



**MINUTES OF COUNCIL MEETING
HELD ON 1 APRIL 2003**

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CITY OF JOONDALUP

MINUTES OF COUNCIL MEETING HELD IN COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP, ON TUESDAY, 1 APRIL 2003

OPEN AND WELCOME

The Mayor declared the meeting open at 1901 hrs.

ATTENDANCES

Mayor

J BOMBAK, JP

Elected Members:

| | | |
|----------------------|--------------------|--|
| Cr P KIMBER | Lakeside Ward | |
| Cr D CARLOS | Marina Ward | <i>Absent from 2121 hrs to 2131 hrs</i> |
| Cr C BAKER | Marina Ward | <i>Absent from 2053 hrs to 2058 hours; and from 2121 hrs to 2131 hrs</i> |
| Cr A NIXON | North Coastal Ward | |
| Cr J F HOLLYWOOD, JP | North Coastal Ward | |
| Cr A WALKER | Pinnaroo Ward | <i>Absent from 2013 hrs to 2014 hrs</i> |
| Cr P ROWLANDS | Pinnaroo Ward | |
| Cr T BARNETT | South Ward | |
| Cr M O'BRIEN, JP | South Ward | <i>Absent from 2023 hrs to 2024 hrs</i> |
| Cr A L PATTERSON | South Coastal Ward | |
| Cr G KENWORTHY | South Coastal Ward | <i>Absent from 2017 hrs to 2018 hrs</i> |
| Cr C MACKINTOSH | Whitfords Ward | <i>Absent from 2017 hrs to 2023 hrs;and from 2050 hrs to 2054 hrs</i> |

Officers:

| | |
|--|-------------|
| Chief Executive Officer: | D SMITH |
| Director Planning & Community Development: | C HIGHAM |
| Director, Infrastructure & Operations: | D DJULBIC |
| Director, Corporate Services and Resource Management: | P SCHNEIDER |
| Manager, Marketing, Communications & Council Support: | M SMITH |
| Manager Audit and Executive Services: | K ROBINSON |
| Acting Manager, Library & Information Services: | R HARDY |
| Manager Community Services: | G HALL |
| Publicity Officer: | L BRENNAN |
| Committee Clerk: | J AUSTIN |
| Minute Clerk: | L TAYLOR |

There were 54 members of the Public and 1 member of the Press in attendance.

In Attendance

Mr Nick Manifis - Walman Software

Invited Guest - Reverend Tina Morrison – Anglican Church of WA

The Mayor welcomed Reverend Tina Morrison, Anglican Church of WA as this evening's invited guest.

Reverend Morrison spoke of her church, St John the Evangelist at Greenwood, where she has been for four years. Reverend Morrison opened the meeting with a prayer.

PUBLIC QUESTION TIME

The following question, submitted by Mr B Ambler, Sorrento, was taken on notice at the Council meeting held on 11 March 2003:

Q1 Re: Lot 12 Hocking Parade – Will Council please delay a decision on this matter so that all parties can have a meeting to seek a compromise.

A1 Council resolved at its meeting of 11 March 2003 to defer consideration of the application to allow further consultation with the applicant.

The following question, submitted by Ms M Moon, Greenwood, was taken on notice at the Council meeting held on 11 March 2003:

Q1 Has the short-stay accommodation, as approved at Lot 100 (10) Oceanside Promenade, been approved as holiday accommodation serviced by a reception desk or as other temporary housing with a 24 hour permanent keeper, e.g., lodging house accommodation?

A1 The accommodation has been approved as 'Residential Building (Short Stay Apartments)'.

The following question, submitted by Mr A Bryant, Craigie, was taken on notice at the Council meeting held on 11 March 2003:

Q1 Re: Recycled Items – As the proceeds from recycled items are shared between local governments, I would like to know what is the amount of the share of the profit from these sales to the City of Joondalup over the last twelve months?

A1 Whilst revenue has been generated through the sales of recyclable materials, there has not been a profit from the Materials Recovery Facility at Wangara in the last twelve months. Expenditure was greater than the revenue from the operation.

The following question, submitted by Mr K Zakrevsky, Mullaloo, was taken on notice at the Council meeting held on 11 March 2003:

Q1 Why was Council's usual solicitor, an expert in liquor licensing, not given the brief to oppose Rennet's application with extended trading hours and what were Council's instructions in the Brief regarding the Mullaloo Tavern?

A1 The City selects a solicitor from the panel of solicitors approved by Council. In this instance, Watts & Woodhouse, who were already presenting the City at the planning appeal tribunal in relation the Mullaloo Tavern development, were used given their existing detailed knowledge of the proposal and issues. The solicitors were instructed to represent the City in the matter of the proposed extended trading permit, as opposed by Council at its December 2002 meeting.

Q2 What fees and associated costs has Council been quoted and will be meeting in regard to the solicitor presently engaged by Council in view of the fact that when Judge Greaves asked do you have anything to say, his response was and I quote "my clients only oppose the second of the two listed questions being heard".

A2 The costs associated with this matter are not known at this stage, however, the fees will be in accordance with the agreed rates.

The following question, submitted by Ms S Hart, Greenwood, was taken on notice at the Council meeting held on 11 March 2003:

Q1 Has Council conducted a full, informative and comprehensive community consultation in regard to Amendments 12 and 13 regarding Kingsley? In fact any issue put out for public comment?

A1 Amendment 12 has not yet been advertised. Amendment 13 has been advertised extensively, by a sign on site, notices in the newspaper and letters to adjoining property owners. As part of the advertising process all information pertaining to the proposal is available to the public. The report including all attachments, that was presented to Council at its meeting on 23 July 2002 recommending that the proposed site be rezoned, is available on the City's web site at www.joondalup.wa.gov.au.

The following question, submitted by Mr Reece O'Sullivan, 5 Manor Place, Woodvale, was taken on notice at the Special Electors Meeting held on 6 March 2003:

Q1 Is it also a term of the agreement that the City will have to repay Landcorp funds advanced under the agreement in the event that the Association has not vacated by December 2007? Also, is that amount approximately \$530,000?

A1 Yes.

The following questions submitted by Mr Ron Smith, 62 Barker Drive, Duncraig were taken on notice at the Special Electors Meeting held on 6 March 2003:

Q1 Can the Mayor advise the meeting how much the WBA has paid to the then City of Wanneroo and now the City of Joondalup in repaying the loan that was paid to the R & I Bank in 1987?

A1 The amount repaid by the Association to the City to date is \$341,092.06.

Q2 Can the Mayor produce any documents signed by the Association undertaking to make the repayments to the then City of Wanneroo?

A2 Yes.

Q3 Can the Mayor advise the meeting of the basis on which those repayments were to be made?

A3 The repayments were made as reimbursement to the City for the amount it paid to the R & I Bank on behalf of the Association and as initially negotiated by the Association with the bank.

Q4 Can the Mayor advise if the initial loan was repaid in full to the R & I Bank by the then City of Wanneroo?

A4 The final payment for the loan was made by the City of Joondalup on 1 October 1998.

Q5 Can the Mayor advise if there is any interest component in the repayments that the City is seeking from the Association and if so, what was the interest rate so charged?

A5 Interest was included in the repayment schedule negotiated between the City and the Wanneroo Basketball Association in 1987. The repayment schedule reimbursed the City for what it paid the R & I Bank on behalf of the Association. The interest rate negotiated by the Association with the R & I Bank was 15.6%.

Q6 Can the Mayor please advise the total amount the City expects the Association to pay to the City in repayment of the alleged debt from 1987 to the completion of the repayments?

A6 Repayment amount negotiated was \$665,000 which represented the total amount of loan debt to the R & I Bank and the City at that time.

Q7 It has been stated that the amount to be repaid will exceed \$650,000 for the alleged debt to the City of Joondalup, and formerly City of Wanneroo. This is in addition to the amounts paid to the R & I Bank in the initial period from 1982 – 1987. Given that this is the case, and the fact that the original loan was only \$275,000, what is the basis for this additional payment to the City?

A7 The City was to be reimbursed the amount it paid to the bank on behalf of the Association. The interest component on the loan of \$275,000 was \$444,043. This was the arrangement negotiated by the Association with the bank.

The following questions submitted by Mr Des Mathews, 20 Delambre Place, Sorrento were taken on notice at the Special Electors Meeting held on 6 March 2003:

Q1 Why did the City advise the Association of this position in respect to its Assets Register and insurance on 31 January 2003 and not earlier?

A1 This has not been able to be ascertained. The situation has now been rectified.

Q2 Please explain why the City is considering spending on the Beaumaris Sports Oval complex between \$50,000 and \$150,000 on the maintenance of the oval's grassed surface and also that the Craigie Leisure Centre has a budget to upgrade the facility of approximately \$4 million while the WBA has received no assistance whatsoever? Please also advise what entities, excluding the City's managed facilities and others within the City, have leases with the City for the use of their respective facilities?

A2 The Beaumaris Sports Association have requested that Council consider options to improve the current maintenance standards adopted for the oval area at Iluka. This can only be achieved by increasing the maintenance budget allocation or improving the current maintenance practices.

A report will be presented to Council in April for consideration of the options available to improve the ground conditions. Council officers and the user groups have a committee that are meeting to identify options for improvement.

REPAIRS & MAINTENANCE - LEASE OBLIGATIONS

Clause 2 (g) & Clause 2 (i) of the lease between Shire of Wanneroo and Wanneroo District Basketball Association dated 24/12/1982 deals with repairs and maintenance and places the onus of such on the sub-lessee (WBA).

Clause 2 (g)

'to keep and maintain the demised premises and all buildings improvements and fixtures thereon, including fences, paths and paved areas now thereon or which may during the term of this Sub-Lease be placed thereon, in good and tenantable repair and condition (including the making of all necessary structural repairs regardless of their extent) and clean and in good order to the satisfaction of the Head Lessor and the Sub-Lessor, fair wear and tear excepted':

Clause 2 (i)

'to paint with two coats, undercoat and finishing coat, at least of first quality exterior paint and to oil with two coats of at least first quality oil in every third year and the last three months of the term in a proper and workmanlike manner to the satisfaction of the Sub-Lessor all parts of the outside wood, iron, metal, stucco and cement work of all buildings now or hereafter erected on the demised premises as are usually painted or oiled respectively AND to paint or oil respectively with two coats of interior paint or oil respectively in like manner in every sixth year and the last three months of the term all internal wood and metalwork of such buildings and after every

internal painting to grain, varnish, distemper, wash, stop, whiten and colour all parts as have previously been or are in the opinion of the Sub-Lessor required to be so dealt with first quality materials but the Sub-Lessor may if in the opinion of its Engineer the condition of the buildings and the painting thereof justify it relax these requirements as determined by it from time to time;

THE FOLLOWING ENTITIES HAVE LEASES WITH THE CITY (EXCLUDING MANAGED FACILITIES SUCH AS LEISURE CENTRES)

Marmion Angling & Aquatic Club
 Whitfords Sea Sports Club
 Whitfords Volunteer Sea Rescue Group
 Warwick Bowling Club
 Mullaloo Surf Lifesaving Club
 Sorrento Surf Lifesaving Club
 Sorrento Soccer Club
 Sorrento Tennis Club
 Marmion/Sorrento Pre School
 Padbury Playgroup
 Duncraig Pre School
 Moolanda Playgroup
 Kallaroo Pre School
 Mullaloo Pre School
 Undercroft Bridge Club
 Concordia Lutheran Church
 Sorrento Bowling Club
 Padbury Pre School
 Warwick Recreation Association
 Joondalup Kinross Jnr Football Club & Cricket Club
 Northern Warriors Veterans Football Club
 Grove Child Care
 Craigie Pre School - Educ Dept
 Marmion Sorrento Pre School Educ Dept
 Duncraig Pre School Educ Dept
 Davallia Pre School Educ Dept
 Hillarys Community Kindergarten Inc
 Silver Chain Nursing Association Inc
 Granny Spiers Community House Inc
 Padbury Playgroup House Inc
 Beaumaris Sports Association

Q3 Why did the City request that the Association bring into its balance sheet an alleged debt of \$246,106 as at 30 June 2001 when prior to that the Association was charged a lease amount for the building?

A3 This was the value of the debt owed to the City by the Association and should have been recorded as such.

The following question was submitted by Mr Steve Magyar, Heathridge:

Q1 At the Council meeting held on February 18 this year, a motion was carried which required the City to do all things necessary to allow Hutchison Telecoms to relocate its proposed 3G mobile phone site at the Mullaloo Squash Centre to a more acceptable site.

The same motion required the City to convene a meeting between stakeholders including Hutchison, Ward Councillors and the community to further the relocation objective. I understand that this meeting has now been held.

Please provide details of what has been achieved on these points.

A1 A number of alternative potential sites has been suggested to Hutchison representatives.

The issue of alternative locations for the telecommunication facility was raised at the meeting convened in accordance with Council's resolution (18 February 2003) on 24 March 2003. Hutchison representatives advised that these alternatives had all been investigated and they were either inappropriate from a technical/operational point of view or likely to present the same community concern as the Kallaroo Park site.

It is believed that the above actions have satisfied the requirements and intent of the resolution of Council of 18 February 2003, to the extent possible by the City.

Mrs C Lawson, Kallaroo:

Q1 CJ076-04/03 – Town Planning Appeal: The recommendation to Council on this item is that the Council accepts the mediated outcome. My husband and I have made two deputations to Council regarding this item. How can the Council officers recommend a mediated outcome when all the parties were not involved in the mediation?

A1 The mediation is the first stage of an appeal lodged by the applicant and the City is invited to contest that appeal and in the first instance mediation is suggested. In this case the Lawsons could have been joinders to that appeal if they so desired. Legal advice suggests there is no obligation on the Council to advise the Lawsons of that opportunity.

Q2 Under the Town Planning Appeal Tribunal regulations we could have been co-joinders with the City of Joondalup at the initial hearing of the tribunal. Will Council direct that any further negotiations will involve my husband and myself?

A2 That would be a decision for the Council to make.

Mr G Lawson, Kallaroo:

Q1 CJ076-04/03 – Town Planning Appeal: Since there have been no new grounds for the Council to change the decision made on 17 December 2002, the Council has three options; to accept the recommendations; to reject the recommendation and go to a full

Town Planning Appeal Tribunal; or to direct that the matter be mediated again with our involvement. We ask that Council consider this option to save time and money involving a full hearing of the Tribunal and also to give us an opportunity to state our case at mediation.

Q2 This item is marked as Confidential, Not for Publication. We have made two deputations to the Council regarding this matter, which is immensely important to us. We request that we be permitted to remain in the Chamber whilst this item is debated.

A1-2 Legal advice has been received stating the reasons for this matter to remain confidential are that mediations are conducted on a confidential without prejudice basis before the Tribunal, and given the confidential nature it would be inappropriate to make the mediation discussions public through a report which is available to other individuals or the public generally. The other reason for confidentiality is due to the fact that legal advice is being given to Councillors.

Ms M Shaw, Ocean Reef:

Q1 In relation to the property next to my property. Who gave the owner permission to build an 8 ft wall on the boundary opposite my window on the south side, when there is already a 6ft lattice fence built to Council's design and requirements?

A1 This question will be taken on notice.

Mr A Bryant, Craigie:

Q1 The answer to my question of 11 March 2003 is inconclusive. Can you provide me with an income and expenditure statement in regard to all articles recycled by the three local government Councils contributing to the materials recovery facility at Wangara?

A1 This request will be forwarded to the senior management group of the tripartite arrangement to see what information can be provided.

Ms S Italiano, Duncraig:

Q1 Re: Wakeley Way Neighbourhood square. Can you explain why our request for Council to maintain the square as a green reserve by taking over the current water bill, mowing and maintenance commitments currently paid by three residents of the street and cost approximately \$1,000 per annum has not been supported, yet recently a similar issue has arisen along Sycamore Drive, Carine Glades, and the maintenance and watering of this area was overwhelmingly supported by Council? The local newspapers quoted an initial fee of \$20,000 and an annual fee of \$6,000 to maintain the Carine Glades area. Why was the Wakeley Way area not approved yet Carine Glades was?

A1 You are invited to listen to the debate this evening. The Notice of Motion is to be considered by Council and all the issues raised will be taken into consideration as part of the debate.

Mr S Magyar, Heathridge:

Q1 Late Report No 3: Shenton Avenue Rail Tunnel Extension Prefunding Proposal: From what account will the money come from to do this project and if the money is reallocated from other accounts, which other public works already scheduled will be delayed by going ahead with this particular project?

A1 Contained within the report, it is outlined that Council has the options to utilise funds that will be available from the Normalisation Agreement or any other funds identified during the 2003/04 Budget process.

Q2 In the policy for public question time, it states that at the conclusion of calling upon the people who have listed their names the Mayor will ask if there are any other people who have arrived late who have not had a chance to put their names on the list, and it is possible to extend public question time. Will you be concluding this public question time in accordance with Council's policy?

A2 It is noted that a person in the gallery wishes to ask a question.

Mr J McNamara, Sorrento:

Q1 I understand the Federal Government today announced a \$25 million funding arrangement to be made available to local governments in WA for additional road safety measures. Can this opportunity be investigated, which I presume is principally for Black Spot situations? I raise your attention to the T-junction at Biscay Road and Seacrest Drive, Sorrento, and there may be an opportunity for funding for improved non-skid surfaces. There may be a number of T-junctions in the City which have this problem of a 7-10 degree gradient causing problems of noise and potential accidents.

A1 These comments will be taken into consideration. The City submits a number of projects into the Federal Black Spot Programme and the State Black Spot Programme.

Ms D Jones, Duncraig:

Q1 Re: Wakeley Way Neighbourhood square. Why as ratepayers are we not being given the opportunity to explore our options? We request the rescission motion be passed tonight to allow this to occur.

A1 This question will be taken on notice.

PERSONAL EXPLANATION – CR HOLLYWOOD

In accordance with Clause 4.5 of the City's Standing Orders Local Law, Cr Hollywood made the following personal explanation:

“Mr Lawson rang me this afternoon. I forgot that this item was confidential and I spoke to him in general about the issue. Maybe I should not have spoke because it was confidential, but I wish to let you know that I have spoke to him. It was only after I had finished the conversation that I realised I had made a faux pas and wanted to advise before it came out in some other way.”

APOLOGIES AND LEAVE OF ABSENCE

Leave of absence previously approved:

Cr P Kadak 28 March 2003 to 17 April 2003 inclusive

Cr J Hurst 31 March 2003 to 9 April 2003 inclusive

C35-04/03 REQUEST FOR LEAVE OF ABSENCE - CR T BARNETT - [50521]

Cr Tanya Barnett has requested Leave of Absence from Council duties for the period 14 to 25 April 2003.

MOVED Cr Mackintosh, SECONDED Cr Barnett that Council APPROVES the request from Cr T Barnett for Leave of Absence from Council duties for the period 14 to 25 April 2003.

The Motion was Put and

CARRIED

DECLARATIONS OF FINANCIAL INTEREST/INTEREST THAT MAY AFFECT IMPARTIALITY

Cr Kenworthy declared a financial interest in Item CJ057-04/03 – LGMA Annual General Officers' Conference being held in Busselton on 4 – 5 April 2003 as this relates to his attendance at the Conference.

Cr Mackintosh declared a financial interest in Item CJ058-04/03- European Cities Against Drugs 10th Anniversary Mayors' Conference as she is seeking approval to attend this conference.

Cr O'Brien declared a financial interest in Item CJ059-04/03 – Warrant of Payments – 28 February 2003 (Voucher No 46391 – Chubb Electronic Security) – as Chubb Security has taken over an FAI Extra Watch security at his residence.

CONFIRMATION OF MINUTES

C36-04/03 MINUTES OF COUNCIL MEETING, 11 MARCH 2003

MOVED Cr Walker, SECONDED Cr Hollywood that the Minutes of the Council Meeting held on 11 March 2003 be confirmed as a true and correct record, subject to the following:

“At the ordinary Council meeting of 18 February 2003, Mr Vincent Cusack of Kingsley asked two questions relating to the CEO's qualifications. The Mayor ruled the questions out of order because they may have pertained to a confidential item that was to be discussed later in the evening.”

C30-03/03 (11 March 2003) – Original Motion Moved by Cr O'Brien, not Cr Baker as stated.

Manager, Marketing Communications & Council Support advised a notation had been placed in the Desk of the CEO in relation to questions raised by Mr Cusack and the amendments were in order.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Patterson, Rowlands and Walker

ANNOUNCEMENTS BY THE MAYOR WITHOUT DISCUSSION

JOONDALUP FESTIVAL

Congratulations to all those involved in the production of the fifth Joondalup Festival and thank you to all those who came along to make it such a great success.

From the graduation at the Police Academy on Friday Night, 21 March 2003 to the fireworks finale on Sunday, 23 March 2003, the festival was outstanding.

A highlight for me and Chief Executive Officer, Denis Smith was a helicopter ride out to the coast at Ocean Reef and back; looking over all the fun and excitement of the “AIRBORNE” festival.

The crowds were easily as big as last year when we nudged 100,000 people in attendance over the weekend and they all looked to be having as good a time as I did.

Once again, congratulations to all involved.

VISIT BY PREMIER AND CABINET

Premier Geoff Gallop has told the City of Joondalup he “recognises the need” for a major new boat harbour facility to complement Hillarys Marina.

Premier Gallop was speaking while touring the site of the City of Joondalup’s proposed Ocean Reef Boat Harbour development.

The Premier and his Minister for Planning, Alannah McTiernan and Environment Minister, Judy Edwards were obviously impressed with the City’s vision for the area when taken on the tour of the site by Chief Executive Officer, Denis Smith and myself.

After a briefing by the CEO, the Premier set up a high-powered liaison team to assist the City with the project.

During the visit, Mr Smith also briefed Premier and Cabinet on the new Performing Arts Facility and the Premier turned the first sod on the site of the new \$8m TAFE Hospitality Training facility.

CITY OF JOONDALUP SUMMIT ON PROSTITUTION

Next Saturday, 5 April 2003, the City will be hosting a summit from 10.00 am to 1.00 pm in the Council Chambers on the State Government's proposed legislation on prostitution.

Many people have expressed alarm to me that this new legislation will mean a brothel could be set up legally next door to them and local governments will have no power to stop brothels opening.

The idea of this City of Joondalup Summit is to hear both sides of the argument.

Members of the public wishing to attend are asked to register their interest by ringing the City of Joondalup on 9400 4453.

ANZAC DAY DAWN SERVICE – JOONDALUP WAR MEMORIAL

The City of Joondalup will salute those fallen Australian servicemen and women who gave their lives for our freedom.

This year's Anzac Day Dawn Service will be held at the Joondalup War Memorial, Central Park, Joondalup on Friday 25 April 2003 at 5.45 am.

All are welcome.

PETITIONS

C37-04/03 PETITIONS SUBMITTED TO THE COUNCIL MEETING – 1 APRIL 2003

1 PETITION OPPOSING PROPOSED HOME OCCUPATION, CREW COURT, OCEAN REEF – [59356]

A 23-signature petition has been received from Ocean Reef residents opposing the application for a massage and healing therapy home business, Crew Court, Ocean Reef.

The petitioners give the following reasons for opposing the development:

- 1 increased traffic in the cul-de-sac and general area;
- 2 security to both property and person.

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

2 PETITION IN RELATION TO REZONING OF LOT 63 (30) AND PORTION OF LOT 62 (38) HOCKING ROAD, KINGSLEY - [50526]

Cr Carlos submitted a 66-signature petition on behalf of residents of the City of Joondalup requesting that Council:

- 1 does not rezone Lot 63 (30) and a portion of Lot 62 (38) Hocking Road, Kingsley (being the market garden and shop sites and surrounds) and

does not rezone Lot 99 Hocking Road, Kingsley (being the former church and skate park sites) until:

Council provides full details of the development proposal and clearly demonstrates it has majority community support, in line with its resolution passed at the ordinary Council meeting of 12 February 2002;

- 2 acknowledges the request by the Department of Planning and Infrastructure (as outlined in the City of Joondalup Council Agenda of 23 July 2002) and Council's own Yellagonga Regional Park Draft Management Plan 2000 – 2010, and recognises that Hocking and Mooro Roads should be kept a low traffic impact area;
- 3 conducts a study into the environmental impacts of any development on the Yellagonga Regional Park and surrounding properties before any development occurs in the Hocking and Mooro Road areas.

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

3 PETITION IN RELATION TO REZONING OF LOT 99 HOCKING ROAD, KINGSLEY – [50526]

Cr Carlos submitted a 31-signature petition on behalf of electors of the City of Joondalup and residents of the Cherokee Village Caravan Park, requesting that Council:

- 1 in reference to Lot 99 Hocking Road, Kingsley (being the former church and skatepark sites), when considering the rezoning to business zone, should consider the following:

ensures low impact on residents and low traffic generating uses as part of the amendment;

Council seriously consider the impact on approximately 80 permanent residents of the caravan park and are fully aware planning approval for our homes and carports has been given by Council;

Acknowledges the fact that resuming the carriageway easement will reclaim the caravan park's office, community room, swimming pool, swimming pool area, and visitor parking amenities, which have all been approved by Council and does not relinquish the easement in favour of Lot 99;

Makes it a condition of any rezoning that the easement remain over Lot 99 (being the Cherokee Village Caravan Park).

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

MOVED Cr Baker, SECONDED Cr Walker that the petitions:

- 1 **opposing the application for a massage and healing therapy home business, Crew Court, Ocean Reef;**

2 in relation to the rezoning of Lot 63 (30) and a portion of Lot 62 (38) Hocking Road, Kingsley;

3 relating to the rezoning of Lot 99 Hocking Road, Kingsley;

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

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Patterson, Rowlands and Walker

COUNCIL DECISION – EN BLOC RESOLUTION NO 1

It was requested that items be moved en bloc. Discussion ensued as to which items required to be considered individually.

CJ055 - 04/03 SCHEDULE OF DOCUMENTS EXECUTED BY MEANS OF AFFIXING THE COMMON SEAL - [15876]

WARD - All

PURPOSE

To provide a listing of those documents executed by means of affixing the Common Seal for noting by Council.

Document: Copyright
Parties: City of Joondalup and Burt and Shirley Whittle
Description: Recording of historical importance
Date: 02.10.02

Document: Agreement
Parties: City of Joondalup and Family and Children's Services
Description: Funding for Child Care Benefit – Just for Kids, Craigie
Date: 02.10.02

Document: Agreement
Parties: City of Joondalup and Sally and Peter Bolger
Description: Building Construction & Demolition Agreement
Date: 08.10.02

Document: Caveat
Parties: City of Joondalup and Westpoint Corporation
Description: Withdrawal of Caveat – Strata Lot 22 (639) Beach Road, Warwick
Date: 08.10.02

- Document: Copyright
Parties: City of Joondalup and Joe Sanzone
Description: Recording of historical importance
Date: 15.11.02
- Document: Copyright
Parties: City of Joondalup and Barry Groves
Description: Recording of historical importance
Date: 15.11.02
- Document: Copyright
Parties: City of Joondalup and Alan Burbridge
Description: Recording of historical importance
Date: 15.11.02
- Document: Agreement
Parties: City of Joondalup and Edith Cowan University
Description: Agreement permitting building encroachment
Date: 21.11.02
- Document: Lease
Parties: City of Joondalup, Perpetual Trustees/ DB Real Estate Aust
Description: Lease Agreement – Shop 310 Whitford Shopping Centre
Date: 22.11.02
- Document: Agreement
Parties: City of Joondalup and Julie Singh
Description: MDA – Workers Compensation – Julie Singh
Date: 22.11.02
- Document: Funding Deed
Parties: City of Joondalup, Department of Communications, IT and the Arts
Description: Funding Deed – Strange Fruit Visit, Joondalup Festival
Date: 22.11.02
- Document: Copyright
Parties: City of Joondalup and Doug King
Description: Recording of historical importance
Date: 28.11.02
- Document: Lease
Parties: City of Joondalup and Padbury Playgroup House Inc
Description: Lease Agreement – 11 Jason Way, Padbury
Date: 02.12.02
- Document: Copyright
Parties: City of Joondalup and John Feutrill
Description: Recording of historical importance
Date: 06.12.02

- Document: Copyright
Parties: City of Joondalup and Margaret Dowding
Description: Recording of historical importance
Date: 08.12.02
- Document: Acquittance
Parties: City of Joondalup and Commonwealth Emergency Relief Program
Description: Acquittance documentation
Date: 16.12.02
- Document: Agreement
Parties: City of Joondalup and Healthway
Description: Sponsorship Agreement – Summer Events Program
Date: 09.01.03
- Document: Easement
Parties: City of Joondalup and Midtower Holdings
Description: Easement Lot 201 Gateway, Edgewater
Date: 15.01.03
- Document: Contract
Parties: City of Joondalup, Commonwealth Bank and DOIT
Description: Deed of Undertaking for provision of banking facilities
Date: 15.01.03
- Document: Easement
Parties: City of Joondalup and Warburton Holdings
Description: Easement over Lots 23 and 4 Warburton Avenue, Padbury
Date: 16.01.03
- Document: Easement
Parties: City of Joondalup, Roman Catholic Archbishop of Perth and Davidson P/L
Description: Easement over deposited Plan 34971
Date: 16.01.03
- Document: Contract
Parties: City of Joondalup, Commonwealth Bank and DOIT
Description: Deed of Acknowledgement for provision of banking facilities
Date: 16.01.03
- Document: Agreement
Parties: City of Joondalup and Dalcon Construction
Description: Contract No 016-02/03 – Construction of Connolly Community Centre
Date: 17.01.03
- Document: Agreement
Parties: City of Joondalup and Clifton Coney Stevens
Description: Execution of Contract No 012-02/03 – Programme & Project Management Consultancy
Date: 24.01.03

- Document: Copyright
Parties: City of Joondalup and E Heller
Description: Recording of historical importance
Date: 04.02.03
- Document: Copyright
Parties: City of Joondalup and John Bowon
Description: Recording of historical importance
Date: 04.02.03
- Document: Deed
Parties: City of Joondalup, Truan Holdings and Spacia Holdings (Kleenit)
Description: Deed of Novation for Graffiti Control Services
Date: 07.02.03
- Document: Agreement
Parties: City of Joondalup and WA Land Authority
Description: Memorandum of Agreement to finalise Normalisation Agreement
Date: 10.02.03
- Document: Copyright
Parties: City of Joondalup and Bob Ruscoe
Description: Recording of historical importance
Date: 12.02.03
- Document: Agreement
Parties: City of Joondalup and Oracle Corporation
Description: Extension of Contract No 017-02/03 – supply, upgrade and installation of Oracle
Date: 17/02/03
- Document: Copyright
Parties: City of Joondalup and Judy Paice
Description: Recording of historical importance
Date: 25.02.03
- Document: Deed
Parties: City of Joondalup and Tricity Holdings
Description: Creation of Easement – Lots 606, 604, 605 Regents Park Road, Joondalup
Date: 27.02.03
- Document: Contract
Parties: City of Joondalup and James Christou
Description: Execution of 020-02/03 – Refurbishment of Craigie Leisure Centre
Date: 28.02.03

Document: S.70A
Parties: City of Joondalup and Jacqueline and Peter Crank
Description: Notification of Ancillary Accommodation – Reef Products
Date: 05.03.03

Document: Deed
Parties: City of Joondalup and Library Board of WA
Description: Consortium Access Deed to purchase on-line products
Date: 10.03.03

Document: Deed
Parties: City of Joondalup and State of WA
Description: Deed of Indemnity – Use of Law Courts grassed area – Joondalup Festival
Date: 13.03.03

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Baker, SECONDED Cr Kenworthy that the schedule of documents executed by means of affixing the common seal be NOTED.

