



**MINUTES OF COUNCIL MEETING  
HELD ON 11 NOVEMBER 2003**

**In accordance with Clause 5.6 of the City’s Standing Orders Local Law and the requirements of the Local Government Act 1995, Items CJ266-11/03, C234-11/03, C236-11/03, C237-11/03, C238-11/03 and C239-11/03 were discussed behind closed doors. Therefore only the resolutions carried by the Council are available for public inspection, unless otherwise resolved by the Council, in accordance with Clause 7.2 of the City’s Standing Orders Local Law.**

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# CITY OF JOONDALUP

## MINUTES OF COUNCIL MEETING HELD IN COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP, ON TUESDAY, 11 NOVEMBER 2003

### OPEN AND WELCOME

The Mayor declared the meeting open at 1902 hrs.

### ATTENDANCES

#### Mayor

D CARLOS

#### Elected Members:

Cr P KIMBER	Lakeside Ward	<i>Absent from 2053 hrs to 2055 hrs; and from 2320 hrs to 2331 hrs</i>
Cr C BAKER	Marina Ward	<i>Absent from 2033 hrs to 2034 hrs; and from 2320 hrs to 2327 hrs</i>
Cr T BREWER	Marina Ward	<i>Absent from 1904 hrs to 1906 hrs; and from 2338 hrs to 2347 hrs</i>
Cr A NIXON	North Coastal Ward	<i>Absent from 1905 hrs to 1906 hrs; from 2109 hrs to 2121 hrs; and from 0029 hrs to 0036 hrs</i>
Cr J F HOLLYWOOD, JP	North Coastal Ward	<i>Absent from 0056 hrs to 0057 hrs</i>
Cr A WALKER	Pinnaroo Ward	<i>Absent from 2104 hrs to 2107 hrs</i>
Cr P ROWLANDS	Pinnaroo Ward	<i>to 0043 hrs; Absent from 1904 hrs to 1907 hrs; from 2033 hrs to 2034 hrs</i>
Cr S HART	South Ward	<i>Absent from 2201 hrs to 2203 hrs;</i>
Cr M O'BRIEN, JP	South Ward	<i>Absent from 0028 hrs to 0031 hrs</i>
Cr G KENWORTHY	South Coastal Ward	<i>to 0110 hrs; Absent from 1947 hrs to 1950 hrs; from 2032 hrs to 2033 hrs; and from 2104 hrs to 2105 hrs</i>
Cr J GOLLANT	South Coastal Ward	<i>Absent from 1944 hrs to 1947 hrs; from 2104 hrs to 2105 hrs; from 2331 hrs to 2333 hrs; and from 0057 hrs to 0101 hrs</i>
Cr M CAIACOB	Whitfords Ward	<i>Absent from 0028 hrs to 0031 hrs</i>
Cr C MACKINTOSH	Whitfords Ward	<i>to 0111 hrs; Absent from 2109 hrs to 2117 hrs;</i>

**Officers:**

Chief Executive Officer:	D SMITH	<i>Absent from 2224 hrs to 2326 hrs</i>
Director, Corporate Services and Resource Management:	P SCHNEIDER	<i>Absent from 2104 hrs to 2326 hrs</i>
Acting Director, Planning & Community Development:	G HALL	<i>Absent from 2104 hrs to 2326 hrs</i>
Acting Director, Infrastructure & Operations:	P PIKOR	<i>Absent from 2104 hrs to 2326 hrs</i>
Manager Audit and Executive Services:	K ROBINSON	<i>Absent from 2224 hrs to 2326 hrs;</i>
Manager, Marketing Communications & Council Support:	B ROMANCHUK	<i>Absent from 2104 hrs to 2326 hrs</i>
Manager, Human Resources:	M LOADER	<i>from 2013 hrs;</i>
Manager, Approvals Planning & Environmental Services:	C TERELINCK	<i>Absent from 2104 hrs to 2326 hrs</i>
Manager Assets & Commissioning:	C SMITH	<i>to 2120 hrs</i>
Media Advisor:	L BRENNAN	<i>Absent from 2104 hrs to 2326 hrs</i>
Committee Clerk:	J HARRISON	
Minute Clerk:	L TAYLOR	<i>Absent from 2104 hrs to 2326 hrs</i>

There were 106 members of the Public and 2 members of the Press in attendance.

In Attendance

Mr Nick Manifis - Walman Software *to 0047 hrs*

Mr Neil Douglas - Minter Ellison *from 2013 hrs to 2333 hrs*

*Crs Rowlands and Brewer left the Chamber at this point, the time being 1904 hrs.*

*Cr Nixon left the Chamber at this point, the time being 1905 hrs.*

**PUBLIC QUESTION TIME**

**The following questions, submitted by Mr M Sideris, Mullaloo, were taken on notice at the Meeting of Council held on 21 October 2003:**

*Q1 I refer to an answer received from a question asked at the last Council Meeting dealing with the matter before the Town Planning Appeal Tribunal, between Rennet and the City of Joondalup. I was told in that answer that it was not a mediation process, as the City's solicitors pointed out, it was part of the hearing process. Can you then advise me why we have been advised to the contrary, that it was not part of the deliberation hearing process but a private negotiation between the City of Joondalup and Rennet Limited?*

- A1 The previous question inquired whether Council had instructed its solicitors to seek tribunal approval to go to a mediation process to negotiate with Rennet. The answer to the previous question stated that Council's solicitors were not instructed to proceed to mediation. This is correct.

The facts of the matter are these.

During the hearing process, Rennet proposed a change to the proposal and requested resolution of the appeal, and the Tribunal ordered that particulars (in the form of revised plans) be provided to the City. Those plans were then put to the Council, and the proposal was agreed.

The Tribunal was advised accordingly, and it ordered that a minute of consent be drafted. The minute of consent dismissed Rennet's appeal against building height, but did allow an increase in the number of short stay units in the residential building.

- Q2 *Re: CJ229-10/03 – Tender No. 009 – Laying of Brick Pavers – Can you please advise me as to why there is no breakdown of what the other tenderers offered in respect to this tender?*

- A2 It is current practice that tender schedules for the preferred contractor only are attached to reports submitted to Council. This is due to price not being the sole determinant in the tender process and to the usually large volume of paperwork involved where schedules are concerned.

**The following questions, submitted by Mr S Magyar, Heathridge, were taken on notice at the Meeting of Council held on 21 October 2003:**

- Q1 *Re: CJ247-10/03 – The first part of the resolution of Council was: In order to provide good governance, the question of the CEO's qualifications not be pursued. Can I have an explanation as to how this constitutes good governance?*

- A1 A decision has been made by Council a number of times on the question of the CEO's qualifications. An investigation by the Fraud Squad has found that he has no case to answer. The adverse effects of the Mayor's public pursuit of the legal qualifications issue, and his failure to act in accordance with the Council's resolutions, are set out in Para 5 of the resolution.

- Q2 *Re: CJ247-10/03 – Part 2: Can I please be informed as to which statutory law the actual obligation is under, is it the Local Government Act or is it some other government act and to which section of whichever Act this resolution is talking about?*

- A2 The relevant statutory obligations are found in sections 2.7, 2.8, 2.9 and 2.10 of the Local Government Act.

In particular, the statutory obligation of the Mayor to speak publicly on behalf of the City - that is, in accordance with the formal resolutions of the Council, rather than publicly express his personal views where these are in conflict with the views of the City, is found in section 2.8(1)(d).

In addition, the City's Code of Conduct, which the Mayor and all Councilors have undertaken to comply with, requires all elected members to 'refrain from publicly criticizing employees in a way that casts aspersions on their professional competence and credibility'.

*Q3 Part 6 referred to legal action being taken against Council – If there is no basis for legal action, which appears to be a reasonable assumption from members of the public regarding events of the last few weeks, how can this item be included?*

A3 The assumption is incorrect. The Mayor's statements and actions have exposed the City to a risk of legal action against it. That risk is reduced if the Council takes the action that it has, on behalf of the City, to distance itself from the Mayor's statements and actions.

*Crs Brewer and Nixon entered the Chamber at this point, the time being 1906 hrs.*

*Cr Rowlands entered the Chamber at this point, the time being 1907 hrs.*

**The following questions were submitted by Mr V Cusack, President, South Ward Ratepayers and Electors Association (SWREA):**

*I refer Council to the following questions submitted by Ms M Moon, Greenwood, on 8 July 2003 on behalf of South Ward Ratepayers and Electors Association (SWREA) which to date have not yet been answered.*

*Q2 (vi) Can Council provide a total dollar cost to the ratepayers for legal fees from 1 July 2001 to 30 June 2002?*

A2(vi) The Director of Corporate Services and Resource Management has been requested to ascertain these costs.

*Q2(vii) Can Council provide a total dollar cost to the ratepayers for legal fees from 1 July 2002 to 30 June 2003?*

A2(vii) See answer to Q2(vi).

As the duly elected President of the SWREA, I wish to resubmit the questions on behalf of our organisation and expand on them to include three more years.

*Q1 Will Council provide a total dollar cost to the ratepayers for all legal fees from 1 July 1998 to 30 June 1999?*

A1 Council is not in a position to provide a total dollar cost for legal fees for the period 1 July 1998 to 30 June 1999 without allocating excessive human and financial resources to the task.

The reason for this is due to the setup of the chart of accounts during this period and the fact that the financial systems which would have allowed the consolidation of the information has since changed and is no longer supported.

*Q2 Will Council provide a total dollar cost to the ratepayers for all legal fees from 1 July 1999 to 30 June 2000?*

- A2 Total costs allocated against the City's various legal expenditure accounts for the period 1 July 1999 to 30 June 2000 were \$230,444.22.
- Q3 *Will Council provide a total dollar cost to the ratepayers for all legal fees from 1 July 2000 to 30 June 2001?*
- A3 Total costs allocated against the City's various legal expenditure accounts for the period 1 July 2000 to 30 June 2001 were \$128,000.71.
- Q4 *Will Council provide a total dollar cost to the ratepayers for all legal fees from 1 July 2001 to 30 June 2002?*
- A4 Total costs allocated against the City's various legal expenditure accounts for the period 1 July 2001 to 30 June 2002 were \$159,353.77.
- Q5 *Will Council provide a total dollar cost to the ratepayers for all legal fees from 1 July 2002 to 30 June 2003?*
- A5 Total costs allocated against the City's various legal expenditure accounts for the period 1 July 2002 to 30 June 2003 were \$287,580.10.

**The following questions were submitted by Mr B Talevski, Ocean Reef:**

- Q1 *Residents in Constellation Drive are concerned about the delay in extending the Ocean Reef Road from Hodges Drive to Shenton Avenue. What is the reason for the delay in the Ocean Reef Road extension?*
- A1 A motion has been submitted to rescind the resolution of report CJ218-09/03. This matter is now dependent on the decision Council makes its meeting scheduled for 11 November 2003.
- Q2 *Whilst we note that residents adjacent to the proposed Ocean Reef Road extension are concerned about property values if the extension takes place, should the Council not also consider the property values of the residents in Constellation Drive, Ocean Reef with the present volume of traffic on Constellation Drive?*
- A2 The concerns of all of the residents in the area are of importance to Council.

**The following questions were submitted by The Ocean Reef Coastal Stakeholders:**

*Re: The Proposed Extension of Ocean Reef Road From Hodges Drive To Shenton Avenue*

- Q1 *Are Council satisfied that everything is legally in place for the proposed construction of Ocean Reef Road from Hodges Drive to Shenton Avenue? Legalities include:*
- *Ownership of land*
  - *Allocation of money*
  - *Appropriate zoning of the land*

- A1 There are legal matters to be finalised including the legal agreement with the landowner.
- Q2 *Are Council aware that the section from Hodges Drive to Resolute Way is still listed as freehold under crown land and has not been classed as a road reserve?*
- A2 In view of recent concerns raised by local residents, confirmation will be sought from Department of Planning & Infrastructure on the intent and purpose of the land.
- Q3 *Are Council aware that the section from Hodges Drive to Resolute Way, although under obligation by the developer, is in fact owned by the WA Planning Commission?*
- A3 Yes. It is noted that as a condition of development, the subdivision landowners are responsible for the construction of the first phase of Ocean Reef Road from the northern boundary of Lot 1029 to Shenton Avenue and Council is responsible for the construction from Hodges Drive to the northern boundary of Lot 1029.
- Q4 *How is this road being specifically financed in the Council Budget?*
- A4 Council's contribution is from Account No. 8231/Hodges Drive Drainage Reserve.
- Q5 *Is the Council aware that the 30-day advertised notice for re-allocation of funds (to the Ocean Reef Road project) from the Burns Beach Road and Hodges Drive Drainage projects has not occurred? Why has this not happened?*
- A5 The utilisation of reserve funds is not inconsistent with the purpose for which the reserve was established therefore there is no requirement to advertise.
- Q6 *Has the Council taken into consideration when planning this project that the State government has agreed to construct the Mitchell Freeway from Hodges Drive further North? In this regard why is there a need for another road North?*
- A6 Yes. These are two different road functions.
- Q7 *What is the basis for the view being put by some Councillors that the extension of Ocean Reef Road will in fact alleviate congestion on all surrounding roads? Have traffic studies been done? If so, when?*
- A7 The existing traffic situation being experienced. Traffic studies have not been undertaken at this stage.
- Q8 *Given that Councillors have said that one of the reasons that this proposal has to go ahead is to relieve the congestion on Constellation Drive have there been any social studies been undertaken regarding the current and future use of Constellation Drive?*
- A8 It is not clear what social studies are being referred to.

- Q9 Have traffic studies been undertaken for Constellation Drive since improvements in this road have been made?*
- A9 No
- Q10 Why has there been a change in the location of the road (i.e. it has been moved further East) and have all Ocean Reef residents been notified of this change?*
- A10 A dual carriageway was previously planned. There is no change to the location of the eastern carriageway.
- Q11 Why has the standard of the road been lowered to a straight piece of tarmac with no curbing, lights or traffic calming devices? Have all Ocean Reef residents been formally notified of this lowering of the standard?*
- A11 The road standard being provided is in accordance with the WA Planning Commission conditions of approval for an initial phase construction.
- Q12 Have Council conducted any environmental impact studies in regard to the specific flora and fauna in this area?*
- A12 No studies have been undertaken for the Ocean Reef Road extension but a study has been undertaken in the abutting coastal corridor.
- Q13 Has State Coastal Planning Policy 2.6 Section 5.1 regarding public interest been adhered to? Have you ever fully consulted the community in regard to this proposal? Why is there a rush to extend the road without consultation?*
- A13 The state coastal planning policy 2.6 was introduced in June 2003. Plans for the alignment of the road are known to date back to 1978. The policy was therefore not referred to when the road alignment was set.
- Q14 Are Council aware that under the State Government Records Act that you are required to keep accurate records of comments by ratepayers for and against any proposal such as this?*
- A14 Yes, in accordance with the State Government Records Act 2000.
- Q15 Have the Council undertaken social environmental studies about the impact of the people and children in the area? Have they undertaken risk assessment studies about the safety of the children accessing the beach environment?*
- A15 It is not clear what studies are being referred to.
- Q16 What considerations have been made for the increase in fatalities that will occur, by constructing this section of road given that two major freeway arteries ( Ocean Reef Rd, & Hodges Drive) will feed into it?*

A16 The assertion is noted. Notwithstanding this, the design of the road has been done in accordance with relevant Road Standards.

*Q17 Have Council undertaken studies about the current recreational use of the land on and adjoining this proposed project (dog owners, walkers, children)?*

A17 No

**The following questions were submitted by Mr M Sideris, Mullaloo:**

*Q1 Does the Council currently have a policy dealing with the retention of records, and if not why not when the matter of the retention of all records was a specific recommendation of the Royal Commission know as Wanneroo Inc., as well as a specific requirement of the State Records Act 2000?*

A1 Yes.

*Q2 Please explain why the proposed policy is not part of a broader Record Keeping Plan which is specified in the Act and mentioned in the report CJ249.*

A2 The purpose of Report CJ249 is for the Council to adopt the proposed record keeping policy to allow it to be included in the City's Recordkeeping Plan.

*Q3 Advise why the report and the proposed policy before Council makes no specific reference to inform Councillors as to what constitutes a State record.*

A3 The development of the policy included the City's definition of a corporate record, with the City's Recordkeeping Plan highlighting in further detail what constitutes a State record.

*Q4 Advise why the report makes no reference to the Wanneroo Royal Commission and its recommendations dealing with the retention of records namely 35.*

A4 The General Disposal Authority for Local Government Records was developed following recordkeeping recommendations from the Royal Commission into the City of Wanneroo.

*Q5 Advise why the proposed policy appears to be about the destruction of records rather than the retention of records.*

A5 The Statement of the proposed record keeping policy indicates:

All staff and contractors are responsible for maintaining complete, accurate and reliable evidence of all business transactions and ensuring all corporate documents are retained within the City's official recordkeeping system (RMS) at the point of creation regardless of the format, being in accordance with State Records Act 2000, Evidence Act 1906, Acts Amendment (Evidence) Act 2000, Freedom of Information Act 1992, Local Government Act 1995 and Local Government Accounting Directions 1994.

The City's Recordkeeping Plan, which includes internal procedures and guides, explains in further detail the reasons for the retention of records and the methods in capturing them.

**Ms L Scott-Sellars, Ocean Reef:**

*Q1 At the close of business on Friday, 7 November 2003 which was the last working day before work on the roads extension was originally to commence on Monday 10 November 2003, were the legal matters finalised? For instance, was there a complete and final contract actually signed and in place between Council and the developer, what was the precise status of the road zoning at that time, at what levels were negotiations between the landowner and the Council? It seems to us that legal matters were far from being finalised and possibly in certain areas they may not have even begun in writing and therefore with what authority did the Council see fit to arrange for work to start without completing the legalities?*

A1 The programme for the Ocean Reef Road extension was a proposed programme dealt with the developers represented at that time. It was subject to a legal agreement that did have to come back to Council. The programme was tentative and it was subject to those agreements. There is no contract being put in place with the developers and landowners at this time.

**Mr R Byfield, Ocean Reef:**

*Q1 Re: Ocean Reef Extension – Can Council detail the ten most recent examples of precedent where reallocation of funds was not advertised because they were deemed not inconsistent with the purpose for which the reserve was established? The Ocean Reef Coastal Stakeholders will be making a written complaint to the Ombudsman and Western Australian Department of Local Government about Council's lack of adherence to WA Local Government rules. Can you comment on the lack of advertising or reallocation of funds please?*

A1 The question of the allocation of the funds has been raised by a number of the residents. Council has analysed that aspect and has indicated it was in order for Council to allocate the funds in the manner in which it did. However, Council will take your question on notice. The advice received is that Council has acted lawfully and accordingly it did have the right to allocate the funds at the time that the resolution was passed by the City.

**Mr G Landeweerd, Ocean Reef:**

*Q1 Re: Ocean Reef Extension – I have some photos that show how close the road is to houses and how narrow the strip of land is between the houses. Is Council happy to willingly introduce another problem area in our City? The current design is a straight strip of asphalt, a speedway strip, which will invite unsavoury and antisocial behaviour plus excessive noise, dust and pollution, exhaust emissions and that in turn will lead to increased security costs, vandalism, dune damage and an environmental impact.*

A1 The Councillors will need to be mindful of the question when they take into consideration the rescission motion. The residents forcefully outlined to Council at the Briefing Session their genuine concerns pertaining to some environmental issues and the closeness of the proposed road boundary to their property boundaries and the possible impact it could have on the environmental system.

**Ms P Murrigan, Ocean Reef:**

*Q1 Re: Speaking on behalf of Ocean Reef Road Coastal Stakeholders – The questions submitted to Council were not fully answered, we noted that there has been a distinct change of location in the proposed road, it has moved further east. Have all of the affected residents been notified that this road has been moved closer to their properties, has Council notified residents that the plan that was recommended to Council in June 2000 has been revised?*

*Q2 Have you advised all of the affected residents that the standard that was proposed in the report to Council in June 2000 has in fact been altered and relevant to the previous question, we are now facing a piece of straight tarmac with no kerbing, lights or traffic calming devices and it has been moved very close to some of our homes?*

A1-2 The plan referred to in the 2000 report related to the ultimate standard, which is for a foreshore access road. The original planning for Ocean Reef Road was as a dual carriageway. The location of the road now proposed is an initial first stage construction and is located where the original eastern carriageway was going to be constructed.

**Ms M Whitecunas, Ocean Reef:**

*Q1 Re: Ocean Reef Extension. Last week we discussed the lack of public consultation and the need for input by the community. It has been brought to my attention that attempts to stop this due process are in play and that a new motion that only includes discussions of which type of road to be voted on instead of a motion for full public consultation. If this is the case why can't all voices be heard?*

A1 Council has made a comment in respect to the Notice of Motion and has indicated that if the Notice of Motion is successful and a rescission motion then prevails, a full and comprehensive consultation process would need to take place with the key stakeholders. Council would consult a residence group who would be able to inform Council of the profile and nature of consultation. There has been no wavering from Council in respect of the comments that have been made. Council will be mindful of Administration's comments when they make a decision tonight.

*Q2 Given the media coverage at present, how will we be able to put our case forward again for public consultation if the members before me are not present in the near future? I feel that this needs answering for those of us who have put our lives on hold for the good of the community. How do we continue to have public consultation acknowledged and have the due process that we all speak so highly of granted to us?*

A2 If the decision of Council tonight is to rescind the previous decision and to then revisit the project and have community consultation that decision would be a formal decision of Council. That consultation would then take place with the Council as constituted at the time in consultation with the residents.

**Mr M Morrigan, Ocean Reef:**

*Q1 Re: Ocean Reef Road – A previous question asked: “Is Council aware that under the State Government Records Act Council is required to keep accurate records of comments by ratepayers for and against any proposal such as this?” Council answered: “Yes in accordance with the Statement Government Records Act 2000.” Can each Councillor and the City itself furnish an updated and complete log of each person who has been canvassed for and against the road and what we would like is dates, names, street names and the context in which the question was asked e.g., the road was for a new marina, and we also want to know about the person’s reply.*

A1 This question will be taken on notice.

**C226–11/03            EXTENSION OF QUESTION TIME – [01122]**

**MOVED Cr Hollywood, SECONDED Cr Hart that public question time be extended for a further period of ten (10) minutes.**

**The Motion was Put and**

**CARRIED (9/5)**

**In favour of the Motion:** Mayor Carlos, Crs Caiacob, Mackintosh, Kenworthy, O’Brien, Hart, Walker, Hollywood, Baker. **Against the Motion:** Crs Kimber, Brewer, Nixon, Rowlands, Gollant.

