



City of  
**Joondalup**

NOTICE IS HEREBY GIVEN THAT THE NEXT  
**ORDINARY MEETING OF THE JOINT COMMISSIONERS  
OF THE CITY OF JOONDALUP**  
WILL BE HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE,  
BOAS AVENUE, JOONDALUP  
**ON TUESDAY, 12 OCTOBER 2004 AT 7.00 pm**

**CLAYTON HIGHAM**  
**Chief Executive Officer (Acting)**  
**6 October 2004**

## ***PUBLIC QUESTION TIME***

*As adopted by Council on the 17 December 2002*

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

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

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

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

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

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

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

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

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

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

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

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

The Mayor or presiding member shall decide to:

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

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

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

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

### **Second Public Question Time**

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

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

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

### **Disclaimer**

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

## **CODE OF CONDUCT**

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

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

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

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

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

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# CITY OF JOONDALUP

Notice is hereby given that an Ordinary Meeting of Joint Commissioners will be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup on **TUESDAY, 12 OCTOBER 2004** commencing at **7.00 pm**.

CLAYTON HIGHAM  
Chief Executive Officer (Acting)  
6 October 2004

Joondalup  
Western Australia

## AGENDA

### 1 OPEN AND WELCOME

### 2 PUBLIC QUESTION TIME

**The following question, submitted by Ms J Hughes, Warwick, was taken on notice at the Council meeting held on 21 September 2004:**

*Q1 At what stage in the development process has the Aegis Woodlake Retreat Nursing Home reached with the City of Joondalup and will plans be available to the public for viewing?*

A1 The City has not yet received a development application for this proposed development. Until such time as a development application is submitted to the City, it is unknown whether it is required to be publicly advertised. The need to advertise would be dependant upon the proposed development application complying with the provisions contained within the agreed structure plan over the site, known as the 'Woodlake Retreat Structure Plan (City of Joondalup Structure Plan Number 3)'. It should be noted that a copy of this structure plan can be viewed and downloaded from the City's website and this structure plan contains indicative development and elevation plans which generally outline how the site is intended to be developed in the future.

**The following questions, submitted by Mr T Thorp, Sorrento, were taken on notice at the Council meeting held on 21 September 2004:**

*Re: Question asked on 31 August 2004 regarding ratepayer initiated referendums, I received a reply from Council stating: "Council could, under the provisions of the Local Government Act 1995, make a local law to manage the process of ratepayers initiated referendums provided it is not inconsistent with the Act or any other written law."*

*Q1 Could Council please confirm if it would be consistent with the Act or any written law?*

A1 If the local law was to detail the procedures relating to community/ratepayer/citizen initiated referendums, it is understood that it would not be inconsistent with the Local Government Act 1995 or any other written law.

*Q2 What steps would ratepayers have to take in order to initiate the ratepayer initiated referenda?*

A2 Community/ratepayers/citizen initiated referendums are not recognised at a Federal, State or local level and are therefore not binding on any of the tiers of government.

Council would need to form a policy or local law setting out the procedures relative to this form of referendum. Council is currently legislated to consult with the community to ascertain its views. One option is where there is a concern, is for the public to arrange a Special Electors Meeting. Such a meeting requires 100 electors to sign the required form stating the purpose. Council is then required to convene the meeting within 35 days.

*Q3 Could Council please provide me with relevant information or material to enable me to proceed with this matter?*

A3 As such referendums are not recognised by policy or local law there are no procedures.

**The following question, submitted by Mrs M Zakrevsky, Mullaloo, was taken on notice at the Council meeting held on 21 September 2004:**

*Q1 Re: Item 7 – Petition No. 2 – Why has the house number, that is clearly stated in the petition heading and in the body of the petition, detailing the extremely loud noise levels and other antisocial behaviour over a period of four years been omitted? This omission reflects adversely on each property owner in Cuttle Court, whereas, in fact, the problem emanates from the owner residents of one property being 1 Cuttle Court, Mullaloo.*

A1 It is practice to protect personal information (including the omission of house numbers) when presenting petitions relating to noise complaints to Council, and it was not intended to reflect on other property owners in Cuttle Court.

**The following question, submitted by Mr K Zakrevsky, Mullaloo, was taken on notice at the Council meeting held on 21 September 2004:**

*Q1 When will the City of Joondalup take action, such as confiscating the outdoor karaoke and stereo equipment at 1 Cuttle Court, Mullaloo? Are these antisocial occupants going to be able to continue for another four years to prevent the neighbourhood from getting any sleep till dawn?*

A1 The City's Environmental Health Officers, as authorised Noise officers under the Environmental Protection Act deal with noise issues during office hours



and for pre-arranged after hours. In situations where noise disturbances are able to be predicted, access to these officers can be made available. The City also provides an after hours acoustic service which utilises an acoustic engineer to undertake sound level readings for calls received via the after hours service. This acoustic engineer does not have the power to seize equipment.

The Police have the power to seize equipment under the Act and deal with noise and anti-social behaviour from one-off parties. The City will monitor ongoing noise emissions and control these through the issuing of Infringement Notices, Noise Abatement Directions, Environmental Protection Notices and the initiation of legal proceedings in court.

**The following questions, submitted by Mrs M Papworth, Ocean Reef, were taken on notice at the Council meeting held on 21 September 2004:**

*Q1 When the City has a workshop for the Ocean Reef extension could rooms be used in Council offices and not pay for a function room?*

A1 The workshop for the Consultation of Ocean Reef Road is being held in the Council Civic Function Centre which is a free venue to the City.

*Q2 Re: Car parks at Ocean Reef Road – I am astonished that Council is thinking of putting a car park on the wrong side of the road, as all other car parks along the ocean front have car parks are on the right side of the road.*

A2 Carparking along Ocean Reef Road will be determined as an outcome of the community consultation process. Council has not and will not make any determination about the positioning of car parks until Council has received input from community.

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

*Please advise by e-mail if staff have a problem understanding any questions, and I shall try to clarify my question/s.*

*Chronology supplied by the City of Joondalup*

- 1999.

*The Joint Commissioners at the meeting on 9 February 1999 (CJ33-02/99 refers) resolved to modify the JCCDPM and make it available for public comment. Advertising took place between 16 March and 15 April 1999.*

*Q1 Could you please confirm that the resolution (CJ33-02/99), which you refer, is not a resolution to modify the JCCDPM but is in fact the formal adoption of the revised JCCDPM document the modified Joondalup City Centre Structure Plan pursuant to Clause 10 of the City of Joondalup TPS1 and make it available for public comment?*

- *A document, the draft Structure Plan has been passed to LandCorp, the Ministry for Planning and Council officers and comments received have been acted upon where appropriate (CJ33-02/99 refers).*

*Advertising undertaken- however, this proposed modification was not proceeded with.*

A1 This resolution adopted the modified Joondalup City Centre Structure Plan (now known as the Joondalup City Centre Development Plan and Manual -JCCDPM) and to make it available for public comment.

Q2 *You state the proposed modification was not proceeded with. You should state the proposed Structure Plan was not adopted by resolution of Council. It cannot just 'not be proceeded' pursuant to Part 10 TPS1. True or False?*

A2 A true or false answer cannot be provided. The City's records simply do not indicate that the matter was progressed and the reasons for this remain unknown. It is incumbent upon the City to operate under the originally approved version of the JCCDPM, including various amendments altering various provisions to that document that have been previously approved by Council. Until such time as there is a Council resolution to indicate otherwise, this position will remain.

- CJ33-02/99

*MOVED Cmr Morgan, SECONDED Cmr Buckley that the Joint Commissioners, pursuant to Clause 10 of the City of Joondalup Town Planning Scheme No 1, ADOPT the modified Joondalup City Centre Structure Plan as satisfactory and make it available for public comment. The Motion was Put and CARRIED*

*I understand the modified Joondalup City Centre Structure Plan was advertised between 16 March and 15 April 1999.*

Q3 *Was the modified Joondalup City Centre Structure Plan re-advertised/advertised in May 2000?*

A3 Council at its meeting on 23 May 2000 (CJ127-05/00 refers) resolved to modify the JCCDPM to remove restrictions to CBD uses from the Western Business District. Advertising was not required and this modification was adopted.

Q4 *Pursuant to Clause 10 of the City of Joondalup Town Planning Scheme No 1.*

(a) *On what date did the commissioners/council refuse to adopt the modified Joondalup City Centre Structure Plan?*

A4(a) Refer to answer provided in question 2 above.

(b) *Did the resolution CJ33-02/99, to adopt the modified Joondalup City Centre Structure Plan as satisfactory, (as it does not state satisfactory for advertising) in line with Part 10 "Consideration of a Structure Plan," enable Officers to submit the modified Joondalup City Centre Structure Plan to the Commission for adoption and certification in the illustrated form?*

A4(b) The answer is not known, as the modified version of the document was not proceeded with. However at that time, it is likely that the modified version of the document was in accordance with Schedule 9 and 10 of the former Town

Planning Scheme No. 1 (TPS1) as these provisions were introduced in 1997 and the review undertaken in 1998/99.

(c) *After advertising, in line with the Commissioners resolution, did Officers proceed with the Consideration of a Structure Plan pursuant to Part 10 TPS1?*

A4(c) Refer to answer provided in question 2 above.

(d) *Did Officers proceed the resolution of Council past Public Notice (making it available for public comment)?*

A4(d) Yes, advertising was undertaken between 16 March and 15 April 1999.

(e) *Did the Officers make a recommendation after considering submissions (if any) of the advertising period 16 March – 15 April 1999 to Commissioners/Council or for consideration under delegated authority?*

A4(e) Research undertaken could not substantiate whether this occurred.

(f) *Did the Officers submit the modified Joondalup Structure Plan with or without modifications to the WAPC (or equivalent department under a previous title e.g. ministry of planning) pursuant to Clause 10 TPS1?*

A4(f) A definitive answer cannot be provided as the modified version of the document was not proceeded with for reasons unknown. Given this, referral of the modified version of the document to the WAPC/Ministry for Planning would have been unlikely.

(g) *Did the WAPC, (or equivalent department) with or without requiring any modifications, adopt the modified Joondalup City Centre Structure Plan?*

(i) *If yes on what date was the decision conveyed to the C.O.J?*

(h) *Did the WAPC (or equivalent department) refuse to adopt the modified Joondalup City Centre Structure Plan?*

A4(g(i)and(h)

By virtue of the then Minister for Planning granting approval to the City's District Planning Scheme No. 2 (DPS2) on 28 November 2000, finalisation of this process correlates with the endorsement the JCCDPM.

In essence, the JCCDPM was considered a structure plan approved under the City's former Town Planning Scheme No. 1 (TPS1) and upon gazettal of the City's DPS2, Clause 9.13 states that all structure plans approved under TPS1 have the status of an agreed structure plan under DPS2 as if it was prepared and adopted under the provisions of DPS2.

(h(i) *Was the decision not to proceed done under delegated authority?*

(i) *If the answer is yes, on what date and what agenda?*

(j) *Was it a decision of Commissioners not to proceed?*

(i) *If the answer is yes, on what date and what agenda item number?*

A4 h(i), j & j(i)

There appears to be no available record as to how this occurred.

**The following questions were submitted by Mr & Mrs Titterington, Greenwood**

*Re: Staff that have attended the Inquiry.*

*Q1 What staff have attended the inquiry?*

A1 The following staff have attended the Inquiry at various times:

- Acting Chief Executive Officer
- Manager Human Resources
- Manager Marketing, Communications & Council Support
- Media Liaison Officer
- Acting Chief Executive Officer's Executive Assistant
- Administrative Services Coordinator
- Three staff from the City's Inquiry Office

*Q2 What capacity and what role have those staff undertaken as employees of the City?*

A2 All staff in attendance were there in their capacity as an employee of the City with authority from the Acting Chief Executive Officer.

*Q3 What dollar limit does the legal representative for staff at the City have?*

A3 At its meeting held on 10 September 2004 Council resolved that:

- 1 the Joint Commissioners DETERMINE that, notwithstanding Policy 2.2.8 relating to legal representation of elected members and employees in recognition of the special nature of an Inquiry and the duty that the City has to current employees, the City undertakes to provide legal assistance for current employees to the extent that they have acted within the scope of their functions and duties;
- 2 the legal assistance in 1 above is expected to be provided for all employees through the services of one law firm and extends to appearing on behalf of the City at the Inquiry to the extent necessary to assist employees with their evidence if this is necessary and if the Presiding Member of the Inquiry gives permission for this to occur;
- 3 the legal assistance in 1 above is only to be accessed after an employee has signed a declaration to the effect that:

- (a) he or she has acted in good faith and has not acted unlawfully or in a way that constitutes improper conduct in relation to matters that are the subject of the terms of reference of the Inquiry and;
  - (b) that he or she is aware that the legal assistance will be terminated if it becomes apparent to the Lawyer appointed by the City that he or she has acted improperly outside the scope of their proper functions and duties;
- 4 in addition to the legal assistance provided in 1 above, employees continue to have access to Policy 2.2.8;
  - 5 the Human Resources Manager be advised of this determination and provided with an opportunity to withdraw (in writing) his previous application under the Policy if he wishes to do so;
  - 6 the Chief Executive Officer be requested to arrange for McLeod's to undertake to provide the legal assistance in 1 above and that this is advised to Counsel Assisting the Inquiry;
  - 7 the arrangements and conditions applying to legal assistance to employees is advised to Counsel Assisting the Inquiry with the request that Council Assisting reviews the decision contained in the letter at Attachment 1 to JSC32-09/04 that the officers are not capable of being jointly represented;
  - 8 in addition, the co-operation of the Inquiry is sought so that staff can be advised in advance, where this is possible, if questioning is anticipated to relate to the possibility that staff have acted improperly outside the scope of their proper functions and duties so that the staff have the opportunity to make alternative arrangements.

It should be noted that the City will be endeavouring to minimise all legal expenses associated with the Inquiry.

*Q4 What staff are anticipated to attend in the future, other than being called to give evidence?*

A4 Any future attendance by staff at the Inquiry will be again at the discretion of the Acting Chief Executive Officer and in their official capacity as an employee of the City.

*Q5 What role will they be undertaking in their role as an employee of the city?*

A5 See response to Question 4.

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

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

Acting Chief Executive Officer, Mr Clayton Higham, declared a financial interest in CJ224-10/04 – Extension of Appointment – Acting Chief Executive Officer as this affects his overall remuneration entitlements and contract of employment.

Acting Chief Executive Officer, Mr Clayton Higham, declared a financial interest in CJ230-10/04 – Purchase of Executive Vehicles as this relates to his entitlement under contract of employment.

Acting Chief Executive Officer, Mr Clayton Higham, declared a financial interest in CJ225-10/04 – Request For Further Funding Assistance Pursuant to Policy 2.2.8 - Legal Representation for Elected Members and Employees as the principle dealt with may influence potential application submitted by himself for funding, if required.

Manager, Audit and Executive Services, Mr Kevin Robinson, declared a financial interest in CJ225-10/04 – Request For Further Funding Assistance Pursuant to Policy 2.2.8 - Legal Representation for Elected Members and Employees as the principle dealt with may influence potential application submitted by himself for funding, if required.

Cmr Smith declared a financial interest in CJ223-10/04 – Provision of After Hours Call Handling Services as she is employed from time to time by the West Australian Local Government Association.

Manager, Audit and Executive Services, Mr Kevin Robinson, declared a financial interest in CJ230-10/04 – Purchase of Executive Vehicles as this relates to his entitlement under contract of employment.

Director, Corporate Services and Resource Management, Mr Peter Schneider declared a financial interest in CJ225-10/04 - Request For Further Funding Assistance Pursuant to Policy 2.2.8 - Legal Representation For Elected Members and Employees as he potentially maybe an applicant under this policy in connection with the panel inquiry.

Director, Infrastructure and Operations, Mr David Djulbic declared a financial interest in CJ225-10/04 - Request For Further Funding Assistance Pursuant to Policy 2.2.8 - Legal Representation For Elected Members and Employees that he may potentially seek funding assistance in keeping with Policy 2.2.8.

#### **5 CONFIRMATION OF MINUTES**

MINUTES OF MEETING OF JOINT COMMISSIONERS, 21 SEPTEMBER 2004

#### **RECOMMENDATION**

**That the Minutes of the Meeting of Joint Commissioners held on 21 September 2004 be confirmed as a true and correct record.**

MINUTES OF SPECIAL MEETING OF COUNCIL, 5 OCTOBER 2004**RECOMMENDATION**

**That the Minutes of the Special Meeting of Council held on 5 October 2004 be confirmed as a true and correct record.**

**6 ANNOUNCEMENTS BY THE CHAIRMAN WITHOUT DISCUSSION****7 PETITIONS****1 PETITION OPPOSING INCREASE IN CLASS FEES – SORRENTO DUNCRAIG LEISURE CENTRE – [23039]**

A 55-signature petition has been received from residents of the City of Joondalup strongly urging the City to reconsider the decision to increase fees for the Movements for Healthy Bodies and Teen Aerobics classes presented at Sorrento Duncraig Leisure Centre.

This petition will be referred to Community Development for action.

**2 PETITION REGARDING CONCERNS IN RELATION TO INTERNET CAFÉ – HEPBURN HEIGHTS SHOPPING CENTRE – [84562]**

An 11-signature petition has been received from Hepburn Heights residents raising a number of concerns in relation to the operation of an internet café at the Hepburn Heights Shopping Centre.

The concerns raised by petitioners are as follows:

- 1 Extended hours of operation
- 2 Noise emanating from vehicles and carparking area
- 3 anti-social behaviour, vandalism and destruction of property

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

**8 REPORTS**

Cmdr Smith declared a financial interest in CJ223-10/04 – Provision of After Hours Call Handling Services as she is employed from time to time by the West Australian Local Government Association.

## **CJ223 - 10/04      PROVISION OF AFTER HOURS CALL HANDLING SERVICES – [00755]**

**WARD - All**

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CJ041005\_BRF.DOC:ITEM 1

### **PURPOSE**

To seek the approval of the Joint Commissioners to accept the Local Government After Hours Contact Centre contract as offered by the West Australian Local Government Association (WALGA) for an initial period of thirty-two (32) months, with a provision for a twenty-four (24) month extension. The total duration of the contract shall not exceed five (5) years.

### **EXECUTIVE SUMMARY**

The City of Joondalup currently provides a twenty-four hour patrol and security service (City Watch) to its residents. Calls received by this service range from security concerns and alarms to dog issues, noise concerns, parking, and event information. To support this service, there is a requirement for the City to engage the services of a call centre provider to receive and handle calls during periods when the calls cannot be managed within the administration building (e.g. outside normal business hours i.e. 8.30am – 5.00pm).

WALGA, through a public tender process, has entered into a contract with Insight Customer Contact Centres (Insight), to provide an after hours call management facility to the Local Government sector. Insight is the City's current provider for after hours call handling. As a volume aggregated initiative i.e. cost benefits due to the aggregated volume of calls from a number of Local Governments, this program will offer both service and cost benefits to Local Governments.

The City is not required under regulations 11(2) (b) and 11 (2) (e) of the *Local Government (Functions and General) Regulations 1996*, to invite tenders for the supply of goods or services, if the goods or services are to be obtained through the Council Purchasing Service of WALGA, or to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government.

*This report recommends that the Joint Commissioners:*

- 1      authorise the Acting Chief Executive Officer (A/CEO), on behalf of the City, to terminate the current after hours call handling services contract with Insight Contact Centre Services as of 31 October 2004;*
- 2      AUTHORISE the Acting Chief Executive Officer (A/CEO), on behalf of the City, to enter into a contract for the provision of After Hours Call Handling Services with the*



*West Australian Local Government Association based on the following Schedule of Rates:*

| <i>DESCRIPTION<br/>QUANTITY</i>   | <i>PROPOSED<br/>EXCL GST</i> | <i>CALL COST</i> |
|---|------------------------------|------------------|
| <i>Voice (Inbound calls)</i>  | <i>&gt;999</i>               | <i>\$2.62</i>    |
|   | <i>1,000</i>                 | <i>\$2.60</i>    |
|   | <i>2,000</i>                 | <i>\$2.58</i>    |
|   | <i>3,000</i>                 | <i>\$2.56</i>    |
|   | <i>4,000</i>                 | <i>\$2.54</i>    |
|   | <i>5,000</i>                 | <i>\$2.52</i>    |
| ▪ <i>Outbound call charges</i>  |                              | <i>\$1.60</i>    |
| ▪ <i>Account Establishment charges</i>                                    |                              | <i>Nil</i>       |
| ▪ <i>Additions/Modifications/Changes to service</i>                       | <i>Hourly</i>                | <i>\$65.00</i>   |
| ▪ <i>Training Charges</i>   | <i>Hourly</i>                | <i>\$35.00</i>   |
| ▪ <i>Registration fee per pager</i>                                       | <i>Monthly</i>               | <i>\$5.00</i>    |
| ▪ <i>Email, fax and mobile registration fee<br/>(first ten services)</i>  | <i>Monthly</i>               | <i>\$5.00</i>    |
| ▪ <i>Email, fax and mobile registration fee<br/>(additional services)</i> | <i>Monthly</i>               | <i>\$2.00</i>    |
| ▪ <i>Faxing (per A4 page)</i>   | <i>Per page</i>              | <i>\$0.80</i>    |

3 *in accordance with Recommendation 2, DETERMINE that the contract is to be for an initial period of 32 months with an option to extend, subject to satisfactory annual performance reviews, for a further maximum period of 24 months, with the total term of the contract not to exceed 5 years.*

## **BACKGROUND**

The Water Authority was contracted for the call handling aspect, to accept calls outside normal business hours when calls could not be handled within the administration building to support the City Watch service which was introduced in 1999. On advice from the Water Authority that it could no longer provide this service for the City after August 2002, the City sought expressions of interest from other providers which included discussions with Call Centres located within the region. Only one expression was received from Link Communications. As it was essential to ensure continuation of a service, a six-month contract was entered into with Link Communications in August 2002.

## **Tenders**

In January 2003, tenders were called to run simultaneously with the operational service provided by City Watch to December 2004. To allow sufficient time for the tender process to be finalised, the contract with Link Communications was extended for a further month until 5 March 2003.

Three submissions were received from the following: Hutchinson Telecoms, National Power Services and Link Communications. The tenders were evaluated and considered by the evaluation team as non-conforming as they did not meet the requirements specified under the tender documentation.

Following the unsuccessful tender process, legal advice was sought regarding the options that the City may have. The City was advised that under Regulation 11 (2) (c) (1) of the *Local Government (Functions & General) Regulations 1996* it was at liberty to enter into a further contract with a selected supplier without calling tenders again and also, that it could negotiate provision of services with a selected supplier for a longer term provision of services, as long as this was done before the expiry of the six month period following the calling of tenders.

### **Interim Arrangements**

As the tender process had proved unsuccessful, it was necessary to initiate interim arrangements to maintain the service to the City's customers. It was proposed that the contract with Link be further extended to ensure continuation of service during which time, negotiations would take place between Link Communications and the City to investigate the possibility of entering into a new contract for a further term until a long term solution was found. The Link contract was due to expire on July 5 2003 however, during this period, their Perth operation was closed and the service was provided through an Adelaide call centre. Concerns then arose with the level of service that was provided to the City's residents. Link advised the City that their charges would be revised however did not (despite repeated requests) advise what the revised charges would be.

### **Insight Approach**

In April 2003, Insight Contact Centre Services – a newly formed Perth based company - approached the City to advise of an after hours call service they could provide (They had submitted a tender in January 2003 however, as it was received late, it was not considered). As Insight was based in Perth, which would provide an increased level of service due to locality familiarity and their costs were comparable, the City entered into a contract with Insight for the period July 2003 – February 2005. During this period, the service provided by Insight has been of a very high standard and all performance requirements have been met.

**Strategic Plan:** Strategy 1.4.1 – Continue to implement the Safer Community Program  
Strategy 4.2.1 – Provide efficient and effective service delivery  
Strategy 4.2.2 – Provide quality customer service

### **DETAILS**

WALGA has introduced a new after hours customer contact service for its member Councils. WALGA went to public tender for the service and the contract has been awarded to Insight Contact Centre Services, the City of Joondalup's current service provider. Under the Local Government sector contract, a commitment has been provided that all calls will be answered locally in Western Australia by agents with a local geographic knowledge. However, in the event of a civil emergency, which shuts down the Leederville facility, diversion to another State will be arranged.

Delivery of this service follows eight months of project development, research, evaluation and analysis by WALGA. Throughout this time WALGA has consulted widely with its members to ensure that the required benefits have been delivered. This new commercial program delivers both service and cost benefits to Local Government. The period of the contract Insight has with WALGA is for three years, with provision for a two-year extension, which commenced on 1 July 2004. Local Governments are being offered a contract by WALGA with twelve (12) month renewal options for the same period. The terms and conditions of the

proposed contract are almost identical to the current agreement with the difference being the introduction of WALGA as the principal contract holder.

WALGA has invested in an existing contract obligation "buyout" which will enable current Local Government customers of Insight to benefit from this new program without contractual penalty. The effect for the City would be a cost savings of \$1,800 for the period November 2004 to February 2005.

The City's workload indicators show that the City's After Hours Service is answering approximately 1000 calls per month however, these call numbers fluctuate according to seasons and events.

Insight is a 'boutique' contact centre suitable for complex calls with longer average call times than regular contact centre and messaging services. The centre is located in Leederville, Western Australia, and works across a diverse range of service industries. Insight has additional offices in Queensland, Victoria, South Australia with Contact Centres in Western Australia, New South Wales and Tasmania.

### **Statutory Provision:**

The City is not required under regulation 11(2) (b) and 11 (2) (e) of the *Local Government (Functions and General) Regulations 1996*, to invite tenders for the supply of goods or services, if the goods or services are to be obtained through the Council Purchasing Service of WALGA, or to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government.

### **Financial Implications:**

#### **MONTHLY FEE STRUCTURE**

| <b>DESCRIPTION</b>   | <b>PROPOSED QUANTITY</b> | <b>CALL COST excl GST</b> |
|--|--------------------------|---------------------------|
| Voice (Inbound calls)  | >999                     | \$2.62                    |
|  | 1,000                    | \$2.60                    |
|  | 2,000                    | \$2.58                    |
|  | 3,000                    | \$2.56                    |
|  | 4,000                    | \$2.54                    |
|  | 5,000                    | \$2.52                    |
| ▪ Outbound call charges  |                          | \$1.60                    |
| ▪ Account Establishment charges                                |                          | Nil                       |
| ▪ Additions/Modifications/Changes to service                   | Hourly                   | \$65.00                   |
| ▪ Training Charges   | Hourly                   | \$35.00                   |
| ▪ Registration fee per pager                                   | Monthly                  | \$5.00                    |
| ▪ Email, fax and mobile registration fee (first ten services)  | Monthly                  | \$5.00                    |
| ▪ Email, fax and mobile registration fee (additional services) | Monthly                  | \$2.00                    |
| ▪ Faxing (per A4 page)   | Per page                 | \$0.80                    |

WALGA has given a commitment that these prices will not increase during the recommended thirty-two (32) month contract period.

Estimated annual contract value based on an average of 1000 calls per month (approx. current usage).

|                       | <b>EXISTING</b>                 | <b>PROPOSED</b>                                 |
|-----------------------|---------------------------------|---|
| Description           | Insight Contact Centre Services | Western Australian Local Government Association |
| Incoming calls        | \$3.00 per call                 | \$2.60 per call                                 |
| Pager Costs per month | \$90.00                         | \$30.00   |
| Annual Contract Value | <b>\$37,080</b>                 | <b>\$31,560</b>                                 |
| Outbound calls        | \$2.50 per attempt              | \$1.60 per attempt                              |

Provision for this service has been included in the City's 2004/5 operating budget at the existing call rates however proposed costs may decrease depending on call volumes.

## COMMENT

Insight has demonstrated that they are a contact centre rich in experience and knowledge of contact management and Local Government operations through the service they are currently providing to the City. It is recommended that the City remain with the current service provider through WALGA.

As part of contract management processes, the City will regularly review the performance and service quality to ensure that the service meets the City's standards

Subject to Council approval, the contract term will be for an initial period of thirty-two (32) months commencing November 2004. There will be an option to extend the contract for a further twenty-four (24) months subject to satisfactory performance by the Contractor. The duration of the contract will not exceed five (5) years.

