



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

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# **CITY OF JOONDALUP**

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

### **ATTENDANCES**

#### **Commissioners:**

C ANSELL  
H MORGAN, AM  
M CLARK-MURPHY  
R ROWELL  
W BUCKLEY

Chairman  
Deputy Chairman

#### **Officers:**

Chief Executive Officer:	L O DELAHAUNTY
Director, Resource Management:	J B TURKINGTON
Director, Planning & Development:	C HIGHAM
Director, Infrastructure Management:	D DJULBIC
Director, Community Development:	C HALL
Executive Manager, Strategic Planning:	R FISCHER
Manager, Executive Services:	K ROBINSON - <i>to 1925 hrs</i>
Manager, Council Support Services:	M SMITH
Manager, Division Task Force:	B PERRYMAN
Manager, Financial Planning and Management Accounting:	K ANNAND - <i>to 1922 hrs</i>
Manager, Contract Management:	B DUTTA - <i>to 1923 hrs</i>
Manager, Library Services:	N CLIFFORD - <i>to 1929 hrs</i>
Manager, Leisure and Ranger Services:	M STANTON - <i>to 1926 hrs</i>
Manager, Community and Health Services:	M BERESFORD - <i>to 1928 hrs</i>
Marketing Manager:	J LAWTON - <i>to 1928 hrs</i>
Publicity Officer:	L BRENNAN
Committee Clerk:	J AUSTIN

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

Nil

There were 15 members of the Public and 1 member of the Press in attendance.

**The Chairman declared the meeting open at 1902 hrs.**

## PUBLIC QUESTION TIME

**The following questions, submitted by Mr M Sideris of Mullaloo, were taken on notice at the Meeting of Joint Commissioners held on 26 October 1999:**

*Q1 With reference to the dual purpose path currently being constructed to the south of Mullaloo Beach, can I please be provided with the engineering construction details for the path?*

*Q2 With reference to the proposed dual purpose path to the north of the Mullaloo Surf Club, can the Council kindly provide path engineering details as well as details outlining the proposed route through to Ocean Reef?*

A1&2 An officer from Infrastructure Management Services has contacted Mr Sideris to discuss the Foreshore Management Plan and the dual use path north and south of Mullaloo Surf Club and has forwarded the requested information.

*With respect to the responses received from Council to-date regarding Security Levy:*

*Q3 At the Council meeting of 28 September 1999, I asked for the specific sections of the Local Government Act and its supporting Financial Management Regulations, which authorises or enables the Council to impose a Security Levy. The response was that you did not want to go into the detail then. Are the Commissioners now in a position to advise as to the specific section, subsection, clause, legislative interpretation, or relevant ruling that allows for a “security levy” to be imposed?*

A3 At the meeting on 28 September 1999 the Acting CEO advised that Section 6.38 of the Local Government Act 1995 and Clause 54 of the Local Government (Financial Management) Regulations 1996 permitted the levying of a “Property Surveillance and Security Charge”.

*Q4 Will the Commissioners please advise why the Council is now using the term “service charge” and “fee” and not the term “levy” in correspondence to other ratepayers who have questioned the Council on the Security Levy.*

A4 The term “Security Levy” was shown on the 1999/00 rates notice. The correct terminology is “Property Surveillance and Security Charge”.

*Q5 I notice that Council is now promoting the security service is “with licensed security guards”. Can you kindly advise what is meant by the term “Licensed”.*

A5 “Licensed” means a person who has been granted a Security Officers licence in accordance with the Security and Related Activities (Control) Act 1996. The reason for the licensing of Council Rangers is that this Act states under section 16 that “A person must not act as a security officer except under the authority of a security officer’s licence”.

*Q6 Can you kindly advise what formal accredited training has been undertaken by the security guards?*

- A6 The Security Rangers employed by the City complete a nationally accredited training course in security such as the training course conducted by Commercial Training Services through the North Metropolitan College of TAFE.

This training course is structured to meet national standards and has ISO 9002 Quality Assurance status.

- Q7 *Can you kindly advise what specific section of the Local Government Act, Police Act, or Security and Related Activities (Control) Act, enables the security guards to detain a person?*

- A7 Legislation outlines the circumstances when a person may be arrested without warrant by a private citizen. A Security Ranger is for the purposes of this legislation a private citizen as they are not sworn police officers of the State of Western Australia. Therefore, Rangers do not have the powers of arrest of a police officer, but do have the same powers of arrest as a private citizen.

The general provisions for arrest are found in the Criminal Code, chapter 60, commencing with section 564, and the provisions therein deem certain conduct of the person making the arrest to be lawful. This includes the authority for a private citizen to make an arrest. Thus, if that citizen stays within the limits set out in the code, thereby acting lawfully, any resistance to that arrest will be unlawful.

- Q8 *With regard to the two responses received to-date from the Council to the questions related to Performance Indicators, I am totally dissatisfied with the responses received as there appears to be a lack of understanding that these are developed by mutual agreement between the customer and the supplier, ie the ratepayer and the Council. Can I respectfully suggest that all Council officers undertake appropriate training to learn what Performance Indicators are, prior to using the term to promote any initiative.*

- A8 Preliminary discussion has been held with Mr Sideris regarding the performance indicators which have been supplied. Mr Sideris has been invited to hold further talks on this matter with Council officers. The suggestion that Council officers undertake appropriate training in learning about performance indicators is noted.

It should be stated that not all Council services relate easily to quantifiable performance indicators due to the need to supply a certain quality service to meet the demands of the community.

- Q9 *With respect to the market research undertaken by Council in November 1998, can I kindly receive a copy of the research report, with complete details of the assessment modeling technique used, together with questions details, responses received, population profile and the cost for the market research.*

- A9 The City of Joondalup spent \$27,825 on the November 1998 market research. A total of \$55,650 was spent conducting surveys for the Shire of Wanneroo and the City of Joondalup. Both surveys were the same in methodology and sample numbers.

*[Note: The report has a date of May 1999 on the front cover. This was the date the report was finalised. Data collection was undertaken in November 1998]. Security issues were only part of the market research.*

A copy of the report referred to was forwarded to Mr Sideris under separate cover.

*Q10 With respect to the response received on the crime related referrals, can you kindly advise how the report can refer to crime statistics and not consider it important to have the data validated by an independent authority, especially prior to embarking on a set of initiatives that may or may not address the crime in the City.*

*A10 The crime statistics that the City receives are from the Joondalup Police District Office. It is assumed that this information is correct for the purposes of the City reporting on where crime is concentrated and situated. It would seem unlikely that this information would appear to be incorrect or that the Police would allow for this information to be validated by an independent authority due to its sensitivity and confidentiality.*

*Q11 Do the Commissioners consider leaping prior to looking to be sound business practice?*

*A11 Refer to answer 10.*

*Q12 With respect to the advised performance indicators, do these fall within the guidelines associated with the requirement of Financial Management Regulation 54(d) Property Surveillance and Security?*

*A12 The Financial Management Regulation 54(d) does not state any guidelines for performance indicators associated with Property Surveillance and Security.*

*Q13 I note that the Council is currently promoting the fact that the security charge (or is it a levy) is not a tax. Can you kindly advise why the terminology is changed to that which exists on the rate notice, as well as how and when this advice to confirm this determination was received?*

*A13 As mentioned in Answer 4 above, the correct terminology is “Property Surveillance and Security Charge”. The Ombudsman’s Office telephoned and queried the use of the term “levy” as opposed to “charge”. It was following this call that the correct terminology has been used.*

*Q14 Was this advice from an independent third party, if so, can a copy of this advice be tabled?*

*A14 The City sought verbal legal advice from its solicitors in relation to this matter. They advised that the use of the word “levy” did not invalidate the charge.*

*Q15 I note that the Council is promoting the fact that the frequency of patrols is related to the number of referrals. Is this correct and if so can you kindly advise why the general community is being requested to fund a security service which will be predominantly directed at the commercial sector within the City Centre, 50% of referrals (Reference data for July and August 1999).*

A15 The number of referrals do not solely determine the frequency of patrols in a given area. Other factors are taken into consideration including crime statistics, identified trouble spots and ensuring that an appropriate presence of patrols is maintained throughout the City.

Although there appears to be a large percentage of referrals within the Joondalup CBD this is not linked to the amount of time spent patrolling this area. The general community is not funding a security service which is predominantly directed at the commercial sector within the City.

Q16 *Do the Commissioners consider this to be fair and equitable especially when considering that the commercial sector already funds its own security services.*

A16 Refer to answer given to question 15. Additionally, the provision of Security Ranger patrols within the City of Joondalup is for the City at large and not for specific groups or areas. The current service is considered to be fair and equitable for the entire City and does not service any area to the exclusion of any other.

**The following questions, submitted by Mr B Cooper of Kinross, were taken on notice at the Meeting of Joint Commissioners held on 26 October 1999:**

Q1 *Regarding the Security Levy: There seems to be two problems with the security levy at the moment. Firstly, most people seem to believe the security levy is partly a disguised rate rise, and I tend to agree with them in some cases; and secondly that the effect of the Council's own security is not that good. When the decision was made by the Councillors to investigate this, prior to the appointment of the Commissioners, the idea was to have a police officer and a ranger in the vehicle. I know there was some problem with the previous Police Commissioner on this proposal. Can I ask the Commissioners, now that a new Police Commissioner has been appointed, to revisit the matter, as the option of a police officer and a ranger in a vehicle, funded by the City, would be far preferable.*

A1 It was never the intention of Council to introduce the security charge as a means of disguising a rate increase. The Council is of the view that it has been open and accountable to the ratepayers and residents of the City by introducing the charge based on clearly identifying services and their costs.

The effectiveness of the Security Ranger patrols in reducing/preventing crime and other forms of antisocial behavior within the City is having a noticeable effect on reported crime. As indicated in the crime statistics for the Joondalup Police District there was a steady decline in reported offences during the 1998/99 operational year. All indications from professional bodies and from the Police Service indicate that the patrols have contributed to reducing the level of crime in the City.

Since early planning for the introduction of the Security Ranger patrols, the City has actively promoted the benefits of police and rangers performing joint patrols, at certain times of the week as conditions require. Other than on occasions similar to other local governments, security patrols were always designed to be a stand alone proactive local government service.

In 1997, the Joondalup Police Service advised that it was unable to proceed with conducting joint patrols on a regular basis due to financial and industrial relations constraints. Council understands that this is still the current situation.

Council will continue to pursue the option of joint Police/Ranger patrols. Currently, Rangers perform joint operations with the Police on a frequent basis.

*Q2 The response to the questions I asked some weeks ago in relation to the division of the assets in the City was confusing and I do not think the questions were answered. I wished to establish what proportion of the Reserve Funds and the investment lands went to the City of Wanneroo and the values, at today's values, and what went to the City of Joondalup. I believe the ratepayers of Joondalup are being rorted, and when I look at the City of Wanneroo budget, I see that staff costs actually exceed rate revenue, and I assume land will be sold in the future the cushion the rates. This is not a fair division of assets to the City of Joondalup and City of Wanneroo and I would like my questions looked at again.*

*A2 The question asked by Mr Cooper at the Meeting of Joint Commissioners held on 24 August 1999 was:*

*"I ask on behalf of the ratepayers of the City of Joondalup for a full justification of how the assets have been split"*

The response to Mr Cooper set out in detail, the decisions made by the Commissioners in adjusting/transferring the property of the former City. It was emphasised that the process was not one of the Commissioners dividing assets beneficially owned by Wanneroo and Joondalup. The old City was dissolved and the assets and liabilities became available to set up the two local governments. That is what the Commissioners set out to do.

The Commissioners recommend that a review of the 1999 Audited Financial Statements, which will soon be available, will give a better view of the overall financial position of the two new Cities.

In response to the further questions asked by Mr Cooper the following information is provided: -

### ***Reserve Funds***

Reserve Funds of the former City of Wanneroo at the time of its dissolution (1 July 1998) totalled \$29,824,922. The determinations made result in the City of Joondalup receiving \$6,508,447 (or 21.82%) and the new City of Wanneroo receiving \$23,316,475 (or 78.18%).

Of the monies that the City of Wanneroo received, \$20,658,000 was earmarked for the Wanneroo Town Centre Redevelopment Project incorporating the new Civic and Administration facilities for the City. By way of comparison, the City of Joondalup's Central Library and Council Chambers are recorded in the City's financial records at a cost of \$22,275,667.



### ***Investment Lands***

Mr Cooper does not specify what he considers to be “investment lands” and the former City had never classified any of its holdings of land in its financial statements as “investment land”. There is some disagreement between Commissioners and the Cities’ officers as to what constitutes “investment land”. Regardless of this, the land owned by the former City was recorded in the books of account at **historic cost** and the Commissioners have not sought to have them formally valued.

It is dangerous to look at one class of asset in isolation, as suggested by Mr Cooper. As pointed out in the previous response all land was allocated by the Joint Commissioners based on geographic location, with the only exception being Tamala Park (Lot 17), which each Council received equal ownership.

### ***Rates to Staff Costs Comparison***

Mr Cooper notes that City of Wanneroo staff costs exceed rate revenue. This comparison between rates and staff costs is misleading because staff costs include costs associated with various services, including waste management, being provided to the City of Joondalup whilst the revenue associated with those services is shown separately.

**The following questions, submitted by Mr R De Gruchy of Sorrento, were taken on notice at the Meeting of Joint Commissioners held on 26 October 1999:**

*Q1 My concern is with the inequitable distribution of Council rates. In reply to questions I asked, Mr Delahaunty made mention of some previous attempts in Western Australia to investigate alternatives to the Gross Rental Value system. Nothing came of those, but could I have details of those previous attempts.*

**A1** Some 15 years ago the McCusker Committee investigated a “2 Component Rating System” which had 2 elements:-

1. A **flat charge** across all properties based on the cost of “people-related” services (ie Libraries, Welfare, etc)
2. A **variable charge** using the individual valuation of the properties and based on the cost of “property-related” services (ie Roads, Drainage, Footpaths).

While this approach had some merit, it was not progressed.

Several years ago the officers of the Local Government Department revisited the basis for rating in local government in Western Australia. They believed that there was adequate flexibility within the Local Government Act 1995 to accommodate most eventualities.

