



City of  
**Joondalup**

# **DRAFT AGENDA FOR BRIEFING SESSION**

to be held on

**TUESDAY, 6 DECEMBER 2005**

in Conference Room 1,  
Joondalup Civic Centre, Boas Avenue, Joondalup  
commencing at 6.30 pm

## **Public Question Time**

**Members of the public are requested to lodge questions  
in writing by close of business on Monday 5 December 2005  
Answers to those questions received within that timeframe will,  
where practicable, be provided in hard copy form  
at the Briefing Session.**

**GARRY HUNT  
Chief Executive Officer  
2 December 2005**

# **PROTOCOLS FOR BRIEFING SESSIONS**

The following protocols for the conduct of Briefing Sessions were adopted at the Council meeting held on 9 August 2005.

## **INTRODUCTION**

The modern role of the Elected Council is to set policy and strategy, and provide goals and targets for the local government (City of Joondalup). The employees, through the Chief Executive Officer, have the task of implementing the decisions of the Elected Council.

A well-structured decision-making process that has established protocols will provide the elected body with the opportunity to:

- have input into the future strategic direction set by the Council;
- seek points of clarification;
- ask questions;
- be given adequate time to research issues;
- be given maximum time to debate matters before the Council;

and ensure that the elected body is fully informed to make the best possible decision for all the residents of the City of Joondalup.

## **PURPOSE OF BRIEFING SESSIONS**

Briefing Sessions will involve Elected Members, staff, and external advisors (where appropriate) and will be open to the public.

Briefing Sessions will provide the opportunity for Elected Members to be equally informed and seek additional information on matters prior to the presentation of such matters to the next ordinary meeting of Council for formal consideration and decision.

## **Protocols for Briefing Sessions**

The following protocols will apply to Briefing Sessions that are conducted by the City of Joondalup.

- 1 Briefing Sessions will be open to the public except for matters that relate to a confidential nature. The guide in determining those matters of a confidential nature shall be in accordance with the Local Government Act 1995.
- 2 Dates and times for Briefing Sessions will be set well in advance where practicable, and appropriate notice given to the public.
- 3 The Chief Executive Officer will ensure timely written notice and an agenda for each Briefing Session will be provided to all Elected Members, Members of the public and external advisors (where appropriate).

- 4 The Mayor is to be the Presiding Member at Briefing Sessions. If the Mayor is unable or unwilling to assume the role of Presiding Member, then the Deputy Mayor may preside at the Briefing Session. If the Deputy Mayor is unable or unwilling, those Elected Members present may select one from amongst themselves to preside at the Briefing Session.
- 5 The Presiding Member at the commencement of each Briefing Session shall:
  - (a) Advise Elected Members that there will be no debate on any matters raised during the Sessions;
  - (b) Ensure that the relevant employee, through liaising with the Chief Executive Officer, provides a detailed presentation on matters listed on the agenda for the Session;
  - (c) Encourage all Elected Members present to participate in the sharing and gathering of information;
  - (d) Ensure that all Elected Members have a fair and equal opportunity to participate in the Session; and
  - (e) Ensure the time available for the Session is liberal enough to allow for all matters of relevance to be identified;
- 6 Elected Members, employees and relevant consultants shall disclose their interests on any matter listed for the Briefing Sessions. When disclosing an interest the following should be considered:
  - (a) Interests are to be disclosed in accordance with the provisions of the Local Government Act 1995 and the City's Code of Conduct;
  - (b) Persons disclosing a financial interest will not participate in that part of the Session relating to the matter to which their interest applies and shall depart the room;
  - (c) An exception shall be applied to the disclosing of interests by consultants where the consultant will be providing information only, and will be able to remain in the Session;
  - (d) As matters raised at a Briefing Session are not completely predictable, there is some flexibility in the disclosures of interests. A person may disclose an interest at such time as an issue is raised that is not specifically listed on the agenda for the Session.
- 7 Elected Members have the opportunity to request matters to be included on the agenda for consideration at a future Briefing Session by:
  - (a) A request to the Chief Executive Officer; or
  - (b) A request made during the Briefing Session.
- 8 A record shall be kept of all Briefing Sessions. As no decisions are made at a Briefing Session, the record need only be a general record of the items covered but shall record any disclosure of interests as declared by individuals. A copy of the record is to be forwarded to all elected members.

- 9 Members of the public may make a deputation to a Briefing Session by making a written request to the Mayor by 4pm on the working day immediately prior to the scheduled Briefing Session. Deputations must relate to matters listed on the agenda of the Briefing Session.
- 10 Other requirements for deputations are to be in accordance with the Standing Orders Local Law where it refers to the management of deputations.

## **PUBLIC QUESTION TIME**

The following protocols for the conduct of Public Question Time were adopted  
at the Council meeting held on 11 October 2005

Members of the public are invited to ask questions, either verbally or in writing, at Briefing Sessions.

The Council encourages members of the public, where possible, to submit their questions at the earliest opportunity.

Public question time will be limited to the legislative minimum of fifteen (15) minutes and may be extended in intervals of up to ten (10) minutes by resolution of the Council, but the total time allocated for public questions to be asked and responses to be given is not to exceed thirty five (35) minutes in total.

## **PROCEDURE FOR PUBLIC QUESTION TIME**

Members of the public are invited to ask questions, either verbally or in writing, at Briefing Sessions. Questions asked at a Briefing Session must relate to a matter contained on the draft agenda.

- 1 A register will be provided for those persons wanting to ask questions to enter their name. Persons will be requested to come forward in the order in which they are registered, and to give their name and address.
- 2 Each member of the public wanting to ask questions will be encouraged to provide a written form of their question(s) to the Chief Executive Officer (CEO) or designated City employee.
- 3 Public question time will be limited to two (2) minutes per member of the public, with a limit of two (2) questions per member of the public.
- 4 Statements are not to precede the asking of a question during public question time. Statements should be made during public statement time.
- 5 Members of the public are encouraged to keep their questions brief to enable everyone who desires to ask a question to have the opportunity to do so.

- 6 Where the number of required questions exceeds the number able to be asked, the member of the public may submit the unasked questions to the Council, where they would be 'taken on notice' and a written response provided.
- 7 Public question time is declared closed following the expiration of the allocated time period, or earlier than such time where there are no further questions.
- 8 To enable prompt and detailed responses to questions, members of the public are encouraged to lodge questions in writing to the CEO by close of business on the working day immediately prior to the scheduled Briefing Session.

Responses to those questions received within the above timeframe will, where practicable, be provided in hard copy at the meeting.

- 9 The Mayor or presiding member shall decide to:
  - Accept or reject the question and his/her decision is final;
  - Nominate a member of the Council and/or City employee to respond to the question;
  - Due to the complexity of the question, require that it be taken on notice with a written response provided as soon as possible, and included in the agenda of the next briefing session.
- 10 Questions are to be directed to the presiding member and should be asked politely in good faith and are not to be framed in such a way as to reflect adversely or be defamatory on a particular Elected Member or City employee.
- 11 Where a response has been provided to a question asked by a member of the public, and where that response, in the opinion of the presiding person, adequately deals with the question, there is no obligation to further justify the response.

- 12 Where an elected member is of the opinion that a member of the public is:
- asking a question at a Briefing session, that is not relevant to a matter listed on the draft agenda, or;
  - making a statement during public question time;
- they may bring it to the attention of the meeting.
- 13 Questions and any response will be summarised and included in the notes of the Briefing Session.
- 14 It is not intended that question time should be used as a means to obtain information that would not be made available if it was sought from the City's records under Section 5.94 of the Local Government Act 1995 or the Freedom of Information (FOI) Act 1992. Where the response to a question(s) would require a substantial commitment of the City's resources, the Chief Executive Officer (CEO) will determine that it is an unreasonable impost upon the City and refuse to provide it. The CEO will advise the member of the public that the information may be sought in accordance with the FOI Act 1992.

## **PUBLIC STATEMENT TIME**

The following protocols for the conduct of Public Statement Time were adopted at the Council meeting held on 11 October 2005

Members of the public are invited to make statements, either verbally or in writing, at Briefing Sessions of the City.

Public statement time will be limited to a maximum of fifteen (15) minutes. Individual statements are not to exceed two (2) minutes per member of the public.

## **PROCEDURE FOR PUBLIC STATEMENT TIME**

Members of the public are invited to make statements, either verbally or in writing, at Briefing Sessions. Statements made at a Briefing Session must relate to a matter contained on the draft agenda.

- 1 A register will be provided for those persons wanting to make a statement to enter their name. Persons will be requested to come forward in the order in which they are registered, and to give their name and address.
- 2 Public statement time will be limited to two (2) minutes per member of the public.
- 3 Members of the public are encouraged to keep their statements brief to enable everyone who desires to make a statement to have the opportunity to do so.
- 4 Public statement time is declared closed following the expiration of the allocated time period, or earlier than such time where there are no further statements.

- 5 Statements are to be directed to the Presiding Member and are to be made politely in good faith and are not to be framed in such a way as to reflect adversely or be defamatory on a particular Elected Member or City employee.
- 6 Where an elected member is of the opinion that a member of the public is making a statement at a Briefing session, that is not relevant to a matter listed on the draft agenda, they may bring it to the attention of the meeting.
- 7 Statements will be summarised and included in the notes of the Briefing Session.
- 8 It is not intended that public statement time should be used as a means to obtain information that would not be made available if it was sought from the City's records under Section 5.94 of the Local Government Act 1995 or the Freedom of Information (FOI) Act 1992. The CEO will advise the member of the public that the information may be sought in accordance with the FOI Act 1992.

## **DISCLAIMER**

Responses to questions not put in writing are provided in good faith and as such, should not be relied upon as being either complete or comprehensive.

## **DEPUTATION SESSIONS**

Council will conduct an informal session on the same day as the Briefing Session in Conference Room 1, Joondalup Civic Centre, Boas Avenue, Joondalup, commencing at 6.30 pm where members of the public may present deputations by appointment only. (Please note that deputation requests are to be received by no later than 4.00 pm on the Monday prior to a Briefing Session.)

A time period of fifteen (15) minutes is set-aside for each deputation, with five (5) minutes for Commissioners' questions. Deputation sessions are open to the public.

*\* Any queries on the agenda, please contact Council Support Services on 9400 4369*

# CITY OF JOONDALUP – BRIEFING SESSION

to be held in Conference Room 1, Joondalup Civic Centre, Boas Avenue, Joondalup on **Tuesday, 6 December 2005** commencing at **6.30 pm**

## ORDER OF BUSINESS

### 1 OPEN AND WELCOME

### 2 DEPUTATIONS

### 3 PUBLIC QUESTION TIME

The following questions were submitted to the Briefing Session held on 15 November 2005:

**Mr S Kobelke, Sorrento:**

Q1 *Business Outstanding – Height and Scale of Buildings within residential areas: I understand Council has undertaken an audit of the properties that might be affected along the coastline. Would you make this list available?*

A1 A number of sites have been identified and a list can be provided.

**Dr V Cusack, Kingsley:**

Q1 *I received a letter from the EPA dated 15 November 2005 addressed to the City (Dr Cusack tabled this letter). Have the Commissioners received a copy of that letter?*

A1 The CEO advised that he had not received the letter.

Q2 *(Dr Cusack tabled a letter dated 29 March 2001 from Waters and Rivers Commission to the Ministry for Planning and referred to Point 2 of this letter.)*

*Will the Council do all it can to ensure that that condition is met?*

A2 No such commitment can be made. The requirement for that is with the WA Planning Commission, over which this Council has no control.

**Mrs M Macdonald, Mullaloo:**

Q1 *Are there any credit card payments in Item 6 – List of Payments made during October 2005, and if so, how are they described?*

A1 There are none.

Q2 *What is the payment to Westpac Banking Corporation for \$24,211.46 that is described as Fees and Charges?*

A2 The specific fees and charges included in this transaction are as follows:



Activity Fees  
Transaction Fees  
EFTPOS/Debit Card Transaction Fees  
Service Fees  
Credit/Charge Card Transaction Fees (for amounts received by the City)  
Dishonoured Cheque Fees

**Mr M Caiacob, Mullaloo:**

Q1 *Re Item 16 – Extensions to Lakeside Shopping Centre*

*As there is no recommendation registered in relation to my submission, what is the recommendation in regards truck loading bays being entered from Boas Avenue, as this will have major traffic and pedestrian implications on the Joondalup CBD? (Refer condition 2(a)(iv)) The traffic consultant has identified delays in the vicinity of Boas Avenue and Grand Boulevard. As the proposed changes to move those service entrances are unacceptable because of financial constraints, how will the CBD be protected from trucks using the area?*

A1 These points will be addressed by officers when discussing the item later in this meeting.

**Mr M Sideris, Mullaloo:**

Q1 *The fourth question I raised at the last Briefing Session has not been addressed. I asked for specific details of the payment to Perkins Builders.*

A1 This question was addressed in the Briefing Agenda on Page (x) and details will be forwarded to Mr Sideris.

## **4 PUBLIC STATEMENT TIME**

**The following public statements were submitted to the Briefing Session held on 15 November 2005:**

**Dr V Cusack, Kingsley:**

Item 10 – Proposed Nursing Home and Aged or Dependant persons' dwelling – Lots 28 and 63 Hocking Road, Kingsley.

Dr Cusack raised concerns in relation to the environment and wetlands, and regarding the level of advice provided to the Commissioners. Dr Cusack considered that the exercising of discretion was unacceptable and believed Commissioners should reject the application.

**Mr M Sideris, Mullaloo:**

Item 16 – Proposed Extensions to Lakeside Shopping Centre fronting Grand Boulevard and Boas Avenue.

Mr Sideris spoke on the requirement for parking bays and congratulated staff for addressing the issue of shortfall of bays.

## 5 APOLOGIES AND LEAVE OF ABSENCE

## 6 DECLARATIONS OF FINANCIAL INTEREST/INTEREST THAT MAY AFFECT IMPARTIALITY

### Disclosure of Financial Interests

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration. An employee is required to disclose their financial interest and if required to do so by the Council must disclose the extent of the interest. Employees are required to disclose their financial interests where they are required to present verbal or written reports to the Council. Employees are able to continue to provide advice to the Council in the decision making process if they have disclosed their interest.

Nil.

### Disclosure of interest affecting impartiality

Commissioners and staff are required under the Code of Conduct, in addition to declaring any financial interest, to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making process. The Commissioner/employee is also encouraged to disclose the nature of the interest.

<b>Name/Position</b>	<b>Mr Garry Hunt – Chief Executive Officer</b>
<b>Item No/Subject</b>	Item 11 - Tender 026-05/06 Installation and modification of traffic signals at Shenton Avenue, Joondalup, Mclarty Avenue, Joondalup, Hodges Drive, Joondalup, Caridean Street, Heathridge and Hepburn Avenue / Gibson Avenue, Padbury Intersections
<b>Nature of interest</b>	Interest that may affect impartiality
<b>Extent of Interest</b>	The recommended tenderer is part of a conglomerate with which Mr Hunt had an association.

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### **LATE ITEMS / ADDITIONAL INFORMATION**

In the event that further documentation becomes available prior to this Briefing Session, the following hyperlink will become active:

[Additional Information 061205.pdf](#)

## **ITEM 1                      REVIEW OF LOCAL LAWS – [05885]**

<b>WARD:</b>	All
<b>RESPONSIBLE DIRECTOR:</b>	Mr Garry Hunt Office of CEO

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### **PURPOSE**

For the Council to give consideration to commencing a review of a number of its local laws in accordance with Section 3.16 of the Local Government Act 1995.

### **EXECUTIVE SUMMARY**

The local laws of the former City of Wanneroo became the local laws of the City of Joondalup on 1 July 1998 following its split.

During 1998 and 1999 a concerted effort was undertaken to review the former local laws, which reduced the number of local laws from approximately thirty-five (35) to ten (10) modern local laws.

Section 3.16 of the Local Government Act 1995 requires the City of Joondalup to undertake a review of all of its local laws with a period of eight (8) years from the day in which the local law commenced. A majority of the revised local laws were gazetted in 1998 and 1999, which requires the statutory periodic review to be completed by 2006 and 2007. The review requires a legislated six (6) week public submission period. If following the periodic review, the Council determines that the local laws require amending or repealing, it must commence the process to do so in accordance with Section 3.12 of the Local Government Act 1995.

It is therefore recommended that the Council, in accordance with Section 3.16 of the Local Government Act 1995 RESOLVED to undertake a periodic review of the following local laws:

- 1     Animal Local Law 1999
- 2     Bushfires Prevention and Control Local Law 1998
- 3     Extractive Industries Local Law 1998
- 4     Health Local Law 1999
- 5     Local Government and Public Property Local Law
- 6     Parking Local Law 1998
- 7     Private Property Local Law 1998
- 8     Signs Local Law 1999; and
- 9     Trading in Public Places Local Law 1999.

### **BACKGROUND**

The local laws of the former City of Wanneroo became the local laws of the City of Joondalup on its creation on 1 July 1998. During 1998 and 1999 a concerted effort was undertaken to review the local laws of the former City of Wanneroo to ensure that the City of Joondalup had a revised set of enforceable and modern local laws. The review also saw the drastic reduction from approximately thirty-five (35) by-laws of the former City of Wanneroo to a far more manageable number of ten (10) local laws for the City of Joondalup.

The following are the current local laws operated by the City of Joondalup:

- Animal Local Law 1999 (gazetted 15 January 2002);
- Bushfires Prevention and Control Local Law 1998 (gazetted 8 January 1999);

- Extractive Industries Local Law 1998 (gazetted 8 March 1999);
- Health Local Law 1999 (gazetted 27 August 1999);
- Local Government and Public Property Local Law (gazetted 18 January 2000);
- Local Law S5 – Standing Orders (repealed by the Council at its meeting held on 22 November 2005);
- Parking Local Law 1998 (gazetted 9 November 1998);
- Private Property Local Law 1998 (gazetted 8 March 1998);
- Signs Local Law 1999 (gazetted 27 August 1999); and
- Trading in Public Places Local Law 1999 (gazetted 27 August 1999).

On 18 January 2000, a local law was gazetted on behalf of the City of Joondalup that repealed all of its obsolete local laws following the split from the former City of Wanneroo.

These were as follows:

- By Law B3: Relating to Building Lines, published in the Government Gazette - 16 January, 1963;
- By Law E1: Eating Houses, published in the Government Gazette – 12 August 1988;
- By Law H2: Holiday Accommodation No 18, published in the Government Gazette - 21 February, 1975;
- By Law M3: Construction, Establishment, Operation and Maintenance of Motels, published in the Government Gazette - 27 October, 1960;
- By Law O1: Removal and Disposal of Obstructing Animals or Vehicles, published in the Government Gazette – 29 August 1963;
- By Law O2: Old Refrigerators and Cabinets, published in the Government Gazette - 1 May, 1962;
- By Law P3: Pest Plants, published in the Government Gazette - 18 March, 1985;
- By Law R1: Deposit of Refuse and Litter, published in the Government Gazette - 12 April, 1967;
- By Law R2: Removal of Refuse and Rubbish, published in the Government Gazette - 20 July, 1979;
- By Law R4: Payment of Rates, published in the Government Gazette - 19 May, 1989;
- By Law R5: Removal of Refuse, Rubbish or Disused Material, published in the Government Gazette - 21 December, 1990;
- By Law S1: Sewerage, published in the Government Gazette - 13 April 1973.
- By Law S4: Stallholders, published in the Government Gazette - 31 October 1986.

Since the gazettal of the revised local laws, two (2) amendment local laws have been gazetted that made various amendments to the local laws of the City of Joondalup.

Amendment Local Law 2000 (gazetted 10 July 2000)

*The purpose of this local law was to amend various clauses in the City of Joondalup Parking, Private Property, Signs, Animals, Trading in Public Places and Health Local laws, to remove difficulties identified in their application and better clarify the requirements of the local laws.*

Amendment Local Law 2001 (gazetted 15 January 2002)

*The purpose of this local law was to amend various clauses in the Parking, Private Property, Animals, Local Government and Public Property, Health and Bushfire Prevention and Control Local Laws to ensure information was current with prevailing legislation and better clarify the requirement of the local laws.*

Since the Amendment Local Law 2001 that was gazetted on 15 January 2002, no further amendments have been made to the City's local laws.

## DETAILS

### Issues and options considered:

The Local Government Act 1995 places a statutory obligation on the City to conduct periodic reviews of its local laws. At the conclusion of the public submission period, the Council may determine to retain, repeal or amend any or all of its local laws.

Amending a local law in accordance with Section 3.12 of the Local Government Act 1995 does not constitute a periodic review as required by Section 3.16 of the Local Government Act 1995.

### Link to Strategic Plan:

Outcomes:

The City of Joondalup is an interactive community.

Objectives:

4.3 To ensure the City responds to and communicates with the community.

Strategies:

4.3.3 Provide fair and transparent decision-making processes.

### Legislation – Statutory Provisions:

Section 3.16 of the Local Government Act 1995 states:

#### 3.16 Periodic review of local laws

- (1) *Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.*
- (2) *The local government is to give Statewide public notice stating that:*
  - (a) *the local government proposes to review the local law;*
  - (b) *a copy of the local law may be inspected or obtained at any place specified in the notice; and*
  - (c) *submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
- (2a) *A Notice under subsection (2) is also to be published and exhibited as if it were a local public notice;*
- (3) *After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.*
- (4) *When its council has considered the report, the local government may determine\* whether or not it considers that the local law should be repealed or amended.*

*\* absolute majority required.*

Following the completion of the review of the local law, if the Council determines that the local law is to be amended or repealed it must commence the process as required by Section 3.12 of the Local Government Act 1995, which states:

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a Council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to:*
  - (a) *give Statewide public notice stating that:*
    - (i) *the local government proposes to make a local law the purpose and effect of which is summarised in the notice;*
    - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
    - (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
  - (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
  - (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.*

*\* absolute majority required.*

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



(8) *In this section:*

*“making” in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

**Risk Management considerations:**

The risk associated with not undertaking the periodic reviews as required by the Local Government Act 1995 will result in the City of Joondalup being non-compliant with the legislation and may question the validity of the local law.

**Financial/Budget Implications:**

<b>Account No:</b>	1.1320.3702.0001.9999
<b>Budget Item:</b>	Advertising – Public Statutory
<b>Budget Amount:</b>	\$10,000
<b>YTD Amount:</b>	\$4,433
<b>Actual Cost:</b>	\$500

The initial costs associated with the review as required by Section 3.16 of the Local Government Act 1995 are related to general advertising.

**Policy implications:**

Not applicable.

**Regional Significance:**

There is no regional significance as a result of undertaking the review, as the local laws are only applicable to the district of the City of Joondalup.

**Sustainability implications:**

A revised and current set of local laws for the City of Joondalup will greatly assist in the lifestyle for the residents of the City.

**Consultation:**

The level of consultation will be dictated by the requirements of the Local Government Act 1995. Advertising of the periodic review is by notice in the stateside and local newspapers and made available on the City’s website.

**COMMENT**

A number of amendments have been identified that are required to a number of local laws operated by the City.

As previously indicated, any previous amendments made to a local law do not constitute a periodic review as required by Section 3.16 of the Local Government Act 1995. Prior to commencing the amendments to the local law under Section 3.12 of the Local Government Act 1995, it is considered appropriate to first undertake the required periodic reviews in accordance with Section 3.16 of the Local Government Act 1995. This is the most prudent process to follow given that a number of the local laws are scheduled to undertake the required periodic reviews as required by the legislation.

Following the periodic review, the Council can then consider amending the local laws as a result of any changes suggested through the public submission period or as a result of recommendations from the Chief Executive Officer.

## **ATTACHMENTS**

Nil.

*The following Local Laws are available on the City's website at: [www.joondalup.wa.gov.au](http://www.joondalup.wa.gov.au)*

Animal Local Law 1999  
Bushfires Prevention and Control Local Law 1998  
Extractive Industries Local Law 1998  
Health Local Law 1999  
Local Government and Public Property Local Law  
Parking Local Law 1998  
Private Property Local Law 1998  
Signs Local Law 1999; and  
Trading in Public Places Local Law 1999.

## **VOTING REQUIREMENTS**

Simple majority

## **RECOMMENDATION**

**That Council in accordance with Section 3.16 of the Local Government Act 1995 RESOLVES to undertake a period review of the following local laws:**

- 1 Animal Local Law 1999**
- 2 Bushfires Prevention and Control Local Law 1998**
- 3 Extractive Industries Local Law 1998**
- 4 Health Local Law 1999**
- 5 Local Government and Public Property Local Law**
- 6 Parking Local Law 1998**
- 7 Private Property Local Law 1998**
- 8 Signs Local Law 1999; and**
- 9 Trading in Public Places Local Law 1999.**

## **ITEM 2                    PROPOSAL FOR A NEW REGIONAL MODEL FOR NORTH WEST METRO BUSINESS ENTERPRISE CENTRE (NWMBEC) – [03082] [53469]**

**WARD:**                    All

**RESPONSIBLE  
DIRECTOR:**            Mr Garry Hunt  
                                 Office of CEO

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### **PURPOSE**

To seek Council endorsement to support the introduction of a new regional service delivery model for the Northwest Metro Business Enterprise Centre (NWMBEC) to be effective from 1 January 2006.

### **EXECUTIVE SUMMARY**

Small business development has been a key element of economic growth in the northwest metropolitan region. The City of Joondalup has played an integral role in this growth through its ongoing support to organisations such as the Joondalup Business Association (JBA), the Joondalup Business Centre (JBC) (formerly the Incubator), the Joondalup Stakeholder Group and the North West Metro Business Enterprise Centre (NWMBEC).

On 30 June 2005 the Minister for Small Business, announced that there would be a re-establishment of Business Enterprise Centre (BEC) within the State from January 2006. The proposed structure will result in the delivery of the BEC service through 26 centres, 7 within the metropolitan area and 19 within regional Western Australia.

Some of the key outcomes arising from the proposed future structure are as follows:

- Reduces infrastructure and administrative costs;
- Re-aligns facilitation capacity and resources to areas of existing and future high demand;
- More effectively integrates the BEC service within zones;
- Increases the mobility of facilitation services throughout the network.

Since this announcement was made the stakeholders involved (being the City of Joondalup, City of Wanneroo, Joondalup Business Association and the Wanneroo Business Association) have held meetings to:

- Align the NWMBEC with the new directions articulated in the State Government review;
- To ensure that the NWMBEC will be strengthened as an outcome; and
- To ensure that increased funding is delivered to this region.

To date the stakeholders have:

- Agreed upon a model;

- Devised the best delivery mechanisms for the model; and
- Agreed the way forward for small business service delivery in Joondalup and Wanneroo.

This report presents the history and performance of the existing NWMBEC to date and provides comparative information on other key metropolitan Business Enterprise Centres (BECs). It outlines the role of the Joondalup Business Association (JBA) in relation to the NWMBEC and the outlines the City's current financial grant agreement with the JBA.

The a new regional service delivery model for the NWMBEC is described which has been the subject of negotiations between the Cities of Joondalup and Wanneroo and the Joondalup , Wanneroo Business Associations. The report recommends that Council:

- 1 *Subject to the successful negotiations by the Chief Executive Officer with the Joondalup Business Association to terminate by mutual agreement the existing funding arrangement relating to the North West Metro Business Enterprise Centre effective from 31 December 2005;*
- 2 *AGREES to the establishment of an independent incorporated body to manage a new Business Enterprise Centre for the North West Region of Perth covering the Cities of Wanneroo and Joondalup;*
- 3 *NOMINATES a member as its representative on the board of the new Business Enterprise Centre;*
- 4 *NOTES that funding for the period 1 January 2006 to 30 June 2006 was approved in the 2005/6 budget process to account 1-2113-5399 -001-F402 to meet the purpose of provision of services to regional businesses under the Business Enterprise Centre*
- 5 *LISTS up to \$55,000 for consideration in the draft Council Budget for 2006/2007, subject to the new Business Enterprise Centre presenting to Council a Business Plan which shows how the funds will be allocated to support business development within the City of Joondalup;*
- 6 *NOTES that the new Business Enterprise Centre will need to develop funding models for at least its first three years of operations and that there is an expectation that the Cities of Joondalup and Wanneroo will provide ongoing funding support.*
- 7 *NOTES that the City of Wanneroo has agreed to contribute \$30,000 for the 2005/6 financial year and will list a further \$55,000 for the 2006/7 financial year.*

## **BACKGROUND**

Small business development has been a key element of economic growth in the northwest metropolitan region. The City of Joondalup has played an integral role in this growth through its ongoing support to organisations such as the JBA, the Joondalup Business Centre (JBC) (formerly the Incubator), the Joondalup Stakeholder Group and the NWMBEC.

The Joondalup Business Association Inc. is a non-government not for profit association that was established in the 1990s with the aim to represent small business owners within the City of Joondalup to Federal, State and Local Governments.

The NWMBEC was established prior to 1996 and the then Parent Body was called the 'Regional Economic Development Committee'. In 1996 the name was changed to the

Wanneroo BEC Inc. and in 1999 the name changed to 'NWMBEC Inc.' In 2001 the SBDC (the funding body) and the JBA established a new agreement that would deliver funding to the JBA, under which the JBA would take on the role of managing the NWMBEC<sup>1</sup>.

The JBA in late 2001 approached the City of Joondalup to further support the NWMBEC by way of a 3-year funding agreement that would provide for a greater level of servicing to the Joondalup area.

At its meeting of 12 February 2002, Council CJ008 - 02/02 resolved to approve funding assistance for the North West Metropolitan Business Enterprise Centre (NWMBEC) in the form of a three-year Service Agreement. The amount approved by Council was \$50,000 per annum for three financial years from 2001/02 to 2003/04 indexed to the consumer price index (CPI). The resolution of Council was as follows:

*That Council, subject to funding in the half-yearly Budget Review for 2001/02:*

- 1 *NOMINATES Councillor C Baker and Deputies Councillors P Kadak and C Mackintosh to the North West Metropolitan Business Enterprise Centre Committee of Management;*
- 2 *APPROVES the allocation of \$50,000 per annum (plus GST and indexed to CPI) for a period of three years commencing in the financial year 2001/2002 subject those funds being directed to Business Enterprise Centre activities within the City of Joondalup;*
- 3 *AUTHORISES the signing of a Service Agreement between the City of Joondalup and the North West Metro Business Enterprise Centre for a period of three years commencing in the financial year 2001/02.*

In February 2004 the JBA, as the body corporate managing the NWMBEC, proposed that the City consider a further three-year arrangement commencing 1 July 2004. The proposal requested Council to fund \$55,000 per year indexed to the CPI for the provision of BEC services, subject to agreed performance standards.

*At its meeting on 17 February 2004 Council resolved to:*

- 1 *Consider the provision of a grant of \$55,000 (plus GST and indexed to CPI) per annum for financial years 2004/05 to 2006/07 to the Joondalup Business Association (JBA) in its provision of services to regional businesses under the Business Enterprise Centre (BEC) Project;*
- 2 *Agree the key performance indicators be developed and reported for the project that encompass but are not limited to the following: a) New clients; b) New business start-ups; c) Full-time & casual jobs created; d) Casual enquiries; and e) Client assists;*
- 3 *Request the key performance indicators outlined in 2 above be provided on a quarterly basis that provides number of clients serviced that are based: a) Within the City of Joondalup; b) Within the City of Wanneroo; and c) Elsewhere in Metropolitan Perth or Western Australia;*
- 4 *Add an additional condition for the 2004/05 to 2006/07 Service Agreement with the JBA for the provision of BEC services include the submitting of an audited statement of BEC activities that are separate from audited Joondalup Business Association (JBA) financial statements;*

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<sup>1</sup> Source: SBDC November 2005

- 5 *Lists for consideration for 2004/05, 2005/06 and 2006/07 budget proposals for funding the Joondalup Business Association (JBA) for an amount totalling \$55,000 per annum indexed to the prevailing Consumer Price Index (CPI);*
- 6 *Authorises the signing of a Service Agreement between the City of Joondalup and the North West Metro Business Enterprise Centre for a period of three years commencing in the financial year 2004/05;*

### Business Enterprise Centres in Western Australia

Prior to the new regional service delivery model the SBDC supported a network of 37 independent Business Enterprise Centres (BECs). Each centre had a management committee with representatives from business, public sector organisations and local government in support of the BEC Manager.

BECs offer free assistance and support to new and existing businesses through the following services:

- Free practical business assistance;
- Referral to specialist advisers (accountants, lawyers, etc.);
- Assistance through the maze of government departments and regulations;
- Business workshops;
- Business information; and
- Problem solving.

In addition to operational grants from the State Government, the BEC network attracts support from Local Government with contributions that totalled \$201,600 cash in 2004/05. Local Government support for the BECs in Metropolitan Perth during 2004/05 is as follows:

<b>BEC Office</b>	<b>Cash</b>	<b>In Kind</b>
Belmont BEC	\$20,000	
Coastal BEC (Fremantle)	\$3,000	
Gosnells-Armadale BEC	\$25,600	
North West Metro BEC (Joondalup)	\$55,000	\$4,400
Rockingham BEC	\$30,000	
South East Metro BEC (Welshpool)	\$10,000	
Stirling BEC (amalgamated with Malaga)	\$28,000	
Subiaco BEC	\$15,000	
Swan Region BEC (Midland)	\$15,000	\$2,500
<b>Total Metropolitan</b>	<b>\$201,600</b>	<b>\$6,900</b>

*Note the level of funding to the NWMBEC is higher than other Councils and this is considered reasonable given that the region is experiencing rapid growth and expansion.*

### Joondalup Business Association

The JBA Inc is a non-government, not for profit community-based organisation that works within the Perth North West Metropolitan Region to create jobs, assist business development and foster economic growth.

The JBA is and continues to be the sponsoring organisation for the NWMBEC. As an incorporated body (A1006411U), the JBA has approximately 300 members who are situated within or operate business activities within the North West Metropolitan region.

### The Business Enterprise Centre Project (2004/05 to 2006/07)

The 'Business Enterprise Centre Project' relates to the 2004/05 - 2006/07 Financial Grant Agreement between the City and the Joondalup Business Association (see Attachment 1). The Project has the following objectives:

- To maximise the creation of employment opportunities by facilitating the establishment of new business start ups within the North West Metropolitan Region; and
- To encourage and facilitate the development and broadening of the economic base within the North West Metropolitan Region.

The strategies implemented to achieve the above objectives are as follows:

- Provide facilitation resources and guidance for prospective new businesses proprietors in marketing, business planning, finance, market research, trade information, regulations, licensing and a full range of business improvement services;
- Support new business starters with a range of practical resources and facilities including seminars, library facilities, computer facilities, provision of Small Business Smart Business Training Vouchers and referral to appropriate professional services;
- To facilitate and coordinate the conduct of training and development courses, seminars and workshops for small business in the region; and
- To facilitate and administer the Small Business Mentoring Scheme in the region.

The outcomes expected for the Business Enterprise Centre Project include increased economic activity generated through the development of new businesses and the creation of new employment as the result of newly established and expanding enterprises.

Key performance indicators agreed for the project (see Attachment 2) include the following:

- Number of new business start-ups;
- The number of new jobs created;
- The number of Training Vouchers requested and issued (subject to continued funding of the scheme by the Department of Employment and Training); and
- Numbers of seminars and workshops facilitated together with attendance statistics.

To date the NWMBEC has reported on all its agreed key performance indicators. The City has received regular performance reports and these reports are reviewed by the City upon receipt on a monthly basis following Board meetings of the NWMBEC.

### NWMBEC Performance over 2004/05

The following information of the financial performance of the NWMBEC for the 2004-5 year extracted from the Annual Report 2004-5 of Joondalup business Association as the sponsor of the North West Metro Business Enterprise Centre. The Annual report is shown in full as Attachment 1.

During 2004/05 the NWMBEC experienced a downturn in the number of new clients and client assists compared to last year, although numbers still exceeded those recorded in the years preceding 2003/04. An analysis of the NWMBEC performance is provided in Attachment 1.

In 2004/5 the Business Enterprise Centre had a net loss of \$20,474.90, with income of \$158,751.02 and expenses of \$179,225.92. This income includes \$55,000 paid by the City. The BEC was able to offset the \$20,474.90 net loss with its retained earnings of \$20,793.13, leaving \$318.23 in accumulated funds/total company equity for 2004/05. The \$318.23 of accumulated funds at the end of 2004/05 represents a significant drop from the \$29,974 accumulated funds at the end of the previous 2003/2004 year (see Attachment 1 for further financial details).

Full details of Council involvement with the NWMBEC to date can be found in the following reports previously submitted to Council:

- CJ008 – 02/02 Service Agreement with North West Metropolitan Business Enterprise Centre Located at Unit 4/189 lakeside Drive, Joondalup; and
- CJ008 – 02/04 Joondalup Business Association request for a service agreement supporting the North West Metropolitan Business Enterprise Centre (NWMBEC) – Small Business Funding Project for three years commencing 1 July 2004.

## DETAILS

### Issues and options considered:

#### New Service Delivery Model for BECs

On the 30 June 2005 the Minister for Small Business, announced that there would be a re-establishment of BECs within the State from early 2006. The possibility of a name change to BECs to help re-brand the service was also announced. The proposed structure will result in the delivery of the BEC service through 26 centres, 7 within the metropolitan area and 19 within regional Western Australia. Core funding to the Network will increase from \$2.28M to \$2.83M in the first full year of operation. In addition, the SBDC will distribute a further \$185,000 of capital funding to the network. Responsibility for a number of key functions currently undertaken by the SBDC's BEC Support Unit will also be transferred to the network. Some of the key outcomes arising from the proposed future structure are as follows:

- Reduces infrastructure and administrative costs;
- Re-aligns facilitation capacity and resources to areas of existing and future high demand;
- More effectively integrates the BEC service within zones;
- Increases the mobility of facilitation services throughout the network.

The proposed core operational funding to contracted BECs with specific reference to the Perth Metropolitan area is as follows:

#### **Proposed Locations for Perth Metropolitan BECs**

<b>Location</b>	<b>Funding</b>
Swan (based in Midland)	\$100,000
North West Metro	\$120,000
Belmont (TCF Enterprise)	\$90,000
Stirling	\$120,000
East Metro based in Gosnells/Armadale	\$120,000
South Metro based in Rockingham	\$100,000
Coastal based in Fremantle	\$100,000
<b>Total</b>	<b>\$750,000</b>

The location of the NWMBEC, currently situated in Joondalup, will be subject to mutual agreement between the Cities of Wanneroo and Joondalup, and other key stakeholders, to



ensure that the future needs of small businesses in the northern corridor are adequately addressed.

The BECs at Malaga and Stirling have agreed to merge and form one organisation that will service their area.

The area currently serviced by the South East Metro BEC based in Welshpool will now be serviced through the BECs located in Midland and Gosnells/Armadale.

The Belmont BEC will have an emphasis on the Textile, Clothing and Footwear industries, however, it will still provide the full range of BEC services to clients within the Belmont area.

The Stirling BEC will take on a co-ordination role for the zone in the first year and will be allocated \$15,000 for this.

In preparing the State Government's report, the SBDC analysed all submissions received as part of the review, sourced information on small business activity and growth from local governments and utilised its own knowledge of the Network in determining a model which will ensure that the small business sector of Western Australia receives a consistent and effective service.

Since this announcement was made the stakeholders involved (being the City of Joondalup, City of Wanneroo, Joondalup Business Association and the Wanneroo Business Association) have held meetings to:

- Align the NWMBEC with the new directions articulated in the State Government review;
- To ensure that the NWMBEC will be strengthened as an outcome; and
- To ensure that increased funding is delivered to this region.

To date the stakeholders have:

- Agreed upon a model;
- Devised the best delivery mechanisms for the model; and
- Agreed the way forward for small business service delivery in Joondalup and Wanneroo.

The stakeholders in their deliberations agreed upon key principles as follows:

- Acknowledgement that the current BEC arrangement would cease on 31 December 2005, and that new arrangements needed to be in place prior to 1 January 2006;
- An independent board (through an incorporated body) to be set up to run the new BEC and a constitution is developed;
- Membership of the board is as follows:
  - Three Wanneroo Business Association (or nominated representatives)
  - Three Joondalup Business Association (or nominated representatives)
  - One City of Wanneroo representative
  - One City of Joondalup representative
  - Three Independent Members (selected by the board following advertising)
- The Chair of the Board would be elected by the board and come from within the group;

- Two separate BEC offices are to be set up, one in the City of Wanneroo and one in the City of Joondalup;
- Two facilitators are to be appointed of equal status. Their pay would be determined by their qualifications and experience;
- Administration would be shared between two offices;
- The Cities of Wanneroo and Joondalup would be requested to make annual contributions based on business plans with performance indicators; and
- Board meetings could be held alternately between the Wanneroo and Joondalup office locations.

As outlined in detail in the background to this report the City of Joondalup currently has a 3-year funding arrangement in effect with the JBA and this agreement would need to be terminated and replaced by a new agreement under the new BEC model being proposed. These discussions with the JBA have not yet occurred and will need to take place in the near future. The Financial Grant Agreement can be seen at Attachment 2).

#### City of Wanneroo Commitment

It should be noted that the establishment of the new regional BEC will be a collaboration. The City of Wanneroo at its meeting on 11 October 2005 unanimously and by absolute majority carried the following resolutions:

- 1 *AGREES to the establishment of an independent incorporated body to manage a new Business Enterprise Centre for the North West Region of Perth covering the Cities of Wanneroo and Joondalup;*
- 2 *NOMINATES BY ABSOLUTE MAJORITY, Cr Roberts as its representative on the board of the new Business Enterprise Centre;*
- 3 *CONFIRMS its requirement for the establishment of a Wanneroo Business Enterprise Centre Office with a full-time coordinator at the Wanneroo Business Grow Centre at 935 Wanneroo Road;*
- 4 *Pursuant to Section 6.8(1)(b) of the Local Government Act 1995, APPROVES BY ABSOLUTE MAJORITY expenditure of up to \$30,000 including the rental and operational cost associated with the Wanneroo BEC office as its initial contribution in the 2005/06-budget year to allow the operations of the Business Enterprise Centre to commence;*
- 5 *NOTES the expenditure by Council of \$7,000 to establish a Business Enterprise Centre office as part of the overall set up costs for the Wanneroo Business Grow Centre;*
- 6 *NOTES the following budget variation to give affect to 4 above:*  
  
*GL No From To Description 02101.0001.1301 \$23,000 Grants Commission – GP Grant 52105.0001.4230 \$23,000 Wanneroo Business Enterprise Centre.*
- 7 *LISTS up to \$55,000 for consideration in the draft Council Budget for 2006/2007, subject to the new Business Enterprise Centre presenting to Council a Business Plan which shows how the funds will be allocated to support business development within the City of Wanneroo;*
- 8 *NOTES that the new Business Enterprise Centre will need to develop funding models for at least its first three years of operations and that there is an expectation that the Cities of Wanneroo and Joondalup will provide ongoing funding support.*

**Link to Strategic Plan:**

Key Focus Area 3 – City Development

*Outcome: The City of Joondalup is recognised for investment and business development opportunities.*

*Objective 3.5: To provide and maintain sustainable economic development*

*Strategy 3.5.1 Develop partnerships with stakeholders to foster business development opportunities*

*Strategy 3.5.2 Assist the facilitation of local employment opportunities*

**Legislation – Statutory Provisions:**

Sections 5.8, 5.9 and 5.10 of the Local Government Act 1995 provide Council with the power to introduce Committees and appoint council members, employees and other persons as representatives to serve on these Committees.

The Joondalup Business Association Inc. is an Incorporated Association under the Associations Incorporations Act and the NWMBEC is sponsored by the JBA.

The Wanneroo Business Association Inc. is an incorporated Association under the Associations Incorporations Act.

**Risk Management considerations:**Ethical Risks

The new proposed model for the North West Metropolitan BEC will be reliant upon the ongoing collaboration and teamwork between the various stakeholders of Joondalup and Wanneroo.

The new proposed BEC Board of Management will need to act in a regionally focused manner in all aspects of their role. The constitution of the new corporate body will need to reflect its regional role and values of cooperation in its key driving principles.

Project Risks

The new BEC must be established by January 2006, in order maintain service delivery and to received its full funding potential from the Sate Government. Timing is critical and the project must be managed efficiently in order to meet this timeframe.

Project partners must also work effectively in order to implement the new model.

Funding Risks

In its 2005/06 budget deliberations the City has approved a \$55,000 budget in line with its funding agreement that commits the City to annual funding up until June 2007. To date the City has made a pro rata payment of \$28,000 for the 2005-6 year for the period covering July to December 2005. This pro rata payment was done intentionally given the pending changes that were occurring.

The City of Joondalup will need to hold discussions with the JBA in order to dissolve the previous 3-year service agreement which is still a legally binding document and make arrangements for a new agreement with the parties forming the new independent

incorporated body who will take over the management of the funds to the new BEC. The current Financial Grant Agreement includes a provision for the termination of the grant under section 4 'Termination'.

**Financial/Budget Implications:**

<b>Account No:</b>	1-2130-5399- 0001-F402
<b>Budget Item:</b>	Funding Agreement North West metro BEC
<b>Budget Amount:</b>	\$55000
<b>YTD Amount:</b>	\$28,160
<b>Actual Cost:</b>	\$28,160

**Policy implications:**

The BEC project has a general connection to Policy 2.1: - Environmental, Social and Economic Sustainability Policy and Policy 3.3: - Centres Strategy.

**Regional Significance:**

The new model for BEC proposed in this report has critical regional significance. The funding that will be injected into the region will be doubled and the partnership between the City of Wanneroo and City of Joondalup will provide a new model that will ultimately see the two Cities working much closer on regional economic development outcomes.

The NWMBEC is the only centre in the Northwest Metro Region and by broadening its capacity to deliver more services to both the Cities of Joondalup and Wanneroo it will inevitably be of great benefit to small businesses existing or planning to locate in the region.

**Sustainability implications:**

The WA State Sustainability Strategy defines 'sustainable development' to be simultaneous improvement in the environment, society and economy.

Of the three elements of sustainability, the North West Business Centre mainly works to improve the economy. The BEC's focus is primarily on supporting small businesses, which in turn contributes to a sustainable economy and vibrant business environment. The BEC helps to improve 'society' by supporting local employment, and can enhance social capital and social connections by linking small business operators to important networks, such as the local business associations and home based business network.

Regional cooperation is a key requisite for successful regional economies, and successful cooperation between the two cities on this project will send a positive signal to both potential external investors and the business community that the North West Metropolitan Region has a positive business environment. Regional cooperation also supports the development of a 'culture of innovation' in the region, which is crucial to the success of urban economies in the new emerging knowledge driven economy.

**Consultation:**

Extensive consultation between the City of Wanneroo, the Small Business Development Corporation, the Joondalup Business Association and the Wanneroo Business Association has taken place over the past 4 months since the state government announced the new proposed funding structure for the Business Enterprise Network of Western Australia.

## COMMENT

The newly agreed management structure appears to offer the level of integration and autonomy required by the cities of Wanneroo and Joondalup for the two locations to succeed. If funding is made available to allow for the employment of two full-time administrators to assist in running the offices, then the model has a strong chance of success.

A major advantage of the new offices will be their ability to constantly monitor areas of demand for small business assistance. The flexible structure will allow the offices to pre-empt and predict areas of future demand, and resource for that demand appropriately. It is expected that different demand levels in different small business sectors will need greater assistance from time to time.

The new BEC service across Joondalup and in Wanneroo will play an important role in the growth strategies for a region demanding high employment-producing outcomes. The new service will also significantly add to the overall competitiveness of Perth as a producer of high quality services and net exporter of goods, services and intellectual capital.

Should Council agree to the new BEC model final approval would be sought from the State Government including a guarantee of their ongoing funding to the new BEC. The City would assist in the establishment of the new BEC association as an incorporated body.

## ATTACHMENTS

- |              |   |
|--------------|---|
| Attachment 1 | North West Metro Business Enterprise Centre Annual Report 2004-2005.            |
| Attachment 2 | City of Joondalup and Joondalup Business Association Financial Grant Agreement. |

## VOTING REQUIREMENTS

Simple majority

## RECOMMENDATION

### That Council:

- 1 SUBJECT to the successful negotiations by the Chief Executive Officer with the Joondalup Business Association to terminate by mutual agreement the existing funding arrangement relating to the North West Metro Business Enterprise Centre effective from 31 December 2005;**
- 2 AGREES to the establishment of an independent incorporated body to manage a new Business Enterprise Centre for the North West Region of Perth covering the Cities of Wanneroo and Joondalup;**
- 3 NOMINATES a member as its representative on the board of the new Business Enterprise Centre;**
- 4 NOTES that funding for the period 1 January 2006 to 30 June 2006 was approved in the 2005/6 budget process to account 1-2113-F402 to meet the purpose of provision of services to regional businesses under the Business Enterprise Centre;**

- 5** **LISTS up to \$55,000 for consideration in the draft Council Budget for 2006/2007, subject to the new Business Enterprise Centre presenting to Council a Business Plan which shows how the funds will be allocated to support business development within the City of Joondalup;**
- 6** **NOTES that the new Business Enterprise Centre will need to develop funding models for at least its first three years of operations and that there is an expectation that the Cities of Joondalup and Wanneroo will provide ongoing funding support;**
- 7** **NOTES that the City of Wanneroo has agreed to contribute \$30,000 for the 2005/6 financial year and will list a further \$55,000 for the 2006/7 financial year.**

*Appendix 1 refers*

*To access this attachment on electronic document, click here: [Attach1brf061205.pdf](#)*

### ITEM 3                      **RESPONSE TO THE WALGA REVIEW OF THE REPRESENTATIONAL AND STRUCTURAL EFFECTIVENESS OF WALGA ZONES – [00033]**

**WARD:**                      All

**RESPONSIBLE DIRECTOR:**                      Mr Garry Hunt  
Office of CEO

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#### **PURPOSE**

This report is for Council to consider the response to the WALGA Review of the Representational and Structural Effectiveness of WALGA Zones.

#### **EXECUTIVE SUMMARY**

The Western Australian Local Government Association (WALGA) is an independent, membership-based group representing and supporting the work and the interests of 144 Local Governments statewide. The Association is not a government body. The Association frequently requests feedback from local governments on matters of policy, legislative amendment, and structural change. On many occasions, the City has provided comment to WALGA on these matters.

Recently, WALGA requested comment from local governments on the review that it conducted on the representational and structural effectiveness of WALGA zones. Local governments are required to have their submissions sent to WALGA by late January 2006. A meeting of the North Metropolitan Zone is scheduled for 1 December 2005.

#### **BACKGROUND**

The City has received requests from WALGA on a number of occasions for feedback on matters that include amendments to the *Local Government Act 1995* and associated regulations, the most recent of these has been feedback on the WALGA Review of the Representational and Structural Effectiveness of WALGA Zones. The WALGA State Council had established a Zone Review Working Group to review the draft report that was prepared concerning the review of the representational and structural effectiveness of Zones, and to investigate and develop optional models for reforming the WALGA representational structure.

#### **DETAILS**

The Review Report deals with seven major recommendations and a proposed reform to the WALGA Representational Structure that were agreed to by the Zone Roundtable on 9 August 2005. In response to the seven recommendations agreed to they are relatively minor. The City's proposed position is as follows –

- 1                      All Zones are to elect their representative to the WALGA State Council.  
***Response - Agree with this recommendation.***
  
- 2                      Zones may take on additional functions at their own initiative. Such decisions should be made by Zones autonomously and in consultation with their respective Member Councils. The Association has and should continue to assist Zones in determining their strategic direction when requested.

***Response - Agree with the recommendation.***

- 3 Proposals for changes in membership to Zones should only be considered where they are put forward by the relevant Member Councils.

***Response - Agree with the recommendation.***

- 4 Principle of equality in representation of all Member Councils at Zones (ie number of voting delegates per council) is endorsed.

***Response - The principle is agreed.***

- 5 WALGA consider initiatives to enhance connection with its membership which include:

- 5.1 Annual Zone Forum – Each zone may convene an annual forum to draw members together to consider a topical issue or range of issues, provide elected member development opportunities, consider policy issues for presentation to the State Council and for networking.

***Response - Agree in principle as it is not an obligatory requirement and allows for greater participation on regional issues between the Zone members.***

- 5.2 Biennial Tour – At least once in each biennial period between Local Government elections, WALGA should undertake to visit each Zone.

***Response - Agree in principle, as it is an opportunity to discuss issues with WALGA in a direct forum. It is however, a principle better suited to country Zones.***

- 5.3 State Council Regional Meetings – The Association should consider the capacity to increase the frequency of these meetings.

***Response - Agree with the recommendation.***

- 5.4 Policy Forums – Provide a greater number of Policy Forums as a means of bringing Member Councils together on the basis of common interests to participate in policy review or development for Local Government as a sector.

***Response - Agree with the recommendation. WALGA as stated should establish a policy framework, which outlines how forums are to be structured and resourced, establish the purpose, membership eligibility, meeting frequency, meeting location, servicing by WALGA, and financing before any initiative is adopted.***

- 5.5 State Council Agenda – Consideration should be given to the feasibility of circulating the State Council agenda to all Member Councils in time to allow consideration by members and to provide input to WALGA, prior to the agenda being considered by State Council.

***Response - Agree on the proviso that the agenda can be circulated in a timely manner. May become a cumbersome process.***



- 5.6 Obtaining Member Input – Association to consider initiatives to enhance how Member Councils can input effectively into the WALGA agenda.

***Response - Agree with enhancing discussion between WALGA and the member councils.***

6.0 Regional Cooperation

- 6.1 Smaller focused groups such as Voluntary Regional Organisations of Councils or Regional Local Governments are to be encouraged.

***Response - Agree as this is useful for country councils.***

- 6.2 WALGA consider the suggestion that the Association develop a resource to assist Member Councils that are contemplating forming a regional organisation

***Response - the recommendation is useful for smaller regional council and where issues of boundary sharing may occur.***

- 6.3 WALGA consider developing a strategy for cooperation with regional groups.

***Response - Agree in principle.***

7.0 Reform of the WALGA Representational Structure

- 7.1 The Modified Existing Model from the optional reform models contained within the report is endorsed by the Zone Roundtable.

- 7.2 The optional reform models to be circulated to Member Councils and Zones for consideration, with attention drawn to the preference given by the Zone Roundtable to adopting the Modified Existing Model.

With regard to recommendation seven, the City has agreed with the Zone Roundtable that if an amended model is to be adopted the preferred model is the modified existing model due to the fact that the North Metropolitan Zone does not lose the representation at State Council.

**Issues and options considered:**

Not applicable.

**Link to Strategic Plan:**

To provide the City of Joondalup with strong and accountable government that strives to attain best practice.

**Legislation – Statutory Provisions:**

Not applicable.

**Risk Management considerations:**

Not applicable.

**Financial/Budget Implications:**

Not applicable.

**Policy implications:**

Not applicable.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

Not applicable.

**Consultation:**

Nil.

**COMMENT**

It is recommended that the City adopt as the preferred model the modified existing model as contained in the WALGA Review of the Representational and Structural Effectiveness of WALGA Zones and as summarised in the Response Paper, due to the fact that the North Metropolitan Zone does not lose the representation at State Council.

**ATTACHMENTS**

Attachment 1 The Response to the WALGA Review of the Representational and Structural Effectiveness of WALGA Zones.

**VOTING REQUIREMENTS**

Simple majority.

**RECOMMENDATION**

**That Council ADOPTS the response to the WALGA Review of the Representational And Structural Effectiveness of WALGA Zones as contained in Attachment 1 to this Report.**

*Appendix 2 refers*

*To access this attachment on electronic document, click here: [Attach2brf061205.pdf](#)*

## **ITEM 4                    REPORT ON THE COSTS AWARDED TO THE CITY IN THE MATTER OF THE MULLALOO PROGRESS ASSOCIATION AND THE CITY OF JOONDALUP AND RENNET PTY LTD CIV 1285 OF 2003 – [02089]**

**WARD:**                    All

**RESPONSIBLE  
DIRECTOR:**            Mr Garry Hunt  
                                 Office of CEO

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### **PURPOSE**

This report deals with the \$60,978.12 taxed costs awarded to the City in the Matter of the Mullaloo Progress Association and the City of Joondalup and Rennet Pty Ltd Supreme Court Action CIV 1285 of 2003.

### **EXECUTIVE SUMMARY**

This report considers a series of options available to the City in relation to the taxed costs owed to it by the Mullaloo Progress Association. While it is for the Council to determine the most appropriate course of action in relation to this issue, it is recommended that Council resolves not to pursue the opportunity to obtain costs against the Mullaloo Progress Association for the taxed amount of \$60,978.12 subject to the MPA acknowledging the significant costs that have been incurred by the ratepayers as a result of their unsuccessful action.

### **BACKGROUND**

The Mullaloo Progress Association commenced an action in the Supreme Court of Western Australia in relation to the Tavern Redevelopment. The Mullaloo Progress Association Inc objected to the proposed development and was the applicant in the proceedings CIV 1285 of 2003.

The application made by the Mullaloo Progress Association was dismissed in the judgment made by the Full Court of the Supreme Court of Western Australia delivered on 28 November 2003. Orders for costs in favour of the City were made.

With regard to the special costs order made, the City of Joondalup submitted its application to the Court on 3 February 2004. In his judgment delivered 25 March 2004, Pullin, J noted that *“There has not been any material put before me that indicates that there is any prejudice to the applicant, other than the applicant’s concern about the possibility of a special costs order being made.”*

The Court was satisfied that the merits warranted a costs order being made and made the orders sought by the City.