## ATTACHMENTS

Nil

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

**That the Joint Commissioners:**

- 1 AUTHORISE the Acting Chief Executive Officer (A/CEO), on behalf of the City, to terminate the current after hours call handling service contract with Insight Contact Centre Services as of 31 October 2004;**
- 2 AUTHORISE the Acting Chief Executive Officer (A/CEO), on behalf of the City, to enter into a contract for the provision of After Hours Call Handling Services with the West Australian Local Government Association based on the following Schedule of Rates:**

| <b>DESCRIPTION<br/>QUANTITY</b>   | <b>PROPOSED<br/>EXCL GST</b> | <b>CALL COST</b> |
|---|------------------------------|------------------|
| <b>Voice (Inbound calls)</b>  | <b>&gt;999</b>               | <b>\$2.62</b>    |
|   | <b>1,000</b>                 | <b>\$2.60</b>    |
|   | <b>2,000</b>                 | <b>\$2.58</b>    |
|   | <b>3,000</b>                 | <b>\$2.56</b>    |
|   | <b>4,000</b>                 | <b>\$2.54</b>    |
|   | <b>5,000</b>                 | <b>\$2.52</b>    |
| ▪ <b>Outbound call charges</b>  |                              | <b>\$1.60</b>    |
| ▪ <b>Account Establishment charges</b>                                    |                              | <b>Nil</b>       |
| ▪ <b>Additions/Modifications/Changes to service</b>                       | <b>Hourly</b>                | <b>\$65.00</b>   |
| ▪ <b>Training Charges</b>   | <b>Hourly</b>                | <b>\$35.00</b>   |
| ▪ <b>Registration fee per pager</b>                                       | <b>Monthly</b>               | <b>\$5.00</b>    |
| ▪ <b>Email, fax and mobile registration fee<br/>(first ten services)</b>  | <b>Monthly</b>               | <b>\$5.00</b>    |
| ▪ <b>Email, fax and mobile registration fee<br/>(additional services)</b> | <b>Monthly</b>               | <b>\$2.00</b>    |
| ▪ <b>Faxing (per A4 page)</b>   | <b>Per page</b>              | <b>\$0.80</b>    |

- 3** in accordance with Recommendation 2, DETERMINE that the contract is to be for an initial period of 32 months with an option to extend, subject to satisfactory annual performance reviews, for a further maximum period of 24 months, with the total term of the contract not to exceed 5 years.

Acting Chief Executive Officer, Mr Clayton Higham, declared a financial interest in CJ224-10/04 – Extension of Appointment – Acting Chief Executive Officer as this affects his overall remuneration entitlements and contract of employment.

**CJ224 - 10/04      EXTENSION OF APPOINTMENT - ACTING CEO -  
MR C HIGHAM – [20006] [96276]**

**WARD - All**

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CJ041005\_BRF.DOC:ITEM 2

**PURPOSE**

To consider extending Mr Clayton Higham's appointment as Acting Chief Executive Officer until a new Chief Executive Officer is recruited.

**EXECUTIVE SUMMARY**

Following the resignation of the former CEO, applications were invited from the existing Executive Management team to fulfil the role, on a temporary basis, until a new CEO was recruited. Mr Clayton Higham was appointed to the A/CEO role for a six (6) month period on 27 April 2004.

Mr Higham's appointment was based on certain performance measures. Given that a new CEO has not been recruited and Mr Higham has satisfactorily met these performance objectives, it is recommended that his term as A/CEO be extended.

**BACKGROUND**

At the Council meeting held on 12 March 2004, the Joint Commissioners resolved to:

*APPOINT, as an interim measure for a short period of time, Mr Clayton Higham, Director of Planning and Community Development, as Acting CEO following the resignation of the CEO until arrangements are made for the Council to appoint an Acting CEO.*

Further to the resolution of 12 March 2004, the Joint Commissioners agreed, on 30 March 2004, to:

*AUTHORISE the Manager of Human Resources to seek applications from members of the Executive Management Team to fill the position of Acting CEO on an interim basis;*

*AUTHORISE the Manager of Human Resources to submit the applications to the Joint Commissioners, who will form the Appointment Committee and make a recommendation to Council on the appointment.*

As resolved, the Manager Human Resources sought applications from the Executive Management Team for the role of Acting CEO. Mr Higham was the only member of the

Executive Management Team to submit an application. As a result of the application, the Appointment Committee held two meetings to consider the matter.

Subsequent to the meetings of the Committee, the Joint Commissioners resolved, on 27 April 2004, as follows:

*APPOINT Mr Clayton Higham as the Acting CEO for a term of six months at an annual equivalent total remuneration package of \$215,000;*

*AGREE for the purposes of the Local Government Act 1995 that the expiry date of the contract will be 26 October 2004;*

*APPROVE Mr Higham being reimbursed at the same pro rata total remuneration level in (1) above for the period since 15 March 2004 whilst he has been Acting CEO to the commencement of his 6-month term in (1) above;*

*AGREE that Mr Higham retain his substantive position as Director Planning and Community Development during his period of Acting CEO;*

*AUTHORISE Mr Higham's existing contract in his substantive position of Director Planning and Community Development being extended by the term of his acting appointments as CEO;*

*AGREE that performance will be measured using the following criteria:*

*Delivering the annual Budget*

*Overseeing the City's responsibilities in relation to the Panel Inquiry*

*Reviewing policies and procedures*

*Maintaining key strategic relationships*

*Managing corporate projects*

*AGREE that objectives will be developed in consultation with the acting CEO and Commissioners at a future date;*

*AUTHORISE the preparation and execution of all necessary documentation to give effect to the decision in (1) to (7) and otherwise in accordance with the Local Government Act 1995.*

## **DETAILS**

In accordance with the resolution of 27 April 2004, certain key performance indicators were agreed to. The following is a summary of the performance of Mr Higham during the initial six (6) month period.

### ***Delivering the Annual Budget***

The Local Government Act (1995) requires that every local government must adopt its annual budget by 31 August of each year, unless granted an extension by the Minister.

The annual budget was adopted by the Joint Commissioners for the City of Joondalup at a meeting held on 19 August 2004.

It was considered to be a sound achievement to meet the legislative timeframe, given the circumstances and state of change the organisation was encountering.

### ***Overseeing the City's responsibilities in relation to the Panel Inquiry***

The procedure hearing for the Inquiry into the City of Joondalup was held on 22 July 2004, with the public hearings commencing on 27 September 2004 and likely to continue until late November/early December 2004.

In an effort to oversee the City's responsibilities to the Inquiry and to ensure that the City is responsive and co-operative to the requests of the Inquiry, a dedicated team of four (4) staff has been established. This team has focused on supplying documentation and other information to the Inquiry, while preparing reports to the Joint Commissioners regarding legal representation of City representatives (former and current).

This has proved extremely beneficial as it allows the City's responsibilities to the Inquiry to be centrally co-ordinated.

### ***Reviewing Policies and Procedures***

Policies and procedures of the organisation are constantly being reviewed to ensure they are 'living' documents that reflect the current direction in which the organisation is heading.

A recent review has been conducted of the Town Planning delegations, with a report to be presented to the Council in the October round of Council meetings.

The Joint Commissioners have previously requested a report on the future operations of the Policy Manual Review Committee, and a report on this issue will be presented to the October meeting of the Council. As a matter of best practice, the Administration will continue to undertake an annual corporate review of the Policy manual in early 2005, with any suggested changes to be submitted to the Council for consideration.

Corporate Procedures are regarded as internal documents that assist with the day-to-day operations of the organisation. The Corporate Procedures manual is reviewed in conjunction with the Corporate Policy and Delegated Authority manuals. This review has recently been finalised and will be considered by the Executive Management team in the near future.

### ***Maintaining Key Strategic Relationships***

Considerable efforts have been made to work closely with the members of the Stakeholder Group and other organisations within the City, such as the Joondalup Business Association. Steps have also been taken to form a closer working relationship with community members and various Community Groups.

### ***Managing Corporate Projects***

The City has continued to work towards the milestones identified for each corporate project. In some cases, the milestone dates for key tasks have required revision following budget reallocations which have moved funding into future financial years. Corporate projects are monitored through regular status reporting to the Executive Management Team which identifies progress, key issues, risks and recommendations where strategic decisions are required. The progress of the City's corporate projects is considered satisfactory, particularly



since developments in some areas have changed the scope and direction of some projects requiring amendments to plans and milestones, eg. Craigie Leisure Centre, the Cultural Facility (formerly known as the Joondalup Regional Performing Arts Centre), and the proposed Works depot.

### **COMMENT**

The previous twelve months have been a very difficult time for the organisation as a whole. The resignation of the former CEO in March 2004 brought further instability to the organisation, especially from a leadership perspective.

The appointment of Mr Higham as a member of the Executive Management Team, in an interim role as A/CEO has allayed some of the uncertainty and stabilised the operations of the City, particularly from a human resources perspective.

As outlined in this report, Mr Higham has achieved the level of performance required against agreed indicators detailed in the 27 April 2004 resolution. It is noted that discussions still need to take place between the Commissioners and the A/CEO to agree on objectives that need to be developed, and it is proposed that these discussions can take place in the ensuing six month period.

It is recommended that Mr Higham's appointment be extended until such time as a new CEO is recruited to the City.

### **ATTACHMENTS**

Nil.

### **VOTING REQUIREMENTS**

Simple Majority.

**RECOMMENDATION****That the Joint Commissioners:**

- 1 EXTEND the appointment of Mr Clayton Higham as the Acting CEO for a term of six (6) months (expiring 26 April 2005) or upon commencement of the newly appointed CEO, whichever occurs sooner, at an annual equivalent total remuneration package of \$215,000;**
- 2 AGREE that Mr Higham retain his substantive position as Director Planning and Community Development during his period of Acting CEO;**
- 3 AUTHORISE Mr Higham's existing contract in his substantive position of Director Planning and Community Development being extended by the term of his acting appointments as CEO;**
- 4 AGREE that performance will be measured using the following criteria:**
  - Overseeing the half year Budget review**
  - Overseeing the City's responsibilities in relation to the Panel Inquiry**
  - Reviewing policies and procedures**
  - Maintaining key strategic relationships**
  - Managing corporate projects**
- 5 AUTHORISE the preparation and execution of all necessary documentation to give effect to the decision in (1) to (4) and otherwise in accordance with the Local Government Act 1995.**

Acting Chief Executive Officer, Mr Clayton Higham, declared a financial interest in CJ225-10/04 – Request For Further Funding Assistance Pursuant to Policy 2.2.8 - Legal Representation for Elected Members and Employees as the principle dealt with may influence potential application submitted by himself for funding, if required.

Manager, Audit and Executive Services, Mr Kevin Robinson, declared a financial interest in CJ225-10/04 – Request For Further Funding Assistance Pursuant to Policy 2.2.8 - Legal Representation for Elected Members and Employees as the principle dealt with may influence potential application submitted by himself for funding, if required.

Director, Corporate Services and Resource Management, Mr Peter Schneider declared a financial interest in CJ225-10/04 - Request For Further Funding Assistance Pursuant to Policy 2.2.8 - Legal Representation For Elected Members And Employees as he potentially may be an applicant under this policy in connection with the panel inquiry.

Director, Infrastructure and Operations, Mr David Djulbic declared a financial interest in CJ225-10/04 - Request For Further Funding Assistance Pursuant to Policy 2.2.8 - Legal Representation For Elected Members and Employees that he may potentially seek funding assistance in keeping with Policy 2.2.8.

**CJ225 - 10/04      REQUEST FOR FURTHER FUNDING ASSISTANCE  
PURSUANT TO POLICY 2.2.8 - LEGAL  
REPRESENTATION FOR ELECTED MEMBERS AND  
EMPLOYEES - [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 additional funding that has been made by three suspended elected members.

**EXECUTIVE SUMMARY**

The report discusses the application of *Policy 2.2.8 Legal Representation for Elected Members and Employees* in relation to an application for additional funding by three suspended elected members 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.)

Request for additional funding pursuant to Policy 2.2.8 has been received from three suspended elected members. The recommendation in relation to these applications is for the applications for additional funding be supported up to a further \$2,500 for each individual. This does not preclude further applications from these individuals pursuant to the Policy. Further applications will be considered on their merits.

The Acting Chief Executive Officer and the Manager Audit and Executive Services have declared an interest in this matter due to the fact that they are being called to give evidence before the Inquiry.

## 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*.

On 20 July 2004, the Joint Commissioners approved funding for suspended and former Elected Members, and a former employee. Applications for legal representation from Cr Mackintosh (suspended), Cr Kimber (suspended) and Cr O'Brien (suspended) were considered and granted at that meeting.

On 31 August 2004, the Joint Commissioners approved funding for a current employee in relation to legal representation costs for the Inquiry.

On 21 September 2004, the Joint Commissioners approved funding for a former employee and a suspended elected member.

Applications for additional funding have been received from three suspended elected members in relation to the forthcoming inquiry into the City.

## DETAILS

### Legal Representation for Elected Members and Employees

Section 3.1 of the *LGA 1995*, states that 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 City has received three applications for additional funding from Cr Mackintosh (suspended), Cr Kimber (suspended) and Cr O'Brien (suspended).

Under clause 4.2 of *Policy 2.2.8*, "*an elected member or employee may make a further application to the Council in respect of the same matter.*"

In terms of payment criteria, the same conditions apply to an application for additional funding as would apply to an application for initial legal representation costs. These are that the legal representation costs must relate to a matter that arises from the performance of the suspended elected members' 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 suspended elected member must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct.

#### *1 Application by Cr Mackintosh (Suspended)*

An application was received on 22 September 2004 for additional funding for legal representation from Cr Mackintosh (suspended). (A copy of this letter has been attached to this report and marked Attachment 2.) Cr Mackintosh (suspended) has previously applied for legal representation funding, and was awarded \$5,000. She has requested additional funding of \$2,500. She has been advised by her solicitor that the cost of preparing her affidavit,

requiring necessary materials, and counsel representing Cr Mackintosh (suspended) for one day of hearing would possibly be in the vicinity of \$5,000 - \$7,500 plus GST. At this stage, Cr Mackintosh (suspended) has been advised that she is required to attend the hearing on 23 November 2004.

The application meets the requirements of clause 3.2 and 3.3(a) of the Policy.

In assessing the application, the first payment criterion has been met namely that the legal representation costs relate to a matter that arises from the performance of Cr Mackintosh's (suspended) function as an elected member of the City.

The second criterion requires that the costs be in respect of legal proceedings. The Inquiry comes within the application of Policy 2.2.8.

The third requirement states that the elected member must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct. As mentioned in previous reports to the Joint Commissioners, the assessment of this criterion is difficult as it deals with issues that will be addressed as part of the Inquiry process. For the purposes of assessing this criterion, Cr Mackintosh (suspended) has given an undertaking that she acted in good faith at all times. Furthermore, should an adverse finding be made against her by the Inquiry, clause 7 of the policy allows for the City to reclaim the costs paid to her.

Under clause 4 of the Policy, an elected member or employee may make a further application to the council in respect of the same matter. The application for additional funding therefore comes within the parameters of the Policy.

The original amount of \$5,000 was considered a reasonable estimate of legal representation costs to award individuals. In this situation, however, the City is not able to predict the level of legal representation costs that will be accrued by each individual in putting their case before the Inquiry. The amount of \$5,000 to \$7,500 quoted by Cr Mackintosh (suspended) appears to be a rough estimate of the costs required for individuals to be represented before the Inquiry, especially given the fact that senior counsel are being briefed to appear before the Inquiry.

However, the Joint Commissioners should be mindful of the fact that the applications for additional funding currently before them are likely not to be the last and that other elected members, former and suspended, and former employees may request additional funding. In this situation, it appears prudent that a financial limit pursuant to clause 5.1(c) of the Policy be implemented. This clause enables Council to grant an application for payment of legal representation costs subject to conditions, including a financial limit. Some aspect of reasonableness should be placed on additional funding to ensure that legal representation is reasonable in the circumstances, comparable with other applicants pursuant to the Policy, and prevent the possibility of applicants being in a potentially detrimental situation whereby they find themselves required to reimburse the City for large legal fees pursuant to clause 5.7 of the Policy should an adverse finding be made against them.

On the discussion above, it is the recommendation that the application for additional legal funding up to \$2,500 be approved.

As with previous applications pursuant to the Policy, legal representation funding 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.

## 2 *Application by Cr Kimber (Suspended)*

An application was received on 23 September 2004 for additional funding for legal representation from Cr Kimber (suspended). (A copy of this letter has been attached to this report and marked Attachment 3.) Cr Kimber (suspended) has previously applied for legal representation funding, and was awarded \$5,000. He has requested additional funding of \$5,000. The reasons for this further assistance is based on the following:

- The matters indicated in the inquiry terms of reference relate to the functions of my position as an elected member of the City of Joondalup during the period specified.
- The terms of reference indicate that I may be required to provide evidence on more than one occasion which may incur costs over and above the \$5,000 previously granted.
- I have instructed my Solicitor to engage the services of Mr Ron Birmingham QC of Law Firm, Lloyd and Associates who will require significant funding for his services.
- I have been summonsed to appear before the inquiry on the 18<sup>th</sup> of October 2004 which will require legal representation.

The application meets the requirements of clause 3.2 and 3.3(a) of the Policy.

In assessing the application, the first payment criterion has been met namely that the legal representation costs relate to a matter that arises from the performance of Cr Kimber's (suspended) function as an elected member of the City.

The second criterion requires that the costs be in respect of legal proceedings. The Inquiry comes within the application of Policy 2.2.8.

The third requirement states that the elected member must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct. For the purposes of assessing this criterion, Cr Kimber (suspended) has given an undertaking that he acted in good faith at all times. 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.

Under clause 4 of the Policy, an elected member or employee may make a further application to the council in respect of the same matter. The application for additional funding therefore comes within the parameters of the Policy.

Cr Kimber (suspended) has requested additional legal assistance of \$5,000. He has similarly been quoted legal costs of between \$5,000 to \$7,500. It is recommended that the amount of \$2,500 in additional legal assistance be granted to Cr Kimber (suspended) rather than an additional \$5,000, for similar reasons as expressed in relation to Cr Mackintosh's (suspended) application.

As with previous applications pursuant to the Policy, legal representation funding 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 Kimber (suspended) the Policy allows for the City to reclaim the monies it has funded.

### *3 Application by Cr O'Brien (Suspended)*

An application was received on 27 September 2004 for additional funding for legal representation from Cr O'Brien (suspended). (A copy of this letter is attached to this report and marked Attachment 4.) Cr O'Brien (suspended) has previously applied for legal representation funding, and was awarded \$5,000. He has requested additional funding unspecified.

The application meets the requirements of clause 3.2 and 3.3(a) of the Policy.

In assessing the application, the first payment criterion has been met namely that the legal representation costs relate to a matter that arises from the performance of Cr O'Brien's (suspended) function as an elected member of the City.

The second criterion requires that the costs be in respect of legal proceedings. The Inquiry comes within the application of Policy 2.2.8.

The third requirement states that the elected member must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct. For the purposes of assessing this criterion, Cr O'Brien (suspended) has given an undertaking that he acted in good faith at all times. 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.

Under clause 4 of the Policy, an elected member or employee may make a further application to the council in respect of the same matter. The application for additional funding therefore comes within the parameters of the Policy.

For reasons similar to those discussed in regard to Cr Mackintosh (suspended) and Cr Kimber (suspended), it is the recommendation that the application for legal funding up to \$2,500 be approved.

As with previous applications pursuant to the Policy, legal representation funding 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.

### *Policy of Insurance*

To date, no notification has been received from the City's Insurer with regard to the City's Councillors and Officers Elite Liability Insurance Policy. This matter is being pursued with the City's Insurer.

**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*.

**Policy Implications:**

Policy 2.2.8 – Legal Representation for Elected Members and Employees.

**Financial Implications:**

An amount of \$500,000 has been allocated in the 2004/2005 Budget to meet the expenses associated with the Inquiry. An amount of \$60,000 has already been approved by the Joint Commissioners in response to 12 applications for legal funding that have been received.

**ATTACHMENTS**

|              |   |
|--------------|---|
| Attachment 1 | Policy No 2.2.8 - Legal Representation for Elected Members and Employees  |
| Attachment 2 | Request for Additional Legal Assistance made by Cr Mackintosh (suspended) |
| Attachment 3 | Request for Additional Legal Assistance made by Cr Kimber (suspended)     |
| Attachment 4 | Request for Additional Legal Assistance made by Cr O'Brien (suspended)    |

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION****The Joint Commissioners:**

- 1 in accordance with Policy 2.2.8 – Legal Representation for Elected Members and Employees APPROVE the request for assistance for additional legal funding made by:**
  - (a) Carol Mackintosh for the Inquiry into the City of Joondalup for the amount of \$2,500;**
  - (b) Paul Kimber for the Inquiry into the City of Joondalup for the amount of \$2,500;**
  - (c) Michael O'Brien for the Inquiry into the City of Joondalup for the amount of \$2,500;**
- 2 NOTE that funding in 1 above is conditional on Cr Mackintosh (suspended), Cr Kimber (suspended), and Cr O'Brien (suspended), in accordance with clause 3.3(a), (b) and (c) of Policy 2.2.8 supplying to the City, a signed statement that they have each:**



- (a) read and understood the terms of this Policy;**
  - (b) acknowledged 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;**
  - (c) undertaken to repay to the City any Legal Representation Costs in accordance with the provisions of clause 7;**
  - (d) to the best of their knowledge acted in good faith, not acted unlawfully or in any way that constitutes improper conduct in relation to the matter to which the application relates.**
- 3 CHARGE the expenditure in (1) above to the City of Joondalup Inquiry Account.**

*Appendix 15 refers.*

*To access this attachment on electronic document, click here: [Attach15agn121004.pdf](#)*

**CJ226 - 10/04 MINUTES OF CBD ENHANCEMENT PROJECT  
STEERING COMMITTEE MEETING – 15  
SEPTEMBER 2004 – [53469]**

**WARD** - Lakeside

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CJ041005\_BRF.DOC:ITEM 3

**PURPOSE**

The unconfirmed minutes of the CBD Enhancement Project Steering Committee meeting held on 15 September 2004 are submitted for noting by Council.

**EXECUTIVE SUMMARY**

The CBD Enhancement Project Steering Committee met on Wednesday 15 September 2004.

Items of business discussed included the appointment of new Committee members and the project timeline for the 2004/05 Joondalup Night Markets.

At the Council meeting on 10 August 2004 (CJ176 - 08/04) the Joint Commissioners requested the Committee to consider how the atmosphere at the Night Markets could be improved. The Night Markets team will then investigate the ideas provided by the Committee and determine if they are appropriate and achievable for this year's market. A recommendation to this effect has been included in this report.

A brief update was provided on the ongoing business items, which included the Inner City Public Transport item concerning a Joondalup Central Area Transit (CAT) service and the Joondalup Car Boot Sale/Swap Mart item. The issue of public toilet facilities in the Joondalup CBD was discussed and the Committee made a recommendation to Council regarding this item.

*This report recommends that the Joint Commissioners:*

- 1 *NOTE the unconfirmed minutes of the CBD Enhancement Project Steering Committee meeting held on 15 September 2004, shown at Attachment 1 to this Report;*
- 2 *ENDORSE the investigation of the following options for the enhancement of the atmosphere at the 2004/05 Joondalup Night Markets:*
  - (a) *Improve the music program by including jazz bands and musical performances by local children/youth;*
  - (b) *Demonstrations and displays involving Jinan, China (Joondalup's recently formalised Sister-City) – a delegation from Jinan will be visiting Joondalup in mid-November – in time for the start of the Night Markets;*
  - (c) *Provide a large video screen that plays sport or children's entertainment;*
  - (d) *Invite buskers to work in Joondalup;*
  - (e) *Involve local school groups and the Rock Eisteffod program;*
  - (f) *Provide a skateboard ramp;*

- (g) *Provide a climbing wall;*
- (h) *Investigate employing a town cryer;*
- (i) *Involve local ethnic communities (eg. a monthly cultural night);*
- (j) *Coordinate a music program that encourages youth participation;*
- (k) *Encourage the involvement of youth radio stations such as Triple J and Groove FM;*
- (l) *Encourage the involvement of the West Australian Music Industry (WAMI);*
- (m) *Investigate whether a commercial radio station might be interested in doing a top-30 style countdown 'live' from the Night Markets;*

3 *REQUEST a status report on the proposed public toilets in the Joondalup CBD.*

## **DETAILS**

The minutes of the CBD Enhancement Project Steering Committee meeting held on Wednesday 15 September 2004 are provided at Attachment 1.

### **Atmosphere at the Joondalup Night Markets**

At the meeting of Joint commissioners on 10 August 2004 a recommendation (CJ176 - 08/04) was made regarding the organisation of the 2004/05 Joondalup Night Markets. This recommendation requested that the CBD Enhancement Project Steering Committee consider how the atmosphere at the night markets could be improved.

The Committee provided the following suggestions to enhance the atmosphere at the Joondalup Night Markets:

- Improve the music program by including jazz bands and musical performances by local children/youth;
- Demonstrations and displays involving Jinan, China (Joondalup's recently formalised Sister-City) – a delegation from Jinan will be visiting Joondalup in mid-November – in time for the start of the Night Markets;
- Provide a large video screen that plays sport or children's entertainment;
- Invite buskers to work in Joondalup;
- Involve local school groups and the Rock Eisteffod program;
- Provide a skateboard ramp;
- Provide a climbing wall;
- Investigate employing a town cryer;
- Involve local ethnic communities (eg. a monthly cultural night);
- Coordinate a music program that encourages youth participation;
- Encourage the involvement of youth radio stations such as Triple J and Groove FM;
- Encourage the involvement of the West Australian Music Industry (WAMI);
- Investigate whether a commercial radio station might be interested in doing a top-30 style countdown 'live' from the Night Markets;

The Night Markets team will investigate the suggestions from the Committee and determine if they are appropriate and achievable for this year's market. Any reasonable items will be incorporated into the entertainment program.

### Public Toilet Facilities in the Joondalup CBD

As part of the Swapmart/Car Boot Sale Ongoing Business item, the issue of public toilet facilities in the Joondalup was discussed. The Committee made a recommendation that the Joint Commissioners request the City's Planning and Community Development Directorate to investigate the location and costing of public toilets in the car park in front of the Council offices as a matter of urgency. The Committee noted that providing public toilet facilities in this location would service the Joondalup Night Markets, Joondalup Festival and other events and activities in the Joondalup CBD, as well as the general public.

### **COMMENT**

#### *Atmosphere at the Joondalup Night Markets*

At the meeting of Joint commissioners on 10 August 2004 a recommendation (CJ176 - 08/04) was made regarding the organisation of the 2004/05 Joondalup Night Markets. This recommendation requested that the CBD Enhancement Project Steering Committee consider options to enhance the atmosphere at the Joondalup Night Markets.

The Committee provided a number of options to enhance the atmosphere at the markets. These options are detailed earlier in this report and will be investigated and incorporated into the Night Markets program where appropriate.

The City of Joondalup received an additional \$10,000 funding in the 2004/05 budget process to increase the entertainment program at the Night Markets. This money is being used to enhance the atmosphere at the markets by providing the following:

- An enhanced entertainment program that includes:
- Increasing the quality and diversity of music program
- Increasing the length of performance times
- Additional performers on each night (i.e. more than one act)
- More than one performance area (i.e. performers throughout Central Walk – in addition to the 'regular' performance in Reid Promenade)
- Interesting demonstrations and displays (eg. Car clubs, H2 Fuel Cell Bus, Radio Controlled Car Club etc) with an emphasis on being interactive
- Dance performances
- Sports demonstrations
- Increased involvement from cultural groups

These activities will form the basis of the enhancements to the atmosphere at the Joondalup Night Markets for this summer. Options for the enhancement of the atmosphere suggested by the Committee will be investigated and incorporated into the Night Markets program where appropriate. The Committee agreed on the following motion in relation to improving the atmosphere at the Joondalup Night Markets:

*MOVED Mr Curry, SECONDED Ms O'Halloran that the CBD Enhancement Project Steering Committee CONSIDERS options to enhance the atmosphere at future Night Markets events.*

This recommendation does not request the Joint Commissioners to endorse the options to enhance the atmosphere at the Night Markets. The following alternative recommendation is put forward.

