



NOTES

July Council Agenda Briefing
Held in the Council Chamber
Tuesday 15 July 2008
commencing at 5.30pm

Present:

Mayor J Best Chairman

Councillors:

G W Gleeson	Civic Ward
I Hasleby	Civic Ward (from 5.40pm)
P Best	Como Beach Ward
B Hearne	Como Beach Ward
L P Ozsdolay	Manning Ward
C A Cala	McDougall Ward
R Wells, JP	McDougall Ward
R Grayden	Mill Point Ward (from 5.47pm)
D Smith	Mill Point Ward
K R Trent, RFD	Moresby Ward (from 6.05pm)
S Doherty	Moresby Ward

Officers:

Mr C Frewing	Chief Executive Officer
Mr S Bell	Director Infrastructure
Mr S Cope	Director Development and Community Services
Mr M Kent	Director Financial and Information Services
Ms D Gray	Manager Financial Services
Mr R Kapur	Acting Manager Development Assessment
Mr N Kegie	Manager Community Culture and Recreation (until 7.02pm)
Mr R Bercov	Strategic Urban Planning Adviser
Mr S McLaughlin	Legal and Governance Officer
Miss J Jumayao	Legal and Governance Research/Project Officer
Mr O Hightower	Planning Officer
Mrs K Russell	Minute Secretary

Apologies

Cr T Burrows Manning Ward - Approved Leave of Absence

Gallery

There were 10 members of the public present

OPENING

The Mayor opened the Agenda Briefing at 5.30pm, welcomed everyone in attendance and advised on the format of the Briefing stating that Deputations would be heard first followed by any questions on the Deputation items and then the July Council Agenda reports would be presented by the Chief Executive Officer.

DECLARATIONS OF INTEREST

The following Declarations of Interest were reported to the meeting:

Mayor Best Item 10.2.1

I wish to declare a Proximity Interest in Agenda Item 10.2.1 - 'Community Funding Program Round One' - on the Council Agenda for the meeting to be held 22 July 2008. My children attend Kensington Primary School. Kensington Primary School's P & C is a proposed recipient of the funding program, however as I am not a member of the P & C I will not leave the Council Chamber at the Agenda Briefing on 15 July or at the Ordinary Council Meeting on 22 July 2008 while Item 10.2.1 is discussed.

Cr Ozsdolay Item 10.2.1

I wish to declare a Conflict of Interest in Agenda Item 10.2.1 - 'Community Funding Program Round One' - on the Council Agenda for the meeting to be held 22 July 2008. I disclose that I am Chairman of the Carson Street School Council and also in their employ. The Carson Street School is a proposed recipient of the Community Funding Program and in view of this I will leave the Council Chamber at the Agenda Briefing on 15 July and at the Ordinary Council Meeting on 22 July 2008 while Item 10.2.1 is discussed.

Cr Smith Item 10.2.1

I wish to declare a Conflict of Interest in Agenda Item 10.2.1 - 'Community Funding Program Round One' on the Council Agenda for the meeting to be held 22 July 2008. As a Member of the Board of the Manning Senior Citizens, a proposed recipient of the funding program, I will leave the Council Chamber at the Agenda Briefing on 15 July and at the Ordinary Council Meeting on 22 July 2008 while Item 10.2.1 is discussed.

DEPUTATIONS

The Mayor opened Deputation at 5.36pm

Mr Paul Kotsoglo of Planning Solutions representing applicants Ms Benita Panizza and Dr Michael PrichardAgenda Item 10.3.1

Mr Kotsoglo spoke in favour of the officer recommendation with a power point presentation on the following topics:

- Introduction/Outcome sought
- Background - Application Process
- Tribunal Decision / Remedial Works
- Minister's Determination
- City's Direction / Application for Review
- Existing Elevations / Existing Development Nearby / Subject Site and Surroundings

Note: A 5 minute extension of time was granted to Mr Kotsoglo to complete his presentation.

Note: Cr Hasleby arrived at 5.40pm and Cr Grayden arrived at 5.47pm

- Factual Background: Relevant TPS / Applicant's proposed concessions
- Applicant's Position / Relevant Factors/Principles / Public Interest
- Impact of Contravention / Time Elapsed / Expense / Inconvenience
- Proposed Mediation Outcome / Variation sought

Mr Barrie Drake, 2 Scenic Crescent, South Perth.....Agenda Item 10.3.1

Mr Drake 'tabled' a set of documents supporting his Deputation and distributed copies to the Members present. He then spoke against the officer recommendation on the following points:

- Direction given to property owner of 11 Heppingstone Street by CoSP
- CoSP was to comply with an Order from the Minister
- by law Order cannot be varied
- not good governance for Council to change Order
- to change Order in any way/shape or form could result in legal problems for Council

Note: Cr Trent arrived at 6.05pm

Mr Paul Kotsoglo, Director Planning Solutions (for applicant) - Agenda Item 10.3.2

Mr Kotsoglo spoke for the officer recommendation with a power point presentation on the following:

- car parking complies with requirements of TPS6
- variation to plot ratio is less than maximum allowable
- lift over-run is a minor projection
- setback variation to southern boundary meets PC of R Codes

Mrs Julie Jordan, 74 Ryrie Avenue Como (applicant) - Agenda Item 10.3.3

Mrs Jordan spoke against the officer recommendation on the following points:

- background on proposed garage / loft
- want to maintain existing character of house/streetscape
- proposal complies with relevant clauses TPS6
- addition of loft to accommodate family needs
- not practical to re-locate garage
- ask Councillors support proposal as requested

Note: At the conclusion of each Deputation, questions and points of clarification were raised by Council Members and responded to by the presenters and officers accordingly.

Close of Deputations

The Mayor closed Deputations at 6.55pm and thanked everyone for their comments.

DECLARATION OF INTEREST CR TRENT : ITEM 10.2.1

I wish to declare a Conflict of Interest in Agenda Item 10.2.1 - 'Community Funding Program Round One' on the Council Agenda for the meeting to be held 22 July 2008.

As:

- *Chair of YouthcareWA - Kent Street District High School*
- *A Board Member of the South Perth Senior Citizens; and*
- *A Member of the Kensington Primary School P & C*

proposed recipients of the funding program, I will leave the Council Chamber at the Agenda Briefing on 15 July and the Council Meeting on 22 July while Item 10.2.1 is discussed.

JULY COUNCIL AGENDA REPORTS

The Chief Executive Officer presented the July Council Reports and provided a brief summary of each, as follows. Questions and points of clarification were raised by Members and responded to by the officers.

10.0.1 Right-of-Way 99

This report assesses submissions received in relation to the proposed closure of ROW99 and makes a recommendation to the Minister for Land Information.

DECLARATIONS OF INTEREST : ITEM 10.2.1 CRS OZSDOLAY, SMITH AND TRENT

Note: Crs Ozsdolay, Smith and Trent left the Council Chamber at 6.58pm while Agenda Item 10.2.1 was discussed.

10.2.1 Funding

This report deals with applications for *Funding Assistance* in the 2008/09 Community Development category.

Note: Crs Ozsdolay, Smith and Trent returned to the Council Chamber at 7.02pm.
Manager Community Culture and Recreation retired from the meeting at 7.02pm

10.3.1 No. 11 Heppingstone Street, South Perth *Deputations*

At the request of SAT, this report deals with a review of the Direction from the Minister for Planning and Infrastructure issued by the City on 15 February 2008 and the subsequent application lodged by Ms Panizza with SAT seeking a review of the Direction.

10.3.2 Retrospective Approval 26 Hardy Street, South Perth *Deputations*

This report deals with an application for retrospective approval for alterations to a fully constructed development at No. 26 Hardy Street, South Perth. During a site inspection significant departures from the approved building licence and planning approval drawings were identified.

10.3.3 Garage/Loft Addition to Single House 74 Ryrie Avenue, Como *Deputation*

This report considers a request for an amendment to a delegated planning approval for additions to a Single House. The proposal conflicts with TPS6 and the R Codes.

10.3.4 Four Grouped Dwellings 81 Comer Street, Como

This report considers an application for four x two storey Grouped Dwellings to replace four existing single storey Grouped Dwellings on the lot.

10.5.1 Applications Under Delegated Authority

This report advises Council of applications for planning approval determined under delegated authority during the month of June 2008.

10.5.2 Common Seal

This report provides details in relation to the use of the Common Seal for the month of June 2008.

10.5.3 Boatshed Cafe Lease

This report reviews the leasing arrangements for the Boatshed Café and considers an application from Graeme Millar, the current lessee, for building improvements and a liquor licence.

Note: The Strategic Urban Planning Adviser retired from the meeting at 7.50pm
Cr Gleeson left the Council Chamber at 7.50pm and returned at 7.53pm

10.5.4 Parking Local Law / Penalty Units Local Law

This report deals with Amendments to the Parking Local Law to enable the City to regulate car parking (and penalties) during the staging of the 2008 Red Bull Air Race.

10.5.5 IPWEA National Conference on Climate Change Response

The purpose of this report is to seek consent for the Mayor to attend the IPWEA conference.

Note: The Mayor advised that a Business Case supporting his attendance at the IPWEA Conference would be circulated to Members prior to the Council Meeting on 22 July 2008.

10.6.1 Monthly Financial Management Accounts

Monthly management account summaries are presented to Council with comment provided on the significant financial variances.

10.6.2 Monthly Statement of Funds, Investments and Debtors at 30.6.08

This report summarising the effectiveness of treasury management for the month.

10.6.3 Warrant of Payments

This report presents a list of accounts paid under Delegated Authority for June 2008/

**15.1.1 Recommendations FROM CEO Evaluation Committee Meeting 1 July 2008 *CONFIDENTIAL*
*Not to be Disclosed REPORT***

Note: As there were no questions from Members in relation to Item 15.1.1 the Briefing was not closed to the public.

Closure

The Mayor closed to Agenda Briefing at 8.10pm and thanked everyone for their attendance.



NOTES
CONCEPT BRIEFING
CIVIC HALL / LIBRARY PROJECT
Held in the Council Briefing Room
Wednesday 16 July 2008
Commencing at 6.05pm

Present

Mayor J Best

Chairman

Councillors

I Haselby

Civic Ward (until 7.07pm)

P Best

Como Beach Ward

R Wells, JP

McDougall Ward

R Grayden

Mill Point Ward

S Doherty

Moresby Ward

K R Trent, RFD

Moresby Ward

Officers

Mr C Frewing

Chief Executive Officer

Mr S Cope

Director Development and Community Services

Mr M J Kent

Director Financial and Information Services

Ms D Gray

Manager Financial Services

Mrs C Parrott

Manager Library and Heritage Services

Consultants

Mr Peter Hunt

Peter Hunt Architects

Mr Graham Hunt

Peter Hunt Architects

Apologies

Cr GW Gleeson

Civic Ward

Cr BW Hearne

Como Beach Ward

Cr C A Cala

McDougall Ward

Cr D S Smith

Mill Point Ward

Cr T Burrows

Manning Ward - Approved leave of absence

Cr L P Ozsdolay

Manning Ward

OPENING

The Mayor opened the Concept Forum at 6.05pm and welcomed everyone in attendance.

1. Civic Hall / Library Project

The Mayor introduced Peter Hunt and Graham Hunt from Peter Hunt Architects who presented Concept Drawings for the new City Library and Multi Purpose Community Facility incorporating feedback from the previous briefings and workshops.

Peter Hunt spoke to the drawings with reference to the cost plan prepared by Davis Langdon. He also introduced the topic of incorporating sustainability issues into the building and indicated that a specialist consultancy with expertise in these matters (Bassetts) has had input to the concept plans so far. Graeme Hunt indicated that he would address sustainability matters in more depth later in the presentation and identify some of the initiatives that had been included in the cost plans at present and also those that may be possible to add for an additional cost premium.

Peter Hunt addressed the challenge of combining architectural and aesthetic considerations with practicalities such as ensuring adequate storage, providing connectivity between buildings on the site and achieving energy efficiency.

Concept drawings were then presented for the overall Civic Centre complex showing an iconic and striking library building with an organic feel - contrasting with and anchored at either end by the more traditional 'book-end' buildings of the administration building and the hall.

Sustainability implications were explored at length. It was acknowledged that the objective was not to build to a specific Greenstar rating as a target in itself, but rather to responsibly incorporate sustainability initiatives into the facility. The emphasis would be on relevant, practical and value-adding elements rather than on 'extreme' or unproven ideas in a showpiece building. Ideas that were listed for further exploration included (but were not limited to) sophisticated air conditioning plant located in the basement that pushed cool air upwards only into the usable space on the upper levels rather than cooling everything downwards using roof mounted units. Other initiatives included energy efficient building management systems, maximising natural light, special glazing treatments to control temperature, use of motorised shade sails to control heat / glare, waterless urinals, water harvesting, solar water heating, end of journey facilities and a recycled waste area within the building confines.

It was noted that some of the above initiatives had been included within the preliminary cost estimates but not all of them - and some were still under investigation and required further specialist advice as to their suitability.

Other matters that were discussed included the importance of effective acoustic treatments in the community facility - which will be handled by a specialist consultant and the introduction of more glazing to the park end of the community facility to also take advantage of the views over the park.

The location of the electrical transformer and its specification was raised. The impact of any potential relocation of the transformer on critical service continuity was also raised. It was agreed that a detailed specialist report and technical input from Western Power would be essential before any further consideration of this issue was possible.

Council Members received clarification on the extent of stakeholder groups' involvement in the process - which was very extensive. It was agreed that Peter Hunt Architect would meet again with the major (tenant) stakeholder groups after the working drawings are prepared - to explain the final result and to justify any compromises or design trade-offs that may have been necessary to maximise the outcomes from the whole building.

The Director Financial and Information Services spoke to the preliminary costings, contrasting them with notional funding allocations at present in the SFP. He noted that the Quantity Surveyors estimates included responsible contingencies but were based only on concept drawings at this stage and not detailed working drawings. He also reiterated that they included some but not all of the sustainability initiatives discussed at the forum.

A brief indication was also provided of a likely project timeline from this point forward - identifying the possibility of calling for tenders in February 2009, likely construction start in May 2009 and around a 15 month construction period.

Outcome:

Overall support for the concept was extremely positive. The Director Financial and Information Services, (as Project Manager) undertook to prepare a report to Council for the August meeting to allow Council to consider endorsing the concept drawings and to authorise the architects to further refine the design to include additional Council Member and officer feedback in the working drawings.

2. Closure

The Mayor thanked the presenters for addressing the briefing and closed the Concept Forum at 7.20pm.



NOTES

Concept Forum

Canning Bridge Study Update (1)

Held in the Council Briefing Room

Tuesday 29 July 2008

Commencing at 5.30pm

Present

Mayor J Best

Chairman

Councillors

G W Gleeson

Civic Ward

I Haselby

Civic Ward (from 5.40pm)

P Best

Como Beach Ward

T Burrows

Manning Ward

L P Ozsdolay

Manning Ward

C A Cala

McDougall Ward (from 5.58pm)

K R Trent, RFD

Moresby Ward

Officers

Mr C Frewing

Chief Executive Officer

Mr Les Croxford

Manager Engineering Infrastructure

Mr S Cope

Director Development and Community Services

Mr R Bercov

Strategic Urban Planning Adviser

Mrs G Fraser

Senior Strategic Planning Officer

Mr R Kapur

Acting Manager Development Assessment

Mr M Stuart

Senior Planning Officer

Ms N Cecchi

PA, Director Development and Community Services (Notes)

Presenters

Mr Hervé Calmy

Manager Planning Services (Project Director), GHD

Mr Greg Davis

GHD

Ms Anna Kelderman

Senior Planner, GHD

Representatives - City of Melville

Dr Shayne Silcox	Chief Executive Officer
Mr Craig McClure	Director Urban Planning
Ms Kym Davis	Manager Strategic Urban Planning
Mr John Cameron	Acting Director Technical and Development Services

Mayor Russell Aubrey
Deputy Mayor Harvey Everett
Councillors:

Patricia Phelan
Christine Halton
Mark Reynolds
Nicholas Pazolli
Duncan Macphail
Tony Ceniviva
Rasa Subramaniam

Apologies

Cr BW Hearne	Como Beach Ward
Cr R Wells, JP	McDougall Ward
Cr R Grayden	Mill Point Ward
Cr D S Smith	Mill Point Ward
Cr S Doherty	Moresby Ward
Cr Guy Wieland	City of Melville
Mr Chris Bebich	Department for Planning and Infrastructure

OPENING

The Mayor opened the Concept Forum at 5.30pm, welcomed everyone in attendance and advised that the purpose of the Concept Forum was to brief City of Melville (CoM) and City of South Perth (CoSP) Council Members on the Stage 2 Study. He then introduced the presenters who are the Study Project Consultants, GHD.

The Director Development and Community Services (CoSP) and the Director Urban Planning (CoM) presented brief backgrounds relevant to their municipalities on Stage 2 of the Study.

1. Canning Bridge Study Update (1)

Mr Hervé Calmy, GHD Project Director, and Mr Greg Davis provided the following presentation on the Information Day held on 21 July 2008:

- Purpose of this Study;
- Information Day's objectives;
- Study area;
- Development Control Policy 1.6 - Planning to support transit use and Transit Oriented Development (TOD) objectives;
- TOD principles;
- Network City Draft State Planning Policy;
- Network City principles;
- Issues and considerations for Study area - Pedestrian and bicycle access / Car parking;
- Opportunities for the Study area - Pedestrian and bicycle access / Car parking;
- Issues and considerations for Study area - Traffic (Kwinana Freeway / Canning Highway interchange / Canning Bridge station);
- Issues and considerations for Study area - Public transport;
- Opportunities for Study area - Public transport;
- Swan River Trust;
- Housing diversity;

- Built form;
- Precinct character;
- Visual landscape;
- Primary focus areas within Study area - CoM / CoSP;
- Potential to adhere to Network City principles - CoSP; and
- Potential to adhere to TOD principles.

Outcomes

- Day's objective / Who was invited / Attendance;
- CoM Community Plan 2007-2017;
- Main issues raised and discussed at full sessions / One on one dialogues;
- Major infrastructure / Development issues;
- Where do we want Canning Bridge to be - How does it influence the nature and sustainability of commercial activity in the precinct?

At the conclusion of the presentation, questions and points of clarification were raised on the following issues which were responded to by the presenters:

- Information Day main findings;
- CoSP's community engagement programs;
- Vehicle / Pedestrian traffic;
- Train / Pedestrian access;
- Canning Bridge boulevard;
- Bridge life span and location;
- Built form - Mixed land use;
- CoSP foreshore;
- Parking and working in Canning Bridge area;
- Parking facilities - Park n Ride';
- Overcrowded peak hour trains;
- Bus / Cycling commuters;
- Manning Road freeway on-ramp; and
- Community facilities.

"Where to from here?"

- The Project Consultants, GHD to provide a draft Study Plan and the 'Partners' will reconvene in November / December 2008.
- The City of South Perth are coordinating four community forums in August / September 2008 for residents within an 800 and 400 metre radius of the station.
- The City of Melville are hosting a 'neighbour meeting' on 27 August 2008.

2. Closure

The Mayor thanked the presenters for addressing the briefing and closed the Concept Forum at 7.39pm.



NOTES

Concept Forum

- **Child Care / Consulting Room Workshop**
 - **Cygnnet Theatre Redevelopment**
- Wednesday 1 September 2010 at 5.30pm**

Present:

Mayor Best (Chair)

Councillors:

I Hasleby	Civic Ward
V Lawrance	Civic Ward
P Best	Como Beach Ward
L P Ozsdolay	Manning Ward
T Burrows	Manning Ward
B Skinner	Mill Point Ward (until 7.40pm)
C Cala	McDougall Ward
S Doherty	Moresby Ward
K Trent, RFD	Moresby Ward (arrived 7.05pm)

Officers

Ms V Lummer	Director Development and Community Services
Mr R Bercov	Strategic Urban Planning Adviser
Mr M Wilcock	Senior Strategic Planner

Consultant

Mr W Hames)	Hames Sharley (Architects) from 6.45pm
Mr M Somers)	

Aaron and Colin Stiles Owners Cygnnet Theatre (from 6.45pm)

Apologies

Cr G Cridland	Como Beach Ward
Cr R Grayden	Mill Point Ward

OPENING

The Mayor opened the Concept Forum at 5.30pm and welcomed everyone in attendance. He advised that the purpose of the briefing is to provide Elected Members with a forum to further consider issues concerning proposed Amendment No. 23 to Town Planning Scheme No. 6. The proposed Scheme Amendment will slightly increase the permissible locations for Child Care Centres and Consulting Rooms in the Residential Zone. The second part of the Briefing is to receive a presentation on the proposed redevelopment of the Cygnnet Theatre.

1. Amendment No. 23 to Town Planning Scheme No. 6

The Senior Strategic Planner gave a powerpoint presentation on the following topics:

• **Purpose of the Amendment**

To provide a more rational approach to the permissible locations of Child Day Care Centres and Consulting Rooms, fully aligned with designated distributor roads

• **Purpose of the Workshop**

1. To consider an alternative approach to the potential locations for Child Day Care Centres; and
2. Review the locations of Consulting Rooms.

• **Both land uses:**

- Are in demand by residents
- Are desirable close to their clientele
- Gain additional benefit from being on busy roads, i.e. distributor roads
- Can be quite large in scale & operation
- Can create similar impacts on surrounding area

• **Both uses generate traffic and parking demand:**

- Consulting rooms have constant traffic throughout the day
- Child Day Care Centres create traffic peaks during the day

• **These uses can affect the character and amenity of the area in different ways**

- occupy existing houses (with alterations) OR
- build specialised facilities

• **Scale and operation can create community concern**

- noise, traffic, parking, safety, amenity, privacy, *devaluation**

• **These land uses are permissible within various commercial zones**

• **Discretionary with consultation – Residential zone**

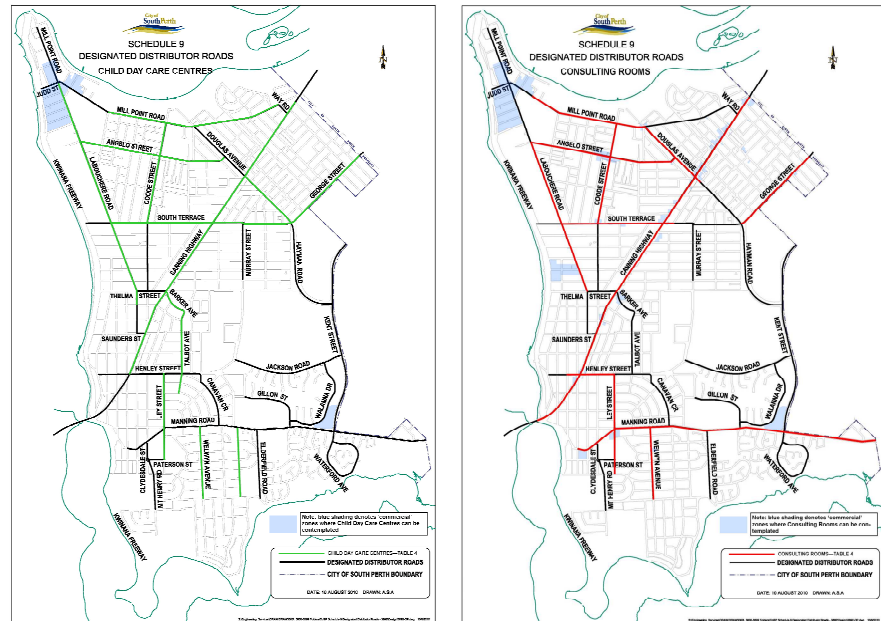
• **Location controlled through:**

- List of streets
- Preference to sites adjoining schools, public open space, other non-residential uses
- Canning Highway in certain circumstances
- The lot and building must be capable of complying with Child Care Regulations in force

• **Location controlled through:**

- Minimum lot size 900m²
- Minimum lot frontage 20m
- Not permitted on local roads
- Permitted on list of roads
- Canning Highway in certain circumstances

- New map expands the number of roads
- Identifies distributor roads from MRWA functional road hierarchy
- Distributor roads have capacity for additional traffic
- Proposals still required to address the other development requirements (Table 4)



• Questions to Consider for Using Reserves

- Public reserves cannot be developed for private development ◊ does this provide certainty for operators?
- Rezoning would be warranted and takes time
- Landgate may not agree with proposed use of Crown land
- Child Day Care Centres run for profit ◊ should they be on public property?
- May be appropriate where a community association runs the Child Day Care Centres on public land
- Does this option provide more opportunities than the proposed Amendment 23?
- Reserves are for public purposes ◊ do child day care centres fit?
- Highly likely community resistance towards the use of open space reserves for child care ◊ how should this opposition be responded to?

At the conclusion of the presentation, Council Members raised questions and points of clarification which were responded to by the City officers.

The following points were discussed :

- There is no differentiation between local and district distributors and there should be
- Should use land that is held freehold by the City to encourage child Care providers
- Waterford Avenue, Jackson Road or Gillon Street were also considered not suitable as possible locations
- Council should approach services providers such as religious institutions and provide incentives for them to provide child care services
- Roads around school would be suitable for child care centres

“Where to from Here”

1. The approach in the Scheme of limiting Child Care Centres and Consulting Rooms to particular roads should be changed to a more open approach where Child Care Centres could be considered anywhere in the City subject to some mandatory provisions which set suitable locations. For example, adjacent to schools. Strategic Planners will investigate other local schemes and develop some suitable requirements.
2. The City should also pursue other ways of encouraging Child Care Centres to locate on appropriate Council-owned land.

Note: The Workshop on Amendment No. 23 concluded at 6.45pm

The Presenters / Developers for Item 2 ‘Cygnet Theatre Presentation’ joined the meeting at 6.45pm

2. Cygnet Theatre, Lot 1 (No. 16) Preston Street, Como

Mr Hames of Hames Sharley, Architects gave a presentation on the proposed redevelopment of the Cygnet Theatre on the following topics:

- The owners are committed to the preservation of the building
- Single screen cinemas are not commercially viable any more
- Cinemas now go hand-in-hand with shopping centres
- There is a large land holding around the Cygnet Theatre
- Concept Plans were presented showing a mixed use proposal with retail, restaurants and garden cinema on the ground floor, car parking in two basement levels, additional cinemas on the first floor and a 3 level office building.
- Variations to plot ratio and car parking are proposed.

At the conclusion of the presentation, Council Members raised questions and points of clarification which were responded to by the presenters and City officers.

“Where to from Here”

Mr Hames stated that he is not seeking planning approval at this stage as it is too soon for the project, but would like some “in principle” or conceptual approval.

City officers will continue to liaise with the applicants in this regard.

3. Closure

The Mayor thanked everyone for their attendance and closed the Forum at 8.10 pm.



NOTES

TOWN PLANNING

MAJOR DEVELOPMENTS CONCEPT FORUM

- Proposed 6 Multiple Dwellings - 152B Mill Point Road
- Proposed Building for use by SouthCare - 53 Bickley Crescent

Held in the Council Briefing Room

Wednesday 6 August 2008 at 5.30pm

Present

Deputy Mayor C Cala (Chairman)

Councillors

G W Gleeson	Civic Ward
P Best	Como Beach Ward
BW Hearne	Como Beach Ward
T Burrows	Manning Ward (from 5.43pm)
L P Ozsdolay	Manning Ward (from 5.30pm to 5.50pm)
R Wells, JP	McDougall Ward
R Grayden	Mill Point Ward
D S Smith	Mill Point Ward
S Doherty	Moresby Ward (from 5.30pm to 5.50pm)

Officers

Mr S Cope	Director Development and Community Services
Mr R Kapur	Acting Manager Development Assessment
Mr R Bercov	Strategic Urban Planning Adviser
Mr L Anderson	Planning Officer
Ms N Cecchi	PA, Director Development and Community Services (Notes)

Presenters

Mr Denis Pandevski	Manor Home Builders
Mr Steve Salomone	Manor Home Builders
Mr Gino Salomone	Manor Home Builders
Mr David Plowright	Environs Design Group
Mr Gordon Chong	Southcare Inc.
Mr John Hardwick	Southcare - Board Member (from 6.05pm)

Apologies

Mayor J Best	
Cr I Haselby	Civic Ward
Cr K R Trent, RFD	Moresby Ward

Gallery

There was one member of the public present.

OPENING

The Deputy Mayor opened the Concept Forum at 5.30pm and welcomed everyone in attendance.

1. Proposed 6 Multiple Dwellings - 152B Mill Point Road

The Director Development and Community Services introduced Mr Denis Pandevski who provided a brief history of the development and an overview on the following topics:

- Site description;
- Development philosophy;
- Proposed development;
- Issues;
- Conclusion;
- Design Advisory Architects' comments;
- Site photographs; and
- Development plans.

At the conclusion of the presentation, Council Members raised questions and points of clarification which were responded to by the presenters and City officers in relation to the following issues:

- Car parking;
- Apartments per level;
- Plot ratio;
- Privacy; and
- Roof deck.

DECLARATIONS OF INTEREST : ITEM 2

Councillors Ozsdolay and Doherty declared an interest in the following item and left the briefing at 5.50pm.

2. Proposed Building for use by SouthCare - 53 Bickley Crescent

The Director Development and Community Services introduced the presenters, and Mr David Plowright provided the following overview of the development:

- History;
- Legal structure;
- Objectives;
- Client groups;
- Focus and services;
- Aged care services;
- Community services;
- Accommodation; and
- Conclusion.

Mr Gordon Chong presented a summary of the proposal on the following topics:

- About the new buildings;
- Traffic impact assessment;
- Car parking on-site - Site plan and comments;
- General design issues and comments - Site plan / Ground floor plan / First floor plan / North elevation / East elevation / South elevation / West elevation / Out-building plan and elevations.

At the conclusion of the presentation, Council Members raised questions and points of clarification which were responded to by the presenters and City officers.

3. Closure

The Deputy Mayor thanked the presenters for addressing the briefing and closed the Concept Forum at 6.25pm.



NOTES

Concept Forum

Planning for Growth, Climate Change
and Water Shortages

Held in the Council Briefing Room
Tuesday 5 August 2008 at 5.30 pm

Present

Deputy Mayor Cala Chairman

Councillors

GW Gleeson	Civic Ward
I Hasleby	Civic Ward
P Best	Como Beach Ward
BW Hearne	Como Beach Ward
T Burrows	Manning Ward (from 5.43 pm)
L P Ozsdolay	Manning Ward
S Doherty	Moresby Ward
K R Trent, RFD	Moresby Ward

Officers

Mr C Frewing	Chief Executive Officer
Mr S Bell	Director Infrastructure Services
Mr S Cope	Director Development and Community Services
Mr M Kent	Director Financial and Information Services
Mr S Camillo	Manager Environmental Health Services (until 6.00pm)
Ms D Gray	Manager Financial Services Department
Mr N Kegie	Manager Community Culture and Recreation
Ms C Parrot	Manager Libraries and Heritage
Mr R Bercov	Strategic Urban Planning Adviser
Ms Gina Fraser	Senior Strategic Planning Officer
Ms D Acoca	Sustainability Assistant
Mr H Doran-Wu	Community Development Coordinator (until 6.30pm)

Presenters

Mr D Platt	Resilient Communities
Mr L Quick	Resilient Communities
Ms H Allison	Resilient Communities
Ms A Wegner	Resilient Communities

Apologies

Mayor James Best
Cr D Smith

OPENING

The Deputy Mayor, Colin Cala opened the Concept Forum at 5.30 pm, welcomed everyone in attendance and then introduced the Resilient Futures Team.

David Platt of Resilient Communities advised that the purpose of the evening was to provide a pre-briefing to the all day forum scheduled for Monday, 11 August 2008.

Topics covered included:

- Importance of resilience through innovation and creativity;
- Gain understanding of conditions – ie water, climate change, planning for the future.
- Sustainable Development;
- Risks associated with failure to act;
- Develop a resilience based strategic approach

Resilient Futures was a Network of Practitioners who came together to help organisations develop creative solutions to complex problems.

Larry Quick of Resilient Communities provided an overview of the following:

- WA is part of the global environment
- Speed of change
- Connected conditions:
- CO², water, world oil prices, bio fuel, increasing food cost, population growth → ½ million in next ten years in Perth, Dubai construction, climate change immigration, Sub Prime credit crisis, global warming – all related to economic costs
- Australian climate change review – Prof Ross Garnaut – a diabolical policy problem
- Tame/Wicked problem approach
- Various reports, ie Inter-governmental Panel of Climate Change
- ‘Adaption is a priority’
- Complex systems Approval – Factors include:
- Social/ecology/knowledge/Built Form/Economic/Aesthetic
- Immediate/emerging/local/global conditions

3. Closure

The Deputy Mayor thanked the presenters for addressing the briefing and closed the Forum at 7.40 pm.

DELEGATE'S REPORT

WALGA South East Metropolitan Zone

The attached Table of Contents was considered by the South East Metropolitan Zone at its meeting held on 23 July 2008. The recommendations of the Zone will be considered by the State Council at its meeting on 3 August 2008.

KEY ISSUES FOR DECISION

Item 4.1 - Systemic Sustainability Study

Following consultation with Local Government, the Systemic Sustainability Report and recommendations have been modified. The changes are reflected in the pages at **Attachment 10.5.3** to the August Council Agenda.

The changes made to the recommendations of the SSS Report largely reflect our own detailed submission on those recommendations. Indeed the new 39 recommendations (rather than the previous 61) are much closer to our preferred position than we might have hoped.

Many of the operational matters in the old recommendations have now been either consolidated or deleted - and those that remain make a lot more sense.

The most significant changes have been reducing the timeframe for the forward financial plan back to a minimum five years rather than ten (as we had suggested because ten year detailed plans are too fanciful to be useful) - and deleting the Plan for the Future of the District and replacing it with a Strategic Financial Plan linked to the Strategic Plan.

The additional bureaucracies of the LGIAC and the LGFC both got dropped - for the reasons that we argued. The issues of benchmarking, Councillor training and arguing for a better share of Federal Government funding all stood up and were well supported

The vast majority of our suggestions seem to have been agreed with and incorporated into the document.. Whilst there are minor issues that could be improved on, at this early stage in the process it was believed appropriate to support the recommendation and any outstanding issues can be addressed at a later time when the industry is further consulted.

The Zone endorsed the revised report.

Item 4.2 - Proposed Stand Down Provisions

You will recall that a survey was circulated to elected members recently in connection with this particular topic. WALGA has now summarised the responses and they generally support legislation being amended to provide for standing down of elected members in certain circumstances. Since the recommendation only refers to the survey results being conveyed to the Department of Local Government, recommendation was supported at this time. Again, any issues that may arise at a later time when draft legislation has been prepared can be addressed at that time.

The Zone agreed in principle to support the Stand Down Provisions.

MATTERS FOR DECISION

Item 5.1 - National Aviation Issues Paper

WALGA has been working with the Perth Airports Municipalities Group [PAMG] to provide comments to the Commonwealth Government and has developed a National Aviation Issues Paper. The City has provided comments to the PAMG as the City is a member of this group [represented by Cr Hasleby and the Manager Environmental Health and Ranger Services.]

The content of the submission is consistent with the deliberations of the PAMG and as a consequence the recommendation was supported.

The Zone endorsed the submission.

Item 5.2 - Electronic Development Assessment

This item proposes the establishment of a national electronic development assessment standard to assist Local Governments to process and make information available to applicants in relation to applications such as town planning applications.

The project has been progressing for many years and this report is essentially a progress report to further advance the matter.

The Zone endorsed continuing action to progress this issue.

Item 5.3 - MWAC Partnership Agreement

The Municipal Waste Advisory Council has been working with regional councils including the Rivers Regional Council [formerly SEMRC] on establishing a partnership agreement. The Rivers Regional Council CEO has been involved in the negotiations with WALGA and is satisfied with the contents of the partnership agreement.

The Zone endorsed the Agreement.

Item 5.4 - Waste Management Policy Statements

The Waste Management Advisory Council has been reviewing three important policy statements on the following topics.

- Waste Levy and Strategic Waste Funding
- Extended Producer Responsibility
- Container Deposit Systems

The CEO of the Rivers Regional Council is aware of the review of the policy statements and is satisfied with the contents. In addition the City's Manager Environmental Health and Ranger Services is a member of an Officer Advisory Group that reports to MWAC which has considered the policy statements in detail and is also satisfied with the content.

The Zone endorsed the Policy statements.

Item 5.5 - Bus Stop Infrastructure Provision

Considerable work has been performed in recent times to ensure that Local Government complies with the requirements of the Disability Standards for Accessible Public Transport [2002] and respective responsibility and liability for works necessary to be performed in relation to provision of bus shelters and associated surrounding infrastructure. It is appropriate that WALGA co-ordinates an industry response to this subject and the recommendation seeks to obtain WALGA Board approval to develop a partnership agreement for bus stop infrastructure. The City supported this approach.

The Zone endorsed the Agreement

Item 5.6 - Graffiti Vandalism - MOU

The City was one of 12 Local Government authorities that responded to an earlier discussion paper. The proposed WALGA draft MOU is consistent with the management plan developed by the City to manage graffiti.

It may be recalled that the City entered into an agreement with Main Roads to remove graffiti from their assets and bill them for the costs. Although there is not a large volume of graffiti to be removed, this agreement is working well.

As the proposed MOU is generally consistent with our own management plan and agreement with Main Roads and the submission made to WALGA on this topic, the recommendation was supported.

The Zone endorsed the MOU

Item 5.7 - Office of Crime Prevention Partnership Agreement

The City has developed a response to the WALGA discussion paper which will be submitted by the closing date of 1 August. Key points are;

- The City was one of the first Local Government authorities to sign up to the original partnerships and one of the first to develop a Community Safety and Crime Prevention Plan.
- A key element of the City's plan is the relationship with WAPOL through the Community Policing Unit. When Community Policing was disbanded with no notice, many of the key strategies were made redundant. While the plan is still very useful, the breakdown of the relationship with Community Policing reduces its effectiveness significantly.

Officers generally support the position of WALGA with their interim position in moving forward with the partnerships approach as the draft MOU is consistent with the City's approach. The Agreement was supported.

The Zone endorsed the Agreement.

When the minutes become available, they will be available on the iCouncil website. The delegates to the South East Metropolitan Zone are supported by the Chief Executive Officer.

Delegates: **Mayor James Best**
Cr Kevin Trent

25 July 2008

WALGA South East Metropolitan Zone

Meeting 23 July 2008

Agenda Items

4. KEY ISSUES FOR DECISION

- 4.1 Systemic Sustainability Study (SSS) – *The Journey: Sustainability into the Future* - Draft Report (05-034-01-0009 TB)
- 4.2 Proposed Stand Down Provisions (05-034-01-0001 JM) (Appendices Page 1)

5. MATTERS FOR DECISION

- 5.1 National Aviation Issues Paper – WALGA Submission (05-003-03-0002) (Appendices Page 8)
- 5.2 Electronic Development Assessment (05-036-02-0015 PM)
- 5.3 MWAC Partnership Agreement (01-006-02-0003 RNB) (Attachments Page 25)
- 5.4 Policy Statements: Waste Levy and Strategic Waste Funding; Container Deposit System; and Extended Producer Responsibility (01-006-02-0003 RNB) (Appendices Page 36)
- 5.5 Bus Stop Infrastructure Provision: Development of a State / Local Government Partnership Agreement (05-003-03-0001 MM)
- 5.6 Graffiti Vandalism in Western Australia - Memorandum of Understanding (05-019-03-0002JoH) (Appendices Page 54)
- 5.7 Office of Crime Prevention and Local Government Community Safety and Crime Prevention Partnership Agreements (05-019-03-0006 JoH) (Appendices 60)

6. MATTERS FOR NOTING / INFORMATION

- 6.1 Planning Bulletin 90 – Planning Requirements for the Prostitution Amendment Act 2008 (05-089-01-0001 BF)
- 6.2 Report on Key Activities, Environment and Waste Policy Team (01-006-03-0017 MJB)
- 6.3 Report on Key Activities, Governance and Strategy Policy Team (01-006-03-0007 TB)
- 6.4 Report on Key Activities, Infrastructure (Transport and Roads) Policy Team (05-001-02-0003 MM) (Appendices Page 96)
- 6.5 Report on Key Activities, Planning and Community Development Policy Team (01-006-03-0014 AH & JH)
- 6.6 Key Activities Report, Municipal Waste Advisory Council (MWAC) (01-006-03-0008 RNB) (Appendices Page 70)

Local Government Managers Australia

NATIONAL CONGRESS AND BUSINESS EXPO - 25-28 MAY 2008 GOLD COAST - CONVENTION AND EXHIBITION CENTRE

Opening comments

The Chair noted that the theme of the conference was "The world is Local – Local Government no boundaries" and mentioned that many sessions were devoted entirely to the subject of the environment which knows no boundaries. It is well known that the Queensland Government has taken the issue of climate change very seriously and created a climate change fund and established a Premier's Council on climate change.

The Queensland Government recognised that Local Government had been leaders in addressing environmental, sustainability and climate change issues for many years – but funding for the third tier of Government – even to address this important area is limited.

It was also noted that the Commonwealth Government had created a Department of Climate Change reporting directly to the Premiers Office and was working on a establishing a long term emissions reduction target.

Keynote Address - Sustainable Environment

Dr Tim Flannery

The conference commenced on the serious side with an address by 2007 Australian of the year, Dr Tim Flannery, Scientist and Environmentalist. He clearly stated that in his view, Local Government was the most responsive of the three tiers of government to address the climate change issue - and that this probably reflects that Local Government can respond more quickly to resident concerns and its budgets are more flexible.

In terms of the science of climate change, he referred to the "Malkovic principle" who identified that there is a world 'Global natural cycle' of the earths temperature change every 100,000 years resulting from the earths not so perfect orbit of the sun which takes the earth further away from the sun during this cycle and into an ice-age. It seems that we are 12,000 years into this cycle and should be cooling - not heating and as a result the cause cannot be natural but man-made.

He indicated that in 2001, scientists were predicting the following changes during the 21st century:-

- sea level rises;
- carbon dioxide accumulation in the atmosphere; and
- planet warming by 1.4c - 5.8c

All of which are now in 2007, predicted to worse than the worst case scenario.

Significant damage has been caused by man made products, ie acid rain, the hole in the ozone layer and greenhouse gas emissions. The ozone layer filters out 99% of the UV radiation entering into the earths atmosphere - hence its importance. The hole has started to close since the banning of CFC's in 1987.

An eminent NASA scientist, James Hanson has recently discovered in March 2008 that greenhouse gases are twice a sensitive to the earths atmosphere than previously thought.

An illustration of the advance of global warming was given in relation to the contraction of the north pole ice shelf. In the 1970's the shelf was contracting at 8% per decade. By 2005 this rate of deterioration had increased by four times and in September this year (which coincides with the end of the northern summer) it is expected to have retreated by 50% compared with the 1970 levels.

Attachment 8.5.1

The loss of the north pole ice cap will not necessarily result in increased sea-levels - but the loss of the Greenland ice shelf will. The loss of the north pole ice has the capacity to affect local wildlife, ie polar bears and seals etc.

Attachment 8.5.1

In the opinion of Tim Flannery, humanity must take immediate action to address the following issues:

- Construction and use of coal fired power stations (which will be far easier said than done - China builds a coal power station per WEEK, and many nations, such as Australia exports significant quantities of coal - particularly to China and this has the potential to impact on the local economy;
- Protection of plant and tropical forests - not only from clearing but from burning;
- Use agricultural waste for generating power - as well as use of other natural sources, ie tidal, wind, thermal or solar;
- Adopt sustainable development principles;
- Conduct waste incineration - even better if the heat can be used as energy;
- Promote use of public transport;
- Nuclear power stations are preferred over coal fired stations - but other forms of generation are preferred;
- Reduce electricity use generally - make better use of solar heating - particularly water for example.

An example of Austin, Texas was made where significant examples of reducing carbon emissions have been made.

In summary, a very inspiring address and many principles listed above have application for Local Government. Tim Flannery believes that human activity on the planet's drastically altering the earth's climate, and that before too long it will have a devastating effect on life on this planet.

Tim also referred to a recent book of his entitled "The Weathermakers". Copies of this book will be obtained, a copy which will be placed in the Councillors Lounge.

Engaging with our most precious resource

Alan Campbell, CEO, Aberdeenshire Council, UK

Local Government in the UK is quite different to Local Government in Australia. Aberdeenshire Council in Scotland has 68 Councillors and aligned politically. It is responsible for 14,000 Council 'rental' houses, 230 Schools and employs over 14000 staff.

Aberdeenshire has found a way of transforming public services delivered, while at the same time growing a culture where employees care and take ownership for change and improvement and managers understand and practice empowerment. The change program is called "Kaizen" and is based on a Japanese system used at the Washington car making plant in the north east of England.

Basically its objectives are very simple: ie continuous improvement, stripping out waste in any process and "empowering" staff. It is achieved by providing staff the opportunity of re-designing their own process to improving efficiency. In essence it is asking the staff how a task could be done better.

"People want to do things better" was the message with resultant workplace improvement.

Enhancing Community Wellbeing through E-Government

Sung-Kwon Park Director general for Information Planning and Strategy, ministry of public Administration , Korea.

This presentation was very interesting in that it demonstrated a national approach to guiding the country to enhancing its use of information technology. It is clear that the investment has been very significant over a long period of time but it is paying dividends in terms of penetrating useage within the general community.

There are five principle strategies:-

- Governance structure;
- Process innovation;
- Performance Management;
- Human relations;

- Global leadership.

E-Procurement is another stage of the process and is making inroads into a traditional manual processing activity.

Stages include:-

- Emerging;
- Enhanced;
- Interactive; and
- Transactional;

Issues faced include:

- Shared services which were fragmented;
- Fully electronic, including electronic voting; and
- Functional social services.

Sung Park clearly demonstrated that Korea is leading the world in many areas of e-technology with the main objective of being the leader in empowering its citizens to participate in democracy at the basic level by making it easier for them through electronic means to participate in the policy making process.

ICLEI Breakfast

The opportunity was taken by Martin Brennan CEO of ICLEI and speakers (including the Mayor of Gold Coast City Council Ron Clarke [of athletics fame]), to address delegates who participate in the ICLEI program and the associated Water Campaign program.

As is normally the case, a number of awards were made and special recognition was given to the City of South Perth in relation to the Bodkin park project. Details of this project were published in the Oceana publication of ICLEI released during the conference.

Ron advised that in his view, Local Government had been the leaders in addressing Climate change for many years in Australia. The Queensland Government had now formed a Climate Change Fund and a "Premiers Council" on Climate Change had also been formed.

On the Federal scene, a Department of Climate Change has now been created under direct reporting relationship to the Prime Ministers office. One of the tasks that this Department was working on was establishing a long term emissions reduction target.

The City has been a participant of this program for approximately 10 years and has achieved a great deal during this time. As a consequence of this, a special end of financial year sustainability / environmental edition of the "Peninsular" will be produced.

Constitutional Recognition

Cr Paul Bell, president Australian Local Government Association (ALGA).

Cr Bell mentioned that there is no reference to Local Government in the Australian Constitution. Also, since the election of the Federal Labour Government late last year on the back of a commitment to recognise Local Government, two important changes have been made to the way in which government approached this issue:-

- The government had created a Regional & Infrastructure Development Fund - (the ways of accessing this fund were not yet known); and
- There was a commitment to reviewing the taxation system which potentially had ramifications for Local Government.

Cr Bell referred to the fact that there had been two failed attempts to achieve Constitutional recognition previously. On this occasion, Local Government has the opportunity to become involved at a much earlier stage and enable its communities to also become involved. From Local Government's point of view, its preferred position is to have agreement on the question to be asked.

Attachment 8.5.1

In his view, Cr Bell stated that the Australian Constitution should reflect reality – Local Government is clearly important, it is a significant employer, revenue raiser and is already recognised as the third tier of government in this country. Local Government is a member of COAG.

It is generally accepted that there are three forms or styles of Recognition:-

- Symbolic;
- Institutional; and
- Financial.

A package has been developed by WALGA in conjunction with ALGA and circulated to Local Government's for information. A report on this subject has been prepared and was included on the June Council agenda. The subject will also be debated at the forthcoming WALGA convention.

In order to be successful, a referendum must pass the 'double majority' test. That is, it must pass with a majority of votes in a majority of states and have the majority of votes overall. This is partly why there have been few successful referendums since federation - only 8 out of 44 since 1906.

The process is long, involved and without any guarantee of success. A timetable has been developed which will take several years to get to the end point - an acceptable question to ask the Australian electors.

It was mentioned that it was planned to hold a special Constitutional Summit on this topic in Melbourne in December 2008.

CitySmart - Making Brisbane Australia's most sustainable city

Nick Clarke, Manager Natural Environment and Aletha Cardwell, CitySmart, Brisbane City Council, QLD

Local Government in Queensland is also significantly different to that in Western Australia. Brisbane City Council covers a very large part of the metropolitan area and boasts the following:

- 8000 staff;
- A Mayor and 26 Councillors
- 1 million residents
- 330 schools
- 10,000 new residences per annum
- Revenue of \$3.5 billion per annum
- 2000 parks (of which 150 are former refuse disposal sites)
- 1000 public transport buses (Brisbane has seen an increase of 41% in bus usage in the past five years - partly because of improvement in busways). Brisbane has a significant investment in its bus system, an established underground bus station under Queen street mall and recent enhancements and dedicated busway to George st underground bus station. The increase in patronage is also partly attributed to the poor state of its metropolitan roads.
- 5,500 kms of roads

CitySmart comprises 17 projects supporting an umbrella campaign to encourage residents to adopt more sustainable behaviours in response to climate change.

CitySmart is about changing behaviours not lifestyles. An Example given was that Brisbane City Council has reduced its water consumption by 68% in recent times. Brisbane's vision is to be carbon neutral, clean and green by 2026.

In 2005, it was calculated that there were 19.2 million tonnes of carbon emissions made up from all sectors of the community, ie residential, commercial, industrial and transport. The contribution by the City of Brisbane was 360,000 tonnes. Each household typically produces 16 tonnes of carbon made up by:-

- Electricity and gas - 9 tonnes
- Transport - 6 tonnes
- Waste - 1 tonne

The objective is to reduce emissions to 10 tonne per household by 2012. Strategies to achieve this include promoting power and water reduction, reduce reliance of motor vehicle use (50% of vehicle trips are within 5 kms of home), recycle more and plant more vegetation (the food carbon footprint is equal to 16%).

In summary Brisbane City Council is taking positive action on a variety of fronts to address this important subject. Its approach is to demonstrate that it is portraying a role model and promoting a positive vision for its community to follow. One simple example of this is to promote the use of the 'Clipsal energy monitor' which displays carbon emissions based on electricity consumed at a normal household.

Panel Session - Local Government reform

The presenters were Noelene Duff CEO City of Whitehorse, Melbourne,

Bob Abbot, mayor of the new Sunshine Coast

Simon Fairbrother, CEO City of Waterloo, Ontario, Canada

Phil Clarke, Deputy Director, State Dept of Local Government Reform, Queensland.

Noelene commenced by referring to the reasons for the Local Government amalgamation process in the 1990's in Victoria. These included:

- A perceived need for a focus on a "purchaser / provider" split;
- A perceived need for a need for compulsory competitive tendering (target of 50% set);
- Local Government seen to be 'self serving' in nature;
- Increased level in workforce disputes;
- Seen as inefficient and bureaucratic.

Issues that have arisen include:

- Because there was no consultation with either Local Government or the community, there was a loss of democracy felt by the community;
- Focus is now on professional development of elected members to improve their understanding of roles and responsibilities;
- Some geographic boundaries still not perfect but there is no urgency to adjust them; and
- Financial sustainability / skills shortage / Governance issues and the ability to attract the right elected members all considered important.

Phil Clarke of the Queensland State Government gave a picture of communication and involvement with Local Government during the reform process:-

April 2007	Government announced Statewide reform agenda;
May 2007	State Transition Committee formed;
July 2007	Report showing Committee recommendations and new Council boundaries and names released;
August 2007	Local Government Act amended to facilitate change;
September 2007	Individual Transition Committees formed;
October 2007	Interim CEO's appointed;
March 2008	Elections held; and Local Government Industrial Relations Amendment Act (part of the State Industrial Relations system passed);

In total the State allocated \$27.1m as a contribution towards the reform process.

Bob Abbott is the new Mayor of Sunshine Coast Regional Council and the former Mayor of Noosa and a hardened critic of the State's reform agenda for Local Government. Bob was very critical of the way in which the State went about the amalgamation process – the planning was conducted in secret and no one was aware of the proposal until news of it was released to the public. A warning was sounded to WA – the only State left that has not been 'reformed' in some way.

Attachment 8.5.1

He strongly disagreed with the 'attractiveness' of the financial package offered by the State. All Reserve funds had been 'confiscated' – regardless of purpose for water related infrastructure. He was aware that Information Technology integration costs in one Regional Council amounted to \$10m.

Attachment 8.5.1

Queensland would become home to very large and very powerful Councils. It was now home to the four largest Councils in the country (Brisbane has a budget greater than the State of Tasmania), with Queensland now having 7 of the largest 10 Councils in the country. "Executive Mayors" were now appointed on an allowance of \$170,000pa but to the amusement of Bob were required under State legislation to reimburse the Council the costs of private telephone call from their Council provided mobile phone!

Bob sees that Local Governments in Queensland will become involved in significant partnership agreements with the Federal Government in the future and that new genuine partnerships are necessary with the State.

Simon Fairbrother, referred to the many similarities between Australia and Canada, ie very large size with limited dispersed population with similar government structures. There had been some amalgamations recently in 2000 but importantly, the larger Councils have their own taxing powers. Reform was based on ideology and politically based.

The Canadian focus was on shared service provision, collaboration, consultation and partnerships – not unlike the current Western Australia SSS emphasis.

The message here was that Local Government should be continually aware of potential external influences and focus on delivery of high quality customer services and facilities and adapt to changing circumstances.

Jeff McMullen - former 60 minute reporter

Jeff provided a last minute stand in address by Jeff for Tim Costello who took ill following his return from an unscheduled trip to Burma in relation to the recent flooding event there.

