

# CITY OF ARMADALE

## MINUTES

OF CITY STRATEGY COMMITTEE HELD IN THE COMMITTEE ROOM,  
ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON TUESDAY,  
15 JULY 2003, AT 7.00 PM.

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**PRESENT:** Cr G M Hodges (Chair)  
Cr V L Clowes-Hollins  
Cr A L Cominelli JP  
Cr D L Hopper JP [7.00pm – 8.35pm]  
Cr J H Munn JP CMC  
Cr L Reynolds JP  
Cr H A Zelones JP

**APOLOGIES:** Nil

**OBSERVERS:** Cr P J Hart  
Cr G T Wallace  
Cr R Tizard

**IN ATTENDANCE:** Mr A F Maxwell - Acting Chief Executive Officer  
Mr W A Bruce - Executive Director Technical Services  
Mr C Askew - Director Community Services  
Mr P Meyrick - Acting Executive Director Development Services  
Mr N Cain - Acting Director Corporate Services  
Mrs S D'Souza - CEO's Executive Assistant  
Mr T Lightman - Principal Consultant, Quadrant Group  
[7.00pm – 7.30pm]  
Public - Nil

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## **DISCLAIMER**

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The Disclaimer for protecting Councillors and staff from liability of information and advice given at Committee meetings was not read by the Chairman, given no members of the public were present at the meeting.

## **DECLARATION OF MEMBERS' INTERESTS**

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Page 10      Cr Reynolds & Cr Zelones (Interest Affecting Impartiality)

*Proposal - Transfer Of Holdings In Wright Lake, Lake Road, Champion Lakes, To The Armadale Redevelopment Authority*

## **QUESTION TIME**

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Nil

## **DEPUTATION**

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Nil

## **CONFIRMATION OF MINUTES**

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### **RESOLVED**

**Minutes of the City Strategy Committee Meeting held on 10 June 2003, be confirmed.**

## **ITEMS REFERRED FROM INFORMATION BULLETIN**

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### INFORMATION BULLETIN – ISSUE NO.13/2003

The following items were included for information in the “City Strategy section”

- Progress Report on Contingency, Operational and Strategic Projects
- Report on Outstanding Matters
- Reports & Minutes – Regional Energy Group & Milestone 4 Report

*Committee noted the information. No items were raised for further report*

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## CITY STRATEGY COMMITTEE

15 JULY 2003

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### STRATEGIC PLANNING

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***PRESENTATION – REPLACEMENT OF THE CITY'S CORE COMPUTER SYSTEMS***

With the approval of the Committee Chair, a briefing/presentation on the project to replace the City's core computer systems has been arranged for shortly after 7.00 pm.

Mr Tony Lightman, Principal Consultant of the Company Quadrant Group, appointed by Council to assist with and guide the project, will make the presentation.

It is anticipated that the presentation will take 20 minutes followed by a short question and answer time.

The purpose of the presentation is to provide Committee with a greater insight, awareness and understanding of the project, i.e.

- the work and outcomes achieved to date;
- the current status of the project; and
- what remains to be done to complete the project, that being the selection of replacement core computing systems.

*Mr Tony Lightman, Principal Consultant Quadrant Group attended the meeting at 7pm and presented Committee with an overview on the project for replacement of the City's core computing systems.*

*A copy of the powerpoint presentation is attached for information.*

*The following matters were raised during discussion following the presentation:-*

- *The benefits of out-of-hours access by councillors and as to what information could be accessed. It was advised that the new system would be web-enabled and as to what information would be accessible would be a subsequent Council business decision.*
- *The new system will also enable residents to have access to certain information, i.e. rates, dog registrations, tracking of applications etc.*
- *The final report will include recommendations regarding preferred operating systems, servers etc..*

*Committee thanked Mr Lightman for the update on the project. Mr Lightman retired from the meeting at 7.30pm.*

***NATIONAL WAGE CASE 2003-2004 – SALARIED STAFF***

WARD All  
FILE REF: STF/  
DATE 23 July 2003  
REF MH/AFM  
RESPONSIBLE HRM/ACEO  
MANAGER

**In Brief:**

- The “Working at the City” Agreement (WATC) - the City’s Employee Employment and Remuneration Project for all Salaries staff expired on the 31<sup>st</sup> December 2002.
- The WATC has been successful in achieving productivity gains, but the process of identifying productivity improvements has reached its upper limits. Productivity-base enterprise bargaining is being replaced by agreements covering the “cost of living increases”.
- A satisfactory arrangement needs to be made to cover the “cost of living” increase for the Salaried Staff.
- It is recommended that salaried staff pay rates be increased by 3% as of June 2003 and June 2004.

**Officer Interest Declaration**

Nil

**Strategic Implications**

Corporate Services – to create an environment where staff are innovative, confident and continue to learn.

1. Involve staff in creating a working environment characterised by teamwork and self-empowerment.
2. Promote an environment across the organisation which facilitates shared vision and ownership of corporate objectives.

**Legislation Implications**

- Workplace Relations Act 1996
- Local Government Officers’ (WA) Award 1999
- National Wage Case Decision handed down by the Australian Industrial Relations Commission (the AIRC) relevant to the City’s Industrial Awards.

**Council Policy/Local Law Implications**

Nil.

**Budget/Financial Implications**

The pay increase as recommended in this report, is accommodated in the proposed 2003-04 Budget estimates.

**Consultation**

Australian Industrial Relations Commission, WALGA, other WA local governments.

**BACKGROUND**

The “Working at The City Agreement”, covering an Employee Development and Remuneration Project, for all Salaried staff employed under the Local Government Officers’ (WA) Award 1999, expired on the 31st of December 2002. In this agreement Council

followed the policy of salary increases being linked to and offset by quantifiable productivity improvements and the agreement has proven to be successful. Improvements in productivity and savings are on-going and now form part of everyday Council business. The improvements made in workplace practices are monitored through performance appraisals and various reporting mechanism. In October 2002, when reporting to Council on the 2002 National Wage Case Decision, it was reported that:

- *it would be increasingly difficult to identify suitable productivity improvements suggesting that the enterprise bargaining process is reaching its upper limit;*
- *absorbing National Wage increases into negotiated productivity gains will erode the value of those gains.*
- *it is likely that wage/salary agreements for 2003 and beyond will be based on CPI (or cost of living) and National wage increases rather than productivity agreements.*

At its meeting on 7<sup>th</sup> July 2003 Council adopted a three year Enterprise Bargaining Agreement for the Field Staff. Although productivity improvements are still being encouraged, the wage/salary increases are no longer productivity based. Increases in rate of pay for staff are now based on current annual "cost of living increases". Under the Field Staff Enterprise Bargaining Agreement 2003 the Field staff will receive a wage increased based on the national Consumer Price Index or \$15 per week (which ever is the greater). It is anticipated that the Consumer Price Index is around the 2.5% - 3.5% (Annual CPI).

The following table shows past pay increases to salaried staff:

Source	Effective Date	% or \$ increase	Comment
WATC	01-01-00	4%	
NWC	26-05-00	\$15 per week	fully passed on
WATC	01-01-01	2.25%	
NWC	28-05-01	\$7.50 - \$8.50 per week	50% passed on
WATC	01-01-02	3.75% plus 1% super (voluntary)	
NWC	11-06-02	\$7.50 - \$8.50 per week	50% passed on
<b>Legend:</b> WATC = Working at the City Agreement NWC = National Wage Case			

## NATIONAL WAGE CASE DECISION

In May 2003, The Western Australian Industrial Relations Commission awarded a \$17 per week increase in award rates up to and including \$731.80 per week; and a \$15 per week increase of award rates above \$731.80 per week. Changes following this 2003 National Safety Net Increase came into effect from the beginning of the first pay period commencing on or after 5 June 2003 for all State awards.

The AIRC believes that the increase represents an appropriate balance between the requirement to provide fair minimum standards having regard to living standards generally prevailing in the community, the needs of the low paid and the relevant economic climate.

The Field Staff E.B. Agreement refers to the National Wage Case decision-making process. As stated above field staff will receive a yearly increase equal to the annual CPI (or \$15 per week, whichever is the greater). There shall be no further wage increases for the Field Staff for the three-year term as set out in the Enterprise Bargaining Agreement.

The Salaried staff – who are currently not covered under an agreement - are awaiting an outcome from the 2003 National Wage Case Decision.