*Q2 In my second question, you spoke of minimum and maximum rates. It is true that the Local Government Act specifies a minimum may be made, but there is no mention of a maximum. Section 1.6 says that "this Act does not bind the Crown except to the extent expressly stated in this Act". It could be inferred that just because it is not mentioned, it does not mean it cannot be done. Also in Section 3.1.3, there is mention of "a liberal approach is to be taken" in the collection of rates. I draw your attention to these sections.*

*When you spoke of the Gross Rental Value, it can be applied either uniformly or in a differential rate. Has any consideration been given to applying a differential rate to those suburbs which have been hit with 40-50% increases in Gross Rental Value, which is ludicrous, as I am sure you must agree. Values have not gone up that much.*

**A2** The sections of the Local Government Act 1995 quoted do not relate specifically to the levying of local government rates and relate in general terms to the functions of local government. The relevant sections of the Local Government Act 1995 applicable to rates are Section 6.28 and Section 6.32. In broad terms, these require a local government to use valuations "in force under the Valuation of Land Act 1978 as at 1 July in each financial year". A local government is required to set a rate expressed as a rate-in-the-\$ of the gross rental value of rateable land within its district.

Pursuant to the provisions of Section 6.33 of the Local Government Act 1995 a local government may impose differential general rates based on any, or a combination of the following characteristics:-

- 1 the purpose for which the land is zoned;
- 2 the predominant purpose for which the land is held; and
- 3 whether or not the land is vacant land.

The City does strike a differential rate for commercially zoned land. It cannot, however, apply differential rates for properties of similar zoning or land use in different suburbs or precincts.

A local government does have the ability, pursuant to Schedule 6.1 of the Local Government Act 1995, to phase in the valuations provided by the Valuer General. This permits the phasing in of valuations over a 3 year period. Over the past 12 years this City (and the former City of Wanneroo) has never phased in valuations. The valuations provided by the Valuer General are supported by market evidence and reflect realistic rents payable. To phase in those valuations over the three year period would effectively require other ratepayers to carry an inequitable rate burden. Given that the current valuations are those applicable at 1 August 1997, the phasing option would be inappropriate and unfair.

**The following questions, submitted by Mrs G Monks of Wanneroo, were taken on notice at the Meeting of Joint Commissioners held on 26 October 1999:**

*Q1 I understand that Council was approached in 1994 with regard to disabled parking access for Sanori House, Joondalup. Discussions have been taking place since that time and as yet the issue has not been resolved. The Management of Sanori House are willing to pay half of any cost of the establishment of disabled parking bays. How many disabled bays are there at the rear of the building and how far away from the building are they? The facilities at Sanori House are important to disabled people as they require intensive physiotherapy and hydrotherapy. Would Council please consider the placement of at least two disabled bays at the front entrance of Sanori House as a priority?*

**A1** Sanori House has one disabled parking space, as required by the standards, based on the total parking provision. Its location was selected to provide the best access to all the areas of the development and to the public street. An access ramp with landings leads into Sanori House; the provisions satisfy the requirements of the Australian Standard for disabled access. There are also two disabled parking spaces in the public car park behind.

Parking in the street is not dedicated to a particular premises but is available for the general public for use throughout the City Centre. Council has received a number of requests for disabled parking to be provided in the Grand Boulevard road reserve. It is proposed to locate some disabled spaces in locations that can serve all the premises in the area and a disabled parking space in this general location is currently being investigated. This should not be *ad hoc*, but requires a co-ordinated overall approach to the provision and maintenance of parking spaces in the Central Business District. Provision has been made in the current budget for funds to progress this matter further.

*Q2 Regarding CJ368-10/99, Warrant of Payments to 30 September 1999. Attachment A, Page 2. Cheque No 16089 for \$1,000 payable to Chappell and Lambert. Could Council please state what this payment was for?*

**A2** Cheque 16089 \$1,000 to Chappell and Lambert represented a 50% refund of a \$2,000 administration fee for an amendment to Town Planning Scheme No 1. The \$2,000 fee was paid on 19 December 1995 and as no request was made for approval to advertise and the City never considered the amendment, the applicant is entitled to a 50% refund of the fee paid.

**The following questions were submitted by Mrs A Hine, Wanneroo:**

<i>Q1</i>	WAMA \$38,342.00	<i>Cheque 16017</i>	<i>2/9/99</i>
	WAMA \$7,118.15	<i>Cheque 16497</i>	<i>16/9/99</i>
	<i>Why so much?</i>		

**A1** Cheque 16017, \$38,342 payable to the Western Australian Municipal Association represents the City's 1999/00 subscription to that organisation.

Cheque 16497, \$7,118.15 also payable to the Western Australian Municipal Association represents August payments for staff town planning and local laws advertising and consultancy for Enterprise Bargaining Agreement training.

*Q2 Geoff's Tree Service \$17,518.00 Cheque 16346 16/9/99*

A2 Cheque 16346, \$17,518.00 payable to Geoff's Tree Service. This relates to tree removal, pruning and stump grinding for July and August 1999 in accordance with the contract.

*Q3 Balemar Marketing Services \$2,850 Cheque 16229 9/9/99*

A3 Cheque 16229, \$2,850.00 payable to Balemar Marketing Services. This relates to a 50% deposit on costs associated with banners for the Olympic Torch relay. The remaining 50% is due to be paid in May 2000.

*Q4 Report No CJ370-10/99 Tender No 048-99/00 refers. What pesticides will be used?*

A4 For weed control, the following chemicals apply:-

<u>Total Weed Control</u>	Bi Active Glyphosate
eg. firebreaks	Simazine

<u>Onehunga</u>	Bromoxynil
	MCPA
	Dicamba

<u>Crabgrass</u>	Dithiopyril 12%
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<u>Public Accessways</u>	Glyphosate
	Simazine

<u>Conservation Areas</u>	Glyphosate
	Fusilade

These chemicals are used in accordance with health and maintenance guidelines. They are used in conjunction with other control measures, ie. mowing, to provide areas of turf for recreation activities.

*Q5 Has Council got a report on helicopter crash into lake? Does Council have to pay for any of this work or accident? What type of spray was to be used on the lake and will it affect bird life or other life in and around lake?*

A5 The Cities of Joondalup and Wanneroo jointly contracted a helicopter company to disburse the chemical, and that company was fully insured and met all the necessary standards. The chemical used was temephos (Abate), an organophosphate which affects only insects; bird life would only be affected if dead insects were eaten, which is unlikely. The Department of Conservation and Land Management is the responsible authority, and will be monitoring the situation.

**Mr Ron De Gruchy, Sorrento:**

*I asked some questions at the Meeting of Joint Commissioners held on 26 October 1999. In relation to the answers that were provided to me, I would like to propose two other questions:*

*Q1 I note that New South Wales and Victoria have a composite rate (which is not the same in each State) and I ask that Council makes inquiries as to the procedures that operate in Queensland, South Australia and Tasmania.*

*Q2 In relation to the phasing in of rate increases (as practised by the Water Corporation) what other Councils or Shires in Western Australia actually do phase in increases in the GRV rates?*

*A1 & 2 Response by Cmr Ansell: These questions will be taken on notice.*

- *Mr De Gruchy presented a letter and a petition containing 52-signatures of ratepayers in Sorrento expressing their protest against the huge increases in certain pockets within the City of Joondalup. The ratepayers ask that Council seriously considers an alternative to the present situation that applies in collection of rates from GRVs.*

**Mr John Hollywood, Burns Beach:**

*Q1 There was a report issued titled “The Clarkson/Butler Report” which made reference to the development of the whole of the Burns Beach bushland – Lot 2. One of the reasons given for this, is that this land cannot be developed and it is kept as bushland. The owners of the land want to be compensated by \$98,000,000. The owners have been charged rates as urban land, and yet the land is zoned rural. Could I have clarification on this, please?*

*Q2 Can you find out how long this land has been rated as urban and yet it is rural land?*

*Q3 How much are the owners likely to be compensated if it is still zoned rural, not urban?*

*Q4 When did this turnabout arise?*

*A1-4 These questions will be taken on notice.*

**Ms Sue Hart, Greenwood:**

- *Ms Hart thanked Commissioners for the support given to the Stop the Swap campaign.*

*Q1 There are 11 trees on the north side of Cedar Circle at the Greenwood Primary School site (now called The Grove). The north side of Cedar Circle is in the second stage of development and not yet for sale. What is Council’s position for retaining these trees? I believe these trees are on the verge, not on the block and have been there for probably a minimum of 20 years. I am looking for a Council policy on this.*

A1 *Response by Director, Infrastructure Management:* There are some trees that have been identified as significant, and every endeavour will be made to retain those trees and all the other trees within the public property. What happens in the future will depend on how the trees survive naturally. As long as the trees are healthy, not unsafe to the public and do not deny access, there is no reason why the trees should not stay. There is no Council Policy as such, but the sentiments I have expressed is the way Council would approach this issue.

Q2 *This afternoon, one of our Stop the Swap committee members spoke to Steve Harbor and was advised that a purchaser can buy a block subject to a condition of offer; that the developer will remove the trees at no cost, with there being no problems with the Council. Is this true?*

(The Director Infrastructure Management queried where the tree was located. Ms Hart believed it to be on the verge)

A2 *Response by Director, Infrastructure Management:* The developers would need to obtain the approval of Council to have the tree removed and Council would need to investigate it and look at the situation in accordance to the particular circumstance that exist. I am not familiar with the details, so I cannot answer the question in any more detail.

*Response by Cmr Ansell:* Perhaps a meeting could be arranged to discuss the particular trees you are talking about.

Q3 *What happens regarding the trees on the public open space (POS) and the vegetation that has been destroyed by the developer; is there any compensation; is the vegetation put back? Can we have a tally of what trees and vegetation are missing?*

A3 *Response by Director, Infrastructure Management:* As I stated previously, all the trees that were identified as significant have, as far as I am aware, been retained and there are a number of other trees that have been retained. It is acknowledged that there were a number of trees removed, but these were not classified as significant.

Q4 *I cannot accept that the whole Greenwood Primary School block contained three significant trees. I am talking about the POS which belongs to the people, I am not talking about the development. I have photographs of what was next to Louise Ford's house at 23 Mamo Place. There is not a stick there now and this is on the POS.*

A4 *Response by Cmr Ansell:* The Director Infrastructure Management and Cmr Morgan will meet with you on site and look at the issues you have raised.

- *Ms Hart stated that in trying to save the trees and the POS, the Stop the Swap Committee, Commissioners and officers had all contributed a lot of time and therefore there had been a cost to ratepayers. Ms Hart said assurances had been given by the developer that as many trees as possible would be saved. Ms Hart asked why all this happened this way and would like it recorded that she believed the whole thing was wrong.*

**Mr Sideris, Mullaloo:**

- *Mr Sideris congratulated Council for initiating what is now known as the Joondalup City Coastcare Forum. He believed it is an excellent initiative, and wished other people within Councils would take on board these sort of ideas and concepts.*

*Q1 Are the Commissioners aware that the dual purpose cycle path constructed south of Mullaloo Surf Club fails to meet the current traffic engineering guidelines for paths. It fails in meeting alignment, safety aspects, signage, termination design, as well as cross fall embankments etc. I have spoken to two officers within the Engineering Division of Council. Neither of the officers were aware that there is a set of guidelines or a Code of Practice. I find it extremely strange that a Council that constructs a lot of footpaths fails to keep pace with current requirements.*

*A1 Response by Director, Infrastructure Management: It is not Traffic Engineering Guidelines. It is in accordance with the Bikewest Guidelines set out by the State Government, and Design standards have been in accordance with those standards.*

*(Mr Sideris begged to differ as he believed the guidelines to be called AustRoads – Engineering Standards. He believed it was Handbook 16, of which he has a copy.)*

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

*Q2 What is the difference between legal advice and a legal opinion?*

*A2 Response by Cmr Buckley: There is no difference between legal advice and legal opinion.*

*Q3 Is any officer of Council aware of, or have any proposal under consideration for development, realignment, redesign associated with either the road way or property in the vicinity of the Mullaloo Surf Club?*

*I am talking about the road realignment, road redevelopment, road proposal on Oceanside Promenade. I ask this for two reasons. I understand there is something happening near the tavern and I hear there is something under consideration. I am also hearing from other residents that it is intended to realign the road and install another roundabout.*

*Response by Cmr Ansell: This matter will be investigated.*

*Q4 On the 12 October 1999, I asked how “under consideration by the Joint Commissioners is the introduction of a property surveillance and security levy.....can be magically transformed into implementation without even receiving one response”. I duly note that the response was that Council placed this wording to give indication of the Commissioners’ intent.*

*I still cannot see how “under consideration” can be transformed into “implementation”. Can you kindly explain?*

- Q5 With respect to the nationally accredited training course for the security officers, can you kindly advise the accreditation body, the certificate number and with respect to the response given to my Question 6 does “such as the training course conducted by .....” mean the training course that the Rangers underwent, or is this just an example? I am curious at the use of the words “such as”. If the latter is correct, then can I receive advice of the specific course?*
- Q6 With respect to the specific section of the various Western Australian legislation that enables security guards, security rangers, or security officers to detain, is Section 564, Chapter 60 of the Criminal Code the complete answer?*
- Q7 With respect to the various questions on performance indicators, I am sure that the Commissioners having read the two sets of responses previously received which detailed these PIs are aware that in the first response, these included a whole range of initiatives, with only one definable indicator; and the second response detailed only initiatives and no PIs. With respect to the latest response given to the same question, then one can quite easily see that “quantifiable performance indicators due to the need to supply a certain quality service to meet the demands of the community” is as simple as asking and developing them by mutual agreement between the ratepayer and the Council service provider. I quote for your consideration:*
- If you can’t measure it, you can’t understand it;  
If you can’t understand it, you can’t control it;  
If you can’t control it, you can’t improve it;  
And if you can’t measure it in the first place, then why are you doing it?*
- Q8 With respect to the market research details provided, can I please be supplied with a copy of the map appended for precinct areas?*
- Q9 With respect to the response to Question 11, do the Commissioners consider leaping prior to looking to be good business practice?*
- A9 Response by Cmr Ansell: No, Commissioners do not think it is good practice*
- Q10 I note that the answer to the question related to advice from an independent authority, that Council sought and received advice from the City’s solicitors. Can I please be provided with a copy of the advice, or a copy of the Council officer’s recorded notes that details the advice received?*
- Q11 With respect to the details reported in Report CJ305-09/99, can the Council advise the meaning of, or definition of, or provide points of clarification relative to referral, crime statistic, field report, customer security referral, and alarm responses?*
- Q12 With respect to Report CJ305-09/99, I note that the comprehensive security reports will be provided on a monthly basis. Are these publicly available, and will they be provided to Council for distribution via the Council agenda system?*

Questions 1, 3 to 8 and 10 to 12 will be taken on notice.



**DECLARATIONS OF FINANCIAL INTEREST**

Nil

**CONFIRMATION OF MINUTES****C47-11/99      MINUTES OF MEETING OF JOINT COMMISSIONERS –  
26 OCTOBER 1999**Correction

The following questions, submitted by Mr M Sideris of Mullaloo, were omitted from the Minutes of the Meeting of Joint Commissioners held on 26 October 1999, and require to be included as an amendment to the Minutes:

**“Mr M Sideris, Mullaloo:**

Q1      With reference to the responses received from Council to date regarding the Security Levy. Do the Commissioners read the answers that are proposed before they are sent out?

