

ORDINARY COUNCIL MEETING
7.00pm, 26 August, 2002
Civic Centre,
Dundebar Road, Wanneroo

Public Question & Statement Time

Council allows a minimum of 15 minutes for public questions and statements at each Council meeting. If there are not sufficient questions to fill the allocated time, the person presiding will move on to the next item. If there are more questions than can be dealt with in the 15 minutes allotted, the person presiding will determine whether to extend question time.

Protocols

During the meeting, no member of the public may interrupt the meeting's proceedings or enter into conversation. Each person seeking to ask questions during public question time may address the council for a maximum of 3 minutes each.

Members of the public wishing to submit written questions are requested to lodge them with the Chief Executive Officer at least 30 hours prior to the start of the meeting.

The person presiding will control public question time and ensure that each person wishing to ask a question is given a fair and equal opportunity to do so. A person wishing to ask a question should state his or her name and address before asking the question. If the question relates to an item on the agenda, the item number should also be stated.

The following general rules apply to question and statement time:

- Questions should only relate to the business of the council and should not be a statement or personal opinion.
- Only questions relating to matters affecting Council will be considered at an ordinary meeting, and at a special meeting only questions that relate to the purpose of the meeting will be considered. Questions may be taken on notice and responded to after the meeting.
- Questions may not be directed at specific members of council or employees.
- Questions & statements are not to be framed in such a way as to reflect adversely on a particular Elected Member or Officer.
- The first priority will be given to persons who are asking questions relating to items on the current meeting agenda.
- The second priority will be given to public statements. Only statements regarding items on the agenda under consideration will be heard.

Deputations

The Mayor and Councillors will conduct an informal session on the same day as the meeting of the Council at the Civic Centre, Wanneroo, commencing at 6.15pm where members of the public may, by appointment, present deputations. If you wish to present a deputation please submit your request for a deputation in writing addressed to the Chief Executive Officer or fax through to Executive Services on 9405 5097.

- A time period of 15 minutes is set aside for each deputation.
- Deputations shall not exceed five (5) persons in number and only three (3) of those persons shall be at liberty to address the Council and to respond to questions the Mayor and Councillors may have.

Please ensure that mobile phones are switched off before entering the Council Chamber. Any queries on this agenda, please contact Executive Services on 9405 5027 or 9405 5018.

Recording of Council Meetings Policy

Objective

- To ensure that there is a process in place to outline access to the recorded proceedings of Council.
- To emphasise that the reason for tape recording of Council Meetings is to ensure the accuracy of Council Meetings.

Statement

Recording of Proceedings

- (1) Proceedings for meetings of the Council, of electors and of the Audit Committee shall be recorded, by the City, on sound recording equipment except, in the case of meetings of the Council or the Audit Committee, where the Council or the Committee, as the case may be, closes the meeting to the public.
- (2) Notwithstanding sub clause (1), proceedings of a meeting of the Council or of the Audit Committee which is closed to the public shall be recorded where the Council or the Audit Committee, as the case requires, resolves to do so.
- (3) No member of the public is to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council or a committee without the written permission of the Council.

Access to Recorded Tapes

- (4) Members of the public may purchase a copy of the taped proceedings or alternatively listen to recorded proceedings with the supervision of a City Officer.
- (5) Elected Members may listen to a recording of the Council proceedings upon request, free of charge. However, no transcript will be produced without the approval of the Chief Executive Officer.
- (6) Costs of providing taped proceedings to members of the public will be the cost of the tape plus staff time to make the copy of the proceedings. The cost of supervised listening to recordings will be the cost of the staff time. The cost of staff time will be set in the City's schedule of fees and charges each year.

Retention of Tapes

- (7) Recordings pertaining to the proceedings of Council Meetings shall be retained in accordance with the Library Board of Western Australia Act (1951-83), General Disposal Authority for Local Government Records. The current requirement for the retention of recorded proceedings is thirty (30) years.

Disclosure of Policy

- (8) This policy shall be printed within the agenda of all Council, Special Council, Electors and Special Electors and the Audit Committee meetings to advise the public that the proceedings of the meeting are recorded.



Notice is given that the next Ordinary Council Meeting will be held at the Civic Centre,
Dundobar Road, Wanneroo on **Tuesday 26 August, 2002** commencing at **7.00pm**.

C JOHNSON
Chief Executive Officer
26 August 2002

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ITEM 12 **DATE OF NEXT MEETING** **1**

THE NEXT **ORDINARY COUNCIL MEETING** HAS BEEN SCHEDULED FOR **7.00PM ON THURSDAY, 22 MARCH 2001**, TO BE HELD AT THE CIVIC CENTRE, DUNDEBAR ROAD, WANNEROO. 1

ITEM 13 **CLOSURE** **1**

A G E N D A

Item 1 Attendances

Item 2 Apologies and Leave of Absence

Item 3 Public Question Time

Item 4 Confirmation of Minutes

OC01-08/02 Minutes Of Ordinary Council Meeting Held On 26 August 2002

That the minutes of the Ordinary Council Meeting held on 26 August 2002 be confirmed.

Item 5 Announcements by the Mayor without Discussion

Item 6 Questions from Elected Members

Item 7 Petitions

New Petitions Presented

Update on Petitions

Item 8 Reports

Declarations of Interest by Elected Members, including the nature and extent of the interest. Declaration of Interest forms to be completed and handed to the Chief Executive Officer.

Planning and Development

Town Planning Schemes and Structure Plans

PD01-08/02 Adoption Of Estimated Cell Costs For East Wanneroo Cell 4 (Hocking - Pearsall).

| | |
|-------------------------|------------------------------------|
| File Ref: | SP/0005V01 |
| Responsible Officer: | Director, Planning and Development |
| Disclosure of Interest: | Nil |
| Attachments: | Nil |

Issue

Consideration of objections lodged against the estimated cell costs for East Wanneroo Cell 4.

Background

Council, at its meeting held on 9 April 2002 (item PD04-04/02) adopted the estimated cell costs for East Wanneroo Cell 4. These costs are apportioned to the owners of land within the cell and provide for the equitable acquisition of land for public open space and regional roads and for the construction of the regional roads. The adopted cell costs were \$20,559,530, which equates to an infrastructure cost per lot (ICPL) of \$5,526.31.

Detail

District Planning Scheme No. 2 (DPS2) requires Council to notify all landowners within the cell of the estimated cell costs and to provide them with a 42 day period in which to lodge any objections. An objection must be accompanied by supporting evidence from a suitably qualified person to substantiate the objection.

Consultation

The City provided written advice of the adopted cell costs to all the participating landowners in the cell who have undertaken subdivision or development and published notification in the "West Australian" on two occasions.

The 42 day comment period concluded on 25 June 2002. At this time two letters of objection had been received from planning consultants acting on behalf of landowners in East Road and Archer Street.

The objections do not contest the quantum of the total estimated cell costs, rather the estimated lot yield (ELY) of 9 lots per hectare upon which the ICPL is calculated.

The basis of each letter of objection is summarised below:

Objection 1

The first objection on behalf of an owner of a property in East Road, states that the ELY of 9 lots per hectare used in the calculation of the ICPL is too low and should be increased. The objector has however not suggested an alternative lot yield, but rather suggested that a review of the ELY be carried out by the City.

As indicated above, DPS2 requires that any objection to the cell costs be supported by evidence from a suitably qualified person to substantiate the objection. In this case no supporting evidence has been provided and therefore the objection should be dismissed.

Objection 2

The second objection on behalf of an owner of a property in Archer Street also objects to the ELY that is used in the calculation of the ICPL, stating that it should be adjusted upwards to match the lot yields that are being achieved in subdivisions in the cell. The objector states that the correct lot yield of its clients landholding, as demonstrated by their concept plan, is 11.32 lots per hectare and suggests that an overall lot yield of at least 10.5 lots per hectare should be used throughout the Cell. Again, no supporting evidence has been provided to substantiate increasing the ELY across the overall cell and on this basis the objection should be dismissed.

This letter of objection also raises the issue of compensation that was paid by the City to the landowner for an area of public open space, and in particular, the lot yield that was used by the City in determining the value of the land and the treatment of a further lot as a temporary drainage site.

Comment

The lot yield of nine (9) lots per hectare used by the City was originally calculated by analysing recent subdivisions in the area. This figure was also adopted by the then Department of Planning and Urban Development (now Department for Planning and Infrastructure) in its North West Corridor Structure Plan (1992) as the basis of calculating estimates of lot yield and population for new urban areas. The lot yield of 9 lots per hectare has now been incorporated into DPS2 as the lot yield to be initially used for the purpose of apportioning cell costs.

An analysis of the subdivisions within Cell 4 that have been completed to date does indicate that some lot yields of approximately 11 lots per hectare have been achieved. Administration has however carried out an assessment of likely lot yields across the remaining (undeveloped) portion of Cell 4 based on the adopted version of the structure plan, the average lot area calculated from the existing residential lots in the cell (627 m²) and allowing for areas of open space, special residential lots and non residential land uses. This assessment has indicated a lot yield of approximately 9.5 lots per hectare.

Given the likelihood that the more constrained areas of the cell are yet to be subdivided and the uncertainty surrounding future trends in lot sizes, a conservative approach should be adopted by Council. Council should note that DPS2 contains a provision to enable an adjustment of infrastructure contributions through ongoing review of current costs and provides for reimbursement of any surplus contributions to the original contributing landowners. There is however no ability for the City to recoup any shortfall in cell costs should it incorrectly estimate any component of the cell costs, including the ELY. Given these factors, it is recommended that the ELY of 9 lots per hectare be retained at this stage.

The matter of compensation paid for the public open space and the City's treatment of the temporary drainage site has been considered by Council on two previous occasions (W297-10/00 and W51-02/01) and is not relevant to Council's consideration of estimated cell costs.

Statutory Compliance

Clause 10.11 of DPS2 provides that if an objection is not agreed by Council, then it is to be referred to arbitration by a single arbitrator in the manner provided by the Commercial Arbitration Act. The arbitrator is to be bound by the provisions of Part 10 and Schedule 9 of DPS2 and the assumptions included in the Agreed Structure Plan for the cell.

In this case, as full supporting evidence to the objection has not been provided, the City is not required to refer the matter to arbitration. It would, however, be appropriate for the City to advise the objectors of its position and advise them that they may choose to refer the matter to arbitration.

Clause 10.11.1, which deals with the review of the cell costs provides that at the time Council reviews the cell costs it shall review the ELY and the ICPL having regard for the lots produced in the cell since the last review, the remaining cell works, any amendments made to the structure plan and any other factors Council considers relevant. This provides an ability for Council to monitor the situation in the future.

Strategic Implications

The determination of the cell costs, as well as the estimated lot yields and infrastructure costs per lot will provide for the provision of open space and regional roads to service East Wanneroo Cell 4. This is in accordance with the Healthy Communities goal of the City's Strategic Plan.

Policy Implications

Nil

Financial Implications

An increase in the ELY used in the apportionment of the total estimated cell costs across the overall cell would cause a reduction in the ICPL that is payable by the subdividing land owners. If the ELY is increased from 9 to 10.5 lots per hectare as suggested by the objector, then the ICPL would decrease from \$5,526.31 to \$4,741.63.

Because of the difficulty in accurately determining the final lot yield for the overall cell at this early stage, increasing the ELY will place a greater risk on Council of not accumulating

sufficient funds to fully meet the outstanding cell works and there is no practical or legal mechanism whereby Council can retrospectively collect any shortfall from the contributing landowners (other than where a contribution has been inadvertently not paid). Should a shortfall eventuate, then Council would need to decide whether to make up any shortfall from its municipal funds or simply not complete the cell works.

Voting Requirements

Simple Majority.

Recommendation

That Council:

- 1. DOES NOT AGREE to the objections raised to the adopted estimated cell costs and estimated cost per lot.**
- 2. ADVISES the objectors that they may choose to refer the matter to arbitration in accordance with the principles of Clause 10.11 of District Planning Scheme No. 2.**

PD02-08/02 Close Of Advertising: Amendment No. 9 To City Of Wanneroo District Planning Scheme No. 2

File Ref: TPS/0009
Responsible Officer: Director, Planning and Development
Disclosure of Interest: Nil
Attachments 8

Issue

Consideration of submissions received following close of advertising of proposed Amendment No. 9 to City of Wanneroo District Planning Scheme No. 2 (DPS2).

| | |
|---------------------|--|
| Applicant | N/A |
| Owner | Peet and Company Ltd ATF Yatala Unit Trust |
| Location | Lot 9002, Clarkson Avenue, Tapping |
| Site Area | 244.3142 ha |
| DPS 2 Zoning | Urban Development |

Background

At its meeting of 18 December 2001 (item LR01-12/01), Council resolved to prepare Amendment No. 9 to DPS2 to include the presently unsubdivided balance of the Peet & Co. landholding within Carramar and Tapping as a new East Wanneroo Cell (No. 9) to be subject to infrastructure contribution arrangements consistent with the existing arrangements for Cells 1 to 8 in East Wanneroo. This was essentially to enable the City to construct Joondalup Drive from its present eastern end within the Carramar locality to the northern boundary of the Peet & Co. landholding within a much shorter timeframe than has been indicated by the developer pursuant to a legal agreement which presently exists between the developer and this City.

At its meeting of 19 March 2002 (item PD07-03/02) Council considered advice from the WA Planning Commission that it consented to the advertising of Amendment No. 9 for public submissions, subject to a number of modifications being made (to its satisfaction) to the Amendment document. Council resolved to proceed with Amendment No. 9 and to make the modifications required by the Commission. The Amendment documents were accordingly modified and submitted to the Commission for it to confirm that the modifications had been satisfactorily undertaken.

