



**MINUTES OF MEETING OF JOINT COMMISSIONERS  
HELD ON 20 JULY 2004**

**TABLE OF CONTENTS**

<b>No:</b>	<b>Item</b>	<b>Page</b>
	<b>OPEN AND WELCOME</b>	1
	<b>ATTENDANCES</b>	1
	<b>PUBLIC QUESTION TIME</b>	2
<b>C42-07/04</b>	<b>EXTENSION OF PUBLIC QUESTION TIME – [01122] [02154]</b>	13
	<b>APOLOGIES AND LEAVE OF ABSENCE</b>	18
	<b>DECLARATION OF FINANCIAL INTEREST/INTEREST THAT MAY AFFECT IMPARTIALITY</b>	18
<b>C43-07/04</b>	<b>CONFIRMATION OF MINUTES MINUTES OF MEETING OF JOINT COMMISSIONERS, 29 JUNE 2004</b>	18
	<b>ANNOUNCEMENTS BY THE CHAIRMAN WITHOUT DISCUSSION</b>	
	MEATH CARE KINGSLEY	19
	BLENDER GALLERY	19
	GOLD ADVENTURE PROGRAM	19
	BRENDA ROMANCHUK	19
<b>C44-07/04</b>	<b>PETITIONS</b>	
	PETITION IN RELATION TO TRAFFIC BEHAVIOUR, ELLERSDALE AVENUE, WARWICK – [02381]	20
	PETITION REQUESTING CONSTRUCTION OF SKATEPARK IN SUBURB OF KINGSLEY – [08096]	20
	<b>REPORTS</b>	
<b>CJ155 - 07/04</b>	DELEGATION TO FORMALISE FRIENDLY RELATIONS WITH JINAN IN SHANDONG PROVINCE, CHINA – [52469] [11014] .....	21
<b>CJ156 - 07/04</b>	REGISTRATION OF VOTING DELEGATES FOR WALGA ANNUAL GENERAL MEETING – [21453] .....	29

CJ157 - 07/04	MINUTES OF SUSTAINABILITY ADVISORY COMMITTEE - 10 JUNE 2004 – [00906].....	30
CJ158 - 07/04	POLICY MANUAL REVIEW COMMITTEE – [97032] [26176] [13399].....	32
CJ159 - 07/04	SUPPLEMENTARY APPOINTMENT OF AUDITOR CONTRACT 040-02/03 SUPPLY OF AUDIT SERVICES – [43831] [30544].....	33
CJ160 - 07/04	WARRANT OF PAYMENTS 30 JUNE 2004 – [09882].....	35
CJ161 - 07/04	2005/2006 STATE BLACK SPOT PROGRAM – [08151].....	37
CJ162 - 07/04	MAINTENANCE AT ILUKA SPORTS COMPLEX – [02046].....	39
CJ163 - 07/04	TENDER NUMBER 042-03/04 - MECHANICAL SERVICES PREVENTATIVE MAINTENANCE – [27560].....	44
CJ164 - 07/04	TENDER NUMBER 044-03/04 - PROVISION OF PAVEMENT MARKING SERVICES – [54560].....	50
CJ165 - 07/04	TENDER NUMBER 045-03/04 - SWEEPING OF URBAN AND ARTERIAL ROADS – [55560].....	53
CJ166 - 07/04	FINAL ADOPTION OF AMENDMENT NO 21 TO DISTRICT PLANNING SCHEME NO 2 - REZONE PORTION OF LOT 9016 (500) BURNS BEACH ROAD, BURNS BEACH FROM "RURAL" TO "URBAN DEVELOPMENT" – [21557].....	57
CJ167 - 07/04	PROPOSED AMENDMENT NO 26 TO DISTRICT PLANNING SCHEME NO 2 TO REZONE FROM 'MIXED USE' TO 'RESIDENTIAL' AND RECODE FROM R20 TO R40 - LOT 143 ELWOOD COURT AND LOT 1 AND LOT 2 EDDYSTONE AVENUE, CRAIGIE – [73558].....	63
CJ168 - 07/04	PROPOSED AMENDMENT NO 27 (MODIFICATIONS TO SCHEDULE 3 OF DISTRICT PLANNING SCHEME NO 2) – LOTS 1, 7, 8, 9 AND 10 WHITFORDS AVENUE/TRAPPERS DRIVE, WOODVALE - [83561].....	68
CJ169 - 07/04	AMENDMENT 24 TO DISTRICT PLANNING SCHEME NO 2 - PROPOSED REZONING FROM LOCAL RESERVES 'PARKS AND RECREATION' TO 'URBAN DEVELOPMENT' – LOT 61 (NO 14) LEACH STREET, MARMION (FORMER CSIRO SITE) – [85558].....	76
CJ170 - 07/04	PROPOSED ROAD CLOSURE – LOT 82 (3R) MOLLOY PROMENADE, JOONDALUP – [20555].....	88
CJ171 - 07/04	NORTHERN DISTRICTS GYMNASTIC CLUB – [18171].....	92
CJ172 - 07/04	NORTH METROPOLITAN REGIONAL RECREATION ADVISORY COMMITTEE - TERMS OF REFERENCE – [15142].....	98
CJ173 - 07/04	MINUTES OF THE YOUTH ADVISORY COUNCIL MEETING – 16 JUNE 2004 – [38245].....	100
	<b>REPORT OF THE ACTING CHIEF EXECUTIVE OFFICER</b>	
C45-07/04	JOONDALUP NORMALISATION AGREEMENT - [58498] [80513].....	101
C46-07/04	PROPOSED NEW WORKS DEPOT - [80513] [58498].....	105
C47-07/04	CONFLICT OF INTEREST AND PAYMENT OF LEGAL EXPENSES FOR ELECTED MEMBERS AND EMPLOYEES RELATING TO THE INQUIRY - [72559].....	123
C48-07/04	REVIEW OF COUNCIL MEETING DATES – [02154, 08122, 27456, 23184].....	136
	<b>MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>	138
	<b>DATE OF NEXT MEETING</b>	139
	<b>CLOSURE</b>	139

# CITY OF JOONDALUP

## MINUTES OF MEETING OF JOINT COMMISSIONERS HELD IN COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP, ON TUESDAY, 20 JULY 2004

### OPEN AND WELCOME

The Chairman declared the meeting open at 1900 hrs.

### ATTENDANCES

CMR J PATERSON – Chairman *absent from 1942 hrs to 1949 hrs*  
CMR P CLOUGH – Deputy Chairman  
CMR M ANDERSON  
CMR A FOX  
CMR S SMITH

### Officers:

Acting Chief Executive Officer:	C HIGHAM
Director, Corporate Services and Resource Management:	P SCHNEIDER
Acting Director, Planning and Community Development:	G HALL
Manager Audit and Executive Services:	K ROBINSON
Manager, Marketing Communications & Council Support:	B ROMANCHUK
Manager, Approvals Planning and Environmental Services:	C TERELINCK
Manager, Strategic & Sustainable Development:	R HARDY
Manager Infrastructure Management and Ranger Services:	P PIKOR
Manager, Operations Services:	D CLUNING
Media Advisor:	L BRENNAN
Committee Clerk:	J HARRISON
Minute Clerk:	L TAYLOR

There were 42 members of the Public and 1 member of the Press in attendance.

## PUBLIC QUESTION TIME

**The following question, submitted by Ms C Ghersinich, Marmion, was taken on notice at the Meeting of Joint Commissioners held on 29 June 2004.**

*Q1 How much public open space has been forgone by development in the City of Joondalup since 2000?*

A1 The question is assumed to relate to public open space that is owned by the Crown and which is or was developed for any other purpose other than for recreational purposes. If this is the case, then the answer is none. However, if the City has misconstrued the question, Ms C Ghersinich is requested to provide further clarification.

**The following questions were submitted by Mr Vincent Cusack, Kingsley to the Meeting of Joint Commissioners held on 29 June 2004:**

*At the meeting of Joint Commissioners held on 29 June 2004, Mr Cusack registered his concern at the response provided to his earlier questions submitted on 25 June 2004, and asked that they be resubmitted for an amended response. The response has been reviewed and an amended response to Q1(a) and Q1(b) is given below. The balance of the answers are considered appropriate.*

- *At the special electors meeting held in Greenwood, on 7 February 2002, former Mayor John Bombak “reminded members of the public the rules of defamation applied in this public forum and advised the meeting would be both recorded and video taped and called for accurate and informed discussion”.*

*Q1(a) Was that the first ever electors meeting (7 February 2002) whereby a reminder/warning was made to the public about the ‘rules of defamation’ in the history of the City of Joondalup? If no, can Council provide the date(s) of the previous electors meetings?*

A1(a) A search of the City’s records has been undertaken and no other instances of a reminder/warning in relation to ‘rules of defamation’ has been found.

*Q1(b) Was any reminder/warning ever made to the public at the commencement of electors meetings at the former Shire of Wanneroo? If yes when?*

A1(a) To provide a definitive answer to this question would require a substantial amount of research which is considered unwarranted.

**The following questions, submitted by Mr K Zakrevsky, Mullaloo, were taken on notice at the Meeting of Joint Commissioners held on 29 June 2004.**

*Re: Building licence issued to the Mullaloo Beach Village on 23 December 2003:*

*Q1 A previous application for a building licence for this development was refused by the City on 18 points on 5 August 2003 and this decision was endorsed by the Minister for Housing on appeal. One of those 18 points was that the building had failed under BCA Section D1.13 which states “Number of persons – Details that will be accommodating each part of the building are required to be provided.”*

*Given that it is a requirement under the Building Codes of Australia to identify the number of persons in each part of a building, can Commissioners tell me how this development could have been given a Building Certificate without meeting this requirement, and why I am also told that the City cannot confirm the number of persons in the building until fit-out has been finalised?*

- A1 D1.13 of the Building Code of Australia is used to calculate the anticipated number of people in particular types of building. From these calculations, minimum exit widths and the required number of sanitary and other facilities can be determined.

If more accurate information on persons accommodating a building is available, this number can be used, however, when a number of persons has not been determined or provided, the building surveyor can simply refer to table D1.13.

D1.13 and table D1.13 are not intended to restrict the number of occupants using a building, or to enforce any building use, licensing requirements or health restrictions on occupant numbers. This will occur when the fit-out plans have been submitted showing the location of internal walls, tables, chairs, bar and partitions.

- Q2 *An answer to a question in tonight's agenda, where it is stated that the Development Approval required that an acoustic report is to be submitted prior to the premises fit-out stage, is not correct. Condition (j) of the Development Approval states "The submission of an acoustic consultant's report demonstrating to the satisfaction of the City that the proposed development is capable of containing all noise emissions in accordance with the Environmental Protection Act". And in the body of the report it is stated that this should occur prior to a Building Certificate being issued.*

*Will the Commissioners confirm that this condition of the Development Approval has not been met and also that BCA Section F5 – Sound Transmission and Insulation Ratings, has not been met which constitutes a breach of the Town Planning and Development Act?*

- A2 That particular detail is currently being evaluated. The condition of Development Approval does remain valid for the Acoustic Consultant's Report, and that is a factor that has to be considered when the applicant submits the fit-out application.

The question contains statements and assertions that are not agreed by the City. There is no condition (j) on the Development Approval. Condition 10 of the Development Approval States "the submission of an Acoustic Consultant's Report demonstrating to the satisfaction of the City that the proposed development is capable of containing all noise emissions in accordance with the Environmental Protection Act"

The City can confirm that this condition of the Development Approval has not been met at this time, however as this report is expected when the City receives the fit-out application, the development does not breach the Town Planning and Development Act.

It is important to note that Part F5 of the Building Code of Australia does not relate to taverns. It does, however, relate to other types of building classification.

**The following question, submitted by Mrs M Zakrevsky, Mullaloo, was taken on notice at the Meeting of Joint Commissioners held on 29 June 2004.**

*Re: The Building Certificate issued to the development known as the Mullaloo Beach Village:*

*Q1 I refer to the same building certificate application. The plans provided to the City clearly identify each numbered car bay and disabled bays and this is not something that is dealt with at fit-out stage.*

*Will Commissioners confirm that the Engineer dealing with the application queried the non-compliance with the development application with respect to the under provision of car bays and that this is a failure to comply with the Development Approval, and also the failure to provide the required amount of disabled bays, contravenes the Building Codes of Australia and the Discrimination Laws of Australia and will they take the appropriate action under the Metropolitan Planning Scheme?*

A1 The building licence is not issued under the Metropolitan Region Planning Scheme. The requirements that do apply in regard to disability and access were checked by the Building Surveyors.

The City's engineer did not advise that there was a failure to comply with the Development Approval. The advice received from the City's engineer was that the removal of a car bay, which is detailed in the Traffic Engineers' Report, may affect the development approvals parking requirements.

**The following question, submitted by Mrs M Macdonald, Mullaloo, was taken on notice at the Meeting of Joint Commissioners held on 29 June 2004.**

*Q1 I refer to the answer to a question in tonight's agenda regarding the building certificate issued to the Mullaloo Beach Village Development, where it states:*

*"The issues raised by the Mullaloo Progress Association at a separate meeting with the Commissioners are all under investigation and individual responses will be provided as soon as possible. The Commissioners note that the issues raised have been the subject of independent investigation by the Hon Minister for Planning and Infrastructure and other legal processes. The Commissioners also note that the assessment of the various applications was assisted at all key points by the City's legal advisors."*

*Are Commissioners aware that:*

(a) *whatever they have noted could not have applied to the issues raised before them by the Mullaloo Progress Association as none of these issues with respect to the building licence approval have been the subject of any legal proceedings or been the subject of an investigation by the Minister of Planning and Infrastructure and;*

- (b) *there is no evidence in the Freedom of Information documentation received from the City that the City's legal advisors were consulted on this building licence application;*

*and accordingly will Commissioners remove this misinformation from the minutes of this meeting?*

- A1 (a) Issues raised by the Mullaloo Progress Association have been the subject of independent investigation and the assessment process has been assisted by the City's lawyers (as was previously advised).
- (b) Legal advice that was considered "privileged information" was not made available through the freedom of information process.

**The following questions, submitted by Mr M Caiacob, Mullaloo, were taken on notice at the Meeting of Joint Commissioners held on 29 June 2004.**

*Re: Mullaloo Tavern:*

*Q1 Are the Commissioners aware that Answer 2(a) on page xv is incorrect? I do not make improper use of this information, but I refer the Joint Commissioners to Confidential Report CJ225-09/03 of 30 September 2003, for the purpose of a true and accurate record, and ask if the reply will be corrected for the minutes?*

A1 The report referred to above provides evidence that the Council was advised of the progress of appeal negotiations as they occurred. The answer to question 2(a) above is a correct answer.

*Q2 Justice Pullin of the Supreme Court found that prosecution could occur for a 42 square metre increase in NLA above that of the DPS2 clause 3.7.3 requirement of 500 square metres maximum. Why is 11 square metre increase in NLA above that of Clause 3.7.3 required 500 square metres, not considered substantive?*

A2 The floor space is restricted to a maximum of 500m<sup>2</sup> net lettable area by the development approval. The restriction accords with the provisions of the District Planning Scheme. Any increase above 500m<sup>2</sup> would be substantive on town planning grounds, given those restrictions.

Note also that partial comments attributed to Justice Pullin of the Supreme Court (by Mr Caiacob) cannot be expanded upon by the Council.

**The following questions, submitted by Mr M Sideris, President of Mullaloo Progress Association, was taken on notice at the Meeting of Joint Commissioners held on 29 June 2004.**

*Re: The Building Licence granted in December 2003 for the Mullaloo tavern site, and not the development approval of 2002.*

*Q1 On Tuesday 1 June, the Mullaloo Progress Association made a presentation to the Commissioners and lodged a formal complaint which identified to the Commissioners some nine alleged breaches of either the DPS2 or conditions attached to the development approval together with two alleged breaches of undertaking an unlawful development.*

*(a) Will the Commissioners please advise when this formal complaint will be acknowledged as being received;*

*(b) when a response will be forthcoming; and*

*(c) given that the building approval plans clearly indicate a retail NLA of 511 square metres and breaches the DPS2 Schedule 3 provisions, whether or not written advice or direction has been forwarded to the owner or persons undertaking that development placing that person on notice, that the unlawfulness of that development was being investigated, and if not, why not?*

**A1** It is anticipated that a response to the formal complaint will be provided to the Association prior to the Council meeting on 20 July 2004. The owner is well aware of the limits of the development approval.

*Q2 Are Commissioners aware that under the Town Planning and Development Act 1928 Section 10, Power to direct cessation or removal of unlawful development, or restoration or execution of work, and in particular Sub-section 2 – if a development, or any part of a development is undertaken in contravention of a town planning scheme, the responsible authority may give a written direction to the owner or any other person undertaking that development to stop, and not recommence, the development or that part of the development that is undertaken in contravention of the scheme, and that the failure to comply with a direction commits an offence with a penalty of \$50,000 and a daily penalty of \$5,000?*

*And that under Section 10AB Requirement to comply with scheme and conditions, a person who contravenes (a) a town planning scheme or (b) any condition imposed with respect to a development by a responsible authority pursuant to its powers under a town planning scheme, commits an offence – penalty \$50,000 and a daily penalty of \$5,000?*

**A2** Yes, the City is aware of Section 10 of the Town Planning and Development Act.

**The following question, submitted by Ms S Hart, Greenwood, was taken on notice at the Meeting of Joint Commissioners held on 29 June 2004.**

*Q1 Regarding Page xvi, and the response to my question, I request that I have an answer in writing to enable the rest of the City to see the answer.*



- A1 As outlined within the City's previous response to Ms Hart, her question requires a very detailed response. An invitation was forwarded to Ms S Hart to meet with the Manager, Approvals Planning and Environmental Services and Acting Coordinator Urban Design & Policy Services in order to discuss the chronology relating to the adoption of the Joondalup City Centre Development Plan and Manual as a structure plan under the City's District Planning Scheme No 2. Salient facts and issues can be confirmed in writing.

**The following question, submitted by Mr S Magyar, Heathridge, was taken on notice at the Meeting of Joint Commissioners held on 29 June 2004.**

- Q1 Re CJ135-06/04 – Delegated Authority Manual: Is there any particular delegated authority regarding the City initiating legal action and if so, is there any restriction to the amount, the types of legal actions and the levels of court, that the staff may commence without the knowledge of the Council or Commissioners?*

- A1 There is no specific delegation regarding the City initiating legal action. The circumstances and relevant legislation that give rise to prosecution will determine the process to be followed and also have a significant bearing on the process.

**The following question was submitted by Mr C Baker, Connolly:**

*Question to the Chairman of Commissioners:*

- Q1 I refer to the former service station site at the intersection of Caridean Street and Admiral Grove, Heathridge. Is the City aware of any plans by the owners for the development of this site?*

- A1 Yes. Amendment No 19 to the City's District Planning Scheme No 2 rezoned Lot 742 (83) Caridean Street and Lot 743 (79) Admiral Grove from 'Business' to 'Centre' zone and uncoded the land. This amendment was gazetted on 6/4/04. The City also approved a structure plan over the above lots (Structure Plan No 4) and the WAPC certified the structure plan on 30/4/04. The approved structure plan contains information and plans with respect to future development upon the site and this can be accessed via the City's website.

**The following questions were submitted by Ms Sue Hart, Greenwood:**

- Q1 How much in total did Council give to the Joondalup Business Association, by way of funding grants, donations or any other means of monetary assistance during the period 1/07/2003 to 1/07/2004?*

- A1 The City of Joondalup paid \$58,025 to the Joondalup Business Association as part of a triennial grant to support the Business Enterprise Centre endorsed by Council on February 12, 2002. Details of these arrangements can be referenced from Council report CJ008–02/02.

For the 2003/2004 financial year, the City contributed \$38,500 to the production of the Business and Community Directory in partnership with the JBA (CJ268–12/03 refers).

The City pays a membership fee to the JBA of \$ 205.00 per annum.

The City provided sponsorship to the value of \$2,800 for the Small Business Awards for Customer Service.

In total funding through grants and sponsorship to the JBA for 2003-2004 has amounted to \$61,030. The cost associated with the Directory is an ongoing cost to the City and therefore does not constitute a grant or donation to the JBA.

*Q2 How much in total did Council give to the Sunset Coast Tourism Association, by way of funding grants, donations or any other means of monetary assistance during the period 1/07/2003 to 1/07/2004?*

A2 The SCTA received payments for annual membership of \$484.00 and a Community Funding Grant of \$7,700.

*Q3 In view of the comments by the Chairman of Commissioners Mr John Paterson, regarding the proposed trip to Jinan China, made in the West Australian on Saturday 17 July 2004 Page 4, whereby he said the trip to China "had the potential to reap big economic rewards for the City", does Council, Commissioners or staff consider it is their role to facilitate economic growth or drive economic growth?*

A3 In the City's Strategic Plan for 2003 – 2008, under the Key Focus Area of City Development, the following objective is listed:

“To provide and maintain sustainable economic development.”

Further, the strategies to achieve this are identified as follows:

- Develop partnerships with stakeholders to foster business development opportunities.
- Assist the facilitation of local employment opportunities.

The Strategic Plan for 2003 – 2008 was developed following extensive consultation with community, stakeholders, Elected Members and staff at the City of Joondalup and informed by policy at National and State levels on the role of local government in promoting sustainable development.

Sustainable development is that which meets the needs of both current and future generations through integration of environmental protection, social advancement and economic prosperity.

The Strategic Plan is the principal document that guides the direction of all projects and activities carried out by the City. The current document was formally approved by Council on March 11, 2003 and serves as the mandate for facilitating and/or driving sustainable economic growth within the City of Joondalup.

*Q4 Can staff please advise, the total dollar figure, the new City of Joondalup started with, after the split with Wanneroo?*

A4 Due to its late receipt, this question will be taken on notice.

**The following questions were submitted by Mr Vincent Cusack, Kingsley:**

- *In the interest of transparent accountable and above all "good governance", can Council please provide a Yes or No answer to the following questions.*

*Q1 Notwithstanding the fact that "all elected members would have previously been provided with a copy of Policy 2.2.8, most likely at the commencement of their term. Did the Administration provide **SPECIFIC** advice to the elected Council of policy 2.2.8 Legal Representation just prior to, during, or soon after the meeting of 18 February 2003" where the following license to litigate amendment was passed?*

*Moved Cr Baker seconded Cr Hurst that the Council AUTHORISES the CEO to seek and obtain legal advice from Blake Dawson Waldron, Solicitors or another recognised legal firm, in relation to the allegations made by Cr Don Carlos in his Notice of Motion submitted to Council on 18 February 2003, and other media articles concerning the CEO published in the West Australian newspaper and the Community News given the significant damage being caused to the image and reputation of the City and its senior officers. That Council places an upper limit of expenditure not exceeding \$5,000.*

A1 No.

- *In light of the answer given to my question (5a) at the last Council meeting, which simply revealed what we already knew that "the City approved a number of requests by Mr Smith for reimbursement of legal expenses":*

*Q2 Did Mr Denis Smith make a specific application (written or otherwise) to the City UNDER POLICY 2.2.8 for reimbursement of legal expenses?*

*Q2(a) If no, can Council please inform the public precisely how those applications were made, and under what policy, if any?*

A2&2(a) These question will be taken on notice to enable a detailed response to be prepared.

**The following questions were submitted by Cr C Baker (Suspended), Connolly:**

*My question is addressed to our City's Acting CEO. I refer to the Policy of Insurance between the City and Ace Insurance Ltd dated 10 September 2003 titled "Councillors and Officers' Elite Insurance Policy." I ask:*

*Q1 Was the policy renewed on 30 June 2004, and if not, why not?*

A1 The policy was renewed for the period 1 July 2004 to 30 June 2005.

*Q2 If it was not so renewed, who made the decision on behalf of the City not to renew it?*

A2 See A1 above.

*Q3 Are you aware of any actual or pending claims under the terms of the said Policy?*

A3 Yes.

**The following questions were submitted by Cr C Mackintosh (Suspended), Kallaroo:**

*Q1 Can you please advise when the daily allowance (as per City of Joondalup policy) was raised from \$90 a day, to the \$1,280 a day, it is reported you will be receiving?*

A1 Council reviewed and made changes to Policy 2.2.13 as outlined below:

	Council meeting 11 June 2002	Council meeting 30 September 2003
Interstate travel	\$90 increased to \$100 per day	\$100 increased to current rate of \$105 per day
Overseas travel	\$140 increased to \$155 per day	\$155 increased to current rate of \$160 per day

\$1,280 represents the daily allowance for the entire trip of 8 days. This is paid in accordance with Policy 2.2.13, which allows for \$160 per day for overseas travel.

**Ms J Hughes, Girrawheen** (*Present on behalf of Dean Martin, 11 Sherington Drive, Greenwood*):

*Q1 Re: Traffic issues – Sherington Road is approximately a 10 metre road width and runs between Cockman Road and Blackall Drive, it backs onto Penistone Reserve and the Recreation Centre. The park has public thoroughfare that leads through to the East Girrawheen Primary School and therefore residents and children use this road on a regular basis. Can Council please consider for the 2004/05 budget to have this road made safe for those who live, walk and drive on it?*

A1 This question will be taken on notice and a written response will be sent to Ms Hughes.

**Mr M Caiacob, Mullaloo:**

*Q1 Can I please have an explanation as to what the note NLA means on the building licence ground floor plans for the Mullaloo Tavern?*

A1 NLA generally stands for Nett Lettable.

*Q2 Re: CSIRO Site, Marmion - Does the City have any documentary correspondence or land transfer documents relating to the transfer of public open space between Lot 61 Leach Street and the Percy Doyle Reserve?*

A2 No, the City is currently investigating that with the Department of Land Information.

*Q3 The first building license refusal for the Mullaloo Tavern on 5 August 2003 stated in refusal point 18 City's District Planning Scheme No 2 that: "New planning applications have not been provided in relation to the substantial changes made from the original design". Can I please have an explanation as to how the new building licence was issued, when the substantial changes from the original design were still*

*evident in the building licence plans held and processed by the City for the issue of the building licence in December 2003?*

A3 This question will be taken on notice.

**Ms M John, Marmion:**

*Q1 Re: CSIRO Site, Marmion – Did the Acting Chief Executive Officer declare an interest in the items being discussed behind closed doors on Tuesday, 14 July 2004 as he was not present in that meeting but was meeting with the residents in the foyer?*

A1 *Response by Acting Chief Executive Officer:* No I did not declare an interest.

**Mr P Alcock, Marmion:**

*Q1 Re: CSIRO Site, Marmion – Are the Commissioners aware that according to information obtained from the WAPC all current subdivisions are required to provide 10% public open space regardless of the date that the original suburb was subdivided and not including coastal reserves?*

A1 Yes, Administration is aware of that condition, and it will be part of the information reported to Council if the development does progress through to that stage.

**Ms P Cohen, Marmion:**

*Q1 As the residents of Marmion appear to be in possession of more information than the City of Joondalup and the applicant, why then haven't the residents been approached or involved in the provision and dissemination of information prior to the production of the report to Council?*

A1 At this stage the purpose of the report to Council is to initiate advertising. Administration is required to write reports independently, the full details could be explored later if the Commissioners needed to follow that path.

*Q2 Why and for what purpose has the applicant been meeting with the City on a continuous closed-door basis when the residents are open and accountable and have never been involved in a closed-door meeting?*

A2 *Response by Cmr Paterson:* I apologise to the community for having a closed door meeting with the applicant last Tuesday. That meeting should have been held the week before at a strategic meeting. I was following a process that I have in the past but unfortunately because the item was on the agenda it was held behind closed doors and I apologise for that.

**Mr W Cohen, Marmion:**

*Q1 Re: CSIRO Site, Marmion – Can Council provide explanation of two items within the Principal Activities Plan and the Five Year Capital Works Programme Activity 7240 – (1) PFP013, Troy Avenue Parking Facilities at \$77,000 and (2) PFP015 Gold Street parking facilities at \$77,000 and as calculation from the policy 3.1.12 equated to a minimum of 18 car bays in each case, will these activities further impinge upon the undersupplied public open space of Marmion?*

A1 This question will be taken on notice.

Q2 *Can the City explain why to date Council has refused to consult with the community over the CSIRO site? (1) as per policy 2.6.3 – Public Participation; (2) the proposed new community consultation policy; (3) the best practice as outlined in the consulting citizens document or (4) the request of the Joondalup Combined Residents Group letter dated 23 March 2004 and instead is reliant upon the lesser consultation as required by the statutory requirements?*

A2 The recommendation before the Commissioners is that Council consults with the community. The previous consultation was reported to the Commissioners for the purpose of background and has no standing from a statutory point of view.

**Mr T Wilson, Marmion:**

Q1 *RE: CSIRO Site, Marmion – Are the Commissioners aware that the site was sold subject to Clause 7.4 of the Contract of Sale which stated that: “The property is sold subject to all reservations, conditions and provisions contained in the title of the property and to all resummptions, rights, encroachments and easements?”*

A1 Administration is not aware of any details of the sale of land contract.

Q2 *Are the Commissioners aware that in Clause 7.3 of the Contract of Sale that the seller did not warrant or represent that the land is or will be zoned for the purposes required by the buyer or in fact zoned at all?*

A2 Council was not made aware of any of the conditions of sale that related to that contract.

*Response by Cmr Paterson:* The Commissioners are not aware of the Contract of Sale.

**Mr C Aitken, Marmion:**

Q1 *Re: CSIRO Site, Marmion – Has the City’s officers attempted to speak to any former Councillors such as Mr K Zakrevsky with regards to the background to the non transfer of land between the CSIRO site and Percy Doyle Reserve and if not, why not?*

A1 When officers prepared the report they were aware of anecdotal evidence around the time of the transfer of land, and they have been trying to obtain the facts and written correspondence to provide the most accurate report possible.

**Ms S Hart, Greenwood:**

Q1 *I sent an email on Thursday, 15 July 2003 – I have had all but one question answered as follows:*

*Re: Bank West Site, Ellersdale Road, Warwick – Please inform us of the date of the first approval for the childcare centre and why was this site a delegated authority item at the last ordinary meeting of Council? We also request that Worksafe is contacted as soon as possible for this site as many of our members feel it is extremely dangerous and has been for some time. Has the City done anything about the safety on that site?*

A1 This question will be taken on notice. The response to Ms Hart's previous questions will be provided to her.

*Q2 When is the City of Joondalup going to start listening to ratepayers when they call for submissions or comments on development rezoning?*

A2 The report for Burns Beach provides detail on comments received and these comments were discussed with Commissioners. The issues were also taken up with the arguments for the region scheme rezoning progress, the planning appeals process that went before that and included the involvement of the Councillors and the staff of the day to support that process. There was a consensus view about concern of the retention of open space.

*Response by Cmr Paterson:* In my time here, the City has taken a lot of notice of the community and I am happy with this situation.

**Mr M Lowry, Iluka:** (representing the Ocean Reef Action Group)

*Q1 References to the City's Draft Principal Activities Plan for the period 2004/05 through to 2008/09 and specifically the Ocean Reef Marina Development. The Marina is scheduled for another three years in the planning process. Can the Commissioners advise how many letters the City has received recently from residents supporting the Ocean Reef Marina Development?*

A1 Information on the exact number is not readily available, but it is estimated at over 100 at this stage.

*Q2 While it is acknowledged that any development of this nature will need to pass critical, social and environmental examination, in light of the perceived strong level of support and development, I suggest it is well over 100 probably into the 100's, what action if any will the Commissioners take to accelerate the planning process in order that potential developers can assess the economic viability of participating in the development?*

A2 Once the public submission period has closed a detailed report will be submitted to the Joint Commissioners for consideration, proposing various courses of action in relation to the public submissions made.

**C42-07/04                    EXTENSION OF PUBLIC QUESTION TIME – [01122] [02154]**

**MOVED Cmr Smith, SECONDED Cmr Anderson that public question time be extended for a further period.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

**Mr R Dallas, Ocean Reef:**

*Q1 The Ocean Reef Marina Development had its genesis back in the 1980's with the perceived benefits being very similar as what they are today. Are the Commissioners aware of the economic, social and recreational benefits likely to accrue to the community from a properly planned and constructed marina?*

A1 The Ocean Reef Redevelopment has had a long gestation period, in terms of the economic benefits and period a detailed report will be submitted to the Joint Commissioners for consideration.

**Mr N Gannon, Sorrento:**

*Q1 Re: CSIRO Site, Marmion – The last paragraph on Page 64 of tonight's agenda includes a comment to the effect that the land was purchased by the Commonwealth from the State Government and the City obtained the Percy Doyle Reserve in exchange for this land.*

*Today I spoke to Mr Percy Doyle, a former Wanneroo Town Planning Committee Chairman who said he does not recollect this comment to be correct. In view of the doubts surrounding this land would the Commissioners investigate the history of this land including supporting documentation rather than rely on hearsay before making a decision on this important matter?*

A1 That quote in the report is from minutes from 1992. It is intended to research the full history.

**Mr J Otway, Marmion:**

*Q1 Given the spirit of openness of the City remembering that we have had two closed door meetings with the City's Executive and the developers of the CSIRO site, could you please tell me if further closed door meetings are planned with yourself and the developers?*

A1 No.

*Q2 At what time were the arrangements made for the previous applicants' closed-door meetings and could I have that in writing?*

A2 Arrangements for the meeting last Tuesday were made the week before and this information can be provided in writing.

**Ms P Judge, Marmion:**

*Q1 The residents feel that this process is not open or accountable and ask again, has any indication or guarantee been given by the City or its representatives in regard to the rezoning approval of the CSIRO site?*

A1 No.



**Ms M Macdonald, Mullaloo:**

*Q1 I refer to the answer to my question in tonight's agenda on page x which states:*

*"Issues raised by the Mullaloo Progress Association have been the subject of independent investigation and the assessment process has been assisted by the City's lawyers (as was previously advised). Legal Advice that was considered "privileged information" was not made available through the Freedom of Information process."*

*Can Commissioners state why this legal opinion was not discovered during the Freedom of Information process as there were no documents to which access was denied to the Association on the basis of it being privileged information?*

A1 This question will be taken on notice.

*Q2 The Mullaloo Progress Association received answers to questions raised about the building certificate issued to the Mullaloo Beach Village. The accompanying letter states that the Chairman of Commissioners is confident that subsequent dealings with the developers in regard to statutory obligations are being discharged properly and with due care. As it is not clear whether the Chairman writes for all Commissioners as the letter is written in the first person, can Commissioners state that they are in full agreement with the Chairman's statements and the accompanying letter with answers to the questions?*

A2 *Response by Cmr Smith:* The Chairman speaks on behalf of the Local Government.

**Mr M Sideris, Mullaloo:**

*Q1 Do the Commissioners support the principles of open, accountable and totally transparent government and if so, can they please advise why, when this association sought a request for access to or a copy of letter of authority for legal engagement, this City instructed the solicitors to deny us access?*

A1 This question will be taken on notice.

