

# AGENDA

## Briefing Session City of Joondalup

**A BRIEFING SESSION**  
WILL BE HELD IN CONFERENCE ROOM 1, JOONDALUP CIVIC CENTRE,  
BOAS AVENUE, JOONDALUP

On

MEETING DATE



**TUESDAY, 8 JULY 2008**

PUBLIC QUESTION TIME



### Public Question Time

Members of the public are requested to lodge questions in writing by close of business on Monday, 7 July 2008.

Answers to those questions received within that timeframe will, where practicable, be provided in hard copy form at the Briefing Session.



**GARRY HUNT**  
Chief Executive Officer  
4 July 2008

## **BRIEFING SESSIONS**

The following procedures for the conduct of Briefing Sessions were adopted at the Council meeting held on 18 December 2007:

### **INTRODUCTION**

The modern role of the Elected Council is to set policy and strategy, and provide goals and targets for the local government (City of Joondalup). The employees, through the Chief Executive Officer, have the task of implementing the decisions of the Elected Council.

A well-structured decision-making process that has established procedures will provide the elected body with the opportunity to:

- have input into the future strategic direction set by the Council;
- seek points of clarification;
- ask questions;
- be given adequate time to research issues;
- be given maximum time to debate matters before the Council;

and ensure that the elected body is fully informed to make the best possible decision for all the residents of the City of Joondalup.

### **PURPOSE OF BRIEFING SESSIONS**

Briefing Sessions will involve Elected Members, staff, and external advisors (where appropriate) and will be open to the public.

Briefing Sessions will provide the opportunity for Elected Members to be equally informed and seek additional information on matters prior to the presentation of such matters to the next ordinary meeting of Council for formal consideration and decision.

### **PROCEDURES FOR BRIEFING SESSIONS**

The following procedures will apply to Briefing Sessions that are conducted by the City of Joondalup.

- 1 Briefing Sessions will be open to the public except for matters of a confidential nature. The guide in determining those matters of a confidential nature shall be in accordance with the Local Government Act 1995.
- 2 Dates and times for Briefing Sessions will be set well in advance where practicable, and appropriate notice given to the public.
- 3 The Chief Executive Officer will ensure timely written notice and an agenda for each Briefing Session will be provided to all Elected Members, Members of the public and external advisors (where appropriate).

- 4 The Mayor is to be the Presiding Member at Briefing Sessions. If the Mayor is unable or unwilling to assume the role of Presiding Member, then the Deputy Mayor may preside at the Briefing Session. If the Deputy Mayor is unable or unwilling, those Elected Members present may select one from amongst themselves to preside at the Briefing Session.
- 5 There is to be no debate amongst Elected Members on any matters raised during the Briefing Session;
- 6 Relevant employees of the City will be available to make a presentation or respond to questions on matters listed on the agenda for the Briefing Session;
- 7 All Elected Members will be given a fair and equal opportunity to participate in the Briefing Session;
- 8 The Presiding Member will ensure that time is made available to allow for all matters of relevance to be covered;
- 9 Elected Members, employees and relevant consultants shall disclose their interests on any matter listed for the Briefing Sessions. When disclosing an interest the following is suggested:
  - (a) Interests are to be disclosed in accordance with the provisions of the Local Government Act 1995 and the City's Code of Conduct.
  - (b) Elected Members disclosing a financial interest will not participate in that part of the Session relating to the matter to which their interest applies and shall depart the room;
  - (c) Employees with a financial interest in a matter may also consider it appropriate to depart the room when the matter is being considered.
- 10 Elected Members have the opportunity to request matters to be included on the agenda for consideration at a future Briefing Session at Item 10 on the Briefing Session agenda.
- 11 A record shall be kept of all Briefing Sessions. As no decisions are made at a Briefing Session, the record need only be a general record of the items covered but shall record any disclosure of interests as declared by individuals. A copy of the record is to be forwarded to all Elected Members.
- 12 Members of the public may make a deputation to a Briefing Session by making a written request to the Mayor by 4pm on the working day immediately prior to the scheduled Briefing Session. Deputations must relate to matters listed on the agenda of the Briefing Session.
- 13 Other requirements for deputations are to be in accordance with the Standing Orders Local Law where it refers to the management of deputations.

## PROCEDURES FOR PUBLIC QUESTION TIME

The following procedures for the conduct of Public Question Time were adopted at the Council meeting held on 18 December 2007:

### Questions asked verbally

- 1 Members of the public are invited to ask questions at Briefing Sessions. Questions asked at a Briefing Session must relate to a matter contained on the agenda.
- 2 A register will be provided for those persons wanting to ask questions to enter their name. Persons will be requested to come forward in the order in which they are registered, and to give their name and address.
- 3 Public question time will be limited to two minutes per member of the public, with a limit of two verbal questions per member of the public.
- 4 Statements are not to precede the asking of a question during public question time. Statements should be made during public statement time.
- 5 Members of the public are encouraged to keep their questions brief to enable everyone who desires to ask a question to have the opportunity to do so.
- 6 Public question time will be limited to the legislative minimum of 15 minutes. Public question time is declared closed following the expiration of the allocated 15 minute time period, or earlier if there are no further questions. The Presiding Member may extend public question time in intervals of ten minutes, but the total time allocated for public question time is not to exceed thirty five (35) minutes in total.
- 7 Questions are to be directed to the Presiding Member and shall be asked politely, in good faith, and are not to be framed in such a way as to reflect adversely or to be defamatory on a particular Elected Member or City employee. The Presiding Member shall decide to:
  - accept or reject any question and his/her decision is final;
  - nominate a member of the Council and/or City employee to respond to the question;
  - take a question on notice. In this case a written response will be provided as soon as possible, and included in the agenda of the next briefing session.
- 8 Where an Elected Member is of the opinion that a member of the public is:
  - asking a question at a Briefing session that is not relevant to a matter listed on the agenda, or;
  - making a statement during public question time;they may bring it to the attention of the Presiding Member who will make a ruling
- 9 Questions and any response will be summarised and included in the notes of the Briefing Session.

- 10 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.

### **Questions in Writing**

- 1 Members of the public may submit questions to the City in writing.
- 2 Questions must relate to a matter contained on the agenda.
- 3 The City will accept a maximum of 5 written questions per member of the public. To ensure equality and consistency, each part of a multi-part question will be treated as a question in its own right.
- 4 Questions lodged by the close of business on the working day immediately prior to the scheduled Briefing Session will be responded to, where possible, at the Briefing Session. These questions, and their responses, will be distributed to Elected Members and made available to the public in written form at the meeting.
- 5 The Presiding Member shall decide to accept or reject any written question and his/her decision is final. Where there is any concern about a question being offensive, defamatory or the like, the Presiding Member will make a determination in relation to the question. Questions determined as offensive, defamatory or the like will not be published. Where the Presiding Member rules questions to be out of order, an announcement to this effect will be made at the meeting, including the reason(s) for the decision.
- 6 The Presiding Member may rule questions out of order where they are substantially the same as questions previously submitted and responded to.
- 7 Written questions unable to be responded to at the Briefing Session will be taken on notice. In this case, a written response will be provided as soon as possible and included on the agenda of the next Briefing Session.
- 8 A person who submits written questions may also ask questions at a Briefing Session and questions asked verbally may be different to those submitted in writing.
- 9 Questions and any response will be summarised and included in the notes of the Briefing Session.

- 10 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.

#### **DISCLAIMER**

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

## PROCEDURES FOR PUBLIC STATEMENT TIME

The following procedures for the conduct of Public Statement Time were adopted at the Council meeting held on 18 December 2007:

- 1 Members of the public are invited to make statements at Briefing Sessions. Statements made at a Briefing Session must relate to a matter contained on the agenda.
- 2 A register will be provided for those persons wanting to make a statement to enter their name. Persons will be requested to come forward in the order in which they are registered, and to give their name and address.
- 3 Public statement time will be limited to two minutes per member of the public.
- 4 Members of the public are encouraged to keep their statements brief to enable everyone who desires to make a statement to have the opportunity to do so.
- 5 Public statement time will be limited to a maximum of 15 minutes. Public statement time is declared closed following the 15 minute allocated time period, or earlier if there are no further statements.
- 6 Statements are to be directed to the Presiding Member and are to be made 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 City employee.
- 7 Where an Elected Member is of the opinion that a member of the public is making a statement at a Briefing session, that is not relevant to a matter listed on the draft agenda, they may bring it to the attention of the Presiding Member who will make a ruling.
- 8 A member of the public attending a Briefing Session may present a written statement rather than making the Statement verbally if he or she so wishes.
- 9 Statements will be summarised and included in the notes of the Briefing Session.

## DEPUTATION SESSIONS

Council will conduct an informal session on the same day as the Briefing Session in Conference Room 1, Joondalup Civic Centre, Boas Avenue, Joondalup, commencing at 6.30 pm where members of the public may present deputations by appointment only. (Please note that deputation requests are to be received by no later than 4.00 pm on the Monday prior to a Briefing Session.)

A time period of fifteen (15) minutes is set-aside for each deputation, with five (5) minutes for Elected members' questions. Deputation sessions are open to the public.

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

## CITY OF JOONDALUP – BRIEFING SESSION

to be held in Conference Room 1, Joondalup Civic Centre, Boas Avenue, Joondalup on **TUESDAY, 8 JULY 2008** commencing at **6.30 pm**

### ORDER OF BUSINESS

- 1 OPEN AND WELCOME**
- 2 DEPUTATIONS**
- 3 PUBLIC QUESTION TIME**

The following questions were submitted to the Briefing Session held on 3 June 2008:

Note: At the Briefing Session, questions submitted by Mr S Kobelke, Sorrento were taken on notice, pending clarification of whether the questions were permissible under the procedures for public question time. It has been determined that the subject matter of the questions did not specifically relate to matters on the agenda for the meeting of 3 June 2008. The City has provided responses directly to Mr Kobelke.

#### **Mr S Magyar, Heathridge:**

Q1 *Re Item 16 – Outcome of State Administrative Tribunal Hearing Proposed 14 Grouped Dwellings at Lot 11483 (4) Burns Place, Burns Beach. With regard to the Council having to exercise discretion on this development, does everything to do with this development meet acceptable standards as opposed to the performance criteria?*

A1 No, only part of the development meets the acceptable standards. Those parts of the development that do not meet the acceptable standards have been assessed against the performance criteria. The proposed variations are considered to meet the Performance Criteria, and are evaluated as part of the State Administrative Tribunal's assessment of the appeal. It is also notable that the Council is not exercising discretion, it is merely providing advice to the SAT.

Q2 *Re Item 10 – List of Payments made during the month of April 2008. Stamped Page 58 – several payments made to Australian Waterwise Solutions Ltd for reticulation items – can you please advise what these payments are for and are they genuinely waterwise?*

A2 The payment is for the purchase of reticulation parts. The name "Waterwise" is part of their company name.

#### **Mr I McLennan, Iluka:**

Q1 *I was unable to make a submission with regard to the deputations this evening due to the closing date for submissions and the fact that Monday was a Public Holiday. I only received a letter on Friday and with the public holiday there*



*was insufficient time to make a submission. Why was I not given sufficient time to register a submission?*

A1 Mr McLennan was contacted directly.

## **4 PUBLIC STATEMENT TIME**

**The following statements were submitted to the Briefing Session held on 3 June 2008:**

**Mr R Repke, Kallaroo:**

Mr Repke spoke in relation to Item 6 – Registering and Identifying Cats: A New Local Law.

**Mr S Kobelke, Sorrento:**

Mr Kobelke spoke in relation to the Notice of Motion relating to the distribution of the community newspaper.

Mr Kobelke spoke in relation to Item 9 - Legal representation for Elected Members.

**Mr S Magyar, Heathridge:**

Mr Magyar spoke in relation to Item 16 - Outcome of State Administrative Tribunal Hearing – Proposed 14 grouped dwellings at Lot 11483 (4) Burns Place, Burns Beach.

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

**Leave of Absence previously approved**

Cr Michele John	15 June 2008 to 11 July 2008 inclusive
Cr Trona Young	15 June 2008 to 15 July 2008 inclusive.
Cr Russ Fishwick	1 September 2008 to 19 October 2008

**REQUEST FOR LEAVE OF ABSENCE – MAYOR PICKARD – [29610]**

Mayor Pickard has requested Leave of Absence from Council duties on 29 July 2008.

**RECOMMENDATION**

**That Council APPROVES the request from Mayor Pickard for Leave of Absence from Council duties on 29 July 2008.**

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

### Disclosure of Financial Interests

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration. An employee is required to disclose their financial interest and if required to do so by the Council must disclose the extent of the interest. Employees are required to disclose their financial interests where they are required to present verbal or written reports to the Council. Employees are able to continue to provide advice to the Council in the decision making process if they have disclosed their interest.

<b>Name/Position</b>	<b>Mr Garry Hunt</b>
<b>Item No/Subject</b>	Item 18 - Minutes of the Chief Executive Officer Performance Review Committee Meeting held on 10 June 2008
<b>Nature of interest</b>	Financial
<b>Extent of Interest</b>	Mr Hunt holds the position of Chief Executive Officer

<b>Name/Position</b>	<b>Mr Garry Hunt</b>
<b>Item No/Subject</b>	Item 3 – ICLEI – Local Action for Biodiversity – Invitation to attend the Durban Workshop and sign the Durban Commitment
<b>Nature of interest</b>	Financial
<b>Extent of Interest</b>	Mr Hunt is part of proposed delegation

### Disclosure of interest affecting impartiality

Elected members and staff are required under the Code of Conduct, in addition to declaring any financial interest, to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making process. The Elected member/employee is also encouraged to disclose the nature of the interest.

<b>Name/Position</b>	<b>Mr Mike Tidy</b>
<b>Item No/Subject</b>	Item 18 – Minutes of the Chief Executive Officer Performance Review Committee Meeting held on 10 June 2008
<b>Nature of interest</b>	Interest that may affect impartiality
<b>Extent of Interest</b>	Due to the nature of Mr Tidy's relationship with the Chief Executive Officer

## 7 REPORTS

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- 8 REPORT OF THE CHIEF EXECUTIVE OFFICER**
- 9 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
- 10 REPORTS/PRESENTATIONS REQUESTED BY ELECTED MEMBERS**

**LATE ITEMS / ADDITIONAL INFORMATION**

In the event that further documentation becomes available prior to this Briefing Session, the following hyperlink will become active:

[Additional Information 080708.pdf](#)

## ITEM 1 EXECUTION OF DOCUMENTS - [15876]

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Garry Hunt  
Office of CEO

### PURPOSE

To provide a listing of those documents recently executed by means of affixing the Common Seal for noting by the Council for the period 22 May 2008 to 24 June 2008.

### EXECUTIVE SUMMARY

The City of Joondalup enters various agreements by affixing its Common Seal. The Local Government Act 1995 states that the City is a body corporate with perpetual succession and a common seal. Those documents that are to be executed by affixing the Common Seal or signed by the Mayor and the CEO are reported to the Council for information on a regular basis.

### BACKGROUND

Not Applicable.

### DETAILS

The following documents have been executed by affixing the Common Seal.

<b>Document:</b>	Deed of Restrictive Covenant
<b>Parties:</b>	City of Joondalup and G C & P N Connor, P S & H J Gunzburg, P G & F C Grove, SRS McAlpine & AW Spencer
<b>Description:</b>	Deed of Restrictive Covenant to limit the location of vehicular access to Lots 1 & 2 (1 & 3) Alice Drive, Mullaloo on Deposited Plan 57497
<b>Date:</b>	22.05.08
<b>Signed/Sealed:</b>	Sealed

<b>Document:</b>	Withdrawal of Caveat
<b>Parties:</b>	City of Joondalup and Heels
<b>Description:</b>	Temporary Withdrawal of Caveat Strata Lot 5/8 Dugsdale Street, Warwick to enable settlement to occur for sale of property. Caveat is to be replaced.
<b>Date:</b>	05.06.08
<b>Signed/Sealed:</b>	Sealed

<b>Document:</b>	Deed of Restrictive Covenant
<b>Parties:</b>	City of Joondalup and WA Land Authority
<b>Description:</b>	Deed of Restrictive Covenant to restrict vehicular access to/from Joondalup Drive, Hodges Drive and Eddystone Avenue and the proposed Lots, Lots 902, 7898, 7899, 10, 11, 12, 13 & 14 Part Lots 9810 and Pt Lot 11 Joondalup Drive and Honeybush Drive, Joondalup on Deposited Plan 58579 (Joondalup Southern Business District)
<b>Date:</b>	05.06.08
<b>Signed/Sealed:</b>	Sealed

<b>Document:</b>	Deed of Agreement
<b>Parties:</b>	City of Joondalup and Roman Catholic Archbishop of Perth, Davidson Pty Ltd
<b>Description:</b>	Deed of Agreement to ensure satisfactory arrangements are made with the City for the design and construction of a future signalised controlled intersection at the corner of Shenton Avenue and Delamere Avenue, Currambine
<b>Date:</b>	18.06.08
<b>Signed/Sealed:</b>	Sealed

<b>Document:</b>	Deed of Restrictive Covenant
<b>Parties:</b>	City of Joondalup and Martin Smistik
<b>Description:</b>	To limit the location of vehicular access to Lots – proposed Lot 4 Gibson Avenue, Padbury (amalgamation and subdivision of Lots 545 Gibson Avenue and Lots 543 and 544 Marsden Way to form four “green” title lots
<b>Date:</b>	18.06.08
<b>Signed/Sealed:</b>	Sealed

<b>Document:</b>	Agreement
<b>Parties:</b>	City of Joondalup and FESA, WA
<b>Description:</b>	Three year Agreement with (FESA WA) Fire & Emergency Services Authority of WA for the collection of Emergency Services Levy Administration
<b>Date:</b>	24.06.08
<b>Signed/Sealed:</b>	Sealed

#### **Issues and options considered:**

Not Applicable.

#### **Link to Strategic Plan:**

Some of the documents executed by affixing the common seal may have a link to the Strategic Plan on an individual basis.

#### **Legislation – Statutory Provisions:**

Sub-sections (2) and (3) of section 2.5 of the Local Government Act 1995 states:

- (2) The local government is a body corporate with perpetual succession and a common seal.
- (3) The local government has the legal capacity of a natural person.

**Risk Management considerations:**

Not Applicable.

**Financial/Budget Implications:**

Some of the documents executed by the City may have financial and budget implications.

**Policy implications:**

Not Applicable.

**Regional Significance:**

Not Applicable.

**Sustainability implications:**

Not Applicable.

**Consultation:**

Not Applicable.

**COMMENT**

The various documents that have been executed by affixing the Common Seal of the City of Joondalup are submitted to the Council for information.

**ATTACHMENTS**

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

**That Council NOTES the schedule of documents covering the period 22 May 2008 to 24 June 2008 executed by means of affixing the common seal.**



## ITEM 2                    PROGRESS OF ABANDONED SHOPPING TROLLEY INITIATIVES – [10047]

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Ian Cowie  
Governance and Strategy

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### PURPOSE/EXECUTIVE SUMMARY

To inform Council of the legal advice received regarding the management of abandoned shopping trolleys and to recommend that the attached Amendment Local Law (which will enable the recommendations in the legal opinion to be realised) be approved and released for a six-week public consultation period.

### BACKGROUND

At the Meeting of Council on 19 June 2007 (*CJ102-06/07 refers*), Council resolved, inter alia, to:

*“CONDUCT further analysis to determine whether it is possible to amend the City’s Local Government and Public Property Local Law 1999 to remove the need to notify owners before trolleys are removed and impounded; and*

*EXAMINE the potential to establish a maximum penalty of \$5,000 under the Local Government Act 1995 for abandoned shopping trolleys.”*

In order to determine whether the City can implement the above initiatives, legal advice was sought requesting the following:

1. Are there any barriers to the City introducing two new offences to its *Local Government and Public Property Local Law 1999*, namely –
  - Failure of owner to remove an abandoned shopping trolley from a public thoroughfare within 3 hours of being advised by the local government (maximum penalty \$5,000 and modified penalty \$500); and
  - Failure of owner to remove an abandoned shopping trolley from public place (excluding thoroughfares) within 3 hours of being advised by the local government (maximum penalty \$1,000 and modified penalty \$100)?
2. Are there any legal barriers to the City impounding shopping trolleys without notice?

The City has since received advice on these matters. The nature of this advice is outlined below in the details section of the report.

## DETAILS

Below are the recommendations proposed in the legal opinion:

1. There is no statutory barrier to the City amending its *Local Government and Public Property Local Law 1999* to introduce the offences suggested, providing that modifications are made to the wording to distance the offence from potentially restrictive Regulations. This will also enable the modified penalty to be increased from \$100 to \$500 under the *Local Government Act 1995*.
2. The City can impound shopping trolleys without notice, providing that references to giving notice are removed from the Local Law.

Despite these conclusions, the advice still acknowledges difficulties surrounding the enforcement of the requirement for trolley owners to mark their trolleys and proving the ultimate ownership of the trolley should a prosecution be pursued.

### Proposed Amendments

In an attempt to satisfy the Joint Standing Committee on Delegated Legislation (JSCDL), (which has the power to disallow local laws), it has been recommended that the following amendments be made to the City's *Local Government and Public Property Local Law 1999*. The amendments also aim to reduce the opportunity for legal challenges against the City's proposals. They are as follows:

- Amend Clause 57 from:

“A retailer shall clearly mark its name or its trading name on any shopping trolley made available for the use of customers”

to

“A shopping trolley that a retailer makes available to its customers for use **in a public place** shall be marked clearly with the retailer's trading name and contact phone number”.

This will ensure that the offence is more closely related to the local government function of administering public space, making the Clause less open to challenge by the JSCDL.

- Amend Clause 59 from:

“Where a shopping trolley is found abandoned in a public place and the owner has been advised verbally or in writing of its location by the local government, the owner shall remove the shopping trolley from the public place within 3 hours of being advised”

to

“Where a shopping trolley is found **unattended in a public place**, the owner shall remove the shopping trolley within 3 hours”.

This amendment will enable the City to impound abandoned shopping trolleys without notice and distances the offence from potentially restrictive provisions within the *Litter Act 1979*. It will also allow a \$500 modified penalty to apply under the *Local Government Act 1995*.

It is also recommend that the City does not create two new offences (as suggested by the City), but rather amends the current offence to achieve the same outcome. The amendment above captures this sentiment.

- Amend Clause 60 from:

“In the absence of any proof to the contrary, a shopping trolley is to be taken to belong to a retailer whose name is marked on the trolley”

to

“In the absence of any proof to the contrary, a shopping trolley **left in a public place** is to be taken to belong to a retailer whose name is marked on the trolley”.

Again, this amendment enables the Clause to more closely reflect the public purpose and reduce the likelihood of a challenge by the JSCDL.

#### Purpose and effect of Amendment Local Law:

Pursuant to section 3.12(2) of the *Local Government Act 1995*, the following purpose and effect applies to the proposed *Local Government and Public Property Amendment Local Law 2008*:

**Purpose -** The purpose of this local law is to ensure that offences relating to abandoned shopping trolleys closely identify with the public purpose function of local government and to modify penalties in line with the *Local Government Act 1995*.

**Effect -** The effect of this local law is that the City will be able to increase the penalties for offences relating to shopping trolleys found unattended in public places.

#### **Issues and options considered:**

##### Option 1: Council approves the content of the Draft Amendment Local Law and approves its release for public comment:

This option is recommended given that the Amendment is based on recommendations contained within a legal opinion. In addition, the Amendment seeks to achieve the aims resolved by Council at its Meeting of 19 June 2007.

##### Option 2: Council does not approve the content of the Draft Amendment Local Law and requests that further changes be made to the document:

This option is *not* recommended given that the Amendment is based on legal advice requested by the City.

##### Option 3: Do nothing:

This option is *not* recommended as the issue of abandoned shopping trolleys will continue to prevail if Council does not implement initiatives that aim to overcome the problems outlined in previous reports. This option also runs counter to Council's 2007 resolution.

#### **Link to Strategic Plan:**

Objective 1.2: To engage proactively with the community.

Outcome: The City acts with a clear understanding of the wishes of its community.

**Legislation – Statutory Provisions:**

Relevant Legislation:

Local Government Act – Section 3.12

City of Joondalup Local Government and Public Property Local Law 1999 – Clauses 57, 59, 60.

**Risk Management considerations:**

Should Council proceed with the Amendment as suggested, there is a risk that the Local Law will come under close scrutiny by the JSCDL and could be disallowed. The proposed recommendations aim to reduce these opportunities, however, there is no guarantee that the JSCDL will agree with the position suggested by the City.

The suggestion to increase the modified penalty for failing to remove a shopping trolley from a public place within 3 hours to \$500 may also come under close scrutiny by the JSCDL. Local governments who have similar offences in place have a modified penalty of only \$100 and as such, it may seem unreasonable to implement a penalty in excess of the amount already set by precedent. The City has the capacity under the *Local Government Act 1995* to do so, however, it has not been examined by the JSCDL under the circumstances the City is suggesting. In addition, the legal opinion indicates that if the offender were prosecuted, a court would most likely significantly reduce the maximum penalty as they are not required to relate any penalty to the modified penalty prescribed by the local government.

There is also a risk that shopping trolley owners will strongly oppose the Amendment, given their dissent during the City's last public consultation on matters relating to the management of abandoned shopping trolleys.

**Financial/Budget Implications:**

If Council decides to proceed with the Amendment and approve of its release for public comment, there will be a cost involved in administering the consultation process. This will most likely be in the region of \$5,000.

**Policy implications:**

This Amendment relates to a general policy stance in relation to the management of abandoned shopping trolleys, as resolved by Council in June 2007.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

The City's current approach to the management of abandoned shopping trolleys is unsustainable due to the administrative costs involved in collection and impoundment. Introducing the proposed Amendment will aid in encouraging a more proactive approach to trolley management by retailers, making the City's activities more sustainable.

**Consultation:**

A public consultation process will be undertaken should Council decide to proceed with the Amendment Local Law.

**COMMENT**

Not applicable.

**ATTACHMENTS**

Attachment 1: City of Joondalup Local Government and Public Property Amendment Local Law 2008.

**VOTING REQUIREMENTS**

Simple Majority.

**RECOMMENDATION**

**That Council APPROVES the content of the Draft Local Government and Public Property Amendment Local Law 2008 in the manner prescribed in Attachment 1 to this Report and AGREES to the Amendment's release for a six-week public consultation period.**

*Appendix 1 refers*

*To access this attachment on electronic document, click here: [Attach1brf080708.pdf](#)*

**Disclosure of financial interests**

<b>Name/Position</b>	<b>Mr Garry Hunt</b>
<b>Item No/Subject</b>	Item 3 – ICLEI – Local Action for Biodiversity – Invitation to attend the Durban Workshop and sign the Durban Commitment
<b>Nature of interest</b>	Financial
<b>Extent of Interest</b>	Mr Hunt is part of proposed delegation

### **ITEM 3 ICLEI – LOCAL ACTION FOR BIODIVERSITY – INVITATION TO ATTEND THE DURBAN WORKSHOP AND SIGN THE DURBAN COMMITMENT – [24592]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Ian Cowie  
Governance and Strategy

**PURPOSE/EXECUTIVE SUMMARY**

To seek Council's approval for the Mayor of Joondalup in his official capacity to attend the second international ICLEI Local Action for Biodiversity (LAB) Workshop to be held in Durban South Africa from 7 – 10 September 2008 and to sign the Durban Commitment on behalf of the City of Joondalup

**BACKGROUND**

In January 2007 the Mayor of Joondalup received an invitation from ICLEI – African Secretariat to participate in the global LAB project. Subsequently, the City of Joondalup signed a 3-year agreement enabling the City to participate in the project.

As part of the LAB project the City is required to attend two international LAB workshops, the first of which was hosted by the City of Zagreb, Croatia from 15-17 October 2007. The City of Joondalup sent two officials as its representatives to the workshop.

The LAB project has a 5-step approach, which is summarised as follows:

<b>Step</b>	<b>Activity</b>	<b>Result</b>
1.	Inventory and assessment	City Biodiversity Report. Presentation of biodiversity report at an international workshop of participating cities
2.	Declaration of Commitment to Biodiversity	Formal City commitment to biodiversity. International profile for the participant cities through the communication of their commitment to biodiversity.
3.	Draft City 10-year Biodiversity Action Plan and Framework	Local Biodiversity Action Plan and Framework presented for review at international workshop of participating cities.
4.	Formal endorsement, approval and commitment by the relevant authorities to the City 10-year Biodiversity Action Plan and Framework.	Decisions by relevant authority(ies) and/or political structures. Communication and profile by the City of the accepted 10-year Biodiversity Action Plan and Framework.

5.	a) Local implementation: Five on-the-ground biodiversity demonstration projects b) Ongoing implementation of the 10-year Biodiversity Action Plan and Framework	a) Five new successful and tangible biodiversity interventions b) Reports and recommendations for the continuation of the process
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## DETAILS

The LAB project was initiated in 2007 and to date the first step in the process has been completed. The City has now finalised its Biodiversity Report which provides a current state assessment of biodiversity management and issues within the City of Joondalup. The document was published and submitted to ICLEI in June 2008. The second step involves the signing of a statement that commits the City to international principles for protecting and preserving local biodiversity. The City will be required to sign this commitment at the second international LAB workshop to be held in Durban in September 2008.

The LAB project originally involved 20 cities from around the world to work in collaboration to develop and test the five step approach to Biodiversity management. Recently the City of Curitiba, Brazil has joined the LAB Project. Despite their joining at an advanced stage of the project, the LAB team are certain that the biodiversity history of this famous City will make for a valuable addition and be to the great benefit of all participants

### *Issues and Options*

#### ***The Draft Durban Commitment: Local Government for Biodiversity Statement***

A key element of the LAB project framework is the development and signing of a statement that will commit the 21 LAB cities to the principles, goals and objectives of the LAB project. During the Zagreb Workshop in 2007 cities participated in developing a draft statement, which has now been finalised by the LAB Project Team and disbursed to all the 21 LAB cities for their final considerations. The statement is to be titled **“The Durban Commitment: Local Government for Biodiversity”**.

It should be noted that the draft Durban Commitment Statement along with the Countdown 2010 Declaration were submitted to Council for comment on 19 February 2007 and Council resolved inter alia to:

*“ENDORSE the signing of the Durban Commitment: Local Government for Biodiversity statement shown as Attachment 1 to Report CJ002-02/08; and*

*ENDORSE the signing the Countdown 2010 – Save Biodiversity Declaration shown as Attachment 2 to Report CJ002-02/08”*

The final Durban Commitment: Local Government for Biodiversity statement is shown as Attachment 1 to this report.

#### ***Invitation to Attend the Second LAB Workshop to be held in Durban South Africa***

The City has received notification that the second LAB Workshop will be held in Durban from 7-10 September 2008. The City will be required to send two representatives preferably one Elected Member namely the Mayor, for the specific purpose of officially signing the Durban Commitment; and one technical officer to participate actively in the workshop by providing technical expertise regarding aspects of further developing the project and to provide progress reports on the City’s activities in relation to Step 3-5 of the LAB project process.

Details of the workshop are shown as Attachment 2.

**Link to Strategic Plan:**

Objective 2.1                To ensure that the City's natural environmental assets are preserved, rehabilitated and maintained.

Strategy 2.1.7            The City protects local biodiversity through effective planning of biodiversity and natural areas

**Legislation – Statutory Provisions:**

Not applicable.

**Risk Management Considerations:**

Not applicable.

**Financial/Budget Implications:**

Attendance to the Durban Workshop will be funded by the ICLEI LAB project. The City upon entering into the original agreement in 2007 was required to pay \$40,000 (USA Dollars) to be a participant in the project and this funding includes attendance to the two workshops for one Elected Member and one Technical Officer.

**Policy Implications:**

Not applicable

**Regional Significance:**

The signing of the declaration as mentioned in this report will require the City to be a regional leader in promoting local action for saving biodiversity.

**Sustainability Implications:**

Participation in the ICLEI LAB project indicates the City's commitment to ensuring environmentally sustainable management of the City's natural assets.

