



**MINUTES OF MEETING OF JOINT COMMISSIONERS  
HELD ON 9 FEBRUARY 1999**

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# **CITY OF JOONDALUP**

## **MINUTES OF MEETING OF THE JOINT COMMISSIONERS HELD IN COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE BUILDING, BOAS AVENUE, JOONDALUP, ON TUESDAY, 9 FEBRUARY 1999**

### **ATTENDANCES**

#### **Commissioners:**

C T ANSELL	Chairman
H MORGAN, AM	Deputy Chairman
M CLARK-MURPHY	
W BUCKLEY	<i>Absent from 1845 hrs to 1852 hrs</i>

#### **Officers:**

Chief Executive Officer:	L O DELAHAUNTY
Director, Resource Management:	J B TURKINGTON
Director, Technical Services:	R McNALLY
Director, Development Services:	C HIGHAM
Director, Strategic Planning:	R FISCHER
Director, Business Units:	D DJULBIC
Manager, Division Taskforce:	B PERRYMAN
Manager, Executive Services:	K ROBINSON
Manager, Council Support Services:	M SMITH
Manager, Leisure Services:	M STANTON
Co-ordinator, Planning Approvals:	R PEAKE
Publicity Officer:	L BRENNAN
Committee Clerk:	J AUSTIN
Minute Clerk:	L TAYLOR

#### **In Attendance**

Chief Executive Officer	
Shire of Wanneroo:	K WHITE

Mr Charles Johnson

### **APOLOGIES AND LEAVE OF ABSENCE**

Apology - Cmr R M Rowell

There were 49 members of the Public and 1 member of the Press in attendance.

**The Chairman declared the meeting open at 1800 hrs.**

**AMENDMENT TO STANDING ORDERS**

Cmdr Ansell requested that Standing Orders be amended to permit Announcements by the Chairman to be heard at this point in the meeting.

**MOVED Cmdr Ansell, SECONDED Cmdr Morgan that Standing Orders be amended to permit Announcements by the Chairman to be heard at this point.**

**The Motion was Put and**

**CARRIED**

**ANNOUNCEMENTS BY THE CHAIRMAN WITHOUT DISCUSSION**

The Chairman welcomed members of the public to the first meeting of the City of Joondalup for 1999.

**LAST COUNCIL MEETING - RON McNALLY**

This evening is the last Council meeting for Mr Ron McNally, Director of Technical Services, who is about to retire after some 37 years in local government.

Mr McNally has had a long and distinguished career with the Council - serving more than 28 years.

Besides wheeling and dealing with the likes of a young property developer named Alan Bond in the heady days of yesteryear, Ron has been a tireless worker through the years of various committee and Council meetings, generally held at all hours of the night.

Inevitably, this has an impact on the family and it is a testament to Ron's character that he has a strong and supportive family. He is living proof that behind every good man there is a good woman. I am sure Marie will be pleased to see more of Ron.

Prior to commencing with Council, Ron was Town Engineer for the Town of Geraldton and was for 10 years Assistant Chief Surveyor for Western Mining Corporation in Kalgoorlie.

Ron has earned the respect of the whole organisation, and the respect of those external bodies and companies Council deals with.

He is known for his cool attitude in a crisis and was the architect for subdivision standards throughout the municipality demonstrated by the high quality roads, footpaths and drainage throughout the district.

On a personal note, Ron loves "surfing the internet" and playing golf.

Sporting talent runs in his family. His son, Andrew, was a pitcher for Perth Heat, won a scholarship to the University of Hawaii and now plays baseball in America.

We would imagine that the competition between father and son on the golf course must be fairly intense.

We would like to wish Ron all the best in his retirement and express our thanks for the service he has given the community over so many years.

### **NEW DIRECTOR**

As we say goodbye to Ron, we welcome his successor, David Djulbic, who joins us from the Shire of Swan as Director, Business Units.

### **COUNCIL ELECTIONS**

I have pleasure in announcing that elections for councillors for both the Shire of Wanneroo and the City of Joondalup will be held in early to mid December 1999.

The Commissioners and myself are very much aware that ours is a caretaker role. Although we are determined to carry out the task of creating the two new local governments very thoroughly, it has always been our intention to hand over as soon as our role is complete.

Elections for both new local governments will be by postal vote. The Minister for Local Government has recently announced that he will allow the Mayor of Joondalup and the President of Wanneroo to be elected by the people.

Ballot box voting has never attracted large numbers of voters, but with postal voting, we are hoping that many more residents will take the opportunity to vote for the candidate of their choice.

The maximum number of councillors will be either 14 or 15 for Joondalup and 12 for Wanneroo.

### **NEW WARDS - PUBLIC CONSULTATION**

Residents will be asked for their input in relation to the creation of new wards for both Joondalup and Wanneroo.

The Minister for Local Government has decided not to exercise his powers to nominate where the new wards should be.

We will be calling for public submissions on where the new wards should be established, in addition to how many councillors each ward should have.

Examples and options will be formulated by the administration as a guide.

We are pleased to be able to continue our undertaking to consult with members of both the Joondalup and Wanneroo communities as widely as possible.

Residents will also be consulted on the names for the new wards which need not be restricted to locality names.

The likely timetable for the determination of wards is as follows:

Commissioners' review	9 February 1999
Advertising review	16/17 February 1999
Public meetings (workshops)	22, 24 February 1999
Public submissions close (5.00 pm)	14 April 1999
Review of submissions	April
Joint Commissioners' report to the Local Government Advisory Board	11 May 1999
Finalise	30 June 1999

## **DEVELOPMENTS**

Among developments being considered this evening for the City of Joondalup are:

- a two storey aged care hostel in Aldwych Way, Joondalup;
- a house, apartments and professional offices in Regents Park Road;
- retail and residential units in Regents Park Road;
- three double storey grouped dwellings in Regents Park Road;
- a grouped dwelling in Kirkdale Turn, Kinross;
- two two-storey grouped dwellings in Lakeside Drive, Joondalup;
- town houses in the Embankment, Joondalup;
- antique furniture conservation and studio in Connolly

## **PUBLIC QUESTION TIME**

**The following questions were submitted by Mr B Higgins of Carabooda:**

*Re: Over Award Severance Payments to Former Director Corporate Services and Former Director Development Services.*

*Q1 On what basis did the Council initially consider making such payments?*

A1 The Panel of Inquiry recommended that all senior positions of the former City of Wanneroo be spilled and market tested. This recommendation was adopted by the Commission at its meeting held on 28 April 1998.

Voluntary redundancy negotiations were offered to all senior employees at that time who did not wish to contest their respective positions. In both of the categories mentioned above these negotiations resulted in voluntary severance arrangements being entered into by the officers concerned.

*Q2 Apart from experience, age and viability to obtain alternative employment, what other criteria were taken into account in determining quantum of such payments?*



A2 Advice was sought on similar payments made in both the private and public sector and Schedule 2.1 of the Local Government Act provides that remuneration and other benefits for officers affected by a boundary restructuring of a local government be maintained for a period of two years.

Furthermore, procedural fairness is also an important consideration when dealing with such issues.

*Q3 What cognisance was taken of any relevant findings and/or recommendations of:-*

*(a) Panel of Inquiry?*

*(b) Wanneroo Royal Commission?*

A3 The Panel of Inquiry recommendations were taken into consideration and as a point of reference for the Inquiry's brief was that the Royal Commission findings be considered. It is assumed that these matters were taken into account by the Inquiry Panel in their deliberations.

*Q4 What costs did ratepayers incur re Advice sought on these matters:*

*(a) External Consultants?*

*(b) Legal Practitioners?*

*(c) Chamber of Commerce and Industry?*

*(d) Other?*

A4(a) Consultancy fees for a HR consultant was approximately \$900.

A4(b) Under legal practitioners, there was a fee of approximately \$2,500.

A4(c) No additional cost was incurred from the Chamber and Industry, as the City of Joondalup pays an annual membership fee for the advice that it receives from that organisation.

A4(d) In Other category, there was no other costs involved.

**Mr Steve Wilde:**

*Re: Item CJ23-02/99 - Proposed commercial building and carwash at Warburton Avenue:*

*Q1 Following the deputation for the proponents, it has been advised that if the application is approved, they will be engaging a security firm to receive and act upon residents' complaints regarding any unacceptable behaviour which may occur and they will also have the constant use of video surveillance. Does this indicate that the developers have now acknowledged that there will be problems necessitating these security measures?*

- A1 *Response by Director, Development Services:* The request to consider engaging a security firm came from the officers as a result of discussions with the proponents and as a direct result of concerns expressed by the local residents. It was felt that as the residents' concerns were largely in relation to security issues, it would be advisable for the proponent to look at ameliorating some of those concerns.
- Q2 *It has been acknowledged that Warburton Avenue has a traffic problem which is being discussed tonight in the Technical Services section. It has been stated that the volume of traffic is approximately 4,700 vehicles per day. It has also been stated that 2% can be added to this, which was said to be the approximate increase with the carwash, which is approximately 94 cars per day. Also given that the t-junction at Warburton Avenue and Marmion Avenue is a dangerous junction, you only have to remember the number of car accidents that we have seen there. In discussions that I have had with people on the Council, they said it was a major road which can take more traffic. Does it take a death to come to the conclusion that there is too much traffic there?*
- A2 *Response by Director, Technical Services:* There is a traffic management scheme that has been designed for Warburton Avenue. Council is in the course of implementing this scheme, which recognises the concerns that local residents have expressed over the operation of that road in the past.
- Q3 *Is that including the carwash and the present use?*
- A3 *Response by Cmr Ansell:* No, that will not include the carwash, as this application has not yet been considered.
- Q4 *I have four children; three of the children have medical conditions, one of which is asthma. Given that the Environmental Protection Authority informed me that it has not carried out any studies into what effects chemicals used in carwashes may have now or in the future, can you give me a guarantee that these chemicals will not exacerbate any of these medical conditions?*
- A4 *Response by Cmr Ansell:* The Commissioners are not in a position to give those guarantees, however your concerns are noted.

**Mr Arthur Taylor of Woodvale:**

*Mr Taylor referred to the forthcoming retirement of the Director, Technical Services and commented that Mr McNally is well respected by the engineering fraternity. Mr Taylor stated that Mr McNally also has the respect of all past Councillors and thanked him for his service and the assistance he has given over many years.*

**Mr Mike Norman of Sorrento:**

*Mr Norman advised he was dismayed to see there was a proposal to construct a BMX track at Robin Reserve, near to his home, and stated he supported the recommendation of the Technical Services section in this evening's agenda that a BMX not be constructed in the area. Mr Norman advised Robin Reserve was one of the last remaining remnants of Fremantle, Mallee and Limestone Mallee trees in the old Sorrento area and would not like to see that area cleared. Mr Norman stated he had been endeavouring to look after the bushland in that part of Sorrento for the last 8 years and believed there was some concern from local residents in regard to the dumping of rubbish in this area. Mr Norman believed that as a result of this discussion, he would be organising a small community group to help continue to look after Robin Reserve. Mr Norman spoke in support of the recommendation and felt that Robin Reserve should be considered as locally significant bushland under Perth's Bushland Plan.*

**Mr Ralph Henderson of Jason Place, Padbury:**

*Q1 Mr Henderson referred to the request for the closure of the pedestrian accessway in Alexander Road, Padbury and advised that he strongly opposed the closure for the reasons stated in the report. Mr Henderson queried on what basis the Commissioners would not adopt recommendations of committees such as this, which are presumably made with due consideration of all factors involved.*

*A1 Response by Cmr Ansell: Cmr Ansell advised that the Commissioners endeavour to ascertain whether the inconvenience caused to the people who are immediately affected by vandalism and unsociable behaviour within an accessway is outweighed by the inconvenience suffered by those people who may have to travel further if such accessway is closed.*

**Mr Alan Bryant of Craigie:**

*Q1 In late 1998 the Council formulated new local laws in respect to road verges and vehicle parking. Have these local laws been gazetted and are they now enforceable?*

*A1 Response by Cmr Buckley: They have been adopted and gazetted and they will accordingly now be local laws.*

*Q2 I would ask the Rangers to make an inspection of the property on the corner of Spicer Court and Chadstone Road, Craigie. There is a large amount of equipment being store at the front of this property which is detracting from the value and amenity of the area.*

*A2 Response by Cmr Ansell: This will be investigated*

**Mr Stephen Magyar of Heathridge:**

*Q1 In relation to Item CJ05-02/99 - Setting of Meeting Dates. Do the Commissioners believe they are administering the City in a manner that is open and accountable,*

*allowing for greater community participation, when they compare their meeting schedule to other local authorities of a similar size? In particular, how does the meeting schedule for 1999 compare with the adjoining City of Stirling?*

A1 *Response by Cmr Ansell:* This question will be taken on notice.

Q2 *In relation to Item CJ32-02/99 - Disposal of Part Recreation Reserve 38260 - Compass Circle, Yanchep. Which Acts of Parliament and Regulations relating to those Acts, determine the Council's processes in relation to disposal of the recreation reserves? Can the Commissioners assure the residents of Joondalup and Wanneroo that all statutory requirements have been complied with?*

A2 *Response by Chief Executive Officer:* The report refers to the reserve which was gained under Section 21 of the old Town Planning Act. It is required to be disposed of by the Department of Land Administration but the Council retains the funds because it is land made available by the original developer. The funds are retained in reserve to be spent in the immediate vicinity.

Q3 *Additional information CJ27-02/99 recommends the weight of the vehicles be reduced from 3.5 tonnes tare weight to 1.5 tonnes tare weight. I do not necessarily disagree with reducing the weight, however I believe that the idea of using tare weights could cause a discrepancy in that if a vehicle has a different type of tray body attached to it, this will vary the tare weight. Could Commissioners consider whether it would be more appropriate to use the aggregate weight as a cut off point, as the aggregate weight does not change with any modification of the vehicle.*

A3 *Response by Director, Development Services:* This question will be taken on notice. The proposed change is to reflect the Department of Commercial Vehicle's policy.

**Mr V Harman of Ocean Reef:**

Q1 *Referring to earlier remarks in relation to the proposed elections, could the administration look at the situation in the eastern states for those cities which have a Lord Mayor, and whether such a situation could apply to Joondalup? I understand that Woollongong and Glenelg have a Lord Mayor and I do not see why Joondalup could not have a similar situation.*

A1 *Response by Chief Executive Officer:* This matter will be researched. A Lord Mayor title is awarded by a royal decree and it is on a capital city tradition, although there have been some exceptions made in Australia. Further investigations would be undertaken to establish whether Joondalup qualifies in this particular area.

*Response by Cmr Ansell:* Further investigations will be carried out, but this would be a decision to be made by the incoming Council.

Q2 *Has Council made any investigation of the provision for shaded areas on our beaches?*

- A2 *Response by Chief Executive Officer:* The former Council did consider a request for shade cloth style covering on Whitfords Beach. Council did cost the matter, but no further action was taken as the costs were considered to be prohibitive.

*Mr Harman advised that he had just returned from Busselton, where he noticed that the beaches had a shade area of approximately 220 sqm with a Kevlon cover and commented he would discuss this matter with the Director, Technical Services.*

**Mrs A Hine of Dundobar Road, Wanneroo:**

- Q1 *Mrs Hine raised her concerns regarding the acoustic system and queried why the system used in the former Council Chamber had been moved to the new Council Chamber.*

- A1 The Chief Executive Officer advised that he was not aware of the system in the old building causing continual problems apart from the amplification machine which was old and has been upgraded since being installed in the new council chamber. He commented that when the new Council Chamber was built, it was inspected by the suppliers, including a consultant who advised that the upgrade for this building was as good, if not better than buying a new system. Some of the problems in the past have been due to inexperienced people having put some of the components together. At present, the sound system is working satisfactorily, there should be no reason for any difficulties.

- Q2 *Do we now have a more experienced team looking after the acoustics in this council chamber?*

- A2 *Response by Chief Executive Officer:* It is under maintenance contract. The contractors have attended Council meetings to monitor the system.

- Q3 *In relation to the changeover, and the subject of elections in December, when will the public know the staffing structure for the Shire of Wanneroo? Will the Shire of Wanneroo be allocated a fair proportion of staff?*

- A3 *Response by Cmr Ansell:* The Chief Executive Officers of both the City of Joondalup and the Shire of Wanneroo are currently considering management structures in accordance with the roles that each local government will play from 1 July 1999. Once staff has been allocated, the allocations and how these were determined, will be made public.

- Q4 *Are we importing staff from the Shire of Swan? Have we not got capable people here instead of recruiting people from outside sources?*

- A4 *Response by Cmr Morgan:* In relation to the Mr Ron McNally's replacement, applications were called for the positions as they became vacant. A selection committee interviewed those applicants that they considered warranted an interview and the best person for the job was selected. If the best person happens to come from the Shire of Swan, so be it. Council did not go out specifically to

chose people from other local governments. The best person was chosen from the applicants for that particular position.

The successful applicant for the Director, Business Units has in fact worked for the former City of Wanneroo.

#### **DECLARATIONS OF FINANCIAL INTEREST**

*Cmr Buckley declared an interest in Item CJ23-02/99 as her husband has a business relationship with the applicant.*

#### **CONFIRMATION OF MINUTES**

**C01-02/99                      MINUTES OF MEETING OF JOINT COMMISSIONERS -**  
**22 DECEMBER 1998**

**MOVED Cmr Morgan, SECONDED Cmr Buckley that the Minutes of the Meeting of Joint Commissioners held on 22 December 1998, be confirmed as a true and correct record.**

**The Motion was Put and**

**CARRIED**

**C02-02/99                      MINUTES OF SPECIAL MEETING OF JOINT**  
**COMMISSIONERS - 24 DECEMBER 1998**

**MOVED Cmr Morgan, SECONDED Cmr Buckley that the Minutes of the Special Meeting of Joint Commissioners held on 24 December 1998, be confirmed as a true and correct record.**

**The Motion was Put and**

**CARRIED**

**PETITIONS****C03-02/99****PETITIONS SUBMITTED TO THE MEETING OF JOINT COMMISSIONERS - 9 FEBRUARY 1999**

- 1            PETITION REQUESTING IMPROVED LIGHTING, LANDSCAPING AND SECURITY PATROLS IN THE VICINITY OF THE SHOPPING CENTRE LOCATED AT THE CORNER OF BURRAGAH WAY AND MARMION AVENUE, DUNCRAIG - [03076, 08321J, 16281J]

A 272-signature petition has been received from local residents requesting improved lighting, landscaping and security patrols of the area surrounding the shopping centre at the corner of Burragah Way and Marmion Avenue, Duncraig to combat the anti-social behaviour being experienced in this area.

This petition will be referred to Technical Services and Community Development for a report to Meeting of Joint Commissioners.

- 2            PETITION REQUESTING INSTALLATION OF RETICULATION - MCKIRDY PARK, MARMION - [31384J]

A 66-signature petition has been received from local residents requesting the installation of reticulation to the existing dry park in McKirdy Way, Marmion to enable residents to enjoy a 'green facility' in the area.

This petition will be referred to Technical Services for action.

- 3            PETITION EXPRESSING CONCERN AT THE PROPOSED TOILET BLOCK - OCEANSIDE PROMENADE, MULLALOO - [01153J]

A petition on behalf of 10 residents has been received expressing concern at the proposed toilet block at Oceanside Promenade, Mullaloo as the residents believe such construction will lead to problems with antisocial behaviour in the area and also feel that this stretch of dunes should remain in its natural state.

This petition will be referred to Development Services for action.

- 4            PETITION REQUESTING THE INSTALLATION OF TOILET FACILITIES AT BEAUMARIS BEACH - [01498J]

A 26-signature petition has been received from members of the Scarborough Walking Group requesting the provision of toilet facilities at Beaumaris Beach to cater for the number of people who regularly use the recreation facilities at this beach.

This petition will be referred to Strategic Planning for action.

5                    PETITION REQUESTING PAVING AND PLANTING OF NORFOLK ISLAND PINES - ESDALE LANE, HILLARYS - [38428J]

A petition on behalf of 12 Hillarys residents has been received requesting that the nature strip on the eastern side of Esdale Lane, Hillarys be paved and planted with Norfolk Island Pines similar to other streets in the area.

This petition will be referred to Technical Services for action.

6                    PETITION REQUESTING PROVISION OF A PEDESTRIAN ACCESSWAY BETWEEN STONESFIELD COURT AND PARKHURST RISE, HEPBURN HEIGHTS - [05082J]

A 12-signature petition has been received from residents of Stonesfield Court requesting the provision of a pedestrian accessway between Stonesfield Court and Parkhurst Rise, Hepburn Heights to enable residents easier exit from Stonesfield Court.

This petition will be referred to Technical Services for action.

7                    PETITION REQUESTING THE INSTALLATION OF TRAFFIC CALMING MEASURES AND REDUCTION OF SPEED LIMIT ON WHITFORDS AVENUE BETWEEN CUMBERLAND DRIVE AND HEPBURN AVENUE, HILLARYS - [08496J]

A 269-signature petition has been received from local residents requesting that the speed limit on Whitfords Avenue between Cumberland Drive and Hepburn Avenue, Hillarys be reduced to 60 km per hour and that traffic calming measures be installed on this stretch of road to alleviate problems that exist.

This petition will be referred to Technical Services for action.

**MOVED Cmr Buckley, SECONDED Cmr Clark-Murphy that the above Petitions:**

- 1                    **requesting improved lighting, landscaping and security patrols of the area surrounding the shopping centre at the corner of Burragah Way and Marmion Avenue, Duncraig;**
- 2                    **requesting the installation of reticulation to the existing dry park in McKirdy Way, Marmion;**
- 3                    **expressing concern at the proposed construction of a toilet block at Oceanside Promenade, Mullaloo;**
- 4                    **requesting the provision of toilet facilities at Beaumaris Beach;**
- 5                    **requesting that the nature strip on the eastern side of Esdale Lane, Hillarys be paved and planted with Norfolk Island Pines;**



- 6            requesting the provision of a pedestrian accessway between Stonesfield Court and Parkhurst Rise, Hepburn Heights;
- 7            requesting that the speed limit on Whitfords Avenue between Cumberland Drive and Hepburn Avenue, Hillarys be reduced to 60 km per hour and that traffic calming measures be installed;

be received and referred to the appropriate business units for action.

The Motion was Put and

**CARRIED**

<b>POLICY SECTION</b>
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Items CJ01-02/99 and CJ02-02/99 were Moved by Cmr Buckley and Seconded by Cmr Morgan. Cmr Buckley gave notice of her intention to speak on these two Items.

**CJ01-02/99            REVIEW OF EXTRACTIVE INDUSTRIES LOCAL  
LAW - [29092J & 05885J]**

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**SUMMARY**

This report provides details of the progress reached in the review of the proposed, "City of Joondalup Extractive Industries Local Law 1998."

The first stage of adopting the proposed local law was reached at the meeting of Joint Commissioners on 22 December, 1998, when the following summary was read aloud by the Chairman:

*" The purpose of this local law is to :*

- (a) prohibit the carrying on of an extractive industry unless by authority of a licence issued by the local government .*
- (b) regulate the carrying on of the extractive industry in order to minimise damage to the environment, thoroughfares and other persons health and property ; and*
- (c) provide for the restoration and reinstatement of any excavation site .*

*The effect of this local law is to :*

*require that any person wanting to carry on an extractive industry will need to be licensed and will need to comply with the provisions of this local law ."*

In keeping with the requirements of Section 3.12 of the Local Government Act 1995, the proposal to adopt the reviewed local law was advertised for comment, closing on Monday, 1 February 1999.

A review of all fees and charges has been undertaken as part of the overall review process for the local law and some increases and new charges have been identified. The Development Application Fee applicable to extractive industries was last reviewed in May 1998. It is not proposed to amend that fee. The annual licence fee was last changed in 1983. The revised local law introduces some new fees which have been based on recovery of the cost for providing those services. The schedule of proposed fee changes is shown at Attachment No 3

Before the proposed fee increases can take effect, an advertisement must be placed in the local newspaper (Wanneroo Times), advising the intention to increase and introduce the fees and the date on which those fees will take effect.

## **BACKGROUND**

This matter was first considered at the meeting of Joint Commissioners held on 2 December, 1998 (Item CJ284-12/98 refers). The report submitted to that meeting outlined the process to be followed by local governments in accordance with the Local Government Act 1995, for creating and reviewing local laws. It was subsequently resolved:

*“That the Joint Commissioners in accordance with section 3.12 of the Local Government Act 1995, APPROVE the advertising of the proposed local law, “City of Joondalup Extractive Industries local Law 1998 “, in order to seek public comment.”*

## **DETAILS**

### **Advertising**

In accordance with section 3.12 (3) of the Local Government Act 1995 statewide public notice was given of the proposed adoption of the City of Joondalup Extractive Industries Local law, in the West Australian on 26 and 30 December 1998.

The proposal was also advertised in the Wanneroo Times on 5 and 12 January 1999, to ensure the local community was given ample opportunity to be informed and obtain a copy of the proposed local laws.

### **Public Comment**

No comment or submission has been received by close of the six week submission period which ended on 1 February 1999.

### **Action to Progress Local Law**

The following actions are required to progress the proposed local law to local law stage.

They are in accordance with Sections 3.12 and 3.15 of the Local Government Act 1995. The relevant sections are:

- 3.12 (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.

*\* Special majority required.*

- (5) After making the local law, the local government is to publish it in the *Gazette* and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.
- (6) After the local law has been published in the *Gazette* the local government is to give Statewide public notice -
- (a) stating the title of the local law;
  - (b) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
  - (c) advising that copies of the local law may be inspected or obtained from the local government's office.
- (7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.

### **Local laws to be publicised**

- 3.15 A local government is to take reasonable steps to ensure that the inhabitants of the district are informed of the purpose and effect of all of its local laws.

Section 3.13 of the Act is of particular relevance at this stage of making a local law. It states:

#### ***“Procedure where significant change in proposal***

- 3.13 *If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.”*

## **Action By Others**

The following actions will be taken to complete the review and adoption process of the local law:

the local law will be tabled in parliament by Parliamentary Council;

review of the local law by the Joint Standing Committee On Delegated Legislation.

It has become standard practice that ten copies of the local law together with an Explanatory Memorandum and details of any submissions be forwarded to the Joint Standing Committee On Delegated Legislation, to assist the committee in their review of the local law.

## **Review of Fees and Charges**

As part of the process for review of the local law, the opportunity has also been taken to review fees and charges that relate to the operation of the local law.

The review of fees and charges imposed by a local government is covered under section 6.16 of the Local Government Act 1995. The relevant section of the Act for reviewing fees and charges other than as part of the budget process is:

“Section 6.16 (3) Fees and charges are to be imposed when adopting the annual budget but may be -

- (a) imposed \* during a financial year; and
- (b) amended \* from time to time during a financial year.

\* Absolute majority required.”

Before any new or reviewed fees and charges can be imposed outside the annual budget process, local public notice must be given in accordance with section 6.19 of the Act, advising the local governments intention to do so and the date on which the proposed fees and charges will be imposed.

A new schedule of these fees and charges showing the current and proposed fees has been prepared and is attachment 3 to the report.

## **COMMENT**

### **Local Law Adoption**

No written submission or comment has been received relating to the proposed local law. No alteration has been made or is considered necessary to the document previously submitted to the meeting of Joint Commissioners. It is therefore recommended that the proposed local law be adopted.

### **Proposed Fees and Charges**

The proposed fees and charges relating to Application, Licence, Administration Fee and Licence Transfer, outlined in Attachment 3, are considered to more appropriately reflect reasonable recovery rates and be in keeping with industry standards. It is recommended that the proposed fees and charges detailed in Attachment 3 to the report, be adopted.

**MOVED Cmr Buckley, SECONDED Cmr Morgan that the Joint Commissioners:**

- 1 in accordance with Section 3.12 of the Local Government Act 1995, ADOPT the proposed local law as per Attachment 1 to Report CJ01-02/99, as the “City of Joondalup Extractive Industries Local Law 1998”;**
- 2 APPROVE the Application for an Extractive Industry Licence Form, Notice of Application for an Extractive Industry Licence Form, Extractive Industry Licence Form and the Transfer Endorsement Extractive Industry Licence Form, as per Attachment 2 to Report CJ01-02/99, to facilitate management of the proposed local law;**
- 3 APPROVE progression of the remaining actions to finalise the local law in accordance with Sections 3.12 and 3.15 of the Local Government Act 1995;**
- 4 in accordance with Section 6.16 of the Local Government Act 1995, ADOPT the proposed fees and charges detailed in Attachment 3 to Report CJ01-02/99 and give local public notice in accordance with Section 6.19 of the Act advising that the new fees take effect from 1 March 1999.**

Cmr Buckley advised this Item was a review of the Extractive Industries local law which had been advertised, with no submission being received.

**The Motion was Put and**

**CARRIED BY A  
SPECIAL MAJORITY**

Appendix I refers

**CJ02-02/99 REVIEW OF PRIVATE PROPERTY LOCAL LAW -  
[23513J & 05885J]**

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### **SUMMARY**

This report provides details of the progress reached in the review of the proposed, “City of Joondalup Private Property Local Law 1998.”