The Supreme Court application was not the first action taken by the Mullaloo Progress Association in relation to the development application. The Mullaloo Progress Association lodged a section 18(2) investigation under the Town Planning and Development Act in August 2002. In November 2002, the developer lodged an appeal with the Town Planning Appeal Tribunal. In March 2003 the Association applied to the Supreme Court. In August 2003 an appeal was lodged with the Minister of Housing.

## DETAILS

There are three options listed for the Commissioners to consider. These are not considered exhaustive and other options combining elements of the options detailed are also available.

### 1 *The City to write-off the opportunity to pursue Costs*

The City may choose to write-off the opportunity to pursue the costs awarded to it and owed by the Association. The basis for this decision lies with the likelihood that the Association does not have the capacity to pay the costs awarded to the City and in these circumstances for the City to pursue the costs awarded would require the City seeking further legal advice. The recovery of costs in these circumstances would not be guaranteed. The disadvantage of this recommendation is that it may establish a precedent whereby Associations in the future may believe that they can take the City to Court without the hindrance of costs being repaid. This is an unsatisfactory position for the City as it is the ratepayers who eventually bear the cost of these actions, and may encourage 'actions' to impact on Council decision-making role.

It may be possible in order to protect the City's and thereby the ratepayers interests in these actions if the City were able to obtain during the court proceedings some guarantee or security for costs from an Association that should a costs order be made against the Association, payment will be assured by the members of the association whether this is against each member of the Association in a personal capacity, or against any common property owned by the Association. The position may seem unfair in some circumstances, but this needs to be weighed against the interests of ratepayers who are left paying for such actions.

The ability to obtain such an order in court proceedings may be difficult and legal advice will be required in each circumstance. According to previous legal advice obtained by the City, an application for security of costs can only be brought if certain grounds are proven. These grounds include the relevant party being out of the jurisdiction or being an undischarged bankrupt.

### 2 *The Association Repay the Costs*

The City may request the Association to repay the costs. It is unclear whether the Association has the capacity to satisfy the debt. The City would be required to obtain legal advice as to whether or not the costs could be retrieved from the Association either as a whole or against individual members. Associations and individuals need to recognise the significant risk associated with the awarding of costs following legal proceedings. In the case before the Commissioners, the City was justified in defending the action taken against it.

From perusal of the filed Court documents it is apparent that at the time of the proceedings Mr Mitch Sideris had been President of the Mullaloo Progress Association and Mr Michael Caiacob had been the Vice-President.

This option is not recommended mainly due to the fact that the legal costs associated with pursuing the costs would be significant and there are doubts as to the capacity of the Association to meet the awarded costs.

### 3 *The City waives the cost subject to Conditions*

The City also has the ability to waive the opportunity to pursue the costs subject to the Association fulfilling certain conditions. The City may request the association to publicly admit that their actions have cost the ratepayers of the City over \$60,000 in legal costs for the City to defend an action that was dismissed by the Court. This may act as a deterrent to

other Associations from preventing frivolous or expensive actions. The City does not seek to obstruct the justice system, but care should be taken by applicants prior to commencing actions where they are not confident of success or they are frivolous. Litigation is expensive and should only be entered into once all avenues of mediation have been exhausted. Please note that the Chief Executive Officer does not have delegated authority under the *Local Government Act 1995* to write-off a debt owing to the City. Section 6.12(1)(c) states that a local government may write-off any amount of money which is owed to the local government. An absolute majority is required by Council.

It is recommended that this option be adopted.

#### *4 The City does not Pursue the Action*

An option available to the City is for the City to do nothing in relation to the costs order. This would involve the City leaving on its financial register the costs award as a debt owing by the Mullaloo Progress Association. The advantage of this option is that the City is able to wait and deal with this matter at a time that is convenient to itself. However, the option is not recommended as no determination of the issue will be made and it is necessary that a decision be made in the interests of both the City and the Association.

#### *5 The City Pursues the Individual Members of the Mullaloo Progress Association Inc*

While the Association may not have the requisite funds to cover the costs awarded to the City, the individual members may have the funds. The City may seek to pursue the individual members for the costs. As with option 2 above, this option is not recommended mainly due to the fact that there are doubts as to the capacity of the City to actually undertake this course of action and even if the City were able to, the legal costs associated with pursuing the individual members would likely be significant.

#### *6 The City Pursues Payment of a Lesser Amount*

It is an option for the City to pursue a reduced cost amount from the Association for example \$10,000 - \$30,000. While this option is unsatisfactory in terms of percentage recovery of the costs award, at least it is likely to be within the payment range of the Association and the City may be able to recover some of the cost award.

#### **Issues and options considered:**

As discussed above.

#### **Link to Strategic Plan:**

The defence of actions and the significant legal costs associated with them affects the City's ability to utilise monies for the benefit of the community and the pursuit of strategic goals.

#### **Legislation – Statutory Provisions:**

Court order to award costs made by the Full Court of the Supreme Court of Western Australia.

#### **Risk Management considerations:**

If the City were to waive the costs awarded it may establish a precedent for Associations to undertake potentially expensive actions against the City and avoid payment of costs when they have been legitimately awarded. This may lead to an increase in litigation against the City and an increased burden on the ratepayer to pay for such actions when the City is forced to defend such actions.

**Financial/Budget Implications:**

Cost order taxed \$60,978.12.

**Policy implications:**

Not applicable.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

Not applicable

**Consultation:**

Not applicable.

**COMMENT**

It is recommended that the City agrees not to pursue the recovery of the full costs against the Mullaloo Progress Association Inc (MPA) for the taxed amount of \$60,978.12, provided that a written acknowledgement to the satisfaction of the Chief Executive Officer acknowledging the significant costs that have been incurred by the ratepayers as a result of their unsuccessful action is made. It is also recommended that the City progresses action to recover the amount of \$10,000, from the Mullaloo Progress Association Inc by way of a payment plan spread over five years, which will constitute full satisfaction of the costs award. It is viewed that this course of action will in some way finalise the matter

**ATTACHMENTS**

Attachment 1	Schedule of Taxation
Attachment 2	Decision of the Full Court of the Supreme Court of Western Australia in the Matter of CIV 1285 of 2003
Attachment 3	Supplementary Decision of Pullin, J dated 25 March 2004

**VOTING REQUIREMENTS**

Simple majority.

**RECOMMENDATION****That:**

- 1 Council AGREES not to pursue the recovery of the full costs against the Mullaloo Progress Association Inc (MPA) for the taxed amount of \$60,978.12 subject to the MPA providing a written acknowledgement to the satisfaction of the Chief Executive Officer acknowledging the significant costs that have been incurred by the ratepayers as a result of their unsuccessful action;**
- 2 Council PROGRESSES action to recover the amount of \$10,000, from the Mullaloo Progress Association Inc by way of a payment plan spread over five years, which will constitute full satisfaction of the costs award;**
- 3 in the event of legal proceedings being commenced by a Community Association against the City in the future, that Association be ADVISED that the City may pursue all available options to recover any cost awarded.**

*Appendix 3 refers*

*To access this attachment on electronic document, click here: [Attach3brf061205.pdf](#)*

## **ITEM 5                    MINUTES OF THE POLICY COMMITTEE MEETING HELD ON 29 NOVEMBER 2005 – [01435]**

**WARD:**                    All

**RESPONSIBLE  
DIRECTOR:**            Mr Garry Hunt  
                                 Office of CEO

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### **PURPOSE**

To submit the unconfirmed Minutes of the Policy Committee meeting held on 29 November 2005, for noting by Council.

### **EXECUTIVE SUMMARY**

A meeting of the Policy Committee was held on 29 November 2005.

The matters considered by the Policy Committee at that meeting are the subject of separate reports to be submitted to the Council meeting scheduled for 13 December 2005.

*It is recommended that Council NOTES the unconfirmed Minutes of the Policy Committee meeting held on 29 November 2005 forming Attachment 1 to this Report.*

### **BACKGROUND**

Council at its meeting held on 26 April 2005 resolved to:

*“ESTABLISH a Policy Committee comprising membership of the five Commissioners with the following terms of reference:*

- (a) To make recommendations to Council on the development and review of strategic (Council) policies to identify the direction of the Council;*
- (b) To Initiate and formulate strategic (Council) policies;*
- (c) To devise and oversee the method of development (level and manner of community consultation) for the development of strategic (Council) policies;*
- (d) To review the Council Policy Governance Framework in order to ensure compliance with provisions of the Local Government Act 1995.”*

### **DETAILS**

A meeting of the Policy Committee was held on 29 November 2005 to consider reports in relation to:

- Proposed Amendment to DPS No 2 to include provision in regard to the height of developments in non-residential zones adjacent to the coast;
- Sustainability Policies.

The above matters are the subject of separate reports to be submitted to the Council meeting scheduled for 13 December 2005.



**Issues and options considered:**

As contained within the minutes of the Policy Committee.

**Link to Strategic Plan:**

This item has a general connection to the Strategic Plan.

**Legislation – Statutory Provisions:**

Section 5.8 of the Local Government Act 1995 states:

A local government may establish (absolute majority required) committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

**Risk Management considerations:**

Not Applicable

**Financial/Budget Implications:**

Not Applicable

**Policy implications:**

The Policy Committee will review all policies categorised as “Council Policies”.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

The review and development of policies will align with the strategic directions established by Council and outlined in the Strategic Plan 2003 – 2008. Council’s vision is to be ‘*A sustainable City and community that are recognised as innovative, unique and diverse*’. The Strategic Plan was designed to reflect the themes of economic, social and environmental sustainability as well as good governance.

**Consultation:**

It is proposed that major Council policies be subject to community consultation processes as determined by the Policy Committee.

**COMMENT**

The unconfirmed Minutes of the Policy Committee held on 29 November 2005 are submitted to Council for noting. Separate reports dealing with the matters raised at this committee meeting are to be submitted to the Council meeting scheduled for 13 December 2005.

**ATTACHMENTS**

Attachment 1 Minutes of the Policy Committee meeting held on 29 November 2005

## **VOTING REQUIREMENTS**

Simple Majority.

## **RECOMMENDATION**

**That Council NOTES the unconfirmed Minutes of the Policy Committee meeting held on 29 November 2005 forming Attachment 1 to this Report.**

*Appendix 4 refers*

*To access this attachment on electronic document, click here: [Attach4brf061205.pdf](#)*

## **ITEM 6                    MINUTES OF THE AUDIT COMMITTEE MEETING HELD 28 NOVEMBER 2005 - [50068]**

**WARD:**                    All

**RESPONSIBLE  
DIRECTOR:**            Mr Garry Hunt  
                                 Office of the CEO

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### **PURPOSE**

To submit the minutes of the Audit Committee to Council for noting.

### **EXECUTIVE SUMMARY**

A meeting of the Audit Committee was held on 28 November 2005, with the following items being discussed:

- Schedule of Items to be presented to future Audit Committee meetings
- Annual General Meeting of Electors – Annual Report – Auditors

*It is recommended that Council NOTES the minutes of the Audit Committee meeting held on 28 November 2005 forming Attachment 1 to this Report.*

### **BACKGROUND**

The Council's Audit Committee was established in May 2001 to oversee the internal and external Audit, Risk Management and Compliance functions of the City. The City has also employed an internal auditor since May 2002.

### **DETAILS**

A meeting of the Audit Committee was held on 28 November 2005, and the minutes are attached for noting – Attachment 1 refers.

### **Issues and options considered:**

As contained within the minutes of the Audit Committee.

### **Link to Strategic Plan:**

- 4.2.1        Provide efficient and effective service delivery
- 4.3.3        Provide fair and transparent decision-making processes

### **Legislation – Statutory Provisions:**

Section 5.8 of the Local Government Act 1995 provides for a local government to establish a committee to assist Council.

Local Government Amendment Act 2004

Amendments to the Act regarding audit include the insertion of a new division 7.1A entitled "Audit Committee". The new division deals with the establishment, membership, decision-making and duties that a local government can delegate to an Audit Committee. It also

includes a new section 7.12A dealing with “Duties of local government with respect to audits”.

Local Government (Audit) Amendment Regulations 2005

Amendments have been made on several minor issues such as definitions and interpretations. The most significant change has been the inclusion of new regulation 16, which deals with the “Functions of the Audit Committee”

**Risk Management considerations:**

Not Applicable.

**Financial/Budget Implications:**

Not Applicable.

**Policy implications:**

Not Applicable.

**Regional Significance:**

Not Applicable.

**Sustainability implications:**

Not Applicable.

**Consultation:**

Not Applicable.

**COMMENT**

The minutes of the Audit Committee meeting held on 28 November 2005 are submitted to Council for noting.

**ATTACHMENTS**

Attachment 1 Minutes of the Audit Committee meeting held 28 November 2005

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

**That Council NOTES the minutes of the Audit Committee meeting held on 28 November 2005 forming Attachment 1 to this Report.**

*Appendix 5 refers*

*To access this attachment on electronic document, click here: [Attach5brf061205.pdf](#)*

## ITEM 7 SUSTAINABILITY POLICIES – [26176]

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Garry Hunt  
Office of CEO

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### PURPOSE

To provide the Council with the following for consideration:

- Discussion Paper on Sustainability;
- Draft Council Policy committing all Council Policies to sustainability outcomes; and
- Draft City Sustainability Policy.

### EXECUTIVE SUMMARY

All policies of Council have been categorised as 'Council' or 'City' Policies according to the Policy Governance Framework endorsed by the Council on 26 April 2005 (*refer CJO64 – 04/05*).

The Policy Committee has been established to oversee the review and development of Council Policies which are defined in the framework as *“strategic policies that set governing principles and guide the direction of the organisation to align with community values and aspirations. These policies have a strategic external focus and align with the Mission, Vision and Strategic Directions.”*

The Council has referred all Council Policies to the Policy Committee for review and further development. Those policies categorised as 'Council' Policies are:

- 1-1 Leisure
- 1-2 Public Participation
- 2-1 Environmental Sustainability
- 3-1 Child Care Centres
- 3-2 Height and Scale of Buildings within Residential Areas
- 3-3 Centres Strategy
- 4-1 Code of Conduct
- 4-2 Setting Fees and Charges

Council further identified a number of gaps in Council Policies and these matters were also referred to the Policy Committee for consideration, those being:

- Financial Planning – Strategic Matters
- Economic Development
- Service Delivery (range/scope/role)
- Community Development; (include leisure, cultural development etc)

On 18 October 2005 the Policy Committee determined:

- 1 That the following Council Policies are to be drafted in the following order of priority:
  - (a) Policy 3-2 – Height and Scale of Buildings within Residential Areas;
  - (b) Sustainability;
  - (c) Financial Planning – Strategic Matters;
  - (d) Economic Development;
  - (e) Service provision;
  - (f) Community Development;
  - (g) Public Participation.
- 2 A draft policy be presented to the Policy Committee on Policy 3-2 – Height and Scale of Buildings within Residential Areas that includes coastal areas and is based on the expectation that full public participation is undertaken.

On 29 November 2005 the Policy Committee received a report on sustainability policies and reviewed:

- A Discussion Paper on sustainability;
- A Draft Council Sustainability Policy, and
- A Draft City Sustainability Policy.

## **BACKGROUND**

Council established a Policy Committee at the meeting of 26 April 2005 (*refer CJO64 – 04/05*). Council endorsed the following terms of reference for the Policy Committee:

- (a) *To make recommendations to Council on the development and review of strategic (Council) policies to identify the direction of the Council;*
- (b) *To Initiate and formulate strategic (Council) policies;*
- (c) *To devise and oversee the method of development (level and manner of community consultation) for the development of strategic (Council) policies;*
- (d) *To review the Council Policy Governance Framework in order to ensure compliance with provisions of the Local Government Act 1995.*

The report to the Council Meeting of 26 April 2005 recommended a new framework for the development and review of policies at the City of Joondalup consisting of two distinct sets of policies:

- 1 *Council Policies* - strategic policies that set governing principles and guide the direction of the organisation to align with community values and aspirations. These policies have a strategic external focus and align with the Mission, Vision and Strategic Directions.
- 2 *City Policies* - policies that are developed for administrative and operational imperatives and have an internal focus.

The Policy Framework was endorsed by the Council and in accordance with that framework, Council policies are to be developed and reviewed by the Policy Committee and may be subject to community consultation processes in recognition of the community leadership role

Council has in guiding the formation and development of the City, and in representing the values and interests of the broader community.

City policies will be drafted by officers for Council consideration and these policies will still require Council endorsement however this will occur as part of the normal Council meeting cycle. Council may direct that some or all City Policies be advertised for public comment prior to endorsement. In the case of Local Planning Policies it is a statutory requirement that draft policies are to be advertised, and that public submissions are to be considered prior to adoption of the policy.

In order to progress the Policy Framework and to facilitate the work of the Policy Committee in the development and review of Council Policies a detailed review of the Policy Manual was undertaken and a number of changes were made to those policies categorised as City Policies. The Council endorsed the revised Policy Manual on 11 October 2005 (*refer CJ206-10/05*).

Council Policies, other than their categorisation, were not reviewed, but were referred, by the Council, to the Policy Committee for review and further development.

Sections 3.1 and 3.2 – matters relating to development, many of which are subsidiary policies developed under the District Planning Scheme (DPS2) were excluded from the Review as they require a specific review process; (These local planning policies are currently being reviewed as a separate exercise in accordance with the provisions of the DPS2 and a separate report/s will be provided to Council following that review).

The Council endorsed the following policies as Council Policies:

- 1-1 Leisure
- 1-2 Public Participation
- 2-1 Environmental Sustainability
- 3-1 Child Care Centres
- 3-2 Height and Scale of Buildings within Residential Areas
- 3-3 Centres Strategy
- 4-1 Code of Conduct
- 4-2 Setting Fees and Charges

The Council further identified the following gaps in Council Policies for consideration by the Policy Committee:

- Financial Planning – Strategic Matters
- Economic Development
- Service Delivery (range/scope/role)
- Community Development; (include leisure, cultural development etc)

At the Policy Committee Meeting of 18 October 2005 the following changes were suggested:

- A more appropriate title for 'Setting of Fees and Charges' is 'Pricing Policy';
- 'Service Delivery' to become 'Service Provision' to better reflect the different roles of the City in providing services to the community; and
- 'Financial Planning – Strategic Matters' to become 'Stewardship of Financial Resources'.

On 18 October 2005 the Policy Committee determined:

- 1 That the following Council Policies are to be drafted in the following order of priority:
  - (a) Policy 3-2 – Height and Scale of Buildings within Residential Areas;
  - (b) Sustainability;
  - (c) Financial Planning – Strategic Matters;
  - (d) Economic Development;
  - (e) Service provision;
  - (f) Community Development;
  - (g) Public Participation.
- 2 A draft policy be presented to the Policy Committee on Policy 3-2 – Height and Scale of Buildings within Residential Areas that includes coastal areas and is based on the expectation that full public participation is undertaken.

At the Policy Committee meeting of 29 November 2005 a report was provided on a revised Council Sustainability Policy that commits all policies of the Council to sustainability objectives, and a Draft City Sustainability Policy.

The Draft Council Sustainability Policy is shown as *Attachment 2* to this report, and the Draft City Sustainability Policy is shown as *Attachment 3* to this report.

## DETAILS

### Issues and options considered:

The Local Government Act 1995 requires that

*In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.*

The Discussion Paper shown as *Attachment 1* to this report provides a summary of sustainability issues for Local Government and provides a number of definitions and approaches to sustainability from a range of organisations.

In order to align with the Western Australian Government it is suggested that the definition of sustainability contained in the Western Australian State Sustainability Strategy, be adopted by the Council, that being:

*Meeting the needs of current and future generations through integration of environmental protection, social advancement and economic prosperity.*

Following consideration of a number of approaches to sustainability and varying principles adopted by organisations, it is recommended that the set of principles endorsed at the 2002 World Summit of local governments held in Johannesburg which focused on the issues of sustainable development, are used for the Council Policy on Sustainability, those being:

- 1 *The overarching principle of Sustainable Development (integrating the economic, social, cultural and environmental dimensions);*
- 2 *Effective Democratic Participation (with a substantial set of key competencies, and commensurate financial resources);*
- 3 *Good Governance (effective leadership, transparency, accountability, probity, proper management and effective services, equitable access to services, a commitment to partnership working, and institutional capacity building.); and*



4 *Co-operation and Solidarity (partnerships for exchange of good practice, support and mutual learning.)*

Further, following consideration of the principles and approaches by a number of organisations to sustainable development, the framework established at the 1992 Rio Conference is suggested for the City Sustainability Policy to guide the development of policies and strategies, those being:

- 1 Management, planning and development decisions should be based on an integration of economic, environmental and social/cultural considerations;
- 2 Avoidance of the risk of serious or irreversible environmental damage should not be postponed because of a lack of full, scientific knowledge (the 'precautionary principle');
- 3 Development of a strong, growing and diversified economy should enhance the capacity to protect the environment;
- 4 Policy measures should encourage voluntary, cost effective achievement of environmental goals and responses to environmental problems; and
- 5 Acknowledgment should be made of the need for community consultation and participation in decision making to achieve a cooperative response to environmental, economic and community issues.

**Link to Strategic Plan:**

This item has a general connection to the Strategic Plan.

**Legislation – Statutory Provisions:**

The Local Government Act 1995 is the legislation under which Local Government bodies are constituted and contains detailed reporting and operational requirements which a Council has a duty to comply with. The Act establishes the framework for the system of local government in Western Australia.

Section 1.3 (2) states that the Act is intended to result in:

- (a) Better decision-making by local government
- (b) Greater community participation in the decisions and affairs of local governments
- (c) Greater accountability of local governments to their communities; and
- (d) More efficient and effective local government.

The degree to which this is achieved is dependant on the processes and practices for planning, and policy development.

Part 3 of the Act outlines the functions of local governments:

- Section 3.1 - A *general function* to provide for good government
- Section 3.4 - A *legislative function* to make local laws, and
- Section 3.8 - An *executive function* to provide services and facilities.

The separation of powers and duties in relation to the Council and the Chief Executive Officers as detailed in the Local Government Act 1995 are:

Under the Act (Section 2.7) the role of the Council is to:

- (a) Direct and controls the local government's affairs;
- (b) Be responsible for the performance of the local government's functions;
- (c) Oversee the allocation of the local government's finances and resources; and
- (d) Determine the local governments policies.

The Local Government Act amendments of 2004-05 requires that local government consider sustainability as a core component of its decision making function.

Section 1.3 states:

*In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity*

**Risk Management considerations:**

Policy development is central to good governance. Good governance is about formalising and making clear and consistent the decision-making processes in the organisation. The framework proposed in this report will help facilitate decision-making and appropriate delegation of accountability and responsibility within and outside the organisation and ensure that the varying needs of the stakeholders are appropriately balanced; that decisions are made in a rational, informed and transparent fashion; and that those decisions contribute to the overall efficiency and effectiveness of the organisation.

Local Government operates under State legislation and Council is responsible for controlling the functions of the local government through its decision-making and policy development role.

The distinction between policy matters and procedural matters is central to the role of Council and the role of the CEO, and to the administration of local government. The new Policy Framework will assist Council to concentrate on policy matters rather than procedural issues, and for the CEO to provide advice to the Council and implement the decisions of Council.

**Policy implications:**

The report provides a draft Council and City Sustainability Policies. The current Environmental Sustainability Policy 2-1 will no longer be required with the adoption of the Council Sustainability Policy and the City Sustainability Policy.

The contents of and the commitments that Council makes in these policies are not intended to be and should not be interpreted to be any more than a statement of the Council's general position in relation to those matters, and to facilitate its aspirations wherever it is reasonable to do so.

**Regional Significance:**

The Council Policy committing all Council Policies to sustainability principles and outcomes includes a reference to the importance of regional considerations through cooperation and partnerships.

**Sustainability implications:**

The review and development of policies will align with the strategic directions established by Council and outlined in the Strategic Plan 2003 – 2008. Council's vision is to be 'A sustainable City and community that are recognised as innovative, unique and diverse'. The Strategic Plan determines the long-term orientation of the Council and was developed in consultation with the community. The Plan was designed to reflect the themes of economic, social and environmental sustainability as well as good governance.

The policies of Council (Council and City policies) support the achievement of the Strategic Plan and state Council's position on social, environmental, and economic matters as well as governance issues.

The policy positions of Council attempts to balance the social, environmental and economic interests of the City, and the review of policies of the Council will ensure that social, economic, and environmental changes are reflected in policy statements and objectives.

### **Consultation:**

One of the most important roles Council has is to participate in making policy and decisions on behalf of the community. An essential part of policy making is identifying community needs, setting objectives to meet those needs, establishing priorities between competing demands and allocating resources.

The City of Joondalup values effective consultation in developing a positive relationship with its community; recognising that community input can assist in policy and decision making processes. Council also recognises the right of the community to be informed and influence decisions that affect their lives. As a result of this commitment Council has endorsed a Policy Framework that supports Council (major) policies being devised in consultation with the community.

The framework is intended to ensure that Council is in touch with the community and that the major policy decisions accurately reflect the views and aspirations of the community.

### **COMMENT**

Increasing the social, economic and environmental capital of the City of Joondalup is the Council's core business. Local government is uniquely placed to take a leadership role in facilitating sustainable development. Local Government has always been required to be highly responsive and to deal with economic, social and environmental issues at the coalface by providing the services necessary to support the community.

While local government is well positioned to tackle sustainability issues the reality is that it is not an easy task. There are a number of different approaches adopted by organisations and there is no standard guide. However, despite the difficulties and the absence of a standard guide, there are clearly a number of actions that a Council must take if sustainability is to become a part of normal business.

The Draft Council Sustainability Policy committing all Council Policies to sustainability principles and outcomes (*Attachment 2*) and the Draft City Sustainability Policy (*Attachment 3*), along with the Discussion Paper (*Attachment 1*) provides a framework for the Council to:

- Clarify its sustainability values;
- Identify how its business impacts on sustainability; and
- Establish how it can best make a contribution toward a more sustainable world.

### **ATTACHMENTS**

Attachment 1 Discussion Paper - Sustainability

Attachment 2 Draft Council Policy – Sustainability

Attachment 3 Draft City Policy – Sustainability

**VOTING REQUIREMENTS**

Absolute Majority

**RECOMMENDATION****That Council:**

- 1 REFERS the Draft Council Policy on Sustainability forming Attachment 2 to this Report to the Sustainability Advisory Committee for review and comment;**
- 2 BY AN ABSOLUTE MAJORITY, DELETES the Environmental Sustainability Policy 2-1 and ADOPTS the City Sustainability Policy 5-4 shown as Attachment 3 to this Report;**
- 3 REFERS the City Sustainability Policy 5-4 shown as Attachment 3 to this Report to the Sustainability Advisory Committee for information.**

*Appendix 6 refers*

*To access this attachment on electronic document, click here: [Attach6brf061205.pdf](#)*

**ITEM 8                    RENEWAL OF LEASE TO THE UNDERCROFT  
BRIDGE CLUB INCORPORATED: PORTION OF  
PERCY DOYLE RESERVE - RESERVE 33894,  
LOCATION 9424, (46) WARWICK ROAD, DUNCRAIG  
– [17817]**

**WARD:**                    South Coastal

**RESPONSIBLE  
DIRECTOR:**            Mr Peter Schneider  
                                 Corporate Services

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**PURPOSE**

The purpose of this report is to seek Council's approval for the City to enter into a new lease agreement with the Undercroft Bridge Club Incorporated (UBC), based at its current clubroom site located on part of Percy Doyle Reserve in Duncraig.

**EXECUTIVE SUMMARY**

The UBC has leased the subject clubrooms from the City since 1 October 1993, when the building was constructed on part of Percy Doyle Reserve, Duncraig (Attachment 1 refers). During the 10-year term, the UBC has met all the necessary obligations under the lease. The UBC has requested a new lease to enable the club to continue operating from its current premises, and the City, the UBC, and the Department for Planning and Infrastructure's (DPI) Land Asset Management Services have all agreed in principle to a new draft lease agreement. The draft lease outlines similar terms and conditions as the previous lease, is also for a 10-year term and is subject to Council's approval.

It is recommended that Council:

- 1        *SUPPORTS a lease agreement between the City and the Undercroft Bridge Club Incorporated subject to:*
  - (a)     *the term of the lease being for 10 years commencing 1 October 2003 and payment of rent of \$1.00 per annum (peppercorn);*
  - (b)     *the premises being used for the stated purpose in the agreed draft lease agreement of 'recreational and community purposes';*
  - (c)     *the legal costs in drafting the lease document being met by the Undercroft Bridge Club Incorporated;*
  - (d)     *the Minister for Lands granting final approval to the executed lease.*
  
- 2        *AUTHORISES signing and affixing of the Common Seal to the lease between the City of Joondalup and the Undercroft Bridge Club Inc.*

## BACKGROUND

<b>Suburb/Location:</b>	Portion of Percy Doyle Reserve, Duncraig
<b>Applicant:</b>	The Undercroft Bridge Club Incorporated
<b>Owner:</b>	Crown Land managed by the City of Joondalup
<b>Zoning:</b>	<b>DPS:</b> Local Reserve – Parks and Recreation
	<b>MRS:</b> Urban
<b>Strategic Plan:</b>	Strategy 1.3.1 – Provide leisure and recreational activities aligned to community expectations, incorporating innovative opportunities for today's environment Strategy 3.1- to develop and maintain the City's assets and built environment

In February 1991, Council supported in principle the establishment of a bridge club facility by the UBC to be located on part of Percy Doyle Reserve and also supported its application to the Lotteries Commission for a grant for part payment of the construction costs.

The clubrooms currently used by the UBC were constructed in 1993. The \$230,000 project was funded by a Commonwealth Grant of \$100,000, a State Grant of \$35,000, a Lotteries Commission Grant of \$30,000, Club funds of \$65,000 of which \$30,000 was a loan taken out by the Club. Council funds were not used in the construction of the building and the City's role was that of co-ordinator and supervisor of the project.

With Council's approval, a lease agreement was entered into for a 10-year period commencing

1 October 1993, with a peppercorn rental (one dollar per annum), conditional on the UBC being wholly responsible for all maintenance repairs and outgoings including rates. The lease expired on 30 September 2003 and to-date the Club has been operating under the same terms and conditions as the expired lease and has met its obligations under the terms and conditions.

## DETAILS

### Issues and options considered:

#### Request for Change of Term

Prior to the expiration of the UBC's lease, the Club contacted the City requesting renewal of its lease but for a 20-year term rather than 10 years as per the original lease. A lease period of up to 21 years could be considered on Reserve 33894, with the approval of Council and the Minister for Lands, but it is considered that 10 years is a more appropriate lease term. A 10 year term allows clubs sufficient security of tenure in respect to their future plans and is considered more timely for an overall reassessment of matters such as:

- the future of the building in terms of its age and condition;
- the subject club's development plan (membership numbers or a club's financial position may not warrant the club continuing in its current building);
- a rental agreed to at the commencement of a (say) 21-year lease period could be totally unrealistic in the latter years of the lease period; and
- direction of City's Strategic Plan and associated recreation and leisure strategies.

#### Updated Lease Document

The City advised the UBC in November 2003 that it was undertaking an examination of its lease documents associated with premises that were leased on a peppercorn rental. This

examination was to 'modernise' the wording if possible, in order to make the lease document easier to understand for lessees. It was also the City's intention to prepare a lease document that was more comprehensive in respect to its terms and conditions in an endeavour to fully cover all the 'grey areas' that can be experienced when dealing with matters such as maintenance conditions, outgoing, replacement of lost keys, compliance testing for fire fighting equipment etc. It is considered that the resultant document is now clearer and more workable for both the lessee and the City as lessor and will of benefit to all concerned when dealing with lease matters.

### **Draft Lease**

A draft lease document has been agreed between the City and the UBC subject to support from Council and the Minister for Lands, and this was forwarded to the DPI to request in principle approval before final drafting. The DPI has provided this agreement, subject to one minor amendment to be included in the lease before final drafting. The lease document will then need to be executed by the City and the UBC and final approval given by the Minister before lodgement of the document at the Office of Titles.

### **Link to Strategic Plan:**

It is considered that offering the UBC a further lease for a 10-year period aligns with Strategy 1.3.1 and 3.1 above.

### **Legislation – Statutory Provisions:**

The Lessee and the purpose independently qualify this Lease as an exempt disposition under Regulation 30(2)(b)(i) of the *Local Government (Functions and General) Regulations 1996*. Accordingly, there is no need to comply with the disposal conditions as provided by Section 3.58 of the *Local Government Act, 1995*. The above regulation states that a disposition of land is an exempt disposition if, "*the land to be disposed of to a body, whether incorporated or not, the objects of which are charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions.*"

The Minister for Lands has by order, under Section 41 of the Land Administration Act 1997, given the City care, control and management of Reserve 33894 for recreational purposes, with power to lease. This is conditional upon the Minister giving prior approval to any lease or sub-lease proposed on the subject land.

### **Risk Management considerations:**

Risk to the City is considered minimal in respect of entering into a further lease with the UBC, providing that the lease terms and conditions are met and the leased building is maintained to a satisfactory standard by the UBC. From the City's perspective, a 10-year term allows the City to consider the future of the building and its place in the overall plan for Percy Doyle Reserve in September 2013 when the building is 20 years old.

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

Under the terms of the lease, the maintenance of the building will be met by the UBC.

### **Sustainability implications:**

This lease agreement is financially viable given that there are no ongoing maintenance costs and the legal costs in drafting the lease document are being met by the UBC.

The lease agreement aligns with the City's strategic plan by meeting the needs of the community but also has a positive effect on the community by providing access to leisure and recreational facilities.

There are limited environmental considerations, as the clubroom site is located in an area already designated for recreational and community purposes.

## COMMENT

The UBC reports that it has a base of approximately 350 members with an average daily attendance at the club of 70. The general operating hours of the UBC is 12.30pm to 4.30pm Monday to Friday and 7.30pm to 10.30pm on Saturday evenings; the UBC advise that the club is open during the day on Saturday for instruction in the game of bridge. The UBC has in the past met its obligations under the previous lease and is considered to be a good tenant.

The City has met its statutory obligations and there would not appear to be any impediment to a further lease with UBC being granted. The City's redrafted 'community' lease is considered to be a clearer and more comprehensive document giving less cause for uncertainty about obligations under the lease. It is therefore recommended that a 10-year lease be offered to the UBC subject to the endorsement of the Minister for Lands and the UBC meeting its obligations under the lease

## ATTACHMENTS

Attachment 1            Plan indicating location of Undercroft Bridge Club Incorporated

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

### That Council:

- 1        SUPPORTS a Lease Agreement between the City and the Undercroft Bridge Club Incorporated subject to:**
  - (a)     the term of the Lease being for 10 years commencing 1 October 2003 and payment of rent of \$1.00 per annum (peppercorn);**
  - (b)     the premises being used for the stated purpose in the agreed draft lease agreement of 'recreational and community purposes';**
  - (c)     the legal costs in drafting the lease document being met by the Undercroft Bridge Club Incorporated;**
  - (d)     the Minister for Lands granting final approval to the executed Lease.**
- 2        AUTHORISES signing and affixing of the Common Seal to the Lease between the City of Joondalup and the Undercroft Bridge Club Inc.**

*Appendix 7 refers*

To access this attachment on electronic document, click here: [Attach7brf061205.pdf](#)



## **ITEM 9                      LOT 118 MINDARIE ESTABLISHMENT AGREEMENT – [41196]**

**WARD:**                      All

**RESPONSIBLE  
DIRECTOR:**                Mr Dave Djulbic  
                                     Infrastructure Services

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### **PURPOSE**

To advise progress with the development of an Establishment Agreement for the Tamala Park Regional Council and to seek approval to be a co-signatory of the Agreement with the other Local Governments that are the Joint owners of Lot 118 Mindarie.

### **EXECUTIVE SUMMARY**

The Tamala Park Regional Council, through urban development in accordance with the objectives set out in the Establishment Agreement, will facilitate approximately 2,600 lots to be provided within the municipal district of the City of Wanneroo in the north-west corridor of the metropolitan region. The development will provide better utilisation of existing infrastructure and enhance catchment areas for ongoing provision of public facilities and services and for economic development of the corridor.

Whilst a number of matters relating to the development of Lot 118 for urban purposes has previously been considered by Council, resolutions as outlined below by participant Councils authorising signing of the Establishment Agreement will facilitate early submission of the Agreement to the Minister for Local Government and Regional Development.

*It is recommended that Council:*

- 1        *APPROVES the Establishment Agreement for the Tamala Park Regional Council as submitted with this report at Attachment 1 to this Report;*
- 2        *AUTHORISES the Chief Executive Officer to sign and seal the Establishment Agreement when compiled in final form;*
- 3        *AUTHORISES the Establishment Agreement to be submitted to the Hon. Minister for Local Government and Regional Development requesting approval from the Hon. Minister for the establishment of the Tamala Park Regional Council and for gazettal of the approval at the earliest possible date;*
- 4        *NOTES that settlement of Bush Forever issues with the WAPC is well advanced and that compensation payments totalling \$16,334M will be due for payment by the WAPC to the joint owners of Lot 118 Mindarie, the majority of which payment will be made by two (2) instalments in the 2005/06 financial year;*
- 5        *ENDORSES (in accordance with the proposed Establishment Agreement) payment of the compensation referred to in (4) direct to the Tamala Park Regional Council, if the Council is established at the time that the payments by the WAPC are made to the owners and that in the event that the Tamala park Regional Council is not established at the time that the WAPC payments are made, that the amounts received by the Council be paid to a trust account and remitted to the Tamala Park Regional Council when the Tamala park Regional Council is formally established.*

## BACKGROUND

On 28 June 2005 Council considered a number of matters relating to its shared ownership of Lot 118 Mindarie, including the prospect for the development of part Lot 118 for urban purposes.

The following resolution was carried:

*'That Council, BY AN ABSOLUTE MAJORITY:*

- 1 *ADOPTS the Business Plan as detailed in Attachment 2 to Report CJ129-06/05;*
- 2 *APPROVES the Deed of Variation of Lease between the owners of Lot 118 Mindarie and the Mindarie Regional Council as expressed at Attachment 3 to Report CJ129-06/05;*
- 3 *APPROVES the Lease Amendment between the owners of Lot 118 Mindarie and the Mindarie Regional Council as depicted at Attachment 4 to Report CJ129-06/05;*
- 4 *AUTHORISES the Chief Executive Officer to execute the necessary documents to give effect to the Lease Amendment document between the City and the Mindarie Regional Council;*
- 5 *APPROVES the negotiations for a Bush Forever settlement with the WA Planning Commission to proceed in accordance with the outline contained in the Lot 118 Mindarie Business Plan depicted at Attachment 2 to Report CJ129-06/05;*
- 6 *SUBJECT to a resolution to proceed with the Establishment Agreement being passed by all of the other owner Councils, formally apply to the Hon. Minister for Local Government in accordance with Section 3.61 of the Local Government Act for the establishment of the Regional Council;*
- 7 *REQUESTS that all minutes of meetings of the Tamala Park Regional Council be tabled to the Council for its consideration, at the earliest possible Council meeting after which they become available.*

## DETAILS

### Issues and options considered:

With respect to the proposed Tamala Park Regional Council (TPRC) the following matters are relevant:

- 1 Prior to completion of an Establishment Agreement for a new Regional Council, all of the prospective participants were required to complete business plan formalities relating to:
  - (a) Proposed land transfers and agreements for the joint development of approximately 165 hectares of Lot 118 Mindarie through the aegis of a Regional Council;
  - (b) Land transactions associated with a Negotiated Planning Solution (NPS) with the West Australian Planning Commission (WAPC);

- (c) Changes to a lease of part Lot 118 Mindarie to the Mindarie Regional Council and, in particular:
- (i) A reduction in lease area from 252 hectares to 151.7 hectares
  - (ii) Co-operative arrangements between the Mindarie Regional Council and the proposed new Regional Council with respect to core functions of each of the Regional Councils
  - (iii) Establishing a market rent to apply to the lease from the date of amendment
- 2 All Business Plan formalities by all of the 7 co-owner Councils of Lot 118 and also by the Mindarie Regional Council have been completed;
  - 3 The Heads of Agreement and value of compensation for the NPS have been agreed with the WAPC;
  - 4 The Mindarie Regional Council has agreed the revised lease provisions and a market rent for the new lease has been established;
  - 5 A committee comprising the CEO's of the 7 co-owner Councils have met on a consistent basis to advance arrangements that will facilitate signing on behalf of owner Councils of all documentation including a draft Establishment Agreement for the new Regional Council;
  - 6 The draft Establishment Agreement has been submitted for perusal by the Department of Local Government & Regional Development, which has indicated that the document is in a form that may be submitted to the Hon. Minister for approval as required by Section 3.61(4) of the Local Government Act-1995;
  - 7 The Local Government Act sets out particular detail of what is required to be included in the Establishment Agreement for a Regional Council. Amongst the items that are required are the following:
    - The name of the Regional Council
    - The (geographic) region description
    - The regional purpose
    - Membership of the Regional Council
    - How the Regional Council is financed
    - The manner in which participants may withdraw from the Regional Council including settlement of obligations and assets
    - Dispute resolution provisions

All of the above matters are set out in the draft Establishment Agreement at Attachment 1.

**Link to Strategic Plan:**

Establishment of the Tamala Park Regional Council for the purposes of development Lot 118 Mindarie will be consistent with each of the four key focus areas on the City's Strategic Plan as follows:

*Caring for the Environment:* Conservation of environmental assets through reservation of portions of the land containing regionally significant bushland; supporting efficient use of water, energy and other resources through incorporation of best practice urban design principles in the development (eg water sensitive design, transit oriented design).

*Community Wellbeing:* Providing a cohesive system of integrated land use planning through planning that balances built form and land use, community needs and the environment, and through supporting and encouraging the delivery and utilisation of a safe, effective transport network.

*City Development:* Encourage local employment and economic, development through the urban design of the development (eg promote mixed use development and a business enterprise precinct).

*Organisational Development:* Manage the development to provide a maximum return on the investment to benefit the City's ratepayers and community.

### Legislation – Statutory Provisions:

The establishment of a new Regional Council will provide the legal vehicle to facilitate urban development of land jointly owned by 7 local authorities. The local authority interests in each case will be preserved through the Establishment Agreement and participation in Regional Council decision-making through nominated representatives from each of the constituent Councils.

The membership of the Regional Council, and voting, is determined by ownership shares in Lot 118 Mindarie.

All of the 7 participant Councils have nominated representatives for the new Regional Council. The schedule of membership interest and nominated Council members are shown in the following tables:

<b>MEMBERSHIP INTEREST</b>	
<b>Council</b>	<b>Project Shareholding Joint Development Shares</b>
Town of Cambridge	1/12
City of Perth	1/12
Town of Victoria Park	1/12
Town of Vincent	1/12
City of Joondalup	2/12
City of Wanneroo	2/12
City of Stirling	4/12

<b>NOMINATED COUNCIL MEMBERS</b>		
<b>Owner Council</b>	<b>Member</b>	<b>Deputy Member</b>
Town of Cambridge	Mayor M Anderton	Cr K Barlow
City of Joondalup	Chairman of Cmr J Paterson Deputy Cmr P Clough	Cmr M Anderson
City of Perth	Cr E Evangel	Deputy Lord Mayor Cr M Sutherland
City of Stirling	Mayor T Tyzack Cr D Boothman Cr T Clarey Cr B Stewart	Cr B Ham Cr P Rose
Town of Victoria Park	Cr D Nairn	Cr R Skinner
Town of Vincent	Mayor N Catania	Deputy Mayor Cr S Farrell
City of Wanneroo	Mayor J Kelly Deputy Mayor Cr S Salpietro	

Before the Regional Council can be established it is required that all of the participant Councils sign the Establishment Agreement. The Establishment Agreement is then submitted to the Hon. Minister for Local Government & Regional Development. If the Minister approves the Agreement, the Regional Council comes into operation on the date on which the Minister's approval is notified in Government Gazette (section 3.61(4) of the Local Government Act).

**Risk Management considerations:**

The Regional Council, in performing its duties, will be required to work within the framework as set out within the establishment agreement, relevant statutory regulations and adopt necessary policies and procedures to achieve the Regional Council's objectives.

**Financial/Budget Implications:**

The planning and development of Lot 118 will involve financial implications for Council, although it should be noted that all costs and returns are shared amongst the seven owner Councils according to their ownership share of the land (this City's share is two-twelfths). It is noted that the City has listed as part of the 2005/06 budget, \$40,000 as its owner's share in administrative and associated costs necessary to establish the new Regional Council and associated activities.

It is also emphasised that the compensation payable to the owners under the proposed Bush Forever NPS will provide seeding capital to cover or offset initial stages of subdivisional works. Cash flow analysis based on the owners' earlier structure plan was that the development could achieve positive cash flow returns within two years of commencement.

**Policy implications:**

Not applicable.

**Regional Significance:**

Lot 118 is a critical piece of land in the WAPC projections for urban land releases in the northern corridor. Development of the land will feed into the efficient utilisation of local infrastructure and the viability of local businesses.

Following the development of Burns Beach Lot 2 to the south (approximately 1,100 lots) and Somerly immediately adjacent to the north (approximately 1,400 lots remaining), Lot 118 is the one remaining large land parcel to be developed south of Neerabup Road.

Following extensive research by the CEO Group and solicitors, it has become apparent that the logical vehicle for decision making and to provide legal status for transactions throughout a prolonged development period is a Regional Council established under the Local Government Act.

A Regional Council will require an Establishment Agreement setting out the way in which the Council operates. The form of the Agreement is set out in Local Government legislation. The Minister administering the Local Government Act must approve the Agreement.

**Sustainability implications:**

Included within the objectives of the Regional (Development) Council is to balance economic, social and environmental considerations to produce a quality development demonstrating the best urban design and development practice.

**Consultation:**

The formal consultation about proposals required through advertising of the Business Plan has been completed. Progressive consultation about proposals for the new Regional Council have been continuing with the Office of the Minister responsible for final approval of the Establishment Agreement.

**COMMENT**

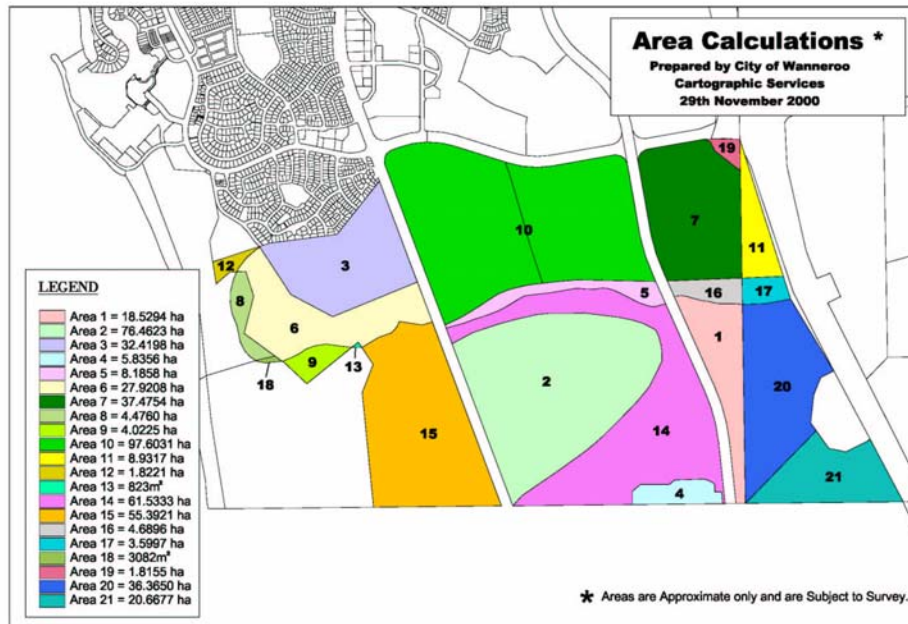
It will be possible, subject to Ministerial approval, for the Regional Council to be established and meet to conduct its regional purpose commencing early in 2006.

In the development of the Establishment Agreement it has been proposed that funding for development activity would be initiated through the assignment by participants of compensation payments due from the WAPC as part of Bush Forever settlement on transfer of part of Lot 118 for public purposes.

The Negotiated Planning Solution is yet to be formalised but agreement has been reached on the amounts of compensation that would be recommended to the WAPC and Councils. The compensation figures are based upon valuations obtained from the Valuer General (for the owner Councils) and from internal DPI valuers (for the WAPC).

The amounts of compensation supported by the valuations are as follows:

<b>POST DELINEATION SURVEY</b>				
	<b>Plan N<sup>o</sup>s</b>	<b>Areas m<sup>2</sup></b>	<b>Value \$</b>	<b>\$ Per Ha</b>
			<b>Owners Calc</b>	
Original residential land	3, 6	60.3406	76,600,000	1,269,460
30% western residential ceded free of cost	Pt 6	18.10218	22,980,000	
Balance of residential compensated at residential values	Pt 6	11.75942	14,928,118	
Add rural values	9, 12	5.8446	175,400	
Add rural values	1, 15	73.9215	1,220,000	
<b>SUB TOTAL</b>			<b>16,323,517.59</b>	
+ Valuation Fee 50%			11,130	
<b>TOTAL COMPENSATION</b>			<b>16,334,647.59</b>	



The WAPC is proposing payment of at least \$14.928M in the 2005/06 financial year representing all of the compensation due for that part of Lot 118 Mindarie west of Marmion Avenue.

In the event that the NPS and associated payments are wholly or partially completed prior to the commencement date for the new Regional Council, the compensation payments received from the WAPC will, in terms of the Establishment Agreement provisions, be dealt with as follows:

*Each Participant is to ensure that the amount of the State's payment or payments of compensation to that Participant under the Bush Forever Policy in respect of the Land:*

- (a) *is paid to the TPRC directly by the State; or*
- (b) *is paid by the Participant to the TPRC within 14 days of:*
  - (i) *the payment being received from the State by the Participant; or*
  - (ii) *the Operative Date,**whichever occurs later.*

The imminent settlement of the NPS does, therefore, raise the prospect that compensation payments for substantial amounts will be remitted direct to individual participants and will need to be retained by the participants in trust accounts awaiting the formal establishment of the Regional Council.

The Establishment Agreement submitted in draft form requires only minor amendments (as noted in the Agreement) before being engrossed in final form for signing by the participants. The plans referred to in the draft Agreement are to be more particularly prepared by Whelans, surveyors, for substitution of the currently included plans.

Resolutions by participant Councils authorising signing of the Establishment Agreement will facilitate early submission of the agreement to the Minister for Local Government & Regional Development.

**ATTACHMENTS**

Attachment 1 Establishment Agreement

**VOTING REQUIREMENTS**

Simple majority.

**RECOMMENDATION****That Council:**

- 1 APPROVES the Establishment Agreement for the Tamala Park Regional Council as submitted at Attachment 1 to this Report;**
- 2 AUTHORISES the Chief Executive Officer to sign and seal the Establishment Agreement when compiled in final form;**
- 3 AUTHORISES the Establishment Agreement to be submitted to the Hon. Minister for Local Government and Regional Development requesting approval from the Hon. Minister for the establishment of the Tamala Park Regional Council and for gazettal of the approval at the earliest possible date;**
- 4 NOTES that settlement of Bush Forever issues with the WAPC is well advanced and that compensation payments totalling \$16,334 Million will be due for payment by the WAPC to the joint owners of Lot 118 Mindarie, the majority of which payment will be made by two (2) instalments in the 2005/06 financial year;**
- 5 ENDORSES (in accordance with the proposed Establishment Agreement) payment of the compensation referred to in (4) direct to the Tamala Park Regional Council, if the Council is established at the time that the payments by the WAPC are made to the owners and that in the event that the Tamala park Regional Council is not established at the time that the WAPC payments are made, that the amounts received by the Council be paid to a trust account and remitted to the Tamala Park Regional Council when the Tamala park Regional Council is formally established.**

*Appendix 8 refers*

To access this attachment on electronic document, click here: [Attach8brf061205.pdf](#)



## **ITEM 10 LOT 118 MINDARIE - PROPOSED LEASE AMENDMENT WITH MINDARIE REGIONAL COUNCIL – [41196]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Dave Djulbic  
Infrastructure Services

### **PURPOSE**

To advise final drafting of documents to bring about amendment of an existing lease of 252 hectares of Lot 118 Mindarie to facilitate the land transfers necessary under the Negotiated Planning Solutions (NPS) with the Western Australian Planning Commission (WAPC).

### **EXECUTIVE SUMMARY**

The Council has previously approved the advertising of a Business Plan dealing with a number of proposed land transactions affecting Lot 118 Mindarie. After consideration of submissions the Business Plan was adopted by all of the local government owner Councils (refer CJ129-06/05 Lot 118 Mindarie – Business Plan for a Major Land Transaction and Establishment of a Regional (Development) Council). This report deals with the lease amendment pertaining to the Mindarie Regional Council's leased land to facilitate the land transfers necessary under the NPS with the WAPC

*It is recommended that Council:*

- 1 *ENDORSES the lease rental for the amended lease to Mindarie Regional Council be \$510,294 effective from 1 January 2006;*
- 2 *ENDORSES that the amended lease of part Lot 118 Mindarie to the Mindarie Regional Council, effective from 1 January 2006, be APPROVED;*
- 3 *AUTHORISES the Chief Executive Officer to sign and seal the agreement to vary the lease between the owner Councils and Mindarie Regional Council and also to sign and seal the new lease, which is an annexure to the Agreement for Variation of Lease.*

### **BACKGROUND**

The Council has previously adopted a Business Plan dealing with a number of proposed land transactions affecting Lot 118 Mindarie.

Lot 118 Mindarie is jointly owned 7 local governments in the following shares:

<b>Council</b>	<b>Project Shareholding Joint Development Shares</b>
Town of Cambridge	1/12
City of Perth	1/12
Town of Victoria Park	1/12
Town of Vincent	1/12
City of Joondalup	2/12
City of Wanneroo	2/12
City of Stirling	4/12

The proposed land transactions included:

- 1 A reduction in lease area to Mindarie Regional Council (and other consequential adjustments);
- 2 The establishment of a Regional Council to undertake urban development of part of Lot 118 Mindarie;
- 3 A Negotiated Planning Solution (NPS) with the West Australian Planning Commission (WAPC) by which part of Lot 118 Mindarie would be transferred to the WAPC for compensation at agreed values;
- 4 A transfer of part of Lot 118 to the new Regional Council established for the purpose of effecting the urban development of part Lot 118 Mindarie.

The Business Plan was advertised as required by Local Government Act provisions. After consideration of submissions, the Business Plan was adopted by all of the local government owner Councils.

## DETAILS

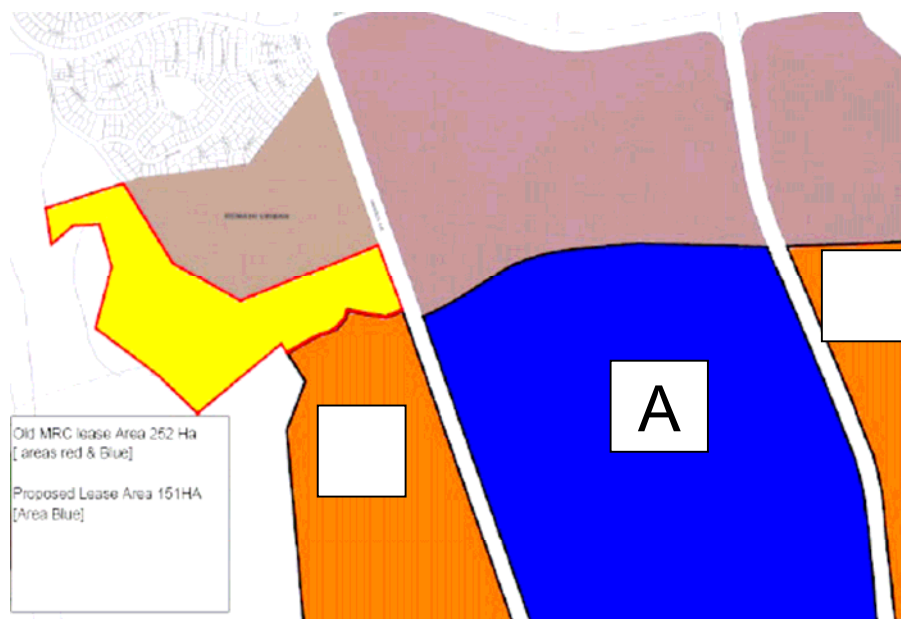
### Issues and options considered:

In respect of the proposed lease amendment, the Mindarie Regional Council also advertised a Business Plan. The Mindarie Regional Council has formally adopted the Business Plan and has resolved to proceed to implement the Plan.

Having properly dealt with the requirement to prepare, advertise and consider submissions in response to a prepared Business Plan, the necessary action was then commenced to:

- Prepare an Establishment Agreement for the proposed new Regional (Development) Council.
- Prepare the necessary lease amendment.

The lease amendment was necessary in order to facilitate the land transfers necessary under the NPS with the WAPC.



Under the NPS, the parts of the existing lease to Mindarie Regional Council, which are marked 'B' on the plan will be transferred to the Crown leaving the residual area marked 'A'

(the area between Marmion Avenue and Connolly Drive) as the revised lease area to the Mindarie Regional Council.