Jeff was very passionate about the plight of the third world and the deterioration of the worlds resources and food production capability. From his extensive travels in most parts of the world, he saw deterioration in plant and animal life – and particularly in the quality of water. He referred to the gap in the lifestyles between the developed and undeveloped countries and expected it to continue to widen stating lack of education and life's values as examples.

In terms of issues facing the western world, obesity rated very highly and said it was likely that the next generation, for the first time would possibly have a lower life expectancy than their parents. The topic of workforce and skills shortage was also mentioned as an emerging issue and the increasing need for immigration and the issues that this would bring. Work – life balance was also a key issue.

Jeff paid particular attention to the plight of our aboriginal people (he is involved in a program to assist the disadvantaged), and what could be done for these people by those who could afford to provide some form of assistance.

Finally Jeff referred to a "Literacy back pack" which was a concept that provides access to reading material on a wide range of subjects for the whole family ie, drugs, nutrition and smoking etc. This concept has been referred to our Library services for comment.

There may be a message here for the City to provide some form of assistance to a community – perhaps in Western Australia that is less fortunate than South Perth. Whilst the City has an informal relationship with the Shire of Victoria Plains, there is a possibility this could be strengthened, or alternatively, with some form of partnership could be established with say the New Norcia monastery where the City also has informal connections which happens to be within the Shire of Victoria Plains.

Panel Session - Local Government LGMA overseas partners & international experiences
The presenters were Trish Haines, Senior Vice President, SOLACE, City of Worcester, (UK)
with Melissa Gibbs former Director Southern Regional Council, Sydney,
Chris Rose CEO City of Logan QLD and
Stephen Sykes Director Enterprises, City of Orange, NSW

The theme of the session was that, in general, Local Government in Australia lags behind Local Government in countries such as USA, UK and Canada in building international links.

Trish observed that in general terms, aid was only provided to developing countries at a national level and questioned that with the wealth of Local Government growing why there was not support provided at a local level. There is a tremendous amount of relevant experience available in Local Government – in many ways superior to that at a State or National level – in areas such as emergency management, infrastructure provision, waste management and environmental issues. From her point of view, there were many advantages why Local Government should become more involved and at a personal level these included learning opportunities, identifying trends and opportunities, learning from the local impact of world events because of population diversity and sustainable international development.

Melissa recounted her story under the banner of “missionary, mercenary and misfit” and talked about the benefits of globalisation and exposure to innovation. Benefits of participating in international aid included:

Ability of influencing change and monitoring progress;

- Increasing cultural awareness;
- Obtaining new skills;
- Staff development advancement;
- Staff attraction and retention incentive;
- Stronger local community links;
- Dispels bad publicity (ie avoiding the “junket” tag; and
- Observing performance under pressure.

Chris spoke of his experiences as an international exchange program to South Africa. He was not aware of the extent of the poverty in the country until he observed it first hand. Unemployment was at levels greater than 30%, commented on the many security and racial issues encountered.

When the African National Congress (ANC) came into power, it had no previous experience or capacity in this role as it had never been in government before. There were many challenges to be faced including capacity building, sustainability and financial issues. For example, it was not uncommon for debtors to simply not pay rates because they had little or no income and because this occurred on a large scale, created major cash flow problems for many Local Governments.

On average, 90% of Local Government CEO's and elected members had no previous experience in these roles which created a whole set of new problems.

Stephen talked about his experiences of a Papua New Guinea trip as a result of a partnership the City of Orange had.

Environmental Leadership

Geoff Lawler, Director Sustainability, Melbourne City Council, VIC

The new administration centre of the City of Melbourne is part of “City Plan 2010” which covers three areas, ie economic prosperity, social equity and environmental quality and has adopted the theme of applying global issues at the local level”.

The Council House Project has enabled the City to take significant steps to set an example for the private sector. The Green Building Council of Australia has awarded CH2 six Green Stars. The CH2 project is the first in Australia to achieve the six Green Star certified rating.

Attachment 8.5.1

The building cost \$51M to construct of which \$11.3M was allocated to sustainability features which was clearly not a traditional approach at the time the decision was made. It is estimated that there will be annual building operating savings of \$1.45M pa which includes a 4.9% "well-being" factor.

Particular features of the building include:-

- The building has its own waste management strategy;
- The City has adopted a "Total Watermark" strategy:-
 - Has set water useage reduction targets;
 - Has adopted a "Sewer mining" strategy – extracts waste water for use from the sewer that runs beneath the building;
 - Recycles water from fire and sprinkler system;
 - Collects rainwater for re-use
- Has its own wind turbines installed; and
- Other features include, vertical planting, carefully designed shading and light, management of building exhaust, chilled ceilings, roof top energy healthy air (ie use of windows to utilise breezes), provision for bicycle parking and use of thermal mass.

A 1st anniversary 'post occupancy' study resulted in the following findings:-

- Thermal comfort better than benchmarks;
- Air quality excellent because of 'fresh air';
- Noise – too quiet!;
- Lighting needed adjustment; and
- Productivity was estimated to have increased by 10%

The principles of Green Rating are now embodied into the City of Melbourne Town Planning Scheme. All developments must demonstrate potential to reduce environmental impact. All new offices must achieve a minimum level of 4 green star. Fact sheets are available from the Australian Greenhouse office and CSIRO. Reference was also made to the solar array on the roof of the Queen Victoria markets.

Integrated Water Management Reserve Michael Bingham Environment Officer, Byron Shire

Michael spoke of the increased population requiring the need to increase the capacity of the sewerage treatment plant resulting in new / innovated recycled water technology. The Reserve's features include:-

- A biological process to minimise electricity and chemical use;
- On-site effluent re-use to regenerate a local forest, nursery and farming activities as well as for use on sportsfields through reticulation;
- The local reserve has been enhanced by creating bird watching areas, development of walking trails through wetlands

Eastern Hills Volunteer Engagement model Craig Wansbrough EMRC

The three hills Local Governments of Kalamunda, Mundaring and Swan have adopted a regional approach to natural resource management supporting a network of 1700 local volunteers. The volunteers cover a vast area involving 2400ha of local reserves. There are approximately 130 Friends groups which collectively contribute 30,000 of landcare activity hours each year. The "value" of the work performed by these groups is estimated at \$9.3m over a ten year period.

The volunteers consist of a wide range of groups including local landcare and bushcare groups, regional natural resource management groups and others such as having Swan River Trust and Swan Catchment Council links.

Attachment 8.5.1

The work of the groups is seen as increasingly more important, not only because of the impact of increasing development on bush or hills land but because there has in recent times been a significant reduction of local stream flow and consequential dam inflow which is also affecting the local environment.

In terms of co-ordinating activity, training is provided to the volunteers from the community groups, a monthly "Greenpage" newsletter is provided and a LandCare centre "One stop shop" is operated. A special program has been developed for 16-21 year olds called "GreenCare".

Concluding Keynote address – Community Wellbeing

Marcus Akuhata-Brown

Marcus is an exceptional young New Zealand indigenous leader with a fascinating story to tell. From very humble beginnings living in a remote tribal village to representing New Zealand as a youth Delegate to a Government sponsored Commonwealth Youth Forum in London. In addition, he has represented Youth at various levels with the objective of increasing young people's participation and economic development.

He stressed the importance and value of education reminiscing that he was very fortunate to have been given the opportunity to finish high school – let alone go onto university and complete a degree and become a qualified teacher. The schooling provided opportunities beyond his wildest dreams, including travel and meeting the rich and famous.

His interests are acknowledging potential in others not seen in themselves, "lifting the lid on low expectations" and the power of words. Marcus is keen on engaging young people who are less than 30 years of age in decision making.

Summary and conclusion

The topic of the environment featured very strongly which allowed me to reflect on all the significant work the City does in this important area. As a consequence, the next issue of the "peninsular" will detail some of the work the City has done in the past 12 months which when assembled in one document illustrates quite an impressive achievement. The social connection will be enhanced by a visit to New Norcia in August where our relationship in this locality will be further strengthened. A very worthwhile conference, professionally managed with an excellent range of speakers. Elected member registration is encouraged for the next conference in Darwin in 2009.

Cliff Frewing

Chief Executive Officer



A M E N D E D ATTACHMENT 10.0.3

POLICY P501

Use of Council Facilities

Relevant Management Practice

Nil

Relevant Delegation

Nil

Strategic Plan Goal

Goal 5: Organisational Effectiveness

Rationale

The City maintains a number of facilities for the use of elected members, officers and community members. This policy provides administrative guidelines concerning their use.

Policy

Council facilities are maintained and made available subject to conditions of use as follows:

- Council Chamber - for use by Members, Community Advisory Groups and City staff for meetings.
- Reception Area - for use by Members, Community Advisory Groups and City staff for functions, meetings and meals.
- Council Lounge (Incorporating the Members' Resource Facility) may be used as follows:
 - Elected Members - any time without restriction (subject to prior booking)
 - Chief Executive Officer and City Directors for informal gatherings (with approval of the Mayor)
 - Members Guests - Members wishing to invite a visitor into the Lounge after a Council meeting or function shall obtain the prior approval of the Mayor.
- The Members' Resource Facility is available to assist Members in performing the responsibilities associated with their role.
- The Facilities provided for use by Members shall accommodate the Mayor's and Members' secretarial support.
- Mayor's Office - is for the use of the Mayor in performing the functions of mayor.

These facilities shall at all times be used in a responsible manner.

Any change to these conditions of use may be determined ~~from time to time by the CEO in consultation with the Mayor;~~ or by resolution of Council. **Amended Council Meeting 26.8.08 Item 10.0.3**

The Council Chamber and Reception Area may be booked through the CEO's Office.

Other Relevant Policies

Nil

Other Relevant Documents

Nil

This Policy was adopted by Council on 24 September 2002; reviewed and amended by Council on 28 March 2006; reviewed in March 2008 and reviewed/amended by Council on 26 August 2008

Surrender of Existing Lease and Lease

City of South Perth
Lessor

Millar Holdings Pty Ltd
(ACN 063 656 048)
Lessee

Graeme Ross Millar
Guarantor

HARDY ♦ BOWEN
LAWYERS
Level 1, 28 Ord Street, West Perth 6005
PO Box 1364, West Perth WA 6872
Tel + 61 8 9211 3600 Fax + 61 8 9211 3690
Our Ref MJH:ICR:30425

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This Deed of Lease is made at _____ **on** _____

Parties **City of South Perth** of Civic Centre, Cnr Sandgate Street and South Terrace, South Perth, 6151, Western Australia ("**Lessor**")

And

Millar Holdings Pty Ltd (ACN 063 656 048) of [insert] ("**Lessee**")

And

Graeme Ross Millar of [insert] ("**Guarantor**")

Recitals

- A. The Land is the subject of a lease from the Minister for a term of 21 years with the power to sub-lease the Land for the purposes of a café and restaurant for a term not exceeding the term granted to the Lessor.
- B. The Lessor and Lessee are parties to and have agreed to surrender the Existing Lease of the Premises, on the Date of Surrender, and release each other from all obligations under it, on the terms and conditions contained in this Deed.
- C. This Lease has been entered in accordance with section 3.58 of the *Local Government Act 1995*.

The parties agree

1. Definitions and Interpretation

1.1 Definitions

In this Lease, unless the contrary intention appears, the following expressions have the following meanings:

Act includes all acts and statutes (State or Federal) for the time being enacted and all regulations, schemes, ordinances, local laws, by-laws, requisitions, orders or statutory instruments made under any Act from time to time by any statutory, public or other competent authority;

API means the Australian Property Institute (Inc.) Western Australian Division;

Annexure 2 means Annexure 2 of this Lease;

Business Hours means the hours of operation of the Premises as set out in Item 10 of Schedule 1;

Date of Commencement means the date mentioned in Item 4 of Schedule 1 and **Date of Surrender** shall have a corresponding meaning;

Dispute means a dispute referred to in subclause 8.1;

Encumbrances means:

- (a) all mortgages, charges, writs, warrants, caveats (and the claims stated in any caveat) and any other right or interest of any third party affecting the Land or any part of the Land;
- (b) all reservations (if any), existing easements and restrictive covenants contained in the Crown Grant of the Land or referred to in or registered as an encumbrance on the Certificate of Title to the Land;
- (c) all easements, restrictive covenants and encroachments (if any) affecting the Land or any part of the Land whether or not they are noted on the Certificate of Title to the Land; and
- (d) the encumbrances (if any) described in Item 2 of Schedule 1;

Existing Lease means the deed of lease made between the parties dated 3 November 1994;

Good Repair means good and substantial tenantable repair and in clean, good working order and condition;

Land means the land mentioned in Item 2 of Schedule 1;

Lessee means the Lessee and includes, where not repugnant to the context, the servants and agents of the Lessee;

Lessee's Covenants means each and every covenant contained or implied in this Lease to be observed or performed by the Lessee;

Lessee's Fixtures means any fixtures, fittings, plant or equipment supplied and fitted by the Lessee or on behalf of the Lessee to, in or on the Premises;

Lessor means the Lessor and includes, where not repugnant to the context, the servants and agents of the Lessor;

Lessor's Powers means each and every right, power and remedy exercisable by the Lessor under this Lease;

Market Rent Review Date/s means the date/s set out in item 12 of the Schedule 1;

Minister means the Minister for Lands;

Outgoings means the charges mentioned in subclause 4.3;

Premises means the premises mentioned in Item 3 of Schedule 1 and includes, where not repugnant to the context, any part thereof;

Rent means the rent mentioned in Item 7 of Schedule 1 and any agreed variation of the rent determined in accordance with the provisions of this Lease from time to time;

Retail Shops Act means the Commercial Tenancy (Retail Shops) Agreement Act 1985;

Schedule 1 means Schedule 1 of this Lease;

Schedule 2 means Schedule 2 of this Lease;

Term means the term of this Lease mentioned in Item 5 of Schedule 1 including any renewal or extension of the Term in accordance with the provisions of this Lease from time to time;

This Lease means the lease forming part of this Deed including any schedules and annexures and as amended from time to time by the Parties in writing;

Tobacco Product means tobacco, a cigarette or a cigar or any other product the main, or a substantial ingredient of which is tobacco and which is designed for human consumption or use; and

Valuer means a member of API who has been actively engaged for not less than three (3) years in valuing commercial premises in Western Australia.

1.2 Interpretation

In this Lease:

- (a) headings are for convenience only and do not affect the interpretation or construction of this Lease; and

unless the context indicates the contrary intention:

- (b) every covenant or agreement expressed or implied in this Lease in which more than one person covenants or agrees shall bind each person jointly and severally;
- (c) a reference to any party shall mean and include a reference to that party and the party's successors, personal representatives and transferees and a reference to a corporation or body includes a reference to the corporation or body's successors and assigns;
- (d) words importing the singular include the plural (and vice versa) and words denoting individuals include corporations (and vice versa);
- (e) a reference to a clause, a subclause, a paragraph, a schedule or an annexure is reference to a clause, a subclause, a paragraph, a schedule or an annexure of this Lease and as amended in accordance with the provisions of this Lease from time to time;
- (f) a reference to any Act or to any section or provision thereof includes a reference to that Act, section or provision as amended, replaced, varied or substituted from time to time; and
- (g) where any act, matter or thing is to be done under this Lease on a Saturday or Sunday, then that act, matter or thing may be done on the Monday immediately following the relevant Saturday or Sunday or in the event of a public holiday in Western Australia the act, matter or thing may be done on the working weekday immediately following that public holiday.

2. Surrender of Existing Lease

2.1 Surrender

The Lessee surrenders and yields up to the Lessor the estate and interest of the Lessee in and to the Existing Lease and the Premises and the unexpired residue of the Term and all estate, right, title and interest, claim and demand of the Lessee in it on

and from the Date of Surrender, to the intent that the Existing Lease from and after that date shall be deemed to have ceased.

2.2 Acceptance of surrender

The Lessor accepts the surrender on and from the Date of Surrender and undertakes to the Lessee and to the guarantors named in the Existing Lease that the guarantors so named shall be released from their guarantees as given in the Existing Lease contemporaneously with the acceptance of the surrender of the Existing Lease.

2.3 Consequences of and obligations on surrender

Each of the Lessor and the Lessee releases the other from all actions, suits, claims and demands of any description which either of them might have had against the other for or in respect of any future breach or non-observance of any covenant, agreement or condition on the part of the other contained or implied in the Existing Lease PROVIDED THAT the release shall be without prejudice to:

- (a) all actions, suits, claims and demands of any description which the Lessor may have against the Lessee for or in respect of any outstanding breach or non-observance of any covenant, agreement or condition on the part of the Lessee contained or implied in the Existing Lease prior to the Date of Surrender;
- (b) the Lessee's obligation to indemnify the Lessor, which survives the surrender.

2.4 Obligation on Lessee to vacate

As the Lessor and the Lessee agreed to enter into this Lease, upon the terms and conditions contained in this Deed, the obligation of the Lessee to vacate the Premises on or before the Date of Surrender, in accordance with the Existing Lease, is waived.

3. Re-grant of Lease - operative part

The Lessor LEASES to the Lessee and the Lessee takes on lease the Premises, subject to the Encumbrances, from the Date of Commencement for the Term at the Rent and subject to and upon the covenants, conditions and stipulations contained in this Lease.

4. Lessee's Covenants

The Lessee covenants with the Lessor:

4.1 Rent

To pay the Rent (free from all deductions) in the manner and at the times mentioned in Item 7 of Schedule 1 to the Lessor at its address or as the Lessor may in writing from time to time direct.

4.2 Interest on overdue moneys

Without prejudice to the rights, powers and remedies of the Lessor that are otherwise provided for under this Lease, to pay to the Lessor on demand interest on any money that are due but unpaid for SEVEN (7) days by the Lessee to the Lessor on any account whatsoever under this Lease. Interest shall be calculated from the due date for the payment of the moneys in respect of which the interest is chargeable until

payment of these money in full and interest shall be recoverable as if it was Rent in arrears. For the purpose of this subclause, "**interest**" means the prevailing rate of interest charged on an overdraft of at least \$100,000 by a bank at which the Lessor keeps an account, calculated daily and capitalised on the last day of each calendar month.

4.3 Outgoings

To duly and punctually pay all local government rates, rubbish collection, water, electricity, power, gas and telephone and any other fees or charges which now or during the Term shall be charged upon or in respect of the Premises or be payable by the owner or occupier in respect of them upon the days or times upon which they are due and payable PROVIDED THAT the Lessee shall not pay for any rates and taxes for that part of the Premises specified as public toilets or water usage for that part of the Premises which shall be separately metered.

4.4 Other liabilities

To the extent permissible at law, to pay upon demand to the Lessor by way of reimbursement an amount equal to any money paid or outlaid by the Lessor in respect of any liability imposed on the Lessee under this Lease.

4.5 Cost of Lease

To pay:

- (a) the Lessor's reasonable and proper costs (including solicitors' costs) and all duties, fees, charges and expenses of and incidental to the instructions for and the preparation and completion of this Lease;
- (b) all stamp duty payable on this Lease and in respect of any renewal of the Term;
- (c) the Lessor's costs of any application for the consent of the Lessor;
- (d) the Lessor's costs incidental to any and every breach or default by the Lessee under this Lease and in or incidental to the exercise or attempted exercise of any right, power, privilege, authority or remedy of the Lessor under or by virtue of this Lease; and
- (e) the reasonable fees of all professional consultants reasonably and properly incurred by the Lessor in consequence of or in connection with any breach or default by the Lessee under this Lease.

4.6 Maintain and repair Premises

(a) Generally

During the Term and for so long as the Lessee remains in possession or occupation of the Premises, to maintain, replace, repair, clean and keep the Premises clean and in Good Repair having regard to the condition of the Premises at the Date of Commencement.

To comply with and discharge its general obligation under this paragraph, the Lessee must, at its expense:

- (i) immediately repair any damage, including structural damage, to the Premises caused by:
 - (A) the actions, whether negligent or deliberate of the Lessee or those for whom the Lessee is responsible including, but not limited to, its servants, agents, contractors or invitees; or
 - (B) the happening of the risks described in (A) – (H) of clause 4.15(a)(ii); or
 - (C) fair and reasonable wear and tear;
- (ii) immediately replace all electric globes and fluorescent tubes in the Premises which may be damaged, broken or fail for any reason;
- (iii) regularly maintain and repair the Lessor's plant, equipment, fixtures, fittings and accessories or services, including, but not limited to, air-conditioning plant, power, water, sewerage, gas, telecommunications, fire warning or prevention systems, that are located within and serve the Premises;
- (iv) only use, where maintaining, replacing, repairing or cleaning:
 - (A) any electrical fittings and fixtures;
 - (B) any plumbing and sewerage;
 - (C) any air-conditioning plant, fittings and fixtures; or
 - (D) any gas fittings and fixtures,licensed tradespersons or tradespersons as may be approved by the Lessor and notified to the Lessee, which approval shall not be unreasonably withheld.

(b) Lessee's Fixtures

Subject to subclause 4.9, to repair and make good any damage (regardless of how minor) which may be caused to the Premises at any time by the installation or removal by the Lessee of any Lessee's Fixtures. Any areas of the Premises that are affected in any way by the removal or installation of any Lessee's Fixtures must be placed in a state of Good Repair as if the installation and the removal of the relevant Lessee's Fixtures had never taken place. This obligation shall include, without limitation, an obligation on the Lessee to place all walls, floors, ceilings, carpets, skirting boards, plasterwork,

paintwork, window treatments and wallpaper in a state that is aesthetically consistent with the immediate surrounding areas and the rest of the Premises.

(c) **Specific maintenance requirements**

In addition to the obligations set out in this subclause 4.6, the Lessee must comply with the specific maintenance requirements set out in Annexure 2, if any.

(d) **Paint and decorate**

The Lessee, at the times and in accordance with the directions of the Lessor's building surveyor, shall properly paint and varnish with at least two coats of good quality paint and varnish (in colours approved by the Lessor in writing) those parts of the Premises as are now painted and varnished or are usually painted and varnished and to properly re-decorate in any other fashion (with suitable materials of good quality approved of by the Lessor in writing) all parts of the Premises that have been previously or are usually decorated.

The Lessor shall not unreasonably withhold any approval required under this paragraph.

4.7 Use of premises

(a) **Generally**

Not to use or permit the Premises to be used as the residence or sleeping place of any person or for auction sales but to use the Premises only for the purpose mentioned in Item 8 of Schedule 1, during the Business Hours and for no other purpose whatsoever.

(b) **Hire of Premises**

Not to hire the Premises to any person for a fee UNLESS:

- (i) the purpose for which the Premises are hired is consistent with the purpose mentioned in paragraph (a); and
- (ii) the hire occurs during the Term.

(c) **Offensive activities**

Not to do, exercise or carry on or allow any person to do, exercise or carry on in the Premises any noxious, noisome or offensive act, trade, business, occupation or calling or any act, matter or thing whatsoever which may cause nuisance, damage or disturbance to the Lessor or occupier of any building in the neighbourhood.

(d) **Birds, animals**

Not to keep any birds or animals in or about the Premises.

(e) **Lavatories etc.**

Not to use or allow to be used the lavatories, toilets, sinks and drainage and other plumbing facilities in the Premises for any purposes other than for which they were constructed or provided.

(f) **Chemicals etc.**

Not to use or allow to be used any chemicals or inflammable gases, fluids or substances on the Premises except where reasonably necessary in the normal course of the Lessee's business or the use of the Premises for the permitted use of the Premises.

(g) **Signs**

Not, without the prior written consent of the Lessor (which consent shall not be unreasonably withheld), to construct, display, affix or exhibit on or to the exterior or interior of the Premises any signs, lights, embellishments, advertisements, names or notices visible from outside the Premises.

(h) **Removal of rubbish**

To keep the Premises free from dirt and rubbish and to store and keep all trade waste, trash and garbage in proper receptacles.

(i) **Floor overloading**

Not to do or allow anything to be done on the Premises which would result in excessive stress, strain or floor loading to any part of the Premises except to those parts of the Premises designated in writing by the Lessor.

(j) **Pest control**

To take all reasonable precautions to keep the Premises free of rodents, vermin, insects, pests, birds and animals.

(k) **Not to pollute**

To do all things necessary to prevent pollution or contamination of the Premises by garbage, refuse, waste matter, oil and other pollutants.

(l) **No smoking**

Not to use or allow the Premises to be used for smoking, holding or otherwise having control over an ignited Tobacco Product, other than in facilities designated for that purpose and which are consistent with all Acts.

(m) **Cleaning of Premises**

To clean the whole of the Premises including any public toilet facilities located in the Premises and ensure that the Premises are maintained in a clean and sanitary condition at all times.

4.8 Entry by Lessor and others

To permit entry to the Premises at all reasonable times upon giving to the Lessee reasonable notice (except in the case of emergency when notice shall not be required):

(a) **To inspect**

By the Lessor and its agents, servants and contractors to view the state of Good Repair for the purposes of ensuring compliance by the Lessee with all or any of the Lessee's Covenants.

(b) **To repair**

By the Lessor and its agents, servants and contractors with workmen and others and all necessary materials and equipment for the purpose of complying with any request, requirement, notification or order of any authority having jurisdiction or authority over or in respect of the Premises for which the Lessee is not liable under this Lease or for which the Lessee is liable but has failed to carry out or for the carrying out or repairs, renovations, maintenance, modifications, extensions, alterations or replacements to the Premises and all plant, machinery and other building equipment within the Premises PROVIDED THAT in the exercise of this right the Lessor shall use its best endeavours not to cause any undue inconvenience to the Lessee.

4.9 Alterations and installations

(a) **Generally**

Not to make or allow to be made to the Premises any alterations or external projection or any structural alterations or to cut, maim or injure or allow to be cut, maimed or injured any of the principal structure or walls or any part of them without the prior written consent of the Lessor PROVIDED THAT consent shall not be withheld by the Lessor in the case of any structural alterations or additions required to be made to the Premises by any local or statutory authority by reason of the particular use to which the Premises are put by the Lessee. Any structural alterations or additions shall be effected at the sole cost of the Lessee to a specification approved in writing by the Lessor prior to the commencement of the structural alterations or additions.

(b) **Carried out in workmanlike manner**

That all buildings, erections, improvements and alterations to be constructed and all works carried out or executed on the Premises by the Lessee shall be constructed, carried out or executed by the Lessee in a proper and workmanlike manner, using licensed trades persons or other trades persons as the Lessor may approve (which approval shall not be unreasonably withheld), and under the supervision and to the reasonable satisfaction of the Lessor's building surveyor (or other officer of the Lessor as the Lessor may appoint) and in the event of any dispute the certificate of the building surveyor (or other officer of the Lessor) shall be final and binding upon the parties.

(c) **Plant and equipment**

Not to make any alterations or additions to any plant, equipment, services, fixtures or fittings forming part of the Premises (including any air-conditioning plant, electrical fittings, plumbing and fire warning or prevention systems) ("**Plant and Equipment Alterations**") without the Lessor's prior written consent (which may be withheld in the Lessor's discretion or given on terms and conditions as the Lessor considers fit). Any application for consent shall be accompanied by detailed plans and specifications and, if approved by the Lessor, any works shall be carried out by the Lessee in a proper and workmanlike manner, using licensed trades persons or other trades persons as the Lessor may approve (which approval shall not be unreasonably withheld), and under the supervision and to the reasonable satisfaction of that officer of the Lessor as the Lessor may appoint, and in the event of any dispute the certificate of the officer shall be final and binding upon the parties.

If any Plant and Equipment Alterations are made by the Lessee at any time

then, on the expiry or sooner determination of the Term, the Lessee shall at the Lessor's request, promptly reinstate and restore the Premises as nearly as possible to its original state and shall repair and make good any damage (regardless of how minor) which may be caused to the Premises as a result of the reinstatement and restoration works. This obligation shall include, without limitation, an obligation on the Lessee to place all walls, floors, ceilings, carpets, skirting boards, plasterwork, paintwork and wallpaper in a state that is aesthetically consistent with the immediate surrounding areas and the rest of the Premises.

4.10 To report certain matters to the Lessor

(a) **Defects**

To give to the Lessor prompt notice in writing of any accident to or defect or want of repair in any services or fixtures, fittings, plant or equipment in the Premises and of any circumstances known to the Lessee that may be or may cause a risk or hazard to the Premises or to any person on the Premises.

(b) **Vandalism**

To report to the Lessor immediately any act of vandalism to the Premises and the Land.

4.11 No transferring, subleasing and parting with possession

Subject to clause 4.7(b), not to transfer, sublet, assign or otherwise part with the possession of the Premises or any part of the Premises or in any way dispose of the benefit of this Lease without the prior written consent of the Lessor and the Minister in accordance with the provisions of the *Land Administration Act 1997* PROVIDED THAT:

(a) Consent not unreasonably withheld to transfer, sublease, assignment or license

If the Lessee wishes to transfer, sublet or assign the whole of the Premises and the benefit of this Lease the Lessor shall not unreasonably withhold its consent to that assignment if:

- (i) the proposed transferee, sublessee or assignee is respectable, responsible and solvent (the onus of proof of which shall be upon the Lessee);
- (ii) the Lessee procures the execution by the proposed transferee, sublessee or assignee of a deed of transfer, sublease or assignment of this Lease to which the Lessor is a party prepared and completed by the Lessor's solicitors at the reasonable cost of the Lessee in all respects and the covenants and agreements on the part of any transferee, sublessee or assignee shall be deemed to be supplementary to this Lease and shall not in any way relieve the Lessee from its liability under this Lease;
- (iii) all Rent and Outgoings then due or payable shall have been paid and there shall not be any existing un-remedied breach of any of the Lessee's Covenants;
- (iv) the transfer, sublease or assignment contains a covenant by the transferee, sublessee or assignee with the Lessor that the transferee,

sublessee or assignee at all times during the continuance of the Term will duly observe and perform all the Lessee's Covenants; and

- (v) the Lessee pays to the Lessor all proper and reasonable costs, charges and expenses incurred by the Lessor of and incidental to any enquiries which may be made by or on behalf of the Lessor as to the respectability, responsibility and solvency of any proposed transferee, sublessee or assignee.

(b) **Corporate assignee**

If the transferee, sublessee or assignee is a company then it shall be a condition of the Lessor's consent to any deed of transfer, sublease or assignment that the directors or the substantial shareholders of that company guarantee to the Lessor the observance and performance by the transferee, sublessee or assignee of the Lessee's Covenants.

(c) **No release of assignor**

The covenants and agreements of any transferee, sublessee or assignee shall be deemed to be supplementary to the Lessee's Covenants and shall not in any way relieve or be deemed to relieve the Lessee from the Lessee's Covenants;

PROVIDED FURTHER THAT if the Lessee is a corporation any change in the beneficial ownership of a substantial holding (within the meaning of section 9 of the *Corporations Act 2001*) in the corporation or any related body corporate within the meaning of section 50 of the *Corporations Act 2001* shall be deemed to be a transfer, sublease, assignment or licence of the Premises and the benefit of this Lease for the purposes of this subclause;

AND IT IS EXPRESSLY AGREED AND DECLARED that sections 80 and 82 of the *Property Law Act 1969* are hereby excluded; and

The Lessee acknowledges and agrees that the failure by either the Lessee or any other relevant party to comply strictly with each of the conditions, stipulations and requirements contained in paragraphs (a) or (b) will constitute reasonable grounds upon which the Lessor may withhold its consent to any assignment of this Lease proposed by the Lessee.

(d) **No mortgage or charge**

The Lessee must not mortgage or charge the Lease or any estate or interest in the Premises without the prior written consent of the Lessor, which shall not be unreasonably withheld.

4.12 Trust

To not without the prior written consent of the Lessor:

- (a) hold the Lessee's interest in this Lease on trust for any party other than the trust (if any) specifically mentioned in Item 11 of Schedule 1;
- (b) declare a trust of the Lessee's interest in this Lease; or

- (c) vary, amend, alter or revoke the terms contained in any trust deed or add to or vary the beneficiaries of the trust or distribute or join in the distribution of any or all of the capital of the trust or in any other way vest the trust.

Any holding in trust or declaration of trust, amendment, alteration, revocation or distribution contrary to this subclause shall be deemed to be an assignment of the Lease to which all of the provisions of paragraphs 4.11(b) and (c) and shall apply.

4.13 Comply with Acts

- (a) **Generally**

Notwithstanding anything to the contrary contained or implied in this Lease, to comply with all Acts relating to the Premises or the use of them PROVIDED THAT the Lessee shall not be under any liability in respect of any structural alterations required by any Act other than caused or contributed to by the Lessee's particular use or occupation of the Premises.

- (b) **Fire regulations**

In the positioning of partitions or any fixtures or fittings installed by the Lessee on the Premises, to comply with:

- (i) all Acts relating to fire detection and alarm;
- (ii) all policies of insurance that apply to the Premises and the Land,

and to pay to the Lessor the reasonable cost of effecting any alterations to the thermal detectors or other fire alarm installations which may be necessary to comply with any Act or any requirements of the Fire & Accident Underwriters' Association, the Insurance Council of Australia and the Fire and Emergency Services Authority of Western Australia.

- (c) **Use of Premises**

The Lessor gives no warranty as to the use to which the Premises may be or are suitable to be put. The Lessee acknowledges that it has satisfied itself as to the requirements of all Acts in relation to the use of the Premises and enters into this Lease with full knowledge of and subject to any prohibitions under any Act. The Lessee at its cost shall obtain any necessary consents required by any Act to enable it to occupy the Premises for the purposes of its business.

4.14 Public risk insurance

To effect and keep effected in respect of the Premises adequate public risk insurance (which insurance shall not be contributory with any policy effected by the Lessor), including insurance against the risks referred to in subclause 4.17, for the time being in an amount not less than the amount mentioned in Item 9 of Schedule 1 in respect of any one claim or any higher amount as the Lessor from time to time reasonably shall require with an insurer approved by the Lessor (which approval shall not be unreasonably withheld) and:

- (a) to ensure that the Lessor's interest in the policy in respect of public risk insurance ("**Policy**") is notified to the insurer and is reflected and noted on the Policy;

- (b) to notify the Lessor of the policy details as soon as practicable after the Date of Commencement;
- (c) to ensure that the insurance conforms with the reasonable requirements from time to time of the Lessor of which the Lessee is given notice;
- (d) if required by the Lessor to produce, on demand, a true copy of the Policy in respect of public risk insurance to the Lessor and true copies of the receipts for the last premium;
- (e) to deliver to the Lessor on or before the expiration of each year of the Term and at any other time upon the request of the Lessor a true copy of a certificate by the insurer in respect of the public risk insurance and the currency of the Policy; and
- (f) not to alter the terms or conditions of the Policy without the written approval of the Lessor and to promptly deliver to the Lessor particulars of any change or variation of the terms and conditions or any other matter in respect of any public risk insurance policy effected by the Lessee by this subclause.

4.15 Other insurance

- (a) During the Term to effect and keep effected
 - (i) a policy of insurance, with an insurer approved by the Lessor (which approval shall not be unreasonably withheld), covering fittings, accessories and stock in the Premises or associated with the activity carried on by the Lessee in the Premises. Insurance cover under this policy must be for the full insurable value of the fittings, accessories and stock against loss or damage because of fire and other risks including water, storm and rainwater damage; and
 - (ii) a policy of insurance over the Premises and the Land in relation to any risk relating to the Lessor's ownership or interest in the Land and the Premises, including the Lessor's plant, equipment, fixtures, fittings and accessories or services, including but not limited to air-conditioning plant, power, water, sewerage, gas, telecommunications, fire warning or prevention systems, that are located within and serve the Premises, including, insurance against loss or damage due to:
 - (A) fire or explosion (including architects' and other consultants' fees and the cost of demolition and removal of debris);
 - (B) lightning;
 - (C) earthquake;
 - (D) theft and burglary;
 - (E) deliberate destruction of the Premises by a third party;
 - (F) riot or civil commotion;
 - (G) storm and flood;
 - (H) accidental damage to plate glass; and

- (l) loss of Rent (including loss of the other amounts payable under clause 4).
- (b) As soon as practicable after the Date of Commencement, to deliver to the Lessor a true copy of a certificate from the Lessee's insurer certifying that the Lessee is insured in the manner specified in paragraph (a) or evidence, to the satisfaction of the Lessor, of the existence of the policy for the insurance specified in paragraph (a), and true copies of the receipts relating to payment of the premiums in relation to those policies.
- (c) If required by the Lessor to produce, on demand, a true copy of each of the policies for the insurances specified in paragraph (a) and true copies of the receipts for the last premiums.
- (d) To deliver to the Lessor on or before the expiration of each year of the Term and at any other time upon the request of the Lessor a true copy of a certificate from the Lessee's insurer certifying that the Lessee is insured in the manner specified in paragraph (a) and stating the period for which it is so insured.
- (e) Not to alter the terms or conditions of the policies for the insurances specified in paragraph (a) without the written approval of the Lessor and deliver promptly to the Lessor particulars of any change or variation of the terms and conditions or any other matter in respect of those policies.

4.16 Not to invalidate insurance

(a) **Generally**

Not to do or allow any act, matter or thing upon the Premises or bring or keep anything on the Premises by which any insurance relating to the Premises or the Land (as described in clauses 4.14 and 4.15) may be rendered void or voidable or by which the rate of premium on that insurance shall be or be liable to be increased and the Lessee shall pay all additional premiums of insurance on the Premises and the Land (if any) required on account of the additional or increased risk.

(b) **Obligation to comply**

The Lessee shall comply with the requirements of any insurer of the Premises or the Land.

(c) **Obligation to notify**

The Lessee shall notify the Lessor promptly of any act, matter or thing occurring or likely to occur upon the Premises or the Land by which any insurance relating to the Premises or the Land may be rendered void or voidable.

4.17 Indemnities

(a) **Generally**

To take and be subject to the same responsibilities in regard to persons and property to which the Lessee would be subject, if during the Term, the Lessee were the owner of the freehold of the Premises.

(b) **Indemnity**

To indemnify and keep indemnified the Lessor from and against all claims, demands, writs, summonses, actions, suits, proceedings, judgments, orders, decrees, damages, costs, losses and expenses of any nature which the Lessor may suffer or incur in connection with the loss of life, personal injury, illness and or damage to property, arising from or out of any occurrence in or upon or at the Premises or the use of the Premises by the Lessee or any part of them or to any person or the property of any person using or entering on or near the Premises how ever caused (loss, injury, illness, damage or destruction caused or occasioned by any negligent act, default or omission of the Lessor or its employees, agents or contractors excepted).

(c) **Abuse of installations**

To indemnify and keep indemnified the Lessor from and against any and all loss or damage how ever caused by the neglect, use, mis-use or abuse of:

- (i) water, electricity or gas supplied to the Premises; or
- (ii) installations, fixtures or fittings for water, gas or electricity,

by the Lessee or by any employee, agent, contractor or invitee of the Lessee, and that the Lessee shall pay for all damage or injury to the Premises or to the Lessor or to any other person in consequence of any breach or non-observance of the provisions of this paragraph.

(d) **Insurance moneys**

Without prejudice to the generality of paragraph (a) (to the extent that the terms and conditions of any insurances effected by the Lessee or any money paid to the Lessor out of insurances effected by it or any money paid to the Lessee out of insurances effected by it do not fully indemnify the Lessor from and against all actions, claims, demands, notices, losses, damages, costs and expenses to which the Lessor shall or may be or become liable in respect of all or any of the matters referred to in subparagraphs (i), (ii) and (iii) of this paragraph) to indemnify the Lessor and keep the Lessor indemnified from and against all actions, claims, demands, notices, losses, damages, costs and expenses to which the Lessor shall or may be or become liable in respect of all or any loss or damage to property or death or injury to any person of any nature or kind and however or wherever sustained that:

- (i) is caused or contributed to by the use or occupation of the Premises, except to the extent caused or contributed to by the negligence or act, default or omission of the Lessor;
- (ii) results from any act, default or omission by the Lessee under this Lease; or
- (iii) results from any notice, claim or demand to pay, do or perform any act, matter or thing to be paid, done or performed by the Lessee under this Lease.

4.18 Yielding up

(a) **Peaceably yield up**

Upon the expiration or sooner determination of the Term, to peaceably surrender and yield up to the Lessor the Premises clean and free of rubbish and in a state of Good Repair that is entirely consistent with all of the Lessee's Covenants having been fully complied with.

(b) **Removal of Lessee's Fixtures**

Subject to any clause to the contrary, at or prior to the determination or termination of the Term to take, remove and carry away from the Premises all Lessee's Fixtures and other articles upon the Premises in the nature of trade or Lessee's fixtures brought upon the Premises by the Lessee (other than air-conditioning plant and fire equipment, security alarms and security systems and other fixtures and fittings which, in the opinion of the Lessor, form an integral part of the Premises) and the Lessee on removal shall make good to the satisfaction of the Lessor immediately any damage which may be caused by that removal.

(c) **Liquidated damages for failure to remove Lessee's Fixtures, etc.**

Without limiting the Lessee's obligations under paragraphs (a) and (b) in any way, if, after receiving a notice from the Lessor given on or at any time after the determination or termination of the Term demanding that the Lessee remove any Lessee's Fixture or other article not removed in accordance with paragraph (b) (**Removal Notice**) the Lessee fails to comply with all of its obligations under paragraph (b) within FIVE (5) days of the date of receipt of the Removal Notice:

- (i) the Lessee shall pay the Lessor on demand by way of liquidated damages an amount per day equal to 1/365th of the Rent payable by the Lessee immediately prior to the expiration or sooner determination of the Term (as the case may be) (**Removal Rent**); and
- (ii) the Removal Rent shall be paid by the Lessee to the Lessor from and including the date on which the Removal Notice was received by the Lessee up to and including the day on which the Lessee has fully complied with all of its obligations under paragraph (b).

(d) **Abandonment of Lessee's Fixtures**

Further or in the alternative to the Lessor's rights and powers under paragraph (c), the Lessor, at any time after the expiration or sooner determination of the Term, may give the Lessee a notice (**Abandonment Notice**) requiring the Lessee to remove all Lessee's Fixtures or other articles not previously removed by the Lessee in accordance with paragraph (b) (**Remaining Items**). On the Lessee's receipt of an Abandonment Notice, the Lessee shall have TWO (2) days within which to remove all Remaining Items and failing removal within that TWO (2) day period, all Remaining Items still on the Premises or in the Lessor's custody shall be deemed absolutely abandoned by the Lessee and shall become the absolute property of the Lessor automatically and may be sold by the Lessor at any time and without further notice or obligation to the Lessee. The Lessor shall be entitled to keep the proceeds of any sales and those proceeds shall not be taken into account to reduce any arrears, damages or other moneys for which the Lessee may be

liable. All reasonable costs incurred by the Lessor in respect of any sale shall be paid by the Lessee on demand.

Nothing shall preclude the Lessor from giving a Removal Notice and recovering the Removal Rent in accordance with paragraph (c) and later giving the Lessee an Abandonment Notice at any time under this paragraph. The Lessee's obligation to pay the Removal Rent shall cease immediately upon the Lessee's receipt of an Abandonment Notice. Nothing, however, shall release the Lessee from liability to pay any Removal Rent that is in arrears on the date that the Lessee receives an Abandonment Notice.

4.19 Not to lodge caveat or other interest against Title to Land

(a) **Interpretation**

In this subclause, a reference to a Certificate of Title to the Land includes a reference to a Certificate of Crown Land Title if the Land is Crown land.

(b) **No absolute or subject to claim caveat**

Not to lodge an absolute caveat or a subject to claim caveat over the Land or any part of the Land or against the Certificate of Title to the Land to protect the interest of the Lessee and the Lessee IRREVOCABLY APPOINTS the Lessor and every officer and employee of the Lessor for the time being authorised in that behalf by the Lessor jointly and severally, to be the true and lawful attorney for the Lessee in its name and on its behalf to execute and to lodge at the Department of Land Information a withdrawal of any absolute caveat or subject to claim caveat AND the Lessee RATIFIES AND CONFIRMS and AGREES TO RATIFY AND CONFIRM all that the attorney shall do or cause to be done under or by virtue of this subclause and shall indemnify the Lessor in respect of any loss arising from any act done under or by virtue of this subclause and the Lessee will pay the Lessor's reasonable costs (including solicitors' costs) and expenses of and incidental to the withdrawing of any caveat lodged by or on behalf of the Lessee affecting the Land or the Certificate of Title to the Land as provided by this subclause.

(c) **Not to register dealings**

Not to lodge or cause to be lodged any lease, sublease, mortgage, charge or other dealing against the Certificate of Title to the Land without the prior written consent of the Lessor.

4.20 Alcohol

(a) **Liquor licence or permit**

To apply for an appropriate liquor licence or permit under the *Liquor Control Act 1988* to use or allow the Premises to be used for the consumption or sale of alcohol.

(b) **Obligations if liquor licence or permit granted**

If a licence or permit under the *Liquor Control Act 1988* is granted to it:

- (i) to comply with any requirements attaching to the licence or permit at its cost and where any alteration is required to the Premises subclause 4.9 shall apply;

- (ii) to provide a copy of the licence or permit (together with a copy of any document referred to in the licence or permit) to the Lessor as soon as practicable after the date of grant; and
- (iii) to indemnify and keep indemnified the Lessor from and against any breach of the *Liquor Control Act 1988*, the licence or permit for which it may be liable as the owner of the Premises.

5. Rent Review

5.1 CPI Adjustment

- (a) With effect from each CPI Adjustment Date, the Rent is to be adjusted for changes in the CPI. The adjustment is to be calculated by using the following formula:

$$A = \frac{L}{E} \times PR$$

A means the Rent adjusted by CPI

L means the Current Index Number

E means the Previous Index Number

PR means the Rent payable immediately prior to the current CPI Adjustment Date

- (b) For the purposes of this clause:

CPI means the Consumer Price Index for Perth (All Groups) published by the Australian Bureau of Statistics;

CPI Adjustment Date means each anniversary of the Date of Commencement for the duration of the Term including any renewal or extension of the term in accordance with the provisions of this Lease from time to time but excluding any Market Rent Review Date;

Current Index Number means the Index Number last published before the current CPI Adjustment Date;

Index Number shall mean for the purposes of this clause the Consumer Price Index for Perth (All Groups) as published by the Australian Bureau of Statistics. In the event that there is any suspension or discontinuance of the Perth (All Groups) category of the Consumer Price Index or its method of calculation is substantially altered then:

- (a) "Index Number" shall mean the number selected by an actuary appointed by the Lessor from the Fellows of the Institute of Actuaries of Australia to accurately reflect changes in the prevailing levels of prices in the category dealt with by the Consumer Price Index during the period prior to that suspension or discontinuance;
- (b) an actuary's certificate which sets out the actuary's selection of an Index Number may not be disputed by the Lessor or the Lessee in any way; and

- (c) the Lessor and the Lessee are to pay the actuary's costs and expenses in equal shares.

Previous Index Number means, in respect of a CPI Adjustment Date, the Index Number last published before the latest of the Date of Commencement, the last Market Rent Review Date to have occurred or the preceding CPI Adjustment Date.

5.2 Market Rent Review – Proposed Rent

The Lessor may review the Rent with effect from each Market Rent Review Date. The Lessor is to give to the Lessee a notice stating the rent the Lessor proposes should be payable from that Market Rent Review Date. The notice may be given at any time before or after a relevant Market Rent Review Date and any failure to give or delay in giving a notice will not affect the Lessor's right to review the Rent.

5.3 Agreement with Lessor's proposal

If the Lessee agrees to the proposed Rent, it is payable from the relevant Market Rent Review Date.

5.4 Disagreement with the Lessor's proposal

If the Lessee disagrees with the proposed Rent, the Lessee is to give the Lessor a notice (**Dispute Notice**) objecting to it within TWENTY EIGHT (28) days after the date the Lessor gives notice of the proposed rent. If the Lessee does not give the Lessor a Dispute Notice within that time, the Lessee is to be taken to have agreed to the proposed Base Rent.

5.5 Base Rent determination

If the Lessee gives the Lessor a Dispute Notice, the Rent from the relevant Market Rent Review Date is to be the market rent for the Premises determined by a Valuer appointed under clause 5.6.

5.6 Valuer

The market rent for the Premises is to be determined by a Valuer jointly appointed by the Lessor and the Lessee. If they do not agree on the Valuer to be jointly appointed within FOURTEEN (14) days after the Dispute Notice is given, the Rent is to be determined by a Valuer appointed by the President of API at the request of either the Lessor or the Lessee. A Valuer appointed under this clause is to act as an expert and not as an arbitrator. The Valuer's charges are payable by the Lessor and the Lessee in equal shares.

5.7 Market Rent

For the purposes of this clause 5, but subject to this clause 5.7, the market rent of the Premises is to be the highest rent reasonably obtainable for the Premises having regard to any lawful use which is consistent with the terms of this Lease, taking into consideration:

- (a) the current rents of comparable premises; and
- (b) all other relevant valuation principles,

but excluding from consideration:

- (c) any poor condition of the Premises which is the result of a breach by the Lessee of its obligations under this Lease;
- (d) Lessee's Property; and
- (e) any concessions, incentives or other inducements given to the Lessee in relation to the granting of this Lease, or which may be given to obtain another Lessee of the Premises, or given to the Lessees of comparable premises .

5.8 Retail Shops Act

If this Lease is a lease to which the Retail Shops Act applies:

- (a) **Market rent** is to have the meaning given to it in that Act; and
- (b) Clauses 5.3 to 5.8 inclusive apply subject to that Act but any provision of those clauses that is not overridden by the Act continues to apply.

5.9 Rent payment pending determination

In the event that there is a dispute under this clause 5 as to Rent, the Lessee must continue to pay the Rent payable immediately prior to the relevant Market Rent Review Date until the time as the Rent is determined. Upon determination of the Rent, the Rent will be payable with effect from the relevant Market Rent Review Date and any amount owing by the Lessee to the Lessor or by the Lessor to the Lessee as applicable must be paid by way of an adjustment at the Payment Date first occurring after the determination of the Rent together with, for the avoidance of doubt, interest calculated at the rate of interest set out in clause 4.2 on the amount of the adjustment payable.

6. Lessor's Covenants

The Lessor covenants with the Lessee, subject to the Lessee observing and performing the Lessee's Covenants:

6.1 Quiet enjoyment

The Lessee, except as provided in this Lease, is entitled to peaceably possess and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or any other person lawfully claiming by, from or under the Lessor.

6.2 Repairs and Maintenance

The Lessor agrees to comply with the obligations set out in Annexure 2, if any.

6.3 Entitlement to hire fees

The Lessee shall be entitled to all the hire fees received in relation to the hire of the Premises by any other person under clause 4.7(b).

7. Mutual Agreements

The parties agree as follows:

7.1 Default by Lessee

If:

- (a) the Rent shall be unpaid for FOURTEEN (14) days after it is due (whether demand for payment shall have been made or not); or
- (b) the Lessee shall breach any of the Lessee's Covenants and the breach shall continue for FOURTEEN (14) days after notice has been served on the Lessee by the Lessor; or
- (c) the Lessee being a company shall enter into liquidation whether compulsory or voluntary (except for the purpose of amalgamation or reconstruction) or a receiver or manager is appointed; or
- (d) the Lessee being an incorporated association shall have its incorporation cancelled, be wound up or cease to be an association eligible to be incorporated under the *Associations Incorporation Act 1987*; or
- (e) the Lessee ceases or threatens to cease carrying on business; or
- (f) the Lessee being a natural person shall commit an act of bankruptcy,

the Lessor at any time thereafter and without any notice or demand may enter and repossess the Premises. The Term and the estate and interest of the Lessee in the Premises shall immediately determine but without prejudice to any rights of the Lessor under this Lease and at law and without releasing the Lessee from liability in respect of any of the Lessee's Covenants.

Upon re-entry by the Lessor, the Lessor, after the Lessee has failed to comply with a written notice to remove its property within THREE (3) days, shall have the absolute right to remove any property left in or about the Premises and the Lessee shall indemnify the Lessor from and against all damage to that property and any reasonable costs that may be incurred by the Lessor as a consequence including but not limited to the costs of removal and storage.

7.2 Damages for breach of essential term

The Lessor and the Lessee agree that the covenants by the Lessee contained or implied in:

- (a) subclauses 4.1 and 4.3 to pay the Rent and Outgoings respectively at the times and in the manner provided;
- (b) paragraph 4.7(a) to use the Premises only for the purpose described in that paragraph; and
- (c) subclause 4.11 not to assign, sub-let, licence, mortgage, charge or otherwise part with possession of the Premises or any part of the Premises or in any way dispose of the benefit of this Lease except as provided for,

are (subject to the following proviso) essential terms of this Lease and the breach, non-observance or non-performance of any one of those covenants, terms or conditions shall be deemed to be a fundamental breach of the provisions of this Lease on the part of the Lessee PROVIDED THAT the presence of this subclause in this Lease shall not mean or be construed as to meaning that there are no other essential terms in this Lease. Should the Lessor terminate the Term under subclause 7.1, following any fundamental breach and without prejudice to any other right or remedy of the Lessor contained or implied in this Lease, the Lessee covenants with the Lessor (and agrees with the Lessor that this covenant will survive the determination of the Term) that the

Lessor shall be entitled to recover from the Lessee by way of liquidated damages for the breach the difference between:

- (i) the aggregate of the Rent and Outgoings which would have become payable by the Lessee to the Lessor if this Lease had expired by effluxion of time, calculated at the rate payable at the date of determination (less a rebate in respect of instalments of Rent and Outgoings not then accrued or due to be ascertained by applying a rate of 10% per annum to each instalment over the period by which the date for payment is brought forward by this subclause) together with any costs and expenses incurred by the Lessor or which the Lessor reasonably estimates are likely to be incurred by the Lessor as a result of that breach, including the cost to the Lessor of re-letting or attempting to re-let the Premises; and
- (ii) the aggregate of the Rent and Outgoings which the Lessor by taking proper steps to re-let the Premises shall obtain or could be reasonably expected to obtain by re-letting the Premises after that determination to the date this Lease would have expired by effluxion of time PROVIDED THAT in so doing the Lessor shall not be required or obliged to offer or accept in respect of that re-letting terms, covenants, conditions or stipulations which are the same or similar to the terms, covenants, conditions or stipulations contained or implied in this Lease.

