

# CITY OF COCKBURN

## SUMMARY OF MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 8 JUNE 1999 AT 7:30 P.M.

---

---

	Page
68. (AG Item 1) DECLARATION OF OPENING .....	1
69. (AG Item 2) APPOINTMENT OF PRESIDING MEMBER (IF REQUIRED) .....	1
70. (AG Item 3) DISCLAIMER.....	1
71. (AG Item 7.1) (OCM1_6_1999) - PUBLIC QUESTION TIME .....	2
72. (AG Item 8.1) (OCM1_6_1999) - ORDINARY MEETING OF COUNCIL - 25/5/1999.....	5
73. (AG Item 10.1) (OCM1_6_1999) - DEPUTATIONS AND PETITIONS .....	5
74. (AG Item 13.1) (OCM1_6_1999) - REVISED EQUAL EMPLOYMENT OPPORTUNITY POLICY - A5.1 (2350) (AG) (ATTACH).....	6
75. (AG Item 13.2) (OCM1_6_1999) - WARD BOUNDARIES AND COUNCILLOR REPRESENTATION (1035) (DMG) (ALL WARDS).....	9
76. (AG Item 13.3) (OCM1_6_1999) - LEGAL REPRESENTATION FOR PRESENT AND FORMER ELECTED MEMBERS AND STAFF OF THE CITY - POLICY A1.18 (1030) (RWB).....	12
77. (AG Item 14.1) (OCM1_6_1999) - PROPOSED CLOSURE OF PEDESTRIAN ACCESSWAY - BETWEEN SOUTH LAKE DRIVE AND PLACID COURT, SOUTH LAKE (450436) (PT) (EAST) (MAP 14) .....	18
78. (AG Item 14.2) (OCM1_6_1999) - PROPOSED BIBLE COLLEGE AND CHURCH - LOT 7 PRINSEP ROAD, JANDAKOT (5500006) (CC) (EAST) (MAP 19).....	20
79. (AG Item 14.3) (OCM1_6_1999) - TENDER NO. 12/99 - INSPECTION OF PRIVATE SWIMMING POOLS (3211) (CP).....	25
80. (AG Item 15.1) (OCM1_6_1999) - REQUEST FOR FUNDS - KWINANA AIR BUFFER ZONE ACTION GROUP (9311) (ATC).....	28
81. (AG Item 16.1) (OCM1_6_1999) - LEACHATE TREATMENT PLANT - OPERATIONS CONTRACT (4900) (RNJ).....	32
82. (AG Item 16.2) (OCM1_6_1999) - TENDER NO.13/99 - UPGRADE OF ADMINISTRATION BUILDING AIRCONDITIONING EQUIPMENT (4602; 4463) (JR) (WEST).....	34



83. (AG Item 16.3) (OCM1\_6\_1999) - TENDER NO. 9/99 - SALVAGE AND RECOVERY RIGHTS - HENDERSON LANDFILL SITE (AS) (4433) (COASTAL).....37

84. (AG Item 24.1) (OCM1\_6\_1999) - RESOLUTION OF COMPLIANCE (Section 3.18(3), Local Government Act 1995) .....40

## CITY OF COCKBURN

### MINUTES OF ORDINARY COUNCIL MEETING HELD ON TUESDAY, 8 JUNE 1999 AT 7:30 P.M.

---

---

#### PRESENT:

##### COUNCIL MEMBERS

Mr J F Donaldson	-	Chairperson of Joint Commission
Ms J L Smithson	-	Joint Commissioner
Mr M A Jorgensen	-	Joint Commissioner

##### IN ATTENDANCE

Mr R W Brown	-	Chief Executive Officer
Mr D M Green	-	Director Community Services
Mr A T Crothers	-	Director, Finance & Corporate Services
Mr S M Hiller	-	Director, Planning & Development
Mr B K Greay	-	Director, Engineering
Mrs S Ellis	-	Secretary to Chief Executive Officer

#### 68. (AG Item 1) DECLARATION OF OPENING

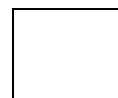
The Chairperson declared the Meeting open at 7:30pm.

#### 69. (AG Item 2) APPOINTMENT OF PRESIDING MEMBER (IF REQUIRED)

Nil

#### 70. (AG Item 3) DISCLAIMER

The Presiding Member read aloud the following disclaimer:



Members of the public who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

**71. (AG Item 7.1) (OCM1\_6\_1999) - PUBLIC QUESTION TIME**

**Mr Andrew Brown** wished to address Council in relation to Tender 9/99 - Allocation of Scavenging Rights at Henderson Landfill and a letter Mr Brown delivered to the Commissioners earlier today. Mr Brown had concerns about many issues but in particular, the change to the length of tender from two years with a one-year option to one year with a one-year option. Commissioner Donaldson advised that the length of the tender had not changed and was a typographical error. In light of the amount of questions mentioned in today's letter, Mr Brown asked that Council defer the matter so that his letter could be responded to. Mr Brown was also concerned that Patrick had not been consulted regarding the current operation.

Commissioner Donaldson advised that Mr Brown's comments would be taken into consideration when the agenda item is discussed.

**Ms Moina Rahib** representing the proposed Bible College (Item 14.2) wished to make comment on a number of issues including the size of the building and parking area, affect on neighbours and pollution to ground water. The proposal is situated on the property so it would least affect the neighbours. The services it would provide would be of great benefit to the community. They recognise the need to be responsible citizens and will do their utmost to ensure that the site does not contaminate the ground water. An error in the agenda item was also clarified which was that the Sunday service will actually be held at 9am and 6pm and not 9am - 6pm.

**Mr Peter Mirco** representing Mirco Brothers, wished to advise Council of concerns they had with regards to their property in Hurst Road. He stated that since Cockburn Cement put up a blockage to stop motorbikes on their property, people are now dumping rubbish on their property, which Mr Mirco has had to take to the tip and gets charged for it. He asked what could Council do to assist them.

Mr Mirco also wanted Council to be aware of traffic concerns on Hurst Road due to the increase in truck traffic. He strongly urged Council to consider the potential dangers with regard to the condition of the road and intersection and to the type of traffic now using the road (ie: b-trains) before a fatality occurs.



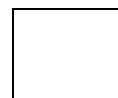
**Mr Brian Vidovich** representing K.A.B.Z. requested that Council not support the recommendation for item 15.1. He felt that the issue at stake is very serious and involves a huge part of the community. K.A.B.Z. represents all the people in the effected areas and they want their professional people to work closely with the planners of the City of Cockburn and the Town of Kwinana. The funds of \$5000 allocated to K.A.B.Z. in '97 were partly used and a remaining \$3000 was to be left for further submissions when the Draft was released. Unfortunately the continual extensions to the release of the draft meant that those funds were not put aside and now that further submissions are needed, they can no longer draw on those funds.

**Ms Natasha Edwards** representing Mr Marinko Pecotic, spoke in relation to item 13.3. Ms Edwards felt that Mr Pecotic and other Councillors mentioned in the Inquiry Report, should contribute as much as possible to the Inquiry being conducted by Mr Douglas and to do that, require access to legal representation without restrictions. The recommended limit of \$3000 would not allow them to formulate an adequate response to allegations against them in the previous Report and asked Council to reconsider putting limitations on the assistance provided.

**Mr Daryl Kersar** representing K.A.B.Z. referring to agenda item 15.1, explained the history of the funding allocation in 1997 and why the balance of the money had not been required until now. He acknowledged that Council has made comprehensive submissions on the FRIARS Report and assured Council that their consultant has been instructed to liaise closely with Council staff.

**Mr Brian Ivas** referring to item 16.1, stated that rubbish was a major problem all over the world, every Council faces the same problem and one way to combat it is recycling. He believed that the current recycling yard provides job opportunities in the area and the local people can share in its activities by fixing the articles they get from the recycling yard. Mr Ivas asked Council to lead the way by setting an example to other Councils by supporting this scheme.