**Mr W Primrose, Currambine:**

*Q1 Given the proposed adoption of the Recordkeeping Responsibilities Policy (CJ249-11/03 “The Policy” has the City taken into account the provisions of the Public Interest Disclosure Act 2003 “The Act” when drafting the policy?*

*Q2 If the City has not:*

- (a) Will it undertake to amend the policy to take into account the provisions of the Act?*
- (b) Given the controversy in the City who will the City nominate, if it hasn’t already done so, as the Public Interest Officer?*
- (c) If the City hasn’t adopted a policy to reflect the provisions of the Act, will it stand down this policy until suitable provisions incorporating the Act have been incorporated into the policy?*

A1-2 *Response by Mayor Carlos:* Administration has given me a recommendation that they will withdraw Item CJ249-11/03 – Adoption of Recordkeeping Responsibilities Policy from tonight’s agenda.

**Mr A Bryant, Craigie:**

*Q1 Congratulations to the Council in renewing the kerbing in Stocker Court, Craigie, however both my properties had roadside numbers painted on them. Yesterday I had a call from two workers in appropriate reflective work jackets asking if I wanted my street number painted on the kerb again for the sum of \$10 which I did not accept. Am I correct in assuming that the workers were from the City of Joondalup and the Council would get the \$10?*

A1 This question will be taken on notice.

*Q2 As Council destroyed the original numbers, why does Council not renew the numbers destroyed?*

A2 This is a reasonable request and Council will attempt to rectify the situation immediately.

**Mr S Whitecunas, Ocean Reef:**

*Q1 Re: Ocean Reef Road – A previous question I asked was has Council taken into consideration when planning this project that the State Government has agreed to construct the Mitchell Freeway to Hodges Drive further north. In this regards why is there a need for another road north> Council replied that this was a different road function. May I readdress that question by asking can Council please amplify the answered question, please describe the nature of the difference and how they impact on this project?*

A1 The Mitchell Freeway extension is classified as a primary distributor road and so it is at a higher level of the road hierarchy. Ocean Reef Road is classified as a foreshore access road and that is at a lower level of the road hierarchy. They do have different functions, the Ocean Reef Road is more of a local distributor function road.

**Mr K Zakrevsky, Mullaloo:**

*Q1 Re: Item 9 – Do Councillors realise that if you continue to recklessly and knowingly further compound the already exposed problems of the CEO's contract you jointly may have to recompense the ratepayers of Joondalup with the already large and ever increasing legal fees and other costs associated with this whole charade?*

*Q2 Do Councillors realise that to go headlong into making any variance or payouts to what is already at best a questionable contract but most probably at law an already non-existent contract, before the findings and recommendations of the parliamentary committee's enquiry has been handed down is dangerous and seen as irresponsible? You have been warned that if you continue with your malice and irresponsible behaviour you may find yourselves criminally charged and/or considerably poorer financially.*

A1-2 These comments were noted.

**Mr C Wharram, Ocean Reef:**

*Q1 There are five schools on Constellation Drive. What will the Councillors say to the parents of any child that is killed or injured? I can give you many reasons why this road must go through, apart from the cost, we should not play a part where safety is concerned. Can Council give one good reason why this road should not be put through?*

A1 Councillors need to be mindful that there are quite obvious advantages and disadvantages on the road proposal. Council has already heard a very strong deputation of why the road should not be proceeded with, and has already been given previous information and advice on some of the issues pertaining to the traffic congestion that currently exists.

**Mr B Talevski, Ocean Reef:**

*Q1 I have lived on Constellation Drive for twelve years. When I built my house there was no houses, but now they have been built all the way to Burns Beach Road. Constellation Drive has been overloaded and I would ask the Councillors again what is the reason to stop the project to Ocean Reef Road?*

A1 This comment was noted.

**Mr O Reichenberg, Ocean Reef:**

*Q1 Is Council aware that there are no safe beaches suitable for families on the section of the proposed Ocean Reef Road between the Marina and Burns Beach? There are numerous signs warning people of unsafe cliffs, rock falls and rip tides. I have photos of these tiny beaches at the foot of steep cliffs. The tide comes in very quickly; people could get trapped or hurt trying to escape the incoming tide.*

*Q2 Re: Environmental Impact Study – Today I spoke to the senior lecturer in ECU's Department of Environmental Studies, who would give his support for this entire area to become a conservation area. Paul Lavery of that department has done extensive studies on the bush there, we have seen the rare black parrot nesting for two months this year at the entrance to Gloriana Street to the dunes. We often see kangaroos, rabbits, skinks and numerous types of birds such as galahs, fish eagles, honeyeaters, magpies, crows and many others, also the trucks that would be required to build this road would ruin this habitat forever.*

A1-2 The matters raised pertaining to the coastal environmental, the terrain, the flora and fauna are very relevant matters that Council needs to be mindful of. It also needs to be mindful of the zoning of the land and what the land is actually being designated for.

**Ms M Miny, Hillarys:**

*Q1 Re: Representing the group of individuals affected by the Hutchison telecommunications installation on the corner of Waterford Drive and Flinders Avenue. I would like to read a quote from the official committee at Hansard Canberra. It states: "The committee found that it is not possible for anyone to predict*

*what adverse outcomes might occur with these telecommunication devices”. We would like to ask why the Council is allowing Hutchison to install its telecommunication devices in a sensitive area which is a residential area and why the Council doesn’t encourage Hutchison to relocate and co-locate with other existing devices because this is going to result in a proliferation of this device on the same structure. I have photographs here of how a low impact set up has resulted in numerous proliferation of the same devices as well as the extent to which these devices are impacting in proximity to the surrounding residents.*

- A1 The view of the City is in keeping with that of the residents which is very much against the proposal for the same reasons. There has been discussion with Hutchison about ideas of co-locating wherever possible and where opportunities arise they will be pursued.

**C227-11/03                      SUSPENSION OF STANDING ORDERS LOCAL LAW – [02154]  
[08122] [01369]**

**MOVED Cr Hollywood, SECONDED Cr Walker that a further period of public question time be GRANTED.**

**The Motion was Put and**

**CARRIED (10/4)**

**In favour of the Motion:** Mayor Carlos, Crs Caiacob, Mackintosh, Kenworthy, O’Brien, Hart, Rowlands, Walker, Hollywood, Baker. **Against the Motion:** Crs Kimber, Brewer, Nixon, Gollant.

**Mr S Magyar, Heathridge:**

*Q1 Re: CJ252-11/03 – Minutes of the House Committee – The House Committee has recommended to spend \$150 on a hamper for each Elected Member. I was a Councillor between 1999 to 2001, my question is will Council accept this cheque for \$100 for part repayment for the two Christmas hampers that I received in the years when I was an elected Councillor?*

A1 *Response by Mayor Carlos:* This question is out of order.

*Q2 Re: Enforcement of Parking Laws by the City of Joondalup – Can I have some idea as to how many infringement notices Council issues to people who illegally park as opposed to how many warnings they issue and do the Rangers have any system where they monitor to make sure that they are not giving warnings to repeat offenders who should be booked?*

A2 This question will be taken on notice.

**Mr D Squire, Ocean Reef:**

*Q1 Re: CJ264-11/03 – Regarding the proposed installation of telecommunication facility at Flinders Avenue, Hillarys. Can Council advise if Hutchison has investigated co-location of the proposed Flinders Street facility with the existing tower in Hillarys Beach carpark opposite the Ern Halliday Camp? If Hutchison’s have investigated co-location on this site what are the reasons for not utilising the above-mentioned existing facility?*

A1 This question will be taken on notice.

*Cr Gollant left the Chamber at this point, the time being 1944 hrs.*

Q2 *Can Council advise if the advertisement signage on the corner of Flinders Street and Waterford Drive meets statutory requirements?*

A2 If the question relates to the pylon sign which is 6 metres high, an application was received by the City.

Q3 *Could Council advise Hutchison that a telecommunication facility in close proximity to residential dwellings and workplaces in the immediate location is unacceptable to the community?*

A3 This comment was noted.

**Ms R Gray, Kallaroo:**

Q1 *To Mayor Carlos, given the strong support that has been given to Mr Denis Smith, the CEO, by the majority of Council, the same of which cannot be said for yourself, will you for the sake of good governance, the people of Joondalup and your continued resolve to ignore the decisions of Council resign your position of Mayor forthwith?*

A1 *Response by Mayor Carlos:* No I will not.

**Mr M Sampson, Hillarys:**

Q1 *Where do we stand as ratepayers where the builder owner of Hillarys Shopping Centre is having a closed meeting on Wednesday, 12 November 2003 to give an overruling against the Council with the lighting up at night of the Coles signs attached to the building?*

A1 Council will seek further details. Council is not aware of a closed meeting with the shopping centre owners.

*Cr Gollant entered the Chamber at this point, the time being 1947 hrs.*

*Cr Kenworthy left the Chamber at this point, the time being 1947 hrs.*

**Mr J Graham, Hillarys:**

Q1 *I have two huge Coles' signs looking right into my house; my neighbour has a Coles sign above her garden. The only people who can see the signs are the people who live in Akera Close and the people who live adjacent to the back of this building. The only other people who can see it are the people driving along the West Coast Highway. I appeal to the Council to do something about this developer.*

*What is the Council going to do to protect residents in this area? I have two petitions signed by the local residents who are badly affected by this shopping centre.*

A1 Any of the applications that have come in have been through due process. The City cannot force the developer to act in a particular manner with the residents. Applications are considered in regard to the normal standards.

*Cr Kenworthy entered the Chamber at this point, the time being 1950 hrs.*

**C228-11/03      ALTERATION TO ORDER OF BUSINESS – [02154]**

**MOVED Cr Kimber, SECONDED Cr Baker that in accordance with Clause 3.2 of the City's Standing Orders Local Law the order of business for this evening's meeting be altered to enable Notice of Motion - Cr C Baker - Extension of Ocean Reef Road - Hodges Drive to Shenton Avenue, to be considered at this point.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (14/0)**

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

**C229-11/03      NOTICE OF MOTION – CR C BAKER – EXTENSION OF OCEAN REEF ROAD - HODGES DRIVE TO SHENTON AVENUE – [07131, 02154]**

Cr Chris Baker has given notice of his intention to move the following rescission motion at the Council meeting to be held on Tuesday 11 November 2003. The following elected members have indicated their support as required by Clause 4.4 of the City's Standing Orders Local Law:

Cr C Baker  
Cr P Kimber  
Cr T Brewer  
Cr C Mackintosh  
Cr J Gollant

“That BY AN ABSOLUTE MAJORITY, the resolution of Council in respect of CJ218-09/03, be RESCINDED, viz:

*“That Council:*

- 1      AGREES in principle to the City and the subdivision land owners being the Roman Catholic Archbishop of Perth, together with Davidson Pty Ltd, transferring their respective road construction obligations for Ocean Reef Road and Burns Beach Road, subject to an agreement being drawn up to the satisfaction of the Chief Executive Officer and the respective subdivision land owners;*

- 2     *AUTHORISES the contribution of \$140,216.57 to the subdivision land owners being the Roman Catholic Archbishop of Perth, together with Davidson Pty Ltd to fulfil the road construction transfer obligations for Ocean Reef Road.*”

And be REPLACED with the following motion:

*“That the further extension of Ocean Reef Road be DEFERRED pending further community consultation with Ocean Reef residents.”*

### **Reasons for Motion:**

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

“I understand that representatives from the City, the Developer and proposed contractor are scheduled to meet in the near future and I ask that this meeting be deferred pending the further examination of the whole issue.”

### **OFFICER’S COMMENT**

#### **Background**

Council has previously considered reports in February and June 2000 on the completion of the construction of Ocean Reef Road from Hodges Drive to Shenton Avenue. As part of previous subdivision approvals the City is responsible for the section of Ocean Reef Road from Hodges Drive to the northern boundary of Lot 1029 and a legal agreement requires the remaining section of Ocean Reef Road to be constructed by the adjacent subdivision developer. With regard to the City’s obligation, there are funding and timing implications for constructing its section of Ocean Reef Road.

To enable the full length of Ocean Reef Road to be constructed as a single carriageway between Hodges Drive and Shenton Avenue this year, the subdivision developers’ representative Beaumaris Land Sales has tabled a proposal to exchange the respective road obligations for Burns Beach Road and Ocean Reef Road.

It is considered that this proposal has benefits from a funding and transport network basis. Constellation Drive currently carries in excess of 7500 vehicles per day and with further subdivisional development to the north, that volume is expected to increase. Constellation Drive is the only local distributor road in the network servicing Ocean Reef.

The subdivision developers are keen to fulfil their regional road obligations and have budgeted in this financial year their section of Ocean Reef Road to Shenton Avenue. As Council has not allocated any funds for its section of Ocean Reef Road and, on the basis that the full upgrading of the developer’s section of Burns Beach Road needs to be co-ordinated with the City’s future works, a proposal was tabled for the City’s and developer’s obligations for these roads to be transferred. This proposal has the main benefits of:

- 1 The full length of Ocean Reef Road between Hodges Drive and Shenton Avenue being constructed by the subdivision developers this year and completing the road network for Ocean Reef through to Shenton Avenue.
- 2 Relieving the congestion on Constellation Drive and improving traffic safety.

The developers' Engineering Consultant (Cossill & Webley) has submitted the respective project costs for their nominated construction contractor (Works Infrastructure) to undertake these works.

The costs in summary for each of the party's obligations are as follows:

Ocean Reef Road (COJ responsibility)	\$367,297.10
Burns Beach Road (net 50% subdivision developers)	\$227,080.53

From this it can be seen that the City will be required to contribute \$140,216.57 to the subdivision developers as part of the proposed transfer of the road obligations. It is considered that this transfer of obligations is mutually beneficial for both parties.

The City has funds of \$187,309 available in the Hodges Drive Drainage Reserve which was created in 1988/89 for the provision of drainage facilities near the catchment point of Ocean Reef Road. Currently a temporary drainage facility has been constructed on Lot 1029 pending future development proposals. At this stage, no drainage works is needed for Hodges Drive. Any future upgrading of stormwater drainage for Hodges Drive and Ocean Reef Road can be accommodated as part of future roadworks and/or development of Lot 1029.

### **Current Status**

Council at its meeting held on 30 September, 2003 resolved as follows:

*“That Council:*

- 1 *AGREES in principle to the City and the subdivision land owners being the Roman Catholic Archbishop of Perth, together with Davidson Pty Ltd, transferring their respective road construction obligations for Ocean Reef Road and Burns Beach Road, subject to an agreement being drawn up to the satisfaction of the Chief Executive Officer and the respective subdivision land owners;*
- 2 *AUTHORISES the contribution of \$140,216.57 to the subdivision land owners being the Roman Catholic Archbishop of Perth, together with Davidson Pty Ltd to fulfil the road construction transfer obligations for Ocean Reef Road.”*

The developer's representative was advised in writing of Council's resolution on 7 October 2003.

The developer's representative has subsequently been advised of the rescission motion on 29 October 2003 and requested not to proceed with any works until this matter has been considered by Council.

## **Road Standard**

The current status of the Ocean Reef Road reserve north of Hodges Drive is currently being investigated by the City's Planning Officers.

At this stage a single carriageway is planned to be constructed to a similar standard that currently exists within Ocean Reef Road south of Hodges Drive, with minimal drainage and street lighting only at the intersections. The ultimate proposed standard is that of a single lane boulevard with full kerbing, drainage and street lighting.

The additional costs to complete the Ocean Reef Rd extension from Hodges Drive to Shenton Avenue to the final Boulevard standard is in the order of \$1.0M. There are insufficient funds available for this work to proceed. Therefore the additional funds for this work can be listed for consideration as part of the 2004/05 Five Year Capital Works Program.

## **Public Consultation**

In the light of the concerns raised at a meeting held on Tuesday, 28 October 2003 by local residents adjacent to the Ocean Reef road reserve regarding the need for consultation, this can be undertaken but will need to be with the wider community.

## **Proposed Public Consultation Process**

In this regard a suggested consultation process is as follows:

- Initiate a public comment period in the form of a letter drop survey through an appropriate questionnaire circulated to local and surrounding residents in Ocean Reef and Iluka / Burns Beach. The questionnaire will contain covering information on the project. It is also proposed that comments be sought from DPI, MRWA and the Public Transport Authority
- An information and plan viewing night to be held within the local area during the public comments period to provide further detailed information to the public and answer any queries
- Contact name of a Council officer to enable residents to make phone or email enquiries to clarify any issues.

In view of the extensive process to be undertaken, it is proposed that independent Consultants be commissioned to undertake the questionnaire survey and assessment process.

## **VOTING REQUIREMENT**

Absolute Majority

## **ADDITIONAL INFORMATION**

As outlined in Report CJ218-09/03 the City is required to contribute \$140,216.57 to the subdivision developers as part of the proposed transfer of road obligations for the extension of Ocean Reef Road.

The City has funds of \$187,309 available in the Hodges Drive Drainage Reserve which was created in 1988/89 for the provision of drainage facilities near the catchment point of Ocean Reef Road. Currently, a temporary drainage facility has been constructed on Lot 1029 pending future development proposals. At this stage, no drainage works is needed for Hodges Drive. Any future upgrading of stormwater drainage for Hodges Drive and Ocean Reef Road can be accommodated as part of future roadworks and/or development of Lot 1029.

Therefore, these funds can be used for these construction works.

Budget Item:	Hodges Drive Drainage Reserve
Budget Amount:	\$187,309
YTD Amount	\$
Actual Cost:	\$140,216.57

It is considered that the utilisation of reserve funds is not inconsistent with the purpose for which the reserve was established.

**MOVED Cr BAKER, SECONDED Cr Kenworthy that the resolution of Council in respect of CJ218-09/03, be RESCINDED, viz:**

*“That Council:*

- 1 AGREES in principle to the City and the subdivision land owners being the Roman Catholic Archbishop of Perth, together with Davidson Pty Ltd, transferring their respective road construction obligations for Ocean Reef Road and Burns Beach Road, subject to an agreement being drawn up to the satisfaction of the Chief Executive Officer and the respective subdivision land owners;*
- 2 AUTHORISES the contribution of \$140,216.57 to the subdivision land owners being the Roman Catholic Archbishop of Perth, together with Davidson Pty Ltd to fulfil the road construction transfer obligations for Ocean Reef Road.”*

**And be REPLACED with the following motion:**

**“That the further extension of Ocean Reef Road be DEFERRED pending further community consultation with Ocean Reef residents.”**

**AMENDMENT MOVED Cr Hollywood, SECONDED Cr Walker that an additional Point 2 be added to the Motion as follows:**

- “2 that for the purposes of giving effect to the further community consultation provided for in paragraph 1 hereof:**
  - 2.1 a Community Consultation Working Party shall be established comprising of the Marina Ward Councillors, plus one (1) North Coastal Ward Councillor and one (1) Whitfords Ward Councillor, a suitable Council Officer and a least five representatives from the Ocean Reef Coastal Stakeholders Group;**

- 2.2 the Council and the Community Consultation Working Party shall initiate a public consultation period of not less than 60 days and use a 'best practice' model of stakeholder consultation and management agreed upon by the said Working Party eg. The Charettes model being the recommended approach by the W.A. Department of Premier and Cabinet;
- 2.3 the Council shall consult with a range of public sector authorities and other organisations in order to seek important information to assist in the decision making in this matter eg. Dept. Main Roads;
- 2.4 that the Working Party prepare a report and recommendations to Council at the conclusion of the Community consultation process;
- 2.5 that at the completion of the community consultation process, Council's decision have due regard to the recommendations in the said report from the Community Consultation conducted as aforesaid."

Discussion ensued.

**The Amendment was Put and**

**CARRIED (13/1)**

**In favour of the Amendment:** Mayor Carlos, Crs Baker, Brewer, Caiacob, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Rowlands and Walker **Against the Amendment:** Cr Gollant

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

**That the resolution of Council in respect of CJ218-09/03, be RESCINDED, viz:**

*"That Council:*

- 1 *AGREES in principle to the City and the subdivision land owners being the Roman Catholic Archbishop of Perth, together with Davidson Pty Ltd, transferring their respective road construction obligations for Ocean Reef Road and Burns Beach Road, subject to an agreement being drawn up to the satisfaction of the Chief Executive Officer and the respective subdivision land owners;*
- 2 *AUTHORISES the contribution of \$140,216.57 to the subdivision land owners being the Roman Catholic Archbishop of Perth, together with Davidson Pty Ltd to fulfil the road construction transfer obligations for Ocean Reef Road."*

**And be REPLACED with the following motion:**

- 1 that the further extension of Ocean Reef Road be DEFERRED pending further community consultation with Ocean Reef residents;
- 2 that for the purposes of giving effect to the further community consultation provided for in paragraph 1 hereof:

- 2.1 a Community Consultation Working Party shall be established comprising of the Marina Ward Councillors, plus one (1) North Coastal Ward Councillor and one (1) Whitfords Ward Councillor, a suitable Council Officer and a least five representatives from the Ocean Reef Coastal Stakeholders Group;
- 2.2 the Council and the Community Consultation Working Party shall initiate a public consultation period of not less than 60 days and use a 'best practice' model of stakeholder consultation and management agreed upon by the said Working Party eg. The Charettes model being the recommended approach by the W.A. Department of Premier and Cabinet;
- 2.3 the Council shall consult with a range of public sector authorities and other organisations in order to seek important information to assist in the decision making in this matter eg. Dept. Main Roads;
- 2.4 that the Working Party prepare a report and recommendations to Council at the conclusion of the Community consultation process;
- 2.5 that at the completion of the community consultation process, Council's decision have due regard to the recommendations in the said report from the Community Consultation conducted as aforesaid."

was Put and

**CARRIED BY AN  
ABSOLUTE MAJORITY (14/0)**

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

**C230-11/03      ALTERATION TO ORDER OF BUSINESS**

**MOVED Cr Kimber, SECONDED Cr Baker that in accordance with Clause 3.2 of the City's Standing Orders Local Law the order of business for this evening's meeting be altered to enable the following items to be considered at this point:**

- 1      CJ266 - 11/03      Confidential - Craigie Leisure Centre - Acquisition of Kiosk Lease;
- 2      C234-11/03      Confidential - Request for Variation to Chief Executive Officer's Contract of Employment;
- 3      C236-11/03      Confidential - Employment Contract of the Chief Executive Officer and related matters;

- 4 C237-11/03 Confidential Notice of Motion - Cr J Hollywood - Legal advice on public comments relating to the Standing Committee on Public Administration and Finance, and Chief Executive Officer employment related matters;
- 5 C238-11/03 Confidential - Notice of Motion - Cr J Hollywood - Standing Committee on Public Administration and Finance - Legal Expenses;
- 6 C239-11/03 Confidential - Notice of Motion No 5 - Cr P Kimber - Performance Review of the CEO.

