

Minutes **Ordinary Meeting of Council**

ORDINARY MEETING OF THE COUNCIL OF THE CITY OF JOONDALUP HELD
IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE,
JOONDALUP

ON TUESDAY, 21 APRIL 2009



**MINUTES OF COUNCIL MEETING
HELD ON TUESDAY 21 APRIL 2009**

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CLOSURE

CITY OF JOONDALUP

MINUTES OF COUNCIL MEETING HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON TUESDAY, 21 APRIL 2009

DECLARATION OF OPENING

The Mayor declared the meeting open at 1906 hrs.

ANNOUNCEMENT OF VISITORS

Nil.

ATTENDANCES

Mayor:

TROY PICKARD

Councillors:

Cr KERRY HOLLYWOOD	North Ward	<i>Absent from 2032 hrs to 2034 hrs</i>
Cr TOM McLEAN	North Ward – <i>Deputy Mayor</i>	<i>Absent from 2051 hrs to 2053 hrs</i>
Cr TRONA YOUNG	North-Central Ward	
Cr MARIE MACDONALD	Central Ward	
Cr GEOFF AMPHLETT	Central Ward	
Cr MICHELE ROSANO	South-West Ward	<i>Absent from 2018 hrs to 2019 hrs</i>
Cr MIKE NORMAN	South-West Ward	
Cr SUE HART	South-East Ward	
Cr BRIAN CORR	South-East Ward	
Cr RUSS FISHWICK	South Ward	

Officers:

MR GARRY HUNT	Chief Executive Officer
MR CLAYTON HIGHAM	Director, Planning & Community Development
MR JAMIE PARRY	Director, Governance & Strategy
MR MIKE TIDY	Director, Corporate Services
MR MARTYN GLOVER	Director, Infrastructure Services
MR MARK McCRORY	Media Advisor
MR GAVIN TAYLOR	Manager, Leisure & Cultural Services
MS MELINDA BELL	Acting Co-ordinator, Planning Approvals
MRS JANET FOSTER	Administrative Services Coordinator
MRS LESLEY TAYLOR	Administrative Secretary

There were 43 members of the Public and 1 member of the Press in attendance.

PUBLIC QUESTION TIME

The following questions were taken on notice at the Council meeting held on 17 March 2009:

Mrs J Sivec, Mullaloo:

Q1 What process does the City adopt with regard to applications for a new business to operate within the City, in particular when that said business is seeking to operate on public space?

A1 A person wishing to undertake business activities in any street or public place within the district is required to first make an application to the City. The application can then be assessed to determine compliance with the City of Joondalup Trading in Public Places Local Laws 1999. The extent and level of assessment of any application received is dependent upon the nature of the proposed activities (eg food vehicles, fitness trainers etc). In addition to the requirements of the Local Laws applications are also assessed under any other relevant statutory requirements. Where it is satisfied that an application meets all requirements, particularly those of the Local Laws, a license can be issued.

Mr M Caiacob, Mullaloo:

Q1 Why was a licence issued for kite surfing at Mullaloo Beach when the designated area for water sport activities is Pinnaroo Point?

A1 Mullaloo has been a beach experiencing an increase in the number of kite boarders, particularly during summer months.

In August 2008, the City received a request from Kite Boarding Perth to operate a kite boarding school from a designated area north of the Mullaloo Surf Club. No request was made for Pinnaroo Point.

In approving the trading in public places license for a 12 month period, the City liaised with Mullaloo Surf Life Saving to consider the appropriate location of the Kite Surfing School at Mullaloo Beach.

With the exception of the designated swimming areas by Mullaloo Surf Life Saving Club, there are no restrictions for kite boarding or windsurfing at Mullaloo beach. There are restrictions in place for watercraft, which can only operate at 8 knots within 200 metres of Mullaloo beach. However, kite boarding and windsurfing are not classified as watercraft under the City's local laws.

Pinnaroo Point is the designated area for the use of motor powered water activities (watercraft) such as jet skis and boats.

Mr S Magyar, Heathridge:

Re Notice Of Motion No 3 – Cr Marie Macdonald – A call for the City to implement its Local Laws and ban Kite Surfing on Mullaloo Beach North of the Surf Club

Q1 Is the City aware of any local Council within Australia which has restricted the use of kite or wind surfing?

A1 Kite and windsurfing activities are not currently subject to any state legislation within Western Australia and as a result there are no laws in place that restrict kite surfing on beaches or water ways. Restrictions on beach activities are typically the responsibility of local governments who can make activities prohibited through their local laws. No local governments in Western Australia have banned kite surfing. Local Governments such as Stirling and Melville have favored the implementation of a Kite Surfing Management Plan as opposed to total prohibition of the activity. In the City of Melville areas are highlighted as suitable rigging and set up areas for kite surfing, such as Lucky Bay in Applecross.

In the state of NSW the surf kite and board is classified as a “vessel” and therefore subject to state legislation, which is different to Western Australia. A code of conduct for kite surfing has been developed by the New South Wales Maritime Authority in conjunction with the Australian Kite Surfing Association (AKSA). Sydney Harbour is the only prohibited area for kite surfing in New South Wales.

The following questions were submitted in writing prior to the Council meeting:

Dr Marjorie Apthorpe, Ocean Reef:

Re: Thermal Weed Control Trial on Shenton Avenue:

Q1 What control site is being used at the same time, to compare thermal with other methods of weed control?

A1 Both Hydrothermal and herbicide treatment were used in treatment areas for comparison. There was also an unsprayed controlled area incorporated into the trial.

Q2 What is the cost of the Thermal Weed Control trial on Shenton Avenue?

A2 The trial will cost approximately \$30,000.00.

Mr W King, Padbury:

Q1 With reference to Council meeting CJ068-04/07:

(a) The Council authorised the Chief Executive Officer to negotiate with the City of Wanneroo requesting it provides a suitable horse beach area within its City within a three year timeframe.

(b) The Council requested the preparation of a report to be considered by Council identifying the potential for an additional Dog Beach within the City of Joondalup.

Can you please tell us what steps were taken with regard to above points and what the outcome was?

- A1 (a) In June 2007 the City received correspondence from the Mayor of Wanneroo indicating that the City of Wanneroo had not been approached by its residents to pursue the matter and would need to consult widely with its community if it were to provide a horse beach within its district. It was also highlighted that issues such as topography, access and land development were significant impediments upon the successful delivery of the request.

Further inquiries with the City of Wanneroo indicated that until road access could be provided to suitable beach locations, it would be difficult to progress that matter. The cost of providing road access was indicated to be significant.

- (b) A report on this matter was presented to Council on 25 September 2007 (CJ189-09/07 refers), to which Council resolved not to pursue the introduction of an additional dog beach within the City of Joondalup.

- Q2 *When public submissions are called for there is a consultation period with stipulates that the submissions must be received before the closure date.*

Would public submission forms obtained from people prior to the consultation period beginning, be acceptable?

- A2 All consultation advertisements issued by the City highlight that submissions must be received within the stated consultation period.

Persons who submit comments prior to the commencement of a consultation period are contacted and asked if they would like their comments to form their official submission when the consultation period begins, or if they would like to submit an alternative submission, in which case their original comments would not be included in the consultation results.

- Q3 *With regard to Council meeting CJ188-09/07 - Dog and Horse Beach Local Law Amendment Submissions.*

The minutes state that after the consultation process the Council received a total of 622 submissions.

Is it possible to get a breakdown for these 622 submissions with regard to what source they were received from? (i.e. via the internet, from the survey boxes provided at the beach, direct mail to residents, etc).

- A3 The following breakdown applies:

Online surveys:	50.8%
Hardcopy surveys:	35.7%
Other (letters/emails):	13.5%

Mr M Caiacob, Mullaloo:

- Q1 *If no complaints in regard to Kite Surfing on Mullaloo Beach have been received by the Councillors or the Council, what were the reasons that prompted the request on 4-03-2009 for a policy committee report into Kite Surfing operations on Joondalup Beaches?*

- A1 The administration is unable to provide the reasons as this request for a report was raised by Cr Trona Young at the Policy Committee meeting held on 4 March 2009.

- Q2 *On the City's plan prepared for Kite Boarding Perth dated 19-11-2008 why isn't the Surf Club Patrolled area North of the proposed Kite Boarding area identified?*
- A2 Patrolled areas on Mullaloo Beach change to suit weather and surf conditions, which makes it difficult to specify a dedicated patrol area. Legislation prohibits board riding activities within the area marked by flags and patrolled by beach lifeguards.
- Q3 *On the City's plan prepared for Kite Boarding Perth dated 19-11-2008, does the City and Council believe that 300mts of beach is adequate for a kite surfer to operate their craft and apply their sport within?*
- A3 Yes. The City reviewed with Kite Boarding Perth the types of activities that would be undertaken with students of the school, to ensure an appropriate allocation of beach area was issued as part of the license.
- Q4 *Can the City explain how it has adequately covered its duty of Care responsibilities in relation to issuing a commercial kite surfing at Mullaloo Beach, when the Shire of Gingin administration and Council deems the sport presents a great risk to persons and is extremely hazardous to have kite surfers rigging up in heavily populated areas with such a diverse range of user groups?*
- A4 The Shire of Gingin experience significant demand for windsurfing and kite boarding activities, specifically in the Lancelin area. Similar to the City of Joondalup, the Shire of Gingin has an approved Kite Boarding School operating through a Trading in Public Places License. The City developed terms and conditions for the trading in Public Places License offered to Kite Boarding Perth. The terms and conditions identify the required operating standards applicable to this license.
- Q5 *Has the commercial kite surfing license been terminated as photographs were tabled on 17-03-2009 showing the operations being conducted beyond the license boundaries?*
- A5 No. The City continues to liaise with the licensed operator to ensure the terms and conditions of the Trading in Public Places Licence are fulfilled.

Mr R Repke, Kallaroo:

- Q1 *We the people on the Gallery always have the problem that we cannot hear what is being said, we do hear some people speaking, so it is not a question of the system, it is a question of the way of speaking. Can we make sure everyone switches the microphone on, goes close to the microphone and speaks slow loud and clear? Why is it that we do hear very clearly, when someone, anyone fills her/his glass with water?*
- A1 Elected members and officers are informed of the appropriate use of the microphones in the Council Chamber.
- Q2 *Can the City buy a small pickup with a small tank and a small hose so that seedlings can be watered in case of insufficient rain? (Like last August) Or can the City include into contracts that the contractor does such waterings in case of need? (I understand that the City does not have such a pickup).*

A2 Parks Operations currently has four water tankers which are used to water and establish new trees over a couple of years, while the Natural Areas unit has an 800 litre tank which is used to water tube stock at the time of planting only. The difficulty is to respond to all watering demands when there is a period of low rainfall, as was the case in August 2008.

Mr R Archibald, Hillarys:

Q1 *Can Council please confirm that Rangers are patrolling the Whitfords/Mullaloo beach both on weekdays and at weekends to enforce that this is not a dog beach area?*

Q2 *If the answer to Question 1 is 'Yes' then can Council explain why as a regular beach swimmer every day to Whitfords beach north of the Skiing area at Pinnaroo Point I have yet to see any Rangers present in this area. As an example last Easter Sunday, 12th April 2009, I counted a total of SEVEN dogs being walked along this stretch of beach by their owners and some also allowing them to foul the beach without removing it.*

Unfortunately this is a daily occurrence in this area.

A1&2 The City's Rangers conduct regular patrols along the foreshore both to the north and south of the animal exercise area as part of their duties. It is not possible to have a Ranger at the location on a permanent basis so targeted patrols are conducted at the most common times for walking a dog, which is generally in the early morning and in the late afternoon. Patrols are continuing, and enforcement action will be taken where transgressions occur during those patrols.

Mr M Sideris, Mullaloo:

With reference to the Licence to Operate a Business on Reserve Land issued to Kite Boarding Perth by the City of Joondalup:

Q1 *When did the City receive official written correspondence from the Mullaloo Surf Life Saving Club [MSLSC] giving its written consent to the Licence to Operate a Business and effectively create a designated Kite Boarding Launch Area north of the Mullaloo Surf Club?*

A1 The City did not receive, nor is it required to receive, written consent from the Mullaloo Surf Life Saving Club however the City liaised with the Surf Life Saving Club in considering the appropriate location and operation of the Kite Surfing School at Mullaloo Beach.

Q2 *Advise the cost of installing the new removable bollards at the West View Boulevard car park in order to facilitate access to the beach foreshore by Kite Boarding Perth vehicle and trailer.*

A2 The bollards were transferred from another site in the City to the West View Boulevard car park. The cost of works is estimated at \$600.00.

The following questions were submitted verbally at the Council meeting held on 21 April 2009:

Mr S Magyar, Heathridge:

Re: CJ078-04/09 – Local Government Reform Checklist.

Q1 *Has Council got any ideas as to whether the Minister is looking at reducing the number of Elected Members and if so will it be forming an official opinion regarding such matters and informing the Minister of what is a suitable ratio of Elected Members to voters etc ?*

A1 *Response by Mayor Pickard:* The Minister is seeking comment from Local Government Authorities throughout the State for the reduction of Elected Members from current levels to between six and nine. The report that is on the agenda tonight closes the first stage of the review process. In the next stage the City will have a formal position relative to appointment of changes to external boundaries, changes to internal boundaries and any changes to the number of Elected Members.

Mr M Caiacob, Mullaloo:

Re: Kite Surfing Licence issued for Mullaloo Beach.

Q1 *What was the commercial value for this Kite surfing licence?*

A1 This question will be taken on notice.

Re: Ocean Reef Marina.

Q2 *If the Ocean Reef Committee met on 26 February 2009 and the Council met and endorsed the Revised Concept Plan 6 on 27 February 2009, how and when did this Council receive the Committee's recommendation from 26 February 2009?*

A2 This question will be taken on notice.

A question raised by Mr Mike O'Brien was ruled out of order by Mayor Pickard.

Mr M Sideris, Mullaloo:

Re: Kite Surfing Licence issued for Mullaloo Beach.

Q1 *With reference to the response to written question 2 where the cost of transferring the bollards was estimated at being \$600.00 and the revenue obtained for the Kite Surfing licence being \$500.00, there seems to be a shortfall of \$100.00. Who paid the \$600.00?*

A1 This question will be taken on notice.

PUBLIC STATEMENT TIME**Mr J Capone, Burns Beach:**

Mr Capone spoke on the need for a properly designated purpose built Multi-Wheel Sport Centre in the City of Joondalup.

Mr S Brown, Hillarys:

Mr Brown spoke in relation to CJ094-04/09 – Proposed Mixed Use Development of 24 Multiple Dwellings, 8 Grouped Dwellings, Offices, Shop and Restaurant at Lot 9009 (35) Martinique Mews, Hillarys.

Mr G Barker, Hillarys:

Mr Barker spoke in relation to CJ094-04/09 – Proposed Mixed Use Development of 24 Multiple Dwellings, 8 Grouped Dwellings, Offices, Shop and Restaurant at Lot 9009 (35) Martinique Mews, Hillarys.

Mr N Delborrello, Hillarys:

Mr Delborrello spoke in relation to CJ094-04/09 – Proposed Mixed Use Development of 24 Multiple Dwellings, 8 Grouped Dwellings, Offices, Shop and Restaurant at Lot 9009 (35) Martinique Mews, Hillarys.

A statement from Mr Brett Young, Hillarys was tabled and will be provided to Elected Members.

Mr S Proud, Mt Hawthorn:

Mr Proud spoke in support of the proposal for a wheel sports facility at the Edgewater Quarry Development.

Mr R Repke, Kallaroo:

Mr Repke spoke in relation to the Southern Business Park Extension owned by LandCorp.

Mr J Plaxton, Ocean Reef:

Mr Plaxton spoke in support of the proposal for a wheel sports facility at the Edgewater Quarry Development.

C22-04/09 EXTENSION OF PUBLIC STATEMENT TIME – [01122] [02154]

MOVED Cr Rosano, SECONDED Cr McLean that Public Statement Time be extended.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

CONFIRMATION OF MINUTES**C24-04/09 MINUTES OF COUNCIL MEETING, 17 MARCH 2009**

MOVED Mayor Pickard, SECONDED Cr McLean that the Minutes of the Council Meeting held on 17 March 2009 be confirmed as a true and correct record.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION**2009 ANZAC DAY CEREMONY**

The City of Joondalup and the Wanneroo Joondalup RSL Sub Branch will once again hold a joint Anzac Day dawn service at Central Park from 6.00am.

Congratulations to the Wanneroo Joondalup RSL Sub Branch for their continued support of this important annual event and I am confident I will see a great turnout from the local community to what is sure to be a very poignant and moving ceremony.

In the past, it has been very pleasing to see so many people of all ages pay their respects and honour the Australian men and women that fought and served our great nation during battles around the world.

Tea and biscuits will be served after the ceremony.

GREENWOOD GARDENS COMPETITION

The City recently launched its Greenwood garden and verge competition to encourage local residents to make the best use of their gardens and their verges – given our dry hot WA climate and our continuing water shortages.

The City hopes that through the competition, it will be able to identify some wonderful local examples of established gardens and verges that are Waterwise and environmentally friendly in Greenwood.

The City looking for impressive examples that will inspire other people to improve their gardens and verges and I hope the Greenwood community embraces the competition. Entries close on 29 May 2009.

NEW DIRECTOR OF GOVERNANCE AND STRATEGY

I would like to welcome the City's new Director of Governance and Strategy, Jamie Parry to the Chambers this evening as this is his first Council meeting.

Jamie, who started in his new role on Monday, 20 April 2009 has been a Manager with the City of Perth for more than 11 years and has a Masters in Business, Postgraduate Diploma in Business and a Bachelor of Business.

Welcome to the team Jamie.

QUESTION TO BE STRUCK FROM THE RECORD

I refer to a question lodged earlier in the meeting during Public Question Time from Mr M O'Brien. In the past if a question has been rude or offensive, I have requested that it be retracted and struck from the public record. Accordingly, I rule Mr O'Brien's question derogatory and that it be struck from the record.

DECLARATIONS OF INTEREST

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.

Name/Position	Cr Michele Rosano
Item No/Subject	CJ086-04/09 – Underground Power West Coast Drive
Nature of interest	Financial Interest
Extent of Interest	Cr Rosano resides in the survey area

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.

Name/Position	Cr Trona Young
Item No/Subject	CJ080-04/09 - Edgewater Quarry Development - Report on Feedback from Community Consultation
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Young's sister-in-law is the president of the Northern Districts Cycling Club

Name/Position	Cr Tom McLean
Item No/Subject	CJ081-04/09 – Funding for the Small Business Centre (North West Metro) Inc
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr McLean is a member of the Small Business Centre Board and Treasurer

Name/Position	Cr Kerry Hollywood
Item No/Subject	CJ084-04/09 – Tender 004/09 Construction of Dual Carriageway – Connolly Drive
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Hollywood's husband and the owner of Ertech Pty Ltd are both members of a social group.

IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY SIT BEHIND CLOSED DOORS

Nil.

C25-04/09 PETITIONS**1 PETITION REQUESTING THE EXTENSION OF THE LENGTH OF HILLARYS ANIMAL EXERCISE AREA TO THE SOUTH (TOWARDS OR TO THE HILLARYS BOAT HARBOUR) - [07050] [00819]**

A 947-signature petition has been received from residents of the City of Joondalup requesting the extension of the length of Hillarys animal exercise area to the south (towards or to the Hillarys Boat Harbour).

The petitioners requested that the following concerns be addressed:

- The overcrowding at Whitfords Dog Beach;
- The lack of parking facilities, and security of vehicles at Whitfords Dog Beach;
- The lack of toilet facilities at Whitfords Beach;
- The constant unhygienic condition of the bike lanes, and access path at Whitfords Dog Beach;
- The numerous occasions that the dog excreta bags, provided at the beach ran out, and in some cases took a number of days to be refilled.

2 PETITION REQUESTING A SPECIAL MEETING OF ELECTORS - [37544]

A petition containing 131 unverified signatures has been received requesting the City to hold a Special Meeting of Electors.

MOVED Mayor Pickard, SECONDED Cr Young that:

- 1 the following Petition be RECEIVED, referred to the CEO and a report be prepared for the Council's information:**

Petition requesting the extension of the length of Hillarys animal exercise area to the south (towards or to the Hillarys Boat Harbour);

- 2 that the following Petition be RECEIVED and referred to the CEO:**

Petition requesting a Special Meeting of Electors be held to discuss the following motions:

- "1 That this Meeting of Electors of the City of Joondalup calls upon the City of Joondalup to initiate discussions with the State Department of Conservation and Land Management and offer the State Government full cooperation to plan and develop an Environment Centre and Botanic Park in the land abutting Edgewater Drive and the Western Shore of Lake Joondalup to cater for:**

- (a) Native flora that has linkages to an adventure playground;
 - (b) Highly visible and well shaded picnic, BBQ and large grassed areas that are linked to toilet amenities;
 - (c) Dual use Walking trails and bike paths that provide connection to the park facilities;
 - (d) Amphitheatre and greenroom facilities that can cater for theatre, music and dance productions, whilst minimising noise impact on nearby residents;
 - (e) An adventure playground that provides children with sensory and learning opportunities is well shaded and caters for wheelchair access;
 - (f) supporting infrastructure that consists of parking, lighting and a multipurpose facility that includes storage, hard stand area and can cater for kiosk/cafe and ticketing office;
 - (g) Requires that the concept plan be developed ensuring minimal traffic and noise impact to residents in close proximity to Edgewater Drive.
- 2 That this Meeting of Electors of the City of Joondalup recognises that there are Ten (10) Wheeled Sports that have no facilities of International Competition Standard in the City of Joondalup, and requests the City to seek the support of the State and Federal Governments for Capital Funding to re-develop the old Limestone Quarry Area including, Crown Land Reserve 37229 (lot 10194), Crown Land Reserve 37188 (lot 12681), Crown Land Reserve 37120 (lot 10188) and City of Joondalup Lot 998 (100) to cater for Wheeled Sports Training and Competition in the Northern Corridor and enhance and support the Sports People, ECU and the Business People of Joondalup.”

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

CJ075-04/09 EXECUTION OF DOCUMENTS - [15876]

WARD: All

RESPONSIBLE DIRECTOR: Mr Garry Hunt
Office of CEO

PURPOSE

For Council to note the documents executed by means of affixing the Common Seal for the period 10 March 2009 to 24 March 2009.

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.

Document:	Section 70A Notification
Parties:	City of Joondalup and W K and S P Chalupsky
Description:	To restrict the occupation of the ancillary accommodation to dependent member(s) of the family of the occupier(s) of the main dwelling on the land at Lot 245(6) Darwinia Place Greenwood
Date:	10.03.09
Signed/Sealed:	Sealed

Document:	Section 70A Notification
Parties:	City of Joondalup and Brendon C and Helen M Hanson
Description:	To restrict the occupation of the ancillary accommodation to dependent member(s) of the family of the occupier(s) of the main dwelling on the land at Lot 577(17) Baxter Way Padbury
Date:	10.03.09
Signed/Sealed:	Sealed

Document:	Amendment to DP Scheme No. 2
Parties:	City of Joondalup and Minister for Planning
Description:	Amendment No. 40 to District Planning Scheme No. 2 – Lots 500 and 501 Arawa Place, Craigie – minuted Council Report CJ024-02/09
Date:	10.03.09
Signed/Sealed:	Sealed

Document:	Section 70A Execution
Parties:	City of Joondalup and Walter John Lubcke
Description:	To restrict the occupation of the ancillary accommodation to dependent member(s) of the family of the occupier(s) of the main dwelling on the land at 39 (Lot 285) Haddington Street Beldon
Date:	17.03.09
Signed/Sealed:	Sealed

Document:	Section 70A Execution
Parties:	City of Joondalup and I Corker
Description:	To restrict the occupation of the ancillary accommodation to dependent member(s) of the family of the occupier(s) of the main dwelling on the land at Lot 824(241) Camberwarra Drive, Craigie
Date:	17.03.09
Signed/Sealed:	Sealed

Document:	Contract
Parties:	City of Joondalup and Garry George Hunt
Description:	Contract of Employment – Chief Executive Officer March 2009 to March 2014
Date:	24.03.09
Signed/Sealed:	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

MOVED Cr Young, SECONDED Cr McLean that Council NOTES the schedule of documents covering the period 10 March 2009 to 24 March 2009 executed by means of affixing the common seal.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

**CJ076-04/09 MINUTES OF EXTERNAL COMMITTEE - [00033]
[03149] [60514]**

WARD: All

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

PURPOSE

To submit minutes of external committees to Council for information.

EXECUTIVE SUMMARY

The following minutes are provided:

- Special Meeting of Western Australian Local Government Association – North Metropolitan Zone held on 25 February 2009
- Meeting of Mindarie Regional Council held on 5 March 2009
- Meeting of Western Australian Local Government Association – North Metropolitan Zone held on 26 March 2009

ATTACHMENTS

Attachment 1 Minutes of Special Meeting of Western Australian Local Government Association – North Metropolitan Zone held on 25 February 2009
Attachment 2 Minutes of Meeting of Mindarie Regional Council held on 5 March 2009
Attachment 3 Minutes of Meeting of Western Australian Local Government Association – North Metropolitan Zone held on 26 March 2009

(Please Note: These minutes are only available electronically)

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rosano, **SECONDED** Cr Young that Council **NOTES** the minutes of the:

- 1 Special meeting of the Western Australian Local Government Association – North Metropolitan Zone held on 25 February 2009 forming Attachment 1 to Report CJ076-04/09;**
- 2 Meeting of the Mindarie Regional Council held on 5 March 2009 forming Attachment 2 to Report CJ076-04/09;**
- 3 Meeting of the Western Australian Local Government Association – North Metropolitan Zone held on 26 March 2009 forming Attachment 3 to Report CJ076-04/09.**

The Motion was Put and CARRIED (11/0) by En Bloc Resolution following consideration of Item CJ097-04/09, Page 144 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

To access this attachment on electronic document, click here:

[External Committees 140409.pdf](#)

CJ077-04/09 APPOINTMENT OF REPRESENTATIVES TO COMMITTEES – [02153]

WARD: All

RESPONSIBLE DIRECTOR: Mr Garry Hunt
Office of the CEO

PURPOSE

To give consideration to the appointment of representatives to various Council created and external committees.

EXECUTIVE SUMMARY

Following the resignation of Cr Albert Jacob, consideration is required to be given to the appointment of representatives to various Council created and external committees.

BACKGROUND

Council establishes various committees to advise it on specific matters. The Local Government Act 1995 applies to these Council created committees, and appointment of representatives to these committees must be made by Council and passed by an absolute majority. Council also nominates representatives to committees created by external organisations. Council may nominate representatives to such external committees by a simple majority.

Following the elections held on 20 October 2007, representatives were appointed to various Council created and external committees. Cr Albert Jacob was appointed to the following committees:

Council created committees:

- Audit Committee
- Chief Executive Officer Performance Review Committee
- Ocean Reef Marina Committee
- Sustainability Advisory Committee

External Committees:

- Community Board of Advice (Joondalup Health Campus)
- North West Corridor Coordinating Committee
- North West District Planning Committee
- WA Local Government Association North Metropolitan Zone

DETAILS

Vacancies exist on the following committees. Information on the current membership, role of each committee, meeting details and officer's comments are provided below:

Council created committees:

Audit Committee

Current membership	Cr Tom McLean Cr Marie Macdonald Mayor Troy Pickard <i>Vacant – North-Central Ward member</i> Cr Michele Rosano Cr Fiona Diaz Mr Robert (Andy) Cowin – External Member Vacant – South-East Ward
Role of the Committee	To oversee the internal and external Audit and Risk Management and Compliance functions of the City.
Meeting details	Meetings are held in the Joondalup Civic Centre. A meetings has been scheduled for 5.30 pm on Tuesday 5 May 2009
Officer's comment	The vacancy is for a North-Central Ward Member. It is suggested that Cr Trona Young serves as member on the Audit Committee.

Chief Executive Officer Performance Review Committee

Current membership	Cr Russ Fishwick Mayor Troy Pickard Cr Tom McLean <i>Vacant – North-Central Ward member</i> Cr Geoff Amphlett Cr Mike Norman Cr Brian Corr
--------------------	--

Role of the Committee	<p>To:</p> <ul style="list-style-type: none"> (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.
Meeting details	<p>Meetings are held in the Joondalup Civic Centre. Meetings are held on an as-required basis, and called in accordance with the Standing Orders Local Law 2005.</p>
Officer's comment	<p>The vacancy is for a North-Central Ward Member. It is suggested that Cr Trona Young serves as member on the Chief Executive Officer Performance Review Committee.</p>

Ocean Reef Marina Committee

Current membership	<p>Mayor Troy Pickard <i>Vacant – North-Central Ward member</i> Cr Trona Young Cr Kerry Hollywood Cr Geoff Amphlett Cr Michele Rosano Cr Brian Corr Cr Russ Fishwick</p>
Role of the Committee	<p>To provide leadership for, and oversight of, the Ocean Reef Marina project.</p>
Meeting details	<p>Meetings are held in the Joondalup Civic Centre. Meetings are held on an as-required basis, and called in accordance with the Standing Orders Local Law 2005.</p>
Officer's comment	<p>The vacancy is for a North-Central Ward Member. It is recommended that this position remain vacant at this time.</p>

Sustainability Advisory Committee

Current membership	Cr Brian Corr Cr Mike Norman Cr Russ Fishwick <i>Vacant - member</i>
	Community Representatives: Mr Steve Magyar Mr Brett Dorney Mr Rainer Repke Mr Alan Green Mr John Chester Mr Peter Jacoby Ms Ute Goeff Mr John Rule
Role of the Committee	To recommend to the City of Joondalup Council on policy, advice and appropriate courses of action which promote sustainability, which is (1) environmentally responsible, (2) socially sound and (3) economically viable. To provide advice to Council on items referred to the Committee.
Meeting details	Meetings are held in the Joondalup Civic Centre. Meetings have been scheduled for 6.00 pm on: Thursday 18 June 2009 Thursday 20 August 2009
Officer's comment	It is recommended that Council gives consideration to appointing a member on the Sustainability Advisory Committee.

External Committees:**Community Board of Advice (Joondalup Health Campus)**

Current membership	One Member - <i>Vacant</i>
Role of the Committee	To provide input into the direction, development and service of the hospital and advice to the Joondalup Health Campus CEO in accordance with the Joondalup Health Campus – DHSA for the treatment of public patients.