A1      *Response by Cmr Morgan:* No, Commissioners receive the answers and if we believe we should have a discussion about them we do so, but the answers are sent out as quickly as possible in response.

Q2      *Do you accept the answers I have received to the questions I have asked to date?*

A2      *Response by Cmr Morgan:* I do personally, and I think that I can speak for all the Commissioners. They are factual answers.

- *Mr Sideris believed that a lot of “padding” had been provided, but accepted Cmr Morgan’s opinion.”*

**MOVED Cmr Morgan, SECONDED Cmr Rowell that the Minutes of the Meeting of Joint Commissioners held on 26 October 1999, amended as above, be confirmed as a true and correct record.**

**The Motion was Put and**

**CARRIED**

**ANNOUNCEMENTS BY THE CHAIRMAN WITHOUT DISCUSSION****WA MUNICIPAL ASSOCIATION BEST PRACTICE AWARDS**

I am pleased to announce that the City of Joondalup has again fared well in the WA Municipal Association Best Practice Awards. The City has received a total of 13 Awards in several categories, among them being an award for the City’s security and safety initiatives.

Congratulations to all business units involved in the Awards.

I would now ask the winning Managers to come forward to receive their Awards and ask the Chief Executive Officer, Lindsay Delahaunty to announce the winners and their Awards.

**(The Chief Executive Officer then presented the following Awards)**

**Budget Management System – Ken Annand**

The City was presented the Innovation Award for the introduction of an innovative on-line budget management system that has significantly improved the processes associated with the compilation and reporting of the City's annual budget for 1999/2000.

**Contract Management – Barun Dutta**

The City's Contract Management unit was presented with two awards, for Innovation and Process Management. This unit was recognised for the innovative implementation of a Best Practice framework for contract management.

**Risk Management – Kevin Robinson**

The City was presented with an Innovation Award for the Risk Management project, which was implemented in the 1998/99 financial year. This project involves the development of a corporate compliance calendar, conduct of a risk exposure audit and developing of strategic audit plans and mitigation strategies.

**Festival Of Joondalup – Mark Stanton**

The inaugural Festival of Joondalup held in March 1998 won an Innovation Award. The festival was a huge success, attracting big crowds, substantial sponsorship and a very appealing and entertaining program.

**Junior Fees Consultancy – Mark Stanton**

An Innovation Award was presented to the Leisure Services business unit for the innovative community consultation process the unit employed to investigate the issue of the City subsidising junior sports.

**Community Security And Safety Initiatives – Mark Stanton**

The Innovation Award was presented to the City for its establishment of an integrated safety and security program. The objectives for this program were the implementation of a safety and security service, a continuing community education campaign, graffiti control and urban design issues.

**Business Unit Reengineering – Mark Stanton**

A Progress Management Award was presented to the Leisure Services business unit for the recently successful restructure of the unit.

**Elder Abuse Strategy – Marilyn Beresford**

The City's Community Services business unit was presented an Innovation Award for the Elder Protection Strategy. This program is responding to social injustices which occur to our elderly population, with strategies and programs in place to provide support and protection for older people who are being abused or are at risk of abuse.

**Youth In Government Program – Marilyn Beresford**

The City was awarded an Innovation Award for its Youth in Government program. This innovative program provides the opportunity for young people in our community to raise issues of significance to them, and provides the opportunity for them to participate in the decision making process at all levels of government.

**City Of Joondalup – James Lawton**

The Customer Service Award was presented to the City for its overall comprehensive approach to customer service. This includes the Customer Service Centre in Joondalup, the One Stop Shop at Whitford City Shopping Centre, the implementation of a Customer Service Charter, the appointment of a Customer Action Request Officer and the implementation of a customised customer complaint handling system.

**Books On Wheels – Nerida Clifford**

The Customer Service Award was presented for the Joondalup Centre Library Service's provision of a comprehensive and customer focused Books on Wheels service to those residents of our community who are house-bound.

**Joondalup Library – Nerida Clifford**

The Customer Service Award was presented to Joondalup Library in recognition of its outstanding commitment and excellence in its provision of customer service to our community.

Congratulations to all staff involved in another fine showing in these awards.

**RATES INCENTIVE PRIZES**

The cocktail function for winners of the City's rates incentive prizes was held last week.

Tee Chong and Siew Ang from Duncraig won the major prize of a \$2,500 bank account.

Thanks to the Commonwealth Bank for this prize and all other sponsors who provided prizes like luxury weekends away for the lucky winners.

**ELECTORAL NOMINATIONS**

Nominations for Mayor and Councillors for the City of Joondalup's inaugural elections on 11 December 1999 close on Thursday, 11 November 1999.

To date, 15 nominations (three for Mayor) have been received.

Details may be inspected on the bulletin board outside the Administration office.

### **DISABILITY LAUNCH**

This morning, the City of Joondalup hosted the launch by Local Government Minister, Paul Omodei, of the Disability Services Manual – “This Way”.

The manual is a guide to clear and correct signage for the disabled and was initiated by former Disabilities Services Officer, Jeff Edwards.

### **CITIES FOR CLIMATE PROTECTION**

The City of Joondalup has been presented with a certificate recognising its commitment to participate in the “Cities for Climate Protection” program.

The Certificate was presented by Senator Ian Campbell as part of a training program which will help measure greenhouse gasses in the City.

### **CITIZENS ADVICE BUREAU**

The Joondalup branch of the Citizens Advice Bureau was officially opened on Thursday, 4 November 1999.

The bureau is one of many community services now available at Joondalup Lotteries House, next to the Civic Centre.

The Citizens Advice Bureau offers advice and mediation, including legal advice to residents.

### **PETITIONS**

#### **PETITIONS SUBMITTED TO THE MEETING OF JOINT COMMISSIONERS – 9 NOVEMBER 1999**

- 1        PETITION REQUESTING CHANGE TO SPEED LIMITATIONS AND/OR  
INSTALLATION OF TRAFFIC TREATMENTS – BRIDGEWATER DRIVE,  
KALLAROO – [09174J, 00055]

A 143-signature petition has been received from Rob Johnson, MLA, Member for Hillarys, on behalf of Kallaroo residents requesting a change to speed limitations and/or the installation of traffic treatments in an effort to curb excessive speed on Bridgewater Drive, Kallaroo.

This petition will be referred to Infrastructure Management for action.

- 2        PETITION RELATING TO PROPOSED CYCLEWAY BETWEEN  
MULLALOO SURF CLUB AND OCEAN REEF ROAD – [[02364J,  
08473J]]

A 21-signature petition has been received from residents of Mullaloo in relation to the proposed cycleway between the Mullaloo Surf Club and Ocean Reef Road. Whilst the petitioners support the construction of a path, they have concerns regarding the environmental impact of its location and safety aspects of the path and request that no action be taken in

relation to the path to enable the newly formed Joondalup Community Coastcare Forum to review the plans.

This petition will be referred to Infrastructure Management for action.

3     PETITION OBJECTING TO THE INCREASE IN COUNCIL RATES FOR 1999/2000 – [07125, 07141]

A 52-signature petition has been received from residents of Sorrento:

- protesting against the huge increase in Council rates for 1999/2000;
- requesting that the City of Joondalup adopt the following:
  - that no houseowner should have to pay more than 5-10% of the previous year's assessment;
  - a maximum amount of twice the minimum amount of rates per financial year be set;
- noting that it is within the power of the City of Joondalup to set differential rates for different areas within the City of Joondalup.

This petition will be referred to Resource Management for action.

**RESOLVED that the petitions:**

- 1     **requesting a change to speed limitations and/or the installation of traffic treatments in an effort to curb excessive speed on Bridgewater Drive, Kallaroo**
- 2     **in relation to the proposed cycleway between the Mullaloo Surf Club and Ocean Reef Road;**
- 3     **protesting against the huge increase in Council rates for 1999/2000;**

**be received and referred to the appropriate Business Units for action.**

<b>FINANCE AND COMMUNITY DEVELOPMENT</b>
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**CJ377 - 11/99     DETERMINATION PURSUANT TO CLAUSE 8(1) OF THE JOONDALUP AND WANNEROO ORDER 1998 - DISTRIBUTION OF NET CURRENT ASSETS (REMAINING CASH PROPERTY) OF THE FORMER CITY OF WANNEROO - [00139 & 45141]**

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**BACKGROUND**

At meetings of the Joint Commissioners for the Cities of Joondalup and Wanneroo on 22 June 1999, the outcomes from a series of Asset Distribution Workshops were endorsed. Other than some clause 8 (1) determinations in respect of: -

- selected vested and freehold properties (at meetings held in March and April 1999);
- and

- restricted (non clause 15) reserve accounts (at the 13 July 1999 meetings);

the formal adjustment or transfer of the property, rights and liabilities of the former City of Wanneroo have been held in abeyance pending further information coming to hand.

In order to facilitate the compilation and adoption of the 1999/2000 Budgets of the two Cities, the Joint Commissioners, on 24 August 1999, made a determination pursuant to clause 8 (1) of the Governor's Order in respect of remaining cash property of the former City of Wanneroo.

Subsequent legal advice, in respect to that determination, points to a flaw in the method of calculating the amounts to be adjusted between the cities of Joondalup and Wanneroo. As a result, the legal advice concluded that an adjustment had not been made in accordance with the Order and hence an adjustment was not made. It follows that the Commissioners should rescind the resolution CJ294-08/99, recalculate the figures and determine the amended adjustment. This will necessitate the transfer of an amount of cash from one City to the other.

The recommendation of this report seeks to correctly adjust the remaining cash property of the former City of Wanneroo, as reassessed in line with the advice received.

## DETAILS

### Net Current Assets of the former City of Wanneroo

The net current assets and liabilities of the former City of Wanneroo as at 30 June 1998 amount to \$50,776,857 and are summarised hereunder: -

	\$
NET CASH (Cash on Hand and Investments less Bank Overdraft)	56,939,754
ADD Other Current Assets	<u>6,094,957</u>
	63,034,711
LESS Other Current Liabilities *	<u>12,257,854</u>
NET CURRENT ASSETS	<u>\$50,776,857</u>
REPRESENTED BY: -	
Restricted Assets	
Reserve accounts-	
clause 15	26,964,721
non clause 15	2,860,201
Unspent Loan Monies	38,579
Town Planning Schemes	4,587,374
Unexpended Grants and Contributions	<u>2,935,136</u>
	37,386,011
Unrestricted Net Current Assets – “Surplus funds”	<u>13,390,846</u>
	<u>\$50,776,857</u>

\* includes \$5,835,889 cash backed annual and long service leave provisions.

### **Earlier clause 8 (1) determinations relating to Cash Property**

The only previous clause 8 (1) determination relating to cash property was in respect of the specific reserve accounts not mentioned in clause 15 of the Joondalup and Wanneroo Order 1998. These reserve accounts were the subject of a report considered at meetings of the Joint Commissioners on 13 July 1999. A determination pursuant to clause 8 (1) of the Governor's Order, in respect of the portion belonging to the former City of Wanneroo (i.e. excluding 1998/99 transactions) was made at that meeting. The adjustment referred to in that determination resulted in the following distribution of those restricted reserve accounts: -

	<b>Joondalup</b>	<b>Wanneroo</b>
	\$	\$
Former City of Wanneroo non clause 15 Reserves	1,925,420	934,781
1998/99 net transfers	<u>338,954</u>	<u>807,283</u>
	<u>2,264,374</u>	<u>1,742,064</u>

The amount of cash property remaining to be adjusted amounts to \$47,916,656 calculated by deducting the amount of this clause 8 (1) determination \$2,860,201 (\$1,925,420 plus \$934,781) from the net current assets of the former City.

### **Basis for this determination**

Clause 8 (2) of the Governor's Order requires the Commissioners to have regard to the interests of both new local governments in making determinations under clause 8 (1). In making this determination the Commissioners have been very conscious of the needs and challenges faced by each new local government. These needs and challenges included, but were by no means limited to the following: -

#### **Joondalup**

##### **Needs**

- Depot facility,
- Future waste management capability,
- IT requirements,
- General additional infrastructure requirements and 'split' costs.

##### **Challenges**

- Costs associated with maintenance and promotion of Joondalup as a regional centre,
- Ongoing provision, maintenance and support of regional facilities,
- The ageing infrastructure in the longer established suburbs,
- The need to re-sign the district with the change from the City of Wanneroo to the City of Joondalup,
- The significant extent of coastline to be managed by the City.

#### **Wanneroo**

##### **Needs**

- Civic and Administration facility (including a redeveloped Town Centre),
- IT Requirements,
- General additional infrastructure requirements and 'set up' costs.
- Central Library facilities

##### **Challenges**

- Rehabilitation liability for two former refuse disposal sites,

- Possible future liability in respect of the bulk fuel tanks at the Depot,
- Ongoing provision, maintenance and support of regional facilities,
- The ageing infrastructure in the longer established suburbs and the need to provide infrastructure in the rapidly developing areas of the district,
- The significant extent of coastline to be managed by the City.

The Commissioners have decided to determine the adjustment of the remaining cash property of the former City of Wanneroo in the following manner: -

- firstly, in recognition of the fact that some items of the remaining cash property were held by the former City for specific purposes, imposed by or related to external parties (e.g. Town Planning Schemes and Unexpended Grants/Contributions);
- secondly, specific amounts (Clause 15 Reserve Accounts and Unexpended Loan Funds) that had been earmarked for and expended on 1998/99 works for both of the Cities; and
- finally, having regard to the interests of both new local governments, what they consider to be the “essential infrastructure needs” of the two new local governments. These have been established by the Commissioners to be \$13,342,572 in the case of Joondalup and \$26,641,842 in the case of Wanneroo.

### Final Adjustment

Table 1 shown hereunder summarises this final determination in respect to the remaining cash property of the former City of Wanneroo.

**Table 1**

	City of Joondalup \$	City of Wanneroo \$	Total Determination \$	
<b>Remaining Cash Property</b>				<b>\$47,916,656</b>
<b>SPECIFIC ITEMS</b>				
Clause 15 Reserves	1,645,373	1,126,670	2,772,043	
Unspent Loan Monies		38,579	38,579	
Town Planning Schemes		4,587,374	4,587,374	
Unexpended Grants/Contrib.	1,983,924	951,212	2,935,136	
<b>TOTAL</b>	<b>\$3,629,297</b>	<b>\$6,703,835</b>	<b>\$10,333,132</b>	<b>\$10,333,132</b>
Remaining after Specific Items				<b>\$37,583,524</b>
Add Clause 15 reserve account interest allocation				\$798,952
Available for “essential infrastructure needs”				<b>\$38,382,476</b>
Established “essential infrastructure needs”	\$13,342,572	\$26,641,842	\$39,984,414	
Percentage of total	33.369	66.631	100	
<b>Determination</b>	<b>\$12,808,014</b>	<b>\$25,574,462</b>		<b>\$38,382,476</b>

It is noted that the determination in respect of “essential infrastructure needs” has been made on a pro rata basis as the amount available was marginally less than established needs. The Commissioners are, nonetheless, of the view that both the City of Joondalup and the new City of Wanneroo will commence 1999/2000 with sufficient cash resources to meet the challenges of the foreseeable future.



