

Leichhardt Municipal Council



AGENDA

ORDINARY MEETING

SUPPLEMENTARY REPORTS
ITEMS 10A, 11A, 11B, 22A, 22C, 29A, 41, 42, 43

28 APRIL 2009

LEICHHARDT MUNICIPAL COUNCIL

ORDINARY MEETING OF COUNCIL

NOTICE IS HEREBY GIVEN OF THE FOLLOWING **SUPPLEMENTARY ITEMS** FOR THE **ORDINARY MEETING** OF THE LEICHHARDT MUNICIPAL COUNCIL WILL BE HELD IN THE COUNCIL CHAMBERS, LEICHHARDT TOWN HALL, 107 NORTON STREET, LEICHHARDT ON, **TUESDAY, 28 APRIL, 2009 AT 7.00PM.**

Peter Head
GENERAL MANAGER

23 APRIL 2009

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LEICHHARDT MUNICIPAL COUNCIL

PRECIS OF CORRESPONDENCE

DIVISION: PRECIS OF CORRESPONDENCE

SUBJECT: ITEM 10A 2009 INNER WEST SMALL BUSINESS AWARDS

FILE REF: F97/00425

DATE: 3 August 2018

WORD PROCESSING REF: G:\BP\Agendas\Supp Book 280409.doc

Correspondence has been received from Precedent Productions Pty Ltd, the organiser of the Inner West Small Business Awards, to be a sponsor for the 2009 Awards, which will be on Tuesday, 21 July 2009 at Burwood RSL Club.

Leichhardt Council has been a sponsor of the Inner West Small Business Awards for several years now, contributing \$1,000 per annum as a 'Support Sponsor'.

Further, it is noted that Council's Disability Access Policy Committee is investigating the concept of an inclusion of a special Leichhardt Local Government Area Small Business "Access Award", within the current program offered through the Inner West Small Business Awards. This is based on positive feedback from Auburn Council, who has been in a partnership arrangement with Precedent Productions, providing a similar Access Awards program in their area.

By including an "Access Award" in the Inner West Small Business Awards program, this would be seen as a positive way to promote better access within our local business community as well as improving access in general to the wider community.

The proposed "Access Award" will be formally discussed with Precedent Productions in the near future to investigate it's feasibility to both parties.

Recommendation:

That Council provide sponsorship of \$1,000 for the 2009 Inner West Small Business Awards, with funding coming from the Councillors Miscellaneous Priorities budget.

That Council pursue it's investigation for the inclusion of a Leichhardt Local Government Area Small Business Access Award in the Inner West Small Business Awards program.

LEICHHARDT MUNICIPAL COUNCIL REPORT

DIVISION: GENERAL MANAGER

SUBJECT: ITEM 11A LEICHHARDT COUNCIL -V- RTA (BLACKMORE PARK) DEED OF RELEASE TO PAY COMPENSATION

AUTHOR: MARGARET LYONS, Manager Legal Services

FILE REF: F98/00198 volume 5

DATE: 8 April 2009

WORD PROCESSING REF: G:\BP\Agendas\2009 Agendas\April 09\Supp Book 280409.doc

DIRECTOR'S SUMMARY - ORGANISATIONAL IMPLICATIONS

Financial Implications: Deed required before the RTA will pay the compensation

Policy Implications: Nil

Strategic Plan Objective: 1.0 Community Well-being
3.0 Place where we live and work
4.0 A sustainable environment

Staffing Implications: Nil

Notifications: Nil

Other Implications: Nil

1. Purpose of Report

To seek Council's approval to seal a deed of release between Council and the Roads and Traffic Authority of NSW as to the payment of compensation for the acquisition of Council land at Blackmore Park.

2. Recommendations

That Council authorise the Mayor and the General Manager to affix Council's seal to the deed of release between the Roads and Traffic Authority of NSW and Council in regard to the payment of compensation for the acquisition of Council land at Blackmore Park (lots 6,12 & 13 DP1045624).

4. Background

In July 2003, the RTA compulsorily acquired several parcels of land owned by Council and used as part of Blackmore Park. The land was acquired for the City West Link.

After six years of litigation, on 6 February 2009, The Land and Environment Court (Appeal No. 31318 of 2003) determined the compensation payable at \$1,465,439.

The RTA has not appealed the decision of the Court and as of 6 March 2009, the compensation is due and payable.

5. Report

In accordance with s.44 (& s.45) of the Land Acquisition (Just Terms Compensation) Act, the RTA has requested a deed of release from Council prior to payment. A copy of that deed is attached. Section 44 provides:

44 Acceptance of offer of compensation

- (1) *A person entitled to compensation under this Part may accept the amount of compensation offered by the authority of the State in the compensation notice.*
- (2) *Payment of the compensation is to be made within 28 days of the receipt by the authority of the State of a claim for compensation, deed of release and indemnity (duly completed) and any relevant documents of title.*

The Local Government Regulations require a Council resolution to authorise the sealing of any document.

5. Summary/Conclusions

That Council authorise the Mayor and General Manager to affix Council's seal to the attached agreement.

LEICHHARDT MUNICIPAL COUNCIL

REPORT

DIVISION: GENERAL MANAGER'S OFFICE
SUBJECT: ITEM 11B WATER POLICE SITE AT CAMERON'S COVE
AUTHOR: PETER HEAD
FILE REF: SC/2006/3
DATE: 6 APRIL 2009
WORD PROCESSING REF: G:\BP\Agendas\2009 Agendas\April 09\Supp Book 280409.doc

DIRECTOR'S SUMMARY - ORGANISATIONAL IMPLICATIONS

Financial Implications: Council will assume ongoing maintenance and management liabilities for the new open space (including contained contaminated soil) once the land transfer is agreed to

Policy Implications: Consistent with providing additional public open space

Strategic Plan Objective: Community Well Being; Sustainable Environment; Place Where We Live and Work

Staffing Implications: Existing staff will maintain the site

Notifications: Local residents will be notified of the additional remediation works

Other Implications: Maintenance help from local community Bushcare groups will be sought

1. **Purpose of Report**

To provide Council with an update on the proposed transfer of land to Council at the Water Police site, Cameron's Cove and to recommend a way forward to resolve the outstanding issues.