### **Officer Recommendation**

*ENDORSE the investigation of the following options for the enhancement of the atmosphere at the 2004/05 Joondalup Night Markets:*

- a) Improve the music program by including jazz bands and musical performances by local children/youth;*
- b) Demonstrations and displays involving Jinan, China (Joondalup's recently formalised Sister-City) – a delegation from Jinan will be visiting Joondalup in mid-November – in time for the start of the Night Markets;*
- c) Provide a large video screen that plays sport or children's entertainment;*
- d) Invite buskers to work in Joondalup;*
- e) Involve local school groups and the Rock Eisteffod program;*
- f) Provide a skateboard ramp;*
- g) Provide a climbing wall;*
- h) Investigate employing a town crier;*
- i) Involve local ethnic communities (eg. a monthly cultural night);*
- j) Coordinate a music program that encourages youth participation;*
- k) Encourage the involvement of youth radio stations such as Triple J and Groove FM;*
- l) Encourage the involvement of the West Australian Music Industry (WAMI);*
- m) Investigate whether a commercial radio station might be interested in doing a top-30 style countdown 'live' from the Night Markets;*

### **Public Toilet Facilities in the Joondalup CBD**

As part of the Swapmart/Car Boot Sale Ongoing Business item, the issue of public toilet facilities in the Joondalup was discussed. The Committee made a recommendation that the Joint Commissioners request the City's Planning and Community Development Directorate to investigate the location and costing of public toilets in the car park in front of the Council offices as a matter of urgency. The Committee noted that providing public toilet facilities in this location would service the Joondalup Night Markets, Joondalup Festival and other events and activities in the Joondalup CBD, as well as the general public.

The Committee agreed on the following motion:

*MOVED Ms Horgan, SECONDED Ms O'Halloran that the CBD Enhancement Project Steering Committee recommend that Council REQUESTS the Planning and Community Development Directorate to INVESTIGATE sighting and costing of public toilets in the car park in front of the Council offices as a matter of urgency – to serve the Joondalup Night Markets, Joondalup Festival and other events and activities in the Joondalup CBD area.*

The issue of public toilet facilities in the Joondalup CBD has been an ongoing business item for the Committee, with the issue being raised at a number of previous meetings. The Committee was last provided with a report (update) at the meeting on 19 May 2004. At this meeting the Director, Infrastructure and Operations, noted that a consultation process would need to be undertaken before any public toilet facilities could be installed in the Joondalup City Centre. The Director added that public toilet facilities are proposed to be located in future multi-level car parking facilities. The Manager, Infrastructure Management and Ranger Services, informed the Committee that there were a number of design options available that may offer a temporary solution for the Joondalup City Centre, however, emphasis will need to be placed on the ease of access and location of any such development.

At the meeting of the CBD Enhancement Project Steering Committee on 19 May 2004 the responsibility for planning and construction of any proposed public toilet facilities was recommended to Council to be referred to the Planning & Community Development and Infrastructure & Operations Directorates. This is to ensure that any proposal is incorporated into the Master Planning process.

As this item has already been referred to the administration at a previous Committee meeting the latest recommendation from the Committee is not supported. An alternative recommendation is provided as follow:

### **Officer Recommendation**

REQUEST a status report on the proposed public toilets in the Joondalup CBD.

### **ATTACHMENTS**

- Attachment 1            Unconfirmed minutes – CBD Enhancement Project Steering Committee meeting held on 15 September 2004.
- Attachment 2            Joondalup Night Markets 2004/05 – Project Timeline

### **VOTING REQUIREMENTS**

Simple Majority.

### **RECOMMENDATION**

**That the Joint Commissioners:**

- 1        NOTE the unconfirmed minutes of the CBD Enhancement Project Steering Committee meeting held on 15 September 2004, shown at Attachment 1 to Report CJ226-10/04;**
  
- 2        ENDORSE the investigation of the following options for the enhancement of the atmosphere at the 2004/05 Joondalup Night Markets:**
  - (a)     Improve the music program by including jazz bands and musical performances by local children/youth;**
  - (b)     Demonstrations and displays involving Jinan, China (Joondalup's recently formalised Sister-City) – a delegation from Jinan will be visiting Joondalup in mid-November – in time for the start of the Night Markets;**
  - (c)     Provide a large video screen that plays sport or children's entertainment;**
  - (d)     Invite buskers to work in Joondalup;**
  - (e)     Involve local school groups and the Rock Eisteffod program;**
  - (f)     Provide a skateboard ramp;**
  - (g)     Provide a climbing wall;**
  - (h)     Investigate employing a town crier;**
  - (i)     Involve local ethnic communities (eg. a monthly cultural night);**
  - (j)     Coordinate a music program that encourages youth participation;**
  - (k)     Encourage the involvement of youth radio stations such as Triple J and Groove FM;**

- (l) Encourage the involvement of the West Australian Music Industry (WAMI);**
  - (m) Investigate whether a commercial radio station might be interested in doing a top-30 style countdown 'live' from the Night Markets;**
- 3 REQUEST a status report on the proposed public toilets in the Joondalup CBD.**

*Appendix 1 refers.*

*To access this attachment on electronic document, click here: [Attach1brf051004.pdf](#)*

**CJ227 - 10/04      WARRANT OF PAYMENTS 31 AUGUST 2004 –  
[09882]**

**WARD - All**

CJ041005\_BRF.DOC:ITEM 4

**PURPOSE**

The Warrant of Payments for the month ended 31 August 2004 is submitted to the Joint Commissioners for approval.

**EXECUTIVE SUMMARY**

This report details the cheques drawn on the funds during the month of August 2004 and seeks approval by the Joint Commissioners for the payments listed.

| <b>FUNDS</b>  | <b>DETAILS</b>                | <b>AMOUNT</b>          |
|---|-------------------------------|------------------------|
| Director Corporate Services & Resource Management Advance Account | 65702 – 66187 & EFT 545 - 725 | \$4,835,409.94         |
| Municipal Account   | 000660 – 000665 & 18A – 20A   | \$8,245,953.48         |
| Trust Account   |                               | Nil                    |
|   | <b>TOTAL</b>                  | <b>\$13,081,363.42</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. The cheque and voucher registers are appended as Attachments A & B.

The total of all other outstanding accounts received but not paid at the close of August 2004 was **\$ 883,268.50**.

**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 **\$13,081,363.42** which is to be submitted to the Joint Commissioners on 12 October 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 **\$13,081,363.42** was submitted to the Joint Commissioners on 12 October 2004.

.....  
JOHN PATERSON  
Chairman of Commissioners

### **STATUTORY PROVISION**

The Council has delegated to the CEO the exercise of its power to make payments from the Municipal and Trust Funds, therefore in accordance with Regulation 13(1) of the Local Government (Financial Management) Regulations 1996, a list of accounts paid by the CEO is prepared each month showing each account paid since the last list was prepared. In addition regulation 13 (4) requires that after the list of payments has been prepared for a month, the total of all other outstanding accounts is to be calculated and a statement of that amount is to be presented to the Council.

### **ATTACHMENTS**

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

### **VOTING REQUIREMENTS**

Simple majority.

### **RECOMMENDATION**

**That the Joint Commissioners APPROVE for payment the following vouchers, as presented in the Warrant of Payments to 31 August 2004, certified by the Chairman of Commissioners and Director Corporate Services & Resource Management and totalling \$13,081,363.42.**

| <b>FUNDS</b>   | <b>DETAILS</b>                          | <b>AMOUNT</b>          |
|--|---|------------------------|
| <b>Director Corporate Services &amp; Resource Management Advance Account</b> | <b>65702 – 66187 &amp; EFT545 - 725</b> | <b>\$4,835,409.94</b>  |
| <b>Municipal Account</b>   | <b>000660 – 000665 &amp; 18A – 20A</b>  | <b>\$8,245,953.48</b>  |
| <b>Trust Account</b>   |   | <b>Nil</b>             |
|  | <b>TOTAL</b>                            | <b>\$13,081,363.42</b> |

*Appendix 2 refers.*

To access this attachment on electronic document, click here: [Attach2brf051004.pdf](#)

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**CJ228 - 10/04      FINANCIAL REPORT FOR THE PERIOD ENDING 31  
AUGUST 2004 – [07882]****WARD - All**

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CJ041005\_BRF.DOC:ITEM 5

**PURPOSE**

The August 2004 financial report is submitted to Council to be noted.

**EXECUTIVE SUMMARY**

The August 2004 year to date report shows an overall variance (under spend) of \$0.7m when compared to the year to date adopted budget.

This variance can be analysed as follows:

- The **Operating** position (Change in Net Assets Before Reserve Transfers) shows an actual surplus of \$46.2m compared to a budgeted surplus of \$44.9m at the end of August 2004. The \$1.3m variance is due primarily to a favourable variance in Employee costs and Consultancy costs.
- **Capital Expenditure** is \$0.3m under spent due to the timing of network infrastructure upgrade costs and light vehicle purchases.
- **Capital Works and Corporate Projects** expenditure is \$0.9m against a year to date budget of \$0.0m. The City is finalising the phasing of the Capital Works budget following the adoption of the budget and hence there is currently no comparable YTD budget for Capital Works expenditure. The phasing is expected to be completed in September.

**DETAILS**

A monthly report for the month of July is not compiled and in accordance with Policy 2.4.1 – Accounting Policy, the financial report for the period ending 31 August 2004 is for a two-month period covering both July and August.

**Statutory Provision:**

In accordance with Section 6.4 of the Local Government Act (1995) a local government is to prepare an annual financial report for the preceding year and such other financial reports as are prescribed. Regulation 34 of the Local Government (Financial Management) Regulations 1996 details those other financial reports which need to be prepared and states that they are to be presented to Council and recorded in the minutes of the meeting at which they are presented.

**ATTACHMENTS**

Attachment 1      Financial Report for the period ending 31 August 2004.

## **VOTING REQUIREMENTS**

Simple majority.

## **RECOMMENDATION**

**That the Financial Report for the period ending 31 August 2004 be NOTED.**

*Appendix 3 refers.*

*To access this attachment on electronic document, click here: [Attach3brf051004.pdf](#)*

*v:\reports\council\2004\rm0454.doc*

## **CJ229 - 10/04 APPROVE THE PURCHASE OF SEVEN, SIX CYLINDER GAS UTILITIES - [08178]**

**WARD - All**

CJ041005\_BRF.DOC:ITEM 6

### **PURPOSE**

To accept the quotation from Nuford for the supply of seven Ford 6 cylinder gas powered utilities for \$149,774 (excluding GST) and to approve the disposal by public auction of the old vehicles (plant numbers 95045, 95033, 95046, 95029, 95042, 95035, 95043). It has been estimated that at auction, the vehicles will return \$84,000 (excluding GST).

### **EXECUTIVE SUMMARY**

The City's 2004/05 budget provided for the purchase of light vehicles, as detailed in the Fleet Replacement Program. Funding for the cost of supply is to be sourced from the Light Vehicle Reserve Account.

The City's 2004/05 budget provided for the purchase of seven replacement vehicles together with the disposal of the following plant items:

| <b>Plant Number</b> | <b>Year</b> | <b>Make/Model</b>        | <b>Allocated to</b>             |
|---------------------|-------------|--------------------------|---------------------------------|
| 95045               | 2000        | Holden Commodore Utility | Ranger Services                 |
| 95033               | 2000        | Holden Commodore Utility | Building Management Services    |
| 95046               | 2000        | Holden Commodore Utility | Approvals                       |
| 95029               | 2000        | Holden Commodore Utility | Operations Services             |
| 95042               | 2000        | Holden Commodore Utility | Urban Design                    |
| 95035               | 2000        | Holden Commodore Utility | Health & Environmental Services |
| 95043               | 2000        | Holden Commodore Utility | Approvals                       |

This report recommends that the Joint Commissioners:

- 1 *ACCEPT the quotation from Nuford, for the supply of seven Ford Falcon BA utilities with dedicated gas, at \$149,774 excluding GST;*
- 2 *APPROVE the disposal by public auction of plant numbers 95045, 95033, 95046, 95029, 95042, 95035, 95043;*
- 3 *APPROVE the retention of the estimated budget surplus of \$32,226, in the Light Vehicle Replacement Reserve Account.*

### **BACKGROUND**

Commercial vehicles in the City's fleet, are replaced at intervals of 4 years or 90,000 kms, whichever comes first. The seven vehicles listed for replacement in this report have reached four years of service.

Contract 012A 1994 is the State Government Contract for the supply of motor vehicles to various departments and authorities. The City of Joondalup receives the quarterly pricing schedules, pertaining to this Contract and uses the contract prices to complete a whole of life evaluation on the range of vehicles offered in the applicable category.

The operational requirements of the drivers, affected by the vehicle replacements, were reviewed by their respective Managers and the vehicle specifications reflect the most suitable vehicle for their needs.

There is no Fringe Benefit Tax (FBT) associated with any of the vehicles even though they are considered “cars”, they are exempt from FBT as they are a commercial vehicles designed to carry a load of less than one tonne and the only private use is for work related travel i.e., inclusive of travel between home and work.

The utility configuration is the best vehicle fit for purpose and the dedicated gas engines will offer fuel savings over petrol and decreased emissions of greenhouse gases. A future report on hybrid vehicles will be prepared, however no hybrid technology utes are currently available on the Australian market.

## **DETAILS**

State Government supply contract 012A 1994 allows Local Government to place an order with any of the distributors listed on that contract at the same prices available to the State. Quotations were received from Clarkson Holden and Nuford.

A whole of life evaluation was carried out on the petrol powered Holden Commodore, Ford Falcon and the Ford Falcon with dedicated gas. This evaluation showed the Ford Falcon with dedicated gas as the best value purchase for the City, taking into account whole of life costing factors listed below:

- Purchase price
- Servicing costs
- Fuel costs (including economy) and
- Resale value (4 year trade value from the Red Book).

Based on the above evaluation it is recommended that the quotation from Nuford be approved.

### **Statutory Provision:**

In accordance with the provisions of Section 5.42 of the *Local Government Act 1995*, the Chief Executive Officer has the delegated authority to accept purchases to a limit of \$100,000. As this purchase exceeds this limit, it must be approved by Council.

Regulation 11 (2) (e) of the *Local Government (Functions & General) Regulations 1996* allows Local Government to purchase goods or services worth more than \$50,000, without inviting Public Tender, if the supply of the goods or services is obtained through the Government of the State.

As the market value of the seven vehicles for disposal exceeds \$20,000 and in accordance with the provisions of Section 3.58 of the *Local Government Act 1995*, the disposal of the seven vehicles is to be by public auction or public tender.

### **Policy Implications:**

The purchase recommendation complies with Council's policy 2.4.6 - Purchasing Policy, whereby regional purchasing is supported wherever possible. Nuford is based in Berriman Drive Wangara and is situated within the City of Wanneroo.

### **Financial Implications:**

Based on the Nuford quotation and estimated return at auction, the financial position (excluding GST) is:

| <b>Make &amp; Model<br/>New Supply</b> | <b>Recommended<br/>Supply Cost</b> | <b>Auction<br/>Valuation<br/>Disposal<br/>(Estimated)</b> | <b>Budget New<br/>Supply</b> | <b>Budget<br/>Trade</b> | <b>Budget<br/>Surplus</b> |
|--|------------------------------------|---|------------------------------|-------------------------|---------------------------|
| Ford Falcon/Gas                        | \$149,774                          | \$84,000  | \$175,000                    | \$77,000                | \$32,226                  |

### **COMMENT**

The estimated 2004/05 budget surplus for the supply and disposal of the seven vehicles is \$32,226. The surplus is due to the Ford Falcon with dedicated gas having a cheaper than expected supply price and the current auction prices for the Commodore utilities bringing a better than expected return.

### **ATTACHMENTS**

Nil

### **VOTING REQUIREMENTS**

Simple Majority.

### **RECOMMENDATION**

#### **That the Joint Commissioners:**

- 1 ACCEPT the quotation from Nuford, for the supply of seven Ford Falcon BA utilities with dedicated gas, at \$149,774 excluding GST;**
- 2 APPROVE the disposal by public auction of plant numbers 95045, 95033, 95046, 95029, 95042, 95035, 95043;**
- 3 APPROVE the retention of the estimated budget surplus of \$32,226, in the Light Vehicle Replacement Reserve Account.**

Acting Chief Executive Officer, Mr Clayton Higham, declared a financial interest in CJ230-10/04 – Purchase of Executive Vehicles as this relates to his entitlement under contract of employment.

Manager, Audit and Executive Services, Mr Kevin Robinson, declared a financial interest in CJ230-10/04 – Purchase of Executive Vehicles as this relates to his entitlement under contract of employment.

## **CJ230 - 10/04 PURCHASE OF EXECUTIVE VEHICLES – [08178]**

**WARD - All**

CJ041005\_BRF.DOC:ITEM 7

### **PURPOSE**

To accept the quotation from Clarkson Holden, for the supply of three Holden Calais sedans at \$109,866 (excluding GST), one Holden Berlina sedan at \$29,835 (excluding GST) and two Holden Commodore Executive sedans at \$48,896 (excluding GST). The Joint Commissioners also to approve the disposal by public auction of six sedans (plant numbers 99068, 99069, 99072, 99073, 99074, 99079). It has been estimated that at auction, the six vehicles will return \$130,180 (excluding GST).

### **EXECUTIVE SUMMARY**

The City's 2004/05 budget provided for the purchase of light vehicles, as detailed in the Vehicle Replacement Program. Funding for the cost of supply is to be sourced from the Light Vehicle Replacement Reserve Account.

The City's 2004/05 budget provided for the purchase of six replacement vehicles together with the disposal of the following plant items:

| <b>Plant Number</b> | <b>Year</b> | <b>Make/Model</b> | <b>Allocated to</b>                                  |
|---------------------|-------------|-------------------|--|
| 99068               | 2002        | Holden Commodore  | Manager, Strategic & Sustainable Development         |
| 99069               | 2002        | Holden Commodore  | Manager, Infrastructure Management & Ranger Services |
| 99072               | 2002        | Holden Calais     | Acting CEO   |
| 99073               | 2002        | Ford Fairmont     | Manager, Operations Services                         |
| 99074               | 2002        | Holden Calais     | Manager, Audit & Executive Services                  |
| 99079               | 2003        | Holden Calais     | Manager, Human Resources                             |

This report recommends that the Joint Commissioners:

- 1 *ACCEPT the quotation from Clarkson Holden, for the supply of three Holden Calais sedans at \$109,866 (excluding GST), one Holden Berlina sedan at \$29,835 (excluding GST) and two Holden Commodore Executive sedans at \$48,896 exclusive of GST;*
- 2 *APPROVE the disposal by public auction of plant numbers 99068, 99069, 99072, 99073, 99074, 99079;*

- 3 *APPROVE the retention of the estimated budget surplus of \$9,583 in the Light Vehicle Replacement Reserve Account.*

## **BACKGROUND**

The vehicles to be disposed of have all reached the 60,000km replacement criteria for light passenger vehicles set by Council at its meeting of 11 June 2002 (CJ121-06/02 - Review of Corporate Policy Manual).

As per the Council approved Proposal for Implementation of Salary Packaging (CJ120-05/02) the Chief Executive Officer negotiated new Total Employment Cost (TEC) contracts with all Directors and Business Unit Managers. A condition of the TEC contracts include choice of vehicle within selected vehicle types and cost ranges. Two Managers and the Acting CEO indicated Holden Calais as their choice and have each agreed to sacrifice \$16,000 from their TEC contracts. One manager indicated Holden Berlina as his choice and has agreed to sacrifice \$15,000 from his TEC contract. The other two Managers have selected Holden Commodore Executives as their choice and have each agreed to sacrifice \$14,000 from their TEC contracts.

| <b>Allocated Amount</b> | <b>Standard of Vehicle</b>                        |
|-------------------------|---|
| \$14,000                | Commodore Executive, XT Ford, Magna or equivalent |
| \$15,000                | Berlina, Fairmont, Verada Ei or equivalent        |
| \$16,000                | Calais, Fairmont Ghia, Verada Xi or equivalent    |

The allocated amounts listed above were calculated based on the Mercer Cullen Egan Dell car formula.

## **DETAILS**

Contract 012A 1994 is the State Government Contract for the supply of motor vehicles to various departments and authorities. The City of Joondalup receives the quarterly pricing schedules pertaining to this Contract.

## **STATUTORY PROVISION:**

In accordance with the provisions of Section 5.42 of the *Local Government Act 1995*, the Chief Executive Officer has the delegated authority to accept purchases to a limit of \$100,000. As this purchase exceeds this limit, it must be approved by Council.

Regulation 11 (2) (e) of the *Local Government (Functions & General) Regulations 1996* allows Local Government to purchase goods or services worth more than \$50,000, without inviting Public Tender, if the supply of the goods or services is obtained through the Government of the State.

As the market value of the six vehicles for disposal exceeds \$20,000 and in accordance with the provisions of Section 3.58 of the *Local Government Act 1995*, the disposal of the six vehicles is to be by public auction or public tender.



**Policy Implications:**

Policy 2.5.3 - Council Vehicles - Mayor and Council Officers - sets the light passenger vehicle replacement criteria for Council Officers at three years or 60,000kms whichever occurs first. The six vehicles to be replaced have all exceeded 60,000kms.

The Total Employment Cost, as a method of remunerating Managers and Directors, was accepted by Council at its meeting of 21 May 2002 (Report CJ120 - 05/02 Proposal for implementation of salary packaging). The Managers and Director benefiting from this proposed purchase would each forgo the relevant amount, in their TEC Contract, in return for a vehicle of their choice from the approved list.

It should be noted that the six vehicles in question will be available for business use by all staff during normal office hours, in accordance with the pool vehicle guidelines.

The purchase recommendation complies with Council's policy 2.4.6 - Purchasing Policy, whereby regional purchasing is supported wherever possible. Clarkson Holden is based in Marmion Ave, Ocean Keys and is situated within the City of Wanneroo.

**FINANCIAL IMPLICATIONS:**

Based on the Clarkson Holden quotation and estimated return at auction, the financial position (excluding GST) is:

| <b>Make &amp; Model<br/>New Supply</b>              | <b>Recommended<br/>Supply Cost</b> | <b>Auction<br/>Valuation<br/>Disposal<br/>(Estimated)</b> | <b>Budget<br/>New<br/>Supply</b> | <b>Budget<br/>Trade</b> | <b>Budget<br/>Surplus</b> |
|---|------------------------------------|---|----------------------------------|-------------------------|---------------------------|
| Calais/Berlina/<br>Commodore<br>6 cylinder vehicles | \$188,597                          | \$130,180   | \$202,000                        | \$134,000               | \$9,583                   |

**COMMENT**

New employment contracts were negotiated between Directors and Business Unit Managers following the restructure of the City of Joondalup administration. The new contracts provided for Managers and Directors, to select vehicles that best suited their needs with the corresponding adjustment to the cash component of their salaries. The six staff selected the Holden Commodores /Berlina/Calais as their vehicle of choice.

**ATTACHMENT**

Nil.

**VOTING REQUIREMENTS**

Simple Majority.

## **RECOMMENDATION**

### **That the Joint Commissioners:**

- 1 ACCEPT the quotation from Clarkson Holden, for the supply of three Holden Calais sedans at \$109,866 (excluding GST), one Holden Berlina sedan at \$29,835 (excluding GST) and two Holden Commodore Executive sedans at \$48,896 exclusive of GST;**
- 2 APPROVE the disposal by public auction of plant numbers 99068, 99069, 99072, 99073, 99074, 99079;**
- 3 APPROVE the retention of the estimated budget surplus of \$9,583 in the Light Vehicle Replacement Reserve Account.**

**CJ231 - 10/04 TENDER NUMBER 006-04/05 SUPPLY & INSTALLATION OF PRELIMINARY WORKS PRIOR TO ROAD RESURFACING AND TRAFFIC MANAGEMENT – [82563]**

**WARD - All**

CJ041005\_BRF.DOC:ITEM 8

**PURPOSE**

To seek the approval of the Joint Commissioners to choose the tender submitted by Sparta Enterprises Pty Ltd, trading as Stirling Paving, for the Supply & Installation of Preliminary Works Prior to Road Resurfacing and Traffic Management (in accordance with the Schedule of Rates as outlined in Attachment 1), Tender Number 006-04/05. The initial period will be twelve (12) months with the option to extend and subject to satisfactory performance reviews, for a further maximum period of twenty (24) months. The total aggregated duration of the contract shall not exceed three (3) years.

**EXECUTIVE SUMMARY**

Tenders were advertised on 11 August 2004 through statewide public tender for the Supply & Installation of Preliminary Works Prior to Road Resurfacing and Traffic Management, (Number 006-04/05). Tenders closed on 26 August 2004. Three submissions were received from Works Infrastructure, Sparta Enterprises Pty Ltd trading as Stirling Paving and Mako Civil Pty Ltd.

It is recommended, in relation to Tender Number 006-04/05 for the Supply & Installation of Preliminary Works Prior to Road Resurfacing and Traffic Management, that the Joint Commissioners:

- 1 *CHOOSE Sparta Enterprises Pty Ltd trading as Stirling Paving as the successful tenderer for Supply & Installation of Preliminary Works Prior to Road Resurfacing and Traffic Management (Tender No. 006-04/05) in accordance with the schedule of rates 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 Sparta Enterprises Pty Ltd trading as Stirling Paving in accordance with the tender submitted by Sparta Enterprises Pty Ltd trading as Stirling Paving, subject to any minor variations that may be agreed between the CEO and Sparta Enterprises Pty Ltd trading as Stirling Paving;*
- 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 month increments, with the total term of the contract not to exceed 3 years.*

## **BACKGROUND**

Stirling Paving has successfully undertaken this work since 2001. Prior to the division of the former City of Wanneroo the work was undertaken in-house. It was identified that Operations Services in-house construction crew would not be able to complete the works while undertaking the other Capital Works Projects required. A scope of works was prepared and the process was trialled for 12 months to ensure the City received the desired outcome.

When the tender was advertised initially in 2001, Stirling Paving clearly demonstrated that they were able to coordinate the preliminary works required for the Asphalt Replacement Program to proceed.

## **DETAILS**

Three tender submissions were received from: Works Infrastructure, Sparta Enterprises Pty Ltd trading as Stirling Paving and Mako Civil Pty Ltd.

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 second part of the evaluation process involved an independent assessment by each team member of the qualitative criteria. Each member of the Evaluation Team assessed the Tender submissions individually against the selection criteria using the weightings determined during the tender planning phase. The Evaluation Team then convened to submit and discuss their assessments.

All tenders were deemed conforming and under the City's Contract Management Framework, the tenders were assessed by the Evaluation Team using a weighted multi-criterion assessment system and AS 4120-1994 'Code of tendering'.

The Selection Criteria for Tender number 006-04/05 was as follows:

### **Performance and Experience of Tenderer in completing similar projects:**

- Relevant Industry Experience, including details of similar work undertaken. 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.

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

- Company Structure
- Qualifications, Skills and Experience of Key Personnel
- Equipment and Staff Resources available
- Percentage of Operational Capacity represented by this work

- Financial Capacity
- Risk Assessment
- Compliance with tender requirements – insurances, licenses, site inspections etc
- Quality Systems
- Occupational Health and Safety Management System and Track Record
- Post Contract Services offered

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

- The Potential Social and Economic Effect of the tender on the City of Joondalup community;
- Sustainability/Efficiency/Environmental;

**Tendered Price/s:**

- The Schedule of Rates to supply the specified service

Sparta Enterprises Pty Ltd trading as Stirling Paving submitted a tender that fully demonstrated its ability to provide the services required. The tender submitted by Sparta Enterprises Pty Ltd trading as Stirling Paving ranked highest in the evaluation assessment 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**

In accordance with the Operations Services annual maintenance budgets as authorised by Council.

**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 total duration of the contract will not exceed three (3) years.

Notwithstanding any statutory changes, the City may negotiate a price variation on the schedule of rates 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 twelve (12) months.

The tender submitted by Sparta Enterprises Pty Ltd trading as Stirling Paving demonstrated that they have the ability to provide the required services to the City.