*Q2 Re: Nett Lettable Area and Retail Nett Lettable Area – Is retail nett lettable area a statutory process or enforceable by a statutory process and does it have provision in the definition for determination at fit out stage and is it to be done at the planning and development stage or at the building licence approval stage.*

A2 At the planning stage. The Building Codes do not require the Building Surveyors to check nett lettable area.

**Mr M O'Brien, Warwick:**

*Q1 Have the Commissioners had time to pursue the question of the previously notified allegation by Mr T O'Gorman MLA for Joondalup that bawdy house activities have been involved at unit 16, 7 Delage Street, Joondalup and if not why not?*

A1 *Response by Acting Chief Executive Officer:* This matter has been dealt with in the past.

*Response by Cmr Paterson:* A motion was moved in relation to this matter.

*Q2 Has a cost benefit analysis been undertaken regarding the Chairman of Commissioner's proposed trip to China?*

A2 The report does address and outline the potential benefits that will be derived from the exploratory trip to China.

**Mr K Zakrevsky, Mullaloo:**

*Q1 Re: Page ix of tonight's agenda – The answer to my second question asked in Council on 29 June 2004 states: "There is no condition (j) on the Development Approval." But the Briefing Session, Council Agenda and Minutes for CJ204-08/04 – 13 August 2002 all have clause (j). Clause 10 referred to in the answer is clause (j). What is the purpose of refuting my statement and providing this answer, and I quote "There is no condition (j) on the Development Approval" and then state "Condition 10 of the Development Approval etc" and requotes exactly what is in act clause (j)?*

*Was the purpose of this answer to discredit me and the accuracy of my question which is factually correct? Or that 'j' is the tenth letter of the alphabet which is not the subject matter?*

A1 The purpose is to make the answer as clear as possible. Mr Zakrevsky is correct that condition (j) appears in the Council resolution but in the Development Approval document itself it is numbered as condition 10.

*Q2 Re: Page ix on tonight's agenda – The answer provided and I quote: "The City can confirm that this condition (Sound Transmission and Insulation Ratings) of the Development Approval has not been met at this time, however as this report is expected when the City receives a fit out application, the development does not breach the Town Planning Act and Development Act."*

*But in the body of the report for CJ204 it is stated that this should occur prior to a Building Certificate being issued. Council Minute CJ204 on 13 August 2002 Item 2 states: "Approve the application received 20 December 2001 and revised plans dated 17 May, 5 June, 19 July 2002 requiring specific conditions to be met" and this refers to Planning and Building Approval and not some fit out date.*

*Is the developer going to have pull down the building because of the non-compliances which should have been enforced before the issuing of a Building Licence?*

A2 This question will be taken on notice.

**Mr S Magyar, Heathridge:**

*Q1 Re: Principal Activities Plan – Is it correct that the current Principal Activities Plan has a shortfall of \$3 million and the Commissioners may be borrowing \$3 million for this financial year, and in the last year of the five year Principal Activities Plan the shortfall is estimated to be \$17 million short between what the Council intends to be built and what it can afford on its rate base, and that this \$17 million is without the Ocean Reef Marina which could take the figure up to possibly \$50 or \$60 million?*

A1 This question will be taken on notice.

Q2 *Part of the Joondalup Normalisation Agreement involves the Wanneroo Basketball Association and the fact that the City will get half a million dollars for moving the Wanneroo Basketball Association out of their current stadium by December 2002. Have the Commissioners been made aware of the huge outcry and Special Electors' Meetings held by the Wanneroo Basketball Association regarding this issue and what negotiations have occurred with the Association to enable this normalisation agreement to be conducted in a manner that satisfies the Association?*

A2 The City is aware of the situation with regard to the WBA. The WBA's lease arrangement comes to an end in 2007 and the City has engaged a consultant to work with the Basketball Association. That consultant is due to report at the end of this month and the Wanneroo Basketball Association has a committee that has been implicitly involved in that process and has been thoroughly consulted throughout.

**Mr V Cusack, Kingsley:**

Q1 *Are the Commissioners aware that Strategy Sessions have always been closed to the public? Are the Commissioners aware that they were never supported by ratepayers?*

A1 *Response by Cmr Paterson:* I am not aware of that. We have held Strategy Sessions on a regular basis over eight months.

Q2 *Re: Review of Council Meeting Dates – Will Commissioners consider either deferring the item or abandoning the Strategy Session in the interests of open, accountable and transparent government?*

A2 *Response by Cmr Paterson:* It is important that Commissioners are briefed and there needs to be a closed briefing session.

**Mr T Thorp, Sorrento:**

Q1 *Re: CSIRO Site, Marmion – Are Commissioners aware that:*

1 *the Department of Administrative Services stated in regard to the CSIRO site, the acquisition of the site was for Fisheries Research Laboratory?*

2 *the Deputy Crown Solicitors stated acquisition was by agreement with the State of WA for a Fisheries Laboratory site?*

3 *the Department of Services and Property state acquisition by agreement of land for Fisheries Research Laboratory?*

4 *the Office of Minister for Land stated that the acquisition of the site was for the establishment of a Fisheries Research Laboratory?*

A1 The City was not aware of those exact quotes but Administration will be happy to use that information in future reports.

*Q2 What has the City of Joondalup done to resolve the two issues that require finalisation prior to proceeding with any rezoning attempt and as identified by the residents legal representative being:*

- 1 the CSIRO never applied or attempted to rezone the site appropriately for marine research, meaning it remains local reserve;
- 2 that the site was originally acquired for the stipulated purpose of marine research only and rezoning by others is not an option?

A2 The report deals with the planning issues, it does not deal with commitments that might have been made to and between governments at the time of acquisition.

#### **APOLOGIES AND LEAVE OF ABSENCE**

Nil.

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

Cmr Paterson declared a financial interest in Item CJ155-07/04 – Delegation to Formalise Friendly Relations with Jinan in Shandong Province, China as Cmr Paterson is part of the delegation.

Manager Strategic and Sustainable Development declared a financial interest in Item CJ155-07/04 – Delegation to Formalise Friendly Relations with Jinan in Shandong Province, China as Ms Hardy is part of the delegation.

In relation to Item CJ162-07/04 – Maintenance at Iluka Sports Complex, Cmr Smith advised her grandson played junior soccer, however she stated she would be impartial when dealing with this matter.

#### **CONFIRMATION OF MINUTES**

**C43-07/04**                    **MINUTES OF MEETING OF JOINT COMMISSIONERS – 29 JUNE 2004**

**MOVED Cmr Anderson, SECONDED Cmr Clough that the Minutes of the Meeting of Joint Commissioners held on 29 June 2004, be confirmed as a true and correct record, subject to the following correction:**

**Pages 86 and 87: Under “Primary Stakeholders”, the following words be added at the beginning of the third dot point: *“Residents – adjoining the proposed road and not associated with ..”***

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

## **ANNOUNCEMENTS BY THE CHAIRMAN WITHOUT DISCUSSION**

### **MEATH CARE KINGSLEY**

On Sunday, 18 July 2004 I was a guest as Anglican Archbishop Peter Carnley blessed the site for the proposed Meath Aged Care Centre in Hocking Road, Kingsley.

The \$25 million project yet to be approved by Council, will consist of 30 assisted apartments, 39 independent villas plus a clubhouse, pool, restaurant, library, church and cinema. On Sunday it was the site of Meath Care's Annual General Meeting, in a tent "in a cow paddock".

### **BLENDER GALLERY**

Great to see the blend(er) gallery in Central Walk up and running.

The blend(er) is now offering a series of creative workshops as part of its Workshop Calendar for 2004. The workshops, conducted by well-known artists are aimed at public involvement and are part of the blend(er) gallery's aim to provide the northern suburbs with a dynamic arts venue.

### **GOLD ADVENTURE PROGRAM**

Tomorrow I will be launching the City's GOLD Adventure Program for 2004 at Craigie Leisure Centre.

GOLD stands for Growing Old and Living Dangerously and provides great value for residents over 50, with opportunities to participate in activities such as kayaking, abseiling, fishing, wine tasting and much more.

Last year the GOLD program was an overwhelming success with over 700 enrolments and we are hoping for even more this year.

### **BRENDA ROMANCHUK**

Now it's my pleasure to call forward our Manager Marketing, Communications and Council Support, Brenda Romanchuk to receive a gift on behalf of the Commissioners and the City.

Time has certainly flown but Brenda who is on exchange from Canada has been with us a year now and is packing her bags and heading home.

It has been a pretty momentous year here at the City and I trust Brenda has enjoyed all the excitement.

Certainly those who work closely with Brenda have enjoyed her company very much. We thank Brenda for her efforts on behalf of the City and wish her the best of luck for the future.

## PETITIONS

### C44-07/04 PETITIONS SUBMITTED TO THE MEETING OF JOINT COMMISSIONERS – 20 JULY 2004

1 PETITION IN RELATION TO TRAFFIC BEHAVIOUR, ELLERSDALE AVENUE, WARWICK – [02381]

A 37-signature petition has been submitted by Colin Edwardes on behalf of residents of Ellersdale Avenue, Warwick calling on the City to investigate ways of curbing unruly traffic behaviour, including speeding vehicles in Ellersdale Avenue.

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

2 PETITION REQUESTING CONSTRUCTION OF SKATEPARK IN SUBURB OF KINGSLEY – [08096]

A 95-signature petition has been received requesting that consideration be given to the construction of a skate park in the suburb of Kingsley.

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

**It was resolved that the petitions:**

- 1 calling on the City to investigate ways of curbing unruly traffic behaviour, including speeding vehicles in Ellersdale Avenue, Warwick;**
- 2 requesting that consideration be given to the construction of a skate park in the suburb of Kingsley;**

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

Cmr Paterson declared a financial interest in Item CJ155-07/04 – Delegation to Formalise Friendly Relations with Jinan in Shandong Province, China as Cmr Paterson is part of the delegation.

Manager Strategic and Sustainable Development declared a financial interest in Item CJ155-07/04 – Delegation to Formalise Friendly Relations with Jinan in Shandong Province, China as Ms Hardy is part of the delegation.

*Cmr Paterson left the Chamber, the time being 1942 hrs. Cmr Clough assumed the Chair.*

**CJ155 - 07/04 DELEGATION TO FORMALISE FRIENDLY RELATIONS WITH JINAN IN SHANDONG PROVINCE, CHINA – [52469] [11014]**

**WARD - All**

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CJ040713\_BRF.DOC:ITEM 1

**PURPOSE**

To seek Council approval to expend funds for the cost associated with the City's Chairman of Commissioner's and the Manager Strategic & Sustainable Development's travel to Jinan, China.

**EXECUTIVE SUMMARY**

Friendly relations between the City of Joondalup and Jinan, China have been developing since 2000. A Memorandum of Friendly Talks was signed between the two cities in 2002 and in late 2003, the City received an invitation to lead a delegation to Jinan with the intent of signing a formal protocol of friendly relations as part of the developing relationship between the two cities.

In February 2004, Council accepted the invitation. Discussions to join the delegation were held with key Learning City partners and other key industry sectors. A twelve-person delegation has been formed and will go to Jinan in September 2004. The City's Chairman of Commissioners will lead the delegation and will be accompanied by the Manager Strategic & Sustainable Development.

The aim of the visit will be to sign a protocol of "friendly relations" with Jinan and to promote the City of Joondalup and its key industries of business, health, safety, education and tourism to China.

It is expected that there will be economic, social and environmental benefits as a result of the growing friendship between the two cities.

The approximate cost associated with travel and accommodation will be \$9,931.00.

*It is recommended that the Joint Commissioners BY AN ABSOLUTE MAJORITY:*

- 1 *APPROVE the estimated expenditure of \$9,931.00 towards the costs associated with the Chairman of Commissioner's and the Manager Strategic & Sustainable Development's travel to Jinan, China and that this be included in the 2004/05 budget;*
- 2 *AUTHORISE the Chairman of Commissioners to sign a formal protocol of "friendly relations" with Jinan on behalf of the City of Joondalup; and*
- 3 *REQUEST the Manager Strategic & Sustainable Development to prepare a report on the outcome of the visit to Jinan.*

## BACKGROUND

Friendly relations between the City of Joondalup and Jinan, China have been developing since 2000 following a visit by delegates from the Jinan Municipal People's Parliament to the City. In late 2001, the former Mayor John Bombak led a delegation to Jinan during the Golden Autumn Trade Fair and in January 2002 Mr Sun Changyin, Chairman of the Jinan Municipal People's Consultative Committee led another delegation to the City. During this trip a "Memorandum of Friendly Talks" was signed between the two cities.

In September 2003, Mr Li Zhongxue, the Director of Jinan Foreign Affairs Office sent a fax to the City to advise that the Chinese Friendship Association with Foreign Countries had issued an approval to formalise friendly relations between the City of Joondalup and Jinan. The fax also extended a formal invitation to the City to lead a delegation to Jinan with the intent of signing a formal protocol of friendly relations as part of the developing relationship between the two cities.

A letter was sent to Jinan in response to this invitation in which the Chairman of Commissioners stated that:

*"Joondalup's new Commissioners are aware of the importance of the continuing relationships between our two cities and of the significance of the twin-city relationship approved by the Chinese Friendship Association. We are keen to further develop fruitful relationships between our two cities in the areas of education, tourism, health, trade and business."*

In February 2004, Council considered the invitation from Jinan, and resolved to:

- 1 ACCEPT the invitation and acknowledge the previous relations by the Municipal People's Government of Jinan for the Chairman of the Commissioners of the City of Joondalup to lead a delegation to Jinan;*
- 2 AUTHORISE the Chairman of Commissioners to commence formal discussions to negotiate an appropriate date for the delegation with the City's key stakeholders and the Jinan People's Municipal Government;*
- 3 ADVISE the Municipal People's Government that travel and accommodation costs would be borne by each delegate and/or their representative organisation;*
- 4 LISTS for consideration in 2004/05 budget process the costs of the Chairman's travel and accommodation to Jinan as well as the associated costs of hosting an inbound delegation (excluding their accommodation and airfare costs) during the 2004/05 financial year from Jinan."*

(CJ007-02/04 refers)

### Strategic Plan:

The delegation to Jinan comprises of the City's key Learning City stakeholders and is representative of business, health, safety, education, and tourism industries. The promotion of these industries in Jinan fits in with The City's Strategic Plan 2003-08 under Key Focus Area One through the following outcome:



**“The City of Joondalup is recognised globally as a community that value and facilitates Lifelong Learning”**

**DETAILS**

**Delegation to Jinan**

The City has held discussions and extended invitations to its Learning City Partners to join the delegation. There has been strong support and the following have agreed to join in the official twelve-person delegation to Jinan. The City’s Chairman of Commissioners will lead the delegation and will be accompanied by the Manager Strategic & Sustainable Development.

<b>Name</b>	<b>Position</b>	<b>Organisation</b>
Mr John Paterson	Chairman of Commissioners	City of Joondalup
Ms Rhonda Hardy	Manager Strategic & Sustainable Development	City of Joondalup
Professor Patrick Garnett	Deputy Vice Chancellor	Edith Cowan University
Mr David Curry	President	Joondalup Business Association
Mr Kempton Cowan	Director of Hospital	Joondalup Health Campus
Mr James Chan	Managing Director	Joondalup Resort Hotel
Mr Alan Green	Nominee	Sunset Coast Tourism Association
Mr Karl O’Callaghan	Commissioner of Police	WA Police Service
Ms Sue Slavin	A/Managing Director	West Coast College of TAFE
Mr Peter Flat	Senior Asset Manager	ING Real Estate
Dr Glen Watkins	Chairman	International Institute of Business & Technology (IIBT)
Mr David Xu	Director	IIBT

**Aim of the trip to Jinan**

The aim of the visit will be:

- For Mr John Paterson, in his official capacity as the Chairman of Commissioner of the City of Joondalup, to sign a formal protocol of “friendly relations” with Jinan on behalf of the City; and
- To promote the City of Joondalup and its key industries of business, health, safety, education and tourism to China.

**Itinerary**

Arrangements for travel are being co-ordinated by City officers and the following itinerary has been forwarded to members of the delegation.

<b>Date</b>	<b>Event</b>
1 September 2004	Depart Perth
2 September 2004	Meeting with officials from the Australian Embassy in Beijing
3 September 2004	Attendance at the Jinan Tourism Trade Fair
4 September 2004	Signing of protocol between Chairman of Commissioners & Jinan officials

<b>Date</b>	<b>Event</b>
5 September 2004	Networking with leaders from key industry sectors such as small business, education, tourism health, safety
6 September 2004	Visit to Jinan University & meeting with learning sector institutions
7 September 2004	Depart Jinan & meet with officials from the Australian Embassy in Beijing
8 September 2004	Depart Beijing for return trip to Perth

### **Policy Implications:**

Under the provisions outlined in Part 5 of Policy 2.2, elected members are entitled to travel business class when travelling overseas and are entitled to a daily allowance of \$160.00.

### **Financial Implications:**

It is proposed that the City will bear the costs associated with the Chairman of Commissioner's and the Manager Strategic & Sustainable Development's travel to Jinan. The other members of the delegation will bear their own costs.

The estimated cost based on an 8 day round trip to and from Perth for two persons, is made up as follows:

Air travel for Chairman of Commissioners – Business class: \$4,622 (including taxes and insurance)

Air travel for Manager Strategic and Sustainable Development – Economy Class - \$1,829 (including taxes and insurance)

Daily allowance (based on \$160.00 per day for the Chairman of Commissioners): \$1,280.00

Accommodation (Chairman of Commissioners and Manager Strategic and Sustainable Development: \$2,200.00

**NOTE:** It should be noted that the Commissioner of Police and the Deputy Vice Chancellor of Edith Cowan University have chosen to travel Business Class, and will be accompanied by the Chairman of Commissioners. The other members of the delegation have chosen to travel Economy Class.

### **Estimated Total Cost: \$9,931.00**

Account No:	1.2130.4901.0001.F681
Budget Item - 2004/2005:	Learning City Project
Budget Amount - 2004/2005	\$113,000.00
Sub-allocation amount for Jinan:	\$15,000.00
YTD Amount:	\$0.00
Actual Cost:	\$9,931.00

### **COMMENT**

The primary purpose of the delegation will be to continue to strengthen the ties that are developing between the two cities as well as provide further opportunities for the Joondalup region to promote its exportable services.

## **Training & Mentoring Programme for Jinan Government Officials**

The Jinan Government have expressed considerable interest in developing programs that will facilitate opportunity for their government officials to access various education and training services that the Learning City partners can provide. The relationship between the two cities can provide the mechanism for new markets to be created around education and training that will further support the City of Joondalup's sustainable economic viability into the future.

With respect to Local Government, the Jinan Government has indicated an interest in pursuing a programme in Australia whereby their government officers could participate in a mentoring and training program. Preliminary discussions on this matter have commenced.

A scenario for an education programme facilitated by Local Government may be as follows: -

A programme in Australia may run for 4 months and may be broken down into 4 areas of activity:

1. Orientation and Closing - The first two weeks may be used to orientate the participants to living in Perth, the functions of Joondalup City Council and further English preparation (particularly in terms of local council language). The last two weeks would be devoted to finalising the course, particularly in terms of participants' own requirements, certificate presentations and final dinners.
2. Knowledge transfer - This activity will be part of the remaining 3 1/2 months. The transfer may include:
  - The more academic areas of organisational change, leadership, management, cultural differences, governance and E-procurement
  - The functions of state and local governments including structure, planning (urban and strategic), finance, audit, community development, human resources, library and information services, maintenance, waste, development etc.
3. Skill transfer - Participants will be assigned mentors to give them a "hands" on appreciation of the functions and activities of Joondalup Council.
4. Visits to other local governments. During the program participants will be taken to review other country shires and cities. This will also allow them to visit other parts of Western Australia.

The reciprocal benefits that the City could derive from such an arrangement would include a new revenue stream, transfer of cross cultural understanding, exchange of language development, broadening of skills and knowledge and greater level of satisfaction and motivation for City employees who become involved in broadening their roles as mentors and trainers.

Other benefits could be in the areas of:

### **Business**

- Business leaders going on trade missions;
- Provide for business exchanges;
- Develop business links and information exchange.

### **Education**

- Student exchanges;
- Teacher exchanges;
- Support for foreign students studying in Joondalup;
- Promotion of Learning City concepts.

### **Culture**

- Provide opportunities for cultural exchanges between the two cities
- Involve the Joondalup community, including educational, cultural and commercial organisations into developing an awareness and respect for another culture

### **Sustainability Implications**

There are many scenarios from which the Jinan delegation will forge relations and explore opportunities that will benefit the City 's development. The importance of this inaugural delegation for the City of Joondalup will no doubt be recognised by the community. The community may wish to provide comment or ideas for the delegation to take on board and a Jinan delegation web page is being developed to provide a community information and feedback mechanism for those people interested in the Jinan expedition.

### **Economic Growth**

The impact of increased overseas visitation to Joondalup will also increase business activity in the local economy. Small business sector will have a larger market and feel confident they are operating a cluster of industry sectors that will go forward in a sustainable manner. With respect to small business development it should be noted that Jinan is situated on the major trade route of China between Beijing and Shanghai. The product-manufacturing sector is burgeoning in the Shandong province and new product markets looking for export markets are evolving. The Joondalup Business Association is well placed to broker the connection for small business operators in the City of Joondalup to forge new import sector relationships and grow this industry sector.

Growth of tourism and hospitality through increased visitation from friends and relatives will provide a beneficial effect upon the industry. The City is near the completion of its draft tourism development plan that will provide for an implementation pathway for developing the potential that exists in Joondalup for a sustainable tourism industry.

Associated with increased student growth will be the increased demand upon quality health and safety services. The exchange of knowledge across all these levels of industry within Joondalup provides a platform for innovative services to be developed and delivered from the Learning City.

### **Social & Cultural exchange**

With respect to social sustainability, the benefits associated with the Jinan delegation paves the way for increasing our understanding of another culture in order to build trusting relationships for mutually beneficial outcomes. The exchange of cultural values between the two Cities is significant in building a strong foundation to sustain the relationship. The two cities must be committed to working together towards shared goals. The City is near the completion of its cultural plan and this plan will provide an implementation pathway to ensuring that the City values its diversity.

### **Environmental knowledge exchange**

With respect to environmental sustainability, the Jinan relationship will provide an opportunity for knowledge exchange in relation to issues such a waste minimization, environmental health, water, air and biodiversity.

### **VOTING REQUIREMENTS**

Absolute Majority

**OFFICER'S RECOMMENDATION:** That the Joint Commissioners BY AN ABSOLUTE MAJORITY:

- 1 APPROVE the estimated expenditure of \$9,931.00 towards the costs associated with the Chairman of Commissioner's and the Manager Strategic & Sustainable Development's travel to Jinan, China and that this be included in the 2004/05 budget;
- 2 AUTHORISE the Chairman of Commissioners to sign a formal protocol of "friendly relations" with Jinan on behalf of the City of Joondalup;
- 3 REQUEST a report on the outcome of the visit to Jinan.

### **ADDITIONAL INFORMATION**

The Chairman of Commissioners has advised that he proposes to travel to Jinan based on an economy airfare, which results in a saving of \$2,793. The travel costs for representatives from the City of Joondalup are now:

Air travel for Chairman of Commissioners and the Manager Strategic and Sustainable Development - Economy class: \$1,829 (including taxes and insurance) each.

The approximate cost associated with travel and accommodation will be \$7,138.00

The following amended Recommendation is submitted for consideration by the Joint Commissioners:

**MOVED Cmr Anderson, SECONDED Cmr Fox that the Joint Commissioners:**

- 1 APPROVE the estimated expenditure of \$7,138.00 towards the costs associated with the Chairman of Commissioner's and the Manager Strategic & Sustainable Development's travel to Jinan, China and that this be included in the 2004/05 budget;**
- 2 AUTHORISE the Chairman of Commissioners to sign a formal protocol of "friendly relations" with Jinan on behalf of the City of Joondalup;**
- 3 REQUEST a report on the outcome of the visit to Jinan.**

**AMENDMENT MOVED Cmr Smith, SECONDED Cmr Anderson that the following words be added at the end of Point 3 of the Motion:**

*"which is to include key performance indicators that will allow the City to monitor the impact of the relationship with Jinan over the next five years."*

**The Amendment was Put and**

**CARRIED UNANIMOUSLY (4/0)**

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

**That the Joint Commissioners:**

- 1 APPROVE the estimated expenditure of \$7,138.00 towards the costs associated with the Chairman of Commissioner's and the Manager Strategic & Sustainable Development's travel to Jinan, China and that this be included in the 2004/05 budget;**
- 2 AUTHORISE the Chairman of Commissioners to sign a formal protocol of "friendly relations" with Jinan on behalf of the City of Joondalup;**
- 3 REQUEST a report on the outcome of the visit to Jinan which is to include key performance indicators that will allow the City to monitor the impact of the relationship with Jinan over the next five years.**

**was Put and**

**CARRIED BY AN  
ABSOLUTE MAJORITY (4/0)**

*Cmr Paterson entered the Chamber at 1949 hrs and assumed the Chair.*

## **CJ156 - 07/04      REGISTRATION OF VOTING DELEGATES FOR WALGA ANNUAL GENERAL MEETING – [21453]**

**WARD - All**

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CJ040713\_BRF.DOC:ITEM 2

### **PURPOSE**

For voting delegates to be appointed to attend the Western Australian Local Government Association (WALGA) Annual General Meeting.

### **EXECUTIVE SUMMARY**

The 2004 Local Government Week will be held at the Burswood Convention Centre from Friday, 6 August to Wednesday 11 August 2004. The Statutory Annual General Meeting for the Association will be held on Sunday 8 August 2004. Member Councils having representatives attending the meeting and wanting to participate in voting on matters raised, must register their voting delegates by 21 July 2004.

### **BACKGROUND**

The Annual General Meeting of WALGA is traditionally held during Local Government Week Conference when the majority of local governments in the State have representatives attending.

In order to participate in the voting on matters decided at the annual general meeting, each member Council must register their voting delegates by 21 July 2004. Proxy voting is available for delegates from Member Councils who are unable to attend or will not be represented by their full voting entitlement at the AGM. Appointment of proxies must be registered with the Secretariat by 30 July 2004, and at the latest by 6 August 2004.

### **DETAILS**

Member Councils are entitled to be represented by two voting delegates, with each able to exercise one vote. Voting must be exercised in person, and proxy voting is available provided proxies are registered.

### **COMMENT**

The North Metropolitan Zone Committee of WALGA, consisting of the Cities of Joondalup, Stirling and Wanneroo, is the main link the City has in considering matters relating to WALGA activities. The City is currently represented on that Committee by:

Cmr S Smith  
Acting Chief Executive Officer  
Director Corporate Services and Resource Management  
Manager Audit and Executive Services

## ATTACHMENTS

Nil

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners APPOINT Cmr S Smith and the Acting Chief Executive Officer as voting delegates at the Annual General Meeting of the Western Australian Local Government Association.**

**The Motion was Put and CARRIED UNANIMOUSLY (5/0)**

## **CJ157 - 07/04 MINUTES OF SUSTAINABILITY ADVISORY COMMITTEE - 10 JUNE 2004 – [00906]**

**WARD - All**

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CJ040713\_BRF.DOC:ITEM 3

### **PURPOSE**

For Council to adopt the unconfirmed minutes of the Sustainability Advisory Committee meeting held on 10 June 2004.

### **EXECUTIVE SUMMARY**

The Sustainability Advisory Committee (SAC) met on 10 June 2004. A representative from *James Christou and Associates* presented to the SAC the current Concept Plan for the new Depot building.

*This report recommends that the Joint Commissioners NOTE the unconfirmed minutes of the Sustainability Advisory Committee meeting held on 10 June 2004, forming Attachment 1 to this Report.*

### **DETAIL**

The minutes of the Sustainability Advisory Committee meeting, held on 10 June 2004 are provided as Attachment 1.

### **COMMENT**

The presentation on the depot provided an overview of the Concept Plan stage and sought comments/feedback from the Committee. The Committee discussed a number of sustainable development issues and agreed to provide further comment on the depot Concept Plan via the executive officer of the Sustainability Advisory Committee.



**Sustainability Implications regarding Item 1 – Concept Plan for new Depot.**

The Concept Plan for the new Depot building has significant implications to the City in terms of the incorporation of Ecologically Sustainable Design (ESD) principles. Issues such as solar passive design, reliance on air-conditioning systems, excessive energy use, drainage and other water issues, landscaping and aesthetics all need to be considered in the design of the Depot. Careful consideration of these ESD principles in the concept planning stage and beyond is likely to reduce future energy costs and increased human comfort levels. Historically, Councils that give insufficient significance to ESD principles will often need to retrofit buildings to provide adequate thermal performance. Retrofitting of buildings often represents a large, and ultimately an avoidable cost.

The Committee expressed its in principle support for the Concept Plan for the Depot building and has requested further details on specific ESD principles to be incorporated. In addition, the Committee appreciates the opportunity to comment on this matter.

**ATTACHMENTS**

Attachment 1            Minutes of the Sustainability Advisory Committee - 10 June 2004.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION:** That the Joint Commissioners NOTE the unconfirmed minutes of the Sustainability Advisory Committee meeting held on 10 June 2004 forming Attachment 1 to Report CJ157-07/04.

**MOVED Cmr Smith, SECONDED Cmr Anderson that the Joint Commissioners:**

- 1        NOTE the unconfirmed minutes of the Sustainability Advisory Committee meeting held on 10 June 2004 forming Attachment 1 to Report CJ157-07/04;**
- 2        REQUEST the Acting Chief Executive Officer to seek comments from the Sustainability Advisory Committee in relation to the ecologically sustainable design components of the Depot project on a regular basis as the design stages progress.**

Discussion ensued.

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

*Appendix 1 refers*

*To access this attachment on electronic document, click here: [Attach1brf130704.pdf](#)*

**CJ158 - 07/04      POLICY MANUAL REVIEW COMMITTEE – [97032]  
[26176] [13399]****WARD - All**

CJ040713\_BRF.DOC:ITEM 4

**PURPOSE**

To give further consideration to the status of the Policy Manual Review Committee.

**EXECUTIVE SUMMARY**

At the Council meeting held on 17 February 2004 it was requested that the formation of the Policy Manual Review Committee be referred to a future Strategy Session for further consideration. This request has been considered and it is proposed that it would be more appropriate for the matter to be discussed at a Briefing Session.

It is considered that amendments to policies should be submitted directly to Council, and accordingly it is recommended that the Policy Manual Review Committee be disbanded.

**BACKGROUND**

During 2003, the Council established 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*”.

Following the appointment of Joint Commissioners on 5 December 2003, a report was submitted to the Council meeting held on 17 February 2004 recommending the appointment of representatives to various internal and external committees to which elected members were appointed – Item CJ002-02/04 refers. That report recommended that the Policy Manual Review Committee be disbanded, however it was requested that the formation of this Committee be referred to a future Strategy Session for further consideration.

**DETAILS**

Following the appointment of Joint Commissioners on 5 December 2003, a review of Council’s internal and external committees was undertaken and a report submitted to Council on 17 February 2004, with the officer’s recommendation in relation to the Policy Manual Review Committee being that this committee be disbanded. At that meeting it was requested that the formation of the Policy Manual Review Committee be referred to a future Strategy Session for further consideration. This request has been considered and it is proposed that it would be more appropriate for the matter to be discussed at a Briefing Session.

It is considered that amendments to policies should be submitted directly to Council, and accordingly it is recommended that the Policy Manual Review Committee be disbanded.

## ATTACHMENTS

Nil

## VOTING REQUIREMENTS

Absolute Majority

**OFFICER'S RECOMMENDATION:** That the Joint Commissioners, BY AN ABSOLUTE MAJORITY, DISBAND the Policy Manual Review Committee.

**MOVED Cmr Smith, SECONDED Cmr Fox that consideration of the role of the Policy Manual Review Committee, and protocols for the review and adoption of new policies, be REFERRED to a workshop to be attended by Commissioners.**

Cmr Smith spoke to the Motion.

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

**CJ159 - 07/04      SUPPLEMENTARY APPOINTMENT OF AUDITOR  
CONTRACT 040-02/03 SUPPLY OF AUDIT SERVICES  
– [43831] [30544]**

**WARD - All**

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CJ040713\_BRF.DOC:ITEM 5

## PURPOSE

The purpose of this report is to seek the Joint Commissioners' approval to appoint Mrs Leanne Karamfiles as an additional Deloitte Touché Tohmatsu audit nominee, for the period 1 July 2003 to 30 June 2006.

## EXECUTIVE SUMMARY

Under Contract 040-02/03 Supply of Audit Services the City appointed Mr Graham McHarrie and Mr Peter McIver from Deloitte Touché Tohmatsu Chartered Accountants to supply Audit Services for the period 1 July 2003 to 30 June 2006.

Deloitte recently wrote to the City requesting that Council adds Mrs Leanne Karamfiles as an additional auditor for the period 1 July 2003 to 30 June 2006. This request is supported by the administration and a formal appointment as required under Section 7.3 of the Local Government Act 1995, is sought from the Joint Commissioners.

*It is recommended that the Joint Commissioners BY AN ABSOLUTE MAJORITY in accordance with Section 7.3 of the Local Government Act 1995 APPOINT Leanne Karamfiles of Deloitte Touché Tohmatsu as an auditor to the City of Joondalup for the period 1 July 2003 to 30 June 2006, with the appointment to be in accordance with the terms and conditions outlined in the Local Government (Audit) Regulations 1996.*

## BACKGROUND

The Local Government Act 1995 (the Act) requires the accounts and annual financial report of a local government for each financial year to be audited by an auditor appointed by the local government (section 7.2).

Mrs Karamfiles was appointed by Council as an auditor, on an interim basis, to audit the accounts and annual financial report of the City for the financial year ended 30 June 2003.

At its meeting of 19 August 2003, Council appointed Mr Graham McHarrie and Mr Peter McIver of Deloitte Touché Tohmatsu as the City's auditors for the triennium covering the financial years 1 July 2003 to 30 June 2006. (CJ187-08/03 refers.) Due to the timing of the tender for the new contract, Mrs Karamfiles was not nominated by Deloitte as an auditor for the triennium ended 30 June 2006.

## DETAILS

Deloitte Touché Tohmatsu is now seeking Council's approval to add Mrs Karamfiles as an auditor of the City, as required under Section 7.2 of the Act and have confirmed that she is a registered company auditor and is therefore eligible per Section 7.3 of the Act.

Mrs Karamfiles was admitted to the Deloitte partnership in July 2003 and is a member of the Institute of Chartered Accountants Australia with over 10 years auditing experience.