7.3 Abatement of Rent

If the Premises or any part of them shall during the Term be destroyed or so damaged as to render the Premises unfit for occupation or use then the Rent or a fair and just proportion according to the nature and the extent of the damage sustained, from the date of such damage or destruction until the Premises shall be reinstated and made fit for occupation or use, shall be suspended and cease to be payable and any dispute concerning this provision shall be determined by a single arbitrator appointed by the parties in accordance with the provisions of the *Commercial Arbitration Act 1985* PROVIDED THAT the Rent shall be paid without any abatement until the date of the award of the arbitrator or agreement between the parties (whichever is the earliest) when the Lessor will refund to the Lessee any Rent overpaid by the Lessee.

7.4 Destruction of Premises

If during the Term the Premises are destroyed or substantially damaged so as to require rebuilding or reconstruction of the Premises either party may by notice in writing to the other terminate this Lease as from the date of the giving of that notice without prejudice to the Lessor's rights in respect of any antecedent breach of the Lessee's Covenants by the Lessee.

7.5 Lessor may remedy Lessee's default

If the Lessee omits or neglects to pay any money or to do or effect anything which the Lessee has agreed to pay, do or effect, then on each and every occasion the Lessor shall be entitled, without prejudice to any rights or powers the Lessor may have, to pay the money or to do or effect the thing by itself as if it were the Lessee and for that purpose the Lessor may enter upon and remain on the Premises for the purpose of doing or effecting that thing and any money expended by the Lessor shall be repayable by the Lessee to the Lessor upon demand.

7.6 Lessor not liable to third parties

The Lessor shall not be responsible for any loss, damage or injury to any person or property of the Lessee or any other person in or about the Premises due to the negligence of the Lessor.

7.7 Notices

Any notice required to be served under this Lease shall be sufficiently served on:

- (a) the Lessee if:
 - (i) left addressed to the Lessee at the Premises; or
 - (ii) forwarded to the Lessee by post to the Premises or to the address of the Lessee mentioned in this Lease; and
- (b) the Lessor if addressed to the Lessor and left at or sent by post to the Lessor's address mentioned in this Lease or such other address as may be notified to the Lessee from time to time,

and any notice sent by post shall be deemed to be given at the time when it ought to have been delivered in due course of post, unless the contrary is shown.

7.8 Holding over

If the Lessee remains in possession of the Premises after the expiration of the Term then the Lessee shall be a monthly Lessee of the Lessor at a rent equivalent to the Rent payable by the Lessee at the expiration of the Term and otherwise on the same terms and conditions of this Lease. Any holding over may be determined by either party giving one month's written notice to the other party of its intention to determine the holding over at the expiration of the period of notice or such other date as may be stated in the written notice.

7.9 Waiver

No waiver by the Lessor of any of the Lessee's Covenants shall operate as a waiver of another breach of the Lessee's Covenants.

7.10 Severance

In the event of any part of this Lease being or becoming void or unenforceable, whether due to the provisions of any Act or otherwise, then that part shall be severed from this Lease to the intent that all parts that shall not be or become void or unenforceable shall remain in full force and effect and be unaffected by any severance.

7.11 Act by agent

All acts and things which the Lessor or the Lessee is required or empowered to do under this Lease may be done by the Lessor or the Lessee (as the case may be) or the solicitor, agent, contractor or employee of the Lessor or the Lessee (as the case may be) as authorised by the Lessor or Lessee (as the case may be).

7.12 Exercise of powers

The Lessor may exercise the Lessor's Powers without any proof of default by the Lessee or the continuance of that default or any notice being required (other than as

provided in this Lease) and notwithstanding any laches, neglect or previous waiver by the Lessor in respect of any of the Lessee's Covenants or the exercise of any of the Lessor's Powers.

7.13 Non-merger

The terms or conditions of this Lease or any act, matter or thing done under or by virtue of or in connection with this Lease or any other agreement between the parties to this Lease shall not operate as a merger of any of the rights and remedies of the parties in or under this Lease or in or under any such other agreement all of which shall continue in full force and effect.

7.14 Proper law

This Lease shall be governed by the law of Western Australia.

7.15 Effect of execution

This Lease shall be binding upon each person or party who has executed it notwithstanding the avoidance or unenforceability of any part of this Lease.

8. Dispute Resolution

8.1 Notice of Dispute

In the event of a dispute between the Lessor and the Lessee concerning this Lease in any way, or concerning the rights and liabilities of the Lessor or the Lessee, the affected party may give the other a written notice setting out the material particulars of the Dispute.

8.2 Appointment of representative

Each party shall appoint a senior officer, or other person, with authority to negotiate and reach settlement, and the parties' representatives shall personally meet in Perth within TEN (10) business days of the date of the receipt of the notice calling for that meeting.

8.3 Best endeavours to resolve Dispute

The parties' representatives shall attempt to resolve the Dispute in good faith, and using their best endeavours at all times.

9. Arbitration

9.1 Notice to arbitrate

Provided that a party has not given a notice under subclause 8.1, or if it has that the Dispute has not been resolved under subclause 8.3, then:

- (a) any party to that dispute shall give notice in writing to the other party; and
- (b) at the expiration of SEVEN (7) days, unless the matter is settled in the interim, the Dispute shall be submitted to the arbitration of a single arbitrator who shall be a person appointed by the President of the Institute of Arbitrators (Western Australian Division).

9.2 Procedures

The arbitration will be held:

- (a) in Perth;
- (b) in accordance with the formalities and procedure settled by the arbitrator, and may be held in an informal and summary manner, on the basis that it will not be necessary to observe or carry out the usual formalities or procedures, pleadings and discovery or the strict rules of evidence;
- (c) as soon as possible after it is submitted with a view to it being completed within TWENTY EIGHT (28) days after it has been submitted to the arbitrator.

9.3 Final decision

The arbitrator's award shall be final and binding on the parties.

9.4 No entitlement to commence an action

No party is entitled to commence or maintain an action upon a Dispute until the matter in dispute has been referred to and determined by the arbitrator, and then only for the amount or relief to which the arbitrator, by her or his award, finds that party is entitled.

9.5 Costs of arbitration

The costs of the submission, reference or award are in the discretion of the arbitrator.

10. Amendments to Lease

This Lease may be amended only by the agreement of the Parties in writing.

11. Whole of Agreement

The Lessee acknowledges and declares that in entering into this Lease:

- (a) the Lessee has not relied on any promise, representation, warranty or undertaking given by or on behalf of the Lessor in respect to the suitability of the Premises or the finish, facilities, amenities or services on the Premises;
- (b) the covenants and provisions contained in this Lease as amended from time to time by the Parties in writing expressly or by statutory implication cover and comprise the whole of the agreement between the parties; and
- (c) no further or other covenants or provisions whether in respect of the Premises or otherwise shall be deemed to be implied or to arise between the parties by way of collateral or other agreement.

12. Moratorium Negatived

The application to this Lease of any moratorium or other Act (whether State or Federal) having the effect of extending the Term, reducing or postponing the payment of the Rent or any part of the Rent, or otherwise affecting the operation of the covenants, conditions and stipulations on the part of the Lessee to be performed or observed, or

providing for compensation, rights or privileges at the expense of the Lessor in favour of the Lessee or any other person, is expressly excluded and negated.

13. Goods and Services Tax

13.1 Definitions

In this Lease:

Basic Consideration means all consideration (whether in money or otherwise) to be paid or provided by the Lessee for any supply or use of the Premises and any goods, services or other things provided by the Lessor under this Lease (other than tax payable pursuant to this clause);

GST has the meaning that it bears in the GST Act;

GST Act means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and any legislation substituted for, replacing or amending that Act;

GST Adjustment Rate means the amount of any increase in the rate of tax imposed by the GST Law;

GST Law has the meaning that it bears in section 195-1 of the GST Act;

GST Rate means 10%, or such other figure equal to the rate of tax imposed by the GST Law;

Input Tax Credit has the meaning that it bears in section 195-1 of the GST Act;

Tax Invoice has the meaning which it bears in section 195-1 of the GST Act;

Taxable Supply has the meaning which it bears in section 195-1 of the GST Act.

13.2 Lessee must pay

(a) GST

If GST is payable on the Basic Consideration or any part thereof or if the Lessor is liable to pay GST in connection with the lease of the Premises or any goods, services or other Taxable Supply supplied under this Lease then, as from the date of any such introduction or application:

- (i) the Lessor may increase the Basic Consideration or the relevant part thereof by an amount which is equal to the GST Rate; and
- (ii) the Lessee shall pay the increased Basic Consideration on the due date for payment by the Lessee of the Basic Consideration.

(b) Increase in GST

If, at any time, the GST Rate is increased, the Lessor may, in addition to the GST Rate, increase the Basic Consideration by the GST Adjustment Rate and such amount shall be payable in accordance with paragraph 13.2(a)(ii).

13.3 GST invoice

Where the Basic Consideration is to be increased to account for GST pursuant to subclause 13.2, the Lessor shall in the month in which the Basic Consideration is to be paid, issue a Tax Invoice which enables the Lessee to submit a claim for a credit or refund of GST.

14. Western Australian Planning Commission Consent

If for any reason this Lease requires by law the consent of the Western Australian Planning Commission then this Lease is made expressly subject to and is conditional upon the granting of the consent of the Western Australian Planning Commission.

15. Guarantee

In consideration of the Lessor at the request of the Guarantor granting this Lease to the Lessee, the Guarantor hereby agrees with and guarantees to the Lessor the due and prompt performance of the covenants and conditions contained in this Lease on the part of the Lessee to be observed and performed upon and subject to the following conditions:

- (a) if the Lessee shall make default in any payment of rent or other sums of money to be made under this Lease for the space of 7 days the Guarantor will upon written request of the Lessor pay to the Lessor the amount which shall be so in arrear or unpaid;
- (b) if the Lessee shall make default in the performance or observance of any of the obligations of the Lessee under this Lease the Guarantor will pay to the Lessor all losses, damages, expenses and costs which the Lessor shall be entitled to recover from the Lessee or from the Guarantor by reason of such default;
- (c) this guarantee shall be a continuing guarantee and shall not be considered as wholly or partially discharged by the payment at any time or from time to time hereafter of any of the rent or other sums of moneys due and payable by the Lessee to the Lessor under this Lease or by any settlement on account or by any other matter or things whatsoever;
- (d) this guarantee shall continued for the duration of this Lease and for any assignment extension or renewal thereof and any holding over thereunder and shall extend to the acts and defaults of the Lessee during such duration, assignment extension, renewal or holding over;
- (e) notwithstanding the assignment by the Lessee of the benefit of this Lease the Guarantor shall remain liable to observe and perform all of the term covenants and conditions contained in this Lease and on the part of the Lessee to be observed and performed until the expiration of the term of this Lease;
- (f) this guarantee shall be a principal obligation and shall not be treated as ancillary to or collateral with any other obligation howsoever created or arising to the intent that this guarantee shall be enforceable unless the same shall have been satisfied according to the terms of this guarantee notwithstanding that any other obligation whatever arising between the Lessor and the Lessee shall be in whole or in part unenforceable whether by reason of any statute (including any statute of limitation) or for any other reason whatsoever;

- (g) unless the Lessor shall have received in full all rent and other sums of money due from the Lessee under this Lease or further lease the Guarantor shall be bound by this guarantee and in the event of the Lessee becoming bankrupt or entering into any scheme or arrangement in favour of creditors or being a company entering into liquidation either voluntarily or involuntarily the Guarantor shall not be entitled to proof or claim against the official receiver or liquidator in competition with the Lessor so as to diminish any dividend or any payment which the Lessor may receive but may prove or claim for and on behalf of the Lessor if so authorised by the Lessor and any such proof or claim by or on behalf of the Lessor shall not prejudice or affect the right of the Lessor to recover from the Guarantor any payment of rent and other sums of money to be made by the Lessee to the Lessor under this Lease;
- (h) this guarantee is to continue binding upon the Guarantor notwithstanding:
- (i) the death, bankruptcy or insolvency or liquidator (as the case may be) of the Lessee or the Guarantor or any one or more of them;
 - (ii) any change or alteration in the constitution of the Lessor the Lessee or the Guarantor; or
 - (iii) the happening of any matter or thing which under the law relating to sureties would but for this provision have the effect of releasing the Guarantor from this Guarantee or of discharging this Guarantee;
- (i) the liability of the Guarantor shall not be affected by any collateral rights or obligations which may exist between the Guarantor or any two or more of them and the Lessee and the same shall not be affected by any variation or avoidance of any such collateral rights or obligations;
- (j) the Lessor may at any time and from time to time without the consent of the Guarantor and without discharging, releasing, impairing or otherwise affecting the liability of the Guarantor under this guarantee grant to the Lessee or if more than one then to any one or more of them or to any person who may be jointly indebted with the Lessee to the Lessor at any time any forbearance, release, concession, indulgence, time or other consideration and may compound with or release the Lessee or if more than one then any one or more of them and also any such other person or may assent to any assignment to trustees for the benefit of creditors or any scheme or deed of arrangement and whether with or without sequestration of the estate or (in the case of a corporation) to the winding up of the Lessee or any of them if more than one or of any such person or to the appointing of a receiver or official manager for them or any one of them and may release or discharge or otherwise deal with any property whether real or personal comprised in any security which may or might be held by the Lessor without discharging or affecting the liability of the Guarantor under this Guarantee.

Schedule 1

1. The Encumbrances

Nil

2. The Land

[insert]

3. The Premises

That portion of the Land as is delineated for the purpose of identification only on the plan annexed to this Lease as Annexure 1 together with all buildings, fixture and fittings erected on it, including the kiosk facility and café known as 'The Boatshed Café', and including all carpets and floor coverings, window treatments (including but not limited to curtains and blinds) and other fixtures and fittings belonging to the Lessor and all additional or modifications and replacements for the time being.

4. Date of Commencement

[insert]

5. Term

21 years

6. Term of renewal

Nil

7. Rent

The Rent shall be \$78,700 plus GST per year, payable annually on the Date of Commencement subject to adjustment and review under clause 5, provided that if the adjustment and review would result in the Rent being calculated to be a lesser amount than the Rent applicable during the immediately preceding year then the Rent will remain unchanged for that year.

8. Permitted use of Premises

For use as a restaurant to provide meals for patrons of the Premises, together with associated activities, and without limiting the generality of that use:

- (a) for the purpose of a kiosk, café and food servery to provide and serve take-way food and beverages to patrons;
- (b) to take table bookings or reservations at any time from patrons;
- (c) for the sale and supply of liquor to patrons of the Premises for consumption in accordance with the *Liquor Control Act 1988*;
- (d) if an extended trading permit in accordance with section 60 of the *Liquor Control Act 1988* has been granted, for the sale and supply of liquor to patrons for consumption:

- (i) in an extended area of the Land such as an alfresco area, subject to obtaining the Lessor's prior approval, which shall not be unreasonably withheld;
 - (ii) attending a function that is conducted on the Premises without the requirement to have a meal; or
 - (iii) of the Premises without the requirement to have a meal where patrons are seated at a table or a fixed structure used as a table in the Premises, with bar sales not permitted;
- (e) nothing in (c) or (d) shall prevent a patron from bringing their own liquor into Premises with the consent of the Lessee (as licensee) for consumption with a meal and to remove any unconsumed portion of that liquor from the Premises when they leave, regardless of whether they purchased the liquor on the Premises or brought the liquor with them.

9. Public risk insurance

TWENTY MILLION DOLLARS (\$20,000,000)

10. Business Hours

Daily from 7.00 am to 10.00 pm unless otherwise agreed with the Lessor.

11. Trust

Nil

12. Market Rent Review Date/s

Each third anniversary of the Date of Commencement.

Schedule 2 – Lessee's Fixtures

Listed below are items supplied and installed by the Lessee:

Item	No
Nil	Nil

Executed by the parties as a deed.

The Common Seal of City of South Perth)
was affixed pursuant to a resolution of)
Council in the presence of:)
)

Signature of Chief Executive Officer

Name of Chief Executive Officer

Executed as a deed by **Millar Holdings**)
Pty Ltd (ACN 063 656 048) in)
accordance with section 127 of the)
Corporations Act 2001:)

Signature of Director

Signature of Secretary/other Director

Name of Director in full

Name of Secretary/other Director in full

Signed by **Graeme Ross Millar** in the)
presence of:)
)

Signature

Signature of Witness

Name of Witness in full

Annexure 1 – Plan of Premises

TYPE CROWN PURPOSE SUBDIVISION PLAN OF		LOT 1203 AND EASEMENT		DISTRICT SWAN TOWNSITE PERTH LOCAL AUTHORITY SOUTH PERTH CITY OF SOUTH PERTH FORMER TENURE ON PI LOT 18935 CP RESERVE 381 3107/481		DOLA FILE 2113/935 V6 FIELD BOOK #5182	
EARLY ISSUE NO		SCALE: 1:600 ALL DIMENSIONS ARE IN METRES		SURVEYOR'S CERTIFICATE - Reg 64 CHARLES A. YERGANZE Surveyor General The Act of Survey is a correct representation of the survey and/or conditions shown, and the same is correct in accordance with the provisions of the Act and the regulations made thereunder.		SURVEYOR'S CERTIFICATE - Reg 64 CHARLES A. YERGANZE Surveyor General The Act of Survey is a correct representation of the survey and/or conditions shown, and the same is correct in accordance with the provisions of the Act and the regulations made thereunder.	
LOGGED DATE 14/09/2007 BY M.A. LAMON		TYPE OF VALIDATION FULL PLAN LOCAL AUTHORITY RESOLUTION PILOT/ ORIGINAL CURRENT		APPROVED BY WESTERN AUSTRALIAN PLANNING COMMISSION		APPROVED DATE 14/09/2007	
IN ORDER FOR DEALINGS SUBJECT TO		INTERESTS AND NOTIFICATIONS		COMMENTS		DEPOSITED PLAN 28824	
SUBJECT PURPOSE EASEMENT (ACCESS)		STATUTORY REFERENCE SEC 114 OF THE L.A.A.		LAND SURVEYED LOT 18935 (48/545)		SHEET 1 OF 1 BLOCK 1 YERGANZE	
ALL DISTANCES ARE IN METRES SCALE 1:600		INTERESTS AND NOTIFICATIONS		SUBJECT TO CITY OF SOUTH PERTH		APPROVED DATE 14/09/2007	

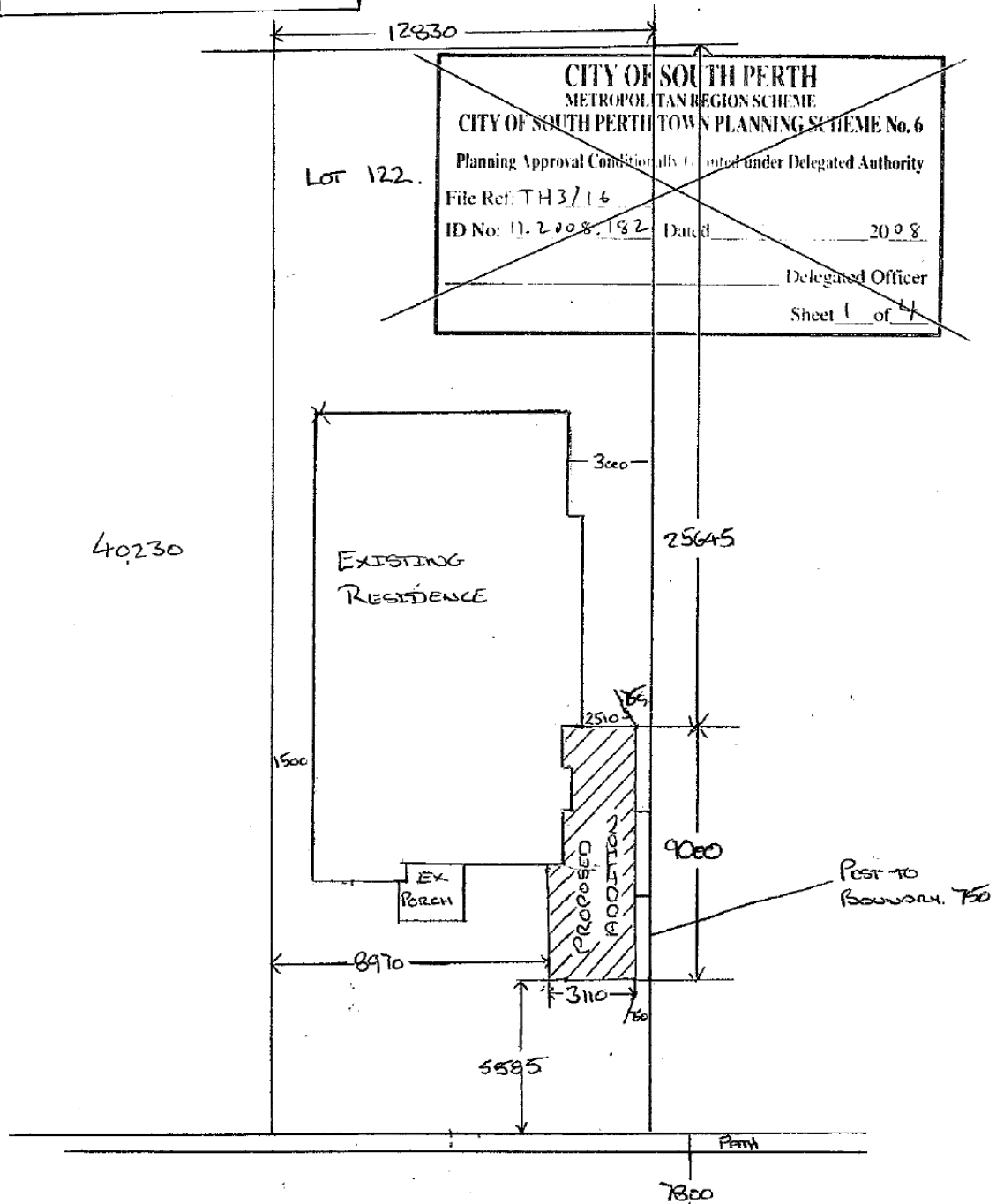
PROJECT	PROPOSED ADDITION
CLIENT	PAULINE CHIA
ADDRESS	16 THIRD AVENUE KENSINGTON WA 6151
DATE	21-3-08

SCALE 1:200

MEASUREMENTS IN M

PLANNING

COPY



Lot 122 (No. 16) Third Avenue, Kensington - site plan

REPORT	PROPOSED ADDITION
CLIENT	PAULINE CHIA.
ADDRESS	16 THIRD AVENUE KENSINGTON-WA WA 6151
DATE	21-3-08

SCALE

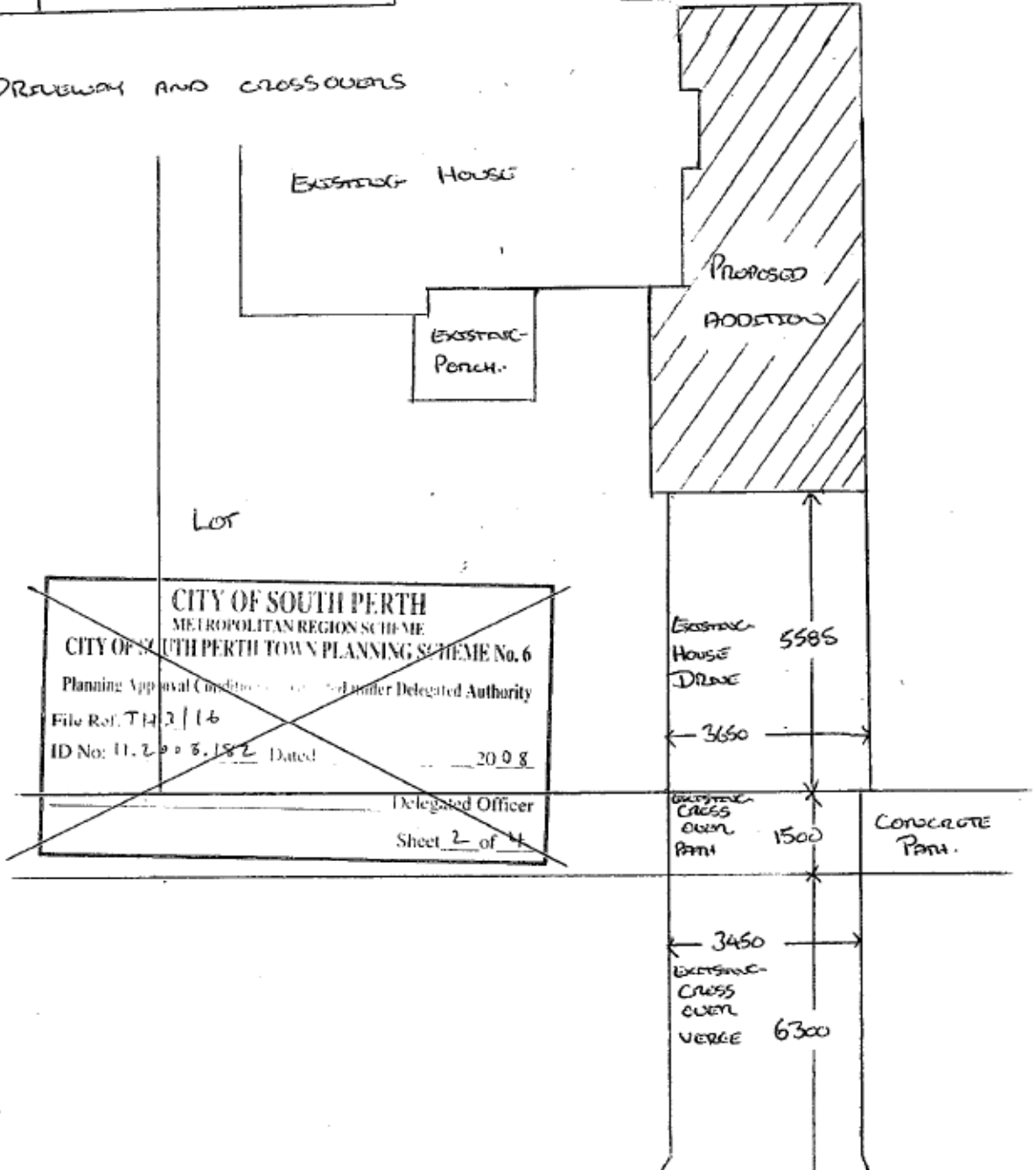
1:100

MEASUREMENTS

mm

CONSTRUCTION	STEEL
COLUMN POSTS	COLUMN 90x90
COLUMN PERIMETRE BEAMS	COLUMN 76x38
COLUMN ROOF SHEETS	COLUMN POLY CARB STEEL
COLUMN INFILL SHEETS	COLUMN LATTICE

DRAWLWAY AND CROSSOVERS



Lot 122 (No. 16) Third Avenue, Kensington - detail of the site plan (a)

26 Jun 08 01:13 Sanders

PROJECT	PROPOSED ADDITION
CLIENT	PAULINE CHIA.
ADDRESS	16 THIRD AVENUE KENSINGTON WA 6151
DATE	21-3-08

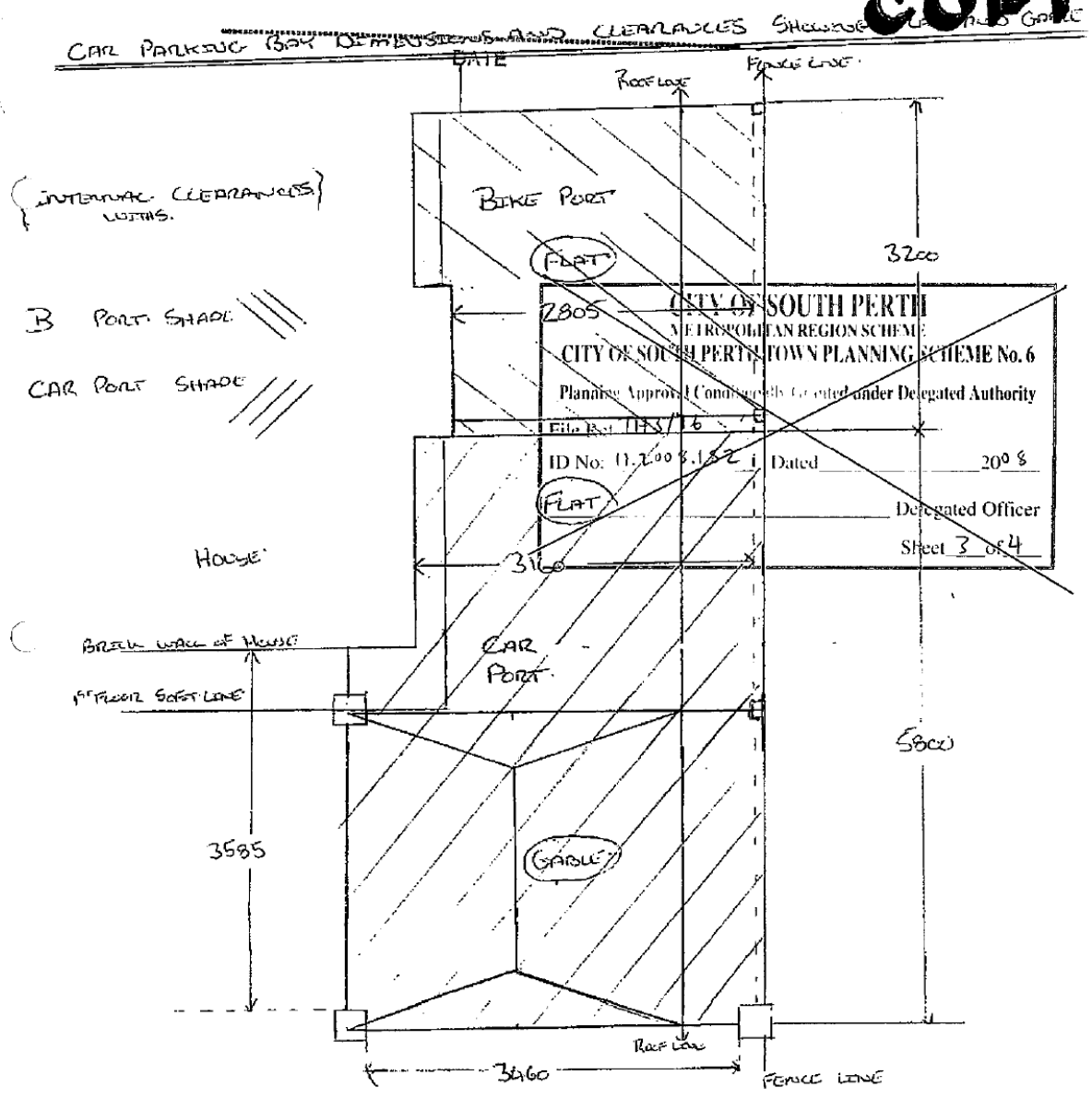
SCALE
1:50

MEASUREMENTS
mm

01255503706 COLOR CONSTRUCTIONS	p.1 STEEL
COLOR POSTS	CRUM 90x90
COLOR PERIMETRIC BEAMS	CRUM 76x39 150x50
COLOR ROOF SHEETS	CRUM POLY CARB STEEL
COLOR FENCE SHEETS	CRUM LATTICE

AMENDED PLAN

PLANNING
COPY



CITY OF SOUTH PERTH
METROPOLITAN REGION SCHEME
CITY OF SOUTH PERTH TOWN PLANNING SCHEME No. 6
Planning Approval Conditionally Granted under Delegated Authority
File Ref: 1153/16
ID No: 11,700 8,182 | Dated: 2008
Delegated Officer
Sheet 3 of 4

Lot 122 (No. 16) Third Avenue, Kensington - detail of the site plan (b)

26 Jun 08 01:13 Sanders

PROJECT	PROPOSED ADDITION
CLIENT	PAULINE CHA
ADDRESS	16 THIRD AVENUE KENSINGTON WA 6151
DATE	21-3-08

SCALE

1:100

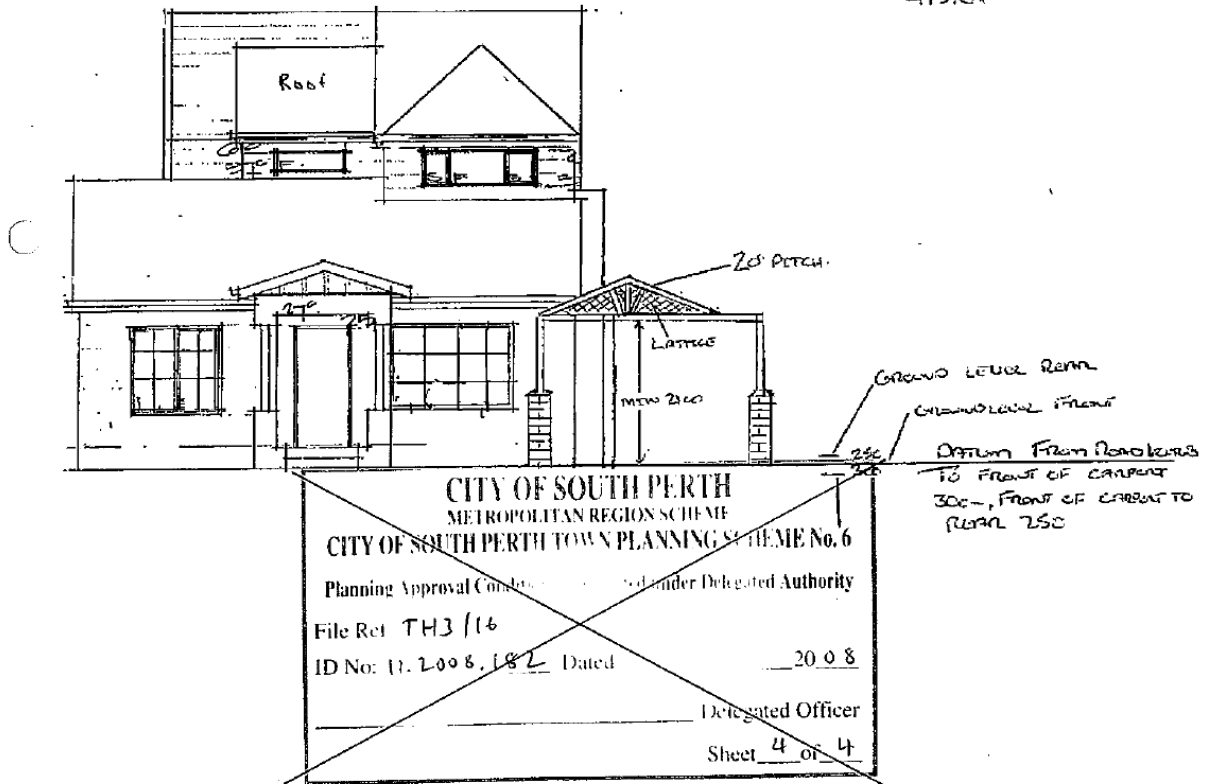
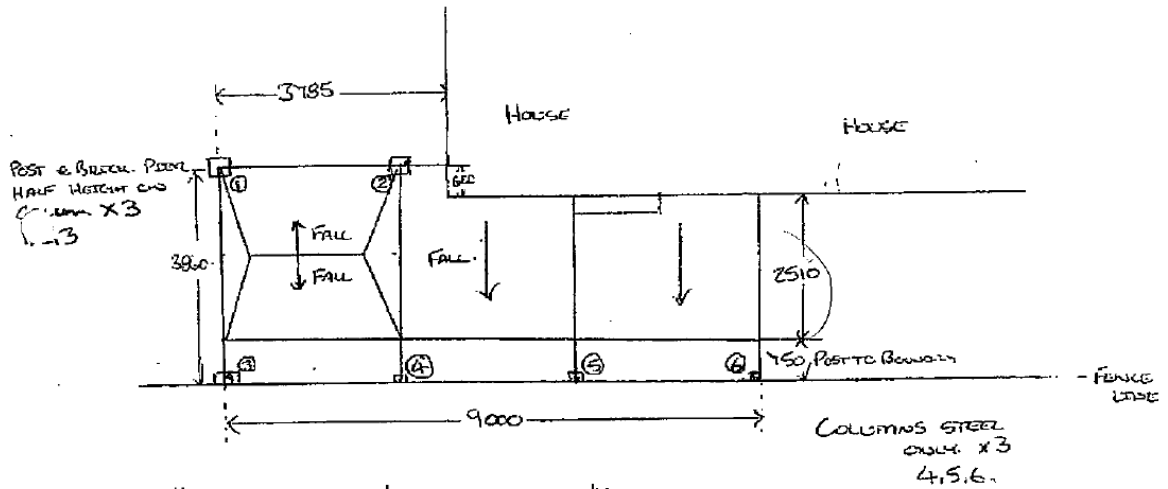
MEASUREMENTS

mm

01255503706

p.2

COLOR CONSTRUCTION	COLOR STEEL
COLOR POSTS	COLOR 40x40
COLOR PERIMETRE BEAMS	COLOR 76x38 150x50
COLOR ROOF SHEETS	COLOR POLY CARB STEEL
COLOR INFILL SHEETS	COLOR POLY CARB LATTICE



CITY OF SOUTH PERTH
METROPOLITAN REGION SCHEME
CITY OF SOUTH PERTH TOWN PLANNING SCHEME No. 6

Planning Approval Conditionally Approved under Delegated Authority

File Ref TH3/16

ID No: 11.2008.182 Dated

20 0 8

Delegated Officer

Sheet 4 of 4

Lot 122 (No. 16) Third Avenue, Kensington - front elevation



NOTES

Bentley Technology Precinct Update

**Held in the Council Chamber
Tuesday 2 October 2007
Commencing at 5.30pm**

Present

Councillors:

R B Maddaford (Deputy Mayor) Mill Point Ward (Chair)

J Best	Civic Ward
G W Gleeson	Civic Ward
L P Ozsdolay	Manning Ward
C A Cala	McDougall Ward
R Wells, JP	McDougall Ward
S Doherty	Moresby Ward
K R Trent, RFD	Moresby Ward

Officers:

Mr S Cope	Director Planning and Community Services
Mr G Flood	Director Infrastructure Services (until 6.30pm)
Mr C Buttle	Manager Development Assessment
Mr R Bercov	Strategic Urban Planning Adviser

Presenters

Mr Peter Walton	Director, NS Projects (until 6.30pm)
Dr Linley Lutton	Principal Advisory Hames Sharley (until 6.30pm)
Ms Lynden Prince	Creating Communities (until 6.30pm)

Apologies

Mayor J Collins, JP (Chairman)	
Cr D S Smith	Mill Point Ward
Cr L J Jamieson	Manning Ward
Mr C Frewing	Chief Executive Officer

OPENING

The Deputy Mayor opened the Concept Forum at 5.30 pm and welcomed everyone.

1. Bentley Technology Precinct

The Director Planning and Community Services introduced the representatives from NS Projects, Hames Sharley and Creating Communities.

Mr Peter Walton of NS Projects gave a PowerPoint presentation in which he outlined the stages in the study process including the community consultation program, the Canning Corridor and the sustainability model.

Dr Linley Lutton an urban designer of Hames Sharley presented a PowerPoint presentation covering the following key points:

- development strategy concept
- site planning analysis
- opportunity and constraints analysis
- water sensitive design principles
- integration of indigenous cultural ideas
- preliminary structure plan
- land use plan
- traffic investigations proposed
- transformation of existing character

One of the key design concepts spoken of was the idea of zones of intensity like a series of stepping stones, each approximately 10 minutes walk apart winding through Curtin University and Technology Park to the Department of Agriculture site; the ultimate aim being to allow for interaction and cross fertilisation of ideas between students, lectures, researchers, universities, creators and entrepreneurs to enable them to develop innovative ideas in the ICT sector and grow enterprises.

It was outlined that in the initial phase of development an ICT innovation intense hub is proposed for the large open plan area at Curtin University along Hayman Road linked via walkways to a mixed use town centre on government owned land at Technology Park where services such as cafes, shops, banks, theatre will be located thus creating areas where people can interact casually.

In conclusion both presenters spoke about the proposed transformation of existing character and generating a new intensity of development. It was also noted that ongoing benefits of these initiatives include world leading innovation and entrepreneurship, a dynamic vibrant and creative community, seamless meshing of key players and new intellectual and financial rewards.

Questions were raised by Councillors and responded to by the Consultants on the following issues:

- whether the proposed high rise buildings would be mixed use;
- whether traffic studies had been initiated;
- how the Consultants intended to address traffic flow/congestion problems on South Terrace/Douglas Avenue;
- whether it was envisaged that the project would be administered by an overall project development authority;
- whether the proposed town centre would compete with other existing commercial centre;
- whether it was intended to introduce social infrastructure into the development concept;
- whether any impact on Collier Park Golf Course was proposed;
- whether community safety, security considerations would be addressed;
- compatibility of existing land uses on north east side of Hayman Road with proposed development concept;
- whether Consultants are liaising with Curtin University with regard to parking and public transport;
- whether the community consultation/engagement program is proposed to be continuous while the Consultants are engaged or periodic; and
- whether it is intended to engage all stakeholders and the community in preparation of the Structure Plan from the beginning.

Note: Unfortunately the City has not been provided with a copy of the Consultants' presentations at this stage and this has been requested and will be circulated when received.

Note: This part of the Briefing concluded at 6.30pm.
Representatives from NS Projects, Hames Sharley and Creating Communities left at 6.30pm
The Director Infrastructure Services retired from the meeting at 6.30pm.

2. Closure

The Deputy Mayor thanked those present and closed the briefing at 7.15 pm.



NOTES
CONCEPT FORUM
Bentley Technology Precinct
Held in the Council Chamber
Thursday 29 November 2007
Commencing at 5.30pm

Present:

Mayor J Best

Councillors:

I Hasleby

Civic Ward

P Best

Como Beach Ward

L P Ozsdolay

Manning Ward

C Cala

McDougall

S Doherty

Moresby Ward

Officers:

Mr C Frewing

Chief Executive Officer

Mr S Cope

Director Planning and Community Services

Mr G Flood

Director Infrastructure Services

Mr R Bercov

Strategic Urban Planning Adviser

Presenters

Mr Peter Walton

NS Projects

Dr Linley Lutton

Hames Sharley

Ms Lynden Prince

Creating Communities

Mr Behnam Bardbar

Transcore

Apologies

Cr T Burrows

Manning Ward

Cr D Smith

Mill Point Ward

Cr K Trent

Moresby Ward

Gallery

11 members of the public attended from 6.30pm

OPENING

The Mayor opened the Briefing at 5.30pm, welcomed everyone in attendance and then introduced the members of the Consultant Team.

1. Bentley Technology Precinct

Peter Walton of NS Projects gave a power point presentation covering the following topics:

- Vision statement for the Bentley Technology Precinct
- Phase 1 Structure Plan milestones
- Parallel projects - Bentley Technology Precinct / Canning Activity Corridor

Lynden Prince of 'Creating Communities' delivered a power point presentation outlining the strategy for community and stakeholder engagement.

It was explained that in Phase 1 the focus is on stakeholder engagement including:

- Dialogue Cafes
- Sundowner for Technology Park tenants
- Interviews
- Blog site www.communityofminds.com.au
- Email blasts
- Council briefings
- Traditional owners' consultation

It was explained that in Phase 2 the focus is to be both community and stakeholder engagement including:

- Postcards to residents
- Infoline
- Information point at Technology Park Function Centre
- Open days at local shopping centres
- Opportunity for community group briefings
- Advertorials in local papers
- Project newsletters
- Project profiles
- Blogsite
- Email blasts
- Dialogue Cafes

Dr Linley Lutton of Hames Sharley gave a power point presentation covering the following points:

- Development strategy
- Main issues
- Conceptual layers
- Current focus
- Preliminary Master plan
- Canning Activity Corridor
- Traffic and transport strategies
- Governance
- timing
- streetscapes
- sustainability check
- development potential

Questions were raised by Members and responded to by presenters / officers on the following matters:

- potential areas for future development of student housing
- allowance in timetable for local government town planning scheme amendments
- proposed methods to minimise any potential increase in traffic volumes

2. **Open to the Public**

Following the conclusion of the Concept Forum presentations at 6.30pm the Concept Forum was open to the public.

The Mayor welcomed 11 members of the public and read aloud apologies from Simon O'Brien MLC, John McGrath MLA and Denise Thomas, Immediate Past President P& C Kensington Primary School.

Peter Walton, Lynden Prince and Linley Lutton presented power point presentations covering similar points to those outlined in the earlier briefing to Members.

Questions were raised by Councillors and members of the public and responded to by the presenters / officers on the following issues:

- Whether public parking stations and CAT bus systems were proposed
- Whether blog site would benefit from more feedback/two way flow
- The nature of the community engagement program
- Whether traffic volumes are likely to increase and potential management strategies
- Potential impact of Structure Plan proposals on hockey stadium (in response-no impact intended or expected)
- Whether consideration was being given to east-west connections for pedestrian movement
- Whether engagement processes were designed to capture the interest of the 'Y' Generation
- Whether the Manning Road connection to the Kwinana Freeway is to be considered
- Whether built form construction is to be by developers or another delivery mechanism, and how the vision is to be maintained.

3. Closure

The Mayor thanked everyone for their attendance and closed the Concept Briefing at 8.05pm.



NOTES
CONCEPT FORUM
Bentley Technology Precinct Update
Held in the Council Chamber
Wednesday 25 June 2008
Commencing at 5.30pm

Present

Mayor J Best

Chairman

Councillors:

I Hasleby

Civic Ward

P Best

Como Beach Ward

T Burrows

Manning Ward (until 6.55pm)

L P Ozsdolay

Manning Ward

C A Cala

McDougall Ward

R Grayden

Mill Point Ward (from 5.40pm)

S Doherty

Moresby Ward

Officers:

Mr C Frewing

Chief Executive Officer

Mr S Cope

Director Development and Community Services

Mr L Croxford

Manager, Engineering Services

Mr R Kapur

Acting Manager, Development Assessment

Mr R Bercov

Strategic Urban Planning Adviser

Mrs G Fraser

Strategic Senior Planning Officer

Ms N Cecchi

PA Director Development and Community Services (Notes)

Guests

Mayor Trevor Vaughan

Town of Victoria Park

Deputy Mayor Keith Hayes

Town of Victoria Park

Cr John Bissett

Town of Victoria Park

Mr Brian Callander

Town of Victoria Park - Acting Chief Executive Officer

Ms Rochelle Lavery

Town of Victoria Park - Director, Sustainable Development

Mr Chris Eaton

Town of Victoria Park - Senior Strategic Planner (from 5.48pm)

Presenters

Mr Damian Fasher

BTP Project Team - NS Projects

Mr Dan Caddy

BTP Project Team - NS Projects

Ms Lynden Prince

BTP Project Team - Creating Communities

Apologies

Cr G W Gleeson	Civic Ward
Cr B Hearne	Como Beach Ward
Cr R Wells, JP	McDougall Ward
Cr D Smith	Mill Point Ward
Cr K R Trent, RFD	Moresby Ward
Mr Roy Chapman	Department of Industry and Resources

OPENING

The Mayor opened the Concept Forum at 5.30pm, welcomed everyone in attendance and advised on the format of the briefing.

1. Bentley Technology Precinct

The Mayor commended Hames Sharley and the BTP Team for their contribution to this project, and introduced the presenters.

Mr Damian Fasher provided the following overview of the Bentley Technology Precinct ‘vision’:

- Structure plan.
- Built form.
- Sub precincts.
- Special control areas.
- Kent Street narrowing.
- MRS Amendment.
- New intersections.
- Overall summary.
- Town centre.
- Street sections.
- Transport and traffic.
- Centralised public parking.
- Maximum height limit equivalent to 57 AHD.
- Development envelope studies for DAP1.
- Vision keeping.
- Alliance / Land assembly - Key stakeholder negotiations / Alliance agreement / Timing.
- Implementation programme - BTP processing of applications (draft).
- Business case - Overall positive / Need Stage 1 and 2 to be completed.

Ms Lynden Prince provided an executive summary of ‘community consultation’ which included opportunities for input and consultation results.

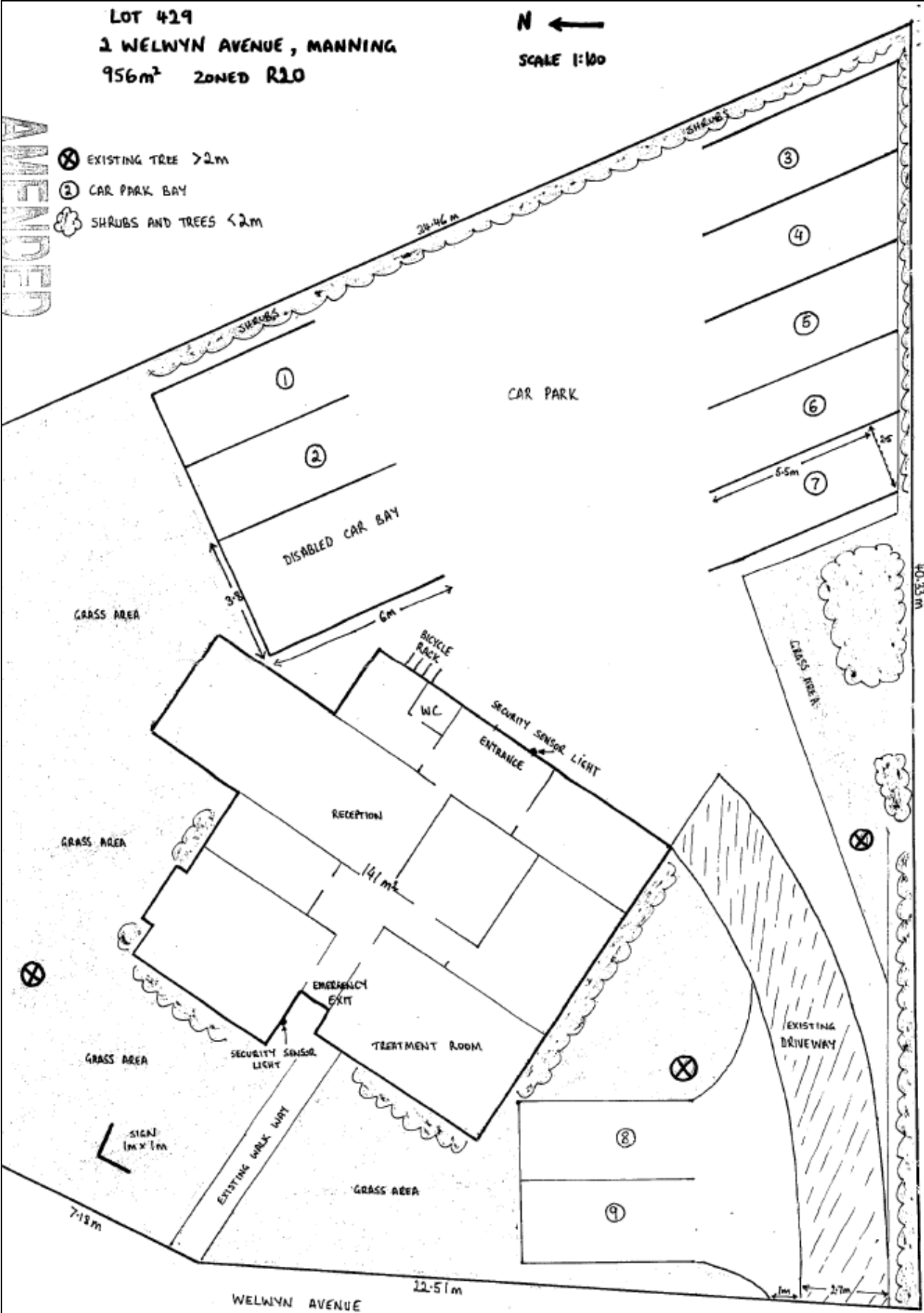
At the conclusion of the presentation, Members raised questions and points of clarification which were responded to by the presenters and City Officers.

The Mayor thanked the presenters for addressing the Concept Forum.

Note: Councillor Burrows left the meeting at 6.55pm.

Closure

The Mayor closed the Concept Forum at 7.04pm and thanked everyone for their attendance.

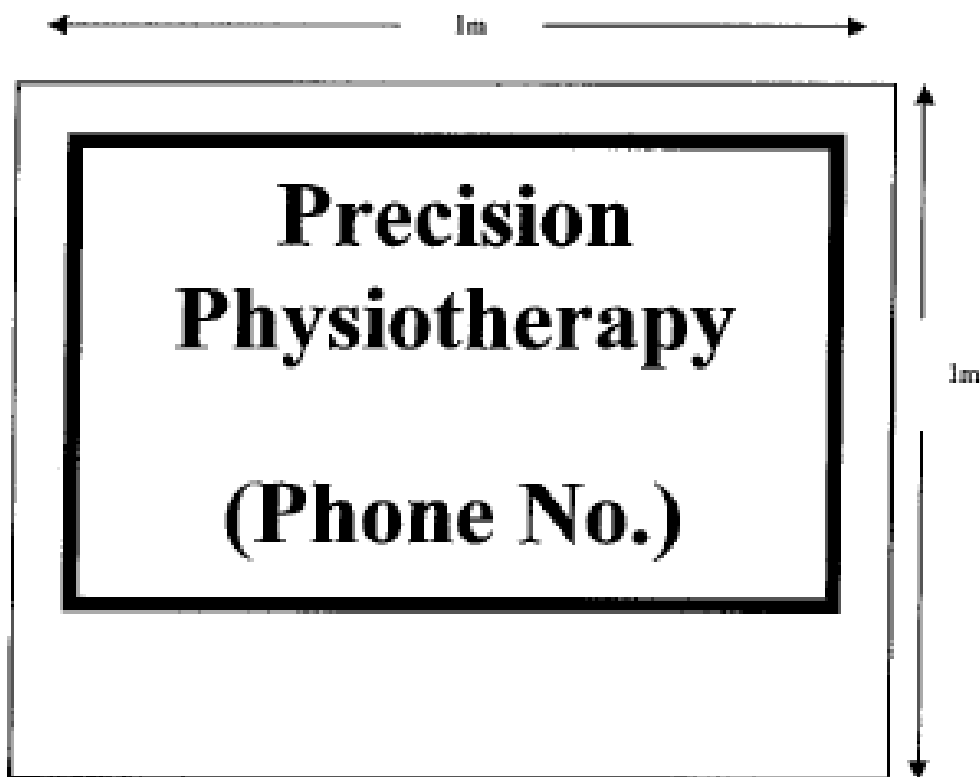


Lot 429 (No. 2) Welwyn Avenue, Manning - Proposed development

Proposed sign to face the traffic lights
on the corner of Manning Road and Welwyn Avenue.

