

# MINUTES

City of Joondalup

MINUTES OF  
ORDINARY MEETING OF THE COUNCIL  
OF THE CITY OF JOONDALUP  
HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE,  
BOAS AVENUE, JOONDALUP

MEETING DATE



ON TUESDAY, 21 NOVEMBER 2006



**MINUTES OF COUNCIL MEETING  
HELD ON TUESDAY, 21 NOVEMBER 2006**

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# CITY OF JOONDALUP

## MINUTES OF COUNCIL MEETING HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP, ON TUESDAY 21 NOVEMBER 2006

### DECLARATION OF OPENING

The Mayor declared the meeting open at 1903 hrs.

### ANNOUNCEMENT OF VISITORS

Mayor Pickard welcomed Mr Winarso, Assistant Ombudsman at the National Ombudsman Commission of Indonesia, who is in Perth on a two-week placement to learn about Australian government administrative processes.

Mayor Pickard also welcomed Mr George Kirkpatrick of the Joondalup Community Arts Association and his wife Yvonne.

### ATTENDANCES

#### Mayor:

TROY PICKARD

#### Councillors:

Cr KERRY HOLLYWOOD	North Ward	
Cr TOM McLEAN	North Ward	
Cr STEVE MAGYAR	North-Central Ward	
Cr MICHELE JOHN	South-West Ward	
Cr MARIE EVANS	South-West Ward	
Cr SUE HART	South-East Ward	<i>Absent from 2105 hrs to 2107 hrs</i>
Cr BRIAN CORR	South-East Ward	
Cr RUSSEL FISHWICK	South Ward	
Cr RICHARD CURRIE	South Ward	

#### Officers:

MR GARRY HUNT	Chief Executive Officer	<i>Absent from 2105 hrs to 2107 hrs</i>
MR MIKE TIDY	Director, Corporate Services	
MR CLAYTON HIGHAM	Director, Planning and Community Development	<i>Absent from 2105 hrs to 2107 hrs</i>
MR DAVID DJULBIC	Director, Infrastructure Services	<i>Absent from 2105 hrs to 2107 hrs</i>
MR IAN COWIE	Director, Governance & Strategy	<i>Absent from 2105 hrs to 2107 hrs</i>
MR MIKE SMITH	Manager, Marketing Communications & Council Support	<i>Absent from 2105 hrs to 2128 hrs</i>
MR CHRIS TERELINCK	Manager, Approvals Planning & Environmental Services	<i>To 2107 hrs</i>
MR LAURIE BRENNAN	Media Advisor	<i>To 2107 hrs</i>

MS JANET HARRISON Administrative Services Co-ordinator  
MS GILLIAN KELLY Administrative Secretary

Absent from 2105 hrs to 2128  
hrs

There were 16 members of the Public and 1 member of the Press in attendance.

## **PUBLIC QUESTION TIME**

### **The following questions were taken on notice at the Council meeting held on 31 October 2006:**

#### **Mr M Sideris, Mullaloo:**

Q1 *I have reviewed the answers to my question to Council of last meeting. I note that the questions as published are not the questions as asked. I hereby clearly state that the edited form of my question does not represent either the question as submitted orally and confirmed by email or the intent of the question as delivered to you for your consideration and response and respectfully request immediate correction.*

A1 Regulation 11 of the Local Government (Administration) Regulations 1996 requires minutes of a meeting of Council to contain a summary of each question raised by members of the public at the meeting and a summary of the response to the question. The questions and responses referred to above have been checked and no correction is proposed.

Q2 *With reference to the answers given, please explain precisely how the current Council could have claimed to the current SAT hearing, the media, and to ratepayers, and the previous Council to the Supreme Court, that a 'cash in lieu' parking arrangement made with a Restaurant, separate to the old Tavern, under previous ownership, was over 20 years later and some 3 further changes of ownership later, resurrected and then said to provide - 'A further 34 carbays paid and constructed by the tavern have previously been provided on the opposite of the road. - CJ204 -08/02, when the records of Council clearly show that all these carbays are on crown land, were constructed long before the restaurant parking agreement was ever thought of, and that that this parking agreement ceased in the eyes of Council when the property was first sold in 1993.*

Q3 *Following on from the same answers given, will Council also explain precisely to ratepayers how the 'cash in lieu' payment said to have been paid by Mr. M Bellombra, was claimed by this Council, and presented as a matter of fact to the current SAT hearing, the media, and to rate payers, and by the previous Council to the Supreme Court, and was said before them all to have been used to provide a ' further 34 carbays paid and constructed by the tavern have previously been provided on the opposite of the road' - CJ 204 -08/02 - when the Councils own records clearly show that the claimed cash in lieu monies were specifically used for sand dune redevelopment/clearance north of Korella St Mullaloo?*

A2-3 The statements made in the questions are not agreed.

The salient facts are as follows:

- 1 Additions to the old tavern were proposed on many occasions.
- 2 In 1980 or thereabouts, an approval was granted subject to the tavern owners providing cash-in-lieu of parking bays for 34 bays.

- 3 The City then provided the bays on the opposite side of Oceanside Promenade, and on Crown land.
- 4 The then owner (around 1980) provided the commercial consideration required (ie the required amount relative to the financial value of the bays) in the form of a transfer of land title in Wangara.

These facts are a matter of public record and have not knowingly been misrepresented by the Council or the officers on any occasion.

Importantly, the facts contained at (4) above do not conflict with any responses previously given, and are not material to any applications before the Council either now or in the recent past.

- Q4 When will this Council explain properly to affected ratepayers precisely, when taking into account all the above facts, why this Council decided to make and continue to make a large number of such blatant misrepresentations to the State Administrative Tribunal since June 2006 and has generally presented to the Community, including the local Community Newspaper, a number of incorrect statements to the effect that the current owners of the Tavern owned and paid for the construction of car parking bays over the road when No such agreement, arrangement or payment ever occurred, especially in light of the fact that this overcrowded Public Car park existed on Crown land long before any Tavern and separate Restaurant business was ever built?*
- Q5 In relation to the newly discovered, internal transfer record, not declared previously as a record on the City's electronic document management system, suddenly referred to in the last answers published, namely Voucher # 88, will Council please advise specifically the relevance of this claimed transaction, in relationship to the restaurant car parking agreement claimed to have been made in relation to Lot 9, when Mr. M Bellombra did not even own this land at the time when the land Lot 225 was finally resumed as directed by the Shire of Wanneroo Council, for the non payment of the due amounts as required by the Shire's conditions of purchase?*
- Q6 Bearing in mind that the Owners of Lot 225 at that time also did not appear to have paid in full for that Land Lot at the time it was resumed for non payment of the agreed due payment by the Shire of Wanneroo, would this Council please explain why precisely they have put forward this internal transfer voucher now as providing evidence of Mr. M Bellombra's ownership rather than any receipt of the money taken, or any reference to the recorded status of that Land Lot, as clearly specified on the Land deed, and in Council records?*
- Q7 Bearing in mind all the answers given above, how and why exactly did Mr. M Bellombra receive \$7,000 for a lot of land he did not appear to have ever fully owned, let alone at the time specified by this Council in its given answer? Would this Council please provide the record of his full payment to Council for the land this Council has now claimed that he owned at the time stated in the latest answer of Council?*
- A4-7 The responses provided to the previous questions were based on research of historical records. Such research is time consuming and the information sought has no bearing on matters currently before the Council for decision. In view of this, it is proposed not to undertake any further historical research on this matter.



**Mrs M Macdonald, Mullaloo:**

Q1 *As SAT brought down a decision some weeks ago, can I now have a copy of the O'Neill report and if not, why not?*

A1 The Council has received legal advice that as the SAT has not yet made final orders, and as a number of matters remain to be resolved which may require referral to the SAT, it is not appropriate to provide the O'Neill Report at this time.

**Mr R de Gruchy, Sorrento:**

Q1 *Will the firm of Consultants be prepared to contact those ratepayers of the City of Joondalup, who have been involved in contacting most of the schools and colleges within Joondalup concerning the construction of a 50 metre pool at Craigie, in order to gain the benefit of their research?*

A1 A Balanced View Leisure Consultancy Services will coordinate the City's Aquatic Facilities Assessment at the City of Joondalup Leisure Centres - Craigie. The brief for the project provided to A Balanced View Leisure Consultancy Services includes a requirement to undertake community consultation.

The consultation process will ensure that a broad and fair representation of community's needs and expectations are explored. Ratepayers previously involved in providing feedback from schools and colleges regarding a 50 metre pool at Craigie will be included in the consultation process.

**Mr M Caiacob, Mullaloo:**

Q1 *Re: Mullaloo Tavern and landscaping. At the Council meeting on 10 October 2006 I was advised that the application that Council approved did not have substantial landscaping on it and it was required to be read in conjunction with the approval granted, ie landscaping conditions (o) and (r). Judge Chaney on 26 September 2006 found at Point 13 that the Town Planning Appeals Tribunal merely showed an outline of the outer walls of each apartment overlaid over the development approval plans. I am now advised that the condition relating to landscaping was rendered superfluous when the then Town Planning Appeals Tribunal approved those modified plans showing no landscaping or anything else other than the unit configurations, although the standard condition was applied by the Tribunal. As we have now been around the bush and as the standard condition for landscaping was upheld by the Town Planning Appeals Tribunal, I ask you to provide or direct me to Council's lawful order and the Tribunal's order varying the development application conditions to permit this development to be occupied prior to the establishment of the landscaping trees within the car park?*

A1 As previously disclosed, the plan approved as a result of the Town Planning Appeal Tribunal determination did not show any landscaping. Consequently, condition 1(r) became superfluous.

Q2 *My previous question, shown below, has not been answered. As the City indicates that the landscaping condition was upheld by the Town Planning Appeals Tribunal and that the requirement to comply with commercial vehicle conditions is ongoing as advised on 10 October 2006 Council meeting, can I please have an answer to my question?*

*“Please provide or direct me to Council’s lawful order authorising City’s Administration permission to approve occupation of this development where the conditions of the development approval (commercial bin servicing from a centrally located point, landscaping consisting of one tree per four car bays, AS2890 compliance and conditional car bays numbers) were not complied with.”*

- A2 The response to this question has been provided in the minutes of the Council meeting held on 31 October 2006 and further details on the landscaping matter have been provided in the response to Question 1 above.
- Q3 *On what date was the City made aware by members of the public that column spacing allegedly would not permit parking approval conditions to be met, in regards the basement of the Mullaloo Tavern?*
- Q4 *On what date was it established by the City that the basement was not being constructed in accordance with the approved building licence?*
- A3-4 On 8 June 2004 the Mullaloo Progress Association forwarded a press release to the City. In this document the Association alleged that the City "failed to satisfy the required size (width) of carbays".

It is important to note that the car bays had not been constructed or marked out at this time. The departures from the approved plans were noted in July 2004 and this resulted in the serving of a notice under the Local Government (Miscellaneous Provisions) Act 1960 and a summons to appear before the Court of Petty Sessions under s374 of the same Act.

- Q5 *When did Bunnings receive Planning and building approval to change the use of the reticulated undercover wet nursery retail area at the Southern end of the store?*
- A5 It was indicated at the 31 October 2006 Council Meeting that the Planning Approval Files needed to respond to this question were stored off-site. The information has now been obtained and a further response is provided below:

Planning and Building approval were not required for the current use of the area identified as the “roof covered nursery” on the approved plans.

**Mr S Kobelke, Sorrento:**

- Q1 *Re: Inquiry into the City of Joondalup. This matter remains outstanding. When would we expect to see a final report on the Inquiry into the City of Joondalup?*
- A1 A report is being finalised and will be presented before the end of the year.

**The following questions were submitted in writing prior to the Council meeting on 21 November 2006:**

**Mr Max Goldenberg, Iluka:**

*Re: Iluka Sporting Complex:*

- Q1 *Could you please advise the Lux on the current lights located around the perimeter of the Iluka open space?*

A1 The City engaged Sylvania Lighting Australasia to measure the lux levels of the floodlighting at the Iluka District Open Space. Sample readings were conducted for a 30m x 30m area serviced by an individual light pole. A total of 49 readings were taken from within the area. The average lux level measured was 37.87 lux.

Q2 *Does this meet Australian standards for small ball sports?*

A2 No. The Australian Standard for small ball sports - training is 250 lux. The highest reading recorded within the area was 149 lux directly under the light pole.

The Australian Standard for large ball sports - training is 50 lux. The size of the average area that meets this standard under each of the six (6) light poles is 25m x 25m.

Q3 *Should it not be up to standard, what steps is the City Of Joondalup taking to rectify this matter?*

A3 The Iluka District Open Space currently has six (6) lighting standards, each with two (2) 1,000 watt luminaries. This floodlighting provision is compliant with City Policy 6-1 Reserves, Parks and Recreation, however the available training areas that meet Australian Standards is limited.

The City is currently investigating available options to improve the floodlighting provision on all of its active sporting parks. This will provide future direction on the floodlighting standards that the City will provide to sporting clubs/groups and a priority listing of the parks concerned.

**Mr S Kobelke, Sorrento:**

*In The Times of Thursday, November 9, 2006 there is an advertisement in the Joondalup Voice for "Funds for Community Projects in Kingsley" public comments invited and refers to the website. There is no information on the website at this time 8.47pm 9 Nov 2006*

Q1 *Will the Council be providing even a modicum of information on the background of the Community Facilities Fund (CFF) and why Kingsley has this amount outstanding so the community can better understand the process?*

A1 The monies referred to as those in the Community Facilities Fund became available in May 2005 as a result of the disposal of an asset, namely the site of Lot 5 (10) Poimena Mews, Kingsley – the demolished Yagan Pre-Primary School in Kingsley.

Q2 *Will the Council be providing any guidance on what might be considered "appropriate" type projects so the community is not wasting their time in commenting?*

A2 Council has set no parameters at this time. However the Council is seeking to use the monies on an appropriate project and not on recurrent maintenance.

Q3 *Do any other suburbs in Joondalup have surplus funds in the CFF? And if so will the Council be calling for urgent public comment as they have in the case of Kingsley.*

A3 No, there are no surplus funds for other suburbs.

Q4 *On the basis that there is no information on the website relating to this matter, will the Council extend the closing date?*

- A4 No. It is acknowledged that the Public Notice on the website with the facility to provide online comment was uploaded a day after the newspaper advertisement. However, the Public Notice on the City's website contains the same information as the Public Notice in the Joondalup Voice which identifies the closing date for submissions as 5 December 2006. It is not considered appropriate to amend the closing date.
- Q5 *Will the Council be including members of the Joondalup community onto the panel that makes the final decision?*
- A5 No, it will be a decision of Council.
- Q6 *Is the Council planning to rush through a decision on this prior to the summer Council recess?*
- A6 The closing date for submissions is 5 December 2006, after the agenda for the last meeting of Council for 2006 has been finalised. It is therefore unlikely that decisions will be made by Council on this matter until early in 2007.
- Q7 *As there is no information on the website regarding this matter will the Council extend the public comment time in what might be regarded as a contentious matter.*
- A7 There is information available on the website as indicated in the answer to Question 4.

**Mr R Privilege, Edgewater:**

- Q1 *"I refer to the Crime and Corruption Commission's ongoing Inquiry into what has now become referred to as the "Burke Tapes" relating to records of telephone conversations between former Labor Premier, Brian Burke, and the Member for Peel, and State Minister for Small Business, Norm Marlborough;*
- I further refer to the extracts of the Transcripts of the said tapes that were published on page 5 of the West Australian Newspaper on Thursday 9 November 2006. I refer to the extract of telephone discussions between the two said persons dated 9 August 2006 and ask whether the Peter Clough referred to in those extracts, is the same Peter Clough who was a former Commissioner of the City of Joondalup appointed by the State Labor Minister for Local Government?"*
- A1 This question does not relate to the operations of the City and, consequently, it is not a question to which the City should respond.
- Q2 *"Can the CEO definitively confirm for the comfort of ratepayers, that neither Mr Brian Burke or Mr. Norm Marlborough have:*
- (a) *contributed, directly or indirectly, to the election campaigns of any current Councillors of the City of Joondalup? and*
- (b) *lobbied any Council Officer, at any stage, from the inception of the City, to date, in respect of any planning or any other matter?"*
- A2(a) The Local Government (Elections) Regulations 1997 require the disclosure of electoral gifts with a value of over \$200. In accordance with the Regulations, the City maintains a register of electoral gifts received. This register contains no record of gifts being received from either Mr Burke or Mr Marlborough for the 2006 election.
- A2(b) The City is unaware of any officers having been lobbied.

Q3 *“My question is addressed to the CEO. I refer to the fact that you were appointed as the CEO of the City by the former Commissioners of the City, and prior to the current elected members being elected to Council.*

*During this period, can you confirm that former Commissioner Peter Clough had no dealings with former Labor Premier Brian Burke, in respect of any Building Licence Application, or Planning Application of any description, before the Council during that period?”*

A3 This question cannot be responded to as it relates to the actions of the former Commissioner, Peter Clough.

**Mrs B Mackin, Iluka:**

*Re: Current Building Application before Council:*

Q1 *Bearing in mind that the Match Room, the subject of the Application, forms part of the building owned by the City of Joondalup, what progress has been made in approving the extension?*

A1 The building application has been assessed and is almost ready for issue, subject to two outstanding issues being attended to:

- (a) Nomination of a registered builder, and
- (b) Submission of signed engineers' details.

Q2 *Given that the Beaumaris Bowling Club have agreed to meet the total cost of \$46,000.00 for the proposed extension, what assistance has been offered by the City of Joondalup to bring this urgently needed extension to fruition?*

A2 The City has been in contact with representatives of the Beaumaris Sports Association to render assistance in making a properly detailed application. This has included the provision of advice to the appointed building contractor.

Q3 *When will approval for commencement of work be given?*

A3 There are various details required of the Builder at this time. The information has been requested but not yet received.

**The following questions were submitted verbally at the meeting; a summary of each question and the response given is shown below:**

**Mr W Boucher, Quinns Rock**

Q1 *We purchased an apartment at Mullaloo Beach Hotel two years ago, on the grounds that the City of Joondalup had given approval to construct these apartments. I understand that the apartments have been completed for over twelve months and still we are waiting for approval to move into the apartments. What is holding these approvals up?*

A1 *Response by Mayor Pickard:* The City is currently engaged in a SAT hearing with Rennet Pty Ltd, Judge Chaney has not handed down a determination relative to the hearing. The next scheduled date for that hearing is 19 January 2007. The City will provide written answers to your question.

**Mr E Burton, Kingsley**

Q1 *At the Kingsley and Greenwood Residents' Association meeting on 13 September 2006 a presentation outlining the proposal for the development of the Luisini Winery Project was given by a representative of the National Trust. I understand that a Development Application for the project was lodged with Council on 8 August 2006.*

*At that time it was considered that the project would come before Council in early November. Could Council advise as to the progress of the application concerning the presentation to Council and advertising period for the project?*

A1 The City has been advised that there are a number of technical issues which are still outstanding with the application prior to it going out to public comment. Unless those items are rectified fairly soon, the public comment period will be undertaken after the Christmas period.

Q2 *Will the matter be before Council prior to the public advertising or does it go to public advertising first?*

A2 The City goes to public advertising first and then presents a report to Council.

**Mrs M Macdonald, Mullaloo**

Q1 *I refer to the answers to my question in tonight's agenda where it is stated that it is inappropriate at this time to release the O'Neill Report on the Mullaloo Tavern. Given that the Mayor has put on public record that the report has been viewed by the developers' lawyers, can you tell me why it is inappropriate to release this report to me as I have no ability to make a submission to SAT or influence any negotiations currently taking place between the City and the developer?*

A1 The legal advice the City received relating to the O'Neill Report is that the City does not release the Report until the ruling has been handed down. Once the SAT process is complete, Council will provide the Report to Mrs Macdonald and the Mullaloo Progress Association.

Q2 *Can you tell me, why it is that people who gave input to the O'Neill Report have had no opportunity to comment on its accuracy?*

A2 The Report was produced by an independent consultant who engaged a range of people independently and compiled his findings into the Report. It was not a report for public consultation, it was a report commissioned by the City to assist in the process, and it was not at any stage suggested that the report would be sent to anyone who participated in it for comment.

**PUBLIC STATEMENT TIME****Ms M Moon, Greenwood**

Ms Moon made a statement on Item No. CJ223-11/06 Proposed repealing of Town Planning Scheme No 6 – Greenwood.

## **APOLOGIES AND LEAVE OF ABSENCE**

### **Apology:**

Cr G Amphlett

### **Leave of Absence previously approved:**

Cr J Park      2 November 2006 – 27 November 2006 inclusive  
Cr A Jacob     19 November 2006 – 24 November 2006 inclusive

## **CONFIRMATION OF MINUTES**

### **C89-11/06      MINUTES OF COUNCIL MEETING, 31 OCTOBER 2006**

### **RECOMMENDATION**

**MOVED Mayor Pickard SECONDED Cr John that the Minutes of the Council Meeting held on 31 October 2006 be confirmed as a true and correct record.**

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

## **ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION**

### **McHappy Day**

Last Saturday, Cr Hollywood, Cr McLean and myself served burgers at the McDonald's Currambine outlet for McHappy Day. McHappy Day raises money for Ronald McDonald Houses like the one at Princess Margaret Hospital where parents can stay while their children are being treated in hospital.

A very worthy cause, and I'm pleased to report that this was the most successful McHappy Day on record, raising an estimated \$1.7 million across Australia.

### **Kids' Christmas Party**

I am pleased to announce that Lake City Church, one of the major church stakeholders in our City, hosted the Kids' Christmas party fund raising dinner. Cr Jacob and myself attended the fund raising dinner and the funds raised are for children in care and children in foster families, with the aim of creating an unforgettable memory for 350 children and their families.

I would like to publicly commend the pastors at Lake City Church for this fantastic initiative.

### **Graffiti**

Recently I was one of nine Mayors that attended a meeting with Minister John Kobelke to talk about graffiti matters and challenges that local government face. I am pleased to report that John Kobelke received us very favourably indeed, where we emphasised that Councils are spending millions of dollars per annum on graffiti management, with escalating costs, and the nine Councils presented figures which showed that the total expenditure combined on graffiti

removal exceeded \$2.6 million in the last financial year. A number of points were raised during the meeting, which I am happy to share with you, being:

- A lack of action by police in pursuing graffiti vandalism as a crime;
- The role of the Office of Crime Prevention in graffiti management;
- The closing of the Police Community Safety Branch and its impact on graffiti management;
- Ineffective police reporting system for graffiti vandalism;
- Police not using the laws available to prosecute graffiti vandals; and
- Lack of action and coordination by State agencies in graffiti removal.

We presented a number of solutions that we have asked the Minister to consider, being:

- a zero tolerance by the State Government to reinforce that graffiti vandalism is a crime;
- a consistent simplified and streamlined reporting system by the Police Service of Western Australia;
- the reinstatement of community-based policing;
- the development of local laws to assist local authorities;
- coordinated State and local government clean-up and service level agreements between State and local government for rapid removal;
- a revamping and revitalisation of the new Graffiti Taskforce; and
- Police utilising available penalties to prosecute offenders.

The Minister took on board local government's concerns. The concerns raised by all nine Mayors echoed each other's and the Minister has agreed to look at the evidence presented to him and the concerns raised by the Mayors and he has committed to providing feedback to local government through the Western Australian Local Government Association to ultimately work out how State and local governments can coordinate and work together on graffiti management.

## DECLARATIONS OF INTEREST

### 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.

<b>Name/Position</b>	<b>Mr Garry Hunt – Chief Executive Officer</b>
<b>Item No/Subject</b>	CJ232-11/06 - Minutes of the CEO Performance Review Committee Meeting held on 8 November 2006 – [98394]
<b>Nature of interest</b>	Financial
<b>Extent of Interest</b>	Mr Hunt holds the position of CEO.



### Disclosure of interest affecting impartiality

Elected members 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 Elected member/employee is also encouraged to disclose the nature of the interest.

<b>Name/Position</b>	<b>Mr Mike Tidy</b> – Director Corporate Services
<b>Item No/Subject</b>	CJ216-11/06 - Minutes of Audit Committee Meeting held on 24 October 2006 – Item 1 – 2005/06 Annual Financial Report
<b>Nature of interest</b>	Interest that may affect impartiality.
<b>Extent of Interest</b>	Mr Tidy's brother is an employee of Deloitte, but not an auditor and not part of the audit team for the City of Joondalup.

<b>Name/Position</b>	<b>Mr Garry Hunt</b> – Chief Executive Officer
<b>Item No/Subject</b>	CJ216-11/06 - Minutes of Audit Committee Meeting held on 24 October 2006 – Item 2 – Quarterly Report – Corporate Credit Card Usage
<b>Nature of interest</b>	Interest that may affect impartiality
<b>Extent of interest</b>	Relates to CEO credit card expenditure

<b>Name/Position</b>	<b>Mr Garry Hunt</b> – Chief Executive Officer
<b>Item No/Subject</b>	CJ218-11/06 - Tender 010-06/07 Construction of Car Park, Lot 6 Lawley Court, Joondalup – [77593]
<b>Nature of interest</b>	Interest that may affect impartiality
<b>Extent of interest</b>	Recommended tenderer is a former client.

<b>Name/Position</b>	<b>Mr Mike Tidy</b> – Director Corporate Services
<b>Item No/Subject</b>	CJ232-11/06 - Minutes of the CEO Performance Review Committee Meeting held on 8 November 2006 – [98394]
<b>Nature of interest</b>	Interest that may affect impartiality
<b>Extent of Interest</b>	Due to the nature of his employment relationship with the CEO.

<b>Name/Position</b>	<b>Cr Russel Fishwick</b>
<b>Item No/Subject</b>	CJ232-11/06 - Minutes of the CEO Performance Review Committee Meeting held on 8 November 2006 – [98394]
<b>Nature of interest</b>	Interest that may affect impartiality
<b>Extent of Interest</b>	Member of Cr Fishwick's family is employed by an organisation that provides a service to a member of Mr Hunt's family.

### IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY SIT BEHIND CLOSED DOORS

Two confidential items are listed for consideration, being:

- CJ232 - 11/06 Minutes of the CEO Performance Review Committee meeting held on 8 November 2006; and
- CJ233-11/06 Member Council Guarantees for the Resource Recovery Facility

**PETITIONS****C90-11/06****PETITIONS SUBMITTED TO THE COUNCIL MEETING – 21  
NOVEMBER 2006****PETITION REQUESTING INSTALLATION OF SPEED CONTROL/TRAFFIC CALMING  
MEASURES – TWICKENHAM DRIVE, KINGSLEY - [20013] [09430]**

A 28-signature petition has been received from Kingsley residents requesting the installation of speed control/traffic calming measures at the intersection of Becton Court and Twickenham Drive at the north eastern bend of Twickenham Drive in an attempt to prevent accidents occurring due to the high speed of vehicles and to prevent the possibility of a fatality.

**MOVED Cr Hart SECONDED Cr Corr that the petition requesting installation of speed control/traffic calming measures at Twickenham Drive, Kingsley be RECEIVED and referred to the CEO for action.**

**The Motion was Put and****CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

**CJ204 - 11/06 SCHEDULE OF DOCUMENTS EXECUTED BY  
MEANS OF AFFIXING THE COMMON SEAL -  
[15876]****WARD:** All**RESPONSIBLE  
DIRECTOR:** Mr Ian Cowie  
Governance and Strategy

CJ061121\_BRF.DOC:ITEM 1

**PURPOSE**

To provide a listing of those documents recently executed by means of affixing the Common Seal for noting by the Council for the period 24 October 2006 to 31 October 2006.

**EXECUTIVE SUMMARY**

The City of Joondalup enters various agreements by affixing its Common Seal. The Local Government Act 1995 states that the City is a body corporate with perpetual succession and a common seal. Those documents that are executed by affixing the Common Seal are reported to the Council for information on a regular basis.

**BACKGROUND**

Not Applicable.

**DETAILS**

<b>Document:</b>	<b>Transfer of Land</b>
<b>Parties:</b>	City of Joondalup, City of Perth, Town of Cambridge, Town of Victoria Park, Town of Vincent, City of Stirling and City of Wanneroo and WA Planning Commission
<b>Description:</b>	Lot 118 Mindarie – Tamala Park Regional Council (Two documents – Transfer of Land document and Addendum to Transfer of Land) – Compensation for Lot 9505 on deposited plan 52070, previously Lot 118 Mindarie
<b>Date:</b>	24.10.06

<b>Document:</b>	<b>Authority and Director on Payment</b>
<b>Parties:</b>	City of Joondalup and WA Planning Commission
<b>Description:</b>	Authority directing payment of share, City of Joondalup re transfer of land between local government landowners and WA Planning Commission relative to transfer of land and payment of compensation for Lot 9505 on deposited plan 52070, previously part Lot 118 Mindarie
<b>Date:</b>	30.10.06

<b>Document:</b>	<b>Amendment No 33 – District Planning Scheme No 2</b>
<b>Parties:</b>	City of Joondalup and WA Planning Commission
<b>Description:</b>	Amendment No 33 to COJ District Planning Scheme No 2 which seeks to rezone Lot 4 (25) Sheppard Way and Lot 1 (23) Whiley Road, Marmion as per Council Resolution of 19 September 2006 (Report CJ163-09/06 refers)
<b>Date:</b>	31.10.06

**Issues and options considered:**

Not Applicable.

**Link to Strategic Plan:**

Some of the documents executed by affixing the common seal may have a link to the Strategic Plan on an individual basis.

**Legislation – Statutory Provisions:**

Sub-sections (2) and (3) of section 2.5 of the Local Government Act 1995 states:

- (2) The local government is a body corporate with perpetual succession and a common seal.
- (3) The local government has the legal capacity of a natural person.

**Risk Management considerations:**

Not Applicable.

**Financial/Budget Implications:**

Some of the documents executed by the City may have financial and budget implications.

**Policy Implications:**

Not Applicable.

**Regional Significance:**

Not Applicable.

**Sustainability Implications:**

Not Applicable.

**Consultation:**

Not Applicable.

**COMMENT**

The various documents have been executed by affixing the Common Seal of the City of Joondalup and are submitted to the Council for information.

**ATTACHMENTS**

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**MOVED Cr Hart SECONDED Cr Hollywood that the schedule of documents executed by means of affixing the Common Seal covering the period 24 October 2006 to 31 October 2006 be noted.**

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

## **CJ205 - 11/06 THE ABILITY OF COUNCIL TO APPOINT MEMBERS TO ACT ON BEHALF OF THE USUAL MEMBER AT MEETINGS OF REGIONAL COUNCILS AND COUNCIL COMMITTEES – [02153]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Ian Cowie  
Governance and Strategy

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CJ061121\_BRF.DOC:ITEM 2

### **PURPOSE**

To inform Council of recent legal advice in relation to the appointment of members to act on behalf of another Council member at Regional Council and Council Committee meetings.

### **EXECUTIVE SUMMARY**

The Mindarie Regional Council (MRC) recently received legal advice which indicated that there is no legislative power for the member Councils, such as the City of Joondalup, to appoint an alternative or deputy member to the MRC when the usual member is unavailable to attend.

The same legislative provisions apply in relation to Council Committees. Consequently, Council has no power to appoint deputies to its Committees on the basis that these deputies will replace the member at any time the member is unavailable.

Both the Tamala Park Regional Council (TPRC) and the MRC are seeking to have the legislation changed to enable the appointment of deputies. This report recommends that the City of Joondalup supports this initiative.

In terms of Council Committees, the report recommends that the City of Joondalup seeks to have the legislation amended to allow more flexibility in the appointment of acting members to these Committees.

However, until legislative change is implemented, a Council member will only be able to act at a meeting of a Regional Council or Council Committee when the substantive member is unable to participate and the Council makes a specific decision that another member act in his or her place. In light of this, it is recommended that Council rescind its past decisions in relation to deputies on Council Committees.

### **DETAILS**

Legal advice has recently been received by both the MRC and TPRC which indicated that there is no power for member Councils to appoint permanent deputies to the Regional Council (Attachment 1). Consequently, if the City's appointed member to the Regional Council is unable to attend the meeting, a nominated deputy cannot just attend in his or her place. Instead, the City would need to appoint a person to act in place of the member on each occasion when the member could not attend.

This advice has implications for both the City's representation on the two Regional Councils, Tamala Park and Mindarie, and also for the City's operational efficiency in terms of making acting appointments.

The same legislative provisions apply to Council Committees. These Committees include:

- The Audit Committee;
- The Conservation Advisory Committee;
- The Performance Review Committee – Chief Executive Officer;
- The Policy Committee;
- The Seniors' Interests Advisory Committee;
- The Strategic Financial Management Committee; and
- The Sustainability Advisory Committee (see Attachment 2 for Committee membership).

Consequently, while the City identified members who would act as deputies on these Committees in its resolutions on 24 May 2006, the new legal advice indicates that this decision cannot be implemented. Instead, as with the two Regional Councils, if a member cannot attend a Council Committee, the Council would need to appoint another member to act for that specific occasion.

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

The legislation which is constraining the appointment of deputies is the Interpretation Act 1984. In the Regional Council situation, the Interpretation Act applies without direct reference, while in terms of Council Committees, section 5.10 states that:

- (3) Section 52 of the Interpretation Act 1984 applies to appointments of Committee members.

Section 52(1) and (2) of the Interpretation Act 1984 states:

- (1) Where a written law confers a power or imposes a duty upon a person to make an appointment to an office or position, including an acting appointment, the person having such a power or duty shall also have the power –
- (b) Where a person so appointed to an office or position is suspended or unable, or expected to become unable, for any other cause to perform the functions of such office or position, to appoint a person to act temporarily in place of the person so appointed during the period of suspension or other inability but a person shall not be appointed to so act temporarily unless he is eligible and qualified to be appointed to the office or position; and
  - (c) To specify the period for which any person appointed in exercise of such a power or duty shall hold his appointment.
- (2) For the purposes of subsection (1)(b), "cause" includes –
- (a) Illness;
  - (b) Temporary absence from the State; and
  - (c) Conflict of interest.

The key provisions which create problems for the appointment of deputies are the word 'unable' in subsection 1(b) and the requirement to specify the period of appointment in subsection 1(c).

As the letter in Attachment 1 notes, subsection 1(c) has the effect of requiring a specific decision from Council on each occasion that a member is appointed to act for the permanent member with the specific period for the acting to be identified.

Subsection 1(b) mentions inability. However, as indicated in the opinion from Craig Colvin SC at Attachment 3, 'unable' does not encompass "mere unavailability". The Interpretation Act identifies three specific circumstances where a member would be unable to participate – illness; absence from the State; and conflict of interest. This list is not exhaustive and a variety of other reasons for an inability to attend could be possible, such as the illness of a child. However, the Council would need to be informed of the reason for the inability and then appoint another person to act for the period during which the inability will occur.

**Issues and Options considered:**

The City will need to amend its operations to comply with the legislative requirements outlined in this report. It could also seek to have the legislation changed to provide greater flexibility.

The legal advice only relates to those bodies (Regional Councils or Committees established by the Council) that are governed by the Local Government Act 1995. Where the City of Joondalup has representation on other external bodies that are not governed by the Local Government Act 1995 (i.e., Western Australian Local Government Association), then deputies may be permissible in accordance with the relevant bodies governing constitution.

**Link to Strategic Plan:**

Not applicable.

**Risk Management considerations:**

The risk to the City of Joondalup is that if the issue of appointing deputy/alternate members is not resolved, where the member of a Regional Council is unable to attend a scheduled meeting then the City may not be able to be represented and therefore not have its allocated voting rights on matters before the Regional Council.

**Financial/Budget Implications:**

Not applicable

**Policy implications:**

Not applicable

**Regional Significance:**

Both the Mindarie and Tamala Park Regional Councils consider matters on behalf of their entire member Councils on matters within their roles and responsibilities.

**Sustainability implications:**

Not applicable.

**Consultation:**

The TPRC has suggested that it coordinate a letter of petition to be signed by all the participant Councils, which are also participants of the MRC requesting amendments be made to the Local Government Act.

**ATTACHMENTS**

Attachment 1	Letter to City of Joondalup from Tamala Park Regional Council.
Attachment 2	Affected Committees and their membership.
Attachment 3	Legal opinion from Craig Colvin SC.
Attachment 4	Deputies whose appointment should be revoked.

**VOTING REQUIREMENTS**

Simple Majority

**MOVED Cr Hart SECONDED Cr John that Council:**

- 1 NOTES the legal opinions identified in Report CJ205-11/06;**
- 2 REMOVES the appointment of those Elected Members and members of the public who have previously been appointed as deputies to both Council Committees and Regional Councils as identified in Attachment 4 to Report CJ205-11/06;**
- 3 THANKS those deputy members for their contribution to the work on the Committees;**
- 4 NOTES that a deputy will only be appointed to act on Council-established Committees if a formal resolution of Council is made which enables acting for a specified period;**
- 5 SUPPORTS the initiative by the Tamala Park Regional Council in seeking an amendment to the Local Government Act 1995 to provide that member Councils of a Regional Council may appoint an alternate Member(s) to Regional Councils who may act for the participant Council in the absence of the regular member without the necessity for a formal process of appointment of the temporary member as detailed within the Interpretation Act 1984;**
- 6 SEEKS an amendment to legislation to allow Council Committees to operate with greater flexibility than that which is currently provided by the Interpretation Act 1984.**



**AMENDMENT MOVED Cr Fishwick SECONDED Cr Magyar that an additional Clause 7 be added to the Motion, to read:**

**“7 SEEKS support from the WA Local Government Association and the Local Government Managers Australia to encourage the State Government to amend the legislation mentioned in Clause 6 above.”**

**The Amendment was Put and**

**CARRIED (10/0)**

**In favour of the Amendment:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

**The Original Motion, as amended, being:**

**That Council:**

- 1 NOTES the legal opinions identified in Report CJ205-11/06;**
- 2 REMOVES the appointment of those Elected Members and members of the public who have previously been appointed as deputies to both Council Committees and Regional Councils as identified in Attachment 4 to Report CJ205-11/06;**
- 3 THANKS those deputy members for their contribution to the work on the Committees;**
- 4 NOTES that a deputy will only be appointed to act on Council-established Committees if a formal resolution of Council is made which enables acting for a specified period;**
- 5 SUPPORTS the initiative by the Tamala Park Regional Council in seeking an amendment to the Local Government Act 1995 to provide that member Councils of a Regional Council may appoint an alternate Member(s) to Regional Councils who may act for the participant Council in the absence of the regular member without the necessity for a formal process of appointment of the temporary member as detailed within the Interpretation Act 1984;**
- 6 SEEKS an amendment to legislation to allow Council Committees to operate with greater flexibility than that which is currently provided by the Interpretation Act 1984;**
- 7 SEEKS support from the WA Local Government Association and the Local Government Managers Australia to encourage the State Government to amend the legislation mentioned in Clause 6 above.**

**Was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 1 refers*

*To access this attachment on electronic document, click here: [Attach1brf141106.pdf](#)*

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**CJ206 - 11/06      RESPONSE TO WESTERN AUSTRALIAN LOCAL  
GOVERNMENT      ASSOCIATION'S      SYSTEMIC  
SUSTAINABILITY STUDY – [12542]**

**WARD:** All

**RESPONSIBLE  
DIRECTOR:** Mr Ian Cowie  
Governance and Strategy

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CJ061121\_BRF.DOC:ITEM 3

**PURPOSE**

To provide a response to the Western Australian Local Government Association's (WALGA) Systemic Sustainability Study.