**Mrs Mary Jenkins** stated that recently, she had been approached by many people regarding the opening of the Coogee Jetty. They were upset that the guest list had not included many people who should have been invited due to their participation in the project and who should have been recognised. Mrs Jenkins was critical of the Administration's organising of the event for this reason and asked that the Commissioners investigate it. Commissioner Donaldson assured Mrs Jenkins that the decision to open the jetty was made fully recognising such concerns and explained that Council wanted to open the jetty in a formal way, to recognise that it was now available for the public to use, but was mindful of inviting a large group of people in



possibly inclement weather. Therefore, Council will also be organising a family picnic day later in the year when the weather is better, so that everyone can enjoy the facility and the Council can properly recognise all those people who have contributed.

Mrs Jenkins also stated that she raised the issue of Reconciliation Day at a previous Council Meeting and had asked what the Council was planning to do. She recently received a letter advising that Council was arranging a morning tea at the Coolbellup Library and felt that the morning tea was a pathetic example compared to what other Councils were doing to recognise such an event.

**Mr John Grljusich**, regarding agenda item 13.3, requested that the recommendation be amended to reflect that legal assistance under Part 8 - Division 1 be included. Mr Grljusich explained the circumstances leading up to him seeking legal advice with regards to the Inquiry because of the nature of the remarks made in the Report. As he had contacted the correct people including the CEO and the Department of Local Government, regarding the necessity for him to seek legal representation, he felt that his representation was justified as it affected his reputation and career in local government and therefore, Part 8 - Division 1 inquiries should be included in the Policy. Mr Grljusich added that he fully agreed with the previous speaker on this matter and requested that Council give his comments due consideration.

**Mrs Maryanne Separovich** addressed Council in relation to item 15.1, commenting that Council's financial support is extremely important for the community in regards to this matter. She strongly believed that K.A.B.Z. did need Council's support and that it does represent the wider community.

**Clr Stephen Lee** wanted to echo the previous comments regarding item 15.1 and directed Council to ask themselves, "how would you feel if a discussion paper came out that said we are going to take your home and am going to build a factory next to your home?" He stated that the people there feel mortified and cannot believe that the government would do such a thing. Two years ago, Council agreed to commit \$5000 to help with their submission. They believed that it would come back in six months time and so only some of the money was used for the consultant. He asked Council to give strong consideration to putting that \$3000 back on the budget.

**Mr Ray Townley** of Danielson Way Beeliar sought Council's assistance with problems he was having with the dividing fence on his property. He built a house in Stanford Gardens and when the builder next door built a house, they took sand away from the fence and now the fence has fallen down but the builder has refused to put a retaining wall or fix the fence. He was frustrated that no one seemed to be able



to help him. Commissioner Donaldson advised that the Administration would take note of Mr Townley's concern and would try to address the problem if possible.

There being no further questions, Commissioner Donaldson took the opportunity to advise the gallery of the current status of the Inquiry into the City of Cockburn. He explained that the Inquiry by Mr Neil Douglas is entirely independent of the Commissioners and the general activities of the Council. Mr Douglas will be working from an office in 16 St George's Terrace with a team of professionals and intends to conduct the Inquiry in 3 stages. The first stage involves the collection of information. He has been running advertisements in the main newspapers advising people of the Inquiry and expects that people will be making submissions. His staff will collect the information and then stage two will commence which are hearings to be held. After that, stage three is the compilation and publication of his report.

If any member of the community wishes to contact Mr Douglas, the CEO's Secretary has the details or they may write to Mr Douglas.

Commissioner Donaldson reiterated that the Commissioners are not part of the Inquiry and Mr Douglas is independent of the activities of Council.

**72. (AG Item 8.1) (OCM1\_6\_1999) - ORDINARY MEETING OF COUNCIL - 25/5/1999**

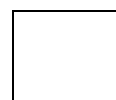
Moved Commissioner Jorgensen seconded Commissioner Smithson that the Minutes of the Ordinary Meeting of Council held on Tuesday, 25th May 1999 be confirmed as a true and accurate record.

**CARRIED 3/0**

**73. (AG Item 10.1) (OCM1\_6\_1999) - DEPUTATIONS AND PETITIONS**

Commissioner Donaldson advised that a petition had been received relating to the Henderson Landfill Salvage and Recovery Rights Tender and read aloud the prayer of the petition which reads:

"We support Patricks recycling as a preferred tender applicant and request that he be given a 12 month period to prove to Council that he is worthy of the position as he provides employment to the local community and provides a quality service to the public. After 12 months an option be given in relation to this matter."



The petition was noted and will be considered when that item is dealt with.

**74. (AG Item 13.1) (OCM1\_6\_1999) - REVISED EQUAL EMPLOYMENT OPPORTUNITY POLICY - A5.1 (2350) (AG) (ATTACH)**

**RECOMMENDATION**

That Council adopts the revised Policy A5.1 - Equal Employment Opportunity, as attached to the Agenda.

**COUNCIL DECISION**

Moved Commissioner Jorgensen seconded Commissioner Smithson, that Council adopt the revised Policy A5.1 - Equal Employment Opportunity as follows:

**Policy:**

The City of Cockburn recognises its legal obligations under the Equal Opportunity Act, 1984 and will actively promote equal employment opportunities based solely in accordance with section 5.40 of the Local Government Act, 1995. Furthermore, the Council commits itself to maintaining an equal opportunity program which aims to meet the following two objectives;

1. **That the City of Cockburn recognises and values diversity within its workforce and its community.**
2. That none of the grounds that are recognised as being discriminatory under the Act are contravened by any employee of the City of Cockburn.

The grounds of the Equal Opportunity Act that are recognised under this policy are:

- Gender
- Marital Status
- Pregnancy
- Race
- Impairment
- Age
- Religious conviction
- Political conviction
- Sexual harassment
- Racial harassment
- Family responsibility





- Family status

All offers of employment within this Council will be directed towards providing equal opportunity to prospective employees provided their relevant experience, skills and ability meet the requirements for engagement.

All promotional policies and opportunities with this Council will be directed towards providing equal opportunity to all employees provided their relevant experience, skills and ability meet the requirements for such promotion.

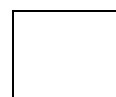
All employment training with this Council will be directed towards providing equal opportunity to all employees provided their relevant experience, skills and ability meet the requirements for such training.

This Council will not tolerate harassment within its workplace. Harassment is defined as any unwelcome, offensive action or remark concerning a person's race, colour, language, ethnicity, political or religious convictions, gender, family or marital status or disability.

It is acknowledged that sexual harassment is an expressed prohibition under the Act and similarly that too is defined as any unwelcome or offensive behaviour. The Council recognises the sensitive nature of such complaints and makes the commitment that any such complaints will be investigated with the utmost propriety and discretion. To this end it undertakes to maintain appropriate grievance procedures for the resolution of such complaints and to ensure that all contact officers have appropriate training in the management of such complaints.

**The way harassment, (whether sexual or otherwise) can be perpetrated may take many forms and this may include, but not exclusively so:-**

- **physical intimidation, touching, mocking or gesturing;**
- **threats both verbal and physical made in order to secure some behavioural co-operation or state of compliance by the harassed person;**
- **the inappropriate use of information technology including telephones and computers and in particular the use of e-mail or the internet to subject a person to sensory imagery that is not solicited by them and unwelcome to them;**
- **the public display of posters, photographs, screen savers and other art mediums when the item displayed or shown could be considered improper or offensive by any person or staff member employed by the City of Cockburn.**



The City of Cockburn also accepts that as a service provider to the community which it serves, that such service will be provided in a manner which complies with the Equal Opportunity Act and accordingly Council's staff shall be given instruction as to their rights and obligations under the Equal Opportunity Act; both as an employee and as a service provider. **However, just as the City of Cockburn declares its commitment to delivering its services in accordance with the Equal Opportunity Act, it also expects that staff too will be treated by the Community with the same respect. Accordingly, it will support any staff member who believes that they have been unfairly treated by any customer of the City of Cockburn.**

**The City of Cockburn is fully committed to the Equal Opportunity Act and all employees of the City of Cockburn must understand that if they knowingly contravene the Equal Opportunity Act or this policy, then they will face disciplinary action.**

**In accordance with the authority vested in the Chief Executive Officer by the Local Government Act to assume responsibility for all matters effecting the employment of staff within the City of Cockburn, he/she shall be empowered to adopt guidance notes or management plans which have been prepared in order to contribute to the sound and proper administration of this policy and they shall be read and applied in conjunction with this policy.**

**\* This Policy is subject to Delegated Authority (DA – A49)**

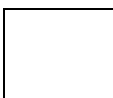
**CARRIED 3/0**

**Explanation:** Minor layout changes to the section relating to harassment were requested to enable the policy to be more easily understood.

