

# CITY OF ARMADALE

## MINUTES

OF DEVELOPMENT SERVICES COMMITTEE HELD IN THE COMMITTEE ROOM, ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON MONDAY, 13<sup>TH</sup> MAY 2002, AT 7:00 PM.

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**PRESENT:**

Cr H A Zelones JP	Chairman
Cr F R Green	Deputy Chairman
Cr G M Hodges	
Cr J Everts	
Cr J H Munn JP CMC	(Deputy for Cr J Knezevich)
Cr J A Stewart	(Deputy for Cr L Reynolds JP)
Cr R C Stubbs	

**APOLOGIES:**

Cr J Knezevich
Cr L Reynolds JP

**OBSERVERS:** Nil

**IN ATTENDANCE:**

Mr J H A Adderley	Executive Director Development Services
Mr I Townson	Building Services Manager
Mr P Meyrick	Health Services Manager
Mr L Fouché	Planning Services Manager
Ms N Cranfield	Minute Secretary
Public	9

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***DISCLAIMER***

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The Disclaimer for protecting Councillors and staff from liability of information and advice given at Committee meetings was read by the Chairman.

***DECLARATION OF MEMBER'S INTERESTS***

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*Cr R Stubbs*

*WA Local Government Association Land Use Planning Course -----Page 93*

*Planning Services Manager, Mr L Fouché*

*City of Cockburn Draft Local Commercial Strategy -----Page 51*

***QUESTION TIME***

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Nil.

***CONFIRMATION OF MINUTES***

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**RESOLVED**

**Minutes of the Development Services Committee Meeting held on 8<sup>th</sup> April 2002 were confirmed.**

MOVED Cr Stewart

MOTION CARRIED (7/0)

***ITEMS REFERRED FROM INFORMATION BULLETIN – ISSUE No.9 / 2002***

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The following items were included for information in the “Development Services Strategy section” –

- ◆ Report on Outstanding Matters – Development Services Committee ----- D-1
- ◆ Local Govt & Greenhouse in WA – City for Climate Protection Seminar Series ----- D3
- ◆ Health Services Manager’s Report for March 2002 ----- D-7
- ◆ Brookdale Liquid Waste Treatment Facility Minutes – 11<sup>th</sup> March 2002 ----- D-13
- ◆ Planning Services Manager’s Report for March 2002 ----- D-17
- ◆ Compliance Officer’s Report for the Month of March 2002 ----- D-20
- ◆ PAW Closure Report – significant actions during March 2002 ----- D-22
- ◆ Monthly Administrative Approval Report for March 2002 ----- D-23
- ◆ Town Planning Scheme No.2 & No.3 – Amendment Table ----- D-32
- ◆ Subdivision Applications – Recommendation Table ----- D-35
- ◆ Building Services Manager’s Report for March 2002 ----- D-36
- ◆ Financial Statements for the period ending 31<sup>st</sup> March 2002 ----- D-49

*Committee noted the information and no items were raised for further report.*

***PROPOSED REZONING OF LOT 52 FOSTER ROAD & LOT 51 ALBANY HIGHWAY,  
KELMSCOTT FROM “RESIDENTIAL R10” TO “SPECIAL USE: MEDICAL CENTRE”***

WARD : KELMSCOTT  
FILE REF : A204834  
DATE : 1 MAY 2002  
REF : GIW  
RESPONSIBLE MANAGER : PSM  
APPLICANT : Master Plan  
LAND OWNER : Kalara Holdings Pty Ltd  
SUBJECT LAND : Lot 51 Albany Highway &  
Lot 52 Foster Rd, Kelmscott  
Property size 1243m<sup>2</sup> &  
1012m<sup>2</sup>; Map 22.06  
ZONING : Urban / Residential R10  
MRS/TPS No.2

**In Brief:-**

- Proposal involves rezoning the subject lots from “Residential R10” to “Special Use: Medical Centre”.
- The proposed rezoning is compatible with the surrounding residential zone and consistent with existing land uses on site.
- Recommend that Council initiate the proposed rezoning.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

Development- “To balance the need of development with sustainable economic, social and environmental objectives”.

**Legislation Implications**

Town Planning & Development Act 1928  
Town Planning Scheme No.2

**Council Policy / Local Law Implications**

Highway Development Policy

**Budget / Financial Implications**

Nil.

### **Consultation**

- ◆ Development Control Unit (DCU)

### **BACKGROUND**

An approval to operate a Medical Clinic on the subject site was issued by Council on 21 July 1988.

The prospective purchasers of the subject site presently own the Armitage Road Medical Centre at Lot 4 Albany Highway (situated directly opposite the subject site between Rundle Street and Armitage Road). Due to limited car parking opportunities and increasing clientele experienced at their Armitage Road practice, the owners are seeking a suitable, additional site to develop a medical centre to cater for their needs.

### **DETAILS OF PROPOSAL**

Details pertaining to the proposal include the following:

- ◆ Rezoning the subject lots from “Residential R10” to “Special Use: Medical Centre” to accommodate a Medical Centre with up to (6) practising consultants and consulting rooms on site;
- ◆ Existing buildings on site are to be demolished to accommodate a single medical centre building;
- ◆ A preliminary concept plan has been prepared to illustrate proposed building layout, design and car parking. (Refer to Concept Plan);

The applicant has provided the following arguments in support of the proposed rezoning:

- ◆ The proposed ‘Special Use: Medical Centre’ zone is compatible with the residential area surrounding the site;
- ◆ The design of the Medical Centre complies with Town Planning Scheme No.2 requirements;
- ◆ The proposed medical centre is consistent with existing consulting rooms operating on the subject site.
- ◆ The redevelopment of the site will improve the visual amenity of the site and surrounding area;
- ◆ The medical centre will accommodate an increasing demand currently experienced at the Armitage Road Medical Centre.

### **EXISTING SITUATION**

The Armadale Kelmscott Specialist Centre (Medical Clinic) currently occupies the subject premises. The existing medical practice comprises two buildings (each containing a consulting room) for up to (4) practicing consultants with associated car parking. Vehicular access to the site is obtained via two crossovers entering from Foster Road.

The northern and western boundaries of the subject site abut single residential properties. The southern and eastern boundaries have frontage to Foster Road and Albany Highway respectively. A medical precinct between Rundle Street and Armitage Road (comprising a medical centre, veterinary clinic and funeral parlour) is situated directly east of the subject site (on the opposite side of Albany). An office complex and single residential property is situated directly south of the subject site along Foster Road.

As the present approval on the subject site is restricted to four (4) practising consultants in accordance the definition of Town Planning Scheme No.2 (i.e. maximum two (2) professional consultants per “consulting room” site), a formal rezoning of the site is required to accommodate the proposed additional two (2) practicing consultants.

## **COMMENT**

### ***Development Control Unit (DCU)***

DCU at its meeting held on 30 April 2002 recommended that the proposal be initiated based on the following grounds:

- ◆ The proposal is consistent with existing medical land uses on site and poses minimal impact on the amenity of surrounding residential properties.

### **Analysis**

#### ***Land Use Compatibility***

The subject site is appropriately located in close proximity to compatible medical facilities along Albany Highway. The proposed land use within the rezoning is consistent with the existing approved medical practice currently operating on site. Although the proposal will result in (2) additional practising consultants being accommodated on site, which is a slight intensification of the existing land use, it is considered that appropriate development controls will ensure the proposal poses minimal impact on the surrounding residential area, including the following:

- ◆ The proposed building shall be compatible with the surrounding residential area in terms of architectural design and scale;
- ◆ Car parking areas abutting residential lots is to be screened with masonry fencing to mitigate headlight glare and noise associated vehicular movements;
- ◆ A minimum of 36-car parking bays (6 bays per consulting room) shall be provided in accordance with TPS No.2 requirements;
- ◆ Vehicular crossovers should be positioned to minimise headlight glare being directed into adjoining residential properties along Foster Road, and to prevent traffic conflicts with the adjoining office complex.

#### ***Traffic Issues***

Given the site’s existing land use, corner location and convenient access to Albany Highway, it is considered that the proposal is unlikely to significantly increase traffic volumes along Foster Road and the surrounding residential streets.

Vehicle access to the site will be restricted to Foster Road to avoid traffic conflicts along Albany Highway in accordance with Council's Highway Development Policy.

### ***Preliminary Concept Plan***

The applicant has prepared a preliminary concept development plan to demonstrate that a Medical Centre consisting of up to six (6) consulting rooms can be accommodated with sufficient car parking for 36 bays on the subject site. The proposed Medical Centre building is proposed to be located on Lot 51 Albany Highway with the majority of car parking bays allocated on Lot 52 Foster Road. (Refer to Concept Plan).

### ***Visual Amenity / Streetscape***

The final orientation and layout of the proposed development is restricted by the irregular, narrow lot configuration. As a consequence of the awkward shape and corner location of the site, the proposed medical centre building effects frontage to Foster Road. It is therefore essential that the building facade and setback addressing Albany Highway be appropriately designed and sited to preserve and maintain the streetscape. This aspect can be addressed in detail with the submission of a formal development application.

### **Options**

#### **Option 1**

Council may decline to initiate the rezoning if it is of the opinion that the proposal represents an intensification of existing land uses on site (additional two (2) practising consultants), with the potential to adversely impact on the amenity of adjoining residential properties in terms of increased vehicular movements and noise.

#### **Option 2**

Council may initiate the rezoning on the grounds that the proposal is consistent with the existing land use approved on site and implementation of appropriate development controls will ensure the proposal is compatible with the surrounding residential area.

### **CONCLUSION**

The proposal to rezone the subject site to accommodate a Medical Centre with a maximum of six (6) consulting rooms is considered a suitable land use that poses minimal impact on the amenity of adjoining residential properties, provided appropriate development controls are implemented. The proposal is also consistent with the existing consulting room (Medical Clinic) operating from the site. In this regard, it is recommended that Council adopt option 2 above and resolve to initiate the proposal.

*COMMITTEE noted the need to undertake an assessment of highway traffic movements in and around the intersection with Foster Road. Accordingly, a Part (4) was added to the recommendation.*

**D61/02 RECOMMEND**

1. That Council initiate a Scheme Amendment to Town Planning Scheme No.2 pursuant to Section 7 of the Town Planning & Development Act 1928 by:
  - a) Rezoning Lot 51 Albany Highway and Lot 52 Foster Road, Kelmscott from “Residential R10 “ to “Special Use- Medical Centre”;
  - b) Amending the Scheme Text by inserting in appropriate numerical order, a new entry in to the Special Use Development Table as follows:

PRESCRIBED SPECIAL USE	REQUIREMENTS	PARTICULARS OF LAND
Medical Centre	<ol style="list-style-type: none"> <li>1. A maximum number of (6) consulting rooms shall be permitted.</li> <li>2. The overall development of the site shall be of high quality unified architectural design that reflects a level of integration and consistency with the surrounding built environment.</li> <li>3. Car parking to be provided at a ratio of 6 bays per consulting room.</li> <li>4. Car parking areas abutting residential properties shall be screened with masonry fencing to the satisfaction of Council.</li> <li>5. Site layout, landscaping, fencing and car parking shall be to the satisfaction of Council.</li> <li>6. No vehicular ingress / egress shall be permitted onto Albany Highway.</li> <li>7. Subject lots are to be amalgamated to satisfaction of Council.</li> </ol>	Lot 51 Albany Highway & Lot 52 Foster Road, Kelmscott

2. That Council further resolves:
  - a) That the Scheme Amendment is consistent with those purpose for which Schemes may be made in accordance with the Town Planning & Development Act 1928, and therefore will proceed directly to advertising;

- b) To advertise the proposal in accordance with the Town Planning Regulations 1967 (as amended), including referral to the Environmental Protection Authority;**
  - c) To forward a copy of the amendment to the Western Australian Planning Commission for information.**
- 3. That the Mayor and Chief Executive Officer be authorised to execute Amendment documents.**
- 4. That a report relating to traffic movements, associated with Albany Highway / Foster Road intersection, be incorporated in assessment of the proposed amendment at the time of consideration for any final approval.**

MOVED Cr Munn  
MOTION CARRIED (7/0)

***COMMERCIAL VEHICLE PARKING – LOT 96 [18] TAMBULAM WAY, ARMADALE***

WARD : WEST  
ARMADALE

FILE REF : A55041

DATE : 29 April 2002

REF : SA

RESPONSIBLE : PSM  
MANAGER

APPLICANT : JG Westbury

LANDOWNER : JG Westbury

SUBJECT LAND : Lot 96 Tambulam Way, Armadale  
Property size 716m<sup>2</sup>; Map 22.04

ZONING

MRS / TPS No.2 : Urban/Residential 'R 15'

**In Brief:-**

- Application to park a 5.1 tonne Isuzu truck on the property.
- Petition received supporting application.
- Canvassing of neighbours resulted in three objections.
- Recommendation to refuse application.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

To balance the needs of development with suitable economic, social and environmental objectives.

**Legislation Implications**

Commercial vehicle parking provisions of Town Planning Scheme No.2.

**Council Policy / Local Law Implications**

Council Policy 4.4.6 Commercial Vehicle Parking  
Environment, Animals and Nuisance Local Laws 2002

**Budget / Financial Implications**

Nil.

### **Consultation**

Property owners in the immediate vicinity of the subject site consulted by applicant and by Council.

### **BACKGROUND**

Following the receipt of a complaint Council Officers contacted the landowner advising of Council's Town Planning Scheme requirements with regard to commercial vehicle parking.

An application for approval to park a commercial vehicle, which is employed in the collection of the clothes from the Good Samaritan clothing bins, was received. The vehicle exceeds the maximum length permitted (6 metres) by one (1) metre but as all other specifications satisfied the other basic Town Planning Scheme criteria, the matter was advertised to 8 adjoining property owners. The applicant attached to the application a petition with twenty signatures from residents of Tambulam Way supporting the parking of the truck in the driveway.

### **DETAILS OF PROPOSAL**

The applicant proposes to park a 5.1 tonne Isuzu truck on the premises. The vehicle is 7 metres in length and 3.0 metres in height and is parked at the side of the house. The application states that the vehicle is to be parked on the property from 2 pm until 5am.

Clause 4.4.6 of Council's Commercial Vehicle Parking Policy requires that an application be advertised to adjoining/surrounding landowners for a period of not less than 2 weeks. Eight (8) surrounding landowners were canvassed for their opinion.

### **Results of Advertising**

No. objecting to the proposal	3	
No. not objecting to the proposal	2	(plus 20 signatory petition)

### **Response to Submissions**

- ◆ *Noise - The vehicle leaves the premises in the early hours of the morning including weekends and Public Holidays. Departure varies from between 3.30 am to 6.00 am and interrupts sleep.*

The Scheme requires that any noise created by the vehicle shall not exceed the standards for the relevant area set out in the "Noise Provisions of the Environmental Protection Act 1986". Also Council's Environment, Animals and Nuisance Local Laws 2002 prohibit the starting of a truck in a residential area between the hours of 10pm and 7am Monday to Saturday and not before 9am on a Sunday.

The hours of departure as indicated in the submissions do seem to be unreasonable and are likely to adversely affect the amenity of the neighbourhood.

## COMMENT

### Analysis

With the exception of the length, the specifications of the truck comply with the commercial vehicle parking provisions of the Town Planning Scheme. Under Clause 7.6 of the Scheme, Council may relax the Scheme requirements providing an approval would be consistent with the orderly planning of the locality and would not have an adverse effect upon the inhabitants of the locality.

The submissions objecting to the application due to adverse impacts on residential amenity as a result of noise generated by the truck, seem to be justified.

### Options

1. Council could approve the application subject to a number of conditions, particularly those relating to noise.
2. Council could advise the applicant that any approval will not be contemplated until such time as compliance with the commercial vehicle parking provisions of the Scheme, particularly those relating to the Noise provisions of the Environmental Protection Act 1986 and the provisions of Council's Environment, Animals and Nuisance Local Laws have been satisfactorily achieved and that the matter be recommitted.
3. Council could refuse the application on the grounds that the commercial vehicle fails to comply with the Scheme provisions and is detrimental to the amenity of the neighbourhood due to noise created at unsociable hours.

## CONCLUSION

The reasons for objecting to the proposal are concentrated on noise and disruption to the quiet enjoyment of property in the early hours of the morning, are considered to be justified. It is therefore recommended that Council refuse the application.

### *Officer's report recommends –*

That Council refuse the application to park a 5.1 tonne Isuzu commercial vehicle registration number 7PM 470 at Lot 96 [18] Tambulam Way, Armadale on the following grounds;

- a) that the length of the vehicle exceeds the commercial vehicle parking provisions of Town Planning Scheme No.2;
- b) the noise associated with the vehicle egressing from the property at unsociable hours is detrimental to the amenity of the neighbourhood.

*It was acknowledged by COMMITTEE that the noise associated with moving the commercial vehicle from the site was relatively unobtrusive and that accordingly the noise nuisance in relation to residential amenity did not appear to be a major problem.*

*Given the above circumstance, it was considered reasonable to approve the application for a trial six (6) month period.*

**D62/02**

**RECOMMEND**

- 1. That Council determines that non-compliance of the length specification of the 5.1 tonne Isuzu commercial truck, proposed to be parked at Lot 96 (18) Tambulam Way, Armadale, will not have an adverse affect on the amenity of the locality and accordingly is prepared to relax the maximum length requirement for the truck in accordance with Clause 7.6 of Town Planning Scheme No.2.**
- 2. That Council approve the application to park a 5.1 tonne Isuzu commercial vehicle registration number 7PM 470 at Lot 96 (18) Tambulam Way, Armadale on the following conditions:-**
  - a) the approval is limited to a six (6) month period only;**
  - b) compliance with the commercial vehicle parking provisions of Town Planning Scheme No. 2.**

MOVED Cr Munn  
MOTION CARRIED (7/0)

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***REVIEW OF THE ARMADALE LOCALITY BOUNDARIES***

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WARD : ARMADALE;  
WEST ARMADALE;  
SEVILLE;  
FORREST;  
KELMSCOTT

FILE REF : NAM/5

DATE : 6 May 2002

REF : CCB/HC

RESPONSIBLE : PSM  
MANAGER

SUBJECT LAND : Various

**In Brief:-**

- Further to Geographic Names Committee (GNC) meeting with Development Services Committee, GNC suggests alternative locality names be considered to avoid confusion and duplication.
- GNC suggests extension of boundary of Mt Nasura to Foster Road.
- GNC suggests incorporation of portion of Bungendore Park into Mt Richon.
- Recommend that Council:
  - a) Amend names of proposed localities of Neerigen and Seville.
  - b) Amend boundary of Mt Nasura to Foster Road.
  - c) Maintain Mt Richon boundary as previously endorsed.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

To foster ownership, pride and supportive and caring community.

**Legislation Implications**

Land Administration Act 1997.

**Council Policy / Local Law Implications**

Nil.

**Budget / Financial Implications**

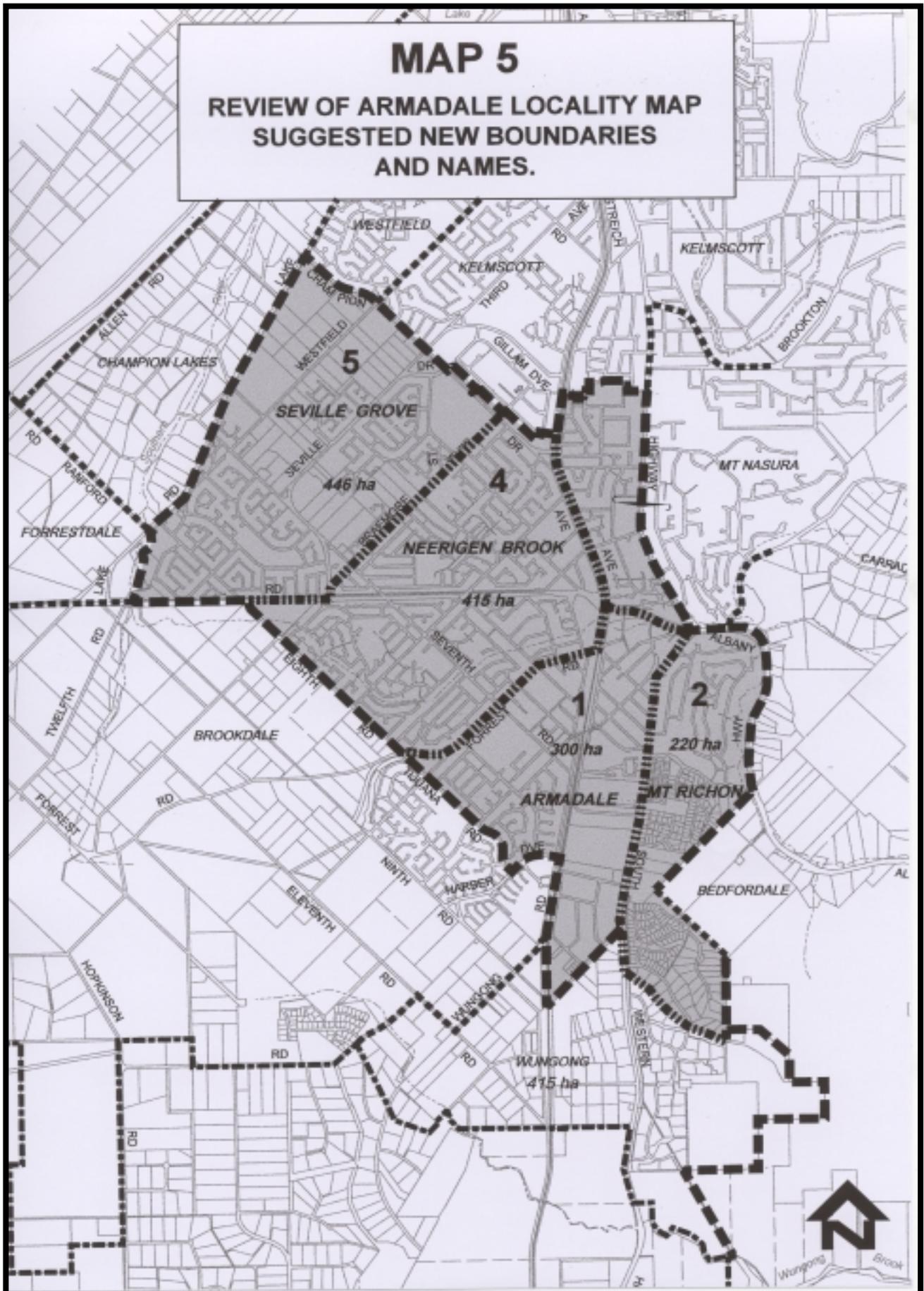
Officer time, postage and newspaper advertising approximately \$4000.

