ATTENTION

These minutes are subject to confirmation.

Prior to acting on any resolution of the Council contained in these minutes, a check should be made of the minutes of the following Ordinary Meeting of Council to ensure that there has not been a correction made to the resolution.

MINUTES ARE AVAILABLE ON THE WEBSITE

www.cityofswan.com
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CITY of SWAN

ORDINARY COUNCIL
MEETING

PART A

OPENING PROCEDURES

28 NOVEMBER 2007
PART A - OPENING PROCEDURES

1. OPENING AND ANNOUNCEMENT OF VISITORS

The Mayor welcomed those present and opened the meeting at 5.30pm.

2. DISCLAIMER (read aloud by Presiding Member)

The City of Swan disclaims any liability for any loss arising from any person or body relying on any statement, discussion, recommendation or decision made during this meeting.

Where an application for an approval, a licence, or the like is considered or determined during this meeting the City warns that neither the applicant nor any other person or body should rely upon that discussion or determination until written notice of either an approval and the conditions which relate to it or the refusal of the application has been issued by the City.

3. ATTENDANCE AND APOLOGIES

Councillors:  
Cr C Gregorini  Mayor, Midland Ward (Presiding Member)  
Cr M Congerton  Deputy Mayor, Ballajura Ward  
Cr D Fardig  Altone Ward  
Cr M Wainwright  Altone Ward  
Cr M Haynes  Ballajura Ward (from 5.31pm)  
Cr J McNamara  Ballajura Ward (from 5.31pm)  
Cr N Cheung  Ellenbrook Ward  
Cr T Jones  Ellenbrook Ward  
Cr S Croy  Gidgegannup Ward  
Cr F Alban  Guildford Ward  
Cr J Marino  Midland Ward (from 5.35pm)  
Cr K Bailey  North Ward  
Cr C Zannino  Swan Valley Ward

Staff:  
Mr S Hollingworth  Acting Chief Executive Officer  
Mr J Coten  Executive Manager Operational and Development Services  
Mr C Cameron  Executive Manager Corporate Services  
Ms M Lockyer-Benzie  Executive Manager Customer & Community Services  
Mr S Tan  Principal Planner  
Ms R Eaton  Communications Officer  
Ms J Rooke  Executive Assistant
4. ANSWERS TO QUESTIONS WHICH WERE TAKEN ON NOTICE

4.1 Mr Neville Matthews asked the following question at the Ordinary Meeting of Council held on 7 November 2007 which was taken on notice by the CEO:

Q1. With reference to an email from the City's Place Manager - West dated 19 October 2007, what additional action will the City of Swan take to prevent illegal off-road vehicle activity occurring on the section of Henley Brook Drive, Aveley, that is currently under construction? The described activity has escalated to an unacceptable level to which it is considered as a danger to public safety, a health hazard and antisocial as it is occurring within an area zoned as Residential.

A1. The developers have advised the City that they will construct a fence and install shade cloth by Friday 23 November 2007. The City's Customer Advocates will increase patrols of the area and Ellenbrook Police have been advised so they may assist when available.

5. DECLARATIONS OF FINANCIAL INTERESTS AND INTERESTS AFFECTING IMPARTIALITY

5.1 Cr McNamara declared a financial interest in Item 5.1 of Part B (Accounts for payment and direct debit) by virtue of his company being mentioned in the Report.

Cr McNamara entered the Chamber at 5.31pm

Cr Haynes entered the Chamber at 5.31pm
6. **PUBLIC QUESTION TIME**

6.1 Questions relating to reports contained in the agenda

6.1.1 Questions of which due notice has been given in writing or previously taken on notice

Nil

6.1.2 Questions without notice

6.1.2.1 Mrs Janey Brown

Q1. *Are the Councillors aware of the disgraceful condition of Campersic Road and its inability to cope with its current capacity?*

A1. The Mayor responded that Councillors were aware of the road's condition.

Q2. *Is the developer going to pay for upgrading the road?*

A2. Mr Coten took the question on notice.

6.1.2.2 Mr Ken Stranger

Q1. *Have any of the City staff or Councillors visited the area at Brigadoon during the course of the proposed ODP and if not will they undertake to visit the site and evaluate what is proposed to be developed?*

A1. The Mayor responded that he has visited the site on many occasions by helicopter and 4 wheel drive.

Cr Marino entered the Chamber at 5.35pm.

6.1.2.3 Mrs Kathleen Smith

Q1. *Peet Limited have commented to the effect that they have had to design to the City of Swan requirements that there are no facilities nor open space that will require maintenance and hence costs. Are these the conditions imposed by the City of Swan?*

A1. The Acting CEO took the question on notice.
6.2 Other Questions

6.2.1 Questions of which due notice has been given in writing or previously taken on notice

Nil

6.2.2 Questions without notice

Nil

7. PUBLIC STATEMENT TIME

Nil

8. LEAVE OF ABSENCE

RESOLVED UNANIMOUSLY that the following Councillor be granted leave of absence for the period requested:

8.1 Cr Congerton - 14 to 18 December 2007 (inclusive)

(Cr Croy - Cr Bailey)

9. PETITIONS, PRESENTATIONS AND DEPUTATIONS

9.1 Petitions

9.1.1 Petition containing 101 signatures of Brigadoon residents objecting to the proposed development.

RESOLVED UNANIMOUSLY that the above petition be referred to the CEO for appropriate action and a report be presented to a future Council meeting.