## Balancing Transfer

This determination of the remaining cash property of the former City of Wanneroo will necessitate a transfer in the sum of \$295,558 from the City of Joondalup to the new City of Wanneroo (Table 2 refers).

**Table 2**

	City of Joondalup \$	City of Wanneroo \$
This Determination		
Specific Items	3,629,297	6,703,835
“Essential Infrastructure Needs”	12,808,014	25,574,462
<b>Total</b>	<b>16,437,311</b>	<b>32,278,297</b>
Less Already Transferred		
Specific Items	3,629,297	6,703,835
Previously Advanced		
– 30 June 1998 Surplus	9,603,759	3,787,088
– Already expended on		
“essential infrastructure needs”		1,534,316
– pursuant to the revoked resolution	3,499,814	19,957,500
<b>Total</b>	<b>16,732,870</b>	<b>31,982,739</b>
Excess transferred to City of Joondalup	(\$295,558)	
Amount to be transferred to City of Wanneroo		\$295,558

## SUMMARY

The Commissioners consider that this and the earlier determination will provide both Cities with healthy cash balances at the commencement of their first year of independent operation (1999/2000).

The Local Government Act 1995, under regulations prescribed to deal with Section 5.25 (e), lays down the following procedure for dealing with revoking or changing decisions made at Council or Committee meetings:

If a decision has been made at a Council meeting, then any motion to revoke or change the decision must be supported by at least one-third of the number of officers (whether vacant or not) of members of the Council.

If supported by one-third of the members, then any decision to revoke a resolution of the Council is required to be passed by an Absolute Majority.

Prior to giving consideration to the following recommendation, Commissioners are required to give the support of one-third of their members, and such support is to be recorded in the Minutes of this meeting.

### **Call for support of one-third of members of the Council**

The Chairman called for support of one-third of the members of the Council. Support for this item was given by Cmr Buckley and Cmr Morgan.

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

**1 RESCIND their resolution CJ294-08/99 of the 24 August 1999, viz:**

*“1 in accordance with the provisions of Clause 8 of the Joondalup and Wanneroo Order 1998, DETERMINE the adjustment/transfer of the net current assets of the former City of Wanneroo in the manner outlined in report CJ294-08/99, and in doing so:*

- (a) acknowledge that the assets being adjusted/transferred as part of this determination consist of the balance of clause 15 reserve account monies totalling \$23,457,314;*
- (b) note that the effect of this determination to be cash distributions of \$3,499,814 and \$19,957,500 to the Cities of Joondalup and Wanneroo respectively;*
- (c) note the earlier clause 8 determinations amounting to \$27,319,543;*

**2 AUTHORISE the determination made in 1 above to be effected in the City of Joondalup and Shire of Wanneroo’s 1998/99 financial records;**

**3 AUTHORISE the immediate transfer of funds resulting from the determination made in 1 above. “**

**2 in accordance with the provisions of Clause 8 of the Joondalup and Wanneroo Order 1998, DETERMINE the adjustment/transfer of the net current assets of the former City of Wanneroo in the following manner:**

- (a) adjust the available cash property of the former City of Wanneroo totalling \$48,715,608 (being made up of \$47,916,656 remaining cash property and \$798,952 interest earned on remaining clause 15 reserve accounts) to result in:**
  - (i) the adjustment of \$16,437,311 to the City of Joondalup; and**
  - (ii) the adjustment of \$32,278,297 to the City of Wanneroo; and**
- (b) note that the effect of this adjustment and the revocation of the 24 August 1999 resolution CJ294-08/99 will require the further transfer of \$295,558 from the City of Joondalup to the City of Wanneroo;**

**3 ACKNOWLEDGE and CONFIRM the earlier clause 8 determinations (non clause 15 reserves) amounting to \$2,860,201 (refer Council Item CJ247-07/99);**

- 4 AUTHORISE the immediate transfer of funds resulting from the determination, as noted in Point 2(b) above.**

**The Motion was Put and**

**CARRIED BY AN  
ABSOLUTE MAJORITY**

Items CJ378-11/99 to CJ385-11/99 inclusive were Moved by Cmr Clark-Murphy and Seconded by Cmr Buckley.

## **CJ378-11/99 REGISTER OF DELEGATED AUTHORITY - [07032]**

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### **SUMMARY**

Section 5.46 of the Local Government Act 1995 requires the Chief Executive Officer to maintain a Register of Delegated Authority. This report documents the delegated authority exercised by the Chief Executive Officer for the month of October 1999.

### **BACKGROUND**

Part 5 of the Local Government Act 1995 empowers a local government to delegate many of its powers and duties to the Chief Executive Officer.

Section 5.46 requires the Chief Executive Officer to maintain a register and record of delegations and to review the delegations once every financial year.

*Register of, and records relevant to, delegations to Chief Executive Officer and employees*

- 5.46.**
- (1) The Chief Executive Officer is to keep a register of the delegations made under this Division to the Chief Executive Officer and to employees.*
  - (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.*
  - (3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.*

### **DETAILS**

The Register documenting the delegated authority exercised by the Chief Executive Officer for the month of October 1999 is shown as Attachment A.

**MOVED Cmr Clark-Murphy, SECONDED Cmr Buckley that the Joint Commissioners NOTE the Register documenting the delegated authority exercised by the Chief Executive Officer, for the month of October 1999 forming Attachment 1 to Report CJ378-11/99.**

**The Motion was Put and**

**CARRIED**

Appendix 1 refers - click here: [Att1min0911.pdf](#)

## **CJ379-11/99 COUNCIL MEETING TIME AND VENUE CHANGE - [02154]**

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### **SUMMARY**

The City of Joondalup will be holding its inaugural elections on 11 December 1999. A Council meeting is scheduled for 21 December 1999 to be held at the Wanneroo Civic Centre commencing at 6.00pm.

As this will be the first meeting to be conducted by the City's newly elected members, it is considered appropriate that both the venue and commencement time of the meeting be altered to Joondalup Civic Centre at 7.00pm.

### **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 twelve months.

At the 9 February 1999 (CJ05-02/99 refers) meeting of the Joint Commissioners, the schedule of meetings for the ensuing twelve months was adopted. Council meetings were to be held on the second and fourth Tuesday of each month with the venue to alternate between the Joondalup and the Wanneroo Civic Centres to enable residents of both municipalities to attend Council Meetings. The host Council's meeting was to commence at 7.00pm and the non-host Council's at 6.00pm.

The Local Government Act 1995 also requires that local public notice be given if changes to the meeting time, venue or date are made.

### **DETAILS**

In view of the fact that the meeting to be held on 21 December 1999 will be the first meeting attended by the City's newly elected members, it is considered appropriate that the meeting be convened in the Council Chambers at the Joondalup Civic Centre, Joondalup commencing at 7.00pm.

**MOVED Cmr Clark-Murphy, SECONDED Cmr Buckley that the Joint Commissioners in accordance with the Local Government Act 1995, GIVE PUBLIC NOTICE of the change of the commencement time and venue of the 21 December 1999 Council meeting to 7.00pm at the Joondalup Civic Centre, Joondalup.**

**The Motion was Put and**

**CARRIED**

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**CJ380-11/99      CONSERVATION ADVISORY COMMITTEE - [12168]**

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**SUMMARY**

A meeting of the Conservation Advisory Committee was held on 5 October 1999 and the minutes are submitted for noting by the Joint Commissioners (refer Attachment 1).

**BACKGROUND**

Matters arising from the meeting held on 5 November 1999 have been actioned.

**MOVED Cmr Clark-Murphy, SECONDED Cmr Buckley that the Joint COMMISSIONERS NOTE the Minutes of the Conservation Advisory Committee meeting held on 5 October 1999 forming Attachment 1 to Report CJ380-11/99.**

**The Motion was Put and**

**CARRIED**

Appendix 2 refers – click here: [Att2min0911.pdf](#)

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**CJ381-11/99      COMMUNITY SPORT AND RECREATION FACILITY  
FUND – 2000/2001 FUNDING ROUND SUBMISSION  
ASSESSMENT - [22209]**

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**SUMMARY**

The Minister for Sport and Recreation has allocated \$8 million from the Community Sport and Recreation Facility Fund (CSRFF) for the 2000/2001 round of applications. Council is requested to assess, rank and rate all application that falls within its boundaries.

Following advertising by the Ministry for Sport and Recreation, Council received one application from the Sorrento Croquet Club for the construction of a shelter alongside the croquet lawns.

It is recommended that Council ranks the application number 1, and rates it “Well planned and needed by applicant (medium / high)” and lists \$1,100 for consideration in the 2000/2001 Draft Budget on the proviso that the Sorrento Croquet Club is granted \$1,100 from the 2000/2001 round of the CSRFF and the Club contributes .

**BACKGROUND**

Local Government bodies and legally constituted, not for profit sporting clubs and community groups, have been invited to submit applications for funding to make modifications and additions to existing facilities or to construct new ones. A third of the total cost of the project may be funded by the State Government that must be matched by the applicant’s own contribution to the project, with other funding bodies being sourced as required.

CSRFF funds are available in one of two grant categories: Annual Grants and Forward Planning Grants.

Annual grants will be given to projects of a less complex nature, which have an appropriate value of between \$1,000 and \$50,000. Grants given in this category must be claimed within the year of allocation.

Forward Planning grants will be given to projects of a more complex nature requiring a planning period of between one and three years, and which have an appropriate value of \$50,000 to \$1.5 million. Grants given in this category can be claimed in either the first, second or third year of the triennium in which the funds were allocated.

All projects are assessed against the following key principles:

- project justification;
- planned approach;
- community input;
- management planning;
- access and opportunity;
- design;
- financial viability; and
- co-ordination.

The local government authority in which the project is to be built is requested to place a priority and rating on all applications within its municipality. The ratings are to be assessed on the following criteria:

- well planned and needed by the municipality (High);
- well planned and needed by the applicant (Medium/high);
- needed by the municipality, but more planning required (Medium);
- needed by the applicant, but more planning required (Medium/low);
- idea has merit, but more planning required (Low); and
- not recommended.

Once the City has assessed any applications they are then forwarded to the Ministry for Sport and Recreation for assessment with applications from across the State.

The Minister for Sport and Recreation will announce the successful applications in February 2000. The grants will become available in the 2000/2001 financial year or in another financial year nominated by the applicant.

## **DETAILS**

The Sorrento Croquet Club is affiliated with the Sorrento Bowling Club located on Percy Doyle Reserve, Duncraig. The club commenced playing in 1997 on the specifically designed croquet lawns. Currently membership stands at 40. This is the only specialist croquet lawn in the northern suburbs with the closest being in Floreat.

The grant application is for the construction of a shelter to shield players from the elements. As the croquet lawns are over 150 metres from the clubhouse the applicant feels that it is important to attract and keep players by increasing player comfort.

Funding details are as follows:

*Community Contribution*

Applicant Cash Contribution	\$1,100
Voluntary Labour	\$500
Donated Materials	\$100

*WA State Government Contribution (CSRFF)*

CSRFF Contribution	\$1,100
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*Local Government Contribution*

City of Joondalup Contribution	\$1,100
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**Total Project Cost                      \$3,900**

## COMMENT/FUNDING

The application from Sorrento Croquet Club has been assessed by Leisure Services and Strategic Planning via the Formal Facilities Assessment Process. It is considered that the application is well planned and needed by the applicant.

The Sorrento Croquet Club is working to improve a Council facility that it uses. The group is actively seeking alternative sources of funding and as such the project seeks a small contribution from Council. This type of self help by community groups should be applauded and encouraged by Council.

The number of applications received this year is less than has been received in previous years. It has become apparent that the Formal Facilities Assessment Process is helping Council Officers when working with community groups to provide constructive feedback on proposals for CSRFF grants so that only well planned projects are presented for consideration.

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

- 1 FORWARD the application for a grant from the Community Sport and Recreation Facilities Fund to the Ministry of Sport and Recreation with the following ranking and rating:**

Organisation	Ranking	Rating
Sorrento Croquet Club	1	Medium/High

- 2 LIST for consideration in the 2000/2001 draft budget the sum of \$1,100 on the proviso that the Sorrento Croquet Club is granted \$1,100 from the 2000/2001 round of the. Community Sport and Recreation Facilities Fund and the Club contributes \$1,100.**

**The Motion was Put and**

**CARRIED**

## **CJ382-11/99      KINGSLEY OCCASIONAL CARE CENTRE – CHANGES TO OPERATION AND FEE STRUCTURE**

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### **SUMMARY**

Due to the numbers of children attending the Kingsley Occasional Care Centre having decreased over recent months, the program times have been restructured in an attempt to increase the use of the service. This has resulted in the need to restructure the fees. Therefore, approval is sought from the Joint Commissioners to restructure the attendance fees at the Centre.

### **BACKGROUND**

Kingsley Occasional Care Centre is part funded by the State Department of Family and Children's Services. It provides child care for up to 15 children aged between 0 and 6 years on a sessional basis. The program enables parents who care for their children full time at home to keep personal appointments, enjoy leisure activities, study or simply take a break knowing that their children are receiving a quality child care program. It is one of approximately 70 services established across the state in the early nineties to flexibly meet changing child care needs. The majority of these services were established in rural and remote areas where few other child care options existed. This model of occasional care, which provides shorter sessions for smaller numbers of children, has been most successful in those areas too small for a full time child care centre. Many of the metropolitan services and services located in larger country towns have closed as other child care centres have been established.

The State Administered Occasional Care Program, under which the Kingsley service is funded, was reviewed in the second half of last year. The Kingsley service was found to have many benefits for children and parents including the quality of the staff and program and the overall quality of care provided. The atmosphere and the small size of the service were also considered to be positive aspects. The main areas of concern raised by parents and staff in all occasional care services related to the need to fund the services more adequately to maintain affordability and the need for better access to equipment and resources. As a result of the Review, State Government funding to the Kingsley service has increased by some \$2,000 per annum.

The centre has been operating on Tuesday, Wednesday and Thursday afternoons from 12.30pm to 4.30pm. Fees are currently set at:

- \$5.00 per hour for the first child and \$3.00 per hour per additional child;
- \$15.00 per four hour session for the first child and \$6.00 per four hour session per additional child.