Meeting details	Meetings are held bi-monthly at 6.30 pm at the Joondalup Health Campus. Meeting are scheduled for: Thursday 23 April 2009 Thursday 4 June 2009 Thursday 13 August 2009 Thursday 1 October 2009
Officer's comment	It is recommended that Council gives consideration to nominating a representative on the Community Board of Advice (Joondalup Health Campus).

North West Corridor Coordinating Committee

Current membership	Mayor Troy Pickard Cr Geoff Amphlett Cr Michele Rosano Cr Russ Fishwick <i>Vacant - member</i>
Role of the Committee	To consider the consultant's report on the North-West Corridor Economic Development Strategy.
Officer's comment	This project has been temporarily suspended. It is recommended that no nomination is made at this time.

North West District Planning Committee

Current membership	Member: Cr Marie Macdonald Deputy Member: Vacant
Role of the Committee	To provide a forum for discussion and recommendation on regional planning issues. The North West District Planning Committee is established in accordance with the provisions of the Planning and Development Act 2005.
Meeting details	Meetings are rotated between the Cities of Joondalup, Wanneroo and Stirling, and the Town of Vincent. Meetings have been scheduled for 8.30 am on: Thursday 11 June 2009 Thursday 13 August 2009 Thursday 8 October 2009
Officer's comment	It is recommended that Council gives consideration to nominating a deputy representative on the North West District Planning Committee.

WA Local Government Association North Metropolitan ZoneCurrent membership **Members**

Mayor Troy Pickard
Cr Trona Young
Cr Tom McLean
Cr Russ Fishwick

Deputies

Cr Mike Norman
Cr Kerry Hollywood
Cr Geoff Amphlett
Vacant - Deputy

Role of the Committee

The North Metropolitan Zone is comprised of the three north metropolitan local governments, these being the Cities of Joondalup, Stirling and Wanneroo. The Zone is a WA Local Government Association (WALGA) endorsed forum that deals with issues that affect the Zone members both regionally and operationally as local governments. Matters of concern that affect the Zone are forwarded to WALGA for consideration.

Meeting details

Meetings are rotated between the Cities of Joondalup, Wanneroo and Stirling. Meetings have been scheduled for 6.00 pm on:

Thursday 28 May 2009
Thursday 30 July 2009
Thursday 1 October 2009

Officer's comment

It is recommended that Council gives consideration to appointing a deputy representative on the WA Local Government Association North Metropolitan Zone.

Issues and options considered:

The Council has the option of either:

- Appointing an elected member replacement to the various Council created and external committees at this time, or
- Giving consideration to these vacancies when the local government elections are held in October 2009.

Link to Strategic Plan:

Objective: 1.2 To engage proactively with the community.

Legislation – Statutory Provisions:Appointment of committee members

- 5.10 (1) A committee is to have as its members:
- (a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and
 - (b) persons who are appointed to be members of the committee under subsection (4) or (5).

* Absolute majority required.

- (2) At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.
- (3) Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.
- (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.
- (5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish:
 - (a) to be a member of the committee; or
 - (b) that a representative of the CEO be a member of the committee,

the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

Tenure of committee membership

- 5.11 (1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until:
- (a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be;

- (b) the person resigns from membership of the committee;
- (c) the committee is disbanded; or
- (d) the next ordinary elections day,

whichever happens first.

(2) Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until:

- (a) the term of the person's appointment as a committee member expires;
- (b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant;
- (c) the committee is disbanded; or
- (d) the next ordinary elections day,

whichever happens first.

Clause 51(2) of the Standing Orders Local Law 2005 states: -

A nomination to any position is not required to be seconded.

Risk Management considerations:

Appointment of committees is essentially to assist the Council in performing some of its responsibilities. If the Council resolves not to appoint committees or representation to external committees, this may hinder the overall decision-making process.

Financial/Budget Implications:

Not Applicable.

Policy Implications:

Not Applicable.

Regional Significance:

A number of the external committees that the City of Joondalup is entitled to have representation on deal with matters that not only affect the affairs of the City but also the region and the local government industry as a whole. If the City has representation on such committees, this will allow the representatives to represent the best interests of the City of Joondalup.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

Where there are more nominations to the vacancies for representation on either Council appointed or external committees, a ballot will need to be conducted to determine the representative.

ATTACHMENTS

Nil.

VOTING REQUIREMENTS

Absolute Majority – (appointment of members to Committees)

OFFICER'S RECOMMENDATION: That Council GIVES consideration to appointing the following delegates:

- 1 one member to the Audit Committee;
- 2 one member to the Chief Executive Officer Performance Review Committee;
- 3 one member to the Sustainability Advisory Committee;
- 4 one member on the Community Board of Advice (Joondalup Health Campus);
- 5 one deputy member on the North West District Planning Committee;
- 6 one deputy member on the Western Australian Local Government Association North Metropolitan Zone.

MOVED Cr Young, SECONDED Cr Rosano that Council:

- 1 **APPOINTS Cr Kerry Hollywood to the Community Board of Advice (Joondalup Health Campus);**
- 2 **NOTES the vacancies on the following Committees:**
 - (a) **Audit Committee - member;**
 - (b) **Chief Executive Officer Performance Review Committee - member;**
 - (c) **Sustainability Advisory Committee - member;**
 - (d) **North West District Planning Committee – deputy member;**
 - (e) **Western Australian Local Government Association North Metropolitan Zone – deputy member.**

Cr Fishwick nominated for the position of member of the Audit Committee. With the unanimous approval of the meeting, the Motion was amended – see Point 2 below.

MOVED Cr Young, SECONDED Cr Rosano that Council:

- 1 APPOINTS Cr Kerry Hollywood to the Community Board of Advice (Joondalup Health Campus);**
- 2 APPOINTS Cr Fishwick as Member of the Audit Committee;**
- 3 NOTES the following vacancies:**
 - (a) Chief Executive Officer Performance Review Committee - member;**
 - (b) Sustainability Advisory Committee - member;**
 - (c) North West District Planning Committee – deputy member;**
 - (d) Western Australian Local Government Association North Metropolitan Zone – deputy member.**

Discussion ensued.

Cr Corr nominated for the position of Deputy Member for the Western Australian Local Government Association – North Metropolitan Zone. As unanimous approval of the meeting was not given, Mayor Pickard advised that this nomination would require to be dealt with as an amendment to the Motion.

AMENDMENT MOVED Cr Corr, SECONDED Mayor Pickard that the Motion be amended as follows:

- 1 a new Point 3 be added to read:**

“APPOINTS Cr Corr as Deputy Member of the Western Australian Local Government Association North Metropolitan Zone”;
- 2 Original Point 3, be renumbered Point 4;**
- 3 Original Point 3(d) be deleted.**

The Amendment was Put and

CARRIED (11/0)

In favour of the Amendment: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

The Original Motion as amended, being:

That Council:

- 1 APPOINTS Cr Kerry Hollywood to the Community Board of Advice (Joondalup Health Campus);**
- 2 APPOINTS Cr Fishwick as Member of the Audit Committee;**
- 3 APPOINTS Cr Corr as Deputy Member of the Western Australian Local Government Association North Metropolitan Zone;**
- 4 NOTES the following vacancies:**
 - (a) Chief Executive Officer Performance Review Committee - member;**
 - (b) Sustainability Advisory Committee - member;**
 - (c) North West District Planning Committee – deputy member.**

was Put and

**CARRIED BY AN
ABSOLUTE MAJORITY (11/0)**

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

CJ078-04/09 LOCAL GOVERNMENT REFORM CHECKLIST - [08144, 51577, 00033, 01139]

WARD: All

**RESPONSIBLE
DIRECTOR:** Ms Glenda Blake
Governance and Strategy (Acting)

PURPOSE/EXECUTIVE SUMMARY

For Council to give consideration to the Local Government Reform Checklist prior to forwarding it to the Local Government Reform Steering Committee.

BACKGROUND

In February 2009, the Minister for Local Government; Heritage; Citizenship and Multicultural Interests, Mr John Castrilli, announced the State Government's package of Local Government reform strategies. These strategies were aimed at achieving greater capacity for Local Governments to better plan, manage and deliver services to their communities with a focus on social, environmental and economic sustainability.

The principal strategies are voluntary structural reform, with the main objective to reduce the number of local governments across the State, and reduce the total number of elected members to between six and nine.

The Minister established a Steering Committee to coordinate the review. The Steering Committee has issued a set of guidelines to assist local governments through the reform process. The first step in the process is to complete and submit the reform checklist by the end of April 2009.

A report providing an update on the Local Government Structural Reform was presented to Council at its meeting held on 17 March 2009 (Item CJ074-03/09 refers). At that meeting, Council resolved to:

- “1 *NOTE the progress report relating to Local Government Reform Strategies;*
- 2 *REQUEST that the Local Government Reform Checklist be submitted for consideration at the April 2009 Council meeting prior to forwarding to the Local Government Reform Steering Committee;*
- 3 *REQUEST that the CEO ascertains the views of other local governments and WALGA, in mounting a campaign to highlight the contribution of various government departments and agencies in adding to the delay in processing applications for various development approvals.”*

DETAILS

Issues and options considered:

The Minister has requested that the checklist be completed and returned to the Steering Committee by 30 April 2009. The checklist will be considered by the Local Government Reform Steering Committee.

Link to Strategic Plan:

This item has a general connection to the Strategic Plan.

Legislation – Statutory Provisions:

The Local Government Act 1995 sets out the requirements when a local government wishes to amend its boundaries and elected member representation and the role of the Local Government Advisory Board.

The language used in the guidelines is clearly voluntary. The Minister, through the CEO of the Department of Local Government and Regional Development (the Department), may require the City to provide the information requested in the Stage 1 of the checklist by exercising powers under section 8.2 of the Local Government Act 1995, but to date there is no suggestion that this power has been exercised.

On this basis, there does not appear any statutory obligation to complete and return the Local Government Reform Checklist, as requested in stage 1 of the guidelines, or to complete the tasks leading to the submission of a Reform Submission.

Risk Management considerations:

There are a number of risks involved if the Council does not comply with the guidelines:

- The CEO of the Department may request various information in accordance with section 8.2 of the Local Government Act 1995;
- Other Local Governments may undertake a review which may impact on the City of Joondalup without it being involved in the process.

- The State Government may through legislation undertake structural reform of local government.

Legal advice circulating within the industry has cautioned local governments if they choose not to undertake a review.

Financial/Budget Implications:

There are no specific budgetary funds to undertake the review, nor for any boundary adjustments. A major concern expressed by WALGA is the issue relating to who is responsible for the costs associated with any structural reform.

Policy Implications:

Not Applicable.

Regional Significance:

Structural reform has significant implications for the region.

Sustainability Implications:

It has been acknowledged through the industry via the SSS Report that the current structure of local government needs to be reviewed to ensure it is sustainable.

Consultation:

Not Applicable.

COMMENT

The checklist has been designed to provide Local Governments with the opportunity to assess their current situation in a number of key areas. The City has been able to respond favourably to the majority of questions and is well placed in terms of strategic planning, financial planning, asset management, organisational capacity, community consultation, community and political advocacy, planning for changing demographic needs, and natural resource management.

In May 2009, the Chief Executive Officer will submit to the Council a series of proposals on how matters outlined in Stages 2 - 4 , as outlined below, might be progressed:

Stage 2 April/May 2009	Stage 3 May/June 2009	Stage 4 June/July 2009
<ul style="list-style-type: none"> ▪ Project team established (2-3 members from each local government). ▪ Project team meets as required to determine preferred amalgamation structure. ▪ Project team to determine appropriate Elected Member representation and methods for ensuring appropriate community representation. ▪ Project team to consider local government regional grouping. ▪ Seek State Government funding assistance as necessary for preparing Reform Submissions. ▪ If required, consultant/facilitator engaged. ▪ Community consultation undertaken within each affected local government and comments recorded. 	<ul style="list-style-type: none"> ▪ Project team develops Reform Submission to include: <ul style="list-style-type: none"> ○ Preferred amalgamation structure or other types of boundary adjustments; ○ Number of elected members; and/or ○ Regional grouping; and ○ Transition timeline, including timeframe and estimated additional transition costs. 	<ul style="list-style-type: none"> ▪ Project team finalises Reform Submission and circulates to affected local governments. ▪ Each Council passes a resolution to proceed based on the findings of the Submission. ▪ Each Council agrees to identify a date the amalgamation is to take effect. ▪ Each Council is to agree to a date at which Elected Member numbers will be reduced.

ATTACHMENTS

Attachment 1 Local Government Reform Checklist 2009

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rosano, SECONDED Cr Young that Council:

- 1 **AUTHORISES** the Chief Executive Officer to forward the Local Government Reform Checklist 2009 forming Attachment 1 to Report CJ078-04/09 to the Local Government Reform Steering Committee;
- 2 **NOTES** that the Chief Executive Officer will submit a detailed report to the Council meeting to be held on 19 May 2009 on Stages 2 - 4 of the Timeframe for Reform Submissions to the Minister.

The Motion was Put and CARRIED (11/0) by En Bloc Resolution following consideration of Item CJ097-04/09, Page 144 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 18 refers

To access this attachment on electronic document, click here: [Attach18agn210409.pdf](#)

J079-04/09 LOCAL GOVERNMENT RATING – CITY OF JOONDALUP REPORT – [25453] [60514] [07125] [48084]

WARD: All

RESPONSIBLE DIRECTOR: Ms Glenda Blake
Governance and Strategy

PURPOSE / EXECUTIVE SUMMARY

To provide Council with a report in relation to rating systems.

The attached report outlines the City of Joondalup's current method of rating, as prescribed by legislation, and compares it to other methods utilised across Australia. Concepts of what constitutes 'equity' and 'fairness' have also been provided to assist in understanding the philosophical bases from which rating systems are developed.

It is requested that Council notes the attached report and agrees that it progresses to the WALGA North Metropolitan Zone Committee, in its current form, for the Committee's consideration.

BACKGROUND

At its meeting on 2 September 2008, Council resolved to:

“REQUEST a report from the Chief Executive Officer on opportunities to improve the rating system by lessening dramatic increases in valuations and creating a more equitable system.”

The City has since researched the matter and a report, *City of Joondalup: Rating Report*, has been drafted for Council's consideration (Attachment 1 refers).

DETAILS

Issues and Options Considered:

Attachment 1 describes the rating system used by local governments in Western Australia by comparing it to rating systems used elsewhere around the country. It also analyses: factors affecting Rates Charges; a comparison of Rates Charges across other metropolitan WA local governments; and provisions available for low-income ratepayers.

Alternative methods of rating discussed in the report include: Yearly Fees in the Rates Charge; rate-capping; two-component rating; charging a flat-rate; conducting annual property valuations; using the Unimproved Value as the basis for property valuations; using the Capital Improved Value as the basis of property valuations; and phasing-in property valuations.

Link to Strategic Plan:

Key Focus Area 1: Leadership and Governance
Objective 1.3: To Lead and Manage the City Effectively

Legislation – Statutory Provisions:

Building Regulations 1989
Health Act 1911
Local Government Act 1995
Local Government (Financial Management) Regulations 1996
Local Government (Miscellaneous Provisions) Act 1960
Rates and Charges (Rebates and Deferments) Act 1992
Valuation of Land Act 1978
Valuation of Land Regulations 1979

Risk Management Considerations:

Not Applicable.

Financial/Budget Implications:

Not Applicable.

Policy Implications:

Not Applicable.

Regional Significance:

Attachment 1 examines the rating system used in Western Australia, as prescribed by legislation, and compares it to other methods utilised across Australia. The comprehensive nature of the report may allow it to be used as a tool for other local governments and committees within the region to enhance understanding of rating systems and their implications for local communities.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

Attachment 1 discusses local government rating as it applies to the City of Joondalup. Although the Report was originally prepared for the consideration of Council only, the subject matter holds broad implications for all Western Australian local governments. As such, it is recommended that the Report be submitted to the WALGA North-Metropolitan Zone Committee Meeting for the Committee's consideration.

ATTACHMENTS

Attachment 1 City of Joondalup: Rating Report

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Corr, SECONDED Cr Young that Council:

- 1 **NOTES** the *City of Joondalup: Rating Report*, provided as Attachment 1 to Report CJ079-04/09;
- 2 **APPROVES** the *City of Joondalup: Rating Report*, provided as Attachment 1 to Report CJ079-04/09, to be presented to the WA Local Government Association North Metropolitan Zone Committee for its consideration.

Discussion ensued.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1brf140409.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Cr Trona Young
Item No/Subject	CJ080-04/09 - Edgewater Quarry Development - Report on Feedback from Community Consultation
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Young's sister-in-law is the president of the Northern Districts Cycling Club

**CJ080-04/09 EDGEWATER QUARRY DEVELOPMENT - REPORT
ON FEEDBACK FROM COMMUNITY
CONSULTATION – [37544]**

WARD: North Central

**RESPONSIBLE
DIRECTOR:** Mr Garry Hunt
 Chief Executive Officer

PURPOSE

To report to Council on the results of the Edgewater Quarry community consultation process and to recommend development options for inclusion in the concept plan for the site.

EXECUTIVE SUMMARY

The Edgewater Quarry site is one of the only remaining undeveloped recreation areas in the City. Covering 17 hectares, the size, location and visibility of the site abutting Joondalup Drive makes the site significant.

Since the 1970's there have been a number of proposals for the development of the Edgewater Quarry site. The most recent was received in 2007 from the Joondalup Combined Community Groups Association (JCCGA), also known as the Wheeled Sports Association, for the development of competition standard facilities that would meet the needs of all its represented groups.

In 2008, Council endorsed (CJ062-04/08 refers) a Master Planning process that would be applied to the Edgewater Quarry site. Since this time, Elected Members have provided input into the scope and direction of the project. In October 2008, community consultation was undertaken to determine the types of development options preferred at the site.

This report discusses the outcomes of the community consultation process and also considers the options for inclusion in concept plans for the Edgewater Quarry site.

It is recommended that Council:

- 1 *NOTES the findings of the community consultation process undertaken for the Edgewater Quarry Master Planning project;*
- 2 *REQUESTS the Chief Executive Officer to arrange for the development of a concept plan for the Edgewater Quarry site with the inclusion of the following facilities:*

- (a) *Native flora botanic garden that has linkages to the adventure playground;*
 - (b) *Highly visible and well shaded picnic, BBQ and large grassed areas that are linked to public toilet amenities;*
 - (c) *Dual use walking trails and bike paths that provide connection to the park facilities;*
 - (d) *Amphitheatre and greenroom facilities that can cater for theatre, music and dance productions, whilst minimising noise impact on nearby residents;*
 - (e) *Adventure playground that provides children with sensory and learning opportunities, caters for wheelchair access and is well shaded;*
 - (f) *Supporting infrastructure consisting of parking, lighting and a multipurpose facility that includes storage, hard stand area and can cater for kiosk/café and ticketing office.*
- 3 *NOTES that the concept plan will be developed to ensure minimal traffic and noise impact to residents residing in close proximity to the Edgewater Quarry site;*
- 4 *NOTES that the concept plan will consider the provision of commercial developments that add value to the intended use of the site, along Joondalup Drive*
- 5 *REQUESTS the CEO notify the Joondalup Combined Community Groups Association of the outcome of the Edgewater Quarry community consultation process.*

BACKGROUND

The Edgewater Quarry site is bounded by Joondalup Drive, Treetop Avenue, and Regatta Drive, Edgewater (attachment 1). The site covers an area 17.02 square hectares in total.

The site comprises three (3) “reserves” and one (1) freehold lot.

- Reserve 37229 – Crown Land – City of Joondalup Management Order. Classified as “Local Reserve” for the purpose of Park and Recreation.
- Reserve 37188 - Crown Land – City of Joondalup Management Order. Classified as “Local Reserve” for the purpose of Park and Recreation.
- Reserve 37120 - Crown Land – City of Joondalup Management Order. Classified as “Local Reserve” for the purpose of Park and Recreation.
- Lot 998 (100) Treetop Ave, Edgewater – owned by the City of Joondalup. Zoned Civic and Culture.

The quarry and associated cliffs present interesting topography and indicate some of the early history of the area where limestone was extracted for a variety of purposes. Along the top of the cliffs and adjacent to a local residential area are narrow strips of land up to 30 metres wide.

Since the 1970’s to the present day, there have been a number of proposals for more intensive development and in 1996, a survey of Edgewater residents revealed that the most favoured use was for passive recreation amenities.

In March 2001, Council considered a preliminary concept plan for the site to use for community consultation purposes. The 2001 concept plan incorporated a grassed picnic area, skate park, junior and advanced BMX tracks, a playground, car park and toilet facilities.

The natural bush zones to the north and south were to incorporate a mountain bike track, walk trails with lookouts at vantage points. The transition area – the 30 metres between residential dwellings and the top of the cliff – were to be extensively planted with native trees creating a buffer between passive natural bush areas and active recreation. Council approved the formation of a Quarry Park Development Committee to progress matters, but in May 2003, the Committee was disbanded.

At the beginning of 2007, the City received inquiries regarding the development of a wheeled sports facility at the Quarry site from the Joondalup Combined Community Groups Association (JCCGA). The JCCGA is seeking the development of the Edgewater Quarry site to include competition standard facilities that would meet the needs of all its represented groups. The JCCGA expressed a need for competition standard of facilities relevant to its representative groups. This group is commonly known as the Wheeled Sports Association and comprises of representatives from the following groups:

- Hand Cyclists
- Over 55 Cyclists
- Mountain Bike Cyclists
- BMX Cyclists
- Northern District Cycle Club
- North Coast Tri Club
- Skate WA
- Skate Bowl Competitors
- Track Cyclists
- Criterium Road Cyclists

In April 2008, Council endorsed (CJ062-04/08 refers) a Master Planning process that would be applied to the Edgewater Quarry site.

To date, the Elected Members have provided input into the scope and direction of the project through surveys and have also undertaken a tour of the site.

Community consultation for the Edgewater Quarry Master Plan Project commenced in October 2008, and this report presents the findings of the consultation process.

DETAILS

The consultation process was developed in line with the City's Public Participation Strategy. The aim of the consultation process was to ensure that the views of both local residents and those with a special interest in the site had an opportunity to participate.

A series of targeted groups were invited to participate in this consultation, including:

- Residents from Edgewater;
- Residents within a 1.5km radius from the site in the suburbs of Joondalup, Heathridge and Beldon;
- Representatives from local environmental groups;
- Representatives from local sport and recreation groups;
- Representatives from local resident associations;
- Joondalup Business Association;
- Department of Sport and Recreation;
- Indigenous people with connections to the site;
- Businesses within close proximity of the site along Joondalup Drive;
- Any other people with an expressed interest in the site.

To inform people of the consultation and invite their participation, letters which included frequently asked questions (FAQs) about the site and the consultation process, a survey and a reply paid envelope were sent out to over 3000 individuals, groups and organisations. Signs were erected on site and notices were placed in community newspapers, the City libraries and City of Joondalup Customer Service Centres. Information was also available on the City's website, together with a link to an electronic version of the survey and the FAQ document.

In the FAQs provided, stakeholders were advised of the purpose of the consultation, the location of the development site, some background on the site and information on who was being consulted. Further, a range of possible development options were also identified. Information on what would take place after the closing date for submissions was also provided.

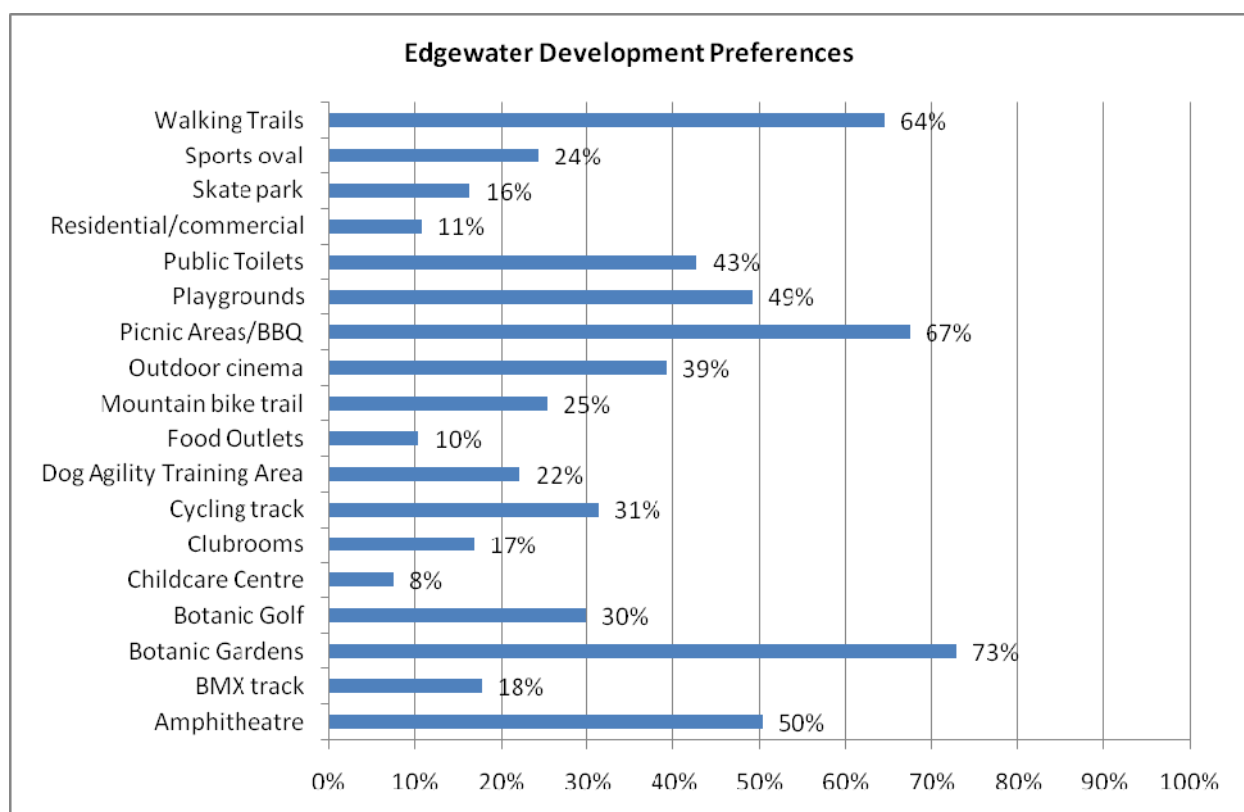
PUBLIC RESPONSE

The City received 1276 submissions from the public which represents a response rate of 38%. In general, a return rate of 20% is considered acceptable and valid. The majority of submissions were received from people identifying themselves as providing feedback for their own household (83.2%) followed by people identifying themselves as representatives or members of recreation or sporting groups (7.6%). Of the responses received from members of recreation or sporting groups, 40% were from clubs represented by the JCCGA.

Of the responses received 56.3% were from the suburb of Edgewater, with 22.3% residing in the suburbs of Beldon, Joondalup and Heathridge. People residing outside of the City represented 8.5% of the responses.

A summary of the responses has been provided overleaf which details the preferred development options from the different respondents of the survey.

SUMMARY OF FEEDBACK FROM EDGEWATER RESIDENTS



Development options supported and new ideas

The top four development options selected by Edgewater residents in order of preference included the botanic gardens (73%), picnic and barbeque areas (67%), walking trails (64%) and lastly an amphitheatre (50%). The feedback was consistent with an overall preference for the development of passive recreation facilities at the site.

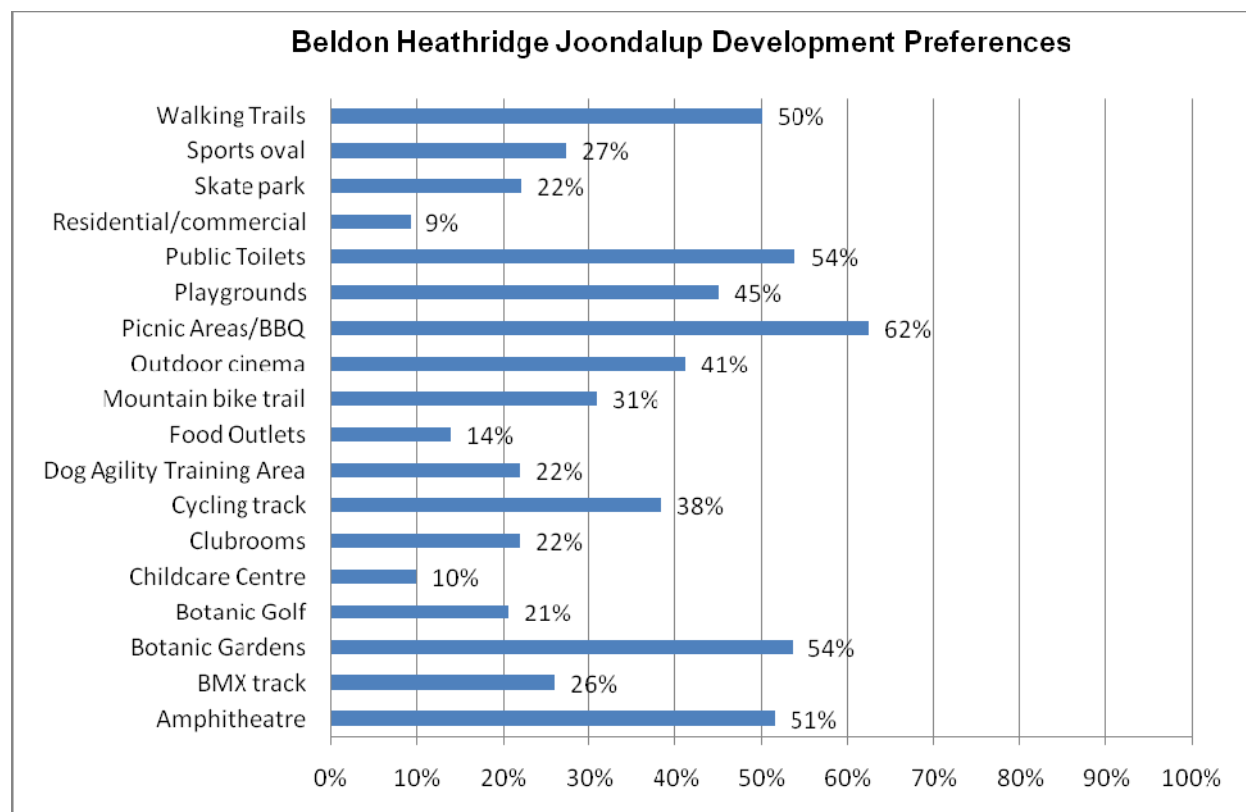
Comments from residents indicated a strong preference for the type of development that could be enjoyed by all ages, not one particular segment of the population. Some of the alternative development options listed in the feedback were sculpture park/trails, community gardens, farmers markets and environmental education activities with reference also being made to the park in Scenic Drive Wanneroo as the preferred model.