(Cr Zannino - Cr Haynes)

9.2 Presentations

Nil

9.3 Deputations

9.3.1 Item 15.3 (Part A) - Proposed dam extension - Lot 29 (531) Berry Road, Gidgegannup

Mr Jim Davies speaking on behalf of the applicant/owner against the Recommendation
9.3.2 **Item 3.2 (Part B) - Proposed Transport Depot and retrospective application for existing lean-to, gravel hard stand and transportable office - Lot 61 Railway Parade, Bullsbrook**

Mr Anderson speaking against the Recommendation

9.3.3 **Item 3.3 (Part B) - Proposed Outline Development Plan (modification) to Subdivision Guide Plan 8A - Alteration to northern portion of Brigadoon - Lot 1010 Campersic Road and Lot 1022 Cathedral Avenue, Brigadoon**

(a) Mr Stuart Payne and Professor Richard Waring speaking against the Recommendation

(b) Mr Jon Burgess speaking against the Recommendation

(c) Mr Graham Meredith and Mr Jason Hicks from DPS (applicant) speaking in favour of the Recommendation

Cr McNamara left the Chamber at 6.02pm and returned at 6.05pm.

10. **CONFIRMATION OF MINUTES**

10.1 Confirmation of Minutes of Ordinary meeting of Council held on 7 November 2007.

**CORRECTIONS TO MINUTES**

1. Cr Holmes' name was inadvertently omitted from the list of Councillors present at the meeting.

2. Cr Holmes' leave of absence should have read "26 November to 10 December 2007 (inclusive)".

**RESOLVED UNANI Mously** that the Minutes of the Ordinary Meeting of Council held on 7 November 2007, as amended above, be confirmed.

(Cr Alban - Cr Bailey)

11. **ANNOUNCEMENTS BY THE MAYOR WITHOUT DISCUSSION**

The Mayor congratulated Cr Fardig on his appointment as Chairman of the Eastern Metropolitan Regional Council.
12. DECLARATIONS BY MEMBERS WHETHER THEY HAVE GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE AGENDA PRESENTLY BEFORE THE MEETING

All Councillors present declared that they had given due consideration to all matters contained in the agenda before the meeting.

13. MEMBERS' QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN WITHOUT DISCUSSION

13.1 CR CONGERTON

Cr Congerton asked a number of questions at the Ordinary Meeting of Council held on 17 October 2007, of which the following were taken on notice by Cr Haynes:

Q4. In relation to the sale of land on Paradise and Summerlakes, Ballajura, did Cr Haynes prepare the questions herself or did she seek assistance from another Councillor?

Q10. Who are the Directors of Glory Holdings?

Q12. Who are the Directors of Marshall Road Nominees?

Q13. Are they major land holders in Ballajura?

Q14. Do you realise that you will be unable to vote on any issue to Council with regard to LWP and LWP affiliates?

Cr Haynes declined to answer these questions. They will be removed from future Council meeting Agendas.

14. MEMBERS' QUESTIONS OF WHICH NOTICE HAS NOT BEEN GIVEN WITHOUT DISCUSSION

14.1 CR BAILEY

Q1. What is the anticipated timeframe for completion of the Bullsbrook Place Plan?

A1. The Acting CEO responded that the Place Plan will be completed as soon as possible but he was unable to give a definitive completion timeframe because of difficulties in resourcing the project.

14.2 CR CONGERTON

Q1. Can the Executive Manager Operational and Development Services advise me what is going to happen with the sand piles in Sunset Drive and Summerlakes Parade?
A1. Mr Coten took this question on notice.

Q2. *We have received a considerable number of complaints about dry and dead parkland throughout Ballajura. What is the reason for this?*

A2. Mr Coten took the question on notice.

15. **ANY BUSINESS LEFT OVER FROM PREVIOUS MEETING**

15.1 **ROAD AND FOOTPATH SWEEPING**

(All Wards) (Operations)

**RECOMMENDATION**

That the Council resolve to:

1) Endorse the proposed sweeping frequencies as detailed in this report.

2) Include an amount of $400,000 on the draft 2008/09 capital budget for the purchase of a road and footpath sweeper.

3) Increase the amount for sweeping in the 2008/09 draft operating budget by $110,000 to allow for increased sweeping frequencies.

**MOTION** that the Recommendation be adopted, subject to the addition of the following part 4):

4) Bring this matter back to Council, either by way of a Briefing Session or report to Council, 12 months from commencement of operation to enable the Council to ascertain its success.

Record that the reason for changing the Recommendation is to enable the Council to assess progress.

(Cr McNamara - Cr Alban)

**RESOLVED UNANIMOUSLY TO:**

1) Endorse the proposed sweeping frequencies as detailed in this report.

2) Include an amount of $400,000 on the draft 2008/09 capital budget for the purchase of a road and footpath sweeper.

3) Increase the amount for sweeping in the 2008/09 draft operating budget by $110,000 to allow for increased sweeping frequencies.

4) Bring this matter back to Council, either by way of a Briefing Session or report to Council, 12 months from commencement of operation to enable the Council to ascertain its success.
5) Record that the reason for changing the Recommendation is to enable the Council to assess progress.

15.2 BELVOIR PARK, BALLAJURA

(Ballajura) (Operations)

RECOMMENDATION

That the Council resolve to:

1) Replace the ageing playground equipment in Belvoir Park with partly natural play opportunities and partly conventional equipment in a sand pit in the current 2007/2008 financial year.