**Consultation**

- ♦ Geographic Names Committee (GNC).

**BACKGROUND**

At its **meeting of 16 July 2001** Council resolved (D157/01) to adopt a “Suggested new Boundaries and Names Map No.5” illustrating possible new localities within the present Armadale locality but asked that the areas of Armadale and Mt Richon, incorporating a portion of Wungong, be recommitted to the next meeting of the Development Services Committee for further consideration.



At its **meeting of 20<sup>th</sup> August 2001** Council resolved (D205/01) to adopt “Suggested New Boundaries and Names Map No.5” for the Armadale and Mt Richon Locality boundaries and proceed with public consultation.

At its **meeting of 21 January 2002**, Council resolved (D10/02) to extend an invitation to members of the Geographic Names Committee (GNC) to meet with the Development Services Committee at its next ordinary meeting. The GNC had sought an opportunity to discuss certain locality boundary matters.

On **11 February 2002** a delegation from GNC consisting of Mr Brian Goodchild, Secretary of GNC, and Mr Ken Bushell, Manager of Mail Network Region, addressed the Development Services Committee.

Mr Goodchild discussed the proposed localities which had been referred for consideration of GNC. The matters arising from the discussion included:

- ◆ Proposed localities of Seville, Neerigen and expansion of Mt Nasura were acceptable, subject to the names Seville and Neerigen being augmented with a unique reference eg. Seville Grove, Neerigen Brook, in order to be recognised uniquely in Australia.
- ◆ There were reservations in relation to the proposed Mt Richon locality on the basis of meeting heritage, population and area criteria and the subtraction of area from Wungong locality.
- ◆ Mr Goodchild undertook to write to the city, summing up the matters discussed at the meeting and provide formal advice to Council.

Council noted (D22/02) on 18 February 2002 that :

- ◆ The proposed division of the Armadale locality to establish Seville, Neerigen and extend Mt Nasura are generally acceptable and in accordance with GNC criteria.
- ◆ The GNC Secretary will be writing to the City summing up overall advice in relation to Council’s currently proposed locality changes.

### **GNC Advice**

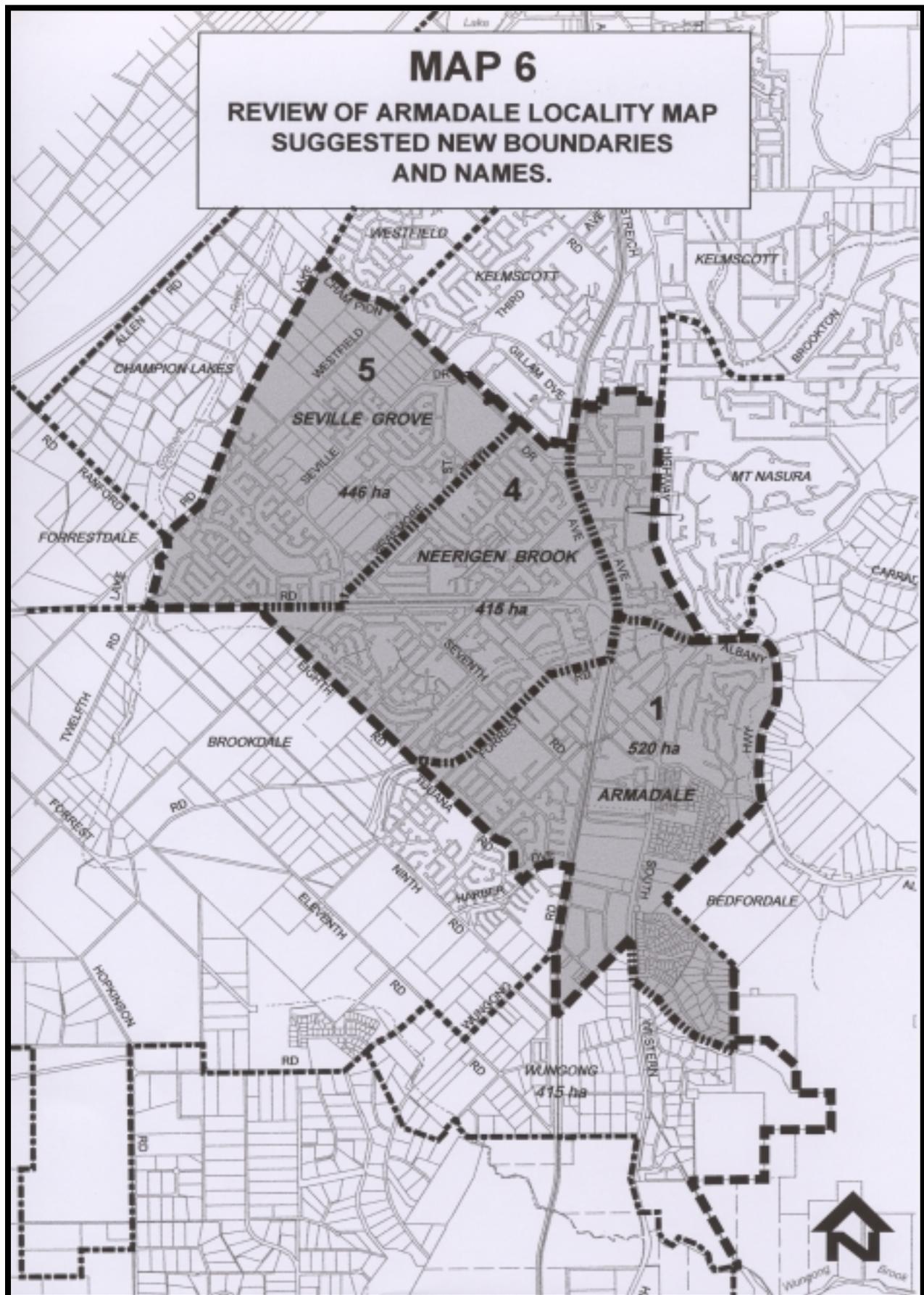
On 19 March 2002 Council received a letter from the GNC referring to the meeting held on 11 February 2002. Some comments were noted, in particular the names of **Seville** and **Neerigen**.

#### ***1. Seville***

The GNC would prefer a unique name if possible as the name is duplicated in Victoria. The suggested name could be **Seville Grove** as the area was previously predominantly citrus orchards.

#### ***2. Neerigen***

The GNC found some possible confusion with the name Neerigen because of the close pronunciation of the two names, **Narrogin and Neerigen**. It was suggested that **Neerigen Brook** could be considered as an alternative.



**3. *Mt Richon***

The **Mt Richon** boundaries are acceptable though odd shaped and the area is relatively small. It was suggested some of Bungendore Park land be included in the proposal to increase the area and neaten the boundary.

**4. *Armadale***

The area and boundaries for the portion to remain as **Armadale** are acceptable.

**5. *Mt Nasura***

When Mt Nasura locality was originally proposed as a locality, the Committee considered the railway line a suitable boundary for the locality. The northern boundary of the extension was queried, asking whether the new boundary could be moved further north to Foster Road, thus including a portion of Kelmscott in Mt Nasura. This would allow for a cleaner boundary and appears logical, but the Committee will still support the boundary suggested by Council

**COMMENT**

**Analysis**

The alternative names suggested by the GNC – Seville **Grove** and Neerigen **Brook** appear reasonable and, it is anticipated, should be acceptable to the community.

The additional portion of land, up to Foster Road, suggested for inclusion into the proposed Mt Nasura also merits further consideration. It is a cleaner, more direct cadastral line than that previously suggested and much more related to the Brookton Highway boundary of Mt Nasura on the north. Putting the boundary at Foster Road will also place all the “Residential R12.5” zoning to the south into the same locality. Foster Road is the boundary between current “Residential R12.5” and “Residential R10” zones.

The GNC suggestion to consider placing a small area of Bungendore Park into the proposed Mt Richon locality does not appear logical. It appears to be more a matter of adding area for appearance sake – both size and shape – but with no significant substance.

A question that may be further considered is whether the Mt Richon locality as proposed compromises the integrity and historical entity of “Armadale” given associations with Narrogin Inn, Pioneer Village and the Armadale Shale Quarry etc.

**Options**

***Neerigen***

1. Utilise proposed locality name **Neerigen Brook** in public advertising to be carried out.
2. Retain locality name of **Neerigen** in public advertising to be carried out.

***Seville***

1. Utilise proposed locality name **Seville Grove** in public advertising to be carried out.
2. Retain locality name of **Seville** in public advertising to be carried out.

***Mt Nasura***

1. Seek to move the northern locality boundary of the proposed new portion of Mt Nasura to Foster Road.
2. Retain the boundary for the proposed new portion of Mt Nasura at its present position outlined in “Suggested New Boundaries and Names Map No.5”.

***Mt Richon***

1. Retain the boundary for the proposed new portion of Mt Richon at its present position outlined in “Suggested New Boundaries and Names Map No.5”.
2. Seek to add portion of the Bungendore Park land into the proposed new portion of Mt Richon.
3. Absorb proposed Mt Richon locality within the “Armadaale” locality to preserve historic associations with Armadaale.

**CONCLUSION**

It is suggested that for Neerigen, Seville and Mt Richon the Option 1 alternative is acceptable.

It is suggested that for Mt Richon, Option 1 remains the preferred option, but Council may consider Option 3 worthy of further investigation.

***Officer’s report recommends –***

1. That the “Suggested New Boundaries Map No.5” previously endorsed by Council be modified prior to further public consultation by:
  - a) Changing location name Neerigen to Neerigen Brook.
  - b) Changing location name Seville to Seville Grove.
  - c) Moving the northern boundary of the proposed new portion of Mt Nasura to Foster Road.
2. That the proposed Mt Richon locality remain as outlined in the “Suggested New Boundaries Map No.5” previously endorsed by Council.
3. That Council proceed with public consultation by:
  - a) letters to all landowners affected by the proposal and to the Armadaale-Kelmscott Historical Society seeking comment on the proposed boundaries and names;
  - b) advertisements in the local newspapers so that the wider community may also comment.

*COMMITTEE gave careful consideration to aspects of this matter, including particularly the question as to the “options” to be advertised in relation to the proposed Mt Richon locality.*

*It was concluded that Option 1 and Option 3 associated with Mt Richon should be incorporated in the proposed public consultation process (ie. as per illustrated Maps No.5 and No.6).*

*It was also concluded by COMMITTEE that Option 1 in relation to the proposed Mt Nasura locality was inappropriate.*

**D63/02                      RECOMMEND**

- 1. That the “Suggested New Boundaries Map No.5” previously endorsed by Council be modified prior to further public consultation by:**
  - a) Changing location name Neerigen to Neerigen Brook.**
  - b) Changing location name Seville to Seville Grove.**
- 2. That an alternative suggested new boundaries Map No.6, illustrating amalgamation of the proposed Armadale and Mt Richon localities into a single proposed Armadale locality, be advertised as an additional option to Map No.5 (as illustrated in the body of this report).**
- 3 That Council proceed with public consultation by:**
  - a) letters to all landowners affected by the proposal and to the Armadale-Kelmscott Historical Society and the Heritage Advisory Committee seeking comment on the proposed boundaries and names;**
  - b) advertisements in the local newspapers so that the wider community may also comment.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

***OVERSIZE GARAGE LOT 206 (NO.23) KINGSLEY TERRACE, KELMSCOTT***

WARD : KELMSCOTT  
FILE REF : A86206  
DATE : 6 May 2002  
REF : SLH  
RESPONSIBLE : BSM  
MANAGER  
APPLICANT : Coastline Sheds  
LAND OWNER : S Enright  
SUBJECT LAND : Property size 758m<sup>2</sup>  
Map 23.07  
ZONING : Urban / Residential  
MRS/TPS No.2

**In Brief:-**

- Proposal to construct a 72m<sup>2</sup> metal – framed garage / workshop with ‘Colorbond ‘ (rivergum green) finish wall cladding and roof sheeting.
- Located in the rear right – hand corner of the lot with 1.00m wide setbacks from the respective boundaries.
- Recommendation for refusal on the grounds of the likely adverse impact on the adjacent properties.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

To maintain the City of Armadale as a place where the average family can enjoy a good lifestyle. Development – to balance the needs of development with sustainable economic, social and environmental objectives.

**Legislation Implications**

Metropolitan Region Scheme  
Town Planning Scheme No.2

**Council Policy / Local Law Implications**

Policy 4.5.20 Outbuildings in Residential and Rural Areas

**Budget / Financial Implications**

Nil.

### **Consultation**

- ◆ The proposal was advertised to six (6) neighbouring property owners for comment.

### **BACKGROUND**

Under the City's Outbuildings' Policy, the maximum aggregate floor area allowable is 57m<sup>2</sup> for this lot being 758m<sup>2</sup>. As the proposed maximum aggregate floor area exceeds this requirement (ie. the proposed garage / workshop is 72m<sup>2</sup>), the application requires Council's determination.

### **DETAILS OF PROPOSAL**

The new garage / workshop is proposed for storage and restoration of a collection of classic cars. The vehicles are for sport and hobby purposes only and all belong to the owner of the property along with a large utility and motorbike.

### **COMMENT**

Consultation was undertaken with the adjacent owners who may be affected by the location of the oversize outbuilding. Five (5) responses were received, three (3) of which were 'no objections'. The 'objections' received, however, were not in relation to the structure but to the noise levels that may occur as a result of the activities being conducted, namely grinding, drilling, engine tuning, welding and the like.

### **Analysis**

Officers have visited the site and considered that the proposal is likely to have an adverse impact on the rear neighbours whose habitable areas of their dwellings face towards the proposed garage / workshop.

The outbuilding though is screened from view from the streetscape by the existing dwelling and wing fences.

### **Options**

In consideration of the above, it is believed that there are three options available to Council.

Option 1 - Approve the application as submitted.

Option 2 - Refuse the application as submitted.

Option 3 - Request that the applicant submits amended plans of the garage / workshop with a reduced floor area to comply with Council's Outbuilding Policy.

### **CONCLUSION**

Officers have considered the views expressed by the adjacent neighbours and believe that the proposed oversized outbuilding will have an adverse impact on the rear properties that face towards the development.

**D64/02**

**RECOMMEND**

**That the application to construct a 72m<sup>2</sup> metal – framed garage / workshop with ‘Colorbond’ finish wall cladding and roof sheeting located in the rear of Lot 206 (No 23) Kingsley Terrace, Kelmscott be refused on the likely adverse impact on the adjacent properties.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

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***PROPOSED ADDITION TO EXISTING GARAGE –  
LOT 23 (No.18) DEW STREET FORRESTDAL***

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WARD : FORREST  
FILE REF : A36837  
DATE : 7<sup>th</sup> May 2002  
REF : IT  
RESPONSIBLE MANAGER : BSM  
APPLICANT : Patio Pro  
LANDOWNER : D & A Sullivan  
SUBJECT LAND : Lot 23 Dew St,  
Forrestdale  
Property size 902m<sup>2</sup>;  
Map 18-03  
ZONING  
MRS / TPS No.2 : Residential (R12.5)

**In Brief:-**

- Proposal to extend an existing 78m<sup>2</sup> brick garage by adding a 67m<sup>2</sup> Colorbond carport garage.
- Recommendation for refusal on the basis that the proposed development will have an adverse impact on the streetscape and amenity of adjacent properties.

**Tabled Items**

Photographs and submitted plans

**Officer Interest Declaration**

Nil.

**Strategic Implications**

To maintain the City of Armadale as a place where the average family can enjoy a good lifestyle.

**Legislation Implications**

Local Government (Miscellaneous Provisions) Act 1960  
Building Regulations 1989

**Council Policy / Local Law Implications**

Policy 4.5.20 “Outbuildings in Residential and Rural Areas”

**Budget / Financial Implications**

Nil.

### **Consultation**

Adjacent residents affected by the proposal.

### **BACKGROUND**

#### ***Details of Proposal***

The applicant proposes to extend an existing 78m<sup>2</sup> garage outbuilding by the addition of a Colorbond carport and garage measuring 67m<sup>2</sup>. The applicant proposes nil boundary setbacks to both the Leake Street frontage of the lot and the adjacent neighbouring property boundary.

### **COMMENT**

The proposed floor area of the buildings of 145m<sup>2</sup> significantly exceeds the maximum floor areas contemplated by Council's Policy 4.5.20 "Outbuildings in Residential and Rural Areas" which prescribes a maximum area of 67.5m<sup>2</sup> total on a lot of 902m<sup>2</sup>.

### **Options**

#### ***Option 1***

Refuse the application on the basis that it will have an adverse impact on the Streetscape and adjacent properties.

#### ***Option 2***

Approve the application.

### **CONCLUSION**

Officers have visited the site and believe that the proposed structure would have a significant adverse impact on the streetscape and adjacent properties because of the building bulk on the secondary street frontage of the lot. The proposed floor area exceeds the maximum prescribed in Council Policy by 77.5m<sup>2</sup> and is proposed with nil street and side boundary setbacks.

### **D65/02**

### **RECOMMEND**

**That the application by Patio Pro on behalf of Mr & Mrs Sullivan to extend an existing garage outbuilding on Lot 23 (No 18) Dew Street Forrestdale be refused because of the likely adverse impact on the streetscape and adjacent properties of the extended structure.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

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***FEES AND CHARGES - BUILDING DEPARTMENT***

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WARD : ALL  
FILE REF : BLD/1  
DATE : 23<sup>rd</sup> April 2002  
REF : IT  
RESPONSIBLE : BSM  
MANAGER

**In Brief:-**

- Report recommending changes to some un-regulated services fees within the Building Department's area of responsibility.
- Recommendation that the amended schedule of fees be included within the 2002/2003 draft budget.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

To achieve maximum community benefit from effective use of resources.

**Legislation Implications**

Local Government Act 1995. Section 6.16 (Imposition of Fees and Charges)

**Council Policy / Local Law Implications**

Nil.

**Budget / Financial Implications**

A small increase in revenue (Approximately \$2,000 per annum)

**Consultation**

Consultation was undertaken with the following Local Governments to compare their fee structures for the services being considered:

- ♦ City of Gosnells
- ♦ City of Stirling
- ♦ City of Canning
- ♦ City of Belmont
- ♦ City of Bunbury
- ♦ City of Joondalup

## DETAILS OF PROPOSAL

It is proposed that a small increase be applied to the services listed in the following table listing the unregulated charges applicable to the Building Department.

The Act requires that Council consider the costs to the City of providing the services. To assist in this regard the approximate officer time involved in each of the services is provided.