**EXECUTIVE SUMMARY**

WALGA is seeking feedback on an interim report titled "In Your Hands; Shaping the Future of Local Government in Western Australia". This report poses a range of questions for local governments to answer and provides a framework against which individual local governments can assess their financial sustainability.

Proposed responses to the questions raised within the interim report are provided for consideration.

**BACKGROUND**

In January 2006 WALGA commissioned a comprehensive study into the Systemic Sustainability of Local Government in Western Australia. "In Your Hands; Shaping the Future of Local Government in Western Australia" is the interim report of the Systemic Sustainability Study panel. The document highlights a range of issues for consideration by local governments and, based on this feedback, a final report will be prepared.

At its meeting of 19 September 2006, Council considered a response to WALGA's Systemic Sustainability Study and resolved to refer the response to the Sustainability Advisory Committee (SAC) for its consideration. The SAC considered the response at its meeting of 19 October 2006 and suggested some changes to the responses to Questions 1, 22, 23 and 24. These have now been made and are highlighted in this report.

**DETAILS**

The interim report's questions and suggested responses are as follows:

*Q1: What are the important dimensions of sustainability for a Local Government? How could these dimensions be used to strengthen or enhance the future role of Local Government in Western Australia?*

- A1: The most important dimension of sustainability is relevance. In this regard, relevance is defined as the importance or significance of a local government to its community. If a local government is in tune with the views of its community and is able to reflect these views through practical actions, a local government is a highly relevant sphere of government. However, if a local government does not reflect community views and acts in a way which is not meaningful to the community, it loses its relevance. If local government loses its relevance, its sustainability must be questioned. There are numerous specific elements which ~~allow~~ assist a local government to be relevant. These include its financial capacity, its skill base, legislative authority, etc.
- Q2: *Do Councils believe it is important to have an agreed vision for the sector developed with State Government?*
- A2: The vision for local government should be set by local government. Any agreed vision would be most effective if it is developed with the State Government. However, the vision should not be developed by the State Government.
- Q3: *Do Councils believe it is necessary to define the roles and responsibility of Local Government?*
- A3: Roles are broadly defined within the Local Government Act and other legislation. If such roles and responsibilities are defined more specifically, local government loses flexibility which could impact on its relevance. Local government should have general powers to operate as is currently the case.
- Q4: *Are there other significant principles that should define the scope and role of Local Government activities?*
- A4: The principles identified in Chapter 3 (covering respect, engagement, autonomy, responsiveness, etc.) appear comprehensive.
- Q5: *Is there a need for more transparent and authoritative sector-wide financial practices to be developed? (The Panel suggests that these should include debt policies, the rating mechanism, policy choices, accounting practice, asset management systems and policies, and consistent monitoring and reporting of a Council's financial position and performance.)*
- A5: Great care needs to be taken in terms of the development of sector-wide financial practices. For instance, some Councils will have valid reasons to take on significant debt while others will not need to. Further, while consistent monitoring and reporting allows for cross-local government comparisons, it does not assist local governments to provide services and be responsive to local communities.
- Q6: *Would there be benefit in defining a best practice debt policy? How could this be applied to best effect across the industry?*
- A6: There can be no best practice debt policy as each local government's situation is different. However, it is important that local governments and the community are informed of levels of debt which can bring viability into question. Such information should include the extent to which the City's operations are funded by debt. The ratios required by the Local Government (Financial Management) Regulations provide valuable information in relation to the financial operations of local government.
- Q7: *Is there value in monitoring rate increases and matching them with financial sustainability?*

- A7: Rate increases should be determined by individual local governments based on the needs of the Council as the decision maker.
- Q8: *Would the requirement for a 'New Zealand-style services policy' statement, that clearly states the roles and functions than an individual authority is prepared to adopt and that details the number, nature and method of service delivery, improve or strengthen the sustainability of Local Government in Western Australia?*
- A8: Local governments produce a range of statements which indicate to the community what they are doing. These include strategic plans or plans for the future and many would have customer service charters. It is considered important for local government autonomy that individual local governments continue to set their service direction. However, it is appropriate for local governments to identify the level of services they will be providing to their communities to ensure expectations are clear.
- Q9: *If there is a need for more consistent accounting policies, what would be the best way to introduce them? Are there capacity, capability or systems issues that would preclude their successful introduction?*
- A9: Local governments are required to comply with Australian Accounting Standards and this is considered sufficient.
- Q10: *Is there a need for the development of accepted industry standards of asset management? How might these be successfully introduced in Western Australia?*
- A10: A range of Councils are working on improving asset management in a variety of ways. However, again it is considered important to provide flexibility and there should not be one standard which fits all local governments unless the standard is high level, broad and flexible to complement the varying capacities of individual local governments. It should be noted that more could potentially be done to publicise and encourage best practice within the local government sector.
- Q11: *Do Councils believe that there is a need for regular sustainability monitoring?*
- A11: It is up to each individual local government to monitor its "sustainability" and take action to ensure that it maintains or enhances its position in the future.
- Q12: *What would be the most important issues to monitor in order to assess financial sustainability?*
- A12: It should be up to each individual local government to monitor its financial sustainability in terms of the actions it wishes to take.
- Q13: *The Panel invites Local Governments to conduct the financial sustainability self-assessment included in Appendix 3. This will enable participating authorities to identify their positioning and performance against WA Local Government benchmarks as set out elsewhere in this document.*
- A13: See "Comment" section of this report.
- Q14: *Do Councils believe that the principles of Local Government should more clearly address the principles of 'subsidiarity' and 'correspondence' in strengthening and confirming its role and relationship with the State Government?*

A14: The role of local government and its relationship with the State should be left broad to enable flexibility. Should local government be concerned about cost shifting in a particular area, it is incumbent on local government, through WALGA, to tackle the State on this matter.

Q15: *How applicable do Councils believe the Panel's definition of community of interest is? Are there measures or experiences Council can identify that may help to better quantify or rate the attributes – to assist planning, jurisdictional and service enhancement?*

A15: It is extremely difficult to identify communities of interest in any finite way. This is because people have different communities of interest for different areas of their lives. (That is a shopping community of interest will be different from a schooling community of interest, etc.)

*In particular the Panel wants individual Councils to comment on the key dimensions that define a sustainable Local Government's boundaries. In providing commentary to question 16, please reference your Council's responses to the sustainability self-assessment.*

Q16: *The Panel wishes to discuss the potential dimensions for assessing a Local Government's boundaries with the sector. What dimensions does your Council believe are important? How can they be defined?*

A16: A local government's boundary should be based on a variety of factors. The Local Government Act identifies factors for the Advisory Board to take into consideration (including communities of interest, physical features, demographic trends, economic factors, history, etc) and this is considered sufficient.

Q17: *Is workplace planning an important consideration of your Council?*

A17: Workplace planning is an important consideration which ensures the City is able to operate effectively. The City's Human Resources business unit takes an active role in workforce planning.

Q18: *Has your Council adopted any innovative strategies to ensure the industry recruits and retains the best and most appropriate workforce for the future? Are there specific measures you consider appropriate to strengthen the governance capabilities of elected Councillors?*

A18: The City has used a variety of mechanisms to recruit and retain its workforce. These strategies are used by many Councils and include the use of specialised recruitment firms and attractive enterprise bargaining arrangements. The governance capabilities of elected members have been enhanced by a very extensive induction program conducted by the City.

Q19: *Do Councils believe that there is a role for an objective and independent sectoral audit process on issues dealing with financial sustainability?*

A19: There could be some benefit from an independent sectoral audit process if the audit was performance-based. However, it would be important to ensure that this did not lead to all local governments operating in the same way. Should this be the case, the essence of "local government" would disappear.

Q20: *What are the strengths and weaknesses of a two-tiered system of Local Government? Are there particular services that are best delivered on a regional basis?*

A20: For smaller, particularly non-metropolitan local governments there are potential advantages to a two-tiered system of local government with services such as road construction provided on a regional basis.

Q21: *Do Councils believe that there is a need for State-wide resource sharing arrangements? How could these be structured for best effect?*

A21: There are a range of resource sharing arrangements operating within local government at the moment. The Department of Local Government and Regional Development has attempted to encourage this. It is considered that the current initiatives in this area are adequate and sufficient.

Q22: *The Panel asks Councils to consider these and other potential changes to the Local Government Act as part of the development of an industry response to this study.*

A22: The Report makes a range of suggestions. Responses to each are as follows:

- Increase tender limit from \$50,000 to \$100,000:  
This is supported.
- Increase the threshold for major land transactions to \$2 million:  
This is supported.
- Establish asset management plans and require the establishment of reserves to fund the replacement of infrastructure:  
This should be at the discretion of individual local governments. However replacing assets is, obviously, vitally important.
- Allow for flexibility in paying Councillors and the mandatory number required:  
Further consideration should be given the amounts which elected members can receive.
- Introduce mandatory training programs for Councillors:  
The City has obtained extremely strong commitment for voluntary training programs. The necessity for mandatory training is questioned.
- Allow Councils to conduct postal voting without using the WA Electoral Commission:  
This is supported.
- Introduce less prescriptive requirements in relation to business planning and the disposal of land and other property:  
The preparation of business plans is considered important and these provisions have not constrained the City's operations in the past.
- Revisit the rate exemptions provision within the Act:  
This approach is supported.
- Allow Councils to hold electronic meetings:  
The provisions in the Local Government Act which allow for electronic meetings in certain circumstances are supported.
- Have external decision making criteria to guide local governments in rate setting:  
While this may be useful for some, it could be seen as a way of standardising the setting of rates and reducing local autonomy and is, therefore, not supported.
- Increase the level of developer contributions for public facilities:  
This is strongly supported, in theory and The exact nature of the contributions needs further consideration from a planning and asset management perspective.

Q23: *What improvements should be made to the distribution of FAGS in Western Australia? How might incentives to pursue best use of own source revenue be developed? How might the concept of a minimum grant be modified to ensure the grant is awarded based on sustainable performance by authorities?*

- A23: The issue of Financial Assistance Grants being paid on the basis of efficiency is a concept which has previously been considered and rejected by the Commonwealth Government. It requires further consideration. However, to facilitate local government relevance, it is considered extremely important that Commonwealth Financial Assistance to local government be increased significantly. The Commonwealth raises the vast majority of taxation revenue and this should be distributed more evenly between the spheres of government. This would enable grants to all Councils to increase and move Councils away from minimum grants to a more accurate reflection of need.
- Q24: *What role can the State Government play in supporting Councils and the industry to address the challenge of change and more sustainable operation? Does the Industry require some form of transitional funding to assist Councils plan for and execute a change agenda consistent with the themes identified in this review?*
- A24: The State Government's support is always valuable. However, local government needs to be careful that it does not abrogate its responsibility as a decision maker as it seeks State Government funding to implement changes. Any boundary changes implemented by the State Government should clearly consider the financial viability for the local governments concerned as reflected in the Act.
- Q25: *Do Councils believe that there is a need for a State Government-established fund to help achieve specific reform objectives?*
- A25: Such a fund would be useful but, again, local governments need to be careful that the fund does not ultimately lead to a reduction in local government autonomy. However, it would be useful if good practice opportunities could be supported with funding to assist local governments who may otherwise struggle to implement such initiatives.
- Q26: *Do the current arrangements for capacity building in the Local Government sector meet the needs of the sector?*
- A26: The City has rarely used current capacity building arrangements and, consequently, is not in a good position to comment. However, additional guidance from the Department on specific legislative matters, in the form of guidelines and frequently asked questions, would be very useful.

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

Council could:

- Accept the suggested responses;
- Amend the suggested responses as it considers appropriate; or
- Not provide a response.

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

Not applicable.

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

The interim report of the Systemic Sustainability Study panel makes reference to a range of provisions in the Local Government Act and these are commented on in this report.

**Risk Management considerations:**

Not applicable.

**Financial/Budget Implications:**

Not applicable.

**Policy implications:**

Not applicable.

**Regional Significance:**

The Systemic Sustainability Study has statewide implications.

**Sustainability implications:**

The Systemic Sustainability Study addresses local government sustainability.

**Consultation:**

The Sustainability Advisory Committee has reviewed the responses.

**COMMENT**

The study panel's report includes an individual local government financial sustainability self-assessment tool. The City of Joondalup is currently examining itself against this tool and the results will be reported to Council and to WALGA. The document "In Your Hands; Shaping the Future of Local Government in Western Australia" is available in the Councillors' Reading Room.

**ATTACHMENTS**

Nil.

**VOTING REQUIREMENTS**

Simple majority.

**MOVED Cr Fishwick SECONDED Cr Magyar that Council ENDORSES a submission being forwarded to Western Australian Local Government Association along the lines presented in this Report as the City Of Joondalup's response to questions in Western Australian Local Government Association's Systemic Sustainability Study.**

Discussion ensued.

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie



## **CJ207 - 11/06 STATE INFRASTRUCTURE STRATEGY - GREEN PAPER FOR COMMENT – [11827] [40002]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Ian Cowie  
Governance and Strategy

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CJ061121\_BRF.DOC:ITEM 4

### **PURPOSE**

To facilitate a response to the State Government's Green Paper entitled "Framework for the State Infrastructure Strategy" (Attachment 1).

### **EXECUTIVE SUMMARY**

It is suggested that the City of Joondalup's response:

- Provide the City's 20 year strategic projections;
- Support the inclusion of local government infrastructure projects in the strategy;
- Support the suggestions for competition in infrastructure related markets;
- Note that labour shortages are a significant issue which needs to be addressed;
- Acknowledge the potential benefits of a single entry point for consultation on infrastructure issues but indicate that this concept needs to be 'fleshed out';
- Note the comments in relation to cost shifting and emphasise the point that cost shifting to local government by other spheres of government is completely inappropriate and should not occur; and
- Acknowledge that local government could play a role in demand management.

### **BACKGROUND**

According to the Treasurer's foreword in the Green Paper entitled 'Framework for the State Infrastructure Strategy', "Infrastructure is critical to Western Australia's continued economic success and the well being of its people". Consequently, the State Government is working with the private sector and the general community to develop a State Infrastructure Strategy that will guide long term infrastructure planning and delivery over the next 20 years. When finalised, it will contain detail on the indicative timing and location, and possibly cost and potential source of funding, of specific infrastructure projects over this period. It is proposed that the Strategy itself be released next year and updated every 2 years thereafter.

The framework document, which is open for public submission now, is the first step in preparing the Strategy. It outlines processes for developing the Strategy and discusses policy and planning issues relevant to the provision of infrastructure in Western Australia. Submissions on the framework document close on 15 December 2006.

### **DETAILS**

According to the Terms of Reference, the objectives of the State Infrastructure Strategy are to, amongst other things:

- Engage the wider community and other tiers of government to identify existing and emerging infrastructure pressures throughout Western Australia over the next 10 to 20 years;
- Bring together and articulate the infrastructure requirements and priorities of the State's public and private sectors over this period, enabling the private sector to identify investment opportunities; and
- Provide an infrastructure agenda that will facilitate engagement of the Commonwealth and local governments to meet their share of responsibility for infrastructure provision.

For the purposes of the Strategy, "infrastructure" is defined to include both:

- Economic infrastructure (eg. transport and freight, energy, water and waste water, and information and communications); and
- Social infrastructure (eg. health, education, law, defence, cultural and sporting).

The framework document does not make any specific reference to the City of Joondalup and only infrequently provides reference to local government. This noted, the following points are identified as being of greatest interest to the City.

#### Demographic Trends:

The framework document briefly considers demographic trends. It notes that "the State's population is currently projected to grow from 2 million people in 2005 to 2.7 million by 2026. If current trends continue, Perth's share of the State's population is expected to remain at around its current level of 73%". The document also notes that Western Australia's population profile is ageing. This leads to the comment that "an ageing population could see a shift away from the need for schools relative to the provision of health, aged care and transport infrastructure". It is also noted that in Western Australia, "those aged over 65 are projected to rise from 11.5% of the population in 2004 to around 17% of the population in 2025 and 18.5% by 2031".

#### Identifying Infrastructure Projects for the Strategy:

It is proposed that the Strategy identify projects that are significant from a State or regional perspective. Project cost is likely to be the main way of assessing significance. Here, it is anticipated that, in the metropolitan area, in general, projects costing more than \$20 million would be included. According to the Green Paper, "a threshold of \$20 million would ensure the Strategy captures large and strategically significant infrastructure projects over the 20 year horizon without them being obscured by a large number of smaller projects". However, it is also noted that the Strategy may also include some projects that have cost under these thresholds but which have significant economic, social welfare or environmental impacts.

The document notes that "government agencies are already identifying infrastructure opportunities over the next 10 years. To contribute to the Strategy, agencies will extend this time horizon to 20 years". Here, it is noted that the City of Joondalup has developed a 20-year Strategic Financial Plan. It is suggested that this be forwarded to the State Government as part of the City of Joondalup's submission on the framework document.

It is informative to note that on page 28 of the framework document, it is stated that "the Strategy will also endeavour to include information on Commonwealth and local government infrastructure projects in Western Australia, so surveys of their infrastructure intentions over the 20 year period of the Strategy may be required to supplement information sourced from relevant (State) budget documents". The City of Joondalup should be in a better place to provide this information than the vast majority of local governments in this State.

*Promoting Competition in Infrastructure-Related Markets:*

While not directly relevant to local government, the framework document notes that it is important to increase competition in the market for infrastructure-related projects. Three issues are identified here. The first is to provide small to medium enterprises with more information on how to discover the opportunities offered by the government market and to compete for work. Second, it is suggested that investigation occur into mechanisms for deepening the construction market in Western Australia to increase the number of firms competing for major capital works projects. Third, labour shortages are identified and it is noted that these need to be addressed. Actions in these areas would have flow-on benefits for local governments.

*Intergovernmental Aspects of Infrastructure Provision:*

This section of the framework document principally focuses on Commonwealth-State Government relations. Indeed, the framework specifically notes that “the Commonwealth’s processes for allocating infrastructure funding need to be reformed”. It is noted that these processes are not transparent and have the potential to result in inequitable outcomes. It is also noted that “Western Australia should seek a more equitable share of infrastructure assistance from the Commonwealth, supported by analysis of the national wealth and economic benefits”.

While the principal focus is on Commonwealth-State arrangements, some mention is made of local government in this section of the document. For instance, it is noted that “Commonwealth assistance to local governments is insufficient to meet needs assessed by the Western Australian Local Government Grants Commission”. However, the document notes that the burden of inadequate funding falls mainly on rural and remote Councils.

It is also noted that “there is significant overlap and duplication in structures and processes, and problems with co-ordination among the 3 tiers of government and the private sector”. It is noted that “the Commonwealth and States could consider establishing single ‘entry point’ offices for consultation on infrastructure issues. Local government could participate in such an initiative”.

There is also a short section on cost shifting to local government. Here, it is noted that “Commonwealth and State governments have increasingly required local government to take a greater role in development and planning, public health and environmental management”. One example is given in relation to Commonwealth cost shifting associated with the transfer of Commonwealth aerodromes to local government. It is noted that cost shifting to local governments may also result from shifts in the relative shares of the transport tasks between rail and road.

*Demand Management:*

The framework document notes that there are many forms of, or techniques for, demand management. These include:

- Long run marginal cost pricing;
- Peak period pricing (which includes congestion pricing);
- Introducing technology to reduce consumption;
- Constraints on use, including bans with penalty costs; and
- Promoting changes in customer behaviour.

The framework document notes that in general, demand management involves using more than one technique to ensure effectiveness. Many of these techniques could involve local government.

It is suggested that the City of Joondalup's response:

- Provide the City's 20 year strategic projections;
- Support the inclusion of local government infrastructure projects in the strategy;
- Support the suggestions for competition in infrastructure related markets;
- Note that labour shortages are a significant issue which needs to be addressed;
- Acknowledge the potential benefits of a single entry point for consultation on infrastructure issues but indicate that this concept needs to be 'fleshed out';
- Note the comments in relation to cost shifting and emphasise the point that cost shifting to local government by other spheres of government is completely inappropriate and should not occur; and
- Acknowledge that local government could play a role in demand management.

**Issues and options considered:**

The Council could either:

- Support a submission on the lines identified within the previous section;
- Support a submission along the lines generally indicated in the previous section but with amendment;
- Make a completely different submission; or
- Decide not to make a submission.

**Link to Strategic Plan:**

The State Infrastructure Strategy has potential ramifications for the key focus area "City Development".

**Legislation – Statutory Provisions:**

Not applicable.

**Risk Management considerations:**

Not applicable.

**Financial/Budget Implications:**

Not applicable.

**Policy implications:**

Not applicable.

**Regional Significance:**

The State Infrastructure Strategy has statewide significance.

**Sustainability implications:**

Planning for infrastructure provision should support sustainability.

**Consultation:**

The State Government is consulting with interested individuals or organisations on the State Infrastructure Strategy.

**ATTACHMENTS**

Attachment 1            State Infrastructure Strategy

**VOTING REQUIREMENTS**

Simple majority.

**MOVED Cr Magyar SECONDED Cr McLean that Council SUPPORTS a submission to the State Government on the Green Paper entitled 'Framework for the State Infrastructure Strategy' along the lines identified in Report CJ207-11/06.**

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 2 refers*

*To access this attachment on electronic document, click here: [Attach2brf141106.pdf](#)*

**CJ208 - 11/06    REVIEW OF DELEGATED AUTHORITY – [07032]**

**WARD:**                    All

**RESPONSIBLE  
DIRECTOR:**            Mr Ian Cowie  
                                 Governance and Strategy

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CJ061121\_BRf.DOC:ITEM 5

**PURPOSE**

For Council to review the current delegations at the City and approve a new set of delegations.

**EXECUTIVE SUMMARY**

The report considers the basis for the current delegations and recommends substantial changes to increase the efficiency and operational effectiveness of the City.

This report was presented to Council in June of this year but deferred to enable the matter to be further considered at a workshop. This has now occurred.

## BACKGROUND

The Local Government Act 1995 enables a local government to delegate to the CEO:

- the exercise of its powers; or
- the discharge of its duties under the Act.

A definition of powers and duties is found at Attachment 1. The Act and the Administration Regulations also identify several limitations on the powers and duties that can be delegated to a CEO (Attachment 2 refers).

The Act also allows the CEO to delegate any of the CEO's powers or duties under the Local Government Act to any employee (other than the power of delegation). However, should a power or duty be delegated to the CEO by the local government with a condition that the matter be dealt with by the CEO, then this power or duty cannot be on-delegated to an employee.

### The Concept of 'Acting Through'

In addition to covering delegations, the Local Government Act 1995 introduces the concept of 'acting through'. Section 5.45 of the Act states that in relation to delegations, nothing prevents a "local government from performing any of its functions by acting through a person other than the CEO" or "a CEO from performing any of his or her functions by acting through another person". The Act does not specifically define the meaning of the term 'acting through'. However, the key difference between a delegation and 'acting through' is that a delegate exercises the delegated function in his or her own right. On the other hand, a person 'acting through' another person or body exercises power not in his or her own right, but on behalf of that other person or body. Therefore, the concept of 'acting through' effectively means 'acting on behalf of' the person or body that has the power.

This distinction is critical in determining the types of functions that are appropriate for 'acting through' another person in preference to delegation. This can be demonstrated through the following example. Here Council gives the CEO the power to call tenders if the CEO is satisfied about certain cost parameters. If that power is delegated, the CEO could call tenders if the CEO believed the cost parameters had been satisfied (even if the Council's opinion was different to the CEO's opinion). However, under an 'acting through' arrangement, the CEO could only call tenders if the Council was satisfied about the cost parameters.

The approach taken by the City of Joondalup appears to favour delegation over the concept of acting through. That is, an extensive number of delegations are identified in the Delegated Authority Manual (previously provided and available in the Councillors' Reading Room) which covers a broad range of matters from significant decisions (such as accepting a tender) to operational processes and procedural functions (such as giving notice of the outcome of a tender process). While there is nothing wrong with this approach in theory, and it is also envisaged by the legislation in relation to the ability to delegate powers and duties, there are several disadvantages with this approach. These include:

- It does not really suit operational processes. These processes, in particular, lend themselves to acting through because the opinion of the person undertaking the action is irrelevant. That is, the operational process task must be undertaken and it is undertaken on behalf of the person or body given responsibility for the task. If the task is delegated, then the person exercising the delegated function does so in his or her own right which implies an ability to form an opinion or exercise discretion.

This can be demonstrated using the procedural function 'the CEO is to give notice of the outcome of a tender' as an example. The exercise of this function does not depend on any prerequisite opinion or exercise of discretion by the decision maker but simply on the existence of an objective fact. That is, whether a particular tender process has been concluded. If it has, all tenderers must be notified of the outcome and no discretion applies. Consequently, this operational process does not lend itself to delegation.

In this example, it should also be noted that if this function were to be delegated, the notice under the regulation would be signed by the delegate in his or her own name. If, however, the power was not delegated, the notice would be signed on behalf of the CEO (by the person who, in this instance, was 'acting through' the CEO). For legal purposes, it would not matter whether this person was, for example, the CEO's personal assistant or a contracts manager.

Attachment 3 identifies issues that are currently delegated (as well as a few other powers given to the local government under the Local Government Act where delegations have not been made) and makes a specific suggestion on how each should be treated in the future. It identifies whether the power or duty is currently delegated (column 5), proposes how the power or duty should be dealt with (column 6) and provides a reason for the proposed change (column 7). This Attachment identifies that many of the current delegations relate to operational processes which lend themselves to 'acting through'.

- It increases bureaucracy. That is, matters for delegation have to be formally identified, specifically delegated and then formally reviewed each year. This is not a great disadvantage to the City of Joondalup because much of the work has been completed in terms of identifying and delegating powers and duties. However, the greater the number of delegations, the more extensive and time consuming will be the annual review.
- It can involve additional recording. In this regard, the Act requires actions taken using delegated authority to be recorded by the person to whom the power or duty was delegated. While the Act does not require the recording of actions under delegation in a specific register, this is often advantageous for compliance audit purposes.

Using the example of giving notice following a tender process again, letters to unsuccessful tenderers would be placed on a file relevant to the appropriate tender. Using this method, many files may need to be reviewed to check compliance with the requirement to keep a record of delegated action in relation to notifying unsuccessful tenderers. Consequently, there are advantages in keeping copies of letters to unsuccessful tenderers together to provide a comprehensive and unified record of how the delegated power has been used. Such a unified record would be kept in addition to the storage of the letters on the relevant tender file.

- It places significant additional requirements on employees who are given delegated authority. That is, section 5.74 of the Act requires employees with delegated powers to complete primary and annual returns. A failure to complete such returns can lead to a \$10,000 fine or imprisonment for two years. The larger the number of employees with delegated powers, the larger the number of people who must complete a return and the greater the chance of a mistake being made with the associated significant potential consequences.

For example, the City delegates the authority to waive, reduce or cancel library charges. This delegation extends to both Librarians and to Library Services Officers. Consequently, a part-time Library Services Officer working only one day a week for the City is required to complete a primary return, and then annual returns, detailing all of his or her financial dealings. This Officer may never actually waive, reduce or cancel library charges but would still have to declare all of his or her financial dealings. This is considered a significant imposition on such Officers.

Consequently, for the four reasons outlined above, this report recommends that a new, and more simplified, delegation structure be implemented (Attachment 4) with many of the powers or duties currently delegated being achieved by 'acting through' arrangements.

## **DETAILS**

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

The City could take one of two actions. It could:

- 1 Adopt the new approach as proposed in this paper including the recommended delegations (with or without amendment).
- 2 Reject the new approach and decide that delegations should remain consistent with the current Manual.

Elected Members can also decide to support a proposal for delegation or 'acting through' within specific parameters that are set by the Council. For instance, the duty to obtain consent when performing functions outside of the City of Joondalup is currently delegated. It is recommended that this be achieved through 'acting through' in the future. However, Council could decide, for instance, that this delegation or 'acting through' arrangement will only apply to Councils that border the City of Joondalup. Should a function be performed in a local government area which does not border the City, such as Gingin, the Council could determine that, in this instance, its approval be required.

Elected Members are able to set any constraint on the delegation or 'acting through' arrangement that they see fit.

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

4.3.3 Provide fair and transparent decision-making processes.

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

Section 5.42 of the Local Government Act 1995 provides that:

- (1) A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in Section 5.43;

\* absolute majority required.

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.



Section 5.43 of the Local Government Act 1995 provides that:

A local government cannot delegate to a CEO any of the following powers or duties:

- (a) any power or duty that requires a decision of an absolute majority or 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under Sections 5.98, 5.98A, 5.99, 5.99A and 5.100 of the Act;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in Section 9.5;
- (h) any power or duty that requires the approval of the Minister or Governor; or
- (i) such other duties or powers that may be prescribed by the Act.

Section 5.44(1) of the Local Government Act 1995 provides that:

“a CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than the power of delegation.”

Section 5.45(2) of the Local Government Act 1995 provides that:

“Nothing in this Division is to be read as preventing –

- (a) a local government from performing any of its functions by acting through a person other than the CEO; or
- (b) a CEO from performing any of his or her functions by acting through another person.”

Section 5.46(2) of the Local Government Act 1995 provides that:

“at least once every financial year, delegations made under this Division are to be reviewed by the delegator”.

### **Risk Management considerations:**

This new approach is likely to reduce risk for the City as there will be less chance of oversights occurring in relation to recording delegated action or failing to comply with section 5.74 of the Act. Should Elected Members believe there is a risk from a record keeping perspective (while specific records of delegated action must be kept by law, there are only operational imperatives for keeping records with 'acting through') Elected Members can ask for information on the use of 'acting through' arrangements where necessary.

**Financial/Budget Implications:**

Not applicable.

**Policy implications:**

The power to delegate is derived from legislation and also from policies of the Council. For ease of reference, the manual provides details of related policies, where appropriate.

**Regional significance:**

Not applicable.

**Sustainability implications:**

Not applicable.

**Consultation:**

Not applicable.

**COMMENT**

It should be noted that all of the current Town Planning delegations continue without change in the proposed Delegated Authority Manual recommended by this report. It is proposed that these delegations be specifically reviewed in the near future and a separate report be presented to Council on this matter.

Further, the Delegated Authority Register not only contains delegations from the Council (on behalf of the local government body corporate) to the CEO but also from the CEO to other staff. The table in Attachment 3 fully reflects the Register and makes suggestions for both the Council and the CEO in terms of delegation or 'acting through' to provide a holistic, consistent approach. However, it should be noted that Elected Members have no power to determine whether functions specifically assigned to the CEO are achieved by delegation or 'acting through'. Where the power is specifically assigned to the CEO and currently delegated, the suggestion in Attachment 3 is specifically for the CEO's consideration and decision.

**ATTACHMENTS**

Attachment 1	Powers and Duties
Attachment 2	Limitations on Delegations
Attachment 3	Review of Delegations and Proposals for Change
Attachment 4	Proposed Delegated Authority Manual

**VOTING REQUIREMENTS**

Absolute majority.

**Call for One-Third Support**

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

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

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

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

**MOVED Mayor Pickard SECONDED Cr Hollywood that Council:**

- 1 REVOKES the Delegated Authority Manual as adopted by the Council at its meeting held on 28 June 2005 (CJ121-06/05);**
- 2 ENDORSES the Delegated Authority Manual presented as Attachment 4 to Report CJ208-11/06.**

**The Motion was Put and**

**CARRIED BY AN  
ABSOLUTE MAJORITY (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 3 refers*

*To access this attachment on electronic document, click here: [Attach3brf141106.pdf](#)*

**CJ209 - 11/06 MINUTES OF THE SUSTAINABILITY ADVISORY  
COMMITTEE HELD ON 19 OCTOBER 2006 – [00906]**

**WARD:** All

**RESPONSIBLE  
DIRECTOR:** Mr Ian Cowie  
Governance and Strategy

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CJ061121\_BRF.DOC:ITEM 6

**PURPOSE**

To submit the unconfirmed minutes of the Sustainability Advisory Committee (SAC) meeting held on 19 October 2006 to Council for information.

**EXECUTIVE SUMMARY**

A meeting of the SAC was held on 19 October 2006.

The items of business that were considered by the SAC were:

- 1 Setting of Meeting Dates
- 2 Resignations from the Sustainability Advisory Committee
- 3 Response to WALGA's Systemic Sustainability Study
- 4 Great Gardens Workshop
- 5 Water Corporation's 'Water for Life' 2006 Report
- 6 Strategic Plan Key Performance Indicators
- 7 Oil Depletion and Local Government
- 8 Ratification of Work Plan for Future SAC Meetings

## **BACKGROUND**

The SAC is a Committee established by the Council to recommend to it appropriate courses of action on matters that affect the environment and sustainability issues within the region.

The Committee membership comprises of four Councillors, representatives from ECU and TAFE, and community members with specialist knowledge of environment and sustainability issues.

## **DETAILS**

### **Resignations from the Sustainability Advisory Committee**

Two resignations have been received from Professor Sherry Saggars a community representative and Mr Denis Godley, the Small Business Centre representative.

The following motion was moved at the Committee meeting on 19 October 2006:

*"That the Sustainability Advisory Committee:*

- 1 *NOTES that Mr Godley has resigned as the representative of the Small Business Centre and has been appointed as a community representative;*

*RECOMMENDS that Council:*

- 2 (a) *ACCEPTS the resignation of Professor Saggars as a community representative;*  
  
(b) *THANKS Professor Saggars for her contribution to the work of the Committee;*
- 3 *REQUESTS the Small Business Centre to advise the City if it will be nominating a new representative to the Committee.*

### Officer's Comment

These actions are supported and are recommended in this report.

## Great Gardens Workshop

Amongst other things, the following motions were moved at the Committee meeting on 19 October 2006:

*“That the Sustainability Advisory Committee:*

- 2 *RECOMMENDS to Council that due to the high demand for the Workshop, the City considers holding additional Workshops on this subject and provide funding for this purpose;*
- 3 *ACKNOWLEDGES the importance of sustaining local wildlife species in suburban gardens and strongly SUPPORTS Great Gardens Workshop programs in raising awareness of the biodiversity hotspot of Western Australia.”*

### Officer’s Comment

Additional workshops are considered valuable and it is recommended that Council supports these.

## Reports

The Committee requested the following reports be submitted to future SAC meetings:

- Greywater reuse
- Statistics on the City’s water use
- Initiatives for installing rainwater tanks
- Grants/Incentives available for encouraging reducing water usage
- KPI information

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

Key Focus Area: Organisational Development

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

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

The Committee is established in accordance with the Local Government Act 1995.

### **Risk Management Considerations:**

Not applicable.

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

Not applicable.

### **Policy Implications:**

Not applicable.

**Regional Significance:**

The SAC provides an opportunity for consideration of regional matters that may impact on local sustainability.

**Sustainability Implications:**

The SAC provides a forum for consideration of a range of sustainability issues by elected members and community representatives with local knowledge and expertise.

**Consultation:**

Not applicable.

**COMMENT**

Nil.

**ATTACHMENTS**

Attachment 1 Minutes of the Sustainability Advisory Committee meeting held on 19 October 2006.

**VOTING REQUIREMENTS**

Simple Majority

**MOVED Cr John SECONDED Cr Fishwick that Council:**

- 1 NOTES the unconfirmed minutes of the Sustainability Advisory Committee held on 19 October 2006 forming Attachment 1 to Report CJ209-11/06;**
- 2 ACCEPTS the resignation of Professor Saggars as a community representative and THANKS her for her contribution to the work of the Committee;**
- 3 REQUESTS the Small Business Centre to advise the City if it will be nominating a new representative to the Committee;**
- 4 SUPPORTS holding additional Great Gardens Workshops.**

**AMENDMENT MOVED Cr Magyar SECONDED Cr John that Point 4 of the motion be amended and an additional Point 5 be added to the motion, to read:**

- “4 SUPPORTS holding additional Great Gardens Workshops due to the high demand for the Workshop, and lists for consideration funding for this purpose;**
- 5 ACKNOWLEDGES the importance of sustaining local wildlife species in suburban gardens and strongly SUPPORTS Great Gardens Workshop programs in raising awareness of the biodiversity hotspot of Western Australia.”**

**The Amendment was Put and**

**CARRIED (10/0)**

**In favour of the Amendment:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

The Original Motion, as amended, being:

That Council:

- 1 **NOTES** the unconfirmed minutes of the Sustainability Advisory Committee held on 19 October 2006 forming Attachment 1 to Report CJ209-11/06;
- 2 **ACCEPTS** the resignation of Professor Saggars as a community representative and **THANKS** her for her contribution to the work of the Committee;
- 3 **REQUESTS** the Small Business Centre to advise the City if it will be nominating a new representative to the Committee;
- 4 **SUPPORTS** holding additional Great Gardens Workshops due to the high demand for the Workshop, and lists for consideration funding for this purpose;
- 5 **ACKNOWLEDGES** the importance of sustaining local wildlife species in suburban gardens and strongly **SUPPORTS** Great Gardens Workshop programs in raising awareness of the biodiversity hotspot of Western Australia.

Was Put and

**CARRIED (10/0)**

In favour of the Motion: Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 4 refers*

To access this attachment on electronic document, click here: [Attach4brf141106.pdf](#)

## **CJ210 - 11/06 CONSULTATION ON DRAFT CITY POLICY – FREEMAN OF THE CITY – [01435]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Ian Cowie  
Governance and Strategy

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CJ061121\_BRF.DOC:ITEM 7

### **PURPOSE**

To provide a report on community feedback with respect to a draft City Policy – Freeman of the City of Joondalup.

