



*City of*  
**Joondalup**

**NOTICE IS HEREBY GIVEN THAT THE NEXT  
ORDINARY MEETING OF THE COUNCIL OF THE CITY OF JOONDALUP  
WILL BE HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE,  
BOAS AVENUE, JOONDALUP  
ON TUESDAY, 29 JULY 2003 AT 7.00 pm**

**DENIS SMITH  
Chief Executive Officer  
23 July 2003**

## ***PUBLIC QUESTION TIME***

*As adopted by Council on the 17 December 2002*

Public question time is provided at meetings of the Council or briefing sessions that are open to the public.

Public question time is not a public forum for debate or making public statements. The time is limited to asking of questions and receiving responses. This procedure is designed to assist the conduct of public question time and provide a fair and equitable opportunity for members of the public who wish to ask a question. Public question time is not to be used by elected members. Members of the Council are encouraged to use other opportunities to obtain information.

Questions must relate to the ordinary business of the City of Joondalup or the purpose of the special meeting.

### **Prior to the Meeting/Briefing Session**

To enable prompt and detailed responses to questions, members of the public are encouraged to lodge questions in writing to the Committee Clerk by close of business on the Friday prior to the Council meeting or Briefing Session at which the answer is required. Answers to those questions received within that time frame, where practicable, will be provided in hard copy form at that meeting.

### **At the Meeting/Briefing Session**

A register will be provided for those persons wanting to ask questions to enter their name, and the order of registration will be the order in which persons will be invited to ask their questions.

Public question time will be limited to the legislative minimum of fifteen (15) minutes and may be extended by resolution of the Council, but the extension of time is not to exceed ten (10) minutes in total. Public question time will be limited to two (2) questions per member of the public. When all people who wish to do so have asked their two (2) questions, the presiding member may, if time permits, provide an opportunity for those who have already asked their two (2) questions to ask further questions.

During public question time at the meeting, each member of the public wanting to ask questions will be required to provide a written form of their question(s) to a Council employee.

Where the number of required questions exceeds the number able to be asked, the member of the public may submit the unasked questions to the Council, where they would be 'taken on notice' and a written response provided.

The procedure to ask a public question during the meeting is as follows:

- persons are requested to come forward in the order they registered;
- give their name and address;
- read out their question;
- before or during the meeting each person is requested to provide a written form of their question to a designated Council employee;
- the person having used up their allowed number of questions or time is asked by the presiding member if they have more questions; if they do then the presiding member notes the request and places them at the end of the queue; the person resumes their seat in the gallery;
- the next person on the registration list is called;
- the original registration list is worked through until exhausted; after that the presiding member calls upon any other persons who did not register if they have a question (people may have arrived after the meeting opened);
- when such people have asked their questions the presiding member may, if time permits, provide an opportunity for those who have already asked a question to ask further questions;
- public question time is declared closed following the expiration of the allocated time period or where there are no further questions.

The Mayor or presiding member shall decide to:

- Accept or reject the question and his/her decision is final;
- Nominate a member of the Council and/or Council employee to respond to the question;
- Due to the complexity of the question, it be taken on notice with a written response provided as soon as possible, and included in the agenda of the next briefing session or Council meeting, whichever applicable.

**The following rules apply to public question time:**

- *question time is not to be used by a member of the public to make a statement or express a personal opinion;*
- *questions should properly relate to Council business;*
- *question time shall not be used to require an Elected Member or an officer to make a personal explanation;*
- *questions should be asked politely in good faith and are not to be framed in such a way as to reflect adversely or be defamatory on a particular Elected Member or Council employee;*
- *where a response has been provided to a question asked by a member of the public, and where that response, in the opinion of the presiding person, adequately deals with the question, there is no obligation to further justify the response;*
- *where an elected member is of the opinion that the question is not relevant to the business of the City of Joondalup or that a member of the public is making a statement, they may bring it to the attention of the meeting.*

It is not intended that question time should be used as a means to obtain information that would not be made available if it was sought from the City's records under Section 5.94 of the Local Government Act 1995 or the Freedom of Information (FOI) Act 1992. Where the response to a question(s) would require a substantial commitment of the City's resources, the Chief Executive Officer (CEO) will determine that it is an unreasonable impost upon the City and refuse to provide it. The CEO will advise the member of the public that the information may be sought in accordance with the FOI Act 1992.

### **Second Public Question Time**

Clause 3.2 of the Standing Orders Local Law allows the Council to alter its order of business, which may include a second period of public question time.

Where the Council resolves to include a second period of public question time, an additional period of 15 minutes will be allowed.

**This time is allocated to permit members of the public to ask questions on decisions made at the meeting.**

### **Disclaimer**

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

## **CODE OF CONDUCT**

The Code recognises these ethical values and professional behaviours that support the principles of:

**Respect for persons** - this principle requires that we treat other people as individuals with rights that should be honoured and defended, and should empower them to claim their rights if they are unable to do so for themselves. It is our respect for the rights of others that qualifies us as members of a community, not simply as individuals with rights, but also with duties and responsibilities to other persons.

**Justice** - this principle requires that we treat people fairly, without discrimination, and with rules that apply equally to all. Justice ensures that opportunities and social benefits are shared equally among individuals, and with equitable outcomes for disadvantaged groups.

**Beneficence** - this principle requires that we should do good, and not harm, to others. It also requires that the strong have a duty of care to the weak, dependent and vulnerable. Beneficence expresses the requirement that we should do for others what we would like to do for ourselves.

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

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# CITY OF JOONDALUP

Notice is hereby given that an Ordinary Meeting of Council will be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup on **TUESDAY, 29 JULY 2003** commencing at **7.00 pm.**

DENIS SMITH  
Chief Executive Officer  
23 July 2003

Joondalup  
Western Australia

## AGENDA

### 1 OPEN AND WELCOME

### 2 PUBLIC QUESTION TIME

**The following questions were submitted by Mr Sam Grech, Ocean Reef to the Special Meeting of Council held on 20 May 2003:**

My questions are addressed to the Mayor.

*Q1 Why did you convene tonight's meeting in full knowledge of the fact that Councillors Kimber and Mackintosh would not be able to be present and vote?*

*Q2 Are you trying to deprive them of a vote on this important issue?*

*Q3 If not, will you vote in support of adjourning the meeting to the Special Meeting requisitioned by Cr Kenworthy on 4 June 2003, when all Councillors can be in attendance and vote?*

*Q4 Is this another way to deprive elected members of a vote on an important issue, such as the way in which you deprived Cr Gollant of a vote on the appointment of the Deputy Mayor?*

*Q5 Can you please advise as to whether you had any discussion with Cr Baker prior to the appointment of the Chief Executive Officer, Denis Smith, during the course of which you urged Cr Baker to apply to be appointed as the new CEO of the City of Joondalup to replace the then CEO, Mr Lindsay Delahaunty?*

*Q6 If so, what was the nature and extent of these discussions?*



- Q7 Did you also intimate to Cr Baker that if he didn't seek election as a Councillor of the Marina Ward at the May 2001 Council Elections, you would make sure that he was appointed as the new CEO at the City of Joondalup?*
- Q8 I refer to tonight's agenda item. I refer to Section 5.40 of the Local Government Act which states that no power with regard to matters effecting employees is to be exercised on the basis of nepotism or patronage?*
- Q9 Why have you called this meeting tonight with little or no notice to Councillors, to discuss such an important issue?*
- Q10 I refer to tonight's agenda item and to Section 5.40 of the Local Government Act which provides that employees are to be treated fairly. Why are you continually running off to the media and making statements on behalf of the Council without any authority of a resolution of the Councillors of the City of Joondalup?*
- Q11 I refer to your statements over the last four years or so to the effect that you support the principles of open, accountable and democratic local government. Do you not agree that to knowingly deprive two Councillors of a vote on an important issue such as tonight's agenda item is not in the best interests of open, accountable and democratic local government?*
- Q12 I refer to tonight's agenda meeting. Did you vote in support of the CEO's appointment or did you vote against his appointment when he was appointed?*
- Q13 I refer to tonight's agenda item. Did you have any discussion with Cr Hollywood prior to you giving notice requisitioning tonight's meeting and if so:*
- (a) what was the nature and extent of those discussions?*
  - (b) why weren't all Councillors, as opposed to just a handful, consulted first?*
- Q14 I refer to tonight's agenda item. I also refer to your interview on Liam Bartlett's program on ABC Radio yesterday morning and your interview to Channel 7 News last night.*
- Q15 Did you seek out these interviews?*
- Q16 Did you arrange for any other person on your behalf to seek out these interviews?*
- Q17 Did you agree that it would be very difficult to prove that you arranged for some other person to seek out these interviews on your behalf?*
- Q18 Why did you requisition tonight's meeting dealing with such an important agenda item in circumstances where:*

- (a) *you have failed to give adequate notice to Councillors of the proposed meeting;*
- (b) *you failed to consult with all Councillors prior to calling the meeting;*
- (c) *how does this accord with your alleged keen interest in the principles of open, accountable and democratic local government?*
- Q19 *I refer to tonight's agenda item. I ask the following question. Did you give any notice of your intention to requisition tonight's meeting to former Councillor Steve Magyar, prior to giving notice of your intention to requisition the meeting?*
- Q20 *If so, what is the nature and extent of your relationship with Mr Magyar?*
- Q21 *Why didn't you consult with all of your fellow Councillors first?*
- Q22 *I refer to tonight's agenda item. Don't you believe that you have a financial interest in tonight's agenda item given that you are in the process of being sued by the CEO for defamation?*
- Q23 *On the basis that you do have a financial interest, will you declare that you do have one and vacate the Chamber and not vote on any motion to be debated tonight?*
- Q24 *If you will not, is it because you have previously failed to declare financial interests in several other agenda items that have been debated before Council over the last two years?*
- Q25 *I refer to tonight's agenda item. In your Mayoral speech you indicated a rate increase, is this proposed increase to fund the termination of the CEO's contract and find a replacement?*
- Q26 *I refer to tonight's agenda item. By terminating the CEO's contract are you aware that you will be costing the ratepayer of the City of Joondalup over \$1,000,000 in payments?*
- Q27 *Are you also aware that you will be costing ratepayers a minimum of a further \$1,000,000 gratuity for his replacement, plus agency fees which is usually 8% of the package?*
- Q28 *Would you agree that by you resigning as Mayor, it would be economically and financially better for all the ratepayers/residences of the City of Joondalup as this will only cost \$15,000 (25% Mayoral allowance) as opposed to the \$2,000,000 you will be inflicting on all ratepayer/residence? If not, why not?*
- Q29 *I refer to tonight's item. Have you had discussions with Mr John Turkington, the former City of Joondalup Finance Director, with regard to him replacing our City's CEO, and if so, when? What did you say to him?*

*Q30 On Channel 7 last night you said that the CEO had to go because you had no faith in him. Why does the CEO have to go just because you can't work with him? What about the 14 other elected Councillors?*

*Q31 I refer to your interview on Channel 7 last night. What is the legislative basis for your statement that the CEO's role is to do what you tell him to and obey your directives?*

*Q32 What about the 14 other elected members of Council? Doesn't our Council operate by Council resolution any more?*

*Q33 What do you say about the community perception that you are drunk with power following your recent election as Mayor?*

*I refer to your election flyer.*

*"My aims are to:*

- 1 ensure we have a democracy in Joondalup*
- 2 consult with community groups and give the public more time to comment before making major decisions on Council.*

*Q34 My question to you Mr Mayor is when did Point 1 and 2 occur in regard to tonight's agenda item?*

*I refer to tonight's agenda item. I refer to your election flyer.*

*"In the last 14 months the Council has had to have six Special Electors meetings where thousands of ratepayers have voiced their displeasure with decisions made by the Joondalup Council. Each one of these meetings could have been prevented if the Council had consulted with the ratepayers before decisions were made.*

*Q35 Mr Mayor, when did you consult with the ratepayers on tonight's agenda item?*

**A1-35 Council considered the issue of the employment of the CEO at its meeting held on 24 June 2003. A copy of Council's decision C98-06/03 - Employment of the Chief Executive Officer of the City of Joondalup has been forwarded to Mr Grech.**

**The following questions were submitted by Mr Sam Grech, Ocean Reef to the Special Meeting of Council held on 20 May 2003:**

*In your reply to my question you stated that "I was on the selection committee that was choosing a CEO" (See minutes of Special Council Meeting 12 May 2003 page 5, A1 paragraph 4) as you stated that you were on the selection committee to choose a CEO, I address these questions to you Mr Mayor.*

*Q1 Was the position actually advertised, or was a tender for a suitable agencies advertised? If so, who was the successful agency?*

- Q2 If the actual position for a CEO was not advertised, can you confirm that he was approached (head hunter) by an agency on behalf of the City of Joondalup, as were the other 9 candidates?*
- Q3 Was a CV supplied by any of the candidates or the agency?*
- Q4 If no CVs were supplied by any candidates or agency, did you not fail in your Duty of Care to formally request a CV from all candidates or the agency?*
- Q5 Was it a requirement to supply a CV by any candidate? If not why not? (This is standard procedure both in the private and public section).*
- Q6 Was a CV for any of the candidates requested by you formally in writing prior to short listing? If not why not?*
- Q7 Prior to the position being offered did you formally request in writing that a CV be supplied? If not why not?*
- Q8 Was the sighting and verification of the successful candidates CV a condition of employment? If not why not?*
- Q9 What is the definition of a Curriculum Vitae (CV)? As defined in both the Oxford dictionary, Webster's dictionary.*
- Q10 What is the definition of a Portfolio (Folio)? As defined in both the Oxford dictionary, Webster's dictionary.*

A1-10 Council considered the issue of the employment of the CEO at its meeting held on 24 June 2003. A copy of Council's decision C98-06/03 - Employment of the Chief Executive Officer of the City of Joondalup has been forwarded to Mr Grech.

**The following questions were submitted by Mr Sam Grech, Ocean Reef to the Special Meeting of Council held on 20 May 2003:**

- Q1 My question is addressed to the Mayor – Why did you convene a Special Council Meeting on Thursday night last week without having consulted with your community's Elected Members to determine their availability first?*
- Q2 What was the cost to ratepayers of your aborted Special Council Meeting?*
- Q3 Why have you asked the CEO to resign on three occasions?*
- Q4 Have you had any discussions with John Turkington, the former Finance Director of the City of Joondalup, regarding his possible appointment as the new CEO for the City of Joondalup?*
- Q5 By whose authority did you have these discussions?*
- Q6 During the last Mayoral Election Campaign did you receive any financial or non-financial assistance from Mr Kim Young, unsuccessful Labour Candidate in the last federal election?*

- Q7 I refer to your quoted statement that you have qualifications to be the Mayor of the City of Joondalup. What formal qualifications do you hold?*
- Q8 I refer to your often quoted statements that you were a former Wing Commander in the Royal Australia Air Force. What type of fighter jets did you fly?*
- Q9 I refer to the duties of an Elected Member and Mayor in disclosing interests of financial matters to be debated by Council. Have you ever failed to disclose a financial interest in a matter to be debated by Council and if so, why?*
- Q10 I refer to the obligations of Mayor and Councillors to disclose financial interests in matters to be discussed. Have you ever participated in a debate regarding a Council motion in which you had a financial interest?*
- Q11 I refer to the Delegated Authority Meeting convened during the week commencing 6 May 2003. Why did you conduct this meeting behind closed doors and why was the public not allowed to attend the meeting?*
- Q12 I refer to your statement to the media to the effect that you have the support of the Minister and Director General of Local Government to sack the CEO. Are you aware that the Director General for Local Government and the Minister have both advised that they do not propose to get involved with your dispute with the CEO?*
- Q13 I refer to your decision last week to conduct your Special Council Meeting without having consulted the Elected Members of the City of Joondalup. Did you consult Mr Magyar prior to giving notice of your intention to convene your Special Council Meeting?*
- Q14 I refer to your aborted Special Council Meeting that was supposed to have been conducted at 7 pm on Thursday last week. Did you speak to any Councillors and pressure/threaten them as to the consequences if they did not attend your Special Council Meeting?*
- Q15 I refer to the vote for the Deputy Mayor conducted at the swearing-in ceremony of new Councillors and yourself approximately three weeks ago. Did you advise Cr Janine Gollant on the day before that you would agree to adjourn the vote for the appointment of the Deputy Mayor to enable her to attend and vote?*
- Q16 I refer to the election of Cr John Hollywood as the Deputy Mayor of the City of Joondalup. Did you offer any inducements to the then existing or to any Councillor of the City of Joondalup to vote for Cr Hollywood as Deputy Mayor? If so, what was the nature and extent of those inducements?*
- Q17 Did you as a fact on the night vote against Cr Baker's Motion to adjourn the vote for the appointment of the Deputy Mayor and if so, why?*

- Q18 Within a few minutes thereafter, did you agree to adjourn the vote for the appointment of various Elected Members to the Committees of Council to enable Cr Janine Gollant to vote? Why did you deprive her and her Elected Members of their right to vote for the appointment of the election of the Deputy Mayor?*
- Q19 I refer to your decisions last week to call your Special Council Meeting. Why did you convene the Meeting on a date and a time at which you knew in advance that the majority of Councillors could not attend?*
- Q20 Did you consult with any of the minority of Councillors who did attend prior to you convening that meeting?*
- Q21 I refer to your threats to the CEO of our City that if he did not resign, you would continue with your media campaign and if he did resign you would arrange for your media campaign to be stopped straight away. What is the nature and extent of your control over the media?*
- Q22 Are you receiving any advice of how to manipulate the media from any source and if so, what is the identity of that source?*
- Q23 I refer to your statement last week that you proposed to inquire into my complaint against John Hollywood and his obscene language towards me witnessed by Mrs Gordon. Isn't it the case that Cr John Hollywood is a friend of yours? Why are you inquiring into a complaint involving your friend?*
- Q24 Will that enquiry be conducted behind closed or open doors. If it won't be conducted in open doors, why are you holding a secret inquiry?*
- Q25 Why won't you agree to the inquiry being conducted by an independent person and in public?*
- Q26 How can you be the judge of the inquiry at the same time and then later on vote on the findings of your report on the inquiry? Isn't this an obvious conflict of interest?*
- Q27 I refer to your proposal to auction the Mayoral robes of the former Mayor and donate the proceeds to charity.*
- Is this standard procedure?*
  - Will you be setting a precedent that will cost ratepayers more money?*
- Q28 Would it not be more cost effective to modify the current Mayoral robe to suit your smaller stature (size)? And donate a set sum (say 50% of replacement cost) to charity?*
- Which charity will you donate this money to?*
  - Why have you selected this charity over others?*

- Q29 At the Special Meeting held on 12 May 2003 you stated that “I have in my possession a Statutory Declaration by a Mr Davies concerning the events at the conclusion of the Ordinary Meeting held on 29 May 2003” pertaining to the conduct unbecoming a Councillor.*
- Do you acknowledge that you have in your possession or know the whereabouts of this Statutory Declaration?*
  - Before whom did Mr Davies swear this Statutory Declaration?*
  - Will you provide the name of the signing JP on the Statutory Declaration? If not, not?*
  - Was this a sworn or affirmed Statutory Declaration?*
  - Will you provide a copy of this document to the public? If not, why not?*
- Q30 As advised by the Royal Association of Justices for Western Australian on the 13 May 2003 at 2.35 pm that I formally request that you provide me with a copy of this Statutory Declaration immediately.*
- Will you provide me with a copy of the Statutory Declaration signed by Mr Davies? If not, why not?*
- Q31 Failure to table a copy or the original Statutory Declaration will be seen by the residents and ratepayers that the Statutory Declaration in fact does not exist, a total loss of credibility on your part as Mayor and a clear breach of the Oath of Office as Mayor which you took just two short weeks ago.*
- Will you table a copy of the Statutory Declaration signed by Mr Davies at the first available Special/Briefing/Ordinary meeting? If not, why not?*
- Q32 I refer to your statement to the members of the public who attended at your aborted Special Council Meeting on Thursday last week when you said quote “It appears the other Councillors have decided they do not wish to attend this meeting”.*
- (a) Why did you make that statement when you knew full well that, for example, Cr Mackintosh was overseas on Council business, that Cr Kimber was working away in the South West and you received apologies from the other Councillors?*
  - (b) Will you now correct your statement and tell the members of the public that you knew where the other Councillors were and the fact that you knew in advance of the meeting from apologies that said they could not make the meeting. Will you tell the truth to the public?*
  - (c) Why did you also say that only seven Councillors considered it to be an important issue? Did you expect Cr Kimber to drive back from Busselton? Did you expect Cr Mackintosh to fly back from Europe on your whim of holding a Special Council Meeting on short notice?*

A1-32 Council considered the issue of the employment of the CEO at its meeting held on 24 June 2003. A copy of Council's decision C98-06/03 - Employment of the Chief Executive Officer of the City of Joondalup has been forwarded to Mr Grech.

**The following questions were submitted by Mr S Magyar, Heathridge to the Special Meeting of Council held on 20 May 2003:**

*Q1 Has the CEO showed his qualifications to any of the elected members of the current Council and if so, which members?*

*Q2 If any of the elected members who have seen the qualifications of the CEO are present, could they confirm that the qualifications they have seen are the qualifications that the CEO listed in the documentation for his current position.*

*Q3 Have any elected members asked to see the qualifications of the CEO and been refused the right to review the documents, and if so, which elected members?*

Q1-3 Council considered the issue of the employment of the CEO at its meeting held on 24 June 2003. A copy of Council's decision C98-06/03 - Employment of the Chief Executive Officer of the City of Joondalup has been forwarded to Mr Magyar.

**The following questions, submitted by Mr K Zakrevsky, Mullaloo, were taken on notice at the Special Meeting of Council held on 20 May 2003:**

*Q1 Why all the intense secrecy regarding the CEO's appointment and credentials if everything is above board and meets the requirements of the Local Government Act 1995 Section 5.3.6 (2) which states:*

*"A person is not to be employed in the position of CEO unless the Council:*

- (a) believes that the person is suitably qualified for the position;*
- (b) is satisfied with the provisions of the employment contract.*

*Q2 Was there any misrepresentation of Mr Denis Smith's qualifications covering formal accreditation, positions held, experience, performance evaluation, references and any pending Court inquiries and any possible criminal record?*

A1-2 Council considered the issue of the employment of the CEO at its meeting held on 24 June 2003. A copy of Council's decision C98-06/03 - Employment of the Chief Executive Officer of the City of Joondalup has been forwarded to Mr Zakrevsky.



**The following questions were submitted by Ms C Woodmass, Kingsley to the Special Meeting of Council held on 20 May 2003:**

- Q1 What university qualifications were listed on Mr Smith's resume as provided to the City during the selection process of our CEO?*
- Q2 Will Denis Smith provide full copies of his qualifications, and especially his professional university qualifications to the public, and if not to the public, to other Councillors and the Mayor?*
- Q3 If the CEO's qualifications do not match those listed on his CV, and Mr Smith does not have the qualifications that he claimed to have during the selection process, what action will Council take to resolve this serious matter?*
- Q4 Who is paying for the CEO's legal representation on this matter?*
- Q5 Last week Dr Hollingsworth, the Governor General, was stood down from his post until he was cleared of accusations made against him, whether those accusations are true or false, as they were deemed to be damaging to the position that he holds. Is Council aware that the issue of the CEO's qualifications has been dragging on since last year and now all eyes state-wide are on the City of Joondalup to resolve the issue as soon as possible. Is Council aware that the longer this goes on, the more damage will be done to the credibility not only of the CEO, but to the City of Joondalup and the staff? What action is Council going to take to regain its credibility and restore accountability and trust to the ratepayers who duly elected them?*
- Q6 Why is it that Mr Smith feels the need for secrecy in relation to his qualifications?*
- A1-6 Council considered the issue of the employment of the CEO at its meeting held on 24 June 2003. A copy of Council's decision C98-06/03 - Employment of the Chief Executive Officer of the City of Joondalup has been forwarded to Ms Woodmass.

**The following question, submitted by Mr Sideris, Mullaloo, was taken on notice at the Special Meeting of Council held on 20 May 2003:**

- Q1 At no stage, and I have still not found any minuted record, where the finalised details of that agreement (the contract employing the CEO) came back to Council and were ratified by this Council. As I take the recommendation passed by Council, the contract is still incomplete. It has not been agreed to by this Council. When did this contract come back to Council for ratification and approval by this Council?*
- A1 Council considered the issue of the employment of the CEO at its meeting held on 24 June 2003. A copy of Council's decision C98-06/03 - Employment of the Chief Executive Officer of the City of Joondalup has been forwarded to Mr Sideris.

**The following questions were submitted by Mr V Cusack, Kingsley to the Special Meeting of Council held on 20 May 2003:**

- Q1 Does the CEO, Mr Denis Smith, have any university degrees?*
- Q2 Did the City receive any documentation which clearly stated that the CEO, Mr Denis Smith had a specific degree during the selection process for the appointment of the CEO?*
- Q3 Is this Council aware that the Baker/Hurst legal licence amendment to the Kimber/Mackintosh censure motion goes directly against the existing legal representation policy currently in place in this Council?*
- Q4 Is this Council aware that the same Baker/Hurst legal licence amendment is also contrary to the Department of Local Government advice contained in its model policy on legal representation which was sent out to all local government authorities in October 2000?*
- Q5 Is this Council aware that on 23 April 2002 after being provided with the Department of Local Government's model policy on legal representation, the former full Council in the City of Joondalup overwhelmingly rejected the Mackintosh/Baker motion to amend the City's legal policy 2.2.8 which was specifically designed to enable a Councillor or staff member to commence defamation action using ratepayers' money?*
- A1-5 Council considered the issue of the employment of the CEO at its meeting held on 24 June 2003. A copy of Council's decision C98-06/03 - Employment of the Chief Executive Officer of the City of Joondalup has been forwarded to Mr Cusack.