MOTION that the Recommendation be adopted.

(Cr McNamara - Cr Haynes)

RESOLVED UNANIMOUSLY TO:

1) Replace the ageing playground equipment in Belvoir Park with partly natural play opportunities and partly conventional equipment in a sand pit in the current 2007/2008 financial year.

15.3 PROPOSED DAM EXTENSION - LOT 29 (531) BERRY ROAD, GIDEGANNUP

(Gidgegannup) (Development Services)

RECOMMENDATION

That the Council resolve to:

1) Refuse the proposed dam extension as submitted on the following grounds:

   a) The proposed dam is categorised as "High Impact" in accordance with Council’s adopted Policy on "Dams" and the applicant has not submitted the necessary information required to accompany the application, specifically:

      i) A detailed hydrological assessment addressing the potential impacts of increasing the capacity of the dam on the downstream environment;
ii) A report addressing the issues outlined within the foregoing policy to include removal of vegetation & environmental impacts on downstream environments.

b) The applicant has not provided sufficient justification that the increased capacity of the dam is integral to the function of existing approved rural uses operating on the subject lot as required by Council Policy.

**MOTION** that the Council resolve to:

1) Defer consideration of this matter to the next meeting of Council to be held on 12 December 2007 to allow information to be provided by the Applicant.

   (Cr Zannino - Cr Congerton)

**THE MOTION WAS PUT TO THE VOTE AND LOST (3/10)**

**MOTION** that the Recommendation be adopted.

   (Cr Croy - Cr Bailey)

**RESOLVED (10/3) TO:**

1) Refuse the proposed dam extension as submitted on the following grounds:

   a) The proposed dam is categorised as "High Impact" in accordance with Council's adopted Policy on "Dams" and the applicant has not submitted the necessary information required to accompany the application, specifically:

      i) A detailed hydrological assessment addressing the potential impacts of increasing the capacity of the dam on the downstream environment;

      ii) A report addressing the issues outlined within the foregoing policy to include removal of vegetation & environmental impacts on downstream environments.

   b) The applicant has not provided sufficient justification that the increased capacity of the dam is integral to the function of existing approved rural uses operating on the subject lot as required by Council Policy.
15.4 REVIEW - REGISTER OF DELEGATIONS

(All Wards) (Council Support)

RECOMMENDATION

That the Council resolve to:

1) Adopt and endorse the document entitled "City of Swan Register of Delegations" as tabled including the revised Delegation D13.

2) Amend policy Pol-C-023 entitled "Delegation of Authority - Finance & Rates Management" to reflect the change in Delegation D13.

3) Carry out a review of the Delegations Register as part of the Governance Committee Charter with the first meeting to be held in February 2008.

MOTION that the Recommendation be adopted.

(Cr Congerton - Cr Fardig)

RESOLVED UNANIMOUSLY TO:

1) Adopt and endorse the document entitled "City of Swan Register of Delegations" as tabled including the revised Delegation D13.

2) Amend policy Pol-C-023 entitled "Delegation of Authority - Finance & Rates Management" to reflect the change in Delegation D13.

3) Carry out a review of the Delegations Register as part of the Governance Committee Charter with the first meeting to be held in February 2008.
CITY of SWAN

ORDINARY COUNCIL MEETING

PART B

REPORTS

28 NOVEMBER 2007
PART B - REPORTS

1. CORPORATE PLANNING AND POLICY

1.1 PLANNING AND HEALTH APPROVALS POLICY FOR LARGE PUBLIC ENTERTAINMENT EVENTS

(All Wards) (Development Services)

RECOMMENDATION

That the Council resolve to:

1) Support the holding of public events at Sandalford, on an interim basis only, until such time as an amendment to Town Planning Scheme No. 17, to accommodate public entertainment events at Sandalford, has been determined and approved (or not as the case maybe), and subject to:

   • Compliance with all regulatory approval requirements, including those that relate to health, noise and traffic safety;

   • The event being a temporary event and of a nature that is incidental to the primary approved use of the site;

   • The event site currently operating an approved tourism or retail service industry use on the site;

   • The proposed event will complement the current tourism or retail service industry use on the site and not adversely impact permanently on the character of the area.

2) Request that the City develop a statutory planning policy in accordance with Section 2.4A of the Town Planning Scheme No. 9, addressing the planning approval of large public events at all venues in the City of Swan.

3) Write to the Minister of Planning, outlining the proposed interim statutory planning policy approach for managing the approval of large public events at Sandalford and other venues generally, including the current limitations to progress a scheme amendment application for Sandalford, pending approval of TPS 17, and seeking endorsement for the approach to be taken.

4) Request that Sandalford make application for a scheme amendment under provisions of the Town Planning Scheme No. 17, to accommodate entertainment use of the site in Caversham, as soon as reasonably practicable, notwithstanding the current limitations pending approval of Town Planning Scheme No. 17.

5) Endorse the delegation given to the City's CEO (by the 'Environmental Protection (Noise) Regulations 1997), to approve more than two (2), but not more than six (6), 'Regulation 18 - Noise Approvals', within any 12 consecutive months, for Sandalford Winery, West Swan, at his discretion and subject to continued general community support.
6) Endorse the delegation given to the City's CEO (by the 'Environmental Protection (Noise) Regulations 1997), to approve in exceptional circumstances only, and at his discretion, the approval of 'Regulation 18 - Noise Approvals', with noise emissions exceeding the assigned levels in regulation 7 and 8, after 10 pm on any night.