## **Background**

For a number of years now, Council has applied an Equal Opportunity Policy and this policy is regularly reviewed and updated to ensure that it reflects all the provisions of the Equal Opportunity Act (1984), and changes in contemporary Human Resource Management standards.

Just recently the policy was again reviewed, so as to reflect the City of Cockburn's commitment to 'diversity' within its workforce, as well as applying a prohibition on staff using Council's Information Technology (IT) facilities to access pornographic and offensive material. The concern being that, this behaviour has the potential to compromise the City of Cockburn on matters such as sexual harassment.



This prompting the need to make some definitive statements about what is prohibited under this aspect of the policy.

The Policy concludes by reaffirming that it is the Chief Executive Officer who has the responsibility for ensuring that the policy is actioned and complied with, including the notation that should any person knowingly contravene the Equal Opportunity Act, or the Policy, then that person would face disciplinary action.

In the new recommended policy, those paragraphs that reflect these changes have been highlighted and these can be compared to the old or 'current' Policy, which is also attached for ease of comparison.

It is this revised policy that is attached for adoption by Council.

**Submission**

N/A

**Report**

As stated above.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

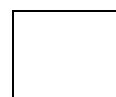
Nil

**75. (AG Item 13.2) (OCM1\_6\_1999) - WARD BOUNDARIES AND COUNCILLOR REPRESENTATION (1035) (DMG) (ALL WARDS)**

**RECOMMENDATION**

That :

- (1) Council engage the services of a Market Research Consultant to undertake an opinion survey of the District on the topics of



Councillor / Ward Representation, Method of Election of Mayor and Postal Voting;

- (2) the survey document be approved by Commissioners prior to the commencement of the research program; and
- (3) the Minister for Local Government be informed of Council's decision.

**COUNCIL DECISION**

MOVED Commissioner Jorgensen SECONDED Commissioner Smithson, that :

- (1) Council engage the services of a Market Research Consultant to undertake an opinion survey of the District on the topics of Councillor / Ward Representation, Method of Election of Mayor and Postal Voting;
- (2) the survey document be approved by Commissioners prior to the commencement of the research program;
- (3) the Minister for Local Government be informed of Council's decision;
- (4) prior to conducting the survey, Council staff initiate a balanced information dissemination campaign through the local media and Cockburn Soundings, to ensure the community is informed of the pros and cons of each of the issues to be covered in the survey.

**CARRIED 3/0**

**Background**

At its November 1998 Meeting, Council resolved to:-

- (1) take no action in respect of changing Ward boundaries at this stage, due to the insignificant effect any change would have on the current status;
- (2) consider the matter further in early 1999 following the preparation of a Report covering a variety of options open to Council, in accordance with Schedule 2.2 of the Local Government Act 1995, for possible implementation in time for either the 2001 or 2003 elections.



In addition, at its January 1999 Meeting, Council resolved to:-

- retain the present method of choosing the office of Mayor (by election by Members of Council), and; (by separate resolution);
- not to conduct the Local Government Elections to be held in the City of Cockburn in 1999 as Postal Elections nor declare the Electoral Commissioner to be responsible for the conduct of the elections. (A motion to conduct the elections by postal voting was lost due to a lack of a Special Majority of Council)

### **Submission**

N/A

### **Report**

In accordance with the November, 1998, decision of Council, and as a result of the current scenario involving the suspension of Council, it is now appropriate for the issue of Ward and Councillor Representation to be reviewed.

The Report referred to in the November, 1998, resolution is in the final stages of preparation and has examined those issues as highlighted in the attachments to the Agenda.

However, as a final check on the relevance of these issues to the views of the community, it is considered appropriate to conduct a survey of electors, prior to Council adopting a final position on this important issue.

It is proposed that a Market Research Consultant, with experience in conducting such surveys, be commissioned to undertake a random survey of the electors, similar to the manner in which the Community Needs Survey was undertaken during 1997/98.

It is expected that a concise draft survey form will be produced in conjunction with the appropriate senior staff, prior to being provided to the Commissioners for approval.

Once the final document is approved, the survey can be conducted on an equal random basis across the District, during August, 1999, with results likely to be available by October, 1999.

It is considered appropriate that the outcome of the public comment researched in this way would produce good information to be regarded alongside the detailed data to be provided in the Report currently being prepared.



In addition, there is an opportunity to seek the opinions of the community in regard to other issues recently deliberated by Council, these being the method of election of Mayor and the possibility of introducing Postal Voting, even though the merits of Postal Voting have been extensively documented as a result of the recent Council elections held throughout the State.

**Strategic Plan/Policy Implications**

Corporate Strategic Plan Strategies 1.12 and 1.14 refer.

**Budget/Financial Implications**

Funds available in A/C 500475 "Community Needs Analysis"  
Anticipated cost - \$20,000

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil

**76. (AG Item 13.3) (OCM1\_6\_1999) - LEGAL REPRESENTATION FOR PRESENT AND FORMER ELECTED MEMBERS AND STAFF OF THE CITY - POLICY A1.18 (1030) (RWB)**

**RECOMMENDATION**

That Council: -

- (1) adopt Policy A1.18 "Legal Representation" as attached to the Agenda; and
- (2) delegate authority to administer the Policy to the Chief Executive Officer.

**TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL**

**COUNCIL DECISION**

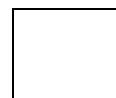
MOVED Commissioner Jorgensen SECONDED Commissioner Smithson, that Council: -

- (1) adopt Policy A1.18 "Legal Representation" as follows; and
- (2) delegate authority to administer the Policy to the Chief Executive Officer.



**Policy:**General Guidelines

1. The Council recognises a responsibility for the City to provide financial support for legal services for Members and employees in connection with an Inquiry in the circumstances set out herein.
2. Without the express authority of a resolution of the Council to the contrary, financial support will only be provided:
  - (a) to Members in connection with the performance by them of their duties as Members; and
  - (b) to employees in connection with the performance by them of their duties as employees of the City; and
  - (c) in any event where the Member or employee is not alleged or ultimately found to have acted illegally, dishonestly, against the interests of the City or otherwise in bad faith.
3. Without the express written authority of the CEO of the Council to the contrary, the legal services shall be provided by the City's solicitors.
4. The first approach for legal services by the City's solicitors, should be made to the CEO who may either himself make contact with the City's solicitors, or who may request that the Member or employee make contact direct.
5. Financial support for legal services will not be provided if it appears to the CEO or the City's Solicitors, that the provision of legal services to any member or employee may be in conflict with the interests of the City.
6. If a Member or employee proposes to seek financial support from the City for legal services within the scope of this Policy and the CEO is satisfied for reasons given to him, that it is not appropriate for the legal services to be provided by the City's solicitors, the CEO may authorise the Member or employee to obtain the legal services elsewhere, but in all ways, the provision of financial support shall be subject to the restrictions and constraints set out in this Policy.
7. The CEO should exercise his discretion as to whether he should make contact with any other solicitors in a case where the City's solicitors are not to be consulted, but in any case, nothing in this

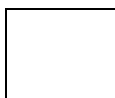


Policy is intended to represent that any person has authority to pledge the City's credit or otherwise commit the City to any liability to legal expenses whatsoever.