<b>TABLE 1</b>				
<b>Service Name</b>	<b>City of Armadale (Current)</b>	<b>City of Armadale (Proposed)</b>	<b>Approximate Officer time to process @ \$45.00 per hour.</b>	<b>Fees applicable to the sampled Local Governments</b>
<b>Provision of House Plans</b> Copy of the original house plans.	\$10.00 \$1.00 GST \$11.00	\$15.00 \$1.50 GST \$16.50	30 minutes (average)	Range between \$25.00 to \$50.00
<b>Building Approvals Enquiries (Residential)</b> A search of the City's records to identify what development has been approved on a residential property and the provision of a copy of all available plans, if required. Commercial plans are priced on an individual basis depending on the number and size of plans required.	\$25.00 (Inclusive of GST)	\$30.00 \$ 3.00 GST \$33.00	1 hour (average)	Range between \$25.00 and \$50.00
<b>Property Inspection Charge</b> Inspection of a property to evaluate the structural adequacy and conformity of structures on a lot to Council's Policy on building matters	\$100.00 \$10.00 GST \$110.00	\$115.00 \$ 11.50 GST \$126.50	3 hours (Average)	Range between \$110.00 and \$200.00

## COMMENT

### *Options*

Option 1 - Change the fee structure as part of the budget process.

Option 2 - Make no changes to the tabled fees.

## CONCLUSION

The recommended fee increases are moderate, but considered necessary to ensure that the City continues to recover a reasonable portion of the costs of providing these services to the community.

### D66/02            RECOMMEND

**That Draft Budget 2002/2003 incorporate provisions for the following schedule of Building Department Service fees –**

- |                                                     |                 |
|-----------------------------------------------------|-----------------|
| ♦ <b>Provision of House Plans</b>                   | <b>\$16.50</b>  |
| ♦ <b>Building Approvals Enquiries (Residential)</b> | <b>\$33.00</b>  |
| ♦ <b>Property Inspection Charge</b>                 | <b>\$126.50</b> |

*All inclusive of Goods and Services Tax*

MOVED Cr Zelones  
MOTION CARRIED (7/0)

### ***COUNCILLORS' ITEMS***

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Nil.

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**LOCAL LAWS**

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WARD : ALL  
FILE REF : LAW/13  
DATE : 18 April 2002  
REF : PM  
RESPONSIBLE : HSM  
MANAGER

**In Brief:-**

- Council resolved on 21<sup>st</sup> January 2002 to adopt the *City of Armadale Environment, Animals and Nuisance Local Laws 2002*.
- The Parliamentary Joint Standing Committee on Delegated Legislation has formed the view that two clauses are inconsistent with the *Health Act 1911*.
- Recommendations that:
  1. Council provide the Committee with an undertaking that the appropriate amendments will be made and the offending clauses will not be used; and
  2. The WALGA be requested to approach the Government with a view to amending the local law making procedure.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

Nil.

**Legislation Implications**

Power to adopt local laws provided under Section 3.5 of the *Local Government Act 1995*. Section 42 of the *Interpretation Act 1984* requires that local laws are to be laid before Parliament following publication in the *Government Gazette*, and that Parliament may disallow local laws.

**Council Policy / Local Law Implications**

The proposed amendments will not have a significant impact upon the effectiveness of the local laws.

**Budget / Financial Implications**

Local laws administered by the Health Department are reviewed annually to ensure continuing relevance and consistency with other laws and a small provision (\$1000) has been made in the 2002-03 draft budget for advertising of minor amendments.

**Consultation**

Advisory Officer to the Parliamentary Joint Standing Committee on Delegated Legislation.

**BACKGROUND**

At its meeting of 21<sup>st</sup> January 2002, Council resolved to adopt the *City of Armadale Environment, Animals and Nuisance Local Laws 2002*, made under the *Local Government Act 1995*. The local laws were promulgated in *Government Gazette (Special) N<sup>o</sup> 36* of 1<sup>st</sup> March, and, in accordance with the requirements of the *Local Laws – Explanatory Memoranda Directions 1996*, issued pursuant to Section 3.12 of the Act, an Explanatory Memorandum and ten copies of the local laws, as gazetted, forwarded to the Parliamentary Joint Standing Committee on Delegated Legislation on 22<sup>nd</sup> March.

The Committee has advised that, in its view Clauses 20(2) and 29(1) of the local laws are inconsistent with that *Health Act 1911*. Both Clauses allow issue of Notices by Authorised officers in dealing with nuisances, as defined by the local laws or the Health Act, caused by keeping of birds. The Committee argues that:

- ◆ there are specific provisions within the Health Act which allow local governments to make local laws regulating the keeping of animals so as not to cause a nuisance (under that Act);
- ◆ such local laws must be made in accordance with that Act, which includes consent of the Executive Director of Public Health; and
- ◆ the City is attempting to regulate under the Local Government Act matters for which specific provision is made under the Health Act.

Section 3.7 of the *Local Government Act 1995* provides that a local law is ineffective to the extent that it is inconsistent with any Act. While Parliament, may disallow any local law, the Committee has indicated that it is prepared to allow the local laws subject to an undertaking from Council that:

- ◆ Clauses 20(2) and 29(1) will be severed as soon as possible; and
- ◆ in the interim, no enforcement action will be taken under those Clauses.

## COMMENT

### Analysis

Consideration has been given to the Joint Standing Committee's views and they are accepted. Severance of the offending Clauses will not impact substantially upon the effectiveness of the local laws, because should any nuisance arise which clearly falls within the Health Act jurisdiction it can be managed under the provisions of Section 184, which deals specifically with nuisances.

This issue has, however, highlighted a matter of considerably greater long term importance, namely the appropriateness of the sequence of events in the approval of local laws. Given that any proposal to make a local law must be advertised as being open for public comment for six weeks, and a copy of the proposal forwarded the Minister for Local Government and any other Minister having a responsibility in the particular area at the beginning of that period, consideration and possible disallowance by Parliament after adoption and publication in the Gazette does not seem reasonable.

In this instance, advertising costs alone have exceeded \$4000, and there have been weeks of officer time put into the local laws' development. No comment on the draft was received from the Government and only two from the public.

A better approach would be for the proposal to be referred to the Joint Standing Committee on Delegated Legislation during the public comment period, but this would require amendment to both the *Interpretation Act 1984* and the *Local Laws – Explanatory Memoranda Directions 1996*.

### **Options**

The only alternative open to Council, other than the suggested minor amendments to the local laws, is to seek the consent of the Executive Director, Public Health for the two relevant clauses. Not only is it unlikely that consent would be given to a local law made under another Act, but such consent cannot be given retrospectively, and so even were it granted the whole local law making process would need to begin again.

With respect to the process, Council may choose whether or not to request the Western Australian Local Government Association to approach the State Government on the matter.

### **CONCLUSION**

The required amendments are minor and will have little practical effect and are therefore recommended.

The present process is, however, potentially very costly and time consuming to local government and can be significantly improved relatively easily. It is therefore considered that the matter should be raised with the Western Australian Local Government Association with a view to an approach to Government being made.

*COMMITTEE was of the view that this matter should also be referred to the South East Zone of the Western Australian Local Government Association for discussion. Accordingly, a Part (3) was added to the Recommendation.*

### **D67/02            RECOMMEND**

- 1. That the Parliamentary Joint Standing Committee on Delegated Legislation be advised that Council will:**
  - ♦ **initiate suitable amendments to Clauses 20(2) and 29(1) of the *City of Armadale Environment, Animals and Nuisance Local Laws 2002* in the course of a review of some of its local laws to be undertaken in July or August of this year; and**
  - ♦ **in the meantime, no enforcement action will be taken under those Clauses.**
  
- 2. That the support of the Western Australian Local Government Association be sought in requesting the State Government to consider appropriate amendments to the *Interpretation Act 1984* and the *Local Laws – Explanatory Memoranda Directions 1996* which would allow scrutiny of local laws by the Parliamentary Joint Standing Committee on Delegated Legislation during the public comment period rather than after promulgation.**
  
- 3. That, to this end, the matter be referred to the South East Zone of the Western Australian Local Government Association for discussion.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

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***PIONEER VILLAGE CINEMA – AIR CONDITIONER NOISE***

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WARD : ARMADALE  
FILE REF : A185084  
DATE : 2 May 2002  
REF : PM  
RESPONSIBLE : HSM  
MANAGER

**In Brief:-**

- There have been frequent complaints from a nearby resident about the level of noise emissions from the air conditioner used by Pioneer Village Cinema since it's opening in late January.
- Measurement on several occasions has demonstrated a breach of regulatory standards.
- Despite extensive correspondence with the operator and issue of an Infringement Notice, attenuation work has not been undertaken.
- Recommendation for institution of legal proceedings against Regent Cinemas.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

Strategic Plan Aim – To maintain the City of Armadale as a place where the average family can enjoy a good lifestyle.

**Legislation Implications**

*Environmental Protection Act 1986* - Creates the offence of emission of unreasonable noise and defines “*unreasonable noise*” as, among other things, noise exceeding a standard defined by any subsidiary legislation.

*Environmental Protection (Noise) Regulations 1997* (made under the Act) prescribe the standard for noise emissions and assigned noise levels.

**Council Policy / Local Law Implications**

Nil.

**Budget / Financial Implications**

Nil.

**Consultation**

Legal advice sought.

## BACKGROUND

Following receipt of a complaint from a neighbour about noise from the air conditioning unit at the Pioneer Village Cinema, measurements taken on 12<sup>th</sup> February found that noise emissions exceeded those permitted by the *Environmental Protection (Noise) Regulations 1997*. By letter dated 14<sup>th</sup> February the cinema operator, Regent Cinemas, was informed of this fact and also advised to:

- ◆ engage an acoustic consultant to provide advice on noise attenuation; and
- ◆ cease using the unit until the necessary works had been completed.

After further complaints, another reading on 5<sup>th</sup> March found emissions to be similar to those previously recorded and to still exceed the levels prescribed. A letter was forwarded to Regent Cinemas on 8<sup>th</sup> March advising of this fact, repeating the earlier advice to engage an acoustic consultant and warning that it was intended to monitor noise emissions again on 13<sup>th</sup> March and that non compliance at that time would result in issue of an Infringement Notice.

Subsequent to advice from Regent Cinemas that some work had been done to the unit, further measurement was undertaken on 14<sup>th</sup> March and a letter forwarded on 15<sup>th</sup> to the effect that while the unit now met the required standard for 7.00am to 7.00pm, it still exceeded regulatory requirements for all other times of day.

On 21<sup>st</sup> March an inspection found the unit to be in use after 7.00pm and measurements taken up to 7.45pm found that emissions were in breach of regulatory requirements. At that time an error in earlier calculations was identified, and a letter was forwarded to Regent Cinemas on 22<sup>nd</sup> March advising that:

- ◆ an Infringement Notice would be issued for the offence after 7.00pm on 21<sup>st</sup> March;
- ◆ an error had been made in the earlier calculation, in that not all noise characteristics had been taken into account;
- ◆ in fact the air conditioner still failed to meet even the required day time standard; and
- ◆ any use in its then condition may result in further Notices.

An Infringement Notice imposing a penalty of \$250 was issued on 25<sup>th</sup> March.

On 15<sup>th</sup> April, correspondence was received from Regent Cinemas advising that the company had no intention of paying the penalty imposed by the Notice and had referred the matter to its lawyer.

A reply on the 16<sup>th</sup>:

- ◆ recounted events to date;
- ◆ repeated advice to engage an acoustic consultant;
- ◆ urged payment of the due penalty and undertaking of the works necessary to attenuate the noise to the required level; and
- ◆ advised that any further offence may result in issue of another Infringement Notice, prosecution or other enforcement actions provided under the *Environmental Protection Act 1986*.

A complaint was again received on 2<sup>nd</sup> May, and measurement on that day found the level of noise to be similar to that previously recorded and to significantly exceed regulatory requirements.

Consequent to a suggestion from the City's solicitor, an invitation to a representative of Regent Cinemas to a *without prejudice* discussion with the Health Services Manager and both party's legal advisers was faxed to the company on 3<sup>rd</sup> May. Advice as to whether this invitation was accepted will be available at the Committee meeting.

## COMMENT

### Analysis

It is now over three months since the matter was first drawn to the attention of the cinema operator. Although it is claimed that some work has been done to the air conditioner, and a marginal improvement in emission levels has been noted, as far as officers are aware no professional advice has been sought and measured levels exceed those prescribed by up to 17 dB(A).

Although there is only one complainant household, that home is the closest to the air conditioning unit. The noise is intrusive and is clearly discernible at most points on the complainant's property, including inside the house. Complaints have continued on a regular basis since the cinema opened.

### Options

If this matter is not resolved, Council's options are essentially limited to either:

- ◆ instituting legal action; or
- ◆ taking no further action.

## CONCLUSION

Given that:

- ◆ complaints have continued for some three months;
- ◆ noise emissions are clearly in excess of regulatory requirements;
- ◆ the complainant has indicated a willingness to provide evidence in Court if necessary; and
- ◆ the company has failed to properly address the issue and has refused to pay the modified penalty imposed by the Infringement Notice;

legal action is considered to be warranted.

*During discussion of this item, Committee indicated a wish for a more detailed explanation of the degree to which noise emissions exceed those prescribed. Accordingly, the table below has been prepared and summarises findings from the most recent set of measurements (2<sup>nd</sup> May). In interpreting the table, the following should be noted.*

- ◆ *These measurements were taken in mid afternoon, and therefore the Assigned Levels applicable from 0700 to 1900hours apply (ie: excess during the measurement period 16dB in the L<sub>A10</sub> range).*
- ◆ *The measured levels shown for all other times of day are indicative only, and while it has been assumed that readings will be similar, temperature, humidity, wind direction and other weather factors can have marked effects on sound transmission.*
- ◆ *The cinema operates from about 10.00am to 11.00pm.*
- ◆ *If the last set of day time readings were replicated after 10.00pm at night, excesses of up to 26dB would be experienced.*

Time of Day	Assigned Levels (Including Influencing factors)			Measured Level (Including Adjustments for Noise Characteristics)		
	L <sub>A10</sub> dB	L <sub>A1</sub> dB	L <sub>Amax</sub> dB	L <sub>A10</sub> dB	L <sub>A1</sub> dB	L <sub>Amax</sub> dB
07:00 – 19:00	55	65	75	71	75	80
19:00 – 22:00	50	60	75	71	75	80
22:00 – 07:00	45	55	65	71	75	80
22:00 - 09:00 (Sunday & public holidays)	45	55	65	71	75	80

**Key:**

- Assigned Level : The maximum level prescribed by regulation
- Influencing Factors : Adjustments (upwards) to assigned levels taking into account proximity to commercial and industrial land, major roads and secondary roads.
- Measured Level : Sound level measured at the premises from which the complaint was received.
- Noise Characteristics : Tonal components, modulation etc fro which the regulations require fixed upward adjustment to the measured level in recognition of the additional aggravating effect of such sound.
- L<sub>A10</sub> dB : Sound level exceeded for 10% of the measurement period.
- L<sub>A1</sub> dB : Sound level exceeded for 1% of the measurement period.
- L<sub>Amax</sub> dB : Maximum sound level.

**D68/02**

**RECOMMEND**

**That, unless by 31<sup>st</sup> May 2002:**

- ♦ **works effective in reducing noise emissions from the air conditioning unit serving the building known as Pioneer Village Cinema, to the levels permitted by the *Environmental Protection (Noise) Regulations 1997* have been completed; and**
- ♦ **the modified penalty imposed by the Infringement Notice issued on 25<sup>th</sup> March has been paid;**

**legal proceedings be instituted against Regent Cinemas for breach of Section 79 of the *Environmental Protection Act 1986*.**

MOVED Cr Green  
MOTION CARRIED (7/0)

***COUNCILLORS' ITEMS***

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Nil.

***PROPOSED AMENDED RESOLUTION – AMENDMENT NO.170 TO TPS NO.2 AND ASSOCIATED SUBDIVISION GUIDE PLAN – PT LOTS 420 & 450 TAYLOR ROAD, FORRESTDALE***

WARD : FORREST  
FILE REF : SCH/2/170  
DATE : 3 May 2002  
REF : JRH  
RESPONSIBLE MANAGER : PSM  
APPLICANT : Dykstra & Associates  
LANDOWNER : NJ & PE Devine  
Condor Nominees Pty Ltd  
SUBJECT LAND : Lots 420 & 450 Taylor Road, Forrestdale  
Property size 49.1769ha;  
Map - 16.40  
MRS  
TPS NO.2 : Rural  
General Rural / Rural-  
Groundwater Protection  
Zone

**In Brief:-**

- Proposed Amendment No.170 to Town Planning Scheme No.2 and associated Subdivision Guide Plan (SGP) were adopted by Council at its May 2001 round of meetings, subject to confirmation from Department of Health (DOH) that the proposal complied with the intent of the Government Sewerage Policy.
- Applicant has engaged a Consulting Engineer to prepare a drainage strategy for the application area. DOH has now supported the Amendment and SGP subject to minor modifications to the documents.
- Recommend Amendment and advertised SGP be finally adopted, subject to modifications generally in accordance with the requirements of DOH.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

Development – “To balance the needs of development with sustainable economic, social and environmental objectives.”

**Legislation Implications**

Town Planning & Development Act 1928  
Town Planning Regulations 1967  
Town Planning Scheme No.2  
Government Sewerage Policy

### **Council Policy / Local Law Implications**

City of Armadale Draft Rural Strategy 1999.

### **Budget / Financial Implications**

Nil.

### **Consultation**

- ◆ Department of Health
- ◆ Council's Health Department

### **BACKGROUND**

At its meeting of May 2001, Council resolved to adopt the proposed Scheme Amendment and revised Subdivision Guide Plan (SGP) for Lots 420 and 450 Taylor Road, subject to confirmation from the Department of Health that the proposal complies with the intent of the Government Sewerage Policy (resolution D98/01). This provision was included within the resolution as a result of concerns by the Water & Rivers Commission and also by officers from Council's Health Department regarding the suitability of the site for on site effluent disposal.

Following Council's resolution, the applicant engaged a consulting engineer to prepare a drainage strategy for the site, which was presented to the Department of Health (DOH). The authority has endorsed the proposal, subject to minor changes to the Special Use Development Table of the Amendment. The implementation of these changes requires modification to Council's previous resolution to adopt the Scheme Amendment and SGP.

Council is now requested to consider the advice provided by the Department of Health, and to consider a revised resolution to finally adopt the proposed Amendment and SGP.

### **DETAILS OF PROPOSAL**

#### ***Amendment No.170***

This amendment proposes to rezone a portion of the subject lots from 'General Rural' to 'Special Use – Rural / Residential'. The Amendment incorporates specific provisions to ensure that the site is developed in an environmentally sustainable manner, and requires the preparation of environmental management plans to assist in the rehabilitation of degraded portions of the lots.

#### ***Subdivision Guide Plan***

The Subdivision Guide Plan submitted in association with the amendment application proposes the creation of 17 lots, which are to be accessed from an access road via Taylor Road. The design has been formulated following consideration of environmentally sensitive areas within the application area such as the Conservation Category Wetland on the eastern boundary of the application area.

## COMMENT

### *Compliance with the Government Sewerage Policy*

The main area of concern identified by the Water and Rivers Commission and also by officers from Council's Health Department is the issue of the suitability of the site for on site effluent disposal. The requirements of the Government Sewerage Policy stipulate that the location of the disposal system should not be subject to inundation or flooding at a probability greater than once in 10 years, and irrespective of the type of on-site system used, the land should have a minimum depth to the seasonal or permanent water table from the natural ground surface of at least 0.5 metres.

An analysis of the site conducted prior to consideration of final adoption indicated that there were limited areas which achieved sufficient separation from the groundwater level. A more detailed borehole analysis conducted by the applicant's Consulting Engineer indicated that the majority of the site would comply with the provisions of the Government Sewerage Policy, with three lots in the centre of the application area requiring a more detailed drainage design.

### *Comments from the Department of Health*

The Department of Health (DOH) has reviewed the information provided by the applicant's Consulting Engineer, and provided written advice to Council on the matter. The authority is now prepared to endorse the Scheme Amendment and Subdivision Guide Plan, subject to a clause being included within the Special Use Development Table of the Amendment and a notification being placed on the Subdivision Guide Plan, which specifies that the lot yield and subdivision layout shall be subject to more detailed drainage design. DOH have endorsed the wording of the proposed clause and notification as follows:

Proposed notification on SGP:

*“Subdivision and development should be generally in accordance with the design depicted within this Subdivision Guide Plan however the exact number of lots and location of building envelopes may need to be modified as a result of detailed drainage design and calculations to be submitted prior to subdivision of the land.”*

Proposed additional clause within Scheme:

*“Council will not support a Plan of Subdivision until such time it is satisfied that a suitable drainage design has been prepared and submitted by the proponents, showing that groundwater levels within all building envelopes will not rise above 500mm below the natural ground surface. Such drainage design must be accompanied by certified engineering calculations to demonstrate how the greater than 500mm groundwater clearance will be achieved, how drainage water shall be removed from or contained onsite and be accompanied by confirmation as to the environmental agency's prior acceptance of the drainage design.”*

It is considered that the inclusion of the above provisions within the Special Use Development Table and SGP will ensure that the provisions of the Government Sewerage Policy are complied with, subject to minor modifications. These modifications are required as the current wording of the clause and notification will not prevent the creation of lots which do not comply with the Government Sewerage Policy, as subdivision applications are determined by the Western Australian Planning Commission. Minor grammatical modifications are also required.