Discussion ensued, with Cr Hollywood querying the affixing of the seal for the Normalisation Agreement. He advised that he desired to lodge a rescission in December 2002.

Chief Executive Officer advised he spoke to Cr Hollywood and pointed out that in respect to the WBA, it was noted Cr Hollywood wished to lodge a rescission. In respect of the decision pertaining to the Normalisation Agreement, Cr Hollywood was advised the decision of Council had been communicated and accordingly a rescission motion could not be lodged.

The Motion was Put and

CARRIED (10/3)

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Kenworthy, Kimber, Mackintosh, O'Brien, Patterson, Rowlands and Walker **Against the Motion:** Crs Carlos, Hollywood, Nixon

CJ056 - 04/03 SPECIAL MEETING OF ELECTORS HELD ON 6 MARCH 2003 - WANNEROO BASKETBALL ASSOCIATION - [03097] [75029]

WARD - Lakeside

PURPOSE

To present for Council consideration, the resolutions passed at the Special Meeting of Electors called to consider various matters relating to the Wanneroo Basketball Association.

EXECUTIVE SUMMARY

As requested by the electors of the City of Joondalup, a Special Meeting of Electors was held on 6 March 2003, in the Council Chambers, Civic Centre, Joondalup.

A number of resolutions were made by the electors, which in accordance with the Local Government Act 1995 are required to be considered by the Council.

The resolutions passed at the meeting have been outlined in the Details section of the report along with officer's comment and recommendation.

BACKGROUND

Council at its meeting held on 17 December 2002 considered a report CJ315 – 12/02 concerning the Wanneroo Basketball Association and resolved as follows:

- “1 the City acknowledges the contribution made by the Wanneroo Wolves Basketball Association to the Joondalup and Wanneroo Communities over a period in excess of 20 years;
- 2 the Wanneroo Basketball Association be advised that the City:
 - (a) is prepared to assist the Association in planning to develop and relocate to alternative premises;
 - (b) considers it imperative that a strategic feasibility study be undertaken as a matter of priority to assist in determining the future needs and opportunities available to the Association;
 - (c) is prepared to jointly fund the strategic feasibility study up to a maximum contribution of \$15,000 or 50% whichever is the lesser;
 - (d) in the event the Association is agreeable to the commissioning and joint funding of the strategic feasibility study then the City is prepared, following detailed analysis of the study's findings, to further consider providing additional support in relocating the Association;
 - (e) will approach the State Government (LandCorp) and ask that the State Government gift the land to the Wanneroo Basketball Association;
- 3 the City approaches the Ministry of Sport and Recreation, the WA Sports Centre Trust and the Wanneroo Basketball Association to partnership with the City for funding assistance and/or participation in a strategic feasibility study.”

Whilst a complying Notice of Motion to rescind the above resolutions was lodged, the motion was lost at the meeting of Council held on 18 February 2003 (Item C15 – 02/03 refers) and the above resolutions represented the City's position on the matter at that time.

Resolutions - Special Meeting of Electors - 6 March 2003

A Special Meeting of Electors was held on 6 March 2003 in response to a petition signed by more than 100 electors of the City and in accordance with section 5.28 of the Local Government Act 1995. The petition detailed seven matters for consideration at the special meeting with six of these ultimately being carried. The full text of those resolutions is outlined as follows:

- “1. that this meeting of electors calls upon the City of Joondalup’s Councillors to abandon any attempts that would affect the Wanneroo Basketball Association Inc and the Joondalup Basketball Stadium, by way of granting, exchanging, selling or transferring to any public or private company or to any Australian or international corporate entity any rights or entitlements over Lot 701 on Plan 21038, being the whole of the land on Certificate of Title Volume 2071 Folio 851 on which the Joondalup Basketball Stadium stands together with, and including, its adjacent facilities.
2. that this Meeting of Electors calls upon the Councillors of the City of Joondalup to grant the second option under the sub-lease dated the 24 December 1982 and entered into between the then City of Wanneroo and the then Wanneroo District Basketball Association Inc to extend the lease until 2012.
3. that this Meeting of Electors calls upon the Councillors of the City of Joondalup to agree to the Wanneroo Basketball Association Inc remaining at the Joondalup Basketball Stadium in accordance with the wishes of the municipal founders of Joondalup and the then Joondalup Development Corporation.
4. that this Meeting of Electors calls upon the Councillors of the City of Joondalup to waive the alleged debt owed by the Wanneroo Basketball Association Inc to the City of Joondalup under a Deed of Variation entered into between the then City of Wanneroo and the Wanneroo Basketball Association Inc in 1987.
5. that this Meeting of Electors, calls upon the Councillors of the City of Joondalup to comply with its Junior Sports Development policy which provides that the City of Joondalup subsidise junior players in sport within the City of Joondalup by meeting that commitment to the Wanneroo Basketball Association Inc incorporating the City of Joondalup’s past, present and future contribution.
6. that this Meeting of Electors, calls upon the City of Joondalup’s Councillors and senior management of the City of Joondalup to:
 - (i) properly maintain the buildings including, but not limited to, the grounds and reticulation;
 - (ii) upgrade the existing building in close consultation with the Wanneroo Basketball Association Inc, to meet current building standards and health regulations at no cost to the Wanneroo Basketball Association Inc;
 - (iii) expand the existing building to accommodate the Wanneroo Basketball Association Inc, current and future needs, at no cost to the Wanneroo Basketball Association Inc.

Resolutions - Council Meeting - 11 March 2003.

Subsequently, the Council at its meeting held on 11 March 2003, considered several motions relating to the Wanneroo Basketball Association as a matter of urgent necessity. While the original motion called for an urgent report on the motions proposed, the motion was amended deleting the request for a report. Some other amendments were made to the original motions and Council resolved as follows:

- “1 subject to and conditional upon the Wanneroo Basketball Association Inc ("the Club") (being an important and well-managed local sporting club" providing to the City audited financial reports for the calendar years ending in December of 2000, 2001 and 2002, within forty five (45) days of the date of this Motion is passed, the City will:
 - (a) thereupon forgive and forever release the debt allegedly owed by the club to the city under a deed of variation entered into between the former city of wanneroo ("the former city"), the city and the club in 1987 ("the deed of variation")
 - (b) thereupon waive the payment of any payments required under the deed of variation; and
 - (c) thereupon waive the payment of all future rental payments falling due and payable under the terms of the sub-lease entered into between the former city and the club ("the sub-lease").
- 2 the Mayor, CEO, interested Councillors and other officers of the City (as the City and the Club considers appropriate) and the Club’s Committee, convene a meeting within thirty (30) days of the date this Motion is passed, with a view to entering into negotiations for a variation of the terms of the Sub-Lease including, but not limited to:
 - (a) the City permitting additional uses at the Joondalup basketball Stadium (“the Stadium”) by the Club, including for example, other sporting activities such as indoor soccer, netball, aerobics and indoor bowling;
 - (b) and the City assuming responsibility for general maintenance and several aspects of the stadium including, but not limited to, the stadium grounds, surrounds and building;
- 3 the Council amends its decision of 17 December 2002 and agrees to fund the strategic feasibility study at an estimated maximum cost of \$30,000;
- 4 in the interests of fairness and equity, the City hereby calls upon the State Government, being the owner of the land where the Stadium is situated, to reciprocate and match, on a dollar for dollar basis with the City, the savings to this local premier sporting Club occasioned by the important initiatives of the City, set out in paragraph 1 hereof;

- 5 that in relation to sub-paragraph 7(a) of the Council Resolution CJ428-12/01 dated the 18 and 19 December 2001 (which provided that the City advise the Club that the City will not consent to the exercise of the Club's option under the terms of the Sub-Lease to extend the Term or duration of the Sub-Lease to 2012 and required the Club to vacate the Basketball Stadium in December 2007) the City hereby agrees to vary the same by adding the condition at the end thereof "subject to and conditional upon the Club being satisfied with arrangements then in place for the accommodation of the Club."

It should be noted that the Council's decisions were made without the benefit of an officer's report. In light of concerns with the process of Council's decision making on this occasion and possible legality issues of the decisions made, the Department of Local Government and Regional Development (The Department) was provided with relevant details and requested to comment. The Director General of the Department has responded in correspondence (Attached) to the effect that it has serious concerns with the process and in this regard the following paragraphs from that correspondence have been reproduced as follows:

"The Department accepts that the decisions taken complied with the requirements of the Local Government Act 1995 (The Act), however, it does have serious concerns over the appropriateness of the process undertaken to arrive at those decisions."

"Those concerns arise because the process used falls within the concerns expressed by the recent Inquiry Panel into the City of South Perth. The Inquiry Panel identified its primary focus as recommending whether the Council of the City should be dismissed. That focus centred around whether the Council provided for good government of the City." and

"The Department is concerned that the Council through the quality of its decision making and accountability to the community at its meeting of 11 March 2003 failed to meet the intent of the Act."

A separate report on this matter will be submitted to the next meeting of Council.

DETAILS

In response to the six resolutions passed at the Electors Meeting, detailed comments and a suggested course of action with each are set out below. The comments have however, been prepared on the basis that a number of the resolutions passed at the Electors Meeting were determined by Council at its meeting held on 11 March 2003.

Electors Resolution

1. "That this Meeting of Electors, calls upon the City of Joondalup's Councillors, to abandon any attempts that would affect the Wanneroo Basketball Association Inc. and The Joondalup Basketball Stadium, by way of granting, exchanging, selling or transferring to any public or private company or to any Australian or international corporate entity of any rights or entitlements over Lot 701 on Plan 21038 being the whole of the land on certificate of title Volume 2071 Folio 851 on which the Joondalup Basketball Stadium stands together with, and including, its adjacent facilities".

Comment:

The land on which the Joondalup Basketball Association Stadium is constructed is owned by Landcorp. The City is not the owner of the land and is therefore not in a position to meet this request.

Given the apparent concerns the Wanneroo Basketball Association has that the City may attempt to interfere with their enjoyment of the site, it is considered appropriate to acknowledge that the City will not attempt to take the course of action contemplated in the resolution. It needs however to be emphasised that no such attempt has been made by the City and as such it is not possible to abandon the action as one has never commenced.

Recommendation

It is recommended the City note the resolution.

Electors Resolution

2. “That this Meeting of Electors, calls upon the Councillors of the City of Joondalup, to grant the second option under the Sub-Lease dated the 24th December 1982 and entered into between the then City of Wanneroo and the then Wanneroo District Basketball Association Inc. to extend the lease until 2012”.

Comment:

The City has already resolved and agreed with Landcorp not to extend the head lease with Landcorp beyond December 2007. This resolution was made by Council in December 2001.

Notwithstanding the above, Council at its meeting held on 11 March 2003, resolved: “that in relation to sub-paragraph 7(a) of the Council Resolution CJ428-12/01 dated the 18 and 19 December 2001 (which provided that the City advise the Club that the City will not consent to the exercise of the Club's option under the terms of the Sub-Lease to extend the Term or duration of the Sub-Lease to 2012 and required the Club to vacate the Basketball Stadium in December 2007) the City hereby agrees to vary the same by adding the condition at the end thereof "subject to and conditional upon the Club being satisfied with arrangements then in place for the accommodation of the Club.”

Council has already agreed with LandCorp not to exercise the second option to extend the lease by 5 years from December 2007 to December 2012. Given the Council decision of 11 March 2003, also called for the State Government to assist the Association it is suggested that negotiations be entered into with LandCorp to ascertain whether alternative arrangements can be made to secure the site from LandCorp by way of a direct lease to the Wanneroo Basketball Association.

The Council decision of 11 March 2003, relating to this point is reproduced as follows:

- "4 in the interests of fairness and equity, the City hereby calls upon the State Government, being the owner of the land where the Stadium is situated, to reciprocate and match, on a dollar for dollar basis with the City, the savings to this local premier sporting Club occasioned by the important initiatives of the City, set out in paragraph 1 hereof.”

Recommendation

It is recommended that Council supports negotiations with LandCorp to grant a direct lease (ie without Council involvement) to the Wanneroo Basketball Association to follow on from the existing sub lease arrangements between the City and the Association, thereby extending the Association's occupancy of the site until December 2012.

Electors Resolution

3. "That this Meeting of Electors, calls upon the Councillors of the City of Joondalup, to agree to the Wanneroo Basketball Association Inc. remaining at the Joondalup Basketball Stadium in accordance with the wishes of the Municipal Founders of Joondalup and the then Joondalup Development Corporation."

Comment:

Early planning for the City included a recreational precinct in proximity to the Wanneroo Basketball Stadium site. Planning for the Joondalup Central Business District changed significantly with the State Government decision to extend the rail facility to service northern suburbs. The recreational precinct was relocated to the north of the City where the Arena now stands. The Wanneroo Basketball Stadium site is now zoned "Centre" under the District Planning Scheme 2 and designated for use as "Commercial (excluding office)".

See comment and recommendation for resolution 2 above.

Electors Resolution

4. "That this Meeting of Electors, calls upon the "Councillors of the City of Joondalup, to waive the alleged debt owed by the Wanneroo Basketball Association Inc. to the City of Joondalup under a Deed of Variation entered into between the then City of Wanneroo and the Wanneroo Basketball Association inc. 1987".

Comment:

The City has on numerous occasions both verbally and in writing on 31 January 2003, 12 and 17 March 2003, requested copies of audited financial statements from the Association, but has not been provided with these documents. The only financial documentation provided by the Association to date are copies of unaudited Profit and Loss Statements for the 1999 calendar year and seven months to 31 July 2000 plus a Balance Sheet dated July 2000. The Association in correspondence to the City dated 12 March 2003 advised:

"You may recall that when I addressed the Mayor on 6 March 2003 I indicated to him, as I also did at the Council meeting on 10 March 2003, that the Association would be happy to again provide copies of the audited accounts for the periods referred.

Notwithstanding having provided that undertaking, the audited accounts for the period ending December 2003 (sic), are not yet available as they are still to be adopted at the Association's AGM, which is scheduled for the 11 April 2003. When addressing the Mayor on both 6 and 10 March 2003 I also indicated this to him.

Knowing that the City would require a copy of the audited accounts, including the year ending December 2002, the motion put to the Council meeting on 10 March 2003, which resolved to extinguish the alleged debt, had, as a part of that motion, a 45 day provision. This proviso was included in anticipation of the outcome and that the audited accounts for 2002 would not be available to the City until after the AGM.”

Council at its meeting held on 11 March 2003 resolved to link the write off of the Association’s debt to the City with provision of the audited financial statements.

In this regard, Council resolved: “Subject to and conditional upon the Wanneroo Basketball Association Inc ("the Club") (being an important and well-managed local sporting club" providing to the City audited financial reports for the calendar years ending in December of 2000, 2001 and 2002, within forty five (45) days of the date of this Motion is passed, the City will:

- (a) thereupon forgive and forever release the debt allegedly owed by the club to the city under a deed of variation entered into between the former city of wanneroo ("the former city"), the city and the club in 1987 ("the deed of variation")
- (b) thereupon waive the payment of any payments required under the deed of variation; and
- (c) thereupon waive the payment of all future rental payments falling due and payable under the terms of the sub-lease entered into between the former city and the club ("the sub-lease").

The City in response to a request by the then office bearers of the Wanneroo Basketball Association Inc. took over the repayments of the Association’s loan from the then R & I Bank and restructured the Association’s debt so that it would be more manageable for the Association.

The City has repaid the balance of the Association’s loan at a cost to the ratepayers of \$551,266.07 with the last payment being made in October 1998. The Association had repaid to the R & I Bank the sum of \$167,776.63. The total of the loan arranged and agreed by the Association, when fully repaid was \$719,042.70.

The Association has repaid to the City \$341,092.06.

It is considered that the City should develop a policy that it will not in future raise or take over loans for any sporting clubs or associations.

Recommendations

It is recommended that the resolution to write off the Association’s debt to the City be amended by the addition of the following motion:

That the write off of the Association’s debt and other payments detailed in Council’s resolution 1 (a) (b) and (c) of item number “C23 – 03/03 Resolution of Wanneroo Basketball Association Inc.” be subject to:

- (a) a deed of agreement between the City and the Wanneroo Basketball Association Inc. outlining the details of what is proposed by the resolution; and
- (b) the Wanneroo Basketball Association Inc. in return for the City writing off the Association's debt to the City, forgives and thereupon forever releases the City from any claim whatsoever the Association may have on the City relating to the area of land as initially leased and amended from time to time, and including the stadium building.

It is further recommended that:

- (a) a policy be prepared for adoption by the City that it shall not in future act as a lending authority for any sporting club or other external organisation or provide any guarantee for any loan raised by any sporting club or association; and
- (b) the actions taken in relation to the Wanneroo Basketball Association Inc. are a one off and do not set a precedent in the way any other clubs and associations should expect to be treated by the City in the future.

Electors Resolution

5. "That this Meeting on Electors, calls upon the Councillors of the City of Joondalup, to comply with its Junior Sports Development policy which provides that the City of Joondalup subsidises junior players in sport within the City of Joondalup by meeting that commitment to the Wanneroo Basketball Association Inc. incorporating the City of Joondalup's past, present and future contribution".

Comment:

The City's Junior Sports Development policy regarding the subsidised use of Council facilities applies to the hire of community ovals, clubrooms and halls. In these circumstances exclusive use of the facilities is not guaranteed.

The Wanneroo Basketball Association has a lease with the City for the Basketball stadium and is therefore in the same position as all sporting clubs with lease arrangements, this being, that the lease fee is determined on the building and not on the basis of junior or senior membership. The Wanneroo Basketball Association's lease arrangement provides the Wanneroo Basketball Association with a unique opportunity to generate revenue through charging users of the facility, including juniors. This is a unique opportunity not available to other sporting clubs or organisations.

The commercial capabilities that a lease provides, ensures that members of the Wanneroo Basketball Association are subject to a user pays system identical to the structure that operates at the Craigie Leisure Centre.

Recommendation

It is recommended that the electors resolution be noted.

Electors Resolution

6. “That this Meeting of Electors, calls upon the City of Joondalup’s Councillors and senior management of the City of Joondalup, to:
- (i) properly maintain the buildings including, but not limited to, the grounds and reticulation; and
 - (ii) upgrade the existing building in close consultation with the Wanneroo Basketball Association Inc. to meet current building standards and health regulations at no cost to the Wanneroo Basketball Association Inc.; and
 - (iii) expand the existing building to accommodate the Wanneroo Basketball Association Inc. current and future needs, at no cost to the Wanneroo Basketball Association Inc.”.

Comment in relation to 6 (i):

An examination of the various deeds and lease agreements between the parties clearly outlines that maintenance and upgrades of the Stadium is the responsibility of the Wanneroo Basketball Association. The following clauses have been extracted from the documentation for information.

- (1) Clause 2(g) of the Sub Lease between the City and the Wanneroo Basketball Association Inc., Dated 24/12/1982 states:

“to keep and maintain the demised premises and all buildings improvements and fixtures thereon, including fences, paths and paved areas now thereon or which may during the term of this Sub-Lease be placed thereon, in good and tenantable repair and condition (including the making of all necessary structural repairs regardless of their extent) and clean and in good order to the satisfaction of the Head Lessor and the Sub-Lessor, fair wear and tear excepted.”

Comment in relation to 6 (ii):

In accordance with the above clause of the sublease, building maintenance is the responsibility of Wanneroo Basketball Association.

- (2) Clause C of the Development Deed between Joondalup Development Corporation and the then Shire of Wanneroo, states:

“JDC has agreed with the Council to permit the Council to construct upon the Site the sports stadium hereinafter referred to (“the Stadium) and JDC has agreed to lease to the Council the Demised Premises hereinafter defined upon the terms and conditions of the lease in the Second Schedule hereto (“the Lease”)

Clause 2(s) of the SubLease Dated 24/12/1982 that the Wanneroo Basketball Association Inc. states:

“that all buildings and improvements to be constructed erected or made and all works to be carried out or executed on the demised premises by the Sub-Lessee (WBA Inc) shall be constructed erected made carried out and executed under the supervision and to the satisfaction of the Sub-Lessors (COJ) Engineer and in the event of any dispute the certificate of the said Engineer shall be final.”

Comment in relation to 6 (iii):

Further upgrades to the Wanneroo Basketball Association Stadium will be subject to funding appropriation through normal sources. It is the responsibility of the WBA to ensure the building is maintained to comply with building and health regulations.

Council at its meeting of 11 March 2003 resolved to meet with representatives of the Association to discuss these matters. That resolution is as follows:

- 2 the Mayor, CEO, interested Councillors and other officers of the City (as the City and the Club considers appropriate) and the Club's Committee, convene a meeting within thirty (30) days of the date this Motion is passed, with a view to entering into negotiations for a variation of the terms of the Sub-Lease including, but not limited to:
 - (a) the City permitting additional uses at the Joondalup basketball Stadium ("the Stadium") by the Club, including for example, other sporting activities such as indoor soccer, netball, aerobics and indoor bowling;
 - (b) and the City assuming responsibility for general maintenance and several aspects of the stadium including, but not limited to, the stadium grounds, surrounds and building;

Recommendation

It is recommended that the City notes the resolution.

COMMENT**Need for the Association to Vacate the Stadium Premises by December 2007**

The condition "subject to and conditional upon the Club being satisfied with arrangements then in place for the accommodation of the Club." has been added to the end of Council's previous resolution no CJ428 – 12/01 requiring the Association to vacate the site and stadium building by December 2007. This matter could be resolved if LandCorp were to grant a lease to the Wanneroo Basketball Association from December 2007 to December 2012. This position could be supported by the City.

LandCorp has linked the payment of the \$540,000 cost of constructing the southern carriageway of Collier Pass with the sub lease to the Association and it vacating the stadium building in December 2007. This was achieved by placing a condition in the Normalisation Agreement that the City will forfeit that payment if the site is not vacated as agreed.

The City in amending its previous resolution has effectively passed the decision to the Association on whether or not the City will be penalised by the likely forfeiture of the \$540,000.

It is considered that further discussions need to be held with the Association on this point.

Recommendation

It is recommended that:

- (a) Council reaffirms its commitment to work positively in partnership with the Wanneroo Basketball Association Inc. to find and re locate the Association to alternative accommodation capable of meeting the agreed basketball needs of the Association and the sport of basketball to be identified in a Strategic Feasibility and Needs Study to be funded by the Council.
- (b) The scope of the Strategic Feasibility and Needs Study to be funded by the Council, be prepared as a matter of priority with input from the Association so that it can be actioned as soon as possible to have the study report and outcomes assessed and an action plan completed and agreed for implementation within realistic timeframes.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That:

- 1 the Minutes of the Special Meeting of Electors held on Thursday 6 March 2003 forming Attachment 1 to Report CJ056-04/03 be RECEIVED;
- 2 the Council NOTES Resolution numbers 1, 5 and 6 from the Special Meeting of Electors;
- 3 in relation to the Special Meeting of Electors Resolution number 2 and 3, Council SUPPORTS negotiations with LandCorp to grant a direct lease to the Wanneroo Basketball Association to follow on from the existing sub lease arrangements between the City and the Association, thereby extending the Association's occupancy of the site until December 2012;
- 4 in relation to the Special Meeting of Electors Resolution number 4 Council REAFFIRMS its decision to the write off of the Association's debt and other payments detailed in Council's resolution 1 (a) (b) and (c) of item number "C23-03/03 Resolution of Wanneroo Basketball Association inc." subject to:
 - (a) a deed of agreement between the City and the Wanneroo Basketball Association Inc. outlining the details of what is proposed by the resolution; and
 - (b) the Wanneroo Basketball Association Inc. in return for the City writing off the Association's debt to the City, forgives and thereupon forever releases the City from any claim whatsoever the Association may have on the City relating to the area of land as initially leased and amended from time to time, and including the stadium building; and

- 5 Council REQUESTS a report be prepared on the appropriateness or otherwise of the City adopting a policy that it shall not in future act as a lending authority for any sporting club or other external organisation or provide any guarantee for any loan raised by any sporting club or association; and
- 6 the actions taken in relation to the Wanneroo Basketball Association Inc. in writing off its outstanding debt to the Council are a one off and do not set a precedent in the way other clubs and associations should expect to be treated by the City in the future;
- 7 (a) Council reaffirms its commitment to work positively in partnership with the Wanneroo Basketball Association Inc. to find and re locate the Association to alternative accommodation capable of meeting the agreed basketball needs of the association and the sport of basketball to be identified in a strategic feasibility and needs study to be funded by the Council;
- (b) the scope of the strategic feasibility and needs study to be funded by the Council, be prepared as a matter of priority with input from the Association so that it can be actioned as soon as possible to have the study report and outcomes assessed and an action plan completed and agreed for implementation within realistic timeframes;
- 8 the sum of \$30,000 for the Needs and Strategic Feasibility Study be charged against account number (to be determined)

MOVED Cr Baker, SECONDED Cr Carlos that the:

- 1 **Minutes of the Special Meeting of Electors held on Thursday 6 March 2003 forming Attachment 1 to Report CJ056-04/03 be RECEIVED;**
- 2 **resolutions adopted by Council at its meeting held on 11 March 2003 in relation to Item ‘C22-03/03 Resolution of Wanneroo Basketball Association Issue’, be REAFFIRMED;**
- 3 **sum of \$30,000 for the Needs and Strategic Feasibility Study be charged against Account Number 11.40.44.441.4210.0001 being “Administration Research.”**

Discussion ensued, with Manager, Audit & Executive Services giving an explanation in relation to motions passed at the Special Meeting of Electors held on 6 March 2003.

PERSONAL EXPLANATION – CR O’BRIEN

In accordance with Clause 4.5 of the City’s Standing Orders Local Law, Cr O’Brien made the following personal explanation:

“There has been nothing illegal in relation to the decisions of this Council whatsoever. Whether some officer from the Department of Local Government voices an opinion, (I have not yet received a copy of what that opinion is) that is a matter for the individual officer of the Department.

I would have no part of any performance that was illegal in this matter, and there has been nothing illegal. There has been no finding by the Minister in relation to this, but reliance upon the opinion of a Departmental officer.”

The Motion was Put and

CARRIED (7/6)

In favour of the Motion: Crs Baker, Carlos, Hollywood, Nixon, O’Brien, Patterson and Walker **Against the Motion:** Mayor Bombak, Crs Barnett, Kenworthy, Kimber, Mackintosh and Rowlands

Appendices 18, 18(a) and 18(b) refer

To access this attachment on electronic document, click here: [Attach18agn010403.pdf](#)
[Attach18aagn010403.pdf](#) [Attach18bagn010403.pdf](#)

PERSONAL EXPLANATION – MAYOR BOMBAK

In accordance with Clause 4.5 of the City’s Standing Orders Local Law, Mayor Bombak made the following personal explanation:

“Mayor Bombak advised he did not believe due process had been followed. He referred to an issue associated with Mr Brian Atkins, President of the Wanneroo Basketball Association who wrote a letter to the Community Newspaper on Thursday, 27 March 2003, which states:

“it is certainly a great pity that the Mayor would not hold the meeting in premises that would cater for the numbers that were expected to attend.”

Mayor Bombak stated that the statement was false. The Mayor under the section of the Local Government Act 1995 merely selects the date and the time. The Mayor does not select the venue of a meeting.

Mayor Bombak stated the paragraph is deceptive and it has been caused to be printed and during the period that this falls upon, it is misleading and it is false.”

During discussion, Cr Walker left the Chamber at 2013 hrs and returned at 2014 hrs.

PERSONAL EXPLANATION – CR HOLLYWOOD

In accordance with Clause 4.5 of the City’s Standing Orders Local Law, Cr Hollywood made the following personal explanation:

“Cr Hollywood advised he sent an email to all Councillors requesting that the Special Meeting of Electors be held at the Wanneroo Basketball Stadium, as the Council Chamber venue could not cater for the numbers expected to attend.”

Cr Kenworthy declared a financial interest in Item CJ057-04/03 – LGMA Annual General Officers’ Conference being held in Busselton on 4 – 5 April 2003 as this relates to his attendance at the Conference.

Cr Kenworthy left the Chamber, the time being 2017 hrs.

CJ057 - 04/03 LGMA ANNUAL GENERAL OFFICERS' CONFERENCE BEING HELD IN BUSSELTON ON 4 – 5 APRIL 2003 [00427]

WARD - All

PURPOSE

To consider the attendance of Cr Gerry Kenworthy at the LGMA Annual General Officers' Conference.

EXECUTIVE SUMMARY

In August Cr Kenworthy attended Local Government Week and as part of the conference he spent the night at the Burswood Resort.

With the LGMA Annual General Officers' Conference being held in Busselton on 4 – 5 April 2003 Cr Kenworthy will again require overnight accommodation, therefore it becomes expedient to present this report.

It is recommended that Council authorises the attendance of Cr Kenworthy at the conference.

BACKGROUND

Conference Theme

Rising to the Challenge

The conference brings together leading speakers on topical local government issues. Topics covered include Becoming an employer of choice, How risk management influences insurance costs and Ecotourism- an emerging opportunity.

Attached is a copy of 2003 Annual General Conference programme.

DETAILS

Cr Kenworthy has requested approval to attend the LGMA Annual General Officers' Conference being held in Busselton on 4 – 5 April 2003.

Policy Implications:

Policy 2.2.13 – “Payment of Fees, Allowances and Expenses and the Provision of Facilities to the Mayor, Deputy Mayor and Councillors” states:

“5.1 Objective

To detail the annual amounts and guidelines for Elected Members attendance at local, interstate and overseas conferences, seminars, lectures, courses and sister city visits. Elected Members are encouraged to attend appropriate conferences and training to enable them to be more informed and better able to fulfil their duties of office.”

“5.2 Annual Conference and Training Expense Allocation

(1) The following annual conference and training expense allocation shall be made available to elected members:

(a) The Mayor shall be entitled to an annual expense allocation of \$10,000; and

(b) All Councillors shall be entitled to an annual expense allocation of \$5,000.