The first stage of adopting the proposed local law was reached at the meeting of Joint Commissioners on 22 December, 1998, when the following summary was read aloud by the Chairman:

*“ The purpose of this local law is to :*

*provide for the regulation, control and management of street numbering, fencing, tennis court floodlighting and vehicle wrecking within the City of Joondalup. .*

*The effect of this local law is to:*

*establish the requirements for erecting street numbers, fencing, tennis court floodlighting and for the wrecking of vehicles in the City of Joondalup.”*

In keeping with the requirements of Section 3.12 of the Local Government Act 1995, the proposal to adopt the reviewed local law was advertised for comment, closing on Monday, 1 February 1999.

A review of fees and charges has been undertaken as part of the overall review process for the local law. Several new charges have been identified. Fees were not previously charged for licences and approvals processed for similar matters under the former local laws. The fees proposed under the revised local law have been based on cost recovery for provision of services. The schedule of proposed fees is shown at Attachment No 3

Before the proposed fees can take effect, an advertisement must be placed in the local newspaper (Wanneroo Times), advising the intention to introduce the fees and the date on which those fees will take effect.

## **BACKGROUND**

This matter was first considered at the meeting of Joint Commissioners held on 2 December, 1998 (Item CJ285-12/98 refers). The report submitted to that meeting outlined the process to be followed by local governments in accordance with the Local Government Act 1995, for creating and reviewing local laws. It was subsequently resolved:

*“That the Joint Commissioners in accordance with section 3.12 of the Local Government Act 1995, APPROVE the advertising of the proposed local law, “City of Joondalup Private Property local Law 1998 “, in order to seek public comment.”*

## **DETAILS**

### **Advertising**

In accordance with section 3.12 (3) of the Local Government Act 1995, statewide public notice was given of the proposed adoption of the City of Joondalup Private Property Local law, in the West Australian on 26 and 30 December, 1998.

The proposal was also advertised in the Wanneroo Times on 5 and 12 January 1999, to ensure the local community was given ample opportunity to be informed and obtain a copy of the proposed local laws.

## Public Comment

No comment or submission has been received in response to the advertisements by close of the six week submission period which ended on 1 February, 1999.

A letter of complaint from two residents of Mermaid Way, Heathridge, concerning rubbish and sand being blown onto their properties from a nearby sub division, requesting that certain actions be taken to prevent such occurrences, was submitted to the meeting of Joint Commissioners on 22 December, 1998. At the time it was suggested that the letter be treated as a submission for the proposed Private Property Local Law.

Discussions with officers in Technical Services Directorate indicate that the matters referred to in correspondence from residents of Mermaid Way, Heathridge, submitted to the meeting of Joint Commissioners, together with other significant matters relating to subdivisions, should be placed before an established working group and also be considered as part of the current Subdivision Standards Review . This working group comprising representatives from Urban Development Institute of Australia, Commissioner R Rowell and senior Council officers, was formed as part of a consultative approach with the Development Industry. It is expected that comment from the working group on a range of issues, will be forthcoming within six months. With that comment, it will be clearer as to whether a separate local law relating to sub divisional matters is necessary or appropriate amendments should be made to the proposed Private Property Local law.

## Action to Progress Local Law

The following actions are required to progress the proposed local law to local law stage.

They are in accordance with Sections 3.12 and 3.15 of the Local Government Act 1995. The relevant sections are:

- 3.12        (4)    After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.

\* *Special majority required.*

- (5)    After making the local law, the local government is to publish it in the *Gazette* and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.
- (6)    After the local law has been published in the *Gazette* the local government is to give Statewide public notice -
- (a)        stating the title of the local law;

- (b) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
  - (c) advising that copies of the local law may be inspected or obtained from the local government's office.
- (7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.

### **Local laws to be publicised**

- 3.15 A local government is to take reasonable steps to ensure that the inhabitants of the district are informed of the purpose and effect of all of its local laws.

Section 3.13 of the Act is of particular relevance at this stage of making a local law. It states:

#### ***“Procedure where significant change in proposal***

- 3.13 *If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.”*

### **Action By Others**

The following actions will be taken to complete the review and adoption process of the local law:

the local law will be tabled in parliament by Parliamentary Council;

review of the local law by the Joint Standing Committee On Delegated Legislation.

It has become standard practice that ten copies of the local law together with an Explanatory Memorandum and details of any submissions be forwarded to the Joint Standing Committee On Delegated Legislation, to assist the committee in their review of the local law.

### **Review of Fees and Charges**

As part of the process for review of the local law, the opportunity has also been taken to review fees and charges that relate to the operation of the local law.

The review of fees and charges imposed by a local government is covered under section 6.16 of the Local Government Act 1995. The relevant section of the Act for reviewing fees and charges other than as part of the budget process is:



“Section 6.16 (3) Fees and charges are to be imposed when adopting the annual budget but may be -

- (a) imposed \* during a financial year; and
- (b) amended \* from time to time during a financial year.

\* Absolute majority required.”

Before any new or reviewed fees and charges can be imposed outside the annual budget process, local public notice must be given in accordance with section 6.19 of the Act, advising the local governments intention to do so and the date on which the proposed fees and charges will be imposed.

A new schedule of fees and charges showing the proposed fees has been prepared and is Attachment 3 to the report.

## **COMMENT**

### **Local Law Adoption**

As the only written submission or comment received that could relate to the proposed local law was the correspondence from two residents in Mermaid Way, Heathridge, and it is proposed to have those matters considered by the established working group and as part of the current Subdivision Standards Review, it is not proposed that any alteration be made to the document previously submitted to the meeting of Joint Commissioners. It is therefore recommended that the proposed local law be adopted.

### **Proposed Fees and Charges**

The proposed fees and charges relating to licences and approvals outlined in Attachment 3, are considered to reflect reasonable recovery rates. It is recommended that the proposed fees and charges detailed in Attachment 3 to the report, be adopted.

**MOVED Cmr Buckley, SECONDED Cmr Morgan that the Joint Commissioners:**

- 1 in accordance with Section 3.12 of the Local Government Act 1995, ADOPT the proposed local law as per Attachment 1 to Report CJ02-02/99, as the “City of Joondalup Private Property Local Law 1998”;**
- 2 APPROVE progression of the remaining actions to finalise the local law in accordance with Sections 3.12 and 3.15 of the Local Government Act 1995;**
- 3 in accordance with Section 6.16 of the Local Government Act 1995, ADOPT the proposed fees and charges detailed in Attachment 2 to Report CJ02-02/99 and give local public notice in accordance with Section 6.19 of the Act advising that the new fees take effect from 1 March 1999;**

- 4           **APPROVE the action to refer matters concerning subdivision management raised by residents of Mermaid Way, Heathridge, to the established working group and current Subdivisions Standard Review;**
- 5           **ADVISE the residents of Mermaid Way, Heathridge, who raised the concerns relating to wind blown sand and rubbish from a nearby subdivision, of the action to be taken.**

Cmr Buckley advised this Item was a review of the Private Property local law which had been advertised, with no submission being received.

**The Motion was Put and**

**CARRIED BY A  
SPECIAL MAJORITY**

Appendix II refers

<b>FINANCE AND COMMUNITY SERVICES SECTION</b>
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Items CJ03-02/99 to CJ12-02/99 inclusive were Moved by Cmr Clark-Murphy and Seconded by Cmr Buckley.

**CJ03-02/99           RATIONALISATION OF BOUNDARY - CITY OF  
JOONDALUP AND SHIRE OF WANNEROO - [00139]**

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**SUMMARY**

The common boundary (adjacent to the Yellagonga Wetlands area) separating the City of Joondalup and the Shire of Wanneroo gives rise to a number of anomalies in terms of the location of historical sites and facilities and the responsibility for management of facilities and infrastructure. Schedule 2.1 of the Local Government Act 1995, provides that affected local governments may jointly make a proposal to the Local Government Advisory Board seeking an amendment to a common boundary.

The Division Task Force, with the assistance of Development Services staff developed a proposal aimed at addressing the bulk of anomalies. In general terms it sought to move the Wanneroo Road boundary (between Joondalup Drive and Hepburn Avenue) to run through the centre of the Yellagonga Wetlands.

The proposal was put out for public comment and affected residents were surveyed. Affected Kingsley residents (south of Whitfords Avenue and north of Hepburn Avenue) were overwhelmingly opposed to the proposal so far as it impacted on their suburb. Affected residents in the Woodvale area were generally in support of the proposal, provided that the suburb name of Woodvale remained. Feedback in respect of the affected area north of Ocean Reef Road indicated strong support for the proposal.

In line with community feeling, the Division Task Force decided to recommend that the City and Shire make a joint proposal to the Local Government Advisory Board recommending that the common boundary along Wanneroo Road between Joondalup Drive and Whitfords Avenue be moved to run through the centre of the Yellagonga Wetlands (as shown on Attachment B).

## **BACKGROUND**

The boundary dividing the new Local Government areas of Wanneroo and Joondalup was gazetted on 26 June 1998. Following the gazettal, the Joint Commissioners received a number of letters from the public expressing concern over anomalies resulting from the location of the common boundary between Joondalup Drive (to the north) and Hepburn Avenue (to the south). The more significant of these anomalies can be summarised as follows:-

### **Joondalup Drive to Ocean Reef Road (Wanneroo)**

the Wanneroo Recreation Centre, sporting grounds, clubrooms and the passive recreation areas along the eastern foreshore of Lake Joondalup have an affinity with the Wanneroo Townsite and are extensively used by that community. Hence, responsibility for the area should rest with the Shire rather than the City.

Lake Joondalup and areas adjacent to the eastern foreshore have a number of sumps, a compensating flow basin and a major drainage outlet, all of which service the catchment areas of the Wanneroo Townsite and residential land adjacent to the lake. Care, control and management should therefore be the responsibility of the Shire.

### **Ocean Reef Road to Woodvale Drive (WOODVALE)**

the historical sites of Perry's Paddock and the Cockman Homestead were significant in the early settlement of the Wanneroo district and therefore have a greater affinity with the Shire of Wanneroo than with the City of Joondalup.

### **Woodvale Drive to Whitfords Avenue (WOODVALE)**

located within this area are two major sumps draining the Wangara Industrial estates. Management of these sumps (including the monitoring for contaminants from the industrial estates) should logically be the responsibility of the Shire.

### **Whitfords Avenue to Hepburn Avenue (KINGSLEY)**

Luisini Winery is located in this area. The site was acquired by the Western Australian Planning Commission with a view to preserve the winery. Its location, long term use and historic importance relate more to the eastern lands within the Shire of Wanneroo. Ideally it should be within the Shire's boundaries.

Schedule 2.1 of the Local Government Act 1995 sets out the provisions for amending the boundaries of a district. In broad terms, the process is:

- the City and Shire may make a joint proposal to the Local Government Advisory Board (LGAB);
- the LGAB must consider the proposal (and if thought necessary, conduct a formal inquiry); and,
- the LGAB must recommend to the Minister that the proposal be accepted or rejected.

The Division Task Force has considered a number of options to rationalise the existing boundary, with a view to preparing a proposal for submission to the LGAB. Importantly, it must reflect the community's wishes and address most, if not all, identified anomalies and general management concerns. Historic significance, management/use of facilities and drainage issues were taken into consideration in formulating a proposed new boundary, generally west of the gazetted boundary.

## DETAILS

In line with the Joint Commissioners' commitment to encourage community involvement in the decision making process, the proposal to amend the common boundary (Attachment A) was advertised extensively throughout the community in October 1998. Invitations to the public to make submissions on the amended boundaries being proposed were published in the Wanneroo Times on 13 October 1998 and 20 October 1998. The submission period of 28 days expired on Wednesday, 11 November 1998. Survey forms were posted to all owners of affected land (i.e. the area bounded by the gazetted and proposed boundaries) on 15 October 1998 and similar forms were hand delivered to occupiers on the same day. The owner/occupier survey also concluded at close of business on Wednesday, 11 November 1998.

Members (and support staff) of the Local Government Advisory Board (LGAB) attended a briefing session followed by an escorted tour of the affected areas on 1 October 1998. The LGAB were receptive to the proposed boundary changes and supported the Joint Commissioners proposal to call for public submissions and conduct a survey of owners/occupiers of affected land.

Ten (10) public submissions were received. Eight (8) were in favour of the proposed changes to the boundaries, one (1) was against and one (1) addressed the proposal in four distinct geographic areas, recommending that each should be decided on the majority view of owners/occupiers within the respective area.

In addition to the public submissions received, sixty seven (67) Kingsley residents, living in an area commonly referred to as Kingslake Estate, each submitted a letter (standard format) strongly opposing the proposed changes. Sixty one (61) stated that whilst they were not concerned as to which local government they would come under, they would strenuously oppose any move to change the suburb name from Kingsley. The remaining six (6) wanted to remain within the City of Joondalup **and** retain the suburb name of Kingsley. Cheryl Edwards MLA met with the Chairman of Commissioners on Thursday, 12 November and expressed the view that the residents in this area do have a strong preference to remain as part of Joondalup.

The results of the owner/occupier survey are tabulated hereunder:

<b>Address of Respondent</b>	<b>Surveyed</b>	<b>Responded #    %</b>	<b>In favour</b>	<b>Opposed</b>
Kingsley (excl. Cherokee Village)	109	81 (74%)	5	76
Cherokee Village Residents	75	41 (55%)	2	39
Woodvale Residents	22	10 (45%)	6	4
Wanneroo Residents	3	3 (100%)	3	0
<b>TOTAL</b>	<b>209</b>	<b>135 (65%)</b>	<b>16</b>	<b>119</b>

The majority of responses were from landowners and residents generally south of Ocean Reef Road. Survey results indicate that residents feel little historical affinity with the Shire but are most concerned with their address and its impact on values.

Kingsley respondents indicated 115 against a change with 7 for change. A majority of their comments, concern the continuing use of the Kingsley name. Of lesser importance were the issues relating to which local authority would have jurisdiction over the area (although it is apparent from the responses that a number of respondents would clearly prefer to remain within the City of Joondalup) and the historical significance of the Luisini Winery site.

Woodvale respondents indicated 6 for change and 4 against a change. Of the 6 respondents who supported the proposal to change, 2 strongly objected to the possibility of a name change to Wangara. Similarly, 3 of the 4 respondents who voted 'No' to the proposed change stated their strong opposition to the possibility of the affected area being renamed Wangara.

## CONCLUSION

In view of the survey responses, the Division Task Force considers strong grounds exist to support:

the proposed new Local Government boundary from Joondalup Drive in the north to Whitfords Avenue in the south SUBJECT TO an assurance being provided by the Geographic Names Committee that the locality boundary of Woodvale will remain unaltered; and

the retention of the existing boundary south of Whitfords Avenue (i.e. leave the suburb of Kingsley as is).

A revised plan (Attachment B) showing the existing and proposed new boundaries is attached.

The Geographic Names Committee have considered the proposal and provided written confirmation of their agreement to the amended Local Government boundary and retention of the existing locality boundary of Woodvale.

In the meantime, property owners in the affected Woodvale area have been advised, in writing, of the recommendation resulting from the public consultation process. Only one property owner has contacted the Council as a result of this most recent letter. That person was satisfied that the change being proposed would not disadvantage the residents of the area.

**MOVED Cmr Clark-Murphy, SECONDED Cmr Buckley that the Joint Commissioners SUBMIT a joint proposal with the Shire of Wanneroo to the Local Government Advisory Board in accordance with the provisions of Schedule 2.1 of the Local Government Act 1995. The proposal to be submitted will seek to amend the common boundary (effective from 1 July 1999) of the City of Joondalup and the Shire of Wanneroo from the roundabout at the junction of Burns Beach Road and Joondalup Drive to the corner of Whitfords Avenue and Wanneroo Road as shown on Attachment B to Report CJ03-02/99.**

**The Motion was Put and**

**CARRIED**

Appendix III refers

## **CJ04-02/99      WARD BOUNDARIES AND REPRESENTATION - [16878]**

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### **SUMMARY**

The City of Joondalup was established, without a ward system, by the Joondalup and Wanneroo Order 1998. It is therefore important that consideration be given to the implementation of a ward system and levels of elector representation. This should be done well in advance of the inaugural elections which will take place later in the year.

The determination of ward boundaries and representation for a new local government may occur at the direction of the Minister or may be instigated by a report of the Commissioners (after a public review') to the Local Government Advisory Board (LGAB). Advice has been received from Katrina Elliott (LGAB) that the Minister does not intend to give direction in this instance. As a result the Joint Commissioners are required to embark upon the process set out in Schedule 2.2 of the Local Government Act 1995. This process involves the City conducting a review (including a 6 week public submission period) prior to making a submission to the LGAB. The LGAB in turn makes a recommendation to the Minister.

It is therefore recommended that the Joint Commissioners resolve to review wards boundaries and representation in accordance with the provisions of Schedule 2.2 of the Local Government Act.

### **BACKGROUND**

The Local Government Amendment Act (No. 2) 1998 came into operation on the date of Governor's Assent, 12 January 1999. It is the first comprehensive legislation to make significant improvements to the Local Government Act 1995. Amongst other things, it effectively allows the tenure of the Joint Commissioners for the City of Joondalup and the Shire of Wanneroo to extend to 31 December 1999. The new provisions require that the

Governor, by order, shall fix a day (not later than 31 December 1999) for the holding of inaugural elections for the City of Joondalup.

The City of Joondalup was established by the Joondalup and Wanneroo Order 1998. However, the Order did not provide the City with a ward system.

In order to prepare for the inaugural elections of the City of Joondalup (expected to take place in December 1999), it is necessary to consider conducting a review to firstly establish whether or not a ward system is preferable, and if so, determine the most appropriate way in which to divide the district.

## **DETAILS**

Clause 2. (1) (b) of Schedule 2.2 of the Act provides for the Joint Commissioners to submit a report (after having carried out a review) to the LGAB. The report may recommend a ward structure, ward names and the preferred number of councillors to represent each ward. Schedule 2.2 of the Act sets out the processes to be followed in conducting a review and the LGAB have drawn up guidelines for use by local governments embarking on the review process.

### **The process**

In general terms the process is as follows:-

1. Joint Commissioners must resolve to embark on a review process pursuant to Schedule 2.2 of the Act.

This involves advertising the review process and calling for submissions from the public (the minimum period for accepting submissions is 6 weeks).

The review may consider:

dividing the district into wards;  
naming the wards; and,  
the number of councillors to represent each ward.

In considering the public submissions the Joint Commissioners must have regard, where applicable to:

community of interests;  
physical and topographical features;  
demographic trends;  
economic factors; and  
the ratio of councillors to electors in the various wards.

2. On completion of the review, the Joint Commissioners are to report, in writing, to the LGAB and may propose to the Board the making of an order in respect of the three matters considered by the review.

3. The LGAB, if satisfied with the Joint Commissioner's proposal, must report to the Minister recommending the making of the order.
4. The Minister may accept or reject the recommendation of the LGAB. If the recommendation is accepted, the Minister may recommend, to the Governor, the making of an appropriate order.

To assist the public to prepare submissions, the LGAB recommend a discussion paper, outlining a variety of options and providing relevant statistical data, be prepared and made available. The information is currently being gathered and a discussion paper will be finalised prior to the advertisement of the public review.

Whilst there is no requirement to hold public meetings as part of the review process, it is proposed that two or more public meetings will be held early in the six week submission period. Each meeting will be designed to encourage public participation in the review process and provide a forum for the exchange of views in relation to ward boundaries and elector representation.

### **Timetable**

The proposed timetable for determining the new ward boundaries for the City of Joondalup is:

<b><i>TASK</i></b>	<b><i>DATE</i></b>
Joint Commissioners resolve to undertake a 'review'	<b>9 February</b>
Advertise the 'review' (local public notice)	<b>16/17 February 23/24 February</b>
Public Meetings (workshop)	<b>22 February 24 February</b>
Public Submission period closes (5.00pm)	<b>14 April</b>
Review of Public Submissions	<b>March - April</b>
Joint Commissioner's resolution to report to Local Government Advisory Board	<b>11 May</b>

The above timetable will allow the report of the Joint Commissioners to be received by the Local Government Advisory Board during the second week of May 1999. Beyond this point, progress will not be determined by the Joint Commissioners, however it is hoped that the ward system for the City of Joondalup will be approved by June 1999.



## CONCLUSION

In order to properly determine ward boundaries and representation for the City of Joondalup the review process outlined in Schedule 2.2 of the Act must be undertaken. On conclusion of the review the Joint Commissioners should develop a report and make an appropriate recommendation to the LGAB.

The Shire of Wanneroo was also created without a ward system. Hence, the Joint Commissioners must embark on a similar process for the Shire. It is suggested that the City and the Shire conduct the reviews conjointly in order to minimise duplication of effort.

**MOVED Cmr Clark-Murphy, SECONDED Cmr Buckley that the Joint Commissioners:**

- 1 REVIEW wards boundaries and representation in accordance with the provisions of Schedule 2.2 of the Local Government Act;**
- 2 CONDUCT the review mentioned in 1 above conjointly with the Shire of Wanneroo.**

**The Motion was Put and**

**CARRIED**

## **CJ05-02/99 SETTING OF MEETING DATES - [02154]**

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### SUMMARY

The Local Government Act 1995 requires a local government to give local public notice, at least once each year, of its ordinary meeting dates to be held in the next 12 months. This report recommends that meeting dates for the period February 1999 to December 1999 be set, and public notice given.

### BACKGROUND

The Local Government Act 1995 requires a local government to give local public notice, at least once each year, of its ordinary meeting dates to be held in the next 12 months.

At the Special Meetings of the Joint Commissioners held on 1 July 1998, meeting dates for the City of Joondalup and Shire of Wanneroo were set for the period ending 27 April 1999.

It was agreed that the Councils would meet on the second and fourth Tuesdays of the month, with the meeting for the City of Joondalup commencing at 5.30 pm, and the Shire of Wanneroo commencing at 7.30 pm. Meeting times were subsequently amended at the Meetings of the Councils held on 8 September 1998, to allow for the City of Joondalup meeting to commence at 6.00 pm and the Shire of Wanneroo meeting to commence at 7.00 pm.

Meetings of the City of Joondalup and Shire of Wanneroo have alternated between the Joondalup Civic Centre and the Wanneroo Civic Centre.

## DETAILS

A recent Amendment to the Local Government Act 1995 allowed for the Joint Commissioners' terms to be extended for a period of 18 months, to expire at the end of December 1999.

It is therefore appropriate that meeting dates for February to April 1999 be reaffirmed and the meeting dates for the period May 1999 to December 1999 inclusive be set, and public notice given.

## COMMENT

There was some apprehension in moving from the previous committee structure to the current meeting cycle of two ordinary Council meetings per month. However, with the exception of 'fine tuning' the commencement times, the two Council meetings per month have been successful. The meetings have allowed for a quicker decision making process without compromising the opportunity for members of the public to make comment. The informal deputation process has also worked well.

**MOVED Cmr Clark-Murphy, SECONDED Cmr Buckley that the Joint Commissioners:**

- 1 set the following meeting dates for the City of Joondalup, commencing at 6.00 pm:**

<u>Date</u>	<u>Venue</u>
<b>23 February 1999</b>	<b>Wanneroo Civic Centre</b>
<b>9 March 1999</b>	<b>Joondalup Civic Centre</b>
<b>23 March 1999</b>	<b>Wanneroo Civic Centre</b>
<b>13 April 1999</b>	<b>Joondalup Civic Centre</b>
<b>27 April 1999</b>	<b>Wanneroo Civic Centre</b>
<b>11 May 1999</b>	<b>Joondalup Civic Centre</b>
<b>25 May 1999</b>	<b>Wanneroo Civic Centre</b>
<b>8 June 1999</b>	<b>Joondalup Civic Centre</b>
<b>22 June 1999</b>	<b>Wanneroo Civic Centre</b>
<b>13 July 1999</b>	<b>Joondalup Civic Centre</b>
<b>27 July 1999</b>	<b>Wanneroo Civic Centre</b>
<b>10 August 1999</b>	<b>Joondalup Civic Centre</b>
<b>24 August 1999</b>	<b>Wanneroo Civic Centre</b>
<b>14 September 1999</b>	<b>Joondalup Civic Centre</b>
<b>28 September 1999</b>	<b>Wanneroo Civic Centre</b>

<b>12 October 1999</b>	<b>Joondalup Civic Centre</b>
<b>26 October 1999</b>	<b>Wanneroo Civic Centre</b>
<b>9 November 1999</b>	<b>Joondalup Civic Centre</b>
<b>23 November 1999</b>	<b>Wanneroo Civic Centre</b>
<b>7 December 1999</b>	<b>Joondalup Civic Centre</b>
<b>21 December 1999</b>	<b>Wanneroo Civic Centre</b>

- 2** in accordance with the Local Government Act 1995, give public notice of the meeting dates as detailed in 1 above.

The Motion was Put and

**CARRIED**

## **CJ06-02/99 WARRANT OF PAYMENTS FOR THE PERIOD TO 31 DECEMBER 1998 - [09882]**

WARRANT OF PAYMENTS TO JOINT COMMISSIONERS ON 9 FEBRUARY 1999  
INCORPORATING PAYMENTS FOR THE MONTH OF DECEMBER 1998

### **SUMMARY**

This report details the cheques drawn on the funds during the month of December 1998. It seeks Joint Commissioners' approval for the payment of the December 1998 accounts.

### **BACKGROUND**

<b>FUNDS</b>	<b>VOUCHERS</b>	<b>AMOUNT</b>
		\$ c
Director Resource Management Advance Account	5283-6323	8,366,046.68
Municipal	000068-000083	15,892,512.42
Trust	000006	102.90
Reserve Account	000009-000010	661,432.66
	<b>TOTAL</b>	<b>\$ \$24,920,094.66</b>

It is a requirement pursuant to the provisions of Regulation 13(4) of the Local Government (Financial Management) Regulations 1996 that the total of all other outstanding accounts received but not paid, be presented to Council. At the close of December 1998, the amount was \$621,707.12.

**CERTIFICATE OF THE DIRECTOR RESOURCE MANAGEMENT**

This warrant of accounts to be passed for payment, covering vouchers numbered as indicated and totalling \$24,920,094.66 which is to be submitted to each Joint Commissioner on 9 February 1999 has been checked and is fully supported by vouchers and invoices which are submitted herewith and which have been duly certified as to the receipt of goods and the rendition of services and as to prices, computations and casting and the amounts shown are due for payment.

.....  
J B TURKINGTON  
Director Resource Management

**CERTIFICATE OF CHAIRMAN OF COMMISSIONERS**

I hereby certify that this warrant of payments covering vouchers numbered as indicated and totalling \$24,920,094.66. submitted to the Joint Commissioners on 9 February 1999 is recommended for payment.

.....  
Commissioner Campbell Ansell

**ADDITIONAL INFORMATION**

The following corrections should be noted with regard to the Warrant of Payments:-

1. Cheque No 5916 (page no 13) - the creditors name should read "Collector of Public Monies - Centrelink".
2. Cheque No 6076 (page no 17) - the creditors name should read "Tint-A-Car".

This additional information did not alter the original recommendation.

**MOVED Cmr Clark-Murphy, SECONDED Cmr Buckley that the Joint Commissioners pass for payment the following vouchers, as presented in the Warrant of Payments to 31 December 1998, certified by the Chairman of Commissioners and Director Resource Management, and totalling \$24,920,094.66**

FUNDS	VOUCHERS	AMOUNT
		\$ c
Director Resource Management Advance Account	5283-6323	8,366,046.68
Municipal	000068-000083	15,892,512.42
Trust	000006	102.90
Reserve Account	000009-000010	661,432.66
	<b>TOTAL</b>	<b>\$ 24,920,094.66</b>

**The Motion was Put and**

**CARRIED**

Appendix IV refers

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**CJ07-02/99      FINANCIAL REPORT FOR THE PERIOD ENDED 31  
DECEMBER 1998 - [07882]**

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**GENERAL**

The Statutory and Management Reports for the six months ended 31 December 1998 are appended for consideration - Attachments A (Statutory) and B (Management) refer.

The Management Report (Municipal Fund Summary of Financial Activity), Attachment B-Segment 1, has been rearranged to more accurately reflect the operating position. The contributions for infrastructure assets and non operating income has been extracted from the operating statement and shown separately. Depreciation for infrastructure assets too has been shown separately. These amendments enable the operating position to be readily reflected.

With six months (or 50%) of the year expired revenue and expenditure trends are emerging.

**Revenues**

These areas are tracking within budget with interest earnings, interim rating and building license fees on target.

In accordance with accrual accounting concepts, rate revenue is brought to account when rates are levied (September 1998). This, therefore, reflects the income for the full year. Consequently, the comparison of YTD actual with YTD budget figures is distorted.

The Pensioners Deferred Rates Interest grant application is currently being processed and these funds should be received by the end of February 1999. The annual budget figure is \$49,500.