The amendment to the lease, in summary, addresses additional issues. The full effect of the lease amendment will bring about the following:

- A reduction in lease area from 252 hectares to 151.7 hectares;
- The introduction of good neighbour provisions to provide an understanding between the lessor and lessee in respect of the lessee's buffer requirements for a licence to operate a landfill;
- A recognition of the lease extension provisions by stipulating the extended expiry date as 2032;
- A change to the existing formula provision for lease rental to a market rental;

### **Lease Valuation**

The existing lease rental is based upon a formula which calculates rental based upon the original value of the land, CPI adjusted, multiplied by the long-term bond rate. The derived annual rental from this calculation for the 2004/05 financial year is \$178,000. The Mindarie Regional Council, of its own volition, had proposed a figure of \$400,000 for 2005/06 assuming a transition to a market rental base. The figure of \$400,000 was based on a valuation obtained by Mindarie Regional Council in 2002.

A new valuation was jointly commissioned by the landowner CEO Group and the Mindarie Regional Council from the Valuer General in 2005.

The valuation for the proposed new lease area of 151.7 hectares was obtained in July 2005. The valuation indicated valuation components and rental consideration as outlined in the table below.

The full valuation is \$775,997, however, this valuation assumes all of the land is usable by Mindarie Regional Council whereas there are restrictions imposed upon occupational use as a consequence of aboriginal ethnographic and MRS reservations. There has also been a valuation made for the area of deferred urban land that constitutes the interim buffer that will be used by Mindarie Regional Council to satisfy its licence requirements. However, this buffer will not apply after 31 December 2010 and, in ordinary circumstances, would warrant only a notional addition to lease rental. In consequence, concessional factors, with valuation advice, have been applied to the restricted and buffer areas involved in the lease.

The concessional figures are contained in the valuation table below.

### Valuation Components and Applicable Rental

Land Area	Hectares	Valuation per hectare	Total Valuation	Value @ 8.5%	Valuation Application	Value for Rent \$
Usable land	84.8341	45,000	3,817,534	324,490	100%	324,490
Lease area buffer + Aboriginal land	66.93	45,000	3,011,850	256,007	50%	128,004
Costs of operating licence			500,000	42,500	100%	42,500
Licence approvals urban deferred temporary buffer	40	45,000	1,800,000	153,000	10%	15,300
<b>Rent at 8.5% (exc GST)</b>	<b>191.7641</b>		<b>9,129,384</b>	<b>775,997</b>		<b>510,294</b>

It is understood that the Mindarie Regional Council will receive a report at its meeting on 8 December 2005 recommending agreement to the new lease consideration with recommendations to complete the lease document.

A summary of the proposed new lease is as follows:

- 1 A term expiring on 31 December 2032;
- 2 A starting rent (1 January 2006) of \$510,294;
- 3 Market rent reviews every 5 years;
- 4 CPI rent review annually (other than in market rent review years);
- 5 Statutory outgoings to be paid by Mindarie Regional Council;
- 6 Environmental liabilities existing before and after the lease term to be satisfied by Mindarie Regional Council;
- 7 Rehabilitation to be in accordance with best practice, lease provisions, environmental and planning law;
- 8 Permitted use – the carrying on of Mindarie Regional Council core business;
- 9 Public consultation – required where the extent or intensity of use is likely to impact the public interest;
- 10 Lessor consultation – as listed in (9) above and wherever reasonably required;
- 11 Termination – Mindarie Regional Council to remove all improvements and rehabilitate the site. The lessor may purchase improvements at an agreed price.
- 12 Rehabilitation on termination – Mindarie Regional Council must make good and rehabilitate for recreation and conservation. A plan to be approved by the Department of Environment with obligations extending past the lease expiry date;
- 13 Buffer recognition – the parties acknowledge a 500m buffer to landfill operations. Mindarie Regional Council is to progressively reduce the buffer and entirely eliminate the buffer by 31 December 2010;
- 14 Assignment of lease – requires lessor approval;

- 15 Sub-lease or licence – lessee may grant, but only for purpose consistent with the lessor's core business;
- 16 Insurance – public liability – a minimum \$20M – other normal insurances apply.

**Link to Strategic Plan:**

Completion of the lease amendment with the Mindarie Regional Council will facilitate further land transactions with Lot 118 Mindarie leading to the development of approximately 165 hectares of urban land in the northern corridor, which will have significant impacts on optimum utilisation of existing infrastructure and the provision of new infrastructure.

**Legislation – Statutory Provisions:**

Legislative requirements have been satisfied through the structure of the lease document and appropriate references therein.

**Risk Management considerations:**

The finalisation of the leasing arrangements is required to facilitate the land transfers necessary under the NPS with the WAPC.

**Financial/Budget Implications:**

The amended lease will substantially increase lease rental. The reduction in lease area will facilitate completion of the NPS with payment of compensation to joint landowners.

**Policy implications:**

Not Applicable

**Regional Significance:**

Lot 118 is a critical piece of land in the WAPC projections for urban land releases in the northern corridor. Development of the land will feed into the efficient utilisation of local infrastructure and the viability of local businesses.

**Sustainability implications:**

Included within the objectives of the Regional (Development) Council is to balance economic, social and environmental considerations to produce a quality development demonstrating the best urban and development practice.

**Consultation:**

Consultation has been completed through the Business Plan, previously adopted by this Council.

Because the participant landowners are also participants in the Mindarie Regional Council, it could be made unnecessary for the Mindarie Regional Council to refer the details of the lease changes to individual participants in the Mindarie Regional Council for specific approval if:

- The Mindarie Regional Council approves the changes;
- The Mindarie Regional Council advises its participant Councils that it will not seek a separate approval for lease changes in the event that the Councils signify that they have separately approved the lease as landowners; and

- The owner local governments signify to the Mindarie Regional Council that a separate referral of the lease amendment by Mindarie Regional Council to participant Councils is waived.

## **COMMENT**

The original lease, and the amended lease, will comprise a land parcel which is a part of Lot 118 Mindarie.

The provisions of Section 20 of the Town Planning & Development Act require that where a part lot is a subject of lease, specific approval to the lease must be obtained from the WAPC. Ministerial endorsement is necessary.

The construction of the agreement to vary the lease (and the new lease, which is made an annexure to the agreement to vary) obviates the necessity for further special approval under Section 20 of the Town Planning & Development Act. This position has been certified by solicitors for the lessor and lessee and has also been checked with the Department of Planning and Infrastructure.

The NPS with the WAPC is imminent. The areas of land subject of the NPS have been agreed between the owner representatives and the WAPC. The WAPC has agreed to pay the owners valuation for the land to be transferred under the NPS. The amount of compensation to be paid by the WAPC is \$16.3M, which payment will be made progressively as surveys are completed for the individual land parcels subject of the NPS.

The major part of the compensation will relate to land west of Marmion Avenue comprising 120 hectares. The compensation payment relating to this land parcel is \$14.928M and the proposal is to have the payment made in 2 instalments prior to 30 June 2006.

If all of the owner Councils complete the NPS documents and also complete the documents required to effect the establishment of the new Regional (Development) Council, the payment for compensation by WAPC will provide the seed funding for the new Regional (Development) Council and the Establishment Agreement for the new Council contains a provision that requires payment of the compensation from the WAPC to the new Regional (Development) Council.

Part of the area subject of the lease agreement could be rezoned at a future time from POS to urban under the Metropolitan Region Scheme if the 7 local authority landowners of the TPRC are able to demonstrate the desirability for the rezoning based upon topographic, ethnographic, geological and other considerations that are researched and developed through structure planning. The likelihood of this event is somewhat remote and has not been referenced in the lease amendment. In the event that any land is released from the current restrictions imposed by the MRS and by Bush Forever policy, it would be appropriate, at the time of the release to undertake a renegotiation of lease provisions with the MRC.

## **ATTACHMENTS**

Attachment 1 Deed of Extension, Variation and Partial Surrender of Lease relating to Tamala Park, Marmion Avenue, Mindarie

## **VOTING REQUIREMENTS**

Simple majority.

**RECOMMENDATION****That Council:**

- 1 ENDORSES the lease rental for the amended lease to Mindarie Regional Council be \$510,294 effective from 1 January 2006;**
- 2 ENDORSES that the amended lease of part Lot 118 Mindarie to the Mindarie Regional Council, effective from 1 January 2006, be APPROVED;**
- 3 AUTHORISES the Chief Executive Officer to sign and seal the agreement to vary the lease between the owner Councils and Mindarie Regional Council and also to sign and seal the new lease, which is an annexure to the Agreement for Variation of Lease.**

*Appendix 9 refers*

*To access this attachment on electronic document, click here: [Attach9brf061205.pdf](#)*

**Disclosure of interest affecting impartiality**

<b>Name/Position</b>	<b>Mr Garry Hunt – Chief Executive Officer</b>
<b>Item No/Subject</b>	<i>Item 11 - Tender 026-05/06 Installation and modification of traffic signals at Shenton Avenue, Joondalup, Mclarty Avenue, Joondalup, Hodges Drive, Joondalup, Caridean Street, Heathridge and Hepburn Avenue / Gibson Avenue, Padbury Intersections</i>
<b>Nature of interest</b>	<i>Interest that may affect impartiality</i>
<b>Extent of Interest</b>	<i>The recommended tenderer is part of a conglomerate with which Mr Hunt had an association.</i>

**ITEM 11                    TENDER        026-05/06        INSTALLATION        AND  
MODIFICATION        OF TRAFFIC SIGNALS AT  
SHENTON AVENUE, JOONDALUP, MCLARTY  
AVENUE, JOONDALUP, HODGES DRIVE,  
JOONDALUP, CARIDEAN STREET, HEATHRIDGE  
AND HEPBURN AVENUE / GIBSON AVENUE,  
PADBURY INTERSECTIONS – [67575]**

**WARD:**                    All

**RESPONSIBLE  
DIRECTOR:**                Mr David Djulbic  
   Director Infrastructure Services

**PURPOSE**

This report is to seek the approval of Council to choose Downer Electrical Pty Ltd as the successful tenderer for the Installation and Modification of Traffic Signals at Shenton Avenue, Joondalup, Mclarty Avenue, Joondalup, Hodges Drive, Joondalup, Caridean Street, Heathridge and Hepburn Avenue / Gibson Avenue, Padbury intersections

**EXECUTIVE SUMMARY**

Tenders were advertised on 5 October 2005 through statewide public notice for the Installation and Modification of Traffic Signals at Shenton Avenue, Joondalup, Mclarty Avenue, Joondalup, Hodges Drive, Joondalup, Caridean Street, Heathridge and Hepburn Avenue / Gibson Avenue, Padbury Intersections. Tenders closed on 20 October 2005. One (1) only submission was received from:

- Downer Electrical Pty Ltd

It is recommended, in relation to Tender Number 026-05/06, that Council:

- 1 *CHOOSES Downer Electrical Pty Ltd as the successful tenderer for the Installation and Modification of Traffic Signals at Shenton Avenue / McLarty Avenue, Hodges Drive / Caridean Street and Hepburn Avenue / Gibson Avenue Intersections in accordance with the Lump Sum Price of \$357,295 (Excluding GST). In addition the City has allocated \$30,000 exclusive of GST as a contingency measure for the resultant contract;*

<i>Lump Sum Tendered Price</i>	<b>\$357,295</b>	<i>Exclusive of GST</i>
<i>City of Joondalup Project Contingency</i>	<b>\$ 30,000</b>	<i>Exclusive of GST</i>
<b>Total Project Cost</b>	<b>\$387,295</b>	<b>Exclusive of GST</b>



- 2 *AUTHORISE the Chief Executive Officer (CEO), on behalf of the City, to enter into a contract with Downer Electrical Pty Ltd in accordance with their submitted tender, subject to any minor variations that may be agreed between the CEO and Downer Electrical Pty Ltd.*

## BACKGROUND

The City of Joondalup has been successful in obtaining 2005-2006 State Black Spot Funding on a 2:1 State to Local Government contribution, for the installation of Traffic Signals at three intersection locations within the City. The proposed installations are at; Shenton Avenue – McLarty Avenue, Joondalup, Hodges Drive – Caridean Street, Heathridge and Hepburn Avenue – Gibson Avenue, Padbury.

The City has included the following allocations in its 2005-2006 Five Year Capital Works Programme under Traffic Management, Black spots.

Year	Project Name	Funding Source		Total Funds
		State Blackspot	Municipal	
2005/06	Shenton Avenue-McLarty Avenue	\$133,333	\$66,667	\$200,000
2005/06	Hodges Drive-Caridean Street	\$136,667	\$68,333	\$205,000
2005/06	Hepburn Avenue-Gibson Avenue	\$106,667	\$53,333	\$160,000

The installation of traffic signals will enhance the traffic and pedestrian safety at these three 'Blackspot' intersections.

## DETAILS

Tenders were advertised on 5 October 2005 through statewide public notice for the Installation and Modification of Traffic Signals at Shenton Avenue, Joondalup, McLarty Avenue, Joondalup, Hodges Drive, Joondalup, Caridean Street, Heathridge and Hepburn Avenue / Gibson Avenue, Padbury intersections. Tenders closed on 20 October 2005. One (1) only submission was received from:

- Downer Electrical Pty Ltd

The first part of the tender evaluation process is to check conformance to the Compliance Criteria, in order to ensure that all essential requirements have been met. Tenders not meeting all the essential requirements are deemed to be non-conforming and are eliminated from further consideration.

The tender submitted by Downer Electrical Pty Ltd met the specified requirements and was assessed as a conforming tender.

The second part of the evaluation process involves an independent assessment of the qualitative and quantitative criteria by each member of the Evaluation Panel. Each member of the Evaluation Panel assessed the tender submissions individually against the selection criteria using the weightings determined during the tender planning phase. The Evaluation Panel then convened to submit and discuss their assessments, leading to a ranking of each submission in order of merit.

Under the City's Contract Management Framework, the tenders were assessed by the Evaluation Panel using a weighted multi-criterion assessment system and AS 4120-1994

'Code of Tendering', ensuring compliance with *Regulation 18(4)* of the *Local Government (Functions and General) Regulations 1996*.

The Selection Criteria for Tender Number 026-04/05 is as follows:

### **Selection Criteria**

Demonstrated understanding of the required tasks

- Appreciation of requirements
- Outline of methodology

Capacity

- Details of resources for the Contract, including company details, personnel and operator skills and specialised equipment

Local infrastructure

- After hours contacts
- Additional personnel and resources if required

Social and economic effects on the local community

- Maintained or increased opportunities for local employment
- Maintained or increased arrangements with local service providers
- Value added services to the City

Demonstrated experience in completing similar projects

- Similar work carried out, including scope of work, periods and dates, and referees

Safety management policy

- Safety procedures to be used for the Contract
- Details of safety records for the past two years

### **Issues and options considered:**

Black Spot projects are subject to the approval of Main Roads Western Australia and in particular, Traffic Signal works are to be undertaken in accordance with the stringent requirements Main Roads Western Australia.

Downer Electrical Pty Ltd is the current approved Main Roads Traffic Control Infrastructure Contractor (TCIC) who undertakes and completes the Traffic Signal work requirements to the satisfaction of Main Roads Western Australia.

### **Link to Strategic Plan:**

Objective 4.1                      To manage the business in a responsible and accountable manner.  
Strategy: 4.1.1                    Ensure financial viability and alignment to plan.

### **Legislation – Statutory Provisions:**

The statewide public tender was advertised, opened and evaluated in accordance with the *Local Government (Functions & General) Regulations 1996*, where tenders are required to be publicly invited if the consideration under a contract is, or is expected to be, more, or

worth more, than \$50,000. The consideration for this contract exceeds the Chief Executive Officer's Delegated Authority in relation to the acceptance of tenders to a value of \$250,000.

### **Risk Management considerations:**

As this is a Black Spot funded project it is essential to complete the works within the financial year in compliance with the requirements of the funding. The recommended Contractor is able to meet the requirements of the funding, compliance with Main Roads Western Australia and the Contract.

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

#### Available Funds

Project No. 6757 Shenton Avenue/McLarty Avenue (Muni)	\$ 66,667 Exclusive of GST
Project No. 6763 Shenton Avenue/McLarty Avenue (SBS)	\$133,333 Exclusive of GST
Project No. 6758 Hodges Drive/Caridean Street (Muni)	\$ 68,333 Exclusive of GST
Project No. 6764 Hodges Drive/Caridean Street (SBS)	\$136,667 Exclusive of GST
Project No. 6759 Hepburn Avenue/Gibson Avenue (Muni)	\$ 53,333 Exclusive of GST
Project No. 6765 Hepburn Avenue/Gibson Avenue (SBS)	<u>\$106,667 Exclusive of GST</u>

**Total Available Funds**  
**\$565,000 Exclusive of GST**

Tender Lump Sum Price	\$357,295 Exclusive of GST
City of Joondalup Project Contingency	\$ 30,000 Exclusive of GST
YTD Amount	<u>\$ 43,200 Exclusive of GST</u>

**Total Project Costs** **\$430,495 Exclusive of GST**

The City of Joondalup is a registered business entity for GST purposes. The nett effect on the price submitted by the successful tenderer is that the City pays GST but is able to claim an input tax credit for the amount of GST paid.

### **Policy implications:**

While there are no specific policy implications, the City's current practice is to encourage local business in the purchasing and tendering process and this has been applied and incorporated into the selection criteria. However, it is noted that the recommended (and only) Respondent is located in Welshpool which is not within the City or the Region.

### **Regional Significance:**

The Black Spot programme has regional implications for Road Safety, and funding of projects is based on a positive benefit cost ratio. This tender represents projects that are a major part of the approved State Black Spot programme for Joondalup (2005-2006).

### **Sustainability implications:**

From an economic sustainability perspective, the installation of traffic lights is jointly funded on a two to one basis by the Main Roads Western Australia and the City respectively. The ongoing maintenance costs are funded by Main Roads Western Australia.

The installation of the traffic lights at these black spot locations have been identified by Main Roads as part of a programme to reduce traffic accidents, which is positive from a social sustainability perspective.

**Consultation:**

Not Applicable.

**COMMENT**

The Evaluation Panel considered that although Downer Electrical Pty Ltd was the only tenderer who submitted an offer, and being the approved TCIC contractor for the Main Roads Western Australia, Downer Electrical Pty Ltd has the capability, appropriate infrastructure and associated resources to carry out the work on a best value for money basis in a competent and timely manner.

Value for money can be demonstrated as the offer received from Downer Electrical Pty Ltd is below the allocated budget (Main Roads Western Australia two thirds and the City one third) and is in line with previous work of this type carried out by Downer Electrical Pty Ltd.

The Evaluation Panel therefore recommend Downer Electrical Pty Ltd as the nominated Contractor.

**ATTACHMENTS**

Nil

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

**That Council, in relation to Tender Number 026-05/06:**

- 1** **CHOOSES** Downer Electrical Pty Ltd as the successful tenderer for the Installation and Modification of Traffic Signals at Shenton Avenue / McLarty Avenue, Hodges Drive / Caridean Street and Hepburn Avenue / Gibson Avenue Intersections in accordance with the Lump Sum Price of \$357,295 (Excluding GST). In addition the City has allocated \$30,000 exclusive of GST as a contingency measure for the resultant contract;

<b>Lump Sum Tendered Price</b>	<b>\$357,295 Exclusive of GST</b>
<b>City of Joondalup Project Contingency</b>	<b>\$ 30,000 Exclusive of GST</b>
<b>Total Project Cost</b>	<b>\$387,295 Exclusive of GST</b>

- 2** **AUTHORISES** the Chief Executive Officer (CEO), on behalf of the City, to enter into a contract with Downer Electrical Pty Ltd in accordance with their submitted tender, subject to any minor variations that may be agreed between the CEO and Downer Electrical Pty Ltd.

## **ITEM 12                      PROPOSED PARKING SCHEME AMENDMENT – BOAS AVENUE, JOONDALUP – [07190] [07076]**

**WARD:**                      Lakeside

**RESPONSIBLE  
DIRECTOR:**                Mr Dave Djulbic  
   Infrastructure Services

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### **PURPOSE**

To amend the City of Joondalup Parking Scheme in accordance with Clause 33 of the City's Parking Local Law 1998 by changing the current one hour parking restriction on four bays to a heavy vehicle bay in Boas Avenue Joondalup.

### **EXECUTIVE SUMMARY**

The Department of Planning and Infrastructure Vehicle Licencing Centre (VLC) located in Boas Avenue Joondalup, provides the public service of testing for and approving the issue of motor vehicle drivers licences. The driver's licence tests include heavy vehicles.

When the Vehicle Licencing Centre commenced at Joondalup, an arrangement was made for heavy vehicles to park in the southern indented approach to the parking station entry in Davidson Terrace, south of Boas Avenue. The logical route and one most used to access this location, is through the parking station adjacent the City Administration Building. Large and heavy vehicles being driven by learner drivers through a busy parking area represents a significant safety hazard.

The safety concerns with the practice of heavy vehicles driving through the car park and need to address this matter were raised with officers of the VLC who have submitted a request for a heavy vehicle bay in another more suitable location close to the VLC.

*In accordance with clause 33 of the City's Parking Local Law 1998, which provides for "Establishing and Amending the Parking Scheme", it is recommended that Council:*

*AMENDS the current parking restriction – " One Hour Parking Mon to Fri 8.00am to 5.30pm Sat 8.00am to 12.30pm" located on the north side of Boas Avenue east of Davidson Terrace to "Fifteen Minutes Parking Heavy Vehicles 3 tonne Minimum Weight Mon to Fri 7.30am to 5.30pm" and 30 Minutes Parking Sat 7.30am to 5.30pm." as shown in Attachment 1 to this report.*

### **BACKGROUND**

The VLC located in Boas Avenue Joondalup, provides the public service assessing and testing applicants for wanting to gain a vehicle drivers licence for various classes of motor vehicle ranging from motor cycles, cars and heavy vehicles.

When the Vehicle Licencing Centre commenced at Joondalup, an arrangement was made for heavy vehicles to park in the southern indented approach to the parking station entry in Davidson Terrace, south of Boas Avenue. There has been no formalisation or proper allocation of a heavy vehicle bay in this location. The logical route and one most used to access this location, is through the parking station adjacent the City Administration Building.

Large and heavy vehicles being driven by learner drivers through a busy parking area represents a significant safety hazard. This was raised as a concern with the appropriate officers of the VLC. The discussion also included what they require to continue their service

to the public and the long term expectation that large vehicles services should ideally be located outside the Joondalup Central Business District possibly in a semi industrial area. It was suggested that whatever arrangements are made to provide an alternative location at this time should be viewed as an interim arrangement and more permanent facilities such as a licencing sub centre should be sought outside the CBD.

The VLC advised that there are currently two heavy vehicle learn to drive businesses registered to operate at Joondalup and this number will double to four on 3 January 2006. Consequently, the number of heavy vehicle movements around the Joondalup Licencing Centre are expected to increase proportionately.

The location of the proposed Heavy Vehicle bay has been identified as being most suitable as it is:

- in close proximity to the VLC;
- adjacent a vacant block of land; and
- vehicles entering onto Boas Avenue from the car parks have clear sight of any vehicles approaching on their right.
- Drivers can also gain clear sight of any vehicles approaching on their left.

Attachment 1 shows what will result with adoption of the recommended amendment

## **DETAILS**

### **Issues and options considered:**

The proposed parking scheme amendment has been progressed in consideration of the following:

- Safety of all car park users and minimising opportunities for accident and personal injury is of paramount importance.
- There is a demonstrated need to provide an alternative, more safe location for heavy vehicles to park in close proximity to the Boas Avenue Licencing Centre, to facilitate testing of learner drivers.
- The provision of an on street parking bay for heavy vehicles in the Joondalup Central Business District (CBD) should be viewed as an interim arrangement, as heavy vehicle movements in the CBD should be kept to a minimum. The licence testing and supporting office for heavy vehicle tests should be located in a semi industrial area.

### **Link to Strategic Plan:**

The recommendations in this report are supported by the following objective and strategy in the City's Strategic Plan 2003-2008.

Objective: 3.3 To continue to meet changing demographic needs.

Strategy: 3.3.2 Integrate plans to support community and business development.

### **Legislation – Statutory Provisions:**

The City of Joondalup Parking Local Law (1998) was made in keeping with the requirements of Section 3.12 (Procedure for Making Local Laws) of the Local Government Act (1995).

Clause 33 of the City of Joondalup Parking Local Law (1998) provides for:

“Establishing and Amending the Parking Scheme

33 The local government may by resolution constitute, determine vary and indicate by signs:

- (a) prohibitions;
- (b) regulations; and
- (c) restrictions

on the parking and stopping of vehicles of a specified class or classes in all roads, specified roads or specified parts of roads in the parking region at all times or at all specified times, but this authority shall not be exercised in a manner inconsistent with the provisions of this Local Law or any other written law.”

**Risk Management considerations:**

In accordance with the elements of risk matrix located within the City of Joondalup Operational Emergency Management Plan.

**Financial/Budget Implications:**

<b>Account No:</b>	1.7230.4615.0529.999
<b>Budget Item:</b>	Parking Control Signs
<b>Budget Amount:</b>	\$68,090.00
<b>YTD Amount:</b>	\$11,354.00
<b>Actual Cost:</b>	\$ 900.00 (estimated)

**Policy implications:**

Not Applicable

**Regional Significance:**

Not Applicable

**Sustainability implications:**

The amendment of the current parking restrictions and prohibitions in Boas Avenue as recommended, will improve safety for school children and promote better traffic flow within this street.

**Consultation:**

Discussions have been held with representatives of the Department of Planning and Infrastructure – Driver Services concerning the driving of heavy vehicles through the City’s Parking Station to access parking in Davidson Terrace. The driving of heavy vehicles through a parking area was acknowledged as a potential safety risk to all users of the facility and a valid reason for prohibiting heavy vehicles from the car park.

**COMMENT**

The location of the proposed Heavy Vehicle Bay in Boas Avenue is considered the most appropriate to meet the requirements of learn to drive businesses registered to operate at the Joondalup Vehicle Licencing Centre. The location of the proposed bay has been discussed with officers of the VLC and is supported by them.

**ATTACHMENTS**

Attachment 1 Map showing the location of proposed parking bay for heavy vehicles.

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

**That Council in accordance with Clause 33 of the City's Parking Local Law 1998, AMENDS the current parking restriction – “One Hour Parking Monday to Friday 8.00 am to 5.30 pm Saturday 8.00 am to 12.30 pm” located on the north side of Boas Avenue east of Davidson Terrace, to “15 Minutes Parking Heavy Vehicles 3 tonne Minimum Weight Monday to Friday 7.30 am to 5.30 pm and 30 minutes Parking Saturday 7.30 am to 5.30 pm.” as shown in Attachment 1 to this Report.**

*Appendix 10 refers*

To access this attachment on electronic document, click here: [Attach10brf061205.pdf](#)



## **ITEM 13                    PROPOSED PARKING SCHEME AMENDMENT - BLUE MOUNTAIN DRIVE, JOONDALUP – [07190] [01602]**

**WARD:**                    Lakeside

**RESPONSIBLE  
DIRECTOR:**            Mr Dave Djulbic  
                                 Infrastructure Services

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### **PURPOSE**

To amend the City of Joondalup Parking Scheme in accordance with Clause 33 of the City's Parking Local Law 1998 by installing a School Bus Bay in Blue Mountain Drive adjacent the Joondalup Primary School.

### **EXECUTIVE SUMMARY**

The Principal of the Joondalup Primary School has requested that the City create a school bus bay in Blue Mountain Drive adjacent the school to overcome safety concerns with the bus entering the off street parking area and having to reverse out. Safety concerns have arisen due to the parking area being used by parents and young children being in the car park while the bus is reversing. While great care is taken to prevent any possible accident with a school aid being there to guide the bus while reversing.

Following investigation of the request, it is supported in the interests of enhancing safety by minimising the opportunity for accident and injury to people using the school parking facility.

*In keeping with clause 33 of the City's Parking Local Law 1998, which provides for "Establishing and Amending the Parking Scheme", it is recommended that Council AMENDS the City of Joondalup Parking Scheme by the installation of a "10 Minutes Parking School Bus set down and pick up Mon to Fri 8.45am to 9.15 am 2.45pm to 3.15 pm School Days Only" parking restriction on the south east side of Blue Mountain Drive adjacent the Joondalup Primary School.*

### **BACKGROUND**

The City has received a request to install a school bus bay in Blue Mountain Drive adjacent the Joondalup Primary School. The request comes from safety concerns about the current practice of reversing a school bus out from an on site parking area amongst other vehicles, parents and students.

While care is taken to minimise possibility of accidents and injury, it is recognised that the situation could be significantly improved if the bus did not have to enter the car park and reverse out between cars, parents and children.

The request has been investigated and a suitable location identified in an existing embayment adjacent the school in Blue Mountain Drive.

Attachment 1 shows what will result with adoption of the recommended amendment to the City's Parking Scheme

## **DETAILS**

### **Issues and options considered:**

The proposed parking scheme amendment has been progressed in consideration of the following:

- Safety of all car park users and minimising opportunities for accident and personal injury is of paramount importance.
- There is a demonstrated need to provide an alternative, more safe location than in the school car park for the small bus to set down and pick up school children each school day.

### **Link to Strategic Plan:**

The recommendations in this report are supported by the following objective and strategy in the City's Strategic Plan 2003-2008.

Objective: 3.3 To continue to meet changing demographic needs.

Strategy: 3.3.2 Integrate plans to support community and business development.

### **Legislation – Statutory Provisions:**

The City of Joondalup Parking Local Law (1998) was made in keeping with the requirements of Section 3.12 (Procedure for Making Local Laws) of the Local Government Act (1995).

Clause 33 of the City of Joondalup Parking Local Law (1998) provides for:

“Establishing and Amending the Parking Scheme

33 The local government may by resolution constitute, determine vary and indicate by signs:

(a) prohibitions;

(b) regulations; and

(c) restrictions

on the parking and stopping of vehicles of a specified class or classes in all roads, specified roads or specified parts of roads in the parking region at all times or at all specified times, but this authority shall not be exercised in a manner inconsistent with the provisions of this Local Law or any other written law.”

### **Risk Management considerations:**

In accordance with the elements of risk matrix located within the City of Joondalup Operational Emergency Management Plan.

**Financial/Budget Implications:**

<b>Account No:</b>	1.7230.4615.0529.999
<b>Budget Item:</b>	Parking Control Signs
<b>Budget Amount:</b>	\$68,090.00
<b>YTD Amount:</b>	\$11,354.00
<b>Actual Cost:</b>	\$ 300.00 (estimated)

**Policy implications:**

Not Applicable

**Regional Significance:**

Not Applicable

**Sustainability implications:**

The amendment of the current parking restrictions and prohibitions in Boas Avenue as recommended, will improve safety for school children and promote better traffic flow within this street.

**Consultation:**

This matter has been discussed with the Joondalup Primary School Principal who made the request following an investigation by an Education Department Officer responsible for provision of school bus services and associated safety.

**COMMENT**

It is considered that the request is justified and should be supported in the interests of increasing safety. Accordingly, the installation of an appropriate school bus bay in Blue Mountain Drive Joondalup is recommended.

**ATTACHMENTS**

Attachment 1            Map showing the location of proposed school bus parking bay in Blue Mountain Drive, Joondalup.

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

**That Council in accordance with Clause 33 of the City of Joondalup Parking Local Law 1998, AMENDS the City of Joondalup Parking Scheme by installation of a “10 Minutes Parking School Bus set down and pick up Monday to Friday 8.45am to 9.15 am 2.45pm to 3.15 pm School Days Only” parking restriction on the south east side of Blue Mountain Drive adjacent the Joondalup Primary School.**

*Appendix 11 refers*

To access this attachment on electronic document, click here: [Attach11brf061205.pdf](#)

## **ITEM 14                    PROPOSED NORTHERN REGION COMMUNITY SAFETY AND CRIME PREVENTION PARTNERSHIP - OFFICE OF CRIME PREVENTION – [23195] [63511]**

**WARD:**                    All

**RESPONSIBLE DIRECTOR:**                    Mr Dave Djulbic  
Infrastructure Services

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### **PURPOSE**

To advise Council of progress made in development of a Northern Region Community Safety and Crime Prevention Partnership Agreement (the agreement) with the Office of Crime Prevention (OCP) and seek approval to enter into such an agreement based on the principles, roles and responsibilities detailed in the attached Draft Agreement.

### **EXECUTIVE SUMMARY**

The report provides an update on progress made in establishing an agreement with the OCP. A draft agreement has been prepared with input from representatives of the Cities of Bayswater, Joondalup, Stirling and Wanneroo. The draft agreement is considered to address the concerns including cost and responsibility shifts identified with the initial agreement that was prepared by the OCP.

The draft agreement stipulates that there will be no cost or responsibility shift from the State Government to the local governments party to the agreement. The draft agreement also sets out the purpose, principles and responsibilities of the parties.

Important elements of the agreement include initial funding to cover the cost of preparing Crime Prevention Plans for the four local governments party to the agreement, plus the provision of a Regional Coordinator fully funded by the OCP and working under the direction of the proposed Northern Region Community Safety and Crime Prevention Committee. Each local government would establish its own sub committee and have representation on the Regional Committee. Details of the Role of the Regional Coordinator and broad issues are outlined in Attachment 1 – “Summary of Key Points - Northern Region Community Safety and Crime Prevention Partnership Agreement.”

Progression of the proposed Northern Region Community Safety and Crime Prevention Partnership Agreement with the OCP based on the principles, roles and responsibilities as outlined in the draft document, is supported.

*It is therefore recommended that Council APPROVES the City being a signatory to the proposed Northern Region Community Safety and Crime Prevention Partnership Agreement with the Office of Crime Prevention based on the principles, roles and responsibilities as outlined in the draft agreement being Attachment 2 to this Report.*

### **BACKGROUND**

The OCP has since 2002 tried to enter into Crime Prevention Partnership Agreements with all 144 local governments through out the State. Whilst approximately half the local governments have entered into such agreements, many others have had major concerns with what was proposed in the agreement document as prepared by OCP. The Cities of Joondalup, Wanneroo and Stirling have been working together to achieve an acceptable

approach and agreement document that addressed the concerns. The City of Bayswater has joined with the other Cities as it shares the concerns and is the other local government that comprises the West Metropolitan Police District. Those concerns included:

- Inadequate funding;
- Cost shifting; and
- Responsibility shifting.

Officers of the Cities also agree that Local Government:

- Is not best placed to lead crime prevention strategies; and
- Is already performing many functions in the agreement and see little benefit in signing the agreement.

Officers of the four Cities have been working on producing an agreement document that addresses the identified concerns and which is acceptable to the OCP. Discussions have been on going between the parties and the local government regional approach that covers two Metropolitan Police Districts and as outlined in the proposed agreement is supported. The regional approach also fits well with the Police, as the four Cities comprise two adjacent Metropolitan Police Districts where very good working relations are well established.

All local governments regardless of population or area currently receive a \$10,000 grant on signing a Crime Prevention Agreement with the OCP. The acceptance of a Northern Region Coordinator, fully funded by the OCP, would be a significant step in addressing this funding disparity between large and small local governments. The current imbalance of base funding is demonstrated in Attachment 3 “Metropolitan Police Districts, Local Government Population and Office of Crime Prevention Base Grant Allocation.” The North West and West Metropolitan Police Districts are each comprised of two local governments but have estimated populations of 265,467 and 237,715 respectively. The combined grant available to the local governments to develop Crime Prevention Plans in these districts is \$20,000. The Central Metropolitan Police District is comprised of nine local governments with an estimated combined population of 124,021. The combined grant available to the local governments in that district is \$90,000.

## **DETAILS**

### **Issues and options considered:**

The City has continued to demonstrate its commitment to community safety and crime prevention and spends approximately \$4.5M annually on various programs like City Watch, youth services, application of Crime Prevention through Environmental Design, graffiti removal Ranger activities and several educational based programs including Constable Care and Junior Ranger to name a few.

The OCP has not recognised this significant contribution in the past and expressed concern in relation to the City’s crime prevention. It is considered that the OCP have not been fully informed of what local governments already do to assist their communities to increase the perception of safety and prevent crime. The proposed agreement will address this matter.

**Link to Strategic Plan:**

Strategic Plan Objectives:

- 1.4 To work with the community to enhance safety and security in a healthy environment.

Strategies:

- 1.4.1 Continue to implement the Safer Community Program

**Legislation – Statutory Provisions:**

Not Applicable

**Risk Management considerations:**

Not Applicable

**Financial/Budget Implications:**

The Office of Crime Prevention have previously advised that crime prevention initiative grants will not be allocated to local governments that have not signed a Crime Prevention Agreement. This advice proved correct when the City sought a grant for joint funding of a youth bus in 2004.

**Policy implications:**

Not Applicable

**Regional Significance:**

The matter of crime prevention has been progressed on a Regional basis initially with the Cities of Stirling and Wanneroo. The City of Bayswater has more recently been included as together with the City of Stirling they form part of the West Metropolitan Police District. The Cities of Joondalup and Wanneroo together comprise the North West Metropolitan Police District.

**Sustainability implications:**

Progression of Community Safety and Crime Prevention Partnership with the OCP will enable funding to be sought for crime prevention projects. A reduction in the rate of crime within the City would lead to an increased perception of safety and better quality of life for residents.

**Consultation:**

The draft agreement has been prepared with input from representatives of the Cities of Bayswater, Joondalup, Stirling and Wanneroo. Regular reports have been provided to the City representatives through the North Metropolitan Zone Committee of WALGA where various components of the original agreement proposed by the OCP, were raised as a concern.

## COMMENT

It is expected that the opportunity to enter into the proposed Northern Region Agreement would be welcomed by the OCP as it would add approximately 503,000 people, or more than 1/3 of the population of the Perth metropolitan area, under Crime Prevention Agreements through their local governments.

The four Cities of Joondalup, Wanneroo, Bayswater and Stirling make up the North West and West Metropolitan Police Districts. It is understood that the Police Superintendents of both Police Districts support the proposed regional approach to crime prevention.

Equity of funding under the grant system applied by the OCP was identified as a concern. The concern with the base funding is readily identified when comparing the six (6) Metropolitan Police Districts, the local governments that comprise each Police District, the population of each and base funding that is provided to those local governments.

From when this matter was first discussed at the North Metropolitan Zone Committee with representatives of the Cities of Wanneroo, Stirling and Joondalup, it was considered that the three Cities working together would achieve better outcomes for their respective residents. With the development of the proposed Northern Region Community Safety and Crime Prevention Agreement, it is expected that the level of cooperation and prospective benefits for all the parties will increase as they all work to achieve a common goal.

## ATTACHMENTS

- |              |  |
|--------------|--|
| Attachment 1 | Summary of Key Points – Draft Northern Region Community Safety and Crime Prevention Partnership Agreement.       |
| Attachment 2 | Draft Northern Region Community Safety and Crime Prevention Partnership Agreement.                               |
| Attachment 3 | Metropolitan Police Districts, Local Government Population and Office of Crime Prevention Base Grant Allocation. |

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

**That Council APPROVES the City being a signatory to the proposed Northern Region Community Safety and Crime Prevention Partnership Agreement with the Office of Crime Prevention, based on the principles, roles and responsibilities as outlined in the draft agreement being Attachment 2 to this Report.**

*Appendix 12 refers*

*To access this attachment on electronic document, click here: [Attach12brf061205.pdf](#)*

## **ITEM 15                      WASTE MANAGEMENT STRATEGY REVIEW 2005 – [36958] [53119]**

<b>WARD:</b>	All
<b>RESPONSIBLE DIRECTOR:</b>	Mr David Djulbic Infrastructure Services

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### **PURPOSE**

To seek Council's adoption of the City's revised Waste Management Strategy 2005.

### **EXECUTIVE SUMMARY**

Council adopted a waste management strategy in July 2000. The strategy adopted a long and short term approach to its waste services mainly because of the unknowns attached to the new Resource Recovery Facility (RRF) including cost of the RRF and the issue of the collection formats.

The RRF is now scheduled to be constructed in 2007 and anticipated to accept waste in 2008. With the information being provided by the Mindarie Regional Council and the information in Cardno BSD report 'City of Joondalup Waste Management Strategy', April 2005, it is now possible to provide the Council with a revised waste management strategy.

Following Council decision to review the City's Waste Management Strategy, report, CJ131-06/05, 28 June 2005, a new Strategy has been developed and supports the following directions:

- Establishes a strategic direction for waste management in the City of Joondalup by adopting a Statement of Intent consistent with State and Regional vision statements on 'Zero Waste';
- Implementation of appropriate strategies for the City's collection, processing and disposal services to minimize environmental impacts and reduce the City's reliance on landfill;
- Coordination of State and regional waste management directions on those issues affecting the City;
- Development and implementation of a community waste education and awareness program.

The public was consulted for a six week period during the review period on a self reporting format. Online surveys, mail out packages and full page advertisement with a brief response sheet that could be cut out of the community news. A total of 1300 responses were received consisting of 91 full surveys and 1,209 abbreviated responses from the Joondalup Times newspaper advertisement.

The community provided excellent feedback on the Statement of Intent as 96% of respondents agreed with it. The analysis of the telephone survey showed that approximately 3 out of 4 respondents preferred the universal recycling wheelie bin service option.

On the issue of willingness to pay, 46.5% of respondents were willing to pay extra for the resource recovery and the universal kerbside recycling service. Twelve percent were willing to go part the way and 33% were not willing to pay any more for an enhanced service. These results were obtained from question 7 of the random telephone survey and was focussed purely on costs. However, when the question on costs was coupled with the



enhanced service to meet their needs and wishes, question 8, 78% were willing to accept the package of resource recovery and a universal kerbside recycling service, option 3.

Resource recovery is the key driver in the region's push to divert waste from landfill. However, it needs to be acknowledged that resource recovery is not a well understood concept in the community. The community emphasis is still on kerbside recycling as the way to reduce waste to landfill and recover resources. The strategy addresses this issue in Objective 4 'Community Waste Education and Awareness'.

*It is recommended that Council:*

- 1 *ADOPTS the Waste Management Strategy 2005;*
- 2 *NOTES the strong public support for the introduction of a universal recycling wheelie bin;*
- 3 *LISTS for consideration as part of the 2006/2007 budgetary deliberations, implementation of a universal recycling wheelie bin service to all residents.*

## **BACKGROUND**

The 2000 Waste Management Strategy recognized there were considerable advances being made in waste technology and that this technology would reduce the community's reliance on landfill. The Mindarie Regional Council was considering a plan to adopt this technology. The costs at the time were unknown although it was recognized that the cost would be considerably higher than landfilling. There was also further consideration required in relation single bin recycling option adopted by the City of Stirling.

The strategy recognized these issues and adopted a short and long and term strategy. In effect, the strategy maintained the current level of service until information and timeframes became available for the introduction of the RRF.

The RRF is now scheduled for construction in 2007 and anticipated to accept waste in 2008. With the information being provided by the Mindarie Regional Council and the information in Cardno BSD report 'City of Joondalup Waste Management Strategy', April 2005, it is now possible to provide the Council with a revised waste management strategy.

At an operational level it is noted that complaints are still being received about the recycling bag service and the inequity of residents having to pay extra for a recycling bin.

## **DETAILS**

### **Issues and options considered:**

In consideration of the above, a waste management strategy has been developed to address these outstanding issues and to set a way forward that will reduce our reliance on landfill and allow enough flexibility in the service to adopt waste technologies and concepts as they become practicable and affordable.

The review includes:

- Adoption of a strategic direction for waste management in the City of Joondalup by adopting a Statement of Intent consistent with State and Regional vision statements on 'Zero Waste';

- Implementation of appropriate strategies for the City's collection, processing and disposal services to minimize environmental impacts and reduce the City's reliance on landfill;
- Coordination of State and regional waste management directions on those issues affecting the City;
- Development and implementation of a community waste education and awareness program.

### Strategy's Key Drivers

#### 1 Statement of Intent

Consistent with the State Government's strategic direction and Vision Statement '*Towards Zero Waste In Western Australia*,' it is proposed Council adopt the Statement of Intent.

*'Towards Zero Waste While Providing A Comprehensive and Sustainable Waste Service'*.

These statements aspire to a waste free society. The statements strive for a result that will benefit all Western Australians. It also recognizes that future generations are considered in the decisions we make today.

The second part of the statement ensures that the City's residents are provided with a user friendly service and one that needs to pass affordability and comprehensive service tests.

#### 2 Resource Recovery

The City, in conjunction with the Mandarie Regional Council, has adopted a program to reduce waste to landfill. A RRF that will process waste in the domestic green wheelie bin and produce a compost and/or green energy is scheduled to be built at Neerabup in 2007 and anticipated to accept waste by March 2008.

The project may include up to three stages, the first stage a 100,000 tonne plant where 50% of the City's green wheelie bin contents will be processed, the rest will be landfilled until the second stage is built.

The process will ultimately recover up to 70% of the waste delivered to it and produce a compost and/or green energy. This diversion of the organic waste stream from landfill will be a major step forward in the reducing environmental impacts of landfills.

Resource recovery is the key driver in the region's diversion of waste from landfill. It needs to be acknowledged that resource recovery is not a well understood concept in the community. Their focus is on kerbside recycling as the way to reduce waste to landfill and retrieve resources. The strategy addresses this issue in Objective 4 'Community Waste Education and Awareness'.

#### 3 Kerbside Recycling

For sometime the City's residents have been requesting an enhanced recycling service focusing on the introduction of a recycling wheelie bin. The current bag system is not user friendly as bags blow away in the wind and are difficult to manage.

The popularity of the bag system has been an issue for sometime and a previous community survey; January 2003 (Research Solutions) indicated a strong community support for the introduction of a recycling wheelie bin service.

Currently, the bag system is a universal system and costs are absorbed into the rubbish rate. The bag system has a participation rate of approximately 30%. Residents also have access to a user pays wheelie bin recycling service with a participation rate of 76%. The arrangement for this service is for the resident to purchase the recycling bin and pay extra for annual service charge in addition to the rubbish rate. Residents have expressed the view that the system is inequitable as the residents choosing to do the right thing are being financially penalized.

## **Issues**

### **3.1 Increase in recycling tonnages**

The Cardno BSD report indicated an increase in recyclables recovered from the introduction of the recycling wheelie bins from 6300 to 14,500 tonnes at a participation rate of around 70% to 75%. This is based on data from the Southern Metropolitan Regional Council of 0.273 tonnes per household per year.

To cope with the increase in recycling tonnages the recycling sorting plant will need to have an additional storage area constructed. A sum of \$500,000 has been allocated in the estimates for this additional space and necessary upgrade. At a recent officers meeting on 25 November between the tripartite members it was agreed in-principle that an upgrade was required including extra storage space. Further discussions will be held on the matter with a view to enter into a new agreement based on the previous.

### **3.2 Buy back plan**

The 2000 Strategy adopted a user pays recycling wheelie bin service. In order to participate the ratepayer had to buy the bin at \$84.70 including GST and pay extra for the servicing of the bin at \$35.20 per year. This raises an issue of equity if the universal recycling bin service is adopted. Those ratepayers who have tried to do the right thing by purchasing a bin will feel they have been unfairly treated and will more than likely expect compensation for their purchase. It is therefore proposed to buy back the bins that have been purchased by the ratepayers. An amount of approximately \$100,000 has been worked into the model to compensate ratepayers. A plan for the compensation payment method should be a consideration in the plan to implement recycling wheelie bins and be the subject of future budget deliberations.

### **3.3 Single bin recycling**

The City of Stirling introduced the concept of single bin recycling. It is a unique sorting technology that chases the organics with limited retrieval of the traditional recyclables. The system does have full retrieval of cans and aluminium but plastics and other residues are baled and sent to landfill. Paper and cardboard are used in the composting of the organics. Composting is done aerobically in open windrows on an Atlas owned farm in Calingari.

City of Stirling and Atlas Group are acknowledged as one of the leaders in the field and has achieved 65% diversion rate from landfill of the domestic waste stream. There are considerable cost savings with the system as there is no need to operate a second collection and sorting service. The City of Stirling residents have accepted the system although there was some scepticism when the system was introduced. Criticism of the system have included it as being nothing more than above ground landfill to achieving landfill reduction targets and improving crop production.

The system is not considered suitable for the City because:

- The Atlas Group, owners of the technology, are not in the shortlist of tenders (late bid) for the Mindarie Regional Council resource recovery project, first stage;
- The Mindarie Regional Council does not have access to a farm for its use and the area to mature the compost in open windrows;
- The Mindarie Regional Council has requested that the member councils maintain some form of kerbside recycling. The design criteria for the RRF will be based on bin analysis data and assuming that kerbside recycling systems are in place;
- City of Stirling will not deposit waste into the first or second stage of the RRF;
- Under new State Government initiative zero waste plans will be required to be submitted by all local governments. While Stirling's system is seen as a first and significant step to achieving zero waste, zero waste plans will more than likely include the requirement to have some form of traditional kerbside recycling retrieval. The single bin concept has significant retrieval problems when it comes to paper products and plastics. This is seen as a significant threat to the concept.

### **Link to Strategic Plan:**

The review and further development of the City's Waste Management Strategy links with the Strategic Plan as follows:

Objective 2                      To effectively and efficiently manage waste.

Strategy 2.2.1                Further develop and implement recycling strategies;

Strategy 2.2.2                Plan for the development of waste management.

The Statement of Intent is consistent with the City's Strategic plan and will fulfil the strategies once implemented.

### **Legislation – Statutory Provisions:**

The State Government is proposing new waste management bill and the introduction of zero waste plans. These plans will require local government to conform to the Government's direction on zero waste. Details of the plans have not been released although discussions have included the need to retrieve as much as possible from the waste stream and it will likely involve kerbside recycling and resource recovery.

The City's waste strategy has the flexibility to work towards zero waste goals.

### **Risk Management considerations:**

The RRF is at the tender stage and the technology and costs will not be known until the tenders have been assessed and the final contract signed. The Mindarie Regional Council has commissioned Deloitte's Tomahatsu Consultants to project the costs into a model which the member Councils have used in their deliberations on the project. The model determines the non-processable and processable costs of \$49.51 and \$92.58 respectively. These figures have been used to predict the costs of the options for the waste service. This, of course could change depending on the contracted prices.

The calculations for costings are based on the tonnages extracted from the Cardo BSD report titled 'City of Joondalup Waste Management Strategy Report' March 2005';

Waste Management costs are based on the Service Level Agreements with the City of Wanneroo and the Cleansweep recycling collection contract for the 2004/2005 financial year.

Processing costs for the recycling sorting plant, Wangara, is based on \$25 per tonne under the terms and conditions of the Tripartite Agreement between the Cities of Joondalup, Swan and Wanneroo.

From the indications of the survey the adoption of the Strategy will be a popular move, however there is an underlying threat to this 'good news' story. Those rate payers who have been willing recyclers and have purchased a bin will no doubt feel unfairly treated if the strategy is adopted and there is no offer to buy the bins back or provide a credit on their rate notice. This issue is further addressed in the buy back plan in section 3.2.

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

A waste management model has been developed based on the 2004/2005 budget to predict the rubbish rate for introduction of the first stage resource recovery, the universal recycling wheelie bin service, and is based on the following assumptions:

- The recycling collection contract is based on \$0.80 a drive by;
- The City's residences will increase tonnages to 14,500 and sorted at \$25 per tonne;
- The Resources Recovery Facility processable waste fee of \$92.58 and the non processable fee (landfill) of \$49.51;
- Adoption of the voluntary bin buy back plan \$100,000;
- An allocation of \$500,000 for construction of extra storage space and an upgrade of the sorting equipment at the recycling sorting plant; and
- No changes to the other services that impact on costs.

The estimated rubbish rate is between \$195 to \$205 per household following the introduction of the first stage resource recovery and the implementation of the recycling wheelie bin service in today's dollars.

### **Policy implications:**

The attached waste management strategy will have some policy implications as the new direction for waste collection and disposal is implemented. Subject to the introduction of recycling wheelie bins and as the resource recovery technology is introduced there will be a need to amend and introduce new policies and strategies to cope with the paradigm shift in the way we manage our waste.

### **Regional Significance:**

A strategic approach to waste management is critical in the development of best practice initiatives. Through education, consultation and adoption of zero waste principles stakeholders such as the Mindarie Regional Council and others can provide the City's residents and the region with a more sustainable waste strategy.

### **Sustainability implications:**

The State Government through the Statement of Strategic Direction for Waste Management in Western Australia, September 2004, has set an action agenda for how we can move towards a waste-free society, embracing the vision of *'Towards zero waste in Western Australia'*.

To achieve this requires a shift toward a closed loop economy, where we optimise consumption and where wastes from one part of society become the raw materials for another. Accurate data on the waste streams will be required in order to monitor progress and identify opportunities for improvements. Programs will also be needed to support waste

avoidance initiatives and develop markets for recycled materials (Hope for the Future: the Western Australian state sustainability strategy).

In order to implement strategic direction for waste, the City of Joondalup has developed a Waste Strategy to maximise recovery of the organic waste stream and improve the recycling collection service to collect more tonnes of recyclables, introduce a user friendly system and make the system fairer for all users.

### **Consultation:**

In order to set future waste management directions and provide independent advice on the City's waste management services, a report was commissioned from Cardno BSD Consultants. The report reviewed and costed the current services and provided a set of options including an enhanced kerbside recycling service and provided information on the impact of Resource Recovery Facility (RRF) into the region.

Council received a report and adopted the recommendations on 28 June 2005. The report outlined the waste service options and a two phase public consultation program.

The public consultation phase ran for 42 days and included:

- weekly advertisement of the survey in the Joondalup Times during the consultation period;
- online survey with an associated information package;
- a mail out package for those who did not have internet access;
- full page colour advertisement for the kerbside recycling options on was run on 13 and 20 October in the Joondalup Times.

The second phase was to enlist the services of a market research consultant to interview a statistically valid number of randomly sampled residents (with a confidence level of 95% and a sampling error of below +/- 5%). This was done to gain a wider community view and to validate any of the self reporting view gained from the first phase of the consultation process

A total of 1300 responses were received consisting of 91 full surveys and 1,209 abbreviated responses from the Joondalup Times newspaper advertisement.

The analysis of these results showed that 96% respondents agreed with the 'Statement of Intent'. Approximately 3 out of 4 respondents preferred the universal recycling wheelie bin option. These results showed a strong correlation with the self reporting first phase.

On the issue of willingness to pay, 46.5% of respondents were willing to pay extra for the resource recovery and the universal kerbside recycling service. Twelve percent were willing to go part the way and 33% were not willing to pay any more for an enhanced service. These results were obtained from question 7 of the random telephone survey was focussed purely costs. However, when the question on costs was coupled with the enhanced service to meet their needs and wishes, question 8, 78% were willing to accept the package of resource recovery and a universal kerbside recycling service, option 3.

Also, in the public consultation phase, the full page newspaper advertisement on the recycling options where the environmental benefits were enunciated, costs and an outline of the service was detailed, the overwhelming result (77%) was that the respondents were willing to accept the package of resource recovery and a universal kerbside recycling service, option 3.

Kinross, Currambine, Marmion and Mater Dei schools were visited during the consultation phase. Students were given a briefing on the basis of the visit and were then asked to

complete the surveys. One hundred percent of school children surveyed felt that it was important to participate in recycling. Seventy one percent participated in recycling at home and fifty eight percent believed that more needs to be done in their local area for recycling.

The Sustainability Advisory Committee was also consulted on the matter and members completed the survey. The Sustainability Advisory Committee members understood the importance of RRF project and supported the introduction of an enhanced recycling service with the preference being for the introduction of a universal recycling wheelie bin service.

## **COMMENT**

The Waste Management review is timely in view of the State's drive to implement programs to facilitate working towards zero waste, the progress made by the Mindarie Regional Council on the RRF and the need to address issues regarding collection formats. The key driver for the recovery of waste is the RRF. The attached Waste Management Strategy has been developed from the imminent introduction of the RRF and the outcomes from the public consultation process. The stand out issue from the process was kerbside recycling and the overwhelming wish of residents to see the introduction of a universal recycling wheelie bin service for all.

Resource recovery is a new concept and is not well understood. This issue has been acknowledged in the Strategy and is addressed in Objective 4 - identifying the need to introduce a community waste education and awareness programs.

## **ATTACHMENTS**

Attachment 1	Waste Management Strategy 2005
Attachment 2	Executive Summary – Report on Community Survey results (Asset Research).

## **VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

### **That Council:**

- 1 ADOPTS the Waste Management Strategy 2005 forming Attachment 1 to this Report;**
- 2 NOTES the strong public support for the introduction of a universal recycling wheelie bin;**
- 3 LISTS for consideration as part of the 2006/2007 budgetary deliberations, implementation of a universal recycling wheelie bin service to all residents.**

*Appendix 13 refers*

To access this attachment on electronic document, click here: [Attach13brf061205.pdf](#)

## **ITEM 16                    LAND REQUEST FOR PROPOSED COMMUNITY HOUSE IN CRAIGIE LOT 671 (178) CAMBERWARRA DRIVE (CORNER OF PERILYA ROAD) – [23562]**

**WARD:** Pinnaroo

**RESPONSIBLE DIRECTOR:** Mr Clayton Higham  
Planning and Community Development

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### **PURPOSE**

To consider the possible disposal of Lot 671 (178) Camberwarra Drive Craigie (Corner Perilya Road) to the Department for Community Development (DCD).

### **EXECUTIVE SUMMARY**

The Department for Community Development (DCD), is seeking from the City a parcel of land identified as Lot 671 (178) Camberwarra Drive Craigie (Attachment 1 - Map of site) as a gift or reduced-value sale, to enable the development of a Community House for the benefit of the surrounding community. The Department made its approach to the City following an assessment of community needs for State Government services and as a result decided to allocate capital works funding toward the construction of a Community House facility in Craigie.

