



City of
Joondalup

NOTICE IS HEREBY GIVEN that the next Ordinary Meeting of the Council of the City of Joondalup will be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup on Tuesday, 13 June 2000 at 7.00 pm.

LINDSAY DELAHAUNTY
Chief Executive Officer
7 June 2000

PUBLIC QUESTION TIME

Council allows a 15 minute public question time at each Council meeting which is open to the public.

To enable prompt and detailed responses to questions, members of the public are requested to lodge questions in writing to the Committee Clerk at least two days prior to the Council meeting at which the answer is required.

The Mayor is responsible for the conduct of public question time and ensuring that each member of the public has an equal opportunity to ask a question. The Mayor shall also decide whether a question will be taken on notice or alternatively who should answer the question.

The following general rules apply to question time:

- *question time is not to be used by a member of the public to make a statement or express a personal opinion.*
- *questions should properly relate to Council business.*
- *question time shall not be used to require an Elected Member or an officer to make a personal explanation.*
- *questions are not to be framed in such a way as to reflect adversely on a particular Elected Member or officer.*

DEPUTATION

Elected Members will conduct an informal session on the same day as the meeting of the Council in Conference Room 1, Joondalup Civic Centre, Boas Avenue, Joondalup, commencing at 5.00 pm where members of the public may present deputations by appointment only.

A time period of fifteen (15) minutes is set aside for each deputation, with five (5) minutes for Elected Members' questions. Deputations shall not exceed five (5) persons in number and only three (3) of those persons shall be at liberty to address the Elected Members and to respond to questions raised. Deputation sessions are, however, open to the public and other persons may attend as observers.

MOBILE TELEPHONES

PERSONS ATTENDING MEETINGS are reminded that the use of Mobile Telephones during meetings is not permitted.

PLEASE ENSURE that mobiles are switched off before entering the Council Chamber.

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

CITY OF JOONDALUP

Notice is hereby given that an Ordinary Meeting of Council will be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup on **TUESDAY, 13 JUNE 2000** commencing at **7.00 pm**.

LINDSAY DELAHAUNTY
Chief Executive Officer
7 June 2000

Joondalup
Western Australia

AGENDA

OPEN AND WELCOME

Invited Guest - Ms Jann McFarlane MP - Federal Member for Stirling

APOLOGIES AND LEAVE OF ABSENCE

PUBLIC QUESTION TIME

The following question, submitted by Mr T O’Gorman of Joondalup, was taken on notice at the Council meeting held on 23 May 2000:

Q1 Are there statistics available as to whether there has been an increase/decrease in crime in the area since the introduction of the security levy?

A1 A request has been made to the Joondalup Police to provide the City with crime statistics for this financial year. Once this information is made available, then Mr O’Gorman will be advised.

The following questions, submitted by Mr M Sideris of Mullaloo, were taken on notice at the Council meeting held on 23 May 2000:

Q1 With respect to the crime study, could you please advise if and when the request for consultancy services was tendered?

- A1 As the total price for consultancy services was under the \$50,000 threshold, there was no requirement to go to tender. Invitations and discussions were held with two other potential consultants from various firms around January 1999. A written quote was received from the appointed consultancy firm and it was considered that this firm was more experienced and capable of conducting the project at hand.
- Q2 *When was the recommendation in relation to consultancy services presented to Council for approval?*
- A2 The appointment of the consultancy firm was not required to be submitted to Council for approval. The total price for consultancy was \$45,000.
- Q3 *Can you please provide a copy of the consultancy scope of reference or brief?*
- A3 The Scope of Reference is as follows:
- review current programs and activities;
 - conduct crime analysis (including review of social and demographic data);
 - identify key-crime issues/problems in the City of Joondalup and identify reasons for these;
 - analyse the relationships between social, demographic and crime data using GIS applications;
 - review successful strategies being used elsewhere (e.g. other Councils, interstate, overseas) that could be implemented in the City of Joondalup;
 - identify solutions to the key-crime issues/problems in the City of Joondalup;
 - develop a “Whole of Council” action plan.
- Q4 *Can I be provided with a copy of the Government guidelines for the expenditure of the funds associated with the grant of \$20,000 supplied by Safer WA for this study?*
- A4 A copy of the Safer WA guidelines provided by the Department of Local Government has been made available to Mr Sideris.

DECLARATIONS OF FINANCIAL/NON FINANCIAL INTEREST

Mayor Bombak stated his intention to declare an interest in Item CJ136-06/00 as his brother-in-law works for Aon Risk Services, the City’s insurance broker.

Mayor Bombak stated his intention to declare an interest in Item CJ143-06/00 as his daughter works part-time in a photographic shop at the centre.

CONFIRMATION OF MINUTES

MINUTES OF COUNCIL MEETING, 23 MAY 2000

RECOMMENDATION

That the Minutes of the Council Meeting held on 23 May 2000 be confirmed as a true and correct record.

ANNOUNCEMENTS BY THE MAYOR WITHOUT DISCUSSION**PETITIONS****1 PETITION – USE OF FLINDERS PARK COMMUNITY CENTRE – [10273]**

An 11-signature petition has been received from residents of Hillarys in relation to concerns of users of the Flinders Park Community Centre. The petitioners state that bookings made at the Community Centre, in particular on Friday and Saturday nights, give rise to incidents of antisocial behaviour and impact on traffic on Broadbeach Boulevard.

This petition will be referred to Leisure and Ranger Services for action.

2 PETITION IN RELATION TO BARKING DOG, WOODVALE - [44855]

A 25-signature petition has been received from Woodvale residents in relation to a dog continually barking in The Crest, Woodvale.

This petition will be referred to Leisure and Ranger Services for action.

3 PETITION OBJECTING TO THE CONSTRUCTION OF A MOBILE TELECOMMUNICATIONS TOWER NEAR CHEROKEE VILLAGE CARAVAN PARK, KINGSLEY – [02513]

A 100-signature petition has been received from residents of the City of Joondalup strongly objecting to the construction of a mobile telecommunications tower, to be located near Cherokee Village Caravan Park, Kingsley.

This petition will be referred to Planning and Development for action.

4 PETITION OBJECTING TO THE CONSTRUCTION OF A MOBILE TELECOMMUNICATIONS TOWER, WOODVALE COMMERCIAL PARK WHITFORDS AVENUE, WOODVALE – [08139]

A 216-signature petition together with one letter has been received from residents of the City of Joondalup objecting to the construction of a mobile telecommunications tower, to be located at the Woodvale Commercial Park, Whitfords Avenue, Woodvale.

The petition and letter will be referred to Planning and Development for action.

5 PETITION REQUESTING THE INSTALLATION OF ADEQUATE SECURITY FLOODLIGHTS AT PERCY DOYLE RESERVE, WARWICK ROAD, DUNCRAIG – [14064] [02056]

Cr Patterson presented a 130-signature petition on behalf of residents of the City of Joondalup requesting the installation of adequate security floodlights at Percy Doyle Reserve, Warwick Road, Duncraig.

This petition will be referred to Infrastructure Management (Operations Services) for action.

REPORTS**POLICY**

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REPORT OF THE CHIEF EXECUTIVE OFFICER

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

DATE OF NEXT MEETING

CLOSURE

**CJ129-06/00 AMENDMENT LOCAL LAW 2000 - [00432] [20458]
[21067] [23122] [23513] [24185] [05885]**

WARD - All

SUMMARY

This report provides details of the progress reached in the review of the proposed, "City of Joondalup Amendment Local Law 2000" and the actions necessary in the second stage to finalise adoption of the local law.

Local Law Adoption

The first stage of adopting the proposed local law was reached at the Ordinary Council meeting on 11 April, 2000, when the following summary was read aloud:

" The purpose of this local law is to:

amend various clauses in the Parking, Private Property, Signs, Animals, Trading in Public Places and Health Local Laws to remove difficulties identified in their application and better clarify the requirements of the local laws.

The intent of the local law amendments is to:

result in local laws that meet the needs of the community and Council without being difficult to administer or unclear in their intent."

Advertising and Comment Received

In keeping with the requirements of Section 3.12 of the Local Government Act 1995, the proposal to adopt the reviewed local law was advertised for a six week comment period, which closed on Monday, 29 May, 2000. No comment had been received from the public up to the end of the comment period.

BACKGROUND

This matter was considered at the ordinary meeting Council of held on 11 April, 2000 (Item CJ072-04/00, refers). The report submitted to that meeting outlined the process to be followed by local governments in accordance with the Local Government Act 1995, for creating and reviewing local laws. At that meeting, it was subsequently resolved:

"that the Council in accordance with Section 3.12 of the Local Government Act 1995, APPROVE the advertising of the proposed local law, "City of Joondalup Amendment Local Law 2000", in order to seek public comment."

DETAILS

Advertising

In accordance with section 3.12 (3) and (3a) of the Local Government Act 1995, statewide and local public notice was given of the proposed adoption of the City of Joondalup Amendment Local Law 2000, in the West Australian on 14 April, 2000 and in the Wanneroo Times on 18 April, 2000. The advertisements invited public comment from the community and provided the opportunity to be informed and obtain a copy of the proposed local law. Copies of the notice were also displayed on the public notice boards at the Administration Centre, the City's libraries and at the Whitfords Customer Service Centre. Copies of the local law were also made available for the public, from these locations.

Public Comment and Additional Amendments

At the close of the six week public comment period, no comment had been received from the public.

Health Local Law

The section of the proposed Amendment Local Law relating to Health requires the express approval of the Executive Director of Public Health. Without this endorsement of consent on the local law document, it will not be published in the Government Gazette and therefore would not become local law. The proposed amendments to the City's Health Local Law have been discussed with the appropriate Health Department representative to ensure there are no objections.

Parking Local Law

Two additional amendments have been identified as necessary to the Parking Local Law.

The first additional amendment relates to clause 6 of the local law. It is considered that the clause should be strengthened to make it clear that the City can enter into written agreements for providing parking enforcement and control services covering privately owned car parks. This can be achieved by changing existing clause 6 to make sub clause 6 (1) and adding a new sub clause 6 (2). The changes have been shown in italics and underlined.

The whole of the new clause 6 would then read as follows:

Application of Local Law

- 6 (1) This local law applies to the whole of the parking region, except any parking facility or parking station -
- (a) not owned or controlled by the City; or
 - (b) although owned by the City is leased to another person.

(2) The city may enter into written agreements with owners of private car parks, to regulate, control and manage the parking of vehicles in those car parks under terms and conditions as the parties may agree.

The second additional amendment is necessary due to an amendment to the Local Government Act 1995. This amendment removed the restriction on local governments that prevented them from charging any fees or recouping costs of impounding vehicles, if they were collected by their owners within two months of being impounded. This restriction was different from what applied under the previous Local Government Act. It was considered to be particularly inappropriate where abandoned vehicles had been impounded. The charges that usually apply to an impounded vehicle include a towing fee and daily impound fee. Local governments are still required to serve notice on the owner of an abandoned vehicle and keep the vehicle for two months before it can be sold.

This amendment was made to the Local Government Act 1995 shortly after the City's Parking Local Law came into effect in 1998.

The amendment involves deletion of those words shown in italics and underlined in clause 62 of the Parking Local Law, which is reproduced as follows:

Recovery of Removed Vehicles

- 62 (1) The owner or person authorised by the owner of a vehicle in writing, may recover a vehicle from an appointed place;
- (a) at no cost if the vehicle is recovered within two (2) months of giving the notice in accordance with Clause 61;*
- (b) after paying the cost of removing the vehicle to the appointed place, plus the daily custody fee set by the local government pursuant to Section 6.16 of the Act for each day or part of a day that the vehicle has remained in the appointed place, after two (2) months of giving the notice in accordance with Clause 61.*
- (2) A person who removes a vehicle from an appointed place without complying with the provisions of subclause (1), commits an offence.

Both of these additional amendments have been included in the proposed City of Joondalup Amendment Local Law 2000.

Action to Progress Local Law

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

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

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

* *Special majority required.*

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

Local laws to be publicised

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

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

“Procedure where significant change in proposal

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

Action By Others

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

- the local law will be tabled in parliament by Parliamentary Council;
- review of the local law by the Joint Standing Committee On Delegated Legislation. The review of all delegated legislation by this committee is in accordance with section 42 of the Interpretation Act 1984.

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

COMMENT

The suggested additional amendments could not be considered sufficiently major as to warrant the re-commencement of the local law making process. The intent of the local law as initially put forward has not changed. It is therefore recommended that the local law as amended, be adopted.

RECOMMENDATION

That Council:

- 1 **BY A SPECIAL MAJORITY, in accordance with Section 3.12 of the Local Government Act 1995, ADOPTS the proposed local law as per Attachment 1 to Report CJ129-06/00, as the “City of Joondalup AMENDMENT Local Law 2000”;**
- 2 **APPROVES progression of the remaining actions to finalise the local law in accordance with Sections 3.12 and 3.15 of the Local Government Act 1995.**

For the attachment to this report, see Appendix 1 at the rear of the agenda, click here:
[Attach1ag130600.pdf](#)

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CJ130-06/00 CHANGE OF STATUS – MAYOR TO LORD MAYOR – [36589] [45514]

WARD - All

SUMMARY

Late last year the City was approached as to the possibility of the head of the City of Joondalup Council being altered to that of Lord Mayor. At the time it was considered that the decision was best left to the newly elected Council. However, the original source of this request has asked that the Council now consider this matter.

The title of Lord Mayor is generally confined to the head of the Council of state capital cities. There are however also three non-capital cities in New South Wales that hold the title of Lord Mayor.

A local government must justify in great detail why its head of council should carry the title of Lord Mayor. The local government is required to follow quite an involved process completed by conferring of the title of Lord Mayor by Her Majesty, Queen Elizabeth II.

DETAILS

It was believed to be that the title of Lord Mayor was confined to head of capital city councils only. However, upon further investigation, there appears to be three non-capital cities in New South Wales, namely Woolongong, Newcastle and Parramatta that hold the title of Lord Mayor.

The process for a local government to follow to have the title of Lord Mayor conferred is quite wide and varied. The local government must justify the conferral by reference to factors which touch on its position as an important, independent population hub with historical and contemporary significance and importance. The City, which is still growing and is still to reach its full potential, would need to justify why it holds a position of greater importance within the region than say the City of Wanneroo or City of Stirling.