On 19 June 2002, the Commission advised that the modifications had been satisfactorily undertaken and that advertising of Amendment No. 9 could proceed.

Detail

Advertising of Amendment No. 9 was undertaken for a 42 day period (as required by the Commission) which concluded on 6 August 2002.

Consultation

The amendment was advertised by means of:

- advertisements placed in the local newspapers;
- on-site signs placed on Joondalup Drive in Carramar, and on Pinjar Road, just south of the Banksia Grove residential area;
- letters sent to the main landowners involved, being Peet & Co. and Homeswest
- letters sent to the following agencies (as required by the Commission): Main Roads Western Australia; Education Department; Ministry for Housing.

Comment

Twenty four submissions have been received in response to the advertising of Amendment No. 9. The following summarises the submissions received and includes comments and recommendations in respect to each submission.

Submission 1

Summary:

The submitter is a Banksia Grove resident who agrees with the proposed amendment.

Comment:

Consistent with Council's decision to seek amendment.

Recommendation:

That this submission be upheld.

Submission 2

Summary:

The submitter is a Banksia Grove resident who supports the amendment as it will be a lot quicker and safer to travel to Joondalup via the extension of Joondalup Drive.

Comment:

Travel from Banksia Grove to Joondalup (presumably referring to the Joondalup City Centre) will indeed be made quicker and safer through the provision of the Joondalup Drive link to Banksia Grove

Recommendation:

That this submission be upheld.

Submission 3

Summary:

The submitter lives in the Lake Adams Special Rural area who advises that as a resident of the Pinjar Road area, the submitter has witnessed the increasing traffic on Pinjar Road with the attendant dangers and noise. The submitter supports Amendment No. 9 which is aimed at expediting the completion of the Joondalup Drive extension.

Comment:

Early extension of Joondalup Drive (enabled by Amendment No. 9) will assist in reducing the problems referred to in relation to Pinjar Road.

Recommendation:

That this submission be upheld.

Submission 4

Summary:

Main Roads Western Australia advises that it has no objection to Amendment No. 9.

Comment:

This submission is in response to the City's referral to it of the proposed amendment as required by the WA Planning Commission.

Recommendation:

That this submission be noted.

Submission 5

Summary:

A letter has been received from solicitors Phillips Fox, on behalf of Peet & Co. This asserts (amongst other things) that Amendment No. 9 is not a proper or valid exercise of the City's powers; that it is consequently ultra vires (beyond the power of the City); and an undertaking is therefore sought that the City will take immediate steps to withdraw the amendment.

The reasons for the above assertion are given in the letter from Phillips Fox which forms **Attachment 1** to this report. A subsequent letter from Phillips Fox (refer **Attachment 2**) provides further information by the submitter.

Comment:

Amendment No. 9 is not considered ultra vires and the reason for this is given in the City's response to Phillips Fox which forms **Attachment 3** to this report. Advice is also currently being sought from Council's legal advisors (McLeod & Co), who have confirmed this view.

It may be noted in the attached exchange of letters that Peet & Co. objects strongly to the view expressed in the Scheme Amendment Report that the subdivision staging was not 'triggering' the legal agreement obligations which require construction of Joondalup Drive. The City's

letter of reply advises of this City's concern that Peet & Co. has taken such umbrage on this matter, and that as the subject of the statement is not central to the rationale for the proposed amendment, the City would be willing to consider deleting this paragraph from the Scheme Amendment Report.

A statement made in the Phillips Fox letter dated 5 August 2002 (refer **Attachment 2**) is also considered to warrant particular comment. Paragraph 4 of that letter includes a statement that: "My client does not accept that sufficient justification has been given for proceeding at this stage with a link to Banksia Grove as this area is already well serviced with road connections, and the purported justifications for the amendment do not withstand close analysis." The Amendment Report includes the following description of benefits seen to be associated with the early construction of the Joondalup Drive link and this is considered to provide sufficient justification on the matter:

- "1. It will provide Banksia Grove residents with a more direct and safer route to Wanneroo Road and to Joondalup Drive (west of Wanneroo Road) which in turn will mean easier access to the Joondalup City Centre and its many facilities and services, the northern suburbs railway and the Mitchell Freeway.
2. It will provide a quicker and safer route for buses serving Banksia Grove.
3. It will reduce the amount of traffic needing to use Pinjar Road and Clarkson Avenue, both of which are presently not constructed to a standard suitable for carrying high traffic volumes. This will mean a reduced likelihood of serious traffic accidents on these roads.
4. It will provide a further route for traffic associated with Barbagallo Raceway, especially on major race days which presently create significant traffic congestion along Pinjar Road. This in turn presents emergency vehicle access problems which have been identified in recent risk assessment studies as urgently requiring resolving.
5. It will provide an additional emergency access route for both the Banksia Grove and Carramar residential areas, particularly in the event of threat of bush fire.
6. It will mean that the Education Department will be able to deal with the Carramar and Banksia Grove estates as a more effective potential primary school catchment when it comes to plan the provision of a permanent primary school to serve those locations. (Banksia Grove primary school children are currently served by a 'school-in-houses' in Banksia Grove; Carramar primary school children are currently served by the Wanneroo Junior Primary School and Wanneroo Primary School)."

Recommendation:

1. Dismiss the request concerning withdrawal of the amendment.
2. Modify the Scheme Amendment Report to delete the following paragraph:

"As noted above, the legal agreement applying to this area only requires construction of a major road when abutting subdivision is being undertaken. Peet & Co. are now pursuing a subdivision staging strategy whereby they are subdividing land which does

not about Joondalup Drive, thereby avoiding any legal obligation to construct this road at this time”.

Submission 6

Summary:

The Transperth section of the Department for Planning and Infrastructure supports the amendment for the reasons given in **Attachment 4**.

Comment:

The improvements to the level of public transport service referred to in the submission would be of considerable benefit to the residents of Banksia Grove, and should also benefit Carramar residents.

Recommendation:

That this submission be upheld.

Submission 7

Summary:

The submitter is a Banksia Grove resident who supports Amendment No. 9 because:

1. Joondalup Drive will be a far safer route when travelling between Banksia Grove and Joondalup;
2. Pinjar Road and Clarkson Avenue are similar to country roads with problems such as poor visibility at night, soft edges and kangaroos;
3. Joondalup Drive would provide a quicker route to Joondalup in the event of family member needing hospital assistance;
4. Travelling an indirect route to Joondalup (as at present) results in a waste of valuable petrol.
5. The intersection of Tumbleweed Drive and Pinjar Road is extremely dangerous with the increased amount of traffic having to use those roads in the absence of the Joondalup Drive link.

Comment:

Reasons 1. – 4. for supporting the amendment are considered valid. The matter of the intersection of Tumbleweed Drive and Pinjar Road is commented upon further in the assessment of Submission No. 9.

Recommendation:

That the submission be upheld.

Submission 8

Summary:

The submitter is a Banksia Grove resident who supports Amendment No. 9 because:

1. At the time of buying a property in Banksia Grove 6 years ago, the real estate agent concerned advised that the Joondalup Drive link would be in place in 2-3 years from that time.
2. In the 6 years living in Banksia Grove, have observed two major bush fires, many fatal car accidents, many native animals being killed on the roads: all because of poor roads planning.
3. The safety of Banksia Grove residents needs to be considered.

Comment:

The above reasons for support of the amendment are considered valid.

Recommendation:

That this submission be upheld.

Submission 9

Summary:

Peet & Co. has lodged a submission which strongly objects to the proposed amendment. A copy of the submission forms **Attachment 5** to this report. This submission includes an assessment undertaken by engineers Halpern Glick Maunsel (HGM). (Note that City Administration has numbered the paragraphs in the Peet & Co submission for ease of reference).

Comment:

Paragraphs 1-2: Peet & Co. correctly describes the relevant obligations under the Deed and the City's wish for the road extension to occur faster than would occur under the Deed.

Paragraph 3: Although the road extension may not have been seen by Landstart to be of high enough priority to justify it in meeting the amount of additional cost which would have been entailed in the proposals put to it by Peet & Co., the road extension is seen as a high priority by those who have signed the petitions on the subject received by the City, and by the submitters who support the amendment.

Paragraphs 4 – 5: Council originally sought to include the large proposed urban landholdings north of Clarkson Avenue into the developer contribution system for the total East Wanneroo urban area. However, the then Minister for Planning and the then State Planning Commission did not allow this and instead required that these broadacre areas be excluded from such a system and instead made them subject of a separate deed between the developers and the City. During the Commission's and Minister's deliberations on this matter, they were most likely influenced by a submission from the developer which indicated that inclusion of its landholding in the East Wanneroo scheme was not necessary as they intended to enter into their own deed to ensure equitable and timely development of district roads. In the City's opinion, this has not been the case.

Other high priority areas are the subject of similar developer contribution systems as proposed under Amendment No. 9:

- Marmion Avenue is the subject of the Clarkson-Butler district distributor road infrastructure contribution arrangements (Part 11 of DPS2);
- Ocean Reef Road (to Landsdale) is included as a Cell Work for East Wanneroo Cell 8.

Paragraphs 6 & 9: The Landstart landholding has not been included within the Cell boundary, and the unconstructed portion of Joondalup Drive situated within the Landstart land has not been included as a Cell Work, because Landstart has advised that it will construct the portion of the road within its land once the road has been constructed to its southern boundary.

Paragraphs 7-8: It is agreed that it would be appropriate that the adequacy of the present Pinjar Road-Tumbleweed Drive intersection be reviewed once the timeframe for construction of the Joondalup Drive link is clarified.

Regarding a broader road construction programme being put in place, at this time, the immediate priority is Joondalup Drive and this is where efforts should be focussed. However, it is agreed that in due course it will be desirable for a broader programme to be developed. This would possibly be when Peet & Co. come closer to developing adjacent to the future deviation of Pinjar Road. The linking of the Pinjar Road deviation to Joondalup Drive would be likely to be coordinated with the linking of Joondalup Drive into Neaves Road, and the downgrading (with road closures) of Pinjar Road between Tumbleweed Drive and Neaves Road. These changes will also take the pressure off the Pinjar Road-Tumbleweed Drive intersection.

Paragraph 10: As noted in the earlier assessment of submission 5, it is recommended that the comment currently included in the Scheme Amendment Report regarding Peet & Co.'s staging strategy be deleted.

Paragraphs 13 & 14: Technical Services Directorate have reviewed the HGM calculations regarding the comparison of travel times and considers this to be a reasonable approach.

Regarding the comments made concerning impacts on the economy of the City of Wanneroo and revitalisation of the Wanneroo Town Centre (through it being made easier for Banksia Grove residents to access the Joondalup City Centre), it is agreed that such impacts may occur. However, in cases such as this, a balance must be made between the interests of the local community concerned and the district as a whole and in this case, it is considered that it would be unreasonable and unfair for the Banksia Grove community to seek to deprive them of the perceived benefits of the road link.

It is noted that paragraph 14. does not address the issue of safety mentioned in paragraph 13.

Paragraph 15: Assessment of submission 6 addresses this issue.

Paragraphs 18: Regarding the comments made concerning the pavement condition of the eastern section of Clarkson Avenue, this section of this road is in the transition stage between a rural and an urban environment. It is acknowledged that the carriageway shoulders require regular maintenance however the City attends to this on an as-needs basis.

It should be noted that the City has on its Capital Works Budget for this financial year a “Black Spot” funded project to upgrade the intersection at Pinjar Road and Clarkson Avenue involving localised widening, line marking and median island treatment.

It should also be noted that the construction of the Joondalup Drive link will alleviate the need for Banksia Grove and Tapping residents to undertake a right turn movement at the western end of Clarkson Avenue at an uncontrolled intersection into Wanneroo Road for access to Joondalup Drive (west).

Paragraphs 19 & 20: The issues of high speed and conflicts with pedestrians and residential traffic will be addressed as part of the detailed road design and approval process.

Regarding the matter of a management plan being in place for the future intersection of Pinjar Road, Neaves Road and Joondalup Drive, this will similarly form part of the detailed design parameters and approval process.

Paragraphs 21 & 22: While the provision of the Joondalup Drive link concerned may well not assist in reducing remaining access problems on the northern part of Pinjar Road for traffic travelling to the raceway, it should still assist with management of traffic travelling from the raceway by providing an additional route from Pinjar Road to Wanneroo Road (and then to the freeway).

Paragraphs 23 & 24: While it is difficult to assess if the present number of emergency access routes is indeed sufficient or not, it is considered fair to say that the provision of additional routes is still a desirable objective.

Regarding the future provision of a properly constructed road link from Coogee Road to Franklin Road, such a link will occur in the future, possibly in conjunction with the development of the land adjacent to the presently unconstructed section. It is agreed that such a future link will also provide a useful emergency access function.

Paragraphs 25 & 26: Paragraph 25 has an error in reason No. 6, in that the wording in ‘brackets’ should read: “(Banksia Grove primary school children are currently served by a ‘school-in-houses’, in Banksia Grove; Carramar primary school children are currently served by the Wanneroo Junior Primary school and Wanneroo Primary School)”.

Paragraph 27: The reasons for seeking this amendment are still considered to be valid and are considered to justify this amendment.

Recommendation:

That this submission be dismissed.

Submission 10

Summary:

John Chapman Town Planning Consultant has made a submission on behalf of Peet & Co./ATF the Yatala Nominees Pty Ltd Unit Trust, a copy of which forms **Attachment 6** to this report.