8. The CEO may in any case, seek a direction of the Council before committing the City to the payment of legal expenses.
9. Without the express authority of the Council, the cost of legal advice and/or representation to any Member or employee, shall not exceed \$3,000 in respect of any Inquiry.
10. The Council may give consideration to the provision of financial support exceeding \$3,000 in total, only if full details of the additional expense and the reason for it, are provided.
11. This Policy will not cover any expenses incurred prior to the adoption of this Policy and/or prior to the Member or employee obtaining written approval from the CEO, which may be only given for future substantiated expenses.
12. If because of an Inquiry, it becomes necessary for the CEO or any other employee of the City to do anything or make any decision and there is no question of the CEO or other employee being under investigation in that regard, then legal advice may be sought in the ordinary way without this Policy being applied.
13. Financial support for legal services will not be provided under the Policy where application is not made to the CEO in advance, unless the applicant demonstrates to the satisfaction of the CEO or the Council, that there were exceptional circumstances justifying a departure from the application procedure herein.
14. Financial support for legal services will only be provided under the Policy where the relevant expenses are incurred pursuant to an Inquiry referred to in Part 8 – Division 2 of the Local Government Act 1995.

Applications

15. A Member or employee seeking financial support for legal services under this Policy, shall: -
  - (a) make application to the CEO in writing;
  - (b) provide full details of the nature and extent of the legal services anticipated to be required and when they are required, or the services provided if application is not made in advance and in that case, the explanation for there being no application in advance must be provided;





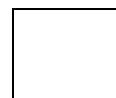
- (c) indicate if there is an element of urgency justifying provision of interim support
16. Where there is a need for urgent legal services before a decision can be made on the provision of financial support, the CEO may give a contingent authorisation which is subject to the application being both assessed and referred to the Council if appropriate.
17. Where the employee seeking financial support for legal service is the CEO, then the Mayor or person standing in place of the Mayor, shall have the same authority under this Policy, to deal with the application as the CEO has to deal with an application by any Member or other employee.

#### Repayment of Assistance

18. An indemnity or authority given under this Policy, or a contingent authorisation under clause 15 shall be and is hereby revoked, in the following circumstances: -
- (a) if in the Inquiry or otherwise, it is found that a person has acted illegally, dishonestly, against the interests of the City or otherwise in bad faith in connection with the matter for which the person was granted financial support or given contingent authority; and
- (b) all opportunities for appealing against or otherwise challenging that finding have been exhausted; or
- (c) information provided to the CEO in the application is materially false or misleading.
19. If under the preceding clause, the indemnity or authority or a contingent authorisation is revoked, then the person who sought or obtained the financial support shall be taken to have released the City absolutely from any liability to provide financial support and when called upon by the City, shall repay any moneys provided under the revoked indemnity, authority or contingent authorisation. The City shall take action to recover any such moneys in a court of competent civil jurisdiction and/or shall deduct such moneys from any allowance or salary payable by the City to the person.

#### Condition of Assistance

20. It is a condition of the application of this Policy to any person, that the person by signing a copy of the Policy, agrees to be



bound by its terms.

\* **This Policy is subject to Delegated Authority DA-A82**

**CARRIED 3/0**

**Explanation:** Some changes to points 2(c), 3, 5, 11, 15(a), 18(a) and 19 were considered appropriate to clarify the full intent of the Policy.

## **Background**

With the Minister for Local Government's decision to further inquire into the operations of the City, legal advice/representation may be required for present and former elected members and staff.

It is appropriate therefore for Council to consider a broad policy, which provides for legal representation.

## **Submission**

A requirement for financial assistance for legal advice has been received from: -

Clr L.P. Humphreys  
Mr J.P. Grljusich  
Mr M. Pecotic  
Mr J. Ostojich  
Mr J. Gianoli

## **Report**

The Departmental Inquiry under Part 8 - Division 1 of the Local Government Act 1995 into Council, has already resulted in legal expenses being incurred by former Councillors. Requests have been received for Council to accept the responsibility for the cost of legal representation for that inquiry and for the recently commenced Ministerial Inquiry under Part 8 - Division 2 of the Act.

The City of Joondalup and Shire of Wanneroo have adopted a policy, which sets down the guidelines for the provision of legal representation for present and former Councillors and staff. The policy was developed due to the inquiry into Wanneroo.

The City of Canning, which was also subject to investigation, did not provide any financial assistance for legal advice/representation for members or staff.



It is considered appropriate that Council adopt a policy which provides for financial assistance for legal representation for present and former Councillors and staff, whilst undertaking their Council duties.

It is important that the policy provides guidelines on the circumstances in which expenses would be met by Council, legal representation to be used, a process to be followed and the maximum assistance to be provided.

There are two types of inquiries under the Local Government Act.

The first, under Part 8 – Division 1, conducted by the Executive Director of the Local Government Department. This takes the form of an investigation to provide advice to the Minister as to what action he should consider in relation to the performance of a Council and whether or not he should instigate a further inquiry under Part 8 – Division 2 of the Act.

Based on the first inquiry, the Minister decided to suspend the Council and conduct a second legally based inquiry into the Council. This inquiry has commenced.

The decision by Council in respect to the proposed Policy, needs to consider whether an inquiry includes any inquiry such as a Departmental Audit, Ombudsman's inquiry or similar, or whether or not a Division 1 Inquiry and a Division 2 Inquiry under the Act, are to be treated the same or differently.

It is recommended that an inquiry for the purpose of the Policy, be restricted to an inquiry under the Local Government Act. In addition, the Policy should only apply to an inquiry undertaken by the Minister under Part 8 - Division 2 of the Act.

A Division 1 Inquiry is deemed to be an informal investigation, more in line with an audit, with the outcome being to advise the Minister. There is no formal legal process and therefore, there should be no requirement for legal representation.

Should a person seek legal advice under those circumstances, they do so of their own volition.

In the case of a Division 2 Inquiry, which is conducted by an Appointed Inquiry Panel and supported by Legal Counsel, there is the potential for legal representation to be required for a member or staff where allegations are made during the course of the inquiry.

Given this, the Policy should be limited to a Division 2 Inquiry under the Act.



If Council were of the view that Division 1 Inquiries should be included, a directive will be required as to whether the Division 1 and Division 2 Inquiries are to be treated as separate or joint Inquiries.

**Strategic Plan/Policy Implications**

The matter deals with the adoption of a new policy.

**Budget/Financial Implications**

The draft budget provides for \$100,000 for the cost of the inquiry including legal expenses.

Any expenses incurred will be drawn from this fund.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil

77. **(AG Item 14.1) (OCM1\_6\_1999) - PROPOSED CLOSURE OF PEDESTRIAN ACCESSWAY - BETWEEN SOUTH LAKE DRIVE AND PLACID COURT, SOUTH LAKE (450436) (PT) (EAST) (MAP 14)**

**RECOMMENDATION**

That:

- (1) Council seek the assistance of the Department of Land Administration (DOLA) to close the pedestrian accessway from South lake Drive and Placid Court, South Lake;
- (2) Council request DOLA to seek a valuation, taking into account the cost of any service relocation;
- (3) upon receipt of the above valuation, adjoining residents be requested to advise if they are prepared to purchase the land;
- (4) subject to the adjacent owner's agreement to purchase the land at the valuation provided by DOLA, Council request DOLA to finalise closure procedures;
- (5) in the event that the adjacent owners are not prepared to purchase the land, the accessway will remain open.



**COUNCIL DECISION**

MOVED Commissioner Smithson SECONDED Commissioner Jorgensen, that the recommendation be adopted.

**CARRIED 3/0**

**Background**

Council received a letter from residents requesting Council to investigate the closure of the walkway. These residents lived at properties that were directly adjoining the walkway.

It was resolved by Council at its Meeting held 28 April 1987 to close the pathway, with gates being placed at either end. The gates were supposed to be unlocked daily at 8:00 am and locked again at 5:30 pm by members of the South Lake Progress Association. Over time the gates have remained locked.

**Submission**

The main grounds for this closure stem from the increasing incidence of theft, people hiding in the locked pathway, break-ins, vandalism, drug use and anti social behaviour emanating from the locked walkway.

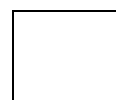
**Report**

There was no response from any of the 22 residents who live in the vicinity of the walkway and who were informed of Council's investigation into the possible closure of the pathway. This could be attributed to the fact that the pathway has been locked up and the gates **have not** been unlocked for well over a year.