## ATTACHMENTS

Attachment 1            Price Schedule

## VOTING REQUIREMENTS

Simple Majority.

## RECOMMENDATION

**That, in relation to Tender Number 006-04/05 for the Supply & Installation of Preliminary Works Prior to Road Resurfacing and Traffic Management, the Joint Commissioners:**

- 1        CHOOSE Sparta Enterprises Pty Ltd trading as Stirling Paving as the successful tenderer for Supply & Installation of Preliminary Works Prior to Road Resurfacing and Traffic Management (Tender No. 006-04/05) in accordance with the schedule of rates as outlined in Attachment 1 to Report CJ231-10/04;**
- 2        AUTHORISE the Acting Chief Executive Officer (CEO), on behalf of the City, to enter into a contract with Sparta Enterprises Pty Ltd trading as Stirling Paving in accordance with the tender submitted by Sparta Enterprises Pty Ltd trading as Stirling Paving, subject to any minor variations that may be agreed between the CEO and Sparta Enterprises Pty Ltd trading as Stirling Paving;**
- 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 month increments, with the total term of the contract not to exceed 3 years.**

*Appendix 4 refers.*

To access this attachment on electronic document, click here: [Attach4brf051004.pdf](#)

**CJ232 - 10/04 TENDER NUMBER 003-04/05 JOONDALUP  
ADMINISTRATION CENTRE BUILDING –  
LIGHTING UPGRADE – [25563]**

**WARD - Lakeside**

CJ041005\_BRF.DOC:ITEM 9

**PURPOSE**

To seek the approval of the Joint Commissioners to choose the tender submitted by Electek as the successful tenderer for the Joondalup Administration Centre Building Lighting Upgrade (Tender Number 003-04/05).

**EXECUTIVE SUMMARY**

Tenders were advertised on 21 July 2004 through statewide public tender for the Joondalup Administration Centre Building – Lighting Upgrade. Tenders closed on 5 August 2004. Eleven submissions were received from: Maxilight Industries (WA) Pty Ltd (two submissions), Electek (two submissions) Bertrams Electrical Service, Robmaz Electrical Services, High Speed Electrics, Prompt Electrical Services, SMB Electrical Services, Wanneroo Electric and Ellenby Enterprises.

It is recommended that the Joint Commissioners:

- 1 *DEEM the tenders submitted by Bertrams Electrical Services and Robmaz Electrical Services as non-conforming in accordance with Regulation 18(2) of the Local Government (Functions and General) Regulations 1996 because they failed to fully address the essential selection criteria;*
- 2 *CHOOSE Electek as the successful tenderer for the Joondalup Administration Centre Building Lighting Upgrade (Tender No. 003-04/05) for a lump sum price of one hundred and twenty seven thousand five hundred and ten dollars (\$127,510) excluding GST;*
- 3 *AUTHORISE the Acting Chief Executive Officer (A/CEO), on behalf of the City, to enter into a contract with Electek in accordance with the tender submitted by Electek, subject to any minor variations that may be agreed between the A/CEO and Electek.*

**BACKGROUND**

Over the past two years, the City has completed major project upgrades to the Administration Building to improve building occupancy conditions and reduce power consumption.

As part of this management strategy, an energy audit was undertaken by Consultants, Lincolne Scott Pty Ltd, for the Administration Building, Library and Civic Chambers to identify potential energy savings.

This Energy Audit Report identified that the replacement of the existing light fittings within the Administration Building with high efficiency lights and reflectors would generate savings of \$17,000 per annum and a reduction in greenhouse gases of approximately 180 tonnes.

The replacement of the existing light fittings with high efficiency lights was identified and budgeted in the 2003/04 Capital Works Program. Funding of \$127,050 was carried forward into the 2004/05 budget, following the rejection of all tenders in March 2004 due to anomalies with the number of light fittings submitted by the tenderers.

## **DETAILS**

Eleven tender submissions were received from:

Maxilight Industries (WA) Pty Ltd (alternative submission)  
Maxilight Industries (WA) Pty Ltd (conforming submission)  
Electek (alternative submission)  
Electek (conforming submission)  
Ellenby Enterprises  
Wanneroo Electric  
SMB Electrical Services  
Prompt Electrical Services  
High Speed Electrics  
Robmaz Electrical Services  
Bertrams Electrical Service

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 Robmaz Electrical Services and Bertrams Electrical Service did not fully address all the essential selection criteria. Accordingly it is recommended that the tenders submitted by Robmaz Electrical Services and Bertrams Electrical Services be deemed non-conforming.

The second part of the evaluation process involved an independent assessment of the qualitative criteria by each member of the Evaluation Team. Each member of the Evaluation Team assessed the Tender submissions individually against the selection criteria using the weightings determined during the tender planning phase. The Evaluation Team convened to submit and discuss their assessments, leading to a ranking of each submission in an order of merit.

Under the City's Contract Management Framework, the remaining nine tenders were assessed by the Evaluation Team using a weighted multi-criterion assessment system and AS 4120-1994 'code of tendering'.



The Selection Criteria for this tender was as follows:

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

- Relevant Industry Experience, including details of similar work undertaken. Tenderers shall submit a Detailed Schedule of Previous Experience on similar and/or relevant projects
- Past Record of Performance and Achievement
- 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 perform the work required:**

- Company Structure
- Qualifications, Skills and Experience of Key Personnel
- Equipment and Staff Resources available
- Percentage of Operational Capacity represented by this work
- Compliance with tender requirements, insurances, licenses, site inspections etc
- Quality Systems
- Occupational Health and Safety Management System and Track Record
- Time required to Deliver/Complete contract
- Management Methodology
- Post Contract Services offered

**Methodology:**

- Detail the procedures and process they intend to use to achieve the requirements of the Specification
- Provide an outline of the provisional works program

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

- The Potential Social and Economic Effect of the tender on the City of Joondalup community
- The Potential Social and Economic Effect of the tender on the West Australian community
- Infrastructure/Office/Staff/Suppliers/Sub-Contractors within the City of Joondalup
- Value Added items offered by tenderer
- Sustainability/Efficiency/Environmental

**Tendered Price/s:**

- The price to supply the specified goods or services, licensing, training
- Schedule of rates for additional goods or services, variations and disbursements
- Discounts, settlement terms

Maxilight Industries (WA) Pty Ltd and Electek both submitted a conforming and alternative tender, therefore the City is able to consider the alternative submissions.

The submissions received from Maxilight Industries (WA) Pty Ltd and Electek were assessed to determine the differences between their nominated conforming and alternative submissions.

Maxilight's alternative submission proposes to reuse some of the existing components, whereas Electek's submission proposes an alternative supplier for the components nominated in the tender specification.

As the tender documentation allows the substitution of nominated components, subject to the alternative being of equal or better than the nominated components, Electek's alternative tender was deemed to be a fully conforming tender by the Evaluation Team.

Although the alternative submission offered by Maxilight reusing some of the existing components was technically sound, the assessment panel agreed that the cost difference between the alternative offered by Electek with the use of new components offered better value for money.

**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 expected consideration for this contract is expected to exceed the Chief Executive Officer's Delegated Authority in relation to the acceptance of tenders to \$100,000.

**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; of the tenders received, Prompt Electrical Services, SMB Electrical Services and Wanneroo Electric are located in Joondalup.

**Financial Implications:**

|                       |   |
|-----------------------|---|
| <b>Account No:</b>    | Project 4176 and Project 4226   |
| <b>Budget Item:</b>   | Joondalup Administration Centre Building - Lighting Upgrade/Energy Improvements |
| <b>Budget Amount:</b> | \$130,000   |

**COMMENT**

All tenders that were not rejected were assessed in accordance with *Regulation 18(4)* of the *Local Government (Functions & General) 1996*. In reviewing the nine conforming tenders, the assessment panel identified the alternative tender submitted by Electek as the highest rated tenderer and has recommended that the tender be chosen as the successful tenderer.

**ATTACHMENTS**

Nil

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION****That the Joint Commissioners:**

- 1 DEEM the tenders submitted by Bertrams Electrical Services and Robmaz Electrical Services as non-conforming in accordance with Regulation 18(2) of the Local Government (Functions and General) Regulations 1996 because they each failed to fully address the essential selection criteria;**
- 2 CHOOSE Electek as the successful tenderer for the Joondalup Administration Centre Building Lighting Upgrade (Tender No. 003-04/05) for a lump sum price of one hundred and twenty seven thousand five hundred and ten dollars (\$127,510) excluding GST;**
- 3 AUTHORISE the Acting Chief Executive Officer (A/CEO), on behalf of the City, to enter into a contract with Electek in accordance with the tender submitted by Electek, subject to any minor variations that may be agreed between the A/CEO and Electek.**

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**CJ233 - 10/04 TENDER NUMBER 005-04/05 SUPPLY OF ALTERNATIVE POWER TO CITY OF JOONDALUP FACILITIES – [79563]**

**WARD - All**

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CJ041005\_BRF.DOC:ITEM 10

**PURPOSE**

To seek Council approval to reject the tenders submitted for the Supply of Alternative Power to City of Joondalup Facilities Tender Number 005-04/05.

**EXECUTIVE SUMMARY**

Tenders were advertised on 11 August 2004 through statewide public tender for the Supply of Alternative Power to City of Joondalup Facilities. Tenders closed on 26 August 2004. Two submissions were received from: Western Power and Landfill Gas & Power Pty Ltd.

In addition, the tender will provide the City with significant progress towards the Cities for Climate Protection (CCP) program through substantial greenhouse gas abatement. The proposal will assist the City in reaching Milestone 4 of the CCP program (1% reduction in total emissions) with a potential abatement of approximately 20% representing the goal of the program.

It is recommended that the Joint Commissioners:

- 1 *DEEM the tenders submitted by Western Power and Landfill Gas & Power Pty Ltd as non-conforming in accordance with Regulation 18(2) of the Local Government (Functions and General) Regulations 1996 because they each failed to fully address the essential selection criteria;*
- 2 *In accordance with Part 4, Clause 11(2) of the Local Government (Functions and General) Regulations 1996, AUTHORISE the Acting Chief Executive Officer to negotiate with both Western Power and Landfill Gas & Power Pty Ltd for the purposes of procuring alternative power, noting that all negotiated outcomes are subject to the Joint Commissioners' approval.*

**BACKGROUND**

The Mindarie Regional Council (MRC), in conjunction with Landfill Gas and Power Pty Ltd (LGP) has recently opened its landfill gas recovery and power generation facility at Tamala Park.

The MRC has capped 15 000 square metres of the now filled first stage and has contracted LGP to install reticulation and a power plant to generate landfill gas power.

The contract arrangements are for the MRC to receive a 3% royalty of the gas produced and 50% of the renewable energy credits. As a one sixth equity holder in the MRC, the City

stands to benefit from these arrangements in the form of the dividend paid to the member councils in future years.

Income projections are estimated to be approximately \$1.4M between 2002 and 2011. The City of Joondalup will benefit from the initiative from the equity distribution of the surplus from the business.

The proposal will assist the City in reaching Milestone 4 for Cities for Climate Protection Program (CCP). The reduction goal of the program is a 20% abatement of Council's greenhouse gas emissions by 2010. The reduction goal of 20% is likely to be achieved through implementation of this project representing clear environmental benefits and significant opportunities for Council to promote environmental leadership.

After an investigation into the initiative to secure this type of power for the City's facilities it was decided to run a tender for the proposal, which was advertised on 11 August 2004.

## **DETAILS**

Two submissions were received from Western Power and Landfill Gas & Power Pty Ltd in response to the City's tender documentation and specification prepared by Lincoln Scott.

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.

Both tenderers failed to complete the Tender Form which is an essential requirement of the Tender. Additionally both qualified their tenders by advising that they would not agree to sign the standard City of Joondalup contract but would require the City to sign their contracts. Landfill Gas & Power Pty Ltd also failed to complete most of the tender requirements and address the selection criteria. Accordingly it is recommended that the tenders submitted by Western Power and Landfill Gas & Power Pty Ltd be deemed non-conforming.

In accordance with *Part 4 Clause 11 (2) of the Local Government (F&G) Regulations 1996*

*'Tenders do not have to be publicly invited according to the requirements of this Part if -*

*'within the last 6 months-*

- (i) the local government has, according to the requirements of this Part, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specification'.*

In accordance with the preceding clause the City is at liberty to negotiate with a selected supplier for the Supply of Alternative Power to City of Joondalup Facilities. The formal approval to proceed with any purchase of Alternative Power, resulting from such negotiations, will be the subject of a future report to Council.

**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 expected consideration for this contract is expected to exceed the Chief Executive Officer's Delegated Authority in relation to the acceptance of tenders to \$100,000.

**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; of the tenders received, none of the Tenderers were located in Joondalup.

**Sustainability Implications:**

The proposal will assist the City in reaching Milestone 4 for Cities for Climate Protection Program (CCP). The reduction goal of the program is a 20% abatement of Council's greenhouse gas emissions by 2010. The reduction goal of 20% is likely to be achieved through implementation of this project representing clear environmental benefits and significant opportunities for Council to promote environmental leadership.

**Financial Implications:**

The Executive Management Team decided to run the tender on the basis of the preliminary figures which showed the proposal would be close to being cost neutral. Any future negotiations with tenderers or suppliers will be on a similar basis with a view to achieve the targets for the Cities for Climate Protection program.

**COMMENT**

In accordance with *Part 4 Clause 11 (2) of the Local Government (F&G) Regulations 1996* 'Tenders do not have to be publicly invited according to the requirements of this Part if—

*'within the last 6 months-*

- (i) the local government has, according to the requirements of this Part, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specification'.*

As no tender was submitted that met the tender specification the City is at liberty to negotiate with Western Power and Landfill Gas & Power Pty Ltd for the Supply of Alternative Power to City of Joondalup Facilities. An opportunity exists to negotiate mutually acceptable terms and conditions with both suppliers for securing alternative power for the City.

The formal approval to proceed with any purchase of Alternative Power, resulting from such negotiations, will be the subject of a future report to Council.

**ATTACHMENTS**

Nil

## **VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

**That the Joint Commissioners:**

- 1 DEEM the tenders submitted by Western Power and Landfill Gas & Power Pty Ltd as non-conforming in accordance with Regulation 18(2) of the Local Government (Functions and General) Regulations 1996 because they each failed to fully address the essential selection criteria;**
  
- 2 In accordance with Part 4, Clause 11(2) of the Local Government (Functions and General) Regulations 1996, AUTHORISE the Acting Chief Executive Officer to negotiate with both Western Power and Landfill Gas & Power Pty Ltd for the purposes of procuring alternative power, noting that all negotiated outcomes are subject to the Joint Commissioners' approval.**

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**CJ234 - 10/04      PROPOSED CURRAMBINE VILLAGE STRUCTURE PLAN (CITY OF JOONDALUP STRUCTURE PLAN NO. 8) ON PORTIONS OF LOTS 9018 AND 9019 BURNS BEACH ROAD, CURRAMBINE – [60560]**

**WARD -**    North Coastal

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CJ041005\_BRF.DOC:ITEM 11

**PURPOSE**

This report is for the Joint Commissioners to consider the proposed Currambine Village Structure Plan (City of Joondalup Structure Plan No. 8) for initiation and adoption for the purpose of public advertising (see Attachment 9).

**EXECUTIVE SUMMARY**

The proposed Currambine Village Structure Plan covers an area of 5.2 hectares and is located within Lots 9018 and 9019 Burns Beach Road, Currambine bounded by Burns Beach Road, Connolly Drive, Currambine Boulevard and Mistral Meander (see Attachment 1).

The subject land is zoned “Urban” under the Metropolitan Region Scheme (MRS) and “Residential” under the City’s District Planning Scheme No. 2 (DPS2) with an R80 density coding. The site is surround by existing predominantly single dwellings to the south, west and north. The Currambine train station is located 500 metres to the east of the site. A service station located on the corner of Burns Beach Road and Sunlander Drive abuts the north eastern boundary of the site (see Attachment 2).

The Structure Plan proposes residential land use, public open space (POS) and a possible future child care site (see Attachment 3 – Land Use Classification Plan). The residential land use comprises two precincts, Precinct A (survey strata lots) and Precinct B (green title lots), providing a total of 136 residential lots. The proposed Structure Plan provides the development standards of the subject land for residential purposes where these requirements differ from that required by the Acceptable Development provisions of the Residential Design Codes (R Codes).

Should the draft Structure Plan be considered satisfactory, the proposal is required to be advertised for public comment prior to further consideration by the Joint Commissioners.

*It is recommended that the Joint Commissioners pursuant to clause 9.4 of the City of Joondalup District Planning Scheme No 2, ADOPT the Currambine Village Structure Plan (City of Joondalup Structure Plan No. 8) as per Attachment 9 to this Report for the purpose of public advertising and make it available for public comment for 28 days.*



## BACKGROUND

|                         |  |
|-------------------------|--|
| <b>Suburb/Location:</b> | Portion of Lots 9018 and 9019 Burns Beach Road, Currambine.                            |
| <b>Applicant:</b>       | Taylor Burrell Barnett   |
| <b>Owner:</b>           | Peet and Company   |
| <b>Zoning:</b>          | <b>DPS:</b> Residential R80  |
|                         | <b>MRS:</b> Urban  |
| <b>Strategic Plan:</b>  | Strategy 3.3.1 – Provide residential living choices to meet changing demographic needs |

Lots 9018 and 9019 Burns Beach Road, Currambine are bounded by Burns Beach Road, Connolly Drive, Currambine Boulevard and Mistral Meander (see Attachment 1). The Structure Plan area covers most of Lots 9018 and 9019, excluding the public open space (POS) to the north adjacent to Burns Beach Road and the land bounded by proposed Road B and Road C (see Attachment 4 – Indicative Illustrative Plan), Sunlander Drive, and Mistral Meander and identified for “Future Development”. The site is flat with no vegetation and the total area covered by the proposed Structure Plan is 5.2 hectares. The “Future Development” site has been excluded from the Structure Plan area because the landowner would like the option to sell this portion of land as a separate development site in the future.

The subject site has two subdivision approvals issued by the Western Australian Planning Commissions (WAPC). The first is for the creation of a “super lot” (WAPC Ref:117784) and approved by the WAPC on 18 June 2002 (see Attachment 5). The other is for the subdivision of 100 residential lots, which includes the majority of the subject site and a small portion of the “Future Development” lot (WAPC Ref: 114880) approved by the WAPC on 4 July 2002 (see Attachment 6).

These two subdivision approvals for the subject site have not been pursued because the landowner requested a redesign for the subject site to attain a higher lot yield. Subsequently, on behalf of the landowner, Taylor Burrell Barnett town planning consultants prepared the proposed Currambine Village Structure Plan based on a 136 lot yield.

## DETAILS

The proposed Structure Plan provides the development requirements of the subject land for residential purposes where these requirements differ from that required under the Acceptable Development provisions of the R Codes. It is proposed to divide the area into two precincts and a POS lot. The two precincts are: Precinct A (survey strata title lots) and Precinct B (green title lots). Both precincts are intended to accommodate R60 medium density residential development, which is within the allowable density (Maximum R80) of the site.

The proposed Structure Plan consists of two parts, Part 1 being the statutory planning section setting out the objectives and criteria that determine the overall form of development on the proposed lots. These proposed development criteria (refer Section 6.2 of Attachment 9) relate to provisions for Precinct A and Precinct B in terms of residential design, building setbacks, bulk and height, roof pitch, fencing, and open space requirements.

The intention of the proposed provisions for the two residential precincts is to encourage two storey high, single residential housing forms with a high streetscape amenity (see Attachment 4 – Indicative Illustrative Plan). The provisions also encourage residential development to provide passive surveillance of the POS and the surrounding streetscape, and promote a pedestrian friendly environment throughout the Structure Plan area.

Dwellings within the Structure Plan area are proposed to be developed in accordance with the provisions of Acceptable Development provisions of the Codes unless otherwise provided for in the Structure Plan. This facilitates the approval process by enabling applications to be dealt with via an application for a Building Licence rather than requiring both development and building licence approval.

Part 2 of the Structure Plan is the explanatory report, which provides an explanation of the objective, purpose and intentions of the proposed Structure Plan. It also includes background information, the processes proposed for implementation and administration of the Structure Plan.

**Statutory Provision:**

Clause 9.1 of DPS2 states that the Council may require the preparation of a Structure Plan as a prerequisite to Council's support for a proposal to rezone or classify land in the District.

**Consultation:**

Structure Plan proposals are required to be advertised under clause 9.5 of DPS2 in accordance with the provisions of clause 6.7 prior to further consideration by Council. Advertising for a period of twenty eight (28) days is recommended with advertising consisting of notification of all adjoining landowners, a sign being erected on the site and a notice being placed in the Joondalup Community newspaper. All of which will be at the applicant's expense.

**Strategic Implications:**

The proposed Structure Plan would facilitate development of a variety of housing forms in line with the objectives of the City's Strategy 3.3.1 of the *Strategic Plan 2003-2008*: providing residential living choices to meet changing demographic needs.

**Sustainability Implications:**

The proposed Structure Plan provides for small lot subdivision of medium density (R60) residential development, which is in line with the objectives of the WAPC's DC Policy 1.6 'Planning to Enhance Public Transport Use'. DC Policy 1.6 emphasises the integration of land use with public transport infrastructure. Higher residential density near public transport facilities has the potential to reduce car dependence and hence promotes environmental sustainability. Furthermore, higher density development near the train station would also have the potential in increasing patronage of the rail system, which improves the economic efficiency of the rail system and hence helps to ensure economic sustainability. Finally, the small lot layout, the provision of common property within the survey strata lots, and the design of the linear POS located in the centre of the propose Structure Plan area may help to enhance social interaction and animation of the area, promoting social sustainability.

**COMMENT**

The proposed Structure Plan is generally in line with the City's DPS2 and the WAPC's DC Policy 1.6. The main issues raised are addressed below.

### Density Coding

The site has a maximum density coding of R80; however, the proposed density is R60, which is a medium residential density in the hierarchy of codes available. The indicative Illustrative Plan (see Attachment 4) shows that the R60 density can accommodate 136 residential lots and these lots range in size from 177m<sup>2</sup> to 344m<sup>2</sup>, with an average lot size of 226m<sup>2</sup>. While this density is able to achieve the objectives of WAPC Policy DC 1.6, it will still ensure single housing built forms will prevail and as such, is unlikely to cause any significant impact on the surrounding existing single residential built form. This proposed medium density also will function as a 'bridge' between the existing low-density housing in the area and the proposed high-density (R80) development (DA04/0495) on Lot 2259 Sunlander Drive (see Attachment 1) which the City is currently assessing. Overall, the proposed density of the Structure Plan is considered appropriate in terms of providing a variety of housing forms to achieve increased residential living choices.

### Dwelling Height and Form

Two storey single dwellings will be encouraged based on the proposed maximum wall heights and roof ridge heights (refer Section 6.2.1 v of Attachment 9). The indicative elevation provides some visual understanding of what the built form is expected to look like. (see Attachment 7 – Indicative Elevation).

### Parking and Access

On-street visitor parking and parking associated with the central linear POS will be provided at the eastern and western end of the park, generally in accordance with the car parking layout depicted on Plan 3 – Indicative Illustrative Plan (see Attachment 4). This detail will be further consolidated at the future subdivision consideration and approval stage.

### Public Open Space

The proposed linear POS is basically located central to the centre of the proposed Structure Plan area, where it offers good accessibility for all future residents. The POS runs east to west, providing a pedestrian link to the Currambine train station. Two-storey residential development overlooks the open space and creates an active edge to the parkland.

The City intends to request a footpath or dual-use path being provided along the north and south sides of the POS at the future subdivision stage to enhance pedestrian connectivity according to the City's Policy 3.2.6 'Subdivision and Development adjoining Areas of Public Space'.

### Child Care Centre Location

Attachment 4 – Land Use Classification Plan indicates the intention for a child care centre to be located near the corner of Connolly Drive and Currambine Boulevard. A child care centre is a "D" use within "Residential" zone under the City's DPS2 and therefore could be approved by way of the development approval process with the exercise of discretion. The proposed Structure Plan seeks to include a childcare centre as an acceptable use to provide certainty (refer Section 6.2.1 x of Attachment 9).

## Road Widening

Proposed road reserve widening of Burns Beach Road extends an average of 6 metres into the proposed Structure Plan area (see Attachment 8 – Coding Plan). This road widening was initiated by the WAPC some time ago. Consequently, an amendment to the MRS will be required to include this portion of land required for the widening from ‘Urban’ to ‘Other Regional Road’. It is understood that this MRS amendment has not yet been initiated by the WAPC. Nevertheless, the proposed road widening would not significantly affect the proposed Structure Plan since it is essentially a concept plan that will be refined at subdivision stage in terms of final lot boundaries and sizes. However, future subdivision of the land adjacent to this section of Burns Beach Road will be affected by the proposed road widening. The portion of land required for the future proposed road widening within the structure plan area will be required to be ceded free of cost to the Crown as a condition of the WAPC subdivision approval under Section 20A of Town Planning and Development Act 1928 (as amended).

## ATTACHMENTS

|              |   |
|--------------|---|
| Attachment 1 | Site Context Plan                           |
| Attachment 2 | Location Plan                               |
| Attachment 3 | Land Use Classification                     |
| Attachment 4 | Indicative Illustrative Plan                |
| Attachment 5 | Subdivision WAPC Ref. 117784                |
| Attachment 6 | Subdivision WAPC Ref. 114880                |
| Attachment 7 | Indicative Elevation for Precinct A Housing |
| Attachment 8 | Coding Plan                                 |
| Attachment 9 | Currambine Structure Plan Document          |

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

**That the Joint Commissioners pursuant to clause 9.4 of the City of Joondalup District Planning Scheme No 2, ADOPT the draft Currambine Village Structure Plan (City of Joondalup Structure Plan No. 8) as per Attachment 9 to Report CJ234-10/04 for the purpose of public advertising and make it available for public comment for 28 days.**

*Appendix 5 refers.*

*To access this attachment on electronic document, click here: [Attach5brf051004.pdf](#)*

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**CJ235 - 10/04 MIXED USE COMMERCIAL & RESIDENTIAL  
DEVELOPMENT - LOT 508 (77) GRAND  
BOULEVARD JOONDALUP – [69469]**

**WARD - All**

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CJ041005\_BRF.DOC:ITEM 12

**PURPOSE**

To request the Joint Commissioners' determination of an application for a mixed use development in the City North precinct of the City Centre.

**EXECUTIVE SUMMARY**

An application has been received from S Soliman for the development of a building for one office/commercial unit and three residential units. Overall the proposal comprises 84.10m<sup>2</sup> of office space and 447.86m<sup>2</sup> for residential purposes. The building is three storeys in height and includes parking from the rear laneway. The density, height and urban form of the development is compatible with the overall City Centre environment.

Discretion is sought under the City's District Planning Scheme 2 (DPS2) in regard to plot ratio and the density for residential units. Given that the development will contribute to the desired character of the City Centre area and is compatible with existing developments in the area, the proposed development is supported.

**BACKGROUND**

**Suburb/Location:** Joondalup  
**Applicant:** S Soliman  
**Owner:** Minaret Investments Pty Ltd  
**Zoning:** **DPS:** Centre  
**MRS:** Urban  
**Strategic Plan:** Joondalup City Centre Development Plan and Manual

Lot 508 is currently vacant and falls within the 'City North' area of the Joondalup City Centre, where it is designated for "General City Use." The preferred uses are residential, retail, office, accommodation, residential, leisure and entertainment, cultural facilities, community facilities and medical suites.

**DETAILS**

The proposed development includes the following features:

- A mixed use development is proposed consisting of 3 residential units and 1 office or commercial unit;
- The height of the building is three storeys;
- The total number of car parking bays provided is 8, which includes one disabled parking bay;

- The upper level residential units are accessed via foyer/stairs located in a central location;
- The residential and office units address the street frontage with zero setback;
- Balconies have been provided for the residential units

### **Statutory Provision:**

The provisions of District Planning Scheme No 2 (DPS2), the Joondalup City Centre Development Plan and Manual (JCCDPM) and the R-Codes control development within this area.

### District Planning Scheme No 2

The site is zoned “Centre” under DPS2 and is subject to the Joondalup City Centre Development Plan and Manual.