**The following question, submitted by Mr H Reason, Kinross, was taken on notice at the Special Meeting of Council held on 20 May 2003:**

- Q1 The Council I believe appointed an employment agency or similar to carry out a contract to find a suitable person to fulfil the position of CEO. Is it the Council's responsibility to ascertain that that candidate's qualifications and career history is correct, or is it the company that was employed to find a correct person to fulfil that position.*
- A1 Council considered the issue of the employment of the CEO at its meeting held on 24 June 2003. A copy of Council's decision C98-06/03 - Employment of the Chief Executive Officer of the City of Joondalup has been forwarded to Mr Reason.

**The following questions, submitted by Mr S Grech, Ocean Reef, were taken on notice at the Council meeting held on 27 May 2003:**

- Q1 My questions are directed to the Mayor. I refer to last week's resolution of Council to appoint Freehills to prepare a legal opinion in respect of the CEO's employment contract. I ask as follows:*

- (a) *Why did you tell the public and the media that the preparation of the legal opinion was an investigation when it was not?*
- (b) *Did you have any discussion with Mr Scott Ellis regarding the CEO's employment contract either before the resolution or after it and if so, by whose authority did you have those discussions?*
- (c) *Will you tell your fellow Councillors what was the nature of your discussions?*

*Q2 I refer to then alleged investigation into the CEO's employment contract being conducted by Freehills. I ask as follows:*

- (a) *Why is it Council agreed to Freehills conducting this alleged investigation, where you have appointed yourself, without any consultation from the Councillors, to conduct the investigation into complaints about Cr Hollywood?*
  - *Mayor Carlos requested Mr Grech to withdraw an inappropriate comment.*
- (b) *Can you not see the obvious inconsistencies and double standards that are being applied here?*
- (c) *Do you think it is appropriate that associates should be investigating associates? Does this make a view of closed and unaccountable local government?*

*Q3 At the reconvened Special Meeting on 20 May 2003 you stated that: "I am only interested in obtaining the truth". You further stated: "That all 77 questions submitted by Mr Sam Grech from Ocean Reef will not be answered." You then stated that all questions would be answered tonight.*

- (a) *Why have you refused to answer the 77 questions I sent to you over a two-week period prior to the Special Meeting and the reconvened Special Meeting?*
- (b) *Will you agree to a time frame to have all the 77 questions answered and have them posted on the City of Joondalup's web page by start of business at 9.00am on 4 June 2003?*

A1-3 Council considered the issue of the employment of the CEO at its meeting held on 24 June 2003. A copy of Council's decision C98-06/03 - Employment of the Chief Executive Officer of the City of Joondalup has been forwarded to Mr Grech.

**The following questions, submitted by Mr S Magyar, Heathridge, were taken on notice at the Council meeting held on 27 May 2003:**

*Q1 When Council looked at the issue of the CEO's contract, was Council aware of the current state of the inquiry into the Warringah Shire Council in New South Wales?*

Q1 Council considered the issue of the employment of the CEO at its meeting held on 24 June 2003. A copy of Council's decision C98-06/03 - Employment of the Chief Executive Officer of the City of Joondalup has been forwarded to Mr Magyar.

**The following question, submitted by Ms M Moon, Greenwood, on behalf of South Ward Ratepayers Association was taken on notice at the Council meeting held on 17 June 2003:**

*Q1 Does the Chief Executive Officer have a degree in Business Administration from the University of Technology of Sydney?*

A1 Council considered the issue of the employment of the CEO at its meeting held on 24 June 2003. A copy of Council's decision C98-06/03 - Employment of the Chief Executive Officer of the City of Joondalup has been forwarded to Ms Moon.

**The following question, submitted by Mr K Zakrevsky, Mullaloo, was taken on notice at the Council meeting held on 17 June 2003:**

*Q1 Why all the intense secrecy regarding the CEO's appointment and credentials if everything is above board and meets the requirements of the Local Government Act 1995 Section 5.3.6 (2) which states:*

*"A person is not to be employed in the position of CEO unless the Council:*

- (c) believes that the person is suitably qualified for the position;*
- (d) is satisfied with the provisions of the employment contract."*

*Q2 Was there any misrepresentation of Mr Denis Smith's qualifications covering formal accreditation, positions held, experience, performance evaluation, references and any pending Court inquiries and any possible criminal record?*

A1-2 Council considered the issue of the employment of the CEO at its meeting held on 24 June 2003. A copy of Council's decision C98-06/03 - Employment of the Chief Executive Officer of the City of Joondalup has been forwarded to Mr Zakrevsky.

**The following question, submitted by Mr J McNamara, Sorrento, was taken on notice at the Meeting of Council held on 8 July 2003:**

*Q1 My wife and I have spoken to both of the South Coastal Ward representatives and not received an adequate reply as to why Council would pay a salary of \$230,000 to an employee, particularly at a senior level, that does not have formal qualifications.*

*The City employed the recruitment agency, Management Recruiters Australia to seek a suitable person as CEO of the City of Joondalup. Subsequently Mr Denis Smith was recommend for the position.*

*Because of the hiring of the agency, has the City used this Company Management Recruiters Australia to recruit other staff, if so, what were these positions, what was the cost of these recruitments and finally what was the amount paid to the recruitment agency to recruit Mr Denis Smith?*

- A1 The City has used Management Recruiters Australasia five times since the appointment of the CEO. The positions have been Director Corporate Services & Resource Management, Manager Assets & Commissioning, Manager Community Development, Manager Library Services and Manager Special Projects. The total cost, excluding disbursements is \$52,800.

The amount paid for the recruitment of the CEO was \$20,000, excluding GST and disbursements.

**The following questions, submitted by Mr M Sideris, Mullaloo, were taken on notice at the Meeting of Council held on 8 July 2003:**

*Q1 Re: Questions I have asked at the Special Meetings of Council regarding the appointment of the CEO and his qualifications. I have not received any answers to those questions that were properly constituted and put before Council. Why not and why were they not recorded in tonight's agenda?*

- A1 A copy of Council's decision C98-06/03 – 'Employment of the Chief Executive Officer of the City of Joondalup' was forwarded to all persons whose questions were taken on notice. These questions and the response given is again provided within this Agenda for the Council meeting of 29 July 2003.

*Q2 Where in Council's resolution, regarding the CEO's qualifications, does it state that Council cannot comment to any questions related to the appointment of the CEO?*

- A2 Resolution number C98-06/03 in particular 3(b).

The Mayor and individual Councillors should make no further public statements in relation to these issues

**The following questions, submitted by Mr N Gannon, Sorrento, were taken on notice at the Meeting of Council held on 8 July 2003:**

*Q1(a) Is it correct that the eight ratepayers whose 103 questions on notice have had an answer which consists of a copy of Council's decision C98-06/03 Employment of the Chief Executive Office of the City of Joondalup which was passed at the Council Meeting on 24 June 2003 by 12 votes to 3?*

- A1(a) Yes.

*Q2 What action will be taken against other Councillors reported to have spoken on the issue (Wanneroo Times 8/7/03). I will not name them, as I personally did not hear the comments?*

- A2 This is a matter for Council to consider.

**The following questions, submitted by Mr S Magyar, Heathridge, were taken on notice at the Meeting of Council held on 8 July 2003:**

*Q1 Did Cr Baker donate any funds to any of the candidates in the May 2003 Elections for the City of Joondalup? If so, to whom and how much to each candidate was donated?*

*Q2 Did the former Mayor, John Bombak donate any funds to any of the candidates in the May 2003 Elections for the City of Joondalup? If so, to whom and how much was donated to each candidate?*

A1-2 The Disclosure of Gifts Register for the 2003 election is held by the CEO. The Register records all disclosures of gifts by candidates and is available for public inspection.

**The following questions, submitted by Mr A Rowe, Sorrento, were taken on notice at the Meeting of Council held on 8 July 2003:**

*Q1 Re: Proposed Development of Retaining Walls in 9 Hocking Parade, Sorrento. Given that this situation may be hypothetical, has Council considered, should the approval be granted at the recommended pad levels and wall heights, the impact that the building R Codes and overshadowing effect will have on the adjoining property owners should any future two storey dwelling proposal be submitted to Council for approval. Should Council not be considering these problems now?*

A1 It is not possible for Council to assess a hypothetical development in terms of the R Codes, Council can only apply the codes to the application before the meeting tonight for the retaining walls.

*Q2 I ask that Councillors support our concerns and grievances regarding the proposed development and support the reduction of pad levels by one metre more than that recommended by the Planning Department. I ask Councillors to consider implementing the endorsed building R codes for retaining walls and have the set backs increased to lessen any impact effect the pad levels would impose on adjoining property owners?*

A2 Council considered the proposal at its meeting held on 8 July 2003 where a motion to reduce the pad level and wall heights by 0.5 metres from that recommended by the officers, was lost. The motion to accept the officer's original recommendation was also lost. Therefore, no decision has been made on the application, and the application will be referred to the Council meeting scheduled for 29 July 2003 for consideration by the elected members.

**The following questions, submitted by Mr T O'Brien, Padbury, were taken on notice at the Meeting of Council held on 8 July 2003:**

*Q1 Re: Council Behaviour and Council Administration – What is the timeframe and criteria for any elected Member to attend and be certified in context to the Local Government Act regarding their role as Councillors of the City of Joondalup, particularly when qualifications would give all Elected Members a*

*standard of performance and function honour and duty bound to the ratepayers who elected them as Ward Representatives?*

A1 There is no standard performance set for elected members. When an elected member is duly elected they make a declaration of office which stipulates that they will fulfil the office for the people in the district according to the best of their judgement and will observe the City's code of conduct.

Q2 *Re: Legality and legal reference to the Infrastructure and Management Department of which I expect the CEO to take notice. Issues that have come up in the past have been in respect to building and community projects i.e., community kindergartens. There are four questions I would like the City of answer:*

*Is the Council aware that the Education Department has a new regulation and stated and passed in Parliament in WA of year 1999 and fully ratified in the year 2000. And in participant of that Act is that there is community kindergartens in subjective to Section 205 and the laws pursuant to those in the State and that in consultation with those community groups which are incorporated public bodies, their parents are the you and I's who run them and almost in a charitable notation. They are being directed to sign up leasing and lease agreement, which are in effect business agreements, and not pursuant to peppercorn leases for a community kindergarten. There is no consultation taken into context to those lease agreements your legal department are offering generalised business agreements which have no context to public consultation, no context to community kindergarten and their prosperity, and in the fact you have most of the community kindergartens of the City of Joondalup nearly reaching a thirty year age mark in life and term and they offer a great propensity to the community as there is no legal requirement for education of school children as from the year 6 and under. The difference being that I would like you to investigate that the context that there is no public consultation, there is no performance criteria in relation to the community kindergarten committees. There is no performance in regards to what is returned in rates and charges and fees to infrastructure management in relation to the upkeep of the buildings they are subjective to taking on the full cost of building in its entirety which is not true to a lease, including as has happened in the past with Padbury Kindergarten the expensive repair of the roof. There needs to be an investigation in regards to the legality and the legal reference and the legal departments where there is no propriety to the operation of community kindergartens to this community.*

A2 This question is unclear.

**The following question, submitted by Ms M Moon, Greenwood, was taken on notice at the Meeting of Council held on 8 July 2003:**

Q1 *I asked a question last time, what is a centre and how is the size of a centre determined? I have in the answer shopping centres are listed in the DPS2. I did not ask about shopping centres, I am quite aware what a shopping centre is. You also have net lettable area for each, could you please tell me what a centre is and how the size of the whole centre is determined as in your Amendment 10 and your Centre Strategy and your DPS2?*

- A1 The Western Australian Planning Commission's Statement of Planning Policy No 9, entitled Metropolitan Centres Policy Statement for the Perth Metropolitan Region provides a broad regional planning framework to coordinate the location and development of retail and commercial activities in the metropolitan region. It is mainly concerned with the location, distribution and broad design criteria for the development of commercial activities. This policy is used as a guide to determine the size of centres. A 'centre' under the Metropolitan Centres Policy means areas designated under this policy and includes all land for retail, commercial, office and industrial developments.

**The following question, submitted by Mr R Corkill, Heathridge, was taken on notice at the Meeting of Council held on 8 July 2003:**

*Q1 Is Council aware that the 1989 proposal for the development of a 50 metre pool at Craigie Leisure Centre included the upgrade of the filtration system and plant equipment due to the identified inadequacy of the equipment identified shortly after the centre opened in 1987?*

- A1 Council is not aware of a 1989 formal proposal for a 50 metre pool. However, any such proposal would have necessitated an upgrade to the filtration system in order to handle the increased body of water.

**The following question, submitted by Mr R de Gruchy, Sorrento, was taken on notice at the Meeting of Council held on 8 July 2003:**

*Re: Concerns about the proposed redevelopment of the Craigie Leisure Centre.*

*Q1 In the event that a reorganisation of the kiosk at Craigie does take place, what steps are being taken to:*

- (a) provide the service currently provided by the kiosk, and*
- (b) compensate the lessee of the kiosk for the loss of income caused by both the closure of the pool and any demolition etc of the kiosk itself?*

- A1 The City will not comment on commercial leasing issues.

**The following questions were submitted by Mr S Grech, Ocean Reef:**

*My questions are addressed to the Mayor:*

*Q1 Can you provide the number of times that Cr Hollywood has been up for potential breach of Standing Orders, Code of Conduct and the Local Government Act 1995, since coming into office in 1999?*

- A1 A report was presented to the Council at its meeting held on 29 April 2003 (Item C66-04/03 refers) relating to a potential breach of Standing Orders, Code of Conduct and Local Government Act 1995 by Cr Hollywood, and the Council resolved to take no further action. Since that decision, Cr Kenworthy has submitted a motion to rescind the decision of the Council of 29 April 2003. The rescission motion submitted by Cr Kenworthy is yet to be determined by



the Council and is listed for consideration at its meeting to be held on 29 July 2003.

An alleged incident involving Cr Hollywood was considered by the Council at its meeting held on 8 July 2003 (Item C134-07/03 refers). Cr Hollywood has been subject to some minor breaches of the Standing Orders during Council meetings.

*Q2 The number of times including any notice of motion scheduled for Council debate within the last and next 30 days for potential breach of Standing Orders, Code of Conduct and the Local Government Act 1995, since Cr Hollywood was elected Deputy Mayor?*

A2 See answer to question 1.

*Q3 Provide a total list of all of Cr Hollywood's potential breach of Standing Orders, Code of Conduct and the Local Government Act 1995, since coming into office in 1999?*

A3 See answer to question 1.

*Q4 Was any action ever taken against Cr Hollywood for any of the potential breach of Standing Orders, Code of Conduct and the Local Government Act 1995, since coming into office in 1999. If so, what was the action taken?*

A4 The Council took no action against Cr Hollywood regarding the alleged incident at its meeting held on 8 July 2003 (Item C134-07/03 refers) as detailed in the answer to Question 1 above. The Council is still to determine the Notice of Motion which is listed for consideration at its meeting to be held on 29 July 2003.

### 3 APOLOGIES AND LEAVE OF ABSENCE

#### **Leave of absence previously approved:**

Cr C Baker - 5 July 2003 to 31 July 2003 inclusive

Cr A Nixon - 10 July 2003 to 30 July 2003 inclusive

#### **REQUEST FOR LEAVE OF ABSENCE - CR P KIMBER - [76541]**

Cr P Kimber has requested Leave of Absence from Council duties covering the following dates:

25 – 29 August 2003 inclusive

8 - 12 September 2003 inclusive

**RECOMMENDATION**

**That Council APPROVES the request from Cr P Kimber for Leave of Absence from Council duties covering the following dates:**

**25 - 29 August 2003 inclusive**

**8 - 12 September 2003 inclusive**

**4 DECLARATIONS OF FINANCIAL INTEREST/INTEREST THAT MAY AFFECT IMPARTIALITY**

*Cr O'Brien stated his intention to declare a financial interest in Item CJ163-07/03 – Warrant of Payments – 30 June 2003 (Voucher No 49441 - Chubb Electronic Security and Voucher No 49452 – Chubb Protective Services P/L) – as Chubb Security has taken over an FAI Extra Watch security at his residence.*

*Cr Baker stated his intention to declare a financial interest in Item CJ164-07/03 – Appointment of Auditor – 1 July 2003 to 30 June 2006 – Tender 040-02/03 as one of the tenderer's business premises is located in close proximity to business premises occupied by Cr Baker.*

**5 CONFIRMATION OF MINUTES**

MINUTES OF COUNCIL MEETING, 8 JULY 2003

**RECOMMENDATION**

**That the Minutes of the Council Meeting held on 8 July 2003 be confirmed as a true and correct record.**

**6 ANNOUNCEMENTS BY THE MAYOR WITHOUT DISCUSSION****7 PETITIONS****8 REPORTS**

**CJ161 - 07/03 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: Caveat  
Parties: City of Joondalup and Peet and Co  
Description: Withdrawal of Caveat – 3 Roxburgh Circle, Kinross  
Date: 13.05.03

Document: Covenant  
Parties: City of Joondalup and Peet and Co  
Description: Restrictive Covenant – Deposited Plan 36127  
Date: 13.05.03

Document: Copyright  
Parties: City of Joondalup and John Nairn  
Description: Recording of historical importance  
Date: 13.05.03

Document: Deed  
Parties: City of Joondalup and Mindarie Regional Council  
Description: Deed of Partial Surrender of Lease re Vodafone  
Date: 22.05.03

Document: Copyright  
Parties: City of Joondalup and Pat Pallor  
Description: Recording of historical importance  
Date: 22.05.03

Document: Agreement  
Parties: City of Joondalup and Kamsui P/L trading as Totally Workwear, Joondalup  
Description: Execution of Contract No 025-02/03 – Supply and Delivery of Workwear as per CJ089-04/03 (File Ref 84539)  
Date: 27.05.03

Document: Copyright  
Parties: City of Joondalup and Allyn Bryant, JP  
Description: Recording of historical importance  
Date: 27.05.03

- Document: Caveat  
Parties: City of Joondalup and Butte Holdings Pty Ltd/Rockingham Park Pty Ltd  
Description: Withdrawal of Caveat H446051 – Swan Loc 709 Woodlake Retreat  
Date: 05.06.03
- Document: Easement  
Parties: City of Joondalup and Peet and Co  
Description: Section 136C Easement Instrument – Lots 2228 and 2229 Roxburgh Circle and Lots 2230 and 2231 Gilbank Crescent  
Date: 05.06.03
- Document: S.70A  
Parties: City of Joondalup and Rose Travaglini  
Description: Notification on Title – Lot 52 Bahama Cl, Sorrento (approval of ancillary accommodation)  
Date: 12.06.03
- Document: MOA  
Parties: City of Joondalup and Armando Raschilla  
Description: Memorandum of Agreement – finalisation of workers compensation claim  
Date: 12.06.03
- Document: Contract  
Parties: City of Joondalup and Corporate Express Aust Ltd  
Description: Execution of Contract 023-02/03 – Supply and delivery of Stationery (Refer CJ087-04/03)  
Date: 12.06.03
- Document: S.70A  
Parties: City of Joondalup and Sheila Moss  
Description: Notification on Title – 5 McCrae Court, Padbury (approval of ancillary accommodation)  
Date: 13.06.03
- Document: Amendment  
Parties: City of Joondalup  
Description: DPS No 2 – Amendment No 14  
Date: 24.06.03
- Document: Copyright  
Parties: City of Joondalup and Ray Whitford  
Description: Recording of historical importance  
Date: 24.06.03
- Document: Easement  
Parties: City of Joondalup and Golden Hotels P/L  
Description: Grant of Easement/Partial surrender of easement – Pt Lot 2, Warwick Road, Duncraig  
Date: 24.06.03

Document: Caveat  
Parties: City of Joondalup and John French  
Description: Withdrawal of Caveat over Lot 660 (271) Eddystone Avenue, Beldon  
– (Caveat F897351)  
Date: 08.07.03

## **ATTACHMENTS**

Nil

## **VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

**That the schedule of documents executed by means of affixing the Common Seal be NOTED.**

v:\reports\2003\J009

**CJ162 - 07/03      PRINCIPAL ACTIVITIES PLAN 2003/04 TO 2007/08 -  
[14528]****WARD - All**

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**PURPOSE**

This report is presented for Council to accept the Principal Activities Plan 2003/2004 – 2007/2008.

**EXECUTIVE SUMMARY**

The Principal Activities Plan is required to be prepared under section 5.56 of the Local Government Act 1995, advertised for public comment and, after considering any submissions received, be accepted. The Council is required to accept the Principal Activities Plan prior to adopting the annual budget.

The Principal Activities Plan was advertised for public comment in accordance with section 5.57 of the Local Government Act. In addition, the draft plan was published on the City's web site Closing date for submissions was 14 July 2003.

Three comments were received from members of the public and are detailed in this report.

This report recommends that Council having considered the submissions received, notes the content of the submissions and accept the Principal Activities Plan for 2003/2004 –2007/2008 as attached.

**BACKGROUND**

In accordance with the Local Government Act 1995 Section 5.57(a) submissions and public comment were invited on the City's draft Principal Activities Plan 2003/04 – 2007/08. The period for public comment was forty-two (42) days, which ended on 14 July 2003.

**Strategic Plan**

Under Objective 4.3 of the City's Strategic Plan 2003-2008, the City will:

- *Ensure (that) the City responds to and communicates with the community;*
- *Provide accessible community information;*
- *Provide fair and transparent decision-making processes.*

## **DETAILS**

The draft Principal Activities Plan 2003/04 to 2007/08 (PAP) was advertised, inviting public comment, on Saturday 31 May 2003 in The West Australian, on 3 June 2003 in the Wanneroo Community Newspaper and on 5 June 2003 in the Joondalup Community Newspaper. The Plan was made available through the City's libraries, on the web site and at both Customer Service locations.

Council is required to receive and consider any submissions, and accept the PAP prior to adopting the annual budget.

Three submissions were received from members of the community, and these are detailed below. Each submitter has been responded to in writing.

Mr Andrew Dare wrote to the City expressing concern that the State Underground Power Project was not included within the PAP. Mr Dare has been informed that the City has submitted an expression of interest in the State Underground Power Program (SUGPP) and is waiting on advice from the Office of Energy/Western Power.

Mr Van Kesteren wrote to the City in relation to funding for the Joondalup Bike Survey Plan. He has been advised that the Bicycle Survey Plan is being progressed and will be completed shortly. He has been informed that items have been included under Shared Paths and Bicycle Facilities Programs of the draft 2003/04 Five-Year Capital Works Program. Mr Kesteren also requested information on whether the proposal to build a cycle track within Craigie Leisure Centre would be progressed as part of the redevelopment of the Centre. In relation to this he has been advised that proposals for the centre have been deferred until such time as all construction works associated with the redevelopment of the aquatic facilities are completed.

Mr Michael Baird submitted questions to the Council Meeting of 8 July 2003 in relation to the City's Five-Year Capital Works Program. He questioned the reasoning behind the City not providing the Five Year Capital Works Program at the City's libraries along with the draft PAP. He has been informed that this had not been done as at the time the PAP was opened for public comment, the Five Year Capital Works Program had not been considered by Council's Budget Committee.

### **Statutory Provision:**

The Local Government Act 1995 Section 5.52 requires the City to produce a draft Principal Activities Plan annually, which details the major works under consideration by Council for the next four or more financial years.

### **Consultation:**

The draft Principal Activity Plan 2003/04 to 2007/08 was made available for public consideration and comment for 42 days (31 May 2003 to 14 July 2003). Three comments were received from members of the community.

## COMMENT

Based on the public submissions received there is not need to modify the PAP as previously supplied for public inspection.

A copy of the accepted Principal Activities Plan 2003/04 to 2007/08 will be made available on the City of Joondalup's website, the Libraries and at Customer Service locations.

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

**That Council having considered the submissions received, NOTES the content of these submissions and accepts the Principal Activities Plan for 2003/2004 – 2007/2008 forming Attachment 1 to Report CJ162-07/03.**

*Appendix 1 refers*

To access this attachment on electronic document, click here: [Attach1brf220703.pdf](#)

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*Cr O'Brien stated his intention to declare a financial interest in Item CJ163-07/03 – Warrant of Payments – 30 June 2003 (Voucher No 49441 - Chubb Electronic Security and Voucher No 49452 – Chubb Protective Services P/L) – as Chubb Security has taken over an FAI Extra Watch security at his residence.*

## **CJ163 - 07/03      WARRANT OF PAYMENTS – 30 JUNE 2003 - [09882]**

**WARD - All**

### **PURPOSE**

The Warrant of Payments as at 30 June 2003 is submitted to Council for approval.

### **EXECUTIVE SUMMARY**

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

### **DETAILS**

<b>FUNDS</b>	<b>VOUCHERS</b>	<b>AMOUNT</b>
Municipal	000413A – 000419	6,834,115.56
Director Corporate Services & Resource Management Advance Account	048998 – 049765	6,829,645.09
Trust Account	-	-
	<b>TOTAL</b>	<b>\$13,663,760.65</b>

The difference in total between the Municipal and Director of Corporate Services & 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 June 2003, the amount was \$2,261,056.32.

The cheque register is appended as Attachment A.

### **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 \$13,663,760.65 which is to be submitted to each Elected Member on 29 July 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 costing 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 \$13,663,760.65 was submitted to Council on 29 July 2003.

