



CITY OF BAYSWATER

MINUTES

FOR THE

ORDINARY MEETING

OF COUNCIL

12 May 2009

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CITY OF BAYSWATER

Minutes of the Ordinary Meeting of the Bayswater City Council which took place in the Council Chambers, City of Bayswater Civic Centre, 61 Broun Avenue, Morley on Tuesday, 12 May 2009.

MINUTES

1 OFFICIAL OPENING

The Acting Chairperson, the Deputy Mayor, Cr Michael Sabatino, welcomed those in attendance and declared the meeting open for the ordinary business of Council at 6:00pm.

**2 RECORD OF ATTENDANCE, APOLOGIES, LEAVE OF ABSENCE
(PREVIOUSLY APPROVED)**

COUNCIL RESOLUTION

CR TERRY KENYON, JP MOVED, CR SYLVAN ALBERT SECONDED that the following Attendance and Apologies and Leave of Absence (Previously Approved) be accepted:

2.1 Attendance and Apologies

Members

Central Ward

Cr Michael Sabatino, Deputy Mayor *Acting Chairperson*
Cr Barry McKenna

North Ward

Cr Ian McClelland, JP
Cr Mike Anderton, JP

West Ward

Cr Terry Kenyon, JP
Cr Terry Blanchard *(From 7:04pm)*

South Ward

Cr Sonia Turkington
Cr Sylvan Albert

Officers

Ms Francesca Lefante	Chief Executive Officer
Mr Des Abel	Director of Planning and Development Services
Mr Andrew Ward	A/Director of Administration and Community Services
Mr Doug Pearson	Director of Technical Services
Mr Ted Budzinski	Director of Finance
Mr Martyn Boyle	Public Relations Officer
Ms Debbie Todorovich	Executive Assistant
Mrs Nola Patricia	Mintes & Agenda Coordinator
Mrs Raylene Vucens	PA – Director of Administration and Community Services

Apologies

Cr Sally Palmer

Observers

1 Press

20 Public

2.2 Leave of Absence (Previously Approved)

Cr Marlene Robinson	7 May 2009	-	21 May 2009 inclusive.
Cr Lou Magro	22 April 09	-	13 May 2009 inclusive
	24 May 2009	-	27 May 2009 inclusive.
Cr Sonia Turkington	24 May 2009	-	28 May 2009 inclusive.
Ms Francesca Lefante	24 May 2009	-	27 May 2009 inclusive.
Cr Terry Blanchard	28 May 2009	-	7 June 2009 inclusive.

CARRIED

3 PUBLIC QUESTION TIME

In accordance with Section 5.24 of the *Local Government Act 1995*, time is allocated for questions to be raised by members of the public.

Preamble and personal statements are placed on file, but do not form part of the minutes. Only public questions are included.

<p>Public Question Time commenced at 6:02pm. The following questions were submitted both in writing and verbally:</p>

A copy of Council's written response to Mr Ian Walters, 124 Lawrence Street in relation to questions he asked at the Ordinary Council Meeting dated 28 April 2009 can be located at **Appendix 1**.

At 6:03pm, Cr Barry McKenna withdrew from the meeting, as he has a financial interest to be declared later in the meeting dealing with the item Mr Vos is to discuss.

1. Mr Bill Vos, 6 Young Street, Bayswater

Question 1: (Verbal)

Apparently the Catholic Education Commission came forward and asked for a seven day building approval timeline? Is that correct?

The Chief Executive Officer advised that the City has received two pieces of correspondence, one is from the State Government in relation to the referral period for Council's to deal with schools and the other is a letter from the Catholic Education Department acknowledging receipt of funding for four (4) schools through the stimulus package.

The Director of Planning and Development Services further advised that the State Government correspondence received stated that Council has seven days to comment on the public works, which has placed pressure on the City's Officer's dealing with this project. He further advised that the City is currently trying to extend this timeline and is currently in negotiations with the State Government on that issue.

Question2: (Verbal)

If their stuff doesn't abide by the normal rules and building approval with regard to you know heights etc, and distances from fences. We know there is a long history of them wanting to go way beyond what is normal rules, what happens to the seven day turn around? How do people, residents, and I've been severely affected over the years by what they've actually done. How will I get to comment and reply to anything within seven days?

The Chief Executive Officer advised that Mr Vos was correct is saying that the seven day comment period for Council will limit any opportunity for consultation. She further added that the advice the City has received is that in certain instances SAT will continue to determine the applications whether or not they have received any comment from Council, however that this matter will be brought back before Council once further information is received.

Question 3: *(Verbal)*

Why was Chisholm College allowed to work until 8:00pm, with compaction and earth moving equipment. This went on until after 8:00pm actually, I rang the Ranger a couple of times, I rang West Ward Councillors a couple of times, the ones that I could contact, but nothing actually changed. The person who was in charge of the works came over and saw me. I rang the builder, as well, who was in charge of the operation, the chap who was in charge came over and said "Look we've got to keep working, because the school wants this finished." Now for the previous two and a half weeks, during the school holidays and certainly into the first week of school, everyday we had compaction. From early in the morning until, well a full day, every day. Now what I'd like to know is what consideration has Chisholm College got for its nearby residents in terms of going outside of the normal rules and regulations? Across the road we have a couple that are 88 years old, and the whole night their whole house was shaking, everything on the shelves was shaking, because they are quite close, we could hear the noise and our stuff was shaking until after 8:00pm and I think its really unfair. So if you're having it for two and half weeks and then late at night. Why did the Rangers, when they knew about it, I started ringing them, why did they not stop this work immediately?

The Acting Chairperson, the Deputy Mayor, Cr Michael Sabatino advised that there is a timeframe that workmen cannot breach.

Mr Vos went on to say that the Rangers only stopped the work from continuing after he had called them again after 8:00pm and advised that if they did not stop the work from going on that he would go and say something.

The Chief Executive Officer advised that she had been contacted by a number of people, including Cr Terry Kenyon, JP in relation to this incident to which she advised the City's Ranger and Security Services to attend the site and cease the works under the City's Local Laws. To the Chief Executive Officer's recollection this was done prior to 7:00pm and it was followed up the next day. She further advised that she would provide written information to Mr Vos as to why the work continued to operate even after the Rangers had attended the site. Furthermore, they have been advised that they must abide by their conditions of approval and the City's building requirements and confirmation has been received that this will not continue.

Mr Vos went on to say that he appreciates the Council's response to this incident, however that he felt it was a pre-meditated act as there were lights set up early in the morning in preparation for night works. He further stated that he was hoping to get an apology from the builder rather than always having to go through the Council.

The Acting Chairperson, the Deputy Mayor, Cr Michael Sabatino advised that this matter would be followed up.

A copy of the information received in relation to this incident can be located at **Appendix 2**.

At 6:09pm, Cr Barry McKenna returned to the meeting.

2. Mr Tony Green, Bayswater City Residents Association (Inc), PO Box 1639, Morley WA 6943

Question 1:

Is Council aware of the very deep dip containing a manhole on King William Street, immediately upon turning from Whatley Crescent and heading towards the underpass? This dip needs some serious attention before there is a road accident or damage to a vehicle.

The Acting Chairperson, the Deputy Mayor, Cr Michael Sabatino advised that this comment has been noted and will be further investigated.

A copy of Council's written response can be located at **Appendix 3**.

3. Mr Nigel Becroft, 194 Salisbury Street, Bedford

Question 1:

What can be done to stop parents and children at St Peters Primary School, from walking down the middle of Clement Street, between Roseberry Street and Salisbury Street, during school pick-up and drop-off times. It is usual to see Mums/Dads with prams and children in tow negotiating this narrow and busy street (at this time), to the T intersection as Salisbury Street when it is very congested with cars either side of the road. Currently there is free parking anywhere, no parking bays or restrictions, or footpaths.

The Acting Chairperson, the Deputy Mayor, Cr Michael Sabatino advised that he has investigated this situation personally as Mr Becroft had sent an email to Councillors on the issue, he believes that there is not a great deal that the Council can do other than address this matter through the school's headmaster regarding the duty of care the school has with regards to the safety of its pupils/parents going to and from school. He further stated that he would have the City's Officer's investigate the options for footpaths and parking bays and that this matter would be considered during upcoming budget deliberations.

A copy of Council's written response can be located at **Appendix 4**.

4. Mr Harvey Tonkin, 31 Deschamp Road, Noranda

Question 1: (Verbal)

This first question is directed toward the Chief Executive Officer. I was reading the reply to Mr Alan Radford and in the second last paragraph it says "I have also been made aware that the PRO [Public Relations Officer] has been subjected to intermittent instances of personal abuse, directed at him from behind whilst sitting at the press bench". I've been coming to quite a few meetings and I don't seem to recall that there have been anyone doing that to the Public Relations Officer, so I just wondered where it came from?

The Chief Executive Officer advised that as this matter relates to a staff member that she would not provide a response at this time, but rather would be happy to speak to Mr Tonkin after the meeting in regards to these comments.

Question 2: *(Verbal)*

The next question relates to Section 5 ‘Conduct of Elected Members and Employees’. Section 5.1 ‘Personal Behaviour’ – (a) Part 4 – Elected Members should refrain from any form of conduct in the performance of their official or professional duties which may cause any reasonable person unwarranted offense or embarrassment. Last meeting that we had here, there were a few of the public gallery, because the meeting was closed, as the confidential items were being discussed we were outside having a cup of tea and coffee and one of the Councillors came out and I found his, well not just me, other people we found his conduct unprofessional, very abrupt and very aggressive and I just felt that it didn’t sit within the Code of Conduct that you people abide by. I mean the last comment was “I’m calling the police”.

The Acting Chairperson, the Deputy Mayor, Cr Michael Sabatino advised that he was not present when this particular incident took place and there are certain avenues that a complaint of this nature can take.

The Chief Executive Officer further advised that under the Code of Conduct there are matters that are for discussion for Councillors directly or through the Mayor, as the representative for the Council. She further stated that there are separate matters under the Local Government Act that can be taken up through the Department of Local Government.

Mr Tonkin went on to say that he would like a response to his complaint.

*The Acting Chairperson, the Deputy Mayor, Cr Michael Sabatino advised that he was not present during the alleged incident that the matter would need to be further investigated. A copy of Council’s written response can be located at **Appendix 5**.*

5. Mr Ian Walters, 124 Lawrence Street, Bedford

Question 1:

Thank you Mr Acting Mayor. I refer to the City’s Plan for the Future 1st July 2008 to 30th June 2012 and in particular Core Activities Rangers. Service Performance Measures Item 1 and I quote “To ensure parking controls in the various parking schemes located throughout the City are in accordance with the provisions of Councils Local Parking Laws.” Mr Acting Mayor, would you please outline how the City intends to measure this aspect of the Plan thus enabling ratepayers to accurately gauge performance level attained?

The Acting Director of Administration and Community Services advised that Rangers do go out and carry out the City’s Parking Local Laws, this is done through a number of avenues, one is through general public concerns/complaints being raised through the Rangers and Security Services Department or through Councillors themselves, but also on their regular patrols. There is no particular figure that the City measures against particular performance.

Mr Walters went on to say that he fails to see how a Plan can operate without having a performance measure that can be identified. If you’re going to go out and do certain patrols you have to have an objective and how it is to be measured. I have this continual problem, for 20 months I’ve been coming here about the parking in Lawrence Street, Bedford and I’ve sent in numerous correspondence and nothing happens, so therefore I would like to know what you’re going to do about it and it’s as simple as that. And if the overall Plan can’t identify it what’s the point in having the Plan? The measurement is your criteria. Key Performance Indicators.

The Acting Chairperson, the Deputy Mayor, Cr Michael Sabatino advised that this matter would be further investigated and that he would request that the Ranger and Security Services Department make regular patrols of this area.

Mr Walters went on to say that today 23 vehicles were illegally parked and it's taken him 20 months he's been told that there is no problem in the Street.
A copy of Council's written response can be located at **Appendix 6**.

6. Mrs Pat Lim, 1 Johnson Road, Maylands

Question 1:

The City of Bayswater has identified five key focus areas which best represent our Corporate Values and reflect the heart beat of our unique organisation. We seek to instil the following values into all we do:

- 1) Organisational Well Being.
- 2) Money Management.
- 3) Continuous Improvement.
- 4) Safety.

What is the fifth value?

The Chief Executive Officer advised that this matter would be investigated and the City's website amended immediately.