7) Request Sandalford to complete and submit to the satisfaction of the CEO, a community noise survey at least every 12 months and prior to any financial year in which more than two (2) 'Regulation 18 - Noise Approval' applications are to be submitted.

2. COMMUNITY PLANNING AND DEVELOPMENT

Nil

3. STATUTORY PLANNING

3.1 PROPOSED OVERSIZE SHED - LOT 91 VICTORIA ROAD, WEST SWAN.

(Swan Valley) (Development Services) (DA511-07)

RECOMMENDATION

That the Council resolve to:

1) Refuse the application for an oversize shed of 216m² to be constructed on Lot 91 Victoria Road, West Swan on the following basis:

   a) The proposed location and size of the shed will have a significant impact on the amenity of the adjoining property at Lot 92;

   b) The application is not consistent with Town Planning Scheme No.9 in regard to maximum allowable built structures (300m² total aggregate of all sheds) within Swan Valley Rural zones;

   c) The Swan Valley Rural Committee resolved not to support the application as it was inconsistent with the planning objectives for Area B (Swan Valley Planning Act 1995); and

   d) The sustainable objection from the adjoining property owner at Lot 92.

MOTION that the Council resolve to:

1) Defer consideration of this matter to the next Council meeting to allow the applicant, neighbour, interested Councillors and staff to discuss the matter with a view to reaching an amicable solution.

   (Cr Zannino - Cr Congerton)
RESOLVED UNANIMOUSLY TO:

1) Defer consideration of this matter to the next Council meeting to allow the applicant, neighbour, interested Councillors and staff to discuss the matter with a view to reaching an amicable solution.

3.2 PROPOSED TRANSPORT DEPOT AND RETROSPECTIVE APPLICATION FOR EXISTING LEAN-TO, GRAVEL HARD STAND AND TRANSPORTABLE OFFICE - LOT 61 RAILWAY PARADE, BULLSBROOK

(North) (Development Services) (DA413-07)

RECOMMENDATION

That the Council resolve to:

1) Grant approval for the proposed Transport Depot and Retrospective Application for existing Gravel Hardstand Area, Lean-to Structure and Transportable Office at Lot 61 Railway Parade, Bullsbrook subject to the following:

   a) The existing shed, lean-to structure and gravel hardstand area shall only be used as part of the Transport Depot.

   b) The subject lot shall not be used as "Storage Yard".

   c) The number of truck movements to and from the site is restricted to 10 per week and between the hours from 7am to 5pm Monday to Saturday, unless otherwise approved by the Council.

   d) Vehicle access onto the site shall be restricted to that shown on the approved site plan.

   e) Road trains shall not be permitted to park on the subject lot.

   f) The premises shall be kept in a neat and tidy condition at all times to the satisfaction of City.

   g) All major and minor maintenance works on the vehicles and associated machinery shall not be undertaken on site to ensure no adverse environmental impact occurs as a result of contamination from oil and petrol spillage.

   h) This approval is for a “Transport Depot” as defined in the City of Swan Town Planning Scheme No. 9 and the subject land may not be used for any other use without the prior approval of the City.

   i) The applicant/owner must maintain a 50m buffer between the wetland and its dependent vegetation and any further development in the site.
Stormwater drainage plans shall be submitted and works undertaken to the satisfaction of the City’s Engineering Services prior to the commencement of the Transport Depot.

The proposed 394 cubic metres (refer to attachment) detention basin shall be constructed as per approved plans certified by a practicing Civil Engineer prior to the commencement of the Transport Depot to the satisfaction of City's Engineering Services.

Prior to the commencement of the Transport Depot on the subject lot a landscaping plan must be submitted to the City for approval. The landscaping plan shall cover all sides of the gravel hardstand area so that activities on site can be screened from view from adjoining neighbours and the street.

All landscaping must be completed in accordance with the approved detailed landscaping plan, prior to the commencement of the transport Depot and all landscaping is to be maintained onsite thereafter to the satisfaction of the City of Swan.

The crossover shall be upgraded and lanes widened in accordance with the amended plans (dated 20 November 2007 - attachment) prior to the commencement of the Transport Depot to the satisfaction of City's Engineering Services.

All pavements on the site must be capable of accepting all anticipated loadings (including access ways, parking areas, storage and hard stands). The City will not accept any responsibility for subsequent failure of any pavement.

All new and existing stormwater is to be collected and contained within the existing onsite stormwater system. No stormwater is to be discharged from the property into other land or reserves.

All stormwater produced from this site shall cater for an on site detention of 1 in 5 years (minimum) capacity with an overflow connection into the City’s drainage system via an internal system approved by the Chief Executive Officer.

No fluid, other than uncontaminated stormwater is to enter any stormwater drain without prior approval from the City and the Environmental Protection Authority.

Prior to the commencement of the Transport Depot the applicant/owner to provide a report, certified by a suitably qualified engineer, on the structural adequacy of the existing gravel hardstand area for use as a transport depot.

Any adjustment to power poles, manholes, drainage sumps, service pits or similar required as a consequence of this approval is to be arranged by the applicant at his/her own expense, prior to works commencing on the site.