.....  
 Mayor Don Carlos

### **ATTACHMENTS**

Attachment A - Cheque Register

### **VOTING REQUIREMENTS**

Simple Majority

### **RECOMMENDATION**

**That Council APPROVES for payment the following vouchers, as presented in the Warrant of Payments to 30 June 2003, certified by the Mayor and Director Corporate Services & Resource Management and totalling \$13,663,760.65.**

<b>FUNDS</b>	<b>VOUCHERS</b>	<b>AMOUNT</b>
<b>Municipal</b>	<b>000413A 0 000419</b>	<b>6,834,115.56</b>
<b>Director Corporate Services &amp; Resource Management Advance Account</b>	<b>048998 – 049765</b>	<b>6,829,645.09</b>
<b>Trust Account</b>	<b>-</b>	<b>-</b>
	<b>TOTAL</b>	<b>\$13,663,760.65</b>

*Appendices 2 and 2(a) refer*

To access this attachment on electronic document, click here: [Attach2brf220703.pdf](#)  
[Attach2abrf220703.pdf](#)

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*Cr Baker stated his intention to declare a financial interest in Item CJ164-07/03 – Appointment of Auditor – 1 July 2003 to 30 June 2006 – Tender 040-02/03 as one of the tenderer's business premises is located in close proximity to business premises occupied by Cr Baker.*

## **CJ164 - 07/03      APPOINTMENT OF AUDITOR - 1 JULY 2003 TO 30 JUNE 2006 - TENDER 040-02/03 - [43831]**

**WARD - All**

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### **PURPOSE**

This report provides details of tenders received from registered company auditors or approved auditors for the supply of Audit Services to the City for the period 1 July 2003 to 30 June 2006.

### **EXECUTIVE SUMMARY**

The current appointment of Council's external auditors – Mr Graham McHarrie and Mr Peter Messer from Chartered Accountants Deloitte Touche Tohmatsu expires on completion of the 30 June 2003 financial accounts.

In accordance with the provisions of the Local Government Act 1995 (Part 7) and the Local Government (Functions & General) Regulations 1996, tenders were called for the provision of audit services for the City for the financial period 1 July 2003 to 30 June 2006.

Five tenders were received from audit partners with the following Chartered Accounting firms: -

- Stanton and Partners
- Deloitte Touche Tohmatsu
- Grant Thornton
- Haines Norton
- Joondalup Business Services

The assessment and evaluation of the audit tenders was undertaken by an evaluation panel using a multi-criterion assessment system.

Following the evaluation and assessment of the tenders it is recommended that the City appoints Mr Graham McHarrie and Mr Peter McIver of Chartered Accountants Deloitte Touche Tohmatsu as the City of Joondalup's external auditors for the financial period 1 July 2003 to 30 June 2006.

## BACKGROUND

Pursuant to section 7 of the Local Government Act 1995 and the Local Government (Audit Regulations) 1996 the appointment of an auditor to undertake the audit of a Local Government requires that appointees be a registered company auditor or an auditor approved by the Minister under section 7.5 of the Local Government Act 1995.

Section 7.3(1) of the Local Government Act 1995 requires the auditor to be appointed by an absolute majority for a term of not more than five financial years.

The auditor is to examine the annual financial accounts submitted for audit by 30 September of each year, and by no later than 31 December next following the financial year to which the accounts and report relate, prepare a report thereon and forward a copy of that report to:-

- the Mayor;
- the Chief Executive Officer; and
- The Minister for Local Government

The auditor's report forms an integral part of the Annual Report to the electors.

## DETAILS

Tender No 040-02/03 for the supply of external audit services to the City for the triennium 1 July 2003 to 30 June 2006 closed at 3.00pm on Tuesday 27 May 2003. Five tenders were received as follows:-

Tenderer	Locality	Tender Price (ex GST)			
		2003/04	2004/05	2005/06	Total
Joondalup Business Services	Joondalup	\$23,100	\$23,613	\$24,245	\$70,958
Haines Norton	Osborne Park	\$27,000	\$27,800	\$28,600	\$83,400
Stanton & Partners	West Perth	\$26,000	\$28,000	\$30,000	\$84,000
Deloitte Touche Tohmatsu	Perth	\$28,000	\$29,500	\$31,000	\$88,500
Grant Thornton	Perth	\$33,500	\$33,500	\$33,500	\$100,500

Under the City's Contract Management Framework, the tenders were assessed using a weighted multi-criterion assessment system based on the following selection criteria, as specified in the Tender Document:

- Tenderer's Resources (example of specialised Auditors to undertake this audit service as required under Part 7 of the Local Government Act, support services available, resumes of Auditors available and to be dedicated for the proposed Audit Services)
- Tenderer's previous experience in carrying out similar works
- Methodology to be used
- Audit Plan submitted

- Lump sum price

While Deloitte Touche Tohmatsu did not provide the cheapest tender, they clearly ranked ahead of the other tenderers on the qualitative criteria, which gave them the number one ranking overall. Apart from the tenders submitted by Grant Thornton and Stanton Partners, the other tenderers did not include a cost for grant acquittal audits in their quoted prices (this was not a requirement of the tender and is not included in the above prices). However, when this consideration was factored into the price, Deloitte's were still ranked ahead of all other tenderers.

#### **Policy 2.4.6. Purchasing Goods and Services**

The City's Policy on purchasing goods and services encourages local business in the purchasing and tendering process; one submission was received from a local business, ie Joondalup Business Services.

#### **Statutory Provision:**

The statewide public tender was advertised, opened and evaluated in accordance with the *Local Government (F&G) Regulation 1996*. Section 7.3(1) of the Local Government Act 1995 requires the auditor to be appointed by an absolute majority which is the reason for this tender being referred to Council for approval.

#### **COMMENT/FUNDING**

The audit of the City of Joondalup will be carried out in accordance with the requirements of the Local Government Act 1995 and the Local Government (Audit) Regulations 1996 in the provision of an effective financial and compliance audit of the City.

Interim audit procedures will be conducted during the financial year with the final audit timed to ensure internal and external deadlines are met, particularly regarding the conduct of the Annual General Meeting of Electors.

Mr McHarrie is an audit partner in the Perth office of Deloitte Touche Tohmatsu. Both he and Mr McIver are registered company auditors and each has many years of auditing experience.

The hourly rates and number of hours quoted for the Deloitte "audit team" indicates that 250 team hours has been estimated for the interim and annual audits. This appears to be in the mid range of tenderers and provides value for money given Mr McHarrie's team's knowledge of the City's operations and systems.

Mr McHarrie's audit approach will focus on: -

- Audit planning and risk identification
- Testing and audit response to risks
- Resolution of issues and reporting

Deloitte Touche Tohmatsu currently undertakes audits for the following local governments in addition to the City of Joondalup:-

City of Belmont  
City of Stirling  
City of Subiaco  
City of Swan  
City of Wanneroo  
Eastern Metropolitan Regional Council  
Mindarie Regional Council

In the past Mr McHarrie has adopted the practice of meeting with the Chief Executive Officer at the conclusion of his audit at which time the results of the audit and the content of his Management Report are discussed. Since the establishment of the Audit Committee, Mr McHarrie has offered his services to explain the role and responsibilities of both external and internal audit.

Deloitte's tendered prices are quoted on the basis that all records including completed financial statements, prepared in statutory format and supporting trial balances and recommendations are completed and available at the time of audit.

It should be noted that the City is not compelled to use Deloitte for grant acquittal audits and may choose to use another auditor should this prove more cost effective.

Deloitte Touche Tohmatsu demonstrated that they have the ability to provide best value for money based on the selection criteria and outcome of the tender evaluation.

## **ATTACHMENTS**

Nil

## **VOTING REQUIREMENTS**

Absolute Majority

## **RECOMMENDATION**

**That Council BY AN ABSOLUTE MAJORITY in accordance with the provisions of section 7.3 of the Local Government Act 1995 APPOINTS Mr Graham McHarrie and Mr Peter McIver of Deloitte Touche Tohmatsu as auditors to the City of Joondalup for the triennium 1 July 2003 to 30 June 2006 at a fee of \$28,000 for 2003/2004, \$29,500 for 2004/2005 and \$31,000 for 2005/2006, plus GST, with such appointments to be under the terms and conditions outlined in the Local Government (Audit) Regulations 1996.**

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**CJ165 - 07/03      2004/2005      STATE      BLACKSPOT      PROGRAMS  
PROJECT SUBMISSIONS - [08151]**

**WARD - All**

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**PURPOSE**

The purpose of this report is to seek formal Council endorsement of projects submitted to the 2004/05 State Black Spot Program.

**EXECUTIVE SUMMARY**

On 9 June 2003, Main Roads WA called for submissions for the 2004/05 State Black Spot Program. Submissions are required by Friday 15 August 2003. In order to meet this deadline, project submissions have been made, subject to formal endorsement by Council.

A comprehensive list of the proposed projects including total project costs, possible State Black Spot Program funding and the mandatory Council contributions should funding be approved are shown on Attachment 1. Formal endorsement of the short listed projects are supported on the basis that they may significantly improve safety of the local road network for all road users.

It is recommended that Council:

- 1      ENDORSES the projects shown on Attachment 1 to this report;
- 2      AGREES to consider, as a high priority, 1/3<sup>rd</sup> funding of successful State Black Spot projects as part of the 2004/05 budget deliberations.

**BACKGROUND**

In August 2000, the State Government announced a new initiative targeting black spots and road improvements around Western Australia. The program is now moving into its fourth year. The State Black Spot Program is aimed at further improving road safety on local roads across Western Australia thereby reducing the significant trauma and suffering of crash victims, family and friends.

The program targets road locations where crashes are occurring and aims to fund cost effective, safety orientated projects by focusing on locations where the highest safety benefits and crash reductions can be achieved.

All submissions are considered on their merits and are evaluated against the criteria set by the State Black Spot Program Development and Management Guidelines.

The State Black Spot Program will allocate 2/3<sup>rd</sup> funding towards the cost of successful projects with the remaining 1/3<sup>rd</sup> project cost to be met by Council.

## DETAILS

On 9 June 2003, Main Roads WA called for submissions for the 2004/05 State Black Spot Program. To enable the submissions to be presented to the Metropolitan Regional Road Group Technical Members meeting, the submission deadline was set for Friday, 15 August 2003.

As part of this 2004/05 program, approximately 140 eligible sites (5 crashes in 5 years ending December 2002) were evaluated on a preliminary basis. Of these, 23 sites were subject to a more detailed assessment.

The basis of the assessment is to identify potentially cost effective solutions to a particular crash type or types. Essentially, a cost effective countermeasure is one which best addresses a particular crash type. An economic evaluation is then used to determine a Benefit Cost Ratio (BCR). The calculation is based on the cost of a countermeasure compared with the estimated cost saving achieved through a reduction of crashes or crash types. In simple terms, the greater the cost effectiveness, the greater the BCR value.

On the basis of the detailed assessment 19 sites have been short listed. A comprehensive list of the short listed projects including total project costs, possible State Black Spot Program funding and the mandatory Council contributions should funding be approved are shown on Attachment 1 to this Report.

In accordance with the previous year, it is envisaged that the Minister for Transport will announce the approved projects early to mid 2004.

### **Financial Implications:**

An amount of \$180,000 has been listed as Council's contribution in Year 3 (2004/05) of the City's Five Year Capital Works Program – Black Spot. The final amount required to fund the City's contribution towards any successful Black Spot Projects will be considered as part of next year's budget deliberations.

## COMMENT

In order to meet the mandatory funding criteria, successfully approved projects will require a 1/3<sup>rd</sup> contribution from Council.

In the meantime, the short listed projects shown on Attachment 1 to this Report are presented for formal endorsement by Council. Subject to Council endorsement and approval for State Black Spot funding, the City's contribution for each successful project will be listed for funding consideration as part of the City's 2004/05 budget deliberations.

## VOTING REQUIREMENTS

Simple Majority



## **ATTACHMENTS**

Attachment 1 – 2004/05 State Black Spot Program – Project Submissions

## **RECOMMENDATION**

### **That Council:**

- 1 ENDORSES the 2004/05 State Black Spot Programs Project Submissions shown on Attachment 1 to Report CJ165-07/03;**
- 2 AGREES to consider, as a high priority, 1/3<sup>rd</sup> funding of successful State Black Spot projects as part of the 2004/05 budget deliberations.**

*Appendix 5 refers*

*To access this attachment on electronic document, click here: [Attach5agn290703.pdf](#)*

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**CJ166 - 07/03 MINUTES OF THE DRY PARK, MEDIAN AND VERGE COMMITTEE MEETING HELD ON MONDAY 23 JUNE 2003 - [42938]**

**WARD - All**

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**PURPOSE**

The Minutes of the Dry Park, Median and Verge Committee meeting held on Monday 23 June 2003 are submitted for adoption by Council.

**EXECUTIVE SUMMARY**

The Dry Parks Median and Verge Committee meeting of 23 June 2003 considered a range of issues. Cr P. Kimber was elected Chairperson and provided an overview for the new committee members.

The Committee reviewed the Terms of Reference and recommended that Irrigated Parks be included as an additional park type.

It is recommended that Council:

- 1 NOTES the Minutes of the Dry Parks, Median and Verge Committee meeting held on 23 June 2003;
- 2 AUTHORISES the Terms of Reference of the Dry Parks, Median and Verge Committee be amended to include Irrigated Parks as a park type;
- 3 EXTENDS the moratorium on the Median and Verge Development Program only, which is included in the Dry Park Development Program, to the 2003/2004 financial year.

**DETAILS**

The Minutes of the Dry Parks Median and Verge Committee meeting held on 23 June 2003 are submitted for adoption by Council.

**ATTACHMENTS**

- |              |  |
|--------------|--|
| Attachment 1 | Minutes of the Dry Park, Median and Verge Committee.       |
| Attachment 2 | Irrigation Study update.                                   |
| Attachment 3 | Terms of Reference – Dry Parks, Median and Verge Committee |

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

### That Council:

- 1** NOTES the Minutes of the Dry Parks, Median and Verge Committee meeting held on 23 June 2003 forming Attachment 1 to Report CJ166-07/03;
- 2** AUTHORISES the Terms of Reference of the Dry Parks, Median and Verge Committee be amended to include Irrigated Parks as a park type;
- 3** EXTENDS the moratorium on the Median and Verge Development Program only, which is included in the Dry Park Development Program, to the 2003/2004 Financial Year.

*Appendix 6 refers*

*To access this attachment on electronic document, click here: [Attach6brf220703.pdf](#)*

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**CJ167 - 07/03      CONSIDERATION OF WOODLAKE RETREAT  
STRUCTURE PLAN AFTER ADVERTISING – LOT  
550 (42) WOODLAKE RETREAT, KINGSLEY -  
[76534]**

**WARD - South**

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**PURPOSE**

The proposed structure plan is brought before Council for consideration after advertising, in accordance with the provisions of District Planning Scheme No 2 (DPS2) (Attachment 1).

**EXECUTIVE SUMMARY**

The subject land is zoned 'Urban Development' under the City's DPS2 and is uncoded (no residential density code applies to the land). The structure plan is proposed in order to facilitate the future construction of an aged care facility comprising 120 beds. The structure plan is required in order to prescribe the land use and development requirements applicable to the proposed aged care facility to coordinate future subdivision of the site.

Under the 'Urban Development' zone, no subdivision or other development should be carried out until a structure plan has been prepared and adopted under the provisions of Part 9 of the Scheme.

Council at its meeting on 11 March 2003 determined that the structure plan was satisfactory for the purposes of advertising and was subsequently advertised for a period of twenty eight (28) days, with the advertising period closing on 17 April 2003.

Forty (40) submissions were received during the advertising period, twenty eight (28) objecting, citing increases in vehicular traffic, access and safety issues, car parking, pedestrian safety, noise and loss of amenity. Seven (7) submissions were received from servicing and government authorities, and five (5) submissions were in support subject to various issues being addressed, particularly access, car parking and amenity protection. A 51-signature petition was received after the advertising period closed objecting to the proposal.

Whilst some of the local community are opposed, the proposed facility is considered to be a compatible landuse with the surrounding landuses and represents a more desirable development scenario compared to alternative development scenarios with respect to car parking, pedestrian safety, noise and amenity.

It is recommended that the Woodlake Retreat Structure Plan be adopted for final approval with modifications (as described within this report) as a result of community consultation.

**BACKGROUND**

<b>Suburb/Location:</b>	Lot 550 (42) Woodlake Retreat, Kingsley
<b>Applicant:</b>	Peter D Webb and Associates on behalf of Aegis Health Care Group
<b>Owner:</b>	Aegis Health Care Group Pty Ltd
<b>Zoning:</b>	<b>DPS:</b> Urban Development
	<b>MRS:</b> Urban
<b>Coding:</b>	Uncoded
<b>Strategic Plan:</b>	Strategy 2.1 – Rejuvenate our suburbs. Strategy 2.7 – Encourage the provision of a range of innovative and quality facilities, services and recreational activities, which achieve the physical, social, cultural and intellectual well-being of the community, both locally and regionally.

Amendment 578 to the City's previous Town Planning Scheme No1 rezoned the land immediately to the south of the subject lot. The amendment sought to rezone Pt Lot 6 & 7 from 'Rural' to 'Residential Development' with a R40 density code and a structure plan was also prepared. In support of the amendment, an indicative subdivision layout of the total group of landholdings (Attachment 3) was prepared, although it was not endorsed. It is highlighted that this indicative subdivision plan has no statutory effect, as the landowner of Lot 550 did not wish to be a party to either Amendment 578, or the structure plan.

Under DPS2 the subject land is zoned 'Urban Development' whereby the permissibility of land uses are to determined by a structure plan. Aegis Health Care Group approached the City in regards to establishing an aged care facility upon the site. The structure plan is required in order to prescribe the land use and development requirements applicable to the proposal.

Council at its meeting on 11 March 2003 (CJ044 – 03/03 refers) resolved;

(That Council)

- 1 Pursuant to clause 9.4 of the City of Joondalup District Planning Scheme No 2, ADOPTS the draft Woodlake Retreat structure plan as suitable for the purpose of advertising and makes it available for public comment for 28 days;
- 2 Receives written confirmation from the Western Australian Planning Commission and/or the Department for Environmental Protection CONFIRMING no soil contamination issues exist upon Lot 550 Woodlake Retreat, Kingsley PRIOR to Council considering the submissions received during the advertising period;
- 3 LISTS for consideration in the draft 5 year capital works program, the extension of a dual use path along the western side of Wanneroo Road from the lot boundary of Lot 550 Woodlake Retreat, Kingsley, to the bus stop to the south.

## **DETAILS**

The structure plan applies to the land described as Lot 550, Woodlake Retreat, Kingsley. The structure plan is being sought to facilitate the future construction of an aged care facility. The aged care facility is divided into ‘low’ and ‘high’ care, catering for residents as their needs change over time.

The structure plan determines the overall detailed landuse and form of development upon the lot. The envisaged development scenario is included within the structure plan document, shown in Attachment 1. The structure plan also sets out the requirements with respect to development upon the land which includes, amongst others, building height, car parking, setbacks, plot ratio, site coverage and physical appearance of the development.

In considering the proposed structure plan, several issues were identified and are as follows:

- Provision of uniform fencing and dual use path along Wanneroo Road;
- Defining the landuse of the proposed development as an ‘aged care facility’;
- Allocating car parking standards;
- Providing a vehicle turnaround facility along Grasslands Loop (Cul-de-sac head);
- Limiting the number of bays accessed via Grasslands Loop; and,
- Investigating past landuse activity and any possible soil contamination issues.

### **Statutory Provision:**

Clause 3.12.2 of DPS2 states that no development or subdivision should occur on land zoned ‘Urban Development’ until a structure plan has been prepared and adopted.

Under the provisions of Part 9 of DPS2, prior to further considering the structure plan, Council is required to ensure that adequate publicity is given and give notice of its intention to advertise the structure plan proposal for a period of twenty eight (28) days.

Clause 9.6 states that the Council shall consider all submissions received and within sixty (60) days and resolve to either refuse to adopt the Structure Plan or the Structure Plan is satisfactory with or without modifications.

### **Consultation:**

The structure plan was advertised for a period of 28 days, with advertising consisting of all adjoining landowners being notified in writing, a sign erected on site and a notice placed in the Joondalup Community Newspaper on 20 March 2003. All landowners and residents within Grasslands Loop and Woodlake Retreat were also notified in writing of the proposal.

A total of forty (40) submissions were received during the advertising period, of which twenty eight (28) objected citing increases in vehicular traffic, access and safety issues, car parking, pedestrian safety, noise and loss of amenity. Seven (7) submissions were received from servicing and government authorities, and five (5) submissions were in support subject to various issues being addressed, primarily access, car parking and amenity protection (refer Attachment 2 – schedule of submissions).

A 51 signature petition was presented to Council at its meeting on 29 April 2003 requesting Council to reject the Structure Plan, reject any application for a commercial enterprise on Lot 550 and reject any application for a commercial enterprise on Lot 550, which uses the residential streets of Woodlake Retreat and Grasslands Loop, as a thoroughfare for commercial traffic.

An onsite meeting was undertaken on 22 May 2003, with the local community, ward Councillors, Council officers, the applicants and representatives from Main Roads Western Australia in attendance. As a result of this meeting, it was clear that the primary concern centred on traffic generated by the proposed facility, and more specifically, the traffic being concentrated upon Woodlake Retreat and Grasslands Loop.

The ward Councillors at the onsite meeting agreed to have a further meeting with Main Roads WA representatives in order to attempt to secure direct vehicular access to the proposed facility from Wanneroo Road. The result of the meeting, which was reiterated through correspondence received by Main Roads WA on 11 June 2003, was that no direct vehicular access to the proposed facility from Wanneroo Road would be permitted. The following comment was provided;

*“Main Roads' policy and practice is to restrict direct access to Wanneroo Rd to protect traffic safety and efficiency for both traffic on Wanneroo Rd and for traffic entering/exiting developments. Hence Main Roads does not consider the requested direct vehicle access to Wanneroo Rd from the proposed Aged Care development is justified because it would reduce the safe vehicle access/egress for both the subdivision and the aged care facility and would aggravate safety and congestion problems for current and future Wanneroo Rd users.*

*There is no additional traffic generation due to this development (compared to other options in this R40 zoned subdivision) hence there is no demonstrated additional access need for this development compared to the access point originally proposed and accepted on the approved structure plan.*

*The option of a future possible road link to the north linking Woodlake Retreat with Lakeway Drive may need to be investigated further by the City if the City considers this necessary to alleviate residents' access needs. Should the link be constructed, Main Roads may then review the need for an access to Wanneroo Rd north of Kingsway at/or close to Verdin Lane. (Although the option of a 4 way signalised intersection at Wanneroo Rd/Kingsway was discussed at the meeting, Main Roads could only review the need for a left in/left out access at or near Verdin Lane because of the need to minimise the number of 4 way intersections and maximise spacing between intersections and access points)”.*

### **Strategic Implications:**

3.1.2 - Facilitate the safe design, construction and approval of all buildings and facilities within

the City of Joondalup.

3.3.1 - Provide residential living choices.

3.4.2 - Align use of land and modes of transport.

3.5.2 - Assist the facilitation of local employment opportunities.

## COMMENT

Consideration of submissions received during the advertising period

The submissions in objection to the proposed structure plan cite increases in vehicular traffic, access issues, car parking, pedestrian safety, noise and loss of amenity. This relates to the management of the facility (light, noise, deliveries, refuse collection etc) and can be adequately resolved through detailed design and the imposition of conditions at the development approval stage to address these concerns.

Some submissions suggested that access be obtained directly via Wanneroo Road or via a slip lane along Wanneroo Road. Main Roads Western Australia has advised within their submission, during the onsite meeting on 22 May 2003 and via correspondence dated 11 June 2003 that direct access via Wanneroo Road will not be permitted. Temporary vehicular access directly onto Wanneroo Road may be permitted for construction vehicles during the construction phase of the project.

A financial contribution from the applicant may be required at the subdivision or development application stage, to facilitate an additional road link from Woodlake Retreat onto Wanneroo Road should the Department for Planning and Infrastructure (Main Roads WA) and the City of Joondalup determine that such a link is required. This requirement is proposed to be included as a modification to the proposed structure plan.

Many submissions suggested that the existing road network is incapable of accommodating increased traffic generated by the proposed aged care facility, together with the types of vehicles that are expected to use the road network (ambulances, delivery vehicles, busses etc). The road network has been designed to accommodate delivery vehicles, buses and ambulances. The operator of the proposed aged care facility has advised that size and frequency of delivery/collection vehicles attending the property shall be minimised (approximately 3 vans/light trucks per day).

Many submissions received suggested that there are existing manoeuvrability problems caused by on street car parking within Woodlake Retreat that would be exacerbated as a result of the proposed facility. The City's rangers were requested to monitor on street parking activity along Woodlake Retreat and no major parking problems were encountered. Woodlake Retreat, although somewhat narrow, is able to accommodate the parking of vehicles on the roadway without causing obstruction to local traffic. Vehicles were witnessed to be parked half on the roadway and half on residential verges. This is possibly due to the presence of a median strip indicating to drivers to park off the roadway as far as possible so that their vehicles do not obstruct traffic. This is considered satisfactory provided the vehicles do not obstruct the footpath. It is acknowledged that as the area becomes more developed there may be a need to consider on street parking prohibitions, whereby additional monitoring can be undertaken at that stage.

Of critical importance is that increased vehicular movements are expected within the locality irrespective of the development scenario proposed (aged care facility versus standard residential dwellings).



Whilst it is noted that increases in traffic volumes are likely to occur as a result of the proposed aged care facility, such traffic movements will be minimal compared to alternative development scenarios that may be considered upon the land. Furthermore, traffic movements generated by the aged care facility will be predominantly during the day and as such, will have a minor impact upon residential amenity, particularly when compared to traffic movements generated by alternative development scenarios, such as standard residential dwellings where traffic movements occur both day and night. It is generally known that vehicular movements during the night create a greater impact upon residential amenity.