Comment:

The points made in this submission are largely the same as those made in Submission 9 and the comments made upon Submission 9 are therefore generally also applicable to Submission 10. The following points made in Submission 10 are however considered to warrant particular comment:

- Section 3), paragraph 4: It is agreed that Joondalup Drive is currently being extended in accordance with the agreement, however this is not considered ‘timely’, as the road link to Banksia Grove is considered to be required as soon as possible for the reasons dealt with in the previous assessment of Submission 9.
- Section 3), paragraph 5: The current extension of Joondalup Drive to Walburg Drive is not considered to materially affect the basis upon which Amendment No. 9 is seen to be needed.
- Section 6): The statement made in the Scheme Amendment Report which is presumably the subject of the concern expressed in this comment is as follows: “These negotiations have now proved to be unsuccessful in respect to Peet & Co., and it is apparent that the City must pursue an alternative option if this road is to be constructed in the foreseeable future”.

To allay the submitter’s concern regarding Council not being accurately informed on this matter, **Attachment 7** is a copy of correspondence received from Landstart in December 2001 which describes the pre-funding proposal of Peet & Co.’s considered by Landstart at that time, and Landstart’s position on it.

- Section 7): The section of Clause 10.3 of DPS2 referred to by the submitter states: “Within each Cell, Cell Works will be undertaken for the benefit of land contained within the Cell as generally set out in Schedule 9”.

Cell Works such as regional roads will in reality benefit not just the residents of the Cell which is meeting the cost of their provision, but also the regional community at large, as such roads are of course used to a significant degree also by that broader community.

In the case of the proposed Joondalup Drive link, it is acknowledged that the Banksia Grove community will benefit, however this will also extend to the Carramar community.

It is considered that Carramar residents will receive benefits as referred to in the assessment of Submission No. 5 (ie. Schools provision; public transport improvement; emergency access improvement – particularly if a major bushfire approached Carramar from Neerabup National Park to the west)

- Section 8): If a primary school is indeed built in Carramar in 2003 or 2004, such a school will be much more readily accessible to Banksia Grove through the Joondalup Drive link.

- Section 9): The Attachment 4 plans included in the Scheme Amendment Report showed the constructed extent of Joondalup Drive, and subdivision releases, at the time that Council initiated Amendment No. 9, in December 2001.

Recommendation:

That this submission be dismissed.

Submission 11

Summary:

This submission is lodged by the Yatala Unit Holders Advisory Committee and a copy of it is included as Attachment No. 8.

Comment:

The issues raised by the Committee have been addressed in the comments made on Submission Nos. 5, 9 and 10.

Recommendation:

That this submission be dismissed.

Submission 12-15

Summary:

These submissions have been lodged by Carramar residents and are identical. They object to Amendment No. 9 on the following grounds:

“When we bought into the Carramar Estate, we enquired about the construction timetable of Joondalup Drive and were informed that it would be built in stages, as the estate grew. We understood that this timetable was legally binding on the developer, Peet and Company and the Council.

We were happy with this arrangement as we understood that it would be several years before the road was connected. We do not believe through traffic using Pinjar Road and Clarkson Avenue has increased significantly since we have lived here and consequently we do not see any changed circumstances which justify changing the original timetable”.

Comment:

These issues have been dealt with in the assessment of Submission Nos. 5, 9 and 10.

Recommendation:

That these submissions be dismissed.

Submissions 16-18

Summary:

These submissions have been lodged by Carramar residents and are identical. They object to Amendment No. 9 on the following grounds:

“Peet and Company have gone to a lot of trouble and expense landscaping the sections of Joondalup Drive they have constructed. We understand that Council has no intention of doing similar landscaping along the proposed extension of Joondalup Drive. The road will become an eyesore and a source of dust and nuisance to residents, particularly in the early summer mornings when the easterly winds are strongest”.

Comment:

Although it is indeed unlikely that the City would undertake the level of landscaping that Peet & Co. has undertaken, the City would need to undertake a landscape treatment which prevented the area concerned from being an eyesore or a source of dust and nuisance to residents.

Recommendation:

That these submissions be dismissed.

Submissions 19 & 20

Summary:

These submissions have been lodged by Carramar residents and are identical. They object to Amendment No. 9 on the following grounds:

“The progressive extension of Joondalup Drive as the adjoining subdivision occurs makes a lot of sense from a noise pollution aspect as the adjoining residential activity will hide traffic noise to some extent. If on the other hand the road is connected through the bush in advance of the adjoining housing there will be no other sound to obscure the highway sound. Traffic noise as it speeds through the area will be very loud and will cause disturbance and annoyance to Carramar residents.

Being an undeveloped area it will inadvertently generate speeding as the road will be of a high standard in a bush setting”.

Comment:

The absence of residential development adjacent to the eastern portion of the proposed road link should make little difference to the noise levels experienced by the residential areas themselves.

There may indeed be a temptation for traffic to speed due to the absence of residential development on adjacent land however extra policing measures can be undertaken to alleviate this.

Recommendation:

That these submissions be dismissed.

Submissions 21-24

These submissions have been lodged by Carramar residents and are identical. They object to Amendment No. 9 on the following grounds:

“The cost of constructing this road at this time is not justified by the low traffic volumes on the existing roads. Although it is noted that the cost will be passed on to the developers, it is still a waste of money to build an expensive road before it is justified or wanted by the residents.

The report talks about improving traffic congestion to and from the Barbagallo Raceway. Why should Carramar residents be burdened with this extra noise, particularly after race meetings as everyone tries to speed home?”

Comment:

The issues regarding cost and need for the road link have been addressed in the assessment of Submission Nos. 5, 9 and 10.

Regarding the issues raised associated with traffic leaving Barbagallo Raceway, as noted previously, this road link should assist in allowing such traffic to get to Wanneroo Road and to the freeway further to the west. This is a proper function of such a road, and as noted in respect to Submission Nos 19 and 20, temptations for drivers to speed on this road should be able to be addressed through an adequate level of policing.

Recommendation:

That these submissions be dismissed.

Other Comments:

1. As has been noted in Submission No. 10 from John Chapman Town Planning Consultant, at the time that Amendment No. 9 was initiated in December 2001, Joondalup Drive had been constructed as far east as Cheriton Drive in Carramar. Peet & Co. is currently extending the road a further 350m east, to its proposed intersection with Waldburg Drive.
2. Further examination of the current DPS2 provisions (since the initiation of Amendment No. 9) has indicated that the amendment should include provision for modification of Clause 9.12.7 of DPS2 (relating to appeal provisions) to include reference to proposed Cell No. 9, to maintain a consistency in approach between proposed Cell 9 and the existing East Wanneroo Cells.
3. Although only a relatively small number of submissions supporting this amendment have been received, Council would be aware that several petitions have been received, seeking the early construction of Joondalup Drive. It would be appropriate for Council to be mindful of this in considering the submissions received, and should Council resolve to adopt the amendment, it would also be appropriate for Council to remind the WA Planning Commission and the Minister for Planning and Infrastructure of these petitions.

Statutory Compliance

The advertising of Amendment No. 9 has been undertaken in accordance with the requirements of the Town Planning Regulations, 1967 (as amended).

Pursuant to regulations 17(1)(a) and 25 (1)(fb), Council is required (unless an extension of time is approved by the Minister for Planning and Infrastructure) to consider the submissions received within 42 days of the close of advertising period, which will be 17 September 2002.

Strategic Implications

The early provision of the Joondalup Drive link to Banksia Grove will be supportive of the Healthy Communities goal of the City's Strategic Plan which refers to the provision of quality services and infrastructure.

Policy Implications

Nil

Financial Implications

The letter from Phillips Fox has raised the possibility of Peet & Co. taking legal action against this City, with its attendant financial implications. Advice on this matter is consequently currently being sought from the City's legal advisors.

Voting Requirements

Simple Majority.

Recommendation

That Council:-

1. Pursuant to Town Planning Regulation 17 (2):

- a) MODIFIES Amendment No.9 to City of Wanneroo District Planning Scheme No. 2 to:**
 - i) include provision for Clause 9.12.7 of the Scheme to be amended by changing reference to "... Cells 1-8...." to "... Cells 1-9...";**
 - ii) delete the following paragraph from the Scheme Amendment Report:**

"As noted above, the legal agreement applying to this area only requires construction of a major road when abutting subdivision is being undertaken. Peet & Co. are now pursuing a subdivision staging strategy whereby they are subdividing land which does not abut Joondalup Drive, thereby avoiding any legal obligation to construct this road at this time".
- b) ADOPTS Amendment No. 9, as modified to:**

- i) **Change Part 9 of the Scheme by changing Clause 9.12.7 by deleting reference to "... Cells 1-8..." and replacing it with a reference to "...Cells 1-9".**
 - ii) **Change Part 10 of the Scheme by:**
 - A) **deleting all references to 'Cells 1 to 8' and replacing each with a reference to 'Cells 1 to 9'; and**
 - B) **in Clauses 10.6.1 to 10.6.4, deleting all references to 'Cells 1 to 6' and replacing each with a reference to 'Cells 1 to 6 and Cell 9'; and**
 - C) **in Clause 10.11.2 (b), deleting reference to 'Cells 1-6' and replacing it with a reference to 'Cells 1 to 6 and Cell 9'; and**
 - D) **in Clause 10.11.3, deleting reference to '8 Cells' and replacing it with a reference to '9 Cells'.**
 - iii) **Change Schedule 9 of the Scheme by:**
 - A) **deleting all references to 'Cells 1 to 8' and replacing each with a reference to 'Cells 1 to 9'; and**
 - B) **in Section 1.0, deleting reference to 'eight (8)' and replacing it with a reference to 'nine (9)'; and**
 - C) **including the following at the end of the Schedule:**
 - 'Cell 9**
 - Joondalup Drive (between Cheriton Drive and the southern boundary of Lot 494 Tree Court, Banksia Grove)**
 - * 100% of the total cost to acquire the ultimate road reserve land;**
 - * 100% of the total cost of constructing the full earthworks, one carriageway and all structures'.**
2. **Pursuant to Town Planning Regulations 22 and 25 (1)(g), AUTHORISES the affixing of the common seal to, and endorses the signing of, the amendment documentation.**
 3. **ENDORSES the comments and recommendations made in this report regarding the submissions received on Amendment No. 9**
 4. **REQUIRES that in submitting the amendment documents to the WA Planning Commission, City Administration advises the Commission that although only a relatively small number of submissions have been received in response to advertising of this amendment, a number of petitions have previously been received which demonstrate a high degree of community support for the early**

construction of Joondalup Drive through to Banksia Grove, such early construction being enabled through Amendment No. 9.

ATTACHMENT 1
PAGE 1 OF 2

Our ref: BRM:PMQ:842719
Your ref: 17010 (P Thompson)

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Perth
Sydney
Auckland
Wellington
Hanoi
Ho Chi Minh City

25 July 2002

Chief Executive Officer
City of Wanneroo
Locked Bag 1
WANNEROO WA 6946

| | |
|-------------------------------|---|
| City of Wanneroo | |
| File Ref(s) | TPSA/10009V01 |
| Receiving Officer(s) | Planseerv |
| Attachments | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Orig to Planseerv |
| Cash <input type="checkbox"/> | M.O. <input type="checkbox"/> Chq. <input type="checkbox"/> |
| \$ | Cheque No. URGENT |

Attention: Mr P Thompson
By Facsimile: 9405 5499

Dear Sir

Proposed Amendment No. 9 to City of Wanneroo District Planning Scheme No. 2 (DPS 2)

I act on behalf of Peet and Company as trustee for the Yatala Nominees Pty Ltd Unit Trust, the owner/developer of the Carrama Golf Course Estate. I refer to your letter to my client dated 24 June 2002.

In my opinion, the above proposed amendment is not a proper or valid exercise of the City's powers rendering the proposed scheme amendment ultra vires (beyond the power of) the Council's powers under the *Town Planning and Development Act (TPDA)*.

The construction of the extension of Joondalup Drive through my client's land was the subject of a deed between Yatala, the City and other parties dated 22 January 1996. That deed contemplated (clause 8) that the owner's obligations to construct the extension of Joondalup Drive would be progressively undertaken as the subdivision of land abutting the road takes place. My client has complied with the requirements of the deed and strongly objects to the imputation in the scheme amendment report that it has been avoiding a legal obligation under that agreement and objects to the allegation that it is pursuing a subdivision strategy to avoid subdividing land abutting Joondalup Drive. My client considers that it is complying with the intent of the agreement and the statements made on the second page of the scheme amendment report are considered highly prejudicial and damaging to my client's reputation; in particular my client objects to the imputation that it would deliberately flout or avoid its legal obligations under such an agreement.

It is further apparent that the view expressed in the scheme amendment report as to the performance of that agreement has been an underlying consideration leading the City to

Please notify us if this communication has been sent to you by mistake. If it has been, any privilege between solicitor and client is not waived or lost and you are not entitled to use it in any way.

ATTACHMENT 1
PAGE 2 OF 2

fox

proceed with the proposed scheme amendment. It is therefore open to my client to conclude that the scheme amendment is an overt attempt to frustrate and destroy my client's rights under the agreement, and accordingly not a proper exercise of the City's planning powers.