2. **Recommendations**

That Council:

1. Advise the New South Wales Police Force that it will accept transfer of land shown as areas B1, B2 and B3 as shown on the 'Areas Analysis' plan (contained within attachment 2 to this report) subject to:
 - the fenced off area of the site to be remediated to exclude the upper grassed area of Broadside St (as defined by the newly installed post and chain safety fencing) because this area has been remediated and not identified by the Site Auditor as an area of restricted access or inaccessible to the public ; and is currently well vegetated with good condition grass cover
 - the remaining fenced off area of the site (shown as the *Hillside Area* shaded blue on plan attachment) to be remediated to a 'Recreational Open Space' land use criteria in accordance with the *NSW EPA's – Guidelines for the NSW Site Auditor Scheme* and certified as such by an accredited site auditor;
 - the suitability of the site for 'Recreational Open Space' as contained in the Site Audit Statement not being contingent on the '*Hillside Area*' being inaccessible or having restricted access to the public by virtue of contamination - noting that access/walking tracks will be required within the *Hillside Area* notwithstanding the general topographical constraints of the site
2. Enter into a written agreement with the New South Wales Police Force requiring the current owner of the land to prepare a Remediation Action Plan that when implemented will result in the '*Hillside Area*' being suitable for 'Recreational Open Space' land use in accordance with the *NSW EPA's – Guidelines for the NSW Site Auditor Scheme*.
3. Delegate to the Mayor and General Manager the authority to settle the terms of the agreement including proposed timelines and milestones for the remediation works.

3. **Background**

In 2001, the Minister for Urban Affairs and Planning gave consent to a DA at Jubilee Place for the Water Police facility, site remediation and landscaping. Part of the consent provided for land (as shown on attachment 1) to be dedicated to Council following its remediation.

Council has not accepted dedication of the land due to concerns about outstanding conditions of development consent, with the principal issues being related to site remediation, stability and stormwater management of the *Hillside Area* (shaded blue on attachment 1 occupying approx 6500 sq metres). Over a number of years, Council has sought information from the State Government to address these issues. Until now, information that would satisfy Council's concerns has not been provided.

Late last year following concerns raised by officers, Council arranged for an inspection of the hillside area by an independent environmental consultant, Heggies Pty Ltd (Heggies). Heggies found fragments of Asbestos Cement (AC) on the *Hillside Area*. Two samples were analysed and found to contain Chrysotile and Amosite asbestos. Heggies inspected a moderately vegetated area and AC debris could be sighted relatively easily on ground surfaces. Heggies stated that the findings in the area inspected should be used to make assumptions about the more densely vegetated areas as it is possible that these areas are contaminated also. Heggies deemed the area unsafe for public admission and recommended that access to the area be completely restricted until the soil is appropriately remediated.

Council provided a copy of the Heggies report to the owner of the site, the NSW Police, and requested it to advise Council of the action it intends to take to ensure the health and safety of residents and visitors to the area, and in the interim to prevent public access.

At the November 2009 Council meeting, Council resolved that:

1. Council note that the land proposed to be transferred to Council at the Water Police site has been inspected by an environmental consultant engaged by Council (Heggies Pty Ltd), who has deemed the area unsafe for public admission due to the presence of exposed friable asbestos cement debris and recommended that access to the area be completely restricted until the soil is appropriately remediated/encapsulated.
2. Council note that the owner of the site, the NSW Police, has been provided with a copy of the report by Heggies Pty Ltd and requested to advise Council of the action it intends to take to ensure the health and safety of residents and visitors to the area, and in the interim to prevent public access.
3. Council continue to seek access to a report prepared by Coffey Environments Pty Ltd in 2007.
4. Council request that the further report on site stability and remediation to be undertaken by environmental consultants and funded by the NSW Police be expedited, with the scope of works for the study to be jointly agreed with Council.
5. The Mayor seek a meeting with the Minister for Police and invite residents and interested Councillors to seek an urgent resolution to this issue.

6. Council apply under the Freedom of Information legislation for access to all reports held by the State Government (including the NSW Police Force and the NSW Department of Commerce) relating to soil, contamination, remediation, site stability, stormwater and groundwater at 4 Jubilee Place, Balmain.

Since that Council meeting, Council has continued to liaise with United Group Services (UGS) acting on behalf of the NSW Police (NSWP) in terms of the outstanding issues – with the result that the following DA conditions of consent (to be satisfied prior to the release of the subdivision certificate and transfer of land) have now been satisfied by the NSWP:

- Stormwater management & embankment stabilisation
- Noise Management
- BCA requirements in existing public open space areas (safety railing to Broadside St)
- The subdivision plan has been corrected to depict boundaries and transfer areas
- Ground Water monitoring (all reports now completed and satisfactory)

With respect to the remaining issue of contamination, UGS have now undertaken further testing and confirmed that eroded portions of the *'Hillside Area'* require further remediation.

UGS on behalf of the NSWP have agreed to undertake this further work on conditions set out in their letter to Council dated 2 April 2009 - primarily to return the site to the condition it was in at the time the Site Auditor determined the *'Hillside Area'* to be suitable for 'recreational open space' subject to that area having restricted access/being inaccessible by way of dense vegetative planting.

4. **Report**

UGS's letter of 2 April 2009 (annexure 2) advise that further remediation of the land will only take place if Council agrees to the following:

- A temporary 2.1m chain wire fence will be erected around the hillside area boundary (ie edged red on attachment 1)
- Remediation involving removing visible asbestos fragments & further capping with soil to allow new vegetation planting & growth (according to UGS estimated in the vicinity of an additional \$1.0mill and taking around 12 to 18 months to complete)
- Following remediation they will then provide council with a Validation Report (verifying what work was actually completed) followed by a Site Audit Statement (verifying that the site is now suitable for public open space use – which may be subject to conditions such as compliance with an Site Environmental Management Plan (SEMP) necessary to maintain the site is a

stable condition so that any underlying contaminated soil is not exposed)

- Within 10 days of receiving the Validation Report, Council will accept the transfer and from that time assume responsibility for the site including compliance with the SEMP & any public liability/damages claims.
- As mentioned above, the remediation currently proposed by UGS seeks to return the site to the condition it was in when the original Site Audit was prepared ie its suitability for recreational open space will be contingent on the *Hillside* being made inaccessible/restricted access by virtue of dense planting.

In the event that Council doesn't agree to the above, UGS advise that the site will be remediated to a state which meets relevant legislation (assumed minimum standards) and will seek deletion of the land transfer to council through the Dept of Planning.

Council has recently obtained independent advice on the nature and extent of remediation work intended to be undertaken – to ensure that the site will be safe for public open space use. That advice from Graeme Nyland the Principal of Environ Australia Pty Ltd was:

The short answer to your question, "based on the available material, if the site was accessible, would the statement that it is suitable for open space still be valid", is No.