Should the landowner have chosen to subdivide the subject lot in a manner similar to the subdivision of land to the south (as expected by many residents within the locality), the number of lots created and the corresponding number of vehicular movements generated by each dwelling upon each of these lots would result in an increase in vehicular movements within the locality. 5-6 vehicle movements per day per residential dwelling is a generally accepted figure and is commonly used to calculate the average number of vehicle movements. The following table illustrates the various daily traffic volumes generally expected from various development scenarios;

<b>Proposed Aged Care Facility</b>	<b>Grouped Dwelling Development Scenario</b>	<b>Standard Dwelling Scenario</b>	<b>Residential Development</b>
40-45 staff trips + 30 visitor trips (maximum) + 3 delivery vehicle trips per day = <b>73 - 78 vehicle trips per day.</b>	42 dwellings @ 5-6 vehicle movements per day = <b>210 to 252 vehicle trips per day.</b>	21 dwellings @ 5-6 vehicle movements per day = <b>105 to 126 vehicle trips per day.</b>	

In considering the above table, increased vehicular movements are expected as a result of the proposed facility, however, the overall increase in traffic generated by the facility is considered to be less than traffic movements generated by alternative development scenarios.

Some submissions suggested that the proposed aged care facility is a commercial enterprise and as such, is inappropriately located adjacent to existing residential areas. The vast majority of aged care facilities are located within residential areas. Whilst the facility is operated as a business and may be construed as being a commercial enterprise, its landuse is closely aligned to that in the immediate locality, being residential. The facility will house elderly residents on a full time, permanent basis. The main difference between a standard residential dwelling, a grouped dwelling and perhaps a retirement village and that of the proposed aged care facility is each resident will not be provided with separate cooking, clothes washing and other similar facilities within their accommodation.

A commercial kitchen and laundry are proposed within the aged care facility to provide cooking and clothes washing services to residents. These facilities are considered to be secondary or incidental commercial type landuses occurring at the site and the predominant landuse is residential. The proposed secondary/incidental commercial type landuses sought to be undertaken within the facility are not expected to create any adverse impact upon amenity enjoyed by existing residents within the locality, given the scale and operation is limited to the requirements/demands of the aged care facility only.

Residents of the existing retirement village to the north of the subject land have raised concerns with respect to adverse impacts that may be created by the proposed service driveway, delivery bay and service yard which is to be located adjacent to the retirement village. The structure plan is to be modified to capture this issue, whereby the applicant shall provide screening and other suitable design measures to minimise any adverse impact upon the adjoining retirement village that may be generated.

#### Wanneroo Road Dual Use Path, Uniform Fence and Eastern Boundary Wall

The City has secured a commitment from the landowner to construct a dual use path along Wanneroo Road, to the east of the subject lot, together with the construction of a masonry wall and complimentary landscaping along the eastern lot boundary which shall match that existing to both the north and south of the site. Additionally, the Wanneroo Road frontage of the Grasslands Loop car parking area shall remain open, with bollards being provided to restrict vehicular movement directly onto Wanneroo Road. This is also envisaged to allow residents, particularly those within Grasslands Loop, direct pedestrian access to the bus stop and shall also assist passive surveillance of the car parking area.

Given some concern with respect to noise generated by both the facility and the car parking area off Grasslands Loop, the applicant has agreed to the construction of a 1.8 metre masonry wall along the northern lot boundary of 24 Grasslands Loop. This requirement shall be included as a modification to the structure plan document.

#### **LAND USE & CAR PARKING STANDARDS JUSTIFICATION**

Clause 4.8.2 of DPS2 states that when development is not specified in Table 2 (Car Parking Standards) as is the case with an aged care facility, the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposal in cases where it considers this appropriate. A number of schemes were researched for the purpose of obtaining car parking requirements for similar land uses, results are as follows:

<b>Local Authority</b>	<b>Land Use</b>	<b>Parking Requirement</b>
City of Bayswater	Nursing Home	1 bay per 2 beds
Town of Vincent	Nursing Home	1 bay per 3 beds
City of Belmont	Nursing Home	1 bay per 4 beds and 1 bay per employee
City of Cockburn	Aged or dependant person dwelling/hostel/institutional building – homes	1 per 4 persons
City of Canning	Retirement Village	1 bay per 2 residential units and 1 bay per employee
City of Mandurah	Nursing home hostel or similar providing personal care accommodation	1 bay per 4 beds

The developers have advised that the development in the City of Cockburn reflects the facilities being pursued in Kingsley, given this it is recommended that a car parking ratio of 1 bay per 4 beds/persons, together with 1 bay per full time staff member, is considered appropriate. The City of Cockburn does not require the provision of car parking bays for full time staff, however it is proposed that car parking for full time staff be provided in addition to the other car parking bays.

Given that the proposed aged care facility seeks to accommodate 120 residents, and will have 27 full time staff working at the facility at any one time, this equates to a total car parking requirement of 57 bays. The applicant, in their indicative development proposal, propose to construct a total of 58 car parking bays, thus complying with the car parking ratio to be applied to the site via the structure plan.

The facility provider expects that very few bays, if any, will be used by residents to park their vehicles, as many residents would not hold a driver's license. The majority of bays are intended to be used by family members and friends visiting persons residing within the facility.

#### Car Parking Area Via Grasslands Loop

A total of 10 car parking bays are proposed to be constructed with access via Grasslands Loop to serve those residents within 'high care' who have mobility problems. It is expected that use of this car parking area will be minimal and limited to use by visitors and as a set down/drop off point. Given a total of 10 bays comprise this car parking area, vehicular movements along Grasslands Loop is expected to be minimal.

Access from this car parking area into the facility will be via a keypad or other restricted access mechanism, which is covered by the structure plan. This is expected to ensure that use and car parking movements generated by this car parking area are minimised in order to protect the amenity of existing residents within Grasslands Loop and also to provide sufficient security to the facility.

#### Modification to Existing Road Network - Grasslands Loop (Cul-de-sac)

Previous indicative subdivision plans for the subject lot showed the extension of Grasslands Loop as a 'loop' road, intersecting with Woodlake Retreat. Portion of the subject lot is required to be excised in order to construct a turnaround facility (cul-de-sac head).

#### Soil Contamination

The applicant has undertaken soil analysis of the site in accordance with the Department for Environmental Protection (DEP) requirements. The soil analysis report prepared by IT Environmental advised that as a result of testing, no soil contamination was identified upon the site.

The DEP advise that they are unable to make a determination on the soil analysis report until late July at the earliest (12 week assessment timeframe). Given the implications this delay is likely to create with respect to federal funding of this facility, the applicant has requested Council to consider rescinding portion of its previous resolution with respect to the soil contamination issue, and replacing it with wording to ensure that written confirmation from the DEP is provided prior to the WAPC endorsing the structure plan.

### Structure Plan

Modification in the form of additional provisions have been added to the structure plan document as a result of concerns raised by the community during the advertising period, particularly those concerns from landowners immediately adjacent to the proposed facility.

### **ATTACHMENTS**

Attachment 1	Woodlake Retreat Structure Plan
Attachment 2	Schedule of Submissions
Attachment 3	Subdivision Layout

### **VOTING REQUIREMENTS**

Absolute Majority

### **Call for One-Third Support**

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

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

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

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

### **RECOMMENDATION**

#### **That Council BY AN ABSOLUTE MAJORITY:**

- 1 RESCINDS that part of Point 2 of of its resolution of 11 March 2003 to Report CJ044 – 03/03, viz:**

***“Receives written confirmation from the Western Australian Planning Commission and/or the Department for Environmental Protection CONFIRMING no soil contamination issues exist upon Lot 550 Woodlake Retreat, Kingsley PRIOR to Council considering the submissions received during the advertising period”;***

and replaces the above resolution with the following amended wording:

*“Receives written confirmation from the Western Australian Planning Commission and/or the Department for Environmental Protection CONFIRMING no soil contamination issues exist upon Lot 550 Woodlake Retreat, Kingsley PRIOR to the Western Australian Planning Commission endorsing the structure plan”.*

2 Pursuant to clause 9.4 of the City of Joondalup District Planning Scheme No 2, RESOLVES that the Woodlake Retreat Structure Plan is satisfactory and submits the Structure Plan with modifications to the Western Australian Planning Commission for adoption and certification;

3 ADVISES the applicant to modify the structure plan by inserting the following additional and amended paragraphs after Clause 1.4.3;

“Access

(e) A financial contribution from the applicant may be required at the subdivision or development application stage to facilitate an additional road link from Woodlake Retreat onto Wanneroo Road should the Department for Planning and Infrastructure (Main Roads WA) and the City of Joondalup determine that such a link is required; and,

(i) (iii) Mature landscaping being provided, with such landscaping surrounding the pedestrian access network being ‘open in nature’ so that a clear outlook is maintained onto the pedestrian network from adjoining buildings.

Streetscape

(n) The Wanneroo Road frontage of the Grasslands Loop car parking area shall remain open, with bollards being provided to restrict vehicular movement directly onto Wanneroo Road;

The applicant shall construct a 1.8 metre masonry wall along the northern lot boundary of 24 Grasslands Loop. The colour and finish of the wall shall be to the satisfaction of the adjoining landowner; and

The applicant shall provide screening and other suitable design measures along the northern lot boundary to minimise any adverse impacts upon the adjoining retirement village caused by the proposed service driveway, delivery bay and service yard to the satisfaction of the City of Joondalup.”

4 Subject to certification of the Structure Plan by the Western Australian Planning Commission, ADOPTS the Woodlake Retreat Structure Plan as an Agreed Structure Plan and authorises the affixation of the Common Seal to, and the signing of, the Structure Plan documents;

- 5 ADVISES all persons who lodged submissions during the advertising period, including all petitioners, of Council’s decision.**

*Appendices 7, 7(a) and 7(b) refer*

*To access this attachment on electronic document, click here: [Attach7brf220703.pdf](#)  
[Attach7abrf220703.pdf](#) [Attach7bbrf220703.pdf](#)*

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## **CJ168 - 07/03      AMENDMENT NO 16 TO DISTRICT PLANNING SCHEME NO 2 - [50539]**

**WARD** - North Coastal, Lakeside and Marina

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### **PURPOSE**

To modify Council's resolution of 1 April 2003 to Report CJ065-04/03 as it pertains to Amendment No 16 to the City's District Planning Scheme No 2 (DPS 2) in order to limit the number of proposals to those which have resulted from Amendment No 1037/33 North West Districts Omnibus (No 5) to the Metropolitan Region Scheme (MRS). This will ensure that these proposals are progressed within a reasonable timeframe as is required under the Metropolitan Region Town Planning Scheme Act 1959 (MRTPS).

### **EXECUTIVE SUMMARY**

Council at its 1 April 2003 meeting resolved to adopt Amendment No 16 for the purpose of zoning and coding various parcels of land within the City to bring DPS 2 into compliance with Amendment No 1037/33 North West Districts Omnibus (No 5) to the MRS and to correct various anomalies identified on the DPS 2 maps.

Subsequent to the above resolution being made, attention has been drawn to the provisions of the MRTPS, which require town planning scheme amendments, which have resulted from the requirement for town planning schemes to be in compliance with the MRS, to be forwarded to the Minister for approval within a reasonable timeframe.

Due to the large number of proposals included in Amendment No 16 and the delays that this could cause in forwarding it to the Minister for approval within a reasonable timeframe, it is recommended that the proposals be limited to those which have resulted from the above-mentioned MRS amendment. The proposals to correct various other anomalies on the DPS 2 maps are intended to be included in a future town planning scheme amendment.

### **BACKGROUND**

<b>Suburb/Location:</b>	Various – Refer to Attachment No 1
<b>Applicant:</b>	N/A
<b>Owner:</b>	Various – Refer to Attachment No 1
<b>Zoning:      DPS:</b>	Various – Refer to Attachment No 1
<b>                  MRS:</b>	Various – Refer to Attachment No 1
<b>Strategic Plan:</b>	<u>Key Focus Area – City Development</u> 3.1 – To develop and maintain the City of Joondalup's assets and built environment. 3.2 – To continue to meet changing demographic needs.

## Previous Council Decisions

In order to bring DPS 2 into compliance with Amendment No 1037/33 North West Districts Omnibus (No 5) to the MRS and to correct various other anomalies on the DPS 2 maps (these being predominantly parks and recreation and public purpose reserves which are not reflected as such as they were created after the gazettal of DPS 2), Council at its 1 April 2003 meeting (report CJ06-04/03) resolved:

*“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 cnr 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.”*

## **DETAILS**

Council’s previous resolution with respect to Amendment No 16 is proposed to be modified in order to limit the number of proposals to those which have resulted from the above-mentioned MRS amendment. These proposals are outlined in Attachment 1 and mapped out in Attachments 2-10.

### **Statutory Provision:**

The Town Planning Regulations 1967 set out the procedure for amendments to local government Town Planning Schemes. The procedure is summarised at Attachment 11 and the current stage of the amendment has been highlighted.

Section 35A (2) of the MRTPS states that where the MRS is amended, the local government of the district in which the land directly affected by the amendment is situated shall, no later than 3 months after the date on which the amendment to the MRS has the force of law, resolve to prepare in relation to the land, a town planning scheme, or an amendment to an existing town planning scheme, which is in accordance with and consistent with the MRS as amended and within such reasonable time after the passing of that resolution as is directed in writing by the Minister, forward to the Minister for approval the town planning scheme or amendment prepared by it.

**Consultation:**

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

**Strategic Implications:**

The subject amendment is considered to accord with the City's Strategic Plan. The rezoning and coding of Lot 71 Woodvale Drive, Woodvale, will assist in providing greater housing choice in the area. The other proposals contained within the amendment ensure the City's DPS 2 accords with the MRS.

**COMMENT**

The large number of proposals currently included within Amendment No 16 may cause delays in it being progressed by both the City and the Department of Planning and Infrastructure.

The proposed modifications to Council's previous resolution with respect to Amendment No 16 in order to limit the proposals to those which have resulted from the above-mentioned MRS amendment will ensure that the amendment is forwarded to the Minister within a reasonable timeframe as is required under the MRTPS, this will also, inadvertently, assist the community in understanding the proposals.

The remainder of the proposals, which were previously included in the amendment, are intended to be included in a future town planning scheme amendment.

It is recommended that the proposed modifications to Council's previous resolution be adopted.

**ATTACHMENTS**

Attachment 1	Table of Amendment Proposals
Attachments 2-10	Plans of Amendment Proposals
Attachment 11	Flowchart – Scheme Amendment Process

**VOTING REQUIREMENTS**

Absolute Majority

**Call for One-Third Support**

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

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

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

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

## **RECOMMENDATION**

**That Council BY AN ABSOLUTE MAJORITY RESCINDS its resolution of 1 April 2003 to Report CJ065-04/03, as it pertains to Amendment No 16 to the City's District Planning Scheme No 2, viz:**

***“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;*
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- *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 Shenandoah 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 cnr Joondalup Drive and Moore Drive;*
  - *Lot 117 (18) Raffles Court, Currambine;*

- *Lot 116 (15) Raffles Court, Currambine;*
- *Lot 105 (9) Luxor Place, Currambine;*
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- *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;*
- *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.”*

*and REPLACES it with the following:*

*“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:*
  - (i) Lot 71 Woodvale Drive, Woodvale, from ‘Rural’ to ‘Residential’; and*
  - (ii) Portion of Woodvale Drive, Woodvale from ‘Rural’ to ‘Residential’.*

*(b) zoning:*

- (i) Portions of Turn Ridge and Woodswallow Close, Joondalup, 'Centre';*
- (ii) Portion of Cockatoo Ridge, Joondalup, 'Centre';*
- (iii) Portion of Pt Lot 62 Winton Road, Joondalup, 'Service Industrial';*
- (iv) Portion of Lot 100 Joondalup Drive, Joondalup, 'Centre';*
- (v) Portion of Lot 902 Grand Boulevard, Joondalup, 'Centre';*
- (vi) Portion of Lot 102 Kennedy Drive, Joondalup, 'Centre'; and*
- (vii) Portion of Pt Lot 107 Joondalup Drive, Joondalup, 'Service Industrial'.*

*(c) reserving:*

- (i) Portion of Pt Lot 166 Ambassador Drive, Currambine, 'Local Reserve - Public Use – Primary School'; and*
- (ii) Portion of Carlton Park - Reserve 45754 Carlton Turn, Currambine, 'Local Reserve – Parks and Recreation'.*

*(d) zoning the following to 'Residential':*

- (i) Portion of Lot 136 (23 and 25) Fairmont Place, Currambine;*
- (ii) Portion of Lot 117 (18) Raffles Court, Currambine;*
- (iii) Portion of Lot 116 (15) Raffles Court, Currambine;*
- (iv) Portion of Lot 105 (9) Luxor Place, Currambine;*
- (v) Portion of Lot 104 (8) Luxor Place, Currambine;*
- (vi) Portion of Lot 242 (38) Carlton Turn, Currambine;*
- (vii) Portion of Lot 243 (40) Carlton Turn, Currambine;*
- (viii) Portion of Lot 907 (34) Boynton Gardens, Iluka;*
- (ix) Lot 923 (43) Boynton Gardens, Iluka;*
- (x) Portion of Lot 924 (45) Boynton Gardens, Iluka;*
- (xi) Portion of Lot 925 (47) Boynton Gardens, Iluka;*
- (xii) Portion of Boynton Gardens, Iluka; and*
- (xiii) Portion of Lot 5 (4) Sorata Place, Currambine;*
- (xiv) Portion of Lot 7 (26) Arabella Mews;*
- (xv) Portion of Arabella Mews;*
- (xvi) Portion of Lot 265 (22) Arabella Mews;*
- (xvii) Portion of Lot 266 (20) Arabella Mews;*
- (xviii) Portion of Ambassador Drive, Currambine;*
- (xix) Portion of Carlton Turn, Currambine; and*
- (xx) Unnamed portion of land – corner Joondalup Drive and Moore Drive, Joondalup.*

*(e) applying an:*

*(I) R25 Density Coding to Lot 71 Woodvale Drive, Woodvale*

*(II) R20 Density Coding to Portion of Woodvale Drive, Woodvale*

*2 ADOPTS Amendment No 16 accordingly for the purposes of advertising for a period of 42 days.”*

*Appendices 8, 8(a) and 8(b) refer*

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**CJ169 - 07/03 HOME BUSINESS CATEGORY 2 RENEWAL  
(REPAIR OF PLASTIC CRATES): LOT 130 (2)  
JANTHINA CRESCENT, HEATHRIDGE - [85186]**

**WARD** - Marina

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**PURPOSE**

The purpose of this report is to request Council's determination of an application for the renewal of a Home Business Category 2 (Repair of Plastic Crates).

**EXECUTIVE SUMMARY**

The original application was approved on 6 June 2002. The City has received ongoing complaints relating to the fumes and noise associated with the operations of the business.

The renewal application has been advertised for public comment and two (2) objections were received to the proposal.

Due to the ongoing complaints over the past 12 months, additional assessment of the activity has been conducted, including an inspection of the site by the Department of Environmental Protection. The inspection substantiated that an unpleasant odour was emitted by the activity.

In addition, the City's Environmental Health Officer attended the site and detected an odour commonly associated with burning plastic.

Given that the complaints in regard to the emission of odour from the activity have now been substantiated, concern is raised over the suitability of the activity in a residential area.

It is recommended that the application to renew the Home Business be refused due to the inappropriate nature of the use in a residential area and the adverse affect the business has had on the amenity of the neighbourhood.

**BACKGROUND**

<b>Suburb/Location:</b>	<b>Lot 130 (2) Janthina Crescent, Heathridge</b>
<b>Applicant:</b>	<b>Debra and Leonard Kimberley</b>
<b>Owner:</b>	<b>Debra and Leonard Kimberley</b>
<b>Zoning:</b>	<b>DPS: Residential</b>
	<b>MRS: Urban</b>

In December 2001, the City received a letter from a Councillor on behalf of an anonymous resident informing the City of an unauthorised Home Business at the abovementioned property. An application for a Home Business was subsequently received.

The application for the Home Business Category 2 (Repair of Plastic Crates) was considered under Delegated Authority on 7 March 2002 where it was refused. The applicant lodged an appeal to the Minister for Planning against this decision. It was, however, negotiated that the City would consider a new application, with additional supporting information.

The City subsequently received another Development Application with the additional supporting information. This application was considered under Delegated Authority on 6 June 2002 where the application was approved subject to conditions.

The 12 month approval period has now expired and an application to renew the activity has been received.

## **DETAILS**

The proposed Home Business Renewal is for the repair of plastic crates using an electric heat gun. The repair process involves removing the broken section of the crate with a hand saw and using a heat gun to weld a patch over the damaged area. The business has been operating in an aluminium garage, which is located at the rear of the property.

Approximately eighty (80) to one hundred (100) crates are repaired every week. The business operates two days a week on average, however, the days vary Monday to Friday from 9am to 1.30pm.

The applicant works for her husband's company and he delivers the crates to the premises. Deliveries occur twice a week via her husband's vehicle between the hours of 3pm and 5pm and are transferred to the shed or vehicle via a trolley. Deliveries are carried out within the husband's normal working hours, to ensure that there is not an increase in traffic in the area.

### **Statutory Provision:**

#### District Planning Scheme No 2 (DPS2)

A Home Business Category 2 is a 'D' use in a Residential area. A 'D' use means:

*“A use class that is not permitted, but to which the Council may grant its approval after following the procedures laid down by subclause 6.6.2”.*

Clause 6.6.2 requires that the Council in exercising discretion to approve or refuse an application, shall have regard to the provisions of Clause 6.8

The relevant Clauses are outlined in Attachment 2

### **DPS2 defines a Home Business as:**

***Home Business – Category 2:*** means an occupation carried on in a dwelling or on land around a dwelling by a resident of the dwelling which:

- (a) does not entail the retail sale, outdoor display or hire of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not detract from the residential appearance of the dwelling house or domestic outbuilding;

- (d) *entails the employment of no more than 1 person not a member of the occupier's household;*
- (e) *does not occupy an area greater than 30m<sup>2</sup>. Council may permit an area greater than 30m<sup>2</sup> where it is considered that the scale of the business is limited by other factors and the increase in floorspace will not have a detrimental effect on the amenity of the surrounding areas;*
- (f) *does not have more than one advertisement sign and the sign displayed does not exceed 0.2 square metres in area;*
- (g) *will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in a substantial increase in the amount of vehicular traffic in the vicinity;*
- (h) *does not involve the servicing or repair for gain of motor vehicles; and*
- (i) *does not entail the presence, parking and garaging of a vehicle of more than 3.5 tonnes tare weight.*

### Policy 3.1.11 - Home Business

The objective of the Home Business Policy is to establish guidelines for the exercise of Council's discretion when assessing Home Business uses. The most relevant sections of the policy that are applicable to the proposal have been outlined below.

*The aim of the policy is to:*

- (a) *To maintain residential areas as primarily a place to live, not primarily a place to work whilst recognizing that working from home is an expanding area of employment, and a significant contributor to local employment.*
- (b) *To protect the amenity and character of residential areas by ensuring that potential impacts associated with home business such as noise, traffic, pollution, people and advertising signs are minimised and adequately controlled.*
- (c) *To enhance the effectiveness of Council's decision making through consultation with interested parties.*
- (d) *To provide a measure of the extent of the home business to ensure that it does not dominate the use of the land nor be so large or intensive that it changes the residential character of the neighbourhood.*
- (e) *To guide the location of home business proposals to minimise any impact on the amenity and character of residential locations.*

The policy includes guidelines relating to the operation of the business. The following guidelines of the policy are most relevant to this application:

- *For the purpose of this policy, amenity refers to all factors that combine to form the character of the area to residents and passers by and shall include the present and likely future amenity. In determining whether a proposed home business is likely to detrimentally affect the amenity of the neighbourhood, the following factors will be considered:*

- (i) *emission of noise, vibration, smell, fumes, vapour, steam, soot, ash, dust, grit, oil, waste water or waste products;*
  - (ii) *hours of operation;*
  - (iii) *number of customers visiting the premises;*
  - (iv) *traffic likely to be generated;*
  - (v) *additional parking requirements created by the proposed home business;*
  - (vi) *storage of harmful or poisonous chemicals,*
  - (vii) *compliance with the management plan;*
  - (viii) *compliance with the requirements set out by the Town Planning Scheme provisions;*
  - (ix) *public submissions and or complaints by adjoining owners.*
- *When determining an application, the Council:*
    - (i) *may limit the number of hours and/or days of operation of a home business proposal where it is deemed necessary to protect the amenity of the surrounding area.*
    - (ii) *elect to grant an initial term of approval of twelve (12) months. In some instances where it is considered appropriate a longer period may be considered. The applicant is to seek renewals thereafter to effect the continuance of the home occupation.*
  - *Community Consultation*  
*In considering any variations to the required standards, Council will carry out community consultation as part of the decision making process. Concerns of adjoining owners will be considered as a relevant factor in the assessment of applications for planning approval.*

#### Applicant's Justification

The applicant has provided the following information (summarised) in support of the proposed Home Business Renewal:

- No aspects of the home business have changed since the last approval.
- The Worksafe Officer has advised that odours generated would be quite small and should not be detected at neighbouring properties.
- The information provided by Worksafe, Material Safety Data Sheet and the plastic supplier confirm that it is unlikely that odours and fumes will affect adjoining properties.
- It is apparent that odours and toxicity only becomes an issue in the event of burning of plastic. However, it needs to be clearly understood that the operation does not involve burning but melting of plastic.
- The adjoining neighbour has been resident at that property for the past 7 years that the business has been operating, and no concerns have been raised in the past.