(See scale drawings)

The sign has 2 sides, made of brick: 1-2 bricks thick (bricklayer's opinion)
Painted off-white colour with navy blue border and writing.

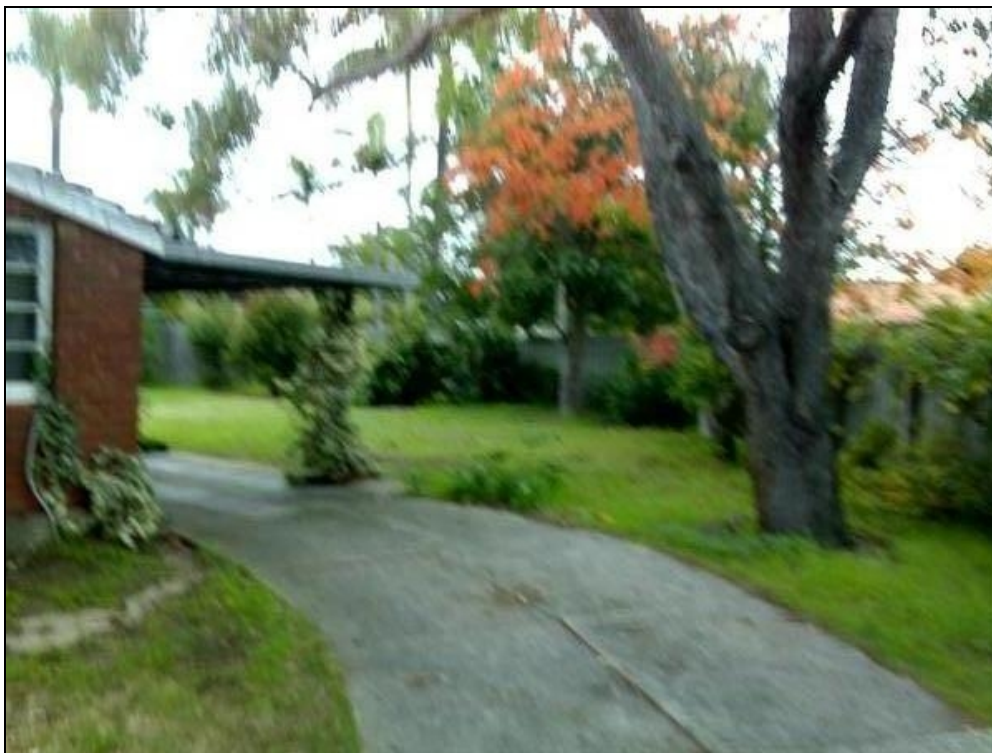


Bird's eye view





Lot 429 (No. 2) Welwyn Avenue, Waterford- front



Lot 429 (No. 2) Welwyn Avenue, Waterford - rear



Lot 429 (No. 2) Welwyn Avenue, Waterford - southern boundary



Lot 429 (No. 2) Welwyn Avenue, Waterford - eastern boundary

SOUTHCARE INC



54 Bickley Crescent, Manning WA 6152
Tel: (08) 9450 6233 | Fax: (08) 9450 2324

9th May 2008

Mr Lloyd Anderson
Planning Officer
The City of South Perth
Civic Centre, Cnr Sandgate St & South Tce
SOUTH PERTH WA 6151

CITY OF SOUTH PERTH	
12 MAY 2008	
Doc ID No:	
File No:	BT1153
Original To:	PS
Action <input checked="" type="checkbox"/>	Info <input type="checkbox"/> File <input type="checkbox"/>

Dear Lloyd

Re: Southcare Planning Approval

Further to our conversation on 6th May 2008 I would like to clarify a number of issues in regards to Southcare's request for planning approval of a 2 storey construction at 53 Bickley Crs Manning.

1. Religious Activities of Southcare

Southcare is an entity motivated by Christian caring and modelled on Christian Principles. The organisation is an Incorporated Association and was established as a consequence of agreement amongst local churches within the City of South Perth on 10th November 1982.

Southcare's activities are consistent with its non profit Public Benevolent Institution status with the Australian Taxation Office and include conduct of worship and provision of pastoral care.

The Australian Taxation Office has awarded Income Tax Exempt Charity (ITEC) and Deductible Gift Recipient status to Southcare.

The spiritual well being of people that Southcare services is recognised and responded to by our Board, staff and volunteers. This practice will continue in regards to people seeking Southcare's assistance at the proposed building.

This responsiveness includes:

- Conduct of worship;
- Meeting with and visiting the sick, the poor, or persons otherwise in need of emotional and spiritual support;
- Teaching and counselling members of the surrounding community;
- Providing and / or linking people to pastoral and spiritual care;

Patron: Mrs Ruth Reid A M

• Activity Centre for Frail Aged • Activity Centre for Young People with Disabilities • Aboriginal Family Support
• Community Visitors Scheme • Dementia Respite Centre • Emergency Relief • Financial Counselling & Advocacy Services
• Home Support • Low Cost Food Store • Recycled Clothing Opportunity Shop

www.southcare.org.au

- Peaceful endeavor in accordance with Christian principles;
- Inclusion of people seeking our help in the celebration of key religious events in the Christian calendar;
- Distribution of aid to the poor, sick, frail aged and disadvantaged in accordance with Christian caring and principles. This aid includes food and clothing;
- Collecting donations and gifts for the benefit of disadvantaged people;
- Shared use of facilities and land with the Manning Uniting Church

Local churches with representation on Southcare's board of Management include:

- South Perth Uniting Church
- Anglican Church of Manning / Como
- Holy Family Catholic Church
- Como Uniting Church
- Manning Uniting Church

Please note the proposed construction is not going to be used as a headquarters for all local churches.

Southcare's has a constitutional commitment to Christian principles. This is demonstrated by the following clauses in Southcare's constitution:

1. OBJECTIVES

The Association is motivated by Christian caring and modelled on Christian Principles providing emergency relief and caring services principally in the City of South Perth or as determined by the Executive Committee.

- (a) *To stimulate the development of a caring community in which fellow members of the community care for and assist one another;*
- (b) *To provide caring services for those who are disadvantaged by age, sickness, handicap, unemployment, poverty, social or familial stress or other circumstances and assist them in increasing their control of the circumstances in which they find themselves,*
- (c) *To bring together volunteers from within member organisations and elsewhere to participate in the delivery of appropriate services,*
- (d) *To make services available to all members of the community.*

2. **Other Activities of Southcare**

Our organisation specialises in the delivery of services to aged and disadvantaged people. A key goal of services that we deliver to aged people is to assist them to remain in their own homes and independent for as long as is practicable. Our services to disadvantaged people aim to help empower them and assist them to resolve life issues they may be confronted with.

Programmes and activities undertaken by Southcare include the following:

- Emergency Relief
- Financial Counseling
- Low cost food outlet
- Aboriginal family support

- Frail Aged Care
 - Home and Community Care Services (HACC)
 - Veterans Home Care
 - Community Visitors' Scheme
 - Community Aged Care Packages
 - Home Care Packages
 - Activity center for frail aged
 - Dementia respite center
 - Carers support and respite
- Activity center for young people with disabilities
- Recycled clothing outlet

Evaluations of our services indicate that people who access them appreciate our community setting, the option to access a number of services in one locality and our discrete service delivery. In combination these aspects of our service reduce stigma for aged and disadvantage people seeking help and assist them to easily and cheaply access the key services they require, often at the most basic level.

3. Foot print and Floor Area of the Proposed Construction

The proposed 2 storey construction is designed and equipped for the delivery of religious and other activities as described above.

The foot print of the proposed construction has been reduced in comparison with the single storey construction that has already received planning approval from COSP.

The floor area of the 2 storey construction is 414 m² and is less than many 2 storey residences elsewhere in the City of South Perth

4. Street Scape

The proposed construction has a number of appropriate street scape characteristics that align with local residential buildings. For example the proposed construction has:

- Residential style windows
- Rendered brickwork
- Tiled Roof
- Foot print positioning that minimizes overlook in neighbouring properties

5. Garden structure

The structure associated with gardening will be used to house vehicles and hide these from view of neighbouring properties.

6. Client Catchment Area

Southcare's client catchment area spans the City of South Perth and is in accordance with the organisation's constitution.

Southcare's core geographical service area includes the following localities:

Como	6.7 sq. Kms
Karawara	1.0 sq. Kms
Kensington	2.6 sq. Kms
Manning	1.7 sq. Kms
Salter Point	1.6 sq. Kms
South Perth	5.2 sq. Kms
Waterford	1.6 sq. Kms
Total Area	20.4 sq. Kms

A small percentage of clients serviced by Southcare live outside the 6151 and 6152 postcode areas. These clients are generally individuals who live very close to Southcare's service boundary's or who have previously lived within the boundaries when they commenced receiving a Southcare service but have since moved residence.

Please see attached a map defining Southcare's City of South Perth operations.

7. Parking

Staff who will use the proposed new building are currently using on street parking facilities in Bickley Crs and sharing these facilities with the Manning Uniting Church and the public seeking our assistance. The proposed construction has 16 extra parking bays associated with it. Southcare doesn't expect numbers of staff to be based in the proposed construction to increase by more than 6 over a 10 year period.

8. Relationship with COSP

Southcare has a Community Partnership relationship with the COSP. Our organization has consistently worked in harmony with the COSP to deliver appropriate services to rate payers of COSP. Southcare's delivery of aged care services has removed the need for the City to take direct responsibility for these services as a number of other local governments have done.

Three COSP councilors hold positions on the Board of Southcare.

9. Support of Bickley Crs Resident

Southcare's CEO has attended a meeting with the owner / occupier of the only private residence with a Street address within the cul de sac associated with 53 Bickley Crs. The proposed construction was discussed with the owner / occupier and the concept drawings were viewed. Feedback from the owner / occupier was positive and no objections were raised.

I look forward to Council's favourable consideration of Southcare's planning approval application and receiving written confirmation of its success no later than 30th June 2008.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G Hope', written over a light blue horizontal line.

Graham Hope
CEO

SOUTHCARE INC



54 Bickley Crescent, Manning WA 6152
Tel: (08) 9450 6233 | Fax: (08) 9450 2324

26th June 2008

Mr Lloyd Anderson
Planning Officer
The City of South Perth
Civic Centre, Cnr Sandgate St & South Tce
SOUTH PERTH WA 6151

CITY OF SOUTH PERTH 27 Jun 2008		
Date:		
File No:	61 1/53	
Original To:	PS	
Action <input checked="" type="checkbox"/>	Info <input type="checkbox"/>	File <input type="checkbox"/>

Dear Lloyd

Re: Southcare Planning Approval (Two Storey Construction)

Further to your email dated 19th June 2008 please find below further detail in regards to the activities that are expected to be conducted at 53 Bickley Crescent should construction occur.

These activities may include the following:

- Seeking funding for current and new programmes in order to provide care for the aged and disadvantaged in our area of interest
- Implementing and administering Southcare programmes for frail aged people & others;
- Meeting with and interviewing frail aged people;
- Defining and documenting the needs of individual frail aged people;
- Developing care plans for individual frail aged people;
- Scheduling services for individual and small groups of frail aged people;
- Arranging for and assisting frail aged people to gain access to third party services e.g. medical appointments, assessments, transport etc;
- Recording and maintaining records associated with frail aged people and the services they receive;
- Reviewing services provided to frail aged people and adapting these as may be required;
- Occasionally undertaking on site day care activities and geriatric care for small groups of frail aged people;
- Providing disadvantaged people with access to food, blankets, clothing, groceries and assisting them with payment of debts e.g. utility bills;

Patron: Mrs Ruth Reid A M

• Activity Centre for Frail Aged • Activity Centre for Young People with Disabilities • Aboriginal Family Support
• Community Visitors Scheme • Dementia Respite Centre • Emergency Relief • Financial Counselling & Advocacy Services
• Home Support • Low Cost Food Store • Recycled Clothing Opportunity Shop

www.southcare.org.au

Page 1 of 2

- Providing face to face and telephone counselling, guidance, advocacy and support services to disadvantaged people;
- Monitoring and supervision of Mooditj Keila activities;
- Conduct of Board and other small group meetings;
- Planning and recording formal assessments of frail and aged people to qualify them for Government assistance via Southcare.

I look forward to Council's favorable consideration of Southcare's planning approval application and receiving written confirmation of its success in the near future.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G Hope', written over a faint dotted line.

Graham Hope
CEO

SOUTHCARE INC



54 Bickley Crescent, Manning WA 6152

Tel: (08) 9450 6233 | Fax: (08) 9450 2324

30th July 2008

Mr Lloyd Anderson
Planning Officer
City of South Perth
Cnr Sandgate St and South Terrace
SOUTH PERTH WA 6151

Dear Lloyd

Re: Proposed Southcare Development (BI1/53; 11.2008.88)

Further to your email dated 18th July 2008 and our meeting held on 22nd July 2008 please find below Southcare's response.

1.0 Design Advisory Consultants comments

1.1 Prohibited Use

Southcare understands the proposed development may satisfy the COSP's Town Planning Scheme planning requirements associated with the category of "Residential, Use not Listed".

1.2 Design Scale and Layout

The total area of the proposed Southcare development is 414.86 m². Southcare does not consider this area to be excessive in size when comparisons are made with existing two storey residences within the COSP. Mid level roofing has been integrated into the design of the proposed Southcare development in accordance with recommendations from COSP.

Southcare has also complied with the COSP's requests to expand the area of landscaping by reducing courtyard area and the height of walls associated with the development. Landscape strips have also been integrated into the development plans to visually screen parking bays. These amendments will shield the proposed development and improve amenity of neighbours.

Southcare's development plans now reflect these changes.

1.3 Traffic

Data collected in regards to utilisation of on road parking bays (please see item 2.7) suggests vehicle movements in the Bickley Crescent Cul de Sac are not excessive and that amenity of neighbours will not be adversely effected by the proposed development.

1.4 Orderly Planning

Please refer to 1.1 above.

1.5 Purpose of Outbuilding

The outbuilding is intended to store a variety of equipment used by Southcare. This equipment may include furniture and chairs, trailers, portable barbeques and equipment necessary for the maintenance of the buildings and associated landscaping. Southcare requests the outbuilding is approved without reduction in its current floor area so that storage area is maximized. This request is made in the context of Southcare having made other concessions to landscaping and satisfaction of amenity experienced by neighbours.

1.6 Provision of two entry points

Southcare considers provision of two entry points in the development plans as a prudent risk management response to the advent of fire and the need for emergency exit of people from the building.

1.7 Caveat

The COSP have advised that a caveat will no longer be required. Southcare requests that any other form of restriction on use of the proposed development includes provision for office use by non profit organizations. Council may wish to specifically exempt Southcare from relevant restrictions that may be applicable to 'for profit' organizations.

2.0 Other amenity issues

2.1 Security

Southcare has included a remotely operated gate in the proposed development plans. This is intended to discourage inappropriate access to the proposed development site and access to neighbouring properties. Southcare notes the proposed development site is currently vacant land and that access to neighbouring properties from the site is subsequently unrestricted.

Southcare's intends to provide electronic security access and security cameras for both internal and external areas.

2.2 Colour and Materials

Colour and materials associated with Southcare's two storey development plan are in accord with and complement the existing streetscape.

2.3 Cross Overs

Amendments have been made to the proposed development plan that acknowledges the COSP's requirements in regards to cross overs.

2.4 *Environmental Health & Regulatory Services*

Southcare's proposed development plan includes provision for a bin enclosure and complies with COSP requirements in regards to sanitary conveniences and mechanical ventilation devices.

2.5 *Floor levels*

The floor level of Southcare's proposed development has been reduced in accordance with COSP requirements. This action will improve amenity of neighbours in regards to visual impact and overshadowing.

2.6 *Use of existing verges for parking*

Use of verges for parking has been incorporated into the proposed development plan.

2.7 *Parking Bays*

With construction of the proposed development at 53 Bickley Crescent, the total number of parking bays within the Bickley Crescent cul de sac available to people wishing to access either the existing or proposed development sites is expected to increase from 55 to 71. This represents an increase of approximately 30 % and is expected to improve amenity of neighbours.

Table 1 below illustrates the parking capacity associated with existing and proposed developments (excluding Church facilities)

Table 1. Parking Capacity in Bickley Crescent's Cul de Sac

Parking Bays	On Road (Cul de Sac)	Public onsite bays @ 54 Bickley	Other onsite bays @ 54 Bickley	Proposed public onsite bays @ 53 Bickley	Total
Number	35	10	10	16	71
% of Total	49.29	14.09	14.09	22.53	100

Parking facilities in the Bickley Crescent cul de sac are rarely utilized to their full capacity. The mean number of on road bays occupied during sampling at 9.00 am and 2.00 pm on each day during the period 23rd July to 29th July 2008 were as follows:

Table 2. Utilisation of Parking Bays in Bickley Crescent Cul de Sac

On Road Parking Bays	Wed 23/7/08	Thursday 24/7/08	Friday 25/7/08	Monday 28/7/08	Tuesday 29/7/08	Total
Number of Bays Available	35	35	35	35	35	175

Attachment 10.3.4(b)

Mean Number of Full Bays	13	19.5	17	18.5	17	85
% of Total	37.14	55.71	48.57	52.86	48.57	48.57

With the addition of 16 parking bays associated with the proposed development the mean percentage of occupied parking bays declines from 48.57% to 33%.

The number and dimensions of parking bays associated with the Southcare proposed development plans fully comply with COSP requirements as well as policies in regards to disabled access. Provision has also been made for 2 bicycle bays and 2 shade trees.

I look forward to COSP's favourable consideration of Southcare's response above and receipt of successful planning approval.

Yours sincerely

Graham Hope
CEO

MANOR
HOMEBUILDERS
PTY LTD
ABN 84 009 316 741
A.C.N. 009 316 741

SCANNED



31 Dellamarta Road, Wangara
PO Box 1579, Wangara
Western Australia 6065
Telephone (08) 9409 8655
Facsimile (08) 9309 2533
Builders Registration No. 7668

Wednesday, 20 June 2007

To: City Of South Perth
Attention: John Devereux
Planning Department

CITY OF SOUTH PERTH	
21 JUN 2007	
Doc ID No:	L90357
File No:	M3/152B
Original File:	PS
Action: <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	

Reference: Proposed Apartment Development
Lot 67 (#152B) Mill Point Road SOUTH PERTH

- Comments
- Please Find 3 x Copies Of Revised Drawings, (Revised Sheet Numbers Included Only)
 - Please Find Enclosed Letter Of Justification As Required.
 - Please Note We Have Had Previous Planning Approval For This Job (Expired Late October 2006).
 - Please View All Previously Submitted Correspondence (That Was Submitted With The Previous / Original Planning Approval) For Any Justification If Required.
 - Please Post Out Any Correspondence / Planning Approval When Ready Thanks.

If you have any further queries please contact me in our office.

Kind regards,
Manor Home Builders Pty Ltd


DENIS PANDEVSKI
Design & Drafting Department

Admin / Shire Cover Letter



**DEVELOPMENT APPLICATION - SIX (6) MULTIPLE DWELLINGS
PROPOSED RESIDENTIAL APARTMENT DEVELOPMENT
LOT 67 (NO. 152B) MILL POINT ROAD
SOUTH PERTH**

1.0 PURPOSE

The purpose of this report is to provide justification to the City of South Perth in consideration of the issues relating to the Development Application for a Multiple Dwelling Development on Lot 67 (No.152B) Mill Point Road, South Perth.

This report will discuss and respond to Plot Ratio issues raised by the City in relation to certain design aspects of the proposal (*as per telephone discussion with Mr. John Devereux*) particularly taking into consideration the provisions (Performance) of the Residential Design Codes of Western Australia (2002).

Furthermore, certain modifications have been made to the development plans that address some of the issues raised by *correspondence for Christian Buttie*; these however will be made clear in the body of the report.

2.0 SITE DESCRIPTION

The subject site is relatively level with an area of 645m². The site is located on the northern side of Mill Point Road and has existing on it a three storey brick apartment block setback approximately 18 metres from Mill Point Road reserve and a brick and galvanised iron carport setback approximately 6 metres from the Mill Point Road reserve. The existing development is a typical example of the late 1950's and 1960's "block of flats" and is considered to be of limited aesthetic value to the streetscape.

A visual survey of the adjoining properties identifies that abutting the subject land, to the east, is an extensive carparking area, to the north a multiple dwelling development and to the west a multiple dwelling development is under construction, however it is understood to be of a larger scale than the proposed development on Lot 67.

In general it is considered, taking into consideration the RDC and requirements of the R100 density, that the subject development proposing six multiple dwellings is generally consistent with the character and scale of proposed and existing multiple dwelling developments within proximity of the subject site.

3.0 THE DEVELOPMENT PHILOSOPHY

There are a number of objectives 'driving' the design philosophy of the proposed development. They are:

- A strong vertical and horizontal element to the facade (and throughout the living areas) of the building providing for simplicity, visual interest and integration with the surrounding natural and built element.

The vertical element represents the existing built character and intent of the residential density to accommodate for multiple dwelling living arrangements with the objective of consolidating population growth serviced by a sustainable and vibrant commercial and community focused South Perth node on the banks of Perth's most valuable asset – the Swan River.

The horizontal element, also obvious throughout the theme of the building design, represents the 'flat' topography of the locality with its continuation to the South Perth foreshore and over the Swan River.

- A design that welcomes the winter sun into indoor and outdoor living spaces whilst protecting the same spaces from the winter rains and winds and harsh summer sun.

Living areas have been provided with a strong northerly aspect whilst the orientation of windows, the provision of 'nib walls' and awnings provide shelter from the southwest and summer sun. Not only does the proposed development provide for comfortable and functional year round living areas, it also encourages sustainable and energy efficient living.

- A design that encourages spacious, comfortable, independent living whilst embracing social interaction.

Each of the multiple dwellings have useable spaces that are comfortable. The design does not attempt to clutter the living areas but rather promotes a seamless flow between indoor and outdoor spaces. The development also provides for communal entertaining facilities, including a food preparation area, entertaining room and indoor and outdoor leisure and fitness facilities (gymnasium and swimming pool).

- A design that respects the privacy and amenity of existing and future developments, and residents of adjoining properties.

The design of the development, the orientation of major openings to habitable indoor areas, and the provision of screening to balconies ensures that the proposed development protects both indoor and outdoor living areas on existing and proposed adjoining developments from encroachments to privacy.

Furthermore, the proposed development avoids the use of bland featureless external walls. The proposed shape, angles and elements of the external walls (including the proposed rendered finish) provide for a dimension of depth and interest, and is considered to positively contribute to the streetscape, and the general amenity of the area.

4.0 COMMUNITY CONSULTATION

It is understood that the City of South Perth has undertaken a community consultation process in accordance with the minimum requirements of Clause 2.5.2 of the RDC (as detailed in letter addressed to Manor Home Builder's, from Mr. Christian Buttle, dated 18TH December 2006). It is also understood that at the end of the consultation period that the City had not received any objections to the proposed development.

Clause 2.5.1 of the RDC only requires consultation if a proposed development:

- i. *requires the exercise of a discretion by the Council under the Codes or under an adopted Local Planning policy; and*
- ii. *may, in the opinion of the Council, adversely affect the amenity of an adjoining property.*

By virtue that no objections were received to the development it may be logical to conclude that neighbouring land owners are satisfied with the development and do not consider the proposed development to have an adverse impact upon their amenity.

5.0 THE PROPOSED DEVELOPMENT

The proposed development consists of the following:

- Six (6) multiple dwellings occupying a level each with the penthouses occupying two levels.
- The ground floor consists of the communal facilities including a spacious lobby, communal kitchen, entertaining room, gymnasium and outdoor pool.
- A total of 12 resident carparking spaces and 6 storerooms are provided in an undercroft. Access and car parking spaces have been duly designed to meet relevant City of South Perth, RDC and Australian Standards requirements.
- The pedestrian Entrance provided to the development is protected from the elements by a decorative and functional awning, which leads into a comfortable entrance lobby.
- 2 visitor carparking spaces, a single crossover and landscaping are proposed within the front 9 metres setback, whilst a communal, enclosed binstore area is proposed in an area screened from the street, with easy and direct access by residents and to the road reserve.
- The front setback area, visitor carparking spaces, footpaths and approach to the entry will be lit so to ensure safe and secure pedestrian movements.

- Furthermore, all other areas of communal open space on the development site will be lit. However, the exact location and type of the lighting is not yet determined and will be subject to an assessment by a suitably qualified and practicing lighting consultant with respective condition to be imposed on the Approval accordingly.
- The building is proposed of masonry construction with a quality rendered finish.
- The ground floor open space (behind the front setback line) is proposed to be established with strategically located landscaping and tree planting's, with the objective of providing comfortable outdoor spaces, shade and a vertical landscape element to complement the vertical elements of the building's facades.

6.0 PLOT RATIO ISSUE

This section focuses on, and addresses, the plot ratio issues raised in the *telephone discussion with Mr. John Devereux* and *email correspondence addressed to Denis Pandevski of Manor Home Builders from Mr. Christian Buttle, dated 22ND May 2007*, with a view of providing slight modifications to balcony screening walls and appropriate Plot Ratio justification for the proposed development for consideration by the City in its capacity as the determining body for Development Applications.

- It is acknowledged that City staff have interpreted that the balconies on the proposed development are not open on two sides and therefore have been included within the calculation of Plot Ratio.

The have been modified to show that the brick walls to the balcony which were acting as privacy screening have now been deleted. In its place obscure glass privacy screening (compliant with the R-codes) will be fixed into position.

It is submitted that the balconies are considered as active outdoor habitable spaces and for visual privacy purposes have privacy screening along the east and west extremities (as required) of 1.65 metres high, in accordance with the vertical screening provisions of Clause 3.8.1 of the RDC. Above the 1.65 metre height the balconies are open except for the structural, vertical pillars.

It is submitted that the balconies are open on approximately 50% of their perimeter and therefore for the purpose of the RDC and plot ratio are considered open on two sides and hence consistent with the definitions and intent of open space.

- Further modifications to the proposed plans (see attached drawings) to reduce Plot Ratio Area is:
 - i. individual, lockable store rooms for each apartment (located on Ground Floor Level – CARPARKING) have been reduced in size to a minimum 4.0m².
 - ii. individual, lockable cellars for each apartment (First Floor Level – PODIUM LEVEL) have now been revised as being communal storage facilities for the common Podium Level.

- Since planning approval for this development was approved by City Of South Perth 2004, the method of Plot Ratio calculation has been changed to include Private Stores, Non Communal Lobbies, Ducts, Wall Thicknesses Abutting Non Plot Ratio Areas. Therefore the new Plot Ratio areas are as follows:

Store Rooms (Ground Floor Level – CARPARKING) = $6 \times 4\text{m}^2 = 24\text{m}^2$
Apartment 1 = 133m^2
Apartment 2 = 133m^2
Apartment 3 = 133m^2
Apartment 4 = 133m^2
Apartment 5 = 133m^2
Apartment 6 (penthouse) Level 1 = 133m^2
Apartment 6 (penthouse) Level 2 = 47m^2

TOTAL NEW PLOT RATIO AREA = 869m^2

R100 = 1.25 (SITE AREA = 645m^2)
MAXIMUM ALLOWABLE PLOT RATIO AREA = 806m^2

63

7.0 CONCLUSION

We request special consideration for the above exceeded "New Calculated" Plot Ratio Area as this development had previous planning approval by City Of South Perth in 2004

The proposed multiple dwelling development is of high standard and will be a significant improvement on the current buildings that occupy the site. The philosophy behind the design of the proposed development seeks to facilitate energy efficient living, maximise the use of indoor and outdoor living areas and seeks to erect a development that respects the elements surrounding built environment.

The application has been the subject of a community/neighbour consultation process where no objections to the proposal were raised. The proposal is considered to meet the respective provisions of the Residential Design Codes, although under certain elements it is requested that the Council consider the proposal in light of the performance criteria. This is not an unusual request given the residential density and the size of the property.

STUDIO DI ARCHITETTURA
ARCHITECTURE AND DESIGN

OFFICE 1
131 ROYAL STREET
EAST PERTH 6004
WESTERN AUSTRALIA

PH: 9325 2911
FAX: 9325 6911

SCANNED

23rd August 2004

City of South Perth
Sandgate Street
SOUTH PERTH WA 6151

At: Christian Buttle

CITY OF SOUTH PERTH	
24 AUG 2004	
File Ref. No.	M13.152
Original To	M.P.S.
Redirected To	
Reply <input checked="" type="checkbox"/>	Info <input type="checkbox"/>

Dear Sir,

RE: Apartment Development Lot 67 No. 152B Mill Point Road South Perth

Further to the receipt of your fax and our subsequent meeting, Please find attached 3 sets of drawings together with supporting documentation. We trust that this now meets with your approval and we look forward to receiving Development/Planning Approval for this project in due course.

Should you require anything further please contact our office.

Yours Sincerely
STUDIO DI ARCHITETTURA


FRANK RICCI
Architect

Development lot 67 (No. 152B) Mill Point Road South Perth.

- Zoning:** R80/100 – This application is for a zoning of R100.
We satisfy 4 of the minimum performance criteria requirements of the R100 coding as follows:
- i. The site was coded R100 under the Number 5 Scheme.
 - ii. The site is adjoined on at least two boundaries with a Lot or Lots, which have been re-subdivided or re-developed.
 - v. At least 80% of the originally sub-divided Lots on the same side of the street as the development site and within the same focus area have been re-subdivided for or redeveloped with a greater number of dwellings that were originally constructed on these Lots.
 - vi. All occupiers' car parking is provided undercover.
 - vii. Visitors car parking is provided in excess of the number of bays required.
 - viii. Outstanding landscaping is provided in accordance with the provisions of clause 6.14(1).
- Site area:** 644.68m².
- Plot Ratio:** 1 = 1.25 thereby permitting a maximum of 805.85 m² of area to be developed.
- Open Space:** 60% of land area = 386.8m².
- Total Areas of Apartments:** Apartment levels 2 to 7 = 129m² per apartment = 645m²
Apartment level 8 = 161m².
TOTAL APARTMENTAREA: = 806m²
- Building Height:** Within the 28 metre height restriction.
- Car parking:** 2 bays per apartment total of 12 car bays. Plus 2 visitor car bays.
- Store Facilities:** storeroom of 4m² per apartment provided at car park level.
- NOTE:** **we have also enclosed for your reference copies of photographs of adjoining developments.**

**DEVELOPMENT APPLICATION - SIX (6) MULTIPLE DWELLINGS
(PROPOSED RESIDENTIAL APARTMENT DEVELOPMENT)
LOT 67 (NO. 152B) MILL POINT ROAD
SOUTH PERTH**

1.0 PURPOSE

The purpose of this report is to provide justification to the City of South Perth in consideration of the issues relating to the Development Application for a Multiple Dwelling Development on Lot 67 (No.152B) Mill Point Road, South Perth.

This report will discuss and respond to issues raised by the City in relation to certain design aspects of the proposal (*facsimile dated 31 July 2004*) particularly taking into consideration the provisions (Performance) of the Residential Design Codes of Western Australia (2002).

Furthermore, certain modifications have been made to the development plans that address some of the issues raised by City staff; these however will be made clear in the body of the report.

2.0 SITE DESCRIPTION

The subject site is relatively level with an area of 644.68m². The site is located on the northern side of Mill Point Road and has existing on it a three storey brick apartment block setback approximately 18 metres from Mill Point Road reserve and a brick and galvanised iron carport setback approximately 6 metres from the Mill Point Road reserve. The existing development is a typical example of the late 1950's and 1960's "block of flats" and is considered to be of limited aesthetic value to the streetscape.

A visual survey of the adjoining properties identifies that abutting the subject land, to the east, is an extensive carparking area, to the north a multiple dwelling development and to the west a multiple dwelling development is under construction, however it is understood to be of a larger scale than the proposed development on Lot 67.

In general it is considered, taking into consideration the RDC and requirements of the R100 density, that the subject development proposing six multiple dwellings is generally consistent with the character and scale of proposed and existing multiple dwelling developments within proximity of the subject site.

3.0 THE DEVELOPMENT PHILOSOPHY

There are a number of objectives 'driving' the design philosophy of the proposed development. They are:

- A strong vertical and horizontal element to the facade (and throughout the living areas) of the building providing for simplicity, visual interest and integration with the surrounding natural and built element.

The vertical element represents the existing built character and intent of the of the residential density to accommodate for multiple dwelling living arrangements with the objective of consolidating population growth serviced by a sustainable and vibrant commercial and community focused South Perth node on the banks of Perth's most valuable asset – the Swan River.

The horizontal element, also obvious throughout the theme of the building design, represents the 'flat' topography of the locality with its continuation to the South Perth foreshore and over the Swan River.

- A design that welcomes the winter sun into indoor and outdoor living spaces whilst protecting the same spaces from the winter rains and winds and harsh summer sun.

Living areas have been provided with a strong northerly aspect whilst the orientation of windows, the provision of 'nib walls' and awnings provide shelter from the southwest and summer sun. Not only does the proposed development provide for comfortable and functional year round living areas, it also encourages sustainable and energy efficient living.

- A design that encourages spacious, comfortable, independent living whilst embracing social interaction.

Each of the multiple dwellings have useable spaces that are comfortable. The design does not attempt to clutter the living areas but rather promotes a seamless flow between indoor and outdoor spaces. The development also provides for communal entertaining facilities, including a food preparation area, entertaining room and indoor and outdoor leisure and fitness facilities (gymnasium and swimming pool).

- A design that respects the privacy and amenity of existing and future developments, and residents of adjoining properties.

The design of the development, the orientation of major openings to habitable indoor areas, and the provision of screening to balconies ensures that the proposed development protects both indoor and outdoor living areas on existing and proposed adjoining developments from encroachments to privacy.

Furthermore, the proposed development avoids the use of bland featureless external walls. The proposed shape, angles and elements of the external walls (including the proposed rendered finish) provide for a dimension of depth and interest, and is considered to positively contribute to the streetscape, and the general amenity of the area.

4.0 COMMUNITY CONSULTATION

It is understood that the City of South Perth has undertaken a community consultation process in accordance with the minimum requirements of Clause 2.5.2 of the RDC. It is also understood that at the end of the consultation period that the City had not received any objections to the proposed development.

Clause 2.5.1 of the RDC only requires consultation if a proposed development:

- i. *requires the exercise of a discretion by the Council under the Codes or under an adopted Local Planning policy; and*
- ii. *may, in the opinion of the Council, adversely affect the amenity of an adjoining property.*

By virtue that no objections were received to the development it may be logical to conclude that neighbouring land owners are satisfied with the development and do not consider the proposed development to have an adverse impact upon their amenity.

5.0 THE PROPOSED DEVELOPMENT

The proposed development consists of the following:

- Six (6) multiple dwellings occupying a level each with the penthouses occupying two levels.
- The ground floor consists of the communal facilities including a spacious lobby, communal kitchen, entertaining room, gymnasium and outdoor pool.
- A total of 12 resident carparking spaces and 6 storerooms are provided in an undercroft, whilst the pedestrian Entrance to the development is protected from the elements by a decorative and functional awning, which leads into a comfortable entrance lobby.
- 2 visitor carparking spaces, a single crossover and landscaping are proposed within the front 9 metres setback, whilst a communal, enclosed binstore area is proposed in an area screened from the street, with easy and direct access by residents and to the road reserve.
- The front setback area, visitor carparking spaces, footpaths and approach to the entry will be lit so to ensure safe and secure pedestrian movements.
- The building is proposed of masonry construction with a quality rendered finish.
- The ground floor open space (behind the front setback line) is proposed to be established with strategically located landscaping and tree planting's, with the objective of providing comfortable outdoor spaces, shade and a vertical landscape element to complement the vertical elements of the building's facades.

6.0 ISSUES

This section focuses on, and addresses, the issues raised in the correspondence from City staff dated 31 July 2004 with a view of providing appropriate justification for the proposed development for consideration by the City in its capacity as the determining body for Development Applications.

1. Plot Ratio

It is acknowledged that City staff have interpreted that the balconies on the proposed development are not open on two sides and therefore have been included within the calculation of Plot Ratio.

It is submitted that the balconies are considered as active outdoor habitable spaces and for visual privacy purposes have a screen wall height along the east and west extremities (as required) of 1.65 metres in accordance with the vertical screening provisions of Clause 3.8.1 of the RDC. Above the 1.65 metre height the balconies are open except for the structural, vertical pillars.

It is submitted that the balconies are open on approximately 50% of their perimeter and therefore for the purpose of the RDC and plot ratio are considered open on two sides and hence consistent with the definitions and intent of open space.

2. Boundary Walls

The comments have been taken into consideration and the plans modified accordingly. The walls have been increased in height to 1.65 metres to ensure appropriate privacy screening.

3. Landscaping Requirements

Staff requested details regarding lighting and the retention of an existing tree located on the right hand side of the property, in accordance with Clause 3.4.5. The following comments are provided:

- Lighting will be provided within the front setback area to pathways, visitor parking spaces and the approach to the building as required. A commitment to that extent is shown on the development plans. Furthermore, all other areas of communal open space on the development site will be lit. However, the exact location and type of the lighting is not yet determined and will be subject to an assessment by a suitably qualified and practicing lighting consultant with respective details submitted with the Building Licence application. Should Development Approval be granted it is considered acceptable for a respective condition to be imposed on the Approval accordingly.

- The tree in question located on the right hand side of the property is proposed to be removed. City of South Perth staff have orally advised that the tree is not listed or registered as significant on any local inventory. Furthermore, the communal bin store facility has been provided in this location for ease of access, as required by City environmental health staff.

4. Carparking and Access

The comments have been taken into consideration and the plans modified accordingly. Access and car parking spaces have been duly modified to meet relevant City of South Perth, RDC and Australian Standards requirements.

5. Visual Privacy

Two issues were raised by City staff. Firstly, sight lines and horizontal distances from the kitchens, more specifically kitchen benches, to the lot boundary. Secondly, concern was raised regarding the potential for overlooking from the north facing balconies (rear) to the adjoining properties. The following comments and justification are submitted for consideration:

- a) The plans have been modified to ensure that a 6 metre cone of vision from the edge of the kitchen benches is contained entirely within the boundaries of the subject lot. Therefore complying with Acceptable Development provisions of Clause 3.8.1 of the RDC.
- b) The cones of vision provided demonstrate that only a minor visual encroachment will occur as a result of the proposed development within the north east corner of the adjoining western site.

To this extent the following justification is provided for consideration by the City in its determination of the issue. It is requested that the issue be assessed under the Performance Criteria of Clause 3.8.1 of the RDC.

The respective Performance Criteria requires residential developments to be designed so as to:

"Avoid direct overlooking between active habitable spaces and outdoor living areas within adjoining residential properties taking account of:

- *the positioning of windows to habitable rooms on the development site and the adjoining property;*
- *the provision of effective screening, and*
- *the lesser need to prevent overlooking of extensive backyards, front gardens or areas visible from the street."*

It is submitted that the visual encroachment upon the adjoining western property is of an insignificant nature, and indeed does not prejudice the performance criteria of the RDC, nor will it impact on the amenity of adjoining residents. The area that is affected by the 7.5 metre cone of vision is an unusual, triangular portion of the lot which is understood to be primarily used for landscaping and will not serve an active functional outdoor purpose within the adjoining proposed development.

Furthermore, the proposed multiple dwelling development on the adjoining western property will have individual balconies (outdoor living spaces) for the residents, and the portion of land that is encroached by the 7.5 metre cone of vision is considered to be an area of the extensive communal open space appurtenant to the development, for which the codes allow a lesser need to prevent overlooking.

Finally, the view that the visual encroachment will not adversely impact on the amenity of adjoining residents is supported by virtue that no objections to the development were received by the City as part of the community and neighbour consultation process.

6. Stores

The comments have been taken into consideration and the plans modified accordingly. The stores now have a minimum area of 4m² with a minimum dimension (in any direction) of not less than 1.5 metres.

7. Inconsistencies / Mistakes in Drawings

The comments have been taken into consideration and the plans modified accordingly.

8. Boundary Setbacks

City staff have raised issues regarding the setback of two portions/sections of wall: the wall adjacent to the angled portion of the north western property boundary and the setbacks adjacent to the southeastern property boundary. The following comments and justification are submitted for consideration:

- a) The comments have been taken into consideration and the plans modified accordingly. The setback of the wall adjacent to the portion of the north western property boundary has been increased from 2.1 metres to 3.0 metres.
- b) It is requested that the wall(s) adjacent to the southeastern property boundary are assessed against the performance criteria under Clause 3.3.1 of the RDC. The following justification is submitted for consideration in determination of the matter:

The Performance Criteria of Clause 3.1.3 of the RDC requires:

"Buildings to be setback from boundaries other than street boundaries so as to:

- *provide adequate direct sun and ventilation to the building;*
- *ensure adequate direct sun and ventilation being available to adjoining properties;*
- *provide adequate direct sun to the building and appurtenant open spaces;*
- *assist with protection of access to direct sun for adjoining properties;*
- *assist in ameliorating the impacts of building bulk on adjoining properties; and*
- *assist in protecting privacy between adjoining properties."*

On the adjacent eastern property is an extensive carpark. To that extent the proposed development and setbacks do not detrimentally impact on the existing use of that land. On the western adjacent property a multiple dwelling development, of a scale larger than that proposed on the subject land is under construction, with similar setbacks approved as those proposed by this development. Furthermore, it is important to note that the proposed average setback of the side elevation walls of the development is in excess of 4 metres. The angles of the walls, primarily designed for energy efficiency purposes also provide depth to the side elevation thereby enhancing the general amenity of the development, more so than one length of wall aligned parallel to the boundary.

In assessing the proposed side setbacks with the respective RDC performance criteria it is considered that the criteria is met for the following reasons:

- The development has an unrestricted northern aspect with direct access to indoor and outdoor living areas, whilst ventilation and air circulation is provided via major openings to the south. Furthermore, the development abuts an undeveloped carpark area on the eastern side and a proposed multiple dwelling development with reasonable side boundary setbacks on the western side. In summary unrestricted solar access and adequate air circulation and ventilation to the building will be provided.
- The eastern adjacent property is a carpark, and therefore access to direct sun may not be as a significant requirement as that to a residential building. Whilst the western adjacent property is substantially larger than the subject site with a substantially larger approved development with north-south orientation maximising solar access and ventilation via prevailing winds.

- The development has a strong north south orientation. The balconies proposed on the northern side of the development have direct access from indoor living areas thereby providing unrestricted access to direct sun for the residents. Furthermore the proposed communal spaces are also designed to gain maximum benefit from the northern exposure.
- The proposed development does not impact on the ability of adjoining existing, proposed or potential future developments from obtaining unrestricted access to the northern sky and therefore direct sun.
- An objective of the development philosophy was to facilitate energy efficient living. This has resulted in angled side boundary walls, which clearly ameliorate the impact on building bulk on adjoining properties, when compared with a bland, straight, single dimensional wall. The design promotes interesting side elevations, has an element of depth and disperses the building bulk in a more sensitive and equitable manner.
- The angled walls used in the design of the side elevations are not only beneficial in terms of the principles of energy efficiency. Minor nib wall extensions to major openings are proposed for the purpose of screening sight lines, thereby protecting privacy to areas on adjoining properties. Although this design element is arguably more relevant to the adjacent western property, the design also takes into consideration the future residential potential of the adjacent eastern property and likewise protects the privacy of future indoor and outdoor living areas.

Finally, it is noteworthy that during the consultation period no objections to proposed design of the proposed development were received by the City of South Perth, thereby further supporting the view that the development is not considered to have a detrimental impact on the amenity and enjoyment of adjoining residential land.

9. Environmental Health Related Matters

The comments have been taken into consideration and the plans modified accordingly. The bin store has been redesigned greatly improving its functional ability to store bins and has also been relocated to a position which improves access to it by the residents and access to the verge for pick up.

10. Engineering Department Related Matters

The comments are acknowledged. It is intended for the proposed development to implement a drainage system that meets relevant requirements and that is to the satisfaction of the City of South Perth. The issue will be discussed with relevant City of South Perth engineering staff prior to the lodgment of working drawings with the Building Licence application.

11. Design Advisory Consultants

The City's Design Advisory Consultants have raised five (5) points regarding the design of the development. These are discussed.

- The pedestrian thoroughfares on either side of the building with the respective height of the boundary screen walls are as a result of the concrete slab and structural support requirements for the building. As a result the proposed development will have an extensive communal open space area which will provide for single level pedestrian and resident access. This approach is not considered to have a detrimental impact on the amenity of the adjacent properties or the streetscape. The adjacent eastern property is used as a carpark, the adjacent western property proposes a similar construction and design method and the pedestrian thoroughfares are located behind the front facade of the building and are not considered to dominate the appearance of the development from the street.
- The comments in regards to the storeroom ceiling heights and carpark headroom have been taken into consideration and the plans modified accordingly.
- The comments in regards to the width of carparking spaces and additional supporting columns have been taken into consideration and the plans modified accordingly.
- The comments in regards to the bin enclosure have been taken into consideration and the plans modified accordingly.
- The comments regarding car bay number 11 have been taken into consideration and the plans modified accordingly.

7.0 CONCLUSION

The proposed multiple dwelling development is of high standard and will be a significant improvement on the current buildings that occupy the site. The philosophy behind the design of the proposed development seeks to facilitate energy efficient living, maximise the use of indoor and outdoor living areas and seeks to erect a development that respects the elements surrounding built environment.

The application has been the subject of a community/neighbour consultation process where no objections to the proposal were raised. The proposal is considered to meet the respective provisions of the Residential Design Codes, although under certain elements it is requested that the Council consider the proposal in light of the performance criteria. This is not an unusual request given the residential density and the size of the property.

Panel Members Recommendation Report

Tender

For the replacement of existing concrete slab footpaths with poured in-situ concrete footpaths

Request for Tender (RTF) Number

10/2008

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Part 1

Introduction

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1. Introduction

1.1. Title

The City of South Perth issued a Request for Tender (RFT) for the replacement of existing concrete slab footpaths with poured in-situ concrete footpaths.

1.2. Scope

The Contractor will be required to do all things necessary for the supply and lay of concrete to complete the works listed in the Specifications but not limited as the particular works dictate.

The construction of footpaths will consist of cast in-situ concrete footpaths on road verges, in pedestrian access ways and other areas within the City in accordance with the Specification and as may be shown on plans or as directed by the City's Representative.

1.3. Value

The price basis for the contract is a Schedule of Rates Tender.

The average annual estimated amount of footpath to be replaced is 18,000 square metres. The City however does not undertake to construct these quantities for the period of the contract. The quantity of work may be more or less as required by the City.

The budget estimate is approximately \$800,000 per annum.

1.4. Contract Period

The RFT seeks the provision of the required services for a an initial period of twelve (12) months, commencing 1 July 2008 until 30 June 2009.

1.5. Advertising Details

The tender was advertised in The West Australian on 24 May and closed on the 17 June 2008.

2. Background

2.1. Tenderers Name

The City of South Perth issued a Request for Tender for the replacement of existing concrete slab footpaths with poured in-situ concrete footpaths at undisclosed locations within the City.

At the opening of tenders on the 17 June 2008, 5 (five) submissions were received from:

1. MMM WA P/L
2. Roadside Curbing P/L
3. Dowsing Concrete
4. Techsand P/L
5. Westside Concrete

2.2. Tenderer's Pricing

The tender prices submitted by respective tenders were as follows:

Tenderer	Price (GST Exclusive)
Westside	\$ 813,000
Techsand	\$1,053,000
Roadsite Kerbing	\$1,053,000
Dowsing Concrete	\$799,200
MMM	\$865,800

2.3. Quantity

The average annual estimated amount of footpath is 18,000m². To enable an overall assessment, pricing was provided from the 'schedule of rates' provided in the Tender submissions.

No	Tenderer	Sample Rate Per m ²	Sample Rate Pram Ramp 1.5m	Square Metres 18000m ²	Pram Ramp 300	Total (\$)
1	Westside	41	250	\$738,000	\$7,500	\$813,000
2	Techsand	55	165	\$990,000	\$49,500	\$1,039,500
3	Roadsite Kerbing	51	450	\$918,000	\$135,000	\$1,053,000
4	Dowsing Concrete	39.40	300	\$709,200	\$90,000	\$799,200
5	MMM	44	246	\$792,000	\$73,800	\$865,800

NOTE: ALL PRICES ARE GST EXCLUSIVE

3. Evaluation Panel

3.1. Participants

An Evaluation Panel assessed each tender. Details on members of the Panel are contained within the table below:

Name	Position/Role
Mr Piero Campeotto	Operations Engineer
Mr. Fraser James	Tender and Contracts Officer

4. Selection Criteria and Rating Scale

4.1 Compliance Criteria

Compliance Criteria	Dowsing Concrete		MMM		Westside Concrete		Techsand		Roadsite	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
1. The tender was delivered on time and marked clearly on the envelope the tender information. Document was not faxed or emailed.	Yes		Yes		Yes		Yes		Yes	
2. Offer Form of Tender was received (see clause 2).	Yes		Yes		Yes		Yes		Yes	
3. All 17 Schedules attached (see clause 2).	Yes		Yes		Yes		Yes		Yes	
4. One signed original and two copies of signed Tender attached.	Yes		Yes		Yes		Yes		Yes	
5. Alternative Tender was also attached and accompanied with a conforming tender (see clause 23).		No		No		No		No		No
6. Has the tenderer agreed to perform the works in accordance with the specification?	Yes		Yes		Yes		Yes		Yes	
7. Compliance with the financial capability	Yes		Yes		Yes		Yes		Yes	
8. Are commencement & completion dates provided?	Yes		Yes		Yes		Yes		Yes	
9. Technical merits of methods to be used?	Yes		Yes		Yes		Yes		Yes	
10. Materials/products suitability?	Yes		Yes		Yes		Yes		Yes	
11. Compliance with environmental and community issues?	Yes		Yes		Yes		Yes		Yes	
12. Has the tenderer complied with the Tender Instructions/License requirements?	Yes		Yes		Yes		Yes		Yes	
13. Are all documents completed?	Yes		Yes		Yes		Yes		Yes	
14. Has the tenderer provided examples of similar work performance?	Yes		Yes		Yes		Yes		Yes	
15. Were referees provided?	Yes		Yes		Yes		Yes		Yes	
16. Does the Tender comply with the City's Occupational Safety and Health requirements?	Yes		Yes		Yes		Yes		Yes	
17. Does the tenderer meet Council's procurement policies?	Yes		Yes		Yes		Yes		Yes	
18. Has a full costing of works been provided?	Yes		Yes		Yes		Yes		Yes	
19. Does the tenderer have the financial capability to perform the work?	Yes		Yes		Yes		Yes		Yes	

4.2 Qualitative Criteria

The Qualitative Criteria used in the tender assessment is noted in the table below:

Qualitative Criteria	Weighting %
1. Demonstrated ability to do the service on time	20%
2. Conformity with Tender specification	20%
3. Referees	10%
4. Price	50%
5. Total	100%

4.3 Rating Scale

Ratings for the evaluation were from 0 - 10 and represent the following descriptions:

Score	Description of Score
0	Inadequate or non-appropriate offer, many deficiencies, does not meet criterion
2	Poor offer, some deficiencies, only partially meets criterion
4	Marginal offer, few deficiencies, almost meets criterion
6	Acceptable offer, no deficiencies, meets all criterion
8	Good offer, exceeds criterion
10	Excellent offer, greatly exceeds criterion

4.4 Pricing

The pricing submitted by each tenderer was assessed together with the qualitative criteria. The selected response is that which represents the most advantageous to the City of South Perth.

5. Evaluation Methodology

5.1 Initial Compliance Check

An initial compliance check was conducted by the Evaluation Panel to identify submissions that were non-conforming with the immediate requirements of the RFT. This included compliance with contractual requirements and provision of requested information.

All tenders were processed through to qualitative criteria assessment on the basis that all terms and conditions and mandatory requirements of the RFT had been met.

5.2 Qualitative Criteria Assessment

The qualitative criteria assessment was carried out by the Evaluation Panel with the Evaluation Panel scoring the tenders according to the evaluation matrix.

All applicants were assessed against the qualitative selection criteria. Specific criteria were weighted according to their importance as perceived and agreed by the Evaluation Panel. Relative weightings were published within the RFT.

6. Evaluation Tools

Below is an outline of the process used by the Evaluation Panel when allocating points against the qualitative selection criteria.

Refer to Section 4.2 of the Evaluation Report for a description of the Selection Criteria.

As part of the qualitative criteria assessment, the Evaluation Panel scored tenders according to the evaluation matrix as shown below:

6.1 Evaluation Matrix - Qualitative Criteria and Price

CITY OF SOUTH PERTH

Tender 10/2008 for the replacement for existing concrete slab footpaths with poured in-situ concrete footpaths

TENDER ASSESSMENT - Cost Weighted Method

ASSESSMENT CRITERIA	WEIGHT FACTOR	MMM		Westide		Techsand		Roadsite		Dowsing	
		Out of 10	Adjust. Score	Out of 10	Adjust. Score	Out of 10	Adjust. Score	Out of 10	Adjust. Score	Out of 10	Adjust. Score
Demonstrated ability to do the service on time	20%	8.0	1.6	8.0	1.6	10.0	2.0	6.0	1.2	10.0	2.0
Conformity with Tender specification	20%	6.0	1.2	8.0	1.6	10.0	2.0	6.0	1.2	10.0	2.0
Referees	10%	6.0	0.6	6.0	0.6	10.0	1.0	4.0	0.4	10.0	1.0
Tender Bid Price	50%	9.4	4.58	9.83	4.91	6.99	3.50	6.8 2	3.41	10.0	5.0
TOTAL	100%		7.98		8.71		8.50		6.21		10.0
"JOB" PRICE BASED ON BID		\$865,800		\$813,000		\$1,039,500		\$1,053,000		\$799,200	
LOWEST BID PRICE		\$799,200									

6.2 Comparative Statement of Tendered Prices

The analysis undertaken by the Evaluation Panel revealed that the **lowest price** of \$799,200 was offered by **Dowsing Concrete**.