**AMENDMENT MOVED Cr O'Brien SECONDED Cr Kenworthy that the words "at this point" be amended to read "after the presentation of petitions."**

**The Amendment was Put and**

**CARRIED (11/3)**

**In favour of the Amendment:** Crs Baker, Brewer, Caiacob, Gollant, Hart, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Rowlands. **Against the Amendment:** Mayor Carlos, Crs Hollywood, Walker.

*Mr Mark Loader, Manager Human Resources and Mr Neil Douglas, Minter Ellison entered the Chamber at this point, the time being 2013 hrs.*

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

**That in accordance with Clause 3.2 of the City's Standing Orders Local Law the order of business for this evening's meeting be altered to enable the following items to be considered after the presentation of petitions:**

- 1 CJ266 - 11/03 Confidential - Craigie Leisure Centre - Acquisition of Kiosk Lease;
- 2 C234-11/03 Confidential - Request for Variation to Chief Executive Officer's Contract of Employment;
- 3 C236-11/03 Confidential - Employment Contract of the Chief Executive Officer and related matters;
- 4 C237-11/03 Confidential Notice of Motion - Cr J Hollywood - Legal advice on public comments relating to the Standing Committee on Public Administration and Finance, and Chief Executive Officer employment related matters;
- 5 C238-11/03 Confidential - Notice of Motion - Cr J Hollywood - Standing Committee on Public Administration and Finance - Legal Expenses;

**6 C239-11/03 Confidential - Notice of Motion No 5 - Cr P Kimber - Performance Review of the CEO.**

**Was Put and**

**CARRIED (9/5)**

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

**PETITIONS**

**C231-11/03 PETITIONS SUBMITTED TO THE COUNCIL MEETING – 11 NOVEMBER 2003**

**1 PETITION EXPRESSING CONCERN AT PROPOSED OCEAN REEF ROAD EXTENSION – [07131]**

A 24-signature petition has been received from Ocean Reef residents expressing concern at the proposed Ocean Reef Road extension, and identifying five specific recommendations for improvement.

This petition will be referred to Infrastructure and Operations for action.

**2 PETITION SUPPORTING THE PROPOSED OCEAN REEF ROAD EXTENSION – [07131]**

Cr Hollywood tabled a 120-signature petition from residents of the City of Joondalup requesting that the City continue with plans to extend Ocean Reef Road through to Shenton Avenue.

This petition will be referred to Infrastructure and Operations for action.

**3 PETITION REQUESTING SPECIAL MEETING OF ELECTORS – GUARANTEEING PERMANENCY OF USE BY SENIORS OF THE WHITFORD SENIORS CENTRE – [04045] [75029]**

A 168-signature petition has been received from residents of the City of Joondalup requesting that a Special Meeting of Electors be held to discuss guaranteeing permanency of use by Seniors of the Whitford Seniors Centre.

In accordance with Section 5.28 of the Local Government Act 1995, a special meeting of electors will be arranged.

**4 PETITION OPPOSING THE ILLUMINATION OF COLES SIGN AT LOT 715 (110) FLINDERS AVENUE, HILLARYS – [04412] [85540]**

Crs Mackintosh and Walker tabled petitions of 41-signatures and 36-signatures respectively from Hillarys residents opposing the proposed illumination of the Coles sign on Lot 715 (110) Flinders Avenue, Hillarys.

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

5 PETITION OPPOSING PROPOSED INSTALLATION OF TELECOMMUNICATIONS FACILITY, LOT 715 (110) FLINDERS AVENUE, HILLARYS – [04412]

Petitions have been tabled by elected members on behalf of residents of the City of Joondalup opposing the proposed installation of a telecommunications facility at Lot 715 (110) Flinders Avenue, Hillarys as follows:

Cr Mackintosh	86-signature and 37 signature petition
Cr Walker	42-signature petition
Cr Caiacob	7-signature petition

These petitions will be referred to Planning and Community Development for action.

6 PETITION OPPOSING INSTALLATION OF PRE-PRIMARY CARPARK – SPRINGFIELD PRIMARY SCHOOL, KALLAROO – [08077][01412]

Cr Mackintosh tabled a 25-signature petition from Kallaroo residents opposing on safety grounds, the proposed site (Batavia Place) for the location of a carpark for the Pre-Primary at Springfield Primary School, Bridgewater Drive, Kallaroo.

This petition will be referred to Infrastructure and Operations for action.

**MOVED Cr Baker, SECONDED Cr Kimber that the petitions:**

- 1 expressing concern at the proposed Ocean Reef Road extension, and identifying five specific recommendations for improvement;**
- 2 supporting the proposed Ocean Reef Road extension;**
- 3 requesting that a Special Meeting of Electors be held to discuss guaranteeing permanency of use by Seniors of the Whitford Seniors Centre;**
- 4 opposing the proposed illumination of the Coles sign on Lot 715 (110) Flinders Avenue, Hillarys;**
- 5 opposing the proposed installation of a telecommunications facility at Lot 715 (110) Flinders Avenue, Hillarys;**
- 6 opposing on safety grounds, the proposed site (Batavia Place) for the location of a carpark for the Pre-Primary at Springfield Primary School, Bridgewater Drive, Kallaroo;**

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

**The Motion was Put and**

**CARRIED UNANIMOUSLY (14/0)**

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

**C232-11/03      MOTION TO GO BEHIND CLOSED DOORS - [02154] [08122]**

**MOVED Cr Kimber, SECONDED Cr Gollant that in accordance with clause 5.6 of the City's Standing Orders Local Law and Section 5.23 of the Local Government Act 1995, the meeting be held BEHIND CLOSED DOORS to enable consideration to be given to the following items:**

- 1      CJ266 - 11/03 - Confidential - Craigie Leisure Centre - Acquisition of Kiosk Lease, being a matter relating to a contract, with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison  
All staff members**

- 2      C234-11/03 - Confidential - Request for Variation to Chief Executive Officer's Contract of Employment, being a matter relating to legal advice with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison  
Mr Denis Smith, Chief Executive Officer  
Mr Kevin Robinson, Manager Audit and Executive Services  
Mr Mark Loader, Manager Human Resources  
Minute Clerk**

- 3      C236-11/03 - Confidential - Employment Contract of the Chief Executive Officer and related matters, being a matter relating to legal advice with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison  
Mr Mark Loader, Manager Human Resources  
Minute Clerk**

- 4      C237-11/03 - Confidential Notice of Motion - Cr J Hollywood - Legal advice on public comments relating to the Standing Committee on Public Administration and Finance, and Chief Executive Officer employment related matters, being a matter relating to legal advice with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison  
Mr Kevin Robinson, Manager Audit and Executive Services  
Mr Mark Loader, Manager Human Resources  
Minute Clerk**

- 5      C238-11/03 - Confidential - Notice of Motion - Cr J Hollywood - Standing Committee on Public Administration and Finance - Legal Expenses, being a matter relating to legal advice with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison  
Mr Kevin Robinson, Manager Audit and Executive Services  
Mr Mark Loader, Manager Human Resources  
Minute Clerk**

- 6 C239-11/03 - Confidential - Notice of Motion No 5 - Cr P Kimber - Performance Review of the CEO, being a matter relating to legal advice with the following persons in attendance:**

**Mr Neil Douglas, Minter Ellison  
Mr Denis Smith, Chief Executive Officer  
Mr Kevin Robinson, Manager Audit and Executive Services  
Mr Mark Loader, Manager Human Resources  
Minute Clerk**

**The Motion was Put and**

**CARRIED (10/4)**

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

*Members of the public and press left the Chamber at this point, the time being 2026 hrs.*

**CJ266 - 11/03 CONFIDENTIAL - CRAIGIE LEISURE CENTRE – ACQUISITION OF KIOSK LEASE – [09050] [08397]**

**WARD – All**

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**This Item Is Confidential - Not For Publication**

A full report was provided to Elected Members under separate cover.

**MOVED Cr Walker, SECONDED Cr Caiacob that Council:**

- 1 NOTES the negotiations taken place between the City and the lessee of the Craigie Leisure Centre Kiosk;**
- 2 APPROVES the acquisition of the remainder of the lease from the lessee in accordance with the valuation report outlining the value of the business free of abnormals.**

Discussion ensued.

*During discussion, the following movements occurred:*

*Cr Kenworthy left the Chamber at 2032 and returned at 2033 hrs;  
Cr Rowlands left the Chamber at 2033 hrs and returned at 2034 hrs;  
Cr Baker left the Chamber at 2033 hrs and returned at 2034 hrs;  
Cr Kimber left the Chamber at 2053 hrs and returned at 2055 hrs.*

**The Motion was Put and**

**CARRIED (11/3)**

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

**C233-11/03      SUSPENSION OF STANDING ORDERS LOCAL LAW**

**MOVED Cr Baker, SECONDED Cr Mackintosh that in accordance with Clause 8.1 of the City's Standing Orders Local Law the Council SUSPENDS Clause 4.7 of the Standing Orders Local Law relating to serious disorder, to ensure all business is transacted at this evening's meeting.**

**The Motion was Put and**

**CARRIED (8/6)**

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

*Members of staff (with the exception of the Chief Executive Officer, Manager Audit and Executive Services, Manager Human Resources and the Minute Clerk) left the Chamber at this point, the time being 2104 hrs.*

*Crs Walker, Kenworthy and Gollant left the Chamber at this point, the time being 2104 hrs.*

*Chief Executive Officer declared a financial interest in Item C234-11/03 – Confidential – Request for Variation to Chief Executive Officer's Contract of Employment as this Item impacts on Mr Smith's Contract of Employment.*

**C234-11/03      CONFIDENTIAL – REQUEST FOR VARIATION TO CHIEF EXECUTIVE OFFICER'S CONTRACT OF EMPLOYMENT**

**WARD – All**

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**This Item Is Confidential - Not For Publication**

A full report was provided to Elected Members under separate cover.

*Crs Gollant and Kenworthy entered the Chamber at this point, the time being 2105 hrs.*

Discussion ensued.

*Cr Walker entered the Chamber at this point, the time being 2107 hrs.*

*Crs Mackintosh and Nixon left the Chamber at this point, the time being 2109 hrs.*

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

- 1      APPROVES that any existing or pending performance review of the CEO under the terms of his contract of employment with the City are to be ceased forthwith;**

- 2 APPROVES that under Clause 12 of the CEO's contract of employment with the City, the terms of that contract are to be varied by deleting the existing Clauses 4.2 and 4.3 and substituting the following new Clauses 4.2 and 4.3:**

**'4.2 Performance Reviews**

**The CEO's performance under this Agreement will be reviewed annually during the Term by a Performance Review Panel ('Panel') comprising 3 Councillors, of whom one shall be nominated by the CEO and the remaining 2 shall be appointed by the Council. The identity of the 3 Councillors may vary from year to year.**

**4.3 Procedure**

**A performance review conducted under this clause shall be in accordance with the following procedure:**

- (a) not later than 1 November each year (but in respect of the 2003 Calendar year, not later than 7 days after this variation to the CEO's contract of employment takes effect), the Mayor shall give the CEO a notice in writing initiating the review process;**
- (b) not later than 7 days later the CEO shall give to the Mayor the name of the Councillor who is the CEO's nominee to the Panel;**
- (c) at its next Ordinary Meeting, the Council is to appoint 2 other Councillors to be its appointees to the Panel;**
- (d) not later than 14 days later, the CEO will prepare and present to the Panel a report assessing the CEO's own performance measured against the Performance Indicators;**
- (e) after presentation of his report, the CEO will be available for an interview by the Panel;**
- (f) within 28 days, the Panel shall prepare a report, in consultation with the CEO, to be signed by the members of the Panel and the CEO;**
- (g) this report is to include:**
  - (i) any findings about the CEO's performance during the period the subject of the performance review;**
  - (ii) any proposals by the Panel to vary the Performance Indicators as a consequence of the performance review and any comments by the CEO on any proposal;**
  - (iii) any directions or recommendations made to the CEO in relation to future performance by the CEO of the CEO's obligation under this Agreement;**

- (iv) details of the extent, if any, to which the CEO disagrees with any statement in the report, and;
  - (v) if the Panel finds that the performance of the CEO was unsatisfactory in relation to achieving the Performance Indicators, any time limits set by the Panel in which those Performance Indicators are to be achieved; and
  - (h) should the CEO not agree with the findings he may activate clause 11 Dispute Resolution ("the Variation");
- 3 subject to the CEO's consent to the Variation within the next 7 days, **AUTHORISES:**
- (a) the Manager Human Resources to arrange for a formal agreement, incorporating the Variation, to be prepared; and
  - (b) the Mayor (or if the Mayor is unable or unwilling, the Deputy Mayor Councillor Hollywood), (or if the Deputy Mayor is unable or unwilling, Councillor O'Brien) and the Manager Human Resources to execute the Variation Agreement on behalf of the City.
- 4 **APPOINTS** two Elected Members to be Council's representatives on the Performance Review Panel for the CEO's annual performance review 2002-03.

Discussion ensued.

**C235-11/03      ADJOURNMENT OF MEETING - [02154]**

**MOVED** Cr Baker **SECONDED** Cr Kenworthy that in accordance with clause 5.1 of the City's Standing Orders Local Law, the meeting be **ADJOURNED** for a period of five (5) minutes, the time being 2110 hrs.

**The Motion was Put and**

**CARRIED**

The Meeting **RESUMED BEHIND CLOSED DOORS** at 2116 hrs, with the following members being present:

MAYOR D CARLOS  
Cr P KIMBER  
Cr T BREWER  
Cr C BAKER  
Cr J F HOLLYWOOD, JP  
Cr P ROWLANDS  
Cr A WALKER  
Cr S HART  
Cr M O'BRIEN  
Cr J GOLLANT  
Cr G KENWORTHY  
Cr M CAIACOB

Discussion resumed.

*During discussion:*

*Cr Mackintosh entered the Chamber at 2117 hrs;*

*Cr Nixon entered the Chamber at 2121 hrs.*

The Chief Executive Officer spoke on the report presented.

**NOTE: This page of these Minutes has been edited  
to remove information which is  
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**The Motion as Moved by Cr Kimber and Seconded by Cr Baker was Put and  
CARRIED (9/5)**

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

**MOVED Cr Baker, SECONDED Cr Mackintosh that Council APPOINTS Crs Kenworthy and Nixon to be Council's representatives on the Performance Review Panel for the CEO's annual performance review 2002-03.**

**The Motion was Put and CARRIED (12/2)**

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

*Chief Executive Officer declared a financial interest in Item C236-11/03 – Confidential – Employment Contract of the Chief Executive Officer and Related Matters (Oral Presentation by Mr Neil Douglas, Minter Ellison) as this Item impacts on Mr Smith's Contract of Employment.*

*The Chief Executive Officer and the Manager Audit and Executive Services left the Chamber at this point, the time being 2224 hrs.*

**C236-11/03      CONFIDENTIAL – EMPLOYMENT CONTRACT OF THE CHIEF EXECUTIVE OFFICER AND RELATED MATTERS**

Mr Neil Douglas provided a verbal report.

**MOVED Cr Kimber, SECONDED Cr Baker that the Council:**

- 1      NOTES the oral report provided by Neil Douglas of Minter Ellison dealing with his communications with Blake Dawson Waldron, solicitors for Denis Smith;**
- 2      EXPRESSES its concern and regret that:**
  - (a)    the responses by the Council and individual elected members to issues associated with the employment of the CEO have had, and are continuing to have, serious consequences for the City; and**
  - (b)    these consequences have adversely affected, and continue to adversely affect - to the detriment of the City, its ratepayers and residents:**
    - (i)     the ability of staff and elected members to perform their functions; and**
    - (ii)    the reputation and functioning of the City;**
    - (iii)   the City's legal liability**
- 3      ESTABLISHES a Working Group:**
  - (a)    to consider and assess these existing and potential consequences; and**
  - (b)    to report to the Council by the second Council meeting in December 2003, on options to avoid, or limit the impact of, these consequences.**
- 4      DETERMINES that the Working Group is to comprise of Mayor Carlos, Cr Hollywood, Cr Hart, Cr Walker and Cr Nixon and is to be assisted by Mark Loader, Manager Human Resources.**
- 5      AUTHORISES Mark Loader, Manager Human Resources to obtain legal advice, including if he considers it necessary, the advice of Senior Counsel, in relation to the City's legal liability.**
- 6      RECOGNISES AND RESPECTS the confidentiality that must be maintained, in the interests of the City and the CEO, throughout this process.**

Discussion ensued.

**NOTE: This page of these Minutes has been edited  
to remove information which is  
Confidential – Not for Publication**

**The Motion, as amended with the approval of Cr Kimber as Mover and Cr Baker as  
Seconded, Being:**

**That Council:**

- 1 NOTES the oral report provided by Neil Douglas of Minter Ellison dealing with  
his communications with Blake Dawson Waldron, solicitors for Denis Smith;**
- 2 EXPRESSES its concern and regret that:**
  - (a) the responses by the Council and individual elected members to issues  
associated with the employment of the CEO have had, and are continuing  
to have, serious consequences for the City; and**
  - (b) these consequences have adversely affected, and continue to adversely  
affect - to the detriment of the City, its ratepayers and residents:**
    - (i) the ability of staff and elected members to perform their  
functions; and**

- (ii) the reputation and functioning of the City;
- (iii) the City's legal liability

**3 ESTABLISHES a Working Group:**

- (a) to consider and assess these existing and potential consequences; and
- (b) to report to the Council by the second Council meeting in December 2003, on options to avoid, or limit the impact of, these consequences.

**4 DETERMINES that the Working Group is to comprise of Crs Walker Hollywood, Baker, Nixon, Caiacob, Kimber and Brewer and is to be assisted by Mark Loader, Manager Human Resources;**

**5 AUTHORISES Mark Loader, Manager Human Resources to obtain legal advice, including if he considers it necessary, the advice of Senior Counsel, in relation to the City's legal liability.**

**6 RECOGNISES AND RESPECTS the confidentiality that must be maintained, in the interests of the City and the CEO, throughout this process.**

**Was Put and**

**CARRIED (14/0)**

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

*Chief Executive Officer declared a financial interest in Item C237-11/03 – Confidential – Notice of Motion – Cr J Hollywood – Legal Advice on Public Comments Relating to the Standing Committee on Public Administration and Finance, and Chief Executive Officer Employment Related Matters as this Item impacts on Mr Smith's Contract of Employment.*

**C237-11/03 CONFIDENTIAL NOTICE OF MOTION – CR J HOLLYWOOD - LEGAL ADVICE ON PUBLIC COMMENTS RELATING TO THE STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND FINANCE, AND CHIEF EXECUTIVE OFFICER EMPLOYMENT RELATED MATTERS**

Cr John Hollywood has given notice of his intention to move the following motion at the Council meeting to be held on Tuesday 11 November 2003. The following elected members have indicated their support as required by Clause 4.4 of the City's Standing Orders Local Law:

Cr J Hollywood  
Cr A Walker  
Cr S Hart  
Cr M Caiacob  
Mayor Don Carlos

This Item Is Confidential - Not For Publication

A full report was be provided to Elected Members under separate cover.

**This Notice of Motion to Rescind was NOT MOVED.**

*Chief Executive Officer declared a financial interest in Item C238-11/03 – Confidential – Notice of Motion – Cr J Hollywood – Standing Committee on Public Administration and Finance – Legal Expenses as this Item impacts on Mr Smith’s Contract of Employment.*

**C238-11/03      CONFIDENTIAL - NOTICE OF MOTION – CR J HOLLYWOOD -  
STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND  
FINANCE - LEGAL EXPENSES – [24549, 00561, 58527, 70544]**

Cr John Hollywood has given notice of his intention to move the following motion at the Council meeting to be held on Tuesday 11 November 2003. The following elected members have indicated their support as required by Clause 4.4 of the City’s Standing Orders Local Law:

Cr J Hollywood  
Cr A Walker  
Cr S Hart  
Cr M Caiacob  
Mayor Don Carlos

This Item Is Confidential - Not For Publication

A full report was provided to Elected Members under separate cover.

**This Notice of Motion to Rescind was NOT MOVED.**

*Chief Executive Officer declared a financial interest in Item C-11/03 – Confidential – Notice of Motion No 5 – Cr P Kimber – Performance Review of the CEO as this Item impacts on Mr Smith’s Contract of Employment.*

**C239-11/03      CONFIDENTIAL - NOTICE OF MOTION – CR P KIMBER –  
PERFORMANCE REVIEW OF THE CEO**

This Item Is Confidential - Not For Publication

A full report was provided to Elected Members under separate cover.

**This Notice of Motion was not pursued, therefore it**

**LAPSED**

**C240-11/03      MEETING TO GO TO OPEN DOORS**

**MOVED Cr Caiacob, SECONDED Cr Kimber that:**

- 1      the meeting be now held with OPEN DOORS;**
- 2      in accordance with clause 5.1 of the City's Standing Orders Local Law, the meeting be ADJOURNED for a period of five (5) minutes, the time being 2320 hrs.**

**The Motion was Put and**

**CARRIED**

The Meeting **RESUMED WITH OPEN DOORS** at 2326 hrs, with members of the public, staff, press and the following elected members being present:

MAYOR D CARLOS  
 Cr T BREWER  
 Cr A NIXON  
 Cr J F HOLLYWOOD, JP  
 Cr P ROWLANDS  
 Cr A WALKER  
 Cr S HART  
 Cr M O'BRIEN  
 Cr G KENWORTHY  
 Cr J GOLLANT  
 Cr M CAIACOB  
 Cr C MACKINTOSH

In accordance with the City's Standing Orders Local Law, Manager Audit and Executive Services read the motions in relation to the following:

- |   |               |   |
|---|---------------|---|
| 1 | CJ266 - 11/03 | Confidential - Craigie Leisure Centre - Acquisition of Kiosk Lease;   |
| 2 | C234-11/03    | Confidential - Request for Variation to Chief Executive Officer's Contract of Employment;   |
| 3 | C236-11/03    | Confidential - Employment Contract of the Chief Executive Officer and related matters;  |
| 4 | C237-11/03    | Confidential Notice of Motion - Cr J Hollywood - Legal advice on public comments relating to the Standing Committee on Public Administration and Finance, and Chief Executive Officer employment related matters; |
| 5 | C238-11/03    | Confidential - Notice of motion - Cr J Hollywood - Standing Committee on Public Administration and Finance - Legal Expenses;  |
| 6 | C239-11/03    | Confidential - Notice of Motion No 5 - Cr P Kimber - Performance Review of the CEO.   |

*During the reading of the motions moved Behind Closed Doors:*

*Cr Baker entered the Chamber at 2327 hrs.*

*Cr Kimber entered the Chamber 2331 hrs.*

*Cr Gollant left the Chamber at 2331 and returned at 2333 hrs.*

*Mr Neil Douglas, Minter Ellison left the Chamber at 2333 hrs.*

*Cr Brewer left the Chamber 2338 hrs.*

## **APOLOGIES AND LEAVE OF ABSENCE**

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

Cr C Baker	22 October - 23 November 2003 inclusive
Cr L Prospero	10 November - 16 November 2003 inclusive

### **C241-11/03      REQUESTS FOR LEAVE OF ABSENCE – [76541]**

Requests for Leave of Absence from Council duties have been received from:

Cr P Kimber	26 November – 1 December 2003 inclusive
Cr G Kenworthy	28 November – 31 December 2003 inclusive
Cr A Nixon	1 December – 5 December 2003 inclusive
Cr C Baker	17 December – 15 January 2004 inclusive

**MOVED Cr O'Brien, SECONDED Cr Kimber** that Council pursuant to Section 2.25 of the Local Government Act 1995:

- 1 in compliance with Section 2.25 (1) **GRANTS** approval for Mayor Carlos to have six (6) calendar months Leave of Absence if he so desires in order to accommodate his pre-2003 election intention of undertaking an around Australia caravan trip;
- 2 **INSTRUCTS** the City's Administration to seek the approval by the Minister for Local Government in accordance with Section 2.25 (2) for the abovementioned proposed leave;
- 3 **RECORDS** the Council's decision to grant leave in the minutes as required by section 2.25 (3).