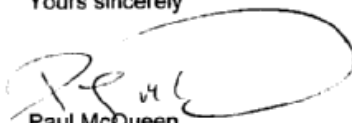
It is also apparent that the scheme amendment is primarily to benefit other landowners and not my client's land; the attempt to extract from my client a payment for the total costs of construction of the extension of Joondalup Drive and other scheme costs is wholly unsupportable in terms of the powers and objects of making or amendment a planning scheme under the TPDA. The implications of the scheme amendment report are that the contribution sought to be imposed could amount to as much as \$750,000.00, but may ultimately be much higher than that. Both the manner and amount of the contribution sought to be imposed upon my client under the proposed scheme, is entirely in conflict with the clear intent of the agreement, namely that the funding for the construction of the extension of Joondalup Drive would be resourced by my client from the progressive subdivision of its land. The scheme amendment effectively seeks to impose a very heavy financial burden, contrary to the commitments under the agreement, not only in respect of the construction of the extension but for a contribution to scheme costs (when my client's land had hitherto been expressly excluded from the contribution provisions of DPS 2). In the absence of appropriate explanations therefore it appears that the scheme amendment is an exercise primarily to benefit the City and other landowners elsewhere, at the expense of my client.

Based on my instructions therefore I consider that the scheme amendment is self evidently an invalid exercise of the City's powers and should be withdrawn by the City with a written acknowledgment from the City that the imputations made concerning my client are withdrawn. I am instructed to advise that unless the City gives an undertaking by no later than 5.00 pm Monday 29 July 2002 to take immediate steps to withdraw the amendment, Supreme Court proceedings will be issued without further notice. My client also reserves all of its rights to pursue such other action as it considers appropriate in relation to the imputations made in the scheme amendment report concerning its performance under the deed and the violation by the City of the commitments under the agreement. In the event legal proceedings are issued my client will also seek to recover costs for those proceedings from the City.

Your response is awaited.

If you have any queries please contact Brian McMurdo on 9288 6888.

Yours sincerely



Paul McQueen
Partner

Sub-Division Applications

PD03-08/02 Proposed Rural Subdivision - Lot 11 Safari Place And Lot 24 Emerald Drive, Carabooda

| | |
|-------------------------|------------------------------------|
| File Ref: | SD119635V01 |
| Responsible Officer: | Director, Planning and Development |
| Disclosure of Interest: | Nil |
| Attachments: | 2 |

Issue

Consideration of a rural subdivision application which proposes to adjust the common boundary between Lot 11 Safari Place and 24 Emerald Drive, Carabooda.

| | |
|---------------------|---|
| Applicant | Mitchell Goff & Associates |
| Owner | Mr T M Riseborough and Linpark Holding Pty Ltd |
| Location | Lot 11 Safari Place and Lot 24 Emerald Drive, Carabooda |
| Site Area | 20.32 ha and 4.02 ha (total 24.3482 ha) |
| DPS 2 Zoning | Rural Resource and Special Rural |
| MRS Zoning | Rural |

Background

The Western Australian Planning Commission (WAPC) has referred the application to the City for its comments. The application area includes both Lot 11 Safari Place and Lot 24 Emerald Drive and proposes to adjust the common boundary between these lots to decrease Lot 11 from 20.32 hectares (ha) to 18.00 ha and increase Lot 24 from 4.02 ha to 6.33 ha. The location of the subject land is shown on **Attachment 1** and a plan outlining the proposal is shown on **Attachment 2**.

Detail

The applicant has submitted the proposal for practical agricultural reasons. The north western corner of Lot 11 contains a vineyard, a house and other improvements in an area of approximately 2.32 ha. A market garden exists and is proposed to be expanded over the remaining portion of Lot 11. To separate the vineyard from the balance of Lot 11, the owner proposes to purchase Lot 24 Emerald Drive to provide space to extend the vineyard.

Consultation

Under the provisions of the Town Planning and Development Act 1928, as a referral agency, the City is required to make its comments to the WAPC within 42 days of receiving the referral. The Act does not make provision for public consultation on subdivision applications.

Comment

Lot 11 is zoned Rural Resource and Lot 24 is zoned Special Rural. Under the special provisions of this Special Rural zone, land use permissibility for Lot 24 shall be determined in accordance with Rural Resource zone. Therefore amalgamating a portion of Lot 11 with Lot 24 to create a dual-zoned lot would not be problematic from a land use point of view.

Although it would be preferable for each lot to have a single zoning, neither the boundary adjustment nor the proposed agricultural use of the land require the zoning of the land to be changed. It is therefore not considered reasonable to make the application conditional upon the zoning being rationalised. It is however recommended that the applicant be advised that the City will seek to rationalise the zonings to accord to the new lot boundaries in the future. The City will be considering initiating an amendment to District Planning Scheme No. 2 (DPS2) in the future to implement a number of zoning changes following the adoption of the Local Rural Strategy and that this amendment may readily include the subject zone rationalisation. This exercise will also require the modification to the Development Guide Plan (DGP) for the Special Rural Zone to accommodate the additional land and to specify that this lot should not be further subdivided. In this regard, it is noted that Special Provision 1 relating to this zone requires that a modified DGP be prepared and approved by Council and the WAPC to bring that plan into line with the actual subdivision boundaries for the broader Special Rural zone.

Statutory Compliance

Under Section 24(2) of the Town Planning and Development Act 1928, the City is required to forward its comments to WAPC within 42 days of receiving the referral. The application was received on 23 July 2002. Administration has requested the WAPC defer the application to provide an opportunity for Council to consider the matter.

Strategic Implications

Nil

Policy Implications

Lot 11 Safari Place is currently zoned Rural Resource and is therefore subject to Council Rural Subdivision policy. Under the provisions of the policy, Council shall only support subdivision of Rural Resource zoned land, where each lot yielded by the proposed subdivision contains a minimum area of 20 ha, except in special cases where it can be shown to Council's satisfaction that a lot not less than 8ha would not undermine the objectives of Rural Resource Zone. The current proposal would create a Rural Resource lot of 18.0 ha.

The objectives of Rural Resource zone are to protect intensive agriculture, horticultural and animal husbandry areas as well as key resource extraction areas from incompatible use or subdivision. In this case, the proposal does not seek to create additional lots, but rather adjust the common boundary between two existing lots to assist in the practical operation of the land. Whilst the proposal would create a lot that is smaller than the specified 20 ha minimum, there are a number of examples of smaller lots in close proximity, which are considerably less than the proposed 18.00 ha. On the basis of these factors it is not considered that the proposal would undermine the objectives of the Rural Resource zone and the proposal could be considered as a special case that warrants Council's support.

Financial Implications

Nil

Voting Requirements

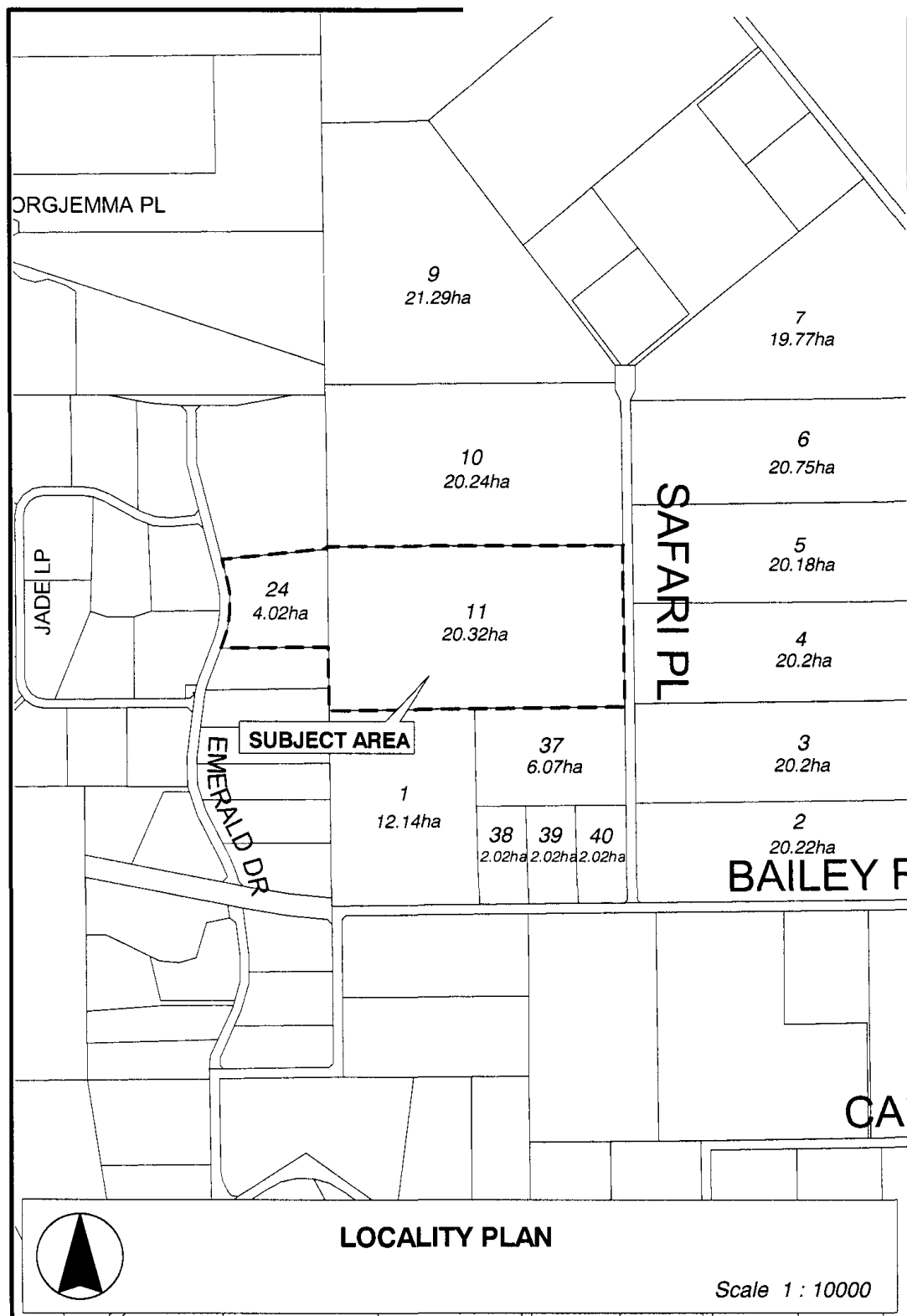
Simple Majority.

Recommendation

That Council ADVISES the Western Australian Planning Commission that it SUPPORTS the application by Mitchell Goff & Associates on behalf of Mr T M Riseborough and Linpark Holdings Pty Ltd for the adjustment to the common boundary of Lot 11 Safari Place and Lot 24 Emerald Drive, Carabooda, as depicted on the plan dated 1 July 2002 subject to:

- 1. All buildings and effluent disposal systems having the necessary clearance from the new lot boundaries as required by the City of Wanneroo District Planning Scheme No.2; and**
- 2. The applicant being advised that since the resultant Lot 24 Emerald Drive would straddle the existing zone boundaries, that the City will seek to amend it's District Planning Scheme No.2 to zone the entire new lot Special Rural and modify the Development Guide Plan for the Special Rural Zone No.18 to accommodate the additional land and specify that the lot should not be further subdivided.**

ATTACHMENT 1



Delegated Authority Reports

Economic Development

Other Matters

Technical Services

Tenders

TS01-08/02 Extension Of Contract No W00146 - The Provision Of Green Waste Shredding Services At Motivation Drive, Wangara

File Ref: S34/0007Vol1

Responsible Officer: Dennis Blair

Disclosure of Interest: Nil

Attachment: Nil

Issue

To consider a two month extension to the contract period for Contract No W00124 – the Provision of Green Waste Shredding Services at Motivation Drive, Wangara .

Background

The Wangara Greens Facility processes the green waste from the bulk rubbish collection and the weekend deliveries from ratepayers. The quantity is significantly in excess of what the City's current shredder can process and the additional capacity is provided by contract.

Detail

The current contract is for a two year period from 1 September 2000 to 31 August 2002. The contract has provision for an extension as per the following clause:

Contract Period means this contract will commence from 1 September 2000 for a period of two years and shall expire on 31 August 2002. The Principal may consider extending the Contract Period for an additional one year to 31 August 2003 or a part thereof. If the Principal chooses to extend the Contract Period, such extension of this Contract shall be in writing in accordance with the same terms and condition of this Contract and shall be at the discretion of the principal.

The contractor, Soiland Garden Supplies Pty Ltd, has advised the City that it is willing to enter into a two month extension of the contract in accordance with the same terms and conditions of the current contract. Beyond the two month period, the contractor would be

seeking an increase to the contract rate. This two month extension will allow sufficient time to advertise a new tender and report to Council accordingly.

Comment

The contractor, Soiland Garden Supplies Pty Ltd, produces a good quality mulch and has provided reasonable service. A two month extension to the contract period is supported.

Statutory Compliance

Nil

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

The City operates a joint greens drop off facility with the City of Joondalup and also processes greens from the bulk collection in both Cities at the site. It also sells the mulch from the site to residents and to date has been able to sell all the mulch it has available. Last year total revenue from these activities was \$400,404.

Last year Council spent \$113,851 on mulching services and expenditure this year is likely to be of similar magnitude.

Voting Requirements

Simple Majority

Recommendation

That Council APPROVES a two month extension to Contract No W00146 - Provision of Green Waste Shredding Services with Soiland Garden Supplies under the same terms and conditions as the current contract.

TS02-08/02 Extension Of Contract No's W00129, W00130 And W00131 For Services Specific To Parks Operations

File Ref: S08/0002V01
Responsible Officer: Director Technical Services
Disclosure of Interest: Nil
Attachments: Nil

Issue

To consider the 12 month extension of the contract period for Contract No's W00129, W00130 and W00131.