- The neighbours have made complaints to the City regarding offensive odours. The City's Officers have conducted a number of site inspections and only on the last of those occasions the officer concerned noticed any odour.
- The City's Environmental Health Officer arranged for a representative of the Department of Environmental Protection to view the operation. The representative was satisfied that there was nothing of a harmful or toxic nature in the gas created through the welding of the crates. In respect to the odour, it is understood that he commented that this was akin to a 'cooking smell' which should not provide any reasonable cause for complaint.
- Recommendations were made to install a hood and extraction fan and to ensure that the shed door remains shut whilst carrying out repairs. The hood and fan have been installed to the specifications outlined. The fan outlet is on the part of the shed roof which slopes away from the neighbour which should also assist.
- The nature of the proposed activity is such that it would not cause injury to or prejudicially affect the amenity of the neighbourhood.

#### Consultation:

The proposal was advertised in writing to nine (9) adjoining and nearby landowners. The comment period was 14 days in accordance with DPS2. Eight (8) submissions were received, six (6) of which were non-objections and two (2) objections.

Submission Received	Technical Comments
Non-objection  <i>"I have no objection at all... My residence is directly opposite this proposed work area and I can't see any problem in any way."</i>	Noted
Non-objection  <i>"We live downwind of the above property (15 years) and do not find the smell or noise any problem"</i>	Noted
Non-objection  <i>"We have no problem with this neighbour carrying on a business."</i>	Noted
<u>Objection 1:</u> "Nothing has changed since we raised an objection to this application approximately one year ago. We still object. Noxious fumes still come from the applicant's property." ... "the health dept has witnessed the smell and advised us to once again object. Any plastic welding repairs should be done on an industrial site."	The Material Safety Data Sheet outlines if HDPE is heated an unpleasant smell may be emitted. The DEP has recently conducted an inspection of the site and confirmed that an unpleasant smell, although not strong, is associated with the activity.

<p><u>Objection 2:</u></p> <p><i>Since the date the City first issued the approval, our client has experienced almost daily health ailments. It is believed that these have been caused by toxic fumes passing from the subject property to her home.</i></p>	<p>This comment is difficult to substantiate.</p>
<p><i>The City has received previous letters (and a Medical Report) from our client indicating why the home business should never have been approved.</i></p>	<p>The application for the Home Business was determined on its merits and the information available at the time. The approved was subject to conditions including a requirement that the Business be renewed after 12 months.</p>
<p><i>The existing licence expired on 7 June 2003, despite receiving written notification from the City of Joondalup to cease operation, the business continued to operate. Our client advises that the applicants repeatedly breach the conditions attached to the approval, particularly in relation to the hours of operation.</i></p>	<p>It is difficult to assess the validity of this comment, given that the applicant advises that the business has complied with the conditions of planning approval, however, the comment is noted.</p>
<p><i>The business is contrary to the notion of permitted usage in residential zones that such an industry should be allowed in a residential zone.</i></p>	<p>Supported. From the information now available, it appears that the activity may not be appropriate in a residential area.</p>
<p><i>Our client advises that each time that Council Officers have inspected the property, they have done so on notice, giving the owners ample time to alter and amend the operation giving the impression that the operation of the business complies to all conditions of approval.</i></p>	<p>It is not possible to substantiate this comment.</p>
<p><i>An EPA Officer confirmed in writing that the nature of the industry within a residential zone is a health risk.</i></p>	<p>The EPA Officer outlined that the odour was unpleasant but not particularly strong but possibly unacceptable in a residential area.</p>
<p><i>The proposed flu will not have the effect of removing our client's concerns. The flu may assist the health of those working within the shed, however, it will disperse the fumes externally.</i></p>	<p>The EPA recommended that the ventilation system would dilute the air being omitted.</p>
<p><i>The shed is located in close proximity to the boundary line. Our clients living room, kitchen and dining room area are located opposite the shed and are also in close proximity to the boundary.</i></p>	<p>The workshop is approximately 5.5m from the habitable rooms on the adjoining lot.</p>

<i>There is also an issue of noise emanating from vehicles coming and going, the opening and closing of garage doors and noise emanating from the business conducted in the shed.</i>	Tests have been conducted by the City to ensure the business complies with the Noise Regulations.
<i>The products being worked on are petroleum based and the fumes emanating from the operation of the business can only be described as toxic. I refer to the EPA Assessment in that regard.</i>	The Material Safety Data Sheet outlines if HDPE is heated an unpleasant smell may be emitted.
<i>A Medical Report has previously been submitted linking the fumes associated with the business to our clients ill health. It is alarming that Council has apparently disregarded the Report despite the fact that Officers have been told our clients husband died of cancer. A definitive cause of death is unclear but may have been caused by the fumes.</i>	The City is reassessing the suitability of this business in a residential zone, all relevant submissions, including the medical report will be taken into account when determining the application. The objection is difficult to substantiate.
<i>Given the above, particularly our clients age (post 70), it is not in the public interest or interest of adjoining residents for this business to continue. To permit this activity is contrary to the fundamental notions of what activities should be licensed or permitted within residential zones.</i>	Given the information now available, it is considered that the activity may not be suited to a residential area.

## COMMENT

### Environmental Health Considerations - Original Proposal

#### Odours

Worksafe advised that the odours created from heat welding of high density polyethylene homopolymer (HDPE) would be quite small and should not be detected by adjoining neighbours. The rationale behind this was that the repairing of crates involves heating without reaching a temperature that will cause the crate to burn if carried out correctly.

However, Worksafe also advised that burning HDPE may affect the operator and sufficient ventilation should be provided. Natural ventilation would suffice and external openings should be left open during operations.

A site inspection by Council officers confirmed that odours from the activity appeared to be minimal.

## **Health Risks**

Worksafe advised that the risks associated with heating HDPE are low. A Material Safety Data Sheet outlined that HDPE is not expected to be harmful if inhaled, however, if this material is heated, the fumes may be unpleasant and produce nausea and irritation of the upper respiratory tract.

## **Noise**

Noise is generated by the welding gun and the loading and unloading of crates from the vehicle. The applicant was required to comply with the Environmental Protection (Noise) Regulations 1997. On 24 April 2002 a site inspection was conducted by the City's Environmental Health Officer to measure the level of noise produced by the business.

The Sound Level Measurement Report revealed that the proposed business complies with the Environmental Protection (Noise) Regulations 1997 during the hours of 0700 – 1900 Monday to Saturday.

## **Environmental Health Considerations – Renewal Application**

The City received further complaints regarding odour derived from the plastic crate welding business. In response to the complaints the City's Environmental Health Officer attended the site and detected an odour commonly associated with burning plastic.

The complaint was referred to the Department of Environmental Protection (DEP) for further investigation, and the inspector's results were:

*“I found that there was an unpleasant odour that was not particularly strong but quite possibly unacceptable in a residential area, especially to sensitive individuals.*

*I recommend that a ventilation system be installed with a hood over the work area in order to dilute the air being emitted. A hood and fan similar to those used over stoves and hot plates for household use should be sufficient. The hood should be mounted as low as practicable without interfering with the work being carried out. If possible the air should be directed away from the complainants house.”*

The recommended works were carried out by the applicant, however, further complaints were received that the odours were still evident.

Given that the complaint in regard to the emission of odour from the welding activity has now been substantiated, concern is raised over the suitability of the activity in a residential area.

## **District Planning Scheme No 2 Considerations**

### Suitability of Home Business in Residential Zone (Clause 3.4)

Pursuant to DPS2, the Residential Zone is intended primarily for residential development in an environment where high standards of amenity and safety predominate to ensure the health and welfare of the population.



It is considered that the operation of the Home Business has not retained a high standard of amenity in the surrounding area given the ongoing complaints regarding fumes emanating from the subject property. Furthermore given the constant complaints and concerns regarding the business, the welfare and well-being of the adjoining residents appears to have been compromised.

#### Discretionary Uses (Clause 6.8.2)

In accordance with clause 6.8.2 of the City of Joondalup's DPS2, the Council when considering whether or not to approve a 'D' use application shall have due regard to the nature of the proposed use and its relationship to the use of other land within the locality and the preservation of the amenity of the relevant locality. Although the nature of the Home Business is considered to be small scale, it is not considered to be compatible and congruent in a residential area, and may be more appropriately located in a Service Industrial Zone.

#### Compliance with Home Business Category 2 Definition (Clause 1.9)

A Home Business Category 2 may operate provided that it does not cause injury to or prejudicially affect the amenity of the neighbourhood.

The City's Home Business Policy specifically outlines that, in determining whether a proposed Home Business is likely to detrimentally affect the amenity of the neighbourhood, the emission of noise, smell and fumes must be considered.

The Policy also states that the concerns of adjoining owners will be considered as a relevant factor in the assessment of applications for planning approval. Given the numerous complaints the City has received relating to smells and fumes associated with the business, it is considered to have had a detrimental impact on the amenity of the neighbourhood and is not considered appropriate.

#### **Policy 3.1.11 Home Business**

The rationale of issuing a Home Business Approval for a limited period of 12 months is to enable the City to reassess the business after a 12 month period to ensure that it has not adversely affected the surrounding neighbourhood.

In this particular case, given the ongoing complaints received from the surrounding residents, and given the additional information now available from the City's Environmental Health Officers and the representative from the DEP, the business is not considered appropriate in a residential area and is considered to have had an adverse affect on the neighbourhood.

It is therefore recommended that application for the renewal of the Home Business not be supported.

#### **ATTACHMENTS**

- Attachment 1 Location Plan
- Attachment 2 DPS2 Clauses

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

**That Council REFUSES the proposed renewal of the Home Business Category 2 (Repair of Plastic Crates) at Lot 130 (2) Janthina Crescent, Heathridge for the following reasons:**

- 1 the proposal is contrary to the principles of orderly and proper planning;**
- 2 the proposal does not conform with point (b) of the Home Business Category 2 definition under District Planning Scheme No 2, as the activity is likely to adversely impact upon the adjoining neighbours due to the emission of odour;**
- 3 the Home Business is not considered suitable in a Residential Zone as per Clause 3.4 of the District Planning Scheme No 2;**
- 4 the proposed activity is considered to have an adverse affect on the amenity of the surrounding area, which is contrary to Policy 3.1.11 – Home Business.**

*Appendices 9 and 9(a) refer*

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**CJ170 - 07/03 PROPOSED SUBDIVISION (WAPC REFERENCE 122168) ILUKA - [24545]****WARD -** North Coastal**PURPOSE**

The purpose of this report is for Council to consider a subdivision application (Attachment 1) as it does not accord with the Iluka Structure Plan, and City officers do not have delegation to deal with it.

**EXECUTIVE SUMMARY**

*Roberts Day Group has submitted a subdivision application (Attachment 1) on behalf of the Roman Catholic Archbishop of Perth and Davidson Pty. The land is located directly west of Sir James McCusker Park and proposes the creation of 15 lots.*

*The proposal does not accord with the subdivision layout detailed in Figure 1 of the Iluka Structure Plan (Attachment 2) as it proposes a laneway to the rear of 5 lots near the corner of O'Mara Boulevard and Delgado Parade.*

*Council at its meeting on 27 May 2003 (CJ119-05/03) adopted a number of modifications to the Iluka Structure Plan one of which reflects the proposed subdivision (Attachment 3). The modifications have been adopted by Council and are yet to be endorsed by the Western Australian Planning Commission (WAPC).*

*The proposed subdivision layout provides for improved vehicle movement to and from the site and enhanced pedestrian movement through a more legible laneway and street design. The introduction of a laneway reflects the design to the south. This ensures consistent built form along this portion of Delgado Parade.*

*It is recommended that the WAPC be advised that subdivision application is supported subject to a number of conditions.*

**BACKGROUND**

<b>Suburb/Location:</b>	Iluka
<b>Applicant:</b>	Roberts Day Group
<b>Owner:</b>	Roman Catholic Archbishop of Perth and Davidson Pty Ltd
<b>Zoning:</b>	<b>DPS:</b> Urban Development Zone
	<b>MRS:</b> Urban
<b>Strategic Plan:</b>	Lifestyle – Strategy 2.6 Promote and enjoy lifestyles that engender Environmental, Social and Economic balance.

*Roberts Day Group has submitted a subdivision application (Attachment 1) on behalf of the Roman Catholic Archbishop of Perth and Davidson Pty Ltd. The land is located directly west of Sir James McCusker Park and will propose the creation of 15 lots.*

## **DETAIL**

### ***Iluka Structure Plan***

*The proposal does not accord with the subdivision layout detailed in Figure 1 of the Iluka Structure Plan (Attachment 2) as it proposes a laneway to the rear of the 5 lots near the corner of O'Mara Boulevard and Delgado Parade.*

*Council at its meeting on 27 May 2003 adopted a number of modifications to the Iluka Structure Plan, one of which reflects the proposed subdivision (Attachment 3). The modifications have been adopted by Council and are yet to be endorsed by the WAPC.*

### **Subdivision Design**

The Iluka Structure Plan identifies the subject land as R30. The Residential Design Codes (RDC) nominate a minimum lot size of 270m<sup>2</sup> and an average lot size of 300m<sup>2</sup> for R30 lots for the purpose of creating green title (freehold) lots. The subdivision application would create 15 green title lots with a minimum lot size of 384m<sup>2</sup> and an average lot size of 391.6m<sup>2</sup>. The lot sizes are in accordance with the minimum and average lot size requirements for the R30 density code as stipulated in the RDC.

*The lots are regular in shape and will provide for easier development in future. It is desirable that parking in the form of on-street parking embayments be provided along Delgado Parade. It is proposed that this be imposed as a condition.*

A retaining wall varying in height from 2.5 metres to 3.0 metres is proposed to the front of the 15 lots along the boundary adjacent to Delgado Parade. The retaining walls are necessary to accommodate the levels along Delgado Parade and the east-west roads coming off Delgado Parade in addition to the laneways servicing each lot. The City's Policy 3.1.7 'Retaining Walls' moderates the height of retaining walls by having as one of its objectives that '*retaining walls should be minimized as part of dwelling construction*'. To ensure that the amenity along Delgado Parade is not compromised a condition is proposed to reduce the height of retaining walls. The extent of the possible reduction can't be determined at this stage as the engineering drawings, which provide the resultant level details, are submitted once an approval is issued.

### **Statutory Implications**

*The subdivision application is not in accordance with Figure 1 of the Iluka Structure Plan. The Town Planning Delegations do not allow City officers to provide advice to the WAPC on subdivision applications that are generally inconsistent with approved Structure Plans. Accordingly Council approval is required. It should be noted, however, that the inconsistency is minor.*

## COMMENT

All lots proposed have rear laneway access and have frontages of 12 metres and 7 metres (not including corner truncation) for corner lots. The design provides for greater surveillance of the park, ensures garages do not dominate the streetscape and improves the traffic safety by reducing entry/exit points.

*The proposed laneway reflects the design to the south and ensures consistent built form along this portion of Delgado Parade. In addition the subdivision application is consistent with the modifications to the Iluka Structure Plan as considered by Council at its meeting on 27 May 2003.*

*It is recommended that Council resolves to advise the WAPC that the subdivision application is supported, subject to a number of standard and additional conditions which include restrictions on the height of retaining walls along Delgado Parade, the inclusion of car parking embayments and the endorsing of modifications to the Iluka Structure Plan as they relate to the proposed subdivision.*

## VOTING REQUIREMENTS

Simple Majority

## ATTACHMENTS

Attachment 1	Subdivision Application
Attachment 2	Iluka Structure Plan
Attachment 3	Proposed Iluka Structure Plan

## RECOMMENDATION

**That Council ADVISES the Western Australian Planning Commission that it supports the proposed subdivision of Lot 9006 Delgado Parade, Iluka (WAPC Ref: 122168), submitted by Roberts Day Group on behalf of The Roman Catholic Archbishop of Perth and Davidson Pty Ltd subject to the following conditions:**

- 1 those lots not fronting an existing road being provided with frontage to a constructed subdivisional road connected by a constructed subdivisional road(s) to the local road system and such subdivisional road(s) being constructed and drained at the subdivider's cost to the specification and satisfaction of the City of Joondalup. As an alternative, the City is prepared to accept the subdivider paying to the City the cost of such works and giving an assurance to the Commission that the works will be completed within a reasonable period acceptable to the Commission;**
- 2 street corners within the subdivision being truncated to the standard truncation of 8.5 metres;**

- 3 the provision of a 4.5 metre truncation for lots serviced by rear laneways to ensure sight distances are met;
- 4 the provision of a roundabout at the intersection of O'Mara Boulevard and Delgado Parade to the specification and satisfaction of the City of Joondalup;
- 5 the provision of adequate corner truncations and access restrictions to all roundabouts;
- 6 the laneways be a minimum 6 metres in width and be drained and constructed to the City's satisfaction;
- 7 the provision of temporary turn around facilities at the end of all subdivision roads, which are subject to future connections to the satisfaction of the City of Joondalup;
- 8 the provision of car parking embayments within Delgado Parade and O'Mara Boulevard to the specification and satisfaction of the City of Joondalup;
- 9 the provision of pathways and dual use paths in accordance with the approved Iluka Structure Plan;
- 10 the land being graded and stabilised at the subdivider's cost to the specification and satisfaction of the City of Joondalup. Final Ground levels to be co-ordinated with adjacent roads and development;
- 11 retaining walls proposed adjacent to Delgado Parade and along east-west roads from Delgado Parade to be minimised in height to reduce the impact on the streetscape;
- 12 the land being filled and/or drained at the subdividers cost to the specification and satisfaction of the City of Joondalup and any easements and/or reserves necessary for the implementation thereof, being provided free of cost to the City;
- 13 where a retaining wall may straddle property boundaries, the use of an 'Easement For Rights of Support' pursuant to section 136C of the Transfer of Land Act is required, subject to the applicant bearing all costs associated with the preparation of such an agreement, in liaison with the City of Joondalup;
- 14 the subdivider to provide a written undertaking to the City of Joondalup stating that they will ensure that prospective purchases of lots proposed in this subdivision are notified on contracts of sale of the existence of retaining walls to the satisfaction of the City of Joondalup;
- 15 design Guidelines to be prepared for the lots to guide building layout, design, access, and ensure dwellings are orientated to surveillance the street to the satisfaction of the City of Joondalup. The design guidelines to form part of the agreed Iluka Structure Plan prior to first deposited plan being cleared;

- 16** a notification in the form of a Memorial to be placed on the Certificate of Title of all lots within the application area advising of the existence of a hazard or other factor, in accordance with Section 12A of the Town Planning and Development Act 1928 to the satisfaction of the City of Joondalup. The memorial is to state as follows:

*‘This lot may be affected by the retaining walls abutting or within the property. Further information in this regard can be obtained from the City of Joondalup.’*

The following advice notes:

- (a) The City of Joondalup approval to subdivision should not be construed as an approval to development on any of the lots proposed.
- (b) All road verge and median landscaping plans must be submitted to the City of Joondalup for approval, in conjunction with Engineering Drawings (earthworks and drainage).
- (c) Condition (o) has been requested due to the modifications to the Iluka Structure Plan not being endorsed by Council and the Western Australian Planning Commission at this stage.

*Appendices 10 and 10(a) refer*

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## **CJ171 - 07/03 DELEGATED AUTHORITY REPORT FOR THE MONTH OF JUNE 2003 - [07032]**

**WARD - All**

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### **EXECUTIVE SUMMARY**

This report provides a resumé of the Development Applications processed by Delegated Authority for June 2003 (see attachment 1).

The total number of Development Applications determined (including Council and delegated decisions) is as follows:

<b>Month</b>	<b>No</b>	<b>Value (\$)</b>
June 2003	60	4,986,917

The total number of Development Applications received for the year 2002/2003 was 922. This compares with 729 applications received for the year 2001/2002, being a 26.5% increase in the number of applications.

### **ATTACHMENTS**

Attachment 1          List of Delegated Items

### **VOTING REQUIREMENTS**

Simple Majority

### **RECOMMENDATION**

**That Council NOTES the determinations made under Delegated Authority in relation to the applications described in Report CJ171-07/03.**

*Appendix 14 refers*

*To access this attachment on electronic document, click here: [Attach11brf220703.pdf](#)*

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**CJ172 - 07/03      SUBDIVISION REFERRALS PROCESSED 1 – 30  
JUNE 2003 - [05961]****WARD - All****PURPOSE**

The purpose of this report is to advise Council of subdivision referrals received by the City for processing.

**EXECUTIVE SUMMARY**

Attachment 1 is a schedule of the Subdivision Referrals processed by Urban Design and Policy from 1– 30 June 2003. Applications were dealt with in terms of the delegation of subdivision control powers by the Chief Executive Officer (DP247-10/97 and DP10-01/98).

**DETAILS**

The subdivision applications processed will enable the potential creation of 6 additional residential lots and 8 strata residential lots. The average processing time taken was 21 days.

Two applications were deferred and 1 application was not supported:

**Ref: SU104-03.01 – 15 Schnapper Court, Burns**

This application was deferred as the City was unwilling to support the amended plan until a development application for the development of the proposed 466m<sup>2</sup> lot has been determined due to its small effective lot area (~282m<sup>2</sup>). There are also constraints associated with the existing drainage easement along the western boundary of the lot and the proposed sewer easements along the northern and eastern boundaries of the lot.

**Ref: SU122144 – 5 Europa Court, Kallaroo**

This application was deferred due to level differences across the site significant earthworks and retaining will be required to ensure that the proposed lots are physically capable of development. No details of the proposed earthworks and retaining have been provided. The City believes that a development application is necessary in order to assess the amenity impact of the proposed earthworks and retaining particularly given that the land sits within an established residential area.

**Ref: SU122017 – 7 Mallorca Avenue, Hillarys**

This application was not supported for the following reasons:

1. The proposal does not conform to the requirements of the Residential Design Codes with respect to average lot size for R20 density.
2. Approval of the green title subdivision application would set an undesirable precedent for the further subdivision of surrounding lots that are zoned R20.

## ATTACHMENTS

Attachment 1            Schedule of Subdivision Referrals

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

**That Council NOTES the action taken by the Subdivision Control Unit in relation to the application described in Report CJ172-07/03.**

*Appendix 12 refers*

*To access this attachment on electronic document, click here: [Attach12brf220703.pdf](#)*

**CJ173 - 07/03      SINGLE HOUSE (RETAINING WALL ADDITIONS INCLUDING SETBACK VARIATIONS – REVISED PLANS) LOT 12 (9) HOCKING PARADE, SORRENTO – [57180]**

**WARD -** South Coastal

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**PURPOSE**

The purpose of the report is to request Council's determination of an application for the construction of retaining walls, which do not comply with the setback provisions of the R-Codes.

**EXECUTIVE SUMMARY**

An application has been received for the construction of retaining walls to align with the boundaries of an approved two lot subdivision over the vacant site.

The subject site contains a significant slope from the north (high side) to the south. The retaining walls are proposed to be 1.65 metres to 4 metres in height from natural ground levels. The lot to the west and south is approximately 2–3 metres below the level of the subject lot, whilst the lot to the north is elevated by approximately 2 metres. When subdivided, the subject site will be 'split level' in accordance with the slope of the site.

The original application was advertised to the surrounding landowners and 3 objections were lodged. Due to the potential impacts of the proposal, the application was referred to Council with a recommendation of approval, however, was deferred on 11 March 2003 subject to further consultation with the applicant.

The applicant met with officers of the City and it was agreed that the retaining walls could be further reduced by up to 2 metres. This would result in the pad levels at approximately RL of 17 and 14, which would result in a 2 metre high retaining wall to the southern adjoining landowner. The rear retaining wall would also be reduced to approximately 2 metres in height from the adjoining landowner. The applicant would investigate the options of reducing the walls further and would resubmit revised plans to the City.

Revised plans were received on 16 April 2003, which had reduced the height of the southern retaining wall to 2.44 metres (from 3.5 metres) and would result in a sloping pad level to the southern of the two proposed sites.

The application was re-advertised to the surrounding landowners and was subject to a number of objections.

The application has been assessed according to the performance standards of the Residential Design Codes 2002 (R-Codes) and is recommended for approval, subject to the height of the retaining walls being decreased to address the objections and impact of the walls to the immediately adjoining landowners.

## BACKGROUND

<b>Suburb/Location:</b>	Hocking Parade, Sorrento
<b>Applicant:</b>	Stoneridge Group (WA) Pty Ltd
<b>Owner:</b>	Colin R Heath
<b>Zoning:</b>	<b>DPS:</b> Residential R20
	<b>MRS:</b> Urban

The location of this site is shown in Attachment 1 and the details of the structure are shown in Attachment 2 to this Report. The site is currently vacant and is covered by shrubs and small trees.

The proposal aims to subdivide a generally rectangular shaped lot with a wider frontage into two lots with frontages of 14.7 metres and 15.4 metres. Due to the crossfall of over 6 metres from the side boundaries of the lot, it would be preferable to provide retaining to create level sites that would then permit the opportunity to develop them further. Although it is acknowledged that a level site is not essential, it is more practical in terms of planning considerations for future development. The applicant does not wish to develop the lots himself and rather aims to sell level sites that have development potential.

On 18 July 2001, Council received an application for a two lot subdivision aiming to split the current lot into two regular shaped lots of 534m<sup>2</sup> (Lot 801) and 533m<sup>2</sup> (Lot 800), each having frontages to Hocking Parade.

The City subsequently requested that the WAPC defer the application until the owners provide a satisfactory site plan showing detailed information pertaining to the retaining walls, and following this, the City's decision on the subdivision application.

The City also wrote to the applicants outlining that a more balanced cut and fill would be required to minimise impacts on the adjoining properties. In reply, two draft proposals were presented, one with the majority of fill to level the site and one that aimed, as far as practicable, to cut and fill the site. The latter option of the two proposals was selected and formed part of the initial submission to Council for the development of the retaining walls. It should be noted that this was the first concept and therefore does not form part of the latest proposal, which has further reduced the height of the southernmost retaining wall. The latest proposal is described in detail later in this report.

On 4 January 2002 the WAPC conditionally approved the subdivision, subject to a condition requiring the grading and stabilising to the satisfaction of the City. An advice note on the subdivision approval stated that a development application would be required for the installation of the proposed retaining walls.