Dowsing Concrete has also recorded the **highest score** in the Evaluation Matrix of qualitative criteria.

7. Basis for Decision

7.1 Basis for Recommending a Tenderer

Based on the Panel's evaluation, the tender from Dowsing Concrete represents the lowest price compliant offer and is therefore recommended as the acceptable tenderer.

Dowsing Concrete has completed a number of projects for local authorities , such as the City of Belmont, City of Subiaco, City of Wanneroo, City of Melville and City of South Perth.

They are a company that have demonstrated their ability to complete jobs of this size, usage and profile on time.

It is therefore recommended that Council accept the tender by Dowsing Concrete.

7.2 Details of Referee Report

The referee report provided for Dowsing Concrete, attached below, and supports the recommendation for Dowsing Concrete as the preferred supplier.

REFEREE	INFORMATION PROVIDED
City of Belmont Robert Roach	Contractor was successful with work done for the City. They programmed in jobs for the year and completed all on time.
City of Melville Michael Powell	We would use them again, because they had the correct skills to the job and were punctual.

8. Decision

That the tender submitted by **Dowsing Concrete** having a estimated contract value of \$799,200 (GST Exclusive) for the period 1 July 2008 and terminating on 30 June 2009, be accepted.

9. Endorsement by Evaluation Panel

Mr Piero

(Signature)

(Date)

Mr Fraser James

(Signature)

(Date)



Panel Members Recommendation Report

Tender

For the supply of sweeping services to car parks, precincts, special commercial zones and unscheduled sweeping

Request for Tender (RTF) Number

11/2008

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Part 1

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1. Introduction

1.1. Title

The City of South Perth issued a Request for Tender (RFT) for the supply of sweeping services to car parks, precincts, special commercial zones and unscheduled sweeping and kerb grinding the City of South Perth.

1.2. Scope

The City's request for tender was for suitably qualified persons, companies or organisations to submit tenders to supply the services of sweeping services to car parks precincts, special commercial zones and unscheduled sweeping within the City of South Perth.

1.3. Value

The price basis for the contract is a Schedule of Rates Tender based on a series of fixed price schedules. The rates will be fixed for the period of the contract in accordance with Tenderers offer. The budget estimate for the total works is \$225,000.

1.4. Contract Period

The supply of sweeping services within the City required under this tender shall be for a period of twelve months commencing on 1 July 2008 and terminating on 1 July 2009.

1.5. Advertising Details

Request for Tender, 11/2008 was advertised in the West Australian Newspaper on 24 May 2008 and closed at the Civic Administration Centre, Sandgate Street, South Perth on 17 June 2008.

1.6. Comment

At the close of the tender period two tenders had been received.

Tenders were opened at the Civic Centre by officers from the Infrastructure Services Department. Although specifically permitted by the Local Government Act there were nil members of the public in attendance for the opening of the tender.

2. Background

2.1. Tenderer's Name

The City of South Perth issued a Request for Tender for supply of sweeping services to car panels precincts, special commercial zones and unscheduled sweeping in the City of South Perth.

Tenders were received from:

- a) **Cleansweep**
- b) **Sweepcare**

2.2. Tender Prices

Tenderer	Price (GST Exclusive)
Cleansweep	\$222,300
Sweepcare	\$287,150

This Table is as per the 'Schedule of Rates' in the Tender Contract.

Street	Section	Day of Week	Freq	Time	Sweep Care Totals	Clean Sweep Totals
Car Parks	Table 1	Monday - Friday	Sept Dec March	6:00am - 4:00pm	\$13,065	\$16,000
Special Commercial Zones	Table 2 <i>Attached with schedule</i>	Monday and/or Friday	Weekly or twice weekly	6:00am - 8:00pm	\$70,245	\$78,300
Angelo Street Mends Street Preston Street Roads & Paths 1' Mill Point Rd Zoo Path from Onslow to Mends Thursday Sweep	Precincts Table 3	Monday Tuesday Wednesday Thursday* Friday Saturday Sunday	Daily 365 Days	6:00am - 8:00am	\$203,840	\$128,000
Totals					\$287,150	\$222,300

NOTE: ALL PRICES ARE GST EXCLUSIVE

3. Evaluation Panel

3.1. Participants

An Evaluation Panel assessed each tender. Details of members on the Panel are contained within the table below:

Name	Position/Role
Mr Piero Campeotto	Operations Engineer
Mr Fraser James	Tender and Contracts Officer

4. Selection Criteria and Rating Scale

4.1 Compliance Criteria

Compliance Criteria	Cleansweep		Sweepcare	
	Yes	No	Yes	No
1. The tender was delivered on time and marked clearly on the envelope the tender information. Document was not faxed or emailed.	Y		Y	
2. Offer Form of Tender was received.	Y		Y	
3. All Schedules attached.	Y		Y	
4. One signed original and two copies of signed Tender attached.	Y		Y	
5. Materials/products suitability?	Y		Y	
6. Compliance with environmental and community issues?	Y		Y	
7. Has the tenderer complied with the Tender Instructions/License requirements?	Y		Y	
8. Are all documents completed?	Y		Y	
9. Has the tenderer provided examples of similar work performance?	Y		Y	
10. Has the tenderer agreed to perform works in accordance with the specification?	Y		Y	

4.2 Qualitative Criteria

The Qualitative Criteria used to assess the tenders is as tabled below:

Qualitative Criteria	Weighting %
1. Demonstrated ability to perform the service on time.	30%
2. Referees	20%
3. Price	50%

4.3 Rating Scale

Ratings for the evaluation were from 0 - 10 and represent the following descriptions:

Score	Description of Score
0	Inadequate or non-appropriate offer, many deficiencies, does not meet criterion
2	Poor offer, some deficiencies, only partially meets criterion
4	Marginal offer, few deficiencies, almost meets criterion
6	Acceptable offer, no deficiencies, meets all criterion
8	Good offer, exceeds criterion
10	Excellent offer, greatly exceeds criterion

4.4 Pricing

The pricing submitted by each tenderer was assessed together with the qualitative criteria. The selected response is that which represents the most advantageous to the City of South Perth.

5. Evaluation Methodology

5.1 Initial Compliance Check

An initial compliance check was conducted by the Evaluation Panel to identify submissions that were non-conforming with the immediate requirements of the RFT. This included compliance with contractual requirements and provision of requested information.

All tenders were processed through to qualitative criteria assessment on the basis that all terms and conditions and mandatory requirements of the RFT had been met.

5.2 Qualitative Criteria Assessment

The qualitative criteria assessment was carried out by the Evaluation Panel with the Evaluation Panel scoring the tenders according to the evaluation matrix.

All applicants were assessed against the qualitative selection criteria. Specific criteria were weighted according to their importance as perceived and agreed by the Evaluation Panel. Relative weightings were published within the RFT.

6. Evaluation Tools

Below is an outline of the process used by the Evaluation Panel when allocating points against the qualitative selection criteria.

Refer to Section 4.2 of the Evaluation Report for a description of the Selection Criteria.

As part of the qualitative criteria assessment, the Evaluation Panel scored tenders according to the evaluation matrix as shown below:

6.1. Evaluation Matrix - Qualitative Criteria and Price

As part of the qualitative criteria assessment, the Evaluation Panel scored tenders/submissions according to the evaluation matrix as shown below:

CITY OF SOUTH PERTH

Tender 11/2008 For the supply of sweeping services

TENDER ASSESSMENT - Cost Weighted Method

ASSESSMENT CRITERIA	WEIGHTING FACTOR	Cleansweep		Sweepcare	
		Out of 10	Weighted Score	Out of 10	Weighted Score
Demonstrated ability to perform the service on time	30%	8.0	2.4	8.0	2.4
Referees	20%	8.0	1.6	8.0	1.6
Tender Bid Price	50%	10.00	5.00	7.08	3.54
TOTAL	100%		9.00		7.54
"JOB" PRICE BASED ON BID		\$222,300		\$287,150	
LOWEST BID PRICE		\$222,300			

Score for tender fee is based on $\{ [(lowest\ tender\ fee - actual\ tender\ fee) / lowest\ tender\ fee] + 1 \} \times 10$.

"0" indicate insufficient information to determine.

6.2. Comparative Statement of Tendered prices

The analysis undertaken by the Evaluation Panel revealed that the **lowest price** of \$222,300 (GST Exclusive) was offered by **Cleansweep**.

Cleansweep has also recorded the **highest score** in the Evaluation Matrix of qualitative criteria.

7. Basis of Decision

7.1 Basis for Recommending a Tenderer

Based on the Panel's evaluation, the tender from **Cleansweep** for the provision of the supply of sweeping services **represents the lowest priced compliant offer** and is deemed the most advantageous to the City, and is therefore recommended as the preferred supplier for the services.

Cleansweep has completed a number of projects for local authorities, such as the City of Bayswater, City of Nedlands, City of Wanneroo, City of Perth and City of Joondalup.

They are a company that have demonstrated their ability to complete jobs of this size, usage and profile on time.

It is therefore recommended that Council accept the tender by Cleansweep.

7.2 Details of Referee Report

The referee report provided for Cleansweep, attached below, and supports the recommendation for Dowsing Concrete as the preferred supplier.

REFEREE	INFORMATION PROVIDED
City of Bayswater Darrell Eissler	We have used three contractors and they are the better of the three. They are our present contractor and I would use them again
City of Nedlands John Buzac	Contractor did the job, very reliable. The main thing is that they were always there, even with staffing difficulties. In fact we just renewed their contract.

8. Decision

That the tender submitted by **Cleansweep** having a estimated contract value of \$222,300 for the period 1 July 2008 and terminating on 30 June 2009, be accepted.

9. Endorsement by Evaluation Panel

Mr Piero Campeotto

(Signature)

(Date)

Mr Fraser James

(Signature)

(Date)

Panel Members Recommendation Report

Tender

For the supply of traffic management for works and roads services within the City of South Perth.

Request for Tender (RTF) Number

12/2008

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1. Introduction

1.1. Title

The City of South Perth issued a Request for Tender (RFT) for the Provision of Traffic Management for Works and Roads Services within the City of South Perth.

1.2. Scope

The services under this Contract will ensure and provide for the safe movement of traffic and the protection of persons and property through and/or around the work sites within the City. The services will include:

- Design, construction, maintenance and removal of temporary traffic control devices, controllers, signposting, lights, barriers and any other items required.
- All services under this Contract will be in accordance with Australian Standard AS 1742.3, SAA HB81, Main Roads WA publication "Traffic Management for Roadwork's: Code of Practice "2004".

1.3. Value

The price basis for the contract is a Schedule of Rates Tender based on indicative work as set out above.

The City did not guarantee any quantities of works under this contract.

Each year the Council includes into the annual budget, funding for the supply of Traffic Management within the City. The cost of this contract based on estimated figures is **\$195,000**.

1.4. Contract Period

The traffic management for works and roads services within the City required under this contract shall be for the period commencing on 1 July 2008 and terminating on 30 June 2009.

1.5. Advertising Details

Request for Tender, 12/2008 was advertised in the **West Australian Newspaper** on 24 May 2008 and closed at the Civic Administration Centre, Sandgate Street, South Perth on 17 June 2008.

2. Background

2.1. Tenderers Name

The City of South Perth issued a Request for Tender for Provision of Traffic Management Services within the City of South Perth. Tenders were received from:

1. **Taborda Contracting**
2. **Carrington's Traffic Services**
3. **Advanced Traffic Management**
4. **Altus Traffic**
5. **Quality Traffic Management**
6. **WARP Group**

Tenders were entered as a Schedule of Rates. The above Tenderers submitted Schedules that have been used at Item 2.2. for the purpose of determining a contract value.

2.2. Tenderers Pricing

To enable an overall assessment of the Tender, a number of scenarios were developed.

These scenarios were based on typical situations that reflected a variety of work carried out in the City.

This work varied from basic traffic control on straight streets, to more complex situations involving two way corners and roundabouts.

A basic situation would be a one person crew with one vehicle with signs and cones.

A more complex situation would be four person crew, three vehicles complete with cones and signs.

The table below reflects the different situations and pricing.

Schedule 1

Tender No.	Tenderer	Item 1	Item 2	Item 3	Item 4	Total (GST Exclusive)
	Hours	1300	700	350	250	2600 hours
1	Altus	\$54.00	\$85.00	\$143.00	\$197.00	\$229,000
2	Taborda	\$48.50	\$80.50	\$130.00	\$205.00	\$216,150
3	ATM	\$55.00	\$84.00	\$131.00	\$178.00	\$220,650
4	WARP	\$53.84	\$89.74	\$143.58	\$197.42	\$232,418
5	Carringtons	\$55.00	\$80.00	\$135.00	\$170.00	\$217,250
6	QTM	\$40.53	\$82.56	\$126.92	\$163.62	\$195,808

Legend	
Item 1:	One person crew with one vehicle complete with signs and cones.
Item 2:	Two person crew with one vehicle complete with signs and cones.
Item 3:	Three person crew with two vehicles complete with signs and cones.
Item 4:	Four person crew with three vehicles complete with signs and cones.

3. Evaluation Panel

3.1. Participants

An Evaluation Panel assessed each tender. Details on members of the Panel are contained within the table below:

Name	Position/Role
Mr Piero Campeotto	Operations Engineer
Mr Fraser James	Tender & Contracts Officer

4.1 Qualitative Criteria

The Qualitative Criteria used for assessing tenders is noted in the table below:

Qualitative Criteria	Weighting %
1. Demonstrated Experience in completing similar tasks	20%
2. Skills and experience of key personnel	10%
3. Referees	20%
4. Price	50%

4.2 Rating Scale

Ratings for the evaluation were from 0 - 10 and represent the following descriptions:

Score	Description of Score
0	Inadequate or non-appropriate offer, many deficiencies, does not meet criterion
2	Poor offer, some deficiencies, only partially meets criterion
4	Marginal offer, few deficiencies, almost meets criterion
6	Acceptable offer, no deficiencies, meets all criterion
8	Good offer, exceeds criterion
10	Excellent offer, greatly exceeds criterion

4.3 Pricing

The pricing submitted by each tenderer was assessed together with the qualitative criteria. The selected response is that which represents the most advantageous to the City of South Perth.

5. Evaluation Methodology

5.1 Initial Compliance Check

An initial compliance check was conducted by the Evaluation Panel to identify submissions that were non-conforming with the immediate requirements of the RFT. This included compliance with contractual requirements and provision of requested information.

All tenders were processed through to qualitative criteria assessment on the basis that all terms and conditions and mandatory requirements of the RFT had been met.

5.2 Qualitative Criteria Assessment

The qualitative criteria assessment was carried out by the Evaluation Panel with the Evaluation Panel scoring the tenders according to the evaluation matrix.

All applicants were assessed against the qualitative selection criteria. Specific criteria were weighted according to their importance as perceived and agreed by the Evaluation Panel. Relative weightings were published within the RFT.

6. Evaluation Tools and Rating Scale

Below is an outline of the process used by the Evaluation Panel when allocating points against the qualitative selection criteria.

Refer to Section 4.2 of the Evaluation Report for a description of the Selection Criteria.

The prices were based using the average estimated for each item reflected in the Schedule of rates.

As part of the qualitative criteria assessment, the Evaluation Panel scored tenders according to the evaluation matrix as shown below.

6.1 Evaluation Matrix - Qualitative Criteria and Price

CITY OF SOUTH PERTH

Tender 12/2008 for the Supply of Traffic Management

TENDER ASSESSMENT - Cost Weighted Method

	Weight Factor	Altus		Taborda		ATM		WARP		Carrington		QTM	
		Out of 10	Adjust.	Out of 10	Adjust.	Out of 10	Adjust.	Out of 10	Adjust.	Out of 10	Adjust.	Out of 10	Adjust.
Demonstrated Experience at completing similar tasks	20%	4.0	0.8	8.0	1.6	10.0	2.0	10.0	2.0	6.0	1.2	10.0	2.0
Skills and experience of key personnel	20%	8.0	1.6	8.0	1.6	10.0	2.0	10.0	2.0	6.0	1.2	10.0	2.0
Referees	10%	0.0	0.0	6.0	0.6	10.0	1.0	10.0	1.0	0.0	0.0	10.0	2.0
Tender Bid Price	50%	8.30	4.15	8.96	4.48	8.73	4.47	8.13	4.07	8.90	4.45	10.0	5.00
TOTAL	100%		6.55		8.28		9.37		9.07		6.85		10.00

"JOB" PRICE BASED ON BID

\$229,000	\$216,150	\$220,650	\$232,418	\$217,250	\$195,808
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LOWEST BID PRICE

\$195,808

Note:

- Score for tender fee is based on $\{[(\text{lowest tender fee} - \text{actual tender fee}) / \text{lowest tender fee}] + 1\} \times 10$
- "O" indicate insufficient information to determine

6.2 Comparative Statement of Tendered Prices

The analysis undertaken by the Evaluation Panel revealed that the **lowest price** of \$195,808 was offered by **Quality Traffic Management Pty Ltd**.

Quality Traffic Management Pty Ltd has also recorded the **highest score** in the Evaluation Matrix of qualitative criteria.

7. Basis of Decision

7.1 Basis for Recommending a Tenderer

Based on the Panel's evaluation, the tender from **Quality Traffic Management Pty Ltd** represents the **lowest price compliant offer** and is therefore recommended as the acceptable tenderer.

QTM is a road consulting, contracting and training enterprise with extensive experience with traffic management design, audit and installation.

QTM - has extensive contractual experience with local authorities , such as the City of Belmont, City of Armadale, City of Gosnells, and the City of South Perth.

QTM - has completed a number of projects for local authorities, such as the Graham Farmer Freeway, Loftus Street Duplication, Wellington Street Ramps and Kwinana Freeway Extension.

It is therefore recommended that the Council accept the tender by QTM - Quality Traffic Management.

7.2 Details of Referee Report

The referee report provided for Quality Traffic Management, attached below, and supports the recommendation for Quality Traffic Management as the preferred supplier.

REFeree	INFORMATION PROVIDED
City of Belmont Anthony Soh	Contractor was good at Quality and Management of the jobs. So long as they had advance notice they would be there. They meet all standards, and we have signed them up on contract again.
City of Melville Darrell Smith	They have performed to what we have asked. Have normal problems of most companies losing staff to the mining industry, but will always arrange something.

8. Decision

That the tender submitted by **Quality Traffic Management Pty Ltd** having a estimated contract value of \$195,808 (GST Exclusive) for the period 1 July 2008 and terminating on 30 June 2009, be accepted.

9. Endorsement by Evaluation Panel

Piero Campeotto

Operations Engineer

(Signature)

(Date)

Fraser James

Tender & Contracts Officer

(Signature)

(Date)

City of South Perth

Attachment 10.5.1

List of Application for Planning Consent Determined Under Delegated Authority for the Period 1/07/2008 to 31/07/2008

Application #	Ext. Ref.	PC Date	Address	Applicant	Status	Description
011.2007.00000547.001	MO1/89	11/07/2008	89 Monash AVE COMO	Mr G Humphrys	Approved	ADDITIONS / ALTERATIONS TO GROUPED
011.2007.00000636.001	CO3/64	29/07/2008	64 Comer ST COMO	Mr T J Webster	Refused	PATIO ADDITION TO GROUPED DWELLING
011.2007.00000640.001	FO1/3 -	24/07/2008	3 Forrest ST SOUTH PERTH	Grandwood Homes Pty Ltd	Refused	THREE STOREY SINGLE HOUSE
011.2007.00000650.001	TH4/9	22/07/2008	9 Thomas ST SOUTH PERTH	Georgestan Homes Pty Ltd	Approved	TWO STOREY SINGLE HOUSE
011.2007.00000655.001	MI3/80	28/07/2008	80 Mill Point RD SOUTH PERTH	Mrs B M Dinnie	Approved	Additions / Alterations to Multiple Dwelling
011.2008.00000004.001	TH4/2	17/07/2008	2 Thomas ST SOUTH PERTH	Mr Q Keihani	Approved	THREE STOREY SINGLE HOUSE
011.2008.00000039.001	BR2/64	11/07/2008	64 Brandon ST KENSINGTON	Mr S I Douglas	Approved	TWO STOREY SINGLE HOUSE
011.2008.00000045.001	DO2/80	8/07/2008	80 Douglas AVE SOUTH PERTH	J-Corp Pty Ltd t/a Perceptions	Approved	TWO STOREY SINGLE HOUSE
011.2008.00000117.001	CO2/10	25/07/2008	10 Collins ST SOUTH PERTH	Mr D Franzon-Rafter	Approved	Additions / Alterations to Single House
011.2008.00000121.001	MO1/87	7/07/2008	87 Monash AVE COMO	Southpat Patios	Approved	PATIO ADDITION TO SINGLE HOUSE
011.2008.00000132.001	FO1/10	1/07/2008	106 Forrest ST SOUTH PERTH	Tangent Nominees Pty Ltd	Approved	Additions / Alterations to Single House
011.2008.00000137.001	BR5/16	15/07/2008	Broad ST KENSINGTON	Gold Style Homes	Refused	TWO STOREY SINGLE HOUSE
011.2008.00000141.001	CR3/68	7/07/2008	68A Crawshaw CRES MANNING	Kalmar Factory Direct	Approved	PATIO ADDITION TO SINGLE HOUSE
011.2008.00000145.001	TH1/91	7/07/2008	91 Thelma ST COMO	Broadway Homes	Refused	TWO GROUPED DWELLINGS
011.2008.00000163.001	CL12/L	1/07/2008	Carr ST SOUTH PERTH	Considine Architects	Approved	TWO STOREY SINGLE HOUSE
011.2008.00000175.001	AN1/21	11/07/2008	21 Angelo ST SOUTH PERTH	Westral Outdoor Centre	Approved	PATIO ADDITION TO GROUPED DWELLING
011.2008.00000179.001	SA1/28	1/07/2008	28 Salisbury AVE SOUTH PERTH	Dr K M Mitchell	Approved	Additions / Alterations to Single House
011.2008.00000180.001	BA3/15	11/07/2008	15 Barker AVE COMO	Qest Holdings Pty Ltd	Approved	THREE GROUPED DWELLINGS
011.2008.00000181.001	BR1/64	29/07/2008	64 Bradshaw CRES MANNING	Tangent Nominees Pty Ltd	Approved	ONE STOREY SINGLE HOUSE
011.2008.00000184.001	ED1/78	29/07/2008	78 Edgecumbe ST COMO	Mr F H Lam	Approved	FOUR SINGLE HOUSES: TWO STOREY
011.2008.00000187.001	HE2/5	1/07/2008	5 Henning CRES MANNING	Mr V Rychal	Approved	TWO STOREY SINGLE HOUSE
011.2008.00000188.001	CO6/14	7/07/2008	146 Coode ST COMO	Oasis Patios	Approved	PATIO ADDITION TO GROUPED DWELLING

List of Application for Planning Consent Determined Under Delegated Authority for the Period 1/07/2008 to 31/07/2008

Application #	Ext. Ref.	PC Date	Address	Applicant	Status	Description
011.2008.00000190.001	RI4/13	21/07/2008	13 Riverview ST SOUTH PERTH	Mr D S Stafford	Approved	Additions / Alterations to Single House
011.2008.00000195.001	CO6/17	11/07/2008	173 Coode ST COMO	Mr J Lewis	Approved	THREE GROUPED DWELLINGS
011.2008.00000198.001	HE3/10	25/07/2008	102 Hensman ST SOUTH PERTH	Mr R Rimington	Refused	Additions / Alterations to Single House
011.2008.00000201.001	MI3/30	1/07/2008	302 Mill Point RD SOUTH PERTH	Mr M Jneid	Approved	TWO STOREY SINGLE HOUSE
011.2008.00000208.001	RI2/20 -	1/07/2008	20 Ridge ST SOUTH PERTH	Overman & Zuideveld Pty Ltd	Approved	Additions / Alterations to Single House
011.2008.00000213.001	ME3/11	9/07/2008	112 Melville PDE COMO	Kingman Visual	Approved	SIGNS
011.2008.00000217.001	WO1/L	18/07/2008	Wooltana ST COMO	Webb & Brown-Neaves Pty Ltd	Approved	TWO STOREY GROUPED DWELLING
011.2008.00000224.001	BU3/3	29/07/2008	3 Burnett RD MANNING	Mr T S Dawson	Approved	Additions / Alterations to Single House
011.2008.00000238.001	CA2/30	24/07/2008	30 Cale ST COMO	I Y Chorng	Approved	PATIO ADDITION TO GROUPED DWELLING
011.2008.00000241.001	MO5/69	10/07/2008	69 Mt Henry RD SALTER POINT	Beaumonde Homes	Approved	TWO STOREY SINGLE HOUSE
011.2008.00000244.001	BR2/60	30/07/2008	60 Brandon ST KENSINGTON	Mrs R Sofield	Approved	TWO STOREY SINGLE HOUSE
011.2008.00000247.001	LA5/14	21/07/2008	148 Lansdowne RD KENSINGTON	Tangent Nominees Pty Ltd	Approved	Single House
011.2008.00000248.001	WA1/33	7/07/2008	37 Walanna DR KARAWARA	Ray Scarce & Associates	Approved	SIGN
011.2008.00000253.001	KL1/8	7/07/2008	Klem AVE SALTER POINT	Jenic Designs	Approved	TWO SINGLE HOUSES : TWO STOREY
011.2008.00000257.001	MA1/25	18/07/2008	25 Mabel ST KENSINGTON	Mrs H M Baker	Approved	Additions / Alterations to Single House
011.2008.00000258.001	GR2/23	3/07/2008	23A Griffin CRES MANNING	Mr A W Russell	Approved	Additions / Alterations to Single House
011.2008.00000260.001	CO6/12	29/07/2008	Coode ST SOUTH PERTH	Honest Holdings Pty Ltd	Approved	TWO STOREY SINGLE HOUSE
011.2008.00000272.001	CO2/89	2/07/2008	89 Collins ST KENSINGTON	One Stop Patio Shop	Approved	PATIO ADDITION TO SINGLE HOUSE
011.2008.00000273.001	SA3/46	29/07/2008	46 Sandgate ST SOUTH PERTH	The Patio Guys	Approved	PATIO ADDITION TO SINGLE HOUSE
011.2008.00000281.001	SE1/30	8/07/2008	30 Second AVE KENSINGTON	Kalmar Factory Direct	Approved	PATIO ADDITION TO GROUPED DWELLING
011.2008.00000282.001	HO1/61	8/07/2008	61 Hobbs AVE COMO	Kalmar Factory Direct	Approved	PATIO ADDITION TO GROUPED DWELLING
011.2008.00000288.001	WE2/2	3/07/2008	2 Westbury RD SOUTH PERTH	S J Taylor	Approved	BOUNDARY SCREEN WALL
011.2008.00000290.001	PR1/67	15/07/2008	67 Preston ST COMO	Heritage Outdoor	Approved	PATIO ADDITION TO GROUPED DWELLING
011.2008.00000293.001	DA7/17	17/07/2008	17 Davilak ST COMO	Mrs V J Moloney	Approved	Carport Addition to Single House

List of Application for Planning Consent Determined Under Delegated Authority for the Period 1/07/2008 to 31/07/2008

Application #	Ext. Ref.	PC Date	Address	Applicant	Status	Description
011.2008.00000301.002	WE1/83	11/07/2008	83A Welwyn AVE SALTER POINT	Patio Living	Approved	PATIO ADDITION TO GROUPED DWELLING
011.2008.00000303.001	ED1/46	22/07/2008	46B Edgecumbe ST COMO	Riverview Patios	Approved	PATIO ADDITION TO SINGLE HOUSE
011.2008.00000306.001	LO1/6 -	15/07/2008	6 Lockhart ST COMO	Austin Developments	Approved	PATIO ADDITION TO SINGLE HOUSE
011.2008.00000314.001	DY1/42	29/07/2008	42 Dyson ST KENSINGTON	Mr M J Rosich	Approved	Additions / Alterations to Single House
011.2008.00000316.001	BE4/10	24/07/2008	10 Benson CH SALTER POINT	Concept Steel Constructions	Approved	PATIO ADDITION TO SINGLE HOUSE
011.2008.00000329.001	PE4/43	29/07/2008	43 Pether RD MANNING	Westral Outdoor Centre	Approved	CARPOR ADDITION TO GROUPED DWELLING
011.2008.00000330.001	KI2/44	29/07/2008	44 Kilkenny CIR WATERFORD	Mr J Killey	Approved	Carport Addition to Single House
011.2008.00000332.001	TO1/41	29/07/2008	41 Todd AVE COMO	JOSHUA BROOK PTY LTD	Approved	PATIO ADDITION TO SINGLE HOUSE

4. KEY ISSUES FOR DECISION

4.1 Systemic Sustainability Study (SSS) – *The Journey: Sustainability into the Future* - Draft Report (05-34-01-0009 TB) By Tony Brown, Exec. Manager Governance & Strategy

Recommendation

That the Systemic Sustainability Study (SSS) updated schedule of recommendations and proposed amendments to the report be endorsed.

In Brief

- The Systemic Sustainability Study draft report: *The Journey: Sustainability into the Future* was released on **28 February 2008**.
- The SSS Taskforce invited feedback from Local Governments and other stakeholders on the draft report with submissions closing on **16 June 2008**.
- WALGA received **105 submissions** dealing with the themes and content of the report, raising some common concerns with specific recommendations and themes.
- Member comments have guided the editing process and have led to a number of **significant amendments** to the recommendations of the report.
- The SSS Taskforce has been supported by an Edit team consisting of WALGA and Local Government Managers Australia (LGMA) representatives.
- Recommendations have been reduced from sixty one (61) to thirty nine (39) in response to sector feedback.
- Endorsement of the amendments is proposed, prior to printing and releasing the final report.

Relevance to Strategic / Business Plan

Key Result Area and Objectives

Strong Representation	Effectively engage our members Effectively influence government policy Effectively enhance working relationships with State and Federal Government
Effective Leadership	Identify and evaluate emerging issues, trends and responses Unify membership to achieve the options best suited to Local Government's interests
Enhancing Capacity	Increase the autonomy of Local Government and funding to Local Government Improve Local Government's access to quality staff Provide benefits to Local Government Enhance the capacity of the Association Provide Local Government with access to contemporary information and advice

Policy Implications

The final report of the Systemic Sustainability Study (SSS) project will establish an industry position regarding the recommendations of the SSS Taskforce. The final report will become an

Industry Plan for the Future of Local Government in Western Australia which will touch on almost every aspect of Local Government policy development.

Budgetary Implications

The Association has budgeted funds in the 08/09 Budget to further the implementation process of the SSS project with funding to assist member councils in regional co-operation discussions.

Background

The SSS draft report was released for comment at a Forum at the University of WA on 28 February 2008. It was initially released for a 6 week submission period. The Association quickly received submissions requesting a longer consultation process, which the State Council accepted by extending the submission period to 16 June 2008. This effectively allowed a 15 week period for feedback and enabled SSS Taskforce Members and Association staff to conduct presentations and discussions around the State with individual Councils, Zones or other groupings of Local Governments and interested parties. 34 briefing sessions were provided covering representation by approximately 120 Local Governments.

It is important to note that the report was a draft with a view to seeking feedback and provoking discussion on the issue of Local Government sustainability in Western Australia. The submission process has produced some excellent feedback and suggestions.

The process of reviewing the submissions was referred to an Edit Team that included representation from 2 Local Government Managers Australia (LGMA) Board members together with Association staff. The submission review process has produced important changes to the report; whilst the theme of regional co-operation has been reinforced, particularly in regards to the flexibility of the regional model.

The Draft SSS report documents the efforts of 5 Working Parties consisting of elected members and Local Government officers to address key focus areas related to the sustainability of the Local Government sector. To respect that significant contribution of time and effort the draft report retained the bulk of the Working Party input and left their various recommendations largely unchanged. This was considered the best means to retain the authenticity of the consultative process and to ensure that the continuity of the process was not interrupted.

The feedback and comments from the briefings and consultation sessions and the contents of the submissions have been considered in the preparation of this Plan. For this reason its contents depart substantially from the draft document. The arguments, analysis and recommendations have been reconsidered and reformulated in a number of areas to address issues raised in the consultation process.

Numerous responses from Member Local Governments have emphasised that the core issue underlying the sustainability of Local Government is the adequacy of funding. The SSS Taskforce shares this conclusion. It was central to the thinking behind *The Journey* and the proposals therein. However, it is clear from the feedback received that this view was not clearly enough expressed. A section has been included to place the SSS report in the National Context and to advocate more strongly for a greater share of the national taxation revenue.

It is proposed in this report to detail the major themes that came from the submission process and to advise on the proposed changes to these areas of the report. Following this a review of each recommendation will be provided preceded by a suggested revised recommendation or proposed action to be taken. A new schedule of revised recommendations is provided at the end of this agenda item.

Summary of Submissions

As part of the engagement and feedback process, the Association received 105 submissions on the draft report, *The Journey – Sustainability into the Future*. Individual Local Governments made 91 submissions, which represents approximately 65 percent of Member Councils. The remaining submissions were received from Zones, Regional Councils, professional Associations and other stakeholders.

Many of the submissions addressed similar themes and issues with the text of the report. The amendments to the text of the report are being guided by the thematic feedback and the general comments in the submissions. These concerns and issues are discussed below.

A majority of the submissions also indicated the level of support (or opposition) to each of the recommendations contained in the report. The majority of the recommendations were supported. There was some opposition to a number of recommendations and these have become the focus for amendments. The major themes and individual recommendations are discussed below.

Comment

The following are the major themes coming through the feedback in addition to the recommendations:

- Regional Model – clarification required;
- Local Government Independent Assistance Commission – not supported;
- Compliance Burden;
- SSS in a National Context - Greater Share of the National Taxation Revenue;
- Elected Members – Professional Development, Remuneration Review, Number of Councillors – diverse views;
- Amalgamations – Structural Reform; and
- Operational/Strategic Recommendations and Statements of Principle.

Regional Model - Process and Platform

The Regional concept needs to be viewed as a **process and not a structure**. The intent of the Regional Model was to point the way to voluntary co-operation by a group of like-minded Councils. The participants in a regional group are self selecting, and the range of activity of the region is determined by whatever the parties can agree to.

The range of options for implementation of the Regional concept might be a range of Shared Services Platforms, including but not limited to:

- Voluntary Regional Councils;
- Formal Regional Councils;
- Local Government Trading Entities;
- Single Local Government as the regional service provider;
- Private sector provider;
- State-wide managed preferred supplier or service.

The WALGA Zones had been suggested in the SSS draft report as a **starting point for debate only**.

The reaction to *The Journey* has been dominated by discussion of “The Regional Model” outlined within it. In hindsight, and with the benefit of significant feedback from members and stakeholders, the approach taken on that occasion was clearly deficient. It was not sufficiently respectful of the excellent initiatives which have been taken or the scale of innovation and experimentation already underway to address the issues confronting for Local Government. Also, the impression created was that there was a prescribed and limited outcome in mind against which success or otherwise would be judged.

Despite repeated emphasis in briefings and consultations that the objective was not to create a new sphere of government, a contrary impression was gained by many. Consequently, numerous submissions focused on this set of issues.

The intention of the 10 Year Reform Plan is to encourage the exploration of more regionally defined processes and platforms for the planning, delivery and funding of the functions and services offered by participating Local Governments. The accountability of those Local Governments to their constituents may remain unchanged. The specifics of the arrangements and the methods for their delivery are not pre-empted. In large part the Reform Plan seeks to make available greater levels of flexibility and an increased range of options by which these outcomes can be achieved. The purpose is not to limit but rather to enable Local Government.

The Regional Model chapter will be re-written based on the following:

Regional processes integrate effective service and infrastructure planning and delivery (on a local, regional or state-wide basis) with appropriate political representation (on a local basis). They permit Local Governments to retain certain services for local delivery as appropriate to their circumstances. They also contemplate the ability to expand service offerings with the default of first undertaking an analysis of the sustainability of the proposal and the best mechanism for its delivery. The approach is based on the concept of a 'catchment of common interest' which represents the community's mutual aspirations and historical connections, but with the scale for definition being a regional rather than purely local focus. It is also significantly influenced by the economies of scale for significant services delivered by Local Government. A key consideration is the ability to support and service current and future arrangements with the necessary skills sets and capabilities in a highly competitive labour market.

In return for Local Governments transferring a degree of their institutional independence, they may be able to improve the quantity and quality of the services they provide to their communities.

Regional processes and platforms maintain existing Local Government boundaries while permitting both regional and state-wide platforms to plan and deliver some services. The delivery of these services will stay within the control of the participating Local Governments, but an agreed method will be used to deliver services on behalf of the consortium. This takes account of the differing economies of scale that exist for Local Government services, some of which require local knowledge; some of which can be organised most efficiently regionally; some of which are best delivered on a state-wide basis; and some of which could be produced anywhere in the world.

Focusing Local Government reform around regional processes and platforms is significantly different to imposed structural reform initiatives. It is not driven by a reduction in the number of Local Governments for the sake of simple cost savings, nor does it suggest there is a 'one size that fits all' solution. The objective is to improve the ability of a Local Government to meet the expectations of its communities, at both local and regional levels, through retention of existing representation arrangements supported by enhanced capability for improved service delivery. Individual Local Governments are free to engage based on the merits of the case before them and the aspirations and expectations of the communities they serve.

Local Government Independent Assistance Commission (LGIAC)

There has been little support for the creation of a new structure to assist in capacity building of the sector; however there is support for the functions that were proposed for the LGIAC. These functions will need to be carried out within current structures. This will essentially mean advocating for these functions to be performed by the Department of Local Government and Regional Development.

It is important to note that the working group that suggested this proposal, put it forward as a method to affect change and to assist in the capacity building of the sector.

There has been significant support for increased funding by the State Government to the Department of Local Government and Regional Development, to enable the Department to have the ability to carry out the proposed capacity building functions.

Legislative Compliance Burden

It is the strong view of the SSS Taskforce that some of the legislative and reporting requirements placed on Local Governments are excessive and should be reviewed. This is the province of the Department of Local Government and Regional Development and they need to be engaged at the earliest opportunity on this matter. It has been suggested that a full review of the current compliance burden be undertaken to look at deleting items that are not essential and include the suggested regulatory items into the remaining package.

The SSS Taskforce believes that the repeal of non-essential compliance requirements that currently apply to the sector **requires the input of the LGMA and Local Government Officers** to identify non-essential compliance requirements so that Local Governments can function more effectively. A new recommendation is proposed to request a full review of the current compliance requirements with a view to prioritizing and reducing the compliance burden. A number of the regulatory recommendations in the draft report have been deleted and some have been amended.

The SSS Taskforce still believes that to assist in sustainability, the issues of long term planning and asset management are a priority. Mandated regulatory requirements in respect to these issues are recommended to:

- achieve standardisation to support compatibility, comparability and aggregation of information;
- allow for benchmarking and best practice across the sector; and
- facilitate advocacy to the other spheres of government.

SSS in a National Context - Greater Share of the national taxation revenue

Feedback was received during forums around the state, of the need to better reflect in the SSS document the need for Local Government to have a greater share of the Nation's taxation revenue.

The following inclusion is proposed to highlight the argument:

The purpose of following the SSS path was to develop a direction for the sector which would counteract those forces agitating for State enforced reform of Local Government and empower the sector to control its own destiny.

This motivation remains strong and relevant in 2008 as Western Australia moves closer to the next State election, due in early 2009 if not sooner.

However, there is another equally relevant impetus for reforming the Local Government sector, and that set of arguments belongs to the national tax debate.

Put simply, Local Government needs a greater share of national taxation revenue in order to fulfill its infrastructure and service delivery obligations into the future. This need arises as a result of:

1. *the historical cost shifting of the other spheres of government to Local Government (estimated at up to \$1 Billion);*
2. *the relative decline in the value of Financial Assistance Grants as a proportion of national taxation revenue from 2% in 1980/81 to around 0.67% at present; and*
3. *the magnitude of the infrastructure renewal task (estimated materially at over \$14.5 Billion).*

Whilst awareness of the dollar magnitude of these challenges is relatively recent information, Local Governments have been aware of the situation for many years, and the State Associations and ALGA have been advocating for more funding from State and

Federal governments, virtually from the time that Financial Assistance Grants were first introduced.

So the development of “the Journey” is not just a defence mechanism against State imposed reform and forced amalgamations. It is very much an optimistic and positive approach to creating a Local Government operating environment which:

- *sees Local Government playing a valid and important role in the federation,*
- *makes Local Government an attractive investment vehicle for the State and Federal Governments, so that the appropriate proportion of the national tax take flows to Local Government, and;*
- *ultimately gives the communities that all spheres of government serve the best possible outcomes.*

Local Government must take the initiative of reform in order to bring the other spheres of government to the realisation that they are missing opportunities by not embracing the sector more effectively into the federation. To do otherwise is to invite the other spheres of government to impose reforms of their own making on the Local Government sector.

The interstate experience of other Local Government jurisdictions should be enough motivation for WA Local Governments to pursue the voluntary reform path, for their recent history is littered with examples of State Governments acting to reform Local Government in the absence of timely, sector led change.

Elected Members - Professional Development, Remuneration Review, Number of Councillors

The section on the report in respect to elected members’ professional development, remuneration and the number of Councillors is proposed to be amended.

Professional Development

The SSS Taskforce believes that the role of the Association is to promote Elected Member professional development without proposing that it be compulsory. Councils should be required to adequately resource the participation of Councillors in professional development. A number of elected members have made comment that some Councils do not provide funding for Councillors to participate in training.

Remuneration Review

The issue of increased remuneration for elected members has been discussed. It is suggested that the current Association policy be endorsed. The current policy position is as follows:

“The State Government be requested to amend the Local Government Act 1995 accordingly to achieve the following outcome:

That the Western Australian Salaries and Allowances Tribunal be given the responsibility for establishing the range of fees and allowances for elected members, with each Local Government having the ability to set a fee within this range. The Tribunal also be required to update the fees and allowances on an annual basis.

In the event the Local Government Act 1995 is amended as per the Association’s advocacy: that the question of the quantum and extent of Councillor Fees and Allowances be sought from other states with a view of presenting this to the Western Australian Salaries and Allowances Tribunal to support any Association submission on this subject; and that targeted research be undertaken on Councillor responsibilities, level of control and work values, so that these can be extrapolated as industry averages and provided to the Tribunal in further support of any Association submission.”

Number of Councillors

On the issue of the numbers of Councillors, the Taskforce believes that this is an issue for individual Councils and recommends as follows:

“That Local Governments be encouraged to undertake regular reviews of the number of Councillors required to undertake the governance functions.”

Amalgamation - Structural Reform

Some feedback has been received suggesting that amalgamation should be considered where there is compelling evidence that amalgamation should take place. This has been a minority view, however needs to be acknowledged. The Association position is against forced amalgamation. The report proposes voluntary amalgamation as an effective structural reform option for those Councils wishing to go down this path.

Operational / Strategic Recommendations and Statements of Principle

The draft report was a compilation of the working group reports and recommendations. The Association respected the process and did not alter the recommendations for the draft report. It is recognised that some of the recommendations, in particular recommendations regarding financial management are operational recommendations and could be combined as one recommendation or located in one area. It is also acknowledged that some recommendations in the draft report are considered statements and require deleting as recommendations and reformatting into a section on statements of principle. The review of the schedule of recommendations from the draft report will identify these recommendations.

The strategic recommendations will have prominence.

Based on the submission feedback, the SSS Taskforce has amended the schedule of recommendations from 61 to 39 recommendations.

Feedback on Recommendations

The majority of the 105 submissions to the draft report focused on the recommendations. The submissions have guided the amendments to the recommendations which are detailed below.

Nb: The revised recommendations have been printed in colour.

NEW RECOMMENDATION – (Refer Updated Schedule – Recommendation 7)

That a Working Party consisting of WALGA, LGMA and the Department of Local Government and Regional Development undertake a review of all existing compliance and reporting arrangements applying under the *Local Government Act 1995* and Regulations to Local Government. The existing compliance burden to be reviewed and amended according to the following criteria:

- Continued relevance of the compliance requirement;
- Efficacy and efficiency in achieving the intended outcome without undue burden upon Local Government;
- The avoidance of duplication; and
- Articulation to new compliance requirements proposed in the 10 Year Reform Plan.

RECOMMENDATION 1 AMENDED – (Refer Updated Schedule – Recommendation 8)

That the *Local Government Act 1995* be amended to require Local Governments to:

- Prepare and publish a Strategic Plan for a minimum of five years with a review required after each general election of Council;
- Create Asset Management Plans linked to the Strategic Plan; and
- Prepare, as part of the published Strategic Plan, Financial Plans that allow for the implementation of the Strategic

EXPLANATION

Original Recommendation 1

Amend the Local Government Act to require Local Governments to:

- *Prepare and publish a Strategic Plan for a minimum of ten years, with a review required after each general election of Council;*
- *Create Asset Management Plans linked to the Strategic Plan;*
- *Prepare, as part of the published Strategic Plan, Financial Plans that allow for the implementation of the Strategic and Asset Management Plans;*
- *Create key performance indicators that are published as part of the planning process; and*
- *Report performance against these KPIs to their community on an annual basis.*

Review of Submissions

The feedback received on this recommendation can be summarised as follows:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
32	15	17	41

As shown above, 32 of the 64 submissions that made comment on this recommendation (50 percent) are supportive. 15 of 64 (23 percent) partially or conditionally support this recommendation and 17 of 64 (27 percent) do not support this recommendation or are opposed to it.

All of the 17 submissions that do not support or are opposed to this recommendation focused their opposition on increasing the regulatory and reporting burden on Local Governments and associated capacity constraints.

The majority of the 15 submissions that partially or conditionally support this recommendation suggested adjusting the mandatory timeframe (in bullet point 1) from 10 years to five years.

Comment

Recommendation 1 will be amended to change the mandatory reporting requirement to five years, in line with feedback from submissions.

This recommendation will be preceded in the final report by a new recommendation seeking a review of all current compliance requirements.

The review of compliance requirements would look at identifying issues such as deleting the requirement to prepare Plans for the Future of the District and replacing it with the proposal to require Strategic Plans linked to Financial and Asset Management Plans.

There was also feedback from the submissions relating to the current Local Government Act compliance requirements being a one size fits all approach. Requesting consideration to looking at the possibilities of having different compliance requirement levels for different sized local governments.

This was emphasized by a small rural local government with 6 administrative staff having to carryout similar compliance requirements to a metropolitan local government with 200 staff. Consideration would need to be given to banding local governments in certain levels based on identified criteria such as revenue, population, number of employees etc.

This issue could be considered by the Working Party undertaking the review of compliance requirements.

RECOMMENDATION 2 AMENDED – (Refer Updated Schedule – Recommendation 30)

Councillor professional development modules to be developed to incorporate strategic planning issues and their relationship to asset management and long term financial plans.

EXPLANATION

Original Recommendation 2

Councillor and officer training to be developed to incorporate strategic planning issues and their relationship to asset management and long term financial plans.

Review of Submissions

Recommendation 2 is widely supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
53	4	1	47

This recommendation is supported. Of the 58 submissions that considered this recommendation only five were not fully supportive. The five submissions that were only partially supportive or opposed to this recommendation stated that staff training needs should remain the prerogative of the Local Government Chief Executive Officer.

Comment

The reference to officer training will also be deleted in line with submission feedback.

This recommendation will also be transferred to the capability section of the recommendations.

RECOMMENDATIONS 3, 4, 5, 6, 8 and (part of) 16 CONSOLIDATED – (Refer Updated Schedule – Recommendation 13)

Consistent Financial Reporting

- That the disclosure notes required under the Local Government (Financial Management) Regulations 1996 are to be expanded to show the application of these revenues for operating, capital, reserve transfers and/ or debt servicing. To support these changes to Sections 23, 24, 39 and 40 of the Local Government (Financial Management) Regulations 1996 be amended to require these disclosures.
- That disclosure notes required under the Local Government (Financial Management) Regulations 1996 should be expanded to show the application of reserves for operating, capital and/ or debt servicing.
- The data collection sets include the classification of reserves held for the purpose of current liabilities, non-current liabilities, asset renewal, new assets, restricted funds (Special Area Rates/service charges, unspent grants) or future operating outlays.
- Amendments be made to Sections 27(h) and 38 of the Local Government (Financial Management) Regulations 1996 to require these disclosures.
- That the model financial reports disclose the restricted assets, by way of a note, so that funds not applied can be aligned with the appropriate financial year.
- Further, that the effects of restricted assets such as unspent operating grants are considered in assessing the operating result of Local Governments in preparing comparative financial indicators.
- That the current operating revenue classes for nature/type:
 - a Grants and subsidies; and
 - b Contributions, reimbursements & donations be changed as follows:
 - Operating grants, subsidies and contributions; and
 - Non-Operating grants, subsidies and contributions.
- Revenue received for reimbursements and donations that cannot be classified as operating/non operating contributions or Fees and Charges are to be classified as ‘Other Revenue’.
- That performance indicators for debt management be incorporated in the disclosure requirements for the long term financial plans, annual reports and the annual budgets.
- Disclosure requirement for asset acquisitions be expanded to show the value of acquisitions for new assets and outlays on the renewal of existing assets.

RECOMMENDATION 7 DELETED

EXPLANATION

Original Recommendation 3

That the current operating revenue classes for nature/type:

- a. Grants and subsidies*
- b. Contributions, reimbursements & donations*

Be changed as follows:

- a. Operating grants, subsidies and contributions*
- b. Non-Operating grants, subsidies and contributions*

Revenue received for reimbursements and donations that cannot be classified as operating/non operating contributions or Fees and Charges are to be classified as ‘Other Revenue’.

Original Recommendation 4

The disclosure notes required under the Local Government (Financial Management) Regulations 1996 are to be expanded to show the application of these revenues for operating, capital, reserve transfers and/ or debt servicing.

To support these changes to Sections 23, 24, 39 and 40 of the Local Government (Financial Management) Regulations 1996 be amended to require these disclosures.

Original Recommendation 5

That the model financial reports disclose the restricted assets, by way of a note, so that funds not applied can be aligned with the appropriate financial year.

Further, that the effects of restricted assets such as unspent operating grants are considered in

assessing the operating result of Local Governments in preparing comparative financial indicators.

Original Recommendation 6

That the model financial reports disclose extra-ordinary financial transactions, by way of a note, so that funds not applied can be aligned with the appropriate financial year.

Further, that the effects of extra-ordinary financial transactions are considered in assessing the operating result of Local Governments in preparing comparative financial indicators.

Original Recommendation 7

That the first release of an Industry Accounting Manual include a detailed guidance note on useful life, residual values and the resultant depreciation rates for all classes of fixed assets.

Original Recommendation 8

That disclosure notes required under the Local Government (Financial Management) Regulations 1996 should be expanded to show the application of reserves for operating, capital and/ or debt servicing.

The data collection sets include the classification of reserves held for the purpose of current liabilities, non-current liabilities, asset renewal, new assets, restricted funds (Special Area Rates/service charges, unspent grants) or future operating outlays.

Amendments be made to Sections 27(h) and 38 of the Local Government (Financial Management) Regulations 1996 to require these disclosures.

Review of Submissions

Recommendations 3, 4, 5, 6, 7 and 8 are overwhelmingly supported as indicated by the following table:

Recommendation	Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
3	53	0	1	51
4	44	4	6	51
5	52	1	0	51
6	52	1	0	51
7	50	3	1	51
8	51	0	2	51

This group of recommendations is considered to be largely operational and will be grouped together in the final report under the heading of Consistent Financial Reporting to be forwarded to the Department of Local Government and Regional Development for further investigation and implementation.

Comment

Recommendations are considered operational and are supported. Recommendation 7 will be deleted as the Industry Accounting Manual has been progressed and the first stage of the Manual will be released at the Local Government Convention in August 2008.

The Industry Accounting Manual has been written to conform with the current Local Government Act and Financial Management Regulations. Any changes to the Act and Regulations will require an update to the Industry Accounting Manual.

RECOMMENDATION 9 AMENDED – (Refer Updated Schedule – Recommendation 9)

That the Department of Local Government and Regional Development facilitate the production of comparative information for financial transactions for the sector. This information is to be compiled using a web based collection system, managed by the Department, which allows direct input and amendment of the information.

EXPLANATION

Original Recommendation 9

In order to support the function of an independent Local Government Independent Assistance Commission a partnership arrangement to be entered into between the Department and WALGA to facilitate the production of comparative information for financial transactions for the sector. This information is to be compiled utilising a web based collection system that allows direct input and amendment of the information.

An investment is required to enable data collection to commence in 2008.

Review of Submissions

The feedback to this recommendation was mixed as evidenced by the following table:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
19	19	19	48

The majority of comments received about this recommendation supported the recommended function (a web based collection system for comparative financial data) but objected to the establishment of a new bureaucracy (the Local Government Independent Assistance Commission). The submission comments indicated support for the Department of Local Government and Regional Development taking on the recommended function.

Some comments also indicated that the commencement date of 2008 was too optimistic and requires amendment or removal.

Comment

This recommendation has been amended to remove reference to the LGIAC. The submissions support this function being carried out by the Department of Local Government and Regional Development.

Reference to an implementation date has been removed.

RECOMMENDATION 10 DELETED

EXPLANATION

Original Recommendation 10

That the Local Government Act 1995 be amended to require the production of annual community financial reports on terms equivalent to those currently applying in Queensland.

Review of Submissions

The feedback to this recommendation was also mixed as shown by the following table:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
21	10	27	47

Of the 58 submissions that addressed this recommendation, 21 (36 percent) indicated support. Of the remaining submissions addressing this recommendation, 27 (47 percent) were opposed. Another 10 (17 percent) were partially or conditionally supportive.

The comments received about this recommendation suggested that the opposition is directed at an increased financial reporting compliance burden.

Comment

In line with submission feedback, this recommendation will be deleted.

RECOMMENDATION 11 AMENDED – (Refer Updated Schedule – Recommendation 10)

That from the collection of Local Government financial information a set of industry comparative financial indicators associated with financial sustainability be provided to the industry on an annual basis.