(2) In addition to the annual expense allocation detailed in clause (1)(a) above, the Mayor shall be entitled to attend the Annual WALGA and ALGA conferences.”

“5.5 Conferences and Training that may be attended

The conferences and training to which this policy applies shall generally be limited to:

- (a) West Australian Local Government Association (WALGA) and Australian Local Government Association (ALGA) conferences;*
- (b) Special “one off” conferences called or sponsored by or for the WALGA and/or ALGA on important issues;*
- (c) Annual Conferences of the major Professions in Local Government;*
- (d) Australian Sister Cities Conferences;*
- (e) City of Joondalup Councillor Induction Program;*
- (f) Municipal Training Service’s Councillor Induction Program;*
- (g) WALGA Elected Member Training and Development;*
- (h) Training Courses relevant to their portfolio or committee responsibilities; and*
- (i) other local government specific training courses, workshops and forums, relating to such things as understanding roles/responsibilities of Elected Members, meeting procedures, etc.*

“5.8 *Guidelines for Conference Attendance*

- (2) *Elected members may attend several local conferences but only one requiring overnight stay, per expense period (May to May). Should any member wish to attend an additional conference requiring overnight stay, that request shall be referred to Council for approval.*
- (5) *Elected Members will only be registered for conference/training courses itemised in this policy, if the elected member has sufficient funds in their annual conference and training expense allocation to meet the costs. Where there are insufficient funds to meet cost of requested conference or training in the elected member’s conference and training allocation, Council approval must be obtained before costs are incurred.”*

Financial Implications:

Cr Kenworthy has spent \$2684 of his 2002/2003 Conference and Training Allowance. The estimated costs for Cr Kenworthy to attend the Conference are as follows:

| | |
|----------------|--------------|
| Accommodation: | \$332 |
| Registration: | \$410 |
| Total: | \$742 |

| | |
|-----------------------|------------------------|
| Account No: | 11 05 05 052 3521 0001 |
| Budget Amount: | \$5,000 |
| YTD Amount: | \$2684 |
| Actual Cost: | \$742 |

COMMENT

Cr Kenworthy has requested approval to attend this Conference. Policy 2.2.13 – “Payment of Fees, Allowances and Expenses and the Provision of Facilities to the Mayor, Deputy Mayor and Councillors” encourages elected members to attend conferences and training to enable them to be more informed and better able to fulfil their duties of office.

The annual conference allocation per individual elected member runs from May to May of each year. Cr Kenworthy has spent \$2684 of his 2002/2003 annual allocation and with the estimated cost of attending this conference being \$742 his total for the year to date will be \$3426. If Cr Kenworthy attends the conference he will not be exceeding his 2002/2003 annual allocation.

The revised policy 2.2.13 relating to elected members was to provide flexibility for elected members desiring to attend training and conferences. The requirement placed on attendance at local conferences and to report to the Council appears to be restrictive. It is suggested that a review of that part of the policy be undertaken as part of the annual review of the corporate policy manual in April/May 2003. The intent of the review would be to allow members to attend local conferences within their budget limits without the need to report to the Council.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Baker, SECONDED Cr Patterson that Council:

- 1 AUTHORISES the attendance of Cr Kenworthy at the 2003 Annual General Officers' Conference 4 - 5 April 2003;**
- 2 AUTHORISES the expenditure in 1 above to be charged to Budget item Elected Members Conference and Training Allowance, Account number 11 05 05 052 3521 0001;**
- 3 REQUESTS a review of that part of Policy 2.2.13 dealing with attendance at local conferences as part of its annual review of the Corporate Policy Manual.**

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Kimber, Mackintosh, Nixon, O'Brien, Patterson, Rowlands and Walker

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1brf250303.pdf](#)

Cr Mackintosh declared a financial interest in Item CJ058-04/03- European Cities Against Drugs 10th Anniversary Mayors' Conference as she is seeking approval to attend this conference.

Cr Mackintosh left the Chamber, the time being 2017 hrs.

Cr Kenworthy entered the Chamber, the time being 2018 hrs.

CJ058 - 04/03 EUROPEAN CITIES AGAINST DRUGS 10TH ANNIVERSARY MAYORS' CONFERENCE – [00427]

WARD - All

PURPOSE

To consider the attendance of Cr Carol Mackintosh at the European Cities against Drugs 10th Anniversary Mayors' Conference.

EXECUTIVE SUMMARY

The European Cities against Drugs 10th Anniversary Mayors Conference is to be held in Stockholm Sweden, 15 – 17 May 2003.

It is recommended that Council authorises the attendance of Cr Carol Mackintosh at the conference.

BACKGROUND

Conference Theme

Drug Policy at the crossroads

The abuse of illegal drugs is a growing problem all over the world. Various actions are taken by the European Union, the member States and Capitals, Cities and municipalities to counteract the problems. However, there is a lack of a common strategy and common goals in the combat against drugs. The conference aims to address this situation and is based on the United Nation's Conventions, which has 250 Signatory Municipalities in 29 countries.

Further information in relation to the Conference is provided within Attachment 1 hereto or by visiting the conference website www.ecad.net

DETAILS

Cr Carol Mackintosh has requested approval to attend the European Cities against Drugs 10th Anniversary Mayors' Conference is to be held in Stockholm Sweden, 15 –17 May 2003.

Policy Implications:

Policy 2.2.13 – “Payment of Fees, Allowances and Expenses and the Provision of Facilities to the Mayor, Deputy Mayor and Councillors” states:

“5.1 Objective

To detail the annual amounts and guidelines for Elected Members attendance at local, interstate and overseas conferences, seminars, lectures, courses and sister city visits. Elected Members are encouraged to attend appropriate conferences and training to enable them to be more informed and better able to fulfil their duties of office.”

“5.2 Annual Conference and Training Expense Allocation

- (1) The following annual conference and training expense allocation shall be made available to elected members:
 - (a) The Mayor shall be entitled to an annual expense allocation of \$10,000; and*
 - (b) All Councillors shall be entitled to an annual expense allocation of \$5,000.**
- (2) In addition to the annual expense allocation detailed in clause (1)(a) above, the Mayor shall be entitled to attend the Annual WALGA and ALGA conferences.”*

“5.8 *Guidelines for Conference Attendance*

(5) *Elected Members will only be registered for conference/training courses itemised in this policy, if the elected member has sufficient funds in their annual conference and training expense allocation to meet the costs. Where there are insufficient funds to meet cost of requested conference or training in the elected member’s conference and training allocation, Council approval must be obtained before costs are incurred.”*

“6(1) *An Elected Member may, with Council approval, attend an overseas conference.”*

“6(2) *An elected member planning to attend an overseas conference may, after providing the written notice to the CEO of their intention to do so, carry forward into the next expense period the unspent amount from their Annual Conference and Training Allocation. The written notice shall be provided to the CEO before the end of May for budget purposes.*

“6(4) *Attendance at an overseas conference is subject to authorisation being obtained from Council prior to departure, with a specific Council resolution supporting that the conference attendance will be of benefit to the City and the Elected Member and detailing any conditions that apply.”*

Financial Implications:

Cr Mackintosh has not spent any of her Conference and Training Allowance. Cr Mackintosh has requested that her annual 2002/2003 allowance be carried over giving her \$10,000 for Conferences and Training in 2003/2004. The estimated costs for Cr Mackintosh to attend the Conference are as follows:

| | |
|----------------|--------------------------------|
| Airfare: | \$2301 (amended figure) |
| Accommodation: | \$2000 |
| Incidentals: | \$ 775 |
| Total: | \$5076 (amended figure) |

The above figures are calculated in Australian Dollars.

| | |
|-----------------------|-----------------------------------|
| Account No: | 11 05 05 052 3521 0001 |
| Budget Amount: | \$5,000 + \$5,000 carried over |
| YTD Amount: | 0 |
| Actual Cost: | \$5812.95 |

COMMENT

Cr Mackintosh has requested approval to attend this Conference. Policy 2.2.13 – “Payment of Fees, Allowances and Expenses and the Provision of Facilities to the Mayor, Deputy Mayor and Councillors” encourages elected members to attend conferences and training to enable them to be more informed and better able to fulfil their duties of office.

The annual conference allocation per individual elected member runs from May to May of each year. Cr Mackintosh has not spent any of her 2002/2003 annual allocation, and has requested to carry it over which means with the estimated cost of attending the conference being \$5812.95 will not be exceeding her 2003/2004 annual allocation.

The costs attached above relate to what is applicable under the policy, any additional time spent travelling will be met by Cr Mackintosh Personally.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Baker, SECONDED Cr O'Brien that Council:

- 1 AUTHORISES the attendance of Cr Carol Mackintosh at the European Cities against Drugs 10th Anniversary Mayors' Conference 15 - 17 May 2003;**
- 2 AUTHORISES the expenditure in 1 above to be charged to Budget item Elected Members Conference and Training Allowance, Account number 11 05 05 052 3521 0001;**
- 3 REQUESTS a report from Cr Mackintosh upon her return.**

Discussion ensued.

Manager, Marketing Communications and Council Support advised amended airfare costs had been received at a total cost of \$5,076.

The Motion was Put and

CARRIED (9/3)

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Kenworthy, Kimber, Nixon, O'Brien, Rowlands and Walker **Against the Motion:** Crs Carlos, Hollywood and Patterson

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2brf250303.pdf](#)

Cr Mackintosh entered the Chamber, the time being 2023 hrs.

Cr O'Brien declared a financial interest in Item CJ059-04/03 – Warrant of Payments – 28 February 2003 (Voucher No 46391 – Chubb Electronic Security) – as Chubb Security has taken over an FAI Extra Watch security at his residence.

Cr O'Brien left the Chamber, the time being 2023 hrs.

**CJ059 - 04/03 WARRANT OF PAYMENTS – 28 FEBRUARY 2003 –
[09882]**

WARD - All

PURPOSE

The Warrant of Payments as at 28 February 2003 is submitted to Council for approval.

EXECUTIVE SUMMARY

This report details the cheques drawn on the funds during the month of February 2003. It seeks Council's approval for the payment of the February 2003 accounts.

DETAILS

| FUNDS | VOUCHERS | AMOUNT |
|---|-----------------|----------------------|
| | | \$ c |
| Municipal | 000381-000387 | 5,942,198.44 |
| Director Corporate Services & Resource Management Advance Account | 045940-046660 | 5,920,270.09 |
| Trust Account | - | - |
| | TOTAL \$ | 11,862,468.53 |

The difference in total between the Municipal and Director of Resource Management Advance Account is attributable to the direct debits by the Commonwealth Bank for bank charges, credit card charges, investments and dishonoured cheques being processed through the Municipal Fund.

It is a requirement pursuant to the provisions of Regulation 13(4) of the Local Government (Financial Management) Regulations 1996 that the total of all other outstanding accounts received but not paid, be presented to Council. At the close of February 2003, the amount was \$477,177.91.

The cheque register is appended as Attachment A to this Report.

CERTIFICATE OF THE DIRECTOR OF CORPORATE SERVICES & RESOURCE MANAGEMENT

This warrant of accounts to be passed for payment, covering vouchers numbered as indicated and totalling \$11,862,468.53 which is to be submitted to each Elected Member on 1 April 2003 has been checked and is fully supported by vouchers and invoices which are submitted herewith and which have been duly certified as to the receipt of goods and the rendition of services and as to prices, computations and casting and the amounts shown are due for payment.

PETER SCHNEIDER
Director Corporate Services & Resource Management

CERTIFICATE OF MAYOR

I hereby certify that this warrant of payments covering vouchers numbered as indicated and totalling \$ 11,862,468.53 was submitted to Council on 1 April 2003

.....
Mayor John Bombak

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Kimber, SECONDED Cr Walker that Council APPROVES for payment the following vouchers, as presented in the Warrant of Payments to 28 February 2003, certified by the Mayor and Director Corporate Services & Resource Management and totalling \$11,862,468.53.

| FUNDS | VOUCHERS | AMOUNT |
|--|----------------------|----------------------|
| | | \$ c |
| Municipal | 000381-000387 | 5,942,198.44 |
| Director Corporate Services & Resource Management Advance Account | 045940-046660 | 5,920,270.09 |
| Trust Account | | |
| | TOTAL \$ | 11,862,468.53 |

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, Patterson, Rowlands and Walker

Appendix 3 refers

To access this attachment on electronic document, click here: [Attach3brf250303.pdf](#)

Cr O'Brien entered the Chamber, the time being 2024 hrs.

**CJ062 - 04/03 PETITION REQUESTING THE REMOVAL OF
EUCALYPT TREES - SORELL GARDENS,
JOONDALUP – [48432]**

WARD - All

PURPOSE

Residents of Sorell Gardens, Joondalup submitted a petition to Council on 18 February, 2003 requesting removal of all eucalypt species, verge trees in the road reserve due to root

intrusion, fire hazard, bough drop and visual appearance due to leaf fall. This report addresses those concerns.

EXECUTIVE SUMMARY

Residents of Sorell Gardens, Joondalup submitted a petition to Council on 18 February, 2003 requesting removal of all eucalypt species, verge trees in the road reserve due to root intrusion, fire hazard, bough drop and visual appearance due to leaf fall.

Sorell Gardens is a residential street in Joondalup with 20 residential properties and abuts a section of Blue Lake Park, Joondalup. Removal of these trees is not supported as they provide a visual benefit to the residential streetscape and park boundary. Inspection of the trees confirms they are healthy, structurally sound and conform to the assessment guidelines applied by officers.

This report recommends that Council advises the petitioners that removal of the verge trees in Sorell Gardens, Joondalup is not supported

BACKGROUND

The former Joondalup Development Corporation undertook verge tree planting and general landscape development throughout the area of Joondalup during the suburb establishment. Eucalyptus maculata and Angophora costata have been planted extensively throughout the suburb with a varying degree of success. Due to the limestone soil conditions in various streets many of the trees are of poor condition.

Sorell Gardens has a higher percentage of trees remaining mainly due to the Public Open Space bordering a section of the street and all trees are healthy and growing with vigour. (Refer Attachment 1).

DETAILS

When assessing a verge tree, officers refer to Schedule 3.1 of the Local Government Act 1995 specifically:

Clause 8. "Remove all or part of a tree that is obstructing or otherwise prejudicially affecting a thoroughfare that is under the Local Government's control or management and adjoins the land where the tree is situated."

Clause 9. "Ensure that a tree on the land that endangers any person or thing on adjoining land is made safe."

The 25 signature Petition was at Council's meeting of 18 February 2003. The Petition requested removal of all verge trees in Sorell Gardens, Joondalup on the grounds that:

- Root intrusion into deep sewerage and storm drains – two trees have been already removed by Council due to such intrusion and residents are concerned that similar conditions still exist.

- Fire Hazard – there are concerns that the ‘mountains’ of leaf and bark litter, dropped continually throughout the year and deposited in the front gardens by the prevailing winds, present a fire risk, albeit relatively low, to properties in the current drought conditions.
- Bough Drop – as the trees mature the risk of personal injury and property damage from bough drop, induced by the prevailing winds, becomes of increasing concern.
- Streetscape – only four trees remain on the northern side and five on the southern side out of an original twenty-four. Consequently the streetscape is out of balance and aesthetically displeasing to the community as a whole.

COMMENT

The points outlined above are commented on as follows:

Item 1 – Root Intrusion

Root intrusion into deep sewerage is not a factor due to the system being constructed with sealed PVC pipe work. Council records indicate works requests for removal at 20 Sorell Gardens on 25 November, 2002 and 23 Sorell Gardens on 19 September, 2000. Neither tree was removed. It was recommended that the trees be monitored and inspected again after 6 months.

There is evidence of two trees being removed from the verge of a property, but this has not been recorded. Enquiries cannot identify if Council or Resident initiated the removal of these trees.

Item 2 – Fire Hazard

All trees shed leaf material during periods of drought conditions. The threat of fire in natural bush areas requires vigilance, but the hazard for residential verge trees is low and manageable by residents. Many of these trees are within the residential irrigated grass verge area.

Item 3 - Bough Drop

Eucalyptus maculata grow to a maximum height of 20 metres with an upright growth form. Bough drop is not a normal occurrence for this species of eucalypt. It is acknowledged that limb/branch fall will occur during periods of inclement weather.

Item 4 – Streetscape

Removal of the residential verge trees will negate any visual benefit from having trees within a suburb. Tree removal is primarily requested due to leaf litter. Replacement of the missing

residential trees would improve the visual appearance. The City will provide and plant trees on request from residents as part of the annual winter tree-planting program.

Blue Lake Park linear bushland forms part of the Sorell Gardens verge and there is an extensive linear bushland at the rear of residential properties, 15 to 29 Sorell Gardens. There is no visual reason to support removal of the verge trees and the extent of leaf litter observed in the residential area was low. The linear Public Open Space bushland has a normal level of leaf litter evident throughout the verge and adjoining bushland.

All trees will shed leaf material during times of stress. The current dry weather and hot summer conditions are creating stress to all vegetation and therefore leaf fall is high. Photographs have been attached to assist Elected Members in assessing the visual benefit of retaining the trees (Refer Attachment 2 to this Report).

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council ADVISES the Petitioners that removal of the verge trees in Sorell Gardens, Joondalup is not supported.

MOVED Cr Kimber, SECONDED Cr Walker that Council:

- 1 ADVISES the Petitioners that removal of the verge trees in Sorell Gardens, Joondalup is not supported;**
- 2 LISTS for consideration in the draft 2003/04 financial budget the provision of a footpath along Sorell Gardens from Blue Mountain Drive to the existing footpath in Blue Lake park.**

Cr Kimber spoke to the Motion.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Patterson, Rowlands and Walker

Appendices 6 & 6(a) refer

To access this attachment on electronic document, click here: [Attach6brf250303.pdf](#)

CJ067 - 04/03 MOBILE TELECOMMUNICATION FACILITY (20 METRE SLIMLINE MONOPOLE AND EQUIPMENT): PERCY DOYLE RESERVE, WARWICK ROAD, DUNCRAIG (DA03/0039) – [18842]

WARD - South Coastal

PURPOSE

To report the outcome of public advertising, and request Council to determine a Development Application for the proposed Hutchison Mobile Telecommunication Facility (MTF) on Percy Doyle Reserve, Warwick Road, Duncraig.

EXECUTIVE SUMMARY

An application has been received for a 20 metre slimline monopole containing 3 panel antennae and 2 parabolic antennae, and an equipment shelter. The above site is surrounded by residential land, a library, daycare centres, a retirement home, a senior citizen centre, and various sporting facilities.

The applicant, Hutchison Telecoms, proposes to relocate its existing MTF from the Duncraig Shopping Centre in Marri Road to the above site due to community pressure.

The above use is a “use not listed” as determined under Clause 3.3 in District Planning Scheme No 2 (DPS2) and has been advertised for public comment.

Public awareness has been high in relation to the above proposal as evidenced by the number of submissions received in regard to the proposal. The major reasons cited for objection are potential adverse health impacts, visual blight, the loss in property values, and the restricted access to the reserve.

Community support for the proposal was on the basis that the health of school children at Duncraig Primary would be protected and existing poor coverage would be improved by relocating the facility to Percy Doyle Reserve.

The proposal represents an opportunity for the Council to consider whether the proposed MTF at Percy Doyle Reserve is a more suitable location than the MTF currently located at the Duncraig Shopping Centre.

It is recommended that Council approves the above MTF as it is the site of least impact on neighbouring owners and users of the surrounding recreational and community facilities within the City of Joondalup.

BACKGROUND

| | |
|-------------------------|---|
| Suburb/Location: | Percy Doyle Reserve at Warwick Road, Duncraig |
| Applicant: | Hutchison Telecoms |
| Owner: | Department of land Administration (DOLA) |
| Zoning: | DPS: Parks and Recreation |
| | MRS: Urban |

In 2000, the City received a similar MTF from One-Telecommunications for the above site. The proposal was subsequently withdrawn when the carrier went into receivership. There was also considerable opposition to the facility when it was advertised for public comment.

On 12 September 2000, the City resolved to place a moratorium on future MTFs within the City of Joondalup.

The moratorium was lifted by Council on 17 December 2002 and replaced with a Policy Statement in relation to MTFs. The Council also resolved on 17 December 2002 as follows:

“the City of Joondalup invites Hutchison to lodge a planning application for the relocation of the low impact mobile telecommunications installation from its current location at the Duncraig Shopping Centre to the Sorrento Tennis Club, located at Percy Doyle Reserve, Duncraig; and

this application is to meet the guidelines outlined in the aforementioned policy statement Telecommunication Facilities.”

Under the Telecommunication Act 1997 (as amended) and the Telecommunication (Low Impact Facilities) determination 1997, the proposal is defined as a “High Impact” facility and requires the submission of a development application for determination by the local authority.

DETAILS

The proposed MTF is part of the Hutchison Telecoms 3G network in the metropolitan region. The proposal consists of a 20 metre high slimline monopole. Attached are 3 panel antennae each 1.9 metres long, 2 parabolic antennae with a 0.6 metre diameter and an equipment shelter 3 metres x 2.5 metres within a 1.8 metre high security fence. The MTF is to be setback approximately 25.2 metres from Warwick Road, Duncraig (Attachments 1 and 2 to this Report).

The monopole is to be a steel structure and the equipment shed is to be colorbond material. No colours have been nominated for the MTF at this stage.

The MTF has been categorised as a “use not listed” in DPS2. The facility is proposed to be located on Percy Doyle Reserve 33894 which is a Crown Reserve (not a Section 20A Reserve). Should the proposal be approved, Hutchison will be required to enter into a lease arrangement with DOLA.

Applicant's submission

The applicant has provided the following summarised information to support the application:

- The above site has been chosen to achieve the required network coverage and the matters taken into consideration include radio coverage, low impact and co-location opportunities, surrounding land uses, planning, environmental and heritage considerations and facility construction and treatments.
- The facility has been designed to facilitate equipment from other carriers if required and alleviate the need for more facilities closer to residential and other areas. The height requirements of the other carriers are, however, dependent on the future carriers' needs. The proposed facility is an alternative solution to facilitate the community's aspiration to relocate the low impact MTF from Duncraig Shopping Centre to an alternative acceptable location.
- The MTF is located in excess of 150m from sensitive land uses and located amongst existing light poles in a relatively isolated location on the reserve. The proposal from a land use perspective is considered minimal. It is located in a reserve in comparison to the existing low impact facility located at the Duncraig Shopping Centre. The antennae have been attached in a manner to reduce visual intrusiveness and bulk.
- The proposal will comply with the relevant Australian Standards in relation to exposure to electromagnetic fields as provided in the independent report submitted.
- The proposal is consistent with the orderly and proper planning of the locality. Accordingly, approval is requested. Hutchison Telecoms will not appeal against the decision of the City if the proposal was adversely determined.

Public Consultation

The MTF proposal has been advertised for a period of 30 days pursuant to Clauses 6.6 and 6.7 of DPS2, and Council's Policy Statement. The forms of advertising were:

- Written notification to landowners within 500m of the proposed MTF location,
- An advertisement in the local community newspaper,
- The erection of 2 signs onsite.

While the landowners of all properties within a 500 metre radius of the proposal were contacted in writing, the residents of those properties were inadvertently not directly contacted (approximately 75 residents).

However, given the widespread advertising of the proposal, including several signs on the site, a notice in the local newspaper, various media reports, and local action groups, it is likely that awareness of the proposal is very high in the local community.

Further, it is unlikely that, given the response rate and the relatively small number of residents not directly contacted, that the balance of numbers for and against the proposal would not be markedly affected. It is also noted that the 2 petitions (a total of 1781 signatures) is likely to compass many local residents who may not be owner/occupiers.

A total of 60 individual submissions objecting to the proposal were received.

A total of 59 individual submissions and 2 petitions of 1774 and 7 signatures respectively in support of the proposal were received.

The main reasons submitted by supporters are as follows:

- It is a better location than where the MTF is currently located on the Duncraig Shopping Centre which is near the Duncraig Primary School and as such would not affect the health of children attending the Duncraig Primary School
- Proposal is considered not to reduce land values.
- Proposal would solve the current poor telephone coverage in the area.

The main issues and concerns raised in the objections are as follows:

- The serious health risk associated with EME emissions.
- The proposal is an eyesore and would be visually intrusive.
- The proposal would restrict the use of the park by various sporting groups, including children.
- The proposal is located too close to residential houses, retirement home, and senior citizen's centre and daycare centre.
- Proposal would interfere with TV reception.
- Would result in devaluation in property prices.

Other matters raised in the objections request that the MTF be located in the middle of the reserve, the need for additional carriers, the moving of the current problem from the Duncraig Shopping Centre to above site and the environmental aspect involved with a nature reserve.

The applicant has submitted the following additional information in response to the concerns raised in the objections:

- The Department of Health has advised all Councils in WA that there are no adverse health effects from Mobile Base Stations. An independent EME report has also been provided to Council, which confirms that Hutchison is complying with the ACA standards;
- The site is located as close as possible to the existing light poles for the tennis club and therefore blends into the surrounds. Please refer to the photo montages supplied to the City;
- The site is located by the existing fence line of the tennis club and therefore does not impact on the use of the reserve. Some vegetation will be removed, but will be replaced around the facility;
- The site is located approx 200 metres plus from retirement home, senior citizens' centre and daycare centre;
- The facility will not interfere with TV reception;

- There is no evidence of devaluation of property values located near MTFs. In any case, this is not a planning related issue;
- Other carriers will be able to co-locate on the facility; and
- Due to community, Council and federal requests, Hutchison has agreed to look at alternative sites to provide coverage to the residents of Duncraig. The applicant believes the best solution is Percy Doyle Reserve, not only for Hutchison but for the community.

Statutory Provision:

The application has been submitted in accordance with Clause 6.1 of DPS2. The City is required to have due regard to the requirements stated in Clause 6.8.1 of DPS2 (Attachment 3 to this Report).

Policy Implications:

Consideration is given in relation to the City of Joondalup's Policy Statement on telecommunication facilities adopted by Council on 17 December 2002 (Attachment 4 to this Report), which states in part:

“The City, as a general rule, does not support the installation or location of telecommunication facilities, particularly in the vicinity of schools, childcare establishments, hospitals and general residential areas.”

In making a recommendation to the WAPC or determining the application the Council will have regard to;

- (a) the comments and concerns of the local community,*
- (b) the merits of the particular proposal;*
- (c) compliance with the industry code of practice;*
- (d) compliance with matters required to be considered under the District Planning Scheme,*
- (e) the general concerns of the Council regarding the potential effects of telecommunication facilities referred to in point 2 above.”*

Proposed Australian Communication Industry Forum (ACIF) Industry Code- “Deployment of Radio Communications Infrastructure”

The aim of the Code is to deal with the concerns of the community about risk associated with electromagnetic radiation and allowing greater participation in decision making by Local Council's and the public. The code requires carriers to undertake the following:

- The submission of written procedures for site selection;
- To improve the notification and community consultation procedures;
- To design and operate base stations to minimise electromagnetic emissions;
- The develop an internal complaints handling procedure; and
- The submission of EMR emission reports as required by the Federal Government.

The above code is to come into operation on 10 April 2003.

COMMENT

The various issues raised during the advertising period are discussed below.

Visual impact/Location

The location selected is one of the lowest lying areas within the reserve adjacent to the tennis courts. The applicants have sought to integrate the 20 metre height slimline pole with the numerous tennis courts lights. While the monopole is higher than the tennis courts lights, the site selected seems to be one of the more practical sites, given that the existing light poles in the vicinity provide some reduction in the visual impact of the MTF. The design of the monopole together with the antennae attached to the facility contributes to the reduction in the overall bulk of the facility.

The monopole will be structurally built to accommodate other carriers' antennae. However, as stated in the applicant submission, this may or may not result in an addition to the height of the structure. This creates some uncertainty, which could result in the facility increasing in size and increasing the visual impact on neighbouring residential properties on the other side of Warwick Road to the north as compared with the majority residential properties located further away on the Percy Doyle side. The MTF proposed is considered to be one of the least visually intrusive structures when compared to other similar facilities in and outside the City.

To minimise the visual impact of the structure, it is recommended, if approved, the monopole be painted a similar colour as the light poles and that the equipment shelter be painted green.

Effects on property values/TV Reception

There is no known published data to link property values to MTF. In addition, property values are not a planning consideration. Television reception is not a matter that can be controlled by the City.

Use of Reserve

The proposed location of the MFP was chosen by Hutchison Telecoms after an assessment of the site. The area to be taken up by the MTF is relatively minimal in size, in an isolated section of the reserve. While the area will be fenced off for safety reasons, it is not considered that the location of the MTF will have a negative impact on the overall use of Percy Doyle Reserve. There are numerous examples of MTFs on reserves in metropolitan areas and this has not deterred the public from using these reserves for various activities.

It is recommended that, if approved, the MTF compound be separated from the tennis court fencing by retaining the existing trees to conceal the compound. Replanting would be required to the east of the proposed MTF compound.

Health matters

The main community concern is the adverse long term health risk associated with MTFs as a result of electromagnetic emissions.

International and national scientific studies conclude that there is no substantiated evidence to suggest that living near a mobile telephone towers causes adverse health effects. It is a mandatory requirement for all telecommunications carriers to comply with the Australian Safety Standards set by the Australian Community Authority (ACA). The Radiation Frequency (RF) limits are established by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) are some of the most stringent in the world.

Notwithstanding these comments there is, however, a divergence of scientific opinion from independent studies into the health impacts associated with MTFs to suggest the opposite to the above findings. This requires siting MTFs away from residential areas and other sensitive users such as schools until there is conclusive scientific evidence to the contrary that there are no health risk.

“Mobile phones communicate with the network base stations via radio waves, which are also called electromagnetic energy (EME). EME is the term that describes many different forms of energy including light, infrared, microwaves and radio waves. While they are all forms of EME, they operate at different frequencies and are different from each other. EME is

measured in microwatt per square centimetre. A microwatt is one millionth of a watt. The current limit for general public exposure in Australia is 200 microwatt per square centimetre. The submitted RF EME analysis report states that “the worst case EME level at any distance from the antennae is 0.1125 microwatts per square centimetre or 8889 times below the national safety limit of 200 microwatts per square centimetre”.

Conclusion

Today’s society demands high quality mobile phone services. To satisfy this demand, MTF are required within the urban environment and in suburb specific sites.

Notwithstanding, each application is required to be considered on its merits on planning grounds.

Hutchison has also stated that if the above proposal were not granted approval, it would not appeal the determination but would have to revert to the existing facility at the Duncraig Shopping Centre in Marri Road, Duncraig. As a “low impact” facility under the Federal Government’s legislation the City has no powers to prevent the continued use of the existing facility should Hutchison chooses to take this course of action.