Question 2: *(Part Written/Part Verbal)*

Could some repair be made to the banner in 8th Avenue that has been flapping around for the past 8 weeks. I've been talking about these broken and flapping banners since January, why is that I have to constantly come here and tell you about this issue, there are two Councillors in that area and they don't do anything about it. We could run without the Councillors.

No comment was made in reference to this question. The matter will be referred to the Director of Finance for further investigation.

A copy of Council's written response can be located at **Appendix 7**.

7. Matthew Collard, 143 Salisbury Street

Question 1: *(Verbal)*

I was just wanting to seek some clarification. I submitted a written deputation for last Tuesday's Briefing meeting and it has come to my knowledge that unfortunately only part of that was relayed to the Councillors. I attached two documents, one was the written deputation and the other was the stock standard submission letter by St Peters Primary School. I was wondering why that letter wasn't presented to the Councillors at last Tuesday's meeting?

The Chief Executive Officer advised that to her recollection the information had been distributed at the Briefing Session. The Acting Chairperson, the Deputy Mayor, Cr Michael Sabatino advised that this document was handed out.

8. Ms Rowena Catchatoor, 174 Rosebery Street,Question 1: *(Part Written/Part Verbal)*

I would like to know why this playing field (Craven Street & Grand Promenade) is left in a mess with lots of rubbish after the football clubs use this on Tuesday, Wednesday, Thursday and Friday. I myself pick up rubbish there every day, I have picked up items ranging from shoes, babies bottles, dirty nappies, glass and even a used condom near the sandpit that the children use. Are these clubs aware of the littering fine and if something could be done to get them to put their rubbish in the bins.

The Acting Chairperson, the Deputy Mayor, Cr Michael Sabatino advised that the clubs are aware of the terms of their lease which states that they are to keep these areas clean and rubbish free. He further mentioned that it isn't practical for individual staff members to police these areas, however that he would ensure a letter is written to the relevant Club president advising him of these concerns and to reinforce on what the lease states.

Ms Catchatoor further asked if littering signs could be erected on the grounds.

The Acting Chairperson, the Deputy Mayor, Cr Michael Sabatino advised that these comments are acknowledged and will be investigated.

A copy of Council's written response can be located at **Appendix 8**.

Public Question Time was closed at 6:24pm.

4 APPLICATIONS FOR LEAVE OF ABSENCE

4.1 Applicant: Cr Mike Anderton, JP

File: 3.1.6.1

Cr Mike Anderton, JP requested leave of absence from 18 May 2009 through to 19 May 2009 inclusive.

COUNCIL RESOLUTION

CR SYLVAN ALBERT MOVED, CR SONIA TURKINGTON SECONDED that Leave of Absences be granted as follows:

Cr Mike Anderton, JP 18 May 2009 - 19 May 2009 inclusive.

CARRIED

5 CONFIRMATION OF MINUTES

5.1 Ordinary Meeting : 28 April 2009

CR SYLVAN ALBERT MOVED, CR MIKE ANDERTON, JP SECONDED that the Minutes of the Ordinary Meeting of Council held on Tuesday, 28 April 2009 which have been distributed, are to be presented for confirmation as a true and correct record.

CARRIED

6 DISCLOSURE OF INTEREST SUMMARY**6.1 Disclosures at Briefing Session****COUNCIL RESOLUTION**

CR SONIA TURKINGTON MOVED, CR TERRY KENYON, JP SECONDED that the following disclosures at Council Briefing Sessions be accepted:

In accordance with Section 5.60A and 5.65 of the *Local Government Act 1995* the following disclosures of financial interest were made at the meeting:-

Nil.

In accordance with Section 5.60B and 5.65 of the *Local Government Act 1995* the following disclosures of proximity interest were made at the meeting:-

Nil.

In accordance with Clause 34C of the *Local Government (Administration) Regulations 1996* the following disclosure of interests affecting impartiality were made at the meeting:-

Date	Name	Item No.
5 May 2009	Cr Barry McKenna	13.1 - Status of Application for Appeal/Review – Proposed Child Care Centre

CARRIED

6.2 Disclosures at Council Meetings**COUNCIL RESOLUTION**

CR SONIA TURKINGTON MOVED, CR MIKE ANDERTON, JP SECONDED that the following disclosures at Ordinary Council Meetings be accepted:

In accordance with Section 5.60A and 5.65 of the *Local Government Act 1995* the following disclosures of financial interest were made at the meeting:-
Nil.

In accordance with Section 5.60B and 5.65 of the *Local Government Act 1995* the following disclosures of proximity interest were made at the meeting:-
Nil.

In accordance with Clause 34C of the *Local Government (Administration) Regulations 1996* the following disclosure of interests affecting impartiality were made at the meeting:-

Date	Name	Item No.
12 May 09	Cr Barry McKenna	13.1 - Status of Application for Appeal/Review – Proposed Child Care Centre

CARRIED

7 URGENT BUSINESS

Nil.

8 PETITIONS

- 8.1 The Acting Chairperson, the Deputy Mayor, Cr Michael Sabatino tabled a petition containing 48 signatures from the residents and shopkeepers of Eighth Avenue, Maylands with the head petitioner being Mr David Morris of 3/16 Eighth Avenue, Maylands re: Killing of Birds in Maylands.**

A copy of this document can be located at **Appendix 9**.

9 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

**10 NOTICE OF MOTION FOR CONSIDERATION AT THE FOLLOWING
MEETING IF GIVEN DURING THE MEETING**

Nil.

11 BUSINESS – ADMINISTRATION AND COMMUNITY SERVICES**COUNCIL DECISION - EN BLOC RESOLUTION**

CR SONIA TURKINGTON MOVED, CR IAN MCCLELLAND, JP SECONDED to en bloc the Officer / Committee recommendations of Item 11.1 through to 11.3, Item 12.1, 12.2, 12.5, 13.2 and Item 15.1 through to Item 15.4.

11.1 Generations Centre - Family House For Community Youth Project

File No: SLA/20-96
Officer: Director of Administration and Community Services
Refer: Item:14.18, OCM: 26.08.08

CONFIDENTIAL ITEMApplication

To consider the renewal of the 2 Year Lease Agreement with Generations Centre – Family House for Community Youth Project at 96 Slade Street, Bayswater for another two (2) years.

In accordance with Section 5.23(2) of the *Local Government Act 1995*, the meeting is closed to members of the public for this item as the following sub-section applied:

- (b) The personal affairs of any person.

Voting Requirements

Simple Majority Required.

COUNCIL RESOLUTION**(OFFICER'S RECOMMENDATION)**

CR SONIA TURKINGTON MOVED, CR IAN MCCLELLAND, JP SECONDED the Officer recommendation that:

- 1. The Lease Agreement with the Generations Centre - Family House For Community Youth Project be approved for an extension of another two (2) year period from 31 May 2009 to the 1 June 2011 under the same lease provisions/conditions stipulated in the previous lease agreement. (New Draft – Lease Agreement - Refer to Attachment 3)**
- 2. The report from the Generations Family House for Community Youth Project for Community Youth be received.**

CARRIED BY EN BLOC RESOLUTION

11.2 Flying of Model Aircraft

Attachments: [1. WARS Application](#)
[2. WARS Further Clarification](#)
File No: 18.1.9
Officer: A/Director of Administration and Community Services
Refer: OCM : 24 June 2008 / 11.5.3

Application

To consider an application from the WA Radio Soarers Inc. to fly remote controlled model aircraft from reserve space within the City of Bayswater.

Background

Council at its Ordinary Meeting 24 June 2008 considered an application from a model shop operator to fly radio controlled model aircraft from Hillcrest Reserve:

“CR MARLENE ROBINSON MOVED, CR TERRY KENYON, JP SECONDED that the application be refused on the basis that the public may make the assumption that Council has approved Upper and Lower Hillcrest Reserve for the use of remote control model planes and that other owners of model planes may not have public liability insurance.”

An application was submitted to Officers in December 2008 by the WA Radio Soarers Club to use Riverside Gardens to fly model aeroplanes. Within the consideration process of that application it transpired that the site was within a 4km no-fly zone of Perth Airport. As a result the application was withdrawn and the club undertook a search for an alternative venue.

The WA Radio Soarers Inc. is a radio controlled Model Aircraft club consisting of approximately 140 members. The club has been established for more than 35 years and operates out of Yokine Reserve in the City of Stirling. A newly formed club has applied to use Yokine reserve and the City of Stirling have indicated to the WA Radio Soarers that they have accepted the new clubs request and as such the WA Radio Soarers are required to find a new venue.

In April 2009 WA Radio Soarers identified Lower Hillcrest Reserve within the City as a potential location to fly model aircraft. The large open space was deemed a suitable size by the club who wish their application to be considered by Council. **(Refer to Attachment No. 1)**. Recreation Officers requested further information relating to the application, which has been provided. **(Refer to Attachment No. 2)**

The WA Radio Soarers only fly unpowered gliders or electric powered model aircraft – the weight limit for any craft is 7 kilograms. They do not fly free flight models, models powered by internal combustion motors, or models powered by jet turbines. Their members are covered by public liability insurance and the club employ a high level of risk management.

The club has over 140 members however not all members fly at the same time. The club experiences a high membership turnover with many members not flying on a regular basis. It is anticipated that between 15 and 30 participants, depending on weather conditions fly at any one time.

Currently there are no other model flying clubs operating in Perth on Council managed land. Most clubs either fly on private land or lease the land from Local Government or public authorities as airfield space. There are nineteen (19) clubs operating within the metro area. Whiteman Park is home to a number of model flying clubs and is an established venue within the locality.

Comment

An application has been submitted to the City of Bayswater by WA Radio Soarers Inc. to operate on reserve space within the City of Bayswater on a Saturday morning within the times of 9:00am – 1:00pm.

The City of Bayswater has no policies in place relating to the flying of remote controlled aircraft.

Incidents have occurred in the past, which have been reported to Rangers and Security, where members of the public have been flying model aircraft from reserves within the City in what has been perceived by other users as dangerous and or inappropriate.

The City of Bayswater is compact geographically being 31 sq km, with a high concentration of residential housing especially around reserves and public open space. Although the club requires a space of approximately 100 meters x 100 meters to operate within stated guidelines and procedures, only a small number of reserves could offer the space requested without impacting on other formal or casual reserve users.

The only suitable reserve space that could be considered which falls outside of the stated 4km exclusion zone from Perth airport would be:

- Hillcrest Reserve
- Lightning Park
- Noranda Sports Complex
- Arbor Park

Environmental Health Officers have been consulted regarding the application and have concerns relating to the potential impact of noise pollution. WA Radio Soarers have guidelines and control measures in place, however Environmental Health have indicated that the WA Radio Soarers would have to undertake an acoustic assessment engaging independent consultants, providing a report to Officers considering the noise impact on nearby residents which includes options to mitigate any potential noise nuisance.

A designated flying space within the City would provide the wider community with opportunities to participate in a popular pastime eliminating the risk of unauthorised rogue flying across the City. Only four reserves have been identified as potentially suitable flying venues, however, all four reserves are busy throughout the year with both formal and informal users.

Council may wish to consider the following options or provide an alternative option:

- Reject the application from WA Radio Soarers Club for the use of remote controlled model aircraft.

- Council grant permission for the WA Radio Soarers to operate from Lower Hillcrest or another identified suitable reserve on Saturday mornings from 9:00am to 1:00pm in line with the clubs stated guidelines and procedures and subject to satisfying Environmental Health requirements.
- Introduce a policy that bans the use of remote controlled aircraft across the City of Bayswater, with the exception of an approved identified space. Rangers could then direct operators of radio controlled flying aircraft to a designated space within the City.

Financial Implications

The City may be exposed to claim if a preventable incident occurred on Council owned or managed land.

Voting Requirements

Simple Majority Required.

COUNCIL RESOLUTION

(OFFICER'S RECOMMENDATION)

CR SONIA TURKINGTON MOVED, CR IAN MCCLELLAND, JP SECONDED the Officer recommendation that:

- 1. The application from WA Radio Soarers Club for the use of Lower Hillcrest Reserve for flying of remote control model planes is refused.**
- 2. WA Radio Soarers Club be advised that the Council does not support the use of any reserves within the City of Bayswater for flying of remote controlled model planes on the basis of public safety.**
- 3. A policy be prepared to prohibit any model aircraft clubs access to the City's parks or reserves for the flying of remote controlled model planes.**

CARRIED BY EN BLOC RESOLUTION

11.3 Status Report - Civil Action

File No: 16.5.8
Officer: A/Director of Administration and Community Services

Application

Provide Council with a status report on Civil Action against Graffiti offenders based upon Council's resolution on 10 February 2009.