The numbers of children attending the centre have decreased over recent months with between four and six children attending each session. This has been largely due to the hours of operation which have been convenient for only a few parents. Generally, very young children have an afternoon sleep. Parents want their children to experience a stimulating program, not sleep, during the child care session. In addition, many parents have school age children who are collected from school at 3.00pm making an afternoon session inconvenient.



After seeking the views of a number of parents using the centre, the service is being offered on Tuesday between 9am and 4pm in an attempt to increase attendance. The first two weeks of this change has resulted in an increase in attendance with twelve children attending the first week and 14 in the second.

The restructuring of the sessions has resulted in a cut in staff hours from 16 per week to 9.5 in the case of the Supervisor and 12 hours to 9.5 for the other staff member. This has been achieved with the permission of the staff and hours will increase if required. The restructuring also requires a restructuring of the fees. The fee structures of other child care services have been taken into account when setting the new fees.

## DETAILS

It is proposed that the fees be structured as follows:

- \$30.00 per 7 hour session for the first child and \$15.00 per 7 hour session for each additional child;
- \$15.00 per 4 hour session for the first child and \$7.50 per 4 hour session for each additional child;
- \$13.00 per 3 hour session for the first child and \$6.50 per 3 hour sessions for each additional child;
- \$5.00 per hour for the first child and \$3.00 per hour per additional child.

These fees better reflect the cost of the service and the fee structures of other child care centres in the City of Joondalup which currently charge daily fees ranging between \$26.00 and \$41.00 per day with an average of \$37.70. These services operate between 10.5 and 11.5 hours per day and parents have access to income related child care assistance to reduce the fees. Parents do not have access to child care assistance at the City's centre because it is a state administered occasional care service and is part time.

The service was budgeted to operate at a \$29,148 deficit with fee income of \$16,000 in the current financial year. To the end of September, \$2,153 has been received in fee income. A continuation of this level of fee income would add \$7,388 to the existing deficit bringing it up to \$36,535. The reduced hours, together with the restructured fees, will result in a full year deficit of \$23,834, given utilisation of 12 of the 15 places.

The service will be reviewed in three months with a view to deciding whether sufficient demand exists for the service to continue or whether it should be closed. The staff are in agreement with this course of action.

## COMMENT/FUNDING

The restructuring of the occasional care sessions should result in increased attendance. It will also result in a reduction in expenditure, and this, together with the restructured fees will reduce the budgeted deficit.

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

**1 NOTE the restructuring of the occasional care sessions to improve customer service provision;**

- 2 in accordance with Section 6.16(3) of the Local Government Act (1995), AMEND the 1999/2000 Schedule of Fees and Charges in relation to the Kingsley Occasional Care Child Care Centre as follows:
- (a) \$30.00 per 7 hour session for the first child and \$15.00 per 7 hour session for each additional child;
  - (b) \$15.00 per 4 hour session for the first child and \$7.50 per 4 hour session for each additional child;
  - (c) \$13.00 per 3 hour session for the first child and \$6.50 per 3 hour session for each additional child;
  - (d) \$5.00 per hour for the first child and \$3.00 per hour per additional child;
- 3 ADVERTISE the proposed new fees in accordance with Section 6.19 of the Local Government Act 1995;
- 4 INTRODUCE the schedule of fees effective from 4 January 2000.

The Motion was Put and

CARRIED BY AN  
ABSOLUTE MAJORITY

**CJ383-11/99 LIBRARY CHARGES FOR OVERDUE LOANS -  
[07065J]**

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**SUMMARY**

During recent years, customer service levels and quality of the Library and Information Service have been negatively impacted by the increasing trend for library members not to return library loans by the due date. This trend has reduced services to other library members by limiting stock availability, hindering the efficiency of operations and significantly increasing administration costs.

Following unsuccessful attempts to encourage library members to comply with loan periods it is recommended that a fine system for overdue library loans be implemented. Extended loan periods and loan limits are also recommended to offset any negative impact on customers.

**BACKGROUND**

The provision of the public library and information service operates under a cooperative arrangement between local governments and the State Government. The current Library Board of Western Australia Act, 1951 - 1983 empowers the Library Board to register public libraries and review the standard of service delivery.

Through a formal agreement the State Government provides public library stock, planning and advisory services whilst local government is responsible for the provision of library buildings, staff, equipment and other infrastructure. Central to this agreement is that usage of

basic library services should be free. This principle is supported in the Culture, Library and Arts Bill which will replace the Library Board Act and is currently on the table of the Legislative Assembly for the Spring session of Parliament.

Council policy supports the provision of free and equitable access to a full range of library services which includes:

- Free membership and use of the library. This includes access to services by people with disabilities and housebound residents via a delivery system.
- Free loan of the basic library collection which incorporates a range of formats other than books.
- Free access to basic reference and information services.

## **DETAILS**

Western Australian public libraries have not been strong advocates of fines for overdue library loans. It has been considered that fines deter library users from returning books, but equally the amount of administrative workload in the collecting of fines has not been considered to be offset by the amount of fines collected.

Prior to automation, library members were suspended for one month when four overdue notices were sent in one year. The implementation of a computer system in 1986 meant this system could no longer be maintained. In the years that followed, Council costs have escalated as library members are no longer penalised for late return of loans. The most significant impact of this trend is that stock is not readily available for other library members to access. Library staff have not achieved successful results through a range of initiatives implemented to encourage members to abide by the rules including:

- shortened period for overdue notices;
- member education displays; and
- personal telephone calls for very overdue items.

An internal library working group, established 12 months ago to address this issue, referred the proposal to introduce overdue fines for further review.

## **Project outline**

Administration of a fine system can represent a significant workload. This is in part due to deficiencies of the existing computer system.

Without a fine system in place, there is no incentive for library users to return their borrowed items by the due date. Of recent years, library members have increasingly kept borrowed materials beyond the formal loan period. Regular comments to staff indicate many people now consider it appropriate not to return loans until the overdue notice is received two weeks after the due date. This has resulted in:

- decreased circulation, particularly of new items which negatively affects the community's access to the latest information and impacts on service performance overall; and
- Increased corporate costs in overdue printing orders, postage and staff time in pursuing overdue items

Libraries in the eastern states which utilise overdue charges as a control mechanism report that not only does accessibility to, and circulation of, new items greatly increase but these appear to be paralleled by decreasing loss rates. In addition, there is significant income generated which enables Councils to offset some of the increasing costs of the ongoing development of library and information services.

The introduction of charges for overdue loans has the potential for a negative response from library users although this is a charge totally within the borrower's capacity to control. The following initiatives are proposed in order to create a more positive environment for the introduction of this change:

- extend the current loan period of 2 weeks to 4 weeks;
- increase the member's loan privileges from 6 items to 8 items; and
- commence with a grace period accompanied by a customer awareness marketing programme.

A survey of other metropolitan library authorities in the most recent edition of the LISWA Statistical Bulletin for Public Libraries in Western Australia showed that more than 76 percent have loan periods of 3 or 4 weeks and 82 per cent have loan limits of 8 items or more. Although it was initially proposed fines be established as an integral part of the new automated library management system, this would mean the first overdue fines would come into effect at the end of December. It is considered introducing fines during the Christmas/New Year period would have a negative impact on Council's image and customers. It is therefore recommended this initial period be used instead to market the imminent charges through a goodwill grace period with the fines to take effect from 1 February 2000.

It is anticipated there may be a temporary reduction in library issue statistics until borrowers become accustomed to the existence of fines.

## **Policy**

In order to bring the overcharges into effect, minor amendments are required to Council Policy 4.2.1 – Library Services. The proposed amendments are indicated in bold type in the following extract from the Policy Manual.

### **POLICY 4.2.1 - LIBRARY SERVICES**

#### **OBJECTIVE**

*To clarify the role, responsibilities and services of the City's public library system.*

#### **STATEMENT**

##### **1 Membership**

*In accordance with the Library Board of Western Australia Act 1951 - Library Board (Registered Public Libraries) Regulations 1985 the Library Service and Information Service shall be a free public library service, regardless of residential address and no charges shall be made for such a service other than levied through the municipal rate.*

*Temporary membership deposits, fines for overdue loans and recoup charges for lost or damaged stock are not classified as charges for service.*

*Any person is entitled to enrol for membership of the Library Service upon showing satisfactory proof of identity and current address. Young adults must also provide the name and address of a contact person.*

*Children (those under 18 years of age) must have the membership form countersigned by a parent or guardian. The place of residence shall be taken as the address where the child normally resides.*

*Any person not able to provide satisfactory proof of identity and residence (e.g. new or temporary residence or visiting family or friends) will be permitted to enrol on payment of a refundable deposit to be determine as part of Council's annual fees and charges. The deposit is refundable upon return of all library materials and surrender of the membership card, or when the member has established permanent residency.*

*Organisations are not eligible for membership. Responsibility for materials borrowed must be undertaken by an individual and not an organisation staff position.*

*On satisfactory completion of the conditions required for membership, one (1) automated system library membership card shall be issued to the applicant together with advice regarding the rules of operation, including borrowing limits, financial liability for **overdue**, lost or damaged items and stock request provisions, which are determined by:*

- *the Library Board of Western Australia Act 1951;*
- *Library Board (Registered Public Libraries) Regulations 1985; or*
- *the Manager Library services in consultation with the Director Community Development.*

## **Exemptions and Reductions**

Fines for overdue loans are to apply to all users with the exception of Books on Wheels members and external libraries. It is not considered appropriate to impose fines on this group when the responsibility for managing the return of loans from customers of the Books on Wheels Service to the Housebound is primarily with staff and volunteers. The Inter Library Loan service has traditionally not imposed fines or charges between libraries except for the direct cost of lost or damaged materials.

No reductions to fine levels for specific user groups are proposed as it is considered Council's community obligation to discount services is fulfilled through reduced Council rates. In addition, library members have the capacity to avoid this charge.

The City of Wanneroo Director Community Development has indicated the introduction of fines will also be considered. Should Wanneroo not proceed, the City of Joondalup will need to review the manner in which loans are administered across the boundaries.

## **COMMENT/FUNDING**

### **Charges**

Introduction of overdue charges cannot be implemented until the new Geac automated library management system is in place. This is currently scheduled for late November this year. The circulation module is geared to facilitate efficient processing of overdue charges. The system will accrue charges on a daily basis and can automatically raise an invoice when the charges have reached a pre-set amount.

Eastern states libraries which have had overdue charges in place for many years are generating significant income. The likely annual income for Council will not become clear until customer response to the new loan limits is demonstrated.

It is recommended the following charges be applied:

- 20 cents per item per day to commence the first day after the due date;
- \$5.00 maximum charge accrued per item.

Borrowing rights be suspended when a library members fines account reaches \$10.00. Library Board (Registered Public Library) Regulation 14 (3) authorises this suspension.

Implementation of the fines is subject to Library Board agreement as specified by Regulation 14, The Library Board of Western Australia Act 1951, Library Board (Registered Public Libraries) Regulations 1985

*“14. (1) A registered reader who retains a book beyond the period of loan shall incur such penalties as the library authority may with the concurrence of the Board determine.”*

Overdue charges will be additional to the replacement cost of the item. If an item is subsequently returned, the overdue charges will stand. Replacement charges, plus overdue charges, will apply for non-returned items.

### **Refunds**

Refunds are not applicable to overdue charges, however, it will be necessary to cancel or waive overdue library fines under specific conditions. The Library and Information Services will establish guidelines to be applied consistently by staff in the administration of overdue fines. Delegated authority is required to and by the Chief Executive Officer to implement these procedures.

Payment of the fine acknowledges that the member is responsible for incurring the fine.

The Western Australian Municipal Association has confirmed that as this is not a charge for service provided it will not attract Goods and Services Tax (GST).

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

- 1 subject to Library Board Agreement, AUTHORISE pursuant to the provisions of Section 6.16 of the Local Government Act 1995, the following additional charges as fines for overdue library loans:**  
  
**20 cents per item per day to commence the first day after the due date;**  
  
**\$5.00 maximum charge accrued per item;**
- 2 ADVERTISE the proposed charges in accordance with Section 6.19 of the Local Government Act 1995;**
- 3 INTRODUCE the schedule of charges for overdue library loan fines effective 1 December 1999;**
- 4 AUTHORISE an introductory fines grace period until 31 January 2000, fines collection to commence from 1 February 2000;**
- 5 EXTEND library membership privileges to a 4 week loan period;**
- 6 INCREASE library member loan privileges to 8 items;**
- 7 ADOPT the revised Policy 4.2.1 – Library Services as shown at Attachment 1 to Report CJ383-11/99;**
- 8 ADOPT the Delegation of Authority in respect to authority to waive or cancel library charges as attached, forming Attachment 2 to Report CJ383-11/99.**

**The Motion was Put and**

**CARRIED BY AN  
ABSOLUTE MAJORITY**

Appendix 3 refers – click here: [Att3min0911.pdf](#)

## **CJ384-11/99 AUTHORISATION OF OFFICERS - [01996, 24041]**

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### **SUMMARY**

A Ranger has recently been employed to fill a vacant position that was created following the division of the Cities of Joondalup and Wanneroo. This officer needs to be authorised by Council to make complaints, action and enforce the various Acts and Regulations policed by Ranger Services within the City of Joondalup.

### **BACKGROUND**

The Ranger will receive appropriate on the job training to gain the knowledge required to action and enforce the relevant Acts and Regulations policed by Ranger Services.

**MOVED Cmr Clark-Murphy, SECONDED Cmr Buckley that the Joint Commissioners, in accordance with the Justices Act 1902, AUTHORISE Gavin John Smith to make complaints, action and enforce the various Acts, Regulations and Local Laws of the local government for the municipality of the City of Joondalup as detailed hereunder:-**

**Local Government Act 1995;  
Dog Act 1976 and Regulations thereunder;  
Bushfire Act 1954 and Regulations thereunder;  
Control of Vehicles (Off Road Areas) Act 1978 and Regulations thereunder;  
Litter Act 1979 and Regulations thereunder;  
Spearguns Control Act 1955 and Regulations thereunder;**

**The Motion was Put and**

**CARRIED BY AN  
ABSOLUTE MAJORITY**

**CJ385-11/99      AUTHORISATION OF TEMPORARY OFFICERS -  
[01996,24041]**

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## **SUMMARY**

Several Rangers have been employed on a casual employment basis to increase Security Ranger patrols within the City of Joondalup. The temporary appointments will complement already established patrols as well as assist in providing the resources for new initiatives such as targeted Joondalup CBD patrols.

## **BACKGROUND**

These Rangers will receive appropriate on the job training to gain the knowledge required to action and enforce the relevant Acts and Regulations policed by Ranger Services.