## COMMENT

Under Section 7.2 of the Local Government Act 1995 the accounts and annual financial report of a local government, for each financial year, are required to be audited by an auditor appointed by the local government.

Whenever such an appointment is necessary or expedient a local government may appoint one or more persons as its auditor, as long as the person is a registered company auditor or an approved auditor. Mrs Karamfiles satisfies this criteria and her appointment as an additional auditor of the City is supported by the administration and recommended to the Joint Commissioners.

## ATTACHMENTS

Nil

## VOTING REQUIREMENTS

Absolute Majority

**MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners in accordance with Section 7.3 of the Local Government Act 1995 APPOINT Leanne Karamfiles of Deloitte Touché Tohmatsu as an Auditor to the City of Joondalup for the period 1 July 2003 to 30 June 2006, with the appointment to be in accordance with the terms and conditions outlined in the Local Government (Audit) Regulations 1996.**

The Motion was Put and

**CARRIED BY AN  
ABSOLUTE MAJORITY (5/0)**

**CJ160 - 07/04 WARRANT OF PAYMENTS 30 JUNE 2004 – [09882]****WARD - All**

CJ040713\_BRF.DOC:ITEM 6

**PURPOSE**

The Warrant of Payments as at 30 June 2004 is submitted to the Joint Commissioners for approval.

**EXECUTIVE SUMMARY**

This report details the cheques drawn on the funds during the month of June 2004. It seeks approval by the Joint Commissioners for the payment of the June 2004 accounts.

<b>FUNDS</b>	<b>DETAILS</b>	<b>AMOUNT</b>
Director Corporate Services & Resource Management Advance Account	64587 – 65162 & EFT 238-366	\$6,553,707.58
Municipal Account	000498-000500 & 000651-000652 & 10A 11A & 13A	\$8,564,370.18
Trust Account	Nil	\$ Nil
	<b>TOTAL</b>	<b>\$15,118,077.76</b>

The Director Corporate Services & Resource Management Advance Account is an imprest account and was reimbursed from the Municipal Account during the month. The difference in total between the Municipal Account and the Director of Corporate Services & Resource Management Advance Account is attributable to the direct debits by the Commonwealth Bank for bank charges, credit card charges, investments and dishonoured cheques being processed through the Municipal Fund.

It is a requirement pursuant to the provisions of Regulation 13(4) of the Local Government (Financial Management) Regulations 1996 that the total of all other outstanding accounts received but not paid, be presented to the Joint Commissioners. At the close of June 2004, the amount was **\$2,873,854.59**. The cheque register is appended as Attachments A & B.

**CERTIFICATE OF THE DIRECTOR OF CORPORATE SERVICES & RESOURCE MANAGEMENT**

This warrant of payments to be passed for payment, covering vouchers numbered as indicated and totalling **\$15,118,077.76** which is to be submitted to the Joint Commissioners on 20 July 2004 has been checked, is fully supported by vouchers and invoices and which have been duly certified as to the receipt of goods and the rendition of services and as to prices, computations and costing and the amounts shown are due for payment.

PETER SCHNEIDER  
 Director Corporate Services & Resource Management

**CERTIFICATE OF CHAIRMAN OF COMMISSIONERS**

I hereby certify that this warrant of payments covering vouchers numbered as indicated and totalling **\$15,118,077.76** was submitted to the Joint Commissioners on 20 July 2004.

.....  
 JOHN PATERSON  
 Chairman of Commissioners

**ATTACHMENTS**

Attachment A           Warrant of Payments for Month of June 2004  
 Attachment B           Municipal Fund Vouchers for Month of June 2004

**VOTING REQUIREMENTS**

Simple Majority

**MOVED Cmr Fox, SECONDED Cmr Anderson that the Joint Commissioners APPROVE for payment the following vouchers, as presented in the Warrant of Payments to 30 June 2004, certified by the Chairman of Commissioners and Director Corporate Services & Resource Management and totalling \$15,118,077.76.**

<b>FUNDS</b>	<b>DETAILS</b>	<b>AMOUNT</b>
<b>Director Corporate Services &amp; Resource Management Advance Account</b>	<b>64587 – 65162 &amp; EFT 238-366</b>	<b>\$6,553,707.58</b>
<b>Municipal</b>	<b>000498-000500 &amp; 000651-000652 &amp; 10A 11A &amp; 13A</b>	<b>\$8,564,370.18</b>
<b>Trust Account</b>	<b>Nil</b>	<b>\$ Nil</b>
	<b>TOTAL</b>	<b>\$15,118,077.76</b>

**The Motion was Put and CARRIED UNANIMOUSLY (5/0)**

*Appendix 2 refers*

*To access this attachment on electronic document, click here: [Attach2brf130704.pdf](#)*

**CJ161 - 07/04 2005/2006 STATE BLACK SPOT PROGRAM – [08151]****WARD - All**

CJ040713\_BRF.DOC:ITEM 7

**PURPOSE**

The purpose of this report is to seek the Joint Commissioners' formal endorsement of projects submitted for the 2005/06 State Black Spot Program.

**EXECUTIVE SUMMARY**

On 8 March 2004, Main Roads WA called for submissions for the 2005/06 State Black Spot Program. Submissions are required by Tuesday 15 June 2004. In order to meet this deadline, project submissions have been made subject to formal endorsement by the Joint Commissioners.

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

*This report recommends that the Joint Commissioners ENDORSE the listed projects shown on Attachment 1 to this Report for submission to the 2005/06 State Black Spot Program.*

**BACKGROUND**

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

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

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

The State Black Spot Program will allocate two thirds funding towards the cost of successful projects with the remaining one third project cost to be met by Council.

## **DETAILS**

On 8 March 2004, Main Roads WA called for submissions for the 2005/06 State Black Spot Program. To enable the submissions to be presented to the Metropolitan Regional Road Group Technical Members meeting, the submission deadline was set for Tuesday 15 June 2004.

As part of this 2005/06 program, approximately 144 eligible sites in the City of Joondalup (5 crashes in 5 years ending December 2003) were evaluated on a preliminary basis. Of these, 36 sites were subject to a more detailed assessment.

The projects are prioritised on a state wide basis, utilising an economic indicator known as the BCR (Benefit Cost Ratio). The BCR is the comparison of cost savings to the community as a result in the reduction of crashes, compared to the cost of installing a particular traffic treatment type. In simple terms, the greater the cost effectiveness, the greater the BCR value, which results in a higher project ranking. It is also noted that some of the State Black Spot Program funds will be allocated towards projects that have undergone a safety audit procedure. The extent of these funds is yet to be determined, however it is unlikely to be more than 20% of the program funding. Safety audits have been undertaken for various sites to take into consideration the traffic volumes and the intersection layouts.

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

In accordance with the previous year, it is envisaged that the Minister for Transport will announce the approved projects early to mid 2005.

### **Financial Implications:**

The successful funding of Black Spot projects will require Council to allocate funds in the 2005/06 Program. The grants are provided on the basis of two thirds contribution from the State to one third by the City

An amount of \$180,000 has been listed as Council's contribution in (2005/06) of the City's Five Year Capital Works - Black Spot Program. Should Council be successful in all its submissions, then a budget adjustment will be undertaken as part of the 2005/2006 Draft Budget deliberations.

### **Strategic Implications:**

The projects fit into the Strategic Plan for the City by improving infrastructure. The major benefit for the community is a safer road network. The use of the State Black Spot programs enables the City to source grant funds in combination with its own funds.

## **COMMENT**

The State Black Spot Program is administered by Main Roads WA and provides funding to improve the road network.



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

## ATTACHMENTS

Attachment 1 Proposed 2005/06 State Black Spot Program Project Submission List

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners ENDORSE the listed projects shown on Attachment 1 to Report CJ161-07/04 for submission to the 2005/06 State Black Spot Program.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

*Appendix 3 refers*

*To access this attachment on electronic document, click here: [Attach3brf130704.pdf](#)*

In relation to Item CJ162-07/04 – Maintenance at Iluka Sports Complex, Cmr Smith advised her grandson plays junior soccer, however she stated she would be impartial when dealing with this matter.

**CJ162 - 07/04 MAINTENANCE AT ILUKA SPORTS COMPLEX – [02046]**

**WARD - All**

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CJ040713\_BRF.DOC:ITEM 8

## PURPOSE

To report on the 12-month trial of maintenance of Iluka Sports Complex as authorised by Council in April 2003.

## EXECUTIVE SUMMARY

Council at its meeting of April 2003 received Report CJ090-04/03 Grounds Maintenance Standards Iluka Sporting Complex and resolved:

- 1 ACKNOWLEDGES the concerns expressed by the Beaumaris Sports Association and lists for consideration as part of the 2003/2004 Draft Budget deliberations an increase in budget allocation for maintenance of the Iluka District Open Space to \$80,000, utilising the scope of work and specification document as outlined at Attachment 2 as the target services levels to achieve, subject to a ground management strategy which recognises the venue as a premier facility ensuring that the level of sporting use is commensurate with the capacity of the playing surface to sustain the proposed level of usage, and recognises the status of the ground as Public Open Space for the recreation needs of the community;
- 2 Subject to Council adopting the increased levels of funding for maintenance purposes as part of the 2003/2004 budget deliberations, liaises with representatives of the Beaumaris Sports Association on a bi monthly basis to monitor the progress during 2003/2004 year and to submit a recommendation to Council following the twelve month trial regarding the ongoing standards and responsibilities.

This report provides the Joint Commissioner's with an update on the progress achieved throughout the 12-month trial period and recommends that the Joint Commissioners:

- 1 *NOTE the 12-month progress report in regard to increased level of maintenance undertaken at Iluka District Open Space.*
- 2 *REQUEST that a review of the current level of sports usage at Iluka Sporting Complex be undertaken prior to the 2005 winter sports period, to determine if opportunities exist to reduce ground utilisation at Iluka District Open Space.*

## **BACKGROUND**

Concern was expressed by the user groups at Iluka Sporting Complex regarding the standard of maintenance and a low budget allocation implemented by the City given the standard of sports at the facility. Representative clubs highlighted the poor turf conditions during establishment and the impacts they were experiencing during the winter sports program. Council at its ordinary meeting of 3 September 2002 resolved to establish a working party involving 2 Councillors, members of the Beaumaris Sports Association Representatives of affiliated clubs and Council Officers. This group met on two occasions and Report NoCJ090-04/03 was submitted with the following recommendation.

That Council:

- 1 ACKNOWLEDGES the concerns expressed by the Beaumaris Sports Association and lists for consideration as part of the 2003/2004 Draft Budget deliberations an increase in budget allocation for maintenance of the Iluka District Open Space to \$80,000, utilising the scope of work and specification document as outlined at Attachment 2 as the target services levels to achieve, subject to a ground management strategy which recognises the venue as a premier facility ensuring that the level of sporting use is commensurate with the capacity of the playing surface to sustain the proposed level of usage, and recognises the status of the ground as Public Open Space for the recreation needs of the community;

- 2 Subject to Council adopting the increased levels of funding for maintenance purposes as part of the 2003/2004 budget deliberations, liaises with representatives of the Beaumaris Sports Association on a bi monthly basis to monitor the progress during 2003/2004 year and to submit a recommendation to Council following the twelve month trial regarding the ongoing standards and responsibilities.

## **DETAILS**

City Officers and Club Representatives commenced 6/8-week cycle of meetings as from 10 September 2003 and the most recent meeting was held 29 April 2004. Minutes were compiled and distributed for all meetings. The Minutes reflect that a wide range of topics were covered with a core of base topics considered essential to any maintenance improvements at the facility. Minutes of Meeting 29 April 2004, are provided at Attachment 1 as an example and cover the following topics:

- Parking Issues
- Grounds Condition
- Ovals Condition
- Kikuyu Control
- Works Proposed

Additional funding authorised by the City enabled implementation of various enhanced maintenance procedures as follows.

### Fertiliser

Application of slow release fertiliser specific for limestone soils at 3 monthly cycles.  
Application of 'Turf Special' fertiliser for an interim boost during summer growing season on 6/8-week cycle.

The above practices are ongoing for the winter sports period with exception of the application of 'Turf Special', which has been suspended due to turf dormancy and will recommence in September.

### Additional Grounds Maintenance

Work crews attended Mondays and Thursdays to repair any areas of turf not providing satisfactory recovery following weekend sports

### **Extract from the Minutes of 29 April 2004.**

Topic 3 – Turf Condition States.

### Turf Condition

High wear areas fertilised 3 February 2004 with slow release. Entire areas to be fertilised late February.

Ovals General

“Condition is good when compared to previous years additional works programmed for September.”

These comments reflect the turf conditions at commencement of winter’s sports program. It is acknowledged that the turf conditions have deteriorated significantly during May and June and this is predominately-attributed to the high utilisation by Junior Soccer.

The utilisation is assessed as:

<u>Heathridge Soccer Club</u>	<u>ECU Lakers Hockey Club</u>	<u>Brothers Rugby Union</u>
Micro – 23 teams	Minkey –1 team	Junior – 8 teams
Youth – 13 teams	Junior – 12 teams	Senior – 2 teams
Senior – 1 team	Senior – 4/5 teams	

This utilisation is unsustainable on any sports oval without impacting on the user groups and the City’s ability to provide high quality playing surface. During the summer season whereby the oval and turf wickets are in use for cricket, provides a period of recovery for the turf due to low turf wear by the Cricket Club. The Cricket Club is concerned that the recovery period if late in commencing, will impact on their ability to host home fixtures early in the season annually. At commencement of winter sports the turf has recovered and the “turf wear cycle” recommences.

The table below provides information in relation to the historical maintenance expenditure, and also gives an indication of the forecast budget for 2004/05. It is noted that the forecast 2004/05 allocation has been reduced to reflect actual expenditure incurred during 2003/04.

**Funding**

<b>Maintenance</b>	<b>Budget</b>	<b>Expenditure</b>
2000/2001	\$36,198	\$61,439
2001/2002	\$39,700	\$56,915
2002/2003	\$46,971	\$72,010
2003/2004	\$80,000	\$68,859
2004/2005 - Proposed	\$73,916	-

**COMMENT**

Correspondence has recently been received from Joondalup Lakers Hockey Club expressing their concerns regards the current oval conditions and the City’s ability to maintain the turf to an acceptable standard for user groups. These comments were supported by further correspondence from the Beaumaris Sports Association from the 4 June 2004.

City Officers have been in contact with Western Australian Hockey Association (W.A.H.A) and local club representatives to clearly identify the issues and concerns expressed by user clubs. W.A.H.A has been previously advised that the City is undertaking specific initiatives to improve the turf conditions. The meeting of July will be expanded to ensure participation by all user clubs.

This facility is 5 years old and has been exposed to excessive usage since opening. Turf development for these types of small ball sports is a long-term process and the turf conditions at 29 April were a significant improvement on previous years. The increased funding allocated in 2003/2004 was the first stage in a long process to provide a satisfactory turf surface with minimal disruption to the regular summer/winter sports fixtures. These improvements will only be achieved by cooperation and communication by all parties and acceptance that the mix of small ball and large ball sports needs to be reconsidered. (Small ball sports need to utilise low cut turf and large ball sports need higher soft surface to minimise impact with the ground.)

In April 2004, the City acquired management responsibility for ground allocation for this facility and it is anticipated that the current usage will be reviewed prior to the 2005 winter sports program. The City has various ovals within the surrounding suburbs that currently have low utilisation and these should be used to reduce the winter sports impact at Iluka. Relocation of training to alternative locations would provide a significant reduction in turf 'wear' and provide the user groups with enhanced oval conditions for match play and this option will be recommended by the City.

It should also be noted that there is no 'time gap' between summer and winter sports, therefore all restoration works must be with agreement of the user groups and this is not always achievable.

## ATTACHMENTS

Attachment 1 Minutes of 29 April 2004

## VOTING REQUIREMENTS

Simple Majority

**OFFICER'S RECOMMENDATION:** That the Joint Commissioners:

- 1 NOTE the 12-month progress report in regard to increased level of maintenance undertaken at Iluka District Open Space;
- 2 REQUEST that a review of the current level of sports usage at Iluka Sporting Complex be undertaken prior to the 2005 winter sports period, to determine if opportunities exist to reduce ground utilisation at Iluka District Open Space.

**MOVED Cmr Smith, SECONDED Cmr Anderson that the Joint Commissioners:**

- 1 NOTE the 12-month progress report in regard to increased level of maintenance undertaken at Iluka District Open Space;**
- 2 REQUEST that a review of the current level of sports usage at Iluka Sporting Complex and various ovals within surrounding suburbs be undertaken prior to the 2005 winter sports period, with the objective of reducing ground utilisation at Iluka District Open Space.**

**AMENDMENT MOVED** Cmr Anderson, **SECONDED** Cmr Fox that an additional Point 3 be added to the Motion as follows:

*“3 notify the user groups of the facility that the current usage of the grounds is unsustainable and that significant co-operation from all participants will be required to remediate the grounds.”*

The Amendment was Put and

**CARRIED UNANIMOUSLY (5/0)**

The Original Motion, as amended, being:

**That the Joint Commissioners:**

- 1 NOTE the 12-month progress report in regard to increased level of maintenance undertaken at Iluka District Open Space;**
- 2 REQUEST that a review of the current level of sports usage at Iluka Sporting Complex and various ovals within surrounding suburbs be undertaken prior to the 2005 winter sports period, with the objective of reducing ground utilisation at Iluka District Open Space;**
- 3 NOTIFY the user groups of the facility that the current usage of the grounds is unsustainable and that significant co-operation from all participants will be required to remediate the grounds.**

was Put and

**CARRIED UNANIMOUSLY (5/0)**

*Appendix 4 refers*

*To access this attachment on electronic document, click here: [Attach4brf130704.pdf](#)*

**CJ163 - 07/04 TENDER NUMBER 042-03/04 - MECHANICAL SERVICES PREVENTATIVE MAINTENANCE – [27560]**

**WARD - All**

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CJ040713\_BRF.DOC:ITEM 9

## **PURPOSE**

To seek the approval of the Joint Commissioners to choose the tender submitted by Australian Airconditioning Services Pty Ltd for the Mechanical Services Preventative Maintenance (in accordance with the Price Schedule as outlined in Attachment 1), Tender Number 042-03/04, for an initial period of twelve (12) months with an option to extend, subject to satisfactory performance reviews, for a further maximum period of twenty four (24) months. The maximum term of the contract shall be three (3) years.

## EXECUTIVE SUMMARY

Tenders were advertised on 26 May 2004 through statewide public tender for the Mechanical Services Preventative Maintenance. Tenders closed on 17 June 2004. Four submissions were received from Australian Airconditioning Services Pty Ltd, TDU Pty Ltd Trading as Trane Australia, BurkeAir Pty Ltd and Direct Engineering Services Pty Ltd.

It is recommended, in relation to Tender Number 042-03/04 for the Mechanical Services Preventative Maintenance, that the Joint Commissioners:

- 1 *reject the tenders submitted by TDU Pty Ltd Trading as Trane Australia, BurkeAir Pty Ltd and Direct Engineering Services Pty Ltd Regulation 18(2) of the Local Government (Functions and General) Regulations 1996 without considering the merits of these tenders because they each failed to comply with requirements specified in the RFT;*
- 2 *choose Australian Airconditioning Services Pty Ltd as the successful tenderer for the Mechanical Services Preventative Maintenance (Tender No. 042-03/04) in accordance with the price schedule as outlined in Attachment 1 to Report CJI63-07/04;*
- 3 *authorise the Acting Chief Executive Officer (CEO), on behalf of the City, to enter into a contract with Australian Airconditioning Services Pty Ltd in accordance with the tender submitted by Australian Airconditioning Services Pty Ltd, subject to any minor variations that may be agreed between the CEO and Australian Airconditioning Services Pty Ltd; and*
- 4 *determine that the contract is to be for an initial period of 12 months with an option to extend, subject to satisfactory annual performance reviews, for a further maximum period of 24 months, in 12 month increments, with the total term of the contract not to exceed 3 years.*

## BACKGROUND

Australian Airconditioning Services currently undertake this work and have successfully completed the maintenance requirements required to ensure the City's mechanical infrastructure is operational. Their response to call outs for repairs has been of a high standard and this has occurred throughout the existing contract period.

The scope of works for this contract includes preventative maintenance, breakdowns and modification work of mechanical services plant at ten locations within the City. The scope of works included in the contract has been reduced due to the closure of the aquatic side of Craigie Leisure Centre and Kingsley Administration Building having its plant recently upgraded. These facilities will be included once the defects liability periods for both have expired.

It is also noted that the specifications included in the tender documentation were prepared by an independent mechanical consultant.

## **DETAILS**

The first part of the tender assessment was the Conformance Audit Meeting. The purpose of this meeting is to ensure that all essential requirements have been met. Tenders not meeting all the essential criteria are deemed to be non-conforming and are eliminated from consideration. Additionally, other criteria that is not mandatory is assessed and if not met the City may eliminate the tender from consideration. The extent of non-compliance in this section would determine if the tender was further considered.

The tenders submitted by TDU Pty Ltd Trading as Trane Australia, BurkeAir Pty Ltd and Direct Engineering Services Pty Ltd failed to fully complete the Price Schedule as required. On each page of the Price Schedule it was stated that *Tenders that do not provide a dollar figure where requested may be deemed to be non-conforming and therefore be rejected*. The assessment panel determined that as a number of the omissions were significant and that one tenderer actually excluded the required work from their offer, the above tenders were deemed non-conforming. In treating tenderers consistently and fairly, it is recommended that the tenders submitted by the three tenderers that failed to fully complete the Price Schedule be rejected.

Under the City's Contract Management Framework, the tender received from Australian Airconditioning Services Pty Ltd was assessed by the Evaluation Team using a weighted multi-criterion assessment system and AS 4120-1994 'Code of Tendering'.

Each member of the Evaluation Team assessed the Tender submission individually against the selection criteria using the weightings determined during the tender planning phase. The Evaluation Team convened to submit and discuss their assessment.

The Selection Criteria for Tender number 042-03/04 was as follows:

### **Resources and Experience of Tenderer in providing similar services:**

- Relevant Industry Experience, including details of providing similar supply. Tenderers shall submit a Detailed Schedule of previous experience on similar and/or relevant projects.
- Level of Understanding of tender documents and work required.
- References from past and present clients.

### **Levels of Service as determined by the Capability/Competence of Tenderer to provide the services required:**

- Company structure.
- Period of Trading.
- Financial Capacity.
- Qualifications, Skills and Experience of Key Personnel.
- Equipment and Staff Resources available.
- Compliance with tender requirements – insurances, licenses, site inspections etc.
- Quality Systems.



**Beneficial Effects of Tender/Local Content:**

- The potential social and economic effect of the tender on the City of Joondalup community.
- Value Added items offered by tenderer.
- Sustainability/Efficiency/Environmental.

**Contract Methodology:**

- Communications.
- Management Control Systems.
- Documentation Controls.
- Procedures on Identification of further works.

**Tendered Price/s:**

- The price to supply the specified services.
- Schedule of rates for additional services.
- Discounts, settlement terms.

Australian Airconditioning Services Pty Ltd submitted a tender that demonstrated their ability to provide the service required by the City. Based on the assessment Australian Airconditioning Services Pty Ltd is the recommended tenderer.

**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 exceeds the Chief Executive Officer's Delegated Authority limit of \$100,000 for the acceptance of tenders.

**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; none of the tenderers are located within the City of Joondalup.

**FINANCIAL IMPLICATIONS**

Funding is in accordance with the approved Operations Services Maintenance budget. Last financial year the City spent approximately ninety five thousand dollars (\$95,000) on this contract. The value of the preventative maintenance portion of the contract was forty thousand nine hundred and fifty six dollars (\$40,956). The tender from Australian Airconditioning Services Pty Ltd for preventative maintenance is thirty nine thousand one hundred and sixty two dollars (\$39,162).

The scope of works has been reduced due to the closure of the aquatic side of Craigie Leisure Centre and Kingsley Administration Building having its plant recently upgraded. The value of the reduced scope is approximately seven thousand five hundred dollars (\$7,500). Taking into account the reduced scope the percentage increase from last year is approximately seventeen percent (17%). The rates submitted for breakdowns and modifications has also increased by between three and thirteen percent (3-13%). Sufficient funds have been allowed for in the draft 2004/05 operational budget to accommodate the cost increases associated with this tender.

## COMMENT

As a part of contract management processes, the City will regularly review/monitor the Contractor's performance and service quality to ensure services meet the City's standards.

Subject to Council approval, the contract term will be for an initial period of twelve (12) months. There will be an option to extend the contract for a further twenty four (24) months that will be subject to suitable performance by the Contractor in annual performance reviews that ensure that the requirements of the contract have been met. Subject to a satisfactory outcome of each review an extension, in increments of twelve-month periods, will be made. The duration of the contract will not exceed three (3) years.

Notwithstanding any statutory changes, the City may negotiate a price variation on the lump sum price submitted for extending the Contract. The price variation shall not be more than the change in the consumer price index for the construction material and labour for Perth Metropolitan region as published by Australian Bureau of Statistics for a period of the previous 12 months.

The tender submitted by Australian Airconditioning Services Pty Ltd demonstrated that they have the ability to provide the required services to the City.

## ATTACHMENTS

Price Schedule – Attachment 1

## VOTING REQUIREMENTS

Simple Majority

**OFFICER'S RECOMMENDATION:** That in relation to Tender Number 042-03/04 for the Mechanical Services Preventative Maintenance, the Joint Commissioners:

- 1 reject the tenders submitted by TDU Pty Ltd Trading as Trane Australia, BurkeAir Pty Ltd and Direct Engineering Services Pty Ltd Regulation 18(2) of the Local Government (Functions and General) Regulations 1996 without considering the merits of these tender because they each failed to comply with requirements specified in the RFT;
- 2 choose Australian Airconditioning Services Pty Ltd as the successful tenderer for the Mechanical Services Preventative Maintenance (Tender No. 042-03/04) in accordance with the price schedule as outlined in Attachment 1 to Report CJ163-07/04;

- 3 authorise the Acting Chief Executive Officer (CEO), on behalf of the City, to enter into a contract with Australian Airconditioning Services Pty Ltd in accordance with the tender submitted by Australian Airconditioning Services Pty Ltd, subject to any minor variations that may be agreed between the CEO and Australian Airconditioning Services Pty Ltd; and
- 4 determine that the contract is to be for an initial period of 12 months with an option to extend, subject to satisfactory annual performance reviews, for a further maximum period of 24 months, in 12 month increments, with the total term of the contract not to exceed 3 years.

**MOVED Cmr Smith, SECONDED Cmr Anderson that in relation to Tender Number 042-03/04 for the Mechanical Services Preventative Maintenance, the Joint Commissioners:**

- 1 DEEM the tenders submitted by TDU Pty Ltd Trading as Trane Australia, BurkeAir Pty Ltd and Direct Engineering Services Pty Ltd non-conforming under Regulation 18(2) of the Local Government (Functions and General) Regulations 1996 without considering the merits of these tenders because of the number and significance of omissions in the tenders;**
- 2 CHOOSE Australian Airconditioning Services Pty Ltd as the successful tenderer for the Mechanical Services Preventative Maintenance (Tender No. 042-03/04) in accordance with the price schedule as outlined in Attachment 1 to Report CJ163-07/04;**
- 3 AUTHORISE the Acting Chief Executive Officer (CEO), on behalf of the City, to enter into a contract with Australian Airconditioning Services Pty Ltd in accordance with the tender submitted by Australian Airconditioning Services Pty Ltd, subject to any minor variations that may be agreed between the CEO and Australian Airconditioning Services Pty Ltd; and**
- 4 DETERMINE that the contract is to be for an initial period of 12 months with an option to extend, subject to satisfactory annual performance reviews, for a further maximum period of 24 months, in 12 month increments, with the total term of the contract not to exceed 3 years.**

To a query raised by Cmr Paterson in relation to legal advice being obtained regarding this issue, Director Corporate Services and Resource Management advised that whilst legal advice had not been obtained on this occasion, legal advice had been obtained in the respect of wording used in the past. The wording used in the Officer's recommendation is the preferred wording as per advice received from the City's solicitors.

**The Motion was Put and**

**CARRIED (4/1)**

**In favour of the Motion:** Cmr Paterson, Smith, Anderson and Fox **Against the Motion:** Cmr Clough

*Appendix 5 refers*

To access this attachment on electronic document, click here: [Attach5brf130704.pdf](#)

**CJ164 - 07/04 TENDER NUMBER 044-03/04 - PROVISION OF PAVEMENT MARKING SERVICES – [54560]****WARD - All**

CJ040713\_BRF.DOC:ITEM 10

**PURPOSE**

To seek the approval of the Joint Commissioners to choose the tender submitted by Road and Traffic Services for the Provision of Pavement Marking Services (in accordance with the Price Schedule as outlined in Attachment 1), Tender Number 044-03/04, for an initial period of twelve (12) months with an option to extend, subject to satisfactory performance reviews, for a further maximum period of twenty four (24) months. The total duration of the contract shall not exceed three (3) years.

**EXECUTIVE SUMMARY**

Tenders were advertised on 26 May 2004 through statewide public tender for the Provision of Pavement Marking Services. Tenders closed on 17 June 2004. One submission was received from Road and Traffic Services.

It is recommended, in relation to Tender Number 044-03/04 for the Provision of Pavement Marking Services, that the Joint Commissioners:

- 1 *CHOOSE Road and Traffic Services as the successful tenderer for the Provision of Pavement Marking Services (Tender No. 044-03/04) in accordance with the price schedule as outlined in Attachment 1 to this Report;*
- 2 *AUTHORISE the Acting Chief Executive Officer (CEO), on behalf of the City, to enter into a contract with Road and Traffic Services in accordance with the tender submitted by Road and Traffic Services, subject to any minor variations that may be agreed between the CEO and Road and Traffic Service;*
- 3 *DETERMINE that the contract is to be for an initial period of 12 months with an option to extend, subject to satisfactory annual performance reviews, for a further maximum period of 24 months, in 12 months increments, with the total term of the contract not to exceed 3 years.*

**BACKGROUND**

Road and Traffic Services previously undertook this work from 2000 to 2004 and all works have been completed in accordance with the scope of works.

Pavement marking is an integral component of traffic management and capital works projects and it often occurs as the last part of the works. Road and Traffic Services have been able to meet the City's needs and schedules during the previous contract period.

## **DETAILS**

Under the City's Contract Management Framework, the tender received from Road and Traffic Services was assessed by the Evaluation Team using a weighted multi-criterion assessment system and AS 4120-1994 code of tendering.

Each member of the Evaluation Team assessed the Tender submission individually against the selection criteria using the weightings determined during the tender planning phase. The Evaluation Team convened to submit and discuss their assessment.

The Selection Criteria for Tender number 044-03/04 was as follows:

### **Resources and Experience of Tenderer in providing similar services:**

- Relevant Industry Experience, including details of providing similar supply. Tenderers shall submit a Detailed Schedule of previous experience on similar and/or relevant projects.
- Past record of Performance and Achievement with other clients
- Level of Understanding of tender documents and work required.
- Ability to provide usage and expenditure information
- Ability to provide electronic pricing schedules
- Written References from past and present clients.

### **Levels of Service as determined by the Capability/Competence of Tenderer to provide the services required:**

- Company structure.
- Qualifications, Skills and Experience of Key Personnel.
- Equipment and Staff Resources available.
- Safety management policy including safety records for the last two years must be provided.

### **Beneficial Effects of Tender/Local Content:**

- The potential social and economic effect of the tender on the City of Joondalup community.

### **Tendered Price/s:**

- The price to supply the specified services.
- Schedule of rates for additional services.
- Discounts, settlement terms.

Road and Traffic submitted a tender that demonstrates their ability to provide the service required by the City.

**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 exceeds the Chief Executive Officer's Delegated Authority limit of \$100,000 for the acceptance of tenders.

**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; the tenderer is located within the City of Joondalup.

**FINANCIAL IMPLICATIONS**

Funding is in accordance with the approved Operations Services Maintenance budget.

**COMMENT**

As a part of contract management processes, the City will regularly review/monitor the Contractor's performance and service quality to ensure services meet the City's standards.

Subject to Council approval, the contract term will be for an initial period of twelve (12) months. There will be an option to extend the contract for a further twenty four (24) months that will be subject to suitable performance by the Contractor in annual performance reviews that ensure that the requirements of the contract have been met. Subject to a satisfactory outcome of each review an extension, in increments of twelve-month periods, will be made. The duration of the contract will not exceed three (3) years.

Notwithstanding any statutory changes, the City may negotiate a price variation on the lump sum price submitted for extending the Contract. The price variation shall not be more than the change in the consumer price index for the construction material and labour for Perth Metropolitan region as published by Australian Bureau of Statistics for a period of the previous 12 months.

The tender submitted by Road and Traffic Services demonstrates that they have the ability to provide the required services to the City.

**ATTACHMENTS**

Attachment 1            Price Schedule

**VOTING REQUIREMENTS**

Simple Majority

**MOVED Cmr Anderson, SECONDED Cmr Clough that in relation to Tender Number 044-03/04 for the Provision of Pavement Marking Services, the Joint Commissioners:**

- 1 CHOOSE Road and Traffic Services as the successful tenderer for the Provision of Pavement Marking Services (Tender No. 044-03/04) in accordance with the price schedule as outlined in Attachment 1 to Report CJ164-07/04;**
- 2 AUTHORISE the Acting Chief Executive Officer (CEO), on behalf of the City, to enter into a contract with Road and Traffic Services in accordance with the tender submitted by Road and Traffic Services, subject to any minor variations that may be agreed between the CEO and Road and Traffic Services;**
- 3 DETERMINE that the contract is to be for an initial period of 12 months with an option to extend, subject to satisfactory annual performance reviews, for a further maximum period of 24 months, in 12 months increments, with the total term of the contract not to exceed 3 years.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

*Appendix 6 refers*

*To access this attachment on electronic document, click here: [Attach6brf130704.pdf](#)*

**CJ165 - 07/04 TENDER NUMBER 045-03/04 - SWEEPING OF URBAN AND ARTERIAL ROADS – [55560]**

**WARD - All**

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CJ040713\_BRF.DOC:ITEM 11

**PURPOSE**

To seek the approval of the Joint Commissioners to choose the tender submitted by Coastal Sweeping Services for the Sweeping of Urban and Arterial Roads (in accordance with the Price Schedule as outlined in Attachment 1), Tender Number 045-03/04, for an initial period of twelve (12) months with an option to extend, subject to satisfactory performance reviews, for a further maximum period of twenty four (24) months. The maximum term of the contract shall be three (3) years.

**EXECUTIVE SUMMARY**

Tenders were advertised on 26 May 2004 through statewide public tender for the Sweeping of Urban and Arterial Roads. Tenders closed on 17 June 2004. Three submissions were received from Coastal Sweeping Services, Asteranch Pty Ltd Trading as Cleansweep and Sandgroper Sweeping.