When determining this application Clauses 4.2.4, 4.5, 4.8 and 6.8 of the DPS2 apply and are relevant:

*4.2.4 Subject to clause 4.2.5, the Residential Planning Code density applicable to land within the Scheme Area shall be determined by reference to the legend shown on the Residential Density Codes maps which form part of this Scheme. Unless otherwise specified on the map, the R-20 density code applies unless the Council determines that a higher code should apply.*

*4.5 Variations to Site and Development Standards and Requirements.*

*4.5.1 Except for development in respect of which the Residential Planning Codes apply and the requirements set out in Clauses 3.7.3 and 3.11.5, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.*

*4.5.2 In considering an application for planning approval under this clause, where, in the opinion of Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is subject of consideration for the variation, the Council shall:*

*(c) consult the affected parties by following one or more of the provisions for advertising uses pursuant to clause 6.7.1; and*

*(d) have regard to any expressed views prior to making its decision to grant the variation.*

*4.5.3 The power conferred by this clause may only be exercised if the Council is satisfied that:*

*(a) approval of the proposed development would be appropriate having regard to the criteria set out in Clause 6.8; and*

- (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.*

#### 4.8 *Car Parking Standards*

*4.8.1 The design of off-street parking areas including parking for disabled shall be in accordance with Australian Standards AS 2890.1 or AS 2890.2 as amended from time to time. Car parking areas shall be constructed and maintained to the satisfaction of the Council. The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in Table 2 the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.*

#### 6.8 *Matters to be considered by Council*

*6.8.1 The Council when considering an application for Planning Approval shall have due regard to the following:*

- (a) interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
- (b) any relevant submissions by the applicant;*
- (c) any Agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;*
- (d) any planning policy of the Council adopted under the provisions of clause 8.11;*
- (e) any other matter which under the provisions of the Scheme, the Council is required to have due regard;*
- (f) any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;*
- (g) any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;*
- (h) the comments or wishes of any public or municipal authority received as part of the submission process;*
- (i) the comments or wishes of any objectors to or supporters of the application;*
- (j) any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and*
- (k) any other matter which in the opinion of the Council is relevant.*

### Development Standards Table

The following table summarises the development details:

| Standard      | Required                             | Provided                        |
|---------------|--------------------------------------|---------------------------------|
| Front Setback | 0m                                   | 0m                              |
| Side Setback  | As per BCA                           | 0m                              |
| Plot Ratio    | 1.0 542m <sup>2</sup> maximum        | 1.047 (569.95m <sup>2</sup> )   |
| Height        | 3 storeys maximum                    | 3 storeys                       |
| Storerooms    | 1 per dwelling, 4m <sup>2</sup> area | 1 per dwelling, 4m <sup>2</sup> |

#### **Consultation:**

The proposed development was not advertised, as the form of development is expected under the JCCDPM.

#### **Strategic Implications:**

It is likely that this mixed use development proposal will contribute to meeting the projected demand for housing and commercial space for the increasing population of the City Centre area.

It is considered that the proposal is in line with many objectives of the City's Strategic Plan and City Development.

#### **COMMENT**

##### **Urban Design**

The proposed zero setback to Grand Boulevard will contribute to the urban walls, which is expected to contribute to the civic design goals for the City. The impact of this development on any of the adjacent residential/commercial areas is likely to be minimal. The upper floor residential balconies overlook the public streets and therefore provide surveillance of public areas. The building can be accessed internally from the car parking area at the rear to both the residential and office units.

##### **Land Use**

As the proposal provides for both residential dwellings and office space, the proposed uses comply with the general city land use for which the lot has been earmarked under the JCCDPM.

The proposal provides one (1) office or commercial tenancy. In this form the space is flexible enough, in the future, to accommodate the permitted uses under the JCCDPM including retail, entertainment and restaurant/café. The residential accommodation ranges from two (2) to four (4) bedroom units and therefore also contributes to the range of housing stock available in the City



## Residential Density

There are no specific residential density requirements in the 'general city' precinct of City North. Clause 4.2.4 of the DPS2 specifies that unless otherwise specified on the map the R-20 density applies unless Council determines that a higher code should apply. The proposal has an equivalent density of R-81. This density is consistent with other approved developments within the City Centre.

It is recommended that the Joint Commissioners determine that the proposed density at R-81 is considered to be appropriate given that the site is in a prominent location within the city, where higher densities are appropriate and encouraged.

## Plot Ratio

For "General City Use" the JCCDPM requires that the development have a maximum plot ratio of 1.0. The plot ratio for the residential component is 0.892 and for the commercial component is 0.155. The overall plot ratio for the development is 1.0478.

It is considered that the required plot ratio of 1.0 is somewhat counter-productive to the development of an appropriate style building that achieves the form expected and desirable (for example, a 3 storey building), within the City Centre. Given that the proposed development complies with all other development standards, it is not considered that the site would be over-developed if allowed at the proposed plot ratio.

The plot ratio of the office development is considered to be appropriate as it integrated with other existing developments in the area and will generally add value to the City Centre by having quality commercial space and creating employment opportunities. The commercial premises may in the future accommodate other permitted uses under the JCCDPM including office, entertainment, and/or café.

It is therefore recommended that, in accordance with Clause 4.5 of DPS2 and having regard to the criteria of Clause 6.8, the Joint Commissioners determine that the proposed plot ratio for the office space is appropriate as the built form integrates with the surrounding areas and will not have an adverse effect upon the occupiers of the development or on the locality.

## Car Parking

The JCCDPM does not specify car parking standards for this precinct. Clause 4.8 of DPS2 provides that, where no parking standards are provided, a car parking standard is to be determined. The car parking ratios below are considered to be appropriate, as the standards have been consistently applied to developments throughout the City.

It is recommended the Council exercises discretion under clause 4.8 of DPS2 and applies the following car parking ratios.

| Use                | Parking Provision                  | No of Bays Required | No of Bays Provided                                     |
|--------------------|------------------------------------|---------------------|---|
| <b>Commercial</b>  | <b>1 Bay per 30m<sup>2</sup></b>   | <b>3</b>            | <b>5</b>  |
| <b>Residential</b> | <b>1 bay per residential units</b> | <b>3</b>            | <b>3</b>  |
| <b>Total</b>       |                                    | <b>6</b>            | <b>8 bays are provided (including one disabled bay)</b> |

From the above table it is noted that the development complies with the parking requirements.

### **Setbacks**

Under the JCCDPM, a nil front setback is required, indicating that the desired outcome is the creation of strong urban spaces, with urban walls creating a strong presence to the street. The office and residential units comply with the required nil front setback. Essentially the design promotes the interaction between the office tenancies and the adjoining public streets creating animated spaces at a human scale.

### **Conclusion**

The proposed development will be a positive addition to the City Centre. It will provide accommodation and office facilities to meet the future demands of the growing City Centre. There will be the creation of urban area that is compatible with the overall City Centre environment. Therefore the residential density, plot ratio, setback and car parking standards are considered appropriate in this instance.

It is therefore recommended that the development be approved, subject to appropriate conditions.

### **ATTACHMENTS**

|              |                   |
|--------------|-------------------|
| Attachment 1 | Location Plan     |
| Attachment 2 | Development Plans |

### **VOTING REQUIREMENTS**

Simple Majority

### **RECOMMENDATION**

**That the Joint Commissioners:**

- 1 EXERCISE discretion under clauses 4.2.4, 4.5, 4.8.1 of District Planning Scheme No 2 and determines that:**
  - (a) The proposed plot ratio for the development of 1.047 in lieu of 1.0;**
  - (b) The equivalent development density of R-81 in lieu of R-20;**
  - (c) The parking standards of 1 bay per 30m<sup>2</sup> for commercial space and 1 bay per residential unit are appropriate in this instance;**
- 2 APPROVE the application dated 09 June 2004 submitted by S Soliman for a mixed use development comprising 1 office and 3 residential units on the proposed Lot 508 (77) Grand Boulevard, Joondalup subject to the following conditions:**
  - (a) The gradient between the disabled parking bay and the building entrance at rear to be a maximum of 5%;**

- (b) Provision must be made for disabled access and facilities in accordance with the Australian Standards for Design for Access and Mobility (AS 1428.1);
- (c) The parking bays, driveways and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the City prior to the development first being occupied. These works to be done as part of the building programme;
- (d) An onsite stormwater drainage system with the capacity to contain a 1:100 year storm of the a 24 hour duration is to be provided prior to the development first being occupied and thereafter maintained to the satisfaction of the City. The proposed stormwater drainage system is required to be shown on the Building Licence submission and be approved by the City prior to the commencement of construction;
- (e) Car bays marked in Red on the approved plans to be marked and permanently set aside for visitor parking;
- (f) A separate application being made to the City for approval to commence development and sign licence prior to the installation of any advertising signage;
- (g) With reference to condition (a) design levels of the proposed development must ensure a smooth transition between the development and the adjoining pavement within the road reserve to the satisfaction of the City;
- (h) Any roof mounted or freestanding plant or equipment such as air conditioning units to be located and/or screened so as not to be visible from or beyond the boundaries of the development site;
- (i) The ground floor level of the building should be at the finished pedestrian paving level;
- (j) Roof where pitched shall be greater than twenty-five degrees otherwise parapets shall be provided to flat roofs;
- (k) The glazed area of the east west facades should not exceed 50% with the exception of the ground floor;
- (l) Ground floor glazing for the commercial unit should be maximized. At least 50% of the area of the commercial unit shall be glazed and the horizontal dimension of the glazing shall comprise 75% of the frontage;
- (m) Obscured or reflective glazing shall not be used at the ground level;
- (n) Pedestrian shelter shall be provided to the commercial ground floor unit in accordance with the Joondalup City Centre Plan and Manual;

- (o) Any advertising signage shall be subject to an application for Planning Approval;**
- (p) The second storey to be extended to create a zero setback to the front boundary to the satisfaction of the City.**

*Appendix 6 refers.*

*To access this attachment on electronic document, click here: [Attach6brf051004.pdf](#)*

**CJ236 - 10/04 PROPOSED MODIFICATION TO PREVIOUS COUNCIL RESOLUTION RELATING TO AMENDMENT NO 20 TO DISTRICT PLANNING SCHEME NO 2 - PROPOSED ZONING TO URBAN DEVELOPMENT - LOT 124 COOK AVENUE, HILLARYS – [26549] [59549]**

**WARD** - Whitfords

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CJ041005\_BRF.DOC:ITEM 13

**PURPOSE**

The purpose of this report is for the Joint Commissioners to consider rewording of its previous resolution to adopt Amendment No 20 to District Planning Scheme No 2 (DPS2).

**EXECUTIVE SUMMARY**

The Joint Commissioners, at their meeting on 16 December 2003, (CJ304 - 12/03 refers) considered Amendment No 20 to DPS2 in order to initiate the amendment process and to enable the commencement of advertising of the proposal. Amendment 20 to DPS2 seeks to rezone the site from Local Reserve 'Public Use – Primary School' to 'Urban Development and to remove the R20 density code applicable to the site.

The Joint Commissioners at their meeting on 30 March 2004 (CJ064 – 03/04 refers) considered public submissions received during the advertising period and resolved to adopt Amendment 20 to DPS2. The amending document was therefore executed shortly thereafter, and sent to the Department for Planning and Infrastructure (DPI)/Western Australian Planning Commission (WAPC) on 19 April 2004, for its further consideration and subsequent approval by the Minister for Planning and Infrastructure.

The City received a letter from the WAPC on 16 September 2004, stating that the Minister for Planning and Infrastructure requires the City to modify its resolution as set out in its correspondence.

In order for the City to address the Minister's request, the Joint Commissioners are required to rescind their previous resolution and resolve to endorse the alternative resolution provided and requested by the Minister. It is recommended that this course of action be followed.

**BACKGROUND**

|                         |   |
|-------------------------|---|
| <b>Suburb/Location:</b> | Lot 124 (92) Cook Avenue, Hillarys  |
| <b>Applicant:</b>       | Environmental Management Resources  |
| <b>Owner:</b>           | Investa Developments Pty Ltd  |
| <b>Zoning: DPS:</b>     | Local Reserve: Public Use – Primary School                                  |
| <b>MRS:</b>             | Urban   |
| <b>Strategic Plan:</b>  | Strategy 3.3. – Provide living choices to meet changing demographic demands |

The Joint Commissioners considered and endorsed Amendment No 20 at their meeting on 16 December 2003 (CJ304 - 12/03 refers) in order to initiate the amendment process and to enable the commencement of advertising of the proposal.

The Joint Commissioners at their meeting on 30 March 2004 (CJ064 – 03/04 refers) considered public submissions received during the advertising period and resolved to adopt Amendment 20 to DPS2.

## **DETAILS**

Within the WAPC’s response letter received by the City on 16 September 2004, the WAPC advised that the Minister for Planning and Infrastructure dismissed the submissions opposing the amendment and has decided not to approve Amendment 20 to DPS2 until such time as the following modifications are effected;

The wording of the proposed amendment on Form 1C (page 1) being modified to the following:

- 1 Resolved that the Joint Commissioners, pursuant to Section 7 of the *Town Planning and Development Act 1928* (as amended) amend the City of Joondalup District Planning Scheme No.2 by removing the local “Public Use – Primary School” reservation and the R20 density code from Lot 124 Cook Avenue, Hillarys and zoning it “Urban Development”
- 2 The wording of the proposed amendment on page 2 being modified to the following:
  - (a) removing the local “Public Use – Primary School” reservation and the R20 density code from Lot 124 (92) Cook Avenue, Hillarys; and
  - (b) zoning Lot 124 (92) Cook Avenue “Urban Development”

With reference to points 1 and 2 above, the wording of the Joint Commissioners resolution at its meeting on 30 March 2004 was as follows;

### Point 1

“Resolved that the Joint Commissioners, in pursuance of Section 7 of the *Town Planning and Development Act, 1928* (as amended) amends the above Town Planning Scheme by unreserving Lot 124 (92) Cook Avenue, Hillarys from “Local Reserve: Public Use – Primary School” and zoning it to “Urban Development:”, and uncoding the same.”

### Point 2

The wording contained within page 2 of the amendment document was based upon the above resolution and is as follows;

- (a) unreserving Lot 124 (92) Cook Avenue, Hillarys from “Local Reserve: Public Use – Primary School” and zoning it to “Urban Development”, and
- (b) uncoding Lot 124 (92) Cook Avenue, Hillarys from R20 to uncoded

**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).

In accordance with the provisions of Regulations 21 (2) and 25 of the Town Planning Regulations 1967 (as amended), Council is required to return the executed modified amending documents to the Commission within 42 days of being notified of the Minister's decision.

**Strategic/Sustainability Implications:**

The proposed zoning and uncoding of the site would facilitate the development of a variety of housing forms in line with the City's Strategic Plan and sustainability principles.

**COMMENT**

As outlined within the details section of this report, the Minister's required modifications to the wording of the City's previous resolution and amendment document are very minor. In essence, both the City's resolution and the Minister's alternative wording seeks to achieve the same end result. The Minister has not requested that the City readvertise the proposed amendment and as such, the City is not required to do so.

**ATTACHMENTS**

|              |                             |
|--------------|-----------------------------|
| Attachment 1 | Location Plan               |
| Attachment 2 | Modified Amendment Document |
| Attachment 3 | Scheme Amendment Process    |

**VOTING REQUIREMENTS**

Absolute majority

**RECOMMENDATION**

**That the Joint Commissioners BY AN ABSOLUTE MAJORITY:**

- 1 REVOKE part one (1) of its resolution of 16 December 2003 to Report CJ304 – 12/03, as it pertains to Amendment No 20 to District Planning Scheme No. 2, viz:**

**“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 unreserving Lot 124 (92) Cook Avenue, Hillarys from “Local Reserve: Public Use – Primary School” and zoning it to “Urban Development”, and uncoding the same”**

**and replace it with the following:**

**“pursuant to Section 7 of the Town Planning and Development Act 1928 (as amended) amend the City of Joondalup District Planning Scheme No.2 by**

- removing the local ‘Public Use – Primary School’ reservation and the R20 density code from Lot 124 Cook Avenue, Hillarys and zoning it ‘Urban Development’”**
- 2 MODIFY the amendment documents accordingly as shown in Attachment 2 to Report CJ236-10/04;**
  - 3 AUTHORISE the affixation of the common seal to, and endorse the signing of the modified amendment documents**

*Appendix 7 refers.*

*To access this attachment on electronic document, click here: [Attach7brf051004.pdf](#)*



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**CJ237 - 10/04      PROPOSED CHILD CARE CENTRE LOT 200 (157)  
KINROSS DRIVE KINROSS – [71510]**

**WARD -** North Coastal

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CJ041005\_BRF.DOC:ITEM 14

**PURPOSE**

To request the Joint Commissioners' determination for a Child Care Centre development in Kinross.

**EXECUTIVE SUMMARY**

An application has been received from Masterkey Properties Pty Ltd for a new Child Care Centre at Lot 200 (157) Kinross Drive, Kinross.

The Child Care Centre will be a two-storey building and will cater for 96 children and 15 staff. It is proposed to be opened five days per week between the hours of 7.30 am and 6.00 pm from Monday to Friday. The Centre will be closed on Saturday and Sunday.

The proposed Child Care Centre will be located within a Commercial zone and is classified as a "D" use.

The proposal was advertised and 24 responses were received, 15 non-objections and 9 objections.

Given that the Child Care Centre meets the requirements of the City District Planning Scheme No 2 and the Policy 3.1.1-Child Care Centres, it is recommended that the proposed Child Care Centre be supported.

**BACKGROUND**

|                         |  |
|-------------------------|--|
| <b>Suburb/Location:</b> | Lot 200 (157) Kinross Drive, Kinross                     |
| <b>Applicant:</b>       | Masterkey Properties                                     |
| <b>Owner:</b>           | Masterkey Properties Pty Ltd and Nadine Holdings Pty Ltd |
| <b>Zoning:</b>          | <b>DPS:</b> Commercial                                   |
|                         | <b>MRS:</b> Urban  |

The applicant first submitted an application for the proposed building to be used as a Training Centre as well as a Child Care Centre. Following discussions with the City, the applicant confirmed that the building would not be used for a training centre. The proposed Child Care Centre would provide long day care for a maximum of 96 children, aged from 0-6 years. A traffic report was submitted as part of the application.

The subject lot is located on Kinross Drive, Kinross, where it is designated for "Commercial Use Class". As per the City District Planning Scheme No 2, the proposal is classified as a "D" use, meaning that the Council has to exercise its discretion as to the approval or refusal of an application for Planning Approval.

## DETAILS

The proposed development includes the following features:

- The Child Care Centre will cater for 96 children and 15 staff
- The centre will be open five days per week between the hours of 7.30 am and 6.00 pm from Monday to Friday. The Centre will be closed on Saturday and Sunday.
- The proposed development will consist of a two-storey building.
- The total number of car parking bays provided is twenty-seven (27), which includes one disabled parking bay.
- The upper floor is accessed via a lift and staircase.
- A play area of 137 m<sup>2</sup> is proposed on the upper floor.

### Statutory Provision:

Child Care Centres are subject to the provisions of District Planning Scheme No 2 (DPS 2) and Policy 3.1.1-Child Care Centres.

### District Planning Scheme No 2

A Child Care Centre is a “D” use in a Commercial area. A “D” use means:

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

Clause 6.6.2 for “D” Uses requires that the Council in exercising discretion to approve or refuse an application, shall have regard to the provisions of Clause 6.8.

The relevant Clauses are outlined in Attachment 4.

### Development Standards Table

| Standard  | Required | Provided   |
|---|----------|--|
| Front Setback                                   | 9 m      | 21.1 m   |
| Rear Setback                                    | 6 m      | 6 m  |
| Side Setback                                    | 3 m      | 8 m/5.8 m  |
| Landscaping strip adjacent to street/Site Cover | 3 m/8%   | Complies, however a detailed landscaping plan is required. |
| Number of car bays                              | 28       | 27- a shortfall of one parking space                       |

## Consultation

The proposal was advertised in writing to fourteen adjoining nearby owners and in addition an advertising sign was placed on the property for 21 days. Thirteen letters of no objections were provided via the applicant.

A total of 24 responses were received, being 15 non-objections and 9 objections which are summarized below:

| (i) Objections  | (ii) Comments   |
|---|---|
| <p>1. Property Owner, Coatbridge Circuit</p> <p>(a) The proposed structure would be completely out of character with the other buildings in the vicinity as they are all single storey dwellings. The size of the structure would be aesthetically unacceptable.</p> <p>(b) Traffic impact along Kinross Drive in relation to congestion at junction of Kinross Drive and Marmion Avenue and accidents due to high volume of traffic.</p> | <p>(a) The Child Care Centre is located within a Commercial Zone and as such the City's Policy 3.1.9 Height and Scale of Buildings within a Residential Area (Policy 3.1.9) does not apply. Policy 3.1.9 only applies in residential zones unless otherwise stated</p> <p>However if Policy 3.1.9 were used as a guide for this development, the building would comply with the policy requirements.</p> <p>(b) Assessment of the proposal indicates that there would be minimal impact on traffic movement in the area.</p>                  |
| <p>2. Property Owner, Blairgowrie Heights</p> <p>(a) Concerns about the increase in traffic volume and associated noise.</p> <p>(b) There does not seem to be a great need for another childcare centre as there are already two childcare centres in Kinross.</p> <p>(c) The vacant land in question was originally zoned as Residential.</p>  | <p>(a) same as 1(b) above.</p> <p>(b) The City does not have any policy in controlling the number of Child Care Centres in an area.</p> <p>(c) Irrespective of the previous zoning, the land is now zoned commercial. As such, a Child Care Centre is a "D" use in a Commercial area which means that a use class that is not permitted but to which the Council may grant its approval after following the procedures laid down in the City District Scheme No.2. Furthermore a Child Care Centre can be approved in a residential zone.</p> |

|  |  |
|--|--|
| <p>3. Property Owner, Kinross Drive</p> <p>(a) Objections same as 2 (a), (b) and (c) above.</p>  | <p>(a) Comments same 2 (a), (b) and (c) as above</p>   |
| <p>4. Property Owner, Kirkdale Turn</p> <p>(a) Objections same as 2 (a), (b) and (c) above.</p>  | <p>(a) Comments same 2 (a), (b) and (c) as above.</p>  |
| <p>5. Property Owner, Kinross Drive</p> <p>(a) No objection, however, concerns about vehicles accessing Marmion Avenue from Kinross Drive, which is a dangerous intersection.</p>  | <p>(a) Assessment of the proposal indicates that there would be minimal impact on traffic movement in the area</p>   |
| <p>6. Property Owner, Kinross Drive</p> <p>(a) Concerns about the car park. Gates, or at least speed humps, at entry and exit points are to be provided to stop anti-social behaviour.</p>   | <p>(a) The applicant is proposing to install gates at the driveway entrances to avoid this type of behaviour.</p>  |
| <p>7. Property Owner, Kinross Drive</p> <p>(a) Concerns about traffic impact. Questioning about the need for a two-storey building for the Child Care Centre.</p>  | <p>(a) Comments same as for 1 (a) and (b) above.</p>   |
| <p>8. Property Owner, Fisherton Court</p> <p>(a) Concerns about traffic impact.</p> <p>(b) Concerns about privacy, as the entire top floor protrudes over fence height and overlooking their backyard, outdoor entertaining area and bedroom windows.</p> <p>(c) Noise generated by the children from the rear outdoor play area during the day.</p> <p>(d) Depreciation of property value because the building has a commercial appearance, is oversize and 9 metres in height, which is almost a standard 3-storey house. Therefore it would not blend with surrounding homes.</p> | <p>(a) Comments same as 1(b) above.</p> <p>(b) There will be a wall made of brick and weatherboards with no windows on the first floor to ensure that there is no overlooking.</p> <p>(c) If approved, the applicant will be required to provide an Acoustic Consultant's Report for all activities and processes associated with the Child Care Centre prior to the building licence being issued.</p> <p>(d) Devaluation of property is not a planning issue. As explained above, the Child Care Centre would comply with the Building Height Policy if it were applied to the development and the required setbacks. The surrounding residential buildings are permitted to be two storey in height in accordance with the building height envelope policy.</p> |

|   |  |
|---|--|
| <p>(e) Concerns about the colourbond appearance of the proposed screen on the balcony facing their house and possibility of reflecting sunlight.</p> <p>(f) Trees to be planted for screening between their property and the proposed building to hide the commercial appearance of the building.</p> | <p>(e) The screen will be made of brick and weatherboards, which are unlikely to reflect sunlight.</p> <p>(f) The applicant will be requested to submit a detailed landscaping plan. This could be considered with this plan.</p>  |
| <p>9. Property Owner, Rovburgh Circle</p> <p>(a) The proposed building will be an infringement on the privacy of the homeowners abutting the proposed building. Review the plans of the building.</p> <p>(b) Devaluation of surrounding properties.</p>   | <p>(a) As explained above the applicant has provided screening, which will provide privacy to the adjoining neighbours.</p> <p>(b) This is not a planning issue. It is also noted that the site is zoned commercial and therefore non-residential development is to be expected.</p> |

### Strategic Implications

It is likely that the Child Care Centre will contribute to meeting the projected demand for child care for the increasing City of Joondalup population.

### COMMENT

#### Suitability of a Child Care Centre in a Commercial Zone (Clause 3.7)

Pursuant to the Scheme, the Commercial Zone is intended primarily to provide for a wide range of uses within the existing commercial areas, including retailing, entertainment, professional offices, business services and residential. The Child Care Centre generates traffic, which can be more acceptable in a commercial zone.

#### Discretionary Uses (Clause 6.8.2)

In accordance with clause 6.8.2 of the City of Joondalup's Scheme, the Council when considering whether or not to approve a 'D' use application (a use class that is not permitted, but to which Council may grant its approval after following procedures laid down in sub clause 6.6.2) shall have due regard to the nature of the proposed use and its relationship to the use of other land within the locality and the preservation of the amenity of the relevant locality.

The objections are mostly related to the traffic impact and the form of the proposed Child Care Centre. Kinross Drive is classified as a local distributor which carries traffic within a cell and link District Distributors at the boundary to access roads. An assessment of the proposal indicates that there will be minimal impact on traffic movement in the area. There will be no

overlooking and the building complies with the City's building envelope height policy. Therefore the objections may be considered as not valid.

### Policy 3.1.1 – Child Care Centres

Although the Policy 3.1.1 applies to centres on residential zoned lots, as land zoned residential is located adjoining and opposite the subject site, Policy 3.1.1- Child Care Centres has been used as a basis for assessment.

#### Location

The subject lot is located on Kinross Drive opposite the intersection of Coatbridge Circuit and Kinross Drive and next to Laidon Way. The land is zoned Commercial with a density code of R20. On the north-eastern side of the property, there are two properties for mixed-use development, which cater for Grouped Dwellings, followed by a local Park. The remaining surrounding properties are residential areas.

The site is situated approximately 300 metres from the junction with Marmion Avenue, approximately 600 metres from the High School along Kinross Drive and approximately 800 metres to the Kinross Primary School.

Although the centre is surrounded by residential uses, the site's Commercial zoning indicates that it is reasonable to assume that more intensive types of land uses can be expected to operate there. Policy 3.1.1-Child Care Centres also states that wherever possible, it is preferable to locate Child Care Centres adjacent to non-residential uses such as Shopping Centres, Medical Centres/Consulting Room, School Site, Parks and Community Purpose Buildings to minimise the impact such centres will have on the amenity of residential areas. The Child Care Centre is located near an existing Park and though the mixed use lots have been developed into grouped dwellings, they may in future cater for a non-residential use.

#### Existing Child Care Centre

When submitting an application, the proponents should demonstrate their awareness of the number, size and location of existing or approved centres in the locality.

The applicant has stated that there are two existing Child Care Centres in Kinross, Jelly Beans Child Care Centre and Kinross Kids Care Pty Limited. There is also the YMCA Out of School Care in Kinross, however, it caters for school age children, unlike the proposed centre. There is another Child Care Centre, which has been approved by Council but not yet developed. The approved centre will be developed in the nearby suburb, Currambine.

#### Road Hierarchy

Policy 3.1.1 states that Child Care Centres are reasonably high traffic generators and should not be located in or adjacent to access roads in residential areas where amenity, safety and aesthetics must take priority. Accordingly, these Centres should be located on local distributor roads in such a fashion that they will not conflict with traffic control devices and will not encourage the use of nearby access roads for turning movements.