A number of options for Council's consideration were explored and are outlined in detail in the report. Funding of a facility in Craigie by DCD has come as a result of a decision in December 2004, to re-allocate financial support from the potential Currambine project.

The August report to Council (CJ186–08/05 refers) was presented with the following recommendation:

*That Council:*

- 1        *SUPPORTS this State Government initiative by agreeing to the sale of Lot 671 (178) Camberwarra Drive Craigie (Corner Perilya Road) to the Department for Community Development for the construction of a Community House in accordance with the provisions of the Local Government Act (1995) and the Local Government (Functions and General) Regulations 1996;*
- 2        *AGREES to the sale of Lot 671 (178) Camberwarra Drive Craigie (Corner Perilya Road) to the Department for Community Development at its market value at "highest and best use" as determined by an independent property valuer selected by the CEO on behalf of the City of Joondalup;*
- 3        *AGREES that any funds acquired as a result of the sale of Lot 671 (178) Camberwarra Drive Craigie (Corner Perilya Road) to the Department for Community Development be transferred to the City's Strategic Asset Management Reserve Account.*

*The resolution by the Council was as follows*

- 1        *DEFERS consideration of the land request for proposed Community House in Craigie, Lot 671 (178) Camberwarra Drive (corner of Perilya Road);*



- 2 *OBTAINS from the Department of Community Development detailed outcomes for this proposed service, clearly stating how the community house will meet identified community needs;*
- 3 *RECEIVES from the Department of Community Development projected costs of building the community house, giving reasons why the funds currently available will be inadequate if the arrangements for the sale of the land, Lot 671 (178) Camberwarra Drive, Craigie goes ahead; and*
- 4 *REQUESTS the Chief Executive Officer to provide relevant information on budgetary implications should the sale of Lot 671 (178) Camberwarra Drive, Craigie not be realised.*

As a result of the Council's decision further information has been sought from DCD in order to respond to the Council's request for specific information.

The subsequent recommendation to the Council is that the Council:

- 1 *SUPPORTS this State Government initiative by agreeing to the sale of Lot 671 (178) Camberwarra Drive Craigie (Corner Perilya Road) to the Department for Community Development for the construction of a Community House in accordance with the provisions of the Local Government Act (1995) and the Local Government (Functions and General) Regulations 1996;*
- 2 *AGREES to the sale of Lot 671 (178) Camberwarra Drive Craigie (Corner Perilya Road) to the Department for Community Development at its market value as determined by an independent property valuer selected by the City of Joondalup;*
- 3 *AGREES that any funds acquired as a result of the sale of Lot 671 (178) Camberwarra Drive Craigie (Corner Perilya Road) to the Department for Community Development be transferred to the City's Strategic Asset Management Reserve Account.*

## **BACKGROUND**

**Suburb/Location:** Lot 671 (178) Camberwarra Drive Craigie  
**Applicant:** State Government Department for Community Development  
**Owner:** The City of Joondalup  
**Zoning:** **DPS:** Civic and Cultural  
**MRS:** Urban

On 23 March 2005, the City received correspondence from DCD regarding Lot 671 Camberwarra Drive in Craigie. The correspondence indicated that this site had been identified as the most suitable for the construction by DCD of a Community House. The request from DCD outlined its desire for the City to transfer the land to DCD by either gift, lease at a peppercorn rate, or sell at a reduced price.

The State Government, via DCD, is seeking to develop a Community House in Craigie as a result of research undertaken which indicates that there is significant social need in the area for a Community House facility. The State Government has approved the sum of \$390,000 for the purchase of land in Craigie for this purpose.

In order for the development of a Community House in Craigie to proceed, the State Government has transferred an amount of \$500,000 that was previously committed to a joint project with the City for a community facility in Currambine. The State Government's contribution of \$500,000 to the Currambine facility was on the basis that the City of Joondalup would match the funding on a dollar for dollar basis and with some components of

the facility designed to meet the specific needs of DCD. Preliminary designs for the Currumbine facility had included spaces in which counselling and children's services could be conducted.

The decision by DCD to progress the development of a Community House in Craigie was based on data reflecting client numbers, which are higher than in other suburbs of the City. Indicators such as the number of low-income families on Centrelink payments (22%), the number of rental properties (17%) and one-parent families (22%) indicate to DCD that Craigie is a suburb of significant need. The location of the Community House facility within Craigie would not only assist that suburb, but also provide services to residents of Beldon and Padbury, which are also suburbs known to have high social needs.

Indication from DCD is that whilst \$500,000 has been allocated to the project, this amount would only provide a modest Community House. If the City was to gift the land to DCD, it has been suggested that the additional funding of \$390,000 would facilitate the provision of a significantly enhanced facility. This is identified as a preferred option by DCD.

Prior to approaching the City, DCD engaged recognised Property Consultants to seek site options for a Community House. Several potential sites were identified, however the majority were deemed unavailable or unsuitable. The City of Joondalup property in Camberwarra Drive was assessed by DCD to be ideal for the project. The site is 2,000 square metres; it is zoned for Civic and Cultural use and is ideally located in Craigie.

The other sites identified by DCD in the research process and the reasons they considered them not to be suitable are as follows:

<b>PROPERTY</b>	<b>REASON</b>
▪ Lots 1 and 3 Eddystone Avenue	Not supplied by DCD
▪ Lot 674 Eddystone Avenue	Not supplied by DCD
▪ Part of Lot 1025 Camberwarra Drive	Steep grade, not viable
▪ Part of former Craigie High School	Not central and DCD unable to determine availability

The subject land was transferred from North Whitfords Estate Pty Ltd to the City of Joondalup on 13 June 1979, free of encumbrances and at nil consideration, as part of the subdivision process. The City has not identified any immediate use for the property to date.

Community Houses offer State Government programs that support the social well being of community members. A community-based management committee usually manages the activities of the facility and the programs offered are determined by the assessment of and response to community need. Examples of the kinds of support services that are offered through a Community House program are:

- Parenting courses
- Financial Counselling
- Emergency relief funds disbursement
- Low-cost legal services
- Support groups for families with disabilities
- Support groups for families experiencing domestic violence
- Counselling
- Self esteem courses
- Leisure and recreational opportunities

Other than Financial Counselling the types of services and programmes that are identified for this community house are outside of the sorts of services the City would seek to provide. The opportunity for the City to have the state government to provide a facility from which these

services could be provided is an ideal situation, but as they are State Government services, they should be fully funded by the State.

The matter was first considered by the Council at its meeting 30 August 2005 where it was resolved to:

- (i) defer consideration of the land request for the proposed Community House in Craigie,
- (ii) obtain from the DCD further outcomes for service, and
- (iii) seek a greater level of detail regarding the costs of building the community house.

In response to this request by the Council the City corresponded with DCD on 6 September 2005, a subsequent meeting to assist the officers from DCD to provide the required information was convened on 23 September 2005. A response from DCD to the City's request was received on 12 October 2005, and is attached as Attachment 2.

## DETAILS

Lot 671 (178) Camberwarra Drive Craigie was valued by an independent valuer on behalf of the City in June 2004, at \$360,000. The current zoning "Civic and Cultural" does not allow residential development on the site, without a successful rezoning amendment to the City's District Planning Scheme Number 2. The land is adjacent to the Perilya Road commercial precinct and the eastern portion of the lot is affected by a car park adjoining the bowling alley. An agreement is in place for reciprocal parking rights for this lot and the adjoining bowling alley lot. (see Issues Regarding Car Parking Arrangement)

The current zoning of Civic and Cultural on the site would allow the Community House to be developed without advertising the intention for use. It would be advantageous, however, to implement an advertising period of between 21 and 28 days as a discretionary strategy to ensure that the local community are fully informed regarding the proposed Community House.

There are a number of local community facilities located in Craigie and the surrounding suburbs. These buildings meet a variety of needs. Examples of "community model" buildings of this nature are Granny Spiers Community House in Heathridge and the Homestead Community Houses in Beldon and Kingsley. These facilities are built on the model of a large residential building, and designed specifically to create a homely atmosphere. Research demonstrates that this model is a successful way in which to offer social services to local communities. Being located in Camberwarra Drive, Craigie the Craigie Community House would be situated some distance from other "like" facilities.

The facility is likely to assist and support the community for the following reasons:

- The facility will provide services that are not readily available to the residents of Craigie
- The programs on offer will be different to those offered by other similar community facilities in closest proximity
- Other Community Houses – Granny Spiers and Beldon Homestead are well utilised.
- The demographics of Craigie are indicative of an area that requires the delivery of these sorts of services
- The program's would complement rather than detract from those of other community facilities.

Within reasonable proximity of the proposed site are facilities such as the Craigie Leisure Centre, Ocean Ridge Leisure Centre, Rob Baddock community hall and clubroom facilities such as Guy Daniels and Warrandyte. These facilities are purpose-built and better suited to

providing for sport and leisure activities. These buildings are well used at peak times and offer limited options for the types of services that are likely to be based at a community house facility.

The additional information provided by DCD identified that their position of highlighting Craigie as an area of need was based upon key factors from, Australian Bureau of Statistics data, the Department for Community Development's client services data and the Department of Health's Early Developmental Index indicators.

From the data that is available DCD have indicated that the Craigie area has a relatively high number of at risk and vulnerable children due to one or more of the following issues.

- A relatively high percentage of low-income families working or on Centrelink pensions.
- Relatively high number of one parent families including teenage parents
- Social isolation due to poor extended family support
- Significant issues of social violence
- Alcohol and drug abuse, affecting financial management and family and individual functioning
- Limited participation in local community networks and community organisations, often because of feelings of disenfranchisement from the community
- High number of rental properties which lead to a feeling of not belonging to an area

The above information was supported with advice provided by Centrelink, which has not been presented as it is considered confidential and therefore inappropriate for public presentation.

As a result of the issues identified as prevalent in the Craigie area, DCD are seeking the following desired outcomes from the development of a Community House.

- Reduced number of at risk and vulnerable children
- Support for low income and pension supported families
- Strengthening family and community support
- Address family and domestic violence, elder abuse and homelessness
- Address drug and alcohol abuse
- Increase local participation in local community networks and organisations

In the response from DCD they did not state how the community house will meet identified community needs.

The cost of constructing a facility such as the one proposed for the Craigie community would be based on a rate provided by DCD of \$2,000/m<sup>2</sup>. This figure includes consultancy fees and fit out.

Some preliminary work done by DCD has indicated that given the 2000m<sup>2</sup> size of the block, they would look at developing a facility of between 400 and 500m<sup>2</sup>, with a fenced play area of approximately 200m<sup>2</sup>. The parking requirement would need to be determined at the time any formal application to develop the land was lodged.

If a building of these dimensions were to proceed based on the indicative cost of \$2000m<sup>2</sup>, the total cost of the building to DCD would be between \$800,000 and \$1million.

### **Issues and Options:**

In considering the formal approach made by DCD to the City, for the land for the development of a Community House, the City has a number of options.

- Option 1      Sell the land to the Department for Community Development at full market value.
- Option 2      Sell the land to the Department for Community Development at a reduced market value.
- Option 3      Offer the land as a gift to the Department for Community Development.
- Option 4      Lease the land to the Department for Community Development at peppercorn rental.
- Option 5      Lease the land to the Department for Community Development at full market rental
- Option 6      Lease the land to the Department for Community Development at reduced market rental

The implications of each option are identified below:

- Option 1      Sell the land to Department for Community Development at full market price

A market valuation of the land was undertaken as at 18 October 2005 by a licenced valuer and the highest and best use of the land was considered to be a residential use, however, this would be subject to the successful outcome of a rezoning amendment from 'Civic and Cultural' to 'Residential' under the City's District Planning Scheme No. 2 and also taking into account the information within the legal agreement stamped 31 August 1989.

Information from the valuation report states that should rezoning be successful and the land was subdivided into four lots, a developer would be prepared to pay a value of between \$410,000 and \$444,000. Should the City be prepared to use its own resources to carry out the subdivision into four lots, the City could expect to receive between \$536,000 and \$580,000, which would include the profit and risk factor normally taken by the developer and interest on the land value.

- Option 2      Sell the land at a reduced market price

This option has some financial benefits for the City due to the market value of the property, at the same time allowing DCD to make a greater contribution to the construction of the Community House. However, prior to Option 3 being considered further, a plan of the proposed facility and estimated cost for its development together with the type of reduction to be considered should be determined.

- Option 3      Offer the land as a gift to Department for Community Development

If gifted, the land would become an asset of the State Government and the City would forego the market value of the property in the Strategic Asset Management Reserve. While the services to be provided are clearly a State responsibility, there would be some local community benefit in that the \$390,000 allocated for the purchase of land would enable DCD to construct an enhanced facility. The City would receive positive recognition as a result of its contribution to the local community.

- Option 4      Lease the land at peppercorn rental

City could offer the land to the DCD on a peppercorn rental, for a period of 21 years and the DCD to undertake full maintenance of the property. This arrangement has to take into account nil rental return for that period and possibly inheriting a facility that requires

significant maintenance. If the lease agreement is not renewed, the building would revert back to the ownership of the City.

Option 5 Lease the land at full market rental

The City could also offer the land to the DCD on a ground lease and based on the information in the recently acquired valuation, the City could expect a rate of return of between 6% and 8.5%. The valuer's evidence indicated that this was typical for a community building on local government land with a long period lease in place. The rentals obtained in the evidence provided for market review every three years

A rate of return at the high end of the valuation of \$444,000 and would return approximately \$35,000 per annum to the City. Over a 21 year term with 5% increases per year, the total return to the City would be in the vicinity of \$1,250,000 and the value of the land based on a 10% per annum increase could be \$3,000,000.

Option 6 Lease the land to the Department for Community Development at reduced market rental

Within the City's Policy 4.2 – Setting Fees and Charges for lease fees it states:

*Lease fees*

*'Lease Fees' includes all property where a formal agreement to lease, contract to lease or license to occupy is in place or should be in place.*

- 1 *Council recognises that not-for-profit groups are generally*
  - (a) *providing a benefit to the community; and*
  - (b) *not in a position to pay commercial lease rates.*
- 2 *The standard lease fee is therefore set as follows:-*
  - (a) *not-for-profit organisations - equivalent of 1% of current capital replacement cost per annum*
  - (b) *lease fees will be determined in proportion to any contribution mad by a user group to the capital cost;*
  - (c) *all others - market value.*
  - (d) *inclusion of GST where applicable.*
- 3 *Lease fees for vacant land provided to not-for-profit organisations will be that determined by the Valuer-General. Such leases or rental agreements will provide mechanisms for revaluation every three years.*
- 4 *Capital cost will be determined by the Director Corporate Services & Resource Management.*
- 5 *Any existing anomalies to this policy will be rectified as the opportunity arises.*

As DCD is a government organisation, a peppercorn rental under the City's Policy 4.2 is not applicable. With regard to point 3, the Valuer General was not used for the recent valuation, as there are extensive delays when using this department. Generally speaking, the Valuer

General is considered to be conservative when undertaking valuations when compared to valuations carried out by a commercial valuer.

By offering the area of land to DCD at a market ground rent or a reduced rental (Options 4,5 and 6) the City would enable the construction of the Community House to proceed whilst it retains ownership of the land. At the end of the lease term, the building is retained by the City and from an asset perspective provided the facility has been fully maintained, this is an advantage, however, the City has also to consider the consequences of inheriting the services from within the facility

Selling the land to DCD at market or reduced value (Options 2 and 3) would both generate funds, that could be set aside in the Strategic Asset Management Reserve Account, to be used for new community facilities or for capital improvements on existing community facilities.

Gifting the land to DCD (Option 1) would effectively hand the State Government the land with no financial return to the City of Joondalup. It is considered that the State Government is presently in a strong financial position and could fund the purchase of the land at market value and the building of a suitable facility from which it would provide State Government services.

### **Issues Regarding Car Parking Agreement**

It should be noted that there is a legal agreement stamped 31 August 1989 between the City and the owners of AMF Craigie Bowl at Lot 672 (9) Perilya Road, Craigie which is on the eastern boundary of the City's Lot 671. The legal agreement allows the owners of the bowling centre to encroach onto the City's land for use as a car park and to maintain the encroached area. The agreement future states that in the event that the City develops a community facility on Lot 671, the users of the community facility may use this car parking area. A six metre wide landscaping strip was also to be developed along the boundary of the City and bowling centre land as a temporary measure pending the development of a community facility on the City's land, but this was never carried out. The agreement states that both parties and any successors in title are bound by the agreement for as long as Lot 672 is used as a bowling centre or similar use.

### **Link to Strategic Plan:**

Objective 3.1

To develop and maintain City of Joondalup's assets and built environment.

### **Disposal of an Asset by the City of Joondalup**

The land at Lot 671 (178) Camberwarra Drive (Corner of Perilya Road) is unencumbered. The disposal of land by the City would not require a Business Plan if the disposition is less than \$1,000,000.

### **Legislation – Statutory Provisions:**

A disposition of land is defined under section 3.58 of the Local Government Act 1995 to include selling, leasing or otherwise disposing of property whether it be the whole or part of the property. Section 3.58 needs to be adhered to unless the disposition is an 'exempt disposition' as defined under regulation 30 of the Local Government (Functions and General) Regulations 1996. As the City proposes to dispose of the property to State Government, Regulation 30(2)(c)(ii) qualifies the disposition as an exempt disposition.

Accordingly, if the City disposes of the land, by way of sale or a lease agreement to DCD, the statutory requirement outlined above will have been met.

The City has no statutory responsibility to provide this sort of community facility or the types of services as proposed to occur in the facility. The responsibilities vested in the City relate to the following of proper process regarding disposal of freehold land, land ownership, planning and land use.

**Risk Management considerations:**

Not Applicable.

**Financial/Budget Implications:**

Lot 671 Camberwarra Drive Craigie (Corner Perilya Road) was valued in June 2004 at \$360,000. The most recent valuation, carried out in October 2005, estimated that the land value has increased to between \$410,000 and \$444,000. The disposal of this property at market value would generate funds, which could be placed in the Strategic Asset Management Reserve Account.

The leasing of the land to DCD at 8.5% (highest lease return as determined by the valuer) on the higher end valuation of \$444,000 for the un-subdivided land, would return to the City approximately \$35,000 per annum. With 5% increases per year, the total 21 year return to the City would be in the vicinity of \$1,250,000 and the value of the land, based on a 10% per annum increase, could be \$3,000,000.

**Policy Implications:**

The City does not have a policy on the disposal of its freehold land, however, Policy 2.5.2 – Procurement of Council Buildings states as its objective for the City's procurement of new buildings or additions that such buildings or additions shall be subject to review to ensure that they meet the objectives of:

- Strategic Plan;
- Corporate responsibilities, and
- Identified needs.

From preliminary investigations it is known that the Strategic Asset Management Reserve has a significant shortfall and to dispose of this property for any value less than market would dilute the City's net asset position.

**Regional Significance:**

The construction of a community facility in the suburb of Craigie is fundamentally a local issue. The services provided would be mainly intended for delivery to residents of the City of Joondalup who live near to the facility.

**Sustainability Implications:**

The proposal to provide a Community House in the suburb of Craigie addresses the diverse needs of the local community and will have a positive effect on the development of a healthy, equitable, active and involved community.

The Community House will address the objectives outlined earlier in the report.



Disposal for less than market value would negatively impact on the City's financial sustainability.

**Consultation:**

The City has been made aware of the desire of a number of local members of the community for this facility to proceed.

**COMMENT**

Through the sale of the land sought by DCD the City has an opportunity to direct the proceeds into the Strategic Asset Management Reserve for funding its current and future asset responsibilities. Whilst no specific project is identifiable at this time it is likely that there will be a future opportunity to benefit from the availability of the funds from this sale for other community buildings. One potential project that could benefit from the generation of funds in this manner is the Currambine Community Centre. However this project will undergo a feasibility study during the 2005/2006 budget year.

The Currambine project was a City project with a funding contribution from DCD. The facility was to incorporate DCD requirements for joint use of the facility. Following DCD's decision to remove funding it left the City short of funds for the project at that location.

The Community House project is entirely a DCD project for their programs. The City has no identified immediate need for a community facility at this location for programs normally run by the City. DCD are seeking the City's contribution (through the land value) to fund the Community House facility for their programs.

If the City were to purchase land from the State Government the price would be based on the market value of the land at its "highest and best" use which is based on the same principle used in the City's recommendation.

The lease options are not recommended due to the fact that at the end of the lease period the property would revert to the City who would be responsible for refurbishing and maintaining the building. The City is also concerned in relation to the continuation of those services and does not wish to get caught up in a cost shifting exercise.

**ATTACHMENTS**

- |              |  |
|--------------|--|
| Attachment 1 | Map of the site  |
| Attachment 2 | Additional information from Department for Community Development   |
| Attachment 3 | Letter from Kevin Wringe, District Manager Joondalup office Department for Community Development - 23 March 2005 (attached for information only) |

**VOTING REQUIREMENTS**

Simple Majority

## RECOMMENDATION

### That Council:

- 1 SUPPORTS this State Government initiative by agreeing to the sale of Lot 671 (178) Camberwarra Drive Craigie (Corner Perilya Road) to the Department for Community Development for the construction of a Community House in accordance with the provisions of the Local Government Act (1995) and the Local Government (Functions and General) Regulations 1996;**
- 2 AGREES to the sale of Lot 671 (178) Camberwarra Drive Craigie (Corner Perilya Road) to the Department for Community Development at its market value at “highest and best use” as determined by an independent property valuer selected by the CEO on behalf of the City of Joondalup;**
- 3 AGREES that any funds acquired as a result of the sale of Lot 671 (178) Camberwarra Drive Craigie (Corner Perilya Road) to the Department for Community Development be transferred to the City’s Strategic Asset Management Reserve Account.**

*Appendix 14 refers*

To access this attachment on electronic document, click here: [Attach14brf061205.pdf](#)

**ITEM 17            PROPOSED AMENDMENT NO 34 TO DISTRICT  
PLANNING SCHEME NO 2 AND MODIFICATION TO  
THE KINROSS NEIGHBOURHOOD CENTRE  
STRUCTURE PLAN TO INCREASE THE RETAIL  
FLOOR SPACE AT THE KINROSS NEIGHBOURHOOD  
CENTRE, SELKIRK DRIVE, KINROSS – [89577]**

**WARD:**                    North Coastal

**RESPONSIBLE**        Mr Clayton Higham  
**DIRECTOR:**            Planning and Community Development

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**PURPOSE**

The purpose of this report is to seek Council's consent to initiate Amendment No 34 to District Planning Scheme No 2 (DPS2) for the purposes of public advertising and to make modifications to the Kinross Neighbourhood Centre Structure Plan in accordance with the amendment.

**EXECUTIVE SUMMARY**

The Council has received an application to increase the floor space capacity at the Kinross Neighbourhood Centre site, being portion of Lot 2 (400) Burns Beach Road (East). The proposal would require an amendment to the DPS2, in addition to an amendment to the Structure Plan for the land.

Until recently, the area was intended to be served by three retail centre locations, those being:

- Edinburgh Avenue - 1000 m<sup>2</sup> retail floor space limit
- Selkirk Drive - 3000m<sup>2</sup> retail floor space limit.
- Kinross Drive - 500m<sup>2</sup> retail floor space limit.

In November 2005, Council approved rezoning of the minor retail site (Kinross Drive) for residential purposes.

Notwithstanding, retail modelling for Kinross suggests that additional retail floor space would be required. The proposal is to reallocate the 500m<sup>2</sup> (spare) retail space into the Kinross Neighbourhood Centre land, and to allow a further 500m<sup>2</sup> retail floor space on that site. The nett effect would be that two neighbourhood commercial sites would be provided in Kinross, with a total retail capacity of 5000m<sup>2</sup>.

Analysis of the application leads to the conclusion that the consolidation of retail floor space will assist with the viability of the centre, and may also encourage a greater range of services than might otherwise occur.

It is recommended that Council:

- 1 *Pursuant to Section 7 of the Town Planning and Development Act 1928, ADOPTS Amendment No. 34 to the City of Joondalup District Planning Scheme No. 2 to modify Schedule 3 to increase the Net Lettable Area of Portion Lot 2 (400) Burns Beach Road, Kinross from 3000m<sup>2</sup> to 4000m<sup>2</sup>, for the purpose of advertising for a period of 42 days;*
- 2 *Prior to the advertising period commencing, FORWARDS the proposed amendment to the Environmental Protection Authority in order to decide if an environmental review of the proposal is required;*
- 3 *Pursuant to clause 9.7 of the City of Joondalup District Planning Scheme No 2 RESOLVES to adopt the modifications to the Kinross Neighbourhood Centre Structure Plan from 3000m<sup>2</sup> to 4000m<sup>2</sup> and advertise the modifications concurrently with the district planning scheme amendment.*

## BACKGROUND

<b>Suburb/Location:</b>	Kinross
<b>Applicant:</b>	Shrapnell Urban Planning
<b>Owner:</b>	Adriatic United Pty Ltd
<b>Zoning:</b>	<b>DPS:</b> Centre
	<b>MRS:</b> Urban
<b>Site Area:</b>	1.3876 ha
<b>Structure Plan:</b>	Kinross Neighbourhood Centre

There are three commercial centres currently planned in the Kinross area. Each centre has a retail net lettable area (NLA) floor space limit specified in Schedule 3 of DPS2 (Attachment 1) as follows:

- Corner of Kinross Drive and Edinburgh Avenue at Lot 1255 (59) Kinross Drive, Kinross, – 1000m<sup>2</sup>.
- Kinross Neighbourhood Centre at 3 Selkirk Drive, Kinross, (describes as Portion Lot 2 (400) Burns Beach Road (East) in DPS2) – 3000m<sup>2</sup> (the subject site).
- Lot 200 (157) Kinross Drive, Kinross, (described as Portion Lot 2 (400) Burns Beach Rd (North) in DPS2) - 500m<sup>2</sup>.

The centre on the corner of Kinross Drive and Edinburgh Avenue is currently the only existing centre and consists of a small number of shops and services, including a deli, fish and chip shop, chemist, real estate agent, and vet.

Council at its meeting of 11 October 2005 granted planning approval for the Kinross Neighbourhood Shopping Centre, which includes a supermarket, restaurant/shop (café), liquor store, two takeaway food outlets, eleven non-retail tenancies and two automatic teller machines (CJ217-10/05 refers). The total floor space proposed is 4,116m<sup>2</sup>, however, the retail component is restricted to 3,000 m<sup>2</sup>.

On 1 November 2005 Council adopted Amendment No 30 to DPS2 which seeks to rezone Lot 200 (157) Kinross Drive (North) from Commercial (R20) to Residential R30 (CJ237-11/05 refers). It was argued that the subject site did not appear to be viable for Commercial purposes given its location and size. This application is currently pending a decision from the Minister for Planning and Infrastructure.

## DETAILS

### Issues and options considered:

The applicant is proposing to increase the retail floor space of the Kinross Neighbourhood Centre from 3000m<sup>2</sup> to 4000m<sup>2</sup>. The proposal entails the following modification to statutory documents.

- *DPS2 Amendment*

If adopted, DPS2 would be amended by modifying 'Schedule 3 – Commercial and Centre Zones: Retail Net Lettable Area' to increase the retail floor space of the Kinross Neighbourhood Centre from 3000m<sup>2</sup> to 4000m<sup>2</sup>.

- *Structure Plan Amendment*

If adopted, the Kinross Neighbourhood Structure Plan would be amended by modifying section 4.0 to read '4000m<sup>2</sup>' in lieu of '3000m<sup>2</sup>'.

Relevant considerations in regard to this request are:

- Council Policy
- WAPC Policy
- The amount of retail floor space available within the Kinross area.
- The effect of the increase in retail floor space on the Kinross Neighbourhood Centre

### Applicant's Justification

In order to justify the request, the applicant has submitted a Retail Floor space Assessment prepared by a planning consultant specialising in retail assessments. The report recommends:

- The 500m<sup>2</sup> currently allocated to the local centre at Lot 200 (157) Kinross Drive, Kinross, should be reallocated to the planned Kinross Neighbourhood Centre, and
- An additional 500m<sup>2</sup> should be allocated to the Kinross Neighbourhood Centre to compensate for the current and future under provision of neighbourhood level retail floor space in the northern section of Kinross.

The applicant's report submitted raises the following points with regard to existing and proposed retail areas in the near vicinity, which have been summarised below:

#### *Currambine*

Currambine District has a NLA limit of 10,000m<sup>2</sup>. There are no neighbourhood centres although a 'Centre' zone does cover a large area in the vicinity of Connolly Drive and Ascot Way. 3000m<sup>2</sup> has been allocated to this area, however it is unlikely that it will be developed for retail purposes.

#### *Burns Beach*

The Burns Beach Structure Plan provides for a small 'Local Shop' precinct. A population estimate indicates approximately 4640 people. The allocated area has the potential to accommodate between 1000m<sup>2</sup> and 1500m<sup>2</sup> NLA at most and is therefore under provided with retail floor space.

### *Iluka*

A neighbourhood centre below 5000m<sup>2</sup> is allocated to Iluka, however due to the peripheral location of this suburb and its close proximity to the Currambine District Centre, it is likely that any future centre would be considerably less than 5000m<sup>2</sup>.

### *Joondalup*

The neighbourhood is currently serviced by Candlewood Village which has a NLA limit of 2000m<sup>2</sup>. The Joondalup Strategic Regional Centre does not provide good access for daily and even weekly food and groceries, as it is less convenient due to increased traffic as the centre expands.

The full retail assessment report has been placed in the Commissioner's reading room, and will be available for public inspection in the event that Council adopts the proposal for advertising.

### Options

In considering the proposed amendment to DPS2 and the Kinross Neighbourhood Structure Plan, Council can:

- Not adopt the proposed amendments,
- Adopt the amendments for the purposes of public advertising,
- Modify the proposed amendments, and adopt the modified amendments for the purposes of public advertising.

### **Link to Strategic Plan:**

#### *Key Focus Area: City Development*

Outcome: To continue to meet changing Demographic needs

Objective: Integrate plans to support community and business development.

Outcome: The City of Joondalup is recognised for investment and business opportunities

Objective: To provide and maintain sustainable economic development

### **Legislation – Statutory Provisions:**

Section 7 of the Town Planning and Development Act 1928 (TP&D Act 1928) together with Section 25 of the Town Planning Regulations 1967 enable Local Authorities to Amend a Town Planning Scheme and sets out the process to be followed (Attachment 2 refers).

Should the Council support the initiation of the proposed amendment for the purposes of public advertising, the proposed amendment is required to be referred to the Environmental Protection Authority (EPA) to decide whether or not a formal environmental review is required should the EPA decide that an environmental review is not required, upon the City's receipt of written confirmation of this form the EPA, the City advertises the proposed amendment for 42 days.

Upon closure of the advertising period, the Council considers all submissions received during the advertising period and would resolve to either grant final approval to the amendment, with or without modifications or refuse the amendment. The decision is then forwarded to the Western Australian Planning Commission (WAPC) who makes a recommendation to the Minister for Planning and Infrastructure. The Minister can either grant final approval to the amendment, with or without further modifications, or refuse the amendment.

Under clause 9.7 of the Scheme, Council may amend an Agreed Structure Plan subject to approval of the WAPC. In this instance, should Council determine that the proposed amendments are satisfactory the proposal will be advertised for public comment in accordance with clause 9.5 of the Scheme, in conjunction with the DPS2 amendment.

**Risk Management considerations:**

Not Applicable

**Financial/Budget Implications:**

Not Applicable

**Policy implications:**

The City's Centres Strategy (Policy 3-3) recommends that the expansion of a neighbourhood centre be considered in the context of an approved structure plan based on main street principles, particularly if the expansion is over 3,000m<sup>2</sup>. In this regard, the Kinross Neighbourhood Structure Plan applies to the land, and the design of the recently approved Kinross Shopping Centre encompasses 'main street' principles as required by the structure plan. The proposed increase in retail floor space therefore accords with Policy 3-3.

The WAPC Policy 4.2 - 'Metropolitan Centres Policy Statement for the Perth Metropolitan Region' states that Neighbourhood Centres' retail floor space should generally be confined to below 4,500m<sup>2</sup>, unless consistent with a WAPC endorsed local strategy. In this instance, the proposal is to increase the Kinross Neighbourhood Centre retail floor space to 4,000m<sup>2</sup>, which complies with the WAPC Policy.

**Regional Significance:**

The proposal has significance to the local neighbourhood and to the provision of retail floor space within the neighbourhood. The proposal is therefore unlikely to have any regional significance.

**Sustainability implications:**

The increase in retail floor space is considered desirable, as it would increase the range of facilities that could be utilised by the local community. These facilities can add to the social wellbeing of the community and provide additional employment opportunities. There are economic benefits by attracting small businesses to the area.

**Consultation:**

The Town Planning Regulations 1967 require that, should Council adopt the amendment, it be advertised for a period of 42 days. All landowners would be notified in writing, a notice placed in the local newspaper and the Statewide newspaper and a sign placed on the site. The proposed amendment would also be displayed at the City administration centre and on the City's website.

**COMMENT**

It is considered that the retail assessment report submitted with the application provides significant justification for the increase in retail floor space for the Kinross Centre. It is apparent that the Kinross area and the soon to be developed Burns Beach subdivision do not contain significant retail floor space allocations.

Part of the justification for the increase in retail floor space comes from the reallocation of 500m<sup>2</sup> of retail floor space proposed to be removed from the site located at Lot 200 (157)

Kinross Drive. It is likely that a determination by the Minister for Planning and Infrastructure will occur prior to the end of the year. The Minister's decision will be reported and considered following the advertising of this amendment proposal, should Council adopt the proposal for advertising.

It is noted that, if approved, the increase in retail floor space at the Kinross Neighbourhood Shopping Centre would not necessarily translate into the development of a larger shopping centre. It may mean that the existing approved floor space would be utilised for retail purposes, as opposed to, say, office uses.

It is recommended that Council adopt the proposed amendments to DPS2 and the Kinross Neighbourhood Structure Plan for the purpose of public advertising.

## **ATTACHMENTS**

Attachment 1 Location plan – three retail centres

Attachment 2 Scheme Amendment Process

## **VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

### **That Council:**

- 1 Pursuant to Section 7 of the Town Planning and Development Act 1928, ADOPTS Amendment No. 34 to the City of Joondalup District Planning Scheme No. 2 to modify Schedule 3 of the Scheme text to increase the Net Lettable Area of Portion Lot 2 (400) Burns Beach Road, Kinross from 3000m<sup>2</sup> to 4000m<sup>2</sup>, for the purpose of advertising for a period of 42 days;**
- 2 Prior to the advertising period commencing, FORWARDS the proposed amendment to the Environmental Protection Authority in order to decide if an environmental review of the proposal is required;**
- 3 Pursuant to clause 9.7 of the City of Joondalup District Planning Scheme No 2 RESOLVES to adopt the modifications to the Kinross Neighbourhood Centre Structure Plan from 3000m<sup>2</sup> to 4000m<sup>2</sup> and advertise the modifications concurrently with the district planning scheme amendment.**

*Appendix 15 refers*

To access this attachment on electronic document, click here: [Attach15brf061205.pdf](#)



## **ITEM 18                      REVIEW OF CASH-IN-LIEU OF CAR PARKING POLICY 7-10 – [72020]**

<b>WARD:</b>	All
<b>RESPONSIBLE DIRECTOR:</b>	Mr Clayton Higham Planning and Community Development

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### **PURPOSE**

To review the current Cash-In-Lieu of Car Parking Policy to align the policy with the City's District Planning Scheme No 2 (DPS2) and to review current car parking bay valuations.

### **EXECUTIVE SUMMARY**

The Cash-In-Lieu of Car Parking Policy provides parameters for the Council to consider the payment of cash-in-lieu of the provision of on-site car parking bays for a proposed development. The funds received by the City through cash-in-lieu payments are intended to contribute to the construction and management of future car parking demand within the near vicinity of the proposed development.

It is considered that the policy has been operating adequately, however changes are proposed to update references within the policy to align it with the City's DPS2 and to review the value of land which is included within the calculation of cash-in-lieu of parking.

It is recommended that Council:

- 1        In accordance with Clause 8.11.3 of District Planning Scheme No 2 ADOPTS the revised Cash-In-Lieu of Car Parking Policy 7-10 as per Attachment 1 for the purpose of public advertising for a period of twenty-one (21) days for public comment;*
- 2        For the purpose of a cash-in-lieu payment under Clause 4.11 of DPS2, ADOPTS a valuation of a car bay within the Joondalup City Centre of \$25,440;*
- 3        REQUIRES that the cash-in-lieu values be reviewed on an annual basis.*

### **BACKGROUND**

Clause 4.11 of DPS2 allows Council to consider accepting a payment in lieu of the on-site provision of car parking. Cash-in-lieu of car parking provides a potential alternative to the development of on-site car parking should there be a shortfall in the provision of car parking bays as outlined under Table 2 of DPS2. The DPS2 provision does not replace the developer's responsibility to provide on-site parking, but rather is a mechanism to enable otherwise desirable developments, for which the full amount of parking cannot be provided on site, to proceed. However, in accordance with Clause 4.11, there must be an adequate provision or a reasonable expectation in the immediate future, that there will be adequate provision for public car parking in the proximity of the proposed development.

The Cash-In-Lieu of Car Parking policy provides guidance as to when such a payment will be accepted and the value of the payment.

The contribution rate of cash-in-lieu is based on the appropriate land valuation that is applicable to the zoning and the estimated cost of construction of a car bay. Both the

estimated cost of constructing a car bay and land valuation is calculated at a per square metre rate.

The current policy was adopted by the Council in June 1999 (Report CJ213-06/99 refers) and it is now appropriate that it be reviewed due to parts of the current policy referring to Council's Town Planning Scheme No 1 and an increase of land values within the locality.

The Cash-In-Lieu of Car Parking policy applies to all areas within the City of Joondalup with the exception of the City Centre. Given the specific circumstances and needs relating to car parking within the City Centre, a separate Car Parking Strategy applies to the City Centre. This Strategy is currently being reviewed.

## **DETAILS**

### **Issues and options considered:**

#### Land Valuation Review

The City commissioned an independent licensed land valuer to undertake a study of current commercial and industrial land values within the City of Joondalup. At the completion of the reviewed land valuations within the locality, a report was provided to the City outlining the current land values. The figures forwarded were calculated at a rate per square metre and broken down into three land use categories. These land use categories and per square metre land values are:

Joondalup City Centre - \$600m<sup>2</sup>  
Standard District Centres (Service Industrial/Commercial Land) - \$300m<sup>2</sup>  
Beachfront Commercial - \$1,300m<sup>2</sup>

The current policy states that a car bay (at-grade) is assumed to be 30m<sup>2</sup> in area. A bay within a multi level car park (applicable to the City Centre) is 32m<sup>2</sup>. Construction costs are also added to the cash-in-lieu figure, which are currently estimated to be \$1,750 for an at-grade bay, and \$19,040 for a bay within a multi level car park (applicable to the City Centre). Given these parameters, the current value per car bay have been assessed to be:

Joondalup City Centre - \$25,440  
Standard District Centres (Service Industrial/Commercial Land) - \$10,750  
Beachfront Commercial - \$40,750

In regard to the Joondalup City Centre figure, the land value component has been based on the development of a 3 storey multi-deck car park, whereby the land value would be amortised over the total development. The land value has therefore been reduced one-third (ie \$200 m<sup>2</sup>).

#### Current Policy

The Cash-In-Lieu of Car Parking Policy supplements DPS2 by providing relevant details with regards to the acceptance and valuation of proposed Cash-In-Lieu car parking arrangements.

This includes:

- Parking Bay Valuations
- Policy Exceptions
- Details regarding delegated authority in approving development applications that propose cash-in-lieu payments

- Car parking requirements for Royce Court, located on the western side of Joondalup Drive, which is zoned 'Service Industrial' under the DPS2.

Whilst the policy is performing satisfactorily, some changes are proposed to provide reviewed land valuations for calculating proposed cash-in-lieu car parking and to align the current policy to the appropriate clauses of DPS2.

### Proposed Amendments

The amendments proposed to the current policy are as follows (Attachment 1 refers):

- Replacing reference to Part 9 of Council's Town Planning Scheme to read:  
*Part 4.8 of Council's District Planning Scheme No.2*
- Replacing references to Town Planning Scheme to read:  
*District Planning Scheme No.2*
- Omit reference to land values for Residential and General Industrial land.
- Provide revised land valuations for a parking bay, which reads:  
*Service Industrial/Commercial Land - \$10,750*  
*Beachfront Commercial - \$40,750*
- Deletion of the section headed Delegation
- Additional and expanded criteria to Royce Court Policy Statement to read:  
*Should the applicant provide on-site car parking for the equivalent portion of the proposed development that is above a plot ratio of 0.70, a cash-in-lieu payment is not required.*

Separate to the policy amendments, Council is also requested to amend the current cash-in-lieu figure for the Joondalup City Centre from \$8,100 per bay, to \$25,440 per bay.

### **Link to Strategic Plan:**

The recommendation in this report is supported by the following objective and strategy in the City's Strategic Plan 2003 – 2008:

- |                |   |
|----------------|---|
| Objective 3.1  | To develop and maintain the assets and built environment of the City of Joondalup.                                  |
| Strategy 3.1.2 | Facilitate the safe design, construction and approval of all buildings and facilities within the City of Joondalup. |

### **Legislation – Statutory Provisions:**

Clause 8.11 of DPS2 outlines the provisions with respect to the preparation of local planning policies and amendments or additions to policies.

**Financial/Budget Implications:**

The funds received by the City from cash-in-lieu parking arrangement contributes towards the provision and management of future car parking facilities within the locality.

**Risk Management considerations:**

As Council has the ability to accept cash in lieu of the provision of car parking, the dollar amount accepted must reflect the cost to the City of providing that car parking. There is a risk that the City would not be able to fund the provision of car parking should the amount accepted not reflect the costs involved.

**Policy implications:**

To improve the performance of the Cash-In-Lieu of Car Parking Policy by:

- Providing reviewed costs for parking bay valuations.
- To align the current Cash-In-Lieu Policy with DPS2.

**Regional Significance:**

Not Applicable

**Sustainability implications:**

Cash in lieu of car parking enables public car parking to be provided in strategic locations, and assists in reducing the amount of private land that is given over to car parking, and which could be used for other development.

Regulating the amount of car parking in the City Centre will also assist in encouraging other forms of transport to access the CBD.

**Consultation:**

Once a draft policy is prepared or proposed to be modified, it is required to be advertised in accordance with clause 8.11.3 of DPS2 by way of a notice published once a week for two consecutive weeks in the local newspaper, giving notice where the draft policy may be inspected. The draft policy is also advertised on the Council's website. The specified period for advertising should not be less than twenty-one (21) days.

**COMMENT**

The policy has been operating for approximately six (6) years and is considered to function adequately, however it is intended to review the policy to provide current land valuations for calculating proposed cash-in-lieu car parking arrangements.

**Deletion of 'Residential' Category**

The current policy does not apply to residential development. The Residential Design Codes allows discretion to be considered in regard to the provision of on-site car parking for residential development. Therefore, it is rare that cash-in-lieu provisions are used for residential development outside of the City Centre. It is proposed to delete the reference in the current policy to Residential development.

However, should the City receive an application for a residential development where the provision of cash-in-lieu car parking may be appropriate, the applicant will be required to

provide an independent valuation to enable calculation of the appropriate cash-in-lieu payment.

#### Deletion of 'General Industrial' category

Reference in the current policy to cash-in-lieu land valuations for General Industrial development is no longer applicable, as the zoning is not listed under the DPS2. Therefore it is proposed that this reference be deleted.

#### Delegation

Currently, the policy refers to how the policy will be implemented in terms of delegation from Council to staff. Town Planning delegations are subject to a separate document and Council resolution, and it is inappropriate that this policy seeks to confer delegations. Therefore it is proposed that this reference be deleted.

#### DPS2 Alignment

It is also intended to align the current policy with the DPS2 as the current policy refers to clauses and parts from Town Planning Scheme No 1. This will ensure that the appropriate statutory provisions of DPS2 are relevant when considering proposed cash-in lieu parking arrangements associated with submitted development applications.

#### Royce Court

Currently, the Policy outlines that the public parking provided in Royce Court is considered adequate for development up to 0.70 plot ratio on the surrounding lots. Any development on lots within this policy area above a plot ratio of 0.70 will require a cash-in-lieu of car parking contribution to be made to Council. However, a number of developments have been developed above a plot ratio of 0.7 and have provided on-site car parking in lieu of a cash payment. This is considered acceptable, and it is proposed to modify the Policy to reflect that a cash in lieu payment is not required in the event that sufficient on-site car parking is provided.

#### Joondalup City Centre

The Joondalup City Centre is not subject to the cash-in-lieu policy as this area is subject to the Joondalup City Centre Parking Strategy, which aims to meet the specific needs of the City Centre environment. This strategy is to be the subject of a separate review, and, as such, a separate policy regard City Centre cash-in-lieu is not considered necessary.

The strategy indicates that the value of cash-in-lieu for the City Centre would be initially set lower in the early stages and increased in the later stages of the development of the City. The strategy also indicates that the cash-in-lieu amount should, at the very least, cover the land valuation and construction cost of the car bays. In the medium to longer term, it is expected that collected cash-in-lieu monies will fund the development of multi-storey public car parking.

Previously, Council at its meeting held on 9 October 2001 (Report CJ354-10/01 refers) resolved that the cash-in-lieu payment for a bay within the Joondalup City Centre would be \$8,100. The recent land valuation report sets out that the current value of city centre land is approximately \$600 per square metre (\$200m<sup>2</sup> if amortised over a 3 level car park), plus construction costs (\$19,040 for a multi deck bay).

Therefore, the current value of a car bay is \$25,440. This figure is substantially higher than the currently adopted figure, however, this figure has not been reviewed for six years. Given

the increasing maturity of the city centre, combined with growing demand for parking, it is considered appropriate and necessary that the cash-in-lieu figure reflect current land values.

Therefore it is recommended that Council adjust the Joondalup City Centre cash-in-lieu figure (via resolution) to \$25,440.

## **ATTACHMENTS**

Attachment 1            Cash-In-Lieu of Car Parking Policy 7-10 (Revised)

## **VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

### **That Council:**

- 1        in accordance with Clause 8.11.3 of District Planning Scheme No 2 ADOPTS the revised Cash-In-Lieu Policy 7-10 as per Attachment 1 to this Report for the purpose of public advertising for a period of twenty-one (21) days for public comment;**
- 2        for the purpose of a cash-in-lieu payment under Clause 4.11 of DPS2, ADOPTS a valuation of a car bay within the Joondalup City Centre of \$25,440;**
- 3        REQUIRES that the cash-in-lieu values be reviewed on an annual basis.**

*Appendix 16 refers*

*To access this attachment on electronic document, click here: [Attach16brf061205.pdf](#)*

**ITEM 19                      SINGLE HOUSE:    RETROSPECTIVE APPROVAL  
FOR                      UNAUTHORISED                      COMMUNICATIONS  
ANTENNAE - SATELLITE DISH AND MAST – LOT  
595 (16) MAINSAIL DRIVE, OCEAN REEF – [00922]**

**WARD:**                      Marina

**RESPONSIBLE                      Mr Clayton Higham  
DIRECTOR:**                      Planning and Community Development

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**PURPOSE**

To request the Council's determination of an application for retrospective planning approval for an unauthorised communications antennae - satellite dish and mast at Lot 595 (16) Mainsail Drive, Ocean Reef.

**EXECUTIVE SUMMARY**

The site is located at 16 Mainsail Drive in Ocean Reef and zoned Residential with a density of R20. The site is occupied by a two-storey dwelling and is surrounded by single residential properties. The application is for retrospective approval for an existing satellite dish and mast.

The size of the existing satellite dish requires it to be defined as a "communication antenna" under the District Planning Scheme No 2 (DPS2) and as such, is a "D" use in the Residential Zone. A "D" use is a use that is not permitted, but Council may grant its approval after following the procedures set out in subclause 6.6.2 of the DPS2.

The applicant previously sought Council's planning approval for a communication antenna in 2000. The application was refused.

The applicant subsequently erected a communications antenna on the building. The DPS2 allows the erection of a mast and antenna (satellite dish) without planning approval, provided it meets certain criteria. However, the structure exceeds the criteria set out in subclause 6.1.3(b) of DPS2 and as such, the applicant was required to obtain planning approval before it was erected. The applicant is now requesting retrospective approval for the communications antenna in its current location.

The communications antenna is clearly visible from the street and is prominent from the back of the adjacent properties to the rear. The dish is 3 metres in diameter, is motorised and is attached to a mast located on the roof of the ground floor of the dwelling. The satellite dish sits above the profile of the dwelling in its resting position and increases in height during use.

The application for retrospective planning approval was advertised for comment and submissions were received in relation to the application.

The retrospective application for a communications antenna is placed before the Council as:

- Planning approval was required for the structure prior to its erection, as a mast or antenna, with a vertical or horizontal dimension exceeding two metres, required approval under Clause 6.1.3 (b) of the DPS2;
- Planning approval was previously refused for its erection; and

- Discretion is required to be exercised under the Codes Clause 3.10.2 – External Fixtures as the satellite dish is visible from the primary street and is in a visually obtrusive location; and
- Should Council refuse the application, a resolution to commence legal action to have the structure removed is required.

Having regard to the provisions of the DPS2, the Codes and the submissions received, it is recommended that the application for retrospective planning approval be refused and the applicant be required to remove the communications antenna.

## BACKGROUND

<b>Suburb/Location:</b>	Ocean Reef
<b>Applicant:</b>	Maurice Robert Pearce
<b>Owner:</b>	Patricia Gomez and Maurice Robert Pearce
<b>Zoning:</b>	<b>DPS:</b> Residential R20
	<b>MRS:</b> Urban
<b>Site Area:</b>	903m <sup>2</sup>
<b>Structure Plan:</b>	Not Applicable

The property is located in an established residential neighbourhood, with single houses across the road and to both sides and the rear (See attachment 1). The DPS2 zoning for the subject site and surrounding lots is Residential with a density of R20.

The applicant made a similar application for a communications antenna in July 2000. A summary of that application process follows:

27/07/2000	Application received by Council for satellite dish, patio and boundary wall.
31/07/2000	Advertising commenced.
04/08/2000	Objection received from near neighbour.
14/08/2000	Applicant advised of objection and advised did not want to relocate dish because: <ul style="list-style-type: none"> <li>- Dish unable to receive messages; and</li> <li>- Does not want to look at dish in back yard.</li> </ul>
23/08/2000	Council proposed alternate location for communications antenna. Not considered by the applicant to be acceptable.
23/08/2000	Objecting owners contact the Council with a submission regarding the satellite dish and its effect on their amenity. Included in the submission is a photograph of the view into the subject property from their property.
24/08/2000	Amended plans received.
07/09/2000	Delegated Authority Report presented to Council.
07/09/2000	Application refused at Delegated Authority, as <i>'The proposed satellite dish would have an adverse impact on the amenity of the adjoining residential lots due to its height and scale and visually obtrusive location'</i> .
11/09/2000	Refusal issued to the applicant.

In November 2003, the objecting property owner sold his property. On 26 April 2005, an adjoining owner informed the Council that the satellite dish had been erected.

27/04/2005	A site inspection revealed a large satellite dish and mast visible from the front of the property and the road at the rear. Letter sent giving the property owner 14 days to submit a development application or remove the dish and mast.
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11/05/2005	Second letter sent requesting removal of the dish and mast or submission of development application within 14 days.
26/05/2005	Application received for retrospective approval for the satellite dish.
01/06/2005	Acknowledgement letter sent to the applicant.
09/06/2005	Advertising commenced.
20/06/2005	Non objection received.
22/06/2005	Non objection received.
24/06/2005	Two objections received.
24/06/2005	Advertising concluded.
20/07/2005	Site visit conducted.
20/07/2005	Advice sought from installation companies regarding satellite dish
28/09/2005	reception/dish location requirements in the City of Joondalup.

The applicant submitted in excess of 700 complaints regarding satellite dishes located within the City of Joondalup that the applicant believes are unlikely to comply with the limitations of DPS2 and/or to which approval may not have been given. The City is currently considering the most appropriate manner in which to investigate these complaints.

Notwithstanding that other satellite dishes may have been erected without approval, the City is required to assess the subject application on its planning merits in accordance with the DPS2, relevant planning policies and the Residential Design Codes 2002.

## DETAILS

The applicant requests retrospective approval for the existing satellite dish, which is 3 metres in diameter and fixed to the roof of the ground floor of the existing two-storey dwelling. The height of the satellite dish, as shown on the plans, is approximately 6.5 metres above natural ground level at that location on the site. However, the mast can be extended beyond this point and the satellite dish tilts during operation, which further increases the overall height to approximately 8.3 m above natural ground level or 5.1m above the ground floor roof.

The applicant has provided justification for the variations. The applicant's letter is included as Attachment 5 to this report. A summary of the justification is below:

- The dish has been re-painted from black to pewter blue to blend in with the sky, as much as possible
- The mast when fully extended only reaches 1.6 meters
- Mounting the dish on the southern end of the building would not have been functional and would have affected the aesthetics of the house and the streetscape
- A mast is differentiated from a satellite dish [so that satellite dish and mast should be calculated separately]
- The definition requires planning consent if the horizontal and vertical dimensions exceed two meters. Please note that a prime focus satellite dish is a portion of a sphere and has no horizontal or vertical dimensions
- The satellite dish blends in with the roof and is barely noticeable from the front of the property
- I have installed the dish very close to the roof
- Views do not belong to anyone
- My application for satellite dish should be treated the same as other applications

**Issues and options considered:**

Council has the discretion to:

- Approve the application without conditions;
- Approve the application with conditions; or
- Refuse the application.

Council also has the option of commencing legal action to remove the unauthorised structure.

**Link to Strategic Plan:**

The proposal does not contribute to Key Focus Area Outcomes of City Development.

**Legislation – Statutory Provisions:**Need for Planning Approval

The DPS2 exempts certain types of development. In relation to a mast or antenna, the Scheme states the following:

6.1.3 *The Council's prior Planning Approval on land zoned by the Scheme is not required if the development consists of:*

- the erection of a boundary fence;*
- the erection on a lot of a single house which will be the only building on that lot and where a dwelling is a permitted ("P") use in the zone in which that lot is situated. **For the purposes of this subparagraph, the term "single house" does not include the erection of a mast or antenna where either its vertical or horizontal dimension exceeds two metres, the erection of which requires prior Planning Approval;***

Interpretations

The DPS2 defines a "mast and antenna" as follows:

***mast or antenna*** : means any mast, aerial, satellite dish and other associated equipment used for the transmission or reception of radio or television signals or for other electronic communications. A television antenna on a dwelling roof being consistent with the predominant style and size of television antenna on other dwellings in the locality is not included, provided its vertical and horizontal dimensions do not exceed two metres. (See "communications antenna".)

The Scheme defines a communication antenna as follows:

***communications antenna***: means any mast, antenna, aerial, satellite dish and other associated equipment used for the reception or transmission of television or radio signals or for other electronic communication where its vertical or horizontal dimensions exceed two metres but does not include telecommunications infrastructure.

Table 1 – The Zoning Table of the DPS2 lists, amongst other land uses, two specific land uses that relate to this application. Those land uses are "Communication Antenna" and

“Communication Antenna – Domestic”. DPS2 defines a “communication antenna”, however, the Scheme does not define “communication antenna – domestic”.

In an appeal to the Town Planning Appeal Tribunal (TPAT) against a decision made by the Council in relation to an unauthorised mast, the TPAT provided an interpretation of the term “communication antenna – domestic”. The following is an extract from that decision handed down by TPAT in the appeal Daines And City of Joondalup [2003] WATPAT 27 as follows:

- 20 *Table 1 of the scheme (zoning table) makes reference to both a ‘Communication Antenna’ as defined and ‘Communication Antenna - Domestic’. There is no interpretation of what the latter means and the Tribunal is of the view that a ‘Communication Antenna - Domestic’ is two metres by two metres or less in size and associated with the everyday function of a domestic dwelling.*

Should this matter proceed to a review by SAT, SAT will consider the decision and issues made by the then TPAT in the case of Daines And City of Joondalup as part of the review of Council’s decision.

Based on the interpretation provided by the then TPAT, the proposed satellite dish would be considered as a “communication antenna”.