It is recommended, in relation to Tender Number 045-03/04 for the Sweeping of Urban and Arterial Roads, that the Joint Commissioners:

- 1 *REJECT the tender submitted by Sandgroper Sweeping Regulation 18(2) of the Local Government (Functions and General) Regulations 1996 without considering the merits of this tender because they failed to comply with requirements specified in the RFT;*
- 2 *CHOOSE Coastal Sweeping Services as the successful tenderer for the Sweeping of Urban and Arterial Roads (Tender No. 045-03/04) in accordance with the price schedule as outlined in Attachment 1 to this Report;*
- 3 *AUTHORISE the Acting Chief Executive Officer (CEO), on behalf of the City, to enter into a contract with Coastal Sweeping Services in accordance with the tender submitted by Coastal Sweeping Services, subject to any minor variations that may be agreed between the CEO and Coastal Sweeping Services;*
- 4 *DETERMINE that the contract is to be for an initial period of 12 months with an option to extend, subject to satisfactory annual performance reviews, for a further maximum period of 24 months, in 12 month increments, with the total term of the contract not to exceed 3 years.*

## **BACKGROUND**

The scope of works for this contract incorporates sweeping of all urban and arterial roads and residential streets within the suburbs of the City of Joondalup. Council maintains a separate contract for sweeping the Joondalup City Centre area.

Arterial road sweeping requires a significantly larger unit to maximise performance and to reduce travel time per load. The sweeping program is undertaken on a suburb-by-suburb basis and, where possible, follows the bulk pick up.

The contract is a lump sum price schedule for each suburb and arterial roads in the City, however, it is at Council's discretion to include or exclude by suburb for sweeping at any frequency for the entire period of the contract depending on the condition of the road and funding allocations.

## **DETAILS**

The first part of the tender assessment was the Conformance Audit Meeting. The purpose of this meeting is to ensure that all essential requirements have been met. Tenders not meeting all the essential criteria are deemed to be non-conforming and are eliminated from consideration. Additionally, other criteria that is not mandatory is assessed and if not met the City may eliminate the tender from consideration. The extent of non-compliance in this section would determine if the tender was further considered.

The tender submitted by Sandgroper Sweeping did not address any of the selection criteria, did not submit requested information about the company and did not comply with all the requirements of the Specification. Accordingly it is recommended that the tender submitted by Sandgroper Sweeping be rejected.



Under the City's Contract Management Framework, the tenders received from Coastal Sweeping Services and Cleansweep were assessed by the Evaluation Team using a weighted multi-criterion assessment system and AS 4120-1994 'Code of Tendering'.

Each member of the Evaluation Team assessed the Tender submission individually against the selection criteria using the weightings determined during the tender planning phase. The Evaluation Team convened to submit and discuss their assessments.

The Selection Criteria for Tender number 045-03/04 was as follows:

**Resources and Experience of Tenderer in providing similar services:**

- Relevant Industry Experience, including details of providing similar supply. Tenderers shall submit a Detailed Schedule of previous experience on similar and/or relevant projects.
- Past Record of Performance and Achievement with other clients.
- Level of Understanding of tender documents and work required.
- Written References from past and present clients.
- Ability to provide usage and expenditure information.
- Ability to provide electronic pricing schedules.

**Levels of Service as determined by the Capability/Competence of Tenderer to provide the services required:**

- Company structure.
- Qualifications, skills and experience of key personnel including registration, training and experience.
- Equipment and staff resources available.
- Occupational health and safety management system and track record.

**Beneficial Effects of Tender/Local Content:**

- The potential social and economic effect of the tender on the City of Joondalup community.

**Tendered Price/s:**

- The price to supply the specified services.
- Schedule of rates for additional services.
- Discounts, settlement terms.

Both Coastal Sweeping and Cleansweep submitted tenders that demonstrated their ability to provide the service required by the City. Based on the assessment Coastal Sweeping ranked first in both the Qualitative and Quantitative selection criteria and accordingly is the recommended tenderer.

**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 exceeds the Chief Executive Officer's Delegated Authority limit of \$100,000 for the acceptance of tenders.

**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; none of the tenderers are located within the City of Joondalup.

**Financial Implications**

Funding is in accordance with the approved Operations Services Maintenance budget.

**COMMENT**

As a part of contract management processes, the City will regularly review/monitor the Contractor's performance and service quality to ensure services meet the City's standards.

Subject to Council approval, the contract term will be for an initial period of twelve (12) months. There will be an option to extend the contract for a further twenty four (24) months that will be subject to suitable performance by the Contractor in annual performance reviews that ensure that the requirements of the contract have been met. Subject to a satisfactory outcome of each review an extension, in increments of twelve-month periods, will be made. The duration of the contract will not exceed three (3) years.

Notwithstanding any statutory changes, the City may negotiate a price variation on the lump sum price submitted for extending the Contract. The price variation shall not be more than the change in the consumer price index for the construction material and labour for Perth Metropolitan region as published by Australian Bureau of Statistics for a period of the previous 12 months.

The tender submitted by Coastal Sweeping Services demonstrated that they have the ability to provide the required services to the City on a value for money basis.

**ATTACHMENTS**

Attachment 1            Price Schedule

**VOTING REQUIREMENTS**

Simple Majority

**MOVED** Cmr Anderson, **SECONDED** Cmr Fox that in relation to Tender Number 045-03/04 for the Sweeping of Urban and Arterial Roads, the Joint Commissioners:

- 1 REJECT** the tender submitted by Sandgroper Sweeping Regulation 18(2) of the Local Government (Functions and General) Regulations 1996 without considering the merits of this tender because they failed to comply with requirements specified in the RFT;
- 2 CHOOSE** Coastal Sweeping Services as the successful tenderer for the Sweeping of Urban and Arterial Roads (Tender No. 045-03/04) in accordance with the price schedule as outlined in Attachment 1 to Report CJ165-07/04;
- 3 AUTHORISE** the Acting Chief Executive Officer (CEO), on behalf of the City, to enter into a contract with Coastal Sweeping Services in accordance with the tender submitted by Coastal Sweeping Services, subject to any minor variations that may be agreed between the CEO and Coastal Sweeping Services;
- 4 DETERMINE** that the contract is to be for an initial period of 12 months with an option to extend, subject to satisfactory annual performance reviews, for a further maximum period of 24 months, in 12 month increments, with the total term of the contract not to exceed 3 years.

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

*Appendix 7 refers*

*To access this attachment on electronic document, click here: [Attach7brf130704.pdf](#)*

**CJ166 - 07/04 FINAL ADOPTION OF AMENDMENT NO 21 TO DISTRICT PLANNING SCHEME NO 2 - REZONE PORTION OF LOT 9016 (500) BURNS BEACH ROAD, BURNS BEACH FROM "RURAL" TO "URBAN DEVELOPMENT" – [21557]**

**WARD -** North Coastal

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CJ040713\_BRF.DOC:ITEM 12

## **PURPOSE**

The purpose of this report is for the Joint Commissioners to consider submissions received during the public advertising period and to adopt as final, Amendment No 21 to District Planning Scheme No 2 (DPS2), without modification.

## EXECUTIVE SUMMARY

The Metropolitan Region Scheme (MRS) was amended on 23 January 2004 to rezone 146 hectares of the subject land from “Rural” to “Urban” and a further 144 hectares to “Parks and Recreation” (MRS Amendment No 992/33). Section 35A (2) of the Metropolitan Region Town Planning Scheme Act 1959 requires that, following an amendment to the MRS, the relevant local authority initiates an amendment to its Town Planning Scheme consistent with the MRS amendment.

The “Urban” zoned land (146 hectares) would be most appropriately zoned “Urban Development” under District Planning Scheme No 2 (DPS2). This zone enables the Joint Commissioners to require the preparation and implementation of a Structure Plan that sets out future subdivision and development requirements for the land (Attachment 2 refers) and would also stipulate the residential density to be allocated to the land.

The Joint Commissioners, at their meeting on 9 March 2004 (CJ047-03/04 refers), resolved to initiate Amendment 21 to rezone the subject land to “Urban Development” for the purposes of public advertising. The advertising period closed on 17 June 2004 and a total of 25 submissions were received, six of which were of support, 12 of objection and another seven raised no objection. The major reasons for objection relate to the loss of bushland and coastal dunes, as well as habitat for animals and birds.

It is recommended that the Joint Commissioners:

- 1 *Pursuant to Town Planning Regulation 17 (2) ADOPT Amendment No 21 to the City of Joondalup District Planning Scheme No 2 for the purposes of rezoning portion of Lot 9016 (500) Burns Beach Road, Burns Beach from “Rural” to “Urban Development”, as final, without modification;*
- 2 *NOTE the submissions received and advise the submitters of the Joint Commissioners’ decision;*
- 3 *AUTHORISE the affixation of the common seal to, and endorse the signing of, the amendment documents.*

## BACKGROUND

<b>Suburb/Location:</b>	Portion Lot 9016 (500) Burns Beach Road, Burns Beach
<b>Applicant:</b>	Development Planning Strategies
<b>Owner:</b>	Burns Beach Management Pty Ltd
<b>Zoning:</b>	<b>DPS:</b> Rural
	<b>MRS:</b> Urban
<b>Strategic Plan:</b>	Strategy 3.3 – Provide living choices to meet changing demographic demands.

Lot 9016 comprises several parcels of land over the suburbs of Currambine, Kinross and Burns Beach and is the subject of ongoing subdivision (Attachment 1 refers). The subject portion of Lot 9016 is located on the north side of Burns Beach Road at its intersection with Marmion Avenue and immediately north and east of the existing residences in Burns Beach, and extending westward towards the coastline. The subject portion of Lot 9016 is approximately 146 hectares in area.

The Metropolitan Region Scheme (MRS) was amended on 23 January 2004 to rezone 146 hectares of the subject land from “Rural” to “Urban” and a further 144 hectares to “Parks and Recreation” (MRS Amendment No 992/33). Section 35A (2) of the Metropolitan Region Town Planning Scheme Act 1959 requires that, following an amendment to the MRS, the relevant local authority initiates an amendment to its Town Planning Scheme consistent with the MRS amendment no later than 3 months from the date of gazettal, the date on which the amendment to the MRS came into force. This is the purpose of Amendment No. 21.

Issues regarding the preservation of bush land and the optimum balance of urban land/rezoned lands have been the subject of detailed negotiations and assessment by the State Government (through the Environmental Protection Authority and the Western Australian Planning Commission) over a number of years to reach the agreed conclusion that is now proposed.

The “Urban” zoned land (146 hectares) would be most appropriately zoned “Urban Development” under DPS2. This zone enables the Joint Commissioners to require the preparation and implementation of a Structure Plan setting out the development requirements for future development of the land (Attachment 2 refers) and would also stipulate the residential density to be allocated to the land.

Any amendment to the MRS to create land reserved for “Parks and Recreation”, as occurred for the remaining 144 hectares of portion of Lot 9016 is automatically reserved as such under the local authority planning scheme. No formal approval to amend the local planning scheme is required.

#### Previous Resolution of Joint Commissioners

At their meeting on 9 March 2004, the Joint Commissioners resolved the following:

- 1 *in pursuance of Section 7 of the Town Planning and Development Act 1928 (as amended), AMEND the City of Joondalup District Planning Scheme No 2 for the purpose of rezoning a portion of Lot 9016 (500) Burns Beach Road, Burns Beach from “Rural” to “Urban Development”;*
- 2 *ADOPT Amendment No 21 as suitable for the purpose of advertising for a period of forty two (42) days;*
- 3 *NOTE that a Structure Plan will need to be prepared in accordance with section 9 of District Planning Scheme No 2;*
- 4 *ADVISE the applicant that the City would anticipate a high level of community and other stakeholder involvement during the preparation of the Structure Plan and to this end request a community involvement and consultation plan to be submitted to supplement the formal consultation process required under DPS2;*
- 5 *ADVISE the applicant that the Structure Plan should:*
  - (a) *clearly demonstrate the application of the principles of sustainability (note Council Policy 2.6.4 – Environmental, Social and Economic Sustainability);*

- (b) *have particular regard to the retention of significant areas of natural vegetation where possible;*
- (c) *address the issue of telecommunication facilities and linkages through such measures as broadband/Telco cabling and the identification of mobile tower sites.*

Public advertising has now closed and the purpose of this report is for the Joint Commissioners to consider the submissions received and to adopt Amendment No 21 as final, without modification.

## **DETAILS**

### Proposed Zoning

Formulation of a Structure Plan is required under DPS2 in order to support an application for rezoning of a site to “Urban Development”. The applicant is currently formulating a Structure Plan over the site. The objectives of the “Urban Development” zone are to designate land for future urban development and to provide for the orderly planning and redevelopment of larger areas of land for residential and associated purposes in an integrated manner, through a comprehensive Structure Plan process.

A Structure Plan sets out the development requirements for a particular parcel of land and includes provisions such as density, building height, scale, setbacks and form, and associated criteria such as car parking and access and retaining walls.

Under clause 3.12.2 of DPS2, no subdivision or other development is to commence on land so zoned “Urban Development” until a Structure Plan has been prepared and adopted under Part 9 of DPS2. A Structure Plan over the subject land will be initiated as a separate process at a later stage.

### **Statutory Provision:**

Section 7 of the Town Planning and Development Act 1928 (as amended) together with Town Planning Regulations 1967 enable local authorities to amend a Town Planning Scheme and sets out the process to be followed (Attachment 3).

### **Consultation:**

The Town Planning Regulations 1967 require the Amendment to be advertised for a period of forty-two (42) days. The required advertising, consisting of notification of all adjoining landowners, two (2) signs being erected on the site and a notice being placed in The West Australian on 5 May 2004 and the Joondalup Community newspaper on 6 May 2004, has been undertaken and closed on 17 June 2004. In this instance, given that the site is bounded by four roads and a public access way (PAW), adjoining landowners was taken to include all landowners located immediately opposite the site on the four streets bordering the site, and owners of properties on the opposite side of the PAW at the south-east corner of the site.

Under Section 17 (2) of the Town Planning Regulations 1967, Council shall consider all submissions received during the advertising period (Attachment 4). After consideration of all submissions, the Council shall either resolve to not proceed or to adopt the amendment, with or without modification, and to submit three copies to the Western Australian Planning Commission for final adoption and endorsement.

Upon closure of the public advertising period on 17 June 2004, a total of 25 submissions were received, 6 of which were in support of the Amendment, 12 objected and another 7 raised no particular opinion, however provided comments with respect to the Amendment. The major reasons for objection relate to the loss of bushland and coastal dunes, as well as habitat for animals and birds. A number of the submissions set out requirements for the development of the site in the event that the Amendment is adopted as final and some submissions, particularly those from local environmental groups, provided extensive environmental information relating to the site.

The City's detailed responses to the submissions are set out in Attachment 4. The requirements for the development of the site stated within the submissions are appropriately addressed at the Structure Plan stage. The City is working closely with the applicant and the developer in this regard and the matters raised within the submissions relating to built form outcomes will be taken into consideration by the City with regard to the future Structure Plan application over the subject site.

In accordance with the Joint Commissioners' previous resolution relating to the initiation of Amendment No. 21 for the purposes of public advertising, the developers submitted a comprehensive Consultation Plan (the Plan) to the City involving the community and stakeholders. This Plan is separate from the City's consultation that is a statutory requirement once the Structure Plan is submitted to the City and adopted by the Joint Commissioners for the purposes of advertising. Amongst the actions within the Plan are public meetings that were advertised in the local community newspaper (Wanneroo and Joondalup Times), together with focus groups. All actions within the Plan have now been completed and the City expects to receive a preliminary Structure Plan for comment shortly. If this preliminary Structure Plan is acceptable, it will form the basis of the formal Structure Plan submission to the City.

In summary, the situation remains that the City is statutorily required to amend DPS2 to rezone the subject site to a zone consistent with the MRS amendment that rezoned the land to "Urban".

### **Strategic Implications:**

The proposed rezoning of the subject site would enable the development of a variety of housing forms in line with the City's Strategic Plan.

### **Sustainability Implications:**

Potential development of the subject portion of Lot 9016 land has been a sensitive environmental issue for over 5 years, particularly in view of the land being identified within the Bush Forever plan as having ecological, scientific and coastal value. Extensive discussions about these issues have taken place between environmental groups, local communities, the City, the Department of Environment and the Minister for Environment.

The resulting area of land and the zoning in the recent MRS amendment are the result of these discussions and the City is now required to adopt a zoning consistent with the MRS zoning to enable development of the land.

## COMMENT

Applying an “Urban Development” zoning to the site enables a more holistic approach to a large tract of land than applying a “Residential” zone because it requires the provision of a Structure Plan that sets out all particular development requirements for the subject lots. Specifically, clause 3.12.2 of DPS2 under clause 3.12, The Urban Development Zone states that no subdivision or other development should be commenced or carried out in an Urban Development Zone until a structure plan has been prepared and adopted under the provisions of Part 9 of the Scheme. No such provisions have been included under clause 3.4, relating to the Residential zone. The result is a more transparent process to better inform the surrounding affected landowners about the intended development of the site.

Residential density provisions following a scheme amendment to rezone land to “Urban Development” have generally been applied at the Structure Plan stage rather than through the Scheme amendment process. This may mean that the density code applicable to the subject land is removed as part of the Scheme amendment process, leaving the land uncoded, a situation that has previously raised concern with the Joint Commissioners. (CJ064-03/04 refers).

The subject land is currently “Rural” zoned land over which no density applies. There is therefore no need to remove any density coding through Amendment No. 21.

## Conclusion

Public advertising of Amendment No 21 has closed and, whilst there were several submissions, the issues raised relate either to loss of bushland and coastal dunes, as well as habitat for animals and birds, and therefore an ultimate desire to leave the land in its natural state. Other issues raised are relevant to, and will be addressed in, the future Structure Plan for the site.

Rezoning of Portion of Lot 9016 under DPS2 is required further to the rezoning of the site under the MRS. The “Urban Development “ zoning proposed within Amendment No 21 is consistent with the MRS zoning and also enables the Joint Commissioners to require the preparation and implementation of a Structure Plan for the site.

In view of the statutory requirement to rezone the land, adoption of Amendment No 21 without modification is therefore recommended.

## ATTACHMENTS

Attachment 1	Site Plan for Lot 9016
Attachment 2	Proposed Amendment Plan
Attachment 3	Scheme Amendment Process
Attachment 4	Summary of Submissions



## VOTING REQUIREMENTS

Simply Majority

**MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners:**

- 1 Pursuant to Town Planning Regulations 17 (2), ADOPT Amendment No 21 to the City of Joondalup District Planning Scheme No 2 for the purposes of rezoning the portion of Lot 9016 (500) Burns Beach Road, Burns Beach from “Rural” to “Urban Development” as final, without modification;**
- 2 NOTE the submissions received and advise the submitters of the Joint Commissioners’ decision;**
- 3 AUTHORISE the affixation of the common seal to, and endorse the signing of, the amendment documents.**

Cmr Anderson spoke to the Motion.

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

*Appendix 8 refers*

*To access this attachment on electronic document, click here: [Attach8brf130704.pdf](#)*

**CJ167 - 07/04 PROPOSED AMENDMENT NO 26 TO DISTRICT PLANNING SCHEME NO 2 TO REZONE FROM ‘MIXED USE’ TO ‘RESIDENTIAL’ AND RECODE FROM R20 TO R40 - LOT 143 ELWOOD COURT AND LOT 1 AND LOT 2 EDDYSTONE AVENUE, CRAIGIE – [73558]**

**WARD - Pinnaroo**

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CJ040713\_BRF.DOC:ITEM 13

## PURPOSE

The purpose of this report is to seek the Joint Commissioners’ consent to initiate Amendment 26 to District Planning Scheme No 2 (DPS2) for the purpose of public advertising (Attachment 1 refers).

## EXECUTIVE SUMMARY

Lot 143 Elwood Court and Lots 1 and 2 Eddystone Avenue, Craigie are currently zoned 'Mixed Use', with a density code of R20 (Attachment 1). An application has been received by the City to rezone the lots to 'Residential' and apply a density code of R40 (Attachment 2 refers), to facilitate the future development of 14 grouped dwellings upon the lots (Attachment 3 refers).

The current 'Mixed-use' zoning allows the City to consider grouped dwelling development as a discretionary ('D') use under clause 6.6.2 of DPS2. Rezoning the land to 'Residential' will allow future grouped dwelling development upon the subject lots to be considered as a permitted ('P') use under DPS2.

Lot 143 Elwood Court and Lot 1 Eddystone Avenue Craigie are currently vacant whilst the existing Craigie Medical Centre is located on Lot 2 Eddystone Avenue, Craigie. The Craigie Plaza Shopping Centre is located directly opposite the lots that are subject to the proposed amendment.

The development of residential dwellings will assist in maximising use of public transport and other Community facilities that are available in close proximity to the site. This promotes environmental and economic sustainability.

It is recommended that the Joint Commissioners:

- 1 *Pursuant to Section 7 of the Town Planning and Development Act 1928, AMEND the City of Joondalup District Planning Scheme No 2 for the purpose of rezoning Lot 143 Elwood Court, and Lots 1 and 2 Eddystone Avenue, Craigie from 'Mixed-Use', with a Density code of R20 to 'Residential', with a density code of R40 for the purpose of advertising for a period of 42 days.*
- 2 *Prior to the advertising period commencing, FORWARD the proposed amendment to the Environmental Protection Authority in order to decide if an environmental review of the site is required.*

## BACKGROUND

<b>Suburb/Location:</b>	Lot 143 Elwood Court and Lots 1 & 2 Eddystone Avenue, Craigie
<b>Applicant:</b>	Andrew Pawluk, Town Planning Consultants on behalf of IA Investments Pty Ltd.
<b>Owner:</b>	Wong Investments Pty Ltd
<b>Zoning:</b>	<b>DPS:</b> Mixed-Use
	<b>MRS:</b> Urban
<b>Coding:</b>	R20
<b>Strategic Plan:</b>	Strategy 3.3.1 – Provide residential living choices.

The existing Craigie Medical Centre is located on Lot 2 Eddystone Avenue, with Lots 143 Elwood Court and Lot 1 Eddystone Avenue being vacant. Apart from the Craigie Plaza Shopping Centre located immediately opposite Lot 2 Eddystone Avenue, the subject lots are surrounded by existing residential development at a low (R20) density.

The applicant considers that development of both lots for 'Mixed-Use' related purposes is not practical on the basis that the existing centre is large enough to service the commercial needs of the surrounding area and a number of tenancies within the Craigie Plaza Shopping Centre have remained vacant for some time. The applicant considers that close proximity of competing centres in Beldon and Belridge City negate the need for the further development of mixed use and retail development upon the subject lots.

The landowners have further justified the proposal on the basis that the rezoning and future development of the land for grouped dwellings is in keeping with the Liveable Neighbourhoods Community Design Codes, a 'new urbanism' policy initiative of the State government. The Liveable Neighbourhoods Community Design Codes seek to promote a range of higher residential densities close to commercial centres in order to improve the economic viability of these commercial centres by increasing patronage.

## **DETAILS**

An application has been received to rezone Lot 143 Elwood Court and Lots 1 and 2 Eddystone Avenue, Craigie from 'Mixed-Use' to 'Residential' and the residential density allocated to the land being increased from R20 to R40 (Attachment 2). The proposal seeks to facilitate the future development of 14 single storey grouped dwellings (see Attachment 3 refers).

The subject site is proposed to be rezoned for residential purposes, as development for 'Mixed-Use' related purposes is not considered to be a practical option by the applicant on the basis that the existing commercial centre opposite the subject site is large enough to service the needs of the surrounding area and that a number of tenancies in this centre has been vacant for some time. Although grouped dwelling development may be considered under the existing 'Mixed-Use' zoning at the City's discretion, the applicant is seeking to rezone the land to Residential so that future grouped dwelling development upon the site is a use that is permitted.

The applicant states that the development of the subject site for residential purposes is a practical alternative use of the site as the site is well placed to take advantage of the commercial facilities provided by the centre itself and the public transport and other community services available in close proximity to the site.

The applicant also states that the proximity of the proposed residential development to the Craigie Plaza Shopping Centre would benefit the adjoining centre by providing passive surveillance and additional patronage.

The proposed rezoning would be striking an accord with the Liveable Neighbourhoods Community Design Code by promoting a mix of housing types, lot sizes and densities in areas close to neighbourhood and town centres (See R13 'Mix of Lot Sizes' under Element 1 – Community Design).

### **Statutory Provision:**

Section 7 of the Town Planning and Development Act 1928 (TPD Act 1928) together with Town Planning Regulations 1967 enable Local Authorities to amend a Town Planning Scheme and sets out the process to be followed (Attachment 4 refers).

**Consultation:**

The Town Planning Regulations 1967 require the amendment to be advertised for a period of forty two (42) days. All adjoining landowners to the subject land would be notified in writing, a sign erected on the site and a notice placed in the Joondalup Community newspaper. The landowners of the adjoining Craigie Plaza Shopping Centre shall also be notified in writing of the proposal.

**Sustainability Implications:**

The rezoning will facilitate the development of 14 medium density dwellings. The development of medium density housing is considered appropriate given the location of the subject site in close proximity to the Craigie Plaza Shopping Centre and community facilities.

The development will increase the number of people living within walking distance of the shopping centre and will assist in providing greater patronage. This accords with Strategy 3.3.1 'Provide Residential Living Choices' of the City's Strategic Plan and the state government policy – Liveable Neighbourhoods Community Design Code.

**COMMENT**

The amendment seeks to facilitate the development of 14 medium density dwellings over all three lots, two of which have been vacant for some time. Given the current combined lot size and R20 density code, a total of nine (9) grouped dwellings could be hosted upon the site. Under the proposed R40 density code, a total of eighteen (18) grouped dwellings could be hosted upon the site.

The R40 density code proposed for the land represents a 'doubling' of housing density that currently applies to the site and to land in the immediate locality generally. However, the form and configuration of the 14 grouped dwellings proposed for the site (as shown in Attachment 3) are of a similar scale and type to existing development prevailing within the surrounding area (predominantly single storey brick and tile detached dwellings with 3 bedrooms and 1 bathroom).

The built form outcome ultimately proposed for the site is not expected to be substantially different to that already prevailing within the immediate locality, thus the increase in residential density sought by the applicant and resulted built form outcome is not expected to adversely impact upon existing residential amenity. Furthermore, the applicant/landowner is not proposing to redevelop the site in order to achieve the maximum number of dwellings permissible under the proposed R40 residential density code (eg 14 dwellings proposed in lieu of 18 permissible).

With respect to the proposed rezoning from 'Mixed Use' to 'Residential', the rezoning of the land is supported as the future use of the land is for residential purposes. Proper and orderly planning principles dictate that the zoning applied to land should closely align to the use of the land. Furthermore, the development proposed for the land can be considered by the City on either the current 'Mixed Use' zoning or proposed 'Residential' zoning. Subject to the development application complying with the provisions contained within the Residential

Design Codes of WA 2002, an approval is likely to be granted by the City, whether or not the use class under DPS 2 is permitted ('P') or discretionary ('D'). There is therefore no implications with respect to permissibility of the residential landuse and form of future development proposed for the site, as a development application would need to be made to the City for its approval irrespective of the class of development being discretionary or permitted.

It is anticipated that the Craigie Plaza Shopping Centre will benefit as a result of the subject site being developed for residential purposes, as it will create additional demand for retail services. The development of all three lots for residential purposes is expected to take advantage of public transport, community services and retail facilities that are available in close proximity to the site, which promotes environmental and economic sustainability.

It is recommended that the Joint Commissioners initiate and adopt the proposed amendment to DPS2 for the purpose of public advertising for a period of 42 days.

### ATTACHMENTS

Attachment 1	Proposed Amendment No26 to District Planning Scheme No2 Zoning map
Attachment 2	Proposed Amendment No26 to District Planning Scheme No2 R Code map
Attachment 3	Site plan for future 14 grouped dwelling development upon the subject land
Attachment 4	Town Planning Scheme Amendment process flowchart

### VOTING REQUIREMENTS

Simple Majority

### **MOVED Cmr Clough, SECONDED Cmr Anderson that the Joint Commissioners:**

- 1** pursuant to Section 7 of the Town Planning and Development Act 1928, AMEND the City of Joondalup District Planning Scheme No 2 for the purpose of rezoning Lot 143 Elwood Court, and Lots 1 and 2 Eddystone Avenue, Craigie from 'Mixed-Use', with a density code of R20 to 'Residential', with a density code of R40 for the purpose of advertising for a period of 42 days;
- 2** prior to the advertising period commencing, FORWARD the proposed amendment to the Environmental Protection Authority in order to decide if an environmental review of the site is required.

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

*Appendix 9 refers*

To access this attachment on electronic document, click here: [Attach9brf130704.pdf](#)

**CJ168 - 07/04      PROPOSED AMENDMENT NO 27 (MODIFICATIONS TO SCHEDULE 3 OF DISTRICT PLANNING SCHEME NO 2) – LOTS 1, 7, 8, 9 AND 10 WHITFORDS AVENUE/TRAPPERS DRIVE, WOODVALE - [83561]**

**WARD - Lakeside**

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CJ040713\_BRF.DOC:ITEM 14

**PURPOSE**

The purpose of this report is to seek the Joint Commissioners' consent to initiate public advertising of Amendment 27 to District Planning Scheme No 2 (DPS2) in order to rectify an anomaly identified in processing Amendment 1 to DPS2.

**EXECUTIVE SUMMARY**

The reason for the amendment is to rectify an anomaly identified in the processing of Amendment 1 to DPS2 in order to facilitate the inclusion of all 'Commercial' zoned lots comprising the Woodvale Centre into Schedule 3 of DPS2 and to allocate marginal retail floorspace increases to each of these lots.

Schedule 3 of the City's DPS2 sets out retail floorspace (nett lettable area) limits for all 'Commercial' and 'Centre' zoned lots.

The Joint Commissioners at their meeting on 17 February 2004 (CJ026 – 02/04 refers) resolved to grant final approval to Amendment 1 to DPS2. The purpose of Amendment 1 was to facilitate the expansion of the existing Woodvale Boulevard Shopping Centre on Lot 6 Whitfords Avenue and portion of Lot 3 Trappers Drive, Woodvale. The Western Australian Planning Commission (WAPC) has since granted final approval to Amendment 1.

As part of the Joint Commissioners' resolution to grant final approval to Amendment 1, the landowners of Lots 1, 6, 7, 8, 9 and 10 Trappers Drive/Whitfords Avenue, Woodvale were requested to provide the City with current floor plans and retail floorspace (NLAm<sup>2</sup>) figures for existing development upon each of these lots. The landowners were also requested to advise the City of their future intentions with respect to retail floorspace expansion to enable the City to undertake a review of retail floorspace allocation, with the view to including these lots in Schedule 3 of DPS2. Upon finalisation of this, the restrictive covenant on Lots 6, 8, 9, 10 and 11 would be lifted.

The City has subsequently received information from the landowners of Lots 1, 7, 8, 9 and 10 and has undertaken a review of retail floorspace allocation for these lots utilising the Department for Planning and Infrastructure's 2001/2002 landuse and employment survey data.

The proposed Amendment therefore seeks to include Lots 1, 7, 8, 9 and 10 into Schedule 3 of DPS2 and allocate marginal retail floorspace increases for each of these lots.

It is therefore recommended that the Joint Commissioners:

- 1 *Pursuant to Section 7 of the Town Planning and Development Act 1928 AMEND the City of Joondalup's District Planning Scheme No 2 for the purpose of modifying Schedule 3 (Commercial and Centre Zones) by: including the following lots and corresponding retail floorspace NLA(m<sup>2</sup>) figures under the Columns headed 'Description of Centre and Commercial Zones' and 'NLA(m<sup>2</sup>)' respectively for the Woodvale (Woodvale Boulevard) locality;*

*Lot 1 (941) Whitfords Avenue - 200*

*Lot 7 (3) Trappers Drive - 200*

*Lot 8 (1) Trappers Drive - 600*

*Lot 9 (937) Whitfords Avenue - 540*

*Lot 10 (933) Whitfords Avenue - 300*

- 2 *ADOPT Amendment No 27 accordingly for the purpose of public advertising;*
- 3 *FORWARDS Amendment 27 to the Western Australian Planning Commission for its consent to advertise.*
- 4 *Upon written receipt of the Western Australian Planning Commission's consent to advertise Amendment 27 and prior to the advertising period commencing, FORWARD the proposed Amendment to the Environmental Protection Authority in order to decide if an environmental review of the proposed amendment is required.*

## **BACKGROUND**

**Suburb/Location:** Woodvale Boulevard Centre, Corner Whitfords Avenue and Trappers Drive, Woodvale  
**Applicant:** City of Joondalup  
**Owner:** Various Landowners  
**Zoning:** **DPS:** Commercial  
**MRS:** Commercial  
**Strategic Plan:** No relevant strategy in Strategic Plan

The Joint Commissioners at their meeting on 17 February 2004 (CJ026 – 02/04 refers) resolved to:

- 1 *RESCIND that part of Point 2 of Council's resolution of 29 April 2003 to report CJ097 – 04/03, viz:*

*“ADVISE the proponent to arrange for a legal agreement, dated 14 May 1992, between Foodland Property Holdings Pty Ltd and the City of Wanneroo and other parties, with respect to Lot 6 Whitfords Avenue, Woodvale, to be modified during the advertising period, to enable the proposed expansion of the supermarket to occur. The legal document shall be modified at the proponent's expense to the satisfaction of the City.”*

And replace the above resolution with the following amended wording:

*“ADVISE the proponent to arrange for a legal agreement, dated 14 May 1992, between Foodland Property Holdings Pty Ltd and the City of Wanneroo and other parties, with respect to Lot 6 Whitfords Avenue, Woodvale, to be modified prior to the Hon Minister for Planning and Infrastructure’s final approval being granted to Amendment 1, to enable the proposed expansion of the supermarket to occur. The legal document shall be modified at the proponent’s expense to the satisfaction of the City.”*

- 2 *Pursuant to Town Planning Regulations 17 (2) ADOPT Amendment 1 to the City of Joondalup District Planning Scheme No 2 without modification;*
- 3 *AUTHORISE the affixation of the Common Seal to, and endorse the signing of, the amendment documents;*
- 4 *NOTE all submissions received during the advertising period;*
- 5 *ADVISE all persons who made submissions of Council’s decision accordingly;*
- 6 *REQUEST that the landowners of Lots 1, 6, 7, 8, 9 and 10 Trappers Drive/Whitfords Avenue, Woodvale provide the City with current floor plans and retail floor space (NLAm<sup>2</sup>) figures for existing development upon each of the abovementioned lots, together with the above landowners advising the City of their future intention with respect to retail floor space expansion so that the City can undertake a review of retail floor space allocation with the view to including these lots in Schedule 3 of District Planning Scheme No 2. Upon finalisation of this, the restrictive covenant on Lots 6, 8, 9 10 and 11 will be lifted.*

The City’s DPS2 includes retail floorspace limits for centres, with these limits shown within Schedule 3. The limits are intended to guide retail expansion of new and existing centres and to allocate a hierarchy of centres across the City.