EXPLANATION

Original Recommendation 11

That from the collection of Local Government financial information a set of industry comparative financial indicators associated with financial sustainability be provided to the industry by July 2009. To support this development WALGA develop training programmes for Councillors on the importance and interpretation of financial sustainability indicators.

Review of Submissions

Feedback received about this recommendation is generally supportive:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
33	15	8	49

Of the submissions that addressed this recommendation, 33 (59 percent) are supportive and another 15 (27 percent) are partially or conditionally supportive.

Eight submissions (14 percent) oppose or do not support this recommendation.

Comments from the submissions indicate that the timeframe (of July 2009) may be too ambitious and needs to be extended. Another concern addressed in the submission comments is the role of WALGA as a training provider.

Comment

The reference to an implementation date has been removed, as suggested by submission feedback, and the sentence regarding the development of training has been consolidated into the capability recommendations.

RECOMMENDATION 12 RETAINED – (Refer Updated Schedule – Recommendation 14)

EXPLANATION

Original Recommendation 12

That suitable debt management indicators for Local Government be developed in consultation with the WA Treasury Corporation to form part of the proposed comparative data set for Local Government. Each debt indicator should include a range by which Local Governments can manage debt in a prudent fashion.

Review of Submissions

This recommendation is widely supported.

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
45	2	6	52

Of the submissions that addressed this recommendation, 45 are supportive, with only six submissions opposed and two partially or conditionally supportive. Those opposed cited the increased compliance burden in their comments.

This recommendation is to be transferred to the Consistent Financial reporting section.

Comment

This recommendation is supported and therefore retained.

RECOMMENDATION 13 AMENDED – (Refer Updated Schedule – Recommendation 15)

That comparative information be reported for debt and debt management. This information is to be compiled using a web based collection system that allows direct input and amendment of the information.

The information is to provide state, region and size analysis online for the following debt matters:

- general statistics to include amount of new debt raised, refinancing amounts, debt service amounts and outstanding debt;
- performance indicators be published for:
 - debt service costs as a percentage of general funds;
 - debt service costs as a percentage of LG revenue;
 - debt outstanding as a percentage of general funds;
 - debt outstanding as a percentage of LG revenue;
 - weighted average interest rate of debt;
 - gross debt to economically realisable assets;
 - untied cash reserves as a percentage of outstanding debt; and
 - net financial liabilities.

EXPLANATION

Original Recommendation 13

That comparative information be reported for debt and debt management. This information is to be compiled using a web based collection system that allows direct input and amendment of the information.

The information is to provide state, region and size analysis online for the following debt matters:

- *general statistics to include amount of new debt raised, refinancing amounts, debt service amounts and outstanding debt*
- *performance indicators be published for:*
 - *debt service costs as a percentage of general funds*
 - *debt service costs as a percentage of LG revenue*
 - *debt outstanding as a percentage of general funds*
 - *debt outstanding as a percentage of LG revenue*
 - *weighted average interest rate of debt*
 - *gross debt to economically realisable assets*
 - *untied cash reserves as a percentage of outstanding debt*
 - *net financial liabilities.*

Performance indicators for debt management be incorporated in the disclosure requirements for the long term financial plan, the annual report and the annual budget.

Review of Submissions

Feedback to recommendation 13 was mixed, but generally supportive, as indicated by the following table:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
34	7	13	51

Of the 54 submissions that specifically addressed this recommendation, 34 (63 percent) are supportive, 7 (13 percent) are partially or conditionally supportive and 13 (24 percent) are opposed or not supportive.

From the comments in the submissions, the opposition to this recommendation centred on an increase in financial reporting and compliance.

Comment

This recommendation is generally supported. The reference to disclosure notes has been transferred to the 'Consistent Financial Reporting' section.

RECOMMENDATION 14 AMENDED – (Refer Updated Schedule – Recommendation 11)

That the roll out of an asset management programme to all Local Governments is recommended. The process should be facilitated on a regional basis for smaller Local Governments.

- *The implementation of the programme needs to be supported with resources that permit the timely implementation of the programme.*
- *Consistent with the proposed practices included in the accounting manual, industry guidance be provided on service standards and intervention levels.*

Information for the annual road survey by WALGA should be collated through a web based collection portal and undertaken in conjunction with information collected through the Department of Local Government and Regional Development.

EXPLANATION

Original Recommendation 14

That the roll out of an asset management programme to all Local Governments is recommended. The process should be facilitated on a regional basis for smaller Local Governments.

- The implementation of the programme needs to be supported with resources that permit the timely implementation of the programme*
- Consistent with the proposed practices included in the accounting manual, industry guidance be provided on service standards and intervention levels.*

Information for the annual road survey by WALGA should be collated through a web based collection portal and undertaken in conjunction with information collected through the proposed industry bureau.

Review of Submissions

Feedback to this recommendation is generally supportive with some opposition:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
39	10	8	48

Of the 57 submissions that addressed this recommendation, 39 (68 percent) were supportive and a further 10 (18 percent) were partially or conditionally supportive. Eight (14 percent) of the submissions addressing this recommendation were opposed.

Those opposed cited increasing the compliance burden, a substantial establishment cost and opposition to the WAAMI programme as justification.

Comment

This recommendation is not recommending the WAAMI programme and has been amended to delete the reference to a bureau.

RECOMMENDATION 15 AMENDED – (Refer Updated Schedule – Recommendation 12)

That a partnership be established between the Department of Local Government and Regional Development, Main Roads WA, and the Local Government sector for the collection of road infrastructure data for all Local Governments. Data collection and management to be undertaken by the Department.

EXPLANATION

Original Recommendation 15

That a partnership to be established with the Department of Local Government and Regional Development, Main Roads WA, and WALGA for a bureau to be established or the collection and management of road infrastructure data for all Local Governments.

The establishment costs of the bureau to be initially funded from the State road fund allocations. Following the first five years the costs of the bureau is to be met from Local Government contributions.

Review of Submissions

Feedback to recommendation 15 is mixed but generally supportive:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
24	20	12	49

As shown above, 24 of 56 submissions (43 percent) addressing this recommendation are supportive and 20 (36 percent) are partially or conditionally supportive. 12 submissions (21 percent) indicated opposition to this recommendation.

The comments from submissions suggest that concern with this recommendation centre around the funding for the bureau coming from existing State road funding initially followed by Local Government contributions. Linked to this, there is concern that Local Governments with well established asset management programmes will be disadvantaged by contributing to a bureau.

There is also concern with WALGA's role in the process and a number of submissions suggested that Main Roads WA should be the sole agency responsible for collecting and managing road infrastructure data.

Comment

In line with submission feedback, recommendation 15 has been amended to remove reference to a bureau. The function is now to be referred to the Department of Local Government and Regional Development.

RECOMMENDATION 16 DELETED

EXPLANATION

Original Recommendation 16
That a schedule of recommended depreciation rates for each class of fixed assets be incorporated into the first release of the accounting manual.
Disclosure requirement for asset acquisitions be expanded to show the value of acquisitions for new assets and outlays on the renewal of existing assets. The definitions used in the WAAMI model will be used as the basis for defining 'new' or 'renewal'.

Review of Submissions

The feedback on Recommendation 16 was generally supportive:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
36	10	7	52

Of the 53 submissions that addressed this recommendation, 36 (68 percent) were supportive and 10 (19 percent) were partially or conditionally supportive. Seven submissions (13 percent) were opposed to this recommendation.

A number of submissions that indicated partial or conditional support commented that using the definitions in the WAAMI model is not supported.

A number of submissions that expressed opposition commented that this recommendation would increase the compliance burden.

Comment

Part of this recommendation, relating to disclosure requirements, has been moved to the 'Consistent Financial Reporting' section and the reference to the accounting manual will be deleted due to the accounting manual's imminent release.

RECOMMENDATION 17 DELETED

EXPLANATION

Original Recommendation 17
That a system of revaluation of assets such as buildings and infrastructure on a five yearly basis be incorporated into the annual financial accounts prepared by a Local Government.

Review of Submissions

This recommendation is generally supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
41	9	7	48

Feedback to this recommendation is generally supportive. A number of submissions that indicated partial or conditional support or opposition commented that five yearly valuations could be too frequent particularly in rural and remote areas. There was also some concern that the costs would be high with limited return.

Comment

This recommendation will be deleted as it is superfluous. If Local Governments implement an asset management plan, the revaluation of buildings will be accommodated.

RECOMMENDATION 18 DELETED

EXPLANATION

Original Recommendation 18

That WALGA continue investigation of the possible creation of a Local Government Finance Authority.

Review of Submissions

There was general support for the continuing investigation of the possibility of creating a Local Government Finance Authority with some opposition:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
35	13	9	48

A total of 57 submissions addressed this recommendation. Of those, 35 submissions (61 percent) indicated support, 13 submissions (23 percent) indicated partial or conditional support and nine (16 percent) indicated opposition.

The comments from the submissions indicated that more information about the proposed body is needed and that there is concern about duplicating the role of WA Treasury Corporation.

Comment

In line with submission feedback, this recommendation will be deleted. The creation of a Local Government Finance Authority can remain a topic for ongoing sector discussion, and can be reviewed by the Association's business development section.

RECOMMENDATION 19 AMENDED – (Refer Updated Schedule – Recommendation 18)

That the Local Government sector endorses the rate setting process contained in *The Journey: Sustainability into the Future* as an example of best practice in rate setting.

EXPLANATION

Original Recommendation 19

That WALGA support the rate setting process as outlined Section 6.22 as an example of best practice in rate setting.

Review of Submissions

Recommendation 19 is strongly supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
49	2	2	52

The submissions that addressed this recommendation were almost unanimously supportive. Two submissions partially or conditionally supported this recommendation and two submissions were opposed to this recommendation. The comments from the submissions highlighted the need to maintain this recommendation as 'best practice' rather than mandatory.

Comment

This recommendation is to be amended to remove reference to WALGA and to highlight the section from *The Journey: Sustainability into the Future*. It should be noted that it is a best practice suggestion and not mandatory.

RECOMMENDATION 20 AMENDED – (Refer Updated Schedule – Recommendation 19)

- a. That WALGA in conjunction with the ABS constructs and maintains a revised WA Local Government Cost Index using average actual expenditure and appropriate cost and price indices.
- b. That the WA Local Government Cost Index be delivered via a website; managed by the Department of Local Government and Regional Development; that allows members to input individual expenditure to customise their weightings and develop an index tailored to their circumstances.
- c. That Local Governments use a revised WA Local Government Cost Index as part of their budget calculations and communications and to approximate cost increases as part of their annual review of fees and charges.

EXPLANATION**Recommendation 20**

- a. *That WALGA in conjunction with the ABS constructs and maintains a revised WA Local Government Cost Index using average actual expenditure and appropriate cost and price indices.*
- b. *That the WA Local Government Cost Index be delivered via a website that allows members to input individual expenditure to customise their weightings and develop an index tailored to their circumstances.*
- c. *That Local Governments use a revised WA Local Government Cost Index as part of their budget calculations and communications.*

Review of Submissions

Recommendation 20 is strongly supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
52	0	1	52

Recommendation 20 was almost unanimously supported by the submissions addressing this recommendation. Of the 53 submissions that addressed this recommendation, 52 submissions indicated support and one indicated opposition.

Comment

This recommendation is to be amended to include part of recommendation 25.

RECOMMENDATION 21 DELETED**EXPLANATION****Original Recommendation 21**

That Local Governments use the principles of: transparency, timeliness, comparability and pricing policy as key elements of best practice in setting fees and charges.

Review of Submissions

Recommendation 21 is supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
49	3	2	51

Recommendation 21 was strongly supported by the submissions addressing this recommendation. Of these, 49 indicated support, three indicated partial or conditional support and two indicated no support or opposition.

Comment

This recommendation will be deleted. It is best suited to the text of the report rather than a recommendation.

RECOMMENDATION 22 AMENDED – (Refer Updated Schedule – Recommendation 20)

That the comparative financial data held by the Department of Local Government and Regional Development is the reference source for the purpose of setting standard costs for like goods and services provided by Local Governments. The Department to manage a reference group of Industry Organisations including WALGA, LGMA and the WA Department of Treasury and Finance to overview the relativity, accuracy, applicability and methodology of standard costs, which would be available for Local Governments to adopt.

The Department to conduct reviews of best practice in pricing policy and suggest methodologies for setting discounted community fees and charges to ensure industry consistency. The default unit for analysis and fee setting should be regional.

EXPLANATION

Original Recommendation 22

The LGIAC is the reference panel for the purpose of setting standard costs for like goods and services provided by Local Governments. The LGIAC to include representation from the Department of Local Government and Regional Development, Industry Organisations including WALGA and the WA Department of Treasury and Finance to overview the relativity, accuracy, applicability and methodology of standard costs, which would be available for Local Governments to adopt.

The LGIAC would conduct reviews of best practice in pricing policy and suggest methodologies for setting discounted community fees and charges to ensure industry consistency. The default unit for analysis and fee setting should be regional.

Review of Submissions

Feedback to this recommendation was mixed:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
23	14	18	50

There were 55 submissions received that addressed this recommendation. Of these 23 (42 percent) were supportive, 14 (25 percent) were partially or conditionally supportive and 18 (33 percent) were opposed.

Comments from submissions indicated that the proposed function is generally supported, however should be the role of the Department of Local Government and Regional Development. There is limited support for the creation of an LGIAC.

Comment

The reference to the LGIAC will be removed in line with submission feedback. As the broad function is supported by the feedback, the Department of Local Government and Regional Development will be the recommended agency to undertake the role.

RECOMMENDATION 23 RETAINED – (Refer Updated Schedule – Recommendation 22)

RECOMMENDATION 24 RETAINED – (Refer Updated Schedule – Recommendation 23)

RECOMMENDATION 25 INCORPORATED IN RECOMMENDATION 20 AS PART C – (Refer Updated Schedule – Recommendation 19)

EXPLANATION

Original Recommendation 23

That Sec 6.16 (3) of the Local Government Act (1995) be amended to allow Local Governments to set fees and charges other than at the time of adopting the annual budget and provide sufficient time to be applicable from 1st July each year.

Original Recommendation 24

That Sec 6.16 of the Local Government Act (1995) be amended to cater for circumstances where Local Governments operate a commercial undertaking selling fast moving consumer goods and where marketing imperatives require line managers to make pricing and discounting decisions.

Original Recommendation 25

That Local Governments use the WA Local Government Cost Index (as enhanced by Recommendation 20) to approximate cost increases as part of their annual review of fees and charges cost levels.

Review of Submissions

Recommendations 23, 24 and 25 were widely supported as indicated in the following table:

Recommendation	Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
23	52	0	1	52
24	53	0	2	50
25	47	3	3	52

Comment

Recommendations 23 and 24 are supported and have been retained. Recommendation 25 has been incorporated into recommendation 20 (updated recommendation 19).

RECOMMENDATION 26 AMENDED – (Refer Updated Schedule – Recommendation 21)

That the Department for Local Government and Regional Development establish a website for the purpose of providing Local Governments with access to comparable information on rates in terms of a set of standard ratios to be agreed

EXPLANATION

Original Recommendation 26

That LGIAC establishes a website for the purpose of providing Local Governments with access to comparable information on rates in terms of the ratios outlined in this report.

Review of Submissions

Feedback to this recommendation was mixed but generally supportive:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
30	14	10	51

Of the 54 submissions that addressed this recommendation, 30 submissions (56 percent) support, 14 (26 percent) are partially or conditionally supportive and 10 submissions (18 percent) oppose or do not support this recommendation.

From the submission comments, the biggest concern with this recommendation is the creation of a new structure: the Local Government Independent Assistance Commission.

The majority of partially or not supportive submissions addressing this recommendation support the function being performed by the Department of Local Government and Regional Development.

Comment

In accordance with submission feedback, this recommendation has been amended to remove reference to the LGIAC, and to recommend the Department of Local Government and Regional Development to undertake the function.

RECOMMENDATION 27 AMENDED – (Refer Updated Schedule – Recommendation 5)

That the Local Government sector endorses and actively supports a campaign for enhanced funding with the following elements:

- The existing national campaign for Financial Assistance Grants to be underpinned by a fixed percentage of total Commonwealth Taxation (net of GST).
- The national campaign for the establishment of a Community Infrastructure Fund.
- That WALGA advocate for the current Roads to Recovery programme to be established as a permanent funding source and escalated each year based upon the increase in Commonwealth Taxation Revenue.

EXPLANATION

Recommendation 27

That WALGA continue supporting ALGA in their push for Financial Assistance Grants to be allocated based upon a percentage of Commonwealth Taxation as the most effective way of increasing financial assistance to WA.

Review of Submissions

There is strong support for recommendation 27:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
55	4	0	46

This recommendation was almost unanimously supported with 55 submissions indicating support. There were no submissions opposed to this recommendation. Four submissions were supportive on the condition that the percentage of Commonwealth Taxation to Local Government lobbied for is two percent.

Comment

This recommendation has been modified in accordance with new content and in the context of the national debate centred on addressing the fiscal imbalance.

RECOMMENDATION 28 DELETED

EXPLANATION

Original Recommendation 28
WALGA and LGMA seek approval to present a joint submission to State Government focusing on the benefits gained from the \$3m investment and seeking to expand the scope of the fund, as set out in this report, to cover sustainability issues and increase the amount of the financial allocation to an indicative \$6m per annum for 5 years.

Review of Submissions

Recommendation 28 is supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
52	3	1	49

This recommendation also received almost unanimous support. One submission was opposed to this recommendation and three were conditionally supportive. The balance – 52 submissions – indicated support for this recommendation.

Comment

This recommendation is deleted as it duplicates recommendation 61.

RECOMMENDATION 29 AMENDED – (Refer Updated Schedule – Recommendation 16)
*That the Local Government sector endorses the principles and methodologies contained in the document *Guidelines: Levying Development Contributions for Community Infrastructure* and seek funding from the State Government for the expansion of the Community Infrastructure Planning framework proposed in that document.*
Further, that Councils experiencing significant levels of growth and development should prepare as part of their strategic planning process Community Infrastructure Plans.

EXPLANATION

Original Recommendation 29
*That WALGA endorse the Principles and methodologies contained in the document *Guidelines: Levying Development Contributions for Community Infrastructure* and seek funding from the State Government for the expansion of the Community Infrastructure Planning framework proposed in that document.*
Further, WALGA recommend that Councils experiencing significant levels of growth and development should prepare as part of their strategic planning process Community Infrastructure Plans.

Review of Submissions

Submissions indicated strong support for recommendation 29:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
50	1	1	53

Recommendation 29 received near unanimous support in the submissions and the policy component of this recommendation has been actioned by the State Government

Comment

Recommendation 29 has been amended to remove the reference to WALGA.

RECOMMENDATION 30 AMENDED – (Refer Updated Schedule – Recommendation 24)

That the Local Government sector seek change to Section 6.41(2)(b) of the *Local Government Act 1995* to increase a Local Government's flexibility to offer a monthly payment of property rates without an individual instalment notice.

EXPLANATION

Original Recommendation 30

That WALGA advocate change to Sections 6.41(2)(b) of the Local Government Act (1995) to increase a Local Government's flexibility to offer a monthly payment of property rates without an individual instalment notice.

Review of Submissions

This recommendation was widely supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
44	5	5	51

The comments from the submissions on recommendation 30 showed that some concern exists that providing a monthly payment of rates could potentially increase the administrative burden on Local Governments.

This recommendation intends that Local Governments would have increased flexibility in the collection of rates.

Comment

This recommendation has been amended to remove the reference to WALGA.

RECOMMENDATION 31 (a) AND (b) DELETED

RECOMMENDATION 31 (c) TRANSFERRED TO RECOMMENDATION 27 – (Refer Updated Schedule – Recommendation 5)

EXPLANATION

Original Recommendation 31

a. That the Local Government Act (1995) be amended to mandate implementation of formal standardised long term asset management planning for Local Governments as soon as possible, and as part of that implementation confirm the annual preservation maintenance gap and establish the extent of the infrastructure backlog.

b. That the Local Government Act (1995) be amended to require Local Governments to publish the result of their asset management plans in their annual report in a prescribed format.

c. That WALGA advocate for the current Roads to Recovery programme to be established as a permanent funding source and escalated each year based upon the increase in Commonwealth Taxation Revenue.

Review of Submissions

Feedback from submissions on this recommendation was separated to address the three parts (a, b and c) individually:

Recommendation	Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
31(a)	31	5	17	52
31(b)	31	4	18	52
31(c)	48	4	1	52

Feedback to recommendation 31 was considered in three parts as the table above demonstrates. The feedback to parts (a) and (b) was mixed and similar to the feedback recommendation 1 received. The feedback to part (c) demonstrates improving the Roads to Recovery Programme is strongly supported.

Comment

Recommendation 31 (a) and (b) have been deleted as their content has been captured in recommendation 1 (updated recommendation 7). Recommendation 31 (c) has been captured by recommendation 27 (updated recommendation 5).

RECOMMENDATION 32 ABBREVIATED – (Refer Updated Schedule – Recommendation 17)

That the proposals contained in the Report Achieving Best Practice in Urban Regeneration: A review of statutory constraints to Local Government guided outcomes be adopted and the Local Government (Functions and General) Regulations 1996 be amended as proposed in the Report to enable a Local Government to form a corporate entity (such as a company, partnership or joint venture) providing that any amendment contains restrictions and safeguards, as outlined in this discussion, in relation to an appropriate governance model.

EXPLANATION

Original Recommendation 32

That the proposals contained in the Report Achieving Best Practice in Urban Regeneration: A review of statutory constraints to Local Government guided outcomes be adopted and the Local Government (Functions and General) Regulations 1996 be amended as proposed in the Report to enable a Local Government to form a corporate entity (such as a company, partnership or joint venture) providing that any amendment contains restrictions and safeguards, as outlined in this discussion, in relation to an appropriate governance model.

Proposals are outlined as follows:

for insertion in the Local Government (Functions and General) Regulations 1996

32A. Local Government permitted to form corporate entities

(1) In this regulation:

approved commercial enterprise means an enterprise to which subregulation (8) applies and which has been approved by the Minister.

approved development project means a project approved by the WA Planning Commission as meeting the criteria for an Improvement Plan under section 37A of the Metropolitan Region Planning Scheme Act, and by the Minister for the purposes of this Act.

approved investment scheme means an investment scheme to which subregulation (9) applies and which has been approved by the Minister.

control and controlled have the meanings contained in [Corporations Law]

independent Board member means a person other than an elected member of the Local Government, or an employee of the Local Government, who is appointed to the Board of a Local Government corporate entity Local Government corporate entity means a corporate entity (including an incorporated company or a trust) that is owned or controlled by a local government and has been approved by the Minister in accordance with this regulation.

(2) Where a local government wishes to undertake or participate in commercial activities (including ownership of commercial property or participation in a property development project primarily for investment or income-producing purposes) within its boundaries that involve, or have the potential to involve or to create the impression of, a conflict of interest between the regulatory and investment activities of the local government, the local government shall have regard to such measures as may be necessary to remove the existence or appearance of a conflict of interest.

(3) A local government may form, or participate in forming, or control a local government corporate entity established in accordance with this regulation with the approval of the Minister on such terms as the Minister may see fit to impose for any of the following purposes:

- (i) to participate in an approved development project; or*
- (ii) to participate in an approved commercial enterprise; or*
- (iii) to participate in an approved investment scheme.*

(4) Every local government corporate entity established in accordance with this regulation shall be placed under the control of a Board appointed by the local government and shall:

- (i) be governed by the applicable law governing the type of entity to which it conforms; and*
- (ii) have a Constitution approved by the Minister; and*
- (iii) operate in accordance with an annual Statement of Intent agreed between the Board and the local government; and*
- (iv) be subject to [Public Sector Finance provisions].*

(5) The Board of a local government corporate entity shall comprise not fewer than 3 nor more than 5 persons appointed for their expertise, knowledge and experience relevant to the nature of the business of the local government corporate entity.

(6) A person who is an elected member of the local government, or an employee of the local government, may be appointed to the Board of a local government corporate entity if he has the requisite expertise, knowledge and experience to qualify for appointment under subregulation (5). However, under no circumstances may the number of independent Board members be fewer than one half of the total membership of the Board.

(7) Every local government corporate entity must prepare an annual Statement of Intent describing its proposed business activities for the following year, including the performance measures by which it proposes to measure the success of those activities. The Statement of Intent must be approved by the local government and thereafter made available for public inspection.

(8) If a local government believes that an enterprise is:

- (i) essential to the well-being of its local community; and
 - (ii) but for the intervention or participation of the local government, the services and facilities provided by that enterprise would not be reasonably available or accessible to residents of its area
- the local government may apply to the Minister stating reasons why, in the opinion of the local government, the enterprise should be declared an approved commercial enterprise for the purposes of this Act.

(9) Where a local government wishes to hold investments that involve, or have the potential to involve or to create the impression of, a conflict of interest between the regulatory and investment activities of the local government, the local government may apply to the Minister stating reasons why, in the opinion of the local government, the enterprise should be declared an approved investment scheme for the purposes of this Act.

(10) The approval of the Minister to the formation or control of a local government corporate entity may be given on such terms as the Minister sees fit, and may be limited as to term. The Minister may direct that the local government seek the views of its ratepayers by the conduct of a poll on the proposed establishment of the local government corporate entity, and may take the results of such poll into consideration, although not bound to do so.

(11) Where more than one local government jointly forms, or participates in forming, or controls a local government corporate entity, the provisions of this regulation apply jointly and severally to each local government.

(12) The transfer of property to a local government corporate entity is an exempt transaction under section 3.58 (5)(d) and section 3.59(10) of the Act.

(13) The approval of the Minister to participate in an approved investment scheme meets the requirement for approval under section 6.14(1)(b) of the Act.

Review of Submissions

Recommendation 32 was generally supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
37	14	8	46

As shown above, 59 submissions addressed this recommendation. Of those, 37 submissions (63 percent) were supportive, a further 14 submissions (24 percent) were partially or conditionally supportive and eight submissions (13 percent) indicated opposition.

Comments from submissions which opposed this recommendation were directed towards the risk associated with entering into commercial arrangements, the potential for conflict between commercial interests and service provision and the need for the recommended provisions to provide flexibility.

Comment

This recommendation is supported and has been retained. The first paragraph will be included in the schedule of recommendations and the balance will be referenced with a footnote.

RECOMMENDATION 33 DELETED

EXPLANATION

Original Recommendation 33
That WALGA seek to establish a Local Government Independent Assistance Commission for the purposes outlined in this discussion and seeks funding from the nominated sources to achieve this task.

Review of Submissions

There was general opposition to the creation of a Local Government Independent Assistance Commission:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
15	8	35	47

Opposition to the creation of an LGIAC was also expressed in general feedback on the report, as well as in response to this specific recommendation.

Of the 58 submissions which specifically addressed this recommendation, 35 submissions (60 percent) expressed opposition while 15 submissions (26 percent) were supportive and 8 submissions (14 percent) were partially or conditionally supportive.

Comment

In line with submission feedback, recommendation 33 has been deleted and reference to the LGIAC has been removed.

RECOMMENDATIONS 34, 35 and 36 DELETED

EXPLANATION

Original Recommendation 34
That when discussing the future of Local Government the definition of sustainability of Local Government should include social, environmental, economic, financial and cultural factors.

Original Recommendation 35
That the diversity of Local Government not be used as a reason to avoid taking responsibility to address issues impacting on sustainability and to improve outcomes through innovation and change, and determine the future direction and sustainability of the sector.

Original Recommendation 36
That each Local Government must place emphasis on achieving good value in the use of the community's resources entrusted to it through continually improving service delivery.

Review of Submissions

Recommendations 34, 35 and 36 were all widely supported:

Recommendation	Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
34	48	3	1	53
35	46	1	2	56
36	47	0	3	55

Comment

While recommendation 34, 35 and 36 are supported, they are considered to be statements of principle rather than recommendations and will be deleted from the schedule of recommendations.

RECOMMENDATION 37 AMENDED – (Refer Updated Schedule – Recommendation 26)

That as a matter of best practice, each Local Government conduct a self assessment of its sustainability annually, using the specimen Sustainability Checklist

EXPLANATION

Original Recommendation 37

That each Local Government conduct a self assessment of its sustainability by 30 June 2009 and thereafter annually utilising the Sustainability Checklist in Section 10.1.

Review of Submissions

There was general support for the sustainability checklist as shown below:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
36	13	6	50

There were 55 submissions that specifically addressed this recommendation. Of these, 36 submissions (65 percent) indicated support and 13 submissions (24 percent) indicated partial or conditional support. Six submissions (11 percent) indicated opposition to this recommendation.

The comments from the submissions suggest that the sustainability checklist needs to remain best practice (rather than prescribed in regulation) and that the checklist will require ongoing refinement.

Comment

In line with submission feedback, this recommendation has been amended to clearly state that the sustainability checklist is a matter of best practice and not compulsory. The content of the checklist will be reviewed in consultation with feedback from LGMA board members.

RECOMMENDATION 38 AMENDED – (Refer Updated Schedule – Recommendation 25)

That the following amendments be made to the *Local Government Act 1995 (LGA)* and the *Local Government (Functions and General Regulations) 1996*:

- Review or evaluation of the Act in relation to 'general competence' powers.
- Clarify Act to remove any requirement where the initiative is for delivery of Local Government services by an individual Local Government or by joint arrangements. Review the requirements to remove any obligation to disclose commercially important information (including to potential competitors).
- Revise the LGA so that it recognises the shared CEO option and reduce the level of direction so that local arrangements can be made and entered into by contract.
- Amendments to the Local Government Functions and General Regulations that focus on the underlying purpose and effect of Local Government Purchasing:
 - Establishment of varying tender thresholds based on organisation size and turnover, or alternatively the ability for each Local Government to nominate and submit its tender threshold through its purchasing policy which is lodged with the Department for approval (as exists in State Government agencies).
 - Enhanced exemptions to competitive public tendering in areas of limited supply, and the establishment of the capacity for Local Government to issue closed tenders (non-public requests) in specialised areas.
 - Foster regional cooperation and shared service delivery by creating new regulatory provisions which provide for the establishment of panel contracts, and regional buying groups.
 - Establish regulatory capacity to directly source market suppliers in the instance that no tenders are received, or that no acceptable submissions within 20% of Councils budget are received.
 - Recognition of the advisory services, model documentation, training, and managed tender services of WALGA through its procurement programme by enhancing the definition of (11) (2) (b) of Part 4 of the current regulations.

EXPLANATION

Original Recommendation 38

That the following amendments be made to the Local Government Act 1995 (LGA) and the Local Government (Functions and General Regulations) 1996

a. Local Government Act

Issue: Principle of LGA is supposed to be 'general competence'. The level of prescription in the Act and regulations limits the degree of flexibility to a level which is more like *ultra vires*.

Proposal: Review or evaluation of the Act in relation to 'general competence' powers.

b. Local Government Act

Issue: To implement improved service delivery initiatives will quite probably create a 'major trading undertaking'. Local Government is then required to prepare and publish business plans. Disadvantages community by requiring disclosure of commercially significant information. Limits the potential to be innovative in seeking different and more effective ways to do LG business.

Proposal: Clarify Act to remove any requirement where the initiative is for delivery of Local Government services by an individual Local Government or by joint arrangements. Review the requirements to remove any requirement which requires disclosure of commercially important information (including to potential competitors).

c. Local Government Act

Issue: A Local Government must employ a person to be the CEO. Other provisions relate to annual review and contract of employment. The provisions are drafted envisaging one CEO working for one LG. New opportunities such as sharing a CEO between two or more Local Governments, including on a regional or district basis, require a new approach in the Act.

Proposal: Revise the LGA so that it recognises the shared CEO option and reduce the level of direction so that local arrangements can be made and entered into by contract.

d. Local Government (Functions and General) Regulations

Issue: Local Government is required in prescribed circumstances to call competitive tenders. The assumption of the requirement is a competitive market place. In reality this is often not the case where a number of supplies are either monopolised or oligopolised, particularly in regional areas. The Regulations may also place impediments on innovated service arrangements by Local Government, especially if they involve some form of long term commercial arrangements. Although the tender threshold was recently lifted to \$100,000 this amount varies across Local Governments

¹ Pp146 to 147 *The Journey: Sustainability into the Future*

and is not defined to the extent that minor purchasing will not eventually be subject to competitive public tender.

The tender provisions of the Functions and General Regulations require revision to remove obstacles to innovative service delivery options and foster sustainability.

Proposal: Amendments to the Local Government Functions and General Regulations that focus on the underlying purpose and effect of Local Government Purchasing:

- Establishment of varying tender thresholds based on organisation size and turnover, or alternatively the ability for each Local Government to nominate and submit its tender threshold through its purchasing policy which is lodged with the Department for approval.
- Enhanced exemptions to competitive public tendering in areas of limited supply, and the establishment of the capacity for Local Government to issue closed tenders (non-public requests) in specialised areas.
- Foster regional cooperation and shared service delivery by creating new regulatory provisions which provide for the establishment of panel contracts, and regional buying groups.
- Establish regulatory capacity to directly source market suppliers in the instance that no tenders are received, or that no compliant submissions within 20% of Councils budget are received.

Recognition of the advisory services, model documentation, training, and managed tender services of WALGA through its procurement programme by enhancing the definition of (11) (2) (b) of Part 4 of the current regulations.

Review of Submissions

There was general support for recommendation 38:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
49	10	2	44

Of the 61 submissions that addressed this recommendation, only two (three percent) expressed opposition and 49 (80 percent) indicated support. A further 10 (16 percent) indicated partial or conditional support.

Comment

Recommendation 38 has been retained as it is widely supported. This recommendation has only been amended for formatting purposes.

RECOMMENDATION 39 AMENDED – (Refer Updated Schedule – Recommendation 6)

That the Local Government sector seek a partnership with the State Government/Department of Local Government and Regional Development so that stakeholders work together in pursuing the goal of achieving a long term sustainable Local Government model, with particular emphasis on reviewing and modernising the Local Government Act to remove obstacles and foster sustainability.

EXPLANATION

Original Recommendation 39

That WALGA seek a partnership with the Department of Local Government and Regional Development so that stakeholders work together in pursuing the goal of achieving a long term sustainable Local Government model, with particular emphasis on reviewing and modernising the Local Government Act to remove obstacles and foster sustainability.

Review of Submissions

There was widespread support for this recommendation:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
40	5	8	52

Of the 53 submissions that addressed this recommendation, 40 submissions (76 percent) indicated support and five (nine percent) indicated partial or conditional support. There were eight submissions (15 percent) that opposed or did not support this recommendation.

Comment

Recommendation 39 has been amended to remove the reference to WALGA.

RECOMMENDATION 40 DELETED

EXPLANATION

Original Recommendation 40

That WALGA proceed to establish a bureau service (potentially on fee for service basis) which draws together expert teams to support members to examine and progress service options.

Review of Submissions

Response to recommendation 40 was mixed:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
23	12	15	55

There were 50 submissions that addressed this recommendation. Of these, 23 (46 percent) were supportive, 12 (24 percent) were partially or conditionally supportive and 15 (30 percent) indicated opposition.

Concerns raised in the submissions centred on WALGA's role and the potential for conflicts of interest and the suggested fee-for-service nature of the service.

Comment

Recommendation 40 has been deleted.

RECOMMENDATION 41 DELETED

EXPLANATION

Original Recommendation 41
That WALGA provide leadership and support by:

- *Continuing to encourage and promote the reform of the sector by the sector.*
- *Developing resources to support members in identifying and investigating opportunities, including:*
 - *A website which has examples of alternatives with case studies and contact details for more information.*
 - *A range of 'toolkits' for the range of options available (similar to the Department of Local Government and Regional Development handbook for Local Governments Implementing Amalgamations).*

Review of Submissions

This recommendation received broad support:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
41	5	5	53

As shown above, five submissions expressed opposition, five expressed partial or conditional support and 41 indicated support.

Comment

Recommendation 41 has been deleted, as this is normal WALGA business practice.

RECOMMENDATION 42 RETAINED – (Refer Updated Schedule – Recommendation 4)

EXPLANATION

Original Recommendation 42
That the Local Government Act 1995 be reviewed with the objective of amending unnecessary impediments and existing sources of inflexibility for regional Local Government structures.

Review of Submissions

Recommendation 42 is very strongly supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
52	1	1	51

This recommendation was overwhelmingly supported by the submissions that addressed it. One submission expressed opposition.

Comment

Recommendation 42 has been retained

RECOMMENDATIONS 43A and 43B DELETED

EXPLANATION

Original Recommendation 43A

That WALGA seek funding to develop a pilot Regional Council to progress the Regional Model concept.

Original Recommendation 43B

That WALGA commence negotiation with State and Commonwealth Governments to secure funding for Local Governments to establish regional service provision (software costs, shared service agreements, etc).

Review of Submissions

The two recommendations above were widely supported:

Recommendation	Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
43A	41	7	4	53
43B	48	3	2	52

There were some comments from submissions that more information on the funding model is required.

Comment

Recommendation 43A and 43B duplicate sentiments expressed in other recommendations and have been deleted.

RECOMMENDATION 44 DELETED

EXPLANATION

Original Recommendation 44
That the WALGA State Council initiate quarterly reviews of progress in achievement in the shift to regional platforms to support and review ongoing dialogue with State and Commonwealth Governments.

Review of Submissions

This recommendation was generally supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
31	11	7	56

Comments from the submissions indicate that there were concerns regarding the quarterly review timeframe.

Comment

This recommendation is considered to be internal WALGA business and has been deleted.

RECOMMENDATION 45 AMENDED – (Refer Updated Schedule – Recommendation 27)
That Local Governments develop regional workforce planning processes for the Local Government sector in collaboration with Regional Development Commissions (RDCs).

EXPLANATION

Original Recommendation 45
That WALGA engage regional workforce planning processes for the Local Government sector in collaboration with Regional Development Commissions (RDCs). The engagement should extend to involvement in regular reviews of existing plans.

Review of Submissions

This recommendation was generally supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
33	8	13	51

There were 54 submissions that addressed this recommendation. Of these, 33 submissions (61 percent) indicated support, eight submissions (15 percent) indicated partial or conditional support and 13 submissions (24 percent) expressed no support or opposition.

Comment from submissions indicated concern regarding duplicating work that has already been done.

Comment

This recommendation has been amended to remove the reference to WALGA.

RECOMMENDATION 46 DELETED

EXPLANATION

Original Recommendation 46

That WALGA develop a policy where recruitment is undertaken using the Regional Model framework and not purely based on a local model framework.

Review of Submissions

This recommendation was broadly supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
33	8	13	51

There were 54 submissions that addressed this recommendation and 33 (61 percent) indicated support compared with 13 (24 percent) that indicated opposition. The remaining eight submissions (15 percent) indicated partial or conditional support.

Comment

This recommendation is to be deleted as it is considered an internal WALGA matter.

RECOMMENDATION 47 AMENDED – (Refer Updated Schedule – Recommendation 28)

That the Local Government Act 1995 be amended to require Local Governments to resource the participation of Councillors in professional development.

RECOMMENDATION 48 AMENDED – (Refer Updated Schedule – Recommendation 29)

That Councillors be encouraged to undertake the following four core units for professional development in a Councillor's first term:

- Legal responsibilities;
- Finance;
- Corporate Governance/Ethics; and,
- Sustainable Asset Management or Land Use Planning, with the selection dependent on the extent to which asset management is a core function of the Local Government concerned.

NEW RECOMMENDATION – (Refer Updated Schedule – Recommendation 31)

That Local Governments be encouraged to undertake regular reviews of the number of Councillors required to conduct the governance functions required.

NEW RECOMMENDATION – (Refer Updated Schedule – Recommendation 32)

That the Local Government Act 1995 be amended to give responsibility to the Western Australian Salaries and Allowances Tribunal for establishing the range of fees and allowances for elected members, with each Local Government having the ability to set a fee within this range. The Tribunal also is required to update the fees and allowances on an annual basis.

EXPLANATION

Original Recommendation 47

That WALGA request the State Government to amend the Local Government Act (1995) to require Councillors to undertake training within their first term

Original Recommendation 48

That WALGA urgently pursue State Council endorsement of the mandatory four core training modules.

Review of Submissions

The two recommendations dealing with compulsory Councillor training received mixed response from the submissions:

Recommendation	Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
47	35	9	18	43
48	32	10	18	45

Of the 62 submissions that addressed recommendation 47, 35 submissions (56 percent) indicated support. A further nine (15 percent) indicated partial or conditional support and 18 submissions (29 percent) indicated opposition.

Comments from the submissions indicated that there is widespread support for improved Councillor training but there is concern about such training being made compulsory and what consequences would be put in place if Councillors failed to undertake (or pass) the required training.

As a result, submissions that indicated support for the concept of training for Councillors but objected to *requiring* Councillors to undertake training were recorded in the 'Do not support / oppose' column.

Recommendation 48 is dependent on recommendation 47 and so received similar feedback.

Comment

Recommendations 47 and 48 have been amended to reflect feedback and submissions. In particular, the amended recommendation is seeking to require Councils to allocate resources for Councillors to attend professional development. Attendance at professional development sessions will remain voluntary for individual Councillors.

New recommendations have also been added to address elements of feedback and to specifically address issues of remuneration in the context of increased professional development and responsibilities. Referral to Salaries and Allowances Tribunal is a matter of existing policy of WALGA State Council.

A new recommendation has been added in respect to the number of Councillors. The draft report made reference in the Regional Model concept to reducing the number of Councillors, however there was no specific recommendation.

Following feedback from the SSS forums held around the State, the SSS Taskforce believes that the issue of the number of Councillors is an issue for individual Councils. The new recommendation encourages local governments to undertake regular reviews of the number of Councillors required in undertaking the governance functions.

RECOMMENDATION 49 DELETED

EXPLANATION

Original Recommendation 49

That WALGA develop on-line delivery of the core modules required for Councillor accreditation.

Review of Submissions

On-line delivery of training is generally supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
46	8	2	49

This recommendation was widely supported by the responses in the submissions. There was almost universal support for the concept of on-line delivery of training, with only two submissions indicating opposition. (46 submissions indicated support and eight indicated partial or conditional support).

Comment

This recommendation is considered to be normal WALGA business practice and has been deleted.

RECOMMENDATION 50 DELETED

EXPLANATION

Original Recommendation 50

That WALGA establish and support regional training programmes for Councillors.

Review of Submissions

Recommendation 50 was widely supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
54	4	0	47

Recommendation 50 was widely supported. There were no submissions that indicated opposition to this recommendation. There were 54 submissions supportive of this recommendation and there were 4 submissions that indicated partial or conditional support.

Comment

Recommendation 50 is considered to be an internal WALGA issue and has been deleted.

RECOMMENDATION 51 AMENDED – (Refer Updated Schedule – Recommendation 33)

That the Department of Local Government and Regional Development provide information sessions for prospective candidates.

EXPLANATION

Original Recommendation 51

That WALGA implement information sessions for prospective candidates and non-mandatory networking for new Councillors. These events to be delivered on a regional/WALGA Zone basis.

Review of Submissions

Submission responses to recommendation 51 indicated broad support:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
47	10	1	47

Comments from submissions suggest there is some concern that it may not be WALGA's role to provide the recommended information sessions.

Comment

Recommendation 51 has been amended to reflect feedback from submissions.

s

RECOMMENDATION 52 RETAINED – (Refer Updated Schedule – Recommendation 34)

EXPLANATION

Original Recommendation 52

That 'New Councillor Weekends' be re-established.

Review of Submissions

Recommendation 52 received strong support:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
52	3	3	47

This recommendation received strong support with 52 submissions indicating support, three submissions indicating partial or conditional support and three indicating opposition or no support.

Comment

This recommendation is strongly supported and has been retained.

RECOMMENDATION 53 DELETED

EXPLANATION

Original Recommendation 53
That WALGA request the State Government to amend the Local Government Act 1995 to require Councillors to undertake ‘refresher training’ every four years after initial training to ensure that Councillors are familiar with any changes in compliance requirements and best practice models.

Review of Submissions

This recommendation was broadly supported but with some opposition:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
40	4	17	44

Recommendation 53 is linked heavily with recommendations 47 and 48 and received a similar response.

Of the 61 submissions that addressed this recommendation, 40 (66 percent) indicated support, four (seven percent) indicated partial or conditional support and 17 submissions (28 percent) expressed opposition or did not support this recommendation.

Comments from submissions that did not support this recommendation indicated an opposition to compel Councillors to undertake training.

Comment

Recommendation 53 has been deleted as ‘refresher training’ is accommodated under the updated recommendations on this issue.

RECOMMENDATION 54 AMENDED – (Refer Updated Schedule – Recommendation 35)

That formal mentoring arrangements, and professional development, be established to support new Councillors and be delivered on a regional basis.

EXPLANATION**Original Recommendation 54**

That formal mentoring arrangements, and supporting training, be established to support new Councillors and be delivered on a regional/WALGA Zone basis.

Review of Submissions

Recommendation 54 was strongly supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
53	3	2	47

Recommendation 54 was strongly supported. Of the 58 submissions that addressed this recommendation, 53 indicated support, three indicated partial or conditional support and two opposed or did not support this recommendation.

Comment

Recommendation 54 has been amended in line with previous recommendations.

RECOMMENDATION 55 AMENDED – (Refer Updated Schedule – Recommendation 36)

That a discussion paper on the creation of an Industry Training Fund be produced.

EXPLANATION**Original Recommendation 55**

WALGA produce a discussion paper on the creation of an Industry Training Fund during 2008, with full implementation by 2010.

Review of Submissions

This recommendation received broad support:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
35	14	4	52

Of the 53 submissions that addressed this recommendation, 35 (66 percent) indicated support compared with four (eight percent) that indicated opposition. There were 14 submissions (26 percent) that indicated partial or conditional support.

There were comments, particularly from submissions indicating partial or conditional support, that suggested the implementation date should be removed from the recommendation.

Comment

Recommendation 55 has been amended to delete reference to an implementation date.

RECOMMENDATION 56 AMENDED – (Refer Updated Schedule – Recommendation 38)

That an appropriate Local Government ‘work experience’ programme be developed and other relevant labour market interventions be explored.

EXPLANATION

Original Recommendation 56

That WALGA develop an appropriate Local Government ‘work experience’ programme and/or explore other relevant labour force interventions.

Review of Submissions

This recommendation was broadly supported:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
42	6	7	50

While this recommendation has strong support (76 percent of submissions addressing this recommendation), comments from submissions suggest that there is concern that this is not something that can be applied by, or will be useful to, all Local Governments.

Comment

Recommendation 56 has been amended to remove the reference to WALGA.

RECOMMENDATION 57 AMENDED – (Refer Updated Schedule – Recommendation 37)

That a discussion paper on the creation of an Industry Training Council focused on the needs of Local Government be produced.

EXPLANATION

Original Recommendation 57

That WALGA immediately develop a discussion paper on the creation of an Industry Training Council focused on the needs of Local Government.

Review of Submissions

There was general support for recommendation 57:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
48	2	6	50

Recommendation 57 was widely supported by the 56 submissions addressing this issue. Of the 56 submissions, 48 indicated support, two indicated partial or conditional support and six indicated opposition or did not support the proposal.

Comment

Recommendation 57 has been amended to reflect feedback that members require more opportunity to consider the prospect of a training council.

RECOMMENDATION 58 RETAINED – (Refer Updated Schedule – Recommendation 39)

EXPLANATION

Original Recommendation 58
That WALGA seek to work with the State Government to develop a training fund specifically designed to work with Indigenous communities increasing the pool of employees.

Review of Submissions

This recommendation was widely supported by the 53 submissions addressing the issue:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
37	6	10	52

There were 37 submissions (70 percent of submissions addressing this recommendation) that indicated support, six (11 percent) that indicated partial or conditional support and 10 (19 percent) that indicated opposition or did not support the recommendation.

The comments submitted suggest that there is concern over the agency or agencies best positioned to action this recommendation.

Comment

This recommendation is supported and is therefore retained.

RECOMMENDATION 59 DELETED

EXPLANATION

Original Recommendation 59
That a key theme for industry promotion in 2010-2011 be flexible employment options. WALGA to showcase and promote through industry forums models and options which have demonstrated success.

Review of Submissions

There was strong support for this recommendation:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
54	1	0	50

This recommendation was almost universally supported. There were no submissions received that opposed this recommendation and only one received that partially supported the recommendation. The remaining 54 submissions indicated support for Recommendation 59.

Comment

This recommendation has been deleted as it remains a WALGA business decision.

RECOMMENDATION 60 DELETED

EXPLANATION

Original Recommendation 60
That should the State Government engage in external intervention to restructure Local Government prior to completion of the voluntary change process by Local Government, the 10 Year Plan explored in this paper should be used as the WALGA negotiating position.

Review of Submissions

This recommendation received a mixed response in the submissions:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
25	13	16	51

Of the 54 submissions that addressed this recommendation, 25 (46 percent) indicated support, 13 (24 percent) indicated partial or conditional support and 16 (30 percent) expressed opposition or did not support this recommendation.

Comments suggested that this recommendation may have assumed support for the report and its recommendations.

Comment

Recommendation 60 has been deleted based on the feedback received.

RECOMMENDATION 61 AMENDED – (Refer Updated Schedule – Recommendation 2)

That WALGA advocate and seek initial funding of \$30m to develop a series of pilot Regional Shared Services Models and to progress strategies to further develop the concept of regional processes and platforms for the Local Government sector.

NEW RECOMMENDATION – (Refer Updated Schedule – Recommendation 1)

That the Local Government sector in Western Australia endorse a re evaluation of the processes and platforms for the delivery of functions and services to more fully explore the adoption of regional arrangements.

NEW RECOMMENDATION – (Refer Updated Schedule – Recommendation 3)

That WALGA explore methods by which the various shared services models emerging in other States can be shared with the Local Government sector in WA.

EXPLANATION

Original Recommendation 61

That WALGA advocate and seek initial funding to develop a pilot Regional Council and \$30m to progress the Regional Model concept.

Review of Submissions

Feedback for this recommendation was mixed but supportive overall:

Support	Partially or conditionally support	Do not support / oppose	Did not comment specifically on this recommendation
33	13	7	52

Of the 53 responses to this recommendation, 33 submissions (62 percent) indicated support, 13 submissions (25 percent) indicated partial or conditional support and seven submissions (13 percent) indicated opposition or did not support this recommendation.

A range of comments were received on this recommendation, but most sought more information on the funding and its intended use.

Comment

Recommendation 61 has been amended and strengthened in to three recommendations.

New recommendations have been provided to better reflect the intent of the proposal for Regional Co-operation. The recommendations are proposing a regional process rather than a model where local governments can integrate effective service and infrastructure planning and delivery with local political representation. The process permits local governments to retain certain services for local delivery as appropriate to their circumstances.

Summary

The SSS Taskforce has appreciated the feedback that has been received on the SSS project and has attempted to accommodate the sector response into the amended report.

It is proposed that the report be amended based on the comments on the major themes together with the update schedule of recommendations listed on the following pages.

Nb: Recommendations have been consolidated, modified and appear in a different sequence to original draft plan.

Updated Schedule of Recommendations

- Recommendation 1:** That the Local Government sector in Western Australia endorse a re evaluation of the processes and platforms for the delivery of functions and services to more fully explore the adoption of regional arrangements.
- Recommendation 2:** That WALGA advocate and seek initial funding of \$30m to develop a series of pilot Regional Shared Services Models and to progress strategies to further develop the concept of regional processes and platforms for the Local Government sector.
- Recommendation 3:** That WALGA explore methods by which the various shared services models emerging in other States can be shared with the Local Government sector in WA.
- Recommendation 4:** That the *Local Government Act 1995* be reviewed with the objective of amending unnecessary impediments and existing sources of inflexibility for regional Local Government structures.
- Recommendation 5:** That the Local Government sector endorses and actively supports a campaign for enhanced funding with the following elements:
- The existing national campaign for Financial Assistance Grants to be underpinned by a fixed percentage of total Commonwealth Taxation (net of GST).
 - The national campaign for the establishment of a Community Infrastructure Fund.
 - That WALGA advocate for the current Roads to Recovery programme to be established as a permanent funding source and escalated each year based upon the increase in Commonwealth Taxation Revenue.
- Recommendation 6:** That the Local Government sector seek a partnership with the State Government/Department of Local Government and Regional Development so that stakeholders work together in pursuing the goal of achieving a long term sustainable Local Government model, with particular emphasis on reviewing and modernising the *Local Government Act 1995* to remove obstacles and foster sustainability.

- Recommendation 7:** That a Working Party consisting of WALGA, LGMA and the Department of Local Government and Regional Development undertake a review of all existing compliance and reporting arrangements applying under the *Local Government Act 1995* and Regulations to Local Government. The existing compliance burden to be reviewed and amended according to the following criteria:
- Continued relevance of the compliance requirement;
 - Efficacy and efficiency in achieving the intended outcome without undue burden upon Local Government;
 - The avoidance of duplication; and,
 - Articulation to new compliance requirements proposed in the 10 Year Reform Plan.
- Recommendation 8:** That the *Local Government Act 1995* be amended to require Local Governments to:
- Prepare and publish a Strategic Plan for a minimum of five years with a review required after each general election of Council;
 - Create Asset Management Plans linked to the Strategic Plan;
 - Prepare, as part of the published Strategic Plan, Financial Plans that allow for the implementation of the Strategic and Asset Management Plans
- Recommendation 9:** That the Department of Local Government and Regional Development facilitate the production of comparative information for financial transactions for the sector. This information is to be compiled using a web based collection system, managed by the Department, which allows direct input and amendment of the information.
- Recommendation 10:** That from the collection of Local Government financial information a set of industry comparative financial indicators associated with financial sustainability be provided to the industry on an annual basis.
- Recommendation 11:** That the roll out of an asset management programme to all Local Governments is recommended. The process should be facilitated on a regional basis for smaller Local Governments.
- The implementation of the programme needs to be supported with resources that permit the timely implementation of the programme.
 - Consistent with the proposed practices included in the accounting manual, industry guidance be provided on service standards and intervention levels.
- Information for the annual road survey by WALGA should be collated through a web based collection portal and undertaken in conjunction with information collected through the Department of Local Government and Regional Development.
- Recommendation 12:** That a partnership be established between the Department of Local Government and Regional Development, Main Roads WA, and the Local Government sector for the collection of road infrastructure data for all Local Governments. Data collection and management to be undertaken by the Department.