### Land Use

Having regard to the TPAT interpretation, Table 1 – Zoning Table identifies a “communication antenna” as a “D” land use. A “D” land use is defined in the Scheme as follows:

- “D” *A Use Class that is not permitted, but to which the Council may grant its approval after following the procedures laid down by subclause 6.6.2.*

### Planning Considerations

When considering the application for retrospective Approval, Council is required to have regard to the following clauses:

#### 6.8 MATTERS TO BE CONSIDERED BY COUNCIL

6.8.1 *The Council when considering an application for Planning Approval shall have due regard to the following:*

- (a) *interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
- (b) *any relevant submissions by the applicant;*
- (c) *any Agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;*
- (d) *any planning policy of the Council adopted under the provisions of clause 8.11;*
- (e) *any other matter which under the provisions of the Scheme the Council is required to have due regard;*
- (f) *any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;*

- (g) *any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;*
- (h) *the comments or wishes of any public or municipal authority received as part of the submission process;*
- (i) *the comments or wishes of any objectors to or supporters of the application;*
- (j) *any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and*
- (k) *any other matter which in the opinion of the Council is relevant.*

6.8.2 *In addition to the matters referred to in the preceding subclause of this clause, the Council when considering whether or not to approve a “D” or “A” use application shall have due regard to the following (whether or not by implication or otherwise they might have required consideration under the preceding subclauses of this clause):*

- (a) *the nature of the proposed use and its relationship to the use of other land within the locality;*
- (b) *the size, shape and character of the parcel of land to which the application relates and the nature and siting of any proposed building;*
- (c) *the nature of the roads giving access to the subject land;*
- (d) *the parking facilities available or proposed and the likely requirements for parking, arising from the proposed development;*
- (e) *any relevant submissions or objections received by the Council; and*
- (f) *such other matters as the Council considers relevant, whether of the same nature as the foregoing or otherwise.*

### Enforcement Provisions

The following provisions of the DPS2 relate to the enforcement of the Scheme, as this development has been constructed without Council planning approval:

## 8.8 GENERAL OBLIGATIONS

*Subject to the provisions of the Act and all regulations made thereunder and to Part 7 of the Scheme, no person shall depart from or permit or suffer any departure from the requirements and provisions of the Scheme, nor shall any person commence or carry out or permit the commencement or carrying out of any development which:*

- (a) does not conform with the Scheme; or*
- (b) being or involving a use or other development which requires the approval of the Council or the Commission or both, does not have such approval or approvals is not permitted; or*
- (c) does not comply with the terms of any approval or any condition attached thereto.*

## 8.9 NOTICE FOR REMOVAL OF CERTAIN BUILDINGS

*8.9.1 Twenty eight (28) days' written notice is hereby prescribed as the notice to be given pursuant to Section 10 of the Town Planning Act for the removal of certain buildings.*

*8.9.2 Council may recover expenses under section 10(2) of the Act in a court of competent jurisdiction.*

## 8.10 OFFENCES

*8.10.1 No person shall depart from or permit or suffer any departure from the requirements and provisions of the Scheme, nor shall any person use or suffer or permit the use of any land or building or undertake or suffer or permit the undertaking of any development within the Scheme Area:*

- (a) otherwise than in accordance with the provisions of the Scheme;*
- (b) unless all approvals required by the Scheme have been granted and issued;*
- (c) unless all conditions imposed upon the grant and issue of any approval required by the Scheme have been and continue to be complied with;*
- (d) unless all standards laid down and all requirements prescribed by the Scheme or determined by the Council pursuant to the Scheme with respect to that building or that use of that part have been and continue to be complied with.*

*8.10.2 Any person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to such penalties as are prescribed by Section 10 of the Act.*

### **Risk Management considerations:**

Not Applicable

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

Costs could be incurred if Council is required to take legal action in relation to this matter.

**Policy implications:**

Not Applicable

**Regional Significance:**

Not Applicable

**Sustainability implications:**

Not Applicable

**Consultation:**

Comments were sought in accordance with the requirements of the Codes and DPS2 via letters sent to 6 surrounding and adjoining owners likely to be impacted by the development. The letter advised them of the proposed development, with plans and supporting documentation made available for perusal at the City's offices for two weeks from 9 June 2005 to the 24 June 2005.

Two letters of no objection with and two letters of objection have been received from adjacent and nearby owners with regard to the development.

A summary of the submissions and responses to those submissions is shown below:

- No objection
- When the dish is fully extended it protrudes over 8 to 10 feet outside the property's normal profile.
- It is out of character with the area.
- It will set a precedent in the area.
- There is no need for a dish of this size in an obtrusive location.
- Underground cable is available.
- The structure damages both the character and value of the surrounding properties.
- The application was previously refused
- The dish obstructs our ocean view.
- It devalues our property.
- It is an eyesore.
- When it rotates 180 degrees it has a huge impact on our view.
- When it is 'on' it rises about 1 foot higher obstructing our view.

**Comments**

The following comments are made in relation to the application:

### Impact on Amenity

The Codes in Clause 3.10.2 provide for the following incidental development:

#### *3.10.2 External Fixtures*

##### Acceptable Development

*A2.1 Television aerials of the standard type, essential plumbing vent pipes above the roofline and external rainwater downpipes.*

*A2.1 Other external fixtures that:*

- (i) are not visible from the street;*
- (ii) are designed integrally with the building; or*
- (iii) are located so as not to be visually obtrusive.*

*A2.3 Antennas, satellite dishes and the like not visible from the street.*

##### *Performance Criteria*

*P2 External fixtures that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.*

The communications antenna is clearly visible from the street and adjoining properties. Its visibility is more distinct from the rear properties as ground levels are elevated above the level of the subject site. Additionally, the size and bulk of the dish at 3 metres in diameter plus the additional mast height, plainly contrasts with the surrounding structure of the house (see attached photos in Attachment 4).

Advice has been sought from satellite companies that install dishes in the area with regard to the achievability of reception from domestic properties. The advice received suggests that the lowest satellite that would need to be accessed is located at 17 degrees from horizontal to the northeast. However, the majority of satellites for domestic access are located at 42-45 degrees from horizontal to the north, or higher (+45 degrees). The dish needs a clear line of sight from dish to satellite in order to achieve a signal. Trees, fences, buildings etc can all interrupt the signal.

There are two levels on the subject site due to a retained section in the rear portion of the yard. The dish could be located either immediately adjacent to the existing dwelling or on the raised level further away from the dwelling. In either scenario, the dish would be significantly less obtrusive to adjoining properties, and would not be visible from the street.

It is considered, according to this advice, that the dish can be relocated within the subject property without impacting on the ability of the dish to receive signal.

According to the plans and supporting documentation submitted, the dish exceeds the requirements of the DPS2 (maximum horizontal or vertical dimension of two metres) by 1 metre when not operating, 1 metre when the dish is tilted with the mast in its lowest position, and approximately 2.3 metres when the mast is extended. As it is located on the roof of the ground floor (fixed at approximately 4 metres above natural ground level), the height and size of the dish is further apparent so that the entire structure when extended sits at approximately 8.3 metres above natural ground level.

Furthermore, the dish does not meet the Acceptable Development provisions or Performance Criteria of the Codes as it is clearly visible from the street in resting and active position, and the dish is visually obtrusive to neighbouring properties.

### Underground Cable

The City has contacted service providers and Foxtel is available via underground cabling. A satellite dish is still required for access to any other commercial or domestic service satellite.

### Other Satellite Dishes and Antennae

The City aims to investigate all complaints regarding satellite dishes and antennae that are already developed within the City. The City may determine that the development is already approved *or* meets the acceptable development standards and does not require an approval *or* was developed in accordance with a previous policy or legislation and therefore is acceptable *or* requires a retrospective planning approval.

It is generally the case that complaints against existing satellite dishes and antennas come from immediately affected properties, and that these complaints are made regarding the negative impact that those developments have on the immediate neighbourhood amenity.

Where the City assesses that a development, either proposed or retrospective, is acceptable after having due regard for relevant policies, legislation, and adjoining owners comments, it is likely that the City will approve that development. However, if the development is not considered acceptable, the City will require the removal or alteration of that development.

That is to say, that each case will be considered on the merits of that particular case.

### **COMMENT**

It is considered that the dish in its current location detracts from the streetscape and the amenity of neighbouring properties. This is a key issue of concern with the evaluation of such proposals.

The issue has raised concerns about the height and size of antenna required to receive appropriate quality of TV reception. This aspect will be considered as a component of the examination of the forthcoming review of the District Planning Scheme No 2. In the meantime, a policy is also being prepared to provide appropriate guidelines. The policy is likely to be presented to the Council as soon as possible.

Notwithstanding that examination, it is apparent that this application exceeds the bulk and height of a communications antenna that is generally contemplated and acceptable in a residential area.

Having regard to the:

- details of the application;
- the submissions received during the consultation process; and
- provisions of the District Planning Scheme No 2; and
- the Residential Design Codes;

It is recommended that Council refuses the application.

### **ATTACHMENTS**

Attachment 1	Locality Plan
Attachment 2	Development Plans
Attachment 3	Aerial Photo
Attachment 4	Photos
Attachment 5	Applicant Justification



**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION****That Council:**

- 1** Having regard to the orderly and proper planning of the locality, **REFUSES** the application for planning consent dated 26 May 2005 submitted by M R Pearce, the applicant, on behalf of the owner(s), MR and PG Pearce for Single House – Retrospective approval for a communications antenna (oversized satellite dish and mast) on Lot 595 (16) Mainsail Drive, Ocean Reef, for the following reasons:
  - (a) The communication antenna is clearly visible from the primary street, which will have an adverse impact on the streetscape;
  - (b) The communications antenna is visually obtrusive to neighbouring properties, which will have an adverse impact on the amenity of adjoining properties;
- 2** **ADVISES** the applicant that:
  - (a) The unauthorised communication antenna shall be removed within 28 days of issue of the refusal;
  - (b) Any proposal to erect a communication antenna requiring approval under the City of Joondalup District Planning Scheme No 2, the Residential Design Codes 2002 or any relevant Policy of the City shall be lodged with the City prior to the commencement of any works whatsoever;
  - (c) Should the applicant fail to remove the communications antenna in accordance with part (2)(a) of Council’s resolution, the City is authorised to commence legal action after the specified time;
- 3** **NOTES** that the forthcoming review of the District Planning Scheme will include a review of the issue of satellite dishes and antennas within the community and that a policy on this issue is currently under development.

*Appendix 17 refers*

To access this attachment on electronic document, click here: [Attach17brf061205.pdf](#)

## **ITEM 20                    PROPOSED CHILD DAY CARE CENTRE: LOT 207 (87) BLACKALL DRIVE, NORTH EAST CORNER, ALLENSWOOD ROAD, GREENWOOD – [86130]**

**WARD:**                    South

**RESPONSIBLE  
DIRECTOR:**             Mr Clayton Higham  
                                 Director Planning and Community Development

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### **PURPOSE**

To request Council's determination of an application for planning approval for a Child Day Care Centre (CDCC) development at Lot 207 (87) Blackall Drive, north-east corner Allenswood Drive, Greenwood.

### **EXECUTIVE SUMMARY**

The application for planning approval is for the proposed conversion of the existing house into a 19 place Child Day Care Centre on Lot 207 (87) Blackall Drive, Greenwood. The lot is located on the north-eastern corner of Blackall Drive and Allenswood Road, Greenwood, and it is within a single residential area.

The CDCC is a discretionary ('D') land use, that is, a land use class that is not permitted, but to which the Council may grant its approval after following advertising procedures.

The nature of the proposed commercial use of the site and the times that this activity occurs represents an intensification of the use of the site, when compared to a single house, which is the predominant land use within this locality. When the application was advertised for community comment, adverse comment was received from surrounding property owners.

The proposed development does not satisfy the criteria for the location of CDCCs, as set out in Council's Local Planning Policy 3.1 – Child Care Centres, and does not comply with some requirements of the District Planning Scheme No 2 (DPS2).

Whilst a development of this type can satisfy a community need, the location of the proposed land use and design of the development is considered inappropriate and likely to adversely impact upon the amenity of the adjoining and surrounding residential properties.

On the basis of the above, it is recommended that the application for planning approval be refused.

### **BACKGROUND**

<b>Suburb/Location:</b>	Greenwood
<b>Applicant:</b>	Ljubica Ristovski
<b>Owner:</b>	Karl Ristovski
<b>Zoning:</b>	<b>DPS:</b> Residential
	<b>MRS:</b> Urban
<b>Site Area:</b>	690m <sup>2</sup>
<b>Structure Plan:</b>	Not applicable

The application was submitted on 6 April 2005. Issues were raised with the applicants in relation to parking, landscaping and other matters, and as a result, amended plans were received on 30 September 2005.

## DETAILS

The proposal involves a change in land use, converting the existing single house into a CDCC. The existing building is setback as follows:

- 7.1m from the southern (Blackall Drive) boundary;
- 7.5m from the western (Allenswood Road) boundary;
- 3.5m from the northern boundary; and
- 9.0m from the eastern boundary

The subject site has a land area of 690m<sup>2</sup> and is located on the northeast corner of Blackall Drive and Allenswood Road. The closest commercial centre is approximately 750m away while the closest primary school is 450m away from the site. The surrounding land uses are single residential houses.

There is an existing roundabout at the road junction. The CDCC is proposed to operate between the hours of 7:00am to 6:30pm, five days per week (Monday to Friday), excluding Public Holidays.

Vehicle and pedestrian access to the site is from Blackall Drive. The proposed crossover is setback approximately 5.8 metres from the common boundary with 1 Annato Street (the property that abuts the rear of this site).

The car parking area serving the proposed land use:

- is located on the eastern side of the development site;
- it abuts the property boundaries of 1 Annato Street (eastern side) and 94 Blackall Drive (eastern part of the northern side);
- has a central driveway between the existing building, two car parking spaces and a reversing bay on its western side and 7 parking spaces on the eastern side (along the common boundary with 1 Annato Street);
- provides a total of nine spaces, which includes one disabled parking bay;
- has a 0.6 metre landscaping strip along the eastern side of the parking area and the property at 1 Annato Street and a landscaping strip between the northern end of the car parking area and the property at 94 Allenswood Drive of between 0.5 metres to 1.0 metre; and
- has a reversing width ranging from 4.0 metres (northern portion of the site) to more than 6.1 metres for the southern portion of the parking area.

The single house at 1 Annato Street, Greenwood is setback approximately 10 metres from the common boundary with the development site. There is a shed on 1 Annato Street, Greenwood, which abuts the subject property.

The play areas for the centre are proposed to be located in two primary areas, with the areas linked to each other. The northern play areas are located next to the property that fronts Allenswood Road. The remaining play areas front the corner of Allenswood Road and Blackall Drive, Greenwood.

In support of the application, the applicant has provided:

- A letter stating that there is an identified demand for additional Child Care Centres within the Greenwood area and that there will be minimal interruption to the traffic flow on Allenswood Road and Blackall Drive as the existing roundabout regulates the traffic flow at this junction;
- A traffic engineer's report; and
- An acoustic report.

Following objections raised by surrounding property owners during the advertising process, the applicant has provided additional information, which is outlined below:

*It has to be highlighted that the purpose of the proposed Child Care Centre is to develop a Child Care Service which will be run similar to a family day care service instead of a commercial type Child Care Centre.*

*There is a demand for additional Child Care Centre in the Greenwood area where there are four primary Schools and only one Child Care Centre (located on the eastern end of this suburb), which would not be sufficient to care for the children before they reach the school age.*

*Because of the specific:*

- *size (caring only for 19 children)*
- *site characteristics (being within the residential area and away from big arterial roads),*
- *design (preserving the exact visual appearance of a private dwelling)*
- *nature (being run very similar to a Family Day Care in a domestic, home-like environment)*

*This proposed Child Care Centre will not have an adverse impact on the amenity of the area or the level of service provided by similar existing or approved facilities enjoyed by the community. On the contrary, it will address the needs and expectations of the commuting parents for a new, differently operated Child Care Centre (not as others operate as Commercial ventures).*

*There will be 9 parking bays provided on-site which will accommodate the needs for the reciprocal arrangements:*

*Four parking bays for staff (three of them are already allocated and labelled for the staff usage) and 5 for parents including a parking bay allocated in close proximity to the main entry of the building which ensures easy and safe wheelchair access to the Centre.*

*All the parking bays will be workable in terms of reversing and manoeuvrability and sufficient internal manoeuvrability space will be provided on the site to accommodate ease of access/egress.*

*The traffic circulation system is designed to allow safe drop-off and collection of children and safe movement and parking for parent, staff, visitors and service vehicles.*

*In addition to that, there is an abundance of on-street parking bays along Allenswood Road, at only 20 metres from the dwelling.*

*This area is also serviced by public transport, precisely by two different bus lines, whose bus-stopping stations are located within walking distance from the proposed Child Care Centre.*

*For greater safety of the pedestrians walking along the footpath on the north side of Blackall Drive, a speed bumper will be built on the entrance/exist of the car park of the proposed Child Care Centre.*

*Also, the proposed Child Care Centre will provide a service picking up the children from their homes (service available to the parents residing within the suburb) in the mornings. This will reduce the need for parking spaces on site, and also reduce the noise level coming from opening/closing the doors and starting the engines of the vehicles caused by dropping off children at the Centre.*

*The Western Australian Planning Commission Draft Policy regarding Child Care Centres states that “the visual appearance of the development should reflect the character of the area and enhance its amenity”. The provision of the proposed Child Care Centres complies with the Policy because the visual appearance of the existing private dwelling will stay intact.*

*The Western Australian Planning Commission Draft Policy regarding Child Care Centres states that ‘Sites selected for child care centres should be of sufficient size to accommodate the development, including all buildings and structures, parking for staff and parents, pick-up and drop-off areas, outdoor play areas and landscaping...’ The subject area is 690m<sup>2</sup>, which will still be sufficient to comfortably accommodate 19 children and comply with the policy regarding the parking space for staff and parents, outdoor play areas, buildings and structures.*

**Issues and options considered:**

Council has the discretion to:

- Approve the application without conditions;
- Approve the application with conditions; or
- Refuse the application.

**Link to Strategic Plan:**

Not applicable

**Legislation – Statutory Provisions:**

A CDCC is a “D” use in a Residential area. A “D” use means:

*“A use class that is not permitted, but to which the Council may grant its approval after following the procedures laid down by subclause 6.6.2.”*

Clause 6.6.2 requires that Council in exercising discretion to approve or refuse an application shall have regard to the provisions of clause 6.8, which is shown below:

**6.8 MATTERS TO BE CONSIDERED BY COUNCIL**

*6.8.1 The Council when considering an application for Planning Approval shall have due regard to the following:*

- (a) interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
- (b) any relevant submissions by the applicant;*
- (c) any Agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;*
- (d) any planning policy of the Council adopted under the provisions of clause 8.11;*
- (e) any other matter which under the provisions of the Scheme the Council is required to have due regard;*

- (f) *any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;*
- (g) *any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;*
- (h) *the comments or wishes of any public or municipal authority received as part of the submission process;*
- (i) *the comments or wishes of any objectors to or supporters of the application;*
- (j) *any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and*
- (k) *any other matter which in the opinion of the Council is relevant.*

With the proposed use being a “D” use, the additional matters identified in Clause 6.8.2 also require Council consideration in relation to this application for Planning Approval:

6.8.2 *In addition to the matters referred to in the preceding subclause of this clause, the Council, when considering whether or not to approve a “D” or “A” use application, shall have due regard to the following (whether or not by implication or otherwise they might have required consideration under the preceding subclauses of this clause):*

- (g) *the nature of the proposed use and its relationship to the use of other land within the locality;*
- (h) *the size, shape and character of the parcel of land to which the application relates and the nature and siting of any proposed building;*
- (i) *the nature of the roads giving access to the subject land;*
- (j) *the parking facilities available or proposed and the likely requirements for parking, arising from the proposed development;*
- (k) *any relevant submissions or objections received by the Council; and*
- (l) *such other matters as the Council considers relevant, whether of the same nature as the foregoing or otherwise.*

#### 4.8 CAR PARKING STANDARDS

4.8.1 *The design of off-street parking areas including parking for disabled shall be in accordance with Australian Standards AS 2890.1 or AS 2890.2 as amended from time to time. Car parking areas shall be constructed and maintained to the satisfaction of the Council.*

4.8.2 *The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in Table 2 the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.*

**TABLE 2 (CLAUSE 4.8) - CAR PARKING STANDARDS**

<b>USE CLASS</b>	<b>NO OF ON-SITE PARKING BAYS (NLA = NET LETTABLE AREA)</b>
<i>Child Care Centre</i>	<i>Not less than 5 and 1 per staff member</i>

**Development Standards under District Planning Scheme 2 (DPS2) and Local Planning Policy 3.1 – Child Care Centre**

<b>Standard/Requirement</b>	<b>Required</b>	<b>Provided</b>
Front setback (Blackall Drive)	6.0m minimum	7.1m
Rear setback ( northern side)	1.5m minimum	3.5m
Side setback (Allenswood Rd)	1.5m minimum	7.5m
Eastern side setback	1.5m minimum	9m
Car parking	9 bays minimum	9 bays
Landscaping	8%/3m width	Does not Comply (6.4% nil width)
Fencing	1.2m and 1.8m solid (max)	Existing 1.8m solid fence.

**Risk Management considerations:**

Not applicable

**Financial/Budget Implications:**

Not applicable

**Policy implications:**Local Planning Policy 3.1 – Child Care Centres

This planning policy sets out guidelines for the development of a CDCC, including the requirements for the provision of car parking and landscaping, the preferred location of CDCCs, as well as the need to advertise proposals due to the possible detrimental effect on the amenity of residential areas. The proposal does not meet certain criteria set out in this policy.

**Regional Significance:**

Not applicable

**Sustainability implications:**

Not applicable

**Consultation:**

The proposal was advertised for public comment for a period of 21 days. Adjoining and nearby owners were contacted in writing, two signs were placed on the site, and an advertisement placed in the local newspaper. Advertising closed on 20 June 2005.

A total of 23 submissions were received, including a petition signed by 33 persons objecting to the proposed Child Care Centre in relation to parking, traffic, noise, loss of property values and other matters. The objections are summarised below:

Submission	Technical Comments
<p>The property does not have sufficient parking facilities to accommodate potential customers resulting in customer vehicles being parked at peak times of the day and night on neighbouring properties and driveways thereby blocking access to residents and road users.</p>	<p>The number of complying car parking bays has not been provided in accordance with Table 2 – Car Parking Standards. The dimensions of some of those bays does not comply with relevant standards.</p>
<p>The property is located on a corner which prohibits people parking on the street within 9 metres of the corner resulting in neighbouring properties being used for parking and access to the proposed child care centre.</p>	<p>See above</p>
<p>The street location of the property is potentially unsafe specifically for a child care centre as there is a large volume of traffic passing through the area especially at peak times (7-9.30am and 3-6.30pm).</p>	<p>The Traffic Impact Statement report indicates that there would be no traffic impact. Refer to comments on car parking.</p>
<p>The surrounding area is a residential area where there are no other business properties which means the proposed child care centre will attract increased volumes of traffic to an already busy intersection at peak times.</p>	<p>See above</p>
<p>Object to the proposal to change the status of the property from a residential single house to a child care centre as this will detract from our property's future saleability due to the numerous reasons listed above.</p>	<p>Noted</p>
<p>The proposal for a child care centre will reduce our ability to fully use and enjoy our property due to the fact that the level of noise and activity coming from the neighbouring property will be significantly increased and will undoubtedly impact on the outdoor and access areas.</p>	<p>With respect to the noise, an acoustic report has been submitted and the recommendations are acceptable to the City to address acoustic issues.</p>
<p>The proposed child care centre would cause disruption to the lifestyle as the adjoining people work on shift work and are often required to sleep during the day. The additional noise and activity generated from having a business next door would negatively impact his day-to-day living.</p>	<p>Although the noise levels are within acceptable standards, issues may arise due to the type of daytime noise being different to that which is currently experienced.</p>
<p>The proposed child care centre would unduly attract the attention of our pet dog who would bark at unusual and excitable noises (children's voices) thus creating a problem for us as pet owners with other neighbours who would undoubtedly get annoyed with the barking and make complaints against us.</p>	<p>Not a planning consideration.</p>



Submission	Technical Comments
<p>Dispute the proponent's assertion that there is an identified need for additional child care facilities in the area. There are at least 11 or 12 centres within the 3 to 5 kilometres of this site. Additionally, there are 20 Family Day Care centres nearby.</p>	<p>The commercial viability of CDCC is not a planning consideration.</p>
<p>The positioning of the playground area in the proposed development (the playground is proposed to be situated on the front right hand corner of the block which is the point closest to both of these main roads at the roundabout. We have already seen what happens when a vehicle goes through a child care facility we feel this would be tempting fate by ill advised planning.</p> <p>The fact that the developer is planning to use the car park bays on Allenswood Drive that were put there for the use of the local residents, not to encourage business development in a residential area. When these bays are not vacant are parents going to drop off their toddlers unless they park illegally down side streets or on the other side of Allenswood Road and have to cross one of two very busy main roads to get to this facility. Also the fact that the entrance would be located just past the round about.</p> <p>None of the surrounding residents were approached by the owners of this property to gauge the reaction to this proposal. The property owners are also not living in this area so how can they gauge the needs of the community without interaction with the local residents.</p> <p>The fact that the Joondalup City Council contacted only 8 houses in the vicinity of the proposed development surprised and outraged many of the local residents as this development will affect more than them. The billboards on the property went up after some of the local residents who had not received letters went to view the site plans.</p>	<p>The Traffic Impact Statement report indicates that there is no traffic issue that needs to be addressed.</p> <p>The development (if supported) would be required to provide a minimum number of parking spaces on the site. The proposed development does not provide the required number of complying car parking bays.</p> <p>Noted</p> <p>The City contacts the immediate neighbours by mail. In addition, the proposal was advertised in the local newspaper and two signs were erected on site advising the community of the proposed development.</p>
<p>This parking layout will put children's safety at risk.</p>	<p>The applicant has amended plans, however, the proposed parking area does not comply with the DPS2.</p>

Submission	Technical Comments
<p>The storage shed located in the north-east end of the site can only be accessed through the car park. This means staff will be carrying equipment through the parent drop off bay or into the car park and therefore exiting the licensed confines of the centre which is in contravention of the Child Care Licensing Regulations 1988.</p>	<p>The applicant has amended plans. There will be a store provided within the building and the existing shed will be demolished to cater for parking spaces.</p>
<p>The proposed site does not comply with the Planning policy as it is located on what is classified as an Access Road, the policy clearly states centres should not be located in or adjacent to Access roads.</p>	<p>Noted</p>
<p>The plans submitted do not comply with the City of Joondalup's Landscape Policy requiring a minimum of 8% landscaping and a 3 metre landscaping setback to Allenswood Road and Blackall Drive.</p>	<p>Noted</p>

### Traffic Report

A Traffic Impact Statement (TIS) was received.

The report has been found acceptable to the City. However, concern still exists in relation to the potential for street and verge parking, as visitors are not required to park on-site. If street parking does occur, Council may need to implement traffic management measures to address this matter.

### Acoustic Report

An acoustic assessment report was submitted which is considered acceptable by the City to address acoustic issues. However, there still remains concern over the nuisance factor of the impact of noise associated with vehicle movements in close proximity to the adjoining residential property and noise from the play areas. These noises are not covered by the legislation and need to be assessed from an amenity perspective.

### COMMENT

The proposed development will involve:

- a change in land use from single houses to a CDCC;
- the construction of a car parking area on the eastern side of the site, and abutting the single houses located at 1 Annato Street and 94 Allenswood Drive.
- the location of the outdoor play areas around the proposed building.

## **Lot Size**

The Western Australian Planning Commission Draft Policy about Child Care Centre indicates as a general rule, sites in residential areas should be of regular shape and greater than 1000m<sup>2</sup>. However the existing site is of an area of 690m<sup>2</sup> which does not comply with this part of the draft policy.

## **Location in relation to Other Land Uses**

One of the objectives of the Residential Zone, as outlined in Clause 3.4 of DPS2, is that it is intended to be primarily for residential development in an environment where high standards of amenity and safety predominate to ensure the health and welfare of the population. The Zone is also to provide for certain cultural and recreational development to occur where Council considers the same to be appropriate in residential neighbourhoods.

The CDCC is likely to add value to the area by offering a community facility and bring additional employment opportunities to the surrounding neighbourhood. The proposed land use is a prohibited land use, although Council may grant its approval if it is satisfied with regard to the merits of the proposal and the matters to be considered as set out in the DPS2 and other relevant documents.

A survey of the surrounding area has revealed that the nearest commercial centre is located approximately 750 metres away and the Allenswood Primary School approximately 450 metres away. All other development within close proximity to the development site consists of residential uses or local reserves.

Council's Local Planning Policy 3.1 states that:

*"Where possible it is preferred to locate Child Care Centres adjacent to non-residential uses such as shopping centres, Medical Centres/Consulting Rooms, School sites and Community Purpose Buildings to minimise the impact such Centres will have on the amenity of residential area."*

The location of the proposed CDCC is adjacent to single residential uses and does not comply with the policy.

## **Location in Relation to Roads**

The CDCC is located within close proximity to a Local Distributor Road (Allenswood Road) that is adjacent to an Access Road (Blackall Drive) in a residential area, as defined in the Perth Metropolitan Area Functional Road Hierarchy (1999). This is contrary to the direction contained within Local Planning Policy 3.1 which states CDCCs should not be adjacent to Access Roads in residential areas where amenity, safety and aesthetics must take priority. Such centres should be located on Local Distributor Roads so that they will not conflict with traffic control devices and will not encourage the use of nearby access roads for turning movements.

Vehicular access and egress to the site will be from Blackall Drive. Allenswood Road is a dual carriageway having one lane in each direction. However with the existing roundabout at the intersection of Allenswood Road and Blackall Drive, traffic from both lanes of Allenswood Road can access Blackall Drive. The proposed crossover location is approximately 29 metres from this intersection.

A house may generate an approximate 8-10 vehicular trips per day, whereas the traffic consultants have indicated that the proposed use may generate approximately 69 vehicular trips per day, which was based on the child care centre operating with a maximum of 19 children at any one time.

The increased usage will result in additional traffic movement into Blackall Drive, which is classified as an access road.

### **Car Parking Dimensions and Numbers**

Concern is expressed in relation to the intensified use of the site with the increased number of vehicular trips at a point close to the junction. Further, whilst parking is provided on-site, it is not possible to require or enforce people to use those on-site parking spaces. If street parking or verge parking occurs, concern is raised in relation to the potential impact on traffic safety, especially in relation to vehicles exiting from Allenswood Road or traffic travelling towards Allenswood Road along Blackall Drive.

The car parking area provided for the proposed development would be located between the building and the property at 1 Annato Street. It will not be easily visible from the street as there is an existing wall around most of the street boundaries. Vehicular access onto Allenswood Road has not been proposed. According to Local Planning Policy 3.1, there is a requirement of 5 car bays for visitors and 4 for staff, which equates to a total of 9 car bays

The three staff car parking bays at the north-eastern corner are considered unacceptable as they will not allow vehicles to park or leave the site in a forward gear. The driveway is 4 metres wide, and will not permit acceptable turning into/out of the bays. The standard requirement is that the driveway be 6.1 metres wide. As the access way is underwidth, this effectively results in three of the parking spaces not meeting the Australian Standard.

The concentration of street traffic flows at peak times and when there are special occasions, may lead to overflow and drivers may elect to park on the verge or street for convenience. Though there are parking spaces along Allenswood Road, it is considered that they should not be used as a parking facility for the CDCC. Verge and street parking at Blackall Drive during peak traffic times and at other times (ie special occasions or events) would impact on the safety of the road system and would more than likely adversely impact upon the amenity of the residential properties in this section of Blackall Drive.

### **Landscaping and Fencing**

The proposed development does not provide a three metre wide landscaping strip along Blackall Drive and does not comply with the 8% of site area for landscaping. However, should planning approval be given to this proposal, conditions relating to the landscaping should be imposed.

Further, there is an existing fence along the street boundaries. Should planning approval be given to this proposed development, any fence shall be located behind the 3 metre landscaping strip required along Blackall Road and should be conditioned to be visually permeable as defined by the R-Codes.

The combination of satisfying the landscaping requirements and fencing requirements will reduce the amount of area provided on site, as play areas for the centre.

### **Noise**

Vehicles used by both staff and clients will access the site before 7:00am and throughout the day. The parking area will abut the property at 1 Annato Street and 98 Allenswood Drive. Staff and visitor parking is proposed to be allocated to those parking spaces located against the eastern side boundary of the adjoining property.

The three adjoining neighbours have raised concerns in relation to the potential impact of noise. It is to be noted that the ownership of 3 Annato Street has changed after the advertising period had closed. Notwithstanding this, Council is required, in terms of the

orderly and proper planning of the locality, to be satisfied that the nuisance noise from the development, which is not controlled by the noise regulations, will not adversely impact on the amenity of the adjoining residential properties.

Concern is expressed in relation to the potential impact that the use of the car parking area will have on the amenity of the adjoining property at 1 Annato Street. The parking spaces will abut the outdoor living area of 1 Annato Street and the existing dwelling is set back at 10 metres from the common boundary of the proposed CDCC. However it is considered that there is still a potential for the adjoining property to be impacted by the noise. There are no substantial noise attenuation proposals that will minimise the impact of vehicular noise. Whilst the noise from traffic movements (possibly before 7:00am) and the opening and closing of doors may comply with the noise regulations, the nuisance factor associated with this activity is not controlled by that legislation. Having regard to the location and design of the car parking area, the proposed operation of the centre and its relationship with the location and design of the adjoining single house on No 1 Annato Street, it is considered that this aspect of the proposal will have an adverse impact on the amenity of the adjoining single house.

The applicant is proposing to locate major outdoor play areas against the side (rear section) boundary of 94 Allenswood Road. This play area has the potential to be a noise nuisance factor to the property at 94 Allenswood Road as the building is setback around 1 metre from the common boundary.

### **Conclusion**

The development of CDCCs can satisfy a community need, however, it is a commercial activity which needs to be located carefully within the fabric of an existing residential area, such as with residential land uses.

It is considered that the proposed development will adversely impact on the surrounding locality due to:

- the proposal (non-residential use) being located adjacent to single houses rather than non-residential uses;
- the anticipated increase in noise levels based on the design and activities associated with the proposed use;
- non-compliance with the parking standards referred to in Clause 4.8.1
- non-compliance with the required parking standard due to certain parts of the car parking area not complying with the relevant Australian Standard;
- increased traffic noise and movement onto the site and within the site; and
- potential for verge and street parking to occur in Blackall Drive, and
- non-compliance with the landscaping and fencing requirements.

Having regard to the:

- details of the application;
- justification submitted by the applicant;
- submissions received during the consultation process;
- details provided in the acoustic and traffic consultant's reports;
- provisions of the District Planning Scheme No 2; and
- provisions of Policy 3.1 – Child Care Centres;

It is recommended that the application for planning approval be refused.

**ATTACHMENTS**

Attachment 1            Locality Plan  
Attachment 2            Development Plans

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION****That Council:**

- 1        REFUSES** the application for planning approval for the proposed 19 place Child Day Care Centre at Lot 207 (87) Blackall Drive, Greenwood for the following reasons:

The proposal is contrary to the principles of orderly and proper planning as:

- (a)    The proposal would unreasonably impact upon the prevailing amenity of the surrounding single residential area;
  - (b)    The commercial nature of the proposed use is not compatible with existing uses of other land within the locality, contrary to clause 6.8.2(a) of DPS2;
  - (c)    The number of complying car parking spaces is below the minimum number of parking spaces required by Clause 4.8.2 of the District Planning Scheme No 2;
  - (d)    The proposal does not comply with the District Planning Scheme No 2 landscaping requirements;
  - (e)    The potential for car parking overflows onto the access road and the adverse impact on adjoining and surrounding residential properties, has the potential to unreasonably impact on the function of the road and verge parking at peak times;
  - (f)    The proposal does not accord with Council's Policy 3.1 – Child Care Centres.
- 2        ADVISES** the submitters of Council's decision.

*Appendix 18 refers*

To access this attachment on electronic document, click here: [Attach18brf061205.pdf](#)

## **ITEM 21                    PROPOSED MODIFICATION TO TOWN PLANNING DELEGATION – [46302] [07032]**

<b>WARD:</b>	All
<b>RESPONSIBLE DIRECTOR:</b>	Mr Clayton Higham Planning and Community Development

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### **PURPOSE**

For Council to consider modifications to the Town Planning delegation to enable the Director Planning & Community Development and Manager Approvals, Planning & Environmental Services to issue notices/directions on behalf of the City when a person has contravened the District Planning Scheme No 2 (the Scheme).

### **EXECUTIVE SUMMARY**

Matters of non conformity with the Scheme and options available to the City are outlined in clauses 8.9 and 8.10 of the Scheme. Breaches of the Scheme could include situations where: a land use is conducted where planning approval is required but has not been obtained; or

- where the conditions of planning approval are not being adhered to; or
- a situation where a building is constructed without planning approval; or
- a building constructed which is not in accordance with the conditions of that approval; or
- matters that could impact on the amenity of the locality, such as unkempt land, incomplete buildings, nuisance through noise, smoke, dust etc.

If a party is in contravention of the Scheme, the City has four options in regard to action. Firstly, the City could issue a notice/direction under clause 8.9 of the Scheme (and section 10 of the Town Planning & Development Act 1928) requiring the removal of the building or cessation of use concerned. Secondly, the City can commence legal action and prosecute under clause 8.10 of the Scheme (and section 10AB of the Town Planning & Development Act 1928). Where successfully argued in a court, penalties of up to \$50,000 and a daily penalty of up to \$5,000 can be applied by a court. Thirdly the City can take both actions one and two above, that is the City can issue a notice and then if the matter is not resolved it can commence legal action. Fourthly, if the City believes that the contravention may be able to comply with the Scheme or brought into compliance with the Scheme, an application for retrospective approval can be lodged under clause 6.12 of the Scheme and determined accordingly.

At the present time, notices/directions issued under the Scheme are not included under the current delegation notice. The delegated power to issue notices was included in previous delegation notices, but when the form of delegation notice was modified in late 2004, the delegation to issue notices was not included. In order to enforce the provisions of the scheme and deal with matters of non conformity in an efficient and effective manner with a prompt response, it is proposed to allow such matters to be dealt with under delegated authority.

## **BACKGROUND**

The town planning delegation notice adopted by Council on 11 June 2002 (Item CJ122-06/02 refers) included a clause that “delegates to the Director Planning and Community Development to issue notices under Clause 8.6 of District Planning Scheme No 2 with the aim of securing conformity with the Scheme.”

The town planning delegation notice adopted by Council on 29 April 2003 (Item CJ078-04/03 refers) included the following clause “with regard to breaches of District Planning Scheme No 2 delegates authority to the Director Planning and Community Development to proceed with appropriate legal action with the aim of securing conformity with the Scheme.

The town planning delegation notice adopted by Council on 18 May 2004 (Item C34-05/04 refers) also included the above clause.

The Council adopted a new Town Planning Delegation at the meeting held on 12 October 2004 that was presented in a new format. It is this delegation notice that did not give delegation power to deal with matters of non conformity with the Scheme. The report did not outline that it was intended to remove the delegation to deal with matters of non conformity with the Scheme.

Subsequent minor modifications to the Town Planning Delegation Notice were adopted by Council at its meeting of 19 July 2005, to improve the operation of the delegation notice.

However, since the implementation of the most recent delegation notice, the matter of issuing notices/directions under the Town Planning & Development Act 1928 has been identified as no longer being covered in the notice. In the interests of good governance and ensuring a timely response to matters of non conformity with the Scheme, it is proposed to modify the delegation notice to enable notices/directions to be issued, under delegated authority.

## **DETAILS**

### **Issues and options considered:**

To continue with the current process will result in time delays in responding to the enforcement of the Scheme. Further, the time costs in dealing with minor breaches would not be an effective and efficient use of Council resources in responding to those issues. By allowing notices to be issued under delegated authority, the City can respond to such matters, which are usually brought to the attention of the City via complaints from residents, in a more timely manner.

### **Link to Strategic Plan:**

4.3.3 Provide fair and transparent decision-making process.

### **Legislation – Statutory Provisions:**

Clause 8.8 of the Scheme outlines the general obligations for compliance; Clause 8.9 outlines the time frame for written notice when issuing a direction/notice; and clause 8.10 identifies that any party not complying with these provisions is guilty of an offence. Clause 8.6 of the Scheme permits town planning functions to be delegated. Clause 8.2 and 8.3 relate to matters that may affect the amenity of an area.



The clauses read as follows:

## 8.8 GENERAL OBLIGATIONS

*Subject to the provisions of the Act and all regulations made there under and to Part 7 of the Scheme, no person shall depart from or permit or suffer any departure from the requirements and provisions of the Scheme, nor shall any person commence or carry out or permit the commencement or carrying out of any development which:*

- (a) does not conform with the Scheme; or*
- (b) being or involving a use or other development which requires the approval of the Council or the Commission or both, does not have such approval or approvals is not permitted; or*
- (c) does not comply with the terms of any approval or any condition attached thereto.*

## 8.9 NOTICE FOR REMOVAL OF CERTAIN BUILDINGS

*8.9.1 Twenty eight (28) days' written notice is hereby prescribed as the notice to be given pursuant to Section 10 of the Town Planning Act for the removal of certain buildings.*

*8.9.2 Council may recover expenses under section 10(2) of the Act in a court of competent jurisdiction.*

## 8.10 OFFENCES

*8.10.1 No person shall depart from or permit or suffer any departure from the requirements and provisions of the Scheme, nor shall any person use or suffer or permit the use of any land or building or undertake or suffer or permit the undertaking of any development within the Scheme Area:*

- (a) otherwise than in accordance with the provisions of the Scheme;*
- (b) unless all approvals required by the Scheme have been granted and issued;*
- (c) unless all conditions imposed upon the grant and issue of any approval required by the Scheme have been and continue to be complied with;*
- (d) unless all standards laid down and all requirements prescribed by the Scheme or determined by the Council pursuant to the Scheme with respect to that building or that use of that part have been and continue to be complied with.*

*8.10.2 Any person who fails to comply with any of the provisions of the Scheme is guilty of an offence and without prejudice to any other remedy given herein is liable to such penalties as are prescribed by Section 10 of the Act.*

8.6 *DELEGATION OF DEVELOPMENT CONTROL POWERS, AND POWERS AND DUTIES IN RELATION TO OTHER PLANNING FUNCTIONS*

8.6.1 *The Council may, either generally or in a particular case or particular class of case or cases, by resolution passed by an absolute majority of Council, delegate to all or any of the persons or committees referred to in Schedule 6 any power conferred or duly imposed on the Council under this Scheme.*

8.6.2 *Any delegation made under sub-cause 8.6.1 shall have effect for the period of twelve (12) months following the resolution unless the Council stipulates a lesser or greater period in the resolution.*

8.6.3 *A delegation of authority pursuant to the provisions of this clause has effect and may be exercised according to its tenor, but is revocable at the will of the Council and does not preclude the Council from exercising the power.*

8.6.4 *A resolution to revoke or amend a delegation under this clause may be passed by a simple majority.*

8.6.5 *A committee, member or officer exercising the power delegated pursuant to the provisions of this clause shall comply with the provisions of the Scheme governing the exercise of the power of the Council, insofar as such provisions are reasonably applicable.*

8.6.6 *A person who is or has been a delegate of the Council is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any powers conferred, or the carrying out of any duty imposed on the Council by this Scheme.*

8.2 *AMENITY*

8.2.1 *No building shall be so constructed, finished or left unfinished that its external appearance would significantly detract from the amenity of the locality or tend to depreciate the value of adjoining property. All land and buildings shall be so used and maintained as to preserve the local amenity.*

8.2.2 *No land, building or appliance shall be used in such a manner as to permit the escape therefrom of smoke, dust, fumes, odour, noise, glare, vibration or waste products in such quantity or extent or in such a manner as will create or be a nuisance to any inhabitant, or to traffic or persons using any land or roads in the vicinity.*

8.2.3 *If the Council forms the opinion that there has been a breach of the requirements of the preceding subclauses it may, by notice in writing, require the owner to make good the breach in the manner and within the time stated in the notice. The notice may be served on the owner personally or by posting it to the last address of the owner known to the Council, and if served by post, shall be deemed to have been served three (3) clear days after the date of posting.*

8.2.4 *Any person upon whom a notice is served pursuant to this clause may, within 28 days of the date of service of the notice on that person, appeal pursuant to Part V of the Act against the requirements of the*

*notice and, where any such appeal is lodged the effect of the notice shall be suspended until a decision to uphold, quash or vary the notice has been made on the appeal or the appeal has been withdrawn, whereupon the time stated in the notice shall again begin to run.*

8.2.5 *Failure to comply with a notice under this clause shall be a breach of the provisions of the Scheme.*

### 8.3 UNKEMPT LAND

8.3.1 *On any land within the Scheme Area any undergrowth, refuse, rubbish or disused material which in the opinion of the Council is likely to affect adversely the value of adjoining property or the health, comfort or convenience of the inhabitants thereof, the Council may cause a notice to be served on the owner or occupier of such land requiring that the land is cleared of trees, scrub, undergrowth, refuse or rubbish, or such refuse, rubbish or disused material is removed from such land within a specified period.*

8.3.2 *Every owner or occupier of land upon whom a notice is served shall comply with such notice within the time period therein specified.*

8.3.3 *Where the owner or occupier does not clear the land or remove the refuse, rubbish or disused material as required by the notice given by the Council, the Council may without payment or any compensation in respect thereof, clear or remove it and dispose of it at the expense of and recover in a court of competent jurisdiction the amount of the expense from the owner or occupier to whom the notice is given.*

8.3.4 *Failure to comply with a notice under this clause shall be a breach of the provisions of the Scheme.*

#### **Risk Management considerations:**

The delegation process includes detailed practices on reporting, checking and cross checking, supported by peer review in an effort to ensure decisions taken are lawful, proper and consistent. Further, if a notice/direction is not complied with, it is referred to the City's solicitors for legal action, ensuring that the process for issuing the direction/notice is lawful.

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

Costs will be incurred in the enforcement of the Scheme. These are unpredictable in terms of when enforcement action is required and the costs associated with the required action, although timely action, as allowed by delegation, may improve the opportunities for resolution by negotiation.

#### **Policy implications:**

Not applicable

#### **Regional Significance:**

Not applicable

#### **Sustainability implications:**

Not applicable

**Consultation:**

Consultation obligations and commitments are not affected by this change to the notice of delegation.

**COMMENT**

From time to time, it is brought to the City's attention various matters that may not be occurring in accordance with the Scheme, including such issues as:

- a structure has not been built in accordance with the conditions of planning approval;
- that a development was constructed or is occurring that required planning approval but was not obtained;
- that a land use is being conducted that is not in conformity with the Scheme, or
- a property is being kept in an untidy manner.

Such situations are a breach of the Scheme and where this requires the removal of a building or the ceasing of a land use, in accordance with clause 8.9 of the Scheme, a notice/direction can be issued.

In situations where the City is aware of such a breach, officers endeavour to resolve the issue by writing to the owner and/or occupier requesting that the matter be brought into compliance or outline alternative options available to the party in order to resolve the issue. However, in some circumstances, where a party is not willing to remove a structure or bring it into compliance with the Scheme or cease the land use, there is no option other than to issue a notice to remove such a building or cease the land use. Currently, a report would have to be presented to Council to issue such a notice. It is proposed to delegate this power to the Director Planning and Community Development and Manager Approvals, Planning and Environmental Services. This will enable the City to deal with such matters in a more efficient and expeditious time frame and therefore respond in a timely manner to the resident who made the City aware of the matter.

In regard to the notices, once a notice/direction is issued, the Town Planning & Development Act 1928 stipulates that a person who has been served a notice/direction may apply to the State Administrative Tribunal for a review and such rights exist for 28 days from the date of the notice/direction. Should it be determined to proceed with legal action (prosecute) under section 10AB of the Town Planning & Development Act, the City can do so without serving formal notice.

It should be noted that if the direction/notice is not complied with and the matter then proceeds to legal action or if the City decides to prosecute without issue of a notice, in accordance with current procedures, the Chief Executive Officer would be required to authorise the appointment of solicitors to proceed to prosecution.

It is proposed to liaise with solicitors in regard to the correct process for issuing the notice and prior to commencement of prosecution, legal advice will be sought in regard to the likely success of such a prosecution. This process will result in a more efficient and effective process for dealing with complaints raised by ratepayers/residents regarding matters of non compliance with the Scheme.

**Conclusion**

When Council adopted the revised town planning delegation notice in July 2005, it resolved to adopt the delegation notice and that it remain effective until 30 June 2007. It is proposed that the delegation notice, with the minor change as detailed in this report, also be adopted until 30 June 2007.

## **ATTACHMENTS**

Attachment 1            Current delegation notice, with tracked changes.

## **VOTING REQUIREMENTS**

Absolute Majority

## **RECOMMENDATION**

**That Council BY AN ABSOLUTE MAJORITY ADOPTS the amended Town Planning Delegation as outlined in Attachment 1 to this Report and the amended delegation to remain effective until 30 June 2007.**

*Appendix 19 refers*

*To access this attachment on electronic document, click here: [Attach19brf061205.pdf](#)*

## **ITEM 22                    WHITFORD        COMMUNITY        RATEPAYERS        & RECREATION ASSOCIATION COMMUNITY BUS – [07310]**

**WARD:**                    Whitfords

**RESPONSIBLE**            Mr Clayton Higham  
**DIRECTOR:**            Planning and Community Development

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### **PURPOSE**

To seek approval for the City to support the replacement of the Whitford Community Ratepayers & Recreation Association's Community Bus and continue to provide the ongoing maintenance for a fixed period of three (3) years.

### **EXECUTIVE SUMMARY**

In 1980, an agreement was established between the then Shire of Wanneroo, the Whitford Community Ratepayers & Recreation Association and North Whitfords Estates, Land and Property Developers, whereby the Shire was to purchase a community bus with finance supplied by North Whitfords Estates. They contributed \$15,000 to purchase the bus, with Council paying to licence, insure and service the bus.

In 1995, Council purchased a replacement community bus on behalf of the Association. This resulted in a substantial savings for the Association, as Council was able to purchase the bus without paying the 22.5% motor vehicle sales tax.

In 1996, the 22.5% motor vehicle sales tax exemption that applied to Local Government ended and as a result, the City is no longer able to offer this savings advantage to the Association for the purchase of a replacement community bus.

Since the initial bus was purchased, Council has contributed approximately \$2,727 per annum toward the maintenance, licensing and insurance costs of the Whitford Community Ratepayers & Recreation Association community bus. The Whitford Community Ratepayers & Recreation Association is responsible for the management and bookings of the bus, however the bus remains on the City of Joondalup's asset register.

In April 2005, the Whitford Community Ratepayers & Recreation Association wrote to Council, requesting assistance to purchase a new community bus. This has provided the City of Joondalup with an opportunity to assess its options in the support it provides to the Association regarding the community bus. Council has no other arrangements of this nature with community or sporting groups.

It is recommended that Council:

- 1     AGREES to continue to support for the Whitford Community Ratepayers & Recreation Association by agreeing to maintain the community bus for a fixed period not exceeding three (3) years, concluding on 30 June 2009;
- 2     AGREES to list for consideration an amount of \$6,700 in the 2006/2007 Draft Budget as a contribution to the Whitford Community Ratepayers & Recreation Association to assist in meeting the cost of stamp duty in the purchase of the replacement community bus;

- 3 ADVISES the Whitford Community Ratepayers & Recreation Association that;
  - (a) subject to the Council agreeing to adopting the funding in (2) above, a contribution will be made to the Whitford Community Ratepayers & Recreation Association to assist in meeting the cost of stamp duty in the purchase of the replacement community bus;
  - (b) the Association will be responsible for the purchase of the replacement bus;
  - (c) the City will continue to provide the ongoing maintenance for the community bus (including meeting the costs of licensing and insurance) for a fixed period of three (3) years until the end of the 2008/2009 financial year, after which time the Association will be responsible for all costs involved in operating and maintaining the vehicle;
- 4 REMOVE the Whitford Community Ratepayers & Recreation Association Community Bus from the City's asset register.

## **BACKGROUND**

The Whitford Community Ratepayers & Recreation Association consists of nominated members from organised groups from the Whitford, Lakeside and South Coastal wards in the City of Joondalup. The Association currently has representation from sporting clubs, scout groups, Independent Retirees Association, childcare and after school care operators and local school groups. The Association has existed for almost 30 years and has assisted community groups in providing recreational and leisure activities to their members and local ratepayers.

The Whitfords Community Bus was first proposed in 1979 by the Whitford Community Ratepayers & Recreation Association as a service to the community. The Association wrote to the then Shire of Wanneroo requesting assistance in purchasing a bus and financial contributions towards its operating and maintenance costs. An agreement was established between the Shire of Wanneroo, the Whitford Community Ratepayers & Recreation Association and North Whitfords Estates, Land and Property Developers. North Whitfords Estates agreed to contribute \$15,000 to purchase the bus, with the City of Wanneroo paying to initially licence, insure and service the bus.

In 1995, the City of Wanneroo utilised the government agency CAMS (Contract and Management Services) to buy a replacement bus on behalf of the Whitford Community Ratepayers & Recreation Association. Investigations were conducted at the time to ascertain if the Association itself was eligible to utilise the CAMS discount. Under the existing guidelines, the Whitford Community Ratepayers & Recreation Association was ineligible and therefore relied on the City of Wanneroo to arrange the purchase via the fleet purchase tendering process. The City of Wanneroo was able to purchase the bus without paying the 22.5% sales tax, which resulted in substantial savings for the Association. The current Toyota 18 seat Coaster bus was purchased and the Whitford Community Ratepayers & Recreation Association were invoiced and paid approximately \$35,000 being the changeover cost of the vehicle. There was no cost to the City of Wanneroo for the purchase of the bus.

The Whitford Community Ratepayers & Recreation Association has responsibility for the management and bookings of the community bus. The Association is responsible for determining the fees and charges and these are set without endorsement from Council. All revenue generated is retained by the Whitford Community Ratepayers & Recreation Association and used to cover future purchases and operating costs.

The bus is available for hire to any group affiliated to the Association with non-member groups able to join the Association for a 12-month period at a cost of \$20. The current members of the Association are:

- Padbury Adventurer Guides
- 1<sup>st</sup> Padbury Scout Group
- Association of Independent Retirees
- Padbury Education and Child Care
- Whitfords Junior Football Club
- Whitfords Amateur Football Club
- Whitfords Junior Cricket Club
- Whitfords & District Senior Cricket Club
- Whitfords Senior Citizens
- Woodvale Senior High School
- Wider Vision
- After School Care

The hire costs for the community bus are:

- Bond (day hire) \$20
- Bond (overnight hire) \$50
- Hire Rate (< 4 hrs) \$25
- Hire Rate (> 4 hrs) \$50
- Kilometre Rate 35c per km

(NB: The bus has a full tank of fuel on pick up and must be returned with a full tank).

The community bus is stored at Fleur Fraeme Pavilion in Padbury and availability for the bus is advertised to all members of the Whitford Community Ratepayers & Recreation Association. The garage in which the bus is housed is and will remain an asset of the City.

The bus is used by various Association members, with frequency of use depending on the activities of the clubs or groups.

Regular users include:

- Padbury Education and Child Care and After School Care – every school day, and 2-3 times per week during the school holidays.
- 1<sup>st</sup> Padbury Scout Group – 1-2 times per month, and occasionally on the weekends for camps.

Seasonal users include:

- Sporting clubs – occasionally for away games and social outings.
- Woodvale Senior High School – 2-3 times per year for school camps (approximately 4-5 days), and other various occasions.

Annual users include:

- Sorrento Bowling Club – once per year.
- Church Group – once per year.

The bus provides a valuable service to local users and the current booking arrangements appear to be operating efficiently with a medium usage level.



The bus remains an asset of Council and currently costs approximately \$2,727 per annum. The following is a breakdown of costs over a **two-year period** (from 1 July 2003 to present);

Insurance	\$1,200
Parts/Repairs	\$1,579
Batteries	\$ 200
Licence	\$ 515
Tyres	\$1,460
Service	\$ 500
<b>Total Cost</b>	<b>\$5,454</b>

In April 2005, the Whitford Community Ratepayers & Recreation Association wrote to Council requesting that the City of Joondalup begin the processes required to facilitate the replacement of the current 1995 Toyota Coaster bus. The Whitford Community Ratepayers & Recreation Association has stated that they are currently in a financial position to trade in the bus and can afford the changeover costs of approximately \$80,000. The current 1995 Toyota Coaster bus has been independently valued at \$24,000.

In 1996, the 22.5% motor vehicle sales tax exemption that applied to Local Government ended and as a result, the City can no longer offer this saving to the Association for the purchase of the new bus. The Whitford Community Ratepayers & Recreation Association has the opportunity to purchase a new bus at a competitive price, with motor vehicle dealers willing to consider the community nature of a purchase when negotiating the price. This arrangement may involve a discount on the purchase price being offered, in exchange for the opportunity for advertising exposure.

Consultation with motor vehicle dealers has indicated that they would consider giving the Whitford Community Ratepayers & Recreation Association State Government pricing for the new bus. A new Toyota 20 seater 4.1 litre turbo diesel Coaster, with manual transmission, air-conditioning and a non-automatic door (base model) will cost:

	City of Joondalup	Whitfords Recreation Association
Purchase Price	\$84,543.00	\$84,600.00
GST	\$8,454.30	\$8,460.00
Vehicle Registration	\$385.00	\$1,000.00
Stamp Duty	-	\$6,700.00
<b>Total Cost</b>	<b>\$93,382.30</b>	<b>\$100,760.00</b>
<b>Total Cost (Less GST)</b>	<b>\$84,928.00</b>	<b>\$100,760.00</b>

The City of Joondalup is not required to pay stamp duty, pays a reduced price for registration of the vehicle and can claim back the GST paid on the purchase of the bus. The Whitford Community Ratepayers & Recreation Association is not GST registered, which further increases the cost difference between the City of Joondalup's buying price and the Association's buying price. If the Whitford Community Ratepayers & Recreation Association remains not registered for GST, the total cost difference in purchasing the replacement bus is \$15,832.

For the Whitford Community Ratepayers & Recreation Association to register for GST, they are required to have a constitution and an ABN number. Once registered, the Association will need to submit quarterly activity statements to the Australian Taxation Office and can claim input tax credits.

The community bus has only done approximately 104,000 kilometres, and has been regularly maintained for the period of its life.