When DPS2 was developed, the retail floorspace limits contained within Schedule 3 were often applied to specific commercial development upon specific lots within the centre. For the Woodvale Centre, there is a retail floorspace limitation of 7650m<sup>2</sup> on Lot 6 that hosts the existing Woodvale Boulevard shopping centre, however other lots comprising the entire centre are not listed.

Given the ‘Commercial zoning of these other lots, retail (shop) landuse proposals can be considered upon these lots which in turn contributes to the function of the entire centre. The proposed amendment seeks to acknowledge this by allocating a retail floorspace restriction for those lots within the Woodvale centre that are not currently included within Schedule 3 of DPS2.

It should be noted that some the lots that comprise the Woodvale centre have an existing restrictive covenant upon their title that restricts retail floorspace to a specified amount. The current retail floorspace restriction applicable to each lot is listed within the table below. Restrictive covenants were placed upon the certificate of title for these lots to ensure retail floorspace allocation was controlled when the land was first developed, approximately 10 years ago.



## **DETAILS**

### **Location & Landuses/Development**

The entire Woodvale Centre is located on the north west side of the intersection of Trappers Drive and Whitfords Avenue, Woodvale (Attachment 1). The following lots and corresponding landuses/development comprise the entire Woodvale centre;

Lot 1 – BP Service station and workshop

Lot 6 – Woodvale Boulevard Shopping Centre

Lot 7 – Woodvale Park Medical Centre

Lot 8 – Liquorland, Thai restaurant and Income Tax Professionals

Lot 9 – Kingsley Woodvale Medical Centre (Former Pizza Hut restaurant)

Lot 10 – Red Rooster

### **Proposal**

It is proposed that Lots 1, 7, 8, 9 and 10 be included within schedule 3 of DPS2 and a retail floorspace restriction be applied to each lot, as these lots all have a ‘Commercial’ zoning under DPS2.

Clause 3.7.2 of DPS2 states that all land in the commercial zone shall specify a maximum retail net lettable area (NLA) which relates to floor area. The maximum NLA shall be included in Schedule 3 of this Scheme and shall bind the development of the land to no more than the area specified.

Lot 6 (the Woodvale Boulevard Shopping Centre) is currently included within Schedule 3 of DPS2, which has a retail floorspace restriction of 7650m<sup>2</sup> that was allocated to this lot through Amendment 1 to DPS2.

Adjoining Lot 11 is zoned ‘Business’ and has a retail floorspace restriction of 200m<sup>2</sup> in accordance with the definition of a ‘shop’ under DPS2, which was facilitated by Amendment 10 to the City’s DPS2. Lot 11 is therefore not included within the proposed amendment as retail floorspace for this lot is restricted in accordance with the definition of a ‘shop’ under DPS2.

The following table sets out existing retail floorspace restrictions, DPI retail survey figures, landowner’s request for retail floorspace increase and recommended changes to retail floorspace restrictions for all lots comprising the Woodvale centre;

1	2	3	4	5	6	7
Lot No	Area of lot	Existing retail limitation (legal agreement/ Schedule 3 of DPS2)	DPI Survey 01/02 floor space figures ^ Existing retail NLA	Lot owner's requested retail NLA <sup>m2</sup>	Recommended retail NLA limit within Schedule 3 of DPS2	Retail Floorspace (NLA <sup>m2</sup> ) increase (Column 6 minus (-) Column 3)
1	3626m <sup>2</sup>	Nil/None	120m <sup>2</sup>	200m <sup>2</sup>	200m <sup>2</sup>	200m <sup>2</sup>
6	26865m <sup>2</sup> existing + 354m <sup>2</sup> (proposed expansion)	7650m <sup>2</sup> (Amendment 1 to DPS2)	4800m <sup>2</sup>	7650m <sup>2</sup> (Amendment 1 to DPS2)	Nil – 7650m <sup>2</sup> already allocated within Schedule 3 through finalisation of Amendment 1 to DPS2	Nil
7	1934m <sup>2</sup>	Nil/None	84m <sup>2</sup>	Not stated	200m <sup>2</sup>	200m <sup>2</sup>
8	1661m <sup>2</sup>	300m <sup>2</sup>	499m <sup>2</sup>	650m <sup>2</sup>	600m <sup>2</sup>	300m <sup>2</sup>
9	2200m <sup>2</sup>	180m <sup>2</sup>	540m <sup>2</sup>	Not stated	540m <sup>2</sup>	360m <sup>2</sup>
10	1200m <sup>2</sup>	70m <sup>2</sup>	240m <sup>2</sup>	300-350m <sup>2</sup>	300m <sup>2</sup>	230m <sup>2</sup>
<b>Total</b>	<b>37840m<sup>2</sup></b>	<b>8200m<sup>2</sup></b>	<b>6283m<sup>2</sup></b>	<b>8800-8850m<sup>2</sup></b>	<b>9590m<sup>2</sup>*</b>	<b>1290m<sup>2</sup></b>

## Notes:

\* The entire Woodvale Boulevard Centre is identified within the City's Centres Strategy as a Small Town Centre with a maximum retail NLA of 10,000m<sup>2</sup>.

# Recommended NLA increase for each lot based on landowners request, capability of existing commercial buildings to accommodate retail floorspace increases and ultimate limitation of 10,000m<sup>2</sup> NLA for the centre. Where the lot owner's request for retail floorspace increases has not been stated, the DPI survey 01/02 figure and/or DPS2 convenience store definition which limits retail NLA to 200m<sup>2</sup> has been applied.

^ DPI Survey 01/02 floor space figures includes retail and vacant floor areas only.

The above figures exclude non retail type landuses located within the centre that were identified within the DPI 01/02 survey, such as professional offices, medical practitioners and banking institutions, and as such, the figures identified above vary to those previously reported to the Commissioners in considering Amendment 1 to DPS2.

Retail floorspace figures alter over time due to such factors such as office type landuses changing to retail (shop) type landuses. In essence, as the lots comprising the centre are zoned 'Commercial', a myriad of various landuses can potentially be hosted within the centre, not just retail (shop) landuses.

The recommended retail floorspace increases in the above table are considered marginal. The retail floorspace increases recommended (#) are based on the capacity of existing development on each lot to be used entirely for retail (shop) type landuses in the future. Recommended NLA increases for each lot are also based on the capability of existing commercial buildings to accommodate retail floorspace increases and the ultimate retail floorspace limitation of 10,000m<sup>2</sup> NLA for the centre that is applicable under the City's Centres strategy. Where the lot owner's request for retail floorspace increases has not been stated, the DPI survey 01/02 figure and/or DPS2 convenience store definition, which limits retail NLA to 200m<sup>2</sup>, has been applied.

It should be noted that the maximum retail floorspace restriction proposed is unlikely to be achieved unless existing buildings are demolished or redeveloped (extended) and additional car parking provided to satisfy DPS2 requirements for any development seeking to create additional retail floorspace in the future.

### **Relevant Legislation**

Section 7 of the Town Planning and Development Act 1928 (TPD Act 1928) enables Local Authorities to amend a Town Planning Scheme. Section 7A1 of TPD Act 1928, requires the proposed amendment to be forwarded to the Environmental Protection Authority (EPA), to enable the EPA to conduct an assessment for environmental issues should this be considered necessary.

Once comment has been received from the EPA and provided an environmental assessment and review is not requested, the proposed amendment is required to be advertised for public comment. This process is pursuant to section 7A2 of the TPD Act 1928 and section 25 (fb) of Town Planning Scheme Regulations 1967, with a 42 day advertising period (refer Attachment 2).

One of the criteria of a local Government advertising an amendment is that the Amendment must be consistent with any Statement of Planning Policy prepared under Section 5AA of the Act. The WAPC's Statement of Planning Policy No 9 is such a policy. Given the combined retail floorspace increase (9590m<sup>2</sup>) proposed under Amendment 27 are in excess of the retail floorspace allocated to neighbourhood centres under the WAPC's policy (4500m<sup>2</sup>), the proposal may be inconsistent with this policy in which case the WAPC's consent to advertise the amendment is required.

### **Relevant Policies**

#### The Western Australian Planning Commission (WAPC's) Statement of Planning Policy No 9 – Metropolitan Centres Policy Statement for the Perth Metropolitan Area (MCPSMA)

The purpose of the WAPC's Statement of Planning Policy No 9 – Metropolitan Centres Policy Statement for the Perth Metropolitan Region is to provide a broad regional planning framework to coordinate the location and development of retail and commercial activities in the metropolitan region. A key guideline is the control of retail floor space. Retail or shopping centres are assigned maximum floor areas in the interests of protecting adjoining amenity and the viability of the centres themselves. Centres, for example, can be described as "neighbourhood", "district" or "strategic" centres.

The Woodvale centre is not identified within Policy No. 9 as a District Centre. Accordingly, the centre could be assumed to be a neighbourhood centre for the purposes of determining where the Woodvale centre sits in the hierarchy of centres within the Perth Metropolitan area. The recommended floor area for neighbourhood centres is 4500m<sup>2</sup>.

The WAPC's approval would be required if the centre exceeded 4500m<sup>2</sup> of net lettable area unless the size of the centre was consistent with a strategy approved by the WAPC.

#### City of Joondalup Centres Strategy

The City's Centres Strategy fulfils the purpose of a local planning strategy and Council resolved to modify and adopt the Centres Strategy as a planning policy at its meeting on 28 November 2000. It should be noted, however, that at the meeting of 23 July 2002, Council resolved to review the City of Joondalup's Policy 3.2.8 – Centres Strategy.

Progress has been made with respect to the review of the City's Centres Strategy with the City recently obtaining the DPI's 01/02 land use and employment survey data. Under the City's current budget proposals, the review of the City's Centres Strategy (F805 – Commercial Centres Policy Review) has been allocated \$10,000. Given the funding allocated to the project, the City is currently assessing options with respect to the review.

The Woodvale Centre is classified as a small town centre within the City's Centres Strategy. The primary function of a small town centre is to provide weekly retail, service and community facilities. The types of retail facilities appropriate for Small Town Centres include: minor discount department stores, supermarkets, speciality stores and convenience stores. A maximum floorspace of 10,000m<sup>2</sup> has been specified for the entire Woodvale Boulevard Centre in Policy 3.2.8 – Centres Strategy. The Strategy concludes:

*“Implicit in the above statements is that expansion of commercial uses (of which retailing as defined in the Metropolitan Centres Policy (1999) is only a part) is a primary objective of this strategy and must be encouraged at all levels of the shopping centre hierarchy.”*

*“The basis for this recommended strategy is that the Council should be positive and proactive towards expanding the retail and commercial base in the City as a primary means of generating employment.”*

#### **COMMENT**

#### The Western Australian Planning Commission (WAPC's) Statement of Planning Policy No 9 – Metropolitan Centres Policy Statement for the Perth Metropolitan Area (MCPSMA)

Under this policy, the Woodvale Boulevard Centre is equivalent to a neighbourhood centre and accordingly the aggregate floor area should not exceed 4500m<sup>2</sup>. Nevertheless, this policy clearly states that proposals in excess of the above floorspace guide may be supported subject to sufficient justification being provided. A key consideration for the WAPC is whether such a proposal would be consistent with the requirements of a relevant local planning strategy or commercial strategy.

It should be noted that Amendment 1 to DPS2 sought to increase the retail floorspace limitation upon lot 6 to over 4500m<sup>2</sup>. The WAPC consented to this amendment being advertised, and subsequently granted final approval to the amendment, thus consenting to the expansion of the centre (7650m<sup>2</sup>) above its retail hierarchy limit (4500m<sup>2</sup>) stipulated within this Policy.

#### City of Joondalup Centres Strategy (Policy 3.2.8)

The proposal complies with all requirements of the City's Centres Strategy (Policy 3.2.8). The expansion of the greater Woodvale Boulevard Centre (including the recent expansion of the supermarket within the Woodvale Boulevard Shopping Centre upon Lot 6 Whitfords Avenue and Lot 3 Trappers Drive, Woodvale) is consistent with the primary function of small town centres as defined in the policy. Furthermore, the proposal would result in the entire centre being permitted to develop a total net retail floor area of approximately 9590m<sup>2</sup>, which is well within the floor space limit of 10000m<sup>2</sup> cited in the City's Centres Strategy.

#### City of Joondalup District Planning Scheme No. 2 (DPS2)

It is also noted that Clause 3.7.3 of DPS2 provides for the floorspace figures contained within Schedule 3 to be varied by an Agreed Structure Plan for the centre locality. There is no Agreed Structure Plan for the Woodvale Boulevard Centre.

#### **Conclusion**

The proposed amendment seeks to rectify an anomaly identified through processing Amendment 1 to the City's DPS2, where it was found that Lots 1, 7, 8, 9 and 10 were not contained within Schedule 3 of DPS2. The proposed amendment seeks to include these lots within schedule 3, and whilst doing so, allocates marginal retail floorspace increases for each lot in accordance with the review undertaken by the City utilising the DPI's 01/02 survey data.

#### **ATTACHMENTS**

Attachment 1                      District Planning Scheme No 2 zoning map and site plan

#### **VOTING REQUIREMENT**

Simple Majority

#### **MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners:**

- 1 Pursuant to Section 7 of the Town Planning and Development Act 1928 AMEND the City of Joondalup's District Planning Scheme No 2 for the purpose of modifying Schedule 3 (Commercial and Centre Zones) by including the following lots and corresponding retail floorspace NLA(m<sup>2</sup>) figures under the columns headed 'Description of Centre and Commercial Zones' and 'NLA(m<sup>2</sup>)' respectively for the Woodvale (Woodvale Boulevard) locality:**

**Lot 1 (941) Whitfords Avenue - 200**  
**Lot 7 (3) Trappers Drive - 200**  
**Lot 8 (1) Trappers Drive - 600**  
**Lot 9 (937) Whitfords Avenue - 540**  
**Lot 10 (933) Whitfords Avenue - 300**

- 2 ADOPT Amendment No 27 accordingly for the purpose of public advertising;**
- 3 FORWARD Amendment No 27 to the Western Australian Planning Commission for its consent to advertise;**
- 4 Upon written receipt of the Western Australian Planning Commission's consent to advertise Amendment No 27 and prior to the advertising period commencing, FORWARD the proposed Amendment to the Environmental Protection Authority in order to decide if an environmental review of the proposed amendment is required.**

Cmr Anderson spoke to the Motion.

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

*Appendix 10 refers*

*To access this attachment on electronic document, click here: [Attach10brf130704.pdf](#)*

**CJ169 - 07/04 AMENDMENT 24 TO DISTRICT PLANNING SCHEME NO 2 - PROPOSED REZONING FROM LOCAL RESERVES 'PARKS AND RECREATION' TO 'URBAN DEVELOPMENT' – LOT 61 (NO 14) LEACH STREET, MARMION (FORMER CSIRO SITE) – [85558]**

**WARD - South Coastal**

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CJ040713\_BRF.DOC:ITEM 19

## **PURPOSE**

The purpose of this report is for the Joint Commissioners to consider initiating Amendment 24 to District Planning Scheme No 2 (DPS2) for the purposes of public advertising (Attachment 2 refers).

## EXECUTIVE SUMMARY

Lot 61 (No 14) Leach Street, Marmion is a 2.1885 hectare parcel of land bounded by Leach Street to the west, Cliff Street to the east, Ozone Road to the north and Troy Avenue to the south (Attachment 1 refers). The site was formally owned in freehold title by the Commonwealth Scientific and Industrial Research Organisation (CSIRO). The CSIRO disposed of the site in 2003 as it was surplus to their requirements and it was subsequently purchased by Marmion Estate Pty Ltd.

The site is reserved as Local Reserves “Parks and Recreation” under the City’s District Planning Scheme No 2 (DPS2) (Attachment 2 refers) and “Urban” under the Metropolitan Region Scheme (MRS). A residential density code of R20 applies to the site.

The proposed amendment seeks to rezone the land to ‘Urban Development’ to facilitate the preparation of a structure plan to guide future redevelopment of the site for residential purposes.

The subject land was originally created as a Recreation Reserve and ceded free of cost to the Crown. The land had its Reserve status cancelled in 1974 by the State Government at the time. A private company now owns the land in freehold title, with no encumbrances on the title that limit use or development of the land. The proposed amendment does not seek to facilitate a built form outcome that is significantly different to that already prevailing within the immediate locality. No significant environmental, historical or traffic related issues have been identified.

Three key issues have been identified by some members of the local community with respect to the proposed rezoning of the site. These relate to public open space (POS) allocation for the site, local community requests for the City to retain the site as a park and reuse the buildings for community purposes and a suggested deficiency in POS provision throughout the suburb of Marmion caused by the proposed rezoning.

Public advertising of the proposal will ensure that all interested parties are given an opportunity to comment on the proposed amendment and will assist the City to gauge the level of community support for the rezoning of the land.

It is therefore considered appropriate that the Joint Commissioners:

- 1 *Pursuant to Section 7 of the Town Planning and Development Act 1928 (as amended), AMEND the City of Joondalup District Planning Scheme No 2 for the purpose of unreserving Lot 61 (14) Leach Street, Marmion from Local Reserves ‘Parks and Recreation’ and zoning it to “Urban Development” and ADOPT Amendment No 24 as suitable for the purpose of advertising for a period of 42 days;*
- 2 *FORWARD the amending documents to the Environmental Protection Authority to decide whether or not an environmental review is required and obtain the Environmental Protection Authority’s decision in writing prior to the advertising period commencing.*

## BACKGROUND

The proposed amendment applies to land described as Lot 61 (14) Leach Street, Marmion which is a 2.1885 hectare parcel of land bounded by Leach Street to the west, Cliff Street to the east, Ozone Road to the north and Troy Avenue to the south. The site lies in an elevated coastal area, approximately 200 metres east of the Indian Ocean (Attachment 1 refers). The central portion of the site was developed as a marine research facility for use by the CSIRO, with the remaining land to the north and south of the marine research buildings remaining vacant. The subject land is surrounded by single residential dwellings (predominantly two storey brick and tile construction) at a low (R20) residential density. A large area of public open space (Braden Park) is located immediately to the east of the subject land.

<b>Suburb/Location:</b>	Lot 61 (14) Leach Street, Marmion
<b>Applicant:</b>	Chappell and Lambert Pty Ltd
<b>Owner:</b>	Marmion Estate Pty Ltd
<b>Zoning:</b>	<b>DPS:</b> Local Reserves “Parks and Recreation”
	<b>MRS:</b> Urban
<b>Strategic Plan:</b>	Strategy 3.3.1 – Provide residential living choices.

Attachment 3 lists all previous planning and development applications lodged with both the City of Joondalup and former City of Wanneroo with respect to the site, together with a chronological list of all known planning, development and land tenure events associated with the site from its creation in 1939 to the present time (including all previous relevant Council resolutions pertaining to the site).

The landowner has undertaken preliminary public consultation with the local community in order to raise awareness of the proposal. The details of this consultation are summarised within the details section of this report.

The landowners also addressed the Joint Commissioners regarding a proposal to rezone and subsequently subdivide the site at the strategy session on 9 December 2003. The purpose of their presentation was to inform Commissioners of their intentions for development of the site in the event the City could expect to receive calls concerning the matter, and also in order to gauge acceptance of the proposal.

The local community also addressed the Joint Commissioners regarding this proposal on the evening of 1 June 2004. The purpose of this deputation was to inform Commissioners of the Local Community's issues with respect to the proposal.

## DETAILS

The subject land is currently zoned Local Reserves ‘Parks and Recreation’ under the City’s DPS2 and has a density coding of R20. The City’s DPS2 maps show both zoning and density coding on separate maps, unlike other Local Government Planning Scheme maps that show both zoning and coding information on the same map. The City’s DPS2 maps allocate a density code to all land, including road reserves and public open space.

An application has been made requesting the City to change the zoning the site to ‘Urban Development’ (proposed scheme amendment).



The purpose of the proposed amendment is to facilitate future subdivision of the site into approximately 39 residential lots, with an average lot size of 500m<sup>2</sup> in accordance with its current residential density code of R20. An indicative subdivision plan is shown in Attachment 2, which outlines how the applicant generally intends to subdivide the site (Attachment 2 refers).

The majority of future lots proposed front the four existing roads surrounding the site. The indicative subdivision plan also shows an internal east/west road that provides vehicular access to lots fronting this new road, whilst providing a pedestrian linkage from Braden Park to the east of the site to an existing Pedestrian Access Way (PAW) in Leach Street that leads to West Coast Drive and the ocean to the west.

### **Applicant's preliminary community consultation, traffic, environmental and heritage assessment reports**

The applicant has provided Community Consultation, Traffic, Environmental, Landscape and Visual Quality Assessment and Heritage Assessment Reports to support their application to rezone the site. The main outcomes/recommendations contained within the applicants technical reports have been summarised and appear under separate headings below:

#### Community Consultation

The applicant has undertaken preliminary public consultation with the local community in order to provide input for the planning of the site, to obtain feedback for the landowner's proposal and to gauge the level of community support to the proposal. This consultation was in addition to, and does not form part of, the statutory 42 day public consultation period to be undertaken by the City in the future. Consultation was undertaken from December 2003 to February 2004, with a total of 114 contacts made with local residents through the following methods;

- Door knock of neighbouring residents undertaken on 6/12/03.
- Two open days held at the Marmion Primary School on 13/12/03 and Marmion Shopping Centre on 17/1/04.
- One-on-one meetings undertaken, an information phone line set up and community update newsletters delivered to local residents.

The main results of this consultation, as contained within the applicant's report, are as follows:

- There is an historical attachment to the natural qualities of the site by the local community, with past development of the CSIRO site causing dissent in the local community.
- A small number of residents wanting no development of the site and/or the site to be returned to parkland.
- Most residents supported development of the site and offered suggestions such as restricting heights of retaining walls, retaining the natural landform, ensuring zoning of the site is consistent with the surrounding neighbourhood, improving infrastructure and design guidelines covering the above issues, as well as house colours, fence height, house size and limiting use of extensive paved areas at the front of houses.

- There are differing opinions in the provision of public open space either on site or via cash in lieu.
- The traffic on Cliff Street a major concern with respect to vehicle speed and dangerous driving. Traffic calming efforts to date have not curtailed reckless driving.
- The streetscape requires upgrading with the provision of street trees and planting of trees within traffic islands/roundabouts.

A statutory 42 day public advertising period is required for proposed amendments. Should the Joint Commissioners decide to initiate the proposed amendment for the purposes of public advertising, the City controls the advertising process. This is to ensure that all submissions received by the City during the public advertising period are fairly considered (to remove any perception of bias), investigated and a response provided.

#### Traffic Report

The applicant has submitted a report that lists the traffic issues arising from the proposal. The main results, as listed within the report, are as follows:

- The proposal will generate approximately 351 trips per day.
- The existing roads surrounding the site carry less than 3000 vehicle movements per day, with direct lot access from these streets being acceptable under current road planning guidelines.
- 60% of vehicle trips are expected to be to the south, with 20% to the North and 20% to the east. It is assumed that any trips west to the beach would be walking/cycling trips given the close proximity of the beach.
- In traffic engineering terms, the proposed traffic associated with the development will have no significant impact on local streets.
- With respect to the location of the proposed east/west road, sufficient vehicle sight lines and visibility at proposed intersections can be achieved.

#### Environmental Report

The applicant has submitted an Environmental Report for the site. The main results, as listed within the report, are as follows:

- There are no known occurrences of rare, threatened, endangered or priority flora within the site.
- There are no known occurrences of declared rare or priority species of fauna within the site.
- The site is not part of the WA Government's 'bush forever' policy nor is the site proposed for reservation as a 'bush forever' site, therefore the site has no regional conservation significance.
- Poor biological condition of the vegetation on the site suggests that the site's vegetation does not possess any characteristics or attributes which would give it conservation significance in the local context.

An environmental assessment of the site for hazardous materials arising from its previous use as a marine research facility is also included within the Environment Report. The main findings, as listed within the environmental report, are as follows:

- Asbestos is either known or suspected of being present in existing buildings.
- PCB capacitors are present in older fluorescent light fittings.
- Glass fibre insulation material is present in the ceilings of the main laboratory.
- Small quantities of hazardous laboratory chemicals remain in the laboratory.
- Subject to confirmation of the composition of any sludge material in the interceptor trap, soils within the site do not pose a health risk to future occupants of the site (*material in the interceptor trap should be tested for chemical deposits*).
- Further site investigation of soil and groundwater is not necessary.

### Landscape and Visual Quality Assessment Report

In addition to the environmental report, a landscape and visual quality assessment report was prepared for the CSIRO. The recommendations, as listed within the report, are as follows;

- Development within the site should be of scale, form and finishes that are visually compatible with the surrounding residential area.
- The built form should be interspersed with open, landscape spaces of sufficient size distribution and planting to be discernible from middle ground viewpoints.
- Elements of either built or landscape form that are taller than the overall scale of the surrounding residential area may be introduced provided that they are not visually intrusive from middle ground or distant viewpoints and provided that they are not major components of the development.
- The natural vegetation extending approximately 20 metres inwards from the northern site boundary should be protected, retained and rehabilitated to enhance its scientific and community value as remnant bush land.

Both the City's Landscape Architect and Biodiversity Assessment Officer undertook an independent landscape assessment of the site and this assessment confirmed what was recommended within the above Environmental and Landscape and Visual Quality Assessment reports.

However, the City's independent landscape assessment of the site did not support the recommendation relating to the protection and rehabilitation of the northern portion of the site because the existing vegetation throughout the site, including the northern portion of the site, is weed infested and vegetation found in this area does not possess any characteristics or attributes which would give it conservation significance. It is also expected that the Environmental Protection Authority (EPA) will also conduct its own independent landscape assessment of the site through the normal scheme amendment referral process.

### Heritage Report

The applicant has submitted a Heritage Report for the site, with the main findings listed as follows:

- The former marine research facility is considered to be of some scientific significance for its role in the field of marine science in Australia in the period of operation from 1975 to the 1990s.
- The report did not find any other grounds for assessing the place to be of cultural heritage significance.
- The site is not included on any heritage registers.
- The site is not identified on any register as being of Aboriginal significance.

All of the above reports submitted by the applicant shall be made available to the public for perusal at the City's administration building during the advertising period should the proposed amendment be granted approval for the purposes of advertising by the Joint Commissioners.

The comments made in the above reports are made by the landowner's various technical consultants and have been summarised by the City. Comments outlined above may be viewed by some members of the community as being incorrect, with the City simply noting these comments.

### **Details of Key Issues**

Three key issues have been identified by some members of the local community with respect to the proposed rezoning of the site. These relate to public open space (POS) allocation for the site, local community requests for the City to retain the site as a park and reuse the buildings for community purposes and deficiency in POS provision throughout the suburb of Marmion caused by the proposed rezoning. Details with respect to these issues are as follows;

#### Outstanding POS allocation issue

Council records indicate that the land was previously created as a reserve for recreation (Public Open Space). When the State Government (Minister for Lands) cancelled the reserve status in 1974 and sold the site to the CSIRO in 1975, the local POS provided at this site is believed to have been relocated and provided at Percy Doyle Reserve. This statement appears within a report prepared by Russell Taylor and William Burrell, Town Planning consultants in 1990, which related to a previous application to rezone the site. The Minutes of a Special Meeting of Electors on 16 June 1992 also include a comment to the effect that *'The land was purchased by the Commonwealth from the State Government and the City obtained the Percy Doyle Reserve in exchange for this land'*.

#### Retain the site as a park and reuse the buildings for community purposes

Some members of the local community suggest that the land be retained and developed as a park and the existing buildings used for community purposes. Whilst the current zoning of the site would allow for this to occur, the current landowner has lodged an application to rezone the site in order to redevelop the land for residential purposes and as such, does not intend to retain the site as a park and reuse the buildings for community purposes.

In order to achieve this outcome, the City would need to purchase the site from the current landowner. The landowner advised council's officers that the recent purchase of the land was for an amount of approximately \$9 million.

#### Deficiency and Loss of Public Open Space (POS) in Marmion

Some members of the local community have suggested that there is a deficiency in public open space provided within the suburb of Marmion. The subdivision that created the subject lot and lots immediately surrounding it on Ozone Road, Leach Street and Troy Avenue in 1939 predated the 10% POS contribution requirement that was introduced by the State Government in 1956.

**Statutory Provision:**

Section 7 of the Town Planning and Development Act 1928 (as amended) together with the Town Planning Regulations 1967 enable local authorities to amend a Town Planning Scheme and sets out the process to be followed (Attachment 4 refers).

Should the Joint Commissioners support the initiation of the proposed amendment for the purposes of public advertising, the proposed amendment is required to be referred to the Environmental Protection Authority (EPA) to decide whether or not a formal environmental review is required. Should the EPA decide that an environmental review is not required, upon the City's receipt of written confirmation of this from the EPA, the City advertises the proposed amendment for 42 days.

Upon closure of the advertising period, the Joint Commissioners consider all submissions received during the advertising period and would resolve to either grant final approval to the amendment, with or without modifications, or refuse the amendment. The decision is then forwarded to the Western Australian Planning Commission (WAPC), who makes a recommendation to the Minister for Planning and Infrastructure. The Minister can either grant final approval to the amendment, with or without further modifications, or refuse the amendment.

**Consultation:**

The Town Planning Regulations 1967 requires the amendment to be advertised for a period of forty-two (42) days. All landowners immediately adjacent to the site would be notified in writing, a sign erected on the site and a notice placed in the Joondalup Community Newspaper.

Although informal consultation has occurred, it should not be confused with the statutory public consultation process that is required to be undertaken and controlled by the City.

**Strategic Implications/Sustainability Implications:**

The proposed amendment will facilitate the provision of 'infill' housing in line with the State Government's objective in minimising urban sprawl by facilitating the consolidation of existing urban areas.

**COMMENT**

The following comments outline the City's town planning approach, justification on planning related grounds and options that the Joint Commissioners may wish to consider with respect to the rezoning application;

**Current Zoning and Development Permissibility**

Clause 2.3 of DPS2 outlines the planning and development requirements for local reserves. Clause 2.32 relates to use of reserves and states that any local reserve not owned by or vested in the Council may be used for any purpose approved by the Council but in accordance with any conditions imposed by Council.

In essence, the above clause of DPS2 allows the Joint Commissioners to approve development upon the site without the need for the land to be rezoned.

The use of this particular clause by the Joint Commissioners is not recommended, as the process is not considered to be open and transparent because it does not offer the local community any opportunity to provide comment on the proposal.

### **‘Urban Development’ Rezoning Approach vs ‘Residential’ Rezoning Approach**

Applying an “Urban Development” zoning to the site enables a more holistic approach for the future planning and development of this site, rather than applying a “Residential” zone to the site because the ‘Urban Development’ zoning requires the provision of a structure plan. A structure plan sets out specific development requirements and facilitates future subdivision and development of the site.

Clause 3.12 of DPS2 relates to the “Urban Development“ zone, and specifically, clause 3.12.2 of DPS2 states that no subdivision or other development should be commenced or carried out in an Urban Development Zone until a structure plan has been prepared and adopted in accordance with the provisions of Part 9 of DPS2. No such provisions are included within clause 3.4 for the “Residential” Zone and therefore does not necessarily allay community concern in terms of future built form or amenity. The result is a more transparent process that allows the community to be better informed with respect to what future development upon the site will look like.

The density coding of land within the “Urban Development” zone is usually considered within the context of a structure plan, however in this case, the applicant seeks to redevelop the land in accordance with its existing R20 density code, which is the same density code prevailing within the Marmion locality and throughout the City of Joondalup generally.

### **Rationale behind recommendation to initiate rezoning of the site for advertising purposes**

The following points are provided in order to justify the City’s recommendation that the proposed amendment should be initiated for the purposes of advertising;

- The residential land use proposed for the site is identical to that prevailing in the immediate locality.
- The residential land use proposed for the site is in conformity with the ‘Urban’ zoning of the site under the Metropolitan Region Scheme.
- The built form outcome proposed by the applicant is not expected to be significantly different to that prevailing in the locality.
- The current R20 residential density code applied to the site is to remain unchanged and is identical to the residential density code that applies to land surrounding the site.
- The subject land is not a formal Reserve for Recreation as its Reserve status was cancelled in 1974 and the site sold in freehold title to the CSIRO.
- Upon cancellation of the sites Reserve status, the CSIRO’s subsequent acquisition and use of the site was not for park/recreational type uses. The zoning of the site under the then Town Planning Scheme No 1 (TPS1) should have reflected the CSIRO’s use of the site as a marine research facility. The change in zoning was never undertaken, with the ‘Parks and Recreation’ zoning remaining in TPS1 and carried over into the City’s DPS2.

- The site was never formally developed as a bonafide Recreation Reserve.
- No significant traffic issues have been identified.
- No significant environmental issues have been identified.
- No significant historical or ethnographic issues have been identified.

Further to the above, advertising of the proposed amendment will:

- Ensure that all interested parties are given an opportunity to comment on the proposed amendment, with this process being controlled by the City.
- Assist the City to gauge the level of community support or non support for the proposal.
- Assist the City to identify all issues arising from the proposed amendment, so that every issue raised can be thoroughly investigated and reported upon within a future report to the Commissioners for their decision to either refuse or grant final approval to the proposed amendment.

### DEFICIENCY AND LOSS OF PUBLIC OPEN SPACE (POS) IN MARMION

Some members of the local community have suggested that there is a deficiency in public open space provided within the suburb of Marmion.

The subdivision of Marmion in 1939 predated the 10% POS contribution requirement that was introduced by the State Government in 1956. The 10% POS requirement therefore did not apply to the subdivision of Marmion, and should not be used as a benchmark to compare POS provided in other suburbs.

Research has identified that within a previous Council report in 1991, the report stated that public open space provision in Marmion comprises 9.7% (8.18 hectares) of the gross subdividable area, which equates to a 0.3% shortfall. The report went on to state that this is insignificant considering proximity to the ocean foreshore and Star Swamp.

The City has undertaken a POS audit for the suburb of Marmion, with the results of the audit shown in Attachment 1. There is a total of 8.007 hectares of POS (excluding the former CSIRO Site, foreshore reserve, and primary school site) provided within Marmion. Based on a total land area of 110.777 hectares, which excludes the foreshore reserve of 4.7443 hectares that is generally excluded in the calculation of the 10% POS provision requirement), POS provided within the suburb of Marmion equates to approximately 7.23%.