However, the City is proving its self to be a viable alternative to the Perth CBD and provides a diversity of lifestyle for its occupants and visitors. The City continues to see enormous growth in the areas of education, retail, medical and major commerce. The benefits derived from the City being formally recognized through the granting of Lord Mayor status could possibly assist the already rapid growth and development in these and other areas. The possibility of enhancing the City's attractiveness to tourists could also be a benefit from the change in status.

The general approach to seek Lord mayor status is to submit a detailed submission to the Minister for Local Government, who then forwards it to the Premier. The Premier then sends the submission and a supporting minute to the Governor, who submits the application to the Governor-General, who in turn sends the request to the Queen for the granting of the title.

COMMENT/FUNDING

The increased status, possible economic benefits and the increased recognition of the City are all possible benefits that could emanate from having the status of Lord Mayor bestowed upon the City.

RECOMMENDATION

That Council FURTHER INVESTIGATES the possibility of altering the status of its head elected official of the City of Joondalup, from Mayor to Lord Mayor.

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**CJ131-06/00 APPOINTMENT OF REPRESENTATIVES – URBAN
ANIMAL MANAGEMENT ADVISORY COMMITTEE
– [44818]**

WARD - All

SUMMARY

Representatives are required to be appointed to the newly formed Urban Animal Management Advisory Committee.

BACKGROUND

At its meeting held on 9 May 2000, Council resolved to:

“FORMS an Urban Animal Management Advisory Committee to assist Council to determine suitable animal exercise areas and community education programs to provide fair sharing of resources for all sections of the community.”

DETAILS

Council is required to appoint representatives to the newly formed Urban Animal Management Advisory Committee. It is suggested that membership comprise:

5 Elected Members
Manager Leisure and Ranger Services, Mr Mark Stanton
Manager Operations Services, Mr Dennis Cluning
Manager Urban Design and Policy Services
Team Leader Ranger Services, Mr Jeremy Edwards
Environmental Health Officer

A copy of the suggested Terms of Reference for the committee is attached for adoption.

COMMENT

It is suggested that to ensure the committee remains focused in its objectives as detailed in Council decision of 9 May 2000 (CJ107-05/00 refers) and the suggested Terms of Reference, that it be disbanded by 31 December 2000.

RECOMMENDATION**That Council:**

- 1 BY AN ABSOLUTE MAJORITY APPOINTS the following representatives to the Urban Animal Management Advisory Committee:**

Membership**5 Elected Members****Manager Leisure and Ranger Services, Mr Mark Stanton****Manager Operations Services, Mr Dennis Cluning****Manager Urban Design and Policy Services****Team Leader Ranger Services, Mr Jeremy Edwards****Environmental Health Officer**

- 2 ADOPTS the Terms of Reference for the Urban Animal Management Committee forming Attachment 1 to Report CJ131-06/00;**
- 3 SETS a quorum for the Urban Animal Management Advisory Committee of three (5) members;**
- 4 AGREES that the committee as established in (1) above be disbanded by 31 December 2000.**

For the attachment to this report, see Appendix 2 at the rear of the agenda, click here:
[Attach2ag130600.pdf](#)

**CJ132-06/00 VACANCIES - WESTERN AUSTRALIAN
MUNICIPAL ASSOCIATION - VARIOUS
COMMITTEES – [02011]**

WARD - All

SUMMARY

The Western Australian Municipal Association (WAMA) has invited member Councils to submit nominations to various committees.

Nominations are invited from elected member and officer representatives with experience, knowledge and an interest in the relevant issues.

Nominations for all vacancies close on Thursday 6 July 2000 at 4.00 pm.

DETAILS

The Western Australian Municipal Association has invited member Councils to submit nominations to the following committees:

- WAMA Land Valuation Working Party
- Building Regulations Advisory Committee
- Keep Australia Beautiful Council (WA)

**1 WAMA LAND VALUATION WORKING PARTY - WAMA
METROPOLITAN MEMBERS AND WAMA NON-METROPOLITAN
MEMBERS – Panel of 3 names for each position**

Nominations are invited from elected members or serving officers experienced in or with a knowledge/interest in land valuations.

The Working Party will:

- undertake consultation with the Valuer-General to exchange views on means by which the current land valuation system may be improved;
- identify reasons for the problems experienced by many Local Governments arising from the application of gross rental values and unimproved values in 1999 and seek information as to actions that have been taken to prevent a re-occurrence of the problems, including previous under-valuations and current over-valuations.

Background Information on the role of the Land Valuation Working Party forms Attachment 1.

The term will commence upon appointment, and will be on-going until the completion of the Working Party deliberations and delivery of findings in accordance with the terms of reference.

Meetings will be held bi-monthly at Local Government House, 15 Altona Street, West Perth. Day/time/duration of meetings is yet to be determined.

No meeting fee or travel allowance is payable.

The Working Party will comprise the following representatives:

- WAMA Metropolitan Members
- WAMA Non-Metropolitan Members
- Valuer General's Office Metropolitan representative
- Valuer General's Office Non-Metropolitan representative
- Department of Local Government

2 BUILDING REGULATIONS ADVISORY COMMITTEE – WAMA MEMBER AND DEPUTY MEMBER – Panel of 4 names

Nominations are invited from elected members or serving officers experienced in or with a knowledge/interest in building, the building industry and building safety.

The committee is constituted under Section 435 of the Local Government (Miscellaneous Provisions) Act 1960, to advise the Minister on matters pertaining to building, the building industry and building safety.

The term will commence upon appointment for a period of three years, dependent on promulgation of new Building Act. Meetings are held monthly on the last Friday of each month, commencing at 9.00 am. Meetings run for three hours and are held at Department of Local Government, May Holman Centre, 32 St George's Terrace, Perth.

There is a sitting fee of \$70.00 per meeting attended.

The committee will comprise the following representatives:

- Department of Local Government
- Contract & Management Services
- Australian Institute of Architects
- Property Council of Australia
- Master Builders Association Housing Industry Association
- WA Municipal Association
- City of Perth
- Health Department of WA
- Institution of Engineers

3 KEEP AUSTRALIA BEAUTIFUL COUNCIL (WA) – LGA MEMBER AND DEPUTY MEMBER – Panel of 3 names

Nominations are invited from elected members or serving officers experienced in or with a knowledge and interest in litter prevention and/or environmental matters.

The Objects and Functions of the Council are as per the Second Schedule of the Litter Act 1979.

The term will commence upon appointment for a period of two years. Meetings are held monthly on the 3^d Thursday of each month, commencing at 4.00 pm. Meetings run for approximately 3 hours and are held at Keep Australia Beautiful Council offices, 56 Walcott Street, Mt Lawley.

There is no meeting fee payable.

The Council will comprise representatives from the following:

- Local Government Association
- Country Shire Council's Association
- Local Government Department
- Education Department of WA
- Representative with special knowledge of or experience in either litter prevention or environmental matters, or both
- Department of Conservation & Land Management
- Trades & Labour Council of WA
- Conservation Council of WA (Inc)
- Consumers
- Representatives of various industry groups, being Soft Drink Manufacturers' Association (WA), brewing industry, Packaging Council of Australia (WA Division), can manufacturers, glass manufacturers and paper products manufacturer

RECOMMENDATION

That Council:

- 1 NOMINATES Cr D Carlos to the Western Australian Municipal Association Land Valuation Working Party;**
- 2 NOMINATES Co-ordinator, Building Approvals, D Smee to the Western Australian Municipal Association Building Regulations Advisory Committee;**
- 3 GIVES consideration to nominating an elected member to the Western Australian Municipal Association Keep Australia Beautiful Council (WA).**

For the attachment to this report, see Appendix 3 at the rear of the agenda, click here:
[Attach3ag130600.pdf](#)

**CJ133-06/00 TRANSFER OF FUNDS TO RESERVE ACCOUNT -
PROPOSED WORKS DEPOT - [24458] [43629]****WARD - All**

SUMMARY

This report seeks Council authority to transfer to the Asset Replacement Reserve Account the 1999/2000 Municipal Fund allocation of \$1.9m for the establishment of the Works Depot.

The establishment of the Works Depot will not be commenced this financial year as the land acquisition will not be finalised. From a strategic financial management perspective it is considered prudent that the 1999/2000 Municipal Fund allocation of \$1.9m be 'quarantined' in the Asset Replacement Reserve Account to assist with the future funding of this project.

BACKGROUND

With the split of the former City of Wanneroo's assets the Depot located in Wanneroo Road (Ashby) was allocated to the City of Wanneroo.

The City of Joondalup was allocated funds as part of the asset split to assist with the provision of its own Works Depot. Accepting that this allocation (\$3.5m) was insufficient to provide for the establishment of a Works Depot suitable for its requirements the City agreed to place the \$3.5m in the Asset Replacement Reserve account to assist with funding the future establishment of the Works Depot.

The City's 1999/2000 budget provided to fund the establishment of a Works Depot to the extent of \$5.4m with funding as follows:-

Reserve Account - Asset Replacement Reserve	\$3.5m
Municipal Fund	<u>\$1.9m</u>
	<u>\$5.4m</u>

The \$1.9m was to be made direct from the Municipal Fund.

COMMENT

The construction of the Works Depot has been delayed pending acquisition of a suitable site. As a consequence the project will not proceed this financial year and the funds will remain unspent.

From a strategic financial management perspective it is considered prudent that the 1999/2000 Municipal Fund allocation of \$1.9m be “quarantined” for the future establishment of the Works Depot. As such it is recommended that Council transfer these funds this financial year to the Asset Replacement Reserve Account to assist with the establishment of the Works Depot. This will ensure that the funds currently available for this purpose are clearly identified in a reserve account.

As the City’s 1999/2000 budget did not make specific provision for this transfer Council authority will need to be **BY AN ABSOLUTE MAJORITY** in accordance with the provisions of Section 6.8(1) of the Local Government Act 1995.

RECOMMENDATION

That Council BY AN ABSOLUTE MAJORITY, pursuant to the provisions of Section 6.8(1) of the Local Government Act 1995, TRANSFERS to the Asset Replacement Reserve Account the 1999/2000 Municipal Fund allocation of \$1.9m for the Works Depot.

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**CJ134-06/00 PROPOSED UNBUDGETED EXPENDITURE -
MICROFICHE PROJECT - [20133]****WARD - All**

SUMMARY

The current budget has an amount of \$60,000 set aside to fund microfiche capture of building licenses by an external contractor. The allocation is held in the operational budget. The strategy for database management has been revisited. Consequently, a portion of the budget allocation requires reallocation to the capital budget to facilitate the acquisition of necessary equipment.

Currently, there is a substantial backlog of licenses (for the period from 1994 to mid 1998) that require microfiche storage. The City approved 19,500 building licences during this time.

The current budget allocates \$60,000 for the rejuvenation of the microfiche copying and storage. It was envisaged that this be spent solely on outsourced printing services. However, the existing microfiche reader is unsatisfactory in regard to the level of service provided and does not allow for translation of microfiche files, held in approvals, to a future corporate records database. The new equipment would contribute to improved customer service and provide an opportunity for joining the corporate records and building licence databases in future.

BACKGROUND

The storage, archiving and retrieval of building licences is a major issue which affects the ability of the Business Unit to provide services to external customers and to find accurate information when conducting research allied with day to day activities. Due to the large number of licences issued, regular maintenance of the database needs to occur to ensure systems are up to date.

Approved Building licence plans are held on microfiche in the Approval Services Business Unit for the period from 1971 to 1993. Approved licenses have not been 'captured' on microfiche from 1994. There are approximately 28,000 licences (for the period from 1994 to the present) held in hard copy at Council's administration centre at present. (Other licences, originating before 1994, are archived off site.)

To serve the former City of Wanneroo, external contractors supplied microfiche copying services, due to the bulk and specialised nature of the copying required.

An administrative decision has been taken to continue to microfiche plans that were approved up to mid 1998, coinciding with the split of the former City. This will ensure consistency with the microfiche records already held. Approximately 19,500 plans approved between 1994 and mid 1998 will be microfiched, based on this initiative. Future data storage is proposed to take advantage of improved technology for the new City.

The draft budget for 2000-01 will contain a new initiative for electronic storage of plans approved by the new City of Joondalup (after mid 1998). This is the subject of separate consideration, with a view to amalgamating the building records with the central record database (notionally by direct capture of hard copy as a scanned image). The lack of coordination of current databases is highly problematic for record tracking at present.

Current equipment consists of a microfiche reader/copier (purchased in 1988 and depreciated to nil). The current microfiche copier is a stand-alone unit. It does not have the ability to interface with corporate IT systems and provides rudimentary plan copies (at best). Users must visit the Approvals Services Business Unit to access the microfiche copies.

It is proposed to improve the resource by undertaking some new purchases geared towards:

1. Improved customer service; and
2. Integration with the corporate records system.

DETAILS

It is proposed to purchase a new microfiche reader/scanner. The reader will be able to print images to scale and scan from the microfiche to send electronically, either internally or externally, or to print through existing network printers.

An A3 printer and new desktop PC is required to complement the reader and translate the image into a scanned TIF (tagged image format) image.

Significantly, the reader/scanner will interface with traditional microfiche strategy and scanned image storage, thus making it a very useful tool for the future.

There is a permanent need for the equipment. It will be used to provide improved quality plans for research use. The accuracy of old record keeping is pivotal to resolving many of the compliance issues and conflicts handled by the Approval Services Business Unit.

In future, the equipment will also provide a means to centralise data collection. The City will have the option of transferring the existing microfiche records to scanned images attached to property files as a separate project, if considered desirable.

COMMENT/FUNDING

The microfiche reader/scanner is available from one supplier in Western Australia. The same equipment has also been examined at the City of Swan, where it performs admirably.

Options considered include leasing the equipment over the varying periods, or outright purchase. The leasing option has proven to be less favourable than purchase given the terms offered. For example:

Lease Options	1 year term	\$36,690
Lease Options	2 year term	\$42,645
Lease Options	3 year term	\$46,528
Purchase option for Reader Scanner & associated hardware/software		\$30,557

Regardless of the acquisition option, a further \$5,800 is required for appropriate desktop PC and dedicated A3 printer.