## **DETAILS**

As a result of the Whitford Community Ratepayers & Recreation Association's request for assistance to purchase a new community bus, the City of Joondalup has an opportunity to assess its options in the support it provides to the Association regarding the community bus.

### **Issues and options considered:**

Four (4) alternatives exist for the City of Joondalup to consider:

#### **A Continue with current arrangements.**

The issues concerned with this option include:

- The Australian Taxation Office permits the City to purchase the community bus on behalf of the Association, provided ownership of the vehicle remains with the City on its asset register;
- The City does not have any control over how the bus is managed;
- The City will continue to meet the costs of the insurance, licence and maintenance for the community bus. Funds are allocated from the fleet maintenance budget and total approximately \$2,727 per annum;
- The City can claim back the 10% GST paid on the purchase price of the bus saving the Association \$8,454.30;
- The City does not pay stamp duty on the purchase of the bus saving the Association \$6,700;
- The City receives a discount of \$615 on the bus' vehicle registration; and
- No other arrangements of this nature exist with sporting or community groups operating within the City of Joondalup.

#### **B Transfer the vehicle to the Whitford Community Ratepayers & Recreation Association.**

The issues concerned with this option include:

- The Association will be responsible for the purchase of the bus;
- The Association will be responsible for the licensing, insurance and maintenance costs relating to the community bus, saving the City approximately \$2,727 per annum;
- The City will no longer be responsible for a vehicle that is on its asset register of which it has no management control;
- The community bus will be removed from the City's asset register;
- The City will need to provide ongoing permission for the Association to garage the bus at Fleur Fraeme Pavilion in Padbury;

- The Whitford Community Ratepayers & Recreation Association can become GST registered, enabling it to claim back \$8,460.00 in input tax credits on the purchase price of the bus; and
  - The Association has the opportunity to obtain a discount on the purchase price of the new bus due to the community nature of the service it provides and/or in exchange for offering advertising space on the side of the bus.
- C     Transfer the vehicle to the Whitford Community Ratepayers & Recreation Association, with the City facilitating the handover of the bus through the provision of a donation to meet the stamp duty costs incurred in purchasing the new bus.**

The issues concerned with this option include:

- All issues listed in Option B;
  - The City will meet the costs of the stamp duty (\$6,700.00) incurred when purchasing the new bus and facilitate the transition of the ownership to the Whitford Community Ratepayers & Recreation Association;
  - The \$6,700.00 will be allocated for consideration in the 2006/2007 Draft Budget; and
  - The Association will be advised that the City's contribution towards purchasing the replacement bus will be subject to the funds being approved in the 2006/2007 budget.
- D     Transfer the existing vehicle to the Whitford Community Ratepayers & Recreation Association, with the City to;**
- 1     *Facilitate the handover of the bus through the provision of a donation to meet the stamp duty costs incurred in purchasing the new bus; and*
  - 2     *Continue to maintain the community bus (including meeting the costs of licencing and insurance) until the end of the 2008/2009 financial year, after which the Association will be responsible for all ongoing costs.*

The issues concerned with this option include:

- All issues listed in Option B;
- The City will meet the costs of the stamp duty (\$6,700.00) incurred when purchasing the new bus and facilitate the transition of the ownership to the Whitford Community Ratepayers & Recreation Association;
- The \$6,700.00 will be allocated for consideration in the 2006/2007 Draft Budget; and
- The Association will be advised that the City's contribution towards purchasing the replacement bus will be subject to the funds being approved in the 2006/2007 budget.

**Link to Strategic Plan:**

The service provided by the community bus links to the following outcome in the City's Strategic Plan.

Outcome: The City of Joondalup provides social opportunities that meet community needs.

Objectives: 1.3 To continue to provide services that meet the changing needs of the diverse and growing community.

Strategies: 1.3.1 Provide leisure and recreational activities aligned to community expectations, incorporating innovative opportunities for today's environment.

1.3.3 Provide support, information and resources.

However, as the City does not manage any aspects of the bus' operations, this link is more philosophical.

**Legislation – Statutory Provisions:**

Not Applicable

**Risk Management Considerations:**

Council needs to establish direction regarding the City's future responsibilities in the provision of financial assistance or support to community groups such as the Whitford Community Ratepayers & Recreation Association for its Community Bus.

There is potential for further requests from other sport and recreation associations and community groups wishing to obtain the specific services of a community bus, to approach the City for financial assistance. This decision will provide a precedent to manage future requests of a similar nature.

**Financial/Budget Implications:**

If the recommendation contained within the Report is accepted:

- The City will be required to allocate \$6,700 for consideration in the 2006/2007 Draft Budget as a contribution to the Whitford Community Ratepayers & Recreation Association to meet the costs of the stamp duty incurred in purchasing the new community bus;
- The City will advise the Whitford Community Ratepayers & Recreation Association that this is a one-off contribution that will not be made available when the Association replaces the bus in the future;
- The City will continue to provide the ongoing maintenance for the community bus (including meeting the costs of licencing and insurance) for a fixed period of three (3) years until the end of the 2008/2009 financial year, after which time the Association will be responsible for all ongoing costs; and
- The City will remove the Whitford Community Ratepayers & Recreation Association Community Bus from the City's asset register.

**Policy implications:**

The City does not have a specific policy regarding the purchase of assets on behalf of community groups. The establishment of a precedent with regard to this particular request will assist with all future approaches to the City of a similar nature.

**Regional Significance:**

Not Applicable

**Sustainability implications:**

While the community bus is on the City's asset register, it is not an appreciating asset, nor a direct service provided by the City. Ongoing costs associated with licensing, insurance and maintenance of the bus need to be considered in light of the social benefit to the community and the ability of the Whitford Community Ratepayers & Recreation Association to continue with its services.

**Consultation:**

The City of Joondalup has a long-term relationship with the Whitford Community Ratepayers & Recreation Association in all aspects of the provision and replacement of the bus. The Association has been consulted with regards to the report being presented to Council, and informed that the City is seeking a decision on its future involvement in the replacement and provision of maintenance for the community bus.

**COMMENT**

The Whitford Community Ratepayers & Recreation Association's community bus provides a valuable service to local users in the Whitfords area and is available for hire by other groups within the City of Joondalup. The current booking arrangements appear to be operating efficiently with a medium usage level.

It is recommended that Council pursue Option D, transferring the existing vehicle to the Whitford Community Ratepayers & Recreation Association, with the City allocating \$6,700 for consideration in the 2006/2007 Draft Budget as a contribution to meet the stamp duty costs incurred in purchasing the new bus. This contribution would be subject to the funds being approved in the 2006/2007 budget and may delay the Association's replacement of the bus.

The City will continue to maintain the community bus (including meeting the costs of licencing and maintenance) until the end of the 2008/2009 financial year, after which the Association will be responsible for all ongoing costs. In continuing with this arrangement for a further three (3) years, the City is enabling the Association time to budget for the necessary funds required to meet the vehicle's maintenance costs in the future. After this period has expired, the City will save approximately \$2,727 per annum on the maintenance, insurance and licensing costs. In addition, the City will no longer be responsible for a vehicle that is not on its asset register and of which it has no management control.

The Whitford Community Ratepayers & Recreation Association has the opportunity to obtain a discount on the purchase price of the new bus due to the community nature of the service it provides and/or in exchange for offering advertising space on the side of the bus. The City should encourage the Association to negotiate with the motor vehicle dealer to obtain this discount. If the Association becomes GST registered, the cost difference between the purchase price for the City and the purchase price for the Association will be negligible.

The City has an ongoing relationship with the Whitford Community Ratepayers & Recreation Association regarding the provision and maintenance of the community bus. Given this relationship, the City has a responsibility to provide a degree of support to the Association in the purchase of the new community bus.

## **ATTACHMENTS**

Nil

## **VOTING REQUIREMENTS**

Simple Majority.

## **RECOMMENDATION**

### **That Council:**

- 1 AGREES to continue to support for the Whitford Community Ratepayers & Recreation Association by agreeing to maintain the community bus for a fixed period not exceeding three (3) years, concluding on 30 June 2009;**
- 2 AGREES to list for consideration an amount of \$6,700 in the 2006/2007 Draft Budget as a contribution to the Whitford Community Ratepayers & Recreation Association to assist in meeting the cost of stamp duty in the purchase of the replacement community bus;**
- 3 ADVISES the Whitford Community Ratepayers & Recreation Association that;**
  - (a) subject to the Council agreeing to adopting the funding in (2) above, a contribution will be made to the Whitford Community Ratepayers & Recreation Association to assist in meeting the cost of stamp duty in the purchase of the replacement community bus;**
  - (b) the Association will be responsible for the purchase of the replacement bus;**
  - (c) the City will continue to provide the ongoing maintenance for the community bus (including meeting the costs of licensing and insurance) for a fixed period of three (3) years until the end of the 2008/2009 financial year, after which time the Association will be responsible for all costs involved in operating and maintaining the vehicle;**
- 4 REMOVES the Whitford Community Ratepayers & Recreation Association Community Bus from the City's asset register.**

## ITEM 23                      MONTHLY TOWN PLANNING DELEGATED AUTHORITY REPORT – OCTOBER 2005 – [07032]

**WARD:** All

**RESPONSIBLE  
DIRECTOR:** Mr Clayton Higham  
Director Planning and Community Development

### PURPOSE

To provide an explanation of the town planning delegated authority report included in this agenda and to submit items of Delegated Authority to Council for noting.

### EXECUTIVE SUMMARY

The provisions of clause 8.6 of the text to the District Planning Scheme No 2 allows Council to delegate all or some of its development control powers to those persons or committees identified in Schedule 6 of the Scheme text.

The purpose of delegation of certain powers by Council to staff is to facilitate timely processing of development applications and subdivision applications. The framework for the delegation of those powers is set out in resolutions adopted by Council and is reviewed generally on a yearly basis. All decisions made by staff, acting under delegated authority as permitted under the delegation notice, are reported to Council on a monthly basis.

The normal monthly report identifies the major development applications that have been determined under delegated authority. A second approval process exists which deals with requests for Council to exercise its discretion to vary an acceptable standard of the Residential Design Codes for a single house. This process is referred to as “R-Codes variation approval for single houses” (this was introduced by the 2002 R-Codes).

This report provides a list of the development applications determined by those staff members with delegated authority powers during October 2005 (see Attachment 1) and now includes the codes variations referred to above.

The number of development applications determined for October 2005 under delegated authority and those applications dealt with as an “R-code variations for single houses” for the same period are shown below:

<b>Approvals Determined Under Delegated Authority – Month of October 2005</b>		
<b>Type of Approval</b>	<b>Number</b>	<b>Value (\$)</b>
Development Applications	107	10,448,616
R-Code variations (Single Houses)	69	1,379,688
<b>Total</b>	<b>176</b>	<b>11,828,304</b>

In addition, there were 4 development applications determined by Council during this month at a value of \$5,340,000.

The number of development applications received in October 2005 was 93. This figure does not include any applications that may become the subject of the R-Code variation process.

## BACKGROUND

<b>Suburb/Location:</b>	All
<b>Applicant:</b>	Various – see attachment
<b>Owner:</b>	Various – see attachment
<b>Zoning:</b>	<b>DPS:</b> Various
	<b>MRS:</b> Not applicable

The District Planning Scheme No 2 requires that delegation be reviewed annually, unless a greater or lesser period is specified by Council. The Joint Commissioners, at their meeting of 19 July 2005 considered and adopted the most recent Town Planning Delegation.

## DETAILS

### Issues and options considered:

Not Applicable

### Link to Strategic Plan:

The strategic plan includes a strategy to provide quality value-adding services with an outcome to provide efficient and effective service delivery. The use of a delegation notice allows staff to efficiently deal with many simple applications that have been received and allows the elected members to focus on strategic business direction for the Council, rather than day-to-day operational and statutory responsibilities.

City development is a key focus area of the City's Strategic Plan. The proposals considered by staff acting under delegated authority relate closely to the objectives of providing for a growing and dynamic community.

The Council adopted the Delegation of Authority instrument after detailed consideration, in accordance with the Strategic Plan objective of providing a sustainable and accountable business.

The delegation is necessary due to the large volume of development applications received for development within the City. It is a key instrument in providing a range of services that are proactive, innovative and using best practice to meet organisational and community needs. This is also a strategy of the City's Strategic Plan.

### Legislation – Statutory Provisions:

Clause 8.6 of the District Planning Scheme No 2 permits development control functions to be delegated to persons or Committees.

### Risk Management considerations:

The delegation process includes detailed practices on reporting, checking and cross checking, supported by peer review in an effort to ensure decisions taken are lawful, proper and consistent.

### Financial/Budget Implications:

Not Applicable

### Policy implications:

Not Applicable



**Regional Significance:**

Not Applicable

**Sustainability implications:**

Not Applicable

**Consultation:**

Consultation may be required by the provisions of the Residential Design Codes 2002, any relevant Town Planning Scheme Policy and/or the District Planning Scheme.

Of the 107 applications determined, during the report summary period, consultation was undertaken for 25 of those applications.

All applications for an R-codes variation require the written support of the affected adjoining property owner before the application is submitted for determination by the Coordinator Planning Approvals. Should the R-codes variation consultation process result in an objection being received, then the matter is referred to the Director Planning and Community Development or the Manager, Approvals, Planning and Environmental Services, as set out in the notice of delegation.

**COMMENT**

Large local governments utilise levels of delegated authority as a basic business requirement in relation to Town Planning functions. The process allows determination times to be reasonably well accepted and also facilitates consistent decision-making in rudimentary development control matters. The process also allows the elected members to focus on strategic business direction for the Council, rather than day-to-day operational and statutory responsibilities.

Without such a mechanism, it would be exceptionally difficult for the Council to be properly informed to make decisions itself, regarding approximately 70-110 planning applications per month.

All proposals determined under delegated authority are assessed, checked, reported and crosschecked in accordance with relevant standards and codes.

The delegation notice itself outlines specific delegations to respective levels and the limits to those levels of determination. The delegation allows the Director Planning & Community Development and Manager Approvals, Planning & Environmental Services to implement aspects of the District Planning Scheme No 2 that relate to the determination of certain types of development applications, and to process subdivision applications.

The Coordinator Planning Approvals and Senior Planning Officers (Planning Approvals) have authority to approve development applications that are in compliance with the District Planning Scheme No 2 or with minor variations to the applicable standard.

In addition to the major development applications dealt with under delegated authority, the Residential Design Codes and the District Planning Scheme provisions require an applicant to seek Council's written approval to exercise its discretion to vary an Acceptable Standard of the Residential Design Codes for a development that relates to a single house or additions to a single house, such as patios, outbuildings, carports, garages, retaining walls, etc. As this type of written approval requires an exercise of discretion, they are required to be reported to Council in accordance with the notice of delegation.

Where a development does not require planning approval (complying development), the application is dealt with as a building licence only. Should a building licence application be received and it is identified that an R-Codes variation is required, then the applicant will be requested to seek the relevant approval.

## **ATTACHMENTS**

Attachment 1            October 2005 Approvals – Development Applications  
Attachment 2            October 2005 Approvals – R-Code variations for Single House

## **VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

**That Council NOTES the determinations made under Delegated Authority in relation to the applications described in this report for the month of October 2005.**

*Appendix 21 refers*

To access this attachment on electronic document, click here: [Attach21brf061205.pdf](#)

## **ITEM 24                    MINUTES OF THE SENIORS INTERESTS ADVISORY COMMITTEE MEETINGS HELD 3 AUGUST 2005 AND 2 NOVEMBER 2005 – [55511]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Clayton Higham  
Planning and Community Development

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### **PURPOSE**

To note the confirmed minutes of the Seniors Interests Advisory Committee meeting held Wednesday 3 August 2005 and the unconfirmed minutes of the Seniors Interests Advisory Committee meeting held 2 November 2005.

### **EXECUTIVE SUMMARY**

A meeting of the Seniors Interests Advisory Committee was held on Wednesday 3 August 2005 and on Wednesday 2 November 2005.

The confirmed minutes of the meeting held on 3 August 2005 and the unconfirmed minutes of the meeting held on 2 November 2005 are submitted for noting by Council.

*It is recommended that Council NOTES the confirmed Minutes of the Seniors Interests Advisory Committee Meeting held on Wednesday 3 August 2005 forming Attachment 1 to this Report and the unconfirmed Minutes of the Seniors Interests Advisory Committee Meeting held on Wednesday 2 November 2005 forming Attachment 2 to this Report.*

### **BACKGROUND**

The Seniors Interests Advisory Committee was instigated as a result of a Council resolution to elect an Occasional Seniors advisory Committee on 25 September 2001, which was changed to the Strategic Advisory Committee – Seniors Interests at the Council meeting of 9 October 2001. Initial membership was established at the Council meeting of 18 December 2001. At its meeting of 3 September 2002, Council resolved to remove "Strategic Advisory" from all Council Committees and the committee became the Seniors Interests Advisory Committee.

The Committee was established because Council identified the benefit of receiving advice on matters to do with seniors from residents of the City of Joondalup, the ageing population and the need for community input into the Seniors Plan.

As stated in the Terms of Reference, the objective of the Committee is to:

3.1 Provide advice to Council to ensure that the concerns of seniors are adequately represented in the City planning processes and the strategic directions being developed for older people across the City.

The current Committee nominated for membership after the previous Committee came to the end of their tenure as per the Terms of Reference. The terms of Reference stated that the term for the current members of the Seniors Interests Advisory Committee would conclude at the end of May 2005.

The Appointment of Seniors Interests Advisory Committee Report CJ 152 – 07/05 was endorsed by Council at its meeting of 19 July 2005. The current committee met for the first time on 3 August 2005.

## **DETAILS**

### **Issues and options considered:**

On 3 August 2005 Seniors Interests Advisory Committee members attended their first meeting as the newly endorsed Committee. Conforming to the Local Government Act 1995 (section 5.12, Schedule 2.3), the Chief Executive Officer acting as presiding officer, sought and received nominations for the positions of Chairperson and Deputy Chairperson. Sharleen Mann and Val O'Toole were elected to the positions of Chairperson and Deputy Chairperson respectively.

The Committee considered reports on:

- The Committee's Terms of Reference
- Seniors Information Expo
- Live Life Festival
- Living Now: A Seminar for Seniors

As per terms of Reference minimum requirements, the Committee resolved to meet quarterly.

A workshop held outside of the meeting agenda, enabled committee members to begin the process of identifying issues to guide the future direction and focus of the committee.

On 2 November 2005, following on from the workshop held on 3 August 2005, members continued discussion, focussing on strengths and gaps of the Seniors Plan 2004 -2008 in the context of future planning and strategic direction of the Seniors Interests Advisory Committee.

The Committee considered reports on:

- Future planning and strategic direction of the Committee.
- The evaluation and review of the Directory for Seniors and People With Disabilities.
- The Strategic Plan 2005-2008 of the Alliance for the Prevention of Elder Abuse: Western Australia (APEA:WA) and the City's Prevention of Elder Abuse Network.
- Seniors Week activities.
- An Emergency Medical Information booklet specifically for seniors.

The Committee discussed regularity of meetings and resolved that Committee meetings would be held two monthly rather than quarterly.

The next meeting will be held on Wednesday 1 February 2006 and two monthly thereafter.

### **Link to Strategic Plan:**

The Seniors Interests Advisory Committee is linked to the Strategic Plan through the following objectives:

- 1.1 By developing, providing and promoting a diverse range of lifelong learning opportunities.
- 1.2 By meeting the cultural needs and values of the community.

- 1.3 By continuing to provide services that meet changing needs of a diverse and growing community.
- 1.4 By working with the community to enhance safety and security in a healthy environment.

**Legislation – Statutory Provisions:**

The Seniors Interests Advisory Committee is an official Council Committee whose Terms of Reference are endorsed by Council.

**Risk Management considerations:**

Not Applicable

**Policy implications:**

Not Applicable

**Regional Significance:**

The Seniors Interests Advisory Committee is a locally focussed working group, established by Council to represent and advocate for the needs of seniors within the City of Joondalup. Although there may be some issues and concerns unique for seniors within the City, it is probable that these issues and concerns may be similar for many seniors throughout the state. Therefore, whilst focussing and operating from a local perspective, the Committee has and does consider a range of universal issues that impact upon seniors at regional and state levels.

**Sustainability implications:**

The Seniors Interests Advisory Committee enables seniors the opportunity to actively participate and provide input into the development and maintenance of a healthy and equitable community that considers their needs.

**Consultation:**

Not Applicable

**COMMENT**

The membership of the Seniors Interests Advisory Committee, was endorsed by Council on 19 July 2005. The Committee has met twice, electing a Chairperson and Deputy Chairperson, familiarising itself with the Terms of Reference and the Seniors Plan 2004 – 2008 and participating in a workshop to identify issues to guide the future direction of the Committee. Members have been informed of past achievements of the Committee, have discussed and determined the regularity of committee meetings, which after a trial of meeting quarterly, resolved to meet two-monthly. Additionally, members have received information on and provided input into the Directory for Seniors and People with Disabilities. Information has been provided to the Committee on a range of issues including Elder Abuse and Seniors Week activities.

The Committee will continue to be informed about issues relating to seniors, enabling members to continue to provide advice and recommendations to Council, ensuring that seniors concerns are adequately represented in the City's planning processes and strategic directions being developed for older people across the City.

**ATTACHMENTS**

- Attachment 1            Minutes of the Seniors Interests Advisory Committee meeting held on 3 August 2005.
- Attachment 2            Minutes of the Seniors Interests Advisory Committee meeting held on 2 November 2005.

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION****That Council NOTES:**

- 1        the confirmed Minutes of the Seniors Interests Advisory Committee Meeting held on Wednesday 3 August 2005 forming Attachment 1 to this Report;**
- 2        the unconfirmed Minutes of the Seniors Interests Advisory Committee Meeting held on Wednesday 2 November 2005 forming Attachment 2 to this Report.**

*Appendix 22 refers*

To access this attachment on electronic document, click here: [Attach22brf061205.pdf](#)

## **ITEM 25                      REVIEW OF DISCUSSION PAPER ON NEW PUBLIC HEALTH ACT – [73512]**

<b>WARD:</b>	All
<b>RESPONSIBLE DIRECTOR:</b>	Mr Clayton Higham Planning and Community Development

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### **PURPOSE**

This report outlines the approach, principles and broad contents of a proposed new Public Health Act as outlined in a recently released discussion paper, and requests that Council endorse the contents of the report as its guiding principles and strategies in response to a proposed New Public Health Act.

### **EXECUTIVE SUMMARY**

The Health Act 1911 is 94 years old. Constructed in a time when the cause of infectious disease was not clearly understood, it was initially based on sanitation issues of the early 20<sup>th</sup> century. As it stands the current Act is no longer capable of offering effective support for public health programmes in Western Australia and does not provide adequate responses to new and emerging environmental health problems or to new threats from public health emergencies, possible epidemics (e.g. SARS, Avian flu) or bio terrorism.

It cannot be realistically disputed that it is not time for a major review of the Act and its approach. Many have agitated for reform for a great number of years.

People value their individual and community health needs above most other priorities. There are many recent and past examples of issues where the community have demanded more effective preventative and protective strategies from governments and their departments (state and local). Examples include the waste control fire in Bellevue, Brookdale Waste Disposal and Treatment facility and the South Beach redevelopment. In some cases it could be argued that the legislative arrangements were found to be unresponsive or ineffective which resulted in adverse risks to public health and subsequent community outcry and backlash. The community needs and demands effective legislation that adequately protects public health and safety.

Local government needs effective and flexible mechanisms to undertake its role and respond to community needs. Local government as the tier of government closest to the community is a key partner and protector of public health of the community. The existing Act does not meet these needs.

A discussion paper titled ‘A New Public Health Act for Western Australia,’ together with a Précis and a Submission Form was released for public comment in June 2005. Initially the period for comment was to end on 30 September but has now been extended to 30 November 2005. This paper posed 149 technical questions on which are being dealt with at an Officer level.

The Discussion Paper advocates the development of a new Public Health Act that:

- Is expanded in scope in order to address current, emerging and future health issues
- Is administered using a risk based approach rather than “control and command”
- Is administered in a proactive way rather than reactively

- Is able to administer in true partnership with other Acts and agencies
- Supports sustainability principles
- Is compatible with approaches being taken in other States and Territories

There are two fundamental changes proposed.

- 1 It is proposed to extend the ambit of a new Act, to be more in keeping with the World Health Organisation (WHO) definition of health, which hinges on a state of physical, mental and social well being, not merely the absence of disease or infirmity.
- 2 It is proposed to take a risk based approach to administration of the Act, based on a statutory duty for “all persons to conduct their activities in a way that does not cause risks to the health of others”.

Main elements of the model are:

- A general duty to protect public health
- Orders to enforce the general duty
- Policies and guidelines spelling out compliance with duty
- An offence of causing ‘risk to health’

It is proposed that a new Health Act would reflect modern approaches by incorporating a set of objects that will establish the extent and limits of public health responsibilities. The functions of the Executive Director, Public Health (EDPH) are also canvassed, strengthening the EDPH's role to conduct inquiries into the health impact of activities. The role of local government and the relationship between the Health Department and local governments, a long-standing issue for the administration of public health across Australia, is also raised for discussion.

The health of the environment and the health of humans who live in the environment are integrally linked, with sustainability as the common goal. Future public health problems will be bound together with future environmental problems. The issues of global warming and the hazards of living on a planet that cannot sustain our lifestyles will rival all of the public health problems of earlier generations.

All governments need to have a strong commitment to breaking down the barriers between public health and environmental protection and ensuring this is reflected in operational and administrative arrangements. The discussion paper does highlight this need however falls short on defining how environment and health will link. It must be strongly emphasised in the City's response on the discussion paper that the ability for the proposed Act to ensure improved Health outcomes for the community is severely compromised given the current dictomy of public health and environmental protection, in both legislation, administrative arrangements and operational links between the two areas. The link between Public Health and Environmental Protection must be strongly emphasised in both government practice and decision making and the associated supporting framework of legislation & administrative arrangements.

*It is recommended that Council endorse the content of this report as its guiding principles and strategy in relation to the proposed Public Health Act.*



## **BACKGROUND**

### **Public health legislation**

Western Australia's current public health act was first passed in 1911 and has been extensively amended and added to over the subsequent years. The 'core' provisions necessary that relate to sanitation and communicable disease reflect the origins and the language of the 19<sup>th</sup> Century public health acts, and the Health Act 1911 (WA) does not have the capacity to provide modern approach to management of public health risks or the containment of disease.

A Health Act provides the primary remedy for public health issues. In practice it is made up of two seemingly separate, though often inter-related areas – sanitation and the control of communicable disease. The first public health acts passed in Britain in the middle of the 19<sup>th</sup> century, focussed on the problems of the urban environment, on removing conditions such as overflowing drains, cesspits and accumulations of putrid waste that were offensive but, according to the understandings of the time, also dangerous to health. The first public health remedies were tailored to meet these kinds of problems and they are continued to be applied in the current legislation. The second area of concern for the early public health acts was the need to respond to disease, which involved provisions such as notification, the restraint of individuals and the ability to destroy property thought to be a source of infection. Wide powers were provided by these early acts and with them came the potential to abuse them or to use the powers most enthusiastically when foreigners or 'outsiders' were suspects.

The Health Act 1911 first operated and still operates with a view of health that is now regarded as very narrow. By contrast the World Health Organisation offers a wide view of health encompassing 'physical, mental and social wellbeing' as well as the absence of disease or infirmity. This definition is now seen as standard. The challenge for public health legislation will be to apply these broad ideas within a coherent and workable legislative framework.

The traditional model of public health legislation has been reactive. It focussed on existing problems and issues typically operated by complaint. The discussion paper recognises that existing legislation is inflexible, lacking the opportunities for shared goals and agreed outcomes not envisaged in a traditional 'command and control' approach, but more often a feature of newer models of legislation. In particular, the Paper canvasses options for a new legislative approach to public health that supports and augments contemporary public health practice. It envisages that new legislation might adopt some key ideas that are current in public health thinking and practice across Australia and New Zealand.

### **Public Health administration**

The Health Acts across Australia also set in place an administration that established a central (state) and local government responsibility for public health administration that remains to this day. In most cases public health responsibility still lies with governments and the division of responsibility between local and state is an important issue and a third element of legislation. A new Health act must clarify and strengthen this relationship.

## DETAILS

The key aim of a new Health Act is in ensuring flexibility in dealing with risks to health, now and in the future. The following table shows the main differences between the current Act and the proposed Act.

	<b>1911 Health Act</b>	<b>2005 Health Act</b>
Causes	Unsanitary conditions that cause disease	Many threats to health
Approach	Target the nuisances – prescribe/proscribe activities	General duty to protect public health – assess risk and respond accordingly
Roles	States sets the rules Local Government enforces	State sets the framework Local Government sets own rules
Crown	Crown not bound by the Act	The Crown bound
Fees	A number of fees set by regulation under the Health Act	Opportunity for all fees to be set under the Local Government Act.
Enforcement	Use of Regulations	Use of policies, standards & Guidelines

### Central philosophy – risk to health

It is envisaged that a new health act should be driven by the central philosophy of minimising risk to the public's health. The centrepiece of this approach is a proposed statutory duty incumbent on all persons to conduct their activities in a way that does not cause risks to the health of others. It is as follows – *A person must not undertake any activity that may result in harm to health unless the person takes all reasonable and practical measures to eliminate the possibility of harm occurring.*

This duty replaces the current 'nuisance' provisions that have been in place since the inception of public health legislation and so embedded in its sanitary origins as to be unable to provide the versatility and breadth of operation necessary to ensure that new and emerging public health threats are properly dealt with. The discussion paper envisages the following elements could be in place to support a risk based approach to the regulation of public health:

- A general duty to protect public health
- Orders to enforce the general duty
- Policies and guidelines spelling out compliance with the duty
- An offence of 'causing a risk to health'

### Public health administration

The discussion paper envisages that the current dual responsibility for public health in WA vested in local government and the state government will continue. The functions of the Executive Director, Public Health (EDPH) are also canvassed, strengthening the EDPH's role to conduct inquiries into the health impact of activities.

The role of local government and the relationship between the Health Department and local governments, a long-standing issue for the administration of public health across Australia, is also raised for discussion.

The discussion paper agrees that good public policy should require the crown to be bound by its legislation and argues that the tradition of exempting the Crown or its agencies from the operation of its legislation is no longer tenable. This means that new public health legislation will apply to indigenous communities previously excluded from its operation and will provide equal protection for all Australians.

It is proposed that a new Public Health Act is an important statute in its own right. It will be the 'umbrella of ideas and values' under which other public health laws sit and to which they may be connected. By necessity the Act must make other links, alliances and connections with areas of legislation that impact significantly on the public's health.

### Licensing

Licensing or registration currently exists in the Health Act 1911 for a series of specific places, products and activities regulated under the Act. These include lodging houses, eating houses, offensive trades, pesticides and the manufacture of therapeutic substances. There is a case to allow for the option of licensing in a new Act, although the requirement to apply more generally to 'any activity which is declared to present a health risk' rather than in specific ways it applies at present.

However since licensing or registration imposes some additional administrative burdens and costs on those premises required to be licensed, a need for licensing and a clear value flowing from it needs to be demonstrated.

### Local Laws

Local laws, or laws specific to local government areas, are permitted under the Health Act 1911 and are regarded as part of the Act overall. The Local Government Act also provides powers to make Local Laws.

Local laws allows a comprehensive body of public health controls within each local government area, and in practice, extensive sets of laws have been created. The discussion paper raises the issue as to what extent local governments should retain the power to create local laws under the new Act.

It will be suggested in the City's response to the discussion paper that a system for local governments to make local laws based on local issues or local needs is retained.

### Health Impact Assessment

For most of the years that the Health Act 1911 has been in operation it provided environmental remedies as much as public health remedies. The problems of public health and the problems of the environment so often were synonymous. This remains true today: issues of land use planning and environmental pollution have public health dimensions.

Public health concerns, environmental protection concerns and planning concerns cannot be separated. The assessment of new developments needs to take into account the risks that may be posed to persons exposed to the environmental effects of the development as much as those environmental effects themselves. Formal statutory decision making processes that do not occur within the confines of a public health framework but which have public health consequences must be considered in a review of the current Act.

The assessment of the public health impacts is an important component of current policy and the process of Health Impact Assessment (HIA) is well accepted and important. It should be supported by legislation, both within health and other regulatory arrangements, as environmental impact assessment is supported in planning or environmental legislation.

The discussion paper poses the questions as to what extent can new Health legislation initiate and support the process of HIA and to what extent can HIA integrate into the general framework of planning and development assessment in WA.

### Control of Communicable disease

The Health Act 1911 deals with communicable disease today in much the same way it did when the provisions were first introduced almost a century ago. A number of events in the past few years have raised the need for new directions and perspectives in the area of communicable disease. The deliberate spread of infections through bioterrorism, and outbreaks of SARS and bird flu are reminders of the potential of new epidemics that might require the use of wide scale and sweeping public health powers of the type used in earlier times. Given this, there is a need to complement current infectious disease controls (which are geared to individuals) with more sweeping powers. It must be recognised however, that all communicable disease controls, especially emergency powers, impact on individual rights. The need to be sensitive to such impacts and ensure that new legislation also provides the principles that guide the use of controls and which ensure that they are applied in a way that takes into account the rights of those who might be affected by them.

### Immunisation

Western Australia does not have a consistent or modern approach to immunisation. Current legislation covers only a short list of diseases and conditions. The model for discussion is that a new Health Act should provide the power to make immunisation regulations or policy.

### Emergency powers and serious incidents

This section argues that emergency powers provisions designed specifically to combat outbreaks of influenza and tuberculosis are not longer relevant to today's issues which include disasters and the threat of bio terrorism. It suggests that certain elements of emergency powers provisions should be reconsidered and that there should also be a lesser power to deal with serious incidents not as dire as a public health emergency.

### Conclusion

The discussion paper concludes with a brief section on transitional arrangements and provides a model framework for a new Act.

### **Issues and options considered:**

State and Local Government undertake the management of public health. Changes to the Health Act will have significant implications for Local Government. New legislation provides an opportunity to address Local Government's concerns with current legislation and to establish contemporary public health laws which meet community needs.

The Western Australian Local Government Association is recommending cautious, in-principle support to the Department's Discussion Paper and the new approach being proposed. The final position adopted by the Association will be informed through consultation with members and resolution by the Association State Council.

The City's Officers will continue to be involved in the consultation and development phase of the new Act to ensure that the City's needs in ensuring Local Government have more

autonomy and flexibility to meet local Environmental Health issues and in ensuring the new Act will give Local Government scope to tackle public health issues without imposing unrealistic and un-resourced demands are communicated.

**Link to Strategic Plan:**

Aligns with the City's Key Focus Areas of Community Well-being and Caring for the Environment and City Development

**Legislation – Statutory Provisions:**

Health Act 1911

**Risk Management considerations:**

As it stands the current Act is no longer capable of offering effective support for public health programmes in Western Australia and does not provide adequate responses to new and emerging environmental health problems to new threats from public health emergencies, possible epidemics (e.g. SARS, Avian flu) or bio terrorism.

The current Health Act is outdated and is often difficult to use for professionals charged with the responsibility for its administration and for those who must comply.

WALGA, the Department of Health and the Australian Institute of Environmental Health have long advocated that it should be extensively reviewed. Given this, it has been under formal review in one way or another for the last 20 years but this has not progressed beyond discussion.

The need for a new Act is clear and the will to proceed is apparent.

**Financial/Budget Implications:**

The broadening of ideas about public health in particular its move from definable and confined sanitary context to a more general approach encompassing lifestyle diseases in the proposed statutory duty to safeguard public health, may lead to increased costs to local governments and the perception of increased costs in administration. While these costs remain unquantifiable, they can be to some extent gauged by the fact that the new Act will mostly continue the existing responsibilities for local government.

It is believed that the new Public health Act must provide a mechanism for local government to recover the costs of its services to the community, and that the Act allows Local Government to establish fees (under section 6.16 and 6.17 of the Local Government Act 1995) not capped by regulation.

**Policy implications:**

The Health Act 1911 has approximately 50 sets of regulations dealing with a range of particular issues. Most of these can be repealed and many tend to reflect the language and concerns of earlier times. More significantly, it is envisaged that many will be upgraded and converted into public health policies which will contain detailed provisions that might be required for specific areas if public health regulation.

Potentially Public Health policies will be key documents and the Act should spell out a process for their development, which would include public participation in commenting on drafts. In any case where a statutory process is prescribed, the opportunities for proper community involvement, and the need to develop policies in a timely way and the resources available will all be issues that must be taken account of.

**Regional Significance:**

A new Health Act will have statewide significance.

**Sustainability implications:**

The health of the environment and the health of humans who live in the environment are integrally linked, with sustainability as the common goal.

People form an integral part of the Earth's ecosystem. Their health is fundamentally interlinked with the total environment. All available information indicates that it will not be possible to sustain the quality of life for human beings and all living species, without drastic changes in attitudes and behaviour at all levels with regard to the management and preservation of the environment.

The long term sustainability of life in Western Australia is a prime public health issue. The consequences of an unsustainable environment will impact very adversely of humans through climate change and diminished opportunities. These will fundamentally be public health impacts.

Future public health problems will be bound together with future environmental problems. The issues of global warming and the hazards of living on a planet that cannot sustain our lifestyles will rival all of the public health problems of earlier generations.

A Health Act that offers a more general approach to recognising and responding to health problems and which is able to inject public health concerns into public policy and decision making (for example through health impact assessment) is more able to support and further sustainability than one which is locked in sanitary origins.

**Consultation:**

In June 2005 the Health Act Review discussion paper was released for consultation. The Discussion paper describes the way in which the current Health Act 1911 operates and its limitations in the prevention of disease and the promotion and protection of public health in the 21<sup>st</sup> Century. The paper also suggests options and approaches for a new Public Health Act for WA to best address the short falls.

The discussion paper offers the opportunity for input, debate and general comment on the concepts, principles and approaches proposed in the development of a new Public Health Act for WA. The paper is also the basis for proposed key stakeholder engagement throughout the process of legislation development.

The comments and input received will guide government policy in relation to the drafting of any future legislation.

Consultation and advertising is the responsibility of the Department of Health, Western Australia.

WALGA also has had significant input into the reform agenda and has released a position paper as a response to the Department of Health's Discussion Paper on a New Public Health Act for Western Australia. Feedback on the recommendations developed by the Association is currently being sought from Councils.

A number of fundamental principles have guided the Association's response including:

- Reducing cost shifting from State to Local Government
- Ensuring that any increase in the roles and responsibilities of Councils is accompanied with appropriate revenue streams
- Advocating for increased autonomy for Local Government
- Seeking clarification of the roles and responsibilities of State and Local Government
- Fostering regional co-operation between Local Governments
- Strengthening Local Government's ability to service their communities

#### Health Legislative Review Reference Group

The Association has established a Health Legislative Review Reference Group in partnership with the Local Government Manager's Association. The Group is comprised of Elected Members, Chief Executive Officers and Environmental Health Managers. The Group is providing technical input into the Association's position during the development of the Bill and the new Act.

#### State Wide Consultative Workshops

The Association, in conjunction with the Department of Health, has arranged a series of statewide consultative workshops to hear the views of Local Government on the Discussion Paper. Workshops are aimed at Elected Members, Chief Executive Officers, senior staff and environmental health professionals. Workshops have now been completed and responses currently being collated.

Progress of the public health legislation reforms is planned according to the following timetable:

<b>Activity</b>	<b>Start</b>	<b>Finish</b>
Health Act Review discussion paper released	June 05	August 05
Review comments, drafting instructions Public Health Bill to Cabinet	August 05	October 05
Drafting Public Health Bill	October 05	January 06
Consultation on draft Public Health Bill	February 06	March 06
Final drafting of Public Health Bill	April 06	May 06
Introduction to Parliament	June 06	
Public Health Act subsidiary instruments	2006	2007

This timetable is only indicative and clearly takes an optimistic view. The initial consultation period has already been extended for three months (November 2005) beyond the above stated completion time. The whole process is likely to take several years and transitional arrangements, particularly in relation to phasing out regulations and introducing mandatory policies becomes very important. It has been suggested the sensible approach will be to carry-over all appropriate regulations and local laws and progressively replace them with policies or guidelines as required.

## COMMENT

Whilst the need for a new Health Act and the themes contained in the discussion paper are fully supported by City staff, reservations still remain as to the ability for the proposed Act to ensure improved Health outcomes for the community given the current dictomy of public health and environmental protection, in both legislation, administrative arrangements and operational links between the two areas.

There are many recent examples of issues where the community have demanded more effective preventative and protective strategies from governments and their departments (state and local). Examples include the waste control fire in Bellvue, Brookdale Waste Disposal and Treatment facility and the South Beach redevelopment. In some cases it could be argued that the legislative arrangements were found to be unresponsive or ineffective which resulted in adverse risks to public health and subsequent community outcry and backlash. These examples are where Health and Environment jurisdictions overlap and highlight the pressing need to ensure that government practice and decision making must be strongly emphasised and the associated supporting framework of legislation, administration fully developed.

The National Environmental Health Strategy released in 1999, states that Australia's ability to predict and reduce environmental threats to health have been impeded by the fragmentation of management across government and key organisations. Different jurisdictions have differing operational approaches to environment & health, resulting in reduced awareness of existing activities, lack of coordinated actions and duplication of effort.

The EnHealth strategy reports that the current intergovernmental agreement on the Environment (which sets out general principles of environmental impact assessment) emphasises that human health is an issue of importance in protecting the environment.

Recent Policy developments in the United Kingdom show that in May 1993, the World Health Organisation formulated and endorsed a new global strategy for health and the environment. The WHO Commission on Health & the Environment have concluded that: *"...if the future of the human race is to be safeguarded, its manner of dealing with the environment must change dramatically...and...if the human race continues to ignore this fact its improved health and wellbeing will not be an attainable goal"*

(Our planet, our health: Report of the EHO commission on health and the environment. Geneva WHO: 1992)

Environmental Health Officers, as trained and qualified professionals, administer public health legislation across Australia, with qualifications being prescribed in the current Act. However, local governments EHOs operate under the umbrella of the Department of Health for much of their environmental health duties, but also under the Department of Environment for issues relating to pollution discharges, noise enforcement, waste management, contaminated sites, and hazardous materials & substances support. These officers seek guidance and support, as well as strategic direction from state government, and they have to go to the DoH for some issues, and DoE for others. Both agencies have differing structures (centralised and regionalised), varying levels of understanding of the needs and operations of local governments, and different cultures in areas such as enforcement. Accordingly, this makes it hard for LGA officers and the public to know where to go for what information and assistance, and the community often ends up dissatisfied.

There are ambiguities, overlaps and duplication of services and issues in the Health Act and the Environmental Protection Act. For example, a waste treatment plant odour could be a Health Act 'nuisance' or an Environmental Protection Act 'unreasonable emission'. Such issues have resulted in buck-passing and relationship difficulties between DoH, local governments and the DoE. Part of the problem is that the EP Act defines an unreasonable



emission as one which unreasonably interferes with the health, comfort or amenity of persons. Accordingly, the DoE is responsible for addressing some health issues, although it is not really staffed to understand health impacts on humans.

All governments need to have a strong commitment to breaking down the barriers between environmental health and environmental protection and ensuring this is reflected in operational and administrative arrangements. The Act does highlight this need however falls short on defining how environment and health will link. It must be strongly emphasised in the City's response on the discussion paper that the ability for the proposed Act to ensure improved Health outcomes for the community is severely compromised given the current dictomy of public health and environmental protection, in both legislation, administrative arrangements and operational links between the two areas. The link between Public Health and Environmental Protection must be strongly emphasised in both government practice and decision making and the associated supporting framework of legislation & administrative arrangements.

Accordingly, as the new Public Health Act is under development, it is an opportune time to make a fundamental review of the delivery of environmental health services in Western Australia. Furthermore it is suggested that the public/environmental health parts of the Environmental Protection Act should be rethought, and perhaps reduced or removed, so that environmental health issues are covered under one piece of legislation, making it easier for government, enforcers, industry and the community. This may involve not only changes to the Health Act, but changes to the Environmental Protection Act, and even changes to departmental structures.

Environmental health is the science of preventing disease, and interrelates with public health and environmental protection. None can be totally separated, as they all are part of the sustainability equation.

## **ATTACHMENTS**

Nil

## **VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

### **That Council:**

- 1 NOTES that the Western Australian Local Government Association is recommending cautious, in-principle support to the Department's Discussion Paper and the new approach being proposed and that the final position adopted by the Association will be informed through consultation with members and resolution by the Association State Council;**
- 2 ENDORSES the contents of this report as its guiding principles and strategies in response to a proposed New Public Health Act.**
- 3 NOTES that further update reports will be provided as the drafting of the legislation is progressed.**

## **ITEM 26                      MIDGE                      MANAGEMENT                      STRATEGY IMPLEMENTATION PLAN 2005 – 2010 – [03171]**

<b>WARD:</b>	All
<b>RESPONSIBLE DIRECTOR:</b>	Mr Clayton Higham Director Planning & Community Development

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### **PURPOSE**

To present to Council for adoption the Midge Management Strategy 2005 – 2010 Implementation Plan, specifying the actions, responsible bodies, timing, funding arrangements and procedures for management of nuisance midge at Lake Joondalup.

### **EXECUTIVE SUMMARY**

Council, at its meeting held on 17 May 2005 (Item CJ097 – 05/05 refers), considered a report seeking endorsement for the renewal of the Midge Management Strategy Partnership between the Department of Conservation and Land Management, City of Wanneroo and City of Joondalup for a further period of five (5) years. The motion was carried unanimously by Council.

The Council agreed to continue its support as a member of the Midge Management Strategy for a further five (5) years, subject to a commitment from the other members agreeing to participate and provide funding for an equivalent term. Council also agreed to formalise its role as a partner to the agreement subject to presentation and subsequent adoption of a new Midge Management Strategy (2005 – 2010) specifying actions, responsibility, funding arrangements and amounts.

Subsequently all partners have met to develop the Midge Management Strategy 2005 – 2010.

In terms of a new strategy – the Midge Management Strategy 2005 – 2010 consists of 3 components:

- 1 Partnership Agreement
- 2 Implementation Plan
- 3 Procedures and Processes

The Midge Management Strategy Implementation Plan attached to this document is recommended for adoption. Adoption of the plan will formalise the City of Joondalup as a partner to the Midge Management Strategy for the next five (5) years.

### **BACKGROUND**

#### History to the Midge Management Strategy:

In 1998 and 1999 the residents located in close proximity to Lake Joondalup suffered plague proportions of adult midge. Residents expressed concerns to local authorities, the local Members of Parliament, the media and the Minister for the Environment and Labour Relations.

At the meeting of the Council on 11 May 1999 a report (Item CJ154 - 05/99 refers) was considered which advised of the severe midge problems that were being experienced by residents living in the vicinity of Lake Joondalup and Lake Goollelal. At that meeting, Council:

- Endorsed the Midge Strategy and Action Plan for Lake Joondalup and Lake Goollelal outlined in the report;
- Approved \$21,000 to be listed for consideration as a new initiative in the 1999/2000 annual budget as a high priority (this amount was subsequently approved for research to be undertaken by Edith Cowan University);
- Encouraged the Midge Control Group to establish an Integrated Catchment Management Program for the management of natural resources at the local and regional level.

A further report presented to Council on 28 November 2000 (Item CJ339 – 11/00 refers) outlined the progress of the Midge Control Group, also known as the Yellagonga Catchment Group, towards establishing an Integrated Catchment Program for the management of natural resources at the local and regional level. The report also advised of the findings of an Edith Cowan University study of the midge problem and presented a draft Midge Management Strategy to control midge in Lake Joondalup.

The Council resolved to:

- Endorse the work of the Yellagonga Catchment Group and continue to support the broader catchment management role of this group;
- Note the findings of the research prepared by Edith Cowan University into the study of the midge problem associated with Lake Joondalup and Lake Goollelal;
- Adopt the Draft Midge Management Strategy for Lake Joondalup as presented by the Department of Conservation of Land Management subject to:
  - (a) A commitment being given from the Minister for Conservation and Land Management, ensuring fifty percent of the funding being provided for the implementation of the strategy over at least 5 years;
  - (b) Listing for consideration in the City's 2001/2002 draft budget an amount of \$46,250.00 to implement the CALM Midge Management Strategy for Lake Joondalup;
  - (c) A commitment from the City of Wanneroo to contribute twenty five percent of the cost of the strategy.

The Midge Management Strategy Partnership Agreement was initiated by the Minister for the Environment and Labour Relations in 2000, advising that the State Government was prepared to fund fifty percent (50%) of the strategy (via the Department of Conservation and Land Management), on the condition that the other half of the funding was shared amongst the two Cities. In the correspondence it was estimated that the total estimated cost of the proposed strategy was likely to be approximately \$185,000 per annum.

The City of Joondalup together with the City of Wanneroo and the Department of Conservation and Land Management endorsed this proposal, which established the Midge Management Strategy for Lake Joondalup. This strategy agreement expired on 30 June 2005.

Appreciating the pending completion of the Midge Management Strategy Partnership Agreement, the City of Wanneroo Council at its meeting on 23 November 2004 resolved that it:

- 1 *SUPPORTS the City's Administration formally advising the partners; City of Joondalup, Conservation and Land Management (CALM) and Water & Rivers Commission of the completion of the first five (5) year strategy in July 2005;*
- 2 *AGREES to the City participating as a member of the Midge Management Strategy for a further five (5) years, subject to a commitment from the other financial members of this committee agreeing to participating and providing the necessary funding for an equivalent term;*
- 3 *REQUIRES that the Midge Management Steering Committee roles be reviewed and formalised to ensure accountability to relevant stakeholders.*

In February 2005, The City of Wanneroo wrote to the City of Joondalup requesting the continuation of the Midge Management Strategy for a further five (5) years, subject to all members of the strategy agreeing to participate and provide the necessary funding.

Subsequently, the Council of the City of Joondalup at its meeting on 17 May 2005 (Item CJ097 – 05/05 refers) considered a report seeking endorsement for renewal of the Midge Management Strategy Partnership between the Department of Conservation and Land Management, City of Wanneroo and City of Joondalup for a further period of five (5) years. The motion was carried unanimously by Council.

*At this meeting it was resolved that Council:*

- 1 *AGREES to the City of Joondalup advising the City of Wanneroo of its in principle support to continue as a member of the Midge Management Strategy for a further five (5) years, subject to a commitment from the other financial members of this committee agreeing to participate and provide funding for an equivalent term;*
- 2 *AGREES to formalise its role as a partner to the agreement subject to presentation and subsequent adoption of a new Midge Management Strategy (2005 – 2010) specifying actions, responsibility, funding arrangements and amounts;*
- 3 *APPROVES the review and formalisation of the roles of the relevant stakeholders of the Midge Management Strategy Partnership Agreement;*
- 4 *LISTS for consideration an amount of up to \$1 250 per year for the next 5 years to fund the Midge Management Strategy Partnership Agreement, subject to the appropriate funding from the City of Wanneroo and the Department of Conservation and Land Management.*

Subsequently all partners have met to develop the Midge Management Strategy 2005 – 2010 and accompanying Implementation Plan.

#### **DETAILS**

In terms of a new five (5) year strategy – the Midge Management Strategy 2005 – 2010 consists of 3 components:

- 1 Partnership Agreement
- 2 Implementation Plan
- 3 Procedures and Processes

## 1 Partnership Agreement:

This document has been developed based on the Western Australian Local Government Association (WALGA) – state and local government partnerships guide and aims to provide for an agreement made in good faith based on the commitment from all partners to an effective and sustainable partnership for the purpose of managing nuisance midge within Lake Joondalup. It does not seek to establish a legal relationship between the partners. It envisages that both Council Chief Executive Officer's and the District Manager of the Department of Conservation and Land Management will sign off on the Partnership Agreement.

This document includes the purpose for the agreement, the partners involved, the objectives of the partnership, the principles to work under, the scope of the agreement, management processes, review periods, dispute resolution processes, break clause and signatories.

The Partnership Agreement is for the control and management of nuisance midge in Lake Joondalup and funds midge larval and water monitoring, nuisance reduction using pesticide application when required and other intervention strategies, research projects in an effort to better understand the factors contributing to the seasonal midge plagues and public information and education for the management of nuisance midge within Lake Joondalup. Importantly the Partnership Agreement specifically arranges for the allocation, management and administration of funds of the strategy.

## 2 Implementation Plan:

The Implementation Plan underpins the Partnership Agreement and specifies the actions, responsible bodies, timing, funding arrangements, and procedures for the Midge Management Strategy.

The Midge Management Strategy Implementation Plan 2005 – 2010 is attached and has been categorised under the following actions:

### 1.0 *Coordination*

The Midge Steering Group (previously known as the Midge Steering Committee) has been established between the partners of the strategy and all partners have agreed to providing, allocating and managing funding for the Midge Management Strategy for the following five (5) years.

### 2.0 *Monitoring*

Midge larval monitoring is undertaken on a weekly basis during the midge season, to assist in better predicting when treatments will be necessary and most effective. Monitoring also includes physical and chemical analysis of Lake Joondalup's water quality to better understand the Lake's nutrient status and habitat factors influencing the midge population. Furthermore hovercraft maintenance/repair costs will also be allocated under monitoring.

### 3.0 *Nuisance Reduction*

Chemical treatment is the most effective method of nuisance reduction currently employed by the Midge Management Strategy to manage midge larval numbers on a temporary basis. However, the new strategy also provides funding for other intervention strategies to reduce reliance on chemical treatment and explore both more effective temporary and permanent methods of nuisance reduction. The other intervention strategies will also reduce possible sustainability and policy implications.

#### 4.0 *Research*

Research funding has now also been made available for research projects undertaken by the metropolitan Midge Research Group. This is a group made up of several state and local government agencies and aims at improving the efficiency and knowledge of managing nuisance midge. Under the new Partnership Agreement the funding is acquitted on an annual basis.

#### 5.0 *Public Information and Education*

The public information and education action encompasses all matters involving public involvement in managing nuisance midge i.e. response to midge nuisance complaints, producing a public midge management information package including a midge management pamphlet and various public education programs.

#### 6.0 *Support for Integrated Catchment Management Plan*

The new strategy focuses on supporting the development and implementation of the Integrated Catchment Management Plan (ICMP) for the Yellagonga Regional Park. Supporting the ICMP can also be achieved through improving both stormwater and groundwater quality entering Lake Joondalup. This action also supports the regional significance requirements for all partners involved in the strategy.

#### 7.0 *Reporting*

The new strategy has also created the action of an annual report being produced on all actions outlined in the Implementation Plan and related action outcomes of each midge season. An annual financial report action has also been created to capture all strategy expenditures.

The Implementation Plan attached to this document is recommended for adoption. Adoption of the plan will formalise the City of Joondalup as a partner to the Midge Management Strategy for the following five (5) years.

### 3 Procedures and Processes:

The third part of the strategy contains the documented procedures and processes to support the program. At this stage the Midge Steering Group is currently formulating the required procedures and processes.

#### **Link to Strategic Plan:**

The proposed initiative would support objective 2.1 of the City's Strategic Plan, which states, "To plan and manage our natural resources to ensure environmental sustainability".

#### **Legislation – Statutory Provisions:**

Midge are not considered a threat to public health and therefore are not subject to control under health legislation.

#### **Risk Management Considerations:**

Midge continue to present a problem to residents around the lake. Those residents on the North Eastern side of the lake in the suburb of Wanneroo are predominately affected by the problem. There exists a community expectation of those residents surrounding Lake Joondalup that the Midge Management Strategy continues.

As midge are not considered a public health risk, and are of nuisance value only, the City does not have any statutory obligation to contribute or act on the midge problem. However, given the land use activity within the whole of the Yellagonga catchment (both within City of Joondalup and Wanneroo) has contributed to the eutrophication of Lake Joondalup and its resultant midge problem, and the City's strategic focus of sustainability (focusing on improving the quality of life for current and future residents) and community well being, it is considered appropriate to continue to contribute to the Midge Management Strategy.

**Financial/Budget Implications:**

Midge Management Strategy 2005 - 2010 total costs are approximately \$205,000 per annum. This apportions to the City's contribution of approximately \$51,250 per annum. Council at its meeting on 17 May 2005 (Item CJ097 – 05/05 refers), approved up to \$51,250 per annum to be listed for the next five (5) years to fund the strategy.

**Policy Implications:**

The Yellagonga Regional Park Management Plan 2003 – 2013, identifies strategies and priorities with responsibilities across various stakeholders including the City of Joondalup and the City of Wanneroo for management of the park and the many issues that impact on the park. Objective 19 of the document is "to minimize the negative effects of mosquito and midge populations in a manner that has minimal environmental and social impacts".

Key strategies under this objective being –

1. *'Implement the Midge Management Strategy for Lake Joondalup (2001)'*  
(Responsibility: CJ, CW, CALM) Priority: High
7. *'Continue to seek alternatives to chemical pest control that are compatible with the ecological values of the Park'.*  
(Responsibility: CJ, CW, CALM) Priority: High

**Regional Significance:**

The City of Joondalup together with the City of Wanneroo and the Department of Conservation and Land Management (CALM) has shared responsibilities for the management of the Yellagonga Regional Park Wetlands and surrounding catchments.

**Sustainability Implications:**

The application of chemical to the waterbody does not assist in providing for the long-term environmental sustainability of the Yellagonga Regional Park Wetlands. At this time however, chemical application is the only option available to local governments to provide relief for residents during episodes of emergence of very large numbers of nuisance midge. As stated previously, the new strategy aims at minimising any sustainability implications by reducing the reliance on chemical treatment through funding of other intervention strategies. The other intervention strategies action will investigate other more effective temporary and permanent methods of nuisance reduction.