**MOVED Cmr Clark-Murphy, SECONDED Cmr Buckley that the Joint Commissioners, in accordance with the Justices Act 1902, AUTHORISE the following Rangers:**

**Kenneth Milton Dunn;  
Derek Lance Sim;  
Craig Harley;**

**to make complaints, action and enforce the various Acts, Regulations and Local Laws of the local government for the municipality of the City of Joondalup as detailed hereunder:-**

**Local Government Act 1995;  
Dog Act 1976 and Regulations thereunder;  
Bushfire Act 1954 and Regulations thereunder;  
Control of Vehicles (Off Road Areas) Act 1978 and Regulations thereunder;  
Litter Act 1979 and Regulations thereunder;  
Spearguns Control Act 1955 and Regulations thereunder.**

**The Motion was Put and**

**CARRIED BY AN  
ABSOLUTE MAJORITY**



<b>INFRASTRUCTURE MANAGEMENT</b>
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Items CJ386-11/99 to CJ388-11/99 inclusive were Moved by Cmr Morgan and Seconded by Cmr Clark-Murphy. Cmr Morgan stated his intention to speak on Item CJ386-11/99.

**CJ386-11/99      SERVICE LEVEL AGREEMENTS BETWEEN CITY OF JOONDALUP AND CITY OF WANNEROO FOR PROVISION OF CONSTRUCTION WORKS AND SUPPLY OF FLEET MAINTENANCE SERVICES - [48118]**

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## **SUMMARY**

As a result of the establishment of two new local authorities on 1 July 1998, an independent review was undertaken for use as a guide in determining the most appropriate service delivery method for the provision of major operational services.

Provision of Construction Works and Supply of Fleet Maintenance Services were included in this review which concluded that it would be appropriate for the City of Wanneroo to continue to provide these particular services to the City of Joondalup due to economies of scale, geographical considerations, future growth needs, and to allow for the retention of the current administrative efficiencies.

This report seeks the Joint Commissioners' endorsement of the proposed contractual arrangements.

## **BACKGROUND**

On 1 July 1998, the former City of Wanneroo was divided into two new local governments, the City of Joondalup and the City of Wanneroo. Transitional arrangements have been put in place for the delivery of major construction works and fleet maintenance services between the two Councils.

It was subsequently agreed that more formal arrangements be put in place for the provision of these services using a purchaser/provider model with City of Joondalup purchasing the services from City of Wanneroo.

## **DETAILS**

The overall focus of the various service agreements is to recommend service delivery options that resulted in:

- No local government to profit from the venture
- No local government to suffer loss from the venture
- The services being efficient and competitive with regular benchmarking against alternative providers
- The services to be customer focused

The salient points concerning the four service agreements are set out below:

1. In each case the agreements are in the nature of a service agreement containing provisions which would be appropriate to a commercial “arms length” transaction but nevertheless having regard to the fact that these are two local governments rather than one local government and a private contractor. The agreements are not joint ventures or partnerships.
2. Each agreement endeavours to set out, with a high degree of certainty and particularity each of the parties’ rights and obligations. In each case the services to be provided are set out in detail together with any relevant services standards.
3. The service fees are clearly specified. The agreement recites that the service fees have been determined by the parties as their best estimate of the cost to the service provider of providing the service on a full cost recovery basis with no profit or loss components.

#### **Provision of Construction Works Agreement**

4. In the case of the Construction Works Agreement, the agreement sets out a framework of procedures pursuant to which the parties will:
  - Identify individual projects
  - Agree upon a construction programme and lump sum price for each project; and
  - Enter into individual construction contracts with respect to each project
5. Lump sum prices are to be determined having regard to an agreed Schedule of Rates. This Schedule of Rates has been determined, again, as the parties’ best estimate of the contractor’s costs of providing the works. If agreement cannot be reached on a final lump sum price then the matter will be determined by an expert engineer.
6. The Schedule of Rates may also be adjusted by reference to CPI figures and an adjustment notice may be given by the contractor’s representative if it is considered that the Schedule of Rates no longer represents best estimate of actual costs.

#### **Supply of Fleet Maintenance Services Agreement**

- 7 The service provider is to provide planned and unplanned maintenance and repairs services for the entire fleet consisting of plant and equipment, excluding the station wagons and sedans which will be serviced directly by the vehicle supplier.
- 8 Provision is made for the service fees to be adjusted from time to time by reference to CPI and EBA figures. The service provider’s representative may give an adjustment notice if it is considered that the service fee no longer represents the best estimate of the service provider’s costs.
- 9 The customer has an option to extend the term and the agreement sets out a specific time frame within which the option must be exercised.
- 10 The agreement also contains lowloader transport and refuelling vehicle services, and also contains the provision of technical advice.

### Summary of Service Agreement Arrangements

SERVICE	PURCHASER	PROVIDER	PERIOD OF AGREEMENT	ANNUAL VALUE (approx. only)
Provision of Construction Works	Joondalup	Wanneroo	Two years	\$1.5M
Supply of Fleet Maintenance Services	Joondalup	Wanneroo	Three years plus options	\$0.5M

The period of each agreement varies due to the nature of the service and the future strategic considerations in service provision.

The various agreements have been presented to the Joint Commissioners for their consideration and will be tabled at the meeting.

It is noted that Section 3.59 of the Local Government Act requires business plans to be prepared for major trading undertakings. This is defined as an activity carried on with a view to producing a profit and exceeds a value of \$250,000 or 10 percent of the lowest operating expenditure incurred by the local government from its municipal fund in the last completed financial year or likely to be incurred in the current or next financial year.

As the service agreement arrangements are based on full cost recovery of service delivery with no profit, Section 3.59 of the Local Government Act does not apply in these particular cases.

### COMMENT/FUNDING

The pricing structure for the various agreements have been benchmarked against other service providers and are considered to be competitive.

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

**1 AGREE to the terms and conditions contained within the Service Level Agreements as laid on the table for the Meeting of Joint Commissioners held on 9 November 1999 (attached hereto in the Minute Book):**

- Provision of Construction Works
- Supply of Fleet Maintenance Services

**2 AUTHORISE the Chairman of Commissioners and Chief Executive Officer to execute under Common Seal each Service Level Agreement mentioned in Point 1 above.**

Cmr Morgan spoke in support of the motion.

**The Motion was Put and**

**CARRIED**

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**CJ387-11/99 TENDER NO 049-99/00 SHREDDING OF GREEN WASTE - [42285J]**

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**SUMMARY**

Tenders were advertised for the Shredding of Green Waste in accordance with the specification supplied. Tenders closed on 29 September 1999 and the Schedule of Prices is detailed on Attachment 1.

One tender was received. The tender submission has been evaluated based on the selection criteria and it is recommended that Council accepts the tender from Grass Growers.

**BACKGROUND**

Prior to the split of the former City of Wanneroo, Council was spending \$60,000-\$70,000 per year for shredding of green waste. This was carried out at the Badgerup Tip Site in Wangara. Due to the split of the Council, the greens waste is now required to be stored within the boundary of the City of Joondalup and will require shredding separately to Badgerup. However, this tender will be reviewed annually as part of the overall regional greenwaste recycling initiatives.

**DETAILS**

The tender was advertised on 11 September 1999 and five companies requested tender documents. Only one tender was received from Grass Growers, based in Balcatta.

In discussions with the other companies that requested tender documents, it was apparent that the contract was too small to tender on due to their ongoing commitments.

Grass Growers is currently carrying out the shredding of green waste for this City.

Greens waste from Public Open Space pruning maintenance is currently stockpiled at Quarry Park in Edgewater and shredding is undertaken on request. The City previously undertook this work within the Badgerup Recycling area, but separate from Council's Waste Management area.

**COMMENT/FUNDING**

Funding is available from the 1999/2000 Maintenance Budget.

Grass Growers is based in Balcatta and submitted the only tender.

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

- 1 ACCEPT the tender schedule of prices submitted by Grass Growers for Tender Number 049-99/00 Shredding of Green Waste, forming Attachment 1 to Report CJ387-11/99 for a period of 24 months from 1 November 1999 to 31 October 2001;**

## **2 AUTHORISE signing of the contract documents.**

**The Motion was Put and**

**CARRIED**

Appendix 4 refers – click here: [Att4min0911.pdf](#)

### **CJ388-11/99 METROPOLITAN AND REGIONAL COAST FACILITATOR - [04048]**

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#### **SUMMARY**

The West Australian Municipal Association (WAMA) is seeking a further financial contribution from metropolitan coastal municipalities to continue the work of the Coastal Facilitator. The Facilitator represents the Metropolitan and Central coast areas and is one of five Facilitators within this State that the Commonwealth Government is part funding.

The Joint Commissioners resolved to support the funding of the Facilitator for \$2,500 in the 98/99 draft Budget and an additional \$2,500 in the 1999/2000 year of the 5 year budget. However, before making any further financial commitment, it was resolved to assess whether this initiative has been successful in securing high levels of Commonwealth funding for foreshore management projects.

#### **BACKGROUND**

The Commonwealth Government recognises Local Government's statutory role in managing the foreshore reserve but has introduced a Commonwealth funding mechanism through the Coasts and Clean Seas (CCS) component of the Natural Heritage Trust that endeavours to encourage more community initiated projects. In order to ensure that such initiatives are properly co-ordinated, the Commonwealth Government has provided a grant of \$50,000 per year for 3 years for each of 5 facilitators in WA. The shortfall in each case is made up of contributions from Local Governments, Development Commissions and State agencies such as CALM and the Ministry for Planning (MFP).

#### **DETAILS**

Western Australian Municipal Association (WAMA) is now responsible for the project from 1 June 1999 and has employed a Facilitator for 2 months ending July 1999. WAMA is currently in the process of recruiting a person to continue the work.

The City has found that the Facilitator has provided the City with valuable assistance and with the new emphasis by the Commonwealth for initiation of projects by community groups, the auditing role that the Facilitator provides is very beneficial.

Although the City secured a \$10,000 grant from the CoastWest/CoastCare programme in the past for a geotechnical assessment of coastal limestone hazards, the magnitude and frequency of successful applications for Commonwealth funding assistance has recently been very low.

The Facilitator has demonstrated he/she can be of value to secure higher levels of Commonwealth assistance for foreshore management, it is considered appropriate that the City provides continued funding assistance to the end of the scheme.

It is WAMA's view that community groups and the coastal local governments could well have been disadvantaged if there had not been a Facilitator.

There have been a number of reviews of applications for CCS funding and application assistance provided to community. These include:

Feb 98	Coastal hazards application review and summary
Mar 98	Review of Mullaloo project amendments (onsite meeting)
Feb 98	Review of Burns Beach application assessment
Feb 98	Mullaloo assessment summary
Feb 98	Completed Burns Beach assessment
Feb 98	Preliminary review of 3 CCS applications from COJ/COW
Feb 98	Preliminary review of Mullaloo application and preparation of suggested amendments

The specific tasks for the City of Joondalup has been to provide advice to our Environmental Officer on CCS applications, provide advice/comment and where there is a need to develop stronger community support for our projects, comment on appropriate coastal management strategies at Hillary's Beach and liaised with community groups in the Joondalup area. The Facilitator has also attended community group meetings providing advice e.g. Mindarie Keys Coastcare Association.

#### **COMMENT/FUNDING**

The Facilitator has provided assistance and advice with CCS applications for the City and community groups. The \$2,500 funding represents a proportional share for the Metropolitan Coastal Facilitator and can be funded from Coastal Management Funds, Account No. 11 60 62 621 4201 0001.

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

- 1 NOTE the ongoing role of the Coastal Facilitator;**
- 2 SUPPORT the funding of the Coastal Facilitator for an amount of \$2,500 to be funded from Coastal Management Funds, Account No. 11 60 62 621 4201 0001.**

**The Motion was Put and**

**CARRIED**

<b>PLANNING AND DEVELOPMENT</b>
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Items CJ389-11/99 and CJ390-11/99 were Moved by Cmr Rowell and Seconded by Cmr Clark-Murphy.

**CJ389-11/99      REQUEST FOR METROPOLITAN REGION SCHEME  
REZONING - LOT 71 (105) WOODVALE DRIVE,  
WOODVALE FROM RURAL TO URBAN - [43333J]**

## SUMMARY

A request has been received from the owners of Lot 71 (105) Woodvale Drive, Woodvale to rezone the land from Rural to Urban under the Metropolitan Region Scheme (MRS).

In light of the proximity of the lot to land zoned Residential Development under Town Planning Scheme No 1 (TPS No 1), availability of services, and the fact the land is not used for rural purposes it is considered that a rezoning of the lot under the MRS and TPS, reflecting the zones of the area is supported.

It is recommended that the Joint Commissioners request the North West District Planning Committee to recommend to the Western Australian Planning Commission (WAPC) to amend the MRS to rezone the subject land from Rural to Urban.

## BACKGROUND

Lot No	71
Street Address	105 Woodvale Drive, Woodvale
Land Owner	Ray & Annette McGuiness
MRS Zoning	Rural
TPS Zoning	Rural
Land Use	Single Dwelling
Lot Area	2097m <sup>2</sup>

Lot 71 (105) Woodvale Drive, Woodvale is situated approximately 1 km to the west of Wanneroo Road (Attachment 1) and is currently zoned Rural under the City of Joondalup TPS No.1.

The land immediately adjacent to its southern boundary was rezoned Residential and coded R20 and R40 under TPS No.1 by Amendment 651 gazetted on 28 January 1997 (Attachment 1), which has been subdivided recently.

## DETAILS

### Current Proposal or Issue

Correspondence was received from the landowners, Mr and Mrs McGuiness requesting a rezoning of their land from Rural to Urban under the MRS and advising that they have had a number of inquiries from people wishing to purchase the lot for unit development.

The subject lot is one of five lots to the east of Woodvale Road surrounded by land reserved Parks and Recreation under the MRS, and one of four lots zoned Rural under the MRS and TPS No.1 (Attachment 1).

To the west of the subject lot is Woodvale Senior High School reserved Public Purposes under the MRS and the suburb of Woodvale which is zoned Residential Development in TPS No.1 with a coding of R20 (Attachment 1).

## COMMENT

In light of the proximity of the lot to land zoned Residential Development, availability of services, and the fact the land is not used for rural purposes it is considered that a rezoning of the lot under the MRS and TPS reflecting the zones of the area is supported.

A rezoning to an appropriate 'urban' type zone under the TPS can not be effected until such time that the land has been included in an Urban zone under the MRS.

It should be noted that the report on DPS No.2 recommends that the Western Australian Planning Commission (WAPC) be requested to amend the MRS to reflect a zone other than Rural for the land that is currently zoned Rural within the City. It was determined that a rural zone under the MRS for land within the municipality no longer serves any purpose or function as the land is not and cannot be used for rural purposes.