**Expenditures**

Operating expenditure for Strategic Planning is below the YTD budget figure as the donation to the aquatic facilities, Joondalup Arena, as yet has not been paid.

Operating and capital expenditure in Technical Services and Community Development directorates remain below YTD budget figures due to the following factors:-

1. Major engineering works which have not yet commenced or are only partly completed:-

**Technical Services**

Marmion Avenue Dualling

Kinross Southern Section - amount \$1.6m, work commenced - to be completed in June.

Mindarie Northern Section - Contract let for two underpasses, Road construction is programmed to commence in March.

Drainage (various locations)

Design in progress, works programmed for construction April/May.

Traffic Management (Craigie Drive and West Greenwood)

West Greenwood programmed for construction in April and Craigie Drive for May.

Hodges Drive Dualling (74% complete - completion January 1999)

2. Major building projects which are only part constructed:-

### **Community Development**

Woodvale/Kingsley Day Care Centre

Joondalup Lotteries House

### **BUDGET REVIEW**

A half yearly budget review effective 31 December 1998 will be submitted during February 1999. This review will take account of outstanding budget amendment requests submitted but not processed and the timing of actual expenditure against budget. Material variations, either over or under budget in excess of \$10,000 will be submitted.

### **RATES**

Rates **levied** for the year were \$33,285,813.

Rate collection as at 31 December 1998 was \$26,795,443 which represented 75.8% of the total rates due. While not a direct comparison the rate collection position at the corresponding period for the former City of Wanneroo in previous years was:-

1989/90	77.0%
1990/91	75.0%
1991/92	76.4%
1992/93	76.7%
1993/94	77.3%
1994/95	77.8%
1995/96	76.1%
1996/97	79.5%
1997/98	78.0%

In comparison with other local governments, the position at the end of December 1998 was:-

	Issue Date	Collection	Discount
Stirling	20/08/98	84.0%	6.0%
Canning	3/09/98	68.0%	-
Wanneroo	11/09/98	69.7%	5.0%
Bayswater	2/07/98	88.0%	-
Mundaring	26/07/98	90.0%	2.5%

Follow up action has been commenced on those properties where rates remain outstanding. 864 letters of intention to summons have been issued.

## **REFUSE**

The total refuse levied for 1998/99 was \$5,668,614 with total refuse outstanding at 31 December 1998 being \$333,994 indicating a collection of 94.3%. Again, while not a direct comparison collections in previous years for the former City of Wanneroo were:-

1990/91	93.8%
1991/92	93.8%
1992/93	94.0%
1993/94	93.8%
1994/95	94.9%
1995/96	94.9%
1996/97	95.0%
1997/98	93.2%

At the close of business on 31 December 1998 the City's records indicated 5,282 persons had elected to participate in the voluntary recycling scheme.

## **SWIMMING POOL INSPECTION FEES**

The amount levied for swimming pool inspection fees in the 1998/99 financial year was \$118,953. At 31 December 1998 \$5,766 or 4.9% remained outstanding.

Full details of rates, refuse and swimming pools are shown on Attachment B - segment 2.

## **INTEREST ON INVESTMENT**

The City's interest earnings to 31 December 1998 was \$1,185,751 compared to an annual budget of \$2,055,639. It is to be recognised that included in these figures is the earnings of \$550,704 on the Reserve Accounts.

At 31 December 1998 the City's investment portfolio was as follows:-

	\$	%
AMP Managed Treasury	12,112,055	18.72
Bankers Trust Cash Plus	11,605,521	17.93
Commonwealth Bank (CDA's)	592,448	0.92
CBA Cash Fund	15,117,289	23.36
NMFM Cash Enhanced	15,272,352	23.60
Trust West Treasury	9,845,484	15.21
Trust West Cash Enhanced	75,025	0.12
PBS (in liquidation)	95,266	0.14
	<b>\$64,715,440</b>	<b>100.00%</b>

A more detailed presentation of Council's investment portfolio at 31 December 1998 is shown on Attachment B - segment 3.

## BUILDING LICENCE FEES

Fees to 31 December 1998 were \$483,147 against a budgeted \$715,000. Given this trend budget estimates will be achieved.

## RECREATION FACILITIES

### Craigie Leisure Centre

In broad terms, the financial position for the Craigie Leisure Centre for the six month period ended 31 December 1998 was:

	Annual Budget	Year to Date Budget (50%)	Year to Date Actual
	\$	\$	\$
Administration	-		-
Pool	56,822	28,411	80,204
Sports/Functions	111,173	55,586	58,960
Fitness Centre	(238,053)	(119,027)	(74,275)
Aerobics	(52,609)	(26,305)	(19,782)
Kiosk	(34,113)	(17,057)	(14,350)
Creche	87,925	43,963	40,837
<b>Total Surplus/Subsidy</b>	<b>(\$68,855)</b>	<b>(34,429)</b>	<b>71,594</b>

Net subsidy \$71,594

The Council's budget provides for an operating surplus of \$68,855 for this complex for the whole of the 1998/99 year. At 31 December there is a subsidy of \$71,594.



The need for the subsidy is mainly due to the following contributing factors:-

### Aerobics

#### Revenue

Functions - hire fees	(2,245)	under budget
Special interest courses (dry program)	(8,647)	under budget
Circuit classes	3,390	over budget
	<u>(7,502)</u>	shortfall

### Fitness Centre

#### Revenue

Entrance fees	(7,575)	under budget
Gym membership fees	(26,063)	under budget
Circuit classes	(5,506)	under budget
Gym - private personal trainers	1,806	over budget
Gym programs	1,911	over budget
	<u>(35,427)</u>	shortfall

#### Expenses

Fixed asset depreciation	4,978	over budget
Loss on disposal of fixed assets	6,628	over budget

### Capital

Furniture and equipment major <i>*full year's purchases made</i>	*13,250	over budget
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An improvement in this position should occur over the next few months with the improvement in weather conditions and increase in patronage due to school holidays.

By way of comparison the net surplus for the corresponding period last year was \$22,130.

Attendances to 31 December 1998 were 396,368 compared with 372,086 for the corresponding period last year. This reflects an increase numbers of around 24,280.

### Leisure Centres

The operating position for the individual recreation centres for the six months ended 31 December 1998 was as follows:-

		Income	Expenditure	Council Contribution	Return
		\$	\$	\$	%
Ocean Ridge	BUDGET	304,400	346,979	42,579	87.7
	<b>YTD BUDGET</b>	<b>152,200</b>	<b>173,490</b>	<b>21,290</b>	
	ACTUAL	109,761	190,982	81,221	57.5
Sorrento/Duncraig	BUDGET	288,920	366,196	77,276	78.9
	<b>YTD BUDGET</b>	<b>144,460</b>	<b>183,098</b>	<b>38,638</b>	
	ACTUAL	129,960	196,360	66,400	66.2
Wanneroo	BUDGET	127,340	279,913	152,573	45.5
	<b>YTD BUDGET</b>	<b>63,670</b>	<b>139,957</b>	<b>76,287</b>	
	ACTUAL	52,022	116,245	64,223	44.8

Warwick	BUDGET	-	173,761	173,761	100.0
	YTD BUDGET		<b>86,881</b>	<b>86,881</b>	
	ACTUAL		94,707	94,707	100.0
<b>TOTAL</b>	<b>BUDGET</b>	<b>\$720,660</b>	<b>\$1,166,849</b>	<b>\$446,189</b>	<b>61.8</b>
	YTD BUDGET	<b>\$360,330</b>	<b>\$583,425</b>	<b>\$223,095</b>	
	ACTUAL	<b>\$291,743</b>	<b>\$598,294</b>	<b>\$306,551</b>	<b>48.8</b>

The Ocean Ridge Community Centre's Council contribution is \$60,000 over budget due to the following contributing factors:-

#### Revenue

Hire charges	(39,107)	under budget
Creche fees	(2,261)	under budget
Drop-in Jam Night	(6,968)	under budget
	<u>48,336</u>	shortfall

#### Expenses

Salaries/Wages	2,100	over budget
Salaries/Wages (special interest courses)	25,106	over budget
Building operating	11,844	over budget
Software purchases	(6,200)	under budget
Materials etc (special interest courses)	(9,386)	under budget
	<u>23,468</u>	over expended

### **RESERVE ACCOUNTS**

Aggregate account balances of Council's reserves at 31 December 1998 was \$29,935,597 as shown in Attachment B - segment 4.

### **TRUST FUNDS**

Balances at 31 December 1998 were:

Unclaimed Salaries and Wages	\$1,393
Unclaimed Monies	\$49,914
Yanchep/Two Rocks Community Bus	\$78,170

**MOVED Cmr Clark-Murphy, SECONDED Cmr Buckley that the Financial Reports for the period ended 31 December 1998 be noted.**

Discussion ensued.

**The Motion was Put and**

**CARRIED**

Appendix V refers

## **CJ08-02/99      OUTSTANDING GENERAL DEBTORS - 31 DECEMBER 1998 - [04881]**

### **SUMMARY**

This report shows the total outstanding general debtors as at 31 December 1998, together with their status and a comparison with the previous two months.

### **BACKGROUND**

A report covering the full detail relating to debtors is prepared for internal management controls and for follow up action.

### **DETAILS - SUMMARY OF DEBTORS**

Debtor Status	1998					
	DECEMBER		NOVEMBER		OCTOBER	
	Total O/S		Total O/S		Total O/S	
	\$	%	\$	%	\$	
Current	<b>370,890.72</b>	<b>6.63</b>	322,217.64	5.82	210,938.60	3.48
30 Days	<b>111,054.84</b>	<b>1.99</b>	66,295.42	1.20	70,691.52	1.19
60 Days	<b>46,413.42</b>	<b>0.83</b>	45,119.65	0.81	53,863.03	.89
90 Days	<b>468,778.67</b>	<b>8.38</b>	475,711.77	8.60	726,355.66	12.02
Deferred Debtors	<b>4,271,697.69</b>	<b>76.40</b>	4,299,742.69	77.72	4,639,411.90	76.84
Deferred Sporting Club Debtors	<b>322,931.22</b>	<b>5.77</b>	323,456.22	5.85	336,917.12	5.58
	<b>\$5,591,766.56</b>	<b>100.00</b>	\$5,532,543.39	100.00	\$6,038,177.83	100.00

### **DEFERRED DEBTORS**

The deferred debtors relate to:-

1. Bankruptcies on which dividends are pending.

	\$
· Onta Foods	335
· Signlite Australia	198
· Farmer Jacks Connolly	393
· Mainline Contracting	95
· WA Folk Federation Inc	1,116
· Plastic Recyclers	490

- 2      Accounts, the payment of which have been deferred in excess of 12 months.  
       \$
- a)      Ongar Investments (contribution to Berkley/Redcliffe Avenue intersection upgrade). 11,352
- b)      Allstate Acceptance Corporation (reimbursement of purchase of Water Tanks- account deferred until 30/11/2000) 6,993
- d)      Municipal Association of WA (Local Government House-equity) 14,712
3.      Debits raised for headwork levies on East Wanneroo Development Schemes - various cells.
- a)      Pacesetter Homes  
           East Wanneroo Development Cell 2 102,500  
           - awaiting Ministerial approval
- b)      RJ & HC Geary  
           East Wanneroo Development Cell 3 22,000  
           - awaiting Ministerial approval
- c)      Galea Building Company  
           East Wanneroo Development Cell 4  
           - awaiting ministerial approval on contribution 87,225
- d)      North Whitford Estate Pty Ltd  
           East Wanneroo Development Cell 5  
           - Minister of Planning is to determine a headwork levy for each developed lot 2,132,500
- e)      Citywing Nominees  
           East Wanneroo Development Cell 6 152,575
4.      Mindarie Regional Council - funds owing to the City for:-

Operational Surpluses -	
1994/95	\$649,603.15
1995/96	<u>\$541,014.17</u>
	<u>\$1,190,617.32</u>

Note

The 1997/98 surplus - \$567,333 - was received on 6 November 1998; and

Capital Advances \$548,575.

A review of the payment of the Operational surpluses :-

1994/95	\$649,603.15
1995/96	<u>\$541,014.17</u>
	<u>\$1,190,617.32</u>

was to have taken place in December 1998. This has now been delayed awaiting a number of consultants reports. It is now anticipated that a decision on the outstanding surpluses will be made at the Mindarie Regional Council meeting in April 1999.

### **Significant Changes Since the Last Report**

\$

#### **90 Days**

Included in the 90 days status, are the following outstanding amounts:-

Perth Bicycle Network (construction of local bike routes and regional recreation paths) Bikewest Government Grant for bicycle facilities as part of the Perth bicycle network project.	39,380
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Ministry of Sport and Recreation (construction Warwick Sports Club and Iluka Oval)	326,342
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1. Aquamotion and Craigie Leisure Centre swimming pools subsidies (2 x \$3000) for 1997/98. Claim has been lodged, following receipt of audited statements.
2. Community Sporting and Recreation Facilities Fund (CSRFF) grant for the construction of a multi use sportsground and clubrooms at Iluka (\$270,342.27). Ministry of Sport and Recreation has requested additional information from Strategic Planning in support of claim submitted.
3. CSRFF grant for Warwick Sports Club (\$50,000). Payment of \$37,500 (being 75% of amount claimed) has been approved at this time and should be received in January 1999.

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\$365,722

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### **DEFERRED SPORTING CLUB DEBTORS**

These accounts relate to loans obtained by the City on behalf of three sporting clubs, and which are being repaid over a period of years.

	\$
Quinns Rocks Bowling Club	15,647.98
Wanneroo Districts Rugby Union Football Club	47,412.28
Wanneroo Districts Basketball Association	259,870.96

**MOVED Cmr Clark-Murphy, SECONDED Cmr Buckley that the Joint Commissioners RECEIVE the Outstanding Debtors Report as at 31 December 1998.**

**The Motion was Put and**

**CARRIED**

**CJ09-02/99      AUTHORISATION OF REALLOCATION OF FUNDS -  
[06511]**

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**SUMMARY**

Various requests have been received for authorisation, in accordance with Section 6.8 (1) of the Local Government Act 1995, to incur unbudgeted expenditure. In most instances, a source of funding has been identified to accommodate the additional expenditure. A number of necessary adjustments to the budget estimates have also been identified. These are detailed on Attachment 'A' to this report.

The Joint Commissioners will be aware that the Local Government Act 1995 makes specific provisions relating to expenditure from the Municipal Fund not included in the annual budget:-

- “6.8 (1)      A local government is not to incur expenditure from its municipal fund which is not included in its annual budget except where the expenditure:-
- (a)    is incurred in a financial year before the adoption of the annual budget by the local government;
  - (b)    is authorised in advance by resolution\*; or
  - (c)    is authorised in advance by the Mayor or President in an emergency.

**\*Absolute majority required.**

- 6.8 (2)      Where expenditure had been incurred by a local government:-
- (a)    pursuant to subsection (1) (a), it is to be included in the annual budget for that financial year; and
  - (b)    pursuant to subsection (1) (c), it is to be reported to the next ordinary meeting of the Council”.

While the Local Government (Financial Management) Regulations 1995 specifically requires comparatives with the **original** budget estimates, it has been adopted practice, for budgetary control purposes, to have “revised budget figures” which reflect the reallocations adopted each month.

In some instances the necessity to seek a reallocation of funds is to accommodate oversights during budget preparation or to include items which have eventuated since budget adoption. Other requests represent a re-assessment of priorities. In each instance, brief explanations have been provided by the respective Directorates and these are duplicated within the schedule.

The budget adjustments listed in Attachment 'A' add \$3,780 of available miscellaneous revenue to the budget position.

This year it was agreed that the City of Joondalup Budget is compiled on the basis of 'one line appropriations' rather than appropriations for expense types. This effectively reduces the number of budget reallocations each month. Unfortunately it was not possible to dispense with budget reallocations entirely, especially in the area of Salaries and Wages and Contract Labour.

**MOVED Cmr Clark-Murphy, SECONDED Cmr Buckley that the Joint Commissioners AUTHORISE, in accordance with the provisions of Section 6.8 (1) of the Local Government Act 1995, amendments to the "revised budget figures" of the 1998/99 Budget as detailed in the Schedule of Budget Reallocation Requests - December 1998.**

**The Motion was Put and**

**CARRIED BY AN  
ABSOLUTE MAJORITY**

Appendix VI refers

## **CJ10-02/99      1998/99 RATE DISCOUNTS - [04267]**

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### **SUMMARY**

As an integral component of its 1998/99 budget the City of Joondalup offered a 5% discount if rate payments were received by the close of business on 9 October 1998. There were approximately 350 payments made after this date on which the discount was claimed, albeit that the amounts were received after the "cut off" period.

This report lists properties where payments of rates/refuse were received after the discount period but where for various reasons, the discount could be permitted.

It recommends that the amount of \$197.59 be written off.

### **BACKGROUND**

As the Joint Commissioners will be aware, ratepayers were, this year, permitted to claim a 5% discount on rates if payments were received prior to the close of business on 9 October 1998. This rate payment scheme was imposed in accordance with the provisions of Section 6.45 of the Local Government Act 1995 and the details were included in the 1998/99 budget.

There were approximately 350 payments made after this date, on which the discount was claimed albeit that the amounts were received after the “cut off” period.

Letters were sent to each of these persons, advising that the 5% discount could not be applied and that payment for the shortfall must be made by 4 December 1998.

While there is no provision for the Joint Commissioners to amend or use discretion in extending the time in which discounts could apply, the provisions of Section 6.12 (1) (c) of the Local Government Act 1995 do permit the Joint Commissioners, **BY AN ABSOLUTE MAJORITY**, to write off any amount which is owed to the local government. If this option were favoured in relation to the 350 late payers, the figure to be written off would be approximately \$11,000. This course of action is not recommended.

## **DETAILS**

As has occurred in past years with the City of Wanneroo all envelopes in which rate payments were received were kept for the 7 days following the 9 October 1998 “cut off”. As all envelopes are date stamped by Australia Post this strategy assists in resolving a large percentage of the disputes received.

## **COMMENT/FUNDING**

Council has received a number of written and verbal requests from ratepayers whose payments of rates/refuse were not received until after the due date of 9 October 1998, seeking a waiver of the outstanding discount amount of which, on average, is approximately \$25.00. The majority of these could not be supported for write off as they clearly were received after the “cut off” and the envelope was stamped by Australia Post after the time for eligibility for the discount. There are a few, however, where there is some doubt and where the discount could be applied (or more correctly the discounted amount written off). These are shown on Attachment ‘A’ to this report.

This attachment segregates the various complaints into two categories.

### **Category ‘A’**

Those ratepayers who claim their rate payment was mailed allowing the standard delivery time and their payment was not received until after 9 October 1998. In these cases the payment envelopes have not been date stamped by Australia Post and as a result the date of mailing cannot be ascertained.

The total amount contained in this category is \$133.76

Refer Attachment A for details.

### **Category ‘B’**

Those ratepayers who mailed their payment to the City in the reusable envelope in time for it to be received by the “cut off” date, however Australia Post mailed the payment back to the sender instead of forwarding it to the address as per the envelope.



The total amount contained in this category is \$63.83.

Refer Attachment B for details.

In view of officers being unable to categorically confirm the dates on which the rate payments were received following the “cut off” date, it is considered appropriate that the Joint Commissioners write off these amounts. The total amount by category is:-

Category ‘A’	133.76
Category ‘B’	63.83
	<u>\$197.59</u>

**MOVED Cmr Clark-Murphy, SECONDED Cmr Buckley that the Joint Commissioners, in accordance with Section 6.12 (1)(c) of the Local Government Act 1995, write off \$197.59 in rates levied as detailed in Attachments A and B to Report CJ10-02/99.**

**The Motion was Put and**

**CARRIED BY AN  
ABSOLUTE MAJORITY**

Appendix VII refers

## **CJ11-02/99      MINDARIE REGIONAL COUNCIL - ESTIMATED SURPLUS TO 30 JUNE 1998 - [03149W]**

### **SUMMARY**

To enable the books of account to be finalised for 30 June 1998 and the carried forward balance ascertained the former City of Wanneroo sought in June 1998 from the Mindarie Council an estimate of its share of the Mindarie Regional Council’s 1997/98 operating surplus.

The figure advised was \$839,500 and this was consequently raised as a Sundry Debtor at 30 June 1998. The actual figure was \$567,333.30 - representing an overcharge of \$272,066.70.

Pursuant to the provisions of Section 6.12(1)(c) of the Local Government Act 1995 this amount is presented to the Commissioners for write off.

### **BACKGROUND**

Due to its current pricing structure for tipping fees the Mindarie Regional Council has traditionally made a surplus each year, which is distributed amongst the member Councils in proportion to the tonnage tipped. Towards the end of June each year the former City of Wanneroo was advised of the amount of the anticipated surplus attributable to the City.

This debt was then raised as a sundry debtor. In accordance with accrual accounting requirements this debt was brought to account at 30 June to reflect the true current assets position.

## **DETAILS**

Towards the end of June 1998 the Mindarie Regional Council supplied the former City of Wanneroo with an estimated figure for the 1998 surplus of \$839,400. An invoice was then raised to record this debt.

When the actual amount was received from the Mindarie Regional Council in November 1998, following receipt of its audited statements, the figure was \$567,333.30.

On checking the discrepancy with the Mindarie Regional Council, it was found that the figure given to the City of \$839,400 was that estimated at 30 April 1998.

The discrepancy between the estimated surplus of \$839,400 and the actual surplus of \$567,333.30 was brought about by the following additional expenditure during May/June 1998:-

- increase in capping provision
- increase in amortisation provision
- additional operating expenses

## **COMMENT/FUNDING**

The discrepancy between the estimated and actual figures, means that the sundry debtors as at 30 June 1998 were overstated by \$272,066.70 hence the surplus allocated to the Refuse Reserve (the domestic refuse surplus is transferred to the Refuse Reserve at 30 June so as not to "cushion" the rates) was overstated. This amount now needs to be written off to reflect the true position.

Pursuant to the provisions of Section 6.12 (1)(c) of the Local Government Act 1995, a local government may, by absolute majority, write off any amount of money.

**MOVED Cmr Clark-Murphy, SECONDED Cmr Buckley that the Joint Commissioners, in accordance with the provisions of Section 6.12(1)(c) of the Local Government Act 1995, write out of the General Debtors Ledger an amount of \$272,066.70, representing the discrepancy between the estimated and actual surplus provided by the Mindarie Regional Council and that the books of the City be amended accordingly.**

**The Motion was Put and**

**CARRIED BY AN  
ABSOLUTE MAJORITY**

**CJ12-02/99      FIRE SERVICE LEVY - [31229J]**

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## **SUMMARY**

The purpose of this report is to inform the Joint Commissioners of the impact of the Fire Service Levy which comes into force from 1 July 1999. The Fire Service Levy will replace the current insurance-based system which in recent times has been found to be inequitable. The levy will be based on the Gross Rental Value (GRV) of all properties within the Permanent Fire District. For the City this includes all properties, including those owned by churches, government bodies and vacant land. The introduction of the levy will impact on the operations of the Rating Services section as additional values and new assessments will need to be administered and created in order to raise the required levy.

## BACKGROUND

In November 1997 Report FA202-11/97 of the former City of Wanneroo outlined issues associated with the funding arrangement for the Fire Service Levy and the necessary changes to procedures and systems which would be required to raise this levy with the annual rates. This report will expand on this and discuss individual issues which need to be addressed prior to 1 July 1999, to ensure the accurate application of the levy.

In the past the Fire and Rescue Service was funded from 3 sources:-

12.5% Local Government

12.5% State Government

75% through a levy on insurance policy holders (property only) insuring within WA

These funding arrangements have, over the years, been constantly under review. Many considered the insurance-based levy was inequitable for the following reasons:

Large corporations currently hold insurance policies “off shore” and as a consequence were not contributing to the levy. As the new levy is based on the valuation of the properties owned by these corporations, they will no longer be exempt.

Persons who were **not insuring** their property did not contribute to the levy. Some property owners gamble with the risk of their property being destroyed by fire and therefore do not insure their property. With the new levy being based on the property valuation, they can no longer avoid payment of the Fire Service levy.

Persons who **under insured** their property did not make a proper and adequate contribution to the levy. Once again being a property valuation based levy, these people will contribute more equitably to the operation of the Fire and Rescue Service.

Persons owning vacant land did not contribute towards the levy. Most owners of vacant land do not insure their properties against fire and other damage and are therefore not currently contributing towards the levy. This will change as the property based levy will affect all vacant land within the Permanent Fire Districts.

In addition, the 12.5% Local Government contribution was also considered inequitable as it was levied on **all** ratepayers and not merely those with properties located within the Metropolitan Fire District.

These shortcomings in the existing insurance-based funding arrangement was the main reason for the State Government deciding to change the system. It will be replaced from 1 July 1999

with a scheme which ensures that **all** property owners in the Metropolitan Fire District pay a contribution based on the Gross Rental Value (GRV) of their property.

## DETAILS

Council has been advised by the Minister for Emergency Services that Cabinet formally approved the introduction of the Fire Service Levy to come into effect on 1 July 1999.

The introduction of the Fire Service Levy will:

- replace the current insurance based Fire Levy;
- abolish the current LGA 12.5% Fire Service Precept. The City of Joondalup's allocation this financial year is \$664,646;
- the City of Joondalup's Fire Service Levy payment will be assessed on the total GRV for all property owned by the City. The Valuer General will provide GRV's for the City owned improved property. Each local government will be required to raise notices for its own properties and will be required to make direct payments to the Fire and Rescue Service in accordance with the instalment plan on offer by Council;
  - be based on property GRV
- not all properties in the Fire District are currently rated on GRV, so these extra values will be provided by the Valuer General's Office. The cost of initially obtaining these valuations will be borne by the Fire and Rescue Service, however in subsequent years the City of Joondalup will be charged for receiving revaluations;
  - be subject to a 10% contribution by the State Government in the first year on behalf of core Government Departments and Agencies, and thereafter be paid on a GRV equivalent basis;
- this means the State Government bodies (schools, police, etc) will be exempt in the first year.
  - the Commonwealth government already contributes to the Fire and Rescue Service under an existing agreement which expires in June 2000. Negotiations will commence in the next twelve months to have future payment arrangements brought into line with those of local and state governments.
- leased Commonwealth properties will be required to pay the fire service levy and the lessee will be required to pay if he is already required to pay local government rates;
  - be collected from all properties that lie within the boundaries of the Permanent Fire Districts. For each Fire District a separate levy will be determined
- all properties within the City of Joondalup are in the Permanent Fire District. The City will be advised by the 10th May each year of the rate in the \$ for the Levy and how it will apply;
  - apply to all organisations currently exempt by legislation from Government rates, taxes, fees and charges
- valuations are not currently held for these properties however these will be supplied by the Valuer General's Office. The cost of initially obtaining these valuations will be borne by the Fire and Rescue Service, however in subsequent years the City of Joondalup will be charged for receiving revaluations.
  - apply to private property that is currently exempt from rates under Section 6.26 of the Local Government Act 1995;

- this will include all private schools, hospitals, churches and properties held or used by charitable organisations. The cost of initially obtaining these valuations will be borne by the Fire and Rescue Service, however in subsequent years the City of Joondalup will be charged for receiving revaluations;

not be subject to pensioner rebates or deferments

- in the first year it is proposed that no concessions will be available, although this may be changed in subsequent years. For some pensioners this may result in higher payments as their current insurance policies may be discounted to take into effect their pensioner status;

be raised by Local Governments by inclusion on the existing General Rates Notice as a separate line item clearly identified as a "State Government Charge" or may be forwarded on a separate notice

- ratepayers will more than likely see the levy as an increase in their rates. Some confusion currently exists regarding refunds of FSL already paid with insurance premiums, however the insurance industry has agreed to reimburse the 'overpaid' portion. The Fire and Rescue Service will deal with enquiries regarding policy and technical issues. If raised on a separate notice instalment payments will only be available for amounts over \$200. While the issuance of a separate notice may alleviate some of the ratepayer "backlash" which is expected it would prove to be more costly;

be collected by Local Government and remitted to the Fire and Rescue Service, as collected, on a monthly basis

- the Fire and Rescue Service has advised how payments should be acquitted against outstanding rates. This is a variation on the current payment hierarchy being utilised and takes precedence over general rates payments. Local governments will be required to pursue outstanding FS levies and penalties will be imposed. Interim rating will also apply to the FS Levy when the change in valuation is effective from 1 July in each financial year;

be subject to the payment to all local governments of a total recurrent administrative fee totalling \$1.4M in 1999/2000 for administration costs in administering the service. This will be in addition to any establishment costs that will be fully funded by the Fire and Rescue Service

- the City of Joondalup will receive an estimated \$138,300 in 1999/00 which equates to \$2.50 per rate assessment and approximately \$31,000 to set up the system. The Fire and Rescue Service will also bear all costs associated with computer software changes, requirement for additional valuations and has already commenced a publicity campaign to ensure all property owners affected are aware of the changes.