Telstra has plant in the vicinity of the walkway and raises an objection to the proposal. The objection will be withdrawn where a 3m easement is created over their network in the vicinity of the proposal.

The Water Corporation also raises an objection as an existing water main is located within the closure. The main can be cut, capped and the reticulation system modified, relocated at a cost of \$2,030 (valid for three months from 17 May 1999) not including the cost of associated restoration works such as repairs to the footpaths.

Letters received from the other major Government Departments that provide services to the area advise that they have no objections to the proposal.



In most cases the closure of a pedestrian accessway will impact on the residents that live in the vicinity of the pathway. This is because the residents may rely on the access the pathway provides to pedestrians to services such as schools, shops and bus stops. This proposed closure is front of Tarndale Way, a road that leads directly to South Lake Primary School. Taking into consideration that the pathway has been locked up for over a year, the lack of responses from residents living in the vicinity of the accessway and the fact that Council has previously resolved to closed the pathway, it would appear that impact of the closure of the pedestrian accessway will be far less than the continual nuisance that emanates from the accessway.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil

78. (AG Item 14.2) (OCM1\_6\_1999) - PROPOSED BIBLE COLLEGE AND CHURCH - LOT 7 PRINSEP ROAD, JANDAKOT (5500006) (CC) (EAST) (MAP 19)

**RECOMMENDATION**

That Council:

- (1) refuse the application to develop a Church and Bible College on Lot 7 Prinsep Road, Jandakot for the following reasons:
  - 1. The proposal is not supported by the Water and Rivers Commission because the land is within the Jandakot Ground Water Protection Policy (SPP No. 6).
  - 2. The proposal would have a detrimental impact on the residential and rural amenity of adjoining and nearby landowners through additional traffic and associated noise and headlights, and by the size of parking area and bulk of the building proposed which is out of scale with adjacent residential and rural development.
  - 3. Approval to the proposal would create an undesirable precedent for developments of a similar scale to locate in



the Rural zone, which would collectively jeopardise rural amenity.

**COUNCIL DECISION**  
 MOVED Commissioner Smithson SECONDED Commissioner Jorgensen, that the recommendation be adopted.  
**CARRIED 3/0**

**Background**

ZONING:	MRS:	Rural-Water Protection
	DZS:	Rural (Proposed Resource zone Amendment 202)
LAND USE:	Undeveloped Rural land with 2 dwellings	
LOT SIZE:	8 hectares	
AREA:		
USE CLASS:	AA use Place of Public Worship	

Lot 7 is predominantly an undeveloped rural lot of natural bushland. It has not been identified in bush plan as regionally significant.

Two dwellings and associated structures exist in the middle of the site and in the north east corner.

The lots to the north and the east are rural lots and similar in character to the subject site being mostly natural bushland developed with a residence.

The lot to the south is zoned Public Purpose in TPS No. 2 and is occupied by the Alinta Gas depot.

The adjacent side of Prinsep Road has recently been subdivided for residential lots with some still being offered for sale. Behind these lots is the Glen Iris Golf Course.

Prinsep Road has ready access to the Kwinana Freeway via Berrigan Drive.

**Submission**

Application has been made to develop the front portion of Lot 7 for a Church and Bible College. See agenda attachments for site plan and elevations.



The physical and operational characteristics of the proposal are as follows:

- A main building with a floor area of 4070m<sup>2</sup> comprising a main hall and stage, foyer, youth hall and other facilities such as kitchen, toilets, and other special rooms;
- building height of 8.9 metres (outward appearance two storey);
- 1011 car parking bays.
- site coverage of development approximately 40 percent;
- balance of the site 60 percent retained as bushland;
- 8 full time staff;
- 2 Sunday services from 9:00am to 6:00pm;
- facilities to be used for work-shops, meetings and other activities from Monday to Saturday up to 9:00 pm and;
- site connected to sewer.

The applicant anticipates that Sunday services will attract up to 1000 people (500 cars) at the beginning. Meetings, workshops and activities from Monday to Saturday may attract smaller groups of possibly 15 to 50 people.

## **Report**

Council has resolved to rezone Rural and Special Rural land in Jandakot and Banjup (including Lot 7) to Resource zone to bring the Scheme into line with the MRS Rural-Water Protection zone and the WAPC SPP6 (Statement of Planning Policy No. 6-Jandakot Ground Water Protection Zone).

Under the Rural zone the proposed use is considered a Place of Public worship which is a discretionary use (AA use). Under SPP6 the use is not listed and there is a general presumption in the Policy not to allow such uses.

Council Policy (PD 43 Rural Water Protection Zone (MRS) Jandakot states that Council shall have due regard to the advice of the Waters and Rivers Commission.

The Waters and Rivers Commission does not support the proposal on the grounds that it increases potential for contamination to the priority two area of the Jandakot Underground Water Pollution Control Area.





Potential sources of contamination include storm water run-off from car park areas, fertiliser to maintain grounds and from a general intensification of use on site.

Current traffic volumes on Prinsep Road for Monday to Friday average 1760 movements and on Saturday and Sunday 400 to 500 movements.

Anticipated attendance of 1000 at each Sunday services is likely to generate 4 instances of intense traffic movement with a total of 2000 extra vehicle movements on Prinsep Road, and if ultimate capacity is reached, then increased by 4000 vehicle movements.

Traffic movements from Monday to Saturday are likely to be less intense but span most of the day up to 9:00 pm. Given the capacity of parking however, the potential for traffic movements to increase on these days is significant, especially for special events.

7 submissions of objection were received from nearby landowners. Concerns included increase traffic, scale of development, noise, youth vandalism, ground-water contamination, property devaluation and degradation of residential and rural amenity.

There are planning considerations for and against approval to the proposal.

### **For**

The scale of the building and the parking area is comparable to the adjacent Alinta Gas depot.

The proposed use is a discretionary use for which Council can consider approval.

The site has fairly ready access to Kwinana Freeway and traffic impacts mostly confined to residents on Prinsep Road with possible congestion problems at intersections on route to and from Kwinana Freeway.

The site can be connected to sewer. The potential for ground water contamination may be limited to stormwater run off containing oil and petrol from parking areas.

General community benefit derived from additional facilities in the locality.

### **Against**

The Water and Rivers Commission do not support the proposal on the grounds that it increase potential for ground water contamination from oil and petrol from car park areas.



There is a presumption against allowing uses not listed in SPP6 in the Ground-Water Protection Zone.

The proposal has potential to add up to 4000 traffic movements on Prinsep Road on Sundays, and may result in traffic congestion at intersections on route to and from Kwinana Freeway. Special events at the evening, or on weekends, have similar traffic generation potential. Use of the facility up to 9:00pm indicates an intermittent but regular flow of traffic throughout the day to and from the site. These additional traffic movements and associated impacts (noise and headlights) are likely to have a detrimental impact on the residential amenity of current and future residents on the adjacent side of Prinsep Road.

The facility is out of scale with the surrounding development, especially in comparison to adjacent residences and the rural land north and east. It is considered inappropriate for facilities of this size to locate in close proximity to residential and potential special rural type development.

Although the applicant has not indicated any intentions, at this stage, to expand or develop associated facilities on the balance of the land, it represents room to grow and if the current proposal were allowed, it may be difficult for Council to resist expansion proposals. Clearly, expansion would exacerbate potential negative impacts already discussed.

The proposal will affect the residential and rural amenity of nearby landowners.

It is considered the planning considerations against the proposal outweigh those in favour, accordingly the proposal should be refused.

**Strategic Plan/Policy Implications**

PD 43 Rural Water Protection Zone (MRS) Jandakot

**Budget/Financial Implications**

N/A

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil



**79. (AG Item 14.3) (OCM1\_6\_1999) - TENDER NO. 12/99 - INSPECTION OF PRIVATE SWIMMING POOLS (3211) (CP)**

**RECOMMENDATION**

That Council:

- (1) accept the tender submitted by Nicholls & Son Pty Ltd for Tender No. 12/99 - Inspection of Private Swimming Pools for an all inclusive price of \$25.00 for a maximum of three inspections per pool;
- (2) authorise the following persons to inspect private swimming pools within the District of the City of Cockburn for the purpose of ascertaining whether the requirements of Part 10 of the Local Government Act 1960, Building Regulations 1989, have been complied with as required by Section 245A(5) of the Local Government (Miscellaneous Provisions) Act 1960, namely:
 

Cyril Ernest Nicholls  
June Rose Nicholls  
Matthew Adam Nicholls
- (3) set the pool inspection levy at \$35 per pool owner based on the tender price together with Council's administrative costs.