RECOMMENDATION

That Council:

- 1 BY AN ABSOLUTE MAJORITY in accordance with Section 6.8(1) of the Local Government Act 1995 AUTHORISES the unbudgeted expenditure of \$36,357 from Capital Account 11.40.42.422.6721.0001 – Computer and Communications Equipment to facilitate:**
 - (a) the purchase of Minolta MS 3000 digital scanner, lenses and associated software and hardware (\$30,557);**
 - (b) purchase of Pentium 128Mb RAM PC with Windows 97 software (\$2,000);**
 - (c) purchase of A3/A4 capacity printer (\$3800);**
- 2 NOTES that the unbudgeted expenditure detailed in (1) above will be funded from surplus in Operating Account 11.40.42.422.3740.001 – Microfilming/Microfiching.**

**CJ135-06/00 VEHICLE TENDER 89-99/00 PURCHASE OF
UTILITIES - [45745]****WARD - All**

SUMMARY

The City's 1999/00 budget provided for the purchase of vehicles, as detailed in the Light Vehicle Replacement Programme, the funding of which is from the Municipal Fund.

The CEO has delegated authority to accept tenders up to a figure of \$100,000. However, as this tender exceeds that figure, it requires approval of the Council.

The City's 1999/00 budget provided for the purchase of two 6 cylinder utilities, four 4 cylinder sedans and one 4 cylinder wagon with the trade of the following vehicles;

- Plant Number 99149 Daewoo Nubira Sedan allocated to Health Services
- Plant Number 99152 Ford Laser Sedan allocated to Health Services
- Plant Number 99100 Hyundai Lantra Sedan allocated to Infrastructure Management Services
- Plant Number 99154 Ford Laser Sedan allocated to Infrastructure Management Services
- Plant Number 99384 Hyundai Lantra Wagon allocated to Infrastructure Management Services
- Plant Number 95456 Ford Falcon Utility allocated to Operations Services
- Plant Number 99473 Ford Falcon Utility allocated to Operations Services

Ford Laser 99154 was not presented for inspection due to work commitments and consequently was excluded from the scope of this tender. It will be replaced by calling quotations from three of the Tenderers.

Following a review of the business requirements within each Directorate, it was determined that in several instances it was more cost effective for the City to purchase utilities rather than sedans. Consequently the tender scope was altered prior to tenders being sought.

This report outlines the submissions received in relation to Tender 089-99/00.

It recommends:

- The purchase of six 6 cylinder Holden Commodore Utilities and the disposal of Lantras Plant # 99100 and # 99384 with Youngs Holden.
- The disposal of Nubira Plant # 99149 plus Falcon utilities # 95456 and # 95473 to Phoenix Holden
- The disposal of Laser Plant # 99152 to McInerney Sales Pty Ltd.

BACKGROUND

Tender number 089-99/00 pertaining to these acquisitions was advertised on Saturday 15th April 2000 and closed on Wednesday May 10, 2000. The six vehicles (from the original seven) to be traded were presented for inspection on April 20th, and were evaluated by all prospective tenderers.

Following a review of the business requirements it was determined that in the following instances it was more cost effective for the City to purchase utilities rather than sedans as savings in FBT would accrue and loads were required to be carried.

Plant #	Make	Business Unit
99149	Nubira	Community & Health Services
99152	Laser	Community & Health Services
99100	Lantra	Infrastructure Management Services
99384	Lantra Wagon	Infrastructure Management Services

DETAILS

There were ten submissions received for the supply and trade of six 6-cylinder utilities as per Tender 089-99/00, one submission for supply only and three submissions for outright purchase of the trade vehicles. Details of all submissions are shown on Attachment A.

Two makes of vehicles were offered by suppliers, the Holden Commodore VS III and the Falcon AU 2 XL utilities. A whole of life cost evaluation comparing the two makes of vehicles offered revealed that the Holden Commodore utility was the more cost effective vehicle after consideration of estimated resale prices at two years of age and estimated fuel consumption at 40,000 kms of travel. The whole of life costing evaluation is used to identify the best value vehicle make and then the lowest cost changeover is used to select the supplier.

References used for the comparative data were:

- Glasses Guide- Residuals March-May 2000
- R.A.C. Fuel Consumption figures May 2000

COMMENT/FUNDING

The lowest cost changeover offered was from Youngs Holden, which also offered the lowest cost new supply on Holden Commodore VS III. The conditions of tendering allow for the selection of part of the tender submissions to achieve the best outcome for the City. The three submissions for outright purchase were compared to the trade valuations from Youngs Holden and it was determined that the City could achieve a higher disposal price by accepting the following purchase offers as highlighted:

Tenderer	Vehicle Number & Trade Valuations					
	99149	99152	99100	99384	95456	95473
Youngs Holden	\$13,000	\$12,000	\$14,000	\$13,750	\$15,000	\$15,000
Phoenix Holden	\$13,050	\$13,050	\$13,050	\$12,550	\$15,050	\$15,050
Fratella Pty. Ltd. (Melville Motors)	\$10,500	\$11,000	\$13,000	\$13,000	\$14,700	\$14,000
McInerney Sales Pty.Ltd.	\$11,500	\$13,100	\$12,500	No offer	\$14,333	\$14,333

The selection of the highest trade valuations indicated above will achieve an additional \$1,250 return for the City compared to accepting all the trade valuations from Youngs Holden.

While consideration was given to local suppliers Phoenix Holden and Nuford pursuant to the City's Regional Purchasing Policy price dictated that the City only accept Phoenix Holden's offer to purchase the following three vehicles:-

99149	\$13,050
95456	\$15,050
95473	\$15,050

The highest offer for vehicle #99152, was from McInerney Sales Pty. Ltd. of Morley. This is \$50 greater than the offer from Phoenix Holden and hence is recommended for outright purchase.

The offer to **supply** from both local suppliers is not competitive with the offer from Youngs Holden in Victoria Park and is hence not recommended.

Accepting the above the following is the financial scenario:

Youngs Holden

Supply Replacement	Price of Supply	Value of Trade	Changeover	Budget New Price	Budget Trade Price	Budget Surplus/(Shortfall)
Plant #99149	\$17,129		\$17,129	\$15,500		(\$1,629)
Plant #99152	\$17,129		\$17,129	\$18,500		\$1,371
Plant #99100	\$17,129	\$14,000	\$3,129	\$15,500	\$11,000	\$1,371
Plant #99384	\$17,129	\$13,750	\$3,379	\$16,500	\$12,000	\$1,121
Plant #95456	\$17,129		\$17,129	\$18,500		\$1,371
Plant #95473	\$17,129		\$17,129	\$18,500		\$1,371
Total	\$102,774	\$27,750	\$75,024			\$4,976

Phoenix Holden

Plant Number	Value of Purchase Trades	Budget Trade Price	Budget Surplus/(Shortfall)
99149	\$13,050	\$13,000	\$50
95456	\$15,050	\$14,000	\$1,050
95473	\$15,050	\$14,000	\$1,050
Total	\$43,150	\$41,000	\$2,150

McInerney Sales Pty Ltd

Plant Number	Value of Purchase Trades	Budget Trade Price	Budget Surplus/(Shortfall)
99152	\$13,100	\$11,400	\$1,700
Total	\$13,100	\$11,400	\$1,700

Final result on Budget	\$8,826 Saving
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The overall net result for the City is a cash outflow of \$18,774 derived as follows:

Cost of Supply	\$102,774
Trade/Outright Sale	
• Youngs Holden	\$27,750
• Phoenix Holden	\$43,150
• McInerney Sales Pty Ltd	\$13,100
	<u>\$ 84,000</u>
Net Cash Outflow	<u>\$ 18,774</u>

Accepting this, the overall 1999/00 budget surplus on tender 089-99/00 is \$8,826.

RECOMMENDATION

That Council in accordance with the conditions of tendering ACCEPTS the part tender from:

- 1 Youngs Holden for the supply of six 6 cylinder Holden Commodore utilities with the trade of Hyundai Lantra Sedan Plant # 99100 and Hyundai Lantra Wagon Plant # 99384, at a net change over figure of \$75,024 after trade in, as detailed in tender 089-99/00;**

- 2 Phoenix Holden for the sale of Daewoo Nubira Sedan Plant # 99149 plus Ford Falcon utilities Plant # 95456 and Plant # 95473 for a total sum of \$43,150 as detailed in tender 089-99/00;**
- 3 McInerney Sales Pty Ltd for the sale of Ford Laser Sedan Plant # 99152 for \$13,100 as detailed in tender 089-99/00.**

For the attachment to this report, see Appendix 4 at the rear of the agenda, click here:
[Attach4ag130600.pdf](#)

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Mayor Bombak stated his intention to declare an interest in this Item as his brother-in-law works for Aon Risk Services, the City's insurance broker.

CJ136-06/00 2000/2001 INSURANCE - INDUSTRIAL SPECIAL RISKS & MOTOR VEHICLE/PLANT (TENDER NO. 097-99/00) – [05581]

WARD - All

SUMMARY

The City's insurance cover for both Industrial Special Risks (Property) and Motor Vehicle and Plant insurance expires at 4.00pm 30 June 2000. As a consequence the City sought tenders for the necessary insurance cover for these classes of insurance for the 2000/01 financial year.

Only one tender was received from Royal & Sun Alliance Insurance Ltd for both classes of insurance.

Following an evaluation it was considered appropriate that the tender from Royal & Sun Alliance Insurance Ltd for both classes of insurance be declined and that pursuant to the Local Government (Functions and General) Regulations 1996 - Tender Regulations 11(2)(c) Council authorises the City's insurance broker Aon Risk Services to obtain quotes with various insurers.

BACKGROUND

The Local Government (Functions and General) Regulations 1996 requires a local government to seek tenders for goods and services in circumstances where the value of the contract is expected to exceed \$50,000. Various exemptions include:-

- In emergency situations;
- In circumstances where it is likely there would be more than one potential supplier;
- If the goods and services are to be obtained from the Council Purchasing Service of WAMA; and
- If within the last 6 months the City has publicly invited tenders for the supply of the goods/services but no tender was submitted that was thought to be satisfactory.

The City of Joondalup's insurance cover for Industrial Special Risks and Motor Vehicle/Plant fall into the category which requires tenders to be invited. Consequently, the City invited tenders for these classes of insurance for the period 30 June 2000 to 4pm 30 June 2001. The tender was closed on Friday 26 May 2000.

DETAILS

Only one tender was received for both classes of insurance.

The details are as follows:-

Royal & Sun Alliance Insurance Ltd**Industrial Special Risks (Property)**

The Total Declared Insurable Value was \$71,297,207 dissected into the following classes:-

Buildings	\$63,719,072
Contents, Fixtures and Fittings	\$5,851,727
Plant and Equipment	\$1,534,891

The limits of liability:

Deductibles

Earthquake	\$20,000 or 1% of the total declared values at the situation where the damage occurs, whichever is the lessor
Atmospheric Disturbances	\$10,000
Personal Property	\$500
All other Losses	\$2,500

ISR Premium \$257,722.08 - GST inclusive

The premium breakdown is as follows,;

Premium	\$180,000
Fire Service Levy 33%	<u>\$59,722</u>
	\$239,722
Goods and Services Tax 10%	<u>\$18,000</u>
	<u>\$257,722</u>

In assessing its exposure, the tenderer assessed the City's previous claims history. Given that the City has only limited history its major claims for the year to date were:-

Vandalism	\$29,529
Woodvale Library - fire	<u>\$44,002</u>
	<u>\$73,531</u>

The insurer has offered payment terms as follows:-

- If remitted by 31 July 2000 \$257,722.08
- If remitted in instalments of \$133,371.17 \$266,674.34
 - 50% by 31 July 2000
 - 50% by 31 December 2000
- If remitted in instalments of \$70,873.57 \$283,494.28
 - 25% by 31 July 2000
 - 25% by 30 September 2000
 - 25% by 31 December 2000
 - 25% by 31 March 2001

Motor Vehicle and Plant

Combined Declared Insured Value \$7,326,736 comprising:-

Light Vehicles	\$3,759,199
Heavy Vehicles	\$1,849,153
Plant and Equipment/Other	<u>\$1,718,384</u>
	<u>\$7,326,736</u>
Deductible	
Motor Vehicles	\$500
All Others	1% of market value or \$1,000 whichever is the greater

Premium \$142,114.50 - GST inclusive

The breakdown of the total premium cost is:-

Premium	\$129,195
GST	<u>\$12,919</u>
	<u>\$142,114</u>

The insurer offers a claims experience discount of 50% of the difference between incurred claims and 70% of the premium up to a maximum of \$30,000 subject to renewal.

The insurer has offered payment terms as follows:-

- If remitted by 31 July 2000 \$142,114.50
- If remitted in instalments of \$73,707.25 \$147,414.50
 - 50% by 31 July 2000
 - 50% by 31 December 2000

- If remitted in instalments of \$39,081.48 \$156,325.92
 - 25% by 31 July 2000
 - 25% by 30 September 2000
 - 25% by 31 December 2000
 - 25% by 31 March 2001

In assessing its exposure the tenderer assessed the City's previous claims history. Again there was only limited history with year to date claims (April 2000) being 28, totalling \$30,087.

COMMENTS

The City's insurance broker, Ken Jacobs from Aon Risk Services has advised that with the AMP/GIO merger earlier this year the insurance market in Western Australia has shrunk. Further, the decision by the AMP to withdraw from the large corporate insurance market to concentrate on the small to medium market has left few insurers in Western Australia hence the poor response to the City's tender both for ISR and Motor Vehicle/Plant insurance.

Industrial Special Risks (Property)

The City's insurer in the current year was AMP General Insurance Ltd. A comparison of premiums with the AMP and Royal & Sun Alliance is as follows:-

	Premium	Fire Service Levy	GST	Total
	\$	\$	\$	\$
AMP (1999/2000)	89,383	29,497	-	118,880
Royal & Sun Alliance	180,000	59,722	18,000	257,722

Note: the GST of \$18,000 can be claimed back from the Australian Taxation Office as an input tax credit.

The deductibles submitted by the tenderer are also considerably higher than currently paid:-

	AMP	Royal & Sun Alliance
	\$	\$
All Claims	2,000	2,500
Personal Effects	50	500
Machinery Breakdown	500	2500
Property & Welfare Sport & Social Clubs	50	2500

As a consequence of these huge increases officers discussed with the City's brokers the various options.

The City's broker was of the view that the current insurance market was a 'very hard market'. The merger of AMP/GIO and the AMP decision to withdraw from the large corporate market in WA was inopportune and has restricted the potential tenderers.