It is proposed to make changes to the Local Government Act 1995 and other associated legislation. This will be presented to Parliament during the 1999 Autumn session.

## **COMMENT/FUNDING**

As the whole City district is covered within the Metropolitan Fire District, all properties will contribute by way of a levy.

A number of issues have been identified from the evaluation of the introduction of the Fire Service Levy:-

1. Although the City will be paid \$2.50 per assessment for the administration of the levy, the actual cost may be higher. Currently it costs the City \$2.50 per payment made through the Commonwealth Bank and if ratepayers pay by credit card a percentage is charged. Should ratepayers choose to pay their Fire Service Levy through the bank separate to their rates, then the City will only be reimbursed the \$2.50 which is equivalent to the bank collection fee. While this method of payment is a possibility, the likelihood is remote as payment would normally be made altogether.
2. The administration of new valuations required to raise the levy will impact on the operations of the Rating Services sub-unit. As some properties are currently being rated on Unimproved Valuations and the Fire Service Levy Scheme requires Gross Rental Valuations, additional work will be required to maintain the values. Valuations will also be required for non-rateable and government owned properties.
3. It is anticipated as the FS Levy will be raised with the General Rates and forwarded on the City's rate notice, the majority of queries will be directed to this office, despite assurance by the Fire and Rescue Service that a major advertising campaign will be undertaken prior to 1 July 1999. It can be expected that the increase in 'rates' will not be welcomed by ratepayers and the influx of calls may impact adversely on existing resources.
4. The administrative requirements of the Fire Service Levy will also create extra work for staff. The amounts collected need to be remitted on a monthly basis and the additional accounting requirements are quite onerous. The requirement to pursue tardy payers will also increase the burden on an already overstretched Rating Services sub-unit.

It is anticipated that with the introduction of the FS levy additional staff **will be** required, not only in the lead up to 1 July 1999, but also after this time to ensure the smooth operation of the scheme.

5. From recent discussions with ratepayers who have contacted their insurance company following media coverage of the FS levy, it is apparent that negotiations with insurance companies in relation to refunding policy holders has not yet commenced. These negotiations will be required prior to 1 July 1999, with refunds being processed prior to the 1999/2000 Rate Notices being issued, otherwise ratepayers may be reluctant to pay the increased amount.
6. The City needs to be proactive regarding the media campaign which is to operate in the lead up to the introduction of the Levy. It will also need to address how the Rate Notices and associated literature will convey the information to the City's Ratepayers to ensure an understanding that the levy is a State Government charge.
7. The City should support WAMA in lobbying the State Government if the imposition of the levy and administration of the scheme are found to be inappropriate or costly for Local Governments. This will involve noting any incidences where difficulties arise during the first year of operation. A record will be made of all problems encountered during the first year of operation and submitted for review.

8. Because of the additional costs associated with the issue of a separate notice for the Fire Service Levy, the levy should instead be included as a line item, on the normal rate notice.

**MOVED Cmr Clark-Murphy, SECONDED Cmr Buckley that the Joint Commissioners:**

- 1 NOTE the details of the new Fire Service Levy;**
- 2 APPROVE the inclusion of the Fire Service Levy as a line item on the normal rate notice;**
- 3 ENDORSE planning and preparation for the introduction of the levy in the 1999/2000 draft budget;**
- 4 SEEK Western Australian Municipal Association support for a review of the scheme's effectiveness.**

**The Motion was Put and**

**CARRIED**

<b>TECHNICAL SERVICES SECTION</b>
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**CJ13-02/99 ROAD SAFETY & PARKING STRATEGY -  
CURRAMBINE PRIMARY SCHOOL - [07384J]**

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**SUMMARY**

Progress towards adoption of a safety and parking strategy for Currumbine Primary School is nearing completion. The Education Department is now seeking a contribution towards funding construction of an on site parent car park. Consideration is also been given to the installation of limited parking bans around the school to increase pedestrian and motorists safety. Details of the Safety and Parking Strategy are presented for approval.

**BACKGROUND**

Road safety and parking at Currumbine Primary School have been a concern to the school and local community for some time. In December 1996, a meeting was held between the Education Department, parent representatives and Council Officers to discuss proposals to improve parent parking adjacent to the school in Ambassador Drive (formerly Paddington Avenue) prior to the school opening. At that time the Education Department committed itself to further investigate the provision of an on site parent parking facility at the school. Currumbine Primary School was subsequently opened in February 1997.

In March 1998 another meeting was held to discuss progress towards providing additional parent parking and the growing concerns in relation to parent parking on roads surrounding the school. The Education Department indicated that progress towards providing an on site



parking facility was being made and that various options would be submitted for consideration in due course.

Concomitant to this the City had taken steps to ensure that the extension of Ambassador Drive and the development of the adjacent Public Open Space included the provision of kerbside parking embayments. This was to maximise the amount of on street parent parking for the school. On street parking embayments have been provided on Ambassador Drive (10) and east of the Public Open Space on Carlton Turn (26). An additional 12 parking embayments have been constructed on Ambassador Drive adjacent to the school by the developers (Landcorp).

In June 1998 the City received a 16 signature petition from residents of Regency Court requesting the installation of parking prohibition signs to ban parent motorists from parking in their street.

A report on this matter was later presented to the August 1998 meeting of the Joint Commissioners (item number CJ85-08/98 refers). It was resolved to defer consideration of the installation of parking prohibitions adjacent to the school. The prohibitions were to form an integral part of an overall Road Safety and Parking Strategy for the school. Development of the proposal for an on site parent car park and consultation with the local community was also required.

In November 1998, a draft parking prohibition proposal was circulated to residents on Ambassador Drive, Regency Court and Astoria Court for comment, as shown on Attachment 1. In December 1998, the Education Department submitted a proposal to construct an on site parent car park. The Education Department is seeking a 50% funding contribution from the City for this project.

## **DETAILS**

### **On site car park**

The Education Department has submitted a proposal to construct an on site parent car park within the Currambine Primary School. A copy of the proposal is shown on Attachment 2.

The Education Department has stated in its submission that for the project to proceed, a commitment from the City to fund the project on a dollar for dollar basis is required. The project is estimated to cost \$70,000 which would require a \$35,000 contribution from the City.

To date \$51,500 has been expended or committed for expenditure by the City to provide infrastructure for the Currambine Primary School. This includes \$20,000 for the construction of a dual use path and pedestrian crossing on Moore Drive. An additional \$16,500 is currently listed in the 1998/99 Capital Works Budget for the extension of the existing DUP to Christchurch Drive. An amount of \$15,000 is to be listed for the provision of additional embayments adjacent to the school on Ambassador Drive.

Generally the City would seek a 50% funding contribution from the Education Department for the construction of on street parking embayments. Funding contributions for on site or off street parking would require special consideration and may, if approved, create a precedent for other contributions to the City's other 35 existing Government Primary Schools. The former

City of Wanneroo had previously contributed to funding on a special needs basis of an off street car park in Trenton Way at Davallia Primary School. This was on the basis that the school has limited road frontage and that the facility would improve safety on the public road and pedestrian facilities.

Notwithstanding this the preferred option may be for the City to fully fund the on street parking embayments subject to the Education Department fully funding the off street parking component of the Safety and Parking Strategy..

### **Parking prohibitions**

As part of the development of a Safety and Parking Strategy for Currambine Primary School, a parking prohibition proposal for those roads in the vicinity of the school which are affected by parent parking was circulated to residents, parents and the school for comment. Two proposals were put forward, an interim proposal and an ultimate proposal. The proposals and covering letter are shown on Attachment 1.

The parking plans presented in the letter to parents and residents are based on the City's current practice at other schools. The aim of this is to balance the requirements of residents within the vicinity of the school with those of the parents and students. Generally, the City's Ranger Services can be contacted to address concerns regarding property access as these are not normally sign posted.

In this instance both proposals are intended to restrict parking in Regency Court and Astoria Court during peak times. The interim proposal would allow for limited parking for residents, visitors and parents during these times while maintaining access to residential properties along these roads. This proposal is intended to balance both the needs of residents and parents in the short term, while ensuring a high level of safety for pedestrians. The statutory 'NO STANDING' areas would also apply, however to avoid a proliferation of signs, these areas would not be sign posted at this stage.

The ultimate proposal would totally ban parking and not allow any parking for residents, visitors or parents during peak times. This proposal is dependent on the provision of additional or off street parking at the school.

Of the 16 households surveyed, 4 responses have been received. Three Regency Court residents strongly supported a total ban shown on the ultimate proposal, while the remaining respondent felt that parking bans other than the statutory prohibitions were unnecessary. No responses were received from residents of Astoria Court. The location of the respondents is shown on Attachment 3.

The school has indicated that it would support the installation of parking bans subject to the provision of an on site car park.

Ranger Services have also indicated that an investigation of the parking situation at the school did not establish an urgent requirement for parking prohibitions.

## **COMMENT/FUNDING**

### **On site car park**

Parent parking at schools has been a concern for some time and is not isolated to one or two schools but could equally apply across all schools within the municipality. The major concern to Local Government is that the Education Department should provide adequate off street parking for its own needs, like any other private developer.

Notwithstanding this, it is likely that if the City provided a contribution to fund construction for an off street car park that a precedent may be set, opening up the way for similar proposals at other schools. On this basis, a funding contribution for construction of an on site car park is not supported.

However, commitment to list funding of the additional embayments on Ambassador Drive in the 1999/2000 Capital Works Budget as a high priority is supported

### **Parking prohibitions**

Since no responses were received from Astoria Court, it is proposed that prohibitions will not be installed in this street at this stage.

The installation of the interim proposal applicable to Regency Court as shown on Attachment 4 is supported to improve safety and access. In addition to this, the carriageway adjacent to the two driveways not covered by the prohibition should be marked "NO STANDING" for the extent of the statutory limit. A review of the parking patterns and bans could be undertaken following construction of the on site car park.

It should also be noted that while these measures, if adopted, will improve safety and parking around the school, further development of the safety and parking strategy will be required.

**REPORT RECOMMENDATION:** That the Joint Commissioners:

- 1 DO NOT contribute to the construction of an off street parent car park at the Currambine Primary School;
- 2 LIST as a high priority in the 1999/2000 Capital Works Budget, funding for construction of additional on street parking embayments adjacent to Currambine Primary School in Ambassador Drive;
- 3 APPROVE installation of 'NO PARKING' signs in Regency Court as shown on Attachment 4 to Report CJ13-02/99;
- 4 ADVISE all interested parties accordingly.

**MOVED Cmr Morgan, SECONDED Cmr Clark-Murphy that the Joint Commissioners:**

- 1 **DO NOT contribute to the construction of an off street parent car park at the Currambine Primary School;**

- 2 LIST as a high priority in the 1999/2000 Capital Works Budget, funding for construction of additional on street parking embayments adjacent to Currambine Primary School in Ambassador Drive;**
- 3 APPROVE the installation of ‘NO STANDING ANYTIME - 7.30 AM TO 9.00 AM AND 2.30 PM TO 4.00 PM’ signs on both sides of Regency Court as shown on Appendix XVII hereto;**
- 4 ADVISE all interested parties accordingly.**

To alleviate the problem in Regency Court, Commissioner Morgan considered it essential to have “No Standing Anytime” within the hours of 7.30 am to 9.00 am and 2.30 pm to 4.00 pm covering the whole of the road way of Regency Court, rather than a portion of the road way as indicated in the original recommendation.

**The Motion was Put and**

**CARRIED**

Appendices VIII and XVII refers

Items CJ14-02/99 to CJ19-02/99 inclusive were Moved by Cmr Morgan and Seconded by Cmr Buckley. Cmr Morgan gave notice of his intention to speak Item CJ19-02/99.

## **CJ14-02/99 PROPOSED CLOSURE OF BADRICK STREET, WARWICK [05378J]**

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### **SUMMARY**

Main Roads WA has requested the City to consider modification of the four way intersection of Beach Road, Badrick Street and Belvedere Road in order to improve safety at the intersection. Several options have been considered and a trial road closure of Badrick Street at Beach Road is recommended.

### **BACKGROUND**

In December 1997, Main Roads WA advised that the District Police Office, Joondalup had highlighted its concerns with the number of vehicle conflicts at the four way, stop sign controlled intersection of Beach Road, Badrick Street and Belvedere Road, Warwick. As Belvedere Road and Badrick Street are not aligned a slight offset occurs at the intersection. Drivers turning right from Badrick Street into Beach Road face a head on conflict with vehicles that travel north on Belvedere Road and wish to continue straight ahead into Badrick Street.

This intersection is the only four way intersection on Beach Road not under traffic signal control. In the past five years there have been fifteen recorded crashes of which eight involved injuries. Main Roads WA has advised that it has no plans to install traffic signals, and it is unlikely that this intersection would ever be ranked a high enough priority to be considered for the installation of traffic signals.

## **DETAILS**

The City, in conjunction with the City of Stirling has considered several options to improve safety at this intersection. The options include, intersection realignment, full or partial median closure, banning right turns from Badrick Street, full or partial closure of either Badrick Street or Belvedere Road. All but the intersection realignment option would involve some restrictions to residential access, however alternative routes could be provided in each case.

Main Roads WA consider that the closure of Badrick Street is the most suitable option. A plan showing the proposed road closure is shown on Attachment 1. Under this proposal, the road reserve would remain and a dual use path would provide pedestrian and cyclist access between Badrick Street and Beach Road. The City of Stirling wishes to keep Belvedere Road with full access as it leads to several community facilities.

In view of the possible impact of a road closure on local residents, a copy of the plan has been circulated to all residents on Badrick Street, Barnsbury Road, Churton Crescent and Beck Place for initial comment. At the close of the comment period, 15 submissions had been received. The submissions were split 8-7 in favour of the proposed road closure. Generally, those residents opposed to the road closure were concerned with the redirection of traffic onto Dorchester Avenue. The extent of the area surveyed and the location of the responses are shown on Attachment 2.

## **COMMENT**

While the concerns of those residents who oppose the road closure are noted, this appears to be a practical and cost effective option that is supported by Main Roads WA. It is anticipated that the safety improvements by removing the four way intersection will more than compensate for the minor changes to the existing level of residential access. It is proposed that a trial closure of Badrick Street be implemented for a period of six months.

The process for bringing about a road closure is specified in the Local Government Act 1995. In accordance with the Act, a local government may order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles. Before it makes an order the local government is to give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when and why it would be closed, and inviting submissions from any person who wishes to make a submission. In addition, written notice must be given to the service authorities and emergency services as detailed in the Act.

**MOVED Cmr Morgan, SECONDED Cmr Buckley that the Joint Commissioners:**

- 1           INITIATE the proposed trial road closure of Badrick Street at the intersection of Beach Road as shown on Attachment 1 to Report CJ14-02/99;**
- 2           ADVISE the residents accordingly.**

**The Motion was Put and**

**CARRIED**

Appendix IX refers

## **CJ15-02/99       PARKING PROHIBITIONS - MERRIFIELD PLACE, MULLALOO - [00292J]**

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### **SUMMARY**

The City has received a number of requests from residents of Merrifield Place to amend the existing parking prohibitions in this street. On this basis, a review of the existing parking prohibitions in Merrifield Place has been completed. It is proposed to extend the existing “No Parking Anytime Carriageway or Verge” prohibition in front of two residential properties and the amended parking prohibitions are presented for approval.

### **BACKGROUND**

At its April 1995 meeting, the former Council of the City of Wanneroo considered a proposal to introduce a limited parking ban in Merrifield Place, Mullaloo. This followed many years of complaints in regard to parking and litter generated by the number of beachgoers parking in Merrifield Place. At that time the former City of Wanneroo Councillors resolved to approve parking prohibitions, these prohibitions were later amended in September 1996. These prohibitions are as shown on Attachment 1.

Since 1996, a number of residents have requested minor amendments to the existing parking prohibitions. The Local Laws in relation to Parking Facilities were amended to ban parking on a verge without the consent of the adjacent land owner.

More recently, a number of residents received parking infringements for parking on the verge adjacent to their own properties. This matter and the previous requests have prompted a review of the existing parking prohibitions.

### **DETAILS**

In view of the changes to verge parking under the Local Laws, a proposal to revoke the existing verge parking ban, while maintaining the existing carriageway ban was circulated to all residents for comment. The proposal would allow residents and their visitors to park on their own verge, while ensuring safe traffic flow at all times. It was also proposed to extend the existing carriageway ban adjacent to Lots 14 and 15. As shown on Attachment 2.

Of the residents surveyed, 4 responses have been received. Two supported the extension of the existing carriageway ban but opposed revoking the existing verge parking ban. The remaining two responses supported the proposal in total.

### **COMMENT/FUNDING**

In view of the comments received from residents, the extension of the existing carriageway ban adjacent to Lots 14 and 15 is supported. However, revoking the existing verge parking ban is not supported at this time since it received support from only two residents.

**MOVED Cmr Morgan, SECONDED Cmr Buckley that the Joint Commissioners:**

- 1 AMEND the existing 'NO PARKING ANYTIME CARRIAGEWAY OR VERGE' prohibition in Merrifield Place to include the area adjacent to Lots 14 and 15 as shown on Attachment 2 to Report CJ15-02/99;**
- 2 ADVISE the residents accordingly.**

**The Motion was Put and**

**CARRIED**

Appendix X refers

### **CJ16-02/99 PETITION REQUESTING INSTALLATION OF A ROUNDABOUT AT THE INTERSECTION OF WHITFORDS AVENUE AND NORTHSHORE DRIVE, HILLARYS - [16988J, 08496J]**

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### **SUMMARY**

A petition requesting the installation of a roundabout at the intersection of Northshore Drive and Whitfords Avenue, Hillarys was presented to the 10 November 1998 meeting of the Joint Commissioners. It is proposed to seek Black Spot funding for a roundabout at this location and list as a high priority in the draft 1999/2000 Budget the City's contribution of \$70,000.

### **BACKGROUND**

A 57 signature petition was presented to the 10 November 1998 meeting of the Joint Commissioners (Item C19-11/98 refers). Residents are concerned at the number of accidents that occur at this junction, in particular the fatal crash which occurred in October 1998.

The existing tee junction is GIVE WAY controlled. The speed limit is 80 kph on all approaches. In the five years to 6 November 1998 there were 32 crashes, including the fatal crash, recorded at this intersection.

The construction of the second carriageway of Whitfords Avenue, Endeavour Road to Flinders Avenue, is currently listed for the 2001/2002 financial years of the City's Five Year Forward Plan. This project depends on the increase in traffic volumes and funding from the Metropolitan Local Road Fund.

## DETAILS

A meeting was held on 6 November 1998 with Rob Johnson MLA, Main Roads and the City to discuss the residents' concerns. At the meeting it was agreed that the City would apply for Federal Road Safety Black Spot funding for a roundabout at the intersection as shown on Attachment 1. This funding is available for sites where it is considered that a significant cost benefit ratio can be achieved by the application of a traffic management treatment.

Applications to receive funding in the 1999/2000 financial year closed in December 1998. Successful applicants are expected to be notified in June 1999.

The City submitted an application for \$200,000 of Federal Road Safety Black Spot funding in November. However, Main Roads advised that for a significant cost benefit ratio to be achieved, a contribution to the cost of the roundabout would be required. It was agreed that the City would put forward a contribution of \$70,000 as a high priority in the 1999/2000 Budget deliberations. Therefore, the City amended the amount requested from the Federal Road Safety Program to \$130,000.

## COMMENT/FUNDING

A roundabout at the intersection of Northshore Drive and Whitfords Avenue, Hillarys would address the residents' concerns. The Federal Road Safety Program can assist with funding for the roundabout and a contribution, by the City, to the construction of a roundabout is considered to be appropriate. The City's contribution of \$70,000 to this project can be listed as a high priority in the draft 1999/2000 Budget.

**MOVED Cmr Morgan, SECONDED Cmr Buckley that the Joint Commissioners:**

- 1 LIST as a high priority in the draft 1999/2000 Budget the sum of \$70,000 for a contribution to a roundabout at the intersection of Northshore Drive and Whitfords Avenue, Hillarys;**
- 2 ADVISE the petitioners accordingly.**

**The Motion was Put and**

**CARRIED**

**CJ17-02/99 PETITION OBJECTING TO THE PROPOSED  
TRAFFIC MANAGEMENT SCHEME FOR  
WARBURTON AVENUE, PADBURY - [00099J]**

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## SUMMARY

A 16 signature petition has been received from the South Padbury Primary School Community concerning the Warburton Avenue Traffic Management Scheme. The petitioners have requested the City defer construction of the scheme pending collection and analysis of a parent questionnaire. In view of this, detailed design of the Warburton Avenue Traffic Management



Scheme as currently programmed is supported. However, the recommendation that construction be deferred pending analysis of the parent questionnaire is submitted for consideration.

## **BACKGROUND**

Notification of the City's intention to implement a Traffic Management Scheme was circulated to residents along Warburton Avenue and the South Padbury Primary School in November 1998. At the close of the submission period, the City had received 8 phone calls from residents seeking more detail. Only one resident did not support construction of a roundabout. Those residents that support the traffic management scheme welcomed its construction. In addition, the school P&C Association, on behalf of the school community requested additional detail in regard to the effect of the roundabout on school generated traffic during peak periods. Details were supplied and a subsequent on site meeting was convened on 8 December 1998 to discuss the school's concerns.

The school subsequently acknowledged the need to implement a traffic management scheme on Warburton Avenue, however remained concerned at the impact of the roundabout on school traffic. A petition to this effect was presented to the December 1998 meeting of the Joint Commissioners. The petitioners have requested that the City defer construction of the scheme pending collection and analysis of a questionnaire to be circulated (by the school) to parents in February 1999. A time frame for collection and analysis of the questionnaire has not been stipulated.

A detailed letter from a 'concerned parent' in support of the scheme has also been received.

## **DETAILS**

The City has listed as part of its 1998/99 Capital Works Program, the completion of the Warburton Avenue Traffic Management Scheme. The Scheme includes construction of a roundabout at the junction of Leichhardt Avenue, intermediate pedestrian islands and a painted or red asphalt median treatment on Warburton Avenue. A plan showing the location of the proposed treatments is shown on Attachment 1. Expenditure of funds for works as part of the 1998/99 program is required by June 1999.

The main aim of the scheme is to reduce overall vehicle speeds along Warburton Avenue. This will provide an increased level of safety for pedestrians and motorists particularly in the vicinity of the school. Given that recorded vehicle speeds are highest midway along Warburton Avenue, the roundabout has been strategically located to provide the maximum benefit as a speed reduction device. The crossing warden and children crossing Warburton Avenue at the existing guard controlled crossing will also benefit from the reduced approach speed of vehicles. A roundabout at this location will also encourage motorist compliance with the existing 40 km/h School Speed Zoning.

The school's main concern is with the location of the roundabout at the junction with Leichhardt Avenue (east) and its effect on traffic flow to the school. While the parents concerns are noted, the placement of a roundabout at this location is likely to improve traffic flow at this location by providing additional opportunities for parents exiting the school to merge with traffic on Warburton Avenue with a greater level of safety than is currently

possible. The school had also expressed concern in regard to the impact of the roundabout on parking adjacent to the school, however this area is covered by an existing parking ban.

### **COMMENT/FUNDING**

While the City acknowledges the concerns of some members of the school community, the majority of submissions received support the implementation of a Traffic Management Scheme for Warburton Avenue. It is unlikely that the construction of a roundabout at the junction with Leichhardt Avenue would negatively impact on traffic flow, access or egress for the school. However, to ensure the concerns of the school community are addressed, liaison with the school will be undertaken as part of the detailed design process.

In view of this, construction of the Warburton Avenue Traffic Management Scheme as currently programmed for March, needs to be deferred. The final design needs to be complete by May to allow construction of the roundabout in this financial year. Therefore, South Padbury Primary School will be required to make its submission by April 1999.

**MOVED Cmr Morgan, SECONDED Cmr Buckley that the Joint Commissioners:**

- 1           continue to LIAISE with the school during the design stage of the Warburton Avenue Traffic Management Scheme;**
- 2           DEFER until May 1999, the construction of the roundabout at Warburton Avenue and Leichhardt Avenue;**
- 3           ADVISE South Padbury Primary School P&C Association that analysis of its questionnaire, which will be circulated in February 1999, needs to be completed by April 1999.**

**The Motion was Put and**

**CARRIED**

### **CJ18-02/99       PETITION- PARK FACILITIES ROBIN PARK SORRENTO - [05098J]**

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### **SUMMARY**

Council has received a petition from residents of Sorrento requesting upgrading of the play area and park lighting, removal of vegetation and installation of a BMX track at Robin Park, Sorrento.

Robin Park Sorrento is an older developed area of Public Open Space with residential properties abutting on three sides. The existing playground was upgraded in 1992 with the installation of a combination play structure with single floodlight to the play area.

Floodlighting within the park is designed for sports training purposes only and is located around the oval.

The park is bordered by dense areas of natural vegetation consisting of grass trees, tuarts and remnant coastal heath.

It is recommended that the residents be advised that:

- (a) the play area design will be reviewed;
- (b) the proposal to construct a cycle track is inappropriate due to the park design and its impact on the abutting residents and natural vegetation.

## **BACKGROUND**

Robin Park Sorrento was developed mid 1960-70, in conjunction with residential developments. The design provided for an active area for sports and retention of a border of natural vegetation to buffer the residential properties from the active area.

## **DETAILS**

The Public Open Space design is deficient when compared with current guidelines, ie. location of toilet/clubrooms, access to facilities, car park design and location and extent of properties directly abutting the Public Open Space (refer Attachment 2 Public Open Space Design).

The residents' proposals are identified as follows:-

- 1. Play equipment
- 2. Park lighting
- 3. Cycle track (BMX type).

### Play Equipment

This unit was upgraded in 1992 and is similar to many others installed on parks. There is limited opportunity to redevelop the structure as the manufacturer has closed. Upgrading is not anticipated until 2002/2003. There is sufficient area available to increase play items should funding become available.

Recent vandalism has resulted in the loss of several play items. Replacements are on order from another company, subject to modifications. This will ensure the current unit is satisfactory for a mixed age group of children.

### Park Lighting

- 1. A single luminary is located on a six metre pole, at the play area. This provides sufficient lighting for the play area.
- 2. Toilet Facilities - Standard building lights are located around the walls.
- 3. Oval Floodlights - Two poles, four luminaries, for sports training purposes.

4. Car Park - Due to design and large tree area, the car park lighting is poor. There is limited opportunity for significant improvement without removal of trees. They are large Ficus hillii and pruning would damage the structure and aesthetic appeal.

The lighting provided within the Public Open Space is equal to other similar areas. Any proposal to install additional lighting would require specific assessment to determine type, operation costs and vandalism exposure.

#### Cycle Track

This request is not supported due to the impact on abutting residential properties and remnant vegetation. Many residents have endeavoured to control the impact of annual weeds on the remnant grass trees and this proposal would have a detrimental impact.

Any proposal that concentrates a large number of children close to the rear of residential properties will create complaints. Therefore, no further action is proposed regarding this item.

**MOVED Cmr Morgan, SECONDED Cmr Buckley that the Joint Commissioners:**

**1 advise the residents that:**

- (a) the play area design at Robin Park, Sorrento will be reviewed;**
- (b) the proposal to construct a cycle track is inappropriate due to the park design and its impact on the abutting residents and natural vegetation;**

**2 advise the petitioners accordingly.**

**The Motion was Put and**

**CARRIED**

**CJ19-02/99 MCKIRDY PARK MARMION - [31384J]**

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#### **SUMMARY**

A 66-signature petition has been received from residents in Marmion requesting installation of inground irrigation to this small dry park in conjunction with the irrigation of Finney Park.

The Dry Park Development Program funding for 1998/99 consists of installation of inground reticulation within Finney and Keppel Parks in Marmion.

Due to the close proximity of McKirdy Park inclusion is recommended subject to availability of funds.

#### **BACKGROUND**

McKirdy Park is a small Public Open Space area which operates as a large road island. The area was originally partially reticulated by domestic mains supply via hose and mobile sprinklers attended by residents.

This practice was discontinued due to efficiency and day watering restrictions imposed by the Water Corporation.

## **DETAILS**

The Dry Parks Development Program identified Finney, Keppel Parks in Marmion for development in 1998/99. As Attachment 1 indicates, McKirdy Park is approximately 254 metres distant, under road boring would be required at two locations.

Savings have been made with Beldon Park inground reticulation and it is proposed that funds be reallocated to accommodate this work.

Beldon Park Account No 36790

Surplus Funds \$15,000

The bore currently being installed at Finney Park has produced sufficient water to accommodate the inclusion of McKirdy Park to the system.

## **COMMENT/FUNDING**

Current works are in accordance with 1998/99 Budget Allocation

Account No:	36606
Budget Item:	Dry Parks Development Program
Budget Amount:	\$190,000
Additional Requirement:	\$15,000

**MOVED Cmr Morgan, SECONDED Cmr Buckley that the Joint Commissioners:**

- 1 AUTHORISE inclusion of McKirdy Park into the Dry Parks Development Program 1998/99 in conjunction with Finney Park Marmion;**
- 2 in accordance with Section 6.8(1) of the Local Government Act 1995, the reallocation of surplus funds from Account No 36790 Beldon Park Beldon to Account No 36606 Dry Parks Development;**
- 3 ADVISE petitioners accordingly.**

Cmr Morgan spoke in support of the Motion.

