.	Wendy Blake 24 Caliban Way Coolbellup 6163	<ul style="list-style-type: none"> <li>Proposes that there should be no reduction in the number of elected Councillors whatever the Ward system.</li> </ul>	<ul style="list-style-type: none"> <li>If this proposal were to be upheld it would be difficult to satisfy the Councillor / Elector ratio criteria, as the current number of Councillors, if retained, would represent the maximum number possible, with the advent of a Mayor to be elected by the people. Consequently, there is no scope in this submission to cater for equalisation of representation to allow for the natural growth of the District.</li> </ul>
5.	Vanessa Minervini U2, 7 Marmand Crt Coogee 6166	<ul style="list-style-type: none"> <li>While no specific submission proposing changes to the status quo was forthcoming, this response registers concerns that a reduction of Councillors will create an unduly large workload on the incoming Councillors.</li> </ul>	<ul style="list-style-type: none"> <li>Essentially the same response as at submission 4 above.</li> </ul>
6.	Rex Sallur 10 Corn Way Bibra Lake 6163	<ul style="list-style-type: none"> <li>Proposes to retain the current structure and re-allocate 1 West Ward Councillor to East</li> </ul>	<ul style="list-style-type: none"> <li>While this proposal has been touched on in the Option Paper Report, it is considered that it should</li> </ul>

No	Name and Address	Submission (abbreviated)	Council Comment
		Ward.	not be upheld because it is at odds with the Survey finding which highlighted a dissatisfaction with residents who perceived an inequity in the differing number of Councillors allocated to represent each Ward within the City, as it is currently structured. This proposal, while addressing that imbalance between West and East Wards, does not allow the ratio to be extended to South Ward, which will never be able to equalise Councillor numbers because no further Councillors can be appointed (i.e. 14 Councillors plus an elected Mayor is the total quotient available within the Local Government Act).
7.	J E Knox 40 Lorimer Road Wattleup 6166	<ul style="list-style-type: none"> <li>Proposal suggests 4 Wards be established, 2 Wards having 4 Councillors and 2 Wards having 3 Councillors.</li> </ul>	<ul style="list-style-type: none"> <li>The same inequity issue as apparent with submission 6 applies here.</li> </ul>
8.	William & Patricia Mellor 46 Quince Way Coolbellup 6163	<ul style="list-style-type: none"> <li>Proposal considers the preferred (3Ward) Option in its ultimate format is most suitable.</li> </ul>	<ul style="list-style-type: none"> <li>It is agreed that the ultimate version of the preferred option is most satisfactory in that it adequately addresses each of the criteria in a most complete manner. However, if it were to be implemented in the short term, it would be difficult to satisfy the Councillor / Elector criteria which would be disproportionately high for West Ward, compared to the other 2 Wards for the next 7-8 years.</li> </ul>

No	Name and Address	Submission (abbreviated)	Council Comment
9.	Tresna & Ian Street 18 Riversdale Pass Jandakot 6164	<ul style="list-style-type: none"> <li>• Proposal considers the preferred (3 Ward) Option in its ultimate format is most suitable.</li> <li>• Proposal suggests another name (St Pauls) for the excised part of Bibra Lake (between North Lake Road and Stock Road).</li> </ul>	<ul style="list-style-type: none"> <li>• Same comment as for submission 8 above.</li> <li>• The re-naming of (part of) Bibra Lake is a process to be undertaken separately and will be subject to extensive consultation with affected residents / businesses prior to being progressed. In any case, that issue has no effect on the process of restructuring the Wards.</li> </ul>
10.	Colin Crook 1(b) Doolette St Spearwood 6163	<ul style="list-style-type: none"> <li>• Supports Council's preferred (3 Ward) Option.</li> </ul>	<ul style="list-style-type: none"> <li>• No comment required</li> </ul>
11.	Richard Graham 8 Bree Close Atwell 6164	<ul style="list-style-type: none"> <li>• Supports Council's preferred (3 Ward) Option.</li> </ul>	<ul style="list-style-type: none"> <li>• No comment required.</li> </ul>

A copy of each of the submissions, as received, is attached.

In summary, it is considered that the preferred Option best addresses the future development of the City by generally standardising representation levels and being able to make adjustments to Councillor numbers to reflect this, on a consistent basis, over time.

The submissions which propose other options do not address the future development factor, which will add to the burden of Councillors appointed at the next election who will have to cope with an increased elector base without having the ability to increase Councillor representation on an EVENLY DISTRIBUTED basis.

Therefore, it is submitted that Council's preferred Option should be adopted, as it allows for a future scenario which enables Councillor representation to be increased on an even and rational basis with the development of the District.

### **CONSIDERATION FACTORS RELEVANT TO THE PROPOSAL**

#### **Community of Interest**

##### **(a) West Ward**

## **Residential Development**

Historically, the Cockburn District was founded on the urban areas of Hamilton Hill and Spearwood. Residential growth has radiated from these suburbs, which grew as a result of the expansion of Fremantle. The suburb of Coogee has for many years been linked as a coastal recreational area for residents of the Region. Going back in time, the primary users of the Coogee Beach area were those who had easiest access to it. This, of course, meant that Coogee Beach was readily available for people living in Spearwood and Hamilton Hill to frequent. The suburb of Coogee itself became a popular beachside residential area in the 1960's and a small residential cell was established on the foreshore side of the limestone ridge which runs parallel to the coast. In more recent times, the land has been largely redeveloped as a high quality residential estate and given the name "Cockburn Waters", symbolising the views of Cockburn Sound available to residents living in this location. Many of the residents of Coogee have strong affiliations with what was the traditional Spearwood market garden area, having either farmed land in the District or are related to those who did. Hence, the proposed West Ward has a strong community of interest component, based on historical ties to the relevant suburbs.

## **Services and Facilities**

The three suburbs comprising the Ward are primarily fully developed residentially and are serviced by a strong and vibrant commercial and business sector located in Spearwood and Hamilton Hill. Within each suburb there exists an adequate spread of educational facilities, including Hamilton Hill High School, which is situated on the boundary of Hamilton Hill and Coolbellup.

Significant sporting and recreational facilities located in the Ward are Davilak Oval and Clubrooms, in Hamilton Hill and Joe Cooper Recreation Centre, in Spearwood. Each suburb contains its own community hall to facilitate more localised community interaction.

### **(b) Central Ward**

## **Residential Development**

The suburbs of the Central Ward generally share the common bond of being those associated with the early residential expansion of the district to the east and south. This commenced in the 1970's with the development of Coolbellup as a State Housing project, to complement earlier developments of a similar quality in neighbouring Hamilton Hill and Hilton.

Coolbellup is unique in that it is now experiencing major refurbishment as a result of joint public / private sector investment. As a result, many of the original public housing inhabitants are now able to participate in

the rejuvenation of their suburb or, alternatively, may choose to retain the lifestyle they were brought, or born, into previously. Many second generation Coolbellup citizens view the opportunity to remain in the suburb they were raised in as one which is too good to miss.

Following on from the original Coolbellup Development, more traditional housing growth was occurring to the south in the suburbs of Munster and Yangebup. These developments, have commenced in the 1980's, continue to expand today, and are joined by new residential development in Beeliar.

### **Other Land Uses**

At the southern end of the Ward, rural pursuits continue to be the short term focus of Wattleup, although its future seems to be as an extension of the Kwinana Industrial area.

The suburbs of Henderson and Bibra Lake (West) are largely industrial, although highly diverse in the nature of their activity. A high standard residential development, known as "St Pauls" is nestled between Bibra Lake Industrial Estate and Coolbellup.

Also located in this Ward is a large local industry, being Cockburn Cement works, located adjacent to Henderson in southern Munster. As a result of the location of this, and other industry further south, an industrial buffer zone impacts on these and the adjacent suburbs of Central Ward.

### **Environmental Factors**

It is in this regard that a strong community of interest becomes evident. It is the suburbs of Central Ward which are most affected by the location, or impact, of industrial development in and to the south of Cockburn.

Residents in these suburbs are, jointly, those whose lifestyle is most affected by the environmental outputs of these industries.

A local lobby group, Community Network, comprises people predominantly from the suburbs within this Ward to act on behalf of concerned citizens with regards to the following issues which are relevant to the Ward:-

- Environmental factors affecting Woodman Point, in Munster.
- Construction of the Jervoise Bay reclamation project at Henderson.
- Proposed industrialisation of Wattleup Townsite.
- Wetlands rehabilitation and conservation in Yangebup, Beeliar, Munster and Wattleup.
- Industrial proposals in (West) Bibra Lake.



## **Services and Facilities**

While the Ward comprises an adequate spread of community services and facilities in the more established suburbs, new Council provided infrastructure will be established in the developing suburb of Beeliar into the future. This can be illustrated by reference to the attached document "Community Facilities Proposed 10 Year Infrastructure Plan".

### **(c) East Ward**

#### **Residential Development**

Not surprisingly, East Ward suburbs are related by being the most recent addition to the residential housing stock in Cockburn.

The suburbs of Bibra Lake and North Lake started the urbanisation of the area in the early 1980's as quality residential areas established in the vicinity of significant wetlands.

South Lake followed some years later to cater for the more moderate housing price bracket.

Leeming (south of Melville) followed in the 1990's as the final stages of that suburb were urban filled. In the mid 1990's, new land holdings were released and the new suburbs of Atwell and Success created for the young family market.

#### **Other Land Uses**

Adjoining these rapidly developing residential areas, Jandakot and Banjup remained for those who prefer semi-rural and rural lifestyles.

A small section of Jandakot, abutting the Kwinana Freeway, was developed as a high quality "golf course" estate in recent times.

The busy Jandakot Domestic Airports is a relevant factor which impacts most on the East Ward community. Aircraft flight paths and take off / land patterns are being constantly monitored and regularly adjusted in an effort to share the impact between the adjoining suburbs over time.

A number of sand mining and quarrying operations are also present in this Ward, mainly in the rural parts of Jandakot and Banjup.

#### **Environmental Factors**

Despite the demand for land development in this Ward, the Jandakot Water Mound is a most significant environmental factor in the area.

As the major underground water supply for the South Metropolitan Region of Perth, strict conditions are applied to any approvals involving development over the mound, which spans most of the East Ward and its component suburbs.

As previously mentioned, aircraft noise emanating from Jandakot Airport is a common factor across East Ward suburbs.

An Action Group, comprising of concerned residents living near the airport, has been formed, with the Cockburn representatives all coming from East Ward suburbs.

The major road link connecting Perth to Rockingham, the Kwinana Freeway, has its entire length within Cockburn traversing the East Ward. Its alignment forms the boundaries of most suburbs in the Ward.

### **Services and Facilities**

Like the neighbouring Central Ward, the East Ward contains most of the services and facilities required of its population.

A Regional Centre has been established at the junction of the suburbs of Success, Atwell and Jandakot.

A major shopping centre has already been established on the site with the land set aside for a Sporting Complex, Commercial Centre and Community and Civic Buildings in the future.

With many new facilities still to be established throughout the Ward, (see attached "10 Year Infrastructure Plan") the residents of East Ward will be optimistic of enjoying the full range of both public and privately provided services and facilities in the future.

### **Conclusion**

On balance, it is considered the proposed three Ward structure can be justified when measured against the criterion of Community of Interest.

As development occurs in the future, this connectivity is likely to become slightly less obvious in areas at the physical extremities of both the Central and East Wards.

However, this should not detract from the obvious shared interests which have been identified independently within each of the three proposed Wards.

The future of this proposal, when the District is ultimately developed, can also be justified, as illustrated by the relatively minor modifications

required to the Ward boundaries to accommodate the eastward development of the District in the future.

### **Physical and Topographical Features**

The major physical feature of the proposed Ward Boundaries is that they are aligned, in all but one case, with suburb boundaries. This has been consciously done in response to the findings of the 1999 Community Survey which identified that many electors are confused at having Ward boundaries which cross over suburb boundaries, effectively separating residents of the same suburb into different Wards.

Many people appear dissatisfied with this division, which has the effect of people possibly not being able to vote in elections, where they reside on the other side of the boundary, even though they live in the same suburb.

This frustration will be eliminated by using suburb boundaries as the dividing feature between Wards, as electors will know that their entire suburb will be contained within one of the nominated Wards.

The one exception to this scenario is that it is proposed to dissect the current suburb of Bibra Lake into two suburbs, using North Lake Road as the defining boundary. This will create two distinct suburbs - the traditional residential area to the east of Bibra Lake wetlands and the newer residential and light industrial area to the west in the suburb proposed to be named in the future.

The policy of containing entire suburbs within Wards fits well with this proposal in the long term, as well as the immediate short term and gives residents a reasonable assurance that there will be no major shift in their circumstances from now until when the District is ultimately fully developed.

### **Demographic Trends**

The demographics of Cockburn are reasonably easy to identify at this stage. The more established suburbs are typically populated by older residents. This is most evident in the suburbs of Spearwood and Hamilton Hill which are located in the proposed West Ward and comprise largely of mature couples with adult offsprings.

The next obvious demographic level is that comprising home owners who have bought and/or built in the area during the 1980's.

Typically, this population consists of middle aged couples with teenage children, located in the suburbs of Yangebup, Bibra Lake, South Lake and Leeming.

The final noticeable demographic trend appears in the most recently developed residential areas where young families are choosing to reside. The suburbs of Atwell, Success and Beeliar are the best example of this.

It is quite apparent that as the District continues its urban development trend to the southern and eastern suburbs, more young families will inhabit these areas.

Consequently, this is likely to see a corresponding aging of the population in the established areas as this development occurs.

The primary significance of this tendency is that the elector base is likely to develop a noticeable south and east ward trend as children mature to adulthood. It is expected that ward boundary changes will be required in the future to reflect that, and in any case, the more densely populated suburbs at the moment will face a "catch up" in elector ratio by the more recently established suburbs as the population matures.

The proposed three Ward structure properly accommodates this occurrence and is reflected by the need to make only minor amendments to the entire structure between the present and ultimate stages of development.

**ECONOMIC FACTORS**

Primarily, there is a reasonable equity in economic factors demonstrated across the three Wards. This can be demonstrated by the following tables which consider the District rate base:-

**% of Rate Revenue Collected**

West	33%
Central	31%
East	36%

**Number of Rateable Properties**

West	35%
Central	32%
East	33%

**% Assessments Issued as per land use**

West	36%
Central	31%
East	33%

**Commercial / Industrial**

West	59%
Central	26%
East	15%

**Rural / Special Rural**

West	Nil
Central	48%
East	52%

These figures tend to indicate a general equality of rates distribution across the Wards, as well as identify the land usage relevant to each Ward.

The differential in land usage properties is a reflection of the zonings relevant to the Wards and verifies the make-up of the Wards as they fit into the overall structure of the District.

**RATIO OF COUNCILLORS TO ELECTORS**

The Ward structure, as proposed, is shown below in respect of the criterion of Councillor to Elector ratio.

**Short Term Current Scenario**

<b>WARD NAME</b>	<b>NO. OF COUNCILORS</b>	<b>NO. OF ELECTORS</b>	<b>RATIO COUNCILLORS / ELECTORS</b>
1. WEST	3	15,946	1 : 5315 (+16%)
2. CENTRAL	3	12585	1 : 4195 (-8%)
3. EAST	3	12528	1 : 4176 (-8%)
TOTAL	9	41,059	1 : 4562

**Long Term Ultimate Scenario**

<b>WARD NAME</b>	<b>NO. OF COUNCILORS</b>	<b>NO. OF ELECTORS</b>	<b>RATIO COUNCILLORS / ELECTORS</b>
1. WEST	4	24320	1 : 6080 (-4%)
2. SOUTH	4	26340	1 : 6585 (+4%)
3. EAST	4	25340	1 : 6335 (-)
TOTAL	12	76000	1 : 6333

In addition to the original allocation of 9 Councillors spread more evenly across the three Wards, it is Council's wish to have the Mayor independently elected by the people, making a total of ten elected members to represent the Cockburn community in the short term.

This desire is a reflection of the community consultation process undertaken in 1999, which clearly identified the public's view was that the Mayor should be publicly elected and not selected by their peers.

**Strategic Plan/Policy Implications**

Key Result Area "Managing Your City" refers.

### Budget/Financial Implications

Minor expenditure required for consultation and administration of proposed change of suburb name (West Bibra Lake). Provided for in Council's Governance Operating Expenditure.

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

Nil

## 13. PLANNING AND DEVELOPMENT DIVISION ISSUES

### 13.1 (ocm1\_7\_2000) - PROPOSED TOWN PLANNING SCHEME NO. 3 - SUBMISSIONS AND FINAL ADOPTION (9485) (SMH) (ATTACH)

#### RECOMMENDATION

That Council:

- (1) receive the report;
- (2) agree to consider the late submissions received after 11 May 2000, and include them in its recommendations;
- (3) the following changes be made to the Scheme Text:
  1. Technical up-grades to the text made on the advice of officers:-
 

**Refer to Schedule 1**
  2. Modifications to the Text in accordance with the recommendations made in respect to each of the submissions contained in the Schedule of Submissions attached to the Agenda:-
 

**Refer to Schedule 3**
- (4) the following changes be made to the Scheme Map:-
  1. Technical up-grades to the Scheme Map made on the advice of officers:-
 

**Refer to Schedule 2**
  2. Modifications to the Map in accordance with the recommendations made in respect to each of the submissions contained in the Schedule of Submissions

attached to the Agenda:-

**Refer to Schedule 3**

- (5) proceed with proposed Town Planning Scheme No. 3;
- (6) adopt proposed Town Planning Scheme No. 3 with the modifications contained in (3) and (4) above and forward the Council decision to the Western Australian Planning Commission requesting that the Hon. Minister for Planning grant final approval under Town Planning Regulation 21;
- (7) in anticipation of the Hon. Minister for Planning granting final approval, the proposed Scheme Text and Scheme Map be modified in accordance with the Council decision and the documentation be signed by the Chairman of Commissioners and the Chief Executive Officer ready to be forwarded to the Western Australian Planning Commission upon receipt of the Hon Minister's advice under Town Planning Regulation 24;
- (8) advise each person who made an individual submission or a submission on behalf of a group of persons, an organisation or petitions of the Council's decision.
- (9) Council adopt Policy PD49 - 'Town Planning Scheme No. 2 Amendments Following Final Adoption of Proposed Town Planning Scheme No. 3' attached to the Agenda, for the purpose of advertising under clause 11.11.1 of Town Planning Scheme No. 2.