Assessing under the selection criteria provided in the tender document the tender submitted from Royal & Sun Alliance Insurance Ltd for the Industrial Special Risks insurance category is considered unsatisfactory.

Motor Vehicle/Plant

The City's insurer in the current year was also AMP General Insurance Ltd. With the split of the former City of Wanneroo's Motor Vehicle/Plant assets not being finalised until September 1999 it was necessary to have a common premium for both the City of Joondalup and City of Wanneroo. The combined premium was \$150,000. Given that in \$ terms the motor vehicle/plant split was one third (City of Joondalup) and two thirds (City of Wanneroo) the premium was allocated on that basis. Hence this City's portion was \$50,000.

Based on the above the comparison could be summarised as follows:-

	Premium	GST	Total
	\$	\$	\$
AMP (1999/2000)	50,000	-	50,000
Royal & Sun Alliance	129,195	12,919	142,114

Note: the GST of \$12,919 can be claimed back from the Australian Taxation Office as an input tax credit.

The deductibles in the current submission are also considerably more expensive than those currently paid and documented in the tender specification:-

- | | |
|----------------------|---|
| AMP | <ul style="list-style-type: none"> • \$500 all vehicles |
| Royal & Sun Alliance | <ul style="list-style-type: none"> • \$500 sedans • All others 1% of market value or \$1,000 whichever is the greater |

The tender under review does provide for a claims experience discount of 50% of the difference between incurred claims and 70% of the premium up to a maximum of \$30,000 subject to renewal.

Considering all matters it is suggested that the tender submitted by Royal & Sun Alliance Insurance Ltd for the City's Industrial Special Risks Motor Vehicle/Plant insurances be declined.

Pursuant to the provisions of Regulation 11(2)(c)(I) of the Local Government (Functions and General) Regulations 1996 it is advantageous for the City to seek quotations from prospective insurance providers through the City's Insurance broker, Aon Risk Services.

RECOMMENDATION**That Council:**

- 1** **DECLINES** the tender submitted by Royal & Sun Alliance Insurance Ltd for the supply of Industrial Special Risks and Motor Vehicle and Plant Insurance for the 2000/2001 financial year as it was not advantageous to the City;

- 2** Pursuant to the provisions of Regulation 11(2)(c)(i) of the Local Government (Functions & General) Regulations 1996 SEEKS quotes from its insurance broker Aon Risk Services from various insurers for the City's Industrial Special Risks and Motor Vehicle and Plant Insurance for the 2000/2001 financial year.

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**CJ137-06/00 MINUTES OF THE ENVIRONMENTAL ADVISORY
COMMITTEE MEETING - 15 MAY 2000 - [00906]****WARD - All**

SUMMARY

A meeting of the Environmental Advisory Committee was held on 15 May 2000 and the minutes of this meeting are submitted for noting by Council.

BACKGROUND

The membership of the Environmental Advisory Committee comprises three councillors (Cr C Mackintosh, Cr S Magyar and Cr A Nixon) and community representatives. The meeting was the first meeting of the Environmental Advisory Committee since 30 November 1998.

Given the time elapsed since the previous meeting, a general review of the committee operation was discussed. The purpose of the meeting was to elect a Chairman and to discuss operational issues such as future meeting schedules, terms of reference, committee membership, a review of the committee reporting and communication structure, and preliminary discussions on Local Agenda 21 and environmental issues. Councillor S Magyar was elected Chairman of the Environmental Advisory Committee.

DETAILS

The minutes of the Environmental Advisory Committee held on 15 May 2000 are included as Attachment 1.

Action items are presently being prepared in relation to a review of the Environmental Advisory Committee reporting structure, workload prioritisation and communication approach, and renewed committee membership, for presentation to the next meeting of the Environmental Advisory Committee (21 June 2000) and the next Council meeting (27 June 2000).

In relation to the action item for the review of the committee membership, a report will be forwarded to the committee for consideration with a recommendation subsequently made to Council regarding the committee membership.

The next meeting of the Environmental Advisory Committee will be held at 5.30 pm on 21 June 2000, with meetings to be held on the third Wednesday of each month thereafter.

RECOMMENDATION**That Council NOTES:**

- 1** the unconfirmed minutes of the Environmental Advisory Committee meeting held on 15 May 2000 forming Attachment 1 to Report CJ137-06/00;
- 2** that action items are presently being prepared for presentation to the next Environmental Advisory Committee meeting (21 June 2000) and subsequent presentation to Council (27 June 2000);
- 3** a report regarding committee membership will be presented to the next Environmental Advisory Committee for consideration and subsequent recommendation to Council.

For the attachment to this report, see Appendix 5 at the rear of the agenda, click here:
[Attach5ag130600.pdf](#)

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**CJ138-06/00 MINUTES OF JOONDALUP YOUTH ADVISORY
COUNCIL MEETINGS – APRIL 2000 – [38245]****WARD - All**

SUMMARY

Meetings of the Joondalup North and South Youth Advisory Councils were held on 17 and 19 April 2000 and the minutes of both meetings are submitted for noting by Council. The minutes include reference to discussions held by members of the Youth Advisory Councils and some proposed actions for enhancing interaction and communication between members of the Councils and Elected Members. It is recommended that the proposed actions be adopted.

DETAILS

The minutes of the Joondalup North Youth Advisory Council held on 17 April 2000 at Anchors Youth Centre are included as Attachment 1.

The minutes of the Joondalup South Youth Advisory Council held at Joondalup Library on 19 April 2000 are included as Attachment 2.

Included in the above attachments is an outline of discussion regarding interaction between members of the Youth Advisory Councils and the Elected Members of the City of Joondalup. This discussion was precipitated as a result of some Elected Members expressing the view that they saw value in more direct communication and interaction occurring between members of the Councils and Elected Members.

To summarise the discussion, the members of the Youth Advisory Council agreed that they would like to be invited to attend an informal, introductory dinner with the Mayor and Councillors following which the members of the Youth Advisory Councils would attend an ordinary meeting of Council. Following these activities, they would like to invite each Elected Member to attend Youth Advisory Council meetings on a roster basis.

This was viewed by Youth Advisory Council members as the best way, at the present time, to facilitate communication and interaction between the Elected Members of the City of Joondalup and the members of the City's Youth Advisory Councils.

COMMENTS

The Youth Advisory Councils meet on Monday and Wednesday in the third week of each month. Following consultation with each Elected Member, a roster for attendance by Elected Members will be compiled.

RECOMMENDATION**That Council:**

- 1** **NOTES the minutes of the:**
 - (a) Joondalup North Youth Advisory Council meeting held on 17 April, 2000 forming Attachment 1 to Report CJ138-06/00;**
 - (b) Joondalup South Youth Advisory Council meeting held on 19 April, 2000 forming Attachment 2 to Report CJ138-06/00;**
- 2** **AGREES to action the suggestions put forward by members of the Youth Advisory Council to facilitate more direct interaction and communication between Elected Members and members of the City's Youth Advisory Councils.**

For the attachments to this report, see Appendix 6a and 6b at the rear of the agenda, click here: [Attach6aag130600.pdf](#) [Attach6bag130600.pdf](#)

CJ139-06/00 EXTENSION OF OCEAN REEF ROAD - [15968]**WARD** – Lakeside and Marina

SUMMARY

The section of Ocean Reef Road between Hodges Drive to Shenton Avenue in Ocean Reef was classified as a district distributor road under previous subdivisional planning guidelines. A reclassification to a Foreshore Access Road based on a single lane boulevard layout is proposed to reflect the current subdivision road planning north of Shenton Avenue.

To construct the full length of road in the short term will require Council's funding together with the abutting developer's contribution required in accordance with the subdivision conditions of approval.

BACKGROUND

At the Council meeting held on 8 February 2000 it was resolved in part (Report CJ007-02/00 refers) that Council:

“seeks a further report regarding the completion of construction of Ocean Reef Road from Hodges Drive to Shenton Avenue detailing costs, sources of funds and impact on amenity of the residents of Ocean Reef”

Ocean Reef Road was designed as a controlled access arterial road in the Northern Suburbs Corridor Plan of the late 1970's and early 1980's. The alignment and width of the road reserve was created to serve the anticipated large hinterland population and the longitudinal coastal developments, including the then recently developed Ocean Reef Boat Harbour. As a result of this planning process, a road reserve width of 40 metres was created which could accommodate a 4 lane dual carriageway with a capacity for 20,000 to 30,000 vehicles per day.

The more recent planning philosophy has been to remove arterial roads from the coastal/residential strip and provide Foreshore Access Roads (FAR's). This type of road can provide property access by way of service roads, car park access for coastal recreational activities and be more pedestrian and cycle friendly for both local and suburban users. As a result, a boulevard style road is now proposed for the section of Ocean Reef Road from Hodges Drive to Shenton Avenue, Ocean Reef. Refer to Attachment 1 for a location plan.

DETAILS

Currently, Ocean Reef Road is a vacant road reserve from Hodges Drive to just south of Shenton Avenue, a distance of 2075 metres. At Shenton Avenue an existing roundabout leads to a local carpark south of the roundabout and access roads to the north. The proposed extension will require construction of a roundabout at Hodges Drive to control traffic

movements for the am and pm work related peak movements and also for Ocean Reef High School and Prendiville College traffic generation. The proposed boulevard layout is shown at Attachments 2 and 3. Apart from a junction treatment at Resolute Way, the majority of the road would have the layout as shown in the attachments. The 40 metre reserve provides enough space for two 5.0 metre wide carriageways (3.5 traffic lane plus 1.5 bicycle lane), a 5 metre wide median (for turn lanes), verges, 45° angle parking and shared paths. Sections of the western path would be required at the same time as the car parking is installed and to join up to the coastal dune path as detailed in the Foreshore Management Plan. The boulevard layout has included carparking so that coastal access can be provided without impact on the dunes.

The first stage boulevard development consists of two single lane carriageways, underground power street lighting, kerbed and drained pavement with red asphalt, bicycle lanes similar to West Coast Drive south of Hepburn Avenue, subject to funding it may also include three 40 bay carparks at locations shown on Attachment 1. These carparks will provide access to the foreshore at existing and proposed pathways in the Foreshore Management Plan.

The final stage development will include grassed and reticulated verges, controlled access fencing, ornamental trees in the verges and median and additional pathways for local and future access to the beach.

COMMENT/FUNDING

The main issues under consideration for the construction of the section of Ocean Reef Road are cost of construction, sources of funds, amenity and future development.

Construction Costs

To provide a first stage boulevard for Ocean Reef Road from Hodges Drive to Shenton Avenue to a standard of 2 single lane carriageways, asphalt pavement with kerbing, drainage, underground power, street lighting, a roundabout at Hodges Drive and associated works is estimated to cost \$1,652,812. The addition of reticulated grassed verges for the full length will add \$229,900. Depending upon type, ornamental trees will add \$25,300. Three new carparks and connecting dual use paths will cost \$209,760. The total cost of Ocean Reef Road from Hodges Drive to Shenton Avenue to include all features as above is estimated to be \$2,117,771. (Refer to Attachment 4 for costing summary)

Sources of Funds

There are three funding options available to the City to undertake its construction of the section of Ocean Reef Road between Hodges Drive and the northern boundary of Lot 1029.

Option 1

Ocean Reef Road is a regional road and therefore qualifies under Main Roads WA's Metropolitan Regional Road Program (MRRP) for grant funds. Funds are provided to local governments on a two for one basis for projects achieving a points score from a multi-criteria analysis and priority listing against all other Metropolitan Councils.

The points score scenarios have been calculated and the likelihood of Main Roads WA funding determined under the MRRP program. This is shown at Attachment 4 for three different stages of development.

Based on previous years submissions and evaluation, the minimum score likely to qualify for funding is about 500. Therefore, this section of road is unlikely to attract funds from the MRRP program in the short term.

Option 2

A second source of funding is from the development of the Ocean Reef Boat Harbour. Council is in the process of determining external impact on its land holding of Lots 1029 and 1032 such as the State Governments Bush Plan. Following a consultants study (refer Report CJ105-05/00) the potential site development and therefore future revenue can be assessed. It is suggested that a condition of the further development of land surrounding the Boat Harbour can be a contribution towards the construction of Ocean Reef Road, from Hodges Drive to the northern boundary of Lot 1029 to a fully kerbed, drained and sealed single lane boulevard standard. This source of funds would meet the construction cost of the southern section of Ocean Reef Road, as shown on Attachment 1.

Option 3

The third source of funds is from Council's Municipal Budget. Without a grant, but with a contribution from the developer, Councils share of the road will need to be funded from the Municipal Account if the road is to be constructed in the short to medium term.

Developers Responsibility

The funding to undertake the construction of the section of Ocean Reef Road from the northern boundary of Lot 1029 to Shenton Avenue is the adjacent subdivisional developers responsibility.

In December 1992 Council initiated Amendment 641 which proposes to rezone Pt Lot M1722 Marmion Avenue, Iluka from Rural to Residential Development R20 to R40 and Special Zone (Additional Use) Corner Store. Final approval of the amendment was withheld until such time that a legal agreement was drawn to secure the applicants obligations to contribute towards the provision of regional roads.

The regional road obligations included in the agreement include those items directly relating to the subdivisional development of the landowners' Iluka estate, as well as outstanding items relating to the subdivisional development of its adjoining Ocean Reef and Currambine Estates. The construction of the first stage of Ocean Reef Road between Hodges Drive and Shenton Avenue is one such outstanding item.

The draft legal agreement has been agreed, and is now awaiting finalisation. The nominated outstanding obligations for the subject section of Ocean Reef Road is the construction of full earthworks, one carriageway and drainage facilities when requested by the City. This obligation is for the section from the northern boundary of Lot 1029 to Shenton Avenue only, a distance of 1520 metres. This contribution has been estimated at \$890,000.

Amenity

The existing amenity of adjoining properties will be affected by the construction of Ocean Reef Road. Additional traffic, parking and pedestrian noise will be generated from the road, similar to any other local or distributor road in a subdivision. More people will have access to the foreshore areas which may increase fears of security and personal protection. It is recommended that street lighting be included in any first stage to alleviate these possible problems, however, all residents would have been aware of the development of Ocean Reef Road at the time of lot or house purchase, that it is a 40 metre road reserve capable of containing a dual carriageway and that their property would be effected by such a development. The downgrading of the road standard to a boulevard style layout will reduce this impact, especially when landscaping is installed. The single lane boulevard treatment will moderate vehicle speeds and with sign posting to 60 or 70 km/h a relatively safe car, cycle and pedestrian environment will be created.