To address this matter, it is recommended that Council's adoption of the Amendment and SGP be subject to the clause being modified to refer to the Western Australian Planning Commission in addition to Council, and to refer to the **approval** of a Plan of Subdivision rather than the **support** to a Plan of Subdivision. These modifications do not alter the intent of the DOH's advice, but create a higher level of subdivision control as it requires Council and the Commission to endorse the proposed drainage design for the application area, prior to the Commission granting approval to any subdivision within the application area.

### ***Comments from Council's Health Department***

The Department of Health's endorsement of the proposed Scheme Amendment and SGP was forwarded to Council's Health Department for comments. Council's Health Services Manager has reviewed the advice, and considers that the Amendment and SGP may proceed, subject to the inclusion of the proposed additional clause and notification as required by DOH and modified by Council.

Council's Health Department has also requested a modification to the clause within the Special Use Development Table, which requires the nomination of effluent disposal envelopes for the proposed lots within the application area. This clause is currently worded as follows:

*“All lots are to have suitable effluent disposal envelopes nominated. Such envelopes are to be nominated at the subdivision stage, based upon a Geotechnical report which demonstrates that each envelope can achieve the minimum requirements for unsewered subdivision as specified in Appendix 1 of the Government Sewerage Policy – Perth Metropolitan Region. The depth to the water table is to be determined in late winter, when the groundwater level is expected to be at its peak”.*

It is proposed by the Department that this clause be modified to require the determination of the depth to the highest known water table, which is consistent with the terminology used in the Sewerage Policy document. This provides a more accurate indication of the highest groundwater level.

### **Analysis**

The application area forms part of a large scale Rural / Residential structure planning area in conjunction with Amendment No.143, which was initiated by Council in a revised form at the April 2001 round of meetings. These two amendments cover a significant portion of the lots in the vicinity of Oxley Road, Warton Road, Rowley Road and Taylor Road, and facilitate subdivision of the lots in a form which responds to the environmental constraints of the site and provides a mechanism for the environmental repair and improvement of lots within the application area.

The additional clause and notification as endorsed by the Department of Health, with the incorporation of modifications as proposed by Council's officers, addresses the concerns identified by Council in its resolution to grant final adoption to the Amendment and SGP. The clause is consistent with the intent of the Scheme Amendment, by preventing the creation of lots within the application area where effluent disposal cannot be achieved in compliance with the requirements of the Government Sewerage Policy.

### **Options**

#### ***Amendment No.170***

With respect to the proposed Amendment, Council may consider two options:

1. Adopt Amendment No.170 in accordance with Council's previous resolution D98/01, subject to the inclusion of the clause within the Special Use Development Table of the Amendment as required by the Department of Health and modified by Council's officers, and modification to the clause relating to the nomination of development envelopes to require the determination of the depth to the water table to be based upon the highest known groundwater level, rather than a level measured in late winter; or
2. The Amendment be not proceeded with.

#### ***Subdivision Guide Plan***

With respect to the proposed Subdivision Guide Plan, Council may consider two options:

1. Adopt the advertised Subdivision Guide Plan in accordance with Council's previous resolution D98/01, subject to modification to the SGP to include the notification relating to lot yield and design as required by the Department of Health and modified by Council's officers; or
2. Not proceed with the Subdivision Guide Plan.

### **CONCLUSION**

The proposed Scheme Amendment as previously adopted by Council, will facilitate the development of the subject lots in a form which responds to environmental constraints, whilst implementing controls for the rehabilitation and environmental repair of degraded areas of the site. The inclusion of the clause within the Special Use Development Table as required by the Department of Health, in a modified form as proposed by Council's officers, will address Council's previous concern regarding the ability of the site to comply with the Government Sewerage Policy and permit subdivision of the lots to occur in compliance with the policy.

The proposed modification to the existing clause of the Special Use Development Table, to require the determination of the depth to the water table with respect to the nomination of development envelopes to be based upon the highest known groundwater level, provides an additional safeguard to prevent negative impacts on the groundwater resource and is consistent with the Sewerage Policy document.

Given the above, it is considered that the proposed Amendment may be finally adopted in accordance with Option 1.

Council’s previous adoption of the Subdivision Guide Plan recognised that the SGP was formulated in response to extensive analysis of environmental issues existing within the application area, and has been supported by the Department of Environmental Protection and the Water & Rivers Commission as an acceptable basis for subdivision. The inclusion of the notification on the SGP, as required by the Department of Health and modified by Council’s officers, will strengthen the provisions of the revised Special Use Development Table to prevent subdivision of the application area where the proposal does not comply with the provisions of the Government Sewerage Policy.

Consequently, it is recommended that the advertised Subdivision Guide Plan be finally adopted in accordance with Option 1.

**D69/02 RECOMMEND**

- 1. That further to advice received from the Department of Health in accordance with intent of Council’s previous resolution D98/01, Council determine that the proposed Special Use Development Table associated with Amendment No.170 to Council’s Town Planning Scheme No.2 should be modified as per the italicised text as follows:**

PRESCRIBED SPECIAL USE	REQUIREMENTS	PARTICULARS OF LAND
<p><b><u>Rural/ Residential</u></b></p> <p>Permitted (P) uses:</p> <ul style="list-style-type: none"> <li>◆ Single House (one per lot only)</li> <li>◆ Public Utility Uses that may only be permitted at the discretion of the Council (AA):</li> <li>◆ Home Occupation</li> <li>◆ Stabling and keeping of horses</li> <li>◆ All other uses mentioned in the Scheme are not permitted</li> </ul>	<ol style="list-style-type: none"> <li>Subdivision and development shall generally be in accordance with the Subdivision Guide Plan prepared in accordance with Clause 5.2.1 of the Scheme, and shall generally observe the following subdivision standards:- <ul style="list-style-type: none"> <li>◆ Overall maximum number of lots being in accordance with the approved Subdivision Guide Plan.</li> <li>◆ Minimum lot size of 2.0ha</li> </ul> </li> <li><i>Council and the West Australian Planning Commission (WAPC) shall not approve a Plan of Subdivision until such time it is satisfied that a suitable drainage design has been prepared and submitted by the proponents, showing that groundwater levels within all building envelopes will not rise above 500mm below the natural ground surface. Such drainage design shall be accompanied by certified engineering calculations to demonstrate how the greater than 500mm groundwater clearance will be achieved, how drainage water shall be removed from or contained onsite, and shall be accompanied by confirmation that the design is acceptable to relevant environmental agencies.</i></li> <li>Clause 5.7.8 and Sub-Clause 5.2.2 a) of the Scheme applies to all lots within the Zone. All effluent disposal systems are to be located within approved</li> </ol>	<p>Portion of Lots 420 and 450 Taylor Road, Forrestdale</p>

PRESCRIBED SPECIAL USE	REQUIREMENTS	PARTICULARS OF LAND
	<p>development envelopes.</p> <ol style="list-style-type: none"> <li>4. All dwellings to be provided with Alternative Treatment Units (ATU's) to the satisfaction of the Council in consultation with the Department of Health.</li> <li>5. All lots are to have suitable effluent disposal envelopes nominated. Such envelopes are to be nominated at the subdivision stage, based upon a Geotechnical report which demonstrates that each envelope can achieve the minimum requirements for unsewered subdivision as specified in Appendix 1 of the Government Sewerage Policy – Perth Metropolitan Region. <i>This Geotechnical report is to be determined based upon the highest known groundwater level, in considering the depth to the water table.</i></li> <li>6. No trees or other remnant vegetation or native flora shall be removed from the portion of any lot outside of the approved development envelope without the prior written consent of Council, except where: <ul style="list-style-type: none"> <li>◆ The trees or vegetation are dead, diseased or dangerous; or</li> <li>◆ The removal is necessary for the establishment of a required firebreak or approved fence or accessway.</li> </ul> </li> <li>7. Prior to the commencement of works, the following Environmental Management Plans in accordance with the specifications set out in Schedule 1, Part Three are to be prepared by the subdivider to the satisfaction of Council; <ul style="list-style-type: none"> <li>◆ Rehabilitation and Landscape Plan;</li> <li>◆ Fire Management Plan; and</li> <li>◆ Drainage and Nutrient Management Plan</li> </ul> </li> <li>8. No dwelling or outbuilding shall be constructed within 15 metres of any lot boundary, unless the setback is varied by Council in accord with Clause 7.6 of the Town Planning Scheme.</li> <li>9. No effluent disposal system shall be permitted within: <ul style="list-style-type: none"> <li>◆ 50 metres of a Conservation Category Wetland identified on the Subdivision Guide Plan; or</li> <li>◆ 100 metres of any Water Corporation production bore, unless otherwise approved by the Water Corporation.</li> </ul> </li> <li>10. The stabling and keeping of horses requires the consent of the Council, and no other livestock is to be kept within the zone. An application for the stabling and keeping of horses will be determined in consultation with relevant government departments, and may be refused if environmentally unacceptable, or be limited to a certain carrying capacity. Horses are not permitted on lots where more than 50% of the</li> </ol>	

PRESCRIBED SPECIAL USE	REQUIREMENTS	PARTICULARS OF LAND
	<p>site area is within a Conservation Category Wetland identified in the Subdivision Guide Plan. Stock shall be excluded from Conservation Category Wetlands with stock-proof fencing.</p> <p>11. No new building or development is to be permitted within 300 metres of the existing poultry/broiler farm on Lot 434 without the prior approval of Council in consultation with the Department of Health, the Department of Environmental Protection and the Western Australian Planning Commission. Relaxation of the 300 metre buffer for new development may be permitted where the potential for any adverse impact on the quality of rural residential living can be demonstrated to be minimal.</p> <p>12. All boundary and other fencing shall be of open post and rail and wire construction and shall be installed and maintained to the satisfaction of Council. Side and rear boundary fencing is prohibited where those boundaries fall within a Conservation Category Wetland identified on the Subdivision Guide Plan.</p> <p>13. The subdivider(s) shall make arrangements satisfactory to Council to ensure that prospective purchasers of the lots are advised of those provisions in the City of Armadale Town Planning Scheme No.2 which relate to the land use and management of the land within the zone.</p> <p>14. Groundwater abstraction by prospective lot owners will be permitted only within the limits set by the Water Corporation. Each lot owner will sign an acknowledgement of groundwater abstraction limits and no land uses requiring high groundwater usage will be allowed.</p>	

2. **That based upon advice from the Department of Health, Council endorse the proposed advertised Subdivision Guide Plan for Lots 420 and 450 Taylor Road, Forrestdale subject to the inclusion of the following notification:**
  - ♦ **Subdivision and development should be generally in accordance with the design depicted within this Subdivision Guide Plan. The exact number of lots and location of building envelopes are to reflect the results of the detailed drainage design and calculations, to be submitted prior to subdivision of the land.**
3. **That upon receipt of a revised plan incorporating the above modifications to the satisfaction of the Executive Director – Development Services, the plan be forwarded to the Western Australian Planning Commission for its adoption.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

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***WORKSHOP FOR ELECTED MEMBERS ON TOWN PLANNING SCHEME NO.4***

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WARD : ALL  
FILE REF : PSY/4  
DATE : 1 MAY 2002  
REF : SG  
RESPONSIBLE : EDDS  
MANAGER

**In Brief:-**

- Proposal to conduct a workshop to facilitate Council input into Town Planning Scheme No.4.
- Workshop proposed for Thursday 23 May 2002 from 5.30pm – 8.00pm.

**Tabled Items**

Nil

**Officer Interest Declaration**

Nil

**Strategic Implications**

Long term strategic planning - “Complete the Town Planning Scheme Review...”

**Legislation Implications**

Town Planning and Development Act 1928 (as amended)

**Council Policy / Local Law Implications**

City of Armadale Local Planning Strategy

**Budget / Financial Implications**

Nil

**Consultation**

Nil

**BACKGROUND**

At its meeting of 15 April 2002 (CS34/02), Council resolved that a workshop session be arranged for Councillors as soon as practicable to provide input into draft Town Planning Scheme No.4 (TPS No.4).

## COMMENT

A summary document on TPS No.4 is currently being prepared for distribution to Elected Members prior to a workshop session being conducted to facilitate Council input into the new Scheme. It is intended that the material will provide an overview of the purpose, key features and components of TPS No.4 to enable Councillors to be informed about the new Scheme prior to the workshop.

The workshop is proposed for Thursday, 23 May 2002 from 5.30pm–8.00pm in Council's Committee Room and will be conducted by the members of the Planning Department. Summary material will be distributed a week in advance of the workshop.

*COMMITTEE was expressly keen to obtain draft Scheme Maps for information prior to the Workshop.*

## D70/02 RECOMMEND

**That a workshop be conducted for Elected Members to provide input into Council's draft Town Planning Scheme No.4 on 23 May 2002 from 5.30pm – 8.00pm.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

***FORRESTDALE INDUSTRIAL BUSINESS PARK***

WARD	:	FORREST
FILE REF	:	PSC/16
DATE	:	3/5/02
REF	:	JR
RESPONSIBLE MANAGER	:	PSM
APPLICANT	:	Forrestdale Industrial Business Park Owners Group
LAND OWNER	:	Various
SUBJECT LAND	:	183 ha of land bounded by Armadale Road, the future Tonkin Highway reservation, Ranford Road and a realigned section of Ranford Road.
ZONING MRS/TPS No.2	:	Industry (MRS) Industrial Business Development Zone, General Industry Zone, Reservation for Other Regional Road and Reservation for Primary Regional Road

**In Brief:-**

- The Forrestdale Industrial Business Park Owners Group seeks the City of Armadale's view on means available to commence the initial phases of development and for pre-funding of infrastructure by the City via a Guided Development Scheme.
- Recommendation that the City does not take on the risk of the up-front infrastructure investment.
- Recommendation that a Guided Development Scheme would not offer sufficient certainty of development outcomes or the timing of reimbursements from private development that would warrant the significant risks and costs and time that such a proposal would entail.
- Recommendation for State Government/Armadale Redevelopment Authority to investigate providing/pre-funding the initial infrastructure works and administer the Development Contribution Plan through its experienced industrial land development arm Landcorp.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

Armadale Strategic Plan - Long Term Strategic Planning:

- ◆ Item 1.3 Complete the preliminary planning requirement for the Forrestdale Industrial Business Park.
- ◆ Southern River / Forrestdale / Brookdale / Wungong District Structure Plan.

**Legislation Implications**

- ◆ Town Planning and Development Act (1928) as amended and the Local Government Act 1995.
- ◆ Commercial Arbitration Act 1985.
- ◆ Armadale Redevelopment Authority Act 2001.

### **Council Policy / Local Law Implications**

Town Planning Scheme Amendments No.168 (draft) and No.157 (draft) based upon the Western Australian Planning Commission's Model Scheme Text (MST) for Development Contributions (Planning Bulletin No.41 and Planning Bulletin No.18 – Developer Contributions for Infrastructure) and for Structure Plans (Planning Bulletin No.37).

WAPC MST Provisions for Guided Development Schemes (Planning Bulletin No.51 November 2001).

Planning Policy and Development Guidelines for the Forrestdale Industrial Business Park (draft).

### **Budget / Financial Implications**

Council has to date expended \$79 000 in external consultancy fees, in implementing a statutory planning framework for the Forrestdale Industrial Business Park which includes a Development Contributions Plan for infrastructure cost sharing. Private land owners within the development area have contributed an additional \$125 000 to these costs, to date.

Converting the existing Plan to a Guided Development Scheme (GDS) would involve an administrative and statutory costs burden upon the overall development. The additional cost burden of preparing a Guided Development Scheme to Gazettal is estimated to be in the vicinity of an additional \$20, 000 to \$50, 000 and the process would take 12 months minimum.

### **Consultation**

- ◆ Forrestdale Industrial Business Park Owners Group;
- ◆ Department for Planning and Infrastructure – Major Places Unit;
- ◆ Council's Project Manager.

### **BACKGROUND**

In 2001, a group of owners within the Forrestdale Industrial Business Park development formed an Owners Group, which adopted a Charter to:

*“encourage, lobby and represent and effect significant input from Government in the promotion and facilitating or major commercial and industrial development within the Forrestdale Industrial Business Park”.*

The Owners Group, which represents approximately 85% of the landowners within the Business Park is seeking State Government, through either Landcorp or the Armadale Redevelopment Authority (ARA), to act as facilitator in attracting a major “lead occupier” with whom landowners could then enter into agreements in order to undertake the actual development.

## **DETAILS OF PROPOSAL**

The Owners Group seeks comment on any advantages of establishing a Guided Development Scheme administered by the City of Armadale. They also seek information on any disadvantages, such as the time and costs that would be involved in establishing such a Scheme (*see Attachment “A1” of the Agenda, refer Summary of Attachments - yellow page*).

## **COMMENT**

The City of Armadale in fact already has in place (pending Gazettal), a Development Scheme for the Forrestdale Industrial Business Park. The City’s Scheme involves the use of provisions within the existing zoning Scheme (a Development Contribution Plan) rather than a separate Scheme. The following sets out a comparison between the existing Development Contribution Plan approach and the Guided Development Scheme approach suggested.

### **1. Guided Development Schemes (GDS)**

A Guided Development Scheme is a Town Planning Scheme in its own right. It is separate from but complementary to the existing District Zoning Scheme (ie TPS No.2 is Council’s District Zoning Scheme).

#### ***Disadvantages of Guided Development Schemes are:***

- ◆ Risks associated with the uncertainty as to when a Scheme Administrator (such as the City) would recover its initial investment in pre-funded infrastructure (or whether costs would be fully recovered).
- ◆ The high cost of preparing and administering the Scheme.
- ◆ The length of time it takes to prepare a Scheme to final Gazettal stage.
- ◆ General land owner objections and in particular by experienced developers who are land owners within the Scheme area.

For the above reasons, in recent years few Councils have adopted Guided Development Schemes and several existing Schemes have been discontinued (Woodvale/Kinglsey and East Mandurah), however, properly managed Guided Development Schemes can be useful provided they are small in scale, highly marketable and short term.

### **2. Development Contribution Plans and Subdivision Controls within existing District Zoning Schemes**

A Development Contribution Plan is a mechanism for administering contributions for infrastructure, which actually forms part of the existing District Zoning Scheme. This is the fundamental difference to a GDS, which is a separate Town Planning Scheme in its own right.

The objectives and advantages attributed to Guided Development Schemes equally apply to within-Scheme Development Contributions Plans. Council has prepared a Development Contributions Plan for the Forrestdale Industrial Business Park in the form of Amendment No.168 and supported by MST provisions incorporated into TPS No.2 under Amendment No.157.

***The advantages of Development Contribution Plans and Subdivision Controls within existing District Zoning Schemes are as follows:***

- ◆ Gives Council adequate control over land use planning including infrastructure costs.
- ◆ Provides the basis for imposing conditions on subdivision and development approvals for contributions to infrastructure.
- ◆ Can include resumptive powers if necessary.
- ◆ Generally more acceptable to landowners than a Development Scheme.
- ◆ The Infrastructure contributions can be formulated at the same time as the Structure Plan, thus streamlining formalities.
- ◆ Does not require the preparation of any legal agreements.
- ◆ Does not preclude land pooling.

In Forrestdale the Development Contribution Plan approach was favoured primarily because it provided the clear statutory authority and certainty of a Town Planning Scheme, while avoiding the disadvantages of a Guided Development Scheme.

***TPS No.2 Amendment No.168 - Development Contributions Scheme for the Forrestdale Industrial Business Park***

Amendment No.168 was prepared by Project Co-ordinator Taylor Burrell and Wood & Grieve Engineers as the Development Contributions Scheme for the Forrestdale Industrial Business Park. It was based on the WAPC MST for Structure Plans (Planning Bulletin No.37) and Development Contributions (Planning Bulletin No.41). At its meeting of March 2002 Council resolved to adopt Amendment No.168 to TPS No.2 for final approval.

Amendment No.168 involves subdividing or developing land owners making a Contribution towards their proportional share of the following infrastructure items:

1. *Land and works for the Ranford Road district distributor road between Tonkin Highway and Armadale Road;*
2. *Land, works and landscaping of the estates major Spine road intersections with Armadale Road and Ranford Road;*
3. *Land for Public Open Space;*
4. *Land and development of the main Stormwater Drainage installations;*
5. *Land for a Sewer pumping station;*
6. *Land for a Western Power substation site;*
7. *Land for a Telecommunications exchange site and installation/extension of optic fibre cable;*

8. *Costs for establishing the statutory planning framework including zoning, structure planning, development policy, Development Contributions Plan and ongoing administration.*

The City and the participating landowners have incurred significant financial costs in establishing the current Development Contributions Plan amounting to approximately \$90 000 in total.