All coastal suburbs (including Marmion) contain foreshore recreation reserves that are generally in addition to the normal 10% POS requirement that is given up at the time of subdivision. The size of the foreshore reserve for Marmion is 4.7443 hectares. The Marmion Primary School site also contains an area of 6.0285 hectares that can be accessed by the general public for recreational pursuits.

A total of 18.7798 hectares of land, which excludes the former CSIRO site area of 2.1885 hectares, is available for recreational pursuits within the suburb of Marmion, which has a total land area of 115.5213 hectares (including the foreshore reserve area) and equates to approximately 16% of the suburb being set aside for recreational purposes.

From a town planning perspective and having due regard to both State Government subdivision policy and the City's POS audit outlined above, the overall amount of land available within Marmion for recreational pursuits is considered sufficient.

### **Environmental Protection Authority (EPA) Issues**

The EPA has advised the City that the proposal has been formally referred to them under Section 38 of the Environmental Protection Act 1986. Section 7A1 of the Town Planning and Development Act 1928 requires all proposed amendments to be forwarded to the EPA to enable them to conduct an assessment for environmental issues. This is undertaken once the local government resolves to initiate any proposed amendment for the purposes of advertising. The advertising period does not commence until such time as the EPA has made its decision and conveyed its decision to the Local Government

Within the EPA referral process, the City shall advise the EPA of the comments contained within the applicant's environmental reports, and in particular comments with respect to testing the material contained in the existing interceptor trap on the site.

### **Options**

The Commissioners have two options in dealing with this rezoning application (proposed amendment). The Commissioners can either resolve to adopt the proposed amendment for the purposes of public advertising, or resolve to refuse the amendment.

Should the Commissioners decide to support the amendment for the purposes of advertising, this action does not construe that the Commissioners will grant final approval to the proposed amendment.

Furthermore, there is no right of appeal to the Town Planning Appeals Tribunal with respect to a decision to refuse initiating the rezoning application (scheme amendment) for the purposes of advertising or to refuse to grant final approval to the amendment.

### **Conclusion**

There is an extensive planning history associated with this site, with several applications being previously made to develop, rezone and subdivide the site. Considerable public reaction has resulted from these historical planning applications.

The City's recommendation to support the proposed amendment for the purposes of public advertising is based on planning related grounds and considerations contained within this report and also with the knowledge of previous recommendations to Council for similar rezoning applications over the site in the past.

Should the Joint Commissioners resolve to initiate the proposed amendment for the purposes of public advertising, the proposed amendment is first required to be forwarded to the EPA in order for the EPA to decide whether the proposal requires a formal environmental assessment. Upon written confirmation of this by the EPA, the City then publicly advertises the proposed amendment for a 42 day period. Upon closure of the consultation period, a further report is presented to the Joint Commissioners to consider all submissions received during the advertising period and to decide whether or not the proposed amendment should be adopted for final approval or not.



## ATTACHMENTS

Attachment 1	Site Plan/Marmion Public Open Space Schedule
Attachment 2	Scheme Amendment Map & Indicative Subdivision Plan
Attachment 3	Chronological List of Planning, Development and Land Tenure History
Attachment 4	Scheme Amendment Process Flowchart

## VOTING REQUIREMENTS

Simple Majority

**OFFICER'S RECOMMENDATION:** That the Joint Commissioners:

- 1 Pursuant to Section 7 of the Town Planning and Development Act 1928 (as amended), AMEND the City of Joondalup District Planning Scheme No 2 for the purpose of unreserving Lot 61 (14) Leach Street, Marmion from Local Reserves 'Parks and Recreation' and zoning it to "Urban Development" and ADOPT Amendment No 24 as suitable for the purpose of advertising for a period of 42 days;
- 2 FORWARD the amending documents to the Environmental Protection Authority to decide whether or not an environmental review is required and obtains the Environmental Protection Authority's decision in writing prior to the advertising period commencing.

**MOVED Cmr Clough, SECONDED Cmr Fox that consideration of Amendment 24 to District Planning Scheme No 2 – Proposed Rezoning from Local Reserves 'Parks and Recreation' to 'Urban Development' – Lot 61 (No 14) Leach Street, Marmion (former CSIRO site) be DEFERRED until the ordinary Meeting of Joint Commissioners scheduled to be held on 31 August 2004 to allow:**

- 1 for the further investigation of the suggested Percy Doyle Reserve land exchange;**
- 2 both the proponent and the community opposing the rezoning to present to the Commissioners in a Strategy Session.**

Discussion ensued.

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

*Appendix 15 refers*

*To access this attachment on electronic document, click here: [Attach15brf130704.pdf](#)*

**CJ170 - 07/04 PROPOSED ROAD CLOSURE – LOT 82 (3R)  
MOLLOY PROMENADE, JOONDALUP – [20555]****WARD** - Lakeside

CJ040713\_BRF.DOC:ITEM 15

**PURPOSE**

The purpose of this report is for the Joint Commissioners to consider the closure of approximately 509m<sup>2</sup> of road reserve between Molloy Promenade and Walsh Loop, Joondalup for the purpose of amalgamating this land into the adjoining Lots 3 and 6 Molloy Promenade, and Lots 4 and 72 Walsh Loop, Joondalup (See Attachment 1).

**EXECUTIVE SUMMARY**

On 4 February 2004, the City received a letter from the land owner of Lots 3 and 6 Molloy Promenade and Lots 4 and 72 Walsh Parade requesting to close the road reserve that adjoins these lots and to purchase the land from the Department of Land Information (DLI). It is intended that the road reserve will be amalgamated with the adjoining lots to create one large lot to facilitate future development of the land.

The Joint Commissioners at their meeting on 29 June 2004 supported a development application for the site (known as the ‘village’ development), with one of the conditions requiring the road reserve to be closed and amalgamated with the adjoining lots (CJ150-06/04 refers).

The City obtained comments from service authorities and the Department of Planning and Infrastructure (DPI) prior to publicly advertising the proposal.

The proposed road reserve closure is unlikely to create any adverse impact on vehicle and pedestrian manoeuvrability given that the development approved for the subject site addressed issues relating to vehicle access, pedestrian movement and car parking.

It is recommended that the Joint Commissioners:

- 1 *SUPPORT the closure of the road reserve, Lot 82 (3R) Molloy Promenade, Joondalup as shown in Attachment 1 to this Report;*
- 2 *COMMUNICATE their decision to the Department of Land Information and REQUEST that both the Department of Land Information and the Department for Planning and Infrastructure proceed in finalising the road closure.*
- 3 *NOTE the submission received and ADVISE the submitter of the Commissioner’s decision.*

## BACKGROUND

<b>Location:</b>	Molloy Promenade, Joondalup
<b>Applicant:</b>	Proven Joondalup Pty Ltd
<b>Owner:</b>	Crown
<b>Zoning</b>	
<b>DPS:</b>	Centre Zone
<b>MRS:</b>	Central City Area
<b>Strategic Plan:</b>	Strategy 3.1.2 – Facilitate the safe design, construction and approval of all buildings and facilities within the City of Joondalup.

## DETAILS

On 4 February 2004, the City received a letter from the land owner of Lots 3 and 6 Molloy Promenade and Lots 4 and 72 Walsh Parade, requesting to close the road reserve that adjoins these lots and to purchase the land from the DLI (Attachment 1). All of the lots are currently vacant and it is intended that once closed, the road reserve will be amalgamated with the adjoining lots to form one single land parcel. The amalgamation is necessary to allow for the site to be developed in accordance with the development plan proposed for the site (DA03/0296). This development proposal was considered and approved by the Joint Commissioners at its meeting on 29 June 2004 (CJ150-06/04 refers).

### Road Closure Process

A request can be made to close a road reserve and amalgamate that land into an adjoining property. As part of this process, service authorities are requested to provide details of any service plant that is within the road reserve sought to be amalgamated and, if such infrastructure exists, the cost of relocation or provision of easements to protect and obtain access that infrastructure, should the need arise in the future. 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 DPI for comment. If the service authorities and the DPI do not raise any objections and the applicant(s) have agreed to meet all associated costs and conditions, then the application can be advertised for public comment.

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

### Statutory Provision:

Under Section 58 of the Land Administration Act 1997, closure of a portion of road is required to be advertised for 35 days by way of a notice in a local newspaper. Any submissions received during the advertising period are to be considered by Council and if the closure is supported, all associated submissions are to be forwarded to the DLI. The DLI also requires other supporting documentation to be provided such as confirmation that the DPI has not objected to the proposal.

The 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 have been sought from the DPI and the service authorities regarding this proposal. The DPI have advised it has no objection subject to favourable comments being received from service authorities and the land being developed in the manner indicated in development application DA03/0296.

Telstra, Western Power, Water Corporation and AlintaGas do not have any objections to the proposal. Telstra has advised that there are services that will need to be relocated should it be closed. Should the City support the closure, the applicant will be advised that there is a request from Telstra with respect to the relocation of their existing infrastructure at the time the lot is closed and a subdivision application is lodged with the Western Australian Planning Commission (WAPC) for its approval to amalgamate the subject lots.

The public advertising period took place between 6 May 2004 and 10 June 2004. A newspaper notice and map was placed within the Joondalup Community Newspaper on 6 May 2004, two signs were placed on site and a letter forwarded to Edith Cowan University for comment. At the close of advertising, one submission was received from ECU in favour of the proposal (Attachment 2 refers).

**Policy Implications:**

Whilst the City does not currently have a defined road reserve closure policy, the DLI, formerly the Department of Land Administration (DOLA), has processes and guidelines to assist in the assessment of such road reserve closures.

**Sustainability Implications:**

The closure of the road reserve and its amalgamation with the adjoining lots is necessary to facilitate the future development of the site. The proposed development represents a significant investment into the City of Joondalup and is expected to assist in enhancing the status of Joondalup City Centre as a Regional Centre.

**COMMENT****Assessment and Reasons for Recommendation**

The principal role of the road reserve is to accommodate vehicle and pedestrian movement to and from the lots that it immediately adjoins. As a development application has been approved over the entire landholding, the need for the road for public purpose has become redundant as a result of that approved development's design. Accordingly, closure of the road is unlikely to adversely impact vehicle and pedestrian manoeuvrability given that the development approved for the site addressed issues relating to vehicle access, pedestrian movement and car parking.

The DPI has indicated their support for the proposed road reserve closure subject to the approval of the development proposal for lots 4 and 7 Walsh Loop and Lots 3 and 6 Molloy Promenade which includes the road reserve. The Joint Commissioners at the meeting of 29 June 2004 (CJ150-06/04 refers) have approved the development proposal over the subject lots.

All responses received during the consultation period and from service authorities are in favour of the road reserve being closed. The issues concerning the relocation of Telstra infrastructure will be conditioned as part of the approval to amalgamate the road reserve with the adjoining lots and subsequently will be carried out by the new landowner at their expense should the road closure be supported.

It is recommended that the proposed road reserve closure be supported.

## ATTACHMENTS

Attachment 1	Site Plan
Attachment 2	Summary of Submissions

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cmr Anderson, SECONDED Cmr Fox that the Joint Commissioners:**

- 1 SUPPORT the closure of a road reserve, Lot 82 (3R) Molloy Promenade, Joondalup, as shown in Attachment 1 to Report CJ170-07/04;**
- 2 COMMUNICATE their decision to the Department of Land Information and REQUEST that both the Department of Land Information and the Department for Planning and Infrastructure proceed in finalising the road closure;**
- 3 NOTE the submission received and ADVISE the submitter of the Commissioner's decision.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

*Appendix 11 refers*

*To access this attachment on electronic document, click here: [Attach11brf130704.pdf](#)*

**CJ171 - 07/04 NORTHERN DISTRICTS GYMNASTIC CLUB –  
[18171]****WARD -** South Coastal

CJ040713\_BRF.DOC:ITEM 16

**PURPOSE**

This report is raised to address the request from the Northern Districts Gymnastic Club (NDGC) for the excision of land to build a purpose-built gymnastics facility within Percy Doyle Reserve located in Duncraig.

**EXECUTIVE SUMMARY**

The NDGC has submitted varying requests that the City of Joondalup provide either a parcel of land, a suitable facility, or a combination of both, for the purpose of providing a facility for the exclusive use for their club within Percy Doyle Reserve, Duncraig. There has not been a formal proposal submitted from the NDGC, despite the City's advice for the club to provide a needs analysis, tenure arrangements and financial contributions for any proposals. Despite being provided with information there has not been any progress by the club regarding the "Community Sport and Recreation Facilities Fund (CSRFF)" process or the City's own process for the provision of leisure facilities (refer Attachment 1 - "Leisure Facilities Capital Works Funding Policy").

Council, at its meeting of 26 September 1990 (refer Item E10934), resolved to:

- 1 *Approve, in principle, the development of a dedicated gymnasium facility by Northern Districts Gymnastics Club on a regional recreation site in the City of Wanneroo;*
- 2 *Invite the Northern Districts Gymnastics Club to consider establishing a facility at the Sorrento Duncraig Recreational area subject to:*
  - (a) *Negotiation of a satisfactory lease;*
  - (b) *The Club meeting the cost of the gymnasium and contributing towards the cost of site works, parking and services.*

Following the completion of an Operation and Management Analysis of the Sorrento Duncraig and Ocean Ridge Leisure Centres, the Joint Commissioners, at their meeting of 27 April 2004 (refer Item CJ093-04/04), resolved to endorse the recommended proposal for the City to retain management and operations of Sorrento Duncraig and Ocean Ridge Leisure Centres.

This report recommends that the Joint Commissioners:

- 1 *NOTE the resolution of the former City of Wanneroo 1990, regarding the Northern Districts Gymnastic Club;*

- 2 *RESOLVE that any gymnastic facility development proposal only be considered at Percy Doyle Reserve, or any other site, following consideration of a detailed planning process that is inclusive of a Master Plan for the site, and the completion of the City's Leisure Plan and a Needs Analysis for Gymnastics;*
- 3 *ADVISE the Northern Districts Gymnastics Club of the formal process required in order to gain Council approval for the development of community / sporting facilities.*

## **BACKGROUND**

In September 1988 NDGC forwarded a submission to the then City of Wanneroo for the construction of a facility to conduct a coordinated program of gymnastic activities. Council, at its meeting of 26 October 1998, resolved to establish a "Gymnastics Facility Steering Committee" to investigate:

- 1 *the possible locations for a dedicated gymnastic facility;*
- 2 *the possible sources of funding for the construction of the proposed facility;*
- 3 *the possible management structures for the proposed facility.*

In August 1990, NDGC applied to be included in the proposed development of the Wanneroo Water World site, now Craigie Leisure Centre, in Craigie. Council, at its meeting of 26 September 1990 (refer item E10934), considered this option, however resolved to:

- 1 *Approve, in principle, the development of a dedicated gymnasium facility by Northern Districts Gymnastics Club on a regional recreation site in the City of Wanneroo;*
- 2 *Invite the Northern Districts Gymnastics Club to consider establishing a facility at the Sorrento Duncraig Recreational area subject to:*
  - (a) *negotiation of a satisfactory lease;*
  - (b) *the Club meeting the cost of the gymnasium and contributing towards the cost of site works, parking and services.*

In July 1992 and May 1993, NDGC further confirmed their interest in the proposed gymnastics facility in the Sorrento / Duncraig area. However, due to the existing financial position of the club, progress of this project was not a viable option at that time. In June 2002, the City received a letter from the NDGC seeking Council to re-open the matter regarding the provision of land for the club to construct a dedicated gymnasium facility. The City's Executive Management Team considered the club's request and recommended that:

*"the needs of the Northern Districts Gymnastic Club are considered in the City's review of the leisure centres at Craigie, Sorrento/Duncraig and Ocean Ridge".*

The 2003 the City appointed CCS Strategic Management (CCS) to undertake an Operation and Management Analysis of the Sorrento Duncraig and Ocean Ridge Leisure Centres. The objective of this project was to investigate current management practices and performance, to identify future management and operational models and to make comparisons between the performance of these centres and similar facilities throughout the metropolitan area. This study incorporated the NDGC's proposal to operate from the Sorrento Duncraig Leisure Centre. The key findings of this project were that:

- *“The proposed long-term strategy for reviewing the role and relevance of the leisure centres is to incorporate their future role in the development of a leisure plan for the City of Joondalup. A leisure plan would detail the City’s future strategic directions in the provision of leisure services, funding, facilities and policies for the next 5-7 years; and*
- *Management of the facilities by the City is the option recommended as it provides the greatest potential for community access to the facilities whilst providing a broad range of programs and services that are specifically targeted to sections of the community to meet their expressed needs.”*

A report was then presented to the Joint Commissioners at the council meeting of 27 April 2004 (refer Item CJ093-04/04), with the resolution to:

- 1 *NOTE the Management and Operations report on Sorrento Duncraig and Ocean Ridge Leisure Centres as presented by CCS Strategic Management;*
- 2 *ENDORSE the proposal for the City to retain management and operations of Sorrento Duncraig and Ocean Ridge Leisure Centres;*
- 3 *NOTE that this arrangement be reviewed as part of the proposed Leisure Plan to be developed by the City.*

## **DETAILS**

The NDGC is a not-for-profit affiliated club of Gymnastics WA. NDGC has been based in Balcatta, City of Stirling, for the last twenty-five years. The club have a commercial lease arrangement, within the City of Stirling, paying \$40,000 per year in rent. In May 2002, NDGC advised the City of Joondalup that its membership was over 550, with 53% or 292 of these members living in the City of Joondalup and 45% from City of Stirling. NDGC provides gymnastics activities at the community level for all ages and abilities. It also offers the opportunity for its members to compete at state, national and international competition level.

The City has received numerous letters from representatives of the NDGC with regards to facility requests. However, these requests have been varied in nature ranging from the acquisition of a parcel of land, to the provision of new facilities or existing facilities. NDGC has requested a facility with 1000sqm floor space for the exclusive use for their club within Percy Doyle Reserve, Duncraig, as the club have outgrown its present location. There has not been a formal proposal submitted from the NDGC detailing a needs analysis, tenure arrangements and financial contributions for any proposals. Additionally, there has not been any consideration by the club of seeking funding through the “Community Sport and Recreation Facilities Fund (CSRFF)” process or the City’s own process for the provision of leisure facilities (refer Attachment 1 - “Leisure Facilities Capital Works Funding Policy”).

The City regularly receives similar requests from a multitude of other community based clubs/organisations seeking funding for likewise proposals. It is therefore important that all clubs and community-based organisations are required to make submissions in accordance with the City’s current Leisure Facilities Capital Works Funding policy. It is also important that clubs seek funding in the first instance from the CSRFF programme managed by the Department for Sport and Recreation.



The concept of ‘exclusive use’ of facilities does not align with the principles of sound sport and recreation infrastructure planning, as described in the “Strategic Directions for Western Australian Sport and Recreation 2003 – 2005 (SD3)”. This document highlights that the provision of ‘joint use’ facilities forms an essential component with regards to the sustainability of facilities. SD3 states that “sport and recreation planning needs to be incorporated into broader community infrastructure planning”.

Percy Doyle Reserve in Duncraig currently has multiple ‘stand-alone’ and/or ‘multi-use’ facilities, utilised by a wide range of community organisations, in or around the immediate vicinity. Table 1 and Attachment 2 depicts the above information:

**Table 1**

<b>Number</b>	<b>Facility</b>	<b>Community Group/s</b>	<b>Tenancy Arrangement</b>
1	Sorrento Duncraig Leisure Centre	General Public Playgroups Badminton Basketball Leisure course classes Church group Drama classes Callisthenics Ballet classes Fitness classes	
2	Duncraig Library	General Public	
3	Undercroft Bridge Clubroom	Undercroft Bridge Club	Lease
4	Mildenhall Senior Citizens Club	Duncraig Senior Citizens Club Dance Schools Community Health Groups Scouts	Permanent Hirer
5	Duncraig Hall	Playgroup Out of School Care group Scouts Guides	Permanent Hirer
6	Duncraig Childcare Centre	Child care group	
7	Soccer Clubrooms	Sorrento Soccer Club	Lease
8	Tennis Clubrooms	Sorrento Tennis Club	Lease
9	Lawn Bowls Clubrooms	Sorrento Bowling Club	Lease
10	Football / Teeball Clubrooms	Sorrento Duncraig Junior Football Club Wanneroo / Joondalup Teeball Club Leisure Centre Courses Private Functions	Permanent Hirer     Casual Hirer

The above table illustrates the result of ‘ad hoc’ facility planning within Percy Doyle Reserve over a number of years. Before constructing any additional facilities in this area, it would be prudent for the City of Joondalup to complete a thorough ‘Master Planning’ exercise. This would assist Council in determining the future community needs and development of physical infrastructure, priority works, phases of development and possible management structures for Percy Doyle Reserve.

In addition to the proposed Master Plan, the City of Joondalup is currently in the process of compiling a Leisure Plan that will be part of the Community/Social Plan. The Leisure Plan will align to the City’s Strategic Plan 2003-2008, Objective 1.3:

*“To continue to provide services that meet changing needs of a diverse and growing community”.*

The plan will be a working document that identifies the most pressing community/social needs of the Joondalup community and proposes strategies and processes to address these needs. Any new or additional proposals for the Percy Doyle Reserve will be within the ‘Community Facilities’ and “Sport and Recreation’ specific target areas of the plan. A comprehensive consultation process based around the communities needs will be undertaken.

### **Policy Implications:**

The current Council Policy 4.1.3- “Leisure Facilities Capital Works Funding” has the objective to:

*“Provide a framework for the provision of funding for Capital works projects, which meets Council’s strategic objectives in facilitating the provision of leisure facilities”.*

This policy states that:

*“The City of Joondalup is committed to the equitable allocation of Council resources for the purpose of developing community facilities. The assessment process that organisations enter into will ultimately provide a needs analysis and feasibility study that will ensure the project is well planned, managed and ultimately well used. This will then be assessed in light of other proposed projects to determine the maximum benefit for the community from Council’s resources. In doing this, emphasis will be placed upon Council working in partnership with the community to ensure:*

- *Efficient and cost effective use of Council resources.*
- *Efficient, streamlined and transparent decision-making.*
- *Council resources are allocated and developed according to community need.*
- *Duplication of services and facilities in communities is avoided.*
- *Wherever possible investigation into multiple uses of existing community resources is undertaken before allocation of Council owned or managed resources.”*

### **COMMENT**

The City of Joondalup, in addition to the Northern Districts Gymnastic Club’s request for facilities, has received similar requests from other organisations, such as scout groups and senior citizens clubs, to also develop areas of Percy Doyle Reserve for their own purposes.

As a result of this, it is considered appropriate and essential that the City of Joondalup completes a comprehensive planning process in regards to the leisure needs of the community, incorporating any future proposals especially in the location of Percy Doyle Reserve, Duncraig. In doing so, a holistic review of the community's expressed leisure needs and what is currently provided in the community can be developed. By undertaking this process the City will be in a position to make an informed decision about matching community needs with specific services, funding or facilities both now and in the future.

The City of Joondalup is aware that the state governing body for the sport of gymnastics, Gymnastics WA, has completed three (3) studies in relation to facility requirements. The first report relates specifically to the elite program stream of gymnastics, operating from Challenge Stadium. The second study addresses the Gymnastics WA State Headquarters facility. Both these studies have no direct implications for either the NDGC or the City of Joondalup. The third report also outlines requirements for a state centre gymnastics venue, as well as growth strategies for each metropolitan gymnastics region and illustrates some Facility Management options. As NDGC is incorporated within the "Coastal North" region, the following broad 'Growth Opportunities' are highlighted within this report:

- "Assistance from Gymnastics WA and Local Government in the development of a large gymnastic club (750 – 1000 members) in the Coastal North. Gymnastics WA to work with LGA and Club to facilitate expansion into larger facilities.
- Increasing number of clubs through linkage with Local Government."

The report concludes with the following comment:

*"Opportunities now exist with gymnastics clubs to create links with Local Government to facilitate the maximisation of usage through local small one/two court recreational centres. It is this model which will allow the sport to create its own future".*

The City of Joondalup however, has not been consulted throughout any gymnastics planning process, including the third study that has a potential ramification on LGA's with the issue of facility provision.

The City's Joint Commissioners have previously endorsed the proposal for the City to retain management and operations of the small one/two court recreational centres being Sorrento Duncraig and Ocean Ridge Leisure Centres.

It is considered that any associated actions in relation to a gymnastics' facility proposal be deferred until a Gymnastics Needs Analysis is completed and the City's Community/Social Plan and Percy Doyle Reserve Master Planning process is finalised.

## **ATTACHMENTS**

Attachment 1            Policy 4.1.3 – Leisure Facilities - Capital Works Funding

## **VOTING REQUIREMENTS**

Simple Majority

**MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners:**

- 1 NOTE the resolution of the former City of Wanneroo 1990, regarding the Northern Districts Gymnastics Club;**
- 2 RESOLVE that any gymnastic facility development proposal only be considered at Percy Doyle Reserve, or any other site, following consideration of a detailed planning process that is inclusive of a Master Plan for the site, and the completion of the City’s Leisure Plan and a Needs Analysis for Gymnastics;**
- 3 ADVISE the Northern Districts Gymnastics Club of the formal process required in order to gain Council approval for the development of community / sporting facilities.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

*Appendix 12 refers*

*To access this attachment on electronic document, click here: [Attach12brf130704.pdf](#)*

**CJ172 - 07/04 NORTH METROPOLITAN REGIONAL  
RECREATION ADVISORY COMMITTEE - TERMS  
OF REFERENCE – [15142]**

**WARD - All**

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CJ040713\_BRF.DOC:ITEM 17

**PURPOSE**

To endorse the revised Terms of Reference that governs the North Metropolitan Regional Recreation Advisory Committee.

**EXECUTIVE SUMMARY**

The North Metropolitan Regional Recreation Advisory Committee (NMRRAC) promotes best practice in the communication, planning, management and development of community sport and recreation facilities and services.

*It is recommended that the Joint Commissioners ENDORSE the revised Terms of Reference for the North Metropolitan Regional Recreation Advisory Committee forming Attachment 1 to this Report.*

## **BACKGROUND**

The North Metropolitan Regional Recreation Advisory Committee (NMRRAC) was formed approximately 10 years ago as an advisory group where member Councils would discuss issues and share information relating to sport and recreation. NMRRAC is an elected member committee currently comprising delegates from the City of Wanneroo, City of Stirling, Town of Vincent, Town of Bassendean, City of Swan, City of Bayswater, Shire of Mundaring and the City of Joondalup. The primary objective of this committee is to foster improvement in the planning and coordination of community facilities and to comment on regionally significant facility projects and grant applications.

Each local government authority is entitled to nominate one (1) delegate, who shall be an elected member of Council, and one (1) staff member to the committee. The City of Joondalup has been represented previously by a Councillor, however the Commissioners have chosen not to nominate for this committee. The City is currently being represented at NMRRAC meetings by the Acting Director of Planning and Community Development, but they do not have voting rights. In addition, senior officers from the member Councils are entitled to attend Advisory Committee meetings, form occasional sub-committees and hold separate meetings.

## **DETAILS**

Since its formation, the scope of the North Metropolitan Regional Recreation Advisory Committee has expanded to include:

- Training and professional development for staff working within the industry;
- Lobbying the state government for greater support for the North Metropolitan region;
- Liaising with State Sporting Associations to enhance the sustainability of facilities and local sport; and
- Working with the Premier's Physical Activity Taskforce to promote greater physical activity in the region.

The changing scope of this committee has lead to the revised Terms of Reference being drafted to better reflect the extent of responsibilities accepted. The new Terms of Reference provide a list of objectives to guide the direction of the committee and procedures for the conduct of committee meetings. The document lists the member authorities that comprise the committee and the guidelines for the management of meetings, including a standard meeting agenda.

The major project that NMRRAC is presently working on is the development of a Regional Recreation Plan to replace the Phillip Gray Report, 1998. The objective of this plan is to highlight the distribution of state, regional and district facilities within the north metropolitan area. This will enable the member authorities to implement local strategies and better plan for future recreation and sporting facility development.

## **COMMENT**

The North Metropolitan Regional Recreation Advisory Committee provides member Councils with a valuable support network and opportunities to communicate and share information. The committee enables local government authorities to make educated decisions and focus on a comprehensive approach to sport and recreation facility and service provision within the north metropolitan region.

As the North Metropolitan Regional Recreation Advisory Committee is comprised of elected members, revising the Terms of Reference requires endorsement from all member Councils.

## **ATTACHMENTS**

Attachment 1            NMRRAC Terms of Reference (revised)  
Attachment 2            NMRRAC Terms of Reference (previous)

## **VOTING REQUIREMENTS**

Simple Majority

**MOVED Cmr Anderson, SECONDED Cmr Fox that the Joint Commissioners ENDORSE the revised Terms of Reference for the North Metropolitan Regional Recreation Advisory Committee forming Attachment 1 to Report CJ172-07/04.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

*Appendix 13 refers*

*To access this attachment on electronic document, click here: [Attach13brf130704.pdf](#)*

## **CJ173 - 07/04      MINUTES OF THE YOUTH ADVISORY COUNCIL MEETING – 16 JUNE 2004 – [38245]**

**WARD - All**

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CJ040713\_BRF.DOC:ITEM 18

### **PURPOSE**

The purpose of this report is to present the unconfirmed minutes of the Joondalup Youth Advisory Council meeting held on 16 June 2004 for noting by Commissioners.

### **EXECUTIVE SUMMARY**

The Joondalup Youth Advisory Council met on 16 June 2004. The minutes of this meeting are attached for the attention of Commissioners. The recommendation is:

*That the Joint Commissioners NOTE the unconfirmed minutes of the Joondalup Youth Advisory Council meeting held on 16 June 2004 forming Attachment 1 to this Report.*

### **DETAILS**

The minutes of this meeting held on 16 June 2004 are attached for the attention of Commissioners.

## COMMENT

No action is required from these minutes

## ATTACHMENTS

Attachment 1 Minutes of the Youth Advisory Council Meeting held on 16 June 2004

## VOTING REQUIREMENTS

Simple Majority

**MOVED Cmr Fox, SECONDED Cmr Clough that the Joint Commissioners NOTE the unconfirmed minutes of the Joondalup Youth Advisory Council meeting held on 16 June 2004 forming Attachment 1 to Report CJ173-07/04.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

*Appendix 14 refers*

*To access this attachment on electronic document, click here: [Attach14brf130704.pdf](#)*

## REPORT OF THE ACTING CHIEF EXECUTIVE OFFICER

**C45-07/04 JOONDALUP NORMALISATION AGREEMENT -  
[58498] [80513]**

**WARD - All**

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## PURPOSE

To provide information to the Joint Commissioners on the successful completion of negotiations between the City and LandCorp on the basis for payment of the \$5.24 million contribution agreed within the Joondalup Normalisation Agreement.

## EXECUTIVE SUMMARY

The Joondalup Normalisation Agreement, which was executed in 2003, followed a long history of negotiations between the City and LandCorp.

The agreement set out the commitments for both the City of Joondalup and LandCorp with respect to the development of Joondalup. Various undertakings were agreed including the transfer of land, ownership of logos and copyrights and other items, which were transferred at no allocated cost. In addition it was agreed that LandCorp would pay the City of Joondalup an amount of \$5.24 million in consideration for future works to finalise LandCorp's obligations under the WALA Act.

At its meeting of 17 December 2002, Council authorised the Chief Executive Officer to negotiate with LandCorp for either cash contribution, or partial cash and partial in-kind contribution by way of the transfer of land owned by LandCorp to the City either for the purpose of housing the City of Joondalup's planned Works Depot, or the transfer of Lot 6 Lawley Court, in respect to the \$5.24 million.

These negotiations have now been successfully completed.

*It is recommended that the Joint Commissioners note that negotiations have been successfully completed with Landcorp on the basis for payment of the \$5.24 million contribution agreed within the Normalisation Agreement and that a deed of agreement will now be prepared to give effect to the agreed payment schedule.*

## **BACKGROUND**

Following a ministerial review of the Western Australian Land Authority's (WALA) functions in 1998, the functions of LandCorp, as specified in the WALA Act (*WALA Act, 1992, 16 (1) (d)*) were amended to 'Complete the development of the Joondalup Centre'.

Completion was viewed as a process of normalisation, that is, the City would be normalised when it had all basic infrastructure in place and a critical mass of development and occupation to generate rates sufficient to sustain the operation of the City through the local authority.

After negotiations spanning a number of years, the City of Joondalup and LandCorp finalised the Joondalup Normalisation Agreement documents in late 2002. These documents comprised a Memorandum of Agreement (MOA) and an Annexure. This agreement was based on the scope of works held in the *Centre Plan – Completion 2001 Modification*, the updated legislative plan required under Section 18 of the *WALA Act*.

Council at its meeting held on 17 December 2002 (CJ316-12/02 refers) resolved:

- “1 ENDORSES the finalisation of the Normalisation Agreement between LandCorp and the City of Joondalup as per the attached Memorandum of Agreement and Annexures A and B to Report CJ316-12/02;
- 2 ACCEPTS the cash contribution by LandCorp to the City of Joondalup of \$5.24 million represents the final contribution by LandCorp for future works by the City of Joondalup;
- 3 AUTHORISES the preparation of the necessary documents to give effect to the Agreement;
- 4 AUTHORISES the signing and affixation of the Common Seal;
- 5 AUTHORISES the Chief Executive Officer to negotiate with LandCorp for either cash contribution, or partial cash and partial in-kind contribution by way of the transfer of land owned by LandCorp to the City either for the purpose of housing the City of Joondalup's planned Works Depot, or the transfer of Lot 6 Lawley Court.”



The Normalisation Agreement was signed on 10 February 2003, and a formal handover function conducted on 5 June 2003, with the Minister for Planning and Infrastructure in attendance, where the agreement execution was completed.

## **DETAILS**

Since Council's resolution of 17 December 2002, negotiations have been successfully completed with LandCorp on the basis for payment of the \$5.24 million contribution agreed within the Normalisation Agreement.

### **Depot site**

Negotiations were successfully completed for the works depot site, being a 4.0 hectare parcel of land in Joondalup Business Park South (Part Lot 902 & Part Location 7898, Hodges Drive, Joondalup), for an amount of \$2.8 million dollars.