The RAP was prepared in 2001, prior to Auditor engagement. Remediation was required because of Polycyclic Aromatic Hydrocarbons (PAHs) and heavy metals, mainly lead. The RAP required capping of some areas and effectively restricting access to others by dense planting. It did not mention asbestos, but asbestos was noted by the Auditor in 2002 prior to the remediation.

The RAP was subsequently implemented, apparently between August 2002 and February 2004. I do not have the validation report, but an addition to the RAP was removal of asbestos by hand picking. Asbestos clearance was given by Pickford and Rhyder in September 2004 (I have not seen their report). This was apparently completed subsequent to capping, though this is not clear. They concluded that there might be some small pieces of asbestos cement left but that they would not be a risk to site users.

The Site Audit Report and Site Audit Statement were subsequently prepared. It does not tick the normal "park, recreational open space, playing field" box, but instead ticks "other". It certifies suitability for "public open space" subject to compliance with a long term site environmental management plan (SEMP). The Site Audit Report notes that asbestos as well as the other contaminants is capped. I do not have the SEMP, but it is clear that it requires, amongst other things, maintenance of the capping

and maintenance of the dense vegetation. Therefore if they are not maintained, the site is not suitable.

Asbestos was subsequently noted, as documented by Heggies in 2008. It is not clear to me whether it is in areas that were previously capped, and have since eroded, or whether it is in non-capped areas and was not detected in the validation in 2005. If in eroded areas, the site may not be suitable even without asbestos because the other contaminants (PAHs, lead) are also no longer capped. The asbestos would be more visually obvious than PAHs and lead.

The SEMP required annual inspection of the capping, and presumably of the dense vegetation, by qualified Council staff. The Auditor required evidence that Council had agreed to accept liability for the site subject to the SEMP. Coffey (14 September 2005, in the back of the SAR) stated that Dept of Commerce and Leichhardt Council were in regular consultation regarding the remediation and would be aware of the management responsibilities imposed on them by the SEMP.

Coffey (13 March 2009) essentially say the damage to the cap should be repaired in accordance with the original RAP. As the original remediation appears to have only lasted a few years, Council would likely be liable for ongoing maintenance costs unless something more substantial is done. If Council requires public access to the dense vegetation area, then the previous RAP is invalid and a different remediation method (removal of fill, capping with stabilisation) would need to be implemented.

The primary issues of concern to council are **accessibility** of the site (as useable open space) and **maintaining cap stability** (to minimise exposure in the future of any underlying contaminants.)

Accessibility

The original RAP and subsequent Site Audit Statement state that *the hillside* area is very steep & requires dense mass planting to maintain stability of the capping over the contaminated soil. Therefore in the Site Audit Statement it's concluded that this area will be inaccessible to the public.

Coffey Geosciences, in clarifying what this actually meant, advised UGS in March this year as follows:

"Whilst it was not expected that public access to the Hillside would be limited by barriers or administrative means, it was envisaged that the steepness of the subject area combined with mass planting, when properly maintained, would discourage the area from being used for open space land uses (such as picnicking or active sports) that would provide opportunities for close contact with the contaminated soil that is left behind. It was a requirement that the planting on the Hillside that had developed into quite dense and adequately impenetrable state, be maintained as such."

In reality however this wont be the case – there is no doubt that informal access tracks will occur (and indeed exist already) along existing contour

lines - presumably formed by local residents exploring this area of bushland, not to mention our maintenance staff and Bushcare volunteers who will need access from time to time. The *Hillside* therefore won't be impenetrable and a new RAP needs to take this into account – ie for unconditional public open space access notwithstanding the topographical constraints.

Maintaining Cap Stability

Graeme Nyland states that the remediation work undertaken under the original RAP in 2004 has only lasted a few years – therefore if this same remediation work is merely repeated, Council will likely face future remediation liabilities. This is not an unreasonable conclusion. Despite the fact that the SEMP requires regular annual inspections, the bottom line is that exposure of previously contained contamination has occurred – meaning that the long term engineering security of the capping works has not been successful. A new RAP should also address this issue when finalising remediation strategies

Council has also sought legal advice regarding the requested agreement, liability indemnities and the like. That advice should be available at the meeting

Subject to there being no significant issues arising from this further advice (which will be provided at the very latest to Council in Committee of the Whole on the night) acceptance of the above conditions, to be incorporated into a formal agreement, is now recommended on the following basis:

- The fenced off area should not include the grassed area of Broadside St because this area is well vegetated with good condition grass cover, has previously been capped and revegetated with grass, and has been open, accessible and maintained by the public/local residents/council for some years past. It is therefore recommended that the hillside area should remain secured along the existing fence lines whilst further remediation work is undertaken
- Council being satisfied with a new RAP including proposed timelines and milestones for the remediation works – all to be incorporated into the agreement
- Council not formally accepting the transfer until receipt of both a satisfactory Validation Report and Site Audit Statement
- Council being satisfied that the Site Audit Statement doesn't impose unreasonable conditions on the hillside land e.g. public access restrictions to the site due to contamination rather than topographical constraints such as steeply sloping sites, dense vegetation etc

LEICHHARDT MUNICIPAL COUNCIL

REPORT

DIVISION: ENVIRONMENTAL AND COMMUNITY MANAGEMENT
SUBJECT: **ITEM 22A - STATE ENVIRONMENTAL PLANNING POLICY
NO. 1 - REPORTING REQUIREMENTS**
AUTHOR: KAREN JONES, MANAGER ASSESSMENTS
DATE: 16 APRIL 2009
WORD PROCESSING REF: G:\BP\280409\REPORTS\STATEENVIRONMENT
ALPOLICY.DOC

DIRECTOR'S SUMMARY - ORGANISATIONAL IMPLICATIONS

Financial Implications: Nil
Policy Implications: Nil
Strategic Plan Values: Democratic Responsible Government
Staffing Implications: Nil
Notifications: Nil
Other Implications: Nil

1. Purpose of Report

The purpose of this report is to outline the recommendations of the Independent Commission Against Corruption in regards to corruption prevention within Council's and how Leichhardt Council has addressed or is complying with the recommendations.

2. Recommendations

That Council receive and note this report.

3. Report

In 2008, The Independent Commission Against Corruption investigated corruption allegations into the conduct of Wollongong Council including Councillor's and Council staff. The Independent Commission Against Corruption's investigations identified several weak areas that contributed to the corrupt conduct.

The Commission was also of the opinion that the Department of Planning could have played a stronger role in regard to the Council's application of State Environmental Planning Policy No. 1 through applying its entitlement to withhold concurrence for State Environmental Planning Policy No. 1 dispensations and by obliging the Council to record and reports its State Environmental Planning Policy No. 1 decisions.