In terms of timing, the Development Contributions Plan under Amendment No.168 has been processed through the statutory procedures over a period of 18 months and has now progressed approximately statutory procedures required for its Gazettal. Furthermore, with WAPC and Ministerial attention to the final steps, Amendment No.168 could be Gazetted in the next few weeks.

### **Options**

1. Request ARA to consider means to reduce the burden of up-front infrastructure costs, by pre-funding of initial infrastructure works and taking over administration of the Development Contribution Plan, as part of its commitment to further the economic development of Armadale.
2. A Guided Development Scheme could be prepared for the Forrestdale Industrial Business Park.
3. Continue with present arrangements.

### **CONCLUSION**

The Development Contributions Plan adopted under Amendment No.168 serves substantially the same objects and purposes as would a Guided Development Scheme.

In August 2001 (D191/01), Council previously raised concerns regarding the burden of infrastructure cost in relation to development of the estate. Council sought state government to investigate potential means of assisting the landowners and hence accelerating the development of the estate for the benefit of the economic development of the whole Armadale community.

State Government has both the resources and the size/ability to absorb the development risks of providing/pre-funding the initial infrastructure works and being reimbursed by subdividing land owners by administering the Development Contribution Plan through its experienced industrial land development arm Landcorp.

*Officer's report recommends –*

1. That Council advise the Forrestdale Industrial Business Park Owners Group that:
  - a) Council adopted a Development Contributions Plan under Amendment No.168 in March 2002, as the preferred means of administering contributions to infrastructure for the Forrestdale Industrial Business Park.
  - b) The City of Armadale is not in a position to accept risks associated with pre-funding of major infrastructure or the costs of a Guided Development Scheme, as an alternative to the above Amendment No.168.
  
2. That Council request Armadale Redevelopment Authority to:
  - a) Investigate means of pre-funding the initial infrastructure works as a basis for stimulating the initial industrial development phases.
  - b) Administer the recovery of Armadale Redevelopment Authority's investment in initial infrastructure via an experienced State Government industrial land developer such as Landcorp, under the existing Development Contribution Plan.

*COMMITTEE whilst agreeing to the conclusions of the officer's report, felt that a rebalancing of issues was appropriate within the Recommendation and accordingly modified the Recommendation as follows.*

**D71/02            RECOMMEND**

- 1. That Council advise the Forrestdale Industrial Business Park Owners Group that:**
  - a) Council adopted a Development Contributions Plan under Amendment No.168 in March 2002, as the preferred means of administering contributions to infrastructure for the Forrestdale Industrial Business Park.**
  - b) The Armadale Redevelopment Authority is now formally responsible for the Forrestdale Business Park in accordance with provisions of the Armadale Redevelopment Act and accordingly, it is no longer appropriate for the Council to undertake infrastructure funding associated with implementation of the Forrestdale Business Park development.**

**It is anticipated that the Armadale Redevelopment Authority will address this issue in the context of preparing and finalising its own Redevelopment Master Plan.**

- 2. That Council request Armadale Redevelopment Authority to:**
  - a) Investigate means of pre-funding the initial infrastructure works as a basis for stimulating the initial industrial development phases.**
  - b) Administer the recovery of Armadale Redevelopment Authority's investment in initial infrastructure via an experienced State Government industrial land developer such as Landcorp, under the existing Development Contribution Plan.**
  
- 3. That all landowners involved in the Forrestdale Business Park be informed of the progress of statutory planning and Council's decision in relation to its request of the Armadale Redevelopment Authority cited in Part (2) above.**

MOVED Cr Stubbs  
MOTION CARRIED (7/0)

*Planning Services Manager, Mr Louis Fouché declared an interest in this item on the basis that he owns property in the immediate locality of the Thomson's Lake Regional Centre and left the meeting at 8.12pm.*

### **CITY OF COCKBURN DRAFT LOCAL COMMERCIAL STRATEGY**

WARD : N/A  
FILE REF : PSD/1  
DATE : 29 APRIL 2002  
REF : SG  
RESPONSIBLE : EDDS  
MANAGER

#### **In Brief:-**

- City of Cockburn is seeking comments on its Draft Local Commercial Strategy.
- The Strategy recommends consideration of Thomson's Lake as a Strategic Regional Centre which is inconsistent with state planning policy.
- Recommend that Council does not support Strategic Regional Centre designation.

#### **Tabled Items**

- ♦ Cockburn Central Draft Structure Plan.

#### **Officer Interest Declaration**

The Planning Services Manager disclosed that he owns property in the immediate locality of the Thomson's Lake Regional Centre. As there may be a perception that impartiality on the matter may be affected, he did not participate in the preparation of this report.

#### **Strategic Implications**

- ♦ City of Armadale Strategic Plan: "Development – to create an integrated Regional Centre with a full range of services (residential, business, commercial, recreational, civic and leisure)".
- ♦ Metroplan – "Eight Centres (Armadale, Fremantle, Joondalup, Midland, Rockingham, Cannington, Morley and Stirling) are nominated as Strategic Regional Centres and should provide the principal focus of major new commercial investment.
- ♦ Southern River, Forrestdale, Wungong, Brookdale District Plan.

#### **Legislation Implications**

Town Planning and Development Act 1928  
Statement of Planning Policy No.9 - Metropolitan Centres Policy Statement

#### **Council Policy / Local Law Implications**

City of Armadale Draft Local Planning Strategy  
City of Armadale Commercial Strategy

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

Nil

## **Consultation**

Nil

## **DETAILS OF PROPOSAL**

The City of Cockburn is currently seeking comments on its Draft Local Commercial Strategy. The main purpose of the Strategy is to guide the future development of commercial centres within the City of Cockburn. A brief summary of the main recommendations of the Strategy, of relevance to Council, is as follows:

- ◆ The Gateways/Thomson's Lake complex should become a multi purpose Regional Centre incorporating Mixed Use and Mixed Business areas, with retail floorspace of around 50,000sqm in the longer term.
- Consideration should be given to elevating the Thomson's Lake complex to Strategic Regional Centre status for the following reasons:
  - Its highly strategic location near the Kwinana freeway interchange.
  - The ultimate form and scale planned for the centre will comply with the Metropolitan Centres Policy Statement criteria.
  - Its future role as a public transport interchange, including rail.
  - The available land can facilitate development of a large centre.
  - Additional retail floorspace above the 50,000sqm already approved for Gateways will be necessary to ensure retail support is available in the main street 'town centre' component currently being planned beside the future railway station.

## **COMMENT**

The proposal by the City of Cockburn for the Thomson's Lake complex to become a Regional Centre is in accordance with the WAPC's *Statement of Planning Policy No.9 (SPP No.9) – Metropolitan Centres Policy Statement for the Perth Metropolitan Region* (discussed below). Therefore the designation as a Regional Centre is not in contention due to its statutory base.

However the suggestion of elevating the designation to Strategic Regional Centre status is questioned in light of the proximity of Thomson's Lake to the Armadale Strategic Regional Centre and the lack of State statutory and strategic support for such a proposal.

### ***Existing planning framework for commercial centres***

#### ***SPP No.9 – Metropolitan Centres Policy Statement for the Perth Metropolitan Region***

*SPP No.9* applies to the planning and development of commercial activities in the Perth Metropolitan Region. The Policy is consistent with the *State Planning Strategy (1997)* and *Metroplan (1990)*. The Policy has been recently formulated (gazetted October 2000) as a refinement of the previous *Metropolitan Centres Policy Statement (1991)* and updates the hierarchy of new centres, with the inclusion of Thomson's Lake as a Regional Centre for the first time. This is in contrast to the long-term designation of Armadale as a Strategic Regional Centre (initially named a Sub Regional Centre), which has been applied since adoption of the *Corridor Plan for Perth* in 1970 as the region's long-term development strategy.

The objectives of *SPP No.9* are to establish a hierarchy of well-located centres in the metropolitan region. Specific Policy measures include the following:

- ◆ “Strategic Regional Centres will be promoted as the main metropolitan centres outside the Perth Central Area as major multi-purpose and employment centres containing a full range of regional shopping, office, administrative, social, entertainment, recreation and community services. Shopping floorspace should generally be confined to 80,000sqm.
- ◆ Regional Centres will be promoted as multi purpose centres, providing a predominantly retail function, a mix of offices, community and entertainment facilities.”

Section 4.1.2 of *SPP No.9* states that the Commission will not support proposals likely to undermine the established and/or planned hierarchy of centres or adversely affect the economic viability of existing centres which could undermine public investments in infrastructure and services.

*City of Armadale Local Planning Strategy / Commercial Strategy*

Both strategies highlight the role of Armadale as a Strategic Regional Centre with opportunities to further develop City Centre facilities to achieve commercial floorspace potential up to 80,000sqm in accordance with *SPP No.9*.

*Enquiry by Design / Armadale Redevelopment Authority (ARA)*

The Enquiry by Design workshop report identified significant capacity for further commercial expansion in the Armadale City Centre and other strategic locations in order to fulfil criteria requirements for designation as a Strategic Regional Centre. The report provides the basis for implementation measures to be undertaken by the recently formed ARA.

**Analysis**

This report does not seek to make comparisons between Armadale and Thomson’s Lake as to their comparative appropriateness as Strategic Regional Centres. The commitment shown by the State government in establishing ARA to promote and oversee the redevelopment of Armadale as a successfully functioning Strategic Regional Centre demonstrates that the status continues to be appropriately applied to Armadale.

This report rather demonstrates that consideration of Thomson’s Lake as a Strategic Regional Centre is premature and the application of an elevated designation may be detrimental to the current revitalisation programme planned for the Armadale area.

***Premature nature of proposal***

Cockburn’s Draft Strategy itself states that “the first stage of Thomson’s Lake has been open for less than two years, and it will be some time before it functions as a Regional Centre”. Retail modelling for the site suggests that the Regional Centre will perform reasonably well in achieving its floorspace potential of 50,000sqm, as currently approved, by 2026.

Given the long term time frame for development of the area, and the changing face of retailing where there is increasing pressure for greater financial performance, an increasing interest in mail order shopping and huge potential for e-commerce (City of Cockburn Local Commercial Strategy Draft Report 2002 pp.25, 26), it would be appropriate to allow Thomson's Lake to achieve its designated status as a Regional Centre under *SPP No.9*, prior to consideration of an amendment to that Policy.

The premature nature of the proposal is highlighted by the fact that Thomson's Lake has only recently been designated as a Regional Centre as part of the recent review of the previous *Metropolitan Centres Policy Statement (1991)* with no mention of the centre, under any designation, in that previous Policy.

### ***Implications for the Armadale Strategic Regional Centre***

The City of Armadale has long been committed to attracting investment and employment opportunities to the region and providing a statutory planning base in order to provide an appropriate context for Armadale to fulfil its role as a Strategic Regional Centre. The recent establishment of the ARA confirms that commitment at State level.

Should Thomson's Lake become a Strategic Regional Centre, the close proximity of the complex to the Armadale City Centre, together with the relatively sparse population catchment of the region, may alter the emphases of population catchments and locational characteristics required for the successful functioning of the Armadale centre. Current growth strategies of the Southern River, Forrestdale, Wungong, Brookdale District Structure Plan focus on Armadale achieving its potential as a Strategic Regional Centre.

The current revitalisation and development programme planned by the ARA and Council is aimed at maximising promotion of the Armadale area as the future employment focus for the wider region. Any shift in hierarchical emphasis of commercial centres has the potential to create uncertainty and would not assist in achieving these aims. Dilution of the current Strategic Regional Centre status of Armadale due to premature competition within relative close proximity may also, at this point in time, threaten the success of the Armadale project.

### ***General comments***

Cockburn's Strategy proposes that additional retail floorspace, above the 50,000sqm already approved, will be necessary to ensure that retail support is available when the main street component, currently being planned beside the future railway station, is implemented.

*SPP No.9* provides an indicative quantity of shopping floorspace for centres in the hierarchy which may be exceeded subject to determination by the WAPC. It is therefore argued that the existing Regional Centre designation for Thomson's Lake does not require elevation in order to achieve appropriate 'main street' retail support.

The Strategy report also describes that a structure planning project under the management of LandCorp is currently in progress as a precursor to initiating an MRS amendment covering the Thomson's Lake Regional Centre.

While the amendment process involves public notification of proposals, it is considered appropriate that the City of Armadale's views on the commercial status of Thomson's Lake be put to LandCorp and the WAPC at this early planning stage, due to the potential detrimental effect of an up-graded designation for Thomson's Lake on the Armadale region.

Referral of the proposal to the ARA, together with Council's recommendation, is also considered appropriate.

## CONCLUSION

The City of Cockburn's Draft Local Commercial Strategy recommends designation of the Thomson's Lake / Gateways complex as a Regional Centre. However the Strategy also recommends consideration of the complex as a Strategic Regional Centre.

Designation as a Regional Centre is considered appropriate and in accordance with State planning legislation. Consideration of the complex as a Strategic Regional Centre is considered premature and inappropriate at this point in time for the following reasons:

- ◆ The proposal is inconsistent with existing legislation (*SPP No.9*) by undermining the established and planned hierarchy of centres in the metropolitan region with the potential to adversely affect the economic viability of the Armadale Strategic Regional Centre and undermine public investment in infrastructure and services.
- ◆ A change to the hierarchy of commercial centres in the region may create uncertainty and be detrimental to the success of the Armadale redevelopment and revitalisation project.
- ◆ The current relatively sparse population catchment of the region would not support two Strategic Regional centres in close proximity to each other.
- ◆ It is more appropriate to allow Thomson's Lake to fulfil its existing designation as a Regional Centre, prior to consideration of elevation of that status, given the recent designation under *SPP No.9* and the long term time frame for development of the centre.
- ◆ The existing Regional Centre designation does not necessarily require elevation in order to achieve appropriate 'main street' retail support for future development.

**D72/02**

**RECOMMEND**

- 1. That the City of Cockburn be thanked for its referral of the Draft Local Commercial Strategy for the Thomson's Lake / Gateways Centre.**
- 2. That the City of Cockburn be further advised that the recommendation contained in the above Strategy for consideration of Thomson's Lake / Gateways as a Strategic Regional Centre is considered inappropriate at this point in time as the proposal is inconsistent with existing legislation (*SPP No.9*) by undermining the established and planned hierarchy of centres in the Metropolitan Region with the potential to adversely affect the economic viability of the Armadale Strategic Regional Centre and undermine public investment in infrastructure and services.**
- 3. That the Western Australian Planning Commission and Landcorp be advised of Council's opposition to the designation of Thomson's Lake as a Strategic Regional Centre with reference to the City of Cockburn's current structure planning and future MRS amendment for the area.**
- 4. That a copy of the Draft Local Commercial Strategy, together with this report, be forwarded to the Armadale Redevelopment Authority for information and consideration.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

*Planning Services Manager, Mr Louis Fouché returned to the meeting at 8.14pm.*

***DEPARTMENT OF PLANNING & INFRASTRUCTURE - INVESTIGATION OF RANFORD ROAD REQUIREMENTS IN THE VICINITY OF BALANNUP LAKE***

WARD : FORREST  
FILE REF : RDR/4  
DATE : 3/5/02  
REF : JA/JR  
RESPONSIBLE : EDDS  
MANAGER  
APPLICANT : Dept of Planning &  
Infrastructure  
SUBJECT LAND : Map- 18:07  
ZONING : Ranford Road - Reservation  
MRS/TPS No.2 for Other Regional Roads  
(MRS): Adjacent areas Rural  
(Kennels) zone, General  
Rural zone and Reserve for  
Parks and Recreation.

**In Brief:-**

- DPI correspondence requests Council's endorsement of a study to investigate potential options for the upgrading/realignment of Ranford Road to meet future road requirements and avoiding potential detrimental impacts on an EPP Wetland (EPA) and Bush Forever Site (WAPC) at Balannup Lake.
- Recommendation for DPI to fully evaluate the future road engineering requirements of Ranford Road and a full environmental assessment of its current Reservation under the Metropolitan Region Scheme as the first phase of the study.
- Recommendation to consider the need for a multi-criterion analysis options for changes to the Metropolitan Region Scheme facilitating alternative alignments pending the outcome of the first phase of the study.
- Recommendation that the costs of proposed studies together with any possible future costs associated with the realignment of Ranford Road should be a state responsibility.

**Tabled Items**

Preliminary Option Plans dated February 2002.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

***City of Armadale Strategic Plan***

Physical Infrastructure

- 1.1 a) Continue existing relationships and create new liaison opportunities with the State Government for provision of infrastructure (eg for transport, sport and recreation, culture, environment, drainage and water management).

***Southern River / Forrestdale / Brookdale / Wungong District Structure Plan (WAPC)***

Ranford Road (Southern River Road also) is one of the most important regional roads linking the anticipated urban expansion areas in Armadale to the wider region of South Street, Canning Vale and the Kwinana Freeway.

The January 2001 Southern River / Forrestdale / Brookdale / Wungong District Structure Plan (DSP) states that:

*“Ranford Road is potentially the busiest road in the study area. It is defined in the MRS as a 40m wide reserve sufficient for ultimately six (6) traffic lanes. The existing single carriageway is considered to be well below standard, but the proposed upgrading to a six lane dual carriageway road is considered unacceptable.*

*If Ranford Road is upgraded, special attention will need to be given to the environmental, drainage and intersection issues as well as consideration of bicycle lanes and pedestrian crossings. Alternative alignments in the vicinity of Balannup Lake should be investigated. Upgrading of alternative roads should be examined before upgrading of Ranford Road. If no practical alternative exists then a particularly sensitive approach to construction will be required, including the likelihood of bridging.”*

The DPI advise that as the DSP proposes changing much of the land in this area from rural to urban it is appropriate to reassess the road infrastructure requirements for the area, whilst addressing the environment / road reserve conflicts.

### **Legislation Implications**

Environment Protection Act 1986

- ◆ **Environment Protection Policy (Wetlands) 1999**  
Metropolitan Region Town Planning Act  
Metropolitan Region Scheme
- ◆ **Bush Forever Plan**  
Conservation and Land Management Act  
Environment Protection and Biodiversity Conservation Act (1999, Commonwealth Government).  
State Wetland Conservation Policy (1997)

### **Council Policy / Local Law Implications**

Nil

### **Budget / Financial Implications**

Ranford Road is reserved for “Other Regional Road” in the MRS. It is also a Municipal Boundary road for which there is a shared responsibility for management and maintenance between the City of Gosnells and City of Armadale, which need to be addressed in the study. Discussions are at preliminary stages and the study needs to establish any financial implications of this Regional Road planning initiative, particularly in terms of additional fiscal burdens upon the ratepayers of the City of Armadale.

### **Consultation**

- ◆ Manager Technical Services
- ◆ Environmental Officer
- ◆ Department for Planning & Infrastructure (DPI).

### **BACKGROUND**

The Department for Planning & Infrastructure have advised that a 1998 Transport Planning project identified a number of significant conflicts between Bush Forever sites and MRS road reserves within the Perth Metropolitan Area including the following in Armadale which are the subject of the current proposal:

- ◆ Ranford Road (between Warton Road & Southern River Road) Bush Forever Site No.413;
- ◆ Ranford Road (between Southern River Road & Tonkin Highway / Bush Forever Sites No.342 and No.413 (within the City of Gosnells, a conflict that is also relevant to the above was identified as the section of Southern River Road (between Ranford Road & Garden St) / Bush Forever Site No.413).

The DPI proposes to address the above conflicts in a planning review of the road planning issues (including environmental and cost issues) for the area. They advise that the study is currently only at the working document stage and that the proposals suggested do not yet have any formal status.

### ***Environment Issues***

The DPI expresses its concern that Ranford Road passes through the middle of Balannup Lake (and similar concern for Southern River Road in Gosnells). It notes that on the western side of Ranford Road (in Armadale) Balannup Lake is already Reserved for Parks and Recreation in the MRS. They advise that the WAPC is now looking at the eastern side of Ranford Road (in Gosnells) with a view to purchasing properties for future consolidation into an enlarged Parks and Recreation site. The western side is an existing Nature Reserve under the Conservation and Land Management Act.

The DPI correspondence reports that Ranford Road (and also Southern River Road in Gosnells) is the largest impediment to consolidation of the wetland. This is because the MRS road reserves allow for widening from the current single carriageway to dual carriageway, which would require a land-take from the Bush Forever site for the construction of a second carriageway across the middle of Balannup Lake.

### ***DEP Preliminary Assessment of Options***

The DEP advise that Balannup Lake is recognised as having high regional conservation values being an Environmental Protection Policy (EPP) (1999) Wetland, a Conservation Category Wetland and part of a Bush Forever site. It is one of the wetlands on the Swan Coastal Plain, of which, only 17% remain fully vegetated. It is also representative of the Southern River vegetation complex, of which, only 17% remain. It is an important nesting/breeding site for waterbirds, including Threatened Species and Priority Plant species known on other sites in the vicinity are also likely to be confirmed by an intensive biological survey.