**COUNCIL DECISION**

**Background**

Town Planning Scheme No. 3 public comment period was commenced on 11 February 2000 and closed on 11 May.

The advertising requirements set down by the WAPC together with the Town Planning Regulations were complied with.

In addition to the above requirements the Council:-

1. Posted to every property address in the district a copy of a Town Planning Scheme No. 3 brochure which set out in brief terms the purpose and contents of the proposed scheme and invited

submissions. In the order of 27,000 brochures were distributed by Australia Post.

2. Permanent public displays were mounted in the Administration Centre, the Spearwood Library and the Coolbellup Library. At each location a box was located to receive any submissions.
3. At the Spearwood Library copies of the Local Planning Strategy and Scheme Text were available for the public to borrow.
4. The Local Planning Strategy, Scheme Text and Map were put on the Council Web Site.
5. Mobile public displays were erected at the Gateways and Phoenix Park Shopping Centres on weekends and on late night shopping manned by 2 officers in order to respond to public enquiries.
6. Mobile public displays were erected at the Council Halls at Banjup, Wattleup, Civic Centre, Memorial and Coolbellup during afternoons and evenings, manned by 2 officers in order to respond to public inquiries.
7. Forms were available for people to request more or particular information which was either posted out or faxed to inquirers.
8. Sector maps were available on request covering each of the 4 quadrants of the district for both TPS No. 2 and proposed Scheme No. 3 so that interested people could compare changes in their locality. These were posted out.

The display methods used were well attended by the public and the scheme proposals were given a high level of exposure.

### **Submission**

At the conclusion of the public submission period there were 78 submissions received which included 2 petitions with 23 and 28 signatures on each.

The submissions have been categorised into the following groupings:-



Group	Topic	No. Submissions
<b>Support</b>		
1	Support Proposals	5
<b>Objections / Comments</b>		
2	Residential Zone - Specific Sites	10
3	Residential Zone - General	4
4	Business Zone - Phoenix Road ( 1 petition 28 signatures)	3
5	Mixed Business Zone - Individual Sites	8
6	Local Reserve - TAB	1
7	Special Use Zones	3
8	General Industry Zone (1 petition 23 signatures)	7
9	Roads and Highways	3
10	Public Open Space, Environment and Bushland	3
11	General Matters and Multiple Topics	16
12	Scheme Text Provisions	15
13	Late Submissions	12
<b>Total</b>		<b>90</b>

Each of the submissions was promptly acknowledged in accordance with Regulation 16.

Under Regulation 17, the Council has 6 months to make its report to the WAPC on the submission, together with its recommendations on any modifications that should be made to the scheme prior to final adoption. This is by November 2000.

All the legitimate submissions were forwarded to Mrs Julie Brunner, Consultant Town Planner, to summarise and report on. The recommendations made by Mrs Brunner were finalised in consultation with the Director Planning and Development before the report on the submissions was submitted to the Council for its consideration and recommendation to the WAPC.

The use of a consultant was beneficial in that it enabled an independent assessment to be undertaken which can have a positive effect on the approach to some aspects of the scheme and the recommendations on the submissions.

## Report

The recommendation to Council has been divided up into changes to the Scheme Text and Map initiated by staff.

- correct drafting and typing errors
- changes between draft MST and gazetted version of the MST
- clarify ambiguous clauses
- include recent relevant amendments to TPS No. 2
- respond to legislative and legal decisions that have occurred since the scheme was granted approval to advertise.

These recommended changes are contained in Schedules 1 and 2 attached to the Agenda.

Under the Town Planning Regulation 17, the Council is to consider each of the submissions received and to make recommendations accordingly. A survey of the submissions together with officer comments and recommendations is contained in the Schedule of Submissions attached to the Agenda. Refer to Schedule 3.

The Schedule of Responses also includes 12 submissions (out of a total of 90) that were received after the closing date, but despite this it is considered in the circumstances that comments and recommendations be made on these given the importance of the proposed district scheme.

The Council has no obligation to take account of submissions which are received after the closing date.

It should be noted that there were no submissions on the Local Planning Strategy.

Because it may take some months before the WAPC / Minister agree to the finalisation of Town Planning Scheme No. 3, it is necessary that Council adopt a Policy to deal with Amendments to Town Planning Scheme No. 2 in the interim. Policy PD49 is proposed.

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

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

#### Planning Your City

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

#### Conserving and Improving Your Environment

- *"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*
- *"To conserve the character and historic value of the human and built environment."*

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

#### Facilitating the needs of Your Community

- *"To facilitate and provide an optimum range of community services."*
- *priorities of the services provided by the Council."*
- *"To determine by best practice, the most appropriate range of sporting facilities and natural recreation areas to be provided within the district to meet the needs of all age groups within the community."*

#### Budget/Financial Implications

The Council set aside \$50,000 for the preparation of Town Planning Scheme No. 3 as at the end of May 2000.

Account	Budget	Expenditure	Balance
500476 (legal)	\$5,000	\$0	\$5,000
500474 (publicity)	\$45,000	\$26,273	\$18,727
<b>Total</b>	<b>\$50,000</b>	<b>\$26,273</b>	<b>\$23,727</b>

Claims from Mrs Julie Brunner have yet to be received for processing the submissions.

The preparation of TPS No. 3 in-house, using the Model Scheme Text has resulted in the Council saving a large amount of money in the preparation of a Local Planning Strategy, Scheme Text and Scheme Map. To have contracted out this work would have been very expensive, based on the costs expended by other comparable local governments.

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

The preparation of a Town Planning Scheme for the district is a requirement under the Town Planning and Development Act.

### 13.2 (ocm1\_7\_2000) - FUNDING FOR UNDERGROUND POWER IN HAMILTON HILL REDEVELOPMENT AREA (9512) (SR) (ATTACH)

#### RECOMMENDATION

That Council:

- (1) contribute \$59,071 for the 50 percent cost contribution towards underground power in the Hamilton Hill Redevelopment Area;
- (2) contribute no further monies to this project;

- (3) advise Homeswest and Sinclair Knight Merz of Council's decision accordingly; and
- (4) instruct the Director Planning to develop a policy with regard to underground power with the district.

## COUNCIL DECISION

### Background

Council has received a request for payment for monies owing to Homeswest, in regard to the Underground power installation in the redevelopment area in Hamilton Hill.

The redevelopment area refers the land bounded by Hurford Street to the east, Healy Street to the north, Carter Street to the west and Stratton Street to the south. This area was redeveloped by Homeswest, which included a rezoning of the land to higher density (R20/ R30/ R40) and creation of new street and lots. The land was sold off to the market, and the majority of houses in the area are now privately owned.

As a part of the redevelopment process, it was resolved that Council would make a 50% financial contribution to the undergrounding of the existing over head power lines in the area. Council resolved at its Ordinary Meeting held on the 5 July 1994 the following:

*"(1) Homeswest be advised that Council is prepared to contribute 50% of the costs of putting existing power lines in Bottrill Street, Ommanney Street, Smullin Street and Carter Street (south of Ommanney Street) underground on the understanding that Homeswest will prefund the works for repayment over 3 years. This agreement is on the understanding that the costs to Council are in the order of \$1000 per lot created in the existing streets that do not also have frontage to a newly created street;"*

It was estimated in this Council report that the cost to Council should not exceed \$100,000.00. Refer to Agenda Attachments for copy of the Council report, dated 28th June 1994 for further details.

Council then resolved at its meeting on the 4 April 1995 to not finally agree to fund the proposal until Western Power provided detailed written costings, and that Department of Energy provide a guarantee that neither Council nor residents would be liable for house rewiring as a result of providing underground power.

Further details of costs were detailed in a fax received from Homeswest, dated 11 April 1995 (refer to Agenda Attachments for copy of the fax)

Council received its first invoice from Homeswest in September 1996, and \$30,090.00 was forwarded to Homeswest in October 1996.

No further invoices were received from Homeswest, however in June 1998 Council investigated the matter to resolve what monies were owing to Homeswest, and Council was advised the following:

1. By the end of the 1998 financial year works would have completed on Stage 2 and 3, and the contribution cost required from Council would be \$ 24,350.00;
2. By the end of the 1999 financial year all stages would be complete and the contribution cost required from Council would be \$35,000.00

### **Submission**

Council has been advised that it owes a total contribution of \$138,005.76 towards the underground power electrical outlays in Hamilton Hill redevelopment Stages 1-4. Council has already paid \$33,099.00 towards this cost in October 1996, which leaves the outstanding amount owing as \$104, 907.00. Refer to Agenda Attachments for a copy of the advice letter from Sinclair Knight Merz (the consultant engineers) dated 3 April 2000.

Council currently has \$59,071 on budget for the payment of underground power in the Hamilton Hill redevelopment area, which reflects the amount estimated by Homeswest in June 1998 as being required to complete the works.

### **Report**

There has been a failure by Homeswest to properly advise Council (since their June 1998 advice) of the significant increase in the project costs. Homeswest's Engineer's explanation of the cost increase is included in their letter dated 8 June 2000 (attached to Agenda).

Council has had no control over the Western Power cost increases that have occurred over the five (5) year period since the cost-sharing agreement was made. Notwithstanding this, the officer opinion is that the works up to date have been completed to the satisfaction of Council, but additional monies not be paid.

Council has \$59,071 in the current budget but would require another \$45,836.00 to pay the remainder of the \$104,907. This represents an

additional cost of approximately \$38,000 or 27.5 percent over the cost originally agreed by the Council when the agreement to part fund the works was made. A total cost to Council of \$100,000 was contemplated when the agreement was made in 1994. The resultant increase is significant and therefore should not be funded.

The engineers have indicated that Council can make the instalments payments over the next 24 months, and that any further works that may be required will be itemised separately.

Homeswest's Engineers have also identified the potential to 'finalise' the undergrounding of power in the redevelopment area by a minor extension of the works to include a 200 metre section of Stratton Street at the southern edge of the project area. Council has also been requested to consider part funding (50%) this section with Homeswest at a further cost of \$15,000 (Council 50 percent contribution. This should not be funded.

Further extensions of underground power conversions should only be considered in the future in cases where increases in the density of existing suburbs to promote redevelopment occur. This may result from completion of the sewer infill programme and could be justified in cases where there is general community support for funding and /or developer funding arrangements can be put in place.

A 1999 Community Survey in Coolbellup, part of North Lake and Spearwood identified that the required 75 percent of these ratepayers were not prepared to fund the conversion of existing overhead power to underground power.

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

The upgrading of streetscape appearance and the provision of underground power have, however, been identified recently as significant issues from the recent Community Survey conducted for the City of Cockburn (Australian Market Intelligence, 1999).

Council contribution towards the conversion of overhead power to underground power is consistent with the following Strategic Plan objective:

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

### **Budget/Financial Implications**

The amount of \$59,071 listed in the 1999/2000 budget as a contribution towards the underground power in Hamilton Hill, is to be carried forward to the 2000/01 financial year. No further funds are

available to satisfy the requests of Homeswest and Sinclair Knight Merz.

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

The State Government has committed \$24 million to attract matching local government funding for a number of underground power projects in the State over the past three years funded by a combination of State, Local Government and landowner sources. Council's cost-sharing agreement with Homeswest predates the commencement of those projects.

### **13.3 (ocm1\_7\_2000) - IMPLICATIONS OF SECTION 3.18(3) LOCAL GOVERNMENT ACT, 1995 - INSPECTION OF SMALLGOODS MANUFACTURERS AND MEAT ROOMS (1332) (6202) (WJH)**

#### **RECOMMENDATION**

That Council:

- (1) discontinue the practice of Council Environmental Health Officers accompanying Health Department of WA Officers during the auditing of high-risk meat premises; and
- (2) advise the Executive Director of Public Health accordingly.

#### **COUNCIL DECISION**

### **Background**

This report has been prepared in response to Section 3.18(3) of the Local Government Act 1995. This section states that:

“(3) *A local government is to satisfy itself that services and facilities that it provides –*

- (a) *integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State and any public body;*
- (b) *do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and*

(c) *are managed efficiently and effectively.”*

The majority of Council's Health Services are provided under the provisions of the Health Act 1911 and the Environmental Protection Act 1986. Other acts such as the Caravan Parks and Camping Grounds Act 1995, the Tobacco Control Act and the Liquor Licensing Act 1991 also influence service provision.

The Health Act 1911 (the Act) is the principal act that determines service provision by Council's Health Service. The Act covers a wide range of public health issues and provides the head of power for approximately thirty sets of regulations and Council's Health Local Laws.

Section 26 of the Act provides that:

*“Every local government is hereby authorized and directed to carry out within its district the provisions of this Act and the regulations, local laws, and orders made thereunder...”*

And Section 343A(4) requires that:

*“A local government is to administer any regulation made under this section to the extent that it relates to any place where the local government may perform functions, as if the regulation was a local law.”*

Whilst the Health Department of WA has relevant powers, these sections of the act clearly place the responsibilities for administering the provisions of the Health Act on the relevant local government. Recent amendments to some regulations (eg Health (Public Buildings) Regulations, Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations) have resulted in further devolution of responsibility to local governments.

In order to provide guidance to local governments the Health Department of Western Australia (HDWA) has published a list of relevant activities setting out minimum and desirable rates of inspection. When Council's Health Service's performance was assessed by HDWA in 1998-99 it was assessed against those criteria.

From the above it can be seen that there is little scope for service reduction in administration of Health Act Regulations. A few areas do however warrant further investigation. One such area is the provision of Council EHO assistance to the HDWA in auditing certain High-risk meat premises.



## Submission

N/A

## Report

Certain very high-risk premises are required to comply with the "Australian Standard for the Hygiene Production of Meat." This standard requires that the premises prepare and work in accordance with an approved HACCP Plan and that the plan be audited regularly by an accredited auditor.

In response to the "Garibaldi" incident HDWA determined that it would take the lead role in auditing these premises. Council's former Senior EHO, who is an accredited auditor, routinely attended these audits and assisted the HDWA lead auditor. The Senior Environmental Health Officer also acted as the lead auditor on occasion to ensure the continuation of his accreditation.

Audits are carried out 3 to 4 times per year per premises. There are 8 premises in this category. Audits last from 1.5 to 5 hours per premises at an average of 3 hours. Approximate time taken assuming an average of 3 hours per audit at 3.5 audits per annum is 84 hours.

Whilst local government Environmental Health Officers do not have a lead role in monitoring food hygiene in these premises it is expected that they will investigate any complaints in relation to these premises or any of their products.

While the assistance provided by Council's Senior EHO is greatly appreciated by HDWA the attendance by a Council officer is not mandatory. The HDWA has clearly taken the lead role in ensuring that these premises comply with the regulatory requirements regarding the hygienic production of meat.

It is the opinion of the Principal Environmental Health Officer that the attendance of a Council Officer at these audits constitutes inappropriate duplication for the purposes of Section 3.18(3) of the Local Government Act 1995 and therefore it is recommended that the practice be discontinued forthwith.

## Strategic Plan/Policy Implications

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

1. Managing Your City
  - *"To deliver services and to manage resources in a way that is cost competitive without compromising quality."*

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

4. Facilitating the needs of Your Community

- *"To facilitate and provide an optimum range of community services."*
- *"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*

**Budget/Financial Implications**

There are no financial implications: Approximately 84 hours of officer time will be able to be redirected to non-duplicating program areas.

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

This agenda item is a direct consideration of this section of the Act.

**13.4 (ocm1\_7\_2000) - IMPLICATIONS OF SECTION 3.18(3) LOCAL GOVERNMENT ACT, 1995: REGISTRATION AND INSPECTION OF OFFENSIVE TRADES PREMISES (1332) (6500) (WJH) (ALL)**

**RECOMMENDATION**

That Council:

- (1) reduce the inspection rate of Offensive Trades Premises, which are also licensed prescribed premises under the provisions of the Environmental Protection Act 1986, from twice to once per annum;
- (2) advise the Department of Environmental Protection and the Executive Director of public health accordingly.

**COUNCIL DECISION**

**Background**

This report has been prepared in response to Section 3.18(3) of the Local Government Act 1995. This section states that:

- “(3) *A local government is to satisfy itself that services and facilities that it provides –*
- (d) *integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State and any public body;*
  - (e) *do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and*
  - (f) *are managed efficiently and effectively.”*

The majority of Council’s Health Services are provided under the provisions of the Health Act 1911 and the Environmental Protection Act 1986. Other acts such as the Caravan Parks and Camping Grounds Act 1995, the Tobacco Control Act and the Liquor Licensing Act 1991 also influence service provision.

The Health Act 1911 (the Act) is the principal act that determines service provision by Council’s Health Service. The Act covers a wide range of public health issues and provides the head of power for approximately thirty sets of regulations and Council’s Health Local Laws.

Section 26 of the Act provides that:

*“Every local government is hereby authorized and directed to carry out within its district the provisions of this Act and the regulations, local laws, and orders made thereunder...”*

And Section 343A(4) requires that:

*“A local government is to administer any regulation made under this section to the extent that it relates to any place where the local government may perform functions, as if the regulation was a local law.”*

Whilst the Health Department of WA has relevant powers, these sections of the act clearly place the responsibilities for administering the provisions of the Health Act on the relevant local government. Recent amendments to some regulations (eg Health (Public Buildings) Regulations, Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations) have resulted in further devolution of responsibility to local governments.