**Consultation:**

Not Applicable

**COMMENT**

The south west of Western Australia is globally recognised as one of the planet's major biodiversity hotspots. This recognition of global significance is based on high levels of natural diversity, particularly for plants and amphibians, together with high levels of threat to that diversity. It is one of only five Mediterranean-type ecosystems to be listed as globally significant. It is also one of the few hotspots found in a developed country and is the only global hotspot in Australia. The importance of the south west eco-region is also recognised by the Government of Australia. The City of Joondalup lies in a central coastal location of this significant eco-region.

The benefits that are being derived from participation in the LAB project include:

- Demonstrated responsible governance, locally and internationally



- Demonstrated responsible environmental stewardship
- Recognition as a global leader in local governance with respect to biodiversity and environmental matters
- Protection of biodiversity thus meeting various local, regional, national and international obligations
- Enhanced ecological resilience
- International profiling of the City
- Recognition as a leading city on a global scale
- Potential for partnerships with a number of international cities and organisations
- Potential access to various (including global) funding opportunities
- Public education and awareness
- Access to global information and approaches
- Global networking of staff with participating cities

The City of Joondalup is a large local government and recognised leader in the field of environmental management within the local government context. With this position comes the impetus to take a developmental and leadership role, which will provide tools and techniques for other local governments to learn from, adopt and deliver.

## **ATTACHMENTS**

Attachment 1 –The Durban Commitment: Local Government for Biodiversity

Attachment 2 – Invitation to Durban Workshop

## **VOTING REQUIREMENTS**

Simple majority

## **RECOMMENDATION**

### **That Council:**

- 1 APPROVES the attendance of the Mayor of Joondalup and the Chief Executive Officer (or his representative) at the ICLEI Local Action for Biodiversity Durban Workshop from 7 – 10 September 2008;**
- 2 APPROVES the Mayor of Joondalup to officially sign the Durban Commitment at the workshop on behalf of the City of Joondalup.**

*Appendix 2 refers*

To access this attachment on electronic document, click here: [Attach2brf080708.pdf](#)

## ITEM 4                    CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT – [00033]

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Ian Cowie  
Governance and Strategy

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### PURPOSE/EXECUTIVE SUMMARY

To seek endorsement of a Council position on the matter of constitutional recognition of local government.

This report recommends that Council supports symbolic recognition of local government in the Australian Constitution.

### BACKGROUND

Local government is currently recognised in the State Constitution Act (1889). Part 111b (S. 52) states that:

- 1        The Legislature shall maintain a system of local governing bodies elected and constituted in such manner as the Legislature may from time to time provide.
- 2        Each elected local governing body shall have such powers as the Legislature may from time to time provide being such powers as the Legislature considers necessary for the better government of the area in respect of which the body is constituted.

Local government is not recognised in the Australian Constitution. The question of local government recognition was previously considered in 1973, 1976, 1985 and 1988.

The first attempt at amending the *Constitution* to recognise local government was made on 8 November 1973, when the Whitlam Government introduced the *Constitutional Alteration (Local Government Bodies) Bill* into Federal Parliament. Broadly, provisions were proposed that would allow the Commonwealth to fund local government in the same way it can the states. The Bill was opposed by the Liberal and Country parties in the House of Representatives.

Following a Constitutional Convention in 1976, a resolution was passed which, amongst other things, invited the States to consider formal recognition of local government in State Constitutions. By 1985, three of the six states had recognised local government in their constitutions and a constitutional convention was convened by the Hawke Government in that same year. The Convention endorsed a constitutional amendment proposed by the Australian Council of Local Government Associations (as the Australian Local Government Association was then called) proposing a section 119A be added to the Constitution, reading:

*Each State shall provide for the establishment and continuance of a system of local government, with local government bodies elected in accordance with the laws of the State and empowered to administer, and make by-laws for, their respective areas in accordance with the laws of the State.*

The Liberal/National Party opposed the amendment. On 3 September 1988, the proposed amendment to the Constitution was put forward in a referendum, but was defeated heavily.

The issue of constitutional recognition has again been raised and this paper deals with the current proposal.

## **DETAILS**

In April 2008, a letter was received from the Chief Executive Officer of the West Australian Local Government Association (WALGA) requesting that each local government conduct a "Council Conversation" with respect to Constitutional Recognition. The outcome of each 'conversation' should be a defined local position on the matter which can subsequently be shared with other local governments at the North Metropolitan Zone meeting on 24 July 2008.

During Local Government Week, 10 representatives from WA local governments will be appointed to attend a National State and Expert Forum that will be taking place in October 2008. The outcome of the National Forum will be an agreed Local Government position on Constitutional Recognition from which 'camera ready' legislation can be prepared for the referendum.

## **COUNCIL'S CONTRIBUTION TO THE PROCESS**

A discussion paper containing background information on Constitutional Recognition and the options for amending the Australian Constitution is provided as Attachment 1 to this report. This report was prepared with reference to information sourced from the ALGA website page on Constitutional Recognition and in consideration of the following questions put by WALGA in their letter to the City.

- 1 Should recognition be simply symbolic?
- 2 Should [that recognition] impose certain funding obligations on the Commonwealth?
- 3 Should [that recognition] protect local government from forced structural change?
- 4 Do Councils have other expectations from Constitutional Recognition?

### **Issues and options considered:**

Symbolic recognition is the option considered most likely to get Commonwealth Government support. While it will provide a degree of stature to the sector it will have no practical effect as local government is effectively a creature of the state (through State Local Government legislation) and it is constitutionally recognised by the State. Thus the term symbolic recognition is attached to this option.

Structural recognition is unlikely to be provided by the Commonwealth as local government structural arrangements will almost certainly be considered a State responsibility. The State has established a statutory body, the Local Government Advisory Board, to deal with such matters. Further, it is relevant to ask, should the Commonwealth be acting through the Australian Constitution to protect individual local governments from structural change?

A substantial funding commitment to local government would represent a very practical benefit for the sector from constitutional recognition. However, there are three issues to consider here. First, it is speculated that the Commonwealth Government will be lukewarm at best to such a proposal which involves financial commitment. Second, the precise nature of the commitment will need to be carefully established to ensure the sector does not receive a worse financial deal. Finally, a referendum question which addresses a detailed funding model (which would be required to ensure local government gains certainty and protection) is considered unlikely to get public support

**Link to Strategic Plan:**

Not applicable

**Legislation – Statutory Provisions:**

State Constitution Act 1889

**Risk Management considerations:**

Not applicable

**Financial/Budget Implications:**

Not applicable

**Policy implications:**

Not applicable

**Regional Significance:**

Council's view will be added to those of other local governments to develop a position on the proposed amendments to the Australian Constitution.

**Sustainability implications:**

Not applicable

**Consultation:**

Not applicable

**COMMENT**

Symbolic recognition of local government in the Australian Constitution is considered valuable as a statement of local government's importance. Constitutional recognition should not address matters of funding and structural development which are, of their nature, subject to change over the short term and most unlikely to be successful. The Australian Constitution is a long-term document which provides the authority for governance, but not the detail of how such governance should be carried out.

**ATTACHMENTS**

Attachment 1            A Discussion Paper – Constitutional Recognition of Local Government

**VOTING REQUIREMENTS**

Simple Majority

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

- 1 NOTES the contents of the Discussion Paper – “Constitutional Recognition of Local Government” found in Attachment 1 to this Report;**
- 2 SUPPORTS symbolic recognition for local government in the Australian Constitution;**
- 3 REQUESTS that a report be prepared outlining the Council’s position on constitutional recognition for referral to the next meeting of the North Metropolitan Zone scheduled for 24 July 2008 and for referral to the West Australian Local Government Association.**

*Appendix 3 refers*

To access this attachment on electronic document, click here: [Attach3brf080708.pdf](#)

## **ITEM 5                    DISTRIBUTION OF COMMUNITY NEWSPAPER – [29610] [07719]**

**WARD:**                    All

**RESPONSIBLE**        Ian Cowie  
**DIRECTOR:**            Governance and Strategy

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### **PURPOSE**

For the Council to give consideration to the request by the Community Newspaper Group to allow it to alter its distribution method of its community newspapers.

### **EXECUTIVE SUMMARY**

The Community Newspaper Group has been experiencing some issues in relation to distributing its newspapers via the traditional method of placing the paper within the resident's letterbox.

In an effort to overcome these distribution issues, the Community Newspaper Group has sought and received permission from the Keep Australia Beautiful Council (KABC) to allow it to distribute the papers via a roll and throw method. This distribution is identical to how the national and state papers are distributed to those residents who order them. Part of the approval issued by the KABC was that the relevant local government had to agree to the revised distribution method and the associated conditions.

It is recommended that the distribution method be agreed for a 12-month period in accordance with some of the conditions set down by the KABC. The agreement to trial the distribution method is subject to the City not agreeing to administering the complaints associated with the method.

### **BACKGROUND**

The Council at its meeting held on 10 June 2008 resolved as follows: -

*“That Council REQUESTS a report in relation to seeking WALGA’s support in having the Litter Act 1979 amended to enable a local government to designate that a local newspaper can be distributed by being thrown onto the front of each resident’s property in order to facilitate local newspaper distribution.”*

The City of Joondalup has for some time experienced distribution problems of the community newspaper in sections of some suburbs within its region. The City has been discussing these issues with the Community Newspaper Group for some time in an effort to find some resolution to the lack of distribution of the local paper within the certain locations.

The local newspaper is a major medium by which the City communicates with its residents in the form of advertisements and media releases. Research in 2006 indicated that the local newspaper was the main source from which local residents sought information regarding the activities and operations of the City. In an effort to address some concerns raised about the lack of the distribution of the local paper in some areas, the City launched on-line versions of key corporate communications which included electronic newsletters relating to:

- public notices;

- library information;
- employment opportunities;
- general issues.

Despite a concerted effort in promoting these electronic newsletters, the subscriptions have not been high.

## **DETAILS**

The City has received correspondence from the Community Newspaper Group advising that it is considering the option of 'rolling and throwing' its newspapers to residents in the same way as the daily newspapers are distributing throughout the metropolitan area. The Community Newspaper Group is requesting that this method be trialled throughout the City of Joondalup.

The newspaper has been unable to introduce this distribution method due to the restrictions of the Litter Act 1979. However, with the increasing difficulty in employing 'walkers' within certain areas, the newspaper group contacted the Minister for Environment regarding the issue. The Minister subsequently raised the proposition with the KABC, which administers the legislation. The Minister has subsequently approved the proposition subject to the following conditions:

- the local council agrees in writing to the proposal;
- Community Newspaper Group and local councils agree to widely publicise the proposed new delivery method;
- the local council commits to responding to any resident's complaints that may arise from the proposed delivery method; and
- Community Newspaper Group provides a dedicated contact number for residents wishing to register a complaint and/or that they do not wish to receive the newspaper.

The Community Newspaper has agreed to meet the conditions placed on them which includes:

- an advert in every edition of any community newspaper and corporate website advising residents of the new delivery service; and
- a dedicated phone number and email address for residents to register complaints or advising that they do not wish to receive the newspaper.

The Community Newspaper Group is requesting the City of Joondalup to consider the proposed conditions to be placed on it.

### **Issues and options considered:**

The Council has three options: -

- 1 To not agree to the request from the Community Newspaper Group;
- 2 To agree to request and all the associated conditions;
- 3 To agree to the request subject to modifications to the conditions.

### **Link to Strategic Plan:**

Not applicable.

**Legislation – Statutory Provisions:**

Provisions of the Litter Act 1979 have prevented a 'roll and throw' distribution from being permitted when distributing newspapers or other promotional publications unless the resident has consented to the distribution and paid for the publication. The KABC has been established in accordance with the Litter Act 1979 with its primary responsibility to oversee the objectives of the legislation

Section 1.7 of the Local Government Act (*the Act*) 1995 states: -

***Local public notice***

1. *Where under this Act local public notice of a matter is required to be given, a notice of the matter is to be —*
  - a. *published in a newspaper circulating generally throughout the district.*

The Act requires the local government to give local public notice before it undertakes many functions such as advertising council meetings, election processes etc.

**Risk Management considerations:**

As the City uses the Community Newspaper Group as one of its major communication tools with its residents to communicate both statutory and non statutory messages, distribution problems may prevent some residents being offered the opportunity to receiving City related messages.

**Financial/Budget Implications:**

Not applicable

**Policy implications:**

Not applicable

**Regional Significance:**

Not applicable

**Sustainability implications:**

Not applicable

**Consultation:**

Not applicable

**COMMENT**

In principle, it is suggested that the additional distribution method be supported but concern is raised with regards to the requirement for the City to promote and deal with complaints relating to this. The proposal is from a commercial operator and the emphasis on promoting and dealing with operational issues of the distribution of the newspaper should be the sole responsibility of the commercial operator, being the Community Newspaper Group. The paper is an independent publication and not one from the City. There are currently some residents who associate the newspaper with the City. If the City were to assist with promoting its distribution and dealing with associated complaints it will only reinforce that perception.



It appears that the KABC has the power to make decisions with regards to the various provisions of the Litter Act 1979 and therefore is not necessary to amend the legislation.

The Community Newspaper Group has sought permission to undertake similar distribution processes across a number of metropolitan local governments. It is recommended that approval be granted for 12 months with a report being presented back to the Council following 9 months but prior to the 12 months, in order for the Council to consider the matter further and determine if it wishes to allow the distribution method to be an ongoing approval.

## **ATTACHMENTS**

None

## **VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

### **That Council:**

- 1     AGREES to allow the Community Newspaper Group to distribute its two community papers by a “roll and throw” method, similar to the way daily newspapers are distributed to households throughout the City of Joondalup for a period of 12 months;**
- 2     REQUESTS that the Community Newspaper Group provide feedback to the City which evaluates the trial of the revised distribution method;**
- 3     SEEKS a further report evaluating the trial of the revised distribution method following 9 months of the 12 month approval granted in (1) above;**
- 4     NOT AGREE to be responsible to responding to residents’ complaints relating to the revised distribution method as detailed in (1) above and that responsibility is maintained by the publisher of the local newspaper;**
- 5     ADVISES the Keep Australia Beautiful Council of the Council’s decision and seeks its views on this matter.**

**ITEM 6                    MINUTES OF EXTERNAL COMMITTEE - [60514]  
[00033]****WARD:** All**RESPONSIBLE** Mr Ian Cowie  
**DIRECTOR:** Governance and Strategy

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**PURPOSE**

To submit minutes of external committees to Council for information.

**EXECUTIVE SUMMARY**

The following minutes are provided:

- Meeting of Western Australian Local Government Association – North Metropolitan Zone held on 22 May 2008.
- Meeting of Tamala Park Regional Council meeting held on 19 June 2008.

**ATTACHMENTS**

Attachment 1            Minutes of Meeting of Western Australian Local Government Association – North Metropolitan Zone held 22 May 2008  
Attachment 2            Minutes of Meeting of Tamala Park Regional Council meeting held on 19 June 2008

*(Please Note: These minutes are only available electronically)*

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

**That Council NOTES the minutes of the meeting of:**

- 1            Western Australian Local Government Association – North Metropolitan Zone held 22 May 2008 forming Attachment 1 to this Report;**
- 2            Tamala Park Regional Council meeting held on 19 June 2008 forming Attachment 2 to this Report.**

*Appendix 4 refers*

*To access this attachment on electronic document, click here: [Attach4brf080708.pdf](#)*

## **ITEM 7 CITY OF JOONDALUP LOCAL BIODIVERSITY ACTION PLAN – ADOPTION OF DEFINITION, AIM, PRINCIPLES, KEY FOCUS AREAS AND OBJECTIVES – [24592]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Ian Cowie  
Director Governance and Strategy

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### **PURPOSE/ EXECUTIVE SUMMARY**

The purpose of this report is to provide the Council with an overview of the development of a Local Biodiversity Action Plan (LBAP) for the City of Joondalup.

This report seeks Council's adoption of a definition for biodiversity specific to the City of Joondalup and the overall aim, principles, key focus areas and objectives for a LBAP to enable progression.

### **BACKGROUND**

The City of Joondalup recognises the value of its natural assets and regards retention and enhancement of biodiversity as a key priority. The City has placed protecting its natural environment among the 5 key focus areas in its Strategic Plan. The Strategic Plan of 2008 – 2011 encapsulates the City's position of protecting local biodiversity through effective planning of natural areas (Strategy 2.1.7). The Plan also states the objective of ensuring that the City's natural environmental assets are preserved, rehabilitated and maintained (Obj 2.1).

Biodiversity is also identified as a key focus area in the City's Environment Plan 2007 – 2011 with the objective "To ensure the effective protection and maintenance of the City's biodiversity". The Plan also recognises the City's participation in the International Council for Local Environmental Initiatives (ICLEI) Local Action for Biodiversity (LAB) project with Action 3.1.3 "Achieve formal endorsement of the City's 10 Year Biodiversity Action Plan and Framework – ICLEI".

The LAB Project is an ICLEI partnership project, involving 21 cities from around the world to enhance the profile, planning and management of biodiversity at a local level. The aim of the three year Project is to develop a Local Government Network for biodiversity action, broadly representative of ICLEI's regions and continents, to promote a greater understanding of local government biodiversity issues leading to the implementation of appropriate measures within the participating local governments.

The five steps in the LAB process are as follows:

Step 1: Development of a biodiversity report that documents the current state of biodiversity and its management within each city

Step 2: Ensuring long-term commitment by City leadership to sustainable biodiversity management through LAB cities formally signing a local government biodiversity declaration

Step 3: Development of a 10-year biodiversity action plan and framework that will include commitments to biodiversity implementation plans and integration within broader City plans

Step 4: LAB cities' formal acceptance of their 10-year biodiversity action plans and frameworks

Step 5: Implementation of five new on-the-ground biodiversity interventions by the end of the three year project

The City has completed Step 1 with the production of its Local Action for Biodiversity Report which was showcased at the Local Action for Biodiversity Mayors Conference, May 2008 in Bonn (Germany). Step 2 was completed on the 19 February 2008 with Council endorsing the signing of the Durban Commitment: Local Government for Biodiversity statement and the Countdown 2010 – Save Biodiversity Declaration. The development of the LBAP and its endorsement by Council will complete Steps 3 and 4 and provide direction for both the completion of Step 5 and the City's biodiversity protection activities over the next ten years.

## **DETAILS**

The City of Joondalup has some of the most significant ecosystems on the Swan Coastal Plain. These include wetlands, the coastal strip containing on and offshore areas and bushland areas including several reserves with high conservational value.

The City through the formulation of its Biodiversity Report which completed Step 1 of the LAB process articulated its definition of Biodiversity which states that:

*“Biodiversity is the complex adaptive ecosystem forming the natural environment and its relationships and interfaces with the local community of Joondalup.”*

The City has committed itself to sustainable environmental planning and the development of a LBAP is an essential component in achieving this goal. There is a need to protect the City's biodiversity effectively and an action plan will provide the necessary guidelines in the management process.

A LBAP will assist the City to:

- Improve knowledge of local biodiversity;
- Develop necessary resources for biodiversity management;
- Prioritise operational activities in natural areas;
- Protect key bushland areas;
- Establish institutional partnerships to enhance the scientific knowledge base; and
- Provide information on the current extent and condition of local biodiversity.

### **Guiding Principles for the LBAP**

It is proposed that the guiding principles that will underpin the development of the LBAP will align to the Durban Commitment: Local Governments for Biodiversity and the Countdown 2010 Save Biodiversity Declaration, both of which the City has agreed to sign.

Consequently it is suggested that the City's key guiding principles should be:

#### **1 Publicise and Promote Biodiversity**

- To regularly publicise and promote the work the City is doing in managing its biodiversity

## 2 Effective Implementation

- To ensure that City plans, strategies and actions relating to biodiversity are being achieved and include the ongoing restoration and rehabilitation of degraded areas and control of invasive species

## 3 Raising Awareness

- To increase the community's understanding and awareness of biodiversity issues that affect the City and can impact on the lifestyles of residents

## 4 Community Participation

- To encourage the community to actively engage in biodiversity projects Partnerships and Collaboration
- To build partnerships, where appropriate, that will assist in achieving effective resource utilisation and share information and ideas.

### **Proposed Structure of LBAP**

It is proposed that the structure of the LBAP will include an overall aim, and six key focus areas each with its own objective, as described below.

#### **AIM**

For the City of Joondalup's rich biological diversity to be understood, maintained and protected.

#### **KEY FOCUS AREAS**

##### 1.0 Planning and Development

*Objective: To ensure major land approval and planning processes protect and enhance the City's biodiversity assets.*

##### 2.0 Catchment Management

*Objective: To undertake appropriate management at a catchment scale in order to reduce negative impacts on the City's natural areas.*

##### 3.0 Reserve Management

*Objective: To undertake effective ongoing management practices in the City's reserves to protect and enhance the biodiversity of those reserves.*

##### 4.0 Corridors and Connectivity

*Objective: To provide and protect biodiversity corridors and linkages to improve the viability and facilitate movement of local flora and fauna.*

##### 5.0 Community Education and Awareness

*Objective: To improve awareness and understanding in the local community about biodiversity and its importance.*

##### 6.0 Community Engagement and Partnerships

*Objective: To improve outcomes by undertaking meaningful engagement and working in partnership with the community, key stakeholders and relevant agencies.*

### Development of the LBAP

The recently completed Biodiversity Report provides an assessment of the current knowledge and condition of biodiversity in the City, the type of threats that exist and the City's current management practices. The City also undertook field assessments of local natural areas in 2004 as part of the Perth Biodiversity Project, including developing flora lists, identifying threats and prioritising reserves for management. The information contained in the Biodiversity Report and field assessments will provide the foundation for the development of the LBAP.

The City has been successful in obtaining funding from the Western Australian Local Government Association (WALGA) through their Local Biodiversity Planning Targeted Grants. This will enable the City to appoint an environmental consultant with biodiversity expertise to undertake further field assessments to build on what was done in 2004. A timeline is provided below for the development of the LBAP in line with the City's LAB commitments.

<b>TASK</b>	<b>COMPLETION DATE</b>
Seek endorsement of the structure, principles, aim, key focus areas and objectives for LBAP from Council	July 2008
Prepare an inventory of biodiversity resources in the City: Natural area assessments Review of GIS datasets Adoption of standard local significance criteria	September - December 2008
Identification of local ecological linkages	January 2009
Draft Local Biodiversity Action Plan: Recommendations for strengthening of the City's planning policies to achieve biodiversity outcomes Prioritisation of natural areas for management Management action plan for natural areas (5-10 years) Stakeholder engagement strategy Monitoring and evaluation indicators	July – August 2008
Attend Durban LAB Workshop	September 2008
Community Consultation	October – November 2008
Development of a Community Education and Publicity program	December 2008 - ongoing
Local Biodiversity Action Plan finalised and adopted by Council	February 2009
Incorporation of additional natural areas to local planning policy under schedule 5 for biodiversity protection	June-July 2009
Endorsed LBAP is presented to ICLEI World Secretariat	October 2009

### **Link to Strategic Plan:**

Objective 2.1: To ensure that the City's natural environmental assets are preserved, rehabilitated and maintained.

Strategy 2.1.7: The City protects local biodiversity through effective planning of biodiversity and natural areas.

Outcome The City's natural assets environmental assets are preserved for future generations

### **Legislation – Statutory Provisions:**

Not Applicable

**Risk Management considerations:**

Not Applicable

**Financial/Budget Implications:**

Not Applicable

**Policy implications:**

Not Applicable

**Regional Significance:**

Not Applicable

**Sustainability implications:**

Protecting biodiversity is important for a number of reasons. Protecting biodiversity ensures healthy ecosystems which purify the air and water. Forests and bushland areas are important "sinks" for carbon dioxide; wetlands absorb and recycle nutrients; and coastal dunes buffer the coastline against ocean storms. Maintaining healthy ecosystems improves the chances of plants, animals and landscapes recovering from unpredictable natural occurrences such as fire, flood, cyclones and the potential effects of climate change. Importantly the aesthetic value of natural open space areas contributes to the well-being of the community and provides a sense of place and uniqueness to the City of Joondalup. Biodiversity and the natural beauty of our landscapes are important for the tourism industry and the environment is an intrinsic part of the area's indigenous heritage.

**Consultation:**

The LBAP will be the subject of extensive community consultation during its development and will also involve a community education campaign.

**COMMENT**

Development of a LBAP will enable the City to meet its LAB commitments, complete actions in the City's Environment Plan, build on previous work done through the Perth Biodiversity Project and provide direction for the City's future management of natural areas and biodiversity.

**ATTACHMENTS**

Nil

**VOTING REQUIREMENTS**

Simple majority

## RECOMMENDATION

That the Council **ADOPTS** the following Definition, Principles, Aim, Key Focus Areas and Objectives for inclusion in the Local Biodiversity Action Plan.

### Definition of Biodiversity

Biodiversity is the complex adaptive ecosystem forming the natural environment and its relationships and interfaces with the local community of Joondalup.

### Principles

#### Publicise and Promote Biodiversity

- To regularly publicise and promote the work the City is doing in managing its biodiversity

#### Effective Implementation

- To ensure that City plans, strategies and actions relating to biodiversity are being achieved and include the ongoing restoration and rehabilitation of degraded areas and control of invasive species

#### Raising Awareness

- To increase the community's understanding and awareness of biodiversity issues that affect the City and can impact on the lifestyles of residents

#### Community Participation

- To encourage the community to actively engage in biodiversity projects

#### Partnerships and Collaboration

- To build partnerships, where appropriate, that will assist in achieving effective resource utilisation and share information and ideas.

### AIM

For the City of Joondalup's rich biological diversity to be understood, maintained and protected.

### KEY FOCUS AREAS

#### Key Focus Area 1 - Planning and Development

*Objective: To ensure major land approval and planning processes protect and enhance the City's biodiversity assets.*

#### Key Focus Area 2 - Catchment Management

*Objective: To undertake appropriate management at a catchment scale in order to reduce negative impacts on the City's natural areas.*

#### Key Focus Area 3 - Reserve Management

*Objective: To undertake effective ongoing management practices in the City's reserves to protect and enhance the biodiversity of those reserves.*



**Key Focus Area 4 - Corridors and Connectivity**

*Objective: To provide and protect biodiversity corridors and linkages to improve the viability and facilitate movement of local flora and fauna.*

**Key Focus Area 5 - Community Education and Awareness**

*Objective: To improve awareness and understanding in the local community about biodiversity and its importance.*

**Key Focus Area 6 - Community Engagement and Partnerships**

*Objective: To improve outcomes by undertaking meaningful engagement and working in partnership with the community, key stakeholders and relevant agencies.*

## **ITEM 8                    PROPOSED AMENDMENTS TO THE LOCAL GOVERNMENT ACT TO STAND DOWN ELECTED MEMBERS – [00561]**

**WARD:**                    All

**RESPONSIBLE DIRECTOR:**     Mr Ian Cowie  
   Governance and Strategy

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### **PURPOSE/EXECUTIVE SUMMARY**

To determine a response to the proposed amendments to the Local Government Act to stand down Elected Members.

### **BACKGROUND**

The Department of Local Government and Regional Development has proposed new provisions for the Local Government Act which would enable Elected Members to be 'stood down' in certain circumstances.

In response to this, the Western Australian Local Government Association (WALGA) has produced an Info Page. This includes a Discussion Paper which provides comments for and against each of the Department's suggestions and a questionnaire to gain Council's views (Attachment 1 refers).

### **DETAILS**

The Discussion Paper provides a comprehensive analysis of the proposed amendments. This should be considered to explain the details of the proposal.

#### **Issues and options considered:**

Council could:

- Support the position identified in this report;
- Amend the position identified in this report; or
- Decide to provide no comment in relation to the matter.

#### **Link to Strategic Plan:**

Not applicable.

#### **Legislation – Statutory Provisions:**

This report relates to proposed amendments to the Local Government Act.

#### **Risk Management considerations:**

Not applicable.

**Financial/Budget Implications:**

Not applicable.

**Policy Implications:**

Not applicable.

**Regional Significance:**

This proposal applies to all local governments in Western Australia

**Sustainability Implications:**

Not applicable.

**Consultation:**

The City's views are being sought by WALGA on this matter.

**COMMENT**

The Department's proposals raise a number of issues and questions as follows:

1. Is the amendment designed to address disruptive behaviour or to deal with people who have brought local government into disrepute? Some elements of the proposals and the Department's associated comments indicate the former while other elements indicate the latter.

If the proposal is designed to deal with disruptive behaviour, it is not considered the most appropriate way to address this issue. Disruptive behaviour is most effectively addressed immediately and the current proposals only allow for it to be dealt with at some significant time after the disruptive event occurs. A far broader range of options need to be considered in relation to disruptive behaviour.

If the proposal is to deal with people who have brought local government into disrepute, the proposed amendment appears far too broad. While it could be argued that a person who has been charged with a serious local government offence may bring the sector into disrepute if they attend Council meetings before they go to court (notwithstanding the fact that a person is innocent until proven guilty), the proposals also talk about standing down Elected Members under investigation.

A completely innocent person could be under investigation and, as a result, it is considered inappropriate to stand such a person down. An innocent person could also be charged but at least the investigation has been completed at this time and a charge laid.

2. The proposal talks of an Elected Member under investigation or charged "by a statutory authority". It is not clear whether the Standards Panel itself would be considered a "statutory authority". It is a body established by statute which can undertake investigations although it cannot charge a person.

If the proposal does include investigations by the Standards Panel, this is considered inappropriate. Such investigations are of minor breaches and it is highly questionable whether someone should be stood down for such a breach. While people under investigation by the Standards Panel could be disruptive, questions again arise as to whether the proposals represent the most efficient way of dealing with disruption.

3. It is difficult to understand how the proposals will work in relation to a complaint before a body such as the Crime and Corruption Commission (CCC). For instance:
  - A complaint about an Elected Member is received by the CCC;
  - The CCC commences an investigation. There are no public hearings and the details of the investigations are unknown;
  - The Council passes a resolution that the Elected Member whose behaviour has been referred to the CCC be stood down;
  - The Standards Panel considers this request.

In this example, it is unlikely that the CCC would provide the Panel with details of its investigation so the Panel would need to base its decision on its own investigation. This creates two investigations with potentially two different outcomes and no co-ordination.

It also potentially runs counter to confidentiality requirements in relation to complaints.

4. While the concept of Elected Members standing down voluntarily is considered acceptable, there are broad concerns about forcibly standing down people who are under investigation. A person should certainly be considered innocent at this stage.

## **VOTING REQUIREMENTS**

Simple Majority

## **ATTACHMENTS**

Attachment 1            WALGA Info Page, Discussion Paper and Questionnaire

## RECOMMENDATION

**That Council ENDORSES a response to the West Australian Local Government Association on the proposed amendments to the Local Government Act to stand down Elected Members in the following terms:**

- **The concept of Elected Members standing down voluntarily is considered acceptable;**
- **There are broad concerns about forcing Elected Members to stand down while they are under investigation;**
- **A person should be considered innocent while they are under investigation;**
- **The Department's proposals appear unfocused and there are questions about whether the proposals are designed to deal with disruptive behaviour by Elected Members or Elected Members who bring the sector into disrepute. This matter needs to be resolved to enable appropriate provisions to be established;**
- **It is unclear how the proposal would work in relation to complaints before the Crime and Corruption Commission.**

*Appendix 5 refers*

*To access this attachment on electronic document, click here: [attach5brf080708.pdf](#)*

## **ITEM 9 CITY'S STRATEGIC POSITION STATEMENTS – [33866]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Ian Cowie  
Governance and Strategy

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### **PURPOSE**

For Council to endorse the Position Statements on issues canvassed at the Strategic Planning Workshop held on 17 May 2008.

### **EXECUTIVE SUMMARY**

The Elected Members attended a Strategic Planning Weekend on 16 and 17 May 2008. The Weekend was attended by the Mayor and eight Councillors. A number of issues were discussed at a session held on 17 May. Those issues related to:

- Community Facilities;
- Leisure Centre Operations;
- Arena Joondalup;
- Regional Recreation Facilities;
- Debt Strategy;
- Use of funds received from the development of Tamala Park;
- Increases in residential density in some localities;
- Rejuvenation of local centres; and
- Development of high rise commercial office space within the CBD on Council owned land.