Background

At the Ordinary Meeting of Council on the 10 February 2009, Council resolved:

"That:

1. *Council endorses the WALGA 29 January 2009 Zone Meeting Resolutions to pursue civil action against graffiti vandals those being;*
 - a) *That this Zone meeting acknowledge and support the proposal of the City of Bayswater to pursue civil action against graffiti vandals; and*
 - b) *That this Zone meeting request that WALGA raise awareness amongst WA Councils of the possibility of taking civil action against graffiti vandals. In addition, that WALGA research and disseminate information regarding the approach taken, benefits accrued, overall results achieved and experiences of local governments in other States that have taken such civil action.*
2. *The City of Bayswater may take civil action against graffiti vandalism as have been implemented by other Local Governments and a report be brought back to Council within four weeks."*

To develop strategies to combat graffiti and graffiti offenders the Mayors and Chief Executive Officers of Bayswater and Stirling have met to discuss resource sharing and explore opportunities that exist for both Cities.

One example was a covert operation (Cerberus) with City of Stirling and Police which lead to nine juveniles and four adults being warned or charged over a series of incidents relating to underage graffiti, causing graffiti, carrying graffiti implements, underage drinking and carrying a concealed weapon; a flick knife.

Operation Cerberus is the first of its kind in metropolitan Perth and was undertaken to tackle increased incidences of graffiti and anti-social behaviour in the Inglewood, Mt Lawley, Bedford and Morley areas.

Comment**City of Bayswater and Stirling meeting**

The Mayors and Chief Executive Officers of Bayswater and Stirling met on 12 March 2009 and discussed strategies and initiatives that have worked well in the individual Council and future steps the two Councils can take to reduce graffiti incidents within the localities and apprehend graffiti offenders.

A summary of actions that resulted from the meeting were:

- Information sharing regarding Legal advice concerning civil action.
- Arrange meeting with Minister for Police to convey Bayswater and Stirling concerns.

- Arrange meeting with Office of Crime Prevention to convey Bayswater and Stirling concerns.
- Stirling to provide information on their Graffiti reporting and reward system.
- Sharing of prevention strategies for graffiti and promotional initiatives for graffiti reporting and community engagement.
- Continue to explore joint operations with police and both Bayswater and Stirling security services.
- Identification of cases that Council may pursue Civil action against.
- Explore joint media awareness program against graffiti.

Joint Graffiti Operation

The City of Bayswater and Stirling as well as the Police, will conduct another joint Graffiti operation over a three week period in April 2009, focussing on known Graffiti hotspots. The operation will involve four (4) vehicles and focus on the areas of Morley, Bayswater, Dianella, Bedford, Inglewood and sections of Maylands and Bayswater.

The Manager of Rangers and Security will be coordinating the operation and has implemented procedures to obtain the required information to instigate civil proceedings should any graffiti offenders be apprehended.

Civil Action pursued

As per 10 February 2009 Council resolution, Officers have investigated the possibility of progressing civil action against those warned or charged in Operation Cerberus. Legal opinion was obtained and advises that the City would have a greater success rate if it pursues offenders that were convicted by the courts as the burden of proof is already established and therefore Civil Action has a greater likelihood of success.

Following considerable investigation which include liaison with Morley, Bayswater and Mirrabooka Police Stations, the Office of Crime prevention, Police analysts, the Police Regional Superintendent and the District Court Registry Office the details of the operation obtained were:

- 1 x Adult Charged for Graffiti Vandalism
18 year old male
Fined \$1,000 by the Courts
Ordered to pay restitution to two business operators
Name not available on public record
- 2 x Juveniles Summons
Name and details not available on public record

Given the above outcomes the City is unable to pursue Civic Action in this instance, however Officers will continue to investigate future opportunities that arise from the apprehension of graffiti offenders.

Voting Requirements

Simple Majority Required.

COUNCIL RESOLUTION
(OFFICER'S RECOMMENDATION)

CR SONIA TURKINGTON MOVED, CR IAN MCCLELLAND, JP SECONDED the Officer recommendation that the status report be received and officers continue to pursue Civil Action against Graffiti offenders.

CARRIED BY EN BLOC RESOLUTION

12 BUSINESS – TECHNICAL SERVICES**12.1 EMRC Resource Recovery Facility****Attachments:** [1. EMRC Resource Recovery C'tee Report 16.04.09](#)**File No:** 15.1.11**Officer:** Director of Technical ServicesApplication

To allow Council consideration of the East Metropolitan Regional Council's (EMRC's) proposed Expressions of Interest (EOI) process for a Resource Recovery Facility.

Background

Officers from the EMRC attended the Council Briefing Session of 7 April 2009 and provided a presentation on the proposed EOI and subsequent tender process for a Regional Resource Recovery Facility.

A Resource Recovery Facility would involve an alternative waste processing treatment with the ultimate aim of reducing waste to landfill. Waste Minimisation is being advocated at both State and Federal level with numerous strategies and legislation such as the *Waste Avoidance and Resource Recover Act (2007)* and the *Carbon Pollution Reduction Scheme (2010)*.

In essence, Councils will be compelled to reduce waste to landfill via various forms of legislation and cost disincentives for landfill operations. These triggers are also coupled with growing community environmental awareness which will dictate more sustainable waste disposal. Initial community consultation has indicated that residents within the region are prepared to pay extra for alternative waste treatment.

A number of technologies are available for this purpose such as:

- Anaerobic Digestion;
- Gasification/Pyrolysis;
- Combustion; and
- Plasma.

The intention of the EOI process is to identify companies and technologies that may meet the needs of the region in terms of minimising waste to landfill.

The EOI process will involve the selection of suitable tenderers and if the EMRC resolves to go to tender, these suitable tenderers will be invited to submit a tender.

In terms of the EOI/Tender process, there are a number of key decision points at which the process can be stopped should the EMRC not wish to proceed.

The key decision points are as follows:

- Pre EOI – April 2009
- EOI Report – August 2009

- Pre Tender (Post Environmental Approval) – March 2011
- Post Tender (Pre Award) – June 2012

At the meeting of the EMRC Resource Recovery Committee held on 16 April 2009, the Committee recommended that the EMRC proceed to Expressions of Interest and it is anticipated that this recommendation will be adopted by the EMRC at their meeting scheduled for 30 April 2009. A copy of the relevant report is enclosed as ***(refer to Attachment No. 1)***.

Following the presentation by EMRC members to Council, a number of issues with the proposed process were raised by City staff. In order to seek clarification on these issues, a meeting was convened between the EMRC representatives (Acting Chief Executive Officer, Manager Project Development and Consultant – John King), the Council members on the EMRC (His Worship the Mayor, Cr Albert, Cr McKenna – Deputy) and Senior staff (Chief Executive Officer, Director of Finance and Director of Technical Services).

The issues raised at this meeting and the EMRC responses are detailed below:

Issue 1: Should formal Member Council resolutions to proceed to EOI be sought?

- Ensures that all members are committed to RRF at this stage

EMRC Comment

The recommendation to RRC on 16 April 2009 is **not about committing to an RRF at this stage**. That only comes when we have called for and evaluated Tenders in 2011 and proposed a recommendation on the preferred Tenderer.

The EOI is the start of the tender process to gather information which will be used to find acceptable tenderers and help the EMRC make decisions on the siting, preferred technology types and the contract model before calling for tenders.

Because it is a “continuing service” within the definition of the EMRC Establishment Agreement, it was decided to brief member Councils and seek EMRC approval as part of our usual consultation process of involving the EMRC and the member Councils in key decisions on the project. A report on the EOI Process was considered by the Resource Recovery Committee and subsequently by Council in February 2009, which detailed this process and associated timeline.

None of the other member Councils has expressed a desire for a member Council resolution and the RRC recommendation was supported by a majority of 9/2 on 16 April 2009.

If the City of Bayswater requires a resolution from their Council to support proceeding with the EOI then it is possible to do so at its meeting on 28 April and to then reflect those views at the EMRC Council meeting on 30 April. The EMRC is more than happy to continue to assist the City of Bayswater on any matters in relation to the RRF EOI process.

Issue 2: Are these potential obligations if EMRC withdraws from EOI?

- Concern that tenderers may have some claim if process stops or EMRC and participating Councils may claim against a Council that wishes to withdraw.

EMRC Comment

The EMRC has previously taken advice from Kott Gunning Lawyers on the EOI process which formed the basis of the February 2009 report to the Resource Recovery Committee and Council and whilst the advice on the issue of liability in withdrawing from the process at various stages was verbally conveyed to us we have requested that they formalize that in writing to assist the EMRC in responding to the City of Bayswater queries (confidential written advice was tabled at the meeting).

Issue 3: What are the ramifications of withdrawing from RRF?

- **Withdrawal from a continuing service**
- **Potential cost imposition on remaining member Councils**

EMRC Comment

The process for withdrawing from a continuing service is outlined in clause 9 of the EMRC Establishment Agreement (1998). This question is somewhat connected to question 5 in relation to the use of a Participants Agreement

The EMRC would need to seek legal advice on this matter at the appropriate time however it has always considered that if and when an alternative waste treatment plant is commissioned, the same gate fee would apply to member Council waste presented to the RRF or landfill. That way no member Council would be advantaged or disadvantaged.

Issue 4: Concern over timing of process

- **Technologies are largely unproven in the Australian context. Many facilities are not operating as originally anticipated, resulting in much higher costs to participants.**

EMRC Comment

This is a generalisation. In Australia there are several examples of proven technologies:

- Seven (7) or more composting facilities operating or being commissioned – SITA (MRC, Port Stephens, Cairns, Liverpool in Sydney), Atlas, SMRC, Coffs Harbour, Rethmanns (Port McQuarie)
- Four (4) anaerobic digestion facilities operating or being commissioned (Eastern Creek, Arrowbio-(Jacks Gully, Sydney), EarthPower (Camellia, Sydney), Anaeco (Shenton Park).
- Pyrolysis pilot plant (Best Energies, Gosford NSW).

Overseas there are numerous examples of all technology types – composting, anaerobic digestion, gasification, pyrolysis, incineration, plasma. This has occurred in particular because of government initiatives like the EU Landfill Directive, which progressively bans putrescible waste from landfill and because of government incentives to encourage waste to energy technologies, reducing carbon emissions and at the same time generating reliable and renewable energy.

The EMRC database has 35 technology providers with proven technologies on our type of waste, many of whom responded to our Request for Information in September/October 2009.

There will always be technology development because this is a business. The starting point for the EMRC does not have to wait until something “better” comes along. The proving of new technologies often takes a long time and many do not reach the status of proven commercial technology. Anaeco have taken 9 years to reach where they are now which is the proving point of their technology.

- **Greater responsibility from State Government required in Waste processing**

The WARR Act (2007) recognizes the role of local governments and regional councils to collect and treat waste. There is no suggestion at this stage that the State Government or the Waste Authority would play a greater role other than setting waste reduction targets and using economic instruments like the land fill levy to promote landfill diversion and resource recovery. Other states have a slightly different approach.

Issue 5: Participants Agreement

- **Is it proposed to have a participants agreement signed by member Council’s prior to final selection of a tender?**

EMRC Comment

It is anticipated to have an agreement, the terms of which will depend on the ownership model adopted and other relevant considerations arising from the EOI process as part of the project planning recommendations.

- **If so would it not be better to treat this as a new project, which requires appropriate business plans and member ratification with associated community consultation.**

This will be considered after the EOI process as part of the Members Agreement.”

Comment

In general, the comments and assurances given at the recent meeting between the EMRC representatives and Council representatives have satisfied the majority of concerns raised by Council officers.

It should also be noted that a draft EOI document has been reviewed and the documentation clearly states the potential for stopping the process should the EMRC not wish to proceed.

As the EOI is being undertaken as a continuing service under the EMRC Establishment Agreement, there is no need for a formal Council commitment at this stage.

As previously stated, the purpose of proceeding to EOI and possibly tender is to ascertain relative information on available waste treatment options. This information will also eventually facilitate the preparation of a comprehensive business plan to ultimately allow Council consideration of whether to participate in the project or not.

Without this level of information, it would be extremely difficult, if not impossible, for member Councils of the EMRC to proceed towards alternate waste treatment and the associated waste minimisation.