As a result of the investigations, the Independent Commission Against Corruption has made the following twenty-seven (27) corruption prevention recommendations:

Recommendation 1

That for at least two years after the election of a new Wollongong City Council, the Director General of the Department of Planning revokes Wollongong City Council's assumed concurrence for the use of State Environmental Planning Policy No 1 (or its equivalent) to determine departures from development standards of more than 10%.

Comment – This recommendation does not apply to Leichhardt Council.

Recommendation 2

That Wollongong City Council publish a register of Development Applications determinations (including approvals and refusals) that rely on State Environmental Planning Policy No. 1 (or its equivalent) on its website.

Comment – Council currently publishes on its website a list of determined applications. This list is published weekly. Commencing in April 2009, Council identifies within this list those applications that were the subject of a State Environmental Planning Policy No. 1 Objection.

Recommendation 3

That when advertising or notifying development applications, Wollongong City Council disclose whether the application is accompanied by a State Environmental Planning Policy No. 1 objection (or its equivalent).

Comment – Commencing in April 2009, Council discloses whether a Development Application is accompanied by a State Environmental Planning Policy No.1 objection as part of the notification process.

Recommendation 4

That the Director General of the Department of Planning actively uses the power to revoke or modify his or her assumed concurrence to prevent abuse of State Environmental Planning Policy No. 1 (or its equivalent) by all consent authorities.

Comment – On 14 November 2008, the Department of Planning released a Circular reminding Council's of their responsibilities to complete quarterly returns on variations to a development standard using State Environmental Planning Policy No. 1. A copy of this circular is included as Attachment A of this report. The requirements of this circular are as follows:

1. *Establish a register of development applications determined with variations in standards under State Environmental Planning Policy No. 1.*
2. *Require all development applications where there has been a variation greater than 10% in standards under State Environmental Planning Policy No. 1 to be determined by full council (rather than general manager or nominated staff member).*
3. *Provide a report to each Council meeting on the developments applications determined whether there had been a variation in standards under State Environmental Planning Policy No. 1.*
4. *Make a register of development applications determined with variations in standards under State Environmental Planning Policy No. 1 available to the public on Council's website.*

In response to points 1 and 4, Council currently publishes on its website a list of determined applications. This list is published weekly. Commencing in April 2009, Council identifies within this list those applications that were the subject of a State Environmental Planning Policy No. 1 Objection.

Council was concerned with the consequences of implementing point 2. Statistically, this would have resulted in approximately 44% of Development Applications being reported to a Council meeting. This is in addition to the current applications that are reported due to delegations, such as Council initiated Development Applications, those that are "called" by Councillors or those that have an estimated cost greater than \$2 million. Council conveyed these concerns to the Department of Planning

who responded on 12 February 2009. In summary, the letter from the Department of Planning states:

- *The current planning controls contain development standards that restrict the reasonable redevelopment of existing dwellings to carry out modest additions and alterations.*
- *The Department encourages Council to advance its preparation of the new comprehensive local environmental plan, with a specific aim to update the development standards to provide reasonable development potential under its controls throughout the Leichhardt Local Government Area.*
- *As an interim measure, Leichhardt Council can assume concurrence under State Environmental Planning Policy No. 1, subject to development applications begin referred to a full Council, if the variation, in the case of alterations and additions to dwellings exceeds 60% for the floor space ratio development standard and 40% for the landscaped area development standard and if the variation exceeds 10% for all other development standards for any type of application.*
- *Following six months from the implementation of this interim measure, the Department will perform a review of Council's recent development applications and progress in preparing updated development standard.*

As a result of the letter from the Department of Planning, all Development Applications that include a State Environmental Planning Policy No. 1 objection where alterations and additions seek a variation to floor space ratio exceeding 60%, where alterations and additions seek a variation to landscape area exceeding 40% and where a variation to the remaining development standards exceeds 10% are reported to the monthly Building and Development Council meetings.

Recommendation 5

That the NSW Department of Planning monitor and enforce the requirements for all consent authorities to keep records of their assessment of all development applications which seek a variation to development standards.

Comment – As mentioned previously, On 14 November 2008, the Department of Planning released a Circular reminding Council's of their responsibilities to complete quarterly returns on variations to a development standard using State Environmental Planning Policy No. 1. A copy of the quarterly return for the period between January 2009 and March 2009 is attached to this report.

Recommendation 6

That the NSW Minister for Planning consider expanding the classes of development for which Joint Regional Planning Panels will be the consent authority to include certain categories of development relying on State Environmental Planning Policy No. 1 objections.

Comment – In a recent media release, the Minister for Planning announced the new Joint Regional Planning Panels will come into operation from mid 2009, and will be made up of three (3) state government appointed members and two (2) council appointed members from the local government area where a development application has been made.

The threshold for residential, mixed use and commercial development projects to be determined by Regional Panels is to be \$10 million.

In addition, both public and private community infrastructure and ecotourism development decisions worth more than \$5 million will be made by the panels.

The number of applications Joint Regional Planning Panels are expected to be about 330 per year across NSW.

Recommendation 7

That the NSW Minister for Planning consider ways in which Joint Regional Planning Panels can be made resistant to improper influence, such as:

- regularly rotating panel members across different panels
- limiting the tenure of panel members
- drawing panel members on a random basis, or at least in a manner which makes their appointment difficult to predict.

Comment – This issue is yet to be addressed by the Department of Planning.

Recommendation 8

That Wollongong City Council's internal audit or administrative staff be given responsibility for monitoring compliance with Council resolutions and reporting on non-compliance.

Comment – The status of each Council resolution is reported back to the next Ordinary Meeting for Council to note. Resolutions are then kept in a "resolution tracking register" and monitored on an ongoing basis each quarter by Council's Administration Department until completion.

Recommendation 9

That Wollongong City Council receives regular reports on compliance with its resolutions and that the Council have regard to these reports when evaluating the performance of the General Manager.

Comment – The status of the previous month's resolutions are reported to Council each month. The ongoing resolution tracking register is also sent to the General Manager each quarter as part of the monitoring process.

Recommendation 10

That the Department of Planning consider issuing new advice to New South Wales councils in relation to the legal status of draft and unadopted Local Environmental Plans and Development Control Plans when determining development applications.

Comment – On 13 November 2009, the Department of Planning issued a circular advising that draft Environmental Planning Instruments that were exhibited prior to 1 March 2006 and have not yet been gazetted should not be considered in relation to development applications.