**The Motion was Put and**

**CARRIED BY AN  
ABSOLUTE MAJORITY**

**DEVELOPMENT & PLANNING SERVICES SECTION****CJ20-02/99      LEASE OF LAND AND USE OF LANDFILL GAS AT  
BADGERUP TIP, WANGARA [06109]****SUMMARY**

The City of Joondalup and Shire of Wanneroo have received preliminary representations from commercial organisations for the use of the Badgerup Tip site and the landfill gas associated with that tip site. As the landfill gas generated at the tip is currently intended to be flared, the issue of future use of this renewable energy source to its full economic potential needs to be examined further by Council.

This report therefore recommends that Council calls for tenders for the leasing of land and use of landfill gas at the Badgerup Tip site, including possible use of adjoining land for related purposes.

**BACKGROUND****European Union's Strategy on Renewable Energy**

In the European Union (EU), the policy response to the International Convention on Climate Change (agreed at Kyoto in 1997) has been to reconfirm the EU policy commitment to a significant expansion in the use of renewable energy sources, with biomass identified as having the largest potential to fulfil these policy goals.

The strategy and action plan in the EU White Paper are directed towards the goal of achieving a 12% penetration of renewables in the Union by 2010, doubling the share of renewable energy sources. The overall EU target of doubling the share of renewables to 12% by 2010 implies that Member States have to encourage the increase of renewable energy according to their own potential. According to the particular scenario outlined, the main growth in the contribution of renewable energy could come from biomass, tripling the current level of this source.

**Australia's Strategy on Renewable Energy**

In Australia, the Federal Government has set a target of raising the share of renewable energy from 10% to 12% by 2010. Among the strategies for improving energy efficiency is a major programme for Local Government, the Cities for Climate Protection Australia (CCP) programme which provides a strategic framework for action on greenhouse gases by Local Government. Local Greenhouse Action Modules will be developed to enable councils to quickly pick up the most effective initiatives to reduce local greenhouse emissions. These include alternative energy generation as well as waste management and methane capture.

The development and implementation of education and training for methane capture at landfills, including demonstration plants, is one of the responsibilities to be pursued by the Federal, State and Local Governments as part of the National Greenhouse Strategy.

## **DETAILS**

The City of Joondalup is in the process of installing gas reticulation pipelines for the flaring of methane gas generated at the Badgerup Tip site. This flaring of gas will result in a total loss of the potential energy that could be derived from the site.

The organic landfill site at Badgerup Tip from which landfill gas is to be recovered covers an area of five hectares, and will have a pipe network on it connecting approximately 32 gas wells to a pump station. The site will be level and able to handle light vehicle traffic and could be used for open air activities such as soil blending. The western end of the Lot contains a weighbridge and the greens recycling facility. Future composting operations could extend over nearly a hectare of the organic fill area.

There is scope to lease the five hectare organic area to a potential proponent along with the rights to sub-lease and the right to extract and use the gas. A potential proponent could operate and maintain the well infrastructure. Attached is a copy of a map showing the location of Lots 15 and 17 being the total Council land holding in relation to the Badgerup Tip site. The total area of Lot 15 (on which is sited the landfill area) is approximately 11.9 hectares. The total area of Lot 17 abutting to the north (on which is sited the recycling facility) is approximately 4.5 hectares. (Attachment A refers.)

The establishment of renewable energy uses has positive benefits from a Local Government and WA Government point of view in demonstrating the commitment of Western Australia to renewable energy as recommended by the Federal Government. As a showcase project, the project could also benefit the region by becoming an industrial technology focal point for international business and government as an example of modern renewable energy technology. Potential private sector jobs generated by such a project would contribute to the region's economy and employment base.

## **PLANNING ISSUES**

### **1. Planning Approval Procedures**

The Badgerup Road land concerned is presently zoned General Industry under Shire of Wanneroo Town Planning Scheme No. 1. (It is currently intended to remain zoned General Industry under proposed Shire of Wanneroo Town Planning Scheme No. 2). 'Industry, General' uses (which would apply to electricity generation uses) are permitted uses under the Scheme within that zone, whilst 'Noxious Industry' uses (which may also be associated with some forms of electricity generation) are 'AA' (uses not permitted unless approved by Council) within that zone.

An Application for Approval to Commence Development (Form No. 1) would need to be submitted to the Shire to obtain development approval. If the proposed use, or any other proposed uses is a noxious industry, or otherwise has an 'AA' permissibility designation in the Zoning Table in the General Industry Zone, then the Council may resolve to require advertising or notification of the proposal. Before the City enters

into any contract in regard to the proposed use of the subject land, it will need to give consideration to whether the contract should be made conditional upon planning approval for the proposed processes/uses being given.

## **2. East Wanneroo Structure Planning and Developer Contribution System**

This system is in the process of being put in place through Amendment No. 816 to Shire of Wanneroo Town Planning Scheme No. 1. The Badgerup Road land concerned falls within 'Cell 8' of the proposed system. This cell is bounded by Ocean Reef Road reserve, Hartman Drive and Gnangara Road.

The proposed Local Structure Plan for this cell simply proposes a road network for the area. Any proposed industrial use on the land concerned should be able to be readily accommodated within the proposed road network, and if it cannot, the Structure Plan should be able to be varied to accommodate the proposal.

The proposed developer contribution arrangement for this cell entails contributions to be made by subdividers of industrial land toward the cost of certain infrastructure required for the cell, particularly major roads. Administration and similar costs are also included. Where land is not subdivided prior to industrial use and consequently a contribution payment is not made at subdivision stage, the contribution payment is required to be made at development application stage. The contribution is calculated on an area basis, and the current contribution rate is \$4.71 per square metre. This developer contribution requirement will need to be acknowledged in the tender documents.

## **3. Local Government Act ('the Act') Requirements Regarding Disposal of Property and Commercial Enterprises.**

The Badgerup Road property concerned is currently owned in freehold title by the City of Joondalup. (The ownership was transferred from the City of Wanneroo to the City of Joondalup pursuant to Clause 9 of the Governor's Order regarding the 'Split'. This is an interim arrangement, pending the division of assets and liabilities which is to be determined by the Joint Commissioners over coming months. The Commissioners' determination may see a change in the current ownership of this land). While there remains a possibility that the land may be transferred to the Shire of Wanneroo and if any contract contemplates the continuing involvement of the Local Government in the contract, then provision may need to be made permitting the assignment of the Local Government's interest in the contract from the City of Joondalup to the Shire of Wanneroo.

Section 3.58 of the Act provides 3 options for a Local Government in disposing (ie selling or leasing) land:

- (a) disposal to highest bidder at public auction;
- (b) disposal through public tender process;



- (c) disposal through giving public notice of proposed disposal (with details such as parties involved, monies involved, valuations, etc.) and consideration of submissions received.

It may be noted that the above provisions do not apply if the proposed disposal is in the course of carrying on a trading undertaking as defined in section 3.59 of the Act. It is possible that the type of arrangement entered into between the Local Government and a developer might constitute a trading undertaking in which case a different process for the disposal of land might be available in the form of the preparation of a Business Plan.

Section 3.59 of the Act deals with commercial enterprise by Local Governments. These provisions are relevant in that:

- (i) if a proposal to dispose of the land constitutes a 'major land transaction', a Business Plan is required to be prepared and advertised. (A major land transaction is one which involves a total value of consideration of \$500,000 or greater.);
- (ii) if the proposed arrangement with a developer constitutes a 'major trading undertaking', a Business Plan is also required. (A major trading undertaking essentially involves one where the initial and subsequent annual cost to the local government is \$250,000 or greater).

## COMMENT

It is recommended that the appropriate process would be the calling of tenders for the lease of the land concerned and the use of the landfill gas, to ensure that the City effectively market tests the potential benefits that can be accrued to Council from the leasing of this parcel of land and the use of the landfill gas. In considering this matter, it may be noted that option (b) and (c) for the disposal of land referred to in the section of this report headed "3. Local Government Act ('the Act') Requirements Regarding Disposal of Property and Commercial Enterprises" would involve approximately the same length of time to complete. Option (a) is only appropriate where the consideration (e.g. purchase price) is the only variable. As this does not apply in this case, this option is not appropriate.

Legal advice has confirmed that in the case of a lease, in determining whether the total value of consideration is greater than \$500,000 (and thereby making it a 'major land transaction', requiring the preparation of a Business Plan), the total value of consideration is the total rent which would include the rent for the full primary term, together with the rent for any option periods. As it is most likely that the total value of consideration in this case will exceed \$500,000 it is likely that the City will need to prepare a Business Plan and the requirement will need to be acknowledged in the tender documents.

This matter is also being reported to the Shire of Wanneroo, recommending it supports the Recommendation that the City of Joondalup calls tenders for the leasing of the land and use of Landfill gas associated with the Badgerup Tip site.

**MOVED Cmr Morgan, SECONDED Cmr Clark-Murphy that the Joint Commissioners AUTHORISE the City of Joondalup to call for tenders for the leasing of land and use of landfill gas from the Badgerup Tip site with such proposals including the possible lease of the site and adjoining land for related purposes.**

Discussion ensued with the Chairman querying the need for the City to prepare a business plan.

**The Motion was Put and**

**CARRIED**

Items CJ21-02/99 and CJ22-02/99 were Moved by Cmr Morgan and Seconded by Cmr Buckley.

**CJ21-02/99      SUBDIVISION CONTROL UNIT - DIRECTOR,  
DEVELOPMENT SERVICES - FROM 3 DECEMBER  
1998 TO 15 JANUARY 1999 - [05961]**

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**SUMMARY**

Overleaf is a resumé of the Subdivision Applications processed by the Subdivision Control Unit from 3 December 1998 to 15 January 1999. All applications were dealt with in terms of the delegation of subdivision control powers to the Chief Executive Officer (DP247-10/97 and DP10-01/98). The Chief Executive Officer subsequently delegated to the Manager Development Management Services, the authority to deal with these applications as follows:

- SCU1 Subdivision applications received which are generally consistent with an approved or agreed Structure Plan (including Outline Development Plan and Development Guide Plan).
- SCU2 Subdivision applications previously supported, or not supported by Council and subsequently determined by the Western Australian Planning Commission (WAPC) consistent with the Council's recommendation.
- SCU3 Applications for extension of subdivisional approval issued by the WAPC which were previously supported by Council.
- SCU4 Applications for subdivision or amalgamation which result from conditions of development approval given by or on behalf of Council.
- SCU5 Applications for subdivision or amalgamation of lots which would allow the development of the land for uses permitted in the zone within which that land is situated including applications involving the excision of land for road widening, sump sites, school sites, etc.
- SCU6 Applications for subdivision or amalgamation of lots contrary to Council or WAPC Policy or are not generally consistent with an approved or agreed Structure Plan.

**MOVED Cmr Morgan, SECONDED Cmr Buckley that the Joint Commissioners endorse the action taken by the Subdivision Control Unit in relation to the applications described in Report CJ21-02/99.**

**The Motion was Put and**

**CARRIED**

Appendix XI refers

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## **CJ22-02/99      DRAFT WARWICK STRUCTURE PLAN - [03162J]**

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### **SUMMARY**

Council has received a request for relaxation of setback requirements for houses along a part of Ellersdale Avenue, Warwick. The lots concerned are smaller than usual and the relaxation would allow construction on them of individual houses which conform to acceptable standards of development. It is recommended that the relaxation should be adopted by Council as a draft Structure Plan and advertised in accordance with the Town Planning Scheme provisions.

### **BACKGROUND**

The Planning Group has applied for relaxation of setback requirements for houses along a part of Ellersdale Avenue, Warwick. The preferred form for incorporating such a relaxation is as a Structure Plan prepared under the provisions of Part 10 of the City of Joondalup Town Planning Scheme No 1 ("the Scheme").

### **DETAILS**

The subject land (Attachment 1) comprises a portion of Swan Location 12008, Ellersdale Avenue, Warwick, a total area of 0.66 hectares. It is located opposite a church and an area of non-retail commercial development on the southern side of Ellersdale Avenue. The subject area is presently included in the R20 density code area. A recoding is in progress to include the area in the R40 density code area and the land is subject to a subdivision to create 18 lots ranging in size from 351 to 400 sq metres in size.

The proponent has requested that the setbacks be relaxed for these lots, as follows:

Front: 4 metres average with a minimum of 3 metres as opposed to the R Code requirement of 6 metres average with a minimum of 3 metres.

Rear: 4 metres average as opposed to the R Code requirement of 6 metres average.

Side setbacks will conform to the R Codes. Zero setbacks will be allowed on one side of each lot.

These relaxations are requested in order to allow the effective use of private open space and adequate solar access and additional design opportunities whilst maintaining high

development standards. They are included in the draft Structure Plan attached (as Attachment 2), which is the preferred form for these controls to be incorporated into the Scheme.

### COMMENT

The draft Structure Plan as proposed, conforms with the requirements of Part 10 of the City of Joondalup Town Planning Scheme and is acceptable for the control of setbacks within the Structure Plan area.

Under the provisions of Part 10.5.1 of Town Planning Scheme No 1, a Structure Plan is to be advertised as a draft for a minimum period of 21 days. Council shall then adopt the draft Structure Plan or modify it in the light of any objections and give notice of final adoption.

The proposed Structure Plan is considered suitable for advertising.

**MOVED Cmr Morgan, SECONDED Cmr Buckley that the Joint Commissioners, pursuant to Clause 10 of the City of Joondalup Town Planning Scheme No 1, DETERMINE that the draft Structure Plan attached to Report CJ22-02/99 is satisfactory and make it available for public inspection and comment.**

**The Motion was Put and**

**CARRIED**

Appendix XII refers

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**CJ23-02/99      PROPOSED COMMERCIAL BUILDING AND  
CARWASH DEVELOPMENT: LOT 60 (4)  
WARBURTON AVENUE, PADBURY - [02730J]**

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METRO SCHEME:	Urban
LOCAL SCHEME:	Special Development A
APPLICANT:	Taylor Burrell Town Planning & Design
OWNER:	Marmion Squash Centre Pty Ltd

### SUMMARY

An application has been received from Taylor Burrell Town Planning and Design on behalf of Marmion Squash Centre Pty Ltd and Denkey Ptd Ltd to develop a commercial building and carwash on Lot 60 (4) Warburton Avenue, Padbury. The commercial building is intended to be used for a medical clinic, consulting rooms, veterinary consulting rooms, professional offices and/or a shop (excluding video store, delicatessen, restaurant, take away and fast food).

In June 1998 a similar application was refused by the Joint Commissioners. This application differed to the present mainly in that it proposed to use the commercial building for video and shop purposes, and also proposed more extensive trading hours. The applicant lodged an

appeal with the Town Planning Appeal Tribunal against the City's decision. The appellant, after negotiating an agreement with a group of objectors from the nearby Padbury Shopping Centre who had been joined in the appeal, modified the proposal by effectively replacing the video store component with a shop. The Tribunal dismissed the appeal as it had no jurisdiction to consider a proposal different in substance to that which the City had refused. The present application has resulted from this decision.

The present application was advertised and 71 letters were received all objecting to the proposal.

The existing squash court development is run down and is also suffering from a carparking shortage. The area would therefore benefit from either an upgrade of this facility or redevelopment of the site.

A service station/convenience store is located to the immediate west of the subject site. These two sites form what could be described as an island of non residential land uses in a low density single residential area.

With site being located in close proximity to residential properties, particular care needs to be taken to ensure the amenity of the nearby residents are not adversely affected.

The application proposes a more intense form of development than currently exists, and the carwash facility in particular, has the potential to detrimentally affect the amenity of the adjacent residents. This point is reinforced by the number and nature of submissions received.

The present proposal, with its reduced operating hours, additional fencing, landscaping, security and noise attenuating devices, is considered an improvement on that previously considered by the Joint Commissioners in June 1998.

The proposed development is still likely to have an amenity impact on the neighbourhood, however this impact is likely to be different, rather than greater to that generated by the existing squash court development.

On balance it is recommended that the development be approved.

## **BACKGROUND**

Council has considered several applications for the appeal site in past years. Each of these applications have been refused.

In July 1986 Council refused an application for a video hire outlet within the squash court development (Item A20716 refers). Council considered that the use was inappropriate within a squash centre and the car parking provision was considered inadequate to cater for the additional use.

In May 1989, Council considered a proposal to establish a fast food outlet and video library on the subject site (Item D20507 refers). The Council considered the fact that a restaurant was not permitted in the 'Special Development A' zone and required an amendment to Town Planning Scheme No.1. Council resolved to amend the Town Planning Scheme to

accommodate the use and to defer the development proposal pending expiry of the advertising period. In October 1989, Council was advised that the Minister for Planning withheld consent to advertise the amendment. Consequently Council resolved to discontinue the amendment (Item D21025 refers). No further action on the proposed development was taken at the time.

In November 1991, Council refused an application for a shop, video outlet and fast food outlet on the appeal site (Item F21107 refers). Reasons given by Council for this decision included:

- (a) video hire and fast food outlets are considered inappropriate uses in a residential area;
- (b) the proposal would generate unacceptable traffic; and
- (c) there would be insufficient car parking on site.

In June 1998 a similar application to the present was recommended for approval however ultimately refused by the Joint Commissioners (Item DP217-06/98 refers). This application differed to the present mainly in that it proposed to use the commercial building for video and shop purposes, and also proposed more extensive trading hours (as late as 10.00 pm for the commercial building and 9.00 pm for the carwash). The Reasons for refusal were as follows:

- “1. the proposal does not comply with the City of Wanneroo Town Planning Scheme No 1 requirements and will significantly reduce the amenity of the surrounding residential area;*
- 2. the anticipated noise generated by the vacuum and car wash facility is considered unacceptable given the close proximity of surrounding residential development and will result in a loss of amenity of these residents;*
- 3. the proposal represents intensive commercial activity which is not considered compatible with the surrounding residential development;*
- 4. the City received 108 letters, a 597 and a 243 signature petition from residents in the immediate vicinity, opposing the development;*
- 5. the proposal is contrary to the orderly and proper planning of the locality.”*

The applicant lodged an appeal with the Town Planning Appeal Tribunal against the City's decision. The appellant, after negotiating an agreement with a group of objectors from the nearby Padbury Shopping Centre who had been joined in the appeal, modified the proposal by effectively replacing the video store component with a shop. The Tribunal dismissed the appeal as it had no jurisdiction to consider a proposal different in substance to that which the City had refused. The present application has resulted from this decision.

## **DETAILS**

### **Site Location**

The subject site has an area of 2234 square metres and is located on the corner of Warburton Avenue and Renou Street, Padbury, around 50 metres east of Marmion Avenue.

A service station/convenience store is located to the immediate west of the subject site. These two sites form what could be described as an island of non residential land uses in a low density single residential area.

Single residential development exists to the north and east of the subject site. A recreation reserve of up to 26 metres in width separates the subject site from residential development to the south.

The Padbury neighbourhood shopping and commercial centre is located approximately 650 metres to the east on the corner of Warburton and Gibson Avenues.

### **Existing Development**

A two storey squash court development with associated parking has existed on the site since the early 1970's. The site is currently served by three crossovers, two to Warburton Avenue and one to Renou Street. The building is of poor architectural quality and is in a dilapidated condition. The rear of the building backs onto the adjacent recreation reserve and is suffering from graffiti. The car park and landscape areas are run down and in need of upgrading.

### **Proposal**

The present application proposes a car wash facility and a commercial building of some 291 square metres.

The car wash facility is proposed to be located on the western portion of the subject site and comprises 6 manually operated car wash bays and 6 vacuum bays, each around four to five metres in height. The car wash is intended to operate 7.00 am to 7.00 pm Monday to Saturday and 9.00 am to 7.00 pm Sunday and Public Holidays.

The commercial building is proposed to be located on the eastern portion of the site adjacent to the corner of Warburton Avenue and Renou Street. The walls are proposed to be three metres in height and the roof line measures up to a maximum of around eight metres. The applicant seeks to maintain flexibility in the use of the building and therefore seeks approval for the following range of uses:

1. consulting rooms (3 practitioners);
2. veterinary consulting rooms (3 practitioners);
3. clinic medical (3 practitioners);
4. professional offices; and/or
5. shop (excluding video store, delicatessen, restaurant, take away and fast food).

Proposed trading hours for the commercial building are 7.00 am to 8.30 pm.

The applicant is prepared to enter into a legal agreement with the City and possibly resident representatives to legally bind operating hours to those mentioned above.

Vehicular access points are proposed to be confined to Warburton Avenue. Two crossovers are proposed in approximately the same location as currently exist. The eastern crossover will provide the main two way access to and from the site, whilst the western access point will provide for egress only from the car wash component of the development. The existing crossover to Renou Street is proposed to be closed. Twenty one carbays will be provided to service the development. Two pedestrian access points are proposed, one each from Warburton and Renou Street.

Plans outlining the proposal are included as attachment 2 and a full copy of the applicants report has been placed in the Commissioners reading room.

### **Permissibility**

The subject site is zoned 'Special Development A' under the City of Joondalup Town Planning Scheme No 1 (TPS1).

The proposed uses for the commercial building are all uses categorised under TPS1 as uses not permitted in the Special Development A zone unless approved by Council.

A carwash does not fit within the general terms of any of the use classes listed under TPS1 and is therefore deemed to be a use not permitted unless the special approval of Council is granted.

### **Advertising**

The application was advertised by way of on-site signage for thirty days. Notices regarding the proposal were also placed in the West Australian and Community News and the neighbouring property owners were notified by correspondence. The closing date for submissions was 17 January 1999. A meeting to discuss the proposal with the most affected landowners was also held onsite on 16 December 1998. Representatives of the City, the applicant and approximately 30 landowners attended this meeting. The extent of advertising exceeds the minimum statutory requirements of TPS1.

At the conclusion of the advertising period the City received a total of seventy one letters of objection, comprising 26 individual letters and 45 proforma style letters of five different types. One resident living around 200 metres from the subject site telephoned the City after receiving an acknowledgement of his submission, advising that he had not, in actual fact, submitted a letter of objection. His views were neutral on the proposal. The submission received with his name and signature attached was one of the proforma style letters.

A summary of the issues raised by the submissions can be viewed on attachment 3.



## **Setbacks**

TPS1 requires minimum setbacks of 9 metres, 3 metres and 6 metres to the primary street (Warburton Avenue), side street (Renou Street) and rear (recreation reserve) property boundaries respectively for shop and office uses and 7.5 metres, 3 metres and 7.5 metres from the primary street, side street and rear boundaries respectively for consulting rooms/medical clinics. Setback requirements for the other proposed uses are not specified under TPS1.

The walls of the commercial building achieve these setbacks, however the verandahs and eaves lines protrude within the setback areas to within around 8.5 metres of the primary street and to within around 2 metres of the side street. The car wash is within around 5 metres of the primary street and the vacuum bays around 7.5 metres. The car wash and bin store are proposed to be located 1.5 metres and up to the rear boundary (abutting the recreation reserve) respectively.

The existing squash court building is setback around 7 metres from Warburton Avenue, around 18 metres from Renou Street and 0-4 metres from the recreation reserve. The adjacent service station and residential sites are similarly setback around 7 metres from the street. If the site was to be developed for residential purposes, as proposed under the City's draft District Planning Scheme No2, then the setbacks prescribed under the Residential Planning Codes would apply, namely, an average of 6 metres with a minimum of 3 metres to Warburton Avenue, 1.5 metres to Renou Street and an average of 6 metres to the recreation reserve. The proposal satisfies the Residential Planning Code setback requirements to these boundaries and are considered adequate in this instance.

## **Carparking**

Council policy requires carparking at the rate of seven bays per hundred square metres of shopping floorspace for this size centre; 1 bay per 30 square metres of professional office floorspace; five bays per practitioner for medical clinics and consulting rooms and six bays per practitioner for veterinary consulting rooms. Neither TPS1 nor Council policy contain any carparking standards for carwash developments. Such a facility would normally require a limited number of bays for the drying of vehicles after washing. The applicant argued on the previous application that no dry off bays are required in this case as the carwash is designed so that vehicles are not water marked if left to air dry. Notwithstanding this there are 6 vacuum bays that serve the dual purpose of vacuuming and drying. This argument was previously accepted at officer level.

The total carparking requirement for this development, assuming only one of the proposed uses occupying the commercial building and with the proposed restrictions of a maximum of three practitioners for the medical clinic, consulting room or veterinary consulting room uses would be 21 bays. The application proposes 21 bays. If a combination of uses establishes, then a carparking shortfall may result. A condition of approval can effectively be used to control this situation.

## Landscaping

TPS1 requires up to 8 percent of the site to be set aside as landscaping. The proposal meets this requirement. The City however normally requires a 3 metre landscape strip adjacent to all roads. The proposal meets this requirement with the exception of a small portion of frontage along Renou Street and adjacent to car bays 21 and 22. An average of more than 3 metres is however maintained.

## Current and Proposed Zoning

Under TPS1 the present zoning of the site is 'Special Development A'. This zone was incorporated under TPS1 from its initial gazettal in 1972 and generally covers the suburbs of Hillarys, Padbury, Kallaroo and Craigie. It is a very flexible zone, allowing a wide range of discretionary landuses. The zone was supported by a landuse allocation estimate table and a structure plan and was intended to provide for both flexibility and orderly planning of a district which was then on one of Perth's urban development fronts. The zone was similar to the present 'Urban Development Zone' which is currently used by the City of Joondalup and Shire of Wanneroo for developing urban areas.

TPS1 requires that the City, when considering a discretionary landuse within the 'Special Development A' zone, considers the following matters:

- "1. whether the proposed use would be detrimental to the amenity, public health, convenience and economy of the existing or planned uses nearby;*
- 2. the necessity or otherwise of preparing a locality outline plan, in the absence of such plan;*
- 3. the need or otherwise for the adoption of the advertising procedure laid down in Clauses 3.10 to 3.17;*
- 4. other matters as Council considers relevant".*

Amenity, advertising and other relevant matters are covered elsewhere in this report. Given the relatively localised impact of this development proposal and the fact that its amenity impacts can be dealt with by way of conditions of approval, it is not considered necessary to prepare a locality outline plan in this instance.

The proposed City of Joondalup District Planning Scheme No 2 (DPS2) identifies the suburb of Padbury as being predominantly zoned residential. Spot zonings are proposed to accommodate essential facilities such as shopping centres, schools, parks and the like. Under DPS2, the site was originally proposed to be zoned Residential, however following the receipt of a submission during advertising of the Scheme, the proposed zoning was changed to Residential, Special Zone (Additional Use) Squash Court, to accommodate the existing use. This zone would preclude the proposed development.

Commissioners may recall that the submission received from the applicant during the advertising of DPS2 requested a zoning that would accommodate the proposed redevelopment. This was not accepted, as the detail of the proposal was not available and it would not allow the community an acceptable opportunity to comment.

Whilst a non residential landuse for this site was not considered inappropriate, the site has a controversial history and the City had not received a specific proposal that satisfied its planning criteria and had community support. Under these circumstances it was considered inappropriate to zone the land for a non residential use. The owners/applicants have previously been advised that if a proposal was submitted which was acceptable to both the City and the community, then it is open to the City to amend its Town Planning Scheme to accommodate the proposal.

## COMMENT

### Traffic

The applicant submitted a traffic report by Engineering Consultants, Sinclair Knight Merz, detailing both the existing and proposed traffic likely to be generated by the proposal. This report concludes that an increase in traffic is likely to occur as detailed in the following table. The figures represent vehicle movements in each direction.

	<b>Existing</b>	<b>Proposed</b>
Weekday evening	10-25	22-31
Weekend afternoon	5 (estimate)	38-53
Weekend evening	5 (estimate)	24-39

The site is located on a local distributor road adjacent to the intersection of Marmion Avenue and Warburton Avenue. This road is designed for reasonably high traffic volumes and when last surveyed by the City, in March 1998, carried around 4700 vehicles per day. The increase in traffic movements is expected to be no more than around 2%, even at the centre's busiest operating times. The proposed development is not likely to generate any traffic after 8.30pm when the entire development is proposed to be closed. Traffic generated by the existing squash courts currently extends late into the evening.

The proposed removal of the crossover onto Renou Street should also assist in containing traffic associated with the development to Warburton Avenue. This will largely overcome current problems associated with headlight glare to residents on Renou street.

The City's Infrastructure Design Services has advised that the traffic generated by the proposed development is not likely to have an adverse impact on the surrounding road network.

**Parking**

The proposal complies with the City's policy on carparking requirements with respect to the commercial building component. No carparking has been provided for the carwash component. As previously mentioned such a facility would normally require a limited number of bays for the drying of vehicles after washing. The applicant argued on the previous application that no dry off bays are required in this case as the carwash is designed so that vehicles are not water marked if left to air dry. Notwithstanding this there are 6 vacuum bays that serve the dual purpose of vacuuming and drying. This argument was previously accepted at officer level. The proposal provides for an acceptable carparking layout and distribution.