**Consultation:**

A Midge Steering Group has been established between the partners of the strategy, to discuss and make recommendations on any issues pertaining to the Midge Management Strategy.

Furthermore, the partners are involved in participating and funding the Midge Research Group on various research projects to improve the efficiency and knowledge for the purpose of managing nuisance midge at Lake Joondalup.

A community forum is also held each year at the City of Wanneroo for community members to discuss issues relating to midge management with the partners of the Midge Management Strategy.

### **COMMENT**

The Midge Management Strategy Implementation Plan 2005 – 2010 has been reviewed and accepted by all partners of the strategy and it is recommended that Council adopt the Implementation Plan to support the effective management of nuisance midge within Lake Joondalup for the next five (5) years.

### **ATTACHMENTS**

Attachment 1            Midge Management Strategy Implementation Plan 2005 - 2010

### **VOTING REQUIREMENTS**

Simple Majority

### **RECOMMENDATION**

**That Council ADOPTS the Midge Management Strategy 2005 – 2010 Implementation Plan forming Attachment 1 to this Report.**

*Appendix 23 refers*

*To access this attachment on electronic document, click here: [Attach23brf061205.pdf](#)*



## **ITEM 27                    PROPOSED ADDITIONS - NEW FUNCTION ROOM WITH COURTYARD - CARINE GLADES TAVERN: LOT 12 (493) BEACH ROAD, DUNCRAIG – [05518]**

**WARD:** South Coastal

**RESPONSIBLE DIRECTOR:** Mr Clayton Higham  
Director Planning and Community Development

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### **PURPOSE**

To request Council determination of an application for planning approval for additions to the Carine Glades Tavern - New Function Room with Courtyard - at Lot 12 (493) Beach Road, Duncraig.

### **EXECUTIVE SUMMARY**

The proposal is for additions to the existing Tavern including a new separate Function Room with a Courtyard on the eastern side of the premises. The area of the Function Room will be 230m<sup>2</sup> and the existing courtyard area will be increased from 39m<sup>2</sup> to 84m<sup>2</sup>.

The applicant is proposing a maximum patronage of 652. The previous approval for changes to the Tavern in July 2002 provided for an expansion to accommodate 630 patrons.

Following advertising of the proposal, 34 submissions were received including a petition signed by 69 residents. Ten of the submissions raised no objections, the remaining submissions were objections.

Given the proximity of the tavern to residential areas, the scale of the tavern and the potential for anti-social behaviour and noise impact, it is recommended that the number of patrons be restricted to the current approved maximum of 630 and not be increased to 652 as proposed.

It is considered that the new staff car bays and access will impact on the adjoining residential properties and are not supported.

Given that the acoustic issues have been addressed, it is considered that the proposal in its current form, except the staff car bays & access, provides an appropriate development. Appropriate conditions can be applied to the planning approval, if the application is supported, to mitigate against cumulative impacts on the adjoining residential area.

### **BACKGROUND**

**Suburb/Location:** Lot 12 (493) Beach Road, Duncraig  
**Applicant:** Mr Brian Higgins  
**Owner:** Sitaro Pty Ltd  
**Zoning: DPS:** Commercial  
**MRS:** Urban  
**Site Area:** 1.0339 Ha  
**Structure Plan:** Not applicable

An extension to Carine Glades Tavern was approved by Council in 2002. This new application was submitted on 13 June 2005. Following discussions with the applicant and objectors, amended plans were submitted on 21 October 2005.

The amended plans included a number of changes designed to address the concerns of residents while providing for the premises to be upgraded and expanded to better meet the needs of the patrons. While it is recognised that the owners of the Tavern want to keep their premises to a high standard, this needs to be balanced against the need to protect the amenity of the adjoining residents.

## DETAILS

The subject lot borders residential development to the east, a childcare centre to the north, a shopping centre to the west and Beach Road to the south. Residences to the east directly abut the tavern carpark and some houses are setback at around 1.0 metre from the common boundary. Noise and anti-social behaviour have been ongoing concerns for the residents and the tavern owners.

The proposal is for additions to the existing Tavern including a new separate Function Room with a Courtyard on the eastern side of the premises. The area of the Function Room will be 230m<sup>2</sup> and the existing courtyard area will be increased from 39m<sup>2</sup> to 84m<sup>2</sup>. The courtyard area will be partly roofed by glass. The roof of the Function Room will overlap the courtyard area. The applicant is proposing a maximum patronage of 652.

Following objections raised by adjoining residents during the advertising process, the applicant has responded to the objections as outlined below (the applicant's comments are shown in italics):

- *Historically, and coincidentally, the residents have plenty of perceived issues and problems with our operations that arise immediately we apply for changes to our premises.*
- *It has been impossible to process these as the number of complaints listed have never been supported by the statistics held by the authorities, nor by the reports made directly to us. They have proven to be totally subjective and retrospective in nature.*
- *As part of our 2002 refurbishment, both the City of Joondalup and Liquor Licensing required The Carine to have a complaints/dispute procedure agreed with the residents and approved by the authorities. This was done!*
- *The objective was twofold - to provide a mechanism whereby an early resolution of a problem could possibly be obtained, and secondly, to provide an objective set of statistics that could be referred to by all parties.*
- *Aware of the history behind our applications, meetings were held (May-June) prior to the applications being lodged with the City of Joondalup, Liquor Licensing and residents*
- *We have received two complaints (both regarding entertainment noise) in 30 months and my recollection is that this was around the time we made public our intention to lodge an application for a new Function Room*
- *I have been informed that neither the City of Joondalup, nor Liquor Licensing, received any complaints prior to applications being lodged.*
- *Once again, the objective statistics do not support the resident's claims - it may well be a deliberate strategy to add weight to the minor number of objections against the new Function Room.*
- *Irrespective, I am concerned that these perceptions may exist (even in a small part of*

*the community). I would suggest that, independent of the DA, it is an opportune time for all parties (including the City of Joondalup and Liquor Licensing) to review and reinforce the complaint procedures agreed in 2002.*

Following a meeting with the officers of the City of Joondalup, additional information was submitted by the applicant which is summarised below:

- *The changes apply only to our Functions operations and as such there is no change to the existing Bar, Bottle Shop, Lounge and Restaurant operations.*
- *There is no change to the use of the existing Function facilities - including the existing 'Entrance' Courtyard.*
- *New Function areas will operate under existing Functions policy, apart from the removal of specific conditions on accesses and closing time (ie 7:00pm) for the new Function ('Enclosed') Courtyard.*
- *Maximum Patronage calculated at 652.*
- *The new Function Room is proposed to occupy an existing carpark on the eastern side of our premises. This carpark currently consists of 20 bays with two way traffic (southern end temporarily closed for access) and will reduce to 13 bays with one way traffic.*
- *City of Joondalup has accepted the acoustic report submitted with the Development Application and therefore there is no reason to adjust the proposal on any acoustic grounds.*
- *Furthermore, the option is to remove these bays and retain the existing, albeit realigned, two way access is shown but is not considered to be the best acoustic solution.*
- *Other options may exist to retain effective utilisation of this area, but it is believed that these will have a significant impact on the proposed plan and therefore cannot be considered at this late stage."*

The figure quoted above for 652 patrons was put forward by the applicant as an indication of the desirable maximum patronage.

#### **Issues and options considered:**

Council has the discretion to:

- Approve the application without conditions;
- Approve the application with conditions; or
- Refuse the application.

#### **Link to Strategic Plan:**

Not applicable

#### **Legislation – Statutory Provisions:**

A Tavern is a "D" use in a Commercial area. A "D" use means:

*"A use class that is not permitted, but to which the Council may grant its approval after following the procedures laid down by subclause 6.6.2."*

Clause 6.6.2 requires that Council in exercising discretion to approve or refuse an application shall have regard to the provisions of clause 6.8, which is shown below:

## 6.8 MATTERS TO BE CONSIDERED BY COUNCIL

6.8.1 *The Council when considering an application for Planning Approval shall have due regard to the following:*

- (k) *interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
- (l) *any relevant submissions by the applicant;*
- (m) *any Agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;*
- (n) *any planning policy of the Council adopted under the provisions of clause 8.11;*
- (o) *any other matter which under the provisions of the Scheme the Council is required to have due regard;*
- (p) *any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;*
- (q) *any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;*
- (r) *the comments or wishes of any public or municipal authority received as part of the submission process;*
- (s) *the comments or wishes of any objectors to or supporters of the application;*
- (t) *any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and*
- (u) *any other matter which in the opinion of the Council is relevant.*

With the proposed use being a “D” use, the additional matters identified in Clause 6.8.2 also require Council consideration in relation to this application for Planning Approval:

6.8.2 *In addition to the matters referred to in the preceding subclause of this clause, the Council, when considering whether or not to approve a “D” or “A” use application, shall have due regard to the following (whether or not by implication or otherwise they might have required consideration under the preceding subclauses of this clause):*

- (m) *as the Council considers the nature of the proposed use and its relationship to the use of other land within the locality;*

- (n) *the size, shape and character of the parcel of land to which the application relates and the nature and siting of any proposed building;*
- (o) *the nature of the roads giving access to the subject land;*
- (p) *the parking facilities available or proposed and the likely requirements for parking, arising from the proposed development;*
- (q) *any relevant submissions or objections received by the Council; and*
- (r) *such other matters relevant, whether of the same nature as the foregoing or otherwise.*

### **Development Standards under District Planning Scheme 2 (DPS 2)**

<b>DPS 2 Policy Standard</b>	<b>Required</b>	<b>Provided</b>
Front setback (Beach Road)	9m	19.3m
Rear setback ( northern side)	6m	35m
Side setback (Eastern side)(3 m wall along the parking)	3m	7.6m
Eastern side setback	3m	13.8m
Car parking	Maximum Patronage=652 166 bays including 3 bays for bottle shop	166 bays
Landscaping	8%/3m width	Comply

#### **Risk Management considerations:**

Not applicable

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

Not applicable

#### **Policy implications:**

Not applicable

#### **Regional Significance:**

Not applicable

#### **Sustainability implications:**

Not applicable

#### **Consultation:**

The original proposal was advertised for public comment from 23 August 2005 to 12 September 2005. One sign was placed on site and newspaper advertising was also used to invite comment. As a result, 34 submissions were received including a petition signed by 69 residents. Some of the nearby residents met with City staff on numerous occasions to discuss various aspects of the proposed development. Ten of the submissions raised no

objections and the remaining submissions contained objections. A summary of issues of concern is presented below.

<b>Description of Concern</b>	<b>No of times noted in the submissions</b>
Noise	24
Increase in anti-social behaviour including drunkenness, hooning, fights, graffiti, vandalism, loitering.	16
Scale of extension being too close to residential property	3

Details of the issues of concern are presented below.

<b>Submission</b>	<b>Technical Comments</b>
<p>The petition has raised the following issues.</p> <p>Concerns:</p> <p>Adequate sound proofing for the band area beyond that which is presently in the entertainment;</p> <p>Double glazing applied to all glass wall areas;</p> <p>Removal of proposed 7 new car bays on Plumosa Mews side of Tavern (this area is like a sound magnifying tunnel and cannot be used).</p> <p>Raise height of proposed East (parking bay) brick wall from 2 metres to full roof height.</p> <p>One way traffic on East Side on new proposed extension which is not available.</p> <p>Require EPA standard noise report prior to commencement of building.</p> <p>Restricted to wedding &amp; business functions with, exclusion to birthday parties (18-21), or any other group, which is suspect to behavioural problems and no band concerts.</p> <p>Crowd Control, Management of Behaviour</p> <p>Require details of proposed management plan to both prevent and deal with behaviour &amp; disturbance areas.</p>	<p>Noted. Refer to comments below.</p> <p>Noted. Refer to comments below.</p>

The applicant submitted amended plans on 21 October 2005. A meeting was held with the Resident Group to discuss the amended plans. A summary of comments of the residents' group together with responses follows:

**“Car Parking:**

*The residents vehemently oppose the proposed car parking at the East side of the Tavern as this area would be 10.5 metres from residential housing. Residents living at the East side of the Tavern already have serious problems with both noise and disturbances. This area is fragile and is simply an echo chamber. The proposed addition would further reduce the space between the tavern exterior and housing, dramatically increasing the echo effect and unacceptable noise and disturbance to residents from cars and people particularly late at night. This area should not be used for parking of any sort including Tavern staff. Our strong recommendation is that this area be “No entry to Public”, one way traffic and restricted for Tavern use only.*

Comment: Noted, draft conditions of approval omit parking from this area.

**“Three Metre Wall at East Side of Tavern:**

*We accept the 3 metre brick wall provided that it is acoustically treated to curtail sound.*

*Comment: The proposed conditions would emphasis the need to conform to noise requirements of the Environmental Protection Act and also limit potential noise generation in the courtyard.*

**“Windows at Eastern Boundary Wall:**

*We have been advised that the new plans show 6 windows 1.2 x 2.2m at ground level. The acoustic report recommends “Windows to be no more than 600mm wide and 2500mm above the ground”. This is in contradiction with requirements of the acoustic report. We cannot accept this proposal without further written verification of acceptance by the acoustic engineer and/or the additional acoustic treatments required to overcome the change of window design.*

Comment: If this application is supported, the City's officers have recommended that the windows must be acoustically designed and engineered to the same level submitted in the original acoustic report so that they comply with the Environmental Protection (Noise) Regulations 1997.

**“Function Room Courtyard:**

*We accept that the cantilever roof and the glass canopy stretch the full length of the courtyard (including overlap by 800mm) and is an improvement (acoustically) on the original Plan. We have however concerns with this area which are as follows:*

- The acoustic report submitted states that there is to be **NO** amplified music in the courtyard. We request that this be amended to **NO** music in the courtyard. We further request that these conditions, and any other conditions, are written into the City of Joondalup's building plan approval.
- The acoustic report states that “Bi-fold doors are to be minimum of 10mm thick laminated glass with appropriate seals. When a band is performing, these doors must be closed”. We request that this be amended to **NO** music in the courtyard and that the doors **must be closed** when a function is in progress. We further request that these conditions, and any other conditions, are written into the City of Joondalup's building plan approval.

Qualification: The Carine Tavern successfully had their Entertainment area, Bi-fold door restriction removed from their 2002 licensing condition in January 2005 through the Director of Liquor Licensing. We request that the 2005 Bi-fold door condition be included in the City of Joondalup's building approval conditions. The function courtyard has open air space throughout its entire length and the residents are concerned that crowd noise will permeate through this open space which is some 25 metres only from Plumosa Mews homes. PLUS: If music is allowed in either the function courtyard or the function room (with the Bi-fold doors open) it is extremely likely that the residents will be subjected to unacceptable noise levels and this situation can be avoided now by imposing condition that Request that City of Joondalup imposing a condition that: NO music is permitted in the function courtyard, And that the Bi-fold doors must be closed at all times when a function is in progress.

Comment: If this application is supported, the City's officers have recommended the following:

- No music of any kind is permitted in the new courtyard.
- The bi-fold doors leaving the new function room must be closed at all time when a function, band, act or music is in progress.

***“Function Room:***

*We wish to restrict functions to weddings, business functions, limited & selective sporting functions with exclusion to predominately young age groups eg, 18th & 21st birthdays etc or any other group subject to behavior problems and no live band concerts. Comments (promises) similar to this were made by Tavern management at the Public meeting on 29 May 2005 when the original plans were presented to residents. We request that appropriate conditions be included by the City of Joondalup in their building approval conditions. Qualification: This area is extremely sensitive as the distance to residential homes is 10.5 metres only and it cannot stand any noise emissions.*

Comments: This restriction cannot be enforced as it may lead to discrimination. The main planning issues for this application are noise and parking and not the type of people coming to the tavern.

***“Number of Patrons:***

*Question: How will the Tavern deal with the position when (particularly on a Friday night) a function is in progress in the new function area and there are patrons now in excess of the total patron limits? Will the Tavern refuse entry to, or eject patrons from any of the occupied areas.*

Comments: The Tavern will have to abide by the maximum number of patrons as stated in any planning approval. Public building occupancy is checked regularly to ensure compliance.

***“Behaviour:***

*Increased numbers of Patrons leads to increased numbers of disturbances! We are concerned as this increase in patronage (incorporating the new function room) is likely to exacerbate the existing unacceptable behavioural problem generated by Tavern patrons particularly at closing time.*

Comments: Refer to comments below.



**“The Real Problem:**

The East boundary wall of the Tavern’s 2005 proposed extension is 10.5 metres from Plumosa Homes and the Plumosa Mews residents’ wall boundary to the Tavern is also (obviously) only 10.5 metres away. This walled area space magnifies sound and is unable to be used which was realised and agreed to in prior development plan in 2002. Considerable problems occur now with that area (noise, fights, broken bottles & rubbish thrown over brick wall into Plumosa resident’s homes plus vehicle noise). Residents are also constantly disturbed by people talking in that area; particularly late at night. This concern was expressed strongly to Mr Higgins when the plans were presented to residents on Sunday 29 May 2005.

We cannot accept parking or use by the general public in this area. The Tavern has other areas which can and are more appropriate to be converted to serve as parking bays.

It is not possible to treat this area as anything other than sensitive and pre-emptive measures must be taken prior to building approval as it is extremely costly to repair if it is not “done right” the first time

The aforementioned comments also apply to the use and conditions applicable to the function room and Function courtyard

Comment: Draft conditions of approval omit parking from this area.

**COMMENT****Car Parking and Number of Patrons**

DPS2 standards for the provisions of car parking are based on a combination of standing and seating areas. However in 2002, Council approved an extension to the tavern and the parking requirement was 1 bay per 4 people based on restricted patron numbers solely. In 2002, Council granted approval for a maximum occupancy of the Tavern premises at 630 patrons at any one time. The parking calculations for the 2002 approval were:

	<b>Required</b>	<b>Provided</b>
Tavern/Restaurant	Number of patrons = 630 1 bay per 4 persons = 157.5 bays	
Bottle Shop (existing)	7 bays per 100 sqm= 3 bays	
Total	160.5 bays	162 bays

The parking requirement for the new extension, 1 bay per 4 people, is an appropriate measure to apply in this instance.

	<b>Required</b>	<b>Proposed</b>
Tavern/Restaurant	Number of patrons = 652 1 bay per 4 persons = 163 bays	
Bottle Shop (existing)	7 bays per 100 sqm= 3 bays	
Total	166	166

Given the issues associated with anti-social behaviour and noise impact, it is recommended that the number of patrons should be restricted to 630 only and not to be increased to 652 as proposed. In this instance, the parking requirement would be 161 bays as per the 2002 approval. The plans submitted show new parking bays are being provided at the north-eastern corner and along the proposed function room (the eastern boundary) for staff bays.

When the plans for extension to Carine Tavern were approved in 2002, the car parking bays were approved with a setback of 4 metres from the eastern boundary (residential development). However the parking bays were constructed at 2 metres from the eastern boundary, which are correctly shown on the plans, submitted for this application. There have been no concerns from the adjoining neighbours in respect of the existing parking bays at 2 metres from the boundary except with the new staff parking bays and access which are addressed below.

### **Acoustic Assessment**

An acoustic assessment report was submitted which is considered acceptable by the City to address noise issues. However, there still remains the issue of the impact of noise associated with vehicle movement and parking (new staff bays) between the proposed function room and the adjoining residential property. This area was approved previously for service access and for parking. The provision of the 7 car bays adjacent to along the function room was not covered by the applicant's acoustic report.

It is considered that the new staff car bays and access will impact on the adjoining residential properties in terms of noise as follows:

- Staff walking to this parking area late at night or early morning and talking.
- The movement of cars for parking.
- The patrons vehicles will use this access way. Though the applicant has stated there will be no hump along this access way to minimise noise there is concern that the noise of cars at night will impact on the adjoining properties. Moreover this area may be used for anti-social activities that will exacerbate the impact on the adjoining residential properties.

It is suggested that no parking shall be allowed in this area and the access way shall be restricted to service access only. This will address the concerns of the community. Given the Council support that the maximum number of patrons shall remain 630, then parking bays required would be 161 (including the bays for the bottle shop). The plans submitted for the proposal show the total number of parking bays proposed is 166 (including the bays for the bottle shop). Therefore by not having the 7 new staff bays the number of car bays will be 159. Therefore the applicant will have to provide 2 additional car bays. There is enough space at the rear property and additional 2 car bays can be provided.

### **Management Plan**

The community is concerned that the additions will increase the anti-social behaviour in the area. There is suggestion from the public that the function room be restricted to weddings & business with, exclusion of birthday parties for ages 18-21 which will lead to more anti-social behaviour. The City cannot enforce this type of restriction, however, given the concerns of the community, it is suggested that the number of patrons be restricted to 630 only as was approved previously.

There was a Management Plan approved by Council in 2002 to provide a responsive and responsible management of the tavern. The plan included entertainment policy guidelines, noise containment, noise complaint procedures, patronage monitoring schedule, anti-social behaviour, on-going residents' meeting. Therefore if the number of patrons is restricted to

630, it is suggested, if this application is supported, that the management of the Tavern shall at times be conducted in the manner outlined in the Management Policy Statement dated 10 May 2002.

### **Conclusion**

Given that the acoustic issues have been addressed, it is considered that the proposal in its current form, except the staff car bays & access, provides an appropriate development. Appropriate conditions can be applied to the planning approval, if the application is supported, to mitigate any additional negative impact on the adjoining residential area.

### **ATTACHMENTS**

Attachment 1	Location Plan
Attachment 2	Development Plan

### **VOTING REQUIREMENTS**

Simple Majority.

### **RECOMMENDATION**

**That Council APPROVES the application and revised plans submitted by Brian Higgins, on behalf of the owner, Sitaro Pty Ltd, for additions to the Carine Glades Tavern, on Lot 12 (493) Beach Road, Duncraig, subject to the following conditions:**

- 1 The maximum occupancy of the Tavern premises at any one time shall be retained at the currently approved level of 630 patrons.**
- 2 The provision of not less than 161 parking bays on site;**
- 3 The staff parking bays and the access way along the eastern boundary is not supported as shown on the approved plans. The applicant is requested to amend the plans showing no parking bays and a service access in lieu of an access way to the satisfaction of the Manager, Approvals, Planning & Environmental Services;**
- 4 The proposed new function room should be constructed in accordance with the recommendations contained in section 7 of the Noise Impact Assessment prepared by Lloyd Acoustics. Reference 503342-02a;**
- 5 The actual on-site sound level assessment is to be undertaken upon completion and prior to opening. This assessment should be conducted by a recognised acoustic consultant and demonstrate that the premises will comply with requirements of the Environmental Protection Act 1986. This report is to be submitted to the City of Joondalup to the satisfaction of the Manager, Approvals, Planning & Environmental Services;**
- 6 No music or amplified sound is permitted in the new courtyard.**
- 7 The bi-fold doors leaving the new function room must be closed at all times when a function, band, act or music is in progress;**
- 8 Delivery access to new function room via roller shutter shall be only between 8:00am and 8:00pm;**

- 9 The materials and finishes of the additions shall complement the existing building on site to the satisfaction of the Manager, Approvals, Planning & Environmental Services;
- 10 All stormwater must be contained on-site to the satisfaction of the Manager Infrastructure Management Services;
- 11 The parking bay/s and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the Management prior to the development first being occupied. These works are to be done as part of the building programme;
- 12 The management of the Tavern shall at all times be conducted in the manner outlined in the Management Policy Statement dated 10 May 2002.

#### Footnotes

- 1 Compliance with the Building Code of Australia Volume One;
- 2 Additions to comply with Health (Food Hygiene) Regulations 1993;
- 3 Compliance with Environmental Protection (Noise) Regulations 1997;
- 4 Additions to comply with Health (Public Building) Regulations 1992. To this regard, a sufficient number of exits shall be provided and the path of travel shall be clear and unobstructed. The applicant is advised that a Form 3 Application for Variation of Certificate of Approval will be required. The maximum accommodation may be restricted by the provision of exits, the sanitary facilities or the new available floor area;
- 5 All signage proposed is to be submitted with a separate planning application and sign licence.

*Appendix 24 refers*

To access this attachment on electronic document, click here: [Attach24061205.pdf](#)

## **ITEM 28                    PROPOSED TWO NEW COURTYARDS FOR ALFRESCO SEATING - CRAIGIE TAVERN: LOT 675 (111) EDDYSTONE AVENUE, CRAIGIE – [10859]**

**WARD:** Pinnaroo

**RESPONSIBLE DIRECTOR:** Mr Clayton Higham  
Director Planning and Community Development

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### **PURPOSE**

To request Council's determination of an application for planning approval for additions to the Craigie Tavern – two new courtyards for Alfresco Seating at Lot 675 (111) Eddystone Avenue, Craigie.

### **EXECUTIVE SUMMARY**

The proposal is for 2 courtyard additions on the southern side of the Craigie Tavern. The application also includes modifications to the southern façade involving a new entry statement. This work entails extending the paved access area around the entrance and extending the roof over the pedestrian access way connecting the entrance and the two proposed courtyards.

The application was advertised and received three objections, mostly relating to possible potential problems associated with noise and antisocial behaviour. It is considered that the noise issue can be addressed by conditions and through the Environmental Protection (Noise) Regulations 1997.

The additions to the Tavern will result in a parking shortfall of 18 bays. The site has reciprocal car parking agreement with the adjoining Lot 673 which is occupied by the Craigie Plaza Shopping Centre, however there is a car parking shortfall on this site of approximately 46 bays.

The impact of the shortfall of car parking bays is reduced due to the peak time of operation of the Tavern being in the evenings and for the Shopping Centre the peak time is during the day.

Additionally we are advised that due to the capacity of the toilet facilities in the building that a restriction will be placed on the licensee that will restrict the maximum number of patrons allowed on the premises to current levels.

Given that acoustic and parking issues can be addressed, it is considered that the proposal will not adversely affect the amenity of the area and is an appropriate extension of the existing use. Appropriate conditions can be applied to the planning approval, if the application is supported, to mitigate any additional negative impact on the adjoining residential area.

### **BACKGROUND**

<b>Suburb/Location:</b>	Lot 675 (111) Eddystone Avenue, Craigie.
<b>Applicant:</b>	Oldfield Knott Architects Pty Ltd
<b>Owner:</b>	Eretta Pty Ltd
<b>Zoning:</b>	<b>DPS:</b> Commercial
	<b>MRS:</b> Urban
<b>Site Area:</b>	0.4517Ha
<b>Structure Plan:</b>	Not applicable

Additions to the public bar and a new entry were approved in June 1999.

## DETAILS

The subject site borders a single residential development to the north and the north west. To the west and south-west the site abuts the Craigie Plaza Shopping Centre. To the south the site abuts a vacant site (Lot 674) which is currently zoned for a service station but the owners are in the process of rezoning the land to residential. Lot 675 is approximately 1.0–2.0 metres lower than Lot 674 to the south.

The proposed courtyards are to be located on the southern frontage of the tavern.

The two courtyards will have a total area of 73.4m<sup>2</sup>. The Tavern is currently limited to a total of 200 patrons based on toilet numbers; the current application has not included any plans to increase the number of toilets.

### Issues and options considered:

Council has the discretion to:

- Approve the application without conditions;
- Approve the application with conditions; or
- Refuse the application.

### Link to Strategic Plan:

Not applicable

### Legislation – Statutory Provisions:

A Tavern is a “D” use in a Commercial area. A “D” use means:

*“A use class that is not permitted, but to which the Council may grant its approval after following the procedures laid down by subclause 6.6.2.”*

Clause 4.5 provides for the Council to approve an application, either unconditionally or subject to conditions, that does not comply with a standard or requirement prescribed under the Scheme, as set out below:

#### 4.5 VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS

4.5.1 *Except for development in respect of which the Residential Planning Codes apply and the requirements set out in Clauses 3.7.3 and 3.11.5, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.*

4.5.2 *In considering an application for planning approval under this clause, where, in the opinion of Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is subject of consideration for the variation, the Council shall:*

- (v) *consult the affected parties by following one or more of the provisions for advertising uses pursuant to clause 6.7.1 and*

- (w) *have regard to any expressed views prior to making its decision to grant the variation.*

4.5.3 *The power conferred by this clause may only be exercised if the Council is satisfied that:*

- (a) *approval of the proposed development would be appropriate having regard to the criteria set out in Clause 6.8; and*
- (b) *the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality*

Clause 6.6.2 requires that Council in exercising discretion to approve or refuse an application shall have regard to the provisions of Clause 6.8, which is set out below:

## 6.8 *MATTERS TO BE CONSIDERED BY COUNCIL*

6.8.1 *The Council when considering an application for Planning Approval shall have due regard to the following:*

- (a) *interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
- (b) *any relevant submissions by the applicant;*
- (c) *any Agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;*
- (d) *any planning policy of the Council adopted under the provisions of clause 8.11;*
- (e) *any other matter which under the provisions of the Scheme the Council is required to have due regard;*
- (f) *any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;*
- (g) *any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;*
- (h) *the comments or wishes of any public or municipal authority received as part of the submission process;*
- (i) *the comments or wishes of any objectors to or supporters of the application;*
- (j) *any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and*
- (k) *any other matter which in the opinion of the Council is relevant.*

With the proposed use being a “D” use, the additional matters identified in Clause 6.8.2 also require Council consideration in relation to this application for Planning Approval:

6.8.2 *In addition to the matters referred to in the preceding subclause of this clause, the Council, when considering whether or not to approve a “D” or “A” use application, shall have due regard to the following (whether or not by implication or otherwise they might have required consideration under the preceding subclauses of this clause):*

- (a) *the nature of the proposed use and its relationship to the use of other land within the locality;*
- (b) *the size, shape and character of the parcel of land to which the application relates and the nature and siting of any proposed building;*
- (c) *the nature of the roads giving access to the subject land;*
- (d) *the parking facilities available or proposed and the likely requirements for parking, arising from the proposed development;*
- (e) *any relevant submissions or objections received by the Council; and*
- (f) *such other matters as the Council considers relevant, whether of the same nature as the foregoing or otherwise.*

#### Development Standards under District Planning Scheme 2 (DPS 2)

DPS 2 Policy Standard	Required	Provided
Front setback (Eddystone Ave.)	9 m	11.5 m
Rear setback (Western side)	6 m	6.5 m
Side setback (Northern side)	3 m	20.5 m
Side setback (Southern side)	3 m	32 m
Car parking	Maximum Patronage=200 95.2 bays	78 bays
Landscaping	8% /3 m width	Comply

#### Car Parking

The car parking requirement has been calculated as per Table 2 and Clause 4.8 of DPS2. The use class of tavern has been identified as the dominant use for the purpose of calculating parking.

Land use	DPS2 Car Parking Standard	Bays Required	Current parking allocation
Tavern	1 per 3m <sup>2</sup> NLA of standing area	Public bar 125m <sup>2</sup> = 41.6m <sup>2</sup>	78 bays on site Lot 675
	1 per 5m <sup>2</sup> for seating area	Dinning 87m <sup>2</sup> = 17.4 Lounge 108m <sup>2</sup> = 21.6 courtyard 73.36m <sup>2</sup> = 14.6	
		95.2 bays	78 bays on site

There is a shortfall of 18 parking bays on site. It is noted that there is a deed of covenant between Lot 675 (tavern site) and Lot 673 (shopping centre) that provides for the parking areas on both lots to be “common to all”. However a review of the parking provision on Lot



673 indicates that there is a NLA floor space of 2, 937m<sup>2</sup>. A total of 160 bays provided on the site and 206 bays are required and accordingly a shortfall of 46 bays currently exists.

Generally, it is considered that the greatest peak period parking demand for the different land uses (tavern & commercial shopping centre) are at different times ie morning, lunch and afternoon for the shopping centre and evenings for the tavern.

Under the Health (Public Building) Regulations and due to the number of toilets, the total number of patrons cannot increase from the currently approved (under the Health Act) 200 persons maximum accommodation. Therefore the courtyard areas are not expected to create significant additional parking demand.

The parking bays and disabled parking bay abutting the proposed building extensions are shown on the submitted plans with dimensions less than that provided for under AS 2890 however this can be addressed at building licence stage.

### **Environmental Issues**

No acoustic report has been prepared for the application. The proposal is of a small scale, does not include a proposal for amplified music and the courtyards do not adjoin a residential or other noise sensitive area. It is expected that the facilities can be operated within the provisions of the Environmental Protection (Noise) Regulations 1997.

An outdoor area associated with a tavern in the Western Australian climate is not considered to be an unsuitable or inappropriate ancillary facility.

### **Risk Management considerations:**

Not applicable

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

Not applicable

### **Policy implications:**

Not applicable

### **Regional Significance:**

Not applicable

### **Sustainability implications:**

Not applicable

### **Consultation:**

The original proposal was advertised for public comment between 29 July 2005 and 12 August 2005. Letters were sent to adjacent residents and to the owners of the Craigie Plaza Shopping Centre and the Craigie Indoor Bowling Centre.

The proposal was advertised by way of letters to properties that were deemed to be potentially affected by the proposed additions. 12 advertising letters were sent, a total of 5 responses were received, being 2 non-objections and 3 objections. A summary of the objections is as follows:

Objection	Officers Comment
<p>Any courtyard area will increase noise levels;</p> <p>1 Making it difficult for the house resident to enjoy a peaceful evening.</p> <p>2 Making the property difficult to rent.</p> <p>3 Lowering the value of my property due to noise levels and possibly music.</p> <p>4 Any outside music would make life unbearable for residents in the house and make it difficult to rent and lower the house value.</p>	<p>Condition that no music will be played in the courtyard areas</p> <p>Residential properties are located on the opposite side of building from the location of the proposed courtyards and therefore it is unlikely that the properties will be affected by increased noise as a result of the courtyard addition.</p> <p>The objecting owner does not live at the adjoining property.</p>
<p>This will increase the noise level considerably as well as the behaviour that goes with outside drinking.</p> <p>Increase the movement in the lane way next to our property, improving the chance of more graffiti and damage to our property (the fence has been broken twice).</p>	<p>Residential properties are located on the opposite side of building from the location of the proposed courtyards and therefore it is unlikely that the property will be affected by increased noise as a result of the courtyard addition.</p> <p>The objecting owner does not live at the adjoining property.</p> <p>Anti social behaviour and damage in PAW cannot be directly related to tavern patrons.</p>
<p>We are concerned at the proximity of these courtyards to the proposed 8 residences on our block of land.</p> <p>We fear that the resulting additional noise and light and possible extra traffic will detract from the appeal of these home and from the quiet enjoyment of their outdoor areas by future residents.</p>	<p>A condition is required that no music will be played in the courtyard areas and that lighting be designed in accordance with Australian Standards to reduce light spill.</p> <p>The objector is the owner of the adjoining petrol station site that is in the process of rezoning from commercial to residential.</p> <p>The corner site is abutted by the Craigie Plaza on one side and the tavern on the other. The proposed rezoning should not restrict additions or alterations to the existing commercial properties.</p> <p>The subject tavern is greater than 1.0 metre lower than the adjoining site which would help to reduce any possible future impact between the tavern and the residents.</p>

## COMMENT

It is understood that the small courtyard areas will be primarily used as smoking areas when the total smoking ban on enclosed public places comes into effect in January 2007. The Courtyard additions will improve the appearance of the tavern and given their small size and that they are not directly adjoining a bar it is not expected that these areas will encourage anti-social behaviour.

Given that a deed of access exists between Lot 673 and Lot 675 with regards to shared car parking, the 18-bay shortfall in car parking is deemed to be acceptable as there is no conflict between the peak period of activity of the uses on the two sites. The variation to standards for parking will not cause any amenity impact upon the locality in this instance. It is therefore recommended that the application for two courtyard areas be approved for the following reasons:

- there is a deed of access parking agreement with the adjoining Lot 673 (Craigie Plaza);
- the peak times of use of the Tavern do not coincide with the generally daytime peak periods of the Craigie Plaza Shopping Centre;
- due to the health regulations there will be no net increase in the number of patrons to the tavern with the development of the courtyards;
- the courtyards are located on the opposite side of the tavern from the existing residential properties and are unlikely to create significant additional noise;
- amplified music or a public address system will not be permitted in the courtyards;
- the operation of the courtyards will be subject to the provisions of the Environmental Protection (Noise) Regulations 1997;

The adjoining Lot 674 is subject to a rezoning application from commercial to residential. It is considered that the development potential and possible future viability of the Tavern and the Craigie Plaza Shopping Centre should not be constrained or the owners otherwise penalised because the owner of the adjoining lot is seeking to rezone the site from commercial to residential.

No management plan is in place for the tavern. The tavern is of a relatively small scale and since its establishment approximately 14 years ago, there has been no significant changes to the building and no perceived need for a management plan to be prepared.

## Conclusion

It is considered that the proposed use is consistent with the zoning of the commercial area and the approved use on the subject site. It is recommended that the application, subject to conditions, be supported.

## ATTACHMENTS

Attachment 1	Location Plan
Attachment 2	Development Plan
Attachment 3	Aerial Photograph

## VOTING REQUIREMENTS

Simple Majority.

**RECOMMENDATION****That Council:**

- 1 DETERMINES that 78 car parking bays in lieu of 96 car parking bays is appropriate in this instance;**
- 2 APPROVES the application and revised plans submitted by Oldfield Knott Architects Pty Ltd., on behalf of the owner, Eretta Pty Ltd, for additions to the Craigie Tavern, on Lot 675 (111) Eddystone Ave, Duncraig, subject to the following conditions:**
  - (a) The maximum occupancy of the Tavern premises shall be 200 patrons at any one time;**
  - (b) The provision of not less than 77 parking bays on the site;**
  - (c) The applicant is requested to amend the plans by modifying the dimensions of parking bays 1, 2, 4, 5 and 6 (disabled parking bay) abutting the proposed courtyards to meet AS2890 to the satisfaction of the Manager, Approvals, Planning & Environmental Services;**
  - (d) The applicant is requested to amend the plans by omitting parking bay 3 to provide for emergency access from the building to the satisfaction of the Manager, Approvals, Planning & Environmental Services;**
  - (e) The parking bay/s and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the Managements prior to the development first being occupied. These works are to be done as part of the building programme;**
  - (f) No amplified music or public address system of any kind permitted in the new courtyards;**
  - (g) The materials and finishes of the additions shall complement the existing building on site to the satisfaction of the Manager, Approvals, Planning & Environmental Services;**
  - (h) All stormwater must be contained on-site to the satisfaction of the Manager of Infrastructure Management Services.**

**Footnotes**

- 1 Compliance with the Building Code of Australia Volume One;**
- 2 Compliance with the Environmental Protection (Noise) Regulations 1997;**
- 3 Additions to comply with Health (public Building) Regulations 1992. To this regard, a sufficient number of exits shall be provided and the path of travel shall be clear and unobstructed. Applicant is advised that a Form 3 Application for Variation of Certificate of Approval will be required. The maximum accommodation may be restricted by the provision of exits, the sanitary facilities or the new available floor area;**
- 4 All signage proposed is to be submitted with a separate planning application and sign licence.**

*Appendix 25 refers*

To access this attachment on electronic document, click here: [Attach25brf061205.pdf](#)

## **ITEM 29                      ARTS MANAGEMENT STRATEGY – [14158]**

**WARD:**                      All

**RESPONSIBLE                      Mr Clayton Higham**  
**DIRECTOR:**                      Planning and Community Development

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### **PURPOSE**

The purpose of this report is for the Council to adopt the Arts Management Strategy.

### **EXECUTIVE SUMMARY**

In February 2005, the Council requested the development of a Strategic Plan, which would outline a process for the acquisition, disposal, and display of artworks in the City's art collection.

The Strategy supports the City Policy 5.3, Cultural Development, which provides Council's policy position on art, culture and the heritage collection. The Policy makes specific reference to the City's Arts Management Strategy and notes that the Strategy will determine the long-term management, acquisition plan, display, valuation and sale of the collection.

It is recommended that Council adopt the Arts Management Strategy shown as attachment 1 to this report.

### **BACKGROUND**

On the 22 February 2005 the Council requested that a strategic plan be developed for the art collection that takes into account an acquisition and disposal plan, and contains a strategy for the display of art works throughout the City's offices and appropriate buildings within the City of Joondalup, such as Edith Cowan University. (*CJ014 - 02/05 refers*).

Following a review of the policies of the Council in October 2005 a new City Policy 5.3, Cultural Development, was adopted by the Council (*CJ206 - 10/05 refers*). This Policy combined three former policies, (Art Collection 4.4.1, Museum Collections and Operations 4.4.2, and Public Art 4.4.3).

The new Policy, Cultural Development 5.3 makes specific reference to the City's Arts Management Strategy which will determine the long-term management, acquisition plan, display, valuation and sale of the collection.

### **DETAILS**

The Arts Management Strategy outlines a process for acquisition, display, storage and conservation, maintenance and valuation, disposal and loan of the City's art collection.

### **Issues and options considered:**

In developing the Strategy the following issues were considered:

- Strategic management of the City's Art Collection;
- Development and maintenance of the City's Art Collection in accordance with industry standards;
- Ensuring the preservation and safekeeping of the collection;
- Broadening knowledge and appreciation of the Collection through display and loan;

- Maximising accessibility to the Collection;
- Heightening public profile of the Collection leading to greater community awareness and involvement; and
- Acquiring art works that best reflect the cultural development of the City of Joondalup.

**Link to Strategic Plan:**

Outcome: The City of Joondalup is a cultural centre

Objective 1.2: To meet the cultural needs and values of the community

Outcome: The City of Joondalup is a sustainable and accountable business.

Objective 4.1: To manage the business in a responsible and accountable manner.

**Legislation – Statutory Provisions:**

Not Applicable

**Risk Management considerations:**

The City's art collection has considerable financial, artistic and cultural value and many of the works are unique and irreplaceable. The Arts Management Strategy provides a clearly defined process for sound management, preservation, promotion and protection of the collection.

The Strategy will ensure that the Art Collection is managed according to high industry standards of management, collection, acquisitions and de-accessioning of work from the collection.

**Financial/Budget Implications:**

Not Applicable

**Policy implications:**

Policy 5.3.1, Cultural Development provides Council's policy position on art, culture and the heritage collection, and makes specific reference to the City's Arts Management Strategy as the vehicle for determining the long-term management, acquisition plan, display, valuation and sale of the City's art collection.

**Regional Significance:**

The City of Joondalup Art Collection was established following the separation of the City of Joondalup from the City of Wanneroo in 1997. The collection was divided equally by value between the two Cities with the City of Wanneroo retaining the historical collection, the regional landscapes and the Indigenous collection. The City of Joondalup acquired the contemporary collection.

The strategy for the division of the two collections and the City of Joondalup's subsequent collection purchases have been to build a broad, high quality, art collection, that is of general interest, accessible to the public and is in keeping with the ambitions of Joondalup as a new regional City.

**Sustainability implications:**

The Arts Management Strategy will ensure that the value of the Art Collection is retained through appropriate purchases, and management of the collection.

Appropriate stewardship of this valuable asset will also provide maximum access and benefits for the community.

**Consultation:**

Not Applicable

**COMMENT**

As the custodian of the art collection, the City has a responsibility to ensure that the collection is managed according to industry standards of collection development, preservation and access.

Through the strategic management of the Collection the City is committed to ensuring its ongoing significance and value for the City of Joondalup and the wider community.

**ATTACHMENTS**

Attachment 1            Arts Management Strategy

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

**That Council ADOPTS the Arts Management Strategy shown as Attachment 1 to this Report.**

*Appendix 26 refers*

*To access this attachment on electronic document, click here: [Attach26brf061205.pdf](#)*



**ITEM 30 PROPOSED AMENDMENT TO DISTRICT PLANNING SCHEME NO 2 TO INCLUDE PROVISIONS IN REGARD TO THE HEIGHT OF DEVELOPMENTS IN NON-RESIDENTIAL ZONES ADJACENT TO THE COAST – [83573]**

**WARD:** South Coastal, Whitford, Marina, North Coastal

**RESPONSIBLE DIRECTOR:** Mr Clayton Higham  
Planning and Community Development

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**PURPOSE**

To request Council to consider the initiation of an amendment to the District Planning Scheme No 2 (DPS2), to include provisions in regard to the height of developments in non-residential zones adjacent to the coast.

**EXECUTIVE SUMMARY**

In 2004, the Minister for Planning and Infrastructure recommended that the Council consider the introduction of commercial height controls for land along the coastal strip.

Maximum height requirements can be introduced via a Local Planning Policy, or via an amendment to DPS2. While a policy is an approach that can be considered by Council, it does not have the statutory status of the DPS2, and an amendment to DPS2 is recommended in this instance.

In order to address the Minister's recommendation, it is proposed to amend the DPS2 to introduce a height limit of 10 metres in the non-residential zones of the coastal strip. The coastal strip is proposed to be the area 300 metres from the horizontal setback datum of the coast as defined by the Western Australian Planning Commission's (WAPC) State Coastal Planning Policy (Statement of Planning Policy 2.6). The proposed coastal area is shown in Attachment 1.

In accordance with the provisions of DPS2, any amendment to DPS2 to include height controls would not apply to land Reserved under the Metropolitan Region Scheme.

To support the introduction of DPS2 height controls in the coastal area, a definition of 'Natural Ground Level', and minor amendments to the definition of 'Height' are proposed to be included within DPS2.

It is recommended that Council:

- 1 *Pursuant to section 7 of the Town Planning and Development Act 1928, Council AMENDS the City of Joondalup District Planning Scheme No 2, for the purpose of advertising for a period of 42 days, as follows:*

*"1. A new clause 4.17 is added as follows:*

*4.17 BUILDING HEIGHT*

*4.17.1 This clause applies to all land other than land within the Residential Zone.*

4.17.2 *On land within 300 metres of the horizontal set back datum of a coast, as defined in the Western Australian Planning Commission's Statement of Planning Policy 2.6, buildings shall not exceed 10 metres in height.*

4.17.3 *Notwithstanding clause 4.5, the Council shall not approve an application for planning approval of a proposed development which does not comply with clause 4.17.2.*

2 *Schedule 1 is amended as follows:*

(a) *the definition "height" is deleted and the following definition is substituted:*

*"height: when used in relation to:*

(i) *a building used exclusively for residential purposes, has the same meaning given to it in the Codes; or*

(ii) *a building used other than exclusively for residential purposes, means the vertical distance measured at any point from the natural ground level to the uppermost part of the building above that point excluding any chimney or vent pipe."*

(b) *by adding the following new definition:*

*"natural ground level:*

(a) *means the ground level as formed by nature; or*

(b) *where a level exists other than the ground level as formed by nature, and that level is the subject of all approvals required by law to authorise that level, means that level."*

2 *In accordance with Section 25 of the Town Planning Regulations 1967, prior to the advertising period commencing, FORWARDS the proposed amendment to the Environmental Protection Authority in order to decide if an environmental review is required.*

3 *That the advertising period for the proposed amendment to DPS2 as outlined in Point 1 and 2 commence following the Christmas and New Year period.*

4 *In accordance with Clause 8.11.3 of District Planning Scheme No 2 ADOPTS the draft Policy as per Attachment 4 for the purpose of public advertising for a period of twenty-one (28) days for public comment.*

5 *NOTES that no amendments to Policy 3-2 Height and Scale of Buildings within a Residential Area are required.*

6 *In the event that Council adopts for final approval 'Policy 3-4 Height of Buildings within the Coastal Area (Non-Residential Zones)' AMENDS the Town Planning Delegations to read that, in relation to the Policy 3-4, no delegation to officers would apply.*

7 *This report forms the basis of a submission to the WAPC on the proposed amendments to the State Coastal Planning Policy 2.6.*

## BACKGROUND

In 2004, the Minister for Planning and Infrastructure held an inquiry into whether the City/Council had enforced the provisions of its DPS2 in relation to the Mullaloo Tavern redevelopment. While the Minister found there was no case to answer, it was recommended that the lack of commercial height controls within the coastal strip addressed.

### Western Australian Planning Commission (WAPC) – Clause 32 (Resolution No 62)

Subsequently, the issue has been considered on a generic basis for all coastal land within the Perth Metropolitan area.

The WAPC has recently adopted Clause 32 Resolution No 62 relating to Coastal Buildings Above Specified Heights. The resolution requires all Councils to refer for determination by the WAPC all applications for approval to commence development for residential, office and hotel purposes above specified heights on land within 300 metres of the horizontal setback datum of the coast, as defined in the State Coastal Planning Policy (Statement of Planning Policy 2.6), as follows:

- (i) *Where no building height is set out in the operative local government town planning scheme, development applications for the purposes indicated (or any combination of those purposes) exceeding five storeys and 21 metres in height.*

or

- (ii) *Where the operative local government town planning scheme sets out a building height limitation of eight storeys or above in respect of the area, developments for the purposes indicated (or any combinations of those purposes) exceeding eight storeys and 32 metres in height.*

At present, (i) above would apply to the City of Joondalup as DPS2 does not include coastal height provisions. However, Council Policy 3-2 (Height and Scale of Buildings within a Residential Area) applies to development within the Residential Zone.

In addition, the WAPC is currently advertising a proposed amendment to the State Coastal Planning Policy to incorporate height limits within that Policy. It is proposed that a height limit of 5 storeys be included, while 8 storeys may be considered in certain circumstances. Local Authority Town Planning Schemes may specify lower maximum height limits in order to achieve outcomes that respond to the desired character, built form, and the amenity of the locality. It is recommended that this report form the basis of a submission to the WAPC on the proposed amendments to the State Coastal Planning Policy.

### Policy 3-2 Height and Scale of Buildings within a Residential Area

At its meeting held on 2 November 2005, Council considered a recommendation of the Policy Committee, and resolved the following:

*“Requests that a draft policy be presented to the Policy Committee on Policy 3-2 Height and Scale of Buildings within Residential Areas, that includes coastal areas and is based on the expectation that full public participation is undertaken.”*

Policy 3-2 currently covers all areas zoned Residential, including the coastal areas, unless otherwise determined by a structure plan. The policy establishes a ‘building envelope’ over a site, which at its maximum is 8.5m in height. The height envelope is not a statutory limit, rather it provides an ‘as of right’ path to development approval. If a proposed development exceeds the building envelope a neighbour consultation process is invoked.

The purpose of this report is to address those coastal areas not covered by Policy 3-2. No change to Policy 3-2 is therefore proposed.

### Regional Reservations

In accordance with Clause 1.2 and 2.2 of DPS2, the provisions of DPS2 do not apply to Regional Reservations under the Metropolitan Region Scheme (Attachment 5). The responsible authority for Regional Reserves is the Western Australian Planning Commission. Therefore, any scheme amendment adopted by Council to include coastal height limits would not apply to those Reserves (eg Hillarys Boat Harbour, Ocean Reef Boat Harbour).

### Local Reserves

Local Reserves under DPS2 will be subject to the proposed scheme amendments adopted by Council to include coastal height limits.

### Policy Committee

The proposal to include coastal height provisions and an interim policy was considered by the Policy Committee at its meeting held on 29 November 2005. The Committee resolved to refer to Council the following:

- 1 *Pursuant to section 7 of the Town Planning and Development Act 1928, Council AMENDS the City of Joondalup District Planning Scheme No 2, for the purpose of advertising for a period of 42 days, as follows:*

*“1. A new clause 4.17 is added as follows:*

*4.17 BUILDING HEIGHT*

*4.17.1 This clause applies to all land other than land within the Residential Zone.*

*4.17.2 On land within 300 metres of the horizontal set back datum of a coast, as defined in the Western Australian Planning Commission’s Statement of Planning Policy 2.6, buildings shall not exceed 10 metres in height.*

*4.17.3 Notwithstanding clause 4.5, the Council shall not approve an application for planning approval of a proposed development which does not comply with clause 4.17.2.*

- 2 *Schedule 1 is amended as follows:*

*(a) the definition “height” is deleted and the following definition is substituted:*

*“height: when used in relation to:*

- (i) a building used exclusively for residential purposes, has the same meaning given to it in the Codes; or*
- (ii) a building used other than exclusively for residential purposes, means the vertical distance measured at any point from the natural ground level to the uppermost part of the building above that point excluding any chimney or vent pipe.”*

(b) *by adding the following new definition:*

*“natural ground level:*

(c) *means the ground level as formed by nature; or*

(d) *where a level exists other than the ground level as formed by nature, and that level is the subject of all approvals required by law to authorise that level, means that level.”*

- 2 *In accordance with Section 25 of the Town Planning Regulations 1967, prior to the advertising period commencing, Council FORWARDS the proposed amendment to the Environmental Protection Authority in order to decide if an environmental review is required.*
- 3 *That the advertising period for the proposed amendment to DPS2 as outlined in Point 1 and 2 commence following the Christmas and New Year period.*
- 4 *In accordance with Clause 8.11.3 of District Planning Scheme No 2 ADOPTS the draft Policy as per Attachment 4 for the purpose of public advertising for a period of twenty-one (28) days for public comment.*
- 5 *NOTES that no amendments to Policy 3-2 Height and Scale of Buildings within a Residential Area are required.*

*SUBJECT TO the following amendments to the draft policy:*

- 1 *Greater emphasis in the document explaining to the community that the scheme amendment does not apply to MRS Reserve land;*
- 2 *inclusion of clarity about the status of other reserve land;*
- 3 *enhancement of the sustainability implications statement to include impact on the environment;*
- 4 *in relation to the policy, that the delegation to officers would not apply.”*

The draft interim policy has been amended to reflect the above recommendation.

## **DETAILS**

### **Issues and options considered:**

#### Policy Approach vs Height Controls within DPS2

The issue of coastal building height controls can be progressed via a policy, or by an amendment to DPS2.

The policy approach would be in the form of a Local Planning Policy under the provisions of DPS2, however, such a policy does not form part of the DPS2. Clause 8.11.2.2 of DPS2 states:

*“A Local Planning Policy is not part of the Scheme and shall not bind the Council in respect of any application for planning approval but the Council shall have due regard to the provisions of any Policy and the objectives which the Policy is designed to achieve before making its decision.”*

Council is therefore obliged to have regard to the policy; however, a policy itself does not have any statutory power. An amendment to DPS2 provides a statutory tool to enforce any height controls, thereby potentially providing more certainty in the built form outcome.

An amendment to DPS2 can be worded to either:

- (a) set a coastal height limit that is not open for discretion to be exercised by Council or the State Administrative Tribunal (SAT).

Advantages: Sets a clear, maximum height limit for development in non-residential zones adjacent to the coast. Provides certainty to the community and developers as to the limit.

Disadvantages: Depending on the height limit chosen, this may be a disincentive for the redevelopment/improvement of a particular site. Does not allow any flexibility in assessing proposals that may otherwise be desirable and appropriate, or have community support.

- (b) set a height limit, however, maintain Council and the SAT's ability to exercise discretion.

Advantages: Allows Council to grant discretion in regard to the height of a building if considered appropriate. Council can establish the parameters for considering variations to the height limit.

Disadvantages: A less definitive approach given the available discretion. A refusal by Council would be open to appeal at the SAT.

- (c) set a height limit as per (a) above, however, require a structure plan to be prepared over a site if a development is proposed to be higher than the specified height limit. Among other things, the structure plan would address the height, scale and bulk of the development. The structure plan process is also subject to community consultation.

Advantages: Allows the structure plan process to be invoked to allow a holistic approach to be development of the site, including the implications of the height of buildings.

Disadvantages: a structure plan application may be subject to appeal and therefore the issue of height may be taken out of Council control.

The time needed to finalise an amendment to DPS2 can be in the order of 6 to 9 months given the statutory advertising process, and the required consideration by Council, the WAPC and the Minister for Planning and Infrastructure. A Local Planning Policy must be advertised for public comment for a minimum of 21 days, however, does not required the approval of the WAPC or the Minister for Planning and Infrastructure. Depending on the consultation process, a Local Planning Process can be implemented in approximately 3 months.

Council could consider the implementation of a Policy as an interim measure while any amendment to DPS2 is progressed. A Policy (Attachment 4) has been drafted which reflects the intent of the scheme amendment.

The current policy in regard to the height of buildings in the Residential zone (Policy 3-2) has been an effective tool in ensuring that a low-rise residential environment is maintained. It is not proposed to alter this policy.

### Key Sites

There are a limited number of non-residential zoned sites in the coastal area. Some of these sites are covered by structure plans that contain provisions in regard to height. The key coastal sites area as follows:

Coastal areas (non-residential zonings) not currently covered by a structure plan are:

- West Coast Drive corner The Plaza, Sorrento (commercial area)
- West Coast Drive corner The Plaza, Sorrento (Sorrento Beach Resort)
- Oceanside Promenade (Mullaloo Tavern site), Mullaloo
- Sacred Heart College, West Coast Drive, Sorrento
- Northshore Country Club, West Coast Drive, Kallaroo

Other key areas covered by a structure plan:

- Hillarys Structure Plan - West Coast Drive corner Hepburn Ave ('Harbour Rise' mixed use area, 2 storey with possibility of 3 storey height limit)
- Iluka Structure Plan 'Centre Zone' (3 storey height limit)
- Burns Beach Structure Plan 'Beach Shop' precinct (no height limit stated)

As the provisions of DPS2 does not apply to land reserved under the Metropolitan Region Scheme, any proposed DPS2 amendment would not apply to those areas (eg Hillarys Boat Harbour, Ern Halliday Reserve).

Ocean Reef Boat Harbour will be developed in accordance with an approved structure plan. As the site is located on a regional reservation, it is not subject to the provisions of DPS2.