Mayor Carlos ruled the Motion **OUT OF ORDER**.

Cr O'Brien dissented with the Mayor's ruling.

**MOVED Cr Baker, SECONDED Cr Walker that Council APPROVES the following requests for Leave of Absence:**

<b>Cr P Kimber</b>	<b>26 November – 1 December 2003 inclusive</b>
<b>Cr G Kenworthy</b>	<b>28 November – 31 December 2003 inclusive</b>
<b>Cr A Nixon</b>	<b>1 December – 5 December 2003 inclusive</b>
<b>Cr C Baker</b>	<b>17 December – 15 January 2004 inclusive</b>

**The Motion was Put and**

**CARRIED UNANIMOUSLY (13/0)**

**In favour of the Motion:** Mayor Carlos, Crs Baker, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Rowlands and Walker

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

*Cr O'Brien declared a financial interest in CJ252-11/03 - Minutes of Meeting of the House Committee – 14 October 2003 as this involved a benefit to elected members.*

*Cr Hollywood declared a financial interest in Item CJ262-11/03 – Delegated Authority Report for the month of September 2003 (DA03/0469 – Grouped Dwelling, 7 Burns Place, Burns Beach and DA03/0657 – Single House, 16 Vaucluse Place, Kallaroo) as he is the builder for the applicants.*

*Chief Executive Officer declared a financial interest in Item C234-11/03 – Confidential – Request for Variation to Chief Executive Officer's Contract of Employment as this Item impacts on Mr Smith's Contract of Employment.*

*Chief Executive Officer declared a financial interest in Item C236-11/03 – Confidential – Employment Contract of the Chief Executive Officer and Related Matters (Oral Presentation by Mr Neil Douglas, Minter Ellison) as this Item impacts on Mr Smith's Contract of Employment.*

*Chief Executive Officer declared a financial interest in Item C237-11/03 – Confidential – Notice of Motion – Cr J Hollywood – Legal Advice on Public Comments Relating to the Standing Committee on Public Administration and Finance, and Chief Executive Officer Employment Related Matters as this Item impacts on Mr Smith's Contract of Employment.*

*Chief Executive Officer declared a financial interest in Item C238-11/03 – Confidential – Notice of Motion – Cr J Hollywood – Standing Committee on Public Administration and Finance – Legal Expenses as this Item impacts on Mr Smith's Contract of Employment.*

*Chief Executive Officer declared a financial interest in Item C239-11/03 – Confidential – Notice of Motion No 5 – Cr P Kimber – Performance Review of the CEO as this Item impacts on Mr Smith's Contract of Employment.*

**CONFIRMATION OF MINUTES****C242-11/03      MINUTES OF COUNCIL MEETING – 21 OCTOBER 2003**

**MOVED Cr Baker, SECONDED Cr Kimber that the Minutes of the Council Meeting held on 21 October 2003, be confirmed as a true and correct record.**

Cr O'Brien queried the listing of Cr Barnett's name within the minutes, and requested that this be corrected if it was found to be an error.

**The Motion was Put and**

**CARRIED UNANIMOUSLY (13/0)**

**In favour of the Motion:** Mayor Carlos, Crs Baker, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien, Rowlands and Walker

**ANNOUNCEMENTS BY THE MAYOR WITHOUT DISCUSSION****2003 CHRISTMAS FUNCTION**

There has been a lot of conjecture regarding the Christmas function and I am going on record that I do not intend to support the motion when it comes up because I think the City cannot afford the \$25,000.

I think the community has seen that the Council has spent a lot of money on legal fees, which in my view was totally unnecessary, and another \$25,000 would show us in disrepute, so I am going to be voting against that item.

**CHRISTMAS HAMPERS**

In regard to the \$150 hampers, I have a letter from the Department of Local Government which clearly says that the Council is in breach of the Act by approving the \$150 hamper. The brief that I have received from the Department is that under the Act of 1995 the use of Local Government funds must be to provide a good government for persons in the district in accordance with the general functions of the Act. It is doubtful that the community would view this as being good government.

Accordingly, I believe that we are acting outside of the Act by voting ourselves a \$150 hamper. I raised this matter with the former Mayor last year and he advised that it was no problem last year and I understood he spoke to the CEO about it. The Department said that it would conduct an investigation. I have advised the Department that I will be asking administration to raise a motion for the next Council meeting to recover the \$150 of Council funds that we expended illegally to give hampers last year, and also if it occurred the years before I have been told by other Mayors that this should not go on. Therefore when both of these issues come before Council, I will be voting against them.

*Cr Brewer entered the Chamber at this point, the time being 2347 hrs.*

## **CJ248 - 11/03 SCHEDULE OF DOCUMENTS EXECUTED BY MEANS OF AFFIXING THE COMMON SEAL - [15876]**

**WARD - All**

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### **PURPOSE**

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

Document:	S.70A
Parties:	City of Joondalup and Rudi and Deborah Veenriet
Description:	Notification of Title – Lot 567 (10) Clare Cove, Joondalup
Date:	26.08.03
Document:	Copyright
Parties:	City of Joondalup and Molly Corse
Description:	Recording of historical importance
Date:	26.08.03
Document:	Copyright
Parties:	City of Joondalup and Bill Woodruff
Description:	Recording of historical importance
Date:	26.08/03
Document:	Copyright
Parties:	City of Joondalup and Elizabeth and Keith Wilson
Description:	Recording of historical importance
Date:	03.09.03
Document:	Contract
Parties:	City of Joondalup and Pavement Technology Ltd
Description:	Execution of Contract 031-02/03 – Traffic signal/associated roadworks Shenton Avenue/Pontiac Way
Date:	09.09.03
Document:	Disposition of Subdivision
Parties:	City of Joondalup and Mark Spargo, Sandra Zencich and Christopher Zencich
Description:	Disposition of subdivision to enable creation of Strata Lots – Strata Plan 43739
Date:	15.09.03
Document:	Amendment
Parties:	City of Joondalup
Description:	District Planning Scheme 2 – Amendment 10
Date:	16.09.03

- Document: Structure Plan  
Parties: City of Joondalup and WAPC  
Description: Certification of Hillarys Structure Plan  
Date: 19.09.03
- Document: Contract  
Parties: City of Joondalup and Consolidated Constructions  
Description: Agreement for redevelopment of Sorrento Beach  
Date: 19.09.03
- Document: Copyright  
Parties: City of Joondalup and Ron Newton  
Description: Recording of historical importance  
Date: 24.09.03
- Document: Deed  
Parties: City of Joondalup and State of WA  
Description: Deed of Indemnity – Use of Court House land for 2004 Festival and Criterium Concert  
Date: 24.09.03
- Document: Deed  
Parties: City of Joondalup and Move Well P/L  
Description: Deed to ensure reciprocal rights of access and carparking – Lot 656 Eddystone Avenue, Beldon  
Date: 02.10.03
- Document: Easement  
Parties: City of Joondalup and Roman Catholic Archbishop of Perth/Davidson Pty Ltd  
Description: Easement for parking and access over Deposited Plan 34971  
Date: 10.10.03
- Document:  
Parties: City of Joondalup and WAPC  
Description: Certification of Kinross Neighbourhood Centre Structure Plan – Portion Lot 9007, corner Selkirk and Connolly Drive, Kinross  
Date: 10.10.03
- Document: Copyright  
Parties: City of Joondalup and Peter Herison  
Description: Recording of historical importance  
Date: 10.10.03
- Document: Copyright  
Parties: City of Joondalup and Bill Bullock  
Description: Recording of historical importance  
Date: 10.10.03

Document: Lease  
Parties: Cities of Joondalup, Perth, Stirling, Wanneroo, Towns of Cambridge, Victoria Park, Vincent and Vodafone  
Description: Deed of Assignment reflecting correct name and CAN of Vodafone – Lot 118 Marmion Avenue (Tamala Park)  
Date: 15.10.03

Document: S.70A  
Parties: City of Joondalup and Shirley Wolfe  
Description: Notification on Title – 19 Sandalwood Drive, Greenwood (ancillary accommodation)  
Date: 21.10.03

Document: Caveat  
Parties: City of Joondalup and Clayton Sanders  
Description: Withdrawal of Caveat – Lots 183/184 Regents Park Road, Joondalup  
Date: 21.10.03

## ATTACHMENTS

Nil

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cr Baker, SECONDED Cr Brewer that the schedule of documents executed by means of affixing the Common Seal be NOTED.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (14/0)**

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

## **CJ249 - 11/03      ADOPTION                      OF                      RECORDKEEPING RESPONSIBILITIES POLICY – [26542] [66036]**

**WARD - All**

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## PURPOSE

The Council requires the adoption of a recordkeeping policy for inclusion in its Recordkeeping Plan.

## EXECUTIVE SUMMARY

In accordance with the State Records Act 2000 the City is required to submit a Recordkeeping Plan to the State Records Commission prior to March 2004 for approval.

## BACKGROUND

The State Records Act is an Act which provides for the keeping of State records and for related purposes. Section 61 of the State Records Act 2000 is to ensure that government organisation recordkeeping plans submitted to the State Records Commission for approval meet the requirements of the Act.

The Recordkeeping Plan must set out:

- those records that will be State archives;
- those state archives that will be restricted access archives and the ages at which they will cease to be restricted access archives;
- the retention period for records that are not State archives;
- the systems to ensure the security of the records and compliance with the Recordkeeping Plan.

The City's Recordkeeping Plan will also set out:

- the manner in which records will be created;
- for a record to be reproduced in another form;
- for the destruction of a record if a reproduction of it is being kept, even though the destruction occurs at a time when the record would otherwise not be able to be lawfully destroyed

Principle two of the Act requires that the Council is to ensure that its recordkeeping program is supported by policy and procedures.

## DETAILS

The attached policy has been created as part of the process for compiling the Recordkeeping Plan.

The policy was created following the National Archives of Australia Advice 57 *How to develop a recordkeeping policy* and will provide the framework for the Council to effectively manage its corporate records and promote a strong recordkeeping culture. A key component of the *Australian Standard for Records Management (AS ISO 15489)* is the development of an effective recordkeeping policy.

The components of the policy include:

- an objective and statement, including the definition of a corporate record;
- access to corporate records;
- the destruction of corporate records, including the definition of ephemeral records;
- training and education.

## COMMENTS

The suggested policy detailed within this report requires adoption by the Council. This policy will ensure that the Council has a Recordkeeping Plan that adheres to the State Records Act 2000.

## ATTACHMENTS

Attachment 1            Recordkeeping Responsibilities Policy

## VOTING REQUIREMENTS

Simple Majority

## ADDITIONAL INFORMATION

The following information is provided in Report CJ249-11/03, page 4 of the Agenda:

The City's Recordkeeping Plan will also set out:

- the manner in which records will be created;
- for a record to be reproduced in another form;
- for the destruction of a record if a reproduction of it is being kept, even though the destruction occurs at a time when the record would otherwise not be able to be lawfully destroyed

Following a query at the Briefing Session held on 4 November 2003, further information was sought on the intent of third dot point above. To clarify the matter, a minor amendment to dot point three is provided as follows:

- *the destruction of records, including duplicate copies*

## RECOMMENDATION

That Council **ADOPTS** the policy titled Recordkeeping Responsibilities forming Attachment 1 to Report CJ249-11/03.

Mayor Carlos advised in view of questions that had been submitted during Public Question Time and on advice from the Chief Executive Officer, this Item was to be

**WITHDRAWN**

*Appendix 1 refers*

*To access this attachment on electronic document, click here: [Attach1agn111103.pdf](#)*

## **CJ250 - 11/03      REIMBURSEMENT OF ELECTED MEMBERS ALLOWANCES AND EXPENSES – MAY 2003 TO SEPTEMBER 2003 – [27122]**

**WARD**      All

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## PURPOSE

To provide an account of allowances and expenses incurred by and paid to each Councillor from May 2003 to September 2003.

## EXECUTIVE SUMMARY

The reimbursement of elected members expenses is subject to Council's policy and a signed claim form declaring that the information provided in support of the claim is true and correct.

The underlying principle that applies to payment of various allowances and reimbursement of expenses incurred whilst performing duties as an elected member is:

*“to enable any eligible member of the community to be elected and carry out the duties and responsibilities of their elected office, without being financially disadvantaged for doing so.”*

## BACKGROUND

Following an extensive review of what allowances and reimbursement of expenses are permissible under the Local Government Act 1995 (the Act) and Regulations under the Act, Council at its meeting held on 18 December 2001, adopted a comprehensive policy known as “Policy for Payment of Fees, Allowances and Expenses and Provision of Facilities to the Mayor, Deputy Mayor and Councillors”.

This policy has applied from the first Saturday in May 2002 to coincide with elections and future new Councils. The policy sets out the amount of allowances that can be paid and reimbursement of expenses that can be claimed. It should be noted that the Act and Regulations under the Act do not limit the amount that can be reimbursed for travelling and child minding expenses.

## DETAILS

At the ordinary Council meeting held on 11 March 2003, the following resolution was passed:

- “1 *The Chief Executive Officer cause to be published in all future Agendas of Ordinary Council meetings, a detailed report concerning expenses and allowances incurred by/paid to each Councillor and paid for/reimbursed by the City of Joondalup including, but not limited to, the following expenses and allowances:*
- 1.1 *Expenses incurred by each Councillor on Conference and Training*
  - 1.2 *Expenses ostensibly incurred by each Councillor on Travel and Childcare*
  - 1.3 *Allowances paid to each Councillor by way of the communication allowance and the “sitting” or “meeting” attendance fee; and*
  - 1.4 *Other expenses incurred by each Councillor*
- 2 *The first such report also include a summary of all such expenses and allowances incurred by/paid to each Councillor since the date of their election to Council; and*
- 3 *At the foot of each report there be a recommendation to note each such report.”*

The first report was presented to Council on 1 April 2003. This report covers the period since the Policy for Payment of Fees, Allowances and Expenses and Provision of Facilities to the Mayor, Deputy Mayor and Councillors commenced for the new Council that was elected on the 3 May 2003. Attachment 1 shows all allowances and expenses reimbursed to the Councillors May 2003 to September 2003. Costs of future conferences and training already booked have also been included in Attachment 1.

## ATTACHMENTS

Attachment 1            Councillor Expenses May 2003 to September 2003

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cr Baker, SECONDED Cr Walker that Council NOTES the information in relation to reimbursements of Elected Members' allowances and expenses May 2003 to September 2003 as contained in Attachment 1 to Report CJ250-11/03.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (14/0)**

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

*Appendix 2 refers*

*To access this attachment on electronic document, click here: [Attach2brf041103.pdf](#)*

**CJ251 - 11/03      VACANCIES - WESTERN AUSTRALIAN LOCAL  
GOVERNMENT ASSOCIATION      - COMMITTEE  
VACANCIES – [02011]**

**WARD - All**

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## PURPOSE

To call for nominations for various committees of the Western Australian Local Government Association.

## EXECUTIVE SUMMARY

The Western Australian Local Government Association (WALGA) has invited member Councils to submit nominations to various committees.

This report invites nominations from elected member and officer representatives with experience, knowledge and an interest in the relevant issues.

## DETAIL

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

- **State Emergency Management Committee – Emergency Services Group** – 1 Member and 1 Deputy Member (readvertised);
- **State Emergency Management Committee - Recovery Services Group** – 1 Member;
- **Municipal Building Surveyors Qualifications Committee** – 1 Member and 1 Deputy Member.

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

Full details of the vacancies and nomination process are provided at Attachment 1 hereto.

### **Nominations for all vacancies close on Wednesday 12 November 2003.**

Nominations must ensure that the Selection Criteria are addressed in full. Appointments are conditional on the understanding that nominees and delegates will resign when their entitlement terminates – that is, they are no longer elected members or serving officers of Local Government. This ensures that the Local Government representative is always active in Local Government as an elected member or serving officer.

Details of the vacancies and Nominations Forms can be found at the Policy section of the WALGA website at: <http://www.walga.asn.au/policy/committees>.

## ATTACHMENTS

Attachment 1            Details of WALGA vacancies

## VOTING REQUIREMENTS

Simple Majority

## OFFICER'S RECOMMENDATION

**Submitted for Nomination.**

**No nomination was made.**

*Appendix 3 refers*

*To access this attachment on electronic document, click here: [Attach3brf041103.pdf](#)*

## **CJ252 - 11/03      MINUTES OF MEETING OF THE HOUSE COMMITTEE - 14 OCTOBER 2003 - [59064]**

**WARD** - All

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### **PURPOSE**

For the Council to give consideration to the recommendations proposed by the House Committee.

### **EXECUTIVE SUMMARY**

A meeting of the House Committee was held on 14 October 2003 and the unconfirmed minutes are submitted for noting by Council and endorsement of the recommendations contained therein.

### **BACKGROUND**

The House Committee was established in order to make recommendations on:

- the type and number of civic functions;
- entitlements of elected members;
- awards and presentations to former elected members;
- facilities for elected members.

The membership of the Committee is:

Mayor Carlos  
Cr J Gollant      *Chairperson*  
Cr P Kimber      *Deputy Chairperson*  
Cr G Kenworthy  
Cr C Mackintosh

### **DETAILS**

The unconfirmed Minutes of the House Committee meeting held on 14 October 2003 are included as Attachment 1. At the meeting, the Committee considered:

- Finalisation of Arrangements for Council Christmas Dinner 2003
- 2003 City of Joondalup Christmas Cards
- 2003 Elected Members' Christmas Hampers and Family Picnic
- Elected Member Hospitality Luncheons
- Council Historic Honour Boards
- Certificate of Recognition for Elected Members

### **ATTACHMENTS**

Attachment 1 - Unconfirmed Minutes of House Committee Meeting held 14 October 2003

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cr Kimber SECONDED Cr Mackintosh that Council NOTES the unconfirmed minutes of the House Committee meeting held on 14 October 2003, forming Attachment 1 to Report CJ252-11/03 and ENDORSES the recommendations contained therein.**

Discussion ensued.

Cr Gollant advised that the City would incur 75% of the cost in the event of cancellation of the Christmas function.

**AMENDMENT MOVED Cr Baker** that the following words be included at the end of the Motion “... *save that in relation to the Christmas Hampers, gifts or vouchers for Councillors, Councillors be requested to donate the same to a charity of their choice.*”

**There being no Seconder, the Amendment**

**LAPSED**

## PERSONAL EXPLANATION – CR O'BRIEN

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

“In regard to this matter, I did not accept the invitation, well before the article came out in the Wanneroo Times and I had indicated to the administration before that paper was published that I will not be attending this year. The other question in relation to expenditure on other matters of transport, I am the furthest away from the Council Chamber and my kilometre mileage would possibly read higher than others and I note that Cr Baker does not claim any. I am on an aged pension and I cannot afford to run a vehicle without the reimbursement of the cost. That is the main one in my expenses. To say that a person is a hypocrite, I hope that does not refer to me.”

**MOVED Cr Rowlands SECONDED Cr Gollant** that the Motion be Now Put.

Mayor Carlos did not accept this Procedural Motion as he believed there had been insufficient debate on the motion.

**Therefore, the Procedural Motion was not pursued.**

Mayor Carlos stated that a motion for elected members to receive Christmas hampers contravened the Local Government Act 1995 and elected members should not vote on the matter.

*Cr O'Brien declared a financial interest in CJ252-11/03 - Minutes of Meeting of the House Committee – 14 October 2003 as this involved a benefit to elected members.*

*Crs O'Brien and Caiacob left the Chamber at this point, the time being 0028 hrs.*

*Cr Nixon left the Chamber at this point, the time being 0029 hrs.*

**AMENDMENT MOVED Cr Brewer, SECONDED Cr Gollant that the following words be included at the end of the Motion "...with the exception of Item 3."**

Mayor Carlos invited Crs O'Brien and Caiacob to return to the Chamber.

*Crs O'Brien and Caiacob entered the Chamber at this point, the time being 0031 hrs.*

**The Amendment was Put and**

**CARRIED (9/4)**

**In favour of the Amendment:** Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Kenworthy, Rowlands, Walker. **Against the Amendment:** Crs Hollywood, Kimber, Mackintosh, O'Brien.

Cr O'Brien requested that it be recorded that he had been misled as to the intent of the amendment under consideration on his return to the Chamber. Cr O'Brien stated that he had not intended to vote against this amendment, and further doubted whether he should have voted due to his declaration of financial interest.

*Cr Nixon entered the Chamber at this point, the time being 0036 hrs.*

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

**That Council NOTES the unconfirmed minutes of the House Committee meeting held on 14 October 2003, forming Attachment 1 to Report CJ252-11/03 and ENDORSES the recommendations contained therein, with the exception of Item 3.**

**Was Put and**

**CARRIED (9/5)**

#### **PERSONAL EXPLANATION – CR HART**

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

"Last Monday morning, very early, I had a call from a ratepayer that attended our meeting on Sunday night and she had been following what happens here in the paper for quite a while. Her comment to me was that it was totally unjustified that the Mayor was being accused of not being able to control this meeting. She felt that some Councillors could not control themselves."