Based on the discussion which occurred, this report presents a series of Position Statements to the Council for endorsement.

### **BACKGROUND**

The Strategic Planning Weekend provided the Elected Members with an opportunity to focus on a number of strategic, priority issues. A number of issues were discussed during a facilitated session with suggestions made as to the approach the City should take. Position Statements have been developed from these suggestions and are included in the recommendations.

### **DETAILS**

The following issues were explored:

#### **1. What approach will the Council have to community facilities in the future?**

##### **Issues and options:**

Should Council continue with the historical approach to individual service delivery facilities or provide a large scale, more encompassing approach, similar to Craigie Leisure Centre?

**2. What is the philosophy of the Council in relation to Leisure Centre operations?****Issues and options:**

Should Leisure and Recreation facilities be self sufficient in terms of meeting operating costs, or should the Council subsidise such facilities? Determination of a philosophy is considered critical prior to master planning for future facilities.

**3. What is the Council's position on assuming responsibility for Arena Joondalup?****Issues and options:**

Should the City be preparing for the transfer of this large scale leisure and recreation facility to the City? The facility, in its current form, was principally developed by LandCorp (Joondalup Development Corporation) as part of the implementation of the Joondalup CBD Master Plan. It is the only facility of its type that is operated by the State Government, under the auspices of the WA Sports Centre Trust (WASCT). All other WASCT facilities are predominantly used for elite sports.

**4. What is the Council's position on funding of regional recreational facilities?****Issues and options:**

Over the next decade, the Tamala Park land, which is currently under the management and utilisation of the Mindarie Regional Council, will be released back to the owners. The site, which comprises 151 hectares, will be available as a regional recreation facility. What is Council's position in terms of both the strategic implications and financing of such a facility which, while located within the City of Wanneroo, has an interface with the border of the City of Joondalup?

**5. What is the Council's position on debt strategy?****Issues and options:**

How should new major infrastructure, specifically projects such as the Ocean Reef Marina, the Cultural Facility, new community facilities, and commercial facilities on City-owned land be funded? Should Council develop a debt strategy in relation to funding these items?

**6. What is Council's position on the use of funds received from the development of Tamala Park land owned by the City and six other local governments?****Issues and options:**

The City of Joondalup, along with six other local governments, has a strategic land investment (Tamala Park) which is currently undergoing structure planning for future development into a residential lot subdivision. In the period from approximately 2010 – 2021 there is potential for the City to receive an income stream of \$76 million. The Council needs to determine the basis on which it will manage these funds and for what purposes the funds might be allocated.

**7. Would Council entertain an increase in residential density, in such areas as:**

- Localities close to the train station?
- Older, southern suburbs of the Local Government area?
- Older, coastal areas, which have been recently deep sewered?

**Issues and options:**

Some areas of the Local Government have the potential to readily accommodate infill and redevelopment to higher densities. If this scenario was supported, then the City has the potential to accommodate the changing needs of the ageing population.

**8. Would Council endorse strategies to rejuvenate local centres, and concentrate appropriate types of development into these centres?**

**Issues and options:**

There is potential to encourage a broader range of activities in local centres than currently occurs, and to either allow buffer zones of semi-commercial activity around them or to focus local centre development into designated areas.

**9. What is Council's position on the development of high rise commercial office space within the CBD on Council owned land?**

**Issues and options:**

The City owns a significant development site within the Joondalup City Centre. This site is located on Boas Ave and currently forms the car park for the City's Administration building. Historically, this land was designated as a cultural facility, which was to be built over a sunken car park. However this use has now become superseded with the City's acquisition of land facing onto Grand Boulevard (next to TAFE Hospitality Training Centre) specifically for this purpose. The Council now has an opportunity to determine the future purpose of the undeveloped land on Boas Avenue. Should this land be rezoned to commercial use, it would potentially enable the establishment of high-rise commercial offices. As the owner of the land, the Council could also invest in a development as the owner-builder. Such a development will provide the opportunity to generate significant revenue for the community, and through it, Council can provide a precedent for other developers to follow. There are a number of options available to the Council:

- Developing the land as an owner/builder
- Leasing out to a commercial developer.

**Link to Strategic Plan:**

This item has a general connection to the Strategic Plan – the Position Statements impact on the general direction of the City of Joondalup.

**Legislation – Statutory Provisions:**

This item relates to the general function of local government to provide for the good government of persons in its district.

**Risk Management considerations:**

Consideration of future strategic issues supports the City's responsibility and accountability for the stewardship of community resources. The Position Statements consider the risks associated with the overall goals and objectives of the City, and set a broad direction for how the City will progress a number of key matters.

**Financial/Budget Implications:**

Not applicable

**Policy implications:**

Not applicable



**Regional Significance:**

A number of the Position Statements relate to regional issues or facilities.

**Sustainability implications:**

The item has a general connection to sustainability in that it establishes a set of Position Statements on a number of key issues, and plans for sustainable success.

**Consultation:**

Not applicable

**COMMENT**

The Position Statements establish a general direction on a number of key strategic issues and provide direction to assist the City to progress a number of key projects.

**ATTACHMENTS**

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

**That Council ENDORSES the following Strategic Position Statements:**

**1 COMMUNITY FACILITIES****Master Planning**

- Each significant facility should be developed in accordance with a Master Plan rather than being the subject of small ad hoc fixes.

**Usage**

- Facilities should be multi-use and be used at all times where possible. Facilities should include complementary services where possible.

**2 LEISURE CENTRE OPERATIONS**

- Leisure and Recreation operations overall should aim to be self sufficient and meet all operating costs.

**3 ARENA JOONDALUP**

- In the event that the State Government agrees to the transfer of this large scale leisure and recreation facility to the City, the transfer is supported on the following conditions as a minimum:
  - A train platform to be funded before transfer
  - Maintenance issues to be addressed before transfer
  - A funding stream from the State Government to be provided which reduces into future years
  - All caveats on the land which impede alternative land uses to be withdrawn.

**4 TAMALA PARK**

- The City should plan to contribute funds for the development of future regional recreation facilities on the site in the longer term.

**5 DEBT STRATEGY**

- The City should have a Debt Strategy.
- The Strategy should include:
  - Debt is to be used for long term building infrastructure rather than for parks and roads.
  - Debt to apply to an asset for no more than 50% of the life of the asset.

**6 TAMALA PARK INCOME**

- Funds from Tamala Park should be used for the following purposes as a minimum:
  - To invest in income producing facilities
  - To build a Cultural Facility and other significant one-off facilities such as Ocean Reef Marina.

**7 RESIDENTIAL DENSITY**

- Increased residential densities in certain areas is considered an option particularly where:
  - The area is close to a train station or other nodes.
  - It occurs as a planned approach or long term strategy.
  - The amenity of the suburb (green effect) is maintained.
  - The community is informed of intentions with no surprises if rezoning occurs.
  - There needs to be height restrictions on coastal nodes.

**8 LOCAL CENTRES**

- Rejuvenation of local commercial centres are supported under the following conditions:
  - Need good local access.
  - Need to rejuvenate beyond local commercial centres.
  - Needs adequate planning.

**9 CBD LAND**

- Development of high rise commercial office space within the CBD on Council owned land is supported under the following conditions:
  - Development should be iconic.
  - Review the adequacy of the Administration Building.
  - Would require a Business Plan.

## **ITEM 10            SMOKE FREE ALFRESCO AREAS: LOCAL LAW AMENDMENT – [10047]**

**WARD:**                North

**RESPONSIBLE        Ian Cowie**  
**DIRECTOR:**        Governance and Strategy

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### **PURPOSE/EXECUTIVE SUMMARY**

To present Council with:

- Proposed amendments to the City's *Local Government and Public Property Local Law 1999* (Attachment 1), which aims to prohibit smoking at the entrances of City-owned buildings in accordance with recommendations made by the Health Department;
- Proposed amendments to the City's *Trading in Public Places Local Law 1999* (Attachment 2), which aims to prohibit smoking in alfresco areas within the City of Joondalup; and
- An update on the progress of the City of Fremantle's 'smoke-free alfresco areas initiative'.

It is recommended that Council considers the attached *Draft Trading in Public Places Amendment Local Law 2008* and *Draft Local Government and Public Property Amendment Local Law 2008* and agrees to release the documents for a six week public consultation period, in accordance with section 3.12 of the *Local Government Act 1995*.

### **BACKGROUND**

At the June Meeting of Council (*CJ097-06/08 refers*), Council decided, inter alia to:

- “1        *NOTE the report in relation to the Draft City of Joondalup Trading in Public Places Amendment Local Law 2008;*
- 2        *REQUEST a report to enable further amendment to be made to the Draft City of Joondalup Trading in Public Places Amendment Local Law 2008 to allow for a smoking prohibition, in accordance with the Health Regulations, within the entrances of City-owned buildings; and*
- 3        *REQUEST an update on the Joint Standing Committee on Delegated Legislation disallowance of the City of Fremantle Local Law dealing with smoking in outdoor eating areas and that a further report be submitted to Council for a final decision on whether to release the Draft City of Joondalup Trading in Public Places Amendment Local Law 2008 for public comment.”*

Research has subsequently been undertaken in relation to the above requests. The outcome of this research is detailed below.

## DETAILS

### Entrances and Exits of City-Owned Buildings

Relevant information in relation to this matter includes:

- Current statutory provisions that deal with smoking prohibitions relate only to enclosed public spaces and do not extend to public open space, however, it is a requirement under the *Tobacco Products Control Regulations 2006* that occupiers of enclosed public places prevent smoke from entering their premises; and
- It is only on the **advice** of the Health Department that occupiers place no-smoking signs at a minimum 5-metre distance from the entrances and exits of their premises. (Ventilation entrances have a recommended distance of 10 metres).

State legislation only creates an offence for the occupier (being the City) to prevent smoke from entering premises and not for the smoker who is causing the smoke to be produced. The reason for this is that the occupier has a duty of care to all persons located within the building because it is available for the public to access. The onus is therefore on the City to support the health and safety of the building's occupants.

Should the City erect no-smoking signs within 5 metres of the entrances and exits of all City-owned buildings, the City will be congruent with Health Department recommendations and the Regulations requiring that occupiers prevent smoke from entering their premises. (It is noted that 5 metres is considered a "reasonable distance" to ensure that smoke is prevented from entering a building). However, the sign's directions will not be enforceable with a penalty unless supported by a provision in a local law.

### Alfresco Areas

Provided at Attachment 3, for Council's consideration, is the report previously presented to Council on the issue of smoking prohibitions within alfresco areas (*CJ096-06/08 refers*).

### City of Fremantle

The City of Fremantle's "smoke-free alfresco areas initiative" has recently been approved by the Joint Standing Committee on Delegated Legislation; however, the approval is subject to a further amendment to that City's *Local Laws Relating to Outdoor Eating Areas*. The Committee has requested that offences directed at employees are to be removed from the local law, allowing only proprietors to be liable for failing to request smokers to cease smoking within the prohibition area. The City of Fremantle Council is looking to promptly address the requested changes, allowing the ban to become operational and enforceable.

The proposed amendment to the City of Joondalup's *Trading in Public Places Local Law 1999*, (provided at Attachment 2), reflects the recommendations of the Joint Standing Committee as it does not contain any offences that are directed at employees. There is therefore little risk that the amendment will be unable to progress, however, community support will still need to be determined through a public consultation process.

**Issues and options considered:**Option 1: Approve the release of the *Draft Trading in Public Places Amendment Local Law 2008*

It is recommended that the draft amendment be released for public consultation given the recent success of the City of Fremantle's amendment local law.

Option 2: Approve the release of the *Draft Local Government and Public Property Amendment Local Law 2008*

It is recommended that the draft amendment be released for public consultation to gauge the level of community support for the initiative.

Option 3: Request further changes to the *Draft Trading in Public Places Amendment Local Law 2008*

This option is not recommended as the current proposed amendment has been drafted to reflect the recommendations of the Joint Standing Committee on Delegated Legislation.

Option 4: Request further changes to the *Draft Local Government and Public Property Amendment Local Law 2008*

This option is not recommended as the current proposed amendment is considered sufficient to achieve Council's aim of introducing a smoking ban at the entrances and exits of Council-owned buildings.

Option 5: Do not progress either amendment

This option is not recommended.

**Link to Strategic Plan:**

Objective 5.2 - To facilitate healthy lifestyles within the community.

Outcome - The Joondalup community is provided with opportunities to lead a healthy lifestyle.

**Legislation – Statutory Provisions:***Tobacco Products Control Regulations*

*Regulation 13: Duty to prevent smoke entering enclosed public places*

*“The occupier of an enclosed public place must, unless the place has adequate ventilation, take reasonable steps to ensure that smoke from a tobacco product does not enter the place”*

*Penalty: a fine of \$2,000*

*Local Government Act 1995*

*Section 3.12: Procedure for Making Local Laws*

**Risk Management considerations:**

There is a risk that business owners affected by the alfresco area smoking ban will oppose the proposed Amendment given that it is not applicable to all businesses that provide outdoor dining areas (where such areas are located on private property). Despite such a concern, in the City of Fremantle's experience strong support was received from the business community regarding the ban's introduction, as it was believed that customers who do not smoke will appreciate a business that provides a smoke-free outdoor environment.

There is also a minimal risk that a sufficient head of power may not exist for the City to enforce a smoking ban at the entrances and exits of City-owned buildings. However, should that be the case, if the City is able to prove that significant support within the community exists, it will have a mandate to lobby the State Government for legislation that will create an enforceable offence.

**Financial/Budget Implications:**

Any consultation process undertaken will incur costs to the City. Most consultation processes for local law amendments require approximately \$5,000 to pursue, including Statewide and local notification as well as mail-outs and general administrative costs.

**Policy implications:**

The proposed amendments relate to a general policy considered by Council in relation to smoking prohibitions in public open space.

**Regional Significance:**

Not Applicable.

**Sustainability implications:**

Not Applicable.

**Consultation:**

Consultation will be undertaken should Council choose to pursue options 1 and 2.

**COMMENT**

Not Applicable.

**ATTACHMENTS**

Attachment 1	City of Joondalup Draft Local Government and Public Property Amendment Local Law 2008
Attachment 2	City of Joondalup Draft Trading in Public Places Amendment Local Law 2008
Attachment 3	Previous report to Council ( <i>CJ096-06/08 refers</i> )
Attachment 4	The Local Law making process

**VOTING REQUIREMENTS**

Simple Majority.

## RECOMMENDATION

### That Council:

- 1 **NOTES** the information provided on the progress of the City of Fremantle's 'smoke-free alfresco areas initiative';
- 2 in accordance with Section 3.12 of the Local Government Act 1995, **APPROVES** the Draft Local Government and Public Property Amendment Local Law 2008 forming Attachment 1 to this Report as the basis for public consultation, for a period of 44 days, with the following purpose and effect:

*“The purpose of this local law is to prohibit the act of smoking within 5 metres of the entrances and exits of all City owned buildings”;*

*“The effect of this local law is that a system for prohibiting smoking within 5 metres of the entrances and exits of all City owned buildings will be operational.”*

- 3 in accordance with Section 3.12 of the Local Government Act 1995, **APPROVES** the Draft Trading in Public Places Amendment Local Law 2008 forming Attachment 2 to this Report as the basis for public consultation, for a period of 44 days, with the following purpose and effect:

*“The purpose of this local law is to prohibit the act of smoking in outdoor dining areas that are situated on public property within the City of Joondalup”;*

*“The effect of this local law is that a system for prohibiting smoking in alfresco dining areas within the City of Joondalup will be operational.”*

Appendix 6 refers

To access this attachment on electronic document, click here: [Attach6brf080708.pdf](#)

## **ITEM 11 REGISTERING, IDENTIFYING AND STERILISING CATS: A NEW LOCAL LAW – [29182]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Ian Cowie  
Governance and Strategy

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### **PURPOSE/EXECUTIVE SUMMARY**

For the Council to consider beginning the process of making a new local law to provide for the registration, identification and sterilisation of cats within the City.

### **BACKGROUND**

Council considered a report relating to registering and identifying cats at its 10 June 2008 meeting (CJ097-06/08 refers). At this meeting, Council resolved to refer the matter to the Policy Committee for further consideration.

A report on cats was presented to the Policy Committee on 23 June 2008. At this meeting, the Committee resolved to recommend to Council that the City progresses a draft local law relating to cats which includes a requirement for compulsory sterilisation.

This report presents a redrafted Cats Local Law which includes compulsory sterilisation (Attachment 1).

### **DETAILS**

To support a legislative requirement for sterilisation, the Policy Committee recommended that the City should encourage cat sterilisation through a cat sterilisation subsidy program, with subsidies set at \$50. It also resolved to recommend an education campaign in relation to the management of cats.

The issue of the subsidy for sterilisation and the education campaign will be considered separately to the draft local law which is the subject of this report. The local law development process will take some time to finalise because of the statutory processes to be followed and, consequently, is being progressed now.

### **Issues and options considered:**

Council may decide:

- To proceed with the Cats Local Law as drafted;
- To amend the Cats Local Law as drafted; or
- Not to proceed with a new Cats Local Law.

### **Link to Strategic Plan:**

Objective 1.2: to engage proactively with the community.

### **Legislation – Statutory Provisions:**

Local Government Act 1995, Sections 3.5 and 3.12. Attachment 2 presents a flow chart of the process.



**Risk Management considerations:**

Registering cats is likely to be strongly supported by some and opposed by others. Elements of the proposed local law may be closely scrutinised by Parliament's Joint Standing Committee on Delegated Legislation.

**Financial/Budget Implications:**

Should Council decide to progress the new local law, additional costs will be involved in completing the process. This may be in the region of some \$2,000, including advertising and any additional consultation undertaken on the matter. Further, as noted in the previous report to Council on this matter (CJ064–04/07 refers), whilst revenue from the registration of cats will be generated, this will be dependent on cat owners being prepared to register their pets and may not offset the costs of processing registrations and maintaining the registration database.

In 2007, \$202,166 of revenue was raised from the processing of 9532 dog registrations. (This was a combination of renewals and new registrations and the application of full and concessional rates). The administrative costs of processing this number of registrations was \$91,970 including the purchasing of registration tags, time taken to process applications, costs of providing online payment services and mailing distributions. This equates to a revenue-administrative cost ratio of almost 2:1, (meaning that for every \$2 generated from revenue, \$1 is spent on administrative costs).

Operationally, the annual cost of enforcing the registration provisions of the *Dog Act 1976* is \$215,330. This includes the time taken to address inquiries, relocate animals either back to their owner or to Malaga for impounding and the administration of the register of offences. Consequently, the implementation of the *Dog Act 1976* costs the City \$82,500 overall. Given that State legislation requires the City to enforce dog-related offences, the City is obligated to provide satisfactory resources to ensure that its responsibilities are fulfilled. Should a Cats Local Law be introduced, the City will be imposing additional operational costs upon itself which will not be offset by revenue from registrations and infringement payments. In addition, set-up costs of purchasing microchip scanners and cat traps would also be imposed on the City should the proposed Cats Local Law be pursued.

**Policy implications:**

This report relates to a new policy provision for cats.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

Not applicable.

**Consultation:**

Opportunities for the public to make submissions on the proposed local law are contained within the provisions of 3.12 of the Local Government Act 1995, and will involve Statewide and local advertising of both the notice of the City's intention to introduce the new local law and the proposed local law itself. It is anticipated that this will serve to identify the extent of public acceptance of the proposed new local law relating to cat registration.

## COMMENT

City officers recommended against enacting a Cats Local Law in the reports to Council dated April 2007 and June 2008. Reasons for this included:

- (a) There are no real benefits in just registering cats. Public concerns tend to reflect on sterilisation to address the number of unwanted cats and cat nuisance. These matters can, at best, be only indirectly influenced by a Local Law requiring registration. (For example, a discounted registration fee could be adopted for a sterilised cat).
- (b) It is unlikely that large numbers of cats would be registered, even with a local law in place. Across local government, it is generally accepted that only around 50% of dogs are registered by their owners. A local government can door knock residences to identify where dogs are kept to increase this percentage but this would be far more difficult with cats which do not 'come to the door' in the same manner as a dog when a stranger approaches the house. Consequently, it is likely that there will be comparatively low levels of compliance with a cat registration system.
- (c) The State Government should regulate cats, as it does with dogs, and not shift the issue to local government. By local government taking on this role, it is supporting a cost shift from the State Government.

Further to the concerns listed above, the City has received a recent position statement from the Western Australian Rangers Association (WARA) in relation to the management of cats. It is the Association's recommendation that the identification and registration of cats in a local law should *not* be supported (unless State legislation is introduced) due to the associated responsibilities of local government to enforce the offences.

It is also postulated that the majority of owners who register their cats will have 'good' cats (that is, cats which do not cause a nuisance, are well controlled and which are sterilised). Consequently, registration will do little to change the approach of owners whose cats are not well controlled, cause a nuisance and breed excessively.

In addition to this, the costs associated with registration will create expectations that a service will be provided by the local government, most likely being the provision of a cat pound. For most local governments, providing such a service would run at a significant loss. This report demonstrates that administering the requirements of the *Dog Act 1976* costs the City \$82,500 annually. If only half as many cats are registered, it could be estimated that administering this Local Law would end up costing the City around \$40,000.

However, this is considered a significant underestimation as revenue is being set at a level equivalent to that generated under the *Dog Act* while costs associated with capturing and impoundment are likely to be much higher than dogs.

City officers agree with the position statement provided by WARA and maintain their previously held reservations. However, this report is presented to Council with a recommendation generally in keeping with the April 2007 direction from Council and the recommendation from the Policy Committee in June 2008.

## ATTACHMENTS

- Attachment 1            The draft Cats Local Law
- Attachment 2            The local law making process

## VOTING REQUIREMENTS

Simple Majority.

## RECOMMENDATION

That Council, in accordance with Section 3.12 of the Local Government Act 1995, APPROVES the proposed Cats Local Law forming Attachment 1 to this Report as the basis for public consultation, for a period of 44 days, with the following purpose and effect:

*“The purpose of this local law is to provide for the registration, sterilisation, control and identification of cats within the City of Joondalup”;*

*“The effect of this local law is that a system for the registering, sterilising, identifying and controlling of cats will be operational within the City of Joondalup.”*

Appendix 7 refers

To access this attachment on electronic document, click here: [Attach7brf080708.pdf](#)

## **ITEM 12 WEST AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION ANNUAL GENERAL MEETING - AGENDA ITEMS – [00033]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Ian Cowie  
Governance and Strategy

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### **PURPOSE/EXECUTIVE SUMMARY**

To provide Council with an outline of three reports to be submitted to the 2008 Western Australian Local Government Association (WALGA) AGM and for Council to consider how best to respond to the issues raised in them.

### **BACKGROUND**

Council has nominated the Mayor and Deputy Mayor as voting delegates for the WALGA AGM. In order to facilitate voting at the AGM by Council's representatives, information concerning the three AGM reports are being brought to Council's attention as follows:

- Allowances paid to Elected Members (South Perth)
- Rates exemption for charitable bodies (Shire of Dardanup)
- SSS report (Shire of Dardanup)

### **DETAILS**

#### **Allowances paid to Elected Members**

The City of South Perth will move a motion supporting a review of the allowances paid to elected members and the Department of Local Government and Regional Development being urged to amend the relevant provisions of the Act to implement the new allowance.

The rationale for this motion is given as follows:

- When the *Local Government Act* came into effect in July 1996, the maximum allowance payable to elected members was \$6,000 per annum. In the past 12 years this amount has only been reviewed on one occasion and the maximum amount now payable is \$7 000 per annum.
- The 37% increase in the Consumer Price Index for the period July 1996 to June 2008 should have resulted in an adjusted allowance of \$8,200.
- There is a marked difference between the \$ value of allowances paid to Elected Members for serving on committees or boards (e.g., between \$8,000 - \$20,000) compared with those paid to Elected Members for serving on Council.
- The amount payable to Western Australian elected members is amongst the lowest in the country:
  - New South Wales - up to \$25,850
  - Victoria - \$18,000
  - Queensland - determined by each Council but is understood to be linked to the remuneration paid to State Members of Parliament.
  - Tasmania - up to \$12,000
- The low annual allowance could deter members of the community from serving on Council.

- The SSS report supports the notion that remuneration should be determined by the Salaries and Allowances Tribunal and updated on an annual basis.

It is recommended that the South Perth motion be supported.

### **Rate exemption for Charitable Bodies**

The Shire of Dardanup will move a motion supporting the lobbying of State and Federal governments for the compensation of local governments for the loss of revenue associated with the areas of land used for independent living units on estates operated by registered charities and religious bodies.

The rationale for this motion is given as follows:

- As residents of independent living units continue to enjoy the quality of life of any land owner with access to all services and facilities provided by that local government e.g., libraries, parks, reserves etc., exemption is not considered to be equitable.
- As the need for more aged accommodation is required, current losses in revenue will increase as demand is likely to be met by registered charities and religious bodies building on their own land.
- The State's approach to revenue-raising to pay for services is inconsistent i.e., charitable bodies are not exempt from the State Government imposed Emergency Services Levy raised on behalf of the State by local government.

With respect to the City of Joondalup, there are 5 religious and charitable bodies operating with units for independent living accommodation on site. Under the current legislation, this represents a loss of revenue for the City amounting to approximately \$108,000 per annum.

Support of this motion appears warranted given that 15% of the total population of the City is currently aged between 50 and 59, representing a substantial proportion of people likely to consider independent living units as a housing alternative within the next 20 years.

### **SSS Report**

The second motion to be put by the Shire of Dardanup concerns the following:

- The need for a debate on the suitability of the SSS Report "The Journey – Sustainability into the Future" as a planning tool for driving structural reform of local government in Western Australia;
- The need for WALGA to provide members with a comprehensive qualitative assessment of the impact of structural reform on other States in Australia. Has reform contributed to a more sustainable future?

On 13 May 2008, Council (CJ070 – 05/08 refers) decided that a response to WALGA on the Systemic Sustainability Study's Draft Report should be drafted in line with the Officer's comments on a number of the 61 recommendations. Whilst none of the Officer's comments directly critique the SSS Report as a planning tool for driving structural reform, others do support a number of recommendations with long term implications e.g., recommendation 17 which refers to creating systems for the revaluation of assets.

The SSS Report represents a comprehensive assessment and it is questionable whether significant further debate and analysis is necessary. Consequently, it is suggested that this motion not be supported.

**Issues and options considered:**

Council may decide to:

Option One: Provide 'in principle' support for each of the suggested positions on the three motions in this report.

In the event that the quality of the debate at the AGM alters, or in any otherwise negates, the positions put forward in this report, delegates should vote on the motions as they see fit.

Option Two: Amend one or more of the positions suggested.

**Link to Strategic Plan:**

Key Focus Area: Leadership and governance  
Strategy 1.3.4 Elected members...represent the community on external bodies and build strategic alliances.

**Legislation – Statutory Provisions:**

Not applicable

**Risk Management considerations:**

Not applicable

**Financial/Budget Implications:**

Not applicable

**Policy implications:**

Not applicable

**Regional Significance:**

The position taken on the AGM Agenda items may have long term implications for local sustainability.

**Sustainability implications:**

As above

**Consultation:**

Not applicable

**COMMENT**

Nil

**ATTACHMENTS**

Attachment 1 Motions from the City of South Perth and the Shire of Dardanup

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

**That Council takes the following positions on the three motions from the floor at the AGM of the Western Australian Local Government Association in the event that no additional information arises at the AGM which could substantively alter those positions:**

- **SUPPORTS the motion to review Elected Member allowances;**
- **SUPPORTS the motion about compensating local governments for the loss of revenue in relation to independent living units on estates operated by charities and religious bodies;**
- **DOES NOT SUPPORT the motion in relation to the SSS report and further assessment.**

*Appendix 8 refers*

To access this attachment on electronic document, click here: [Attach8brf080708.pdf](#)

## **ITEM 13                    CREATION OF A SIGNIFICANT TREE REGISTER – [18058]**

**WARD:**                    All

**RESPONSIBLE**        Mr Ian Cowie  
**DIRECTOR:**            Governance and Strategy

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### **PURPOSE/EXECUTIVE SUMMARY**

For Council to consider the establishment of a significant tree register. This report recommends that a tree register be established as a non-legislative initiative.

### **BACKGROUND**

At its meeting on 23 June 2008, the Policy Committee considered a report on the creation of a significant tree register. (Refer to the Item in this Agenda entitled “Minutes of Policy Committee Meeting held on 23 June 2008”.) The report noted that significant tree registers have been progressed elsewhere and that there are four options to progress this issue at Joondalup. Two relate to amendments to the District Planning Scheme which would mean that the significant tree register applies to both public and private land. The third suggests the creation of a new Local Law which would mean that a significant tree register applies to public land while the fourth suggests a significant tree register as a matter of policy. Under this option, the register would apply to public land and could apply to private land. The Policy Committee are recommending that the fourth option, being a non-legislative tree register, be supported by Council.

### **DETAILS**

Should the recommendation that a non-legislative significant tree register be approved, the City will establish a significant tree register which will include:

- A purpose statement which identifies why a significant tree register has been created that can be included in the introduction to the document.
- Definitions of the term ‘significant tree’ so that categories can be established within the register e.g., Heritage, species, location/landmark significance.
- A nomination process setting out who may nominate a tree for inclusion in the register and how and when (frequency) a nomination may be made.
- An assessment process which includes a selection criteria for determining which of the nominated trees may be accepted onto the register and the person/s responsible for assessing nominations.
- An advisement process which includes explaining the rationale for including a nominated tree in the tree register, the date from which that inclusion will be effective and what will occur as a result of that inclusion e.g., ongoing arrangements for the maintenance of the tree; amenity valuation of a tree; actions the City might take in circumstances where the tree is at risk of or has been damaged by a person or persons unknown.



**Issues and options considered:**

Council has the following options:

- To support a non-legislative significant tree register as recommended in this report;
- To support the concept of a significant tree register on a statutory basis (either within the planning scheme or under a local law); or
- Not adopt the concept of a significant tree register.

**Link to Strategic Plan:**

Key Focus Area: Caring for the Environment.

**Legislation – Statutory Provisions:**

Not applicable.

**Risk Management considerations:**

Establishing legislative requirements to preserve significant trees on private land could generate a major negative backlash in certain quarters, should Council opt to take this path. A non-legislative approach which focuses on significant trees in public space is likely to involve minimal risk.

**Financial/Budget Implications:**

There are no direct budget implications from creating a significant tree register. However, depending on the number of trees identified, there will be additional administrative work for certain City officers.

**Policy implications:**

The significant tree register will operate as a resolution should Council support the recommendation in this report.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

A significant tree register will help to preserve local trees which is one element of the broad sustainability concept.

**Consultation:**

The tree register is being recommended as a matter of policy to principally apply to public land.

**COMMENT**

The creation of a significant tree register is supported if it has a non-legislative basis.

**ATTACHMENTS**

Nil.

**VOTING REQUIREMENTS**

Simple Majority.

**RECOMMENDATION**

**That Council ESTABLISHES a non-legislative significant tree register.**

## **ITEM 14                    RESPONSE TO WALGA: COMPULSORY VOTING AT LOCAL GOVERNMENT ELECTIONS – [29068]**

**WARD:**                    All

**RESPONSIBLE DIRECTOR:**    Mr Ian Cowie  
Governance and Strategy

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### **PURPOSE/EXECUTIVE SUMMARY**

To determine a response to the Western Australian Local Government Association (WALGA) in relation to compulsory voting at local government elections.

### **BACKGROUND**

The State Council of the Western Australian Local Government Association (WALGA) has requested that the issue of compulsory voting be considered again by local governments following the introduction of preferential voting.

WALGA has produced an Info Page on this subject which includes a discussion paper and four questions (Attachment 1).

### **DETAILS**

The discussion paper is considered comprehensive and provides valuable information to enable an informed response to WALGA. The discussion paper should be read for further details.