Recommendation 13:

Consistent Financial Reporting

- That the disclosure notes required under the *Local Government (Financial Management) Regulations 1996* are to be expanded to show the application of these revenues for operating, capital, reserve transfers and/ or debt servicing. To support these changes to Sections 23, 24, 39 and 40 of the *Local Government (Financial Management) Regulations 1996* be amended to require these disclosures.
- That disclosure notes required under the *Local Government (Financial Management) Regulations 1996* should be expanded to show the application of reserves for operating, capital and/ or debt servicing.
The data collection sets include the classification of reserves held for the purpose of current liabilities, non-current liabilities, asset renewal, new assets, restricted funds (Special Area Rates/service charges, unspent grants) or future operating outlays.
Amendments be made to Sections 27(h) and 38 of the *Local Government (Financial Management) Regulations 1996* to require these disclosures.
- That the model financial reports disclose the restricted assets, by way of a note, so that funds not applied can be aligned with the appropriate financial year.
Further, that the effects of restricted assets such as unspent operating grants are considered in assessing the operating result of Local Governments in preparing comparative financial indicators.
- That the current operating revenue classes for nature/type:
 - a Grants and subsidies
 - b Contributions, reimbursements & donations be changed as follows:
 - Operating grants, subsidies and contributions;
 - Non-Operating grants, subsidies and contributions
- Revenue received for reimbursements and donations that cannot be classified as operating/non operating contributions or Fees and Charges are to be classified as 'Other Revenue'.
- That performance indicators for debt management be incorporated in the disclosure requirements for the long term financial plans, annual reports and the annual budgets.
- Disclosure requirement for asset acquisitions be expanded to show the value of acquisitions for new assets and outlays on the renewal of existing assets.

Recommendation 14:

That suitable debt management indicators for Local Government be developed in consultation with the WA Treasury Corporation to form part of the proposed comparative data set for Local Government. Each debt indicator should include a range by which Local Governments can manage debt in a prudent fashion.

- Recommendation 15:** That comparative information be reported for debt and debt management. This information is to be compiled using a web based collection system that allows direct input and amendment of the information.
- The information is to provide state, region and size analysis online for the following debt matters:
 - general statistics to include amount of new debt raised, refinancing amounts, debt service amounts and outstanding debt
 - performance indicators be published for:
 - debt service costs as a percentage of general funds
 - debt service costs as a percentage of LG revenue
 - debt outstanding as a percentage of general funds
 - debt outstanding as a percentage of LG revenue
 - weighted average interest rate of debt
 - gross debt to economically realisable assets
 - untied cash reserves as a percentage of outstanding debt
 - net financial liabilities.
- Recommendation 16:** That the Local Government sector endorses the principles and methodologies contained in the document *Guidelines: Levying Development Contributions for Community Infrastructure* and seek funding from the State Government for the expansion of the Community Infrastructure Planning framework proposed in that document.
Further, that Councils experiencing significant levels of growth and development should prepare as part of their strategic planning process Community Infrastructure Plans.
- Recommendation 17:** That the proposals contained in the Report *Achieving Best Practice in Urban Regeneration: A review of statutory constraints to Local Government guided outcomes*² be adopted and the Local Government (Functions and General) Regulations 1996 be amended as proposed³ to enable a Local Government to form a corporate entity (such as a company, partnership or joint venture) providing that any amendment contains restrictions and safeguards, in relation to an appropriate governance model.
- Recommendation 18:** That the Local Government sector endorses the rate setting process contained in *The Journey: Sustainability into the Future* as an example of best practice in rate setting.
- Recommendation 19:**
- a. That WALGA in conjunction with the ABS constructs and maintains a revised WA Local Government Cost Index using average actual expenditure and appropriate cost and price indices.
 - b. That the WA Local Government Cost Index be delivered via a website; managed by the Department of Local Government and Regional Development; that allows members to input individual expenditure to customise their weightings and develop an index tailored to their circumstances.
 - c. That Local Governments use a revised WA Local Government Cost Index as part of their budget calculations and

² See Appendix 1 of *The Journey: Sustainability into the Future*

³ See pp125 &126 of *The Journey: Sustainability into the Future* which contains detailed amendments proposed for the Regulations

communications and to approximate cost increases as part of their annual review of fees and charges.

- Recommendation 20:** That the comparative financial data held by the Department of Local Government and Regional Development is the reference source for the purpose of setting standard costs for like goods and services provided by Local Governments. The Department to manage a reference group of Industry Organisations including WALGA, LGMA and the WA Department of Treasury and Finance to overview the relativity, accuracy, applicability and methodology of standard costs, which would be available for Local Governments to adopt.
The Department to conduct reviews of best practice in pricing policy and suggest methodologies for setting discounted community fees and charges to ensure industry consistency. The default unit for analysis and fee setting should be regional.
- Recommendation 21:** That the Department for Local Government and Regional Development establish a website for the purpose of providing Local Governments with access to comparable information on rates in terms of a set of standard ratios to be agreed
- Recommendation 22:** That Sec 6.16 (3) of the *Local Government Act (1995)* be amended to allow Local Governments to set fees and charges other than at the time of adopting the annual budget and provide sufficient time to be applicable from 1st July each year.
- Recommendation 23:** That Sec 6.16 of the *Local Government Act (1995)* be amended to cater for circumstances where Local Governments operate a commercial undertaking selling fast moving consumer goods and where marketing imperatives require line managers to make pricing and discounting decisions.
- Recommendation 24:** That the Local Government sector seek change to Section 6.41(2)(b) of the *Local Government Act 1995* to increase a Local Government's flexibility to offer a monthly payment of property rates without an individual instalment notice.

- Recommendation 25:** That the following amendments be made to the *Local Government Act 1995* (LGA) and the *Local Government (Functions and General Regulations) 1996*⁴:
- Review or evaluation of the Act in relation to ‘general competence’ powers.
 - Clarify Act to remove any requirement where the initiative is for delivery of Local Government services by an individual Local Government or by joint arrangements. Review the requirements to remove any requirement which requires disclosure of commercially important information (including to potential competitors).
 - Revise the LGA so that it recognises the shared CEO option and reduce the level of direction so that local arrangements can be made and entered into by contract.
 - Amendments to the Local Government Functions and General Regulations that focus on the underlying purpose and effect of Local Government Purchasing:
 - Establishment of varying tender thresholds based on organisation size and turnover, or alternatively the ability for each Local Government to nominate and submit its tender threshold through its purchasing policy which is lodged with the Department for approval.
 - Enhanced exemptions to competitive public tendering in areas of limited supply, and the establishment of the capacity for Local Government to issue closed tenders (non-public requests) in specialised areas.
 - Foster regional cooperation and shared service delivery by creating new regulatory provisions which provide for the establishment of panel contracts, and regional buying groups.
 - Establish regulatory capacity to directly source market suppliers in the instance that no tenders are received, or that no compliant submissions within 20% of Councils budget are received.
 - Recognition of the advisory services, model documentation, training, and managed tender services of WALGA through its procurement programme by enhancing the definition of (11) (2) (b) of Part 4 of the current regulations.
- Recommendation 26:** That as a matter of best practice, each Local Government conduct a self assessment of its sustainability annually, using the specimen Sustainability Checklist.
- Recommendation 27:** That Local Governments develop regional workforce planning processes for the Local Government sector in collaboration with Regional Development Commissions (RDCs).
- Recommendation 28:** That the *Local Government Act 1995* be amended to require Local Governments to resource the participation of Councillors in professional development.

⁴ Pp146 to 147 *The Journey: Sustainability into the Future*

- Recommendation 29:** That Councillors be encouraged to undertake the following four core units for professional development in a Councillor's first term:
- Legal responsibilities;
 - Finance;
 - Corporate Governance/Ethics; and,
 - Sustainable Asset Management or Land Use Planning, with the selection dependent on the extent to which asset management is a core function of the Local Government concerned.
- Recommendation 30:** Councillor professional development modules to be developed to incorporate strategic planning issues and their relationship to asset management and long term financial plans.
- Recommendation 31:** That Local Governments be encouraged to undertake regular reviews of the number of Councillors required to conduct the governance functions required.
- Recommendation 32:** That the Local Government Act 1995 be amended to give responsibility to the Western Australian Salaries and Allowances Tribunal for establishing the range of fees and allowances for elected members, with each Local Government having the ability to set a fee within this range. The Tribunal also is required to update the fees and allowances on an annual basis.
- Recommendation 33:** That the Department of Local Government and Regional Development provide information sessions for prospective candidates.
- Recommendation 34:** That 'New Councillor Weekends' be re-established.
- Recommendation 35:** That formal mentoring arrangements, and professional development, be established to support new Councillors and be delivered on a regional basis.
- Recommendation 36:** That a discussion paper on the creation of an Industry Training Fund be produced.
- Recommendation 37:** That a discussion paper on the creation of an Industry Training Council focused on the needs of Local Government be produced.
- Recommendation 38:** That an appropriate Local Government 'work experience' programme be developed and other relevant labour market interventions be explored.
- Recommendation 39:** That WALGA seek to work with the State Government to develop a training fund specifically designed to work with Indigenous communities increasing the pool of employees.

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2187.50

LEASE WESTERN AUSTRALIA STAMP DUTY
11/01/95 267731 DUP \$*****2.00
4905931 D/S \$ 2187.50

DEED dated **3 November** 1994

BETWEEN CITY OF SOUTH PERTH of Civic Centre, Sandgate Street, South Perth, Western Australia ('the Lessor')

AND MILLAR HOLDINGS PTY LTD ACN 063 656 048 of care of Judge Constable, Burswood Chambers, 67 Burswood Road, Burswood, Western Australia ('the Lessee')

AND GRAEME ROSS MILLAR and DONNA CHRISTINE MILLAR both of 59 Preston Street, Como, Western Australia ('the Guarantor')

RECITALS

- A. Reserve No.34565 known as Sir James Mitchell Park ('the land') is vested in the Lessor for recreation purposes with power, subject to the approval in writing of the Minister for Lands to each and every lease or assignment of lease being first obtained to lease the whole or any portion thereof for any term not exceeding 21 years from the date of the lease.
- B. The Lessor has agreed to Lease to the Lessee that portion of the land outlined in green on the attached plan together with all buildings fixtures and fittings therein or erected therein from time to time including the kiosk facility referred to in Recital C ('the premises').
- C. The Lessee wishes to erect on the land the kiosk facility including public toilets as shown on the attached plan ('the kiosk facility') and the Lessor has agreed that the Lessee may erect the kiosk facility upon the terms and conditions contained herein.

- D. The Minister for Lands and the Minister for Local Government, pursuant to section 267 of the Local Government Act 1960, have both consented to the grant of this Lease.

OPERATIVE PART

1.0 LEASE

1.1 Lease

Subject to clause 1.2 the Lessor HEREBY LEASES the premises to the Lessee for the term of 21 years from and including the date of execution of this Lease by the Lessor ('date of commencement') and expiring at midnight on the day being 21 years thereafter ('the term') the Lessee yielding and paying therefor the rent reserved by Clause 2 hereof and otherwise upon the terms and conditions herein contained.

1.2 Condition Precedent

Prior to the date of commencement the Lessee shall provide proof to the complete satisfaction of the Lessor that the Lessee has sufficient financial resources to construct the works referred to in clause 3.1 and the Lessor shall confirm in writing that it is satisfied with the proof provided by the Lessee or otherwise.

2.0 RENT

2.1 Annual Rent

The Lessee shall pay annual rent to the Lessor as follows:

- (a) the first year of the term shall be rent free;
- (b) in the second year of the term the annual rent shall be \$5,000;
- (c) in the third year of the term the annual rent shall be \$5,000;

- (d) in the fourth year of the term the annual rent shall be \$5,000;
- (e) in the fifth year of the term the annual rent shall be \$10,000;
- (f) in the sixth year of the term the annual rent shall be \$10,000;
- (g) in the seventh year of the term the annual rent shall be \$10,000;
- (h) in the eighth year of the term the annual rent shall be \$10,000;
- (i) in the ninth year of the term the annual rent shall be \$20,000;
- (j) in the tenth year of the term the annual rent shall be \$20,000;
- (k) in the eleventh year of the term the annual rent shall be \$30,000;
- (l) in the twelfth year of the term the annual rent shall be \$40,000;
- (m) in the thirteenth year of the term the annual rent shall be equal to an amount of \$50,000 which has been increased each year from the date of commencement by a factor equal to the percentage increase in the Consumer Price Index between firstly:
 - (1) the quarter ending immediately prior to the date of commencement and the quarter ending immediately prior to first anniversary of the date of commencement; and
 - (ii) thereafter between the quarter ending immediately prior to each anniversary of the date of

commencement and the quarter ending immediately prior to the next anniversary of the date of commencement up to the quarter ending immediately prior to the commencement of the thirteenth year of the term.

- (n) from the date of commencement of the fourteenth year of the term and annually thereafter the annual rent shall be increased by a factor equal to the percentage increase in the Consumer Price Index between the quarter ending immediately prior to the previous rent review date and the quarter ending immediately prior to the current rent review date,

and in each case the rent shall be payable in equal quarterly instalments in advance commencing on the date of commencement of the second year of the term and in no case shall the annual rent be less than that payable for the previous twelve month period and any late payment of rent shall bear interest at the rate referred to in Clause 6.4 from the due date for payment until the actual date of payment.

For the purposes of this clause and wherever appearing in this Lease 'Consumer Price Index' means the Consumer Price Index All Groups Index Numbers for Perth the subject of Catalogue No. 6401.0 provided by the Australian Bureau of Statistics or if the basis upon which the Consumer Price Index figure as determined by the Australia Bureau of Statistics is substantially varied or altered then the Lessor may utilise such figure in place of the figure no longer provided or such basis for determination in place of the basis for determination which is so varied or altered (as the case may be) as the Lessor may reasonably determine and in so determining the Lessor shall utilise as the basis therefore an index which is as near to the Consumer Price Index previously referred to as is reasonably possible.

2.2 Profit Bonus

For the purposes of this clause:

'Lessee's Base Return' means an initial amount of \$150,000 increased annually from the date of commencement by a factor equal to the percentage increase in the Consumer Price Index between firstly the quarter ending immediately prior to the date of commencement of this Lease and the quarter ending immediately prior to the first anniversary of the date of commencement and thereafter between the quarter ending immediately prior to each anniversary of the date of commencement up to the quarter ending immediately prior to the next anniversary of the date of commencement.

'Lessee's Total Annual Return' means the gross profit of the business carried on by the Lessee at the premises before tax plus any salaries or wages commission bonuses or allowances paid by way of remuneration to the Lessee or its directors.

(a) Calculation

In addition to the annual rent, the Lessee shall pay to the Lessor from the commencement of the eleventh year of the term one third of the amount by which the Lessee's Total Annual Return exceeds the Lessee's Base Return ("the profit bonus")

(b) Payment

The profit bonus shall be payable annually in arrears.

(c) Lessee's Records

The Lessee shall keep or cause to be kept proper books of account and records relating to all transactions in the course of the business or businesses carried on, in, at, from or on the premises and supporting data and bank deposit records all of which shall be kept available for at least 2 years after the expiration of each year of this Lease.

(d) **Annual Statement and Payment**

Within 14 days after the end of each calendar year or portion thereof during the term commencing at the end of the eleventh year of the term the Lessee shall furnish to the Lessor a set of accounts and a statement (certified by the Lessee's duly authorized responsible officer or representative) of the Lessee's Total Annual Return during such year or portion thereof and when applicable pay to the Lessor with the statement profit bonus due to the Lessor.

(e) **Right to Examine Books**

The Lessor and the Lessor's Auditors shall have the right at any reasonable time to examine and make copies of such portion of the Lessee's books and records in respect of the Lessee's business carried on in or from the premises as to satisfy themselves and to the correctness of the certificate referred to in clause 2.2(d).

(f) **Audit**

The Lessor at its option by serving written notice upon the Lessee within 30 days of receipt of the certificate referred to in clause 2.2(d) may cause a complete audit to be made by the Lessor's auditor of those portions of the Lessee's books and records which relate to the premises for the period covered by such certificate and if the audit discloses a liability for profit bonus in excess of the profit bonus computed and payable or paid by the Lessee to the Lessor such outstanding profit bonus shall be paid by the Lessee to the Lessor within 14 days of demand and if such audit discloses a liability for profit bonus to the extent of 5% or more in excess of the profit bonus computed and payable or paid by the Lessee to the Lessor for such period the Lessee

shall pay to the Lessor on demand the cost of such audit but otherwise the Lessor shall bear and pay the costs of such audit. If the audit discloses a liability for profit bonus less than the profit bonus computed and payable or paid by the Lessee to the Lessor then if no other moneys are outstanding from the Lessee to the Lessor pursuant to this Lease the Lessor shall repay to the Lessee within 14 days of demand any amount of any excess profit bonus paid by the Lessee to the Lessor.

3.0 KIOSK FACILITY

3.1 Plans and Specifications

Subject to clause 3.2 the Lessee shall erect or cause to be erected the kiosk facility and works associated with it including the public toilets (together 'the works') in accordance with plans and specifications signed on behalf of the Lessor and the Lessee contemporaneously with their execution of this Lease for the purpose of identification.

3.2 Completion

Subject to the Lessee having complied with clause 1.2 and having received written confirmation from the Lessor that it is satisfied with the proof to be supplied by the Lessee pursuant to that clause the works shall be commenced as soon as reasonably practical after the date of commencement of this Lease and shall be completed ready for occupation with all reasonable speed but in any event no later than 6 months after the date of commencement of this Lease.

3.3 Compliance with Laws

The Lessee shall at all times during the construction of the works comply with all relevant acts, by-laws, regulations and orders of every relevant authority.

3.4 Inspection by Lessor

The Lessor or the Lessor's consultants or architects shall be entitled at all reasonable times to inspect the kiosk facility and the progress and quality of its construction up to the date of issue of a certificate of classification for the kiosk facility and within a reasonable time after the issue of a certificate of classification for the kiosk facility.

3.5 Contractors Works Insurance

The Lessee shall ensure that prior to the commencement of the construction of the works that:

- (a) any contractor, employed by the Lessee, shall, in the joint names of the contractor, the Lessee the Lessor and all subcontractors for their respective rights and interests, effect insurance upon such terms and conditions including exclusions and excesses (if any) and for such period as shall be reasonably required be the Lessor, a Contractors Risk Insurance Policy or Policies which shall at all times cover the whole of the value of the works and other works the subject of any contract with the contractor for the construction of the works including any associated temporary works and for which the contractor or any subcontractors are responsible plus 10% of that value against loss destruction or damage for the full reinstatement and replacement costs; and
- (b) to ensure that the contractor agrees in writing to be liable for and shall indemnify the Lessor against any liability, loss, claim or proceeding whatsoever arising under any Statute or at common law in respect of personal injury to or death of any person whomsoever, or any injury loss or damage whatsoever to any real or personal property of the Lessor or any other person arising out of or in the course of or by reason of the carrying out of the construction of the works by the contractor or any subcontractor.

3.6 Accounts

The Lessee shall keep or cause to be kept proper accounts and records relating to all costs in connection with the construction of the kiosk facility.

3.7 Right to Inspect

The Lessor and the Lessor's auditors shall have the right at all times during the construction of the kiosk facility and for a reasonable period after the issue of the Certificate of Classification for the kiosk facility to examine and make copies of the accounts and records in order to verify the exact cost of construction and fitting out of the kiosk facility.

3.8 Adjustment of Rental

If the final cost of construction and fitting out of the kiosk facility is less than \$750,000 then the rental payments referred to in Clause 2.1 shall be adjusted to give the Lessee an internal rate of return of 14.86%. The Schedule annexed to this Lease headed 'SJM Kiosk - Miller Revised Proposal' sets out a calculation of the internal rate of return to the Lessee of 14.86% on the basis of a \$750,000 cost to build and fitout the kiosk facility and any adjustment to the rental shall be made having regard to the altered figure for the kiosk facility and the other figures referred to in the Schedule.

3.9 Inventory

Upon completion and fitting out of the kiosk facility, the Lessee shall provide the Lessor with a costed inventory of any fixtures, fittings, furniture and other moveable items forming part of the fitting out of the premises and included in the cost of construction and fitting out of the kiosk facility as determined pursuant to clause 3.8.

3.10 Furniture and Moveable Items

- (a) The Lessor and the Lessee agree that all fixtures, fittings and furniture and other moveable items in the premises included in the cost of the construction of the kiosk facility of \$750,000.00 or such lesser amount determined pursuant to clause 3.8 and any replacement of these items during the term of this Lease shall be and become part of the premises.
- (b) If the Lessee wishes to replace any of the items shown on the inventory referred to in clause 3.9 during the term of this Lease, then at the time of the replacement, the Lessee shall pay to the Lessor the amount shown for the item on the inventory. Property in the item shall pass to the Lessee at the time of payment and the Lessee at that time shall be entitled to remove the item from the premises and any replacement of the item shall be the property of the Lessee.

4.0 LESSEE'S COVENANTS

The Lessee HEREBY COVENANTS with the Lessor as follows:

4.1 Payment of Rent

To pay the Lessor the rent hereby reserved at the times and in the manner provided herein.

4.2 Rates, Taxes & Outgoings

To pay and discharge all rates and taxes including land tax assessed or charged in respect of the premises and all other outgoings, including without limitation all telephone, electricity, gas, water, rubbish collection and sewerage charges levied, charged or imposed upon the premises or any part thereof or arising out of the use thereof and whether expressed to be payable by the owner or occupier thereof and to pay all charges for water and electricity used or consumed at or upon the premises PROVIDED THAT the Lessee shall not be required to pay for any water usage for that part of the premises specified as public toilets which shall be separately

metered and not required to pay for any rates and taxes for that part of the premises specified as public toilets.

4.3 Maintenance, Repairs & Painting

To keep and maintain every part of the premises and all additions thereto and all lighting and electrical installations and all drainage and all other fixtures and fittings in good repair to a standard acceptable to the Lessor and to paint all such parts of the interior and exterior of the premises as are now painted or may be painted at any time or are usually painted at such times and in accordance with the directions of the Building Surveyor of the Lessor.

4.4 Cleaning

At its own expense during the term at all times to keep and maintain the premises, including the public toilets, clean, drained, properly disinfected, free from rubbish, refuse and disused material of any kind and in good and sanitary condition to a standard acceptable to the Lessor provided however that the Lessee shall not be responsible for the cost of consumable items in the public toilets which will be paid and supplied by the Lessor.

4.5 Entry by Lessor to View

To permit the Lessor, its officers, members or agents at all reasonable times with or without workmen or others to enter the premises to view the state of repair and condition thereof causing minimum disruption to the carrying out of the business of the Lessee at the premises in the circumstances and to forthwith carry out any repairs, cleaning, painting or other works for which the Lessee is responsible under this Lease in accordance with any notice in writing which contains reasonable details of any defects, repairs or works and steps required to comply with the notice and which is given to the Lessee or left on the premises by the Lessor.

4.6 Abatement of Nuisances

(a) Not to do or leave undone any act matter or thing which

may be or be deemed to be a nuisance within the meaning of the Local Government Act, the Health Act, the Factories and Shops Act or any other Act or under any by-laws or regulations applicable to the premises or the use or occupation thereof by the Lessee and forthwith to abate any such nuisance.

- (b) To ensure that the premises are not used in any manner which may be or become a nuisance disturbance or annoyance to the quiet and comfort of any occupier of any land in the vicinity of the premises and on being reasonably required to do so by the Lessor or any officer of the Lessor to forthwith abate any such nuisance, disturbance or annoyance.

4.7 Pests

To keep the premises free of ants, pests and vermin.

4.8 Disorderly Behaviour

To prevent disorderly behaviour and indecent language in the premises at all times during the day and night.

4.9 Compliance with Statutes

At its own expense to comply with, carry out and perform the requirements of the Local Government Act, the Health Act and all other Acts, town planning schemes, by-laws or regulations or of any requisitions or orders thereunder applicable to the premises or the use or occupation thereof.

4.10 Permitted Use

To use the premises solely for the purpose of a kiosk and food servery and associated facilities and not at any time to use the premises as a restaurant and without limiting the generality of that use:

- (a) to ensure that the premises are accessible during the hours referred to in Clause 4.22 for recreational users of the land;
- (b) to serve take-away food and beverages from the premises;
- (c) not to take any bookings or reservations at any time from any patrons of the premises for any part of the premises provided however, that this shall not prevent the Lessee from providing table service to patrons of the premises at any time.

4.11 Prohibited Use

Not to use the premises for any illegal or immoral purpose nor for Lease in any other business or commercial use without the prior written consent of the Lessor the Swan River Trust and the Minister for Lands.

4.12 Insurance

- (a) To pay to the Lessor on demand the cost to the Lessor of insuring and keeping insured for the full value thereof all buildings, erections or other improvements comprised in the premises including any plate glass therein (if any) in the names of the Lessor and the Lessee for their respective interests with an insurance company nominated by the Lessor against fire, storm, tempest, earthquake, malicious damage and such other risks as the Lessor shall reasonably determine and to allow the Lessor to hold every insurance policy therefor.
- (b) To effect and keep in force throughout the term a public risk policy of insurance in an amount of not less than \$5,000,000 in respect of any one event or such other amount as the Lessor may reasonably require from time to time and to produce to the Lessor on request a certificate of the currency of that policy.

- (c) To effect and keep in force throughout the term a worker's compensation and employer's indemnity policy of insurance in respect of the Lessee's employees.
- (d) To effect and keep in force throughout the term any other policy of insurance which the Lessor acting reasonably may from time to time require the Lessee to effect and maintain with an amount of cover as may be reasonably specified by the Lessor.
- (e) Not to do or suffer to be done anything whereby any policy of insurance in respect of the premises may become void or voidable or whereby the rate or premium thereon may be increased and if any increased premium shall be payable by reason of any acts or defaults of the Lessee (including absence from the premises) under this sub-clause then to pay to the Lessor on demand the amounts by which such premium shall be increased.
- (f) At its own expense to make such amendments alterations and additions to the premises as shall be required by any requisitions or requirements of the Insurance Council of Australia or other body or authority having power or control over electrical installations or fixtures or dealing with insurance matters.

4.13 Indemnity

To indemnify the Lessor and keep the Lessor indemnified from and against all claims, demands, writs, summonses, actions, suits, proceedings, judgments, orders, decrees, damages, costs, losses and expenses of any nature whatsoever which the Lessor may suffer or incur in connection with the loss of life, personal injury or damage to property arising from or out of any occurrence in upon or at the premises or the use by the Lessee of the premises or any access ramp for the premises or disabled parking area for the premises or any part or to any person or the property of any person using or entering or near any entrance to the premises or occasioned (wheresover it may occur) wholly or in part by any act, neglect, default or omission by the Lessee its agents, contractors,

servants, workmen, customers, members or any other person or persons using or upon the premises with its consent or approval expressed or implied except to the extent that such loss or damage is caused by the negligent act of omission of the Lessor, its agents, contractors, servants or workmen.

4.14 Alterations & Improvements

Not without the prior written consent of the Lessor which consent will not be unreasonably withheld to erect or suffer to be erected any building or structure on the premises or to make or suffer to be made any alteration in or additions to any building or any other improvements to the premises or to remove any such improvements or to cut main or injure or suffer to be cut maimed or injured any of the walls or timbers thereof.

4.15 Fixtures, Fittings and Furniture

Not without the prior written consent of the Lessor which consent will not be unreasonably withheld to erect, install or place any fixtures, fittings or furniture in or upon the premises.

4.16 Sale of Liquor

Not to sell or permit the sale of any spirituous or fermented liquors or alcohol on the premises or any part thereof other than under a valid licence issued in pursuance of the Liquor Licensing Act 1988, and then only with the prior written consent of the Lessor, the Swan River Trust and the Minister for Lands.

4.17 Assignment or Subletting

The Lessee shall not assign sublet transfer or part with possession of the premises or any part thereof or the benefit of this Lease or any estate or interest herein without obtaining the prior written consent of the Lessor which the Lessor shall have an absolute right to withhold on reasonable grounds and the provisions of Sections 80 and 82 of the Property Law Act 1969 shall not apply to this Lease. To enable the Lessor to consider the Lessee's request to assign sublet transfer or part with possession at the

premises or any part thereof the Lessee shall comply with the following:

- (a) the Lessee shall prove to the Lessor that the proposed sublessee or assignee is respectable responsible and of substantial means and with previous proven successful management experience in the conduct of premises similar to the premises and capable of complying with of the covenants of the Lessee contained in this Lease and if the Lessee is unable to prove these matters to the Lessor the Lessor and the Lessee agree that these are reasonable grounds for the Lessor to withhold consent.
- (b) in the case of a proposed sublease the Lessee shall prove to the satisfaction of the Lessor that the proposed sublease is at a rent and on terms and conditions which are not more favourable to the proposed sublessee than the rent hereby reserved and the covenants of the Lessee contained in this Lease;;
- (c) all rent and other moneys (including interest) then due and payable by the Lessee pursuant to this Lease shall have been paid;
- (d) there shall not be at either or both of the time such consent is sought and at the date any sublease or assignment is to take effect any subsisting breach of any of the covenants of the Lessee contained in this Lease;
- (e) if the consent is given, the Lessee has procured the execution by the proposed assignee or sub-lessee and such guarantors as are referred to in paragraph (h) of an assignment of this Lease or a sublease (as the case may be) to which the Lessor is a party and which is in a form prepared by the Lessor's solicitors and has delivered such assignment or sublease to the Lessor;
- (f) the Lessee pays to the Lessor all reasonable costs and expenses including legal costs administrative costs stamp duty and other disbursements incurred or to be incurred by

the Lessor in respect of any deed of assignment or sublease and all costs and expenses incurred by the Lessor of and incidental to any enquiries and investigations which are made by or on behalf of the Lessor as to the respectability solvency and suitability of any proposed assignee or sublessee;

- (g) the Lessee enters into a deed in such form as the Lessor's solicitors shall approve under which the Lessee releases the Lessor from all claims which the Lessee may then have or may thereafter have against the Lessor in respect of or in any way arising from this Lease; and
- (h) where any proposed sublessee or assignee is a Corporation the directors and principal shareholders thereof at their expense execute and complete a Deed of Guarantee and Indemnity in a form approved by the Lessor's solicitors in favour of the Lessor in respect to the payment of all rent and the observance and performance of all of the covenants of the Lessee contained in this Lease.

For the purposes of this clause:

- (i) any change in the principal shareholders of any corporate Lessee which has the effect of altering the effective control of the Lessee; or
- (j) where the Lessee has executed this Lease as the trustee of a trust and any change in the persons beneficially entitled to the trust assets occurs,

shall be deemed an assignment of this Lease and shall require the prior consent of the Lessor and the Minister for Lands in the manner referred to in this Clause.

4.18 Signs

Not without the prior written consent of the Lessor which consent will not be unreasonably withheld to affix or exhibit or permit to be affixed to or exhibited upon any part of the exterior of the

premises or in any place visible from beyond the premises any placard, sign, poster, hoarding or advertisement.

4.19 Legal Costs

To pay the costs (on the scale applicable to the Lessor) of and incidental to the negotiations and instructions for and the preparation, completion and stamping of this Lease (including stamp duty) and all copies thereof and also all costs, charges and expenses (including solicitors' costs and surveyors' fees) incurred by the Lessor for the purpose of or incidental to the preparation and service of any notice under Section 81 or any other section of the Property Law Act 1969 requiring the Lessee to remedy a breach of any of the covenants herein contained.

4.20 Delivery Up of Possession

At the expiry or sooner determination of the term peaceably and quietly to deliver up possession of the premises and all furniture, fixtures and fittings belonging thereto included in the cost of construction of the kiosk facility of \$750,000 or such lesser amount determined pursuant to Clause 3.8 and not purchased and replaced by the Lessee pursuant to Clause 3.10(a) in such good and tenable repair, order and condition as shall be consistent with the covenants herein contained in that behalf PROVIDED THAT forthwith upon the expiry or sooner determination of the term the Lessee shall be entitled to remove any other tenant's fixtures and fittings and shall make good any damage caused to the premises in so doing and the other tenants fixtures and fittings not so removed prior to the expiry or sooner determination of the term shall become the property of the Lessor.

4.21 Swan River Trust Requirements

To comply with the conditions of approval to commence development pursuant to part 5 of the Swan River Trust Act issued in respect of the premises and the land, a copy of which is attached to this Lease.

4.22 Conduct of Business

- (i) To carry on the Lessee's business in the premises in a competent businesslike and prudent manner each day of the year from 7.00am to 10.00pm unless otherwise agreed by the Lessor in writing.
- (ii) To keep the premises, including any public toilets, open from 7.00am to 10.00pm each day of the year unless otherwise agreed by the Lessor in writing.
- (iii) To keep the public toilets within the premises well lit during such times as they are open.
- (iv) During such time as the premises are not open, to keep the premises, including the public toilets locked and in a secure condition.

4.23 Damage to Pumps

To be liable for any damage, or repairs required to, any pumps and sewers situated on or near the premises when such damage or repairs arise as a result of the negligent act or omission of the Lessee its agents, contractors, servants and workmen or customer or any other person or persons using or upon or about the premises with the Lessee's consent or approval expressed or implied except to the extent of damage or repairs caused or required as a result of the negligent acts or omissions of the Lessor, its agents, contractors, servants or workmen.

4.24 No Encumbrance of Leasehold Interest

Not to mortgage, charge or otherwise encumber the whole or any part of its interest in this Lease without the prior written consent of the Lessor which the Lessor shall have an absolute discretion to give or withhold and if the Lessor consents to the Lessee mortgaging charging or otherwise encumbering the whole or any part of its interest in this Lease then the Lessor may as a condition of that consent require the Lessee and any mortgagee chargee or encumbrancer to enter into a deed prepared by the

solicitors for the Lessor at the cost of the Lessee which is in a form and substance satisfactory to the Lessor.

4.25 Bills of Sale or Charges

Not without the prior written consent of the Lessor on each occasion give any bill of sale or charge over or affecting any plant or equipment affixed or to be affixed to the premises and in respect of any bill of sale or charge whether over such plant and equipment or otherwise affecting any property in or about the premises or this Lease and:

- (a) to duly and punctually comply in all respects with the terms and conditions thereof;
- (b) to give written notice to the Lessor forthwith of any notice of default or demand received by the Lessee in respect thereof;
- (c) to give written notice to the Lessor at least once in each year of the term hereof and also wherever notice of any default or any demand is given or made under subparagraph (ii) hereof of all items comprised therein their respective values and the balance of moneys owing thereunder; and
- (d) authorise the Lessor and the Lessor's servants and agents to obtain from any Grantee or Chargee thereof all such particulars thereof and of the moneys from time to time owing thereunder as the Lessor may from time to time require.

4.26 Income Tax Returns

The Lessee shall:

- (a) by the due date for lodgment each year during the term lodge its Income Tax Return at the Australian Taxation Office;
- (b) produce a copy of the Income Tax Return and proof of lodgment to the Lessor each year during the term within 48 hours of lodgment;
- (c) notify the Lessor immediately if any audit of the Income Tax Return or any part of it is requested by the Australian Taxation Office and inform the Lessor of the results of the audit;
- (d) notify the Lessor immediately of any amendments or variations made to the Income Tax Return after lodgment; and
- (e) produce to the Lessor a copy of the Notice of Assessment of Income Tax within 48 hours of receipt by the Lessee.

5.0 LESSOR'S COVENANT - QUIET POSSESSION

The Lessor HEREBY COVENANTS with the Lessee that the Lessee paying the rental hereby reserved and observing and performing the covenants herein expressed and implied and on the Lessee's part to be observed and performed shall during the term and any extension thereof quietly enjoy the use and occupation of the premises without interruption by the Lessor or any person lawfully claiming through or under the Lessor.

6.0 MUTUAL AGREEMENTS

IT IS HEREBY MUTUALLY AGREED as follows:

6.1 Ownership of Kiosk Facility

At the expiration or determination of the term of this Lease the

kiosk facility is the property of the Lessor absolutely.

6.2 Default by Lessee

If:

- (a) any rent hereby reserved or any part thereof is at any time in arrears for 14 days after the same shall have become due (whether or not any formal or legal demand is made therefor);
- (b) the Lessee fails to carry on the Lessee's business in the premises in a competent businesslike and prudent manner each day of the year from 7.00am to 10.00pm unless otherwise agreed by the Lessor in writing and continues to do so for 7 days after service of notice required under section 81 of the Property Law Act (and the parties hereto expressly agree that 7 days notice shall be a reasonable period).
- (c) (subject to the provisions of the Bankruptcy Act 1966) the Lessee becomes bankrupt or suffers the Lessee's interest in this Lease to be taken in execution or being a company calls a meeting of its creditors, has a receiver appointed, goes into liquidation or has any order made against it for winding up of the Lessee;
- (d) the Lessee calls a meeting of the Lessee's creditors or makes any composition or arrangement with or assignment for the benefit of the Lessee's creditors or suffers any execution under any legal process to issue or be levied upon or against any of the Lessee's goods or chattels; or
- (e) the Lessee breaches or fails to observe and perform any other covenant condition or stipulation herein expressed or implied and on the part of the Lessee to be observed or performed and the Lessee fails to remedy such breach if it is capable of remedy and to make reasonable compensation in money to the Lessor for the breach within 28 days (which the parties hereto expressly agree shall be a reasonable

period) or such further time as the Lessor may allow after the service of the notice required by Section 81 of the Property Law Act,

THEN this Lease and the term shall at the option of the Lessor cease, determine and be absolutely void and the Lessor may thereupon without notice re-enter upon, occupy and resume possession of the premises in the name of the whole but without releasing the Lessee from liability for rent up to the determination of this Lease or for any antecedent breach and for the purpose of such re-entry the Lessor and all persons authorised by the Lessor may forcibly eject or put out the Lessee and any Licensee and any property or thing belonging to the Lessee or the Licensee found thereon without being liable to any action for trespass, assault or other proceedings whatsoever for so doing but with liberty to plead the leave and licence hereby given in bar of any such action or proceedings if any such action or proceedings is brought or instituted.

6.3 Destruction of Premises

- (a) Subject to paragraph (b) of this Clause, if the premises or any part thereof shall be burned down, destroyed or damaged by fire so as to render the same unfit for the purpose permitted by this Lease then in such case (unless the insurance of the premises shall have been forfeited or become null or void or the payment of any moneys payable under such insurance be refused or withheld through any act or default of the Lessee or its members, agents, servants, invitees or licensees) the rental hereby reserved or a fair and just proportion thereof according to the nature and extent of the damage sustained shall cease to be payable until the premises shall have been rebuilt and rendered fit for the purpose permitted by this Lease. In case of difference touching this paragraph such difference shall be referred to the award of a single arbitrator if the parties can agree upon one and otherwise to two arbitrators one to be appointed by the Lessor and the other by the Lessee and their umpire (to be appointed before proceeding with the arbitration) and in either case in accordance with the

provisions of the Commercial Arbitration Act 1985 or any modification or re-enactment thereof for the time being in force PROVIDED THAT in the event of such difference no part of the said rental shall be allowed by the Lessor to the Lessee as aforesaid but the Lessee shall continue to pay the rental in full until the date of the award of such arbitrator whereupon the Lessor shall refund to the Lessee free of interest any rental which according to such award shall have been overpaid. In any such arbitration each party shall be entitled to be represented by a duly qualified legal practitioner and this Clause shall be deemed to be the agreement in writing referred to in Section 20 of the Commercial Arbitration Act 1985 in respect of such representation.

- (b) If, during the first ten (10) years of the term, the premises or any substantial part be burnt down, destroyed or damaged so as to be wholly unfit for occupation or use then the proceeds of insurance of the premises (unless the insurance shall have been forfeited or become null or void or the proceeds of that insurance is refused or withheld as a consequence of any act or default of the Lessee or its members, agents, servants, invitees or licensees) shall be applied by the Lessor (with the assistance where required of the Lessee) in the reconstitution and rebuilding of the premises and the continuation of the term, subject only to the abatement of rent by clause 6(a) and provided that any shortfall between the proceeds of the insurance and cost of reconstitution and rebuilding of the premises shall be paid by the Lessee.
- (c) If, during the eleventh (11th) to fifteenth (15th) years of the term, the premises or any substantial part be burnt down, destroyed or damaged so as to be wholly unfit for occupation or use then either party by notice in writing to the other within 28 days of the date of destruction, may require the proceeds of insurance of the premises (subject only to the proviso referred to in clause 6(b)) to be applied to the reconstitution and rebuilding of the premises and the continuation of the term save that the

Lessee, upon receipt of a notice from the Lessor to that effect, may elect (by notice in writing served upon the Lessor within a further period of 7 days) not to proceed. Upon the receipt by the Lessor of a notice from the Lessee to that effect this lease and the term created by it shall be determined but without affecting the obligations of the Lessee to the Lessor prior to the date of destruction and all money paid or payable under any policy of insurance effected in respect of the premises shall belong to the Lessor absolutely.

- (d) At any time after the expiration of the fifteenth (15) year of the term, if the premises or any substantial part be burnt down, destroyed or damaged so as to be wholly unfit for occupation or use, this Lease may be determined by the Lessor by notice in writing to the Lessee (which determination shall be served upon the Lessee no later than 28 days after the date of destruction) and all money paid or payable under any policy of insurance effected on the premises shall belong to the Lessor absolutely.

6.4 Entry by Lessor

If the Lessee shall fail to duly and punctually observe or perform any covenant, condition or agreement herein expressed or implied and on the part of the Lessee to be observed and performed the Lessor shall be entitled to carry out the observance or performance of such covenant, condition or agreement and for such purpose the Lessor or the Lessor's agents workmen or architects may if necessary enter the premises or any part thereof and the cost and expense incurred in such observance or performance together with interest thereon at the rate of interest charged by the Commonwealth Bank on overdrafts of \$100,000.00 or less plus 4% shall be a debt due by the Lessee to the Lessor and shall be payable on demand and may be recovered by the Lessor in the same manner as if such debt were for rent due under this Lease in arrear by action in law and such cost expense and interest shall be a charge on the term.

6.5 Holding Over

If the Lessee holds over the premises at the expiry of the term:

- (a) a tenancy from year to year shall not thereby be presumed but the tenancy shall in such event be and continue to be a tenancy from month to month;
- (b) subject to paragraph (c) of this paragraph, the tenancy shall be upon the terms and conditions herein contained insofar as they are applicable and shall be determinable at the expiration of one month's notice by either party to the other at any time;
- (c) the Lessee shall pay to the Lessor by equal monthly instalments in advance at the times referred to in Clause 2 an annual rent calculated in accordance with clause 2.0(a) together with the profit bonus for each month of the term calculated in accordance with clause 2.1.
- (d) the Lessor may give to the Lessee notice in writing at any time specifying an annual rent being an amount greater than the annual rent referred to in paragraph (c) and the Lessee shall commence paying the annual rent specified in the notice at the commencement of the month following the receipt of the notice.

6.6 Lease Subject to Commercial Registrar's Consent

- (a) The granting of this Lease is entirely subject to and conditional upon the Commercial Registrar approving (and where that approval is subject to any conditions, those conditions being acceptable to the Lessor) under the Commercial Tenancy (Retail Shops) Agreements Act 1985 the inclusion in this Lease of any provisions which in the absence of the Commercial Registrar's approval would not bind the parties to this Lease intended to be bound by those provisions or would be void or voidable or capable of being declared void or voidable (in each case whether in whole or in part); and

- (b) The condition precedent referred to in clause 6.6(a) is for the benefit of the Lessor alone and the Lessor may waive the whole or any part of the Lessor's rights arising pursuant to clause 6.6(a) at any time by notice in writing to the Lessee.

6.7 Arbitration

- (a) If the Lessor and the Lessee are unable to agree on any matter or thing associated with this Lease then:
- (i) if the Lessor and the Lessee agree the dispute may be referred for the determination of a single arbitrator if the parties can agree upon one and failing agreement to an arbitrator appointed by the President for the time being of the Law Society of Western Australia at the request of the Lessor and the Lessee or either of them. The costs of the arbitrator shall be paid in accordance with the award of the Arbitrator. The arbitrator shall act as an expert and not as an arbitrator and his decision shall be final and binding on the Lessor and the Lessee;
 - (ii) if the Lessor and the Lessee do not agree for the dispute to be determined in accordance with Clause 6.7(i) then any dispute or difference arising between the Lessor and the Lessee on any matter or thing associated with this Lease shall be and is hereby referred to the arbitration pursuant to the Commercial Arbitration Act 1985 of an arbitrator if the parties can agree upon one and failing agreement to an arbitrator appointed by the President for the time being of the Law Society of Western Australia at the request of the Lessor and the Lessee or either of them. The costs of the arbitrator shall be paid in accordance with the award of the arbitrator.

- (b) Where it is necessary for any dispute under this agreement to be determined by an arbitrator or umpire under the Commercial Arbitration Act 1985 then each party to the proceedings before an arbitrator or umpire may be represented by a duly qualified legal practitioner and written Submissions may be made.
- (c) The Lessor and the Lessee agree that in any matter under this Lease in which the Lessor has an absolute discretion to give or withhold consent the Lessee shall not be entitled to refer that matter to arbitration.

6.8 Force Majeure

- (a) Force majeure means events or occurrences and the effects thereof beyond the reasonable control of the party claiming force majeure which affects the ability of that party to observe and perform its obligations hereunder including war, invasion, riot, civil or military disturbances, sabotage, strikes, picketing or other labour disputes or disturbances, expropriation, lightning, fire, flood or threats of floods, earthquake, storm, cyclone, explosion, governmental restrictions or other governmental actions or inactions (unless such restrictions, actions, or inactions arise out of the failure of the party affected to comply with any governmental requirement), and orders or temporary or permanent injunctions of any duly constituted court of competent jurisdiction or any duly authorised administrative agency or officer (unless any such order or injunction was imposed by reason of the failure of the party affected to observe and obey any legal requirement or obligation under this Lease).
- (b) If any party is unable, wholly or in part, by reason of force majeure to carry out any obligation on it, and notifies the other parties that it wishes to claim that it is affected by force majeure, the obligation shall be suspended so far as it is affected by the force majeure during the period from the giving of the notice that force majeure is claimed until the force majeure and the effects

of the force majeure cease. The notice claiming force majeure shall contain the particulars of the force majeure, and so far as is known, the extent to which the party claiming force majeure considers that it will be unable to perform or be delayed in performing its obligations.

- (c) A party affected by force majeure shall take all necessary steps to remedy or remove the force majeure and the effect of it as quickly as possible.
- (d) Where a party gives a notice pursuant to this Clause it shall thereafter during the continuance of the force majeure at least every five days give notice to the other parties of the then probable extent to which it will be unable to perform or be delayed in performing its obligations and of any significant changes relative to the force majeure since it gave its last notice to the other parties.

6.9 Service of Notices

That all notices, consents and approvals or any demand to be given to or made upon the Lessee or the Guarantor shall be in writing and may be signed by the Lessor or its solicitors or agents and all such notices or demands shall be considered as having been properly served upon the Lessee or the Guarantor if delivered to the Lessee or the Guarantor or posted to the Lessee or the Guarantor by prepaid registered post addressed to the premises or to the address of the Lessee or the Guarantor and if served by post shall be conclusively deemed to be served upon and be received by the Lessee or the Guarantor at the expiration of the next day following the day when the same shall be posted.

6.10 Headings

That the headings appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of the clauses of this Lease nor in any way affect this Lease.

6.11 Definitions

That whenever herein appearing unless repugnant to the sense or context:

The expression 'Lessor' and 'Lessee' shall if only one Lessor or Lessee is party hereto mean the Lessor or the Lessee as the case may be and the executors, administrators and assigns of the Lessor or the Lessee as the case may be and shall if there are two or more Lessors or Lessees parties hereto mean the Lessors or the Lessees as the case may be and each of them and their and each of their executors, administrators and assigns and if the Lessor or the Lessee or any of the Lessors or the Lessees as the case may be shall be a corporation shall include such corporation and its successors and assigns.

The expression 'Guarantor' shall if only one Guarantor is party hereto mean the Guarantor and the executors, administrators and permitted assignees of the Guarantor and if there are two or more Guarantors parties hereto shall mean the Guarantors and each of them and their and each of their executors, administrators and permitted assigns and if the Guarantor or any of the Guarantors shall be a corporation shall include the successors and permitted assigns of such corporation.

Words importing the masculine gender shall include the feminine gender and shall also have application to corporations.

Words importing the plural number shall include the singular number and words importing the singular number shall include the plural number.

References to statutes shall include all statutes amending the statutes referred to or passed in lieu thereof.

When two or more Lessors or Lessees or Guarantors (as the case may be) are parties hereto the covenants and agreements on their part shall bind them and any two or greater number of them jointly and severally.

7.0 ESSENTIAL TERMS

The covenants by the Lessee hereinbefore contained to pay rent and rates, taxes and outgoings and insurance in respect of the premises at the time and in the manner therein respectively prescribed and to construct the works in the manner and in the time referred to in this Lease and not to assign sublet mortgage charge encumber or part with possession of the premises and to keep the premises including any public toilets open from 7.00am to 10.00pm each day of the year unless otherwise agreed by the Lessor in writing and to carry on the Lessee's business in the premises in a competent businesslike and prudent manner each day of the year from 7.00am to 10.00pm unless otherwise agreed by the Lessor in writing are essential terms of this Lease and any breach of any of those covenants shall be regarded by the Lessor and the Lessee as a fundamental breach by the Lessee of this Lease. Should the Lessor determine this Lease following such a breach then (without prejudicing or limiting any other right or remedy of the Lessor arising from such breach or otherwise under this Lease) the Lessor shall be entitled to recover from the Lessee and the Lessee hereby covenants to pay to the Lessor as and by way of liquidated damages for such breach the rent, rates, taxes and outgoings and insurance which would have been payable by the Lessee for the unexpired residue of the term of this Lease remaining after such determination after making allowance for the rent, rates, taxes and outgoings and insurance which the Lessor by taking reasonable steps to relet the premises obtains by reletting the premises for such unexpired residue of the term hereof on reasonable terms as to rental and otherwise PROVIDED THAT:

- (a) any such reletting shall not be required to be on like terms as are herein expressed and implied;
- (b) the acceptance by the Lessor of arrears or any late payment of the rent, rates, taxes or outgoings or insurance shall not constitute a waiver of the essentiality of the Lessee's obligations to make such payments;
- (c) the Lessor's entitlement to recover damages as aforesaid shall not be prejudiced or limited if :

- (i) the Lessee abandons or vacates the premises;
 - (ii) the Lessor elects to re-enter the premises or to determine this Lease;
 - (iii) the Lessor accepts the Lessee's repudiation of this Lease; or
 - (iv) the parties' conduct constitutes a surrender by operation of law;
- (d) the Lessor shall be entitled to institute proceedings to recover damages as aforesaid either before or after any of the events or matters referred to in sub-paragraph (c);
- (e) any conduct by the Lessor to mitigate damages shall not of itself constitute acceptance of the Lessee's breach or repudiation or a surrender by operation of law; and
- (f) nothing herein expressed or implied shall be construed to mean that no other covenant herein on the part of the Lessee to be observed or performed may be an essential term.

8.0 GUARANTEE

In consideration of the Lessor at the request of the Guarantor granting this Lease to the Lessee, the Guarantor HEREBY AGREES WITH AND GUARANTEES to the Lessor the due and prompt performance of the covenants and conditions contained in this Lease on the part of the Lessee to be observed and performed upon and subject to the following conditions:

- (a) if the Lessee shall make default in any payment of rent or other sums of money to be made under this Lease for the space of 7 days the Guarantor will upon written request of the Lessor pay to the Lessor the amount which shall be so in arrear or unpaid;
- (b) if the Lessee shall make default in the performance or observance of any of the obligations of the Lessee under

this Lease the Guarantor will pay to the Lessor all losses, damages, expenses and costs which the Lessor shall be entitled to recover from the Lessee or from the Guarantor by reason of such default;

- (c) this guarantee shall be a continuing guarantee and shall not be considered as wholly or partially discharged by the payment at any time or from time to time hereafter of any of the rent or other sums of moneys due and payable by the Lessee to the Lessor under this Lease or by any settlement on account or by any other matter or things whatsoever;
- (d) this guarantee shall continue for the duration of this Lease and for any assignment extension or renewal thereof and any holding over thereunder and shall extend to the acts and defaults of the Lessee during such duration, assignment extension, renewal or holding over;
- (e) notwithstanding the assignment by the Lessee of the benefit of this Lease the Guarantor shall remain liable to observe and perform all of the term covenants and conditions contained in this Lease and on the part of the Lessee to be observed and performed until the expiration of the term of this Lease.
- (f) this guarantee shall be a principal obligation and shall not be treated as ancillary to or collateral with any other obligation howsoever created or arising to the intent that this guarantee shall be enforceable unless the same shall have been satisfied according to the terms of this guarantee notwithstanding that any other obligation whatever arising between the Lessor and the Lessee shall be in whole or in part unenforceable whether by reason of any statute (including any statute of limitation) or for any other reason whatsoever;
- (g) until the Lessor shall have received in full all rent and other sums of moneys due from the Lessee under this Lease or further lease the Guarantor shall be bound by this guarantee and in the event of the Lessee becoming bankrupt

or entering into any scheme or arrangement in favour of creditors or being a company entering into liquidation either voluntarily or involuntarily the Guarantor shall not be entitled to proof or claim against the official receiver or liquidator in competition with the Lessor so as to diminish any dividend or any payment which the Lessor may receive but may prove or claim for and on behalf of the Lessor if so authorised by the Lessor and any such proof or claim by or on behalf of the Lessor shall not prejudice or affect the right of the Lessor to recover from the Guarantor any payment of rent and other sums of money to be made by the Lessee to the Lessor under this Lease;

- (h) this guarantee is to continue binding upon the Guarantor notwithstanding:
- (i) the death, bankruptcy or insolvency or liquidation (as the case may be) of the Lessee or the Guarantor or any one or more of them;
 - (ii) any change or alteration in the constitution of the Lessor the Lessee or the Guarantor; or
 - (iii) the happening of any matter or thing which under the law relating to sureties would but for this provision have the effect of releasing the Guarantor from this Guarantee or of discharging this Guarantee;
- (i) the liability of the Guarantor shall not be affected by any collateral rights or obligations which may exist between the Guarantor or any two or more of them and the Lessee and the same shall not be affected by any variation or avoidance of any such collateral rights or obligations;
- (j) the Lessor may at any time and from time to time without the consent of the Guarantor and without discharging, releasing, impairing or otherwise affecting the liability of the Guarantor under this guarantee grant to the Lessee or if more than one then to any one or more of them or to

any person who may be jointly indebted with the Lessee to the Lessor at any time any forbearance, release, concession, indulgence, time or other consideration and may compound with or release the Lessee or if more than one then any one or more of them and also any such other person or may assent to any assignment to trustees for the benefit of creditors or any scheme or deed of arrangement and whether with or without sequestration of the estate or (in the case of a corporation) to the winding up of the Lessee or any of them if more than one or of any such person or to the appointing of a receiver or official manager for them or any one of them and may release or discharge or otherwise deal with any property whether real or personal comprised in any security which may or might be held by the Lessor without discharging or affecting the liability of the Guarantor under this Guarantee.