The existing squash court development appears to suffer from insufficient on site carparking. This is evidenced by both on site inspection and the poor state of the verges and landscape areas. It is considered that the redevelopment would improve this current problem.

**Noise**

The applicant has submitted a report from Acoustic Consultants, Herring Storer, addressing the issue of likely noise emissions from the proposed development. The report concludes that, based on the proposed hours of operation and a specified range of controls dealing with the detailed design of the development and the construction of fencing as proposed (attachment 4 refers), the noise emitted from the development would comply with the Environmental Protection (Noise) Regulations 1997. Herring Storer also state that the acoustic amenity of surrounding residents would be improved by the redevelopment due to both the noise controls being included and the reduced operating hours.

The City's Health and Ranger Services concur with the Herring Storer conclusions that the development will comply with the regulatory requirements.

**Fencing and Landscaping**

It is proposed to fence the site with quality fencing adjacent to the boundary of the recreation reserve, Renou Street and approximately ten metres around the intersection of Warburton Avenue in order to contain noise emissions to a minimum. Fencing adjacent to Warburton Avenue and Renou street is proposed at a height of two metres in accordance with the recommendations of the acoustic consultant. The City's local laws require a maximum height of 1.8 metres. There is no objection to this marginal variation in this instance. Fencing should however otherwise comply with the requirements of the City's local laws.

Landscaping is proposed adjacent to the fencing (including a portion of the recreation reserve) to provide an attractive outlook and to minimise the opportunity for graffiti vandalism. All landscape areas are proposed to be reticulated and maintained by the owner of the site. The City's Parks Landscaping Services have agreed to the concept of landscaping the portion of the recreation reserve, subject to such landscaping being maintained by the owner of the site.

## **Lighting**

Lighting of the site is proposed to be provided by three pylon lights with low watt bulbs. Additional lights are proposed within the carwash bays. An electrical design consultant has prepared a lighting plan indicating that light spillover will not adversely affect the surrounding residential area.

Notwithstanding lighting design, the impact of the lighting will be minimised by virtue of the limited night time operating hours, provided lighting is switched off after operating hours. A condition to this effect is recommended.

The construction of the proposed fencing to the Renou Street and recreation reserve boundaries, and limited night time operation will minimise any additional headlight glare problems to adjacent residents, over and above any current problems associated with vehicles attending the existing squash court development.

## **Signage**

An illuminated sign is proposed for the Western roof elevation of the commercial building. A six metre high non illuminated pylon sign is proposed on the Warburton Avenue frontage adjacent to the vacuum bays. The detailed design of the signage should comply with the City's local laws. This general extent of signage is not however considered excessive for a development of this nature.

## **Antisocial behaviour**

Security and anti social activities are proposed to be addressed by way of motion activated lighting and lockable removable bollards at the entry to each wash bay and the 'exit only' crossover to preclude vehicular access after hours.

Potential antisocial behaviour is of concern at any unattended commercial premises, including the existing squash court development. This is considered a more widespread social problem, which cannot be effectively controlled through planning decisions. The applicant has however recognised the community concern over this issue and undertaken to install the above deterrents.

## **Health concerns/DEP Buffer Requirements**

A number of submissions raised the issue of potential health problems associated with wind borne spray and Department of Environmental Protection (DEP) buffer requirements between residential development and a carwash. Discussion with DEP officers indicate that no such buffer requirement exists. In fact there are many examples of carwash developments in the Perth Metropolitan Region where the distances between a carwash and residential development is considerably less than that proposed. Experience suggests that wind borne spray from manual operated carwashes is limited to around 15 metres. The closest lot in this case is almost double this at approximately 26 metres.

**Miscellaneous objections**

Objections on the grounds of loss of a recreation facility, other similar uses existing in nearby areas, impact on property values, the proposal is similar to the previous proposal and the view that medium density residential would be more appropriate are not considered sufficient grounds to refuse the application. Each planning application should be considered individually after an assessment of its merits.

**Conclusion**

The existing squash court development is run down and is suffering from a carparking shortage. The area would therefore benefit from either an upgrade of this facility or redevelopment of the site.

A service station/convenience store is located to the immediate west of the subject site. These two sites form what could be described as an island of non residential land uses in a low density single residential area.

With site being located in close proximity to residential properties, particular care needs to be taken to ensure the amenity of the nearby residents are not adversely affected.

The application proposes a more intense form of development than currently exists, and the carwash facility in particular, has the potential to detrimentally affect the amenity of the adjacent residents. This point is reinforced by the number and nature of submissions received.

Whilst a large carwash development may not generally be seen as a compatible landuse in close proximity to residential development, no automatic wash bays (which have a greater noise and spray impact than manually operated bays) are proposed and the carwash could be seen as a logical extension to the adjacent service station.

The present proposal, with its reduced operating hours, signage/lighting restrictions, additional fencing, landscaping, security and noise attenuating devices, is considered an improvement on that previously considered by the Joint Commissioners in June 1998.

The proposed development is still likely to have an amenity impact on the neighbourhood, however this impact is likely to be different, rather than greater to that generated by the existing squash court development. Aspects such as visual amenity, traffic impact on Renou Street, restricted trading hours, improved on-site carparking and limited exposure areas for graffiti vandalism are likely to improve the overall amenity of the area. Potential intermittent noise associated with the general activity at the site and minor increases in traffic along Warburton Avenue are the potential negative aspects of the proposal.

On balance it is recommended that the development be conditionally approved.

### **ADDITIONAL INFORMATION**

An additional letter of objection has been received on behalf of the members and players of the Marmion Squash Club, currently located on the subject site. The following points are raised in the submission:

1. no specific objection to the proposed use;
2. an approval may see the closure of another squash facility in the metropolitan area. The club has a membership of some 150 people, plus many regular casual players;
3. the closure of this club would cause increased travel distances and difficulty for new members to find court space in nearby centres;
4. question over the suitability of the present zoning for the proposed development;
5. if the development proceeds the City would not support the development of another squash facility on Council land;

The major point in this submission is the loss of an existing recreational facility. It is not considered that the City should prevent the redevelopment of the site on this basis.

Since preparing the report, the applicant has submitted a plan indicating how potential behavioural problems associated with the development will be addressed. The detail of this plan is as follows:

1. *In terms of management of the carwash facility during operating hours, the site will, during its first few weeks of operation, be intermittently manned, to ensure proper management and use of the facility by the public. In a more permanent context, the proponents intend to enter into a "caretaker" agreement with the tenants of the adjoining commercial building such that they maintain an overseeing role, and are responsible for installing and removing the removable bollards each day.*
2. *A random video surveillance system will be installed to discourage illegal or inappropriate behaviour either during or after hours of operation.*
3. *The proponent will engage a security firm to receive, and act upon, resident complaints in the event that any unacceptable behaviour occurs on the premises. Residents within the immediate proximity of the site will be provided with the number of the security firm, and that firm will be under instruction to either refer the matter immediately to the police, or dispatch a patrol vehicle, depending on the nature of the problem. The security firm will also be required to notify the owners of the business of any such complaints.*
4. *Notices advising patrons that the property is under constant video and security surveillance will be placed in prominent positions to act as a further deterrent to inappropriate behaviour.*
5. *The proponent is prepared to continue consultation with a resident committee, after commencement of the carwash operation, to monitor the impact of the business and, if necessary and appropriate, endeavour to address any reasonable concerns that may arise. We would suggest that the resident committee should comprise 3 resident*

*representatives, the selection of which should be to the mutual reasonable satisfaction of the local residents, Council, and the proponent. It is suggested that the Committee could be consulted by the owners on an agreed periodical basis (say every 3 months), or such other time as may be deemed necessary.*

This management plan is considered satisfactory and demonstrates the applicant's commitment to address localised problems that may eventuate due to this development. The management plan partially satisfies condition 1(g) of the report recommendation, the remaining part of the recommended condition deals with the implementation of the management plan. As the management plan will need to be implemented on an ongoing basis, the recommended condition should remain.

This additional information did not alter the original recommendation.

*Cmr Buckley declared an interest in this item as her husband has a business relationship with the applicant.*

*Cmr Buckley left the Chamber at 1845 hrs.*

**MOVED Cmr Morgan, SECONDED Cmr Ansell that the Joint Commissioners:**

- 1 approve the application for a carwash and commercial building as submitted by Taylor Burrell Town Planning & Design, on behalf of the Marmion Squash Centre Pty Ltd, subject to the following conditions:**
  - (a) subject to (c) below, the commercial building shall be used for a medical clinic, consulting rooms, veterinary consulting rooms, professional offices, and/or shop (excluding video store, delicatessen, restaurant take away and fast food) only;**
  - (b) subject to (c) below, a maximum of three practitioners shall be in attendance at any one time for the medical clinic, consulting room and veterinary consulting room uses;**
  - (c) the use of the commercial building for more than one of the uses specified in (a) above, shall not be permitted if the carparking requirements for that combination of uses exceeds 21 bays;**
  - (d) the commercial building shall not trade outside of the hours of 7.00am to 8.30pm daily;**
  - (e) the carwash and vacuum facilities shall not operate outside of the following hours:**
    - (i) 7.00 am - 7.00 pm Monday to Saturday, and**
    - (ii) 9.00 am - 7.00 pm Sunday and public holidays.**



- (f) the landowner entering into a legal agreement with and to the satisfaction of the City prior to the use of the development first commencing, whereby the landowner agrees to restrict the operating hours of the development to those stipulated above. This agreement to be supported by an absolute caveat on the title of the subject property;
- (g) a management plan to be submitted and approved by the City prior to the use of the carwash first commencing, detailing how the carwash will be managed, both during and outside opening hours, to minimise any nuisance impact on the surrounding residential area. The approved management plan to be implemented on an ongoing basis to the satisfaction of the City;
- (h) all lighting shall be designed, constructed and thereafter maintained so that it does not overspill onto the adjacent residential properties or the street;
- (i) all lighting, including illuminated sign lighting, to be switched off outside the operating hours of the associated component of the development;
- (j) lockable removable bollards, designed to preclude vehicular access, to be provided and maintained at the entry to each car wash bay and at the 'exit only' driveway to the satisfaction of the City, prior to the use of the carwash first commencing. These bollards shall be erected and locked when the carwash closes each day and shall remain erected and locked until the carwash opens for business the following day;
- (k) motion activated security lighting to be provided and maintained in an operating condition to the satisfaction of the City, sufficient to detect movement within the carwash bays, vacuum bays and rear carparking area (bays 1-11);
- (l) the noise control measures (with the exception of point f) stipulated on pages 7 and 8 of the Herring Storer Acoustics report for this development proposal dated 9 December 1998 being implemented to the satisfaction of the City prior to the development first being occupied;
- (m) the 3 existing crossovers to Lot 60 (4) Warburton Avenue, Padbury to be removed and the land graded, kerbed and landscaped to the satisfaction of the City prior to the development first being occupied;

- (n) the lodging of detailed landscape plans to the satisfaction of the City for the development site, the adjoining road verges and portion of the adjoining recreation reserve as shown in red on the approved plans. Landscaping to be designed to break the bulk of the buildings and fencing when viewed from the street and to protect the fencing adjacent to the recreation reserve from graffiti vandalism;
- (o) landscaping and reticulation for all landscape areas identified on the approved landscape plans to be established prior to the development first being occupied and thereafter maintained to the satisfaction of the City;
- (p) all signage to be restricted to that proposed within this application and to be designed to comply with the City's Signage Local Laws. The pylon sign shall not be illuminated;
- (q) roof-mounted plant and equipment such as air-conditioning plant to be located and/or screened to the satisfaction of the City so they are not visible outside the boundaries of Lot 60 (4) Warburton Avenue, Padbury;
- (r) the lodging of an application for a building licence under the provisions of the Building Regulations and approval from the City before commencing any works whatsoever;
- (s) the parking area, driveways, points of ingress and egress to be designed, constructed, drained, marked and thereafter maintained to the specification and satisfaction of the City. These works to be completed prior to the use of the development commencing;
- (t) carparking bays to be 5.5 metres long and a minimum of 2.5 metres wide. End bays to be 2.8 metres wide;
- (u) one disabled bay is to be provided in a location convenient to the building entrance and with a minimum width of 3.2 metres to the satisfaction of the City;
- (v) design levels of all proposed development to be to the satisfaction of the City;
- (w) the bulk bin area is to be provided with minimum internal dimensions of 2.5 metres by 3.5 metres and be screened from the adjoining streets and recreation reserve to the satisfaction of the City.

2 subject to point 1(c) above, exercise discretion under clause 5.9 and 5.10 of Town Planning Scheme No 1 and determine that the proposed carparking provision and setbacks are satisfactory in this instance;

**3 exercise discretion under the City's Fencing Local Law and permit the construction of a two metre high fence along Warburton Avenue and Renou street as indicated on the approved plans.**

Cmr Morgan advised that the redevelopment of the site in question had been the subject of discussion by Council over many years. The report being considered this evening showed in some detail the scope of the buildings and landscaping involved.

Cmr Morgan stated whilst he was aware many of the residents in the area were not in favour of the development, he felt the proposal would enhance the area rather than detract from it.

He pointed out that should the proposal be approved this evening, very clear conditions had been set down. He raised his concerns that in the event of the development not being approved, and being referred to the Minister, there was a possibility that it may be approved minus certain conditions set down in the report this evening.

Cmr Morgan felt this was an opportune time to see that the area of land in question was developed into a better state than currently existed at present with all of the conditions that have been outlined to protect the interests of the residents of the area.

Cmr Clark-Murphy shared Cmr Morgan's concerns that should the proposal be rejected and the proponent went to appeal, the Minister may approve the development minus certain conditions set down in the report presented this evening. However, Cmr Clark-Murphy advised she had difficulty with the car wash component of the proposal and agreed with the view that it was not appropriate to have a facility such as this so close to residences. Cmr Clark-Murphy stated for this reason she was not prepared to support the proposal.

Cmr Ansell made the point that he believed Commissioners were there to represent the residents and given the level of disquiet about the proposed development, he believed the motion should fail.

**The Motion was Put and**

**LOST**

*Cmr Buckley entered the Chamber at 1852 hrs.*

Items CJ24-02/99 and CJ25-02/99 were Moved by Cmr Morgan and Seconded by Cmr Clark-Murphy.

**CJ24-02/99      CLOSE OF ADVERTISING: AMENDMENT 809 TO  
TOWN PLANNING SCHEME NO. 1 TO REZONE  
PORTION OF LOT 998 CONNOLLY DRIVE,  
CURRAMBINE FROM COMMERCIAL, TAVERN,  
SERVICE STATION, CIVIC, AND RESIDENTIAL  
DEVELOPMENT TO CENTRE ZONE; RECODE THE  
R20/R40 AREAS WITHIN THE CENTRE ZONE TO  
UNCODED; AND TO RECODE THE EXISTING R40  
SITE ABUTTING THE MITCHELL FREEWAY  
RESERVE TO R20 - [01121J]**

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**SUMMARY**

This amendment to the City of Joondalup Town Planning Scheme No 1 proposes to rezone portion of Lot 998 Connolly Drive from Commercial, Tavern, Service Station, Civic and Residential Development to Centre Zone. The amendment also proposes the recoding of areas adjacent to the Mitchell Freeway Reserve from R40 to R20, and the recoding of the Centre Zone area to uncoded. In essence the rezoning is intended to amalgamate the existing range of land uses into one broad centre zone. This would allow any future development on the area to be guided by the Structure Plan.

The Amendment was advertised until 11 December 1998. A total of 5 submissions have been received; 4 objecting to the proposal. One of the objections includes two petitions containing 247 and 53 signatures respectively.

After careful consideration of all issues raised by the local residents, it is considered that the proposed rezoning of the area to the centre zone would promote the orderly and proper planning of the area. Further, taking into consideration the existing zones; the proposed zoning is not likely to create a significant detrimental effect on the amenity of the surrounding residents.

It is therefore recommended that the Joint Commissioners resolve to adopt Amendment 809.

**BACKGROUND**

**History of the site's land use controls:**

The site, the subject of this rezoning initially had an area of 44.4608 ha. On 20 April 1990 (Amendment 482), the land was rezoned from State Forest and Important Regional Road to the following zones:

Residential Development;  
Commercial;  
Tavern;  
Civic and Service Station.

On 18 July 1997, the applicants (Mitchell Goff and Associates on behalf of LandCorp) lodged an application to rezone the site to Centre Zone. The applicants also submitted a revised Currambine Local Structure Plan, and a Draft Centre Structure Plan, in support of this rezoning application. The revised Currambine Local Structure Plan was adopted by Council on 26 October 1997 (DP 228-10/97 refers). The Draft Structure Plan for Currambine Local Centre was initially adopted by the Joint Commissioners on 8 September 1998 (CJ108-09/98 refers). Following the public advertising of this Plan, the Joint Commissioners resolved to adopt the Local Centre Structure Plan on 24 November 1998 (CJ261-11/98 refers). The Plan has been submitted to the Western Australia Planning Commission for adoption and Certification.

The Joint Commissioners at the meeting of 28 July 1998 (CJ53-07/98 refers), resolved to initiate Amendment 809 to:-

- “1 rezone portion of Lot 998 Connolly Drive, Currambine from Commercial, Tavern, Service Station, Civic and Residential Development to Centre Zone;*
- 2 recode the R20/R40 areas within the new Centre Zone to Uncoded;*
- 3 recode the existing R40 site abutting the Mitchell Freeway Reserve to R20.”*

The proposed Centre Zone and Scheme Amendment text are shown in Attachment 4 and 5 respectively.

## **DETAILS**

The subject land is Lot 998 Connolly Drive, Currambine. The site is bounded by Connolly Drive in the west, Moore Drive in the south, the Mitchell Freeway Reserve to the east, and residential development to the north. (Attachment 1)

The site is currently zoned Commercial, Civic, Tavern, Service Station, and Residential Development under the City's of Joondalup Town Planning Scheme No1 (TPS No1). This amendment proposes to rezone the land to Centre zone. Clause 5.45 of the TPS No1 sets out the purpose of the Centre zone; this being to provide for the co-ordinated planning of the area in accordance with an Agreed Structure Plan.

Council consideration of this rezoning was postponed pending the drafting of a legal agreement to secure future transfer of the 5,000m<sup>2</sup> community purpose site. This deed has been signed and sealed to secure a commitment to ensure the transfer of the 5,000m<sup>2</sup> of community purposes.

Prior to public advertising of the amendment, the Department of Environmental Protection (DEP) was notified of the rezoning proposal. The DEP decided that the overall environmental impact likely to be caused by the rezoning would not be severe enough to warrant assessment under Part IV of the Environmental Protection Act 1986 (EPA Act). The DEP advised that the noise and vibration likely to be experienced by residents along the eastern boundary adjoining the freeway could be significant, and recommended that measures should be taken to reduce the impact of noise and vibration at the design stage of housing development. It was recommended that a noise survey be undertaken to determine whether the height and the location of the wall is optimal in reducing internal noise levels.

The Western Australian Planning Commission initially granted consent for public advertising of the rezoning proposal on 7 August 1998. This consent was subject to a number of conditions, relating to the modification of the amendment map, standard notifications requirements, and advice that the community purpose site is to be given credit towards 10% open space contribution, which will need to be created as a Crown Reserve for Community Purposes.

On 28 October the Western Australian Planning Commission granted consent of public advertising of the proposed rezoning for a period of 42 days. Advertising being subject to the erection of signs on site describing the proposal, and adjoining owners being notified.

Public advertising closed on 11 of December 1998. Five submissions were received, one submission included two petitions (one 247-signature petition; and a 53-signature petition) from local residents objecting this proposal. The original petition document has been forwarded by residents to the Legislative Assembly of the Parliament of WA. The petitions received were submitted to the meeting of the Joint Commissioners of 8 December 1998 (C27-12/98 refers) where it was resolved that:

*“ the petitions from local residents objecting to the proposed rezoning and possible future shopping centre development at Lot 998 Connolly Drive, Currambine be received and referred to the appropriate business unit for action.”*

Details of the submissions received are included in Attachment 2.

#### **Currambine Community Association's submission:**

At its general meeting of 13 October 1998, the Association agreed on the following:

1. Clarification is required as to whether the proposed plan is only an indicative concept, and has not been submitted to any planning committee for consideration and approval.
2. Road and street names do not correspond to the location of proposed purposes especially the location of the service station and community centre.
3. Opposition to the service station. Query as to why a service station is required in the area.
4. Objection to the proposed tavern, especially due to its location close to Currambine primary school. Reasons for this location are sought.
5. Clarification of the term group housing.
6. Query as to the amount of public open space contribution, and indication of the future areas of public open space in the District of Currambine.

7. Query as to whether the Local Community centre has already been approved without the need for the current zoning, and to advise of current land uses set aside for public purposes.
8. Objection to any expansion of the retail and service uses provided in this area. The proposal would increase the amount of retail floorspace in the District of Currambine. Query as to why rezoning is required.

Overall the Association objects to a proposal to increase the amount of retail floorspace, and urges the City of Joondalup to take into account the business viability when considering approval of future shopping centres.

The signed petitions received object to the proposed rezoning and future development of another shopping centre on the basis that it will greatly prejudice the amenity of the Currambine area, affect the financial viability of small business in existing shopping centres, and will not contribute to job growth.

## COMMENT

The Centre Zone has been delineated in accordance with the Currambine Local Structure Plan, and Currambine Local Centre Structure Plan. (Attachment 3)

One of the main grounds of objection to this rezoning is the inclusion of commercial and retail uses. However, the existing zoning of the area already incorporates commercial uses over an area of 1.40m ha, a tavern site of 1.03 ha and a service station site with 0.2025 ha. The proposed rezoning to Centre Zone does not propose to increase the retail area. This is illustrated by the restriction of the retail floorspace to 3,000m<sup>2</sup> of gross leasable area provided for under Schedule 5 of the Scheme, which was initially adopted by Amendment 482 gazetted on 20 April 1990.

The proposed introduction of the Centre Zone is merely intended to amalgamate the existing independent commercial land uses into one overall area. This would enable the area to be developed in an orderly manner rather than on an ad hoc basis. The detailed planning for the area will be provided by the Local Centre Structure Plan. The Structure Plan provides the guidelines for the development of the area in terms of land uses, and detailed development control standards. It allows for flexibility in the design, and would take into account the particular site constraints and benefits.

In considering rezoning proposals and development applications for specific shopping centres; commercial viability and hence continuity and distribution of supply, may be an important planning consideration. The importance of commercial viability does not involve consideration of the threat of competition to existing business; but rather whether the effect of a proposal would be to diminish community access to a particular facility; increase the need for services or expansion of infrastructure; and the general effect on the amenity of the locality.

The general framework for the location of shopping centres is provided by the Metropolitan Centres Policy. On the basis of this Regional Policy, a limit in the maximum floorspace area is imposed. The purpose of such floorspace restriction is to achieve a balance between population needs and the provision of retail floorspace.

The future provision of neighbourhood retail facilities within the Centre Zone is in accordance with the guidelines in the Metropolitan Centres Policy.

Based on Council's research the maximum 3,000m<sup>2</sup> neighbourhood retail floorspace would ensure an adequate short term and long term provision of retail floorspace per capita.

This amendment also proposes to recode the R20/R40 areas to uncoded. This approach of removing reference to the Residential density Codes in the Scheme Map has been adopted for centre zones and Urban development areas. By uncoding the land in the Scheme Map, the structure plan for the area becomes the main planning instrument setting the residential density for the area. The proposed recoding of the residential area adjoining Mitchell freeway from R40 to R20 is intended to conform with the approved Local Structure Plan.

The subject site was originally designated as a local neighbourhood centre, and the rezoning does not involve an increase to the existing retail floorspace restrictions. Further, this amendment is not likely to create any significant detrimental effect on the amenity of the area. The proposed rezoning complies with the Metropolitan Centres Policy, and it promotes the orderly and proper planning of the area by consolidating the existing zones into one Centre Zone. The amalgamation of the various land uses into one broad zone, enables the Structure Plan to become the main document guiding development in the area.

The submissions received have been considered and the issues raised properly addressed.

**MOVED Cmr Morgan, SECONDED Cmr Clark-Murphy that the Joint Commissioners:**

- 1           pursuant to Town Planning Regulation 17(2) ADOPT Amendment 809 to Town Planning Scheme No 1 to rezone portion of Lot 998 Connolly Drive, Currambine from Commercial, Tavern, Service Station, Civic, and Residential Development to Centre Zone; recode the R20/R40 areas within the Centre Zone to uncoded; and to recode the existing R40 site abutting the Mitchell Freeway Reserve to R20 without modification;**
- 2           AUTHORISE the affixation of the common seal to , and endorse the signing of, the amendment documents;**
- 3           NOTE submissions received and ADOPT recommendations set out in the Schedule of Submissions forming Attachment 2 to Report CJ24-02/99.**

**The Motion was Put and**

**CARRIED**

Appendix XIII refers



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**CJ25-02/99      DISCONTINUANCE OF AMENDMENT 822 TO TOWN  
PLANNING SCHEME NO.1 TO RECODE PORTIONS  
OF LOT 412 AND PT LOT 6 LAKESIDE DRIVE,  
JOONDALUP FROM JOONDALUP CITY CENTRE  
R40 TO JOONDALUP CITY CENTRE R15 - [09110J]**

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**SUMMARY**

Amendment 822 proposed the recoding of the land in the Lakeside District of Joondalup City Centre. Since Council's adoption of Amendment 832; Residential Density Codes for Centre Zones and Urban Development Zones are addressed by the corresponding Structure Plan and not the Scheme Map. Consequently, this Amendment proposing to recode portions of Lot 412 and Pt Lot 6 Lakeside Drive, Joondalup from R40 to R15 does not need to be proceeded with.

**BACKGROUND**

At the meeting on 27 January 1998 (DP08-01/98 refers), the Joint Commissioners resolved to initiate Amendment 822 as follows:

*"...amend Town Planning Scheme No 1 to recode portions of Lot 412 and Pt Lot 6 Lakeside Drive, Joondalup from Joondalup City Centre R40 to Joondalup City Centre R15, and adopt Amendment No 822 accordingly."*

**DETAILS**

Amendment 822 proposed to recode portions of Lot 412 and Pt Lot 6 Lakeside Drive, Joondalup from R40 to R15 (Attachment 1). The purpose of the recoding was to reinforce low density adjoining Yellagonga Regional Park.

The applicants; Taylor Burrell on behalf of Landcorp; indicated to the Ministry for Planning to defer consideration of the amendment until the initiation of amendment 832.

With reference to Amendment 832; the Applicants initially requested the recoding of Portions of Lot 12 and Pt Lot 6 Lakeside Drive, Joondalup from R40 to R60. It was subsequently agreed that Residential Density Codes should be addressed in Structure Plans relating to Centre Zones and Urban Development Zones. Amendment 832 was modified accordingly; deleting reference to the R Codes in the Scheme Map and allowing the Structure Plan for the area to set out the various residential densities.

Consequently, amendment 822 is no longer of practical significance.

**COMMENT**

As the imposition of Residential Density Codes for this area will be determined by the Structure Plan affecting the Joondalup City Centre Zone, Amendment 822 no longer needs to be proceeded with.

**MOVED Cmr Morgan, SECONDED Cmr Clark-Murphy that the Joint Commissioners:**

- 1 NOTE that Residential Density Codes for the Joondalup Centre Zone are established by the Structure Plan and Amendment 822 is no longer necessary;**
- 2 NOT PROCEED with Amendment 822 to Town Planning Scheme No 1 to recode portions of Lot 412 and Pt Lot 6 Lakeside Drive, Joondalup from R40 to R15 and the Western Australian Planning Commission and the proponents be advised accordingly.**

**The Motion was Put and**

**CARRIED**

**CJ26-02/99 PROPOSED AMENDMENT 824 TO TOWN PLANNING SCHEME NO.1 INTRODUCING PROVISIONS TO EXTINGUISH RESTRICTIVE COVENANTS.-[19045]**

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**SUMMARY**

At the meeting of 24 March 1998, the former City of Wanneroo resolved that restrictive covenant provisions should be included in the Scheme.

The purpose of Amendment 824 is to introduce modified provisions into the City of Joondalup Town Planning Scheme No 1 which would allow Council to consider the variation or extinguishment of restrictive covenants on a case by case basis.

The provisions previously adopted by Council have been modified in order to deal with a number of deficiencies relating to the use of Council's discretion, the need for appropriate notification of the owners of the benefited land, and lodgement of an application with the Register of Titles.

Reference and consideration is given to the findings and recommendations of the Western Australian Law Reform Commission (WALRC) on the issue of local government power's to extinguish restrictive covenants.

The provisions set out the criteria for the exercise of Council's discretion in deciding whether to extinguish a restrictive covenant. This criteria includes consideration on whether the variation or extinguishment is consistent with the objectives and principles of the Town Planning Scheme, or with the interest of orderly and proper planning and the effect on the amenity of the surrounding locality.