Policy Implications

Nil.

Financial Implications

Advice received, indicates that there are no financial implications for Council at this stage.

Voting Requirements

Simple Majority Required.

COUNCIL RESOLUTION

(OFFICER'S RECOMMENDATION)

CR SONIA TURKINGTON MOVED, CR IAN MCCLELLAND, JP SECONDED the Officer recommendation that the report on the EMRC Resource Recovery Facility be received.

CARRIED BY EN BLOC RESOLUTION

12.2 House Unfit for Human Habitation

File No: ROB-19
Officer: Manager Environmental Health

CONFIDENTIAL ITEM

Application

Council's approval is sought to issue an Unfit for Habitation Notice upon the owner of a premises in Morley as provided under Section 135 of the *Health Act 1911 (as amended)*.

In accordance with Section 5.23(2) of the *Local Government Act 1995*, the meeting is closed to members of the public for this item as the following sub-section applied:

- (b) The personal affairs of any person.
- (d) Legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.

Voting Requirements

Simple Majority Required.

COUNCIL RESOLUTION
(OFFICER'S RECOMMENDATION)

CR SONIA TURKINGTON MOVED, CR IAN MCCLELLAND, JP SECONDED the Officer recommendation that in respect to 26 Robinson Road, Morley:

- 1. A Notice be issued under Section 135 of the Health Act 1911 (as amended) declaring the dwelling unfit for habitation and is to be no longer occupied.**
- 2. A Notice be issued under Section 137 of the Health Act 1911 (as amended) directing the owner to take down and remove the house within sixty (60) days from the date of issue of the Notice.**
- 3. Should the owner fail to comply with a Health Notice served upon them, then under the provisions of Section 140 of the Health Act 1911 (as amended) Council will carry out the terms of the notice and recover all expenses incurred from the owner.**
- 4. A Notice be issued under Section 3.25 of the Local Government Act 1995 to remove all the disused materials and rubbish from the property.**

CARRIED BY EN BLOC RESOLUTION

12.3 Parking Embayment - Beaufort Street, Bedford

Attachments: [1. Item 12.1 OMC 24.02.09](#)
[2. Drawing No. 1/05](#)

File No: BEA-16

Officer: Director of Technical Services

Refer: Item 13.2.5 OMC 27.07.04
Item 13.2.1 OMC 25.01.05
Item 13.2.2 OMC 24.10.06
Item 12.1 OMC 24.02.09

Application

For Council to consider the deferred report (*refer to Attachment No. 1*) on the modification of the parking embayment in Beaufort Street (between Nelson Street and Salisbury Street, Bedford) as depicted on Drawing No. 1/05 (*refer to Attachment No. 2*).

Background

At the Ordinary Meeting of Council held on 24 February 2009, Council resolved that:

“This item be deferred pending the outcome of a meeting to be held with the Mayor, the three West Ward Councillors, the Chief Executive Officer, the Director of Technical Services and the four affected land owners and lessees.”

Cr Kenyon, the Chief Executive Officer, Director of Technical Services and Technical Manager met onsite with the affected owners and lessees on 24 March 2009. The Director of Technical Services outlined the reasons for the meeting and explained the safety issues with the vehicles parking in the embayment. The owners and the lessees strongly expressed their dissatisfaction with any proposal that would see the removal of the embayment and put forward options that would see the retention of the embayment. These included:

- (i) realignment of Beaufort Street further north to address the sight obstruction issue at the embayment;
- (ii) undertake traffic management in the section of Beaufort Street ie. install speed cushions to reduce the speed of the traffic; and
- (iii) retain one drop-off/pickup bay in the embayment.

Comment

As outlined in the previous report to Council, the sight obstruction caused by vehicles parking in the embayment in Beaufort Street can not be addressed by modifying the location of the embayment and removal is necessary.

The options put forward by the owners/lessees have been assessed and the following comments are provided:

- The realignment of Beaufort Street further north is considered possible, however, very costly. The existing kerb line would need to move further north by approximately 5 metres at Salisbury Street. This would see the road traverse across part of Remembrance Park and in close proximity to the war memorial. Besides the realignment of the road, there would also be the cost of relocation of services and the existing illuminated entry statement. The City would also require approval from the State Government for accession of part of Remembrance park for road widening and this could be problematic.
- The option of undertaking traffic management in the section of Beaufort Street is not recommended based on the classification of the road. Beaufort Street is a major road providing access between the Morley Regional Centre and the Perth Central Business District. The suggested installation of speed cushions to reduce the speed of vehicles on a road of this type to retain the embayment is seen as an extreme measure and a definite detriment to the majority of motorists that utilise Beaufort Street. A reduction in the speed limit would also require MRWA approval and given the justification this is considered improbable.
- The retention of a one 2 minute drop off and pickup bay in the embayment (western end) would still pose a problem with vehicles parked there obstructing vision for motorists exiting Nelson Street. However, based on the 2 minute time restriction and reduced length of the embayment, the level of risk would be significantly reduced.

Considering all of the above, it is still recommended that the entire embayment be removed to address the issue of vehicles parking there obstructing vision. This option offers the highest level of safety, however, it is the least desirable for the businesses involved. Of the three options put forward by the owners/lessees, two are not viable and the third which recommends the retainment of one 2 minute drop off/pickup bay does not address the sight obstruction entirely, however, has the potential to reduce the level of risk due to the anticipated reduced time of occupation of the bay. Given that the bay has been in existence for a considerable time period with a high level of risk, the reduction in risk level associated with the 2 minute restriction may be acceptable to Council.

Policy Implications

Nil.

Financial Implications

Currently, there is \$18,000 in the 2008/2009 Budget to undertake works previously approved.

Voting Requirements

Simple Majority Required.

Council Discussion:

Discussion was held on reducing the risk of sight lines associated with the parking embayment on Beaufort Street, Bedford. Council resolved to do this by implementing a 2 minute drop off/pickup restriction, placing appropriate signage and informing adjacent businesses of this change.

Officer's Recommendation

That the parking embayment in Beaufort Street (between Nelson Street and Salisbury Street), Bedford be removed and adjacent businesses be advised of the reasons for the removal.

LAPSED (NO MOVER/SECONDER)

COUNCIL RESOLUTION

CR TERRY KENYON, JP MOVED, CR BARRY MCKENNA SECONDED that Council:

- 1. Reduce the risk relating to limited sight lines associated with the parking embayment in Beaufort Street (between Nelson Street and Salisbury Street), Bedford, by modifying the embayment and implementing a 2 minute drop off/pickup restriction, with appropriate signage, for patrons of the adjacent businesses.**
- 2. Advise the adjacent businesses of the reasons for the modifications.**

CARRIED

12.4 Traffic Management - Milne Street, Bayswater

Attachments: [1. Plan](#)
File No: MIL-4
Applicant: P & L Markovic - 98 Milne Street, Bayswater
Officer: Director of Technical Services

Application

For Council to consider the traffic study report for Milne Street, Bayswater.

Background

In March 2009, the Council was presented with a 55 multi-signatory petition from residents living in sections of Milne Street between Guildford Road and Riverside Gardens.

The petition stated the following:

“Petition for increased access to Riverside Gardens from Guildford Road, Bayswater

Petition summary and background: After the recent introduction of the playground equipment at Riverside Gardens and the increased popularity of the dog exercise area, along with expanding number in Rowers and Kayakers, traffic along Milne Street has increased dramatically. We as residents of Milne Street are concerned that the development of a café/restaurant/kiosk at Riverside Gardens and the development of further land in Leake Street will further increase the traffic along our once quite street.

Action Petitioned for: We the undersigned are concerned citizens who urge our leaders to act now. We would like the City of Bayswater to put into consideration alternative access to the Riverside Gardens precinct from Guildford Road.”

The section of Milne Street between Guildford Road and Riverside Gardens is approximately 800 metres long. It provides direct access to Guildford Road and the Riverside Gardens West. Three cross streets (Williamson Street, Frinton Street and Neville Street) intersect the road which for the most part is undulating. There are Stop sign traffic controls at Guildford Road, Williamson Street and Frinton Street. A plan detailing the area is (**attached**).

A Traffic survey was recently undertaken in the street and is included in the following table with previous historical data from 1986.

YEAR	LOCATION	AVERAGE WEEKDAY TRAFFIC VOLUME	85 TH PERCENTILE SPEED
<i>August 1986</i>	<i>North of Williamson Street</i>	<i>780</i>	<i>-</i>
<i>March 2009</i>	<i>South of Neville Street</i>	<i>892</i>	<i>50 km/hr</i>
<i>April 2009</i>	<i>South of Neville Street</i>	<i>856</i>	<i>48 km/hr</i>
<i>April 2009</i>	<i>South of Frinton Street</i>	<i>725</i>	<i>53 km/hr</i>
<i>April 2009</i>	<i>South of Williamson Street</i>	<i>610</i>	<i>53 km/hr</i>
<i>April 2009</i>	<i>South of Guildford Road</i>	<i>752</i>	<i>48 km/hr</i>

Traffic data for Saturdays and Sundays in March and April 2009 shows an average 1,337 vehicles per day on a section of road south of Neville Street. In the same location during the PIAF Floating Films event on Sunday, 8 March 2009, 2,161 vehicles were recorded and 3,656 vehicles during the Autumn River Festival.

Comment

Considering the results of the traffic surveys undertaken in March and April 2009 in the street, average weekday traffic volumes are well within acceptable limits for Milne Street. The speeds are also acceptable based on the 50 km/hr limit of the road even though they are slightly higher at two of the locations. The low 85th percentile speed is not surprising as the road is broken up by the Stop signs.

The volume of traffic in the street does increase on normal weekends (1,337 vehicles on average) due to utilisation of the river and the reserve for recreation. During the special events, the volumes are much higher as indicated by the results. Overall, the traffic on the road during weekdays and weekends is considered quite acceptable and is below the Western Australian Planning Commission (WAPC) and Main Roads WA (MRWA) guidelines of 3,000 vehicles per day for an access road, which Milne Street is classified as. The Council proposal to develop a Café on Riverside Gardens would marginally increase the traffic in the street based on the RTA Guide for Traffic Generating Developments of 60 daily vehicles trips per 100m² gross floor area. This may be slightly higher based on other factors but not sufficient enough to excessively increase the traffic volumes in the street.

Likewise, the development of the land off Leake Street is not expected to impact on the traffic volumes in Milne Street excessively as the traffic is more likely to be distributed onto other roads in the area.

In summary, the residents in Milne Street currently are not subjected to excessive volume and speed of traffic on the road. Whilst the development of the foreshore will have a marginal effect, it is not considered large enough to impact the capacity of the roadway at this stage. Notwithstanding the above, it is considered appropriate that potential traffic issues be considered during the formulation and implementation of any proposed developments for the foreshore.

Whilst road capacities are technically adequate, consideration of the amenity of local residents needs to be taken into account.

Policy Implications

Policy EG-P03 – Traffic Management Criteria and City of Bayswater Traffic Management Investigation Guidelines.

Financial Implications

Nil.

Voting Requirements

Simple Majority Required.

Council Discussion:

During discussion on this item there was no mover or seconder for the Officer's recommendation, therefore Cr Terry Kenyon, JP introduced a deferral in order to gather further information on road classifications. The Council rejected this proposal and decided to approve the original Officer's recommendation.

Officer's Recommendation

That:

1. The report of the traffic study in Milne Street, Bayswater be received.
2. The applicant be advised that although current and predicted traffic volumes are within the capacity of the Milne Street roadway, Council will require a Traffic Impact Assessment as part of any future development proposals for the foreshore.

COUNCIL RESOLUTION

CR TERRY KENYON, JP MOVED, CR BARRY MCKENNA SECONDED that this item be deferred for further information in relation to the Traffic Road Classifications.

LOST

**COUNCIL RESOLUTION
(OFFICER'S RECOMMENDATION)**

CR IAN MCCLELLAND, JP MOVED, CR MIKE ANDERTON, JP SECONDED the Officer recommendation that:

1. The report of the traffic study in Milne Street, Bayswater be received.
2. The applicant be advised that although current and predicted traffic volumes are within the capacity of the Milne Street roadway, Council will require a Traffic Impact Assessment as part of any future development proposals for the foreshore.

CARRIED

Cr Terry Kenyon, JP requested that his vote against the resolution be recorded.