In order to provide guidance to local governments the Health Department of Western Australia (HDWA) has published a list of relevant activities setting out minimum and desirable rates of

inspection. When Council's Health Service's performance was assessed by HDWA in 1998-99 it was assessed against those criteria.

From the above it can be seen that there is little scope for service reduction in administration of Health Act Regulations. A few areas do however warrant further investigation. One such area is the registration and inspection of Offensive Trades Premises.

### **Submission**

N/A

### **Report**

Section 191 of the Health Act requires all offensive trades to be registered with the local government. It is the expectation of the HDWA that these premises be inspected 3 to 6 times a year if a meat or fish processor or 1 to 3 for other offensive trades. The Service performance target for non-meat or fish processor is currently 2 times per annum.

Two out of 26 offensive trades are also licensed prescribed premises for the purpose of the Environmental Protection Act 1996. In these cases there is some duplication of services provided by the DEP. However, the statutory requirement for Council to register these premises is not diminished.

In order to minimise duplication whilst still providing a minimal service; it is proposed to reduce our involvement to 1 premises inspection per annum for offensive trade's premises which are also licensed prescribed premises under the provisions of the Environmental Protection Act 1986. It is important to ensure that these premises are inspected at least once per annum just prior to re-registration to ensure that they comply with health Act requirements and are suitable for re-registration. The reduction in inspections will save approximately 3 hours EHO time per annum.

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

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

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

4. Facilitating the needs of Your Community
- *"To facilitate and provide an optimum range of community services."*
  - *"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*

The Planning Policies which apply to this item are:-

N/A

### **Budget/Financial Implications**

There are no financial implications: Approximately 6 hours of officer time will be able to be redirected to non-duplicating program areas.

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

This agenda item is a direct consideration of this section of the Act.

## **13.5 (ocm1\_7\_2000) - IMPLICATIONS OF SECTION 3.18(3) LOCAL GOVERNMENT ACT, 1995: DUTIES RELATING TO THE ENVIRONMENTAL PROTECTION ACT 1986 (1332) (6500) (WJH) (ALL)**

### **RECOMMENDATION**

That Council:

- (1) having considered the provisions of Section 3.18(3) of the Local Government Act 1995 and the nature of Health Service services relating to matters regulated by the Environmental Protection Act 1986, is satisfied that the City of Cockburn will not be responsible for investigating matters relating to Licensed Premises under the Environmental Protection Act, as this service duplicates a service provided by another body or person;
- (2) having considered the provisions of Section 3.18(3) of the Local Government Act 1995 and the nature of Health Service services relating to matters regulated by the Environmental Protection Act 1986, is satisfied that the following services do not inappropriately duplicate services provided by any other body or person, and will continue to:-
  1. undertake initial investigations relating to premises registered under the Environmental Protection Act but will refer any matters which are not easily resolved under the provisions of the Local Government Act 1995 Local Laws

or Health Act 1911 to the Department of Environmental Protection for investigation.

2. deal with all noise pollution related matters with the exception of licensed premises in accordance with the delegation under the Environmental Protection Act, but where a matter becomes too complex or requires expertise or resources beyond which the Council could reasonably expect to provide it will be referred to the Department of Environmental Protection for investigation.
3. investigate low level pollution which can be dealt with by the Council under its Local Laws.

## COUNCIL DECISION

### Background

This report has been prepared in response to Section 3.18(3) of the Local Government Act 1995. This section states that:

- “(3) *A local government is to satisfy itself that services and facilities that it provides –*
- (g) *integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State and any public body;*
  - (h) *do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and*
  - (i) *are managed efficiently and effectively.”*

The majority of Council's Health Services are provided under the provisions of the Health Act 1911 and the Environmental Protection Act 1986. Other acts such as the Caravan Parks and Camping Grounds Act 1995, the Tobacco Control Act and the Liquor Licensing Act 1991 also influence service provision.

Unlike the performance of duties under the provisions of the Health Act 1911 there is no statutory power requiring local governments to provide premises monitoring or inspection or to investigate complaints under the provisions of the Environmental Protection Act 1986.

**Submission**

N/A

**Report**

Health Services Officers carry out a number of functions under the provisions of the EP Act or which could fall under the provisions of the EP Act. A number of functions in relation to noise have been delegated to the Chief Executive Officer of local governments and at the City of Cockburn all EHOs are Authorised Persons/Inspectors: Noise under the provisions of the Act.

A number of these functions eg investigation of low level pollution complaints show high degree of overlap between the EP Act and Council's Local Laws. Council officers responsibility in these functions needs to be formally determined.

In determining responsibility between Council officers and Department of Environmental Protection (DEP) the following was taken into account:

- The DEP is responsible for all pollution matters relating to EP Act Licensed Premises. The Department determines the conditions applicable.
- City of Cockburn officers should continue to investigate matters relating to EP Act registered premises in the first instance and involve DEP officers if a matter not easily resolved or beyond the scope of Local Government Act 1995 or Health Act 1911. This is because action needs to be taken quickly in response to a complaint, and the DEP are aware that most local governments can deal with these matters under Local Laws.
- City of Cockburn officers deal with all noise pollution related matters (except licensed premises emissions). DEP officers will provide advice and loan equipment if necessary and will attend and measure in complex matters, but only as a last resort. The requirement to deal with noise complaints is delegated to local government by the EPA.
- Low level pollution matters such as septic discharge, light spills, dust etc for which Council has appropriate local laws are the responsibility of City of Cockburn. The Council should continue to monitor these activities.

Whilst there may be no statutory requirement in these matters, traditional involvement, a lack of DEP response and public expectation require the Council's continued involvement. The services provided

complement State Government services and the criteria ensure an appropriate level of coordination. It is therefore recommended that the current arrangement be maintained, except for licensed premises.

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

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

1. Managing Your City
  - *"To deliver services and to manage resources in a way that is cost competitive without compromising quality."*
  - *"To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices."*
  
4. Facilitating the needs of Your Community
  - *"To facilitate and provide an optimum range of community services."*
  - *"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*

### **Budget/Financial Implications**

The less inspections undertaken on behalf of the State by the Council the more resources are available to undertake other tasks and obligations.

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

This agenda item is a direct consideration of this section of the Act.

**13.6 (ocm1\_7\_2000) - PROPOSED POLE REPLACED AND TELECOMMUNICATIONS FACILITY - LOT 509 CUTLER ROAD, JANDAKOT - OWNER: V & C D'AMATO - APPLICANT: THE PLANNING GROUP (5515318) (MT) (EAST) (MAP 19) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) approve the application for a replacement of the mast and installation of telecommunications infrastructure on Lot 509 Cutler Road, Jandakot subject to the following conditions:



**Standard Conditions**

1. Standard conditions contained in Council Policy PD 17 as determined appropriate to this application by the delegated officer under clause 7.6 of Council's District Zoning Scheme N<sup>o</sup> 2;

**Special Conditions**

1. The tower being designed so as to enable other telecommunications carriers to co-locate on the facility.

**COUNCIL DECISION****Background**

ZONING:	MRS:	INDUSTRIAL
	DZS:	GENERAL INDUSTRY
LAND USE:	FACTORY & OFFICE	
LOT SIZE:	4.9515ha	
AREA:	N/A	
USE CLASS:	"SA"	

**Submission**

Council has received an application to replace an existing radio mast and install three 2.2 metre long antennae and a 0.6 metre diameter parabolic antenna on the mast. A 3 metre by 2.5 metre equipment shelter is proposed at ground level next to the existing building. The existing mast is 45 metres high. The antennae will be at a height of 35 metres. Plans are attached to this agenda.

The proposal was advertised with all landowners within 400 metres of the tower for a period of 21 days in accordance with Scheme requirements. No submissions were received.

**Report**

Council's Scheme N<sup>o</sup> 2 does not contain a use class for telecommunications facilities. The application has been considered as a Use Not Listed and advertised as such.

The proposal is to replace the existing radio mast, utilised by the occupant Fremantle Steel, with a stronger one and locate Optus' facilities on it. The new mast will be the same height, width and

appearance. The lot is within an industrial area, in line with the recommendation of Council Policy PD32. There is no residential land within 400 metres of the location, though there are a few houses within that distance on Rural land on Imlah, Verna and Muriel Courts. It is considered the proposal will not have an adverse visual impact. As has been discussed in a previous Council item (Proposed Mobile Tower on 3 Dobra Road – Item 13.14 June 200) there is no evidence of adverse health effects from telecommunications facilities. The proposed facility is a good solution because it does not require the construction of a new tower.

There is a Telstra tower on the other side of Prinsep Road, approximately 100 metres from the proposed location. The applicant has advised that the existing tower does not allow Optus to locate at a height that meets their network requirements.

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

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

1. Planning Your City

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

The Policies which apply are:-

PD31*	Telecommunications Policy - High Impact Facilities
PD32	Location of High Voltage Overhead Power Lines and Microwave Towers

### **Budget/Financial Implications**

N/A

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

Nil

### **13.7 (ocm1\_7\_2000) - POLICY PD52 'RESPONSE TO CLAUSE 32 RESOLUTIONS BY THE WAPC UNDER THE METROPOLITAN REGION SCHEME (9003) (SMH) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) receive the report;

- (2) adopt Policy PD52 'Response to Clause 32 Resolutions by the WAPC under the Metropolitan Region Scheme' as attached to the Agenda and incorporate it in its Policy Manual;
- (3) include Delegated Authority DA PD45 'Response to Clause 32 Resolutions by the WAPC under the Metropolitan Region Scheme' in the Council's Delegated Authority Register;
- (4) write to the Western Australian Planning Commission requesting that Clause 2(a)(v) of the Notice of Delegation gazetted on 30 June 2000 be urgently reviewed to delete reference to "development by public authorities" and substitute it with "public works".

## COUNCIL DECISION

### Background

In August 1998, the Town Planning Appeals Tribunal handed down a decision on an appeal between "The City and Suburban Group Pty and the City of Stirling" where it was determined that on reserved land and zoned land, the subject of a Clause 32 Resolution, the WAPC must determine the application and not the local government.

An extract from the appeal documents states:-

*"In that circumstance the determination to be made by the Commission is, "its final determination and not for its determination subject to the approval of the Defendant City under its scheme. To construe it in that way would, I think, be to review an inconsistency in the meaning of section 3 of the Metropolitan Region and Town Planning Scheme Act and the provisions of the Region Scheme would prevail." University of WA v City of Subiaco [(1980) 52 LGRA] 360 at 365 per Burt C.J."*

and

*"Further, and for completeness, the Tribunal was advised that the Commission had approved the application for development. As such, given the approval so granted there was not a decision capable of finding the jurisdiction necessary for an Appeal to be brought to this Tribunal."*

McLeod and Co drew this matter to the Council's attention.

Part IV of the Metropolitan Region Scheme provides for the local government to:-

- Cl. 28 receive the application of an MRS Form 1.
- 
- Cl. 29(1) forward any application received within an area or development class resolved to be Clause 32, to the WAPC for its determination within 7 days of receipt.
- Cl. 29 (3) send any recommendations it may have to the WAPC within 42 days of receipt of the application.

The WAPC is required to determine the application under Clause 30. The Commission can refuse or approve with conditions.

In Cockburn the Clause 32 resolution applies to:-

- Development of MRS reserves or in some cases abutting reserved land.
- Poultry Farms in the Rural Zone.
- Extractive Industries in the Rural Zone.
- Any development in the Rural Zone which the local government believes is inconsistent with the purpose of the zone.
- Shopping Centre additions where the NLA is greater than 5,000m<sup>2</sup> unless it accords with WAPC Centres Policy.
- Shopping Centres (Neighbourhood) greater than 5,000m<sup>2</sup>, unless it accords with WAPC Centres Policy.
- Declared Areas:-
  - PCA No. 37 - South-west of Berrigan Drive and Kwinana Freeway
  - PCA No. 39 - Rowley Road between Kwinana Freeway and Rockingham Road
  - Henderson Industrial Area (\$50,000 and below at the Council discretion)
  - North Coogee Industrial Area.
- Developments of State or Regional significance.
- Proposed Clause 32 - Development in the MRS - Rural Water Protection Zone controlled by the Jandakot Groundwater Protection Policy (5AA No. 6 - 12 June 1998)

Due to a Supreme Court decision in respect to a development in the Town of Bassendean, handed down on 1 June 2000 rather than contest the decision the WAPC issued a fresh delegation under Clause 32 to exclude local government from the approval process. This was gazetted on 30 June 2000.

The problem related to a public work. Rather than specifically exclude a 'public work' from requiring Council approval it amended the general Clause 32 delegation to exclude "development of public authorities".

A public authority is not defined under the Metropolitan Region Town Planning Scheme Act or the MRS. Under the Town Planning and Development Act it is defined as:-

**"public authority"** means a Minister of the Crown acting in his official capacity, a State Government department, State trading concern, State instrumentality, State public utility and any other person or body, whether corporate or not, who or which, under the authority of any Act, administers or carries on for the benefit of the State, a social service or public utility;

This definition goes far beyond a public work and therefore has far reaching consequences for local government. State Trading concerns include Homeswest and Landcorp for example. It could also apply to Federal legislation and the installation of mobile phone towers.

Up until the Supreme Court decision it was understood that a 'public work' did not require any planning approval. But the Supreme Court determined that an approval is required under the MRS by the responsible authority. Where local government is delegated this power under the MRS on zoned land it is the local government that could issue this approval. In order to prevent this the WAPC has hastily amended the delegation, but despite this a 'public work' in fact a 'development by a public authority' requires approval from the WAPC.

In addition to this, the tribunal has determined that approvals issued under a Clause 32 only requires the approval of the WAPC. In the past it was always understood by both the WAPC and local government that two approvals were required.

### **Submission**

N/A

### **Report**

Because the Council has the discretion to forward recommendations to the WAPC within 42 days of receiving an application for development in a Clause 32 area or class of development it is important that a Policy be adopted to provide consistency in approach and advice.

A proposed Policy PD52 is attached to the Agenda for the Council's consideration.

The Policy simply refers the application on to the WAPC, with recommendations as to matters that the WAPC should address when considering the application.

The Council does not have the power, obligation or influence to do any more than this. Under Clause 32 the local scheme does not apply, the application is determined under the MRS.

Moreover, the Council should urgently seek to have the amendment to the Clause 32 Resolution issued on 30 June, so that it exempts 'public works' not 'development by public authorities'.

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

#### 1. Managing Your City

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

### **Budget/Financial Implications**

The Council will continue to collect the Planning Fees, but will in essence only be acting as a 'post box'.

The cost to Council will be related to the administrative costs of forwarding the application with no requirement for assessment as this will be done under the MRS by the WAPC.

Any recommendations to the WAPC by the Council, will not be related to the local scheme provisions but generic requirements provided for under Clause 32 of the MRS.

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

The referral of Clause 32 applications to the WAPC minimises duplication by the Council.

The tribunal decision makes it clear that only one approval from the WAPC is required.

The referral of Clause 32 applications is efficient and effective.

**13.8 (ocm1\_7\_2000) - PROPOSED ROAD MAINTENANCE AGREEMENT - LOTS 2, 131, 132, 133 AND 135 ARMADALE, SOLOMON AND JANDAKOT ROADS, BANJUP - OWNER: CSR LTD, CSR CONSTRUCTION AND READYMIX CONCRETE (5513296) (SR) (ATTACH)**

**RECOMMENDATION**

That Council enter into a Road Maintenance Agreement with CSR Limited substantially in accordance with the terms of the draft Agreement attached to the Agenda.

**COUNCIL DECISION**

**Background**

CSR Readymix has submitted a draft agreement providing for a road maintenance contribution in respect of roads in the vicinity of the Company's extractive industry operations in Banjup. This agreement is submitted in order to satisfy the terms of a Planning Approval condition relating to the site.

Legal advice is that the appropriate means of providing for such contributions is Section 85(2) of the Road Traffic Act. This enables local governments to recover costs of extraordinary expenses incurred in the maintenance and repair of local government roads.

**Submission**

A draft agreement is attached to the Agenda.

**Report**

The draft agreement is considered an appropriate arrangement for the City and is considered far less cumbersome than the imposition of a differential rate or other alternative method of obtaining road maintenance contributions from quarry operators.

Planning Approval for the Extractive Industry is valid until 17 July 2001. A new Agreement can be negotiated with the Company when a new application for Planning Approval is considered next year.

### Strategic Plan/Policy Implications

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

1. Managing Your City
  - *"To deliver services and to manage resources in a way that is cost competitive without compromising quality."*

### Budget/Financial Implications

No other agreements of this type currently exist within the City of Cockburn. Funds will be allocated to an account established for the purpose to offset road maintenance expenditure in the locality which is derived from general rates revenue.

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

Nil

- 13.9 (ocm1\_7\_2000) - PROPOSED COMMERCIAL VEHICLE PARKING - LOT 855; 34 BERRIGAN DRIVE, SOUTH LAKE - OWNER/APPLICANT: R W GREEN (5114676) (RH) (EAST) (MAP 14) (ATTACH)**

#### RECOMMENDATION

That Council:

- (1) approve the application, dated 5 May 2000, for commercial vehicle parking on Lot 855; 34 Berrigan Drive, South Lake subject to the following conditions:

#### Standard Conditions

1. Standard conditions contained in Council Policy PD 17 as determined appropriate to this application by the delegated officer under clause 7.6 of Council's District Zoning Scheme No. 2;

#### Special Conditions

1. The times of start-up/arrival of the truck to be restricted to between 7:00am and 7:00pm on Mondays to Saturdays and 9:00am to 6:00pm on Sundays.
2. The height of the side boundary fence to be raised with the addition of lattice or similar material to reduce the



impact of any vehicle on the trailer from view of the adjacent property (ie 32 Berrigan Drive).