Development options not supported

Of the 458 people who took the opportunity to provide additional comments on the development options they would not support, 229 people objected to further commercial or residential development at the site. Their feedback indicates some level of concerns with growing urbanisation within the City of Joondalup. 134 people objected to the provision of food outlets, mostly on the assumption that such premises would be 'fast food' services and that there are already sufficient nearby.

BMX jumps/tracks and skate parks were highlighted by 77 Edgewater residents as development options they would not like to see at the site, due to the perception they are places likely to attract young people behaving badly.

FEEDBACK FROM BELDON, HEATHRIDGE AND JOONDALUP RESIDENTS



Development options supported and new ideas

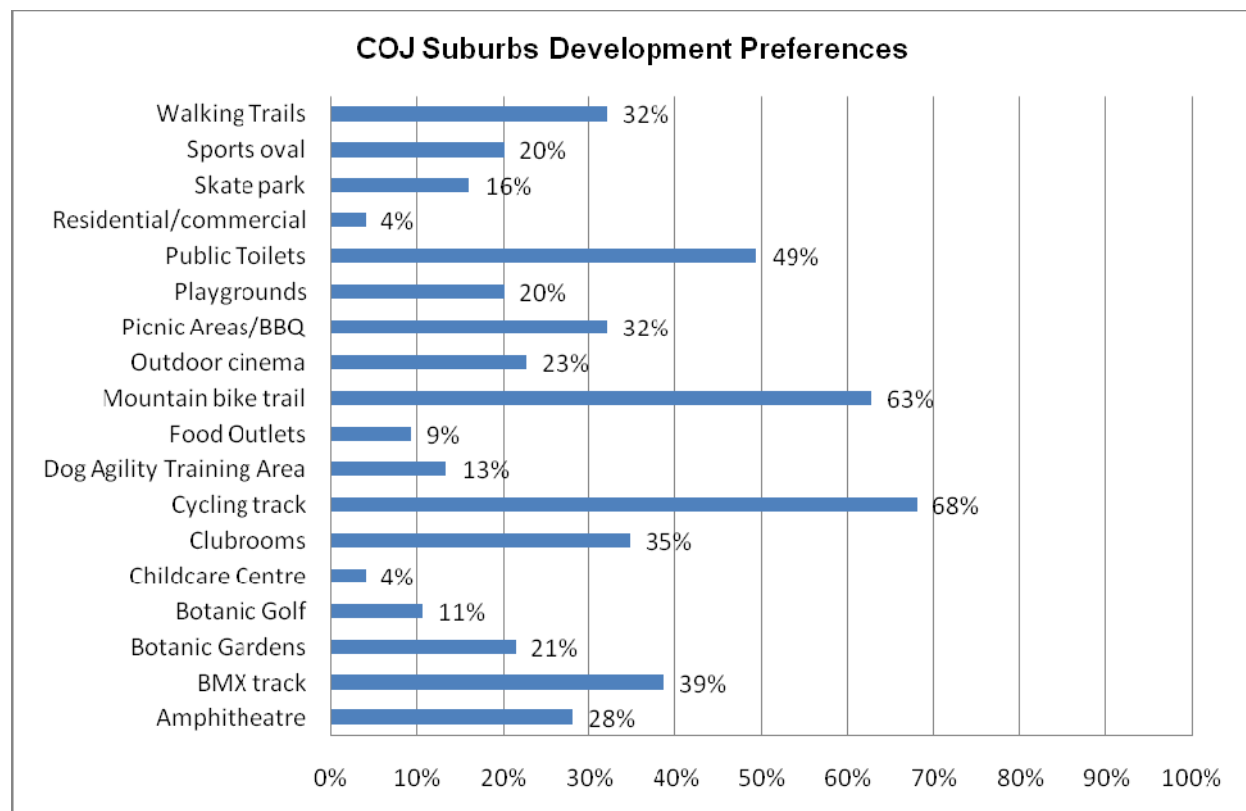
The types of development receiving the most support in order of preference were picnic/BBQ areas (62%), botanic gardens (54%) and public toilets (54%) and an amphitheatre (51%). The feedback received was consistent with the preferences of Edgewater residents.

With respect to new ideas, only 11 comments were provided on quite divergent areas, including a community centre, a velodrome, in-line speed skating facility, a running track, more parking to address traffic congestion at two local schools, public art and a golf course.

Development options not supported

Feedback was received from 115 people who did not support various aspects of development at the site. Of the 40 comments received most objected to residential/commercial development on the basis that there is enough, or too much of this type of development in the area already.

FEEDBACK FROM RESIDENTS OF OTHER CITY SUBURBS



Development options supported and new ideas

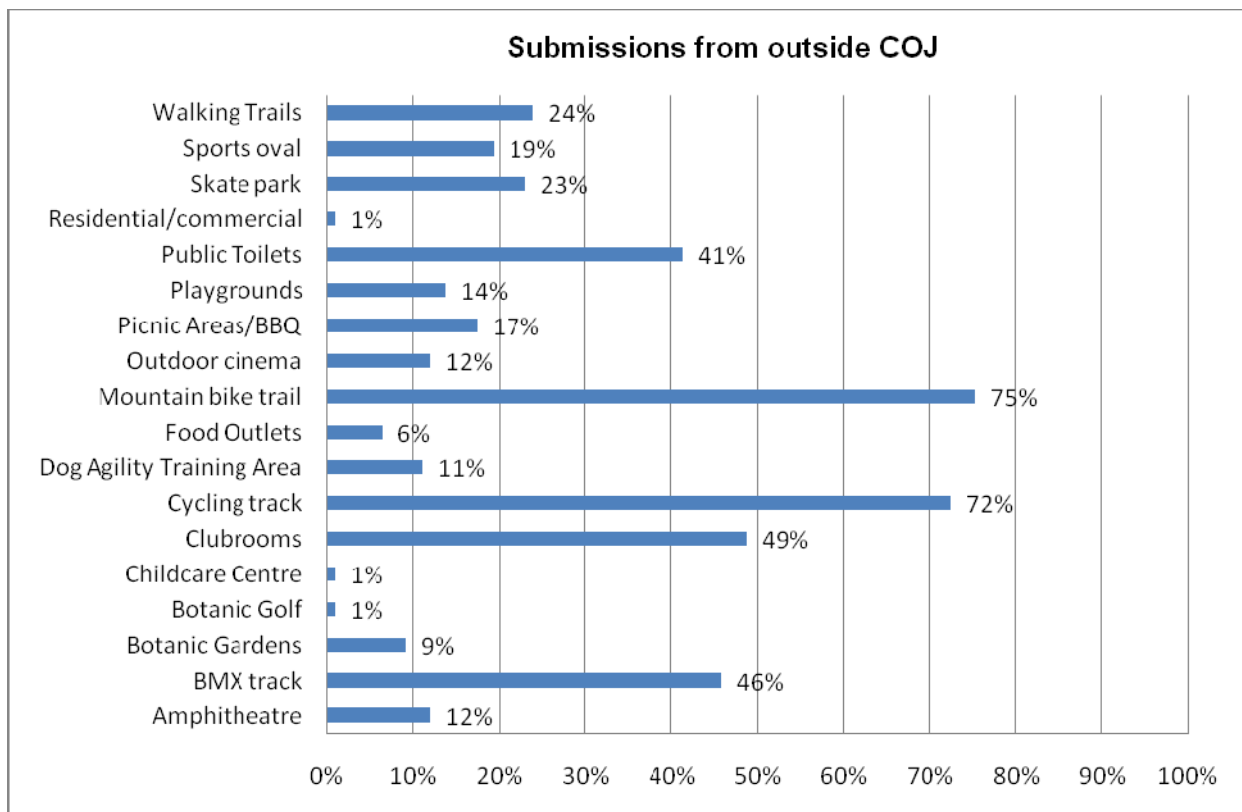
In order of preference, cycling tracks were the most supported option (68%), followed by mountain bike tracks (63%) and lastly public toilets (49%). The feedback received was significantly different to local residents, with a preference for active type facilities that supported cycling.

Three new ideas were put forward including that of a velodrome, an inline skating track and a combined wheeled sports facility that could meet the competitive needs of a variety of wheeled sports enthusiasts.

Development options not supported

17 comments were received on the development options that were not supported, with 8 focussed on residential/commercial developments. In general, they objected to further development of this nature as it was felt to be unnecessary given the growth of commercialism across Joondalup as a local authority.

FEEDBACK FROM PEOPLE OUTSIDE THE CITY OF JOONDALUP



Development options supported and new ideas

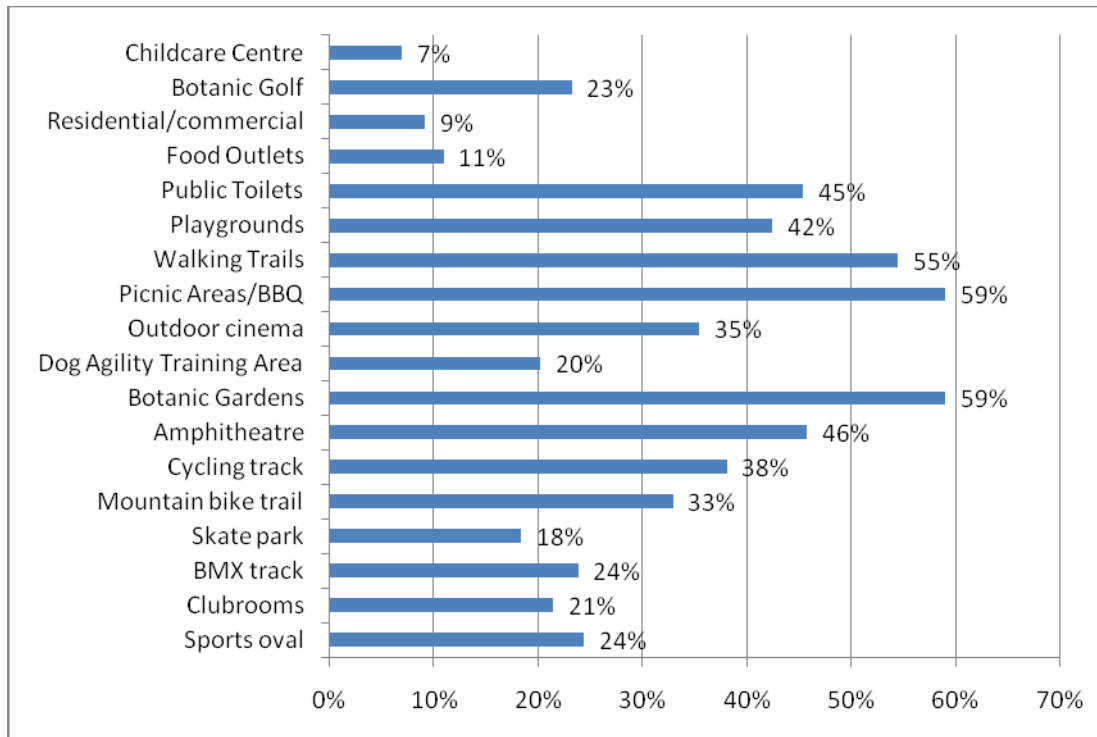
In order of preference, the development options were mountain bike track (75%), cycling track (72%), clubrooms (49%) and BMX track (46%). Given that approximately 50% of the 110 submissions received from people living outside the City were linked to a sporting or recreational group, and that most of the 13 comments received concerned 'wheeled sports', it can be deduced that there is considerable interest in Edgewater Quarry as a site suitable for a wheel sport facility.

Development options not supported

110 submissions were received from people living outside the City of Joondalup, with the least preferred options being those of residential/commercial, childcare and botanic golf (1% each).

AGGREGATE PREFERRED DEVELOPMENT OPTIONS ALL SUBMISSIONS

The table shows an aggregate of all responses for preferred development options for the Edgewater Quarry from 1276 submissions.



The top six development options in order of preference are botanic gardens and picnic areas (59%), followed by walking trails (55%), an amphitheatre (46%) public toilets (45%) and playgrounds (42%). The highest ranked active recreation facility was the cycling track, which received a response rate of 38% and was ranked 7th in preference. The least preferred options (under 10%) were for a childcare centre and residential/commercial development.

The overall results clearly demonstrate that passive development options have the most support and this is significantly reinforced by the residents of Edgewater. The closer to the site that people live, the more passive in nature they prefer any development of the Edgewater Quarry to be.

Issues and options considered:

Passive or active recreation use

Active recreation is defined as organised sport and recreation of a structured nature. Passive recreation is considered informal recreation that is less physical in nature. It is clearly indicated through the community consultation process, that passive recreation developments are the preferred options to be included in the development of the site. An analysis of the statistical information and the comments from submissions indicate that the closer people live to the site, the more likely they are to prefer a range of options for passive recreation.

The top six aggregated development options supported through the consultation process and how they can be incorporated in the development at Edgewater Quarry are outlined below.

Botanic garden

The development of a botanic garden at the Edgewater Quarry site was the most popular option receiving the most support. It is a passive development that could be integrated well into other options such as playgrounds and picnic areas. There is potential at the Edgewater Quarry site to develop a native flora botanic garden with educational opportunities through interpretive signage and maps. The design of the site could ensure that the botanic garden has linkages with children's play spaces and picnic areas, enhancing the community's use of the area.

Picnic Areas / BBQ's

Results derived from the community consultation show that picnic areas and BBQ facilities were the second most popular development option. The opportunity at the Edgewater Quarry site is to develop a large well shaded family picnic and BBQ area that is linked with other facilities such as the playground, botanic garden and Amphitheatre to create a community hub of activity.

Walking Trails

Walking trails ranked third in both the overall aggregated and Edgewater residents responses to the community feedback. There is potential for the Edgewater Quarry site to include dual use walking trails and bike paths that provide access to the site, linkages through the site to the facilities whilst providing passive recreation activity opportunities.

Amphitheatre

The development of an amphitheatre at the Edgewater Quarry site received good support from the community. The site's topography lends itself well to an amphitheatre with a number of limestone cliffs providing a potential backdrop and natural acoustic characteristics may assist in minimising noise overflow from the site.

The potential for the Edgewater Quarry site is to develop an amphitheatre and green room facility with a flexible design to allow for a variety of uses such as theatre, music and dance productions, outdoor cinema screenings and hosting large City run events such as the 'Summer in the City' music series. The key design principle for the site would be to ensure minimal noise impact to the surrounding residents. This would be addressed by undertaking an acoustic study of the site to determine the most appropriate location for the amphitheatre.

Playground

A playground development received good support from both the overall aggregated responses and Edgewater residents. A playground integrated with picnic areas, walking paths and a botanic garden provides the community with a family recreation area.

The Edgewater Quarry site provides the City with a unique opportunity to develop a well shaded adventure playground that provides children with sensory and learning opportunities and integrates wheel chair access and facilities. The design would include linkages to other park facilities such as picnic areas and the botanic garden.

Supporting Infrastructure

The development of the Edgewater Quarry site should consider the provision of adequate parking, lighting and a central multipurpose facility that can accommodate storage, host a café/kiosk, provide a hard stand/assembly area and could meet the needs of a ticketing booth for events held at the site. There is also a need for a large grassed area that can be used as an informal recreation area for activities associated with picnics such as family cricket, frisbee etc.

The inclusion of public toilets at the Edgewater Quarry development received good support from the feedback received in the community consultation. They would also be a necessary amenity for the park development. The opportunity at the Edgewater Quarry site is to provide public toilets that are visible, accessible and discourage antisocial behaviour. The design can also include environmental sustainability considerations such as solar lighting and water-saver taps and toilets.

Provision of wheeled sports facility

There was a level of support for a wheeled sports facility from the submissions received. However, the main support for this was from people living outside the City.

Criterion Track

A cycling (criterion) track was the highest ranked active sporting facility requested at the site. The cycling track received reasonable support both overall (ranked 7th) and from Edgewater residents (ranked 8th). A criterion cycling track is likely to be incompatible with the passive recreation nature that has been requested by the community for the site, due primarily to the high speed cycling activities that would occur on the track. Criterion cycling facilities will not be considered as part of the concept plans for the site.

Commercial development

Concerns about over-development or commercialisation of the Quarry are evident in the community feedback received. What is not clear from the community consultation is the perception about what a commercial development may look like or where it may be located. Interpretations from the community may have been related to a commercial development of the whole site or for the inclusion of multiple fast food outlets at the site.

There is an opportunity at the Edgewater Quarry to consider a small section of the site along Joondalup Drive for commercial purposes that add value to the intended use of the site, without detracting from the overall passive recreation nature of the development. A well designed commercial development could be included in an alternative concept plan with careful consideration given to its location and use. The development of the Edgewater Quarry site will require significant capital investment. The development of carefully integrated commercial development along the Joondalup Drive border of the site may provide the City with an opportunity to offset a significant portion of the cost required to develop the site.

Link to Strategic Plan:

The consultation process has been conducted in alignment with the Key Focus Area of Leadership and Governance and the following objectives and outcomes.

1.2 Objective: To engage proactively with the community.

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

Legislation – Statutory Provisions:

Not Applicable.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

There is currently \$46,600 remaining in the 08/09 budget for the Edgewater Quarry Master Planning project for the development of a concept plan.

Policy Implications:

Not Applicable.

Regional Significance:

Given the size and level of interest in the Edgewater Quarry site, the future developments will be of significant local and regional importance. The types of development options to be considered in the project would meet the needs of the local community and attract people living outside the region and tourists.

Sustainability Implications:

Any developments at the Edgewater Quarry site will consider and minimise impact to important flora and fauna in the area. Facilities will be planned to reduce the impact of the carbon footprint and consider environmental sustainability design features.

Consultation:

Detailed in the report.

COMMENT

The City received a significant response rate from the consultation undertaken for the Edgewater Quarry project. The high level of responses, mostly from people living closest to the site, indicates the importance of the site to the local and nearby residents and a strong level of interest in the eventual outcome of developing the area. Given the size and location of the site and the responses received from residents outside the City, Edgewater Quarry is considered to have significant local importance and regional appeal.

Currently within the City, there are very few recreation zoned undeveloped sites remaining. The City has a unique opportunity with the Edgewater Quarry site to develop a regional passive recreation area for the community. The size of the site would allow a number of facilities to be included in the development while preserving existing natural bush flora and fauna to be enjoyed by future generations. The preferred development options are considered appropriate for a regional passive recreation area and are strongly supported by the local community.

The concept plans for the Edgewater Quarry site will focus on minimising noise overflow and traffic congestion for nearby residents. Facility developments will consider environmental impacts for the site and long term environmentally sustainable development options. The concept plans will also consider how the construction of the site could be staged over a period of years. This option allows the development of the site to be limited to available budget funds whilst still delivering outcomes for the community.

Concept design development for the site links to Stage 3 of the City's Master Planning process. This stage will take approximately 10 months to complete, which includes developing concepts designs, undertaking community consultation and confirming the final design.

The development of concept plans for the Edgewater Quarry site will provide a clear outline of how the community's preferred development options can be included into the site and the likely costs associated with the development.

ATTACHMENTS

Attachment 1 Aerial of Edgewater Quarry site.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 NOTES the findings of the community consultation process undertaken for the Edgewater Quarry Master Planning project;
- 2 REQUESTS the Chief Executive Officer to arrange for the development of a concept plan for the Edgewater Quarry site with the inclusion of the following facilities:
 - (a) Native flora botanic garden that has linkages to the adventure playground;
 - (b) Highly visible and well shaded picnic, BBQ and large grassed areas that are linked to public toilet amenities;
 - (c) Dual use walking trails and bike paths that provide connection to the park facilities;
 - (d) Amphitheatre and greenroom facilities that can cater for theatre, music and dance productions, whilst minimising noise impact on nearby residents;
 - (e) Adventure playground that provides children with sensory and learning opportunities, caters for wheelchair access and is well shaded;
 - (f) Supporting infrastructure consisting of parking, lighting and a multipurpose facility that includes storage, hard stand area and can cater for kiosk/café and ticketing office;
- 3 NOTES that the concept plan will be developed to ensure minimal traffic and noise impact to residents residing in close proximity to the Edgewater Quarry site;

- 4 NOTES that the concept plan will consider the provision of commercial developments that add value to the intended use of the site, along Joondalup Drive;
- 5 REQUESTS the Chief Executive Officer to notify the Joondalup Combined Community Groups Association of the outcome of the Edgewater Quarry community consultation process.

MOVED Mayor Pickard, SECONDED Cr McLean that Council:

- 1 **NOTES the findings of the community consultation process undertaken for the Edgewater Quarry Master Planning project;**
- 2 **REQUESTS the Chief Executive Officer to arrange for the development of a concept plan for the Edgewater Quarry site with the inclusion of the following facilities:**
 - (a) **Native flora botanic garden that has linkages to the adventure playground;**
 - (b) **Highly visible and well shaded picnic, BBQ and large grassed areas that are linked to public toilet amenities;**
 - (c) **Dual use walking trails and bike paths that provide connection to the park facilities;**
 - (d) **Amphitheatre and greenroom facilities that can cater for theatre, music and dance productions, whilst minimising noise impact on nearby residents;**
 - (e) **Adventure playground that provides children with sensory and learning opportunities, caters for wheelchair access and is well shaded;**
 - (f) **Supporting infrastructure consisting of parking, lighting and a multipurpose facility that includes storage, hard stand area and can cater for kiosk/café and ticketing office;**
 - (g) **the restaurant and café node to complement the intended uses of the site;**
- 3 **NOTES that the concept plan will be developed to ensure minimal traffic and noise impact to residents residing in close proximity to the Edgewater Quarry site;**
- 4 **NOTES that the concept plan will consider the provision of commercial developments that add value to the intended use of the site, along Joondalup Drive;**
- 5 **REQUESTS the Chief Executive Officer to notify the Joondalup Combined Community Groups Association of the outcome of the Edgewater Quarry community consultation process.**

Discussion ensued.

MOVED Cr Young, **SECONDED** Cr Hart that this item be **REFERRED BACK** to the administration and a report presented to Council on the outcome of the Special Meeting of Electors.

The Procedural Motion was Put and

CARRIED (8/3)

In favour of the Procedural Motion: Crs Corr, Fishwick, Hart, Hollywood, Macdonald, Norman, Rosano and Young **Against the Procedural Motion:** Mayor Pickard, Crs Amphlett and McLean

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2brf140409.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Cr Tom McLean
Item No/Subject	CJ081-04/09 – Funding for the Small Business Centre (North West Metro) Inc
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr McLean is a member of the Small Business Centre Board and Treasurer

CJ081-04/09 FUNDING FOR THE SMALL BUSINESS CENTRE (NORTH WEST METRO) INC – [55469]

WARD: All

RESPONSIBLE ACTING DIRECTOR: Ms Glenda Blake
Governance and Strategy

PURPOSE

To consider funding support for the Small Business Centre (North West Metro) Inc.

EXECUTIVE SUMMARY

At its meeting of 27 February 2007, under item CJ005-02/07 Funding Support for the Small Business Centre (North West Metro) Inc (SBC), Council resolved as follows:

- “1 *NOTES the Annual Report submitted by the Small Business Centre (North West Metro) Inc. for the financial year July 2006 to June 2007;*
- 2 *ENDORSES the Small Business Centre Business Plan (1 July 2007 – 30 June 2010) submitted by the Small Business Centre (North West Metro) Inc forming Attachment 2 to Report CJ009-02/08;*
- 3 *AGREES to contribute \$55,000 net GST to the Small Business Centre (North West Metro) Inc. for the 2007/08 financial year to support small business development within the City of Joondalup, subject to an annual review in accordance with the approved business plan;*

- 4 *REQUIRES the Small Business Centre (North West Metro) Inc. to submit annual reviews of its achievements against the Business Plan for the 2007/08, 2008/09 and 2009/10 financial years;*
- 5 *AGREES to contribute funding to the Small Business Centre (North West Metro) Inc. for the 2008/09 and 2009/10 financial years SUBJECT to an annual review to the Chief Executive Officer's satisfaction. Assuming satisfaction the funding for 2008/09 will be \$55,000 net GST plus CPI (for 2007/08) and for 2009/10 will be the 2008/09 amount plus CPI (for 2008/09);*
- 6 *REQUIRES the Small Business Centre to recognise the sponsorship of the City of Joondalup, City of Wanneroo and the Small Business Development Centre on all of its marketing documentation."*

In light of these resolutions, the Small Business Centre (SBC) is now seeking funding support from Council for the current financial year (2008/09).

BACKGROUND

The City entered into an agreement in February 2007 to provide funding for three years to the SBC. In line with this agreement, the SBC has requested payment of its grant for the current financial year 2008/2009.

The Agreement is subject to annual reviews that demonstrate the performance of the Centre in accordance with the Centre's Business Plan to the satisfaction of the Chief Executive Officer.

The City of Wanneroo has also signed an agreement with the SBC to provide funding for three years.

Each of the Cities has agreed to contribute \$55,000 per year (CPI adjusted) through until 2009/10. The SBC also receives funding from the State Government through the Small Business Development Centre, and, the Cities of Wanneroo and Joondalup are supporting the State Government's contribution by providing a combined cash funding component of \$110,000 for the Centre.

DETAILS

Issues and options considered:

As a result of the SBC's Annual Report for the period 1 July 2007 to 30 June 2008, the City noted a budget surplus of \$72,702. With the additional surplus of \$63,257 from the previous year, the total accumulated funds have been significant. Furthermore, with the departure of the most recent Centre manager, it was considered likely that this surplus of funds would continue to increase during the current financial year.

In its letter of 14 February 2009, the SBC has formally written to the City requesting funds for this financial year. In this letter, the SBC has sought to explain the underspend and to highlight an approach moving forward.

In considering the SBC's request for funding, there are two variations from the original agreement with the City that warrant consideration:

1 Proposal to modify structure of the organisation

With the surplus of funds available, the SBC proposes to recruit an additional Client Coordinator who would perform the following duties:

- Undertake client follow-ups
- Provide additional support for the manager and facilitator
- In time, to take on short duration visits to free up current staff to deal with more complex client interviews

The SBC has assured the City that the funding surplus will allow this staff member to be supported without any further increase to the City's funding contribution in future years.

2 Budget

Much of the underspend of the SBC has arisen due to staff vacancies and lower than expected expenditure in several other areas such as marketing. The main differences include:

- Marketing actual 2007/08: \$4,115 (budgeted \$20,000)
- Staff Costs actual 2007/08: \$134,790 (budgeted \$161,200)
- Travel costs actual 2007/08: \$1,331 (budgeted \$5,200)

In addition a significant allowance was made in the original budgets for GST on sales (\$30,978), but this has not materialised.

Key Performance Indicators

For the year ending 30 June 2008, the SBC achieved the following outcomes compared to the performance targets contained within the agreement with the City.

Session Type	CoJ Agreed Target 2007-08	Actual 2007-08	% Achieved against target
Client Sessions New Businesses(30 min +)	430	356	83%
Client Sessions Existing Businesses(30 min +)	95	120	126%
Short Duration Sessions New + Existing (<30 Min)	525	760	145%
New Business Start-ups	125	75	60%
Full-time Employees	166	119	72%
Part-time Employees	60	92	153%
Workshop Participants	120	75	63%

For the current financial year, up until March 2009, the following statistics have been provided:

Session Type	CoJ Target 2008-09	SBDC Target 2008-09	Actual to Feb 09	% Achieved against CoJ target
Client Sessions New Businesses (30 min +)	451	408	247	55%
Client Sessions Existing Businesses(30 min +)	100	300	184	184%
Short Duration Sessions New + Existing (<30 Min)	551	1008	752	136%
New Business Start-ups	131	84	92	70%
Full-time and part-time Employees	174	204	282	119%
Workshops Participants	126	144	98	78%

The achievements of the SBC to date seem broadly in line with the targets and in many instances the targets set by the City have been exceeded. The key indicator of new start ups has been lower than expected.

Link to Strategic Plan:

Objective: 3.2 To increase employment opportunities within the City

Strategy 3.2.1 The City supports local businesses in their activities

Legislation – Statutory Provisions:

Not Applicable.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

The City has \$57,750 listed in the approved Budget for 2008/09 under:

Account No:	1-532.A53202.5399.00
Budget Item:	SBC Funding
Budget Amount:	\$57,500
YTD Amount:	\$0
Actual Cost:	\$57,500

Policy Implications:

Not Applicable.

Regional Significance:

The service represents a strategic partnership for the delivery of business support services for the North West Metropolitan region. By partnering with the City of Wanneroo and the State Government the City has been able to maximise the services available for small business across the region that will ultimately provide flow-on benefits for the whole community.

Sustainability Implications:

The business support service offered by the SBC enhances the economic sustainability of the region.

Consultation:

Not Applicable.

COMMENT

The performance of the SBC to date is considered reasonably in line with expectations. The main issues are likely to have been caused by the turnover in staff within the organisation (the SBC is currently on its third manager and second facilitator since the Agreement commenced).

Given the instability of the staff in the organisation, the performance that is being achieved is satisfactory. The net results have been that in the financial year to June 2008, 119 full-time jobs were created in the region, along with 92 part-time jobs. In the current year, 282 (full-time and part-time) jobs have been created so far. Given the performance achieved so far in the current financial year, it is likely that the SBC will meet its targets and in many instances has already exceeded the targets set by the City.

The budget surplus is explained by the savings made in other areas such as marketing and staff costs. With the use of a large proportion of these funds to support an additional staff member, the organisation is likely to improve its performance further. In addition, the use of the remaining surplus funds from previous years to cover the need for the SBC to hold a reserve fund of \$60,000 to cover costs whilst waiting for funding to be approved seems reasonable.

The SBC's connection with the small business community provides the City with an opportunity to support local businesses through the funding provided and to realise some of the objectives of the Economic Development Plan in terms of supporting the establishment of new small businesses, the growth of existing small businesses, and the growth of local employment opportunities.

Given the current economic climate, the work of the SBC is helping to minimise job losses and assist in creating new employment opportunities.

ATTACHMENTS

Attachment 1 Small Business Centre (North Metro) Inc Annual Report 2007/08

VOTING REQUIREMENTS

Simple Majority

MOVED Cr McLean, SECONDED Cr Young that Council:

- 1 **NOTES** the Annual Report submitted by the Small Business Centre (North West Metro) Inc. for the financial year July 2007 to June 2008 forming Attachment 1 to Report CJ081-04/09;
- 2 **AGREES** to contribute \$56,925 net GST plus CPI to the Small Business Centre (North West Metro) Inc. for the 2008/09 financial year to support small business development within the City of Joondalup.