Under the Wetlands EPP, any filling or actions to undertake roadworks would require Ministerial consent and most likely require a formal Environmental Impact Assessment process. The DEP's advice is that, given the significance of the site and the existence of alternative options, there are very strong grounds for the EPA to advise that the proposal directed through the Lake is unlikely to be environmentally acceptable. They note that any widening of Southern River Road approaching Ranford Road would also compromise the environmental values of the Bush Forever site.

The DPI advise that their preliminary discussions with the DEP and the Environment Section of Main Roads WA have indicated it may be difficult to achieve an environmentally sensitive engineering solution for the widening/upgrading of Ranford Road on its current alignment through the middle of Balannup Lake, which would be acceptable to the DEP / EPA

## **DETAILS OF PROPOSAL**

### ***Future Requirements for Ranford Road***

The recommendation contained in the Southern River / Forrestdale / Brookdale / Wungong District Structure Plan that "*alternative alignments (for Ranford Road) in the vicinity of Balannup Lake should be investigated*" has resulted in the DPI considering two (2) the preliminary main options for a realignment of Ranford Road including:

Option 1 – a Western Route - realigning Ranford Road to the west of Balannup Lake (sub-options 1a and 1b within the City of Armadale);

Option 2 – an Eastern Route - realigning Ranford Road to the east of Balannup Lake (sub-options 2a and 2b within the City of Gosnells).

The DPI also acknowledge that they need to consider the option of widening Ranford Road on its present alignment (the Third Option) in much more detail, in particularly the design and costing of an environmentally acceptable solution, assuming there is one, as a base for comparison with other alignment options in a multi criteria assessment.

Both realignment Options (*overleaf*) have three main components, which include the following:

- ◆ A new alignment for a section of Ranford Road;
- ◆ The closure of the western section of Southern River Road;
- ◆ An upgrading of the roads parallel to Southern River Road to serve local access (with longer distance movements served by Warton Road and Tonkin Hwy).

### ***The Option Preferred by the Department for Planning & Infrastructure***

The DPI cite the Option 1 Western Route as the preferred major option on traffic grounds as it has the better Ranford Road alignment, however, it notes that it does impact on more properties and does not allow Bush Forever sites 342 and 413 to be fully amalgamated (noting that the latter could be achieved in Option 2 by closing the section of Ranford Road between Southern River Road and Matison Street).

As a result the DPI have concluded that it is worthwhile proceeding with their investigation of alternative alignments to firm up a preferred western alignment and address a number of issues in more detail including:

- ◆ refining the preferred alignment(s)
- ◆ preliminary road design
- ◆ impact on existing services in Ranford Road / Southern River Road (there are several)
- ◆ impact on existing and future land uses
- ◆ cost estimates for road construction and land acquisition / compensation
- ◆ environmental considerations / constraints.

The Department for Planning & Infrastructure acknowledge that refinement of potential options will require a lot of work. They propose to co-ordinate the work required to firm up a preferred alignment for Ranford Road. They seek confirmation that Council endorses the investigation of options to avoid Balannup Lake.

#### **COMMENT**

Ranford Road is a major strategic arterial road linking the City of Armadale with the rapidly developing western portions of Perth's South East Corridor. The current construction of Ranford Road at Balannup Lake as a single carriageway on a raised causeway is inadequate for future needs.

An investigation of infrastructure requirements for Ranford Road is necessary in order to make provision for expected traffic volumes on Ranford Road between South Street to the west and the new development areas in the City of Armadale, including the Forrestdale Industrial Business Park and Brookdale.

The initial DPI correspondence indicates a potential conflict between the regional road infrastructure currently reflected by the MRS and regional environmental plans/policies (strategic and statutory). This indicates the future requirements of Ranford Road will need to be tested against any potential conflicts with the Bush Forever Site and Environmental Protection Wetlands Policy (EPP) site at Balannup Lake.

The City of Armadale should assist the Department for Planning & Infrastructure study by identifying where regional road infrastructure requirements or regional environmental issues intersect with local government concerns.

The subject portions of Ranford Road and Southern River Road are also important regional road links identified for the proposed "Forrestdale Urban Expansion Area" between Ranford Road and Armadale Road, which was adopted by Council in August 2001. Hence the implications of any realignment option for Ranford Road would need to address impacts on the current level of structure planning done for this area.

## CONCLUSION

The DPI study should fully evaluate the future road engineering requirements and capacity of Ranford Road. It should evaluate the environmental issues associated with the current Reservation under the Metropolitan Region Scheme. If unresolvable environmental conflicts are substantiated following a full evaluation, a second phase study should evaluate the full costs (economic, environmental and social) of each alternative alignment for comparison in a multi-criteria analysis and further consideration by Council.

## D73/02 RECOMMEND

**That Council advise the Department of Planning & Infrastructure that:-**

- 1. Council agrees to participate in the proposed study into the implications of Regional Environmental Plans and Policies on the Regional Road Network in the vicinity of Balannup Lake, but proposes that the first stage of the study should address the evaluation of the future road engineering requirements of Ranford Road on its current Metropolitan Road Scheme alignment including a full environmental assessment of works required to upgrade the carriageway to full regional standards.**
- 2. Subject to the result of the proposed first stage study then the subsequent consideration of alternative alignment options based on a multi-criterion analysis may need to be considered.**
- 3. Council also advise the Department for Planning and Infrastructure that, bearing in mind the regional environmental significance of the areas involved and also the fact that the existing Metropolitan Regional Scheme road alignment traverses Balannup Lake, the costs of proposed studies together with any possible future costs associated with the realignment of Ranford Road should be a state responsibility.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

REF : PRR  
FILE : SUB/118571

CONTEMPLATED SUBDIVISION REFUSAL	WARD – ROLEYSTONE
<b>SUBDIVISION NO.</b>	SUB/118571
<b>LANDOWNER</b>	G F & J M Putland
<b>APPLICANT</b>	K R Bickle
<b>LOCATION</b>	Lot 8 Gardiner Road, Karragullen
<b>ZONE</b>	General Rural
<b>RURAL STRATEGY</b>	Karragullen Precinct
<b>LAND SUITABILITY</b>	Level 1 – High Potential
<b>LAND CAPABILITY</b>	Class 2 – High Capability
<b>STRATEGIC PLAN</b>	Development – “to balance the needs of development with sustainable economic, social and environmental objectives”
<b>PROPOSAL</b>	To subdivide this 2 ha property into two (2) lots of 1.429 ha and 0.5710 ha respectively. The applicant is applying on compassionate grounds, on the basis that the subdivided lot would be occupied by his niece, who is a nurse, and her husband, to care for the applicant’s sister who currently owns and lives on Lot 8 Gardiner Road and suffers from multiple joint osteoarthritis, hypertension and hyperlipidemia.
<p><b><i>PROPOSED RECOMMENDATION</i></b></p> <p><b><i>Refusal on the following grounds:-</i></b></p> <ol style="list-style-type: none"> <li>1. The applicant has not demonstrated that the proposal complies with the Policy Statement for the General Rural Zone outlined under Council’s Town Planning Scheme No.2, which states that unless Council is of the opinion that subdivision assists in achieving the objectives of the Zone, subdivision will not be recommended.</li> <li>2. The application is not consistent with the objective of Statement of Planning Policy No.11, which is to “protect agricultural land resources wherever possible by... (b) minimising the ad hoc fragmentation of rural land”.</li> <li>3. The proposed subdivision would set an undesirable precedent for subdivision of other lots in the General Rural Zone, when similar circumstances are prevalent.</li> </ol>	

**D74/02**

**RECOMMEND**

**That the proposed recommendation to refuse Subdivision Application No.118571 be adopted.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

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***ORCHARD – LOT 16 BROOKTON HIGHWAY, ROLEYSTONE***

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WARD : ROLEYSTONE  
FILE REF : A117859  
DATE : 30 April 2002  
REF : PRR  
RESPONSIBLE : PSM  
MANAGER  
APPLICANT : Mr R Russo  
LAND OWNER : Fiolo Pty Ltd  
SUBJECT LAND : Property size 3.1161ha  
Map 27-09  
ZONING : Rural / Rural 'C'  
MRS/TPS No.2

**In Brief:-**

- An application for an orchard was received on 21 December 2001, in response to a complaint received regarding clearing on the subject property.
- The application was advertised to surrounding landowners and referred to Government Agencies, yielding eight submissions.
- Recommend that Council approve the application for an orchard on the subject lot, subject to the establishment of an appropriate spray screen barrier.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

Development – “To balance the need of development with sustainable economic, social and environmental objectives”.

**Legislation Implications**

Town Planning and Development Act 1928  
Metropolitan Region Scheme Act 1959  
Town Planning Scheme No.2.

**Council Policy / Local Law Implications**

Rural Strategy

**Budget / Financial Implications**

Nil.

### **Consultation**

- ◆ Development Control Unit
- ◆ Surrounding Landowners
- ◆ Water and Rivers Commission
- ◆ Agriculture WA

### **BACKGROUND**

Council received the application for an orchard on 21 December 2001 in response to a matter regarding clearing and dust emission as a result of the development of an orchard on the property.

The application has been referred to Council as an orchard is considered a 'Rural Use' under Town Planning Scheme No.2, which is an AA use in the 'Rural C' zone, requiring Council's determination.

### **DETAILS OF PROPOSAL**

The applicant submits that the property was used for horticultural / agricultural purposes prior to his purchase of the lot, in the form of tunnel houses and ground planting of strawberries, raspberries and other similar fruits. The applicant has already planted the front portion of Lot 16 with orchard trees and proposing to plant the remaining cleared portion with orchard trees, which are to be predominantly stone fruit.

The applicant submits that his company has been in the orcharding industry for over 40 years and that planting, watering and fertilising will be carried out according to the Department of Agriculture recommendations and industry standards. Detailed correspondence outlining the proposed methods of management for the orchard was also submitted.

### **COMMENT**

#### ***Development Control Unit (DCU)***

At its meeting held on 21 February 2002, DCU recommended that the issue of spray drift be addressed through advertising, and the item be resubmitted.

At its meeting held on 2 May 2002, DCU recommended that the item be referred to Council for Approval on the condition that a 20m vegetation buffer be installed (in addition to the required firebreak) to prevent spray from drifting into neighbouring properties, as a result of prevailing winds.

#### ***External Comments and Advice***

The application was advertised to surrounding landowners for a period of two (2) weeks. A total of six (6) submissions were received, consisting of two (2) submissions of no objection, one (1) conditional support, and three (3) objections to the proposal, outlined as follows. The applicant requested an opportunity to respond to the issues held by the surrounding landowners, and this response is also outlined.

The Department for Agriculture and the Water and Rivers Commission (WRC) were also asked to comment on the proposal. Both agencies made submissions of no objection, and offered advice in terms of management procedures for the orchard, which has been incorporated into the following summary.

### ***Clearing***

1. *Problems involved with dust emissions from Lot 16.*

The City received a complaint regarding the above issue, the emissions being from clearing that had taken place on the property. The result of action taken was the submission of the application for this orchard.

The City recommends that to avoid further dust emissions, the applicant should be required to surface all driveway areas in a suitable material such as paving, road base, or coarse gravel, as per WRC advice. Additionally, should the application be refused, it is recommended the applicant be required to revegetate the cleared area with native species.

2. *Neighbours not approached regarding activities on Lot 16.*

This is a private matter between the applicant and the surrounding landowners and should be resolved as such. Advertising of the application nevertheless provided neighbours the opportunity to comment on the development.

### ***Water***

3. *Potential for contaminated water runoff and erosion from Lot 16.*

Based on the advice of the Department of Agriculture and given that the lot is relatively flat and the rows between orchard planting are to be grassed, the City is satisfied that water runoff and erosion will not be a problem. Under no circumstances, however, will the City support the direct discharge of stormwater into water courses or drainage lines.

4. *Concern that fertiliser could possibly leach into water table.*

Based on the advice of the Department of Agriculture, the City is satisfied that the management procedures outlined by the applicant should keep the risk of phosphorus export to a minimum.

5. *Concerns with the amount and method of watering and the impact on the water table, given that the average amount of water available is decreasing and property owners in the area are reliant on ground water supplies for domestic / rural purposes.*

The City acknowledges the concerns held by the surrounding landowners with regard to this issue, but the advice from the WRC advises that the proposed orchard is not within a proclaimed groundwater area, and therefore the applicant does not require a bore licence and is within his rights to utilise the bore on the property to irrigate the orchard.

### ***Chemicals and Spray Drift***

6. *Concern with regard to ‘chemical sensitivity’ – that some orchard sprays are known to be harmful and therefore their use near housing should be limited.*
7. *Concern that the geographical location of Lot 16 is elevated and exposed to winds increasing risk of chemical spray drift and that chemical spraying on the existing orchard has been carried out in windy conditions, which could result in contamination of natural bushland and of rainwater collected from rooftops.*
8. *Concern that the number of houses within 100 metres of Lot 16 would create difficulties for the orchardist to prevent neighbours from being affected by chemical spray drift as no shelter / screening will be provided between the orchard and the property boundary of Lot 16.*

Issues six, seven and eight, being similar in that they all relate to the issue of spray drift, give the greatest reason for concern. The applicant submits that the chemicals and fertilisers used are commercially available and approved by the relevant authorities and applied by trained individuals in cool, calm conditions. In turn, the Department of Agriculture recommends that the applicant adhere to their guidelines in the Code of Practice for the use of Agricultural and Veterinary Chemicals in Western Australia (October 2001) to minimise the risks of spray drift and land use conflict, and recommends that emphasis be given to this point if approval is given.

Further screening is necessary as the natural bush buffer referred to by the applicant in his application is not within his property boundaries. As such, and on advice from Council’s Environmental Officer, the applicant should be required to establish a 20m vegetation buffer of native plant species along the western property boundary. The 20m buffer should be in addition to standard firebreak requirements.

It should be noted that the letter of conditional support raised this concern also, stating that no objection is held, provided that some form of spray screening is put in place along the boundaries of Lot 16 in the south-west corner.

9. *Concern that the application does not propose any containment methods for water runoff or pesticide spillage away from hardstand chemical storage area.*

As the applicant has specified that chemicals kept on site are minimal, the City feels that appropriate management as outlined in the applicant’s letter would be sufficient to address this concern.

### ***Location***

10. *Concern given that an orchard near the corner of Holden Rd and Brookton Highway was removed due to concerns similar to those listed.*

With regard to this issue, the applicant states that he is unaware of the circumstances surrounding the orchard near Holden Road, but submits that the situations are not really comparable given the higher residential density near Holden Road. Although a precedent can only be applied when the given circumstances are similar, Council should nevertheless consider the merit of each application.

## ANALYSIS

### **Council's Rural Strategy**

The proposed orchard is situated within the Roleystone Rural Planning Area, the Principal Policy Objective of which is *“To preserve the scenic quality of the area where economically viable while permitting sensitive rural residential development of suitable density in upland areas.”*

The Key Issues for the Roleystone Rural Planning Area include rural residential expansion and the diminishing viability of productive agricultural land. Orcharding is not listed under the Desirable / Conditional or Undesirable Land Uses for the area, but orchards and productive agricultural land are listed as Existing Constraints (amongst other elements) to rural residential development.

It should be noted that the lot is adjacent to the Karragullen Rural Planning Area, where the Principal Policy Objective is to *“To preserve the orchard uses of the area and to expand these to suitable areas while permitting the development of rural residential living on suitable land”*. Additionally, orchards can be seen in the area surrounding Lot 16 in the Roleystone Rural Planning Area.

In this instance the Rural Strategy acknowledges the existence of orchards and land appropriate for agricultural development in the Roleystone Rural Planning Area. Whilst not specifically listing orchards as a desirable use, the implication is that the land is suited to the proposal as it seems to be an economically viable venture.

## COMMENTS AND ADVICE

The comments received during the advertising period and the submissions from the two Government Agencies outline some significant issues that must be addressed to the satisfaction of Council for the proposed use to proceed. These issues are summarised as follows.

### ***Spray Drift***

As previously outlined, the view is held that some properties are at risk from spray drift. Therefore, it is proposed that a 20m vegetation buffer be installed along the western property boundary in addition to the required firebreak to negate spray drift potential should approval be given.

The applicant should also be notified that adherence to the Department of Agriculture's Code of Practice for the use of Agricultural and Veterinary Chemicals in Western Australia (October 2001) is required.

### ***Dust Emissions***

As the original complaint that initiated this process was with regard to this issue, it is important that it is addressed appropriately. Firstly, as per WRC advice, all driveway areas should be surfaced appropriately so as to reduce potential dust emissions and sediments entering water courses and drainage lines. Secondly, should the application be refused, the applicant should be required to remove the existing orchard planting and revegetate all cleared areas with native plant species to prevent land degradation.

### ***Water***

As per the advice received from the WRC, the City will not support the direct discharge of stormwater into water courses or drainage lines.

## **OPTIONS**

### ***Option 1***

Council could approve the application to develop an orchard on Lot 16 Brookton Highway, Roleystone, subject to appropriate Conditions and Advice Notes, regarding the potential for spray drift, water discharge, and dust emissions.

This option would involve the submission of plans outlining the 20m buffer area, as well as a contingency plan for spraying in the event damage to the buffer is sustained, and advice that the applicant is to comply with *Code of Practice for the use of Agricultural and Veterinary Chemicals in Western Australia* (October 2001).

### ***Option 2***

Council could refuse the application to develop the orchard on Lot 16 Brookton Highway, Roleystone, on the grounds that the proposal has potential to detrimentally impact on the surrounding residents and environment, and that the land could potentially be used for future rural residential purposes, as outlined under Council's Rural Strategy.

It should be noted that should Council move to adopt this Option, the applicant will be required to remove the existing orchard planting and revegetate cleared areas with native species.

## **CONCLUSION**

In conclusion, it is believed that the proposed orchard on the subject property is within a zone suited to the proposed activity as described by Council's Rural Strategy and can be managed in accordance with the Water and Rivers Commission and Department of Agriculture's advice.

Provided that the applicant addresses the three areas of concern as outlined under Option 1 and adheres to the correct operational measures, the impact on surrounding landowners and the environment can be managed. It is recommended that Council pursue Option 1 with regard to the application and approve the orchard subject to conditions.

*Officer's report recommends –*

1. That Council approve the application for an orchard on Lot 16 Brookton Highway, subject to the following principal requirements:
  - a) A 20 metre vegetated buffer zone (in addition to required firebreak) to be installed and maintained on the property along the western boundary to prevent spray drift, to the satisfaction of the Planning Services Manager.
  - b) Submission of a revised site/landscape plan, demonstrating the vegetation buffer, including plant species (native), plant maturity and method of irrigation, to the satisfaction of the Planning Services Manager.
  - c) Submission of a contingency plan to address spraying of the orchard should the vegetation buffer be damaged.
  - d) Surfacing of the driveway to the satisfaction of the Technical Services Manager.
  - e) No stormwater to be directly discharged into water courses or drainage lines.
2. That the applicant be advised that adherence to the *Code of Practice for the use of Agricultural and Veterinary Chemicals in Western Australia* (October 2001) is required.

*COMMITTEE considered aspects of this proposal, particularly with reference to the requirements for the "buffer" zone and driveway surfacing.*

*COMMITTEE was of the view that it was not necessary to stipulate a particular buffer zone width, given the variable effect of different forms of vegetation that could be employed.*

*COMMITTEE was of the view that a dense vegetation buffer, for instance, comprising of conifers, could be contained within a 15 metre setback from the property boundary. Such a buffer would likely be much more effective than a 20 metre width native species buffer.*

*Driveway surfacing requirements were seen as onerous, given that other properties in the vicinity were not obliged to have sealed driveways.*

*COMMITTEE also noted reference in the report to removal of an orchard on corner of Holden Road and Brookton Highway allegedly for concerns associated with chemicals and spray drift.*

*COMMITTEE observed that the reasons suggested were not factually correct and that changes to the orchard in question occurred for other reasons.*

**D75/02**

**RECOMMEND**

- 1. That Council approve the application for an orchard on Lot 16 Brookton Highway, subject to the following principal requirements:**
  - a) That the orchard should not extend closer than 15 metres to the western boundary.**
  - b) A dense vegetated buffer zone (in addition to required firebreak) to be installed and maintained within the 15 metre setback along the western boundary to prevent spray drift, to the satisfaction of the Planning Services Manager.**
  - c) Submission of a revised site/landscape plan, demonstrating the vegetation buffer, plant maturity and method of irrigation, to the satisfaction of the Planning Services Manager.**
  - d) Submission of a contingency plan to address spraying of the orchard should the vegetation buffer be damaged.**
  - e) No stormwater to be directly discharged into water courses or drainage lines.**
  
- 2. That the applicant be advised that adherence to the *Code of Practice for the use of Agricultural and Veterinary Chemicals in Western Australia* (October 2001) is required.**

MOVED Cr Stubbs  
MOTION CARRIED (7/0)

***PROPOSED BAKEHOUSE / CAFÉ - PIONEER VILLAGE –  
LOT 100 ALBANY HIGHWAY, ARMADALE***

WARD : ARMADALE  
FILE REF : A185084  
DATE : 7 May 2002  
REF : EP  
RESPONSIBLE MANAGER : PSM  
APPLICANT : HTS Consultants Pty Ltd  
LANDOWNER : Summer Moon Enterprises Pty Ltd  
SUBJECT LAND : Lot 100 Albany Hwy,  
Armadale  
Property size 4.0628 ha  
Map 23.03  
ZONING : Urban  
MRS/TPS No.2 : Special Use Zone No.2

**In Brief:-**

- ◆ Council has received an application to convert the former gatehouse building in Pioneer Village into a bakehouse / café. The proposal also involves converting three existing shop buildings adjacent to the proposed bakehouse / café building into toilets and storage facilities.
- ◆ The proposal is considered consistent with the “Special Use – Public Amusement” zoning of the Pioneer Village site.
- ◆ Recommend approval subject to appropriate conditions.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

- ◆ To maintain the City of Armadale as a place where the average family can enjoy a good lifestyle.
- ◆ Development – to balance the needs of development with sustainable economic, social and environmental objectives.