12.5 Removal of Verge Trees

Location: 42 Fourth Avenue, Maylands
48 and 50 Clavering Road, Bayswater

Attachments: [1. Location Plan](#)
[2. Photographs](#)

File No: FOU-32/42; CLA-28/48; CLA-28/50

Officer: Director of Technical Services

Application

To consider the removal of street trees at the following locations (refer to Attachment No. 1):

- (i) 42 Fourth Avenue, Maylands; and
- (ii) 48 and 50 Clavering Road, Bayswater.

Background

1. The owner of 42 Fourth Avenue, Maylands has requested the verge trees be removed as the surface roots are damaging the surrounding infrastructure.
2. The owner of 48 and 50 Clavering Road, Bayswater has requested the verge trees be removed as the surface and subsurface roots are damaging the surrounding infrastructure.

Copies of photographs are enclosed. (Refer to Attachment No. 2).

Comment

1. The two trees growing on the verge adjacent to 42 Fourth Avenue, Maylands are *Ficus benjamina* (Weeping Figs). The trees are approximately 6 metres high with a combined canopy spread of about 10 metres. The trees are estimated to be approximately 10 years of age. The specie is not considered suitable for this location due to the vigorous root system causing damage to surrounding infrastructure as follows:
 - damage to kerbing;
 - crossover damage; and
 - the boundary wall is being undermined by surface roots and it is considered a matter of time before damage occurs.
2. The five trees growing on the verge adjacent to 48 and 50 Clavering Road, Bayswater are *Ficus macrocarpa hilli* (Hill's Weeping Fig). The trees are approximately 6 to 8 metres high with an average canopy size of about 7 metres. The trees are estimated to be approximately 15 years of age. The specie is not considered suitable for this location due to vigorous root growth causing damage to surrounding infrastructure as follows:
 - the retaining wall at 48 Clavering Road has been damaged; and
 - Although the retaining wall at 50 Clavering Road has not yet been damaged, it is being undermined by surface roots and it is considered a matter of time before damage occurs.

The Manager Parks and Gardens will arrange to remove the trees subject to Council approval.

Policy Implications

The process stated above does not conflict with the City's Policy PG-P01, 'Parks and Gardens–Street Trees'.

Financial Implications

It is estimated that the cost to cut down and remove the trees in question is \$2,100. Funding to undertake the work can be taken from the 2008/2009 Parks Operating Maintenance Budget.

Voting Requirements

Simple Majority Required.

COUNCIL RESOLUTION**(OFFICER'S RECOMMENDATION)**

CR SONIA TURKINGTON MOVED, CR IAN MCCLELLAND, JP SECONDED the Officer recommendation that:

- 1. The Manager Parks and Gardens arrange for the removal of the street trees at the following locations:
 - i) 42 Fourth Avenue, Maylands; and**
 - ii) 48 and 50 Clavering Road, Bayswater.****
- 2. Suitable approved replacement Council street trees be offered to the owners.**

CARRIED BY EN BLOC RESOLUTION

13 BUSINESS – PLANNING AND DEVELOPMENT SERVICES**13.1 Status of Application for Appeal/Review – Proposed Child Care Centre**

Location: Lot 7, No. 93 Wood Street / No.149 - 159 Salisbury Street, Bedford

Attachments: [No. 1 - Location Plan and Site Photo](#)
[No. 2 - Detailed Plans](#)
[No. 3 - Submitters Map](#)
[No. 4 - Submitters Table](#)
[No. 5 - Minutes of Special Electors Meeting 15.12.08](#)
[No. 6- Correspondence – Mercy Care](#)
[No. 7- Correspondence – St Peter’s Primary](#)
[No. 8 - Traffic Management Plan](#)

File No: WOO-50/93

Applicant: The Planning Group

Owner: The Roman Catholic Archbishop of Perth

Officer: Director of Planning and Development Services

Refer: Item : 13.6 – OMC : 14.04.09
Item : 13.14 – OMC : 24.03.09
Item : 13.4 – OMC : 27.01.09
Item : 13.6 – OMC : 25.11.08

CR BARRY MCKENNA DECLARED A FINANCIAL INTEREST

In accordance with Section 5.60A and 5.65 of the Local Government Act 1995, Cr Barry McKenna declared a financial interest in this item as his wife has done relief work at the school.

At 6:46pm, Cr Barry McKenna withdrew from the meeting.

Application

1. The State Administrative Tribunal (SAT) has invited Council to reconsider its decision made at the Ordinary Council Meeting on 27 January 2009 in relation to Item 13.4 for a proposed Child Care Centre at Lot 7, No.93 Wood Street / No.149-159 Salisbury Street, Bedford given the outcome of the SAT mediation session held on 2 April 2009 and the subsequent submission of additional information by the applicant on 9 April 2009.
2. A SAT Direction Hearing is to be held at 10:30am on Friday,15 May 2009, and the outcome of this Item will be considered by SAT at the Direction Hearing.

Background

Town Planning Scheme No. 24 Zoning:	Local Scheme Reserve - Public Purposes (Primary School)
Use Class:	Child Care Centre
Lot Area:	5246 m ²
Existing Land Use:	Vacant Buildings
Surrounding Land Use:	Residential/ Primary School
Size/Nature of Proposed Development:	Proposed Child Care Centre

SCHEME PROVISIONS	REQUIRED	PROVIDED
Parking	41 car bays	42 car bays

1. The proposal was lodged in December 2007, with the City undertaking advertising on two separate occasions. Council first considered this proposal at the Ordinary Council Meeting on 25 November 2008, where it was resolved as follows:

“that in relation to the proposed Child Care Centre at Lot 7, No. 93 Wood Street / No.149 – 159 Salisbury Street, Bedford:

1. *A public meeting be held to discuss the proposal with the community.*
 2. *The matter be presented back to Council.*
 3. *The relevant Ward Councillors of the City of Stirling be invited to attend public meeting.”*
2. At the Special Electors Meeting held on 15 December 2008, the following resolution was made:

“that the City of Bayswater do a full traffic management study in peak school times on remedial rectification of traffic at St Peter’s Primary School and surrounding Street’s.”
 3. Council considered the proposal and the resolution from the Special Electors Meeting at the Ordinary Council Meeting held 27 January 2009, where the Council concurred with the above Special Electors Meeting resolution and resolved as follows:

“that the City of Bayswater and the proponent to do a full traffic management study in peak school times (7:00am until 9:00am & 2:30pm until 6:00pm) on remedial rectification of traffic at St Peter’s Primary School and surrounding Streets and make particular reference to the peak times for the School’s traffic compared with peak traffic for Child Care Centres to be run over a two week period, not be conducted during school holidays and public holidays.”

4. Subsequent to this resolution, an Application for Appeal/Review was lodged by the applicant in relation to Council's non-determination/deemed refusal of the proposal.
5. Council considered an information item presented at the Ordinary Council Meeting on 24 March 2009 where the following resolution was made:

"That:

1. *The information relating to the Application for Review in relation to the non determination / deemed refusal of the Proposed Child Care Centre at Lot 7, No.93 Wood Street / No.149-159 Salisbury Street, Bedford be received.*
 2. *Council authorise the City's Director of Planning and Development Services to engage the City's solicitors, a planning consultant and an independent traffic engineer to represent the City in the State Administrative Tribunal Review matter.*
 3. *Witness statements be invited in relation to this application from Councillors and affected residents."*
6. The City attended a State Administrative Tribunal (SAT) mediation session on Thursday, 2 April 2009 attended by the City's Director of Technical Services, Manager of Planning Services, Senior Planning Officer and a consultant traffic engineer as an expert witness. Councillors Terry Kenyon and Ian McClelland attended the mediation session and provided input into the discussions, particularly with regard to community expectations and concerns.
 7. Council considered an information item on the matter at the Ordinary Council Meeting on 14 April 2009 where the following resolution was made:

"that:

1. *Council receive the information contained in this report relating to the Application for Appeal/Review DR 84 of 2009 in relation to the non-determination/deemed refusal of the proposed Child Care Centre at Lot 7, No.93 Wood Street / No.149-159 Salisbury Street, Bedford.*
2. *Residents be invited to attend a deputation on this issue once further information has been received by the applicant."*

Submissions

8. In accordance with Planning Policy *TP P 3.2 Child Care Centres*, the proposal was advertised to the community for public comment. At the completion of the comment period, thirty-one (31) submissions and one petition were received, including twenty-nine (29) submissions and one (1) petition with 132 signatories objecting to the proposal; and two (2) submissions in favour of the proposal.
9. Prior to the public meeting being held, the City received a further ninety-seven (97) late submissions in letter format in support of the proposal. The total submissions received on the proposal are as follows:
 - a) Twenty nine (29) submissions and one (1) petition with 132 signatories objecting to the proposal; and
 - b) Ninety-nine (99) submissions supporting the proposal.

10. Of these submissions received above, fifty-eight (58) were from landowners/residents from within the City of Bayswater. The remaining seventy (70) submissions were received from landowners/residents from other nearby localities.
11. The objections raised the following issues as they relate to the proposal:
 - a) Increased traffic flows;
 - b) Difficulty in accessing residences on Salisbury Street from congestion;
 - c) Damage to verge from traffic associated with school;
 - d) Compromised access for emergency vehicles;
 - e) Safety risks for children from increased traffic; and
 - f) Use of Wood Street car park for access to child care centre.

Application for Appeal/Review

12. The Application for Appeal/Review DR 84 of 2009 is in relation to the 'deemed' refusal of the application as Council has not made a final determination on the proposal. The Council resolution made at the Ordinary Council Meeting on 27 January 2009 in regard to the additional traffic report is not the matter being appealed as it is not an appealable decision under the *Planning and Development Act 2005*.
13. The City attended a mediation session at the State Administrative Tribunal on 2 April 2009. In attendance were the Manager of Planning Services, the Senior Planning Officer, the Director of Technical Services and the City's consultant traffic engineer. Also present at the mediation session was Councillor Kenyon and Councillor McClelland.

Mediation Session

14. At the mediation session the City argued that any increase in traffic in the area should be appropriately managed to ensure the operation of the child care centre did not add to the existing traffic issues in the area. The SAT presiding member commented during this discussion that it was not possible to link existing issues associated with the school to the current application for a child care centre.
15. At the session the applicant argued that all relevant information had been provided to enable Council to make an informed decision on the proposal, and would not be providing a further traffic study, as per Council's resolution from the Ordinary Council Meeting held on 27 January 2009. The applicant did acknowledge the existence of existing traffic issues in the area, however further contended that any increase in traffic associated with the child care centre would be negligible and that during the peak afternoon period where traffic issues from the school are most acute, the additional traffic on the road arising from the child care centre could be traffic movement associated within the vicinity of nine (9) additional vehicles. The applicant advised that irrespective of the child care centre application, traffic to the school could rise and fall by more than nine (9) vehicles on any given day. Furthermore, it was argued that any increase of vehicles from the child care centre was well within the road network capacity, irrespective of the base figures used, and was therefore commensurate with the level of activity within a residential area.

16. It was acknowledged by the City's traffic engineer that whilst there was significant traffic congestion for approximately 15 minutes in the afternoon peak period, the increase in vehicles from the child care centre during the afternoon peak period could potentially be in the vicinity of nine (9) additional vehicles. It was also acknowledged by the City's consultant traffic engineer that on any given day the number of vehicles associated with the school could vary, and could be in excess of nine (9) vehicles during the peak afternoon period. Also confirmed by the City's consultant traffic engineer that the number of vehicles expected would still fall within the capability of the existing road network.
17. At this point the parties were separated into separate groups. The consultant traffic engineers were placed together, with the applicant and the City forming the other two groups. The presiding member spoke privately to each group, and informed the City that the current traffic concerns in the area could not be attributed to the current Application for Appeal/Review, and that each application must be considered on its individual merit. Notwithstanding, the City maintained that further action from the applicant should be provided outlining how the traffic associated with the child care centre would be appropriately managed to ensure that the additional vehicles do not add to traffic congestion in the area during peak times.

Mediated Outcomes

18. As part of the mediated outcomes it was agreed by all parties present that the additional traffic in the area generated by the child care centre should be appropriately managed. At the conclusion of the mediation session the applicant had agreed to provide the following information for Council consideration:
- a) Revised plan showing student/parent drop-off/pick-up area being setback 1 metre from the side boundary with No.147 Salisbury Street;
 - b) Traffic management plan demonstrating how the additional traffic in the area will be managed; and
 - c) A commitment to participate in traffic forums with the adjoining school and the City.