Future Development

Currently, the section of coastline adjacent to Ocean Reef Road is being developed in accordance with the foreshore Management Plan. This relatively low intensity development comprises access roads, carparks, lookouts, foreshore and dunal revegetation and stabilisation and coastal hazard fencing and signing.

Council owns the land behind the Ocean Reef Boat Harbour and for many years has been trying to generate commercial interest in further development. To date these efforts have been unsuccessful but if and when this development does occur it may generate additional traffic similar to Hillarys Marina.

The residential area to the east of Ocean Reef Road is fully developed with occasional vacant land. This land area will only marginally increase traffic volumes on Ocean Reef Road.

Based on West Coast Drive to the south of Hillarys Marina, the boulevard treatment proposed for Ocean Reef Road could have a capacity up to 15,000 vehicles per day. It is considered that any traffic growth along Ocean Reef Road beyond that figure will be self limiting i.e. the amount of traffic congestion will force motorists to use alternative routes such as Marmion Avenue and east-west roads such as Hodges Drive.

It is highly unlikely that the requirement for reverting back to a dual carriageway in the long term will occur, however, if needed the existing 40 metre reserve can accommodate it.

This scenario is also applicable for other sections of Ocean Reef Road, south to Oceanside Promenade and north to Burns Beach Road. It is possible that the section of Ocean Reef Road from Oceanside Promenade to Marmion Avenue be developed as a single land boulevard. Although to determine this now may be premature as it will be subject to future traffic growth to the coastal areas and the boulevard style development along the whole coast.

It appears that this section of Ocean Reef Road will not attract MRRP funding in the short term until traffic volumes and accidents on other adjacent roads reach a level where the points score for this project is high enough to attract State Government funding assistance. Council can decide to delay construction until the points score can be achieved or fund the project earlier from its own resources. In any event, residents will be affected but it is likely they are aware of the future road development. The downgrading of the original dual carriageway standard to a landscaped single land boulevard will offset that loss of amenity in all but a few instances.

Currently, the project is listed in the City's Draft Five Year Plan for Major Road Construction and it will be submitted to Main Roads WA as part of the MRRP program so that it is recorded and audited for State Road Funds records.

Funds from the subdivision developer will be guaranteed when the Legal Agreement covering outstanding items and contributions for Amendment 641 is finalised over the next two months.

Funding for the southern part of the road may become available if a developer for the Ocean Reef Boat Harbour accepts that as a condition of development, a contribution is made towards road construction. If not, then Council must fund the remaining section as detailed in Option Three, from its own resources.

RECOMMENDATION

That Council:

- 1 ADOPTS a single lane boulevard design standard as outlined in the body of the report for Ocean Reef Road from Marmion Avenue through to Burns Beach Road, subject to future traffic growth and demands;**
- 2 LISTS for consideration in Council's Metropolitan Regional Road Program funding submission the construction of Ocean Reef Road from Hodges Drive through to Shenton Avenue;**
- 3 FINALISES negotiations with Beaumaris Land Sales for the construction of Ocean Reef Road from the northern lot boundary of Lot 1029 to Shenton Avenue and beyond to Burns Beach Road.**

For the attachments to this report, see Appendix 7(a) hereto and 7(b) at the rear of the agenda, click here: [Attach7ag130600.pdf](#)

**CJ140-06/00 PARKING RESTRICTIONS - WHITFORD CITY
SHOPPING CENTRE PARKING STATION NO 2 -
[00081]**

WARD - Whitfords

SUMMARY

BSD Consultants on behalf of First Pacific Davies have submitted a parking restriction proposal for Whitford City Shopping Centre to the City for approval. Whitford City Shopping Centre was gazetted as a parking station in 1993. Since that time, the centre has undergone extensive renovations and as such a revised parking restriction proposal is submitted for consideration.

BACKGROUND

In 1993, the then property managers of Whitford City Shopping Centre sought Council approval to gazette the shopping centre car park as a parking station. Gazettal as a parking station was subsequently approved to allow the centre management to install and enforce the City's Parking Facilities Local Laws (then By-Laws) within the centre car park.

Approval and subsequent gazettal as a parking station coincided with commencement of renovations at the shopping centre, which included rearrangement of the car park area. Consequently, installation of the approved parking restrictions did not proceed at that time.

Notwithstanding, BSD Consultants on behalf of First Pacific Davies have submitted a parking restriction proposal for Whitford City Shopping Centre to the City for approval.

DETAILS

The proposed parking restriction, as shown on Attachment 1 to this report are intended to regulate parking within the shopping centre car park. Similar time restricted parking restrictions have been previously approved and are in place at Joondalup Shopping City.

The signs, sign posts and supplementary signs associated with the proposed parking restriction satisfy the required standard.

Enforcement of the restrictions is primarily the responsibility of the approved Honorary Parking Inspectors.

COMMENT/FUNDING

As the Whitfords City Shopping Centre is a gazetted Parking Station, implementation of the proposed parking restrictions is recommended for approval.

Installation maintenance of the signs is the responsibility of the Shopping Centre Management. Infringement revenue is directed to Ranger Services, which processes and lodges the infringement notices to the 'Finks' Enforcement Registry.

RECOMMENDATION

That Council:

- 1 APPROVES the parking restriction proposal submitted by BSD Consultants on behalf of First Pacific Davies for the Whitfords City Shopping Centre Parking Station No 2 as shown on Attachment 1 to Report CJ140-06/00;**
- 2 AUTHORISES the applicant to proceed with installation of the signs, sign posts and supplementary signs associated with the proposed parking restrictions to the satisfaction of the Manager Leisure and Ranger Services;**
- 3 ADVISES the applicants accordingly.**

For the attachments to this report, see Appendix 8 hereto, click here: [Attach8ag130600.pdf](#)

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CJ141-06/00 CONTRACT EXTENSIONS -
016-99/00 PROVISION OF MATERIAL TESTING SERVICES – [34615]
026-99/00 CONSTRUCTION OF CONCRETE FOOTPATHS & DUAL USE PATHS – [21821]
028-99/00 SUPPLY & LAYING OF CONCRETE KERBING – [33821]
032-99/00 SUPPLY & DELIVERY OF BITUMINOUS PRODUCTS, SEALING AGGREGATES & SPRAY SEAL WORKS – [37821]
020-99/00 SUPPLY & DELIVERY OF CRUSHED LIMESTONE – [35760]
030-99/00 DELIVERY OF PRE-MIXED CONCRETE – [35821]
036-99/00 SUPPLY & INSTALLATION OF PATHWAY FENCING – [31826]
010-99/00 SUPPLY & DELIVERY OF BRICK PAVERS WITHIN THE CITY - [38614]

WARD - All

SUMMARY

The above contracts form part of the City of Joondalup maintenance contracts and, in accordance with the General Conditions of Contract Clause 23 Extension of Contractual Period, the City has negotiated the appropriate extensions with each tenderer.

In accordance with the guidelines for GST, the contracts are subject to minor variation following written agreement between the Contractor and the City of Joondalup.

DETAILS

Contract No 016-99/00 Provision of Material Testing Services

Awarded to: Qualcon Laboratories Pty Ltd

Contract extension - 1 September 2000 to 31 August 2001.

10% GST rate to apply to existing Schedule of Rates from 1 July 2000.

Contract No 026-99/00 Construction of Concrete Footpaths & Dual Use Paths

Awarded to: Stirling Concrete Pty Ltd

Contract extension - 1 July 2000 to 30 June 2001, in accordance with Clause 45 of the contract document.

10% GST rate to apply to existing Schedule of Rates from 1 July 2000.

Contract 028-99/00 Supply & Laying of Concrete Kerbing

Awarded to: Kerb Qic & Co

Contract extension - 1 July 2000 to 30 June 2001, in accordance with Clause 45 of the contract document.

10% GST rate to apply to existing Schedule of Rates from 1 July 2000.

Item 13 of the existing schedule for short lengths, ie. less than 20 metres total in a street, increases from \$17.50 per metre to \$24.00 per metre. Due to the revised method of calculating "short length", this is a reduction of \$4.20 per metre.

Contract No 032-99/00 Supply & Delivery of Bituminous Products, Sealing Aggregates and Spray Seal Works

Awarded to: CSR Emoleum Road Services

Contract extension - 1 July 2000 to 30 June 2001.

10% GST to apply to existing Schedule of Rates from 1 July 2000.

Contract No 020-99/00 Supply & Delivery of Crushed Limestone

Awarded to: WA Limestone

Contract extension - 1 September 2000 to 30 August 2001.

3.85% discount to apply to existing contract rates before the application of GST.

Contract 030-99/00 Delivery of Premixed Concrete

Awarded to: BGC (Australia) Pty Ltd

Contract extension - 1 September 2000 to 31 August 2001.

Existing Schedule of Rates to apply, inclusive of GST, subject to the following:-

1. The rates charged for July and August 2000 will be discounted to reflect the addition of the GST component, in accordance with the existing Conditions of Contract.
2. From 1 September 2000 the scheduled rate, with GST, shall be adjusted via the variation clause within the contract. The variation to apply is to be agreed to in writing between the contractor and contract superintendent.

Contract 036-99/00 Supply & Installation fo Pathway Fencing

Awarded to: Peter Wood Fencing Contractor Pty Ltd

Contract extension - 1 July 2000 to 30 June 2001, in accordance with Clause 45 of the contract document.

10% GST rate to apply to existing Schedule of Rates from 1 July 2000.

Contract 010-99/00 Supply & Delivery of Brick Pavers Within the City

Awarded to: Bristile Pty Ltd trading as Metro Brick

Contract extension - 1 September 2000 to 31 August 2001.

Schedule of rates to apply with the inclusion of 10% GST.

COMMENT/FUNDING

All contractors have complied with the Contract Period clause, which states:-

- a) The Contractor shall notify the Principal in writing at least 120 days prior to expiry of this contract, expressing its intentions to be considered for the renewal of the contract.
- b) Subject to the satisfactory performance of the contract, and under the provisions of following sub clause 1, the Principal may consider to extend the contract further for two periods each of 12 months or part thereof. Such extensions of this contract shall be in accordance with the same terms and conditions, or with negotiated price adjustments.

RECOMMENDATION

That Council:

- 1 AUTHORISES the extension of Contract 016-99/00 Provision of Material Testing Services, for a period of 12 months from 1 September 2000 to 31 August 2001 (10% GST rate to apply from 1 July 2000);**
- 2 AUTHORISES the extension of Contract 026-99/00 Construction of Concrete Footpaths & Dual Use Paths, for a period of 12 months from 1 July 2000 to 30 June 2001 (10% GST rate to apply from 1 July 2000);**
- 3 AUTHORISES the extension of Contract 028-99/00 Supply & Laying of Concrete Kerbing, for a period of 12 months from 1 July 2000 to 30 June 2001 (10% GST rate to apply from 1 July 2000);**
- 4 AUTHORISES the extension of Contract 032-99/00 Supply & Delivery of Bituminous Products, Sealing Aggregates and Spray Seal Works, for a period of 12 months from 1 July 2000 to 30 June 2001 (10% GST rate apply from 1 July 2000);**
- 5 AUTHORISES the extension of Contract 020-99/00 Supply & Delivery of Crushed Limestone, for a period of 12 months from 1 September 2000 to 31 August 2001 (3.85% discount to apply to existing contract rates before the application of GST);**
- 6 AUTHORISES the extension of Contract 030-99/00 Delivery of Pre-mixed Concrete, for a period of 12 months from 1 September 2000 to 31 August 2001. Existing Schedule of Rates to apply inclusive of GST, subject to the following:**
 - (a) the rates charged for July and August 2000 will be discounted to reflect the addition of GST component, in accordance with the existing conditions of contract;**
 - (b) from 1 September 2000 the scheduled rate, with GST, shall be adjusted via the variation clause within the contract. The variation to apply is to be agreed to in writing between the contractor and contract superintendent.**

- 7 AUTHORISES the extension of Contract 036-99/00 Supply & Installation of Pathway Fencing, for a period of 12 months from 1 July 2000 to 30 June 2001 (10% GST rate to apply from 1 July 2000);**
- 8 AUTHORISES the extension of Contract 010-99/00 Supply & Delivery of Brick Pavers Within the City, for a period of 12 months from 1 September 2000 to 31 August 2001 (Schedule of Rates to apply with inclusion of 10% GST).**

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CJ142-06/00 DRY PARK, MEDIAN AND VERGE DEVELOPMENT PROGRAM - [44697]

WARD - All

SUMMARY

This report places in context the criteria used to assess reticulation of dry parks, median strips and verges, and subsequent list of priorities developed and proposed funding commitments, as proposed in Council's draft Five Year Capital Works Forward Plan.

The objective of the Dry Park, Median and Verge Development Program was:-

- a) to provide a standard of park, median and verge landscape development to ratepayers' acceptance, while reflecting the normal environmental and resource constraints;
- b) to develop a criteria to prioritise the existing 152 dry parks, arterial road medians and verges and provide Council with a long term program for enhancement, where appropriate.

The dry park development assessment has been used for three years and has resulted in the irrigation of 18 dry parks and 11 sections of arterial road medians.

BACKGROUND

At the Council meeting held on 26 April 2000, Council resolved in part (CJ095-04/00 refers) that:-

“in view of the frequency of such requests (installation of reticulation) prepares a report to be presented to Council within four weeks regarding the criteria used to assess reticulation of dry parks, median strips and verges.”

It was also requested at the Councillor's briefing session, held on 18 April 2000, that information be provided on the issues associated with verges and median strips.

The development of road reserve areas became a critical issue in June 1996 when developers advised the former City of Wanneroo that the landscape irrigation in Connolly Drive would be discontinued due to the bore being located within private property. Council's policy of the day was not to accept reticulation within road reserve areas where the developer had irrigated the road reserve for enhancement.

Residents in Currambine were concerned as there is a large road reserve with one carriageway constructed and the remaining area would become barren and dry.