### **EXECUTIVE SUMMARY**

This report provides information on the consultation process undertaken with respect to the draft City Policy – Freeman of the City and the issues arising from that process. There was general support for the draft Policy. Only one person objected in relation to the qualifying period. Having considered these comments, it is recommended that the advertised Policy be adopted without amendment.

## BACKGROUND

At the meeting of Council on 19 September 2006 (*CJ156 – 09/06 refers*), a number of matters arising from the Policy Committee Meeting of 24 August 2006 were addressed, including the draft City Policy - Freeman of the City.

Council endorsed the draft Policy and determined that the document should be made available for public comment for a period of 30 days.

## DETAILS

In total, eight people responded to the opportunity to comment on the draft Policy. Other than two telephone calls, all responses were received electronically. Two responses has been made using the info@joondalup.wa.gov.au email address and the remaining four responses had been made using the online link from the email sent out to library users and community groups and organisations registered on the Community Information Database.

Four people misread the advertisement, understanding it to be an opportunity to nominate individuals who they believed should be considered for the honour of Freeman of the City of Joondalup. Two of these people telephoned the contact number and it was possible to clarify the purpose of the consultation process. Both went on to identify their overall support for the draft Policy. The two other people used the online facility, which provides for the anonymity the respondents.

The table provides a summary of 8 responses with respect to the draft Policy

Method of feedback	No. Responses	Supporting	Not supporting	Misinterpreted request
Telephone calls	2	2	-	-
Responses via email	2	1	1	-
Responses via online survey	4	2	-	2

One person not in support of the policy in its current form identified that the 20 years residence criterion for eligibility was discriminatory as it effectively excluded individuals who might ordinarily qualify for a nomination under all the remaining criteria: "*A person can make a difference in a short period of time.*" Further, the person suggested that if a period of residence was still deemed necessary for eligibility for the award, that a period of 5 years be considered.

Another person felt that, whilst supporting the draft policy in principle, the process of nomination should be further clarified: "*It states that anyone can nominate a person who fits the general criteria but then goes onto say that a nomination must be sponsored by an elected member...*" This person's preference was that there should be no requirement for the person nominating to have discussions with elected members: "...in the first instance."

### Issues and options considered:

Council may consider the following options:

- 1 Formally adopt the draft Policy in its present form
- 2 Make further changes to the draft Policy having consideration for the feedback received.



**Link to Strategic Plan:**

Key Focus Area: Organisational Development

Objective: To ensure that the City responds to and communicates with the community

Strategy 4.3.1: Provide effective and clear community consultation

Strategy 4.3.2: Provide accessible community information

Strategy 4.3.3: Provide fair and transparent decision-making processes

**Legislation – Statutory Provisions:**

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 government;
- (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 transparency and comprehensiveness of the processes and practices for policy development.

**Risk Management considerations:**

Not applicable

**Financial/Budget Implications:**

In the event that Council approves the draft Policy, funds will need to be allocated with respect to costs of implementation.

**Policy implications:**

Not applicable

**Regional Significance:**

Not applicable

**Sustainability implications:**

Not applicable

**Consultation:**

As referred to above

**COMMENT**

It is considered inappropriate to reduce the qualifying period criteria because of the significance of the award. It is also considered appropriate for all nominations to be sponsored by an Elected Member to ensure some Elected Member support. Consequently, no changes to the draft Policy, as advertised, are recommended.

## ATTACHMENTS

Proposed Policy – Freeman of the City.

## VOTING REQUIREMENTS

Simple Majority

### **MOVED Cr Hart SECONDED Cr Magyar that Council:**

- 1 NOTES the feedback received from the community following the 30-day consultation process;**
- 2 ADOPTS the advertised Policy without further amendment forming Attachment 1 to Report CJ210-11/06.**

The Motion was Put and

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 5 refers*

To access this attachment on electronic document, click here: [Attach5brf141106.pdf](#)

## **CJ211 - 11/06 RESPONSE TO DRAFT BILL ON WASTE AVOIDANCE AND RESOURCE RECOVERY – [57194]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Ian Cowie  
Governance & Strategy

Mr Dave Djulbic  
Infrastructure Services

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CJ061121\_BRF.DOC:ITEM 8

## PURPOSE

To consider a response to the Department of Environment and Conservation on the Waste Avoidance and Resource Recovery Bill 2006.

## EXECUTIVE SUMMARY

The State Government has prepared a Bill on Waste Avoidance and Resource Recovery which has been released for public comment until November 2006. This report identifies some issues with the Bill and recommends a response to the State Government to reflect the City's concerns with these issues.

## BACKGROUND

A draft Waste Avoidance and Resource Recovery Bill (Attachment 1) was released for public comment in August with submissions closing on 27 November 2006.

The Bill proposes to:

- Establish an independent statutory waste authority responsible for waste strategic policy and planning, and administer the funds raised through the collection of the landfill levy;
- Allow for the Department of Environment and Conservation to manage regulation, compliance and enforcement issues relating to waste;
- Create the head of power for implementation of extended producer responsibility and product stewardship schemes; and
- Consolidate waste provisions currently in other legislation, such as the Health Act 1911.

The State Government has also released a related Waste Avoidance and Resource Recovery Levy Bill 2006 which, when enacted, will replace the Environmental Protection (Landfill) Levy Act 1998. This does not raise particular issues of concern and, consequently, is not considered further in this report.

On behalf of WALGA, the Municipal Waste Advisory Council prepared a detailed policy statement on Waste Management Legislation in June 2004. This indicates that local government wants a legislative framework for waste management which is clear on its objectives, establishes well targeted responses, has the necessary teeth to take unpopular measures when required and proceeds in a truly co-ordinated fashion such that all stakeholders are able to mutually reinforce the achievement of the same overarching objectives.

## **DETAILS**

The Waste Avoidance and Resource Recovery Bill is considered valuable for a number of reasons. These include:

- It binds the State;
- It is designed to contribute to the sustainability of Western Australia and achieve “a transition to a waste-free society”; and
- It clarifies the setting of fees and charges for waste management services.

However, there are a range of issues which cause concern. These are as follows.

### *Composition of the Waste Authority:*

The Bill establishes a Waste Authority which is given a broad range of functions and powers. The Waste Authority will comprise 7 people but no position is specifically set aside for a local government representative. This is considered surprising because local government is such a significant player in the domestic waste and recycling business. In the Bill, section 11(2) says that:

“(a) One should have practical knowledge and experience in the field of local and state government.”

The word ‘and’ between local and state in the quote above means that a number of local government waste experts may be excluded from appointment.

Independence of CEO:

The Director General of the Department of Environment and Conservation is the CEO under the draft Bill. This situation conflicts with WALGA's desire, expressed through the position paper, which seeks an independent statutory body to deal with waste matters. It is of concern that a CEO who is also the Director General of the Department will face competing interests and that waste issues may be put on the back burner.

New Planning Requirement for Waste:

The State Government recently moved away from a prescriptive approach to local government planning. That is, the requirement to produce principal activity plans (which needed to contain a number of specific components) has been replaced with far less prescriptive requirements to plan for the future. However, under section 38, the CEO of the State Government agency may give a notice to a local government requiring a range of detailed matters relating to waste management to be included in the plan for the future. This is considered inconsistent with the approach adopted by the Department of Local Government and Regional Development and impacts on local autonomy.

Power to Determine a Local Government's Approach:

Under section 39(1), if the CEO forms the view that the waste management plan produced by a local government does not include a range of detailed matters, the CEO may, by notice, require the local government to modify the plan to include these matters. This has significant implications for local government autonomy. It is noted that section 39(2) requires the CEO to "consult with the local government and have regard to its views" before giving such a notice. However, the Waste Authority may also prepare plans on behalf of a local government "as if the Waste Authority were the local government" (section 40(1)) if a local government does not comply with a notice. In such cases, "all costs, charges and expenses...(can be) recovered from the local government". Again, local government autonomy is impinged.

Local Government Reporting:

Under section 42, the Bill gives the CEO power to require a report from a local government on the implementation of its waste management plan. In addition, at section 49, the CEO may monitor waste management services carried out by a local government and conduct a performance evaluation of these services. If the performance of a local government is not considered acceptable following a performance evaluation, "any reasonable expenses incurred by the CEO in...the performance evaluation may be recovered from the local government" (section 50). Again, these evaluatory and cost recovery powers are, potentially, a significant impost on local government.

Extent of a Local Government's Waste Management Services:

Section 47(1) is a broad provision which states "a local government may provide, or enter into a contract for the provision on its behalf of, waste management services". However, section 47(3) says "the CEO may, by written notice, require a local government...to provide a waste management service of a kind specified in the notice". In this regard, a waste management service is defined as including the collection, storage and disposal of both solid and liquid waste. While local governments have traditionally been involved in dealing with solid waste, the Bill's ability to allow the CEO to give a local government a notice in relation to liquid waste, which the local government must comply with according to section 47(7), is a significant increase in the State Government's power of direction over local government which is of concern.

Codes of Practice for Local Government:

Section 48 allows the Waste Authority to make Codes of Practice for the provision of waste management services including collection, storage and disposal of both solid and liquid waste. This power has the potential to place further requirements on local government which are unknown at present.

Authorisation for Other Body to Collect Municipal Solid Waste:

Section 53 enables the CEO to grant an authorisation to collect municipal solid waste if the CEO is of the opinion that:

- “(b) The collection by the local government of the municipal solid waste specified in the EP authorisation in the district...is not adequate insofar as the waste management techniques employed are not consistent with modern practice.”

It is noted that in making such a decision, the CEO is to have regard to a Code of Practice or the advice of the Waste Authority.

While in theory, it appears reasonable to employ waste management techniques which are consistent with modern practice, the implications of this section are uncertain. For instance, could it potentially reduce local autonomy or allow ‘cherry picking’ of the waste stream.

For instance, a Council may decide to collect municipal waste using manual labour rather than a collection vehicle with an arm to generate employment and for social reasons if the economy is in recession at some stage in the future. However, ostensibly, the CEO could consider the approach to be inconsistent with modern waste management practices and stop the local government from collecting the waste in the manner of its choosing.

As another example, a private company could establish a new system for dealing with an element of the waste stream. If this is regarded as ‘modern practice’, the company could be given the rights to collect this material (which is likely to be of high value) in preference to the local government.

It appears important to clarify the implications of this section to ensure that no unforeseen consequences could arise for local government. Section 54 states that before granting or amending an authorisation to collect municipal solid waste, the CEO must seek and have regard to the recommendation and advice of the local government of the district. While this gives the local government an opportunity to comment on any such proposed authorisation, the Council has no ability to veto any decision which could have negative impacts for the local government.

Local Government Offence:

The Bill makes it an offence for local government to not collect waste or provide waste management services in accordance with a waste management plan. The penalty is a fine of \$10,000. It could be argued that this provision is inequitable because the State Government does not commit an offence if it fails to provide educational services.

Appeals:

The Bill provides a local government with the ability to appeal to the Minister against a Notice issued by the CEO. However, this process raises concerns of impartiality. For instance, giving a notice is likely to be a major issue and, as such, it is highly conceivable that the CEO will discuss this matter with the Minister before giving the Notice. In this case, and should an appeal arise, the Minister would not be an independent adjudicator but a person who has

been made aware of the decision to give the Notice. The State Administrative Tribunal could be an alternative body to adjudicate on appeals.

**Issues and options considered:**

Council could agree to:

- Make a submission in accordance with the views identified in this report;
- Modify some or all of the views identified in this report and make a submission; or
- Decide not to make a submission. (In this regard, it is noted that the Municipal Waste Advisory Council has established a working group which is preparing a whole of local government response to the draft Bill.)

While it is proposed that the submission be made to the State Government, it is also suggested that the submission be provided to the Municipal Waste Advisory Council for its information and consideration.

**Link to Strategic Plan:**

The Strategic Plan notes that the objective of the City is to manage waste effectively and efficiently in alignment with environmentally sustainable principles.

**Legislation – Statutory Provisions:**

This report relates to proposed legislation.

**Risk Management considerations:**

Potential risks for local government associated with the Bill are highlighted in the report.

**Financial/Budget Implications:**

There are no financial implications associated with this submission.

**Policy implications:**

Not applicable.

**Regional Significance:**

This report relates to a matter which will apply to all local governments.

**Sustainability implications:**

The Bill promotes action in waste which will enhance sustainability.

**Consultation:**

The State Government is consulting interested parties in relation to the Bill.

**ATTACHMENTS**

Attachment 1           Waste Avoidance and Resource Recovery Bill 2006.

**VOTING REQUIREMENTS**

Simple majority.

**OFFICER'S RECOMMENDATION** That Council **SUPPORTS** a submission to the State Government on the Waste Avoidance and Resource Recovery Bill 2006, WHICH presents the views outlined in Report CJ211-11/06.

**MOVED** Cr Magyar **SECONDED** Mayor Pickard that Council:

- 1 SUPPORTS a submission to the State Government on the Waste Avoidance and Resource Recovery Bill 2006, which presents the views outlined in Report CJ211-11/06;**
- 2 strongly SUPPORTS the concept of “product stewardship” as detailed in part 5 of the Bill and:**
  - (a) REQUESTS that part 5 be amended to allow the CEO of the Waste Authority to initiate product stewardship agreements with producers;**
  - (b) REQUESTS that the Bill makes provision for Local Governments to be compensated for lost revenue streams if a stewardship agreements diverts municipal solid waste from existing local government operations where the waste diverted provided income to the local government or its waste management service provider.**

Cr Magyar spoke to the motion.

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 6 refers*

*To access this attachment on electronic document, click here: [Attach6brf141106.pdf](#)*

## **CJ212 - 11/06 DEVELOPMENT OF A NEW STRATEGIC PLAN – [13529]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Ian Cowie  
Director of Governance and Strategy

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CJ061121\_BRf.DOC:ITEM 9

### **PURPOSE**

To seek Council's approval of the process by which the City's Strategic Plan 2003 - 2008 will be reviewed and a new plan developed.

## EXECUTIVE SUMMARY

It is proposed that a review of the Strategic Plan 2003 - 2008 be undertaken between October 2006 and October 2007.

This report proposes that the development of the new Strategic Plan should identify desired outcomes over the next 20 years while specifically focussing on the first five years of this period. The new plan will become the City of Joondalup Strategic Plan 2008-2028.

The process to undertake the review links to the City's Public Participation Strategy and involves three phases of consultation with the public.

This report recommends that Council approve the attached process for the review of the Strategic Plan.

## BACKGROUND

The Strategic Plan is the City's key strategic document. Council endorsed the first version of the Strategic Plan in 1999. Since then revisions of the document have occurred in 2001 (*CJ 107-04/01 refers*) and 2003 (*CJ 034-03/03 refers*). The current Strategic Plan covers the five-year period to 2008 and so it is timely to commence a review of the Plan now. It is proposed that the new Plan identify desired outcomes over the next 20 years while specifically focussing on the initial five-year period.

## DETAILS

The draft process for the review and the development of a new strategic plan is shown as Attachment 1. This identifies three phases of consultation and the stages at which Council decision-making will be required. There is a prospect that the evolution of the process may also create further requirements and opportunities for consultation.

The three-phased approach can be summarised as follows: -

- Phase One - A review of the existing plan. This phase will involve the development of a questionnaire to seek feedback on the current Plan. Feedback will be sought from the Council and its advisory committees (ie. Sustainability Advisory Committee, Conservation Advisory Committee, Seniors' Interests Advisory Committee and the new youth forum under consideration), certain staff members as well as the broader community (by distributing the questionnaire to 500 randomly selected residents). The outcome will provide an understanding of the perceived effectiveness of the existing strategic plan and an indication of direction for a new Strategic Plan.
- Phase Two - The development of a new 20-year plan. This will involve a workshop with the Council (proposed for the Strategic Planning weekend), input from the advisory committees, consultation with certain staff members and engagement with the broader community. The latter engagement will occur through three facilitated workshops. An online survey will also be developed to capture the views of specific demographic groups (ie. youth and young people with families) as well as randomly selected and interested community members who may be unable to attend the workshops.
- Phase Three – Finalisation of the new Plan. This will involve drafting of the new Strategic Plan to be presented to the community for comment.



### Parameters for the Review of the Strategic Plan

The Strategic Plan is the key strategic document for the City and the proposed process for the review and development of a new Strategic Plan has been designed to maximise community input and ownership.

The Strategic Plan determines the long-term direction for the City including:

- The Vision;
- The Mission;
- Key result areas;
- Outcomes sought; and
- Mechanism to achieve the outcomes.

In order for the Strategic Plan to be effective (and to be monitored) it must drive and be inextricably linked to the other specific purpose plans forming the City's Integrated Planning Framework. (i.e. Strategic Financial Plan with 20-year projections, The Annual Plan, Business Plans and Specific Topic Plans such as the Asset Management Plan, Economic Development Strategy, Tourism Development Plan, Library Development Plan and Community Development Plan etc)

### **Issues and Options Considered**

When considering this report, Council needs to consider:

- The extent and timing of Council and community participation. These could accord with the approach outlined in Appendix 1; however a range of alternative approaches are possible.
- Whether the Strategic Plan should have a 20-year focus or a shorter focus.
- The proposal that a workshop be held to enable Council to set the direction for a new Strategic Plan at the forthcoming Strategic Planning weekend.

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

This item has a direct connection to the Strategic Plan

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

Section 5.56 of the Local Government Act states that:

- (1) *A local government is to plan for the future of the district.*
- (2) *A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

The City has developed a Strategic Financial Plan 2006/7 to 2009/10 to comply with this requirement.

The proposed process for the review of the current Strategic Plan and subsequent development of a new Strategic Plan described in this report will further support the delivery of these legislative requirements.

**Risk Management considerations:**

The main risk associated with the review of the Strategic Plan is raising community expectation beyond the capacity of the City to deliver.

**Financial/Budget Implications:**

The City has set aside \$60,000 for undertaking major public participation projects during 2006/07.

The Strategic Plan review constitutes a major public participation project and it is envisaged that the costs for this project will be allocated to this account. The major costs to undertake the review will be for consultative processes including facilitation and data analysis which will be outsourced to ensure the process best reflects objectivity and transparency at all times.

<b>Account No:</b>	1-211-Various-0001-F858
<b>Budget Item:</b>	F858
<b>Budget Amount:</b>	\$60,000

**Policy implications:**

There are no direct policy implications arising from this item. However, following the review of the Strategic Plan, some policies will almost certainly require revision.

**Regional Significance:**

The review of the Strategic Plan will enable the City to identify opportunities to participate in State and Federal Government policy and planning activities, to explore opportunities for collaboration in service delivery and to participate, where appropriate, in activities on a regional basis.

**Sustainability implications:**

Sustainability will be considered as part of the Strategic Plan review.

**Consultation:**

The processes to be utilised in the review and development of the Strategic Plan will align to the City's Public Participation Strategy.

**COMMENT**

The Strategic Plan 2003 - 2008 is due for review to ensure that it is relevant and reflects the aims and aspirations of the community.

**ATTACHMENTS**

Attachment 1            Process Plan for Review of the Strategic Plan.

**VOTING REQUIREMENTS**

Simple Majority.

**MOVED Cr Magyar SECONDED Cr John that Council APPROVES the process for the review of the Strategic Plan as shown at Attachment 1 to Report CJ212-11/06.**

Cr Magyar spoke to the motion.

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 7 refers*

*To access this attachment on electronic document, click here: [Attach7brf141106.pdf](#)*

## **CJ213 - 11/06 APPOINTMENT OF A DEPUTY MEMBER - TAMALA PARK REGIONAL COUNCIL MEETING TO BE HELD 30 NOVEMBER 2006 – [41586]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Ian Cowie  
Governance and Strategy

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### **PURPOSE**

For the Council to give consideration to appointing Councillor Fishwick to deputise for His Worship the Mayor at the Tamala Park Regional Council meeting to be held on 30 November 2006.

### **EXECUTIVE SUMMARY**

The Tamala Park Regional Council was established for the development of approximately 165 hectares of Lot 118 Mindarie. It comprises the following local governments: -

- City of Joondalup;
- City of Perth;
- City of Stirling;
- City of Wanneroo;
- Town of Vincent;
- Town of Victoria Park; and
- Town of Cambridge.

Each local government is represented on the Council, with the City of Joondalup being represented by His Worship the Mayor Troy Pickard and Councillor Michele John. The Regional Council meets on the second Thursday of every second month, with its next meeting scheduled to be held on Thursday 30 November 2006.

The Mayor is scheduled to be interstate and unable to attend the next meeting of the Regional Council. Recent legal advice requires that where the City wishes to appoint a deputy in the absence of a nominated member to the Regional Council it must do so by specific resolution for a specified period.

Due to the Mayor's absence, and as Councillor Fishwick was the previously nominated deputy, it is recommended that Councillor Fishwick represent the City at the meeting of 30 November 2006.

## **BACKGROUND**

The Tamala Park Regional Council was established for the development of approximately 165 hectares of Lot 118 Mindarie. It comprises the following local governments: -

- City of Joondalup;
- City of Perth;
- City of Stirling;
- City of Wanneroo;
- Town of Vincent;
- Town of Victoria Park; and
- Town of Cambridge.

Each local government is represented on the Council, with the City of Joondalup' being represented by His Worship the Mayor Troy Pickard and Councillor Michele John. The Council meets every second month on the second Thursday of that month, with the next meeting to be held on 30 November 2006.

## **DETAILS**

The Mayor is scheduled to be interstate on 30 November 2006 and will be unable to attend the scheduled meeting of the Regional Council.

Legal advice has recently been received by both the Mindarie Regional Council and Tamala Park Regional Council, which indicated that there is no power for member Councils to appoint permanent deputies to the Regional Council. Consequently, if the City's appointed member to the Regional Council is unable to attend the meeting, a nominated deputy cannot just attend in his or her place. Instead, the City needs to appoint a person to act in place of the member on each occasion when the member could not attend.

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

The options available to the Council are to:

- agree to appoint another member to act in the place of the Mayor during his absence;  
or
- not agree to appoint another member.

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

Not applicable

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

The legislation, which is constraining the appointment of deputies, is the Interpretation Act 1984.

The Interpretation Act applies.

Section 52(1) and (2) of the Interpretation Act 1984 states:

- (1) Where a written law confers a power or imposes a duty upon a person to make an appointment to an office or position, including an acting appointment, the person having such a power or duty shall also have the power –
  - (b) expected to become unable, for any other cause to perform the functions of such office or position, to appoint a person to act temporarily in place of the person so appointed during the period of suspension or other inability but a person shall not be appointed to so act temporarily unless he is eligible and qualified to be appointed to the office or position;
  - (c) To specify the period for which any person appointed in exercise of such a power or duty shall hold his appointment.
- (2) For the purposes of subsection (1)(b), “cause” includes:
  - (a) Illness;
  - (b) Temporary absence from the State; and
  - (c) Conflict of interest.

The key provisions, which create problems for the appointment of deputies, are the word ‘unable’ in subsection 1(b) and the requirement to specify the period of appointment in subsection 1(c).

**Risk Management considerations:**

The risk to the City of Joondalup is that if another member is not appointed to represent the City in the absence of the Mayor, then the City will not be fully represented and therefore not have its allocated voting rights on matters before the Regional Council.

**Financial/Budget Implications:**

Not applicable.

**Policy implications:**

Not applicable.

**Regional Significance:**

Not applicable

**Sustainability implications:**

Not applicable.

**Consultation:**

Not applicable

**COMMENT**

Prior to the legal advice being received Councillor Fishwick was the nominated deputy for His Worship the Mayor. It is recommended that Councillor Fishwick represent the City at the meeting of the Tamala Park Regional Council meeting to be held 30 November 2006.

**ATTACHMENTS**

Nil

**VOTING REQUIREMENTS**

Simple majority

**MOVED Cr Magyar SECONDED Cr John that:**

- 1 due to the absence from the state of His Worship the Mayor Troy Pickard and in accordance with the provisions of section 52 of the Interpretation Act 1984, the Council temporarily APPOINTS Councillor Russ Fishwick as the deputy member to act on behalf of His Worship the Mayor and represent the City at the meeting of the Tamala Park Regional Council to be held on Thursday 30 November 2006;**
- 2 Council ADVISES the Tamala Park Regional Council of the decision in (1) above.**

The Motion was Put and

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

**CJ214 - 11/06 PUBLIC ACCOUNTS COMMITTEE FINAL REPORT INTO LOCAL GOVERNMENT ACCOUNTABILITY – [20575] [00033]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Mike Tidy  
Corporate Services

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CJ061121\_BRF.DOC:ITEM 10

**PURPOSE**

To consider the report of the Public Accounts Committee (PAC) into Local Government accountability and to provide comments to the Western Australian Local Government Association (WALGA) for consideration in relation to its response to the PAC's report.

**EXECUTIVE SUMMARY**

The PAC has completed its Inquiry into local government accountability and has tabled its final report, including some sixteen findings and six recommendations, most of which relate to the provision and scope of audit services. WALGA is preparing a response to the report

and has invited Councils to make comments. These were asked to be provided by 31 October 2006, however an extension of time has been sought.

The recommendations of the PAC's report into local government accountability have been considered and it is recommended –

*In relation to the recommendations of the Public Accounts Committee report into Local Government Accountability, it is recommended that Council -*

- 1 *Recommendation 1 - supports a review being undertaken of the Compliance Audit Return to address any concerns the industry may have in relation to the complexity and relevance.*
- 2 *Recommendation 2 - expresses the view that the issues that are addressed in the PAC's report are more about the scope of audit work rather than who does it and given that the Auditor General would outsource the bulk of local government audit work to the private sector does not therefore believe that it is necessary for audits to be conducted by the Auditor General in order for the issues that are canvassed in the report to be addressed.*
- 3 *Recommendation 3 - is of the view that if the Auditor General were to have responsibility for local government audits how many it chooses to do itself and how many it outsources is an operational matter for the Auditor General to decide.*
- 4 *Recommendation 4 – in the context of Council's view in regards to Recommendation 2 it is of the view that it should be the responsibility of the Department of Local Government and Regional Development (DLGRD) to set the parameters and scope for audits of local governments and in that regard the DLGRD should seek whatever advice it needs to determine those parameters which may include obtaining advice from the Auditor General.*
- 5 *Recommendation 5 - is of the view that this is the responsibility of the DLGRD but how it undertakes this work ie internally or outsourced is an operational decision for the DLGRD.*
- 6 *Recommendation 6 - is of the view that regardless of whether the Auditor General or the private sector directly engaged by local government undertakes audits, if the scope of the audits is to be expanded this will increase costs which will invariably be borne directly by the local government industry.*

## **BACKGROUND**

The Inquiry into Local Government Accountability was initiated by the PAC itself in August 2005 following discussions with the Auditor General on some of the financial problems that have occurred in the local government sector in recent years. The terms of reference of the Inquiry were -

- 1 Current accountability mechanisms for local government in Western Australia, including findings, probity and performance;
- 2 the capacity of the DLGRD 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.

In undertaking the Inquiry the Committee received briefings, held formal hearings and visited Queensland, New South Wales and Victoria to examine models of local government accountability in those jurisdictions.

The PAC has tabled its final report, which includes sixteen findings and six recommendations. A summary of those is included as Attachment 1 (Info page from the West Australian Local Government Association).

## **DETAILS**

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

It is the PAC's view that local governments should be treated similarly to other government agencies and subject to the same level of scrutiny and audit. The basis for this is that local government is significantly funded from the public purse, whether that be through rates local governments raise themselves or the grant revenue that is received via state or commonwealth governments. Sixty eight percent of local government revenue effectively comes from public monies.

In this regard the PAC is of the view that there is a significant difference between the current level and scope of audit applied to government agencies and that applied to local government. The view is that while government agencies are subjected not only to financial audits but to attest audits that include opinions on key performance indicators as well as controls and legislative compliance, the audits of local government are largely confined to financial audits. The Committee regards this as being a significant shortcoming.

On the issue of compliance the Committee examined in some detail the Compliance Audit Return, which local governments currently complete and its effectiveness as a tool for managing and identifying statutory compliance. It was noted that the Compliance Audit Return is done internally in most local governments, is not subject to audit and is regarded by many local governments as a burden and a drain on resources because of its complexity and considered by some to be somewhat irrelevant.

The PAC also spent time examining issues surrounding the DLGRD's oversight of the audit and compliance processes of local government. In this regard it found what it believes are significant resource issues in the DLGRD. These resource issues included not only the quantum but skill levels, in particular financial skills. The PAC noted that there was in the period examined a significant number of qualified audit reports. There are issues in relation to the DLGRD following these up as well as following up the failure of Councils to submit their accounts and in some cases audit firms failing to submit their audit reports and management letters.

Another issue examined by the PAC was the reporting from the DLGRD of the whole of local government industry. While each local government is required to submit their accounts for audit and prepare an annual report, which also includes some statutory requirements for performance indicators, there is currently no whole of local government industry reporting providing comparatives or benchmarks across the industry. Such reporting was initiated some ten or so years ago and continued for several years but no further reports have been produced since 1997.

Submissions and briefings identified a variety of views from the industry and it was noted that pre 1980 local government auditing was largely undertaken by the DLGRD with its own audit section, that from 1980 to 1983 was undertaken by the Auditor General and since 1984 the audits have been undertaken by the private sector engaged directly by each individual local government. The industry identified various pros and cons with each of the models.



The real issues in relation to the Inquiry are probably twofold. Firstly, most of the discussion and debate in the report is really around the issue of the scope of the audit. The benefits that are put forward for the Auditor General undertaking the audits are not that a better quality financial audit would be undertaken, indeed it is acknowledged that the Auditor General would in fact outsource most of the work. It is suggested that the Auditor General could be charged with the role of undertaking attest audits and looking at issues of key performance indicators, controls and legislative compliance. There is no reason however why the private sector could not undertake this expanded role just as easily as the Auditor General.

The second issue is the matter of who has primary oversight for the accountability of local government. In the submissions and hearings a contrary view to that formed by the PAC was expressed by many in the industry who argued that local government was not just another government agency to which the same rules and regulations applicable to the public sector should be applied but that in fact local governments were autonomous, independent democratically elected corporate bodies. The Local Government Act 1995 sets out the framework for their accountability to their local communities.

It is clearly the case that local government exists as a result of the Local Government Act 1995 and it therefore seems appropriate that the overall oversight of the industry should be the responsibility of the agency that has responsibility for oversight of that Act. This is the DLGRD.

To introduce another body such as the Auditor General with independent responsibilities for audit, attestation, compliance etc and even further oversight for providing whole of local government industry analysis and benchmarking would only serve to muddy the waters in terms of local government accountability. That would introduce three levels of accountability, the local government's accountability to its own community, its accountability to the DLGRD and the Minister and its accountability to the Auditor General. Already compliance is a significant cost burden for local government and the proposals for the Auditor General to be involved in the auditing process would only add further levels of complexity to the compliance requirements.

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

Objective 4.1 To manage the business in a responsible and accountable manner.

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

Part 7 of the Local Government Act 1995 covers all of the provisions in relation to the audit of local governments setting out the provisions for appointing auditors, the power of auditors and the obligations on auditors in relation to their audits. Section 6.4 of the Local Government Act 1995 sets out the provisions in relation to the requirements for annual financial reports and the form and content of those reports are set out in the Local Government (Financial Management) Regulations 1996.

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

There are significant risk management considerations in relation to the issues of accounts, financial performance and statutory compliance. The City has extensive controls and procedures in place to mitigate these risks. There are extensive financial controls and procedures including approval processes, there is an internal audit function, an external auditor and an Audit Committee, all of which contribute to mitigating the risk associated with finance and statutory compliance.

**Financial/Budget Implications:**

There are no specific implications in relation to the report however one of the issues raised is the potential for increased costs of audits if the scope of these are extended. This could be a budget consideration in the future if the proposals proceed. It is suggested in the report that potentially the cost of audits could double.

**Policy implications:**

Not applicable.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

There are suggestions in the PAC's report that the sustainability of local governments is an issue currently and that this could be enhanced by the proposals for increasing the scope of audits. While there is potential for more quickly and readily identifying those local governments that are encountering difficulties, this is really only reading the warning signs after the event and does not address the long term sustainability of local government.

**Consultation:**

The PAC undertook extensive consultation including receiving briefings and submissions and conducting hearings in relation to local government accountability.

**COMMENT**

The PAC has identified a number of concerns in relation to audits, auditing, resources of the DLGRD and comparative reporting across the industry. It is not felt however that these issues are problems that can be solved simply by assigning the responsibility for audits to the Auditor General.

The report identified the difficulties and shortcomings within the DLGRD however the Auditor General's office currently has no resources to undertake the audits of local governments. The Auditor General identified that if he were to undertake these audits the vast bulk of the audit work would be outsourced to the private sector which would largely be the same firms that local government is currently engaging directly to undertake its audits.

The real issue appears to be not who does the audits but the scope of the audits and how that scope is defined. It seems that if the intention is to expand the scope to embrace legislative compliance, performance based assessments of key performance indicators and attestation audits, then this could be undertaken under the same private sector arrangements that exist by simply legislating a broader scope.

There are also concerns in relation to introducing another arm of accountability for local government to respond to. At the moment there are requirements for local government to be accountable to its local community and it has obligations for accountability to the DLGRD and the Minister. By extending the responsibility for audits, and in particular the reporting of local government performance to the Auditor General there is another level of accountability that is introduced and rather than improving accountability it simple becomes more complex.

It was identified in the report that there is a resource issue within the DLGRD but equally the Auditor General doesn't currently have the resources. It would seem far more logical to adequately resource the agency that has primary oversight and responsibility for administering the Local Government Act 1995 than shifting or reassigning part of the responsibilities to another agency and adding further complexity.

## ATTACHMENTS

Attachment 1                                      Info Page West Australian Local Government Association  
Summary of PAC Findings and Recommendations

## VOTING REQUIREMENTS

Simple majority.

**MOVED Cr McLean SECONDED Cr Magyar that Council in relation to the recommendations of the Public Accounts Committee Report into Local Government accountability:**

- 1       Recommendation 1 - SUPPORTS a review being undertaken of the Compliance Audit Return to address any concerns the industry may have in relation to the complexity and relevance;**
- 2       Recommendation 2 - Expresses the view that the issues that are addressed in the Public Accounts Committee's report are more about the scope of audit work rather than who does it and given that the Auditor General would outsource the bulk of local government audit work to the private sector does not therefore believe that it is necessary for audits to be conducted by the Auditor General in order for the issues that are canvassed in the report to be addressed;**
- 3       Recommendation 3 - is of the view that if the Auditor General were to have responsibility for local government audits how many it chooses to do itself and how many it outsources is an operational matter for the Auditor General to decide;**
- 4       Recommendation 4 – in the context of Council's view in regards to Recommendation 2 it is of the view that it should be the responsibility of the Department of Local Government and Regional Development (DLGRD) to set the parameters and scope for audits of local governments and in that regard the DLGRD should seek whatever advice it needs to determine those parameters which may include obtaining advice from the Auditor General;**
- 5       Recommendation 5 - is of the view that this is the responsibility of the DLGRD but how it undertakes this work ie internally or outsourced is an operational decision for the DLGRD;**

- 6 Recommendation 6 - is of the view that regardless of whether the Auditor General or the private sector directly engaged by local government undertakes audits, if the scope of the audits is to be expanded this will increase costs which will invariably be borne directly by the local government industry.**

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 8 refers*

*To access this attachment on electronic document, click here: [Attach8brf141106.pdf](#)*

## **CJ215 - 11/06 LOCAL GOVERNMENT RATING OF LAND USED FOR CHARITABLE PURPOSES – [00104]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Mike Tidy  
Corporate Services

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CJ061121\_BRF.DOC:ITEM 11

### **PURPOSE**

The purpose of this report is to provide a response to the Minister for Local Government and Regional Development and to the Western Australian Local Government Association in relation to the Minister's proposed strategies to implement the recommendations of the Local Government Advisory Board into the general issue of local government rating of land used for charitable purposes.

### **EXECUTIVE SUMMARY**

Broadly speaking the Minister's proposed strategies 3, 4, 6 and 8 are supported. Strategy 7 can be supported with some qualification. Strategies 1 and 2 are not supported because the current proposal does not provide sufficient information on which to base a decision. Strategy 5 is not supported but an alternative is put forward for consideration.

Although not included in the proposed strategies it is recommended that the Minister be asked to consider the impacts of the burden of rate exemptions on individual local governments. There is a contradiction in how pensioners in their own homes are supported by the whole community through a State rebates and deferments scheme but the burden of rate exemptions rests with individual local governments. The Western Australian Local Government Association (WALGA) is also urged to advocate this aspect to the State Government.

## BACKGROUND

In December 2004 the then Minister for Local Government & Regional Development requested the Local Government Advisory Board examine and report on the general issue of local government rating of land used for charitable purposes. This was in response to a number of approaches that had been made to her office in relation to this matter.

The Board has completed its investigation and has provided a report to the Minister. The Minister has considered the report and has proposed strategies for implementing the recommendations. Prior to finalising the proposals for implementation he has written to each local government seeking feedback on what is proposed.

The Western Australian Local Government Association is also preparing a response to the Minister's request and has written to each local government seeking their responses to be consolidated into a formal response from the Western Australian Local Government Association.

A report was submitted for Council consideration at its meeting of 19 September 2006 and it resolved that:

- 1 *REFERS consideration of CJ157- 09/06, Local Government Rating of Land Used for Charitable Purposes, to an elected members' workshop to further investigate the implications of the proposed amendments;*
- 2 *REQUESTS relevant stakeholders including but not limited to ACSWA, Elderbloom, RWA, non-Government organisations and not-for-profit organisations to provide a submission for consideration at the workshop;*
- 3 *REQUESTS the Western Australian Local Government Association to conduct a local government forum on Local Government rating of land used for charitable purposes.*

Invitations to make submissions to the elected member workshop were issued to all stakeholders resulting in six (6) submissions being received. These were considered at the elected member workshop held on 1 November 2006.

## DETAILS

The Minister has proposed eight strategies in relation to the recommendations of the Advisory Board. They are summarised as follows:

### **Strategy 1**

Independent Living Units (ILU) owned and operated by religious, charitable and other not-for-profit organisations (NFPO) are to be rated if the accommodation is not subsidised. The nature and level of the subsidy will be prescribed in the Local Government Act 1995 Regulations.

These arrangements are to apply to ILUs in villages established after 1 July 2007 and, from 1 July 2015, to all retirement villages. Existing leaseholders will not be rated while they hold their lease.