**Legislation Implications**

Town Planning and Development Act 1928  
Town Planning Scheme No.2

**Council Policy / Local Law Implications**

Nil.

### **Budget / Financial Implications**

Nil.

### **Consultation**

- ◆ Development Control Unit (DCU)

### **BACKGROUND**

The report to Council's December 2001 round of meetings detailed information on the imminent reopening of Pioneer Village, and the recent upgrading and refurbishment works which have taken place on the site. Many of the previous tenancies have re-opened, including various gift shops, the old Pioneer Village Tea Rooms, and the Pioneer Village Restaurant.

### **DETAILS OF PROPOSAL**

The application proposes to convert the former gatehouse building (Pt Lot 51 and shop 11) into a bakehouse / café, which will include an alfresco dining component. The proposal also involves the conversion of the adjacent three (shop 1d, 1c and shop 1b) former shop buildings into toilets for the Pioneer Village patrons and storage purposes. No external alterations are proposed to the buildings.

### **COMMENT**

#### ***Development Control Unit (DCU)***

DCU considered this proposal at its meeting on 16 April 2002. Given the compatibility of the proposed bakehouse / café use with the other uses in Pioneer Village, it was recommended for approval.

### **Analysis**

#### ***Town Planning Scheme No.2***

The "Special Use" zoning of Lot 100 Albany Highway is described in Town Planning Scheme No.2 as follows; "*Pioneer Village being 19<sup>th</sup> Century building exhibition and including ancillary to such, a Motel, a Hotel, Restaurants, Cafes, Shops of 19<sup>th</sup> Century character, making or selling goods or crafts incidental to the nature of the Village.*"

The proposed bakehouse / café use is considered consistent with the above definition. In terms of the use it will be compatible with similar uses on site such as the Pioneer Village restaurant, motel, pub and various shops within this complex. Council approval is however, required in this instance given the proposed substantive change of use of the buildings.

#### ***Parking Requirements***

The issue involved in this proposal is the change of use of the non-traffic generating former gatehouse use to a traffic generating cafe use and its impact on the Pioneer Village parking.

The proposed bakehouse / café has an allocated public seating floor area of approximately 77m<sup>2</sup> while the shop floor area that would be utilised for toilet and storage facilities comprises of approximately 36m<sup>2</sup>.

Based on the parking requirement of 8 spaces per 100m<sup>2</sup> GLA for a shop use, it could be argued that the parking requirement for the shop buildings that are proposed to be converted to toilets and storage facility would off-set half of the additional parking required by the bakehouse / café use.

As the peak traffic periods for tourist activities do not coincide with the peak traffic times of some of the uses such as the Pioneer Village school on site which has a peak traffic time of approximately 20 minutes a day between 2.50 pm and 3.15 pm, parking is not considered a significant issue in this matter. There are over 200 parking bays available on the Pioneer Village site. This is considered adequate in terms of total on site parking requirements to service the activities operating from the Village.

### ***Other Issues***

The applicant has advised that the proposed toilet facilities will incorporate disabled toilets with disabled access. These however will need to comply with the Building Code of Australia and will be assessed with the determination of the Building Licence. No external structural alterations are proposed for the buildings involved other than repainting (if necessary).

### **CONCLUSION**

The proposal is compatible with the Special Use zoning requirements of the Scheme. Parking is not considered a significant issue in this application. Recommend approval subject to appropriate conditions.

**D76/02**

### **RECOMMEND**

- 1. That the application to convert the existing gatehouse building into a bakehouse / café and converting existing shops into public toilets and a storage facility on Lot 100 Albany Highway, Armadale be approved.**
- 2. That the applicant be advised that in the establishment and operation of the bakehouse / café and the associated toilet / storage facilities the developer / operator is required to meet:**
  - a) The requirements of the Building Code of Australia in respect of all building matters including disabled access requirements.**
  - b) Any approval requirements pertinent under the Strata Titles Act.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

***PROPOSED MICRO - BREWERY - PIONEER VILLAGE –  
LOT 100 ALBANY HIGHWAY, ARMADALE***

WARD : ARMADALE  
FILE REF : A185084  
DATE : 2 May 2002  
REF : EP  
RESPONSIBLE : PSM  
MANAGER  
APPLICANT : HTS Consultants Pty Ltd  
LAND OWNER : Summer Moon Enterprises P/L  
SUBJECT LAND : Lot 100 Albany Hwy, A/D  
Property size 4.00ha  
Map 23-03  
ZONING : Urban / Special Use “Public  
MRS/TPS No.2 Amusement”

**In Brief:-**

- The application proposes the development of a micro-brewery on the subject property.
- The proposal is considered compatible with the “Special Use - Public Amusement” zoning of the subject land.
- Recommended for conditional approval.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

Development – to balance the needs of development with sustainable economic, social and environmental objectives.

To create an Integrated Regional Centre with a full range of services (Residential, Business, Commercial, Recreational, Civic and Leisure).

**Legislation Implications**

Town Planning and Development Act 1928  
Town Planning Scheme No.2

**Council Policy / Local Law Implications**

Enquiry by Design Workshop Outcomes Report  
City of Armadale Alcohol Policy

### **Budget / Financial Implications**

Nil.

### **Consultation**

- ◆ Surrounding Landowners (including Pioneer Village strata owners)
- ◆ Strata Management Company
- ◆ Development Control Unit
- ◆ Minter Ellison Lawyers

### **BACKGROUND**

The report to Council's December 2001 round of meetings detailed information on the imminent reopening of Pioneer Village, and the recent upgrading and refurbishment works which have taken place on the site. Many of the previous tenancies have re-opened, including various gift shops, the old Pioneer Village Tea Rooms, and the Pioneer Village Restaurant.

Council at its meeting on 21 January 2002 considered the application to establish a Micro-Brewery associated with the "Pioneer Village Pub" on the above property and resolved as follows:

1. *That subject to a duly authorised MRS Form-1 Application being received, the proposal to operate a micro brewery as an incidental use to the Pioneer Village Pub at Lot 100 Albany Highway, Armadale be advertised to surrounding landowners for comment for a period of 28 days.*
2. *That the applicant be advised of additional matters which Council would expect to be addressed in relation to this application, including:-*
  - ◆ *Information in respect to overall throughput volumes associated with the brewery;*
  - ◆ *The need to obtain Licensing Court approval for the brewery and the Pioneer Village Pub;*
  - ◆ *The reliance of any approval of the brewery on licensing of the Pioneer Village Pub.*

After receiving the above information and subsequent to advertising the application, Council at its meeting on 18 March 2002 reconsidered this matter and resolved that "*The application to establish a Micro Brewery at Lot 100 Albany Highway, Armadale, be recommitted subject to further legal advice and further assessment of submissions received.*"

Subsequent to receiving legal advice relating to some of the issues raised by submittees Council reconsidered this matter at its meeting in April 2002 and resolved as follows.

*"That the application to establish a Micro Brewery at Lot 100 Albany Highway, Armadale be recommitted pending receipt of further advice regarding the applicant's future intentions on this matter".*

## **DETAILS OF PROPOSAL**

The applicant proposes to establish a Micro-Brewery on the above property. The Pioneer Village Pub, which was previously in operation on this site, is currently being refurbished.

The Micro Brewery is proposed to be located within three vacant tenancy units adjacent to the Pub. Units 30 and 31 (immediately south) of Strata Lots 66 & 67 are to contain the Micro-Brewery operation, whilst the unit immediately to the west of the Pub will be refurbished as a coolroom for the storage of production. No external alterations are proposed to the buildings that are to be used for the activity.

Advice received from the applicant details the brewery operations as follows:

- ◆ 60,000 litres of beer will be produced per annum;
- ◆ The beer will be stored in beer tanks and kegs;
- ◆ All beer will be stored within the coolroom;
- ◆ Beer will be sold by the glass over the bar and distribution sales by keg;
- ◆ Excess beer will be exported to other outlets (i.e. Busselton, Margaret River and Mandurah ) managed by the owner of this brewery.
- ◆ Hours of operation would be 7 days a week, 10.00am to 10.00pm;

The brewery will form part of the Pub with visitor tours, beer tasting and facility for inspection of the beer brewing process. The applicant advises that the facility would be more of a tourist attraction than a pub.

### ***Results of advertising***

The application was advertised for public comment closing on 11 March 2002.

No. of properties advertised -	19	(including the strata owners of Pioneer World and residents on Onyx Road properties abutting the subject site).
No. of submissions received -	4	(including a petition containing 124 signatures).
No. objecting to the proposal -	4	
No. supporting the proposal -	0	

## **COMMENT**

The main issues raised by the objectors are:

- ◆ the body corporate's ownership of the common wall between part Lots 66 and 67;
- ◆ the absence of the body corporate's consent on the application for planning approval for a micro-brewery operation on part Lots 66 and 67;
- ◆ the proximity of licensed premises to a primary school;
- ◆ prospective detrimental impact on school;
- ◆ traffic and parking issues on site.

In addressing the above issues raised by the objectors it is considered prudent to separate land planning matters and the legal issues.

***Response to planning issues arising from submissions***

1. *The distance between the brewery and the classrooms of the Pioneer Village School is approximately 10m. The school and the brewery are not compatible activities, and there are no other situations where a brewery has been allowed to be developed next to a school.*

No argument is cited as to incompatibility although it is assumed that issues of noise, odour, servicing, safety and social behaviour are relevant concerns to address. The building itself remains compatible in character. These issues are dealt with elsewhere in this report. It should be noted that the brewery only involves the production of beer on premises to be retailed on separate premises from the previously used pub, instead of importing from elsewhere.

The proposed micro-brewery is a boutique beer production process seen as introducing a tourist component to the pub building thereby attracting and promoting tourism, which is the intended use of this special use zone. It is believed that this use will also attract a different clientele to the pub patrons being tourist oriented. Erection of an appropriate screen fence instead of the existing open mesh-dividing fence between the two tenancies may assist in separating the two land uses to alleviate perceived concerns of the brewery being in close proximity to the school.

2. *The additional water usage by the Micro Brewery may threaten the ability of the school to maintain a secure water supply for drinking fountains, toilets, air conditioning and reticulation.*

The property is serviced with reticulated scheme water supply. Any issues arising in relation to water usage, adequate water supply and pressure are considered property management matters, which will need to be addressed by the strata corporate body and the appropriate authorities (i.e. Water Corporation). This is a service standard matter rather than a land use planning issue.

3. *The development of a Micro Brewery would introduce a third liquor licence within one strata, which contains a primary school. Consumption of alcohol in adjacent buildings increases the likelihood of invasion of school property and, vandalism. The Micro Brewery may promote rowdy behaviour and noise, which is incompatible with children's better development.*

The Pioneer Village Pub was established as an integral part of the "Special Use - Public Amusement" zoning of the site, which was considered to be consistent with the intent and object of the zoning. A special facility licence was issued by the Liquor Licensing Board for this pub in March 1990. The applicant advises that since 1990 it operated as a tavern that sold spirits, wine and beer until the pub ceased operating in 1998.

Advice received from Council solicitors has confirmed that legal rights are still current for operating the Pioneer Village Pub. Council approval is not required for reactivating the pub operation. Irrespective of the brewery establishment the existing pub could still obtain a liquor licence for its operation and sale of liquor imported from an external source.

The micro - brewery is not by itself a place where alcohol is consumed, as it is the pub, which will be the primary outlet for the sale/consumption of beer produced in the brewery.

The school and the pub were coexisting for a considerable period of time when the pub was previously in operation. It should also be recognised that the school abuts a commercial node that also include another pub / motel, various shops and tourist activities that are permissible under the zoning of the lot.

4. *Prospects of detrimental amenity issues such as noise and odour associated with the brewery.*

#### **Noise**

The applicant has advised that the micro - brewery will produce all beer sold from the premises. The noise generated by brewing is likely to be minimal as there is no bottling of beer, noisy production processes or after hours activity proposed. Any noise emanation will be subject to EPA Noise Control Regulation.

#### **Odour**

Odour produced by the brewing process, as evidenced elsewhere, due to the technology involved is considered to be minimal.

In assessing this application officers have investigated other local authorities' experiences with similar establishments, in particular the City of Fremantle ("Sail and Anchor" and "Little Creatures") and City of Perth ("Real Ale" and "Swan Brewery"). Both Councils have advised that the public has not raised any concerns before or after the establishment of the breweries and that they have been operating without any adverse amenity impact. The Micro Brewery approved at Elizabethan Village in 1991, has also been operating without complaints.

#### **Waste disposal**

The applicant has not yet provided any details of waste disposal, however, due to the limited size of the operation, the service requirements (i.e. supply of raw material and removal of waste) would be minimal. Notwithstanding the above the applicant should be required to submit a Waste Management Plan indicating methods of disposal of brewery waste for Council's consideration and approval prior to commencement of brewing operations.

5. *The size of the primary school at the Pioneer Village has increased significantly since the "Pioneer Village Pub" ceased to operate and now has 189 pupils and 15 staff.*

Legal advice received from Council solicitors has confirmed that the planning approval originally issued for the pub is still current. Therefore, the pub can be reopened without Council's approval and irrespective of changes related to that has occurred within the other land uses surrounding the pub building. Town Planning provisions, standards and policies have not altered to establish grounds negating any previous lawful use of the Pioneer Village.

6. *There are no details provided on the volume of traffic likely to be generated by the microbrewery (including tourist buses and service vehicles), impact on access egress to the site and projected parking requirements for the brewery. (Submission included photographic evidence to illustrate typical peak hour parking situation).*

The traffic study report submitted by an objector mentions that approximately 200 car-parking bays exist on site and that it was observed that 126 vehicles were parked at pick-up time and 30 vehicles remaining after school time. This indicates that 74 bays (over 35%) of the bays are available to be used by other than those on school business at the school peak traffic time.

The situation illustrated by the photographs is fairly typical of the parking situation at most schools during morning drop-off and afternoon pick-up times. Council officers have observed the parking situation on site during the school's peak traffic period (afternoon pick-up time), which occurs, for a maximum of 15-20 minutes a day. This apparently occurs not due to lack of parking on site but due to parents parking at the entrance to the school for convenience. Morning drop-off times are normally staggered and do not pose a problem in terms of parking congestions. The day to day parking arrangements at Pioneer Village are not seen as the sole responsibility of the applicant of the micro - brewery application, but a management issue that can be addressed appropriately by the body corporate as and when necessary.

The attraction of tourist buses to the brewery would be no different to the current circumstances on site and such buses could be accommodated in the existing parking areas. Typical delivery vehicles would not require alterations to the driveways or car parks, as there are presently deliveries to the hotel, motel and restaurant occurring without any concerns.

### ***Response to legal issues arising from submissions***

1. *The dividing wall between part Lots 66 and 67 is common property, i.e. owned by the body corporate in respect of strata plan 10033. Part of this wall has been removed and the application proposes the use of such area for the development without the consent of the body corporate.*

Council has since received notification signed and sealed by the strata company (The owners of Ye Olde Narrogin Inn, Pioneer Motel & Pioneer Village strata plan 10033) consenting to the removal of the internal dividing wall between Lot 66 and 67 and the installation of a disabled ramp. The Form 1 however, states, "that this consent does not constitute strata approval of the micro brewery".

Given the above and based on advice received from Council solicitors, the matter of the legal impediment raised by objectors has been resolved.

### **COMMENT**

#### ***Development Control Unit (DCU)***

DCU considered this proposal at its meeting on 2 May 2002. Given the low scale nature of the operation and its compatibility with the "Tourist" theme of the village the application was recommended for approval.

It was also recommended that any potential noise odour and waste disposal issues could be addressed through conditions of approval. Any legal aspects of the matter should be considered as a separate issue.

### **Analysis**

#### ***Town Planning Scheme No.2 Provisions***

The “Special Use” zoning of Lot 100 Albany Highway is described in Town Planning Scheme No.2 as follows;

*“Pioneer Village being 19<sup>th</sup> Century building exhibition and including ancillary to such, a Motel, a Hotel, Restaurants, Cafes, Shops of 19<sup>th</sup> Century character, making or selling goods or crafts incidental to the nature of the Village.”*

Although the proposed use is not specifically prescribed in the “Special Use” zoning of this land, a brewery could be considered as an extension ancillary to the old Pioneer Village Pub and a use that might occur within the village atmosphere of this complex. Within the context of the special use zoning, it could be argued that a brewery forms part of the Pioneer Village concept, involving the production and sale of beer from one location rather than being transported from an external plant.

#### ***City of Armadale Alcohol Policy***

The previous Pioneer Village pub known as the “Diggers Rest Tavern” was granted a liquor licence in March 1990. As the premises have been closed for a considerable period of time such licence has now expired, and reopening of the facility would require a new liquor licence. Council’s Alcohol Policy requires development applications for construction of, or conversion into, licensed premises to be advertised to provide the opportunity for input by the affected general public and the relevant government agencies to such proposals. The advertising has been completed.

### **CONCLUSION**

The proposed Micro Brewery is viewed as supplementing the Pioneer Village concept of this site and would be complementary to the “Tourist” image of this development. It is compatible with the “Special Use-Public Amusement” zoning of the land.

It appears that the traffic / parking concerns associated with the application are not necessarily the lack of parking provisions on site, rather the present management arrangement of the existing facility. This could be improved with better management such as placing directional signage and better lighting etc. which would be the responsibility of the strata company.

It is recognised that there are conflicting interests involved in terms of the strata management of the Pioneer Village, however such issues should not impinge on land use planning matters properly the concern of the City as the responsible planning authority.

On balance, the “micro-brewery” proposal conforms with planning requirements and is consistent with the objectives and character of the Pioneer Village.

*Officer's report recommends –*

1. That Council issue an MRS Form 2 approval to the application to operate a Micro Brewery at Lot 100 Albany Highway, Armadale subject to conditions including the following principal requirements:-
  - a) No bottling of beer to occur on the premises.
  - b) A Waste Management Plan indicating satisfactory methods of disposal of brewery waste to be submitted to and approved by the Health Services Manager prior to the commencement of brewing operations.
  
2. That the applicant be advised that in the establishment and operation of the brewery, the developer / operator is required to comply with:-
  - a) The permitted noise level standards contained in the Environmental Protection (Noise) Regulations 1997.
  - b) The provisions related to odours in the City of Armadale Environment, Animals and Nuisance Local Laws 2002.
  - c) The requirements of the Building Code of Australia in respect of all building matters including disabled access requirements.
  - d) Any approval requirements pertinent under the Strata Titles Act.