Discussion ensued.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 3 refers

To access this attachment on electronic document, click here: [Attach3brf140409.pdf](#)

CJ082-04/09 LIST OF PAYMENTS MADE DURING THE MONTH OF FEBRUARY 2009 – [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 February 2009 to note.

EXECUTIVE SUMMARY

This report presents the list of payments made under delegated authority during the month of February 2009 totalling \$8,902,684.64

It is recommended that Council NOTES the CEO's list of accounts for February 2009 paid under delegated authority in accordance with regulation 13 (1) of the Local Government (Financial Management) Regulations in Attachments A, B and C to Report CJ082-04/09, totalling \$8,902,684.64.

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 February 2009. 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	Cheques 83421 - 83593 and EF 4560 - 5192 Net of cancelled payments	\$5,935,091.29
	Vouchers 507A - 508A & 511A - 515A	\$2,949,178.80
Trust Account	Cheques 202608 - 202644 Net of cancelled payments	\$18,414.55
Total		\$8,902,684.64

Issues and Options Considered:

Not Applicable.

Link to Strategic Plan:

- 1.1 To ensure that the processes of Local Governance are carried out in a manner that is ethical, transparent and accountable.

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 2008/9 Annual Budget as adopted by Council at its meeting of 22 July 2008 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:

Not Applicable.

COMMENT

All Municipal Fund expenditure included in the list of payments is in accordance with the 2008/9 Annual Budget as adopted by Council at its meeting of 22 July 2008 or has been authorised in advance by Council where applicable.

ATTACHMENTS

Attachment A CEO's Delegated Municipal Payment List for the month of February 2009
Attachment B CEO's Delegated Trust Payment List for the month of February 2009
Attachment C Municipal and Trust Fund Vouchers for the month of February 2009

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rosano, **SECONDED** Cr Young that Council **NOTES** the CEO's list of accounts for February 2009 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 Report CJ082-04/09, totalling \$8,902,684.64.

The Motion was Put and **CARRIED (11/0)** by En Bloc Resolution following consideration of Item CJ097-04/09, Page 144 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4brf140409.pdf](#)

CJ083-04/09 FINANCIAL ACTIVITY STATEMENT FOR THE PERIOD ENDED 28 FEBRUARY 2009 – [07882]

WARD: All
RESPONSIBLE DIRECTOR: Mr Mike Tidy
Corporate Services

PURPOSE

The February 2009 Financial Activity Statement is submitted to Council to be noted.

EXECUTIVE SUMMARY

The February 2009 year to date report shows an overall increase in surplus from operations and capital of \$9,433K when compared to the 2008-2009 adopted budget (JSC3 -07/08).

The City has subsequently completed its mid year review which was adopted by Council at its March 2009 meeting. All of the figures in this report reflect an assessment against the original adopted budget prior to the mid year review and were correct at the time that they were determined.

This variance can be summarised as follows:

- The **Operating** surplus is \$716K above budget made up of higher Revenue of \$96K and lower operating expenditure of \$620K.

Revenue was below budget from Fees & Charges by \$(938)K and above budget by \$507K from Investment Earnings and \$435k from Rates.

The main cause of Revenue falling below the budget on Fees and Charges was the delayed implementation of Paid Parking within the City Centre.

The operating expenditure variance arose principally from underspending on Materials and Contracts of \$773K, mainly in Plant, Furniture and Equipment \$436K and delays in Waste Management Services \$212K.

Further details of the operating variances are contained in the notes attached to this report.

- The **Capital Revenue and Expenditure** deficit is \$8,444K below budget made up of a surplus of Revenue of \$1,593K and under expenditure of \$6,851K.

The Revenue variance was mainly due to higher Capital Grants and Subsidies which included additional funding for the Burns Beach Road – East and West project \$1,600K.

Capital Expenditure on projects and works was lower than expected in the budget by \$5,478K and Vehicle and Plant replacements \$1,251K, mainly due to delays in works schedules and extended replacement period for the light vehicles.

Further details of the capital variances are contained in the notes attached to this report.

It is recommended that Council NOTES the Financial Activity Statement for the period ended 28 February 2009.

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 28 February 2009 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 2008-09 Annual Budget or have been authorised in advance by Council where applicable.

ATTACHMENTS

Attachment A Financial Activity Statement for the period ended 28 February 2009.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rosano, SECONDED Cr Young that Council NOTES the Financial Activity Statement for the period ended 28 February 2009 forming Attachment A to Report CJ083-04/09.

The Motion was Put and CARRIED (11/0) by En Bloc Resolution following consideration of Item CJ097-04/09, Page 144 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 5 refers

To access this attachment on electronic document, click here: [Attach5brf140409.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Cr Kerry Hollywood
Item No/Subject	CJ084-04/09 – Tender 004/09 Construction of Dual Carriageway – Connolly Drive
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Hollywood's husband and the owner of Ertech Pty Ltd are both members of a social group.

CJ084-04/09 TENDER 004/09 CONSTRUCTION OF A DUAL CARRIAGEWAY – CONNOLLY DRIVE – [50625]

WARD: North

RESPONSIBLE DIRECTOR: Mr Mike Tidy
Corporate Services

PURPOSE

This report is to seek the approval of Council to accept the Tender submitted by Ertech Pty Ltd for the Construction of a Dual Carriageway on Connolly Drive (Tender 004/09).

EXECUTIVE SUMMARY

Tenders were advertised on 21 February 2009 through state wide public notice for the Construction of a Dual Carriageway on Connolly Drive. Tenders closed on 10 March 2009. Nine (9) Submissions were received from:

- Brierty Limited;
- Downer EDI Works Pty Ltd;
- Ertech Pty Ltd;
- Griffin Civil;
- Industrial Roadpavers (WA) Pty Ltd;
- Malavoca;
- Riverlea Corporation Pty Ltd;
- R.J. Vincent & Co; and
- Tasman Civil Pty Ltd.

The submission from Ertech Pty Ltd represents best value to the City. Ertech is a well established company with demonstrated capacity, skills and experience in the construction of roads in Western Australia and submitted the lowest priced offer. The company is well equipped and has accredited Quality Management System to ISO9001, Environmental Management System to AS14001 and OH&S Management System to AS4801.

It is recommended that Council ACCEPTS the Tender submitted by Ertech Pty Ltd for the Construction of a Dual Carriageway on Connolly Drive in accordance with the statement of requirements as specified in Tender 004/09 for the fixed lump sum of \$2,396,069.96 (GST Exclusive) for completion of the works within twenty-four (24) weeks from issue of the letter of acceptance.

BACKGROUND

The duplication of Connolly Drive from Burns Beach Road to McNaughton Crescent is part of the City's major road network maintenance associated with the Mitchell Freeway extension to Burns Beach Road, which was completed in the later part of 2008.

DETAILS

Tenders were advertised on 21 February 2009 through state wide public notice for the Construction of a Dual Carriageway on Connolly Drive. Tenders closed on 10 March 2009. Nine (9) Submissions were received from:

- Brierty Limited;
- Downer EDI Works Pty Ltd;
- Ertech Pty Ltd;
- Griffin Civil;
- Industrial Roadpavers (WA) Pty Ltd;
- Malavoca;
- Riverlea Corporation Pty Ltd;
- R.J. Vincent & Co; and
- Tasman Civil Pty Ltd.

Evaluation Criteria

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

Qualitative Criteria		Weighting
1	Capacity	50%
2	Demonstrated Understanding of the Required Tasks	25%
3	Demonstrated experience in completing similar projects	20%
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.

Tender Submissions

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

This Contract is for a fixed lump sum with completion of the works within twenty-four (24) weeks from issue of the letter of acceptance.

Evaluation Summary

Respondent	Evaluation Score	Price	Price Rank
Ertech Pty Ltd	97%	\$2,396,069.96	1
Industrial Roadpavers (WA) Pty Ltd	61%	\$2,493,257.43	2
Tasman Civil Pty Ltd	73%	\$2,507,734.20	3
Brierty Limited	73%	\$2,513,179.40	4
Malavoca	76%	\$2,622,681.71	5
R.J. Vincent & Co	80%	\$2,777,731.28	6
Downer EDI Works Pty Ltd	78%	\$2,799,996.06	7
Griffin Civil	78%	\$2,814,864.22	8
Riverlea Corporation Pty Ltd	56%	\$3,616,252.94	9

Industrial Roadpavers (WA) Pty Ltd scored a low qualitative assessment because it did not address the qualitative criteria while Riverlea Corporation Pty Ltd also scored low due to limited information in its submission. All of the other tenderers other than Ertech Pty Ltd scored between 73% and 80% and demonstrated capability to undertake the works and addressed the criteria.

Ertech Pty Ltd's submission, however, scored the highest as it was the most comprehensive response which best demonstrated its capability to do the work tendered at the lowest risk to the City. The company is well equipped and holds a large inventory of modern plant and equipment. Its workshops, equipment storage areas and major support facilities are located locally at its Wangara site, enabling rapid response to any requirement. Ertech has accredited Quality Management System to ISO9001, Environmental Management System to AS14001 and OH&S Management System to AS4801. Ertech Pty Ltd was also the lowest priced offer received.

The quality assessment of other tenderers varied as summarised in Attachment 1 and their tendered price exceeded that of Ertech to varying degree.

Issues and options considered:

The City requires the construction of a dual carriageway on Connolly Drive, between Burns Beach Road and MacNaughton Crescent. The Connolly Drive Duplication is programmed to be completed by September 2009.

Link to Strategic Plan:

4. The Built Environment

Objective 4.2 To progress a range of innovative and high quality urban development projects within the City

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

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 it is a Government Funded Project, and is part of the City's major road network and critical to alleviate increased traffic congestion, associated with the Mitchell Freeway extension to Burns Beach Road.

It is considered that the Contract will represent a low risk to the City as the recommended Respondent is a very well established company with significant industry experience and the capacity to undertake the work for the City.

Financial/Budget Implications:

Current Year Budget Allocation for this Contract	Projected Expenditure on these Services to 30 June 2009	Projected Expenditure on these Services in first 12 Months of Contract if Accepted	Projected Expenditure on these Services over the Life of the Contract if Accepted
\$3,630,000.00	\$46,010.40	\$2,396,069.96	\$2,396,069.96 (Total)

This project is funded by the State Government.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

The Offer representing best value to the City is that as submitted by Ertech Pty Ltd who scored the highest qualitative assessment at 97% and was the lowest priced offer received. Ertech has accredited Quality Management System to ISO9001, Environmental Management System to AS14001 and OH&S Management System to AS4801.

In light of the value of the tender proposed compared to the budget, complementary works such as safety and security measures in the underpass, improved lighting and landscaping will be assessed for inclusion in the project.

ATTACHMENTS

Attachment 1 Summary of Tender Submissions

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council ACCEPTS the Tender submitted by Ertech Pty Ltd for the Construction of a Dual Carriageway on Connolly Drive in accordance with the statement of requirements as specified in Tender 004/09 for the fixed sump sum of \$2,396,069.96 (GST Exclusive) for completion of the works within twenty-four (24) weeks from issue of the letter of acceptance.

MOVED Cr McLean, SECONDED Cr Hollywood that Council:

- 1 ACCEPTS the Tender submitted by Ertech Pty Ltd for the Construction of a Dual Carriageway on Connolly Drive in accordance with the statement of requirements as specified in Tender 004/09 for the fixed sump sum of \$2,396,069.96 (GST Exclusive) for completion of the works within twenty-four (24) weeks from issue of the letter of acceptance;**
- 2 REQUESTS the City to prepare plans and costings for Council consideration for the provision of improved landscaping and secure pedestrian facilities to be included in the Connolly Drive project between Burns Beach Road and McNaughton Crescent.**

Discussion ensued.

AMENDMENT MOVED Cr Norman, SECONDED Cr Rosano that Point 2 of the Motion be amended by the inclusion after the words "...secure pedestrian" of the words "...and cycling ...".

The Amendment was Put and

CARRIED (11/0)

In favour of the Amendment: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

The Original Motion, as amended, being:

That Council:

- 1 ACCEPTS the Tender submitted by Ertech Pty Ltd for the Construction of a Dual Carriageway on Connolly Drive in accordance with the statement of requirements as specified in Tender 004/09 for the fixed sump sum of \$2,396,069.96 (GST Exclusive) for completion of the works within twenty-four (24) weeks from issue of the letter of acceptance;**

- 2 REQUESTS the City to prepare plans and costings for Council consideration for the provision of improved landscaping and secure pedestrian and cycling facilities to be included in the Connolly Drive project between Burns Beach Road and McNaughton Crescent.**

Was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 6 refers

To access this attachment on electronic document, click here: [Attach6brf140409.pdf](#)

CJ085-04/09 TENDER 007/09 FOR THE SUPPLY AND DELIVERY OF MOBILE GARBAGE BINS – [70625]

WARD: All

RESPONSIBLE DIRECTOR: Mr Mike Tidy
Corporate Services

PURPOSE

This report is to seek the approval of Council to accept the Tender submitted by G.C. Sales WA for the Supply and Delivery of Mobile Garbage Bins (Tender 007/09).

EXECUTIVE SUMMARY

Tenders were advertised on 14 February 2009 through state wide public notice for the Supply and Delivery of Mobile Garbage Bins. Tenders closed on 4 March 2009. Three (3) Submissions were received from:

- G.C. Sales WA;
- Otto Environmental Systems Pty Ltd; and
- Sulo MGB Australia Pty Ltd.

The submission from G.C. Sales WA represents best value to the City. It submitted the lowest priced offer and demonstrated capacity and experience in completing many similar projects for a total of 86 local governments including Towns and Shires across WA, as well as numerous large private waste contractors serving the mining and other private industry sectors.

It is recommended that Council ACCEPTS the Tender submitted by G.C. Sales WA for the Supply and Delivery of Mobile Garbage Bins for a three (3) year period with a further one-year optional extension in accordance with the statement of requirements as specified in Tender 007/09 at the submitted schedule of rates.

BACKGROUND

The City requires approximately 4,500 Mobile Garbage Bins (MGBs) per year to meet the requirements of the community. The Contractor supplies the MGBs unassembled along with associated spare parts which are delivered to the City of Wanneroo Works Depot. The City

of Wanneroo provides the City of Joondalup with logistical and maintenance services to assemble and deliver new and repair existing MGBs throughout the City of Joondalup.

The City currently has a contract for the supply and delivery of MGBs with David Gray & Co Pty Ltd, which is due to expire on 6 May 2009. They are the WA representative of Sulo MGB Australia Pty Ltd.

DETAILS

Tenders were advertised on 14 February 2009 through state wide public notice for the Supply and Delivery of Mobile Garbage Bins. Tenders closed on 4 March 2009. Three (3) Submissions were received from:

- G.C. Sales WA;
- Otto Environmental Systems Pty Ltd; and
- Sulo MGB Australia Pty Ltd.

Evaluation Criteria

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

Qualitative Criteria		Weighting
1	Capacity	50%
2	Demonstrated understanding of the required tasks	25%
3	Demonstrated experience in completing similar projects	20%
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.

Tender Submissions

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

To provide an indication of estimated expenditure (including the option for an additional one (1) year extension) throughout the Contract period, based on the projected quantity of bins and associated spare parts and incorporating a price escalation based on the current 3.7% CPI (All Groups in Perth), the table below provides a comparison of the estimated total expenditure over the Contract period.

Contract Period	Respondent		
	G.C. Sales WA	Otto Environmental Systems Pty Ltd	Sulo MGB Australia Pty Ltd
Three (3) years plus one (1) year extension.	\$598,881.99	\$679,891.97	\$618,043.26
Total four (4) years.			

Evaluation Summary

Respondent	Evaluation Score	Price	Qualitative Rank
G.C. Sales WA	84%	\$598,881.99	1
Sulo MGB Australia Pty Ltd	71%	\$618,043.26	2
Otto Environmental Systems Pty Ltd	67%	\$679,891.97	3

Otto Environmental Systems Pty Ltd scored the lowest qualitative assessment and submitted the highest priced offer. Sulo MGB Australia Pty Ltd scored the second lowest qualitative assessment and submitted the second highest priced offer and only offered a reduced warranty period for the bins and spare parts.

Refer to Attachment 1 for a summary of tendered submissions.

G.C. Sales WA scored the highest at 84% for its qualitative assessment and was the lowest priced offer received. It is a major player in the industry for the past 25 years and the company demonstrated a detailed understanding of the required tasks and has the capacity, experience and local logistical resources to undertake the requirements. G.C. Sales WA has in the past completed many similar projects for a total of 86 local governments including Towns and Shires across WA, as well as numerous large private waste contractors serving the mining and other private industry sectors.

The quality assessment of other tenderers varied as summarised in Attachment 1 and their tendered prices exceeded that of G.C Sales WA.

Issues and options considered:

The City provides a rubbish/recycling service to its residents and the service includes the provision of bins to the residents for their use. The bins remain the property of the City. A maintenance and replacement service is provided to extend the life of bins, however, from time to time the bins need replacement and this requirement is for the replacement of bins.

Link to Strategic Plan:

- 2. The Natural Environment.
- Objective 2.1 To ensure that the City's natural environmental assets are preserved, rehabilitated and maintained.
- Strategy 2.1.6 The City implements strategies and projects that reduce the amount of waste which requires disposal.

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 will not be able to maintain its rubbish and recycling service, and will be in breach of Health requirements, without the provision of bins to its residents.

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 the capacity to provide the goods to the City.

Financial/Budget Implications:

Current Year Budget Allocation for this Contract	Projected Expenditure on these Services from 1 July 2008 to 30 June 2009	Projected Expenditure on these Services in first 12 Months of Contract if Accepted	Projected Expenditure on these Services over the Life of the Contract if Accepted
\$128,000.00 (estimated amount only)	\$71,928.00 (current Contract to date) (No expenditure expected on new contract to 30 June 2009)	\$141,662.50	\$598,881.99

The projected expenditure to June 2009 is below budget as sufficient stock ordered late in last financial year is expected to cover the demand until June 2009.

The new rate per bin under the recommended tenderer has been reduced by approximately 5% from the previous contract. While there is sufficient funding within the current 2008/09 budget provision to meet the requirement of this tender it is expected that the budget requirement in subsequent years of the Contract will be greater, due in the main to the increasing numbers of bins that need to be replaced.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

The mobile garbage bins to be provided by G.C. Sales WA will incorporate up to 30% of recycled material.

Consultation:

Not Applicable.

COMMENT

The Offer representing best value to the City is that as submitted by G.C. Sales WA who scored the highest at 84% for its qualitative assessment and was the lowest priced offer received.

G.C. Sales WA demonstrated a detailed understanding of the required tasks, has the capacity, experience and logistical resources to undertake the requirements, and has completed many similar projects for a total of 86 local governments including Towns and Shires across WA.

ATTACHMENTS

Attachment 1 Summary of Tender Submissions

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Norman, SECONDED Cr Rosano that Council ACCEPTS the Tender submitted by G.C. Sales WA for the Supply and Delivery of Mobile Garbage Bins for a three (3) year period with a further one-year optional extension in accordance with the statement of requirements as specified in Tender 007/09 at the submitted schedule of rates.

Discussion ensued.

Information will be provided to Elected Members as to where the bins were being manufactured.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 7 refers

To access this attachment on electronic document, click here: [Attach7brf140409.pdf](#)

Disclosure of Financial Interests

Name/Position	Cr Michele Rosano
Item No/Subject	CJ086-04/09 – Underground Power West Coast Drive
Nature of interest	Financial Interest
Extent of Interest	Cr Rosano resides in the survey area

Cr Rosano left the Chamber, the time being 2018 hrs.

CJ086-04/09 UNDERGROUND POWER WEST COAST DRIVE – [06527] [08069]

WARD: South and South-West

RESPONSIBLE DIRECTOR: Mr Martyn Glover
Infrastructure Services

PURPOSE

To report to Council on the results of a community consultation process involving property owners fronting West Coast Drive seeking their financial support for underground power to be provided to their homes and businesses.

EXECUTIVE SUMMARY

At the Ordinary Meeting of 25 November 2008, Council received a report – CJ247-11/08, to advise of the issues and costs involved in a property owner funded underground power and lighting project for West Coast Drive from Beach Road to The Plaza, in Marmion and Sorrento. Council resolved to proceed with a survey of all properties fronting West Coast Drive in that section of road including those with commercial and recreational uses.

To facilitate a high rate of return, surveys were distributed to the owner of every property in the project area. A covering letter, background information, project area map and survey form were mailed out on 12 January 2009 and required to be returned to the City's offices by Friday 6 February 2009. Council had resolved that it would only accept a level of ratepayer support and contribution of 75% of all properties, excluding those owned by the City, before it gave further consideration and investigation of an underground power scheme in the area.

There were 79 survey forms mailed out and 45 were returned to the City resulting in a 57% return rate. An average of 24% of property owners in the project area were prepared to contribute to the cost of installing underground power, despite 64% of respondents being in favour of the installation. As a result of the community feedback, three options were considered; Progress the proposal, Consider revised contribution costs to the scheme or Do not pursue the proposal. Option Three, to not pursue the proposal, is recommended.

It is recommended that Council:

- 1 *NOTES the feedback provided by the participants as a result of the consultation process and ADVISES the surveyed community of Council's decision.*
- 2 *APPROVES Option Three and informs Western Power that the City will not be proceeding with the proposal for a resident funded underground power project in West Coast Drive based on the community feedback.*

BACKGROUND

At the Ordinary Meeting of 25 November 2008, Council received a report – CJ247-11/08, to advise of the issues and costs involved in a property owner funded underground power and lighting project for West Coast Drive from Beach Road to The Plaza, in Marmion and Sorrento. The section of West Coast Drive extends from Beach Road in the south, adjacent to City of Stirling, to The Plaza in the north, a distance of 1700 metres.

At the Ordinary Meeting on 25 November 2008, it was resolved:

“That Council:

- 1 *PROCEEDS with a detailed survey of all lots and owners within the West Coast Drive project area from Beach Road to The Plaza and as shown at Attachment 1 to Report CJ247-11/08;*
- 2 *INDICATES in the survey that the City will accept a level of ratepayer support of 75% of all properties, excluding those owned by the City of Joondalup, as a benchmark to undertake further investigation of an underground power scheme along West Coast Drive from Beach Road to The Plaza;*
- 3 *REQUESTS a further report on the outcome of the detailed survey of residents and owners within the West Coast Drive underground power project area;*
- 4 *INCLUDES sufficient information in the survey regarding payment plans and indicative charges for the residents’ information;*
- 5 *NOTES that in line with similar surveys in other areas, the City will not make any further financial contributions to this project other than City owned and managed infrastructure;*
- 6 *WRITES to the State Government requesting a one-third share from each of Western Power, Office of Energy and the property owners in all future undergrounding projects;*
- 7 *Subject to the residents not supporting the undergrounding of power proposal as detailed in Report CJ247-11/08, the City lodges two (2) applications for the undergrounding of power from the Local Enhancement Project Scheme for that section of West Coast Drive between Beach Road and Ozone Road and secondly that section of West Coast Drive between Marine Terrace and The Plaza for the next round of submissions.”*

DETAILS

Given the cost implication that the proposal entails, it was important to ensure that surveys were distributed to the owner of every property in the designated area. To facilitate a high rate of return, prepaid envelopes were supplied with the surveys. A covering letter, background information, project area map and survey form were mailed out on the 12 January 2009 and required to be returned to the City’s offices by Friday 6 February 2009. Of the 79 survey forms mailed out, 45 were completed and sent back to the City resulting in a 57% return rate. Statistically, a return rate of 20% or more is considered acceptable and valid.

The results of analysing the returned surveys are summarised in the tables below and in the order in which questions were put to the public.

Question 1 – Support for the installation of underground power in the project area

Response	Number	Percentage of Properties	Percentage of Returns
Yes	29	37%	64%
No	16	20%	36%
TOTAL (out of 79)	45	57%	100%

Question 2 – Are you prepared to pay more than \$20,000 towards the installation cost?

Response	Number	Percentage of Properties	Percentage of Returns
Yes	9	11%	20%
No	34	43%	76%
Option not selected	2	3%	4%
TOTAL (out of 79)	45	57%	100%

Question 3 – Are you prepared to pay more than \$16,000 towards the installation cost if Western Power makes a contribution?

Response	Number	Percentage of Properties	Percentage of Returns
Yes	13	16%	29%
No	32	41%	71%
TOTAL (out of 79)	45	57%	100%

Question 4 – If you are prepared to pay a contribution, what payment option is preferred?

Response	Number	Percentage of Properties	Percentage of Returns
One payment first year	11	14%	24%
Payments over 10 years (with interest)	8	10%	18%
Option not selected	26	33%	58%
TOTAL (out of 79)	45	57%	100%

The following comments are in recognition that the returned survey forms provided a statistically representative sample of the project area.

An average of 24% of property owners in the project area were prepared to contribute to the cost of installing underground power, despite 64% of respondents being in favour of the installation. Several property owners also took time to write comments on their completed surveys.

With respect to the comments/letters received, the following are samples:

- The majority felt the required contribution was too expensive, whether as an upfront payment or by instalment and should be borne by the City or State Government.
- A number confirmed as pensioners and would derive no real benefit from the scheme.
- Some were happy with the overhead power lines given the required level of contribution.
- Several also queried the City's contribution to the overall costs of the project.

Issues and options considered:

In light of the feedback received from the community, Council may decide to pursue one of the following options:

- Option One - Progress the proposal for an underground power project for West Coast Drive. This option is not recommended given the lack of support for the project at this time.
- Option Two - Consider revising the contribution payable by the owners of properties in the project area with the intention of reducing the cost burden on the community and thus increasing levels of property owner acceptance of and support for, the project. This option is not recommended as it would set a precedent for additional funding of future underground power project areas and deviate from the user pay principle applied in other underground power project areas and submissions.
- Option Three - Do not pursue the proposal for underground power for West Coast Drive. This option is recommended based on the community feedback.

Link to Strategic Plan:

Key Focus Area: Leadership and Governance
Objective: To engage proactively with the community
Outcome: The City acts with a clear understanding of the wishes of the community

Legislation – Statutory Provisions:

Not Applicable.

Risk Management considerations:

In the event that Council decides to pursue Option Three, an opportunity for the installation of underground power will be lost to the community, especially as Western Power would contribute to the project.

Financial/Budget Implications:

Not Applicable.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Written consultation has taken place with 79 properties in West Coast Drive. There were 45 individual responses to the survey, which correlates as 57% of the surveyed group.

COMMENT

A detailed information package was distributed to households along with the survey. The survey responses indicated that whilst approximately 64% of respondents favoured the installation of underground power, only an average of 24% of respondents were prepared to contribute towards the cost of installation.

It should however be noted that the results of the survey do not prevent the consideration of a future underground power program should the costs be reduced either by way of improved methodology or increased subsidy by the State Government.

With respect to recommendations 6 and 7 of the Council resolution of 25 November 2008, the City wrote to the Office of Energy in January 2009 requesting the Government consider the funding arrangements for underground power projects to be on equal share basis between the Office of Energy, Western Power and Local Government. The City will submit proposals for West Coast Drive in the next round of projects subject to the State Government continuing with the programme.

ATTACHMENTS

Nil.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Fishwick, SECONDED Cr Norman that Council:

- 1 NOTES the feedback provided by the participants as a result of the consultation process and ADVISES the surveyed community of Council's decision;**
- 2 APPROVES Option Three and informs Western Power that the City will not be proceeding with the proposal for a resident funded underground power project in West Coast Drive based on the community feedback.**

The Motion was Put and

CARRIED (10/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman and Young

Cr Rosano entered the Chamber, the time being 2019 hrs.

CJ087-04/09 RECEIPT OF A PETITION SUPPORTING CONSTRUCTION OF A TOILET BLOCK AND SHOWERS AT THE OCEAN END OF GRAND OCEAN ENTRANCE IN PEET AND COMPANY'S BURNS BEACH ESTATE – [75611]

WARD: North

RESPONSIBLE DIRECTOR: Mr Martyn Glover
Infrastructure Services

PURPOSE

To respond to a petition requesting the construction of a toilet block and showers at the ocean end of Grand Ocean Entrance in Peet and Company's Burns Beach Estate.

EXECUTIVE SUMMARY

Council received a 1829 signature petition supporting the construction of a new toilet block and showers in Beachside Park, which is the location at the ocean end of Grand Ocean Entrance. The subject land is Crown land and is proposed to be managed by Peet and Company until September 2011.

The cost to construct a toilet facility would be approximately \$250,000 in addition to annual maintenance, renewal and cleaning charges associated with its upkeep. Currently, the City does not have funds available in its budget for the construction of a toilet facility at this location, however, there is a toilet and changeroom facility available for use approximately 400 metres south of Beachside Park, adjacent to the Jack Kikeros Community Hall.

It is recommended that Council:

- 1 *NOTES the request for the construction of a toilet block and showers in Beachside Park, Burns Beach and that such a facility would cost in the region of \$250,000 to construct, \$6,500 for annual renewal and maintenance costs and \$9,000 for annual cleaning costs;*
- 2 *NOTES that there is no provision in current budgets for a toilet block and showers in Beachside Park;*
- 3 *REQUESTS that the City writes to Peet and Company seeking provision of a public toilet facility at Beachside Park as part of the developer funded facilities for the Burns Beach sub-division;*
- 4 *ADVISES the petition organiser of Council's decision.*

BACKGROUND

A 1829 signature petition supporting the construction of a new toilet block and showers in Beachside Park was tabled at the Ordinary Council Meeting of 17 February 2009.

DETAILS

Issues and options considered:

The subject land is Crown Land but is being managed by the developer Peet and Company. The land is included within the Burns Beach Structure Plan No. 10 (SP10) which has been approved by Council and the Department for Planning and Infrastructure. SP10 supports the possible inclusion of a toilet block in Beachside Park, however, the anticipated handover to the City of Beachside Park by Peet and Company is September 2011. There is further residential development planned north-east of the area of Beachside Park.

The City may wish to consider examining the need for a toilet and changeroom facility at Beachside Park in a future capital works programme. Currently, the City has listed in its five-year capital works programme, four new public toilets at Warwick Regional Open Space (Warwick), Joondalup City Centre (Joondalup), Percy Doyle Reserve, (Duncraig) and Sir James McCusker Park, (Iluka) at a total construction cost of \$817,550.

There is an existing toilet block and changerooms approximately 400 metres south of Beachside Park, adjacent to the Jack Kikeros Community Hall.

Link to Strategic Plan:

5.1 To ensure that the City's facilities and services are of a high quality and accessible to everyone

5.2.1 The City provides high quality recreation facilities and programs

Legislation – Statutory Provisions:

Not Applicable.