Any draft instruments which have not been made within three (3) years of exhibition have been deferred indefinitely or have not been approved and no longer need to be taken into consideration by consent authorities when determining development applications.

Recommendation 11

That Wollongong City Council determine clear, objective and auditable criteria for deciding which Development Applications are referred to the Independent Hearing Assessment Panel.

Comment – Leichhardt Council does not have an Independent Hearing Assessment Panel and considers that the delegations for determining Development Applications are clear and concise.

Recommendation 12

That Wollongong City Council require town planners to complete a standardised Development Application assessment report prior to issuing any development determination. Compliance with this requirement should be recorded and tied to the regular performance reviews of staff and managers.

Comment – Leichhardt Council uses standardised report templates and checklists in the assessment of all Development Applications. In order to promote quality assurance, it is also recommended that Council staff conduct monthly audits of 10% of all applications determined and the results of this audit be reported to Council. A copy of the audit sheet is attached to this report.

Recommendation 13

That Wollongong City Council consider modifying its Development Application assessment software to mandate completion of certain tasks prior to issuing development determination.

Comment – Leichhardt Council's current computer software has the functionality to mandate the completion of certain tasks and Council staff are in the process of implementing this functionality.

Recommendation 14

That Wollongong City Council consider the extent to which planning duties can be segregated and allocated to its Preliminary Assessment Unit and/or customer service staff.

Comment – It has long been the direction of customer service initiatives within Leichhardt Council to provide Assessment Officers to answer customer planning enquiries as well as carry out the assessment of applications.

Recommendation 15

That Wollongong City Council require its Infrastructure Planning Coordinator and the Council (or Administrators) to approve any deferral of development contributions.

Comment – Leichhardt Council has not received a request for the deferral of development contributions. If this were the case, then the matter would be referred to SMT and reported to Council for approval.

Recommendation 16

That Wollongong City Council allocate incoming development applications to town planners with no regard to the wishes of applicants.

Comment – Leichhardt Council has a unique system of allocating Development Applications. The Assessments Team is divided into an “odd” team and an “even” team. Those Development Applications with an “odd” application number are allocated to the odd team and those with an “even” application number are allocated to the even team. Given that an application number is only given at the time of lodgement, the applicant has little opportunity to “request” a particular assessment officer to assess their application.

Recommendation 17

That internal Wollongong City Council information relating to the possible rezoning of land be released publicly as soon as possible but in accordance with section 66(3) of the Environmental Planning and Assessment Act.

Comment – Leichhardt Council currently follows this process.

Recommendation 18

That Wollongong City Council examine officers’ access to and use of files:

- in response to complaints; and
- as part of its regular internal audit program.

Comment – Complaints about staff members go on files which have restricted access. Those files are maintained by Council’s Employee Services Department and

are not available to other staff members, other than the officer dealing with the complaint.

Recommendation 19

That Wollongong City Council rewrite the position descriptions, contracts and performance agreements of the General Manager and relevant senior managers so that the desired anti-corruption behaviour is defined, recognised and rewarded.

Comment – Council uses the Department of Local Government Senior Officer Contract and has a detailed Code of Conduct.

Recommendation 20

That Wollongong City Council appoint and train at least twelve (12) new protected disclosure officers and that all Council staff receive training in the Protected Disclosures Act 1994 and Council's internal reporting system.

Comment – Leichhardt Council will review its Protected Disclosure Policy and ensure there are sufficient trained staff.

Recommendation 21

That Wollongong City Council re-establish the position of Internal Ombudsman.

Comment –Leichhardt Council has recently reviewed the Complaints Policy which is transparent and has been sent to the Ombudsman's Office of NSW for ratification.

Recommendation 22

That Wollongong City Council take action to fill staff vacancies pursuant to section 348 and section 349 of the Local Government Act 1993 as soon as is practicable.

Comment – This recommendation does not apply to Leichhardt Council.

Recommendation 23

That where temporary appointments need to be made pursuant to section 351 of the Local Government Act 1993, Wollongong City Council seek internal expressions of interest based on the established position description, unless it is impractical to do so.

Comment – Council currently seeks internal expressions of interest for temporary appointments.

Recommendation 24

That in 2012, incoming Wollongong City Councillors receive training in statutory planning responsibilities and corruption awareness.

Comment – This was included in the 2008 Induction Package and part of the separate Code of Conduct training to Councillors. Training will also be provided to incoming Councillors in 2012.

Recommendation 25

That Wollongong City Council's Audit and Governance Committee be reconstituted to include additional external membership and an independent chairperson. The independent chairperson of the Committee should also be a designated Protected Disclosures officer and the Committee itself should oversee compliance with the Protected Disclosures Act 1994. The Council's Internal Ombudsman should have direct access to the Committee and the independent chairperson.

Comment – Council is currently exploring options for the establishment of external audit committee membership via resource sharing within SSROC.

Recommendation 26

That Wollongong City Council amends its Code of Conduct to include a prohibition on binding caucus votes in relation to development applications.

Comment – This issue has been discussed with current Councillors who are well aware of the inappropriateness of such practice. Future reviews of the Code of Conduct will incorporate this aspect of decision making after discussions with the Department of Local Government.

Recommendation 27

That all New South Wales councils consider a prohibition on binding caucus votes in relation to development applications during their next code of conduct review.

Comment – See above. However Council adopted the Model Code of Conduct produced by the Department of Local Government with some minor amendments to make it specific to Leichhardt. This recommendation will be considered as part of the next review.

LEICHHARDT MUNICIPAL COUNCIL

REPORT

DIVISION: ENVIRONMENTAL AND COMMUNITY MANAGEMENT
SUBJECT: ITEM 22 C - DRAFT CENTRES POLICY
AUTHOR: CLARE HARLEY – EXECUTIVE STRATEGIC PLANNER
FILE REF: F09/00081
DATE: 20 APRIL 2009
WORD PROCESSING REF: G:\BP\Agendas\Supp Book 280409.doc

DIRECTOR'S SUMMARY - ORGANISATIONAL IMPLICATIONS

Financial Implications: Nil

Policy Implications: Place Plan
Residential Strategy

Strategic Plan Objective: Community Well-being
Accessibility
Place Where We Live and Work
A Sustainable Environment
Business in the Community
Sustainable Services and Assets

Staffing Implications: Potential impacts on planning staff

Notifications: Nil

Other Implications: Strategic Planning

1. **Purpose of Report**

The purpose of this report is to:

- a) advise Council of the recently released *Draft Centres Policy: Planning for Retail and Commercial Development*, prepared by the Department of Planning
- b) advise of a submission for Council endorsement to be forwarded to the Department of Planning

2. **Recommendations**

1. That Council receive and note the information provided in this report.
2. That Council resolve to send a submission (included as Annexure A to this report) to the Department of Planning in relation to the *Draft Centres Policy: Planning for Retail and Commercial Development* outlining Council's position.