- (2) issue a Form 2 Approval to Commence Development to the applicant;
- (3) advise those who made a submission of Council's decision accordingly.

## COUNCIL DECISION

### Background

ZONING:	MRS:	URBAN
	DZS:	RESIDENTIAL
LAND USE:	HOUSE	
LOT SIZE:	710 sq.m.	
AREA:	N/A	
USE CLASS:	AA	

A complaint was made on the 26 April 2000 from a neighbouring resident on Berrigan Drive that the owner of 34 Berrigan Drive is operating trucks from home. Noise and diesel fumes were said to cause a problem.

On 2 May the owner was requested to cease using the property for such operations or make an Application for Commercial Vehicle Parking. An application was made on 5 May 2000.

### Submission

The application is for Commercial Vehicle Parking for a 3 tonne truck and 5 metre trailer used for car carrying on a residential lot, to be parked well inside the property on the driveway of Lot 855 (No. 34) Berrigan Drive.

The application was advertised for a period of 21 days with comments sought from nine (9) nearby residents.. Two submissions were received, both opposing the proposal. A summary of the submissions is attached to this agenda.

### Report

In keeping with Council's District Zoning Scheme No.2, clause 5.10.2, the commercial vehicle parking may be permitted as:

- (a) the vehicle is parked on a lot containing only a single house;
- (b) the vehicle forms an essential part of the occupation of an occupant of the dwelling;
- (c) the vehicle exceeds 8 metres in length and will therefore be parked parallel to the side boundary of the lot;
- (d) no major repairs are undertaken on the lot;
- (e) it is not likely to greatly affect the amenity of the surrounding land.

A 'Commercial Vehicle' is defined by the Scheme as any vehicle with a tare weight in excess of 3.5 tonnes.

It is recognised that the noise and fumes from other trucks going along Berrigan Drive (a busy four lane road) are greater than those produced by Mr Green's truck.

Regarding the perceived problem with reversing the truck onto Berrigan Road, the site is on the inside of a sweeping bend on Berrigan Drive. There is not a safety issue considered sufficient to warrant refusal of the application. (Berrigan Drive is four lanes wide at this point.)

There is sufficient parking space for the truck in the 29 by 6 metre sealed driveway. The truck is 12.5m long. If it is parked well forward, it can be screened sufficiently.

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

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

1. Planning Your City

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

### **Budget/Financial Implications**

N/A

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

Nil

**13.10 (ocm1\_7\_2000) - PROPOSED MRS AMENDMENT NO. 1008/33 - SOUTH FREMANTLE/HAMILTON HILL - MODIFICATION TO PREVIOUS RECOMMENDATION (MAY COUNCIL MEETING - MINUTE 539) - OWNER: VARIOUS - APPLICANT: WESTERN AUSTRALIAN PLANNING COMMISSION (9100833) (SA) (WEST) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) reinforce to the Western Australian Planning Commission that it supports the proposed MRS amendment 1008/33 to rezone the subject land from "Industrial and Railways Reserve" to "Urban and Parks and Recreation reserve"; and
- (2) advise the applicant, the Western Australian Planning Commission and Environmental Protection Authority, that the Council no longer requires Section (2) Point 1 and 2 (see below) from its May recommendation (Minute 539) :

*"(2) advise the Western Australian Planning Commission and the Environmental Protection Authority that:*

- 1. Noise, soil contamination and ground water contamination have been identified as environmental issues relevant to the MRS Amendment. The submission of detailed studies relating to the nature and extent of these factors and their remediation/management will be required prior to the preparation of a structure plan for the subdivision and development of the land.*
- 2. Consideration to any impacts of the interface between the subject lands and the foreshore will need to be addressed as part of the structure plan preparation."*

to be undertaken as part of the Scheme Amendment because it is not a local government responsibility.

**COUNCIL DECISION**

## Background

ZONING:	MRS:	Industrial and Railway reserve
	DZS:	General Industrial, Light Industrial, Rail Reserve
LAND USE:	Various	
LOT SIZE:	N/A	
AREA:	N/A	
USE CLASS:	N/A	

The land subject to the amendment is generally bounded by Rollinson Road to the south, the South Beaches Park and Recreation Reservation to the west, Ocean Road and Island Street to the north, and the Fremantle Village and Chalet Centre to the east. It totals approximately 21 hectares in area.

The amendment proposed to rezone the subject land from "Industrial" zone and "Railways Reserve" to "Urban" zone and "Parks and Recreation Reserve". The "Urban" zone allows for a variety of land uses, and the detailed uses that will be permitted will be subject to scheme amendments to the Local District Zoning Scheme of the City of Fremantle and Cockburn. The City of Cockburn has already initiated a local Scheme Amendment to DZS No. 2 (Amendment No. 201), which has been adopted by Council in November 1999.

Council resolved at its Ordinary Meeting, held on the 16 May 2000, the following:

- "(1) *advise the Western Australian Planning Commission that it supports the proposed MRS amendment 1008/33 to rezone the subject land from "Industrial and Railways Reserve" to "Urban and Parks and Recreation reserve";*
- (2) *advise the Western Australian Planning Commission and the Environmental Protection Authority that:*
  1. *Noise, soil contamination and ground water contamination have been identified as environmental issues relevant to the MRS Amendment. The submission of detailed studies relating to the nature and extent of these factors and their remediation / management will be required prior to the preparation of a structure plan for the subdivision and development of the land.*
  2. *Consideration to any impacts at the interface between the subject land and the foreshore reserve will need to be addressed as part of the structure plan preparation.*

- (3) *forward a copy of Council's recommendation and report to the Western Australian Planning Commission, with the Submission Form (Form 6A), for consideration."*

### **Submission**

It is proposed that Council's abovementioned recommendation be modified, to delete section (2) from the previous recommendation, as this advice to the EPA and WAPC is not relevant or required.

### **Report**

It was previously recommended that Council support this MRS amendment, as Council has been pro-active in promoting the change in zoning, via Amendment No. 201 to District Zoning Scheme No. 2, from "Industrial" to "South Beach Re-development" area. Council's attitude has been reflected in the adoption of Amendment 201 in April 1999, and the amendment was referred to the Western Australian Planning Commission with a request to advertise.

However, the report that went to the May Council meeting included a recommendation that referred to areas that were not relevant to Council, specifically advising the EPA and the WAPC about noise, soil and ground water contamination. These issues were raised in the Environmental report by Bowman Bishaw Gorham (Environmental Management Consultants).

The report stated that detailed reports dealing with noise, soil and water contamination will need to be submitted prior to finalisation of an amendment to the local town planning scheme and management plan be need to be implemented prior to subdivision or development approval. The submission of the detailed studies relating to the nature, extent, how and when these factors will be addressed will be required prior to development of the subject land.

It is also considered important to address any impacts to the interface between the subject lands and the reserve on the ocean boundary. This has not been considered in the Environmental Review but will need to be addressed at the town planning level.

These environmental issues will be addressed by the relevant authorities, during the structure planning stage and development stage. Therefore the previous recommendation adopted by Council needs to be modified to delete to requirement for the detailed studies to be completed prior to preparation of the structure plans.

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

Council has initiated Amendment 201, to its DZS No. 2, which will rezone the subject area to "South Beach Re-development".

**Budget/Financial Implications**

N/A

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

Nil

**13.11 (ocm1\_7\_2000) - PUBLIC OPEN SPACE - CASH-IN-LIEU PROPOSAL FOR STAGE 12 OF THOMSONS LAKE ESTATE, SUCCESS - OWNER: GOLD ESTATES OF AUSTRALIA (1903) LTD (110259) (AJB/CC) (EAST) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) support in principle the prioritisation of cash-in-lieu (from subdivision WAPC 110259) allocation in the order of importance of Atwell Reserve, Lydon Boulevard public open space and Success - Stage 6 POS;
- (2) support a minimum allocation of \$40,000 of the cash-in-lieu to the development of Success - Stage 6 POS subject to Gold Estates committing to the scope of works contained in the Agenda Attachments;
- (3) upon finalisation of the following:
  1. a valuation of cash-in-lieu for Stage 12 (WAPC Ref. 110259) subdivision being finalised and being paid to Council;
  2. the scope and cost of improvements to Atwell Reserve and the Lydon Boulevard POS being determined;

The matter of the allocation of cash-in-lieu funds be referred again to Council for final determination monies to be spent on Stage 6 POS with a view to requesting the Hon. Minister for Planning's approval to a proposal for the cash-in-lieu expenditure and;

- (4) advise Development Planning Strategies of the Council's decision.

<b>COUNCIL DECISION</b>
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### Background

ZONING:	MRS:	URBAN
	DZS:	RESIDENTIAL R15
LAND USE:	N/A	
LOT SIZE:	N/A	
AREA:	12 HA	
USE CLASS:	N/A	

Gold Estates is one of the principal land developers in the Success and Atwell Structure Plan Areas. See *Agenda Attachments for Structure Plan*.

As part of the residential subdivision process, all developers are required to give up 10 percent (less allowable deductions) of land for public open space.

As an alternative to giving up land, the WAPC and Council may agree to the payment of a cash-in-lieu contribution to the Council for the acquisition or improvement of POS in the locality. The Council and the WAPC have agreed to a cash-in-lieu contribution for the subdivision (WAPC Ref. 110259) of Gold Estates land - Stage 12 in Atwell. See *Agenda Attachment for WAPC Approval*

The WAPC Planning Bulletin 21 requires the Council to request the Minister for Planning's approval to the expenditure of cash-in lieu for improvement or development of POS.

### Submission

Consultants, DPS (Development Planning Strategies) on behalf of Gold Estates in consultation with Council have requested that cash-in-lieu required under WAPC subdivision 110259 be expended in the following manner:

- 10 percent (approx \$10,000) of funds be allocated for the landscaping of a smaller area of POS at the corner of Lydon Boulevard and the Kwinana Freeway.
- 20 percent (approx \$20,000) be allocated for facilities (possibly car parking) in nearby Atwell Reserve.
- 70 percent (approx \$70,000) be allocated for the improvement of future POS in Stage 6 of the Success on the other side of Kwinana Freeway.

A preliminary valuation of adjacent land indicates a cash-in-lieu sum of \$102,000 to \$123,000. Gold Estates is eager to see the majority of the funds allocated to the improvement of its POS in Stage 6 and has submitted to Council plans and costing for proposed improvements. *See Agenda Attachments for proposed expenditure.*

## **Report**

The cash-in-lieu amount put forward by DPS is based on a valuation of land to the south of Stage 12 Atwell. In accordance with common practice, Council will request a valuation for cash-in-lieu be undertaken on the subject land itself.

The WAPC Policy indicates that cash-in-lieu funds be expended in the locality. Success Stage 6 POS is somewhat remote from Stage 12 and the Kwinana Freeway is a significant barrier to effective access from Stage 12 to Stage 6 POS, although in time a Freeway crossing will be built a Bartram Road.

In meetings with Council, DPS were advised that cash-in-lieu funds should be expended in the immediate locality (Atwell) and in the event that there are surplus funds then consideration would be given to these being allocated to specific works within Stage 6 POS.

Specific Items identified by Council in Atwell include, the improvement of a small park between Lydon Boulevard and the Kwinana Freeway and the provision of a car park and possibly other works in Atwell Reserve to ensure that parking, associated with the use of the ovals, does not adversely effect nearby residential area. At present there are no estimates on the extent of works and likely cost of improving these 2 POS areas.

Notwithstanding the above, there are no active reserves in Success and the proposal to develop Stage 6 POS is supported. A cost estimate carried out by Landscape Enterprises for developing Stage 6 POS is \$250,700. The DPS proposal to allocate 70 percent of cash-in-lieu to the development of Stage 6 POS would cover only 30 percent of the proposed works. Under the DPS proposal Council stands to gain approximately \$70,000 worth of improvements to Stage 6 POS at no cost to Council.

In any event the Town Planning and Development Act and WAPC policies requires that all cash-in lieu needs to be paid to Council and held in a specific account.

It is considered premature at present to support the proposed cash-in-lieu expenditure put forward by DPS in the absence of an exact valuation for cash-in-lieu and the absence of the costing and scope of works required in Atwell Reserve and the Lydon Boulevard POS.



In not supporting the proposal however, the opportunity to gain substantial improvements to Stage 6 POS may be lost. As a compromise, it is considered that Council can undertake to support a minimum allocation of \$40,000 cash-in-lieu (although an arbitrary figure) to the development of Stage 6 POS and in so doing giving support to the concept of improving Stage 6 POS. The allocation should be reviewed by Council following estimates of works in Atwell Reserve and Lydon Boulevard POS, with surplus funds in excess of \$40,000 being allocated to Stage 6 POS.

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

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

#### 2. Planning Your City

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

#### 4. Facilitating the needs of Your Community

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

#### 5. Maintaining Your Community Facilities

- *"To construct and maintain parks which are owned or vested in the Council, in accordance with recognised standards and are convenient and safe for public use."*

PD 13 Public Open Space

### **Budget/Financial Implications**

Cash-in-Lieu funds to be obtained and expended by Council.

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

Nil

**13.12 (ocm1\_7\_2000) - POLICY - DESIGN PRINCIPLES FOR INCORPORATING NATURAL MANAGEMENT AREAS INCLUDING WETLANDS AND BUSHLAND IN OPEN SPACE AND/OR DRAINAGE AREAS (9003) (AJB) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) Adopt Policy PD 51 “Design principles for incorporating Natural Management Areas including wetlands and bushland in open space and/or drainage areas” as attached to the Agenda and include it in Council’s Policy Manual;
- (2) Adopt Delegated authority DA PD 46 “Design principles for incorporating Natural Management Areas including wetlands and bushland in open space and/or drainage areas” as attached to the Agenda and include it in Council’s Delegated Authority Register;
- (3) Modify PD 16 “Standard Subdivision Conditions and Reasons for Refusal” and PD 17 Standard Development conditions and Footnotes” to include additional conditions as set out in the Agenda attachments;
- (4) Send a copy of the policy to consultants and developers who are working in the district.

**COUNCIL DECISION**

**Background**

Council’s Environmental Management Services is responsible for the management and maintenance of many of Council’s reserves which incorporate wetlands and bushland areas.

Some of the environmental management works undertaken by Environmental Management services have necessitated physical works such as removal of inappropriate fill, modification of batter slopes and implementation of a weed eradication program prior to rehabilitation works being undertaken.

If design guide lines had been in place at the time of subdivision or development, costs associated with the physical works could have been avoided or minimised and rehabilitation/ongoing maintenance works more cost effective.

## Submission

N/A

## Report

Council's Environmental Management Services is responsible for the management and maintenance of many of Council's reserves which incorporate wetlands and bushland areas.

In undertaking works the following problems have been encountered;

### 1. Intrusion of earthworks into Natural Management Areas.

Whilst wetland or bushland areas are defined on a subdivision or development plan and the limits of POS are shown, what is not clear at that time is the possible extent of earthworks. As the limits of POS and drainage reserves are generally fixed by an approval, filling of the abutting land often encroaches into the Natural Management Area. Accordingly there is a need to ensure that Natural Management Areas, the impact of earthworks and the POS/drainage boundaries are carefully considered at the early stages of planning.

At the time of development, construction vehicles can inadvertently move into Natural Management Areas unless the area is clearly marked on site and the contractors attention is drawn to the requirement for no entry. To reinforce the no entry requirement developers should be encouraged to include specific clauses in the contract documents prohibiting construction vehicles within the specified area and to apply penalties for non compliance.

### 2. Steep cut and fill batters which cannot be revegetated or maintained

In several instances around the Market Garden Swamps in Spearwood and Freshwater Drive reserve Atwell the fill batters adjacent to the wetland area have been too steep to maintain and revegetate. In the case of Freshwater Drive reserve, the slopes were in excess of 1 in 2 and it was necessary for Council to let a contract for a mini excavator to moderate the slopes prior to revegetation and mulching being completed. The works cost in excess of \$10,000.

If batters adjacent to Natural Management Areas are no steeper than 1 in 3, no physical works will be required prior to revegetation planting and mulching. By comparison slopes within POS are desirably 1 in 8 with a maximum of 1 in 6 and road reserves at 1 in

6 where no access is required. The maximum slope accepted by Main Roads for batters that are to be revegetated is 1 in 3.

3. The provision of inappropriate fill adjacent to Natural Management Areas.

Inappropriate fill includes the following;

That which includes rubble such as bricks, concrete and limestone which represent hazards for maintenance crews and presents difficulties for revegetation. Recently a contractor aborted a planting contract around Market Garden Swamp due to extreme difficulties posed by the existence of limestone rubble. This is not only costly to Council but delays the rehabilitation program.

Top soil is inappropriate in that it generally contains weeds and grasses that require the implementation of a weed eradication program over at least 3 years. Further, top soil contains nutrients and humus which fuels weed growth. Clean sand fill is most suitable for revegetation and restricts weed and grass growth.

4. Stabilisation of batters with seeded hydromulch.

Generally earth worked areas are stabilised by Hydromulch which contains Rye grass seed. When used adjacent to Natural Management Areas it is necessary to implement a weed eradication program over at least 3 years to ensure non evasion of the Natural Management area. Wood chip or mulch to a depth of 100 mm or planting is the recommended method of stabilisation.

5. Growth of irrigated grasses in landscaped areas into Natural Management Areas.

Many reserves include both landscaped and Natural Management Areas. Where the limits of the Natural Management Area and landscaped areas are not clearly defined by way of a wall, path or kerb, there is a natural tendency for the irrigated grass area to extend into the natural area over time. Once the grass extends into the vegetated area or wetland it is generally necessary for a weed eradication program to be implemented over at least 3 years.