Kinross Drive is considered as a distributor road. It has been assessed that Kinross Drive can cater for the traffic to be generated by the proposed Child Care Centre.

### Car Parking and Manoeuvring

The policy requires that all Child Care Centres must provide a minimum of one parking bay for each staff member and a copy of the requirements for parking for children is annexed. Therefore a minimum of 28 car-parking bays are to be provided entirely within the lot. Fifteen (15) bays are required for the staff members and thirteen (13) are required for the children to be catered for. The submitted plans include the provision of twenty-seven (27) car parking bays that are visible from the street including a disabled parking bay. There is a shortage of one parking bay, which can be easily accommodated on the lot. This additional car bay can be requested as a condition of any planning approval issued.

Therefore the proposed child care centre can accommodate the appropriate car parking requirements.

### Fencing and Retaining Walls

A 2.2 metre high fence on top of the existing wall is being proposed on the right hand side boundary. As per the City's local laws, the fence should have a maximum height of 1.8 metres. If this application is approved, a condition of approval will be that the fence is to be restricted to 1.8 metres in height.

The proposed retaining walls on the eastern and south eastern boundaries are greater than 0.5 metres. Though it is a Commercial Zone, in which case the Residential Design Codes do not apply for retaining walls, it is suggested that as a condition of approval the owner is to be requested to submit a planning application with comments from the affected neighbours for the retaining walls, to ensure that the amenity of the adjoining owners is not compromised.

An additional security fencing of 1.5 metres high is proposed to be erected in the front of the proposed building, to separate the outdoor play area from the nearby car park for safety reasons. However, if the proposal is supported, the applicant will be requested to submit elevations of the screen to ensure that it will be aesthetically acceptable.

### Upper Floor Play Area

The applicant has stated that the use of the outdoor play areas are restricted by the Centre's routines, unsuitable weather, and teaching program. The outdoor play area on the first floor will be screened and protected by a 2.3 metre high polycarbonate and brick wall.

### Landscaping

The applicant has included a 3.0 metre landscaping strip adjacent on the street frontage as part of this proposal.

The proposal complies with the requirements of DPS2 in regard to the provision of landscaping. However, a detailed landscape plan will be required to be submitted, in the event that the Child Care Centre is approved and screen landscaping is to be provided with the adjoining properties to reduce the noise impact.

It is noted that the applicant has stated that the verge area will also be landscaped to further enhance the area.

## Conclusion

It is considered that the proposed development is not expected to impact on the adjoining residential properties and will provide additional Child Care facilities for families in these areas. Therefore it is recommended that the objections not be supported and the proposed Child Care Centre be approved.

## ATTACHMENTS

|              |                        |
|--------------|------------------------|
| Attachment 1 | Parking Requirements   |
| Attachment 2 | Location/Site Plan     |
| Attachment 3 | Development Plans      |
| Attachment 4 | Scheme Text (extracts) |

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

**That the Joint Commissioners:**

- 1 APPROVE the application dated 29 January 2004 submitted by the owners, Masterkey Properties Pty Ltd for a Child Care Centre on Lot 200 (157) Kinross Drive, Kinross subject to the following conditions:**
  - (a) Street Carparking (AS2890). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the City prior to the development first being occupied. These works are to be done as part of the building programme;**
  - (b) An onsite stormwater drainage system with the capacity to contain a 1:100 year storm of a 24-hour duration is to be provided prior to the development first being occupied and thereafter maintained to the satisfaction of the City. The proposed stormwater drainage system is required to be shown on the Building Licence submission and be approved by the City prior to the commencement of construction;**
  - (c) The driveway and crossover to be designed and constructed to the satisfaction of the City before occupation of the dwellings;**
  - (d) The proposed crossovers are to be constructed in concrete to the satisfaction of the City;**
  - (e) Car bay grades are generally not to exceed 6% and disabled car bay/s are to have a maximum grade of 2.5%;**
  - (f) A planning application with neighbours' comments are to be submitted for the retaining walls over 0.5 metres before any construction works start, to the satisfaction of the City;**



- (g) The boundary fence, which is to be erected on the retaining wall on the southern boundary, is to be restricted to 1.8 metres only;**
- (h) An elevation of the proposed security fence is to be submitted and approved by the City prior to any construction works starting;**
- (i) A maximum of ninety-six (96) children are permitted to be cared for at any one time;**
- (j) A minimum of twenty-eight (28) car bays to be provided for the proposed use. An additional car-parking bay shown edged red on the site plan is to be provided to the satisfaction of the City;**
- (k) The lodging of detailed landscape plans, to the satisfaction of the City, for the development site and the adjoining road verge with the Building Licence Application. For the purpose of this condition, an Information Sheet is annexed;**
- (l) Landscaping and reticulation to be established in accordance with the approved plans prior to the development first being occupied and thereafter maintained to the satisfaction of the City;**
- (m) Screen landscaping to adjoining properties is to be provided to the satisfaction of the City;**
- (n) Applicant is to provide an Acoustic Consultant Report to the City for approval for all activities and processes associated with the Child Care Centre prior to the building licence being issued. The development cannot proceed if noise levels are not within prescribed limits;**
- (o) The operating hours of the Child Care Centre are to be between 7:30 am and 6 pm, Monday to Friday only.**

**Footnote:**

- 1 The plans submitted for a Building Licence must show the full width of the verge and any street furniture, traffic islands, statutory services, road gullies and crossovers on the opposite side of the road;**
- 2 Planning approval and sign licence are required before erection of any signage on the property.**

*Appendix 8 refers.*

*To access this attachment on electronic document, click here: [Attach8brf051004.pdf](#)*

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**CJ238 - 10/04 RESTAURANT AND TAKE-AWAY (INCREASE IN SEATING) LOT 2 (130) WEST COAST DRIVE SORRENTO – [56551]****WARD - All**

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CJ041005\_BRF.DOC:ITEM 15

**PURPOSE**

To request the Joint Commissioners' determination of an application requesting variations to the City of Joondalup parking standards.

**EXECUTIVE SUMMARY**

The application is for reconsideration of a condition for approval to increase the number of seats from 20 to 36 seats for a restaurant and take-away establishment (Voyager Kitchen) at 130 West Coast Drive, Sorrento. The application to increase the seating was approved under delegated authority on 22/07/2004. The approval was conditional upon the upgrade of 4 parking bays, to Australian Standards, at the rear of the existing development. The applicant had indicated that the owner of the building would upgrade these bays to facilitate increased seating in the restaurant.

The applicant has now indicated that to upgrade the rear parking to achieve the Australian Standards in parking gradient will cost in the region of \$80,000. Due to the high cost associated with achieving the required gradient the owner has now indicated that they are not prepared to fully upgrade the 4 parking bays to achieve the Australian Standards. The applicant has requested that the condition be reconsidered based on the following arguments:

- The applicant provided a survey of customers that suggested that 52% of customers travel to the café by means other than private vehicle.
- The applicant rarely experiences problems with parking on site.
- There is a reciprocal parking agreement with the adjoining service station.

It is considered that the condition to upgrade the parking bays to achieve the Australian Standard gradient is a fair and reasonable condition. It is therefore recommended that the Joint Commissioners refuse the request for reconsideration of condition (c), of the development application to increase the number of seats for a Restaurant and Take-away on Lot 2 (130) West Coast Drive, Sorrento

**BACKGROUND**

|                         |                        |
|-------------------------|------------------------|
| <b>Suburb/Location:</b> | Sorrento               |
| <b>Applicant:</b>       | Mr Barrie Hacker       |
| <b>Owner:</b>           | Aptus Pty Ltd          |
| <b>Zoning:</b>          | <b>DPS:</b> Commercial |
|                         | <b>MRS:</b> Urban      |

The commercial development was built in the 1960's and has a significant parking shortage for the current approved uses, based on current standards.

A change of use application for this café/restaurant was originally approved 05/09/2003. The approval was for a maximum number of 20 seats. The limited number of seats was applied based on the parking allocation of the previous tenancy. The previous tenancy and the proposed café with 20 seats had the same parking demand and therefore there was no net increased demand for parking.

The commercial development has 14 bays on site, which included the bays at the rear and 14 bays at the adjoining service station for which there is a private reciprocal parking arrangement. A condition of the change of use planning approval required the owner/applicant to upgrade the existing parking on the southern side of the building. The upgrade to the carpart on the south of the building has been completed. The approval also included a footnote that the parking bays at the rear of the site were to be upgraded within a 12 month period. The applicant claims that the intention of the footnote was such that if/when the bays were upgraded then the applicant could apply to increase the number of seats from 20 to 36 seats based on the parking requirement of one (1) parking bay per four (4) seats.

The applicant Mr Barrie Hacker applied to the City to increase the number of seats from 20 to 36 on 08/06/2004. The application was approved under delegated authority conditional upon the upgrade of the rear of the building to accommodate four (4) parking spaces.

## DETAILS

### Parking Requirement

The commercial development currently has the following parking demand:

|                             |                |
|-----------------------------|----------------|
| Café take-away:             | 6 Bays         |
| Solicitor/Settlement Agent: | 3              |
| Real Estate Office:         | 3              |
| Vacant Office:              | 1              |
| Hairdresser:                | 4              |
| Fratelli Restaurant         | 6              |
| Chinese Restaurant:         | <u>6 Bays</u>  |
| <b>TOTAL</b>                | <b>29 Bays</b> |

Being that there are 14 bays on site, there is a current parking deficit of 15 bays. The application to increase the seating at 130 West Coast Drive (Voyager Café) will increase the required parking requirement by another 4 bays, creating a parking deficit of 19 bays.

The bays at the rear of the shop are existing and have been included in the 14 bays used in the parking calculation. The parking agreement with the adjoining service station is a private agreement between the two owners of the affected lots for which the City is not a party. This deed of agreement may cease to be affective if either property was sold and does not restrict the redevelopment of either site. The BP Service station is constructed over two lots both zoned commercial.

It has been determined under delegated authority that parking variation to increase the seating of the restaurant from 20 to 36 would be appropriate if the rear parking bays were upgraded to encourage parking at the rear of the building on a permanent basis and generally contribute to the available parking bays on site. It was considered that a variation in this instance was appropriate based on the reciprocal parking agreement, that some customers may use other modes of transport to travel to the café and that the owner of the building had given an undertaking to further upgrade the parking facilities.

### **Statutory Provision:**

When determining an application, clause 4.8 of the DPS2 applies as follows:

- 4.8.1 *The design of off-street parking areas including parking for disabled shall be in accordance with Australian Standards AS 2890.1 or AS 2890.2 as amended from time to time. Car parking areas shall be constructed and maintained to the satisfaction of the Council.*
- 4.8.2 *The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in Table 2 the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.*

### **COMMENT**

The applicant conducted a survey of 570 customers over a three week period. The survey can be seen to lead the respondent, given the explanation at the beginning of survey;

*“our seating is restricted to 20 seats due to parking regulations of the Joondalup Council. We are aware that many patrons do not park on the premises when they visit us, but walk, jog, cycle or park elsewhere”.*

The survey concludes that 52% of respondents either walk or cycle to the restaurant but there is no information on where they walk from, being either home, a car park on West Coast Highway or elsewhere. Some of the respondents that nominated that they walk have addresses a considerable distance from the restaurant, which may suggest that they perhaps use a mixed form of transport, i.e. vehicle and walking. Of the 44% of patrons who drive, 252 people, 147 park either on site or at the adjoining BP Service Station and 105 people park elsewhere.

While it is appreciated that many customers will walk or cycle to the café from their home, it is also probable that many of the people surveyed will park in the Sorrento Beach car park or on the road. This potentially creates parking problems in other locations that may affect other facilities, particularly in the summer months when beach parking is at its highest demand. The City has already relaxed the parking requirements for this development having a current parking deficit of 13 bays and it is considered appropriate that the available parking on site be upgraded to Australian Standards as a general upgrade to the development.

The applicant has argued that the other two restaurants within the development are only open during the evenings and therefore does not contribute to parking demand during the day, planning approval for these uses does not restrict the hours of operation. Likewise the

approval for the restaurant take-away establishment at 130 West Coast Drive (Voyager Café) is not restricted to day time use. The applicant has indicated that the general closing time for the restaurant take-away establishment at 130 West Coast Drive (Voyager Café) is 6 pm the establishment is available for functions at request.

While it is acknowledged that the owner has partially upgraded the bays at the rear of the building, a requirement to construct the bays to Australian Standards is required to ensure that these bays do not flood and that they allow parking at a suitable grade providing easy manoeuvrability for parking.

In determining conditions of approval the City should only apply conditions that reasonably relate to the operations of the business. The upgrade of the rear parking bays were originally earmarked as a possible means of extending the seating of the restaurant and that the owner had originally indicated a willingness to undertake the required works. Considering these factors, and also taking into account that discretion has been granted in relation to a parking shortfall it is considered that the condition to upgrade the parking bays to achieve Australian Standard gradient is a fair and reasonable condition and required for the overall amenity of the development and the general area.

## ATTACHMENTS

|              |               |
|--------------|---------------|
| Attachment 1 | Location Plan |
| Attachment 2 | Photos        |

## VOTING REQUIREMENTS

Simple majority

## RECOMMENDATION

**That the Joint Commissioners REFUSE the request for reconsideration of condition (c), dated 16/08/2004, submitted by Barrie Hacker, the applicant on behalf of the owner(s), Aptus Pty Ltd for an increase to seating for a Restaurant and Take-away on Lot 2 (130 West Coast Drive, Sorrento.**

*Appendix 9 refers.*

*To access this attachment on electronic document, click here: [Attach9brf051004.pdf](#)*

**CJ239 - 10/04 HOME BUSINESS CATEGORY 2 (HEALING, CLAIRVOYANCE AND MASSAGE) LOT 110 (151) TIMBERLANE DRIVE WOODVALE – [75464]**

**WARD** - Lakeside

CJ041005\_BRF.DOC:ITEM 16

**PURPOSE**

To request the Joint Commissioners' determination of a Home Business Category two Healing, Clairvoyance and Massage.

**EXECUTIVE SUMMARY**

An application has been received for a Home Business Category two for the purposes of Healing, Clairvoyance and Massage, at Lot 110 (151) Timberlane Drive, Woodvale.

The proposal was advertised to five adjoining nearby owners. A total of 10 responses, including other neighbours to whom no advertising letters were sent, objected to the proposal. In addition to this, there was a petition opposing the proposal.

Given that the home business complies with the requirements of the District Planning Scheme No 2 and Council's Home Business Policy, it is recommended that the objections not be supported and the proposed Home Business Category two be approved, subject to an application for renewal being made by the applicant on a twelve month basis.

**BACKGROUND**

|                         |  |
|-------------------------|--|
| <b>Suburb/Location:</b> | Lot 110 (151) Timberlane Drive, Woodvale |
| <b>Applicant:</b>       | Fran Lesley Wills                        |
| <b>Owner:</b>           | FL Wills, R Roscoe, DM Holdsworth        |
| <b>Zoning:</b>          | <b>DPS:</b> Residential                  |
|                         | <b>MRS:</b> Urban                        |

The subject lot is located on the corner of Teak Court and Timberlane Drive. In May 2004, complaints were received in respect to a seminar being conducted on the subject property. There were reported to be at least twenty cars parked on the site for the seminar. The owner was advised by the City that she was not allowed to conduct a home business without City approval. In that context, she submitted a Planning Application for a Home Business Category two.

**DETAILS**

The applicant has stated that the Home Business will operate as follows:

- The home business will be operating Monday to Saturday from 9 am to 5 pm.
- There will be two customers at any one time and they will be by appointment only.

- The home business will occupy a room area of approximately 18 m<sup>2</sup>.
- Five parking bays will be provided on site.
- Only the applicant and daughter are self-employed in this business. There will be no other employees. They reside in the house.

### **Statutory Provision:**

The Home Business Category applications are subject to the provisions of District Planning Scheme No 2 and Policy 3.1.11-Home Business.

### District Planning Scheme No 2

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

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

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

The relevant Clauses are outlined in Attachment 4.

### DPS2 defines a Home Business as:

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

- does not entail the retail sale, outdoor display or hire of goods of any nature;*
- does not cause injury to or prejudicially affect the amenity of the neighbourhood;*
- does not detract from the residential appearance of the dwelling house or domestic outbuilding;*
- entails the employment of no more than 1 person not a member of the occupier's household;*
- does not occupy an area greater than 30m<sup>2</sup>. Council may permit an area greater than 30m<sup>2</sup> where it is considered that the scale of the business is limited by other factors and the increase in floorspace will not have a detrimental effect on the amenity of the surrounding areas;*
- does not have more than one advertisement sign and the sign displayed does not exceed 0.2m<sup>2</sup> in area;*
- will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in a substantial increase in the amount of vehicular traffic in the vicinity;*
- does not involve the servicing or repair for gain of motor vehicles; and*
- does not entail the presence, parking and garaging of a vehicle of more than 3.5 tonnes tare weight.*

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

The objective of Policy 3.1.11 Home Business is to establish guidelines for the exercise of Council's discretion when assessing Home Business uses. The most relevant sections of the policy that are applicable to the proposal have been outlined below.

*The aim of the policy is:*

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

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

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

- (i) *emission of noise, vibration, smell, fumes, vapour, steam, soot, ash, dust, grit, oil, waste water or waste products;*
- (ii) *hours of operation;*
- (iii) *number of customers visiting the premises;*
- (iv) *traffic likely to be generated;*
- (v) *additional parking requirements created by the proposed home business;*
- (vi) *storage of harmful or poisonous chemicals,*
- (vii) *compliance with the management plan;*
- (viii) *compliance with the requirements set out by the Town Planning Scheme provisions;*
- (ix) *public submissions and/or complaints by adjoining owners.*

*When determining an application, the Council:*

- (i) *may limit the number of hours and/or days of operation of a home business proposal where it is deemed necessary to protect the amenity of the surrounding area;*
- (ii) *elect to grant an initial term of approval of twelve (12) months. In some instances where it is considered appropriate, a longer period may be considered. The applicant is to seek renewals thereafter to affect the continuance of the home occupation;*



### Community Consultation

In considering any variations to the required standards, Council will carry out community consultation as part of the decision making process. Concerns of adjoining owners will be considered as a relevant factor in the assessment of applications for planning approval.

### **Consultation**

The proposal was advertised to five adjoining nearby owners in writing. A total of 10 responses, including other neighbours to whom no advertising letters were sent, objected. The objections are summarised below:

| Objections  | Comments   |
|---|--|
| <p>1. Property Owner, Teak Court</p> <p>(a) Traffic impact on Teak Court from the proposed business. The Home Business Policy states that no more than 2 customers are to be at the premises at any one time. Seminars were held on at least two occasions with an excess of 15 to 20 cars parked on the driveway, lawn and verge.</p> <p>(b) The Home Business Policy states that operating hours should cease after 5.00 pm on weekdays and Saturdays. It has been noted that on a number of occasions vehicles have been parked at the premises after these times.</p> <p>(c) The classification of the Home Business as Healing and Massage is misleading because the applicant has been advertising the business in the local newspaper as psychic and clairvoyance. Concerned that this type of business may attract the wrong type of people is a security concern for his children.</p> <p>(d) The applicant has enclosed the carport with a wooden panelling door, which is not considered normal because it will restrict the functionality of an existing garage to only providing housing of one vehicle.</p> | <p>(a) The applicant has stated that only two customers will visit the property at any one time, which complies with the policy. There is enough area on the property to cater for the additional two parking spaces for customers. As such it is not expected that there will be traffic impact.</p> <p>The applicant was advised that she was not permitted to conduct seminars in a residential area. She was requested to submit a planning application for the home business.</p> <p>(b) The recommended operating hours will be Monday to Saturday from 9 am to 5 pm. A maximum of two customers will visit the site at any one time and there will be a maximum of four people per day.</p> <p>(c ) The applicant has confirmed that she uses psychic skills in the healing process and does clairvoyance also.<br/>Security concern noted.</p> <p>(d) There is no restriction of the functionality of the garage, as it will continue to provide for two parking spaces.</p> |

|  |  |
|--|--|
| <p>(e) An additional driveway is being constructed along Teak Court, which can contribute to traffic hazards as Teak Court is a cul-de-sac.</p> <p>(f) The proposal is not consistent with the overall policy aiming at protecting the amenity and character of a residential area, particularly parking requirements.</p> <p>(g) The modifications to the garage and paving of the existing grassed area for a second driveway is against the home business policy, which states that the home business must not result in substantial and/or inappropriate modifications to the dwelling, particularly modifications to the external appearance of the dwelling. They are being carried out without the Council's consent.</p> <p>(h) A Management Plan is to be submitted by the applicant in relation to the proposed car parking plan and the ways to limit the number of people visiting the home at any one time.</p> | <p>(e) The City has given approval for the construction of the driveway and it is not considered to be a safety hazard.</p> <p>(f) Provided that the Home Business operates in accordance with the City's Policy, it is not expected that a Home Business will affect the amenity or character of an area.</p> <p>(g) It is not considered that the additional door to the garage and the construction of an additional driveway are major modifications to the external appearance of the dwelling. These type of modifications are common in residential areas.</p> <p>(h) A management plan is not required for Category 2 applications. Parking and customer's visits have been addressed above.</p> |
| <p>2. Property Owner, Teak Court.</p> <p>(a) Comments same as 1. (a), (b), (c) above.</p> <p>(b) The home business policy states that the applicant must use the dwelling as the principal place of residence. It is to be noted that the property had no permanent resident up to 12 June 2004.</p>   | <p>(a) Same as 1(a), (b), (c) above.</p> <p>(b) The applicant is the owner of the property and lives at this address.</p>  |
| <p>3. Property Owner, Jarrah Place.</p> <p>(a) Comments same as 1. (a), (b), (c) above.</p> <p>(b) The home business will cause devaluation of the surrounding properties. The massage title would be offensive. If the land use change is accepted then it is presumed that someone else could buy the business and the interpretation of massage can be different again.</p> <p>(c) There are vacant shops at shopping centres at both ends of Timberlane and Trappers Drive where the home business can be located.</p>   | <p>(a) same as 1(a), (b), (c)above.</p> <p>(b) If the home business is approved, regardless of change of ownership the business will be required to operate in accordance with the conditions of approval. Home businesses form part of the normal range of activities expected in residential areas.</p> <p>(c) A business can be operated at home provided it complies with the requirements of the City Policy.</p>   |

|  |   |
|--|---|
| 4. Property Owner, Teak Court(a)<br>Comments same as 1 (a), (b), (c) and 2 (b).  | (a) same as 1(a), (b), (c) and 2(b) above   |
| 5. Property Owner, Teak Court<br><br>(a) Comments same as 1 (a), (b), (c) and 2 (b).<br><br>(b) It has been noticed that cars which are assumed to belong to customers have been parked at Palm Park. Then the customers have walked down to the applicant's house and entered the premises in an inconspicuous manner.  | (a) same as 1(a), (b), (c) and 2(b) above.<br><br>(b) If the application is approved, the applicant will have to comply with the requirements of the policy in terms of parking and number of customers on site at any one time.  |
| 6. Property Owner, Teak Court<br><br>(a) Comments same as 1 (a), (b), (c) and 2 (b).   | (a) same as 1(a), (b), (c) and 2(b) above   |
| 7. Property Owner, Jarrah Place<br><br>(a) Object to the business being in a residential area.   | (a) A business can be operated at home as long as it complies with the requirements of the City Policy.   |
| 8. Property Owner, Teak Court<br><br>(a) Comments same as 1 (a), (b), (c) and 2 (b).   | (a) same as 1(a), (b), (c) and 2(b) above.  |
| 9. Property Owner Jarrah Place<br><br>(a) Comments same as 1 (a), (b), (c).  | (a) same as 1(a), (b), (c) as above   |
| 10. Property Owner, Teak Court<br><br>(a) Comments same as 1 (a), (b), (c).  | (a) same as 1(a), (b), (c) as above   |
| 11. A petition was received from 10 property owners of Jarrah Place which states the following:<br><br>(a) Lack of vision in Timberlane Drive for residents travelling from Teak Court into Timberlane Drive and local high school students wishing to cross the road; and<br><br>(b) Increased traffic in what is a quiet family street, making it particularly unsafe for children riding their bikes. | (a) The proposal is considered satisfactory if the cars are parked within the property boundary.<br><br>(b) The applicant has stated that only two customers will be visiting the property at one time and a maximum of four clients per day. Therefore it is unlikely that there will be traffic impact with only four people visiting the site per day. |

## COMMENT

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

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

There will be a maximum of four clients visiting the site per day which amounts twenty-four people in six days. It is considered that it is unlikely that there will be a traffic impact in that area as there will be a maximum of four people per day and they will be parking within the property boundaries.

### **Discretionary Uses (Clause 6.8.2)**

In accordance with clause 6.8.2 of the City of Joondalup's Scheme, the Council when considering whether or not to approve a 'D' use application (a use class that is not permitted, but to which Council may granted its approval after following procedures laid down in sub clause 6.6.2) shall have due regard to the nature of the proposed use and its relationship to the use of other land within the locality and the preservation of the amenity of the relevant locality. The nature of the Home Business is considered to be small scale and there have been other such type of businesses approved in other areas. The main concerns about this type of business is traffic, however, as explained above it is not expected that there will be an impact on the amenity of the area.

### **Compliance with Home Business Category two Definition (Clause 1.9)**

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

The Policy also states that the concerns of adjoining owners will be considered as a relevant factor in the assessment of applications for planning approval. The applicant conducted seminars on her property with approximately twenty people being on site at one time. The neighbours were very concerned about these activities and there were complaints. The applicant was advised by the City that she could not carry out seminars and she would need to submit an application for home business Category two.

The application was advertised and objections were received in respect to traffic, number of customers, hours of operation and seminars. The nature of the objections is mostly based on the previous activities of having seminars on site with many people on the subject site. However the submitted application complies with the definition of Home Business as follows:

- Only the applicant and daughter will be self-employed in the business. There will be no other employees.
- The business will occupy an area of approximately 18 m<sup>2</sup>.
- The existing driveway can cater for two cars. The applicant is proposing another car space next to the carport. The additional driveway will cater for two additional bays. Therefore in total there will be five parking bays within the property boundaries, which are sufficient for the proposed home business.

- There will be two customers at any one time.
- The operation hours will be Monday to Saturday from 9 am to 5 pm.
- Customers will be by appointment only. A maximum of four customers will be visiting the site per day, which is not expected to impact on the traffic in this area.

If operated in the form as proposed, the business will comply with the City's Home Business policy.

### **Conclusion**

Regardless of this application being approved, approval for the enclosure of the carport should be subject to the City consent. As shown above, the home business complies with the requirements of the DPS2 and Home Business Policy. Therefore it is recommended that the objections not be supported and the proposed Home Business Category two-Healing, Clairvoyance, Massage be approved, subject for renewal every twelve months. This will ensure that if the applicant does not comply with the conditions of planning approval, the approval can be revoked.