Risk Management considerations:

Development and operation of a facility in Beachside Park will increase the City's financial liability. If the park and beach are well used amenities, lack of a facility at that location is likely to cause community dissatisfaction. Toilet facilities can also attract anti-social behaviour.

Financial/Budget Implications:

Should the City consider the installation of a facility in Beachside Park, the cost is likely to be in the region of \$250,000. Annual recurring costs which do not include utility charges, would be approximately \$15,500.

Policy Implications:

7-19 Asset Management

Regional Significance:

The northern boundary of Burns Beach abuts the southern boundary of the City of Wanneroo and therefore any public facility that is developed in the Burns Beach general area will likely have a reasonably high percentage of beach users from the municipality of the City of Wanneroo.

Sustainability Implications:

The development of a new facility needs to take into account, not only the initial development costs, but the whole of life costs including utility payments, cleaning, maintenance and renewal programmes. Careful design choice will assist towards achieving economic and environmental sustainability. Socially, the community will benefit if a facility is developed that is well utilised, clean, safe and accessible to all.

Consultation:

Not Applicable.

COMMENT

The approximate cost of constructing a new toilet and shower block in Beachside Park would be \$250,000, with the annual maintenance and renewal costs being \$6,500. Cleaning costs for this type of facility would be in the region of \$9,000 per annum.

Beachside Park is proposed to be managed by the developer Peet and Company until September 2011, when it is handed over to the City. Council may wish to approach the developer, Peet and Company to consider the provision of a public toilet facility as part of the development.

The City does not have funds currently available in its budget for the construction of a new toilet and shower block at the subject location, therefore the request should be noted for possible future consideration and the petitioner advised of Council's decision.

ATTACHMENTS

Attachment 1 Location Plan of Beachside Park, Burns Beach

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rosano, SECONDED Cr Young that Council:

- 1 NOTES the request for the construction of a toilet block and showers in Beachside Park, Burns Beach and that such a facility would cost in the region of \$250,000 to construct, \$6,500 for annual renewal and maintenance costs and \$9,000 for annual cleaning costs;**
- 2 NOTES that there is no provision in current budgets for a toilet block and showers in Beachside Park;**
- 3 REQUESTS that the City writes to Peet and Company seeking provision of a public toilet facility at Beachside Park as part of the developer funded facilities for the Burns Beach sub-division;**
- 4 ADVISES the petition organiser of Council's decision.**

The Motion was Put and CARRIED (11/0) by En Bloc Resolution following consideration of Item CJ097-04/09, Page 144 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 8 refers

To access this attachment on electronic document, click here: [Attach8brf140409.pdf](#)

CJ088-04/09 PETITION TO UNDERTAKE A SAFETY REVIEW OF THE BMX BIKE TRACK ON GALSTON PARK DUNCRAIG – [04571]

WARD: South

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

PURPOSE

To consider the petition requesting a safety review of the Bicycle Park located at the intersection of Warwick Road and Chessell Drive, Duncraig and conduct all necessary improvements to ensure that this Bicycle Park remains safe.

EXECUTIVE SUMMARY

Reserve number 36497 located at the intersection of Warwick Road and Chessell Drive Duncraig is named Galston Park and the Bicycle Park is one of the 12 BMX Bike Tracks built and maintained by the City of Joondalup.

A petition has been received from residents living in proximity to Galston Park, Duncraig. The petitioners are concerned about the safety of this track in light of an incident where a 12 year old child was killed on a BMX Track in Victoria. The petition requests that the City conducts a safety review of this BMX Track and implements the necessary improvements to ensure that the track remains safe.

Upon review of the City's procedures for the safe operation and upkeep of Dirt Bicycle Tracks and BMX Tracks it is considered that the following recommendations should assist in alleviating the residents' concerns.

It is recommended that Council ADVISES the petitioners that the City's present safety checks and procedures regarding Dirt Bicycle Tracks and BMX Tracks ensure that the risk of accident is minimised.

BACKGROUND

A petition containing 53 names was presented to Council at its meeting on 30 September 2008. The petitioners all live within close proximity of Galston Park, Duncraig and are concerned with the safety of the Bicycle Track located on that park. This concern is predominantly due to the recent death of a child in Victoria on a BMX Track.

The tragic incident which occurred on 18 July 2008 involved a 12 year old child who died from serious abdominal injuries and blood loss following an accident on the track. The injuries were caused when the child landed awkwardly on his BMX bike when misjudging a mid-air jump at a BMX track at Monbulk in the Yarra Ranges, Victoria. No further detail was available on investigations related to the incident.

There have been no recorded serious accidents at the City's BMX tracks that the City is aware of.

DETAILS

The City has established procedures for the safe operation and upkeep of the various Bicycle Track Facilities. They are subject to regularly scheduled safety inspections (every three months with the newly constructed facilities and every month for the surrounds and older facilities) and subject to monitoring by general parks maintenance (refer Attachment 1).

The most recent safety inspection at Galston Park was conducted on 2 February 2009 and the track met all risk considerations.

Issues and options considered:

The following options were considered:

- 1 City of Joondalup BMX Bike Tracks are subject to appropriate safety and maintenance checks.
- 2 Documentation of the safety and maintenance checks are in place.
- 3 Standard of construction of the City's dirt bicycle tracks.

Link to Strategic Plan:

5.2 OBJECTIVE To facilitate healthy lifestyles within the community.

5.2.1 The City provides high quality recreation facilities and programs.

5.4 OBJECTIVE To work collaboratively with stakeholders to increase community safety and respond to emergencies effectively.

5.4.1 The City develops and implements a Community Safety Plan.

Legislation – Statutory Provisions:

Nil.

Risk Management considerations:

The City has established a Risk management document for BMX Tracks "BMX Upgrade Risk Management Plan".

Financial/Budget Implications:

Nil.

Policy Implications:

Nil.

Regional Significance:

Nil.

Sustainability Implications:

Nil.

Consultation:

Nil.

COMMENT

The City's BMX tracks, including the bicycle park at Galston Park, Duncraig is inspected at a minimum of every three months in accordance with an adopted process and schedule. The documentation includes a maintenance schedule, safety check list and risk management plan.

The City's BMX tracks are designed to a set standard of safety in accordance with the industry standard. These tracks include restricted height jumps and detours around the jumps for the younger inexperienced users.

It is therefore recommended that the petitioners be advised that the City's present safety checks and procedures are appropriate.

ATTACHMENTS

Attachment 1 Maintenance Schedule and Safety Checklist

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council ADVISES the petitioners that the City's present safety checks and procedures regarding Dirt Bicycle Tracks and BMX Tracks ensure that the risk of accident is minimised.

MOVED Cr Fishwick, SECONDED Mayor Pickard that Council ADVISES the petitioners that the:

- 1 City's present safety checks and procedures regarding Dirt Bicycle Tracks ensure that the risk of accident is minimised;**
- 2 Galston Park BMX track is programmed for an upgrade in 2009/10 as part of the City's Dirt Bicycle Track Facility Program.**

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 9 refers

To access this attachment on electronic document, click here: [Attach9brf140409.pdf](#)

CJ089-04/09 MINUTES OF THE CONSERVATION ADVISORY COMMITTEE HELD ON 25 FEBRUARY 2009 – [12168]

WARD: All

RESPONSIBLE DIRECTOR: Mr Martyn Glover
Infrastructure Services

PURPOSE

To submit the unconfirmed minutes of the Conservation Advisory Committee to Council for noting.

EXECUTIVE SUMMARY

A meeting of the Conservation Advisory Committee was held on 25 February 2009.

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

- Conservation Advisory Committee (CAC) Work Plan 2009-2010

It is recommended that Council:

- 1 *NOTES the unconfirmed minutes of the Conservation Advisory Committee held on 25 February 2009 forming Attachment 1 to Report CJ089-04/09;*
- 2 *AGREES with the proposed Conservation Advisory Committee Work Plan for the 2009-2010 financial year and priorities.*

BACKGROUND

The Conservation Advisory Committee is a Council Committee that advises Council on issues relating to biodiversity and the management of natural areas within the City of Joondalup. The Conservation Advisory Committee meets on a bimonthly basis.

The Committee membership comprises of four Councillors, a representative from each of the City's Bushland Friends Groups and community members with specialist knowledge of biodiversity issues.

DETAILS

Issues and options considered:

The Motion carried at the Conservation Advisory Committee meeting held 25 February 2009 is shown below, together with officer's comments.

1 Conservation Advisory Committee (CAC) Work Plan 2009-2010

The following officer's recommendation was presented to the Committee:

“That the Conservation Advisory Committee AGREES with the proposed CAC Work Plan for the 2009-2010 financial year forming Attachment 2 to this Report and SEEKS endorsement of the Plan by Council“.

The following motion was carried at the Committee meeting:

“That the Conservation Advisory Committee:

- 1 AGREES with the proposed CAC Work Plan for the 2009-2010 financial year forming Attachment 2 to this Report and SEEKS endorsement of the Plan by Council;
- 2 REQUESTS that projects as detailed on the CAC Work Plan 2009/2010 be prioritised as follows:

Points 1, 6, and 7 Highest priority

Points 2 and 3 Second highest priority

Points 4 and 5 Third highest priority.
Natural areas without a management plan, but with active Friends Groups, will have management plans produced first.

The recommendation refers to the table below:

Conservation Advisory Committee Work plan for 2009/2010	
1.	Provide materials that can be used in displays and brochures to promote the natural environment of the City (this would include CAC current Iconic Biodiversity Species DVD)
2.	Showcase the City's environment and natural areas on the City's website.
3.	Action 1.21: Investigate methodologies for valuing natural assets and create and maintain a Natural Assets Register that records the value and extent of the City's natural assets.
4.	Action 2.12 Develop a program of planting sumps with nutrient stripping plants to ensure nutrients are removed before they enter the groundwater.
5.	Action 3.12 Develop Individual Reserve Management Plans for each natural area, (including fire management strategies, significant tree register etc) and link budgets to management plans.
6.	Action 5.1 Install interpretive signs describing and illustrating indigenous plants, animals and habitats in selected City reserves where there is identified community involvement.
7.	Action 5.8 Develop a project to erect education signs along the coastal foreshore reserved to improve the community's understanding of coastal biodiversity.

Officer's comment

The Agenda for the February 2009 meeting of the Conservation Advisory Committee included a Conservation Advisory Committee Work Plan for 2009-2010. At the meeting, the Conservation Advisory Committee examined the plan. The Committee has requested that the priority order for the completion of the components of the plan be changed.

Officers support the Conservation Advisory Committee's acceptance of the plan and also support the Conservation Advisory Committee's request that the priority in which components of the plan are completed and the plan adjusted as per the Conservation Advisory Committee's request.

Link to Strategic Plan:

Key Focus Area

Caring for the environment.

Outcomes

The City is environmentally responsible in its activities.

Objectives

To plan and manage the City's natural resources to ensure environmental sustainability.

Strategies

- 2.1.1 Maintain and protect natural assets to retain biodiversity.
- 2.1.2 Further develop environmentally effective and energy-efficient programs.
- 2.1.3 Develop a coordinated environmental framework, including community education.

Legislation – Statutory Provisions:

The Local Government Act 1995 allows a council to establish committees to assist a council to exercise the powers and discharge duties that can be delegated to a committee.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

The projects forming the Conservation Advisory Committee's Work Plan 2009-2010 are an integral part of the City's Natural Areas Management planning activities. The Work Plan would be completed using resources available within the City and it is not envisaged that capital funding would be required.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:Environmental

Conservation Advisory Committee objective - “To make recommendations to Council for the Conservation of the City’s natural biodiversity”.

Social

To promote partnerships between Council and the Community to protect the City’s natural biodiversity as contained within its various natural areas (bushland, wetlands and the coastal environment).

Consultation:

The Conservation Advisory Committee provides a forum for community consultation and engagement on natural areas.

COMMENT

Prioritisation of the projects included in the new recommendation are supported.

ATTACHMENTS

Attachment 1 Minutes of the Conservation Advisory Committee Meeting held on 25 February 2009

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rosano, SECONDED Cr Young that Council:

- 1 NOTES the unconfirmed minutes of the Conservation Advisory Committee held on 25 February 2009 forming Attachment 1 to Report CJ089-04/09;**
- 2 AGREES with the proposed Conservation Advisory Committee Work Plan for the 2009-2010 financial year and priorities as outlined in Report CJ089-04/09.**

The Motion was Put and CARRIED (11/0) by En Bloc Resolution following consideration of Item CJ097-04/09, Page 144 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 10 refers

To access this attachment on electronic document, click here: [Attach10brf140409.pdf](#)

CJ090-04/09 MONTHLY TOWN PLANNING DELEGATED AUTHORITY REPORT, DEVELOPMENT AND SUBDIVISION APPLICATIONS – FEBRUARY 2009 – [07032] [05961]

WARD: All

RESPONSIBLE DIRECTOR: Mr Clayton Higham
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 2 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:

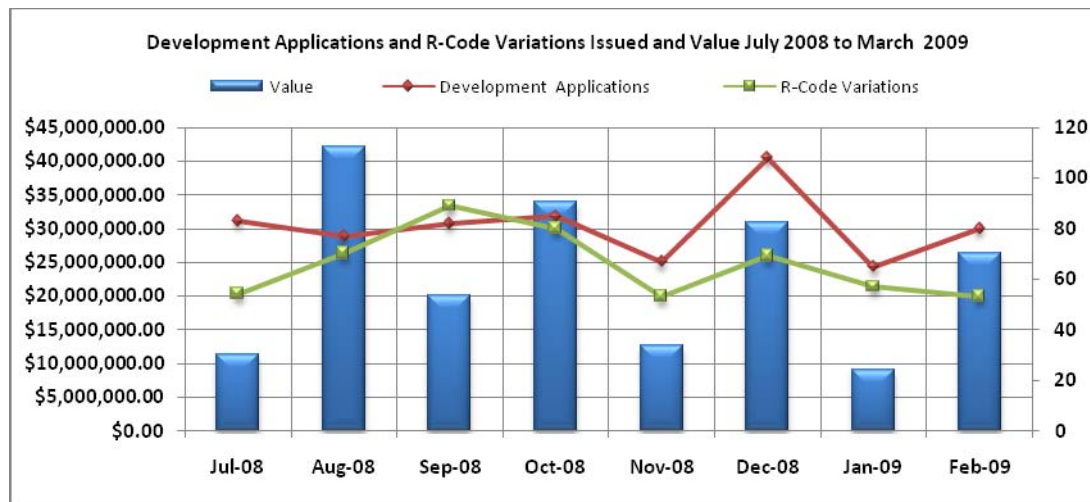
- 1 Major Development Applications
- 2 Residential Design Codes Applications
- 3 Subdivision Applications

This report provides a list of the development and subdivision applications determined by those staff members with Delegated Authority powers during February 2009. (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 the period during February 2009 under delegated authority and those applications dealt with as “R-code variations for single houses” for the same period are shown below:

Approvals Determined Under Delegated Authority – February 2009		
Type of Approval	Number	Value (\$)
Development Applications	79	\$ 22,478,857
R-Code Variations (Single Houses)	53	\$ 5,977,969
Total	132	\$ 28,456,826



The number of development applications received during the period for February 2009 was 88. (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.

Subdivision Approvals Processed Under Delegated Authority From 1 February to 28 February 2009		
Type of Approval	Number	Potential new Lots
Subdivision Applications	2	2
Strata Subdivision Applications	5	11

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 2 yearly, unless a greater or lesser period is specified by Council. 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:

Key Focus Area: The Built Environment

Objective: 4.1.3 Give timely and thorough considerations to applications for statutory approval.

The strategic plan also 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 87 development applications determined during February 2009, consultation was undertaken for 38 of those applications. Of the 7 subdivision applications determined during February 2009, 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	February 2009 – Decisions - Development Applications
Attachment 2	February 2009 - Subdivision Applications Processed

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rosano, SECONDED Cr Young that Council NOTES the determinations made under Delegated Authority in relation to the:

- 1 development applications described in Report CJ090-04/09 during February 2009;**
- 2 subdivision applications described in Report CJ090-04/09 during February 2009.**

The Motion was Put and CARRIED (11/0) by En Bloc Resolution following consideration of Item CJ097-04/09, Page 144 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 12 refers

To access this attachment on electronic document, click here: [Attach12brf140409.pdf](#)

CJ091-04/09 PROPOSED AMENDMENT NO. 41 TO DISTRICT PLANNING SCHEME NO 2 – RESERVE 29740 (108) HIGH STREET, SORRENTO – [88620]

WARD: South-West

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Community Development

PURPOSE

The purpose of this report is for Council to consider submissions received during the public advertising of proposed Amendment No 41 to District Planning Scheme No 2 (DPS2), and to decide whether to adopt the amendment.

EXECUTIVE SUMMARY

Reserve 29740 (108) High Street, Sorrento is Crown land that is currently designated as a Local Reserve – Public Use under the City's District Planning Scheme No. 2 (DPS2). An application has been received to zone this site to 'Residential'.

On 16 December 2008, Council resolved to initiate advertising of Amendment No 41 for a period of 42 days. Advertising closed on 1 April 2009 and 15 submissions were received, comprising 1 submission of support, 3 objections, 2 no objections, 6 neutral submissions and 3 no objections from service authorities. The objections related to traffic concerns and pressure on existing facilities from the future residential development.

It is considered that the future residential subdivision of the site will have no greater impact on the area than the previous preschool and child health centre. It is recommended that Council adopts Amendment No 41 to DPS2 without modification.

BACKGROUND

Suburb/Location:	Reserve 29740 (108) High Street Sorrento
Applicant:	Whelans (WA) Pty Ltd on behalf of Landcorp
Owner:	Crown Land
Zoning:	DPS: Local Reserve – Public Use
	MRS: Urban
Site Area:	1423m ² (Lot 3656) and 1423m ² (Lot 8931)
Structure Plan:	Not Applicable

Reserve 29740 is located between West Coast Highway and Marmion Avenue on the southern side of High Street in Sorrento (refer Attachment 1). It is comprised of two lots being Lots 3756 and 8931 (108) High Street Sorrento, with a total area of 2856 m² and a 60 metre wide street frontage.

The subject site is currently designated as a Local Reserve – Public Use under DPS2. The site is Crown Land with a City of Joondalup management order over the site. The City had developed a building on the site that was leased to the Department of Education and the Department of Health for a pre-school and child health centre.

In August 2007, Council resolved to demolish the buildings and revoke the management order over the site (Report CJ168-08/07 refers). The leases have now expired and the Marmion Pre-School has moved to Marmion Primary School, and the Sorrento Child Health Centre has relocated to the Carine Child Health Centre. Revocation of the management order has also been requested and demolition of the building has been listed in the 2008/2009 budget.

Other uses for the existing buildings and land were investigated, however due to the age of the building and current maintenance requirements, none of these other uses were considered viable. The land surrounding the subject site is zoned Residential R20 and contains existing residential dwellings.

On 16 December 2008, Council resolved to initiate advertising of Amendment No 41 for a period of 42 days (report CJ282-12/08 refers).

DETAILS

Amendment No 41 to DPS2 seeks to zone Reserve 29740 to 'Residential' to facilitate the future residential subdivision and development of the land (refer Attachment 2). No change to the R20 density code is sought. Indicative subdivision and development plans have been provided by the applicant to inform Council how the subject land may be developed (refer Attachment 3).

Issues and options considered:

The options available to Council in considering the proposal are:

- Adopt the proposed amendment,
- Adopt the proposed amendment, with modification, or
- Not adopt the proposed amendment.

In all the above options, the proposal is forwarded to the Western Australian Planning Commission (WAPC) for the Minister's determination.

Link to Strategic Plan:

Objective 4.2 To progress a range of innovative and high quality urban development projects within the City.

Legislation – Statutory Provisions:

Part 5 of the Planning and Development Act 2005 enables local authorities to amend a Town Planning Scheme and sets out the process to be followed. Council supported the initiation of the proposed amendment for the purpose of public advertising at its meeting of 16 December 2008. The proposed amendment was then referred to the Environmental Protection Agency (EPA) for its comment. The EPA decided that a formal review of the amendment was not required.

Upon closure of the advertising period, Council is to consider all submissions received during the advertising period and resolve to either adopt the amendment, with or without modifications, or refuse to adopt the amendment. The decision is then forwarded to the WAPC which makes a recommendation to the Minister for Planning and Infrastructure. The Minister can either grant final approval to the amendment, with or without modifications, or refuse to grant approval for the amendment.

Council's consideration of submissions and forwarding of the amendment to the WAPC is required within 42 days of the close of submissions.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

Not Applicable.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

The proposed scheme amendment was advertised for public comment for a period of 42 days, closing on 1 April 2009. One sign was placed on the site, a notice placed in the local newspaper, and letters were sent to nearby landowners advising of the proposed amendment. The proposal was also placed on the City's website.

A total of fifteen submissions were received comprising 1 submission of support, 3 objections, 2 no objections, 6 neutral submissions and 3 no objections from service authorities. Copies of the submissions have been placed in the Councillors reading room. The schedule of submissions is provided in Attachment 4.

COMMENT

The main issues raised in the submissions of objection were:

- Keep Marmion/Sorrento as a family orientated community with room to move and enjoy the parks.
- The development will put further pressure on the existing facilities by an increased population.
- The existing buildings could be served as a day care for under 5's or social centre for the community.
- If the buildings are to be demolished, the land could be used as a park or a skate park.
- Development of the site will lead to an increase in traffic and noise with regards to the speed bump located nearby.
- Development of the site will lead to a parking burden on the street.

Response to submissions

The possibility of leasing the buildings to other groups and organisations was previously investigated, however there was no interest in the buildings in their current condition and, due to the age of these buildings, maintenance costs were prohibitive. The buildings on the site are in the process of being demolished.

In regard to the potential impact of the development of the site, it is likely that there will be a decrease in traffic and parking rather than an increase, as fewer cars will access the residential lots than the former preschool and child health centre. In addition, each dwelling developed is required to provide off street parking for a least two cars. It is also unlikely that an additional 20 (approx) residents in the area would put pressure on any local facilities. In fact, it is likely that the additional population would help support local facilities, such as local shops and public transport.

There was a difference of opinion in the submissions with regard to the potential lot yield of the site. One of the submissions recommended that the density be increased and the site be subdivided into 6 or 8 lots, where as several of the other submissions preferred the site to be subdivided into 4 lots rather than 5 lots. The site has an existing density code of R20, under which a maximum of 5 lots could be developed on the site. It is not proposed to change the residential density coding of the site, the site will remain coded R20, the decision is whether or not the City supports the rezoning to Residential.

Several of the neutral submissions requested that the mature trees be retained on site or that new mature trees be planted on the verge. The retention of trees will be considered in the assessment of any future subdivision application.

Conclusion

The proposed zoning of the land would enable a now disused site to be used for residential purposes and thereby improve the amenity of the area. The impact on the amenity of adjacent residential properties is likely to be minimal as only 4 to 5 lots residential lots would be created through the future subdivision of the land.

It is recommended that the proposed amendment be adopted without modification and the amending documents be endorsed and submitted to the WAPC for the Minister's determination.

ATTACHMENTS

Attachment 1	Location and aerial plans
Attachment 2	Scheme Amendment Zoning
Attachment 3	Indicative subdivision plans
Attachment 4	Schedule of submissions

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rosano, SECONDED Cr Young that Council:

- 1 Pursuant to Town Planning Regulations 17(2) ADOPTS Amendment No 41 to the City of Joondalup's District Planning Scheme No. 2, without modification, to remove the Local Reserve - 'Public Use' reservation from Lots 3759 and 8931 (108) High Street, Sorrento and zone to 'Residential', as shown on Attachment 3 to Report CJ091-04/09;**
- 2 AUTHORISES the affixation of the Common Seal and to endorse the signing of the amendment documents;**
- 3 NOTES the submissions received and advises the submitters of Council's decision;**
- 4 NOTES that the existing mature trees on the site will be considered when making a recommendation to the Western Australian Planning Commission on any subdivision application, and advises the applicant accordingly;**
- 5 ADVISES the Western Australian Planning Commission of Council's decision.**

The Motion was Put and CARRIED (11/0) by En Bloc Resolution following consideration of Item CJ097-04/09, Page 144 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 13 refers

To access this attachment on electronic document, click here: [Attach13brf140409.pdf](#)

**CJ092-04/09 PROPOSED TAVERN AND SHOP AT LOT 5003 (14)
HOBSONS GATE, CURRAMBINE – [77608]**

WARD: North

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Community Development

PURPOSE

To request Council's determination of an application for a tavern and a shop on Lot 5003 (14) Hobsons Gate, Currambine.

EXECUTIVE SUMMARY

The applicant proposes to construct a single storey development consisting of a tavern and a shop on the subject site which is within the Currambine District Centre.

The proposal generally meets the requirements of the Currambine District Centre Structure Plan (CDCSP) and the City of Joondalup District Planning Scheme No2 (DPS2) with the exception of car parking where a shortfall of 5.3% is proposed, landscaping, glazing and footpath width. Notwithstanding the variation proposed, the development satisfies the objectives of the CDCSP in relation to design and land use.

Council previously approved an application for a tavern, two offices and a shop at its November 2008 meeting. However, since that application was made the ownership of the land has changed and modifications to the previously approved development are sought. This application is similar in design with regard to the tavern, but does not include the offices. It also proposes modifications to the shop, car parking area and the design of the facade. It is not proposed to increase the capacity of the tavern greater than the maximum 360 people previously approved by Council.

The proposal was not advertised as the predominant use and the intensity of that use of the site is not proposed to change from that previously approved by Council.

The proposed development is consistent with the type of development that is desirable in the main street of a district centre. The proposed tavern will not have an adverse impact on adjoining and nearby properties due to the design of the development and proposed management plan of the tavern.

It is recommended that the application be approved subject to conditions.

BACKGROUND

Suburb/Location:	Lot 5003 (14) Hobsons Gate, Currambine
Applicant:	Hospitality Total Services Pty Ltd
Owner:	Resolve Nominees Pty Ltd
Zoning:	DPS: Business
	MRS: Urban
Site Area:	6242m ²
Structure Plan:	Currambine District Centre Structure Plan

Council previously approved an application for a tavern, two offices and a shop on this site at its November 2008 meeting. Since that application was made the ownership of the land has changed and modifications to the approved development are sought.

This application is similar in design to that previously approved with regards to the tavern component, but does not include the previously approved offices, modifications to the shop, car parking area and the design of the façade.

The subject site is located within the CDCSP area. The Currambine District Centre 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 Currambine District Centre, immediately to the south of Hobsons Gate and to the east of Chesapeake Way.

The CDCSP guides development within this area. The CDCSP follows main street principles with the aim of creating an integrated retail centre that can serve the local community with its required retail needs as well as form a liveable town centre.

The surrounding land is vacant; however there are several applications that have been submitted to the City. Of relevance to this proposal are the developments of:

- Lot 5004 (4) Hobsons Gate (located to the west of the subject site). Council approved an application for four showrooms and a shop in December 2008;
- Lot 1032 (1) Hobsons Gate (located to the north-west of the subject site). Council refused an application for seven showrooms and seven warehouses at its March 2009 meeting; and
- Lot 5005 (11) Chesapeake Way (located to the north of the subject site). The City has received an application for residential units, showrooms, offices, takeaway food outlets, convenience stores, shops and restaurants on this site.

The site immediately to the east is zoned Civic and Cultural and is owned by the City.

DETAILS

The applicant proposes to construct a single storey development which includes:

- A tavern consisting of:
 - Cocktail Lounge area of 100.83m²;
 - Lounge/Dining area of 182.78m²;
 - Outdoor Dining area of 107.87m²;
 - Function Room area of 193.55m²; and
 - Sports Bar area of 107.65m².
- Shop with a floor area of 170.42m² NLA.

It is not proposed to increase the capacity of the tavern greater than the maximum 360 people previously approved by Council. The applicant has stated that from their experience and market research that an establishment of this size would be ideal for a suburban shopping centre given that there will be other restaurants within the vicinity. The applicant also states that in their experience larger venues are more prone to risks of anti social behaviour as crowd control can become more difficult to manage.

The applicant previously lodged a tavern management plan, energy efficiency and noise attenuation details which are still applicable to this application

For comparison purposes, the table below indicates the maximum capacity of other taverns within the City.

Tavern Name	Address	Maximum Capacity
Beldon Tavern	Gunter Grove, Beldon	177
Craigie Tavern	Eddystone Avenue, Craigie	200
Kingsley Tavern	Kingsley Drive, Kingsley	500
Mullaloo Beach Hotel	Oceanside Prom Mullaloo	528
Glengarry Tavern	Warwick Road, Duncraig	569
Old Bailey	Reid Promenade, Joondalup	600
Grand Boulevard Tavern	Grand Boulevard, Joondalup	626
Whitfords Tavern	Whitfords Avenue/Marmion Avenue, Hillarys	682
The Greenwood	Warwick Road, Greenwood	730
Moon & Sixpence	Trappers Drive, Woodvale	878
Carine Glades Tavern	Beach Road, Duncraig	900
Breakwater Tavern	Hillary's Boat Harbour, Hillarys	1552

The proposed plans are provided in Attachment 3.

The following table summarises the compliance of the proposal with the requirements of the CDCSP and DPS2.

Standard	Required	Proposed	Complies
Front Setbacks	Nil (Urban Edge)	Nil with portions up to 1.2m setback of 1.8m width.	Yes
Side Setback (southern boundary)	Compliance with BCA (Non Urban Edge)	34.5m	Yes
Rear Setback (eastern boundary)	Compliance with BCA (Non Urban Edge)	35.3m	Yes
Building Height	Maximum two storeys	Single storey with two storey façade.	Yes
Landscaping	8%	9.7%	Yes
Building facades	Active frontages with 70% glazing.	Active street frontages with 26% glazing over both street facades.	No
	Window sills not less than 600mm above ground floor level	Window sills 0mm above ground floor level	No
Footpaths	A continuous footpath (3m minimum) along the building edge	Street frontage footpaths.	Yes (recommended condition of approval)
		Footpath of between 1m and 2m wide along rear building edge.	No

Car Parking:

Proposed Use	Required by DPS2
Shop (7/100m ² NLA)(170.42)	11.92
Tavern	
• Standing (1 per 3m ² NLA)(115.83m ²)	38.61
• Seating (1 per 5m ² NLA)(591.85m ²)	118.37
Total	169
Provided	160

There is a proposed shortfall of 9 bays (5.3%) over the site.