3. **Background**

The Department of Planning released the *Draft Inner West Subregional Strategy* in July 2008 which included strategic planning statements in relation to Centres and Corridors. Council made submissions to the Department of Planning in relation to that document.

The *Draft Centres Policy: Planning for Retail and Commercial Development* has now been released by the Department of Planning and the Department is seeking submissions from the community in relation to the Policy by 11 May 2009.

4. **Report**

Council has reviewed the *Draft Centres Policy: Planning for Retail and Commercial Development* and raises the following concerns. Detailed comments and responses to Department of Planning consultation questions are attached as Annexure A.

4.1 **Context**

The Policy should be considered in context of the *Draft Inner West Subregional Strategy* (which is a subset of the Metropolitan Strategy released by the Department of Planning in 2005). The *Draft Inner West Subregional Strategy* included objectives and actions that clearly established the importance of integrating employment, housing and business activities in Centres which are concentrated near public transport.

The *Draft Inner West Subregional Strategy* envisaged Centres to be mixed use environments where land uses facilitate the provision of a broad range of necessary and desired goods and services. For instance **Action B2.1 Plan for Housing in centres consistent with their employment role** identified that Councils will need to consider and balance housing growth with employment opportunities and that land use relationships and local infrastructure improvements should seek to maximise opportunities for increased use of active transport, particularly walking and cycling.

4.2 *Floorspace Supply and Demand Assessment and Retail and Commercial Targets*

A key aspect of the Policy is that the Department of Planning proposes the establishment of minimum floorspace targets for retail and commercial sectors in each region, sub-region and Council area. The targets would be based upon a Floorspace Supply and Demand Assessment to be undertaken by the Department of Planning in conjunction with Council. It is assumed that the targets would have a similar status to the population and employment targets for 2031 established by the Department of Planning.

Prior to Floorspace Supply and Demand Assessments being completed or where there is inadequate information it is proposed that interim targets should be set at 2 m² of retail floorspace per capita increasing by 0.1 m² per five years.

4.3 *Summary of considerations*

- The Draft Centres Policy does not adequately reinforce the strategic objectives relating to Centres as identified in the Metropolitan Strategy and Draft Subregional Strategy including the need to carefully link growth to places with adequate public transport.
- The Draft Centres Policy does not adequately address the complexities of development in Centres. Effective Centres are places which are the focus of community activity and which achieve a good balance of employment, social, retail and residential opportunities supported by good transport links.
- The Draft Centres Policy emphasises market demand as the key driver of growth but fails to recognise that there are also market demands associated with competing land uses. It is a simplistic approach to expect that the market will achieve appropriate diversity of land uses in centres especially in the context of the proposed Policy which is heavily weighted towards retail and commercial development.
- The Draft Centres Policy recommends that a single, mixed use zoning across a centre is an adequate implementation measure with which Council can achieve important strategic objectives relating to Centres. In its current form the Draft Centres Policy would reduce the ability of Council to achieve an appropriate mix of land uses in Centres.

- The Draft Centres Policy does not adequately address how the Policy relates to the Standard template. In particular the nexus between the Centres Typology proposed in the Policy and the land use zones proposed in the Standard Template (e.g. B1, B2 etc) is not adequately addressed.
- The Draft Centres Policy does not provide Council with appropriate means to restrict the growth of Centres. The Policy states that land suitably zoned for retail and commercial development should at all times exceed demand (identified demand to be based either on a FSDA or an Interim Retail Target). The Policy suggests that a Proponent can seek a rezoning of land where all suitably zoned land has been taken up or where there is no site of a suitable scale for the proposed development.
- Principle 3 includes the statement that *“the planning system should be flexible enough to enable all centres to grow”*. It is sometimes neither desirable nor possible for a centre to grow because of heritage, social or environmental values or because of inadequate public transport.
- The Policy also includes a set of Evaluation Criteria against which rezoning proposals can be assessed but does not establish whether those criteria are given equal weighting nor are they criteria which can be quantified and used to objectively assess a proposal.
- The Policy does not adequately address how principles of ecologically sustainable development are to be used to assess whether a centre is suitable for growth or how such principles can be implemented in centres. Existing and new Centres represent important opportunities for maximising sustainability of urban environments by creating an appropriate mix of uses located in close proximity to public transport.
- The Policy does not adequately address how to reduce the impacts of travel associated with accessing goods, services and employment by efficiently locating them in Centres which are well serviced by public transport.
- The Draft Inner West Subregional Strategy states that 80% of new residential development is to be located in Centres yet the Draft Centres Policy inadequately addresses how that objective can be achieved.
- The Draft Centres Policy does not adequately address the important contribution that the built and spatial environment contributes to creating vibrant and successful centres. The discussion of and guidance that the Policy provides in relation to urban design including built forms, spatial elements, streetscapes, movement systems and links to public transport and other forms of sustainable transport is inadequate. Furthermore, the importance of urban design in supporting the economic and social viability of Centres or as a catalyst for change and urban renewal is not addressed.
- The Policy does not adequately address the important nexus between Centres and Corridors nor does it provide Councils with practical guidance

about the implementation of the Sub-regional Strategies in relation to initiatives such as Enterprise Corridors.

4.4 Recommended amendments to the Draft Centres Policy

It is proposed that Leichhardt Council's submission to the Department of Planning include recommendations for amendments to the Draft Centres Policy as follows:

- a) The Draft Centres Policy should recognise the importance of competing land use demands including those associated with residential development, community uses, light industry and open space.
- b) Retail and commercial floorspace targets should not be set without adequate exploration of demand for competing land uses.
- c) The Draft Centres Policy should be amended to include a discussion of and guidance in relation to how urban design including built and spatial forms, streetscape and links to public transport and other forms of sustainable transport can be used to support the development of walkable, mixed use centres.
- d) The Draft Centres Policy should be amended to clearly articulate the links between it and the Department of Planning's own initiatives including METRIX, the proposed zones under the Standard Template for Draft Local Environmental Plans and the Centres typology.
- e) The Draft Centres Policy should be amended to remove the suggestion that a single land use zone be applied to Centres in the LEP. Council strongly contends that market demand for retail and commercial land use is not the appropriate driver of land use mix in Centres.
- f) Suitability criteria for the assessment of sites for rezoning should be amended to include criteria relating to heritage values and Council strategic objectives.
- g) The Policy should be amended to include access to public transport in centres as a key consideration and determinant of future growth.
- h) The Policy should be amended to identify how the Metropolitan Strategy objective of locating 80% of new residential development in Centres is to be practically implemented and integrated with competing land uses, including retail and commercial development.
- i) The Policy should be amended to reflect principles of environmentally sustainable development including consideration of the capacity and suitability of each centre to absorb growth.
- j) The Policy should be amended to provide Councils with clear guidance regarding strategic planning, assessment and zoning in corridors which

have been identified in the Metropolitan Strategy and Sub-regional Strategies. The Policy should provide Councils with guidance as to how to support and maximise the economic viability of centres through the establishment of appropriate land uses and urban forms in corridors.