Due to the extensive areas involved, Report Nos P11-02/97 and TS149-06/96 were presented to Council (refer Attachment 1). Council adopted the resolution contained in Report No P11-02/97 and established a Working Party consisting of the following members:

Cr B Cooper
Cr A Taylor
R McNally, City Engineer
D Cluning, City Parks Manager
P Pikor, Design Engineer
D Blair, Deputy City Engineer

This committee met on four occasions and identified various matters to be resolved as follows:

- a) areas to be developed;
- b) funding options;
- c) landscape standards.

Refer Attachment 2 for the Working Party Brief.

To enable parks to be assessed for irrigation, it was agreed that a criteria rating of all existing dry parks be compiled. In order to maximise the available funds, the opportunity to connect two or more areas, or connect to existing bores, was a high priority. The priority rating is determined as follows:-

Dry Park Development Criteria

- Priority 1 - Proximity to existing reticulated park for joint utilisation of bore.
Proximity to existing dry parks to enable shared use of bore.
Percentage of indigenous vegetation.
- Priority 2 - Individual dry park with high local community utilisation.
Residential cell with minimal Public Open Space.
<50% indigenous vegetation.
- Priority 3 - 50%> indigenous vegetation.
Small isolated Public Open Space with minimal opportunity
for community use.

Median and Verge Development Criteria

- Priority 1 - No indigenous plants, high traffic flow, long and wide medians, no trees planted.
- Priority 2 - 25% indigenous trees, no shrubs, medium/high traffic flow, less than 25% planted with various species.
- Priority 3 - 25%-50% indigenous trees and shrubs, medium/low traffic flow, 25%> planted with various species.
- Priority 4 - 50%> indigenous trees and shrubs, low traffic flow, 50%> planted with various species.

Council allocated funds in the 1997/98 Capital Works Program for the installation of inground reticulation for Priority 1 dry parks. Funding was also provided for the enhancement of road medians where joint utilisation of the bore and pumping unit could be achieved at the same time a dry park is being reticulated in close proximity.

A breakdown of dry park development projects and ancillary median and verge enhancement works undertaken on previous budgets is listed below for elected members' information.

1997/98 - \$500,000

- Project 1 Glenmere Park Warwick
 Aberdare Park Warwick
 Erindale Road Median
- Project 2 Greenlaw Park Duncraig
 Buckthorn Park Duncraig
 Davallia Road Median
- Project 3 Josephine Park Alexander Heights
 Marangaroo Drive Median
- Project 4 Greenfields Park Wanneroo
 Beelara Park Wanneroo
 Wanneroo Road Supply Point only

1998/99 - \$500,000

- Project 1 Albacore Park Sorrento
 Hepburn Avenue Median (Marmion Avenue to Howland Avenue)
- Project 2 Oxley Park Padbury
 Marmion Avenue/Whitfords Avenue Junction Area
- Project 3 Lysander Park Heathridge
 Hodges Drive Median (trickle outlet only)
- Project 4 Finney Park Marmion
 McKirdy Park Marmion
 Keppell Park Marmion
 Marmion Avenue Median (Beach Road to Warwick Road)
- Project 5 Sandalford Park Beldon
 Conidae Park Heathridge
 Ocean Reef Road Median (Freeway west to Eddystone Avenue)

1999/2000 - \$176,000

Barwon Park Craigie (completed January)
 Craigie Drive Trickle to trees, Marmion Avenue to Eddystone Avenue (completed January)
 Brisbane Park Padbury(commenced February)
 Delaware Park Kallaroo (listed for April 2000)
 Moore Drive Median, Marmion Avenue to Connolly Drive (completed January)
 Marmion Avenue Median Beach Road to Warwick Road (completed January)
 Ocean Reef Road Median (listed for April 2000)

During the split process, budget funding was split in accordance with the number of dry parks listed for consideration.

COMMENT

Attachment 3A & 3B - This schedule identifies the current dry and reticulated parks per suburb and a rating score in accordance with the criteria for development consideration. Attachment 3A lists all the outstanding dry parks yet to be developed, and their associated priority rating. Attachment 3B depicts all the ancillary median and verge enhancement works and their associated priorities, which could be undertaken in conjunction with the Dry Park Development Program.

Total number of dry parks	152
Priority 1 parks	28
Ha irrigated for outstanding Priority 1 parks	47.80
Number of bores required to service Priority 1 parks	23
Capital expenditure estimate to develop Priority 1 parks	\$1,052,100
Annual maintenance expenditure increase associated with developing outstanding Priority 1 parks	\$220,836

The development of a dry park is a high priority item for ratepayers throughout the City of Joondalup. This concern has been reflected in Council's Planning and Development area of subdivision approvals. Developers are currently requested to install inground irrigation to specific areas of Public Open Space as part of the design process. It must be recognised that there is no statutory requirement for developers to develop any portion of the 10% Public Open Space component. Development standards have increased significantly in recent years, as part of the developers' marketing strategy, and there is a significant benefit to ratepayers and Council's capital works program.

Attachment 4 - Areas By Suburb

The criteria developed for assessing any areas of Public Open Space must be used with caution. Areas of Public Open Space are often diverse and offer various social amenities to residents who require a variety of services, eg. irrigation, active or passive versus bushland. Residents often view the adjoining Public Open Space as enhancement for financial benefits and resale values. Calculation of the area for development per suburb, without using a criteria, would result in degradation of remnant bushland as residents' priority is to remove bushland and reticulate.

This calculation provides a breakdown per suburb and includes population per m² of dry and reticulated Public Open Space, and the number of properties per m² of dry and reticulated Public Open Space. For example :-

Greenwood

Population - 11,150

No of Properties - 3,845

Dry Parks - 20

m² per head of population - 16.66

m² per property - 48.32

Reticulated Parks - 7

m² per head of population - 26.81

m² per property - 77.76

Currambine

Population - 4,358

No of Properties - 1,503

Dry Parks - 1

m² per head of population - 0.67

m² per property - 1.93

Reticulated Parks - 7

m² per head of population - 28.29

m² per property - 82.04

Duncraig

Population - 16,115

No of Properties - 5,557

Dry Parks - 25

m² per head of population - 16.24

m² per property - 47.09

Reticulated Parks - 12

m² per head of population - 29.16

m² per property - 84.58

It is not anticipated that all dry parks be irrigated as this would not be environmentally acceptable or sustainable. Various areas have a high percentage of natural remnant vegetation and these areas require protection via an alternative process. (Refer Attachment 5 - Dry Parks Per Suburb with separate priority to indicate remnant vegetation qualities).

Development of Public Open Space in the newer suburbs has been designed to provide larger irrigated active parks, small localised passive parks (irrigated) and larger areas of conservation bushland. There are very few dry parks in the new suburbs and, where they exist, they are listed for future connection to a proposed Public Open Space.

The proposed Five Year Capital Works Program totals for dry park development -

YEAR	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005
TOTAL	\$176,000	\$353,508	\$406,226	\$390,647	\$419,270	\$350,000

The five year program totals \$2,095,651 (refer Attachment 6 for project level details) and involves all listed Priority 1 parks.

RECOMMENDATION

That Council ENDORSES the criteria adopted for assessment of dry parks, medians and verges for Budget consideration in the preparation of the Five Year Capital Works Program.

For the attachment to this report, see Appendix 9 at the rear of the agenda, click here:
[Attach9ag130600.pdf](#)

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Att

Mayor Bombak stated his intention to declare an interest in this Item as his daughter works part-time in a photographic shop at the centre.

CJ143-06/00 PROPOSED LEGAL ACTION DUE TO NON-COMPLIANCE WITH CONDITIONS OF APPROVAL - CARINE GLADES SHOPPING CENTRE - LOT 11 (485) BEACH ROAD, DUNCRAIG - [07049]

WARD - South Coastal

SUMMARY

The Council approved extensions to the Carine Glades Shopping Centre in 1996. A condition of planning approval required the owners to enter into an easement in gross in favour of the then City of Wanneroo for the purpose of public access and use of the car parking area. The condition should have been fulfilled within 2 years from the date of the approval.

Despite several attempts to resolve this matter with the owner's solicitors, the easement in gross is no closer to being finalised and the shopping centre extensions have been occupied for over 2 years. Town Planning Scheme No 1 states that where the Council grants its approval for the use of any land or buildings for a particular purpose subject to conditions, no person shall use the land or buildings for that purpose otherwise than in accordance with those conditions.

Action may be mounted against the owners under Section 10 of the Town Planning and Development Act for breach of this condition of planning approval. In view of the continued failure of the owners to fulfil this condition of approval over an extended period of time, it is recommended that Council initiate legal action.

BACKGROUND

Lot No	11
Street Address	Beach Road
Land Owner	Carine Glades Shopping Centre Pty Ltd (Mr & Mrs Duffield)
MRS Zoning	Urban
TPS Zoning	Commercial
Land Use	Shopping Centre & carpark

Carine Glades Centre

The Carine Glades Shopping Centre is situated on the north eastern corner of the intersection of Beach Road and Davallia Road, Duncraig. While the centre and surrounding buildings have all the appearances of being part of one centre, they are in fact situated on their own lots with individual vehicle access and their own parking. The following developments surround the shopping centre:

- Commercial Centre – (former Squash Courts) Lot 10 Davallia Road
- Tavern – Lot 12 Beach Road
- BP Service Station – cnr Beach Road and Davallia Road
- Professional Centre – Lot 201 Davallia Road
- Health Centre – Lot 200 Davallia Road
- Kindergarten – Lot 159 Davallia Road
- Commercial Centre Car Park – Lot 3 Davallia Road

The Carine Glades Shopping Centre is a neighbourhood centre that is well patronised. Parking demand has, however, overflowed onto neighbouring lots, occasionally resulting in disputes between landowners. In 1995, the Council was faced with resolving a dispute between the owners of Lot 10 Davallia Road and the Carine Glades Shopping Centre over land uses. This matter was eventually resolved through an agreement between the two landowners. This resulted in the rezoning of Lot 10, with some agreed uses, and included an agreement to enter into an easement in gross over the parking and access on Lot 10.

Current easements in gross exist for the refurbishment of the Squash Courts into a commercial building on Lot 10 Davallia Road and creation of a parking area over Lot 3, adjoining the Kindergarten.

Tight controls have been placed upon the use of developments, particularly on the squash court property, in order to ensure that the lots are capable of accommodating car parking demand on each lot.

The owners of various lots within the Carine Glades Centre have shared parking and access arrangements with 'gentlemen's agreements'. This has been to the benefit of both the patrons and landowners of the whole centre. The City has consistently sought to approve development within the overall centre subject to landowners entering into an easement to legally secure unrestricted public access and parking and thereby formalise current informal agreements. The easements are pivotal to securing shared rights of access for the benefit of the entire development.

More recently the City has been involved in bringing landowners together to assist in further improving the vitality and functional aspects of the centre. A 'holistic picture' is being suggested to define the role of the centre, its trade area, access and parking and whether there is any potential to increase the scope of land use.

DETAIL

In July 1996, the Council considered a request by the shopping centre owner for in principle support for additions to the shopping centre involving a reduced car parking provision. The Council resolved, amongst other things, to delegate authority to the City Planner to approve an application for additions to the shopping centre on Lot 11 Beach Road, Duncraig involving approximately 500m² of gross leaseable area (GLA) and a relaxation of car parking requirements to not less than 6.1 bays per 100m².

The application for extensions to the shopping centre were subsequently lodged with the City in August 1996 where the proposal was conditionally approved under delegated authority by the then City Planner on 10 September 1996. Condition 10 required *“The granting of an easement in gross in favour of the City of Wanneroo over Pt Lot 11 (485) Beach Road, Duncraig to the satisfaction of the City Planner.”* This condition has not been complied with.

COMMENT

The owners of Lot 11 (485) Beach Road, Duncraig have had over three (3) years to satisfy this condition of approval to commence development. Council’s solicitors prepared a draft, but no agreement was reached. No significant attempts have been made to enter into this agreement by the owners, despite several attempts from Council’s solicitors bolstered by direct communication with City Officers.

The City of Joondalup Town Planning Scheme No 1 states that where the Council grants its approval for the use of any land or buildings for a particular purpose subject to conditions, no person shall use the land or buildings for that purpose otherwise than in accordance with those conditions. Action may be mounted under Section 10 of the Town Planning and Development Act, based on the failure of the owners to comply with the condition of planning approval which states:

“10. The granting of an easement in gross in favour of the City of Wanneroo over Pt Lot 11 (485) Beach Road, Duncraig to the satisfaction of the City Planner.”

The Town Planning & Development Act 1928 (as amended) provides for the enforcement of Town Planning Scheme No 1, if matters of non-compliance cannot be resolved by negotiation. Under the Act:

“(4) (a) A person who —

- (i) contravenes or fails to comply with the provisions of a town planning scheme; or*
- (ii) commences or continues to carry out any development which is required to comply with a town planning scheme otherwise than in accordance with that scheme or otherwise than in accordance with any condition imposed with respect to the development by the responsible authority pursuant to its powers under that scheme,*

is guilty of an offence.

Penalty: \$50,000, and a daily penalty of \$5,000.”

Compliance with Condition 10 has been outstanding for a significant period of time since the shopping centre approval was granted and completed shortly thereafter. The owners are no closer to fulfilling this condition. Accordingly it is recommended that the Council proceed to initiate legal action against the owners – Carine Glades Shopping Centre Pty Ltd (Mr & Mrs Duffield).

RECOMMENDATION

That Council:

- 1 ADVISES Carine Glades Shopping Centre Pty Ltd of the breach in relation to Condition 10 of Approval to Commence Development dated 10 September 1996 for additions to the shopping centre on Lot 11 (485) Beach Road, Duncraig. Further advises the owners that failure to agree to grant an easement in gross for access and parking purposes within 14 days will result in legal action being initiated by the Council;**
- 2 INITIATES legal action against the owner Carine Glades Shopping Centre Pty Ltd for breach of 10 (4) (a) of the Town Planning & Development Act 1928 (as amended). Where within 14 days the owners provide the City with written agreement to comply with Condition 10 of Approval to Commence Development dated 10 September 1996 pursuant to Town Planning Scheme No 1 such legal action shall be held in abeyance pending finalisation of the easement in gross.**

**CJ144-06/00 LEGAL ACTION FOR ADDITION OF HANDRAIL:
LOT 560 (3) MANAKOORA RISE, SORRENTO –
[05034]**

WARD - South Coastal

SUMMARY

The City has been requested to prepare for court proceedings in relation to the addition of a handrail (without approval) upon a portion of a house at lot 560 Manakoora Rise, Sorrento. Court proceedings are scheduled for 26 and 27 June 2000. Examination of Council's records has not provided evidence that Council's endorsement for the action is in place, although the Coordinator of Building has delegated authority under the Local Government Act to indicate such action. This report seeks Council's endorsement of the foreshadowed action.