It is recommended that the Joint Commissioners resolve to adopt amendment 824 as modified and amend TPS No.1 by introducing restrictive covenant provisions.

## BACKGROUND

In a report to the former City of Wanneroo on 24 March 1998 (DP94-03/98 refers) it was concluded that Council should have the power and mechanism to delete or modify restrictive covenants. It was also noted that this power should be exercised only on a specific resolution, to enable Council to consider opposing arguments. On the basis of this conclusion it was proposed to introduce a restrictive covenants provision as follows:-

### *5.47 Restrictive Covenants*

- (a) Subject to the provisions of sub-clause 5.47(b), a restrictive covenant affecting any land in the Scheme Area may be extinguished or varied by a resolution of the Council.*
- b) The Council shall not resolve to extinguish or vary a restrictive covenant unless it is satisfied that adequate steps have been taken to advise all parties affected by the restrictive covenant and opportunity provided for any comment to be placed before the Council.*

At the meeting of 24 March 1998 (DP94-03/98), the Joint Commissioners resolved:

*“ In accordance with Section 7 of the Town Planning and Development Act 1928, amend Town Planning Scheme No.1 to introduce provisions enabling restrictive covenants to be removed or amended, and adopt amendment 824 accordingly.”*

## DETAILS

### **Nature of Restrictive Covenants**

Prior to the enactment of the first planning legislation, land owners and land developers adopted private arrangements to control development and to protect the amenity and economic interests associated with the appreciation in the value of land. One of these types of private arrangements was the restrictive covenant.

A restrictive covenant has been defined by the Western Australian Law Reform Commission (WALRC) as an obligation attached to a block of land which restricts the use or enjoyment of that block for the benefit of the owners of the other block. The promise or obligation in the restrictive covenant runs with the land.

Despite the emergence of planning legislation introducing statutory controls on development and measures adopted to protect the amenity of areas; restrictive covenants continued to be used.

The WALRC has indicated that restrictive covenants should not be abolished for the following reasons:-

Town Planning Scheme provisions and Local laws generally impose minimum standards on development of land. It would not be unreasonable to impose more stringent standards by restrictive covenants to improve the amenity and protect the economic interest of landowners.

unless a system of compensation is introduced, overriding the covenant would unfairly prejudice those who enjoy the benefit of the covenant, but would provide a windfall for those who were subject to the burden of the covenant.

creation of uncertainty as to what covenants are valid and which had been overridden by the Town Planning Scheme

continued role of restrictive covenants in protecting valuable interests. (e.g. the protection of views)

the situations in other jurisdictions is that covenants should not be abolished.

general public recognition and adoption of covenants "people ordered their affairs in the expectation that such property rights can be created."

### **Local Authority's Power to Extinguish Restrictive Covenants:**

Section 6 of the Town Planning and Development Act 1928(TP&D) sets out that a Town Planning Scheme may be made for any of the purposes contained in the First Schedule of the Act.

Item 15 in Schedule 1 provides for "the extinction or variation of any right-of-way or easement, public or private, or any restrictive covenant or covenants affecting land."

The effect of the above provision is to confer on local authorities the power to vary or extinguish a restrictive covenant affecting land where a specific provision relating to the extinguishment or variation is inserted in the Town Planning Scheme.

The rationale behind the power vested by the First Schedule of the TP&D Act empowering local government to extinguish or vary a restrictive covenant was to allow local governments to handle inconsistencies or conflicts arising between the provisions of town planning schemes and restrictive covenants. It is important to note that where Council is required to consider a specific development proposal, the existence of the restrictive covenant on the land is not generally a relevant planning consideration.

The report by the WALRC specifically addresses the issue of inconsistencies or conflicts between the provisions of a Town Planning Scheme and a restrictive covenant.

The WALRC distinguishes between a conflict and an inconsistency. A conflict relates to the situation where it is not possible to act in compliance with both a Scheme and a restrictive covenant other than by doing nothing with the land. An example of this situation would be where a restrictive covenant restricts the use of the land to single houses and a rezoning proposes a commercial area prohibiting the development of single houses.

An inconsistency on the other hand would arise where the restrictive covenant is either more or less restrictive than the Scheme. In this instance some form of development is possible which is consistent with both the restrictive covenant and the Scheme. A typical example would be where the restrictive covenant restricts the use of land to a single dwelling, and the Town Planning Scheme permits the construction of duplex.

The WALRC noted that the main argument in favour of Town Planning Schemes overriding restrictive covenants is twofold. Firstly, restrictions placed by restrictive covenants may be inconsistent with the public purpose sought to be achieved by a Town Planning Scheme. The WALRC indicated that "it may be argued that it is incongruous that these public purposes can be frustrated by agreements between private residents."

Secondly, the use of restrictive covenants as private regulation of land was developed at a time when Town Planning Schemes were not available to control land use and protect land owners.

### **Need to consider the public interest- Law Reform Commission's Recommendations for change**

A proposed use or development may comply with the provisions of a Town Planning Scheme but it may also amount to a breach of a restrictive covenant. Where a breach to the restrictive covenant occurs; a person entitled to the benefit of the covenant could take legal proceedings to enforce the covenant.

In order to avoid this action, unless all the landowners with an interest in the land agree to extinguish or vary the covenant, or the Town Planning Scheme provides for such result, the only alternative available to the landowner is to apply to the Supreme Court for an extinguishment or variation of the covenant.

In the case of land under the Torrens System, subject to section 129C(1) of the Transfer of Land Act 1893; any person interested in the burdened land or any local government or public authority benefited by the restriction may apply for the extinguishment or variation of a restrictive covenant by an order of the Supreme Court.

As indicated by the WALRC, the main problem with this alternative is that the objects sought to be achieved by a Town Planning Scheme may be frustrated, as the Court is not required to have regard to the Scheme or public interest in dealing with the application.

The issue would then become one of balancing the public interest relating to the area as a whole and the protection of the individual land owners interest with relation to the specific area of land.

Where a local government is concerned that the purposes of its Town Planning Scheme are being impeded by a specific restrictive covenant, the WALRC recommended that an application be made to the Town Planning Appeal Tribunal for the covenant to be modified or extinguished. In other words, the WALRC recommended that a local government should have standing to apply to the Town Planning Appeal Tribunal for the extinguishment of restrictive covenants in more liberal circumstances.

The WALRC indicated that the circumstances in which restrictive covenants can be extinguished or modified by order of the Town Planning Appeal Tribunal should be liberalised to allow for the public purposes sought to be achieved in Town Planning schemes to be taken into account.

In light of this liberalised approach, the WALRC identified a specific criteria required to be satisfied before the variation or extinguishment of a restrictive covenant:

use or development must not be out of character or prejudicial to the amenity of the land to which the benefit of the restrictive covenant is annexed to ;

the restriction would impede the use or development of the land that is in accordance with the Metropolitan Region Scheme, or a Town Planning Scheme.

having regard to the Metropolitan Region Scheme or a Town Planning Scheme, interim development order or any regulation or code under the Town Planning and Development Act; retention of the restriction would have the effect of preventing the land being used or developed for any purpose;

retention of the restriction would prevent the subdivision of a lot or an amalgamation of any lot.

The WALRC recommended that the Town Planning Appeal Tribunal should take into account the following:

- a statement of planning policy; Section 5AA of the TP&D Act;
- Metropolitan Region Scheme or a Town Planning Scheme;
- local law for the area;
- history of the development of the Town Planning Scheme or planning policy and its objectives;
- any declared policy or ascertainable pattern of the local government;
- the time and context in which the restriction was created.
- any other material circumstances.

### **Problems associated with the use of Local government power's under item 15 of the 1 Schedule.**

One of the Recommendations of the WALRC was that the existing power vested in local governments to extinguish or vary a restrictive covenant affecting land should be abolished except for guided development schemes, for the following reasons:-

as the removal of the restrictive covenant would involve depriving the landowner of an interest in land, a hearing by a body required to observe the rules of natural justice would be required.

the existing power under the TP&D Act is inconsistent with the WALRC's recommendation to liberalise the circumstances in which a restrictive covenant could be extinguished or varied.

the lack of use of the existing power

### **Town Planning Scheme provisions incorporating variation or extinguishment provisions:**

The City of Melville Town Planning Scheme No5 incorporates provisions relating to the extinguishment of restrictive covenants. The provisions in the Scheme relate specifically to

the covenant restricting the number of residential units that may be developed on land, where these are less than those permitted by the Scheme.

The Model Scheme Text also incorporates provisions relating to the extinction or variation of restrictive covenants. Clause (5.6) of the Revised Model Scheme Text proposes to allow the extinguishment of restrictive covenants to the extent that the requirements of the covenants are inconsistent with the provisions of the Residential Planning Codes applicable under the Scheme. Following consideration by the WA Planning Commission of the Model Scheme Text, the Revised (Final) Model Scheme Text incorporates provisions allowing local authorities to vary or extinguish restrictive covenants with the effect of limiting the number of residential units which may be constructed on the land to the extent of inconsistency with the Residential Planning Codes.

The effect of the clause is to allow for automatic extinguishment of restrictive covenants, where the covenant is inconsistent with the provisions of the residential planning codes. The extinguishment or variation being to the extent of inconsistency.

### **Compensation:**

Section 11(1) of the TP&D Act provides that any "person whose land or property is injuriously affected by the making of Town Planning Scheme... shall be entitled to obtain compensation in respect thereof from the responsible authority."

The meaning of land includes any estate, interest, easement servitude or right in or over land". As a restrictive covenant is an interest in land, where a landowner who has the benefit of the restrictive covenant loses that benefit, the landowner may bring an action in compensation from the Local Authority.

Injurious affection in relation to land relates to the damage caused by the use of the land taken, on the balance of the land. This may include the loss in the value of the land.

The issue as to whether or not land is injuriously affected and the amount of compensation for the injurious affection shall be determined by arbitration in accordance with the Commercial Arbitration Act 1985 as provided by section 11(4) TP&D Act.

### **COMMENT**

As previously indicated it had been resolved by the former City of Wanneroo that restrictive covenant provisions should be included in the Scheme.

In accordance with the findings of the WALRC, the inclusion of provisions in Town Planning Schemes overriding restrictive covenants was not a recommended alternative.

Instead the WALRC recommended for local government to have standing to apply to the Town Planning Appeal Tribunal for extinguishment on a case by case basis. This approach would allow for the public purposes promoted by planning schemes to be taken into account. The recommendations of the WALRC involve a series of changes to the present structure of bodies vested with the power to deal with the variation or extinguishment of restrictive covenants.

At present, the City of Joondalup under the TP&D Act is empowered to incorporate provisions to allow the variation or the extinguishment of restrictive covenants.

However, in light of the reasoning and recommendations of the WALRC, the City is not proposing to introduce provisions allowing the automatic extinguishment of restrictive covenants. The proposed clauses are intended to provide guidelines in the exercise of Council's existing power to extinguish or vary restrictive covenants. The criteria proposed is equivalent to that proposed by the WALRC, which proposes the incorporation of provisions addressing planning grounds or the public interest on a case by case basis.

The main deficiency in the exercise of a local government power, is the need for an arbitrary body to hear the landowners with the benefit of the covenant.

The Law Society has commented that when a provision proposing the extinguishment or variation of a restrictive covenant is published for public comment, the person enjoying the benefit of the covenant could make a submission referring to the specific covenant, and make an application to the Court for an appropriate relief, if it is considered that the proposal is inappropriate in legal grounds.

### **Proposed provisions introducing a criteria in the use of Council's power**

This amendment proposes to introduce "Clause 7.9 Restrictive Covenants" into the City of Joondalup Town Planning Scheme. (Attachment 1)

The provisions recommended by this amendment particularly address the issues relating to the legal consequences resulting from the extinguishment of a restrictive covenant.

In order to deal with the problems associated with the use of a local authority's power and the possible emergence of compensation actions, the City's Solicitors have drafted a set of provisions. The intent and effect of these provisions was indicated in the legal advice received. These are as follows:-

Under Sub clause 7.9, restrictive covenants are expressly extinguished or varied. This is the key provision. The clause is to be read in conjunction with Schedule 13 which sets out the restrictive covenants to which the clause applies. Although it is likely that most extinguishment or variations will occur by Scheme Amendments, the proposed clause allows for extinguishment to occur as of the date of the gazettal of the Scheme so that the text can be easily introduced in the City's new Town Planning Scheme.

The object of clause 7.9.2 was introduced in order to ensure that persons who enjoy the benefit of the restrictive covenant are notified. This has been necessary because the benefit of the covenant may be a significant and valuable property interest. There is no special requirement to notify the persons who have the burden of the covenant, as these persons are likely to have applied to have the covenants extinguished, and they are unlikely to be detrimentally affected by the scheme provisions. The notification is provided by:-

notice sent by pre paid post to the person in the Certificate of Title, and because this is not often the current address of the person having interest in the land, provision is made for sending the notice to any later address known to the Council. Although no obligation is imposed upon the Council to make enquiry as to the latest address.



notice is given by publication of the notice at least once in a local newspaper.

Clause 7.9.3 has two purposes. Firstly, it ensures that a restrictive covenant is extinguished or varied by Council only where the variation or the extinguishment would be consistent with the provisions of the Scheme and the interest or orderly and proper planning, and or the interest of the amenity of the locality.

The second purpose of this clause is to enable Council to require a person requesting the extinguishment or variation of a restrictive covenant to enter into a deed indemnifying the Council against the costs of, and incidental to, extinguishing or varying the covenant, and against the possibility of compensation being claimed or recovered for injurious affection. It was indicated in the Solicitor's advice, that the introduction of this provision is crucial; especially while there is possibility for an amendment to the Town Planning and Development Act 1928, which would entitle a person seeking a scheme amendment to appeal against a Council refusal.

At a conference between Council's Solicitors, Commissioners and Council's officers held on 16 December 1998, Mr Denis McLeod advised that an additional paragraph be added to Clause 7.9.3 of the proposed Scheme provisions. The additional paragraph includes a provision "imposing a charge on the servient tenement (burdened land) to secure an obligation entered into by the owner of the servient tenement to indemnify the Council against any claim for compensation arising from the extinguishment or variation of the restrictive covenant".

Clause 7.9.4 allows for the extinguishment or variation to be included as notification in the relevant Certificate of Title. For this reason notification to the Registrar of Titles is essential.

Overall the provisions are the result of considerable thought by the City's Solicitors and they have indicated that any modifications to these should not be made without further legal advice.

It can be seen from the provisions proposed by City's Solicitors that they are more comprehensive than the proposed Model Scheme Provisions; allowing for appropriate notification of all the interested parties. Further rather than allowing for automatic extinguishment as proposed by the Model Scheme Text, extinguishment is dependent upon Council deciding on a case by case basis, that it is consistent with the provisions of the scheme, orderly and proper planning and the amenity of the locality.

In adopting Amendment 824 (DP94-03/98 refers) Council also adopted the restrictive covenant provisions attached to that report. As indicated throughout the present report, these restrictive covenant provisions initially proposed have been modified extensively. Consequently, it is necessary to rescind Council's adoption of Amendment 824 thereby enabling Council to consider the modified provisions in a new resolution.

#### **Public Advertising of the Amendment:**

The consent of the Western Australian Planning Commission for public advertising is not required where a proposed amendment satisfies the criteria set out by the Town Planning Regulations 1967 (25(2)) as follows:-

consistency with Section 6 of the Town Planning and Development Act (TP&D Act) , or First Schedule of the Act;  
consistency with any Regulations made under the Act;  
consistency with Section 34 of the Metropolitan Region Town Planning Scheme Act;  
consistency with any statement of Planning Policy prepared under Section 5 AA of the Act.

The proposed Amendment satisfies the criteria above in that the introduction of restrictive covenant scheme provisions is consistent with the First Schedule of the Town Planning and Development Act item 15.

As such if Council decides to adopt the modified provisions, the Amendment can be advertised for public comments. Prior to advertising, the proposed amendment needs to be referred to the Environmental Protection Authority (EPA) in accordance with Section 7A1 of the Town Planning and Development Act.

Due to the wide nature of the amendment it is considered that the amendment be advertised on the local newspaper on more than one occasion.

### **ADDITIONAL INFORMATION**

A question has been raised regarding the interpretation of proposed Clause 7.9.3. This matter has been discussed with Council's solicitor. As the intention is to require either conditions (a) and (c) or conditions (b) and (c) to be satisfied it is suggested that the clause be changed as follows:

*"7.9.3 - The Council is not to extinguish or vary a Restrictive Covenant under the provisions of this clause unless in the opinion of the Council the extinguishment or variation would be either:*

*(a) consistent with the objectives and principles of the Scheme, or*

*(b) otherwise consistent with the interest of orderly and proper planning;*

*and in the case of either (a) or (b) would involve greater benefit than detriment to the amenity of the locality of the lands burdened and benefitted by the covenant."*

The amended documentation forms Appendix XV hereto.

This additional information did not alter the original recommendation.

**MOVED Cmr Morgan, SECONDED Cmr Buckley that the Joint Commissioners:**

**1 RESCIND Council's decision DP94-03/98 of 24 March 1998 viz:**

***"...that the Joint Commissioners in accordance with Section 7 of the Town Planning & Development Act 1928, amend Town Planning Scheme No 1 to introduce provisions enabling restrictive covenants to be removed or amended, and adopt Amendment No 824 accordingly."***

- 2 in accordance with Section 7 of the Town Planning & Development Act 1928, AMEND Town Planning Scheme No 1. to introduce provisions allowing the variation or extinguishment of restrictive covenants and ADOPT Amendment 824 accordingly;
- 3 subject to completion of the requirements of Section 7A1 of the Town Planning and Development Act 1928, APPROVE the Amendment being made available for public inspection and comment.

Cmr Morgan spoke in support of the Motion.

**The Motion was Put and**

**CARRIED BY AN  
ABSOLUTE MAJORITY**

Appendix XV refers.

Items CJ27-02/99 to CJ32-02/99 inclusive were Moved by Cmr Morgan and Seconded by Cmr Clark-Murphy.

**CJ27-02/99      PROPOSED AMENDMENT 842 TO TOWN PLANNING  
SCHEME NO.1 TO REPLACE CURRENT HOME  
OCCUPATIONS PROVISIONS WITH HOME  
BUSINESS PROVISIONS - [22442]**

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**SUMMARY**

Amendment 842 was initiated in September 1998 to replace home occupation provisions with Home Business provisions. One of the most significant reasons for the introduction of these provisions is the continuous increase in the number of people working from home. Planning controls must respond to these new trends; and must simultaneously ensure that any likely effects on the amenity of residential areas are taken into account.

The proposed amendment to the Scheme involves the introduction of three types of Home Business activities. The main difference between the various categories of Home Business are related to the intensity of uses permitted and the need for more stringent controls in order to minimise any likely effects on the amenity of residential areas.

This amendment was advertised for public inspection until 29 December, 1998. No formal submission was received during this period.

A number of minor modifications to the proposed Scheme provisions are suggested. These modifications include replacing a number of ambiguous terms, and modifications to accommodate Family Day Care Centres.

## BACKGROUND

At the meeting of 22 September, 1998 (CJ157-09/98 refers) the Joint Commissioners resolved to:

*“...amend Town Planning Scheme No.1 by replacing current Home Occupation provisions with Home Business provisions and adopt Amendment No. 842 accordingly.”*

The proposed Amendment was referred to the Department of Environmental Protection (DEP). The DEP indicated that no assessment was required under Part IV of the Environmental Protection Act. No additional environmental advice was given.

Consent for public advertising of the proposal was granted by the Western Australian Planning Commission (WAPC) on 12 October, 1998. The proposed amendment was available for inspection for a period of 42 days, and a notice of the Amendment was published in the Wanneroo Times.

## DETAILS

The advertising period closed on 29 December 1998. No submission was received during this advertising period.

### **Need to replace existing provisions:**

At present, Home Occupations are defined and controlled by Clauses 1.8 and 3.24 of the Town Planning Scheme No.1.

Clause 3.24 requires the granting of Council's permission before a home occupation can be undertaken.

In addition to Town Planning Scheme provisions, the existing Home Occupation Policy (Policy G3-18) sets the guidelines for home occupations applications.

The review of home occupation provisions is intended to address the following issues:

- the existing discrepancies between the Scheme provisions and policies;
- increasing number of home occupations carried out without Council's approval;
- current trends towards home working;
- the importance of the possible contribution to local employment.

The proposed Town Planning Scheme provisions have been drafted following a consultation process involving a Home Occupations Workshop; City's Solicitors advice and public advertising (no submissions were received during this period).

The Home Occupation Workshop was carried out during October 1997. Participation in the workshop included the former City of Wanneroo (Councillors and Officers), Ministry for Planning representatives, representatives from the Small Business Development Corporation, Wanneroo Chamber of Commerce and a representative of Paul Filing JP MP.

Consultant Steve Smith was appointed to prepare a position paper: “Strategic Land Use Directions Relating to People Working from Home”; Draft Scheme Provisions; Policy and Local Planning Strategy. Copies of this position paper sent to workshop’s participants for comments.

Further comments were received from Hon Ray Halligan MLC (Member for North Metropolitan Region) on the draft Scheme Provisions and Policy.

## **COMMENT**

This amendment to Town Planning Scheme No.1 provisions involves replacing the general definition of Home Occupation with 3 different categories of Home Business. The differences between these three categories are related to the extent of restrictions imposed by Council and the need for Council’s approval. The rationale being that the need for Council’s approval varies according to the intensity of the proposed use and the likely effect on the amenity of the area. Attachment 1 includes the proposed Town Planning Scheme provisions.

### **Home Business- Category 1:**

This type of home business is intended to include a low intensity use, with a minimal effect on the amenity of the surrounding residential areas. A typical example of this type of home business being the home office for self employed individuals or teleworkers.

One of the restrictions for this type of use is the requirement that only residents of the dwelling can carry out the home business. Further, the use must be of such nature that no customers would call at the premises.

Consequently, Home Business-Category 1 uses do not require the consent of Council.

Review measures are included in the Scheme provisions. These review provisions allow Council to request a statement of the nature of the business, and to review the category classification.

In general, the provisions proposed for this Category 1 are similar to those proposed by the Model Scheme Text Provisions.

Recent legal advice on the classification of Family Day Care Centres indicates that new Family Day Care Centres should be considered as a “Use Not Listed”, and require development approval; or alternatively considered as home business when this amendment is finalised.

Family Day Care Centres are generally home based business providing for the care of up to 7 children in a domestic environment. Since this use does not fall within the existing definition of Home Occupation; it has been considered appropriate to include Family Day Care Centres in the proposed use Home Business-Category 1.

A large number of family day care centres have been operating over the past decade with no major problems arising from the operation of these uses.

It has been indicated by Council’s officers that it would be unlikely that these centres could operate in areas with less than 20 m<sup>2</sup>. Since the nature and extent of Family Day Care Centres is limited by the number of children, and the Child Care Licensing Board restrictions, floorspace limitations are not appropriate to this type of use. Consequently, the proposal should be modified by inserting:

Clause 1.8 (k) enabling Family Day Care Centres to be considered as Category 1 uses; and  
Definition of Family Day Care Centres in Clause 1.8;

### **Home Business -Category 2:**

This class is intended to include uses of a medium intensity. The main difference with Category 1 is that it allows for the employment of 1 person, not a resident of the household. *The maximum area allowed for this use amounts to 30 m<sup>2</sup>; although Council has the discretion in accordance with requirement (e) of this category to allow a greater floorspace.*

This type of home business requires Council's approval. The Scheme provisions set out the various factors that will be considered by Council in assessing the likely impact of these types of uses. On this basis each application is to be considered on its merits.

### **Home Business-Category 3:**

Home Business activities under Category 3 include the more intense uses. Council approval to commence development is required.

The definition proposed by this amendment includes: *Home Business-Category 3 means a business, service, trade, or similar activity...*

Some concerns were raised by the North West Metro Business Association as to the definition and distinction between business, services or trade. These terms were not intended to be used as separate identifiable uses, but rather to indicate the wide encompassing meaning of business.

It is proposed that in order to avoid similar uncertainties as to the meaning of service or trade; minor modifications be made to the definition to include:

Home Business-Category 3 means *an occupation or professional practice undertaken for the purposes of commercial gain; and...*

Under the proposed provisions for Category 3, a maximum of 2 non residents can be employed. Council has the discretion to allow for up to 4 non residents employees subject to community consultation.

Likewise, a maximum 50 m<sup>2</sup> may be used for the purposes of the Home Business, but Council can use its discretion to allow up to 100m<sup>2</sup> or one third of the floor area of the dwelling whichever the lesser, subject to community consultation. In addition to a development application, Category 3 Home Business will require the submission of a management plan to include details of the proposed use. This will be required by a proposed Home Business Policy.

A further minor change is suggested for subclause (g) of this category. Due to the generality of the term "traffic difficulties", it is proposed to replace this subclause with the following:

- g) *will not result in the requirement for a greater number of parking facilities than those provided on the site so as to cause an unacceptable inconvenience for adjoining residents and road users.*

### **Clause 7.1**

In order to ensure that the proposed provisions are consistent with Amendment 814 to Town Planning Scheme No1 (which requires approval for single dwellings involving the exercise of Council's discretion or requiring compliance with Structure Plans) minor modifications were made to Clause 7.1.

**REPORT RECOMMENDATION:** That the Joint Commissioners:

- 1 pursuant to Town Planning Regulations 1967 (17 (2)) MODIFY and ADOPT Amendment 842 to Town Planning Scheme No1 to replace current Home Occupation provisions with Home Business provisions;
- 2 AUTHORISE the affixation of the common seal to, and endorse the signing of, the amendment documents.

### **ADDITIONAL INFORMATION**

Amendment No 842 proposed to introduce provisions for Home Business. The purpose of this additional information is to notify the Joint Commissioners of a late submission received from the North West Metro Business Association- President Russell Poliwka. The submission was received on 28 January 1999.

The submitters raise a number of issues in relation to the different classes of Home Business. A schedule containing the details of the submission is attached - (Appendix XVI refers).

Based on the comments submitted, it is considered that Home Business Category 1 item (i) be modified to apply to vehicles of no more than 1.5 tonnes tare weight.

**AMENDED RECOMMENDATION:** That the Joint Commissioners:

- 1 NOTE the late submission received, and MODIFY Home Business - Category 1 (i) from 3.5 tonnes tare weight to 1.5 tonnes tare weight;
- 2 pursuant to Town Planning Regulations 1967 (17 (2)) MODIFY and ADOPT Amendment 842 to Town Planning Scheme No1 to replace current Home Occupation provisions with Home Business provisions;
- 3 AUTHORISE the affixation of the common seal to, and endorse the signing of, the amendment documents.

**MOVED Cmr Morgan, SECONDED Cmr Clark-Murphy that the Joint Commissioners:**

- 1 **NOTE the late submission received, and MODIFY Home Business - Category 1 (i) from 3.5 tonnes tare weight to 1.5 tonnes tare weight;**

- 2            **pursuant to Town Planning Regulations 1967 (17 (2)) MODIFY and ADOPT Amendment 842 to Town Planning Scheme No1 to replace current Home Occupation provisions with Home Business provisions;**
- 3            **AUTHORISE the affixation of the common seal to, and endorse the signing of, the amendment documents.**

**The Motion was Put and**

**CARRIED**

Appendix XVI refers

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**CJ28-02/99        DELEGATED AUTHORITY REPORT- [07032]**

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**SUMMARY**

This report provides a resumé of the development applications processed under Delegated Authority from 3 December 1998 to 15 January 1999.

**MOVED Cmr Morgan, SECONDED Cmr Clark-Murphy that the Joint Commissioners note the actions taken and determinations made under Delegated Authority Report CJ28-02/99.**

**The Motion was Put and**

**CARRIED**

Appendix XIV refers

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**CJ29-02/99        OFFENSIVE TRADE APPLICATION - FISH  
PROCESSING : LOT 1020 CHESAPEAKE WAY,  
CURRAMBINE [18040J]**

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METRO SCHEME:	Urban
LOCAL SCHEME:	Mixed Business
APPLICANT/OWNER:	Mr A and Mrs F Sinatkas
APPLICATION RECEIVED:	19 December 1998

**SUMMARY**

Council is advised of an application from Mr A and Mrs F Sinatkas of 238 Hector Street, Tuart Hill to establish an offensive trade (Fish Processing Establishment) at Lot 1020 Chesapeake Way, Currambine. Their intention to operate this offensive trade has been correctly advertised and no objection was received within the advertising period. Approval of the application is recommended.





## BACKGROUND

Under the provisions of Section 187 of the Health Act 1911 and the City's Local Laws on Health Series "A", premises, upon which the gutting, filleting or cleaning of fish is proposed, are required to be licensed as an offensive trade. Mr A and Mrs F Sinatkas have proposed to undertake those activities at the abovementioned location and are requesting licensing accordingly.