*COMMITTEE deliberated at length, discussing all aspects of the report.*

*Whilst generally acknowledging that the use was reasonable in the context of the Pioneer Village, particular concern was focused on being able to ensure that servicing, noise nuisance and odour control measures would be integral to the proposed development and readily able to be enforced.*

*It was agreed that if the Micro-Brewery was to proceed it should be on the basis of prior demonstration that appropriate measures would be incorporated to meet noise level standards (particularly appropriate sound attenuation measures on boundary walls common to the school property), odour control and Building Code requirements prior to the issue of a Building Licence.*

*Upon conclusion of Committee's discussion it was*

*MOVED Cr Stewart*

*That the Recommendation to approve the Micro-Brewery be adopted in accordance with the text of the Recommendation by Officers.*

*MOTION OPPOSED Cr Green*

*SECONDED Cr Everts*

*COMMITTEE considered a range of modifications to the Officer's Recommendation and with the concurrence of the MOVER and SECONDER by majority agreed to the revised Recommendation set out as follows.*

**D77/02                      RECOMMEND**

- 1. That Council issue an MRS Form-2 approval for the application to operate a Micro Brewery at Lot 100 Albany Highway, Armadale subject to conditions including the following principal requirements:-**
  - a) That prior to issue of a Building Licence the applicant to demonstrate in each case, the means by which the development can comply with the following requirements expected of operation of the Micro-Brewery**
    - ♦ **The permitted noise level standards contained in the Environmental Protection (Noise) Regulations 1997 - In this regard, the applicant should identify appropriate sound attenuation measures which may be necessary along the boundary walls adjoining the adjacent Pioneer Village School.**
    - ♦ **The provisions related to odours in the City of Armadale Environment, Animals and Nuisance Local Laws 2002.**
  - b) No bottling of beer to occur on the premises in accordance with the specific undertaking by the applicant.**
  - c) A Waste Management Plan indicating satisfactory methods of disposal of brewery waste to be submitted to and approved by the Health Services Manager prior to the commencement of brewing operations.**
- 2. That the applicant be advised that in the establishment and operation of the brewery, the developer / operator is required to comply with:-**
  - a) The requirements of the Building Code of Australia in respect of all building matters including disabled access requirements.**
  - b) Any approval requirements pertinent under the Strata Titles Act.**

MOVED Cr Stewart OPPOSED Cr Green  
MOTION CARRIED (6/1)

*Health Services Manager, Mr Peter Meyrick, left the meeting at 8.39pm and returned at 8.44pm.*

*Cr Everts left the meeting at 8.40pm and returned at 8.43pm.*

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***UNSIGHTLY PROPERTY – LOT 135 [26] TAMBULAM WAY, ARMADALE***

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WARD : WEST ARMADALE  
FILE REF : A55136  
DATE : 8 May 2002  
REF : SA/JQ  
RESPONSIBLE : EDDS  
MANAGER  
LAND OWNER : DO Cadwallen  
SUBJECT LAND : Property size 711 m<sup>2</sup>  
Map 22.04  
ZONING : Urban/ Residential R15  
MRS/TPS No.2

**In Brief:-**

- Complaints from residents regarding condition of property and storage of derelict motor vehicles.
- Owner appears to have vacated the premises without complying with the required works.
- Recommend that Council authorise officers to prepare a Notice requiring works to be completed within 7 days.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

To maintain the City of Armadale as a place where the average family can enjoy a good lifestyle.

**Legislation Implications**

Nil.

**Council Policy / Local Law Implications**

Local Law Relating to the Removal of Refuse, Rubbish and Disused Materials.  
City of Armadale Health Local Laws 2002

**Budget / Financial Implications**

Cost to Council in initially conducting site clean up. Costs to be recovered via the Courts incurring legal costs which may not be wholly recoverable.

**Consultation**

Nil

## **BACKGROUND**

Following a complaint relating to rubbish and derelict motor vehicles on the subject property, Officers inspected the premises.

Three derelict/unlicensed motor vehicles, a considerable quantity of domestic rubbish and a swimming pool that had not been maintained were observed. The residence had several broken windows and an unkempt interior.

A letter was forwarded to the owner of the premises detailing the provisions of the Health Local Laws and Local Law Relating to the Removal of Refuse, Rubbish and Disused Materials requiring the domestic rubbish to be removed, the windows repaired, the pool cleaned and the derelict/unlicensed motor vehicles to be removed.

Information came to hand that the owner of the property had vacated the premises. However, a dog was still on the premises and appears to have been abandoned. A further complaint was received on the same day that the original inspection was conducted.

Letters have been sent to the owner of the property by Council's Health and Planning Departments detailing Council's requirements. An inspection undertaken on 8<sup>th</sup> May 2002 revealed that little if anything had been done to clear the site of rubbish. The three derelict motor vehicles had been removed; one, which was parked on the verge, was towed away by Council Rangers as a result of a removal notice being ignored.

## **COMMENT**

### **Analysis**

Clauses 11 and 48 of the Health Local Laws 2002 relate to maintaining the dwelling in a fit condition and maintaining the swimming pool in a condition to prevent breeding of mosquitos respectively.

Where an occupant does not comply with the provisions of Clause 11 the dwelling can be declared unfit for habitation and the Health Services Manager has instituted procedures towards this end. In the case of Clause 48 the occupant is required to carry out such works as defined in a Notice. The only remedy open to Council in the event of failure to comply with the Notice is to institute legal proceedings.

Clause 4 of the Local Law Relating to the Removal of Refuse, Rubbish and Disused Materials also relates to the removal of refuse and rubbish and the removal of derelict/unlicensed vehicles from the property. The Local Law does not stipulate any minimum time by which the works are to be completed; therefore Council is at liberty to impose a short, but not unreasonable, length of time to complete the works. Given that letters have been sent to the owner detailing Council's requirements, awareness of these requirements cannot be denied.

The property contains refuse, rubbish and disused material, which contravenes the provisions of the Local Law. Council may therefore cause a Notice to be served on the owner or occupier of the premises. Should the owner fail to comply with the terms of the Notice, Council is authorised;

- a) to remove the property the refuse, rubbish or disused material specified in the Notice, and dispose of the same;
- b) to recover in a court of competent jurisdiction the amount of the Council's expenses from the owner or occupier.

An owner or occupier who is served with a Notice but fails to comply with the terms of the Notice also commits an offence and is liable to prosecution.

Under the provisions of the Local Government Act 1995 however, a person who is the recipient of a Notice may object to the Notice within 28 days or Appeal to the Minister within 42 days.

### **Options**

1. Issue a Notice under the provisions of the Local Laws Relating to the Removal of Refuse, Rubbish and Disused Materials requiring the removal from the property of the domestic waste within 7 days.

In the event that the terms of the Notice are not complied with, Council authorise the removal the domestic waste from the premises by Council employees and recovery of the costs of doing so via a court of competent jurisdiction.

Should Council's expenses in cleaning the property not be met by the owner, a sundry debtors account be created to provide for Council being reimbursed should the property be sold at a later date.

2. Issue a Notice under the Local Laws Relating to the Removal of Refuse, Rubbish and Disused Materials requiring the removal of the domestic waste within 72 hours.

Institute legal proceedings should the terms of the Notice not be satisfied.

Whilst it is believed that the owner of the property has vacated the premises and whose whereabouts are at the time of writing not known, service of a Notice to the owner's last known address by mail is sufficient for the Notice to have been served.

### **CONCLUSION**

The condition of the property warrants action being taken as quickly as possible to safeguard the health and amenity of the neighbourhood and it is therefore suggested that prosecution will not satisfactorily resolve the problem in the shortest time possible.

It is recommended that Council authorise Officers to implement option 1.

*COMMITTEE was of the view that because of the urgency appropriate to address this matter, that the Officer's Recommendation to allow 7 days notice was more than adequate and that more appropriately 72 hours (3 days) was sufficient.*

**D78/02                      RECOMMEND**

- 1.    That Council form the opinion that the presence of rubbish and the overall condition of Lot 135 [26] Tambulam Way, Armadale is such that;**
  - a)    it is likely to adversely affect the value of any adjoining property;
  - b)    it is likely to adversely affect the health, comfort or convenience of the inhabitants of that property or any other property;
  - c)    it has an appearance which does not conform with the general appearance of other property in the locality.
  
- 2.    That Council authorise the relevant Officers;**
  - a)    To issue a Notice under the provisions of the Local Laws Relating to the Removal of Refuse, Rubbish and Disused Materials requiring the removal of the domestic waste from Lot 135 [26] Tambulam Way, Armadale within 72 hours (3 days).
  
  - b)    To remove the rubbish and domestic waste from the subject premises in the event that the terms of the Notice are not complied with and recover the costs of doing so via a court of competent jurisdiction.

MOVED Cr Zelones  
MOTION CARRIED (7/0)

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***STORAGE OF DERELICT/UNLICENSED MOTOR VEHICLES –  
LOT 9 [3106] ALBANY HIGHWAY, MOUNT NASURA***

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WARD : ARMADALE  
FILE REF : A3498  
DATE : 8 May 2002  
REF : SA  
LAND OWNER : C & MJ Russo-Battagliolo  
SUBJECT LAND : Property size 2082m<sup>2</sup>  
Map 23.04  
ZONING : Urban  
MRS/TPS No.2 : Residential R15

**In Brief:-**

- 12 derelict/unlicensed motor vehicles and a quantity of motor vehicle parts stored on the premises.
- Appears that vehicle wrecking has taken place on the site.
- Approaches to encourage voluntary compliance have only been partially successful.
- Recommend that legal proceedings be instituted.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

To maintain the City of Armadale as a place where the average family can enjoy a good lifestyle.

**Legislation Implications**

Town Planning Scheme No.2

**Council Policy / Local Law Implications**

Nil.

**Budget / Financial Implications**

Costs to budget allocation for legal expenses in seeking a legal remedy. Usually, the actual cost to Council of legal action is not reflected in fines and penalties imposed.

**BACKGROUND**

Upon receipt of a complaint the subject site was inspected. A total of 13 motor vehicles all of which were either unlicensed and or derelict and a quantity of motor vehicle parts, including approximately 24 wheels and tyres, were observed on the premises.

A number of approaches have been made to the occupant to remove the vehicles including being encouraged to avail himself of the recent Council verge pickup for derelict motor vehicles.

An inspection of the premises conducted on 29<sup>th</sup> April 2002 revealed that 12 vehicles, including an unlicensed tow truck, and a quantity of motor vehicle parts remained on the premises. A number of the vehicles have had parts removed, which suggests that wrecking of vehicles may have taken place on the premises.

A further inspection on 8<sup>th</sup> May 2002 revealed that 5 derelict motor vehicles and the tow truck remained on the premises.

The owners of the property have been sent copies of the correspondence directed to their tenant.

## COMMENT

### Analysis

Under the provisions of Town Planning Scheme No.2 a

*"Depot" means land or buildings use for the storage or transfer of goods or both, but does not include the sale of such goods unless Council, at its discretion, permits the sale of the goods.*

*And an*

*"Industry" means the carrying out of any process for and incidental to:*

- a) *the making, altering, repairing or ornamentation, painting, finishing, cleaning, packing or canning or adapting for sale, or breaking up or demolition of any article or part of any article;*

Also Clause 7.1 (Application for Planning Consent) of Town Planning Scheme No.2 requires that planning consent be granted for any purpose other than for the purpose of erecting a single house on land zoned Residential or General Rural.

Council approvals have not been granted to operate a Depot or an Industry on the site.

The storage of the vehicles whilst constituting a Depot is also beyond being incidental to the residential use of the land and is not what is expected in a residential zone. The activity is therefore considered to be detrimental to the amenity of the neighbourhood and requires a remedy.

### Options

1. Given that Officers' efforts to encourage the tenant to voluntarily comply with the legislation under Council's administration have been, in the main, unsuccessful, Council may decide that the institution of legal action against the tenant and/or the landowners (subject to legal advice) is appropriate.

2. Since being advised that this matter was to be presented to Council with the view to instituting legal proceedings 6 motor vehicles have been removed from the site. Council may consider that allowing further time to remove the remaining vehicles is appropriate and therefore hold any legal action in abeyance.

## CONCLUSION

A breach of the Town Planning Scheme has remained unresolved despite efforts to encourage the tenant to voluntarily comply, it would appear therefore that Council has little option but to resort to legal action to ensure compliance with the provisions of its Town Planning Scheme. It is recommended that legal action be instituted.

**D79/02**

## RECOMMEND

1. **That Council authorise the Liaison and Compliance Officer to institute legal proceedings, subject to legal advice, against, Mr. D Strubber (the tenant), and/or Mr. and Mrs. Russo-Battagliolo (the owners), for contravening the provisions of the City of Armadale Town Planning Scheme No.2 for carrying on at Lot 9 [3106] Albany Highway, Mount Nasura;**
  - a) **a storage use without the consent of Council;**
  - b) **an industry without the consent of Council.**
2. **That Council authorise the Liaison and Compliance Officer to swear the appropriate Complaints on behalf of Council.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

*Cr Stubbs declared an interest in this item on the basis that he has a financial interest in this matter and left the meeting at 9.31pm.*

**ATTENDANCE BY ELECTED MEMBERS AT WA LOCAL GOVERNMENT ASSOCIATION LAND USE PLANNING COURSE 17<sup>th</sup> – 21<sup>st</sup> MAY 2002**

WARD : ALL  
FILE REF : CRS/4  
DATE : 8 May 2002  
REF : HC  
RESPONSIBLE : PSM  
MANAGER

**In Brief:-**

- WA Local Government Association Land Use Planning Course to be held at WALGA West Perth on 17, 20 & 21 May 2002. Note – Two of the modules are prior to next Ordinary Meeting of Council.
- Topics are aimed at development of Elected Members.
- Recommend that Councillor/s be nominated to attend.

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

To foster an effective professional environment and administration of the City's services and encourage innovation and creativity in meeting the needs of the community.

**Legislation Implications**

Nil.

**Council Policy / Local Law Implications**

Council Policy 1.2.5 – Conferences, Seminars and Training.

**Budget / Financial Implications**

Attendance per person -   Module 2a -   \$127.27  
                                          Module 2b -   \$250.00  
                                          Module 2c -   \$250.00

(\$627.27 per person for the entire course)

**Consultation**

Nil.

## **BACKGROUND**

The Western Australian Local Government Association (WALGA) advises that it is holding a two and a half day Land Use Planning Course for Elected Members on 17, 20 and 21 May 2002 at its offices in West Perth. *Details of the course are at Attachment "A2" of the Agenda.*

## **DETAILS OF PROPOSAL**

In summary the course covers:

### Module 2a - The Legislative Framework (4 hours) - 17 May 2002

In this module participants are introduced to all of the key legislation governing Local Government's town planning functions, decision-making and the roles and responsibilities of each of the main players in the planning process including Local and State Government. This module highlights the scope and limitations of Local Government's role in the planning process, particularly in relation to land use planning, subdivision and development control.

### Module 2b - Local Strategic Planning & Policy Making (8 Hours) - 20 May 2002

The purpose of this module is to provide Elected Members with an understanding of the procedures involved in the preparation of local Strategic Plans and Policies and to show how planning policies assist in decision making.

### Module 2c - Planning Application Assessment & Decision Making (8 hours) - 21 May 2002

The purpose of this module is to inform Elected Members about the statutory procedures involved in processing different types of planning applications and to provide participants with the skills necessary to make sound decisions when determining planning applications.

## **COMMENT**

WALGA is offering the course as part of its commitment to Elected Member Development. Whilst strongly recommending participation in modules 2a, 2b and 2c sequentially, it is not essential.

It could be noted that Modules 2a and 2b are prior to the next Ordinary Meeting of Council on 20 May 2002 and Module 2c is on the Tuesday immediately following the Council meeting.

## **CONCLUSION**

The WALGA Land Use Planning Course should be an interesting and informative forum dealing with issues of relevance to Elected Members. The item is raised for information for any Councillors who may wish to nominate to attend.

**D80/02**

**RECOMMEND**

- 1. That no nomination be made to attend to attend the Western Australian Local Government Association Land Use Planning Course on 17, 20 and 21 May 2002 with costs to be charged to GL Account 1508520.**
- 2. That Western Australian Local Government Association be advised of Council's concern at the short notice afforded to consider attendance at the Land Use Planning Course.**
- 3. That Western Australian Local Government Association be requested to consider the possibility of the Course being presented at City of Armadale in the future, in order to afford accessibility of Councillors in the region to attend the Land Use Planning Course.**

MOVED Cr Zelones  
MOTION CARRIED (6/0)

*Cr Stubbs returned to the meeting at 9.35pm.*

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***DEVELOPMENT SERVICES DRAFT BUDGET 2002/2003***

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WARD : ALL  
FILE REF : FIN/7  
DATE : 6<sup>th</sup> May 2002  
REF : EDDS  
RESPONSIBLE : J Adderley  
MANAGER

**In Brief:-**

- That the Development Services Draft Budget 2002/2003 be referred to the City Strategy Committee for consideration.

**EXECUTIVE DIRECTOR DEVELOPMENT SERVICES REPORTS**

Committee is referred to the 2002/03 Draft Budget for the Development Services Directorate and supportive documentation *at Attachment "B1" of the Minutes* relating to the responsibilities of this Committee.

Committee's task at this stage of the process is to resolve its Draft Budget for further consideration by City Strategy Committee.

*COMMITTEE considered the Draft Budget systematically and concluded that it was prepared to advance the Development Services Budget 2002/03 for further consideration of City Strategy Committee.*

*With regard to the proposed extension of the Place Manager contract, COMMITTEE was of the view that Council should approach the Armadale Redevelopment Authority in respect of that body funding the Place Manager's future services because of the total correlation of that service with the Armadale Redevelopment Authority's statutory responsibilities.*

**D81/02 RESOLVED**

- 1. That no "new policy" allocation be identified on the Development Services Directorate's Draft Budget in relation to the Place Manager contract extension, pending an approach to the Armadale Redevelopment Authority requesting its assumption of funding responsibility for the Place Manager's services.**
- 2. That the Development Services Directorate's 2002/2003 Draft Budget, as presented to and amended by Committee, be referred to City Strategy Committee for consideration.**

MOVED Cr Munn  
MOTION CARRIED (7/0)

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**MEMBERSHIP OF ARALUEN BOTANIC PARK BOARD**

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WARD : Roleystone  
FILE REF : A120591  
DATE : 13 May 2002  
REF : JA  
RESPONSIBLE MANAGER : EDDS

**In Brief:-**

- In November 2000, Cr Hopper was appointed as Council's Delegate on the Araluen Botanic Park Board for a two year term ending December 2002.
- However, due to work commitments, Cr Hopper is no longer available to attend the Board's day time meetings.
- Recommend that Council appoint new Delegate for the remaining of the term expiring on December 2002.

LANDOWNER : Ministry For Planning  
SUBJECT LAND : Lot 523 Croyden Road, Roleystone  
Property size 59.48 ha; Map 27-06  
ZONING  
MRS / TPS No.2 : Parks & Recreation / Parks & Recreation (Region)

**Tabled Items**

Nil.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

Fits within Long Term Strategic Planning to enhance the qualities and benefits of our natural and built environments.

**Legislation Implications**

Nil.

**Council Policy / Local Law Implications**

Nil.

**Budget / Financial Implications**

Nil.

**Consultation**

Nil.

## BACKGROUND

In January 1996 the Western Australian Planning Commission reconstituted the Board for the Araluen Botanic Park. The Commission identified the membership as:

- ◆ A member of the Commission (the chief Executive Officer of the Ministry for Planning) as Chairman of the Board;
- ◆ Three representatives from the Araluen Botanic Park Foundation;
- ◆ An elected representative from the City of Armadale;
- ◆ A person with expertise in disciplines related to management of the park; and
- ◆ A representative of the community.

On 15 December 1997 Council resolved that Cr R Stubbs be nominated as Council's representative on the Araluen Botanic Park Board from 1998.

Due to the expiry of member appointments on 31 December 2000, Council considered the matter of member appointments again on 20 November 2000 and nominated Cr Hopper as Council's representative on the Araluen Botanic Park Board for the period January 2001 to December 2002.

## COMMENT

Cr Hopper has advised that she wishes to resign as Council's representative on the Araluen Botanic Park Board as current work commitments militate against attending the Board's day time meetings.

The Board usually meets on a quarterly basis, usually at 3pm on the 2<sup>nd</sup> Thursday in February, May and August and on Remembrance Day in November.

## CONCLUSION

In view of the importance of Araluen Botanic Park to the tourist industry, environment and beauty of the area, continued representation on the Board is suggested.

**D82/02**

## RECOMMEND

**That the WA Planning Commission be advised of Cr Hopper's resignation from the Araluen Botanic Park Board and that Cr Stubbs be nominated as Council's representative on the Araluen Botanic Park Board for the remaining term.**

MOVED Cr Munn  
MOTION CARRIED (7/0)

***COUNCILLORS' ITEMS***

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***Cr Everts***

**1. Lot Pt 141 cnr Armadale Road / Wright Road, Forrestdale**

Cr Everts queried excavation of the dam on property.

*Planning Services Manager briefed Committee on compliance issues associated with excavation on property and measures to achieve development approval compliance.*

***Cr Munn***

**1. Lot 655 Seventh Road, Armadale**

Cr Munn referred to wrecked vehicle being stored on property and requested action to rectify and ensure Local Law compliance.

**D83/02**

**RECOMMEND**

**That the Councillors' items listed as follows:-**

- a) Lot Pt 141 cnr Armadale Rd/Wright Rd, Forrestdale (Cr Everts);**
- b) Lot 655 Seventh Road, Armadale - (Cr Munn);**

**be referred to the appropriate Directorate for relevant action and/or report back to Committee.**

MOVED Cr Zelones  
MOTION CARRIED (7/0)

**MEETING DECLARED CLOSED AT 10:10 PM**

# I N D E X

## DEVELOPMENT SERVICES COMMITTEE

13<sup>TH</sup> MAY 2002

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