### **Issues and options considered:**

Council could:

- Support the position identified in this report;
- Amend the position identified in this report; or
- Decide to provide no comment in relation to the matter.

### **Link to Strategic Plan:**

Not applicable.

### **Legislation – Statutory Provisions:**

The electoral system is specified in Part 4 of the Local Government Act 1995. The issue which is the subject of this report represents a change to the current legislative provisions.

### **Risk Management considerations:**

Not applicable.

### **Financial/Budget Implications:**

There would be minimal additional cost in relation to compulsory voting. Currently all electors receive ballot papers. The additional cost would relate to counting additional ballot papers presuming that a significantly increased participation rate occurs.

**Policy implications:**

Not applicable.

**Regional Significance:**

The electoral provisions apply to all local governments.

**Sustainability implications:**

Not applicable.

**Consultation:**

WALGA are seeking the views of local governments on compulsory voting.

**COMMENT**

There is no 'right' electoral system. Each has its own advantages and disadvantages.

Further, each electoral system has a number of elements. These include

- Who is entitled to vote;
- Should people be required to vote;
- How the ballot papers are marked;
- How the votes are counted; and
- Who conducts the election.

Adopting a particular approach to one element of the electoral system often makes it appropriate to select complementary elements in other areas. One obvious example is the complementary nature of decisions relating to how ballot papers are marked and how votes are counted. If papers are to be marked by a tick or a cross, counting must be based on a first-past-the-post arrangement.

While views vary on compulsory voting, on balance it would appear that there are advantages in moving to a compulsory system with the current vote counting system.

There are many issues which are associated with or closely aligned to the issue of compulsory voting. This includes whether it should be compulsory to adopt the postal voting system and whether the local government voting system should be an all in/all out system rather than half of the elected members being elected every two years. WALGA have not asked for comments on these alternatives.

**ATTACHMENTS**

Attachment 1            WALGA Info Page

**VOTING REQUIREMENTS**

Simple Majority.

## **RECOMMENDATION**

**That Council ENDORSES a response to the Western Australian Local Government Association in relation to compulsory voting at local government elections which acknowledges that there are advantages and disadvantages with different electoral systems but that, on balance, the Council supports compulsory voting.**

*Appendix 10 refers*

*To access this attachment on electronic document, click here: [Attach10brf080708.pdf](#)*

## ITEM 15 MINUTES OF THE POLICY COMMITTEE MEETING HELD ON 23 JUNE 2008 – [18058]

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Ian Cowie  
Governance and Strategy

### PURPOSE

To submit the unconfirmed minutes of the Policy Committee to Council for noting and recommend appropriate action in relation to the decisions of the Committee.

### EXECUTIVE SUMMARY

A meeting of the Policy Committee was held on 23 June 2008 to consider the following matters:

- Item 1 Draft Cats Local Law
- Item 2 Creation of a Significant Tree Register
- Item 3 Adoption of a Resident/ Visitor Parking Permit Policy
- Item 4 Amended Policy 3-1 Child Care Centres – To consider following advertising.
- Item 5 Draft Policy 3-7 - Signs
- Item 6 Report to Policy Committee – Noise

*It is recommended that Council:*

- 1 *NOTES the unconfirmed minutes of the Policy Committee Meeting dated 23 June 2008 forming Attachment 1 to this Report;*
- 2 (a) *ADOPTS the Resident/Visitor Parking Permit Policy for Joondalup City Centre to facilitate the parking requirements of residents and their visitors who reside in an area that is affected by parking restrictions controlled by the City, forming Attachment 2 to this Report;*
- (b) *BY AN ABSOLUTE MAJORITY, ADOPTS the following fees for the issue, renewal or replacement of Resident / Visitor Parking Permits:*

Description	Basis of Charge	GST (Y/N)	Fee
<i>Ranger, Parking and Community Safety</i>			
<i>Resident / Visitor Parking Permit</i>	<i>Annual Permit (Expires 31 December)</i>	<i>N</i>	<i>\$50.00</i>
	<i>Temporary Permit (Maximum 6 Months)</i>	<i>N</i>	<i>\$30.00</i>
	<i>Replacement Permit (Damaged, lost or stolen)</i>	<i>N</i>	<i>\$20.00</i>

- (c) *GIVES local public notice in accordance with Section 6.19 of the Local Government Act 1995 of the fees in 2(b) above, such fees to be effective from 16 July 2008;*
  - (d) *REQUESTS that a report be presented to Council establishing temporary parking permits for the Warwick train station catchment area where parking prohibitions are to be established;*
  - (e) *REQUESTS the administration to prepare a Resident/Visitor Parking Permit Policy outside the Joondalup City Centre and present a report to the Policy Committee for consideration;*
- 3 *in accordance with Clause 8.11 of the City of Joondalup's District Planning Scheme No 2, ADOPTS as final amended Council Policy 3-1 Child Care Centres, without modification, as shown in Attachment 3 to this Report;*
- 4 *in accordance with Clause 8.11 of the City of Joondalup's District Planning Scheme No 2, ADVERTISES the draft Council Policy 3-7 - Signs, as shown in Attachment 4 to this Report for public comment for a period of thirty five (35) days.*

## **BACKGROUND**

Council established a Policy Committee and endorsed a new Policy Framework on 26 April 2005. (CJ064–04/05 refers). The framework separated the policies of the Council into two categories:

- 1 Council Policies - Strategic policies that set governing principles and guide the direction of the organisation to align with community values and aspirations. These policies have a strategic external focus and align with the Mission, Vision and Strategic Directions; and
- 2 City Policies - Policies that are developed for administrative and operational imperatives and have an internal focus.

Council policies are to be developed and reviewed by the Policy Committee and may be subject to community consultation processes in recognition of the community leadership role Council has in guiding the formation and development of the City, and in representing the values and interests of the broader community. Officers may be requested by the Policy Committee to draft specific policies as required for referral to the Policy Committee.

City policies are to be developed and drafted for Policy Committee consideration and recommendation to the Council. The Policy Committee may determine, if appropriate, to request that a City Policy be subject to public comment prior to recommending it for Council adoption.

## **DETAILS**

### **Issues and options considered:**

The Motions carried at the Policy Committee meeting held on 23 June 2008 are shown below, together with officer's comments:

Item 1 Draft Cats Local Law

The following motion was carried:

*“That the Policy Committee RECOMMENDS that Council:*

- 1 ADOPTS option 2, which encourages cat sterilisation through the development of a Cat Sterilisation Subsidy Program, and offers a subsidy of \$50 per cat;*
- 2 AMENDS the City’s current Draft Cats Local Law to include provision for compulsory cat sterilisation at the time of registration;*
- 3 DEVELOPS an appropriate education programme to promote responsible cat ownership.”*

Officer’s comment

This matter will be the subject of a separate report to be presented to the Council meeting on 15 July 2008.

Item 2 Creation of a Significant Tree Register

The following motion was carried:

*“That the Policy Committee RECOMMENDS Option 4 to Council, namely: That the establishment of a Tree Register be included as a non-legislative action within an endorsed plan for the City such as the Biodiversity Plan, which is scheduled for completion during 2008.”*

Officer’s comment

This matter will be the subject of a separate report to be presented to the Council meeting on 15 July 2008.

Item 3 Adoption of a Resident/ Visitor Parking Permit Policy

The following motion was carried:

*“That the Policy Committee RECOMMENDS that Council:*

- 1 ADOPTS the Resident/Visitor Parking Permit Policy to facilitate the parking requirements of residents and their visitors who reside in an area that is affected by parking restrictions controlled by the City and as shown appended to these Minutes, subject to the Policy being amended to reflect that it relates to the Joondalup City Centre only;*
- 2 BY AN ABSOLUTE MAJORITY, ADOPTS the following fees for the issue, renewal or replacement of Resident / Visitor Parking Permits as shown in Attachment 2 to this Report:*



Description	Basis of Charge	GST (Y/N)	Fee	GST	Total Fee
<i>Ranger, Parking and Community Safety</i>					
<i>Resident / Visitor Parking Permit</i>	<i>Annual Permit (Expires 31 December)</i>	Y	\$50.00	\$5.00	\$55.00
	<i>Temporary Permit (Maximum 6 Months)</i>	Y	\$30.00	\$3.00	\$33.00
	<i>Replacement Permit (Damaged, lost or stolen)</i>	Y	\$20.00	\$2.00	\$22.00

- 3 *GIVES local public notice in accordance with Section 6.19 of the Local Government Act 1995 of the fees in (2) above;*
- 4 *REQUESTS that a report be presented to Council establishing temporary parking permits for the Warwick train station catchment area where parking prohibitions are to be established;*
- 5 *REQUESTS the administration to prepare a Resident/Visitor Parking Permit Policy outside the Joondalup City Centre and present a report to the Policy Committee for consideration."*

Officer's comment

No comment is required in relation to Recommendations 1 and 3.

In relation to Recommendation 2, following a query raised at the Policy Committee, it has been confirmed that GST is not applicable to the fees and an amended table of fees is therefore listed below:

Description	Basis of Charge	GST (Y/N)	Fee
<b>Ranger, Parking and Community Safety</b>			
<b>Resident / Visitor Parking Permit</b>	<b>Annual Permit (Expires 31 December)</b>	<b>N</b>	<b>\$50.00</b>
	<b>Temporary Permit (Maximum 6 Months)</b>	<b>N</b>	<b>\$30.00</b>
	<b>Replacement Permit (Damaged, lost or stolen)</b>	<b>N</b>	<b>\$20.00</b>

In relation to Recommendations 4 and 5, these requests are supported.

Item 4 Amended Policy 3-1 Child Care Centres – To consider following advertising.

The following motion was carried:

*"That the Policy Committee RECOMMENDS that Council, in accordance with Clause 8.11 of the City of Joondalup's District Planning Scheme No 2, ADOPTS as final*

*amended Council Policy 3-1 Child Care Centres, without modification, as shown in Attachment 1 to this Report.”*

Officer’s comment

The recommendation of the Policy Committee is submitted to Council for its consideration.

Item 5 Draft Policy 3-7 - Signs

The following motion was carried:

*“That the Policy Committee RECOMMENDS that Council, in accordance with Clause 8.11 of the City of Joondalup’s District Planning Scheme No 2, ADVERTISES the draft Council Policy 3-7 - Signs, as shown in Attachment 1 to this Report for public comment for a period of thirty five (35) days, subject to deletion of the provisions for portable signs and replacement with the statement that “Portable signs are not permitted within the City of Joondalup”.*

Officer’s comment

In accordance with the Policy Committee’s recommendation, ‘Portable Signs’ within the draft policy has been amended to reflect that they not be permitted in the City of Joondalup (refer Clause 2.4.8 on page 9 of the draft policy).

District Planning Scheme No 2 Schedule 4 – Exempted Advertisements is attached for information – Attachment 5 refers.

The provisions for ‘Real Estate Signs’ have been amended to incorporate ‘Builder’s Signs’ in order to provide guidance for those signs (refer Clause 2.4.4 on page 7 of the draft policy).

Item 6 Report to Policy Committee – Noise

The following motion was carried:

*“That the Policy Committee NOTES the contents of this Report.”*

Officer’s comment

No further action is required in relation to this report. The City will prepare a fact sheet in relation to Noise.

**Link to Strategic Plan**

This item has a general connection to the Strategic Plan.

**Legislation – Statutory Provisions:**

Not Applicable.

**Risk Management considerations:**

Not Applicable.

**Financial/Budget Implications:**

Not Applicable.

**Policy Implications:**

The necessary reports will be prepared to review and/or draft the proposed policies.

**Regional Significance:**

Not Applicable.

**Sustainability Implications:**

Not Applicable.

**Consultation:**

Not Applicable.

**COMMENT**

Relevant officer's comments have been made regarding the matters considered by the Committee.

**ATTACHMENTS**

Attachment 1	Unconfirmed minutes of the Policy Committee meeting of 23 June 2008
Attachment 2	Proposed Resident / Visitor Parking Permit Policy
Attachment 3	Draft Amended Policy 3-1 -Child Care Centres
Attachment 4	Draft Policy 3-7 – Signs
Attachment 5	District Planning Scheme No 2 Schedule 4 – Exempted

**VOTING REQUIREMENTS**

Absolute Majority.

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

- 1 NOTES the unconfirmed minutes of the Policy Committee Meeting dated 23 June 2008 forming Attachment 1 to this Report;**
- 2 (a) ADOPTS the Resident/Visitor Parking Permit Policy for Joondalup City Centre to facilitate the parking requirements of residents and their visitors who reside in an area that is affected by parking restrictions controlled by the City, forming Attachment 2 to this Report;**

- (b) **BY AN ABSOLUTE MAJORITY, ADOPTS the following fees for the issue, renewal or replacement of Resident / Visitor Parking Permits:**

Description	Basis of Charge	GST (Y/N)	Fee
<b>Ranger, Parking and Community Safety</b>			
<b>Resident / Visitor Parking Permit</b>	<b>Annual Permit (Expires 31 December)</b>	<b>N</b>	<b>\$50.00</b>
	<b>Temporary Permit (Maximum 6 Months)</b>	<b>N</b>	<b>\$30.00</b>
	<b>Replacement Permit (Damaged, lost or stolen)</b>	<b>N</b>	<b>\$20.00</b>

- (c) **GIVES local public notice in accordance with Section 6.19 of the Local Government Act 1995 of the fees in 2(b) above, such fees to be effective from 16 July 2008;**
- (d) **REQUESTS that a report be presented to Council establishing temporary parking permits for the Warwick train station catchment area where parking prohibitions are to be established;**
- (e) **REQUESTS the administration to prepare a Resident/Visitor Parking Permit Policy outside the Joondalup City Centre and present a report to the Policy Committee for consideration;**
- 3 in accordance with Clause 8.11 of the City of Joondalup's District Planning Scheme No 2, ADOPTS as final amended Council Policy 3-1 Child Care Centres, without modification, as shown in Attachment 3 to this Report;**
- 4 in accordance with Clause 8.11 of the City of Joondalup's District Planning Scheme No 2, ADVERTISES the draft Council Policy 3-7 - Signs, as shown in Attachment 4 to this Report for public comment for a period of thirty five (35) days.**

*Appendix 11 refers*

*To access this attachment on electronic document, click here: [Attach11brf080708.pdf](#)*

## ITEM 16 FINANCIAL ACTIVITY STATEMENT FOR THE PERIOD ENDED 31 MAY 2008 – [07882]

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mike Tidy  
Corporate Services

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### PURPOSE

The May 2008 Financial Activity Statement is submitted to Council to be noted.

### EXECUTIVE SUMMARY

The May 2008 year to date report shows an overall increase in budgeted surplus from operations and capital of \$9,035K when compared to the 2007-2008 revised budget (CJ038-03/08).

This variance can be summarised as follows:

- The **Operating** surplus at the end of May 2008 is \$4,565K above budget, comprising higher Revenue of \$56K and lower operating expenditure of \$4,509K.

Revenue was below budget on Operating Grants and Subsidies by \$(344)K due to the timing of receipts which are later than expected and Profit on Asset Disposal of \$(99)K. There was additional revenue of \$259K for Interest and \$207K for Contributions, Reimbursements and Donations.

Expenditure variances arose principally from Materials and Contracts \$2,405K, Depreciation \$1,654K and Utility Charges \$212K being below budget as detailed in the attached notes.

- **Capital Expenditure** is \$8,006K below the year to date revised budget of \$22,628K. The variance relates mainly to lower than expected expenditure on the Fee Paid Car Parking project of \$1200K, Joondalup Works Depot project \$754K, Road Re-surfacing and Road Works \$1,138K, Traffic Management \$653K Footpaths \$814K, implementation of the Library and Document Management Systems \$473K, Joondalup Drive Master Plan \$189K and other corporate and community projects, plus delayed vehicle replacements of \$91K.

*It is recommended that Council NOTES the Financial Activity Statement for the period ended 31 May 2008.*

### BACKGROUND

The Local Government (Financial Management) Regulations 1996 requires the production of financial activity statements. Council approved at the 11 October 2005 meeting to accept the monthly Financial Activity Statement according to nature and type classification.

**DETAILS****Issues and options considered:**

The Financial Activity Statement for the period ended 31 May 2008 is appended as Attachment A.

**Link to Strategic Plan:**

Objective 1.3 – To lead and manage the City effectively.

**Legislation – Statutory Provisions:**

Section 6.4 of the Local Government Act 1995 requires a local government to prepare an annual financial report for the preceding year and such other financial reports as are prescribed.

Regulation 34(1) of the Local Government (Financial Management) Regulations 1996 as amended, requires the local government to prepare each month a statement of financial activity reporting on the source and application of funds as set out in the annual budget.

**Risk Management considerations:**

In accordance with section 6.8 of the Local Government Act 1995, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by an absolute majority of Council.

**Financial/Budget Implications:**

Refer attachment A.

**Policy implications:**

All expenditure included in the Financial Activity Statement is drawn from the City's accounting records.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

Expenditure has been incurred in accordance with revised budget parameters, which have been structured on financial viability and sustainability principles.

**Consultation:**

In accordance with Section 6.2 of the Local Government Act 1995, the annual budget was prepared having regard to the Strategic Financial Plan, prepared under Section 5.56 of the Local Government Act 1995, which was made available for public comment.

**COMMENT**

All expenditures included in the Financial Activity Statement are incurred in accordance with the revised 2007-08 Annual Budget or have been authorised in advance by Council where applicable.

## **ATTACHMENTS**

Attachment A - Financial Activity Statement for the period ended 31 May 2008.

## **VOTING REQUIREMENTS**

Simple majority.

## **RECOMMENDATION**

**That Council NOTES the Financial Activity Statement for the period ended 31 May 2008.**

*Appendix 12 refers*

To access this attachment on electronic document, click here: [Attach12brf080708.pdf](#)

## ITEM 17 LIST OF PAYMENTS MADE DURING THE MONTH OF MAY 2008 – [09882]

**WARD:** All

**RESPONSIBLE:** Mr Mike Tidy  
Director Corporate Services

### PURPOSE

To present to Council the list of accounts paid under the CEO's delegated authority during the month of May 2008 to note.

### EXECUTIVE SUMMARY

This report presents the list of payments made under delegated authority during the month of May 2008 totalling \$9,342,047.96.

*It is recommended that Council NOTES the CEO's list of accounts for May 2008 paid under delegated authority in accordance with regulation 13 (1) of the Local Government (Financial Management) Regulations in Attachments A, B and C to this Report, totalling \$9,342,047.96.*

### BACKGROUND

Council has delegated to the Chief Executive Officer the exercise of its power to make payments from the City's Municipal and Trust funds. In accordance with Regulation 13 of the Local Government (Financial Management) Regulations 1996 a list of accounts paid by the Chief Executive Officer is to be provided to Council, where such delegation is made.

### DETAILS

The table below summarises the payments drawn on the funds during the month of May 2008. Lists detailing the payments made are appended as Attachments A and B. The vouchers for the month are appended as Attachment C.

FUNDS	DETAILS	AMOUNT
Municipal Account	<b>Cheques</b> 81340 - 81582 and EFT 16247 - 16771 Net of cancelled payments	\$6,822,076.36
	<b>Vouchers</b> 400A-407A & 409A – 411A,	\$2,488,066.60
Trust Account	<b>Cheques</b> 202099 - 202166 Net of cancelled payments	\$31,905.00
<b>Total</b>		\$9,342,047.96

### Issues and Options Considered:

Not Applicable

### Link to Strategic Plan:

Strategy 4.1.1 – Ensure financial viability and alignment to plan.



**Legislation – Statutory Provisions:**

The Council has delegated to the CEO the exercise of its authority 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.

**Risk Management Considerations:**

In accordance with section 6.8 of the Local Government Act 1995, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by an absolute majority of Council.

**Financial/Budget Implications:**

All expenditure from the Municipal Fund was included in the 2007/8 Annual Budget as adopted by Council at its meeting of 3 July 2007 or approved in advance by Council.

**Policy Implications:**

All expenditure included in the list of payments is drawn from the City's accounting records.

**Sustainability Implications:**

Expenditure has been incurred in accordance with budget parameters, which have been structured on financial viability and sustainability principles.

**Consultation:**

In accordance with Section 6.2 of the Local Government Act 1995, the annual budget was prepared having regard to the Strategic Financial Plan 2006/07-2009/10 which was available for public comment from 29 May 2006 to 29 June 2006 with an invitation for submissions in relation to the plan.

**COMMENT**

All Municipal Fund expenditure included in the list of payments is in accordance with the 2007/8 Annual Budget as adopted by Council at its meeting of 3 July 2007 or has been authorised in advance by Council where applicable.

**ATTACHMENTS**

Attachment A	CEO's Delegated Municipal Payment List for the month of May 2008
Attachment B	CEO's Delegated Trust Payment List for the month of May 2008
Attachment C	Municipal and Trust Fund Vouchers for the month of May 2008

**VOTING REQUIREMENTS**

Simple majority.

**RECOMMENDATION**

**That Council NOTES the CEO's list of accounts for May 2008 paid under delegated authority in accordance with regulation 13 (1) of the Local Government (Financial Management) Regulations 1996 forming Attachments A, B and C to this Report, totalling \$9,342,047.96.**

*Appendix 13 refers*

*To access this attachment on electronic document, click here: [Attach13brf080708.pdf](#)*

**Disclosure of financial interests**

<b>Name/Position</b>	<b>Mr Garry Hunt</b>
<b>Item No/Subject</b>	Item 18 - Minutes of the Chief Executive Officer Performance Review Committee Meeting held on 10 June 2008
<b>Nature of interest</b>	Financial
<b>Extent of Interest</b>	Mr Hunt holds the position of Chief Executive Officer

**Disclosure of interest affecting impartiality**

<b>Name/Position</b>	<b>Mr Mike Tidy</b>
<b>Item No/Subject</b>	Item 18 – Minutes of the Chief Executive Officer Performance Review Committee Meeting held on 10 June 2008
<b>Nature of interest</b>	Interest that may affect impartiality
<b>Extent of Interest</b>	Due to the nature of Mr Tidy's relationship with the Chief Executive Officer

**ITEM 18                    MINUTES OF THE CHIEF EXECUTIVE OFFICER  
PERFORMANCE REVIEW COMMITTEE MEETING  
HELD ON 10 JUNE 2008 – [51567] [74574]**

**WARD:**                    All

**RESPONSIBLE**        Mr Mike Tidy  
**DIRECTOR:**            Corporate Services

**PURPOSE**

To submit the minutes of the Chief Executive Officer Performance Review Committee meeting to Council for noting and recommend appropriate action in relation to the decisions of the Committee.

**EXECUTIVE SUMMARY**

A meeting of the Chief Executive Officer Performance Review Committee was held on 10 June 2008.

The item of business that was considered by the Committee was:

Item 1 - Initiate Annual CEO Performance Review and appointment of a consultant

*It is recommended that Council NOTES the unconfirmed minutes of the Chief Executive Officer Performance Review Committee meeting held on 10 June 2008, forming Attachment 1 to this Report.*

**BACKGROUND**

The Chief Executive Officer Performance Review Committee is formed for the purpose of conducting the annual performance reviews of the CEO in accordance with the following terms of reference:

- (a) *Review the Chief Executive Officer's performance in accordance with the appropriate provisions contained within the Chief Executive Officer's Employment Contract;*
- (b) *Prepare and table the concluded report, in accordance with the appropriate provisions within the Chief Executive Officer's Employment Contract to the Council at a Council meeting for consideration and actioning;*
- (c) *Review the Chief Executive Officer's performance on an on-going basis as and when deemed necessary in accordance with the appropriate provisions contained within the Chief Executive Officer's Employment contract;*
- (d) *Review the Key Performance Indicators to be met by the Chief Executive Officer;*
- (e) *Review the Chief Executive Officer's remuneration package, in accordance with the appropriate provisions within the Chief Executive Officer's Employment Contract;*
- (f) *Review the Chief Executive Officer's Employment Contract and make recommendations to Council in relation to varying the contract as and when necessary.*

## **DETAILS**

### **Issues and options considered:**

The Motion carried at the Chief Executive Officer Performance Review Committee meeting held on 10 June 2008 is shown below, together with officer's comments.

### **Item 1 Initiate Annual CEO Performance Review and appointment of a consultant**

The following motion was carried at the Committee meeting:

“That the CEO Performance Review Committee:

- 1 *APPROVES the timetable for the performance review of the Chief Executive Officer and sets the date for the formal performance review interview as Tuesday 15 July 2008;*
- 2 *REQUESTS Workplace Solutions (John Phillips) be appointed as the external and independent HR expert for the committee to consult with and seek guidance from and to facilitate the review of the CEO's performance;*
- 3 *ACKNOWLEDGES that the formal CEO performance interview is intended to be conducted two and half months earlier than in 2007 with the result being a correspondingly shorter period over which the CEO's performance is able to be assessed and in which the CEO has had to achieve his Key Performance Indicators (KPIs);*
- 4 *In view of the proposed shortened timeframe SEEKS the CEO's agreement to the timeframe with the acknowledgement in 3 above;*
- 5 *ENDORSES the process of seeking input into the CEO's KPIs from Elected Members at the same time as feedback is provided in relation to the CEO's performance review and that the review of the CEO's KPIs be undertaken at*

*the conclusion of the interview with the CEO in relation to his annual performance;*

- 6 *in view of the proposed shortened timeframes, NOTES that the CEO's performance is to be assessed from October 2007 to July 2008."*

#### Officer's Comment

The review process is underway and the actions required by the above resolution are being implemented.

#### **Link to Strategic Plan:**

Objective 4.5 - To manage our workforce as a strategic business resource.

#### **Legislation – Statutory Provisions:**

Section 5.8 of the Local Government Act 1995 provides for a local government to establish a committee to assist Council.

Section 5.38 of the Local Government Act 1995 (the Act) states that each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of employment.

#### **Risk Management considerations:**

The performance review process is designed to evaluate and assess the CEO's performance against key performance indicators on an annual basis. The requirement for the performance review is a contractual one between the Chief Executive Officer and the Council. The Contract provides for the review to be conducted by the Chief Executive Officer's Performance Review Committee. Failure to undertake the review as required in the contract terms would risk a breach of contract.

#### **Financial/Budget Implications:**

The provisions of the Chief Executive Officer's Employment Contract in relation to performance reviews requires that the Performance Review Committee engage an independent consultant to advise it and assist it in undertaking the Chief Executive Officer's performance review. Provisions have been made within the City's consultancy budget for the engagement of a suitable consultant to assist the Committee in the performance review process.

#### **Policy Implications:**

Not Applicable.

#### **Sustainability Implications:**

Not Applicable.

#### **Consultation:**

Not Applicable.

**COMMENT**

The process of reviewing the CEO's performance is underway. The Committee's resolution largely deals with setting out the program for the review, agreeing on a consultant and setting meeting dates.

**ATTACHMENTS**

Attachment 1            Minutes of the Chief Executive Officer Performance Review Committee meeting held on 10 June 2008.

**VOTING REQUIREMENTS**

Simple majority

**RECOMMENDATION**

**That Council NOTES the unconfirmed minutes of the Chief Executive Officer Performance Review Committee meeting held on 10 June 2008, forming Attachment 1 to this Report.**

*Appendix 14 refers*

*To access this attachment on electronic document, click here: [Attach14brf080708.pdf](#)*

**ITEM 19                    MARMION AVENUE SPEED ZONING – [04064]****WARD:**                    All**RESPONSIBLE  
DIRECTOR:**            Mr Martyn Glover  
                                 Infrastructure Services

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**PURPOSE**

To address the issue of speed zoning of Marmion Avenue and provide Council's views to the Minister for Planning and Infrastructure.

**EXECUTIVE SUMMARY**

Main Roads Western Australia (MRWA) is the only authority that can install regulatory signs and road markings on all roads in Western Australia under the Main Roads Act 1930.

The speed zone review recently undertaken by MRWA has taken into consideration the speed environment, road geometry, roadside features and activity generated by abutting properties in accordance with the requirements of AS1742.4-1999 Speed Controls and MRWA Speed Zoning Policy.

MRWA has concluded that the speed zone of 80km/h is appropriate for the design and function of Marmion Avenue. The City has reviewed the policy and standards and concurs with the outcome. This position is also supported by the City of Stirling.

*It is recommended that Council:*

- 1        *SUPPORTS maintaining the speed zoning of 80km/h on Marmion Avenue as per Main Roads Western Australia's recommendation;*
- 2        *ADVISES the Minister for Planning and Infrastructure of Council's decision.*

**BACKGROUND**

The installation and management of all speed zones within this State falls within the jurisdiction of Main Roads Western Australia.

For those local and distributor roads under the care, control and management of the City of Joondalup, the City is able to request that MRWA review the modification of the speed limits, when considered necessary. However, the final approval rests with MRWA.

Marmion Avenue is classified as a State road, and the care, control and management falls within the jurisdiction of MRWA. Therefore the City has little influence with MRWA regarding the posted speed limit on this road.

The MRWA sets speed zones in accordance with statutory requirements of the Road Traffic Code 2000 taking into consideration road safety, the expectations of drivers, adjacent land use, transport efficiency, information published by Australian Standards and subject to guideline conditions.

On 10 June 2008, the City received a letter from the Minister for Planning and Infrastructure advising that MRWA had reviewed the speed zone on Marmion Avenue and that the 80km/h speed limit "*is appropriate for the road's design and function*". However, in view of ongoing

concerns, the Minister asked for Council's view on the appropriateness of the current speed limit on Marmion Avenue within the City of Joondalup. The same letter was sent to the City of Stirling. Comment was requested to be provided by the end of June 2008. Normally speed zone retention issues are dealt with administratively, however in consideration that members of the community have expressed concerns regarding the speed zone; the request has now been listed for Council to deliberate.

## **DETAILS**

Marmion Avenue is classified as a Primary Distributor road under the City's Functional Road Hierarchy and forms part of the major freight network in the northern corridor of the metropolitan area. It is a separated dual carriageway with controlled access. Traffic Volumes on Marmion Avenue are approximately 34,200 vehicles per day (MRWA data 2005).

Australian Standards (AS 1742.4-1999 Speed Controls) states that *"the objective of speed management is to contribute to road safety, mobility and amenity on public roads by providing a credible system of speed limits which are compatible with the speed environment."* In addition AS1742.4 also states that *"speed limit shall not be so low that a significant number of drivers will ignore it."*

The general requirement for speed management as per AS1742.4 is that *"Speed limits should be set to maintain a balance between a driver's reasonable perception of the speed environment and an acceptable level of environmental amenity for all road users and abutting land user."*

The function of a road is also a consideration in the determination of the most appropriate speed limit that should apply. Roads may have more than one function, and in those cases the primary function of the length of road under review should be considered as a priority.

In determining speed limits, MRWA seeks to achieve a good match between road function and road design: as far as possible, major traffic routes are designed to reduce collision risks, so that higher speeds can be sustained without unacceptable risk.

The geometric features of a road strongly influence the speed at which motorists travel. The alignment of the road, the road cross section, number of lanes and their widths, the presence of bus lanes/cycle lanes, the presence of edge lines, the distance roadside features are offset from the pavement and the level of activity generated by the abutting road side properties are all considered when setting the speed zone.

Finally, there is the issue of traffic volume versus speed zone. If a road meets all of the previous criteria and has a high traffic volume and low speed zoning then it will become congested and rear end crashes will prevail. The best outcome is a speed zone which minimises congestion while remaining safe for the environment.

Marmion Avenue is a high standard urban road, whose primary function is to act as a primary distributor carrying high volumes of traffic at high speeds. Access is controlled and there are no property frontages along the length of the road. There is also provision to safely store turning or crossing vehicles, and major intersections are controlled by traffic signals.

The City of Stirling has also supported the retention of the current speed zoning.

### **Link to Strategic Plan:**

Not Applicable.



**Legislation – Statutory Provisions:**

The Commissioner of Main Roads is the only authorised person under the Main Roads Act (1930) to install regulatory signage and road markings.

**Risk Management considerations:**

Not Applicable

**Financial/Budget Implications:**

Not Applicable

**Policy implications:**

Not Applicable

**Regional Significance:**

Marmion Avenue is of regional significance as it is a primary distributor that links the Cities of Wanneroo, Joondalup and Stirling and provides a major freight route.