The applicant has provided the following justification for the proposal:

- *The application is for a modern contemporary food and beverage facility to serve the community's interests and needs within Currambine District Shopping Centre and surrounding suburbs;*
- *The site is on a main street and zoned to include food and beverage venues in addition to retail shops and offices;*
- *The tavern consists of a patron dining capacity of 360 people in total including the capacity to serve small functions and an alfresco area fronting Chesapeake Way;*
- *From experience and market research this size of establishment is ideal for a suburban shopping centre, given that there will be other restaurants within the vicinity, and that larger venues are more prone to risks of anti-social behaviour as crowd control becomes more difficult to manage;*
- *The venue will operate until 12 midnight only; and*
- *There is no bottle shop or drive through in this application.*

An acoustic report was submitted as part of the previously approved application which concludes that with proper design noise levels can be controlled to comply with the Environmental Protection (Noise) Regulations 1997. The applicant submits that this will include:

- Keeping external doors shut when there is entertainment inside;
- Air lock doors on main entry and exit doors;
- Glass windows and doors treated with acoustic material; and
- No external speakers.

A management plan was also submitted as part of the application which details procedures and policies of the operation of the tavern. Relevant to this report are policies to minimise noise and the potential for anti-social behaviour.

In relation to noise, the management plan includes the following measures:

- *Sound limiters to all amplified systems will be set so as not to exceed the noise levels stipulated under the Environmental Protection (Noise) Regulations;*
- *Operators will maintain a working relationship with local community groups and residents to address any concerns regarding both noise and any other such matters with regards to the operation of the development;*
- *Music throughout the venue will come from one controlled sound system which will be locked and only accessible by the licensees (or representative) and/or approved Manager;*

- *The venue will maintain a log book for any complaints regarding noise and disturbance in the area. Any complaint is entered into the book – with the date and time of the complaint, the staff member who received the complaint and the action taken. The approved manager will then contact the complainant to ascertain whether the action taken was sufficient to answer their concern;*
- *Deliveries will occur between the hours of 7am and 7pm only;*
- *All entry/exit points will be fitted with door closers; and*
- *No rubbish will be cleared from the premises or keg movement after 10pm and before 7am on any day.*

In relation to the potential for anti-social behaviour, the management plan includes the following measures:

- *Security will patrol the area of the tavern on a random basis during operating hours;*
- *Security on site will be in accordance with the Department of Racing, Gaming and Liquor's Security at Licensed Premises policy;*
- *CCTV will be present at each entry/exit point (a Liquor Control Act requirement);*
- *Signage will be erected at entrances advising of the dress standard which will be, "Neat casual dress is required at all times. Management reserves the right to refuse entry to anyone not suitably attired". This will assist in attracting the right client base to the venue;*
- *Intoxicated patrons will not be served (a Liquor Control Act requirement);*
- *Intoxicated patrons will be offered coffee or other non-alcoholic beverage. Where appropriate staff will inquire as to how the patron is getting home and offer to call them a taxi;*
- *Any activity that could lead to or result in excessive consumption of alcohol or the promotion of alcohol involving excessive or rapid consumption of alcohol will be discouraged (a Liquor Control Act requirement); and*
- *Low alcohol and non alcohol drinks will be promoted and available on the premises and glasses of tap water will be available, free of charge, upon request (a Liquor Control Act requirement).*

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 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 Tavern is a “D” use, the additional matters identified in Clause 6.8.2 also require Council consideration:

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 development was not advertised as a similar application for a tavern at this site was presented to Council at its November 2008 meeting which included a 21 day consultation period with adjoining and nearby landowners.

A total of 77 nearby owners were advised in writing, a sign was erected on the road verge adjacent to the site and advertisements were placed in the Joondalup Weekender.

A total of 28 responses were received, being 5 letters of no objection, 14 objections and 9 letters of support.

Key issues arising from Public Consultation of the Previous Application

Comments received in support of the application are summarised as follows:

- As a proposed district centre, Currambine needs to have more shops, offices and especially a tavern for local residents.
- There is nothing on the coast side from Mullaloo Tavern to Ocean Keys in the way of social facilities. This facility will allow local residents to socialise within the community and being in walking distance to residents will reduce the temptation to drive;
- The location is a good position for the proposal;
- It will provide job opportunities close to home for adults;
- Increased adult presence in the area will assist with current issue of underage drinking and vandalism; and
- More local facilities will help keep residents as consumers in the area and reduce vehicle use.

Objections to the proposed development raised the following concerns:

- Noise from the tavern will negatively affect the amenity of nearby residential properties;
- The tavern will encourage anti-social behaviour by patrons in the car park and on the surrounding streets;
- The alfresco area is out in the open and it will be difficult to control both noise and anti-social behaviour at this location;
- People leaving the tavern at night on foot will use residential lanes and streets which will create noise and antisocial behaviour and create a nuisance;
- The tavern belongs in a town or city centre, not the residential suburbs;
- After hours uses within this area should be aimed at family activities;
- There will be an increase in litter;
- There will be an increase in traffic;
- The tavern will negatively affect on the resale value of nearby properties;
- The development may contain a bottle shop in the future;
- The tavern is in conflict with designing out crime principles;
- Underage youths will be able to obtain alcohol via friends who can purchase alcohol legally;
- There is not sufficient demand from the surrounding suburbs to support a tavern and a tavern is contrary to the needs of the community;

COMMENT

Summary of Changes to the Proposed Development

The submitted application is similar to an application previously approved by Council for the site. The changes include modification to:

- car parking numbers and layout;
- façade design;
- removal of offices; and
- the floor plan of the proposed tavern.

It is important to note that despite increases in the floor area of the tavern this application does not propose to alter the maximum number of patrons permitted into the tavern as conditionally approved by Council at its November 2008 meeting. This has been limited to 360 people. It is recommended that should this application be approved that this condition be imposed on to the approval. The applicant has indicated that an application will be lodged in

the future to increase the maximum number of people permitted in the tavern. The City has advised the applicant that an application of this nature would likely require public consultation and a Council determination.

The applicant has also indicated their intention to lodge an application in the future to change the use of the retail shop to a TAB. The City has advised the applicant that an application of this nature would likely require public consultation and a Council determination.

It is important to note that neither of these components forms part of this application.

The table below summarises the floor area changes between the approved application and the current proposal:

	Previously Approved Application	Current Proposal
Tavern		
Lounge/Dining Area	140m ²	182.78m ²
Function Area	44m ²	160.62m ²
Cocktail Lounge	160m ²	100.83m ²
Sports Bar	Nil	107.65m ²
Bar Area	44m ²	15m ²
Alfresco/Outdoor Dining Area	52m ²	140.8m ²
Total	440m²	707.68m²
Other Uses		
Shop	200m ²	170m ²
Office	785m ²	Nil
Total	985m²	170m²

The table below summarises changes to the car parking numbers:

	Previous Application	This Application
Number of Bays Required	162	169
Number of Bays Provided	138	160
Car Parking Shortfall	24 bays (15%)	9 bays (5.3%)

The maximum capacity of the tavern permissible under the Health (Public Building) Regulations 1992 is estimated to be 475 persons. This is based on the current plans, with the final accommodation number only able to be determined following completion of construction.

Despite the changes to the proposed development as outlined above, the management plan, which was submitted as part of the previous application is also applicable to this development.

Location and Use of the Proposed Development

The site is located within the Business Zone of the Currambine District Centre. The CDCSP guides development within this area and sets out objectives whereby:

- The Currambine District Centre is to be developed to the diversity and robustness of a small town centre;

The objectives for the Business Zone are:

- To create an active focus for the community with a diversity of non-retail main street uses that generate day and evening activity; and
- To allow appropriate businesses to locate and develop in close proximity to residential areas for the convenience of the community.

The proposed tavern development is focussed on Chesapeake Way as the main frontage. Chesapeake Way is the central main street of the Currambine District Centre which links the northern Business Zone sites with the existing Currambine Marketplace and Cinemas to the south.

The proposed development will operate during day and evening periods. This achieves the main street activity and diversity with other surrounding land uses from the morning right through to the evening.

The proposed tavern is focussed on Chesapeake Way and is directly opposite Lot 5004 (4) Hobsons Gate, Currambine. An application has been approved for Showrooms and a Shop on that site. It is considered that the proposed tavern use is compatible with this type of development and will not have an adverse affect on the operation of future showroom and shop businesses.

The northern side of the proposed tavern faces Hobsons Gate and Lot 5005 (11) Chesapeake Way, Currambine. An application has been lodged with the City for development of restaurants and take away food outlets directly opposite this portion of the proposed development. It is considered that the tavern use is compatible with these proposed uses. The proposed development at Lot 5005 (11) Chesapeake Way will also consist of grouped dwellings, convenience stores, showrooms, offices and a shop.

The proposed development meets the objectives of the Business Zone and the CDCSP given its compatibility with the intended main street character of Currambine District Centre and its compatibility with future development of surrounding properties. As the tavern is located opposite a future commercial development and away from residential areas there will be no adverse impact.

Design Variations to the CDCSP

The proposed development is subject to the CDCSP. The proposal seeks to vary the following standards of the CDCSP:

- Building frontages with less than 70% glazing

The proposed glazing of all frontages is approximately 26% of the area of the building facade. Whilst this is a large reduction to the 70% required by the CDCSP, it is considered that the proposed glazing does promote sufficient surveillance of the street via large ground floor windows. The following table summarises the glazing percentage per façade:

Facade	% of the total area of the facade which is glazed
West (Chesapeake Way)	30.6%
North (Hobsons Gate)	35.4%
East (Internal Car Park)	21.1%
South (Car Park)	15.3%
Total (Average)	25.8%

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 aspect of the proposal 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 facade to vehicle and pedestrian routes providing visual amenity and interaction”*.

- Break in Urban Edge for Vehicle Access greater than 15m in width

Both points of vehicle access for the proposed development exceed the maximum 15 metre width permitted under the structure plan, namely 27m and 28m on the western and northern urban edge (respectively).

The consistent urban edge requirement is to maintain a high quality main street style of development within the district centre.

It is proposed that a screen feature wall be constructed along the northern edge of the car parking area to maintain the appearance of a constant façade. The material of the screen wall will match that of the façade of the proposed development. It is recommended that a condition of approval be that the maximum height of the solid infill panels (between the supporting piers) be 1.2m from ground level to maintain surveillance opportunities between the car park and the street.

The western façade is proposed to remain open. It is considered that this is acceptable as the southern facing façade of the retail tenancy contains the entry/exit to this tenancy and a large open pedestrian area which provides relief from the expanse of car parking area.

- Footpaths

The Structure Plan requires all developments to have footpaths with a minimum width of 3 metres surrounding the proposed building. The footpath that abuts the rear of the building varies in width between 1 metre and 5 metres; however this is considered sufficient given the inclusion of a raised pedestrian footpath through the middle of the car park and the inclusion of traffic calming devices to slow traffic within the car park area.

It is recommended that a condition be imposed requiring that a footpath of the width of the verge be provided at the applicant's expense on Chesapeake Way and Hobsons Gate given that these are the main streets of the Currambine District Centre, and that pedestrians will be likely to use this footpath from the rear car park to the front of the development. This will also benefit the applicant in relation to any future application for alfresco dining.

- Landscaping Strip Adjacent to Car Parking Areas

DPS2 requires a 3m wide landscaping strip be provided where car parking areas abut street boundaries. This has not been achieved by the proposed development on both the Hobsons Gate and Chesapeake Way frontage. The landscaping strip provided varies between 2m and 3m wide. This is considered a minor variation and acceptable as:

- The northern edge of the car park also contains a screen feature wall as to a height of 1.2m (as discussed above), to maintain a constant street façade which will significantly screen the appearance of the car parking area; and

- Proposed verge planting will also soften the appearance of the car parking area (subject to further liaison and negotiation with the City).

It is considered that this variation will not have a significant detrimental impact on the desired streetscape character of Hobsons Gate and Chesapeake Way and therefore it is recommended that this variation be supported.

The proposed design variations to the CDCSP are minor in nature and the design of the building is consistent with that encouraged by the CDCSP.

Energy Efficiency

Energy efficiency measures were introduced into the Building Code of Australia in May 2007. The new Five Star energy efficiency provisions for the design and construction of commercial buildings include:

- The thermal performance of walls, ceilings, floors, glazing including shading in order to avoid or reduce the use of artificial air conditioning (heating and cooling);
- The sealing of buildings to reduce energy loss through air leakage;
- Natural ventilation and internal air movement, where appropriate, to avoid or reduce the use of artificial air conditioning; and
- Changes to services to better reduce energy consumption including:
 - lighting systems;
 - energy efficient air-conditioning, heating and ventilation systems;
 - hot water supply systems; and
 - maintenance of these systems.

The objective of introducing energy provisions into the Building Code is to reduce greenhouse gas emissions by focusing on energy efficiency as a means of achieving this goal. Although this will be assessed at the building licence stage, the applicant has provided the following additional information with regard to energy efficiency:

- *Windows are positioned to take advantage of northern light, reducing lighting and heating requirements;*
- *Fluorescent lights will be used internally where appropriate to reduce energy consumption;*
- *Air conditioning will be controlled in 'zones' to allow areas of the building not in use to be switched off;*
- *Waterless urinals will be used which save water use;*
- *The 'e-water system' will be investigated which produces alkaline and acidic cleaning products from tap water, reducing chemical use;*
- *LED lights will be considered for the car parking area, which use less power during operation;*
- *All refrigerators will be MEPS (Minimum Energy Performance Standards) tested; and*
- *Staff training will have the best practice in mind, including small things such as switching off appliances when they are not in use, recycling, and stock management to reduce waste.*

Noise

A number of comments received during the public consultation period for the previous application identified the potential for noise from the proposed tavern as a concern.

The proposed development is located in the centre of the Currambine District Centre and is located approximately 185m from existing residential properties to the west, 240m from the north, 100m to the east, and 450m to the south.

An application for grouped dwellings at Lot 5006 (24) Delamere Avenue, Currambine (refer attachment 1) has been approved and if this development is to be constructed will result in residential properties approximately 50m to the north-east.

An application for grouped dwellings has been received for Lot 5005 (11) Chesapeake Way, Currambine (refer attachment 1) which if this application were to be approved and constructed will result in residential properties approximately 80m to the north.

An acoustic report was submitted as part of the application. The report concludes that with proper design noise level emissions attributable to the development can be controlled such that compliance with the Environmental Protection (Noise) Regulations 1997 can be achieved.

The management plan also proposes a number of policies in order to control the level of noise emitted from the proposed tavern (see details section).

The combination of design and management policies of the tavern are sufficient to ensure that the amenity of residents will be maintained with regard to noise impact. The separation distance between the proposed tavern and existing residences is sufficient to ensure that noise emitted from the tavern will dissipate before reaching the existing residential area.

Anti-Social Behaviour

A number of comments received during the public consultation period for the previous application identified potential anti-social behaviour as a concern.

The submitted management plan proposes a number of policies to minimise the potential for anti-social behaviour by patrons of the proposed tavern.

The management plan for the tavern also states that the venue operator will provide staff after closing hours to assist with the dispersal of all guests with minimal disruption to residents. The proposal includes two taxi bays within the Chesapeake Way road reserve outside of the tavern which will be provided at the applicant's cost. The applicant has submitted that Swan Taxis are supportive of any taxi rank development within this area to assist with the needs of the venue. This will prevent the need for tavern patrons to wander the surrounding streets in search for transport after the venue has closed which will help prevent any nuisance or disturbance to surrounding properties.

The proposed management plan policies, and requirements of the Liquor Control Act will be sufficient in controlling the potential for anti-social behaviour from the tavern patrons.

Crime Prevention through Environmental Design (CPTED)

The WAPC and Office of Crime Prevention have developed guidelines for development to reduce the opportunity for crime through simple design solutions. The following designing out crime measures have been met by the proposed development:

- Surveillance

A substantial number of windows overlook Hobsons Gate and Chesapeake Way in addition to several outdoor dining areas which will assist in providing natural surveillance and discourage criminal behaviour not only on the site but also on properties across the road.

Surveillance to the car park is provided via highlight windows from staff areas of the tavern (such as the kitchen and service areas).

The tavern will also incorporate CCTV at each entry and exit point and crowd controllers in and around the tavern.

- Activity Generation

The proposed development combines day and night time activity, which act as a deterrent for anti-social behaviour.

- Lighting

It is recommended that a condition of any approval be that a detailed lighting plan be submitted as part of the building licence application to address proper lighting in and around the development.

- Landscaping

Landscaping is proposed throughout the development and it is recommended that a condition of any approval be that a detailed landscaping plan be submitted as part of the building licence application where it can be confirmed that landscaping will not obstruct surveillance.

- Predictable Routes and Spaces Safe from Entrapment

The external areas of the proposed development are open in nature reducing the potential for anti-social behaviour to occur.

- Management and Maintenance

The submitted management plan indicates that staff will clean garden areas and verge areas nightly which will maintain a high standard of development which will act as a deterrent for anti social behaviour.

Further, it is recommended that a condition of any approval be that all walls including the car park area screen wall be treated with non-sacrificial anti graffiti coating.

Traffic & Parking

The proposed development has a car parking shortfall of 9 bays (5.3%) to that required by DPS2.

Council previously approved a shortfall of 24 bays (15%) over the site owing to the mixed use nature of the development of the development. Given that the office component of the previous development does not form part of this application care has been given to significantly drop the car parking shortfall to 9 bays.

Taking into consideration that the applicant wishes to apply for a change of use for the shop to a TAB in the future (subject to public consultation and Council determination) the applicant submits that the proposed shortfall is acceptable for the following reasons:

- Monday to Thursday TAB agents receive mainly day time trade;
- Fridays the trade is busiest from noon until approximately 6pm;
- Saturday the majority of trade is 10am until 5pm; and
- Sunday the TAB is open 10am to 6pm with the busiest period being after lunchtime;
- The busiest time for the tavern would be Friday and Saturday for dinner 7pm to 10pm and hence with the mixed use of the tavern and the TAB the car parking shortfall of 9 bays is acceptable.

It is considered that the 9 bay shortfall is relatively minor given the total size of the development and that:

- The proposed development is located nearby to an existing residential area and it is realistic to expect that a portion of the clientele will choose to walk to and from the proposed development; and
- The development of nearby offices, showrooms, restaurants, entertainment and residential units will increase the likelihood that a portion of the clientele will be local workers who will be within walking distance to the development.

Two access ways are proposed to the car parking area, one off Hobsons Gate and one off Chesapeake Way. This provides a safe and efficient flow of vehicles through the site and is in accordance with the CDCSP indicative concept plan.

Access to the east from Delamere Avenue is not available, however local patrons will be able to access the proposed development from the north via Delamere Avenue and Chesapeake Way. It is anticipated that there will be no significant increase to traffic volumes on Delamere Avenue as a result of the development. Direct access from Marmion Avenue to the proposed development is via Hobsons Gate. Access from the south will also be available once the extension of Ocean Gate Parade and link to Chesapeake Way occurs as part of the future development.

Conclusion

The proposed development complies with the requirements of DPS2 and the CDCSP with the exception of the matters discussed above. It is considered that the design variations should be supported as the proposal meets the objectives for the Currambine District Centre.

The subject site is an appropriate and acceptable location for a tavern development of this nature. The design of the tavern and the proposed management policies are sufficient in ensuring that potential adverse affects on the amenity of the existing residential area and future developments on the adjoining and nearby properties are minimised. The development will also contribute to the day and night time main street activity the CDCSP aims to achieve.

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

ATTACHMENTS

Attachment 1	Site Plan
Attachment 2	Plans Received
Attachment 3	Previously Approved Plans
Attachment 4	Materials Schedule
Attachment 5	Perspectives

VOTING REQUIREMENTS

Simple Majority

MOVED Cr McLean, SECONDED Cr Hollywood that Council:

- 1 EXERCISES discretion under clause 4.5 of the City of Joondalup District Planning Scheme No.2 and determines that:**
 - (a) Northern and Western building facade having 26% glazing in lieu of 70%, with windows being 0mm from the ground floor level in lieu of 600mm;**
 - (b) Internal footpaths of between 1m and 5m around the building in lieu of 3m;**
 - (c) Landscaping Strip with minimum width of 2m in lieu of 3.0m on the northern and western boundary;**
 - (d) Provision of 160 car parking bays in lieu of 169;**

are appropriate in this instance;
- 2 APPROVES the application for planning approval, dated 20 March 2009, submitted by Hospitality Total Services on behalf of the owners, Resolve Nominees Pty Ltd for Tavern and a Shop 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 Planning, Approvals and Environmental Services prior to the development first being occupied. These works are to be done as part of the building program;**
 - (b) Crossovers to be minimum 100mm thick concrete to the satisfaction of the Manager Infrastructure Management Services;**
 - (c) 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;**
 - (d) The lodging of detailed landscaping plans based on water sensitive urban design and Designing Out Crime principles, to the satisfaction of the Manager Planning, Approvals 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;**

- (e) Landscaping, reticulation and all verge treatments 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 Planning, Approvals and Environmental Services;**
- (f) The bin storage areas shall be provided with a concrete floor graded to a 100mm commercial floor waste connected to sewer and the provision of a hose cock;**
- (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) Obscured or reflective glazing shall not be used at ground floor level fronting Hobsons Gate or Chesapeake Way;**
- (i) Any advertising signage shall be subject to a separate development application;**
- (j) All ground level facades shall be treated with non-sacrificial anti-graffiti coating;**
- (k) The taxi bays in Chesapeake Way shall be constructed and marked as taxi bays only, at the owner's expense and to the satisfaction of the Manager Infrastructure Management Services;**
- (l) The taxi bays shall not be used for loading/unloading or deliveries at any time;**
- (m) The Chesapeake Way and Hobsons Gate verge marked in RED on the approved plans shall be brick paved at the owners cost to match the existing paving to the satisfaction of the Manager Planning, Approvals and Environmental Services;**
- (n) The tavern shall maintain a noise and disturbance complaint log book detailing the date, time, and details of complaints and the actions taken. This log book shall be available for inspection at any time;**
- (o) Deliveries are not permitted between the hours of 7pm and 7am;**
- (p) No rubbish, keg movement or any other loading or unloading is to be carried out between the hours of 10pm and 7am;**
- (q) All entries and exits to the tavern shall be fitted with automatic door closers;**
- (r) All amplified sound systems of the tavern shall be fitted with a sound limiter which shall be set to not exceed noise levels stipulated under the Environmental Protection (Noise) Regulations 1997;**
- (s) The parking area shall be artificially illuminated at night. A lighting plan detailing all pole and fixture positions, lux levels and light spillage shall be submitted with the Building Licence Application for approval of the Manager Planning, Approvals and Environmental Services;**

- (t) The tavern shall accommodate a maximum of 360 people at any one time;
- (u) Notwithstanding the requirements of the Liquor Control Act 1988 the Tavern is permitted to operate until 12 midnight only;
- (v) A minimum of one CCTV camera shall be installed at each entrance to the Tavern;
- (w) The Management Plan received by the City on 18 July 2008 forms part of this approval. The operation of the tavern shall at all times conform to this Management Plan;
- (x) This approval does not include street trees or landscaping outside of the lot boundary (namely on the road reserve);
- (y) The infill panels on the western car parking screen wall are not permitted to be more than 1200mm high as measured from the natural ground level.

3 ADVISES the applicant that with regard to condition (t) any increase in accommodation numbers shall be the subject of a further development application and will be assessed against the car parking supply and demand on site in addition to any other relevant planning matters.

Discussion ensued.

The Motion was Put and

CARRIED (10/1)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, McLean, Norman, Rosano and Young Against the Motion: Cr Macdonald

Appendix 14 refers

To access this attachment on electronic document, click here: [Attach14brf140409.pdf](#)

CJ093-04/09 MINUTES OF THE MEETING OF THE SENIORS INTERESTS ADVISORY COMMITTEE HELD ON 4 FEBRUARY 2009 – [55511]

WARD: All

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Community Development

PURPOSE

To submit the confirmed 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 February 2009.

The items of business that were considered by the Committee were:

- | | |
|--------|---|
| Item 1 | Presentation – The Vario Wellness Clinic |
| Item 2 | Intergenerational Cultural Activities |
| Item 3 | Adopt a Pensioner |
| Item 4 | Universal Building Design – Ageing in Place |

It is recommended that Council:

- 1 *NOTES the confirmed minutes of the Seniors Interests Advisory Committee held on 4 February 2009 forming Attachment 1 to Report CJ093-04/09;*
- 2 *ADOPTS Options 1 and 2 as outlined in the Adopt a Pensioner Report and requests the CEO to :*
 - (a) *UNDERTAKE further advocacy with the private web developer and other interested stakeholders such as the Commonwealth and State Governments and the WA Local Government Association to address the challenges and concerns in relation to security, terminology used on the website (ie “adopt”), lack of awareness of the service and how to access the internet;*
 - (b) *LIAISE with other Local Governments to identify common challenges and develop a co-ordinated approach in conjunction with the WA Local Government Association to Commonwealth and State Governments to raise awareness and seek support;*
 - (c) *ENGAGE with community based organisations such as Community Vision and the Volunteer Taskforce Group to explore utilising the current Adopt a Pensioner website or similar to link volunteers to pensioners in a manner that provides quality assurance;*
- 3 *REFERS the issue of the Adopt a Pensioner Report to the WA Local Government Association’s North Metropolitan Zone for consideration.*

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 4 February 2009 are shown below, together with officer's comments.

1 Presentation – The Vario Wellness Clinic

The following Motion was carried:

“That the Seniors Interests Advisory Committee NOTES the presentation on the Vario Wellness Clinic.”

Officer's Comments

Lack of exercise is a recognised risk factor to healthy ageing. Approximately 36% of Western Australian older people do no physical exercise.

Providing opportunities for older people to access affordable opportunities to exercise in a supportive environment will assist the prevention of disease and increase participant's quality of life.

2 Intergenerational Cultural Activities

The following Motions were carried:

“That the Seniors Interests Advisory Committee THANKS and SUPPORTS Council on its efforts in presenting the Intergenerational Cultural Activities to the Committee.”

“That the Seniors Interests Advisory Committee NOTES the information provided in the Report.”

Officer's Comments

Intergenerational activities help break barriers between age groups, and teach younger people how to behave with, and respect seniors. To the extent to which older people participate in the social, civic and economic life of their community is closely linked to their experience of inclusion. Through considering age-specific needs in planning whole of community activities the City has increased opportunities for older people to participate in intergenerational and family interactions. Many older people have indicated that they prefer not to attend 'seniors' events as there is a stigma attached. Ensuring civic events and programs are age-friendly enhances social inclusion.

3 Adopt a Pensioner

The following Motion was carried:

“That the Seniors Interests Advisory Committee RECOMMENDS the City ADOPTS Options 1 and 2 as outlined in the Report.”

Officer's Comments

Liaising with other local governments to identify common challenges and developing a co-ordinated approach will be an effective way to advocate on behalf of pensioners in need of support. Collaborating with community-based organisations that have expertise in volunteer management and community links will be an effective way to bridge the current services gap.

4 Universal Building Design – Ageing in Place

“That the Seniors Interests Advisory Committee NOTES the information provided in the Report.”

Officer's Comments

Further research into older resident's plans and needs, in terms of housing and implications for support and care, will be important for the City and other key stakeholders to effectively respond to the needs of an ageing population. Embracing the principles of universal building design in housing and public spaces will assist people to age in place and enhance community wellbeing.

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:

Not Applicable.

COMMENT

Not Applicable.

ATTACHMENTS

Attachment 1 Minutes of the Seniors Interests Advisory Committee meeting held on 4 February 2009

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rosano, SECONDED Cr Young that Council:

- 1 **NOTES** the confirmed minutes of the Seniors Interests Advisory Committee meeting held on 3 December 2008 forming Attachment 1 to Report CJ093-04/09;
- 2 **ADOPTS** Options 1 and 2 as outlined in the Adopt a Pensioner Report and requests the CEO to:
 - (a) **UNDERTAKE** further advocacy with the private web developer and other interested stakeholders such as the Commonwealth and State Governments and the WA Local Government Association to address the challenges and concerns in relation to security, terminology used on the website (ie “adopt”), lack of awareness of the service and how to access the internet;
 - (b) **LIAISE** with other Local Governments to identify common challenges and develop a co-ordinated approach in conjunction with the WA Local Government Association to Commonwealth and State Governments to raise awareness and seek support;
 - (c) **ENGAGE** with community based organisations such as Community Vision and the Volunteer Taskforce Group to explore utilising the current Adopt a Pensioner website or similar to link volunteers to pensioners in a manner that provides quality assurance;

3 REFERS the issue of the Adopt a Pensioner Report to the WA Local Government Association's North Metropolitan Zone for consideration.

The Motion was Put and CARRIED (11/0) by En Bloc Resolution following consideration of Item CJ097-04/09, Page 144 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 15 refers

To access this attachment on electronic document, click here: [Attach15brf140409.pdf](#)

CJ094-04/09 PROPOSED MIXED USE DEVELOPMENT OF 24 MULTIPLE DWELLINGS, 8 GROUPED DWELLINGS, OFFICES, SHOP & RESTAURANT AT LOT 9009 (35) MARTINIQUE MEWS, HILLARYS – [68543]

WARD: South-West

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Community Development

This application was previously the subject of a report to the 10 February 2009 Briefing Session. The proposal has subsequently been amended to modify the ground floor car park, and the retail tenancy previously labeled super-deli is now labeled Convenience Store. Whilst additional information has been provided regarding the proposal, no other changes have been made to the proposed development.

PURPOSE

To request Council's determination of an application for a Mixed Use Development consisting of 24 multiple dwellings, 8 grouped dwellings, offices, shop and restaurant at Lot 9009 (35) Martinique Mews, Hillarys.

EXECUTIVE SUMMARY

The applicant proposes to construct a two and three storey development of multiple dwellings, grouped dwellings, offices, shop and restaurant on the subject site, which is within the Hillarys Structure Plan Area.

The proposed shop component of the development is not consistent with the requirements of the City's District Planning Scheme No. 2 (DPS2), and the development also proposes variations to the Residential Design Codes (R-Codes), and the Structure Plan.

The proposed buildings have a maximum height which exceeds that prescribed in Council Policy 3-4 Height of Buildings within the Coastal Area - Non-Residential Zones (Policy 3-4). The 10 metre height limit set by this Policy is consistent with the height limit set by proposed Amendment 32 to DPS2. In this regard, it should be noted that the Minister has refused Amendment 32 as the proposed height limit was not appropriately justified, and as it would not allow any discretion to be exercised where appropriate developments are proposed.

The Structure Plan also sets out height requirements and the proposal is consistent with these requirements, and with surrounding residential development in this regard.