An approved effluent disposal system must be installed prior to the occupation of any building the subject of this approval and prior to the commencement of the Transport Depot.
v) The applicant/owner shall obtain approval from the Department of Industry and Resources for the storage of Chemical/dangerous goods in accordance with the Dangerous Goods Regulations.

x) External lighting shall comply with the requirements of AS 4282 – Control of Obtrusive Effects of Outdoor Lighting.

y) The owner of the land is required to submit to the City within 30 days of Development Approval, the following:

- A letter detailing the occurrence of the unauthorised works, including:
  - who carried out the work;
  - when the work occurred; and
  - why it occurred without the City’s approval.

The letter must also request the City consider an “Application for a Certificate of Acknowledgement” and justify why the City should not issue a Section 401 Notice.

- An assessment fee payable to the City;
- Two complete sets of architectural and consultant drawings for the “as constructed building”;
- One additional set of “as constructed building” drawings be forwarded to FESA for their assessment and approval;
- Certification of the unauthorised works by:
  - a practising Structural Engineer confirming structural integrity;
  - an independent practising Building Surveyor confirming compliance with the Building Code of Australia (BCA);
- Should alterations be required to achieve structural integrity or compliance with the BCA, a subsequent building licence application will be required to be submitted.

Please note no additional work can commence prior to the issue of a building licence.

z) Any additional development, which is not in accordance with the application (the subject of this approval) or any condition of approval, will require further approval of the City.

ADVICE NOTES

1. This approval is not an authority to ignore any constraint to development on the land, which may exist through contract or on title, such as an easement or restrictive covenant. It is the responsibility of the applicant and not the City to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the City’s attention.
2. Take notice that it is the responsibility of the applicant to advise the landowner(s) and/or builder(s) of the need to satisfy the requirements of the conditions of the planning approval for the subject lot, prior to or on lodgement of Building Applications. The City will not issue a building Licence until all the conditions of planning approval and any other requirements pertaining to this planning approval have been met (including payment of fees and charges).

3. In accordance with the Health Act 1911 and the Health (Treatment of Sewage Form and Disposal of Effluent and Liquid Waste) Regulations 1974 an application to construct on-site effluent disposal system must be submitted to and approved by the City's Principal environment health officer, prior to the construction of such a system.

4. The noise generated by activities on-site, including machinery motors or vehicles is not to exceed the levels as set out under the Environmental protection (Noise) Regulations 1997.

5. All development works are to be carried out in accordance with control of noise practices set out in Section 6 of AS 2436-1981 or the equivalent current Australian Standard.

   No works shall commence prior to 7.00 am without the City's approval.

6. The carrying of the development must not cause a dust nuisance to neighbours. Where appropriate such measures as installation of sprinklers, use of water tanks, mulching or other land management systems should be installed or implemented to prevent or control dust nuisance, and such measures shall be installed or implemented within the time and in the manner directed by the City's Principal Environmental Health Officer if it is considered that a dust nuisance exists.

7. Kerbs, roadways, footpaths, open drains, stormwater pits, service authority pits and nature strips must be adequately protected during the construction of the development.

2) Advise those who lodged submissions of Council's decision.

MOTION that Council resolve to:

1) Defer this matter to a future Council meeting to allow a thorough investigation of the information provided during the deputation on this item earlier in the meeting.

   (Cr Bailey - Cr Croy)

RESOLVED UNANIMOUSLY TO:

1) Defer this matter to a future Council meeting to allow a thorough investigation of the information provided during the deputation on this item earlier in the meeting.
3.3 PROPOSED OUTLINE DEVELOPMENT PLAN (MODIFICATION) TO SUBDIVISION GUIDE PLAN 8A - ALTERATION TO NORTHERN PORTION OF BRIGADOON - LOT 1010 CAMPERSIC ROAD AND LOT 1022 CATHEDRAL AVENUE, BRIGADOON

(Swan Valley) (Development Services)

RECOMMENDATION

That the Council resolve to:

1) Delegate to the Principal Planner authority to approve the proposed ODP 147 and modification to Subdivision Guide Plan 8A subject to the following requirements and notations being placed on the Plan.

   a) The Fire Management Plan being approved by the City’s Co-Ordinator Volunteer and Fire Services.

   b) A Notation on the ODP which states “The designated road connection between the northern portion of the Brigadoon Estate proposed under this ODP and O’Brien Road is to be constructed and gazetted as a public road as part of, or prior to, any subdivision”

   c) A notation of the ODP which states “A Stormwater Management Plan for the proposed subdivision area is to be prepared in accordance with the guidelines contained in 'Stormwater Management Manual for Western Australia – DoE 2004’ and submitted for the approval of the City of Swan in conjunction with the advice of the Department of Water and Swan River Trust, as a condition of subdivision.”

   d) A notation on the ODP which states “any modification to a watercourse, its bed or banks requires a permit from the Department of Water”.

   e) A notation on the ODP which states “The vesting and control of the 10.1989 ha bushland lot is to be subject to further investigation by Council and determined prior to any subdivision”.

   f) A notation on the ODP which states “Any development of the 1.0258 ha lot at the western edge is to be subject to an Application for Approval to Commence Development”

   g) A notation on the ODP which states ‘The areas of the lots 1010 and 1022 which are reserved for Parks and Recreation under the MRS are to be ceded fee of cost to the Crown at the time of subdivision’

   h) The Building Envelope provisions contained in the ODP Legend are to be amended as follows:

      “Building envelopes are to be specified on a site plan at Building Licence stage”
“Notifications pursuant to Section 70A of the Transfer of Land Act 1893 are to be registered on the Certificates of Title of any lots that contain remnant nesting trees, areas of pristine and excellent category vegetation and priority species as identified by the ODP 147”

i) The Effluent Disposal provisions are to be amended to delete the statement “no septic tanks are to be located within 100 metres of any creekline”.