Background

The supply of materials, works and services for use on parks construction and maintenance projects has been addressed in the past by the issue of term contracts. As part of this process the following three contracts commenced on 1 October 2000 for two year contract periods, closing on the 30 September 2002:

- **Contract No W00129** – the Provision of Tree Pruning and Stump Removal Services within the City of Wanneroo for a period of two years.
- **Contract No W00130** – The Construction, Development and Testing of Bores within the City of Wanneroo for a period of two years
- **Contract No W00131** – The Supply and Maintenance of Bore Hole Pumping Units with the City of Wanneroo for a period of two years.

Detail

The three contract agreements contain the following clause under the General Conditions of Contract:

Clause 1.1 - Contract Period

“This Contract will commence from 1 October 2000 for a period of 24 months and shall expire on 30 September 2002. The Principal may consider extending the Contract Period for an additional one-year to 30 September 2003 or a part thereof. If the Principal chooses to extend the Contract Period, such extension of this Contract shall be in writing in accordance with the same terms and conditions of this Contract and shall be at the discretion of the Principal.”

The Manager Operational Services and the Co-ordinator Parks Operations, in consultation with the Contracts Officer from the Contracts and Property Services business Unit, have evaluated the contract extension submissions.

Contract No W00129 - the Provision of Tree Pruning and Stump Removal Services within the City of Wanneroo for a period of two years.

The City has previously awarded Contract No W00129 to Geoff's Tree Services Pty Ltd. The contract requirement was reviewed and following the City's invitation, Geoff's Tree Services

Pty Ltd has advised in writing of its willingness to extend the contract for a further period of 12 months to 30 September 2002 with all pricing schedules to remain the same.

It is therefore recommended to extend Contract No W001329 with Geoff's Tree Services Pty Ltd for the provision of tree pruning and stump removal services within the City of Wanneroo for for a further period of 12 months to 30 September 2003.

Contract No W00130 – The Construction, Development and Testing of Bores within the City of Wanneroo.

The City has previously awarded Contract No W00130 to Wintergreene Drilling. The contract requirement was reviewed and following the City's invitation, Wintergreene Drilling Pty Ltd has advised in writing of its willingness to extend the contract for a further period of 12 months to 30 September 2003, with all pricing schedules to remain the same.

It is therefore recommended to extend Contract No W00130 with Wintergreene Drilling Pty Ltd for the Construction, Development and Testing of Bores within the City of Wanneroo for a further period of 12 months to 30 September 2003.

Contract No W00131 – the Supply and Maintenance of Bore Pump Units within the City of Wanneroo.

The City has previously awarded Contract No W00131 to Turbo Master Pumps Pty Ltd. The contract requirement was reviewed and following the City's invitation, Turbo Master Pumps Pty Ltd has advised in writing of its willingness to extend the contract for a further period of 12 months to 30 September 2003 with all pricing schedules to remain the same.

It is therefore recommended to extend Contract No W00131 with Turbo Master Pumps Pty Ltd for the supply and Maintenance of bore hole pumping units for a further period of 12 months to 30 September 2003

Comment

Contract extensions for Contract No's W00129 – Geoff's Tree Service Pty Ltd, W00130 – Wintergreene Drilling Pty Ltd and W00131 – Turbo Master Pumps Pty Ltd are as per the existing contract agreements. The three companies have provided satisfactory service to the City under the existing contract arrangements.

Statutory Compliance

The contracts are recommended for extension as per Clause 1.1 Contract Period and associated regulations.

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

The extent of expenditure associated with these contracts is dependent on the type of capital works projects approved in the four-year Capital Works Program. The cost of the works is directly charged to the projects. Expenditure for the maintenance works is charged to the Maintenance Works Operating Budget allocations.

Voting Requirements

Simple Majority

Recommendation

That Council:-

- 1. ACCEPTS the extension of Contract No W00129 from Geoff's Tree Service Pty Ltd for the Provision of Tree Pruning and Stump Removal Services for a further period of 12 months to 30 September 2003, under the same terms and conditions of the current contract.**
- 2. ACCEPTS the extension of Contract No W00130 from Wintergreene Drilling Pty Ltd for the Construction, Development and Testing Of Bore Holes for a further period of 12 months to the 30 September 2003, under the same terms and conditions of the current contract.**
- 3. ACCEPTS the extension of Contract No W00131 from Turbo Master Pty Ltd for the Supply and Maintenance of Bore Hole Pumping Units for a further 12 month period to the 30 September 2003, under the same terms and conditions of the current contract**

Infrastructure

TS03-08/02 Walga Initiative - Road Deterioration Modelling Study - Report Update

File Ref: R/0007V01
Responsible Officer: Director Technical Services
Disclosure of Interest: Nil
Attachment: Nil

Issue

To consider changes in the City's funding contribution toward the Western Australian Local Government Association's (WALGA) Road Deterioration Modelling Study Initiative

Background

At Council's meeting on 26 February 2002, it was resolved to support WALGA's initiative of instigating a study to improve the Deterioration Model Used in Western Australian Pavement Management Systems (Report No. TS08-02/02 refers). Council agreed to contribute \$3,600 per annum for the next five years for three sites within the City (based on indicative costs of \$1,200 per site/year).

The nominated sites for the study were:-

1. Marmion Avenue, Mindarie
2. Neaves Road, Mariginiup
3. Highclere Boulevard, Marangaroo

The Road Deterioration Modelling Study is to be conducted by ARRB Transport Research.

Detail

ARRB Transport Research has now finalised its study costs with WALGA and has determined that the cost for each site will be \$1,500 per annum over the next five years. This results in an increase in Council's commitment of \$900 per annum.

After further discussions with an ARRB Transport Research representative, it was decided by City Administration that the number of test sites within the City be reduced to two instead of the three nominated. The funding allocation would thus reduce from \$3,600 per annum to \$3,000 per annum. The sites nominated will now be :-

1. Marmion Avenue, Mindarie
2. Neaves Road, Mariginiup

Comment

It is considered that reducing the number of sites within the City to two would not adversely impact on the Study, with the sites remaining still being representative of the roads located within the City. There are sites that have been nominated in the Cities of Joondalup, Stirling and Swan which together with the City of Wanneroo sites will provide a good representation of roads within the region.

Statutory Compliance

Nil

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

As a result of the above changes, there will be a saving of \$600 in the current operating budget. Council's funding towards the Study will now continue at \$3,000 per annum for the remaining four years.

Voting Requirements

Simple Majority

Recommendation

That Council NOTES the changes in funding contribution towards WALGA's Road Deterioration Modelling Study Initiative from \$3,600 to \$3,000 per annum for the study's five years duration, with the two nominated sites being Marmion Avenue, Mindarie and Neaves Road, Mariginup.

Funding and Budget

TS04-08/02 Perth Biodiversity Project - "Bushlinks" Project - Budget Variation

File Ref: PR/0002VO1
 Responsible Officer: Director, Technical Services
 Disclosure of Interest: Nil
Attachment: Nil

Issue

To consider a budget variation to reflect the receipt of Perth Biodiversity Project Funding.

Background

Council resolved at its meeting on 26 February 2002 to support in principle the "Bushlinks" Bushland Management Project joint submission from the Cities of Wanneroo and Joondalup and a Community Advisory Group for funding a "Bushlinks" Project. (Item TS09-02/02 refers).

The proposed funding arrangements were as follows:

| | |
|--|-----------------|
| Perth Biodiversity Project Funding (WALGA) | \$25,000 |
| City of Wanneroo | \$12,500 |
| City of Joondalup | <u>\$12,500</u> |
| | \$50,000 |

Detail

This project has been approved by WALGA and a cheque for the amount of \$13,750 (\$12,500 grant plus \$1,250 GST) has been presented to the City of Wanneroo. A similar payment has been made to the City of Joondalup. This funding has been made available on the basis that the local government is responsible for the management of the grant funds.

Consultation

The project submission was developed on the basis of providing important "seeding" funding for implementing best practice bushland management and providing for a participative and inclusive community. This will be a community based project and through localised consultative processes, the community will be engaged to assist on this project.

Comment

The \$12,500 contribution from the City of Wanneroo towards this project will be funded from the Parks Operating budget for officer support to the project and commissioning of bushland teams for the removal of weeds etc. It is not a capital item, but more of a bushland maintenance and upgrade project.

There has been no provision made in the budget for the grant and a variation is required to reflect this grant income and associated expenditure.

Statutory Compliance

Nil

Strategic Implications

The proposal is consistent with the City's Policy 3.2.2. for Environmental Sustainability, which has three objectives, to:

- Protect and enhance the natural and human environments for the benefit of present and future generations.
- Minimise as far as practicable, any adverse environmental impacts associated with its activities
- Take advantage of environmentally beneficial opportunities.

Policy Implications

Nil

Financial Implications

The budget will need to be amended to reflect the income from WALGA and the operating budget increased accordingly.

Voting Requirements

Absolute Majority

Recommendation

That Council:-

- 1. ACCEPTS the Perth Biodiversity Project Grant of \$12,500 from WALGA for the “Bushlinks” Bushland Management Project.**
- 2. Pursuant to Section 6.8(1)(b) of the Local Government Act 1995, APPROVE BY ABSOLUTE MAJORITY the expenditure on the Bushland Management Project as a result of receiving Perth Biodiversity Project Funding.**
- 3. NOTES the following budget variation to reflect the receipt of Perth Biodiversity Project Grant.**

INCOME

| GL NUMBER | Present Budget | Additional Amount | Revised Amount |
|--|----------------|-------------------|----------------|
| 51 60 72 721 1599 0001 Other Government | 0 | \$12,500 | \$12,500 |

| | | | |
|----------------------|--|--|--|
| Grants and Subsidies | | | |
|----------------------|--|--|--|

EXPENDITURE

| Cost Code | From | To | Description |
|------------------------|-------------|-----------|--|
| 51 60 72 721 1599 0001 | \$12,500 | | Other Government Grants and Subsidies |
| 51 60 72 721 4615 0001 | | \$12,500 | Parks Operating Budget - External Materials Purchase |

Other Matters

Corporate Services

Information Services

CS01-08/02 Extension Of Contract Number 01228 - Supply And Delivery Of Personal Computers

| | |
|-------------------------|------------------------------|
| File Ref: | 01228T |
| Responsible Officer: | Director, Corporate Services |
| Disclosure of Interest: | Nil |
| Attachments: | Nil |

Issue

To consider an extension of the Contract Period to Contract Number 01228 – Supply and Delivery of Personal Computers.

Background

Council, at its meeting on 5 September 2001 resolved to adopt a three (3) year Replacement Programme for its IT Hardware (Item CS03-09/01 refers). Subsequently, at its meeting on 6 November 2001, the Council identified funding for the first year of the programme and authorised the calling of tenders for the acquisition of approximately 96 desktop personal computers (PCs). In December 2001, the Council resolved to accept the tender submitted by Dell Computer Pty Ltd offering to supply and deliver PCs with 17 inch monitors, for the period up until 30 June 2002 at a cost of \$1,530 per unit.

This year the City has budgeted to replace up to 119 existing PCs for staff and Elected Members and has made provision for an additional 12 PCs for new staff.

Detail

The current contract contains a clause in the General Conditions of Contract under the heading “Contract Period”, that allows the Principal (City) to consider extending the Contract Period for an additional one (1) year. If the Principal chooses to extend the Contract Period, such extension of the Contract shall be in writing in accordance with the same terms and conditions of the current Contract and shall be at the discretion of the Principal.

Dell Computer Pty Ltd has offered to extend Contract Number 01228 for a further twelve (12) month period with no change or increase to the Contract Rates. The Contract extension notes that the Principal (City) shall require between 90 and 120 PCs in the financial year 2002/2003. The following table shows the Minimum PC Specification required by the City, the

specification accepted in the original tender and the proposed specification for the contract extension.

| Item | Min. Requirements | Contract Specification | Contract Extension Specification |
|----------------------|---|--|--|
| Case Type | Desktop or Mini Tower | Dell Optiplex GX240 Small Desktop | Dell Optiplex GX260 Small Desktop |
| Processor | Pentium III 1 GHz | Intel Pentium IV 1.5GHz | Intel Pentium IV 1.8GHz (845G Chipset) 400MHz FSB |
| Memory | 128Mb RAM | 128Mb RAM | 128Mb DDR SDRAM |
| Hard Disk Drive | 20Gb | 20Gb HDD | 20Gb HDD |
| Monitor | 15" or 17" | 15"/17" Dell SVGA | 15"/17" Dell SVGA |
| Power Supply | Australian Standard | 180W Australian Compliant | 180W Australian Compliant |
| Keyboard | 104 Key Standard | Dell 104 Keyboard in Midnight Grey. | Dell 104 Keyboard in Midnight Grey. |
| Mouse | MS 2 Button with wheel | MS 2 Button wheel mouse | Microsoft Intelli Mouse |
| LAN Card | 10/100 Internal Microsoft Windows 2000, remote installation services PXE compliant network card and must be on Microsoft hardware compatibility list for Windows 2000 | Integrated 3COM fast Etherlink 10/100 PCI NIC | Integrated 3COM fast Etherlink 10/100 PCI NIC |
| Operating System | Windows 2000 Professional, Service Pack 2 | Windows 2000 Pro., SP2 | Windows 2000 Pro., SP2 |
| Warranty/Maintenance | 3 yr. Next business day, onsite or Tenderers premises, parts & labour | 3 year on-site parts & labour. Next business day repair for City of Wanneroo | 3 year on-site parts & labour. Next business day repair for City of Wanneroo |

It can be seen that the primary difference is the increased processor speed (1.8GHz) of the proposed specification.