### TREATMENT OF NATIONAL WAGE CASE INCREASE

A comparison of salary rates with other local governments indicates that the City of Armadale's rates are reasonably competitive. Most other local governments have, however, recently made arrangements for pay increases either via an EBA, or by passing on the National Wage Increase.

The table below shows the latest Enterprise Bargaining Agreement Trends for staff employed under the Local Government Officers' (WA) Award 1999 in metropolitan local governments.

Council	Duration (years)	Average Annual Increase
Town of Cambridge (EBA)	3	4%
City of Gosnells (EBA)	3	3.1%
City of Joondalup (EBA)	3	3.3%
Town of Kwinana (EBA)	2	3%
City of South Perth (EBA)	2	3.3%
Town of Bassendean (EBA)	2	3.2%
City of Belmont	No EBA - Safety Net Adjustment of \$15 per week has been passed on from 5/6/03	

Council's options in responding to the 2003 National Wage Case Decision are:

#### Option 1 – Fully Absorb the Increase

This option, whilst available is not recommended for the reasons that:

- there is no EB-based agreement in place to absorb the increase;
- it would erode past measurable productivity gains made under enterprise bargaining;
- salary levels will be less competitive thereby diminishing the City's ability to retain and attract quality personnel;
- it would have a negative impact on staff morale and motivation.

Option 2 – Pass on the 2003 National Wage Case Decision

In terms of the “average” salary pay rate, the \$15/week increase, when expressed as a % increase, equates to 2% - i.e. approximately 1% less than current CPI and cost of living increase factors.

This option is not recommended for the same reasons as above for Option 1, albeit to a lesser degree.

The estimated annual cost of this option is \$154,000 (N.B. this cost covers salaries, superannuation and workers’ compensation).

Option 3 – a 3% p.a. OR \$15/wk increase, whichever is the greater as from June 2003 and June 2004

This is the recommended option primarily for the reasons that:

- the increase maintains the value to staff of previously earned productivity improvement-based pay increases, i.e. consideration of cost of living adjustments is necessary to ensure productivity gains are not eroded;
- the increase will serve to maintain salary levels at a competitive level within the local government environment thereby better positioning the City to retain and attract quality personnel;
- the increase in 2004 provides greater certainty and stability which is believed beneficial for both Council and staff;
- it serves to reinforce and promote the City’s Strategic objective of creating a workplace environment where staff are innovative, confident, motivated and continue to learn.

The estimated annual cost of this option is \$234,000.

Under this option, other than the increases referred to, there would be no further pay increases for a (2) year term.

*Cr Zelones left the meeting between 7.33pm and 7.36pm*

Committee Discussion

*With the CPI being projected at between 2.5% and 3% next year Committee queried as to why a flat 3% increase is being proposed for 2004.*

*The Acting Chief Executive Officer advised that the flat 3% figure for both years was predicated on the current year State & National CPI figures of 2.8% and 3.4% respectively, the agreed 3% cost inflationary factor as applied to the 2003-04 budget estimates and the expectation that the current inflation trend would over the next (12) months remain relatively constant.*

**CS33/7/03 RECOMMEND**

**That Council approve the following pay increases for staff employed under the Local Government Officers' (WA) Award 1999:**

- **a 3% pa OR \$15/wk increase, whichever is the greater, effective from and including the fortnightly pay period ending 10 June 2003,**
- **a 3% pa OR the safety net adjustment figure arising from the 2004 National Wage Case decision increase, whichever is the greater, effective from and including the fortnightly pay period ending 8 June 2004;**

**noting that:**

- a. **the 3% figure is an indicative estimate of the current Consumer Price Index/cost of living factors;**
- b. **the increase retains the value to staff of previously earned productivity improvement-based pay increases, i.e. consideration of cost of living adjustments is necessary to ensure productivity gains are not eroded;**
- c. **the increase will serve to maintain salary levels at a competitive level within the local government environment thereby better positioning the City to retain and attract quality personnel;**
- d. **the increase in 2004 provides greater certainty and stability which is believed beneficial for both Council and staff as both parties plan their futures;**
- e. **the cost increase is accommodated within the proposed 2003-04 Budget estimates and allowed for in future year's cost projections.**

Moved Cr Clowes-Hollins  
*Motion Carried (7-0)*

*Cr Reynolds disclosed that as a member of the Armadale Redevelopment Authority (ARA) Board and as Chair of the ARA's Champion Lakes Precinct Committee he had an association with this project. As a consequence, he advised that there may be a perception on the basis of his disclosed non-financial interest that his impartiality may be affected but declared he would set aside that association, consider the matter on its merits and vote accordingly.*

*Cr Zelones disclosed that as a member of the Armadale Redevelopment Authority (ARA) Board he had an association with this project. As a consequence, he advised that there may be a perception on the basis of his disclosed non-financial interest that his impartiality may be affected but declared he would set aside that association, consider the matter on its merits and vote accordingly.*

***PROPOSAL - TRANSFER OF HOLDINGS IN WRIGHT LAKE, LAKE ROAD,  
CHAMPION LAKES, TO THE ARMADALE REDEVELOPMENT AUTHORITY***

WARD : WESTFIELD  
FILE REF : A86977 & PSC/18  
DATE : 3 July 2003  
REF : HC  
RESPONSIBLE MANAGER : EDDS  
APPLICANT : Armadale Redevelopment Authority  
LAND OWNER : City of Armadale  
SUBJECT LAND : Lot 194 Lake View Terrace, Champion Lakes Property size 23.3747ha Map 22.08  
ZONING MRS/TPS No.2 : Parks & Recreation / Parks & Recreation (Region)

**In Brief:-**

- The Armadale Redevelopment Authority (ARA) is requesting the City to transfer its land holding in Wright Lake to the ARA to facilitate the amalgamation of the Champion Lakes project.
- Western Australian Planning Commission (WAPC) is prepared to transfer its holdings in the Champion Lake area to the ARA under certain conditions.
- The proposition has merit from a land management point of view and will enable the ARA to lead the Champion Lakes Project.
- Recommend that Council agree to transfer its title to Wright Lake to the ARA in fee simple upon the adoption of a suitable Memorandum of Understanding between the ARA, WAPC and the City of Armadale regarding management issues, on the condition that any returns from materials excavated from the Wright Lake and Champion Lakes project area be reinvested in the Champion Lakes Project.

**Tabled Items**

Nil.

### **Officer Interest Declaration**

The Administrator Planning Services, Hugh Carder, has a family member who owns property and resides in close proximity to the Champion Lakes project area. He advises that there may be a perception on the basis of the disclosed non-financial interest that his impartiality may be affected, but declares he has set aside that association and considered the matter on its merits.

### **Strategic Implications**

#### **Long Term Strategic Planning Initiative 1.7**

In partnership with State Government, the Region and private enterprise, develop a management and funding strategy for a major recreational facility at Wright Lake.

### **Legislation Implications**

Land Administration Act 1997.

Transfer of Land Act 1893.

Armadale Redevelopment Authority Interim Town Planning Scheme.

Environmental Protection Act 1986.

Metropolitan Region Town Planning Scheme Act 1959.

City of Armadale Town Planning Scheme No 2.

### **Council Policy / Local Law Implications**

Nil.

### **Budget / Financial Implications**

“Loss” of value of Council asset.

Expected gain for the region as part of Champion Lakes development.

Return from materials to be excavated from Wright Lake to be reinvested in the Champion Lakes development.

### **Consultation**

Armadale Redevelopment Authority.

Council’s Environmental Officer.

Council’s Project Manager.

Council’s Technical Services Directorate.

## **BACKGROUND**

In 1981, the then Metropolitan Regional Planning Authority identified and reserved a tract of some 122ha of land on Lake Road, Westfield, incorporating the seasonal water body known as Wright Lake, for the purpose of establishing a major active recreational facility in the South East Urban Corridor of the Metropolitan Area. The current Champion Lakes Preferred Concept Plan provides for the following facilities:

- International standard rowing course and associated facilities;
- Whitewater rafting course and fun park with water based theme;
- Conference centre and short stay accommodation;
- Urban land uses;
- Conservation area and constructed watercourse;
- Aboriginal interpretative centre;
- Public launch and picnic area;

- Amphitheatre; and
- A range of potential passive and active recreational facilities.