Many new parks that are developed as part of a subdivision include kerbing of grassed areas. This definition assists greatly with the management of the natural areas.

6. Inappropriate sprinkler patterns.

Sprinkler systems are designed to efficiently and effectively irrigate grassed area. However in most cases this will result in water

extending in part into a Natural Management Area which promotes weed and grass growth.

The design of irrigation systems to throw water away from Natural Management Areas will greatly reduce potential management requirements.

It is estimated that the 2000/01 weed eradication program being undertaken by Environmental Management Services in three reserves will cost in the order of \$50,000. As previously indicated many of the future Public Open Space Reserves will contain both areas of natural vegetation and wetlands of conservation standard. For these areas to be managed and maintained in a cost effective manner to retain and enhance their environmental values in accordance with Council's Corporate Strategic Plan, it will be necessary to adopt design principles which redress the major issues otherwise the cost of maintaining Natural Management Areas will continue to rise disproportionately.

It is considered that the proposed Policy addresses the issues in a practical way and provides an effective basis for the protection and maintenance of Natural Management Areas and will enable Council's vision for the environment to be achieved.

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

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

1. Managing Your City

*"To deliver services and to manage resources in a way that is cost competitive without compromising quality."*

2. Planning Your City

*"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*

3. Conserving and Improving Your Environment

*"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*

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

The Planning Policies which apply to this item are:-

- PD8\* Bushland Conservation Policy
- PD13\* Public Open Space
- PD14\* Guidelines for Development Applications for the Filling of Land
- PD16\* Standard Subdivision Conditions and Reasons for Refusal
- PD17\* Standard Development Conditions and Footnotes

**Budget/Financial Implications**

Many future subdivisions and developments will include Natural Management Areas which will be the responsibility of Council. The adoption of design principles for the incorporation of these areas in open space and drainage reserves will ensure the delivery of the most cost effective ongoing maintenance program.

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

Nil

**13.13 (ocm1\_7\_2000) - ILLEGAL FUNCTION - LOT 9; 220 WATTLEUP ROAD, WATTLEUP - OWNER/APPLICANT: V LOMBARDO (4412312) (MT) (SOUTH) (MAP 17)**

**RECOMMENDATION**  
 That Council initiate legal action under the Town Planning and Development Act against the owners of Lot 9 (220) Wattleup Road, Wattleup for the unlawful functions conducted on the premises.

**COUNCIL DECISION**

**Background**

ZONING:	MRS:	RURAL
	DZS:	RURAL
LAND USE:	DIVE TRAINING RESORT	
LOT SIZE:	2.0 ha	
AREA:	N/A	
USE CLASS:	N/A	

In November 1993 Council approved a dive training resort on the site.

In February 1999 Council received a complaint about illegal earthworks occurring on the subject property. Investigations revealed the owner was preparing to use the lot for a function and conference centre. The owner was asked to apply for Planning Consent to operate the proposed use.

Council resolved to refuse the development at its meeting on 11 May 1999. The applicant reapplied for the same use in October 1999. This application too was refused by Council, at its meeting held on 21 December 1999. Another application for the function centre was made recently and is dealt with in another item in this agenda.

## **Report**

On the weekend of 30 June and 1 July 2000 two functions were held at the subject premises by an organisation called the "Mating Club" whose principal purpose appears to be facilitating sex between participants at organised functions at various venues. A 'Swingers Party' attended by approximately 200 people was held on the subject property on Friday 30 June 2000. A similar function attended by approximately 50 people was held on Saturday 1 July 2000. The functions, which started at 9pm, did not finish until 3am in the morning.

According to the Fremantle Police, at the Friday night function a cover charge of \$150 for single men was charged, whereas couples and single women were admitted free of charge. A live band and amplified music were provided for patrons. A standard charge of \$50 per person was applicable for the Saturday night function.

The owner, who had two applications for a function centre on the site refused in 1999, was aware that he did not have planning permission to hold such a function. It is a breach of the Town Planning and Development Act to undertake development, including conducting a use, without Planning Consent being granted.

Health guidelines were probably breached during the function. The following health matters are relevant to the function :

1. No Certificate of Approval has been issued for a Public Building under the Provisions of S178. Provided the building is in the same condition as it was when the Building "Certificate of Classification" was issued on 17 January 1996, the receipt of a Certificate of Electrical Compliance is all that is required to issue the Certificate of Approval.
2. The kitchen has not been used for several years and was not inspected prior to the event. However, the standard of the kitchen is good and it is likely to comply with regulatory requirements.

3. The swimming pool has been approved by the Health Department of WA but for aqua-lung diver training purposes only with other conditions. It is likely that the pool was used contrary to this approval. Further, no 'start-up' water samples were taken, as required by the Health Department of WA, prior to opening.
4. The advertising suggests that a tattooist and a body piercer provided their services on the night. The Health (Skin Penetration Procedure) Regulation 1998 require the owner of skin penetration premises to notify the local authority. No such notification was received.

Advertising indicated alcohol was to be sold from the premises at the party. The matter was referred to the Fremantle Police and Liquor Licensing Court to investigate.

It is considered possible that similar functions conducted by the "Mating Club" could occur in the future on this property.

The relevant matters for the Council to consider are the breaches of Health requirements and the breach of the Town Planning and Development Act. It is recommended that the owner be subject to prosecution proceedings under the Town Planning and Development Act.

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

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

1. Managing Your City

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

2. Planning Your City

*"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*

PD36\*          Public Buildings

### **Budget/Financial Implications**

Legal costs will be incurred for the conduct of any Planning prosecution.



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

It is open to the Applicant to apply for a Liquor Licence from the Office of Racing and Gaming, however no such application has been made at this stage. Council comment is required in the event that a Liquor Licence is applied for.

#### 13.14 (ocm1\_7\_2000) - PROPOSED STRUCTURE PLAN - CELLS 9 AND 10, YANGETUP/BEELIAR - OWNER: VARIOUS - APPLICANT: URBAN FOCUS (9620) (SOS) (SOUTH) (MAP 8/9) (ATTACH)

##### RECOMMENDATION

That Council:

- (1) refuse to adopt the proposed Structure Plan submitted by Urban Focus on 22 May 2000 for the following reasons:
  1. The application was not accompanied by signatures from all landowners to which the proposed Plan relates, as required by Part 8 of District Zoning Scheme No.2;
  2. The application does not have a clear majority of Cells 9 and 10 landowners in support of the proposed Plan;
- (2) advise Urban Focus, Evans Gianoli and BSD Consultants that notwithstanding Council's refusal to adopt the proposed Structure Plan, that Council is prepared to review the originally approved Structure Plan and proposed Structure Plan with a view to progressing the production of a composite Structure Plan for circulation for comment to affected landowners. Each party is invited to liaise with Council's Strategic Planning Services Department in this regard;
- (3) advise those persons who made a submission of Council's decision;
- (4) advise Urban Focus, that in regard to Recommendation 2, that there are concerns with the development layout shown in its proposed Structure Plan as detailed in the Officer's Report.

##### COUNCIL DECISION

## Background

This Agenda item concerns future residential land in Yangebup and Beeliar, commonly referred to as Cells 9 and 10, and a proposal for a revised Structure Plan. Cells 9 and 10 is comprised of over 60 lots totalling approximately 130 hectares and has been subject to numerous planning processes since the early 1990's.

Records of these processes form a substantial and complex file history, but have ultimately led to the land being zoned Urban in the Metropolitan Region Scheme and Residential R20 in District Zoning Scheme No.2, a structure plan being prepared and adopted and a subdivision design approved. Actual development however has taken time to come to fruition, which can be attributed to the difficulties experienced in managing development arrangements in relation to fragmented land held in multiple ownership.

The critical events in relation to this Agenda item are as follows:

- In February 1995, Council resolved to conditionally adopt a Structure Plan prepared by Chapman Glendinning and Associates for the development of Cells 9 and 10. Twelve months later, Chapman Glendinning submitted a revised Structure Plan at the same time as applying to subdivide the land. This revision and its associated report suggested the proposal had support from all but two of the affected landowners and stated that Urban Focus would be likely to manage the project given their experience in dealing with multiple ownership developments. In October 1997, the Western Australian Planning Commission approved the subdivision application. Plan 1 of the Agenda Attachments indicates the Chapman Glendinning plan that forms the basis of the approved plan of subdivision (WAPC Ref 100118).
- A subsequent application for subdivision by Urban Focus for the north-eastern portion of Cell 9 was approved by the Commission in June 1999. The plan was generally in accordance with the original approved plan, with some minor modifications. Urban Focus have recently commenced subdivisional earthworks adjacent to the intersection of Yangebup Road and Spearwood Avenue in accordance with the 1999 approval.
- In recent times the issue of who is managing the development of Cells 9 and 10 has become not only complicated, but also unclear. It is apparent that Cells 9 and 10 owners have engaged different project managers. Evans and Gianoli have advised that it is intending to act on the original structure planning and subdivision approval obtained by Chapman Glendinning and Associates (which is due to expire in October 2000) on behalf of landowners it has entered into arrangements with. BSD Consultants (who have recently absorbed Chapman Glendinning and Associates) is to

pursue fresh subdivision approval in this regard. Alternatively, Urban Focus has entered into Owner Deeds with many Cells 9 and 10 landowners and are currently undertaking subdivisional works as reported above.

Urban Focus has now lodged a revised Structure Plan for Cells 9 and 10.

### **Submission**

Urban Focus has lodged a Structure Plan, with accompanying report, for Cells 9 and 10. Cells 9 and 10 are bound by Yangebup Road, Kwinana freight railway, the boundary of the Kwinana EPP buffer and the planned southerly extension of Spearwood Avenue. The proposed Plan (titled Plan 2) is included in the Agenda Attachments.

The Structure Plan report identifies the following characteristics of the land:

- The development area contains an undulating sandy terrain on underlying limestone. It is largely cleared as a result of previous market and flower gardening. Some remnant vegetation is noted as existing on Lot 79 Birchley Road. The soils are considered to be free-draining with high permeability in the limestone. The land does not contain any watercourse.
- A small number of properties continue to carry out horticultural operations, particularly on Tindal Avenue in the southern part of Cell 10.
- Several development constraints exist on and adjacent to the land. The Bibra Lake Main Sewer and Kwinana to South Fremantle 132kV transmission line pass through the land. The Kwinana Air Quality buffer forms the southern boundary of the land and no development is proposed to extend into the buffer.
- A number of existing residences are located within the Structure Plan area, with most to be retained.

The Plan purports to have been based on the principles of the Liveable Neighbourhoods – Community Design Codes with an emphasis placed on defining and achieving a high standard of design. The key features of the Plan are as follows:

- The bulk of the area is to be developed for residential purposes with a base Residential Planning Code of R20. Some medium density development is proposed with R 30 and R 40 designations. The development is expected to yield 1000 new lots, providing homes ultimately for an estimated 3000 residents. The plan does not show

development of a 10 hectare parcel of land owned by Cockburn Cement that is within the Urban zoned area.

- The road layout reflects a modified grid pattern with interconnected roadways mainly in north-south and east-west configuration allowing solar access and views towards either the coast of the escarpment. A network of cyclepaths and walkways are proposed.
- The focal point of Cell 9 is an area of active public open space (POS) of 4.3 hectares in area, opposite an area allocated for a local neighbourhood centre for local shops. Based on the Metropolitan Centres Policy, the centre is intended to provide 1560m<sup>2</sup> of retail floorspace on an 1800m<sup>2</sup> site. An additional area of 6000m<sup>2</sup> for POS is located in the centre of Cell 9. Cell 10 will have four separate POS areas. A total of 8.205% of the gross subdividable area is proposed to be set aside for POS. The balance of the usual 10% requirement is proposed to be made up by actual expenditure towards the development of the proposed POS areas.
- No schools are proposed within the Structure Plan area in accordance with recent Education Department advice.
- All urban infrastructure usually associated with new development areas will be extended to service the development. Stormwater drainage will be contained within the development.

In terms of the proposed implementation of the Structure Plan, Urban Focus have made the following comments:

- The Structure Plan, following its adoption by Council, is to be referred to the Western Australian Planning Commission for approval. Once endorsed it will provide the basis for preparation of detailed subdivision plans.
- Having secured the signed commitment of the majority of landowners in Cells 9 and 10 authorising Urban Focus to undertake development on their behalf, Urban Focus is confident of being able to achieve an upmarket estate. To set the tone for the development, Urban Focus intends to introduce restrictive covenants to achieve this objective, enforceable through the District Planning Scheme.
- The multiple ownership of the area is noted as a significant issue and requiring of an appropriate mechanism to share the cost of infrastructure provision equitably between landowners. Urban Focus commit to undertaking a review of the necessary shared infrastructure items and have proposed a draft Scheme Amendment text to address the procedures and requirements of the developer contribution arrangement.

The Structure Plan report is accompanied by written consents from a number of Cells 9 and 10 landowners for the Structure Plan to be lodged for adoption. In instances where consents have not been signed, some landowners are reported to have already entered into Owner Deeds with Urban Focus. Urban Focus claim that in Cell 9, 20 of the 27 properties (excluding City of Cockburn and Ministry for Planning owned properties) owners have consented to and support the Structure Plan. In Cell 10, 21 out of 34 properties owners (excluding Council owned Lot 76 Birchley Road) have consented to and supported the Plan. This represents approximately 77% of Cell 9 and 63% of Cell 10 land.

Urban Focus have provided all Cells 9 and 10 landowners with a copy of the proposed Structure Plan and invited landowners to make comment on the proposal directly to Council. Urban Focus also provided copies of the Plan to several government agencies and surrounding landowners. The public comment period took place over three weeks concluding on 19 May 2000. The Schedule of Submissions provides a summary of all submissions and is included in the Agenda Attachments.

### **Report**

Before reporting on the design features of the proposed Structure Plan, it is necessary to firstly deal with the validity of the proposal and the current circumstances of its lodgement.

The complications concerning the project management of Cells 9 and 10 presents difficulty for Council. It is evident that there is no universal agreement from landowners in respect to who will manage the development and the manner in which it is to proceed. This significantly affects Council's ability to ensure that a coordinated approach to development will be undertaken and that adequate arrangements are in place for the sharing of infrastructure costs.

As Cells 9 and 10 form part of the Yangebup/Munster Urban Development Area, it is subject to the provisions of Part 8 of District Zoning Scheme No.2. Part 8 requires that subdivision of an Urban Development Area may not be undertaken otherwise than in accordance with a Structure Plan adopted by Council and approved by the Commission. The application requirements concerning a proposed Structure Plan require, inter alia, that all proposals are to be signed by each owner of land within the Urban Development Area to which the proposed Plan relates.

There are no advertising requirements in respect of a proposed Structure Plan in Part 8, however it has been Council practice to circulate proposals to affected landowners for comment. Council would be aware that Amendment 192 to the Scheme proposes the deletion of Part 8 of the Scheme and replacement with the Commission's Model

Text Provisions for Structure Plans. Council adopted this Amendment for final approval last month.

During the advertising of Amendment 192, a submission from W.E. Evans on behalf of 15 Cells 9 and 10 landowners, submitted that the Chapman Glendinning plan of subdivision approved in 1997 be adopted as the basis for all structure planning of the area. These owners and their properties are indicated on Plan 3 in the Agenda Attachments.

BSD Consultants have recently advised that it intends reapplying for subdivision on behalf of a significant proportion of Cells 9 and 10 landowners. It contends that the landowners that are signatories of the subdivision application have revoked their support for the alternatives suggested by Urban Focus. The extent of properties supporting the fresh subdivision application is detailed on Plan 4 in the Agenda Attachments. BSD acknowledge that the original Structure Plan was prepared some time ago and it is necessary to readdress several issues in the course of the new approval process.

On the other hand, Urban Focus have elicited significant support for its Structure Plan, firstly through endorsing its lodgement and secondly through supporting comments made during the advertising of the plan. It should however be noted that some owners withdrew consent previously granted to Urban Focus. Plan 5 in the Agenda Attachments illustrates those who have supported the lodgement of the Urban Focus Structure Plan and/or those who have entered into Owner Deeds with Urban Focus.

The Schedule of Submissions in relation to the proposed Structure Plan indicates 23 submissions of support / no objection from landowners. There are also six submissions objecting the Structure Plan. Whilst Urban Focus's Structure Plan has support from a significant number of landowners within Cells 9 and 10, it is evident that a large proportion of landowners either did not endorse its lodgement or have not provided supporting comments during advertising. See Agenda Attachments for Plan 6 illustrating the properties to which landowner comments relate.

Accordingly, it is recommended that the most reasonable and technically sound course of action is for Council to refuse to adopt the proposed Structure Plan in its current form due to the fact that it was not endorsed by all affected landowners and that there is no clear majority support for the proposal.

It is likely that Council will come under some criticism from Urban Focus and the landowners it acts on behalf, for refusing to adopt the proposed Plan. It is not the intent of Council to unreasonably delay development of an area, however it is critical that it be assured that appropriate development arrangements are in place prior to supported

development plans. In an effort to help address the present complications, there is considered to be some possibility that elements of the originally approved Plan and the proposed Plan can be blended to form a composite Plan, particularly in Cell 9 where Urban Focus have a major interest and majority support from landowners. In this regard, it is recommended that both project managers and associated consultants be invited to liaise with Council's Strategic Planning Services Department with a view to progressing the preparation of a plan that can be widely accepted by as many landowners as possible.