Nonetheless it is considered that a separate request be put before the North West District Planning Committee for lot 71 Woodvale Drive, Woodvale, accordingly it is recommended that the North West District Planning Committee request the WAPC to amend the Metropolitan Region Scheme to rezone the lot.

**MOVED Cmr Rowell, SECONDED Cmr Clark-Murphy that the Joint Commissioners REQUEST the North West District Planning Committee to recommend to the Western Australian Planning Commission to amend the Metropolitan Region Scheme to rezone Lot 71 (105) Woodvale Drive, Woodvale from Rural to Urban.**

**The Motion was Put and**

**CARRIED**

**CJ390-11/99      PETITION REQUESTING THE PURCHASE OF LAND  
– FORMER GREENWOOD PRIMARY SCHOOL SITE -  
SWAN      LOC      8809      PEPPERMINT      DRIVE,  
GREENWOOD (WAPC 110089) - [34 702J]**

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## SUMMARY

Council has received a petition containing 19 signatures requesting the purchase of the 11 lots to the rear of Pullan Place, Greenwood, which had previously been part of Reserve 31016 (Blackall Reserve) for the purposes of reinstating the linear passive recreation facilities of the locality.



The City is advised that Western Australian Planning Commission (WAPC) funds are only expended on reserved lands. The subject land is not considered to be regionally significant and is unlikely to be reserved under the Metropolitan Region Scheme, and therefore would not be able to be the subject of WAPC funding.

As a significant amount of public open space (POS) already exists around the subject land (approx 9.8505ha) which will now be increased to 10.17ha the amount of POS is considered to be sufficient for the locality.

The community's desire to reinstate the pedestrian connectivity through the bushland on the southern boundary of the land is acknowledged. However, the area is considered to be well served with POS and the subdivision design itself results in open space which is useable and of benefit to the community. Further, the estimated cost of purchasing the land, being between \$1,326,000 and \$1,417,000, is considered to be excessive.

## BACKGROUND

Location	8621, 8622, 8625 & 8809
Street Address	20 Peppermint Drive, Greenwood
Land Owner	Roseway Pty Ltd, Silkbay Investments Pty Ltd, Princess Nominees, Prime Projects Properties Pty Ltd, Pilgrym Investments Pty Ltd, Crystalwood Holdings Pty Ltd, and Abfol Pty Ltd.
MRS Zoning	Urban
TPS Zoning	Residential

## Site History

Having purchased the former Greenwood Primary School site, the landowner approached the Department of Land Administration to exchange the north-eastern part of the school site for portions of Recreation Reserves 31016 and 30958 (Attachment 1). Consequently, the landowner requested the City amend the Scheme to rezone the subject land to Residential and Parks and Recreation – Local Reserves.

After an extensive public consultation process, the Joint Commissioners at their Special Meeting of 16 March 1999, following a directive from the Minister for Planning, resolved, in part, to rezone Swan Location 8809 (former Reserve 31790 Greenwood Primary School) and portions of Reserve 31016 and 30958 adjoining the immediate northern and southern boundaries of the former Greenwood Primary School site from Public Use – Primary School and Parks and Recreation – Local Reserves to Residential Zone and Parks and Recreation – Local Reserves. The amendment was finalised on 21 May 1999.

The subdivision application submitted by the applicant depicted 5% POS with a 5% cash-in-lieu contribution. The applicant did not provide 10% as the subject land is generally surrounded by recreation reserves.

However at the meeting of 13 April 1999, the Joint Commissioner resolved to support the subdivision, subject to 10% POS being provided (CJ111-04/99 refers).

The WAPC subsequently issued planning approval for the subdivision of 20 Peppermint Drive, Greenwood into 54 lots on 16 June 1999 (Attachment 2) subject to a number of conditions. Three of the conditions imposed relate to the provision of POS, increasing the

areas of POS to represent 8% of the subdivision area, plus a condition regarding the development of POS in accordance with the Commission's Policy DC2.3 to the englobo value of 847m<sup>2</sup> of the site.

An appeal was lodged with the Minister against the conditions of subdivision approval, in particular the location of the public open space. The Minister subsequently determined that there were no third party appeal rights, and advised Council accordingly.

The WAPC advised the City that the approved locations will maintain the practical use of the adjoining Blackall Reserve, maximise retention of the most significant trees and will facilitate a safer, better integrated and more affordable housing development than would have been possible if the linear location was approved, as suggested by Council.

## **DETAILS**

Council has received a petition containing 19 signatures requesting the purchase of the 11 lots to the rear of Pullan Place, Greenwood, which had previously been part of Reserve 31016 (Blackall Reserve) for the purposes of reinstating the linear passive recreation facilities of the locality. The petition also makes reference to the costs being shared with the Western Australian Planning Commission (WAPC) through the Planning Commission's funds which are allocated for purchase of such lands.

## **COMMENT**

In discussions with the Ministry for Planning officers, the City is advised that WAPC funds are only expended on reserved lands. The subject land is not considered to be regionally significant and is unlikely to be reserved under the Metropolitan Region Scheme.

The landowner has advised that unconditional offers have been made on 7 of the 11 lots and building plans are being prepared for 5 of these. It is estimated that the cost of purchasing those 11 lots would be between \$1,326,000 and \$1,417,000.

Acquisition of the subject lots would be a costly exercise considering that the land will be purchased at a residential land value, however will be used for recreational purposes.

Although the WAPC did not accept the City's recommendation that a 10% POS contribution be provided, it has required the applicant to provide more POS than was originally proposed (8% as opposed to 5%, plus an amount of money to be spent on the POS, equivalent to the englobo value of 847m<sup>2</sup> of the site).

Further, Attachment 3 depicts the existing POS area around the subject land. They are Blackall reserve in the east, Calectasia Reserve in the south-east, Mamo Park in the west and Kurrajong reserve in the north-west. A significant amount of POS already exists around the subject land (approx 9.8505ha) which will now be increased to 10.17ha making it difficult to justify an argument that the amount of POS is not sufficient for the locality.

## **CONCLUSION**

The community's desire to reinstate the pedestrian connectivity through the bushland on the southern boundary of the land is acknowledged. However, it is determined that the area is currently well served with POS and the subdivision design itself results in open space which is useable and of benefit to the community. Further, the estimated cost of the land of between

\$1,326,000 and \$1,417,000 is considered to be excessive where there is no verifiable need established. One of the options considered was to establish a prescribed area rate to purchase the land, however, this would place considerable financial burden on the local community.

**MOVED Cmr Rowell, SECONDED Cmr Clark-Murphy that the Joint Commissioners ADVISE the signatories that the City is not in a position to purchase the land to the rear of Pullan Place, Greenwood as it is considered there is no established need for additional public open space in the area and that the costs of purchasing the land for this purpose are excessive and unable to be justified.**

**The Motion was Put and**

**CARRIED**

**CJ391-11/99      UNAUTHORISED    HANDRAILS    –    LOT    560(3)  
MANAKOORA RISE, SORRENTO - [07034J, 06034J,  
05034J]**

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## **SUMMARY**

Unauthorised handrails were erected to the edge of parapet walls to flat roof sections of the dwelling under construction at Lot 560 (3) Manakoora Rise, Sorrento. A notice was served by the City to remove the handrails and to erect the approved balcony walls. As the handrails have not been removed, legal action is pending with the matter listed for hearing. The builder and owner appealed the notice to the Minister of Local Government and the appeal was dismissed. Subsequent to the appeal dismissal and construction of the balcony walls, the owner has made a building licence application for approval of the handrails. The City cannot legally approve the handrails retrospectively but the City's solicitors have suggested that the handrails could remain if those sections of roof adjacent the handrails are made inaccessible and a restrictive covenant placed on the title at the owner's expense to prevent normal access to the roof.

The owner of the dwelling (Mr Parin) indicated that he is prepared to remove the handrails, submit amended plans for a less intrusive design for safety rails, formalise as balcony the eastern portion of roof adjacent to 'Jodie's' room and to enter into a covenant at his expense that the western side roof cannot be used as a balcony/entertainment area. Amended plans have been received indicating a new design (See Attachment A) together with correspondence confirming the discussions subject to the Council withdrawing legal action against West-Ville Homes and VM & FL Parin with respective parties paying their legal costs.

The City has been pursuing the above proposal with Mr Parin and his legal advisers to achieve the best option to meet the requirements of both parties.

## **BACKGROUND**

Unauthorised handrails were erected to the edge of the parapet wall bordering the flat sections of roof adjacent Bed 1, Bed 1 balcony, 'Jodie's Room' balcony, and the balcony opposite 'Jodie's Retreat' (see Attachment A). In correspondence to the City, the owners have admitted that the handrails were erected without approval but were installed as a perceived safety measure to protect maintenance workers from possible danger. They have also indicated that at no time will the flat roof adjacent to the handrails be accessed for normal living purposes.

Adjoining owners of Lot 561 (71) Ashmore Way alerted the City verbally to the erection of the handrails and were concerned about any overlooking which may occur to their property should that section of roof be utilised.

With regard to the flat roof section adjacent to 'Jodie's Retreat', the original building licence issued indicated access to that portion of the roof via a sliding door, thus creating a requirement to provide an adequate balustrade. The handrail, in conjunction with the parapet wall, provides an acceptable balustrade. The overlooking from that section of roof is predominantly towards the street into Manakoora Rise with some overlooking to the front of Lot 559 Manakoora Rise.

A Section 401 Notice under the Local Government (Miscellaneous Provisions) Act was served on both the builder and the owners to remove the unauthorised handrails. The owners exercised their appeal rights to the Minister of Local Government and the appeal was subsequently dismissed.

An application was received from Mr Parin for a building licence for the unauthorised handrails. Advice was sought from the City's solicitors as it is not possible for the City to issue a retrospective building licence. The advice received included three suggested options available to the City, one in particular which was discussed with Mr Parin. As a consequence, amended plans were received for a modified handrail detail including correspondence from Mr Parin offering the following proposals:

- 1 On the north western wall directly above Lot 561 (71) Ashmore Way, remove the handrail and replace with a safety rail as detailed on the amended plans.
- 2 'Jodie's' eastern area to be formalised as a balcony as detailed on the amended plans.
- 3 With regard to the area on the western side designated as roof, enter into a covenant that it will not be used as a balcony/entertainment area.

The proposals are subject to the Council withdrawing legal action against West-Ville Homes Pty Ltd and VM & FL Parin, with the respective parties paying their legal costs.

The amended plans submitted by Mr Parin also include a steel-framed flower box/walkway fixed to the outside of the western elevation retaining wall adjacent the respective boundaries immediately below the handrails. As the flower box incorporated a walkway which is highly visible from the two adjoining lots (Lots 561 & 562 Ashmore Way) it was verbally agreed with Mr Parin to delete the flower box from the amended plans.

At the Joint Commissioners' meeting of 11 May 1999, it was resolved to:

- 1 approve the building licence application dated 11 February 1999 for handrails and safety rails (amended detail dated 22 April 1999) subject to:
  - (a) the removal of the existing unauthorised handrail;
  - (b) a restrictive covenant to the City's satisfaction, and at the owner's cost, being endorsed on the title of lot 560 (3) Manakoora Rise which limits access to that portion of the western roof adjacent to lots 561 and 562 which are necessary for maintenance and cleaning purposes only;

- 2 withdraw legal action against West-ville Homes Pty Ltd and VM & FL Parin with the respective parties paying their legal costs.

Following this resolution, further negotiations and meetings have been held between City officers, Mr Parin and the legal advisers of both parties to meet the terms of the above resolution. These discussions revealed the need for some minor changes, particularly to the wording of the proposed covenant.

## DETAILS

The City's solicitors have expressed concerns that the wording of 1(b) above may not comply with the law of restrictive covenants, which requires that such covenants be entirely negative in nature.

It is proposed to change the wording restricting the area of concern from "*maintenance and cleaning purposes only*" to the area not to be used for "*activities or purposes of a principally social or entertainment nature, either singularly or in groups*".

## COMMENT/FUNDING

Resolving this matter has taken considerable time and energy. An acceptable outcome for both parties is, however, the main objective. It is therefore considered preferable at this stage to continue to pursue a negotiated outcome than to commence costly legal proceedings to finalise the matter. It is on this basis that further discussions have been held to try to meet the requirements of the resolution of the Joint Commissioners. In pursuing the matter it appears that the wording of the resolution in relation to the covenant may not be acceptable under the requirements of the Transfer of Land Act.

The owners were particularly anxious that if the restriction were cast in wider terms, that it could prohibit the bona fide use of the roof for cleaning and maintenance, and less frequent uses for such matters as property valuations.

It is therefore recommended that the wording be changed to accommodate both the intent of the original resolution and the legal requirements. The proposed wording that the area is not to be used for "activities or purposes of a principally social or entertainment nature, either singularly or in groups" is considered to meet the intent of the original wording and ensure there are no problems in registering the agreement under the Transfer of Land Act.

While the proposed wording is considered to meet the intent of the Joint Commissioners' resolution, it is sufficiently different to require a rescission of the previous decision and the adoption of a fresh resolution.

The Local Government Act 1995, under regulations prescribed to deal with Section 5.25 (e), lays down the following procedure for dealing with revoking or changing decisions made at Council or Committee meetings:

If a decision has been made at a Council meeting, then any motion to revoke or change the decision must be supported by at least one-third of the number of officers (whether vacant or not) of members of the Council.

If supported by one-third of the members, then any decision to revoke a resolution of the Council is required to be passed by an Absolute Majority.

Prior to giving consideration to the following recommendation, Commissioners are required to give the support of one-third of their members, and such support is to be recorded in the Minutes of this meeting.

**Call for support of one-third of members of the Council**

The Chairman called for support of one-third of the members of the Council. Support for this item was given by Cmr Clark-Murphy and Cmr Buckley.

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

**1 RESCIND Point 1 (b) of Resolution CJ165-05/99 dated 11 May 1999, viz:**

*“1 (b) a restrictive covenant to the City’s satisfaction and at the owner’s cost being endorsed on the title of lot 560 (3) Manakoora Rise which limits access to that portion of the western roof adjacent to lots 561 and 562 which are necessary for maintenance and cleaning purposes only;”*

**2 APPROVE an amended Point 1 (b) as follows:**

*“1 (b) a restrictive covenant to the City’s satisfaction and at the owner’s cost being endorsed on the title of Lot 560 (3) Manakoora Rise which limits access so as to that portion of the western roof adjacent to Lots 561 and 562 are not be used for “activities or purposes of a principally social or entertainment nature, either singularly or in groups”*

**The Motion was Put and**

**CARRIED BY AN  
ABSOLUTE MAJORITY**

Items CJ392-11/99 to CJ395-11/99 inclusive were Moved by Cmr Rowell and Seconded by Cmr Morgan.