While it would be ideal not to have a MTF in any of the residential area, the City needs to consider whether the existing facility at Duncraig Shopping Centre in Marri Road or the current proposal at Percy Doyle Reserve has a lesser impact, as well as considering the other benefits to the community at large. The nearest residential house on the northern side of Warwick Road is approximately 80 metres away from the MTF, with residential houses on the Percy Doyle side being located approximately 300 metres away.

The technical evidence submitted by the applicant clearly demonstrates that the RF EME levels for the MTF are well below mandatory standards. The issue of compliance with the health standards is a matter to be monitored and administered by the relevant Federal Health Agency.

The opposition to the proposal is acknowledged, however, the proposed location is realistically a relatively suitable one, given the distance to sensitive areas and the reduced visual impact due to the existing tennis court light poles.

Having considered the proposal in accordance with Clause 6.8.1 and associated documents, it is recommended that the proposal be supported, as it is considered to be the site with the least impact and is a reasonable distance from residential and community facilities.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council APPROVES the application dated 10 January 2003 for the relocation of a Mobile Telecommunication Facility from the Duncraig Shopping Centre to Percy Doyle Reserve 33894, Warwick Road, Duncraig, subject to the following conditions:

- 1 compliance with the Electromagnetic Energy (EME) standards;
- 2 the colours of the monopole and antennae to be similar in colour to the tennis courts light poles and that the equipment shed be green, to the satisfaction of the City;
- 3 the mobile telecommunication facility is structurally designed to accommodate future carriers;
- 4 the area surrounding the perimeter of the mobile telecommunication facility to be reinstated once construction work is completed;
- 5 written undertaking that all obsolete mobile telecommunication facilities at the above site be removed at the cost of the carrier and that the land be reinstated to the original state should the MTF is not required;
- 6 a landscaping reticulation plan is to be submitted to and approved by the City prior to the commencement of any works.

ADDITIONAL INFORMATION

Percy Doyle reserve is a Crown Reserve under management of the City. If the Council supports the telecommunication facility at this reserve, then there will be a need for an excision of part of the reserve to accommodate this facility.

As it is a Crown Reserve, Department of Land Administration (DOLA) undertakes the excision process. However, to initiate that process, DOLA will need to be advised of Council's support for such an excision to occur.

Accordingly, the recommendation as listed in the agenda, requires amendment to reflect the above as follows:

MOVED Cr Patterson, SECONDED Cr Walker that Council:

- 1 APPROVES the application dated 10 January 2003 for the relocation of a Mobile Telecommunication Facility from the Duncraig Shopping Centre to Percy Doyle Reserve 33894, Warwick Road, Duncraig, subject to the following conditions:**
 - (a) compliance with the Electromagnetic Energy (EME) standards;**
 - (b) the colours of the monopole and antennae to be similar in colour to the tennis courts light poles and that the equipment shed be green, to the satisfaction of the City;**
 - (c) the mobile telecommunication facility is structurally designed to accommodate future carriers;**
 - (d) the area surrounding the perimeter of the mobile telecommunication facility to be reinstated once construction work is completed;**
 - (e) written undertaking that all obsolete mobile telecommunication facilities at the above site be removed at the cost of the carrier and that the land be reinstated to the original state should the MTF is not required;**
 - (f) a landscaping reticulation plan is to be submitted to and approved by the City prior to the commencement of any works;**

- 2 ADVISES DOLA that it supports the excision of land from the Crown Reserve for the purposes of the telecommunication facility as approved in 1 above.**

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Patterson, Rowlands and Walker

Appendix 11 refers

To access this attachment on electronic document, click here [Attach11brf250303.pdf](#)

CJ068 - 04/03 MOBILE TELECOMMUNICATION FACILITY (20 METRE SLIMLINE MONOPOLE AND EQUIPMENT) AT KALLAROO PARK, BOUNDED BY MARMION AVENUE, KALLAROO PLACE, MULLALOO DRIVE & CATENARY COURT, MULLALOO (DA03/0040) – [09188]

WARD - Whitfords

PURPOSE

To report the outcome of public advertising and request Council to determine the Development Application for the proposed Hutchison Mobile Telecommunication Facility (MTF) in Kallaroo Park, bounded by Marmion Avenue, Kallaroo Place, Mullaloo Drive and Catenary Court.

EXECUTIVE SUMMARY

An application has been received for a 20 metre slimline monopole containing 3 panel antennae and 2 parabolic antennae, and an equipment shelter. The above site is surrounded by residential land. The applicant, Hutchison Telecoms, proposes to relocate its existing MTF from the Mullaloo Squash Courts at Karoona Road, Mullaloo to the above site due to community concern.

The above use is a “use not listed” as determined under Clause 3.3 in District Planning Scheme No 2 (DPS2) and has been advertised for public comment.

Public awareness has been high in relation to the proposal as evidenced by the number of submissions received in regard to the proposal. The major reasons cited for opposition were the potential adverse health impact, visual blight, loss in property values and the restricted access to the reserve.

Community support for the proposal was on the basis that the health of children at the adjoining kindergarten to the Mullaloo Squash Courts would be protected and existing poor mobile phone coverage would be improved as a result of the relocation of the facility to Kallaroo Park.

The proposal represents an opportunity for the Council to consider whether the proposed MTF at Kallaroo Park location is in a more appropriate location than the current Mullaloo Squash Courts site at Karoona Road, Mullaloo.

It is recommended that Council not support the above MTF due to its proximity to a residential area, the reduction in visual amenity, and large community opposition to the proposal.

BACKGROUND

| | |
|-------------------------|---|
| Suburb/Location: | Kallaroo Park, bounded by Marmion Avenue, Kallaroo Place, Mullaloo Drive and Catenary Court |
| Applicant: | Hutchison Telecoms |
| Owner: | City of Joondalup |
| Zoning: | DPS: Parks and Recreation. |
| | MRS: Urban |

On 12 September 2000, the City resolved to place a moratorium on future MTFs. The moratorium was lifted by Council on 17 December 2002 and replaced with a Policy Statement in relation to MTFs.

Under the Telecommunication Act 1997 (as amended) and the Telecommunication (Low Impact Facilities) determination 1997, the proposal is defined as a “High Impact” facility and requires the submission of a development application for determination by the local authority.

DETAILS

The proposed MTF is part of the Hutchison Telecoms’ 3G network in the Metropolitan Region. The proposal consists of a 20 metre high slimline monopole. Attached are 3 panel antennae, each 1.9m long, 2 parabolic antennae with a 0.6m diameter and an equipment shelter 3 metres x 2.5 metres within a 1.8 metre high security fence (Attachments 1 and 2).

The MTF is to be setback approximately 3.6metres from Marmion Avenue and 57 metres from Kallaroo Place, Mullaloo. The monopole is a steel pole and the equipment shelter is colorbond. No colours for the structures have been nominated at this stage.

The MTF has been categorised as a “use not listed” in DPS2. The facility is proposed to be located in Kallaroo Park, which is a Section 20A Reserve (not a Crown Reserve). Should the proposal be approved, Hutchison will be required to excise the land from the reserve and then enter into a lease arrangement with the City of Joondalup.

Applicant’s submission

The applicant has provided the following summarised information to support the application:

- The above site has been chosen to achieve the required network coverage and the matters taken into consideration include radio coverage, low impact and co-location opportunities, surrounding land uses, planning, environmental and heritage considerations and facility construction and treatments.
- The facility has been designed to facilitate establishment by other carriers if required and alleviate the need for more facilities closer to residential and other areas. The height requirements of those carriers are not, however, dependent on the future carriers’ needs. The proposed facility is an alternative solution to facilitate the community’s aspiration to relocate the low impact MTF from Mullaloo Squash Centre to an alternative location. From a land use perspective, this is considered to be minimal.

- The MTF is located in a relatively isolated location on the reserve. The proposal from a land use perspective is considered minimal. It is located in a reserve in comparison to the existing low impact facility located at the Mullaloo Squash Courts at Koorana Road. The antennae have been attached in a manner to reduce the visual intrusiveness and bulk.
- The proposal will comply with the relevant Australian Standards in relation to exposure to electromagnetic fields, as provided in the independent report submitted.
- The proposal is consistent with the orderly and proper planning of the locality. And as such, approval is requested. Hutchison Telecoms will not appeal against the decision of the City if the proposal was adversely determined.

Public Consultation

The MTF proposal has been advertised for a period of 30 days, pursuant to Clauses 6.6 and 6.7 of DPS2 and Council's Policy Statement on MTF. The proposal was advertised as follows:

- Written notification of landowners within 500 metres of the proposed MTF
- An advertisement in the local community newspaper
- The erection of 3 signs on-site.

While the landowners of all properties within a 500 metre radius of the proposal were contacted in writing, the residents of those properties were inadvertently not directly contacted (approximately 100 residents)

However, given the widespread advertising of the proposal, including several signs on the site, a notice in the local newspaper, various media reports, and local action groups, it is likely that awareness of the proposal is very high in the local community.

Further, it is unlikely that, given the response rate and the relatively small number of residents not directly contacted, that the balance of numbers for and against the proposal would not be markedly affected. It is also noted that the 4 petitions received (a total of 955 signatures) are likely to compass many local residents who may not be owner/occupiers.

A total of 125 individual submissions and 4 petitions containing 16, 881, 19 and 39 signatures respectively objecting to the proposal were received.

A total of 18 individual submissions in support of the proposal were received.

The main reasons submitted by supporters are as follows:

- The location meets the Council's Policy Statement on Telecommunication Facilities;
- It is a better location than the current Mullaloo Squash Courts at Koorana Road, Mullaloo, which is close to a pre-primary, primary school and childcare facility. To reject the proposal would be a poor outcome for children who spend a lot of time around the Mullaloo Squash Courts Centre. The City needs to weigh the impact between groups least affected;

- The proposed site is not within 300 metres of a school or other facility where children congregate;
- The 20 metres height would mean that the structure does not have the sight related issues associated with the MTF at the Mullaloo Squash Courts;
- The proposal is considered not to reduce land values;
- Poor coverage is currently being experienced in the Kallaroo area. Hopefully this would be rectified by the MTF.

Others matters raised were whether the structure was able to accommodate other carriers and that the Water Corporation easement is not affected by the proposal. If this were not the case, other carriers who are also introducing 3G facilities would revert to low impact sites.

The main issues and concerns raised in the objections are as follows:

- The serious health and safety risk associated with EME emissions. No proof is submitted that EME are safe;
- The proposal is an eyesore and would be visually intrusive;
- The proposal would restrict the usage of the park and the park should be retained for what it was intended for;
- The proposal is too close to residential houses;
- The possible interference with TV reception;
- The devaluation in property prices.

Other matters raised in the objections were that the MTF be relocated in an industrial area, that the proposal not be determined prior to the new guidelines being introduced this year, that the length of advertising is inadequate and that the same consideration be given to residents, similar to the consideration given to affected groups at the Mullaloo Squash Courts.

The applicant has submitted the following additional information in response to the concerns raised in the objections:

- As per advice supplied to Councils by the Department of Health WA, there is no evidence of health effects from Mobile Base Stations. An independent EME report has also been provided to Council, which shows that Hutchison is complying with the ACA standards;
- Please refer to photo montages supplied to Council illustrating that the location of the site within the reserve will ensure that it does not impact on the use of the reserve;
- Facilities of this nature are located within the metro area to provide a service to residents and being located near housing is not uncommon;
- The facility will not interfere with TV reception;
- There is no evidence of devaluation of property located near MTF. This is not a planning consideration;
- The closest industrial area is in Joondalup. The coverage from a Hutchison MTF is approx 1-2 km depending on terrain. Therefore locating a site in the industrial area would not provide the required coverage to residents in Mullaloo;

- This proposal is for a Development Application. The new guidelines registered by the Australian Communications Authority (ACA) start on 10 April and apply to Low Impact facilities only, which do not require council planning approval. This facility does require council planning approval.
- Due to community, Council and Federal requests, Hutchison has agreed to look at alternative sites to provide coverage to the residents of Mullaloo.
- The applicant believes the best solution is Kallaroo Park, not only for Hutchison but for the community as well.

Statutory Provision:

The application has been submitted in accordance with Clause 6.1 of DPS2. The City is required to have due regard to the requirements stated in Clause 6.8.1 of DPS2 (Attachment 3 to this Report).

Policy Implications:

Consideration being given in relation to the Policy Statement on Telecommunication facilities adopted by Council on 17 December 2002 (attachment 4), which states in part:

“The City, as a general rule, does not support the installation or location of telecommunication facilities, particularly in the vicinity of schools, childcare establishments, hospitals and general residential areas.

In making a recommendation to the WAPC or determining the application the Council will have regard to;

- (a) the comments and concerns of the local community;*
- (b) the merits of the particular proposal;*
- (c) compliance with the industry code of practice;*
- (d) compliance with matters required to be considered under the District Planning Scheme, and*
- (e) the general concerns of the Council regarding the potential effects of telecommunication facilities referred to in point 2 above.”*

Australian Communication Industry Forum (ACIF) - Proposed Industry Code “Deployment of Radio Communications Infrastructure”

The aim of the Code is to deal with the concerns of the community about risk associated with electromagnetic radiation and allowing greater participation in decision making by Local Council’s and the public. The code requires carriers to undertake the following:

- The submission of written procedures for site selection;
- To improve the notification and community consultation procedures;
- To design and operate base stations to minimise electromagnetic emissions;
- The develop an internal complaints handling procedure; and
- The submission of EMR emission reports as required by the Federal Government.

The above code is to come into operation on 10 April 2003.

COMMENT

The various issues raised during the advertising period are discussed below.

Visual Impact/Location.

The location selected is one of the lowest areas within the reserve close to residential houses. The applicants have sought to integrate the 20 metre height slimline pole to blend in with the natural vegetation. While the MTF proposed is considered to be one of the least visually intrusive structures when compared to other MTF facilities in and outside the City, the proposed tower will have a clear visual impact on the area.

The site for the MTF is within 50 metres of a residential area.

While the monopole will be visible from Kallaroo Place and Marmion Avenue, the site selected seems to be acceptable in terms of location away from sensitive uses, with the exception of residential houses. The design of the monopole, together with the antennae attached to the facility contributes to the reduction in the overall bulk of the facility. The monopole will be structurally built to accommodate other carriers' antennae. However, as stated in the applicant's submission, this may or may not result in an addition to the height of the structure. This creates some uncertainty, which could result in the facility increasing in size and increasing the visual impact on neighbouring residential properties. The close proximity of the proposed tower to residential land compounds the visual impact and such impact is of concern.

To minimise the visual impact of the structure, it is recommended that, if approved, the monopole be painted white or green and the equipment shed be painted green.

Effects on Property Values/TV Reception

There is no known published data to link property values to MTF. Further, property values are not a planning consideration. Television reception is not a matter that can be controlled by the City.

Use of Reserve

The choice of the location was one undertaken by Hutchison Telecoms. The area to be taken up by the MTF is relatively small in size and is in a secluded location and will be fenced off for safety reasons. There are numerous examples of MTF on reserves in the metropolitan area and this has not deterred the public from using the reserves for various activities.

If it was approved it would be recommended that the cable and access route to the MTF compound be realigned to retain the existing trees and conceal the compound. The applicant and Hutchison will also be required to liaise directly with the Water Corporation to ensure that the proposal does not have an impact on the Water Corporation easement.

Health matters

The main community concern is the adverse long-term health risk associated with MTF as a result of electromagnetic emissions.

International and national scientific studies conclude that there is no substantiated evidence to suggest that living near a mobile telephone tower causes adverse health effects. It is a mandatory requirement for all telecommunications carriers to comply with the Australian Safety Standards set by the Australian Community Authority (ACA). The Radiation Frequency (RF) limits are established by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and are some of the most stringent in the world.

Notwithstanding these comments there is, however, a divergence of scientific opinion from independent studies into the health impacts associated with MTF which suggest the opposite to the above findings. This means siting the MTF away from residential areas and other sensitive users such as schools until there is conclusive scientific evidence to the contrary that there are no health risk.

“Mobile phones communicate with the network base stations via radio waves, which are also called electromagnetic energy (EME). EME is the term that describes many different forms of energy including light, infrared, microwaves and radio waves. While they are all forms of EME, they operate at different frequencies and are different from each other. EME is measured in microwatt per square centimetre. A microwatt is one millionth of a watt. The current limit for general public exposure in Australia is 200 microwatt per square centimetre. The submitted RF EME analysis report states that “the worst case EME level at any distance from the antennae is 0.09021 microwatts per square centimetre or 11085 times below the national safety limit of 200 microwatts per square centimetre”.

Conclusion.

Today’s society demands high quality mobile phone services. To satisfy this demand, MTFs are required within the urban environment and in suburb specific sites.

Notwithstanding, each application is required to be considered on its merits on planning grounds.

Hutchison has stated in the application that the proposed site is required to meet their network coverage for their 3G coverage. Hutchison has also stated that if the above proposal was not granted approval, they would not appeal the determination, but would have to revert to retaining the existing facility at the Mullaloo Squash Courts at Karoona Road, Mullaloo. As a “low impact” facility under the Federal Government’s legislation the City has no powers to prevent the continued use of the existing facility should Hutchison chooses to take this course of action.

While it would be ideal not to have a MTF in any residential area, the City needs to consider whether the existing facility at the Mullaloo Squash Courts at Karoona Road, Mullaloo, or the current proposal at Kallaroo Park has a lesser impact as well as considering the other benefits to the community. The nearest residential properties at Catenary Court are approximately 50 metres away from the MTF.

The technical evidence submitted by the applicant clearly demonstrates that the RF EME levels from the MTF are well below mandatory standards. The issue of compliance with the health standards is a matter to be monitored and administered by the relevant Federal Health Agency.

Notwithstanding the planning issues discussed above, there has been a large negative response to this proposal from the surrounding community. Clearly the proposed location of the MTF adjacent to residential properties is of concern.

Having considered the proposal in accordance with Clause 6.8.1 and associated documents, it is recommended that the proposal be not be supported as it is considered that the site is unsuitable due to its proximity to residential dwellings, and will have a negative impact on the visual amenity of the area.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Mackintosh, SECONDED Cr Rowlands that Council REFUSES the application dated 10 January 2003 for a Mobile Telecommunication Facility at Kallaroo Park, bounded by Marmion Avenue, Kallaroo Place, Mullaloo Drive and Catenary Court, for the following reason:

- 1 the proposed Mobile Telecommunications Facility is likely to have a negative impact on the amenity of the surrounding area, due to its location within close proximity to a residential area;**
- 2 the proposed Mobile Telecommunications Facility is likely to have a negative impact on the visual amenity of the surrounding area.**

Cr O'Brien advised he wish to move Deferral of this Item.

Manager, Marketing Communications and Council Support advised if Cr O'Brien intended that the Motion Lie on the Table, this was a procedural motion, and therefore took precedence.

MOVED Cr O'Brien, that Council DEFERS the matter of the Hutchison Mobile Telecommunications Facility application in Kallaroo Park in order to allow further investigations for an alternative site, either on the coast or inland such as the Beenyup Treatment area land, with a further report to be presented to Council.

Mayor Bombak advised this motion could not be accepted as there was a motion currently before the Council.

MOVED Cr O'Brien, SECONDED Cr Carlos that, in accordance with Clause 5.4 of the City's Standing Orders Local Law, the following Motion Lie on the Table:

“MOVED Cr Mackintosh, SECONDED Cr Rowlands that Council REFUSES the application dated 10 January 2003 for a Mobile Telecommunication Facility at Kallaroo Park, bounded by Marmion Avenue, Kallaroo Place, Mullaloo Drive and Catenary Court, for the following reason:

- 1 the proposed Mobile Telecommunications Facility is likely to have a negative impact on the amenity of the surrounding area, due to its location within close proximity to a residential area;***
- 2 the proposed Mobile Telecommunications Facility is likely to have a negative impact on the visual amenity of the surrounding area.”***

The Motion to Lie on the Table was Put and

CARRIED (10/3)

In favour of the Motion: Crs Baker, Barnett, Carlos, Hollywood, Kenworthy, Kimber, Nixon, O’Brien, Patterson and Walker **Against the Motion:** Mayor Bombak, Crs Mackintosh and Rowlands

In accordance with Standing Orders Local Law, Clause 5.4 – “The Motion Lie on the Table” a record is to be taken of all those who have spoken on the motion under debate. It is therefore recorded that **no member** spoke on the Motion moved by Cr Mackintosh and seconded by Cr Rowlands.

Appendix 12 refers

To access this attachment on electronic document, click here [Attach12brf250303.pdf](#)

C38-04/03 SUSPENSION OF STANDING ORDERS – [05885] [50521]

MOVED Cr Baker, SECONDED Cr Carlos that BY AN ABSOLUTE MAJORITY in accordance with Clause 8.1 of the City's Standing Orders Local Law as a case of urgent necessity, Clause 3.12 of the City's Standing Orders Local Law, which requires seven (7) days' prior notice in writing for a notice of motion BE SUSPENDED in order to consider the following motion:

“That the:

- 1 City of Joondalup instructs its Solicitors to brief a suitably qualified Senior Queen's Counsel (QC) or Senior Counsel (SC) possessing considerable expertise in Telecommunications, Constitutional and/or Local Government Law for the purposes of conducting a comprehensive review of the powers of the City of Joondalup, under the Local Government Act of 1995, to enact new Laws to prevent or discourage the owners of any land situated within the City of Joondalup from entering into any lease or licence agreements in respect of the whole or any part of their land or any improvements constructed on their land with Mobile Phone Tower Service Operators and their Sub-Contractors in respect of the installation of mobile phone powers on any such land without the prior written consent of the City of Joondalup and the approval of the community likely to be adversely affected;**

- 2 review be the subject of an urgent comprehensive report to Council for Council's consideration."

Discussion ensued.

The Motion was Put and

LOST (6/7)

In favour of the Motion: Crs Baker, Carlos, Kimber, Mackintosh, Nixon and O'Brien **Against the Motion:** Mayor Bombak, Crs Barnett, Hollywood, Kenworthy, Patterson, Rowlands and Walker

Cr Mackintosh left the Chamber, the time being 2050 hrs.

CJ072 - 04/03 REQUESTED CLOSURE OF A PORTION OF A LANEWAY BETWEEN LOT 151 (88) CLIFF STREET AND LOT 113 (31) MARINE TERRACE, SORRENTO - [44521]

WARD - South Coastal

PURPOSE

The purpose of this report is to consider:

- 1 Council's resolution of 18 February 2003, on the possible options for the laneway bounded by High Street, Cliff Street, Marine Terrace and St. Patrick's Street, Sorrento. One option to be examined is that of closure, and;
- 2 Council's resolution of 25 July 2002 concerning closure of the portion of laneway between Lot 151 (88) Cliff Street and 113 (31) Marine Terrace, Sorrento.

EXECUTIVE SUMMARY

A rear laneway system exists in Sorrento/Marmion as indicated on Attachment 1 to this report. The owner of Lot 151 (88) Cliff Street, Sorrento, has made two previous applications to close the portion of laneway at the rear of his property with the most recent being considered by Council in July 2000. The owners of Lot 113 (31) Marine Terrace also support closure and would wish to be involved in the land sharing arrangements if closure is the outcome.

At the time of the second application, the subject area was overgrown though pedestrians were using it, however, the City has recently installed a temporary footpath and steps in the area to aid pedestrian movement. (See Attachment 2 to this report).

A 29-signature petition together with the applicant's concerns were considered by Council at its meeting in July 2000 and it resolved not to support closure of the portion of laneway but consider the matter again once the City had prepared a Local Housing Strategy.

The Local Housing Strategy is unable to be finalised at this stage, notwithstanding this, the City has consulted with all adjoining landowners to the laneway system in Sorrento/Marmion to examine the use of the laneways and their opinions regarding any future development potential. Many adjoining landowners indicated an "interest" in further development, including those landowners that signed the applicant's petition.

This area of Sorrento may have future development potential and the laneway system would be instrumental to such potential. It is now evident by the feedback from the adjoining landowners to the subject laneway that many of them wish this option to be examined further. Closure of the laneway the between Lot 151 (88) Cliff Street and Lot 113 (31) Marine Terrace is therefore not supported and it is recommended that the laneway portion not be closed and the City proceed with the laneway study.

BACKGROUND

Suburb/Location: Sorrento
Applicant: Mr Garry Ash
Owner: Crown land managed by the City
Zoning: **DPS:** Residential
MRS: Urban

The owner of Lot 151 (88) Cliff Street, Sorrento has requested the closure of the portion of laneway adjoining the rear of his property on two previous occasions. The laneway at the rear of the applicant's property also being the subject of a motion put forward by Councillor Patterson at Council's meeting of 18 February 2003:

"That Council REQUESTS a report to be presented to the ordinary meeting of the Council to be held on 1 April 2003 on the possible options for this "pedestrian accessway" located in Cliff Street, Sorrento. One option to be examined is that of closure."

The applicant's most recent request for closure of the portion of road adjoining the rear of his property was considered by Council at its meeting of 25 July 2000 (Item CJ193-07/00 refers) and it was resolved that Council:

- "1 DOES NOT SUPPORT the closure of the road between lot 151 (88) cliff street and lot 113 (31) marine terrace, sorrento, but advises the petitioners that the matter will be considered again following the consideration of the city's proposed local housing strategy;*
- 2 REQUESTS that the local housing strategy is completed and a report presented to council by November 2000."*

Previously, at its meeting of 21 December 1994, Council resolved not to support the closure of the subject portion of road (Item I21225 refers). The report stating that closure of a small portion of the laneway would set an undesirable precedent.

DETAILS

Current Proposal or Issues

There are three matters to consider in respect of the subject laneway:

- the City's Local Housing Strategy;
- the results of the City's consultation with adjoining landowners to the laneway system in Sorrento/Marmion; and
- the applicant's request for closure of the portion of laneway at the rear of his property, which has the support of the owners of Lot 113 (31) Marine Terrace, Sorrento

Local Housing Strategy

As part of Council's resolution of 25 July 2000, it stated that a "*Local Housing Strategy is completed and a report presented to Council by November 2000.*"

A presentation was made at Council's Strategy Session dated 12 November 2002 outlining the progress of the City of Joondalup Housing Strategy and results of a public questionnaire in relation to the current and future use of rear laneways in Sorrento and Marmion. The presentation identified the purpose of the housing strategy, its origins and what it consists of. Council was advised that the Housing Strategy is incomplete in its current form and that the City identifies that the Housing Strategy in its current form may be used as a reference for any future Housing Strategy that may be undertaken in conjunction with the review of DPS2.

Public Consultation on Laneways in Sorrento and Marmion

During the preparation of the City of Joondalup Housing Strategy it was highlighted that the laneways in Sorrento and Marmion presented an opportunity for further residential development in future.

The City began its preliminary investigations by forwarding a detailed questionnaire to all landowners whose properties abutted the laneways bounded by West Coast Drive, Marine Terrace, Ford Street and Clontarf Street.

The objective of the questionnaire was to obtain feedback from residents on how the laneways are used and whether or not the community would be interested in considering further development. The responses would indicate whether or not the City undertake a more detailed examination of the opportunities and constraints to further developing the laneways. Examination of the returned questionnaires for the subject laneway has indicated that many of the adjoining landowners would be "interested" in looking at future development.

Request for Closure of a Portion of the Laneway at the Rear of Lot 151 (88) Cliff Street, Sorrento

Council did not support the applicant's first request for closure in December 1994 and the second request, which was accompanied by a petition that indicated 29 out of 32 property owners adjoining the laneway supported the closure, was also not supported. However, as part of the resolution it was stated that Council would consider the matter again once the Local Housing Strategy was considered.

The applicant's justification at the time was that the area was overgrown and had a dangerous slope down to the footpath level, with rotting sleepers on the Cliff Street frontage. If the request for closure was supported, the applicant intended to use the land for the development of a garage. The applicant's proposed use for the land has not changed.

As a further justification for closure, the applicant advised that he considers it highly unlikely that the laneway can ever be used as a through road without costly retaining work due to the undulating levels. (See Attachment 3 to this report). A through road would also create a dangerous intersection and be against the wishes of most of the residents whose properties adjoin the laneway as highlighted on the petition provided with his second application.

Temporary Footpath

Since the applicant's last request, and whilst the City has been consulting with adjoining landowners to the laneways and undertaking a Local Housing Strategy, a temporary footpath has been constructed. This was to aid pedestrian and cyclist access as even though the area was overgrown, it was still being used by pedestrians and cyclists for access purposes.

The applicant finds this course of action unsatisfactory, as he stated that the construction of the temporary footpath was a costly exercise and the result of a singular complaint from a local resident. The action was also premature, as he stated there is an ongoing issue with the laneway since his first application in 1994 and part of Council's resolution of July 2000 indicated his application would be considered again once Council had considered the Local Housing Strategy.

The applicant also states, that the new footpath has created further problems, as on two occasions, vehicles have endeavoured to drive over the newly constructed footpath into Cliff Street and ended up on the steps. This is notwithstanding that on entry to the laneway there are "No Through Road" signs.

Statutory Provision:

The subject laneway is, in fact, a road and under Section 58 of the Land Administration Act 1997, closure of a portion of road is required to be advertised for 35 days by way of a notice in a local newspaper. Any objections received during the advertising period are to be considered by Council and if the closure is supported, all associated submissions are to be forwarded to the Department of Land Administration (DOLA). DOLA also requires other supporting documentation to be provided, such as confirmation that the Department for Planning and Infrastructure (DPI) does not object to the proposal.

Should the application be supported for closure, DOLA determines the purchase price, arranges any easements and survey/graphic requirements and undertakes conveyancing. The purchase price is fixed by DOLA in consultation with the Valuer General.

COMMENT

On 20 June 2000, the applicant forwarded a petition to the City as part of his application to close the portion of laneway at the rear of his property. The applicant has requested that Council again considers this petition and that the delay by Council in acknowledging the petition be noted. However, the applicant's petition was considered by Council at its meeting on 25 July 2000 (CJ192-07/00 refers). It is stated in the report, "*The request for closure of the road adjoining the applicant's property was accompanied by a petition that indicated 29 out of 32 property owners adjoining the road supported the proposal.*"

The adjoining landowners to the laneway signed the petition in approximately June 2000. On 17 December 2001, the City forwarded a questionnaire with an accompanying letter that stated, "*The existence of a rear laneway may be of benefit to landowners in the future when considering the development and/or subdivision of their land.*" When adjoining landowners signed the applicant's petition in June 2000, they may not have been aware that the presence of the laneway could provide them with development potential.