The development was advertised for public comment for a period of 21 days in November and December 2008. A total of 44 submissions were received as part of the public consultation process with 40 of these being objections to the proposal. Concerns raised include additional traffic being generated, whether sufficient parking is provided, and the scale of the proposed development.

Legal advice has been received by the City, which states that the DPS2 does not allow for approval of a shop with a floor area exceeding 200m² in the Mixed Use Zone, and that this requirement cannot be varied. As such Council is required to refuse the application.

BACKGROUND

Suburb/Location:	Lot 9009 (35) Martinique Mews, Hillarys.
Applicant:	Hames Sharley Pty Ltd
Owner:	Paltara Pty Ltd
Zoning:	DPS: Urban Development
	MRS: Urban
Site Area:	6389m ²
Structure Plan:	Hillarys Structure Plan (No.20)

Lot 9009 is a 'balance title' comprising the remainder of the Structure Plan Area yet to be subdivided, this being the two mixed use sites at 46 Angove Drive, and the subject site at 35 Martinique Mews. The subject site, 35 Martinique Mews, is located on the corner of Whitfords Avenue and Hepburn Avenue, Hillarys, within the Hillarys Structure Plan Area. Martinique Mews forms the northern boundary of the site, and Kos Link forms the eastern boundary (Attachment 1 refers).

A mix of existing residential development and vacant residential sites surround the property to the north and east. These are also within the Structure Plan Area. To the west of the subject site, on the opposite side of Whitfords Avenue is the existing Hillarys Marina.

The site is zoned Urban Development under DPS2 and is subject to the provisions of the Structure Plan. The site is designated Mixed Use under the Structure Plan.

The Structure Plan Area consists primarily of residential development at various scales and densities, with two sites designated for Mixed Use developments, the subject site being the larger of the two.

Council Policy 3-4 was adopted by Council in February 2006 as an interim measure whilst proposed Scheme Amendment 32 (adopted by Council in April 2006) is progressed. The policy sets a maximum ten metre height limit for non residential sites within 300 metres from the coast. The policy recognises the coastline within the City as a regional asset and the policy ensures the protection of its unique amenity and characteristics by controlling the height of development within the coastal area. The Minister has recently refused Amendment 32 as sufficient justification for the height limit was not provided, and as it does not allow the exercise of discretion where an appropriate development may be proposed. As such, Policy 3-4 only is applicable to this application.

This application was previously presented to the February Council Briefing Session for consideration. A number of concerns were raised in relation to various aspects of the proposal and as such the matter was not presented to the subsequent Council Meeting for determination. The applicant has modified the ground floor car parking layout and has provided some additional information regarding traffic. No other changes have been made to the proposal.

DETAILS

The applicant proposes to construct a two and three storey mixed use development on the subject site, consisting of:

- 24 Multiple Dwellings;
- 8 Grouped Dwellings;
- 794m² Net Lettable Area (NLA) of Offices at ground floor and first floor levels;
- a Shop of 350m² NLA (shown on the attached plans as a Convenience Store); and
- a Café (Restaurant) seating 48 persons, with a total floor area of 150m² NLA.

Access to the site is from Martinique Mews for residents and visitors of the residential dwellings, and from Kos Link for staff and customers of the Offices, Restaurant and Shop.

Compliance with the relevant requirements of DPS2, the Structure Plan and the R-Codes are summarised below:

Standard	Required	Proposed	Compliance
Minimum Building Setbacks	Front (Hepburn Avenue): nil Front (Whitfords Avenue): nil Rear (Kos Link): 6 metres Side (Martinique: Mews) nil	Retaining: nil – 4m Building: nil – 8.8m Retaining: nil – 4m Building: 6.0m – 6.8m 6m 2.4m – 4.009m	Yes Yes Yes Yes Yes
Internal Setbacks (Grouped Dwellings)	2.5 metres to common driveway	Nil	No
Cone of Vision (Grouped Dwellings)	7.5 metre setback from balconies and unenclosed outdoor living areas	Setbacks of nil and 2 metres from upper floor balconies overlooking outdoor living areas of adjoining grouped dwellings within the development	No
Landscaping	8% of total site area	8%	Yes
Plot Ratio	0.8	0.8	Yes
Office Floorspace	Maximum 800m ² NLA Ground Floor 500m ² NLA Upper Floor 300m ² NLA	Maximum 794m ² Ground Floor 187m ² Upper Floor 607m ²	Yes Yes No
Total Restaurant Floorspace	Maximum 150m ² NLA	150m ² NLA	Yes
Total Retail Floorspace	Maximum 350m ² NLA	350m ² NLA	Yes
Shop Floorspace	Maximum 200m ² (providing requirements of clause 3.5.2 of DPS2 are satisfied)	350m ² NLA	No
Building Height	Maximum two storeys or three storeys where development considered to be of landmark quality	Maximum three storeys	Yes

Car Parking requirements for the proposed development are set out below:

Proposed Use	Required by DPS2	Provided
Office (1 per 30m ² NLA)	26.46 bays	27 bays
Shop (7 bays per 100m ² NLA)	24.5 bays	15 bays
Restaurant (Greater of 1 per 5m ² of dining room or 1 per 4 guests)	12 bays	12 bays
Multiple Dwellings (includes visitor bay requirement)	48 Bays	48 bays
Grouped Dwellings	16 Bays	16 bays
Visitor Bays	2 Bays (Grouped Dwellings)	7 bays
Total	128.96 (129) bays	125 Bays

The car parking for the restaurant component of the development has been calculated at a standard of one bay per four guests. The applicant has advised that a maximum of 48 patrons will be accommodated by the development, generating a requirement for 12 parking bays. The applicant has further advised that these 48 seats may be distributed both inside and outside, however the internal dining area would be limited to 35m², with the remainder of the area used for food preparation, serving and ordering areas, and a limit of 20 seats outdoors. If the configuration of the restaurant was to change in this manner, a maximum of 12 car parking spaces would still be required for the restaurant component of the development.

Overall, a shortfall of four car parking bays (3.1% of the total requirement) is proposed for the development.

The applicant has provided the following justifications for the proposed development and the variations sought:

- *The development has been designed to provide an attractive and visually interesting presentation to all streets. The Martinique Mews street edge has been treated with two storey townhouse development to complement and provide a transition area between the surrounding medium density single residential development and the proposed apartment and commercial building on the subject land. The proposed development will be sympathetic to the surrounding buildings in bulk and scale;*
- *Private spaces will be used to encourage passive surveillance of the adjoining public street area;*
- *The Whitfords and Hepburn Avenue corner will be punctuated by an attractive three storey apartment building designed to create an identity worthy of a landmark building;*
- *Provision of commercial uses will provide convenient facilities to both the residents of the development and surrounding local residents. It is expected that a significant proportion of visitors will walk from the immediate surrounding area; and*
- *The development will contribute to a variety of housing type and density.*

The development plans are provided in attachment 2.

Issues and options considered:

Council has the option to:

- Refuse the application.

Link to Strategic Plan:

The proposed development is consistent with Objective 4.1 of the City of Joondalup Strategic Plan 2008-2011 – to ensure high quality urban developments within the City.

Legislation – Statutory Provisions:**3.5 THE MIXED USE ZONE**

3.5.2 A shop may be permitted in the Mixed Use Zone, subject to Council's discretion after giving notice in accordance with Clause 6.7, and provided the following conditions have been met:

- (a) Shopping floorspace does not exceed 200m² NLA;*
- (b) The parcel of land is on a separate green title lot of not less than 1000m²;*
- (c) The aggregate shopping NLA on any group of adjoining or adjacent lots in the Business and Mixed Use Zones must not exceed 1000m²; and*
- (d) The direct street frontage of any lot containing a lot must be at least 20 metres in width.*

3.5.3 The conditions specified in clause 3.5.2 are not standards or requirements for the purposes of Clause 4.5.1.

Clause 4.5 of DPS2 allows Council to vary some standards and requirements of the Scheme where appropriate.

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.*

4.8 CAR PARKING STANDARDS

4.8.2 *The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in Table 2 the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.*

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.*

8.11 LOCAL PLANNING POLICIES

8.11.2 Relationship of Local Planning Policies to Scheme

8.11.2.2 *A Local Planning Policy is not part of the Scheme and shall not bind the Council in respect of any application for planning approval but the Council shall have due regard to the provisions of any Policy and its objectives which the Policy is designed to achieve before making its decision.*

9.8 OPERATION OF AGREED STRUCTURE PLAN

9.8.3 *Without limiting the generality of the preceding subclause, under an Agreed Structure Plan:*

- (a) in the areas designated as zones, the permissibility of uses shall be the same as set out in the Zoning Table as if those areas were zones under the Scheme, having the same designation;*
- (b) the standards and requirements applicable to zones and R Codings under the Scheme shall apply with the necessary changes or alterations to the areas having corresponding designations under the Agreed Structure Plan. However an Agreed Structure Plan may make provision for any standard or requirement applicable to zones or R Codings to be varied, and the standard or requirement varied in that way shall apply within the area of the Agreed Structure Plan, or any stipulated part of that area, as if it was a variation incorporated in this Scheme; and*
- (c) the development control procedures including (without limitation) the procedures for approval of uses and developments under the Scheme shall apply as if the land was correspondingly zoned or reserved under the Scheme;*
- (d) provisions duplicating or substantially to the same effect as any provisions of the Scheme shall have the same force and effect in regard to the land in the Structure Plan as if they were provisions of the Scheme;*
- (e) where land is classified as a Local Authority Reservation, the rights, provisions and procedures, and the obligation of the Council in regard to compensation shall apply as if the land was correspondingly reserved under the Scheme;*
- (f) any other provision, standard or requirement in the Structure Plan shall be given the same force and effect as if it was a provision standard or requirement of this Scheme, but in the event of there being any inconsistency or conflict between any provision, requirement or standard of the Scheme and any provision requirement or standard of an Agreed Structure Plan, the provision requirement or standard of the Scheme shall prevail;*
- (g) an Agreed Structure Plan may distinguish between provisions, requirements or standards which are intended to have effect as if included in the Scheme, and provisions, requirements or standards not so intended, and it is only the provisions so intended which have that effect. Any other provisions are for guidance or information only, or*

such other purpose as stipulated in the Agreed Structure Plan documents.

As certain clauses of the R-Codes are to be varied Council is required to exercise discretion under clause 2.5 of the R-Codes. Clause 2.5.2 of the R-Codes specify matters to be taken into consideration when exercising that discretion.

2.5.2 Discretion shall be exercised having regard to the following considerations:

- (a) the stated purpose and aims of the scheme;*
- (b) the provisions of part 1-7 of the codes, as appropriate;*
- (c) the performance criterion or criteria in the context of the coding for the locality that corresponds to the relevant provision;*
- (d) the explanatory guidelines of the codes that correspond to the relevant provision;*
- (e) any local planning strategy incorporated into the scheme;*
- (f) a provision of a local planning policy pursuant to this policy and complying with clause 2.5.3; and*
- (g) orderly and proper planning*

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:

Council Policy 3-4 – Height of Buildings within the Coastal Area (Non – Residential Zones)

Council Policy 3-4 is an interim measure that was adopted by Council in February 2006 whilst Scheme Amendment 32 was progressed.

The objective of this policy is to ensure that the height of development within the coastal area protects and enhances the amenity and streetscape character of the coastal area. The policy states that buildings within 300 metres of the coast shall not exceed a height of 10 metres above natural ground level.

The Council is required to have due regard to the requirements and objectives of this policy when determining this application.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

The proposal was advertised for public comment for a period of 21 days. A total of 67 nearby owners were advised in writing, two signs were erected on the site and advertisements were placed in the Joondalup Weekender on 13, 20 and 27 November 2008 and on the City's website. Advertising closed on 4 December 2008.

A total of 44 responses were received, being 2 non objections, 1 letter of support, 1 neutral submission and 40 objections. Attachment 3 indicates the locations of submitters.

Key issues arising from Public Consultation

Comments received in support of the application are summarised as follows:

- *Dispersed shopping centres are important due to continuing and pressing needs to reduce car use. Many nearby residents will be closer to shopping facilities, particularly after hours/convenience shopping.*

Objectors to the proposed development raised the following concerns:

- *Traffic being generated by the development and its movement through the subdivision area will have an adverse impact on the amenity of the area and its residents;*
- *Whether there is adequate parking on site, as the site is often used for overflow parking from the Marina;*
- *The buildings exceed the City's 10 metre Coastal Height Policy (Policy 3-4) and are out of character with the surrounding residential development; and*
- *The height of the buildings being three storeys and whether or not the development is of landmark quality to be permitted to go to three storeys.*

The points of concern raised in the submissions and the City's response are outlined in Attachment 4. A copy of the submissions is also available in the Councillor's Reading Room.

In addition to these submissions, a further submission was received in March 2009 on behalf of a number of residents in the Harbour Rise Estate. This submission outlines a number of areas of concern, including:

- *The area is predominantly two storey residential. The proposed development is 2-3 storeys in height and has a significant non-residential component and as such is out of character with the context of the area;*
- *The intent of the Mixed Use Zone is not achieved by the proposed development with approximately one third of the site being devoted to non-residential land uses;*
- *The Convenience Store is 350m² and as such is not a Convenience Store given its definition in DPS2. It must therefore be considered a shop, which is not permitted by DPS2;*
- *There is a deficiency in the commercial and the residential car parking;*
- *The Structure Plan envisaged that only the corner of Hepburn and Whitfords Avenues be a "Landmark" up to three storeys. With approximately half the site being devoted to three storeys clearly it does not comply with this requirement;*

- *It is understood that the lot has been recently raised and is an estimated one metre above what was the original finished level of the lot;*
- *The proposed development is over density;*
- *Residents were advised that the development would be substantially less significant than what is proposed;*
- *There has not been a recent traffic or parking impact study submitted with the application. The traffic and parking impacts of the current proposal need to be assessed and justified before it can proceed;*
- *The scale of the development is not residential. The three storey component occupies about half of the total building footprint and this represents a significant part of the subject site being devoted to three storeys; and*
- *The objectives of the Mixed Use Zone are not achieved in that the development and land uses impact on the amenity of the adjoining residential area.*

COMMENT

Land Use

The Shop component of the proposed development was previously referred to as a Convenience Store and is indicated as such on the plans. The City has subsequently sought legal advice, which indicates that, by definition, anything larger than 200m² NLA cannot be considered to be a Convenience Store. As such the proposed retail tenancy is now classified as a shop. Further to this, Clause 3.5.2 of DPS2 regulates the provision of shops within Mixed Use Areas, and Clause 3.5.3 stipulates that the 200m² floor limit set out in Clause 3.5.2 cannot be varied. As such, the development is unable to be approved in its current format.

The applicant also sought legal advice and their advice indicates that the Convenience Store as proposed at 350 square metres can be approved by the Council. The City's legal advisors have reaffirmed their position and still believe that it is not open to the Council to approve a Convenience Store in excess of 200 square metres NLA.

The site is located in the Structure Plan Area and is designated Mixed Use. The Structure Plan guides development within this area and sets out objectives whereby:

- *A diversity of land uses and housing types is encouraged;*
- *The landmark significance of the site on the corner of Hepburn Avenue and Whitfords Avenue is emphasised, and an active focus for the community is created by means of associated commercial uses;*
- *A high level of pedestrian amenity is maintained; and*
- *Development that is human in scale and provides an interesting and pedestrian friendly streetscape.*

The proposed development is focused on Whitfords Avenue and Hepburn Avenue, with three storey development to these frontages creating a landmark feature. Factors such as size, shape, design and materials contribute to the landmark quality of a development. The varying facades by way of design and shape, as well as the varying roof designs, and the colours and materials of the overall development also assist in contributing to the landmark quality of the proposal. The development to the side and rear of the site is generally two storeys in height to provide a transition between the existing residential development in the surrounding area, and the three storey component of this development.

It is noted that there are concerns regarding the potential for a liquor store component to be incorporated in the development at a later stage. The sale of liquor is not included in the current proposal, and Liquor Store is a prohibited use in the Mixed Use Zone under DPS2.

Footpaths are proposed to be incorporated surrounding the development along with large amounts of verge landscaping which will provide an attractive setting for the development and allow for a high degree of pedestrian interaction, particularly with the commercial component of the development. It is intended by the applicant that the restaurant and shop will be largely accessed by residents of the complex and surrounding Harbour Rise Area, and as such it has been ensured that a high degree of pedestrian amenity is maintained.

It is considered that the proposed development meets the objectives of the Structure Plan given its diversity of housing types and land uses, landmark quality development and pedestrian accessibility to the development. However, as a shop is not permitted to exceed 200m² in the Mixed Use Zone, the proposed development cannot be approved in its current format.

Height and Scale

The Western Australian Planning Commission's State Planning Policy 2.6 – State Coastal Planning Policy sets a maximum height of five storeys or 21 metres for development within 300m of the coast. The proposed development complies with the requirements of this policy.

The City's Policy 3-4 sets a height limit of 10 metres for non-residential land within 300 metres from the coast. The proposed development is a maximum of 12.52 metres as measured from natural ground level, exceeding the Policy height limit by 2.52 metres. The Council is required to have due regard to the requirements of this Policy when determining the application.

The objective of this policy is to ensure that the height of development within the coastal area protects and enhances the amenity and streetscape character of the coastal area. The policy recognises the coastline within the City as a regional asset and ensures the protection of its unique amenity and characteristics by controlling the height of development within the coastal area.

The proposed development is of a greater density and scale than surrounding residential development, however is compliant with the Structure Plan in this regard. The Structure Plan also controls building height for the surrounding residential development. The Structure Plan area is divided into a number of precincts, and the development control standards vary between precincts. The Structure Plan sets a maximum ridge height for dwellings of 9.5 metres. In certain precincts 'tower elements' are also permitted and these may be an additional three metres in height to that permitted, allowing a maximum building height of 12.5 metres. The proposed development will be consistent with the height of those dwellings with 'tower elements' throughout the surrounding Structure Plan area, of which there are several already constructed that front Whitfords Avenue.

The height limit set out by the Structure Plan for the subject site, requires development to be a "minimum and maximum of two storeys", with development of a maximum of three storeys being permitted where a development of landmark quality is proposed. It is considered that the proposed development is of landmark quality by way of its varying facades, materials and finishes, the scale of the development and its location on a major intersection as previously discussed.

The proposed development incorporates retaining and fill to a maximum height of 1.8 metres above natural ground level on the corner of Whitfords Avenue and Hepburn Avenue. The proposed bulk of this wall and its resultant adverse impact of the streetscape of these two roads is not considered to be appropriate and is not supported.

Variations to DPS2, R-Codes and the Structure Plan

The proposed development is subject to the provisions of DPS2, R-Codes and the Structure Plan. The proposal seeks to vary the following standards:

- Building Setbacks

The R-Codes require that the Grouped Dwelling component of the development is assessed based on the individual site area for each dwelling rather than the overall site area for the proposed development. As such the proposal includes an internal setback variation of nil in lieu of 2.5 metres to the common driveway. The proposed variation will not have an adverse impact on the amenity of the future residents or on the surrounding area as it is internal to the development.

- Cone of Vision (Grouped Dwellings)

Due to the requirement to assess Grouped Dwellings as being on individual lots, as discussed above, minor overlooking variations are proposed.

The balconies of the proposed Grouped Dwellings provide screening to allow a degree of privacy between the dwellings, however some minor overlooking will occur into the adjoining Grouped Dwellings within the subject lot. The amount of overlooking is consistent across the eight dwellings, and will not adversely impact on the amenity of adjoining residents as a portion of the outdoor living area provided is beneath the balconies and is not visible from the street or surrounding properties.

- Office Floor Space Distribution

The Structure Plan permits a maximum office floor space of 800m² NLA and requires the distribution of this to be 500m² on the ground floor and 300m² on the upper floor. The proposed development requests a total of 794m² office floor space, with a distribution of 187m² on the ground floor and 607m² on the upper floor. It is considered that this varied distribution of the floor space will not adversely impact on future users of the development or the amenity of the area, and that sufficient office floor space is provided at ground level, along with other non-residential land uses to provide interaction at street level.

Traffic and Car Parking

Two access ways are proposed to the car parking areas for the proposed development, one off Martinique Mews and one off Kos Link. This provides a safe and efficient flow of vehicles to the car parking areas for the various components of the development and also ensures a high level of pedestrian safety through and around the site. No vehicular access to the site is permitted from either Hepburn Avenue or Whitfords Avenue.

In 2001 Council resolved to amend the Hillarys Structure Plan by way of designating the sites on the corner of Whitfords Avenue and Hepburn Avenue, and Whitfords Avenue and Angove Drive as Mixed Use. As part of this Structure Plan amendment a detailed traffic study was sought. This Traffic Study concluded that “anticipated traffic is within acceptable limits (albeit with minor residential amenity impacts for the high traffic scenario) and the access points have been found to be well located”

The applicant has provided an updated traffic statement confirming that the findings of the previous study are still relevant, and that the proposed development falls within acceptable limits in relation to traffic generation and the capacity of the surrounding road network. A copy of both the initial study and the updated information are provided in the Councillor Reading Room.

The development requires parking provision of 129 car parking bays, with the development providing 125 bays. As such a shortfall of four parking bays (3.1% of the total requirement for the development) results from the proposal. It should also be noted, that whilst the overall shortfall for the development is four bays, the commercial component of the development is nine car parking bays short.

This car parking shortfall could result in an adverse impact on the amenity of the surrounding area, if parking was to spill into surrounding residential streets. This is not considered appropriate.

Conclusion

On the basis of the legal advice received, the City cannot approve a shop of 350m² NLA within the Mixed Use Zone. As such, Council has no option other than to refuse the proposed development. Notwithstanding this legal advice, the proposed car parking shortfall and associated demand generated by the development will result in adverse impacts on the amenity of the area, as will the bulk of the proposed retaining walls.

ATTACHMENTS

Attachment 1	Location Plan
Attachment 2	Development Plans
Attachment 3	Plan of Submissions Received
Attachment 4	Response to Submissions Received

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council REFUSES the application dated 5 December 2006, and amended plans dated 19 September 2008 and 25 March 2009 submitted by Hames Sharley Pty Ltd for 24 Multiple Dwellings, 8 Grouped Dwellings, Offices, Shop & Restaurant at Lot 9009 (35) Martinique Mews, Hillarys for the following reasons:

- 1 A Shop with a floor area of 350m² NLA is not permitted under Clause 3.5.2 of the City of Joondalup District Planning Scheme No. 2. This requirement cannot be varied under Clause 4.5.1 of this Scheme as set out in Clause 3.5.3;
- 2 The proposed development does not provide adequate car parking to satisfy the requirements of the City of Joondalup District Planning Scheme No. 2, by way of a nine car parking bay shortfall for the non-residential component of the Development, and an overall shortfall of four car parking bays;
- 3 The proposed car parking shortfall of nine bays for the non-residential component of the development, and the overall shortfall of four car parking bays will result in an adverse impact on the amenity of surrounding residential properties by way of parking overflow and resultant congestion of surrounding streets;

- 4 The bulk of the proposed retaining walls on the corner of Whitfords Avenue and Hepburn Avenue will adversely impact of the streetscape of these two roads and the amenity of the surrounding area.

MOVED Cr Rosano, SECONDED Cr Norman that Council REFUSES the application dated 5 December 2006, and amended plans dated 19 September 2008 and 25 March 2009 submitted by Hames Sharley Pty Ltd for 24 Multiple Dwellings, 8 Grouped Dwellings, Offices, Shop & Restaurant at Lot 9009 (35) Martinique Mews, Hillarys for the following reasons:

- 1 **A Shop with a floor area of 350m² NLA is not permitted under Clause 3.5.2 of the City of Joondalup District Planning Scheme No. 2. This requirement cannot be varied under Clause 4.5.1 of this Scheme as set out in Clause 3.5.3;**
- 2 **The proposed development does not provide adequate car parking to satisfy the requirements of the City of Joondalup District Planning Scheme No. 2, by way of a nine car parking bay shortfall for the non-residential component of the Development, and an overall shortfall of four car parking bays;**
- 3 **The proposed car parking shortfall of nine bays for the non-residential component of the development, and the overall shortfall of four car parking bays will result in an adverse impact on the amenity of surrounding residential properties by way of parking overflow and resultant congestion of surrounding streets;**
- 4 **The bulk of the proposed retaining walls on the corner of Whitfords Avenue and Hepburn Avenue will adversely impact of the streetscape of these two roads and the amenity of the surrounding area;**
- 5 **The proposed development is not consistent with the interests of orderly and proper planning as the height, scale and building bulk of the proposed development will adversely impact on the amenity of the locality.**

AMENDMENT MOVED Cr Norman, SECONDED Cr Rosano that an additional Point 6 be added to the Motion to read:

- “6 Notwithstanding the overall car parking shortfall stated at point 2, the size of the cafe (150 sqm NLA) and the lack of a reciprocal parking connection between the residential and non-residential components of the building means that the car parking overflow onto the streets could realistically be higher than caused by the calculated overall car parking shortfall, exacerbating the impact on residential amenity.”*

Discussion ensued.

During discussion Cr Hollywood left the Chamber at 2032 hrs and returned at 2034 hrs.

The Amendment was Put and

LOST (4/7)

In favour of the Amendment: Crs Corr, Hart, Macdonald and Norman **Against the Amendment:** Mayor Pickard, Crs Amphlett, Fishwick, Hollywood, McLean, Rosano and Young

AMENDMENT MOVED Cr Macdonald, SECONDED Cr Hart that an additional Point 6 be added to the Motion to read:

“6 *The development does not meet the definition of mixed-use development in the R codes as there is no conjunction between the commercial and residential development in one building. Therefore the Residential component of the development does not meet the R50 density requirements as per Table 1 column 3 of the Codes. The site on which it sits is less than the required area of 6120sq metres.*”

Discussion ensued.

During discussion, Cr McLean left the Chamber at 2051 hrs and returned at 2053 hrs.

The Amendment was Put and

LOST (4/7)

In favour of the Amendment: Crs Corr, Hart, Macdonald and Norman **Against the Amendment:** Mayor Pickard, Crs Amphlett, Fishwick, Hollywood, McLean, Rosano and Young

AMENDMENT MOVED Cr Corr, SECONDED Cr Norman that an additional Point 6 be added to the Motion to read:

“6 *That the proposed development breaches the City’s 10 metre coastal height policy.*”

Discussion ensued.

The Amendment was Put and

LOST (4/7)

In favour of the Amendment: Crs Corr, Hart, Macdonald and Norman **Against the Amendment:** Mayor Pickard, Crs Amphlett, Fishwick, Hollywood, McLean, Rosano and Young

The Motion as Moved by Cr Rosano and Seconded by Cr Norman was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 16 refers

To access this attachment on electronic document, click here: [Attach16brf140409.pdf](#)

CJ095-04/09 JOONDALUP COMMUNITY ARTS ASSOCIATION - LOCATION REPORT – [15555]

WARD: All

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Community Development

PURPOSE

To present options for the City of Joondalup’s future commitment to the Joondalup Community Arts Association (JCAA), with regard to the potential location of the blend(er) gallery space.

EXECUTIVE SUMMARY

In July 2007, Council endorsed a City review of appropriate facilities for the potential relocation of the blend(er) gallery in partnership with the JCAA, by July 2009. The City has engaged extensively with JCAA to determine their needs and analyse future relocation options.

This report considers the City's future relationship with the organisation and four key options for the possible relocation of the gallery. Based on the analysis of each option, this Report recommends that Council:

- 1 *ENDORSES the Chief Executive Officer to renew the lease at 48 Central Walk, Joondalup, for a period of five years and for the Joondalup Community Arts Association (JCAA) to remain at the location of the blend(er) gallery until July 2014;*
- 2 *NOTES the housing of the JCAA and the blend(er) gallery will be considered as part of the feasibility study for the planned new Cultural Centre;*
- 3 *ADVISES JCAA that a five year Strategic Plan, Annual Business Plan and Annual Report is required to be provided to the City in order to receive the City's ongoing financial support.*

BACKGROUND

The JCAA is Joondalup's local visual arts association. In 2004, the JCAA established the blend(er) art gallery in partnership with the City of Joondalup, through the lease of a commercial premises in Central Walk, Joondalup. The City has since paid the lease and variable outgoings, while the JCAA has self-funded staffing and operational costs.

Over the last four years the gallery has played a key role in the provision and development of arts within the region by:

- Conducting art workshops;
- Holding regular joint exhibitions for members;
- Providing visual arts information and networking opportunities; and
- Offering an accessibly priced exhibition space for local artists and a meeting point for the local arts community.

In July 2007, Council endorsed the review of appropriate facilities for the potential relocation of the blend(er) gallery, in partnership with the JCAA, by July 2009, in order to best meet the current needs of both the City and the JCAA.

The City worked with JCAA to develop an outline of key features required in a premise listing its basic operational requirements, as well as what it aspires to have in a venue. These requirements and preferences are detailed in Attachment 1 but key requirements include:

Exhibition space:

- 200m² floor space with
- 100m hanging/wall space
- hanging / display facilities
- 50m² partitioned office space
- retail exposure / regular "foot traffic"

Workshop space:

- 150m² floor space equipped for a variety of media
- supporting amenities such as running water, parking, kitchen facilities

This facility analysis has been used to develop a list of possible venues for the option of relocating the organisation.

DETAILS

Issues and Options Considered:

Relationship with the City

In order to address the issue of the possible relocation of the JCAA, the nature of the City's relationship with the JCAA was considered. Since its establishment in 2004, the blend(er) gallery, managed by the JCAA, has become increasingly self-sufficient. However, as a young organisation without established infrastructure, there is still a heavy reliance on the City for the provision of a venue. Going forward the City has two major options:

- Option 1: Continue to support the JCAA
- Option 2: Discontinue support of the JCAA

See Attachment 2 for an overview diagram illustrating these options.

Option 1: Continue support of the JCAA

Should the City decide to continue its support of the JCAA, there are two further options in terms of the level of support offered. The City has investigated location possibilities in relation to each option:

Option 1.1 Continue to provide a commercial space, allowing the JCAA to continue its current level of activities.

This option recognises that JCAA offers the community a unique and valuable service through the operation of the blend(er) gallery and support of the local artists.

In order to continue its activities at the current level, the gallery prefers exposure to directly passing foot traffic and significant floor space, which the City does not have available within one building.

The City explored the options of the Joondalup campuses of Edith Cowan University and West Coast TAFE, along with the Joondalup Business Incubator. The initial investigation found that they were not feasible based on insufficient space or lack of host organisation support and further research was discontinued.