Comment

General

Compliance with the Scheme and R Code Requirements

1. The proposed child care centre is on a separate lot to the property accommodating St Peter's Primary School, and has been assessed independently of the primary school. This approach is consistent with the view of the SAT presiding member at the above mediation session where the SAT member commented that it was not possible to link existing issues associated with the school to the current application for a child care centre.
2. Assessment of the application indicates that the proposed development complies with the acceptable development criteria of the *Residential Design Codes 2008*, the City's Town Planning Scheme No. 24 and Council Policies, with the exception of the appropriateness of the use and the objections received from the adjoining landowners.

Appropriateness of Use

3. The southern portion of the site is located within the City of Stirling, while the northern portion is within the City of Bayswater and is subject to a Local Scheme Reserve – “Public Purposes – Primary School” (*refer to Attachment No. 1*). The site is zoned “Urban” under the Metropolitan Region Scheme.
4. Under the Scheme provisions where an applicant is seeking to use a scheme reserve for a purpose other than the specific nominated purpose, the Scheme provides a mechanism for Council to consider other uses, providing that the use is consistent with the ultimate purpose of the reserve in the opinion of Council. Council is therefore required to determine whether or not the use of the reserve for a Child Care Centre is consistent with the use of a reserve whose intended purpose is as a “primary school”. Based on legal advice from the City’s solicitors, the essential nature of primary school and child care centre is very similar and a child care centre is fundamentally consistent with the purpose of the reservation. In other words, Council has the legal authority to approve a “child care” use on the subject land and no rezoning is required.

Student Numbers

5. Prior to 2003, the subject site (Lot 7) was used as a primary school and there were approximately 200 students on the site. In September 2004, Council approved the relocation of the primary school to the adjoining site (Lot 59) with a maximum of 600 students. At this time it was acknowledged that the subject site (Lot 7) could be re-used in the future by the school with up to 200 students being accommodated on the site.
6. The applicant advised the primary school enrolments for the 2008 year was 498 students. This proposal seeks to accommodate a total of 120 children on Lot 7, which includes 30 places for after school care. The total number of students proposed is therefore less than was previously accommodated on the site, prior to the relocation of the primary school.
7. Given the students previously enrolled on both sites (Lot 59 and Lot 7) was 800, and the school on Lot 59 is limited to 600 primary students, it is reasonable to consider that up to 200 students could be accommodated on the site (Lot 7). The proposal seeks approval for a maximum of 120 children on the subject site (Lot 7).

Revised Plans (submitted as part of SAT Mediation)

8. As a result of the SAT mediation session held on 2 April 2009, the applicant submitted revised plans on 9 April, 2009 (*refer to Attachment No. 2*).

Driveway Setback and Landscaping

9. The revised plans show the setback of the crossover and driveway to the student/parent drop-off pick-up area being increased from the originally proposed nil setback to 1 metre from the adjoining boundary with No.147 Salisbury Street, Bedford. The increased setback results in the loss of one (1) parking bay, however the number of bays proposed (42 bays) remains in excess of the Town Planning Scheme requirement (41 bays).

10. The setback area adjoining No.147 Salisbury Street, Bedford, contains landscaping that is intended to provide a soft barrier to the adjoining property. The 1 metre setback is considered to alleviate some concern for the neighbouring property from the proximity of the entry crossover to the existing driveway on the neighbouring property.

Parking

11. The applicant has proposed a new student/parent drop-off/collection area to be constructed on the existing grassed play area in the north-east corner of the site. In addition an existing internal car park is to be used for staff parking. The total number of bays provided on the initial proposal was 43 bays, which was amended on the revised plans to 42 bays (23 for staff, 19 for student pick-up) to accommodate a landscaping strip along the eastern boundary with the adjoining residence. Under *Table 2 Development Standards* of the Scheme, 41 parking bays are required, resulting in an on-site parking surplus of one (1) bay.

Traffic

Community Concerns

12. A number of submissions received have objected to the proposal based on the potential impacts from additional vehicle movements and traffic in the area as a result of the proposal. This matter is addressed under “City of Bayswater Comment”.
13. Concerns have been raised about the intersection of Salisbury and Craven Streets. The current traffic flows at this intersection give vehicles approaching the school from Craven Street priority access into Salisbury Street. This matter is addressed under “City of Bayswater Comment”.
14. Concerns have been raised by adjoining landowners in regard to a number of issues that result from the increase in traffic movements. Residents have advised that they have difficulties in entering and leaving the properties during these peak times due to the traffic associated with the school.
15. Concerns have been raised in relation to damage to property verges from traffic associated with the school. Site visits to the area have shown that existing “no-verge parking” signage is weathered and may be difficult to read, and that issues arise from parents waiting or parking their cars to collect children from the school. It is suggested that the ‘no verge parking’ signs be replaced and Ranger patrols be increased in the area during peak traffic periods.
16. Other concerns have been raised about child safety from any increase in vehicle movements, especially in relation to the crossovers proposed for the new parent car park. Parents accessing the car park will be well aware of the pedestrian environment in the vicinity and are expected to enter and exit the car park at appropriate speeds with due consideration to pedestrians.
17. A concern was raised in relation to access for emergency vehicles during peak times. Whilst the collection and drop off of students is an important matter, it is believed that any vehicles in the area would give way to emergency vehicles if and when required.

Applicant Comments

18. The applicant has outlined that they believe the current traffic issues relate primarily to the activities of the St Peter's School, and therefore are not a relevant consideration for this proposal for a child care centre. The applicant advised that the proposal for a child care centre is consistent with the intent of the scheme reserve and that there will not be a significant increase in traffic as a result of the proposal based on traffic studies previously undertaken.
19. The above comments was reiterated and expanded by the applicant at the SAT mediation session held on 2 April 2009 as detailed above.

City of Bayswater Comments

20. From inspection of the site it is apparent that the Salisbury Street frontage is used as an informal drop off and pick up area for the primary school. Whilst this has some impact on traffic flows during peak times, these issues connected with the primary school are not directly related to the proposal due to the envisaged differences in peak pick-up and drop off times.

Traffic Management Report Submitted as Part of Initial Application

21. The traffic management report, initially submitted by the applicant, outlined that the vehicle movements as a result of the proposal are well within the Desired Maximum Traffic Volumes outlined in the *Liveable Neighbourhoods*. Whilst some of the additional children would walk to the centre with parents, it is likely that the majority of vehicle movements to and from the proposed centre would be by private vehicles.
22. The City's Engineering Services Department have reviewed the traffic management report and have advised that the proposal will add to the existing traffic congestion during the morning and afternoon peak times, although the impact of the additional trips generated by the proposal is reduced by the staggered timeframes that a child care centre would operate. The peak time for the child care centre is likely to be the AM drop-off whereas the PM pick-up traffic will be more dispersed due to different work finish times. The worst period associated with the school is the PM peak where parents arrive at the same time to collect students and it is unlikely that this will coincide to a considerable extent with the child care pick-up. The AM school peak is more dispersed as parents arrive at different times to drop off students and can more readily accommodate the anticipated increase associated with the child care centre.
23. The City conducted additional traffic counts during the month of December 2008 and has reviewed the history of road improvements and modifications in the area. These figures show that traffic numbers since 1986 have reduced by approximately 50%, with average speeds also reducing over this time. It appears that after the installation of angled slow points on Salisbury Street between Park and Craven Streets, that the volume of traffic along Salisbury Street has been significantly reduced.
24. Engineering Services have also advised that should the development be ultimately approved, that modification to the existing parking embayments adjacent to the proposed parent drop-off parking entry and exit would be required to conform with the Australian Standards.

25. The City queried as to whether the existing car park adjacent to the Presbytery House from Wood Street could be used for the child care centre. The applicant subsequently advised that this parking area remain separate from the operation of the child care centre to provide for church parking and associated activities. Notwithstanding there is likely to be some informal use of this car park for the child care centre given its proximity to the site. The City is liaising with the school with a view to improving the current situation.
26. Engineering Services have further advised that whilst the proposal will result in some increase in activity in the area, the increase is capable of being accommodated within the existing road network capabilities.
27. The Engineering Services Department have reviewed the proposal and all information provided, including the applicant's traffic study, have attended the site on a number of occasions, understand the issues and concerns raised by the community and have reviewed the history, use of the site and traffic issues.
28. A brief history of improvements and traffic counts in Salisbury Street and Craven Street is outlined below:
- angled slow points in between Park Street and Craven Street constructed in June 1988; and
 - offset intersection treatment in Craven Street and the angled slow point at Clement Street constructed January 2000.

Salisbury Street Traffic Counts

PRE TRAFFIC MANAGEMENT COUNTS		
YEAR	DETAILS	VEHICLES
1986	North of Park Street	2,338

POST TRAFFIC MANAGEMENT COUNTS			
YEAR	DETAILS	VEHICLES	85 TH PERCENTILE SPEED
Dec 1988	North of Park Street	1,003	
Sept 1997	South of Craven Street	816	55 km/hr
Dec 2008	South of Craven Street	1,135	48 km/hr
Dec 2008	South of Clement Street	956	48 km/hr

Craven Street Traffic Count

PRE TRAFFIC MANAGEMENT COUNTS		
YEAR	DETAILS	VEHICLES
Dec 2008	East of Salisbury Street	1,025

29. The December 2008 figures have been incorporated into the previous revised traffic report from the traffic consultant. As can be seen, traffic figures in Salisbury Street decreased dramatically following the installation of traffic calming in 1988.
30. The traffic issues are considered to relate to the operation of the primary school, therefore it is recommended that the proposal be considered on its merits.

Traffic Management Plan Submitted as Part of SAT Mediation

31. The traffic management plan submitted by the applicant on 9 April 2009 proposes a number of actions to ensure that the additional traffic associated with the child care centre are appropriately managed. The plan/report proposes to address the additional traffic generated by the proposed child care centre in the following ways:
- a) Preferred travel routes;
 - b) Duration of parking;
 - c) Drop off and pick up times; and
 - d) Pedestrian and cycle travel.
32. The actions identified in the traffic management plan/report are considered to have merit. The management plan recommends that parents avoid the use of Craven Street to access the child care centre and suggests that access should occur from the south from Beaufort Street/Salisbury Street and from the north via Walter Road West and Wood Street, thus providing left hand turns at all intersections. The use of the student/parent drop-off pick-up area is to be limited to those actually dropping off or picking up a child. No extended parking in this area is to be permitted. Due to the peak afternoon period of the adjacent school, parents for the child care centre will be advised that pick-up of children should not be scheduled between 2:45pm and 3:15pm during weekdays. Parents of children will be encouraged wherever possible to either walk or cycle to the site. To ensure the recommendations from the traffic management plan are met, a condition has been included requiring the applicant to provide a list of actions that detail how these recommendations are to be implemented.

Traffic Forum

33. It was acknowledged by the parties at the mediation hearing that traffic issues exist in the area, and that these issues relate at present to the school on the adjoining site. The concerns raised in the public submissions detail conflict between existing residents and the traffic associated with the primary school. As a response to these concerns from existing residents in the locality of the school, it is proposed that the City write to St Peter's Primary School and request that an education programme is undertaken by the school to ensure that parents are more respectful of local residents and resident's property.
34. Additional concerns from residents related to the use of parking bays on Salisbury Street, where parents park for extended periods while waiting to collect students from the primary school, adding to traffic congestion in the area. To address this concern, the recommendation includes a requirement that car bays adjacent to the subject site in Salisbury Street be denoted as pick-up and drop-off only, with a maximum parking time of 10 minutes. Furthermore, an additional part of the recommendation requires all street parking around St Peter's School and the proposed child care centre be reviewed and replaced if necessary, and for the City's Rangers to include the site as part of a regular parking inspection programme.
35. Given the existence of existing parking issues in the area, the applicant has agreed to participate in an ongoing traffic forum (working group) to discuss ways of addressing traffic issues in the area. This traffic forum is suggested to be attended by the applicant, the City and the adjoining school and is to identify and discuss ways in which the existing traffic concerns can be reduced or better managed.
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36. Given the exiting traffic issues associated with the primary school, the establishment of a working group involving all parties is considered to be an appropriate response by Council to the concerns raised by residents in regard to traffic issues in the area.

Hearing Attendances by Community

37. The City has written to affected landowners inviting registrations of interest to provide witness statements should the matter progress to a Full Hearing.
38. Council's consideration of the revised information in this report will determine whether the matter is required to go to a Full Hearing. The opportunity for residents to actively participate in the SAT review process as a witness is only possible should the matter progress to a Full Hearing.