Examination of the returned questionnaires for the subject laneway has indicated that many adjoining landowners would be "interested" in looking at future development. It appears that equipped with the knowledge that their properties may have development potential and the laneway would be instrumental to such development, many adjoining landowners have reconsidered, or they may have forgotten that they added their name to a petition some 18 months before. However, the fact remains, that there are now many adjoining landowners in this area that would not wish closure of this portion of laneway, as it may restrict their future development potential. The applicant would not be aware of this situation, as the results of the questionnaires have not yet been publicised.

It is also worth noting that the DPI would be required to support any proposal for closure. In regards to the 1994 application when the then State Planning Commission were asked to comment it advised that it did not support the closure, as the subject land is part of an established laneway system and closure may limit future options to use the land as part of the system and facilitate redevelopment of the large lots.

Closure of this portion of laneway would restrict any future potential for subdivision of the lots adjoining the subject laneway. It could also set a precedent for other requests for closure throughout this locality, creating an ad-hoc approach to planning of the area. Closure would also deny pedestrians and cyclists access to Cliff Street at this location, given the laneway is being used by pedestrians and cyclists as a critical link to the surrounding road system.

With regard to some cars endeavouring to use the newly created footpath as a "through road", more appropriate signing or the use of traffic treatments could be investigated to prevent this. It is recommended that bollards be installed.

The responses received from the questionnaires and investigation undertaken to date in regards to the Local Housing Strategy, including Council's general consensus at the strategy session to pursue the laneways study indicates that there is good argument for leaving the laneway open. It is also recommended the upgrade of the subject section of laneway and including all the laneways bounded by West Coast Drive, Marine Terrace, Ford Street and Clontarf Street, Sorrento be further investigated in a separate laneway study.

VOTING REQUIREMENTS

Simply Majority

MOVED Cr O'Brien, SECONDED Cr Kimber that Council:

- 1 DOES NOT SUPPORT the closure of the portion of laneway between Lot 151 (88) Cliff Street and Lot 113 (31) Marine Terrace, Sorrento;**
- 2 PROCEEDS with the laneway study for the area bounded by West Coast Drive, Marine Terrace, Ford Street and Clontarf Street, Sorrento;**
- 3 INSTALLS bollards in the subject portion of laneway to prevent vehicles from accessing Cliff Street; and**
- 4 ADVISES all signatories to the petition of Council's resolution.**

The Motion was Put and

CARRIED (11/1)

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Kenworthy, Kimber, Nixon, O'Brien, Rowlands and Walker **Against the Motion:** Cr Patterson

Appendices 17 & 17(a) refer

To access this attachment on electronic document, click here: [Attach17brf250303.pdf](#)
[Attach17abrf250303.pdf](#)

CJ074 - 04/03 UPDATED REPORT REGARDING THE REDEVELOPMENT OF THE CRAIGIE LEISURE CENTRE – [09050]

WARD - Pinnaroo

PURPOSE

To retain the date of the closure of the aquatic facilities at the Craigie Leisure Centre as 5 May 2003, as per the Council Resolution on 11 March 2003.

EXECUTIVE SUMMARY

At its meeting on 11 March 2003, the Council resolved to close the Aquatic Facilities at the Craigie Leisure Centre as of 5 May 2003. This decision was based on the end of the school holiday period and in recognition of the anticipated down turn in pool usage as a result of the pool's impending closure. By selecting a suitable date for the closure of the aquatic facilities the City is in a position to manage the closure process and reduce the risk of forced closure due to operational failure.

As part of the Craigie Leisure Centre redevelopment project the City had made an application for capital funding from the State Government Community Sport & Recreation Facilities Fund (CSRFF) Program. The Department of Sport and Recreation has subsequently advised the City that its application for support for this project has not been successful.

It is recommended that the closure of the aquatic facilities at the Craigie Leisure Centre continue to be pursued in accordance with the Council's existing decision.

The investigations of options for the redevelopment and refurbishment are at a stage that will allow Council to be provided with concept plans, associated costings and potential funding strategies. This information will facilitate the Council's decision making process.

BACKGROUND

The Craigie Leisure Centre has been identified as requiring major capital redevelopment and refurbishment works in order to replace obsolete and worn equipment and to improve facility standards to meet community expectations and user demands. As such, the City of Joondalup is progressing a program of identifying redevelopment options for the Craigie Leisure Centre.

This program has included:

- Establishing the Craigie Leisure Centre Working Group;
- Completing a needs assessment by an external consultant (A Balanced View Leisure Consultancy) including extensive community consultation;
- Engaged the services of Clifton Coney Stevens as project managers;
- Engage Architectural firm James Christou and Partners to commence concept design work and further consultation; and
- Evaluate the redevelopment of the Craigie Leisure Centre as one of the City's recognised corporate projects.

The project has evolved as two separate components:

The Closure of the Craigie Leisure Centre Aquatic Facilities

At the meeting of the Council on 11 March 2003 it was resolved that the Council endorse the closure of the Craigie Leisure Centre aquatic facilities as of 5 May 2003. This resolution was as a result of some Councillors desire to ensure that the aquatic facilities were available to the community for the duration of the May school holiday period.

The Development Project

At the Council meeting on 18 February 2003, it was resolved by the Council that the City engage James Christou & Partners for the purpose of providing design team services for the Craigie Leisure Centre.

The development program has scheduled concept designs, project costings (including options costings) and proposed funding strategies to be presented at the May 2003 Council Meeting.

DETAILS

As part of the Craigie Leisure Centre redevelopment project the City applied for \$1.5m funding assistance from the Department of Sport and Recreation CSRFF Program. The Department of Sport and Recreation has advised the City that this is unsuccessful.

The decision by the State Government was that:

“refurbishments of this scale as expected within facilities such as Craigie Leisure Centre are seen to be an aspect of asset management which is the responsibility of the facility owner.”

The Department of Sport & Recreation also advised that they were not supportive of the Squash element of the Craigie Leisure Centre application due to the proximity of other squash providers to the Craigie Leisure Centre.

The implications of the CSRFF decision will be considered by Council when the development options, project costings and funding strategies are presented in May by the Project Team and Architect.

In the report regarding the closure of the aquatic facilities agreed to by the Council on 11 March 2003, the following recommendation was presented by the Council Officers, that:

“From an operational perspective the closure of the Aquatic Facilities at the Craigie Leisure Centre as of 17 April 2003 was a prudent decision. Because of the nature of aquatic facilities, costings regarding the operation of the facilities indicated in table 1 are relatively fixed. It is also reasonable to expect reduced attendance at the aquatic facility as time progresses as individuals will seek alternative and hopefully temporary locations to undertake their activities.”

TABLE 1

| <i>Item</i> | <i>Cost</i> | | <i>Attendances – 02</i> | <i>Income 02</i> |
|------------------------------------|--------------------|--|-------------------------|------------------|
| Lifeguards | \$19,000.00 | | 8697 – April | \$20,823.00 |
| Supervisor | \$ 2,500.00 | | 7627 – May | \$18,752.00 |
| Insurance | \$ 500.00 | | 6408 – June | \$15,759.00 |
| Utilities | \$24,000.00 | | 6572 – July | \$17,307.00 |
| Chemicals | \$ 1,200.00 | | 6571 – August | \$17,493.00 |
| CSO's | \$ 1,500.00 | | 7479 – September | \$18,599.00 |
| Maintenance | \$ 3,000.00 | | 9542 - October | \$22,998.00 |
| Cost Per Month Not Incurred | \$51,700.00 | | 10229 - November | \$23,454.00 |

“Whilst there would be some frustration expressed as to the closure of the aquatic facilities at this time, because the perceived lack of action in the area of redevelopment works, for a number of reasons it is the best decision for Council to make as:

- 1 There will be financial savings because of the expected lower than desired attendances.***
- 2 There is potential to commence decommissioning works within a relatively short space of time and that time is convenient to the City and any appointed contractor.***
- 3 There will be reduced operation risk of an unexpected closure due to plant or facility failure.”***

The above situation as expressed by Council Officers remains pertinent. The scope and staging of any future works to be undertaken at the Craigie Leisure Centre may change in accordance with available funding. However, the initial stages of the development program, the concept design and project costings need to continue in order for necessary information to be tabled and to facilitate the Council’s decision making process.

The previous decision of Council to close the facility has now been actioned with the key attendance areas of revenue for the aquatic facility now being temporarily relocated to other facilities. To now keep the aquatic facility open would result in the City continuing to incur operational expenditure (that is relatively fixed and relatively high), whilst income from the aquatic facilities would be greatly diminished. The net result is that the City will incur an increasing operational shortfall.

COMMENT

The City is committed to the need for some level of improvement works to be undertaken at the Craigie Leisure Centre. The extent of these works will be considered by Council in May on the receipt of concept designs, project budgets and funding strategies.

The scope of the costs that face the Council with regard to the Craigie Leisure Centre aquatic facilities redevelopment is being determined by the Project Team in conjunction with the Architect. There is a need to pursue investigations of redevelopment works at the facility in line with previous Council decisions.

Significant to the officer’s recommendation is that following the date of 5 May 2003, if the aquatic facilities continue to operate the City is likely to incur significant additional operational costs per month due particularly to the lack of regular user groups. There is also a need to consider sustainability to the plant room and pool basin, which is uncertain. Failure by any of the aquatic facility components could see the City incur additional cost as well as decreased customer confidence. The operational costs incurred on a monthly basis represent indirectly a loss to the project development funding that may be contributed toward the Craigie Leisure Centre Aquatic Facility refurbishment project.

The lack of support by the Department of Sport & Recreation through the CSRFF for squash facilities based upon the proximity of other facilities has provided a clear direction to the City with regards to this element of the project. The matter of the Marmion Squash Club will now need to be dealt with as a separate issue.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Walker, SECONDED Cr Rowlands that:

- 1 Council REAFFIRMS its decision to close the aquatic facilities at the Craigie Leisure Centre as of 5 May 2003;**
- 2 a REPORT regarding the position of the Marmion Squash Club be presented to Council once there has been an opportunity to discuss the project further with the Club's Executive.**

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Kenworthy, Kimber, Nixon, O'Brien, Patterson, Rowlands and Walker

Cr Baker left the Chamber, the time being 2053 hrs.

CJ075 - 04/03 ALLEGED BAWDY HOUSE ACTIVITY – NO 16/7 DELAGE STREET, JOONDALUP – [56004]

WARD - Lakeside

PURPOSE

To report to Council on alleged bawdy house activities at No 16/7 Delage Street, Joondalup.

EXECUTIVE SUMMARY

Council resolved at its March 2003 meeting that investigations be conducted into an alleged bawdy house operating at No 7 Delage Street, Joondalup.

The premises were visited and the owner contacted in regard to the alleged activities.

It has determined that there is insufficient evidence to suggest any breach of the District Planning Scheme No 2 is occurring.

BACKGROUND

| | |
|-------------------------|----------------------------------|
| Suburb/Location: | No 16/7 Delage Street, Joondalup |
| Zoning: | DPS: Service Industrial |
| | MRS: Urban |

COMMENT

Councillor O'Brien's Notice of Motion, and the City's comments, are provided below:

- 1 *resulting from information, passed on by the Hon Tony O’Gorman MLA Member for Joondalup, on Friday morning 22nd November 2002, followed by an email from Mr Chris Terelinck at 16:12 hours on Tuesday 26 November 2002 and now upon the display of an advertisement in column (a) on page 135 of The West Australian Classifieds on Saturday 22 February 2003, Council REQUIRES the CEO to have Council’s Officers investigate whether bawdy house activities, as are described in Sections 209 and 213 of the Western Australian Criminal Code, are or could be, occurring at Unit 16 of number 7 Delage Street, Joondalup;*

The City is not empowered to investigate matters under the Criminal Code. The premises were visited on 27 February and the owner contacted to discuss the business operation.

- 2 *Council requires its Officers, to report back to next Full Council Meeting the detail of the Municipality’s Planning Approvals that are in place for Unit 16 of 7 Delage Street, Joondalup together with the results of the investigations related to paragraph 1 above;*

The premises at unit 16/7 Delage Street Joondalup were approved for the land use “therapeutic massage”. The premises are visited regularly for the purpose of spa testing, as the spa is used in the conduct of the business and falls within the

definition of a public pool, under the applicable Health Swimming Pool Regulations. The spa is not currently in use.

- 3 *if bawdy house activities are occurring at Unit 16/7 Delage Street, Joondalup the Council Officers are required to report back to Council any breach of any approvals currently in place for the said premises;*

There is insufficient evidence to suggest that the use of the premises breaches the provisions of Council’s DPS2.

- 4 *Council requires inspections by Council’s Environmental Health Officers to be incorporated in the investigative inquiry related to Paragraph 1 above and report back to Council any non compliance with Council’s Building and Health By-Laws and/or State Health Act and/or other Regulatory Provisions including all Planning Laws, and recommend to Council any remedial action;*

The Environmental Health Officers are not obliged or empowered to regulate or establish whether alleged prostitution activities are occurring.

- 5 *if any evidence or circumstances are revealed in the investigation that may require the State Police Force being informed of possible Criminal Code and/or Police Act offences occurring, that Council’s Officers are required to pass on such evidence and/or information to the Joondalup Police.”*

As a matter of practice, where City officers become aware of suspected illegal activities, the Police are advised of these observations.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rowlands, SECONDED Cr Kimber that Council NOTES the information provided in regard to the alleged bawdy house activity at No 16/7 Delage Street, Joondalup, and takes no further action in regard to this matter.

Cr Mackintosh entered the Chamber, the time being 2054 hrs.

The Motion was Put and

CARRIED (11/1)

In favour of the Motion: Crs Barnett, Carlos, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Patterson, Rowlands and Walker **Against the Motion:** Mayor Bombak

C39-04/03 MOTION TO GO BEHIND CLOSED DOORS

MOVED Cr Walker, SECONDED Cr Mackintosh that in accordance with clause 5.6 of the City's Standing Orders Local Law and Section 5.23 of the Local Government Act 1995, the meeting be held behind closed doors to enable consideration to be given to CJ076-04/03 – Town Planning Appeal – James Duff vs City of Joondalup – Appeal against Conditions – Lot 151 (16) Montague Way, Kallaroo, being a matter relating to legal advice, the time being 2058 hrs.

The Motion was Put and

CARRIED (10/2)

In favour of the Motion: Mayor Barnett, Bombak, Carlos, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, Rowlands and Walker **Against the Motion:** Crs O'Brien and Patterson

Members of the public and press left the Chamber at this point, the time being 2058 hrs.

Cr Baker entered the Chamber, the time being 2058 hrs.

CJ076 - 04/03 TOWN PLANNING APPEAL – JAMES DUFF VS CITY OF JOONDALUP – APPEAL AGAINST CONDITIONS – LOT 151 (16) MONTAGUE WAY, KALLAROO – [47250]

WARD - Whitfords

DETAILS

This Item Is Confidential - Not For Publication

A full report has been provided to Elected Members under separate cover.

MOVED Cr Rowlands, SECONDED Cr Mackintosh that Council **ACCEPTS** the mediated outcome in regard to the appeal against conditions for the proposed single dwelling at Lot 151 (16) Montague Way, Kallaroo as outlined in Confidential Report CJ076-04/03.

The Motion was Put and

LOST (4/9)

In favour of the Motion: Crs Kenworthy, Kimber, Mackintosh and Rowlands **Against the Motion:** Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Nixon, O'Brien and Patterson, Walker

C40-04/03

MOTION TO GO TO OPEN DOORS

MOVED Cr Walker, SECONDED Cr O'Brien that the meeting be now held with open doors, the time being 2120 hrs.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Patterson, Rowlands and Walker

Members of the public, press and staff entered the Chamber at this point. In accordance with the City's Standing Orders Local Law, the Chief Executive Officer advised the motion in relation to CJ076-04/03 – Town Planning Appeal – James Duff vs City of Joondalup – Appeal against Conditions – Lot 151 (16) Montague Way, Kallaroo had been LOST.

C41-04/03

ADJOURNMENT OF MEETING – [02154] [08122]

MOVED Cr Walker, SECONDED Cr Baker that in accordance with clause 5.1 of the City's standing orders local law, the meeting be adjourned for a period of five (5) minutes, the time being 2121 hrs.

The Motion to Adjourn was Put and

CARRIED (7/6)

In favour of the Motion: Mayor Bombak, Crs Baker, Carlos, Hollywood, Kimber, Nixon and Walker **Against the Motion:** Crs Barnett, Kenworthy, Mackintosh, O'Brien, Patterson and Rowlands

The Meeting RESUMED at 2131 hrs, the following being in attendance:

| | |
|----------------------|--------------------|
| J BOMBAK, JP | |
| Cr P KIMBER | Lakeside Ward |
| Cr A NIXON | North Coastal Ward |
| Cr J F HOLLYWOOD, JP | North Coastal Ward |
| Cr A WALKER | Pinnaroo Ward |
| Cr P ROWLANDS | Pinnaroo Ward |
| Cr T BARNETT | South Ward |
| Cr M O'BRIEN, JP | South Ward |
| Cr A L PATTERSON | South Coastal Ward |
| Cr G KENWORTHY | South Coastal Ward |
| Cr C MACKINTOSH | Whitfords Ward |

Officers:

| | |
|--|-------------|
| Chief Executive Officer: | D SMITH |
| Director Planning & Community Development: | C HIGHAM |
| Director, Infrastructure & Operations: | D DJULBIC |
| Director, Corporate Services and Resource Management: | P SCHNEIDER |
| Manager, Marketing, Communications & Council Support: | M SMITH |
| Manager Audit and Executive Services: | K ROBINSON |
| Acting Manager, Library & Information Services: | R HARDY |
| Manager Community Services: | G HALL |
| Publicity Officer: | L BRENNAN |
| Committee Clerk: | J AUSTIN |
| Minute Clerk: | L TAYLOR |

C42-04/03 COUNCIL DECISION – EN BLOC RESOLUTION NO 1

The following Items were then moved en-bloc – CJ060-04/03, CJ061-04/03, CJ063-04/03, CJ064-04/03, CJ065-04/03, CJ066-04/03, CJ069-04/03, CJ070-04/03, CJ071-04/03, CJ073-04/03.

**CJ060 - 04/03 FINANCIAL REPORT FOR THE PERIOD ENDING 28
FEBRUARY 2003 – [07882]**

WARD - All

PURPOSE

The February 2003 financial report is submitted to Council to be noted.

EXECUTIVE SUMMARY

The February 2003 report shows a variance of \$7.5m when compared to the budget for the year to date.

This variance can be analysed as follows-

- The **Operating** position shows an actual operating surplus of \$16.4m compared to a budgeted operating surplus of \$13.5m at the end of February 2003, a difference of \$2.9m, due mainly to the early receipt of state government road grants and an underspend in materials and contracts and employee costs for the year to date.
- **Capital Expenditure** for the year to date is \$1.3m compared to budgeted expenditure of \$1.7m as at the end of February 2003, a difference of \$0.4m. This is due mainly to computer equipment required for the Oracle upgrade that has been purchased but will not be paid for until March 2003. In addition, the purchase of some computer equipment (mainly replacement computers) has been directed to operating expenditure, as it was less than the required \$2,000 for capitalisation.

Capital Works expenditure for the year to date amounted to \$6.3m against a budget of \$10.5m, an under spend of \$4.2m as at the end of February 2003. However, the City has committed expenditure through raised purchase orders of \$1.4m. Several projects to the value of \$1.2m (Sorrento beach foreshore, Craigie leisure centre and Mullaloo / coastal foreshore works) are in the planning and approval stages and construction has not yet commenced.

A number of contract projects to the value of \$1.3m (Shenton Ave road works, Collier Pass carpark, Grand Blvd traffic treatment and additional Blackspot projects) have not yet commenced works.

DETAILS

The financial report for the period ending 28 February 2003 is appended as Attachment A to this Report.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rowlands, SECONDED Cr Patterson that the Financial Report for the period ending 28 February 2003 be NOTED.

The Motion was Put and

**CARRIED BY
EN BLOC RESOLUTION NO 1 (10/1)**

In favour of the Motion: Mayor Bombak, Crs Barnett, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, Patterson, Rowlands and Walker **Against the Motion:** Cr O'Brien

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4brf250303.pdf](#)

**CJ061 - 04/03 PADBURY PRE-SCHOOL LEASE RENEWAL -
 [07801]**

WARD - Pinnaroo

PURPOSE

To seek Council approval for the City of Joondalup to renew the Padbury Pre-School Lease with the Padbury Kindergarten Inc.

EXECUTIVE SUMMARY

The Lease to Padbury Kindergarten Inc., of the premises at 2 Caley Street Padbury, has expired. However, the Pre-School has a continuing requirement for the premises, remains in occupation and has applied for a new lease.

In view of the continued requirement and occupation by the Padbury Kindergarten Inc., it is recommended that a new lease be approved by Council.

BACKGROUND

Suburb/Location: Padbury
Applicant: Padbury Kindergarten Inc.
Owner: City of Joondalup
Zoning: **DPS:** DPS2 – Residential R20
MRS: Urban

DETAILS

Strategic Plan: The proposed lease renewal is aligned to the Strategic Plan in that it provides social opportunities that meet community needs as outlined in objectives 1.3 of the Strategic Plan.

Over a number of years the former City of Wanneroo purpose built early childhood venues to meet the needs of local people in line with regional development. The subject premises is one of these venues.

On 1 January 1998 Padbury Kindergarten Inc. was granted a peppercorn rent (\$1.00) lease for the whole of Lot 699 (2 Caley Street) Padbury, which is shown hatched on Attachment A.

The Padbury Kindergarten Inc. lease expired on 31 December 2002, and it has requested a new lease be granted in line with the City's Standard Community Lease for a 5-year term.

The essential points in this agreement are as follows:

- 1 Term of 5 years commencing on 1 January 2003
- 2 Rental being \$1.00 (Peppercorn) per annum
- 3 Lessee shall be responsible for maintenance, repairs, outgoings and legal costs
- 4 Purpose of lease being "Kindergarten"
- 5 All other clauses will be similar to the existing lease

The subject Lease comprises the whole of the land and buildings at 2 Caley Street, Padbury. The land is legally described as Lot 699 on Diagram 48587 held in Certificate of Title Volume 1416 Folio 571.

As this facility is situated on land held in freehold by the City, no approval by the Minister for Lands is necessary to renew this Lease.

Statutory Provision:

The Lessee and the purpose independently qualify this Lease as an exempt disposition under Regulation 30(2)(b)(i) of the *Local Government (Functions and General) Regulations 1996*. Accordingly, there is no need to comply with the disposal conditions as provided by Section 3.58 of the Local Government Act, 1995.

Consultation:

The Padbury Kindergarten Inc. was consulted and the content of the City's Standard Community Lease was explained in detail.

Policy Implications:

There are no policy implications concerning this Lease.

Financial Implications:

The City currently has four of these purpose built early childhood venues under lease for a peppercorn rental. It was not the intention that commercial rental be charged for any of these premises when utilised for the original purpose.

As the Lease will be in the form of the City's Standard Community Lease there will be no cost to the City for maintenance, repairs and outgoings.

COMMENT

The facility is currently used as a playgroup centre for the benefit of pre-school children Mondays to Fridays during the hours of 9.00am to 3.00pm.

Funding for the Kindergarten is limited to term fees charged, various fund raising activities and voluntary contributions from the parents, but this could be augmented by the Kindergarten exercising the "Use by Others" clause on the weekends. Although there is limited opportunity for use by others due to heavy use by the Lessee, there remains the need for the purpose to include "Other Community Purposes" to accommodate any future change in intensity of use by the Lessee.

An inspection of the premises was conducted on 5 March 2003 and it was established that the Lessee had complied with all obligations under the Lease.

In view of the continued requirement for the Kindergarten and the agreement by the Lessee to lease the facility in line with the City's Standard Community Lease, it is recommended that the application be approved.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rowlands, SECONDED Cr Patterson that Council APPROVES leasing the Kindergarten Centre at 2 Caley Street Padbury to the Padbury Kindergarten Inc. subject to:

- 1 the Lease being for a 5 year period commencing 1 January 2003;**
- 2 the rental being \$1.00 per annum;**
- 3 the Lease being for the purpose of a ‘Kindergarten and Other Community Purposes’;**
- 4 maintenance, repairs, outgoings and all legal costs associated with the Lease being met by the Padbury Kindergarten Inc.;**
- 5 the signing and affixing of the Common Seal to the Lease between the City of Joondalup and the Padbury Kindergarten Inc.**

The Motion was Put and

**CARRIED BY
EN BLOC RESOLUTION NO 1 (10/1)**

In favour of the Motion: Mayor Bombak, Crs Barnett, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, Patterson, Rowlands and Walker **Against the Motion:** Cr O’Brien

Appendix 5 refers

To access this attachment on electronic document, click here: [Attach5brf250303.pdf](#)

CJ063 - 04/03 PETITION REQUESTING PRUNING OF LARGE EUCALYPTUS TREE AT ERINDALE ROAD, WARWICK – [06005]

WARD - All

PURPOSE

Residents of Erindale Road, Warwick submitted a Petition to the meeting of Council held on 18 February, 2003 requesting pruning of the large Eucalyptus trees in Erindale Road median due to the branches overhanging the road and excessive leaf litter affecting their properties. This report provides an assessment and response to Council.

EXECUTIVE SUMMARY

Erindale Road is a wide dual carriageway road in Warwick with a variety of mature Eucalyptus trees planted throughout the road median. Pruning of the limbs overhanging the road carriageway has been assessed and this work will be undertaken in March/April. Main Roads WA Pruning Clearance Guidelines will be applied for this work.

This report recommends that Council advises the petitioners that pruning of overhanging branches will be undertaken in accordance with Main Roads WA Pruning Clearance Guidelines.

BACKGROUND

Erindale Road Median was landscaped in 1976–78. Eucalypt trees were planted extensively throughout the median and surrounding residential streets. The median was irrigated in 1998 in accordance with Council’s Dry Park Median and Verge Committee recommendation and adopted by Council.

When assessing a verge tree, officers refer to Schedule 3.1 of the Local Government Act 1995 specifically:

Clause 8. “Remove all or part of a tree that is obstructing or otherwise prejudicially affecting a thoroughfare that is under the Local Government’s control or management and adjoins the land where the tree is situated.”

Clause 9. “Ensure that a tree on the land that endangers any person or thing on adjoining land is made safe.”

Main Roads W.A Guidelines recommend removal of all tree limbs to a height of 5 metres above the kerb line. Branches above this height can be retained if structurally sound.

DETAILS

The petition contains 18 signatures of residents in Erindale Road and one from Drakeswalk Road, Warwick and tabled at the 18 February 2003 meeting of Council.

The Petition requested.

- 1 Notes Council’s acceptance of responsibility for pruning street verge trees as per extract from Council’s Website.

“Pruning - The Council provides a verge tree pruning service to all ratepayers. Ratepayers should be aware that any trees planted on the verge become the responsibility of the Council. Therefore the Council has the right to remove trees that create a hazardous situation. Only approved species should be planted. ”

- 2 Uses the same standard of pruning for lopping the expansive growth of the median trees in Erindale Road, Warwick, where dangerous tree branches, overhanging the carriageway, have in recent years have snapped off and fallen on the roadway during storms, and more annoying to residents the excess leaf litter is causing a nuisance to residents in Erindale Road, properties.

The information provided on Council’s website refers to pruning of street verge trees and the petition relates to a Dual Carriageway Road Median of 26 metres in width. There are specific Main Roads WA Road Clearance Guidelines that will be applied when assessing the trees overhanging the road pavement. These guidelines require all tree limbs to a height of 5 metres to be pruned back to the road kerb line. Branches above this height can be retained if they are structurally sound and is good vigour.

Pruning of this material will have minimal impact on the extent of leaf litter as many of the existing trees are centrally planted. Eucalyptus cladocaylx is a large tree with a canopy spread of 10-15 metres. These tree types were selected in the landscape design to provide an avenue effect and to provide a visual balance with the large Tuarts naturally occurring in Warwick Open Space which borders Erindale Road median on the eastern side.

COMMENT

The problem of leaf litter has been a long-term issue for residents in all suburbs. Two reports were presented to Council in 2001 regarding this problem. Report No: CJ019–02/01 Verge Tree, 142 Waterford Drive Eucalypt on verge. Report No: CJ313–09/01 Petition – Removal of Pine Trees at 2 Leaside Drive.

In both instances, Council recommended retention of the tree. It should also be noted that the recommendation for Report No: CJ313–09/01 is currently being revisited by the residents involved.

Photographs are attached to assist Elected Members when assessing the petitioner's request. (See Attachment 1 to this Report).

Funding

The cost estimate for pruning, in accordance with the Main Roads WA Guidelines, by contractor is 3 days @ \$1,500 per day plus GST. All works are funded via the Operations Services Maintenance Account for Arterial Roads Medians and Verge Maintenance

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rowlands, SECONDED Cr Patterson that Council ADVISES the Petitioners that pruning of overhanging branches will be undertaken in accordance with Main Roads WA Pruning Clearance Guidelines.

The Motion was Put and

**CARRIED BY
EN BLOC RESOLUTION NO 1 (10/1)**

In favour of the Motion: Mayor Bombak, Crs Barnett, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, Patterson, Rowlands and Walker **Against the Motion:** Cr O'Brien

Appendix 7 (a) refers

To access this attachment on electronic document, click here: [Attach7abrf250303.pdf](#)

**CJ064 - 04/03 PETITION REQUESTING REMOVAL OF A TREE IN
FELGATE PLACE, WARWICK – [42835]**

WARD - All

PURPOSE

Council received a petition from residents in Felgate Place, Warwick requesting removal of a large eucalyptus tree on the verge of number 18 Felgate Place. This report provides an assessment and response to Council for determination.

EXECUTIVE SUMMARY

Council, at its ordinary meeting of 18 February 2003 received a petition requesting removal of an oversized tree on the verge of 18 Felgate Place, Warwick.

The tree is structurally sound and has a healthy growth appearance and therefore removal is not supported. The owner of 18 Felgate Way has confirmed that she does not support removal of the tree.

This report recommends that Council advises the Petitioners that removal of the large verge tree at number 18 Felgate Place is not supported.

BACKGROUND

The owner of 12 Felgate Place Warwick initially requested removal of the verge tree at 18 Felgate Place, on 21 December 1999.

The request was lodged due to the consistent shedding of leaves and bark material from this tree, which blows across the cul de sac and accumulates in the front area of 12 Felgate Place. This occurs during periods when south easterly winds are blowing.

Following discussions with the owner of 18 Felgate Place and their confirmation that retention of the tree was essential, no further action occurred. The owner of 12 Felgate Place again contacted the City in January 2003 and requested reconsideration of the initial assessment due to the increase in size of the tree. No other requests from residents have been received requesting removal or pruning of the tree at 18 Felgate Place.

The only other requests received were for street sweeping from the owner of 6 Felgate Place on 17 November 2001 and the owner of 12 Felgate Place contacted Operations Services regarding lighting in the path accessway on various occasions.