The advice contained within this report is sensitive and may lead to strategies for the forthcoming court appearance. The report is therefore intended to be confidential for the consideration of elected members only.

McLeod and Co (Solicitors) represent the City. Senior staff of the City instructed McLeod (in March 1998) to pursue the removal of a handrail at the property, due in part to complaints from the adjoining landowner and the lack of a building license for the works.

The handrail is attached to the top of a parapet wall above the ground floor of the house. The handrail gives the appearance that the flat roof beyond can be used as a balcony.

The development has been the subject of significant debate and was the catalyst for an independent inquiry into the manner in which approval for the development was allowed. The results of the inquiry have been examined many times in the past. Some of the findings of the inquiry have lead to changes in administrative practices and systems.

This report contains:

- 1 A briefing to the background of events, for the benefit of new Councillors;
- 2 The history of the approval of development of the site, as it may be relevant to the current situation;
- 3 The resource and time costs associated with continuing in litigation against the landowner of Lot 560;
- 4 The technical need, or otherwise, to pursue this issue; and
- 5 The options available for action from here on.

The handrail in itself is a minor element in this development and ordinarily would not give rise to legal action. Having regard to the history of this site and the statutory obligations of the Council, it is recommended that Council continue to pursue action against the landowner of Lot 560 Manakoora Rise for building the minor additions without approval.

BACKGROUND

The background to this issue is complex, and a clear path to the current status of the handrail issue is not evident in the available information. Particularly, Council's endorsement of the proposed legal action is not clearly recorded. Due to the likely costs and resources required to mount a successful action, and having regard to the recency of the appointment of all members of Council, it is considered timely to provide this summary report to revisit the issues, and to affirm the proposed action from here on.

For ease of reference, the following timeline is presented. The events considered relevant to this case are shown highlighted.

Timeline of known events

21/12/95 The City issued a building licence for a new house at lot 560 (no. 3) Manakoora Rise.

30/5/96 Neighbours of the property raised concerns with the (then) City of Wanneroo and the Department of Local Government in regards to the nature of the approval, alleging various areas of non-conformity and other issues.

13/8/96 Council serves stop work Notice for deviation from approved plans.

1996-97 Council insurer seeks settlement with affected parties, with no admission of liability

10/7/97 Compensation deeds signed by neighbours, including commitment not to claim now or in the future in regard to the development of 3 Manakoora Rise.

9/9/97 Department of Local Government (DOLG) Inquiry into the approval of 3 Manakoora Rise concluded based initially on the complaints from neighbours.

13/11/97 The City received further complaints from neighbours advising that additional works were being added to the development (under construction) without approval, including the installation of handrails.

9/12/97 Internal memo confirms that the City can only ensure that the dwelling complies with the approved plans or any amended approved plans under the Local Government (Miscellaneous Provisions) Act.

23/1/98 A site inspection carried out by City Officers on the 19/1/98 revealed further departures from the approved plans were in place, in addition to the prospect of possible further departures based on the works underway, including a handrail to be installed along roof area. The owner did however state that he would be submitting amended plans.

4/2/98 Internal memo confirmed that a handrail had been installed along the roof area without approval.

- 27/2/98 Site instruction served on the builder to remove the illegal handrails.
- 16/3/98 Notice (prepared by Council Solicitors) served on the builder to remove the handrails located along the roof parapets, as they were not detailed in the approved building licence.
- 19/3/98 The City engaged an independent expert to audit the residence for conformity with the approved plans.
- 17/4/98 Independent report found four departures from the approved plans. The most serious departure found related to the lack of a balcony wall which was intended to prevent access to a tiled roof area, thereby causing a major overlooking problem. The report omitted any mention of the handrails in question, but did allude to other minor unauthorised works.
- 6/5/98 The City advised the builder (by letter) that City would engage solicitors to commence action with the aim of removing the handrail.
- 7/5/98 The City requested that Solicitors serve a complaint at the court of petty sessions, to have the rail removed by the builder.
- 7/5/98 The Joint Commissioners were advised that a notice has been served on the builder to bring the building into compliance with the approved plans as per the independent report. Notably, the report did not mention the handrail issue.
- 7/8/98 McLeod and Co advised that Notice should be served on the owner of the property, for the removal of the rail. As the owners had now taken possession, City may have been unsuccessful if the builder was pursued. If the City had continued to pursue the builder only, then the builder could plead as a defence that the owner denied him access to the property and thereby compliance with any notice was impossible. Service of a notice on the owner would remove this possibility from the scene
- 14/9/98 Notice was served on the owner to remove the handrails (which were not part of the approved plans).
- 23/10/98 The owner appealed to Department of Local Government in regard to the removal of the handrails. The Minister dismissed the appeal.
- 11/1/99 City Solicitors requested to serve a complaint on the owner to have the rail removed at the court of petty sessions.
- 21/1/99 Joint Commissioners were advised that the handrails remained in place and that Council Solicitors would pursue action.
- 2/2/99 City solicitors serve complaint on the owners to have the rails removed.
- 11/2/99 Owners apply for a building licence for the rails.

25/2/99 Legal advice sought as to the status of the Building Licence application, given that the works were already complete, and that retrospective building licence issue is seen as contentious by some authorities.

2/3/99 Legal advice received providing three options available to City, including;

1. Continue with the prosecution.
2. Remove the handrail with the consent of the adjoining owner, and enter into a covenant to restrict the use of the roofed area.
3. Handrail to remain and restrictive covenant be entered into, with out of court settlement for costs (in favour of the City).

Option 3 was recommended as the preferred option for the City

13/4/99 The Joint Commissioners considered a report nominating the options and seeking endorsement the preferred option, provided by the solicitor.

20/4/99 Negotiation with the owner of lot 560 confirms agreement (in writing) to the proposal (option 3) suggested by City Solicitors.

11/5/99 Commissioners formalised the City agreement by resolving to;

“1 APPROVE the building licence application dated 11 February 1999 for handrails and safety rails (amended detail dated 22 April 1999) subject to:

(a) *the removal of the existing unauthorised handrail;*

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

2 WITHDRAW legal action against West-Ville Homes Pty Ltd and VM & FL Parin with respective parties paying their legal costs.”

3/8/99 The owners of Lot 560 disputed the proposed wording of the restrictive covenant and suggested a covenant in the terms of “*not to allow (the relevant land per sketch) to be used to the purposes of or as a balcony or entertainment area*”

11/10/99 Following further negotiations with the owner of lot 560, the City was advised by the owner's solicitors that the owner wished to alter the wording of the proposed covenant to read:

“*not to allow that part of the Land Burdened as is shown on the sketch annexed hereto (the restricted use land) to be used for the purposes of or as a balcony or entertainment area.*”

- 22/10/99 The parties to the agreement, and the respective solicitors, met to resolve the revised wording of the proposed agreement.
- 2/11/99 The proposed amended resolution was sent to City Solicitor for checking.
- 9/11/99 The Joint Commissioners resolved to rescind the original motion and approve a change in the wording of the original resolution to reflect terms of renegotiations.
- 15/3/00 The owner's solicitor informed that the owner would not proceed with a settlement. It was also mentioned that the Court would not grant any further adjournments.
- 10/5/00 The City's Solicitor advised that the Court set aside 26 & 27 June 2000 for trial, and requested a number of items that would need to be addressed to prepare for the trial.
- 18/5/2000 The City's solicitor recommended that on balance, a negotiated settlement could be attempted such that the owner would agree to plead guilty to the offence, and the City would not oppose a "no sentence" order, or seek an order from the court to remove the rail. It is suggested that the owner be requested to meet the City's costs in this matter.

DETAILS

Although progress may seem to have been stilted, the City's solicitors informed the defendant's solicitors that the City was ready to proceed to trial on April 9 1999. Delays since then have been to accommodate the defendant's professed desire to negotiate.

The legal proceedings are at a delicate stage. The solicitor representing Parin has requested that proceedings be held over on several occasions. The Court has agreed to this in the past. The Court has now ordered that the matter will proceed on June 26 and 27. No further callovers will be permitted. Therefore, Council needs to adopt a position as to continuing with the prosecution or considering other options prior to that time.

The preparation required for the court hearing is substantial in terms of administrative time and resources. The solicitors have requested that the City:

- 1 Survey other buildings in the locality to record any other non-trafficable roofs with handrails upon them;
- 2 Source an opinion from Worksafe regarding the need or otherwise for a handrail to be placed as it is on the building;
- 3 Commission a further report from an independent consultant regarding the common practice as far as roof safety is concerned;
- 4 Provide further evidence that the roof was not intended to be trafficable at the time that the plans were approved; and
- 5 Provide planning evidence that if the roof is used as a balcony, the balcony is inappropriate in the constructed location.

It is estimated that the hearing would last 2 days and the costs could be between \$10000 and \$20000 depending upon whether the City wins or loses. These estimates are additional to almost \$7400, which has been expended to date.

If the City was successful, one outcome could be a court order upon Mr Parin compelling him to remove the handrail. Alternately, the Court could find in favour of other options, including a “no sentence order”, where even though the case may be won, a penalty would not be administered. These options cannot reliably be predicted at this time, as they will be at the discretion of the Court.

An additional matter to consider relates to the prospect of compliance action, in the event that the proponent did not agree to follow the directions of a court order. In that case, the City may be forced to undertake further action seeking authority to enter the property and remove the handrail. The consequences of each action would need to be carefully considered by the elected members.

Legislative Requirements

The City has legislative powers which it may exercise in regard to this matter, as follows:

1. DEVELOPMENT APPROVAL

Development approval has not been sought nor given for the use of the area as a balcony. The use of the area as a balcony would not conform to the provisions of the Residential Planning Codes (which form part of Town Planning Scheme No 1) given the proximity of the walls to the side boundary. In the event that the area in question is not used as a balcony, then this aspect of the structure can be interpreted as conforming to the requirements of TPS 1.

This rationale has been adopted in the early stages of the debate regarding the handrail issue, and has been reconfirmed with McLeod and Co.

As the owner conjects that the area is not a balcony, and the plans indicate that it is a roofed area, this is not a planning issue. If the area in question was used as a balcony or terrace area, then a development application would be required, and would likely be refused on the basis of non-conformity with setback standards and the likely amenity impact upon the neighbour caused by the use of the roof area.

2 RETROSPECTIVE NATURE OF THE BUILDING APPLICATION

Technically, this issue came to head after the handrail was constructed. There are legal opinions which conject that retrospective building licences cannot be given. In practice many local governments will issue amendments to building licences, where the major work has commenced, to provide a service to builders where minor changes are sought while the work is in progress.

In all cases this is done for minor amendments that comply with the Building Code of Australia (BCA).

The BCA does not impose a requirement for the rail in this location, provided that the roof area beyond is not used as a designated trafficable area (ie balcony, terrace etc).

McLeod's advice is that if viewed in isolation, it could possibly be argued that the hand rail did not require a separate building licence or planning approval. That would be the reason of fact that, based on the scale of the things, that (the handrail) is a minor event in the context of the total building. However as the handrail was not shown on the approved plan, and as the hand rail is a "structure", and therefore a building, that was considered to be grounds for the breach of a s401 Notice.

3 MANDATE/ OBLIGATION TO ACT

Under the provisions of the Local Government (Miscellaneous Provisions Act) 1960, Council may, *"during or after the erection of a building in its district, give notice on the builder or owner of the building, written notice of anything, in the construction of the building:*

(a)

(b) *which is not in compliance with, or is a departure from, the plans and specifications for the building, of which plans and specification the approval of the local government has been obtained as required by this Act, or which is a contravention of this Act."*

Due to the history of the owner departing from approved plans, scrutiny from the public & various government departments and the direct impact to the adjoining neighbours, the City exercised its right to seek removal of the rails.

Building Code of Australia (BCA)

Volume 2 Class 1 and Class 10 Buildings Housing Provisions (All Class 1 and 10 buildings built in Australia must comply with this document)

The BCA does not require a rail to be place along the edge of a roof area flat or pitched. If it was required, the rail would have to be removed anyway as it would not meet the requirements of the BCA. The rail would have to be made higher and the space between the wall and the rail exceeds the 125mm allowed.

COMMENT

The subject rail is a minor element in the entire development. It could be considered simply as an architectural feature on the parapet wall to a roof area. The legal advice, however, concludes that this is an element which technically requires a building licence.

Given the history of the site, the statutory requirement to have a building licence for the rail and the lack of cooperation from the owner to remedy this situation, it would appear that the City has no option other than to continue with legal action.

RECOMMENDATION

That Council ENDORSES the legal proceedings to have the handrail removed.

**CJ145-06/00 HIRE OF EQUIPMENT FROM SERVICE STATIONS –
[39316]****WARD - All**

SUMMARY

In early 1999 specialist equipment hire business operators sought action concerning the hiring of domestic equipment from service station sites. Under Town Planning Scheme No 1 (TPS1), the hiring of equipment is not permissible upon land zoned "Service Station". Council considered the matter at its 27 April 1999 meeting (CJ 148-04/99 refers).

Site inspections show that 18 service stations within the City hire equipment such as lawnmowers trailers and other like goods in addition to their normal business activity. Service station operators have undertaken this practice without having sought or obtained approval from the City.

Service station operators were asked to bring their site operations into conformity with the TPS1. There was limited response to this request and further legal advice was sought. The advice suggested that a court may find a limited amount of equipment hire to be incidental (say a maximum of 2 items). This advice was passed onto service station operators, with a further request to come into line with TPS1. The request, again, met with limited response.

The hire industry is insisting that Council take action against the service station operators, and is threatening legal action to compel the Council to act.

The Motor Vehicle Traders Association (MTA), representing service station owners and operators, has requested that the Council amend its Town Planning Scheme to allow equipment hire, and that the Council refrain from prosecuting those that don't comply.

The Council has a statutory obligation to ensure compliance with its Town Planning Scheme and, based on legal advice, is at some risk if it fails to meet those obligations.

Equipment hire at service stations has been a companion use for many years, and one which has not attracted negative comment from the general community. It could, in fact, be seen as an additional service to the community.