Policy Implications

Nil.

Financial Implications

Nil.

Summary

1. The City attended a SAT mediation session where the traffic and the amenity impacts to neighbours were heavily discussed. It was indicated by the SAT presiding member that the traffic issues associated with the school could not be linked to the current application for a child care centre.
2. At the conclusion of the mediation session it was agreed that revised information would be provided to Council. The applicant has provided a revised plan showing a 1 metre setback of the proposed student/parent drop-off/pick-up area from the side boundary with No.147 Salisbury Street, Bedford. The increased setback is considered to provide an appropriate buffer to the adjoining residences. The applicant has provided a traffic management plan demonstrating how the additional traffic will be managed, including preferred travel routes, duration of parking, drop off and pick up times and pedestrian and cycle travel options. The applicant has agreed to participate in a traffic forum with the adjoining school and the City.
3. The City will write to St Peter's Primary School and request that an education programme is undertaken by the school to ensure that parents are more respectful of local residents and residents' property. Car bays in Salisbury Street are to be denoted as pick-up and drop-off only with a maximum parking time of 10 minutes. All street parking around St Peter's School and the proposed child care centre is to be reviewed and replaced if necessary, with the City's Rangers to include the site as part of a regular parking inspection programme.
4. In light of the additional information provided by the applicant and given the items agreed to within the context of the mediation session, the proposal is recommended for approval.

Voting Requirements

Simple Majority Required.

Council Discussion:

Council discussed and changed point 2 of the Officer's recommendation to include the establishment of timelines by affected parties, to rectify the traffic problems and that \$120,000 be listed in the 2009/2010 budget for consideration of this matter.

Officer's Recommendation

That:

1. Council advise the State Administrative Tribunal that Council endorses development application 07-0722 and the revised plan received on 9 April 2009 in relation to Review Matter No DR 84 of 2009 for the proposed Child Care Centre at Lot 7, No.93 Wood Street / No.149-159 Salisbury Street, Bedford subject to the following planning conditions:
 - a) The applicant to submit revised plans showing the modification of the parking embayment adjacent to the proposed parent drop-off entry and exit, to the satisfaction of the Director of Technical Services.
 - b) A maximum of 120 students to be given care in the child care centre at any one time.
 - c) The proposed parking area and parking bays to be designed and constructed in accordance with relevant Australian Standards to the satisfaction of the City of Bayswater.
 - d) Children are not permitted to arrive at the centre prior to 7.15am or leave later than 6.30pm on weekdays. Children are not permitted to arrive at the centre prior to 8.00am on weekends.
 - e) This approval is valid for a period of two (2) years from the date of this letter. If the development/use, the subject of this approval, is not SUBSTANTIALLY COMMENCED within two years, the approval shall lapse and be of no further effect. Where an approval has lapsed, no development/use shall be carried out without the further approval of the City having first been sought and obtained.
 - f) The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan, including any notations in red on the approved plan.
 - g) In accordance with the *Local Government (Miscellaneous Provisions) Act 1960 and Building Regulations 1989*, a building licence application must be obtained prior to the commencement of any building works
 - h) A separate application including plans or description of all signs for the proposed development (including signs painted on a building) shall be submitted to and approved by the City of Bayswater prior to any erection of signage.
 - i) Landscaping and reticulation must be completed in accordance with an approved detailed landscape plan(s) prior to occupation of the development and thereafter maintained to the satisfaction of the City of Bayswater.

- j) The provision of a suitably screened refuse bulk bin area with a minimum area of 10m² to the satisfaction of the City of Bayswater. The bin area is to be provided with a permanent water supply and drainage facility for wash-down and is to be screened by a gate and brick walls or other suitable material to a height of not less than 1.8 metres. The bin area shall be accessible via a suitably constructed service road that will allow heavy vehicle movement.
 - k) All stormwater and drainage runoff produced onsite is to be disposed of onsite via the use of soakwells. The size of the soakwells are to be calculated by use of the formula $VOL(m^3) = AREA (m^2) \times 0.0125$, where VOL is total storage volume of soakwells and AREA is total roofed and paved areas. Connection to the City's stormwater system, where available, may be permitted as an overflow only if to the satisfaction of the City of Bayswater.
 - l) The vehicle parking area shall be sealed, kerbed, drained and line marked in accordance with the approved plans and specifications and shall be thereafter maintained to the satisfaction of the City of Bayswater.
 - m) All vehicle crossings being upgraded, designed and constructed to the satisfaction City of Bayswater. Payment for the crossover is required prior to the issue of a building licence.
 - n) The recommendations of the traffic management plan prepared by Shawmac dated 9 March 2009 are to be implemented including the following:
 - aa) Encourage parents to enter student/parent drop-off/collection area from the south via Salisbury Street and leave in the same direction; Encourage parents arriving from the north to enter Salisbury Street from Grand Promenade via Walter Road West; and encourage parents to enter Salisbury Street from Wood Street via Park Street and Dennison Street.
 - bb) Parents using the student/parent drop-off/collection area to adhere to a maximum permitted parking duration time of 10 minutes.
 - cc) Parents whenever possible ensure that drop off and pick up times should be planned to avoid the peak afternoon period, in particular during the times between 2.45pm and 3.15pm.
 - dd) Encourage local residents attending the child care centre to walk and/or cycle to and from the child care centre wherever possible.
- Details demonstrating how the above recommendations are to be implemented, submitted to and approved by the City prior to the issue of a building licence.
- 2. Given the traffic issues associated with the St Peter's Primary School, a working group comprising key representatives from Mercycare Group, St Peter's Primary School, local residents and the City of Bayswater be established to identify and address traffic issues in Salisbury Street and surrounding streets.
 - 3. Write to St Peter's Primary School inviting them to participate on a working group and request that an education programme is undertaken by the school to ensure parents to be more respectful of local residents and the residents property.
 - 4. Car bays located on Salisbury Street, adjacent to the proposed child care centre, to be denoted as pick up and drop off only with a limit of 10 minutes maximum parking time.
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5. All street parking signage around St Peter's Primary School and the proposed child care centre be reviewed and replaced if necessary and the City's Rangers to include the site as part of a regular parking inspection programme.
6. Those persons who lodged a submission on the planning application be advised of Council's determination.

AMENDMENT

CR MIKE ANDERTON, JP MOVED, CR SONIA TURKINGTON SECONDED that point 2 be amended to read as follows:

2. **Given the traffic issues associated with the St Peter's Primary School, a working group comprising key representatives from Mercycare Group, St Peter's Primary School, local residents and the City of Bayswater be established to identify and address traffic issues in Salisbury Street and surrounding streets. That parties will be committed to establishing timelines to rectify the traffic problems. That \$120,000 be listed in the 2009/2010 budget for consideration.**

The Amendment was put and

CARRIED

The Amendment became the Substantive Motion.

COUNCIL RESOLUTION

CR IAN MCCLELLAND, JP MOVED, CR MICHAEL SABATINO SECONDED that:

1. **Council advise the State Administrative Tribunal that Council endorses development application 07-0722 and the revised plan received on 9 April 2009 in relation to Review Matter No DR 84 of 2009 for the proposed Child Care Centre at Lot 7, No.93 Wood Street / No.149-159 Salisbury Street, Bedford subject to the following planning conditions:**
 - a) **The applicant to submit revised plans showing the modification of the parking embayment adjacent to the proposed parent drop-off entry and exit, to the satisfaction of the Director of Technical Services.**
 - b) **A maximum of 120 students to be given care in the child care centre at any one time.**
 - c) **The proposed parking area and parking bays to be designed and constructed in accordance with relevant Australian Standards to the satisfaction of the City of Bayswater.**
 - d) **Children are not permitted to arrive at the centre prior to 7.15am or leave later than 6.30pm on weekdays. Children are not permitted to arrive at the centre prior to 8.00am on weekends.**
 - e) **This approval is valid for a period of two (2) years from the date of this letter. If the development/use, the subject of this approval, is not SUBSTANTIALLY COMMENCED within two years, the approval shall lapse and be of no further effect. Where an approval has lapsed, no development/use shall be carried out without the further approval of the City having first been sought and obtained.**

- f) The development shall be carried out only in accordance with the terms of the application as approved herein, and any approved plan, including any notations in red on the approved plan.
 - g) In accordance with the *Local Government (Miscellaneous Provisions) Act 1960 and Building Regulations 1989*, a building licence application must be obtained prior to the commencement of any building works
 - h) A separate application including plans or description of all signs for the proposed development (including signs painted on a building) shall be submitted to and approved by the City of Bayswater prior to any erection of signage.
 - i) Landscaping and reticulation must be completed in accordance with an approved detailed landscape plan(s) prior to occupation of the development and thereafter maintained to the satisfaction of the City of Bayswater.
 - j) The provision of a suitably screened refuse bulk bin area with a minimum area of 10m² to the satisfaction of the City of Bayswater. The bin area is to be provided with a permanent water supply and drainage facility for wash-down and is to be screened by a gate and brick walls or other suitable material to a height of not less than 1.8 metres. The bin area shall be accessible via a suitably constructed service road that will allow heavy vehicle movement.
 - k) All stormwater and drainage runoff produced onsite is to be disposed of onsite via the use of soakwells. The size of the soakwells are to be calculated by use of the formula $VOL(m^3) = AREA (m^2) \times 0.0125$, where VOL is total storage volume of soakwells and AREA is total roofed and paved areas. Connection to the City's stormwater system, where available, may be permitted as an overflow only if to the satisfaction of the City of Bayswater.
 - l) The vehicle parking area shall be sealed, kerbed, drained and line marked in accordance with the approved plans and specifications and shall be thereafter maintained to the satisfaction of the City of Bayswater.
 - m) All vehicle crossings being upgraded, designed and constructed to the satisfaction City of Bayswater. Payment for the crossover is required prior to the issue of a building licence.
 - n) The recommendations of the traffic management plan prepared by Shawmac dated 9 March 2009 are to be implemented including the following:
 - aa) Encourage parents to enter student/parent drop-off/collection area from the south via Salisbury Street and leave in the same direction; Encourage parents arriving from the north to enter Salisbury Street from Grand Promenade via Walter Road West; and encourage parents to enter Salisbury Street from Wood Street via Park Street and Dennison Street.
 - bb) Parents using the student/parent drop-off/collection area to adhere to a maximum permitted parking duration time of 10 minutes.
 - cc) Parents whenever possible ensure that drop off and pick up times should be planned to avoid the peak afternoon period, in particular during the times between 2.45pm and 3.15pm.
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- dd) Encourage local residents attending the child care centre to walk and/or cycle to and from the child care centre wherever possible.

Details demonstrating how the above recommendations are to be implemented, submitted to and approved by the City prior to the issue of a building licence.

2. Given the traffic issues associated with the St Peter's Primary School, a working group comprising key representatives from Mercycare Group, St Peter's Primary School, local residents and the City of Bayswater be established to identify and address traffic issues in Salisbury Street and surrounding streets. That parties will be committed to establishing timelines to rectify the traffic problems. That \$120,000 be listed in the 2009/2010 budget for consideration.
3. Write to St Peter's Primary School inviting them to participate on a working group and request that an education programme is undertaken by the school to ensure parents to be more respectful of local residents and the residents property.
4. Car bays located on Salisbury Street, adjacent to the proposed child care centre, to be denoted as pick up and drop off only with a limit of 10 minutes maximum parking time.
5. All street parking signage around St Peter's Primary School and the proposed child care centre be reviewed and replaced if necessary and the City's Rangers to include the site as part of a regular parking inspection programme.
6. Those persons who lodged a submission on the planning application be advised of Council's determination.

CARRIED

At 7:01pm, Cr Barry McKenna returned to the meeting.

13.2 Bayswater Waves - Tender for Supply and Installation of Perimeter Security Fencing

Location: Bayswater Waves, 160 Broun Avenue, Embleton
File No: 18.1.1
Applicant: City of Bayswater
Owner: City of Bayswater
Officer: Director of Planning and Development Services

CONFIDENTIAL ITEM

Application

To assess the tenders received and appoint the appropriate contractor to supply and install the perimeter security fencing and gates to the Bayswater Waves Aquatic Centre as detailed in the Request or Tender RFT 01-2009.