**Sustainability implications:**

Not Applicable

**Consultation:**

Not required

**COMMENT**

As noted in AS1742.4 it is important to ensure speed limits are compatible with the speed environment.

In the case of Marmion Avenue, it has adequate pedestrian facilities, no residential frontage, has a high traffic volume and is relatively straight so a speed limit of 80km/h is considered appropriate for the road environment.

If Main Roads Western Australia were to consider a lower speed zone then may result in more congestion, increased rear-end crashes and it is likely that the drivers will still travel at a higher speed because the environment dictates it. It would also require a higher level of resourcing from the Police Service. It is therefore recommended that the 80km/hour speed zone be retained on Marmion Avenue.

**ATTACHMENTS**

Nil.

**VOTING REQUIREMENTS**

Simple Majority.

## **RECOMMENDATION**

### **That Council:**

- 1 SUPPORTS maintaining the speed zoning of 80km/h on Marmion Avenue as per Main Roads Western Australia's recommendation;**
- 2 ADVISES the Minister for Planning and Infrastructure of Council's decision.**

## **ITEM 20 WEST COAST DRIVE: DUAL USE PATH UPGRADE - [01302]**

**WARD:** All

**RESPONSIBLE DIRECTOR:** Mr Martyn Glover  
Infrastructure Services

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### **PURPOSE**

To seek Council's endorsement for the Upgrade of West Coast Drive Dual Use Path, Preliminary Design presented to Elected Members on Tuesday 10 June 2008.

### **EXECUTIVE SUMMARY**

The 2007/08 Capital Works programme included provision for the City to undertake preliminary design works for the upgrade of the dual use path along West Coast Drive in Marmion and Sorrento. At the Ordinary meeting of 20 November 2007 the Council identified a series of criteria for the preferred design of the dual use path. Following extensive discussion with City staff, the consultant, Cardno BSD has determined the preferred preliminary design.

It is recommended that Council:

- 1 *SUPPORTS the preliminary design for the West Coast Drive Dual Use Path Project as highlighted on Attachment 1;*
- 2 *SUPPORTS Option B for the relocation of the bus bay adjacent to Ross Avenue to the south of its existing location;*
- 3 *SUPPORTS Option A for the channelised intersection treatment at The Plaza;*
- 4 *AGREES to proceed to final detailed design, documentation and public tender for the West Coast Drive Dual Use Path Project.*

### **BACKGROUND**

The West Coast Drive Dual Use Path runs parallel with the Indian Ocean along West Coast Drive (also known as the Sunset Coast Tourist Drive) for 1.8km. The path is in high demand for public recreation activities such as walking, running and cycling. Upgrading the path as a project was identified as a priority for the 2006/07 Capital Works Program and funds were allocated to undertake a feasibility study of the proposed project.

In September 2006, Cardno BSD Engineers were commissioned as consultants for the project. The first draft of a Concept Plan was considered at a workshop in November 2006. The Revised Concept Design incorporating additional environmental assessments and mapping by the consultant team was presented to Council on 22 May 2007. The consultant's report was endorsed and Council approved the project's progress to the community consultation stage, which began with an Open Night held at the Sorrento Surf Life Saving Club on 9 August 2007.

At the Ordinary Meeting of 20 November 2007 Council considered the feedback from the community consultation process for this project and resolved to progress to detailed design with a number of key elements to be considered as part of the design as follows:

- “1 *NOTES feedback from the community in relation to the West Coast Drive Dual Use Path Concept Plan and thanks those who made submissions;*
- 2 *in keeping with the community consultation feedback, AGREES to progress to detailed final design with the following elements to be included:*
  - (a) *As a priority maximise the width of the dual use path (DUP), predominately to the east, including but not limited to encroachment and reconfiguration of existing roadway, median strips and eastern verge areas.*
  - (b) *Upgrade all beach access steps, paths and ramps within the project area.*
  - (c) *All external construction materials; including but not limited to handrails, brackets and signage; must be specified to last at least 15 years in a corrosive coastal environment.*
  - (d) *All plantings and shrubbery within the project area to be local indigenous species.*
  - (e) *Removal of the Vertical Sculptural Markers (to be considered at a later stage as a separate project), removal of all small native trees and removal of all integrated Jarrah post lighting within the project area.*
  - (f) *Reconfigure the sunken DUP located between Troy Avenue and Bettles Street to include footpath lighting (the option of solar lighting to be considered), widening and retaining the DUP to the east and enhance the lookouts to incorporate appropriate predominately north-south aligned seating.*
  - (g) *That all Jarrah posts are appropriately treated to retain the natural colour of the wood and prolong their aesthetic appearance.*
  - (h) *Reconfigure the Plaza Mixed Use Precinct site to align the DUP along its current route, construct an elevated boardwalk access to the beach, create a ballooned predominately east-west aligned seating area to the west of the DUP, close the access path situated to the north and remove the fixed shade structure component.*
  - (i) *Relocate the Ross Avenue Lookout site to the north of the existing stairs, construct the viewing platform at grade with the DUP and erect a fixed shade structure (as at Sorrento Beach).*
  - (j) *Not relocate the ablution block to the MAAC North site but rather reconfigure the MAAC South site to incorporate an upgraded ablution block under the viewing platform, extend the viewing platform area with predominately north-south aligned seating and erect a fixed shade structure (as at Sorrento Beach).*
- 3 *LISTS for consideration in the draft 2008/2009 budget and the draft five year capital works budget sufficient funds to commence a six-year project to weed, rehabilitate and revegetate the coastal foreshore reserve adjacent to the project area with the objective to restore its condition from “poor” to “very good to excellent” in accordance with the City of Joondalup Coastal Management Plan.*

- 4 *REQUESTS the CEO ensure that coastal foreshore reserve disturbance is kept to a minimum, the extent of which will be determined in the final design.*
- 5 *REQUESTS a report be presented to Council on the potential construction of a roundabout at the intersection of West Coast Drive and The Plaza; to be executed as part of the project works.*
- 6 *NOTES that Council endorsement will be sought on the final detailed design prior to progressing to the tender stage of the project.*
- 7 *It is the view of the Council that the motion better reflects the expectations of the Council and Community for the project and gives greater clarity to the project components.”*

Due to the number of elements raised, the City considered that a presentation of a preliminary level of design to Elected Members would be appropriate. The presentation was held on Tuesday 10 June 2008 by the City's Consultants Cardno BSD who highlighted how the resolutions of Council had been considered during the design phase of the project and provided options for treatments at specific locations along the route.

## **DETAILS**

The Council's decision of 20 November 2007 and the design response are as follows:

- 2(a) As a priority maximise the width of the dual use path (DUP), predominately to the east, including but not limited to encroachment and reconfiguration of existing roadway, median strips and eastern verge areas.  
  
*Response: The path is a standard 3.5m wide and where possible this has been achieved within the pavement area.*
- (b) Upgrade all beach access steps, paths and ramps within the project area.  
  
*Response: Provision has been made for this at all sites.*
- (c) All external construction materials; including but not limited to handrails, brackets and signage; must be specified to last at least 15 years in a corrosive coastal environment.  
  
*Response: This will be included in the specifications.*
- (d) All plantings and shrubbery within the project area to be local indigenous species.  
  
*Response: This will be included in the final design and specification.*
- (e) Removal of the Vertical Sculptural Markers (to be considered at a later stage as a separate project), removal of all small native trees and removal of all integrated Jarrah post lighting within the project area.  
  
*Response: These have been removed.*
- (f) Reconfigure the sunken DUP located between Troy Avenue and Bettles Street to include footpath lighting (the option of solar lighting to be considered), widening and retaining the DUP to the east and enhance the lookouts to incorporate appropriate predominately north-south aligned seating.

*Response: The final design will include the lighting which is anticipated to be connected to the streetlight network, however, using low energy lighting such as compact fluorescent or light emitting diode.*

- (g) That all Jarrah posts are appropriately treated to retain the natural colour of the wood and prolong their aesthetic appearance.

*Response: This will be included in the specification.*

- (h) Reconfigure the Plaza Mixed Use Precinct site to align the DUP along its current route, construct an elevated boardwalk access to the beach, create a ballooned predominately east-west aligned seating area to the west of the DUP, close the access path situated to the north and remove the fixed shade structure component.

*Response: This has been included in the preliminary design.*

- (i) Relocate the Ross Avenue Lookout site to the north of the existing stairs, construct the viewing platform at grade with the DUP and erect a fixed shade structure (as at Sorrento Beach).

*Response: This has been included in the preliminary design.*

- (j) Not relocate the ablution block to the MAAC North site but rather reconfigure the MAAC South site to incorporate an upgraded ablution block under the viewing platform, extend the viewing platform area with predominately north-south aligned seating and erect a fixed shade structure (as at Sorrento Beach).

*Response: The ablution block has not been relocated and a universal access has been proposed from the carpark. The north-south treatment between the ablution block and the MAAC will be subject to future design following the connection of the deep sewer.*

- 3 LISTS for consideration in the draft 2008/2009 budget and the draft five year capital works budget sufficient funds to commence a six-year project to weed, rehabilitate and revegetate the coastal foreshore reserve adjacent to the project area with the objective to restore its condition from “poor” to “very good to excellent” in accordance with the City of Joondalup Coastal Management Plan.

*Response: Provision has been made in the 2008/2009 budget and future budgets for rehabilitation of the dune vegetation.*

- 4 REQUESTS the Chief Executive Officer ensure that coastal foreshore reserve disturbance is kept to a minimum, the extent of which will be determined in the final design.

*Response: This will be included in the specification.*

- 5 REQUESTS a report be presented to Council on the potential construction of a roundabout at the intersection of West Coast Drive and The Plaza; to be executed as part of the project works.

*Response: The option of the roundabout at the intersection of the Plaza is considered excessively expensive, will result in a significant intrusion into the dunes, is less suitable for pedestrians and is no more effective than the modified "T" intersection.*

### **Issues and Options:**

The presentation also included options for alternative treatments at two specific locations on West Coast Drive as follows:

#### **Ross Avenue Bus Stop relocation:**

The existing bus bay opposite Ross Avenue is under the required standard in terms of size and is dangerously located opposite a "T" intersection. The treatment options are as follows:

Option A: utilised the existing car park with the loss of 5 bays for the bus stop

Option B: provide a bus bay further to the south of its current location which would require a higher retaining wall.

#### **Conclusion:**

Option B was supported due to: no loss of parking bays and the option which would not impact on ocean views from cars parked within the car park.

### **The Plaza**

The intersection of West Coast Drive and The Plaza is an extremely wide expanse of pavement with no delineation of traffic. This results in the right hand movement from the Plaza being particularly hazardous. The options for improved treatments are:

#### **Option A: Channelised T Junction**

This option resulted in very minor intrusion into the dunes, improved traffic delineation with right turn pockets and improved left turn lane.

#### **Option B: Roundabout**

This option impacted into the dunes opposite the Plaza by 3.5 to 4.0 metres and would result in significant costs associated with the construction of the roundabout and relocation of services.

#### **Conclusion:**

Whilst Option A was generally supported, there was a request to provide an estimate for the cost of a roundabout at this location.

The cost estimate to construct a roundabout in this location while still under traffic management and with the anticipated changes required for services (electricity, water, gas, telecommunications) would be in the order of \$250,000.

The 2003/04 traffic volume was 14,670 vehicles per day in West Coast Drive north of Clontarf Street (Main Roads Western Australia data). The improved "T" junction is an appropriate response to these traffic conditions.

**Link to Strategic Plan:**

The proposal has links to the strategic plan as follows:

**Key focus area: leadership and governance**

Objective: To engage proactively with the community.

Strategies:

1.2.1 The City implements and, if necessary, further refines its Public Participation Policy.

**Key focus areas: the built environment**

Objective: To progress a range of innovative and high quality urban development projects within the City.

Strategies:

4.2.6 The City implements, and if necessary, refines its Capital Works Program.

**Legislation – Statutory Provisions:**

Not Applicable.

**Risk Management considerations:**

Protection of the adjacent coastal dunal system is required to be considered throughout the final design stages and as part of the specifications set down to the successful contractor for the project.

Construction is not to clash with peak summer activity along the coastal foreshore.

**Budget/Financial Implications:**

The 2007/2008 budget included \$400,000 for the design of the dual use path. The draft 2008/2009 budget includes \$1,850,000 for the first stage of the project with the balance, anticipated to be \$2,000,000 to be listed in the 2009/2010 budget. The project is anticipated to take approximately six months commencing in April 2009 and completed over the two consecutive budgets.

**Policy Implications:**

Not Applicable.

**Sustainability Implications:**

Consideration of preserving the dunes and dunal vegetation has received consideration in the consultation process with particular input from representatives of the Joondalup Community Coast Care Forum and will be reflected in the detailed design and specification implementation.

**Consultation:**

The City has consulted with residents during public consultation process and will be further consulting with Marmion Angling and Aquatic Club during the detailed design.



## COMMENT

The presentation of the preliminary design for West Coast Drive Dual Use Path Upgrade has considered all of the Council resolutions of 20 November 2007 and has developed a design which provides an enhanced environment for all the users of this section of the coastal pathway.

It is therefore recommended that Council supports the preliminary design in accordance with the submitted information and the City proceeds to full detailed design and documentation and to advertise via public tender for the works.

## ATTACHMENTS

Attachment 1          Presentation of West Coast Drive: Dual Use Path Upgrade Preliminary Design

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

### That Council:

- 1        **SUPPORTS the preliminary design for the West Coast Drive Dual Use Path Project as highlighted on Attachment 1 to this Report;**
- 2        **SUPPORTS Option B (Drawing SK-008 in Attachment 1 to this Report) for the relocation of the bus bay adjacent to Ross Avenue to the south of its existing location;**
- 3        **SUPPORTS Option A (Drawing SK-011 in Attachment 1 to this Report) for the channelised intersection treatment at The Plaza;**
- 4        **AGREES to proceed to final detailed design, documentation and public tender for the West Coast Drive Dual Use Path Project.**

*Appendix 15 refers*

To access this attachment on electronic document, click here: [Attach15brf080708.pdf](#)

**ITEM 21            PETITION: INSTALLATION OF MEDIAN ISLAND AT  
THE INTERSECTION OF AMALFI DRIVE AND  
MARBELLA DRIVE, HILLARYS – [44225][40224]**

**WARD:**                    South-West

**RESPONSIBLE**        Mr Martyn Glover  
**DIRECTOR:**            Infrastructure Services

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**PURPOSE**

To consider a 20 signature petition from ten properties and five members of the Harbour Rise Home Owners Association requesting installation of a traffic island on Amalfi Drive at the intersection with Marbella Drive in Hillarys.

**EXECUTIVE SUMMARY**

A letter and petition signed by 20 residents of Hillarys was received by Council in April 2008, requesting that a median island be installed at the intersection of Amalfi Drive with Marbella Drive.

This project is not listed in the City's Forward Five Year Capital Works due to the low priority of the project with no supporting crash data. The provision of a median island is therefore not supported. However, Main Roads Western Australia may agree to install a give way provision at the intersection.

*It is recommended that Council:*

- 1        *NOTES the request for a median island at the intersection of Amalfi Drive and Marbella Drive, Hillarys;*
- 2        *REQUESTS Main Roads Western Australia installs give way statutory signage and line marking at the intersection of Amalfi Drive and Marbella Drive, Hillarys;*
- 3        *ADVISES the letter signatories of Council's decision.*

**BACKGROUND**

Amalfi Drive is 7.4 metres wide (centrally located within an 18 metre road reserve) and Marbella Drive is 7.4 metres wide (centrally located within a 17 metre road reserve) in Hillarys. They are both classified as Local Access roads under the City's Functional Road Hierarchy. In accordance with the City's Functional Road Hierarchy, a road of this type may reasonably be expected to carry up to 3,000 vehicles per day.

The angle of the intersection between Amalfi Drive and Marbella Drive is 115 degrees, and the intersection has been squared up to provide a better alignment for safety, turning movements and sight distances. (See Attachment 1 for photograph). The intersection is a relatively typical suburban "T" intersection and Attachment 2 shows site photos of the intersection.

In 2005, a member of the Harbour Rise Home Owners Association in Hillarys requested the City consider traffic management at the intersection of Amalfi Drive and Marbella Drive,

Hillarys. The request was investigated and although there was no accident history it was considered appropriate to list a median island for consideration in the 2005/06 budget.

The project was not supported at the 2005/2006 or subsequent budgets which reflects the priority the project is rated at.

In April 2008, residents from Hillarys wrote to Council requesting that the island be constructed as a matter of priority before an accident occurs.

## **DETAILS**

The City has no traffic counts for these streets. However, the delineation of intersections is about reducing the occurrence of corner cutting and consequently crash history is a more relevant measure of priority. There is no reported crash history for this intersection. The streets in this part of Hillarys have been deliberately designed with a narrower road reserve and carriageway width to promote a slow speed environment. Furthermore, the streetscape was installed by the developers to ensure verge trees are retained to improve amenity and add to the slow speed environment by providing a vertical element and a tunnel effect on drivers.

This intersection, being at an angle of 115 degrees provides design challenges for installing an island on Amalfi Drive. If Council supports this option it may require widening of the intersection to accommodate the island. In addition due to its angle, the intersection may be difficult to negotiate for rubbish trucks, stretch limousines or vehicles towing boats or caravans once an island is installed. The alternative considered was to request that Main Roads Western Australia provide a holding line and centre line marking on Amalfi Drive at the intersection.

Because these are statutory signs this option does require Main Roads Western Australia's support. The intersections with known and reported crash history have been prioritised on the 5-Year Works Programme and should be ahead of the intersection of Amalfi Drive and Marbella Drive. In consideration of the data for the intersection, there is no necessary reason to change the priority of this project.

### **Link to Strategic Plan:**

4.2.6 The City implements, and if necessary, refines its Capital Works Programme

### **Legislation – Statutory Provisions:**

Not Applicable

### **Risk Management considerations:**

Not Applicable

### **Financial/Budget Implications:**

Should Council prefer a median island it would be listed under the Minor Intersection Treatments programme at the anticipated cost of \$20,000.

### **Policy implications:**

Nil.

**Regional Significance:**

Nil

**Sustainability implications:**

Nil

**Consultation:**

Not required at this stage.

**COMMENT**

Given the lack of crash history and the fact that this project has not been previously supported at budget, it is not recommended to change the priority of this project. It is however recommended that Main Roads Western Australia be requested to install a give way holding line, signage and central barrier line in Amalfi Drive, Hillarys (see Attachment 3).

**ATTACHMENTS**

Attachment 1	Location Map of Amalfi Drive and Marbella Drive, Hillarys
Attachment 2	Site photos of intersection
Attachment 3	Sign and lines plan

**VOTING REQUIREMENTS**

Simple Majority

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

- 1 NOTES the request for a median island at the intersection of Amalfi Drive and Marbella Drive, Hillarys;**
- 2 REQUESTS Main Roads Western Australia installs give way statutory signage and line marking at the intersection of Amalfi Drive and Marbella Drive, Hillarys;**
- 3 ADVISES the letter signatories of Council's decision.**

*Appendix 16 refers*

To access this attachment on electronic document, click here [Attach16brf080708.pdf](#):

## **ITEM 22            PETITION: PARKING PROHIBITIONS CULLODEN ROAD DUNCRAIG – [46273]**

**WARD:**                    South

**RESPONSIBLE**        Mr Martyn Glover  
**DIRECTOR:**            Infrastructure Services

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### **PURPOSE**

To consider a 70 signature petition objecting to the implementation of 1 hour parking restrictions on Culloden Road, Duncraig.

### **EXECUTIVE SUMMARY**

A 70-signature petition from the employees of Glengarry Hospital was received on 16 April 2008 objecting to the implementation of the one hour parking restrictions placed on Culloden Road, Duncraig.

This parking prohibition was approved by Council at its Ordinary Meeting in December 2007. The Glengarry Hospital was consulted prior to the implementation of the prohibitions as well as being given the opportunity to present a deputation to Council.

The previous decision of Council was predicated on the requirement that hospitals are supposed to provide adequate parking for staff onsite and the parking requirements of the hospital should not negatively impact on the surrounding residences. The City has made available parking at Glengarry Park, and to improve safety, has removed low vegetation and pruned trees around the car park.

It is recommended that Council:

- 1     *NOTES the objections raised by staff of Glengarry Hospital;*
- 2     *AGREES to retain the current parking prohibitions in Culloden Road;*
- 3     *ADVISES the petitioners of Council's decision.*

### **BACKGROUND**

Previously it was resolved at the Ordinary Council Meeting of 15 December 2007 that Council:

- 1     *AMENDS the City of Joondalup Parking Scheme in accordance with Clause 33 of the City's Parking Local Law (1998) by the installation of one hour parking restrictions and the no stopping prohibitions in Culloden Road Duncraig as shown on the Plan labelled Option 1A, and forming Appendix 37 hereto;*
- 2     *REQUESTS the Administration of the Glengarry Hospital to liaise with the owners of the Glengarry Tavern with the view to making arrangements for the Hospital's day time staff to park in the Hotel's car park.*

- 3 *REVIEWS the parking arrangements in Culloden Road after twelve months to ascertain if the parking restrictions are still required to prevent long-term parking in Culloden Road by the staff of the Glengarry Hospital;*
- 4 *ADVISES the residents of Culloden Road of the Council's decision.*

Prior to Council's resolution, the City undertook consultation with all property owners along Culloden Road, including the Glengarry Hospital, the Retirement Village and the Glengarry Shopping Centre. The hospital submitted an 89 signature petition from staff objecting to the proposal; however the result of the consultation with residents was mixed with no clear direction. The original recommendation was that prohibitions were not warranted as vehicles were not parked in a dangerous manner and there was adequate road width available.

This was not acceptable to some residents and a compromise solution was negotiated with the residents by the City and the amended parking prohibition plan was adopted (Attachment 1 refers).

## DETAILS

The City's practice with parking issues is for all affected parties to be advised in writing when a matter that may be relevant to them goes before Council in addition to any consultation that may have preceded a report. The letter advises on the date and venue of the Briefing Session and the Ordinary Meeting, as well as details on how to present deputation/questions to Council on the matter and the deadlines by when submissions must be received.

This letter was sent to all property owners along both sides of Culloden Road on 3 December 2007. The CEO of Glengarry Hospital was also advised by telephone prior to the Ordinary Meeting of Council in December 2007, that it was necessary to attend Council to represent the view of the staff, many of whom are ratepayers in Joondalup.

Glengarry Hospital had the opportunity on several occasions to present their view with the intent to achieve a result that was more to their satisfaction. Residents as indicated in an eleven signature petition to Council at the time felt that cars parked on the south side of their street created an issue of amenity and they did not want their street to be a car park.

The new petition makes the following statements and the responses are in italic:

- The street is wide enough to accommodate parking on both sides, as well as allowing traffic to flow safely. The City of Joondalup assessed the parking in Culloden Road in May 2007 and it was clearly identified that:  
*“parking prohibitions are not warranted as vehicles are not parked in a dangerous manner and there is adequate road width available.”*  
This recommendation was subsequently ignored by the Joondalup Council in December 2007.

*Response: Notwithstanding the fact that the above quote is only partially included in the report, there is only sufficient width for parking on one side of the road leaving space for two-way traffic. The minimum width for parallel parking is 2.3m on each side of the street and the minimum width for two-way traffic in this circumstance is 6.0m. The road is 9.2m in width; consequently there is a shortfall of 1.4m for parking on both sides of the road. Because the residents objected to any parking, the Council chose not to follow the officer's recommendation and agreed with the residents.*

- Glengarry Hospital staff only request to park on the southern side of Culloden Road, opposite the residents' houses. Staff parking on the hospital side of Culloden Road has no impact on the neighbouring properties.

*Response: The residents objected to parking on both sides of the road.*

- The parking bays available to staff at the end of Culloden Road are considered unsafe due to the isolation and surrounding bushes. It is also an unacceptable distance for staff to walk for afternoon and evening use.

*Response: The distance is 220 metres (see Attachment 2). The Hospital had advised previously that the cars parked on Culloden Road were those of day time staff and that all evening and night shift staff were allocated bays on the Hospital site. The City has already pruned trees and removed low vegetation to improve visibility in the car park at Glengarry Park. There are 3 properties that have a direct view over the car park and increased security patrols by City Watch were requested as part of the proposal to allow the staff to use this car park.*

- Glengarry Hospital Administration have previously attempted to liaise with Glengarry Tavern to arrange for the staff to use the Hotel's car park. This request was rejected by Glengarry Tavern and staff are unable to use this car park.

*Response: The Glengarry Tavern did allow parking on its site but that was withdrawn late in 2007, which is when staff started to park on Culloden Road. Council's resolution at the December 2007 Ordinary Meeting to request Glengarry Hospital Administration to liaise with the owners of the Glengarry Tavern had already been undertaken prior to staff parking in Culloden Road, and well before the matter went before Council.*

#### **Link to Strategic Plan:**

4.2.6 The City implements, and if necessary, refines its Capital Works Programme

#### **Legislation – Statutory Provisions:**

All parking prohibitions are installed in accordance with the City's Parking Local Law (1998).

#### **Risk Management considerations:**

Not Applicable.

#### **Financial/Budget Implications:**

Not Applicable.

#### **Policy implications:**

Nil.

#### **Regional Significance:**

Nil.

**Sustainability implications:**

Nil

**Consultation:**

Extensive consultation took place culminating in the original report of December 2007.

**COMMENT**

The one hour parking restrictions on Culloden Road were approved by Council resolution in December 2007. The Hospital Management had the opportunity to address Council on the matter.

Notwithstanding this, Council also resolved to review the parking arrangements 12 months after the installation of the new prohibitions. This will take place in January/February 2009.

Council has provided free parking at the car park at Glengarry Park for hospital staff. The distance to walk from this car park is only marginally more than that from the Glengarry Tavern site which was previously being used by hospital staff. However, it is the responsibility of the Hospital to provide parking for its staff on site.

The objections to the parking restrictions are noted; however, given that there is adequate alternative parking and it is the responsibility of the Hospital to provide adequate parking on site for staff, there is no need to amend the parking restrictions as adopted by Council in December 2007.

**ATTACHMENTS**

Attachment 1	Existing Parking Prohibitions
Attachment 2	Alternative parking at Glengarry Park

**VOTING REQUIREMENTS**

Simple Majority

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

- 1 NOTES the objections raised by staff of Glengarry Hospital;**
- 2 AGREES to retain the current parking prohibitions in Culloden Road;**
- 3 ADVISES the petitioners of Council's decision**

*Appendix 17 refers*

To access this attachment on electronic document, click here: [Attach17brf080708.pdf](#)



## **ITEM 23            TENDER 015/08 PROVISION OF ELECTRICAL MAINTENANCE SERVICES – [86603]**

**WARD:**                    All

**RESPONSIBLE DIRECTOR:**    Mr Martyn Glover  
Infrastructure Services

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### **PURPOSE**

This report is to seek the approval of Council to accept the offer submitted by Wanneroo Electrics for the provision of Electrical Maintenance Services (Tender 015/08).

### **EXECUTIVE SUMMARY**

Tenders were advertised on Saturday 26 April 2008 through state wide public notice for the provision of Electrical Maintenance Services. Tenders closed on Tuesday 20 May 2008. Four (4) submissions were received from:

- Wanneroo Electric Pty Ltd;
- GMG Electrical and Air conditioning Services;
- SJ Electrical WA Pty Ltd; and
- O'Donnell Griffin.

The submission from Wanneroo Electric Pty Ltd represents best value to the City and is the lowest priced compliant tender. The evaluation panel has confidence in their ability to complete the works in the required timeframe and that they have an appropriate understanding of the work requirements. They have sufficient resources and the appropriate experience to complete the City's requirements and they are the current service provider to the City.

*It is recommended, in relation to Tender Number 015/08 that Council ACCEPTS the Tender submitted by Wanneroo Electric Pty Ltd for the provision of Electrical Maintenance Services to be used on an 'as and when required' basis for a three (3) year period in accordance with the statement of requirements in Tender 015/08 at the submitted Schedule of Rates.*

### **BACKGROUND**

This requirement is for the provision of Electrical Maintenance Services in accordance with the requirements of the Specification and as directed by the Superintendent, within the City of Joondalup, and includes but not limited to labour, materials, plant and equipment, mobilisation, demobilisation and transport.

The City has an existing Contract in place with the recommended tenderer for the provision of Electrical Maintenance Services and this Contract expired in November 2007 and has been extended on a month by month basis to enable continuity of services to be maintained to City buildings and infrastructure. The delay in calling a new tender was due to reviewing the requirements of the City, revising the scope of work, and updating the City's assets information database.

## DETAILS

Tenders were advertised on Saturday 26 April 2008 through state wide public notice for the provision of Electrical Maintenance Services. Tenders closed on Tuesday 20 May 2008. Four (4) submissions were received from:

- Wanneroo Electric Pty Ltd;
- GMG Electrical and Air conditioning Services;
- SL Electrical WA Pty Ltd; and
- O'Donnell Griffin.

### Evaluation Criteria

The qualitative criteria and weighting used in evaluating the submissions received were as follows:

Qualitative Criteria		Weighting
1	Capacity	35%
2	Demonstrated experience in completing similar projects	35%
3	Demonstrated understanding of the required tasks	25%
4	Social and economic effects on the local community	5%

### Evaluation Panel

The evaluation panel comprised of three members; one with tender and contract preparation skills and two with the appropriate technical expertise and involvement in supervising the Contract. The panel carried out the assessment of submissions in accordance with the City's evaluation process in a fair and equitable manner.

### Tender Submissions

A summary of the Tender submissions is provided in Attachment 1.

The tender is not a lump sum tender. It required respondents to provide a schedule of rates for the required services to be used on as and when required basis. The schedule listed seventy nine (79) required service rates.

In the tender responses to each of the service rates the lowest were:

- Wanneroo Electric Pty Ltd for fifty nine (59),
- GMG Electrical for fifteen (15), and
- SJ Electrical for five (5)

Wanneroo Electric Pty Ltd were not the lowest tendered rate in twenty (20) of the tendered rates however nine (9) of these varied from the lowest rate by less than 10%.

To provide a financial context to the comparison of the tenderers schedule of rates the twenty (20) most commonly used items and their typical usage based on historical data were compared. It needs to be noted that actual future requirements will be based on demand and subject to change in accordance with the operational needs of the City. The estimated cost for these top twenty (20) items for each Respondent, over twelve (12) months is as follows:

Estimated Cost	Wanneroo Electric Pty Ltd	GMG Electrical and Airconditioning	SJ Electrical WA Pty Ltd	O'Donnell Griffin
	\$109,416.00	\$171,320.00	\$374,498.88	\$396,358.38

During the period from 1 July 2007 to 30 May 2008 the City actually incurred \$387,364 for the provision of Electrical Maintenance Services and it is anticipated the City may incur approximately \$1,583,000 over the three (3) year Contract period for all requirements.

### Evaluation Summary

Respondent	Qualitative Score	Price Ranking	Qualitative Rank
Wanneroo Electric Pty Ltd	88.80%	1	1
O'Donnell Griffin	69.50%	4	2
GMG Electrical and Airconditioning	55.05%	2	3
SJ Electrical WA Pty Ltd	47.70%	3	4

### Issues and options considered:

The provision of Electrical Maintenance Services is required for maintaining the integrity of the City assets, ensuring compliance with legislative requirements, maintaining duty of care to the occupant of the building concerned and the safety of the community. The City does not have the internal resources to supply the required services and as such requires an appropriate external service provider.

### Link to Strategic Plan:

This requirement is linked to the Strategic Plan in accordance with the following item:

- 5. Community Wellbeing.
- Objective 5.1 To ensure the City's facilities and services are of a high quality and accessible to everyone.
- Strategies 5.1.1 The City develops and implements a Strategic Asset Management framework to improve the standard and management of its community infrastructure, including the consolidation and rationalisation of current building facilities.