On 29 April 2003, a confidential report was presented to Council on the site acquisition for the works depot (CJ107-04/03 refers). Council resolved:

- “1      **CONDITIONALLY ACCEPTS** the offer from Landcorp for the City to purchase a fully serviced site of 4.0 hectares for an amount of \$2.8 million dollars subject to the following conditions:
- (a)      Landcorp undertakes all subdivision works and approvals;
  - (b)      Landcorp meets all costs of subdivision including the provision of access to the proposed lot via a traffic bridge over the current rail reserve and as detailed in the City of Joondalup works depot project plan (refer attachment 1);
  - (c)      The City undertakes, at its own cost, due diligence in the form of a geotechnical survey, environmental site analysis (including flora and fauna) and a review of potential site contamination to verify the site is not fatally flawed for development by such issues;
  - (d)      Landcorp provides a range of subdivision services of sufficient capacity for the development of a municipal works depot with further specific details to be agreed to by our respective engineers;
  - (e)      Landcorp agrees to the relocation of the existing high voltage power line to the proposed lot boundary adjacent to, or contained within, the freeway reserve, and that Landcorp and the City undertake the relocation jointly. The City confirms that it will bear the cost of such a realignment apportioned to the proposed lot;
  - (f)      The final contract of sale and land value be in accordance with the requirements of the Local Government Act 1995 and reasonable conditions imposed by Landcorp;

- 2 authorises the chief executive officer to negotiate the finalisation of the contract of sale with Landcorp.”

Contract of sale documentation is currently being finalised and transfer of title is due on creation of the lot. The WA Planning Commission has recently granted conditional approval of the subdivision. A separate report provides further details and recommends that the Joint Commissioners approve a business plan to be advertised on the proposed land purchase and concept design for a period of 42 days to enable public comment.

### **Lot 6 Lawley Court**

Lot 6 Lawley Court was identified for a possible transfer from LandCorp to the City in lieu of part of the cash payment agreed as part of the Normalisation Agreement. The land is currently encumbered by way of a caveat in favour of the City relating to parking.

A mutually acceptable valuation was unable to be agreed for Lot 6 Lawley Court as LandCorp wanted an unencumbered valuation on the basis that the City could have the caveat removed. The City’s position was that the best use of the land was for parking, meaning the caveat was appropriate and that an encumbered valuation should apply. Both parties agreed to withdraw this item from the payment schedule.

### **Proposed payment schedule**

Following negotiations between the City and LandCorp, a draft payment schedule was received from LandCorp proposing the transfer of \$1,900,000 at 30 June 2004, which has since been receipted by the City. The payment schedule outlined \$2.8 million being offset by the transfer of title for the depot site. The balance of \$540,000 is to be transferred to the City following termination of the Wanneroo Basketball Association lease on the stadium site in December 2007.

### **Deed of Agreement**

It was envisaged by clauses 4 and 5 of the Memorandum of Agreement (MOA) that the parties would enter into “more formal deeds or instruments” to evidence the terms and that the parties would do and execute “all such further acts, deeds and things” reasonably requested to give effect to the terms.

Clauses 4 and 5 of the MOA are outlined as follows.

- “4. *Each Party will act in good faith to one another and will do and execute all such further acts, deeds and things as may reasonably be requested by the other Party to give effect to this MOA and the Terms.*
5. *Either Party may request the other Party to enter into and execute more formal deeds or instruments to evidence this MOA and the Terms, or any part or parts thereof, and in such event, the other Party will comply with any such request, subject nevertheless to the reasonable cost of such more formal deeds or instruments being shared equally between the Parties, and such more formal deeds or instruments being balanced documents respecting the reasonable and legitimate rights and obligations of each of the Parties described in the Terms.*”

In order to give effect to the payment schedule negotiated between the City and LandCorp, the City has received legal advice that a Deed of Agreement should be entered into to set out the terms of payment for the \$5.24 million outlined in the Normalisation MOA, being:

- Confirmation of the \$1.9 million already received
- \$2.8 million as offset by way of transfer of depot site and what will happen if settlement of the site does not take place (i.e. what timeframe would LandCorp be required to remit to the City \$2.8 million in cash)
- Transfer of remaining \$0.54 million on termination of the WBA lease with the City in December 2007.

The detailed terms need to be agreed between the City and LandCorp to enable a Deed of Agreement to be drafted and the City's Solicitor will prepare the required document. As per clause 5 of the MOA, the costs will be shared equally between the City and LandCorp.

A Council resolution authorising execution of the Deed of Agreement on the City's part will be necessary before execution can take place.

### **VOTING REQUIREMENTS**

Simple Majority

**MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners NOTE that negotiations have been successfully completed with Landcorp on the basis for payment of the \$5.24 million contribution agreed within the Normalisation Agreement and that a Deed of Agreement will now be prepared to give effect to the agreed payment schedule.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

**C46-07/04            PROPOSED NEW WORKS DEPOT - [80513] [58498]**

**WARD - All**

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### **PURPOSE**

To brief the Joint Commissioners on the current status of the City of Joondalup Works Depot project and recommend future actions in order to commence construction in a timely manner.

### **EXECUTIVE SUMMARY**

As a result of the split of the former City of Wanneroo, the City of Joondalup was required to enter into a lease arrangement to use part of the City of Wanneroo's Depot in Ashby until a permanent facility was established.

The Works Depot is required to support the City's outside workforce, which is responsible for the maintenance of roads, drainage, council buildings and other infrastructure. The Depot is used for storage of plant and equipment, storage of materials and the assembly and direction of worker's tasks.

The City has sought to address the long-term need for the establishment of a Works Depot within the City of Joondalup. An exhaustive assessment of a considerable number of sites has been conducted to determine the site that would provide the City with the most viable option as a City Depot, within the constraints of the City of Joondalup boundaries.

The City of Joondalup has concluded negotiations with LandCorp for the purchase of a four-hectare parcel of land for the purpose of constructing the City of Joondalup Works Depot.

The City has also progressed servicing and subdivision plans with LandCorp to a stage that will enable the City to undertake timely construction of the works depot on title transfer.

The City appointed the Architectural firm, James Christou and Partners (JCPA) who, in consultation with staff and employees, completed the concept design of the Works Depot that is now presented to the Joint Commissioners for endorsement. Associated with the concept design is the project budget that is also presented for endorsement in order that the full project budget may be listed in the 2004/05 budget.

It is recommended that the Joint Commissioners:

1. NOTE that negotiations for the contract of sale are being finalised with LandCorp for a fully serviced site of 4.0 hectares for an amount of \$2,800,000;
2. ENDORSE the City of Joondalup proposed Works Depot Concept Design as the proponent (Attachment 1);
3. ENDORSE the project budget of \$11 million in the 2004/2005 Draft Budget for Development of the Works Depot;
4. APPROVE a business plan to be advertised on the proposed land purchase for a period of 42 days to enable public comment;
5. NOTE that a further report will be presented to Council as soon as practical following the completion of the business plan process in order to obtain authority to execute the contract of sale for the Works Depot site.

## **BACKGROUND**

### **Current Facilities and Services**

The City currently operates from two sites, both highly site constrained, as follows:

- The major depot facility is provided by way of a lease agreement with the City of Wanneroo for the part use of the Wanneroo Works Depot located in Wanneroo Road, Ashby. This is outside of the Joondalup municipal boundary. The lease agreement commenced on 27 June 2000 with an expiry of 30 June 2002, and an option to extend the term of the lease for a further two years in annual increments. These options have been exercised, however, a further extension has since been negotiated to August 2005 and further discussions are currently in progress seeking an additional extension to June 2006, with options to extend on a monthly basis following this period. The City of Wanneroo has expressed a desire to reclaim the leased portion of its depot at the earliest available time.

- The second location is a minor depot of 0.2683 ha; Lot 502 Winton Road in the Winton Road Business Park. This facility is used for operational crews that undertake maintenance activities in primarily CBD areas. The City of Joondalup owns this facility on freehold title and, due to the constrained size; there is no scope to expand the services operating from this location.

In the short to medium term the City of Wanneroo can provide basic depot facilities to meet City of Joondalup requirements. However, due to the expected growth of Wanneroo and subsequent demands of depot facilities, there are no guarantees that these existing facilities will be available for lease in the longer term. In addition, there are transport efficiency and operating gains anticipated in having a centrally located depot within the City of Joondalup.

Council Direction to acquire a depot site

Following consideration of a Confidential Report circulated to the Council on 27 September 2001 (CJ342-10/01 refers), the Council resolved at the 9 October 2001 Meeting to:

1. AGREE 'IN PRINCIPLE' to the City acquiring, either freehold or leasehold land, for the purpose of a depot site;
2. NOTE that any proposed Contract of Sale will be conditional upon the Council complying with the requirements of Section 3.59 of the Local Government Act 1995, and resolving by an Absolute Majority to proceed with the contract.

Australian Property Consultants were subsequently appointed to assist the City in acquiring a depot site. Based on an Accommodation Needs Requirement brief prepared by the Infrastructure & Operations Directorate, and a comparison with other metropolitan Council Depot site operations, it was determined that ideally 4.0 hectares would adequately accommodate the City's depot operation requirements, however a smaller depot footprint could be accommodated subject to land availability.

### **Possible Depot Sites within the City of Joondalup**

As reported in a confidential memorandum to the Mayor and Councillors from the City's Chief Executive Officer on 17 December 2001, Australian Property Consultants' investigations and discussions with a number of parties had concluded that there were only three sites of 4.0 hectares or more within the district of Joondalup:

- Joondalup South Business Park - Pt Lot 902 and Pt Loc 7898 (LandCorp)
- Beenyup Site, Ocean Reef (Water Corporation)
- Quarry Site, Edgewater (City of Joondalup)

LandCorp had advised Australian Property Consultants they would not sell the Joondalup South Business Park site to the City for use as a depot operation.

Water Corporation had advised Australian Property Consultants that they would not sell the Beenyup site to the City, and would only provide a 30-year lease to the City at commercial rates with a rate review each five years. Australian Property Consultants considered that the close proximity of the site to established residential estates made this an undesirable location for a depot operation. The Officers considered the lease terms were not in the best interests of the City.

Australian Property Consultants concluded that the quarry site was a possibility however this would require the City to go through a formal rezoning process including community consultation and Western Australian Planning Commission approvals. The likelihood of achieving a rezoning from parks and recreation was in Australian Property Consultants' experience highly unlikely.

A Confidential Report was circulated to Council at the 18-19 December 2001 Meeting (CJ 148-12/01 refers). On the basis of the above information, and having concluded there were no other prospective 4 ha sites available within the boundaries of the City of Joondalup, the report identified parcels of land that would be suitable for acquisition as a depot site in the Wangara area, as well as a recommended negotiation strategy and market value parameters.

The Officer's Recommendation was that Council give consideration to the recommendation contained in the confidential report (Acquisition of Land for Works Depot by Australian Property Consultants, which was issued under separate cover) in terms of a negotiation strategy for the acquisition of a depot site in the Wangara area.

However, Council resolved at the 18-19 December 2001 Meeting to:

1. ESTABLISH a committee comprising Crs Kenworthy, Baker, O'Brien and Walker to investigate an alternate City depot site, for the purpose of accommodating Council's outdoor operations, with the objective of establishing the site preferably within the City of Joondalup.

### **Proposed Depot Site Requirements – Preliminary Brief**

The City commissioned James Christou and Partners (JCPA) in 2001 to undertake a preliminary study of the depot requirements assuming a single, purpose built facility. At this time, no specific site had been identified. Following a period of consultation with a range of City officers and employees, and a review of similar facilities throughout the Perth Metropolitan Region, JCPA in conjunction with the City's Infrastructure & Operations Directorate developed an '*Accommodation Needs Requirements*' brief.

- Buildings 6,595 square metres
- Open Areas 24,420 square metres

Based on the above assessment it was estimated that the minimum land area required for a City Depot would be 4 ha. This would allow appropriate master planning of the site for traffic management and facilities control purposes. It was noted that the size of the proposed City Depot was comparable with other local government facilities that accommodate similar service needs.

JCPA subsequently provided the City with an indicative design for a depot facility at the proposed Joondalup South Business Park site (Pt Lot 902 and Pt Loc 7898). The design was based on the Accommodation Needs Requirement brief and included a preliminary cost plan.

The operational areas to be accommodated within the brief were:

- Engineering Maintenance Service
- Engineering Minor Construction
- Parks Maintenance Service
- Building Cleaning Services
- Ranger Security Services
- Leisure Services (storage requirements for festivals and events)
- Stores and Stockpiling
- Fuel Facilities for plant and equipment
- Option to include S.E.S is currently under consideration

The indicative cost for acquisition of land, building design, site works and construction for the City Works Depot provided as at October 2002 was as follows:

	\$AUD
Buildings	1,615,000
Security	200,000
Site Works	2,050,000
Contingency	235,000
Design & Supervision Fee	400,000
Land Acquisition	4,000,000
<u>Total</u>	<u>8,500,000</u>

The costing excluded:

- Furniture, fittings and equipment (FFE);
- Construction of an access bridge to traverse the railway reserve and provide access to the southeast onto Joondalup Drive. The bridge was estimated to cost in the order of \$1.1m at the time, subject to the bridge location being determined;
- The under-grounding of the 132v power lines that traverse the site. The costs of these works were estimated at the time to be approximately \$1.25m.

An Agenda and attachments were distributed to all Councillors for a City Depot Site Committee meeting to be held on 7 October 2002. The reports for the committee consideration included the cost information referred above. The Committee meeting was counted out on 7 October 2002 due to a lack of quorum.

### **Depot Site Options Review**

Following Council's resolution at the 18-19 December 2001 Meeting, a report was prepared for the Chief Executive Officer on information regarding LandCorp's land holding within the City to enable discussion to take place on options for the acquisition of a site for the City Depot. A printout of all other properties within the City over 2 hectares was also obtained from the City's property system.

A Workshop was held with City Officers on 23 January 2002 with the following objectives:

- Review and agree on land requirements for depot(s) – (To consider split operations and Council’s views);
- Review previous land options (within Joondalup) considered for a depot site;
- Review the assessment of all land available in Joondalup (2ha and above) for a depot site;
- Prioritise land options for Council Committee consideration;
- Determine how to present options to Council Committee.

### **Depot Site Evaluation**

The City Depot Committee held its first meeting on 8 February 2002 to consider a number of options for a depot site. The City Officers tabled a report providing for consideration of suggested selection criteria, together with background maps and Officer comments on site options within Joondalup that had been identified for a depot site. A presentation was made on the site options as a preliminary to a bus tour of the sites. The tour also visited the depots of the City of Melville and City of Stirling as examples of recent depot developments, which were considered to be state of the art in depot design. The Committee reconvened after the tour of the sites and depot facilities and further considered and determined the site that would provide the City with the most viable option as a City Depot.

The Committee’s report was presented to Council at the 26 February 2002 Meeting (CJ036-02/02 refers). Due to the commercially sensitive nature of the proposed negotiations and to protect the Council’s commercial interest, a confidential memorandum was issued under separate cover to Elected Members providing details on the proposed site under consideration.

The Council resolved to:

- 1 NOTE the minutes of the City Depot Committee held on 8 February 2002;
- 2 AGREE that negotiations proceed to acquire options on land in the Winton Road, Joondalup area, subject to the appropriate terms and conditions as recommended by the city’s solicitor and property consultant being included in the Contracts of Sale.

Following receipt of Valuations and Reports on the subject properties, Australian Property Consultants were directed to provide terms and conditions for inclusion in the Contracts of Sale, together with a report recommending a negotiation strategy.

A report detailing a negotiation strategy for the land in the Winton Road, Joondalup area was presented to the Executive Management Team on 22 March 2002, where Executive resolved to:

1. NOTE the confidential report from Australian Property Consultants dated 21 March 2002;



2. AUTHORISE Australian Property Consultants to commence negotiations for two adjoining Lots within the negotiation parameters proposed in the report;
3. AUTHORISE Australian Property Consultants to commence negotiations separately for another adjacent Lot (Part Lot 62 Joondalup Bus Depot .797 ha) within the negotiation parameters proposed in the report;
4. ENDORSE the terms and conditions prepared by Australian Property Consultants and John Woodhouse, to be incorporated in the Contracts of Sale/s.

Negotiations for the designated land subsequently failed. In April 2002, the City Officers revisited discussions with LandCorp regarding the Joondalup South Business Park site (Pt Lot 902 and Pt Loc 7898) as a possible Depot site. A meeting was also held with Main Roads WA to discuss access/egress opportunities and a letter was sent advising of the City's requirements for the site to be determined feasible for a depot operation.

A further City Depot Committee Meeting was held on 28 May 2002. A confidential report was provided to Elected Members under separate cover and was considered at the Council meeting on 11 June 2002 (CJ140-06/02 refers).

The Committee recommended that Council:

1. NOTE the Minutes of the City Depot Committee held on 28 May 2002;
2. AUTHORISE Officers to proceed with commissioning of consultants to undertake the following investigations in relation to the parcel of LandCorp land adjacent to the Freeway and Honeybush Drive Joondalup:
  - Bridge feasibility study
  - Preparation of preliminary master plan for the site
  - Assess Worksafe and relocation costs associated with the high voltage power lines that traverse the site
  - Seek an independent valuation of the site

Council resolved to:

- 1 NOTE the Minutes of the City Depot Committee held on 28 May 2002;
- 2 ENDORSE the recommendations of the Committee as outlined in the Confidential Report.

### **Valuation**

A Valuation Brief was prepared and forwarded to Knight Frank (WA) Pty Ltd to provide valuations of the subject land. The final valuation report was received on 4 October 2002.

### **Approach to Department for Planning and Infrastructure**

A meeting was held by a City Working Group on 3 September 2002 to discuss the development issues concerning the LandCorp site. Given the difficulties and expense involved in developing the LandCorp site it proposed that a formal approach be made to the Department for Planning and Infrastructure regarding the possibility of the City providing an incentive to Transperth to relocate its Bus Depot, enabling the City to purchase the Bus Depot site. A briefing document was provided to the Chief Executive Officer.

The Chief Executive Officer met with the Acting Executive Director Public Transport Services, Department for Planning and Infrastructure on 19 September 2002, to discuss the possibility of relocation of the Transperth Bus Depot to enable the City to purchase the Bus Depot site. The following questions were put to the Department of Planning and Infrastructure:

1. Does Transperth have a requirement to relocate further North
2. If so, what is the timeframe to relocate
3. If not, can Transperth be induced to relocate if the transaction of land generates sufficient capital for them to relocate
4. What is the extent of Transperth's depot requirements in the Joondalup area in the future
5. Is there an opportunity for the City to purchase the whole of Transperth site - vacant land and existing depot

Depending on the future operational and land requirements of Transperth the following options were to be considered by the City:

1. Purchase entire site, Transperth purchase another site and relocate in entirety in an agreed timeframe
2. Phased in approach whereby there is an agreed timeline and the City stages its occupancy of the site to coincide with the relocation of Transperth
3. Co-location where Transperth agree to reduce their operations to the extent that would enable the City to maintain full operations on the site whilst sharing the premises.

Common to all options was the potential requirement to extend the lease with the City of Wanneroo to fit required timeframes.

The Department for Planning and Infrastructure advised that there was no intention, now or in the future to sell the Bus Depot site. However, they reaffirmed their interest in selling Lot 62 Part A (.797ha site adjacent to the Bus Depot) to the City, and raised the possibility of a marginal increase to the land parcel of up to .2ha, bringing the total size to 1ha. The Chief Executive Officer gave a commitment that a report on the proposal would be submitted to Council in October 2002.

It was intended that the proposal be addressed at a meeting of the City Depot Committee on 7 October 2002, however the meeting failed to reach a quorum within 30 minutes of its advertised commencement time and was counted out.

A Report was therefore submitted to Council at its Meeting of 5 November 2002 seeking direction on the proposed purchase of Lot 62 Part A Winton Road, from the Department for Planning and Infrastructure.

The report advised that the Department for Planning and Infrastructure wrote to the City on 16 October 2002 confirming its willingness to sell Lot 62 Part A, an undeveloped portion of the Joondalup (Winton Road) Bus Depot site with an area of .797ha.

As the two adjoining sites had since been sold to other parties, it was not operationally feasible to locate depot operations on Lot 62 Part A alone. The report therefore recommended that the City advise the Department for Planning and Infrastructure that it was no longer interested in purchasing Lot 62 Part A.

Council resolved to:

1. ADVISE the Department for Planning and Infrastructure that the City is no longer interested in purchasing Lot 62 Part A, Winton Road, Joondalup.

The Chief Executive Officer advised the Acting Executive Director Public Transport Services, Department for Planning and Infrastructure, of Council's decision in writing on 12 November 2002.

### **Negotiations with Landcorp**

Following consideration of a report to Council on 17 December 2002 in relation to completion of the Joondalup Normalisation Agreement (CJ316-12/02 refers), Council resolved in part to:

- “5 AUTHORISES the Chief Executive Officer to negotiate with LandCorp for either cash contribution, or partial cash and partial in-kind contribution by way of the transfer of land owned by LandCorp to the City either for the purpose of housing the City of Joondalup's planned works depot, or the transfer of lot 6 Lawley Court.”

Following Council's resolution at the 17 December 2002 Meeting, City officers finalised negotiations with LandCorp for the 4 ha parcel of land for the Works Depot at Joondalup South Business Park (Pt Lot 902 and Pt Loc 7898). These negotiations included the issue of site access via a traffic bridge and the City's desire to have existing power lines on the site relocated to make best use of the area available for the construction of the works depot.

On 29 April 2003, a confidential report was presented to Council on the site acquisition for the works depot (CJ107-04/03 refers). Council resolved:

- “1 CONDITIONALLY ACCEPTS the offer from LandCorp for the City to purchase a fully serviced site of 4.0 hectares for an amount of \$2.8 million dollars subject to the following conditions:
- (a) LandCorp undertakes all subdivision works and approvals;

- (b) LandCorp meets all costs of subdivision including the provision of access to the proposed lot via a traffic bridge over the current rail reserve and as detailed in the City of Joondalup works depot project plan (refer attachment 1);
  - (c) the City undertakes, at its own cost, due diligence in the form of a geotechnical survey, environmental site analysis (including flora and fauna) and a review of potential site contamination to verify the site is not fatally flawed for development by such issues;
  - (d) LandCorp provides a range of subdivision services of sufficient capacity for the development of a municipal works depot with further specific details to be agreed to by our respective engineers;
  - (e) LandCorp agrees to the relocation of the existing high voltage power line to the proposed lot boundary adjacent to, or contained within, the freeway reserve, and that LandCorp and the City undertake the relocation jointly. The City confirms that it will bear the cost of such a realignment apportioned to the proposed lot;
  - (f) the final contract of sale and land value be in accordance with the requirements of the Local Government Act 1995 and reasonable conditions imposed by LandCorp;
- 2 AUTHORISES the Chief Executive Officer to negotiate the finalisation of the contract of sale with LandCorp.”

## **DETAILS**

### **Project Plan and Project Control Group (PCG)**

In accordance with the City’s management of designated Corporate Projects, a Project Plan for the Works Depot was prepared in conjunction with Clifton Coney Group (CCG), Project and Development Managers.

A Project Control Group (PCG) consisting of City officers and representatives from Clifton Coney Group was established to progress the Project Plan and submit monthly reports outlining performance against milestones, budget, progress and key issues/recommendations, to the Project Management Group.

### **Negotiations for Land Acquisition**

Following the Council resolutions in December 2002 and April 2003 endorsing negotiations with LandCorp for the acquisition of land for the Works Depot, details relating to this agreement were finalised through liaison with LandCorp.

The City further achieved the commitment of LandCorp to the program required for the timely construction of the works depot, including having LandCorp initiate a range of works to produce the required lot.

The original offer of \$2.8 million from LandCorp included minimal provision for infrastructure costs relating to subdivision approvals. The original assumptions LandCorp made to determine these subdivision costs and hence the valuation of the site was below the specification required for the works depot. Subsequent negotiations achieved the same valuation with an increase in the level of infrastructure specification.

### **Development program**

A detailed development program for the completion of the Works Depot was developed in consultation with LandCorp. LandCorp committed to the timeframes requested by the City and have subsequently commissioned consultants to complete:

- Subdivision process for the works depot site;
- Subdivision process for the balance of the land;
- Bridge design consultants for the traffic bridge accessing the depot site.

### **Relocation of High Voltage Power Line**

This requirement was separated from the contract of sale with the agreement that both parties pay their proportional cost. The result was a cost saving for the City in the relocation of the powerlines.

### **Preliminary Site Investigations**

Connell Wagner were appointed to conduct preliminary investigations into the suitability of the site for the purposes of a works depot. Connell Wagner, together with their geotechnical sub-consultants, Golder Associates, completed their investigations determining the site was satisfactory.

Connell Wagner subsequently negotiated with Main Road WA (MRWA) construction access to the site from Hodges Drive to permit construction to commence prior to the completion of the traffic bridge. This is a critical aspect of the works program.

### **Needs Analysis**

The original needs analysis compiled for the works depot was tested and confirmed through several user workshops. The needs analysis also ensured the inclusion of Council policy relating to sustainability and environmentally sustainable design.

### **Preliminary Cost Estimates**

The original cost projections were tested by an independent Quantity Surveyor to ensure the full project costs (including land acquisition), latest needs analysis, sustainability and environmentally sustainable design requirements were included and sufficient project risk is accommodated in the now approved project budget.

### **Appointment Of Architectural Consultant**

The City advertised a public tender calling for submissions for suitable consultants for Design Consultancy Services for the Municipal Works Depot on 9 July 2003. This tender closed on 30 July 2003. A report recommending the appointment of James Christou and Partners Architects (JCPA) as design consultants was presented at the 21 October 2003 Council meeting (CJ226-10/03 refers).

Council resolved:

- “1 ACCEPTS the tender from James Christou and Partners Architects, Contract No 001-03/04 for the architectural consultancy and design services for the development of the New Works Depot in accordance with the Fees Schedule and Fee Scale Curve forming Attachment 2 to Report CJ226-10//03;
- 2 AUTHORISES the commencement of works subject to Council approval of the concept design and the full project construction budget;
- 3 NOTES subject to Item 2 above the appointment of sub consultants by James Christou and Partners. The sub-consultants will include the following disciplines:
  - Structural & Civil Engineering;
  - Electrical, Communication and Security Services;
  - Mechanical Services;
  - Fire Protection Service;
  - Hydraulic Services;
  - Acoustics Engineer
  - Environmental Consultant
- 4 AUTHORISES the execution of the contract documents under common seal.”

### **Concept Design**

The Concept Design presented by James Christou and Partners, Architects (JCPA) has been developed in accordance with the original project brief and in direct consultation with operational staff and the Executive Management Team. The design shows the site being totally developed to accommodate the various needs of the Council operations staff, provision for storage (Community Development) and the potential future provision for accommodating the State Emergency Service (SES) from their current Winton Road facility.

The project brief directed the consultant to adopt Environmentally Sensitive Design (ESD) principles into the building and site fabric. This has been accommodated through a variety of responses including utilising low embodied energy materials, harvesting rainfall and site run-off, adopting a number of energy saving building management systems and ensuring optimal site efficiency.

The location of the site was recognised in the brief as being a gateway to the City of Joondalup and the brief called upon the Architect to recognise this through developing an iconic landmark building and ensuring the building presence to Hodges Drive and the

Freeway reflected the importance of the location. The Architect has responded in the manner of locating all the buildings addressing Hodges Drive with the main administration office in a prominent location addressing the intersection of Hodges Drive and the Freeway. The building fabric will be detailed in the manner that incorporates the latest architectural finishes and sculptural forms.

The size of the proposed City Depot development is 3.5 ha and is comparable with other local government facilities that accommodate similar service needs. 0.5 ha will remain undeveloped until future requirements determine the use.

The concept design is now being presented to the Joint Commissioners for endorsement. Once the Concept design is endorsed, the Project Control Group, in conjunction with JCPA will progress the detail design and documentation phase. The next approval required of the Joint Commissioners will be the appointment of a main works contractor following a public tender process.

### **Public Comment Period**

In accordance with the Works Depot Project Plan, consultation is to be an integral part of the works depot development process. In the interests of good public relations and consistent with the Council's commitment to community consultation, public notice of the City's proposed works depot concept design is supported.

It is proposed that consultation be incorporated within the Planning Approval phase to enable detailed design information to be relayed to the community. While there is no statutory requirement to do so, given the proposed works depot site is a landmark site, it is intended to undertake public consultation on the proposed works depot concept design for a minimum three week advertising period. This will include a sign on the site, notices in the local newspaper and advice to nearby landowners.

During the public comment period, a presentation of the depot concept design can be provided to the Environmental Sustainability Committee.

### **SES Facility**

The proposal to relocate the existing Wanneroo/Joondalup SES facility from Winton Road to the proposed Works Depot is currently under assessment by the City and the SES.

The current Winton Road facility is a Public Reserve and has significant site restrictions that prohibit expansion to meet the future requirements of the SES unit. The City and the SES have determined a potential funding strategy that would require the current Winton Road facility being converted to freehold title and sold with the funds provided to the City for construction of the SES component. These strategies, along with the details of the SES component are currently being progressed with FESA and the SES.

The concept design has identified a section of the building referred to as 'future requirements' that could be constructed. It is anticipated that further meetings with FESA, SES and City of Joondalup will progress the design options with a final resolution being referred back to the Joint Commissioners to consider endorsement.

### **Site Entry**

It is proposed that all construction works be undertaken utilizing a “Left in - Left out” access road from Hodges Drive. To minimize conflict with normal traffic a “Slip” lane entry will be constructed immediately upon approval of the Concept Design. City of Joondalup operations staff will undertake the construction of this access road.

### **Clearing and Site Works**

Due to the extent of bulk earthworks required to the site, the entire area will be cleared of vegetation. It is proposed that the existing vegetation be chipped and retained onsite for future use. Seed and cutting material collection will be harvested for utilization in other local planting projects including revegetating areas of the depot site. Buffer planting will be implemented as part of the landscape design phase following completion of all other works.

### **Earthworks**

Current indications by JCPA and their civil engineers are that approximately 40,000m<sup>3</sup> of fill material will be removed from the site. Various options are being considered to minimize the costs, including:

- (a) Total removal by external contractor to another site for landfill purposes (assuming at no cost to the City)
- (b) Part removal to various locations for land fill purposes (assuming at no cost to the City).
- (c) Stockpile on site with disposal to a nearby site to occur when the new “Bridge” access is available (City’s cost).

The project team is currently examining all these options with a view of adopting the least cost option. The preferred option for the City at this stage is option (a). However, this assumes that a developer will want to take the fill from the depot site to fit in with a development program.

The City is aware of several projects that may require substantial fill and are currently canvassing these opportunities. To achieve this outcome, flexibility on behalf of the City is critical to fit the development programs of other parties. On approval of the concept design, the City will be in a position to negotiate with parties to remove the fill. Should these negotiation fail, the City will revert to option (c).

### **Indicative Cost Estimate**

As previously outlined, an indicative cost for acquisition of the land, building design, site works and construction for the City Works Depot was prepared in October 2002 based on known requirements in the order of \$8.5 million.

The initial indicative cost listed the major components required for a standard municipal works depot and excluded costs of a bridge, under-grounding of power lines and furniture, fittings and equipment.



The land acquisition was estimated at \$4 million, however the final negotiated cost was \$2.8 million. This left a new base indicative cost of \$7.3 million.

### **Additional Items in Proposal**

The proposed site incorporates various constraints / benefits that were not identified initially within the cost estimates and these items have been the subject of extensive discussion and review by the PCG.

They are outlined as follows:

<b>Item</b>	<b>\$</b>
ESD principles, these are to be listed and assessed by Council's Environment and Sustainability Committee during the Detailed Design process.	200,000
Gateway Significance Structural design to reflect the prominent location.	250,000
Maximise use of the landform within the site to reduce surplus materials and minimise retaining wall structures.	920,000
Furniture, Fittings and Equipment.	600,000
H.V. Power / Adoption of the Overhead line option by relocation to the Eastern Boundary abutting the Rail Reserve.	415,000
Increased Site works and Building costs due to the site conditions and requirement for extensive retaining walls.	965,000
Cost Escalation due to time delays.	350,000
Provision of a lift to service the office in accordance with the Disability and Discrimination Act.	125,000
Communication cabling, I.T items, Two Way Radio and Reticulation Control.	150,000
<b>Additional Items</b>	<b>3,975,000</b>

It is noted that the initial total project budget is \$11.275 million with these additional items listed above. However, the project budget has been capped at \$11 million and savings will need to be achieved in the course of the project.

### **Current Financial Implications**

#### Current Project Budget Estimate

<b>ITEM</b>	<b>\$</b>
Building Works (rate per sq. metre)	2,665,000
Communication cabling, I.T items, Two Way Radio and Reticulation Control.	150,000
Gateway Allowance (strategic location)	250,000
Site Works (significant cross fall)	2,970,000
ESD Allowance	200,000
Escalation (to July 04)	200,000
Escalation Premium due to Market Condition	150,000

Consultant Fees	600,000
Land Acquisition	2,800,000
FF&E (furniture, fittings and equipment)	600,000
HV Relocation	415,000
<b>TOTAL:</b>	<b>11,000,000</b>

On 3 June 2003 Corporate Projects were presented to a Budget Committee meeting, where documents outlined the depot cost at \$8.5m which was the figure noted in the October 2002 cost information, excluding bridge construction estimated at \$1.1m and power lines relocation estimated at \$1.25m.

Since that time variations have occurred on a number of cost items. In terms of decreases, the City successfully negotiated reductions in the cost of the land acquisition and the relocation of power lines, as well as negating the requirement to pay for the construction of the access bridge. However these have been offset by increases in other areas.

It should be noted that Building works have increased due to a significant increase in the construction rate per square metre since 2002. Site work costs have also increased significantly.

There has also been an increase in the consultant fees required for this project from the original indicative cost. This is primarily a result of the appointment of Clifton Coney Group as Project Supervisor, due to the expertise required for a project of this magnitude; and the relocation of the power lines.

Overall, the variation from \$10.85 million (including original bridge and power line estimates) to \$11 million is not significant given the scale and complexity of this project.

It is recommended that the Joint Commissioners now endorse the project budget of \$11 million for the development of the Works Depot.

## FINANCIAL DETAILS

### Asset Replacement Reserve

The Asset Replacement Reserve was created in 1986/87 to assist with financing various essential assets including a works depot. Transfers from accumulated surplus include interest. Additions to this reserve are through specific budget allocation. Funding from this reserve is to undertake construction of the depot facility.

Asset Replacement Reserve	Actual 30 June 2003	Budget 2003/2004
	\$	\$
Opening Balance	7,034,398	7,163,348
Transfer from Accumulated Surplus	142,250	279,000
Transfer to Accumulated Surplus	(13,300)	(1,187,000)
<b>Closing Balance</b>	<b>7,163,348</b>	<b>6,255,348</b>

### Works Depot Funding Analysis

<b>Works Depot Funding Analysis</b>	<b>Date</b>	<b>Balance</b>	<b>Total</b>
		<b>\$</b>	
Opening Balance of Reserves	1/07/2003	7,163,348	
Interest earned	2003/04	279,000	
<b>Sub total</b>			<b>7,442,348</b>
Joondalup Normalisation Agreement Reserve	2003/04	2,799,900	
Municipal Funds (General)	2003/04	13,752	
<b>Sub total</b>			<b>10,256,000</b>
Interest Earned	2004/05	200,000	
Municipal Funds (General)	2004/05	200,000	
<b>Sub total</b>			<b>10,656,000</b>
Municipal Funds (General)	2005/06	341,000	
<b>Sub total</b>			<b>341,000</b>
<b>Total Establishment Cost of Project</b>			<b>11,000,000</b>

### Business Plan

The requirement for the City to undertake a business plan for the acquisition of the depot site was given consideration at the time the purchase was negotiated with Landcorp. At this time it was deemed not required to comply with the provision of Section 3.59 of the Local Government Act 1995 and the Local Government Act (Functions and General) Regulations 1996, as the City was acquiring the land solely for the purposes of the works depot and no part of the site was to be disposed (sell or lease as defined in 3.58) to a third party.