**COUNCIL DECISION**

MOVED Commissioner Smithson SECONDED Commissioner Jorgensen, that the recommendation be adopted.

**CARRIED 3/0**

**Background**

Under Section 245A of the Local Government (Miscellaneous Provisions) Act 1960, Council is required to inspect all private swimming pools within the municipality on a regular basis so that not more than four years elapses between inspections.

Accordingly the next swimming pool inspection program must be completed by the 30th June 2000.

The swimming pool legislation requires private swimming pools to be inspected by authorised persons to ensure that pool fencing / gates and barriers comply with the Building Regulations.



The Local Government (Miscellaneous Provisions) Act 1960 allows a local government for a financial year to impose a uniform charge on all owners of properties with private swimming pools to cover the estimated cost of carrying out the inspections. The Building Regulations 1989 state that the charge shall not exceed \$50.

In response to requests from the Royal Life Saving Society and subsequent support from the WA Municipal Association, the Minister for Local Government introduced in November 1997 changes to the Local Government Act.

The changes introduced relate to the wording 'authorised officer' in Section 245A of the Local Government (Miscellaneous Provisions) Act. As a result the Local Government Act has been changed to read an 'authorised person' in the areas where 'authorised officer' previously appeared. The changes have now made it possible for Council to engage a private contractor to provide and undertake inspections of private swimming pools.

Accordingly, giving due consideration to the competition policy that now exists in local government and offering a cost efficient and quality service to ratepayers it was decided to put the inspection of private swimming pools within the municipality to tender.

## **Report**

The City of Cockburn called for tenders for the inspection of private swimming pools on the 14th April 1999. The tender closed on the 28th April 1999 which resulted in two tenders being submitted.

The tenderers were the Royal Life Saving Society and C E Nicholls and Son Pty Ltd.

Examination of the tenders has established that both have complied with the conditions of tendering and are capable of supplying the services for the inspection of private swimming pools in accordance with the tender specification.

Both tenderers have undertaken pool inspection services for other local authorities and have proven to complete the services with a high degree of compliance and professionalism. The plaudits from other local authorities in regard to the services provided by the tenderers is exemplary.

The tender required that the tenderers submit a price on a rates basis per pool inspection and provide a company profile and outline procedures and ability to provide the service.



The Royal Life Saving Society has tendered a price of \$32.95 per pool inspection. This price includes a follow up second inspection where required and a price of \$12.95 for any additional inspection. Based on approximately 2,500 pools to be inspected a total price of \$82,375 is established on two inspections.

Nicholls and Son Pty Ltd has tendered two prices for consideration, firstly a price of \$22.00 per pool inspection and \$22.00 for any additional inspection.

Based on approximately 50% of pools requiring a second follow up inspection, a total price of \$82,500 to inspect 2,500 pools is established.

The second of Nicholls and Sons prices is an all inclusive tender price of \$55,000 to undertake up to a maximum of three inspections per pool if required and associated matters. The above is based on a listing of 2,200 pools at \$25.00 per pool. As it has been established that approximately 2,500 pools exist an adjustment of the price on consultation with the tenderer arrives at a price of \$62,500. (\$25.00 per pool)

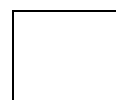
In establishing a pool levy charge on owners of properties with swimming pools the administration costs of Council must be taken into account. On examination and undertaking clarification discussions with the tenderers regarding which administration expenses are covered in the tender prices, the R.L.S.S. can reduce the estimated administration costs by approximately \$10,000.

Tabulating the estimated administration costs with the tender prices the following levy estimates are derived for each tenderer.

<b>R.L.S.S.</b>	<b>Nicholls &amp; Son</b>
Approx. \$38	Approx. \$35

In considering the tenders an examination of the tenderers' employee numbers, plant, training and knowledge of the relevant legislation was made. The Royal Life Saving Society demonstrated to have a superior resource base and training program for their pool inspectors. The RLSS have provided detail of a comprehensive pool inspector training program undertaken by their inspectors and a detailed prospectus of the Home Pool Education and inspection services that can be provided.

There is confidence that both tenderers can perform the service of inspecting private swimming pools to establish compliance. But with the sensitive nature of pool inspections, the ability of the tenderer to increase public awareness of the forthcoming inspections and providing education to the community, is seen as important in terms of reinforcing the objectives behind the inspection program. That being to prevent the tragic loss of young lives from drowning.



The RLSS have detailed examples of the public awareness strategies that would be employed and emphasised the Society's commitment to the community by the provision of additional services at no additional cost.

In summary the lowest priced tender provided is from Nicholls and Son Pty Ltd, and it is with confidence from referees that they can complete the pool inspection service to desired outcomes.

The Royal Life Saving Society have the ability to provide a value added service to the community at no cost, however, this service is outside the City of Cockburn's specification for the Inspection of Swimming Pools. The lowest pool levy inspection fee to be applied to pool owners is important in the selection of a tender. Accordingly, Nicholls and Son Pty Ltd is recommended to undertake the Inspection of Swimming Pools for the all inclusive tender price of \$25.00 per pool for a maximum three inspections per pool.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

The selection of a tender will have implications on the Pool Levy to be imposed.

Pool levy charge of \$35.00 per pool owner based on a full recovery of expenses which incorporates \$25.00 per inspection and \$10.00 for administration costs.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil

- 80. **(AG Item 15.1) (OCM1\_6\_1999) - REQUEST FOR FUNDS - KWINANA AIR BUFFER ZONE ACTION GROUP (9311) (ATC)**

**RECOMMENDATION**

That Council:

- (1) receive the request from the Kwinana Air Buffer Zone Action Group; and



- (2) advise the Group that Council:
1. is prepared to assist in the provision of Council owned venues for it to conduct public meetings by donating the hire cost to the Group, subject to the venue being available.
  2. is not prepared to be involved in either the distribution of leaflets or the provision of funds in support of the Association's campaign against the proposals contained in the FRIARS report because the Council, as a decision making authority, must remain impartial so that it can fairly represent the views of all its residents and ratepayers.

#### **COUNCIL DECISION**

MOVED Commissioner Jorgensen that:

- (1) Council honour the original offer of Council by providing \$3000 of financial support and acknowledge that there may have been some confusion; and
- (2) \$3000 be made available to conduct a Valuation Study on behalf of the City of Cockburn which will be incorporated into our submission and that a copy of that submission be made available to the K.A.B.Z. Group.

#### **MOTION LAPSED FOR WANT OF A SECONDER**

MOVED Commissioner Smithson SECONDED Commissioner Donaldson, that Council:

- (1) receive the request from the Kwinana Air Buffer Zone Action Group; and
- (2) advise the Group that Council:
  1. is prepared to assist in the provision of Council owned venues for it to conduct public meetings by donating the hire cost to the Group, subject to the venue being available.
  2. is prepared to allocate \$3000 towards the provision of the Valuation Report sought by K.A.B.Z. and that a copy of that report be made available to the K.A.B.Z. Group.



CARRIED 2/1

**Explanation:** It was agreed that Council should honour its previous commitment however, it was noted that Council should be mindful that contributing to any body, could create some sort of precedent.

### **Background**

In its 1997/98 Budget Council allocated \$5,000 on a dollar for dollar basis to assist the K.A.B.Z. Action Group pay for the cost of a professional submission, on behalf of property owners with the Kwinana Air Buffer Zone, relating to the FRIARS discussion paper of March 1997. A claim for a contribution of \$2,002.23 was subsequently made by the Group which was paid on 1 September 1997. The unspent funds were not carried forward to the 1998/99 Budget.