Discussions have been held, and are continuing, with the Western Australian Municipal Association (WAMA) and the Ministry for Planning to see if this matter can be resolved on an industry-wide basis.

It is therefore recommended that the Council initiate an amendment to TPS 1 to include "equipment hire" as an "AA" use, and to advise the service station operators of Council's action and the need to comply with the Scheme until this change has occurred. It is further recommended that the Council proceed to take action against the "worst case" should the service station operators fail to heed Council's direction to comply.

BACKGROUND

There are approximately 30 service station sites within the City of Joondalup. Most of these sites are zoned "Service Station" under TPS1 whereby equipment hire is prohibited in these zones. Two service stations are situated within the Mixed Business zoning, whereby the hire use could be approved by the exercise of discretion under TPS1. There is a detailed history of negotiation and meetings with all parties, which is summarised below.

27 April 1999 The Council considered the issue of equipment hire from service stations following complaints and resolved to advise the service station operators:

- "1. that the City has received complaints regarding equipment hire from service stations;*
- 2. outlining the City's requirements in this regard;*
- 3. giving until 31 May 1999 for each owner to advise the City of the level and nature of equipment hire undertaken and until 31 July 1999 to bring their operation into compliance; and*
- 4. in the case where the zoning of the service site can accommodate equipment hire, advising that where the operator intends to carry out this activity on more than a minor incidental scale, then an application is to be lodged with the City by 31 May 1999."*

8 August 1999 Detailed photographs and records were made of the extent of equipment hire being undertaken at service stations.

27 August 1999 The Council notified service station operators that they could be misinterpreting TPS1 requirements applying to equipment hire from service stations. Operators were advised of the limitations imposed by the definition of Service Station under TPS1 as not including equipment hire and were given the opportunity of lodging a formal application to the City. The service station operators provided little response to this notice.

1 September 1999 The Motor Trade Association of Western Australia (Inc.) (MTA) advised of service station operators need to continue hiring equipment and requesting the City consider approving applications from operators.

5 October 1999 The City received written legal advice verifying the advice given to Council and reported to the ordinary meeting of Council on 27 April 1999.

15 November 1999 The City received correspondence from Phillips Fox representing a complainant. The City was requested to remedy breaches of the Scheme and prosecute operators who breach the Scheme. It also advised of the potential for a writ in the Supreme Court to be instituted compelling the City to act in accordance with the resolution.

- 10 December 1999** Phillips Fox advised there are at least 20 service stations within the City that do not comply with TPS1.
- 14 December 1999** The City served a second notice on the service station operators indicating that it sought further legal advice to clarify requirements of TPS1. Service station operators were advised that based on legal advice incidental hire of equipment of (2) two items may be considered acceptable from service station sites. (*This advice was later withdrawn upon further consideration*)
Notice was also given to operators to bring the current level of equipment hire into conformity with TPS1 within 21 days. This period expired on 4 January 2000. Once again, there was a poor level of compliance with the notice.
- 20 December 1999** A request from U-Tow (a hire operator leasing equipment through service station outlets) was made to the City for a time extension until 31 January 2000 to respond to the notice of the City. A time extension was not granted.
- 31 December 1999** A meeting was held with the Director Planning & Development, representatives from the MTA, Planning Consultants and U-Tow advising that development applications would be made to Council for equipment hire from service station operators.
- 14 January 2000** Further legal advice was received from Council's solicitors regarding the issue of equipment hire relative to the intensity of hiring, TPS definitions and non-conforming use issue.
- 25 January 2000** Inspections of 30 service stations within the district revealed 18 service stations currently hiring equipment.
- 19 January 2000** Further advice was given to Phillips Fox regarding the actions being undertaken by the City from its notice on 14 December 1999.
- 3 February 2000** Facsimile message from Phillips Fox advised of its client's business being adversely affected by equipment hire from service stations over a 12-month period. Their client urged the City to commence to prosecute service station operators immediately for breaches of the Town Planning & Development Act.
- 16 February 2000** The MTA and its Planning Consultant made representations to the City seeking the continuation of equipment hire from service stations. A Scheme Amendment was sought to facilitate equipment hire from service stations.
- 2 March 2000** Following a meeting with Council's solicitors a facsimile message was received outlining options and a recommended course of action for the City in dealing with equipment hire from service stations.

27 April 2000 A meeting was attended by representatives of the Ministry for Planning, Western Australian Municipal Association, the MTA and the City of Joondalup to discuss the issues.

Of the total number of sites, 18 have been found to offer the hiring of equipment in addition to normal business operation. Approval had not been sought for the hiring of equipment by any of the service station operators. Many operators were apparently unaware that the activity could be interpreted as being in breach of TPS1, or that approval would be required for this activity to be conducted on service station sites. Some service station operators have offered the equipment for hire for considerable periods of time.

The activity is common in other metropolitan areas of Perth. It is understood from contact with other local authorities that the issue has not been raised previously. WAMA have advised that some other local governments do have TPS provisions which allow hire activity to be approved in respective "Service Station" zones. In others the TPS does not allow equipment hire in the zone. The issue has not been taken up, to date, in those areas. It appears that the City is being used as a test case for future action in other authorities.

District Planning Scheme (DPS) No.2 is still with the Hon Minister for Planning, awaiting final approval. The current draft of DPS2 does not make provision for the hire of equipment from service stations and therefore would need to be amended if such a use is to be contemplated.

DETAILS

TPS1 was drafted in 1972. It did not contemplate the hiring of equipment or other commercial activities occurring upon service station sites. The service station industry has evolved significantly since that time with the advent of fuel outlets shared with other commercial activity and the demise of the typical motor repair workshops at many service stations. Service stations now commonly lease lawnmowers, trailers and similar items as a part of their business.

Service stations have been monitored for the level of hire activity being undertaken from their sites since this issue was first raised. The service station operators have not visibly altered the extent of hire activity undertaken from their premises. Incremental approaches have been made by some site owners seeking approval, however, owners have been advised that approval for the activity on land zoned service station cannot be given under the terms of the TPS1.

The Motor Traders Association (MTA) now represents the bulk of service station owners. Various meetings have been held with the MTA as to the current situation. The MTA have requested that the City amend TPS1 to allow equipment hire and that the City not take further action against its members.

The City sought legal advice to assist in finding a reasonable solution as to the extent of hire activity that could be said to be appropriate at service station sites. That advice suggested that a court may find that a minor extent of equipment, say limited to 2 items, may be considered acceptable. This advice remains untested. The advice also suggested that a court may find that the hire of equipment on behalf of a third party (from a service station site) may contribute to the argument that equipment hire constitutes a separate land use from a site which is not zoned for that purpose. In which case, no amount of equipment hire would be considered acceptable.

Further legal advice has suggested that an amendment to the Town Planning Scheme to enable approval of equipment hire would be an appropriate action for the Council to take. The legal advice further recommends that the Council take action against the worst case to clearly demonstrate that it is taking its statutory obligations seriously.

COMMENT

The situation presents some difficulties. The hire industry is looking to Council to enforce the provisions of TPS1. The MTA is looking to Council for support of the current activity, and seeks approval under TPS1. The TPS does not allow hire activity within the Service Station zone.

These factors, in combination, have lead to the development of a 3-part strategy to address the situation.

1. Amend the Town Planning Scheme;
2. Instigate interim legal action if necessary;
3. Lobby the Western Australian Municipal Association (WAMA) for assistance.

1. Town Planning Scheme Amendment

From a Town Planning perspective, it is evident that:

- It appears that the community does not object to the offer of hire activities from service station sites, given that there is no history of complaints from neighbours;
- It appears that the community accepts minor hire activity as a companion activity to service station activities;
- The offer of the activity constitutes a service to the community; and
- The objectives of good planning would be served if TPS1 were amended to reflect that such activity could be permitted subject to appropriate consideration of applications on planning grounds.

Therefore, it is suggested that TPS1 be amended to allow equipment hire from service stations on its planning merits. Legal advice received, supports the suggestion that an amendment could be prepared which would facilitate Council evaluation on the merits of a case by:

1. Inserting a new definition into TPS1 for equipment hire as follows "...Equipment hire means the use of land or buildings for the hire of domestic trailers and lawnmowers and other equipment of a like kind and the term may include the display of some items of that equipment. But the term does not include the hire of commercial vehicles or domestic motor vehicles, caravans or boats." (Note that vehicle hire is considered separately under TPS1);
2. Amending the Zoning Table to introduce the use class "equipment hire";
3. Introducing the symbol "AA" in the Zoning Table for the use class "equipment hire" in the Service Station Zone and Service Industry Zone. (Note "AA" means a use that is not permitted unless approval is granted by the Council).

2. Possible Legal Action

Coupled with the above, there is the prospect of action from the complainant against the City. Notionally, an action could be mounted attempting to compel the City to act against the Service Station owners to enforce the current provisions of TPS1. Legal advice confirms that this is a real option for the complainants.

The City's legal advice also recommends that a test case be initiated against the "worst offender" in terms of scale of activity. This would acknowledge the City's obligation to act in accordance with the provisions of TPS1 should the service station operators continue to offer equipment hire without having received approval to do so.

If a test case were initiated against a service station operator, the merits and costs would need to be carefully evaluated. There is also a prospect of the costs of such action escalating dependent upon the result and any subsequent appeals.

As a matter of principle, it is preferred to resolve situations in partnership with those involved. Litigation should be a last resort. That position has been continually conveyed to the MTA, most recently at a meeting with that group held in mid April.

It may be that the amendment is successfully initiated, but not finalised before District Planning Scheme 2 is adopted. If this occurs, then the City may request the amendment to be carried into DPS2 subject to suitable minor revisions to conform to the format of the new Scheme. This issue would be investigated separately depending on the timing of DPS2 adoption and the likely progress of any proposed amendment to TPS1.

The amendment would require approval of the WAPC and EPA for advertising prior to further consideration and adoption by the Council and final approval by the Hon Minister for Planning. This process normally takes approximately nine months. The advertising period would allow public submissions to be lodged, for consideration and recommendation as to the planning impact if any on the amendment.

3. WAMA Support

WAMA is aware of the issue and the potential for it to spread to other local authorities. This matter is therefore best resolved on an industry-wide basis. Discussions have been held jointly with The Ministry for Planning, with a view to amending the Model Scheme Text which guides the Town Planning Schemes of all local authorities. WAMA is awaiting the actions of the City of Joondalup and is planning to use the proposed Scheme Amendment as the basis for their recommended changes to the Model Scheme Text.

RECOMMENDATION

That Council :

- 1 In pursuance of Section 7 of the Town Planning & Development Act 1928 (as amended) AMENDS the City of Joondalup Town Planning Scheme No 1 to :**
 - (a) Add a definition within section 1.8 of the TPS1 text for equipment hire as follows:**

“Equipment hire means the use of land or buildings for the hire of domestic trailers and lawnmowers and other equipment of a like kind and the term may include the display of some items of that equipment. But the term does not include the hire of commercial vehicles or domestic motor vehicles, caravans or boats.”
 - (b) Amend the Zoning Table to introduce the use class “equipment hire”;**
 - (c) Introduce the symbol “AA” in the Zoning Table, for the use class “equipment hire” in the Service Station Zone and the Service Industry Zone.**
- 2 ADVISES each service station owner/operator that the Council has initiated an amendment to its Town Planning Scheme to enable it to consider the hiring of equipment as a separate use, and once that amendment has been finally gazetted, each owner/operator wishing to hire equipment will be able to make application for Town Planning approval for such use;**
- 3 ADVISES each service station owner/operator that until such time as that amendment has been finally gazetted and approval sought, it will be necessary to cease the hiring of equipment as it is in breach of TPS1, and that the continued use of the site without such approval may result in legal action being initiated under the provisions of the Town Planning & Development Act.**
- 4 ADVISES Western Australian Municipal Association (WAMA) of its actions, and seeks the continued support of WAMA to pursue the necessary changes to legislation and the Model Scheme Text on an industry-wide basis.**

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**NOTICE OF MOTION – CR CARLOS**

Cr Carlos gave notice that in accordance with clause 3.12 of the Standing Orders Local Law, he will move the following Motion at the Council meeting to be held on 13 June 2000:

That Council:

- 1 PROVIDES the gap funding of \$7,695 for a creche worker at Granny Spiers Community House, for the financial year 2000/01;**
- 2 CONTINUES the gap funding as detailed in (1) above until the Department of Family and Children’s Services and Granny Spiers Community House renegotiate the three (3) year term funding agreement, which is due to expire on 30 September 2001;**
- 3 NOMINATES an elected member and a Council officer to serve on the Granny Spiers Community House Management Committee until alternative funding has been arranged.**

CJ242-11/98 NOTICES OF MOTION – CR S MAGYAR

In accordance with clause 3.12 of the City’s Standing Orders local law, I hereby give you due notice of the following motions I wish to be considered at the ordinary meeting of the Council to be held on 13 June 2000:

That Council DOES NOT pursue the issue of changing the status of the Mayor to Lord Mayor for the following reasons:

- 1 the title of Lord Mayor is generally confined to the head of the Council of the state capital city;**
- 2 the cost of following an involved process to change the status cannot be justified.**

That Council DOES NOT pursue the issue of an oil portrait of the Mayor in lieu of the traditional photographic version for the following reasons:

- 1 the cost of the oil portrait cannot be justified as a priority over other capital and recurrent expenditures of the City;**
- 2 the oil portrait provides no social, economic or environmental benefits to the City of Joondalup or its residents.**

DATE OF NEXT MEETING

The next meeting of the Council has been scheduled for **7.00 pm** on **TUESDAY, 27 JUNE 2000** to be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup

CLOSURE

DECLARATION OF INTEREST FORMS, CLICK HERE: [declaration of interest.pdf](#)



City of
Joondalup

QUESTION TO MEETING OF COUNCIL

NAME

ADDRESS

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QUESTION

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Please place this form in the tray provided at the meeting or post to:

The Chief Executive Officer
City of Joondalup
P O Box 21
Joondalup WA 6919

NOTE Council is not obliged to respond to a question that does not relate to a matter affecting the municipality.

Questions at a Special Meeting of Council must relate to the stated purpose of the meeting.

FOR SEATING PLAN OF THE COUNCIL CHAMBER, CLICK HERE: [Seatplan.pdf](#)