### Legislation – Statutory Provisions:

A state wide public tender was advertised, opened and evaluated in accordance with the *Local Government (Functions & General) Regulations 1996*, where tenders are required to be publicly invited if the consideration under a contract is, or is estimated to be, more, or worth more, than \$100,000.

### Risk Management considerations:

Should the contract not proceed, the risk to the City will be high as the City has a duty of care to maintain electrical services to its buildings and infrastructure for the safety and security of the community and to ensure compliance with legislative requirements.

It is considered that the Contract will represent a low risk to the City as the recommended Respondent is the current service provider, is a well-established company with extensive experience and the capacity to provide the appropriate level of service to the City.

**Financial/Budget Implications:**

<b>Current Year Budget Allocation for this Contract</b>	<b>Actual Expenditure on these Services to 30 June 2008</b>	<b>Projected Expenditure on these Services in first 12 Months of Contract if Accepted</b>	<b>Projected Expenditure on these Services over the Life of the Contract if Accepted</b>
\$527,892 (2007/2008)	\$1,300,737 (Period from 1 July 2005 to 30 May 2008)	\$527,666	\$1,583,676

The projected expenditure on these Services is subject to change and dependent on the quantity and type of requirements throughout the Contract period. Based on historical and known requirements, it is estimated that the expenditure over the Contract period will be in the order of \$1,583,676.

**Policy implications:**

Not applicable.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

Not applicable.

**Consultation:**

Not applicable.

**COMMENT**

Wanneroo Electrics have demonstrated an understanding of the requirements and have been providing services to the City for the current and previous Contracts. They have extensive procedures in place that provide a very tight control of requirements and services provided, while having comprehensive knowledge of the requirements of the City.

They have demonstrated excellent and timely service delivery for both the previous and current contracts with the City. Wanneroo Electrics achieved the highest qualitative ranking and was the lowest priced offer based on the assessment using the selected top twenty (20) items.

The evaluation panel concluded that the submission from Wanneroo Electrics represents best value to the City. The panel has confidence in their ability to complete the services to the required standards.

The attached summary of Tender submissions includes the location of each of the Tenderers.

## **ATTACHMENTS**

Attachment 1 – Summary of Tender Submissions.

## **VOTING REQUIREMENTS**

Simple majority.

## **RECOMMENDATION**

**That, in relation to Tender 015/08, Council ACCEPTS the Tender submitted by Wanneroo Electric Pty Ltd for the provision of Electrical Maintenance Services to be used on an 'as and when required' basis for a three (3) year period in accordance with the statement of requirements in Tender 015/08 at the submitted Schedule of Rates.**

*Appendix 18 refers*

*To access this attachment on electronic document, click here: [attach18brf080708.pdf](#)*



The various conditions of approval under review were discussed. At the end of the mediation session, the City was required to provide the applicant with the anticipated costs they could expect when complying with certain conditions of approval. The anticipated costs were conveyed to the applicant in writing in a letter dated 28 May 2008 (Attachment 2). The applicant responded to the City's letter by setting out their position on the conditions in dispute, which is contained in Attachment 3. The applicant's response is submitted for consideration and determination by Council. Council's response will then be referred to the SAT and the applicant for further consideration.

The next mediation hearing is set for 23 July 2008. At that meeting, the applicant would consider Council's position on the contested conditions and either:

- (i) accept Council's position;
- (ii) enter into further dialogue; or
- (iii) seek to take the matter to a hearing of the SAT.

### **DETAILS**

The applicant has requested SAT to review conditions 2(j), (l) to (q) and (s) to (u) of Council's Planning Approval.

For ease of reference, the conditions of approval that are being challenged are identified and discussed in Attachment 4. Conditions 2(m) and (n) are discussed in more detail in the Comment section of the report.

### **Issues and options considered:**

Council has the discretion, in response to the applicant's request for changes to the Council's Planning Approval, to:

- Accept the proposed response;
- Reject the proposed response as recommended in whole or in part; or,
- Modify the proposed response as required.

At the mediation hearing, further discussion on Council's position will occur. It is recommended that the Chief Executive Officer be granted delegated authority to negotiate on the Council's behalf at the mediation hearing to be held on 23 July 2008, on any challenges to the adopted position of Council.

### **Link to Strategic Plan:**

Not applicable.

### **Legislation – Statutory Provisions:**

The applicants have requested the SAT to review Council's decision under the State Administrative Tribunal Act 2005 (SAT Act), which has a different decision making process to the DPS2. Council is required to consider and convey its position on the proposed changes to its approval to SAT and the applicant. Council does not make a formal planning decision as such. The process under the SAT Act will result in a 'Minute of Consent' if both parties agree to a mediated outcome or if no agreement, the matter is then considered at a hearing and the SAT will then make its decision on the request to review the 10 (or disputed) conditions of Planning Approval.

**Risk Management considerations:**

Not applicable.

**Financial/Budget Implications:**

This matter is before the SAT following the lodging of a request for review of Council's decision. Being a Class 2 hearing, both parties have elected to have legal representation. The City has engaged the services of McLeods Solicitors to represent the Council on this matter. Currently, the matter is being dealt with through the mediation process, however this may escalate to a full hearing.

If the matter is not resolved at mediation, the escalation of the appeal to a hearing could result in expenditure of approximately \$15-25,000 to put Council's case.

**Policy implications:**

Not applicable.

**Regional Significance:**

The proposal is considered to be regionally significant as it relates to health services offered to all northern suburbs residents.

**Sustainability implications:**

Not applicable.

**Consultation:**

No further consultation has occurred, nor is required, as part of the SAT review process.

**COMMENT**

The applicants have requested a review of 10 of the 28 conditions of planning approval. For ease of reference, the applicant's position on the conditions of approval and a proposed response to their position has been set out in Attachment 4. However, the challenge to conditions 2(m) and (n) of Council's Planning Approval warrants further detailed discussion, which is set out below.

Conditions 2(m) and (n)

Council imposed the following conditions of approval:

- "2(m) *The developer shall provide a pedestrian crossing facility for the traffic control signals at the intersection of Grand Boulevard and Shenton Avenue in accordance with MRWA Standards and Guidelines and approved by Main Roads WA*".
- "2(n) *The developer shall contribute to/fund the following to the satisfaction of the City:*
- (i) *The upgrade of the Hospital CAT stops and resultant modifications to the median island on Shenton Avenue, in accordance with PTA guidelines and City of Joondalup standards, with City of Joondalup approved shelters*"
  - (ii) *The provision of a covered and protected walkway from the CAT stop to the public hospital's main entrance*"



(iii) *Contribute to one quarter (25%) of the annual running cost of the CAT system”*

The City provided the applicant a copy of the costs associated with Conditions 2(m) and (n)(i) and (iii) which are shown below. The applicant has estimated the cost of satisfying condition 2(n)(ii), which has been included in the following table. The City has not undertaken a review of the estimate provided by the applicant.

Condition	Estimated Cost \$	Comments
2(m)	30,000	This is a 2008 estimate and involves parallel walk pedestrian phases on all approaches to the Grand Boulevard/Shenton Avenue traffic signals with tactile facilities.
2(n)(i)	52,000	Cost broken down as follows: <ul style="list-style-type: none"> <li>• Upgrade CAT stops at Hospital – Two Shelters (supply &amp; install) - estimated \$32,000 (2008 costs)</li> <li>• Install pram ramps, path through median - estimated \$20,000 (2008 costs)</li> </ul>
2(n)(ii)	650,000	The applicants in their submission have provided a cost estimate of \$650,000 to provide the covered walkway required in condition 2(n)(ii)
2(n)(iii)	112,500	The current cost of providing the service is \$450,000 pa. Currently, it is a one-third contribution from the PTA, ECU and the COJ. As a fourth contributor, the contribution for each party would then be \$112, 500 this financial year, with the possibility of the annual cost of providing the service increasing as circumstances dictate.
<b>TOTAL</b>	<b>844,500</b>	

The development proposal submitted by the applicant required the City to consider a variation to car parking standards set out in DPS2. The original shortfall in car parking sought by the applicant from Council equated to 156 bays (or 8.2%). Condition 2(u) of Council’s approval required the applicant to provide additional car parking spaces. Plans submitted as part of the SAT process have resulted in an additional 27 car parking spaces being able to be provided on site, or a shortfall of 129 car parking spaces. If a cash-in-lieu payment was required, the applicant would be required to pay \$3,929,082 for the 129 car parking space shortfall.

The applicant, in their submission through the SAT process, is proposing to only contribute \$52,000 for the CAT upgrades as a trade off for not providing the covered walkways (estimated at \$650,000) and funding of the CAT service (\$112,500pa). Further, they are not proposing to pay for the cost of providing the changes to the traffic signals (\$30,000) at Grand Boulevard/Shenton Avenue.

It is noted the applicant has stated in their response to condition (n) that “*Ramsay Health Care will consider a contribution to the CAT Service in the future*”. It is not know when this will occur and the extent of that contribution.

In order to offset the car parking shortfall, the applicant sought the implementation of Travel Smart initiatives (primarily in the form of a Travel Smart plan). The City took this into consideration in assessing the proposal and ultimately resolved to support the car parking variation, subject to the imposition of several conditions to ensure the successful implementation and long term success of the applicant’s travel smart initiatives.

The City took this course of action with the knowledge that the development will ultimately grow to become one of three ‘super’ hospitals servicing the entire Perth Metropolitan area. As such, non vehicular modal linkages (such as public transport, cycleway and pathways) to and within the facility would need to be strengthened to make it as attractive as possible for staff, patients and visitors to use alternative modes of transport (other than the private motor vehicle) to access the development.

Conditions 2(m) and (n) are directly linked to the applicant’s travel smart initiatives and have therefore been imposed to ensure that maximum benefit is obtained by persons accessing the facility by non vehicular modes of transport, primarily via public transport. Travel Smart initiatives do not result in overnight change. Through the use of education, incentives and the willingness of staff and the public to change their habits, the Travel Smart initiatives will achieve success over a period of time leading to a subsequent and sustained reduction in the demand for parking.

Whilst this stage of construction may be years away from being operational, it is considered appropriate to require the infrastructure changes and CAT service contributions to occur now, in order to support a change in “travel culture” and to eventually meet the high travel reduction targets that have been set in the Travel Smart initiatives. Therefore, it is recommended that conditions 2(m) and (n) of approval be retained unaltered.

### **Conclusion**

It is considered that a “travel culture” change is required to be developed now to ensure that the targets set in the Travel Smart proposal are achieved to warrant the support of the shortfall in the number of car parking spaces to be provided on-site. The conditions of approval seek to support and facilitate the proposed change to the travel culture by ensuring that appropriate infrastructure is in place to bring about the desired change and thereby reducing the demand for on-site car parking.

Based on the information provided above and in Attachment 4, it is recommended that:

- Condition 2(q) can be deleted as the information provided through the SAT mediation process satisfies the conditions of approval;
- Conditions 2(j), (l) and (u) could be amended as recommended in Attachment 4;
- Conditions (m), (n), (o), (p), (s) and (t) should be retained.

### **ATTACHMENTS**

Attachment 1	Locality Plan
Attachment 2	Letter dated 28 May 2008 from City to Hardy Bowen
Attachment 3	Submission made by Applicant
Attachment 4	Response to submission made by Applicant

### **VOTING REQUIREMENTS**

Absolute majority.

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

- 1** NOTES that its position on the changes proposed by the Applicant are part of the State Administrative Tribunal's mediation process;
- 2** INSTRUCTS McLeods Solicitors, having regard to this matter being the subject of the State Administrative Tribunal's mediation process in relation to the proposed additions and alterations to the Joondalup Health Campus, that:

(a) Condition 2(q) can be met based on the revised plans submitted as part of the SAT mediation process;

(b) Conditions 2(j), (l) and (u) can be amended as follows:

**Condition 2(j):**

*“All external car parking areas shall be provided with one shade tree for every four bays prior to the development first being occupied. The trees shall be protected from damage by vehicles and maintained to the satisfaction of the Manager Approvals, Planning and Environmental Services”.*

**Revised Condition 2(l):**

*“The developer shall ensure that all proposed pedestrian pathway routes for both visitors and staff leading to the main entries of the building are clearly identifiable by the use of signage.”*

**Revised Condition 2(u):**

*“The developer shall provide secure, long term under cover motor cycle, scooter and bicycle parking facilities for staff and multi modal commuters and visitors. Such details are to be shown on plans lodged with the City of Joondalup for building license approval”.*

(c) Conditions (m), (n), (o), (p), (s) and (t) are to be retained.

- 3** BY AN ABSOLUTE MAJORITY, DELEGATES to the Chief Executive Officer the authority to negotiate on the Council's behalf at the mediation hearing to be held on 23 July 2008, on any challenges to the adopted position of Council.

Appendix 19 refers

To access this attachment on electronic document, click here: [Attach19brf080708.pdf](#)

## **ITEM 25            PROPOSED TWO STOREY OFFICE DEVELOPMENT AT LOT 872 (16) COOLIBAH DRIVE, GREENWOOD – [60019]**

**WARD:**                    South-East

**RESPONSIBLE**        Mr Clayton Higham  
**DIRECTOR:**            Planning and Community Development

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### **PURPOSE**

The purpose of this report is to request Council's determination of an application for planning approval for a two-storey office development at Lot 872 (16) Coolibah Drive, Greenwood.

### **EXECUTIVE SUMMARY**

The development site is located at 16 Coolibah Drive, Greenwood and is zoned Mixed Use under the City of Joondalup District Planning Scheme No 2 (DPS2).

The applicant proposes to construct a two-storey office building on the subject site. The proposed development has setback variations and a variation to the 3-metre landscape strip required at the front boundary. The setback variations are to the northern (front) boundary and the eastern (side) boundary.

The proposal complies with most requirements of DPS2 and it is considered that the proposed variations are acceptable.

Following the Council meeting of 13 May 2008, advertising of the proposal was undertaken within a 200-metre radius of the subject site as required by Council. Of the 10 submissions that were received, 9 were no objections and 1 was an objection.

Having regard to the submissions received, it is considered that the proposed development remains appropriate and therefore, it is recommended that the application for Planning Approval be granted.

### **BACKGROUND**

<b>Suburb/Location:</b>	<b>Lot 872 (16) Coolibah Drive, Ocean Reef</b>
<b>Applicant:</b>	Mr Geoff O'Regan
<b>Owner:</b>	Wavetop Holdings Proprietary Limited
<b>Zoning:</b>	<b>DPS:</b> Mixed Use
	<b>MRS:</b> Urban
<b>Site Area:</b>	683m <sup>2</sup>
<b>Structure Plan:</b>	Not applicable

The subject site is located on the southern side of Coolibah Drive, between Warwick Road and Callistemon Street (refer to Aerial Plan – Attachment 1).

A single storey building is currently on the subject site that has been converted to offices. The building was previously approved for office use as the site is zoned Mixed Use under DPS2. The adjoining properties are zoned Residential.

The southern side of Coolibah Drive is primarily zoned Residential with the exception of the development site and Lot 877 (6) Coolibah Drive, which are both zoned Mixed Use (refer to Zoning Plan – Attachment 1).

Lot 877 (6) Coolibah Drive is used as a Dental Surgery. This site also occupies a single storey residential dwelling which has been converted for the use of the Dental Surgery.

On the opposite side of Coolibah Drive (north-east of the site) there are numerous Commercial sites consisting of a service station, the Greenwood Village Shopping Centre, the Greenwood Commercial Centre and further south-east, the Greenwood Tavern.

At the Council meeting held on 13 May 2008, it was resolved that the matter be referred back to Council following public consultation within a 200 metre radius of the site (refer to CJ083-05/08).

## DETAILS

The applicant proposes to construct an office building that incorporates the following:

- A two storey office building with boundary setback variations and a landscaping variation;
- Two offices and associated facilities with total floor area of 263m<sup>2</sup>;
- 9 car parking bays, bin storage area and landscaping;
- Pedestrian access ramp for disabled access from the proposed front car parking area to the main entrance of the building.

The development plans are provided in Attachment 2.

The table below sets out the development standards and requirements of DPS2 and the proposed development's compliance and non-compliance with these standards.

REQUIRED	PROVIDED	COMPLIANCE
Minimum front setback – 9 metres	8.7 metres	No
Minimum side setback – 3 metres	Eastern boundary – 4.52 metres Western boundary – 1.8 metres	Yes No
Minimum rear setback – 6 metres	12.6 metres	Yes
Minimum landscaping 8% of site	17%	Yes
Landscaping strip adjacent to street – Minimum 3 metres	0.9 metres	No
Minimum number of car bays as 1 per 30m <sup>2</sup> NLA – 8.77	9 bays	Yes

The development is required to be determined by Council as the setback and landscaping variations exceed that which may be determined under delegated authority.

The applicant has provided justification for the proposed variations, which is summarised as follows:

- Front setback variation
  - *The projection into the front setback is minor;*

- *Landscaping is proposed on the eastern side of the lot to reduce the impact on the streetscape.*
- *Side setback variation to the western boundary*
  - *The adjoining property has a carport adjacent to the proposed building;*
  - *The existing building on site is closer to the boundary than the proposed building (setback approximately 1.62m);*
  - *The size of the lot, the location of the car parking area to the rear of the property, and the desire to reuse the existing crossover reduce the useable area of the lot.*
- *3 metre landscape strip variation*
  - *The site is relatively small;*
  - *The variation to the 3 metre landscape strip is compensated by the proposed landscaping throughout the site;*
  - *The proposed front car parking area will be lower than natural ground level therefore creating a transition to the lower street level.*

**Issues and options considered:**

Council has the discretion to:

- Approve the application without conditions;
- Approve the application with conditions; or
- Refuse the application.

**Link to Strategic Plan:**

4.1 Objective: To ensure high quality urban development within the City.

**Legislation – Statutory Provisions:**

Office is a 'P' use in the Mixed Use Zone. A 'P' use means:

*“A use class that is permitted but which may be subject to any conditions that the Council may wish to impose in granting its approval.”*

The following clauses of DPS2 are relevant to the development proposal.

**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:*

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

#### *4.7 Building setbacks for non-residential buildings*

*4.7.1 Unless otherwise provided for in Part 3 of the Scheme, buildings shall be set back from property boundaries as follows:*

*Setback from street boundary 9.0 metres  
Setback from side boundary 3.0 metres  
Setback from rear boundary 6.0 metres*

#### *4.12 Landscaping requirements for non-residential buildings*

*4.12.1 A minimum of 8% of the area of a development site shall be designed, developed and maintained as landscaping to a standard satisfactory to the Council. In addition the road verge adjacent to the lot shall be landscaped and maintained in a clean and tidy condition to the satisfaction of the Council.*

*4.12.2 When a proposed development includes a car parking area abutting a street, an area no less than 3 metres wide within the lot along all street boundaries shall be designed, developed and maintained as landscaping to a standard satisfactory to the Council. This landscaped area shall be included in the minimum 8% of the area of the total development site referred to in the previous sub clause.*

#### *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.*

**Risk Management considerations:**

The proponent has a right of review against Council's decision, or any conditions included therein, in accordance with the State Administrative Tribunal Act 2004 and the Planning and Development Act 2005.

**Financial/Budget Implications:**

Not Applicable.

**Policy implications:**

Not Applicable.

**Regional Significance:**

Not Applicable.

**Sustainability implications:**

Not Applicable.

**Consultation:**

The DPS2 provisions do not require advertising to be carried out for a permitted land use, which offices are within a Mixed Use zone. However, the proposal has a side boundary setback variation and as such, consultation occurred with the owner of the property located to the east of the development site that would be potentially affected by the variation. A letter was sent to the owner of the property allowing comments to be submitted up to 19 March 2008. There was no response received from the adjoining owner.

Following Council's resolution of 13 May 2008, the application was advertised to 118 land owners within a 200 metre radius of the subject site. The proposal was advertised to these owners for a period of 14 days ending on 29 May 2008. A total of 10 submissions were received – nine were no objections and one was an objection (refer to Attachment 3).

The 10 submissions received represent 8 percent of the total land owners within the 200 metre radius.

**COMMENT**

From the 10 submissions received, there were nine residents in the locality that indicated they had no objection to the proposed development, by ticking the "I have no objection" box on the submission form. One of the nine submitters also stated that they would support more properties doing the same if needed.



The objector raised concerns with the provision of a commercial building in a residential area and the undesirable precedent the proposal will set for Greenwood's residential area. The objector was also concerned with increased traffic on the roundabout, and believes that there is ample space at Greenwood Village commercial site for such two-storey commercial developments.

In response to the objector's comments regarding Greenwood's residential area, it is noted that the site is zoned Mixed Use and has been since DPS2 was gazetted in 2000. An Office use is permitted within this zone, and as such a commercial building on this site is considered acceptable.

Historically, under the previous Town Planning Scheme No.1 the subject site received approval for the conversion of the existing dwelling for use as a medical consulting room with more than one practitioner. Under the then proposed DPS2, this existing land use was to become an "X" use (not permitted) in the Residential zone. The subject site was therefore given the Mixed Use zoning to recognise the non-residential use of the lot, and enable the current development rights to continue.

In regard to the objector's concern of increased traffic, the City reviewed the proposal and believes that the increase in traffic will be minimal, if at all, due to the use remaining as an office use.

### **Conclusion**

The comments received during the public consultation period represent a small percentage of the land owners within the 200 metre radius. However, the majority of submissions had no objection to the proposed development.

The proposed office development complies with most requirements of DPS2 with the exception of the setback and landscaping variations, which are considered acceptable.

The proposed development provides a modern building in an attractive setting. It is considered that the proposal contributes to the amenity of the streetscape and surrounding area.

Therefore, it is recommended that the application be approved.

### **ATTACHMENTS**

Attachment 1	Aerial Plan & Zoning Plan
Attachment 2	Development Plans
Attachment 3	Map of Submissions

### **VOTING REQUIREMENTS**

Simple Majority.

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

- 1 EXERCISES discretion under Clause 4.5.1 of District Planning Scheme No. 2 and determines that the:**
  - (a) Side setback of 1.8 metres in lieu of 3 metres to the eastern boundary;**
  - (b) Front setback of 8.7 metres in lieu of 9 metres;**
  - (c) Part of landscaping strip being 0.9 metres in lieu of 3 metres;**

**are appropriate in this instance;**
- 2 APPROVES the application for Planning Approval dated 8 February 2008 submitted by Mr Geoff O'Regan, the applicant on behalf of the owners, Wavetop Holdings Proprietary Limited for a two storey office development on Lot 872 (16) Coolibah Drive, Greenwood, subject to the following conditions:**
  - (a) The parking bay/s, driveway/s and points of ingress and egress to be designed in accordance with the Australian Standard for off street Car parking (AS/NZS 2890.1-2004). Such areas are to be constructed, drained, sealed and thereafter maintained to the satisfaction of the Manager Approvals, Planning and Environmental Services prior to the development first being occupied;**
  - (b) The disabled bay shall be a maximum of 3% grade;**
  - (c) The lodging of detailed landscaping plans for the development site with the Building Licence Application. For the purpose of this condition a detailed landscaping plan shall be drawn to a scale of 1:100. All details relating to paving and treatment of verges are to be shown on the landscaping plan. All landscaping, reticulation and verge treatments, based on water wise principles, are to be established in accordance with the approved plans prior to the development first being occupied and thereafter maintained to the satisfaction of the Manager Approvals, Planning and Environmental Services;**
  - (d) The eastern, western, and southern walls shall be articulated to reduce the impact of building bulk on the adjoining properties. Drawings of the proposed design are to be submitted to the City for approval of the Manager Approvals, Planning & Environmental Services;**
  - (e) An onsite storm water 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 storm water drainage system is required to be shown on the Building Licence submission and be approved by the Manager Infrastructure Management prior to the commencement of construction;**
  - (f) The bin store shall consist of a suitably screened enclosure with a 100mm thick concrete floor graded to a commercial floor waste connected to sewer and shall have a hose cock for bin washing;**
  - (g) Any fencing on the front boundary shall not exceed 600mm in height;**

- (h) Any signage shall be the subject of a separate development application;**
- (i) The submission of details of the proposed cladding, to the satisfaction of the Manager Approvals, Planning and Environmental Services, demonstrating that there will be minimal glare on adjoining properties.**

*Appendix 20 refers*

*To access this attachment on electronic document, click here: [Attach20brf080708.pdf](#)*

**ITEM 26                    PROPOSED        TWO        STOREY        MIXED        USE  
DEVELOPMENT        OF        41        AGED        PERSONS  
DWELLINGS, SHOWROOMS AND OFFICES AT LOT  
5003 (14) HOBSONS GATE, CURRAMBINE – [77608]**

**WARD:**                    North

**RESPONSIBLE**        Clayton Higham  
**DIRECTOR:**            Planning and Community Development

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**PURPOSE**

To request Council's determination of an application for a two storey mixed use development consisting of 41 Aged Persons Dwellings, 2 Showrooms/Offices, and 4 Offices at Lot 5003 (14) Hobsons Gate, Currambine.

**EXECUTIVE SUMMARY**

The applicant proposes to construct a two-storey showroom, office and residential development on the subject site which is within the Currambine District Centre (CDC).

The proposal includes commercial development and carparking at the ground level along the north-south "main street" spine of the District Centre. There are 41 Aged Persons dwellings being proposed on the upper level with views over the surrounding commercial area and the adjoining Civic and Cultural zoned site.

The proposal generally meets the requirements of the Currambine District Centre Structure Plan (the Structure Plan) and the City of Joondalup District Planning Scheme 2 (DPS2).

The proposed variations to the Structure Plan, and the Residential Design Codes (Variation 1) (R-Codes) satisfy the relevant objectives and Performance Criteria.

The subject site does not have a density coding under the Structure Plan or DPS2 and as such a default coding of R20 applies. The proposed residential density of R60 is considered to be acceptable and to satisfy the objectives of the DPS2 and the Structure Plan. It is also considered that the development will contribute to the desired character of the CDC area and is compatible with other proposed developments in the locality.

It is recommended that the application be approved.

**BACKGROUND**

<b>Suburb/Location:</b>	Lot 5003 (14) Hobsons Gate, Currambine
<b>Applicant:</b>	TPG Town Planning & Urban Design
<b>Owner:</b>	Goldprime Corporation Pty Ltd
<b>Zoning:</b>	<b>DPS:</b> Business
	<b>MRS:</b> Urban
<b>Site Area:</b>	6242m <sup>2</sup>
<b>Structure Plan:</b>	Currambine District Centre Structure Plan

The subject site is located within the Currambine District Centre Structure Plan Area. The CDC is bounded by Marmion Avenue to the west, Shenton Avenue to the south, and Delamere Avenue to the north and east. The subject site is located at the centre of the CDC, immediately to the south of Hobsons Gate and to the east of Chesapeake Way.

The Structure Plan guides development within the area. The Currambine District Centre will contain a range of land uses to provide a variety of facilities and services within the area.

The surrounding land is vacant, however there are several applications currently being considered by the City for the development of this land. The site immediately to the east is zoned for Civic and Cultural Uses and is owned by the City.

The subject site is zoned Business under the Structure Plan, and has no Residential Density Coding, and as such a default coding of R20 is applied as per Clauses 4.2.4 and 4.2.5 of DPS2.

At its meeting on 10 June 2008 Council resolved to request a review of the Structure Plan. The review will relate primarily to the location of liquor outlets in the Structure Plan Area, and as such should not affect the determination of this application for planning approval.

## DETAILS

The proposed development incorporates the following:

- A two storey building wrapping around the corner of Hobsons Gate and Chesapeake Way, with commercial development on the ground floor, residential development on the upper level and car parking behind the commercial development accessible from Hobsons Gate at the north of the site and Chesapeake way on the west of the site;
- the proposed building generally having nil setbacks to all boundaries;
- 41 Aged or Dependent Persons Dwellings consisting of two bedroom units ranging in size from 87.3m<sup>2</sup> to 124.1m<sup>2</sup> NLA;
- Common balconies and enclosed common area for use by residents of the dwellings;
- Store rooms for each residential unit;
- Two Office/Showrooms with a total floor area of 587.7m<sup>2</sup> NLA;
- Four Offices with a total floor area of 1445.5m<sup>2</sup> NLA;
- Provision of 121 car bays including two disabled bays and two service bays;
- Vehicle access to the car park from Chesapeake Way and Hobsons Gate; and
- Bin storage accessible from Chesapeake Way.

The development plans are provided in Attachment 2.

Compliance with the relevant requirements of the Structure Plan and R-Codes is summarised below. All proposed variations are indicated in this table:

<b>Standard</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
Front Setbacks	6 metres	Between nil and 4.4m	No
Side Setback (southern boundary)	Nil	Nil	Yes
Rear Setback (eastern boundary)	Nil	Nil	Yes
Plot Ratio	0.70	0.70	Yes
Density	R20	R60	No
Car Parking	120 bays	121 bays	Yes
Essential Facilities	Storeroom with area of 4m <sup>2</sup> accessible	Storerooms with area of 3.1m <sup>2</sup> to 3.9m <sup>2</sup> , accessible	No

	from outside of the dwelling	internally only	
Plot Ratio Area of Dwellings	80m <sup>2</sup>	87.3m <sup>2</sup> to 124.1m <sup>2</sup>	No
Building Height	Maximum two storeys	Two storeys	Yes
Building facades	Active frontages with 70% glazing Window sills not less than 600mm above ground floor level	Northern façade 40.7% Western façade 34% Window sills 0mm above ground floor level	No No No
Footpaths	A continuous footpath (3m minimum) along the building edge	Footpath of between 1m and 2m wide along building edges	No

The applicant has provided the following written justification in support of the proposal:

- *The subject site is surrounded by R40 development to the east and R100 to the south. A density code of R60 is appropriate as a transition between the high to medium residential densities.*
- *The plans have incorporated the standards set out for Adaptable Housing.*
- *The proposed development is designed with a creative and effective urban edge to what is a prominent corner site.*
- *The proposed development achieves the objectives of the Structure Plan in becoming an innovative, community focused district centre.*

#### **Issues and options considered:**

Council has the discretion to:

- Approve the application without conditions;
- Approve the application with conditions; or
- Refuse the application

#### **Link to Strategic Plan:**

The proposal is consistent with objective 4.1 of the City of Joondalup Strategic Plan 2008-2011 – to ensure high quality urban development within the City.

#### **Legislation – Statutory Provisions:**

The provisions of Clause 3.6.2(a) allow for the front setbacks required by DPS2 in the Business Zone to be varied where appropriate:

*3.6.2(a) Buildings shall be set back a minimum of 6m from the street boundary. A lesser setback may be encouraged where location and design issues would make this appropriate.*

When determining this application, the provisions of Clauses 4.2.4 and 4.2.5 of DPS2 also apply:

4.2.4 Subject to Clause 4.2.5, the Residential Design 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 R20 density code applies unless the Council determines that a higher code should apply.*

*4.2.5 Notwithstanding the provisions of clause 4.2.4, where land within the Scheme is subject to an Agreed Structure Plan, the Residential Density Codes for the area shall be determined according to the Agreed Structure Plan.*

As the Structure Plan does not provide a density for the subject site, the provisions of Clause 4.2.4 are applied.

The proposed development includes variations to the requirements of the Structure Plan. Clause 4.5 of DPS2 allows for these variations to be considered.

#### *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:*

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

The matters listed under Clause 6.8 require consideration:

#### **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.*

As the Aged or Dependent Persons Dwelling Use is a “D” use, the additional matters identified in Clause 6.8.2 also require Council consideration in relation to this application for planning approval:

6.8.2 *In addition to the matters referred to in the preceding sub clause of this clause, the Council when considering whether or not to approve a “D” or “A” use application shall have due regard to the following (whether or not by implication or otherwise they might have required consideration under the preceding subclasses of this clause):*

- (a) *the nature of the proposed use and its relationship to the use of other land within the locality;*
- (b) *the size, shape and character of the parcel of land to which the application relates and the nature and siting of any proposed building;*
- (c) *the nature of the roads giving access to the subject land;*
- (d) *the parking facilities available or proposed and the likely requirements for parking, arising from the proposed development;*
- (e) *any relevant submissions or objections received by the Council; and*
- (f) *such other matters as the Council considers relevant, whether of the same nature as the foregoing or otherwise.*

#### **Risk Management considerations:**

The proponent has a right of review against Council’s decision, or any conditions included therein, in accordance with the State Administrative Tribunal Act 2004 and the Planning and Development Act 2005.