*Appendix 4 refers*

*To access this attachment on electronic document, click here: [Attach4brf041103.pdf](#)*

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**CJ253 - 11/03 MEETING OF THE POLICY MANUAL REVIEW COMMITTEE HELD ON 29 OCTOBER 2003 – [07032, 26176, 13399]**

**WARD** All

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**PURPOSE**

For Council to give consideration to the recommendations proposed by the Policy Manual Review Committee at its meeting held on 29 October 2003.

**EXECUTIVE SUMMARY**

Council at its meeting held on 29 July 2003 resolved to establish a Policy Manual Review Committee to “*review the City's corporate policy manual and make recommendations to the Council on amendments to existing policies or the adoption of new policies*”.

At its meeting held on 29 October 2003, the Policy Manual Review Committee reviewed Policy Manual - Section 5, subsections:

- 5.1 Environmental Waste Management
- 5.2 Operations Services
- 5.3 Infrastructure Management Services
- 5.4 Infrastructure Management Services
- 5.5 Ranger Services

The unconfirmed minutes of the Policy Manual Review Committee meeting held on 29 October 2003 are submitted to Council for noting and consideration of the recommended changes to the Policy Manual.

**BACKGROUND**

Council at its meeting held on 29 July 2003 resolved to establish a Policy Manual Review Committee to “*review the City's corporate policy manual and make recommendations to the Council on amendments to existing policies or the adoption of new policies*”.

**DETAILS**

At its meeting held on 29 October 2003, the Policy Manual Review Committee reviewed Policy Manual - Section 2, Corporate Services, subsections:

- 5.1 Environmental Waste Management
- 5.2 Operations Services
- 5.3 Infrastructure Management Services
- 5.4 Infrastructure Management Services
- 5.5 Ranger Services

The following policies have been reviewed by the Committee, and the proposed revisions as recommended by the Administration and the Committee are outlined on Attachment 2:

## **SECTION 5.1 - ENVIRONMENTAL WASTE MANAGEMENT**

### **5.1.1 Waste Management**

*Amendment recommended by the Administration:*

Deletion of part of Section 2 – Recycling.

*Amendment required by the Committee:*

Section 1, last paragraph: Delete the words “including ‘holiday homes’”.

## **SECTION 5.2 - OPERATIONS SERVICES**

### **5.2.2 Council Reserves and Parks**

No change required by Committee.

### **5.2.4 Memorial Plaques**

No change required by Committee.

### **5.2.5 Floodlighting**

*Amendment required by the Committee:*

The following additional sentence to be included at the end of the Statement: “Impact of lighting on residential properties to be kept to a minimum.”

### **5.2.6 Median and Road Reserve Landscaping Undeveloped Future Road Reserves**

No change required by Committee.

## **SECTIONS 5.3 & 5.4 - INFRASTRUCTURE MANAGEMENT SERVICES**

### **5.3.1 Verge Treatments – Protective Devices**

No change required by Committee.

### **5.3.2 Sand Drift Control**

No change required by Committee.

### **5.3.3 Vehicle Crossing – Construction and Maintenance**

No change required by Committee.

### **5.3.4 Removal of Graffiti and Repair of Vandalism**

No change required by Committee.

### **5.3.5 Roadworks – Opening up**

No change required by Committee.

### **5.4.1 Tennis Court Lighting Standards**

No change required by Committee.

### **5.4.2 Stormwater Drainage Into Wetlands**

*Amendment required by the Committee:*

Point 3 of the statement to be amended to read “Land reserved for Parks and Recreation, *and foreshore.*”

## **SECTION 5.5 - RANGER SERVICES**

### **5.5.1 Burning of Garden Refuse and Cleared Vegetation**

*Amendments recommended by the Administration:*

- Amendment to renumber policy to fall within Section 5.5 – Ranger Services (Previously Policy 4.6.1)
- Change to dates for burning garden refuse.

## **ATTACHMENTS**

- Attachment 1 Unconfirmed Minutes of the Policy Manual Review Committee Meeting of 29 October 2003
- Attachment 2 Proposed Amendments to Policy Manual

## **VOTING REQUIREMENTS**

Simple Majority

**MOVED Cr Walker, SECONDED Cr Caiacob that Council:**

- 1 NOTES the unconfirmed Minutes of the Policy Manual Review Committee meeting held on 29 October 2003 forming Attachment 1 to Report CJ253-11/03;**
- 2 AMENDS the following Policies as detailed in Attachment 2 to Report CJ253-11/03:**
  - Policy 5.1.1 - Waste Management;**
  - Policy 5.2.5 – Floodlighting;**
  - Policy 5.4.2 – Stormwater Drainage into wetlands;**
- 3 DELETES Policy 4.6.1 - Burning of Garden Refuse and Cleared Vegetation and ADOPTS replacement Policy 5.5.1 - Burning of Garden Refuse and Cleared Vegetation as detailed in Attachment 2 to Report CJ253-11/03.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (14/0)**

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

*Appendices 16 and 16(a) refer*

*To access this attachment on electronic document, click here: [Attach16agn111103.pdf](#)  
[Attach16aagn111103.pdf](#)*

**CJ254 - 11/03      FINANCIAL REPORT FOR THE PERIOD ENDING 30  
SEPTEMBER 2003 – [07882]**

**WARD - All**

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**PURPOSE**

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

**EXECUTIVE SUMMARY**

The September 2003 year to date report shows an overall variance of \$7.9m when compared to budget.

This variance can be analysed as follows:

- The **Operating** position shows a surplus of \$37.4m compared to a budget of \$36.7m at the end of September 2003. The variance of \$0.7m is due to an under spend in materials and contracts. Operating income is on target.

- **Capital Expenditure** is \$0.2m compared to a budget of \$1.1m at the end of September 2003, an under spend of \$0.9m. This represents a timing variance in purchasing equipment.
- **Capital Works** expenditure is \$0.7m against a budget of \$7.0m, an under spend of \$6.3m at the end of September 2003. This is a timing variance of which \$5.0m relates to the phasing of corporate projects.

## DETAILS

The financial report for the period ending 30 September 2003 is appended as Attachment A to this Report.

## ATTACHMENTS

Attachment 1            Financial Report for the period ending 30 September 2003.

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cr Baker, SECONDED Cr Kimber that the Financial Report for the period ending 30 September 2003 be NOTED.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (14/0)**

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

*Appendix 5 refers*

*To access this attachment on electronic document, click here: [Attach5brf041103.pdf](#)*

**CJ255 - 11/03      RENEWAL OF LEASE FOR CROWN CASTLE  
AUSTRALIA PTY LTD - LOT 118 (1700) MARMION  
AVENUE, TAMALA PARK – [41196]**

**WARD - All**

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## PURPOSE

To seek Council approval as a part owner of Lot 118 (1700) Marmion Avenue, Tamala Park, to the renewal of the lease with Crown Castle Australia Pty Ltd for a further five-year term in respect to telecommunication towers.

## EXECUTIVE SUMMARY

Portion of Lot 118 (1700) Marmion Avenue, Tamala Park is occupied by Crown Castle Australia Pty Ltd and the Lease in respect to telecommunication towers will expire on 31 October 2003. Crown Castle Australia Pty Ltd has exercised an option to extend the Lease for a further five-year term and as a part owner of the land, Council's approval is sought.

The subject site is now a three-carrier site and a revaluation of the lease rental has been carried out and based on the results of this valuation, it is proposed to increase the rent from \$9724.05 p.a. to \$45,000.00 p.a. This is yet to be agreed by Crown Castle Australia Pty Ltd.

It is therefore recommended *that Council as part owner of Lot 118 (1700) Marmion Avenue, Tamala Park APPROVES the option of the FURTHER term of five years commencing 1 November 2003 to Crown Castle Australia Pty Ltd, at a rent of \$45,000.00 per annum.*

## BACKGROUND

The Cities of Perth, Stirling and Joondalup (and now including the City of Wanneroo and the Towns of Victoria Park, Vincent and Cambridge) as joint owners of Lot 118 (formerly Lot 17) Marmion Avenue, Tamala Park entered in to a lease with Vodafone Network Pty Ltd over portion of Lot 118 on 1 November 1998 for a 5-year term. The lease contains a renewal clause for two further 5-year terms.

Crown Castle Australia Pty Ltd took the option to purchase Vodafone's communications towers, and in a letter dated 13 March 2001, solicitors acting for Vodafone sought the owners' consent to an assignment of the lease. Council approved the assignment to Crown Castle Pty Ltd at its meeting on 23 October 2001.

<b>Suburb/Location:</b>	Lot 118 (1700) Marmion Avenue, Tamala Park
<b>Applicant:</b>	Crown Castle Australia Limited
<b>Owners:</b>	Cities of Joondalup, Perth, Stirling and Wanneroo and Towns of Victoria Park, Vincent and Cambridge
<b>Strategic Plan:</b>	3.5 To provide and maintain sustainable economic development 3.5.1 Develop partnerships with stakeholders to foster business and development opportunities.

## DETAILS

The current lease term of five years expires on 31 October 2003.

In accordance with Clause 4.2 of the Lease, Crown Castle Australia Pty Ltd has exercised the option for the further term of five years, commencing on 1 November 2003 and expiring on 31 October 2008.

The owner Councils have acknowledged receipt of the request to exercise the option, subject to the review of the annual rental in accordance with the Rent Review Clause 3.2 in the Lease, documentation of the Lease extension, and the seven owner Councils' approval.

The owners requested a valuation from the Department of Land Information – Valuation Services for the leased area and received a rental valuation report dated 18 September 2003, advising a “fair market” rental for the subject site having an area of 150 square metre is \$45,000 per annum net plus GST, as at 1 November 2003.

This information is being reported to the seven owner Councils for their approval.

### **Financial Implications:**

The annual rental needs to be agreed to by all parties and the City of Joondalup’s interest is a one-sixth share. If the proposed new rental of \$45,000.00 per annum is agreed to, the City’s annual share will be \$7,500.00 per annum.

### **COMMENT**

The current lease expires on 31 October 2003 and in order to extend the lease for a further five-year term it is necessary for the owners to grant the option to the Lessee.

The Lessee has satisfied the terms and conditions of the lease and it is recommended that a further term is granted and the existing rent of \$9,724.05 per annum be increased to \$45,000.00 per annum. This rent reflects the use of the leased area of 150m<sup>2</sup> three-carrier site, as amended from the original 130m<sup>2</sup> one-carrier site.

### **ATTACHMENTS**

Nil

### **VOTING REQUIREMENTS**

Simple Majority

**MOVED Cr Kimber, SECONDED Cr Walker that Council as part owner of Lot 118 (1700) Marmion Avenue, Tamala Park APPROVES the option of the further term of five years commencing 1 November 2003 to Crown Castle Australia Pty Ltd, at a rent of \$45,000.00 per annum.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (14/0)**

**In favour of the Motion:** Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O’Brien, Rowlands and Walker

**CJ256 - 11/03      TENDER NO 002-03/04 – PROVISION OF LOGBOOK  
SERVICING AND MAINTENANCE OF THE CITY OF  
JOONDALUP'S FLEET OF LIGHT VEHICLES –  
[26547]**

**WARD - All**

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**PURPOSE**

To seek the Council approval to decline to accept all tenders received for the Provision of Logbook Servicing and Maintenance of the City of Joondalup's Fleet of Light Vehicles, Tender Number 002-03/04 and recall tenders.

**EXECUTIVE SUMMARY**

Tenders were advertised on 6 August 2003 through statewide public tender for the provision of logbook servicing and maintenance of the City of Joondalup's fleet of light vehicles. Tenders closed on 21 August 2003. Seven submissions were received from the following: Carcare Lakeside, Automark, Trac-wesT Engineering, Big Rock Toyota-North City Holden, Grand Toyota, Wild West Hyundai and UltraTune Warwick.

It is recommended that Council:

*Declines to accept all tenders for the provision of logbook servicing and maintenance of the City of Joondalup's fleet of light vehicles, Tender Number 002-03/04 and recalls tenders.*

**BACKGROUND**

The City of Joondalup entered into an agreement with the City of Wanneroo on 1 July 1999 for the supply of fleet maintenance services over a six-year term (including three one year extended terms). The agreement excluded sedans and station wagons. During the course of this agreement the City of Wanneroo tendered out the provision of similar services to its own light fleet and scaled down the light vehicle servicing for its own and the City of Joondalup fleet from its workshop.

As the number of vehicles excluded from the agreement with the City of Wanneroo increased, annual expenditure levels were monitored to ensure that the \$50,000 limit requiring public tender was not exceeded. Expenditure in the previous 12 months (financial year 2002/2003) had exceeded \$50,000 and the City of Joondalup advertised a public tender for the supply of the service over a three-year period.

**DETAILS**

Under the City's Contract Management Framework and the Code of Tendering AS 4120-1994, the tenders were assessed by an evaluation committee using a weighted multi-criterion assessment system.

The selection criteria required Tenderers to specifically address the following:

- 1 Levels of Service as determined by the Capability/Competence of Tenderer to perform the work required:
  - (i) Company Structure;
  - (ii) Qualifications, Skills and Experience of Key Personnel;
  - (iii) Equipment and Staff Resources available;
  - (iv) Percentage of Operational Capacity represented by this work;
  - (v) Occupational Health and Safety Management System and Track Record.
  
- 2 Performance and Experience of Tenderer in completing similar projects:
  - (i) Relevant Industry Experience, including details of similar work undertaken. Tenderers shall submit a Detailed Schedule of Previous Experience on similar and/or relevant projects. Details of previous projects should include, but not necessarily be limited to, description, location, original and final contract/construction amounts, date, duration, client, role on project (e.g. head consultant, project manager, etc);
  - (ii) Level of Understanding of tender documents and work required;
  - (iii) References from past and present clients.
  
- 3 Beneficial Effects of Tender/Local Content:
  - (i) The Potential Social and Economic Effect of the tender on the City of Joondalup community;
  - (ii) The Potential Social and Economic Effect of the tender on the West Australian community;
  - (iii) Infrastructure/Office/Staff/Suppliers/Sub-Contractors within the City of Joondalup. Tenderer's resources and experience. How the service will be of benefit to the local community in terms of local employment within the City.
  
- 4 Tendered Price/s:
  - (i) The Price to Supply the specified services
  - (ii) Schedule of Rates for additional services, variations and disbursements

The tenders were assessed in accordance with *Regulation 18(4)* of the *Local Government (Functions & General) 1996* which states:

*'Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept'.*

Under the specification, Tenderers were requested to provide rates for the specific vehicles in line with the logbook servicing. In order to measure the tenders equally and due to inconsistency in the rates provided for vehicle servicing, clarification was sought from each Tenderer.

Under the *Local Government (F&G) Regulations 1996 'Choice of Tender' Clause 18(4a)* it states:

*'to assist the local government in deciding which tender would be most advantageous to it to accept a tenderer may be requested to clarify information provided in the tender'.*

Under the *Local Government (F&G) Regulations 1996 'Choice of Tender' Clause 5* states:

*'The local government may decline to accept any tender'.*

As a result of the clarification it was determined that the tendered rates were based on two different types of log book servicing requirements i.e. genuine manufacturer's vehicle logbook and the motor trade association (MTA) log book. A number of Tenderers however, customised the service by using MTA and / or Boyce's (Institute of Automotive Engineers) requirements. This resulted in high variances in the service requirements and subsequently the quoted prices varied significantly.

Clarification of the tenders was extensive. As a result of the clarification, the variances in the submitted prices, due to the ambiguity in the City's Request for Tender, it is proposed to decline to accept all tenders. Tenders will be recalled with documentation removing the previous ambiguity, which will result in a fairer and consistent assessment in the tender evaluation process.

In summary, although the tenders are technically complying, the City cannot comparatively assess them due to the ambiguity of the tender specification. The City may decline to accept the tenders on this basis.

### **Policy 2.5.7 Purchasing Goods and Services**

The City's Policy on purchasing goods and services encourages local business in the purchasing and tendering process

#### **Statutory Provision:**

The statewide public tender was advertised, opened and evaluated in accordance with the *Local Government (F&G) Regulation 1996*. Advertising this tender also ensures compliance with the *Local Government (F&G) Regulation 1996*, where tenders are required to be publicly invited if the consideration under a contract is expected to be or worth more than \$50,000. The consideration for this contract is expected to exceed the Chief Executive Officer's Delegated Authority in relation to the acceptance of tenders of \$100,000.

#### **COMMENT**

To ensure fairness and equality in the tender process, it is proposed that the City decline to accept all tenders and a fresh tender process commence, based on the requirements of the genuine manufacturer's vehicle logbook specific to each vehicle. This will provide all parties with equal opportunity to lodge a tender in accordance with the terms and specification of the new tender request.

## ATTACHMENTS

Nil

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cr Kimber, SECONDED Cr Baker that Council DECLINES to accept all tenders received for the provision of logbook servicing and maintenance of the City of Joondalup's fleet of light vehicles, Tender Number 002-03/04 and recalls tenders.**

**The Motion was Put and**

**CARRIED (14/0)**

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

## **CJ257 - 11/03      MINUTES OF THE CONSERVATION ADVISORY COMMITTEE HELD WEDNESDAY 24 SEPTEMBER 2003 – [12168]**

**WARD - All**

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## **PURPOSE**

The confirmed Minutes of the Conservation Advisory Committee held on Wednesday 24 September 2003 are submitted for adoption by Council.

## **EXECUTIVE SUMMARY**

The Conservation Advisory Committee meeting held on the 24 September 2003 discussed a range of topics associated with Conservation and Natural Areas Management within the City of Joondalup. Topics included Bushland Fire Management, the Local Bio-Diversity Strategy and feral bees in bushland reserves.

## **DETAILS**

Cr Hollywood introduced Ms Jenny Abbot (Environmental Officer F.E.S.A.). Ms Abbot gave the committee a detailed insight into the way FESA work with the community and Local Government to develop fire prevention and management plans for urban bushland areas.

Ms Renae Duthie from the Friends of Periwinkle Bushland spoke about the problem of introduced honey bees taking the nesting sites of native birds in bushland areas.

## COMMENT

It is the officer's recommendation that Council notes the confirmed Minutes of the 24 September 2003 meeting of the Conservation Advisory Committee.

## ATTACHMENT

Attachment 1            Confirmed Minutes of the Conservation Advisory Committee, 24 September 2003

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cr Kimber, SECONDED Cr Hart that Council NOTES the confirmed minutes of the Conservation Advisory Committee held on 24 September 2003 forming Attachment 1 to Report CJ257-11/03.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (14/0)**

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

*Appendix 6 refers*

*To access this attachment on electronic document, click here: [Attach6brf041103.pdf](#)*

*Cr Rowlands left the Chamber at this point, the time being 0043 hrs.*

**CJ258 - 11/03      CLOSE OF ADVERTISING - AMENDMENT NO 18 TO  
DISTRICT PLANNING SCHEME NO 2 - PROPOSED  
RECREATIONAL            VEHICLE            CONTROL  
PROVISIONS – [53542]**

**WARD - All**

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## PURPOSE

The purpose of this report is for Council to:

- 1      Consider public submissions following advertising of Amendment 18 to the City's District Planning Scheme No 2 (DPS2);
- 2      Consider granting final approval to amendment 18 without modification; and
- 3      Endorse and submit the amendment document to the Hon Minister for Planning and Infrastructure for final approval to be granted.

## EXECUTIVE SUMMARY

Council at its meeting on 24 June 2003 (CJ134-06/03 refers) resolved to initiate Amendment 18 to DPS2 for the purposes of advertising.

Upon closure of the advertising period, three (3) submissions were received (refer attachment 3 – schedule of submissions). All three submissions received objected to the proposed amendment, citing the lawful right to park recreational vehicle(s) on their property.

The amendment does not seek to prohibit the parking of recreational vehicles upon residential land, however seeks to introduce parameters with respect to the number and size of such vehicles to ensure that residential amenity enjoyed by neighbours isn't adversely affected.

It is recommended that the amendment be granted final approval without modification, endorsed and submitted to the Hon Minister for Planning and Infrastructure for final approval to be granted.

## BACKGROUND

**Suburb/Location:** All  
**Strategic Plan:** No relevant strategy within Strategic Plan

### Previous Council Decisions

The following resolution of 9 October 2001 Council meeting (CJ353-10/01 refers) triggered the review:

*“That a review be conducted in conjunction with the executive of the Joondalup Business Association of the definition for commercial vehicles in relation to the City of Joondalup District Planning Scheme No 2 with a further report being submitted to a future Council meeting”.*

The review examined the following:

- The number of commercial vehicles permitted on a residential property;
- The definition of commercial vehicle to ensure that small business operators (plumbers, electricians etc) are permitted to park utilities and vans at their place of residence;
- The need for additional commercial vehicle parking restrictions to be incorporated into DPS2; and
- The need, if any, for a provision or definition to capture vehicles that are considered commercial in size that are used for recreational purposes (for example a bus converted into a mobile home).

Council at its meeting on 18 February 2003 (CJ028 – 02/03 refers) considered the findings of the review and resolved that it;

- 1 NOTES the findings of the review as requested by Council's resolution at its meeting on 9 October 2001 (CJ353-10/01 refers);

- 2 DETERMINES that as a result of the review, any modification to Clause 4.15 and the definition of a ‘commercial vehicle’ under District Planning Scheme No 2 that seeks to capture and impose additional restrictions upon commercial vehicle parking, including the parking of recreational vehicles on residentially zoned land, is not considered appropriate;
- 3 DRAFTS an amendment to DPS2 to define recreational vehicles, provide parameters for assessment and allow the parking of normal-sized recreational vehicles as of right.