Consultation

Nil

Comment

Extension of the Contract Period for Contract Number 01228 is in accordance with the existing Contract and Dell Computer Pty Ltd have provided satisfactory service and products to the City over the past twelve (12) months. Given that the Dell Computer Pty Ltd proposal is for a higher specification unit at the same price as the initial contract and is still considered excellent value in today's market place, it is recommended to extend Contract Number 01228 with Dell Computer Pty Ltd for the supply and delivery of personal computers for a further period of twelve (12) months to 30 June 2003.

Statutory Compliance

Nil

Strategic Implications

This extension is consistent with the City's strategy of a three (3) year IT Hardware Replacement Programme.

Policy Implications

Nil

Financial Implications

The replacement and the twelve (12) additional PCs are fully funded through the Other Capital – New Initiatives section of the City of Wanneroo 2002/2003 budget.

Voting Requirements

Simple Majority.

Recommendation

That Council APPROVES a twelve (12) month extension (from 1 July 2002 to 30 June 2003) to Contract Number 01228 (with Dell Computer Pty Ltd) – Supply and Delivery of Personal Computers.

Finance

Community Development

CD01-08/02 Community Care Deed Of Agreement

| | |
|-------------------------|---------------------------------|
| File Ref: | 01075 |
| Responsible Officer: | Director, Community Development |
| Disclosure of Interest: | Nil |
| Attachments: | Nil |

Issue

To consider the Community Care Deed of Agreement

Background

The City receives funding from the Federal Department of Health and Ageing for the provision of Community Aged Care Packages and has been involved in the provision of this service for a number of years.

A revised agreement came into force in December 2001 for new and existing allocations of Community Aged Care Packages. This agreement is known as the Community Care Deed of Agreement and must be signed and dated by the authorised signatory and returned to the State Office for counter signing.

Detail

Community Aged Care Packages are planned and managed packages of community care services to help older people with complex care needs remain living in their own homes. They are designed for each individual and are based on their particular needs.

The types of services that may be provided as part of an individualised package include:

1. Assistance with bathing;
2. Meal preparation;
3. Laundry;
4. Dressing;
5. Transport;
6. Housework;
7. In home respite;
8. Home maintenance; and
9. Social activities.

The City is currently funded for eighteen Community Aged Care Packages. As an Approved Provider the City is required to sign the Community Care Deed of Agreement. However the City can terminate the Agreement as detailed in section 5 of the document by providing

reasonable written notice. A copy of the contract is available in the Councillors' Reading Room.

Comment

Should Council determine not to sign the Agreement, this shall result in the withdrawal of funding by the Federal Department of Health and Ageing and the consequent termination of the provision of this service by the City within the community.

The City's Contracts Manager has sighted the Agreement and has indicated there are no major concerns regarding its content.

Statutory Compliance

A Council resolution is required to allow the Mayor and Chief Executive Officer to affix the common seal of the City of Wanneroo.

Strategic Implications

The provision of Community Aged Care Packages is in line with the City's Strategic Plan in the following areas:

- "2.5 Foster a community that finds strength in its diversity; and
2.7 Provide community focussed services and lifestyle opportunities"

Policy Implications

Nil

Financial Implications

Funding for the financial year 2002-2003 from the Federal Department of Health and Ageing and Council contribution to the Community Aged Care Packages Program is detailed in the table below:

| | |
|---------------------------------|--------------|
| Government Grants and Subsidies | \$192,000.00 |
| Council Contribution | \$ 34,820.00 |

The City meets any budget shortfall in the program. The figure indicated above for council contribution is the adopted budget deficit for the program for this financial year.

The signing of this agreement does not have any effect on the adopted budget. Should Council determine not to sign the agreement, the City will lose access to funding and will no longer be able to provide Community Aged Care Packages.

Voting Requirements

Simple Majority

Recommendation

That Council AUTHORISES the Mayor and the Chief Executive Officer to execute and affix the common seal of the City of Wanneroo to the Community Care Deed of Agreement between the City of Wanneroo and the Federal Department of Health and Ageing.

CD02-08/02 Submission On The Review Of The Dog Act 1976 Issues Paper

File Ref: S21/0008V01
Responsible Officer: Director, Community Development
Disclosure of Interest: Nil
Attachments: Nil

Issue

To consider a submission to the Department of Local Government as part of the review of the Dog Act 1976.

Background

Over one third of households in Australia have a dog. The effect of this is that most people will either live on or near premises where a dog is kept.

The Dog Act 1976 was drafted in an attempt to achieve a balance between the sometimes conflicting principles that people should be entitled to own and enjoy dogs and the need for adequate control of dogs. The provisions of the Act therefore aimed to preserve the right of ownership of dogs whilst at the same time placing a measure of responsibility on those who chose to be owners. Since the initial drafting of the Dog Act 1976 several amendments have been made including giving local governments the power to deal with dangerous dogs and more recently legislation relating to Dog (Restricted Breeds) Regulation 2002.

Detail

The submission to be provided to the Department for Local Government and Regional Development for consideration as part of the process of the review of the Dog Act has been prepared by Council's Administration. The submission is required to be forwarded to the Department of Local Government and Regional Development by Monday, 2 September 2002. An extension has been requested and granted to allow for the submission to be presented to Council for endorsement on 3 September 2002. The submission is detailed in the Recommendation to Council. The submission was prepared following workshops with Management, Rangers and Administration within the Community Development Directorate, taking into consideration an in depth study of the issues paper published by the Department of Local Government and Regional Development.

Consultation

The Department of Local Government have advised that the Issues Paper is the first step in the review of the Dog Act 1976 that will span six months. There will be a ten week public consultation period, a series of workshops and open public forums that will also form a significant part of the review.

Comment

The submission covers the following broad areas:

Administration

The principal types of matters that appear to be of concern in relation to the administration of the Act relate to the exercise of power outside districts, joint jurisdiction and the entry of premises. These concerns are generally held by authorised persons and other individuals responsible for the administration of the Act. It is recognised that the matter relating to the entry of premises is likely to become a significant issue where a house is entered. These issues are addressed in item 3.2 of the submission.

Registration

The main issues of concern in regard to registration appear to relate to the setting up of a central register of dogs; the limiting of access to specified information on registers; the introduction of a rolling 12 month registration period; and microchipping. All of these matters have been raised by local governments in pursuit of their role in administering and enforcing the Act. However, individual dog owners have also raised concerns regarding access to information on registers.

Other matters relating to registration including those issues relating to enforcement, sterilised dogs, guard dogs and guide dogs. These issues are addressed in item 3.3 of the submission.

Keeping of Dogs

The purpose of this section of the Act is to preserve an individual's right to own a dog or dogs while also allowing local governments to control the number and types of dogs that can be owned. The principal concerns raised in relation to the keeping of dogs relate to the enforcement of limited numbers of dogs. Concerns have also been raised in relation to the wording, interpretation and application of this section. Both local governments and the public have raised issues relating to the number of dogs allowed. These issues are addressed in item 3.4 of the submission.

Control of Dogs

The principle types of matters that appear to be of concern in relation to control of dogs relate to the seizing of dogs, the control of dogs in public places, dog attacks and barking dogs. The latter matter is by far the most significant in terms of the degree of emotion and pent up frustration that it engenders.

Some other matters that have been raised relate to destruction of dogs found attacking wildlife, people being directed to provide certain health-related care for their dogs and the microchipping of dangerous dogs.

The seizing of dogs, the protection of wildlife, dog welfare and the identification of dangerous dogs are matters that are primarily raised by authorised persons and the RSPCA. The other matters relating to the control of dogs in public places and barking dogs are issues generally raised by members of the public. These issues are addressed in item 3.5 of the submission.

Enforcement

The enforcement of provisions within the Dog Act 1976 has been an issue of concern to a cross section of individuals effected by or administering the Act. While there appear to be issues specifically associated with this part of the Act, there are widespread concerns as to the practical enforcement of other sections of the Act. The primary issue seems to be the use of the court system as a means of enforcing provisions of the Act. In many instances it appears that a local government may be reluctant to act on a complaint if it is felt that the claim may not stand up in court. Consequently, it has been argued that many potential offences go unchecked or unpenalised. These issues are addressed in item 3.6 of the submission.

Civil Remedies

The principal issues raised in this section relate to the process of awarding damages in relation to dog attacks and whether modified penalties should apply to a person who wilfully causes harm to a dog. These issues have been raised by local governments and by individuals seeking compensation resulting from dog attacks. These issues are addressed in item 3.7 of the submission.

Local Laws

The principal types of matters that appear to be of concern in regard to local laws are those relating to modified penalties and to fees and charges. Other matters relate to the number and/or type of dog being kept in flats or units and the practice adopted by some local governments when specifying places from which dogs are prohibited. These issues are addressed in item 3.8 of the submission.

Regulations

The only regulations which currently exist under the provisions relating to certain kinds of dogs are the Dog (Restricted Breed) Regulations 2002 which were gazetted in March 2002. These regulations apply provisions similar to those currently imposed on dogs declared dangerous to those breeds of dog prohibited from importation under Commonwealth legislation. They are to expire at the end of a twelve-month trial period unless amended to ensure their continuation. Under the legislation, a “restricted breed dog” is defined as a breed whose importation into Australia is prohibited under the Commonwealth Customs (Prohibited Imports) Regulations 1956. These issues are addressed in item 3.9 of the submission.

Other

The principal types of matters that appear to be of concern in relation to dog behaviour and the relationship of these animals to their owners are issues that have generally been raised by people who take both the training and socialisation of their dogs very seriously. These people are invariably representatives of, or members of, a dog club.

Another issue that is discussed here relates to dingoes and appears to be generally of more concern to government agencies that bear some responsibility for them. However, a few individuals have also expressed a particular interest in this issue.

In addition to the above issues, one of Council's contracted Solicitors has provided general comments on the Dog Act 1976 and the relevant issues have also been included in the submission. These issues are addressed in item 3.10 of the submission.

Statutory Compliance

This submission formulated in relation to the review of the Dog Act 1976 will contribute to the Cities goal of Healthy Communities in improving effective dog control and customer service.

Strategic Implications

Nil

Policy Implications

Nil

Financial Implications

Nil

Voting Requirements

Simple Majority

Recommendation

That Council ENDORSES the submission to be provided to the Department of Local Government for consideration as part of the review of the Dog Act 1976.

3.0 ISSUES

3.2.1 Interpretations

Should the definition of "premises" be extended to include boats, caravan, vehicles and sheds? Should any other types of property be included?

The definition should be extended to include boats, caravans, vehicles, and sheds and any other construction/means of confining a dog

Should any other terms be included or amended to assist in the interpretation of the Act?

No

3.1.2.2 Application of the legislation

Should prison dogs be excluded from the Act?

Prison dogs should be excluded from the Act along with any government agency dogs.

3.1.2.3 Dogs to be registered

Should an authorised person be given the power to seize a dog if it has not been registered?

An authorised person should be given the power to seize a dog if it has not been registered with a warrant with powers to enter such buildings as necessary.

Should the registration requirements be changed to recognise the current veterinary practice of not sterilising dogs until they are at least 6 months old? If so, how should these registration requirements be changed?

The registration requirements should not be changed to recognise the current veterinary practice of not sterilising dog until they are at least 6 months old because a Ranger is not able to easily identify the age of a dog at 6 months. A Ranger is able to easily determine the age of a dog at 3 months.

Should provision be made for dogs to be registered over the internet? If so, what difficulties, if any would be envisaged?

The provision should not be made for dogs to be registered over the internet because there is a requirement for a declaration to be signed. The declaration confirms the owner of the dog is over the age of 18 years and there are means on the premises to contain the dog. There is a requirement to see proof that a dog has been sterilised by either a sterilisation certificate, statutory declaration or ear tattoo. There is also a requirement for proof of pension.

Should guard dogs be separately registered?

Guard dogs should not be registered separately as it would be difficult to administer.

Should an authorised person be required, or given the discretion, to inspect the premises where guard dogs are kept?

An authorised person should be given the discretion to inspect the premises where guard dogs are kept to ensure there is compliance with the conditions for a dangerous dog.

Should the Act and/or regulations include specific provisions relating to the keeping, locating and training of guard dogs?

The Act and/or regulations should not include specific provisions relating to the keeping, locating and training of guard dogs as the onus is on the owner of the dog and any issues would be a civil matter.

Are there any other provisions necessary for the control of guard dogs?

There are no other provisions necessary, as they would be covered as a dangerous dog with the specified conditions.

Should the provisions that allow visually impaired persons to use guide dogs be expanded to include people with disabilities without first having to obtain the Minister's approval?

This question should be referred to the disability agencies for comment.

3.2 ADMINISTRATION

3.2.1 Content

3.2.2.1 Application of Powers Outside District

Should a general provision be provided which enables an authorised person to enforce the Act in an area that is not within the district but which adjoins that person's district?

A general provision should be provided which enables an authorised person to enforce the Act in an area that is not within a district but which adjoins that person's district.

Should an authorised person, where there is no agreement between local governments, be able to both pursue and investigate an incident where the dog moves into a neighbouring local government district? Should an authorised person be able to pursue and investigate an incident in any district that is not necessarily a neighbouring district?

An authorised person should be able to both pursue and investigate an incident in any district that is not necessarily a neighbouring district.