Two viable commercial spaces have been identified, within the City's current annual expenditure. One of these is the renewal of the current lease at 48 Central Walk. While not ideally suited to the JCAA's development aspirations, this space has served adequately thus far and is already fitted out as a gallery. Selecting this option avoids relocation costs to the JCAA.

The second option considered relocation to a vacant new development: shop E24 at Lakeside Joondalup Shopping City, on Boas Avenue. It is noted that while this option was available at the time of researching this report, it may become unavailable at any time. While of a comparable exhibition space (80m²), the work shop space would be significant reduced (100m²) as compared to the existing premises. This space offers unrivalled exposure for the gallery in terms of regular foot and motor traffic at a similar cost (\$50,000) as compared to the existing premises, making it appealing to the JCAA.

However, such an environment may place more emphasis on the gallery's commercial activities, shifting its focus from community arts exhibitions, events and work shops.

Option 1.2 Reduce the City's financial support of JCAA to the level offered to other City based Sporting Clubs or Associations

This option would see the JCAA receive some support, but this would be reduced to the provision of a City premises, similar to the arrangements which are available to the City's sporting and community organisations.

Two City-owned locations have been identified for this. The first is the City of Joondalup Leisure Centre, Heathridge. It offers a range of spaces including a pottery studio, which would be well suited to JCAA's workshop activities. However, there is no space at this premises which the JCAA consider to be suited to exhibitions, and this core aspect of JCAA's business is likely to be curtailed if this option were selected.

The second option is a dual facility arrangement inclusive of City of Joondalup Leisure Centre, Heathridge for a workshop and Joondalup Library ground floor meeting room as a gallery space.

The JCAA have indicated that the library meeting room is also not well suited to exhibitions, due to the lack of exposure and directly passing foot traffic. Joint members' exhibitions could potentially be held in this space, if it were renovated to become a gallery. However, a considerable part of the JCAA's annual activities and income is currently driven by independent artists hiring the gallery, and it is expected that no artists would be interested in hiring the library meeting room, due to its position and its perceived unsuitability as an exhibition space. JCAA also expect that due to reduced commercial exposure, sales of art work and thereby commission income, would also be reduced. The loss of these income streams would in turn reduce other aspects of the JCAA's programs, which are currently reliant upon them. This option would therefore involve a reduction in JCAA's activities and viability, but may allow them to continue at some level.

The library meeting room is also used by various different community groups on a hire basis, in addition to the City's Immunisation Clinic. Limited alternative venues would be available to these groups if it was converted to a gallery.

Overall, none of the options considered are optimum for JCAA requirements but all address some aspects of their needs, as outlined in the needs analysis in Attachment 1.

The table in Attachment 3 summarises the benefits and drawbacks of each location option.

Option 2: Discontinue support of the JCAA

The support of the JCAA by the City is discretionary and is not related to any legislation or formal agreement.

Should the City discontinue its support of the JCAA, the following is a list of the likely outcomes that should be considered:

- No visual arts venue in the City of Joondalup;
- No community gallery in Joondalup and loss of opportunity for local artists to exhibit;
- Significant reduction in the JCAA's visual arts programs, workshops and activities;
- Significant reduction in the JCAA's ability to support local visual artists; and
- Possible disbandment of the JCAA.

Funding agreement

In the past, there have been no specific expectations of the JCAA with regard to regular reporting of the services they offer to the community. This was to allow the new organisation time to create foundations and build capacity.

Now that the JCAA is more established, it is recommended that, should the City decide to continue its support of the organisation, the provision of any premises become subject to an annual funding agreement. It is recommended that this include delivering annual operational plans and reports against the strategic plan, supplying semi-annual programs, providing evidence of investigation of other funding sources, and support of the City's two art exhibitions.

Link to Strategic Plan:

Community Wellbeing

OUTCOME: To meet the cultural needs and values of the community

1.2.2 Continue to enhance and create new cultural activities and events.

OUTCOME: The City of Joondalup is recognised as a great place to visit

3.2.1 Create and promote cultural tourist attractions.

Financial / Budget Implications:

Should the City continue to support the JCAA, the following amounts are provided as the initial estimates for each location option. If one of the options which requires renovations is approved, more detailed costings will be provided.

The proposed 2009-2010 budget was prepared based on the current status quo of the Central Walk location. In the event that another option is selected, this will need to be modified.

The following costs are presented in ascending price order, based on the estimate of the JCAA remaining in each location for five years:

	Renovation Costs	Lost Rent	Annual Rental + Outgoings	Annual Maintenance	Total costs 5 years
LOCATION - COJ Leisure Centre, Heathridge (HLC).	\$60,000	\$9,000 estimated rent lost PA		\$3000	\$120,000 including estimated rental lost at Leisure Centre
LOCATION - Dual facility use at City venues, HLC & Joondalup Library.	\$65,000	\$15,000 estimated rental lost at Library		\$3000	\$155,000 including estimated rental lost at Library

LOCATION - Current, Central Walk Joondalup.	N/A		\$50,000	\$3000	\$285,800 including estimated market increase of 4% PA
LOCATION - Lakeside Shopping Centre Joondalup.	N/A Provided by Lakeside		\$50,500	\$3000	\$299,700 including estimated market increase of 6% PA

Policy Implications:

Not Applicable.

Regional Significance:

The Joondalup Community Arts Association fits strategically within the City's cultural services and has become an important complement to the City's own visual arts program.

The ongoing support of an accessible and stable community visual arts organisation is integral to the cultural vibrancy of the local Joondalup area as well as the entire northern region.

Sustainability Implications:

Not Applicable.

Consultation:

Consultation was undertaken via a working party which included representatives from the Joondalup Community Arts Association.

COMMENT**Support of JCAA**

Around Australia, many local governments fully fund their own art gallery or assist in funding a local arts organisation and gallery, including rental, multiple staff salaries and operational costs, in recognition of the unique value such facilities offer the local community. In WA, these include the Heathcote Cultural Precinct (Melville), Mundaring Arts Centre, Vancouver Arts Centre (Albany) and the Fremantle Arts Centre.

By partnering with the JCAA, the City of Joondalup is fortunate that it is able to provide a local visual arts facility for the costs of rental and outgoings alone, without the salary and running costs associated with the City directly providing these services. This is due to the large amount of volunteer resources provided by the JCAA which the City effectively receives free of charge.

The existence of a community visual arts organisation assists in developing the cultural vibrancy of the local Joondalup area as well as the entire northern region.

The JCAA is unable to sustain the gallery costs, due to their limited income streams, without the City's support. Should it discontinue its support of the JCAA, the City of Joondalup would become one of only a few Local Governments in metropolitan WA that does not have an operational visual arts facility in its region. This lack of such a resource may hinder the development of the City as a regional arts centre.

Should the JCAA's activities be discontinued, over time there may be increased community pressure for such a service, which without the benefit of a community organisation would require the City to fund the whole enterprise.

It is therefore recommended that support be continued.

JCAA Position on Venue Options

As part of the relocation working party, the JCAA members provided feedback as to their opinion of the feasibility of each location. Their view, in preferential order is:

- 1 Relocation of the entire organisation to Lakeside Joondalup.
- 2 Renewal of lease at the current location in Central Walk.
- 3 Relocation to a dual facility situation of City of Joondalup Leisure Centre, Heathridge and the Joondalup Library ground floor meeting room.
- 4 Relocation of the entire organisation to the City of Joondalup Leisure Centre, Heathridge.

Officer Comment on Venue Options

In terms of relocation, no venue investigated meets all JCAA requirements whilst offering reduced expenditure to the City. The City therefore needs to choose between reducing its expenditure and reducing its support of the JCAA and, subsequently, the organisation's activities and services.

The City of Joondalup Leisure Centre, Heathridge is well suited to the workshop side of JCAA's operations. However, neither this venue, nor the Joondalup Library meeting room genuinely meets the remainder of JCAA's current needs in terms of being a hireable exhibition space. The selection of either of these options would significantly reduce the JCAA's viable operations and activities, which in turn would reduce the organisation's income from sales and space hire, further reducing capacity.

In particular, neither of the City owned venues investigated offered sufficient directly passing "foot traffic" or equivalent appeal to exhibiting artists, to make the gallery viable. Since exhibitions and the support of local artists is part of the organisation's core business, this is of key importance.

Lakeside Joondalup Shopping City would provide great exposure for the gallery and is the JCAA's first preference. However, it is not felt that the JCAA's ability to properly capitalise on the new location would justify the move. It is also felt that the commercial nature of the site and the reduced size of the venue would eventually lead to a greater focus on the space as a retail outlet as opposed to a creative space for the development of community based art practices.

An organisation as young as JCAA requires many years to establish itself in the community and broader arts industry, in order to develop a plan for the successful delivery of services. Although the existing location does not represent a reduction in the current cost of sustaining the JCAA, it is considered the best option in order to support the gallery and its ability to plan for the next five years.

The feasibility study of the new Cultural Facility should consider the inclusion of a gallery space, arts workshops area and office space to allow the potential relocation of the JCAA.

After reviewing the feedback of stakeholders, and the benefits and drawbacks summarised in Attachment 3, it is recommended that the City renew the current lease at 48 Central Walk, Joondalup, to allow JCAA's services to continue at the current level.

This is considered to be the most effective way to maintain the organisation's financial stability while causing the least disruption to its annual program of exhibitions, events and arts work shops.

In return for the City's financial support, a level of accountability is required from JCAA. Through the development of a five year strategic plan, annual business plan and annual report, JCAA can clearly outline to the City, the number of exhibitions and workshop provided to the community, whilst demonstrating good governance of the association.

The City's support of JCAA through the lease renewal of 48 Central Walk, Joondalup, provides the City with a low cost option of providing a community gallery and art workshop space that supports the development of arts within the Joondalup region.

ATTACHMENTS

Attachment 1: Needs analysis and venue specifications

Attachment 2: Joondalup Community Arts Association Location Options Overview

Attachment 3: Location benefits and drawbacks summary

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Rosano, SECONDED Cr Young that Council:

- 1 ENDORSES the Chief Executive Officer to renew the lease at 48 Central Walk, Joondalup, for a period of five years and for the Joondalup Community Arts Association (JCAA) to remain at the location of the blend(er) gallery until July 2014;**
- 2 NOTES the housing of the JCAA and the blend(er) gallery will be considered as part of the feasibility study for the planned new Cultural Centre;**
- 3 ADVISES JCAA that a five year Strategic Plan, Annual Business Plan and Annual Report is required to be provided to the City in order to receive the City's ongoing financial support.**

The Motion was Put and CARRIED (11/0) by En Bloc Resolution following consideration of Item CJ097-04/09, Page 144 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 17 refers

To access this attachment on electronic document, click here: [Attach17brf140409.pdf](#)

CJ096-04/09 PROPOSED REMOVAL OF LANDSCAPE BUFFERS FROM JOONDALUP DRIVE AND EDDYSTONE AVENUE, JOONDALUP – [06056] [19002]

WARD: North

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Community Development

PURPOSE

The purpose of this report is to seek Council's consent to initiate the removal of a landscape buffer along Joondalup Drive and Eddystone Avenue, Joondalup, with a view to Landcorp purchasing and amalgamating the land into adjoining Lot 9000.

EXECUTIVE SUMMARY

This report was initially considered by Council on 17 March 2009, where it was resolved that the matter be referred back to the CEO for further consideration and to allow discussion between representatives of Landcorp, the City's administration and relevant Elected Members, and a report presented to the next Council meeting to be held on 21 April 2009.

A request has been received from Masterplan Consultants WA Pty Ltd (the applicant) on behalf of Landcorp (owner of Lot 9000) for the removal of a landscape buffer in the form of two 6m wide pedestrian accessways (PAW) along Joondalup Drive and Eddystone Avenue, legally known as PAW 55 and PAW 56 (hereinafter referred to as the subject land), to enable purchase and amalgamation of this land into adjoining Lot 9000.

The subject land is within the Southern Business District, which sets aside land for Bulk Retail, Showroom, Service Industry and Technology. It appears the subject land was originally set aside as a landscape buffer which extends along Joondalup Drive as far north as Kennedy Drive and south to Eddystone Avenue. All vegetation has been cleared from the subject land. In addition, the subject land serves a dual purpose and restricts vehicular access from Lot 9000 to/from Joondalup Drive and Eddystone Avenue.

There are no proposals to use the subject land as a landscape buffer. The request for the removal of the landscape buffer and vehicular access can be restricted through the use of Restrictive Covenants on Title. Therefore, the request for the removal of the landscape buffer is supported for the purposes of public advertising for a period of 35 days subject to no objections from Department for Planning and Infrastructure (DPI) and service authorities together with preparation of a restrictive covenant for the purpose of vehicular access restrictions to prevent vehicular access to/from Joondalup Drive and Eddystone Avenue.

BACKGROUND

Suburb/Location: Joondalup
Applicant: Masterplan Consultants WA Pty Ltd
Owner: Crown Land
Zoning: **DPS:** Other Regional Roads Reservation
MRS: Central City Area
Site Area: Approximately 2479m²
Structure Plan: Southern Business District Structure Plan

The landscape buffer extends from Kennedy Drive (Joondalup Arena) to Eddystone Avenue in the south (refer Attachment 1). It appears that this buffer was placed when the Joondalup City Centre was initially created, for the purpose of providing a visual separation between the Service Industrial zoned land, known as the Joondalup Business Park, and Joondalup Drive. In addition, the landscape buffer served a dual purpose providing a vehicular access restriction from/to Joondalup Drive.

The subject land is located within the Southern Business District precinct of the City Centre. This area is zoned Centre and earmarked for Bulk Retail, Showroom, Service Industry and Technology. The landscape buffer is not continuous along the entire length of the Southern Business District therefore the buffer cannot be implemented in full for the purpose it was originally intended. In addition, all vegetation within the landscape buffer has been cleared therefore rendering the buffer defunct (Attachment 2 refers).

DETAILS

In the event the PAW closure is agreed to, Landcorp's intention is to purchase the subject land with a total area of approximately 2479m² and amalgamate the land with adjacent Lot 9000 (271) Joondalup Drive, Joondalup.

The Applicant advises the following:

- The PAW is currently not constructed and appears to have been a historical action to restrict vehicular access from Joondalup Drive and Eddystone Avenue to the adjoining allotment.
- Recent WAPC subdivision approvals provide restrictive covenants preventing all vehicular access to Joondalup Drive and Eddystone Avenue and therefore providing the same result as the historical PAWs.
- The subdivision also provides a dual use path along the entire Joondalup Drive frontage (within the verge) for pedestrian movements and as such renders the unconstructed PAW redundant.

The subject land serves a dual purpose providing vehicular access restriction from/to Joondalup Drive and Eddystone Avenue. Removal of the landscape buffer will require an alternative form of vehicular access restriction.

The approximate 2479m² PAW must formally be 'closed' for the amalgamation to proceed.

Closure Process

This proposal involves a request from an adjoining owner to formally close a PAW. Ordinarily, the City would follow the PAW closure process and assess the application against the City's PAW Policy, however this procedure is not applicable in this instance given the nature of the PAW as 'road reserve'.

Notwithstanding the technical terminology applied to the subject land, this proposal is assessed as a road closure application, the process of which is expanded in proceeding sections of this report.

Issues and options considered:

Council has the option to:

- Resolve to support the removal of the landscape buffer for the purpose of public advertising, or
- Resolve to not support the removal of the landscape buffer for the purposes of public advertising.

Link to Strategic Plan:

Strategy 3.2 – To encourage the development of the Joondalup CBD

Legislation – Statutory Provisions:

PAWs are created as a result of the subdivision of land under the Planning and Development Act 2005 (formally the Town Planning and Development Act). A request can be made to Council to close a PAW. In this proposal, the PAW is used as a landscape buffer and an access restriction.

If Council supports the proposed PAW closure, the proposal will be referred to the DPI and servicing authorities for comment.

Service authorities are requested to provide details of any service plant that is located within the PAW. If such infrastructure exists, the cost of relocation or provision of easements to protect and obtain access to that infrastructure (should the need arise in the future) are generally met by the applicant/landowner.

Upon no objections being received from the DPI and servicing authorities, the proposal is advertised for public comment for a period of 35 days. Upon the closure of public advertising, the proposal is presented to Council for its further consideration, together with details of any submissions received.

If Council resolves to progress the closure request, all relevant documentation is forwarded to the DPI with a request to formally close the PAW for its determination. The Minister for Planning and Infrastructure makes the final decision on whether or not closure takes place.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

Any easement requirements or relocation of existing servicing infrastructure would be negotiated between the service authority and the applicant, with all costs borne by the applicant.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Support for the closure of PAWs is required by the DPI. If the DPI has no objection to the proposal, the servicing authorities are consulted to determine whether they object to the PAW closure and if there are services (pipes and/or cables) located within the portion of PAW being considered for closure.

The City will ask the service authorities if the services can be modified, removed or relocated if necessary, what costs are involved and any conditions they wish to be applied. The City then forwards this information to the applicant to determine whether to proceed now that most of the costs are known.

Once the applicant confirms acceptance of easements and responsibility for costs associated with the removal of infrastructures assets (if applicable), the proposal must then be advertised for public comment for 35 days by way of a sign on site, an advertisement in the local newspaper, information on the City's website and letters to service authorities.

COMMENT

The City has not initiated the removal of the landscape buffer and is not the determining authority for the proposal. However, the City is required by the LAA to undertake the public consultation on this matter as it relates to land within its jurisdiction.

It is considered that the proposal to remove the landscape buffer and amalgamate the land into the Southern Business District has merit for the following reasons:

- Vehicular access restrictions can now be imposed through the use of restrictive covenants on Title.
- Businesses prefer exposure to Joondalup Drive, while the intent of the landscape buffer was to provide screening of buildings along Joondalup Drive. The use of architectural elements will enhance design and visual appearance of future development on the site.
- An 18m wide verge exists along the Joondalup Drive frontage. In addition, a 3m wide landscape requirement exists under Draft Joondalup City Centre Structure Plan.
- The Draft Joondalup City Centre Structure Plan incorporates architectural elements to enhance design and visual appearance.
- District Planning Scheme No. 2 incorporates landscaping provisions for non residential development.
- The Draft Joondalup City Centre Structure Plan incorporates the provision of landscaping including onsite landscaping and landscaping along street frontages.
- The landscape buffer does not extend along the entire length of the Southern Business District, as shown on Attachment 2 and therefore the buffer cannot be implemented in full for the purpose as may have been originally intended.

No issues have been identified in regards to the removal of the landscape buffer, and therefore public advertising is recommended.

ATTACHMENTS

Attachment 1 Extent of landscape buffer

Attachment 2 Location Plan

Attachment 3 Cross section of Joondalup Drive with and without the PAW

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION PRESENTED TO COUNCIL ON 17 MARCH 2009

That Council INITIATES the permanent closure of PAW 55 & 56 Joondalup Drive/Eddystone Avenue, Joondalup, as shown in Attachment 2 to Report CJ068-03/09, for the purpose of advertising for a period of 35 days subject to:

- 1 No objections from Servicing Authorities and the Department for Planning and Infrastructure being received;
- 2 Landcorp's acceptance of possible easements and responsibility for costs associated with the removal / relocation of infrastructure assets, if required by each respective service authority;
- 3 The applicant preparing a restrictive covenant preventing motor vehicle access onto Joondalup Drive and Eddystone Avenue benefiting the City of Joondalup being lodged on the Certificate(s) of Title of Lot 9000 (271) Joondalup Drive, Joondalup, at the expense of the applicant;

ADDITIONAL INFORMATION

The report reproduced above was considered by Council at its meeting held on 17 March 2009. The motion carried at that Council meeting is shown below:

Motion - deferral to Council on 21 April 2009

"That the proposal dated 9 January 2009 submitted by Masterplan Town Planning Consultants, the applicant, for the permanent closure of PAW 55 & 56 Joondalup Drive/Eddystone Avenue, Joondalup be REFERRED BACK to the CEO for further consideration and to allow discussion between representatives of Landcorp, the City's administration and relevant Elected Members, and a report presented to the next Council meeting to be held on 21 April 2009."

A meeting was held on Tuesday 7 April 2008 with Landcorp representatives, Masterplan Town Planning Consultants, the Mayor, Ward Councillors, Chief Executive Officer and Director Planning and Community Development to discuss the matter with the landowner/applicant. The draft City Centre Structure Plan was discussed and a cross section detail of Joondalup Drive with and without the PAW was submitted (refer Attachment 3). The potential cost of landscaping the verge area adjacent to the 6m wide PAW (in the event that the PAW is removed) was discussed, although no figures were available at the time of the meeting. The figure has now been calculated at approximately \$25 per square metre. The area of verge adjoining PAW 55 & 56 is approximately 7,300 square metres. Total cost approximately \$182,500. A 50% contribution from Landcorp would therefore equate to \$90,000.

Landcorp has forwarded a letter to the City on 17 April 2009, agreeing in writing to the 50% contribution.

The following alternative recommendation is therefore provided:

ALTERNATIVE RECOMMENDATION

That Council:

- 1 INITIATES the permanent closure of PAW 55 & 56 Joondalup Drive/Eddystone Avenue, Joondalup, as shown in Attachment 2 to Report CJ096-04/09, for the purpose of advertising for a period of 35 days subject to:
 - (a) No objections from Servicing Authorities and the Department for Planning and Infrastructure being received;
 - (b) Landcorp's acceptance of possible easements and responsibility for costs associated with the removal / relocation of infrastructure assets, if required by each respective service authority;
 - (c) The applicant preparing a restrictive covenant preventing motor vehicle access onto Joondalup Drive and Eddystone Avenue benefiting the City of Joondalup being lodged on the Certificate(s) of Title of Lot 9000 (271) Joondalup Drive, Joondalup, at the expense of the applicant;
 - (d) Landcorp entering into an agreement with the City to contribute 50% of the cost of providing landscaping along the verge of Joondalup Drive immediately adjacent PAW 55 & 56 at a rate of \$25/m². Such agreement shall include an agreed date for the contribution, that date being no later than 2 years from the execution of the agreement;
- 2 REQUESTS the Chief Executive Officer to notify the Department of Planning and Infrastructure of 1 above following the execution of the agreement referred to in 1 (d) above.

MOVED Cr McLean, SECONDED Cr Hollywood that Council:

- 1 **INITIATES the permanent closure of PAW 55 & 56 Joondalup Drive/Eddystone Avenue, Joondalup, as shown in Attachment 2 to Report CJ096-04/09, for the purpose of advertising for a period of 35 days subject to:**
 - (a) No objections from Servicing Authorities and the Department for Planning and Infrastructure being received;**
 - (b) Landcorp's acceptance of possible easements and responsibility for costs associated with the removal / relocation of infrastructure assets, if required by each respective service authority;**
 - (c) The applicant preparing a restrictive covenant preventing motor vehicle access onto Joondalup Drive and Eddystone Avenue benefiting the City of Joondalup being lodged on the Certificate(s) of Title of Lot 9000 (271) Joondalup Drive, Joondalup, at the expense of the applicant;**

- (d) Landcorp entering into an agreement with the City to contribute 50% of the cost of providing landscaping along the verge of Joondalup Drive immediately adjacent PAW 55 and 56 to be paid at the completion of the landscaping works with the contribution calculation to be based on a rate per square metre fixed at \$25/m² if the landscaping is completed by the City no later than 2 years from the execution of the agreement and thereafter the rate per square metre to be determined by negotiation but not to be less than \$25/m²;

- 2 REQUESTS the Chief Executive Officer to notify the Department of Planning and Infrastructure of 1 above following the execution of the agreement referred to in 1 (d) above.

The Motion was Put and

CARRIED (10/1)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hollywood, Macdonald, McLean, Norman, Rosano and Young Against the Motion: Cr Hart

Appendix 19 refers

To access this attachment on electronic document, click here: [Attach19agn210409.pdf](#)

REPORT OF THE CHIEF EXECUTIVE OFFICER

CJ097-04/09 CORRESPONDENCE RECEIVED FROM THE JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION REGARDING THE CITY'S TRADING IN PUBLIC PLACES AMENDMENT LOCAL LAW 2008 – [23122]

WARD: North

RESPONSIBLE DIRECTOR: Ms Glenda Blake
Governance and Strategy (Acting)

PURPOSE/EXECUTIVE SUMMARY

To present Council with feedback from the Joint Standing Committee on Delegated Legislation (JSCDL) regarding the City's *Trading in Public Places Amendment Local Law 2008* ("Alfresco Dining Smoking Law").

The JSCDL has requested that the City make further amendments to its Alfresco Dining Smoking Law in order to avoid possible disallowance of the amendment by Parliament. In order to satisfy the Committee's request, the City will be required to recommence the process for amending a local law under section 3.12 of the *Local Government Act 1995* and repeal its current amendment. This is based on the rationale that the requested changes are significantly different from what was originally proposed in the first amendment.

This report recommends that Council approves the provision of a written undertaking to the JSCDL which will commit the City to:

- recommencing the process for amending a local law;
- repealing the current amendment; and
- ceasing to enforce the provisions within the current amendment that will be subject to change.

BACKGROUND

In December 2008, the City's Alfresco Dining Smoking Law came into effect, after which, the City required all businesses with alfresco dining areas located on public land to erect no smoking signage and comply with the requirements of the local law.

Since coming into effect, the City has been awaiting feedback from the JSCDL as to whether the law complies with the requirements stated in the Committee's Terms of Reference and whether or not it will be recommended to Parliament for disallowance. The issue with having to wait for confirmation from the JSCDL is that the City is able to commence promoting and implementing its law immediately, but may still be subject to possible disallowance in the future.

Having begun to implement and heavily advertise its local law, the City has now received correspondence from the JSCDL.

DETAILS

The JSCDL has indicated to the City that further changes to its Amendment Local Law are required. These include:

- That references to "an employee" in clause 14(4)(ii) are removed; and
- That clause 14(4)(iii) is removed: (this clause makes the proprietor of a premises liable for the failure of employees and licensees to inform patrons who are smoking to cease and relocate to an area outside of the alfresco dining area).

The reasons cited for these changes are:

- The definition of "proprietor" under the *Trading in Public Places Local Law 1999* is too wide and is therefore, consequentially incongruent with the general common law principle that a defendant should only be responsible for an offence if they personally performed or participated in the conduct.
- Those responsible for committing an offence must have done so with the mental element required under section 7 of the *Criminal Code*.

The JSCDL did not believe that these requirements were satisfied.

The City has been directed to provide the JSCDL with a "written undertaking" that it will make all of the necessary amendments and cease to enforce these specific provisions in the interim. This will need to be received by **5pm, Tuesday 28 April 2009**.

If the written undertaking is received in time, a notice of motion of an intention to disallow the law will be withdrawn.

Issues and options considered:

Option 1: Approve the submission of a written undertaking to the JSCDL, committing the City to:

- recommence the process for amending a local law;
- repeal the current amendment; and
- cease enforcing the provisions within the current amendment that will be subject to change.

This option will allow the City to continue to enforce its current amendment, however, proprietors will no longer be able to be fined and employees will not be required to instruct customers to cease smoking and relocate to another area outside of the alfresco dining area. However, licensee holders will still be required to instruct customers as above.

Under this option, recommencing the process for amending a local law will not be as cumbersome or time consuming as it was for the original amendment because only the minimum requirements under the *Local Government Act 1995* will be necessary. The consultation process will only require advertising the amendment on one occasion in the West Australian and sending letters directly to affected businesses (a total of 11 businesses within the Joondalup CBD area), informing them of the changes. In addition, the time taken to receive feedback from the JSCDL will be significantly reduced as they have already scrutinised the law and are merely seeking confirmation that specific amendments have been made.

Option 2: Do not approve the submission of a written undertaking to the JSCDL.

This option is likely to result in the JSCDL recommending to Parliament that the current Amendment Local Law be disallowed. If debated and disallowed, the law will no longer be in effect.

Link to Strategic Plan:

Not Applicable.

Legislation – Statutory Provisions:

- Local Government Act 1995
- Trading in Public Places Local Law 1999
- Trading in Public Places Amendment Local Law 2008

Risk Management considerations:

If the City does not provide the JSCDL with a written undertaking by the due date, there is a risk that the City's Alfresco Dining Smoking Law may be disallowed by Parliament. Given the extensive support within the community for the law and the City's efforts so far to implement its provisions, it would not be recommended the City fail to provide a written undertaking to the JSCDL.

Financial/Budget Implications:

Should Council adopt option 1, the cost of undertaking a consultation process would not be significant. It would involve the cost of one advertisement in the West Australian, minimal postage costs to send letters to affected businesses and the cost of gazetting the new amendment. It is anticipated that these costs would not exceed \$500.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

Not Applicable.

ATTACHMENTS

Attachment 1 Feedback from the Joint Standing Committee on Delegated Legislation.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council APPROVES the submission of a written undertaking to the Joint Standing Committee on Delegated Legislation, committing the City to:

- recommence the process for amending a local law;
- repeal the current; and
- cease enforcing the provisions within the *Trading in Public Places Amendment Local Law 2008* that will be subject to change.

MOVED Cr Young, SECONDED Mayor Pickard that Council APPROVES the submission of a written undertaking to the Joint Standing Committee on Delegated Legislation, committing the City to:

- recommence the process for amending a local law;
- repeal the current *Trading in Public Places Amendment Local Law 2008*; and
- cease enforcing the provisions within the *Trading in Public Places Amendment Local Law 2008* that will be subject to change.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

Appendix 20 refers

To access this attachment on electronic document, click here: [Attach20agn210409.pdf](#)

C25-04/09 COUNCIL DECISION – EN BLOC RESOLUTION

MOVED Cr Rosano, **SECONDED** Cr Young that pursuant to the Standing Orders Local Law 2005 – Clause 48 - Adoption Of Recommendations En Bloc, Council Adopts Items CJ076-04/09, CJ078-04/09, CJ082-04/09, CJ083-04/09, CJ087-04/09, CJ089-04/09, CJ090-04/09, CJ091-04/09, CJ093-04/09 and CJ095-04/09.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Corr, Fishwick, Hart, Hollywood, Macdonald, McLean, Norman, Rosano and Young

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

ANNOUNCEMENTS OF NOTICES OF MOTION FOR THE NEXT MEETING

Nil.

CLOSURE

There being no further business, the Mayor declared the Meeting closed at 2115 hrs; the following Elected Members being present at that time:

MAYOR T PICKARD
Cr K HOLLYWOOD
Cr T McLEAN
Cr T YOUNG
Cr M MACDONALD
Cr G AMPHLETT
Cr S HART
Cr B CORR
Cr M ROSANO
Cr M NORMAN
Cr R FISHWICK