The Environmental Protection Authority (EPA) has considered the proposal and, whilst noting certain possible environmental impacts, is satisfied that the proponents have undertaken to adopt all other practicable measures to minimise impacts and will implement a Wetland Mitigation Strategy to minimise impacts on wetlands and in particular Wright Lake. A Water Supply Development Plan and a Water Quality Management Plan will be required to address water quality and quantity issues. The EPA has therefore concluded that it is unlikely the EPA's objectives would be compromised provided there is satisfactory implementation by the proponents of their commitments and EPA conditions.

Council, at its meeting on 16 June 2003 (D99/6/03 refers), resolved among other things to advise the WAPC it supports the application for bulk earthworks in Champion Lakes associated with the proposed development of the Champion Lakes international standard rowing course and its surrounds subject to advice from the ARA that sufficient funds will be available to satisfy the requirements of the EPA and manage the lake and associated open space subject to certain requirements.

The purpose of the application is for the excavation of material to create the Champion Lakes rowing course. The spoil excavated from this area is to be used for the construction of the Tonkin Highway and potentially for fill in the proposed Forrestdale Industrial Business Park.

### **DETAILS OF PROPOSAL**

The Armadale Redevelopment Authority (ARA) is requesting the City to transfer its land holding in Wright Lake to the ARA to facilitate the amalgamation of the Champion Lakes project. The ARA advises that the Western Australian Planning Commission (WAPC) is prepared to consider the transfer of its holdings at the Champion Lakes site to the ARA in fee simple for nil value on the following basis:

1. The ARA is prepared to proceed with the project as defined in the Champion Lakes Public Environmental Review;
2. The principle use of the subject land remains regional parks and recreation;
3. Any use of the subject land for purposes other than regional parks and recreation will only be to support, either functionally or financially, the principle use;
4. All revenues accruing from the subject land will be used to implement the project;
5. The ARA has prepared a Water Resources Plan and Water Management Plan to the satisfaction of the Environmental Protection Authority and the Water and Rivers Commission, and has obtained:
  - a. A Water Extraction Licence from the Water and Rivers Commission;
  - b. Development Approval for the extraction of sand from the WAPC;
  - c. An Extractive Industries Licence from the City of Armadale.

6. Subject to the ARA confirming 1 to 4 and satisfying 5 above, by consent of the Minister for Environment and Heritage pursuant to Section 38(7) of the Environmental Protection Act 1986, the ARA has replaced the WAPC as joint project proponent and has thereby assumed joint responsibility with the City of Armadale for complying with the conditions of environmental approval set by the Minister for the project;
7. Items 1 to 6 above being confirmed or actioned, and the Commission' holdings subsequently being transferred to the ARA; and
8. The ARA obtaining written confirmation from MRWA that the identified savings from the Tonkin Highway extension contract achieved by gaining access to fill from the subject land will accrue to the project, and the ARA agreeing that the WAPC pre-funded amounts will be repaid in full as a first call on those savings.

The ARA therefore requests that to facilitate the amalgamation of the Champion Lakes project area, the City adopts a similar position to that of the WAPC and transfer its land holdings within the Champion Lakes area to the ARA.

Further, the ARA advises that, as the City is currently the named proponent for the project by the Environmental Protection Authority (EPA), it will be necessary to develop a Memorandum of Understanding (MOU) between the ARA, City of Armadale and the WAPC. Given that the WAPC desires to exit from all ongoing responsibilities, the key elements of the MOU will be management issues.

## **COMMENT**

### **Analysis**

The WAPC desires to transfer its land holdings to the ARA so the ARA can lead the Champion Lakes project. This will include the ARA undertaking control of the funding of the project. The ARA looks forward to a strong partnership with the City of Armadale in making the Champion Lakes project a reality.

The question is whether it is in the City's interest or not to transfer Wright Lake to the ARA in fee simple for nil value. In balance, the proposition to transfer the City's land holding to the ARA appears feasible.

The City holds the area of Wright Lake in fee simple (Certificate of Title Volume 54, Folio 24A). Reserve 38820 at the Champion Road end of the project, which will remain as a Conservation Area, is vested in Council. The rest of the land within the Champion Lakes project area is presently held by the WAPC.

Wright Lake represents most of the area of the City's land in the above Certificate of Title. As such it would appear to have little commercial value apart from any mainly aquatic use that can be undertaken on the site. As has been mooted in the Champion Lakes Master Plan, the lake should realise a greater potential as part of the larger aquatic picture. The community is in essence gaining the use of the balance of the Champion Lakes project area.

The benefit to the City, and to the region generally, of the Champion Lakes development should outweigh any commercial value perceived to be in Wright Lake as a single entity. The City seeks a positive outcome for the Champion Lakes project. Transferring the Title to the ARA will enable the ARA to be the proponent for the entire Champion Lakes project. This will relieve the City, the current proponent, of liability for what in the context of its budget might be seen to be onerous conditions of development including environmental conditions, and future management of the rowing course.

The Public Environmental Review process did not find that any of the City's landholding (i.e. Wright Lake and surrounds) had regionally significant environmental values that would warrant the City continuing its management of the area.

Several of the proposed environmental conditions attached to the Champion Lakes project will require the application of significant financial resources to the City's landholdings in order to achieve the required environmental outcomes. Whilst the extent of works and financial commitment necessary to overcome of the potential issues of concern such as the need to manage acid sulphate soils may have been predicted, the final cost will not really be known until works are completed.

The funding of the project is outside the capacity of the City but the transfer of the Wright Lake land can be seen as a positive contribution by the City to the project as a whole. If the land is transferred, the ARA is better placed to joint venture or fund all aspects of the project. A condition of the transfer could be sealing the agreement that the return from any materials excavated from the area be reinvested in the Champion Lakes project.

Once the business of the ARA is concluded, its land will revert to the Crown. Construction of the international rowing course will create a large body of water, including Wright Lake. The rowing course and body of water may be more suited to management by the State or WA Sports Trust (or similar body).

It is suggested that consideration be given to transferring the title in Wright Lake to the ARA on the same basis, previously outlined, that the WAPC is prepared to transfer its holdings to the ARA. The stipulations appear to cover all significant issues and ensure that the major thrust is the implementation and continuation of the Champion Lakes project. Council should also stipulate that the transfer of the land is dependent upon permanent substantive Council representation/membership of any Boards dealing with policy issues and ongoing management for the Champion Lakes project to ensure its continuation in the decision making process for the project.

### **Options**

Council appears to have two options:

1. Decline to transfer its Wright Lake land holding to the ARA and continue as a joint proponent with the ARA.
2. Accept the proposal of the ARA to transfer the land to it to facilitate the amalgamation of the Champion Lakes project area and develop a MOU between the

ARA, City and WAPC regarding various management issues to ensure the viability and integrity of the project .

## CONCLUSION

Option 2 is favoured. It is suggested that the ARA's proposal, that Council's title in Wright Lake be transferred to the ARA in fee simple for nil value, is feasible as a means of progressing the Champion Lakes project, simplifying and amalgamating land holdings and relieving the City of joint compliance with onerous environmental conditions. It will not sever the City's ties as a partner in the project but will be a positive contribution by Council to the overall project that will ultimately have a beneficial impact on the City and the region as a whole. Conditions of the transfer could include that any returns from the material excavated from the area shall be reinvested in the Champion Lakes project, and that Council be given permanent substantive membership of any Boards dealing with policy issues and ongoing management of the project.