Council at its meeting on 24 June 2003 (CJ134 – 06/03 refers) resolved;

*1 In pursuance of Section 7 of the Town Planning and Development Act 1928, AMENDS the City of Joondalup’s District Planning Scheme No 2 by:*

*(a) Inserting the following clause after Clause 4.15 – Commercial Vehicle Parking;*

**CLAUSE 4.16 – RECREATIONAL VEHICLE PARKING**

*4.16.1 Parking of one (1) recreational vehicle in the Residential zone shall be permitted as of right and without the need for Council approval provided that the vehicle does not exceed 3 metres in height, 2.5 metres in width and 8 metres in length;*

*4.16.2 The Council may in writing approve a variation to Clause 4.16.1 provided the Council is satisfied in the circumstances that the variation will not adversely affect the amenity of the area surrounding the subject land. Surrounding landowners and occupants may be invited to comment on the proposed variation in accordance with the “D” use provisions contained within Clause 6.6.2;*

*4.16.3 In supporting a variation to Clause 4.16.1 Council shall impose the following in addition to any other requirements:*

- (i) The vehicle(s) shall be parked entirely on the subject lot and shall be located on a hard standing area behind the facade of the dwelling, or alternatively the vehicle being parked within a garage.*
- (ii) The vehicle(s) shall not be started or manoeuvred on site between the hours of 10.00 pm and 6.00 am.*

*4.16.4 Any approval of the Council granted under Clauses 4.16.2 and 4.16.3 is personal to the person to whom it is granted, is not capable of being transferred or assigned to any other person and does not run with the land in respect of which it is granted.*

*(b) Inserting the following definition into Schedule 1 (Clause 1.9) Interpretations after the term ‘recreation centre’:*

*Recreational Vehicle: means a vehicle, whether licensed or not, which is used, designed or modified for recreational use, mobile accommodation or similar purposes and without limiting the generality of the foregoing; includes any mobile home, caravan, campervan and any wheeled attachment to any of them which is rated by the manufacturer as being suitable to carry loads of not more than 1.5 tonnes. The term shall not include a vehicle designed for use as a passenger car, or a van, 4WD, utility or light truck that is rated by the manufacturer as being suitable to carry loads of not more than 1.5 tonnes. The term shall not include a boat, yacht or any other similar watercraft.*

- 2 *ADOPTS the amendment as suitable for the purpose of advertising for a period of 42 days.*

## **DETAILS**

The amendment does not seek to prohibit the parking of recreational vehicles upon residential land within the municipality, however seeks to introduce parameters with respect to the number and size of such vehicles to ensure that residential amenity enjoyed by neighbours in particular is not adversely affected by the parking of oversized recreational vehicles.

The proposed provisions (Clause 4.16 – Recreational Vehicle Parking) are to be inserted into Part 4 of the City’s DPS2, immediately following Clause 4.15 – Commercial Vehicle Parking (Attachment 1 refers). Additionally, the definition of a recreational vehicle is proposed to be inserted into Schedule 1 (Clause 1.9) – Interpretations, immediately following the definition of ‘recreation centre’ (Attachment 1 refers).

### **Statutory Provision:**

The Town Planning Regulations 1967 set out the procedure for amendments to a Town Planning Scheme. The procedure is summarized within Attachment 2 to this report.

Under provision 17(2) of the Regulations, Council shall consider all submissions received during the advertising period. After considering all submissions, the Council shall either resolve to not proceed with the amendment, or adopt the amendment with or without modifications, and submit three copies of the amendment document to the WAPC for recommendation to the Hon Minister for Planning and Infrastructure to grant final approval.

### **Consultation:**

The scheme amendment was advertised from 23 July to 3 September 2003. Advertising was in the form of advertisements placed in the West Australian (23 July 2003), the Joondalup Community Newspaper (24 July 2003) and the City’s web site.

Upon closure of the advertising period, three (3) submissions were received (refer attachment 3 – schedule of submissions). All three submissions received objected to the proposed amendment, citing the lawful right to park recreational vehicle(s) on their property, why the definition of a recreational vehicle does not include boats and comments suggesting that no problems arise by parking recreational vehicles upon residential property provided the vehicle is parked behind the building line.

Boats and other watercraft were not included in the definition of a recreational vehicle within the amendment because the City's interpretation of Council's resolution at its meeting on the 9 October 2001 (CJ353-10/01 refers), which ultimately triggered the review, related to the definition of commercial vehicles. The City's interpretation of a vehicle was therefore a wheeled machine that is driven on land, such as a car, bus, caravan etc.

## **COMMENT**

The parking of vehicles that are used for recreational purposes is an appropriate incidental landuse that can be hosted upon residentially zoned land. It is considered appropriate for a landowner to park a campervan, caravan or other similarly sized vehicle upon their property as of right. However, it is acknowledged that the parking of such vehicles should not unreasonably impact upon the streetscape, or upon adjoining landowners.

Extensive research was undertaken in the generation of these provisions. Research undertaken found that no other Western Australian local government town planning scheme contains such provisions, nor are such provisions provided for within the Western Australian Planning Commissions Model Scheme Text. The new provisions were therefore modelled on the City's existing DPS2 commercial vehicle provisions, modified to capture the issues contained within Council's resolution at its meeting on 18 February 2003.

The provisions provide for one (1) recreational vehicle to be parked as of right, on any lot in the Residential zone without the need for approval from the City provided that the vehicle does not exceed 3 metres in height, 2.5 metres in width and 8 metres in length.

If a person wishes to park more than one (1) recreational vehicle upon residentially zoned land, or if the vehicle(s) to be parked exceed the above size limitations for recreational vehicles, Council approval would be required. In its consideration, Council may impose requirements relating to the vehicle being parked entirely on the subject lot and being located on a hard standing area behind the façade of the dwelling, or alternatively the vehicle being parked within a garage, and the vehicle not being started or manoeuvred on site between the hours of 10.00 pm and 6.00 am.

It should be noted that the size parameters identified above were considered in light of the maximum length of a vehicle that can be towed without the need for a special permit to be issued by the Police Department.

## **ATTACHMENTS**

Attachment 1 – Proposed DPS2 recreational vehicle provisions and definition  
Attachment 2 - Scheme Amendment Procedure  
Attachment 3 - Schedule of Submissions

## **VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION:** That Council:

- 1 pursuant to Town Planning Regulations 17 (2) **ADOPTS** Amendment No 18 to the City of Joondalup District Planning Scheme No 2 without modification;
- 2 **AUTHORISES** the affixation of the Common Seal to, and endorses the signing of the amendment documents;
- 3 **NOTES** all submissions received during the advertising period;
- 4 **ADVISES** all persons who made submissions of Council's decision.

**MOVED Cr O'Brien, SECONDED Cr Hart** that Council:

- 1 **NOTES** that only three opposing submissions were received during the advertising period and no supporting submissions were received;
- 2 now having become aware, that the three submissions were only received on the last day, as the result of one of the persons making a submission being at the ground floor of the Administration Building becoming prompted, by reading the Council's Notice Board, inside the Building, while paying a rate notice and during that afternoon, then advising the other two persons, resulting in the other two also making their submissions, is now convinced, that the advertising method was most likely deficient;
- 3 having now also become aware, that the case that may have triggered the proposal for inclusion of "Recreational Vehicles" in the proposed amending text, may have been influenced following actions in a Joondalup Court proceeding relating to a dividing fence dispute;
- 4 **INSTRUCTS** Council's Administration to re-advertise seeking public comment for a period of 90 days, including in the advertisement, the full text of the proposed amendment, in a paper circulating throughout the State of Western Australia, in addition to the local paper;
- 5 **INSTRUCTS** the Council's Administration to write separately to as many of as possible of the Motor Camper, Caravan and Recreational Vehicle Clubs advising those Clubs of the text detail and seeking their comment;
- 6 **ADVISES** all persons who made submissions of Council's decision.

Discussion ensued.

**The Motion was Put and****LOST (5/8)**

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

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

- 1** pursuant to Town Planning Regulations 17 (2) **ADOPTS Amendment No 18 to the City of Joondalup District Planning Scheme No 2 without modification;**
- 2** **AUTHORISES the affixation of the Common Seal to, and endorses the signing of the amendment documents;**
- 3** **NOTES all submissions received during the advertising period;**
- 4** **ADVISES all persons who made submissions of Council’s decision.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (13/0)**

**In favour of the Motion:** Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O’Brien and Walker

*Appendix 7 refers*

*To access this attachment on electronic document, click here: [Attach7brf041103.pdf](#)*

**CJ259 - 11/03      REVIEW OF POLICY 3.1.3 – ALFRESCO DINING –  
[03360]**

**WARD - All**

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**PURPOSE**

The purpose of this report is for Council to consider amendments to Policy 3.1.3 ‘Alfresco Dining’ (Attachment 1 refers).

**EXECUTIVE SUMMARY**

Council adopted the City’s ‘Alfresco Dining Policy’ in July 1999. The policy has been successful from the point of view of providing guidance in regard to the requirements to operate and approve alfresco dining areas, which includes their location and regulation.

The policy operates in recognition of the need to accommodate alfresco dining areas as a key part to the fiscal success of most restaurant and café businesses. It also ensures that alfresco dining areas are properly managed to ensure safety of patrons and members of the public as well as contributing rather than detracting from the amenity of the street.

To improve the performance of the policy it is proposed to include guidelines that encourage the use of decorative features such as pot plants, chairs and tables to establish minimum standards when considering alfresco dining areas, delete clauses that are covered by the local law, modify the requirements for public liability insurance cover, simplify the planning approval requirements and improve safety and management of alfresco dining areas (Attachment 1 refers).

Due to the ever increasing number of eating houses pursuing alfresco dining options and emerging changes in insurance requirements, there is a need for a timely review of this policy.

As a result of Council's deliberations at the Briefing Session on 4 November 2003, it was considered appropriate to include additional policy provisions relating to demarcation/barrier fencing requirements.

It is recommended that the amendments to the policy as per Attachment 2 be adopted for the purpose of advertising.

## BACKGROUND

<b>Suburb/Location:</b>	All
<b>Applicant:</b>	City of Joondalup
<b>Owner:</b>	City of Joondalup
<b>Zoning:</b>	<b>DPS:</b> N/A
	<b>MRS:</b> N/A
<b>Strategic Plan:</b>	Lifestyle – Strategy 2.6 <i>Promote and enjoy lifestyles that engender Environmental, Social and Economic balance.</i>

The Alfresco Dining Policy was adopted by Council in July 1999 and lists the objectives of the policy.

The policy is an adaptation of a previous policy titled 'Alfresco Dining – Joondalup City Centre' adopted by the City of Wanneroo Council on 23 February 1994 in the early days of development in the Joondalup City Centre. The policy has not been reviewed since 1999 and needs to be reviewed to ensure that it is properly maintained and updated in keeping with current practices.

## DETAIL

The Alfresco Dining Policy provides guidance in the following way:

Sets out requirements to operate an alfresco area;

- Establishes guidelines for locating alfresco dining areas; and
- Establishes relevant approval requirements.

The policy is supported by the 'Trading in Public Places' local law adopted in 1999 which sets up regulatory standards associated with alfresco dining, this includes:

- License restrictions;
- License application;
- Requirements for outdoor dining license;
- Terms and validity of licenses;
- Cancellation of licenses; and
- Responsibility of licensee.

The Alfresco Dining Policy together with the ‘Trading in Public Places’ local law, are the tools used to assess applications and issue licenses for alfresco dining, respectively.

### **Current Proposal or Issue**

It is considered that overall the policy is performing satisfactorily, however the following amendments streamline the policy (Attachment 1). All of the amendments have been highlighted by being in bold typeface with those parts being deleted having a line through them:

- Delete clauses that are deemed ineffective or covered by the local laws relating to alfresco dining;
- Introduce standards that ensure alfresco dining areas improve the amenity of adjoining properties and the street in general by encouraging the use of decorative pot plants, chairs and tables of an appropriate style;
- Modify the requirements for public liability insurance cover;
- Group the planning approval requirements under one heading;
- Ensure that thoroughfares remain clear;
- All furniture is removed outside of operating hours, which will improve the safety and management of alfresco dining areas, and
- Requirements relating to demarcation/barriers.

### **Statutory Implications**

Clause 8.11 of District Planning Scheme No 2 (DPS2) outlines the provisions with respect to the preparation of planning policies and amendments.

Having prepared the policy, Council is required to advertise it by way of a notice published once a week for two consecutive weeks in a local newspaper giving notice where the draft policy may be inspected. The specified period for advertising should be not less than twenty one (21) days.

### **COMMENT**

The review of the Alfresco Dining Policy ensures alfresco dining areas make a contribution not only to public life and commerce but also improve the amenity of the surrounding built area.

The amendments address the presentation of alfresco dining areas ensuring that such areas are presented in a way that enhances the amenity of the adjoining properties, delete clauses that are covered by the local laws and modifies the requirements for public liability insurance cover. These amendments ensure that the policy is streamlined and updated to accord with current practices.

Other amendments propose to group planning requirements under one heading to simplify the policy, while the inclusion of standards ensuring that thoroughfares remain clear and all furniture is removed outside of operating hours will improve safety and management of alfresco dining areas.

As a result of Council's deliberations at the Briefing Session on 4 November 2003, it was considered appropriate to include additional policy provisions relating to demarcation/barrier fencing requirements. The additional policy provisions are shown in Attachment 2 under the 'statements' section of the revised policy.

In view of the above it is recommended that the amendments to the policy be adopted for the purpose of advertising.

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cr Baker, SECONDED Cr Kimber that Council in accordance with clause 8.11 of the City of Joondalup's District Planning Scheme No 2 ADOPTS the amended policy 'Alfresco Dining' as per Attachment 2 to Report CJ259-11/03 as a draft policy for advertising for a period of 21 days for public comment.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (13/0)**

**In favour of the Motion:** Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien and Walker

*Appendices 8 and 8(a) refer*

To access this attachment on electronic document, click here: [Attach8agn111103.pdf](#)  
[Attach8aagn111103.pdf](#)

**CJ260 - 11/03      REQUEST FOR CANCELLATION OF A PORTION  
OF HAWICK PARK ON RESERVE 35519 (2)  
HAWKER AVENUE, WARWICK – [44237]**

**WARD - South**

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## PURPOSE

The purpose of this report is for Council to consider a request for the cancellation of a portion of Hawick Park, Warwick to allow separate additional vehicle access to the adjoining lot (Lot 591 (4) Hawker Avenue) (Attachment 1 refers). The proposal was deferred by Council at its meeting on 14 March 2000 pending the implementation of a policy that would permit a more detailed assessment of the proposal.

## EXECUTIVE SUMMARY

In August 1999, a request was received from the owner of Lot 591 (4) Hawker Avenue, Warwick for the cancellation and subsequent purchase of a 53.3m<sup>2</sup> portion of Reserve 35519 that adjoins the property (Attachment 1 refers). The additional land would enable further development (additional dwelling) and a separate street access to Springvale Drive.

Reserve 35519 (Hawick Park) was given up by the developer at the time of subdivision and reserved for public recreation. The City of Joondalup manages the reserve and together with Reserve 38113 forms part of a linear link of public open space (Attachment 1 refers).

Council considered the proposal at its meeting on 14 March 2000 and resolved to defer making a decision pending the implementation of a policy that would allow for a more detailed assessment of the proposal.

A draft 'Preservation of Public Reserves Policy' was prepared and considered by Council at its meeting on 27 November 2001 and was adopted for public consultation purposes. The policy aimed to ensure that public reserves are protected and maintained. Due to community concerns at the time relating to reserves being re-developed for residential purposes, which was not the objective of the policy, it was not proceeded with.

The Department of Land Information (DLI) has prepared a set of guidelines to be used by Local Authorities to assist in the assessment of public reserve closures. The guidelines state in general that reserves given up by the developer at the time of subdivision are required to be retained for their designated purposes. The proposal in this case results in a portion of the reserve being used for a purpose that is contrary to the purpose of the reserve (i.e. it being used for redevelopment purposes). It is therefore considered that the proposal would not be in the best interests of orderly and proper planning and would set an undesirable precedent. Accordingly, it is recommended that the proposal not be supported.

## BACKGROUND

<b>Suburb/Location:</b>	Reserve 35519 (2) Hawker Avenue, Warwick
<b>Applicant:</b>	Mr D Cummuskey
<b>Owner:</b>	City of Joondalup
<b>Zoning:</b>	<b>DPS:</b> Parks and Recreation
	<b>MRS:</b> Urban
<b>Strategic Plan:</b>	No Relevant objectives/strategies

The owner of Lot 591 (4) Hawker Avenue, Warwick seeks the cancellation and subsequent purchase of a 53.3m<sup>2</sup> portion of Reserve 35519 (2) Hawker Avenue that adjoins his property (Attachment 1 refers). The request was based on the applicant's intention to increase the land area to provide for the development of an additional dwelling. The portion of land in question would also provide access to the proposed new dwelling from Springvale Drive, Warwick.

Reserve 35519 was ceded by the developer when the land was subdivided and set aside under section 20A of the Town Planning and Development Act 1928 as a reserve for public recreation. The reserve is set aside for public recreation with a Management Order issued in favour of the City of Joondalup and together with Reserve 38113 forms part of a linear link of public open space known as Hawick Park.

Council at its meeting on 14 March 2000 (CJ053-03/00 refers) considered the proposal and resolved to defer making a decision pending the implementation of a policy that would allow for a more detailed assessment of the proposal.

The landowner has been contacted to discuss the current position of the proposal. In spite of the time that has passed the landowner wishes for the City to proceed with the proposal.

## **DETAILS**

### **Reserve Closure Process**

A request can be made to close a portion of recreational reserve for amalgamation with an adjoining property. The DLI Section 20A guidelines detail the procedures required to be undertaken when considering a request to close a portion of a Section 20A reserve.

The service authorities are asked to provide details of any service plant that may be within the road reserve that would be affected by the proposed closure and if it can be modified or removed to accommodate the request. All costs and conditions associated with service plant modification are to be met by the applicant if closure is the outcome.

The proposal is also forwarded to the Department for Planning and Infrastructure (DPI) for comment. If the service authorities and the DPI do not raise any objections that prevent the proposal from advancing, and the applicants have agreed to meet all associated costs and conditions, then the application can be advertised for public comment.

If Council supports a request to close a portion of a section 20A reserve, all relevant documentation is forwarded to DLI with a request to formally close the portion of the reserve. The Minister for Planning and Infrastructure makes the final decision on whether or not closure takes place.

### **Current Proposal or Issue**

The applicant is seeking to purchase a 53.3m<sup>2</sup> portion of land on the southern boundary of Reserve 35519. The applicant has made a number of preliminary investigations and has been in contact with the Water Corporation and DLI. The Water Corporation has advised that there is a sewer main traversing the Reserve 35519 and have indicated that providing a building easement is granted, there are no objections to the proposal.

### **Statutory Provision**

Under Section 51 of the Land Administration Act 1997, the Minister for Lands may, by order, cancel, change the purpose of, or amend the boundaries of a reserve.

The procedures that ensure proper consideration has been undertaken in the assessment of any closure request for a section 20A reserve is not defined in the Transfer of Land Act, instead it is considered through guidelines prepared by DLI titled 'Guidelines for the Administration of Section 20A 'Public Recreation' Reserves.

Cancellation of a reserve is required to be advertised for public comment by way of a notice in a local newspaper and appropriate signage on site. Any objections received during the advertising period are to be considered by Council and if the closure is supported, all associated submissions are to be forwarded to the DLI. DLI also requires other supporting documentation to be provided such as confirmation that the DPI has not objected to the proposal.

DLI determines the purchase price to apply, arranges any easements and survey requirements and undertakes conveyancing. The purchase price is fixed by DLI in consultation with the Valuer General and is usually the unimproved market value of the land.

### **Consultation**

Comments were sought from the service authorities and the DPI. Alinta Gas, Telstra and Western Power have responded and have no objection to the proposal as they do not have any service plant within this section of the Reserve.

The Water Corporation's comments reiterated the advice given to the applicant previously.

The DPI has advised that it does not support the application, as the purchase of a portion of the Reserve would result in an undesirable boundary configuration.

### **Policy Implications**

At the time Council considered the proposal to cancel a portion of Hawick Park, there was no policy in place with any set guiding principles that would assist the assessment of reserve closures. As a result, Council at its meeting on 14 March 2000 resolved to defer the proposal subject to the preparation of a policy to deal with these matters.

A draft 'Preservation of Public Reserves Policy' was prepared and considered by Council at its meeting on 27 November 2001 and was adopted for public consultation purposes. The policy aimed to ensure that public reserves are protected and maintained. The policy applied to all public reserves in the City except pedestrian accessways, which have a separate defined policy.

At the time the policy was advertised the community concerns related to reserves being re-developed for residential purposes. This was not the objective of the policy, and for this reason adoption of the policy was not proceeded with. This matter is to be re-visited in the future.

### **COMMENT**

To approve the cancellation and purchase of a portion of Hawick Reserve without a policy in place to guide the assessment of the community impacts of the proposal is not considered desirable. Despite this, it is possible to consider the proposal against the DLI guidelines and provide a recommendation on the matter.

DLI's Section 20A guidelines state that a reserve created under Section 20A is required to be retained for its designated purpose. DLI will consider amending/cancelling/disposing of a reserve when it can be demonstrated that this action will have minimal impact on the vicinity.

The proposal will result in a portion of the reserve being used for a purpose contrary to that for which the reserve was created, therefore it is considered that the proposal would not be in the best interests of orderly and proper planning and would set an undesirable precedent. In addition the DLI also requires the DPI's support prior to proceeding with the proposal, in this case DPI's support is not forthcoming. Accordingly, it is recommended that the proposal not be supported.

## ATTACHMENTS

Attachment 1            Proposed Area of Reserve 35519

## VOTING REQUIREMENTS

Simple Majority

### **MOVED Cr Hart, SECONDED Cr Kimber that Council:**

**1        DOES NOT SUPPORT the cancellation and subsequent purchase of a 53.3m<sup>2</sup> portion of Hawick Park on Reserve 35519 (2) Hawker Avenue, Warwick for the following reasons:**

- (a)     loss of public open space is not considered to be in the interests of orderly and proper planning;**
- (b)     the ad hoc disposal of reserve land for private development would set an undesirable precedent;**
- (c)     the proposal is not in the best interest and will not benefit the local community;**

**2        ADVISES the landowner of Lot 591 (4) Hawker Avenue, Warwick of Council's decision.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (13/0)**

**In favour of the Motion:** Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien and Walker

*Appendix 9 refers*

*To access this attachment on electronic document, click here: [Attach9brf041103.pdf](#)*

**CJ261 - 11/03      PROVISION OF LIGHTING TO PEDESTRIAN  
ACCESSWAY BETWEEN DERICOTE WAY AND  
THE GREENWOOD VILLAGE SHOPPING CENTRE,  
GREENWOOD – [47409]**

**WARD** - South

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**PURPOSE**

Council is requested to consider expenditure of funds from the 2003/2004 capital works budget to install lighting within the existing pedestrian accessway (PAW) between Dericote Way and the Greenwood Village shopping centre, Greenwood (Refer Attachment 1 – Site Plan).

**EXECUTIVE SUMMARY**

Council at its meeting on 23 May 2000 (CJ128-05/00 refers) resolved to support an application to close the PAW. Council reaffirmed its support of the closure at its meeting on 28 November 2000 (CJ353 - 11/00 refers).