### **Response**

The officer recommendation on the 19 September 2006 supported this proposal, however the outcome of the elected member workshop was that the proposal should not be supported in its current form. It was felt that the definition of "subsidised" is crucial to considering the impact of this proposal and in the absence of a definition

the status quo should remain. There are fundamental differences of view in relation to what philosophically a subsidy is let alone defining it. There is also concern that notwithstanding the proposal to phase-in the application of this proposal to existing facilities it still amounts to a retrospective change. Although it is proposed that existing leaseholders will not be rated while they hold their lease even if this tenure goes beyond 2015, ie the village would be rated from 2015 but they will not be able to pass this on to tenants who had leases prior to 1 July 2007, it is simply not realistic to believe that these facilities could absorb this expense.

### **Strategy 2**

Religious, charitable and other NFPOs providing aged care services and receiving care subsidies in accordance with the Aged Care Act 1997 (Commonwealth) are to be exempted from rates. This may require an amendment to the Act and/or Regulations.

### **Response**

The officer recommendation on the 19 September 2006 supported this proposal, however the outcome of the elected member workshop was that the proposal should not be supported in its current form. Again the issue is subsidies although in this case it's the fact that a number of facilities will not qualify for these types of subsidies but are still considered to be providing charitable services.

### **Strategy 3**

Land held by NFPO community housing providers and used for crisis accommodation or housing for people with a disability should be exempt from being rated. This may require an amendment to the Act and/or Regulations.

### **Response**

Some of this type of accommodation is already exempt under the charitable provisions of the Act. The proposal is generally supported however there needs to be very clear definitions around the notions of crisis accommodation and housing for people with a disability.

### **Strategy 4**

Request the Local Government Advisory Board to undertake further work to determine how to isolate the types of community housing that should be rated without negatively impacting upon –

- occupiers of this housing that are financial disadvantaged
- community housing providers

### **Response**

The request to undertake further work is supported and the key aspects in relation to determining any form of exemption are around the issue of clear definitions and guidelines on which a local government can make an assessment and clear provisions requiring applicants requesting an exemption to supply information that enables the assessment to be done.

**Strategy 5**

The Act and/or regulations to be amended to address the following matters in relation to vacant land –

- vacant land that is held for use as a charitable purpose in the future is exempt from rates
- the owner of the vacant land seeking an exemption is to provide information to the relevant local government that is sufficient for it to be able to satisfy itself of the future land use intended
- if the land is not eventually used for charitable purpose, back rates are to be paid to compensate for the time that it was previously exempted. Back rating is to extend back for a period not exceeding 15 years from the time a decision is made that an exemption is not appropriate.

**Response**

This strategy is not supported. It would be almost impossible to come up with practical guidelines for linking a current financial benefit to a future intention with no obligation attached. An alternative proposed in a submission considered at the elected member workshop is the reverse of this. Under this proposal the owner of vacant land would need to declare their intention to use it for a charitable purpose in the future. They would, however pay rates annually on the vacant land until the charitable purpose was established on the land. At this point they would be entitled to a refund of the rates paid. There would need to be parameters established particularly to cover scenarios where part of the site was developed for charitable purposes and the remainder for other uses. At least under this arrangement the financial benefit is linked to the actual establishment of the charitable purpose and not just the intention.

**Strategy 6**

That the Act and/or Regulations be amended to prescribe that incidental and ancillary non charitable land uses do not jeopardise the overall dominant charitable purpose of a property.

**Response**

It has already been established in case law that incidental and ancillary non charitable land uses do not jeopardise the overall dominant charitable purpose of a property despite the fact that it is not spelt out in the current legislation. The issue really is not that this type of use should not jeopardise the overall dominant use but the question of the quantum of what constitutes incidental and ancillary. Any proposal that could define incidental and ancillary would be supported.

**Strategy 7**

That the Act and/or Regulations be amended to clarify that it is possible to rate part of a property, if that part is clearly non charitable and not incidental or ancillary to a dominant charitable purpose.

**Response**

The officer recommendation on the 19 September 2006 supported this proposal in conjunction with strategy 6. The outcome of the elected member workshop was also for support but qualified. While it is acknowledged that in some cases there are non-charitable uses there are instances where these are operated as part of the facility with proceeds being fed into the overall operation eg a small coffee shop, and not with profits being taken by a commercial operator. This proposal should only enable the rating of a portion of a property in relation to non-charitable use where these are clearly operated for the benefit of external parties.

**Strategy 8**

That the Act and/or Regulations be amended so that organisations seeking a rate exemption are required to provide local governments with the relevant information to allow it to make a considered decision about whether land is being used for a charitable purpose.

**Response**

This proposal is strongly supported particularly if the regulations also provide guidelines as to the type of information that is required to be provided. This is an area that causes great difficulty for the City in its current assessments of applications for exemptions from rates. It is not unusual for the City to be challenged as to why information needs to be provided or the type of information that is requested to be provided.

**Issues and options considered:**

Following Council's initial consideration of a report on the 19 September 2006 submissions were invited from key stakeholders and these were considered at an elected member workshop on 1 November 2006. Although there were some specific points made and one good alternative put forward in relation to proposed strategy 5 in general the thrust of the submissions was concern that it had taken a long time to get to the current point of established precedent and that the effect of change would be to turn this back.

After due consideration it is felt that of proposed strategies, 3, 4, 6 and 8 are supported, 7 is supported with some qualification, 1 and 2 are not supported while 5 as proposed is strongly opposed but an alternative is suggested for consideration.

The broader issue that needs to be considered and is not part of the Minister's proposed strategies is the whole notion that the burden for rate exemptions falls on the local government in which the land in question is located. There is a whole of State approach to providing concessions by way of rebates and deferrals for pensioners living in their own homes. This is on the basis that all eligible persons should have these basic entitlements regardless of where they choose to live. Although the quantum of the rebates and deferrals would be dependent on the rates levied on that property and these will vary from council to council the fact that they are entitled to a rebate or a deferral is universal across the State. A local government that has a significant proportion of eligible persons in relation to pensioner rebates and deferrals is not penalised financially for that fact.

It seems unreasonable that if a local government is not penalised for the number of pensioners living in their own properties within the local government area, why the local government should bear the full burden of rates exemptions on the retirement or aged care facilities that are located within its area. The whole community should bear the burden of the cost of these arrangements.



**Link to Strategic Plan:**

Key focus area 1 Community Wellbeing

1.3 provides social opportunities that meet community needs

Key result area 3 City Development

3.3 recognises the changing demographic needs of the community

**Legislation – Statutory Provisions:**

The strategies proposed by the Minister are for a number of changes to be made to the Act and/or Regulations.

**Risk Management considerations:**

No applicable.

**Financial/Budget Implications:**

There are potential financial implications for the City in relation to a number of these strategies. The full extent would need to be determined on the basis of the final detail which is not included in the strategy proposals.

**Policy implications:**

Not applicable.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

There are issues of long term financial sustainability in relation to these proposals. The changing demographics and the increase in numbers of people occupying the types of facilities covered by these proposals will increase the burden of the exemptions being passed to the remaining members of the community. This will become increasingly difficult to manage in the long term, in particular if each local government is required to carry the burden of all of the rate exemptions within their local government area.

**Consultation:**

The Minister has sought the views from each local government in relation to strategies that he is proposing as a result of the recommendations from the Local Government Advisory Board into the general issue of local government rating of land used for charitable purposes. The Western Australian Local Government Association is also seeking comments from members so that it can provide a consolidated response to the Minister's request.

Following its initial consideration of a report on 19 September 2006 Council invited submissions on the Minister's proposals from key stakeholders. Six (6) submissions were received and these were considered at an elected member workshop on 1 November 2006. The feedback from that workshop has been incorporated into this report.

## COMMENT

Whether or not the specifics of the strategies are supported the whole issue of land used for charitable purposes and exemptions is becoming an increasingly difficult area, administratively, for local governments. There is a clear lack of guidelines, definitions and objective measures for determining whether the land is used for charitable purposes.

This confusion causes difficulties for local government in being able to make assessments about whether land is used for charitable purposes and equally causes confusion for property owners who are seeking exemption but have no clear way of determining whether they are eligible or indeed what information they should be providing in order to demonstrate eligibility.

## ATTACHMENTS

Attachment 1 Letter from the Minister for Local Government & Regional Development dated 3 August 2006

## VOTING REQUIREMENTS

Simple Majority.

**MOVED Cr Fishwick SECONDED Cr Currie that the Minister For Local Government & Regional Development be provided with the following response in relation to the issue of Local Government rating of land used for charitable purposes and a copy be provided to the Western Australian Local Government Association as follows:**

**1 In relation to the eight proposed strategies the City's responses are as follows -**

**(a) Strategy 1**

**This proposal is not supported in its current form as there is no current definition of "subsidised" which is crucial to considering the impact of this proposal and the phasing in of rating effectively amounts to a retrospective change.**

**(b) Strategy 2**

**This proposal is not supported in its current form as a number of facilities will not qualify for these types of subsidies but are still considered to be providing charitable services.**

**(c) Strategy 3**

**The proposal is generally supported however there needs to be very clear definitions around the notions of crisis accommodation and housing for people with a disability.**

**(d) Strategy 4**

**The request to undertake further work is supported and the key issues in relation to determining any form of exemption are around clear definitions and guidelines on which a local government can make an assessment and clear provisions requiring applicants requesting an exemption to supply information that enables the assessment to be done.**

**(e) Strategy 5**

The strategy as proposed is not supported but an alternative proposal that is supported is that an owner of vacant land be required to declare their intention to use it for a charitable purpose in the future, however pay rates annually on the vacant land until the charitable purpose is established at which point they become entitled to a refund of the rates paid.

**(f) Strategy 6**

It has already been established that incidental and ancillary non charitable land uses do not jeopardise the overall dominant charitable purpose of a property despite the fact that it is not spelt out in the current legislation. The issue really is not that this type of use should not jeopardise the overall dominant use but the question of the quantum of what constitutes incidental and ancillary. Any proposal that could define the quantum of incidental and ancillary is supported.

**(g) Strategy 7**

The proposal is supported but while it is acknowledged that in some cases there are non charitable uses there are instances where these are operated as part of the facility with proceeds being fed into the overall operation eg small coffee shops, and not with profits being taken by a commercial operator and this proposal should not enable operations in these circumstances to be rated.

**(h) Strategy 8**

This proposal is strongly supported particularly if the regulations also provide guidelines as to the type of information that is required to be provided. This is an area that causes great difficulty for the City in its current assessments of applications for exemptions from rates. It is not unusual for the City to be challenged as to why information needs to be provided or the type of information that is requested to be provided.

**2** That the Minister be urged to give serious consideration to a whole of State approach to the issue of rating exemptions for land used for charitable purposes, such that individual local governments are not unfairly burdened due to the amount of land within their local government area that is used for charitable purposes. There should be equity and fairness in rating or exemption of these types of facilities in the same way that there is a whole of State approach to the provision of rebates and deferrals for pensioners.

**3** WALGA be advised of this response and in relation to point 2 be urged to advocate to the State Government the need for a whole of state approach to the issue of exemptions for land used for charitable purposes.

Discussion ensued. Mayor Pickard commended the Director Corporate Services and his staff for the conduct of the workshop.

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

Appendix 9 refers

To access this attachment on electronic document, click here: [Attach9brf141106.pdf](#)

### Disclosure of interest affecting impartiality

<b>Name/Position</b>	<b>Mr Mike Tidy – Director Corporate Services</b>
<b>Item No/Subject</b>	CJ216-11/06 - Minutes of Audit Committee Meeting held on 24 October 2006 – Item 1 – 2005/06 Annual Financial Report
<b>Nature of interest</b>	Interest that may affect impartiality.
<b>Extent of Interest</b>	Mr Tidy's brother is an employee of Deloitte, but not an auditor and not part of the audit team for the City of Joondalup.

<b>Name/Position</b>	<b>Mr Garry Hunt – Chief Executive Officer</b>
<b>Item No/Subject</b>	CJ216-11/06 - Minutes of Audit Committee Meeting held on 24 October 2006 – Item 2 – Quarterly Report – Corporate Credit Card Usage
<b>Nature of interest</b>	Interest that may affect impartiality
<b>Extent of interest</b>	Relates to CEO credit card expenditure

## **CJ216 - 11/06 MINUTES OF AUDIT COMMITTEE MEETING HELD ON 24 OCTOBER 2006 – [50068]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Mike Tidy  
Corporate Services

CJ061121\_BRF.DOC:ITEM 12

### **PURPOSE**

To submit the unconfirmed minutes of the Audit Committee to Council for noting and endorsement of the recommendations contained therein.

### **EXECUTIVE SUMMARY**

A meeting of the Audit Committee was held on 24 October 2006.

The items of business that were considered by the Committee were:

- 2005/06 Annual Financial Report;
- Quarterly report – Corporate Credit Card Usage;
- Review of Level of Delegation to the CEO in relation to write-off of monies.

*It is recommended that Council*

- 1 *RECEIVES the unconfirmed Minutes of the Audit Committee meeting held on 24 October 2006, forming Attachment 1 to Report CJ216-11/06;*
- 2 *NOTES the report on the corporate credit card usage of the CEO for the quarter ended 30 September 2006;*

- 3 *NOTES the review undertaken by the Audit Committee of the Write-off of Monies delegation; and*
- 4 *ACCEPTS the recommendation of the Audit Committee that there be no change to the existing level of delegation for the Write-off of Monies.*

## **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**

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

As detailed in the minutes of the meeting held on 24 October 2006.

### **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.

Part 7 of the Act sets out the requirements in relation to Audits. Division 1A of Part 7 deals with the establishment, membership, decision-making and duties that a local government can delegate to an 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 unconfirmed minutes of the Audit Committee meeting held on 24 October 2006 are submitted to Council for noting, and for endorsement of the matter relating to the delegation for Write-off of Monies.

No further action is required in relation to the 2005/06 Annual Financial Report as this matter was presented to the Council meeting held on 31 October 2006.

## ATTACHMENTS

Attachment 1 Minutes of the Audit Committee meeting held on 24 October 2006.

## VOTING REQUIREMENTS

Simple majority.

### **MOVED Cr Magyar SECONDED Cr Currie that Council:**

- 1 RECEIVES the unconfirmed Minutes of the Audit Committee meeting held on 24 October 2006, forming Attachment 1 to Report CJ216-11/06;**
- 2 NOTES the report on the corporate credit card usage of the CEO for the quarter ended 30 September 2006;**
- 3 NOTES the review undertaken by the Audit Committee of the Write-off of Monies delegation; and**
- 4 ACCEPTS the recommendation of the Audit Committee that there be no change to the existing level of delegation for the Write-off of Monies.**

Discussion ensued.

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 10 refers*

*To access this attachment on electronic document, click here: [Attach10brf141106.pdf](#)*

**CJ217 - 11/06 DEVELOPMENT OF A NEW WORKS DEPOT – [80513] [58498]**

**WARD:** All

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

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CJ061121\_BRF.DOC:ITEM 13

**PURPOSE**

To provide an update on the progress of the development of the new works depot on land leased from the Water Corporation and inform Council on the increased project budget.

**EXECUTIVE SUMMARY**

Lease negotiations with Water Corporation are nearing their conclusion. It is proposed to complete tender documentation over the next two months. Subject to development approvals being received the City should be in a position to call tenders for the construction early in the New Year with construction to commence in March.

The budget that was approved in April 2006 was \$5,000,000 for the works depot and a further \$200,000 for a back up computer room however the latest costing that has been undertaken costs the project at \$6,700,000. A number of factors account for the increase including adding additional services to the site and more detailed investigations identifying other site requirements.

**BACKGROUND**

The City entered into a lease agreement with the City of Wanneroo for operating from the depot in Ashby in June 2000. The current requirements for the proposed depot were reviewed identifying that a site of 2.5 to 3.0 hectares would be suitable. A review of available sites either within or in close proximity to the City has revealed that the most suitable site is a Water Corporation site located on Ocean Reef Road that forms part of the Water Corporation waste treatment site known as Beenyup. The land is currently vested with Water Corporation. Water Corporation advised that they were looking for a tenant for the proposed site however are not prepared to transfer the vesting or sell the site to the City.

Council at its meeting held on 13 December 2005 (CJ295-12/05) resolved in part that the site at Beenyup was the preferred site for a works depot.

A Business Plan was developed and advertised in The West Australian and Joondalup Community Newspaper with a closing date of 3 April 2006. Council again considered the matter at its meeting held on 4 April 2006 (CJ052-04/06) where it was resolved that:

*“Council:*

- 1 *NOTES that one submission was received in relation to the Business Plan advertised on 18 February 2006 and thanks the resident that submitted comments;*
- 2 *ADOPTS the Business Plan;*

- 3 *PROCEEDS with the lease of the Water Corporation site of approximately 2.5 hectares known as Beenyup on Ocean Reef Road, Craigie and approves a total project budget of up to \$5,000,000;”*
- 4 *AUTHORISES the Chief Executive Officer to invite tenders for the construction of the works depot;*
- 5 *DELEGATES to the Chief Executive Officer in accordance with section 5.42 of the Local Government Act 1995 the authority to accept tenders for the construction of the works depot subject to the price of the tenders being within budget;*
- 6 *AUTHORISES the Chief Executive Officer to enter into a lease with the Water Corporation for the subject site known as Beenyup on Ocean Reef Road, Craigie based generally on the draft lease agreement and terms and conditions highlighted in Report CJ052-04/06, noting that it is desirable to the Council to achieve from the negotiations the first right of refusal for lease extension options should they be deemed necessary as part of the future operational requirements.”*

## **DETAILS**

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

Lease negotiations with Water Corporation have progressed slowly however are nearing their conclusion. Subject to development approvals being received the City should be in a position to call tenders for the construction early in the New Year with construction to commence in February.

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

Development of the new works depot will be consistent with each of the four key focus areas of the City's Strategic Plan as follows:

*Caring for the Environment:* The concept plan for the new depot will be designed taking into account the latest Environmentally Sensitive Design principles where the Ashby depot is 30 years old and is in need of a major overhaul.

*Community Wellbeing:* The development of a new depot will assist in providing a more efficient and environmentally friendly service to the community.

*City Development:* A new depot within the City boundaries will encourage local employment and economic development.

*Organisational Development:* Manage the development to provide a maximum return on the investment to benefit the City's ratepayers and community by the reduction in operational inefficiencies that have been identified with the depot in Ashby.

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

Not applicable.

### **Risk Management considerations:**

Water Corporation is completing an environmental survey of the site and has agreed to take any action required to remediate any contamination including removal of any asbestos. Water Corporation has reserved the right not to proceed with the lease for a depot should the cost of removal not be financially viable.



**Financial/Budget Implications:**

The cost estimate for the construction of the depot at Beenyup as reported in April 2006 was:

<b>ITEM</b>	<b>\$</b>
Building Works (rate per sq. metre)	2,250,000
Site Works (including parking, lighting, security, landscaping etc.)	1,400,000
Escalation (to September 2006 - construction commencement)	250,000
Consultant Fees	400,000
FF&E (furniture, fittings and equipment, relocation costs)	500,000
Project Contingency	200,000
<b>TOTAL:</b>	<b>5,000,000</b>

The building works component above is based on a square metre basis that includes various site works related to the building footprint. The costing below includes building services (water, power, stormwater from buildings etc) as site works. The original costing was based on a written project brief, assumptions in relation to services and visual inspections of the site. After Council approval to proceed with the project was given services consultants were contracted to design the facility. In addition to the \$5,000,000 the current budget has an allocation of \$200,000 for a computer room to be used as a back up to the administration centre computer room. The ideal location for such a room has been identified as the works depot development.

The detailed design of the depot has been completed and costed by the quantity surveyor, Ralph Beattie Bosworth as follows:

<b>ITEM</b>	<b>\$</b>
Building Works	2,326,000
Site Works (including parking, lighting, security, landscaping etc.)	2,705,000
Escalation (based on a January 2007 - construction commencement)	189,000
Consultant Fees	500,000
FF&E (furniture, fittings and equipment, relocation costs)	490,000
Back Up Computer Room	200,000
Project Contingency	290,000
<b>TOTAL:</b>	<b>6,700,000</b>

The costing is \$1,500,000 above the approved budget. The major reasons for the increased costs are as follows:

- Building Works
  - Moving all activities from the Winton Road depot to the new depot (\$200,000)
  - Including mezzanine floors in storage/workshops (\$133,000)
- Site works
  - No retention of existing buildings due to their condition and location on site (\$200,000)
  - Services upgrades to site (power, fire, water) not previously allowed in budget (\$210,000)

- Additional Environmentally Sensitive Design (ESD) initiatives (\$124,000)
- Requirement for an on site sump (\$50,000)
- Colourbond fencing to assist with noise control to residential area (\$42,000)
- Escalation to January 2007 (\$189,000)
- Consultant fees are based on the actual construction cost (\$100,000)
- Project contingency (\$90,000)

The two items listed above under Building Works were not part of the original project scope. Moving the Winton Road operations will consolidate the depot type activities and make available the existing site for other uses or sale to offset the increase in the project budget. Including mezzanine floors allows the storage area footprint to be reduced thereby saving money.

On the appointment of services consultants the existing site was analysed in detail when it was revealed the services to the site needed upgrading and the existing building was not financially worth keeping. The building condition report identified the existing services in the building to be non-compliant to Australian Standards and being beyond salvage. Consultants also identified additional ESD initiatives for consideration such as stormwater harvesting (recycling water) and various electrical components to save on energy use. Solid fencing was also included following consultation with local residents.

A current market valuation of the City's property on Winton Road has been ordered and its future use will be considered further at a later date.

The 2006/07 budget allocation for this project is \$4,000,000 which will not fully expended this financial year. The balance required for the project needs to be allocated in the 2007/08 budget as the construction is expected to be completed in the first quarter of 2008.

**Policy implications:**

Not applicable.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

Remaining at Ashby depot for a period of at least ten years is not considered to be a sustainable solution to the requirements of the City. The City of Wanneroo has advised that they have a ten-year plan to remain at their current location. With residential development reaching the southern boundary of the Ashby depot site it is a matter of time before complaints are received about noise levels.

The new depot will be designed taking into account the latest Environmentally Sensitive Design principles where the Ashby depot is 30 years old and is in need of a major overhaul. The Ashby site has been identified as having operational inefficiencies of \$536,000 per annum, which are likely to increase over time. The Ashby site has no potential for expansion to meet future needs unless the City of Wanneroo move out of their site.

**Consultation:**

A business plan for the proposed lease was advertised in The West Australian and Joondalup Community Newspaper with a closing date of 3 April 2006. Additionally the Development Approval process required the development to be advertised for public comment.

**COMMENT**

Following the decision to construct a depot at the Beenyup site extensive investigations have been carried out that have identified additional costs for the project. A back up computer room has also been added to this facility along with relocating all operations from the Winton Road depot. These along with other significant factors have increased the cost of the project by \$1,500,000 to \$6,700,000.

**ADDITIONAL INFORMATION**

At the Council meeting held on 13 December 2005 the matter of the location of the new works depot was considered. Three sites were identified being Beenyup, Hodges Drive and Edgewater Quarry. After detailed investigations the two viable options were Beenyup and Hodges Drive. The Hodges Drive option was the purchase of a four hectare site from Landcorp with an estimated project cost of \$15.0 million whereas the Beenyup site option was the lease of a site from the Water Corporation. The Hodges Drive site was offered to the City in 2002 but not bought and ultimately the Beenyup site was chosen as the preferred site.

Once the decision was made to utilise the Beenyup site, a business plan for the lease and development of the site was quickly prepared to minimise cost escalations from a rapidly inflating construction market. This was based on existing infrastructure, aerial locality plan and a footprint constraint of approximately 2.5 hectares. This footprint size was determined following a review of depot activities and requirements which was undertaken in an attempt to minimise the size of the leased site and therefore the ongoing cost. The business plan was advertised early 2006 with closing date of 3 April 2006. At its meeting in April 2006 the Council determined to adopt the business plan and develop the depot at Beenyup.

Following this decision, a building condition survey was undertaken of the existing buildings on the Beenyup site as part of the development of detailed concept design plans. From these it became evident that the site could accommodate the City's Winton Road activities including 6 office staff, approximately 50 outside staff that undertake Citywide reticulation, natural areas and CBD parks maintenance without additional land. It was also identified that the installation of mezzanine floors would increase the workable area of the site without increasing the leased area and consequently the lease fee. These amendments will free up the Winton Road site for other uses or sale.

During the early months of 2006 the escalation rate used by the quantity surveyor was 12% per annum. From October 2006 it was revised to 10% per annum. These rates are based on standards used by the State Government and generally across the construction industry. In addition to cost increases there is extreme pressure on consultants to complete designs and documentation in order to minimise cost increases. From the date of Council approval (April 2006) escalation alone accounts for \$439,000 to the end of January 2007. The cost of the project is currently increasing by approximately \$45,000 per month due to escalation. As with all construction projects, the actual contract price will only be confirmed at the time of tender.

The table below shows the project estimate cost presented to Council in April 2006 prior to any detailed concept drawings being prepared. In addition the increases in costs are also listed. Of the additional items listed the following items are scope increases:

- Back up computer room;
- Moving activities from Winton Road;
- Mezzanine floors;
- Colourbond fence; and
- Most of the miscellaneous items that were identified through the detailed design phase.

## ITEM

<b>As reported in April 2006</b>	<b>\$</b>
Building Works (rate per sq. metre)	2,250,000
Site Works (including parking, lighting, security, landscaping etc.)	1,400,000
Escalation (to September 2006 - construction commencement)	250,000
Consultant Fees	400,000
FF&E (furniture, fittings and equipment, relocation costs)	500,000
Project Contingency	200,000
<b>TOTAL</b>	<b>5,000,000</b>

**Additions to project**

Back Up Computer room (additional to depot project but not additional to the budget as funds have already been allocated)	200,000
Moving activities from Winton Road	200,000
Mezzanine floors for storage	133,000
No retention of existing buildings	200,000
Allowance for service upgrades (power, fire, water)	210,000
Additional ESD initiatives	124,000
Increase in sump size	50,000
390m of Colourbond fencing	42,000
Escalation from October 2006 to January 2007	189,000
Additional Consultant Fees	100,000
Additional Project Contingency Increase	90,000
Miscellaneous Items with individual values of less than \$10,000 such as additional gates, turnstiles, signage, bollards, increased allowance for rock breaking.	162,000
<b>TOTAL as at 9 October 2006</b>	<b>6,700,000</b>

**Potential Deletions**

Moving Activities from Winton Road	200,000
Mezzanine Floors	133,000
Additional ESD initiatives	124,000
390m of Colourbond Fencing	42,000
Miscellaneous Items with individual values of less than \$10,000 (note some are essential that relate to signage, access and security requirements and some are discretionary and could be deleted.)	50,000

**Any deletions to the project will also result in a reduction in the following items:**

Escalation to January 2007

Consultant Fees

Project Contingency Increase

It is not recommended that any of the above deletions occur. It is considered preferable to move the Winton Road activities to Beenyup creating one site for the depot and freeing up the Winton Road site for other revenue raising opportunities for the City. Retaining the mezzanine floors also significantly increases storage space by 317sqm without the need for more land. The ESD initiatives are suggestions from consultants that are in addition to others already incorporated in the project. The colourbond fencing will assist in noise control and was requested by residents through the development approval process. One resident has asked for block or brick fencing which is under consideration only if the budget permits.

Reviewing the scope of works and attempts to reduce the budget requires time and time only leads to escalation in costs. Officers and consultants have been reviewing and refining the scope throughout the design phase and have reduced the scope to the minimum level of functionality. Officers are continuing discussions with Water Corporation in an attempt to reduce the cost of service upgrades to the site. Service upgrades are being documented into the project as they are required. The question of “Who Pays” is still to be finalised however the allowance of \$210,000 presumes the City pays the full amount.

Winton Road Site

Consolidating all depot related activities on one site is preferred for economical and operational reasons. Based on comparisons with other depots this did not appear possible on a depot site of 2.5 hectares when the initial concept plans were being developed, however, it became evident that it was possible as the plans were further developed.

A valuation of the Winton Road site was received on 14 November 2006 indicating the value to be \$850,000 with a rental value close to \$50,000. Further development on the site would potentially increase either the value of the site or the potential rental return. The sale of the site either as is or developed could be used to offset the increase in the depot project cost.

To assist in tracking the cost movements between the preliminary estimate prepared in November 2005 based on footprint areas and the detailed design estimate prepared in October 2006 the following table has been prepared:

Item	Preliminary Estimate Based on Footprint Areas	Changes from Preliminary Estimate to Detailed Design Estimate	Detailed Design Estimate
Building Works	\$2,250,000.00	Additions to the original cost includes Winton Road activities \$200k, mezzanine floors \$133k, escalation \$150k, miscellaneous increases \$93k. Reductions to original cost includes moving building servicing costs (Hydraulic \$105k, Electrical \$246k, Mechanical \$149k which totals \$500k) to Site Works. This has been done in preparation for calling tenders as the preliminary estimate contained some site work activities within the Building Works estimate.	\$2,326,000.00

Site Works (including parking, lighting, security, landscaping etc.)	\$1,400,000.00	Additions to original cost includes building servicing costs from Building Works item \$500k, possible service upgrades \$210k, cost of not retaining existing buildings \$200k, additional ESD items \$124k, increase in size of sump \$50k, colourbond fence \$42k, escalation \$100k and miscellaneous increases \$79k.	\$2,705,000.00
Escalation	\$250,000.00	Escalation of \$250k to Sept. 2006 has been added to Building and Site Works items. Escalation from Oct. 2006 to Jan. 2007 is estimated at \$189k.	\$189,000.00
Consultant Fees	\$400,000.00	Consultant fees are based on the Project Value	\$500,000.00
FF&E (furniture, fittings and equipment, relocation costs)	\$500,000.00	Cost of desks has been moved to the Building Works as they will be built in units	\$490,000.00
Back Up Computer Room	\$0	Funds for this item have been allocated as a separate item within the 2006/07 budget. The combining of this project with the depot project was considered appropriate from a cost and location perspective	\$200,000.00
Project Contingency	\$200,000.00	Project Contingency is based on the Project Budget and is used for contract variations throughout construction	\$290,000.00
<b>TOTAL</b>	<b>\$5,000,000.00</b>		<b>\$6,700,000.00</b>

## ATTACHMENTS

Attachment 1            Site plan of new Works Depot

## VOTING REQUIREMENTS

Absolute majority.

**MOVED Cr McLean SECONDED Cr Fishwick that Council:**

- 1 NOTES the progress of the development of a new Works Depot on land leased from the Water Corporation known as Beenyup on Ocean Reef Road, Craigie;**
- 2 APPROVES a revised project budget of up to \$6,700,000.**

Discussion ensued.

**The Motion was Put and**

**CARRIED BY AN  
ABSOLUTE MAJORITY (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 11 refers*

*To access this attachment on electronic document, click here: [Attach11brf141106.pdf](#)*

<b>Name/Position</b>	<b>Mr Garry Hunt – Chief Executive Officer</b>
<b>Item No/Subject</b>	<b>CJ218-11/06 - Tender 010-06/07 Construction of Car Park, Lot 6 Lawley Court, Joondalup – [77593]</b>
<b>Nature of interest</b>	<b>Interest that may affect impartiality</b>
<b>Extent of interest</b>	<b>Recommended tenderer is a former client.</b>

## **CJ218 - 11/06 TENDER 010-06/07 CONSTRUCTION OF CAR PARK, LOT 6 LAWLEY COURT, JOONDALUP – [77593]**

**WARD:** All

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

CJ061121\_BRF.DOC:ITEM 14

### **PURPOSE**

This report is submitted to Council to consider the outcome of tender 010-06/07 for the construction of a car park located at Lot 6 Lawley Court, Joondalup.

### **EXECUTIVE SUMMARY**

Tenders were advertised on 23 September 2006 through statewide public notice for the Construction of a 245 bay car park on Lot 6 Lawley Court, Joondalup. Tenders closed on 16 October 2006 and one submission was received, being:

- Works Infrastructure Pty Ltd

It is recommended, in relation to tender number 010-06/07, that Council:

- 1 *ACCEPTS the tender submitted by Works Infrastructure for the construction of a Car Park on Lot 6 Lawley Court, Joondalup at a Lump Sum Price of \$683,560.16 excluding GST;*
- 2 *AUTHORISES the Chief Executive Officer, on behalf of the City, to enter into a contract with Works Infrastructure Pty Ltd in accordance with their submitted tender and to approve any variations under the terms of the Contract to a maximum of \$100,000.*

## **BACKGROUND**

On 29 August 2006 (CJ151–08/06) Council approved the purchase of Lot 6 Lawley Court for the purpose of a car park to service the expanding requirements of the community.

The City has subsequently programmed the construction of the car park to be completed early 2007.

## **DETAILS**

Tenders were advertised on 23 September 2006 through statewide public notice for the Construction of a Car Park on Lot 6 Lawley Court, Joondalup. Tenders closed on 16 October 2006 and one submission was received, being:

- Works Infrastructure Pty Ltd for \$683,560.16 (exclusive of GST).

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 submission met all the essential requirements and was carried forward into the second part of the evaluation process, which 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 submission 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 the submission.

Notwithstanding that there was only one tender, it was still 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 Evaluation Panel considered the tender submitted by Works Infrastructure Pty Ltd to be reasonable in light of current market conditions, and should be put to Council for consideration without the need to re-tender.

The Selection Criteria for Tender Number 010-06/07 are 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, skills, specialised equipment, local infrastructure, after hours contacts and additional personnel and resources if required.

#### Safety management policy

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

#### 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

#### Quality Assurance

- Details of any Quality Assurance system
- Applicability to the Contract

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

3.1 To develop and maintain the City of Joondalup's Assets and Built Environment.

#### **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 \$250,000.

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

A comprehensive report was obtained from Dun and Bradstreet encompassing Commercial, Financial and Risk Evaluation matters. The report indicated that Works Infrastructure Pty Ltd achieved a dynamic score rating of 'low', which is in line with industry average. The dynamic score as compiled by Dun and Bradstreet, is a mechanism used to measure the degree of possible risk to an organisation and identify any exposure in entering into a contract with that organisation.

As Works Infrastructure Pty Ltd had a dynamic score rating as 'low', the evaluation panel considered that contracting with Works Infrastructure Pty Ltd represented minimal risk.

**Financial/Budget Implications:**

<b>Account No:</b>	Project Number M086
<b>Budget Item:</b>	Lot 6, Lawley Court Car Park
<b>Budget Amount:</b>	\$932,500.00
<b>Tender Price:</b>	\$683,560.16
<b>Council Direct Project Cost</b>	\$248,939.84

The amounts shown above are GST exclusive.

The City of Joondalup is a registered business entity for GST purposes and is able to claim an input tax credit for the amount of GST payable.

**Policy implications:**

The Joondalup City Centre Public Parking Strategy, adopted by Council at its meeting on 12 February 2002, foreshadowed the maximisation of at-grade off-street parking in the medium term to be followed by construction of multi-level parking stations in the longer term.

**Regional Significance:**

The City of Joondalup is recognised as the second major City Centre to Perth CBD. To ensure the continued growth of the City to meet the needs of the region, adequate support services and infrastructure will be required. This new car parking facility will cater for increasing numbers of tourists and members of the local community, which in turn will enhance the trading opportunities of local businesses.

**Sustainability implications:**

It is important that a balance be achieved between private and public transport needs. The City Centre is well served by public transport. In relation to private transport, there is a need to provide additional parking to ensure ongoing sustainability of business and community activities in the City Centre.

**Consultation:**

The Business Plan was available for public inspection and comment for the statutory period of six (6) weeks after a statewide public notice was lodged and was adopted and approved by Council at its meeting held on 29 August 2006.

**COMMENT**

The Evaluation Panel considered that Works Infrastructure Pty Ltd have the capability, appropriate infrastructure and resources to carry out the work on a value for money basis and in a competent and timely manner.

The Evaluation Panel therefore recommend Works Infrastructure Pty Ltd as the preferred tenderer.

**ATTACHMENTS**

Nil

**VOTING REQUIREMENTS**

Simple Majority

**MOVED Cr McLean SECONDED Cr Hollywood that Council in relation to Tender Number 010-06/07:**

- 1 ACCEPTS the tender submitted by Works Infrastructure for the construction of a Car Park on Lot 6 Lawley Court, Joondalup at a Lump Sum Price of \$683,560.16 excluding GST;**
- 2 AUTHORISES the Chief Executive Officer, on behalf of the City, to enter into a contract with Works Infrastructure Pty Ltd in accordance with their submitted tender and to approve any variations under the terms of the Contract to a maximum of \$100,000.**

**AMENDMENT MOVED Cr Fishwick SECONDED Cr Magyar that Point 1 of the motion be amended to read “.... a 245-bay Car Park ....”**

**The Amendment was Put and**

**CARRIED (10/0)**

**In favour of the Amendment:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

**The Original Motion, as amended, being:**

**That Council, in relation to Tender Number 010-06/07:**

- 1 ACCEPTS the tender submitted by Works Infrastructure for the construction of a 245-bay Car Park on Lot 6 Lawley Court, Joondalup at a Lump Sum Price of \$683,560.16 excluding GST;**
- 2 AUTHORISES the Chief Executive Officer, on behalf of the City, to enter into a contract with Works Infrastructure Pty Ltd in accordance with their submitted tender and to approve any variations under the terms of the Contract to a maximum of \$100,000.**

**Was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

## **CJ219 - 11/06 PROPOSED PARKING SCHEME AMENDMENT – NAMING AND DESIGNATION OF FORESHORE RESERVE PARKING STATIONS – [05787]**

**WARD:** North, North Central, Central, South-West, South

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

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CJ061121\_BRF.DOC:ITEM 15

### **PURPOSE**

To amend the City of Joondalup Parking Scheme by designating and naming car parks located on the City's Foreshore Reserve as Parking Stations in keeping with the provisions of the City's Parking Local Law (1998) and enable enforcement of the Parking Local Law therein.

### **EXECUTIVE SUMMARY**

The City has a total of seventeen (17) car parking facilities of varying parking bay capacity located along the Ocean Foreshore Reserve, stretching from Burns Beach to Marmion.

With the exception of the Ocean Reef Boat Harbour Parking Station, these City parking facilities have not been designated as Parking Stations in keeping with the provisions of the City's Parking Local Law (1998).

It is also considered good practice to name each parking station after its location, street or significant natural or built feature. This will assist in ready identification of each parking station and help avoid any confusion as to what parking station is being referred to.