### **ATTACHMENTS**

|              |                                  |
|--------------|----------------------------------|
| Attachment 1 | Location Plan showing objections |
| Attachment 2 | Site Plan                        |
| Attachment 3 | Development Plan                 |
| Attachment 4 | Scheme Text (extracts)           |

### **VOTING REQUIREMENTS**

Simple Majority

### **RECOMMENDATION**

**That the Joint Commissioners APPROVE the application dated 21 May 2004 submitted by the owner, Fran Wills, for the approval of a Home Business Category two (Healing, Clairvoyance and Massage) on Lot 110 (151) Timberlane Drive, Woodvale, subject to the following conditions:**

- 1 The proposal complying with the definition of a Home Business Category two as defined under District Planning Scheme No 2 and the requirements of Policy 3.1.11 (refer to footnote);**
- 2 Parking of all vehicles visiting the premises in relation with the business to be on-site only;**
- 3 Only two clients are permitted to visit the business at a time;**
- 4 A maximum of four clients per day are permitted;**
- 5 The operating hours will be from Monday to Saturday from 9 am to 5 pm;**
- 6 This approval is valid for a period of 12 months from the date of approval;**

**FOOTNOTE:**

- (i) **The use of Home Business-Category two is defined within the City of Joondalup District Planning Scheme No.2 as:**

**"Home Business – Category 2" means an occupation carried on within a dwelling by a resident of the dwelling which:**

- (a) **does not entail the retail sale, outdoor display or hire of goods of any nature;**
  - (b) **does not cause injury to or prejudicially affect the amenity of the neighbourhood;**
  - (c) **does not detract from the residential appearance of the dwelling house or domestic outbuilding;**
  - (d) **entails the employment of no more than one person not a member of the occupier's household;**
  - (e) **does not occupy an area greater than 30m<sup>2</sup>; Council may permit an area greater than 30m<sup>2</sup> where it is considered that the scale of the business is limited by other factors and the increase in floor space will not have a detrimental effect on the amenity of the surrounding areas;**
  - (f) **does not have more than one advertisement sign and the sign displayed does not exceed 0.2m<sup>2</sup> metres in area;**
  - (g) **will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in a substantial increase in the amount of vehicular traffic in the vicinity;**
  - (h) **does not involve the servicing or repair for gain of motor vehicles; and**
  - (i) **does not entail the presence, parking and garaging of a vehicle of more than 3.5 tonnes tare weight;**
- (ii) **The applicant is required to reapply for renewal of the Home Business after a 12 month period should they wish to continue at the above business.**
- (iii) **A Planning Application is to be lodged with the City in respect of the enclosure of the carport.**

*Appendix 10 refers.*

*To access this attachment on electronic document, click here: [Attach10brf051004.pdf](#)*

**CJ240 - 10/04 TOWN PLANNING DELEGATION – [07032]****WARD - All**

CJ041005\_BRF.DOC:ITEM 17

**PURPOSE**

To allow the Joint Commissioners to review and adopt Town Planning delegation following consideration of the Governance Review and relevant technical advice.

**EXECUTIVE SUMMARY**

The Joint Commissioners at the meeting held 8 May 2004, resolved to adopt Town Planning delegation in accordance with the District Planning Scheme No 2 (DPS2) for a period of two months. At the 24 August 2004 meeting, the Council resolved to extend the Town Planning Delegation until 12 October 2004.

The purpose of the delegation is to facilitate the determination of development applications, the provision of advice to agencies on subdivision applications, and related procedural matters.

The delegation has been reviewed in respect with regard to the following matters:

- Recommendation No 32 of the Local Government Board Governance Review of the City of Joondalup.
- The release of the 2002 R Codes
- The provision of legal advice on the clearest method of expressing the delegation
- Input received from Commissioners

The delegation has been reworded from the existing form in order to attempt to clarify it, and to provide similar determination powers as have previously applied.

It is recommended that the Joint Commissioners adopt the Town Planning delegation as outlined in the recommendation.

**BACKGROUND**

DPS2 requires that delegation be reviewed annually, unless a greater or lesser period is specified by Council. The Council considered this matter at its meeting held 18 May 2004, at which time, the Joint Commissioners resolved to adopt Town Planning delegation in accordance with the District Planning Scheme No 2, for a period of two months. In order for delegated authority powers to continue, a new draft delegation notice has been prepared in conjunction with the City's solicitors.

The new delegation takes into account Recommendation No 32 of the Local Government Board Governance Review of the City of Joondalup.

The proposed delegations were presented at the Strategy Session held 3 August 2003. A modified proposal was then included on the Briefing Session agenda 17 August 2004, it was withdrawn however, to allow further review of the delegation proposal.

Following further discussions with the City's solicitor, the importance of legal framework has been emphasized, and the proposed delegation reflects this framework.

The Commissioners have again considered the draft report at the Strategy Session held on September 28, and further enhancements have been added with the aim of adding clarity to the delegation.

## **DETAILS**

### **Statutory Provision:**

Clause 8.6 of the District Planning Scheme No 2 permits town planning functions to be delegated.

The Clauses are:

- 8.6 *Delegation of Development Control Powers, and Powers and Duties In Relation To Other Planning Functions*
- 8.6.1 *The Council may, either generally or in a particular case or particular class of case or cases, by resolution passed by an absolute majority of Council, delegate to all or any of the persons or committees referred to in Schedule 6, any power conferred or duly imposed on the Council under this Scheme.*
- 8.6.2 *Any delegation made under sub-cause 8.6.1 shall have effect for the period of twelve (12) months following the resolution unless the Council stipulates a lesser or greater period in the resolution.*
- 8.6.3 *A delegation of authority pursuant to the provisions of this clause has effect and may be exercised according to its tenor, but is revocable at the will of the Council and does not preclude the Council from exercising the power.*
- 8.6.4 *A resolution to revoke or amend a delegation under this clause may be passed by a simple majority.*
- 8.6.5 *A committee, member or officer exercising the power delegated pursuant to the provisions of this clause shall comply with the provisions of the Scheme governing the exercise of the power of the Council, insofar as such provisions are reasonably applicable.*
- 8.6.6 *A person who is or has been a delegate of the Council is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any powers conferred, or the carrying out of any duty imposed on the Council by this Scheme.*

Large Local Governments utilise levels of delegated authority as a basic business requirement in relation to Town Planning functions. The process allows determination times to be reasonably well accepted, and also facilitates consistent decision making on rudimentary



development control matters. The process also allows the elected members to focus on strategic business direction for the Council, rather than day to day operational and statutory responsibilities.

Without such a mechanism, it would be exceptionally difficult for the Council to be properly informed to make decisions itself, regarding approximately 60 to 90 planning applications per month.

## COMMENT

### Governance Review

The town planning delegations were the subject of one recommendation (recommendation 32) of the Governance Review, being:

*The Mayor or any other elected member should not be involved in the exercise of delegated authority. In the case of planning issues at the City of Joondalup the District Planning Scheme No 2 should be amended to permit the Director Planning and Community Development to exercise the delegated authority without consultation.*

### Form of the Delegation

The form of the delegation has been redrafted in accordance with legal advice. It is not proposed to alter the extent of the delegation powers that would be granted. The intention is to outline specific delegations to respective levels and the limits to those levels of determination. This approach will provide further clarity when implementing the delegation.

The proposed delegation allows the Director Planning & Community Development and Manager Approvals, Planning & Environmental Services to implement aspects of the District Planning Scheme No 2. that relate to the determination of certain types of development applications, and to process subdivision applications.

The Coordinator Planning Approvals and Senior Planning Officers (Planning Approvals) have authority to approve development applications that are in compliance with District Planning Scheme No 2, or with minor variations to the applicable standards.

Importantly, the form of the delegation has been redrafted to acknowledge the following aims:

- 1 Provide clarity as to where types of decisions can be made. There are 2 levels of delegation proposed, resting with either:
  - (a) The Director or Manager, or
  - (b) The Coordinator and Senior Planning Officers
- 2 Clearly indicate that the delegation relates only to Development Applications and certain other limited matters.
- 3 Align the new delegation notice to give similar effect to the old notice. Note it is not intended to add to delegated powers.

The form of the delegation is as follows:

- 1 For the Senior Planning Officers (Approvals), and Coordinator Planning Approvals the following matters would be able to be determined:

(In the case of residential developments)

- (a) Applications for variation to open space and setback standards for residential developments of less than 10% of the standard.
  - (b) Applications for variation to the plot ratio standards of less than 10% above the normal permissible standard.
  - (c) Applications for setback variations to streets, where those variations would be less than 1.5 metres.
  - (d) Applications for variations to the floor area and height of walls for outbuildings where those variations are within 10% of the maximum allowable standards outbuildings.
  - (e) Applications for buildings on boundaries, where the wall heights would exceed the maximum standard by not more than 10%.
  - (f) The determination of the extent of advertising required under the R Codes or the DPS.
- 2 For the Manager Approvals Planning and Environmental Services and the Director Planning and Community Development, authority is delegated to allow:
    - (a) The determination of any application for a single house;
    - (b) The determination of any application for less than 10 grouped or multiple dwellings;
    - (c) To determine whether a proposal needs to be advertised under clause 6.6.2 of the DPS;
    - (d) The determination of a Development Application for a listed land use which complies with DPS2 standards for open space/landscaping, setbacks, or number of parking bays, to within 10% of the respective DPS standards;
    - (e) The determination of responsibilities included in cl6.3 of the DPS regarding the provision of advice to the WAPC on matters related to land under the control of the MRS;

In addition, it is proposed that the Council, on the merits of each case, will consider other matters not specified in the delegation notice. Those matters include:

- Determinations related to structure plans (part 9 of the DPS)
- The consideration of 'A' land uses (i.e. land uses that require special advertising provisions under the DPS)
- The consideration of applications comprising more than 10 grouped or multiple dwellings
- The determination of a land use class for a proposal which cannot be easily classified, or the determination of a use not listed
- The provision of cash in lieu for parking if and where considered appropriate.

#### Process for consideration

It is proposed to retain the existing weekly delegated authority sessions where the officers present reports to the delegate at the appropriate level for decisions to be taken. The report covering the technical analysis of the application, together with the officer recommendation

and the adopted resolution of the delegate, are all recorded on the relevant file for the property. The decisions are also taken in a technical officer group to assist with probity and shared understanding of the issues and reasons for decisions.

As a matter of past practice, a list of items to be considered by the Director is published on the Desk of the CEO on a weekly basis. It is proposed to formalise this process within the delegation notice.

The delegation process and notice, when combined, have the effect of negating the potential for “call-in” processes, where an elected member could potentially have a matter referred to the Council, rather than deliberated under delegated authority, for non-planning reasons. This change also provides additional certainty to applicants and the public.

It is important to note that the new delegation has been drafted in an altered format from what is currently the case. The previous delegation expressed authority to deal with applications up to a limit, whereas the new notice proposes to delegate matters subject to certain exceptions.

The new delegation also deals with the Residential Design Codes, introduced in 2002, in a more detailed form and with the benefit of practical experience with the new standards.

#### Public Comment

It is estimated that over 5 000 invitations to comment on proposals are sent out each year. Many of the invitations are sent by letter, although a small percentage of applications are distinguished by also being advertised with signage on site or newspaper advertisements, depending on the aspects of the application.

Any application to which an objection is received will be referred to the Director Planning & Community Development or the Manager Approvals & Environmental Services for determination.

Major developments are extensively advertised to the community and particularly to adjoining properties. The Residential Design Codes require that adjoining owners be consulted where a particular development may have a significant adverse impact on that adjoining property.

It is considered inappropriate that items to be dealt with under delegated authority be advertised publicly, outside of normal requirements, as potentially affected adjoining owners are defined by reference to the R Codes, or Council policy. To widen the invitation to comment to other persons can lead to an expectation that a remote interest (for whatever reason) can validly object or influence planning decisions. This potentially creates a false expectation for those invited to comment, and is not supported by contemporary planning controls.

Delegated Authority is a critical tool in the planning process for the City, particularly given the size of the City and the high level of development occurring and proposed within the City. The importance of timely decisions has been recently highlighted by the Housing Institute of Australia, as a contributing factor in the attractiveness of a local authority area for investment.

It is noted that approximately 800 planning applications are processed under delegated authority each year.

## **ATTACHMENTS**

Nil

## **VOTING REQUIREMENTS**

Absolute Majority.

## **RECOMMENDATION**

**That the Joint Commissioners BY AN ABSOLUTE MAJORITY ADOPT the revised town planning delegation in accordance with the following:**

### **1 APPOINTMENT OF DELEGATES**

**For the purpose of Schedule 6 of the City of Joondalup District Planning Scheme No 2 (“the Scheme”), the persons who occupy from time to time the following positions, and who hold or are eligible to hold a municipal town planners certificate, are appointed by the Council to supervise the town planning control functions of the Council:**

- (a) the Director Planning and Community Development;**
- (b) the Manager Approvals, Planning and Environmental Services;**
- (c) the Coordinator Planning Approvals;**
- (d) the Senior Planning Officers (Planning Approvals);**

### **2 DELEGATIONS TO DIRECTOR AND MANAGER**

**Pursuant to clause 8.6 of the Scheme, the Council delegates to the persons who are referred to in paragraphs 1(a) and 1(b) above the following powers conferred or imposed on the Council under the Scheme:**

- (a) the determination of an application for approval of one or more single houses;**
- (b) the determination of an application for approval of not more than 10 grouped dwellings or multiple dwellings;**
- (c) the determination of an application for approval of a development for the purpose of a class of use listed in Table 1 (Zoning Table) of the Scheme (other than a single house, grouped dwelling or multiple dwelling) where:**
  - (i) the development complies with the standards and requirements of the Scheme; or**
  - (ii) the setbacks, the landscaping or the number of parking bays of the development are less than the minimum requirement of the Scheme by not more than 10% of that requirement;**

- (d) the direction under clause 6.6.2 of the Scheme that clause 6.7 (Public Notice) is to apply to an application for planning approval involving a “D” use;
- (e) a recommendation to the Western Australian Planning Commission under clause 6.3 of the Scheme;

### **3 MATTERS NOT DELEGATED TO COORDINATOR PLANNING APPROVALS AND SENIOR PLANNING OFFICERS**

Pursuant to clause 8.6 of the Scheme, the Council delegates to the persons who are referred to in paragraphs 1(c) and 1(d) above the powers specified in paragraph 2 above except:

- (i) the determination of an application for approval of a single house under clause 6.1.3 (b) of the Scheme or the determination of an application for approval of a grouped dwelling or multiple dwelling under clause 6.1.1 of the Scheme where:
  - (a) the open space of the proposed development is less than the applicable minimum requirement of Table 1 of the Residential Design Codes by more than 10% of that requirement; or
  - (b) the plot ratio of the proposed development exceeds the maximum requirement of Table 1 of the Residential Design Codes by more than 10% of that requirement; or
  - (c) any of the setbacks of the proposed development are less than the minimum requirements of Table 1 or Table 2 or clause 3.2.3 A3.3 or A3.5 of the Residential Design Codes by more than 1.5 metres; or
  - (d) the site area per dwelling of the proposed development is less than the minimum requirement of Table 1 of the Residential Design Codes; or
  - (e) the requirements of clause 3.10.1 A1 (iii), (iv) or (v) of the Residential Design Codes are exceeded by more than 10% of those requirements; or
  - (f) the requirements of clause 3.3.2 A2 (ii) or (iii) of the Residential Design Codes are exceeded by more than 10% of those requirements;
- (ii) the determination of an application for planning approval under clause 6.1 of the Scheme where:
  - (a) the setbacks of the proposed development; or
  - (b) the number of on-site car parking bays to be provided; or
  - (c) the area of the development site to be developed as landscaping;

is less than the applicable minimum requirement under the Scheme by more than 10% of that requirement;

- (iii) the determination of an application for planning approval where:
  - (a) advertising and the giving of notice has occurred under clause 6.7 of the Scheme;
  - (b) an objection has been received;
- (iv) the determination of an application for approval under clause 6.1.3(b) of the Scheme or the determination of an application for approval of a grouped dwelling or multiple dwelling under clause 6.1.1 of the Scheme where:
  - (a) consultation under clause 2.5.2 of the Residential Design Codes has occurred;
  - (b) an objection has been received from a person notified under that clause;
- (v) the refusal of any application for planning approval under clause 6.1 of the Scheme and the refusal of any application for approval under clause 6.1.3(b);
- (vi) the refusal of any application for planning approval of the Scheme under clause 6.2 of the Scheme;
- (vii) the determination of an application for approval of a development for the purpose of a class of use listed in Table 1 (Zoning Table) of the Scheme (other than a single house, grouped dwelling or multiple dwelling);
- (viii) a recommendation to the Western Australian Planning Commission under clause 6.3 of the Scheme;

#### **4 PERIOD OF DELEGATION**

The delegations made in paragraphs 2 and 3 above are to have effect for a period of 1 year from and including the date of this decision;

#### **5 SUBDIVISION FUNCTIONS**

The Council specifies the following functions:

- (a) the local government's functions under section 24 of the Town Planning and Development Act 1928;
- (b) where any subdivision is approved by the Western Australian Planning Commission subject to a condition to be carried out to the satisfaction of the local government – the determination as to whether the local government is so satisfied;

**as functions to be performed by the persons who occupy, from time to time, the following positions;**

- (i) the Director Planning and Community Development;**
- (ii) the Manager Approvals, Planning and Environmental Services;**
- (iii) the Coordinator Urban Design and Policy;**
- (iv) the Senior Planning Officers (Urban Design and Policy);**

## **6 REPORTING TO COUNCIL**

**The CEO is to cause a report of the exercise of powers and functions referred to in paragraph 2, 3 and 5 above, to be prepared and presented to an ordinary meeting of the Council.**

**CJ241 - 10/04 DELEGATED AUTHORITY REPORT FOR THE MONTH OF AUGUST 2004 – [07032]****WARD - All**

CJ041005\_BRF.DOC:ITEM 18

**EXECUTIVE SUMMARY**

This report provides a resumé of the Development Applications processed by Delegated Authority during August 2004 (see attachment 1).

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

| <b>Month</b> | <b>No</b> | <b>Value (\$)</b> |
|--------------|-----------|-------------------|
| August 2004  | 54        | 3,555,707         |

The total number of DAs determined in August was 54, compared to 104 DAs determined in July 2004.

**ATTACHMENTS**

Attachment 1 August Approvals

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

**That the Joint Commissioners NOTE the determinations made under Delegated Authority in relation to the applications described in Report CJ241-10/04.**

*Appendix 11 refers.*

To access this attachment on electronic document, click here: [Attach11brf051004.pdf](#)



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**CJ242 - 10/04      SUBDIVISION REFERRALS PROCESSED 1 – 31  
AUGUST 2004 – [05961]**

**WARD** - Lakeside, Whitfords, South Coastal, South, Pinnaroo

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CJ041005\_BRF.DOC:ITEM 19

**PURPOSE**

This report is to advise the Joint Commissioners of subdivision referrals received by the City for processing in the period 1- 31 August 2004.

**EXECUTIVE SUMMARY**

Attachment 1 is a schedule of the Subdivision Referrals processed by Urban Design and Policy from 1 – 31 August 2004. Applications were dealt with in terms of the delegation of subdivision control powers by the Chief Executive Officer (DP247-10/97 and DP10-01/98).

**DETAILS**

Nine subdivision referrals were processed within the period. The average processing time taken was 16 days. The subdivision applications processed enabled the potential creation of three (3) residential lots. One application was not supported and three applications were deferred. These applications are as follows:

**Ref: SU125756 – 19 Elbury Court, Kingsley**

This application was not supported due to non-compliance with the average lot size requirement of 500m<sup>2</sup>.

**Ref: SU543-04.01 – 27 Helsall Court, Sorrento**

This application was deferred pending a development application.

**Ref: SU928-04 – 13 Tottenham Road, Joondalup**

This application was deferred pending a development application.

**SU932-04 – 25 Mason Way, Padbury**

This application was deferred pending an amended plan.

**ATTACHMENTS**

Attachment 1            Schedule of Subdivision Referrals

**VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

**That the Joint Commissioners NOTE the action taken by the subdivision control unit in relation to the applications described in Report CJ242-10/04.**

*Appendix 12 refers.*

*To access this attachment on electronic document, click here: [Attach12brf051004.pdf](#)*

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**CJ243 - 10/04 CRAIGIE LEISURE CENTRE MANAGEMENT REQUIREMENTS AND CHANGES TO THE STAFF ESTABLISHMENT – [09050]**

**WARD - Pinnaroo**

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CJ041005\_BRF.DOC:ITEM 20

**PURPOSE**

Since the demise of the RANS Management Group the City has been fully responsible for the operational management of its three leisure centres. This report seeks to recommend the incorporation of the leisure centres as part of the City's operation, with all staff included as part of the staff establishment.

**EXECUTIVE SUMMARY**

The City of Joondalup is presently pursuing two outcomes regarding the operation of its Leisure Centres:

- 1 The continued operation of the Sorrento Duncraig and Ocean Ridge Leisure Centres until a review of the centres roles can be determined by the completion of the City's Leisure Plan in 2004/2005;
- 2 A major refurbishment of the Craigie Leisure Centre.

In order to coordinate an overall position with regard to the leisure centres, a commitment for the City to manage the Craigie Leisure Centre on an in-house basis, is considered essential for the ongoing management of the Leisure Centres.

The direct employment of the Leisure Centre staff by the City of Joondalup as opposed to through an employment agency will reduce the City's staffing costs by up to \$250,000 per annum. This change will provide for the staff:

- Formalised City of Joondalup induction;
- Participation in the City's corporate training program;
- Access to staff incentives from the reward and recognition program;
- Annual performance appraisals and negotiating individual performance agreements;
- Job security

The following recommendation is therefore presented:

*That the Joint Commissioners ENDORSE that the City undertakes the in-house management of Craigie Leisure Centre and note the proposed staffing structure as detailed in Attachment 1 to this Report.*

## **BACKGROUND**

At its Special Council Meeting held on 9 July 2002, the Council resolved the following resolutions in terms of the City's operation of its Leisure Centres following the demise of the RANS Management Group;

- 1 AGREES to operate all three leisure centres (Craigie, Sorrento/Duncraig and Ocean Ridge) in-house on a short-term basis for a maximum period of six months, effective from the date that RANS vacates the premises at a mutually agreed date;
- 2 REQUESTS the Chief Executive Officer to engage the services of a Centre Manager on a short term, fixed contract for a maximum period of six months, with all other employees associated with the management and operation of the three centres being engaged through external employment agency/agencies;
- 3 AGREES that the operation of the aquatic centre component of the Craigie Leisure Centre be restricted to a maximum period of three months. During this period of time, a detailed analysis be carried out of the future viability of this component of the facility, the configuration of the pool, filtration systems and associated facilities required to ensure that the facility meets existing and proposed Western Australian health requirements for public swimming centres;
- 4 CLOSES and decommissions forthwith the outside pool area and associated Facilities, together with the indoor spa and sauna room;
- 5 AGREES to undertake a comprehensive communications strategy advising the Community in terms of Council's decision;
- 6 REQUESTS the Chief Executive Officer in accordance with the Local Government Act to prepare a tender specification and Business Plans for the ongoing management and operation of the Craigie Leisure Centre;
- 7 REQUESTS the Chief Executive Officer to prepare a detailed report on the viability of the management and operation of the Sorrento/Duncraig and Ocean Ridge leisure centres;
- 8 THAT the expenditure in respect of (1) & (2) above be charged to Account 11.40.44.458.4230.0001;
- 9 AGREES to consider the matter surrounding the prepayments received by the RANS Management Group for programmes and services at the three leisure centres as part of a further comprehensive report.

In response to recommendation number seven (7) of the Council's resolutions on 9 July 2002, the Joint Commissioners received a report on 27 April 2004, where they resolved the following:

- 1 NOTE the Management and Operations report on Sorrento Duncraig and Ocean Ridge Leisure Centres as presented by CCS Strategic Management forming Attachment 1 to Report CJ093-04/04;

- 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.

At its meeting of 26 November 2002, Council resolved the following with regard to the redevelopment of the Craigie Leisure Centre.

- 1 NOTES the receipt of the Craigie Leisure Centre Needs Assessment Report as presented by a Balanced View Leisure Consultancy;
- 2 ENDORSES the City calling for tenders from suitable qualified consultants for the concept and detailed design of the redevelopment of the Craigie Leisure Centre;
- 3 NOTES that a recommendation will be presented to the Council meeting on 18 February 2003 for the appointment of the design consultant;
- 4 NOTES that the major findings of the Needs Assessment are potential elements to be considered within any future development at the Craigie Leisure Centre;
- 5 SUPPORTS the establishment of a facility users reference group, representative of centre users, to be consulted during the concept and detailed design process;
- 6 SUPPORTS, in principle, consultation with the Marmion Squash Club and WA Squash with a view to establishing their possible requirements and determining the feasibility of these needs within a redeveloped Craigie Leisure Centre facility.

### **Review of Leisure Centre Staffing-2003**

In September 2003, a report reviewing the Leisure Centres Staffing Structure was developed. This report included the following information:

- 1 Staff structure as proposed (**Attachment 1**)  
(This structure is based upon a staff model that sees Craigie Leisure Centre as the hub of the City's Leisure Centre operation with the responsibility to manage the three facilities. This model has been discussed previously with Commissioners.)
- 2 Anticipated benefits.
- 3 Costings for various staffing structures and options based on employing staff:
  - (a) On an in-house basis
  - (b) Through an external employment agency – as per present position

### **DETAILS**

#### **Financial Implications**

There are advantages to be gained by the adoption of the proposal for the City to manage its three Leisure Centres. These advantages are in terms of service delivery and financial efficiency gains.

The Leisure Centres presently have a staffing cost \$1.6 million per annum. The financial savings from engaging the staff as part of the City's staff establishment will be in the region of \$250,000 per annum.

### **Contractual Arrangement with Employment Agency**

The situation regarding the City's arrangement with the employment agency is as follows:

The Scope of Supply under the Contract is for the supply of temporary personnel as and when requested by the Principal through its authorized representative for one or more categories in accordance with the terms and conditions of the contract.

The City specified that there was no guarantee as to the number of temporary personnel to be required under this Contract.

Under Clause 2.1 'Introduction or Placement Fees' it states that

*'It is not the intention of the Contract that temporary personnel will become permanent employees or subcontractors of the Principal.'*

In the event that temporary personnel are appointed as employees through a formal merit selection process including responding to an advertisement in the press, the Contractor is not entitled to charge an introduction or placement fee'.

### **Comment on the Proposal to Employ Staff In-House - undertaken by Horwath Perth Chartered Accountants**

In order to test the veracity of the savings that are proposed by engaging the staff on an in-house basis, as opposed to an external agency, the City sought comment from an independent consultant. Following a formal quotation process, Horwath Perth Chartered Accountants were engaged to consider the veracity of the proposal for the City engaging staff on an in-house basis. The full report from the consultants is attached (attachment 2).

The Consultants considered all of the information provided by the City with regard to the staffing of the Leisure Centres. The report indicated the following specific points.

- 1 The employment agency costs did not fully allow for leave (annual, long service and sick) for full or part time staff. The impact of this would be a further saving of \$107,000 to the City.
- 2 The allowance made for internal Human Resources costs may be inadequate by approximately \$94,000. This costing allows for some initial or start-up costs associating with advertising, pre-employment and medicals.

The net result of these two observations is a further saving of \$13,000.

The overall findings of the report were;

- 1 Validity and accuracy of assumptions made – considered reasonable
- 2 Veracity of calculations – considered correct

The report highlighted a number of risks to the City of Joondalup.

- 1 The cost of Human Resources costs – based on personnel, set up costs, staff recruitment, advertising and HR management costs.
- 2 Market availability – the means by which quotes for agency staffing options were acquired was not by formal tender process.
- 3 Industrial disputation arising from the transfer of Leisure Centre staff from the current employer to the City.

With respect to the risks identified by the consultants; the following comments are presented.

- The City has catered for the additional costs associated with the recruitment and management of an enlarged workforce, the intention to engage additional staffing in the Human Resources business unit addresses this consideration. It is also reasonable to assume that these costs will be greatest at the outset of the process. It is important to note that the City is not without these costs at the present time; it is just that they are incorporated into the fee paid to the agency;
- With regard to the relevance of the costing without undertaking a full tender process, the most up to date tender for the temporary provision of labour was considered by the Council in February 2004. The tender process did not provide the City with any sort of financial advantage that was not available when quotes were sought for the purpose of comparison;
- In issue of “industrial disputation” is adequately covered in the section of the report “Contractual Arrangements with Employment Agency”.

The City is now in a position whereby there is a need to determine a direction with regards to the Craigie Leisure Centre. A position regarding the City’s two smaller facilities Sorrento Duncraig and Ocean Ridge has been established as a result of the decision by the Council in April 2004.

In July 2002, when the RANS Management Group went into administration the City considered a number of management options. The options considered were the YMCA, Belgravia Leisure and the City of Melville. Each of these options were considered at potential management operators that the City could engage to replace the RANS Management Group. Each of the operators offered different financial and management arrangements to the City. At the conclusion of these deliberations it was considered the best option was for the City to resume management of the centres itself. It was for this reason that the City progressed and engaged the services of the present incumbent to the role of Manager Leisure Centres.