4.5 *Implications for the Draft LEP 2011*

The Policy establishes Criteria against which potential development sites may be assessed in the event that additional zoned land is required. It also states that councils are to ensure that the supply of land zoned for retail and commercial purposes will always exceed demand. That objective will impact upon decision making in relation to zoning of land in the Draft LEP.

The Policy also includes sections relating to specific zones and poses a number of questions in relation to those zones. Depending upon the timing of the release of a revised Centres Policy there may be implications for the preparation of the Draft LEP 2011 and the range of land uses permissible in some zones in the Standard Template, for instance in the B6 (Enterprise Corridor) zone. Councillors will be fully briefed in relation to the up-to-date zone specific implications during the preparation of the Draft LEP 2011.

5. Summary

This report advises Council of key concerns relating to the recently released *Draft Centres Policy: Planning for Retail and Commercial Development* and recommends endorsement of a submission to the Department of Planning in relation to the Policy.

LEICHHARDT MUNICIPAL COUNCIL

REPORT

DIVISION: INFRASTRUCTURE AND SERVICE DELIVERY
SUBJECT: **ITEM 29A - J C DECAUX STREET FURNITURE CONTRACT**
AUTHOR: VINCE CUSUMANO, MANAGER – PARKS & STREETSAPES
FILE REF: F98/00119
DATE: 15 APRIL 2009
WORD PROCESSING REF: G:\BP\Agendas\Supp Book 280409.doc

DIRECTOR'S SUMMARY - ORGANISATIONAL IMPLICATIONS

Financial Implications: Council could gain an increase in annual revenue of \$40,000 if scrolling panels were introduced. Council has received reduced a revenue share over the last year of \$58,194 with anticipated losses again in 2009/2010.

Policy Implications: Nil

Strategic Plan Objective: 6. Sustainable Services and Assets

Staffing Implications: Nil

Notifications: Nil

Other Implications: The scrolling of these panels will allow Council to fulfil its contract numbers under the current contract

Executive Summary

Council have a 20 year street furniture contract with J C Decaux for the provision of bus shelters, phone booths, seats and bins. This contract provides a revenue stream to Council as well as J C Decaux maintaining and cleaning of this street furniture. To date the contract has paid to Council \$1,281,495.

This report explains the mechanism by which the revenue to Council is calculated and outlines the present situation where there has been a reduction in payments to Council of \$58,194 due to a downturn in the advertising market as a consequence of the world financial crisis.

The report also outlines the costs to Council if Council was required to supply and install a comparable amount and quality of street furniture. This has been estimated at being in the vicinity of \$2.2 million. This would represent around \$200,000 per year in renewal and replacement costs for street furniture

The contract also provides maintenance and cleaning of this street furniture which, if Council was required to carry out this work would mean an additional \$200,000 would need to be provided.

The contract also provides free advertising to Council on 5 advertising panels at Council nominated locations throughout the year. While Council has to provide the artwork, design and copy for the 5 posters calculated at around \$1,500 the cost to purchase the advertising space would be \$100,000.

There is also a request to Council to remove the advertising panel from a bus shelter in Roberts Rd due to sight distance issues on a designated bike route. To remove this panel will have financial repercussions on the contract revenue and would require Council to fund the replacement to the tune of \$17,741 with a further \$12,320 required to pay for the cleaning of this shelter per annum.

J C Decaux have provided information to Council that if scrolling panels, which increase the number of advertising faces to the existing bus shelters and phone booths, were permitted to be installed on 15 selected sites in the Leichhardt area, this could improve the revenue stream to Council by around \$40,000 per year and around \$557,000 over the remaining life of the contract.

1. **Purpose of Report**

To advise Council of details of the existing street furniture contract with J C Decaux, the anticipated revenue reductions recently experienced and possible alternative funding opportunities.

2. **Recommendations**

1. That Council grant permission to allow the scrolling of selected advertising panels on J C Decaux bus shelters and telephone booths in the Leichhardt LGA.
2. That Council recognise the loss in revenue from the contract of \$58,194 in the third quarter budget review and the draft 2009/2010 budget
3. That Council inform J C Decaux to retrofit the bus shelter in Roberts Rd to allow for the removal of the advertising panel with the loss of revenue and maintenance costs to be offset by the installation of scrolling panels on 5 bus shelters and/or phones

3. **Background**

From 1991 to 2001, Council had an existing street furniture contract with Adshel for the provision of 50 bus shelter sites. These shelters had advertising panels that were maintained by Adshel and generated \$4,500 per annum revenue for Council. This contract, while only supplying a limited revenue return for Council did not provide additional street furniture such as seats and bins as the current contract does.

In May 1997 following a street furniture tender with 10 other Councils for the provision of a new suite of street furniture, Council entered into a 20 year contract with J C Decaux.

The contract with J C Decaux provided the following items of street furniture which would be supplied, installed and maintained at an as new standard and kept free of graffiti for the life of the contract.

- 65 bus shelters (contain 2 advertising panels)
- 25 pay phones (contain 1 advertising panel)
- 250 litter bins
- 50 recycling bins
- 120 seats

J C Decaux commenced the rollout of street furniture and bus shelters in 2000 with the all seats and bins being installed by mid 2000. The bus shelters were rolled out in 2 stages with the first 12 being installed in late 2000. The replacements for the 50 Adshel bus shelters were installed from July 2001 till early 2002.

Council currently has 150 advertising panels on phones and bus shelters. Council is 19 panels short of the number required under the contract. This shortfall has been created due to the introduction of NSW State Government *State Environmental Planning Policy No 64 – Advertising and Signage* (SEPP 64). This restricted where advertising such as that used on bus shelters etc could be placed in heritage conservation areas such as Balmain & Annandale. This coupled with the decrease in demand for public phones has meant that only 10 of the 25 phones specified in the contract have been installed and the remaining 15 phones have little likelihood of being installed and maintained by J C Decaux.