#### **Financial/Budget Implications:**

Not applicable.



**Policy implications:**

Not applicable.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

Not applicable.

**Consultation:**

The proposed commercial Land Uses are Permitted ('P') and as such are not required to be advertised.

The proposed Aged or Dependent Persons Dwellings are a Discretionary ('D') Land Use, and due to the location of the proposed dwellings in a commercial centre, there will be no adverse impact on the amenity of the locality as a result of the development. As such, advertising was not required in this regard.

Having regard to the nature of the proposed variations being sought, it was considered that the development will not result in an adverse impact on the adjoining properties or the surrounding locality and as such public consultation was not undertaken.

Furthermore, the City owns the Civic and Cultural Zoned land to the east of the subject site and as such advertising was not required in this regard.

Consequently it was considered that advertising of the proposal was not necessary in this instance.

**COMMENT**Land Use

The proposed land uses are Aged or Dependent Persons Dwelling, Showroom and Offices. Showroom and Office are permitted (P) uses in the Business Zone, and Aged or Dependent Persons Dwelling is a discretionary (D) land use.

The objectives of the Business Zone of the Structure Plan are to:

- *Create an active focus for the community with a diversity of non-retail main street uses that generate day and evening activity;*
- *Allow appropriate businesses to locate and develop in close proximity to residential areas for the convenience of the community; and*
- *Encourage a high level of passive surveillance of public and private spaces.*

The proposed mix of land uses will facilitate activity in the locality outside of normal business hours, promoting surveillance and constant use of the area. As such the proposed development satisfies the objectives of the Structure Plan for the Business Zone and is considered appropriate for the locality.

### Status of the Structure Plan

It is understood that Council's primary concern when requesting a review of the Structure Plan was in relation to certain land uses that may result in antisocial behaviour or a general loss of amenity for the locality, in particular liquor outlets.

The land uses proposed are land uses that are generally supported in other areas zoned Business throughout the City and will not adversely impact on the amenity of the area.

### Residential Density

The subject site is located between sites with residential density codings of R40, R60 and R100, and as such the proposed density of development at an R60 density coding is in keeping with the anticipated form of development in the surrounding locality.

It is recommended that Council determines that the proposed density of R60 in lieu of R20 is appropriate given the site is located in a district centre where higher densities are appropriate and encouraged.

### Plot Ratio Floor Area of Dwellings

The R-Codes specify a maximum plot ratio floor area for Aged or Dependent Persons Dwellings of 80m<sup>2</sup>. The proposed dwelling sizes vary between 87.3m<sup>2</sup> and 124.1m<sup>2</sup>.

The proposed plot ratio floor areas of the units do not comply with the Acceptable Standards of the R-Codes. The Performance Criteria of the R-Codes require dwellings to be "*designed to meet the needs of aged or dependent persons*". However, it is considered acceptable as the additional floor area will allow for greater living space, thereby increasing amenity of future residents.

### Essential Facilities

The proposed storerooms have an internal area of between 3.1m<sup>2</sup> and 3.9m<sup>2</sup> in lieu of 4m<sup>2</sup>. Given the location of the dwellings above commercial development and the small courtyard areas, there will not be the requirement for storage of garden tools and the like, and as such the proposed storage facilities will adequately cater for the requirements of the future residents, being aged or dependent persons.

The original proposal had all storerooms opening out into the upper level walkways through the development, as required by the R-Codes. However, this produced a less attractive frontage and made the store-rooms less accessible for use by the future residents. As part of the amended proposal the storerooms have been designed to be accessed internally in order to create a more attractive frontage for the dwellings when viewed from within the development. This will also allow for easier access and use by the future residents and as such the variation is considered appropriate.

### Street Setbacks

The proposed development seeks variations to the street setbacks of 6 metres required by DPS2. DPS2 states that "*a lesser setback may be encouraged where location and design issues would make this appropriate*". The structure plan seeks to have developments provide an 'Urban Edge' whereby nil setbacks to street boundaries are encouraged.

The proposed development addresses the corner of Hobsons Gate and Chesapeake Way effectively, and the provision of an upper storey common balcony and enclosed common

area will provide for surveillance of the street. It is considered that the variation achieves the DPS2 objective in this regard and should be supported.

### Footpaths

The Structure Plan requires all developments to have footpaths with a minimum width of 3 metres surrounding the proposed building. The proposed development is built up to the Hobsons Gate and Chesapeake Way frontages and it is recommended a condition be imposed requiring footpaths along these street boundaries to be provided at the applicant's expense.

The footpath that abuts the rear of the building varies in width between 1 metre and 2 metres, however this is considered sufficient to adequately serve the needs of future occupants and allow servicing of the development. It is recommended the variation be supported.

### Glazing

The Structure Plan requires building frontages to comprise a minimum of 70% windows and visually permeable doors.

The development is proposed to have 34% glazing on the Hobsons Gate façade, and 40.7% glazing on the Chesapeake Way Facade. Whilst this does not comply with the requirements of the Structure Plan the proposed development does promote surveillance of the streets both from the upper floor residential development and the ground floor commercial tenancies. There is also surveillance of the adjoining Civic and Cultural Zoned property to the east, and the design of the proposed development encourages interaction with the streetscape.

In addition, the Structure Plan requires all windows to be a minimum of 600mm above ground floor level, with the proposal incorporating a number of windows to both the Hobsons Gate and Chesapeake Way facades that begin at ground level. This is considered to be acceptable as it satisfies one of the objectives for the Business Zone under the Structure Plan, this being to *“encourage high standards of Main Street built form and an active edge to create an attractive façade to vehicle and pedestrian routes providing visual amenity and interaction”*.

It is recommended that the variation be supported.

### Conclusion

The proposed development generally complies with the requirements as outlined in DPS2 and the Structure Plan with the exception of the matters discussed above. It is considered that these variations should be supported as the proposal is appropriate for the location in regards to land use, bulk and scale of development.

The proposed development will be a positive addition to the CDC. It will provide Aged or Dependent Persons accommodation and a significant amount of office and showroom floorspace to meet the future demands of the growing District Centre.

The residential density is also considered appropriate for this development. It is therefore recommended that the application be approved, subject to conditions.

## **ATTACHMENTS**

Attachment 1 – Locality Plan

Attachment 2 – Development Plans

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

That Council:

- 1 EXERCISES discretion under clause 4.2.4, 3.6.2(a), 6.1.1 & 4.5 of the City of Joondalup District Planning Scheme No.2 and under clause 2.5 of the Residential Design Codes (Variation 1), and determines that the performance criteria under clause(s) 6.10.3 & 7.1.2 have been met and that:-
  - (a) the residential density of R60 in lieu of R20;
  - (b) setbacks between nil and 4.4m in lieu of 6m to the northern and western boundaries;
  - (c) Storerooms with areas of 3.1m<sup>2</sup> to 3.9m<sup>2</sup> in lieu of 4m, accessible only from inside the dwellings;
  - (d) Plot ratio area of dwellings being 87.3m<sup>2</sup> to 124.1m<sup>2</sup> in lieu of 80m<sup>2</sup>;
  - (e) Northern building facade having 34% glazing in lieu of 70%, with windows being 0mm from the ground floor level in lieu of 600mm;
  - (f) Western building facade having 40.7% glazing in lieu of 70%, with windows being 0mm from the ground floor level in lieu of 600mm;
  - (g) Internal footpaths of between 1m and 2m around the building in lieu of 3m;are appropriate in this instance;
- 2 APPROVES the application for planning approval, dated 17 December 2007, submitted by TPG Town Planning & Urban Design on behalf of the owners, Goldprime Corporation Pty Ltd for 41 Aged or Dependent Persons Dwellings, 4 Offices, and 2 Offices/Showrooms at Lot 5003 (14) Hobsons Gate, Currambine, subject to the following conditions:
  - (a) The parking bays, driveways and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Car Parking (AS2890.01 2004). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the Manager Approvals, Planning and Environmental Services prior to the development first being occupied. These works are to be done as part of the building program;
  - (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 Manager Infrastructure Management prior to the commencement of construction;

- (c) The lodging of detailed landscaping plans, to the satisfaction of the Manager Approvals, Planning and Environmental Services, for the development site with the Building Licence Application. For the purpose of this condition a detailed landscaping plan shall be drawn to a scale of 1:100. All details relating to paving and treatment of verges, to be shown on the landscaping plan;
- (d) Landscaping, reticulation and all verge treatments based on water sensitive urban design principles, are to be established in accordance with the approved plans prior to the development first being occupied and thereafter maintained to the satisfaction of the Manager Approvals, Planning and Environmental Services;
- (e) The bin storage area shall be provided with a concrete floor graded to a 100mm commercial floor waste connected to sewer and the provision of a hose cock;
- (f) A refuse management plan indicating the method of rubbish collection is to be submitted as part of the building licence and approved by the Manager Approvals, Planning and Environmental Services;
- (g) 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 ground level;
- (h) Each unit shall be provided with an adequate area for clothes drying that is screened from view or alternatively to be provided with clothes drying facilities within the unit;
- (i) Obscured or reflective glazing shall not be used at ground floor level fronting Hobsons Gate or Chesapeake Way;
- (j) All boundary walls and parapet walls being of a clean finish and made good to the satisfaction of the Manager Approvals, Planning and Environmental Services;
- (k) Any advertising signage shall be subject to a separate development application;
- (l) The southern and eastern ground level facades shall be treated with non-sacrificial anti-graffiti coating.
- (m) Any security shutters installed on the ground floor facades fronting Hobsons Gate & Chesapeake Way shall be visually permeable and retractable;
- (n) All visitor bays shall be marked and permanently set aside as such.
- (o) The landowner shall lodge a section 70A notification pursuant to the transfer of Land Act on the Certificate of Title of the development site, prior to the issue of a building licence. This notification shall alert prospective landowners that the dwellings are restricted in occupancy to aged or dependent persons or the surviving spouse of that person.

- (p) All dwellings shall incorporate design features to suit the special needs of aged or dependent persons in accordance with the Adaptable House Class B Standard set out in AS4299.**
- (q) A footpath of minimum width 3m shall be provided along the Hobsons Gate and Chesapeake Way street boundaries, at the applicant's expense. Details of the proposed works shall be submitted to the City for the approval of the Manager Approvals, Planning & Environmental Services.**

*Appendix 21 refers*

*To access this attachment on electronic document, click here: [Attach21brf080708.pdf](#)*

## **ITEM 27            MONTHLY TOWN PLANNING DELEGATED AUTHORITY REPORT, DEVELOPMENT AND SUBDIVISION APPLICATIONS – MAY 2008 – [07032] [05961]**

**WARD:**                    All

**RESPONSIBLE**        Mr Clayton Higham  
**DIRECTOR:**            Planning & Community Development

### **PURPOSE**

To report on the number and nature of applications considered under Delegated Authority.

### **EXECUTIVE SUMMARY**

The provisions of clause 8.6 of the text to the District Planning Scheme No 2, allows Council to delegate all or some of its development control powers to a committee or an employee of the City.

The purpose of delegation of certain powers by Council, in addition to other Town Planning matters, is to facilitate timely processing of development applications and subdivision applications. The framework for the delegation of those powers is set out in resolutions adopted by Council and is reviewed generally on a two yearly basis, or as required. All decisions made by staff, acting under delegated authority as permitted under the delegation notice, are reported to Council on a monthly basis.

The normal monthly report on Town Planning Delegations identifies:

- 1     Major Development Applications
- 2     Residential Design Codes
- 3     Subdivision Applications

This report provides a list of the development and subdivision applications determined by those staff members with delegated authority powers during the month of May 2008 (see Attachments 1, and 2 respectively) for those matters identified in points 1-3 above.

### **BACKGROUND**

The number of development and subdivision applications determined for May 2008 under delegated authority and those applications dealt with as “R-code variations for single houses” for the same period are shown below:

<b>Approvals Determined Under Delegated Authority – Month of May 2008</b>		
<b>Type of Approval</b>	<b>Number</b>	<b>Value (\$)</b>
Development Applications	79	\$10,211,731
R-Code variations (Single Houses)	17	\$ 1,686,460
<b>Total</b>	<b>96</b>	<b>\$11,898,191</b>

The number of development applications received in May 2008 was 91. (This figure does not include any applications that may become the subject of the R-Code Variation process). The R Code Variation figure provided does not include the Code Variations determined as a Building Licence Application.

<b>Subdivision Approvals Processed Under Delegated Authority Month of May 2008</b>		
<b>Type of Approval</b>	<b>Number</b>	<b>Potential new Lots</b>
Subdivision Applications	5	3
Strata Subdivision Applications	8	12

The above subdivision applications may include amalgamation and boundary realignments which may not result in any additional lots.

The District Planning Scheme No 2 requires that delegation be reviewed annually, unless a greater or lesser period is specified by Council. The Council, at its meeting of 13 May 2008 considered and adopted the most recent Town Planning Delegation for the period to 17 July 2009.

## **DETAILS**

### **Link to Strategic Plan:**

The strategic plan includes a strategy to provide quality value-adding services with an outcome to provide efficient and effective service delivery. The use of a delegation notice allows staff to efficiently deal with many simple applications that have been received and allows the elected members to focus on strategic business direction for the Council, rather than day-to-day operational and statutory responsibilities.

### **Legislation – Statutory Provisions:**

Clause 8.6 of the District Planning Scheme No 2 permits development control functions to be delegated to persons or Committees. All subdivision applications were assessed in accordance with relevant legislation and policies, and a recommendation made on the applications to the Western Australian Planning Commission.

### **Risk Management considerations:**

The delegation process includes detailed practices on reporting, checking and cross checking, supported by peer review in an effort to ensure decisions taken are lawful, proper and consistent.

### **Financial/Budget Implications:**

Not applicable

### **Policy implications:**

Not applicable

### **Regional Significance:**

Not applicable



**Sustainability implications:**

Not applicable

**Consultation:**

Consultation may be required by the provisions of the Residential Design Codes, any relevant Town Planning Scheme Policy and/or the District Planning Scheme.

Of the 79 development applications determined during May 2008, consultation was undertaken for 20 of those applications. Of the 13 subdivision applications determined during May 2008, no applications were advertised for public comment, as the proposals complied with the relevant requirements.

**COMMENT**

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 in 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.

All proposals determined under delegated authority are assessed, checked, reported and crosschecked in accordance with relevant standards and codes.

**ATTACHMENTS**

Attachment 1	May 2008 - Decisions - Development Applications
Attachment 2	May 2008 - Subdivision Applications Processed

**VOTING REQUIREMENTS**

Simple Majority

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

- 1 the determinations made under Delegated Authority in relation to the development applications described in this Report for May 2008;**
- 2 the determinations made under Delegated Authority in relation to the subdivision applications described in this Report for May 2008.**

*Appendix 22 refers*

To access this attachment on electronic document, click here: [Attach22brf080708.pdf](#)

## **ITEM 28                    TENDER    019/08    PROVISION   OF   CLEANING SERVICES FOR LEISURE CENTRES – [25612]**

**WARD:**                    Central, North-Central & South

**RESPONSIBLE**        Mr Clayton Higham  
**DIRECTOR:**            Planning and Community Development

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### **PURPOSE**

This report is to seek the approval of Council to accept the offer submitted by Academy Services Pty Ltd for the Provision of Cleaning Services for Leisure Centres (Tender 019/08).

### **EXECUTIVE SUMMARY**

Tenders were advertised on 26 April 2008 through state wide public notice for the Provision of Cleaning Services for Leisure Centres. Tenders closed on 20 May 2008. Two (2) Submissions were received from:

- Academy Services Pty Ltd; and
- Proud Cleaning Services.

The submission from Academy Services Pty Ltd represents best value to the City. They demonstrated sufficient resources, the appropriate experience and a good understanding of the City's requirements. The evaluation panel has confidence in their ability to complete the services to the required standards and their Offer was the lowest submitted price.

*It is recommended, in relation to Tender Number 019/08 that Council ACCEPTS the Tender submitted by Academy Services for the Provision of Cleaning Services for Leisure Centres for a three (3) year period in accordance with the statement of requirements in Tender 019/08 for the estimated Contract price of \$825,855 (GST Exclusive).*

### **BACKGROUND**

The City has a requirement for professional Cleaning Services to be provided to the following Leisure Centres:

- Craigie Leisure Centre, 751 Whitfords Avenue, Craigie;
- Duncraig leisure Centre, 40 Warwick Road, Duncraig; and
- Heathridge Leisure Centre, 16 Sail Terrace, Heathridge.

The City currently has a single Contract for the provision of cleaning services for all of the City's buildings however the Contractor withdrew its services for leisure centres in December 2007. Cleaning services to the City's leisure centres are currently being provided for an interim period by Academy Services Pty Ltd until a formal Contract can be established from Tender 019/08.

### **DETAILS**

Tenders were advertised on 26 April 2008 through state wide public notice for the Provision of Cleaning Services for Leisure Centres. Tenders closed on 20 May 2008. Two (2) Submissions were received from:

- Academy Services Pty Ltd; and
- Proud Cleaning Services.

### Evaluation Criteria

The qualitative criteria and weighting used in evaluating the submissions received were as follows:

Qualitative Criteria		Weighting
1	Capacity	40%
2	Demonstrated understanding of the required tasks	30%
3	Demonstrated experience in completing similar services	25%
4	Social and economic effects on the local community	5%

### Evaluation Panel

The evaluation panel comprised of three members; one with tender and contract preparation skills and one with involvement in supervising the Contract. The panel carried out the assessment of submissions in accordance with the City's evaluation process in a fair and equitable manner.

### Tender Submissions

A summary of the Tender submissions is provided in Attachment 1 to this Report.

This Contract is for a fixed lump sum for a period of three (3) years. The Offers submitted were for the first twelve (12) months of the Contract only. Each year thereafter will be subject to an increase to a maximum of the average All groups CPI Index for the preceding quarter. For the first year the lump sum price submitted by Academy Services Pty Ltd was \$264,561.44 and by Proud Cleaning Services \$379,080.00.

During the period January to May 2008, the City incurred \$93,210.25 for the Provision of Cleaning Services for Leisure Centres. When annualised this results in an estimated expenditure of \$223,704.60.

### Evaluation Summary

Respondent	Evaluation Score	Estimated Price over 3 Years Assuming 4% Compound Increases in Years 2 & 3	Qualitative Rank
Academy Services Pty Ltd	72.5%	\$825,855	1
Proud Cleaning Services	44.5%	\$1,183,336.13	2

### Issues and options considered:

Cleaning Services are required to maintain the cleanliness and presentation of the City's leisure centres. The City does not have the internal resources to supply the required services and as such requires an appropriate external service provider.

**Link to Strategic Plan:**

## 5. Community Wellbeing

Objective 5.1 To ensure the City's facilities and services are of a high quality and accessible to everyone.

Strategy 5.1.1 The City develops and implements a Strategic Asset Management Framework to improve the standard and management of its community infrastructure, including the consolidation and rationalisation of current building facilities.

**Legislation – Statutory Provisions:**

A state wide public tender was advertised, opened and evaluated in accordance with the *Local Government (Functions & General) Regulations 1996*, where tenders are required to be publicly invited if the consideration under a contract is, or is estimated to be, more, or worth more, than \$100,000.

**Risk Management considerations:**

Should the contract not proceed, the risk to the City will be moderate as the City will be unable to maintain the cleanliness of the community facilities, which may result in an increased public health and safety risk.

It is considered that the Contract will represent a low risk to the City as the recommended Respondent is a well-established company with significant industry experience and sufficient resources to provide the services to the City.

**Financial/Budget Implications:**

<b>2008/09 Current Draft Budget for this Contract</b>	<b>Projected Expenditure on these Services to 30 June 2009</b>	<b>Projected Expenditure on these Services in first 12 Months of Contract if Accepted</b>	<b>Projected Expenditure on these Services over the Life of the Contract if Accepted</b>
\$216,000	\$264,561.44 (new Contract)	\$264,561.44	\$825,855

The projected expenditure for 2008/09 under the recommended tender represents a significant increase on 2007/08 expenditure and the current 2008/09 draft budget estimate. Council has yet to adopt the 2008/09 budget but the final draft budget recommended to Council will contain sufficient budget allocation to meet the requirements of the recommended tender.

**Policy implications:**

Not applicable.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

Not applicable.

**Consultation:**

Not applicable.

**COMMENT**

The submission received from Proud Cleaning Services achieved a qualitative score of 44.5% and was ranked second in price. The submission lacked detail and did not demonstrate sufficient resources, experience or understanding of the City's requirements. The submitted price was 43% more expensive than that submitted by Academy. The evaluation panel was not confident in their ability to meet the City's requirements and accordingly they are not recommended.

Academy Services Pty Ltd achieved a qualitative score of 72.5% and was ranked first in price. They are a large national organisation with the capacity to meet the City's requirements and have demonstrated sufficient industry experience and a good understanding of the required tasks. They are the City's current temporary Contractor and are providing a high standard of cleaning services to the leisure centres. The panel has confidence in their ability to complete the services to the required standards and their Offer was the lowest submitted price.

The attached summary of Tender submissions includes the location of each of the Tenderers.

**ATTACHMENTS**

Attachment 1                      Summary of Tender Submissions.

**VOTING REQUIREMENTS**

Simple Majority.

**RECOMMENDATION**

**That, in relation to Tender 019/08, Council ACCEPTS the Tender submitted by Academy Services Pty Ltd for the Provision of Cleaning Services for Leisure Centres for a three (3) year period in accordance with the statement of requirements in Tender 019/08 for the estimated Contract price of \$825,855 (GST exclusive).**

*Appendix 23 refers*

To access this attachment on electronic document, click here: [Attach23brf080708.pdf](#)

**ITEM 29                    DRAFT   STATE   PLANNING   POLICY   3.6   -  
DEVELOPMENT                    CONTRIBUTIONS                    FOR  
INFRASTRUCTURE – [08570]**

**WARD:**                    All

**RESPONSIBLE                    Mr Clayton Higham  
DIRECTOR:**                    Planning and Community Development

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**PURPOSE**

To inform Council of draft State Planning Policy 3.6, relating to development contributions for infrastructure.

**EXECUTIVE SUMMARY**

Local governments, the Western Australian Planning Commission (WAPC) and developers have recognised that there is inconsistency in the manner that developer contributions are determined and applied across local governments. The inconsistencies create uncertainty in the current processes for rezoning and subdivision of land and have cost implications.

The WAPC has drafted State Planning Policy 3.6 Development Contributions for Infrastructure, which provides principles and considerations that apply to developer contributions for the provision of infrastructure in new and established areas. The draft policy is currently being advertised for public comment.

It is recommended that Council notes draft State Planning Policy 3.6 and forwards minor comments to the Western Australian Planning Commission regarding clarity of its scope and principles.

**BACKGROUND**

Public infrastructure is funded through various sources including state government taxes, local government property rates, federal assistance grants, user and access charges, fees and charges, and development contributions. Where local authorities require developers to contribute to the provision of infrastructure and facilities such as roads, community and recreation centres, public open space, development contributions are usually made by way of land, works or payment towards the provision of infrastructure and are imposed through a condition of subdivision.

The power to require developer contributions derived from the previous Town Planning and Development Act 1928 (as amended), now section 26 of the Planning and Development Act 2005. Planning Bulletin No. 18 Developer Contributions for Infrastructure was released in February 1997 to provide local governments with guidance on levying contributions from developers for services and infrastructure beyond the Western Australian Planning Commission's policies.

## DETAILS

Since Planning Bulletin No. 18 was released, local governments indicated to the WAPC that more guidance was needed on the scope and framework for development contributions. The development industry also identified the need for greater consistency and transparency in charging developers because of the potential impacts on housing affordability, and in order to avoid inequities arising from new residents subsidising existing residents.

Draft State Planning Policy 3.6 Development Contributions for Infrastructure (SPP3.6) sets out the principles and considerations that apply to development contributions for the provision of infrastructure in new and established urban areas, and the form, content and process to be followed.

Under SPP 3.6, development contributions can be sought for:

- A new item of infrastructure.
- Land for infrastructure.
- An upgrade in the standard provision of an existing item of infrastructure.
- An extension to existing infrastructure.
- The total replacement of infrastructure once it has reached the end of its economic life.
- Other costs reasonably associated with the preparation, implementation and administration of a development contribution plan.

In addition, local governments can seek contributions for community infrastructure. Importantly, the need for a developer contribution must clearly be demonstrated, with the connection between the development and the demand created clearly demonstrated.

SPP 3.6 includes 8 principles relating to levying development contributions, as follows:

1. Need and nexus (the connection between development and demand created)
2. Transparency
3. Equity
4. Certainty
5. Efficiency
6. Consistency
7. Right of consultation and review
8. Accountability

In the event developer contributions are required, standardised wording is provided in the SPP for inclusion into the Town Planning Scheme. The wording includes interpretations, elaboration of the principles, guidance regarding the contribution area and a cost apportionment schedule.

Public submissions on the draft policy are being sought by the WAPC until 16 July 2008.

### Issues and options considered:

The options available to Council are:

- To note SPP 3.6, without comment provided to the WAPC.
- To note SPP 3.6, with comment provided to the WAPC.

**Link to Strategic Plan:**

The following objective within the City's Strategic Plan 2008-2011 is applicable to this report:

4.1 City Development - To ensure high quality urban development within the City to ensure high quality urban development within the City

**Legislation – Statutory Provisions:**

Under the Planning & Development Act 2005, local authorities are required to have due regard to State Planning Policies.

**Risk Management considerations:**

Not applicable

**Financial/Budget Implications:**

There are no financial implications associated with SPP 3.6 as the City of Joondalup does not impose a requirement for development contributions through the process of land subdivision.

**Policy implications:**

Not applicable.

**Regional Significance:**

Not applicable

**Sustainability implications:**

Not applicable.

**Consultation:**

Not applicable.

**COMMENT****Impacts on the City of Joondalup**

The draft state planning policy is unlikely to have any direct implications for development within the City of Joondalup, due to the fact that there are few undeveloped areas. Structure plans and/or subdivision approvals are in place for the two largest parcels of undeveloped land (Luka and Burns Beach) within the City. Infrastructure such as roads and public open space are currently provided by the developer. Infill development, such as on the former Craigie Senior High School site, will be the main type of future new land development, however given the relatively small scale nature of this development, development contributions beyond the norm (such as roads, POS and lighting) would be unlikely to be justified.

It is noted that the draft policy would require developer contribution plans to be included in the local town planning scheme, and the same procedures followed as for an amendment to the scheme, including advertising and ministerial approval. This would seem to be an unnecessary imposition, especially as the amendment process is lengthy. The City may be



affected through its interests in the joint venture development of Tamala Park, located within the City of Wanneroo, in terms of the time involved in amending that City's Town Planning Scheme to include developer contribution requirements. SPP 3.6 does not provide for any greater or lesser developer contributions than previous, however, it does provide greater clarity and a consistent approach to developer contributions that was lacking.

#### Interpretations of Scope and Principles

The scope of draft SPP 3.6 includes the opportunity for local governments to seek contributions for community infrastructure, which is defined as (italicised):

*'the structure, systems and capabilities which help communities and neighbourhoods to function effectively.'*

The definition is limitless and could be interpreted excessively or unreasonably, providing minimal assistance to local governments or developers. A more accurate definition with defined parameters is preferred.

In terms of the guiding principles, the meaning of 2 of the 8 principles appear to conflict and therefore the principles appear to conflict. The principles follow (italicised):

*Equity: Development contributions should be levied from all developers in a development contribution area, based on their relative contribution to need.*

*Consistency: Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent.*

In addition, the interpretation of equity would make it difficult to determine contributions as guidelines are not provided regarding the assessment of 'need' and 'relative need', and who is responsible for their determination.

Overall, draft SPP 3.6 provides detailed guidance and models that would assist local governments to determine development contributions in a consistent manner and inform developers.

#### **ATTACHMENTS**

Attachment 1 – Draft State Planning Policy 3.6 Development Contributions for Infrastructure

#### **VOTING REQUIREMENTS**

Simple Majority.

## RECOMMENDATION

That Council **NOTES** draft State Planning Policy 3.6 Development Contributions for Infrastructure and **SUBMITS** comments, as stated in this Report and summarised below, to the Western Australian Planning Commission:

- Inclusion of developer contribution requirements within local town planning schemes would seem to be unnecessary, and result in a lengthy process.
- More definite parameters are preferred for the definition of community infrastructure, to provide clarity to local governments and developers.
- The principles of Equity and Consistency appear to conflict.
- Interpretation of 'need' and 'relative need' in terms of equity, and who is the determinant, requires clarification.

*Appendix 24 refers*

To access this attachment on electronic document, click here: [Attach24brf080708.pdf](#)

## **ITEM 30            MINUTES OF THE SENIORS INTERESTS ADVISORY COMMITTEE MEETING HELD ON 4 JUNE 2008 – [55511]**

**WARD:**            All

**RESPONSIBLE        Mr Clayton Higham**  
**DIRECTOR:**        Planning and Community Development

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### **PURPOSE**

To submit the unconfirmed minutes of the Seniors Interests Advisory Committee to Council for noting and endorsement of the recommendations contained therein.

### **EXECUTIVE SUMMARY**

A meeting of the Seniors Interests Advisory Committee was held on 4 June 2008.

The items of business that were considered by the Committee were:

- Review of Recommendations carried by the Seniors Interests Advisory Committee – 20 February 2008;
- Access to information – Seniors;
- Accessible and Affordable Transport – Seniors;
- Community Support and Health Services – Seniors;
- Committee Vacancies

*It is recommended that Council:*

- 1        *NOTES the unconfirmed minutes of the Seniors Interests Advisory Committee held on 4 June 2008 forming Attachment 1 to this Report;*
- 2        *APPOINTS the following representatives to the Seniors Interests Advisory Committee:*
  - (a)     *Ms Anne Pike representing Advocare Inc;*
  - (b)     *Mr Patrick Wyburn representing WA Retirement Complexes Association;*
- 3        *REQUESTS a report in relation to successful Volunteer programs run by other organisations that offer services to seniors.*

### **BACKGROUND**

The SIAC was established for the benefit of exchanging views with residents of the City on matters related to seniors, an ageing population and the need for community input into the Seniors Plan, the Strategic Plan and other matters that impact upon seniors.

In accordance with its role, the Committee identified priority focus areas that complement various tasks and actions of the City's Seniors Plan 2004-2008. These include: seniors'

health issues, transport accessibility and affordability and staying active through leisure and entertainment.

Recommendations of the Committee will facilitate progress on initiatives that are generated by the provision of ongoing Seniors Plan status reports. Other initiatives that complement the Seniors Plan such as the Transitions in Ageing Research Project Report will be useful resources to inform the review of the Seniors Plan, whilst the School Volunteer Program promotes intergenerational activities.

## DETAILS

### Issues and options considered:

The Motions moved at the Seniors Interests Advisory Committee meeting held 4 June 2008 are shown below, together with officer's comments.

#### 1 **Review of Recommendations carried by the Seniors Interests Advisory Committee – 20 February 2008**

The following Motion was carried at the meeting on 4 June 2008:

*“That the Seniors Interests Advisory Committee REVOKES its decisions of 20 February 2008 being:*

1 *“APPOINTS the following Seniors Interests Advisory Committee members to a Review Sub-Committee:*

- *Ms Maria Bunn*
- *Ms Joy Coleman*
- *Ms Valerie Corey*
- *Ms Patricia Geary*

2 *NOMINATES the following committee members to oversee the organisation of the event/s:*

- *Ms Maria Bunn*
- *Mr Peter Boam*
- *Ms Joy Coleman*
- *Ms Valerie Corey*
- *Ms Patricia Geary*
- *Ms Lynda Waterman.”*

### Officer's Comment

Not Applicable.