### Committee Discussion

*In response to a query on the due process for effecting and recording the proposed land transfer, officers advised that pursuant to the Local Government Act and related Regulations:*

1. *The proposed land transfer to the ARA is:*

- *described as an "exempt land disposition", that is, a disposition of land to an agency/instrumentality of the Crown of the right of the State, and as such, the usual requirements of obtaining market valuation, giving public notice, etc. are not required,*
- *to be recorded in the Budget document as a Budget Note detailing the land particulars, its book value, estimated sale price and the estimated profit/loss on disposal. In this regard it was noted that the lot:*
  - was purchased by Council in 1980 for \$30,000,*
  - has a recorded asset register value (book value) equal to the purchase price, although if this value had been indexed each year since 1980 then the current value would be conservatively in the order of \$102,000.*

2. *The report recommendation in its current form was therefore correct and that administratively, an appropriate note referring to the proposed land disposition would be made in the 2003-04 Council Budget Document.*

*It was also clarified that the City would not be disadvantaged by this transfer. Once the WAPC and the City finalises the transfer of their respective landholdings, the ARA will then be the proponent for the entire Champion Lakes Project. This will relieve the City (as the current proponent) from, what in the context of its budget, might be seen as onerous development, environmental and management responsibilities.*

**CS34/7/03**

## **RECOMMEND**

**That Council agree to transfer its title to Wright Lake, held under Certificate of Title Volume 54, Folio 24A, to the Armadale Redevelopment Authority in fee simple upon the adoption of a suitable Memorandum of Understanding between the Armadale Redevelopment**

**Authority, Western Australian Planning Commission and the City of Armadale regarding management issues, and on the condition that:**

- **Any returns from materials excavated from the Wright Lake and Champion Lakes project area be reinvested in the Champion Lakes Project.**
- **The transfer of the land is dependent upon permanent substantive Council representation/membership of any Boards dealing with policy issues and ongoing management for the Champion Lakes project to ensure its continuation in the decision making process for the project.**

Moved Cr Hopper  
*Motion Carried (7-0)*

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***STATE RECORDS ACT & ELECTED MEMBERS***

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WARD ALL  
FILE REF: RCM/14  
DATE 23 July 2003  
REF AWD  
RESPONSIBLE Executive Director  
MANAGER Corporate Services

**In Brief:**

- The State Records Act 2000 states that all records received or generated by Councillors, whilst performing their official role as elected members, are records of the City and subject to the provisions of that Act.
- State Parliamentarians are “exempted” from the provisions of the Act.
- WALGA, following receipt of comments from Councils, lobbied the State Government to amend the legislation to preclude Councillors records from the Act’s provisions.
- Report presents an update on the current position.
- *Recommend that Council reaffirm its absolute opposition to the State Records Act by writing to both WALGA and local Members of Parliament.*

**Officer Interest Declaration**

Nil

**Strategic Implications**

To foster an effective professional environment for the governance and administration of the City’s services.

**Legislation Implications**

State Records Act 2000 – Part 1 and 3 refers

Recommendation promotes a change to legislation.

**Council Policy/Local Law Implications**

Nil

**Budget/Financial Implications**

Nil

**Consultation**

WALGA  
Other Councils

**BACKGROUND**

This matter was last brought to Council’s attention in a report to the 13 August 2002 City Strategy Committee meeting. That report alerted Members to the fact that under the State Records Act 2000 a draft Recordkeeping Plan had to be produced by 5 March 2004 and that the Plan must, inter alia:-

- (a) Set out the matters about which records are to be created by the organization;
- (b) Set out how the organization is to keep its government records.
- (c) Comply with the principles and standards established by the Commission under section 61;

- (d) Ensure that the government records kept by the organization properly and adequately record the performance of the organization's functions; and
- (e) Be consistent with any written law to which the organization is subject when performing its functions.

The report also brought to Elected Members' attention the fact that the Act and associated Recordkeeping Plan applied to their own records created whilst conducting any Council related business – whereas it does not apply to State Parliamentarians.

The following was recorded in respect of City Strategy Committee's deliberations on this matter.

*“Committee was of the view that the requirement that all communication generated by Elected Members whilst conducting any Council-related business become part of the corporate record was onerous and that an inequity existed whereby Elected Members would have to meet the requirement unlike State and Federal Government Parliamentarians who would be exempt. The inequity is further compounded by the fact that Elected Members have no clerical support compared with State and Federal Government Parliamentarians who have office support. Further, that it could act as an impediment to people Standing for Council.”*

Committee's eventual Recommendation, adopted by Council (CS68/02) on 19 August 2002 was as follows:

1. *That Council write to the Western Australian Local Government Association offering its support for the proposed action of lobbying the State Government to amend the State Records Act 2000 to preclude from its provisions all records received or generated by Councillors at their private residence and to further inform the Western Australian Local Government Association of additional action initiated by the City of Armadale as per part 2 of this recommendation.*
2. *That Council write to local State Members of Parliament pointing out the following:*
  - a. *The inequity of this requirement in the Act, given the essentially voluntary nature of the role of Local Government Elected Members who have no clerical support compared with State Members of Parliament (who have electoral office support yet are exempt under the Act).*
  - b. *The inevitable invasion of privacy that would result should data be removed from Councillor(s) personal computer(s) where data or records will most likely be generated.*
  - c. *The possible disruption of commercial operations where the Councillor uses his employer's equipment to carry out some of his duties as a Councillor.*
  - d. *The possible disruption to private enterprise where a Councillor running a business operation uses equipment at his office to carry out his duties as a Councillor.*
  - e. *The financial implications of (c) and (d) above.*
  - f. *The possible loss of trust and confidentiality between ratepayer and Councillor as a result of this requirement under the Act.*

3. *That a report be submitted to the City Strategy Committee advising Council of the response and progress being made by the Western Australian Local Government Association with regard the State Records Act 2000 so that further action may be considered.*

Relevant correspondence was subsequently forwarded, as directed by Council, with responses being received from just three local State Members of Parliament viz. Member for Armadale, Hon Alannah MacTiernan, Members for East metropolitan Region, Hon Nick Griffiths and Hon Peter Foss QC. All responses were non-committal in respect of declaring support or otherwise for Council's position and referred our correspondence on to either the Minister for Local Government and/or the Minister for Culture & the Arts (the responsible Minister in this case, the Hon Sheila McHale). Copies of letters from the two Ministers forwarded with responses from the local Parliamentarians indicate little sympathy for our position in this matter and refer to the preparation of guidelines to assist Elected Members in complying with the Act's provisions.

The Western Australian Local Government Association (WALGA) has over the last 12 months or more been lobbying the Minister responsible for this legislation, as well as selected senior members of the Government and Opposition (to support an amendment to the Act to preclude Elected Members from its provisions) – to little effect. Apparently Minister McHale has acknowledged the existence of anomalies to WALGA but has chosen to continue on an unaltered course. WALGA, as well as continuing and increasing its lobbying efforts to include **all** State Parliamentarians, is also seeking legal opinion with a view to testing the validity of the State Records Act deeming an Elected Member to be a “government organization employee”. Copies of a recent WALGA Media Release and Info Page, which indicate their current position and approach to this matter, are at Attachments A-1 and A-2 as circulated with the Agenda.

In the interim, the State Records Commission has released a guideline for “Managing Local Government Elected Members’ Records”. A copy of the Commission's circular and the Guidelines are attached for councillors' information. Refer **Attachments A-3 and A-4** as circulated with the Agenda.

## COMMENT

Whilst the State Records Commission's Guidelines appear to offer “...*a reasonable and workable solution to the way in which responsibilities under the Act are to be exercised*” – the significant anomalies and inequities remain within the legislation. Consequently, it will be recommended that WALGA's increased efforts in attempting to achieve corrective appropriate amendments to the Act be applauded and supported.

However, working under the assumption that all provisions contained in the Act will remain unaltered, it will be necessary to attend to developing procedures for the capture of relevant Elected Members records. In this regard, and in the hope that the proposed amendment to the Act is achieved, it is intended to hold off as long as possible developing the members procedures as part of the Recordkeeping Plan (described earlier in this report) which, under the State Records Act, must be completed by 5 March 2004. In this manner, should the attempt to achieve the desired amendments to the Act be successful, deferring creation of a

procedure to capture Elected Members records to a later date could save the unnecessary investment of Council resources.