When assessing a verge tree, officers refer to Schedule 3.1 of the Local Government Act 1995 specifically.

Clause 8. “Remove all or part of a tree that is obstructing or otherwise prejudicially affecting a thoroughfare that is under the Local Government’s control or management and adjoins the land where the tree is situated.”

Clause 9. “Ensure that a tree on the land that endangers any person or thing on adjoining land is made safe.”

DETAILS

The Petition requests that Council:

- 1 *Removes the ‘oversize’ verge tree adjacent 18 Felgate Place, Warwick that is resulting in an excessive leaf litter problem for the resident owners of 12 Felgate Way, due to their home being located in the cul-de-sac end of Felgate Way, East of the tree; and*
- 2 *That Council is requested to replace the ‘oversize tree’ with a smaller more appropriate species as a ‘moderate’ sized verge tree.*

This Petition contains nine signatures from 8 residential properties in Felgate Place and was tabled at the Council meeting of 18 February 2003. There are two trees on the verge of 18 Felgate Place.

Verge Tree Details

Eucalyptus citriodora (lemon scented gum)

Age 25 – 28 years EST.

Height 25 – 30 metres.

Canopy spread – 8 metres and is predominately contained within the property and adjoining verge area.

Tree Two Details

Cupressus arizonica (conifer).

Age 12-14 year.

Height 8 metres.

Canopy cone shaped 6-metre spread at base.

Structurally sound.

12 Felgate Place is located across a cul de sac from 18 Felgate Place and would be affected during periods of strong winds, as his residential frontage is grass and brick paving. Additionally, with the elevated level of 12 Felgate Place, removal of the trees would significantly enhance his views to the west.

There are a number of verge trees within Felgate Place and two are large Eucalypts of similar size at number 16 and 18. The tree at number 16 is a Eucalyptus globulus – (Tasmanian Blue gum) which has a growth characteristic that results in high leaf litter distribution. Removal of this tree has not been requested.

A qualified Horticultural Officer, acting within set guidelines, has undertaken an assessment of dangerous trees. Removal of a tree will only occur if the tree is assessed as dead, dying, diseased or structurally unsound and unsafe to the general public.

The verge tree located at number 12 Felgate Place, Warwick is not considered dangerous nor structurally unsound and therefore removal is not supported. Refer to Attachment 2 of this Report for photographs of the tree.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rowlands, SECONDED Cr Patterson that Council ADVISES the Petitioners that removal of the large verge tree at number 18 Felgate Place is not supported.

The Motion was Put and

**CARRIED BY
EN BLOC RESOLUTION NO 1 (10/1)**

In favour of the Motion: Mayor Bombak, Crs Barnett, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, Patterson, Rowlands and Walker **Against the Motion:** Cr O'Brien

Appendices 8 & 8(a) refer

*To access this attachment on electronic document, click here: [Attach8brf250303.pdf](#)
[Attach8abrf250303.pdf](#)*

CJ065 - 04/03 AMENDMENT NO 16 TO DISTRICT PLANNING SCHEME NO 2 – [50539]

WARDS North Coastal, Lakeside and Marina

PURPOSE

Amendment No 16 to District Planning Scheme No 2 (DPS2) is brought before Council for consideration of initiation and adoption for the purposes of advertising.

EXECUTIVE SUMMARY

Amendment No 16 to DPS2 proposes to rezone and transfer the zonings of several properties (Attachment 1 to this Report).

The aim of the amendment is to bring the City's scheme into compliance with the recently approved Metropolitan Region Scheme (MRS) Omnibus Amendment No 5 and to correct the anomalies in relation to the DPS2 maps. This will ensure that the properties subject to the amendment are given their intended zoning so that they can be developed and/or protected under the provisions of DPS2.

It is recommended that the proposal be adopted for the purpose of advertising for a period of 42 days.

BACKGROUND

| | |
|-------------------------|---|
| Suburb/Location: | Various |
| Applicant: | N/A |
| Owner: | Various – refer Attachment 1 |
| Zoning: | Various – refer Attachment 1 |
| DPS: | Various – refer Attachment 1 |
| MRS: | Various – refer Attachment 1 |
| Strategic Plan: | <u>Key Result Area - Lifestyle</u> Strategy 2.1 – Rejuvenate our suburbs Strategy 2.3 – Foster opportunities for cultural development And involvement Strategy 2.6 – Promote and enjoy lifestyles that engender environmental, social and economic balance and sustainability. Promote and enjoy lifestyles that engender Environmental, Social and Economic balance. |

Previous Council Decisions

The Joint Commissioners, at the 9 November 1999 meeting, considered a request submitted by the landowners of Lot 71 Woodvale Drive, Woodvale, to rezone Lot 71 Woodvale Drive from Rural to Urban under the MRS. The Joint Commissioners resolved at this meeting to request the North West District Planning Committee to recommend to the Western Australian Planning Commission to amend the MRS to rezone Lot 71 Woodvale Drive, Woodvale, from Rural to Urban.

Council at its 26 February 2002 meeting (CJ041-02/02) considered Amendment No 1037/33 North West District Omnibus (No 5) to the MRS. The Amendment proposed amongst other things to rezone Lot 71 Woodvale Drive, Woodvale, from the Rural to the Urban zone. Council resolved at this meeting to support the proposed Amendment.

DETAILS

Current Proposal

Amendment No 16 to DPS2 proposes to rezone and transfer several properties (Attachment 1 to this Report). For ease of reference, the properties have been grouped into a number of similar proposals (refer to Attachment 1).

The Metropolitan Region Town Planning Scheme Act 1959 requires local government town planning schemes to be consistent with the MRS. The MRS Omnibus Amendment No 5 (No 1037/33 – North West Districts Omnibus), which was gazetted on the 14 January 2003, affects the following properties listed under proposals 1 – 4 (properties 1 – 28) as listed on Attachment 1 to this Report.

The portions of land listed under proposal 5 (properties 29-33) are not required to be rezoned or transferred as they are reserved land under the MRS. The DPS2 maps have to be amended to reflect these reservations and the properties are therefore included in the report for information only.

Proposal 1

Proposal 1 (Attachments 1 – 3 to this Report) affects Lot 71 Woodvale Drive, Woodvale and a portion of the public road in front of it. Under DPS2 this land is zoned ‘Rural’ and is not coded (no residential density code applies to the land).

Lot 71 is currently used for residential purposes and hosts a single residential dwelling.

The City has received a request from the agent representing the property owners to recode the property to R25 on the basis of the following justification:

- Due to the size of the property an R25 coding would allow the development of 6 villas/town houses at 349.5m² per dwelling.
- The proposed lot sizes are similar to the development abutting the subject lot along its southern side where the lot sizes vary from 299m² – 348.50m²
- There is a demand in the area for smaller accommodation by people who no longer require the big family home but wish to remain in Woodvale.

Proposal 2

This proposal affects two (2) properties number 3 and 4 on Attachment 1 and 4 to this Report. The purpose of this proposal is to rationalise the ‘City Centre’ zone to match existing subdivision patterns (cadastral boundaries).

Proposal 3

This proposal affects six (6) properties (5 – 10 Attachments 1,5 and 6 to this Report). The purpose of the proposal is to rationalize the ‘Other Regional Roads’ reservation for Joondalup Drive at its intersection with Hodges Drive/Grand Boulevard, Shenton Avenue and Moore

Drive. Essentially the reservation is more extensive than the current alignment of Joondalup Drive and the additional area is not required for future road widening or construction or other similar purposes. There is no longer a need to reserve the land for regional road purposes, as the roads are fully constructed.

The properties that are affected by these reservations are currently zoned and reserved under DPS2. With the reservation no longer required, it is proposed that the dominant zoning of the property in each instance be extended over the total property which in this case is residential.

Proposal 4

This proposal is a result of the rationalisation of the ‘Other Regional Roads’ reservations for Moore Drive and Burns Beach Road including its intersection with Marmion Avenue, to bring the ‘Other Regional Roads’ reservations in line with existing subdivision patterns (cadastral boundaries).

The properties (11 – 25, 27 & 28 on Attachments 1, 7 – 10 to this Report) that are affected by these reservations are currently zoned and reserved under DPS2. As the reservation is no longer required, it is proposed that the dominant zoning and coding (R20) of the property in each instance be extended over the whole property (as per the intent of proposal 3).

The properties numbered 26,29 and 30 are portions of road. Under the DPS2 all roads within the City area have a ‘residential’ zoning with a density coding of R20.

Proposal 5

This proposal affects five (5) properties (31-35 on Attachments 1, 11 – 13 to this Report), all of which have become reserved land under the MRS with the gazettal of Omnibus Amendment No 5. The District Planning Scheme is required to reflect the reservations of the MRS. The changes that will be made to the zoning map of DPS2 under this proposal are compulsory and do not constitute an amendment to the scheme and are included in this report for information only.

Proposal 6

Proposal 6 affects seven (7) properties (36 – 43 on Attachments 1, 14 – 20 to this Report). All of these properties were set aside at subdivision stage for parks and recreation purposes and have been developed as such. However, the scheme maps do not reflect this information accurately and the purpose of this proposal therefore is to correct the current scheme map anomalies.

Proposal 7

This proposal affects fourteen (14) properties (44 – 57 on Attachments 1, 21 – 29 to this Report), all of which are used for public purposes (drainage sumps or for the supply of water to surrounding residential properties). However, the scheme maps do not reflect this information accurately and the purpose of this proposal therefore is to correct current anomalies.

Statutory Provision:

The Town Planning Regulations 1967 set out the procedure for amendments to local government’s Town Planning Schemes. The procedure is summarised at Attachment 30 to this Report and the current stage of the amendment has been highlighted.

Section 35A (2) of the Metropolitan Region Town Planning Scheme Act 1959 requires the local government following an amendment to the MRS to initiate an amendment to its town planning scheme consistent with the MRS no later than 3 months after the date on which the amendment to the MRS has the force of law.

Consultation:

The Amendment is required under the Town Planning Regulations 1967 to be advertised for a period of 42 days.

Strategic Implications:

Proposal 1

The purpose of the rezoning and coding of Lot 71 Woodvale Drive is to facilitate residential development, which will assist in providing greater housing choice in the area.

Proposals 2 –7

The purpose of proposals 2 –7 is essentially one of housekeeping by bringing the DPS into compliance with the MRS, addressing current anomalies in the scheme maps and thereby bringing the zoning, coding and reservation of the affected land to reflect its current use or purpose. This accords with the City’s strategic plan.

COMMENT

Issues

Proposal 1

With the rezoning of Lot 71 Woodvale Drive from ‘Rural’ to ‘Urban’ under the MRS, its ‘Rural’ zoning under the DPS is no longer appropriate.

The property is surrounded by land zoned ‘residential’ along its southern and eastern side, and land with a dual zoning being ‘Rural’ and ‘Local Reserve - Parks and Recreation’. The proposed rezoning of the subject lot to ‘Residential’ is therefore considered to be appropriate.

The proposed density coding of R25 requested by the applicant is considered to be acceptable, as it will allow for a development that is compatible with the existing development in the area.

A density coding of R20 is recommended for the portion of Woodvale Drive that is affected by the rezoning. The proposed coding is in line with standard practice for zoning and coding of roads.

Proposals 2-7

The above proposals serve to make necessary corrections within the Scheme, where the scheme maps currently show zonings and codings that are not consistent with the intended used of the land in question.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rowlands, SECONDED Cr Patterson that Council:

1 in pursuance of Section 7 of the Town Planning and Development Act 1928, AMENDS the City of Joondalup District Planning Scheme No 2 for the purpose of:

(a) rezoning the following portions of land:

- **Lot 71 Woodvale Drive, Woodvale, from ‘Rural’ to ‘Residential’;**
- **Portion of Woodvale Drive, Woodvale from ‘Rural’ to ‘Residential’;**

- Reserve 45624 and a portion of Turn Ridge from ‘Unzoned’ to ‘Centre’;
- Pt Lot 250 (includes Cockatoo Ridge) from ‘Unzoned’ to ‘Centre’;
- Pt Lot 62 from ‘Unzoned’ to ‘Service Industrial’;
- Lot 100 Joondalup Drive from ‘Unzoned’ to ‘Centre’;
- Pt Lot 4 from ‘Unzoned’ to ‘Centre’;
- Unnamed portion of land – corner Joondalup Drive and Moore Drive from ‘Unzoned’ to ‘Residential’;
- Pt 1 Kennedy Drive, Joondalup from ‘Unzoned’ to ‘Centre’;
- Pt lot 107 Joondalup Drive from ‘Unzoned’ to ‘Service Industrial’;
- Pt Lot 166 from ‘Unzoned’ to ‘Public Use – Primary School’; and
- Reserve 45754 (Carlton Park) from ‘Unzoned’ to ‘Public Use – Parks and Recreation’.

(b) zoning the following to ‘Residential’:

- Lot 136 (23 and 25) Fairmont Place, Currambine;
- Lot 117 (18) Raffles Court, Currambine;
- Lot 116 (15) Raffles Court, Currambine;
- Lot 105 (9) Luxor Place, Currambine;
- Lot 104 (8) Luxor Place, Currambine;
- Lot 242 (38) Carlton Turn, Currambine;
- Lot 243 (40) Carlton Turn, Currambine;
- Lot 907 (34) Boynton Gardens, Iluka;
- Lot 923 (43) Boynton Gardens, Iluka;
- Lot 924 (45) Boynton Gardens, Iluka;
- Lot 925 (47) Boynton Gardens, Iluka;
- Lot 5 (4) Sorata Place, Currambine;
- Lot 7 (26) Arabella Mews;
- Portion of Arabella Mews;
- Lot 265 (22) Arabella Mews;
- Lot 266 (20) Arabella Mews;
- Portion of Ambassador Drive, Currambine; and
- Portion of Carlton Turn, Currambine.

(c) rezoning from the ‘Residential’ zone to ‘Local Reserve – Parks and Recreation’:

- Swan Location 14322 – Reserve 46668 Selkirk Drive, Kinross;
- Lot 91 Cranston Loop, Kinross;
- Reserve 45758 Swan Location 13479 Discovery Circuit, Iluka;
- Reserve 44451 Santiago Park Beaumaris Boulevard Ocean Reef;
- Lot 263 Negresco Turn Currambine (Negresco Park);
- Eastern portion of Swan Location 12639, Reserve 44910 (Christchurch Park);
- Reserve 42221 Ocean Parade Burns; and
- Reserve 45751 Mayflower Crescent, Craigie;

(d) rezoning from the ‘Residential’ zone to ‘Local Reserve – Public use’:

- Swan Location 13561 – Reserve 46179 Cayman Lane, Iluka;
- Loc 14550, Lochy Close, Kinross;
- Lot 1300, Lochy Close, Kinross;
- Reserve 46577, Swan Loc 14006 Kinross Drive, Kinross;
- Lot 194 Dunscore Way, Kinross;
- Reserve 43977 Kirkdale Turn, Kinross;
- Reserve 43967, Connolly Drive, Kinross;
- Reserve 44909, Christchurch Terrace, Currambine;
- Lot 628 Tyneside Grove, Currambine;
- Reserve 45765 Tyneside Grove, Currambine;
- Lot 264 Negresco Turn, Currambine;
- Reserve 44156, Yatala Close, Currambine;
- Reserve 44349, Shenendoah Mews, Currambine; and,
- Reserve 45764 Shenendoah Mews, Currambine.

(e) applying an:

- R25 density coding to Lot 71 Woodvale Drive, Woodvale
- R20 density coding to:
 - Portion of Woodvale Drive, Woodvale;
 - Unnamed portion of land enr Joondalup Drive and Moore Drive;
 - Lot 117 (18) Raffles Court, Currambine;
 - Lot 116 (15) Raffles Court, Currambine;
 - Lot 105 (9) Luxor Place, Currambine;
 - Lot 104 (8) Luxor Place, Currambine;

 - Lot 242 (38) Carlton Place, Currambine;
 - Lot 243 (40) Carlton Place, Currambine;
 - Lot 907 (34) Boynton Gardens, Iluka;
 - Lot 923 (34) Boynton Gardens, Iluka;
 - Lot 924 (45) Boynton Gardens, Iluka;
 - Lot 925 (47) Boynton Gardens, Iluka;
 - Lot 5 (4) Sorata Place, Currambine;
 - Lot 7 (26) Arabella Mews, Currambine;
 - Portion of Arabella Mews, Currambine;
 - Lot 265 (22) Arabella Mews, Currambine;
 - Lot 266 (20) Arabella Mews, Currambine;
 - Portion of Ambassador Drive, Currambine; and
 - Portion of Carlton Turn, Currambine

2 ACKNOWLEDGES that the District Planning Scheme No 2 zoning maps are amended in regard to the following properties:

- From ‘Residential zone’ to ‘MRS Reserve – Parks and Recreation’:

Reserve 45894 Waterview Drive, Woodvale;
Lot 45877 Waterview Crescent, Woodvale;

- **From ‘Urban Zone’ to ‘MRS Reserve – Parks and Recreation’ Reserve 45624 Lakeside Drive; and Pt Swan Location 412.**
- **From ‘Residential’ zone to ‘MRS Reserve – Public Purposes: Water Authority Western Australia’ Lot 46313 Loc 13547 Waterview Crescent, Woodvale.**

3 ADOPTS Amendment No 16 accordingly for the purposes of advertising for a period of 42 days.

The Motion was Put and

**CARRIED BY
EN BLOC RESOLUTION NO 1 (10/1)**

In favour of the Motion: Mayor Bombak, Crs Barnett, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, Patterson, Rowlands and Walker **Against the Motion:** Cr O’Brien

Appendices 9, 9(a) & 9(b) refer.

*To access this attachment on electronic document, click here: [Attach9brf250303.pdf](#)
[Attach9abrf250303.pdf](#) [Attach9bbrf250303.pdf](#)*

**CJ066 - 04/03 REVIEW OF RETAINING WALLS POLICY 3.1.7 -
SUBDIVISION – [05575]**

WARD - All

PURPOSE

To provide a reviewed policy in respect to the control of the height and bulk of subdivision retaining walls to ensure that the amenity and aesthetics of the urban environment is not compromised by the construction of inappropriate retaining wall structures (Attachment 1).

EXECUTIVE SUMMARY

The City’s retaining walls policy operates in recognition of the need to ensure that retaining walls do not detract from the aesthetics of the streetscape, conflict with the character of the built form nor impact adversely upon adjoining owners. The policy was adopted on 29 May 1996 and is due for review.

There is increasing concern relating to the apparent trend towards increasingly large scale retaining walls occurring in some subdivisions, particularly those in beachside localities, and instances where subdividers have erected retaining walls and fences as part of the subdivisional works without first applying for and receiving a building licence from the City.

Excessive earth working can have the cumulative effect of creating streets that are dominated by excessively high retaining walls resulting in unsafe, uninteresting and unattractive urban design outcomes. The need to exercise greater care and control is recognised and the impact minimised wherever possible.

The current policy was required to be reviewed as it does not adequately address current subdivision retaining wall related issues. The main policy modifications include definition changes and additions and expansion of the policy statements to provide additional detail in respect to the City's requirements for retaining wall design, height and where approval is required. Changes between the original policy and the new policy are shown in Attachment 2 in this Report.

The policy relates to retaining walls associated with the subdivision of land. Retaining walls erected to facilitate development are controlled under the provisions of the Residential Design Codes.

It is recommended that this policy be adopted for the purposes of advertising for a 21 day period.

BACKGROUND

Suburb/Location: All

Strategic Plan: Lifestyle Strategy 2.2 Rejuvenate our suburbs – Enhance standards of infrastructure to meet changing community needs and aspirations.

While recognising that it is often necessary to carry out cut and fill operations on sloping sites, the adverse impact on the residential amenity of the adjoining property owner and the streetscape is of concern.

In some cases, landowners have encountered problems with neighbours with respect to who should install and pay for boundary walls and are often reluctant to install retaining walls that should have been installed by the subdivider. Subdividers attempting to maximise lot potential or views, particularly upon naturally undulating sites, have previously constructed high retaining walls resulting in the relationship between streetscape amenity and visual security of the residential development being compromised.

The aim of the revised policy is to create awareness in regard to the height and scale of retaining walls having a significant impact on the character of residential areas, and should be minimised in height wherever possible.

DETAILS

The current policy was required to be reviewed as it does not adequately address current subdivision retaining wall related issues. The main policy modifications include definition changes and additions and expansion of the policy statements to provide additional detail in respect to the City's requirements for retaining wall design, height and where approval is required. Changes between the original policy and the new policy are shown in Attachment 2.

In all cases, where the natural ground levels are being altered, the owner(s) or person(s) making the alterations are responsible for the construction of retaining walls, which are required to be contained wholly within the boundaries of that lot.

Statutory Provision:

Clause 8.11 of DPS2 outlines the provisions with respect to the preparation of planning policies and amendments or additions to policies. Clause 8.11.3 outlines the procedures that are required to be followed in order for a policy to become operative.

Policy Implications:

The implications of the policy would be:

- The restriction and control of excessive earthworks in order to preserve, as much as practicable, the existing topography and amenity of the area affected by the proposed development.
- To ensure that the retaining wall height is appropriate for site conditions with consideration given to the stability and privacy of any adjoining properties.
- To minimise the effect of disturbance on any land and ensure that dangerous excavations are avoided, or where necessary, properly retained.

Strategic Implications:

The strategic implications of the policy would be to:

- Initiate, facilitate and promote best practices that deliver significant benefits to the community in terms of utilising the existing landform throughout the City of Joondalup to the best possible advantage, particularly for residential developments.
- Ensure that the amenity of existing and future development is not compromised by the approval of development that is inappropriate in respect of its height and bulk.

COMMENT

It is intended that the revised policy provide a flexible framework for the construction of subdivision retaining walls, which will allow for a wide range of housing types and residential environments.

The revised policy relates to subdivision retaining walls only, whereby retaining walls associated with building construction is controlled under the provisions of the Residential Design Codes.

The revised policy is generally consistent with the provisions contained within other similar Local Government subdivision retaining wall policies.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rowlands, SECONDED Cr Patterson that Council in accordance with Clause 8.11.3 of District Planning Scheme No 2 ADOPTS the reviewed ‘Retaining Walls – Subdivision’ Policy, as per Attachment 1 to Report CJ066-04/03 as a draft policy for the purposes of advertising for a period of twenty-one (21) days for public comment.

The Motion was Put and

**CARRIED BY
EN BLOC RESOLUTION NO 1 (10/1)**

In favour of the Motion: Mayor Bombak, Crs Barnett, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, Patterson, Rowlands and Walker **Against the Motion:** Cr O’Brien

Appendix 10 refers

To access this attachment on electronic document, click here: [Attach10brf250303.pdf](#)

CJ069 - 04/03 APPLICATION FOR THE CLOSURE OF THE PEDESTRIAN ACCESSWAY BETWEEN COOK AVENUE AND TAYLOR WAY, HILLARYS – [71522]

WARD - Whitfords

PURPOSE

The purpose of this report is for Council to consider the closure of the pedestrian accessway (PAW) between Cook Avenue and Taylor Way, Hillarys (see Attachment 1 to this Report).

EXECUTIVE SUMMARY

The City has received a request for closure of the subject PAW from an adjoining landowner. Two other adjoining landowners support the application, the fourth has not responded to any of the City’s correspondence. Justification for closure is repeated incidents of vandalism and anti-social behaviour.

The City’s Pedestrian Accessway Policy provides parameters for evaluation of the request for closure. This evaluation is composed of three parts, Assessing Urban Design, Nuisance Impact and Community Impact. The assessments are rated as low, medium or high and a recommendation made whether to support closure or not.

The Urban Design Assessment determines the importance of the PAW in the pedestrian movement network by analysing the impact closure would have on access to local community facilities within 400 metres. The Nuisance Impact Assessment assesses any evidence and information to determine the degree of anti-social behaviour being experienced and the Community Impact Assessment examines the information provided by surrounding residents to determine the PAWs level of use.

In this case, the Urban Design Assessment, Nuisance Impact Assessment and Community Impact Assessment are all rated as medium, low and medium respectively. Based on these ratings, the proposal accords with Case 5 of the Pedestrian Accessway Policy, therefore it is recommended that the closure of the PAW between Cook Avenue and Taylor Way, Hillarys not be supported.

BACKGROUND

An application to close the subject PAW was considered by Council previously on 24 February 1993 and refused. Reasons provided for closure were the same as those provided for the current application.

Report H20245 records that the former Department of Planning and Urban Development (currently the Department for Planning and Infrastructure) objected to the proposal stating that the PAW provided convenient access to the bus route along Cook Avenue. The report also states that the PAW was inspected and found to be in a generally neat and tidy condition with no evidence of fence damage, but there was graffiti.

| | |
|-------------------------|---|
| Suburb/Location: | Hillarys |
| Applicant: | Three adjoining landowners |
| Zoning: | DPS: Residential |
| | MRS: Urban |
| Strategic Plan: | Lifestyle – Strategy 2.6 Promote and enjoy lifestyles that engender environmental, social and economic balance |

DETAILS

Current Proposal or Issue

Three of the adjoining landowners support the closure of the PAW and agree to acquire the land and meet any costs and conditions associated with closure. Owners of the fourth property did not respond to any City correspondence. Telstra has service infrastructure within the PAW but has agreed to accept an easement.

The request for closure is based on incidents of vandalism and anti-social behaviour that adjoining landowners advised are associated with the PAW. Photographs were forwarded with the request for closure that indicated a degree of graffiti on a garage wall and rubbish build up that can occur in the PAW.

Site Inspection

A site inspection revealed that vision through the PAW could be improved if the overhanging trees were cut back. Rubbish did not appear to be a problem at the time of the inspection, but there was graffiti. Abutting fencing ranges from good to poor condition with some damage evident. The PAW does not have the benefit of lighting. (See Attachment 2 to this Report).

PAW Closure Process

A request can be made to close a PAW from an adjoining landowner and the City's Pedestrian Accessway Policy helps guide the process of evaluation. From the outset, the City must have some indication that some or all of the adjoining landowners are prepared to acquire the land within the PAW and pay all the associated costs and meet any necessary conditions. As part of the process, the service authorities are asked to provide details of any service plant that may be within the PAW that would be affected by the proposed closure and if it can be modified or removed to accommodate the request.

Prior to DOLA considering closure of a PAW it is necessary for the Department for Planning and Infrastructure (DPI) to support closure. As per the City's Pedestrian Accessway Policy, the City seeks the DPI's view but this is done only if Council supports an application. If the DPI does support the proposal then DOLA is requested to close the PAW. The final decision on a request for closure of a PAW rests with the Minister for Planning and Infrastructure.

Consultation

The proposal was advertised for thirty days from 11 October 2002 to 10 November 2002 by way of a notification sign at each end of the PAW and questionnaires forwarded to residents living within a 400-metre radius. Attachment Nos. 3 and 4 summarise the information from the returned questionnaires in relation to this application.

Policy Implications

This City's Pedestrian Accessway Policy has been prepared in accordance with clause 8.11 of the City of Joondalup's District Planning Scheme No 2, which allows Council to prepare policies relating to planning or development within the scheme area. The Policy provides guidance on the inclusion and design of PAWs in new subdivisions and assessment criteria for the closure of PAWs.

As part of the City's Pedestrian Accessway Policy, when closure of a PAW is requested, formal evaluation of the application is conducted. This evaluation is composed of three parts, Assessing Urban Design, Nuisance Impact and Community Impact. The assessments are rated and a recommendation made whether to support closure or not. Where points in the ratings do not match exactly with the assessment results, comments supporting the chosen rating will be provided in italics.

The Urban Design Assessment determines the importance of the PAW in the pedestrian movement network by analysing the impact closure would have on homes that are accessible within 400 metres to local community facilities. The Nuisance Impact Assessment assesses any evidence and information to determine the degree of anti-social behaviour being experienced and the Community Impact Assessment considers the information provided from the surrounding residents to determine the PAWs level of use.

COMMENT

Assessment and Reasons for Recommendation:

Urban Design Assessment

From information received in the returned questionnaires, the subject PAW is used to access various community facilities such as the local shopping centre and bus stops, with its main use being for exercise/social reasons. If the subject PAW is closed the walking distance to these facilities does not appear to increase significantly.

The main alternative routes would appear to either be Wild Road or Marmion Avenue and comments by users indicate that these alternative routes are unsuitable. Reasons provided are that it increases the walking distances and encourages walking along busier roads, especially in the case of Marmion Avenue. Although there are these alternative routes for users, 30 of the 42 users (71%) advised they would be inconvenienced if closure is supported. Based on the foregoing, a medium rating appears the most appropriate:

| Policy Parameters – Medium | Analysis Results |
|---|---|
| <ul style="list-style-type: none"> PAW provides a route to community facilities but not direct | <ul style="list-style-type: none"> This is supported |
| <ul style="list-style-type: none"> An alternative route exists but some inconvenience. | <ul style="list-style-type: none"> This is supported |
| <ul style="list-style-type: none"> PAW not designated as a ‘safe route to school’ or significant with regard to the bike plan. | <ul style="list-style-type: none"> This is supported |

Nuisance Impact Assessment

The Nuisance Impact Assessment is carried out by investigating any reported anti-social behaviour. Three of the four adjoining landowners support the application and agree to acquire the land and pay associated costs. Justification for closure is based on:

- Motorbikes and scooters ridden along the PAW
- Bottles and cans littering the PAW
- Harassment of an adjoining landowner’s dog
- Graffiti problem
- Needle packets left in PAW
- Children discarding food
- Numerous break-ins over the years to cars and homes
- Destruction of overhanging plants

Police and City Watch Information

City Watch was requested to undertake extra patrols to monitor the level of anti-social behaviour in the PAW. During the monitoring period, which was 23 April 2002 to 26 June 2002, 60 patrols were undertaken and there were not any incidents recorded.

Police information provided covered a period from January 2002 to January 2003 and no evidence suggests that the level of offences occurring in the area were higher in vicinity of the PAW than elsewhere in the suburb; burglary and graffiti reports were mainly recorded. Police records did not cover disturbances and unruly behaviour in the area.

Police and City Watch reports indicate that the problems encountered with the PAW do not appear to suggest that criminal activity or anti-social behaviour in and around the area of the PAW is any higher than other areas within the suburb. Graffiti appears to be the main problem and has been reported to the City by adjoining landowners and is evidenced in the PAW.

Comments in Returned Questionnaires

Of the 42 users of the subject PAW, 2 had witnessed anti-social behaviour and 10 users had witnessed vandalism. The main form of vandalism recorded was graffiti, fence damage, rubbish including broken glass, was also mentioned.