## DETAILS

### Revised Proposal

The proposal has been modified to the extent that the lower lot now retains some slope, rather than being a flat site. This has resulted in the retaining wall to the south being reduced from 3.5 metres to 2.44 metres in height.

No modification has been made to the upper lot, and a 4 metre high retaining wall remains part of the proposal.

### **Statutory Provision:**

Residential Design Codes (R-Codes)

Retaining walls are assessed under the provisions of the R-Codes.

Development, which is in compliance with the acceptable development provisions of the R-Codes, does not require planning approval, or the exercising of discretion. When a development varies the acceptable development provisions of the R-Codes, the variations can be considered pursuant to the ‘performance criteria’.

Clause 2.3.4 of the R-Codes permits Council to vary the provisions of the Codes if it is determined that the variations comply with the ‘performance criteria’ of the R-Codes.

Clause 3.6.2 of the R-Codes requires retaining walls to be setback from the property boundaries in accordance with the standards prescribed within the R-Codes. This is calculated in accordance with the requirements for a major opening with a wall height of 2.4 metres in addition to the height and length of the retaining wall.

For the southern retaining wall that is 31 metres long, and 2.4 metres, high it is required to be setback 5.7 metres in lieu of the 1.5 metres as proposed.

The south western retaining wall, which is 14m long and 1.65m high, is required to be setback 2.7m in lieu of the 2 metres proposed.

The north western retaining wall, which is 14 metres long and 4 metres in height requires a 4.1 metre setback in lieu of 2 metres, as proposed.

The intent of the R-Codes is to minimise impacts or detrimental outcomes to adjoining landowners. The City is required to consider the setback variations, having regard to the objections lodged by the adjoining owners and the impact the development would have on the adjoining landowners.

### **Policy 3.1.7 – Retaining Walls**

The City has a policy that deals principally with broad acre subdivisional retaining walls, however, the Policy objectives are pertinent to this application:

- 1 Encourage the provision of residential building sites with a minimal slope by the provision of bulk earthworks and subdivision retaining walls.
- 2 To minimise the need for large retaining walls as part of dwelling construction.

Where retaining walls are within 10 metres of a dwelling on an adjoining property in a different ownership, a retaining wall is to be determined in accordance with the R-Codes.

During the subdivision phase, two options were presented as potential solutions. The first was characterised by fill with retaining (and little cutting) and the second attempted, as far as practicable, to cut and fill with retaining walls. The latter option formed part of the original application, which was chosen due to the reduced impact of the two available options.

Applicant's justification:

The applicant has not provided any further justification from the original submission. It was outlined that the topographical constraints of the site and the adjacent sites make the design of the retaining walls difficult, considering that the surrounding properties vary substantially in their relative level and elevation.

**Consultation:**

Advertising

The original retaining wall proposal was advertised for a 14-day period to the surrounding landowners and resulted in three objections being received.

The revised proposal was re-advertised to surrounding owners for a 14-day comment period.

Submissions on Revised Proposal

Submission Received	Comment
<ul style="list-style-type: none"> <li>• No objection</li> </ul>	
<ul style="list-style-type: none"> <li>• Strongly object as the site does not require such high walls. Will result in loss of sunlight to their home, which would then be constantly dark. A 1.5m retaining wall at a 1.5m setback would still provide for adequate views whilst fitting in with adjacent properties. Concerned of resultant overshadowing for future houses on the lots.</li> </ul>	<p>Noted. Concern is raised in regard to the potential impact of the proposed retaining walls on the amenity of the adjoining sites. However, this must be balanced by the fact that the topography of the area is extreme, and retaining walls and level differences will occur in the area.</p>
<ul style="list-style-type: none"> <li>• Strongly objects to the height of the retaining wall. Any future dwelling would be far greater in height than her property blocking views and devaluing the property. If a 2m retaining wall would be proposed with a single storey residence it would still enable adequate views.</li> </ul>	<p>Noted. However, the proposal currently being considered is for the retaining walls. Any proposed dwelling will be assessed in accordance with the R-Codes and Height Policy at a future time.</p>
<ul style="list-style-type: none"> <li>• Understands that the block is to be split into two lots and levelled with retaining walls. Concern is raised if the height of the future houses on the lots would be taken from the new retaining walls and not the natural ground levels.</li> </ul>	<p>Noted. In accordance with the provisions of the R-Codes, the height of dwellings will be assessed from the levels determined by the subdivision of the property.</p>

<ul style="list-style-type: none"> <li>Refers to their previous comments made on the initial proposal and still objects to the revised proposal. Suggests that it would be better to make comments on the retaining walls as well as future houses. Only the southern retaining wall has been reduced by 1.1m and the pad level has been reduced by 750mm. This would still result in a retaining wall 3.15m above their level. Requests the rear setback of the retaining walls to be amended to nil as they believe that a setback would create water seepage problems and drainage of water. Requests that the pad levels be reduced to 15.5 and 13.5 respectively for each of the proposed lots. Concerned that high retaining wall would affect their lifestyle and well-being.</li> </ul>	Noted. See above comments.
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## COMMENT

It is acknowledged that the applicant has provided revisions to the original proposal, which have reduced the level of the southern wall. The adjoining landowners, who live on the lower side (west and south) of the site, have commented on those plans objecting to the scale of the walls and the potential impact on their amenity.

The size, design and scale of the walls have been considered carefully, taking into account the topography of the site and its surrounds. However, the current design may have amenity impacts on the adjoining landowners. Consideration should also be given to the potential scale of building that would be placed on the lots. Although it is not known what these are likely to be, it is considered that due to the small size of the lots, that homes of at least two storeys are likely to be proposed for each lot. Note this cannot be considered, as plans are not known at this time.

It is impossible to conclude that any proposed dwellings would comply with the acceptable development provisions of the R-Codes related to overshadowing. Any variations to the applicable standards would be required to go through the normal process of advertising and assessment.

The above comments must also, however, be considered in light of the extreme topography of the site and of the area in general.

The subject area has significantly undulating topography that is not exclusive to the subject lot. In these circumstances it must be expected and accepted that retaining walls, to some extent, will be required to accommodate development.

As the proposed retaining walls do not comply with ‘acceptable criteria’ of the R-Codes, the proposal is considered under the ‘performance criteria’, which states:

“Retaining walls designed or setback to minimise the impact on adjoining property.”

The objections from the adjoining owners have outlined that the retaining walls would have a detrimental effect on their amenity.

Notwithstanding, it is noted that the principal private open space areas of the adjoining and potentially affected grouped dwellings do not directly abut the subject site. The impact on the amenity, in terms of the privacy, to the private open space areas due to the proposed retaining walls is therefore decreased.

### **Additional Consultation with Applicant**

The extent of reduction of the heights of the retaining walls does not appear to accord with those agreed in principle between the City and the applicant on 31 March 2003 following the deferral of the application by Council.

It is generally considered that, by reducing the height of the walls in combination with the setback to those walls, this would provide a more suitable outcome, which would assist in overcoming the concerns of the surrounding neighbours.

The scale of the reduction to the retaining walls is the crucial element in determining the level of acceptability of the structures.

It is considered that revised proposal that reduces the southern retaining wall from 3.5 metres to 2.44 metres does not fully address the overall impact on the adjoining owners in terms of the pad levels, or the 4 metre high retaining wall adjacent the western boundary.

Overall, with the exception of the now reduced southern retaining wall, the heights of the other retaining walls are considered to be excessive in their current form, and are capable of being reduced in height. A reduction in height would assist in reducing any potential impact on the adjoining owners. In accordance with the previous report to Council, approval is therefore recommended subject to a reduction in the pad levels and retaining wall heights of 1 metre. This would effectively mean the retaining walls would be reduced to heights of between 2.5 metres and 3 metres.

### **Additional Information**

Council considered this application at its meeting held on 8 July 2003 (item CJ157-07/03 refers). No decision was made at that meeting.

On 15 July 2003, the consultant acting for the proponent met with the Director Planning and Community Development, and the Manager, Approvals Planning and Environmental Services.



The purpose of the meeting was two-fold, being:

- 1 to clarify any misunderstanding caused by the executive summary of the report to the 1 July meeting, and
- 2 to suggest that a further reduction of the relative level of the higher lot would be difficult to achieve.

In regard to 1 above, it was reported that the developer had agreed to reduce the levels of the lots by at least 2 metres. In actuality, the applicant contends that this undertaking was not given, and that the agreement was to attempt to secure a more acceptable solution to all parties. Following consideration of that request, the applicants reverted to the earlier plans presented, and sought a determination on that basis.

In regard to 2 above, the applicant contends that the level of the uppermost lot cannot be reduced, as it is said that the consequent need for retaining and underpinning the adjoining landowners house would not be feasible for engineering reasons.

## ATTACHMENTS

Attachment 1      Site Plan

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

### That Council:

- 1 **EXERCISES discretion in accordance with Clause 2.3.4 of the Residential Design Codes 2002 and determines that the setback of the retaining walls meets the performance criteria outlined in Clause 3.6.2;**
- 2 **APPROVES the application and plans dated 8 October 2002 submitted by Stoneridge Group Pty Ltd, the applicant on behalf of the owners, for retaining walls including side setback variations on Lot 12 (9) Hocking Parade, Sorrento, subject to the following conditions:**
  - (a) **the height of the retaining wall on the southern boundary to be to a maximum RL 14.5, and the pad level to be a maximum RL 14.5, as indicated in red on the approved plan. Details shall be provided prior to the issue of a building licence, to the satisfaction of the City;**
  - (b) **the height of the retaining wall on the western boundary of the northern lot to be to a maximum height of 3m, and the pad level to be RL 18, as indicated in the approved plan. Details shall be provided prior to the issue of a building licence, to the satisfaction of the City;**

- (c) **boundary fencing shall be replaced where in poor condition and installed to a height of 1.8m adjacent to stair accesses at the applicants expense prior to the completion of the construction of the retaining walls to prevent overlooking from those areas to the adjoining rear properties. Gate accesses will be permitted from the rear stair landings;**
- (d) **all stormwater shall be retained and disposed of on site to the satisfaction of the City; and**
- (e) **appropriate easements are to be imposed for the side access way and rear stairs to ensure that reciprocal rights of access exist for both sites. This shall be completed prior to the issue of a building licence;**

**3 ADVISES the objectors of (1) above.**

**Footnotes:**

- 1 The proposed retaining walls shall be designed to allow for a surcharge of the future dwellings, such engineer's design will also need to have certification confirming it has been built in accordance with that design.**
- 2 The applicant is advised that the approval of the proposed retaining walls does not in any way imply compliance the applicable R-Code standards in regard to the development of dwellings on the subject lots. Any dwellings on the proposed lots will be assessed in accordance with the R-Code provisions.**

*Appendix 13 refers*

*To access this attachment on electronic document, click here: [Attach13brf220703.pdf](#)*

**CJ174 - 07/03      WORLD CUP RUGBY - 10 OCTOBER TO 22  
NOVEMBER 2003 - CITIES FESTIVITIES PROGRAM  
- [58542]**

**WARD - All**

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**PURPOSE**

For the Council to give consideration to the allocation of funding as part of the 2003/04 budget to participate in the Cities Festivities Program as part of the 2003 Rugby Union World Cup.

**EXECUTIVE SUMMARY**

The Australian Rugby Union (ARU) won the rights to host the 2003 Rugby Union World Cup.

The tournament commences in October and concludes in late November, with the World Cup final being held in Sydney. During the World Cup, 20 nations will compete over 48 matches, at 11 world class venues, including Subiaco Oval, Perth. It is regarded as the largest sporting event in the world, with the exception of the Olympic Games, and the Soccer World Cup.

In addition to the actual matches, the ARU has launched the 'Cities Festivities' program across the nation, with the concept for community and cultural celebrations during the tournament. Included as part of the festivities, is for the City to support one of its key partners in the Arena in staging a 'Virtual Rugby Festival'.

It is recommended that Council lists an amount of \$60,000 in its 2003/04 budget to participate in the 'Cities Festivities' program.

**BACKGROUND**

Rugby World Cup 2003 will be the biggest sporting event in the world this year, even bigger than the Cricket World Cup held in South Africa earlier this year.

The tournament will run for 44 days, with the world's 20 best national teams contesting a total of 48 matches across Australia. The matches will be played at 11 world class venues in six capital cities and four major regional centres, making this the largest festival of rugby Australia has ever seen.

This the fifth Rugby World Cup, will have an estimated \$1 billion impact on Australia's economy and be broadcast in 209 countries, to a potential audience of four (4) billion. Around 55,000 international tourists are due to descend on Australia to support their teams, with an estimated 5,000 visitors to Perth.

## DETAILS

The Australian Rugby Union (ARU) aims for the tournament are:

- To create a festive atmosphere in the match venues, as well as outside the match venue
- To foster a feeling of goodwill amongst locals, international residents and tourists at event time
- To enhance the overall experience for locals and international visitors to the City
- To build the reputation of the State/City as a world class tourism, business and event destination
- To promote rugby, the RWC 2003 and sell tickets
- To showcase the City to the tourism market, and develop pride/ownership/awareness in the local community
- To increase business and retail activity
- To work closely with government agencies to maximise their return on investment
- Provide a warm welcome and excellent service to visitors to the City

ARU has launched the 'Cities Festivities' program across the nation, with the concepts for community and cultural celebration to be developed by governments and local communities in conjunction with the ARU.

With the ARU hosting the World Cup tournament, and five (5) games being staged in Perth, it offers the City of Joondalup a unique opportunity to promote the City, while bringing the community and business sector into the celebrations.

The visiting nations to Perth are:

- England
- South Africa
- Samoa
- Georgia
- Uruguay

with Perth hosting the important pool game of England vs South Africa on 18 October 2003.

The City formulated a comprehensive submission to the ARU in an attempt to host one of the visiting nations at the Joondalup Resort, while using the state of the art facilities at Arena Joondalup. While the facilities at the resort were not accepted, one of the visiting international teams has agreed to use the Arena as a training facility.

There has been a number of meetings between local governments, ARU and Events Corp regarding the 'Cities Festivities' program, which included the Arena and representatives from the City. As a result of those meetings, and our willingness to make the City of Joondalup an integral part of the tournament, a request for budgets was applied for 2003/04 year, with an amount of \$20,000 being listed.

The Arena has committed to staging a ‘Virtual Rugby Festival’ - ‘live site’, which will operate from 10 October 2003 to 22 November 2003 located within the indoor facility. The proposed program is as follows:

<b>Date</b>	<b>Match</b>	<b>City Played</b>	<b>EST</b>	<b>Perth Kick Off Time</b>	<b>Perth Finish Time</b>
<b>Friday 10 October</b>	<b>Opening Ceremony Australia v Argentina</b>	<b>Sydney</b>	<b>7:00pm</b>	<b>5:00pm 6:00pm</b>	<b>6:00pm 8:00pm</b>
<b>Friday 10</b>	<b>Virtual Concert Australian Act TBA</b>			<b>8:00pm</b>	<b>10:00pm</b>
<i>Saturday 11</i>	<i>New Zealand v Italy</i>	<i>Melbourne</i>	<i>2:30pm</i>	<i>12:30pm</i>	<i>2:30pm</i>
<i>Saturday 11</i>	<i>Ireland v Romania</i>	<i>Gosford</i>	<i>5:00pm</i>	<i>3:00pm</i>	<i>5:00pm</i>
<i>Saturday 11</i>	<i>France v Fiji</i>	<i>Brisbane</i>	<i>7:30pm</i>	<i>5:30pm</i>	<i>7:30pm</i>
<b>Saturday 11</b>	<b>South Africa v Uruguay</b>	<b>Perth</b>		<b>8:00pm</b>	<b>10:00pm</b>
<i>Sunday 12</i>	<i>Wales v Canada</i>	<i>Melbourne</i>	<i>6:00pm</i>	<i>4:00pm</i>	<i>6:00pm</i>
<i>Sunday 12</i>	<i>Scotland v Japan</i>	<i>Townsville</i>	<i>8:00pm</i>	<i>6:00pm</i>	<i>8:00pm</i>
<b>Sunday 12</b>	<b>England v Georgia</b>	<b>Perth</b>		<b>8:00pm</b>	<b>10:00pm</b>
<i>Wednesday 15</i>	<i>Fiji v USA</i>	<i>Brisbane</i>	<i>5:00pm</i>	<i>3:00pm</i>	<i>5:00pm</i>
<i>Wednesday 15</i>	<i>Italy v Tonga</i>	<i>Canberra</i>	<i>7:30pm</i>	<i>5:30pm</i>	<i>7:30pm</i>
<b>Wednesday 15</b>	<b>Samoa v Uruguay</b>	<b>Perth</b>		<b>8:00pm</b>	<b>10:00pm</b>
<b>Friday 17</b>	<b>New Zealand v Canada</b>	<b>Melbourne</b>	<b>7:30pm</b>	<b>5:30pm</b>	<b>7:30pm</b>
<b>Friday 17</b>	<b>Virtual Concert Knebworth UK Legends</b>			<b>8:00pm</b>	<b>10:00pm</b>
<i>Saturday 18</i>	<i>Australia v Romania</i>	<i>Brisbane</i>	<i>4:00pm</i>	<i>2:00pm</i>	<i>4:00pm</i>
<i>Saturday 18</i>	<i>France v Japan</i>	<i>Townsville</i>	<i>7:00pm</i>	<i>5:00pm</i>	<i>7:00pm</i>
<b>Saturday 18</b>	<b>Sth Africa v England</b>	<b>Perth</b>		<b>8:00pm</b>	<b>10:00pm</b>
<i>Sunday 19</i>	<i>Wales v Tonga</i>	<i>Canberra</i>	<i>6:00pm</i>	<i>4:00pm</i>	<i>6:00pm</i>
<i>Sunday 19</i>	<i>Ireland v Namibia</i>	<i>Sydney</i>	<i>8:00pm</i>	<i>6:00pm</i>	<i>10:00pm</i>
<b>Sunday 19</b>	<b>Georgia v Samoa</b>	<b>Perth</b>		<b>8:00pm</b>	<b>10:00pm</b>

<b>Saturday 22 November</b>	<b>Final</b>	<b>Sydney</b>	<b>8:00pm</b>	<b>5:00pm</b>	<b>7:00pm</b>
<b>Saturday 22 November</b>	<b>Virtual Concert Buckingham Place Concert</b>			<b>8:00pm</b>	<b>10:00pm</b>

**\*\*THIS SCHEDULE IS FOR GUIDELINE PURPOSES ONLY AND IS SUBJECT TO CONFIRMATION.**

**\*\*ALL EVENTS ARE SUBJECT TO FURTHER NEGOTIATIONS.**

A 'live site' involves a large screen 100m<sup>2</sup>, with various catering supplied. The aims of a 'live site' is to:

- To provide a focal point for festivities in the City, in a well recognised public gathering area
- To provide an opportunity for supporters to view matches at a 'live site' when tickets are sold out
- Provide a focal point for sponsor promotional activity and showcasing, reducing disparate programs
- Asset protection – protection of community assets by crowd control and management of public activities by driving the public to an organised and managed activity
- To minimise risk to the community, maintain public health and safety
- Effective usage of community infrastructure, services and facilities
- Generates business activity for local businesses and retailers

It is estimated to stage the Virtual Rugby Festival at the Arena is approximately \$100,000, ranging from the surround sound, associated infrastructure to staffing and security requirements. It is anticipated that daily ticket prices will be between \$15.00 to \$20.00 with the possibility of 'packages' being available for the period of the 'Virtual Rugby Festival'.

In order for the event to break-even, a total of 3,000 tickets will need to be sold.

It was initially thought that the ARU, through its global sponsors would provide financial assistance to support 'official live sites'. Unfortunately the financial assistance was not forthcoming, and it has been left to the individual sectors to fund any 'live sites'. As a result of this decision by ARU, the Arena advised that they were in a position to supply the infrastructure required. This was a result of planned Virtual concerts on 10 October and 17 October 2003. The Arena has advised in order to retain the infrastructure, during that period of the Perth based games is \$15,000. The Arena has requested the City to meet this cost, as a joint sponsor of the 'Virtual Rugby Festival' - 'live site'. Rather than contribute the amount of \$15,000 as a one-off sponsorship, it is suggested that the City underwrites the 'live site' to a maximum of \$15,000. That is the total cost to the City, not including some promotion, would be \$15,000. In the event of the 'live site' making a profit, then the Arena would pay back to the Council based on a sliding scale.

In addition to the ‘Virtual Rugby Festival’ at the Arena, it is suggested that the City of Joondalup embraces the ‘Cities Festivities’ program during the tournament, in particular for the period of the Perth based games. Some of the festivities that could be staged include:

- Civic Welcome Function
- School activities/clinics
- Banner programs
- Retail packages – dress outlets/business
- Adopt a team/player
- Touch rugby corporate competition
- Cultural/arts activities – wine/food
- Competitions
- Test match dinner

## COMMENT

As stated earlier, opportunities like this to seize the opportunity to promote the City of Joondalup on the world stage does not present itself too often, especially with:

- an estimated 5,000 visitors to Perth
- major pool game – England vs South Africa

It is felt to fully embrace the aims of the ARU, the initial funding of \$20,000 is not sufficient and it is recommended that the proposed draft budget be increased to \$60,000.

## ATTACHMENTS

Nil

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

### That Council:

- 1 ENDORSES the aims of the Australian Rugby Union (ARU) for staging the 2003 World Cup and embraces the ‘Cities Festivities’ Program;**
- 2 AGREES to increase the amount of \$20,000 to \$60,000 for consideration in the draft 2003/04 budget in order for the City of Joondalup to participate in the ‘Cities Festivities’ Program and associated 2003 World Cup Rugby programs/events;**
- 3 AGREES to underwrite to a maximum of \$15,000 as part of the requested budget allocation to the Arena Joondalup, in order to stage a ‘Virtual Rugby Festival’ for the period 10 October 2003 to 22 November 2003.**

**CJ175 - 07/03 COUNCIL REPRESENTATIVE FOR THE NORTH WEST METROPOLITAN DISTRICT SAFER WA COMMITTEE - [41157]**

**WARD - All**

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**PURPOSE**

The purpose of this report is to consider the appointment of a Council representative to the North West Metropolitan Safer WA Committee.

**EXECUTIVE SUMMARY**

At the Special Council Meeting of 12 May 2003, it was resolved that:

*“Council DEFERS consideration of the appointment of representatives to the Safer WA Joondalup Committee subject to the outcome of a forum to be held on the weekend of 17-18 May 2003 hosted by the Commissioner of Police.”*

In this forum, a New Structures of Crime Prevention proposed by the State Government with an increased role for Local Government, was discussed. Issues associated with the proposed structures were discussed, and involved industry representatives expressed some remaining concerns and requested further information. These concerns were compiled by the Western Australian Local Government Association (WALGA) (detailed in the attached WALGA info page) to be considered at the June WALGA Council Meeting.

The Safer WA Joondalup Committee meets on the fourth Tuesday of every month at 6.00 pm. Due to the conflict with Council Meetings and commitments, the allocated Councillor for the Committee is unable to attend for most meetings. The City of Wanneroo has no allocated Councillor to this committee for the same reason. In addition, any member of the committee that is absent for more than three meetings without the submission of a formal apology can be removed from the committee. It would be difficult for a Councillor to meet the membership requirements.

As a result, it is recommended that Council does not appoint a representative to the North West Metropolitan (Joondalup) Safer WA Committee and that instead, the City of Joondalup continues to be represented by an Administration Staff Member, with items of interest from the minutes reported in the Desk of the CEO.

**BACKGROUND**

In 1998 the State Government established the Safer WA initiative for a four-year period as a new approach to crime prevention. The model was based upon a whole of government commitment to the goals of Safer WA, community involvement and “local solutions to local problems”.



Safer WA has three main goals – preventing crime, reducing crime and addressing the causes of crime.

Safer WA District Committees replaced the former Community Policing Committees that had been in operation around the state. A number of suburban committees were later developed underneath the District Committees as part of the Safer WA structure.

The committees comprise of community members, representatives from Government Departments such as Local Police, Department of Community Development, Department of Education, Department of Justice, Department of Health, Department of Housing, representatives from Local Government and representatives from other community interest groups such as Neighbourhood Watch. As a State Government initiative, State Government departments were required to participate. Local Government is an invited partner to the process and has no formal obligation to support Safer WA.

The City of Joondalup provides in-kind support to the Joondalup District Safer WA Committee by providing a meeting venue (initially on a shared basis with the City of Wanneroo) and supper. This support is also provided to Neighbourhood Watch.

The District Safer WA Committee meetings are attended by the Safer Community Co-ordinator and a Councillor (as available). Local Committees are attended as required by the Safer Community Co-ordinator (an invitation is extended when the committee will be discussing an issue with which the City may assist).

A report entitled “New Structures for Crime Prevention for Western Australia : Report of the Review of the Structure for Crime Prevention in Western Australia” was released for public comment on 18 October 2002. The report details the results and recommendations for a new structure from the review, which has an increased and formalised role for local government.

The needs identification process, proposed a new model to essentially replace the current Safer WA structure. The new structure sees crime prevention co-ordinated and facilitated by Local Government at a local level. Local Government would be responsible for identifying community needs, co-ordinating community involvement and developing local crime prevention plans. State agency accountability for the process would be established through local service level agreements.

The previously mentioned forum of Local Governments held on Saturday, 17 May 2003 discussed the proposed New Structures of Crime Prevention.

At the Special Council meeting of 12 May 2003, it was resolved that:

That Council DEFERS consideration of the appointment of representatives to the Safer WA Joondalup Committee subject to the outcome of a forum to be held on the weekend of 17-18 May 2003 hosted by the Commissioner of Police.