In accordance with Section 5.23(2) of the *Local Government Act 1995*, the meeting is closed to members of the public for this item as the following sub-section applied:

- (c) A contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting
- (e) (ii) A matter that if disclosed, would reveal information that has a commercial value to a person.

Voting Requirements

Simple Majority Required.

COUNCIL RESOLUTION
(OFFICER'S RECOMMENDATION)

CR SONIA TURKINGTON MOVED, CR IAN MCCLELLAND, JP SECONDED the Officer recommendation that Council approves the following:

- 1. Tender RFT 01-2009 for the Supply and Installation of a 2400mm high perimeter fencing and gates to the Bayswater Waves Aquatic Centre at No. 160 Broun Avenue, Embleton for the tendered amount of \$141,900.00 (inclusive of GST) be awarded to CAI Fences.**
- 2. The Director of Planning and Development be authorised to finalise the contract between CAI Fences and the City of Bayswater in accordance with the Request for Tender (RFT 01-2009) documents.**

CARRIED BY EN BLOC RESOLUTION

14 BUSINESS – FINANCIAL SERVICES**COUNCIL RESOLUTION**

CR SYLVAN ALBERT MOVED, CR IAN MCCLELLAND, JP SECONDED that this Item be discussed behind closed doors at Item 18.1.

CARRIED

14.1 Multicultural Arts Proposal

File No: 6.1.16
Officer: Director of Finance

CONFIDENTIAL ITEM

Application

To advise Council on preliminary discussions which have taken place between the City's Chief Executive Officer and Director of Finance, the Chief Executive Officer of LotteryWest, the General Manager of WA Ballet and with staff of those organisations, pertaining to funding of a culture and arts facility in the Maylands area.

In accordance with Section 5.23(2) of the *Local Government Act 1995*, the meeting is closed to members of the public for this item as the following sub-section applied:

- (c) A contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting
- (e) (iii) A matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person where the trade secret or information is held by, or is about, a person other than the local government.

Voting Requirements

Simple Majority Required.

COUNCIL RESOLUTION

CR TERRY KENYON, JP MOVED, CR SONIA TURKINGTON SECONDED that the City's Officers pursue discussions on this matter and report back to Council.

CARRIED

15 REPORTS OF MANAGEMENT/ADVISORY COMMITTEES**15.1 Minutes of the Senior Citizen Management Committee**

Attachments: [1. Minutes of the Senior Citizen Management Committee](#)
File No: 6.1.2.2
Officer: Acting Director of Administration and Community Services

Application

To inform the Council of the minutes of the meeting of the Senior Citizen Management Committee, which was held on 6 April 2009.

Background

Attached is a copy of the minutes of the meeting of the Senior Citizen Management Committee, which was held on 6 April 2009 (*refer to Attachment No. 1*).

Voting Requirements

Simple Majority Required

COUNCIL RESOLUTION**(COMMITTEE RECOMMENDATION)**

CR SONIA TURKINGTON MOVED, CR IAN MCCLELLAND, JP SECONDED the Committee recommendation that the minutes of the Senior Citizen Management Committee which was held on 6 April 2009 be received and the recommendations contained therein and listed hereunder be approved:

1.1 Bayswater Senior Centre 2009/2010 Request

That:

- 1. The following items be quoted and listed for inclusion in the draft 2009/2010 budget for the Bayswater Seniors Centre:**
 - a) The double doors in the dining room be tinted.**
 - b) All floors currently in vinyl within the Bayswater Senior Centre be replaced with either vinyl/non slip tile.**
- 2. Any outstanding previous budget items be completed as soon as possible and seen as a priority for building maintenance.**

1.2 Maylands Autumn Centre 2009/2010 Requests

That:

- 1. The following items be quoted and considered for the 2009/2010 draft budget for Maylands Autumn Centre.**
 - a) Subject to planning approval, for the outside craft room to be refurbished, including floor coverings and window treatments.**
 - b) Pergola to be attached to the side of the building, off the computer/games room for outside entertaining area.**

- c) Pergola and cement path to be constructed, creating a covered, parking area for gophers and scooters.
- 2. Outstanding issues from 2008 be addressed, quoted and considered for budget 2009/2010. Issues including flooring, curtains, hot water system, skirting boards.

1.3 Morley Seniors Centre 2009/2010 Requests

That:

- 1. The following items be quoted and considered for the 2009/2010 draft budget for Maylands Autumn Centre:
 - a) Installation of glass sliding doors for foyer.
 - b) Replacement of kitchen vinyl floor/non slip tiles.

CARRIED BY EN BLOC RESOLUTION

15.2 Minutes of Halliday House Management Committee

Attachments: [1. Minutes of Halliday House Management Committee](#)
File No: KIN-14/114
Officer: A/Director of Administration and Community Services

Application

To inform the Council of the minutes of the meeting of the Halliday House Management Committee, which was held on 20 April 2009.

Background

Attached is a copy of the minutes of the meeting of the Halliday House Management Committee, which was held on 20 April 2009 (*refer to Attachment No.1.*)

Voting Requirements

Simple Majority Required.

COUNCIL RESOLUTION
(COMMITTEE RECOMMENDATION)

CR SONIA TURKINGTON MOVED, CR IAN MCCLELLAND, JP SECONDED the Committee recommendation that the minutes of the Halliday House Management Committee which was held on 20 April 2009 be received and the recommendations contained therein and listed hereunder be approved:

1.1 Halliday House Garden Design

- 1. The Halliday House Management Committee agree to the presented amended design proposal and confirm Brick Option 2 – New Handmade bricks as the preferred choice for replacement brick paving, colour and style to be in keeping with the House and agreed by representatives of Bayswater Historical society.**
- 2. The timber fence replacement be included in the design proposal, with a total costing of \$53,890.**

CARRIED BY EN BLOC RESOLUTION

15.3 Minutes of Skatepark Management Committee**Attachments:** [1. Minutes of the Skatepark Management Committee Minutes](#)**File No:** 18.1.17**Officer:** Acting Director of Administration and Community ServicesApplication

To inform Council of the minutes of the Skatepark Management Committee meeting held on 29 April 2009.

Background

Attached is a copy of the minutes of the Skatepark Management Committee which was held on 29 April 2009.

Voting Requirements

Simple Majority Required.

COUNCIL RESOLUTION**(COMMITTEE RECOMMENDATION)**

CR SONIA TURKINGTON MOVED, CR IAN MCCLELLAND, JP SECONDED the Committee recommendation that the minutes of the meeting of the Skatepark Management Committee which was held on 29 April 2009 be received and the recommendations contained therein and listed hereunder be approved:

1.1 Evaluation of Boomshanka 2009

That:

- 1. The report on Boomshanka 2009 be received**
- 2. Staff and Volunteers be congratulated and thanked for their effort.**

1.2 Skatepark Development Fund

That:

- 1. The report be received.**
- 2. Council approve the following prioritised list of repairs/works to be carried out at Crimea Skatepark from the Skatepark Development Fund.**
 - a) Improving public toilet facilities (toilet seats, timer activated lighting, sky lights) - \$5,000.**
 - b) Install metal edges to chipped ends of concrete elements – cost anticipated to be \$4,000 (to be confirmed and presented at the meeting).**

CARRIED BY EN BLOC RESOLUTION

15.4 Minutes of the Les Hansman Community Centre Management Committee**Attachments:** [1. Minutes of the Les Hansman Community Centre Management Committee](#)**File No:** WAL-5/246**Officer:** Acting Director of Administration and Community ServicesApplication

To inform Council of the minutes of the Les Hansman Community Centre Management Committee Meeting held on 22 April 2009.

Background

Attached is a copy of the minutes of the Les Hansman Community Centre Management Committee meeting which was held on 22 April 2009.

Voting Requirements

Simple Majority Required.

COUNCIL RESOLUTION**(COMMITTEE RECOMMENDATION)**

CR SONIA TURKINGTON MOVED, CR IAN MCCLELLAND, JP SECONDED the Committee recommendation that the minutes of the meeting of the Les Hansman Community Centre Management Committee which was held on 22 April 2009 be received and the recommendations contained therein and listed hereunder be approved:

1.1 Les Hansman Community Centre Management

That the Les Hansman Community Centre Management Committee provide a prioritised recommended list of maintenance items for Council to consider in the 2009/2010 budget:

- **\$53,000 Capital Budget – Les Hansman Community Centre Entrance/Foyer.**
- **\$20,000 Capital Budget – Les Hansman Community Centre replacement tables and chairs.**

1.2 Booking Performance March 2008 – March 2009

That the information be received.

CARRIED BY EN BLOC RESOLUTION

At 7:03pm, Cr Terry Kenyon, JP withdrew from the meeting.

At 7:04pm, Cr Terry Blanchard entered the meeting.

16 MAYOR’S REPORT

WAG AND WALK - SUNDAY 3 MAY 2009

The Wag and Walk event attracted approximately 200 people this year with fun competitions for children and their dogs to participate in.

This years events included a treasure hunt, best dressed dog, best trick by a dog and a free kid’s concert.

The general feedback from the community was very positive with families looking forward to next year’s Wag and Walk even.

MAYLANDS MULTIPURPOSE CENTRE

The Federal Member for Perth, the Hon Stephen Smith MP, visited the Alma Venville Centre on Thursday, 7 May 2009, to announce the result of our application for funding - under the Federal Government’s \$800 million Regional and Local Community Infrastructure Programme – for the Maylands Multi Purpose Centre.

As a result, I am pleased to advise that our grant application has been successful and that the City will receive the full \$10 million requested.

Over 3,600 local governments across Australia applied for funding and the award of the full amount applied represents a significant achievement.

I would like to take this opportunity to thank our Chief Executive Officer, Director of Finance and all the staff who put in a substantial amount of time and energy into preparing the documentation which I am certain contributed towards our success in obtaining this grant.

I would like to take this opportunity to thank my fellow Councillors for attending functions on behalf of the City of Bayswater.

17 AFFIXING OF COMMON SEAL**17.1 Authorisation for Affixing of the Common Seal****COUNCIL RESOLUTION**

CR SYLVAN ALBERT MOVED, CR MIKE ANDERTON, JP SECONDED that approval be granted for affixing of the common seal to the following documents:

Document Details	No. of Documents	Council Resolution	For Approval or Ratification
Town Planning Scheme 23 Amendment 7 – Textual Amendment	3	Item 13.1 OMC 14.04.09	Ratification
Town Planning Scheme 24 Amendment No 38 – Textual Amendment	3	Item 13.2 OMC 14.04.09	Ratification

CARRIED

18 DISCUSSION OF MATTERS BEHIND CLOSED DOORS**COUNCIL RESOLUTION**

CR SYLVAN ALBERT MOVED, CR SONIA TURKINGTON SECONDED that the doors be closed to public in order for Council to discuss Item 18.1.

CARRIED

At 7:08pm, the doors were closed to the public, and those present in the public gallery left the meeting.

18.1 Multicultural Arts Proposal

File No: 6.1.16
Officer: Director of Finance

CONFIDENTIAL ITEM

Application

To advise Council on preliminary discussions which have taken place between the City's Chief Executive Officer and Director of Finance, the Chief Executive Officer of LotteryWest, the General Manager of WA Ballet and with staff of those organisations, pertaining to funding of a culture and arts facility in the Maylands area.

In accordance with Section 5.23(2) of the *Local Government Act 1995*, the meeting is closed to members of the public for this item as the following sub-section applied:

- (c) A contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting
- (e) (iii) A matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person where the trade secret or information is held by, or is about, a person other than the local government.

Voting Requirements

Simple Majority Required.

At 7:13pm, Cr Terry Kenyon, JP returned to the meeting.

At 7:14pm, the Executive Assistant withdrew from the meeting and returned at 7:16pm.

COUNCIL RESOLUTION

CR TERRY KENYON, JP MOVED, CR SONIA TURKINGTON SECONDED that the City's Officers pursue discussions on this matter and report back to Council.

CARRIED

COUNCIL RESOLUTION

CR TERRY BLANCHARD MOVED, CR TERRY KENYON, JP SECONDED that the meeting come out from behind closed doors.

CARRIED

At 7:20pm, the doors were re-opened to the public in order to read the confidential Items resolutions, however no members of the public wished to return to the meeting.

19 CLOSURE

**THERE BEING NO FURTHER BUSINESS TO DISCUSS,
THE ACTING CHAIRPERSON, THE DEPUTY MAYOR, CR MICHAEL SABATINO
DECLARED THE MEETING CLOSED AT 7:20PM.**