At the present time the City engages all leisure centre staff (other than the Manager) through an employment agency. As part of the preparation for the redevelopment of the refurbished facility and as part of the reporting process to seek approval for the leisure centre staff to be incorporated onto the City’s staff establishment a staffing structure has been developed (see attachment 1). The proposed staffing structure was developed with the facility mix of the planned redevelopment in mind. The staffing levels required are:

- 9 full time staff
- 14.22 (FTE) permanent part time staff
- 150 casual staff (according to seasons and programme requirements)

The report provided by Horwath Perth made comment that the staffing levels and structure was considered appropriate to the needs of the business.

## **STRATEGIC IMPLICATIONS**

There are a number of strategic considerations aligned with the recommendations proposed within this report.

### **The City of Joondalup provides social opportunities that meet the needs of the community:**

1.3.1 provide leisure and recreational activities aligned to community expectations, incorporating innovative opportunities for today's environment.

1.3.2 provide quality of life opportunities for all community members.

### **The City of Joondalup is recognised as an employer of choice**

4.5.1 develop a corporate workforce management plan

4.5.3 implement a structured employee training and development plan

4.5.4 implement best practice people management policies and tools that assist in the achievement of the City's workforce objectives.

## **COMMENT**

The City is in a position with regard to the operation of its three leisure centres and there is a need to make a number of key decisions. These are;

- To operate the Craigie Leisure Centre on an in-house basis as a facility to be provided to the community;
- To establish a staffing structure that enables the three centres to operate in a manner which allows them to meet their objectives of providing quality facilities and services to the community;
- To determine the means by which the leisure centre staff might be engaged by the City.

## **Implementation of Council Decisions**

There are two resolutions from the Council meeting 9 July 2002, which have not been implemented in total accord with their perceived intent. It is important that these situations are recognised and subsequently discussed.

- 1 "REQUESTS the Chief Executive Officer to engage the services of a Centre Manager on a short term, fixed contract for a maximum period of six months, with all other employees associated with the management and operation of the three centres being engaged through external employment agency (is);



- 2 REQUESTS the Chief Executive Officer in accordance with the Local Government Act to prepare a tender specification and Business Plans for the ongoing management and operation of the Craigie Leisure Centre.”

The appointment of the Leisure Centre Manager was agreed to for a period greater than the six months. Whilst there is no Council decision to support either of these two variations to the Councils direction, information available does indicate that:

- 1 The Council had considered the options of immediately available operators to take over the contract. It was determined by the administration at the time that none of the operators available were either suitable or had the capacity to immediately enter the Western Australian market.
- 2 There was recognition of the need to undertake refurbishment works at the facility prior to being able to subject the operation to the management of another management contractor. The time needed to determine the nature of any refurbishment works, undertake necessary preparatory work and complete any construction, would take considerably longer than the six months suggested in the Council resolution.

The approval for the appointment of the Manager under this arrangement was formally signed off by the then Chief Executive Officer.

The option of engaging the RANS management group proved to be extremely unpopular with the community, provided little to the City by way of financial advantage and the quality of the services was inferior to those provided by the City.

The option of directly employing the staff at the leisure centre has been shown to be financially advantageous. For the following reasons it is also proposed as being the best way forward;

- Formalised City of Joondalup induction for all leisure centre staff;
- Participation in the City’s corporate training program;
- Incentives from the reward and recognition program; and
- Performance appraisals and individual performance agreements.
- Staffing clearly aligned to the strategic direction of the City of Joondalup

Given the Council’s decision in April 2004, to consider the ongoing operation of the two smaller facilities, Sorrento Duncraig and Ocean Ridge Leisure Centres following the completion of the Leisure Plan, it will be important that the manner in which some staff are engaged is taken into account in view of the fact that the City’s operation may change in the future.

The report provided by the consultants made comment that the staffing levels and structure was considered appropriate to the needs of the business.

## **ATTACHMENTS**

- |              |                           |
|--------------|---------------------------|
| Attachment 1 | Staffing structure        |
| Attachment 2 | Report from Horwath Perth |

## VOTING REQUIREMENTS

Simple majority

## RECOMMENDATION

**That the Joint Commissioners ENDORSE that the City undertakes the in-house management of Craigie Leisure Centre and NOTE the proposed staffing structure as detailed in Attachment 1 to Report CJ243-10/04.**

*Appendix 13 refers.*

*To access this attachment on electronic document, click here: [Attach13brf051004.pdf](#)*

**CJ244 - 10/04      LUISINI WINERY REDEVELOPMENT LOTS 41 – 45  
& 82 LAKEWAY DRIVE KINGSLEY – [03186]**

**WARD -**    All

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CJ041005\_BRF.DOC:ITEM 21

**PURPOSE**

For the Joint Commissioners to provide a recommendation to the Western Australian Planning Commission (WAPC) regarding Luisini Winery redevelopment, Lots 41 to 45 & 82 Lakeway Drive, Kingsley.

**EXECUTIVE SUMMARY**

The area of the Luisini Winery Redevelopment proposal is comprised of Lots 41 to 45 & 82 Lakeway Drive, Kingsley. The land also forms part of the Yellagonga Regional Reserve.

The redevelopment is proposed by the National Trust and has three main components, which include:

- The restoration and renovation of the remaining winery building, to be used as a museum.
- Construction of a new building to the west of the existing building to accommodate the restaurant, kiosk, outdoor dining areas, toilets and environmental centre. This building will straddle the boundary between the subject lot and the Yellagonga reserve.
- Construction of an access road, 65 car bays and associated landscaping works (including mature olive trees and vines).

The Luisini Winery is listed on the Heritage Council's Register of Heritage Places and the proposed development would upgrade and maintain a site of cultural heritage significance. The City has had previous involvement in the project, being on the Steering Committee during the project's development stages.

The proposal was advertised for public comment and was strongly objected to by a majority surrounding landowners. This was on the basis of the bulk and scale of the development, excessive traffic, lack of sufficient car parking, noise and general loss of amenity.

The City is required to make a recommendation (rather than a decision) on the proposal to the WAPC as the site is contained within a Parks and Recreation reserve under the Metropolitan Region Scheme (MRS). In making a recommendation, the Joint Commissioners should be aware of the impact that the development will have on the surrounding residential properties and the increased vehicular traffic that it will generate. The traffic levels proposed would exceed those currently experienced, which might adversely affect the surrounding landowners depending upon the level of intensity of the use of the restaurant. It is on this basis and general amenity concerns that the Council recommends that these issues be seriously considered and resolved before the application is determined. That is, it should be recommended to the WAPC that the applicant not be supported in its current form.

## BACKGROUND

|                         |  |
|-------------------------|--|
| <b>Suburb/Location:</b> | Lots 41 to 45 Lakeway Drive Kingsley           |
| <b>Applicant:</b>       | National Trust                                 |
| <b>Owner:</b>           | Ministry for Planning                          |
| <b>Zoning:</b>          | <b>DPS:</b> Parks and Recreation Reserve (MRS) |
|                         | <b>MRS:</b> Parks and Recreation Reserve       |

## DETAILS

### Land

The land forms part of the Yellagonga Regional Reserve and abuts Lakeway Drive along its eastern side. The properties to the east of the subject site are zoned Special Residential under the City's District Planning Scheme No 2 (Scheme) and have a density coding of R5.

### Existing Development

There are several original winery buildings on the site. These buildings are in fair to poor condition. There is some damage to structural timbers as a result of termite infestation and detachment of some roof sheets and gutters.

### **Statutory Provision:**

The subject site is contained within a Parks and Recreation Reserve under the MRS. Due to this, the City is required to refer the application to the WAPC for approval and provide a recommendation to the WAPC, if the City chooses to do so.

The application was referred to the Heritage Council for comment. The Heritage Council is supportive of the proposed redevelopment and is confident that the National Trust has the ability to ensure the redevelopment is executed at a high standard.

Advice has also been received from the Department of Environment (DOE) regarding the environmental implications of the proposal.

### **Consultation:**

The proposal was advertised for a period of four weeks with signs on site, letters to affected landowners (350 owners) and advertising in the Wanneroo Times on three separate occasions. From this, forty-one submissions were received, thirty objecting and eleven of support. A petition of 105 signatures objecting to the proposal was also received. The submissions are summarised in the following table.

Submissions Summary**Summary of Objections**

| <b>Issue</b>  | <b>Officers Comment</b>  |
|---|--|
| The development will increase traffic and noise. The development may cause traffic safety issues. | <p>It is noted that the proposal will increase traffic flow by approximately 400vpd, although this figure may be up to 700vpd or as low as 300vpd, as per the traffic report prepared for the applicant.</p> <p>Noise from vehicular traffic cannot be controlled by the Environmental Protection (Noise) Regulations 1997. Therefore the City could not control any noise from increased vehicle traffic. This would be the responsibility of the Police who could only act against vehicles that did not meet relevant standards.</p> <p>The design for the crossover and entry onto Lakeway Drive is satisfactory, provided a roundabout is provided at the intersection of the site entry, Lakeway Drive and Plover Way.</p> |
| Adverse impact on the environment.  | The Department of Environment has supported the proposal subject to conditions. This would indicate that the environmental implications of the proposal are being appropriately managed.   |
| Effluent disposal.  | A number of objectors have raised concerns relating to effluent disposal. The DOE have advised the connection to main sewer or an alternative on-site effluent disposal system would be appropriate.   |
| The development will adversely affect the semi-rural nature of the area.                          | It is likely that the proposal will not maintain the semi-rural nature site in the immediate area of the development. The development proposed is considered significant in respect to what already exists on site. It is possible that the site will be used after normal business hours due to the operation of the restaurant.  |
| The development will lead to an increase in anti-social behaviour.                                | It cannot be demonstrated that the proposed uses will cause anti-social behaviour on the subject site.   |
| There is insufficient car parking for the proposal.   | Noted, it has been determined that car parking provided may not be sufficient to cope with the demand from the proposal.   |
| The development will lead to a fall in property values.   | Property values are not relevant to the planning consideration give to the proposal.   |
| Belief that the subject site would be used as an 'A' class reserve.                               | There are a number of submissions objecting to the proposal on the basis that they understood that the site would remain as parkland or parkland uses. No guarantee can be given regarding the future use of adjoining land.   |

|   |   |
|---|---|
| How is the land available for commercial development?         | The site is currently reserved for Parks and Recreation under the MRS. Development on the reserve should be in accordance with the intent of this reservation, i.e. uses that relate to parks and recreation. It could be considered that the development relates to this type of use with the exception of the proposed restaurant. The restaurant is a commercial operation and considered not to be an appropriate use where impacts on adjoining land uses cannot be effectively ameliorated. |
| The scale of the development will be too big.                 | The scale of the development, in terms of intensity, is considered to be out of character compared to the current use of the site.  |
| The development will increase litter and rubbish in the area. | There have been concerns through the submissions that litter will increase in the vicinity of the site, if the development proceeds. Whilst it is expected that the proposal, if approved, will generate rubbish it is assumed that it will be managed in a correct and environmentally sensitive manner.   |

### Summary of Non Objections

| Issue  | Officers Comment   |
|--|--|
| Proposed redevelopment is a practical use of the heritage site and positive for the area | Noted, the proposed redevelopment would utilise a currently abandoned building and conserve its cultural heritage value.   |
| We have no objection subject to access being provided via Hocking Road.                  | This submission was received as a 'no objection' provided that access was via Hocking Road. It is noted that vehicular access is via Lakeway Drive and the submission could be received as an objection. |
| The Luisini Winery must be retained with the development.                                | Retaining the Luisini Winery is integral with the development and conservation works will be undertaken as part of the project.  |

### Petition

With regards to submissions, a 105 signature petition objecting to the proposal was received on the 16 December 2003. The reasons for objecting are as follows:

- *'Any commercial development at Kingslake Estate would adversely affect the amenity of the area;*
- *Any development of the Luisini Winery should require a vigorous assessment by the Environmental Protection Authority, which has not happened;*
- *It is unacceptable for any proposed development to result in any traffic increase on Lakeway Drive, which is an access street.'*

The matters raised within the petition have been addressed within the summary of objections, with the exception of the second point. In response to this, the DOE have assessed the

proposal and have provided conditions and advice to the City and WAPC. This is detailed latter in the report.

**Policy Implications:**

There are no specific City policies that affect the proposal.

**Financial Implications:**

The National Trust has previously made a presentation to the Council before it was suspended, requesting financial support for \$500, 000 to be put towards the construction of the Environment Centre and the re-establishment of trails and vegetation.

**Strategic Implications:**

Redevelopment of the winery would upgrade a site of cultural heritage significance, which is of value to the local community and State.

**Sustainability Implications:**

In regards to sustainability implications, the proposed environmental centre may raise awareness of environmental issues.

**COMMENT**

As previously mentioned, the development involves the restoration and renovation of the remaining winery building, construction of a new building to the west of the existing building, the construction of an access road, sixty five car bays and landscaping works. A restaurant, kiosk, outdoor dining area, toilets and environmental centre museum are proposed as part of the new building works.

Car Parking and Traffic

Uloth and Associates prepared a traffic report for the proposal for the applicants. The report concluded that:

- *'The proposed development is expected to generate approximately 400 vehicles per day.*
- *Traffic flow along Lakeway Drive south of Hocking Road could therefore increase from the existing 900 vpd to 1200 vpd per day;*
- *Although both the existing and future traffic flows on Lakeway Drive exceed the suggested maximum of 800 vpd for an Access Street under Policy No. DC 2.6, the flows are well below the acceptable maximum of 3, 000 vpd for a Local Distributor with direct lot access;*
- *The recommended parking provision for the proposed redevelopment is 65 spaces;*
- *The location of the proposed access driveway is endorsed;*
- *It is recommended that the initial portion of the access driveway be paved in contrasting colour to the existing road.'*

## Traffic

Uloth & Associates estimate that the proposal will generate approximately 400 vehicle trips per day but may fluctuate between 300 and 700 trips per day.

Lakeway Drive would be classified as a Local Access road under the WAPC's Development Control Policy 2.6 (DC 2.6). Under DC 2.6, Lakeway Drive should carry no more than 800vpd as a local access road. It is estimated by Uloth and Associates that the proposed development could add approximately 200 to 300 vpd on Lakeway Drive, south of Hocking Road and 100 to 200 vehicles per day on Kingfisher Way, west of Wanneroo Road. Traffic flows at the northern end of Lakeway Drive could therefore increase to 1,200 vpd, while traffic flows on Kingfisher Way could increase to approximately 800 vpd.

This increase in traffic flow is likely to adversely impact on the properties fronting Lakeway Drive and Kingfisher Way. The Council need to consider if any increase in traffic flow is appropriate in this area where low-density residential development exists. Originally, access to the site was considered from Hocking Road but due to environmental constraints, this is no longer feasible.

Uloth and Associates have further suggested that Lakeway Drive could be classified as a Wider Access Street under the WAPC's Liveable Neighbourhoods rather than a Local Access Road under DC2.6, which can carry up to 3, 000vpd. Whilst this is acknowledged, it is still considered that the increases on both Lakeway Drive and Kingfisher Way, which serve local access functions, is excessive.

In order to minimise the impact of traffic movement, access to the site is proposed at the northern end, opposite Plover Way. Whilst this will assist in reducing impacts of increased traffic flow, there will still be increased levels of traffic on a local access road, which is undesirable.

The City's infrastructure management services have recommended that if the application is approved, a roundabout would be required at the intersection of the site entry, Lakeway Drive and Plover Way to provide safe vehicular access.

## Car Parking

An overall car parking area of sixty-five bays has been proposed on-site in a teardrop formation. It is believed that the amount of car parking provided does not meet the possible demand as described below.

Car parking calculations for the internal and exterior dining areas of the restaurant show the overall car parking provided on-site is below the required amount of bays once other uses are included. The report by Uloth and Associates calculated car parking on the basis of a 150-seat restaurant at a rate of one car bay per four seats. The Scheme requires the greater of one bay per 5m<sup>2</sup> of dining area or one per four guests. This equates to sixty-one car-parking bays.

The traffic and parking report for the development advises that car parking for the museum, environmental centre and kiosk should be provided on the basis of one bay per 30m<sup>2</sup>. Under the Scheme, the kiosk would be classified as a shop, which would require seven bays per 100m<sup>2</sup>. There is no car parking standard for the museum and environmental centre.



It is considered that a standard of seven bays per 100m<sup>2</sup> is too high for the kiosk use, as its demand will be primarily determined from other uses on the site, i.e. the kiosk will be incidental to the predominate use of the site. The fifty car parking bays for the museum, Environment Centre and kiosk is considered to be reasonable. The traffic and parking report assumes that fifty percent of trips to the museum, environmental centre and kiosk will be associated with the restaurant.

It is considered that the 111 car parking bays (sixty-one for the Restaurant & fifty for the museum, environmental centre and kiosk) are required to meet the peak demand for the proposal. Clearly, from the plans submitted, sixty-five bays have been provided and a further expansion of the car park would be required to meet the demand. An expansion of the car park is considered undesirable as it would further encroach into environmentally sensitive areas and would create an undesirable visual element. It is not considered attractive to support a variation to car parking requirements where under provision may adversely affect adjoining properties.

### Environmental Implications

The Department of Environment (DOE) has provided comment on the proposal. The DOE have no objections to the proposal subject to the following:

- *The applicant shall establish a buffer on Lot 82 between the proposed development and adjacent Conservation Category Wetland to the satisfaction of the DOE;*
- *The buffer shall be re-vegetated with indigenous species and all re-vegetation is to be carried out in accordance with the Yellagonga Regional Park Weed Control and Revegetation Plan;*
- *The applicant shall prepare a nutrient and irrigation management plan to minimise the export of nutrients to the surrounding environment, including monitoring programs to establish the level of nutrient being exported (pre and post development) and contingency plans to deal with the most likely scenarios to the satisfaction of the DOE;*
- *Stormwater is to be contained on site or connected to the local drainage system, after passing through an appropriate water quality improvement-treating device to the satisfaction of the DOE';*
- *All ablution facilities are to be connected to the Water Corporation metropolitan sewerage system or to an approved alternative on site effluent disposal system.*

The DOE also provided advice relating to a number of issues. The DOE advised that they do not support grassed terrace areas around the southern section of the museum, as lawns and gardens are a source of nutrient export. Furthermore, the area has been recognised as posing a high acid sulphate soils risk and that the DOE recommended proper management of the soils in accordance with their guidelines.

The advice and conditions from the DOE are supported, with the exception of the option to provide an alternative effluent disposal system rather than connecting to sewer. The proposal is located within an environmentally sensitive area in close proximity to a wetland. As such, exportation of nitrates and phosphorus from effluent should be totally removed and the only way to totally achieve this is via mains sewer.

The City's Environmental Health Services have also provided conditions should the application be approved, which deal with local environmental concerns.

#### Light Spill and Noise Implications

If approved, the application should be conditioned to comply with the Environmental (Noise) Protection Regulations 1997. Light spill from the development could also be controlled by way of planning conditions. It is important to note however, that the City is not the determining authority in this case and as such would only be providing a recommendation to the WAPC.

#### Building Design

The overall building design will enhance and conserve the existing winery building and surrounds. The architectural design of the building is considered appropriate on the proviso that the impacts of the development are contained within the site.

The redevelopment will permit the use of the site generally for community purposes and will promote greater understanding of the heritage values of the site. The re-development will be of value to the community and will provide a centre for learning and may also promote greater awareness of environmental and heritage issues.

#### Heritage Site

The site is listed on the Register of Heritage Places of the Heritage Council of Western Australia and therefore is a site of State importance. Moreover, the Yellagonga Regional Park, to which the development is contained, is cited within the Scheme as a place and object having significance for the purpose of protection of the landscape or environment. The subject site has significant environmental and landscape values that should not be compromised by the proposed development.

The proposal will upgrade and maintain the heritage value of the subject site and therefore has significant merit. As previously advised, the Heritage Council of Western Australia have supported the proposal and the National Trust is the proponent for the development, which ensures the heritage value of the site, is maintained.

Any development on and around this site must be sympathetic to the surrounding environment and comply with the requirements of the Heritage Council. This should be recommended to the WAPC if the Joint Commissioners resolve to support the proposal.

#### Bushforever

Yellagonga Regional Park contains a Bushforever site and therefore contains bushland of regional significance. The development is primarily contained within a previously cleared area and removal of existing remnant vegetation is considered to be minimal. Advice on the Bushforever implications will be sought from the Bushforever Office by the WAPC when considering the proposal.

#### Appropriateness of the Land Use

In considering the application, the Council need to determine if the application is consistent with the Parks and Recreation reservation. It is considered that the proposed environmental centre and museum are reasonably consistent with the Parks and Recreation reservation. The

kiosk could be reasonably associated as an incidental use to the above-mentioned uses, however the restaurant could not. The restaurant is considered a commercial operation not typically seen within a Parks and Recreation Reserve within Joondalup. The appropriateness of this use is questionable, especially in the vicinity of residential uses, due to the potential traffic volume generated by the use and the shortfall of car parking.

Objectors have considered the commercial use of the site as a cause of concern and one that may not be appropriate with the reservation of the site. The restaurant is likely to attract people and bring visitors to the site who otherwise may not have visited the area.

Whilst the enjoyment of the subject site and conservation of the heritage site is strongly supported, it should be balanced against potential impacts to adjoining landowners. Environmental issues have also been raised as a concern, though it appears that these can be managed with appropriate environmental conditions. There has also been significant community concern raised during the advertising process. The Joint Commissioners should take these submissions into account when considering the proposal.

It is recommended that the WAPC be advised that the application is not supported, as it is likely that the development will adversely impact on the surrounding residential areas in its current form. This is attributed to an unacceptable increase in traffic volume, lack of adequate car parking and general amenity concerns.

Notwithstanding the recommendation of the City, the WAPC may choose to approve the proposal. It would be pertinent that the City recommends conditions of approval to the WAPC, to cover the possibility of the WAPC approving the proposal against the City's recommendation.

## ATTACHMENTS

|              |               |
|--------------|---------------|
| Attachment 1 | Locality plan |
| Attachment 2 | Site plan     |
| Attachment 3 | Floor plan    |
| Attachment 4 | Floor plan    |
| Attachment 5 | Elevation     |
| Attachment 6 | Elevation     |
| Attachment 7 | Elevation     |

## VOTING REQUIREMENTS

Simple majority.

## RECOMMENDATION

**That the Joint Commissioners:**

- 1 ADVISE the Western Australian Planning Commission that the Luisini Winery Redevelopment on Lots 41-45 & 82 Lakeway Drive Kingsley is not supported as:**
  - (a) The increase in traffic along Lakeway Drive and Kingfisher Way is considered to be above what is appropriate in the context of the existing neighbourhood;**

- (b) The proposal would compromise the intent of Schedule 5 places and objects having significance, for the purpose of protection of the landscape and environment;
  - (c) The commercial land use is considered inappropriate in such proximity to low density residential development where a high standard of residential amenity is expected and where impacts of the development cannot be contained on site;
  - (d) The car parking provided is considered to be inadequate for the proposed uses and therefore would create undesirable traffic and parking impacts.
- 2 ADVISE the Western Australian Planning Commission that if the application is approved, the following conditions are recommended:
- (a) Amalgamation of the subject lots to the satisfaction of the City, prior to the issuance of a Building Licence;
  - (b) The development being connected to the metropolitan sewerage system;
  - (c) Area of the restaurant being reduced, to lessened car-parking demand for the development;
  - (d) Car parking areas to be screened landscaped, using semi advanced trees, from Lakeway Drive to the satisfaction of the City;
  - (e) The intersection of Plover Way, Lakeway Drive and the proposal access road to be created as a roundabout at the applicant's expense to the satisfaction of the City. Engineering drawings and specifications are to be submitted to the City for approval prior to construction;
  - (f) Development complying with the Building Code of Australia and other associated legislation;
  - (g) The parking bays, driveways and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the City, prior to the development first being occupied. These works are to be done as part of the building programme;
  - (h) Car parking bays are to be 5.4 metres long and a minimum of 2.5 metres wide. End bays are to be 2.8 metres wide and end bays in a blind aisle are to be 3.5 metres wide;
  - (i) All stormwater to be contained on-site to the satisfaction of the City;
  - (j) Vehicular crossover to be to the satisfaction of the City;
  - (k) Development complying with the requirements of the Health Act 1911;

- (l) The owner ensuring that the land is not laid bare of vegetation resulting in loose and erodible conditions;**
- (m) Stormwater drainage network and hardstand areas shall be provided with oil interceptors or separators and be provided with infrastructure for nutrient removal;**
- (n) Revegetation of a buffer strip of wetland vegetation adjacent the sedgeland shall be provided;**
- (o) Applicant shall provide sufficient toilet facilities for the public and food handling staff in accordance with the Building Code of Australia and subject to use;**
- (p) Exit door to the environmental and exhibition centre shall open in the direction of egress and in accordance with the Health (Public Building) Regulations 1992. Where only one exit is provided, the occupancy would be restricted to 50 persons;**
- (q) Bin store shall be provided with a concrete floor that grades evenly to an industrial floor waste connected to sewer and be provided with a hose cock;**
- (r) Bin store area shall be provided in a location that allows easy access for service vehicles. Consideration shall be given to the type of bins that will be required, to this regard a refuse management plan shall be submitted prior to the issue of a building licence;**
- (s) Architect or builder is to arrange and submit to the City's Approval Services, an acoustics consultant's report on all installations, activities and processes, giving sound level measurements of plant, both individually and in combination. This report shall include the presence of tonal components, amplitude or frequency modulations or impulses to ensure noise emissions are in compliance with the requirements of the Environmental Protection Act 1986, prior to issue of a building licence;**
- (t) The applicant shall conduct a preliminary site assessment, prepared in accordance with the Department of Environment's Guidelines that determines the presence or absence of acid sulphate soils on any part of the land, where any of the following works are proposed (or to be undertaken):**
  - (i) Where any dewatering works are proposed to be undertaken;**
  - (ii) Where the surface elevation is <5m ahd and it is proposed to excavate >100m<sup>2</sup> of soil;**
  - (iii) Where the surface elevation is >5m ahd and it is proposed to excavate >100m<sup>2</sup> of soil, and the excavation depth is >2m;**
- (u) All management strategies listed in 7.0 of the Environmental Management Plan by Ecoscape dated October 2003 shall be adopted with the following amendments:**

- (i) Temporary control measures for soil erosion shall be implemented during construction;**
- (ii) Drainage systems for hardstand areas such as carparks shall be provided with a system of sediment and nutrient removal that would prevent mosquito breeding and where nutrients and pollutants can be removed from discharges before reaching lake Goollelal;**
- (iii) Runoff from all paved areas will be captured and treated for pollutants using gross pollutant and sediment trapping devices, as well as oil interceptors, to minimise adverse impacts on water quality. The most appropriate types of interceptors and traps will be specified by the engineering consultants for the project and will be to the satisfaction of the city's principal environmental health officer;**
- (iv) Revegetation of the fringing wetland vegetation shall be conducted where fringing melaleuca woodland vegetation has been cleared;**
- (v) Lawn areas shall consist of species of grass that are runner type to prevent seeds from becoming airborne;**
- (vi) The lodging of detailed landscape plans, to the satisfaction of the City, for the development site and the adjoining road verge with the Building Licence application. For the purposes of this condition, a detailed landscaping plan shall be drawn to a scale of 1:100 and show the following:**
  - (i) The location and type of existing and proposed trees and shrubs within the car park area;**
  - (ii) Any lawns to be established;**
  - (iii) Any natural landscape areas to be retained; and**
  - (iv) Those areas to be reticulated or irrigated.**

*Appendix 14 refers.*

*To access this attachment on electronic document, click here: [Attach14brf051004.pdf](#)*

**9 REPORT OF THE ACTING CHIEF EXECUTIVE OFFICER**

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

**11 DATE OF NEXT MEETING**

The next meeting of the Council has been scheduled for **7.00 pm** on **TUESDAY, 2 NOVEMBER 2004** to be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup

**12 CLOSURE**

**DECLARATION OF INTEREST FORM, CLICK HERE:** [dec interest march 2004.pdf](#)





**QUESTION TO BRIEFING SESSION/ COUNCIL MEETING**

**NAME** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

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**QUESTIONS**

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Please submit this form at the meeting or post to:

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

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

FOR SEATING PLAN OF THE COUNCIL CHAMBER, CLICK HERE: [seatplan cmrs august 2004.pdf](#)