Given the recommendation to refuse to adopt the proposed Structure Plan, it is not necessary to provide extensive comment on the detailed development layout illustrated in the proposed plan. It is however important should there be an attempt at a revised plan, to have the following points on record:

- The proposed Structure Plan purports to be a "Liveable Neighbourhoods" development, however the proposal has not been accompanied by the context analysis and supporting information usually required under the Community Design Code. Urban Focus note in the report accompanying the proposed Plan that this supporting information would be provided to the Commission when it submits the Plan for its approval. Council Policy PD 25 supports the implementation of the Code and encourages its use in all future urban development proposals in the district. Accordingly, Council should require the level of supporting information required under the Code to be provided as part of its assessment of a Structure Plan proposal. This is especially necessary given Urban Focus's proposal for 8% POS provision, with the balance to be made up by expenditure on the POS areas provided. Whilst the Community Design Code allows for this, it is subject to all other elements of the Code to be addressed. This clearly can not be assessed without all the information being submitted demonstrating compliance with the complete provisions of the Code and not just the components that suit the proponent.
- There are several concerns regarding elements the road layout, particularly the proposed east-west road that runs parallel to proposed Beeliar Drive in Cell 10. This road and its intersections are proposed to be treated with roundabouts occurring at very short intervals. An alternative would be required for any subsequent proposal. Efforts should be made to directly link Cell 10, by road and pedestrian/cycle links, to the Beeliar Heights development to the east, particularly given the local community and retail facilities to be located there. Other traffic management issues require attention.
- Several of the POS areas could be better located to maximise protection of pockets of remnant vegetation. The larger areas intended for active open space are proposed on low lying land and would require considerable earthworks to achieve an adequate

standard. Areas intended for drainage should clearly be indicated as such on a Structure Plan. These areas will not receive POS credits except in the circumstances outlined in the Community Code and Council Policy PD 13.

- An 1800m<sup>2</sup>-neighbourhood centre site may be an insufficient area to accommodate a retail facility with a floorspace of 1560m<sup>2</sup> and the associated carparking, access and landscaping requirements. In the absence of Community Code analysis, especially walkable catchments, it is not possible to provide any advice on whether the neighbourhood centre is appropriately located.
- The draft Scheme Amendment text submitted by Urban Focus proposing a procedure for the shared provision of infrastructure is not supported. Amendment 193 introduces generic provisions for the establishment and operation of development contribution arrangements. The suggested text conflicts with these provisions. Furthermore, Amendment 210 proposes the developer contribution items that will apply to the Yangebup/Munster Urban Development Area (to be known as DCA 5 in TPS 3). This Amendment only identifies works associated with the construction of Beeliar Drive. Urban Focus's proposal is that the Amendment extend to cover the equitable apportionment of the cost of providing land for POS and drainage and its development to a useable standard, a sewer pumping station and or sewer main to service the area and all associated valuation and administration costs. It should be made clear that Council's position is that these additional items should be subject to private arrangements between landowners and that the only items of infrastructure for which Council will administer an arrangement is for Beeliar Drive and associated works as proposed by Amendment 210
- Council would be hesitant to accept any arrangement whereby restrictive covenants in relation to the detailed housing standards are to be enforced through the Town Planning Scheme.

In conclusion, it should be noted that in refusing to adopt the proposed Structure Plan, Council is not giving a tacit indication that the original Structure Plan is still acceptable in its current form. Rather, the original plan, given its age and the events that have transpired since its adoption, requires review particularly in terms of POS distribution, road layout and the deletion of the primary school from Cell 10, as acknowledged by BSD Consultants.

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

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



## 2. Planning Your City

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

*"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*

*"To foster a sense of community within the district generally and neighbourhoods in particular."*

## 3. Conserving and Improving Your Environment

*"To conserve the quality, extent and uniqueness of the natural environment that exists within the district."*

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

## 4. Facilitating the needs of Your Community

*"To facilitate and provide an optimum range of community services."*

*"To identify current community needs, aspirations, expectations and priorities of the services provided by the Council."*

*"To determine by best practice, the most appropriate range of sporting facilities and natural recreation areas to be provided within the district to meet the needs of all age groups within the community."*

The Planning Policies which apply to this item are:-

PD8*	Bushland Conservation Policy
PD13*	Public Open Space
PD25*	Liveable Neighbourhoods - Community Design Codes
PD42	Native Fauna Protection Policy

### **Budget/Financial Implications**

Cost sharing arrangements as detailed in the report.

Council owns Lot 76 Birchley Drive, purchased recently for the construction of Beeliar Drive. There will be land surplus to the road construction which could be developed.

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

Nil

**13.15 (ocm1\_7\_2000) - FINAL ADOPTION OF AMENDMENT NO. 194 TO DISTRICT ZONING SCHEME NO. 2 - R24309 COCKBURN ROAD, HENDERSON - OWNER: RESERVE VESTED IN CITY OF COCKBURN - APPLICANT: GRAY & LEWIS (92194) (SA) (COASTAL) (MAP 5) (ATTACH)**

<b>RECOMMENDATION</b>	
That Council:	
(1)	adopt the amendment for final approval with the following modification/s to the amendment documents: <ol style="list-style-type: none"> <li>1. modification of the amendment map and text to reflect the revised Cockburn Road realignment (as per WAPC Subdivision No. 110428);</li> </ol>
(2)	reinstate to the Hon. Minister for Planning that Council is not prepared to amend its recommendation in line with the applicant's submission;
(3)	in anticipation of the Hon. Minister's advice that final approval will be granted, the modified amendment documents be signed, sealed and forwarded to the Western Australian Planning Commission;
(4)	advise the applicant and those who made submissions of Council's decision accordingly.

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

ZONING:	MRS:	Industrial
	DZS:	Unzoned
LAND USE:	N/A	
LOT SIZE:	N/A	
AREA:	N/A	
USE CLASS:	N/A	

Amendment No. 194 will rezone Portion of Reserve 24309 Cockburn Road, Henderson from "Regional Reserve - Parks & Recreation Reserve" to "General Industry (Restricted Use: Ship Building and the manufacture, fabrication and assembly of components for use by the offshore petroleum industry)" and portion of Cockburn Road from 'Local Reserve - Local Road' to "General Industry (Restricted Use: Ship Building and the manufacture, fabrication and assembly of components for use by the offshore petroleum industry)".

The proposed transfer of the subject land to General Industry is for the development of the southern harbour project on Jervoise Bay.

It is intended that the southern harbour will support the fabrication and loadout of purpose-built modules and jackets; the fit out of floating production and storage vessels; naval vessel refits and maintenance; and module and specialist plant fabrication for the mining and mineral processing industries.

The southern harbour will be divided into two precincts:- the Heavy Fabrication/Ship Building precinct and the Marine-Related Heavy Industry precinct.

The development of the Heavy Fabrication/Ship Building precinct will require the construction of a major offshore breakwater to provide a fully protected waterfront and reclamation of approximately 50 ha of waterfront land. The reclaimed area is intended to be largely developed as a common use Fabrication/Laydown Facility with direct access to waterfront berths and loadout wharves.

As a large portion of the Jervoise Bay Infrastructure Development area lies outside the City of Cockburn's Municipal Boundary, Council had no jurisdiction to assess the proposal. Therefore the amendment process became staged, with the first stage being the land area within the Council's Boundary, namely Amendment No. 194. The next stage will be the realignment of the Municipal boundary to include the Heavy Fabrication/Ship Building precinct in Council's Municipal area, and the final stage will be the rezoning of this precinct.

Council previously resolved at Ordinary Meeting, held on the 15 February 2000 the following:

- (1) *request the Western Australian Planning Commission for a deferment and extension of time for the Council to make a recommendation on the amendment, under Regulations 17(2) and 18(1) of the Town Planning Regulations, until the realignment of Cockburn Road and subdivision of Part Lot 2 and Reserve 24309 Cockburn Road has been finalised (WAPC Ref 110428);*

- (2) *advise the applicant of Council's decision accordingly; and*
- (3) *write to the Minister for Planning advising that Council is not prepared to amend its recommendation in line with the submission on behalf of Landcorp.*

### **Submission**

Council resolved to initiate Amendment No. 194 in April 1999, and advertising closed on 5 January 2000. One submission was received, refer to the Agenda Attachments for further details.

Final adoption was deferred pending the realignment and subdivision of Cockburn Road (Ref No. 110428) in February 2000. Council has responded to the WAPC subdivision application for Cockburn Road, but as yet no decision has been issued by the Commission.

### **Report**

The reason for the deferment is that when new lots boundaries are created, as a result of the Cockburn Road realignment and subdivision application, it will create split zonings on the proposed new lots. However, final adoption can now be granted as approval of realignment/subdivision for Cockburn Road is imminent, and the amendment documents can be modified to reflect the correct alignment and zonings for both the east and west of Cockburn Road.

The applicant, in their submission, requested Council to change the proposed zoning definition.

They stated that the revision of the definition would provide greater opportunities for other industries that may not require transport of primary products by sea. Refer to the Agenda Attachment.

The applicant's proposed wording change deletes the reference to the need to require the industries to transport their product by sea. This was the wording agreed by the Minister and should continue to apply and the matter is totally irrelevant to Amendment 194.

Council's Planning Department takes the position that the Council has agreed to the original rezoning as proposed by Grey and Lewis, which is *"General Industry - Restricted Use - Ship Building and manufacture, fabrication and assembly of components for use by the off shore petroleum industry"*.

There is not sufficient justification for changing the rezoning, as the land on the west side of Cockburn Road is a limited and scarce resource and should only be developed for Marine related industries. The Council has made its position clear, that only those industries

which need to be located on the coast, should be located on the coast. Other non-marine industries should be located elsewhere.

It is recommended that final approval be granted for Amendment No. 194, subject to the modification of the amendment documents to reflect the realignment of Cockburn Road (as per WAPC Ref. No. 110428).

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

N/A

### **Budget/Financial Implications**

N/A

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

The Western Australian Planning Commission has updated the Metropolitan Region Scheme (MRS) for the proposed Jervoise Bay Infrastructure Project. The MRS Amendment No.1001/33, which was subject to Section 38 Assessment by the Environmental Protection Authority, was finalised in early 1999.

This development has been adopted as a priority initiative by the State and the Council must comply with the Metropolitan Regional Scheme.

The scheme was the subject of an environmental review (formal assessment) by the Environmental Protection Authority, as a part of the MRS Major Amendment procedure. The Minister for Environment granted Ministerial approval to the proposed amendment, subject to conditions in December 1998.

### **13.16 (ocm1\_7\_2000) - PROPOSED FUNCTION CENTRE - LOT 9; 220 WATTLEUP ROAD, WATTLEUP - OWNER/APPLICANT: V J LOMBARDO (4412312) (MT) (SOUTH) (MAP NO 17) (ATTACH)**

#### **RECOMMENDATION**

That Council:

- (1) approve the application for a function centre on Lot 9; 220 Wattleup Road, Wattleup subject to the following conditions:

#### **Standard Conditions**

1. Standard conditions contained in Council Policy PD 17 as determined appropriate to this application by the delegated officer under clause 7.6 of Council's District Zoning Scheme N° 2;

### Special Conditions

1. The hours of operation being restricted to 8am to 7pm seven days a week. Any variation on these hours must be the subject of a fresh application to Council.
2. The number of people attending a function on the site is not to exceed 30 people at any time. Any variation must be the subject of a fresh application to Council.
3. The maximum number of car bays to be provided on site is not to exceed forty (40).
4. A plan detailing the location of all new car bays be submitted and approved by the Council.. The location and arrangement is to be to the satisfaction of Council, including but not limited to, meeting the Scheme requirements for setbacks to boundaries.

### COUNCIL DECISION

### Background

ZONING:	MRS:	RURAL
	DZS:	RURAL
LAND USE:	DIVE TRAINING CENTRE	
LOT SIZE:	2.0 ha	
AREA:	N/A	
USE CLASS:	"SA"	

In November 1993 Council approved a dive training resort on the site.

In February 1999 Council received a complaint about illegal earthworks occurring on the subject property. Investigations revealed the owner was preparing to use the lot for a function and conference centre. The owner was asked to apply for Planning Consent to operate the proposed use.

Council resolved to refuse the development at its meeting on 11 May 1999. The applicant reapplied for the same use in October 1999. This application too was refused by Council, at its meeting held on 21 December 1999.

Item 13.20 of this Agenda details the fact that two functions were held at the site on the weekend of 30 June and 1 July 2000 despite no Planning Approval being issued for that use.

### **Submission**

Application is made for a function centre to cater for small business lunches and seminars. The hours of operation will be 8am to 8pm seven days a week. The functions would cater for approximately 30 people.

The application was referred to surrounding landowners for information and comment. Three submissions were received, one in favour, the other two opposing the development. A summary of the submissions is attached to this agenda.

### **Report**

The application is to utilise the existing buildings for a function centre. An additional 40 car bays are proposed on the western side of the building. No details about the exact location of these bays has been provided in this or previous applications.

Two previous applications for a function centre have been refused because they would adversely affect the rural amenity of the locality. The current application differs from these by restricting the hours of operation to the day-time and restricting the number of people to 30. The use as a day-time function centre is unlikely to affect the rural amenity. Restricting the hours of operation to 8am to 7pm will ensure that there is no intrusion into the evenings. 7pm is the time the assigned level of noise, specified in the Environmental Protection (Noise) Regulation 1997, changes to the evening level.

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

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

1. Planning Your City

*"To ensure that the development will enhance the levels of amenity currently enjoyed by the community."*

### **Budget/Financial Implications**

N/A

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

Nil

**13.17 (ocm1\_7\_2000) - ADVERTISING OF PROPOSED AMENDMENT NO. 205 TO DISTRICT ZONING SCHEME NO. 2 - OWNER: VARIOUS - APPLICANT: URBAN FOCUS (92205) (SA) (COASTAL) (ATTACH)**

**RECOMMENDATION**

That Council:

- (1) forward a copy of the signed document and a copy of Council's report, to the Western Australian Planning Commission with a request to advertise the amendment,
- (2) modify Part 8 of District Zoning Scheme No. Clause 8.11 "Packham Urban Development Area" to include the following provisions:
  - "2. No subdivision or development of incompatible uses will be permitted within the 500m generic buffer prescribed for the rendering plant at Watsons which is located within the "Special Industry B" zone, until the buffer is scientifically determined and approved by the Department of Environmental Protection, and
  3. No subdivision or development of incompatible uses will be permitted within the 500m generic buffer associated with the operation of market gardens located within the Packham Urban Development Area, until the buffer is scientifically determined and approved by the Department of Environmental Protection or the use ceases."
- (3) advise the Western Australian Planning Commission, the Department of Environmental Protection, Watson's and the applicant of Council's decision, accordingly.

**COUNCIL DECISION**

**Background**

LOCATION:	LAND BOUNDED BY RIGBY AVENUE, ROCKINGHAM ROAD, MELL ROAD AND SOUTHERN BOUNDARIES OF LOT 11 ROCKINGHAM ROAD, LOT 24 MELL ROAD AND INCLUDING LOT 291 ZLINYA CIRCLE	
ZONING:	MRS:	Urban



	DZS:	"Rural" and "Local Reserve - Public Purpose - Primary School"
LAND USE:	Market Gardens and Houses	
LOT SIZE:	N/A	
AREA:	N/A	
USE CLASS:	N/A	

The subject land is included in the Packham Urban Development Area, and the land is zoned "Urban" under the Metropolitan Region Scheme. The land identified for the Primary School on the subject site is no longer required by the Education Department.

This amendment is subject to similar implications as a previous amendment in the area, Amendment No 121, where several landowners in the Watson's Odour Buffer wanted to rezone their land from "Rural" to "Residential R30". The outcome of this amendment was that the Council and the Hon. Minister refused final approval of the amendment on the grounds that the Odour Buffer and modeling issue was not resolved, resulting in an interim Odour buffer. Council was advised that the Department of Environmental Protection opposed any further residential development within the interim buffer distance of 500 metres from the Watson's Plant.

This amendment will rationalise the zoning in the overall area, and the adopted structure plan will allow the subdivision of land that is outside the Watsons buffer. The proposed "Structure Plan" for the land and adjacent properties is attached.

The applicant stated that:

*"The Education Department is a willing participant in this amendment, having recently requested Urban Focus to incorporate that land held by the Minister for Education (as part of the proposed Packham Primary School Site) in a subdivision application and rezoning with the other private held land in the above site."*

Council resolved at its Ordinary Meeting, held on the 21 March 2000, the following:

- to initiate Amendment No. 205 and refer it to the Environmental Protection Authority for assessment under Section 7A2 of the Town Planning and Development Act, and
- to advertise the amendment in accordance with Planning Bulletin No. 29 following receipt of written advice from the Environmental Protection Authority that the Scheme Amendment is not required to be assessed under Section 48A of the Environmental Protection Act.

The grounds for initiating the amendment as follows:

1. a significant portion of the amendment land lies **outside** the Watsons Odour Buffer and the portion that lies inside the buffer has substantial existing residential development on the land;
2. the amendment land is an isolated development cell within the Packham Urban Development Area, adopting this amendment will **not** set an undesirable planning precedent for other land within the Odour buffer. The proposed amendment and structure plan can be assessed independently of the other land in the buffer.
3. the proposed amendment will be referred to the Department of Environmental Protection (DEP) as a part of the amendment process, and the DEP will be able to fully assess the impact of the Odour buffer on the proposed amendment.
4. based on the precedent of Amendment No. 121 the Amendment will not be finalised until such time as the Watson's Odour Buffer has been redefined to the satisfaction of the DEP.

The Department of Environmental Protection advised Council that no formal assessment of the scheme amendment was required, however advice was given on the Odour buffer around Watson's, and the impact of the market gardens. Refer to the Agenda Attachments for a copy of the DEP's advice.