Notwithstanding Council's support, it is necessary that the Department for Planning and Infrastructure (DPI) also supports the closure of pedestrian accessways (PAWs). In this instance closure was not supported by the DPI. The DPI was requested to reconsider its decision, whereby the Commission at its meeting on 19 February 2002 resolved to object to the PAW closure for the following reasons;

- It impacts on convenient access to the Greenwood Village shopping centre;
- It impacts on access to public transport; and
- Alternative routes do not provide suitable or direct access.

The DPI, however, did suggest that alternative treatments be considered to address any adverse impacts upon adjoining landowners, such as ongoing maintenance, security patrols, improved lighting, improvements to the existing fencing, upgrading the landscaping to the backs of fencing facing the shopping centre carpark, the redevelopment of residential lots adjacent to the PAW, potential community ownership programs and the installation of signage advising pedestrians that they are entering a residential neighbourhood.

As a result of the DPI's suggestions, the City has subsequently undertaken increased security patrols and maintenance of the PAW. It is anticipated that these measures may assist in deterring antisocial behaviour. Adjoining residents have agreed to support the City's proposal to install lighting within the PAW.

It is therefore recommended that funds from the 2003/2004 capital works budget be expended to install lighting within the existing PAW.

## BACKGROUND

**Suburb/Location:** Greenwood  
**Applicant:** N/A  
**Owner:** Crown  
**Zoning:** **DPS:** N/A  
**MRS:** N/A  
**Strategic Plan:** No relevant strategy in Strategic Plan

### Previous Council Resolutions

Council at its meeting on 23 May 2000 (CJ128-05/00 refers) resolved the following;

*That Council:*

*SUPPORTS the application to close the pedestrian accessway between Dericote Way and Greenwood Village Shopping Centre, Greenwood for the following reasons:*

- *nuisance element to local residents;*
- *anti-social behaviour; and*
- *anti-social activities occurring in and around this area.*

Council at its meeting on 28 November 2000 (CJ353 - 11/00 refers) resolved the following;

*That Council:*

*1 REAFFIRMS its decision of 23rd May 2000 (CJ128-05/00 refers) to support the closure of the pedestrian accessway between Dericote Way and Greenwood Village Shopping Centre, Greenwood for the following reasons:*

- *the conditions next to the pedestrian accessway and back of the shopping centre have not changed;*
- *conditions will deteriorate with the future expansion of the shopping centre due to commence early 2001;*
- *attract anti-social behaviour; and*
- *elderly residents in the area support the closure.*

*2 ADVISES the Hon Minister for Lands of its decision and that it has examined the pedestrian access from Dericote Way to the shopping centre and believes that no further upgrade to that access is necessary;*

*3 REQUESTS the Hon Minister for Lands reconsiders his decision in light of the above resolution.*

## DETAILS

The City has undertaken ongoing maintenance and increased security patrols as suggested by the DPI. The DPI also suggested the following:

- Improvements to the existing fencing - this is at the landowners discretion and cost;
- Upgrading the landscaping to the backs of fencing facing the shopping centre carpark - this is not considered desirable as it will be located upon the shopping centre landowners land for which their approval will be required and once overgrown, will obstruct sightlines and impact upon passive surveillance of the area;
- The redevelopment of residential lots adjacent to the PAW - this is not supported as the DPI's suggestion relates to the conversion of the PAW into an under width road, reorientation of dwellings and increased housing density which may be construed by the general public as being sympathetic to elements proposed under the Precinct Action Planning process which Council has resolved to abandon;
- Potential community ownership programs - this could be investigated further but it would be a significant project and to date there is no evidence of success of such a programme;
- The installment of signage advising pedestrians that they are entering a residential neighbourhood – this is considered unlikely to greatly impact upon the reduction of antisocial behaviour; and
- Improved lighting - lighting of the PAW is expected to greatly assist in the minimisation of antisocial behaviour that is reported to occur within the PAW (Refer Attachment 2 – Photographs of PAW).

At this stage, an overhead form of lighting is proposed to be provided which is similar to other PAW lighting within the City such as the PAW in Cordova Court to Cox Place, Craigie (Refer Attachment 3).

The estimated cost of the lighting installation is \$6000 and comprises of two 5.5 metre poles with 42 watt compact fluorescent lamps that have specially modified luminaries to reduce the illumination spread to within the width of the PAW. There is some reflection of illumination into adjoining properties but past surveys of residents adjacent to these installations report that it is not an issue, with the majority reporting increased property safety as a result of the installation.

Funds are available within Project No 6571 Public Access Way Lighting (STL1004) - Installation of lighting, at 2 locations within the City based on recommendations of Council to illuminate the PAW. Installation is expected to take approximately 3-4 months, particularly as Western Power needs to install an unmetered power supply.

### **Consultation:**

Both adjoining landowners have agreed to support the City's proposal to install lighting within the PAW.

### **COMMENT**

Whilst PAW closure was previously sought by Council, the DPI, as the approval authority for such PAW closures, has subsequently resolved not to support its closure. The City has undertaken increased security patrols and maintenance of the PAW in order to assist in deterring antisocial problems experienced by adjoining landowners of the PAW.

Lighting of the PAW is expected to assist in the minimisation of antisocial behaviour that is reported to occur within the PAW, and the installation has the support of both adjoining landowners.

## ATTACHMENTS

Attachment 1	Site Plan
Attachment 2	Photographs of PAW
Attachment 3	Photograph of PAW lighting in Cordova Court to Cox Place, Craigie

## VOTING REQUIREMENTS

Simple Majority

### **MOVED Cr Hart, SECONDED Cr O'Brien that Council:**

- 1 APPROVES the expenditure of funds from the 2003/2004 capital works budget under Project No 6571 Public Access Way Lighting (STL1004) to install lighting within the pedestrian accessway between Dericote Way and the Greenwood Village shopping Centre, Greenwood;**
- 2 CONTINUES undertaking security patrols, together with regular maintenance of the pedestrian accessway between Dericote Way and the Greenwood Village shopping Centre, Greenwood;**
- 3 ADVISES landowners adjoining the PAW of Council's decision accordingly.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (13/0)**

**In favour of the Motion:** Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien and Walker

*Appendix 10 refers*

*To access this attachment on electronic document, click here: [Attach10brf041103.pdf](#)*

*Cr Hollywood declared a financial interest in Item CJ262-11/03 – Delegated Authority Report for the month of September 2003 (DA03/0469 – Grouped Dwelling, 7 Burns Place, Burns Beach and DA03/0657 – Single House, 16 Vaocluse Place, Kallaroo) as he is the builder for the applicants.*

*Cr Hollywood left the Chamber at this point, the time being 0056 hrs.*

**CJ262 - 11/03 DELEGATED AUTHORITY REPORT FOR THE MONTH OF SEPTEMBER 2003 – [07032]****WARD - All****PURPOSE**

To submit items of Delegated Authority to Council for noting.

**EXECUTIVE SUMMARY**

This report provides a resumé of the Development Applications processed by Delegated Authority for September 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>
September 2003	62	8,852,953

**ATTACHMENTS**

Attachment 1 Development Approvals processed

**VOTING REQUIREMENTS**

Simple Majority

**MOVED Cr Gollant, SECONDED Cr Walker that Council NOTES the determinations made under Delegated Authority in relation to the applications described in Report CJ262-11/03.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (12/0)**

**In favour of the Motion:** Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien and Walker

*Appendix 11 refers*

*To access this attachment on electronic document, click here: [Attach11brf041103.pdf](#)*

*Cr Hollywood entered the Chamber at this point, the time being 0057 hrs.*

## **CJ263 - 11/03      SUBDIVISION REFERRALS PROCESSED 1 - 30 SEPTEMBER 2003 – [05961]**

**WARD** - South, North Coastal, South Coastal, Whitfords

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### **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 September 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 3 additional residential lot and 2 strata residential lots. The average processing time taken was 19 days.

One application was deferred.

### **Ref: SU123030 – 499 Burns Beach Road, Iluka**

This application was deferred pending the provision of drainage details and whether this will impact the proposed Public Open Space, and the provision of a Public Open Space schedule for the land area bounded by the Iluka Structure Plan.

### **ATTACHMENTS**

Attachment 1              Schedule of Subdivision Referrals

### **VOTING REQUIREMENTS**

Simple Majority

**MOVED Cr Walker, SECONDED Cr Hart that Council NOTES the action taken by the subdivision control unit in relation to the application described in Report CJ263-11/03.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (13/0)**

**In favour of the Motion:** Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien and Walker

*Appendix 12 refers*

*To access this attachment on electronic document, click here: [Attach12brf041103.pdf](#)*

*Cr Gollant left the Chamber at this point, the time being 0057 hrs.*

**CJ264 - 11/03      PROPOSED                      INSTALLATION                      OF                      A  
TELECOMMUNICATION FACILITY – LOT 715 (110)  
FLINDERS AVENUE, HILLARYS – [04412]**

**WARD** - Whitfords

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## **PURPOSE**

The purpose of this report is to alert Council to the notification received by the City from Hutchison Telecoms for the placement of a low impact telecommunication facility on the rooftop of the Flinders Shopping Centre.

## **EXECUTIVE SUMMARY**

The Flinders Shopping Centre is currently under construction. The centre has access from Flinders Avenue and Waterford Drive and abuts residential properties to the south and west boundaries, with residential properties also located adjacent to the centre (See Attachment 1 – location plan).

On 3 October 2003, the City received a letter of notification from Hutchison Telecoms for the installation of a low impact telecommunication facility on the roof of the shopping centre.

The City sent a response to Hutchison Telecoms on 13 October 2003 outlining the City's objection to the proposed telecommunications installation on the subject lot. On 15 October 2003, the City received a further letter from Hutchison Telecoms outlining that a consultation plan in accordance with an Industry Code for the Development of Radio communications Infrastructure had been prepared enabling the following to make comment on the proposal:

- a) site owner;
- b) City of Joondalup;
- c) occupiers of the subject land; and
- d) any other identified parties, this includes the adjacent and abutting residential property owners.

Comments on the proposal are to be submitted to Hutchison Telecoms prior to 13 November 2003.

It is recommended that the City reiterate its strong objection to the installation of the telecommunications facility.

## **BACKGROUND**

**Suburb/Location:** Lot 715 (110) Flinders Avenue, Hillarys  
**Applicant:** Hutchison Telecoms  
**Owner:** Shawn Pty Ltd, Clifford Stagg, David Stagg, Nola Stagg, Rae Stagg, Carolyn Timms and Lewis Timms.

**Zoning:**       **DPS:** Commercial  
                  **MRS:** Urban

The site is located at the corner of Flinders Avenue and Waterford Drive, Hillarys. The site abuts residential properties on all boundaries. The centre, which is under construction, is relatively high in comparison to the surrounding residential properties and has attracted a number of concerns from local residents, who have lodged objections to the City in relation to the loss of ocean views.

## **DETAILS**

The proposal includes the installation of telecommunications facilities on the roof of the Flinders Shopping Centre.

The proposal includes the installation of 2 panel antennas on the roof of the building, one 600mm (diameter) dish on the roof and one shelter of 3m x 2.5m located on the lower roof (See Attachment 2)..The antennae and shed have an approximate height of 2 metres respectively. All facilities are to be in a colour that matches the background.

### **Statutory Provision:**

In accordance with the Telecommunications (Low-Impact Facilities) Determination 1997, a telecommunication provider is able to install a “Low Impact Facility” without the requirement to obtain an approval from either the landowner or the local authority. The only obligation for the provider is to provide a notification to the involved parties.

The relatively new Industry Code for Development of Radiocommunications Infrastructure (ICDRI) requires the proponent to more actively involve the community in proposed installations through a community consultation plan. However, the ICDRI does not remove any of the rights of a telecommunications carrier to install low impact facilities.

The City has already sent a letter of objection to Hutchison Telecoms in regard to the current proposal.

Notwithstanding the above, the City raises a number of concerns in relation to the proposed facilities, which include the following:

#### Additional height and bulk to the shopping centre

The Centre currently has a bulky appearance and is relatively high in comparison to the surrounding residential properties. Since the approval of the centre, the surrounding landowners have lodged various objections relating to the bulk, size and loss of ocean views. These concerns have been compounded by the installation of large air conditioning units on the centre’s roof top.

The City considers that the further addition of the telecommunication facilities on the centre will further contribute to the bulkiness of the centre, especially the proposed equipments shed on the western portion of the building – fronting residential properties.

### Close proximity to residential properties

The shopping centre abuts residential properties on all boundaries and adjacent to the centre. Of particular concern is the location of residential lots west of the shopping centre, which is only separated by a 5 metre wide vehicle access leg. The proposed antennae would be approximately 10 metres away for the abutting residential lots.

The City considers that the installation of the telecommunication facilities in such close proximity to residential lots may have the potential to negatively impact on the occupants of those lots. The impacts include the negative visual impact of the facilities. Adjoining residents may also be concerned in regard to the potential for the impact of electromagnetic energy.

### Objections from local residents

To date the City has received one formal written objection from a local resident (See Attachment 3). However, a number of phone calls has been received from local residents expressing their objection to the proposal. In addition, the City has been verbally notified that a petition is being assembled by local residents in opposition to the proposal.

### **Consultation:**

The City has not undertaken public consultation in relation to the notification to install telecommunication facilities on the subject lot. Under the requirements of the Industry Codes, this is the responsibility of the proponent. It should be noted that Hutchison Telecoms has undertaken a mail out to the adjacent and abutting property owners, informing them of the proposed installation.

### **Conclusion**

Given the existing height/bulk of the centre and the close proximity to residential lots, it is considered that the City should reiterate its strong objection to the telecommunications facilities. In addition, the City should refer any petitions received to Hutchison Telecoms to enable the community objections to the facility to be received by the provider.

### **ATTACHMENTS**

Attachment 1	Location Plan & Aerial View
Attachment 2	Development Plan
Attachment 3	Objection

### **VOTING REQUIREMENTS**

Simple Majority

**MOVED Cr Walker, SECONDED Cr Caiacob that:**

- 1 Council REITERATES its strong objection to Hutchison Telecoms for the proposed installation of a low impact facility at the Flinders Shopping Centre at Lot 715 (110) Flinders Avenue, Hillarys, for the following reasons:**
  - (a) concern is raised in relation to the location of the proposed facilities in close proximity to residential properties;**
  - (b) concern is raised in relation to the potential impact the facilities may have on the surrounding residential properties in relation to the transmission of electromagnetic energy;**
  - (c) the appearance of the telecommunication facilities will have a negative impact on the appearance of the building;**
- 2 ANY petitions received by the City from local residents, be forwarded to Hutchison Telecoms.**

**AMENDMENT MOVED Cr Mackintosh, SECONDED Cr Caiacob that an additional Point 3 be added to the Motion as follows:**

- “3 Council ADVISES the Federal Government of Local Government's frustration at present policy which prohibits Local Government's ability to make decisions at a local community level with regard to these towers.”**

**The Amendment was Put and****CARRIED UNANIMOUSLY (12/0)**

**In favour of the Amendment:** Mayor Carlos, Crs Baker, Brewer, Caiacob, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien and Walker

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

- 1 Council REITERATES its strong objection to Hutchison Telecoms for the proposed installation of a low impact facility at the Flinders Shopping Centre at Lot 715 (110) Flinders Avenue, Hillarys, for the following reasons:**
  - (a) concern is raised in relation to the location of the proposed facilities in close proximity to residential properties;**
  - (b) concern is raised in relation to the potential impact the facilities may have on the surrounding residential properties in relation to the transmission of electromagnetic energy;**
  - (c) the appearance of the telecommunication facilities will have a negative impact on the appearance of the building;**

- 2 ANY petitions received by the City from local residents, be forwarded to Hutchison Telecoms;**
- 3 Council ADVISES the Federal Government of Local Government's frustration at present policy which prohibits Local Government's ability to make decisions at a local community level with regard to these towers.**

**was Put and**

**CARRIED UNANIMOUSLY (12/0)**

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

*Appendix 14 refers*

*To access this attachment on electronic document, click here: [Attach14brf041103.pdf](#)*

## **CJ265 - 11/03 SENIORS MASTER PLAN – [55511]**

**WARD - All**

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### **PURPOSE**

To submit the Seniors Master Plan, “Leisure and Social Activity Needs,” to Council for endorsement, taking in to consideration feedback from the Seniors Interest Advisory Committee.

### **EXECUTIVE SUMMARY**

The Seniors Master plan – Leisure and Social Activity Needs was commissioned in 2001, to inform Council of the social and recreation needs of seniors within the City of Joondalup (Attachment 1 refers).

Jill Powell and Associates were engaged to undertake the project. The study demonstrated that the characteristics of the City’s population would change over time and that leisure patterns will change as well.

The Report was forwarded to the Council for consideration on the 25 September 2001. At that time Council resolved to defer further consideration of the Seniors Master Plan, in order to refer it to the Seniors Interest Advisory Committee for comment. As a result of feedback from the Seniors Interest Advisory Committee a follow up survey was undertaken in June 2002 to test the initial findings of the study. This further survey consultation broadened the process as well as confirming the February 2001, findings.

From the study, various recommendations were put forward by Jill Powell and Associates and formulated into an Action Plan.

The Seniors Interest Advisory Committee has discussed the recommendations and has suggested some changes.

## **BACKGROUND**

In February 2001, the City of Joondalup completed a study that addressed the Social and Recreation Needs of seniors within the City of Joondalup.

The study focused on four main avenues of enquiry, these being:

- Social Profile
- Community Consultation
- Facility Inventory and Assessment
- Issue Identification

An extensive consultation process was undertaken in order to gain an understanding of the senior communities needs as individuals and as organised groups.

Methods used included surveys to leisure and community centres, all retirement villages and hostels, clubs and associations, a shopping centre survey and an advertisement in the local paper calling for submissions. Information gained from the consultation has provided an insight into what seniors currently do, where they do it and what they would like to do.

The Report was forwarded to the Council for consideration on the 25 September 2001. At that time Council resolved to defer further consideration of the Seniors Master Plan, in order to refer it to the Seniors Interest Advisory Committee for comment. As a result of feedback from the Seniors Interest Advisory Committee a follow up survey was undertaken in June 2002 to:

- (a) test the initial findings of the study and
- (b) broaden the groups consulted (some groups were missed in the original study).

This survey confirmed the February 2001 findings.

## **DETAILS**

The Seniors Interest Advisory Committee were given the Seniors Master Plan to provide comment on the many recommendations put forward by the consultant. These recommendations have also been placed in an action plan with allocated time frames and resources.

As there has been a lapse in time since the study, the action plan requires an update of allocated time and resources. This will occur once the recommendations have been finalized.

The Seniors Interest Advisory Committee discussed the consultant's recommendations and has made the following comments. It is important to note that the committee have suggested some changes to some recommendations, which are not reflected in the research undertaken by the consultant.

### ***Consultant Recommendation***

- 1*** *That a Seniors Leisure Policy be developed which clearly states the Councils position in its provision of recreation and sport facilities and services for its senior community.*

**Committee Recommendation**

The Committee agreed with this recommendation and believed it should remain unchanged.

***Consultant Recommendation***

- 2 *That a Fees and Charges Policy be developed which clearly states the Councils position in its provision of Sport and Recreation facilities and services and specifically addresses the following:*

- ❖ *Depreciation requirements*
- ❖ *Maintenance costs and responsibilities*
- ❖ *Desired cost recovery*
- ❖ *Utilisation*
- ❖ *Capacity to pay*
- ❖ *Overheads*

**Committee Recommendation**

It is acknowledged that the City has a pricing policy for groups but that the policy is not clear with regards to leisure centres and discounts to individuals. The Committee requested that a draft policy be developed and forwarded to the Seniors Interests Advisory Committee for agreement before being considered by Council.

***Consultant Recommendation***

- 3 *That the hairdressing service currently provided for at the City's senior facilities be advertised as a commercial tender.*

**Committee Recommendation**

The Committee suggested the recommendation read:

THAT the hairdressing service currently provided for at the City's senior facilities be investigated and formalized.

***Consultant Recommendation***

- 4 *That an Acoustic Analysis be undertaken of those City facilities that are considered to have the ability to be used by multiple groups and activities and an appropriate action be determined.*

**Committee Recommendation**

The Committee agreed with this recommendation and believed it should remain unchanged.

***Consultant Recommendation***

- 5 *That a review of the existing storage be undertaken that considers, not only the overall size but also the management and alternative arrangement of separate secure areas within the storage area (by the use of internal divisions, wire cages or additional shelving).*

**Committee Recommendation**

The Committee agreed with this recommendation and believed it should remain unchanged.

***Consultant Recommendation***

- 6 *That it be acknowledged that there are no identified “gaps” in community building’s provision to cater for the existing and projected population.*

**Committee Recommendation**

That it be acknowledged that there are identifiable “gaps” in community building’s provision to cater for the existing and projected population.

The Committee believed that this statement was untrue of existing circumstances in the community and that the report had failed to identify any gaps in the provision of facilities.

***Consultant Recommendation***

- 7 *That the Preliminary Need Assessment Criteria contained in Section 8.3.4 be adopted as the basis against which all requests for Council assistance in the development or redevelopment of facilities are determined prior to progressing to the formal assessment process contained within the “Application for Financial Support For The Construction or Upgrade of Community Facilities”.*

**Committee Recommendation**

The Committee agreed with this recommendation and believed it should remain unchanged

***Consultant Recommendation***

- 8 *That additional passive recreation facilities be developed in the form of multi-use paths, seating and picnic facilities around the City to cater for the potential increase in population.*

**Committee Recommendation**

The Committee agreed with this recommendation and believed it should remain unchanged

**Consultant Recommendation**

- 9 *That the City undertakes a review of the Whitford Community bus utilisation and management to determine an appropriate standard of access for the older community.*
- 10 *That as part of this review the type of bus be examined to ensure it has capacity to carry all equipment needs including wheelchairs.*

**Committee Recommendation**

Points 9 and 10 should be combined.

**Consultant Recommendation**

- 11 *That the City incorporates the principles for Universal Design in its development and review of its **Precinct plans** to ensure that communities are designed and developed with the specific needs of seniors being considered.*

**Committee Recommendation**

That the City incorporates the principles for Universal Design in its development and review of its **plans** to ensure that communities are designed and developed with the specific needs of seniors being considered.

**Consultant Recommendation**

12. *That the City addresses current procedures and systems within its provision of HACCC services and facilities to identify and remove any barriers to participation for seniors within the community.*

**Committee Recommendation**

The Committee believed that item 12 should be removed as Community Vision and not the City of Joondalup now provide the service.