In order to ensure that parking may be effectively managed and regulated within the City's Ocean Foreshore parking stations and that they can be readily identifiable, it is recommended that Council:

AMENDS the City of Joondalup Parking Scheme in accordance with Clause 18 of the City's Parking Local Law (1998) by naming and designating the following public car parks as Parking Stations.

- (1) Burns Beach Parking Station, Burns Beach;
- (2) Iluka Foreshore Parking Station, Iluka;
- (3) Ocean Reef Road Parking Station, Ocean Reef;
- (4) Ocean Reef Boat Harbour Parking Station, Ocean Reef;
- (5) Key West Parking Station, Mullaloo;
- (6) Westview Parking Station, Mullaloo;
- (7) Tom Simpson Parking Station, Mullaloo;
- (8) Mullaloo Beach Parking Station, Mullaloo;

- (9) Northshore Drive Parking Station, Kallaroo;
- (10) Whitfords Avenue Parking Station, Kallaroo;
- (11) Pinnaroo Point Parking Station, Hillarys;
- (12) Hillarys Animal Exercise Beach Parking Station, Hillarys;
- (13) Whitfords Nodes Parking Station, Hillarys;
- (14) Sorrento Beach Parking Station (North), Sorrento;
- (15) Sorrento Beach Parking Station (South), Sorrento;
- (16) Clontarf Street Parking Station, Sorrento;
- (17) Gull Street Parking Station, Marmion.

## **BACKGROUND**

During the summer months usage of the public car parking facilities located along the City's Coastal Foreshore Reserve is high. There are several popular beaches, businesses, sporting and lifesaving clubs that attract large numbers of people and the available parking facilities are heavily used. It is important that the City can effectively manage and enforce the provisions of the Parking Local Law within the public parking facilities in the interests of safety for users.

The City's Parking Local Law requires that public parking facilities be designated as parking stations and provides for the management of such parking stations. While several parking facilities have been designated as parking stations the majority have not. In addressing this matter it is also appropriate that the parking stations be named so they can be easily distinguished and identified. It is common and good practice that the names given to parking stations be either street addresses, or be after natural geographical features or constructed facilities and locations that the parking stations have been provided for motorists to use when they visit those locations. The proposed parking station names have been identified on this basis.

## **DETAILS**

The naming of all parking facilities that support the activities at various locations along the coastal foreshore reserve is considered a positive step that should assist the City and all users of those facilities. The designation of the parking facilities as Parking Stations, will allow for the effective management of those facilities in the interests of safety.

### **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: 3.3                      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 the Local Government Act (1995), Section 3.12 Procedure for making local laws. The Parking Local Law at Clause 18 provides for the City by resolution, to establish, determine and vary from time to time and indicate by signs, parking stations and the management of such stations.

**Risk Management considerations:**

Should the coastal foreshore parking facilities remain as not designated Parking Stations, the City will not be able to enforce the provisions of the City's Parking Local Law. With the increased use of these parking facilities, it has been demonstrated that some motorists will park in areas that compromise the sight lines for approaching vehicles, which could lead to accidents.

**Financial/Budget Implications:**

Adoption by Council of the recommendation will require the erection of signs to clearly identify the City of Joondalup Foreshore Parking Stations. Estimated cost is \$5,000.00.

<b>Account No:</b>	1.7230.4615.0529.9999
<b>Budget Item:</b>	Parking Control Signs
<b>Budget Amount:</b>	\$68,090.00
<b>YTD Amount:</b>	\$17,583.00
<b>Actual Cost:</b>	\$ 5,000.00

**Policy implications:**

Not Applicable

**Regional Significance:**

The beaches along the City's coastline are an important regional facility that attract large numbers of people for swimming and other recreational pursuits particularly during the summer months. Sorrento and Mullaloo beaches are very popular and are supported by Surf Lifesaving Clubs. The Hillarys Animal Exercise area comprises a large dog beach and a horse exercise area.

In addition to the beaches, there are several businesses, clubs and public facilities located along the coast including Burns Beach Café, Whitfords Sailing Club, Mullaloo Tavern, Hillarys Marina Shopping complex and Marmion Angling and Aquatic Club that also provide services to the public.

**Sustainability implications:**

Not Applicable

**Consultation:**

The Presidents of both Mullaloo and Sorrento Surf Life Saving Clubs have been contacted in relation to this matter and have indicated their support for formalised parking stations and the suggested names.

The main reasons for the proposed amendment of the City's Parking Scheme is to enable the provisions of the Parking Local Law to be effectively enforced within the parking stations along the foreshore reserve and to give those parking stations names that logically identify them with their location. These reasons are considered more of an administrative nature that has little impact on the public.

It is also recognised that there is a reasonable public expectation that having provided the parking facilities for their use, the City would be able to effectively manage those facilities.

### **COMMENT**

The recent development of the City's coastal strip at Sorrento Beach, Mullaloo and popularity of the Burns Beach Café are some factors that have lead to an increase in public usage of the parking facilities located along the City's Foreshore Reserve. It is expected that parking demand along the City's coastline will increase as usual during the summer months. These factors require the to be able to manage the parking facilities in the interests of safety. Designation of parking stations and applying appropriate names to these facilities will assist in the on-going effective management by the City.

### **ATTACHMENTS**

Attachment 1            City of Joondalup Foreshore Parking Station Location Schedule

### **VOTING REQUIREMENTS**

Simple Majority

**MOVED Cr Magyar SECONDED Cr Hart that Council AMENDS the City Of Joondalup Parking Scheme in accordance with Clause 18 of the City's Parking Local Law (1998) by naming and designating the following public car parks as parking stations forming Attachment 1 to Report CJ219-11/06.**

- 1     Burns Beach Parking Station, Burns Beach;**
- 2     Iluka Foreshore Parking Station, Iluka;**
- 3     Ocean Reef Road Parking Station, Ocean Reef;**
- 4     Ocean Reef Boat Harbour Parking Station, Ocean Reef;**
- 5     Key West Parking Station, Mullaloo;**
- 6     Westview Parking Station, Mullaloo;**
- 7     Tom Simpson Parking Station, Mullaloo;**
- 8     Mullaloo Beach Parking Station, Mullaloo;**
- 9     Northshore Drive Parking Station, Kallaroo;**
- 10    Whitfords Avenue Parking Station, Kallaroo;**
- 11    Pinnaroo Point Parking Station, Hillarys;**
- 12    Hillarys Animal Exercise Beach Parking Station, Hillarys;**

- 13 **Whitfords Nodes Parking Station, Hillarys;**
- 14 **Sorrento Beach Parking Station (North), Sorrento;**
- 15 **Sorrento Beach Parking Station (South), Sorrento;**
- 16 **Clontarf Street Parking Station, Sorrento;**
- 17 **Gull Street Parking Station, Marmion.**

**AMENDMENT MOVED Cr Fishwick SECONDED Cr Currie that Point 17 of the Motion be amended to read “Cliff Coleman Parking Station, Marmion”.**

Discussion ensued.

**The Amendment was Put and**

**CARRIED (10/0)**

**In favour of the Amendment:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

**The Original Motion, as amended, being:**

**That Council AMENDS the City Of Joondalup Parking Scheme in accordance with Clause 18 of the City’s Parking Local Law (1998) by naming and designating the following public car parks as parking stations forming Attachment 1 to Report CJ219-11/06.**

- 1 **Burns Beach Parking Station, Burns Beach;**
- 2 **Iluka Foreshore Parking Station, Iluka;**
- 3 **Ocean Reef Road Parking Station, Ocean Reef;**
- 4 **Ocean Reef Boat Harbour Parking Station, Ocean Reef;**
- 5 **Key West Parking Station, Mullaloo;**
- 6 **Westview Parking Station, Mullaloo;**
- 7 **Tom Simpson Parking Station, Mullaloo;**
- 8 **Mullaloo Beach Parking Station, Mullaloo;**
- 9 **Northshore Drive Parking Station, Kallaroo;**
- 10 **Whitfords Avenue Parking Station, Kallaroo;**
- 11 **Pinnaroo Point Parking Station, Hillarys;**
- 12 **Hillarys Animal Exercise Beach Parking Station, Hillarys;**
- 13 **Whitfords Nodes Parking Station, Hillarys;**
- 14 **Sorrento Beach Parking Station (North), Sorrento;**



**15 Sorrento Beach Parking Station (South), Sorrento;**

**16 Clontarf Street Parking Station, Sorrento;**

**17 Cliff Coleman Parking Station, Marmion.**

**Was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 23 refers*

*To access this attachment on electronic document, click here: [Attach23agn211106.pdf](#)*

**CJ220 - 11/06      PARKING                      PROHIBITIONS                      OCEANSIDE  
PROMENADE, MULLALOO – [02111]**

**WARD:** All

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

CJ061121\_BRf.DOC:ITEM 16

**PURPOSE**

To amend the City of Joondalup Parking Scheme in accordance with Clause 33 of the City's Parking Local Law (1998) by implementing parking prohibitions at Oceanside Promenade, Mullaloo.

**EXECUTIVE SUMMARY**

The refurbishment of the Mullaloo Tavern at Oceanside Promenade has created a general increase in patronage for this business. A consequence of the increased patronage has been an increase in the number of vehicles that pull up onto the paved verge area at the front of the tavern for deliveries, drop off of patrons and servicing.

The existing parking prohibition on Oceanside Promenade currently only prohibits parking on the carriageway. To discourage parking on the paved area,

*It is recommended that Council:*

- 1 AMENDS the City of Joondalup Parking Scheme in accordance with Clause 33 of the City's Parking Local Law (1998) by changing the current parking prohibitions on Oceanside Promenade, Mullaloo as follows:*

*Removal of existing parking prohibitions applicable to the carriageway only at Oceanside Promenade and replace them with "No stopping anytime carriageway or verge" prohibitions on the east and west sides of Oceanside Promenade as shown on Attachment 1 to Report CJ-11/06;*

- 2 *NOTES that the City will be entering into negotiations with the owner of the Mullaloo Tavern in relation to the provision of suitable traffic barriers adjacent to the development.*

## **BACKGROUND**

Since the official opening of the refurbished Mullaloo Tavern in October 2005, the City has received a total of 66 complaints directly relating to vehicles parking on the footway outside this establishment.

The area has been subject to an on-going parking enforcement program undertaken by the City. The City's patrols have been conducted throughout the summer months when public usage of the City's parking stations adjacent to Tom Simpson Park are at their highest.

## **DETAILS**

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

The parking of taxis, commercial and private vehicles on the paved area outside the Mullaloo Tavern has created safety concerns for both pedestrians and traffic. The implementation of the recommended parking prohibitions to apply to the verge on Oceanside Promenade will discourage motorists from parking at this location and enable the City to enforce the prohibition thereby addressing the matter.

The installation of a traffic barrier will assist in the prevention of vehicular access on the pavement outside the Mullaloo Tavern.

### **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 3.3 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 the Local Government Act (1995).

### **Risk Management considerations:**

Not Applicable

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

<b>Account No:</b>	1.7230.4615.052 9.9999
<b>Budget Item:</b>	Signs
<b>Budget Amount:</b>	\$68,090
<b>YTD Amount:</b>	\$17,583
<b>Actual Cost:</b>	\$780.00

### **Policy implications:**

Not Applicable

**Regional Significance:**

Not Applicable

**Sustainability implications:**

Not Applicable

**Consultation:**

The City has received a total of 66 contacts from residents in relation to the unauthorised parking of vehicles on Oceanside Promenade outside the Mullaloo Tavern.

**COMMENT**

The recommendation to prohibit parking on the verge areas of Oceanside Promenade will assist in addressing current concerns and encourage motorists to park their vehicles in the car park provided by the Mullaloo Tavern or the public car park located adjacent to Tom Simpson Park.

**ATTACHMENTS**

Attachment 1            Drawing E1642-1-0 indicating the location of the recommended parking restrictions on Oceanside Promenade.

**VOTING REQUIREMENTS**

Simple Majority

**MOVED Cr Magyar SECONDED Cr John that Council:**

- 1        AMENDS the City of Joondalup Parking Scheme in accordance with Clause 33 of the City's Parking Local Law (1998) by changing the current parking prohibitions on Oceanside Promenade, Mullaloo as follows:**

**Removal of existing parking prohibitions applicable to the carriageway only at Oceanside Promenade and replace them with "No stopping anytime carriageway or verge" prohibitions on the east and west sides of Oceanside Promenade as shown on Attachment 1 to Report CJ220-11/06;**

- 2        NOTES that the City will be entering into negotiations with the owner of the Mullaloo Tavern in relation to the provision of suitable traffic barriers adjacent to the development.**

**AMENDMENT MOVED** Cr Corr that Point 2 of the Motion be deleted and the following points 2 and 3 be added to the motion:

- "2        that Council requests a safety audit be undertaken to consider additional traffic/pedestrian measures, including but not limited to, kerbside railings along Oceanside Promenade between Mullaloo Drive and Marjorie Street;**
- 3        that the City negotiates with the owner of the Mullaloo Tavern in relation to contributing to the cost of the safety audit recommendations."**

The Mayor advised that in his opinion the amendment was a significant departure from the motion before Council and ruled the Amendment **OUT OF ORDER**

**AMENDMENT MOVED Cr John SECONDED Cr Magyar that an additional Point 3 be added to the Motion to read:**

**“3 REQUESTS a report on traffic and pedestrian safety issues be submitted to Council addressing the area of Oceanside Promenade between Marjorie Street and Mullaloo Drive.”**

Discussion ensued.

**The Amendment was Put and**

**CARRIED (10/0)**

**In favour of the Amendment:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

**The Original Motion, as amended, being:**

**That Council:**

**1 AMENDS the City of Joondalup Parking Scheme in accordance with Clause 33 of the City’s Parking Local Law (1998) by changing the current parking prohibitions on Oceanside Promenade, Mullaloo as follows:**

**Removal of existing parking prohibitions applicable to the carriageway only at Oceanside Promenade and replace them with “No stopping anytime carriageway or verge” prohibitions on the east and west sides of Oceanside Promenade as shown on Attachment 1 to Report CJ220-11/06;**

**2 NOTES that the City will be entering into negotiations with the owner of the Mullaloo Tavern in relation to the provision of suitable traffic barriers adjacent to the development;**

**3 REQUESTS a report on traffic and pedestrian safety issues be submitted to Council addressing the area of Oceanside Promenade between Marjorie Street and Mullaloo Drive.**

Cr Hart requested that all Councillors receive a copy of the previous traffic analyses.

**Was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 12 refers*

*To access this attachment on electronic document, click here: [Attach12agn211106.pdf](#)*

## **CJ221 - 11/06 PROPOSED PARKING PROHIBITIONS - KINROSS DRIVE, KINROSS – [00135]**

**WARD:** All

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

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CJ061121\_BRF.DOC:ITEM 17

### **PURPOSE**

To amend the City of Joondalup Parking Scheme by the introduction of a “NO STOPPING” parking prohibition on Kinross Drive adjacent to Kinross Primary School.

### **EXECUTIVE SUMMARY**

Residents of Kinross are seeking to restrict parking at the intersection of Kinross Drive and Edinburgh Avenue adjacent to the Kinross Primary School to alleviate parking congestion problems associated with parent parking.

As such it is recommended that Council AMENDS the City of Joondalup Parking Scheme in accordance with Clause 33 of the City’s Parking Local Law (1998).

### **BACKGROUND**

Several meetings were held with a resident of Kinross and City representatives. On behalf of some residents of Kinross, the resident expressed concerns with parking congestion problems in Kinross Drive, Kinross.

It was requested that a parking prohibition be implemented in Kinross Drive.

### **DETAILS**

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

Kinross Primary School is bounded by Kinross Drive and Callander Avenue. Kinross Drive and Callander Avenue provide a car park access to the school. Vehicle speed is restricted to 40km/h during school peak times, 7:30am-9am and 2:30pm-4pm on school days. During these times, the corner of Kinross Drive and Edinburgh Avenue is used for parent parking, resulting in this intersection becoming congested, restricting normal traffic flow and reducing the level of pedestrian safety.

The local community is concerned that parent parking at this location on Kinross Drive restricts the normal traffic flow, making it hazardous for students and other pedestrians crossing Edinburgh Avenue. The nature of parent parking on Kinross Drive is normally non-uniform and therefore can create obstructions from time to time. While this creates a desirable low speed environment it invariably leads to driver and parent frustration and reduced level of pedestrian safety. As there is a guard control crossing on Edinburgh Avenue with sight distance issues it is essential to have no vehicles parking in this area.

In view of this, to prevent parking on the corner of Kinross Drive and Edinburgh Avenue it is proposed to implement a “NO STOPPING” prohibition. The “NO STOPPING” prohibition will be delineated by a continuous yellow edge line in conjunction with “NO STOPPING” signage. This type of prohibition has been used effectively at other schools within the City. The proposed parking prohibition is shown on Attachment 1.

**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:* 1.4 to work with the community to enhance safety and security in a healthy environment.

*Strategy:* 1.4.2 contribute to the protection of human health.

**Legislation – Statutory Provisions:**

The City of Joondalup Parking Local Law 1998 was made in keeping with the requirements of the Local Government Act (1995):

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 time or at 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:**

Not Applicable.

**Financial/Budget Implications:**

The cost to erect the necessary signage is approximately \$150 each, and sufficient funds exist in the maintenance operational budget for this work to occur.

**Policy implications:**

Not Applicable.

**Regional Significance:**

Not Applicable.

**Sustainability implications:**

Not Applicable.

**Consultation:**

The adjacent residents directly affected by the proposed prohibition, as outlined in Attachment 1, were consulted. All residents supported the proposed prohibition.

In addition, Kinross Primary School has been consulted in relation to this issue.

**COMMENT**

The proposal to prohibit stopping at the intersection of Kinross Drive and Edinburgh Avenue adjacent to the school as per Attachment 1, will maintain the general traffic flow at all times and therefore increase the level of safety and access during school peak times for all road users.

On-street parking is provided on the school side of Callander Avenue for drop off and pick up area for parents. An off-street car park is also provided for parent motorists to drop-off and pick-up students.

On this basis, it is recommended that the proposed parking prohibition be supported.

**ATTACHMENTS**

Attachment 1                      Parking Prohibition – Kinross Drive, Kinross

**VOTING REQUIREMENTS**

Simple majority.

**MOVED Cr Hollywood SECONDED Cr McLean that Council AMENDS the Parking Prohibition Scheme for Kinross Drive, Kinross as shown on Attachment 1 to Report CJ221-11/06.**

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 13 refers*

*To access this attachment on electronic document, click here: [Attach13brf141106.pdf](#)*

## **CJ222 - 11/06 MINUTES OF THE CONSERVATION ADVISORY COMMITTEE MEETING HELD 27 SEPTEMBER 2006 – [12168]**

**WARD:** All

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

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CJ061121\_BRF.DOC:ITEM 18

### **PURPOSE**

To submit the unconfirmed minutes of the Conservation Advisory Committee Meeting held on 27 September 2006 for endorsement by Council.

### **EXECUTIVE SUMMARY**

The intention of this report is to inform Council of the proceedings of the Conservation Advisory Committee meeting held on 27 September 2006.

A number of items were considered at the meeting and included the development of a "Grow Local Plants" brochure that would replace the "Approved Plant Material List" that the City currently distributes to residents to assist them when landscaping their verges and gardens. The Committee also discussed the holding of a number of future workshops to assist in the development of a Biodiversity plan for the City, other suggested topics for these proposed workshops are the further development of a Signature Species List for the City, this is a list of plants that would be used in Joondalup's suburbs to give that suburb an individual landscape character.

The Committee also wished to develop further the list of plants the City distributes to residents to assist them with the landscaping of their individual verge areas.

*It is recommended that Council:*

- 1 *NOTES the unconfirmed minutes of the Conservation Advisory Committee meeting held on 27 September 2006 forming Attachment 1 to Report CJ-11/06;*
- 2 *DEVELOPS a landscape master plan for the City's Public Spaces. The Master Plan would develop a vision, and as an integral component of the master planning exercise it would consider public consultation, landscape themes, plant species, location specific issues, irrigation availability and long-term maintenance;*
- 3 *LISTS FOR CONSIDERATION as part of the 2006-2007 Mid Year Budget Review sufficient funds to develop a Master Plan for the City's Public Spaces.*

### **BACKGROUND**

The Conservation Advisory Committee is a Council Committee that advises Council on issues relating to biodiversity and the management of natural areas within the City of Joondalup. The Conservation Advisory Committee meets on a monthly basis.



The Committee membership comprises of five Councillors, a representative from each of the City's Bushland Friends Groups and community members with specialist knowledge of biodiversity issues.

#### **DETAILS**

At the 27 September 2006 meeting of the Conservation Advisory Committee there was one report submitted titled Workshop- Approved Plant Material List.

Members considered a City generated document titled "Approved Plant Material List", this document is available on the City's Web Site and is distributed to residents upon request, it contains lists of both Australian and overseas plant species, with additional information pertaining to each species. Members examined and discussed the document in detail and concluded that it should be replaced by a publication produced by the North Metro Catchment Groups entitled "Grow Local Plants Brochure" that contains far more local plant species than the City's publication.

Members also recommended that the City utilise the list as a basis for its landscaping projects with the ultimate aim of utilising more plants from the Joondalup area in its public landscapes.

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

Not Applicable

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

##### Key Focus Area

Caring for the environment.

##### Outcomes

The City is environmentally responsible in its activities.

##### Objectives

To plan and manage the City's natural resources to ensure environmental sustainability.

##### Strategies

- 2.1.1 Maintain and protect natural assets to retain biodiversity.
- 2.1.2 Further develop environmentally effective and energy-efficient programs.
- 2.1.3 Develop a coordinated environmental framework, including community education.

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

The Local Government Act 1995 allows a council to establish committees to assist a council to exercise the powers and discharge duties that can be delegated to a committee.

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

Not Applicable

**Financial/Budget Implications:**

To produce a Landscape Master Plan for the City would cost approximately \$50,000. No funds have been allocated in the 2006/2006 budget for the Master Plan to be produced, however this funding should be considered in the 2006/2007 mid year budget review.

**Policy implications:**

Not Applicable

**Regional Significance:**

Not Applicable

**Sustainability implications:**Environmental

Conservation Advisory Committee objective - "To make recommendations to Council for the Conservation of the City's natural biodiversity".

Social

To promote partnerships between Council and the Community to protect the City's natural biodiversity as contained within its various natural areas (bushland, wetlands and the coastal environment).

**Consultation:**

The Conservation Advisory Committee provides a forum for community consultation and engagement on natural areas.

**COMMENT**

It is noted that the majority of plants currently depicted on the City's planting list are native species, notwithstanding this, a review is supported that gives due consideration and includes public input to guide Council in determining a community wide acceptable outcome.

In doing so it would be appropriate to develop an overall landscape master plan that involves a vision and scoping exercise which takes into consideration existing planting, landscaping themes, location specific issues, water availability, long term maintenance obligations and appropriate public consultation.

The development of suitable criteria and guidelines to assist the City implementing the adopted landscape master plan throughout the City is an essential part of the master planning exercise which can be dealt with by the Council with input from the advisory committees.

The subject of plant selection both for the City's landscape use, and as a guide to residents wishing to plant their verges has been the subject of discussion at recent CAC Meetings. Members have expressed a range of views, some wishing only to plant species that are local to Joondalup, others expressed a wish to plant a wider range of Australian species.

The commonality that occurs within this range of viewpoints is a goal to conserve the State's limited ground water resources through the use of plants that have a very low water requirement. It is suggested that by fully exploring this complex issue through the development of a landscape master plan, the best environmental and sustainability outcomes in the long term can be achieved.

## **ATTACHMENTS**

Attachment 1 Minutes of 27 September 2006 meeting of the Conservation Advisory Committee.

## **VOTING REQUIREMENTS**

Simple Majority

### **MOVED Cr Magyar SECONDED Cr John that Council:**

- 1 NOTES the unconfirmed minutes of the Conservation Advisory Committee meeting held on 27 September 2006 forming Attachment 1 to Report CJ222-11/06;**
- 2 DEVELOPS a landscape master plan for the City's Public Spaces. The Master Plan would develop a vision, and as an integral component of the master planning exercise it would consider public consultation, landscape themes, plant species, location specific issues, irrigation availability and long-term maintenance;**
- 3 LISTS FOR CONSIDERATION as part of the 2006-2007 Mid Year Budget Review sufficient funds to develop a Master Plan for the City's Public Spaces.**

Discussion ensued.

**AMENDMENT MOVED Cr Hart SECONDED Cr Corr that an additional Point 4 be added to the Motion, to read:**

- "4 ACKNOWLEDGES the work of the Conservation Advisory Committee and apologises for the lack of recognition of the group in the Annual Report, thanks Dr M Apthorpe for drawing Council's attention to the omission and requests the Chief Executive Officer to ensure all Committees, Community Groups and Volunteers are recognised for their fine contribution in the Annual Report."**

Discussion ensued.

**The Amendment was Put and**

**CARRIED (10/0)**

**In favour of the Amendment:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

**The Original Motion, as amended, being:**

**That Council:**

- 1 NOTES the unconfirmed minutes of the Conservation Advisory Committee meeting held on 27 September 2006 forming Attachment 1 to Report CJ222-11/06;**

- 2 **DEVELOPS** a landscape master plan for the City's Public Spaces. The Master Plan would develop a vision, and as an integral component of the master planning exercise it would consider public consultation, landscape themes, plant species, location specific issues, irrigation availability and long-term maintenance;
- 3 **LISTS FOR CONSIDERATION** as part of the 2006-2007 Mid Year Budget Review sufficient funds to develop a Master Plan for the City's Public Spaces;
- 4 **ACKNOWLEDGES** the work of the Conservation Advisory Committee and apologises for the lack of recognition of the group in the Annual Report, thanks Dr M Apthorpe for drawing Council's attention to the omission and requests the Chief Executive Officer to ensure all Committees, Community Groups and Volunteers are recognised for their fine contribution in the Annual Report.

**Was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 14 refers*

*To access this attachment on electronic document, click here: [Attach14brf141106.pdf](#)*

## **CJ223 - 11/06 PROPOSED REPEALING OF TOWN PLANNING SCHEME NO 6 – GREENWOOD – [08771]**

**WARD:** South East  
**RESPONSIBLE DIRECTOR:** Mr Clayton Higham  
Planning and Community Development

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CJ061121\_BRIF.DOC:ITEM 19

### **PURPOSE**

The purpose of this report is for Council to consider repealing Town Planning Scheme No. 6 (TPS6).

### **EXECUTIVE SUMMARY**

TPS6 was gazetted in April 1972 and covered a 120 hectare portion of Greenwood bounded by Hepburn Avenue, Wanneroo Road, Warwick Road and Cockman Road.

TPS6 is a guided development scheme that facilitated the subdivision of several small rural landholdings into residential sized lots. TPS6 is now no longer required as all land has been developed and all necessary scheme costs paid.

Section 74 of the Planning and Development Act 2005 allows the Local Government to repeal a local planning scheme where it is no longer required.

It is recommended that Council resolves to repeal TPS6.

## **BACKGROUND**

At its meeting 31 October 2006, Council resolved to defer consideration of this matter.

TPS6 was gazetted in April 1972 and covered an area of approximately 120 hectares bounded by Hepburn Avenue, Wanneroo Road, Warwick Road and Cockman Road.

TPS6 was a guided development scheme that facilitated the development of several small rural landholdings into a residential subdivision and set out landowner contributions, scheme costs, subdivision requirements and the provision of roads, drainage reserves, reticulated water & sewerage, school sites and Public Open Space for the suburb of Greenwood.

The general objectives of TPS6 were;

- To coordinate subdivision and development of the land within the Scheme Area;
- To plan suitable roads;
- To ensure the proper drainage of the roads or other such works.
- To make provision for the creation of drainage reserves and easements.
- To ensure the provision of reticulated water to and throughout the Scheme Area.
- To connect landholdings to sewer, and provide for sewerage works and facilities both within and outside the Scheme Area, where necessary;
- To make provision for Public Open Space.
- To make provision for Schools.

The area was progressively developed generally for residential purposes, with development having been finalised in the early 1990s. Administration of the scheme is therefore complete, with all remaining funds being disbursed and finalised through deed of releases with all TPS6 landowners in 1999.

A copy of TPS6 has been placed in the Councillors reading room for perusal.

## **DETAILS**

Section 74 of the Planning and Development Act 2005 allows a local government to repeal a local planning scheme.

The development of the TPS6 area is now complete and on this basis, it is proposed that TPS6 be repealed.

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

The options available to Council in considering the repealing of TPS6 are:

- Adopt the repeal of TPS6, execute the repeal notice and forward it to the WAPC or,
- Refuse the TPS6 repeal.

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

The recommendation in this report is not linked to the objectives and strategies of the City's Strategic Plan 2003 – 2008.

**Legislation – Statutory Provisions:**

Section 74 of the Planning and Development Act 2005 states that a local planning scheme may be repealed by a subsequent local planning scheme or an instrument of repeal prepared by the Local Government, approved by the Minister and published in the Gazette.

**Risk Management considerations:**

There are no apparent risks associated with repealing TPS6.

**Financial/Budget Implications:**

As no monies are held in the TPS6 account, there are considered to be no financial or budget implications associated with repealing TPS6.

**Policy implications:**

Not Applicable.

**Regional Significance:**

Not Applicable.

**Sustainability implications:**

The repeal of TPS6 has no sustainability implications.

**Consultation:**

There is no legislative requirement for the City to publicly advertise the proposed repeal of TPS6, however, should the Minister grant approval, a notice must be published in the Government Gazette.

**COMMENT**

All subdivision and development within the area of Greenwood that were previously controlled by the provisions of TPS6 have now been completed.

Administration of the scheme is also complete, with all remaining funds having been disbursed. These administrative and financial actions were finalised through deeds of release between the then City of Wanneroo and all TPS6 landowners.

TPS6 is therefore no longer required and should be repealed.

**ATTACHMENTS**

Nil

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION:** That Council:

- 1 NOTES that Deeds of Release were signed by all landowners who developed under Town Planning Scheme No. 6 – Greenwood Scheme and that there are no surplus funds to be disbursed or other monies owing in relation to this Scheme;
- 2 REPEALS Town Planning Scheme No. 6 – Greenwood Scheme and authorises the signing and the affixation of the Common Seal to the repeal notice.

**MOVED Cr Hart SECONDED Cr Corr** that Council DOES NOT repeal Town Planning Scheme No 6 – Greenwood Scheme, however notes that as all development has been completed in accordance with the Scheme, and for all intents and purposes, the provisions of the scheme are no longer in effect.

Discussion ensued.

**AMENDMENT MOVED Cr Evans SECONDED Cr Magyar** that an additional Point 2 be added to the Motion, to read:

- “2 NOTES that Deeds of Release were signed by all landowners who developed under Town Planning Scheme No. 6 – Greenwood Scheme and that there are no surplus funds to be disbursed or other monies owing in relation to this Scheme.”

**The Amendment was Put and**

**TIED (5/5)**

**There being an equal number of votes, the Mayor exercised his casting vote and declared the Amendment**

**LOST**

**In favour of the Amendment:** Crs Magyar, John, Evans, Hart, and Corr **Against the Amendment:** Mayor Pickard, Crs McLean, Hollywood, Fishwick and Currie

Mayor Pickard foreshadowed his intention to move a different motion should the motion under consideration not be successful.

Discussion resumed on the Motion.

**The Motion as Moved by Cr Hart and Seconded by Cr Corr was Put and**

**TIED (5/5)**

**There being an equal number of votes, the Mayor exercised his casting vote and declared the Motion**

**LOST**

**In favour of the Motion:** Crs Magyar, John, Evans, Hart, and Corr **Against the Motion:** Mayor Pickard, Crs McLean, Hollywood, Fishwick and Currie

**MOVED Mayor Pickard SECONDED Cr Magyar that the repealing of Town Planning Scheme No 6 – Greenwood Scheme be referred for consideration as part of the review of District Planning Scheme No. 2.**

The following reasons were given for departing from the officer's recommendation:

- There is a need for further community education and engagement.
- After due consideration the Council agreed it would be more appropriate for this matter to be dealt with under the Review of the District Planning Scheme, rather than repealing TPS6 independently.

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

**CJ224 - 11/06 CLOSE OF ADVERTISING - PROPOSED REVOCATION OF CURRAMBINE VILLAGE STRUCTURE PLAN ON LOTS 9018 & 9019 BURNS BEACH ROAD, CURRAMBINE – [60560]**

**WARD:** All

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

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CJ061121\_BRF.DOC:ITEM 20

**PURPOSE**

The purpose of this report is for Council to consider public submissions in relation to the proposed revocation of the Currambine Village Structure Plan and to forward its decision to the Western Australian Planning Commission (WAPC).

**EXECUTIVE SUMMARY**

The Currambine Village Structure Plan (CVSP) was adopted by Council in December 2004 and relates to Lots 9018 and 9019 Burns Beach Road, Currambine. The CVSP area is bounded by Burns Beach Road, Connolly Drive, Currambine Boulevard, Sunlander Drive and Mistral Meander. The structure plan provides a road and lot layout to facilitate a medium density residential subdivision on the site.

The subject landowner has requested that the CVSP be revoked in order to facilitate an alternative form of development on the site, most likely an aged persons development. Under clause 9.7 of the City's District Planning Scheme No 2 (DPS2), a structure plan may be revoked by Council, subject to public advertising and the approval of the WAPC. Should the CVSP be revoked, the provisions of DPS2 would apply to the site.

Council considered the intention to revoke the CVSP at its meeting on 8 August 2006 and resolved to advertise the proposal for a period of 35 days.



The advertising period closed on 5 October 2006 during which time 4 submissions were received. The submissions queried the ultimate form of development that would occur on the site and raised concerns about possible development scenarios. Each of those concerns is analysed within the report.

It is recommended that Council agrees to revoke the CVSP and forwards the decision to the WAPC for its approval.

## BACKGROUND

<b>Suburb/Location:</b>	Lots 9018 & 9019 Burns Beach Road, Currambine
<b>Applicant:</b>	Masterplan
<b>Owner:</b>	Southern Cross Care (WA)
<b>Zoning:</b>	<b>DPS:</b> Residential/Mixed Use R80
	<b>MRS:</b> Urban
<b>Site Area:</b>	5.2 hectares
<b>Structure Plan:</b>	Currambine Village Structure Plan

The subject site comprises Lots 9018 and 9019 Burns Beach Road, Currambine and is bounded by Burns Beach Road, Connolly Drive, Currambine Boulevard, Sunlander Drive and Mistral Meander (see Attachment 1). The Currambine Railway Station is located to the east of the site.

The majority of the site is zoned 'Residential' under DPS2 with a small portion of the site fronting Sunlander Boulevard zoned 'Mixed Use'.

On 14 December 2004, the Council adopted the CVSP, with minor modifications, for the purpose of guiding residential development on the site (refer to item CJ337-12/04). The WAPC adopted and certified the structure plan on 18 May 2005.

A subdivision application to create 38 residential lots and one area of public open space (POS) on the site was approved by the WAPC in May 2005. The subdivision approval is valid for a three year period and to date it has not been acted on.

It should be noted that following the issuing of the subdivision approval, the landholding was transferred to a new owner.

## DETAILS

The CVSP is divided into two parts: Part 1 - Statutory Planning Section and Part 2 - Explanatory Report. Part 1 includes objectives and provisions for the development of Precincts A and B for residential purposes. No provisions are included for the development of the eastern portions of the subject site, shown as 'Future Development', that includes land zoned 'Mixed Use' (see Attachment 2).

The current landowner (Southern Cross Care) has advised of their intention to develop a predominantly aged persons' facility with associated land uses (see Attachment 3). The development is likely to include the following:

- Aged or dependant persons' dwellings
- Nursing home accommodation
- Development of the Mixed Use zoned portion of the site with complementary land uses.

The intended development is inconsistent with the CVSP, however these land uses could be considered under the provisions of DPS2.

### Resolution of Council

On 8 August 2006, Council resolved the following (CJ135-08/06 refers):

*“That Council ADVERTISES for 35 days its intention to consider revoking the Currambine Village Structure Plan, which will include letters to the landowners of all properties located within 100 metres of the boundary of the subject land in order to gauge the public comment on the proposal.”*

The advertising period has now closed and any submissions received are required to be considered by Council when making its decision on the proposal.

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

The options available to Council in considering the public submissions in terms of revocation of the CVSP are:

- Agree to the revocation and forward the decision to the WAPC for its approval.
- Refuse to agree to the revocation and require amendments to the existing structure plan to facilitate the intended future development of the site.
- Agree to the revocation, subject to the preparation of a new structure plan to facilitate the intended future development of the site.

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

The proposed amendments to the BBSP is supported by the following objective and strategy of the City’s Strategic Plan 2003-2008:

Objective 3.1	To develop and maintain the City of Joondalup’s assets and built environment.
Strategy 3.1.2	To facilitate the approval of all buildings and facilities within the City of Joondalup.

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

Clause 9.7 of DPS2 enables Council to revoke a structure plan, subject to public advertising and with the approval of the WAPC.

### **Risk Management considerations:**

Not Applicable.

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

Not Applicable.

### **Policy implications:**

Not Applicable.

### **Regional Significance:**

Revocation of the structure plan is unlikely to have any regional significance.

**Sustainability implications:**

The potential development of an aged persons' facility would provide a range of housing that is currently underprovided in the area. The site is also located close to the Currambine railway station, which allows opportunities to maximise use of public transport.

**Consultation:**

Clause 9.7 of DPS2 requires public advertising of a proposed revocation of a structure plan to occur. A minimum advertising period of 21 days is required, however, Council resolved at the meeting on 1 August 2006 to advertise its intention to consider the revocation for a period of 35 days (closed on 5 October 2006).

In accordance with this resolution, advertising comprised of notification in writing of all landowners within 100 metres of the site, 2 signs being erected on the site, a notice being placed in the Joondalup community newspaper and on the City's website.

A total of four submissions were received. One submission expressed support for the revocation but requested details regarding future development on the site. The other three submissions raised potential visual and privacy impacts from the possible future development of the site as a concern.

**COMMENT**Land Uses/Development Provisions

Should Council resolve to revoke the CVSP, the provisions of DPS2 will apply to the site.

The CVSP area has two zonings under DPS2. The majority of the site is zoned Residential with a density coding of R80, while a portion of the site located directly south of the existing service station on Burns Beach Road is zoned Mixed Use (see Attachment 1).

Table 1 of DPS2 (Land Use Table) controls land use permissibility throughout the City and specifies the types of uses that could potentially be approved on the subject site. A copy of Table 1 is included as Attachment 4.