### **Submission**

The applicant has requested that advertising of the amendment proceed on the grounds that:

1. Council supported the initiation of the amendment, subject to the DEP's advice, which has been received, and no assessment was required.
2. Council has adequate grounds to request the WAPC to advertise Amendment 205, as the WAPC will be seeking the advice of the DEP as part of the approval process.

Refer to the applicant's letter in the Agenda Attachments, dated 6 July 2000 for further details.

### **Report**

The subject land included in the proposed amendment is subject to the interim 500 metre Watson's' Odour Buffer currently prescribed by the Environmental Protection Authority. Council has been advised by the DEP that the Watson's' Odour Buffer is to be redefined in the latter part of 2000.

A portion of the amendment land is included in the DEP 500 metre generic Odour buffer, however it is recommended that the amendment proceed to the advertising stage on the on the basis that no development or subdivision is permitted within the area, until the revised odour buffer has been scientifically determined and approved by the DEP.

The DEP, in its response to the amendment, also advised that there should be a 500 metre buffer surrounding operating market gardens to prevent residential development from being adversely effected by spray drift.

By modifying the Packham Urban Development Clause, in Part 8 of the District Zoning Scheme No. 2, to include this principle as a provision, it will allow the amendment process to proceed, but limit the subdivision and development to the area located outside of the existing 500 metre generic buffer.

This approach has previously been accepted by the Commission and the DEP in Atwell and Success, in relation to buffers surrounding piggeries, poultry farms, dog kennels and market gardens (Amendments No. 206, 207 and 211).

Council did resolved at its Meeting in March 2000 to advertise the amendment in accordance with Planning Bulletin No. 29 following receipt of written advice from the EPA that the Scheme Amendment is **not** required to be assessed under Section 48A of the Environmental Protection Act. Council should proceed with amendment, and should refer the documents to the WAPC with a request for consent to advertise (to ensure the adequacy of the above mentioned provisions), for the following reasons:

1. The DEP advised that assessment was **not** required, only advice was given;
2. The amendment includes safeguards to ensure that no subdivision or development of incompatible uses will occur within the Watsons Odours buffer;
3. The initial modeling undertaken by Watsons in 1996 showed that the land was not within the proposed scientifically defined buffer.

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

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

1. Planning Your City

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

The Planning Policies which apply to this item are:-

PD11\* Packham Urban Development Area  
PD48\* Watsons Buffer

**Budget/Financial Implications**

N/A

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

Section 35A of the Metropolitan Region Town Planning Scheme Act (1959) requires Council's Town Planning Scheme to be in conformity with the Metropolitan Region Scheme.

The subject land is partly affected by the interim 500 metre Watsons Odour Buffer currently prescribed by the Environmental Protection Authority.

**Implications of Scheme No. 3**

The area is a Development Area - Packham DA1 - Schedule 11

**13.18 (ocm1\_7\_2000) - HOPE VALLEY - WATTLEUP REDEVELOPMENT BILL 2000 (9332) (SR/SMH) (ATTACH)**

**RECOMMENDATION**

That Council forward a copy of the Officer's Report, together with the comments on the proposed Hope Valley - Wattleup Redevelopment Bill 2000 (attached to the Agenda), to the Hon. Minister for Planning and all non-government members of the Legislative Council.

**COUNCIL DECISION**

## **Background**

It is understood that the Hope Valley - Wattleup Redevelopment Bill will be introduced into the Legislative Council for debate during the August Parliamentary Session.

A copy of the 'Contents' of the Bill which conveys the basic structure and elements of the proposed legislation is attached to the Agenda.

## **Submission**

The purpose of the legislation is broadly, to:

- define the Redevelopment Area subject of the legislation;
- assign extensive powers to the Authority (Landcorp), including planning functions, land acquisition, road closures and other incidental functions to enable the Authority to carry out development, and redevelopment works in the Area;
- establish procedures for the preparation; public advertising, approval and amendment of the Master Plan;
- establish procedures for planning control, including the extinguishment of existing local government planning schemes and the Metropolitan Region Scheme currently applying to the area and the associated removal of local government development control powers;
- remove any discretion in local government rating policy applicable to the area;
- establish compensation provisions.

## **Report**

Comments on most of the clauses in the Bill by Planning and Development staff are attached to the Agenda. Many of the comments relate to Landcorp's role as the single 'Authority' largely responsible for the planning and development of the area, as opposed to a Development Authority with a broader range of government and community representation.

In its submission on FRIARS, the Council was firmly of the opinion that a Development Authority be established to implement the finally adopted strategy.

In the FRIARS report of March 1999, a Development Authority was one of four recommended implementation options. Despite the fact that the report was published for public comment, the WAPC advised that the

government is unlikely to support the establishment of a Development Authority, a Private Sector Project Manager is a least likely choice and Development Schemes managed by local government are seen as difficult to administer. This left Landcorp as the most likely choice.

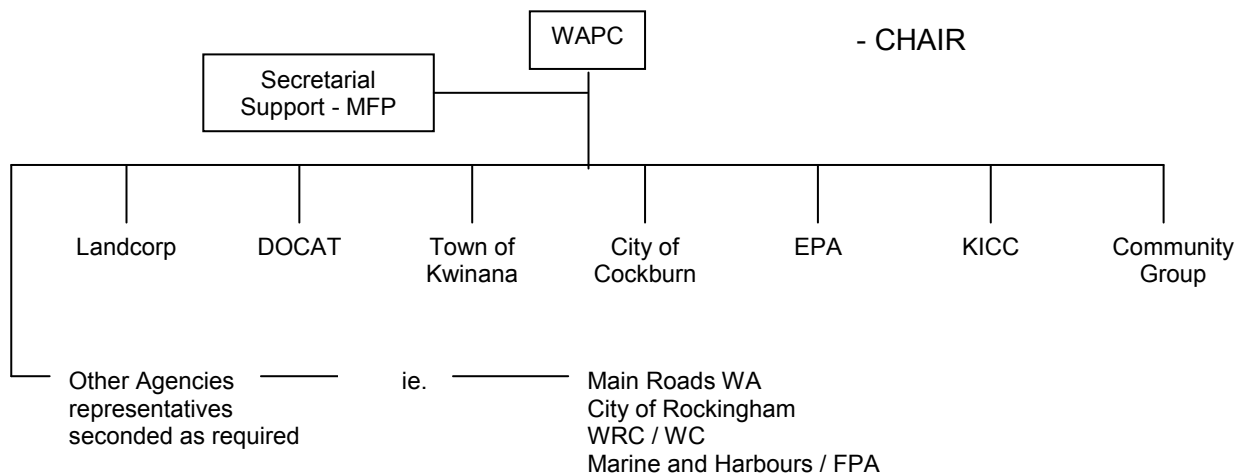
Consideration of the choices would confirm that local government and the private sector are not well suited to undertake a project of the scale contemplated over an extended time frame.

Landcorp, likewise would not be a preferred choice because they are a beneficial stakeholder, operating as a quasi-private sector organisation.

The most appropriate management approach is a Development Authority which can make broadly based decisions utilising the knowledge and skills of a range of stakeholders, within the confines of a development charter.

The Authority could operate across municipal boundaries and also co-ordinate the different government agencies responsible for planning, infrastructure provision and promotion.

The composition of the Authority for the KIA could look something like the following:-



It is preferable that such an authority be chaired by a planning agency rather than a development agency and that local industry and community groups be represented.

Development Authorities have been successfully used on large "public interest" projects such as East Perth, Joondalup, Subiaco Centro and one for Midland has been initiated to redevelop the old railway workshop.

A Development Authority is autonomous, separately funded and established by an Act of Parliament. The Authority is responsible to a government Minister and therefore, is as accountable as Landcorp.

A Development Authority would work best on a project of the size and of a duration contemplated for a strategically important industrial area as at Kwinana or at a new site such as proposed for Oldbury.

The Council's preference for a Development Authority to implement the FRIARS recommendations is subject to:-

- Any new industrial zoned land created under FRIARS to remain within the affected local government districts and not be excised under the exclusive control of a separate authority.
- The local governments should retain the ability to levy rates from properties within the area controlled by any Development Authority.
- The local governments should retain their delegated authority to issue planning consents and building licences within any area controlled by a Development Authority, together with the ability to make recommendations in relation to scheme amendments, subdivision and to manage health and environmental matters currently delegated to local governments.
- The affected local governments being represented on any Development Authority, so that they can continue to represent the views of their respective communities.
- The Development Authority being established to be the "project manager" to plan the area, co-ordinate the provision of infrastructure, amalgamate and subdivide the land, to fund works, acquire and sell the land and to promote and market the estate.
- The Development Authority should be abolished at the conclusion of its role as project manager and the respective local governments to assume responsibility for the on-going development control and management of the area under the Council's Town Planning Schemes, similarly to that which applied to the Joondalup Town Centre.

The foregoing overview is provided as a basis for understanding and contesting the proposed approach to the Implementation of the FRIARS preferred Strategy (Master plan) contained in the Hope Valley - Wattleup Redevelopment Area Bill 2000.

The Council, at its meeting held on 20 June 2000, resolved to advise the WAPC that it does not support the Bill as proposed.

In the likely event that the Bill becomes law in August or September this year when State Parliament reconvenes after its winter recess, the Act will not include any formal role for local government.

There are only seven sub-sections of the Act which involve local government.

- |      |         |   |
|------|---------|---|
| pp3  | S.4(2)  | Before any such regulations (to add to or subtract from the Redevelopment Area) the Minister is to <b>consult</b> with the respective local governments as relevant.              |
| pp10 | S13(3)  | A proposed Master Plan is not to be submitted to the WAPC unless it has been done in accordance with the Act and after <b>consultation</b> with the respective local governments. |
| pp13 | S.18(3) | Amendments to the plan are to include <b>consultation</b> with the respective local governments as appropriate.   |
| pp19 | S.27(1) | Development applications together with the prescribed fee are to be made to the respective local governments.   |
| pp20 | S.27(3) | Local government is to forward all applications received in the Redevelopment Area to the WAPC within 7 days.   |
| pp20 | S.27(4) | Local governments may make any recommendations on any application to the WAPC within 42 days of receipt.  |

Three of the sub-sections require the WAPC to consult with local government in relation to proposed changes to the Redevelopment Area and the preparation of an amendment to the Master Plan. The Commission is not required to have regard for the outcome of any consultation when making its decision.

The balance of the sub-sections relate to the "post box" role of the Council and the scope for the Council, if it chooses to, to make recommendations on any applications it receives for development in the Redevelopment Area. The Commission is not required to have any regard for any recommendations made by the local government when making its decision.

Therefore, when the Act comes into operation, the only position the City of Cockburn either separately or jointly with the Town of Kwinana is to:-

1. Approach Landcorp and the WAPC to seek to be part of a Technical Committee to advise Landcorp and the WAPC on the preparation of the Master Plan so that the Council can take an active part in this process and not be consulted at the end of the process.
2. Formulate a Council Policy which could require either the Council or its officers under delegated authority, to make recommendations to the WAPC on all applications that it receives, to ensure that Council's comments are on the record.



Such recommendations should be made on the understanding that the WAPC will be issuing its approval and be responsible for compliance with any conditions and that by making any recommendation, the Council will not be responsible or liable for the approved development. It should be remembered that as neither the MRS nor the local scheme will apply to the Redevelopment Area, any recommendations could not relate to the scheme provisions and therefore, necessarily be of a generic nature.

Other than these two initiatives, the Council has little or no chance of influencing the type, quality or purpose of land use and development within the Redevelopment Area. However, initial discussions have been held with Landcorp and the Ministry for Planning to possibly formulate a Memorandum of Understanding to facilitate a greater involvement of local government.

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

FRIARS is contrary to the 'Vision' and the Key Result Areas adopted by the Council in its Corporate Strategic Plan. It is also contrary to the Council's adopted Ultimate Strategic District Plan.

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

If land becomes owned by Landcorp or any other State authority, it could become exempt from the payment of rates to the Council.

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

The Hope Valley - Wattleup Bill if it becomes law, will prescribe the role of local government.

Local government, should ensure that it does not duplicate any role or responsibility of the Authority or the WAPC.

## **14. FINANCE AND CORPORATE SERVICES DIVISION ISSUES**

### **14.1 (ocm1\_7\_2000) - LIST OF CREDITORS PAID (5605) (KL) (ATTACH)**

#### **RECOMMENDATION**

That Council receive the List of Creditors Paid for June 2000, 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**

N/A

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

N/A

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

Nil

**14.2 (ocm1\_7\_2000) - FEES AND CHARGES - HENDERSON LANDFILL DISPOSAL - REVOCATION OF PART 1 MINUTE NO. 611 - COUNCIL MEETING 20 JUNE 2000 (RWB) (4900)**

**RECOMMENDATION**

That Council revoke Part 1 of Minute No. 611 as adopted by Council on 20 June 2000 as follows:-

"(1) pursuant to Part X Division 4 of the City of Cockburn (Local Government Act) Local Laws, adopt the new schedule of rates for disposal of waste at the Henderson Landfill effective from 1 July 2000 as follows:

	\$
<u>Trailers</u>	
Per car, utility or trailer not exceeding 1 cu.m.	13.00
1.25 cu.m.	30.00
Exceeding 2.5 cu.m.	62.00

	<u>\$/Tonne</u>
<u>Trucks</u>	
Clean	4.00
Building/Demolition Waste (Off Liner)	12.00
Putrescible Waste (On Liner)	43.00
Tree Loppings	37.00
Sludge	47.00
<u>Asbestos</u>	
The Henderson Landfill Site is only authorised by the Department of Environment to accept a maximum of <b>1 cubic metre</b> per load of asbestos waste. Applicable Tip Fee plus <b>\$50.00 burial</b> charge for commercial.	
<b><u>When weighbridge is not in use for putrescible and non-putrescible solid waste</u></b>	
	\$
Non-compactor truck	19.00/wheel
Compactor truck	37.00/wheel
<b><u>Rates for disposal of environmentally sensitive, extraordinary or Class II waste is by negotiation</u></b>	
<b><u>TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL</u></b>	

## COUNCIL DECISION

### Background

Advice had been received from WAMA that the fees and charges which were to apply at the Henderson Landfill Site, was subject to GST. In accordance with S6.19 of the Local Government Act 1995, Council carried a resolution at its meeting of 20 June 2000 to increase the fees to provide for GST.

The Australian Taxation Office has since advised that GST will not apply to fees and charges for landfill sites.

### Submission

Mr Donaldson has, by letter dated 29 June 2000, given notice of his intention to move for the revocation of Part 1 of Minute No. 611 which relates to the fees and charges for the Henderson Landfill Site.

Notice has been given by Cmr Donaldson on the basis of the advice from the Australian Taxation Office, that GST is not payable.

### **Report**

Council, at its meeting of 20 June 2000, carried a resolution to adopt fees and charges for the Henderson Landfill Site applicable as from 1 July 2000 due to the implementation of GST. The Council decision also provided for increases in fees for the South Lake Leisure Centre.

The Council decision was in two distinct parts: Part 1 for the landfill site and part 2 for the Leisure Centre.

With the determination that GST is not applicable to the landfill site, Part 1 of Council's resolution of 20 June 2000 (Minute 611) requires revocation.

The Council decision in regards to Part 1 has not been actioned.

The effect of revoking Part 1 will mean that the previous Council decision taken on 21 December 1999, setting the fees for the landfill site, will remain in force.

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

N/A

### **Budget/Financial Implications**

The revocation will place Council in basically the same position as it was before the inclusion of GST.

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

Nil

## **14.3 (ocm1\_7\_2000) - INSURANCE TENDER NO.51/2000 (5506) (KL)**

### **RECOMMENDATION**

That Council accept the Tenders from:

- (1) the Municipal Liability Scheme for Public Liability, Professional Indemnity and Liability;
- (2) Municipal Workcare for Workers' Compensation insurance; and
- (3) the State Government Insurance Office for insurance for the

balance of the insurance portfolio.

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

**COUNCIL DECISION**

**Background**

Council's insurance expired on 30 June 2000. Tenders had been called from insurance companies for the forthcoming insurance period.

**Submission**

N/A

**Report**

Tenders were called by Council's Insurance Brokers, Western United Insurance Brokers. Tenders closed on 12 June 2000. Two tenders were received, one from SGIO and the other from the Municipal Schemes. Below is a summary of the tenders received.

<b>INSURANCE CLASS</b>	<b>SGIO 2000/01</b>	<b>Municipal Workcare 2000/01</b>	<b>Municipal Liability 2000/01</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
Property Risk (TSI - \$48,042,412.00)	83,122.29		
Fidelity Guarantee }	3,582.50		
Loss of Money }	2,333.00		
Councillors & Others - Personal Risks }	3,548.37		
Volunteers Personal Accident }			
Travel Pak }			
Workers' Compensation (1.75% on 11 million)	392,710.60	192,500.00	
Motor Vehicle and Plant	68,253.40		
Public Liability }			188,650.00
Professional Indemnity }			
Catastrophe Liability }			
Excess Catastrophe Liability }			

Journey Injury	8,491.04		
Contract Works	750.00		
Engineering Composite	2,420.00		
Bushfire	6,900.00		
LESS Workers' Compensation	572,111.20 (392,710.60)	192,500.00	188,650.00
LESS Journey Insurance	(8,491.04)		
<b>TOTAL</b>	<b>170,909.56</b>	<b>192,500.00</b>	<b>188,650.00</b>

The only class of insurance for which there was more than one tender was for Workers' Compensation. The SGIO tender in this instance was double that of Municipal Workcare. The journey policy is no longer available unless workers' compensation cover is held with SGIO.

As per Council Policy DA-F5 - Local Government Act 1995, Acceptance of Tenders, tenders can be accepted by the Directors of Finance and Corporate Services, Engineering and Works and Community Services up to \$500,000. As this tender is over \$500,000 the decision to accept the tender has to be made by Council.