### **Submission**

A letter has been received from the Chairman of the K.A.B.Z. Action Group requesting funds to assist in the preparation of a submission on the FRIARS Draft Strategy released in March 1999 with public submission closing on 30 June 1999. The Chairman states that the group was under the impression that the undrawn balance (\$2,997.67) of Council's original allocation (\$5,000) was still available to the group to use. He is aware that these funds were not carried forward to the 1998/99 budget. He further states that the Group "obviously should have made representations to you in the intervening period but we did not foresee an almost two year delay". He states that the funds are still required and appeals to Council to reinstate the undrawn balance (\$2,997.67) in Council's 1999/00 Budget.

### **Report**

The Council is well aware of the FRIARS draft report and the recommendations contained in it.

There has been a great deal of public concern and involvement in this study, particularly the residents and landowners in the Wattleup and Hope Valley localities.

The Council's Planning Department has prepared comprehensive submissions on the FRIARS proposals and this has been available to the public and because of this has been distributed widely.

The Council is concerned about the implications of the report in particular the impact of the buffers, the industrial rezoning and





transportation proposals on the Wattleup community, and also the localities of Henderson and Munster.

The view of the Planning Department is that the Council should remain neutral in respect to its community position although it has the right and obligation to determine its own position in respect to the study in its role as the responsible planning authority for the City of Cockburn. Its position may well be similar to that of the Group.

The reason why it is important not to become aligned with one group of ratepayers within the community on this or any other issue, is because as a community decision maker it should not only be independent but be seen to be independent where it may be required to make a fair and unbiased decision in respect to matters that effect the overall community.

For the Council to provide moral or financial assistance to one group could be seen to compromise it in any future decisions it may need to make in relation to this matter.

In view of this, the Council could quite clearly be able to provide venues for the Group to meet and conduct its public or network meetings, but not become involved in leaflet distribution or the provision of funds.

It should only become actively involved in the matter if it is prepared to distribute leaflets for both the "for" and "against" case, and have control over the accuracy of the information that is being disseminated. If it contemplates becoming financially involved, then again it should provide equal funds to support the "for" and "against" case.

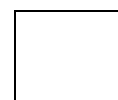
Usually when one side of an issue gains support from a statutory authority such as a local government, the recipient often gains heightened expectations that the authority will support them in the end, even when this may not be possible for a variety of unforeseen reasons or changed circumstances.

Council's position above is consistent with its decision in August 1997 not to provide funds to the Wattleup Citizens' Association to undertake a program of opposition of FRIARS. Council was prepared however to assist by providing free venues to conduct public meetings.

### **Strategic Plan/Policy Implications**

N/A

### **Budget/Financial Implications**



Any cost of venue hire will be off-set by income to Council halls, therefore there will be no overall effect on Council's budget. Council will be required to provide a donation for the use of the facility. The cost is unknown because the venues and the number of occasions is not determined.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil

**81. (AG Item 16.1) (OCM1\_6\_1999) - LEACHATE TREATMENT PLANT - OPERATIONS CONTRACT (4900) (RNJ)**

**RECOMMENDATION**

That Council, pursuant to Regulation 11(2) part "f" of the Local Government Act (Function and General) Regulations:-

- (1) extend the annual operations contract of QED Australia Pty Ltd for a further 12 months commencing 1st June 1999 without inviting public tenders; and
- (2) accept QED Australia Pty Ltd treatment rate of \$3.75/m<sup>3</sup> which maintains the current rate under the revised contract conditions.

**COUNCIL DECISION**

MOVED Commissioner Smithson SECONDED Commissioner Jorgensen, that the recommendation be adopted.

**CARRIED 3/0**

**Background**

Following the successful commissioning of the Leachate Treatment Plant at Henderson Landfill in February 1998, quotations were sought from 3 operators for its ongoing operation. QED Australia were chosen because they were the cheapest, had the necessary qualified personnel and had chemical and biological supply contracts in place. It was also seen as beneficial to both parties that QED Australia could further develop their process to suit the leachate conditions at Henderson Landfill.



The plant has now been successfully operated by QED Australia for the past 12 months treating approximately 11,500m<sup>3</sup> of leachate at a cost of \$3.75/m<sup>3</sup>.

### **Submission**

N/A

### **Report**

Council's Waste Services have drafted a revised operations contract with the assistance of Halpern Glick Maunsell to address minor problems arising over the past 12 months. These changes related to improved monitoring of leachate and bore water at the Henderson site and improved maintenance of the infiltration basin. It was also felt that the implementation of an ammonia probe in lieu of daily litmus testing for this analyte was necessary given the occurrence of several out of specification readings for the treated effluent in regard to the concentration of ammonia.

QED Australia agreed to maintain their rate of \$3.75/m<sup>3</sup> for the following 12 months under the revised contract conditions. Given that Cell 1 has now been capped and Cell 2 is expected to be capped by the end of this year, Waste Services would expect to treat less leachate in the next 12 months than that previously treated.

Consequently, the 1999/00 operations contract value is expected to be less than \$40,000. However, it may be more than this and even exceed \$50,000 dependent upon the quantity treated. Therefore it is considered that Council consider the implications of the Function and General Regulations.

Given the unique nature of this chemical/biological process and the current need for QED Australia to re-commission the plant so that it will be operational for this winter, it is felt that it will not be beneficial for City of Cockburn to call for tenders for this work. Under regulation 11(2) part "f" of the Local Government Act (Function and General), City of Cockburn can exempt from being required to invite public tenders on the basis that given the "unique nature of the service it is unlikely that there is more than one potential supplier" capable of re-commissioning and operating the plant.

Accordingly, it is proposed to accept QED Australia's rate of \$3.75/m<sup>3</sup> for treatment of the leachate generated at Henderson Landfill site for a further 12 months commencing 1st June 1999.



### **Strategic Plan/Policy Implications**

The need to effectively manage the risk of leachate contamination of the groundwater is fundamental to Council's Strategic Plan and DEP's monitoring of the Landfill Site.

### **Budget/Financial Implications**

Adequate funds are available to meet the balance of treatment costs expected this financial year and further funds have been allocated for treatment in 1999/00.

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil

82. **(AG Item 16.2) (OCM1\_6\_1999) - TENDER NO.13/99 - UPGRADE OF ADMINISTRATION BUILDING AIRCONDITIONING EQUIPMENT (4602; 4463) (JR) (WEST)**

#### **RECOMMENDATION**

That Council:

- (1) accept the tender from AMEC Engineering Pty Ltd for Tender No. 13/99 - Upgrade of Administration Building Air Conditioning Equipment in the sum of \$122,648 for the base upgrade;
- (2) fund the shortfall in Account No. 115750 "Administration Centre - Airconditioning System Upgrade" for the base upgrade project from the Council's Reserve Fund "Major Buildings Refurbishment" and the Budget be amended accordingly;
- (3) accept the additional price of \$47,778 from AMEC Engineering Pty Ltd for Tender No. 13/99 to upgrade the equipment servicing Council's formal areas, being the second stage in upgrading the Administration Centre air conditioning equipment; and
- (4) fund the additional price to upgrade the equipment servicing Council's formal areas from the Council's Reserve Fund "Major Buildings Refurbishment" and the Budget be amended accordingly.

**TO BE PASSED BY AN ABSOLUTE MAJORITY OF COUNCIL**



**COUNCIL DECISION**

MOVED Commissioner Jorgensen SECONDED Commissioner Smithson, that the recommendation be adopted.

**CARRIED 3/0**

**Background**

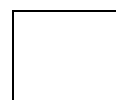
There is an allocation of \$125,000 on the current Budget to upgrade the airconditioning equipment servicing the office areas in the older (northern) part of the Council's Administration Centre. Consequently, Council's mechanical services consultant, De Saxe Adams and Associates Pty Ltd, have developed plans and specifications in this regard. Accordingly, to streamline the tender process, Registrations of Interest were invited from suitably qualified and experienced air conditioning contractors to tender on the upgrade of the air conditioning equipment. Fourteen (14) contractors registered their interest in undertaking the project.