As noted previously, Policy 3-2 Height and Scale of Buildings covers all areas zoned 'Residential' and the proposed DPS2 amendment would be worded so as to not apply to this zone.

### Defining the Coastal Strip

The WAPC State Coastal Planning Policy (Statement of Planning Policy No 2.6) defines the coastal strip as land within 300 metres of the horizontal setback datum of the coast. The same definition of the coastal strip can be utilised for the purposes of the proposed DPS2 amendment. This will provide a consistent approach to the issue.

### Proposed Definitions within DPS2

Any amendment to include height controls within DPS2 will require a definition of how height is measured. The current method of measurement of height differs from the definition contained in the Residential Design Codes and the Model Scheme Text. It is considered preferable to more closely align the DPS2 definition with the R-Code definition to standardise how building height is measured, as follows:

"height: when used in relation to:

- (a) a building used exclusively for residential purposes, has the same meaning given to it in the Codes; or
- (b) a building used other than exclusively for residential purposes, means the vertical distance measured at any point from the natural ground level to the uppermost part of the building above that point excluding any chimney or vent pipe."

If the above definition is adopted, a definition for ‘natural ground level’ would also need to be included within DPS2. The following definition is adapted from that contained within the Residential Design Codes:

“natural ground level:

- (a) means the ground level as formed by nature; or
- (b) where a level exists other than the ground level as formed by nature, and that level is the subject of all approvals required by law to authorise that level, means that level.”

### Options

In considering this proposed amendment to DPS2, Council can:

- Not adopt the proposed amendment,
- Adopt the amendment for the purposes of public advertising,
- Modify the proposed amendment, and adopt the modified amendment for the purposes of public advertising.
- Council also has the option of developing coastal height provisions via a Local Planning Policy, rather than an amendment to DPS2.

### **Link to Strategic Plan:**

*Key Focus Area: City Development*

Outcome: The City of Joondalup has well maintained assets and built environment.

Objective: To develop and maintain the City of Joondalup’s assets and built environment.

### **Legislation – Statutory Provisions:**

Section 7 of the Town Planning and Development Act 1928 (TPD ACT 1928) together with Section 25 of the Town Planning Regulations 1967 enable Local Authorities to amend a Town Planning Scheme and set out the process to be followed (Attachment 3 refers).

Should the Council support the initiation of the proposed amendment for the purposes of public advertising, the proposed amendment is required to be referred to the Environmental Protection Authority (EPA) to decide whether or not a formal environmental review is required. Should the EPA decide that an environmental review is not required, upon the City’s receipt of written confirmation of this from the EPA, the City advertises the proposed amendment for 42 days.

Upon closure of the advertising period, the Council considers all submissions received during the advertising period and resolve to either grant final approval to the amendment, with or without modifications, or refuse the amendment. The decision is then forwarded to the WAPC who makes a recommendation to the Minister for Planning and Infrastructure. The Minister can either grant final approval to the amendment, with or without further modifications, or refuse the amendment.

Clause 8.11 of DPS2 outlines the provisions with respect to the preparation of local planning policies and amendments or additions to policies.



**Risk Management considerations:**

Building height along Perth's coast is a current community issue and there is a risk involved in not addressing or providing direction on the issue.

Depending on the height limit determined, there is a risk that development incentives may be reduced as there is there seen to be limited economic return in rejuvenation or development of a particular site.

This is also a risk that the WAPC and the Minister for Planning and Infrastructure may not agree to the proposed amendment. However, as indicated in the documents relating to the WAPC proposal to introduce height limits into the State Coastal Policy, local authorities may specify a lower height limit in their town planning schemes.

**Financial/Budget Implications:**

There are sufficient funds within operational budgets to cover this statutory planning process.

**Regional Significance:**

The coastline within the City of Joondalup area is a regional asset, which attracts both locals and visitors to the area. There has been recent media attention on the various aspects of development on the Perth coast, including the potential height of buildings. The proposed amendment seeks to protect and enhance the coastal asset.

**Sustainability implications:**

The development of small community activity hubs near the coast is considered to be desirable, as these will provide facilities that allow the local and wider community to enjoy the coast. These facilities can add to the social wellbeing of the community, provide additional employment opportunities, and potentially provide a choice of housing. There are economic benefits by attracting small businesses to the area, as well as potential indirect economic benefits by attracting visitors to the City of Joondalup.

High-rise development also has environmental implications such as overshadowing of adjoining areas, including beach areas. The visual impact of high-rise development on the coastal strip is an issue, particularly in the context the adjoining low rise development. The potential 'over-development' of the coastal strip has implications on the physical environment, and how the coastal strip is perceived.

**Consultation:**

A statutory public consultation period of 42 days applies to town planning scheme amendments. Following Council adoption of any proposed amendment, the proposal is forwarded to the EPA, and then advertised for a public comment period of 42 days. The public comments are then referred back to Council for consideration.

The City's public participation strategy outlines that public participation (as opposed to public consultation) is appropriate for major town planning scheme reviews and studies, while public consultation is appropriate for scheme amendments. Given that there is community awareness and desire to implement coastal height limits, it is considered that community views will be appropriately addressed through the 42-day consultation process.

In regard to Local Planning Policies, once a draft policy is prepared or proposed to be modified, it is required to be advertised in accordance with clause 8.11.3 of DPS2 by way of a notice published once a week for two consecutive weeks in the local newspaper, giving notice where the draft policy may be inspected. The draft policy is also advertised on the

Council's website. The specified period for advertising is not be less than twenty-one (21) days.

The Duncraig/Sorrento/Marmion Ratepayers Association has advised the City that its position in regard to the possible redevelopment of the commercial site on West Coast Drive, Sorrento, is that development should be no higher than the existing building, being 9.4m.

## COMMENT

### Height Rationale

The coastal non-residential zoned areas within the City of Joondalup consist of relatively small nodes, rather than larger areas or continuous strips (eg. Cottesloe or Scarborough). As such, there is a community expectation that the scale of any development at these locations would be compatible with, and not dominate, the adjoining area. There is also an expectation that potential of the commercial sites is recognised, and high quality facilities and services be provided on these sites for the community to enjoy.

In the context of the City of Joondalup coastal areas, it is considered that only 'low-rise' buildings are appropriate. This is based on providing a balance on the above expectations, as well as not overdeveloping a particular site in terms of development standards. For example, the higher the building, the greater the requirement for the provision of on-site car parking.

The table below outlines various implications of different heights.

Building Height	Implications
12m	May allow 3-4 storey building. Potentially out of character with surrounding (residential) areas. May encourage over development of a site in regard to the applicable development standards (eg car parking) Allows flexibility in building design at 3 storeys.
10-11m	Allows 2-storey building, possibly 3 depending on design. Within +0.5m of maximum residential building heights in coastal structure plan areas (9.5m) Somewhat flexible in terms of building design at 2 storeys, more restrictive at 3 storeys
9m-10m	Allows 2 storey building Height akin to a number of coastal structure plan areas (eg residential building height limit of 9.5m)

### Proposed Height Limit vs Proposed WAPC Height Limit

The WAPC are currently advertising a proposal to include height limits with the State Coastal Policy. This would establish a 5 storey (21m) height limit, with the possibility of 8 storeys (32m) with community support.

It is envisaged that any development of the non-residential nodes along the coast within the City of Joondalup would function as small community activity centres, providing low-key commercial development such as cafes and small retailers. It would be appropriate that the height and scale of the buildings reflect this, and it is considered that a 5 storey high limit is not appropriate in the context of the City of Joondalup.

It is acknowledged that the any proposed height limit may be subject to debate as to the appropriateness of that particular height. It is proposed that a 10m-height limit be

established in the coastal strip. The rationale for the proposed height is that this height could enable, for example, a mixed-use development consisting of ground floor commercial tenancies, with residential above. For comparison, the current building height policy for Residential zoned areas establishes a building envelope with a maximum height of 8.5 metres. If a development exceeds the building envelope a neighbour consultation process is invoked. In other coastal residential areas covered by structure plans (i.e. Hillary's Harbour Rise, Iluka, Burns Beach) the maximum dwelling height is 9.5m.

It is considered that the proposed 10m height limit is akin to a residential scale, however, can provide some flexibility in terms of building design. Regardless of the limit, it is likely that the community in general is seeking more surety as to what building height can be expected in coastal locations.

The proposed amendment is required to be advertised for a period of 42 days in line with statutory requirements. All comments on the proposal will be reported back to Council for consideration. Submissions will be considered on planning merit, including (but not restricted to) such aspects as the current zoning and potential uses of the land, the desirability of the coastal area, the compatibility with the surrounding area, and the potential desirability for redevelopment of the existing sites.

#### Interim Policy

While an amendment to DPS2 to introduce height controls will give the controls statutory weight, the timeframe to finalise the amendment may take up to 9 months. In the interim, it is recommended that a draft Policy be advertised for public comment. The Policy would contain the same intent as the amendment to DPS2, however, is not a statutory tool. The Policy, however, could be implemented in a shorter time period (approximately 3 months), and would outline Council's position on the issue.

If the interim Policy is adopted, It is considered appropriate to extend the minimum advertising period from 21 days to 28 days due to the Christmas and New Year Period.

#### **ATTACHMENTS**

Attachment 1	Extent of Coastal Area (plan)
Attachment 2	Key coastal locations
Attachment 3	Scheme Amendment process
Attachment 4	Draft Local Planning Policy
Attachment 5	Plan showing Regional Reserves

#### **VOTING REQUIREMENTS**

Simple Majority

## RECOMMENDATION

That the Policy Committee refers to the Council:

- 1 Pursuant to section 7 of the Town Planning and Development Act 1928, Council **AMENDS** the City of Joondalup District Planning Scheme No. 2, for the purpose of advertising for a period of 42 days, as follows:

“1. A new clause 4.17 is added as follows:

**4.17 BUILDING HEIGHT**

4.17.1 This clause applies to all land other than land within the Residential Zone.

4.17.2 On land within 300 metres of the horizontal set back datum of a coast, as defined in the Western Australian Planning Commission’s Statement of Planning Policy 2.6, buildings shall not exceed 10 metres in height.

4.17.3 Notwithstanding clause 4.5, the Council shall not approve an application for planning approval of a proposed development which does not comply with clause 4.17.2.

2 Schedule 1 is amended as follows:

- (a) the definition “height” is deleted and the following definition is substituted:

“height: when used in relation to:

- (i) a building used exclusively for residential purposes, has the same meaning given to it in the Codes; or
- (ii) a building used other than exclusively for residential purposes, means the vertical distance measured at any point from the natural ground level to the uppermost part of the building above that point excluding any chimney or vent pipe.”

- (b) by adding the following new definition:

“natural ground level:

- (i) means the ground level as formed by nature; or
- (ii) where a level exists other than the ground level as formed by nature, and that level is the subject of all approvals required by law to authorise that level, means that level.”

- 2 In accordance with Section 25 of the Town Planning Regulations 1967, prior to the advertising period commencing, **FORWARDS** the proposed amendment to the Environmental Protection Authority in order to decide if an environmental review is required;

- 3 That the advertising period for the proposed amendment to DPS2 as outlined in Point 1 and 2 commence following the Christmas and New Year period;**
- 4 In accordance with Clause 8.11.3 of District Planning Scheme No 2 ADOPTS the draft Policy as per Attachment 4 for the purpose of public advertising for a period of twenty-one (28) days for public comment;**
- 5 NOTES that no amendments to Policy 3-2 Height and Scale of Buildings within a Residential Area are required;**
- 6 In the event that Council adopts for final approval ‘Policy 3-4 Height of Buildings within the Coastal Area (Non-Residential Zones)’ AMENDS the Town Planning Delegations to read that, in relation to the Policy 3-4, no delegation to officers would apply;**
- 7 This Report forms the basis of a submission to the WAPC on the proposed amendments to the State Coastal Planning Policy 2.6.**

*Appendix 27 refers*

To access this attachment on electronic document, click here: [Attach27brf061205.pdf](#)

**ITEM 31                      LEGAL SERVICES TENDER RFT 02-05/06 – [58264]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Garry Hunt  
Office of CEO

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**PURPOSE**

To consider the process involved for the calling of the Legal Services Tender RFT 02-05/06 and the proposed arrangements for recalling tenders.

**EXECUTIVE SUMMARY**

The report discusses the administrative error in regard to the Provision of Legal Services tender, the reasons for rejecting the tenders, and the actions taken to rectify the problem.

It is recommended that the appropriate course of action to take is to reject all tenders and recall the tender in January 2006.

**BACKGROUND**

The City currently has a four panel of legal firms that provide legal advice to the City when needed under contract 046-00/01 Provision of Legal Services. The contract was due to expire on 30 November 2005. As a consequence, the City called for a new tender on 26 October 2005 for the Provision of Legal Services – RFT 02-05/06.

**DETAILS**

Due to an administrative error concerning the dates of the tender, it is considered appropriate to recall the tender. While the tender advertisement stated that the close of tenders was 10 November 2005, the tender documentation stated 9 November 2005. A total of six tenders were received. The tenders were opened on 9 November 2005.

Regulation 15 of the *Local Government (Functions and General) Regulations 1996*, requires that there is to be at least 14 days between the calling of a tender and the closing of a tender. The 14 day requirement was not met due to the inconsistency in the dates of the tender document and the advertisement and the tender opening. All of the tenderers and the panel firms were contacted on 23 November 2005 advising them of the administrative error and in the case of the panel firms, requesting a further extension of the existing Provision of Legal Services contract to 7 February 2006. All existing tenderers have agreed to extend their contract to 7 February 2006.

In accordance with the *Local Government (Functions and General) Regulations 1996*, the details of all tenders received have been held securely given the new RFT document for the provision of legal services will use the same assessment criteria as included in RFT 02-05/06.

As the recall coincides with the Christmas break, the most appropriate course of action is to advertise for tender in late January 2006.

**Link to Strategic Plan:**

Organisational development – To manage the business in a responsible and accountable manner. Provide fair and transparent decision-making processes.

**Legislation – Statutory Provisions:**

*Local Government (Functions and General) Regulations 1996.*

**Risk Management considerations:**

In the event the City was to appoint one or more firms, the validity of the decision could be challenged.

**Financial/Budget Implications:**

Not applicable.

**Policy implications:**

Not applicable.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

Not applicable.

**Consultation:**

Not applicable.

**COMMENT**

The *Local Government (Functions and General) Regulations 1996* regulation 15 requires that there be a minimum 14 day timeframe between the calling of a tender and the close of a tender. This did not occur in this situation. As a result, the tender procedure did not comply with the legislative requirement. In order to maintain equity in the process, the City decided that the appropriate course of action would be to recommend that the tenders be rejected in accordance with regulation 18 of the *Local Government (Functions and General) Regulations 1996*, and a new tender be called.

In the interim, while the City was required to place the current report before Council, the existing contract for the Provision of Legal Services was to expire on 30 November 2005, and the City therefore needed to write to each of the panel firms and request an extension of the existing contract. The arrangements with each firm have all been renewed to 7 February 2006.

It is recommended that the appropriate course of action is for Council to reject the tenders and for the tender process to be recalled in January 2006.

It is considered that the appropriate course of action to take is for the Council to reject all tenders and recall the tender in January 2006.

**ATTACHMENTS**

Nil.

**VOTING REQUIREMENTS**

Simple majority.

**RECOMMENDATION**

**That Council AGREES to reject all tenders received for the Legal Services Tender RFT 02-05/06 in accordance with regulation 18 of the Local Government (Functions and General) Regulations 1996.**



## **ITEM 32                    RESPONSE TO THE REQUEST FOR SUBMISSIONS BY THE PUBLIC ACCOUNTS COMMITTEE ON THE INQUIRY                INTO                LOCAL                GOVERNMENT ACCOUNTABILITY IN WESTERN AUSTRALIA**

**WARD:**                    All

**RESPONSIBLE  
DIRECTOR:**            Mr Garry Hunt  
                                 Office of the CEO

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### **PURPOSE**

To consider the City's response to the request for submissions by the Public Accounts Committee on the Inquiry into Local Government Accountability in Western Australia.

### **EXECUTIVE SUMMARY**

The report discusses the terms of reference of the Inquiry, the relevant background information of the Inquiry and the WALGA response to the Inquiry that is proposed to be supported by the City.

### **BACKGROUND**

The Public Accounts Committee commenced an Inquiry into Local Government Accountability in Western Australia on 17 August 2005. The terms of reference of the Public Accounts Committee are to examine and report on:

- 1        Current accountability mechanisms for local government in Western Australia, including finance, probity and performance;
- 2        the capacity of the Department of Local Government and Regional Development to examine local government finance, probity and performance issues;
- 3        whether the State Auditor General should have a role in local government audit processes; and
- 4        other matters deemed relevant by the Committee.

Written submissions were requested from interested parties with the closing date for submissions being 16 December 2005.

### **DETAILS**

The Public Accounts Committee has been established under the Standing Orders of the Legislative Assembly of the Parliament of Western Australia. It is not a Government Committee, it is a bipartisan parliamentary committee that can initiate its own inquiries. Its mandate is to inquire into and report to the Legislative Assembly on any proposal, mandate or thing it considers necessary, connected with the receipt and expenditure of public moneys. It considers whether the objectives of public expenditure are being achieved, or may be achieved more efficiently.

The Inquiry into Local Government Accountability was established on 17 August 2005 and it is expected that the report to the Legislative Assembly will be handed down in April 2006.

The Committee resolved to inquire into local government accountability after learning that local government accountability measures were not as comprehensive as those applied to expenditure by state or commonwealth governments.

## 1 *WALGA Submission*

In response to the terms of reference of the Inquiry into Local Government Accountability in Western Australia, WALGA decided to make a formal submission.

### *A Questions asked of Local Governments*

In completing the response, local governments were requested to provide feedback to WALGA on the following questions:

*What specific legislative or regulatory accountability/compliance requirements do you find overly onerous or reasonably consider to be irrelevant?*

Respondents tended to support a compliance regime proportionate to the level of risk, ie a lesser level of compliance should be attached to smaller local government operations.

The most commonly referenced compliance burden was the lack of indexation to the \$50,000 tender threshold, which causes local governments to follow tender procedures for expenditure decisions which should not require that level of process.

*What specific changes should be made to the role, operations and resources of the Department of Local Government & Regional Development?*

Most of the respondents did not want changes to the role and operations of the Department, although recognised a resource gap, in terms of the Department's capacity to support Local Government in meeting their compliance obligations. The Department should focus on support and guidance rather than regulation and compliance.

*Do you support the re-establishment of the positions of "Local Government Inspector" within the Department of Local Government & Regional Development?*

Approximately 65% of respondents supported the establishment by the Department of "outreach" positions to serve as direct advisors to CEOs and Councils in understanding their compliance and operational responsibilities. No real support for interventionist or punitive approach based on "inspection" of Local Governments.

This would be of minimal benefit to the City of Joondalup.

*Is there any real threat in involving the Auditor General's Office in the Local Government audit process, and if so what specifically concerns you?*

Respondents were concerned more with what the Auditor General's role would be if involved in the process, rather than whether or not the Auditor General should be involved.

### *B Response to the Terms of Reference*

In response to the terms of reference the WALGA view was:

#### *1. Current accountability mechanisms for local government in Western Australia, including finance, probity and performance*

WALGA views the current mechanisms are adequate in terms of the required minimum standards of compliance. WALGA would prefer to see the promotion of best practice and professional development of elected members as a means of enhancing probity, performance and financial accountability, rather than more regulation. Smaller local governments are perhaps unnecessarily saddled with accountability and reporting

mechanisms that are irrelevant to their local community needs. The impact of the loss of the Local Government Development Fund requires review as the fund enabled the industry to deliver low cost initiatives to the sector.

*II. The capacity of the Department of Local Government and Regional Development to examine local government finance, probity and performance issues*

The Department currently utilises a compliance return to assess the compliance by local governments. There is no annual benchmarking process that is centrally managed and no capacity to provide a snapshot of the industry performance. The Department should consider providing support to Local Government through the regular provision of reports that provide industry analysis and emerging trends.

*III. Whether the State Auditor General should have a role in local government audit processes*

The role of the Auditor General should be in contributing to the review of the Audit Standard rather than in the direct administration of Local Government audits, unless clear advantage can be demonstrated.

The WALGA conclusions were as follows:

- Any change to Local Government auditing and/or accountability requirements should be subject to a cost benefit analysis.
- There should be scope within such review for Councils to determine locally appropriate reporting above any minimum standards.
- The Department should be resourced to provide outreach position to assist and mentor best practice and compliance.
- Indexation of the \$50,000 tender threshold should be addressed as a priority.
- The imposition of regulation and compliance regimes should be balanced against an assessment of relative risk, and the appropriateness of different regulatory and compliance requirements for differing levels of risk be considered as an alternative to the application of generic controls.

## 2 *The McIntyre Report*

The McIntyre Report into the City of Joondalup made the following recommendations in relation to issues of compliance and reporting mechanisms:

### Recommendation 8

- *A statutory body, such as the Local Government Commission proposed by this Report, should be responsible for the appointment and supervision of all CEOs for all local authorities within the State. Such a statutory body would be obliged to consult with the elected Council of each local government as to the specific requirements of the district. The statutory body should be accorded powers similar to those given to the Public Sector Standards Commissioner under the Public Sector Management Act 1994 and should have power to set salaries and allowances similar to the powers set out under the Salaries and Allowances Act 1975.*

The City responded to this recommendation at its meeting held on 14 November 2005:

It is agreed that procedures for appointment and matters covered in employment contracts need to be tightened up. An alternative process to that proposed might be that Regulations could be enacted to cover matters associated with the selection and appointment of CEOs and contracts of employment. This would assist the City and the local government industry by providing a statutory framework for these matters.

#### Recommendation 9

- *A Local Government Commission should be established to appoint and supervise CEO's and assume the functions of the Minister and Executive Director under Part 8 of the Local Government Act 1995 with power to perform the functions of a Commissioner under Part 2, Division 7 of the LGA and the functions of the Advisory Board under Part 2, Division 8 of the LGA.*

The City responded to this recommendation at its meeting held on 14 November 2005 –

There are powers already under the Act that allow for the Minister and the Executive Director under Part 8 of the Local Government Act 1995 to step in and investigate matters before they require the suspension of Council. (A matter referred to in the Report of Chapter 3, part 7). The potential for significant interference by a third party in the administrative affairs of the local government may be disruptive and unwarranted unless in serious circumstances.

Training for CEOs and performance appraisals by Councils submitted to the Minister for review may allow for the accountability of the CEO without the disruption. It is envisaged that the Minister would review the performance appraisals and highlight any issues that might need to be addressed. The Minister may then recommend to Councils the development of best practice to deal with such matters. This proposal would maintain the autonomy of local governments to make their own decisions.

#### Recommendation 10

- *There should be established a Local Government Assistance Authority to perform the present role of the Capacity Building Division of the DLGRD and co-operatively manage or assist in providing the educational and assistance roles being provided by voluntary local government industry associations to local governments.*

The City responded to this recommendation at its meeting held on 14 November 2005 –

Mandatory training of elected members would be useful. At the moment limited training is provided that does not fully prepare elected members for the rigour of local government. Mediation for dispute resolution by an Authority would also be of use. To date WALGA and LGMA provide a significant amount of educational assistance. The City is also in the process of reviewing its induction processes for elected members.

While the Public Accounts Commission has suggested the possibility of the State Auditor General performing a role in local government audit processes, the McIntyre Inquiry has also recommended to the Minister that a further body, the Local Government Commission be established to oversee some governance functions of local government.

#### **Link to Strategic Plan:**

The Public Accounts Committee Inquiry into Local Government Accountability in Western Australia has implications for the City's strategic outcome that the City provides a sustainable and accountable business.

**Legislation – Statutory Provisions:**

Not applicable.

**Risk Management considerations:**

Not applicable.

**Financial/Budget Implications:**

Not applicable.

**Policy implications:**

Not applicable.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

Not applicable.

**Consultation:**

Not applicable.

**COMMENT**

A local government already has a number of external bodies to which it must answer to in terms of compliance. Notwithstanding the provisions of Part 8 of the *Local Government Act 1995*, a local government must submit to the Department an Annual Compliance Return, disclose all Public Interest Disclosures to the relevant governing body, comply with EEO legislation, submit a statement to the Disability Services Commissioner on matters of access, comply with financial audits each year, include in its Annual Report its compliance with clause 7 of the National Competition Policy, and the conduct of internal self regulating audits to name but a few. There are already a number of external agencies requiring and monitoring local government compliance and the establishment of more agencies may lead to the overlap of functions and reporting mechanisms that may be viewed as inefficient.

That the City supports the position taken by WALGA in its response to the Local Government Accountability Inquiry as contained in Attachment 1 to this report.

**ATTACHMENTS**

Attachment 1            WALGA Response to the Local Government Accountability Inquiry.

**VOTING REQUIREMENTS**

Simple majority.

## **RECOMMENDATION**

**That the City SUPPORTS the position taken by WALGA in its response to the Local Government Accountability Inquiry as contained in Attachment 1 to this Report and advises the Public Accounts Committee in writing of this position.**

*Appendix 28 refers*

*To access this attachment on electronic document, click here: [Attach28brf061205.pdf](#)*

**ITEM 33                      PROPOSED WORKS DEPOT – [80513] [58498]****WARD:**                      All**RESPONSIBLE  
DIRECTOR:**                Mr Garry Hunt  
                                    Office of the CEO

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Report to be circulated under separate cover when available, and posted on the web page at that time.

When this report becomes available the following hyperlink will be activated:

[Additional Information 061205.pdf](#)

**ITEM 34                      REVIEW OF WARD NAMES, BOUNDARIES AND  
ELECTED MEMBER REPRESENTATION – [16878]**

**WARD:**                      All

**RESPONSIBLE  
DIRECTOR:**                Mr Garry Hunt  
Office of the CEO

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Report to be circulated under separate cover when available, and posted on the web page at that time.

When this report becomes available the following hyperlink will be activated:  
[Additional Information 061205.pdf](#)



- 8 REPORT OF THE CHIEF EXECUTIVE OFFICER**
- 9 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
- 10 BUSINESS OUTSTANDING FROM PREVIOUS MEETINGS**
- 11 REPORTS/PRESENTATIONS REQUESTED BY COMMISSIONERS**

**BUSINESS OUTSTANDING FROM PREVIOUS MEETINGS****DUE DATE**                    **DECEMBER 2005****SUBJECT**                    **SITE ACQUISITION – WORKS DEPOT – ex CJ176-08/05**

- “1        REFERS back the report to the Officers for further clarification of issues surrounding the Normalisation Agreement;
- 3        REQUESTS the Chief Executive Officer to report on options for alternative sites as soon as practical;”

**RESPONSIBLE DIRECTORATE**    Infrastructure Services**ACTION NUMBER**    98981**STATUS**                    This item was originally listed for November 2005.  
A report will be submitted to Council in December 2005.**DUE DATE**                    **DECEMBER 2005****SUBJECT**                    **REVIEW OF WARD BOUNDARIES, NAMES AND ELECTED MEMBER REPRESENTATION – [16878] ex CJ205 - 10/05**

- 5        REQUEST a further report be presented to Council following the completion of the statutory public consultation as required by Schedule 2.2 of the Local Government Act 1995;

**RESPONSIBLE DIRECTORATE**    Office of the CEO**ACTION NUMBER**    101501**STATUS**                    Notice of the review was placed in the local newspaper, with public submissions closing 2 December 2005. The two public workshops are scheduled to be held on 7 and 9 November 2005. It is intended that a report will be presented to the Council at its meeting to be held on 13 December 2005.

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**DUE DATE**                    **DECEMBER 2005**

**SUBJECT**                    **PERFORMANCE REVIEW COMMITTEE – CEO INITIAL PERFORMANCE REVIEW REPORT** - ex C54-09/05

2            ENDORSES further discussion between the CEO and the Performance Review Committee to review and vary the Key Performance Indicators going forward with recommendations to be referred to Council.

**RESPONSIBLE DIRECTOR**      Corporate Services

**ACTION NUMBER**      100437

**STATUS**                    This matter was finalised at the CEO Performance Review Committee meeting held on 14 November 2005. A report will be submitted to Council on 13 December 2005.

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**DUE DATE**                    **DECEMBER 2005**

**SUBJECT**                    **TENDER REGULATIONS**  
ex CJ043-03/05 2004 COMPLIANCE AUDIT RETURN

“3            EXPRESSES its concern that the Tender Regulations have not been followed and advises the Department of Local Government and Regional Development that the Council has requested that a report on this matter be submitted to the Audit Committee;”

**RESPONSIBLE DIRECTORATE**      Office of the CEO

**ACTION NUMBER**      89549

**STATUS**                    The matter has been referred to Stanton Partners to review the issue of non-compliance with the Tender Regulations. Once the review has been undertaken, a report will be submitted. The review is anticipated to be completed by 14 October 2005.

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<b>DUE DATE</b>	<b>DECEMBER 2005</b>
<b>SUBJECT</b>	<b>NOTICE OF MOTION NO 1 – CMR M ANDERSON – TO REVOKE – REVIEW OF WARD BOUNDARIES AND ELECTED MEMBER REPRESENTATION</b> - ex C65-11/05
	“3 That the Council considers any public submissions following the statutory six (6) week public consultation period relating to the review of the City of Joondalup’s ward names, boundaries and elected member representation at the earliest opportunity; and
	4 following the review of public submissions as detailed in (3) above makes a recommendation to the Local Government Advisory Board for its consideration.”
<b>RESPONSIBLE DIRECTORATE</b>	Office of the CEO
	103918
<b>ACTION NUMBER</b>	
<b>STATUS</b>	Resolution of the Council has been noted and a report will be presented to the 13 December 2005 meeting following close of submissions on 2 December 2005.

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<b>DUE DATE</b>	<b>DECEMBER 2005</b>
<b>SUBJECT</b>	<b>PROPOSED NURSING HOME AND AGED OR DEPENDANT PERSONS’ DWELLINGS: LOT 28 (FORMERLY PORTION LOT 62) AND LOT 63 HOCKING ROAD, KINGSLEY – REVISED APPLICATION FOR PLANNING APPROVAL</b> - ex CJ257-11/05
	“1 matter relating to the proposed nursing home and aged or dependant persons’ dwellings: Lot 28 (formerly portion Lot 62) and Lot 63 Hocking Road, Kingsley – Revised application for planning approval be DEFERRED to a Special Meeting of the Council to be held within 14 days from 22 November 2005;
	2 purpose of the deferral is to enable information regarding the ability of the Environmental Protection Authority to require the revised application to be referred to it for consideration.”
<b>RESPONSIBLE DIRECTORATE</b>	Planning and Community Development
	104204
<b>ACTION NUMBER</b>	
<b>STATUS</b>	<b>The applicant is aware of the decision. The proposal is being re-considered at a Special Meeting of Council.</b>

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**DUE DATE**                    **EARLY 2006**

**SUBJECT**                    **JOONDALUP – JINAN RELATIONSHIP PLAN** – ex CJ224-11/05

- 1        Council DEFERS the adoption of the Joondalup-Jinan Relationship Plan, until after completion of the workshop referred to in 2 and 3 below;
- 2        Council REFERS the plan to a workshop comprising the Joondalup Stakeholder Group and members of the last delegation to Jinan, not being members of the Stakeholder Group;
- 3        the workshop is to consider the long term strategic implications (over the next 20 years) of the plan, and to identify meaningful and appropriate long term strategic key performance indicators and appropriate measures to be included with the plan.

**RESPONSIBLE DIRECTOR**        Office of the CEO/Strategic and Sustainable Development  
**ACTION NUMBER**        102695

**STATUS**                    The matter will be referred to the next meeting of the Stakeholders.

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**DUE DATE**                    **FEBRUARY 2006**

**SUBJECT**                    **CONSOLIDATION OF INDICATORS THAT HAVE PARALLEL OBJECTIVES** – ex CJ171-08/05 – CORPORATE REPORTING SYSTEMS

- “3        REQUESTS the Chief Executive Officer to provide a report on consolidating those indicators that have parallel objectives, so that a composite rating can be produced.”

**RESPONSIBLE DIRECTORATE**        Office of the CEO/Strategic and Sustainable Development

**ACTION NUMBER**        98977

**STATUS**                    A review of the indicators will be undertaken and a report will be considered by the Chief Executive Officer after the review has been completed.

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**DUE DATE**                    **FEBRUARY 2006**

**SUBJECT**                    **LOT 1 OCEANSIDE PROMENADE, MULLALOO**  
ex C83-05/03 NOTICE OF MOTION NO 4 – CR M CAIACOB

“that Council AGREES and RESOLVES to incorporate Lot 1 Oceanside Promenade, Mullaloo into Tom Simpson Park reserve proper and makes any and all necessary changes to the status and zoning of the land as per the Council Officers recommendation in CJ118-05/02.”

“that consideration of the Notice of Motion - Cr M Caiacob – Lot 1 Oceanside Promenade, Mullaloo be DEFERRED pending submission of a report.”

**RESPONSIBLE DIRECTORATE**      Planning and Community Development

**ACTION NUMBER**      51161

**STATUS**                    A report will be presented to Council following a review of the City’s asset portfolio. Funding for the Strategic Asset Management Plan is listed for consideration in the 2005/06 Draft Budget.

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**DUE DATE**                    **FEBRUARY 2006**

**SUBJECT**                    **LANDSCAPING PLANS FOR JOONDALUP REGIONAL CULTURAL FACILITY** - ex CJ248-11/04 – JOONDALUP REGIONAL CULTURAL FACILITY SITE ACQUISITION

“3      REQUIRE that a report detailing forward landscaping plans for the site be prepared for consideration of Council taking into account the cultural and performing arts needs of the community, which will be assessed through a collaborative consultation process involving educational institutions, performing arts groups, arts consultants and other stakeholders;

**RESPONSIBLE DIRECTORATE**      Office of the CEO

**ACTION NUMBER**      82351

**STATUS**                    Consultation will take place as soon as is practicable following the finalisation of the purchase of the site which requires the lot to be formally subdivided. It is envisaged that a report will be submitted to Council once the purchase has been finalised.

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**DUE DATE**                    **FEBRUARY 2006**

**SUBJECT**                    **REVISED SET OF KPIS FOR COUNCIL PROJECTS**  
– ex JSC2-07/05 – STRATEGIC FINANCIAL PLAN 2005/06 TO 2008/09

“3        REQUESTS the Chief Executive Officer to submit a report to Council on a revised set of KPIS for Council projects.”

**RESPONSIBLE DIRECTORATE**    Office of the CEO

**ACTION NUMBER**    97080

**STATUS**                    This item was originally listed for November 2005. The report will be submitted to a future Strategy Session.

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**DUE DATE**                    **FEBRUARY 2006**

**SUBJECT**                    **REVIEW OF DRAFT AUDIT CHARTER** - ex CJ226-11/05 – MINUTES OF THE AUDIT COMMITTEE MEETING HELD 18 OCTOBER 2005

3        Council REQUESTS the Chief Executive Officer to review the draft Audit Charter by modifying the words to more appropriately reflect:

- Legislative requirements
- Oversight and monitoring role of the Audit Committee
- Clarification of the role and function of the Committee
- Terms of appointment of the independent Committee members
- Quorum numbers and composition of Committee
- Interaction with the Internal Auditor
- Status of independent persons

**RESPONSIBLE DIRECTOR**            Office of the CEO

**ACTION NUMBER**    102561

**STATUS**                    This item was originally listed for December 2005. This matter was discussed at the Audit Committee held on 29 November 2005. A report will be presented to Council in February 2006.

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**DUE DATE**                    **FEBRUARY 2006**

**SUBJECT**                    **OPTIONS FOR PURCHASE OF CORPORATE VEHICLES**  
- ex CJ230-10/04

4    request the Sustainability Advisory Committee to investigate and report to the Council on options (including hybrid vehicles) relating to the operating of corporate vehicles that adhere to best practice sustainability principles.

**RESPONSIBLE DIRECTORATE**    Office of the CEO/Strategic and Sustainable Development

**ACTION NUMBER**    **80993**

**STATUS**                    This item was originally listed for November 2005. A draft report has been finalised and is to be referred to the Sustainability Advisory Committee prior to presentation to Council. The next scheduled meeting of the Sustainability Advisory Committee is December 2005 and depending on a quorum being achieved the report will go to Council in February 2006.

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**DUE DATE**                    **FEBRUARY 2006**

**SUBJECT**                    **REDESIGN OPTIONS OF COUNCIL CHAMBER**  
- ex CJ248-11/04 – JOONDALUP REGIONAL CULTURAL FACILITY SITE ACQUISITION

5    REQUIRE an urgent review be conducted and interim report prepared and presented at the December 2004 Council meeting with regard to the costs and options of redesigning the Council Chamber to meet the provisions of the Governance Review and allow for greater availability and usage for performing arts and other community events.”

**RESPONSIBLE DIRECTORATE**    Office of the CEO

**ACTION NUMBER**    82351

**STATUS**                    Concept plans and costings were presented to the Strategy Session held on 27 September 2005. This item was originally listed for November 2005. Alternative options are being considered to those proposed by the architects. Following consideration of those options by the CEO, a report was presented to the Strategy Session on 29 November 2005 and the Commissioners were briefed on the matter. A report will be presented in February 2006.

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**DUE DATE**                    **FEBRUARY 2006**

**SUBJECT**                    **REPORT REQUESTED BY COMMISSIONERS** – Briefing Session 23  
August 2005

1.        Provision of Information to Coun  
          Members

Cmr Smith requested that a report be submitted to Council on the possibility of adopting protocols relating to the method and time limitations on all information provided to Council members, where such information is applicable to decisions being made at Council meetings.

**RESPONSIBLE  
DIRECTORATE**                Office of the CEO

**ACTION NUMBER**        98585

**STATUS**                    This item was originally listed for November 2005. Options relating to the possible protocols were drafted in November 2005 and are being reviewed internally.

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**DUE DATE**                    **FEBRUARY 2006**

**SUBJECT**                    **PUBLIC OPEN SPACE**

ex CJ203-09/05 - APPLICATION FOR THE CANCELLATION OF A PORTION OF RESERVE 39624 (CASTLECRAG PARK) CASTLECRAG DRIVE, KALLAROO

- 3        REFERS the issue of the sale of public open space to the Policy Committee with a request that the Committee considers whether a Council policy should be developed around this issue.

**RESPONSIBLE  
DIRECTOR**                    Planning and Community Development

**ACTION NUMBER**        100435

**STATUS**                    This matter will be submitted to the next Policy Committee to be held in February 2006.

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**DUE DATE**                    **FEBRUARY 2006**

**SUBJECT**                    **OUTCOME OF REVIEW OF PROCUREMENT PROCESSES**  
– ex CJ121-06/05 – REVIEW OF THE DELEGATED AUTHORITY MANUAL

“3        REQUESTS the Chief Executive Officer to advise the Audit Committee at the earliest possible opportunity of the outcome of the review of the procurement processes.”

**RESPONSIBLE DIRECTORATE**    Office of the CEO

**ACTION NUMBER**

**STATUS**                    This matter was discussed at the Audit Committee meeting held on 28 November 2005.

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**DUE DATE**                    **FEBRUARY 2006**

**SUBJECT**                    **LEGAL REPRESENTATION COSTS TO THE CITY IN RELATION TO THE MCINTYRE INQUIRY**  
– ex CJ168-08/05 - Report on funding to date to the City of Joondalup pursuant to Policy 2.2.8 – Legal Representation for Elected Members and Employees

“5        NOTES that a further report be prepared by Administration at a later date that quantifies the legal representation costs to the City. This report will not be able to be completed until the McIntyre Inquiry hands down its final report.”

**RESPONSIBLE DIRECTORATE**    Office of the CEO

**ACTION NUMBER**    97788

**STATUS**                    A report will be submitted to Council following the completion of the McIntyre Inquiry.

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**DUE DATE**                    **FEBRUARY 2006**

**SUBJECT**                    **TOM SIMPSON PARK AND TEN LOTS IN MERRIFIELD PLACE, MULLALOO**

ex CJ299 - 12/04 - Annual General Meeting of Electors held on 22 November 2004

In relation to Motion 16 of the Annual General Meeting of Electors held on 22 November 2004 NOTE that a report will be presented to the Council in early 2005 on the matter of including Lot 1 Oceanside Promenade and the grassed road reserve adjacent to Tom Simpson Park into Tom Simpson Park, and the reservation of 10 lots in Merrifield Place, Mullaloo;

**RESPONSIBLE DIRECTORATE**      Planning and Community Development

**ACTION NUMBER**      85111

**STATUS**                    This item was originally listed for December 2005. A report will be presented to Council following a review of the City's asset portfolio. Funding for the Strategic Asset Management Plan is listed for consideration in the 2005/06 Draft Budget.

---

**DUE DATE**                    **FEBRUARY 2006**

**SUBJECT**                    **SORRENTO DUNCRAIG AND OCEAN RIDGE LEISURE CENTRES OPERATIONS AND MANAGEMENT REVIEW RECOMMENDATIONS**

– ex CJ093-04/04

“3      NOTE that this arrangement be reviewed as part of the proposed Leisure Plan to be developed by the City.”

**RESPONSIBLE DIRECTORATE**      Planning and Community Development

**ACTION NUMBER**      70983

**STATUS**                    This item was originally listed for December 2005. Funding for development of the Leisure Plan was approved in the 2004/05 budget and worked commenced in November 2004. The development of the Leisure Plan will take approximately six months. The Leisure Plan is underway at this time and will provide guidance on this matter. The Leisure Plan timeframes are to be considered as part of the Community Development Plan report to be presented to a Strategy Session on Tuesday, 29 November 2005.

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**DUE DATE**                    **FEBRUARY 2006**

**SUBJECT**                    **ABORIGINAL ISSUES IN THE CITY OF JOONDALUP** – ex JSC29-08/04  
– MINUTES OF 2004/05 BUDGET COMMITTEE MEETINGS

“4        REQUEST that a report be submitted to Council on raising the profile of Aboriginal issues in the City of Joondalup as a significant part of the Cultural Plan.”

**RESPONSIBLE DIRECTORATE**    Planning and Community Development

**ACTION NUMBER**    77778

**STATUS**                    This item was originally listed for December 2005. The forthcoming Cultural plan for the City will address raising both the profile of Aboriginal issues and the level of community exposure to local programs presenting Aboriginal artistic endeavour and culture. A comprehensive strategy addressing issues relating to the presentation of Aboriginal cultural activities, the participation of Aboriginal people in civic life in the city, and the consequential raising of community awareness of Aboriginal issues will be available for consideration as part of the draft cultural plan.

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**DUE DATE**                    **FEBRUARY 2006**

**SUBJECT**                    **PETITION OPPOSING PROPOSAL FOR CHILDCARE FACILITY AT 15 AND 17 KARUAH WAY, GREENWOOD** - ex C64-11/05

A 251-signature petition has been received requesting that Council serious consideration to rejecting the proposal for a permit to erect a chi facility at 15 and 17 Karuah Way, Greenwood.

**RESPONSIBLE DIRECTORATE**    Planning and Community Development

104486

**ACTION NUMBER**

**STATUS**                    **The petition will be considered by administration during the assessment of the application. The matter is likely to be considered at the 21 February meeting of Council in 2006.**

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**DUE DATE**                    **FEBRUARY 2006**  
**SUBJECT**                    **PROPOSED NEW STRUCTURES FOR CRIME PREVENTION IN WESTERN AUSTRALIA – ex CJ338-12/02**

“4        NOTES that Council will be advised as the matter progresses both through Desk of the CEO reports and a further report to Council.”

**RESPONSIBLE DIRECTORATE**     Planning and Community Development

**ACTION NUMBER**     41269

**STATUS**                    A report was presented to Executive Management on 11 October 2004, with a further report outlining the City’s requirements to be decided at a future Executive meeting. The City’s decision was forwarded for consideration at the WALGA North Zone meeting on 25 November 2004.

At the WALGA North Zone meeting held on 25 November 2004 it was agreed that the item regarding the proposed Community Safety and Crime Prevention partnership be deferred to allow member Councils to provide their responses to the City of Stirling.

Chief Executive Officer to meet with officers of the Crime Prevention Unit.

WALGA has facilitated a Safety and Crime Prevention meeting. The following recommendation from this meeting is to be forwarded to the State Council via the various zone meetings:

That the Association does not support the State Local Government Community Safety and Crime Prevention Partnership until there is:

- acceptance by State Government of Local Government evidence based planning methods to develop community safety and crime prevention strategies;
- a flexible funding arrangement for community safety and crime prevention plans for Local Government;
- sustainable growth funding from State to Local Government to support the Local Government Community Safety and Crime Prevention plans and their implementation;
- a feasibility study undertaken into a regional based approach to community safety and crime prevention through a network of State Government funded staff to support Local Government develop a collaborative based approach to community safety and crime prevention planning and initiatives;
- Acknowledgement by the State Government that the management of graffiti and anti social behaviour are key issues of concern to Local Government.

The development of a MOU between State and Local Government that outlines the roles and responsibilities of State and Local Government in relation to community safety and crime prevention planning.

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**DUE DATE**                    **MARCH 2006**

**SUBJECT**                    **REVIEW OF CODE OF CONDUCT – NON-VILIFICATION OF RATEPAYERS** - ex CJ299 - 12/04 - Annual General Meeting of Electors held on 22 November 2004

In relation to Motion 12 of the Annual General Meeting of Electors held on 22 November 2004, NOTE that recommendation No 25 referred to in the motion is a recommendation of the Governance Review Panel and cannot be altered by the City, however, the issue on non-vilification of ratepayers will be considered as part of the review of the Code of Conduct.

**RESPONSIBLE DIRECTORATE**      Office of the CEO

**ACTION NUMBER**      85109

**STATUS**                    This item was originally scheduled to be reviewed by an elected Council. This matter will be considered by the Policy Committee in reviewing Council Policy 4-1 - Code of Conduct. A meeting of the Policy Committee was scheduled for 29 November 2005. This matter was not considered by the Policy Committee at that meeting and will be reviewed at a later stage.

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**DUE DATE**                    **MARCH 2006**

**SUBJECT**                    **REPORT REQUESTED BY COMMISSIONERS** – Briefing Session 23 August 2005

Customer Satisfaction Monitor

Cmr Fox requested that a report be submitted to Council on options open to the City, either to undertake its own customer satisfaction monitor or jointly with other groups.

**RESPONSIBLE DIRECTORATE**      Office of the CEO

**ACTION NUMBER**      98584

**STATUS**                    This item was originally listed for November 2005. Discussions are being held with other Councils with a view to forming a joint survey approach across a number of similar sized Councils.

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**DUE DATE**                    **MARCH 2006**

**SUBJECT**                    **PROPOSAL TO PROTECT NATIVE AREAS OF SIGNIFICANCE** - ex  
CJ193-09/05 MEETING OF THE CONSERVATION ADVISORY COMMITTEE HELD  
ON 24 AUGUST 2005

4            REQUESTS the Chief Executive Officer to provide a future  
report on the Conservation Advisory Committee's review and  
the process impact of the proposal to protect native areas of  
significance under Schedule 5 of the District Planning Scheme  
No 2;

**RESPONSIBLE**            Infrastructure Services  
**DIRECTOR**

**ACTION NUMBER**    100428

**STATUS**                    The Conservation Advisory Committee has identified reserves of  
significance. A report by Planning & Community Development on the  
DPS2 implications will be submitted to Council in March 2006.

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**DUE DATE**                    **MARCH 2006**

**SUBJECT**                    **REPORT REQUESTED BY COMMISSIONERS** – Briefing Session  
September 2005

Risk Management Framework

Cmr Anderson requested a report on an overarching risk management  
framework for the City, to be presented to the next meeting of the Audit  
Committee.

**RESPONSIBLE**            Office of the CEO  
**DIRECTORATE**

**ACTION NUMBER**    99742

**STATUS**                    This item was originally listed for December 2005. A report will be  
submitted to Council in March 2006.

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**DUE DATE**                    **MARCH 2006**

**SUBJECT**                    **OVERVIEW OF THE OFFICIAL VISIT FROM JINAN DELEGATION (SHANDONG PROVINCE), CHINA TO JOONDALUP – AUGUST 2005 AND TO PROVIDE FURTHER NOTIFICATION OF AN INVITATION TO VISIT JINAN IN OCTOBER 2005** - exCJ187-09/05

- 2            REQUESTS the Chief Executive Officer when preparing the report evaluating the public comments received as part of the consultation period on the Joondalup-Jinan Relationship Plan to ensure that it encompasses five (5) and ten (10) year strategic horizon action plans;

**RESPONSIBLE DIRECTOR**      Office of the CEO/Strategic and Sustainable Development

**ACTION NUMBER**      100425

**STATUS**                    2            The Joondalup – Jinan Relationship Plan when endorsed will be further developed to incorporate implementation action planning. It is anticipated that this work will be completed in the Jan-March quarter of 2006 as outlined in the Annual plan.

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**DUE DATE**                    **MARCH 2006**

**SUBJECT**                    **LONG-TERM STRATEGY AND FINANCIAL PLAN FOR PARKING IN THE JOONDALUP CBD**  
– ex JSC3-07/05 -MINUTES OF THE STRATEGIC FINANCIAL MANAGEMENT COMMITTEE

- “2            REQUESTS that a report be submitted to Council in due course on a long-term strategy and financial plan for parking in the Joondalup CBD.”

**RESPONSIBLE DIRECTORATE**      Planning and Community Development

**ACTION NUMBER**      97081

**STATUS**                    This has been referred to the internal Parking Strategy Working Group.

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**DUE DATE**                    **MARCH 2006**

**SUBJECT**                    **LOCATION OF 50 METRE POOL AT CRAIGIE LEISURE CENTRE OR AN ALTERNATIVE LOCATION** – ex JSC29-08/04 – MINUTES OF 2004/05 BUDGET COMMITTEE MEETINGS

“2        REQUEST that a report be submitted to Council as to whether a 50 metre pool should be located at Craigie Leisure Centre or at an alternative location;”

**PETITION** – Council 28 June 2005

Two petitions of 144 and 125-signatures respectively have been received requesting the City of Joondalup make provision for a 50 metre, 8 lane outdoor pool at the Craigie Leisure Centre in the City's financial budget for 2005/06.

**RESPONSIBLE DIRECTORATE**      Planning and Community Development

**ACTION NUMBER**      77776 and 95549

**STATUS**                    The City has committed in September 2004 to a refurbishment project to the aquatic facilities at the Craigie Leisure Centre. Further development of the City's aquatic facilities, i.e. a 50 metre pool, would only occur as a result of:

- (1)        Detailed analysis of the performance of the Craigie Leisure Centre once the refurbishment has been completed.
- (2)        Detailed market research that considers all market segments.

The Craigie Leisure Centre redevelopment project is inclusive of a geothermal water heating system which will be able to cater for a further 50 metre water space.

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**DUE DATE**                    **MARCH 2006**

**SUBJECT**                    **FIRE BREAKS AND PEDESTRIAN ACCESS TO BEACHES IN OCEAN REEF** ex CJ004-02/04 – ANNUAL GENERAL MEETING OF ELECTORS HELD ON MONDAY 17 NOVEMBER 2003

“In relation to Motion 4 of the Annual General Meeting of Electors held on 17 November 2003:

- (c) REQUEST the CEO to provide Council with a report and suitable recommendations once investigations concerning the second fire break have been completed;”

**RESPONSIBLE DIRECTORATE**    Infrastructure Services

**ACTION NUMBER**    67033

**STATUS**                    With regard to pedestrian access to beaches in Ocean Reef, this matter has been addressed in Report CJ279-11/04. Also, as part of future staged development of Iluka, the developers intend submitting to the City design solutions for either a raised boardwalk or pathway linking the coastal dual use path to the north-western portion of the Iluka subdivision. It is at that time that consideration to the second firebreak can be given by the City.

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**DUE DATE**                    **JUNE 2006**

**SUBJECT**                    **EDGEWATER QUARRY SITE** - ex CJ300 - 12/04 - Site Acquisition - Works Depot

“REQUEST the City’s officers in acknowledgement of public submissions received to the Business Plan and in the interests of the long-term strategic planning for the City, undertake a needs and opportunities analysis of the Edgewater Quarry site and report back to Council.”

**RESPONSIBLE DIRECTORATE**    Infrastructure Services

**ACTION NUMBER**    85135

**STATUS**                    This project is currently on hold until a determination is made on the acquisition of the Hodges Drive Depot site.

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**DUE DATE**                    **JUNE 2006**

**SUBJECT**                    **PROPOSED MODIFICATIONS TO CURRAMBINE STRUCTURE PLAN NO 14 – DELETION OF THE RESIDENTIAL MIXED USE PRECINCT AND REPLACEMENT WITH A SMALL LOT RESIDENTIAL PRECINCT AND MINOR MODIFICATIONS TO THE DEVELOPMENT PROVISIONS** – ex CJ088-04/04

“3        a separate report giving further consideration to the provision of retail land uses for the Currambine locality in relation to the City’s POLICY 3.2.8 – Centres Strategy, and retail floorspace allocations across the City, as noted in Schedule 3 of DPS2, be prepared;”

**RESPONSIBLE DIRECTORATE**        Planning and Community Development

**ACTION NUMBER**        71026

**STATUS**                    Partially addressed in Report to Council 27 April 2004. Remainder to be reported as part of the Centres Strategy review, which is intended to be undertaken as soon as possible. It should be noted that review initiation is dependent on data release from the WAPC, and was anticipated to occur before December 2005.

This item was originally listed for December 2005. It is noted that the WAPC has not initiated any review of its Commercial Centres Policy or the data contained within that Policy. It is therefore proposed to commence the review of the City of Joondalup Centres Strategy independently of the WAPC review.

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**DUE DATE**                    **NOVEMBER 2006**

**SUBJECT**                    **TENDER NO 014-04/05 PROVISION OF SECURITY AND PATROL SERVICES IN THE CITY OF JOONDALUP – CITY WATCH**  
ex CJ272-11/04

“5        REQUEST a report be submitted to Council for consideration prior to the extension of the contract beyond two years.”

**RESPONSIBLE DIRECTORATE**        Infrastructure Services

**ACTION NUMBER**

**STATUS**                    The requested report will be provided to Council in November 2006.

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**DUE DATE**            **2006**

**SUBJECT**            **DEVELOPMENT OF A COUNTRY TOWN RELATIONSHIP - ex**  
CJ278-11/02

“that Council DEFERS any decision to enter into a city-country sister City relationship until further analysis can be undertaken.”

**RESPONSIBLE DIRECTORATE**    Office of the CEO/Strategic and Sustainable Development

**ACTION NUMBER**    40021

**STATUS**            This item has been determined as a low priority for Council in 2005 and will be reconsidered in 2006.

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**DUE DATE**            **Dependent on the release of the City of Joondalup Inquiry Report.**

**SUBJECT**            **MAYOR D CARLOS (SUSPENDED) – REQUEST FOR PAYMENT OF LEGAL COSTS – ex** CJ118-06/04

“that no determination is made on this matter at this time and the item be DEFERRED until the McIntyre Inquiry completes its deliberations and issues a Report.”

**RESPONSIBLE DIRECTORATE**    Office of the CEO

**ACTION NUMBER**    73446

**STATUS**            A report will be submitted following the completion of the McIntyre Inquiry.

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**DUE DATE**                    **Dependent on the release of the City of Joondalup Inquiry Report.**

**SUBJECT**                    **RELEASE OF REPORT OF THE FORENSIC AUDITOR**  
– ex C70-11/04

“That due to questions and motions raised at the Annual Meeting of Electors held on 22 November 2004, the Joint Commissioners CONSIDER releasing, at the Council meeting immediately following receipt of the information outlined below, the report of the Forensic Auditor into the employment contract of the former Chief Executive Officer that is currently marked confidential subject to:

The Acting CEO being requested to contact the following for comment on this proposed course of action, asking them to provide any information they consider should be taken into account by the Council when it makes its decision:

- Deloitte Touché Tohmatsu, the Forensic Auditor
- Mr McIntyre, who is conducting the current Inquiry into the City of Joondalup
- Fiocco’s Lawyers”

**RESPONSIBLE DIRECTORATE**      Office of the CEO

**ACTION NUMBER**      83764

**STATUS**                    Correspondence was forwarded to the relevant parties following the Annual General Meeting.

Fiocco Lawyers had no objection; Mr McIntyre had no position, however, Deloitte Touche Tohmatsu objected to the release of information on the basis that, without full understanding of the scope and context of the audit, it may not be correctly interpreted in the public arena. On that basis, it is not proposed to release the information at this time.

This document was admitted as evidence into the McIntyre Inquiry into the City of Joondalup. Advice has been sought from McLeod’s Lawyers relating to the ability of members of the public gaining access to this document.

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<b>DUE DATE</b>	<b>2006</b>
<b>SUBJECT</b>	<b>PROPOSAL TO PROTECT NATURAL AREAS OF SIGNIFICANCE UNDER SCHEDULE 5 OF THE DISTRICT PLANNING SCHEME NO 2</b> - ex MINUTES OF THE CONSERVATION ADVISORY COMMITTEE MEETING HELD 26 OCTOBER 2006 – CJ256-11/05
	“3 NOTES that a further report will be provided on the Conservation Advisory Committee’s recommended list of reserves and the process impact of the proposal to protect natural areas of significance under Schedule 5 of the District Planning Scheme No 2;”
<b>RESPONSIBLE DIRECTORATE</b>	Infrastructure Services
	104207
<b>ACTION NUMBER</b>	
<b>STATUS</b>	<b>The Conservation Advisory Committee has identified reserves of significance. A report by Planning &amp; Community Development on the DPS2 implications will be submitted to Council in March 2006.</b>

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