**Consultant Recommendation**

- 13 *That the City amends its current consultation processes to ensure that seniors are consulted, as a generic group, in each project.*

**Committee Recommendation**

The Committee agreed with this recommendation and believed it should remain unchanged.

**Consultant's Recommendation**

- 14 *That the City develop a partnership with Volunteering WA with the aim of coordinating and facilitating the volunteer resources within the City for a range of projects and programmes.*

**Committee Recommendation**

The Committee agreed with this recommendation and believed it should remain unchanged.

***Consultant Recommendation***

- 15** *That the findings of this study be made available to all recreation activity leaders within the City to assist the creation of a variety of programmes are created and not limited to the traditional programmes of “bingo and bowls”*

**Committee Recommendation**

The Committee agreed with this recommendation and believed it should remain unchanged.

***Consultant’s Recommendation***

- 16** *That the Senior Citizens Master Plan, Leisure and Social Activity Needs Report and its action plans be adopted.*

**Committee Recommendation**

The Committee agreed with this recommendation and believed it should remain unchanged.

***Consultant Recommendation***

- 17** *That the Senior Citizens Master Plan, Leisure and Social Activity Needs be reviewed internally every three years to ensure that it retains currency.*

**Committee Recommendation**

The Committee agreed with this recommendation and believed it should remain unchanged.

**POLICY IMPLICATIONS**

Recommendations from the Seniors Master Plan will impact on the following Council policies;

- 2.4.3 Setting Fees and Charges
- 4.3.2 Management of Community Facilities

**FINANCIAL IMPLICATIONS**

Account No:	11 40 44 450 F360
Budget Amount:	\$17 300
YTD Amount:	\$ 1 000

## STRATEGIC IMPLICATIONS

The City's strategic plan includes the goal to provide social opportunities that meet community needs. The objective to achieve this is to continue to provide services that meet the changing needs of a diverse and growing community, with the strategy to provide quality-of-life opportunities for all community members. A priority for 2003/04 includes implementing the recommendations from the Seniors Master Plan.

## COMMENT

It is important to note that the recommendations from the Consultant have been based on the research undertaken in the study. These findings reflect the "leisure and social activity needs of seniors within the City of Joondalup".

The officers feel that all comments by the Seniors Interest Advisory Committee should be accepted, apart from the following;

*That it be acknowledged that there are no identified "gaps" in community building's provision to cater for the existing and projected population.*

This recommendation is merely pointing out that there are no gaps in community buildings provision for senior's "leisure and social needs". The City believes this is an accurate recommendation however, acknowledges that there are gaps in the provision of aged care facilities and other services and facilities for seniors. The change suggested by the Seniors Interest Advisory Committee that there "are gaps", is based on the opinions of the group and are not substantiated by any formal research.

Current time frames and resources have not been allocated to the Seniors Master Plan. The City feels that once the plan has been endorsed by Council, these requirements can be added in conjunction with advise from the Seniors Interest Advisory Committee.

## ATTACHMENTS

Attachment 1            Senior Citizens Master Plan – Leisure and Social Activity Needs

## VOTING REQUIREMENTS

Simple Majority

## **MOVED Cr Baker, SECONDED Cr Kimber that Council ENDORSES:**

- 1     the Seniors Master Plan, "Leisure and Social Activity Needs" with recommendations forming Attachment 1 to Report CJ265-11/03, taking in to account updates that have been highlighted by the Seniors Interest Advisory Committee;**
- 2     the City to implement the updated recommendations in consultation with the Seniors Interest Advisory Committee;**

**3 that Recommendation 6 remains as stated by the Consultant:**

**“THAT it be acknowledged that there are no identified gaps in community building’s provision to cater for the existing and projected population”.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (12/0)**

**In favour of the Motion:** Mayor Carlos, Crs Baker, Brewer, Caiacob, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O’Brien and Walker

*Appendix 13 refers*

*To access this attachment on electronic document, click here: [Attach13brf041103.pdf](#)*

**MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

**C243-11/03      NOTICE OF MOTION – CR M O’BRIEN – PROPOSED AMENDMENT TO THE LOCAL GOVERNMENT ACT TO ENABLE MUNICIPALITIES TO MAKE BY-LAWS**

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 11 November 2003:

*"That Council forwards a Motion through the North Zone of the Local Government Association promoting the reinstatement, by amendment to the Local Government Act 1995 of the power of a Municipality, to promulgate by-laws relating to bawdy houses, a power which was previously provided pursuant Section 206. of the Local Government Act 1960 - 1986, the text of the proposed reinstated power to be;*

(1) *In this section:*

*“bawdy house” and/or “brothel” means a house, room, or other place and/or premises, kept and/or occupied, whether by one or more than one person, and/or has and/or is, being used for the purposes of prostitution.*

(2) *A Council may so make by-laws:*

(a) *for the suppression and/or restraint of bawdy houses, brothels, disorderly houses, houses of ill-fame, and places including vehicles, used for prostitution, sexual massage, opiates and/or addictive substance abuse, prize fights, dog fights, cock fights, of gaming tables, and/or gambling of every description;*

- (b) *for prohibiting a person from keeping and/or managing, and/or assisting in the management of any premises, used for any of the purposes mentioned in (1) and/or (2)(a), above and/or for assigning or letting such places in whole, or in part for any of those purposes; and*
- (c) *for preserving public decenc.”.*

## **OFFICER’S COMMENT**

The control and management of prostitution in Western Australia is a State Government responsibility and it is considered that any action taken by local government should concentrate on getting the State to adequately enforce the provisions of the Police Act or amend the Police Act so that prostitution can be managed and controlled without the current adverse impacts on residential precincts and communities generally.

The current legal position relating to this matter is as follows:

### **"Statutory Provision:**

The Local Government Act 1995 details the powers and process to be followed by local governments to make local laws. (Sections 3.5 - 3.17 refer)

In accordance with section 3.5(1) of the Local Government Act 1995,

“a local government may make local laws prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.”

The overriding provision of the Act that determines whether or not a local law as suggested would in this instance be effective, is Section 3.7 which states:

“A local law made under this Act is inoperative to the extent that is inconsistent with this Act or any other written law.”

Under the Police Act 1892 the keeping of houses for prostitution is illegal. Therefore, it would not be possible to make an effective, operative local law relating to any aspect of the control and management of premises kept for prostitution within the City.

It is appreciated that the Police operate under a containment policy, but this is only a policy of the government of the day. Local Government has no role, real or implied, in that policy.

## **VOTING REQUIREMENT**

Simple Majority

**MOVED Cr O’Brien, SECONDED Cr Baker that Council FORWARDS a Motion through the North Zone of the Local Government Association promoting the reinstatement, by amendment to the Local Government Act 1995 of the power of a Municipality, to promulgate by-laws relating to bawdy houses, a power which was previously provided pursuant Section 206. of the Local Government Act 1960 - 1986, the text of the proposed reinstated power to be:**

**1 In this section:**

**“bawdy house” and/or “brothel” means a house, room, or other place and/or premises, kept and/or occupied, whether by one or more than one person, and/or has and/or is, being used for the purposes of prostitution;**

**2 A Council may so make by-laws:**

- (a) for the suppression and/or restraint of bawdy houses, brothels, disorderly houses, houses of ill-fame, and places including vehicles, used for prostitution, sexual massage, opiates and/or addictive substance abuse, prize fights, dog fights, cock fights, of gaming tables, and/or gambling of every description;**
- (b) for prohibiting a person from keeping and/or managing, and/or assisting in the management of any premises, used for any of the purposes mentioned in (1) and/or (2)(a), above and/or for assigning or letting such places in whole, or in part for any of those purposes;**
- (c) for preserving public decency.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (12/0)**

**In favour of the Motion:** Mayor Carlos, Crs Baker, Brewer, Caiacob, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O’Brien and Walker

*Cr Gollant entered the Chamber at this point, the time being 0101 hrs.*

**C244-11/03      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, 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.”*

*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 October 2002 decision, by a unanimous decision on Tuesday 11 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

**MOVED Cr Hollywood, SECONDED Cr Nixon that the Motion be TAKEN FROM THE TABLE.**

**The Motion was Put and**

**LOST (4/9)**

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

**C245-11/03**

**MOTION TO LIE ON THE TABLE - APPLICATION FOR THE CLOSURE OF THE PEDESTRIAN ACCESSWAY BETWEEN CAMM PLACE AND COHN PLACE, HILLARYS – [58535]**

**WARD** - Whitford

At the Council meeting held on 21 October 2003 the following motion was moved in relation to Item CJ244 - 10/03:

*MOVED Cr Kimber, SECONDED Cr Mackintosh that in accordance with Clause 5.4 of the City’s Standing Orders Local Law, the following Motion Lie on the Table, pending further consideration by Ward Councillors:*

*“MOVED Cr Caiacob, SECONDED Cr Hart that Council:*

- 1 DOES NOT support the closure of the pedestrian accessway between Camm Place and Cohn Place, Hillarys;*
- 2 ADVISES the adjoining landowners of the pedestrian accessway and landowners within Camm Place and Cohn Place of Council’s decision.”*

The Motion to Lie on the Table was Put and

CARRIED

**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 21 October 2003 recorded that Cr Mackintosh spoke on the Motion Moved by Cr Caiacob and Seconded by Cr Hart.*

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.

**Item CJ244-10/03 is reproduced below:**

CJ244 - 10/03 APPLICATION FOR THE CLOSURE OF THE PEDESTRIAN ACCESSWAY BETWEEN CAMM PLACE AND COHN PLACE, HILLARYS – [58535]

**WARD -** Whitford

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**PURPOSE**

The purpose of this report is for Council to consider the closure of the pedestrian accessway (PAW) between Camm Place and Cohn Place, Hillarys (refer Attachment 1).

## EXECUTIVE SUMMARY

The City has received a request for closure of the subject PAW from an adjoining landowner with two other adjoining landowners supporting the application and the fourth adjoining landowner not supporting the application. Justification for closure is repeated incidents of unwanted nuisances/anti-social behaviour.

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

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

In this case, the Urban Design Assessment, Nuisance Impact Assessment and Community Impact Assessment are all rated as medium, low and low respectively. Based on these ratings, the proposal accords with Case 4 of the Pedestrian Accessway Policy, therefore it is recommended that the closure of the PAW between Camm Place and Cohn Place, Hillarys not be supported.

## BACKGROUND

<b>Suburb/Location:</b>	Hillarys
<b>Applicant:</b>	Four adjoining landowners
<b>Zoning: DPS:</b>	Residential
<b>MRS:</b>	Urban
<b>Strategic Plan:</b>	No relevant objective/strategy within Strategic Plan

## DETAILS

### Current Proposal or Issue

Three out of the four adjoining landowners support the closure of the PAW and agree to acquire the land and meet any costs and conditions associated with closure.

The request for closure is based on repeated incidents of unwanted nuisances/anti-social behaviour that adjoining landowners/occupiers advised are associated with the PAW.

### Site Inspection

A site inspection revealed that vision through the PAW is good, providing clear sight lines and the condition of the PAW was also good. At the time of the inspection there was no graffiti or rubbish. (See Attachment 2 to this report).

## **PAW Closure Process**

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

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

## **Consultation**

The proposal was advertised for thirty days from 16 June 2003 to 16 July 2003 by way of a notification sign at each end of the PAW and questionnaires forwarded to residents living within a 400-metre radius. Attachments 3 and 4 summarise the information from the returned questionnaires in relation to this application.

A total of 48 questionnaires were returned and one (1) separate letter that strongly objected to the closure, stating that the PAW was an appealing factor in purchasing the property as it gives better access to Hillarys Marina and relatives and friends in the nearby 'Harbour Rise' residential subdivision.

It should also be noted that two (2) questionnaires were returned after the closure of the advertising period and were not included within Attachment 3. Both questionnaires stated that they did not use the PAW, and were neutral in their opinion with respect to its closure.

## **Policy Implications**

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

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

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

## COMMENT

### Assessment and Reasons for Recommendation

#### Urban Design Assessment

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

The main alternative route would appear to be via Angove Drive and comments by some users, particularly those who reside within Cohn Place, indicate that this alternative route is unsuitable. Reasons provided are that it increases the walking distance and encourages walking along and crossing a busier road. The PAW is not a designated 'safe route to school' and is not shown on Bikeplan. Although there are alternative routes for users, 5 of the 13 users (38%) advised they would be inconvenienced if closure were supported. Based on the foregoing, a Medium rating appears the most appropriate:

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

#### Nuisance Impact Assessment

The Nuisance Impact Assessment is carried out by investigating any reported anti-social behaviour. Justification for closure is based on:

- The PAW does not significantly enhance pedestrian access to Hillarys Marina or beach areas as the route along Angove Drive to West Coast Highway would be equidistant.
- Closure of the PAW would not significantly affect access in the other direction to Conica Park.
- Access from the Harbour Rise precinct to the shops on Flinders Avenue currently under construction would be similar along Ewing Drive to Waterford Drive; the PAW does not significantly affect walking distance to these shops.
- With Hillarys Marina operating nightclub facilities, the PAW will continue to attract unwarranted nuisances which have been continually experienced albeit often not reported by residents of the area.

### Police and City Watch Information

City Watch was requested to undertake extra patrols to monitor the level of anti-social behaviour in the PAW. During the monitoring period, which was 21 January 2003 to 7 February 2003, 81 patrols were undertaken and there were no incidents recorded.

Police information provided covered a period from January 2002 to September 2003, with no criminal activity or calls for Police attendance to this area.

Police and City Watch reports indicate that the problems encountered with the PAW do not appear to suggest that criminal activity or anti-social behaviour in and around the area of the PAW is any higher than other areas within the suburb.

### Comments in Returned Questionnaires

Of the 13 users of the subject PAW, 1 had witnessed anti-social behaviour and vandalism, however, no comments were made with respect to the nature of anti-social behaviour or vandalism.

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

<b>Policy Parameters – Low</b>	<b>Analysis Results</b>
<ul style="list-style-type: none"> <li>• Occurrence of criminal activity or antisocial behaviour similar to elsewhere in the suburb.</li> </ul>	<ul style="list-style-type: none"> <li>• This appears to be correct</li> </ul>
<ul style="list-style-type: none"> <li>• Types of offences are limited to antisocial behaviour</li> </ul>	<ul style="list-style-type: none"> <li>• This appears to be correct</li> </ul>
<ul style="list-style-type: none"> <li>• The severity of antisocial behaviour is similar to elsewhere in the suburb</li> </ul>	<ul style="list-style-type: none"> <li>• This appears to be correct</li> </ul>

### Community Impact Assessment

The proposal was advertised for thirty days from 16 June 2003 to 16 July 2003 by way of a notification sign at each end of the PAW and questionnaires forwarded to residents living within a 400-metre radius. Of the 48 questionnaires returned, the overall response with regard to the support, objection or indifference to the closure is:

<b>Supporters</b>	<b>Objectors</b>	<b>Neutral</b>	<b>Totals</b>
Users of the PAW 1	Users of the PAW 8	Users of the PAW 4	<b>13 Users</b>
Non users of the PAW 15	Non- users of the PAW 1	Non users of the PAW 19	<b>35 Non-users</b>
<b>Total Supporting 16</b>	<b>Total Objecting 9</b>	<b>Total Neutrals 23</b>	<b>48</b>

Attachment 4 to this report indicates the most common use of use the PAW is for exercise/social reasons with access to Hillarys Marina and parks also being significant.

The Community Impact Assessment falls between a medium to low rating, however, low appears more appropriate and generally satisfies the criteria stipulated under Policy 3.2.7 as it states:

<b>Policy Parameters – Low</b>	<b>Analysis Results</b>
<ul style="list-style-type: none"> <li>• High number of residents in favour of closure over (75%)</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Of the 48 respondents, 16 (approximately 33%) support closure.</i></li> </ul>
<ul style="list-style-type: none"> <li>• Low number of households using the PAW</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Of the 48 questionnaires received, 13 (approximately 27%) residents/families use the PAW</i></li> </ul>
<ul style="list-style-type: none"> <li>• Few users inconvenienced by closure (less than 30%)</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Of the 13 users, 8 (approximately 61%) advised they would be inconvenienced by closure</i></li> </ul>

As a comparison, the following table is a list of criteria under the ‘medium’ heading of Policy 3.2.7;

<b>Policy Parameters – Medium</b>	<b>Analysis Results</b>
<ul style="list-style-type: none"> <li>• Medium portion of respondents not in favour of closure (over 30%)</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Of the 48 respondents, 9 (approximately 19%) support closure</i></li> </ul>
<ul style="list-style-type: none"> <li>• Moderate level of households using the PAW</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Of the 48 questionnaires received, 13 (approximately 27%) residents/families use the PAW</i></li> </ul>
<ul style="list-style-type: none"> <li>• Moderate portion of users inconvenienced by closure of the PAW (30-50%)</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Of the 13 users, 8 (approximately 61%) advised they would be inconvenienced by closure</i></li> </ul>

### Final Assessment

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

Two (2) of the local residents who wished to remain neutral passed comments in their returned questionnaires with one acknowledging the usefulness of the PAW to access the park and the other recognising that PAWs can be a problem for adjoining landowners.

Objections raised are that the PAW was included in the sub-division originally for the benefit of the local community and it does assist with convenient access to Hillarys Marina, to visit relatives and friends or access nearby parks. Some objectors consider that PAWs are important for the young, the elderly and those who do not have private transport. Alternative routes, especially Angove Drive, may not be suitable for younger children due to traffic safety concerns. Based on the information in the returned questionnaires, on balance, the PAW does appear to be an asset overall to the local community.

*The result of each assessment is detailed below:*

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

In accordance with Policy 3.2.7 – Pedestrian Accessways, the final assessment equates to a Case 4, which states that closure is not supported where Urban Design Assessment for the PAW is considered of medium importance and both nuisance and use is low. Therefore it is recommended that the application to close the PAW between Camm Place and Cohn Place, Hillarys not be supported.

## ATTACHMENTS

Attachment 1	Site Plan
Attachment 2	Photographs of PAW
Attachment 3 & 4	Summarised information of returned questionnaires

## VOTING REQUIREMENTS

Simply Majority

### **Officer's Recommendation as submitted within CJ244-10/03**

**That Council:**

- 1       **DOES NOT** support the closure of the pedestrian accessway between Camm Place and Cohn Place, Hillarys;
- 2       **ADVISES** the adjoining landowners of the pedestrian accessway and landowners within Camm Place and Cohn Place of Council's decision.

**MOVED Cr Mackintosh, SECONDED Cr Gollant that the Motion be TAKEN FROM THE TABLE.**

**The Motion was Put and**

**CARRIED (12/1)**

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

**MOVED Cr Caiacob, SECONDED Cr Hart that Council:**

- 1       **DOES NOT** support the closure of the pedestrian accessway between Camm Place and Cohn Place, Hillarys;
- 2       **ADVISES** the adjoining landowners of the pedestrian accessway and landowners within Camm Place and Cohn Place of Council's decision.

**The Motion was Put and**

**LOST (5/8)**

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

**MOVED Cr Caiacob, SECONDED Cr Mackintosh that Council:**

- 1 SUPPORTS the application to close the pedestrian accessway between Camm Place and Cohn Place, Hillarys for the following reasons:**
  - (a) due to the completion of the additional Hillarys Harbour Rise residential precinct adjacent to Ewing Drive ,access to local facilities is not inconvenienced by the closure of this pedestrian accessway;**
  - (b) access to the Flinders Street shopping centre and Medical Centre will not be inconvenienced;**
  - (c) access to public transport is not inconvenienced;**
  - (d) alternative access routes provide suitable access;**
  - (e) Angove Drive is furnished with a footpath for safe pedestrian movement where as Ewing Street is not;**
  - (f) it is not a designated safe route;**
  - (g) nuisance elements , antisocial behavior and antisocial activities will be reduced;**
- 2 ADVISES the Western Australian Planning Commission accordingly and seeks its consideration of the application to close the pedestrian accessway between Camm Place and Cohn Place, Hillarys.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (13/0)**

**In favour of the Motion:** Mayor Carlos, Crs Baker, Brewer, Caiacob, Gollant, Hart, Hollywood, Kenworthy, Kimber, Mackintosh, Nixon, O'Brien and Walker

*Appendix 15 refers*

*To access this attachment on electronic document, click here: [Attach15brf041103.pdf](#)*

**C246-11/03**

**REQUEST FOR SECOND PUBLIC QUESTION TIME – [01122  
02154]**

**MOVED Cr Hollywood, SECONDED Cr Walker that, in accordance with Clause 3.2 of the City's Standing Orders Local Law, a second public question time be permitted prior to the close of this evening's meeting in order that members of the public may ask questions in relation to decisions made at this meeting.**

**The Motion was Put and**

**CARRIED (11/2)**

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

### **QUERY BY CR J GOLLANT**

Cr Gollant referred to the Special Meeting of Council held on Sunday, 9 November 2003 and queried the current status of the motion that was under discussion at the time in relation to Cr Hart's actions on Thursday, 6 November 2003.

Mayor Carlos advised this matter was pending, awaiting receipt of legal advice.

### **SECOND PUBLIC QUESTION TIME**

#### **Mr S Magyar, Heathridge:**

*Q1 Re: Setting of the Committee for the Review of the CEO – The recommendation discussed performance indicators for the CEO. Was the performance criteria set in the original contract and if it was how can they be varied?*

*Cr Kenworthy left the Chamber at this point, the time being 0110 hrs.*

A1 Council resolved tonight to form a panel to carry out the review. There is no resolution pertaining to variation to any performance criteria indicators contained in the contract.

*Cr Mackintosh left the Chamber at this point, the time being 0111 hrs.*

*Q2 Are there performance criteria currently in the contract, if so, how many and what sort of issues do they cover?*

A2 This question will be taken on notice.

### **STATEMENT BY MAYOR CARLOS**

Mayor Carlos advised he had received late this afternoon two letters from the Minister for Local Government and Regional Development which indicated the Minister would like the Council to solve its own problems.

A copy of this correspondence will be provided to elected members on Friday, 14 November 2003.

### **DATE OF NEXT MEETING**

The next meeting of the Council has been scheduled for **7.00 pm** on **TUESDAY, 2 DECEMBER 2003** to be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup

## **CLOSURE**

There being no further business, the Chairman declared the Meeting closed at 0115 hrs; the following elected members being present at that time:

MAYOR D CARLOS  
Cr P KIMBER  
Cr T BREWER  
Cr C BAKER  
Cr A NIXON  
Cr J F HOLLYWOOD, JP  
Cr A WALKER  
Cr S HART  
Cr M O'BRIEN  
Cr J GOLLANT  
Cr M CAIACOB