Based on the foregoing, it appears that the incidents recorded by the adjoining landowners are similar to that experienced in the surrounding area, with graffiti mainly being noted. Therefore the Nuisance Impact Assessment is rated low as per Policy 3.2.7 – Pedestrian Accessways:

| Policy Parameters – Low | Analysis Results |
|---|--|
| <ul style="list-style-type: none"> • Occurrence of criminal activity or antisocial behaviour similar to elsewhere in the suburb. | <ul style="list-style-type: none"> • This appears to be correct |
| <ul style="list-style-type: none"> • Types of offences are limited to antisocial behaviour | <ul style="list-style-type: none"> • Anti-social behaviour and other offences such as stealing and burglary also recorded in the vicinity |
| <ul style="list-style-type: none"> • The severity of antisocial behaviour is similar to elsewhere in the suburb | <ul style="list-style-type: none"> • This appears to be correct |

Community Impact Assessment

The proposal was advertised for thirty days from 11 October 2002 to 10 November 2002 by way of a notification sign at each end of the PAW and questionnaires forwarded to residents living within a 400-metre radius. Of the 78 questionnaires returned, the overall response with regard to the support, objection or indifference to the closure is:

| Supporters | Objectors | Neutral | Totals |
|----------------------------|---------------------------|--------------------------|---------------|
| Users of the PAW 9 | Users of the PAW 25 | Users of the PAW 8 | 42 |
| Non users of the PAW 14 | Non- users of the PAW 1 | Non users of the PAW 21 | 36 |
| Total Supporting 23 | Total Objecting 26 | Total Neutrals 29 | 78 |

A separate submission was received from a local resident strongly objecting to the closure advising that he uses the PAW daily and as he is in his mid-seventies, he is likely to use the PAW more so in the future when he no longer drives his car and uses public transport.

Attachment 4 to this report indicates the most common use and frequency of use the PAW is mainly used for. Exercise/social with access to shops and public transport also being quite significant.

The Community Impact Assessment falls between a high and medium rating, however medium appears more appropriate as under Policy 3.2.7 it is stated:

| Policy Parameters – Medium | Analysis Results |
|---|--|
| <ul style="list-style-type: none"> • Medium portion of respondents not in favour of closure (over 30%) | <ul style="list-style-type: none"> • Of the 78 respondents, 26 (33%) objected |
| <ul style="list-style-type: none"> • Moderate level of households using the PAW | <ul style="list-style-type: none"> • Of the 78 questionnaires received, 42 (54%) residents/families use the PAW |
| <ul style="list-style-type: none"> • Moderate portion of users inconvenienced by closure of the PAW (30-50%) | <ul style="list-style-type: none"> • Of the 42 users, 53.5% advised they would be inconvenienced by closure |

Final Assessment

The applicant has lived next to the subject PAW for a number of years and states that the PAW is an area where general rubbish is continuously being left. Damage to overhanging creepers and graffiti are also problems. He advises that over the period of time he has lived in the adjoining property, numerous break-ins to cars and homes have occurred. Information provided by the police covered one year only.

Comments by other supporters in the returned questionnaires are that if the adjoining landowners are experiencing any anti-social behaviour as a result of living by a PAW then it should be closed. Some supporters comment that all PAWs are a security risk and should be closed.

Eleven of the local residents that wished to remain neutral passed comments on their returned questionnaires with 7 acknowledging the usefulness of the PAW and the remaining 4 recognising that PAWs can be a problem for adjoining landowners.

Objections raised are that the PAW was included in the sub-division originally for the benefit of the local community and it does assist with convenient access to the bus stops on Cook Avenue and walking to Whitford City Shopping Centre. Some objectors consider that PAWs are important for the young, the elderly and those that do not have private transport. Alternative routes, especially Marmion Avenue, are not suitable for younger users due to traffic safety concerns. Based on the information in the returned questionnaires, on balance, the PAW does appear to be an asset overall to the local community.

The subject PAW is not considered to be attractive and would benefit from overhanging trees being cut back, a general tidy up and the graffiti targeted walls being addressed.

The City has a programme whereby in situations of continual graffiti damage, a mural can be painted on the targeted fences/walls thus discouraging further graffiti by vandals. It is recommended that the City investigate this as part of an alternative to closure as it may be of benefit. Another benefit to consider is lighting within the PAW, though as the PAW is only 3.2 metres wide, illumination within this narrower type of PAW may spill over to the adjoining properties.

City Watch conducting extra security patrols in the vicinity of the PAW in an effort to discourage perpetrators of graffiti and other anti-social behaviour such as using motorbikes through the PAW may also assist and this is also recommended. These actions may avoid the closure of a PAW that the community appears to value.

The result of each assessment is detailed below:

- Urban Design Medium
- Nuisance Impact Low
- Community Impact Medium

In accordance with Policy 3.2.7 – Pedestrian Accessways, the final assessment equates to a Case 5, which states that closure is not supported where urban design assessment for the PAW is considered of medium importance and both nuisance is considered medium or low and use is medium. Therefore it is recommended that the application to close the PAW between Cook Avenue and Taylor Way, Hillarys not be supported but other alternatives be considered.

VOTING REQUIREMENTS

Simply Majority

MOVED Cr Rowlands, SECONDED Cr Patterson that Council:

- 1 DOES NOT support the closure of the pedestrian accessway between Cook Avenue and Taylor Way, Hillarys;**
- 2 CONSIDERS the allocation of funds in the 2003/2004 budget for the purpose of a mural to be painted on graffiti targeted walls in the PAW between Cook Avenue and Taylor Way, Hillarys;**
- 3 prunes overhanging trees and conducts a general MAINTENANCE programme in the subject PAW;**
- 4 CONSIDERS the allocation of funds in the 2003/2004 budget for the installation of lighting in the pedestrian accessway; and**
- 5 DIRECTS extra City Watch patrols are undertaken in the vicinity of the PAW.**

The Motion was Put and

**CARRIED BY
EN BLOC RESOLUTION NO 1 (10/1)**

In favour of the Motion: Mayor Bombak, Crs Barnett, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, Patterson, Rowlands and Walker **Against the Motion:** Cr O'Brien

Appendices 13 & 13(a) refer

To access this attachment on electronic document, click here: [Attach13brf250303.pdf](#)
[Attach13abrf250303.pdf](#)

**CJ070 - 04/03 REQUEST FOR THE CLOSURE OF THE
PEDESTRIAN ACCESSWAY BETWEEN
FALLBROOK AVENUE AND LEMONGRASS
GROVE, WOODVALE – [65527]**

WARD - Lakeside

PURPOSE

The purpose of this report is for Council to consider the closure of the pedestrian accessway (PAW) between Fallbrook Avenue and Lemongrass Grove, Woodvale. (See Attachment 1 to this Report).

EXECUTIVE SUMMARY

The City has received a request for closure of the subject PAW from an adjoining landowner and the three other adjoining landowners also support the application. Justification for closure is repeated incidents of vandalism, anti-social behaviour and that the PAW is unsafe for pedestrians to use.

The City's Pedestrian Accessway Policy provides parameters for evaluation of the request for closure. This evaluation is composed of three parts, Assessing Urban Design, Nuisance Impact and Community Impact. The assessments are rated as low, medium or high and a recommendation made whether to support closure or not.

The Urban Design Assessment determines the importance of the PAW in the pedestrian movement network by analysing the impact closure would have on access to local community facilities within 400 metres. The Nuisance Impact Assessment assesses any evidence and information to determine the degree of anti-social behaviour being experienced and the Community Impact Assessment examines the information provided by surrounding residents to determine the PAWs level of use.

In this case, the Urban Design Assessment, Nuisance Impact Assessment and Community Impact Assessment are all rated as medium, low and medium respectively. Based on these ratings, the proposal accords with Case 5 of the Pedestrian Accessway Policy, therefore it is recommended that the closure of the PAW between Fallbrook Avenue and Lemongrass Grove, Woodvale not be supported.

BACKGROUND

| | |
|-------------------------|---|
| Suburb/Location: | Woodvale |
| Applicant: | Mr J Sinclair |
| Zoning: | Residential |
| DPS: | |
| MRS: | Urban |
| Strategic Plan: | Lifestyle – Strategy 2.6 Promote and enjoy lifestyles that engender environmental, social and economic balance |

DETAILS

Current Proposal or Issue

All four adjoining landowners support the application and three adjoining landowners agree to acquire the land and meet any costs and conditions associated with closure. The Water Corporation has service infrastructure within the PAW and the City has stormwater drainage, in both cases an easement is acceptable.

The request for closure is based on incidents of vandalism and anti-social behaviour that adjoining landowners advised are associated with the PAW. The applicant provided photographic evidence of certain anti-social occurrences and the level of rubbish build up and advised a “*bloody syringe*” was found in his garden, which he stated “*could have had serious life impacting consequences to us as a family.*”

Site Inspection

A site inspection revealed clear vision through the PAW, with power poles at either end. Rubbish did not appear to be a problem at the time of the inspection; there was a small amount of broken glass and some graffiti was evident. Eleven students from Woodvale Senior High School were seen using the PAW during the inspection. (See Attachment 2 and 3 to this Report).

PAW Closure Process

A request can be made to close a PAW from an adjoining landowner and the City’s Pedestrian Accessway Policy helps guide the process of evaluation. From the outset, the City must have some indication that some or all of the adjoining landowners are prepared to acquire the land within the PAW and pay all the associated costs and meet any necessary conditions. As part of the process, the service authorities are asked to provide details of any service plant that may be within the PAW that would be affected by the proposed closure and if it can be modified or removed to accommodate the request.

Prior to DOLA considering closure of a PAW it is necessary for the Department for Planning and Infrastructure (DPI) to support closure. As per the City’s Pedestrian Accessway Policy, the City seeks the DPIs view but this is done only if Council supports an application. If the DPI does support the proposal then DOLA is requested to close the PAW. The final decision on a request for closure of a PAW rests with the Minister for Planning and Infrastructure.

Consultation

The proposal was advertised for thirty days from 14 November 2002 to 14 December 2002 by way of a notification sign at each end of the PAW and questionnaires forwarded to residents living within a 400-metre radius. Attachment Nos. 4 and 5 summarise the information from the returned questionnaires in relation to this application.

Policy Implications:

This City's Pedestrian Accessway Policy has been prepared in accordance with clause 8.11 of the City of Joondalup's District Planning Scheme No 2, which allows Council to prepare policies relating to planning or development within the scheme area. The Policy provides

guidance on the inclusion and design of PAWs in new subdivisions and assessment criteria for the closure of PAWs.

As part of the City's Pedestrian Accessway Policy, when closure of a PAW is requested, formal evaluation of the application is conducted. This evaluation is composed of three parts, Assessing Urban Design, Nuisance Impact and Community Impact. The assessments are rated and a recommendation made whether to support closure or not. Where points in the ratings do not match exactly with the assessment results, comments supporting the chosen rating will be provided in italics.

The Urban Design Assessment determines the importance of the PAW in the pedestrian movement network by analysing the impact closure would have on homes that are accessible within 400 metres to local community facilities. The Nuisance Impact Assessment assesses any evidence and information to determine the degree of anti-social behaviour being experienced and the Community Impact Assessment considers the information provided from the surrounding residents to determine the PAWs level of use.

COMMENT**Assessment and Reasons for Recommendation:**Urban Design Assessment

From information received in the returned questionnaires, the subject PAW is used to access various community facilities such as local parks and schools, with its main use being for exercise/social reasons. If the subject PAW is closed, the walking distance to these facilities does not increase greatly.

The main alternative routes would appear to be Duffy Terrace and Fallbrook Avenue and comments by many users indicate that these alternative routes are unsuitable. Besides indicating that the alternative routes are longer, 5 users advised that Duffy Terrace is an unsatisfactory alternative for school children as it carries heavier traffic. Some users indicated the alternative routes meant walking uphill.

Eight of the users were concerned that the alternative route was less safe than using the PAW and a further 9 users viewed the alternative routes as taking longer to walk. Five users commented that the alternatives were suitable and made little difference to them. Although there are these alternative routes for users, 18 of the 28 users (64%) advised they would be inconvenienced if closure is supported. Based on the foregoing, a medium rating appears the most appropriate:

| Policy Parameters – Medium | Analysis Results |
|---|---|
| <ul style="list-style-type: none"> PAW provides a route to community facilities but not direct | <ul style="list-style-type: none"> It could be considered that the PAW provides a direct route to Parkside Park. |
| <ul style="list-style-type: none"> An alternative route exists but some inconvenience. | <ul style="list-style-type: none"> This is supported |
| <ul style="list-style-type: none"> PAW not designated as a ‘safe route to school’ or significant with regard to the bike plan. | <ul style="list-style-type: none"> This is supported |

Nuisance Impact Assessment

The Nuisance Impact Assessment is carried out by investigating any reported anti-social behaviour. All four landowners support the application and justification for closure is based on:

- Excessive noise after 9.00 pm
- Rubbish thrown over fences
- Letterboxes being vandalised
- Breaking and entering
- Attempted thefts (jumping over the fence)
- Graffiti problem
- Bloody syringe thrown over fence
- Drunken and disorderly youths using PAW as toilet
- PAW is no longer safe for children to use accessing schools

Police and City Watch Information

City Watch was requested to undertake extra patrols to monitor the level of anti-social behaviour in the PAW. During the monitoring period, which was 23 July 2002 to 17 September 2002, 79 patrols were undertaken and there were not any incidents recorded.

Police information provided advises, “...there has been no excessive anti-social behaviour reported at the above pedestrian accessway. A search of offences has been conducted and the main problem in the area appears to be traffic related.”

Comments in Returned Questionnaires

Of the 28 users of the subject PAW, 4 had seen graffiti in the PAW, 7 users advised they had seen broken glass and 1 user mentioned rubbish in the form of cans and bottles. One of the adjoining landowners mentioned on her returned questionnaire that her letterbox had been broken twice by drunken youths and broken bottles, food and rocks have been thrown over the fence into her garden and pool.

It appears from the evidence received from adjoining landowners, City Watch, the Police and users of the PAW that the incidents of anti-social behaviour in the PAW are similar to that occurring generally. There does not appear to be any excessive amounts of vandalism or anti-social behaviour occurring due to the existence of the PAW. Therefore the Nuisance Impact Assessment is rated low as per Policy 3.2.7 – Pedestrian Accessways:

| Policy Parameters – Low | Analysis Results |
|---|--|
| <ul style="list-style-type: none"> • Occurrence of criminal activity or antisocial behaviour similar to elsewhere in the suburb. | <ul style="list-style-type: none"> • This appears to be correct |
| <ul style="list-style-type: none"> • Types of offences are limited to antisocial behaviour | <ul style="list-style-type: none"> • This appears to be correct |
| <ul style="list-style-type: none"> • The severity of antisocial behaviour is similar to elsewhere in the suburb | <ul style="list-style-type: none"> • This appears to be correct |

Community Impact Assessment

The proposal was advertised for thirty days from 14 November 2002 to 14 December 2002 by way of a notification sign at each end of the PAW and questionnaires forwarded to residents living within a 400-metre radius. Of the 51 questionnaires returned, the overall response with regard to the support, objection or indifference to the closure is:

| Supporters | Objectors | Neutral | Totals |
|----------------------------|---------------------------|--------------------------|-----------|
| Users of the PAW 6 | Users of the PAW 18 | Users of the PAW 4 | 28 |
| Non-users of the PAW 14 | Non-users of the PAW 0 | Non-users of the PAW 9 | 23 |
| Total Supporting 20 | Total Objecting 18 | Total Neutrals 13 | 51 |

Frequency of use and the purpose of use are shown on Attachment 5 to this report. It appears the PAW is well used daily and mainly for exercise/social reasons with access to schools and parks also being significant.

A medium rating appears appropriate for the Community Impact Assessment, as under Policy 3.2.7 it is stated:

| Policy Parameters – Medium | Analysis Results |
|---|--|
| <ul style="list-style-type: none"> • Medium portion of respondents not in favour of closure (over 30%) | <ul style="list-style-type: none"> • Of the 51 respondents, 18 (35%) objected |
| <ul style="list-style-type: none"> • Moderate level of households using the PAW | <ul style="list-style-type: none"> • Of the 51 questionnaires received, 28 (55%) residents/families use the PAW |
| <ul style="list-style-type: none"> • Moderate portion of users inconvenienced by closure of the PAW (30-50%) | <ul style="list-style-type: none"> • Of the 28 users, 18 (64%) advised they would be inconvenienced by closure |

Final Assessment

Justification for closure by the applicants is repeated incidents of vandalism and anti-social behaviour, along with it being stated that, *“We feel the biggest issue regarding the laneway staying open is the SAFETY of EVERYBODY’S children as it no longer is a safe route to and from school.”* In the returned questionnaires, 1 of the 28 users advised that he had witnessed anti-social behaviour in the form of broken glass alcohol bottles and 8 of the 20 users witnessed vandalism, which was noted as broken glass, graffiti and rubbish in the PAW. A small amount of graffiti was observed at the time of the site inspection and arrangements have been put in place for the graffiti to be cleaned up.

Six non-users of the PAW and 4 users added comments to the questionnaires that indicated their support for closure of the PAW if it was in fact causing problems to the adjoining landowners.

The main comment provided from objectors is their concern for closure as the PAW is used by school children. Other comments were that higher fences or the use of lattice for privacy should be considered and improved lighting in the PAW.

The PAW is well used by local students as observed at the time of the afternoon site inspection. The students observed were from Woodvale Senior High School and it is fair to assume that only consulting with residents within 400 metres of the PAW would not

necessarily identify all of the students that use the PAW. Additional students could well live outside of the 400-metre catchment used for the distribution of questionnaires.

Notwithstanding the applicant's concerns in respect of the safety of users, by examining the overall information provided in respect to Nuisance Impact Assessment the level of anti-social behaviour and vandalism in the area does not appear to be any greater due to the existence of the PAW.

The result of each assessment is detailed below:

| | | |
|----------------------|---|--------|
| Urban Design | - | Medium |
| Nuisance Assessment | - | Low |
| Community Assessment | - | Medium |

In accordance with Policy 3.2.7 – Pedestrian Accessways, the final assessment equates to a Case 5, which states that closure is not supported where urban design assessment for the PAW is considered of medium importance and both nuisance is considered medium or low and use is medium. Therefore it is recommended that the application to close the PAW between Fallbrook Avenue and Lemongrass Grove, Woodvale not be supported.

VOTING REQUIREMENTS

Simply Majority

MOVED Cr Rowlands, SECONDED Cr Patterson that Council DOES NOT support the closure of the pedestrian accessway between Fallbrook Avenue and Lemongrass Grove, Woodvale.

The Motion was Put and

**CARRIED BY
EN BLOC RESOLUTION NO 1 (10/1)**

In favour of the Motion: Mayor Bombak, Crs Barnett, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, Patterson, Rowlands and Walker **Against the Motion:** Cr O'Brien

Appendices 14 & 14(a) refers

To access this attachment on electronic document, click here: [Attach14brf250303.pdf](#)
[Attach14brf250303.pdf](#)

CJ071 - 04/03 REQUEST FOR THE CLOSURE OF PEDESTRIAN ACCESSWAY BETWEEN CAMPBELL DRIVE AND EMPEN WAY, HILLARYS – [69527]

WARD - Whitfords

PURPOSE

The purpose of this report is for Council to consider the closure of the pedestrian accessway (PAW) between Campbell Drive and Empen Way, Hillarys. (See Attachment 1 to this Report).

EXECUTIVE SUMMARY

The City has received a request for closure of the subject PAW from three of the four adjoining landowners. The fourth adjoining landowner does not wish to be involved in the land or cost sharing arrangements but does not object to closure. Justification for closure is repeated incidents of vandalism and anti-social behaviour.

The City's Pedestrian Accessway Policy provides parameters for evaluation of the request for closure. This evaluation is composed of three parts, Assessing Urban Design, Nuisance Impact and Community Impact. The assessments are rated as low, medium or high and a recommendation made whether to support closure or not.

The Urban Design Assessment determines the importance of the PAW in the pedestrian movement network by analysing the impact closure would have on access to local community facilities within 400 metres. The Nuisance Impact Assessment assesses any evidence and information to determine the degree of anti-social behaviour being experienced and the Community Impact Assessment examines the information provided by surrounding residents to determine the PAWs level of use.

In this case, the Urban Design Assessment, Nuisance Impact Assessment and Community Impact Assessment are all rated as medium, low and medium respectively. Based on these ratings, the proposal accords with Case 5 of the Pedestrian Accessway Policy, therefore it is recommended that the closure of the PAW between Campbell Drive and Empen Way, Hillarys not be supported.

BACKGROUND

| | |
|-------------------------|---|
| Suburb/Location: | Hillarys |
| Applicants: | Three adjoining landowners |
| Zoning: | Residential |
| DPS: | |
| MRS: | Urban |
| Strategic Plan: | Lifestyle – Strategy 2.6 Promote and enjoy lifestyles that engender environmental, social and economic balance |

DETAILS

Current Proposal or Issue

Three of the adjoining landowners applied for closure and the fourth adjoining landowner supports the proposal but does not wish to be involved in the land or cost sharing arrangements. The service authorities advised that there is not any service infrastructure in the PAW to consider.

The applicants have requested closure as they consider there are alternative routes that are safer and more direct to community facilities and the PAW is a security problem for those living next to it. A petition of support that was signed by representatives from 9 homes in Campbell Drive and Empen Way was part of the application for closure.

Site Inspection

A site inspection revealed good vision through the PAW, although pruning of the overhanging trees at the Campbell Drive end of the PAW maybe of benefit. There was little evidence of rubbish, however, during the site inspection an adjoining landowner advised that both he and his neighbour clean the PAW on a regular basis. There was some graffiti on a garage wall and the City has since made arrangements to have the graffiti cleaned and the overhanging trees pruned. There are power poles at either end of the PAW. See Attachments 2 and 3 to this report.

PAW Closure Process

A request can be made to close a PAW from an adjoining landowner and the City's Pedestrian Accessway Policy helps guide the process of evaluation. From the outset, the City must have some indication that some or all of the adjoining landowners are prepared to acquire the land within the PAW and pay all the associated costs and meet any necessary conditions. As part of the process, the service authorities are asked to provide details of any service plant that may be within the PAW that would be affected by the proposed closure and if it can be modified or removed to accommodate the request.

Prior to DOLA considering closure of a PAW it is necessary for the Department for Planning and Infrastructure (DPI) to support closure. As per the City's Pedestrian Accessway Policy, the City seeks the DPI's view but this is done only if Council supports an application. If the DPI does support the proposal then DOLA is requested to close the PAW. The final decision on a request for closure of a PAW rests with the Minister for Planning and Infrastructure.

Consultation

The proposal was advertised for thirty days from 20 December 2002 to 19 January 2003 by way of a notification sign at each end of the PAW and questionnaires forwarded to residents living within a 400-metre radius. Attachment Nos. 4 and 5 summarise the information from the returned questionnaires in relation to this application.

Policy Implications

This City's Pedestrian Accessway Policy has been prepared in accordance with clause 8.11 of the City of Joondalup's District Planning Scheme No 2, which allows Council to prepare policies relating to planning or development within the scheme area. The Policy provides

guidance on the inclusion and design of PAWs in new subdivisions and assessment criteria for the closure of PAWs.

As part of the City's Pedestrian Accessway Policy, when closure of a PAW is requested, formal evaluation of the application is conducted. This evaluation is composed of three parts, Assessing Urban Design, Nuisance Impact and Community Impact. The assessments are rated and a recommendation made whether to support closure or not. Where points in the ratings do not match exactly with the assessment results, comments supporting the chosen rating will be provided in italics.

The Urban Design Assessment determines the importance of the PAW in the pedestrian movement network by analysing the impact closure would have on homes that are accessible within 400 metres to local community facilities. The Nuisance Impact Assessment assesses any evidence and information to determine the degree of anti-social behaviour being experienced and the Community Impact Assessment considers the information provided from the surrounding residents to determine the PAWs level of use.

COMMENT

Assessment and Reasons for Recommendation:

Urban Design

From information received in the returned questionnaires, the subject PAW is used mainly for exercise/social reasons. It is also used for access to the local parks and school. If the subject PAW is closed the walking distance to these facilities does not appear to increase significantly.

The main alternative routes would appear to either be Lymburner Drive and Abelson Way and comments by some users indicate that these alternative routes are unsuitable. Reasons provided are that closure of the PAW would increase existing walking distances and the alternative routes are less direct. For some users closure of the PAW would result in walking on streets without footpaths.

There are alternative routes for users, however, 10 of the 15 users (66.5%) advised they would be inconvenienced if closure is supported. Based on the foregoing, a medium rating appears the most appropriate for the Urban Design Assessment:

| Policy Parameters – Medium | Analysis Results |
|---|---|
| <ul style="list-style-type: none"> PAW provides a route to community facilities but not direct | <ul style="list-style-type: none"> This is supported |
| <ul style="list-style-type: none"> An alternative route exists but some inconvenience. | <ul style="list-style-type: none"> This is supported |
| <ul style="list-style-type: none"> PAW not designated as a 'safe route to school' or significant with regard to the bike plan. | <ul style="list-style-type: none"> This is supported |

Nuisance Impact Assessment

The Nuisance Impact Assessment is carried out by investigating any reported anti-social behaviour. All four adjoining landowners support the application and justification for closure by the applicants is based on:

- Using the alternative route (Campbell Drive into Lymburner Drive) is a safer, clearer and more direct route to community facilities
- There is no footpath when using the PAW from Empen Way and therefore this route is not as safe as pedestrians have to walk on the road
- Teenagers loiter in the PAW causing trouble
- Missiles thrown over fence from PAW into adjoining gardens
- PAW was used as access by a burglar breaking into an adjoining property
- Car graffitied
- Invasion of privacy with people/children looking over fence and tormenting pets

Police and City Watch Information

City Watch was requested to undertake extra patrols to monitor the level of anti-social behaviour in the PAW. During the monitoring period, which was 18 October 2002 to 17 December 2002, 70 patrols were undertaken and there were not any incidents recorded.

Police information provided covered a period of 1 January 2001 to February 2003 and it is advised that in that period, *“There were three reported offences from Empen Way, 25/01/2001 burglary, 31/03/2002 stealing from a vehicle, 24/05/2002 damage (on this occasion the complainant identified the offenders as using the access way).”*

Over the same period of time there was a greater number of offences reported in Campbell Way, however, this is a longer street. Within this two year period there were 6 reported burglaries, 2 stealing offences, 3 stealing from vehicles, one stealing of a vehicle and one stealing of registration plates. In one of the reported burglaries it was suspected the offenders may have accessed the rear yard via the lane way.

Within the same two-year period there were seven police attendances in Campbell and Empen Way for disturbance type matters. Two of these could be directly related to the access way, where someone had either jumped a rear fence or were creating a disturbance in the access way itself”.

Police and City Watch reports indicate that the problems encountered with the PAW do not appear to suggest that criminal activity or anti-social behaviour in and around the area of the PAW is any higher due to the existence of the PAW. The area overall is experiencing some level of crime/anti-social behaviour.

Comments in Returned Questionnaires

Of the 15 users of the subject PAW, 6 had witnessed graffiti and 3 users reported having seen broken glass, a broken fence and a drug implement in the PAW. One user provide a lengthy list of problems she attributed to the PAW, such as break-ins, stolen plants, graffiti, letter box damage, throwing of rocks, general rubbish and obscene language used by gangs of youths.

It appears from the evidence received from adjoining landowners, City Watch, the Police and users of the PAW that the incidents of anti-social behaviour that are noted in the PAW are

similar to that occurring generally. There does not appear to be any excessive amounts of vandalism or anti-social behaviour occurring due to the existence of the PAW. Therefore the Nuisance Impact Assessment is rated low as per Policy 3.2.7 – Pedestrian Accessways:

| Policy Parameters – Low | Analysis Results |
|---|---|
| <ul style="list-style-type: none"> • Occurrence of criminal activity or antisocial behaviour similar to elsewhere in the suburb. | <ul style="list-style-type: none"> • This appears to be correct |
| <ul style="list-style-type: none"> • Types of offences are limited to antisocial behaviour | <ul style="list-style-type: none"> • <i>Criminal offences have been recorded in the general area</i> |
| <ul style="list-style-type: none"> • The severity of antisocial behaviour is similar to elsewhere in the suburb | <ul style="list-style-type: none"> • This appears to be correct |

Community Impact Assessment

Of the 44 questionnaires returned, the overall response with regard to the support, objection or indifference to the closure is:

| Supporters | Objectors | Neutral | Totals |
|----------------------------|---------------------------|--------------------------|---------------|
| Users of the PAW 2 | Users of the PAW 10 | Users of the PAW 3 | 15 |
| Non users of the PAW 16 | Non- users of the PAW 2 | Non users of the PAW 11 | 29 |
| Total Supporting 18 | Total Objecting 12 | Total Neutrals 14 | 44 |

Attachment 5 to this report indicates the most common use and frequency of use and indicates the PAW is used mainly for exercise/social reasons and access to parks.

The Community Impact Assessment falls between a low and medium rating and the ratings for both as detailed under Policy 3.2.7 are detailed below. Comments are provided under ‘Analysis Results’ and on balance a medium rating appears appropriate.

| Policy Parameters – Medium | Analysis Results |
|---|---|
| <ul style="list-style-type: none"> • Medium portion of respondents not in favour of closure (over 30%) | <ul style="list-style-type: none"> • <i>Of the 44 respondents, 12 (27%) objected – short of the required 30%</i> |
| <ul style="list-style-type: none"> • Moderate level of households using the PAW | <ul style="list-style-type: none"> • <i>15 residents/families use the PAW – moderate level or low level?</i> |
| <ul style="list-style-type: none"> • Moderate portion of users inconvenienced by closure of the PAW (30-50%) | <ul style="list-style-type: none"> • <i>Of the 15 users, 10 (66.5%) advised they would be inconvenienced by closure – over 30-50% required</i> |

Final Assessment

From information received in the returned questionnaires, the subject PAW is used mainly for exercise/social reasons. It is also used for access to the local parks and school. If the subject PAW is closed the walking distance to these facilities does not appear to increase significantly. There are alternative routes for users, however, 10 of the 15 users (66.5%) advised they would be inconvenienced if closure is supported.

With regard to the Nuisance Impact Assessment, it is considered from the evidence gathered that the level of anti-social behaviour in the vicinity of the PAW is similar to that taking place in the general area.