Insurance has been secured by Cover Note until Council has accepted the tenders submitted.

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

N/A

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

An increase in all premiums will add \$120,000 to Council's Budget for a full 12 month period, compared to the previous financial period.

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

Nil

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

**15.1 (ocm1\_7\_2000) - TENDER NO. 46/2000 - ONE (1) SKID STEER FOUR WHEEL DRIVE LOADER (4407) (GG) (ATTACH)**

**RECOMMENDATION**

That Council accept the tender from Lift Rite Toyota for Tender No. 46/2000 - One (1) Skid Steer Four Wheel Drive Loader at a changeover cost of \$18,951 and Plant No. 84 be removed from the Assets Register.

**COUNCIL DECISION**

**Background**

There is a total indicative changeover allocation within the current Major Replacement Budget of \$20,000 to replace Council's medium loader (Furukawa FL100), Plant No. 84 for One (1) Skid Steer Four Wheel Drive Loader.

**Submission**

At the close of the tender period, six (6) submissions were received as detailed in the summary table attached to the Agenda.

A decision is required by Council because it is not the lowest price.

**Report**

An analysis has been undertaken on the submissions. The analysis included the trade-in price offered, the whole-of-life cost of owning the unit and the changeover costs. The whole-of-life costs are based on a 6-year optimum ownership period and were calculated by Council's Plant Consultant. The analysis carried out by the Plant Consultant found that both Toyota 45DK8 and the JCB160 Robot would be financially competitive and recommended operator evaluation on both units. (A copy of the Consultant's analysis is attached to the Agenda). Hence, an operator evaluation was carried out on both units with a rating out of ten (10).

		<u>Rating</u>
(1)	Toyota 45DK8	8
(2)	JCB160 Robot	7

Council's plant fleet already includes a Toyota Skid Steer Loader which has proven itself since purchase (5/98). Consideration should be given to:

- (a) plant compatibility
- (b) operator compatibility

Consequently, with consideration given to the operator evaluation and plant and operator compatibility, the Toyota 45DK8 is the most advantageous for Council and its purchase should be supported.

**Strategic Plan/Policy Implications**

Construction and maintenance of roads is a principal objective of the Corporate Strategic Plan and a vehicle fleet system is an essential component of constructing and maintaining roads.

**Budget/Financial Implications**

The purchase can be accommodated within the overall Budget allocation for Roads Major Plant Purchase/Sale.

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

Nil

**15.2 (ocm1\_7\_2000) - TENDER NO.36/2000 (RECALLED) - SUPPLY AND LAYING OF HOT ASPHALT ROAD SURFACING (4437) (IS) (ATTACH)**

**RECOMMENDATION**  
That Council:

- (1) accept the tender submitted by Asphalt Surfaces for Supply and Laying of hot asphalt road surfacing for the 7mm, 10mm, 14mm and red asphalts for Tender No. 36/2000 (recalled) – Supply and Laying of Hot Asphalt Road Surfacing at the fixed rates indicated in their tender submission for the one year period 1<sup>st</sup> July 2000 to 30<sup>th</sup> June; and
- (2) decline to accept any tender for the Supply Only – Ex Plant of hot asphalt road surfacing for Tender No. 36/2000 (recalled) - Supply and Laying of Hot Asphalt Road Surfacing and purchase these products by quotation when required.

**COUNCIL DECISION**



## Background

Council has a program of calling tenders each year for the regular supply of materials and services to facilitate Council's roads and parks programs.

The tenders for the supply and laying of hot asphalt was called initially for a two(2) year period however, no tenders were accepted and it was re-advertised for the supply for one(1) year.

## Submission

Tenders were recalled for the Supply and Laying of Hot Asphalt Road Surfacing for the next financial year. Six (6) tenders were received, the details of which are attached to the Agenda.

## Report

There are basically two parts to this tender, being Supply and Lay, and Supply only – Ex Plant, and the tender lends itself to be split if it proves beneficial.

The tenders have been assessed under the following criteria, which were outlined in the tender documents:

	<u>Weighting</u>
1. Price	35%
2. Technical conformance	10%
3. Demonstrated safety management	15%
4. Delivery response performance	20%
5. Quality endorsement	5%
6. References	10%
7. Insurance	5%

Tenderers were required to provide adequate information in their tender submission to allow for scoring each criterion. Where information was not supplied, the particular criterion was not scored.

The assessments under these criteria, as determined by Council's Roads Department, are as follows:

<u>Supply &amp; Lay</u>	<u>Assessment</u>	<u>Contract Estimate (1 Year)</u>
1. Asphalt Surfaces	96%	\$1.03m GST included
2. CSR Emoleum	93%	\$1.00m GST included
3. Boral Asphalt	91%	\$1.05m GST included
4. Asphaltech	85%	\$1.07m GST included
5. Pioneer Road Services	69%	\$1.03m GST included
6. BGC Asphalt	51%	\$1.04m GST included

The tender for the Supply and Laying of Hot Asphalt Road Surfacing as a result of the evaluation criteria being implemented, shows that Asphalt Surfaces is the most advantageous to Council. While Asphalt Surfaces do not hold the current contract for supply and laying of hot asphalt road surfacing, they have held the contract in the past, have performed satisfactorily and are considered to be a reputable company within the road construction and asphalt industry. Hence their tender in this instance should be supported. The estimated fixed rate contract value over 1 year is \$1.03 million with GST included.

Council should not accept any of the tenders submitted for the Supply Only – Ex Plant of hot asphalt road surfacing and purchase these products by quotation when required. The preferred submission is from Pioneer Road Services because they are conveniently located in Fremantle. However, this plant is apparently closing down within the next 3-4 months. The only other convenient supplier is Asphalt Surfaces, but they do not hold ready-made batched hot asphalt for ex-plant supply and, thus waiting time is involved. As the annual value of asphalt supply ex-plant is under \$50,000 (estimated \$40,000), this can be purchased from the most convenient supplier at the time required.

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

Construction and maintenance of roads is a principal objective of the Corporate Strategic Plan. Asphalt is an essential component of maintaining and constructing roads.

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

The cost of asphalt is covered in the Budget allocations for road maintenance and construction. The recommended tenderer, Asphalt Surfaces has not submitted the lowest prices.

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

Nil

## **16. COMMUNITY SERVICES DIVISION ISSUES**

### **16.1 (ocm1\_7\_2000) - SANTICH PARK PLAYGROUP FACILITIES (8227) (RA)**

#### **RECOMMENDATION**

That Council enters a lease agreement for the Santich Park Playgroup Facilities with the Santich Park Playgroup (Inc) under the following terms:

- (1) The Playgroup cover identified operating and maintenance expenses;
- (2) The lease be at a peppercorn rental;
- (3) The lease be for five(5) years with Council having the option to extend for a further 5 years with the opportunity for either party to withdraw from the agreement provided that 12 months notice in writing is provided; and
- (4) Council will pay the cost of drawing up the lease and any other incidental costs associated with the lease development.

## **COUNCIL DECISION**

### **Background**

In November 1989, Council entered a management agreement with the Santich Park playgroup for the use of the customised children's facilities on Santich Park. When the responsibility for the 4-year-old program moved from Family and Childrens' Services to the Education Department, an agreement was established with the Education Department to manage the Santich Park Facilities. An arrangement was in place for the playgroup to continue using the facilities.

### **Submission**

The Education Department advised Council that as of the 1<sup>st</sup> January 2001, it would no longer have a need for the Santich Park facilities and would be terminating the lease.

### **Report**

Council administration has initiated discussions with the playgroup on the possibility of entering a lease arrangement with the City for the use of the Santich Park facilities.

The playgroup representatives have indicated that they are willing to enter a lease agreement under the following conditions:

- The lease be at a peppercorn rental.

- The lease is for five(5) years plus a 5 year option period with the opportunity for either party to withdraw from the agreement provided that 12 months notice in writing is provided.
- Council will pay the cost of drawing up the lease and any other incidental costs associated with the lease development.
- The Playgroup cover identified operating and maintenance expenses.

The group has a long history of competency in managing their affairs and is quite capable of operating the facilities to a high standard.

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

Key Result Area “Facilitating a range of services responsive to the community needs” applies.

### **Budget/Financial Implications**

The current arrangement has resulted in the facilities operating and maintenance costs being met by the Education Department. Should a lease agreement not be reached, the cost to Council is likely to be in the vicinity of \$4,000 pa.

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

Nil

## **16.2 (ocm1\_7\_2000) - TENDER NO. 61/2000 - COMMISSIONING OF CITY OF COCKBURN COMMUNITY NEEDS SURVEY 2000 (9621) (DMG)**

### **RECOMMENDATION**

That Council accept the tender submitted by Research Solutions Pty Ltd for Tender No. 61/2000 to undertake the City of Cockburn Community Needs Survey at a total cost of \$76,100 (plus G.S.T.).

### **COUNCIL DECISION**

### **Background**

Council has a programme of calling tenders every three years for the undertaking of a comprehensive Community Needs Survey to be used

by Council as a guideline for establishing its future Corporate Strategies and Principal Activities Planning priorities.

### Submission

Tenders were invited from four(4) service providers who demonstrated their potential to undertake this project from an expression of interest called by Council.

### Report

The four tenders invited (and received) have been assessed under the following criteria, which were outlined in the invitation to tender:-

	<b>Weighting</b>
1. Interpretation of Brief	10%
2. Implementation Strategy	25%
3. Company Stability	10%
4. Management Resources	10%
5. Labour Resources	10%
6. Company Experience	10%
7. References	10%
8. Price	<u>15%</u>
	<u>100%</u>

Tenderers were required to provide adequate information in their tender submissions to allow for scoring each criteria.

The assessments made under these criteria, as determined independently by the Director and Manager of Community Services, are as follows:

	<u>ASSESSMENT</u>	<u>CONTRACT ESTIMATE</u>
1. Research Solutions Pty Ltd	79%	\$76,100 (plus G.S.T.)
2. Australian Marketing Intelligence	72%	\$75,300 (plus G.S.T.)
3. Glide Business Pty Ltd	57%	\$50,936 (inc. G.S.T.)
4. Community Perspectives	53%	\$72,400 (G.S.T. not mentioned)

Although Research Solutions have not tendered the lowest price, it is considered their Tender will do most to advantage Council in the future, when considering its implementation strategy proposes to use the latest methodology available to ascertain community opinion.

Key personnel involved in the Company are familiar with Council's requirements, as they were part of the team which undertook the

inaugural 1997 survey (Marketing Centre). It is considered that consultancy was successfully and professionally undertaken and the quality of the 2000 submission is the equal, if not superior, to that.

Therefore, it is recommended that this tender be supported, despite the pricing inequity, on the grounds of recent relevant projects performed for local government which have been positively received and utilised by those Councils for the planning and development of their communities.

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

Key Result Area "Meeting the Needs of Your Community" refers.

### **Budget/Financial Implications**

Funds provided for in 2000/2001, Budget for Community Consultation (\$100,000).

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

Nil

## **16.3 (ocm1\_7\_2000) - FAMILY DAY CARE SCHEME (JG) (5917; 8506; 8173) (ATTACH)**

### **RECOMMENDATION**

That Council:

- (1) request the Department of Land Administration (DOLA) to revise the boundaries of Reserve 30307 and 27053 to form one Reserve vested in the City of Cockburn for "Community Purposes";
- (2) subject to approval of (1) above, Council
  - (i) supports the construction of new premises on the newly created Reserve to accommodate the Family Day Care Resource Centre, currently operating from premises in Winterfold Road Coolbellup, to be funded from:-
    - (a) Reserve Funds held for building construction purposes for the Family Day Care Scheme (50%); and
    - (b) Lotteries Commission Grant (50%)

- (ii) advise the Education Department of W.A. that Council wishes to terminate the Lease for the Ethel Cooper Kindergarten, effective from 1 February 2001, pursuant to Clause 4(f) of the Lease Agreement; and
- (iii) investigate appropriate alternative uses and tenants for the premises currently occupied by the Family Day Care Resource Centre in Coolbellup.

## COUNCIL DECISION

### Background

The City of Cockburn obtained funding in 1978 to provide home-based childcare, which was affordable and flexible to meet the needs of families within the area. The existing premises at 213 Winterfold Road Coolbellup were purchased by the Federal Government at that time and vested in Council as a Resource Centre for the Family Day Care Scheme and also to accommodate a Social Worker.

The Social Worker position lost funding a few years later and by that time, the Family Day Care Scheme, which was then about 72 equivalent full-time children (EFT) and one staff member, had grown to utilise all the space. The Scheme continued to grow strongly and its present size is 354 EFTs.

During this period of sustained growth, the scheme carried out renovations to the original Resource Centre building in two major stages - extending office space and providing improved facilities for the playgroups and toy library. Playgroups are offered each morning at the Resource Centre and a comprehensive toy resource library service is also available from the Centre.

There are four(4) full-time and eight(8) part-time staff, including a staff member who has funding from the Job Education & Training (JET) program, based at the Resource Centre. Currently 65 licensed Caregivers and 450 families use the service. Caregivers, as well as being resourced and supported, are provided with training and other activities at the Resource Centre.

Staff within the scheme have identified further opportunities to expand this service utilising grant funding. Given the expected increase in

children (0-12) within the City of Cockburn, it is appropriate that consideration be given to allowing the scheme to continue to grow.

### **Submission**

N/A

### **Report**

Given that the scheme provides services to families within the Fremantle, East Fremantle, Melville & Cockburn municipalities, staff have investigated two options within the northwestern corridor of the City of Cockburn.

#### **Option One: current site at 213 Winterfold Road Coolbellup**

This site has already had two major additions and cannot accommodate any additional building extension without the City of Cockburn acquiring adjoining land. The current site is a freehold title with a caveat placed on the activities to be provided from the centre. The adjoining land is Crown Reserve and the current tenants would resist attempts to annex part of their centre. Advice from the City Surveyor/ Land Officer indicates that any change in this boundary would require the City of Cockburn to purchase the land.

In the longer term, it is also likely that the Family Day Care Scheme will require further space for the accommodation of a proposed in-house nanny service, making this option a short term solution. The existing building has also been reviewed in terms of its suitability for staff accommodation and a recent Occupational Health & Safety Report (attached) indicated that immediate action should be taken to address OH&S related concerns.

As an interim arrangement, the manager of the scheme has located staff into the playroom area to alleviate staff overcrowding, however this is not a long-term solution as it has further reduced the scheme's capacity to provide service to its customers.

The scheme has also been notified by the Commonwealth, that it will be funded for a further 20 EFTs in the 2000 -2001 financial year.

#### **Option Two: Reserve 30307 & 27053 Ingram Street Hamilton Hill**

These two reserves are located approximately 3 km west of the current resource centre providing easy access for the customers of the Family Day Care Scheme.

Reserve 30307 is the Ethel Cooper Kindergarten site that is currently leased to the Western Australian Education Department until 2002. The centre is currently being used two mornings per week for the



provision of a four-year-old program. This centre is not being utilised to its maximum capacity and in the longer term, it is likely that EDWA would relocate this service to a school site.

Staff have indicated to the Department of Education, that the City of Cockburn is interested in terminating the lease to better utilise these resources in accordance with clause 4 (f) of the Lease dated January 1998. Given that this site has an existing child care licence and complies with the relevant child care regulations, it is suited for the provision of services offered by the Family Day Care Scheme.

The adjoining reserve (27053) is a Crown Reserve vested for recreational purposes however, there has been no development on this site and there is a large active reserve less than 800 metres north on the corner of Ingram Street & Healy Road. This reserve could house newly constructed office accommodation for staff employed within the Family Day Care Scheme.

The Director of Planning and Development has indicated that the proposed changes should also see an amalgamation of these two reserves and that the vestment be changed to community purposes. By doing so, the planning anomaly with reserve 30307 not having access to the roadway would be addressed.

The Facilities Services Manager has also indicated that this site is better suited to house the Family Day Care Scheme, as the value of any construction within this site would be maintained. The construction costs associated with this proposal would be \$163,500 including all fees and connection to utilities.

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

Key Result Area - "To deliver Services and manage resources in a way that is cost competitive without compromising quality" refers.

### **Budget/Financial Implications**

No cost to Council. The Family Day Care Scheme has significant reserve funds held in trust and the Lotteries Commission has indicated they would look favourably at assisting with capital costs.

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

Nil

## **17. EXECUTIVE DIVISION ISSUES**

**17.1 (ocm1\_7\_2000) - CHIEF EXECUTIVE OFFICER'S ORGANISATIONAL STATUS REPORT (1054) (RWB) (ATTACH)**

**RECOMMENDATION**

That Council receive the Organisational Status Report from the Chief Executive Officer dated July 2000.

**COUNCIL DECISION**

**Background**

At its meeting of 9 March 1999, Council determined that a report on matters of interest be provided to Council on a quarterly basis.

The Organisational Status Report replaced the report previously prepared relating to performance measurement.

As Council received the last Status Report in April 2000, it is now time for the next report to be provided.

**Submission**

N/A

**Report**

Directors, Managers and staff have contributed to the information report which has been titled "Organisational Status Report".

The Status Report will be provided to Council on a quarterly basis highlighting issues that may be of interest to Council.

The Report provides a snapshot of issues at a particular point of time, even though they may currently be in the process of being considered by Council.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

N/A

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

Nil

**18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****19. NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING****20. URGENT MATTERS****21. MATTERS TO BE NOTED FOR INVESTIGATION, WITHOUT DEBATE****22. CONFIDENTIAL BUSINESS****23. RESOLUTION OF COMPLIANCE (Section 3.18(3), Local Government Act 1995)**

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

- (a) integrated and co-ordinated, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- (b) 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
- (c) managed efficiently and effectively.

**24. CLOSURE OF MEETING**