2) Upon receipt of the modifications outlined in (1) above to the satisfaction of the Principal Planner, the ODP 147 and Subdivision Guide Plan 8A be forwarded to the Western Australian Planning Commission for consideration and endorsement.

3) Notify all parties that have made a submission of Council’s decision.

MOTION that the Council resolve to:

1) Defer consideration of this matter to the Council meeting to be held on 6 February 2008, pending a meeting to be convened involving all stakeholders (Ward members and interested elected members, applicant and their consultants, BPA representatives and City staff) to discuss the issues of concerns raised.

2) Record that the reason for changing the Recommendation is to enable the Ward Members and interested elected members and City staff to meet with the applicant and their consultants and the BPA representatives to discuss and address the issues of concern raised in their respective deputations to Council.

(Cr Zannino - Cr Alban)

RESOLVED UNANIMOUSLY TO:

1) Defer consideration of this matter to the Council meeting to be held on 6 February 2008, pending a meeting to be convened involving all stakeholders (Ward members and interested elected members, applicant and their consultants, BPA representatives and City staff) to discuss the issues of concerns raised.

2) Record that the reason for changing the Recommendation is to enable the Ward Members and interested elected members and City staff to meet with the applicant and their consultants and the BPA representatives to discuss and address the issues of concern raised in their respective deputations to Council.

4. OPERATIONAL MATTERS

4.1 ALTONE PLACE MANAGER

(Gidgegannup) (Development Services)

RECOMMENDATION

That the Council resolve to:

1) Approve the establishment of an Altone Place Manager with the position to be advertised immediately.
4.2 LANDSCAPE STRATEGY

(All Wards) (Operations)

RECOMMENDATION

That the Council resolve to:

1) Allocate $500,000 for landscaping in both Altone and Ballajura wards and $75,000 for landscaping in Jane Brook/Stratton in the draft 2008/09 capital works budget.

2) Request City staff to review and update long term landscape plans for Altone and Ballajura Wards and the Jane Brook/Stratton area.

3) Request City staff to develop a system for tracking and reporting the progress of these projects for the information of Councillors.

MOTION that the Council resolve to:

1) Develop a strategy and corresponding schedule to improve the standards of parks, public open space and streetscapes in all wards.

2) Prepare prioritised lists for all wards according to greatest need.

3) Prepare budgets and timetables for each ward detailing the prioritised works.

4) Request that a report and proposed funding of works in each ward be submitted to Council early in the new year.

5) Record that the reason for changing the Recommendation is to reflect the Council resolution made at the 25 July 2007 Council meeting.

(Cr Zannino - Cr Alban)

FORESHADOWED MOTION

In the event of the motion being defeated Cr Wainwright foreshadowed that he would move the Recommendation, subject to the City continuing to review and update all the long-term landscape plans for all wards in the City to ascertain what Council can do to improve all wards.

THE MOTION WAS PUT TO THE VOTE AND LOST (5/8)

Cr McNamara requested that votes of members be recorded:

For: Councillors Congerton, Bailey, Croy, Zannino and Alban

Against: Mayor Cr Gregorini, Councillors McNamara, Haynes, Cheung, Jones, Wainwright, Fardig and Marino
MOTION that the Recommendation be adopted, subject to the addition of the following part 4):

4) Request the City to continue to review and update all the long-term landscape plans for all wards in the City.

Record that the reason for changing the Recommendation is to alleviate some of the concerns of the Councillors that this would be the end of the process.

(Cr Wainwright - Cr Alban)

AMENDMENT TO THE MOTION

That the motion be amended by specifying that the City-wide reviews are to be undertaken in 2008/09 to ensure that the plans for other areas are known.

(Cr Congerton - Cr Alban)

THE AMENDMENT WAS PUT TO THE VOTE AND CARRIED (UNANIMOUSLY)

THE AMENDMENT BECAME PART OF THE SUBSTANTIVE MOTION

RESOLVED UNANIMOUSLY TO:

1) Allocate $500,000 for landscaping in both Altone and Ballajura wards and $75,000 for landscaping in Jane Brook/Stratton in the draft 2008/09 capital works budget.

2) Request City staff to review and update long term landscape plans for Altone and Ballajura Wards and the Jane Brook/Stratton area.

3) Request City staff to develop a system for tracking and reporting the progress of these projects for the information of Councillors.

4) Request the City to prepare a program during 2008/09 of long-term landscape plans for all wards in the City.

5) Record that the reason for changing the Recommendation is to allow the process to commence and to continue to review and update landscape plans for all wards.
5. FINANCIAL AND LEGAL MATTERS

Cr McNamara declared a financial interest in Item 5.1 by virtue of his company being mentioned in the report. Cr McNamara left the Chamber at 7.09pm and was absent during the whole of the debate on Item 5.1 and did not speak or otherwise participate in the decision making process.

5.1 ACCOUNTS FOR PAYMENT AND DIRECT DEBIT

(All Wards) (Financial Services)

RECOMMENDATION

That the Council resolve to:

1) Authorise the payment of cheques drawn and direct debits made from the City's bank account as listed.

2) Authorise the payment of bank charges, credit card expenses, merchant fees, and lease payments that have been made as direct debits during this period.