## DETAILS

On Saturday, 17 May 2003 the Western Australian Local Government Association convened a forum of interested Local Government Elected Members and Officers on the proposed State Government 'New Structures of Crime Prevention' which would replace the current Safer WA structure and see Local Government as the co-ordinating body for locally based crime prevention plans and their implementation.

The primary concerns of Local Governments include:

Decision making power and control of resources within the proposed structure.

Full costing and identification of adequate resourcing for the proposed enhanced role for Local Government in the new structure.

Amendments to information sharing protocols and regulated legislation to protect all relevant officers as well as the public good.

Clarification on the definition, roles and boundaries applicable to the proposed crime prevention structures referred to in the draft report.

The forum considered these issues and expressed some remaining concerns and requested further information on all of these areas. The WALGA facilitator compiled these concerns, which were to be considered at the June 2003 WALGA Council Meeting.

An indicative vote was taken on giving support to Local Government participation if remaining concerns were addressed and issues clarified.

In principle support for participation was achieved, with 29 votes supporting participation and 10 votes against. Of the 10 votes against, most were Safer WA representatives rather than Local Government Representatives. Of the 29 votes supporting participation, the highest number of votes supported a "yes" participation with a workshop to be convened of Local Government and Office of Crime Prevention Representatives to address the remaining concerns and clarify further information.

This result was considered at the WALGA June Council Meeting, along with the remaining issues of concern.

At its June meeting the WALGA Council resolved that:

1. The outcomes of the Crime Prevention Forum be noted;
2. The State Government be advised that the Association does not support this program in its proposed form.

As such, there has been no clear direction given on the future of Safer WA.

This matter was also considered at the WALGA North Metropolitan Zone meeting of 29 May 2003. At that meeting a motion was carried:

That the North Zone

- (a) Notes the outcomes of the Crime Prevention Forum; and
- (b) Advises WALGA that they do not support this program as it is not the role of local government.

**Strategic Implications:**

As there has been no clear indication of the future direction of Safer WA at this time, strategic implications of this change cannot be determined.

**COMMENT**

The resolution of Council that membership of the Safer WA Joondalup Committee be deferred until after the forum on the 17-18 May 2003 has been hindered by the fact that there has been no outcome as yet. The matter of the status of the Safer WA Committee being unresolved means that Council has no clear direction. If the State Government are successful in implementing a revised structure of crime prevention there is likely to be a change in the role of Safer WA Committees and their partnership with Local Authorities.

As the Safer WA Joondalup Committee meets on the fourth Tuesday of every month at 6.00 pm. Due to the conflict with Council Meetings and commitments, the allocated Councillor for the Committee is unable to attend for most meetings. The City of Wanneroo has no allocated Councillor to this committee for the same reason.

The issue of meeting dates and times have been considered on a number of occasions by the Safer WA Committee, with the committee voting to retain the Tuesday 6.00 pm meeting day and time.

Under the Safer WA constitution, technically any member absent for more than three meetings without apologies being submitted can have their membership revoked. As such, it would be difficult for a Councillor to meet the requirements for membership.

As an alternative, it is proposed that the current representation of City of Joondalup of the Safer Community Co-ordinator on the Safer WA North West Metropolitan (Joondalup) Committee is adequate. A Councillor could be appointed as a liaison officer, to be invited to specific meetings if an issue of concern is to be discussed. Any items of interest from the Safer WA Committee Meeting will be reported through the Desk of the CEO.

**ATTACHMENTS**

Attachment 1 - WALGA Info page: New Structures of Crime Prevention in W.A.

**VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

### **That:**

- 1 Council DOES NOT appoint a representative to the Safer WA North West Metropolitan (Joondalup) Committee;**
- 2 a request be forwarded to the Safer WA North West Metropolitan (Joondalup) Committee to change the meeting day so that a representative of the Council can attend.**

*Appendix 14 refers*

*To access this attachment on electronic document, click here: [Attach14brf220703.pdf](#)*

**CJ176 - 07/03 MINUTES OF THE SENIORS INTERESTS  
ADVISORY COMMITTEE MEETINGS –  
WEDNESDAY, 14 MAY 2003 AND WEDNESDAY, 18  
JUNE 2003 - [55511]**

**WARD - All**

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**PURPOSE**

The purpose of this report is to submit to Council the unconfirmed minutes of the meetings of the Seniors Interests Advisory Committee held on Wednesday, 14 May 2003 and Wednesday, 18 June 2003.

**SUMMARY**

A meeting of the Seniors Interests Advisory Committee was held on Wednesday, 14 May 2003. The minutes of the meetings are submitted for noting by Council.

A meeting of the Seniors Interests Advisory Committee was held on Wednesday 18 June 2003. The unconfirmed minutes of the meetings are submitted for noting by Council.

**DETAILS**

The minutes of the Seniors Interests Advisory Committee held on 14 May 2003 at the City of Joondalup are included as Attachment 1.

**Seniors Master Plan and Action Plan**

It was agreed that the Seniors Master Plan and Action Plan be forwarded to Council with the recommendations from the Seniors Interests Advisory Committee for endorsement.

**Wanneroo Aged Persons Trust**

A motion was carried that Council refrains from imposing general rates on retirement facilities.

The Wanneroo Aged Persons Trust has been exempt from general rates since the mid 1980's. FESA will directly levy the Wanneroo Aged Persons Trust for the Emergency Services Levy from 1 July 2002.

The Western Australian Local Government Association (WALGA) has a working group which is currently undertaking a "Review of Charitable Purposes for Rating Purposes" this report is expected to be received by WALGA within the next six months.

The unconfirmed minutes of the Seniors Interests Advisory Committee held on 18 June 2003 at the City of Joondalup are included as Attachment 2.

## ATTACHMENTS

Attachment 1: Minutes of the Seniors Interests Advisory Committee Meeting held 14 May 2003

Attachment 2: Minutes of the Seniors Interests Advisory Committee Meeting held 18 June 2003.

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

### **That Council NOTES:**

- 1 the confirmed minutes of the Seniors Interests Advisory Committee meeting held on Wednesday, 14 May 2003 forming Attachment 1 to Report CJ176-07/03 and the unconfirmed minutes of the meeting held on Wednesday, 18 June 2003 forming Attachment 2 to Report CJ176-07/03;**
- 2 the Committee agreed that the Seniors Master Plan and Action Plan is to be forwarded to Council with recommendations from the Seniors Interests Advisory Committee for endorsement.**

*Appendices 15 and 15(a) refer*

*To access this attachment on electronic document, click here: [Attach15brf220703.pdf](#)  
[Attach15abrf220703.pdf](#)*

**CJ177 - 07/03      ART COLLECTION WORKING PARTY - [14158]****WARD - All**

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**EXECUTIVE SUMMARY**

A meeting of the Art Collection Working Party held on 24 June 2003 and the unconfirmed minutes are submitted for noting by Council.

The Working Party considered the purchase of the following artworks:

- *Bully Boy II* by Merrick Belyea.
- *Bordello Series* by Helen Smith.

The Art Collection Working Party has recommended purchase of all of the artworks.

**BACKGROUND**

The Art Collection has the following objectives:

- To support contemporary Western Australian Art and Artists
- To provide the citizens of the City of Joondalup access to high quality visual art within the boundaries of the region.

The profile of the collection is to establish a collection of good quality artwork by contemporary Western Australian artists with a second priority of having a regional focus.

Artworks over the value of \$1000 are required to be considered by the Art Collection Working Party for acquisition for the City's collection.

Members of the Art Collection Working Party are:

Cr Paul Kimber, Chair

Cr Janine Gollant

Belinda Cobby, Curator

James Boyd, Coordinator Cultural Development.

**DETAILS**

The minutes of the Art Collection Working Party meeting held on 24 June 2003 are included as Attachment 1.

The Art Collection Working Party has recommended purchase of the following artwork:

	<b>TITLE</b>	<b>MEDIUM</b>	<b>ART GALLERY</b>	<b>PRICE GST INC</b>	<b>PRICE GST EXC</b>
Merrick Belyea	<i>Bully Boy II</i>	Oil on Canvas	Gallery East	\$3,300	\$3,000
Helen Smith	<i>Bordello Series</i>	Colour Photograph mounted on Zinc Plate (60cm x 85cm)	Goddard de Fiddes Gallery	\$1,250	\$1,136.36
				<b>\$4,550</b>	<b>\$4,136.36</b>

### **Financial Implications**

Funds for the purchase of the artworks are as detailed below.

Account No:	1 4430 6781 0001 A007
Budget Item:	Art Purchases
Budget Amount:	\$10,000
Current Balance	\$10,000
Actual Cost:	\$ 4,116.36
Remaining Budget:	\$ 5883.64

### **COMMENT**

The Consultant recommended the purchase of the following artworks for the reasons stated:

*Bully Boy II* (2003) Oil on Canvas by Merrick Belyea for \$3,300 (inc GST)

- the work meets the Art Collection profile.
- the work is by a Western Australian artist that is represented in various major collections and is noted as an up and coming artist.
- it is a powerful artwork that will be an asset to the City of Joondalup's art collection.

*Bordello Series* (2003) Colour Photograph mounted on Zinc Plate (60cm x 85cm) by Helen Smith for \$1,250 (inc GST)

- the work meets the Art Collection profile.
- the work is by a Western Australian artist that is represented in various major collections and is noted as an up and coming artist.
- the photographs will complement other examples of interior studies within the City of Joondalup's art collection.
- the collection currently has limited examples of digital works, the addition of this artwork will diversify the representation of media within the collection.



**ATTACHMENTS**

Attachment 1: Unconfirmed minutes of the Art Collection Working Party meeting held 24 June 2003

**VOTING REQUIREMENTS**

Absolute Majority

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

- 1 NOTES the unconfirmed minutes of the Art Collection Working Party held on 24 June 2003 forming Attachment 1 to Report CJ177-06/03;**
- 2 PURCHASES for the following art work for the Art Collection at the cost of \$4,116.36 from Account Number 1 4430 6781 0001 A007 – Art Purchases:**

	<b>TITLE</b>	<b>MEDIUM</b>	<b>ART GALLERY</b>	<b>PRICE GST INC</b>	<b>PRICE GST EXC</b>
<b>Merrick Belyea</b>	<b><i>Bully Boy II</i></b>	<b>Oil on Canvas</b>	<b>Gallery East</b>	<b>\$3,300</b>	<b>\$3,000</b>
<b>Helen Smith</b>	<b><i>Bordello Series</i></b>	<b>Colour Photograph mounted on Zinc Plate (60cm x 85cm)</b>	<b>Goddard de Fiddes Gallery</b>	<b>\$1,250</b>	<b>\$1,136.36</b>
				<b>\$4,550</b>	<b>\$4,136.36</b>

- 3 BY AN ABSOLUTE MAJORITY, APPOINTS Belinda Cobby, Curator to the Art Collection Working Party in place of Ms Rie Heymans.**

*Appendix 16 refers*

To access this attachment on electronic document, click here: [Attach16brf220703.pdf](#)

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**CJ178 - 07/03      MINUTES JOONDALUP FESTIVAL AND SUMMER  
EVENTS COMMITTEE - [78527]****WARD - All**

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**EXECUTIVE SUMMARY**

A meeting of the Joondalup Festival and Summer Events Committee was held on the 18 June 2003 and the unconfirmed minutes are submitted for noting by the Council.

**DETAILS**

The unconfirmed minutes of the Joondalup Festival and Summer Events Committee meeting held on 18 June 2003 are included as Attachment 1.

**ATTACHMENTS**

Attachment 1: The unconfirmed minutes of the Joondalup Festival and Summer Events Committee meeting held on 18 June 2003.

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

**That Council NOTES the unconfirmed minutes of the Joondalup Festival and Summer Events Committee meeting held on 18 June 2003 forming Attachment 1 to Report CJ178-07/03.**

*Appendix 17 refers*

*To access this attachment on electronic document, click here: [Attach17brf220703.pdf](#)*

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**CJ179 - 07/03      CONFIDENTIAL - SALE OF ASSET - LOT 5 (10)  
POIMENA MEWS KINGSLEY - [01051]**

**WARD - South**

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This Item Is Confidential - Not For Publication

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

**CJ180 - 07/03      CONFIDENTIAL - ASSIGNMENT OF LEASE: THE  
GROVE CHILD CARE CENTRE, LOT 905 (6)  
DUGDALE STREET, WARWICK - [07586]**

**WARD - South**

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This Item Is Confidential - Not For Publication

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

**9 REPORT OF THE CHIEF EXECUTIVE OFFICER**

**CJ181-07/03 CONFIDENTIAL – CHIEF EXECUTIVE OFFICER’S  
ATTENDANCE AT LOCAL GOVERNMENT CHIEF  
OFFICER’S GROUP MEETING AND REQUEST FOR  
ANNUAL LEAVE**

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This Item Is Confidential - Not For Publication

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

**CJ182-07/03      CONFIDENTIAL – CHIEF EXECUTIVE OFFICER’S  
ATTENDANCE AT AUSTRALIAN INSTITUTE OF  
MANAGEMENT PROGRAM – “DEVELOPING  
STRATEGIC LEADERSHIP”**

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This Item Is Confidential - Not For Publication

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

**CJ183-07/03      CONFIDENTIAL – REIMBURSEMENT OF LEGAL  
EXPENSES – CHIEF EXECUTIVE OFFICER**

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This Item Is Confidential - Not For Publication

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

**CJ184-07/03      TENDER NUMBER 044-02/03 – SORRENTO BEACH  
REDEVELOPMENT – [68546]**

**WARD** - South Coastal

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The report in relation to this issue will be distributed to elected members under separate cover.



**CJ185-07/03      TENDER NO 031-02/03 – TRAFFIC SIGNAL  
INSTALLATION AND ASSOCIATED ROADWORKS  
AT SHENTON AVENUE/PONTIAC WAY,  
JOONDALUP - [11541]**

**WARD** - Lakeside

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The report in relation to this issue will be distributed to elected members under separate cover.

## 10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

### ITEM 1 CONFIDENTIAL - MOTION TO LIE ON THE TABLE – NOTICE OF MOTION – CR P ROWLANDS – MATTERS RELATING TO THE CHIEF EXECUTIVE OFFICER

At the Council meeting held on 27 May 2003 the following motion was moved in relation to Item C87-05/03:

*MOVED Cr Kimber, SECONDED Cr Rowlands, that in accordance with Clause 5.4 of the City's Standing Orders Local Law, the Confidential Item – Notice of Motion – Cr P Rowlands – Matters Relating to the Chief Executive Officer - Lie on the Table.*

*The Motion to Lie on the Table was Put and CARRIED (10/4)*

*In favour of the Motion: Mayor Carlos, Crs Caiacob, Gallant, Kenworthy, Rowlands, Hollywood, Nixon, Brewer, Kimber and Prospero. Against the Motion: Crs Baker, Hart, O'Brien and Walker.*

#### **Standing Orders Local Law, Clause 5.4 – The Motion Lie on the Table:**

Clause 5.4 states:

If a motion that the motion lie on the table is carried debate on that motion shall not be resumed until a motion has been passed to take the motion from the table.

On a motion for the laying of the motion on the table being carried, a record shall be taken of all those who have spoken on the motion under debate and they shall not be permitted to speak on any resumption of the debate on that motion, but this does not deprive the mover of the motion of the right of reply.

*(Note: The Minutes of the Council meeting held on 27 May 2003 recorded that no member spoke on the Notice of Motion submitted by Cr Rowlands)*

Any motion that was subject to a resolution that the motion lie on the table and not dealt with subsequently at the same meeting, shall be included in the agenda for the next ordinary meeting.

A member moving the taking of the motion from the table shall be entitled to speak first upon the resumption of the debate thereon.

Prior to any debate occurring on this item, a motion is required to be carried to take the motion from the table.

**The Notice of Motion submitted by Cr Rowlands was Marked Confidential - Not For Publication**

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

**ITEM 2      CONFIDENTIAL - NOTICE OF MOTION – CR G KENWORTHY  
- POTENTIAL BREACH OF STANDING ORDERS, CODE OF  
CONDUCT AND THE LOCAL GOVERNMENT ACT 1995, CR J  
HOLLYWOOD - [38535] [53558] [02154] [08122] [42750]**

Cr Gerry Kenworthy gave notice of his intention to move a motion at the ordinary meeting of the Council to be held on 27 May 2003. The following elected members indicated their support as required by Clause 4.4 of the City's Standing Orders Local Law:

Cr G Kenworthy  
Cr C Baker  
Cr P Rowlands  
Cr C Mackintosh  
Cr P Kimber  
Cr A Patterson

At the Council meeting held on 27 May 2003 it was resolved that the Motion Lie on the Table.

The Minutes of the Council meeting held on 27 May 2003 recorded that no member spoke on the Notice of Motion submitted by Cr Kenworthy.

At the Council meeting held on 8 July 2003, it was resolved that the Motion be taken from the table, however the motion was not moved.

**The Notice of Motion submitted by Cr Kenworthy was Marked Confidential - Not For Publication**

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

**ITEM 3      MOTION TO LIE ON THE TABLE - REVIEW OF CORPORATE POLICY MANUAL - [07032, 26176, 13399]****WARD - All**

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At the Council meeting held on 27 May 2003 the following motions and amendments were moved in relation to Item CJ108 - 05/03:

*MOVED Cr Kimber, SECONDED Cr Prospero that Council:*

- 1      *DELETES Policy 2.6.3 Public Participation and ADOPTS replacement Policy 2.6.3 – Community Consultation as detailed in Attachment 1 to Report CJ108-05/03;*
- 2      *AMENDS the following Policies as detailed in Attachment 1 to Report CJ108-05/03:*
  - *2.1.5 - Selective Voluntary Severance*
  - *2.2.5 - Council Chamber - Use of*
  - *2.2.6 - Recording of Proceedings*
  - *2.2.7 - Acknowledgement of Service - Elected Members*
  - *2.2.13 - Payment of Fees, Allowances and Expenses and the provision of facilities to the Mayor, Deputy Mayor and Councillors*
  - *2.3.2 - Communications*
  - *2.3.3 – Use of Common Seal and the Signatories for Contract Execution*
  - *2.3.5 - Online Services*
  - *2.4.1 - Accounting Policy*
  - *2.4.2 - Investment Policy*
  - *2.5.1 – Commercial Usage of Beachfront and Beach Reserves*
  - *2.5.2 – Procurement of Council Buildings*
  - *2.5.3 – Council Vehicles – Mayor and Council Officers*
  - *2.5.4 – Official Vehicles – Use of*
  - *2.5.5 - Consent to Alter Council Leased Premises*
  - *2.5.6 – Disposal of Surplus Personal Computers*
  - *2.5.7 - Purchasing Goods and Services*
  - *3.1.1 - Child Care Centres*
  - *3.1.5 - Nomenclature - Public Facilities*
  - *3.2.5 - Design Guidelines for Waterview Estate, Kingsley*
  - *3.2.7 - Pedestrian Accessways*
  - *4.2.2 - Public Online Service Provisions*
  - *5.1.1 - Waste Management*
  - *5.5.1 - Burning of Garden Refuse and Cleared Vegetation*

*AMENDMENT MOVED Cr Baker, SECONDED Cr Kimber that the following amendments be made to the Policy Manual:*

- *Policy 2.2.6: Paragraph 7: Delete “at the sole discretion of the Mayor or Chairperson” and replace with “determined by an absolute majority of Councillors”;*
- *Policy 2.2.13: Part 1, Governance: Section 2.2. Paragraph (a) be deleted and substituted with the words “The Mayor be entitled to claim mileage at the agreed Local Government Rate for the use of his own personal vehicle”;*
- *Policy 2.2.13: Part 1, Governance: Section 2.2. Paragraph (b) be deleted;*
- *Policy 2.2.13: Part 4, Payment of Fees and Allowances: 4.3. Delete “the maximum” and replace with “25% of the maximum” ;*
- *Policy 2.2.13: 4.5: Paragraph (2) to remain within the Policy;*
- *Policy 2.2.13: 5.6 – Payment of Conference and Training Costs: Paragraph (5) delete “Business Class” and replace with “economy class”;*
- *Policy 2.5.3: Delete the first two paragraphs relating to the Mayor;*
- *Policy 2.5.4: Delete reference to use by Mayor.*

The following procedural motion was then moved:

*MOVED Cr Walker SECONDED Cr Caiacob, that in accordance with Clause 5.4 of the City’s Standing Orders Local Law, the following Amendment Lie on the Table pending the holding of a workshop on the Policy Manual:*

*“AMENDMENT MOVED Cr Baker, SECONDED Cr Kimber that the following amendments be made to the Policy Manual:*

- *Policy 2.2.6: Paragraph 7: Delete “at the sole discretion of the Mayor or Chairperson” and replace with “determined by an absolute majority of Councillors”;*
- *Policy 2.2.13: Part 1, Governance: Section 2.2. Paragraph (a) be deleted and substituted with the words “The Mayor be entitled to claim mileage at the agreed Local Government Rate for the use of his own personal vehicle”;*
- *Policy 2.2.13: Part 1, Governance: Section 2.2. Paragraph (b) be deleted;*
- *Policy 2.2.13: Part 4, Payment of Fees and Allowances: 4.3. Delete “the maximum” and replace with “25% of the maximum” ;*
- *Policy 2.2.13: 4.5: Paragraph (2) to remain within the Policy;*
- *Policy 2.2.13: 5.6 – Payment of Conference and Training Costs: Paragraph (5) delete “Business Class” and replace with “economy class”;*
- *Policy 2.5.3: Delete the first two paragraphs relating to the Mayor;*
- *Policy 2.5.4: Delete reference to use by Mayor.”*

The Motion to Lie on the Table was Put and

CARRIED

*At the Council meeting held on 27 May 2003, Mayor Carlos declared a financial interest in CJ108-05/03 – Review of Corporate Policy Manual as it related to the use of the Mayoral Car.*

**Standing Orders Local Law, Clause 5.4 – The Motion Lie on the Table:**

Clause 5.4 states:

If a motion that the motion lie on the table is carried debate on that motion shall not be resumed until a motion has been passed to take the motion from the table.

On a motion for the laying of the motion on the table being carried, a record shall be taken of all those who have spoken on the motion under debate and they shall not be permitted to speak on any resumption of the debate on that motion, but this does not deprive the mover of the motion of the right of reply.

*(Note: The Minutes of the Council meeting held on 27 May 2003 recorded that:*

- *no member spoke on the Motion Moved by Cr Kimber and seconded by Cr Prospero;*
- *Cr Baker spoke on the Amendment Moved by Cr Baker and seconded by Cr Kimber.)*

Any motion that was subject to a resolution that the motion lie on the table and not dealt with subsequently at the same meeting, shall be included in the agenda for the next ordinary meeting.

A member moving the taking of the motion from the table shall be entitled to speak first upon the resumption of the debate thereon.

Prior to any debate occurring on this item, a motion is required to be carried to take the motion from the table.

**OFFICER'S COMMENT**

It is proposed that a workshop on the Policy Manual be conducted at a future Strategy Session. It is therefore appropriate that the Policy Manual lie on the table pending the holding of that workshop.

**ITEM 4 MOTION TO LIE ON THE TABLE - NOTICE OF MOTION – CR M O'BRIEN – RESCISSION OF USE APPROVAL FOR A THERAPEUTIC MASSAGE CENTRE, LOT 9 UNIT 16 (7) DELAGE STREET, JOONDALUP EX (TP107-05/96)**

At the Council meeting held on 24 June 2003 the following motion was moved:

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

“That Council BY AN ABSOLUTE MAJORITY, REVOKES and RESCINDS the former City of Wanneroo decision of 29 May 1996, Item TP107-05/96 refers, viz:

*“That Council approves the application submitted by Artist Holdings Pty Ltd in respect of the use of Lot 9 unit 16 (7) Delage Street, Joondalup, for the provision of medical and sport related massages subject to:*

- 1 There being a maximum of four masseuses working in the subject unit at any one time;
- 2 *Standard and appropriate conditions.”*

*and substitutes in lieu therefore;*

*“That Council:*

- 1 *Takes into account the claim by the Hon Tony O’Gorman MLA, Member for Joondalup that “Bawdy House Activities,” contrary to Sections 209 & 213 of the Western Australian Criminal Code are allegedly occurring at Unit 16, 7 Delage St, Joondalup, and finds that evidence provided in Mr O’Gorman’s allegation, is of important weighting and is “on the balance of probabilities” a true fact;*
- 2 *in light of the credit given to Mr O’Gorman’s allegation Council, having revoked and rescinded TP107-05/96, advises Ross Douglas Fraser, of 1B Saltbush Court, WICKHAM WA 6720, the Registered Proprietor, of (Unit) Lot 16 on Strata Plan 29376 Vol 2123 Folio 938 that the Approval TP107 – 05/96 granted to Artist Holdings Pty Ltd ACN 009 314 765 ABN 89 009 314 765 UNDER EXTERNAL ADMINISTRATION (LIQUIDATOR APPOINTED) has been revoked and rescinded, and that the current Unit Use does not comply, as a permitted land use, pursuant to Council’s District Planning Scheme No 2.;*
- 3 *advises Leila Elaine Neilson, of 4 Addingham Court, CRAIGIE WA 6025, Director and Company Secretary, of Chadstone Pty Ltd ACN 103 565 617 ABN 15 103 565 617 (formerly LEILA’S [Reg. No 0243333G]), Principal Place of Business, Unit 16, 7 Delage Street, JOONDALUP*



*WA 6027, Registered Office, Sergio D’Orazio & Associates, 20 Ballot Way, BALCATT WA 6021 that the land use approval for Unit 16, 7 Delage Street, JOONDALUP, granted to Artist Holdings Pty Ltd by the former City of Wanneroo ref. TP107-05/96 has been revoked and rescinded;*

- 4 *advises Vincent Leonard Rossi and Cornelia Alida Rossi of 10 Moline Court, CHURCHLANDS WA 6018, Directors of Artist Holdings Pty Ltd, ACN 009 314 765 ABN 89 009 314 765 that the land use approval for Unit 16, 7 Delage Street, JOONDALUP, granted to Artist Holdings Pty Ltd by the former City of Wanneroo ref. TP107-05/96 has been revoked and rescinded.”*

*The Motion to Lie on the Table was Put and* *CARRIED BY  
EN BLOC RESOLUTION NO 2 (10/1)*

*In favour of the Motion: Mayor Carlos, Crs Caiacob, Mackintosh, Gollant, O’Brien, Brewer, Kimber, Prospero, Walker, and Hollywood Against the Motion: Cr Baker*

### **Standing Orders Local Law, Clause 5.4 – The Motion Lie on the Table:**

Clause 5.4 states:

If a motion that the motion lie on the table is carried debate on that motion shall not be resumed until a motion has been passed to take the motion from the table.