The PAWs level of use is spread reasonably evenly from daily through to monthly, 4 residents/families use it daily. It could be argued that the level of use is low, however, under the City's PAW Policy 3.2.7, the Community Impact Assessment deals with the level of use and a low rating is detailed below; on balance, a medium rating appears to be the most appropriate.

| Policy Parameters – Low | Analysis Results |
|--|--|
| <ul style="list-style-type: none"> High number of residents in favour of closure (over 75%) | <ul style="list-style-type: none"> <i>Of the 44 respondents, 18 (41%) support closure – lower than the required 75%</i> |
| <ul style="list-style-type: none"> Low number of households using the PAW | <ul style="list-style-type: none"> <i>Of the 44 questionnaires received, 15 residents/families use the PAW – low or moderate?</i> |
| <ul style="list-style-type: none"> Few users inconvenienced by closure (less than 30%) | <ul style="list-style-type: none"> <i>Of the 15 users, 10 (66.5%) advised they would be inconvenienced by closure – does not meet the required parameter of less than 30%</i> |

In accordance with Policy 3.2.7 – Pedestrian Accessways, the final assessment equates to a Case 5, which states that closure is not supported where urban design assessment for the PAW is considered of medium importance and nuisance is considered medium or low and use is medium. Therefore it is recommended that the application to close the PAW between Campbell Drive and Empen Way, Hillarys not be supported.

VOTING REQUIREMENTS

Simply Majority

MOVED Cr Rowlands, SECONDED Cr Patterson that Council DOES NOT support the closure of the pedestrian accessway between Campbell Drive and Empen Way, Hillarys.

The Motion was Put and

**CARRIED BY
EN BLOC RESOLUTION NO 1 (10/1)**

In favour of the Motion: Mayor Bombak, Crs Barnett, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, Patterson, Rowlands and Walker **Against the Motion:** Cr O'Brien

Appendices 15 & 15(a) refer.

To access this attachment on electronic document, click here: [Attach15brf250303.pdf](#)
[Attach15abrf250303.pdf](#)

CJ073 - 04/03 DELEGATED AUTHORITY REPORT FOR THE MONTH OF FEBRUARY 2003 – [07032]

WARD - All

PURPOSE

To submit items of Delegated Authority to Council for noting.

EXECUTIVE SUMMARY

This report provides a resumé of the Development Applications processed by Delegated Authority for February 2003(see Attachment 1).

The total number of Development Applications determined (including Council and delegated decisions) is as follows:

| Month | No of Applications Determined | Value (\$) |
|----------------------|--------------------------------------|-------------------|
| February 2003 | 76 | 7,370.433 |

The number of development applications received for February 2003 was 97, this being the second highest monthly figure since the creation of the City of Joondalup. In comparison, the number of Development Applications received for February 2002 was 59.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rowlands, SECONDED Cr Patterson that Council NOTES the determinations made under Delegated Authority in relation to the applications described in Report CJ073-04/03.

The Motion was Put and

**CARRIED BY
EN BLOC RESOLUTION NO 1 (10/1)**

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, Patterson, Rowlands and Walker **Against the Motion:** Cr O'Brien

Appendix 16 refers

To access this attachment on electronic document, click here: [Attach16brf250303.pdf](#)

Crs Carlos and Baker entered the Chamber, the time being 2131 hrs.

REPORT OF THE CHIEF EXECUTIVE OFFICER

C43-04/03 MINUTES OF THE AUDIT COMMITTEE MEETING HELD 26 MARCH 2003 - [40738] [50068]

WARD - All

PURPOSE

To submit the Minutes of the Audit Committee meeting held on 26 March 2003 to Council for endorsement.

EXECUTIVE SUMMARY

A meeting of the Audit Committee was held on 26 March 2003 and the unconfirmed minutes are submitted for noting by Council and endorsement.

DETAILS

The unconfirmed minutes of the Audit Committee meeting held on 26 March 2003 are included as Attachment 1.

At the meeting the issue of the audit undertaken by the Internal Auditor into Elected Members Expenses was discussed.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Baker, SECONDED Cr Rowlands that Council NOTES the minutes of the Audit Committee meeting held on 26 March 2003 forming Attachment 1 to Report C43-04/03.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Patterson, Rowlands and Walker

Appendix 19 refers

To access this attachment on electronic document, click here: [Attach19min010403.pdf](#)

C44-04/03 REIMBURSEMENT OF ELECTED MEMBERS ALLOWANCES AND EXPENSES - [27122]

WARD - All

PURPOSE

To provide an account of allowances and expenses incurred by and paid to each Councillor for the periods between 2001 and 2003.

EXECUTIVE SUMMARY

The reimbursement of elected members expenses is subject to Council's policy and a signed claim form declaring that the information provided in support of the claim is true and correct.

The underlying principle that applies to payment of various allowances and reimbursement of expenses incurred whilst performing duties as an elected member is:

“to enable any eligible member of the community to be elected and carry out the duties and responsibilities of their elected office, without being financially disadvantaged for doing so.”

BACKGROUND

Following an extensive review of what allowances and reimbursement of expenses are permissible under the Local Government Act 1995 (the Act) and Regulations under the Act, Council at its meeting held on 18 December 2001, adopted a comprehensive policy known as “Policy for Payment of Fees, Allowances and Expenses and Provision of Facilities to the Mayor, Deputy Mayor and Councillors”.

This policy has applied from the first Saturday in May 2002 to coincide with elections and future new Councils. The policy sets out the amount of allowances that can be paid and reimbursement of expenses that can be claimed. It should be noted that the Act and Regulations under the Act do not limit the amount that can be reimbursed for travelling and child minding expenses.

DETAILS

At the ordinary Council meeting held on 11 March 2003, the following resolution was passed:

“1 The Chief Executive Officer cause to be published in all future Agendas of Ordinary Council meetings, a detailed report concerning expenses and allowances incurred by/paid to each Councillor and paid for/reimbursed by the City of Joondalup including, but not limited to, the following expenses and allowances:

1.1 Expenses incurred by each Councillor on Conference and Training

- 1.2 Expenses ostensibly incurred by each Councillor on Travel and Childcare
 - 1.3 Allowances paid to each Councillor by way of the communication allowance and the “sitting” or “meeting” attendance fee; and
 - 1.4 Other expenses incurred by each Councillor
- 2 The first such report also include a summary of all such expenses and allowances incurred by/paid to each Councillor since the date of their election to Council; and
 - 3 At the foot of each report there be a recommendation to note each such report there be a recommendation to note each such report”.

Travel & Childcare Expenses

Schedule 1 depicts the travel expenses reimbursed and schedule 2 the childcare expenses reimbursed for the calendar years 2001, 2002 and 2003 (to February).

Meeting Fee and Telecommunication Allowance

Schedule 3 depicts the meeting fee provided and schedule 4 the telecommunication allowance given for the calendar years 2001, 2002 and for 2003 (to February).

Conference & Training Expenses

Schedules 5 and 6 covers the period May 2002 to February 2003 to coincide with the commencement of the Policy for Payment of Fees, Allowances and Expenses and Provision of Facilities to the Mayor, Deputy Mayor and Councillors”.

Other Expenses

A summary of all such expenses and allowances incurred by and paid to each Councillor since the date of their election to Council will be forthcoming as far as is practicable due to the fact that individual records have only been kept since 2001.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Baker, SECONDED Cr Rowlands that Council NOTES the information in relation to reimbursement of elected members allowances and expenses as contained within Report C44-04/03.

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, OBrien, Patterson, Rowlands and Walker

Appendix 20 refers

To access this attachment on electronic document, click here: [Attach20min010403.pdf](#)

**C45-04/03 SHENTON AVENUE RAIL TUNNEL EXTENSION –
PRE-FUNDING PROPOSAL - [52096] [04115] [02998]****WARD - Lakeside****PURPOSE**

In the light of the State Government suggesting a \$3M pre-funding deal to the City of Wanneroo to build a bridge for the proposed Quinns Road Rail Crossing, Council's approval is sought to enable a similar arrangement between the State Government and the City of Joondalup for the Shenton Avenue Rail tunnel extension project.

EXECUTIVE SUMMARY

That Council authorises the Mayor and Chief Executive Officer together with representatives from the Joondalup Stakeholder group, to seek an urgent deputation with the Minister for Planning and Infrastructure to consider a proposal to bring forward the construction of the Shenton Avenue Rail Tunnel extension works on the following basis:

- 1 That the City prefunds the tunnel extension works at an estimated cost of approximately \$2M;**
- 2 The State Government reimburses the City the full amount immediately following the completion of the Mitchell Freeway extension project through to Shenton Avenue.**

BACKGROUND

At Council's meeting of 28 November, 2000 Council resolved to:

- “ 1 MAKES a written submission to the State Minister for Transport for funding assistance for the extension of the Shenton Avenue Rail Bridge;***
- 2 SEEKS a deputation with the State Minister for Transport to present the report”***

On 2 October, 2001 the Minister responded advising that there was currently no funding available that could be used for the extension of the Shenton Avenue Rail Tunnel.

Council then resolved, in part, at its meeting held on 18 December, 2001 to:

- 3 WRITES to the Minister for Planning and Infrastructure urging the decision regarding the funding of the Shenton Avenue Rail Tunnel extension be reconsidered, expressing the Council's clear disappointment at any decision not to fund it now. The reasons including the inevitable increase in cost should the tunnel extension be held off any longer, community demand for the project and the unnecessary and costly duplication of works that would be required in the future should the tunnel extension funding not be forthcoming now;***

- 4** *REAFFIRMS that Council's preferred option is the complete dualling of Shenton Avenue with the construction of a roundabout at Pontiac Way within the one project and by the end of 2002/2003. And that this can only occur once the tunnel extension works are completed;*
- 5** *RECOGNISES the importance of the pontiac way roundabout project to the community - including joondalup arena, lake joondalup baptist college and the joondalup business park, and recognises the negative impact of a delay in its construction;*
- 6** *ACKNOWLEDGES and SUPPORTS the efforts of Joondalup MLA Tony O'Gorman and the Joondalup Business Association in also pursuing a reconsideration of the Tunnel Extension funding decision;*
- 7** *should there still be a refusal to fund the Shenton Avenue Tunnel Extension REQUESTS the Minister for Planning and Infrastructure to include as a high priority, the Shenton Avenue Rail Tunnel extension works and construction of roundabout at Pontiac Way as part of the future Mitchell Freeway extension project, from Hodges Drive through to Shenton Avenue.*

Following this the local member Mr Tony O’Gorman arranged for the Hon. Alannah MacTiernan MLA, Minister for Planning and Infrastructure to visit his office on Wednesday, 13 February 2002 to discuss amongst other issues the Shenton Avenue Rail Tunnel Extension project. The Minister confirmed at this meeting that the State Government’s funding had been exhausted for road and railway proposals, however she would be prepared to look at alternative options that could be constructed within currently allocated project funds.

Following this meeting, City officers met with Senior Management at Main Roads WA and agreed to investigate alternative design solutions for the intersection of Shenton Avenue and Pontiac Way.

The City commissioned Connell Wagner, Engineers to investigate alternative design solutions that may be acceptable to key stakeholders.

Following a meeting with key stakeholders on 10 May, 2002, the preferred option was the four way dual lane roundabout option, which requires the rail tunnel to be extended.

In the interim, the stakeholder group resolved to accept an option to construct a four way signalised intersection until the State Government extended the Mitchell Freeway and as part of these works carry out the extension to the rail tunnel and construct the four way dual lane roundabout.

In the light of the findings of the Connell Wagner report and subsequent decisions of the key stakeholders, the Council at its meeting held on 11 June, 2002 resolved to:

- 1** *RECEIVES the Connell Wagner report on Traffic and Pedestrian Study – Pontiac Way and Shenton Avenue dated 17 May 2002;*
- 2** *SEEKS the Minister for Planning and Infrastructure’s approval to install a four way signalised intersection (Option 6) at Shenton Avenue / Pontiac Way as an interim solution;*

3 *REQUESTS the Minister for Planning and Infrastructure to include as a high priority, the Shenton Avenue Rail Tunnel extension works and construction of a roundabout at Pontiac Way as part of the future Mitchell Freeway extension project, from Hodges Drive through to Shenton Avenue.*

After protracted negotiations with Main Roads WA, the City finally received approval from Main Roads WA in February 2003 to install a four way signalised intersection.

However, it is noted that both the City and Main Roads WA view this solution as only interim in nature.

The delays in receiving approval has lead to the Shenton Avenue Stage 2 project to be retendered. The tender for Stage 2 closed on Tuesday, 1 April and a decision to award this tender comprising the option of a four way signalised intersection will be considered by Council at its meeting scheduled on 29 April, 2003.

DETAILS

At the recent Regional Cabinet Working Breakfast held on Monday, 24 March 2003, the Minister for Planning and Infrastructure – Alannah MacTiernan when answering a question, indicated that she would be prepared to consider alternative funding arrangements pertaining to the Shenton Avenue project without giving any commitment at this point in time.

The Minister has previously reaffirmed that no funding is available for the Shenton Avenue rail tunnel extension. However, in the light of the State Governments recent suggestion in relation to a \$3M prefunding deal with the City of Wanneroo, it is considered that a similar arrangement with the City of Joondalup to prefund the Shenton Avenue extension of the rail tunnel is now worthy of consideration.

This approach had the unanimous support of the Joondalup Stakeholders Group at its most recent meeting held on 27 March, 2003.

Consequently, it is recommended that a joint deputation be sought with the Minister at the earliest opportunity together with representatives from the City and the Joondalup Stakeholders Group to seek the Minister's endorsement of a prefunding arrangement for the construction of the railway tunnel at Pontiac Way. This project will then allow the construction of two lane roundabout and completion of Shenton Avenue dual carriageway project on the basis that the State Government pay back the City when the Mitchell Freeway is extended through to Shenton Avenue.

By bringing forward this project it is considered to be better use of community funds in addressing access, safety and traffic flow concerns at this particular location.

FUNDING DETAILS

Currently the City has approximately \$1.2M to complete the roadwork's portion of the Shenton Avenue duplication project. In order for the tunnel extension to proceed an additional amount of approximately \$2M is necessary for the tunnel extension project to be brought forward on a prefunding basis.

The City may prefund this work from funds received via the Normalisation Agreement or other available sources that may be identified as part of the 2003/04 budget considerations, and be reimbursed by the State Government upon completion of the Mitchell Freeway extension project through to Shenton Avenue tentatively scheduled for between 2004 and 2006.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rowlands, SECONDED Cr Walker that Council AUTHORISES the Mayor and Chief Executive Officer together with representatives from the Joondalup Stakeholder group, to seek an urgent deputation with the Minister for Planning and Infrastructure to consider a proposal to bring forward the construction of the Shenton Avenue Rail Tunnel extension works on the following basis:

- 1 that the City prefunds the tunnel extension works at an estimated cost of approximately \$2M;**
- 2 the State Government reimburses the City the full amount immediately following the completion of the Mitchell Freeway extension project through to Shenton Avenue.**

AMENDMENT MOVED Cr Baker, SECONDED Cr Hollywood that the following wording be added at the end of Point 1 as follows:

“on the condition that the State Government reimburses the City the full amount immediately following the completion of the freeway extension.”

Discussion ensued.

The Amendment was Put and

CARRIED (13/0)

In favour of the Amendment: Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Patterson, Rowlands and Walker

The original Motion, as amended, being:

That Council AUTHORISES the Mayor and Chief Executive Officer together with representatives from the Joondalup Stakeholder group, to seek an urgent deputation with the Minister for Planning and Infrastructure to consider a proposal to bring forward the construction of the Shenton Avenue Rail Tunnel extension works on the following basis:

- 1 that the City prefunds the tunnel extension works at an estimated cost of approximately \$2M on the condition that the State Government reimburses the City the full amount immediately following the completion of the freeway extension;**

- 2 the State Government reimburses the City the full amount immediately following the completion of the Mitchell Freeway extension project through to Shenton Avenue.**

was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Patterson, Rowlands and Walker

**C46-04/03 TAMALA PARK WASTE DISPOSAL FACILITY -
MINDARIE REGIONAL COUNCIL - [41196]**

WARD - Not applicable

PURPOSE

To consider a request from the Mindarie Regional Council (MRC) to purchase a Portion of Lot 118 for the continued operation of a waste disposal facility on the site.

EXECUTIVE SUMMARY

The seven joint owners of Lot 118, being the Cities of Joondalup, Perth, Stirling, Wanneroo and the Towns of Cambridge, Victoria Park and Vincent, have recently met to consider a formal request from the MRC regarding the excision and subsequent purchase of a portion of Lot 118, to permit the continued operation of a waste disposal facility on the land.

The seven joint owners of the land have agreed that the same report be submitted to their respective Councils for consideration, and the owners have agreed that the sale of the land to the MRC could compromise the ongoing negotiations with the Government regarding Bush Forever and could potentially restrict income opportunities for the seven owners, and fetter the owners' ability to optimise development of Lot 118. Accordingly, the request by the MRC cannot be supported.

BACKGROUND

The Mindarie Regional Council has requested the joint owners of Lot 118 (Tamala Park) to consider the possibility of selling a portion of Lot 118 to the MRC so that the future of waste disposal operations on the site can be secured. Additionally, the purchase of the site would free the MRC from a complex decision making process involving the seven owners and would allow the MRC more autonomy regarding the use and sub-leasing of the land.

The existing lease covers an area of approximately 252 hectares. Consultants commissioned by the MRC have reported that to continue current and future waste disposal operations at Tamala Park the central 159 hectares of the leasehold is required. The land currently leased west of Marmion Drive and east of Connolly Drive is not required. A plan showing the extent of the existing lease area is attached (refer Attachment 1).

In November 2001, Council considered a request from the MRC to extend the existing lease and establish a secondary waste treatment facility (SWTF) on the site. The request to extend the lease and establish a SWTF on the site was agreed by all the joint owners except the City of Wanneroo who advised that it did not support the establishment of a SWTF on the site or an extension to the lease at that time.

The City of Wanneroo did however advise that it would be prepared to review the matter (extension of the lease) at a time following a decision and commitment to the development of an offsite secondary waste treatment facility. Further the City of Wanneroo confirmed its advice of 24 October 2000 that studies should be undertaken as soon as possible to identify other landfill sites to replace Tamala Park. The current lease has a further eight years remaining, expiring on 30 June 2011.

The MRC has subsequently commissioned consultants to undertake a site selection feasibility to determine appropriate sites for a SWTF and two sites in the Neerabup industrial area have been identified. The MRC is currently negotiating with the landowners of these sites regarding possible acquisition.

The Stage 1 landfill covering an area of approximately 13 hectares is nearing capacity and is likely to be filled by the end of the current year. The Environmental Protection Authority has issued a works approval for a further Stage 2A landfill, covering an area of approximately 9 hectares subject to the additional excavations being lined and the MRC progressing towards the establishment of a SWTF.

The introduction of a secondary waste treatment facility will significantly reduce the organic content of domestic waste going to landfill increasing the life expectancy of the landfill operations.

COMMENT

Following a request from the MRC the Valuer General's Office, in March 2002, undertook a valuation of the land and reported that a market value price of \$4.7million (for 159 hectares) and an annual rental of \$400 000 would be fair and reasonable.

Draft structure planning for the development of Lot 118 proposes development within the 500 metre operational buffer to the refuse facility. Technological advances and changes to treatment processes on the site may result in the reduction of the buffer requirements. The existing lease includes a provision allowing the progressive reduction of the lease area.

If the land were sold to the MRC, the owners would have no mechanism to enforce this requirement and would lose the opportunity to pursue development over this area. It is noted that the market value price, previously referred to, while excluding areas constrained by conservation or ethnographical issues does not factor the cost, to the owners, of lost development opportunity.

The release of the land to the MRC could also eliminate possible opportunities to develop recreation uses with positive cash flow over the land following its rehabilitation by the MRC.

Lot 118 is affected by the Clarkson Butler MRS Amendment, which in terms of the MRC lease area proposes to reserve the land for Public Use and Parks and Recreation purposes. Additionally, Bush Forever also affects Lot 118.

Sale of a portion of the site will fragment the landholding, which may compromise ongoing Bush Forever negotiations between the joint owners and the government.

If the MRC is unable to secure tenure of the Tamala Park site it may have to investigate relocation to an alternative landfill site. As a consequence the gate fees at Tamala Park may be increased to raise the capital to develop an alternative site.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Hollywood, SECONDED Cr Walker that Council:

- 1 ADVISES the Mindarie Regional Council that it does not support the sale of the land to the Mindarie Regional Council as it is of the opinion that it may compromise ongoing negotiations with the Government regarding Bush Forever, potentially restrict income opportunities for the owners, and fetter the owners' ability to optimise development of their landholding;**
- 2 ADVISES the six other joint owners in terms of 1 above.**

The Motion was Put and

CARRIED (13/0)

In favour of the Motion: Mayor Bombak, Crs Baker, Barnett, Carlos, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Patterson, Rowlands and Walker

Appendix 21 refers

To access this attachment on electronic document, click here: [Attach21min010403.pdf](#)

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

C47-04/03 NOTICE OF MOTION NO 1 – CR P KIMBER – PROVISION OF PENSIONER AND MINIMUM PAYMENT RELATED INFORMATION – [18058, 27174]

Cr Paul Kimber gave notice of his intention to move the following motion at the Council meeting to be held on Tuesday 11 March 2003. Council did not consider this item at that meeting and it is therefore resubmitted for consideration at the Council meeting to be held on 1 April 2003.

The following elected members have indicated their support as required by Clause 4.4 of the City's Standing Orders Local Law:

Cr P Kimber
Cr P Kadak
Cr C Baker
Cr C Mackintosh
Cr G Kenworthy

“That:

- 1 *Council BY AN ABSOLUTE MAJORITY, RESCINDS its decision of 18 February 2003 (Item CJ012-02/03 refers), viz:*

“That the detailed information be made available to Councillors upon formal written request, subject to written confirmation that it will be used in the performance of the Councillor's functions under the Local Government Act 1995 and shall not be used under any circumstances for election purposes.”

- 2 *the detailed information regarding provision of pensioner and minimum payment related information NOT be made available to Councillors upon any formal request until after the May 2003 Local Government Elections.”*

Reason for Motion:

Cr Kimber provided the following comment in support of his Motion:

“To ensure probity and proper conduct of intended applicants or nominees of the City of Joondalup Local Government Elections May 2003, we the applicants seek to ensure that this information not be released to proposed or duly nominated candidates or current elected members until after the May 2003 Local Government Elections.”

OFFICER’S COMMENT

Item CJ012-02/03, submitted to the Council meeting held on 18 February 2003, is reproduced for elected members’ information.

CJ012 - 02/03 PROVISION OF PENSIONER AND MINIMUM PAYMENT RELATED INFORMATION – [18058] [27174]

PURPOSE

This report seeks Council’s consideration of a request to provide detailed rates information to elected members.

EXECUTIVE SUMMARY

As part of the 2003/04 budget, the City undertook an analysis of its rateable properties. A high level summary provides information to assist elected members in understanding the composition of rateable properties and property owners and the distribution of properties within the City.

Crs O'Brien and Carlos have sought additional information that will assist in discussing the impact of alternative rating models with individual ratepayers. The alternative rating models include the elimination of minimum payments and possibly including the current refuse charge within the general rate.

The City's policy 2.3.4 - Provision of Information (refer attachment 1), sets the guidelines for provision of information to the public, elected members and officers of the City and considers the Freedom of Information Act 1992 and the Local Government Act 1995. The policy provides for some discretion with applications to be considered upon their individual merit. This policy was recently confirmed by Council on 3 September 2002 (CJ205-09/02 Provision for the Release of Information).

The information sought in this instance is considered to be of a personal and confidential nature and it is therefore proposed that Council considers providing the information requested.

BACKGROUND

As part of the 2003/04 budget, the City is undertaking an analysis of its rateable properties. A high level summary provides details such as the distribution of properties in various suburbs, type of properties, whether vacant or improved, number of minimum payment properties and number of properties owned by pensioners. This information will be provided to elected members for discussion as part of the 2003/04 budget process.

Councillors O'Brien and Carlos have in previous years indicated their concerns to provide support to the poorer ratepayers within the community and to that extent the focus has been on pensioner owned and minimum rated properties. Cr O'Brien has previously presented to elected members an alternative rating proposal which does not use a minimum payment (MP) but applies the gross rental value (GRV) to properties.

This same principle may be applied to the refuse charge being included within the general rate.

Councillors O'Brien and Carlos have requested additional information which will assist elected members in discussing the implications of the alternative rating proposition with specific ratepayers. The information required will specifically identify the individual property number, house number, street address, suburb, the GRV of the property and whether the owner is an eligible pensioner according to the City's rating records. Financial modelling can then be undertaken to determine the approximate rates paid under each model.

DETAILS

The City's policy 2.3.4 - Provision of Information (refer attachment 1), sets the guidelines for provision of information to the public, elected members and officers of the City and considers the Freedom of Information Act 1992 and the Local Government Act 1995. The policy provides for some discretion with applications to be considered upon their individual merit. It should be noted that this matter was recently considered by Council on 3 September 2002 (CJ205-09/02 Provision for the Release of Information).

Pursuant to section 5.92(1) of the Local Government Act 1995 (the Act), a councillor may have access to any information held by the City which is relevant to the performance of the Councillor's functions under the Act.

Should information identifying the properties the subject of pensioner and minimum payments be improperly used for a purpose unrelated to a Councillor's functions (eg electioneering), an offence could be committed under Section 5.93 of the Act which contains a penalty of \$10,000 or imprisonment for two years.

The high level summary information will be provided to all elected members as part of the 2003/04 budget deliberations, specifically in considering rating principles such as the application of minimum payments and whether to incorporate the current refuse charge into the general rate.

This information will be made available to elected members at no cost and an example is provided in attachment 2 to this Report.

COMMENT

If the detailed information was to be provided to elected members, the City has an obligation to remind elected members of the confidentiality and sensitivity of the information provided and the requirement to use the information only in undertaking council business.

The sensitivity of similar information was apparent when Council sold its 2001 street listing and subsequently received numerous complaints (CJ406-11/01 refers) from ratepayers.

It is considered that the high level summary provides elected members with sufficient information to assess the indicative impacts on individual properties and within particular suburbs, which can be used to demonstrate the impact of the alternative rating models.

However, if Council decides that the detailed information should be supplied to Councillors upon request, then written confirmation should be sought that the information will be used in the performance of their functions under the Act.

As the detailed information has already been collated for budget purposes, the extra cost in providing the information is minimal, i.e. the cost of a CD per Councillor.

Officer's Recommendation as submitted to Council on 18 February 2003:

That the detailed information be made available to Councillors upon formal written request, subject to written confirmation that it will be used in the performance of the Councillor's functions under the Local Government Act 1995 and shall not be used under any circumstances for election purposes.

VOTING REQUIREMENT

Absolute Majority

This Notice of Motion was not pursued.

C48-04/03 NOTICE OF MOTION NO 2 – CR A PATTERSON – WAKELEY WAY, DUNCRAIG NEIGHBOURHOOD SQUARE MAINTENANCE – [40743, 02154]

Cr Andrew Patterson has given notice of his intention to move the following motion at the Council meeting to be held on Tuesday 1 April 2003. The following elected members have indicated their support as required by Clause 4.4 of the City’s Standing Orders Local Law:

Cr P Rowlands
 Cr G Kenworthy
 Cr M O’Brien
 Cr A Walker
 Cr C Baker
 Cr D Carlos
 Cr P Kadak

“That Council:

- 1 BY AN ABSOLUTE MAJORITY, RESCINDS its decision of 26 November 2002, being:*

“That Council:

- 1 DOES NOT SUPPORT the proposal for continuation of the mains water supply to Wakeley Way road island, Duncraig;*
- 2 AGREES that the City will undertake normal maintenance in accordance with dry grass standards within the road island, in accordance with other work programs for Duncraig road islands and roundabouts;*
- 3 ADVISES the petitioners accordingly.”*
- 2 REQUESTS a report to be presented to the ordinary meeting of the Council to be held on 29 April 2003 on the following options for the Wakeley Way road reserve:*
- Maintain current watering regime with the aim of the road reserve being a “green” reserve with costs to be met by City of Joondalup;*
 - Brick pave the reserve;*
 - Maintain as a “dry” reserve;*
 - Any other appropriate option as suggested by residents and Councillors.*

Reason for Motion:

In support of this notice of motion, Cr Patterson states as follows:

“I am seeking the support of a rescission motion to enable this item to come back to the 1 April 2003 Council meeting. This item originally came up at the November 2002 Council meeting, whereby Council supported the officer’s recommendation.

Unfortunately, the local residents were not advised as to when the item would appear on the agenda and so were unable to present their case at a briefing session so that the Council could make an informed decision after hearing all the relevant information.

Obviously, the local residents are disappointed with the lack of opportunity to present their argument and have requested that this matter be prelisted for consideration at the 1 April meeting. If a rescission motion can be secured I have listed an alternative to the recommendation so as to effect a possible compromise.

Even though, Councillors, you may be opposed to any change to the decision already made by Council, I hope you will support this rescission motion so that the residents who live around this road reserve at least have the opportunity to present their case to Council.”

OFFICER’S COMMENT

This matter was previously considered by Council at its meeting held on 26 November, 2002 where it was resolved that:

- “1 *DOES NOT SUPPORT the proposal for continuation of the mains water supply to Wakeley Way road island, Duncraig;*
- 2 *AGREES that the City will undertake normal maintenance in accordance with dry grass standards within the road island, in accordance with other work programs for Duncraig road islands and roundabouts;*
- 3 *ADVISES the petitioners accordingly.”*

Any decision in relation to this matter would need to take the following items into consideration:

- Island area is 231 square metres
- Cost to install domestic bore and pump including power and cabinet connection approximately \$15,000
- From the outset, the developer connected to a private supply and an agreement was struck in 1997 between the developer and six of the original owners
- The owners previously maintained the area to a reticulated standard and paid for the water and power bills estimated at \$1,000 per annum
- Council at its meeting on 26 November 2002 (CJ286-11/02) resolved to maintain the island to a dry standard.
- Probably the most cost effective option would be for the City to brick pave the road island at an estimated cost of \$4,000.

VOTING REQUIREMENT

Absolute Majority

Call for Support of Members of the Council

In accordance with the Local Government (Admin) Regulations 1996, the Mayor called for support from members of the Council. Support for this Item was given by Crs O'Brien, Patterson, Barnett, Kenworthy, Rowlands, Walker and Carlos.

In the absence of the required support of an absolute majority (8) of elected members present in the Chamber, the Notice of Motion **was not pursued**.

DATE OF NEXT MEETING

The next meeting of the Council has been scheduled for **7.00 pm** on **TUESDAY, 29 APRIL 2003** to be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup.

CLOSURE

There being no further business, the Mayor declared the Meeting closed at 2155 hrs; the following elected members being present at that time:

MAYOR J BOMBAK, JP
CR P KIMBER
CR D CARLOS
CR C BAKER
CR A NIXON
CR J HOLLYWOOD, JP
CR A WALKER
CR P ROWLANDS
Cr T BARNETT
Cr M O'BRIEN, JP
CR G KENWORTHY
CR A PATTERSON
CR C MACKINTOSH