*Committee expressed its very strong opposition to the implications of the State Records Act 2000 as it would jeopardise free and open discussion between elected members and the community. The impracticality of such an onerous responsibility would also dissuade people from serving on local government and forcing compliance of this Act would impose considerable cost to both elected members and councils.*

*It was also agreed that all elected members consider taking a proactive approach by individually forwarding a letter to all local parliamentarians.*

**CS35/7/03    RECOMMEND**

**That Council:**

- a.    note the information reported regarding the State Records Act and its implications for Elected Members' records;**
- b.    reaffirm its absolute opposition to the records of Elected Members being subject to the requirements of the State Records Act on the basis that;**
  - **it is likely to interfere with the open communication that characterises most councillor/constituent relationships;**
  - **it is both unfair and inequitable in that State Parliamentarians are exempt from the provisions of the Act;**
  - **it will impose a significant and unreasonable administrative burden on Councillors and local government administration;**
  - **it will make it very difficult to attract future councillors; and**
  - **it will impose additional cost on both elected members and councils.**
- c.    write to the Western Australian Local Government Association advising of (b) above and offering the City's support for their increased lobbying efforts with all State Parliamentarians.**
- d.    write to local Members of Parliament in support of WALGA's campaign to have the State Records Act amended to exclude Local Government elected members.**

Moved Cr Hopper  
*Motion Carried (7-0)*

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***PUBLIC INTEREST DISCLOSURE ACT 2003***

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WARD All  
FILE REF: PID/1  
DATE 4 July 2003  
REF AWD  
RESPONSIBLE Acting Chief  
MANAGER Executive Officer

**In Brief:**

- Report informing Elected Members of the content, intent and potential effect on Council of the recently introduced Public Interest Disclosure Act 2003.
- *Report also notes the Executive Director Corporate Services as being the designated Council officer to receive and act upon public interest disclosures.*

**Tabled Items**

Nil

**Officer Interest Declaration**

Nil

**Strategic Implications**

Corporate Services aim – ‘to foster an effective professional environment for the governance and administration of the City’s services’.

**Legislation Implications**

Public Interest Disclosure Act 2003 – commenced 1 July 2003.

**Council Policy/Local Law Implications**

Nil

**Budget/Financial Implications**

Dependent upon the level of disclosures received by the City, has the potential to demand the investment of significant human resource in conducting investigations with consequential associated financial costs.

**Consultation**

Manex

**BACKGROUND**

The Public Interest Disclosure Act 2003 was assented to on 22 May 2003 and came into operation on Tuesday, 1 July 2003.

The Public Interest Disclosure Act is:

*“An Act to facilitate the disclosure of public interest information, to provide protection for those who made disclosures and for those the subject of disclosures, and, in consequence, to amend various Acts, and for related purposes.”*

The Act contains several important measures:

- it enables and encourages informants to disclose wrongdoing or improper conduct by providing them with a framework for making such disclosures, either to the agency concerned or to another proper authority;
- it requires State and Local Government departments and agencies, and universities to investigate disclosures and remedy any defects or wrongdoing;
- it provides for protection for informants including confidentiality, employment protection and immunity from any criminal or civil liability; and
- it enhances open and accountable government for Western Australia.

The Act, together with associated 'Code of Conduct and Integrity' and 'Guidelines on Internal Procedures' as produced by the Office of the Public Sector Standards Commissioner, are available through the Manager Administration & Governance for any Member who wishes to peruse the documents.

Elected Members' attention is drawn to the following items of significance and particular interest contained within the Act and associated Guidelines:

Application:

The Act applies to all public authorities covered by State Law and includes local governments (approx. 300 authorities).

Public Interest Information:

Information that tends to show that, in relation to its performance of a public function (either before or after the commencement of the act), a public authority, a public officer, or a public sector contractor is, has been, or proposes to be, involved in –

- (a) improper conduct;
- (b) an act or omission that constitutes an offence under a written law;
- (c) a substantial unauthorised or irregular use of, or substantial mismanagement of, public resources;
- (d) an act done or omission that involves a substantial and specific risk of –
  - (i) injury to public health;
  - (ii) prejudice to public safety; or
  - (iii) harm to the environment;

Public Interest Disclosure

- (1) Any person may make an appropriate disclosure of public interest information to a proper authority.
- (2) A person makes an appropriate disclosure of public interest information if, and only if, the person who makes the disclosure –
  - (a) believes on reasonable grounds that the information is true; or

- (b) has no reasonable grounds on which to form a belief about the truth of the information but believes on reasonable grounds that the information may be true.

#### Proper Authority:

A proper authority is the person who occupies the specified position determined by the Chief Executive Officer as being responsible for receiving disclosures of public interest information.

#### Obligation to Carry Out Investigation:

The 'proper authority' must investigate or cause to be investigated the information disclosed to it under the act if the disclosure relates to the local government or an officer or contractor of the local government.

Refusal to Investigate: A proper authority may refuse to investigate, or may discontinue the investigation of, a matter raised by the disclosure if it considers that =

- (a) the matter is trivial;
- (b) the disclosure is vexatious or frivolous;
- (c) there is no reasonable prospect of obtaining sufficient evidence due to the time that has elapsed since the occurrence of the matter; or
- (d) the matter is being or has been adequately or properly investigated by another person to whom an appropriate disclosure of public interest information has been made.

#### Action by Proper Authority

If a proper authority forms the opinion that a person may be, may have been, or may in the future be, involved in a matter that may be the subject of a disclosure of public interest information, the proper authority must take such action as is necessary, reasonable, and within its functions and powers, to –

- (a) prevent the matter to which the disclosure relates from continuing or occurring in future;
- (b) refer the matter to the Commissioner of Police or another person, body, or organization having power to investigate the matter; or
- (c) take disciplinary action or commence or enable disciplinary proceedings to be commenced against a person responsible for the matter.

#### Reprisal and/or Victimisation an Offence

A person must not take or threaten to take detrimental action against another because anyone has made, or intends to make, a disclosure of public interest. Penalty \$24,000 or imprisonment for 2 years and/or proceedings may be taken against the employer of the perpetrator.

### Confidentiality

Subject to certain exceptions, a person must not disclose the identify of any person who has made a disclosure of public interest information. Penalty \$24,000 or 2 years imprisonment.

### Obligations of Principal Executive Officer

The principal executive officer of a public authority must, inter alia:

- (a) designate the occupant of a specified position with the authority as the person responsible for receiving disclosures of public interest information;  
*Note: Published Guidelines highlight that 'where practicable, the Public Interest Disclosure Officer ought not to be the principal executive officer of the public authority'.*
- (b) provide protection from detrimental action or the threat of detrimental action for any employee of the public authority who makes an appropriate disclosure of public interest information;
- (c) ensure that his or her public authority complies with the Act;
- (d) ensure that his or her public authority complies with the code established by the Commissioner;
- (e) prepare and publish internal procedures relating to the authority's obligations under the Act.

### False or Misleading Disclosures an Offence

A person who makes a statement purporting to be a disclosure of public interest information—

- (a) knowing it to be false in a material particular or being reckless about whether it is false in a material particular; or
  - (b) knowing it to be misleading in a material particular or being reckless about whether it is misleading in a material particular,
- commits an offence.

Penalty: \$12,000 or imprisonment for one year.

### Withdrawal of Public Interest Disclosures not Possible

Once a disclosure of public interest information is made, a proper authority is required to investigate it and take action regardless of the subsequent attitude of the informant.

### **COMMENT**

The State Government's policy behind this legislation is perhaps encapsulated in the following statement made by the Attorney General, Minister for Justice and Legal Affairs, the Hon. Jim McGinty:

*“Whistleblowers who uncover improper or illegal conduct or substantial mismanagement of public resources in State and Local Government authorities must be encouraged to make disclosures to proper authorities and must be protected when they do so. To achieve and maintain open and accountable government there must be a free flow of information.”*

The legislation, whilst stating that ‘Any person may make an appropriate disclosure ...’, is clearly aimed at employees of public authorities as the main source of disclosures of public interest information to the extent that the Public Sector Standards Commissioner has produced a ‘Staff Information’ document which should be provided to all staff.

It is of course impossible to predict what number of disclosures will be received in respect of the City of Armadale, however, we should be mindful of the fact that dependent on the nature of the disclosure, one complaint could feasibly take considerable hours to properly investigate.

Given the level of investigative skills required, together with the high level attributes of sensitivity, honesty, confidentiality and integrity – the position within the organization to be specified for receiving public interest information disclosures needs to be at a senior management level. In consideration of the foregoing factors, the Acting Chief Executive Officer has designated the occupant of the Executive Director Corporate Services’ position with the authority as the person responsible for receiving disclosures of public interest information, i.e. Mr Tony Maxwell will be the Public Interest Disclosure (PID) Officer.