3.2.2.3 Entry of premises

Should an authorised person or police officer be able to enter any premises for the purposes of seizing an unregistered dog?

An authorised person should be given the power to enter any premises and seize an unregistered dog with a warrant with the powers to enter such buildings as necessary.

Should an authorised person or police officer be able to enter any premises for the purposes of seizing or rescuing an abandoned, sick or injured dog?

The Royal Society for the Prevention of Cruelty to Animals (Inc) officers have the authority to enter any premises for the purposes of seizing or rescuing an abandoned, sick or injured dog and this should continue to be dealt with under the Prevention of Cruelty to Animals Act.

Are there any other situations in which an authorised person or police officer should have the right of entry (with or without a warrant) to undertake some action involving a dog eg seizing a dog which is causing a nuisance by bark?

The following are situations where an authorised person should have the right of entry without a warrant:

When a dog is attacking a person or animal at that time

The following are situations where an authorised person should have the right of entry with a warrant:

More than two dogs without permission

Any other contravention identified in the Dog Act

3.3 REGISTRATION

3.3.2.1 Register to be maintained

Should a central authority be established to undertake the registration of all dogs in Western Australia?

A central authority to undertake the registration of all dogs in Western Australia should not be established because the local authority would be enforcing the registration of dogs without the administrative and operational control. Local authorities are able to ascertain change of addresses through their individual rates systems and residents are more likely to register their dog with their local authority.

Should a single database be established for the storing and manipulation of all information relating to dog registrations in Western Australia?

A single database should not be established for the storing and manipulation of all information relating to dog registrations in Western Australia because the local authority would be enforcing the registration of dogs without the control of the data. Local authorities are able to ascertain change of addresses through their individual rates systems and residents are more likely to register their dog with their local authority.

What limitations, if any, should be placed on non authorised persons gaining access to dog registers?

Non authorised persons should not have any access to dog registers.

What information should not be publicly available?

No information should be publicly available.

Should general public access to dog registers be denied and should any specific inquiry be dealt with under freedom of information legislation?

General public access to dog registers should be denied and specific inquiries should be dealt with under the freedom of information legislation by the completion of the application form and payment of the specified fee.

3.3.2.2 Registration periods and fees

Should registrations be for a twelve month (or three year) period as from the date of registration?

The twelve month (or three year) registration period should commence from the date of registration as this would be more efficient administratively and fairer for the dog owner.

Should registration fees be set by local governments for the express purpose of encouraging good dog management practices?

Registration fees should not be set by local governments as there should be consistency across all local governments.

Should registration fees continue to be set by regulations but provide for the encouragement of good dog management practices (eg owners pay concessional registration fee where they and/or their dog pass an accredited course)?

Registration fees should continue to be set by regulations. The encouragement of good dog management practices should be handled by the individual local authorities but should not be associated with the registration fee. There are dog owners that are capable of good dog management practices without having to pass an accredited course.

Do registration fees adequately cover the cost of registering a dog?

The registration fees probably do not cover the cost of registering a dog but the local authorities are providing a community service to its residents. The registration fee structure should be reviewed every five years.

3.3.2.3 Registration procedure

Does the meaning of “effective confinement” need to be further defined so as to remove any ambiguity? If so, how should it be defined?

The meaning of “effective confinement” does not need to be further defined because the penalty for 31(3) - \$100.00 covers this situation.

Should minimum specifications for any fencing or enclosure be included in the Act or regulations?

There should not be a minimum specification for any fencing or enclosure included in the Act because of the different requirements for a rural and residential property.

3.3.2.4 Registration tags

Should all dogs be required to be implanted with microchips?

All dogs should not be required to be implanted with microchips, it should be the owners prerogative.

Should microchips replace tags or should they be used in association with each other?

Microchips should not replace tags as it would be a difficult method of control and microchips should be used as an added identification at the owners discretion.

3.4 KEEPING OF DOGS

3.4.2.1 Limitation as to numbers

Should the Dog Act 1976 be amended to all local governments to delegate certain powers?

It would be administratively prudent for the Dog Act to be amended to all local governments to delegate certain powers.

Who should have a right of appeal where a decision regarding the keeping of a dog above the prescribed limit is made by a local government?

Any person who is aggrieved should have a right of appeal where a decision regarding the keeping of a dog above the prescribed limit is made by a local government.

Should the Act provide for residents in the locality to be advised of any application that has been made to keep more than the prescribed number of dogs and informed that they may make a submission on the proposal?

The Act should provide for the adjoining property owners to be advised of any application that has been made to keep more than the prescribed number of dogs and informed that they may make a submission on the proposal.

Should objection and appeal rights similar to those provided for in the Local Government Act 1995 be provided for in the Dog Act 1976?

Objection and appeal rights should be similar to those provided for in the Local Government Act 1995.

3.4.2.2 Licensing of approved kennel establishments

Are there any issues that need to be considered in relation to the establishment of kennels?

There are no issues that need to be considered in relation to the establishment of kennels as this is covered in the planning and approval process and Council Local Laws.

3.5 CONTROL OF DOGS

3.5.2.1 Power to seize dogs

Should an unregistered dog be able to be seized from any premises? Should this be able to be done without a warrant?

An unregistered dog should be able to be seized from any premises with a warrant with the powers to enter such buildings as necessary.

Should abandoned, sick or injured dogs be able to be seized or rescued from premises by an authorised person or police officer? Should this be able to be done without a warrant?

The Royal Society for the Prevention of Cruelty to Animals (Inc) officers have the authority to enter any premises for the purposes of seizing or rescuing an abandoned, sick or injured dog and should be dealt with under Prevention of Cruelty to Animals Act.

Should an authorised person or police officer be able to seize a dog, that is believed to have been involved in an attack, from premises without a court order or warrant even though they have not been in pursuit of the animal?

An authorised person or police officer should be able to seize a dog that is believed to be attacking a person or animal without a court order or warrant even though they have not been in pursuit of an animal.

Are there any other situations in which an authorised person or police officer should have the right of entry (with or without a warrant) to undertake some action involving a dog eg seizing a dog which is causing a nuisance by barking?

The following are situations where an authorised person should have the right of entry with a warrant to undertake some action involving a dog:

More than two dogs without permission
Any other contravention identified in the Dog Act

Should the minimum 72 hour (3 day) period during which a local government must keep and maintain an impounded dog be increased? What would be an appropriate minimum period?

The minimum 72 hour (3 day) period during which a local government must keep and maintain an impounded dog should be increased to five days.

3.5.2.2 Collars and registration tags

Should provision be made for allowing a name and/or address to be left off collars?

The provision of a name and/or address should be left off collars. This should be at the discretion of the dog owner due to confidentiality issues.

Should the name/and or address be substituted with a coded symbol?

There is no reason for the name/and or address to be substituted with a coded symbol as the colour and registration tag number identifies the dog owner.

3.5.2.3 Control of dogs in certain public places

Should the Act, while providing for tethering in a public place, specify the circumstances and conditions under which tethering can occur?

There should be no provision for tethering in a public place as this is an unsafe practice.

Should tethering be banned in public places such as at the entrance to shops or other business?

The provision for tethering in a public place such as at the entrance to shops or other business should be banned as this is an unsafe practice.

What other dog control provisions should be provided for in public places?

There are no additional dog control provisions that should be provided for in a public place other than the conditions already stipulated in the Act.

3.5.2.4 Dog attacks

Are the defences in the Act in relation to dog attacks adequate? Should other defences be included?

Provocation of the dog should be a defence that is included in the Act in relation to dog attacks.

Should a dog attack on wildlife be included in the Act as an offence?

Dog attack on wildlife should be included in the Act as an offence.

Should any defences be removed?

No defences should be removed.

3.5.2.5 Nuisance dogs eg injurious or dangerous to health, nuisance barking etc

How should the definition of a barking nuisance be defined to make the provisions more effective in dealing with these types of complaints?

The definition of a barking nuisance should be defined as follows:

- Dogs may not engage in unreasonable howling and/or barking or other noise, audible beyond the property line of the property where the dog is harboured, that disturbs or annoys any person of reasonable sensitivities other than the person owning or harbouring such dog.

Habitual howling or barking is defined as:

- Continuous howling and/or barking for ten minutes or more in any one hour
- Ten or more instances of howling and/or barking, each instance lasting in duration for one minute or more, in any one hour.

What type of evidence should be required for successful action to be taken against the owner of a dog that is being a nuisance by barking?

The following evidence should be required for successful action to be taken against the owner of a dog that is being a nuisance by barking:

- Signed and witnessed statutory declarations to commence an investigation
- Complaints from two persons from different addresses
- Completion of diaries
- Tape recordings
- Compulsory mediation between complainants and dog owner prior to any prosecution

Should a complaint of one person be sufficient to enable a local government to take action against an owner of a dog that is being a nuisance by barking?

A complaint of one person is not sufficient to enable a local government to take action against an owner of a dog that is being a nuisance by barking unless it is supported by independent evidence.

Should a local government be required to monitor the frequency and intensity of noise created by a dog that is suspected of creating a nuisance by barking? That is, should this type of noise be dealt with in much the same way as other noise that might be created by sound systems or machinery.

The onus is on the complainants to monitor the frequency and intensity of noise created by a dog that is suspected of creating a nuisance by barking.

What would be the best way to separate vindictive complaints from genuine nuisance dog barking complaints?

Obtaining the following evidence would be the best way to separate vindictive complaints from genuine nuisance dog barking complaints:

- Signed and witnessed statutory declarations to commence an investigation
- Complaints from two persons from different addresses
- Completion of diaries
- Tape recordings
- Compulsory mediation between complainants and dog owner prior to any prosecution

Is there a role for a code of practice in dealing with a barking nuisance? If so, how would this assist and what would it contain?

If the definition of habitual barking could be ratified by the Courts, there would not be a role for a code of practice in dealing with a barking nuisance.

What other amendments could be made to the legislation relating to nuisance barking to make it more effective?

The following amendments could be made to the legislation relating to nuisance barking to make it more effective:

- The complainant is required to allow recording equipment to be placed at the premises
- Supported independent evidence
- Compulsory mediation between complainants and dog owner prior to any prosecution being instigated.

3.6 ENFORCEMENT

3.6.2.1 Destruction of dogs

Should local governments be required to follow a particular method for the destruction of dogs?

Local Governments should be required to use the most humane method available either injection or firearm for the destruction of dogs.

What method, or methods, should be used for the destruction of dogs?

Either injection or firearm should be the methods used for the destruction of dogs.

Should the Act provide that local governments, in consultation with the RSPCA or other appropriate authority, adopt a code of practice for the destruction of dogs?

The Act should not provide that local governments, in consultation with the RSPCA or other appropriate authority, adopt a code of practice for the destruction of dogs as local governments should use the most humane method available either injection or firearm.

3.6.2.2 Name and address to be supplied

Should a person who is alleged to have committed an offence against the Act be required to give their driver's licence details or date of birth to an authorised person?

A person who is alleged to have committed an offence against the Act should be required to give their date of birth to an authorised person however this cannot legally be enforced as the authorised officer does not have powers of arrest.

3.6.2.3 Modified penalties (infringement notices)

Should modified penalties be able to be applied to dog attack offences?

Modified penalties should be able to be applied to minor dog attacks.

Where a conviction is made by a court should the judge or magistrate be required to at least apply a penalty equivalent to the modified penalty which applies to the same offence.

A judge or magistrate should be required to at least apply a penalty equivalent to the modified penalty, which applies to the same offence where a conviction is made by a court for consistency.

3.7 CIVIL REMEDIES ETC

3.7.2.2 Damages

Should modified penalties apply to a person who wilfully causes harm to a dog?

A modified penalty should apply to a person who wilfully causes harm to a dog in minor cases. In severe cases the matter should be referred to the Royal Society for the Prevention of Cruelty to Animals (Inc) and dealt with under the Cruelty to Animals Act.

Should a dog's registration be revoked if the owner is found to have wilfully caused it harm?

A dog's registration should only be revoked at the request of the RSPCA Inc if the owner is found to have wilfully caused a dog harm.

Should the Act provide for a person who has been convicted of being cruel to a dog be banned from owning or keeping a dog for some specified period.

The Royal Society for Prevention to Cruelty to Animals (Inc) should maintain a register of persons that have been convicted of being cruel to a dog, stipulate the period that the dog is to be banned from owning or kept a dog and regularly advise local authorities.

Should this provision be extended to include a person who causes harm to a dog through mismanagement or irresponsible behaviour?

The Royal Society for Prevention to Cruelty to Animals Inc should determine and maintain a register of persons that have caused harm to a dog through mismanagement or irresponsible behaviour and regularly advise local authorities.

3.8 LOCAL LAWS

3.8.2.1 General provisions relating to local laws

Should the \$2000 ceiling that applies to modified penalties be raised to provide a wider range of options in dealing with offences under local laws?

The ceiling that applies to modified penalties should be raised to \$5,000 to provide a wider range of options in dealing with offences under local laws for habitual offenders.

Should the Act provide for fees and charges to be set by resolution of Council?

The Act should not provide for fees and charges to be set by resolution of Council so that there is consistency between local authorities.

Should the Act specify the types and number of dogs that may be kept in different sized housing?

The Act should not specify the types and number of dogs that may be kept in different sized housing as it would be operationally difficult to police.

3.8.2.2 Local law making powers

Should the requirements of the Act be tightened so that places, or classes of places, are adequately specified in local laws?

The requirements of the Act should be tightened so that places, or classes of places, are adequately specified in local laws for consistency purposes.