MOTION that the Recommendation be adopted.

(Cr Haynes - Cr Marino)

RESOLVED UNANIMOUSLY TO:

1) Authorise the payment of cheques drawn and direct debits made from the City's bank account as listed.

2) Authorise the payment of bank charges, credit card expenses, merchant fees, and lease payments that have been made as direct debits during this period.

Cr McNamara returned to the Chamber at 7.10pm.

5.2 BUDGET ADJUSTMENTS 2007/08

(All Wards) (Financial Services)

RECOMMENDATION

That the Council resolve to:

1) Approve the budget adjustments as detailed in this report.

NOTE: Absolute majority vote of the Council is required
5.3 FINANCIAL MANAGEMENT REPORT

(All Wards) (Financial Services)

RECOMMENDATION

That the Council resolve to:

1) Receive the monthly financial statements and report for the period ended 31 October 2007

6. GOVERNANCE

6.1 REVISION TO AUDIT COMMITTEE CHARTER AND INTERNAL AUDIT TERMS OF REFERENCE

(All Wards) (Internal Audit)

RECOMMENDATION

That the Council resolve to:

1) Approve the updates to the Audit Committee Charter and the Internal Audit Terms of Reference.

The following was tabled at the meeting:

EXPLANATION

Section 5.100(1) of the Local Government Act states:

"(1) A person who is a committee member but who is not a council member or an employee is not to be paid a fee for attending any committee meeting."

At the same time, the Department of Local Government and Regional Development publication "Audit Committees in Local Government - their Appointment, Function and Responsibilities" (revised March 2006) Local Government Operational Guidelines states:

"25. The legislation prevents a meeting fee being paid to an external person but it is permissible for a payment to be made, commensurate with the expertise and knowledge such people bring to the committee. The Council will need to determine whether payment will be offered and the level of that payment."

The Guidelines go on to provide text for a Model Terms of Reference.

It is important to make a payment to independent Audit Committee members to ensure that the appropriate expertise and interdependence is available to the Committee. There is, however, the potential for ambiguity in the interpretation of the Act's prohibition on the payment of fees on the one hand, and the ability to make a payment to committee members on the other.
To ensure that the City's practice is consistent with permitted practice, it is proposed that part 2.2.6 of the Audit Committee Charter be deleted and replaced with revised wording from the model text.

**REVISED RECOMMENDATION**

That the Council resolve to:

2) Approve the updates to the Audit Committee Charter and the Internal Audit Terms of Reference.

3) Authorise remuneration to be paid to external Audit Committee members on the basis of an annual payment.

4) Amend part 2.2.6 of the Audit Committee Charter accordingly.

5) Record that the reason for changing the Recommendation is to ensure that the City's practice is consistent with the Department of Local Government Operational Guidelines.

**MOTION** that the Recommendation be adopted.

(Cr Jones - Cr Wainwright)

**RESOLVED UNANIMOUSLY TO:**

1) Approve the updates to the Audit Committee Charter and the Internal Audit Terms of Reference.

2) Authorise remuneration to be paid to external Audit Committee members on the basis of an annual payment.

3) Amend part 2.2.6 of the Audit Committee Charter accordingly.

4) Record that the reason for changing the Recommendation is to ensure that the City's practice is consistent with the Department of Local Government Operational Guidelines.

**7. REPORTS OF THE CHIEF EXECUTIVE OFFICER**

Nil
8. **MOTION TO ADOPT THOSE ITEMS NOT WITHDRAWN**

RESOLVED UNANIMOUSLY AND ITEM 5.2 WITH AN ABSOLUTE MAJORITY that the reports of Council in Part B of the Agenda be received and the recommendations therein adopted, with the exception of recommendations concerning the following items which were previously considered:

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(Cr Bailey - Cr Wainwright)

9. **URGENT BUSINESS**

Nil
CITY of SWAN

ORDINARY COUNCIL MEETING

PART C

OTHER BUSINESS AND CLOSING PROCEDURES

28 NOVEMBER 2007
PART C - OTHER BUSINESS AND CLOSING PROCEDURES

1. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

1.1 CR MCNAMARA

**MOTION** that Council request the retention of the road reserve leading from Hamelin Drive, Ballajura to Beechboro Road as a public cycle/walkway and seek funding from any available source to enable the construction of a footbridge over the proposed Hepburn Avenue extension which is due to cut through the existing pathway and to allocate an appropriate amount in the draft 2008/09 Budget.

(Cr McNamara - Cr Haynes)

**AMENDMENT TO THE MOTION**

That the motion be amended by adding "pending a feasibility study to ascertain the future use of such a footbridge".

(Cr Bailey - Cr McNamara)

**THE AMENDMENT WAS PUT TO THE VOTE AND CARRIED (11/2)**

Cr McNamara requested that votes of members be recorded:

For: Mayor Cr Gregorini, Councillors Congerton, McNamara, Haynes, Cheung, Jones, Lucas, Wainwright, Bailey, Croy, Zannino, Alban and Marino

Against: Councillors Fardig and Croy

**THE AMENDMENT BECAME PART OF THE SUBSTANTIVE MOTION**

**RESOLVED (11/2) TO:**

1) Request the retention of the road reserve leading from Hamelin Drive, Ballajura to Beechboro Road as a public cycle/walkway and seek funding from any available source to enable the construction of a footbridge over the proposed Hepburn Avenue extension which is due to cut through the existing pathway and to allocate an appropriate amount in the draft 2008/09 Budget, pending a feasibility study to ascertain the future use of such a footbridge.