## DETAILS

The location of the subject premises is within a newly completed small mixed shop development immediately adjacent to McDonalds and Red Rooster on the corner of Delamere Avenue and Marmion Avenue, Currambine. The lot address was initially Lot 1020 Marmion Avenue, but the existing development was constructed some months ago on the newly created Chesapeake Way at the rear of Lot 1020 to provide access from other than Marmion Avenue.

The applicants already have approval to operate a Fish and Chip shop from the premises, and are in the process of fitting out the shop.

The applicants advertised their intention to seek the relevant licence by placing a Public Notice in the West Australian newspaper on 24 November 1998. The advertisement is a requirement of the Local Law allowing a thirty (30) day period for valid health related objections to be lodged with the City.

At the close of advertising on 24 December 1998, no formal objections were received.

## COMMENT

The applicants have previously held a similar licence within the municipality and are recognised as professional operators by Council's Health Services. The premises are suitable for the proposed operation, and these criteria, coupled with the lack of objections should allow for the application to be approved.

**MOVED Cmr Morgan, SECONDED Cmr Clark-Murphy that the Joint Commissioners APPROVE the establishment of an Offensive Trade (Fish Processing Establishment) at Lot 1020 Chesapeake Avenue, Currambine in the name of A & F Sinatkas (trading as Currambine Fish and Chips), subject to the premises complying with all aspects of the Health Act regulations and Local Laws made thereunder.**

**The Motion was Put and**

**CARRIED**

**CJ30-02/99      OFFER TO PURCHASE COUNCIL LAND AT LOT 11  
O'CONNOR WAY, WANGARA - [09152W, 03902W]**

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## SUMMARY

At the Special Council meeting held on 24 December 1998 at Item (JSC39-12/98 refers) the Joint Commissioners considered an offer to purchase Lot 11 O'Connor Way, Wangara that

had been submitted on behalf of Talport Pty Ltd. The Joint Commissioners did not give approval for the giving of public notice in respect to that offer on the grounds that it was below the current market valuation of the land.

A revised offer on behalf of Talport Pty Ltd was submitted on 11 January 1999 and the offered amount is equal to the current valuation. However, the offer contains conditions that are considered to be not acceptable and it is therefore recommended that the Joint Commissioners authorise the giving of public notice in respect to the offer subject to the conditions being deleted.

## **BACKGROUND**

Lot 11 is one of the two lots remaining within the subdivision of Council's remnant landholding in the north-west corner of Wangara which produced 16 light industrial lots.

The current valuation of the lot as assessed by the Valuer General's Office on 4 November 1998 is \$295,000. Talport Pty Ltd has submitted an offer to purchase Lot 11 at the valuation figure.

## **DETAILS**

The terms of the offer submitted by Talport Pty Ltd are as follows:

a deposit of \$29,500 that is to be paid within 7 days of the acceptance of the offer

settlement is to be 150 days from the date of acceptance

subject to finance approval for \$215,000 from the Challenge Bank within 30 days of acceptance

subject to Council approval for display homes to be erected on the site with access from O'Connor Way

subject to Talport Pty Ltd being given approval to landfill and contour the site at its cost and specification

subject to confirmation that a screen wall which would obstruct visibility to the site at the southern boundary of Ocean Reef Road will not be built.

## **COMMENT**

Although the offered price satisfies the criteria of being at least equal to the current market valuation the conditions on which the offer is made are considered to be too onerous to be acceptable and do not present any advantage to the Council in the disposal of its asset.

The following matters are relevant when considering the time element conditions of the offer.

1. Under the operation of Section 3.58 of the Local Government Act 1995 a local government cannot accept an offer for the disposal of property by private treaty until it considers any submission that may be made on the proposal following the giving of public notice. The minimum period that a proposal is to remain open for submissions is two weeks after notice of it is first given.

The Council of the local government must authorise the giving of public notice before it is published. Therefore, assuming that there are no submissions received that would go against acceptance of the offer, any offer would need to be put before the Council on two occasions. In realistic terms given the need to meet newspaper advertising deadlines and Council Agenda deadlines, it is possible that a period in the region of 45 days may elapse between an offer being received and it being accepted.

In these circumstances a settlement period of 150 days after acceptance is considered inordinately long, especially considering firstly that the first offer submitted by Talport Pty Ltd was dated 8 December 1998, and secondly that finance approval is to be given within 30 days of acceptance.

2. The sale of the land should not be made conditional on the contouring of the site to the purchasers specification without the overrider that those specifications must conform with the earthworks determined by the Council in its approval to commence development.
3. The condition that requires the Council to confirm that a screen wall will not be built along part of Ocean Reef Road is an unnecessary demand on the Council and should not be agreed to.

There is no intention to build such a wall or any other form of visual obstruction along any part of Ocean Reef Road and it is improbable that such an event is likely to occur in the future. However, the Council should not be required to enter into a contractual arrangement that may be beyond its control at some future time.

**MOVED Cmr Morgan, SECONDED Cmr Clark-Murphy that the Joint Commissioners GIVE APPROVAL for the giving of public notice of the proposal to sell Lot 11 O'Connor Way, Wangara to Talport Pty Ltd for the price of \$295,000 subject to Talport Pty Ltd agreeing to settlement within 30 days of satisfaction of the requirements of Section 3.58 of the Local Government Act 1995 and subject to the other conditions contained in Talport's Pty Ltd offer of 11 January 1999 being deleted.**

**The Motion was Put and**

**CARRIED**

**CJ31-02/99      REQUEST FOR CLOSURE OF PEDESTRIAN  
ACCESSWAY - ALEXANDER ROAD, PADBURY  
[08673J]**

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**SUMMARY**

The owners of Lot 50 (10) Alexander Road, Padbury have requested the closure of the pedestrian accessway, on the northern boundary of their property. In their application for this closure, the landowners have stated that they cannot see the need for the pedestrian accessway to remain open and that closure will assist with controlling damage to adjacent properties.

The application was advertised for public submissions for a period of thirty days and at the close of advertising four letters of objection were received. Due to the nature of the objections, the strategic location of the pedestrian accessway and the reason for the application, closure should not be supported.

## **BACKGROUND**

At their meeting of 23 December 1997, the Joint Commissioners approved the closure of the pedestrian accessway to the south of Lot 50 (10) Alexander Road, Padbury. The owners of Lot 50 (10) Alexander Drive, Padbury acquired a portion of the accessway.

It would appear that the applicants' rationale regarding the current application is that the pedestrian accessway no longer serves any purpose and they would therefore like it closed.

## **DETAILS**

The proposed closure was referred to the Department of Transport, the Ministry for Planning and the servicing authorities. Contact with the services revealed the only service plant within the accessway is a Water Corporation sewer main. This will need to be protected by an easement over the full length and width of the accessway, and the applicants have agreed to this. Telstra, Western Power and Alinta Gas do not have any service plant within the pedestrian accessway.

The Department of Transport's Transperth branch stated that alternative pedestrian access to bus stops for the bus service in the locality appear to be adequate, and it therefore has no objection to this accessway being closed.

The Department of Transport's Bikewest branch objects to the closure. It would like the accessway maintained for cyclists and pedestrians to the local services and facilities such as Bambarra Primary School, Forrest Plaza and Forrest reserve.

Four letters of objection were received during the advertising period, two letters from the same address. The main objection raised was that closure will inconvenience the residents of Jason Place, Padbury. The objectors feel that local residents have already been inconvenienced by the closure of the pedestrian accessway on the southern boundary of the applicants' property.

## **COMMENT**

The City of Joondalup has two properties which adjoin the accessway. An infant health centre and hall with car park is situated on Lot 699 and a former kindergarten that is now occupied by the Padbury Playgroup is situated on Lot 40 Jason Place. Lot 40 does not have direct access onto the accessway because of a medium height retaining wall. However, a constructed path across Lot 699 connects Jason Place with the accessway. The boundary of Lot 699 is retained by a sloping limestone boulder wall that is not traversible therefore closure of the accessway would deprive access onto Alexander Road and the adjoining park and shopping centre.

This accessway does not adjoin any residential property and the open aspect of the community site would limit the opportunity for any of the anti-social behaviour that often occurs in closed in accessways.

There are no planning or social reasons that support the closure of the accessway.

**MOVED Cmr Morgan, SECONDED Cmr Clark-Murphy that the Joint Commissioners DO NOT SUPPORT closure of the pedestrian accessway leading off Alexander Drive, Padbury.**

**The Motion was Put and**

**CARRIED**

**CJ32-02/99      APPLICATION FOR RECONSIDERATION OF  
DISPOSAL OF PART RECREATION RESERVE 38260  
COMPASS CIRCLE, YANCHEP - [31297W]**

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**SUMMARY**

The Council has previously considered an application from an adjoining landowner for the cancellation and disposal of a part of Recreation Reserve No 38260 in Compass Circle, Yanchep. The Council has agreed to the cancellation and disposal on the basis that the disposal price should be set by current valuation that recognises the potential of the subject portion to be sold as a separate lot on the open market.

The applicant does not accept that valuation principle and requests that the Joint Commissioners reconsider their previous decision and allow the land to be valued for disposal purposes on the basis that it is a remnant parcel that does not have a single lot potential.

**BACKGROUND**

The Joint Commissioners considered an application for re-consideration of an earlier resolution in respect to the disposal of part of Recreation Reserve No 38260 in Compass Circle, Yanchep, at their meeting held on 24 March 1998 (Item DP107-03/98 refers). That Report and resolution are shown as Attachment No 1.

The initial application to cancel the Reserve was made in mid 1991 by the then owner of Lot 603. The City advised Mrs Dunnet as the owner of Lot 830 of the proposal and asked if she would be interested in acquiring the half of the Reserve that adjoins her lot. Mrs Dunnet responded in the affirmative and furthermore stated that she would be interested in acquiring the whole of the Reserve if the owner of Lot 603 chose not to proceed.

The applicant owner of Lot 603 later sold that lot to Gemrock Holdings Pty Ltd.

In August 1995 the Town Planning Consultant then acting for Mrs Dunnet as the owner of Lot 603 requested Council to cancel the Reserve and amalgamate it wholly with Lot 603. Council agreed to that at its meeting held on 28 February 1996 and requested the Department of Land Administration (DOLA) to effect the required procedures and set a purchase price.

DOLA responded, in line with its usual practice, by giving a purchase price for amalgamation partly with both adjoining lots (\$15,000 each) or wholly with either lot (\$27,500 each).

**DOLA included the statement that “It would appear desirable to the City if the land could be disposed of as a single lot as this method of disposal would certainly attract the highest value.”**

This statement was interpreted by the City as an expectation on DOLA’s part that the Reserve would be disposed of at its highest and best value and since then the City has been attempting to achieve that result.

The current application was submitted by Don Brown Planning Services on behalf of Mrs Monika Dunnet and Gemrock Holdings Pty Ltd, who are the owners of the residential lots that adjoin each side of Reserve 38260. Mrs Dunnet owns adjoining Lot 830 in her own right and has a proprietary interest in Gemrock Holdings which owns the other adjoining Lot 603. The subject part of Reserve 38260 and the adjoining landholdings are shown on Attachment No 2.

The Joint Commissioners resolved to:

1. Offer to support the disposal of part of Reserve 38260 to the owners of Lot 603 and Lot 830 Compass Circle, Yanchep on a new valuation based on its potential as a small, narrow frontage single lot that would require an on-site effluent disposal system.
2. Support the division of part of Reserve 38260 valued as a single lot, in accordance with 1 above, for amalgamation equally with Lots 603 and 830.
3. Advise Mrs Dunnet that the offer to support the disposal of part of Reserve 38260 on this valuation basis will remain open for 60 days only.

The applicant was advised of the Joint Commissioners’ decision by letter dated 27 March 1998 and, on 23 May 1998, the applicant made a request for further consideration by the Joint Commissioners.

### **Further submission**

The request for reconsideration by the Joint Commissioners is made on the following grounds:

1. The earlier decision of the Joint Commissioners did not address the concerns and arguments put forward in the applicant’s submission dated 25 February 1998.
2. The Joint Commissioners’ decision is based on the notion that the Western Australian Planning Commission (WAPC) insists that the land be treated as a single lot, and that notion is wrong.
3. In determining if the land should be treated as a single lot or amalgamated with the adjoining land, the Joint Commissioners are obliged to have regard for planning considerations only.
4. The Joint Commissioners’ decision of 24 March 1998 that the land be offered for sale as two halves for amalgamation, means that the land would not become a lot and any advice to the Department of Land Administration (DOLA) for the purpose of establishing valuation should emphasise that intent.

5. The sale by the City of an adjoining strip of land to Peet & Co in 1995 at a value rate of \$14.55 per square metre, demonstrates that that land was considered a remnant and was discounted accordingly.
6. The Joint Commissioners' recent decision in the matter appears to support the view that the land is not to be sold as a lot but as two remnant parts. The City's request for a valuation from DOLA should make this clear.

**On 15 January 1999 the agent for Mrs Monika Dunnet and Gemrock Holdings Pty Ltd submitted formal offers on behalf of his clients for each of them to purchase the half width of the reserve that adjoins their respective landholdings at the price of \$7,000. This price is equal to the December 1998 price for each portion set by DOLA and referred to later in this report under the heading "Valuation".**

### **Comment on Further Submission**

The statement that the Joint Commissioners did not take into account the concerns and arguments put forward in the applicant's submission dated 25 February 1998 is not correct. That submission was itself the applicant's suggested wording for a letter that was to be written by the City to DOLA requesting a valuation of the land. As the wording did truly reflect the City's position as stated at a conference held earlier on that same date, the suggested wording was not adopted.

The statement that the Joint Commissioners' decision was based on the notion that the WAPC was insisting that the land be valued as a single lot, is not correct. The fact is that the Joint Commissioners were at all times aware that the land could be dealt with either as a single lot on the open market or as a lot that could be divided equally and amalgamated with the two adjoining properties or with one only of them.

The statement that the Joint Commissioners' decision of 24 March 1998 means that the land would not become a single lot takes too narrow an interpretation of the decision and fails to recognise that it was premised on the valuation being done on the basis that the land did have the potential of a single lot.

The land the City sold to Peet & Co was a long, narrow and irregular shaped strip, as shown on Attachment No 2. It does not have the characteristics of the subject portion of Reserve 38260 and it could rightly be considered a remnant.

The further submission does not contain any compelling argument that would render the Joint Commissioners previous resolution unfair or inequitable.

### **Valuation**

Instructions were issued to DOLA to obtain a new valuation from the Valuer General's Office (VGO) for the land in accordance with the Council resolution that it was a small, narrow frontage single lot that would require an on-site effluent disposal system if it was offered for sale on the open market.



The instructions also requested that it be evaluated on the alternative basis of a remnant parcel for amalgamation equally with the adjoining lot numbers 830 and 603 and that the various arguments put forward by Don Brown Planning Services should be advised to the VGO for inclusion in its valuation criteria.

The advice from the VGO in August 1996 was that the land had a value of between \$60,000 and \$65,000 as a stand-alone lot. The December 1998 revised value on the same basis has been reduced to \$55,000.

The valuation advice received in June 1998 on the basis that the land was to be amalgamated with either one only of the adjoining lots or equally between the both of them, was \$27,500 if amalgamated with one of the lots or \$15,000 for each, if split equally between them. The December 1998 advice is that those values have been reduced to \$14,000 and \$7,000 respectively.

**MOVED Cmr Morgan, SECONDED Cmr Clark-Murphy that the Joint Commissioners:**

- 1 DO NOT SUPPORT the offers dated 15 January 1999 made on behalf of Mrs Monika Dunnet and Gemrock Holdings Pty Ltd to each purchase one half of Reserve 38260 at the price of \$7,000;**
- 2 OFFER TO SUPPORT the disposal of a part of Reserve 38260 jointly to Mrs Monika Dunnet and Gemrock Holdings Pty Ltd at a price of \$55,000 being its current market value as a small narrow frontage lot that would require an onsite effluent disposal system;**
- 3 ADVISE Mrs Monika Dunnet and Gemrock Holdings Pty Ltd that the offer to support the disposal of part of Reserve 38260 at the price of \$55,000 will remain open for 60 days only;**
- 4 in the event that Mrs Monika Dunnet and Gemrock Holdings Pty Ltd DO NOT ACCEPT the offer within 60 days authorise procedures to be put in hand for the disposal of part of Reserve 38260 by public auction.**

**The Motion was Put and**

**CARRIED**

Items CJ33-02/99 and CJ34-02/99 were Moved by Cmr Morgan and Seconded by Cmr Buckley.

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## **CJ33-02/99 JOONDALUP STRUCTURE PLAN - [00152J]**

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### **SUMMARY**

The Joondalup City Centre Development Plan and Manual were approved and adopted by the City of Wanneroo in August 1990. On 16 October 1996 the Council of the former City of Wanneroo (the former Council) deemed a revised document to be an Agreed Structure Plan. The Western Australian Planning Commission has asked that it now be revised and formally endorsed as a Structure Plan under Part 10 of the City of Joondalup Town Planning Scheme No 1.

In the process, the Structure Plan has been rearranged in a standard format to eliminate repetition of provisions and relate maps to lot boundaries. Car parking standards are also included.

Approval is recommended for the revised document to be advertised as the Joondalup Structure Plan.

## **BACKGROUND**

The Joondalup City Centre Development Plan and Manual adopted by the former Council on 20 December 1995 was deemed to be an Agreed Structure Plan. The Development Plan and Manual have from time to time been changed under the provisions of Part 10 of the City of Joondalup Town Planning Scheme No 1 (the Scheme).

Clause 5.42 (b) of the Scheme states “The Joondalup City Centre Development Plan and the Joondalup City Centre Development Manual adopted by the former Council on 20 December 1995 shall be deemed to be an Agreed Structure Plan and may be changed, subject to such changes being approved under the provisions of Part 10 of the Scheme.”

Clause 10.7 provides that “an agreed Structure Plan may, subject to the approval of the Commission, be amended or revoked by the Council.”

In March 1992, the former Council endorsed the structure plan and concept for Joondalup City North. In December 1995 (TP 393-12/95 refers) the former Council adopted the revised Joondalup City Centre Development Plan and Manual. This covered three Districts; the Central Business District, City North and Western Business District. Four more are shown on the plan: Lakeside, Campus, Northern Recreation and Southern Business. (Attachment 1).

At their meeting on 26 August 1998, the Joint Commissioners agreed to adopt a new section for Lakeside District Guidelines (Report CJ86-08/98 refers).

LandCorp has informed Council that from 1 March 1998, it would no longer be involved in approving submissions in Joondalup City Centre nor in producing and updating the Joondalup City Centre Development Plan and Manual.

## **DETAILS**

The Western Australian Planning Commission has recently questioned the status of the Joondalup City Centre Development Plan and Manual and now that responsibility for its preparation lies solely with the City, the formal preparation of a revised document is seen as appropriate.

The Joondalup City Centre Development Plan and Manual sets out the design principles for Joondalup City Centre and controls matters of land use, character and density, the location of primary frontages, access for vehicles, setbacks, site coverage, building heights, roof pitch and fencing.

Considerations of public amenity, interaction between streets and buildings and pedestrian comfort are integrated with public safety in the design objectives for the Joondalup City Centre. Street frontages are required to be open to the streets, use of ground floors for cafes and restaurants and of outdoor areas for alfresco dining is encouraged and blank walls are to be avoided. Concerted design attention is given to eliminating hidden corners, to lighting car parks and other areas used by the public and to providing clearly identifiable entrances at the fronts of buildings. Private areas are to be secured with fencing and grilles that are designed as an integral part of the architecture.

Use of the City Centre at all hours is another important element in making the community safe as well as generating the vitality typical of established cities; the Structure Plan encourages residential uses in the Central Business District and small shops to be built in the residential areas. Flexibility to change commercial uses also ensures that businesses can react to local demand and remain attractive at all hours and in all seasons.

The Joondalup City Centre Structure Plan (Attachment 2) contains an introduction as required by Part 10 of the Scheme; it eliminates repetition of provisions for each district and has been rearranged in a standard Structure Plan format. The maps are now related to lot boundaries and consolidated, car parking standards are included and the proposed A4 black and white format will allow more convenient access to the information.

No attempt has been made to convert the coloured graphics in the Development Plan and Manual to black and white. This will be considered at a later date in relation to a budget for the work.

The draft Structure Plan has been passed to LandCorp, the Ministry for Planning and Council officers and comments received have been acted upon where appropriate.

## **COMMENT**

The preparation of a Structure Plan under the provisions of Part 10 of the Scheme and its formal advertising are considered to be important as a means of obtaining community opinion on the requirements as well as meeting the comments of the Western Australian Planning Commission. The draft Structure Plan as proposed, conforms with the requirements of Part 10 of the City of Joondalup Town Planning Scheme and is acceptable for the control of development within the Structure Plan area. The document is intended to be simpler to interpret and to administer, and to ensure that development follows the design principles of Joondalup City Centre.

Under the provisions of Part 10.5.1 of Town Planning Scheme No 1, a planning policy is to be advertised as a draft for a minimum period of 21 days. Council shall then adopt the draft policy or modify it in the light of any objections and give notice of final adoption.

The revised Joondalup City Centre Structure Plan is considered to be suitable for advertising

**MOVED** Cmr Morgan, **SECONDED** Cmr Buckley that the Joint Commissioners, pursuant to Clause 10 of the City of Joondalup Town Planning Scheme No 1, **ADOPT the modified Joondalup City Centre Structure Plan as satisfactory and make it available for public comment.**

**The Motion was Put and**

**CARRIED**

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**CJ34-02/99      FAMILY DAY CARE CENTRES : APPLICATION FOR  
DEVELOPMENT APPROVAL - [03170; 00174 ]**

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**SUMMARY**

Legal advice has been sought from Council's Solicitors in respect to the need for development approval for family day care centres. The advice received suggests that a development application is required for new and existing family day care centres. The City has not required this in the past.

The City is currently reviewing its Town Planning Scheme and Policy requirements for Home Businesses and under this review it is proposed to include family day care centres as a 'Category 1 Home Business'. So long as businesses within this category comply with certain operating criteria, no planning approval would be required under this proposal. This will provide for acceptable planning control and also minimum disruption to the current and future family day care centre operators.

Until the amendment to the current Town Planning Scheme associated with the above review has been finalised, all new centres will require an approval as a 'use not listed' under the Scheme. This procedure involves obligatory advertising. It is proposed to liaise with the Child Care Services Board to ensure a co-ordinated approval process and therefore cause as little disruption to new operators as possible.

**BACKGROUND**

The Community Services (Child Care) Regulations 1988 defines "Family Day Care" as, "*A child care service provided to a child in a private dwelling in a family or domestic environment*". Family day care centres are generally a home-based business where children up to a maximum of seven (7) children are cared for in a domestic environment. In the past, the City did not require a development application for family day care centres (not to be mistaken with Child Care Centres). The reason for this is unclear but appears to be based on the notion that the City has always played a role in approving and monitoring such centres, along with the relevant State government agency, as part of its function as a health authority.

## **Licensing Process**

The Child Care Services Board (state-level) requires the "approval" of the local government. As part of the licence application at the State level, the applicant is advertised. As part of the licence application to the Child Care Services Board, the applicant must within 28 days of lodging the application, insert a public notice in the West Australian newspaper advising of the application. A second notice must be published between seven to fourteen days after the first notice.

Since 1988 the Child Care Services Board and its officers have undertaken the full licensing role without referral to the City. Up to October 1996, applicants were referred to the then City of Wanneroo's Environmental Health Department for inspection of the kitchen of the premises.

Prospective applicants often approach the "Family Day Care Scheme" for information on licensing requirements and this is provided as part of the City's role. There are 109 family day care centres registered with the combined Shire of Wanneroo and City of Joondalup's Family Day Care Scheme. It should be noted that the City is only one provider of such a scheme and there are three (3) other providers within the City. The Board has set Regulations in terms of building/outdoor space, medical and first aid, public liability insurance, police and applicant checks and one assessment visit to the home. The licensing process may take up to three months.

When the licence has been approved the licensee can choose to operate as a 'private' Family Day Care business, or apply to the City of Joondalup, or one of the other three Family Day Care Schemes in the City area to be included within their scheme. The application to the scheme is assessed in relation to specific policies, a home visit and other requirements which are additional to the Board's criteria. If the licensee is accepted into the Scheme, they then have access to training, support, funding for parents, playgroups, toy libraries etc and Children's Services Officers from the Family Day Care Centre Scheme will visit the premises at least once a month.

Unless there is a problem, the Board would only undertake one physical inspection. The Family Day Care Centre Scheme would also inspect the property if an application for Scheme membership is received.

As a general course of action prospective licensees nominate the maximum number of children/hours of care in their application to the Child Care Services Board to cover any possible care arrangements requested. If they have indicated specific hours and numbers of children, and wish to provide care outside those parameters, they have to apply for an exemption to the Board which is a time consuming process.

Family day care centres try to be responsive to the needs of the specific families using them, and consequently, times/days of care will vary. This has been a marketing strategy used by family day care centres in comparison with child care centres which have set hours of operation. With 690 families needing various care patterns currently accessing family day care centres within the Family Day Care Centre Scheme, it may be difficult for a new applicant to be specific about the times/days of operation and number of children in their initial application prior to opening. Only a small percentage of carers offer care outside the core operating hours of 7.30am to 5.30pm.

Plans submitted for family day care centres to the Child Care Licensing Board show measurements and use of rooms including, playground area. No information is required on pick-up/drop-off areas, parking of vehicles, advertising, noise buffers, potential generation of traffic and parking.

## **DETAILS**

Legal advice was sought to identify the possible correct classification of use and the procedure to apply when a planning application was recently made for a family day centre.

## **COMMENT**

Solicitors' advice was that the use of family day care centres did not comply with the current Town Planning Scheme No 1 (TPS1) definition of Home Occupation and Policy G3-18. *Home Occupation* provisions and the use would seem to be a "separate and independent use of the land", rather than a "use subordinate to the dominant use as a residence". It is recognised that many existing family day care centres operating within the City, are not intensively used. Nevertheless, it is recognised that without proper planning control, it could be possible for such centres to operate 24 hours per day, 7 days per week, with up to seven (7) children being cared for at a time.

Subsequently, family day care centres have been identified in the City's review of the Home Occupation provisions under its Town Planning Scheme No 1 and Policy G3-18. The report on this review, Proposed Amendment 842 To Town Planning Scheme No 1 to replace current Home Occupations Provisions with Home Business Provisions, is the subject of a separate report to be considered at the meeting of 9 February 1998. However, the review and finalisation of the amendment to the TPS1 (Amendment No 842 refers) will not be completed for at least another two to three months. The proposed Amendment No 842 and review of the Policy G3-18 will recognise three separate categories of home occupation. Family day care centres are likely to be considered in the review and once finalised, may be dealt with under the revised home occupation provisions.

## **Proposed Centres**

Until the review and Scheme amendment are finalised, the City must deal with any proposed centres, including the relocation of any existing centres. Under the current TPS1 provisions, family day care centres must be currently treated as a "Use Not Listed". Special approval of the City is required pursuant to cl.3.7, and the obligatory advertising requirements of cl.3.10 onwards must be followed.

It is proposed to liaise with the Child Care Services Board to ensure a co-ordinated approval process.

## **Existing Centres**

The City's Solicitors were also requested to advise on the process to deal with existing family day care centres in the interim to deal with simplifying an unfortunate situation for the benefit of its residents whilst the TPS1 provisions relating to home occupations are in a state of flux,







A2 Advice was sought on similar payments made in both the private and public sector and Schedule 2.1 of the Local Government Act provides that remuneration and other benefits for officers affected by a boundary restructuring of a local government be maintained for a period of two years.

Furthermore, procedural fairness is also an important consideration when dealing with such issues.

*Q3 What cognisance was taken of any relevant findings and/or recommendations of:-*

*(a) Panel of Inquiry?*

*(b) Wanneroo Royal Commission?*

A3 The Panel of Inquiry recommendations were taken into consideration and as a point of reference for the Inquiry's brief was that the Royal Commission findings be considered. It is assumed that these matters were taken into account by the Inquiry Panel in their deliberations.

*Q4 What costs did ratepayers incur re Advice sought on these matters:*

*(a) External Consultants?*

*(b) Legal Practitioners?*

*(c) Chamber of Commerce and Industry?*

*(d) Other?*

A4(a) Consultancy fees for a HR consultant was approximately \$900.

A4(b) Under legal practitioners, there was a fee of approximately \$2,500.

A4(c) No additional cost was incurred from the Chamber and Industry, as the City of Joondalup pays an annual membership fee for the advice that it receives from that organisation.

A4(d) In Other category, there was no other costs involved.

**Mr Steve Wilde:**

*Re: Item CJ23-02/99 - Proposed commercial building and carwash at Warburton Avenue:*

*Q1 Following the deputation for the proponents, it has been advised that if the application is approved, they will be engaging a security firm to receive and act upon residents' complaints regarding any unacceptable behaviour which may occur and they will also have the constant use of video surveillance. Does this indicate that the developers have now acknowledged that there will be problems necessitating these security measures?*