The provisions of the Scheme, the R-Codes and any other relevant policies in relation to design elements such as building height, setbacks, open space, car parking, plot ratio would also apply to any residential development on the site.

In light of the above, a new structure plan is not considered necessary for the land.

Submissions

The concerns raised by 2 submitters relate to a desire for single storey development and the associated potential loss of privacy and views, concern that the proposed development would devalue surrounding properties, and a request regarding verge trees.

*Building Height*

The CVSP currently limits building height to a maximum wall height of 7 metres and roof ridge height of 9.5 metres, the equivalent of 2 storeys with or without a loft.

Should the structure plan be revoked, Council's policy 3-2 Height and Scale of Buildings Within a Residential Area would guide height controls on the residential zoned land. Two storey residential development is approvable under the City's height policy, and is currently a common form of development in residential areas.

### *Privacy, Views and Property Values*

Details of the future development are not available at this stage and a development application has not been submitted to the City.

Notwithstanding this, Element 8 of the R-Codes (Privacy) includes provisions for residential development in relation to adjoining residential properties. It is noted that the subject site is bounded entirely on 2 sides by roads, and partly by roads and a service station on the other sides, providing separation from surrounding residential properties.

When the City receives an application for development approval, under Clause 6.6 of DPS2, it may consult with the public and any landowners, occupiers of adjoining land or in the vicinity of the development site, should it be considered appropriate.

Given that the subject site is extensive, it is likely that any development application received for this site would be advertised.

With regard to a submitter requesting that trees be planted in the road verge opposite the site, the developer will need to provide a comprehensive landscaping plan as a part of the development application process. This would need to include any landscaping on road verges adjacent to the site.

In addition, one submitter has requested that the existing high brick fence (located at the corner of Connolly Drive and Currambine Boulevard extending for a portion of the length of the southern and western boundaries) be retained. This is an option that the new landowner may wish to exercise when considering the overall details of the future development and is not specifically related to the proposed revocation of the CVSP.

### Conclusion

The concerns raised by submitters relate to the future development of the site and are not directly related to the proposed revocation of the CVSP.

It is considered that DPS2 contains sufficient provisions to enable the future development of the site, which will most likely be for aged care purposes.

As there are adequate development provisions currently within DPS2 and the R-Codes, the option of providing a replacement structure plan would not provide a significantly different or a better outcome for development of the site.

Therefore, it is recommended that the CVSP be revoked and no new structure plan be prepared for the subject site.

### **ATTACHMENTS**

Attachment 1	Aerial/Location and Zoning Plan
Attachment 2	Currambine Village Structure Plan
Attachment 3	Concept Plan – Currambine Retirement Estate
Attachment 4	Table 1 (Land Use Table)
Attachment 5	Summary of submissions

### **VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION:** That Council:

- 1 NOTES the submissions received;
- 2 AGREES to REVOKE the Currambine Village Structure Plan and forwards the decision to the Western Australian Planning Commission for its approval; and
- 3 ADVISES submitters of its decision.

**MOVED Cr McLean SECONDED Cr Hollywood that Council:**

- 1 **NOTES the submissions received;**
- 2 **AGREES to REVOKE the Currambine Village Structure Plan and forwards the decision to the Western Australian Planning Commission for its approval; and**
- 3 **ADVISES submitters of its decision;**
- 4 **ADVISES the landowner of Lots 9018 & 9019 Burns Beach Road, Currambine, that future development of the site will require the preparation and adoption of an alternative structure plan prior to development approval being issued by the City.**

Discussion ensued.

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 15 refers*

*To access this attachment on electronic document, click here: [Attach15brf141106.pdf](#)*

**CJ225 - 11/06 RECONSIDERATION OF CONDITION OF PLANNING APPROVAL FOR PROPOSED ADDITIONS TO AN EXISTING MOBILE TELECOMMUNICATIONS FACILITY: LOT 11 (923) WHITFORDS AVENUE, WOODVALE – [08139]**

**WARD:** Central

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

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CJ061121\_BRF.DOC:ITEM 21

**PURPOSE**

To request Council to consider amending a condition of Planning Approval granted for an extension to an existing Mobile Telecommunications Facility (MTF) at 923 Whitfords Avenue, Woodvale (Woodvale Park Commercial Centre).

**EXECUTIVE SUMMARY**

A request has been received to amend Condition 1 of the Planning Approval granted for additions to an existing MTF, for use by Optus and Vodafone. The condition requires the submission of reports at 6 monthly intervals, confirming that the Electromagnetic Energy (EME) levels being emitted from the structure are in accordance with the relevant standards.

It is recommended that the condition be amended to require the submission of a one-off report confirming that the EME levels being emitted from the modified structure are in accordance with the relevant Federal standards.

**BACKGROUND**

**Suburb/Location:** Lot 11 (923) Whitfords Avenue, Woodvale  
**Applicant:** Connell Wagner  
**Owner:** Printfile Pty Ltd  
**Zoning:** **DPS:** Business  
**MRS:** Urban  
**Site Area:** 1.0091 hectares  
**Structure Plan:** Not applicable

The Woodvale Park Commercial Centre is located on the northern side of Whitfords Avenue between Timbercrest Rise and Trappers Drive.

An application to extend the existing rooftop structure by two metres and install three new 1.3 metre long panel antennae was approved by Council at the meeting held on 29 August 2006. The proposal was approved subject to four conditions. The applicant has requested that Condition 1 be amended. Condition 1 reads:

*“Submission of detailed reports at six monthly intervals to the satisfaction of the City, confirming that the Electromagnetic Energy (EME) levels being emitted from the modified and operational structure, are in accordance with the relevant standards. The report should also identify the EME levels being emitted during the peak usage periods.”*

The applicant has requested the condition be amended to read:

*“Submission of a detailed report to the satisfaction of the City, confirming that the Electromagnetic Energy (EME) levels being emitted from the modified and operational structure are in accordance with the relevant standards. The report should also identify the EME levels being emitted during the peak usage periods.”*

Whilst the applicant has submitted a formal request to Council for re-consideration of this condition of approval, the applicant has also lodged a request for a review of Council's decision by the State Administrative Tribunal (SAT). This has enabled the applicant to preserve their appeal rights, should the Council not support their request for a change to condition 1 of the planning approval.

A directions hearing was held at the offices of SAT on 18 October 2006, and was attended by the City and the applicant. The outcome of this hearing was that:

- (a) the applicant would provide additional supporting information to the City; and
- (b) City would prepare a report based on the information provided for determination, for consideration by Council at the meeting to be held on 21 November.

The next directions hearing of SAT on this matter will occur on Friday 24 November 2006.

## **DETAILS**

In support of their request for a review of the decision made by Council, the applicants have made a detailed submission, which is contained in Attachment 5.

The applicant believes that the requirement for six monthly testing is excessive and unnecessary, based on their submission. The major points from the submission are summarised below:

- 1 A report from GHD (Attachment 4), a privately owned multi-disciplinary engineering company, estimates that the maximum cumulative radiofrequency EME levels emitted from the subject antennae (existing and proposed) to be 0.34% of the acceptable limit.
- 2 The estimated EME levels emitted from the antennae (existing and proposed), being 0.34% of the acceptable limit, cannot be exceeded as this level assumes a worst case scenario, that is:
  - (i) base station transmitters operating at maximum power;
  - (ii) simultaneous telephone calls on all channels;
  - (iii) an unobstructed line of sight view to all antennae.

The EME levels emitted from the MTF will therefore vary between 0% and 0.34% of the acceptable limit.

- 3 Unless new equipment is added to the site, this maximum level cannot physically be exceeded. If changes to the existing infrastructure do occur, the Carrier is obliged to either apply for development approval from the Council, or, if the proposed infrastructure is 'Low Impact', it must undertake the necessary notification and consultation under the *Australian Communication Industry Forum Industry Code – Deployment of Mobile Phone Network Infrastructure*. This procedure specifically includes notification and consultation with Council. Hence any changes to the MTF must be notified to the Council, at which point amended EME reports will be provided.

- 4 Post installation testing of the existing mobile phone base station at the subject site was undertaken at the request of neighbouring residents. This testing found that actual EME levels were all more than 3000 times below the standard maximum exposure levels.
- 5 Detailed assessment and documentation of sites already takes place to ensure compliance with cumulative EME exposure requirements. This assessment and documentation occurs when a site is upgraded or when additional equipment is added. The documentation of this assessment is readily available to the City and the public from the Radio Frequency National Site Archive (RFNSA) website.

**Issues and options considered:**

The Council has the discretion to:

- Amend the condition as requested; or
- Refuse to amend the condition.

**Link to Strategic Plan:**

The proposal has no Strategic Plan implications.

**Legislation – Statutory Provisions:**

The City of Joondalup District Planning Scheme No 2 (DPS2) is the relevant document for this proposal with Section 6.10 of DPS2 being the relevant Clause:

**6.10 Compliance with Conditions**

*6.10.2 The Council may, on application in writing from the owner of land in respect of which planning approval has been granted, revoke or amend the planning approval, prior to the commencement of the use or development subject of the planning approval.*

**Risk Management considerations:**

The proponent has exercised their right of appeal against Council's decision of 29 August 2006, in accordance with the State Administrative Tribunal Act 2004 and the Planning and Development Act 2005.

**Financial/Budget Implications:**

Not applicable.

**Policy implications:**

Relevant Policy: City of Joondalup Planning Policy 7 -11 – Telecommunications Facilities

**Regional Significance:**

Not applicable.

**Sustainability implications:**

Not applicable.



**Consultation:**

No consultation has been undertaken in respect to the request to amend the condition.

The original application to extend the MTF was advertised for a period of 30 days in accordance with the requirements of the City of Joondalup Planning Policy 7-11 – Telecommunications Facilities. Advertising consisted of written notification to owners and occupiers within a 500 metre radius of the MTF location. A total of 995 letters were sent.

A total of 70 responses were received during the submission period, comprising 43 objections and 27 neutral submissions. This represents a response rate of 7.0%.

The main issues of objection raised were as follows:

- Health concerns regarding Electromagnetic Emissions (EME);
- Visual impact of the extension;
- Suitability of the development site with regard to sensitive areas;
- Devaluation of property values;
- Concern over potential interference with television reception;
- Concern that Council would be supporting the proposal as a revenue raiser.

**COMMENT**

The condition requiring the submission of reports at six monthly intervals was imposed for the following reasons:

- 1 To ensure that EME levels being emitted from the MTF are in compliance with the relevant standards on an ongoing basis, not just at start up; and
- 2 To help allay concerns raised during the community consultation process in respect to the EME levels resulting from the installation of the MTF.

The applicant has indicated that the maximum cumulative EME levels emitted from the proposed MTF have been calculated to be well within the relevant Federal standards, being 0.34% of the acceptable limit. Without physical changes to the infrastructure, the maximum cumulative EME levels emitted from the structure cannot change. This is due to the calculation of this level assuming a worst case scenario.

The undertaking of an assessment of the facility when it becomes operational will allow for the actual usage to be assessed against the calculated emission EME levels. Further, the availability of this information on the RFNSA website allows the public access to any testing that is undertaken for this site and any other site.

The applicant has also advised that if the site infrastructure were to be changed or added to, the Carrier is obliged to provide the City with amended EME reports, which will then be available for public access on the RFNSA website.

Having considered the information provided by the applicant, it is recommended that the condition be amended as requested.

**ATTACHMENTS**

Attachment 1	Location Plans
Attachment 2	Development Plans
Attachment 3	Policy 7-11 – Telecommunications Facilities
Attachment 4	Summary of Estimated EME Levels around the Mobile Phone Base Station at 923 Whitfords Avenue, Woodvale
Attachment 5	Submission in support of review of decision

**VOTING REQUIREMENTS**

Simple Majority.

**MOVED Cr Magyar SECONDED Cr McLean that Council AGREES under the provisions of Clause 6.10.2 of District Planning Scheme No. 2, to AMEND the Approval to Commence development for additions to an existing mobile telecommunication facility at Woodvale Park Commercial Centre, Whitfords Avenue, Woodvale dated 31 August 2006 by deleting the original Condition 1 of approval and substituting an amended Condition 1 as follows:**

***“Submission of a detailed report to the satisfaction of the City within 90 days of the commissioning of the infrastructure, confirming that the Electromagnetic Energy (EME) levels being emitted from the modified and operational structure are in accordance with the relevant standards. The report should also identify the EME levels being emitted during the peak usage periods.”***

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 16 refers*

*To access this attachment on electronic document, click here: [Attach16brf141106.pdf](#)*

**CJ226 - 11/06 PROPOSED MOBILE TELECOMMUNICATION FACILITY (POLE AND EQUIPMENT SHELTER) AT EDITH COWAN UNIVERSITY: LOT 504 (270) JOONDALUP DRIVE, JOONDALUP – [05802]**

**WARD:** North

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

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CJ061121\_BRF.DOC:ITEM 22

**PURPOSE**

To request Council's determination of an application for Planning Approval from Telstra for a new Mobile Telecommunication Facility (MTF) within the grounds of Edith Cowan University (ECU) Joondalup Campus.

## EXECUTIVE SUMMARY

An application has been received for a new MTF adjacent to the sports field at ECU, Joondalup. The proposal is for a 36.1 metre high telecommunications pole comprising of a 28.8 metre high slimline monopole with a 7.3 metre extension of four levels of antennae. An equipment shelter is also proposed adjacent to the base of the pole.

Under the Commonwealth Telecommunications Act 1997 (as amended) and the Telecommunication (Low Impact Facilities) determination 1997, the proposal is defined as a “High Impact” facility and requires the submission of a development application for determination by the local government.

The original proposal was for the installation of a low impact facility on the roof of Building 19 at ECU. However, following the lack of support from the University, the applicant sought an alternative solution to the signal problems being experienced by users of the mobile telephone network system and the proximity of the low impact facility to the child care centre. The high impact MTF was proposed as an alternative option to address these concerns.

The proposal was advertised for public comment and a number of objections were received, based primarily on concerns about public health.

The application was assessed under the Council’s Telecommunications Policy.

It is recommended that the proposed development be approved, subject to conditions with particular reference to the proposal being in compliance with the requirements of the Electromagnetic Energy (EME) Standards.

## BACKGROUND

<b>Suburb/Location:</b>	Lot 504 (270) Joondalup Drive, Joondalup
<b>Applicant:</b>	S R Bruce
<b>Owner:</b>	Edith Cowan University
<b>Zoning:</b>	<b>DPS:</b> Centre
	<b>MRS:</b> Central City Area
<b>Site Area:</b>	19.0583 Hectares
<b>Structure Plan:</b>	Joondalup City Centre Structure Plan and Manual

### History

- |            |   |
|------------|---|
| 18/11/2003 | Applicant advised City of the proposed installation of a low impact telecommunications facility on Building 19 at Edith Cowan University and asked for comments.  |
| 25/11/2003 | City advised that a consultation plan is required for the proposed facility.  |
| 28/11/2003 | Applicant advised that Telstra is preparing the consultation plan.  |
| 21/07/2004 | Applicant formally advised the City of the proposal for a low impact installation on Building 19 at Edith Cowan University. The consultation plan was included with the proposal and Council’s comments were sought on this plan. |
| 30/07/2004 | The City advised that they had no objection to the consultation plan.   |
| 4/08/2004  | Telstra advised that consultation had commenced.  |
| 17/09/2004 | Interim report received from Telstra stating that objections had been received from several parties and face to face consultation would be undertaken with Joondalup ECU to discuss the issues raised.                            |

- 10/11/2004 Telstra advised the City that ECU was not happy with the proposed low impact option near the child care centre and that they had requested the consideration of alternative options. Telstra stated that the most likely alternative option would be the replacement of one of the existing light poles surrounding ECU oval with a new pole of sufficient height to provide an appropriate level of coverage for both carriers. However, this solution would not be low impact.
- 9/02/2005 City advised that a Development Application would be required for the pole swap option, which would be advertised for public comment and determined by Council.
- 27/06/2005 Further interim report received from Telstra on the consultation process. ECU objected to the installation of the low impact facility on Building 19 due to its architectural merits and its proximity to a child care centre and student housing. The lightpole swap on the ECU oval was determined to be an alternative that could provide an acceptable level of service. Telstra advised that a Development Application will follow to pursue this option, however they also stated that if this proposal is not approved, they will proceed with the construction of the low impact facility on Building 19.
- 6/07/2006 Development Application received by the City.
- 9/08/2006 Application advertised in accordance with City of Joondalup Planning Policy 7-11 – Telecommunication Facilities.
- 8/09/2006 Advertising closed.

### Location

The MTF is proposed to be located in the south west corner of the ECU sports field (refer Attachments 1 and 2). The topography of the area is such that Joondalup Drive is approximately 5.5 metres higher than the sports field. There is existing mature vegetation surrounding the perimeter of the sports field including banksias and gum trees (refer Attachment 3).

### **DETAILS**

The proposal is for a new MTF that incorporates the construction of a 36.1 metre high monopole in the south west corner of the ECU sports field (refer Attachments 1 and 2). The development will comprise a 28.8 metre high slimline monopole with a 7.3 metre extension consisting of four sets of antennas flush mounted over four levels. The initial installation will be two sets of antennae over two levels, totalling six antennae, with a maximum of 12 antennae proposed in the future. The proposal also includes a purpose built three-carrier equipment room to be built in materials matching existing buildings in the area.

The applicant has stated that the installation is required as there are network coverage issues within ECU Campus, the adjoining residential area and along Joondalup Drive. The applicant advised that the proposed MTF is suitable to address these coverage issues and accommodate Telstra and other carriers infrastructure and also to mount floodlighting for the playing fields. The pole has been designed to allow other carriers to co-locate infrastructure on the pole in the future.

The applicant also stated that the possibility of co-locating with existing mobile telephone facilities was investigated, however none of the other carriers had a suitable facility within the subject area that would address the coverage issues. Also, the low impact facility was not

considered to be suitable as it received strong opposition from ECU due to its proximity to a child care centre (approximately 100m). As a result, the applicant pursued the option of installing a new MTF within the grounds of ECU (approximately 440m away from the child care centre). The applicant stated that “the establishment of a new high impact site is only considered after all of the other options have been considered and exhausted as a resolution for the coverage issues.”

In relation to the Industry Code on the Deployment of Radio-communications Infrastructure (the Code), the applicants have stated the following in relation to the selection of location of the proposed MTF:

*Telstra confirms that it has applied the Precautionary Approach in selecting the proposed site at the above location in accordance with Section 5.1 of the Code. Further, that the Precautionary Approach has also been applied to the design of this proposed monopole installation in accordance with Section 5.2 of the Code.*

Further, the applicant has stated that:

*This proposed solution would provide a suitable resolution for both 3G and 2G networks by using a minimal number of antennas and the smallest possible structure size – from both a height and diameter perspective.*

The applicant stated the following in relation to the site selection and proposed location of the pole:

*The site that has been selected provides good separation from the future residential uses on the campus and from adjoining existing residential areas. The topography of the area and the vegetation in the area will also provide a good visual screen for the proposed infrastructure.*

The applicant has advised that selection of the site has been made utilising the policy provisions of the Western Australian Planning Commission’s statement of Planning Policy 5.2. The applicant has prepared the proposal having regard to the City of Joondalup District Planning Scheme No 2 (DPS2) and achieves a reasonable separation to the adjacent residential uses.

#### **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:**

To continue to provide services that meet the changing needs a diverse growing community.

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

The City of Joondalup DPS2 is the relevant document for this proposal with Section 6.8 of DPS2 being the relevant Clause:

## 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; City of Joondalup District Planning Scheme No 2 November 2000*
- (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.*

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

The applicant has a right of appeal against Council's decision, or any conditions included therein, in accordance with the State Administrative Tribunal Act 2004 and the Planning and Development Act 2005.

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

Not applicable.

#### **Policy implications:**

City of Joondalup Planning Policy 7-11 Telecommunication Facilities (refer Attachment 4).

#### **Regional Significance:**

Not applicable.

#### **Sustainability implications:**

Not applicable.

**Consultation:**

The MTF proposal was advertised for a period of 30 days, in accordance with the requirements of the City of Joondalup Planning Policy 7-11 Telecommunication Facilities. The advertising was in the form of written notification to landowners within a 500m radius of the MTF location. A total of 223 letters were sent.

The following table summarises the submissions received:

<b>Submission Type</b>	<b>No. of persons</b>	<b>No. of submissions</b>
Objection	10	15
Neutral	4	4
<b>Total</b>	<b>14</b>	<b>19</b>

It should be noted that some objectors made multiple submissions.

The 14 people that responded during the advertising period represents a response rate of 6.3%.

The main issues and concerns raised were as follows:

- The effects of radiation on the health of the surrounding residents and whether these poles have cancer causing properties.
- The close proximity of the pole to residential homes.
- Why is it required in this location? A sports field is not an appropriate location for the pole.
- The proposal is unsightly.
- Depreciation of property values.
- Insufficient information was provided on the location of the pole to make an informed decision on the proposal.

**COMMENT**

The various issues raised during the advertising period are discussed below:

Health Risks and Matters

The majority of the submissions objecting to the proposal, believe there are health effects associated with MTFs as a result of EME. The concerns have been raised in relation to the possible effects on the nearby residents and users of the oval.

It is a mandatory requirement for all telecommunications carriers to comply with the Australian Safety Standards set by the Australian Communications and Media Authority (ACMA). The Radiation Frequency (RF) limits are established by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA).

The Australian Communications and Media Authority (ACMA) has provided the following information on the exposure limits for installations such as mobile phone base stations:

*The exposure limits set by the ACMA were determined by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) based on recent scientific findings and world's best practice. These limits are many times below a level of exposure to EME that is known to have adverse health effects on the human body and are consistent with World Health Organization guidelines.*

*ACMA has adopted a precautionary approach to the regulation of EME, ensuring that exposure limits to emissions from communications transmitters are stringent and lower than those levels that have been found to cause adverse health effects.*

The applicant stated that compliance with all applicable EME standards is part of Telstra's responsible approach to EME and mobile phone technology.

The EME levels for the proposed development, as provided by the applicant are 0.2% of the Australian Safety Standards, which is well below the level that is allowable. A copy of the EME estimations for the proposed MTF is included as Attachment 5.

### Location

The City's Policy 7-11 (Telecommunications Facilities) states that as a general rule, the City "does not support the location of telecommunications facilities within the vicinity of schools, child care establishments, hospitals and general residential areas".

The proposed facility is located adjacent to a sports oval within the grounds of ECU Campus. The site is located approximately 200 metres north of the closest residential area and is approximately 1250 metres from the nearest primary schools, being Heathridge Primary School, Eddystone Primary School and Edgewater Primary School.

The original proposal for a low impact installation on Building 19 was not considered to be appropriate by ECU due to its proximity to a child care centre and student housing. The proposed location of the MTF was selected by the applicant after consultation with ECU to find an alternative location that would provide an appropriate level of mobile telephone service to ECU and the surrounding area, an acceptable visual resolution and is not in a sensitive location. Additionally, there were no existing mobile telephone facilities within the immediate area that Telstra could co-locate with to address the coverage issues.

Sports fields are often used for the installation of MTFs as they allow some level of separation from adjoining residential areas, and in this case, can also be used to support lighting for the sports ground. Furthermore, sports fields are generally used by people on an infrequent basis. Therefore, users of the oval will be exposed to any EME far less frequently than if the MTF was located on or near a structure such as an office or school where people are present consistently throughout the week.

Given the above factors, the location of the MTF is considered appropriate and is supported.

### Visual Impact

The proposed pole is proposed to be installed in galvanised grey to match the existing light poles surrounding the oval. The antennae are proposed to be installed in soft grey. Attachment 3 is a photo montage depicting how the pole will appear in the environment. Part of the pole will be screened by existing mature vegetation surrounding the oval.

The equipment room will be constructed utilising the same materials as the adjoining ECU infrastructure to integrate with the immediate environment and match the existing buildings in the vicinity. The brick type and colour will match the existing buildings and the roof is proposed to be custom orb in pale eucalypt.

Although the total height of the pole is 36 metres, it is largely screened by existing gum trees and has been designed as much as possible to match the existing light poles surrounding the oval to minimise the visual impact.



Due to the topography of the area with Joondalup Drive being approximately 5.5 metres higher than the sports oval the full height of the pole will not be seen from Joondalup Drive as the natural slope of the land will screen part of the pole. The pole will appear to be approximately 30 metres in height when viewed from Joondalup Drive and together with the surrounding vegetation the visual impact of the pole is reduced.

### Depreciation of Property Values

Property values are not considered to be a valid planning consideration. However, no details were submitted in support of the supposed negative impact on property values.

### **CONCLUSION**

The community's demand for mobile phone services has increased over recent years and to satisfy this demand, MTFs are required within the urban environment. Notwithstanding this, each application is required to be considered on its merits on planning grounds.

The proposed MTF at ECU sports field is considered to be a suitable option, having regard to the:

- (i) distance of the proposed MTF from schools, hospitals and residential areas;
- (ii) topography and vegetation of the area providing visual screening; and
- (iii) design of the proposed structure.

The technical information submitted by the applicant indicates that the estimated EME levels for the MTF are well below the mandatory standards set by the ACMA. The issue of compliance with the safety standards is a matter to be monitored and administered by the relevant Federal Agencies, however, it is recommended that ongoing reports be provided to Council confirming that the MTF is operating in compliance with the relevant standards.

It should be noted that Telstra has the right to pursue the low impact installation on the rooftop of Building 19 regardless of whether ECU supports the proposal (refer to background notes for the Council meeting of 27/06/2005). The location of the proposed telecommunications pole was selected through negotiations between ECU and the applicant. ECU supports the location of the telecommunications pole on the oval.

The proposed telecommunications pole is located 200m from the closest residential area. It is located in a sports field, which is an open area used on an infrequent basis. The topography of the land is such that part of the pole will be screened from view from Joondalup Drive.

Having considered the applicant's proposal and the comments from nearby residents, it is recommended that the proposal be supported subject to conditions.

### **ATTACHMENTS**

Attachment 1	Location plan
Attachment 2	Site plan and elevation
Attachment 3	Visual montage of proposed MTF
Attachment 4	Policy 7-11 (Telecommunications Facilities)
Attachment 5	EME readings and estimations

### **VOTING REQUIREMENTS**

Simple Majority

**MOVED Cr McLean SECONDED Cr Hollywood that:**

- 1 Council APPROVES the application for planning approval dated 6 July 2006 for a telecommunications pole and equipment shelter at Edith Cowan University, Lot 504 (270) Joondalup Drive, Joondalup subject to the following conditions:
  - (a) Submission of a detailed report to the satisfaction of the City within 90 days of the commissioning of the infrastructure, confirming that the Electromagnetic Energy (EME) levels being emitted from the structure, are in accordance with the relevant standards. The report should also identify the EME levels being emitted during the peak usage period;
  - (b) The colours of the monopole and antennae to be similar in colour to the sports ground light poles and that the equipment shelter be of similar colours to the existing buildings in the vicinity, to the satisfaction of the Manager Approvals, Planning & Environmental Services;
  - (c) The area surrounding the perimeter of the mobile telecommunication facility to be reinstated once construction work is completed;
  - (c) Written undertaking that all obsolete mobile telecommunication facilities at the subject site be removed at the cost of the carrier and that the land be reinstated to the original state should the mobile telecommunication facility not be required;
- 2 All submitters to be advised of Council's decision on this application.

Discussion ensued.

Concern was raised in relation to amenity of the neighbourhood and impact on the streetscape, being a major artery into Joondalup. It was considered there were potentially suitable alternative locations within the Campus.

**The Motion was Put and****LOST (4/6)**

**In favour of the Motion:** Crs Currie, Hart, Evans and Magyar      **Against the Motion:** Mayor Pickard, Crs Fishwick, Corr, John, McLean and Hollywood

*Appendix 17 refers*

*To access this attachment on electronic document, click here: [Attach17brf141106.pdf](#)*

## **CJ227 - 11/06 PROPOSED CHANGE OF USE FROM COMMUNITY CENTRE TO CHILD CARE CENTRE: LOT 655 (255) EDDYSTONE AVENUE, BELDON – [36418]**

**WARD:** Central

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

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CJ061121\_BRF.DOC:ITEM 23

### **PURPOSE**

To request Council's determination of an application for planning approval for a proposed Change Of Use from Community Centre to Child Care Centre at Lot 655 (255) Eddystone Avenue, Beldon.

### **EXECUTIVE SUMMARY**

The site is located on Lot 655 (255) Eddystone Avenue, Beldon and was previously approved for use as Community Centre.

The applicant is proposing to convert the existing building to a child care centre with a capacity of 62 children, 12 staff and associated car park. The child care centre is proposed to operate from 7:00am to 6:00pm, Monday to Friday. The children will be arriving from 7:15am.

The proposal was advertised and nine submissions were received. There were four submissions including a petition signed by 62 people in support of the application. Five objections were received, including a petition signed by 25 people.

It is recommended that the proposed child care centre be supported.

### **BACKGROUND**

**Suburb/Location:** Lot 655 (255) Eddystone Avenue Beldon  
**Applicant:** CINI PTY LTD  
**Owner:** Community of Christ  
**Zoning:** **DPS:** Residential  
**MRS:** Urban  
**Site Area:** 0.2466 hectares  
**Structure Plan:** Not applicable

In 1988 the site was approved for use as a Community Centre which provided the following activities and functions:

- 1 Marriage Counselling.
- 2 Courses encompassing parenting, crafts, stress management etc.
- 3 Drop-in facilities including coffee mornings, cooking, children's activities etc.
- 4 Crèche facilities.

The Community Centre was closed 30th June 2006.

The existing site contains a single storey building, previously used as a Community Centre. It has a land area of 2466 m<sup>2</sup> and is located along Eddystone Avenue Beldon, approximately 120 metres from the junction of Eddystone Avenue and Ocean Reef Road. On the northern side, a Service Station, Medical Centre and Belridge Shopping Centre, abut the subject site. On the western side there is an existing grouped dwelling development and on the southern side there are single houses.

The adjoining properties to the north are part of the Belridge Shopping Centre which is zoned Business/Commercial. The immediate properties to the western, eastern and southern sides are zoned Residential with a density coding of R20.

The building is located near the northern boundary of the site. The car parking area serving this building is located on the southern side of the site, adjacent to Eddystone Avenue between the building and the residential building on the adjoining southern property. A landscaping strip separates the car parking area and Eddystone Avenue.

## DETAILS

The applicant is proposing to convert the existing building to a child care centre to accommodate 62 children, 12 staff and associated car park. The child care centre is proposed to operate from 7:00am to 6:00pm, Monday to Friday. The children will be arriving from 7:15am.

Twenty-two car bays are proposed to be provided on-site to accommodate visitor and staff car parking at the child care centre. The existing car park will be re-marked to cater for the vehicles.

The relevant requirements of the District Planning Scheme No 2 for the child care centre are summarised below:

Standard	Required	Proposed	Compliance
Front Setback	6 m	5.5 m - Variation	No
Side Setback	1.5 m	2 m	Yes
Rear Setback	1.5 m	5.5 m	Yes
Open Space	8% of site 3 m landscape strip	More than 8 % 1.69 m - Variation	No
Number of carboys	62 children = 8 car bays 12 staff = 12 car bays Total = 20 car bays	22 car bays	Yes

### Applicant Justification

In support of the application, the applicant has provided:

- Operational details of the proposal;
- A traffic engineer's report; and
- An acoustic report

The applicant has stated the following:

*“There are 2 centres within the catchment zone (ABC Child Care Centre (48 places) and Eddystone Child Care Centre (48 places)).*

*The demographics of the catchment area (Beldon and surrounding) are such that the demand for childcare is currently high and significantly increasing.*

*The subject site is ideal for the proposed use. Ideal locations for childcare centres are characterised by the following:*

- *Prominent Road. This allows for maximum convenience for parents to set-down and pick-up their children.*
- *Close to Intersection. Traffic flows are slower close to intersections particularly those controlled by traffic lights.*
- *Close to Commercial Areas. This minimises inconvenience to local residents who don't use the service (the site is adjacent to Belridge City Shopping Centre).*
- *Wide Frontage. This allows for parking to be at the front of the site creating a buffer between the carriage way and the children.*
- *Close to Schools and Shops. Again for convenience to parents (the site is within 100 m from two schools).*
- *Growing Demand Area. Demand, as determined by comparing the number of children under 5 years old to the number of available childcare spaces, is increasing in the area (the number of children to available childcare spaces is increasing in Beldon indicating that there is increasing demand for the service in the area)."*

## **Options**

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 child care centre 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 sub clause 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, as follows:

### **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 Consent:

6.8.2 *In addition to the matters referred to in the preceding sub clause 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 subclasses 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.*

### Policy 3-1 Child Care Centres

This policy sets out guidelines for the development of a child care centre including the requirements for the provision of car parking and landscaping, the preferred location of child care centres, as well as the need to advertise proposals due to the possible detrimental effect on the amenity of residential areas (Attachment 5).

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

The proponent has a right of appeal against Council's decision, or any conditions included therein, in accordance with the State Administrative Tribunal Act 2004 and the Planning and Development Act 2005.

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

Not applicable

#### **Policy implications:**

Policy 3 -1 Child Care Centres (Refer to Attachment 5)

#### **Regional Significance:**

Not applicable

#### **Sustainability implications:**

Not Applicable

#### **Consultation:**

The proposal was advertised for public comment for a period of 21 days, from 18 July to 7 August 2006. A sign was placed on-site and an advertisement inviting public comment was placed in the local newspaper. Nine submissions were received including two petitions. Four submissions were received including a petition signed by 62 people in support of the application. A total of five objections were received including a petition signed by 25 people. Two objections were subsequently withdrawn. Refer to Attachment 4 showing the origin of submissions.

The various issues raised during the advertising period are outlined below:

- Number of child care centres in the area
- Traffic Impact
- Location of the proposal adjacent to a Service Station
- Zoning of land
- Child Care Regulations
- 

The applicant has responded to the objections as follows:

*The staffing/children ratio is not a planning issue and does not need to be considered in an application. The Department for Community Development will not issue a licence if the staffing is not correct. The objection received with regard to this matter is incorrect opinion.*

*Objection regarding traffic issues. These issues have been covered in the traffic report prepared by a professional traffic engineer. The objection received with regard to this matter is incorrect opinion.*

*Objection about the fuel station adjacent. The Department of Consumer and Employment Protection (DOCEP) has provided official resolution to this issue. The objection received with regard to this matter is incorrect opinion.*

*Objection about losing jobs in the area. The centre will directly employ 12 staff members and will create flow-on business to the commercial centre adjacent to it. This centre will create employment in the area. The objection received with regard to this matter is incorrect opinion.*

## **COMMENT**

### **Response to objections**

The issues raised during the consultation process are addressed below:

#### Number of Child Care Centres in the area

*There is no need for another child care centre in the area due to the number of centres already servicing the area. The existing centres are not working to the full capacity. There should be an onus on the applicant to prove the need for another child care centre in the area.*

#### Comment:

Policy 3-1 Child Care Centres states that when submitting an application for Approval to Commence Development for a new child care centre, the proponents should demonstrate their awareness of the number, size and location of existing or approved centres within the locality. The applicant has stated that there are two child care centres (ABC Child Care Centre (48 places) and Eddystone Child Care Centre (48 places). According to the applicant the demographics of the catchment area (Beldon and surrounding) are such that the demand for childcare is currently high and significantly increasing. The City does not have any regulations that govern the number or distribution of child care centres in an area.

#### Traffic Impact

*The location of the proposed centre will create a dangerous traffic hazard for all the residents living near the corner of Ocean Reef Road and Eddystone Avenue. This is already a busy intersection due to the Belridge Shopping centre in Beldon. Of real concern are visitors to the proposed centre travelling up Eddystone Avenue towards Whitfords Avenue who will be unable to enter the centre without doing a U-turn and coming back down Eddystone Avenue to enter the centre.*

#### Comment:

The applicant has responded that these issues have been covered in the traffic report prepared by a professional traffic engineer.

The City considers the traffic report acceptable. Whilst there may be potential for some U-turn activity in Eddystone Avenue, it is considered that the traffic measures will assist in minimising U-turns. Other traffic management measures are also being proposed by the City. These measures include the provision of parking embayments and the narrowing of the road pavement width in this area, which will assist in reducing traffic speeds along this section of Eddystone Avenue (Refer to attachment 3).



### Location of the proposal adjacent to a Service Station

*Child Care Centres should not be located directly adjacent to a service station. The petrol fumes and other contaminants contained within a service station are dangerous to the health of young children. Gas storage tanks are also located very near to the proposed child care centre building which create an additional safety hazard.*

#### Comment:

The Department of Consumer and Employment Protection - Dangerous Goods Safety Branch- is the responsible authority to make decisions about allowing service stations to provide gas as part of their service. The location of the gas tank is discussed below in the section - Location in relation to Other Land Uses.

### Zoning of land

*The current zoning of the property is residential and in accordance with recent decisions of the Council rejecting other proposed child care centres on land zoned residential, the same guidelines should be followed in this instance.*

#### Comment:

A child care centre is allowed in a residential area, subject to Council approval. Each application for child care centre is assessed on its merits. It is to be noted that the subject site, though in a residential zone, was approved for a Community Centre.

### Child Care Regulations

*The proposed child care centre does not comply with the child care regulations in relation to the number of staff.*

#### Comment:

The applicant has stated that the staffing/children ratio is not a planning issue and does not need to be considered in an application. The Department for Community Development will not issue a licence if the staffing is not correct.

Assessment of a child care centre is based on the Policy 3-1 Child Care Centres and DPS2, which does not state that assessment of a child care centre shall have regard to child care regulations. The Department of Community Services has the responsibility to determine whether the child care centre complies with the child care regulations.

### **Location in relation to Other Land Uses**

Clause 3.4 of DPS2 states that the Residential Zone is intended primarily for residential development in an environment where high standards of amenity and safety predominate to ensure the health and welfare of the population. It also provides for certain cultural and recreational development to occur where Council considers the same to be appropriate in residential neighbourhoods within the Residential Zone.

The proposed development would provide an important community facility for the surrounding area and is likely to generate employment opportunities for local people.

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 the residential area.

The proposed child care centre is to be located adjacent to a Service Station, Medical Centre and Shopping Centre. Therefore, it meets the intent behind Policy 3-1 Child Care Centres.