The City has since sought legal advice clarifying the requirement or otherwise for a business plan for the acquisition of the depot site. This advice referred to Regulation 8 (1) of the Local Government (Functions and General) Regulations 1996 which provides that a land transaction is an exempt land transaction for the purposes of section 3.59 if the local government enters into it *“without intending to produce profit to itself and without intending that another person will be sold, or given joint or exclusive use of, all or any of the land involved in the transaction.”*

The City’s solicitor noted that the City’s instructions were that, if the land was purchased, the present proposal was that it would be used for a works depot. The City received advice that this factor alone does not satisfy regulation 8 (1). If in purchasing the land, the City is making an investment and, in the fullness of time, the land may be sold at a profit, then regulation 8 would not apply.

On this basis, it is recommended that the City take a prudent approach and the Joint Commissioners approve a business plan to be advertised on the proposed land purchase and concept design for a period of 42 days to enable public comment.

After the business plan process has been completed, it is envisaged that a report will be presented to Council as soon as practical seeking authority to execute the contract of sale for the works depot site.

A copy of the proposed business plan is attached for information.

## COMMENT

Following the division of the former City of Wanneroo by the Joint Commissioners in July 1999 the current workforce have been operating from two separate locations:

- Ashby depot via a lease agreement with City of Wanneroo; and
- Winton Road depot, which is owned in freehold by the City.

There are transport efficiency and operational gains to be achieved in having a centrally located depot within the City of Joondalup.

Land availability within municipality boundaries to meet the proposed depot size has impacted on the City's ability to progress the development of the depot. The current site topography with 14 metres cross fall and resulting 40,000 m<sup>3</sup> surplus material has impacted on development costs. An extensive system of retaining walls is required to facilitate parking and access requirements within the depot and these costs were not anticipated in the initial cost estimates. This subdivision by LandCorp has provided the City with an opportunity to construct a works depot in a strategic location and the proposed concept design reflects its importance.

The location adjacent to the Freeway off-ramp and Hodges Drive is considered a significant visual location within the city entrances and therefore it is incumbent on the City to establish Works Depot facilities that provides visually attractive architecture.

## ATTACHMENTS

Attachment 1     Concept Design  
Attachment 2     Business Plan

## VOTING REQUIREMENTS

Simple Majority

### **MOVED Cmr Smith, SECONDED Cmr Fox that the Joint Commissioners:**

- 1     NOTE that negotiations for the contract of sale are being finalised with LandCorp for a fully serviced site of 4.0 hectares for an amount of \$2,800,000;**
- 2     ENDORSE the City of Joondalup proposed Works Depot Concept Design as the proponent as shown on Attachment 1 to Report C46-07/04;**
- 3     ENDORSE the project budget of \$11 million in the 2004/2005 Draft Budget for Development of the Works Depot;**

- 4 **APPROVE a business plan to be advertised on the proposed land purchase for a period of 42 days to enable public comment;**
- 5 **NOTE that a further report will be presented to Council as soon as practical following the completion of the business plan process in order to obtain authority to execute the contract of sale for the Works Depot site.**

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

*Appendices 16 and 16(a) refer*

*To access this attachment on electronic document, click here: [Attach16min200704.pdf](#)  
[Attach16amin200704.pdf](#)*

**C47-07/04 CONFLICT OF INTEREST AND PAYMENT OF  
LEGAL EXPENSES FOR ELECTED MEMBERS AND  
EMPLOYEES RELATING TO THE INQUIRY -  
[72559]**

**WARD – All**

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**PURPOSE**

For the Joint Commissioners to consider the operation of *Policy 2.2.8 Legal Representation for Elected Members and Employees* in respect of the applications for funding assistance that have been made. To also discuss the issue of conflict of interest and the possible impact this may have on the operation of the policy.

**EXECUTIVE SUMMARY**

The report discusses the application of *Policy 2.2.8 Legal Representation for Elected Members and Employees* in relation to the possibility of former elected members and employees availing themselves of the policy with regard to the Inquiry. (A copy of *Policy 2.2.8 Legal Representation for Elected Members and Employees* is attached to this report and marked Attachment 1.)

Requests for funding pursuant to Policy 2.2.8 have been received from suspended elected members and the former CEO. The recommendation in relation to these applications is for those applications relating to the suspended elected members to be supported, and the application from the former CEO to be rejected.

Issues relating to the possibility of a conflict of interest in the application of the Policy with regard to suspended elected members have also been addressed.

**BACKGROUND**

The Joint Commissioners at the Council Meeting held on 29 June 2004 adopted *Policy 2.2.8 Legal Representation for Elected Members and Employees*.

Applications have been recently sought by suspended elected members and the former CEO to avail themselves of funding for legal representation costs pursuant to Policy 2.2.8. The indication of a number of these applicants is that they wish to seek the services of Minter Ellison Lawyers (contract Panel firm) to conduct their representation.

Advice has been provided to the City relating to the issue of conflict of interest with regard to the City being represented by Panel firms. Opinion obtained suggests that the possibility of a conflict of interest arising in this situation is probable. In discussions with legal representatives, the parallel issue of Panel firms representing suspended elected members and employees was also addressed.

## **DETAILS**

### **Statutory Provision:**

The Policy does apply to the Inquiry, indeed expressly stating under the definition of ‘Legal Proceedings’ that these may be civil, criminal or investigative (including an inquiry under any written law). This reference to any written law applies equally to the creation of inquiry bodies made pursuant to the *Local Government Act 1995* and the *Royal Commissions Act 1968*.

The City has been approached by the former CEO and suspended Elected Members who wish to avail themselves of Policy 2.2.8 for the purposes of representation at the forthcoming Inquiry. It has been the preference of a number of suspended Elected Members to seek to engage the services of Minter Ellison Lawyers. The remaining suspended elected members have either indicated a preference for Phillips Fox Solicitors or have not specified a preference. The former CEO has nominated Blake Dawson Waldron as his preferred solicitors.

In discussions with Fiocco Lawyers and McLeods Barristers and Solicitors concerning the appropriateness of the City engaging solicitors to represent the interests of the City in the Inquiry, the incidental matter of conflict of interest and how this may apply to the conduct of proceedings at the Inquiry has arisen. It is the view of the legal advice sought and provided that a conflict of interest may, if not likely, arise if the City were to engage Minter Ellison Lawyers to represent it. In this respect, given the closeness of the City’s position in the matter and that of the suspended Elected Members, there is the possibility of a conflict of interest arising should individuals wish to appoint Minter Ellison Lawyers.

### **Policy Implications:**

*Policy No 2.2.8 Legal Representation for Elected Members and Employees.*

## **COMMENT**

### **Legal Representation for Elected Members (Suspended) and Former Employees**

Under section 3.1 of the *LGA 1995*, the general function of a local government is to provide for the good governance of persons in the district.

The City should only pay the legal expenses of suspended elected members and employees if the payment can be justified as being for the good government of persons in the City's district.

The policy relating to the legal representation for elected members and employees allows, in appropriate circumstances, for the City to pay for the legal representation costs of an individual elected member or employee.

The City has received applications from suspended Elected Members and the former CEO for assistance, and it is expected that as the Inquiry proceedings draw closer more individuals will come forward seeking assistance.

In terms of payment criteria, the legal representation costs must relate to a matter that arises from the performance of the Elected Member's or employee's functions, the costs must be in respect of legal proceedings that have been or may be commenced, and in performing the functions to which the legal representation relates, the Elected Member or Employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct.

An assessment of each application on a case-by-case basis has been provided.

*1 Cr Kimber (Suspended)*

An application was received on 21 June 2004 for funding for legal representation from Cr Kimber (suspended). He has expressed the view that he wishes to appoint Minter Ellison to represent him before the Inquiry. He is of the view such funding would be "in the interests of the City of Joondalup in order to ensure that good government prevails within the City's boundaries and elected members are able to participate without fear or favour from particular phases of political groups activities within and without the City's boundaries."

The application for legal representation funding conforms to the requirements of subclauses 3.2 and 3.3(a) of Policy 2.2.8.

In assessing the application, the first criterion has been met namely that the legal representation costs relate to a matter that arises from the performance of Cr Kimber's functions as an elected member.

The terms of reference of the Inquiry suggest the decision-making processes of Council will be investigated as they relate to the appointment, retention and cessation of the former CEO, and the operations of Council during that time.

The second criterion requires that the costs be in respect of legal proceedings. As mentioned, the Inquiry comes within the application of Policy 2.2.8.

The third requirement states that an elected member must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct. The assessment of this criterion is difficult as it deals with issues that will be addressed as part of the Inquiry process. Nevertheless, for the purposes of assessing this criterion, Cr Kimber (suspended) has given an undertaking that he acted in good faith as an elected member. Furthermore, should an adverse finding be made against him by the Inquiry, clause 7 of the policy allows for the City to reclaim the costs paid to him.

On the discussion above, it is the recommendation that the application for legal funding up to \$5,000 be approved. The amount is exclusive of GST. Payment will be made either in the form of reimbursement to the suspended elected member on presentation of an official tax invoice, or direct payment to the appointed legal firm on presentation of an official tax invoice. It is further recommended that Cr Kimber (suspended) be advised of the potential conflict of interest associated with the engagement of Minter Ellison Lawyers and the consequences this may have for representation before the Inquiry.

2 *Cr Mackintosh (Suspended)*

An application for legal representation was sent under cover of a letter dated 20 June 2004 from Cr Mackintosh (suspended). The basis for the application was similar to that put forward by Cr Kimber (suspended), the funding being in the interests of good governance. She requested the appointment of Minter Ellison Lawyers to represent her at the Inquiry Panel.

The application for legal representation funding conforms to the requirements of subclauses 3.2 and 3.3(a) of the Policy.

For the reasons discussed relating to the application by Cr Kimber, the application made by Cr Mackintosh meets the criteria of Policy 2.2.8. It is the recommendation that the application for legal funding up to \$5,000 be approved. The amount is exclusive of GST. Payment will be made either in the form of reimbursement to the suspended elected member on presentation of an official tax invoice, or direct payment to the appointed legal firm on presentation of an official tax invoice. Should an adverse finding be made against Cr Mackintosh (suspended) the Policy allows for the City to reclaim the monies it has funded. It is further recommended that Cr Mackintosh (suspended) be advised of the potential conflict of interest associated with the engagement of Minter Ellison Lawyers and the consequences this may have for representation before the Inquiry.

3 *Cr O'Brien (Suspended)*

An application for legal representation funding was received from Cr O'Brien (suspended) under cover of a letter dated 20 June 2004. The request was based on similar grounds as Crs Kimber and Mackintosh (suspended). Cr O'Brien (suspended) advised that he wished to engage the services of Minter Ellison Lawyers.

The application for legal representation funding conforms to the requirements of subclauses 3.2 and 3.3(a) of the Policy.

For reasons expressed in the above discussion relating to Crs Kimber and Cr Mackintosh, the application made by Cr O'Brien meets the criteria set out in Policy 2.2.8, and it is the recommendation that the application for legal funding up to \$5,000 be approved. The amount is exclusive of GST. Payment will be made either in the form of reimbursement to the suspended elected member on presentation of an official tax invoice, or direct payment to the appointed legal firm on presentation of an official tax invoice. Should an adverse finding be made against Cr O'Brien (suspended) the Policy allows for the City to reclaim the monies it has funded. It is further recommended that Cr O'Brien (suspended) be advised of the potential conflict of interest associated with the engagement of Minter Ellison Lawyers and the consequences this may have for representation before the Inquiry.



4 *Cr Prospero (Suspended)*

Under cover of a letter dated 1 July 2004, the City received an application for legal funding from Cr Prospero (suspended). Cr Prospero (suspended) advised that he wished to use the services of Minter Ellison Lawyers. He requested clarification if he would be permitted to do so and whether or not there would be a conflict of interest in doing so.

The application for legal representation funding conforms to the requirements of subclauses 3.2 and 3.3(a) of the Policy.

Similarly, as with the discussion relating to Cr Kimber (suspended) it appears that Cr Prospero (suspended) meets the criteria relating to Policy 2.2.8.

For reasons expressed in the above discussion, the application made by Cr Prospero (suspended) meets the criteria set out in Policy 2.2.8, and it is the recommendation that the application for legal funding up to \$5,000 be approved. The amount is exclusive of GST. Payment will be made either in the form of reimbursement to the suspended elected member on presentation of an official tax invoice, or direct payment to the appointed legal firm on presentation of an official tax invoice. Should an adverse finding be made against Cr Prospero (suspended) the Policy allows for the City to reclaim the monies it has funded. It is further recommended that Cr Prospero (suspended) be advised of the potential conflict of interest associated with the engagement of Minter Ellison Lawyers and the consequences this may have for representation before the Inquiry.

5 *Cr Walker (Suspended)*

The City received an application dated 12 July 2004 for payment for legal representation from Cr Allison Walker (suspended). She has not nominated at this stage a law firm to represent her.

The application for legal representation funding conforms to the requirements of subclauses 3.2 and 3.3(a), (b) and (c) of the Policy.

Similarly, as with the discussion relating to Cr Kimber (suspended), the application appears to meet the criteria of Policy 2.2.8 in that the legal representation costs relate to a matter that arises from the performance of her functions, are in respect of the Inquiry, and she has made an undertaking that she acted in good faith to the best of her knowledge.

For reasons expressed in the above discussion, the application made by Cr Walker (suspended) meets the criteria set out in Policy 2.2.8, and it is the recommendation that the application for legal funding up to \$5,000 be approved. The amount is exclusive of GST. Payment will be made either in the form of reimbursement to the suspended elected member on presentation of an official tax invoice, or direct payment to the appointed legal firm on presentation of an official tax invoice. Should an adverse finding be made against Cr Walker (suspended) the Policy allows for the City to reclaim the monies it has funded.

6 *Cr Caiacob (Suspended)*

The City received an application dated 14 July 2004 from Councillor Caiacob (suspended) for funding of legal representation costs pursuant to Policy 2.2.8. Councillor Caiacob (suspended) has nominated Phillips Fox as his preferred legal representatives.

The application for legal representation funding conforms to the requirements of subclauses 3.2 and 3.3(a), (b) and (c) of the Policy.

In assessment of the application, it appears that Councillor Caiacob (suspended) meets the criteria of Policy 2.2.8. Councillor Caiacob (suspended) has made an undertaking that he acted in good faith, did not act unlawfully or in any way that constitutes improper conduct in relation to any of the matters contained in the terms of reference.

For reasons expressed in the above discussion, the application made by Cr Caiacob (suspended) meets the criteria set out in Policy 2.2.8, and it is the recommendation that the application for legal funding up to \$5,000 be approved. The amount is exclusive of GST. Payment will be made either in the form of reimbursement to the suspended elected member on presentation of an official tax invoice, or direct payment to the appointed legal firm on presentation of an official tax invoice. Should an adverse finding be made against Cr Caiacob (suspended) the Policy allows for the City to reclaim the monies it has funded.

7 *Cr Hart (Suspended)*

The City received an application dated 15 July 2004 from Councillor Hart (suspended) for funding of legal representation costs pursuant to Policy 2.2.8. Councillor Hart (suspended) has nominated Phillips Fox as her preferred legal representatives.

The application for legal representation funding conforms to the requirements of subclauses 3.2 and 3.3(a), (b) and (c) of the Policy.

In assessment of the application, it appears that Councillor Hart (suspended) meets the criteria of Policy 2.2.8. Councillor Hart (suspended) has made an undertaking that she acted in good faith, did not act unlawfully or in any way that constituted improper conduct in relation to any of the matters contained in the terms of reference.

For reasons expressed in the above discussion, the application made by Cr Hart (suspended) meets the criteria set out in Policy 2.2.8, and it is the recommendation that the application for legal funding up to \$5,000 be approved. The amount is exclusive of GST. Payment will be made either in the form of reimbursement to the suspended elected member on presentation of an official tax invoice, or direct payment to the appointed legal firm on presentation of an official tax invoice. Should an adverse finding be made against Cr Hart (suspended) the Policy allows for the City to reclaim the monies it has funded.

8 *Mr Denis Smith*

A request dated 2 June 2004 was received from Mr Smith making application for funding for legal representation. He nominated solicitors Blake, Dawson, Waldron as his preferred legal representatives.

The application for legal representation funding conforms to the requirements of subclauses 3.2 and 3.3(a) of the Policy.

In respect of the criteria that must be met, Mr Smith's application does satisfy the requirements for the legal representation costs to be related to a matter that arises from the performance of his former functions, and that the legal costs are in respect of legal proceedings that have been commenced.

The decision whether to approve or reject an application for funding of legal representation costs is however, discretionary.

Under section 3.1 of the *LGA 1995*, the general function of a local government is to provide for the good governance of persons in the district.

The City should only pay the legal expenses of Mr Smith if the payment can be justified as being for the good government of persons in the City's district. In assessing this, the following should be noted:-

- In the past, Mr Smith has received considerable funding from the City for legal representation expenses connected with his employment. It is considered that further funding is not justified.
- Furthermore, legal advice obtained from Fiocco Lawyer's states that *"In my opinion, the CEO misrepresented his qualifications and experience in his Curriculum Vitae provided by the CEO prior to his appointment. In particular, the CEO does not hold any tertiary degree and has overstated, to a degree, his previous work experience."*

On the discussion above, it is the recommendation that the application for legal funding not be approved.

## **Insurance**

In accordance with subclause 5.3 of the Policy, suspended elected members and employees, current and former, may be able to apply under the City Councillors and Officers Elite Liability Insurance Policy.

In order to invoke the policy, individuals must satisfy the requirements of clause 3(b). This clause states that the Insurer will pay on behalf of the Insured on an ongoing basis all reasonable legal fees, costs and expenses incurred in being legally represented with respect to any legally compellable attendance at any Investigation. However, it must be satisfied that –

- 1 The Investigation involves an allegation that the Insured committed a wrongful act;
- 2 The allegation is first made against the Insured during the Policy Period;
- 3 Such legal fees, costs and expenses are incurred within the written consent of ACE, such consent not to be unreasonably withheld;
- 4 This extension does not cover any fines or penalties imposed by law which are deemed uninsurable under the law;

- 5 This extension does not cover wages, salaries or other remuneration of the Insured or of any employee of the Company;
- 6 Such advanced payments by ACE shall be repaid to ACE in the event that the Insured shall not be entitled to payment of any loss or receipt of any benefit under this Policy.

From correspondence with ACE Asia Pacific it is understood that the Inquiry Panel comes within the terms of an ‘Investigation’ for the purpose of clause 3(b) of the Policy; the Insured includes current and former Councillors, Commissioners and Employees of the City; and an allegation could be written, oral, express or implied, as long as the Panel Inquiry involves an allegation that the Insured committed a wrongful act.

The problem that arises in terms of invoking the insurance policy is that there must be an allegation of a wrongful act. The Summons does not ostensibly make an allegation of a wrongful act against any individual. There may be a case however, for an implied allegation of a wrongful act. Administration is currently investigating whether or not individuals may apply directly under the policy of insurance to ACE Asia Pacific, or whether the City must apply on their behalf.

### **Conflict of Interest**

In recent times discussions with legal officers have taken place in order to obtain assistance on matters relating to representation for the City at the Inquiry. From these discussions it has become apparent that issues of conflict of interest may arise. If a conflict of interest is indeed found with any suspended elected members’ choice of representation then it may be the case that the solicitors acting for the suspended elected member or employee may not be granted leave to appear. In this respect, the suspended elected member or employee may need to engage another solicitor, which may delay proceedings and lead to added costs pursuant to the policy.

Under the current terms of the policy, the City is able to pay the costs of the individual up to the \$5,000 limit if all criteria are met. Discretion will exist whether or not payment above that amount will occur. The City may in these circumstances face a further application by suspended elected members and employees pursuant to subclause 4.2.

### **FUNDING**

The requirements of s. 6.8(2)(a) of the *Local Government Act 1995* applies to the proposed expenditure where expenditure incurred in a financial year before adoption of the annual budget is to be included in the annual budget for that financial year.

### **ATTACHMENTS**

- |                             |   |
|-----------------------------|---|
| Attachment 1                | Policy No 2.2.8 - Legal Representation for Elected Members and Employees          |
| Attachment 2 – Attachment 9 | Request for Legal Assistance made by suspended elected members and the former CEO |

### **VOTING REQUIREMENTS**

Absolute Majority

**OFFICER'S RECOMMENDATION:** That the Joint Commissioners:

- 1 in accordance with Policy 2.2.8 – Legal Representation for Elected Members and Employees APPROVE the request for assistance for legal funding made by:
  - (a) Paul Maxwell Kimber for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;
  - (b) Carol June Mackintosh for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;
  - (c) Michael Cave O'Brien for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;
  - (d) Louis Prospero for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;
  - (e) Allison Walker for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;
  - (f) Michael Caiacob for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000; and
  - (g) Sue Hart for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;
  
- 2 NOTE that funding in 1 above is conditional on all suspended elected members, in accordance with clause 3.3(a), (b) and (c) of Policy 2.2.8 supplying to the City, if they have not already done so, a signed statement that he or she:
  - (a) has read, and understands, the terms of this Policy;
  - (b) acknowledges that any approval of Legal Representation Costs is conditional on the repayment provisions of clause 7 and any other conditions to which the approval is subject; and
  - (c) undertakes to repay to the City any Legal Representation Costs in accordance with the provisions of clause 7;
  
- 3 DO NOT APPROVE the request for assistance for legal funding made by Denis Ian Smith for the forthcoming Inquiry into the City of Joondalup for the reasons as set out in this Report;
  
- 4 ADVISE all applicants that:
  - (a) the City has received legal advice to suggest that there is potential for a conflict of interest if any of the contract Panel Firms were to represent the City in relation to the Inquiry; and

- (b) the advice may apply equally to any of the contract Panel Firms representing any of the suspended elected members, or employees of the City, in relation to the Inquiry;

- 5 INCLUDE an amount of \$35,000 in the 2004/2005 Annual Budget for the City of Joondalup to cover the funding for the above applications in accordance with s. 6.8(2)(a) of the *Local Government Act 1995*.

### **ADDITIONAL INFORMATION**

An application for payment of legal representation costs made on behalf of Mr Andrew Patterson dated 15 July 2004 was received on 19 July 2004. A copy of Mr Patterson's application is attached for the Joint Commissioners' information. This application would constitute Attachment 10 to Late Report No 3 (Appendix 17(a) refers) to the Council meeting to be held on 20 July 2004.

Mr Patterson's application meets the criteria as set out in clauses 3.2 and 3.3(a), (b) and (c) of *Policy 2.2.8 – Legal Representation Costs for Elected Members and Employees*. Mr Patterson has nominated Taylor Smart to represent him at the Inquiry. Mr Patterson has made the undertaking that he acted in good faith and has not acted unlawfully or in any way that constitutes improper conduct. Mr Patterson has also stated that he has read and understood the terms of Policy 2.2.8 and accepts the conditions of clause 7 of the Policy.

For reasons expressed in the above discussion, the application made by Mr Patterson meets the criteria set out in Policy 2.2.8, and it is the recommendation that the application for legal funding up to \$5,000 be approved. The amount is exclusive of GST. Payment will be made either in the form of reimbursement to the suspended elected member on presentation of an official tax invoice, or direct payment to the appointed legal firm on presentation of an official tax invoice. Should an adverse finding be made against Mr Patterson the Policy allows for the City to reclaim the monies it has funded.

It is the recommendation that this application be considered along with the other applications at the Council meeting on 20 July 2004. The recommendation should be amended as follows:

The inclusion of point 1(h) to read:

- “1 (h) Mr Patterson for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000.”

Point 5 be amended to read:

- “5 include an amount of \$40,000 in the 2004/2005 Annual Budget for the City of Joondalup to cover the funding for the above applications in accordance with s. 6.8(2)(a) of the *Local Government Act 1995*.”

**MOVED Cmr Smith, SECONDED Cmr Fox that the Joint Commissioners:**

- 1 in accordance with Policy 2.2.8 – Legal Representation for Elected Members and Employees APPROVE the request for assistance for legal funding made by:**
  - (a) Paul Maxwell Kimber for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;**
  - (b) Carol June Mackintosh for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;**
  - (c) Michael Cave O’Brien for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;**
  - (d) Louis Prospero for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;**
  - (e) Allison Walker for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;**
  - (f) Michael Caiacob for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;**
  - (g) Sue Hart for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;**
  - (h) Andrew Patterson for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;**
  - (i) Mr Denis Smith for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;**
  
- 2 NOTE that funding in 1 above is conditional on all suspended elected members and Mr Denis Smith, in accordance with clause 3.3(a), (b) and (c) of Policy 2.2.8 supplying to the City, if they have not already done so, a signed statement that he or she:**
  - (a) has read, and understands, the terms of this Policy;**
  - (b) acknowledges that any approval of Legal Representation Costs is conditional on the repayment provisions of clause 7 and any other conditions to which the approval is subject; and**
  - (c) undertakes to repay to the City any Legal Representation Costs in accordance with the provisions of clause 7;**
  
- 3 ADVISE all applicants that:**
  - (a) the City has received legal advice to suggest that there is potential for a conflict of interest if any of the contract Panel Firms were to represent the City in relation to the Inquiry; and**

- (b) the advice may apply equally to any of the contract Panel Firms representing any of the suspended elected members, or employees of the City, in relation to the Inquiry;

**4 INCLUDE an amount of \$45,000 in the 2004/2005 Annual Budget for the City of Joondalup to cover the funding for the above applications in accordance with s. 6.8(2)(a) of the Local Government Act 1995.**

Discussion ensued. Cmr Smith provided reasons in support of the amended motion. She stated that she did not support the reasons outlined in the report and believed the Commissioners need to be objective in their decision making and apply the policy uniformly. In moving the amended motion, Cmr Smith was mindful of the provision of the policy that requires the repayment of legal representation costs in the event of adverse findings.

**AMENDMENT MOVED Cmr Clough SECONDED Cmr Fox that the following words be added at the end of Point 1(i) of the Motion:**

*“...subject to the finalisation of outstanding accounts by Mr Denis Smith”.*

Discussion ensued.

**The Amendment was Put and**

**CARRIED UNANIMOUSLY (5/0)**

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

**That the Joint Commissioners:**

- 1 in accordance with Policy 2.2.8 – Legal Representation for Elected Members and Employees APPROVE the request for assistance for legal funding made by:**
  - (a) Paul Maxwell Kimber for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;
  - (b) Carol June Mackintosh for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;
  - (c) Michael Cave O’Brien for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;
  - (d) Louis Prospero for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;
  - (e) Allison Walker for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;
  - (f) Michael Caiacob for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000; and



- (g) Sue Hart for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;
  - (h) Andrew Patterson for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000;
  - (i) Mr Denis Smith for the forthcoming Inquiry into the City of Joondalup to the maximum amount of \$5,000, subject to the finalisation of outstanding accounts by Mr Denis Smith;
- 2 NOTE that funding in 1 above is conditional on all suspended elected members and Mr Denis Smith, in accordance with clause 3.3(a), (b) and (c) of Policy 2.2.8 supplying to the City, if they have not already done so, a signed statement that he or she:
- (a) has read, and understands, the terms of this Policy;
  - (b) acknowledges that any approval of Legal Representation Costs is conditional on the repayment provisions of clause 7 and any other conditions to which the approval is subject; and
  - (c) undertakes to repay to the City any Legal Representation Costs in accordance with the provisions of clause 7;
- 3 ADVISE all applicants that:
- (a) the City has received legal advice to suggest that there is potential for a conflict of interest if any of the contract Panel Firms were to represent the City in relation to the Inquiry; and
  - (b) the advice may apply equally to any of the contract Panel Firms representing any of the suspended elected members, or employees of the City, in relation to the Inquiry;
- 4 INCLUDE an amount of \$45,000 in the 2004/2005 Annual Budget for the City of Joondalup to cover the funding for the above applications in accordance with s. 6.8(2)(a) of the *Local Government Act 1995*.

Was Put and

CARRIED BY AN  
ABSOLUTE MAJORITY (5/0)

*Appendices 17 and 17(a) refer*

To access this attachment on electronic document, click here: [Attach17min200704.pdf](#)  
[Attach17amin200704.pdf](#)

## **C48-07/04            REVIEW OF COUNCIL MEETING DATES – [02154, 08122, 27456, 23184]**

**WARD - All**

### **PURPOSE**

To give consideration to amending the Council’s meeting dates for the 2004 calendar year.

### **EXECUTIVE SUMMARY**

A review has been conducted of the three weekly cycle of meetings introduced in February 2004. It is recommended that the Joint Commissioners amend their meeting cycle to reintroduce the three weekly cycle of Strategy Session/Briefing Session/Council Meeting for the remainder of 2004.

### **BACKGROUND**

In 26 March 2002, Council introduced the following ‘rolling’ three weekly cycle of meetings, with the Council recessing for the Christmas/New Year period:

- Week 1:            Strategy Session commencing at 6pm on the 1<sup>st</sup> Tuesday;
- Week 2:            Briefing Session commencing at 6.00 pm on the 2<sup>nd</sup> Tuesday.  
Deputation sessions held at the commencement of Briefing Sessions;
- Week 3:            Council meeting commencing at 7pm on the 3<sup>rd</sup> Tuesday.

At the Council meeting held on 17 February 2004, an amendment was made to the meeting dates to allow the Strategy Session to be held on the second week of the cycle, immediately following the Briefing Session. This change did not affect members of the public as Strategy Sessions are not open to the public. The following meeting dates for 2004 were adopted at that meeting:

Briefing Session COMMENCING AT 6.30 PM - AND - STRATEGY SESSION COMMENCING AT THE CONCLUSION OF THE BRIEFING SESSION  VENUE: CONFERENCE ROOM 1	Council Meetings COMMENCING AT 7.00 PM  VENUE: COUNCIL CHAMBER
Tuesday 2 March 2004	Tuesday 9 March 2004
Tuesday 23 March 2004	Tuesday 30 March 2004
Tuesday 20 April 2004	Tuesday 27 April 2004
Tuesday 11 May 2004	Tuesday 18 May 2004
Tuesday 1 June 2004	Tuesday 8 June 2004
Tuesday 22 June 2004	Tuesday 29 June 2004

Tuesday 13 July 2004	Tuesday 20 July 2004
Tuesday 3 August 2004	Tuesday 10 August 2004
Tuesday 24 August 2004	Tuesday 31 August 2004
Tuesday 14 September 2004	Tuesday 21 September 2004
Tuesday 5 October 2004	Tuesday 12 October 2004
Tuesday 26 October 2004	Tuesday 2 November 2004
Tuesday 16 November 2004	Tuesday 23 November 2004
Tuesday 7 December 2004	Tuesday 14 December 2004
January 2005 – Council recess	

## DETAILS

In an attempt to streamline the meeting cycle and provide for greater efficiency, the Joint Commissioners on 17 February 2004 amended their cycle of meeting dates to allow the Strategy Session to be held on the second week of the cycle, immediately following the Briefing Session. This change did not affect members of the public as Strategy Sessions are not open to the public.

The three weekly cycle of Strategy Session/Briefing Session/Council Meeting introduced in March 2002 allowed an item to be presented to a Strategy session and, if necessary, included in the agenda for the next week's Briefing Session, and discussed in an open forum at that session. The current system does not allow this to occur and it is recommended that the Joint Commissioners amend their meeting cycle to reintroduce the three weekly cycle of Strategy Session/Briefing Session/Council Meeting for the remainder of 2004.

## COMMENT

In accordance with the Local Government Act 1995, it is necessary for a local government to give local public notice of its ordinary meeting dates for the next 12 months and to give local public notice of any change to the following meetings:

- (a) ordinary Council meetings;
- (b) committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public;

Council meeting dates for 2004 were set in February 2004 and public advertising undertaken at that time. As this report recommends changes to dates of Strategy sessions only, and these sessions are not open to members of the public, there is no requirement to advertise this change.

To clarify the purpose of Strategy and Briefing Sessions, it is suggested that guidelines be prepared.

## ATTACHMENTS

Nil

## VOTING REQUIREMENTS

Simple majority

## OFFICER'S RECOMMENDATION

That the Joint Commissioners:

- 1 AMEND the 'rolling' three weekly meeting cycle as follows:
  - Week 1: Strategy Session commencing at 6.30 pm (Closed to the public)
  - Week 2: Briefing Session commencing at 6.30 pm (Open to the public).  
Deputation sessions held at the commencement of Briefing Sessions;
  - Week 3: Council meeting commencing at 7.00 pm (Open to the public).
- 2 SET the following meeting dates for Strategy Sessions of the City of Joondalup to be held in 6.30 pm in Conference Room 1, at the Joondalup Civic Centre, Boas Avenue, Joondalup:
  - Tuesday 27 July 2004;
  - Tuesday 17 August 2004;
  - Tuesday 7 September 2004;
  - Tuesday 28 September 2004;
  - Tuesday 19 October 2004;
  - Tuesday 9 November 2004;
  - Tuesday 30 November 2004;
- 3 REQUEST the Acting Chief Executive Officer to prepare guidelines on the purpose of Strategy and Briefing Sessions.

**MOVED Cmr Anderson SECONDED Cmr Fox that the Joint Commissioners DEFER the review of Council meeting dates until the Council meeting to be held on 10 August 2004 and REQUEST the Acting Chief Executive Officer to provide a report on protocol and parameters for the operation of the strategy sessions to ensure that strategy sessions are in compliance with open and accountable governance and that their purpose and operation is clearly understood by Commissioners, future elected members and the community.**

Discussion ensued. It was requested that consideration be given to the list of items to be considered at Strategy Sessions being made available to the public.

**The Motion was Put and**

**CARRIED UNANIMOUSLY (5/0)**

## MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

### **DATE OF NEXT MEETING**

The next meeting of the Joint Commissioners has been scheduled for **7.00 pm** on **TUESDAY, 10 AUGUST 2004** 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 2040 hrs; the following Commissioners being present at that time:

CMR J PATERSON  
CMR P CLOUGH  
CMR M ANDERSON  
CMR A FOX  
CMR S SMITH