**CJ392-11/99 APPLICATION TO CLOSE PEDESTRIAN  
ACCESSWAY BETWEEN SPORING WAY AND VENUS  
WAY, HILLARYS - [28451J]**

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**SUMMARY**

All four of the adjoining landowners applied to close the pedestrian accessway (PAW) between Sporing Way and Venus Way, Hillarys. Instances of anti-social behaviour are put forward by the applicants as reasons for justifying the closure.

This PAW forms part of a pedestrian link to the Whitford City Shopping Centre and cinema complex. The City intends a detailed investigation of the area surrounding the complex by

the preparation of a structure plan. The structure plan will look at the issue of linkage and integration of the area for a radius of approximately 800 metres surrounding the shopping centre and will therefore encompass this PAW. One of the issues to be considered as part of the structure plan, is the pedestrian and cyclist access in the vicinity of the shopping centre. It would not be desirable to make a decision on any PAW closure application in the proximity of the shopping centre until such time as this structure plan has progressed sufficiently to identify the pedestrian/cyclist network for this area. This application should therefore be deferred until such time as the structure plan has identified the pedestrian/cyclist network for the surrounding area after which time this proposal can be reconsidered.

## **BACKGROUND**

This pedestrian accessway forms part of a network of accessways in the residential development south of the Whitford City Shopping Centre and cinema complex.

A site inspection of the PAW recently and found very little rubbish. There was minimal graffiti on fences adjoining the PAW although one of the walls adjoining the PAW was quite badly graffitied. The accessway sloped to a depression in the middle and sight lines were reasonable except for an overhanging tree from one property. This accessway does not have any security lighting. Two people used the PAW during the site inspection.

## **DETAILS**

The original letter from the four adjoining landowners applying for closure claimed grounds of various and regular acts of vandalism and anti-social behaviour as justification. The letter states that the problems started when the cinema complex was opened. It is claimed that youths now wander the streets at night, vandalising and graffitiing the area and that several elderly residents living close to the PAW are concerned for their safety and property.

It is reported that rocks, rubbish and glass are continually being thrown into adjoining yards, fences being kicked to aggravate dogs and anti-social behaviour takes place regularly, especially on Thursday, Friday and Saturday nights. It has also been claimed that an explosive device was detonated in the accessway in July last year, after which the police attended. The applicants suggest that should this PAW be closed and that the PAW connecting Sporing Way with Endeavour Road provides an alternative route.

## **DETAILS**

The City contacted the servicing authorities, the Western Australian Planning Commission (WAPC) and the Department of Transport (DOT) seeking their comments on the proposal. Western Power, Telstra and Alinta Gas do not have any service plant within the PAW and therefore do not object to the proposal. The Water Corporation objected to the proposal based on there being a sewer main located within the PAW. However, the Water Corporation will withdraw its objection if due care is given to the location of any new boundaries in relation to existing manholes.

The WAPC object to the proposal advising that closure will result in longer and less convenient pedestrian and cycle access to the nearby school, reserves and commercial centre. Also it forms part of the pedestrian/cycle network of the area. The Department of Transport has no objection to the proposal.

### **Public Advertising Period**

The application was advertised for thirty days during which time the City received one letter of support and eight letters of objection though three letters were from the same address.

The letter of support states that the accessway is used mostly by non-residents who have created excessive traffic onto Sporing Way which has brought unreasonable noise, vandalism, and litter to the area. The supporter further states that the walls in the accessway are permanently graffitied and the lack of lighting makes the accessway dangerous and potential for injury and criminal activity. Also that Sporing Way will remain accessible via two other pedestrian accessways and to close this one will decrease the unnecessary thoroughfare from the Whitford City Shopping complex.

The objectors all state that they use the PAW on a regular basis. All objections make reference to the point that this PAW is a quick and convenient access to Whitford City Shopping Centre and cinema complex and the inconvenience they would suffer should this PAW be closed. Objectors state this PAW is used for visiting friends and accessing bus stops on a regular basis. It is stated that this is the safest and most sheltered; the alternative route along Green Road being less favourable due to the footpath being unsafe for pedestrians, the strong wind that has to be contended with, along with being swooped by magpies during the nesting season.

Property owners residing next to the accessway connecting Sporing Way with Endeavour Road have objected to this proposal. They state that should closure take place of the accessway between Sporing Way and Venus Way, the anti-social problems alleged by the applicants are likely to be transferred to the accessway next to their property.

The letter further states that all three of the PAW's leading from Sporing Way are used by school children accessing St. Mark's school, local residents accessing bus stops as well as the shopping centre. It is suggested that better maintenance and proper lighting of these PAWs may go some way to mitigating the worst effects of any anti-social behaviour.

### **COMMENT**

To support a PAW closure application based on the argument that other pedestrian accessways nearby can be utilised has to be given careful consideration. Such support may have the effect of transferring and concentrating any problems that may exist to another local PAW and this action would result in no overall benefit to the residents of the area. Also, when there are a number of PAW's in proximity to each other, they often form a pedestrian network offering convenience to pedestrians and cyclists by forming a link to various local amenities. This PAW does offer a convenient link to the western end of the Whitford City shopping and cinema complex.

A structure plan is proposed to be prepared for the area surrounding Whitford City Shopping Centre. The preparation of this structure plan will involve considerable public consultation and one of the issues under consideration will be the overall pedestrian and cycle access network in the vicinity of the shopping complex and the integration of the complex with the surrounding area. This will involve investigation of the possible rationalisation of PAWs, with some being identified for upgrading and improved lighting, and others being identified as suitable for closure. In the meantime, it is appropriate to increase Ranger security patrols in the area. At this stage therefore, this application along with any future applications that fall



within the area of the structure plan should not be supported by the Joint Commissioners until the pedestrian/cyclist network for this area has been identified.

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

- 1 DO NOT SUPPORT the immediate closure of the pedestrian accessway between Sporing Way and Venus Way, Hillarys;**
- 2 REVIEW the matter once the structure plan for the Whitford City Shopping Centre has progressed sufficiently to identify the pedestrian/cyclist network for the area;**
- 3 REQUIRE increased ranger security patrols in the area, as well as trimming the overhanging trees in the pedestrian accessway.**

**The Motion was Put and**

**CARRIED**

**CJ393-11/99 REQUEST TO CLOSE PEDESTRIAN ACCESSWAY BETWEEN MULLIGAN DRIVE AND RODGERS STREET, GREENWOOD - [31588J]**

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**SUMMARY**

An application to close the pedestrian accessway (PAW) between Mulligan Drive and Rodgers Street, Greenwood was made by one of the adjoining landowners. Increased incidence of burglary, property damage, invasion of privacy, graffiti and other such anti-social activities are presented by the applicant as grounds to justify support for the closure. The one other adjoining landowner also supports the closure.

The PAW is a direct linear link to the footpath on Mulligan Drive that leads to East Greenwood Primary School in the north and Warwick Senior High School and Warwick Open Space in the south. To close this PAW would mean a significant increase in walking distances and encourage pedestrians to walk along a less desirable road pattern without footpaths. Due to this PAW being a direct linear link to the schools in the area and the public open space, this application is not supported.

**BACKGROUND**

The PAW links Mulligan Drive and Rodgers Street, Greenwood. It is short and straight providing good visibility.

A recent site inspection found the fences in good order, with little evidence of rubbish though some evidence of graffiti that looked like it had been removed. This PAW does not have light poles. During the inspection a lady with a stroller and four primary school aged children used the accessway.

## **DETAILS**

The City contacted the servicing authorities, the Western Australian Planning Commission (WAPC) and the Department of Transport (DOT) seeking their comments on the proposal. Western Power, Telstra and Alinta Gas do not have any service plant within the PAW and therefore do not object to the proposal. The Water Corporation objected to the proposal based on there being a water main located within the accessway. However, the Water Corporation can modify the water main and will withdraw its objection if the adjoining landowners agree to this and pay the associated costs.

The City of Joondalup has a drainage facility within the PAW that will need the protection of an easement if closure takes place. The adjoining landowner has agreed to meet the necessary costs and conditions in relation to closing this accessway.

The WAPC object to the proposal advising that closure will result in longer and less convenient pedestrian and cycle access for the area, particularly between the residential area north of Warwick Road and the Warwick Senior High School and the recreation area south of Warwick Road. WAPC also state that although there are other pedestrian routes in close proximity to the subject PAW which would maintain pedestrian accessibility to these facilities, it is considered that closure of the subject PAW would add pressure and may consequently affect the amenity of the residences abutting these other available PAWs and pedestrian routes.

The Department of Transport's recommendation was to maintain the accessway for pedestrians, people with disabilities and cyclists. If Council does support closure of the subject PAW, the DOT recommends that the PAW is temporarily closed and protected. It opposes transferring the land to adjacent landowners.

### **Public Advertising Period**

The application was advertised for thirty days during which time the City received three submissions supporting closure and three submissions objecting to the proposal.

Supporters attribute theft, graffiti and vandalism to living within the proximity of the above PAW. It is stated drunken youths using rowdy behaviour frequent the accessway during the evening. One resident of the area for fourteen years stated in his letter that the amount of broken glass, litter and graffiti has worsened over the years. He also states that he has discovered syringes and condoms within the PAW. He continually has to repair his front fence and reticulation system and vehicles parked outside his home have recently been broken into and vandalised.

Residents from a property close to the PAW have advised that in the ten years they have lived there they have experienced two attempted burglaries and three successful break-ins to parked vehicles at their home. They further state that if closure of the accessway did take place they would be concerned about the safety of pedestrians due to the lack of footpaths in the area and the excessive speeds by some drivers.

Objectors raised concerns for school children accessing East Greenwood Primary School and students of Warwick High School, one of the concerns being alternative routes do not have any footpaths. They state that the PAW is wide and open and does not appear vandalised. The PAW was placed there as a community facility and the only people that benefit should it be closed are the adjoining landowners, at the detriment of the many people who use it daily.

## COMMENT

Although sympathy goes to the adjoining landowners of this PAW that have experienced instances of anti-social behaviour, this PAW does serve a purpose to this particular area of Greenwood as a link via the footpath on Mulligan Drive to the local primary school. The same consideration applies to accessing Warwick Senior High School. As this PAW is considered to be an important link in the local pedestrian network, its closure is not supported.

**MOVED Cmr Rowell, SECONDED Cmr Morgan that the Joint Commissioners DO NOT SUPPORT the closure of the pedestrian accessway between Mulligan Drive and Rodgers Street, Greenwood because it is considered to be an important link in the local pedestrian network.**

**The Motion was Put and**

**CARRIED**

**CJ394-11/99      REQUEST TO PARTIALLY CLOSE PEDESTRIAN  
ACCESSWAY ON WESTERN BOUNDARY OF LOT 827  
(16) DORADO BEACH, CONNOLLY - [35709J]**

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## SUMMARY

The property at Lot 827 (16) Dorado Beach, Connolly has a pedestrian accessway (PAW) that is approximately 3 metres wide running along the western boundary. The landowners have applied to have the PAW reduced to 0.1 metre wide and the balance of the land amalgamated into their property.

This PAW has an existing retaining wall on its western boundary that varies in height from approximately one metre to three metres. It is likely that the PAW's purpose was to prevent any building being erected within this area thus avoiding surcharge on the retaining wall. Should the owners of Lot 827 lodge for a building licence that indicates a structure in this area, the question of surcharge can be evaluated at that time and the building licence conditioned accordingly. Therefore the applicants' request for the PAW to be reduced to 0.1 metre wide and to purchase the balance of the land should be supported.

## DETAILS

Following the landowners recent purchase of the above property, they had it resurveyed. The plan produced by the surveyors revealed a pedestrian accessway running along the Long Island Pass boundary of the property that is approximately three metres wide. (See attachment 1). Generally, when a PAW is three metres wide, it is likely to be for public access purposes however, as this particular PAW leads from the front of Lot 827 to its back boundary public access is not therefore a consideration.

Comments were sought from the City's Officers regarding this application and it understood that this PAW may have been imposed at this location to prevent any buildings being constructed within the area close to the existing retaining wall. This would ensure that the wall was not placed under excessive pressure. The applicants' are aware of this and the fact that should this application be supported and they wish to develop within three metres of the western boundary, conditions may be placed on any building licence as a precaution.

A reduced PAW of 0.1 metre wide on the western property boundary will have the effect of preventing any vehicular access over from Lot 827 to Long Island Pass. (See attachment 2).

The City contacted Alinta Gas, Telstra, Western Power and the Water Corporation seeking their comments on the proposal. There is not any service plant within this PAW and therefore objections were not raised from the service providers. The response from the Western Australian Planning Commission (WAPC) also stated that it has no objection to this proposal.

This application was advertised for thirty days for public comment during which time the City did not receive any written submissions regarding the proposal

### COMMENT

Provided that a PAW of 0.1 metre wide is retained, thus keeping a vehicle access restriction on the western boundary of the property and the landowners agree to pay any costs associated by them acquiring the balance of the land within this pedestrian accessway, this proposal should be supported.

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

- 1 AGREE to the closure of portion of the pedestrian accessway on the western boundary of Lot 827 (16) Dorado Beach Crescent, Connolly to retain a 0.1 metre wide pedestrian accessway subject to the property owners purchasing the balance of the land within the pedestrian accessway and meeting the associated costs;**
- 2 REQUEST the Department of Land Administration to close portion of the pedestrian accessway to retain a 0.1 metre wide pedestrian accessway along the Long Island Pass boundary and dispose of the balance of the pedestrian accessway to the adjoining landowners.**

**The Motion was Put and**

**CARRIED**

**CJ395-11/99 SUBDIVISION REFERRALS PROCESSED 27  
SEPTEMBER TO 22 OCTOBER 1999 - [05961]**

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### SUMMARY

Overleaf is a resumé of the Subdivision Referrals processed by the Subdivision Control Unit (SCU), from 27 September 1999 to 22 October 1999. Applications processed via the SCU 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, Urban Design and Policy Services, the authority to deal with these applications.

**MOVED Cmr Rowell, SECONDED Cmr Morgan that the Joint Commissioners NOTE the action taken by the Subdivision Control Unit in relation to the applications described in Report CJ395-11/99.**

**The Motion was Put and**

**CARRIED**

Appendix 5 refers – click here: [Att5min0911.pdf](#)

#### **DATE OF NEXT MEETING**

The next meeting of the Joint Commissioners has been scheduled for **6.00 pm** on **TUESDAY, 23 NOVEMBER 1999** to be held at the Wanneroo Civic Centre, Civic Drive, Wanneroo.

#### **CLOSURE**

There being no further business, the Chairman declared the Meeting closed at 1941 hrs; the following Commissioners being present at that time:

COMMISSIONERS: ANSELL  
MORGAN  
CLARK-MURPHY  
ROWELL  
BUCKLEY