As the proposed child care centre will be located next to the Service Station, the application was referred to the DOCEP - Dangerous Goods Safety Branch for their comments. DOCEP took into account that the existing community centre was approved with crèche facilities and held discussions with the owners and operators of Service Station in respect of the location of the underground tank in relation to the proposed child care centre. Therefore DOCEP has placed a Licence condition (refer to attachment 6) on the Service Station to restrict the filling of the tank to the following times:

- 1 Between 6:00pm to 7:00 pm Monday to Friday
- 2 Between 8:00am to 6:00 pm Saturday.

As shown above the tank filling periods will be outside the operation hours of the child care centre.

### **Noise**

There were no concerns expressed in the submissions in respect of noise. However, there will be noise emanating from children in the play area, vehicles accessing the site before 7:15am and throughout the day and the general increase in car associated noise.

The grouped dwelling development on the western side of the subject property has two carports located at least 4 metres and one metre from the proposed play space. The remaining space behind the grouped dwellings is being used as a common playground. There is a common access driveway for the grouped dwellings that will abut the play space. The Noise Report indicates that the:

- *play area equipment is to be plastic and brick paved areas to be minimised;*
- *the total amount of external play time during suitable weather to be restricted to 2 hours per day, and generally, during the typical hours of 9:30am to 10:30am and 3:00pm to 3:30pm; and;*
- *number of children to be restricted to a maximum of 20 at a time.*

In subsequent discussions with the Noise Consultant, he has advised that the length of time that children are permitted to play, and the time period in which they will be permitted to play, will vary according to weather conditions.

It is to be noted that part of the area along the northern side is already being used as a play space for the approved crèche. There have been no complaints in relation to noise from the existing play space for the crèche. Given that that noise report addresses the issue of noise emanating from the play space of the proposed child care centre, no outdoor living areas are located adjacent to the play space and no complaints were received for the existing play space, it is considered that the proposed play space area is unlikely to impact on the adjoining northern side neighbours.

The existing building on the southern property is setback at 1.8 metres from the child care centre. The carport will be nearest to the boundary and the remaining part of the building is located at around 6 metres. It is expected that the noise emanating from the car park will not impact on the adjoining southern property.

### **Road Hierarchy**

Policy 3-1 states that a child care centre shall not be located on local distributor roads in close proximity to district distributor roads. Accordingly, 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.

The Metropolitan Functional Road Hierarchy classified Eddystone Avenue as local distributor road and Ocean Reef Road as a district distributor. Ocean Reef Road is located around 120 metres from the proposed child care centre, which is considered not to be in close proximity. It is expected that there will be no conflict with the traffic control at the junction of Ocean Reef Road and Eddystone Avenue, and it is unlikely to encourage the use of nearby access roads for turning movements.

There is an existing median along Eddystone Avenue that prevents vehicles coming from the north turning into site. Vehicular movement to and from the site will be restricted to left in and left out. Therefore vehicles coming from Ocean Reef Road along Eddystone Avenue will have two traffic options and these are:

- Option one - Turn into Sandalford Drive and then return back onto Eddystone Avenue.
- Option two - Turn into Gradient Way and then return back into Eddystone Avenue.

Sandalford Drive and Gradient Way are not considered to be as busy as Eddystone Avenue and therefore are expected to be able to cater for the additional traffic. Gwendoline Drive, Cumberland Way, Gradient Way and into Eddystone Avenue provides the best way to access the proposed child care centre site.

The submitted traffic impact report indicates that the child care centre is expected to attract about 240 vehicular movements per day, which is considered by the applicant's traffic consultants to attract less traffic than the current permitted uses of the community centre site.

Whilst parking is provided on-site, it is not possible to force 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 and pedestrian safety. If approval is considered, an option to address this concern would be to prohibit car parking along this section of Eddystone Avenue. This would direct any street parking further along Sandalford Drive and Gradient Way. The visitors of the child care centre may use the parking available in the commercial areas.

The traffic consultants have stated that a small number of vehicles may be tempted to execute U-turns at the Eddystone Avenue/Sandalford Drive intersection based on the current layout. They have also recommended that the centre operator advise parents of appropriate access routes to the centre to negate U-turning on Eddystone Avenue. With regard to advising parents to negate U-turning, the City cannot enforce this recommendation, as U-turns prohibition is a matter for police to enforce.

There is a traffic management scheme proposed by the City (refer to attachment 3) that will provide parking embayments and “seagull island” along this section of the road. A seagull island is a triangular island in the median gap of the road that serves to prevent U-turn movements. The parking embayments will assist in minimising the impact on traffic and pedestrian safety. There is a seagull island proposed at the intersection between Sandalford Drive/Eddystone Avenue that will physically restrict U-turn movements. At this stage the traffic management scheme has not yet been implemented.

### **Car Parking**

The car parking area provided for the proposed child care centre will be located on southern side of the site and will be easily visible from the street. According to Policy 3-1, there is a requirement of 8 car bays for visitors and 12 for the staff, which equates to a total of 20 car bays. The total parking bays provided on site will be 22 bays including a disabled parking bay.

The applicant has stated that the child care centre will operate from 7:00am to 6:00pm, Monday to Friday. The children will arrive at 7:15am so it is likely that the majority of drop-offs and pick-ups will typically be between 7:15am and 8:30am and 4:00pm and 5.30pm respectively. It is considered that this activity, when compared to the traffic movements generated from the existing community centre, will not have an additional adverse impact upon the amenity of the adjoining southern residential property.

### **Front Setback**

The existing front setback of the proposed child care centre will be 5.5 metres from Eddystone Avenue in lieu of 6 metres. However, only a relatively small part of the existing building will not comply with this requirement. It is not expected to impact on the streetscape, as the building exists. Therefore, it is recommended that the variation be supported.

### **Landscaping**

The proposed development complies with the 8% of the site area for landscaping. However, it does not provide a uniform 3 metres wide strip of landscaping along Eddystone Avenue. Given that the landscaping exists and was approved previously for the community centre, it is recommended the variation to the 3 metre strip be supported.

### **Conclusion**

It is recommended that the proposed change of land use from Community Centre to Child Care Centre be supported.

### **ATTACHMENTS**

Attachment 1	Location Plan
Attachment 2	Development Plans
Attachment 3	Traffic Management Plan
Attachment 4	Location of submitters
Attachment 5	Policy 3-1 Child Care Centres
Attachment 6	Copy of Letter from Department of Consumer & Employment Protection

### **VOTING REQUIREMENTS**

Simple Majority

**MOVED Cr John SECONDED Cr Magyar that Council:**

- 1 EXERCISES discretion under clause 6.8 and 4.5 of District Planning Scheme No 2, and determines that:**
  - (a) an existing front setback of 5.5 metres in lieu of the required 6 metres;**
  - (b) a strip of 1.69 metres of landscaping in lieu of 3 metres;**

**are appropriate in this instance;**
- 2 APPROVES the application dated 16 June 2006, submitted by CINI Pty Ltd - Nicolas Spadaccini, the applicant, on behalf of the owner, Community of Christ Limited, for a proposed change of use from Community Centre on Lot 655 (255) Eddystone Avenue, Beldon subject to the following conditions:**
  - (a) the child care centre shall operate from 7:00am to 6:00pm, Monday to Friday. The children shall arrive at 7:15am;**
  - (b) a maximum of sixty-two (62) children and twelve (12) staff are permitted for the proposed child care centre;**
  - (c) the parking bay/s, driveway/s and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890.01). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the Manager, Approvals, Planning and Environmental Services, prior to the development first being occupied. These works are to be done as part of the building programme;**
  - (d) existing stormwater disposal system to be cleared out;**
  - (e) compliance with the Building Code of Australia Volume (1) with particular parts to Part “C” Table 5 for “C” type construction and C 3.4. Part “D3” Table D 3.2 and AS 1428.1 for access to and within the Building for Disabled Persons;**
  - (f) all recommendations of the Acoustic Report number 0607097 submitted by ND Engineering shall be adopted;**
  - (g) bin store area shall be provided with a concrete floor grades to an industrial waste connected to sewer;**
  - (h) the lodging of detailed landscape plans, to the satisfaction of the Manager Approvals, Planning & Environmental Services, for the development site and adjoining road verge for approval with the Building Licence application. For the purpose of this condition:**
    - (i) a survey of the existing trees shall be carried out on the site;**
    - (ii) all mature Tuarts on the site shall be inspected and assessed by a registered arboricultural consultant. A safety/maintenance report shall be prepared for these Tuarts by this consultant;**

- (iii) a detailed landscape plan shall be drawn to a scale of 1:200 and show the location and type of existing vegetation to be retained or removed, the location of proposed trees and shrubs, any new lawns to be established and areas to be reticulated or irrigated;
- (i) landscaping and reticulation to be established in accordance with the approved plans prior to the development first being occupied and thereafter maintained to the satisfaction of the Manager Approvals Planning and Environmental Services;
- 3 ADVISES the applicants that they are required to liaise with the Infrastructure Management Services in relation to any traffic management signs that are required to be erected in front of the property. The cost of providing the signs should be borne by the applicant.**

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendices 18 & 24 refer*

*To access this attachment on electronic document, click here: [Attach18brf141106.pdf](#)  
[Attach24agn211106.pdf](#)*

**CJ228 - 11/06 PROPOSED CHANGE OF USE FROM RESIDENTS' COMMUNAL GYMNASIUM TO SHOP/OFFICE: LOT 346 (37) PICCADILLY CIRCLE, SOUTH WEST CNR MCLARTY AVENUE, JOONDALUP – [68559]**

**WARD:** North

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

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CJ061121\_BRIF.DOC:ITEM 24

**PURPOSE**

To request Council's determination of an application for planning approval for a proposed change of land use from residents' communal gymnasium (the gymnasium) to Shop/Office at Lot 346 (37) Piccadilly Circle, Joondalup.

**EXECUTIVE SUMMARY**

Council approved the development of 11 multiple dwellings and 4 shop/office units (commercial units that can be used for either a shop or office) on Lot 346 (37) Piccadilly Circle, Joondalup in October 2005. A gymnasium on the first floor level formed part of the approved development. The building is currently under construction. It is proposed to relocate the gymnasium to the ground floor with a reduced area, and change the land use of the space previously set aside for the gymnasium.

The application for planning approval proposes a change of land use from gymnasium to Shop/Office, with subsequent changes to the ground floor shop layout of the shop/office located below the original gymnasium location.

Approval of the proposed change of use and variation to the plot ratio are being sought by the owner under the City's District Planning Scheme 2 (DPS2) and the Joondalup City Centre Development Plan and Manual (JCCDPM).

Whilst there is a proposed numerical increase in the plot ratio calculations, there will be no change to the size and external appearance of the development. Given that the development will provide shop/office facilities to meet the future demands of the City Centre and will be characteristic of other developments approved in the area, the proposed change of land use is supported.

The proposed change of land use and the variation to the plot ratio are considered acceptable under the DPS2 and JCCDPM, and as such, it is recommended that the application be supported.

## BACKGROUND

<b>Suburb/Location:</b>	Lot 346 (37) Piccadilly Circle, cnr McLarty Avenue, Joondalup
<b>Applicant:</b>	The Planning Coordinators
<b>Owner:</b>	SGMS Pty Ltd
<b>Zoning:</b>	<b>DPS:</b> Centre
	<b>MRS:</b> Central City Area
<b>Site Area:</b>	951 m <sup>2</sup>
<b>Structure Plan:</b>	Joondalup City Centre Development Plan and Manual (an allowance for the corner truncation, as set out in the R-Codes, increases the size of the lot to 965 m <sup>2</sup> for assessment purposes).

July 2006	Application for change of use submitted
September 2006	Amended plans submitted.

The subject lot is located within the "City North" area of the Joondalup City Centre, where it is designated for "General City Use". The preferred uses are residential, retail, office accommodation, leisure and entertainment, cultural facilities, community facilities and medical suites.

Council approved the development of 11 multiple dwellings and 4 shop/office units on Lot 346 (37) Piccadilly Circle, Joondalup in October 2005. A gymnasium that was to be used by the residents of the building formed part of that approved development. The gymnasium was proposed to be located on the first floor of the building, above approved ground floor level commercial uses.

The building is currently under construction.

## DETAILS

In October 2005, the ground floor below the gymnasium was approved for shop/office use, plant room/store and change rooms. The applicant is now proposing to change the internal area of that ground floor by increasing the floor area of the shop/office with a staircase connecting to the first floor and the plant/room changed to a smaller communal gymnasium.

The proposed first floor gymnasium is to be converted into a shop/office, which is linked to the approved ground floor shop/office by way of an internal stairway. Consequently, there will be no change in the appearance or size of the development as the proposal is to change the land use of the existing approved use to another land use.

Previously, the gymnasium was not used as part of the calculated public open space for the site, and as such, the change of use does not raise a cause for concern.

The total number of car parking bays provided is 17, which include a disabled parking bay.

A balcony is appurtenant to the approved upper level gymnasium and will remain accessible from the proposed shop/office.

#### **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:**

The development proposal will contribute to meeting the projected demand for commercial space for the increasing population of the City of Joondalup. The proposed shop/office will assist in supporting the local economy.

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

#### **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:*

- (a) consult the affected parties by following one or more of the provisions for advertising uses pursuant to clause 6.7.1 and*
- (b) 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.*

## 6.2 APPLICATION FOR APPROVAL OF USE

6.2.1 *For the purpose of the Scheme the commencement, carrying out or change of a use on land shall be a development notwithstanding that it does not involve the carrying out of any building or other works.*

6.2.2 *If an application for Planning Approval involves the carrying out of building or other work on land, the approval by the Council of the application, shall unless the Council stipulates otherwise in its approval, be an approval also of the commencement and carrying out of any use of the land:*

- (a) *which is specifically proposed and referred to in the application; or*
- (b) *which is normally associated with and follows as the most usual consequence of the carrying out or completion of the building or other work.*

## 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.*

**Risk Management considerations:**

Not Applicable.

**Financial/Budget Implications:**

Not Applicable.

**Policy implications:**

Not Applicable.

**Regional Significance:**

Not Applicable.

**Sustainability implications:**

Not Applicable.

**Consultation:**

The proposed use is a permissible use in the General City Uses area. The form of development is aligned with the intent of JCCDPM and other development that has occurred in the City Centre. Therefore, it is considered that the variation would be unlikely to affect any owners or occupiers in the general locality or adjoining the site and accordingly the proposal was not advertised.

**COMMENT**Change of Use

The proposed change of use complies with the parking requirements under the JCCDPM as shown in the table below.

Number of Carbays

<b>Use</b>	<b>Required</b>	<b>Provided</b>
Residential component	11	11
Commercial Component, T2, T3, T4	3	3
Commercial Component T1 (proposed change of use)	3	3
<b>Total</b>	<b>17</b>	<b>17</b>

The proposed use “shop/office” is classified as “Preferred Uses in General City Uses” and is considered a permissible land use. In this form, the office/shop space is flexible enough in the future to accommodate other permitted uses under the JCCDPM, including entertainment, community facilities and restaurant/café.

A smaller gym facility will now be located on the ground floor level. The proposed use replaces approved uses that would not have been included in the original plot ratio calculations. Consequently, there is no change to the car parking or plot ratio calculation for this change.

### Plot Ratio

Plot ratio, in simple terms, is the ratio of floor area to the total area of the site. The relevant definition of plot ratio sets out what areas are to be included in the plot ratio calculation and those areas that are to be excluded from the calculation.

The JCCDPM excludes amenities common to more than one residential/commercial unit from the plot ratio calculation. The gymnasium, when it was assessed as part of the October 2005 approval, was considered as an amenity common to the residents of the development and was excluded in the plot ratio calculation.

Consequently, the development approved in October 2005 (with the floor area of the gymnasium excluded from the plot ratio calculation) had an overall plot ratio of 1.14 which was equivalent to a total plot ratio floor area of 1112.4 m<sup>2</sup>. A breakdown of that calculation shows that the plot ratio area for the multiple dwellings was 0.99 (962.4m<sup>2</sup>) and the commercial component was 0.15 (150 m<sup>2</sup>).

The previously excluded area of the gymnasium in the original plot ratio calculation, will now be included in the plot ratio assessment for the commercial component for the site due to the change in use from a common amenity to commercial floor space. This will result in an additional commercial floor area of 70 m<sup>2</sup>. In addition, the commercial floor area of the shop/office at the ground floor has increased by 16 m<sup>2</sup> due to the proposed changes. Therefore, the plot ratio for the commercial component of the building will now be 0.24 (70 m<sup>2</sup> + 16 m<sup>2</sup> + 150 m<sup>2</sup> = 236 m<sup>2</sup>). There is no change in the plot ratio for the residential component. Therefore, the overall plot ratio for the current proposal is proposed to be 1.23 (1198.4 m<sup>2</sup>).

Whilst there is a numerical increase in the plot ratio calculation, there will be no change in the bulk or external appearance of the building under construction.

It is considered that the non-compliance with the plot ratio 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. It is therefore recommended that, in accordance with Clause 4.5.1 of DPS2 and having regard to the criteria of Clauses 4.5.3 and 6.8 of DPS2, that Council determines that the additional plot ratio above the maximum 1.0 plot ratio for the commercial component is appropriate in this instance.

### Conclusion

It is considered that the development will provide shop/office facilities to meet the future demands of the growing City Centre. It will be characteristic of the development already approved in the immediate area and will add value to the City Centre.

Having regard to the preceding comments, it is considered that the proposed increase in plot ratio will have no detrimental impact on the amenity of the locality and as such, it is recommended that the application for planning approval be granted.

**ATTACHMENTS**

Attachment 1	Location Plan
Attachment 2	Proposed Plans
Attachment 3	Approved Plans 2005

**VOTING REQUIREMENTS**

Simple Majority

**MOVED Cr McLean SECONDED Cr Hollywood that Council:**

- 1 EXERCISES discretion under Clause 4.5 of the District Planning Scheme No 2 and determines that the proposed plot ratio for the development being 1.23 in lieu of 1.0 is acceptable in this instance;**
- 2 APPROVES the application for Planning Approval dated 26 July 2006 and amended plans dated 27 September 2006 submitted by the applicant, The Planning Coordinators, on behalf of the owners SGMS Pty Ltd, for a Change Of Use from Residents' Communal Gymnasium into a Shop/Office on Lot 346 (37) Piccadilly Circle, corner McLarty Avenue, Joondalup subject to the following conditions:**
  - (a) The balcony shall not be enclosed unless the written approval of the Council is obtained;**
  - (b) One car parking space is to be allocated for each commercial unit, except for commercial unit T1, which is to be allocated three parking bays.**

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 19 refers*

*To access this attachment on electronic document, click here: [Attach19agn211106.pdf](#)*

**CJ229 - 11/06 PROPOSED SPECIAL EVENTS TRAIN STATION AND ASSOCIATED PATHWAY TO KENNEDYA DRIVE (JOONDALUP ARENA) - UNLISTED USE – [32594] [05005]**

**WARD:** North

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

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CJ061121\_BRF.DOC:ITEM 25

**PURPOSE**

To request Council's consideration of two applications for Approval to Commence Development for a proposed Special Events Train Station and pathway to Kennedy Drive (Joondalup Arena) in Joondalup. Further, to provide a recommendation to the Western Australian Planning Commission (WAPC) on the proposed development.

**EXECUTIVE SUMMARY**

The Special Events Train Station is proposed to be constructed on Lot 603 (160) Shenton Avenue, which is owned by Landcorp. The site has already been developed with the Perth-Currabine railway line.

A pathway and associated works are also proposed to link the proposed train station to the Joondalup Arena complex. These works are proposed to occur on Lot 101 (25) Kennedy Drive (Joondalup Arena site). Therefore, Lots 160 & 101 are interlinked for this project.

The two sites are zoned Centre and Central City Area under District Planning Scheme 2 (DPS2) and the Metropolitan Region Scheme (MRS) respectively. As such, Council is required to:

- make a determination under the DPS2; and
- submit a recommendation to the Western Australian Planning Commission (WAPC) to enable the Commission to make a determination under the MRS.

The proposal accords with the intent of the Joondalup City Centre Development Plan and Manual (JCCDPM). Therefore, it is recommended that the application be approved under DPS2.

Further, it is recommended that the Western Australian Planning Commission be advised that the proposed Special Events Train Station and associated pathway to the Arena Complex is supported.

## BACKGROUND

<b>Suburb/Location:</b>	Railway Reserve Lot 603 (160) Shenton Avenue & Lot 101 (25) Kennedy Drive, Joondalup
<b>Applicant:</b>	The Public Transport of Western Australia
<b>Owner:</b>	Landcorp & Western Australia Sports Trust
<b>Zoning: DPS:</b>	Centre
<b>MRS:</b>	Central City Area
<b>Site Area:</b>	1.8912 Ha & 30.1209 Ha
<b>Structure Plan:</b>	Joondalup City Centre Development Plan and Manual

The Special Events Train Station is proposed to be constructed on Lot 603 (160) Shenton Avenue, which is owned by Landcorp. There is a pathway and associated works proposed to link the train station to the Joondalup Arena, which is managed by the Western Australia Sports Trust.

Lot 603 Shenton Avenue occupies an area of 1.8912 Ha and has been developed with the existing Perth – Currambine railway line. The area of Lot 101, Kennedy Drive is 30.1209 Ha which is partly occupied by the Joondalup Arena complex. The two lots are bounded by Lake Joondalup Baptist College (Lot 102), the Mitchell Freeway extension (Lot 63), Western Power Corporation land (Lot 2), Moore Drive, Shenton Avenue and Joondalup Drive.

The nearest residential area is in Currambine, which is located on the western side of the Mitchell Freeway reservation, whereas the proposed development is located on the eastern side of the Mitchell Freeway reservation.

The land is zoned as Central City Area under the Metropolitan Region Scheme and as Centre under the Joondalup District Planning Scheme No 2 (DPS2).

The subject lots are located within the “Northern Recreation District” area of the Joondalup City Centre. There is a proposed Structure Plan for the Arena Complex which was approved by Council on 6 June 2006 and is currently with the WAPC for certification.

The JCCDPM foreshadows this location as the site of a future train station.

## DETAILS

The following is a summary of the major points identified in the applicant’s supporting documents on the proposed development:

- 1 The proposed train station will have two platforms, one to Currambine and the other to Perth. The platforms are each 150 metres long to cater for the network’s six-car train sets. Access to the station platforms is via stairs and ramps. An underpass linking the two platforms is being proposed. A communication room is proposed on the south-eastern side of Lot 603.
- 2 The train station will be connected to the Arena complex by a proposed bitumen and concrete two-way path (approximately 200 metres long and varies in width between 2.5 and 5.0m) from the station platform to Kennedy Drive. The Lake Joondalup Baptist College will also be linked to the pathway.
- 3 Landscape works are proposed all along the pathway between the train station and the Arena complex

It is proposed to have an art component to this project, to create a sense of public space. The design will incorporate the following:

- Landscape 10 metre high “tree Posts” painted in bright colours to identify and give prominence to the “To Perth” platform entrance.
  - Artwork on the tunnel entrance walls, possibly using tiles made by the local school or large scale imprints, possibly of sport people, in the concrete formwork.
- 1 A six-metre road easement each side between the College/Arena boundary exists for future provision of an access road.
  - 2 There will be no car parking and public toilets for the special events station.
  - 3 The construction programme is scheduled to commence in February 2007 and to be completed by August 2007.

The applicant has provided the following justification for this project:

*The State Government has made a commitment to provide a “Special Events” station serving the Arena, Joondalup. The station will also provide a daily, morning and afternoon train service for students of the adjacent Baptist College. The project has been a Masterplan item for many years with Council consulted and involved with the proposal over that time.*

*The project enjoys very significant community support and in particular the support of both the Joondalup Arena and the Lake Joondalup Baptist College, giving a direct transit link to each and reducing the demand on roads and traffic management for special events.*

*The project also provides significant benefits to the City of Joondalup more broadly, providing improved access to Special Events at the Arena and thereby fostering cultural and sporting activity in the City.*

*The College has Development Application Approval for a new oval adjacent the station. The station project has and will continue to liaise closely with the College to achieve suitable integration of the two projects during design and documentation, particularly with regard to access and a unified landscape scheme.*

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

It has been established that the proposal is not exempt from requiring the approval of the Council (DPS2) or WAPC (MRS) because it is a development by a public authority on zoned land.

In this particular situation and separate from the decision to be made by the Council under DPS2, Council, having received a development application on zoned land under the Metropolitan Region Scheme for public works, is required to provide advice to the WAPC on whether it:

- supports the application with or without conditions; or
- does not support the application.

**Link to Strategic Plan:**

The development proposal will contribute to develop the City of Joondalup as a cultural and recreational centre for the region and to have leisure and recreational activities more accessible to the general public.

**Legislation – Statutory Provisions:**

There are two separate approvals required for the proposed development.

Approval is required to be issued by the WAPC under the MRS for public works to be carried out on land zoned under the Metropolitan Region Scheme.

Planning approval is also required to be issued by the City under the DPS2. The relevant provisions of DPS2 that control development within this zone and are applicable to the application for planning approval include the following:  
Clause 3.3 of the DPS2 states the following:

**3.3 UNLISTED USES**

*If the use of the land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the use categories, the Council may:*

- (a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or*
- (b) determine that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the procedures set down for an 'A' use in Clause 6.6.3 in considering an application for planning approval; or*
- (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.*

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.*

### Development Standards

There are no development standards specified for the Northern Recreation District in the JCCDPM.

The Draft Structure Plan for the Joondalup Arena Precinct provides regulations for setbacks, building heights, building form (materials and finishes) and car parking. However, this application relates only to a pathway and associated works within the Arena Complex land and therefore, these standards would not apply.

### **Risk Management considerations:**

Not applicable

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

Not applicable.

### **Policy implications:**

Not applicable

### **Regional Significance:**

The proposed Special Events Train station will contribute towards making the Arena Complex a major sporting & recreational centre for the northern suburbs of Perth.

### **Sustainability implications:**

Not applicable

### **Consultation:**

The proposal was not advertised for public comment as the proposal meets the intent of the JCCDPM and is unlikely to impact on the surrounding area.

## COMMENT

The two lots are zoned under the DPS2 and the Metropolitan Region Scheme. Consequently, Council has to:

- make a determination under the DPS2; and
- provide a recommendation to the Western Australian Planning Commission on the proposal.

As previously specified in the section Legislation - Statutory Provisions, there are no standards applicable for this type of development in this locality.

In section P5 Land Use- Planning and Design Policies of the JCCDPM, a proposed Special Stop Station is shown on the map for the Northern Recreation District (refer to attachment 3). Therefore, the proposed Special Events Train Station is consistent with the land use map proposal.

The only specific reference to the “Northern Recreation District” in the JCCDPM is in section 4 under the heading “Land Use and Community Facilities”. Here it states:

“The major regional sporting complex is located in the north-west District of the City Centre. The complex is intended to be multifunctional, servicing entertainment, leisure, cultural, social and business functions in addition to sports programme.”

The proposal meets the intent of the JCCDPM, as it will contribute to making the Arena Complex the focal point for sporting and recreational activities for the northern suburbs. Further, as the station will provide a daily, morning and afternoon train service for students of the adjacent Lake Joondalup Baptist College, it is anticipated that this will contribute to a reduction in the road traffic to/from the school.

### Access

There were concerns regarding the termination of the proposed pathway from the Special Event Train station at the intersection with Kennedy Drive, leaving train patrons to navigate across the large car parking area. However, the Arena Management has informed the City that for special events, the car parking area is closed and therefore, there would be no conflict between the train patrons and vehicles using the car parking area.

### Road Easement

There is a six-metre road easement on each side of the Baptist College/Arena Joondalup boundary for the future construction of a road. The road easement would allow for the future construction of a road linking Shenton Avenue and Kendrew Crescent, if and whenever it was required.

The applicant has stated that the station access path location and gradient have been set to work as a roadside path should the road proceed. However, neither the Western Australia Sports Trust nor the Baptist College support the proposed road.

At present, the City has not taken any decision in respect of the construction of a road in this easement.

## Conclusion

Having regard to the intent of the JCCDPM, it is recommended that the Western Australian Planning Commission be advised that the proposed Special Events Train Station and associated Pathway to the Arena Complex be supported.

## ATTACHMENTS

Attachment 1	Location Plan
Attachment 2	Site and Development Plans
Attachment 3	Land Use Plan from JCCDPM

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cr McLean SECONDED Cr Hollywood that Council:**

- 1 Exercises discretion under clause 3.3 and 6.8 of District Planning Scheme No 2, and DETERMINES that:**
  - (a) the use (Special Events Train Station and associated Pathway) is consistent with the objectives and purposes of this particular zone and is therefore permitted;**
  - (b) the proposal meets the intent of the Joondalup City Centre Development Plan and Manual;**
- 2 GRANTS planning approval for the application dated 10/10/06 submitted by the Public Transport Authority of Western Australia for the Special Events Train Station and Associated Pathway on Lot 603 (160) Shenton Avenue and Lot 101 (25) Kennedy Drive, Joondalup, subject to the following conditions:**
  - (a) The Special Events Train Station and Pathway shall be provided with a high standard of lighting;**
  - (b) The walls of the development to be protected with the use of a sacrificial anti-graffiti coating;**
  - (c) All ramps shall have a maximum grade 1:14 for disabled access;**
  - (d) The proposed landscaping plan incorporating detailed changes to the satisfaction of the City, such changes to ensure:**
    - (i) the retention and replanting of grass trees, and**
    - (ii) proposed new plantings to be in accordance with approved local species.**
- 3 ADVISES the Western Australian Planning Commission that Council recommends approval of the proposed Special Events Train Station and Pathway on Lot 603 (160) Shenton Avenue and Lot 101 (25) Kennedy Drive, Joondalup, subject to the following conditions:**
  - (a) The Special Events Train Station and Pathway shall be provided with a high standard of lighting;**

- (b) **The walls of the development to be protected with the use of a sacrificial anti-graffiti coating;**
- (c) **All ramps shall have a maximum grade 1:14 for disabled access;**
- (d) **The proposed landscaping plan incorporating detailed changes to the satisfaction of the City, such changes to ensure:**
  - (i) **the retention and replanting of grass trees, and**
  - (ii) **proposed new plantings to be in accordance with approved local species.**

Cr McLean spoke to the Motion.

**AMENDMENT MOVED Cr Hart SECONDED Cr John that the Motion be amended as follows:**

**1 The following sub-clauses (e) and (f) be added to Points 2 and 3:**

- “(e) the submission of revised plans to the satisfaction of the City, such plans showing the location of a site for the provision of temporary toilets on the Joondalup Arena site in close proximity to the proposed Special Event Train Station.**
- (f) the provision of temporary toilets by the Western Australian Sports Trust in the location identified in part (e) above, when the proposed train station is used for Special Events.”**

**2 An additional point 4 be added to read:**

- “(4) advises the PTA and the Western Australian Sport Trust that, having regard to the distance between the proposed Events Train Station and the Joondalup Arena complex, the City will require the provision of temporary toilets near the proposed train station when the train station is to be used for a special event, but not including the times when the normal school train service occurs.”**

Discussion ensued.

**The Amendment was Put and**

**CARRIED (7/3)**

**In favour of the Amendment:** Crs Magyar, John, Evans, Hart, Corr, Fishwick and Currie **Against the Amendment:** Mayor Pickard, Crs McLean and Hollywood.

**The Original Motion as amended, being:**

**That Council:**

- 1 Exercises discretion under clause 3.3 and 6.8 of District Planning Scheme No 2, and DETERMINES that:**
  - (a) the use (Special Events Train Station and associated Pathway) is consistent with the objectives and purposes of this particular zone and is therefore permitted;**

- (b) the proposal meets the intent of the Joondalup City Centre Development Plan and Manual;
- 2 GRANTS planning approval for the application dated 10/10/06 submitted by the Public Transport Authority of Western Australia for the Special Events Train Station and Associated Pathway on Lot 603 (160) Shenton Avenue and Lot 101 (25) Kennedy Drive, Joondalup, subject to the following conditions:
- (a) The Special Events Train Station and Pathway shall be provided with a high standard of lighting;
- (b) The walls of the development to be protected with the use of a sacrificial anti-graffiti coating;
- (c) All ramps shall have a maximum grade 1:14 for disabled access;
- (d) The proposed landscaping plan incorporating detailed changes to the satisfaction of the City, such changes to ensure:
- (i) the retention and replanting of grass trees, and
- (ii) proposed new plantings to be in accordance with approved local species.
- (e) the submission of revised plans to the satisfaction of the City, such plans showing the location of a site for the provision of temporary toilets on the Joondalup Arena site in close proximity to the proposed Special Event Train Station.
- (f) the provision of temporary toilets by the Western Australian Sports Trust in the location identified in part (e) above, when the proposed train station is used for Special Events.
- 3 ADVISES the Western Australian Planning Commission that Council recommends approval of the proposed Special Events Train Station and Pathway on Lot 603 (160) Shenton Avenue and Lot 101 (25) Kennedy Drive, Joondalup, subject to the following conditions:
- (a) The Special Events Train Station and Pathway shall be provided with a high standard of lighting;
- (b) The walls of the development to be protected with the use of a sacrificial anti-graffiti coating;
- (c) All ramps shall have a maximum grade 1:14 for disabled access;
- (d) The proposed landscaping plan incorporating detailed changes to the satisfaction of the City, such changes to ensure:
- (i) the retention and replanting of grass trees, and
- (ii) proposed new plantings to be in accordance with approved local species.

- (e) the submission of revised plans to the satisfaction of the City, such plans showing the location of a site for the provision of temporary toilets on the Joondalup Arena site in close proximity to the proposed Special Event Train Station.
  - (f) the provision of temporary toilets by the Western Australian Sports Trust in the location identified in part (e) above, when the proposed train station is used for Special Events.
- 4 advises the PTA and the Western Australian Sport Trust that, having regard to the distance between the proposed Events Train Station and the Joondalup Arena complex, the City will require the provision of temporary toilets near the proposed train station when the train station is to be used for a special event, but not including the times when the normal school train service occurs.

**Was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 20 refers*

To access this attachment on electronic document, click here: [Attach20brf141106.pdf](#)

## **CJ230 - 11/06 PROPOSED ROAD CLOSURE OF PORTION OF SUNLANDER DRIVE, CURRAMBINE – [51510]**

**WARD:** North

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

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CJ061121\_BRF.DOC:ITEM 26

### **PURPOSE**

The purpose of this report is for Council to consider a road closure, road excision and associated land amalgamations to facilitate the relocation of a Western Power transformer at Lot 2259 Sunlander Drive, Currambine (refer Attachment 1).

### **EXECUTIVE SUMMARY**

An application has been received to close a 22m<sup>2</sup> portion of Sunlander Drive, Currambine, adjacent to Lot 2259 Sunlander Drive. The purpose of the road closure is to facilitate the relocation of a Western Power transformer to an alternative location on Lot 2259. As part of the proposed closure, portion of Lot 2259 is proposed to be excised to create a new area of road reserve.

The City obtained comments from service authorities and the Department of Planning and Infrastructure (DPI) prior to publicly advertising the proposal. No objections were received.

The proposal was advertised for a period of 35 days, commencing on 7 September 2006 and closing on 12 October 2006. No submissions were received during the advertising period.

The road reserve land is not owned or managed by Council and therefore the Council has no entitlement to the land.

It is recommended that Council support the closure of the road reserve and the excision of land from Lot 2259 in order to facilitate the relocation of the Western Power transformer infrastructure.

## BACKGROUND

<b>Suburb/Location:</b>	Lot 2259, Corner Burns Beach Road and Sunlander Drive, Currambine
<b>Applicant:</b>	Tuscom Subdivision Consultants Pty Ltd
<b>Owner:</b>	Crown (Road Reserve) & Goldzen Holdings Pty Ltd (Lot 2259)
<b>Zoning:</b>	<b>DPS:</b> Residential R80
	<b>MRS:</b> Urban
<b>Site Area:</b>	1.2073 hectares
<b>Structure Plan:</b>	Not applicable

At the Council meetings of 23 November and 14 December 2004, approval was granted for the development of 94 multiple dwellings at Lot 2259 Sunlander Drive, Currambine (refer to Items CJ296-11/04 and CJ340-12/04).

The approved plans depicted the development of dwellings in close proximity to a Western Power transformer, located within the Sunlander Drive road reserve, adjacent to Lot 2259. The City's development approval subsequently included a footnote stating:

*Attention is drawn to the Western Power site on the western boundary and that development shall not encroach within this area and Western Power may need to be consulted in regards to adjoining development.*

Subsequent discussion between the developer and Western Power resulted in agreement being reached between the two parties to relocate the transformer to an alternative location on Lot 2259, and undertake all necessary road closures and excisions.

This agreement forms the basis of the current application.

## DETAILS

In June 2006, a request was received from Tuscom Subdivisions, acting on behalf of the landowner, requesting that a 22m<sup>2</sup> portion of the Sunlander Drive road reserve adjoining Lot 2259 be closed (Attachment 1).

In return, a 25m<sup>2</sup> portion of Lot 2259 is sought to be excised and amalgamated into the adjoining road reserve immediately to the north of the closed portion of road reserve to facilitate the relocation of a Western Power transformer.

Should the road closure ultimately be supported by Council and the DPI, the landowner is required to lodge a separate subdivision application with the Western Australian Planning Commission (WAPC) for its approval to amalgamate 22m<sup>2</sup> of the closed portion of road reserve into adjoining Lot 2259 and to also excise 25m<sup>2</sup> of Lot 2259, that is to be amalgamated into the adjoining road reserve in order to facilitate the transformer relocation.

**Options considered**

The Council has the option to:

- (a) Resolve to support the road closure, or
- (b) Resolve to not support the road closure.

**Road Closure Process**

A request can be made to close a road reserve and amalgamate that land into an adjoining property. As part of this process, service authorities are requested to provide details of any service plant that is within the proposed road reserve to be amalgamated. If such infrastructure exists, the cost of relocation or provision of easements to protect and obtain access to that infrastructure, should the need arise in the future, are to be met by the applicant.

The proposal was forwarded to the DPI for comment, as the affected portion of road reserve does not accommodate any traffic or pedestrian services. The service authorities have not raised any objections and the applicant(s) have agreed to meet all associated costs and conditions.

The proposal was subsequently advertised for public comment for a period of 35 days, as required under Section 58 of the Land Administration Act 1997.

If Council supports the road closure, all relevant documentation is forwarded to the DPI with a request to formally close the road reserve. The Minister for Planning and Infrastructure makes the final decision on whether or not closure takes place.