Should the requirements of the Act relating to places be relaxed to avoid the difficulties that some local governments experience in specifying particular areas or places?

The requirements of the Act relating to places should not be relaxed because it would hamper effective enforcement and lack of consistency.

3.9 REGULATIONS

3.9.2.1 Regulations as to certain kinds of dog

How should the restricted breed dogs be identified?

There is a lack of understanding or substantiated evidence as to why the specified breed of dogs have been restricted breed dogs as opposed to other dogs

Should the restricted breed regulations be continued as is or modified in any way?

May need to be reviewed because it is presently related to the Commonwealth Customs (Prohibited Imports) Regulations 1956.

What breeds of dog should be restricted?

Extensive research and consultation will need to be undertaken to determine which breeds of dogs should be restricted.

Should the Act provide for restricted breed dogs to be declared dangerous so that the dangerous dog provisions apply to these breeds?

Restricted breed dogs should not be declared dangerous so that the dangerous dog provisions apply to these breeds.

3.10 OTHER

3.10.2.1 Licensing the dog owner

Should dog owners rather than their dogs be licensed?

Dog owners should not be licensed rather than their dogs because the offences relate specifically to the dog

Should incentives, such as dog registration fee concessions, be introduced to encourage dog owners to undertake dog training and other activities designed to produce better dog management practices.

Registration fees should continue to be set by regulations. The encouragement of good dog management practices should be handled by the individual local authorities but should not be associated with the registration fee. There are dog owners that are capable of good dog management practices without having to undertake dog training and other activities.

What types of incentives, if any, should be provided to encourage good dog management practices?

Incentives to encourage good dog management practices should be the responsibility of the individual Council.

3.10.2.2 Minimum requirements for dogs

Should minimum housing and exercise requirements be provided for in the Act?

Minimum housing and exercise requirements should not be provided for in the Act as it would be difficult to determine and enforce.

Should minimum standards be set for the construction and operation of dog pounds?

Minimum standards for the construction of a pound are considered as part of the planning approval process but there should be minimum standards set for the operation of a dog pound.

3.10.2.3 Rewarding dog owners

Should a system be provided which rewards dog owners where their dog has been continuously well behaved?

Rewarding dog owners where their dog has been continuously well behaved should be the responsibility of the individual Council.

3.10.2.4 Dingoes

How should dingoes and dingo crosses be controlled in Western Australia?

Dingoes and dingo crosses should be controlled by the Western Australia Department of Agriculture

Should individuals be allowed to keep dingoes or dingo crosses?

The determination as to individuals being allowed to keep dingoes or dingo crosses should be by the Department of Agriculture

If dingoes are to be included in the Act how should they be defined give the difficulties in clearly identifying them?

Dingoes should not be included in the Act and should be the responsibility of the Agricultural Department.

3.10.2.5 Other

Are there any other matters or issues which have not been discussed in this Paper which you feel should be considered? If so, please provide details.

One of Council's contracted solicitors has made the following comments in relation to the Dog Act 1976 generally, prior to the issue paper being distributed.

Delegation

- The Act as it is presently provides for a "registration officer" (s3), an "authorised person" (s29) and an "employee" (s44). Section 33E provides a further class of delegation being a "person specifically authorised by the local government for the purposes of this section.....".
- The powers of delegation similar to those which appear in Part 5 of the Local Government Act are appropriate.
- It appears that there is an overlap between the power to appoint persons in (s11) of the Act and the power contained in (s449) of the Local Government (Miscellaneous

Provisions) Act 1960. The appointment of a Ranger should be made under both sections.

- If questions of indemnity for employees, contractors and members are to be addressed, the indemnity provisions in the Local Government Act contained at (s9.56) should be considered.
- The present drafting of (s44) is unwieldy and should be simplified.

Registration

- Dogs kept at kennel establishments should be registered individually.
- The registration of a dog should only be done by the owner and not by an agent on behalf of an owner.

Dog Attack

- The defence in (s33D(b)) could be used as a defence in aid of having the complaint dismissed, when in fact they are the person responsible for the dog at the time because the registered owner is not there.
- The provision of a modified penalty for dog attack

The City has found that the following two registration issues appear not to be consistently interpreted by all local authorities and require clear explanations in the drafting of the Act:

- Definition of a pensioner to be clearly defined in the Act
- Clearly define the responsibility of a local government to maintain the registration until the expiry even if the dog has moved to another local authority

In addition the following two registration issues should be addressed to assist with administrative processes and the cost of the processes:

- Refunds should only be issued in the first and second year of a three year registration if the dog has died or left the state, has been sterilised or the owner has become a pensioner
- Impose a fee for the issue of replacement registration tags

Chief Executive Office

General

CE01-08/02 Annual Review - City Of Wanneroo Delegated Authority Register

| | |
|-------------------------|-------------------------|
| File Ref: | S09/0056V01 |
| Responsible Officer: | Chief Executive Officer |
| Disclosure of Interest: | Nil |
| Attachments: | Nil |

Issue

To consider the review and adoption of the City of Wanneroo Delegated Authority Register.

Background

Council at its Ordinary Council Meeting on the 14 August 2001 resolved as follows:

“That Council:-

1. *ADOPT by ABSOLUTE MAJORITY the Delegated Authority Register, as amended to reduce the amount which can be approved by the Chief Executive Officer from \$100,000 to \$50,000, the amendment to read as follows:-*

2.1.9 AWARDING TENDERS

To delegate to the Chief Executive Officer the authority to approve tenders less than or equal to \$50,000 in value and to determine which expression will be invited to proceed to the tender stage.

2. *ESTABLISH the first quarterly review of the Delegated Authority Register by the Audit Committee to be for the period from 01 July 2001 to 30 September 2001.*
3. *CONSIDER the parameters from the first quarterly review to include:-*
 - 2.1.2 *Issuance of Notices for Water Containment, Thoroughfare, unsightly Land, Erosion and Dangerous Trees*
 - 2.1.5 *Withholding, selling and/or Disposing of goods*
 - 2.1.9 *Awarding of Tenders*
 - 2.1.10 *Waiving/Granting Concessions to Fee's and charges (delegation not extended to waiving of fees and charges).*

*CARRIED UNANIMOUSLY &
BY ABSOLUTE MAJORITY”*

Subsequent to the above, amendments to the Delegated Authority Register were made by Council as follows:

1. Ordinary Council Meeting held on 25 September 2001: Resolution Number: CE04-09/01: **Employees to disclose interest in Delegated Planning Functions and General Delegations under the Local Government (Miscellaneous) Provisions) Act 1960.**

“That Council BY ABSOLUTE MAJORITY:-

1. *Delegate the authority to approve and refuse building plans and specifications under Section 374 (1b) of the Local Government (Miscellaneous Provisions) Act 1960 to the Co-ordinator of Building Services and the Senior Building Surveyor representing the position of Building Surveyor for the City of Wanneroo as defined under this Act.*
2. *AMEND the Delegation Register as adopted by Council on 14 August 2001 in relation to:-*
 2. *Delegations from Council:-*
 - 2.2 *City of Wanneroo District Town Planning Scheme No. 2*
 - 2.3 *Town Planning and Development Act 1927*

by adding the following clause:-

Disclosure of Interest

If an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty an:-

- (a) *in the case of the CEO, must disclose to the Mayor the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and*
- (b) *in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.*

*CARRIED UNANIMOUSLY &
BY ABSOLUTE MAJORITY”*

3. Ordinary Council Meeting held on 02 July 2002: Resolution Number: CD05-07/02:

“DELEGATE TO THE CHIEF EXECUTIVE OFFICER, BY ABSOLUTE MAJORITY, the authority to waive fees and charges and approve donations in accordance with the provisions of Council’s Donations, Sponsorship, and Waiver of Fees and Charges Policy.?”

4. Ordinary Council Meeting held on 13 August 2002: Resolution Number: CD00-07/02:

“2. AMENDS by ABSOLUTE MAJORITY Delegation 2.1.17 Appointment of Authorised persons to perform Functions in Local Government Law Enforcement by deleting the following limitations:-

“That in the event of an objection being received from a decision of an authorised person to not withdraw a delegation, the objection is to be dealt with by Council”

Detail

The Local Government Act 1995 requires that Chief Executive Officer review all delegations made to him from Council.

The Chief Executive Officer has conducted a thorough review of the Delegation Register and is seeking Council’s approval to vary several delegations, which are summarised below:

1. Tenders

Council is requested to review the limit of authority to the Chief Executive to accept tenders from the current level of \$50,000 to the following new limits:

Vehicles/Plant

Unlimited, subject to purchase being as scheduled (type/ standard) and within budget.

All other tenders

\$100,000.

2. Extension of Contracts

Council is requested to consider a new instrument of delegation to the Chief Executive Officer granting the Chief Executive Officer the power to approve the extensions of contracts subject to:

- The tender specifying the provision of the option term
- The contract providing for the extension
- The extension being on the same terms and conditions as detailed in the option term of the existing contract.

3. Approval of Sub-divisions

4. Use of the City of Wanneroo Common Seal

Council is requested to consider a new instrument of delegation to the Chief Executive Officer authorising the Chief Executive Officer to execute documents, which are not required to be executed under common seal subject to the limitations contained within the delegation as detailed under the heading “**Signatories for Contract Execution**” of the register.

Consultation

The revised Delegation Register has been forwarded to all Directors and relevant Managers for comment and review prior to presentation to Council.

Comment

The revised Delegation Register differs from the previous Register adopted by Council in the following ways:

1. The register now mainly relates to Delegations from Council to the Chief Executive Officer. The previous register also made reference to Authorisations from Council. Whilst Authorisations were included in the original register for the purpose of information, it would appear that it has also provided for some confusion in its interpretation and as a result has been removed from the revised Delegated Authority Register.
2. The Chief Executive Officer is proposing in the revised register to, were ever possible only further delegate his powers from Council to either Directors or Managers.
3. Several instruments of delegations contained in the original delegation register have been further broken down into a series of delegations in the proposed register to assist both the Elected Members, Officers and the community understand the steps involved in the decision making process.
4. Whilst the Register predominantly focuses on the delegation of powers to the Chief Executive Officer, several pieces of legislation outside of the Local Government Act 1995 requires Council to delegate directly to other positions within Council. These delegations are contained within the register under the heading **Other Acts**.

Subject to adoption of the revised register by Council, the electronic based register will be amended and Elected Members will then be able to continually review the exercising of delegated powers by the Chief Executive Officer on-line through the computers in the Red Gum Room.

Statutory Compliance

The Local Government Act 1995 allows Council to delegate to the Chief Executive Officer the majority of its powers as detailed below:

“5.42 (1) A local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.*

** Absolute Majority required.”*

Section 5.43 states :

“5.43 A Local Government cannot delegate to a CEO any of the following powers or duties

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;*
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
- (c) appointing an auditor*

- (d) *acquiring or disposing of property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*
- (e) *any of the local government's powers under section 5.98, 5.99 or 5.100;*
- (f) *borrowing money on behalf of the local government*
- (g) *hearing or determining an objection of a kind referred to in section 9.5;*
- (h) *any power or duty that required the approval of the Minister or the Governor;*
or
- (i) *such other powers or duties as may be prescribed."*

Section 5.44 states:-

- "5.44. (1) A CEO may delegate to any employee of the local government the exercise of any any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.*
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —*
- (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and*
 - (b) the exercise of that power or the discharge of that duty by the CEO's delegate, are subject to any conditions imposed by the local government on its delegation to the CEO.*
- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.*
- (5) In subsections (3) and (4) —*
- "conditions"** includes qualifications, limitations or exceptions."*

Section 5.46 (2) states:-

"At least once every financial year, delegations made under this Division are to be reviewed by the delegator."

Strategic Implications

One of the strategies contained in the City of Wanneroo Strategic Plan relates to reviewing and developing policies covering governance and management of our City. A further strategy within the strategic plan is in the establishment of an organisation that is open, accountable and committed to customer service.

The review and adoption of the Delegated Authority Register is both an important governance procedure but is also important in providing the community with a process that will be

followed when Council delegates certain aspects of the decision making process aware from the Council meeting environment to the Chief Executive Officer.

Policy Implications

The Delegated Authority Register does relate closely to Council's Policy Manual in that an instrument of delegation in the register references any Council Policy that provides for a decision to be made by the Chief Executive Officer.

Financial Implications

Nil.

Voting Requirements

Absolute Majority

Recommendation

That Council:

- 1. CONSIDER the review conducted by the Chief Executive Officer on the Delegated Authority Register; and**
- 2. DELEGATE by ABSOLUTE MAJORITY to all officers holding the office of Building Surveyor the Instrument of Delegation No. 43 Local Government (Miscellaneous Provisions) Act 1960 as detailed in the Delegated Authority Register; and**
- 3. DELEGATE to the Chief Executive Officer by ABSOLUTE MAJORITY all Instruments of Delegations as detailed below:**

Item 9 Motions on Notice

Item 10 Urgent Business

Item 11 Confidential

Test Confidential Report

File Ref:

Responsible Officer:

Disclosure of Interest:

File Ref

Responsible Officer

Nil

Recommendation

THAT Council move into a Confidential Session to discuss this item under the terms of the Local Government Act 1995 Section 5.23(2), as follows:

- (e)(iii) a matter that if disclosed, would reveal – information about the business, professional, commercial or financial affairs of a person,

Item 12 Date of Next Meeting

The next **Ordinary Council Meeting** has been scheduled for **7.00pm on Thursday, 22 March 2001**, to be held at the Civic Centre, Dundobar Road, Wanneroo.

Item 13 Closure