**CS36/7/03      RECOMMEND**

**That Council note:**

- a.      the information provided regarding the recently introduced Public Interest Disclosure Act 2003; and**
- b.      the Council Officer designated to receive and act upon public interest disclosures is the Executive Director Corporate Services.**

Moved Cr Clowes-Hollins  
*Motion Carried (7-0)*

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**PUBLIC QUESTION TIME POLICY & PROCEDURE**

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WARD	ALL
FILE REF:	MTG/7; PCY/1
DATE	23 July 2003
REF	SDS
RESPONSIBLE MANAGER	Chief Executive Officer

**In Brief:**

- The matter of the public seeking corrections to the recording of public question time was referred to the Standing Order & House Advisory Group (SOHAG) for discussion and recommendation.
- SOHAG has reviewed Procedure EM-6 relating to Public Question Time and has recommended amendment to the procedure by adding a note as to how corrections by the public may be handled.

**Officer Interest Declaration**

Nil

**Strategic Implications**

To foster an effective professional environment for the governance and administration of the City's services.

**Legislation Implications**

Section 5.24 of Local Government Act 1995 and Regulation 5 of the Local Government (Administration) Regulations 1996

**Council Policy/Local Law Implications**

Policy EM-6 and relevant Procedure EM-6

**Budget/Financial Implications**

Nil

**Consultation**

Standing Order and House Advisory Group (SOHAG)

**BACKGROUND**

In response to a query raised at the Council meeting of 4 March 2003 by a member of the public, Cr Reynolds referred the following matter for consideration by SOHAG and subsequent reporting to City Strategy Committee.

*“That the matter of public raising corrections where the recording of Public Question Time in the Council Minutes are not correct be referred to the Standing Order & House Advisory Group prior to a report being submitted to City Strategy Committee.”*

## COMMENT

The Department of Local Government & Regional Development guidelines on “Managing Public Question Time” states as follows:-

*“There is a statutory requirement for a **summary** of both the question and the response given during public question time to be recorded in the minutes. The name of the person who asked the question should also be included in the summary.”*

## Discussion by SOHAG

SOHAG at its meeting held on 12 June 2003 noted that the approach currently taken is to record public question time in an “abridged” form and hence there is no case for specific word corrections being made to the minutes. However, where a member of the public believes that the recording is misleading or has altered the intent of the question then the person may raise the matter in the form of a question through public question time for the person presiding to determine the matter.

If the Presiding Member determines that the correction sought is of a material nature, then a correction to the minutes may be initiated later at the same meeting when the minutes of the previous council meeting are confirmed.

SOHAG recommended that a part (11) be added to Procedure EM-6 relating to Public Question Time as follows. The Procedure, as amended, is provided overleaf.

11. *A summary of each question raised and response given during Public Question Time will be recorded in the Minutes.*  
*In the event that the person having raised a question believes the substance of their question (or response given) was not appropriately recorded, it may be the subject of a further question at the next meeting.*  
*Where an elected member believes the substance of the question or response has not been appropriately recorded, it may be addressed during Confirmation of Minutes.*

## CS37/7/03 RECOMMEND

**That Council approve Procedure EM 6 relating to Public Question Time being amended by adding a part (11) as follows:-**

11. *A summary of each question raised and response given during Public Question Time will be recorded in the Minutes.*

*In the event that the person having raised a question believes the substance of their question (or response given) was not appropriately recorded, it may be the subject of a further question at the next meeting.*

*Where an elected member believes the substance of the question or response has not been appropriately recorded, it may be addressed during Confirmation of Minutes.*

Moved Cr Munn  
Motion Carried (7-0)

<b>EM 6 PUBLIC QUESTION TIME (As Amended)</b>
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1. Minimum time allocated to Question Time is 15 minutes. Where it is apparent that additional time is required, the person presiding will invite Committee or Council to resolve to extend for a given period.
2. If at the end of the allotted extension, there are still questions outstanding these may be submitted in writing for an early response.
3. The order in which questions are to be asked, will be determined by the person presiding.
4. The procedure for asking questions is as follows:-
  - (a) The person asking the question is requested to give their name and address prior to asking the question.
  - (b) In regard to Council meetings, questions must be relevant to a matter, which affects the City of Armadale while in regard to Committee meetings, questions must be relevant to a matter which relates to the function of that Committee.
  - (c) Questions are to be directed to the person presiding who will have the discretion of:
    - (i) accepting or rejecting a question;
    - (ii) nominating a Councillor and/or Officer to answer the question; or
    - (iii) determining that any complex questions requiring research will be taken on notice and answered in writing.
5. No debate or discussion will be permitted on any question or answer.
6. Question time is available as a means by which the public may easily and quickly obtain information and is not a forum in which to make statements.
7. Questioners are encouraged (but not required) to forward questions in writing. Questions should be succinct, with personal explanation kept to a minimum.
8. Answers to questions are provided in good faith, however, unless reasonable prior written notice is given the answer provided should not be relied upon as being totally comprehensive.
9. The procedure for Public Question time is to be made available to the public with Committee and Council agendas to ensure that the public are aware of the requirements.
10. When a question is taken on notice under 4(c)(iii) a response is to be forwarded to the member of the public in writing by the Chief Executive Officer or the relevant Executive Director, and a copy is to be included in the agenda of the next meeting of the Council or Committee as the case requires.
11. A summary of each question raised and response given during Public Question Time will be recorded in the Minutes.

In the event that the person having raised a question believes the substance of their question (or response given) was not appropriately recorded, it may be the subject of a further question at the next meeting.

Where an elected member believes the substance of the question or response has not been appropriately recorded, it may be addressed during Confirmation of Minutes.

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***ARMADALE REDEVELOPMENT AUTHORITY***

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WARD : All  
FILE REF : PSC/30  
DATE : 27 June 2003  
REF : RST  
RESPONSIBLE : Chief Executive  
MANAGER : Officer

**In Brief:-**

- Report provided on matters currently in train with the Armadale Redevelopment Authority.
- It is recommended that progress on matters in train with the ARA be noted.

**Tabled Items**

Nil

**Officer Interest Declaration**

Nil

**Strategic Implications**

Strategic Plan objective to create an integrated Regional Centre with a full range of services.

**Legislation Implications**

Town Planning Scheme No.2 and No.3  
Armadale Redevelopment Act 2001

**Council Policy / Local Law Implications**

N/A

**Budget / Financial Implications**

Potential to broaden rate base and resultant income as a consequence of accelerated investment and development.

**Consultation**

- ♦ Armadale Redevelopment Authority

**BACKGROUND**

The City has been receiving Quarterly briefing sessions from the Chair and Board of the ARA, monthly letter updates from the ARA and regular progress reports from the CEO.

The following report provides a public update on matters under consideration between the City and the ARA Board.

The report will be based on advice received from the ARA (already conveyed to Councillors confidentially but now tabled for the public record), with comments on the City's progress on such matters or, where required, a recommendation.

Many issues are reported separately (e.g. Rail Station project, Council's Cinema project, Champion Lakes, South Armadale).

### **Champion Lakes**

Councillors have been advised of WAPC's response. In this regard the ARA has written to the City seeking the transfer of the City's landholding to the ARA on similar terms to that of the WAPC.

### **Forrestdale Business Park**

The proposed joint venture between a private Group and LandCorp has not been progressed due to the failure to secure an option to purchase from one of the major landowners.

### **Station Forecourt Lift**

The ARA has agreed to pre-fund half the construction cost of the lift on the eastern side of the station which will remove the need for a temporary ramp access.

### **Station Forecourt Development**

The Board agreed to fund the cost of the forecourt subject to phasing the construction to allow for the design of street furniture and public art to be fully considered. It is also proposed to see whether the City could undertake any of the forecourt work through WAGR.

### **Board Appointments**

The nominations of Mayor Linton Reynolds and Cr Henry Zelones from the City for the Board have been confirmed by Cabinet.

### **Sustainability Plan**

The Plan was endorsed subject to confirmation it was not in conflict with the State Sustainability Strategy.

The Sustainability Audit for new developments will be refined through case study application for which assistance will be sought from the City. Once the Audit is finalised, it will be recommended to the City of Armadale, the City of Gosnells and the Shire of Serpentine-Jarrahdale for use in areas outside the ARA jurisdiction.

### **Cleaner Production**

The Board agreed to become a signatory to the WA Cleaner Production Statement sponsored by the WA Sustainable Industry Group.

### **Concept Plan/Redevelopment Scheme**

Prior to referral of the Draft Concept Plan and Redevelopment Scheme in July, the Board will arrange an information presentation to City of Armadale Councillors. The Draft Plan and Scheme will then be formally referred to the City for comment.