The DPI, in consultation with the Valuer General's Office, determines the purchase price (ie. the unimproved market value of the land) to apply and also arranges for any easements, survey requirements and undertakes conveyancing.

**Link to Strategic Plan:**

Strategy 3.1.2 – Facilitate the safe design, construction and approval of all buildings and facilities within the City of Joondalup.

**Legislation – Statutory Provisions:**

Under Section 58 of the Land Administration Act (LAA) 1997, closure of a portion of road is required to be advertised for 35 days by way of a notice in a local newspaper. Any submissions received during the advertising period are to be considered by Council and if the closure is supported, all associated submissions are to be forwarded to the DPI.

**Risk Management considerations:**

Not Applicable.

**Financial/Budget Implications:**

The City is responsible for all costs associated with advertising the proposed road closure. The current budget has sufficient funds to cover these costs.

For a road closure to be considered, an application fee of \$1040 must be paid. This fee covers administration costs associated with assessing and reporting on the application,



newspaper advertisement costs and mailing costs. The fee does not include signage costs, which are borne separately by the applicant.

**Policy implications:**

Not Applicable.

**Regional Significance:**

Not Applicable.

**Sustainability implications:**

Not Applicable.

**Consultation:**

Initial consultation was undertaken with service authorities in September 2006 in order to identify any services located within or adjacent to the subject land.

All service authorities (Telstra, Western Power, Alinta Gas and Water Corporation) have advised that they have no services or assets that would be affected by the proposed road closure.

Public advertising was undertaken for 35 days as required under Section 58 of the Land Administration Act, with the advertising period commencing on 7 September 2006 and closing on 12 October 2006. Advertising of the proposal was as follows:

- Nearby landowners being notified in writing;
- A notice being placed in the local newspaper;
- A sign being erected on site; and
- A notice being placed on the City's website.

No submissions were received during the advertising period.

**COMMENT**

The City has not initiated the proposed road closure and is not the determining authority for the proposal. The City is required by the LAA to undertake the public consultation on this matter as it relates to land within its jurisdiction. The City does not own or manage the subject land, and therefore has no entitlement to the land.

The proposed road reserve closure is unlikely to create any adverse impact on vehicle and pedestrian manoeuvrability given that the development approved for the subject site addressed issues relating to vehicle access, pedestrian movement and car parking. The development is under construction and near completion.

It is recommended that Council support the proposed road closure.

**ATTACHMENTS**

Attachment 1            Site Plan

**VOTING REQUIREMENTS**

Simple Majority

**MOVED Cr Hollywood SECONDED Cr McLean that Council:**

- 1 RESOLVES to support closure of a 22m<sup>2</sup> portion of Sunlander Drive road reserve, Currambine as shown in Attachment 1 to Report CJ230-11/06 and subsequent amalgamation into adjacent Lot 2259 (No. 1) Sunlander Drive, Currambine in accordance with Section 58 of the Land Administration Act;**
- 2 RESOLVES to support the excision of a 25m<sup>2</sup> portion of Lot 2259 (No. 1) Sunlander Drive, Currambine as shown in Attachment 1 to Report CJ230-11/06 and subsequent inclusion into adjacent Sunlander Drive road reserve;**
- 3 FORWARDS the proposed road closure to the Department for Planning & Infrastructure and REQUESTS the Minister for Planning & Infrastructure close the road reserve as detailed in point 1 above.**

**The Motion was Put and****CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 21 refers*

*To access this attachment on electronic document, click here: [Attach21brf141106.pdf](#)*

## **CJ231 - 11/06 MINUTES OF SENIORS INTERESTS ADVISORY COMMITTEE HELD ON WEDNESDAY 4 OCTOBER 2006 – [55511]**

**WARD:** All

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

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CJ061121\_BRF.DOC:ITEM 27

### **PURPOSE**

To note the unconfirmed minutes of the Seniors Interests Advisory Committee (SIAC) meeting held on 4 October 2006.

### **EXECUTIVE SUMMARY**

The SIAC met on 4 October 2006 and considered the Seniors Plan Status Report; a Transitions in Ageing Research Project; and a School Volunteer Program presentation.

It is recommended that Council:

- 1 NOTES the unconfirmed minutes of the Seniors Interests Advisory Committee meeting held on Wednesday 4 October 2006 forming Attachment 1 to Report CJ231-11.06;*
- 2 (a) NOTES the Seniors Plan Status Report;*

- (b) *NOTES the progress of actions and tasks as outlined in the Seniors Plan 2004-2008.*

## **BACKGROUND**

The SIAC was established for the benefit of exchanging views with residents of the City on matters related to seniors, an ageing population and the need for community input into the Seniors Plan, the Strategic Plan and other matters that impact upon seniors.

In accordance with its role, the Committee identified priority focus areas that complement various tasks and actions of the City's Seniors Plan 2004 – 2008. These include: seniors' health issues, transport accessibility and affordability, staying active through leisure and entertainment.

Recommendations of the Committee will facilitate progress on initiatives that are generated by the provision of ongoing Seniors Plan status reports. Other initiatives that complement the Seniors Plan such as the Transitions in Ageing Research Project Report will be useful resources to inform the review of the Seniors Plan, whilst the School Volunteer Program promotes intergenerational activities.

## **DETAILS**

The Committee meeting on Wednesday 4 October 2006 focussed on:

- A Status Report on the Seniors Plan 2004-2008;
- The Transitions in Ageing Research Project Overview; and
- The School Volunteer Program Presentation

### **Status Report on the Seniors Plan 2004-2008**

The SIAC discussed the Plan and City officers advised that the Plan had an achievement rate of 87% which equated to 20 of 23 actions being implemented. Challenges to be continued or to be reconsidered in the future include storage standards for community buildings and a community safety program. At its July meeting, the SIAC resolved not to progress the "Absolutely Everybody" program; rather, to promote existing intergenerational community programs.

The following motion was moved at the Committee meeting on 4 October 2006:

*"That the Committee NOTES the progress of actions and tasks as outlined in the Seniors Plan 2004 -2008."*

### Officer's Comment

Although the review of the Seniors Plan will commence early in 2007, the SIAC has been reviewing the Plan since August 2005. Status reports are ongoing and assist the SIAC and Officers to identify and review actions progressively. This process ensures that the Plan is a working and sustainable document, linked with actions that are able to be implemented or identifying those that present challenges.

### **Transitions in Ageing Research Project - An Overview 2006**

The Transitions in Ageing Research Project was published in August 2006 by the State Government Office of Seniors Interests & Volunteering, which commissioned the research. A major finding of the research highlighted that the "absence of depression" was the key predictor of successful ageing.

The research is a valuable resource for the SIAC to consider, as the objective of the Committee is to “provide advice to Council to ensure that the concerns of seniors are adequately represented in the City’s planning processes and the strategic directions being developed for older people across the City.” The document will be used to inform the review of the Seniors Plan, as it outlines positive and active ageing predictors.

The major objectives of the research were to investigate:

- Which life transitions seniors believed had the most important continuing influence, either positive or negative, on their lives;
- Whether or not seniors were ageing successfully; and
- Which life transitions were most closely related, either positively or negatively, to people assessing the satisfaction with their quality of life, as they grew older.

The following motion was moved at the Committee meeting on 4 October 2006:

*“That the Seniors Interests Advisory Committee recommends that Council:*

- 1 *NOTES the findings of the “Transitions in Ageing Project – An Overview 2006 Report;*
- 2 *NOTES the document to be a key resource in the review of the Seniors Plan.”*

#### Officer’s Comment

It is essential to keep the SIAC up-to-date with current and contemporary seniors information when it is published. This enables the Committee to make informed decisions, particularly at this time when a review of the Seniors Plan is due to commence early in 2007.

#### **School Volunteer Program Presentation**

At the SIAC meeting on 2 August 2006, a report provided the Committee with information on two established intergenerational programs: the School Volunteer Program (SVP) and Tales of Times Past. Subsequently, invitations were extended to Christine Gray and Vasanti Sunderland to attend the SIAC meeting on 4 October 2006 to conduct presentations on their respective programs. Christine Gray provided a presentation to the Committee; Vasanti Sunderland was unable to attend, however she will attend the meeting on 6 December 2006.

#### Officer’s Comment

The presentation by Christine Gray - CEO of the School Volunteer Program, enabled the SIAC to obtain a thorough understanding of the School Volunteer Program. Officers have commenced the process of promoting the SVP through the provision of a promotional opportunity for the SVP during the recent Seniors: This is Your Life event, as well as distributing SVP information as appropriate. This will continue in the Officer’s interactions with the community.

**Link to Strategic Plan:**

The Seniors Interests Advisory Committee is linked to the Strategic Plan through the following objectives:

- 1.1 To develop, provide and promote a diverse range of lifelong learning opportunities.
- 1.2 To meet the Cultural needs and values of the community.
- 1.3 To continue to provide services that meet changing needs of a diverse and growing community.
- 1.4 To work with the community to enhance safety and security in a healthy environment.
- 3.3 To continue to meet changing demographic needs.
- 4.3 To ensure the City responds to and communicates with the community.

**Regional Significance:**

The Seniors Interests Advisory Committee is a locally focussed group, established by Council to represent and advocate for the needs of seniors within the City of Joondalup. Although there may be some particular issues and concerns unique for seniors within the City, it is probable that these issues and concerns may be similar for seniors throughout the region and the state.

**Sustainability implications:**

The Seniors Interests Advisory Committee enables seniors the opportunity to actively participate and meaningfully contribute to Council processes and to the development and maintenance of a healthy and equitable community that considers their needs.

**Consultation:**

Not applicable

**COMMENT**

The decision-making process and subsequent recommendations of the SIAC have been made with full consideration given to the Committee's Terms of Reference and guidance from the City's Seniors and Strategic Plans. The issues presented to SIAC at this meeting; a status report on the Seniors Plan and a report on the Transitions in Ageing Research Project – An Overview 2006, are considered highly relevant to the needs of seniors. The presentation by Christine Gray - CEO of the School Volunteer Program is also of significance because of the intergenerational context of the program and that it is operating successfully in schools within the City. Support by the Council on the matters discussed will be considered as a strong endorsement of the initiatives in the Seniors Plan.

**ATTACHMENTS**

Attachment 1 Minutes of the Seniors Interests Advisory Committee held on 4 October 2006.

**VOTING REQUIREMENTS**

Absolute Majority

**MOVED Cr Corr SECONDED Cr Currie that Council:**

- 1 **NOTES the unconfirmed minutes of the Seniors Interests Advisory Committee meeting held on Wednesday 4 October 2006 forming Attachment 1 to Report CJ231-11/06;**
- 2 (a) **NOTES the Seniors Plan Status Report;**  
(b) **NOTES the progress of actions and tasks as outlined in the Seniors Plan 2004-2008.**

Discussion ensued.

A query was raised in relation to the membership of the Seniors Interest Advisory Committee and its quorum.

**PROCEDURAL MOTION – THAT THE MOTION BE DEFERRED**

**MOVED Mayor Pickard SECONDED Cr Hart that the motion be DEFERRED pending clarification of the membership of the Seniors Interest Advisory Committee.**

**The Procedural Motion was Put and**

**CARRIED (10/0)**

**In favour of the Procedural Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 22 refers*

*To access this attachment on electronic document, click here: [Attach22brf141106.pdf](#)*

*Cr Hart left the Chamber at 2105 hrs.*

**MOTION TO GO BEHIND CLOSED DOORS**

**MOVED Mayor Pickard SECONDED Cr Magyar that:**

- 1 **in accordance with section 5.23 of the Local Government Act 1995 and Clause 67 of the City's Standing Orders Local Law, the meeting now sit behind closed doors to discuss the following items: -**
  - **CJ232 - 11/06 Minutes of the CEO Performance Review Committee meeting held on 8 November 2006; and**
  - **CJ233-11/06 Member Council Guarantees for the Resource Recovery Facility**
- 2 **the Director of Corporate Services, Mr. Mike Tidy and the Administrative Services Coordinator, Ms Janet Harrison be permitted to remain in the chamber for the discussion on item CJ232 - 11/06 - Minutes of the CEO Performance Review Committee meeting held on 8 November 2006 and CJ233-11/06 - Member Council Guarantees for the Resource Recovery Facility**

- 3 the CEO, Directors Governance & Strategy, Planning & Community Development and Infrastructure Services, be permitted to remain in the chamber for the discussion on item CJ233-11/06 - Member Council Guarantees for the Resource Recovery Facility.**

The Motion was Put and

**CARRIED (9/0)**

In favour of the Motion: Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Corr, Fishwick and Currie

*Cr Hart entered the Chamber at 2107 hrs.*

Members of the public and press, and staff members, with the exception of the Director Corporate Services and the Administrative Services Coordinator, left the Chamber at 2107 hrs.

#### Disclosure of Financial Interests

<b>Name/Position</b>	<b>Mr Garry Hunt – Chief Executive Officer</b>
<b>Item No/Subject</b>	<b>CJ232-11/06 - Minutes of the CEO Performance Review Committee Meeting held on 8 November 2006 – [98394]</b>
<b>Nature of interest</b>	<b>Financial</b>
<b>Extent of Interest</b>	<b>Mr Hunt holds the position of CEO.</b>

#### Disclosure of interest affecting impartiality

<b>Name/Position</b>	<b>Mr Mike Tidy – Director Corporate Services</b>
<b>Item No/Subject</b>	<b>CJ232-11/06 - Minutes of the CEO Performance Review Committee Meeting held on 8 November 2006 – [98394]</b>
<b>Nature of interest</b>	<b>Interest that may affect impartiality</b>
<b>Extent of Interest</b>	<b>Due to the nature of his employment relationship with the CEO.</b>

<b>Name/Position</b>	<b>Cr Russel Fishwick</b>
<b>Item No/Subject</b>	<b>CJ232-11/06 - Minutes of the CEO Performance Review Committee Meeting held on 8 November 2006 – [98394]</b>
<b>Nature of interest</b>	<b>Interest that may affect impartiality</b>
<b>Extent of Interest</b>	<b>Member of Cr Fishwick's family is employed by an organisation that provides a service to a member of Mr Hunt's family.</b>

### **CJ232 - 11/06 MINUTES OF THE CEO PERFORMANCE REVIEW COMMITTEE MEETING HELD ON 8 NOVEMBER 2006 – [98394]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Mike Tidy  
Corporate Services

#### This Item Is Confidential - Not For Publication

A full report was provided to Elected Members under separate cover.

**MOVED Cr Fishwick SECONDED Cr John that Council:**

- 1 NOTES the unconfirmed minutes of the CEO – Performance Review Committee meeting of 8 November 2006 forming attachment 1 to Report CJ232-11/06;**
- 2 ACCEPTS the report and recommendation of the CEO – Performance Review Committee of the Annual Salary Review of the CEO and APPROVES an increase to the CEO’s current total employment cost remuneration package of 10%.**

Discussion ensued.

**AMENDMENT MOVED Cr Corr SECONDED Cr Hart** that Point 2 of the Motion be amended to read “...remuneration package of 7%”.

Discussion ensued.

**The Amendment was Put and**

**LOST (3/7)**

**In favour of the Amendment:** Crs Corr, Hart and Magyar   **Against the Amendment:** Mayor Pickard, Crs Hollywood, McLean, John, Evans, Fishwick and Currie  
Discussion resumed.

**The Motion as Moved by Cr Fishwick Seconded by Cr John was Put and**

**CARRIED (7/3)**

**In favour of the Amendment:** Mayor Pickard, Crs Hollywood, McLean, John, Evans, Fishwick and Currie   **Against the Amendment:** Crs Corr, Hart and Magyar

*Appendix 25 – Confidential – in the Official Minute Book only*

*The CEO, Directors Governance & Strategy, Planning & Community Development and Infrastructure Services entered the Chamber at 2123 hrs.*



## **CJ233-11/06 MEMBER COUNCIL GUARANTEES FOR THE RESOURCE RECOVERY FACILITY – [03149] [36958]**

**WARD:** All

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

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### **PURPOSE**

To advise and seek Council's approval for a contingent liability of the financial guarantees associated with the Resource Recovery Facility (RRF).

### **EXECUTIVE SUMMARY**

The arrangements have been finalised with the Contractor for the RRF Project. BioVision 2020 Pty Ltd is a Special Purpose Vehicle company that has been established specifically to undertake this project. It will be wholly owned by BioVision 2020 Holdings Pty Ltd.

In order for the RRF project to proceed (bankability of the Project), BioVision require a guarantee from the member councils. The financiers will not accept the Mindarie Regional Council's guarantee because it does not have adequate financial reserves to cover obligations to make a termination payment if there is a Force Majeure, MRC default event under the Resource Recovery Facility Agreement or the Fee if Member Councils do not pay the Gate Fee. Also, the Financiers are concerned that the Member Councils have the ability to windup the MRC without the approval of the MRC.

The MRC is structured in such a way that the member councils have always had ultimate responsibility for the obligations and liabilities of the MRC.

Events that will trigger the guarantee payment are:

- (i) MRC's default on payment of the gate fee;
- (ii) Failure to reimburse the costs of the Contractor obtaining water due to the bore being unavailable;
- (iii) Disposing of Residue due to Tamala Park being unavailable;
- (iv) The MRC or an associated party causes, and is liable for, a financial loss to BioVision;
- (v) MRC fails to pay; and
- (vi) An uninsurable Force Majeure event. An uninsurable Force Majeure event includes (among other things) war, nuclear attack, sea damage, radiation and Tsunami. Other insurable Force Majeure events will be insured to mitigate exposure.

The financial guarantee liability will reduce over the term of the RRFA and will apply:

- Where the MRC is in default for non-payment of the gate fee in which event the liability will be a worse case of approximately \$82M reducing to approximately \$14M in the last year. The City of Joondalup's liability will be one-sixth based on its equity share with a worst case of \$13.66M reducing to \$2.3M in the last years provided the membership of the MRC remains in its current form;

- If an uninsurable event of Force Majeure in which event the liability will be a worst case of approximately \$68M reducing to \$0M if the event occurs in the final years of the contract. The City of Joondalup's liability will be based on equity with a worst case of \$11.3M reducing \$0M in the last years, provided the membership of the MRC remains in its current form.

In terms of the membership and the impact on the City of Joondalup's financial liability in case of a membership change within the MRC, the City of Joondalup must agree to any change in the membership of the MRC; therefore any increased exposure will be with the City of Joondalup's approval.

*It is recommended that Council:*

- 1 *APPROVES the financial guarantees required by the Mindarie Regional Council to progress the Resource Recovery Project and the identified associated risks;*
- 2 *AUTHORISES the Mayor and the CEO to execute, under common seal, the Deed of Guarantee forming Confidential Attachment 1 to this Report.*

## **BACKGROUND**

The Mindarie Regional Council (MRC) is nearing the end of an exhaustive tender process for the selection of a tenderer to Build Own and Operate an RRF.

Milestones achieved during the project include:

- The adoption of a land requirements plan, which includes a decision to site any secondary waste treatment facility at locations other than Tamala Park.
- The identification of potential sites for such a facility within the priority one area – Wangara.
- The recognition of community concerns with relation to the establishment of such a facility at Wangara, and the revision of the plan to enable investigation of other sites.
- The confirmation of Neerabup as the preferred area for a facility, with two alternative sites identified (February 2003).
- The elimination of gasification and incineration processes (October 2003).
- The development and issue of a Community Partnership Agreement (CPA) (October 2003).
- The issue of a public environmental review (PER) document (mid 2004).
- The decision to purchase land from the Trandos family (March 2004).
- The approval of a Probity Plan (February 2005).
- The finalisation of Draft Tender Specification and Agreement (April 2005).
- Approve the approach for a proposed site visit as part of the tender process and approve the participation of the Chairman, Deputy Chair, Chair of the SWTF WG and CEO (July 2005).
- Execute the purchase of the Trandos family land in Neerabup (July 2005).
- The acceptance of the potential for the Mindarie Regional Council to provide security provisions as part of the contractual arrangements should the preferred tenderer so request (August 2005).

- Acknowledge the responses on the draft tender documentation submitted from the tenderers and endorse the approach of using a Term Sheet and Resource Recovery Facility Agreement as the basis for the tender package (August 2005).
- The approval of the tender evaluation model (August 2005).
- The approval of participation of councillors, officers and others on the overseas tour to visit similar resource recovery facilities (August 2005).
- Approval of the Tender package for distribution to the preferred tenderers (October 2005).
- The acceptance of the proposed tender assessment process (October 2005).
- Agreement to transfer environmental responsibilities to the successful tenderer (October 2005).
- The approval for a party of 10 on the overseas tour to visit similar resource recovery facilities (December 2005).
- Authorise the Chief Executive Officer to issue addendums to the Request for Tender package on all matters other than amendment to criteria for evaluation, after consultation with the probity auditor and legal adviser (December 2005).
- The rejection of all three submitted tenders in accordance with section 3.6.(b) of the Request for Tender on grounds of material inconsistencies with the Term Sheet.
- In accordance with regulation 11(2)(c) of the Local Government Regulations 1996, the companies that submitted tenders be invited to negotiate with the Mindarie Regional Council.
- The terms of negotiation, based on agreed principles, were resolved by the CEO based on advice from the Project Director.
- The Tender Evaluation Committee and its advisors have negotiated with the companies that submitted tenders for the purpose of preparing documentation to be presented to the Mindarie Regional Council for consideration.
- WorleyParsons consortium nominated as the preferred bidder for the project (June 2006)
- Contract signed by MRC and BioVision 2020 (the contractor for WorleyParsons consortium), conditional on a number of matters including the provision of guarantees by the member councils (August 2006)

The signing of a conditional contract by the MRC has resulted in the achievement of a significant milestone in this project. The next phase involves the MRC and BioVision addressing and meeting the conditions necessary for the project to proceed.

Notwithstanding this extensive work, some matters have emerged which require the consideration of Member Councils. Specifically, these matters relate to the provision of financial security arrangements by Member Councils in support of the Mindarie Regional Council, to the satisfaction of BioVision and their financiers.

MRC consideration of not only the rationale for the continuation of the project but also matters related to the provision of financial security by Member Councils is now appropriate. This consideration has been recognised by officers of the Member Councils at recent events, including a Financial Workshop, where the group, which included CEOs, their representatives and financial directors, concluded that any Member Council consideration of the matter of financial security arrangements could only occur within the context of some information about the overall project.

## DETAILS

### Characteristics of Contractor

MRC has signed a conditional contract with BioVision 2020 after an exhaustive tender and evaluation process. The characteristics of the proposal from BioVision, are as follows:

#### Business Structure

BioVision 2020 Pty Ltd is a Special Purpose Vehicle company that has been established specifically to undertake this project. It will be wholly owned by BioVision 2020 Holdings Pty Ltd.

The services under the Resource Recovery Facility Agreement will be provided through subcontracts as follows:

- (1) Concept design and technology licence – Conporec
- (2) Design and construction – Kerman Contracting Limited
- (3) Operation and maintenance – Worley Parsons Infrastructure

Each of the subcontractors will undertake their services for a lump sum fee (in the case of Kerman Contracting Limited) and (in the case of all subcontractors) will take full responsibility for the risks associated with their services.

A parent company guarantee is not being offered for BioVision 2020. Security is being provided through allocating some project risk to subcontractors, a \$2.5 million Development Security for the construction period up to the end of the Initial Operating Period, \$1.5 million Performance Guarantee for the remaining 18 years of the contract term (the Development Security and the Performance Guarantee will be capped, in aggregate, to the limit on liability with the Contractor [\$5 million]), appropriate insurance and limits of liability and risk mitigation processes built into the Agreement.

### Issues and options considered:

The tender process started with an Expression of Interest over five years ago and culminated in a tender process of national, local and international bidders. WorleyParsons were nominated as the preferred tenderer on 26 June 2006.

#### Fee Structure

The proposed gate fee payable to the Contractor comprises the following components:

- (i) Capital Cost Rate, which covers the repayment of the capital cost of the RRF and profit, plus;
- (ii) Fixed and Variable Operating Cost Rates, which cover the cost of operating the RRF, minus;
- (iii) Revenue share from the sale of products.

The gate fee can vary as a result of the performance of the Contractor and the RRF and the revenue obtained from the sale of products.

The Capital Cost Rate will escalate in line with inflation throughout the project. The Fixed and Variable Cost Rates will also escalate in line with defined escalation methods during the project. Escalation will commence from the time of tender (February 2006).

The fee payable to the Contractor would commence upon the commencement of operations of the facility scheduled in mid-2008. The exact gate fee payable will depend on interest rate movements up to financial close and inflation up to the commencement of operation of the facility.

### Other Issues

Worley and Conporec have demonstrated, through the performance of the Conporec facility in Tracey Canada, that the RRF proposed in their tender will be able to meet the performance standards required by the Mindarie Regional Council. The proposed facility will be essentially the same process as operating at Tracey, with some improvements and at a larger scale. The Tracey facility has been operating since receiving its certificate of compliance in May 1993.

### Estimated Costs to Member Councils

The Mindarie Regional Council had previously agreed a gate fee model, for implementation upon the establishment of the Resource Recovery Facility, which comprised the categorisation of waste as follows:

- Processable Waste
- Non Processable Waste

The philosophy associated with this model recognises that not all processable material will be delivered to the Resource Recovery Facility initially. Therefore, an equitable charging model was required, in order to manage, in a fair manner, all processable material, with respect to charges. This model is important because it provides a clear picture to Member Councils of the impact of Resource Recovery Facility Gate Fee charges on the overall charges to Member Councils.

The fee arrangements associated with the preferred tenderer are as follows:

- The gate fee payable to BioVision 2020 is dependent on various facility operating performances and market forces
- Reduction in the revenue from compost below \$0 per tonne will not impact on the gate rate as WorleyParsons/Contractor have guaranteed a minimum revenue of \$0/tonne
- A reduction in the achievement of the KPIs will reduce the gate fee paid to the contractor
- The gate fee will be increased in line with various cost escalation indices throughout the term of the contract

The translation of these fee arrangements into processable and non-processable fees results in the following:

- There will be a Mindarie Regional Council Resource Recovery Facility Management cost associated with facility development costs, infrastructure costs, operation and maintenance costs, Mindarie Regional Council governance and administration costs, community engagement and bush-forever costs. This Mindarie Regional Council Resource Recovery Facility Management cost is estimated at \$9.29/tonne.
- The non-processable fee is the Tamala Park Landfill fee (2006/2007 = \$43.00/tonne).
- The processable fee, based on the previously accepted formula, is estimated to be \$99.00/tonne in the first year of operation.

The estimated financial impact on Member Councils for the first complete financial year of Resource Recovery Facility operation, with a comparison of existing disposal to landfill versus proposed disposal to Resource Recovery, and the balance to landfill; based on the current tonnages, are described in the table below:

**INDIVIDUAL MEMBER COUNCIL COSTS - RESOURCE RECOVERY FACILITY V NON RESOURCE RECOVERY FACILITY**

**Calculation Using 2005/2006 tonnage up to 26/05/06 and then annualised.**

<b>Council</b>	<b>Annual Processable Tonnage</b>	<b>Total Disposal without Resource Recovery Facility</b> \$	<b>Annual Cost Resource Recovery Facility</b>	<b>Total Annual Disposal Costs with Resource Recovery Facility</b> \$
City of Perth	15,358		661,418	1,521,433
City of Wanneroo	39,745	2,792,385		5,018,049
City of Joondalup	58,287	3,065,694		6,329,660
Town of Cambridge	9,524	497,023		1,030,342
Town of Vincent	13,070	562,855		1,294,758
Town of Victoria Park	12,045	555,588		1,230,088
City of Stirling	-	4,297,382		4,297,382
<b>Total</b>	<b>148,028</b>			

Please note, that the increase in costs for waste management was discussed with the Community in the public consultation phase in the development of the Waste Management Strategy 2005. Estimated costs were provided at the time along with the estimated diversion rates from landfill. The costs were shown in terms of the household rubbish rate in the various scenarios presented. Option 3 was the most expensive and the one chosen by the Community at around \$205 per household based on 2003/04 costs.

Financial Guarantee Requirements

Notwithstanding the case for the introduction of a resource recovery capability within the Mindarie region, some financial security requirements have been identified by all Tenderers through the tender process. Also, these requirements are a product of the current approved Business Model for Mindarie Regional Council, which seeks to operate on the lowest possible cost recovery basis (which requires the use of loans rather than the creation of reserves). These requirements, as requested by all tenderers, relate to the need for any appointed contractor to have some certainty about the source and availability of funds to cover potential risks albeit with some low probability, should certain circumstances arise.

The financial obligations and exposure of the Member Councils are no more than what it would be under the current Constitution and the financial guarantee is merely formalising the obligations to provide comfort to the prospective contractor (and its financiers) by providing a direct contractual relationship between each Member Council and the contractor.

The characteristics of these tenderer requirements are as follows:

- The contractor is seeking a Financial Guarantee and this would crystallise if:
  - Mindarie Regional Council does not meet its payments due under the agreement and, therefore, there is a Mindarie Regional Council default under the agreement. The specific payments are the monthly gate fee (and any interest owing for late payment), reimbursement of costs of obtaining water if water is not able to be provided from the bore and reimbursement of costs if residue is not able to be disposed of at Tamala Park;
  - MRC or an associated party causes, and is liable for, a financial loss to BioVision and the MRC fails to pay that amount within the designated time frame;
  - MRC or an associated party causes, and is liable for, a financial loss to BioVision in excess of the Limit of Liability (\$5million) and the MRC and the Guarantors decide not to pay the portion of the liability that exceeds the Limit of liability;
  - There is an uninsurable Force Majeure event which prevents performance for more than 12 months and, as a result, the MRC seeks to terminate the agreement.

The trigger events for the access to these requirements can be described as follows:

- Non-payment of the Monies due by Mindarie Regional Council which constitutes a Mindarie Regional Council default
- Mindarie Regional Council obligation to settle debt due to the agreement being terminated because of the occurrence of an uninsurable Force Majeure event

Mindarie Regional Council would share the burden of the cost only if there is an uninsured event. In the case of insured events the cost should be covered by the payout from the Insurers but, in any event, would not result in a liability of MRC to pay the Contractor the termination payment. Examples of events that would be uninsurable and would have a material impact on the Resource Recovery Facility (RRF) include the following:

- War risks, confiscations, nationalisation
- Nuclear attack, radiation, contamination by radio activity from nuclear waste etc
- Sea damage, tidal wave or high water or storm surge  
**Storm risks can be insured at an additional premium**
- Spontaneous combustion, fermentation or any process involving application of heat  
**These can be mitigated by including clauses in the insurance policy**
- Earthquake  
**This risk can be covered at an additional premium and with a reasonable excess**

- Terrorism is now covered by the Australian Federal Government's Insurance Industry Fund

It is important to note that only Mindarie Regional Council can terminate the agreement due to extended Force Majeure and, therefore, trigger the potential payout by Mindarie Regional Council.

The Mindarie Regional Council has two further alternatives if there is an extended Force Majeure. It can continue paying the Contractor the Capital Costs and the Fixed Operating Costs whilst the Force Majeure is continuing, regardless of whether the Contractor is able to operate the RRF. It can also negotiate with the Contractor to determine whether the terms of the RRFA (for example, the increasing the gate fee or the Term) can be amended to enable the necessary investment to be made to rectify the effect of the Force Majeure.

The financial characteristics of the contractor for the establishment of this resource recovery capability have enabled the quantification of the extent of financial security requirements. This extent can be described, in dollar terms as follows:

- Force Majeure
  - Construction period  
Up to \$68 million approximately
  - Operational period  
\$68 million approximately at practical completion and reducing to around \$0 million in the last year of operation
- Mindarie Regional Council Default  
\$82 million approximately in the first year of the term of the agreement and reducing to about \$14 million in the last year of operation

The relative impact on Member Councils, in terms of financial security commitments are as follows:

- The financial guarantee would not directly impact on the City of Joondalup's borrowing capacity
- The financial guarantee would not be reflected as a liability in the individual member Council's Financial Statements as the liability has not crystallised, however it would be required to be disclosed as a contingent liability in the notes.

Additional information in relation to this financial security dimension is as follows:

- The committal to such financial security is unlikely to impact on the borrowing power of Member Councils
- All Member Councils would be required to sign off on the financial security prior to satisfaction of the Conditions Precedent (which is when the operative part of the agreement comes into effect, and is scheduled for 18 December 2006)
- The guarantee document is at Attachment One to this Item
- The relative apportionment of responsibility between the Member Councils for these items would be:
  - for a payment on termination of the agreement for MRC Default or prolonged Force Majeure, in the proportion of equity holdings in the MRC;
  - for a claim for other moneys owed under the agreement, in the proportion of waste delivered by that Member Council to the RRF in the preceding 6 months.



**Link to Strategic Plan:**

Review and further development of The City of Joondalup's Waste Management Strategy is consistent with the Strategic Plan. Under the Key Focus Area 'To care for the Environment' The City of Joondalup has a strategy to effectively and efficiently manage the waste by:

- Further develop and implement recycling strategies;
- Plan for the development of waste management.

**Legislation – Statutory Provisions:**

Not applicable

**Risk Management considerations:**

Risks of The City of Joondalup being called upon to provide the guarantees are detailed in the above under Force Majeure events and where the MRC is in default for non-payment of the gate fee or other amounts owing under the agreement. Default by the MRC for non-payment of the gate fee is considered a low risk.

Steps will be taken to insure all Force Majeure events where possible.

If the RRF does not proceed then landfill continues to be the disposal option. In this case, the risks are far greater to MRC because landfill events like slow seepage to ground is uninsurable and therefore the MRC and ultimately the members, would bear the full risk and financial impact of such an event.

In terms of uninsurable events like war, sea damage or tidal wave, it is worth noting The City of Joondalup would have the same risk for all of its assets.

**Financial/Budget Implications:**

Depending on the default and the time it happens in to the contract, the MRC liability under the agreement for a default could be as high as \$82M during construction or in the first year of operation reducing to \$14M in the last year of operation. The MRC liability under the agreement for a Force Majeure event leading to termination could be as high as \$68M during construction or in the first year of operation reducing to \$0M in the last year of operation. In the worst case scenario the City of Joondalup would be exposed to its equity share of one sixth of this amount, approximately \$13.66M. All of these scenarios are subject to the MRC staying with its current membership status.

In terms of the membership status and the impact on the City of Joondalup's financial liability in case of a membership change within the MRC, the City of Joondalup must agree to any change in the membership of the MRC; therefore any increased exposure will be with the City of Joondalup's approval.

**Policy implications:**

Not Applicable

**Regional Significance:**

The RRF will divert up to 70% of waste from landfill. All local authorities in the region will be diverting a portion of their waste from landfill. This assists in achieving Local, State and National goals.

**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 moving forwards 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 system, where waste from one part of society become the raw materials for another. Programs will also be needed to support waste avoidance initiatives and develop markets for recycled materials. State policies 'Hope for the Future: the Western Australian' state sustainability strategy and the Federal Government's initiative - the National Packaging Covenant shows a broad Government commitment to a vision of 'Towards Zero Waste'.

Consistent with this strategic direction for the management of waste, the City of Joondalup is implementing the adopted Waste Strategy 2005 to maximise recovery of the organic waste stream through the RRF and improve the recycling collection service to collect and recover more tonnes of packaging materials.

**Consultation:**

The MRC has had an exhaustive public liaison with the community on the RRF including the land purchase. It also has been responsible for the establishment of the Community Education and Advisory Group (CEAG) where community members have expressed their views and concerns. The CEAG has been influential in the development of community and environmental issues in the tender documentation and has also had input into the environmental consultation process with the State Government.

**COMMENT**

The Contractor for the RRF project and its financiers require a financial guarantee of the MRC's payment obligations for the project. This is necessary for the project to be bankable. Legally the MRC is not a signatory to its own existence (through the Constitution) and ultimately its liability rests with the member councils. Also, the MRC does not have the capital reserve to fund a call in the case of being required to purchase the RRF if the agreement is terminated due to the occurrence of a prolonged uninsurable Force Majeure or a default due to MRC's non-payment of amounts owing under the agreement. The MRC is now seeking members' agreement to a guarantee for this project.

This report details the unlikely events that could trigger a call on the guarantee and the risks involved. Risks have been identified through a risk analysis and mitigated where possible with insurances. Significantly, the report details the landfill disposal option and the uninsurable risks associated with slow seepage into ground.

**ATTACHMENTS**

Attachment 1            Confidential - The Deed of Guarantee

**VOTING REQUIREMENTS**

Simple majority.

**MOVED Cr Hart SECONDED Cr Hollywood that Council:**

- 1 APPROVES the financial guarantees required by the Mindarie Regional Council to progress the Resource Recovery Project and the identified associated risks;**
- 2 AUTHORISES the CEO to release the Report to the public following the meeting, but not the attachment, which is confidential;**
- 3 AUTHORISES the Mayor and the CEO to execute, under common seal, the Deed of Guarantee forming Confidential Attachment 1 to Report CJ233-11/06.**

Discussion ensued.

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Appendix 26 – Confidential – in the Official Minute Book only*

**MOTION TO GO TO OPEN DOORS**

**MOVED Mayor Pickard SECONDED Cr Hart that the meeting be held with open doors.**

**The Motion was Put and**

**CARRIED (10/0)**

**In favour of the Motion:** Mayor Pickard, Crs Hollywood, McLean, Magyar, John, Evans, Hart, Corr, Fishwick and Currie

*Members of the public and staff entered the Chamber at 2128 hrs.*

**REPORT OF THE CHIEF EXECUTIVE OFFICER****MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**ANNOUNCEMENTS OF NOTICES OF MOTION FOR THE NEXT MEETING****NOTICE OF MOTION - CR MICHELE JOHN**

In accordance with Clause 26 of the Standing Orders Local Law 2005, Cr John has given notice of her intention to move the following Motion at the Council meeting to be held on Tuesday, 12 December 2006:

*That:*

- 1 The year 2007 be designated as the City of Joondalup's 'Year of Community Groups' in recognition of the very significant and integral contribution made by over 400 Community Groups in the City.*
- 2 The City prepare a draft 'Year of Community Groups' activity plan and budget that focuses on a year long program of support activities to encourage and assist our Community groups who underpin many of the essential social services provided in the City.*

## **CLOSURE**

There being no further business, the Mayor declared the Meeting closed at 2129 hrs; the following Elected members being present at that time:

MAYOR T PICKARD  
Cr K HOLLYWOOD  
Cr T McLEAN  
Cr S MAGYAR  
Cr M JOHN  
Cr M EVANS  
Cr S HART  
Cr B CORR  
Cr R FISHWICK  
Cr R CURRIE