Under delegated authority extended to the Director - Engineering & Works by Council and the Chief Executive Officer under Section 3.57 of the Local Government Act (1995) and pursuant to Section DA-F5 of the City of Cockburn Delegated Authority Register, tenders were then invited from the following contractors who registered their interest:

- AMEC Engineering Pty Ltd
- Airtech Pty Ltd
- Atlas Building Services Pty Ltd
- Australian Airconditioning Services Pty Ltd
- Centigrade WA Pty Ltd
- Designair Group
- Direct Engineering Services Pty Ltd
- Envar Engineers and Contractors Pty Ltd
- Haden Engineering Pty Ltd
- HVAC Construction Ltd
- Jako Industries Pty Ltd
- Mechanical Project Management Pty Ltd
- Scott Mechanical Services Pty Ltd
- T O'Connor

**Submission**

Ten (10) submissions were received at the close of tender, details of which are shown in the attachment.



## Report

Based on the criteria of financial capacity, resources (management, labour, plant and equipment), experience in similar projects, ability to complete works on program and track record, Council's consultants for the project, De Saxe Adams and Associates, had no reason to eliminate the lowest tenderer, AMEC Engineering. AMEC Engineering are a Quality Endorsed Company. The scope of work included in AMEC's pricing has been confirmed, complies with the tender specifications and is acceptable.

The tender called for providing 3 prices for the project: -

1. Base Upgrade Price includes upgrading the air conditioning system servicing the office areas in the old section of the Administration Building. It involves the replacement of the main evaporative condenser (water tower) with roof mounted air cooled condensers, two new compressor sets, commissioning of a Direct Digital Control (DDC) System for desktop management of the air conditioning system and all associated works.
2. Additional Price Formal Areas is the price to upgrade the air conditioning system servicing the occasional formal Council areas in the old section of the Administration Building. It includes the conversion of the 3 existing package units from water cooling (the second water tower) to air cooling, DDC System operation and all associated works.
3. Additional Price Heater Banks involves replacing of the duct heater banks servicing the formal areas due to age and the possibility of deteriorating duct insulation linings.

The current Budget allocation of \$125,000 for the project was based on undertaking the works in the Base Upgrade Price inclusive of all consultant fees and on-costs. Additional prices were obtained as the competitive nature of the tender may allow the extra works to be considered.

The works in the Base Upgrade Price will involve short-term disruption of up to 4 weeks to staff working conditions, particularly with noise and air conditioning. Noise disruption would also occur for the Formal Areas' work. Consequently, the consultant recommends that, if finance is available, both these works be carried out concurrently to reduce disruption and to maintain the competitive pricing. He also recommends that the Heater Banks works be held over pending further investigation during the upgrading works as these works can be carried out with minimum disruption at a later date.



If AMEC Engineering is engaged to undertake the Base Upgrade and Formal Area works, then the Budget requirements are as follows: -

• Base Upgrade Price	122,648
• Additional Price Formal Areas	47,778
• Consultant Fees	17,043
• On-costs	1,704
• Contingencies	5,827
	<u>195,000</u>

Consequently, there would be a shortfall in the order of \$70,000 on the current Budget to undertake the work as recommended.

It is considered that AMEC Engineering should be engaged for the base upgrade and the formal area upgrade of the air conditioning system. The shortfall should be funded from Council's Reserve Fund for Major Buildings Refurbishment, which was specifically established for such upgrades.

**Strategic Plan/Policy Implications**

N/A

**Budget/Financial Implications**

The project as recommended can be funded if adequate funds are transferred from the Major Buildings Refurbishment Reserve Fund. A transfer of about \$15,000 would still be required if only the base upgrade is proceeded with.

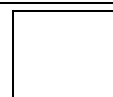
**Implications of Section 3.18(3) Local Government Act, 1995**

Nil

- 83. (AG Item 16.3) (OCM1\_6\_1999) - TENDER NO. 9/99 - SALVAGE AND RECOVERY RIGHTS - HENDERSON LANDFILL SITE (AS) (4433) (COASTAL)**

**RECOMMENDATION**

That Council accept the tender of \$3,800 submitted by Clinton John Scott for Tender No. 9/99 - Salvage and Recovery Rights - Henderson Landfill, for a period of one year with the option of extending for a further year following review of this operation.



**COUNCIL DECISION**

MOVED Commissioner Smithson that:

- (1) Council not award a tender at this stage;
- (2) as a matter of urgency, the Director Engineering & Works prepare a Code of Practice for the recycling operation, centering particularly on the safety issues;
- (3) the recycling operation cease until the Code of Practice is developed;
- (4) once the Code of Practice is developed, it be monitored for one month and after that month, a report be prepared to Council on whether the operator is complying with the Code; and
- (5) the report be presented to Council for further consideration and to determine whether the operation should be re-tendered.

**MOTION WITHDRAWN**

MOVED Commissioner Smithson SECONDED Commissioner Jorgensen, that:

- (1) Council not award a tender at this stage;
- (2) as a matter of urgency, the Director Engineering & Works prepare a Code of Practice for the recycling operation, centering particularly on the safety issues;
- (3) once the Code of Practice is developed, it be monitored for one month and after that month, a report be prepared to Council on whether the operator is complying with the Code; and
- (4) the report be presented to Council for further consideration and to determine whether the operation should be re-tendered.

**CARRIED 3/0**

**Background**

At the Council meeting held on 25 May 1999 the acceptance of Tender No. 9/99 was deferred to allow Patricks Recycling to discuss their submission with Council staff.





**Submission**

N/A

**Report**

The Acting Landfill Supervisor has had further discussions with Mr Humphries of Patricks Recycling. The documentation submitted has also been examined by Council staff.

Patricks Recycling was created in the past 8 months. Georges Recycling started operating at the Henderson Landfill Site on a trial basis and Patricks Recycling have taken over.

Patricks Recycling have taken a month by month lease of premises in Wellard Street. The material they sell at those premises comes from the tip site.

They also collect aluminium cans, steel cans etc. which they sell to the buyers of that material.

Five letters were submitted by Patricks Recycling from their customers. These letters state they use the shop to purchase low price goods and state that Patricks is doing a good job. They supported Mr Humphries getting the tender so he could keep being employed.

Mr Humphries also supplied a letter. One of the sentences states:

*"With regard to experience, given time and opportunity to operate in a legal and businesslike manner we will have gained the experience that Council requires."*

The Acting Landfill Supervisor has been dealing with this organisation over the past 5 months and they do not have extensive experience in running a business.

After considering Patrick Recycling's further submissions it is still recommended that the tender be awarded to Clinton John Scott.

This recommendation is based on:

- (1) the tenderer's 12 year involvement with a similar contract at Gosnells.
- (2) the references from the Gosnells Council staff that Clinton John Scott has always been reliable and efficient.
- (3) the tenderer can show he has markets for a wider range of material including white goods.
- (4) the site at Gosnells has closed so there will be no competing operation at that site.



- (5) the tenderer has undertaken to degas all refrigerators brought to the site.
- (6) as an experienced operator there is expected to be less involvement by Council staff.

**Strategic Plan/Policy Implications**

Recycling of household waste is an important component of Council's Waste Minimisation Policy.

**Budget/Financial Implications**

There is no cost to Council from this proposal.

**Implications of Section 3.18(3) Local Government Act, 1995**

Nil

**84. (AG Item 24.1) (OCM1\_6\_1999) - RESOLUTION OF COMPLIANCE (Section 3.18(3), Local Government Act 1995)**

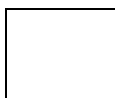
**COUNCIL DECISION**

MOVED Commissioner Jorgensen SECONDED Commissioner Smithson, that Council is satisfied that resolutions carried at this Meeting and applicable to items concerning Council provided services and facilities, are:-

- (a) integrated and co-ordinated, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- (b) not duplicated, to an extent Council considers inappropriate, services or facilities as provided by the Commonwealth, the State or any other body or person, whether public or private; and
- (c) managed efficiently and effectively.

**CARRIED 3/0**

MEETING CLOSED AT 9:15PM



**CONFIRMATION OF MINUTES**

I, ..... (Presiding Member) declare that these minutes have been confirmed as a true and accurate record of the meeting.

Signed: ..... Date: ...../...../.....