**CS38/7/03 RECOMMEND**

**That progress on other matters in train with the Armadale  
Redevelopment Authority be noted.**

Moved Cr Hopper  
Motion Carried (7-0)

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***SPECIAL MEETING OF CITY STRATEGY COMMITTEE***

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WARD ALL  
FILE REF: FIN/7  
DATE 23 July 2003  
REF AFM  
RESPONSIBLE Chief  
MANAGER Executive  
Officer

**In Brief:**

- The 2003-04 Budget Adoption Timetable and prior Council resolution CS28/6/03 (3) provides for a Special Meeting of the City Strategy Committee to be held the week commencing 21 July 2003.
- This Report recommends that the Special Meeting date be set for Tuesday 22 July 2003.
- *It was advised that due to delays in compiling year-end figures, it was now necessary to reschedule the special city strategy committee meeting to the week commencing 28<sup>th</sup> July 2003. A date to be finalised having consideration for current corporate diary engagements.*

**Strategic Implications**

Nil

**Legislation Implications**

Subdivision 2 – Local Government Act 1995

**Council Policy/Local Law Implications**

City of Armadale Standing Orders Local Law – Clause 2.1 – Calling of Committee Meetings  
*A meeting of a Committee is to be held*  
*(c) if so decided by the Council or Committee*

**Budget/Financial Implications**

Nil

**Consultation**

Corporate Diary, Chair of City Strategy Committee & Mayor

**BACKGROUND**

Prior Council resolution CS28/6/03 (3) of 16 June 2003 refers, i.e.

3. *That Council recommit the matter of the 2003-04 Draft Budget (as amended) to the Special Meeting of the City Strategy Committee to be held the week commencing 21 July 2003 for recommendation to Council following consideration of:*
  - *public submissions received on the Principal Activities Plan*
  - *public submissions of the 2003-04 Draft Budget*
  - *public submissions received on the Proposed Rates*
  - *Council's 30<sup>th</sup> June 2003 Year End position; and*
  - *Any other matters subsequently arising having budgetary implications*

### **PROPOSAL/COMMENT**

To facilitate the above Council resolution, it is proposed that a Special City Strategy Committee meeting be scheduled for Tuesday 22 July 2003 commencing at 7pm.

The business of the Special Meeting will be that as detailed in the above resolution of Council.

As has been Council's past practice, given the importance of the Annual Council Budget, all Councillors are encouraged and invited to attend and participate in this Special Meeting which is the penultimate step to the adoption of the Annual Budget for 2003-04.

*The Acting Chief Executive Officer advised Committee that as more time is required to finalise Council's end of year position it will now not be possible to meet the agenda deadline for a Special City Strategy Committee meeting on 22<sup>nd</sup> July 2003. Committee agreed to reschedule the special meeting to the following week with a date being finalised in line with current corporate diary engagements.*

### **CS39/7/03      RECOMMEND**

**That a Special City Strategy Committee be scheduled on Monday, 28<sup>th</sup> July 2003 commencing at 7pm. The purpose for the meeting is to consider and make recommendation to Council on the proposed 2003-04 Council Budget.**

Moved Cr Hodges  
*Motion Carried (7-0)*

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***CONTRACT OF EMPLOYMENT – CHIEF EXECUTIVE OFFICER POSITION***

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WARD ALL  
FILE REF: PSF/365  
DATE 23 July 2003  
REF AFM  
RESPONSIBLE Chief  
MANAGER Executive  
Officer

**In Brief:**

- The Chief Executive Officer's Five Year Contract with the City of Armadale will expire in November 2003.
- The Chief Executive Officer has advised the Mayor in writing of his intention to seek/negotiate a further contract term for the CEO position.
- To advance and facilitate the necessary contractual considerations and arrangements, it is proposed that a panel of councillors be formed and that the panel be provided with independent facilitation and professional advisory services.

**Strategic Implications**

To foster an effective professional environment for the governance and administration of the City's services.

**Legislation Implications**

Sections 5.36, 5.38 and 5.39 of Local Government Act 1995.

**Council Policy/Local Law Implications**

Nil

**Budget/Financial Implications**

An appropriate allocation has been included in the 2003-04 Draft Salaries Budget.

**Consultation**

Mayor  
WALGA

**BACKGROUND**

The Chief Executive Officer's current contract will expire in November 2003. The CEO has advised the Mayor that he seeks a further contract term in the role of Chief Executive Officer with the City of Armadale. Accordingly a process to facilitate the necessary contract negotiations is required and hence the purpose of this report.

**PROPOSAL/COMMENTS**

From discussion had with the Mayor, it is suggested that, similar to the approach taken with the recent CEO Performance Evaluation, a panel of councillors be established.

It is proposed that the "CEO Contract Panel" be assigned the following tasks/responsibilities:-

1. Consider the CEO's request to negotiate a further contract term as CEO.
2. Develop contract terms and conditions for the contract position of CEO including, amongst other matters, the proposed remuneration, term and performance objectives.
3. Conduct contract negotiations
4. Make recommendation to Council on the negotiated contract arrangements for the CEO position.

As regards the membership of the Panel, it is proposed that the Councillor representatives be the Mayor, Deputy Mayor, Chair of City Strategy and one other Councillor.

Further with regard to the independent facilitator to assist the Panel, it is suggested that the Executive Manager of WALGA's Workplace Solutions, Mr John Phillips, be approached. Additional assistance to the Panel will be provided by Council's Human Resources Manager i.e. a coordinating, reporting and professional advisory role.

A suggested timeframe for the Panel to complete its role is as follows:-

By 30 <sup>th</sup> September 2003	Consider CEO's request to negotiate a further contract term. Develop Contract terms and conditions
By mid-November 2003	Conduct contract negotiations Make recommendation to Council on negotiation outcomes

*Cr Clowes-Hollins nominated Cr Zelones  
Cr Munn nominated Cr Hopper*

*In view of two nominations being received, it was agreed to increase the membership of the CEO's Contract Panel to (5) elected members.*

**CS40/7/03      RECOMMEND**

**That Council**

- 1. Establish a "CEO Contract Panel" with its role/responsibility being to:-**
  - a. consider the CEO's advice seeking a further contract term;**
  - b. develop contract terms and conditions for the CEO's position to commence November 2003**
  - c. Conduct contract negotiations as relevant to (a) and (b) above.**
  - d. make recommendation to Council via the City Strategy Committee on the negotiated contract arrangements for the CEO position.**
- 2. Appoint the following councillors to the "CEO Contract Panel".**
  - Mayor, Cr Reynolds**
  - Deputy Mayor, Cr Munn**
  - Chair of City Strategy Committee, Cr Hodges**
  - Cr Zelones**
  - Cr Hopper**
- 3. Invite Mr John Phillips, Executive Manager Workplace Solutions at WALGA, to join the panel to provide independent facilitation and professional advisory services.**

**ABSOLUTE MAJORITY RESOLUTION REQUIRED**

Moved Cr Munn  
*Motion Carried (7-0)*

**LATE ITEM**

**PIONEER VILLAGE CINEMA – LOT 100 ALBANY HIGHWAY, ARMADALE –  
ADVERTISEMENT IN “THE EXAMINER” NEWSPAPER**

WARD : Armadale  
FILE REF : A185084  
DATE : 15 July 2003  
REF : PM  
RESPONSIBLE : EDDS  
MANAGER

**In Brief:-**

- Development Services Committee requested that issues raised by Regent Cinema’s placement of an advertisement in *The Examiner* newspaper be referred to City Strategy Committee for consideration.
- This report details the summary of events associated with the development application for approval to extend the Pioneer Village cinema.
- It is recommended that Council prepare an insert to be distributed in the Comment News detailing Council’s position in relation to all matters regarding the Pioneer Village cinemas.

**Tabled Items**

Nil

**Officer Interest Declaration**

Nil

**Strategic Implications**

Strategic Plan

Development – To balance the need of development with sustainable economic, social and environmental objectives.

Communication - To ensure all our communication is readily understood by the target market.

**Legislation Implications**

Town Planning and Development Act 1928

Metropolitan Region Scheme Act 1959

Health Act 1911

Health (Public Buildings) Regulations 1992

**Council Policy / Local Law Implications**

Nil

**Budget / Financial Implications**

Nil.