9.0 TRUSTEE PROVISIONS

If any one or more parties to this Deed other than the Lessor (in this Clause severally referred to as 'the Trustee') enters into this Deed as trustee of any trust (each of which trusts is severally referred to in this Clause as 'the Trust') the following covenants shall have effect (whether or not the Lessor has notice of the Trust):

- (a) the Trustee covenants and agrees with the Lessor that:
 - (i) the Trust has been duly created and is validly existing under the laws of Western Australia;
 - (ii) the Trustee shall be unconditionally liable in its personal corporate capacity for the performance of all covenants and agreements on the part of the Trustee contained in this Deed;
 - (iii) the Trustee has full, complete and valid authority pursuant to the Trust and the document evidencing the establishment and terms of the same ('the Trust Deed') to enter into this Deed;

- (iv) the Trustee is entering into this Deed and the transactions evidenced by this Deed as part of the due and proper administration of the Trust and for the benefit of all of the beneficiaries or unit holders of the Trust;
 - (v) the Lessor will have all the rights of the indemnity which the Trustee has or will have from time to time against the trust assets or the beneficiaries or unit holders of the Trust, and that such rights of indemnity have not been and will not be excluded or limited by the provisions of the Trust Deed or by any breach of trust or otherwise, and that it will not release restrict or otherwise prejudice such rights of indemnity;
- (b) the Trustee further warrants to and covenants with the Lessor that at the date of this Deed and until the Trustee has fulfilled all its obligations under the Lease and this Deed unless the prior written consent of the Lessor on each occasion has been obtained:
- (i) the Trustee is and will continue to be the sole trustee of the Trust and will not retire or be removed and no new or additional trustee will be appointed;
 - (ii) the Trust Deed has not been and will not be amended varied or revoked;
 - (iii) the Trustee has not agreed or become liable to nor will become liable to distribute any capital of the Trust or vest transfer resettle or make any gift of any assets of the Trust;
 - (iv) the Trustee has not and will not advance the vesting date of the Trust;

(v) the Trustee is not and will not be in default of any of its duties or obligations whether at law or in equity or under the Trust Deed or otherwise;

(vi) no person has or will have any prior equitable or legal right or claim to receive any of the assets of the Trust;

(vii) other than in the ordinary course of business and then so as not to prejudicially affect the rights of the Lessor the Trustee has not and will not:

(A) compromise any claim made by or against the Trustee;

(B) incur any debt;

(C) lend any money;

(D) give any guarantee or indemnity;

(E) dispose of any property;

(viii) the Trustee has not and will not:

(A) carry on any business on its own behalf or act as trustee of any other trust;

(B) blend or mix the assets of the Trust;

(C) mortgage charge pledge or suffer any charge or lien to subsist over the Trust assets other than as may be allowed pursuant to this Lease;

(D) enter into any partnership joint venture or other profit sharing agreement;

- (ix) the Trustee has not published and will not publish any notice pursuant to Section 63 of the Trustees Act;
 - (x) no remuneration is payable to the Trustee or will become payable save as specifically disclosed in writing prior to the date of this Deed and any remuneration will not be increased;
 - (xi) the Trustee has kept and will keep full true and correct records and books of account of the Trust including copies of the Trust Deed and any amendment or variation to the Trust Deed and the minutes of meetings and decisions of the Trustee and an inventory of all the assets of the Trust and the location of them and will make all such records and books of accounts available from time to time upon request;
 - (xii) the Trustee has filed and will file all requisite returns of income, sales, land and other taxes and has paid and will punctually pay all taxes assessed against or payable by the Trustee;
 - (xiii) the Trust being a Unit Trust the Trustee has not agreed or become liable and will not agree or become liable to issue any additional units other than for cash payable on issue and has not agreed or become liable to redeem any unit;
- (c) at any time after the occurrence of a default by either or both of the Lessee and the Guarantor in observing and performing the terms covenants and conditions contained in the Lease and on their respective parts to be observed and performed the Trustee:
- (i) shall not exercise any of the powers or discretions conferred on the Trustee by the Trust Deed or by law without the prior written consent of the Lessor;

(11) shall on demand exercise all rights of indemnity which the Trustee possesses in relation to the Trust assets and the Trustee irrevocably appoints the Lessor the true and lawful attorney of the Trustee to execute and do all such assurances documents acts deeds and things as the attorney may think expedient or necessary for the Trustee to be fully indemnified out of the Trust assets and the Trustee agrees to ratify whatever the attorney may do or cause to be done.

EXECUTED as a Deed.

THE COMMON SEAL of CITY OF SOUTH PERTH was hereunto affixed in the presence of:)



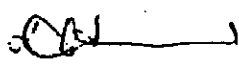
Deputy Mayor



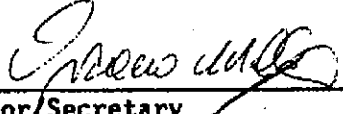
Acting Chief Executive/Town Clerk



THE COMMON SEAL of MILLAR HOLDINGS PTY LTD ACN 063 656 048 was hereunto affixed in the presence of:)



Director

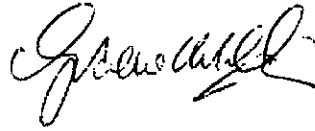


Director/Secretary



SIGNED by the said GRAEME ROSS
MILLAR in the presence of:

}



Witness: *M. Burrows*

Address: *City of South Perth*

Occupation: *Executive Manager
Federal Services*

SIGNED by the said DONNA CHRISTINE
MILLAR in the presence of:

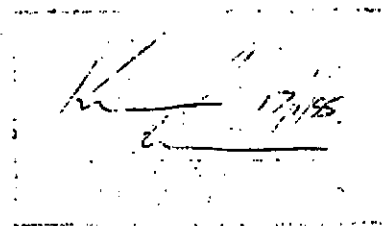
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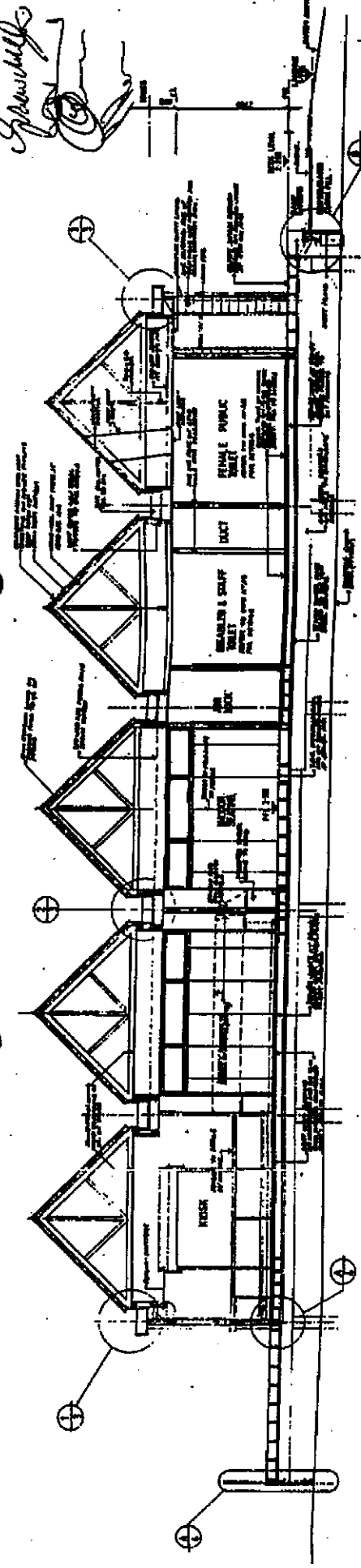
Witness: *M. Burrows*

Address:

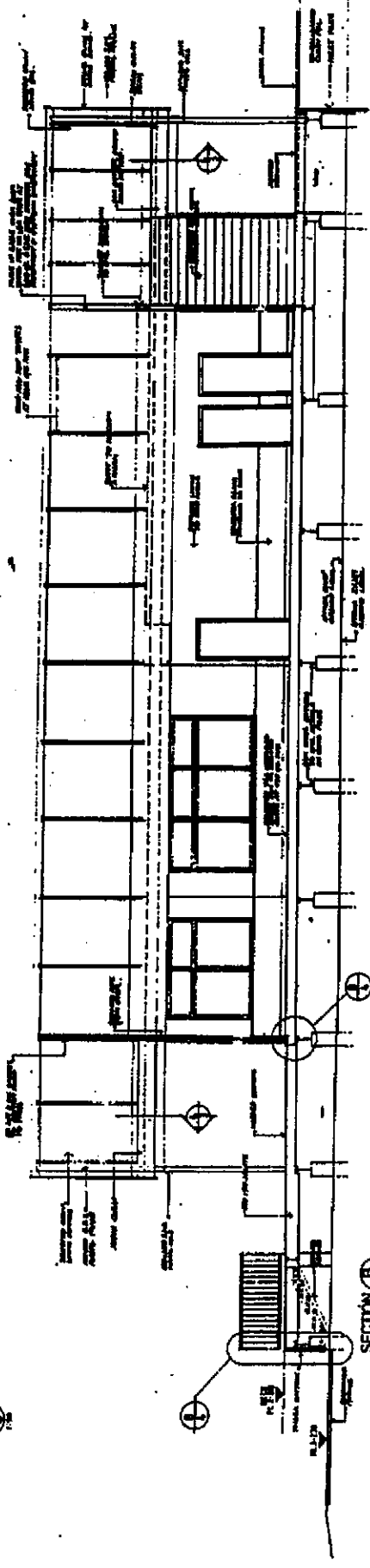
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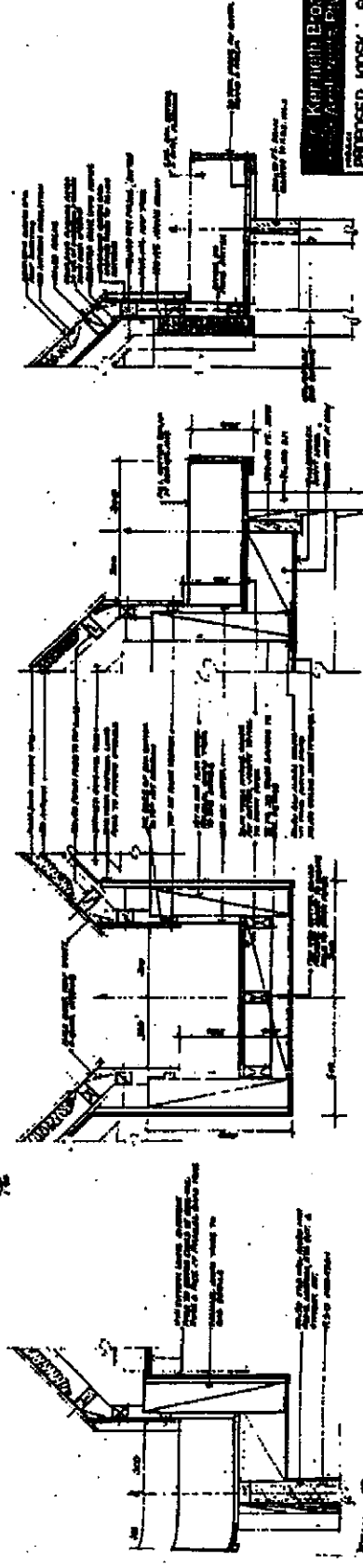
Spawell



SECTION 1



SECTION 2



DETAIL 1

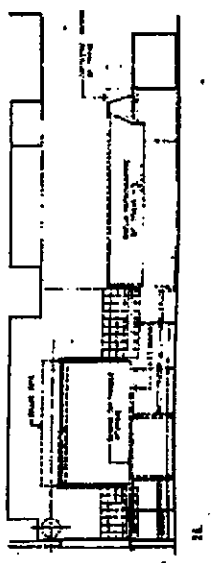
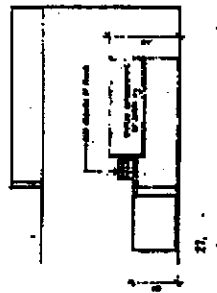
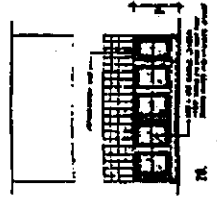
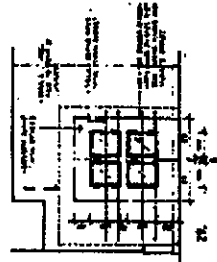
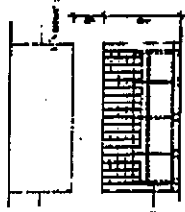
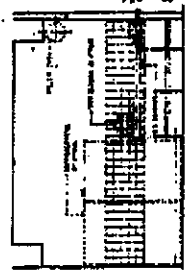
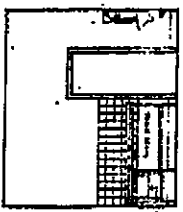
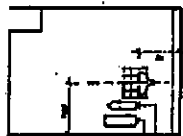
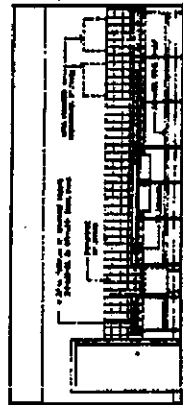
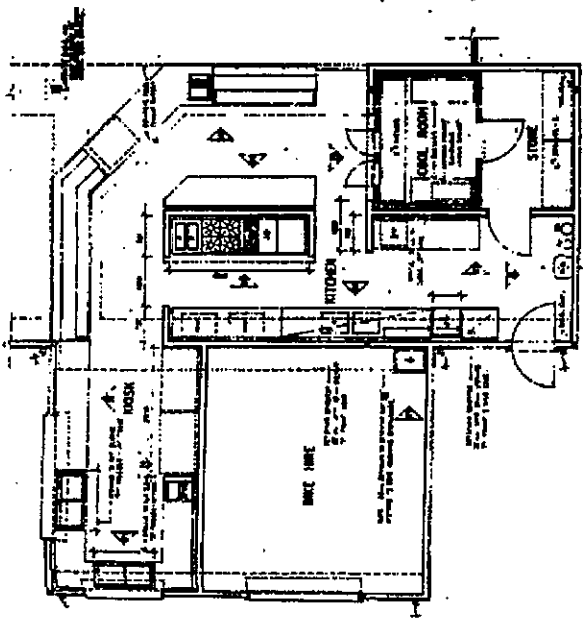
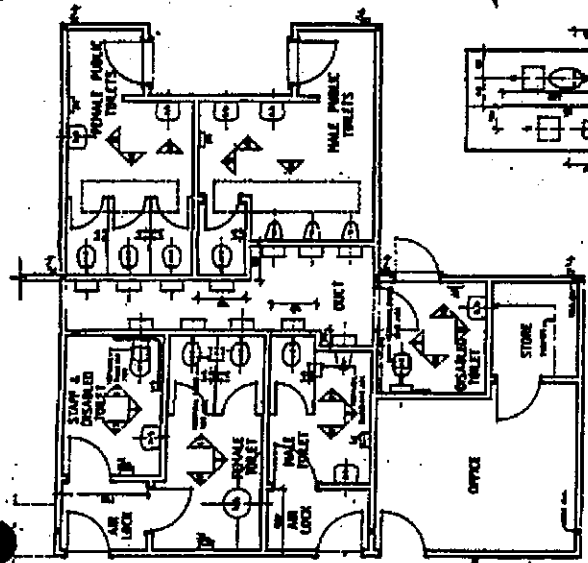
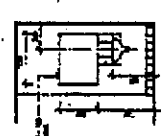
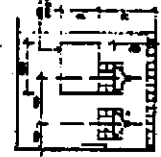
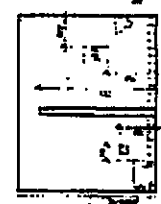
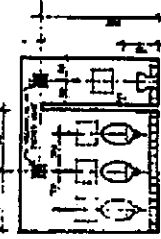
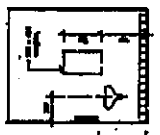
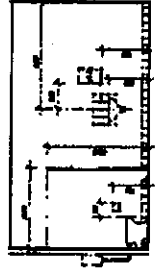
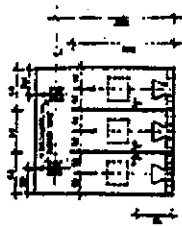
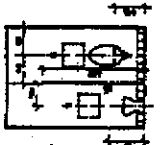
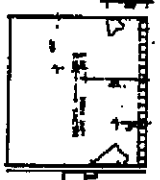
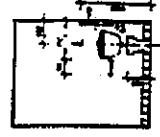
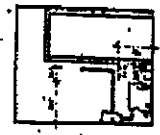
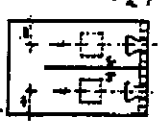
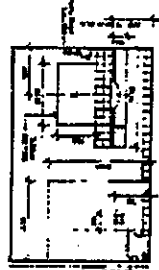
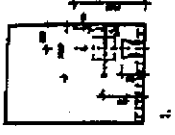
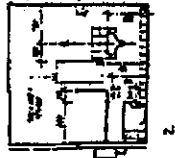
DETAIL 2

DETAIL 3

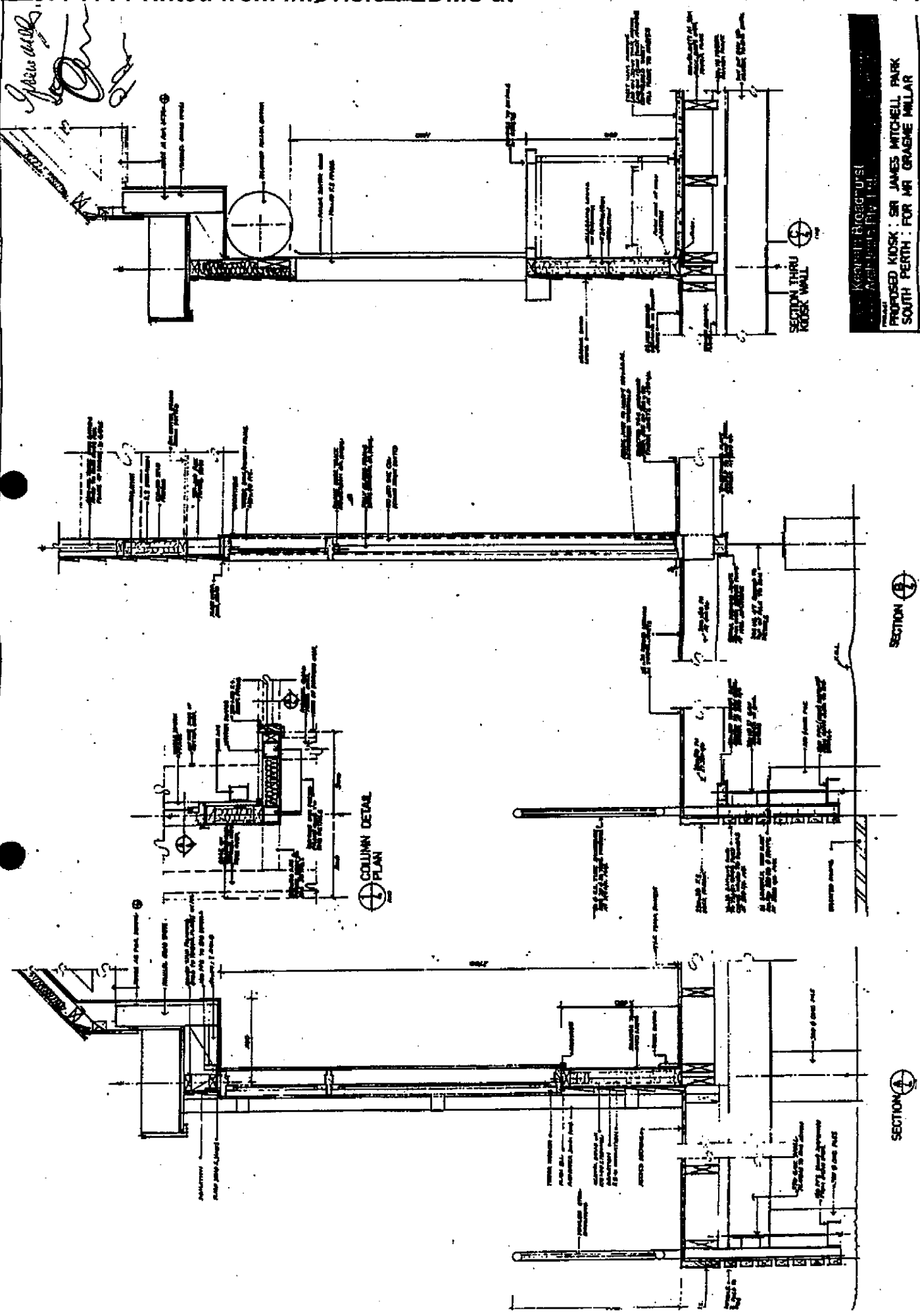
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Kenneth Brunchfield
 PROPOSED KIOSK, SR JAMES MITCHELL PARK
 SOUTH PERTH: FOR MR GRAEME MILLAR

Approved

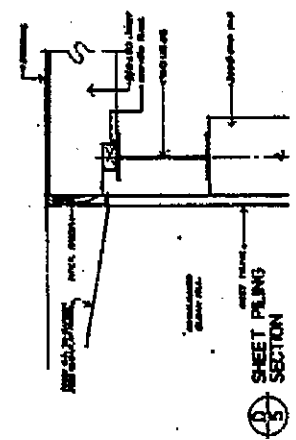
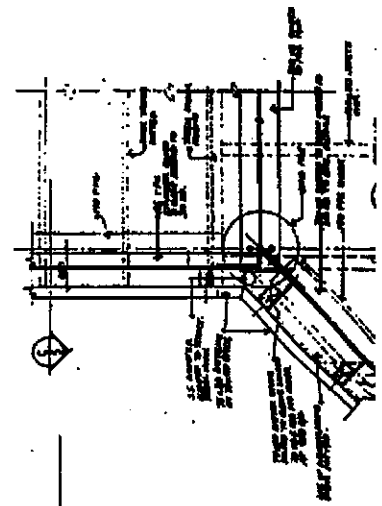
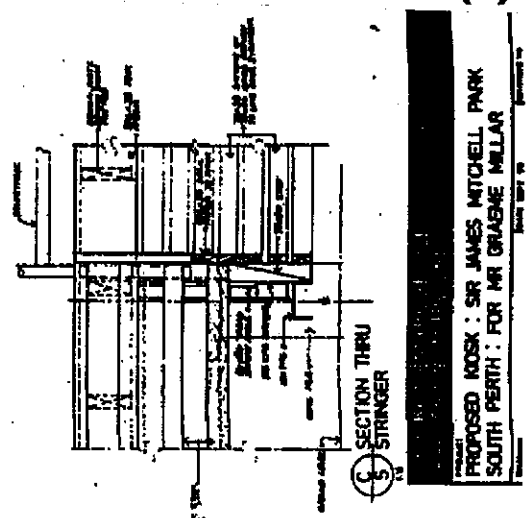
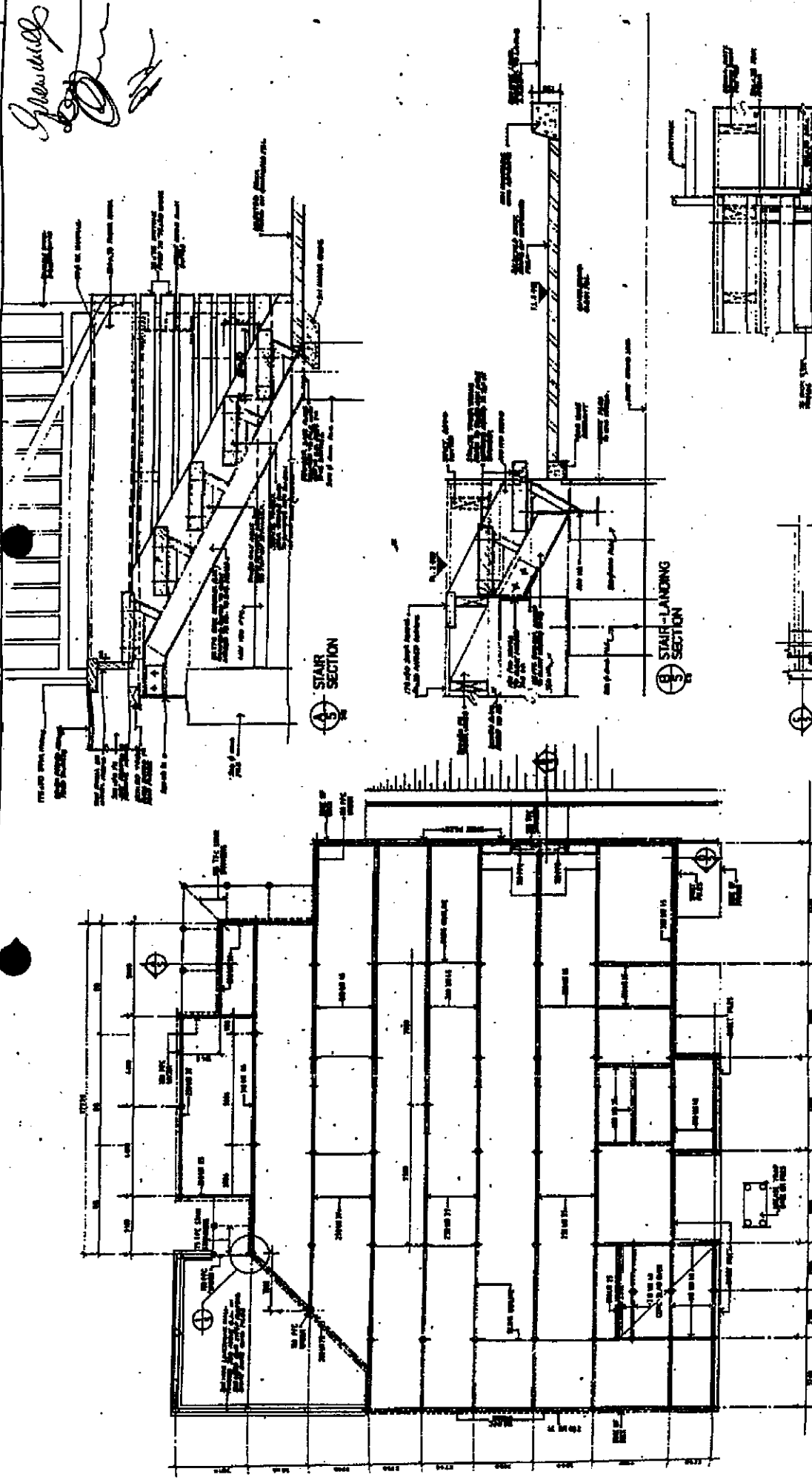


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SOUTH PERTH : FOR MR GRAEME MILLAR
DATE: 11/11/11
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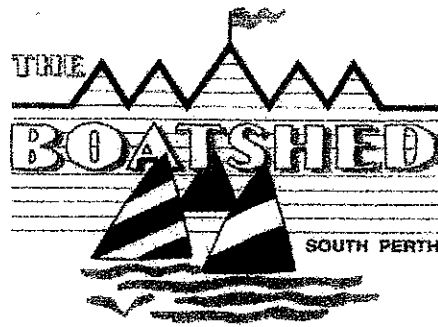


KEVIN R. BIRCHALL
 ARCHITECTS Pty Ltd
 PROPOSED KIOSK - SR JAMES MITCHELL PARK
 SOUTH PERTH - FOR MR GRAEME MILLAR

Handwritten signature



PROJECT:
 PROPOSED MUSEUM : SIR JAMES MITCHELL PARK
 SOUTH PERTH : FOR MR GRABAE MELLAR



Mr Cliff Frewing
Chief Executive Officer
City of South Perth
Cnr Sandgate Street and South Terrace
South Perth WA 6151

26th April 2007

Dear Mr Frewing

Re Boatshed Restaurant

I refer to our meeting held on the 20th March 2007 with you and other officers of the City in regard to our request for an extension and variation of lease together with an application for building improvements and liquor license,

As indicated at the meeting it was the intention to lodge a detailed submission to the City so the matter can be placed before Council for consideration. We are of the view that the attached submission provides the framework for the Council to proceed and approve the application as outlined.

As you will be aware the matters addressed in the submission have been subject of many discussions and correspondence over the past six years and it is now respectfully requested that the application now proceed with some priority. It would be beneficial if all matters were finalised so they could be introduced in time for the 2007/8 summer season.

In this regard the Manager State Lands has indicated his support and will process the application as soon as the City advises him of its determination.

Should you require any further information please do not hesitate to contact me at the Restaurant or by telephoning 0408 947 413.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Graeme Millar'.

Graeme Millar
Proprietor

Millar Holdings Pty Ltd ACN 063 656 048 trading as

THE BOATSHED

Coode street Jetty South Perth WA 6151
Bus Tel: 9474 1314 Fax: 9474 1740
www.boatshedrestaurant.com

BOATSHED RESTAURANT

EXTENSION AND VARIATION OF LEASE

BUILDING IMPROVEMENTS and LIQUOR LICENCE

On the 3rd of November 1994 a 21 year lease agreement was entered into between the City of South Perth and Millar Holdings Pty Ltd (the Lessee) for the construction and operation of the Boatshed Kiosk/Restaurant (the Restaurant).

The Lessee (Principal Mr Graeme Millar) erected the Restaurant and public toilets on Reserve No 34565 known as Sir James Mitchell Park at its own cost and risk and has successfully operated the Restaurant for the past thirteen (13) years. The Restaurant is now considered one of Perth's best restaurants and tourist destinations.

Since 1994, when the lease was first agreed, public attitudes and entertainment needs have changed considerably and there is a need to review the existing facilities, operations and to redraft the lease to make it more relevant to modern business practice and the needs of the City and the Lessee.

The existing Lease Deed signed in 1994 in large part, addressed the issues surrounding the initial construction of the premises and did not take into consideration or anticipate the future changes and needs surrounding the operation of the Restaurant.

The important changing role of restaurants in the promotion of Western Australia, especially those located in prime locations such as the Boatshed, has been recognised by the State Government with the recent changes to the Liquor Licensing Act and tourism announcements. A "big picture" view of tourism and the part the hospitality industry plays in promoting the State and providing facilities for those who live and work here is now being taken by enlightened policy makers which reinforces the need to review the structure and operation of the Restaurant at this time.

The City of South Perth in partnership with the Lessee had the initial vision to construct the Restaurant at its current location and it was brought to finalisation due to the unfailing drive and energy of Mr Graeme Millar that has now seen the Restaurant become a South Perth icon and a major part of the local hospitality scene fully supported by the many residents and ratepayers who utilise its facilities.

In keeping with current demand the Lessee has an expanded vision for the Restaurant based on feedback received from patrons and to make the best use of the facilities and its outstanding location.

This new Vision includes the following enhancements;

- (1) Improvements to the existing building to incorporate:**
 - (a) Major refurbishment to the existing building, public toilets and kiosk.
 - (b) Provision of a store room
 - (c) Construction of an enclosed rubbish bin storage area
 - (d) Construction of a gazebo adjacent to the main restaurant entry
 - (e) Upgrade the main electricity supply
- (2) The granting of a liquor licence**
- (3) An extension of the existing Lease term**
- (4) The drafting of a new lease agreement.**

The finalization of a new Lease Deed to address the current and future operation of the Restaurant and remove the many redundant references relating to the construction of the original premises.

Over the past 6 years discussions have been held between the Lessee and officers of the City in regard to various matters relating to the operation and tenure of the Boatshed and these discussions have resulted in some indication of support being given subject to final details being negotiated and the State Government agreeing to an extension of the Lease on the basis it would not have any detrimental impact upon the City's ongoing interests.

It is now considered that as these previous discussions have become fragmented it is time for a fresh comprehensive review of the current situation surrounding the issues relating to the operation and lease of the Restaurant so the matters under consideration can be resolved to the satisfaction of each the City and the Lessee.

This submission is prepared on that basis and addresses the proposals highlighted previously.

LEASE

The Lessee was granted a 21 year lease for the construction and operation of the Restaurant including Public Conveniences on the 3rd November 1994. The Lease has a further 8 years to run before it expires on 3rd November 2015.

The current lease does not reflect the activities undertaken at the Restaurant, is outdated as it largely deals with the construction of the premises thirteen (13) years ago and now needs to recognise the current and future requirements of the business.

The Lessee seeks permission to undertake improvements to the current premises **totally at its cost**. These improvements (outlined later in the submission) are needed to ensure that the Restaurant meets current demand from patrons and to aesthetically enhance the foreshore area surrounding the Restaurant.

The Restaurant has become an integral part of the South Perth landscape and is well supported by the residents of South Perth.

The Lease has over eight (8) years remaining and to undertake the proposed works at the Lessee's cost, a further eleven (11) year lease term expiring on the 3rd November 2026 is requested.

The extension of the term is required to provide sufficient time for the Lessee to recover the large capital outlay required to extend, maintain and refurbish the Building.

If the conditions and terms of the current Lease are not addressed positively at this time then it is unlikely that any major improvements can be undertaken for the next eight (8) years which could only be seen as a backward step and the under utilization of one of the City of South Perth's and indeed one of Western Australia's much needed tourist locations.

A new lease can only be beneficial to the City and its ratepayers.

LIQUOR LICENCE

At present the Restaurant operates as a Bring Your Own (BYO) liquor restaurant and the BYO option does not meet the current needs required by patrons.

The State Parliament has just introduced sweeping changes to the Liquor Licensing Act in recognition that the previous laws were outdated and did not reflect changing community expectations as to the manner in which alcohol could be purchased and consumed.

The Government recognised that the previous regime was overly restrictive and did little to promote innovation and diversity, to the detriment of local consumers and tourists.

The new provisions in part allow for;

- More flexibility for restaurants to serve drinks without a meal.
- A new “small bar” licence to encourage a more vibrant café style drinking culture in Western Australia.
- Stronger harm minimisation and policy measures to promote responsible drinking and to reduce anti – social behaviour.

The Government found that change was needed to provide greater flexibility for restaurants to enable them to better meet community and consumer demands for low – risk drinking environments.

As a BYO restaurant, there is no limit on the amount of alcohol a person may bring and consume at any given time, whereas, if the Restaurant was licensed the Act places many conditions and responsibilities on the licensee to control how alcohol is consumed.

In keeping with the new Laws the Restaurant would now be in a position to be able to offer locals and tourists the opportunity to enjoy a glass of wine whilst viewing the City skyline and the sun setting over Kings Park

It is the Boatshed’s strategy to concentrate on providing Western Australian wines to customers rather than becoming a general liquor outlet which would not be in keeping with the marketing and image that has been successfully established for the Restaurant over the past decade.

The liquor licence would be ancillary to the Restaurant operation, and not be the main focus of its business.

The absence of a liquor licence has proved a significant detriment to the operation of the business and is a constant source of surprise and disappointment on the part of patrons.

The City and other Local Governments have many licensed restaurants operating on or in close proximity to the foreshore and the Restaurant and these restaurants operate in a similar manner to the Restaurant and have a clear commercial advantage. The other licensed restaurants within the City are situated in close proximity to each other. If problems due to the serving of alcohol were to occur it would be in these locations. However, it is understood that little or no problems have occurred as a result of the operation of the licensed restaurants.

The Liquor licensing Authority has previously written to the lessee granting approval for a License and the Swan River Trust has indicated that they also support the granting of a license.

MAINTIANCE AND REFURBISHMENT OF THE EXISTING BUILDING.

The Restaurant is now entering its thirteenth year of operation and a major refurbishment of the building is now required.

The Restaurant is situated on the south bank of the Swan River and it is this location so near to the River's edge that is one of the main reasons that lead to the excessive deterioration of the building and the need for extensive maintenance work.

The refurbishment/enhancement work required urgently can be summarised as follows;

- Public toilets
- Children's playground
- Replace building timber floor (decking)
- Upgrade electricity supply
- Refurbishment/modernise existing kitchen
- Refurbishment of the existing kiosk facilities.

Public Toilets.

The public toilets situated at the eastern side of the building are well used and are in need of complete renovation so they will continue to meet the demand and expectations of the public utilising the Reserve.

Children's Playground.

The children's playground situated on the western side of the Restaurant is popular and the existing equipment will soon require a major overhaul and the addition of new equipment more suited to the needs and challenges children require.

Replacement of the Building's Timber floor (Decking)

The Restaurants timber decking floor has now deteriorated to such a point that it must all be replaced as it will become dangerous and unsightly in the near future. The timber decking forms a major part of the aesthetics' and ambiance of the Restaurant, due to its river setting and the casual atmosphere it creates for patrons.

Upgrade Electricity Supply

The main electricity supply into the Restaurant does not meet the operational needs for the Restaurant and at peak times the supply, due to the lack of capacity, cuts out resulting in major inconvenience to patrons.

The power shortage also affects the Restaurants refrigeration and the loss of the freezers due to the loss of electricity results in food being ruined, which is not only costly, wasteful but due to the intermittent periods in which it occurs, it cannot be planned for in advance and this seriously affects the ability to provide the quality service for which the Restaurant has become renowned.

Refurbish/Modernise existing kitchen.

The existing kitchen has been in use since the Restaurant was established and no longer meets the needs required to service a modern restaurant operation.

Refurbishment of existing Kiosk

The kiosk is very popular with the many people who utilise the Reserve and it is proposed to reconfigure the existing kiosk to make it more functional so as to better satisfy the needs of patrons.

STORE ROOM.

A small alteration to the existing building is required to provide the Restaurant with much needed storage space.

At present there is a general lack of storage space at the Restaurant and the provision of a store room will aid the operation of the Restaurant. The exclusion of a suitable store room was an oversight when the building was first designed.

GAZEBO

The construction of a gazebo adjacent to the main restaurant entry would provide a pleasing entry statement and an excellent welcoming area for patrons as well as catering for those who may wish to smoke and who can no longer utilise the Restaurant for this purpose.

ENCLOSED RUBBISH BIN STORAGE AREA

The construction of an enclosed rubbish bin storage area would be an asset to the Restaurant and all users of the Reserve as it would remove the very necessary, but unsightly facility from view.

PROPOSAL

The Lessee and the City have been in discussions regarding an extension of the lease and building improvements for many years without the matter reaching a stage where the proposals could be progressed.

The Lessee has received correspondence from the City which has been generally in support of the above proposals, However, concern has been expressed that if the current leasing arrangements were changed, the State Government would take responsibility for managing the lease and this may have the potential for conflict between the City and the State Government over the revenue derived from the Lease and other management issues.

In this regard the Lessee and its agents have held discussions with staff from the Department of State Land Services and have received advice that the Department would support the new lease proposal and in doing so would not change the current lease management structure between the Government and the City of South Perth.

The Government's position was reinforced at a meeting held at the City of South Perth on the 20th March 2007 which was attended by Mr Cliff Frewing Chief Executive Officer, Mr Roger Burrows, Director Corporate and Community Services Mr Sean McLaughlin, Legal and Governance Officer, (all of the City of South Perth), Mr Larry Fouracres, Manager State Lands, Department of State Land Services, Mr Graeme Millar and Mr Graham Partridge for the Lessee.

The Government's position can be summarised as follows;

(1) It supports and recommends an amendment to the existing lease to make it more relevant to the current operation.

(2) Once the lease has been amended as in (1) above it would approve the granting of a liquor licence. The Department fully supports the proposed liquor licence; however it considers the lease should recognise the existence of the Restaurant rather than a kiosk as it is now described.

(3) (a) It supports the excision of the Restaurant Land from the Reserve as it does not fit with the recreational nature of the Reserve.

(b) It would vest the excised Restaurant land in the City of South Perth with the right to lease

(4) (a) The Government would not necessarily require 20% of the unimproved rental value to be paid to the State.

(b) As the City incurs significant expenditure for the provision of infrastructure and maintenance at Sir James Mitchell Park the Minister for Planning and Infrastructure on application from the City could waive any payments to the State.

(5) The land to be excised from the Reserve and vested in the City should take into consideration any proposed changes to the leased area. In this regard, the Department and officers of the City have already met and agreed on a revised surveyed land area.

- (6) As far as the Government is concerned all lease negotiations are a matter between the City and the Lessee. The Governments only request was that the matter of the Lease be clarified at the earliest possible time.

It can be clearly ascertained that the City of South Perth has nothing to lose and everything to gain by entering into a new lease agreement with the current lessee.

As confirmed by the officer in charge of Reserved and Vested Land from the Department of State Lands, this matter has been outstanding for nearly seven years and the department would like the matters raised in regard to the operation and lease of the Restaurant considered and rectified at the earliest possible time.

Most importantly, the officers representing the Government advised that if the City of South Perth made an application to the Department of State Land Services on the basis outlined above, the Department would recommend to the Minister the agreement to the new lease without affecting the existing management arrangements for the Reserve.

RENT REVIEW

The current lease involves a phased in rental, which on the thirteenth (13) November 2007 will amount to \$50,000 dollars increased annually by the Consumer Price Index (CPI).

The lease also provides for a "Profit Bonus" to be paid in addition to the annual rent

The Profit Bonus is calculated by the Lessee paying to the City one third of the amount by which the Lessee's total annual return exceeds the Lessee's base return.

The manner in which the calculation of the profit bonus rent component is determined is considered complicated, unfair, and unworkable and although specified in the lease it was included as a result of an oversight by the Lessee and it was never the intention for it to be included in its present form.

It would not be possible for the Lessee, or any restaurant business, to meet the requirements in the current form. The current lease specifies that gross profit is to be utilised when calculating the total annual return when in fact it should state the net profit of the business.

As part of preparing a new lease agreement it is considered that the lease rental should be reviewed to make it more equitable and relevant to the current operations. A rent review would benefit both the City and Lessee as it would ensure that the City receives a fair rental based on current restaurant operations and it would also correct the anomalies that are contained in the present lease.

It is suggested that a suitably qualified valuer or property consultant, approved by both the City and Lessee be appointed to undertake a rent review to determine the current market rent which should apply. In this regard Christie White Moore Licensed Valuers and Property Consultants have had considerable experience in determining valuation and lease payments and would be suitable to undertake the review.

In view of the information received from the Department of State Land Services and in order to positively progress this long outstanding matter it is requested;

- (1) Subject to the current vesting arrangements for the Reserve and Restaurant bring maintained between the State Government and the City of South Perth the City support the following:
 - (a) The lessee be granted a further eleven (11) year lease extension for the Boatshed Restaurant
 - (b) A new Lease agreement be entered into to formalise the current and future operations of the Restaurant
 - (c) The City support an application for a liquor licence
 - (d) Approval be granted for the following;
 - Construction of a gazebo adjacent to the front entry of the Restaurant
 - Storage room
 - Enclosed rubbish bin storage area
 - Upgrade of the electricity supply
 - Major maintenance to the existing building

(2) The City and the Lessee agreeing on the appointment of a suitably fair qualified valuer or property consultant to undertake a rental review so as to establish the current market rental.

Local Government Sustainable Development 2008

THE PEAK ENVIRONMENT EVENT FOR LOCAL GOVERNMENT

Wednesday 10 and Thursday 11 September, 2008

Dockside Convention Centre, Cockle Bay Wharf, Darling Harbour, Sydney



This conference is proudly presented by Hallmark Conferences + Events, with Environs Australia, the local government environment network.

"Great to see so many councils and organisations working towards the common goal of sustainability and the different ways they are achieving this."

"Great opportunity to hear experiences of others who are a few years ahead and reassuring to hear that the challenges we are facing can be worked through."

Delegate comments from last year's conference

The third annual Local Government Sustainable Development Conference is a two-day conference which will feature award-winning and leading-edge best practice case studies in sustainable development, including addressing challenges of sustainability, and providing advice for how local governments can achieve their sustainable development goals in a cost-effective manner from over 30 speakers.

Topics include:

- Reducing the Carbon Footprint of Local Government
- Climate change and energy efficiency
- Built environment initiatives
- Green purchasing and procurement
- Water conservation and planning
- Community engagement in environmental initiatives
- Sustainable planning and urban design
- Waste management and resource recovery

Case studies include:

- Sustainable Sydney 2030 Plan
- Gold Coast City Councils Bold Future 30 year sustainability plan
- Ipswich Council (Winner of environmental management category of the 2008 United Nations Association of Australia World Environment Day Awards)
- Beverley Water Reclamation Scheme, Kogarah Council (Winner of Operations/Management Projects category of 2008 International Water Association's Project Innovation Awards)
- Melton Shire Council (Winner of 2007 Sustainable Cities Award)

At a Gala Dinner on the evening of Day 1, Environs Australia, the local government environment network, will announce the winners of the Local Government Sustainability Leadership Awards 2008.

Speakers include:



David Keenan,
Director, City Sustainability,
Hume City Council



Mike Ritchie, General Manager,
Marketing and Communications,
SITA; NSW President of the Waste
Management Association of Australia



Evan Thomas, President,
Environs Australia; Team Leader
Sustainability Integration, Gold
Coast City Council



Cr Paul Pisasole,
Mayor of Ipswich Council

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www.halledit.com.au/conferences/lgsustainability/2008

Local Government Sustainable Development 2008

DAY 2: THURSDAY 11 SEPTEMBER, 2008

8.30AM ENVIRONS 2008 ANNUAL GENERAL MEETING

8.55AM OPENING COMMENTS FROM THE CHAIR

SESSION 3: WATER PLANNING AND MANAGEMENT



9.00AM IMPLICATIONS OF WATER FOR THE FUTURE PROGRAM FOR LOCAL GOVERNMENT

Steve Costello, Assistant Secretary, Urban Water Security Branch, Department of Environment, Water, Heritage and the Arts

9.30AM GOLD COAST WATER COOMERA-PIMPAMA PROJECT
Dick Went, Gold Coast Water (Invited)

10.00AM BEVERLEY WATER RECLAMATION SCHEME
Paul Woods, General Manager, Kogarah Shire Council

10.20AM TURNING GREY WATER INTO BLUE GOLD: OVERVIEW OF INTERNATIONAL BEST PRACTICE
Ian Blair, Senior Consultant, Prima Consulting

10.40AM THE PROS AND CONS OF EFFICIENT IRRIGATION SYSTEMS FOR SPORT FIELDS
Dr Geoff Cresswell, KISS
Stephen Lloyd, Parks Coordinator, Camden Council

11.00AM MORNING TEA

SESSION 4: BUILT ENVIRONMENT

11.20AM FACTORING CLIMATE CHANGE AND SEA LEVEL RISE INTO INFRASTRUCTURE DEVELOPMENT DECISIONS
Bruce Penman, Director - Sustainability, Connell Wagner (Invited)

11.40AM SUSTAINABLE COMMUNITIES INITIATIVE - COLLABORATION AND INNOVATION IN LOCAL GOVERNMENT
Sean Rooney, Director, Sustainable Communities Initiative, CSIRO Sustainable Ecosystems

12.00PM SUSTAINABLE DESIGN SCORECARD
Matthew Trigg, Sustainable Design Officer, City of Port Phillip

12.20PM REDUCING INVESTMENT RISK IN SUSTAINABLE BUILDING DEVELOPMENT
Tom Haynes, Head of Research, Williams Boag Architects

12.40PM IMPLEMENTING SUSTAINABLE INITIATIVES IN THE NEW ROUSE HILL COMMUNITY
Stephen Driscoll, Development Director, Landcom

1.00PM LUNCH

SESSION 5: SUSTAINABLE PLANNING

2.00PM THE WHY AND HOW OF SUSTAINABLE URBAN DESIGN
Dr Michael Ambrose, Construction Systems Scientist, CSIRO, Sustainable Ecosystems

2.20PM SUSTAINABLE SYDNEY 2030 PLAN
City of Sydney

2.40PM BOLD FUTURE - GOLD COAST'S 30 YEAR SUSTAINABILITY PLAN
Alison Ross, Program Manager, Gold Coast City Council

3.00PM COMMUNITY ENGAGEMENT AS A FACTOR IN WINNING THE AUSTRALIAN SUSTAINABLE CITIES AWARDS
Linda Bradburn, Education Officer, Melton Shire Council

3.20PM MODERATED DISCUSSION

SESSION 6: WASTE MANAGEMENT AND RESOURCE RECOVERY

3.30PM WASTE, CARBON EMISSIONS AND THE IMPACT ON LOCAL GOVERNMENT
Mike Ritchie, General Manager, Marketing and Communications, SITA; NSW President of the Waste Management Association of Australia

3.50PM THE LOCAL INDUSTRY EFFICIENCY PROGRAMME
Robert Powell, Industrial Resource Efficiency Officer, City of Frankston

4.10PM LIFE CYCLE ASSESSMENT - A QUANTIFIABLE BROADBASED APPROACH TO EVALUATING ENVIRONMENTAL PERFORMANCE
Dr Karli Verghese, Manager Sustainable Products, Packaging and Life Cycle Assessment, Centre for Design, Royal Melbourne Institute of Technology

4.30PM FOOD WASTE PILOT
Justin Lang, Program Manager, Local Government, Zero Waste SA (Invited)

4.50PM QUESTION TIME AND FORUM

5.00PM CLOSE OF CONFERENCE

To register: phone (03) 8534 5000, fax (03) 9530 8911, or email registration@halledit.com.au

Local Government Sustainable Development 2008

DAY 1: WEDNESDAY 10 SEPTEMBER, 2008

8.55AM OPENING COMMENTS FROM THE CHAIR

KEYNOTE ADDRESS

9.00AM MEETING THE THREAT OF CLIMATE CHANGE AT THE LOCAL LEVEL

The Hon Penny Wong, Federal Minister for Climate Change and Water (Invited)

9.30AM PRESIDENT'S ADDRESS:

LOCAL GOVERNMENT LEADING THE PUSH FOR SUSTAINABILITY

Evan Thomas, President, Environs

SESSION 1: ACHIEVING SUSTAINABILITY IN LOCAL GOVERNMENT PRACTICES

10.00AM INTEGRATING SUSTAINABILITY IN LOCAL GOVERNMENT: FROM PLANNING TO PRACTICE

Jade Herriman, Senior Research Consultant, Institute for Sustainable Futures, University of Technology Sydney

10.20AM ENTRENCHING SUSTAINABILITY IN LOCAL GOVERNMENT AND DEMONSTRATING BEST PRACTICE TO THE PRIVATE SECTOR

David Keenan, Director, City Sustainability, Hume City Council

10.50AM MODERATED DISCUSSION

11.00AM MORNING TEA

11.20AM APPLYING A RESOURCE EFFICIENCY PROCESS TO SUPPORT WORKPLACES IN BECOMING MORE SUSTAINABLE

Colin Dimitroff, Principal, Corporate Sustainable Solutions, URS Asia Pacific

11.50AM ILLAWARRA SUSTAINABILITY ROADMAP

Wollongong City Council

12.10PM FACTORS IN ACHIEVING IPSWICH'S AWARD WINNING ENVIRONMENTAL SUSTAINABILITY

Cr Paul Pisasale, Mayor, Ipswich City Council

12.30PM WARRINGAH GREEN PURCHASING STRATEGY

Annie Walker, Environmental Education Officer, Warringah Shire Council

12.50PM MODERATED DISCUSSION

1.00 – 2.00 – LUNCH

SESSION 2: CLIMATE CHANGE AND ENERGY EFFICIENCY
CHAIR: FIELDFORCE AUSTRALIA

2.00PM SUSTAINABILITY AND CLIMATE CHANGE – A CASE STUDY FOR COUNCIL'S TO CONSIDER WHEN PREPARING TO ADAPT AND MITIGATE

Louise Collier, Manager, Sustainability and Climate Change, Cardno Group and Henry Wong, General Manager, Manly Council

2.20PM MANDATORY CARBON REPORTING IN LOCAL GOVERNMENT – PREPARING FOR THE INEVITABLE
Craig Bathie, General Manager, Fieldforce Environmental

2.40PM LOCAL GOVERNMENT EMISSIONS TRADING SCHEME
Peter Maganov, Administrator of Scheme and Randwick City Council Manager of Sustainability

3.00PM MUNICIPAL SCALE ENERGY EFFICIENCY SOLUTIONS FOR BUSINESS AND INDUSTRY
Jeremy Maslin, Global Sustainability Initiative

3.30PM MODERATED DISCUSSION AND BREAK

4.00PM USING PITTWATER'S FLOODPLAIN MANAGEMENT STRATEGY AS A MEANS OF ADAPTING TO SEA LEVEL RISE
Sue Ribbons, Pittwater Council, NSW

4.20PM ARARAT SWITCHES TO SOLAR TO SAVE
*Stephen Chapple, Chief Executive Officer, Ararat Council
Koovashni Reddy, Managing Director, Earth Utility*

4.40PM GOING CARBON NEUTRAL – A CASE STUDY
Cr Tim Heenan, Mayor, Shire of Yarra Ranges

5.00PM NETWORKING DRINKS
SPONSORED BY TOYOTA FLEET MANAGEMENT

DINNER & AWARDS PRESENTATION

Environs Australia will announce the winners of the Local Government Sustainability Leadership Awards 2008 at the Presentation Dinner to be held at Dockside at 7pm. It will be an enjoyable occasion to acknowledge excellence in sustainable development initiatives within councils across Australia. The Dinner can be booked as part of the Conference registration or separately.