On a motion for the laying of the motion on the table being carried, a record shall be taken of all those who have spoken on the motion under debate and they shall not be permitted to speak on any resumption of the debate on that motion, but this does not deprive the mover of the motion of the right of reply.

*(Note: The Minutes of the Council meeting held on 24 June 2003 recorded that no member spoke on the Notice of Motion submitted by Cr O’Brien)*

Any motion that was subject to a resolution that the motion lie on the table and not dealt with subsequently at the same meeting, shall be included in the agenda for the next ordinary meeting.

A member moving the taking of the motion from the table shall be entitled to speak first upon the resumption of the debate thereon.

Prior to any debate occurring on this item, a motion is required to be carried to take the motion from the table.

### **The Notice of Motion and the reasons for this motion as submitted by Cr O’Brien, are reproduced below:**

Cr Mike O’Brien gave notice of his intention to move the following motion at the Council meeting to be held on Tuesday 29 April 2003. Council did not consider this item at its meetings held on 29 April 2003 and 27 May 2003 and it is therefore resubmitted for consideration at the Council meeting to be held on 17 June 2003.

The following elected members have indicated their support as required by Clause 4.4 of the City's Standing Orders Local Law:

Cr M O'Brien  
Cr C Baker  
Cr C Mackintosh  
Cr T Barnett  
Cr A Patterson

“That Council BY AN ABSOLUTE MAJORITY, REVOKES and RESCINDS the former City of Wanneroo decision of 29 May 1996, Item TP107-05/96 refers, viz:

*“That Council approves the application submitted by Artist Holdings Pty Ltd in respect of the use of Lot 9 unit 16 (7) Delage Street, Joondalup, for the provision of medical and sport related massages subject to:*

- 1 There being a maximum of four masseuses working in the subject unit at any one time;
- 2 *Standard and appropriate conditions.”*

and substitutes in lieu therefore;

*“That Council:*

- 1 *Takes into account the claim by the Hon Tony O’Gorman MLA, Member for Joondalup that “Bawdy House Activities,” contrary to Sections 209 & 213 of the Western Australian Criminal Code are allegedly occurring at Unit 16, 7 Delage St, Joondalup, and finds that evidence provided in Mr O’Gorman’s allegation, is of important weighting and is “on the balance of probabilities” a true fact;*
- 2 *in light of the credit given to Mr O’Gorman’s allegation Council, having revoked and rescinded TP107-05/96, advises Ross Douglas Fraser, of 1B Saltbush Court, WICKHAM WA 6720, the Registered Proprietor, of (Unit) Lot 16 on Strata Plan 29376 Vol 2123 Folio 938 that the Approval TP107 – 05/96 granted to Artist Holdings Pty Ltd ACN 009 314 765 ABN 89 009 314 765 UNDER EXTERNAL ADMINISTRATION (LIQUIDATOR APPOINTED) has been revoked and rescinded, and that the current Unit Use does not comply, as a permitted land use, pursuant to Council’s District Planning Scheme No 2.;*
- 3 *advises Leila Elaine Neilson, of 4 Addingham Court, CRAIGIE WA 6025, Director and Company Secretary, of Chadstone Pty Ltd ACN 103 565 617 ABN 15 103 565 617 (formerly LEILA’S [Reg. No 0243333G]), Principal Place of Business, Unit 16, 7 Delage Street, JOONDALUP WA 6027, Registered Office, Sergio D’Orazio & Associates, 20 Ballot Way, BALCATTWA WA 6021 that the land use approval for Unit 16, 7 Delage Street, JOONDALUP, granted to Artist*

*Holdings Pty Ltd by the former City of Wanneroo ref. TP107-05/96 has been revoked and rescinded;*

- 4 *advises Vincent Leonard Rossi and Cornelia Alida Rossi of 10 Moline Court, CHURCHLANDS WA 6018, Directors of Artist Holdings Pty Ltd, ACN 009 314 765 ABN 89 009 314 765 that the land use approval for Unit 16, 7 Delage Street, JOONDALUP, granted to Artist Holdings Pty Ltd by the former City of Wanneroo ref. TP107-05/96 has been revoked and rescinded.”*

**Reason for Motion:**

Cr O’Brien provided the following in support of the above Motion:

- “1 There is no evidence that the former City of Wanneroo Councillors in Decision TP107-05/96 approved “Bawdy House Activities” as a Land Use under City of Wanneroo’s Town Planning Scheme No 1.
- 2 The proprietary company Artist Holdings Pty Ltd as a proprietary company is, according to ASIC Listings, now under External Administration (liquidator appointed) and it seems is no longer a Proprietary Company trading with an interest in Unit 16, 7 Delage Street, Joondalup.
- 3 The City of Joondalup has by its decision in October 2002 decided that “Bawdy House Activities” are not an acceptable Land Use within the boundaries of the Municipality.
- 4 The evidence of the Claim by the Hon Tony O’Gorman MLA, Member for Joondalup, that “Bawdy House Activities” are occurring at Unit 16, 7 Delage Street, Joondalup is “on the balance of probabilities” evidence of enough weight, for Council’s Decision to revoke and rescind the former City of Wanneroo decision of approval to Artist Holdings Pty Ltd.
- 5 Council further reinforced its 15<sup>th</sup> October 2002 decision, by a unanimous decision on Tuesday 11<sup>th</sup> March 2003 to prohibit “Bawdy House Activities” as a Land Use in the Municipality, and subsequent to EPA consideration, intends to advertise the amendment to District Planning Scheme No 2. as a Community Consultation, process for 42 days.”

**OFFICER’S COMMENTS**

Following the receipt of the notice of motion as submitted by Cr O’Brien, legal advice was sought regarding the City’s power to revoke a previously issued planning approval. It is confirmed by the legal advice that the City does not have power under District Planning Scheme No. 2 to revoke a planning approval. The one exception, which is irrelevant for current purposes, is Clause 6.10.2, which provides that an owner may make an application to revoke a planning approval prior to the commencement of the development, the subject of the approval. It is therefore advised that in accordance with 3.12 of the City’s Standing Orders Local Law it would be reasonable for the chairperson to rule the notice of motion out of order as it is reasonable to believe such a decision is beyond jurisdiction of the Council.

## **VOTING REQUIREMENT**

Absolute Majority

**ITEM 5 NOTICE OF MOTION – CR M O'BRIEN –MUNICIPAL TAX (RATES) - [38634] [20086]**

In accordance with Clause 12 of the Standing Orders Local Law, Cr M O'Brien gave notice of his intention to move the following motion at the Council meeting to be held on 27 May 2003:

- “1 That for the 2003 - 2004 Budget Council determines that, pursuant Section 41. and Section 112. of the Health Act 1911, an annual rate shall be set for the provision for removal of refuse and cleansing works;*
- 2 That for the 2003 -2004 Budget Council determines that the Minimum Payment is abolished, thereby no use of Section 6.35 of the Local Government Act 1995 is made in sourcing additional “flat tax” revenue from low value properties in addition to the proportional tax (rates) that such properties attract from the Valuer General’s valuation set for such properties.”*

At the Council meeting of 27 May 2003, it was resolved that the Motion Lie on the Table.

The Minutes of the Council meeting held on 27 May 2003 recorded that no member spoke on the Notice of Motion submitted by Cr O'Brien.

At the Council meeting held on 8 July 2003, it was resolved that the Motion be taken from the table, however, the motion was not moved.

In support of this notice of motion, Cr O'Brien states as follows:

“The reasons for the above is to fairly apportion the Health Act costs in proportion to the Valuer General’s valuations and to abolish the discriminatory “flat taxing” of properties thereby complying with the similar abolition of the Commissioner Imposed “\$27.00 flat tax” that was imposed on Joondalup Properties in 1999 and which was abolished following the result of the 2001 Joondalup Municipal Referendum.

The added position of advantage to the Municipality is that the State Government Treasury pays the Municipality 50% of the amount the Municipality Bills its Pensioners for any “Rates” but doesn't pay the Municipality 50% of any “flat” Health Act charge.

For Councillors assistance the relevant sections of both Acts are included below;

**HEALTH ACT 1911 - SECT 41**

**41. Sanitary rate**

Every local government may from time to time, as occasion may require, make and levy as aforesaid and cause to be collected an annual rate for the purpose of providing for the proper performance of all or any of the services mentioned in section 112, and

the maintenance of any sewerage works constructed by the local government under Part IV

Such annual rate shall not exceed –

- (a) 12 cents in the dollar on the gross rental value; or
- (b) where the system of valuation on the basis of the unimproved value is adopted, 3 cents in the dollar on the unimproved value of the land in fee simple:

Provided that the local government may direct that the minimum annual amount payable in respect of any one separate tenement shall not be less than \$1.

Provided also, that where any land in the district is not connected with any sewer, and a septic tank or other sewerage system approved by the local government is installed and used upon such land by the owner or occupier thereof for the collection, removal, and disposal of night soil, urine, and liquid wastes upon such land, the local government may by an entry in the rate record exempt such land from assessment of the annual rate made and levied under this section, and, in lieu of such annual rate, may, in respect of such land, make an annual charge under and in accordance with section 106 for the removal of refuse from such land.

*[Section 41 amended by No. 5 of 1933 s.2; No. 38 of 1933 s.2; No. 25 of 1950 s.5; No. 113 of 1965 s.4(1); No. 2 of 1975 s.3; No. 76 of 1978 s.51; No. 14 of 1996 s.4.]*

## **HEALTH ACT 1911 - SECTION 112**

112 - Local government to provide for removal of refuse and cleansing works (1) A local government may, and when the Executive Director, Public Health so requires, shall undertake or contract for the efficient execution of the following works within its district, or any specified part of its district:

- (a) The removal of house and trade refuse and other rubbish from premises.
- (b) The supply of disinfectants for the prevention or control of disease, and pesticides for the destruction of pests.
- (c) The cleansing of sanitary conveniences and drains.
- (d) The collection and disposal of sewage.
- (e) The cleaning and watering of streets.
- (f) The providing, in proper and suitable places, of receptacles for the temporary deposit of refuse and rubbish collected under this section.
- (g) The providing of suitable places, buildings, and appliances for the disposal of refuse, rubbish and sewage.
- (ga) The construction and installation of plant for the disposal of refuse, rubbish and sewage.

- (h) The collection and disposal of the carcasses of dead animals:

Provided that it shall not be lawful to deposit nightsoil in any place where it will be a nuisance or injurious or dangerous to health.

- (2) Any local government which has undertaken or contracted for the efficient execution of any such work as aforesaid within its district or any part thereof may by local law prohibit any person executing or undertaking the execution of any of the work undertaken or contracted for within the district or within such part thereof as aforesaid, as the case may be, so long as the local government or its contractor executes or continues the execution of the work or is prepared and willing to execute or continue the execution of the work.
- (3) After the end of the year 1934 no nightsoil collected in one district shall be deposited in any other district, except with the consent of the local government of such other district, or of the Executive Director, Public Health.

*[Section 112 amended by No. 17 of 1918 s.11; No. 30 of 1932 s.17; No. 45 of 1954 s.3; No. 38 of 1960 s.3; No. 102 of 1972 s.9; No. 28 of 1984 s.45; No. 14 of 1996 s.4; No. 28 of 1996 s.8.]*

#### **LOCAL GOVERNMENT ACT 1995 - SECT 6.35**

##### **6.35. Minimum payment**

- (1) Subject to this section, a local government may impose on any rateable land in its district a minimum payment which is greater than the general rate which would otherwise be payable on that land.
- (2) A minimum payment is to be a general minimum but, subject to subsection (3), a lesser minimum may be imposed in respect of any portion of the district.
- (3) In applying subsection (2) the local government is to ensure the general minimum is imposed on not less than 50% of the number of separately rated properties in the district on which a minimum payment is imposed.
- (4) A minimum payment is not to be imposed on more than the prescribed percentage of the number of separately rated properties in the district unless the general minimum does not exceed the prescribed amount.
- (5) If a local government imposes a differential general rate on any land on the basis that the land is vacant land it may, with the approval of the Minister, impose a minimum payment in a manner that does not comply with subsections (2), (3) and (4) for that land.
- (6) For the purposes of this section a minimum payment may be applied separately, in accordance with the principles set forth in subsections (2), (3) and (4) -

- (a) to land rated on gross rental value;
- (b) to land rated on unimproved value; and
- (c) to each differential rating category where a differential general rate is imposed.”

## **OFFICER’S COMMENT**

### Domestic Refuse Charge

The domestic refuse charge is currently a user-based charge of \$122 per service provided with total budgeted revenue of \$6.5m in the 2002/03 year. The proposed change will include the funding for these services in the general rates. This will result in an increase in the rate-in-the-dollar and redistribute the costs of providing those services across all ratepayers according to the value of the property.

### Minimum Payments

The distribution of general rates is in accordance with property values. The Minimum Payment (set at \$450 for the 2002/03 year and is applicable to 9,477 properties) recognises that the City provides a base level of service which is available to all properties. As the total amount to be funded from general rates remains the same, the removal of the Minimum Payment criteria will result in an increase in the rate-in-the-dollar and redistribute the general rates across all ratepayers according to the value of the property with ratepayers with higher GRV's having to compensate for those with lower GRVs.

### Recommendation

These items have been included for discussion in the Budget Committee agenda and it is recommended the issues be addressed fully as part of the budget deliberations. Officers will prepare more detailed information to assist the Budget Committee in understanding the ramifications associated with these items.

## **VOTING REQUIREMENT**

### Simple Majority



**ITEM 6      NOTICE OF MOTION – CR M O'BRIEN – ABANDONMENT OF PRECINCT PLANNING**

*In accordance with Clause 3.12 of the Standing Orders Local Law, Cr M O'Brien has given notice of his intention to move the following motion at the Council meeting to be held on 29 July 2003:*

*“That Council EXPANDS its decision (Council Minutes 12 February 2002 refer) and ABANDONS ALL so called Community Visioning Precinct Action Planning Activity Concepts that envisage re-zoning and vehicular and pedestrian access way changes and any interference by residential and/or private enterprise commercial development within Parks and Public Open Space Areas, within the Municipal Boundaries of the whole of City of Joondalup and informs its Planning Department Officers and the Western Australian Planning Commission that, any individual applications for Higher Density will be only considered, individually, in places where there is Full and Demonstrable Community support indicated, after a Full Community Consultation Process has been undertaken, in the whole of the Locality (Suburb).”*

**OFFICER'S COMMENT**

The Council has previously discontinued the precinct planning process due to the weight of submissions received against that process. Sensitivities to the process are well understood by the Council.

The City has an obligation to consider proposals on their merits. Regardless of the adoption of a resolution in the form suggested above, a proponent has a right to lodge and request consideration of planning proposals. Those proposals may be in the form of development applications, rezoning of land or in relation to structure plans.

It is believed that the Council understands the previous concerns made in relation to precinct planning proposals and further that it would exercise sensitivity and caution with proposals to reconfigure commercial centers within the City.

It is respectfully suggested that the above motion is redundant given the previous resolutions adopted by the Council.

**VOTING REQUIREMENTS**

Simple Majority

**ITEM 7 NOTICE OF MOTION – CR P ROWLANDS – HOME LOANS**

*In accordance with Clause 3.12 of the Standing Orders Local Law, Cr P Rowlands has given notice of his intention to move the following motion at the Council meeting to be held on 29 July 2003:*

*"That Council invites suitable financial institutions to prepare submissions in relation to supplying City of Joondalup residents with discounted home loans."*

**Reason for Motion:**

Cr Rowlands has provided the following comment in support of the Motion:

“This motion has the potential to significantly benefit our ratepayers with mortgages. A couple with an average \$150,000 loan would save hundreds of dollars per year, in other words, it is like having your rates paid by the bank. This issue is not a traditional area for local government to get involved with but there is no reason that we cannot think outside the square to try help our residents.”

**OFFICER’S COMMENT**

*Officers could develop a shortlist of relevant financial institutions to be invited to submit proposals. This would be a relatively inexpensive process as there is no need to go through a formal expression of interest/tender process in the absence of any financial consideration being involved.*

It is envisaged that the invitation would be a moderately simple document stating the City's objective ie "supplying City of Joondalup residents with discounted home loans" and requesting appropriate proposals.

**VOTING REQUIREMENTS**

Simple Majority

**ITEM 8 NOTICE OF MOTION – CR P KIMBER – COUNCIL SEATING ARRANGEMENTS**

*In accordance with Clause 3.12 of the Standing Orders Local Law, Cr P Kimber has given notice of his intention to move the following motion at the Council meeting to be held on 29 July 2003:*

*“That Council AGREES that:*

- 1 the seat to the right of the Mayor within the Council Chamber shall remain available for seating of special guests, at the invitation of the Mayor;*
- 2 the Deputy Mayor shall be allocated a seat on the floor of the Council Chamber next to their fellow ward representative.”*

**OFFICER’S COMMENT**

It was the practice of the former City of Wanneroo to allow the Deputy Mayor to sit alongside the Mayor during Council meetings. This practice was discontinued with the newly elected Council of the City of Joondalup until recently with the current Mayor agreeing to seat the Deputy Mayor to his right.

The newly constituted City of Joondalup allowed the Mayor to be elected by the people of the City, with the Deputy Mayor being elected by the Council for a two year term. It is regarded that the Deputy Mayor is the elected head of the Council by their peers, and serves as a Councillor representing their Ward. As the Deputy Mayor represents a Ward, it is agreed that they be allocated a seat on the floor of the Council Chamber. In support of this Notice of Motion, a recommendation from the 2001 Strategic Review into the City of Wanneroo was that the Deputy Mayor be allocated a seat on the floor of the Chamber with their fellow Ward representative.

**VOTING REQUIREMENTS**

Simple Majority

**ITEM 9 NOTICE OF MOTION – CR C BAKER – TRAINING IN MEETING PROCEDURE**

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr C Baker has given notice of his intention to move the following motion at the Council meeting to be held on 29 July 2003:

*“That in view of the appalling manner in which Mayor Carlos chaired the Ordinary Council Meeting on Tuesday 8 July 2003, the Mayor be stood down from chairing all future Ordinary Council meetings until such time as he has had the benefit of tuition in respect of his role as a chairperson by either an Officer of the Director General of Local Government or a representative from the Local Government Association”*

**Reason for motion:**

Cr Baker has provided the following comment in support of his motion:

“I have served as a Councillor under three different Mayors in two different Local Government Authorities. I have also served under a Premier as a member of Parliament and I have acted as a Deputy Speaker for the Legislative Assembly of the Parliament of Western Australia for four years. I am concerned that the Mayor needs help in understanding the duties of a chairman at Council meetings, together with the provisions of the Local Government Act and our City’s Standing Orders Local Law.

We, as Councillors have a duty to help our Mayor in order to assist him in fulfilling his fundamental responsibilities as a chairperson. The fundamental duties of a Mayor under the Local Government Act are to chair Council meetings and liaise with the CEO. The Mayor is currently failing to meet both of these fundamental statutory obligations by any standard.”

**OFFICER’S COMMENT**

Section 2.8 and 5.6(1) of the Local Government Act 1995 states that part of the role of the Mayor is to preside at meetings in accordance with the Act. Section 5.6(2) of the Act allows for the Deputy Mayor to preside at meetings of the Council, where the Mayor is not available or is unable or unwilling to preside. Section 5.6(3) further states if the Deputy Mayor is not available, unable or unwilling to preside, then the Council is to choose one of the Councillors present to preside at the meeting.

In order for the Mayor to no longer preside at Council meetings, he would have to be either not available, unable or unwilling to do so. If this was to occur, then the responsibility would rest with the Deputy Mayor, and so on as specified by the Act. The Act does not allow for anyone else, other than a member of the Council to preside at Council meetings.

It is suggested that given the stipulations provided by the Local Government Act 1995, the Council may not have authority to make such a decision and it may be reasonable for the Chairperson to rule the Notice of Motion out of order as it is beyond the jurisdiction of the Council, in accordance with Clause 3.12 of the Standing Orders Local Law.

## **VOTING REQUIREMENTS**

Simple Majority

**ITEM 10 NOTICE OF MOTION – CR J HOLLYWOOD – ELECTORAL MATERIAL**

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr J Hollywood has given notice of his intention to move the following motion at the Council meeting to be held on 29 July 2003:

*“That the Council REQUESTS the Minister for Local Government and Regional Development to initiate an amendment to section 4.87 of the Local Government 1995 that requires any person that prints, publishes or causes electoral material to be printed, published or distributed, must have the electoral material authorised by the returning officer of their electorate.”*

**OFFICER’S COMMENT**

Section 4.87 of the Local Government Act 1995 states:

**“Printing and publication of electoral material:****4.87**

- (1) A person who prints, publishes or distributes electoral material or causes electoral material to be printed, published or distributed, commits an offence unless:
  - (a) the name and address (not being a post-office box) of the person who authorised the electoral material appears at the end of the electoral material; or
  - (b) in the case of electoral material that is printed otherwise than in a newspaper, the name and business address of the printer appears at the end of the electoral material.

Penalty: \$2,000.

- (2) Subsection (1) does not apply to electoral material on an item included in a prescribed class of items.
- (3) In this section:

“electoral material” means any advertisement, handbill, pamphlet, notice, letter or article that is intended or calculated to affect the result of an election but does not include an advertisement in a newspaper announcing the holding of a meeting;

“print” includes photocopy or reproduce by any means.”

Section 4.88 of the Local Government Act 1995 states:

**“Misleading, false or defamatory statements:**

**4.88**

- (1) A person who, during the relevant period in relation to an election:
- (a) prints, publishes or distributes deceptive material or causes deceptive material to be printed, published or distributed; or
  - (b) makes or publishes any false or defamatory statement in relation to the personal character or conduct of a candidate in the election or causes such a statement to be made or published,

commits an offence.

Penalty: \$5,000 or imprisonment for one year.

- (2) It is a defence to a charge under subsection (1)(a) to prove that the accused person did not know, and could not reasonably have been expected to know, that the material was likely to mislead or deceive an elector in relation to the casting of the elector’s vote.
- (3) It is a defence to a charge under subsection (1)(b) to prove that the accused person believed the statement to be true and had reasonable grounds for doing so.

- (4) In this section:

“deceptive material” means any matter or thing that is likely to mislead or deceive an elector in relation to the casting of the elector’s vote at the election;

“print” includes photocopy or reproduce by any means;

“publish” includes publish by radio or television;

“relevant period” means the period commencing when notice calling for nominations for the election is published and ending at 6.pm on the election day.”

The recent local government elections for the City resulted in a number of complaints being received by the Electoral Commissioner regarding alleged breaches of Section 4.87 and 4.88 of the Local Government Act 1995. However, it is not known if any prosecutions have occurred as a result of the complaints.

The Act allows for any person to ‘authorise’ electoral material. If the legislation was to require a specific person to formally ‘authorise’ the electoral material, it may reduce the number of complaints. However, at the time of authorising the material the specific person may not be aware of the accuracy of the material and place the person in an awkward position.

## **VOTING REQUIREMENT**

Simple Majority



**ITEM 11 NOTICE OF MOTION – CR G KENWORTHY – ELECTRONIC RECORDING OF PROCEEDINGS**

In accordance with Clause 3.12 of the Standing Orders Local Law, Cr G Kenworthy has given notice of his intention to move the following motion at the Council meeting to be held on 29 July 2003:

*“That Council AMENDS Policy 2.2.6 – Council and Electors Meetings – Electronic Sound Recording – by adding a part (7) as follows:*

- 7     *The use of video cameras, electronic recording devices (other than for the express purpose of official minute taking) or still photography to record proceedings of the local government within the Council Chamber shall by a simple majority decision of the Council.”*

**OFFICER’S COMMENT**

There has been a few requests by the media to record the proceedings of the Council. There is no current policy of the Council, nor does the current Standing Orders Local Law detail any procedure on who can grant such authority. Consequently there needs to be a guideline that sets down the practice to follow when such requests are received. An amendment to the policy is suggested as the most appropriate means to achieve this.

It should be noted that if the power to determine such requests rests with the Council, such decision cannot be exercised until after the completion of public question time in accordance with the Local Government (Administration) Regulations 1996, Regulation 7(2).

**VOTING REQUIREMENTS**

Simple Majority

**11 DATE OF NEXT MEETING**

The next meeting of the Council has been scheduled for **7.00 pm** on **TUESDAY, 19 AUGUST 2003** to be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup.

**12 CLOSURE**

**DECLARATION OF INTEREST FORM, CLICK HERE:** [declofininterestsept2001.pdf](#)



**QUESTION TO BRIEFING SESSION/ COUNCIL MEETING**

**NAME** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

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**QUESTIONS**

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Please submit this form at the meeting or post to:

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

**NOTE:** Questions must relate to the ordinary business of the City of Joondalup or the purpose of the special meeting.

**FOR SEATING PLAN OF THE COUNCIL CHAMBER, CLICK HERE: [seatplan july 2003.pdf](#)**