## **2 Access to information – Seniors**

The following Motion was carried at the meeting on 4 June 2008:

*“That the Seniors Interests Advisory Committee NOTES the information provided in this Report.”*

### Officer’s Comment

The Committee discussion highlighted the importance of providing targeted and easy-to-access information for seniors in places that are widely known throughout the community. Officers will work to ensure City resources and publications such as Council News, Joondalup Voice, What’s On, City of Joondalup Calender of events, Seniors Directory and Community Information Database are well promoted. This strategy will be incorporated into the Seniors Plan review.

## **3 Accessible and Affordable Transport – Seniors**

The following Motion was carried at the meeting on 4 June 2008:

*“That the Seniors Interests Advisory Committee NOTES the information provided in this Report.”*

### Officer’s Comment

A gap was identified in subsidised transport services and support for seniors who are receiving ongoing medical treatment and are not eligible for transport services (Home and Community Care (HACC) or Taxi User Subsidy Scheme) due to not having an ongoing functional disability. This has been further highlighted through general enquiries to City Officers from seniors in need of transport to medical appointments.

Discussion ensued around engaging volunteers to assist with meeting the need for accessible and affordable transport. Further research will be conducted into best practice volunteer models.

A need was identified for the provision of senior designated parking in public carparks to increase accessibility for seniors.

Committee discussion about issues surrounding Accessible and Affordable Transport for seniors will be highlighted in the current Seniors Plan review.

## **4 Community Support and Health Services – Seniors**

The following Motion was carried at the meeting on 4 June 2008:

*“That the Seniors Interests Advisory Committee NOTES the information provided in this Report.”*

### Officer’s Comment

Issues identified in the report will be included in the current Seniors Plan review.

The accessibility to information on health and community support services was emphasised as integral to the wellbeing of seniors.

## 5 Committee Vacancies

The following Motions were carried at the meeting on 4 June 2008:

- 1 *“That the Seniors Interest Advisory Committee REVOKES its decision of 2 April 2008 being:*
  - 4 *DETERMINES the most appropriate nominees given the Committee’s objectives as being:*
    - *Mr Bruce Dufty, Concordia Lutheran Church*
    - *Ms Anne Pike, Advocare Inc.*
- 2 *That the Seniors Interest Advisory Committee:*
  - 1 *NOTES the process undertaken to fill the “industry representative” vacancy;*
  - 2 *RECOMMENDS that Council APPOINTS the following representatives to the Seniors Interests Advisory Committee:*
    - a) *Ms Anne Pike representing Advocare Inc;*
    - b) *Mr Patrick Wyburn representing WA Retirement Complexes Association.”*

### Officer’s Comment

City Officers will notify the nominees of the appointments after endorsement by Council.

## REQUESTS FOR REPORTS FOR FUTURE CONSIDERATION

The following report was requested at the meeting of the Seniors Interests Advisory Committee:

- A report on successful Volunteer programs run by other organisations that offer services to seniors.

### Officer’s Comment

The requested report into successful volunteer models will assist the City in identifying strategies to meet the needs of seniors in the community.

### **Link to Strategic Plan:**

The Seniors Interests Advisory Committee is linked to the Strategic Plan through the following objectives:

- To develop, provide and promote a diverse range of lifelong learning opportunities.
- To meet the cultural needs and values of the community.
- To continue to provide services that meet changing needs of a diverse and growing community.
- To work with the community to enhance safety and security in a healthy environment.
- To continue to meet changing demographic needs.
- To ensure the City responds to and communicates with the community.

**Legislation – Statutory Provisions:**

Not Applicable.

**Risk Management considerations:**

Not Applicable.

**Financial/Budget Implications:**

Not Applicable.

**Policy implications:**

The existing policies that are deemed to have the most impact on seniors are:

- Access and inclusion (access to community facilities and public space: overcoming barriers that could prevent participation in community activities)
- Rates (reduced rates for seniors)
- Fees and Charges (reduced fees for seniors for some services)
- Use of community facilities (accommodation provided free of charge to seniors groups under the “subsidised use” policy).

**Regional Significance:**

The Seniors Interests Advisory Committee is a locally focussed group, established by Council to represent and advocate for the needs of seniors within the City of Joondalup.

**Sustainability implications:**

Not Applicable.

**Consultation:**

A consultation plan has been developed to ensure that the Plan captures current issues, trends and concerns.

**COMMENT**

Not Applicable.

**ATTACHMENTS**

Attachment 1      Minutes of the Seniors Interests Advisory Committee meeting held on 4 June 2008

**VOTING REQUIREMENTS**

Absolute Majority.

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

- 1 NOTES the unconfirmed minutes of the Seniors Interests Advisory Committee meeting held on 4 June 2008 forming Attachment 1 to this Report:**
- 2 BY AN ABSOLUTE MAJORITY, APPOINTS the following representatives to the Seniors Interests Advisory Committee:**
  - (a) Ms Anne Pike representing Advocare Inc;**
  - (b) Mr Patrick Wyburn representing WA Retirement Complexes Association;**
- 3 REQUESTS a report in relation to successful Volunteer programs run by other organisations that offer services to seniors.**

*Appendix 25 refers*

To access this attachment on electronic document, click here: [Attach25brf080708.pdf](#)



**ITEM 31                    DECISION ON KEY PRINCIPLES    CITY CENTRE  
STRUCTURE PLAN, CITY CENTRE CAR PARKING  
POLICY, LOCAL PLANNING STRATEGY –  
[00152][52617] [09011]**

**WARD:**                    All

**RESPONSIBLE**        Mr Clayton Higham  
**DIRECTOR:**        Planning and Community Development

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**PURPOSE**

For Council to consider adoption of the Key Principles for three strategic projects, being:

- City Centre Structure Plan
- City Centre Car Parking Policy
- Local Planning Strategy

**DETAILS**

Currently, three key strategic planning projects outlined above are underway. Elected members have received a number of reports and presentations on these projects. The drafting of both the City Centre Structure Plan and the Local Planning Strategy is advancing, however, in order to progress all three projects, decisions are required to adopt the Key Principles for each project.

**Policy implications:**

Not applicable.

**Risk Management considerations:**

Not applicable

**Legislation – Statutory Provisions:**

Not applicable

**Link to Strategic Plan:**

The various projects will have links will all Key Focus Areas of the Strategic Plan.

**Financial/Budget Implications:**

Not applicable.

**Regional Significance:**

Not applicable.

**Sustainability implications:**

The Key Principles for Agreement and Vision Statements incorporate principles that support sustainability objectives.

**COMMENT**

The Key Principles outlined below have been developed from feedback from previous Strategy Sessions, as well as the comments from the Elected Members Strategic Planning Weekend.

**CITY CENTRE STRUCTURE PLAN**

Key Principles for Agreement:

- Encourage commercial development with suitable and substantial height and bulk within the CBD precinct through measures such as:
  - No plot ratio restrictions
  - Applying minimum heights, but no height limits.
  - Amalgamation of land to allow for larger development sites
- Adopt a parking policy which assists in encouraging commercial development in the CBD on the basis of 50% car parking on site and 50% off site.
- Incorporate the land between Joondalup Drive, Ocean Reef Road, the Freeway, and Eddystone Avenue within the City Centre Structure Plan, and give preference for employment intensive uses.
- Incorporate the Winton Road Service Industrial area within the City Centre Structure Plan, and plan for office development along the Freeway edge.
- Incorporate provisions that require quality commercial and mixed use development, by way of:
  - The use of public art
  - Materials
  - Public spaces and forecourts
  - Architectural features
- Ensure active street frontages (ground floor) by
  - Prohibiting residential uses on the ground floor in the CBD precinct.
  - Permitting alfresco areas
  - Ensuring 'open' facades (use of glass)
  - Providing awnings and shelter
  - Public art
  - Use of appropriate materials
- Ensure an appropriate balance of commercial and residential development, with particular emphasis on preventing exclusively residential development in the CBD precinct at the expense of commercial development. This can be achieved by
  - Establishing the maximum percentage of residential development within a mixed use development.
  - Requiring a proportion of office development in mixed use developments.
- Introduce mandatory provisions to require 'green' quality buildings.
- Provisions to recognise and build on the existing public transport and accessibility network in the City Centre, by:
  - Eliminating the need for residential density codes
  - Ensuring a mix of housing
  - Encouraging tourist accommodation

## **CITY CENTRE CAR PARKING POLICY**

The key principles below have been developed from feedback from Elected Members, which included a survey.

Key Principles for Agreement:

- The standard car parking rate is 1 car bay per 30 sqm of floorspace.
- The application of this standard is 50% provided on-site (ie 1 bay per 60sqm), and 50% provided off-site in the form of public car parking.
- The development must provide on-site car parking at the rate of 1 per 60sqm, with consideration given to cash in lieu (at the full rate) for a portion of the on-site requirement.
- In terms of the off-site provision, the City will be responsible for providing public car parking, with the developer contributing a portion as cash in lieu at a rate that will not be a disincentive to development.
- In order to encourage buildings of greater height, the developers provision of on-site car bays will be reduced on a sliding scale depending on the height of the building.
- Support the provision of bays for smaller cars and scooters, as well as bike facilities including storage, lockers, and showers.
- In the longer term, 1 car bay per 45 sqm of floorspace will be the standard requirement.

## **LOCAL PLANNING STRATEGY**

The following Vision Statements provide the direction for developing the provisions that would be contained in the District Planning Scheme and related policies:

### Heritage

The City protects and promotes buildings, objects and places of heritage significance.

### Transport

The existing transport routes (rail and road) will be used to their full capability by ensuring intensive land uses, with significant trip generating potential are located along them, at intersections and adjacent to railway stations. Cycling and pedestrian networks will be enhanced.

### Public Open Space

That the City's Public Open Space is easily accessible and provides protection for vegetation and biodiversity; amenity for the public; and quality recreational opportunities.

### Employment

The City will be a vibrant knowledge and service hub for the region, will aim to achieve greater employment self sufficiency, with a focus on the City Centre.

### Environment

Ensure that biodiversity and the natural environment values of the City are protected and preserved for the existing and future generations.

### Commercial Centres (outside the City Centre)

Commercial centres in the City will be attractive and successful places, accessible and well connected to residents.

## Housing

The City Centre will continue to be the focus for higher density, high quality residential development. Outside the CBD, in strategically appropriate locations, planning will take into account the future housing needs of an ageing population and changing household structures.

### **VOTING REQUIREMENTS**

Simple Majority

### **RECOMMEDATION**

**That Council ADOPTS the Key Principles and Vision Statements as outlined in this report.**

## **ITEM 32            WASTE SERVICES AGREEMENTS WITH THE CITY OF WANNEROO – [48544] [16285]**

**WARD:**            All

**RESPONSIBLE    Mr Martyn Glover**  
**DIRECTOR:**      Infrastructure Services

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### **PURPOSE**

To advise Council of the increases in waste services costs under contract with the City of Wanneroo.

### **EXECUTIVE SUMMARY**

The City of Joondalup has two Service Agreements with the City of Wanneroo for the supply of Domestic Refuse Collection Services expiring on 30 June 2011 and the operation of the Materials Recovery Facility (MRF) expiring on 13 December 2011 with an option for a two-year extension.

Both contracts allow for periodical or cost recovery increases, however, recent extraordinary issues have increased the fees significantly for 2008/09 beyond those expected.

### **BACKGROUND**

The City of Joondalup commenced its service agreement (the Waste Agreement) for the supply of Domestic Refuse Collection Services on 1 July 1999 and extended the agreement for a further six years in 2005 so that the expiry date is 30 June 2011.

The Waste Agreement includes provisions for increases in the fees under Schedule 3, Service Fee and Adjustment Provisions which allow the City of Wanneroo to make quarterly adjustments based on a formula which includes provision for fuel and oil separately to the general CPI or other increases.

The City of Joondalup commenced its agreement relating to the operation of the Motivation Drive Materials Recovery Facility (the MRF Agreement) on 14 December 2006 for a period of five years and there are options for two single year extensions.

The MRF Agreement includes financial obligations under Clause 3 which provide a series of formulae for the setting of the gate fee. The fee ensures that the City of Wanneroo have full cost recovery, however the formula also provides income from the sale of recyclables. The City is also reimbursed capital contributions to the MRF including the recent upgrade.

In June 2008 the City received two letters from the City of Wanneroo advising of proposed cost increases for 2008/09 with both the Waste Agreement and the MRF Agreement.

### **DETAILS**

The letter received 24 June 2008 regarding the Waste Agreement stated the following:

*“The Cities of Wanneroo and Joondalup have SLA’s in place relating to the collection of domestic and bulk rubbish and joint use of the Wangara Greens Recycling area. The SLA’s have been in place since 1 July 1999 and the service rates have been adjusted annually in accordance with CPI.*”

*Until this year, the CPI adjustments have reasonably reflected the change in operating costs with improvements in operating efficiencies covering any shortfall. This year the situation differs due to the unprecedented movement in wages occurring in Western Australia and also the ongoing increases in fuel prices. This has impacted on the City of Wanneroo with wage increases of 11% being required to recruit and retain suitable waste drivers. This is significantly above this years adjustment of 4.30% for the non fuel component of the services provided for the SLA's.*

*When the SLA's were set up in 1999, fuel was 10% of the operating cost, this has now increased to being 22% of the operating cost and has the potential to rapidly increase.*

*To cover this extraordinary increase in costs the City of Joondalup is requested to give consideration to*

- 1. Amend the Rise and Fall Formula to having a fuel component of 22% from 30 March 2008*
- 2. A one off additional increase of 4.1% to the CPI indexed portion of the costs in the SLA's effective from 1 June 2008. (An effective 3.2 increase in rates)*
- 3. Review the Rise and Fall formula to recognise the current volatility in fuel prices."*

The requested new rates to apply from 1 July 2008 are outlined on the attached schedule.

In the case of domestic bin lifts the rate for 2007/08 was \$0.87 per lift. The regular increase plus the new extraordinary adjustment now sets the rate at \$0.948 per lift which represents an increase of \$0.078 or 8.97%. The justification for the rise is the recently negotiated Enterprise Bargaining Agreement (EBA) with their truck drivers and the significant increase in fuel costs.

The letter received 9 June 2008 regarding the MRF Agreement stated the following:

*"In 2006 the Cities of Joondalup, Swan and Wanneroo entered into a joint agreement to upgrade and operate the Wangara MRF for a five year period. As the Wangara MRF commenced sorting material in December 2007, the five year period is to 30 December 2012.*

*A consultant was engaged in early 2006 to review the then operating facility, recommend upgrade options and provide cost estimates for budget purposes. Technical officers from the three Cities used the information to prepare a business case and support the proposed joint agreement.*

*Budget provision for the work was included in the 2006/2007 budget. Tenders were called for the project and only one company tendered for the work – Recycling Design and Technologies (RDT). This company had relevant experience and had recently been successful in winning the contract to upgrade the Canning Vale MRF for the SMRC. Prices were significantly higher than expected and so the option for a manual sort design was selected.*

*The contract period was for 33 weeks and RDT indicated that the facility would be closed for between five and eight weeks. The scope of the "Design and Construct" contract was to remove all of the equipment in the existing MRF and design, supply, install and commission a new plant with approximately four times the processing capacity of the existing plant.*

*RDT was not able to complete the project within the contract period and the Wangara MRF was closed for an extended period. This appears to be due to a combination of poor planning, problems with the Canning Vale project, undertaking an overseas project and the general delays being experienced in the Western Australian construction industry.*

*The contract was awarded on Tuesday 6 March 2007 and the period of time for practical completion was 33 weeks to Tuesday 23 October 2007. Two "extension of time" claims were received, and accepted, for a total of 7 working days giving a completion date of Thursday 1 November 2007. Further variations received have not been accepted and are in dispute; these include extension of time claims totalling 30 days.*

*The facility started wet commissioning on 10 December 2007 and was processing all materials from the three Cities on Monday 28 January 2008.*

*The first production test period was run from 18 to 22 February 2008. The plant did not pass and the contractor has not asked for a follow up test. At the time there was also several items of equipment that had either not been supplied or were not operational.*

*Since that time there has been only one day the MRF has not accepted all the recyclables from the three Cities. This required extensive overtime as the facility had not reached the target production rate of 15.5 tonnes per hour over a shift, including start up, stoppages and cleanup time. RDT has undertaken short period production tests indicating that the facility can process at the required rate when it is operating.*

#### *Prognosis*

*The Wangara MRF is currently operating and sorting all delivered recyclables. RDT has submitted a program to address the major performance issues. Some work has been completed.*

*Funding is proposed in the coming budget to provide a covered tipping area and undertake associated modification. The City has established a Working Group, which includes local residents, to advise on the litter issues and ensure that the modifications are acceptable to the local community.*

#### *Operating costs*

*The operating costs of the facility have been higher than budgeted due to the longer hours of operation. As RDT has been correcting problems, the productivity of the facility has increased.*

*The City of Wanneroo is focusing on the areas which have the most potential to minimise costs:*

- Reduce down time so that the MRF can operate on less than 2 shifts.*
- Reduce tipping costs by cleaning the glass cullet and directing it away from Tamala Park and to an inert landfill site. Markets will also be sought for the clean glass.*
- Increase the tonnes of recyclables delivered for processing as the large capital component makes the cost per tonne very sensitive to volume processed. (City of Wanneroo will be introducing recycling carts June/July 2008)"*

**Issues and options considered:**

The Agreements have:

- Provision to increase the fees which the City is obligated to pay
- Provision to terminate based on defaults by the City of Wanneroo

**Link to Strategic Plan:**

The City of Joondalup Waste Management Strategy 2005 includes:

Objective 2 – Reduce the tonnages disposed to landfill generated by the City's residences.

Strategy 1 Weekly Household Rubbish Service

Dispose of waste collected by the household waste collection service to the Resource Recovery Facility.

*Key Performance Indicator*

Achieve 50% recovery of the waste contained in the green wheelie rubbish bin by 2010.

Maintain a customer service satisfaction rating in excess of 90%\* for the collection service.

**Legislation – Statutory Provisions:**

Not Applicable.

**Risk Management considerations:**

The potential risks to the City are:

- (i) the waste services are withdrawn and the City is required to find alternative collection contractors and MRF facilities. Risk considered low as the City of Wanneroo is a Local Government with a well established waste service.
- (ii) the City is unable to meet the increased costs as established in the Agreements – risk considered low as there is provision in budgets and reserves to provide the service.

**Financial/Budget Implications:**

The current draft budget has been based on a rubbish charge in the region of \$231. This charge is designed to generate a surplus which is intended to be transferred to reserve. The reserve will act as a buffer in the 2009/10 financial year when there is expected to be a significant increase in disposal fees as a result of the commencement of the Resource Recovery Facility.

The increase in costs for domestic services will require a rubbish fee of \$240 in order to maintain the same level of surplus to be available to transfer to reserves. It is proposed to address this in the draft 2008/09 budget. In respect to the increased costs for the Materials Recovery Facility the position outlined in the report is currently a worst case scenario. At this stage it is intended that no provision be made in the current draft budget for these increases and that the City will work with the Cities of Wanneroo and Swan on trying to contain the cost situation. The outcomes of this will be considered at the mid year budget review.



**Policy implications:**

Not Applicable.

**Regional Significance:**

The Agreements are examples of regional cooperation in the provision of services to the community.

**Sustainability implications:**

Not Applicable.

**Consultation:**

The City will continue to consult with the City of Wanneroo and the City of Swan to improve the productivity and hence reduce the gate fee at the MRF.

**COMMENT**

The City of Wanneroo has until this most recent event limited the annual increases to approximately the Consumer Price Index (CPI). This is the first instance that they have involved an extraordinary claim and it is due to the increased cost of the service through labour costs (11% EBA) and diesel fuel costs (17.6%).

It is reasonable to accept these increases because the City of Wanneroo can not operate the service at a loss. The City of Joondalup could offset these increases with an increase of nine dollars in the “rubbish rate”.

The increased costs in the MRF gate fee were unforeseen. The quarterly gate fees have fluctuated significantly over time (see attached table) due to the nature of the calculation and offset income (sale of recycled materials etc) however the long time average prior to June 2007 has been less than \$30.00. There are other MRF facilities in the metropolitan area as listed in the following table including the gate fees and the aim should be to (i) get below these and (ii) reach the \$35 per tonne nett gate fee in accordance with the Business Plan for the MRF.

<b>MRF SITE</b>	<b>GATE FEE *</b>
Atlas, Malaga	\$93.00 per tonne
SMRC	\$63.00 per tonne
Roads & Robins on (Cleanaway owned)	\$55.00 per tonne
Cleanaway, Bayswater	\$42.00 per tonne
Perth Engineering/APR, Hamilton Hill	\$30.00 per tonne

\*The gate fee does not include the cost of delivery to the MRF from the City of Joondalup; therefore the actual cost to dispose of the recyclables would be more than the gate fee above.

It will be at least six months before that can be effectively gauged which will coincide with the mid year budget review.

**ATTACHMENTS**

Attachment 1 MRF Quarterly Nett Gate Fee Rates

## **VOTING REQUIREMENTS**

Simple Majority.

## **RECOMMENDATION**

**That Council NOTES the report on the Waste Service Agreements with the City of Wanneroo.**

*Appendix 26 refers*

To access this attachment on electronic document, click here: [Attach26brf080708.pdf](#)

## 8 REPORT OF THE CHIEF EXECUTIVE OFFICER

## 9 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

### **NOTICE OF MOTION – CR RUSS FISHWICK – DUNCRAIG PRE-PRIMARY SCHOOL – [08881]**

In accordance with Clause 26 of Standing Orders Local Law 2005, Cr Russ Fishwick has given notice of his intention to move the following motion at the Council Meeting to be held on 15 July 2008:

*“That Council REQUESTS a report from the Chief Executive Officer on re-negotiating a new lease for the Duncraig Pre-primary School with the Department of Education and Training with a view to staging in a rent increase over a period of time as an incentive for the Department of Education and Training to retain the use of the Council-owned building at 57 Marri Road, Duncraig as a pre-primary school.”*

#### **Reason for Motion**

Cr Fishwick submitted the following comment in support of his Notice of Motion:

“The Council at its meeting held on 28 August 2007 when considering report CJ168-08/07 Leasing City Owned Property to the Department of Education and Training for Pre-primary School [08881] resolved inter alia that:

*“4 in relation to the Duncraig site (57 Marri Road, Duncraig) APPROVES the commencement of discussions with the Department of Education and Training on the sale of Duncraig Pre School if it does not agree to pay market rental.”*

In relation to this decision there has been concerns raised by parents and the community in relation to the retention of the building at 57 Marri Road, Duncraig as a pre-school facility given that the Department of Education and Training is considering relocating the Pre-school to the Duncraig Primary School due to the increase in rent from \$4,212 to \$17,000.

The Pre-school offers a facility that provides children with a safe environment to grow and develop prior to entering their primary school years. This Pre-school is a purpose built facility that provides excellent learning surroundings.

These premises provide 23 off-street car bays and 1 disabled immediately outside the Pre-school. The proposed re-location of the Pre-school to the local Primary School where there is no safe parking areas may put children’s safety at risk as parents ferry their children into the Pre-school. This situation may be exacerbated given that parents may also have other young infants with them at this time.

I therefore ask that Council reconsiders its previous decision with regard to the lease arrangements being offered to the Department of Education and Training by requesting a report dealing with options for “staging in” a rent increase over time so that the Department is encouraged to retain its education of pre-schoolers at this purpose built location at 57 Marri Road, Duncraig.”

**Officer's Comment**

The City has already approached the Department of Education and Training (DET) with a similar proposal and will be following up this matter in the coming week. The City unsure of how far the DET's planning regarding the matter has progressed and, as such, a notice of motion may be either premature at this stage or redundant by the time of the Council meeting.

**NOTICE OF MOTION – CR M MACDONALD – BAN OF ALCOHOL AT TOM SIMPSON PARK**

In accordance with Clause 26 of Standing Orders Local Law 2005, Cr Marie Macdonald has given notice of her intention to move the following motion at the Council Meeting to be held on 15 July 2008:

***“That a report be prepared on the outcomes of making Tom Simpson Park an alcohol free area including discussion of the following:***

- ***How the ban is being managed at Tom Simpson Park.***
- ***How the ban has impacted on other parks within the City.***
- ***How public drinking is being policed in other parks in the City of Joondalup, the Metropolitan area and within the State.”***

**Reason for Motion**

Cr Macdonald submitted the following comment in support of her Notice of Motion:

“There is growing community concern with the action taken by police, in Tom Simpson Park and in other parks in the City, to implement the law on drinking in public.

Australians generally expect to be able to have a glass of wine or a beer with their barbecue. The law which prevents public drinking is not enforced by police in all locations where public drinking occurs and the ban at Tom Simpson Park has impacted on the amenity of those socially responsible people who enjoy an Aussie family barbecue at the Park. What have been the benefits and adverse effects of the making Tom Simpson Park an Alcohol Free area.”

**OFFICER’S COMMENT**

A report can be prepared.

## **NOTICE OF MOTION – CR M MACDONALD – WEED SPRAYING**

In accordance with Clause 26 of Standing Orders Local Law 2005, Cr Marie Macdonald has given notice of her intention to move the following motion at the Council Meeting to be held on 15 July 2008:

***“That a report be prepared on the adverse effects of spraying of Hexazinone, by the contractor to the City, in sumps throughout the City of Joondalup and all associated financial costs as a result of that spraying.***

***The report should contain detail of the action taken by the City subsequent to the spraying and the costs of that action, both legal and other costs.”***

### **Reason for Motion**

Cr Macdonald submitted the following comment in support of her Notice of Motion:

“It is now nearly two years since the contractor used Hexazinone in the sumps in the City of Joondalup. Council has not received a written report on any aspect of the issue. Councillors have received legal advice and verbal reports in Strategy sessions but they do not have any document to explain what occurred or what remedial action has been taken. The tree deaths that occurred are of such a great magnitude to warrant Council being fully informed. This event was not a day to day issue and therefore this matter should come before Council.”

### **Officer’s Comment**

Elected Members will be aware that the sump spraying issue is a legally sensitive one, due to the existence of a contractual dispute with Turfmaster Pty Ltd and the investigation by the Department of Environment and Conservation.

In this context, the City sought legal advice in relation to the ramifications on any legal action of a resolution in accordance with the proposed notice of motion. This advice has confirmed that a report of the nature requested and presented in a Council forum would jeopardise the City’s legal interests. The advice also reiterated the necessity of maintaining the confidential and privileged status of all relevant information in this issue.

Much of the information that has been produced as a result of this matter is subject to ‘legal professional privilege.’ ‘Legal professional privilege’ is intended to preserve the confidentiality of communications between a lawyer and a client. Ordinarily, parties to legal proceedings are required to disclose to other parties and the court all documents in their possession, power and control which are relevant to a matter in issue in the proceedings. However, if ‘legal professional privilege’ attaches to a document, the document does not have to be produced in connection with legal proceedings, or in other relevant circumstances.

Communications between a client and a lawyer which are made for the dominant purpose of giving or obtaining legal advice or in connection with existing or anticipated legal proceedings generally attract 'legal professional privilege', so long as the communications are confidential.

Marking a document as 'privileged and confidential' is not sufficient. The document must also be treated as confidential if privilege is to be maintained. 'Legal professional privilege' can easily be waived if communications to and from lawyers are not treated with care. If privilege is waived it means the document is no longer protected and would need to be disclosed in connection with legal proceedings. Once waiver has occurred it cannot be retrieved.

One of the ways the City can ensure 'legal professional privilege' is maintained is that communications containing or relating to legal advice should be copied or forwarded only to persons within the City who are directly concerned with the issue the subject of the legal advice. There are a select number of senior officers within the City who are privy to the information attached to this issue. To date, and in the ordinary course of the City's business and administration, Council has not been required to undertake any decisions in this issue.

Releasing commercially and legally sensitive information to Council would be detrimental to the City's legal position. Furthermore, there is a risk that the information may get into the hands of third parties. For this reason, considerable care has been exercised when dealing with requests for information from Elected Members and members of the public about this issue.

This is a highly complex and multi-faceted matter and proper consideration needs to be taken of all the information and evidence, if the best possible settlement of this claim for the City is to be successful.

The information provided to date has been sufficient to inform Elected Members about the status of this matter in accordance with the provisions of the *Local Government Act 1995*. Elected Members have been kept informed about developments in this issue through regular confidential memorandums issued by the Chief Executive Officer as well as briefings by consultants, lawyers and the CEO in June 2007, April and July 2008. Elected Members have also received written legal advice dated 8 June 2007 about the necessity of maintaining legal professional privilege and this advice is still relevant.

Elected Members have been consistently reminded of their obligation of confidentiality with respect to information provided about the sump spraying issue. Elected Members' desire for information needs to be weighed against protecting the City's legal position. Council has been advised that it will make the decision whether to institute legal action against the contractor. If and when that time comes, Council will be presented with all relevant information, including legal advice, in order to make a well-informed decision in the best interests of the City.

It is recommended that Council resolves that a written report on the sump spraying issue is not required to be submitted to Council, until such time as the City's legal advice otherwise provides.

**NOTICE OF MOTION – MAYOR TROY PICKARD – ANNUAL REPORT**

In accordance with Clause 26 of Standing Orders Local Law 2005, Mayor Troy Pickard has given notice of his intention to move the following motion at the Council Meeting to be held on 15 July 2008:

***“That the Council AGREES that the City’s annual report includes the following information:***

**1      *Attendance by Elected Members during the reportable financial year at:***

- (a) Strategy Sessions;
- (b) Briefing Sessions;
- (c) Ordinary and Special meetings of the Council;
- (d) All Council committees established in accordance with the Local Government Act 1995; and
- (e) Regional Council meetings of which they are an appointed representative to the Regional Council by the Council;

**2      *periods of Council approved leave of absence that formally excludes them from attending any of the sessions or meetings as detailed in (1) above.”***

**OFFICER’S COMMENT**

The 2006/07 Annual Report contained similar information, with this being the City’s first Annual Report to do so. There is no issue in continuing to include such information on an ongoing basis if the Council resolves accordingly.



**10 REPORTS/PRESENTATIONS REQUESTED BY ELECTED MEMBERS**



**DECLARATION OF  
FINANCIAL INTEREST/INTEREST THAT MAY AFFECT  
IMPARTIALITY**

**To: CHIEF EXECUTIVE OFFICER  
CITY OF JOONDALUP**

<b>Name/ Position</b>	
<b>Meeting Date</b>	
<b>Item No/ Subject</b>	
<b>Nature of Interest</b>	Financial Interest * Interest that may affect impartiality* <span style="float: right;"><i>* Delete where not applicable</i></span>
<b>Extent of Interest</b>	
<b>Signature</b>	
<b>Date</b>	

Section 5.65(1) of the Local Government Act 1995 states that:

“A member who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by that member must disclose the nature of the interest:

- (a) *in a written notice given to the CEO before the meeting; or*
- (b) *at the meeting immediately before the matter is discussed.*



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**QUESTION TO BE ASKED AT  
BRIEFING SESSION/COUNCIL MEETING**

<b>TITLE</b> <i>(Mr/Mrs/Ms/Dr)</i>	<b>FIRST NAME</b>	<b>SURNAME</b>	<b>ADDRESS</b>

**QUESTIONS**

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Please submit this form at the meeting or:

- **post** to The Chief Executive Officer, City of Joondalup, P O Box 21, Joondalup WA 6919
- **email** to [council.questions@joondalup.wa.gov.au](mailto:council.questions@joondalup.wa.gov.au)

**Please note that:**

- Questions asked at a **Briefing Session** must relate to matters contained on the draft agenda.
- Questions asked at a **Council meeting** can relate to matters that affect the operations of the City of Joondalup.
- Questions asked at a **Special Meeting of the Council** must relate to the purpose for which the meeting has been called



**STATEMENT TO BE MADE AT  
BRIEFING SESSION/COUNCIL MEETING**

TITLE <i>(Mr/Mrs/Ms/Dr)</i>	FIRST NAME	SURNAME	ADDRESS

**STATEMENT**

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**Please note that:**

- Statements made at a **Briefing Session** must relate to matters contained on the draft agenda.
- Statements made at a **Council meeting** can relate to matters that affect the operations of the City of Joondalup.
- Statements made at a **Special Meeting of the Council** must relate to the purpose for which the meeting has been called