**Consultation**

Planning Officers

Environmental Health Officers

## **BACKGROUND**

At its meeting of 14 July, Development Services Committee considered the proposed extension to Pioneer Village Cinema. There was some discussion on the advertisement recently placed in *The Examiner* by the cinema operator and whether a response by Council was appropriate. Committee requested that a summary of events surrounding Council's dealing with that Development Application be prepared for this meeting of City Strategy Committee.

## **COMMENT**

### **History**

While what follows is not germane to the application in question, an understanding of the historical context within which the application was made may assist Committee in understanding the apparent antagonism towards the City by Regent Cinemas (the operator).

In April 1998, Council officers became aware, through advertisements in the local press, that it was intended to reopen the old Golden Nugget Theatre as a cinema. There had been no application for the requisite approval under the Health Act, and an urgent on site meeting was convened for 6<sup>th</sup> April with the principal of the (proposed) operator.

On 8<sup>th</sup> April, following that meeting, a letter was forwarded to the operator detailing 12 matters, including a number of critical safety items such as emergency and exit lighting, fire safety requirements and preparation and approval of an evacuation plan, that would require attention prior to opening.

Notwithstanding that, the cinema opened without approval. A Temporary Certificate of Approval was issued permitting use until 22<sup>nd</sup> April conditional upon:

- all requisite work being completed by that time;
- no more than 70 persons being accommodated; and
- two employees with responsibility for evacuation during emergency being in the cinema at all times when it was in use.

In hindsight, that was probably not a wise approach, in that by accepting and approving use of a substandard building, albeit for initially a short period, the City's capacity to draw the matter to a conclusion was compromised. It would in all likelihood have been preferable then to move immediately towards litigation.

Although some work was done, significant items were never completed. Following extended correspondence and numerous meetings, an officer visited the cinema on Saturday 11<sup>th</sup> September 1998 and found it to be operating, still without a Certificate of Approval. Although most works were complete, lighting was inadequate and a Notice directing closure was subsequently issued and met with compliance.

The cinema was again opened by the same operator without approval on 26<sup>th</sup> January 2002. Following protracted correspondence and inspections, culminating in a threat of prosecution, a Certificate of Approval was issued on 12<sup>th</sup> March 2002.

Inspection by Council officers on 13<sup>th</sup> May 2003, following initial consideration by Development Services Committee of the Development Application (to which further reference is made below), found that the original (121 seat) cinema had been extended to 201

seats without the necessary Health Act approval. Minor works were required to bring the extension into compliance and a new Certificate of Approval was issued on 24<sup>th</sup> May 2003.

Finally, upon investigation of a noise complaint on 9<sup>th</sup> July 2003, it was discovered that the Pioneer Village School Hall was being used without approval as a cinema by Regent Cinemas. The building was found to fail to meet a number of lighting and fire safety criteria required of cinemas and a verbal Closure Notice was issued and met with compliance. The Notice was confirmed in writing on the following day. (The advertisement in *The Examiner* predates this closure).

It is intended that a more detailed report on this incident be submitted to the next meeting of Development Services Committee.

As well as the four separate and relatively serious breaches of the public buildings requirements of the Health Act and its attendant regulations, there have been ongoing noise problems (extending for over a year) arising from the cinema. These have also proved difficult to resolve, involving repeated site visits, sound level measurements, correspondence, discussion and threatened legal action.

### Analysis

With respect to the application for the cinema extension that was the subject of the Development Services Committee's deliberations, the sequence of events is as follows:

- |               |  |
|---------------|--|
| 13 March 2003 | The Development Application was received from Summer Moon Enterprises Pty Ltd (the applicant) for an extension of the existing 121 seat cinema by addition of two additional screens, with 78 and 83 seat capacity respectively.   |
| 2 April 2003  | The application was advertised by letter to surrounding property owners inviting comment.  |
| 17 April 2003 | A letter advising that the proposal was to be referred to Council's Community Heritage Advisory, had been advertised for public comment and that an initial assessment had identified a number of issues requiring further attention was forwarded to the applicant.   |
| 6 May 2003    | Telephone advice was received from the applicant's office to the effect that the proposed additional screens were each now intended to accommodate 60 persons.   |
| 12 May 2003   | The application was submitted to Development Services Committee for consideration. Committee resolved to recommend to full Council:<br><br><i>That the Western Australian Planning Commission be advised that Council supports the application for a proposed 120 seat extension to the existing 121 seat cinema complex to a maximum 241 seat 3-screened cinema complex at Lot 100 (Strata Lot Pt.70 and PT.48) Albany Highway, Armadale (subject to conditions); and</i><br><br><i>That Council approve the application for a proposed 120 seat extension to the existing 121 seat cinema complex to a maximum 241 seat 3-screened cinema complex at Lot 100 (Strata Lot Pt.70 and PT.48) Albany Highway, Armadale in accordance with Town</i> |

*Planning Scheme No.2 (subject to the conditions). – (See Recommendation D79/5/03).*

- 13 May 2003 Inspection by Council officers found that the original (121 seat) cinema had been extended to 201 seats without the necessary Health Act approval.
- 19 May 2003 Council resolved at its Ordinary Meeting that Recommendation D79/5/03 be not adopted and the matter be recommitted to the next meeting of the Development Services Committee on the following grounds:-
- *There is uncertainty as to the seating capacity proposed in the cinema development application from Summer Moon Enterprises particularly in respect of the number of seats in the existing auditorium being in excess of the number approved at the time of lodgement of the application;*
  - *The proposal should be referred to the Armadale Redevelopment Authority for comment;*
  - *It would be desirable to assess the proposal in the context of the recently received consultant's review of the Retail Hierarchy, which will be considered in the June round of meetings.*
- 21 May 2003 A letter conveying Council's decision was forwarded to the applicant.
- 27 May 2003 A letter seeking a commitment from Council with respect to its approval, subject to the meeting of requirements (indicated in the letter of 17 April) was received from the applicant.
- 30 May 2003 A letter clarifying requirements and explaining no commitment can be given until Council has considered the revised proposal was forwarded to the applicant.
- 7 July 2003 A letter confirming proposed seating capacity and addressing other issues raised in the City's 17 April correspondence was received from the applicant. A fax received the same day clarified impact of the proposal upon parking requirements.
- 14 July 2003 The proposal resubmitted for consideration by Development Services Committee.

It is therefore clear that Council has dealt with this application in a prompt and timely manner, and that its progress has been largely contingent upon the misrepresentation of circumstances in the original application and the provision by the applicant of the further information requested on 21 May.

### **Options**

- Option 1: Make no response to the advertisement placed by Regent Cinemas.
- Option 2: Respond by way of a press release.
- Option 3: Respond by way of either an advertisement or a "flyer" detailing an accurate account of events distributed through one of the local newspapers.

**Conclusion**

On balance, it is considered that distribution of a “flyer” through one of the local papers presents the most cost effective means of accurately presenting Council’s position on this issue.

**CS41/7/03 RECOMMEND**

AMENDMENT  
FULL COUNCIL  
21-7-03

**That Council ~~prepare an insert to be distributed~~ prepare a full page paid advertisement for placement in the Comment News detailing Council’s position in relation to all matters regarding the Pioneer Village cinemas.**

Moved Cr Reynolds  
*Motion Carried (7-0)*

***COUNCILLORS' ITEMS***

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***Cr Zelones & Cr Hodges - Council Newsletters/Bulletins***

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It was suggested that officers investigate the potential for a formal newsletter/bulletin to all residents on a periodical basis to keep them informed of significant/noteworthy matters relating to Council business.

**CS42/7/03    RECOMMEND**

**That the Councillor items regarding Council newsletters/bulletins be referred to the appropriate Directorate for action and/or report back to Committee/Council.**

Moved Cr Hodges  
*Motion Carried (7-0)*

*Cr Hopper retired from the meeting at 8.35pm*

***ACTING CHIEF EXECUTIVE OFFICER'S REPORT***

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Nil

**MEETING DECLARED CLOSED AT 8.40 PM**

**CITY STRATEGY COMMITTEE**

**SUMMARY OF "A" ATTACHMENTS**

**15 JULY 2003**

<b>Attachment No.</b>	<b>Subject</b>	<b>Page</b>
A-1	Powerpoint Presentation on "Core Systems Procurement Project" – Status Report	43 - 47

