2. NOTICE OF MOTIONS FOR CONSIDERATION AT THE FOLLOWING MEETING IF GIVEN DURING THE MEETING

2.1 CR BAILEY

Request staff to develop a planning policy, containing appropriate guidelines, to assist in the determination of Transport Depot development applications, to ensure a consistent approach is adopted in the determination process, having regard for impact on local amenity in terms of their location.
3. CONFIDENTIAL ITEMS

3.1 PROPOSED OUTLINE DEVELOPMENT PLAN 157 - LOTS 1,55 & 150 TOODYAY ROAD & LOT 151 STONEVILLE ROAD, GIDGEGANNUP

(Gidgegannup) (Development Services)

RECOMMENDATION

That the Council resolve to

1) Adopt the proposed modified Outline Development Plan No.157 dated received 7 November 2007 subject to:

   a) Prior to clearance of any future subdivision, a Notification under Section 70A of the Transfer of Land Act 1893 shall be registered over the certificate of title to the land the subject of the proposed development (being proposed Lots 23 to 29 on the revised ODP No. 157 received by the City 7 November 2007) to notify owners and prospective purchasers of the land that the land is located within proximity to a active poultry farm and may be affected by odour emissions.

   The Section 70A Notifications shall be prepared by the City’s solicitors (currently McLeods, 220-222 Stirling Highway, Claremont - Ph 9383 3133) to the satisfaction of the City of Swan and all costs of and incidental to the preparation of and registration of the Section 70A Notification including the City’s solicitors’ costs shall be met by the applicant or the owner of the land.

   b) Annotation on the ODP that on site effluent disposal systems must provide minimum separation distances:

      - 100 metres (horizontal) from a water body
      - 30 metres from a watercourse; and
      - Provide a 2 metre vertical clearance to a groundwater table.

   c) That when the land noted as G1 on the modified plan dated 7 November 2007 is ceded for the purpose of allowing the upgrade of Toodyay Road, the owners of the land be made aware of the potential environmental significance.

Advice to the Applicant:

   a) The Department of Indigenous Affairs has advised that regardless of whether a site of Aboriginal heritage is listed on their register, all such sites are protected by the Aboriginal Heritage Act. Therefore, DIA recommend that prior to site disturbance, an Aboriginal heritage survey should be carried out and include consultation with relevant Aboriginal communities and groups.

   b) Implementation of the Fire Management Plan will be expected prior to clearance of any future subdivision applications.
c) The Department of Environment has advised that the removal of vegetation is prohibited without a permit obtained from the DEC or is of a kind exempt in accordance with Schedule 6 of the Environmental Protection Act 1986 or Environmental Protection (clearing of native vegetation) Regulations 2004. All potential purchases should be notified accordingly.

d) Weed species, *Watsonia bulbillifera* and *Eragrostis curvula* should be eradicated to prevent further spread across the proposed subdivision area and into adjoining tenures. Remediation should be undertaken prior to clearance of any future subdivision applications.

2) The State Administrative Tribunal and the applicant to be advised of Council's decision accordingly.

**MOTION** that the Recommendation be adopted.

(Cr Congerton - Cr Fardig)

**RESOLVED UNANIMOUSLY TO:**

1) Adopt the proposed modified Outline Development Plan No.157 dated received 7 November 2007 subject to:

   a) Prior to clearance of any future subdivision, a Notification under Section 70A of the Transfer of Land Act 1893 shall be registered over the certificate of title to the land the subject of the proposed development (being proposed Lots 23 to 29 on the revised ODP No. 157 received by the City 7 November 2007) to notify owners and prospective purchasers of the land that the land is located within proximity to a active poultry farm and may be affected by odour emissions.
   
The Section 70A Notifications shall be prepared by the City's solicitors (currently McLeods, 220-222 Stirling Highway, Claremont - Ph 9383 3133) to the satisfaction of the City of Swan and all costs of and incidental to the preparation of and registration of the Section 70A Notification including the City's solicitors’ costs shall be met by the applicant or the owner of the land.

   b) Annotation on the ODP that on site effluent disposal systems must provide minimum separation distances:
   
   • 100 metres (horizontal) from a water body
   • 30 metres from a watercourse; and
   • Provide a 2 metre vertical clearance to a groundwater table.

   c) That when the land noted as G1 on the modified plan dated 7 November 2007 is ceded for the purpose of allowing the upgrade of Toodyay Road, the owners of the land be made aware of the potential environmental significance.
Advice to the Applicant:

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c) The Department of Environment has advised that the removal of vegetation is prohibited without a permit obtained from the DEC or is of a kind exempt in accordance with Schedule 6 of the *Environmental Protection Act 1986* or *Environmental Protection (clearing of native vegetation) Regulations 2004*. All potential purchases should be notified accordingly.

d) Weed species, *Watsonia bulbillifera* and *Eragrostis curvula* should be eradicated to prevent further spread across the proposed subdivision area and into adjoining tenures. Remediation should be undertaken prior to clearance of any future subdivision applications.

2) The State Administrative Tribunal and the applicant to be advised of Council's decision accordingly.

4. CLOSURE

There being no further business, the Presiding Member, Mayor Councillor Gregorini, thanked those present for their attendance and declared the meeting closed at 7.35pm.