Council previously considered this issue back in December 2004 and resolved as follows:

That Council continue to investigate options for additional bus shelters and phone booth locations in order to satisfy the requirements of the street furniture contract.

Council has investigated the possibility of installing additional bus shelters to fulfil our contract numbers and have installed a number of additional bus shelters and phone booths. As well due to development works at sites such as the bus depot on Balmain Rd and the moving of the bus stop from Taylor St up to Nelson St on Booth St these shelters will be lost.

This is presently being considered by Council a DA for the installation of two bus shelters, at Booth St and Balmain Rd. But these will only replace the aforementioned shelters which will be removed. Therefore Council is still short of the contract numbers.

At the April Building and Development meeting when considering a report for the installation of two bus shelters, the matter was deferred and a report requested:

“That the development applications be deferred to the Ordinary Council Meeting for the following:

- 1. That the bus shelter be setback by 600mm from the curb for the shelter at 160-180 Balmain Rd Leichhardt subject to the agreement of the Manager Traffic.*
- 2. Reassessment of 48-50 Moore St Leichhardt following advice from Council's Access and Road Safety Officers.*
- 3. Clarification about Council's contractual commitments with JC Decaux regarding the provision of advertising on bus shelters.”*

Issues regarding the DA for bus shelters have been addressed and will be considered as Item 19 on the Council agenda. This report addresses Point 3 of the above recommendation.

4. Existing Contract Requirements & Entitlements

Over the life of the J C Decaux street furniture contract thus far, Council has received a number of benefits when compared with the original Adshel contract including the provision of seats and bins as well as the supply and maintenance of bus shelters and phone booths throughout the municipality. The contract has also provided a revenue stream which has been used to further implement the Council's Mainstreet Improvement Programme. This revenue stream has continually been greater than the minimum amount specified under the contract. The contract also provides free advertising space for Council.

The revenue, other benefits and current issues arising with the contract are covered in this section of the report.

4.1 Revenue

The contract provides guaranteed minimum payments to be made to Council over the life of the contract, which are outlined in Table 3 of this report. From year 5 of the contract Council is to receive the minimum guaranteed yearly payment or the revenue share; whichever is the greater in each case.

The revenue share payments, as opposed to the minimum guaranteed yearly payments, are formulated by a number of different mechanisms within the contract specification. These take into account factors such as a share of actual revenue generated from the advertising on the panels. Should the agreed forecast revenue increase beyond set thresholds, Council is entitled to a share of this revenue. The contract provides guaranteed minimum payments to be made to Council over the life of the contract. From year 5 of the contract Council is to receive the minimum guaranteed yearly payment or the revenue share; whichever is the greater in each case.

Under the contract agreement, J C Decaux is required to pay Council a monthly amount equal to the greater of one twelfth of the guaranteed minimum amount specified in the agreement with respect to the relevant year (this amount has thresholds which increase this amount at the fifth and eleventh year points in the contract), or the Utilisation Fee to which Council is entitled to for the immediately prior year if higher than the guaranteed minimum amount, one twelfth of that Utilisation Fee.

The Utilisation Fee for the previous year is the amount payable by way of revenue share in that year (as distinct from the guaranteed minimum amount specified in the agreement in respect to that previous year). After the end of the contract year, J C Decaux and Council reconcile the amounts paid during the year against the amount that was due to Council.

4.2 Maintenance Cost Requirements

In the last year, J C Decaux have carried out repairs to 110 bus shelters, 26 phones, 32 seats and 110 bins. 94 of these repairs have been due to vandalism with broken glass on bus shelters and phones making up the highest repair costs. Of the repairs required, vandalism amounts to around 50% of the damage.

In Table 1 below the costs if Council had to install the street furniture supplied and maintained under the current contract are set out. The costs for the supply and installation were derived from street furniture suppliers such as Street Furniture Australia for a comparable bus shelter, seat and bin. It would be expected that these items of street furniture would have a useable life of around ten years and would then need refurbishment or replacement which would cost Council \$200,000 per annum over a 10 year period.

Table 1

Street Furniture Supply and Maintenance Costs

	No of street furniture items under current contract	Supply and install cost per item of street furniture	Total cost to supply and install street furniture
No of Shelters	57	\$ 25,000	\$1,425,000
No of Phones	10	\$ 7,000	\$ 70,000
No of Seats	112	\$ 2,100	\$ 235,200
No of Bins	157	\$ 1,800	\$ 282,600
TOTAL			\$2,012,800

Table 2

Maintenance Costs based on repairs required in last financial year

		Average cost to repair furniture item	Average cost to repair bus shelter
2008/2009 Bus Shelter repairs	110	\$ 1,200	\$ 132,000
2008/2009 Phone repairs	26	\$ 1,000	\$ 26,000
2008/2009 Seat repairs	32	\$ 350	\$ 11,200
2008/2009 Bin repairs	110	\$ 350	\$ 38,500

Total repair costs for 2008/2009			\$ 207,700

Table 2 shows the costs incurred by J C Decaux to maintain the existing street furniture over the past 12 months. As can be seen, this represents a significant cost and these figures do not show the additional staffing and resources required to undertake regular maintenance such as cleaning which J C Decaux also carry out as part of the existing contract.

4.3 Free Advertising Space to Council as Part of the Contract

Under the present contract, Council also receives a number of advertising spaces on bus shelters and phones that are supplied free of charge. Under the contract, Council can have, at any one time, 5 advertising spaces at nominated locations where Council can display and promote activities and programmes to the community. These spaces are available at anytime and Council is required to supply the artwork and designs which cost on average \$1,500 for the 5 posters, to J C Decaux and they place these in bus shelters and on phones and move them every two weeks to nominated locations.

If Council was to buy these spaces as per other firms and organisations using this street furniture advertising, this would represent a cost of around \$100,000 per year. Council has used these spaces recently to promote and advertise Norton St and our Wall to Wall programme.

5. Reduction in Revenue Share Payments to be Considered in Council's Third Quarter Budget Review and its effect on the 09/10 Draft Budget

Council has recently met with J C Decaux in regard to the current street furniture contract revenue share payments. Due to the present global financial crisis and a downturn in advertising revenue the expected revenue share which was calculated at being \$192,000 has been revised down to \$133,806. This represents a significant shortfall in revenue which was budgeted to be used in the Mainstreet Improvement Programme works.

However it should be noted that Council has received above the minimum amount in the contract each year with this peaking at \$218,767 in 2006 and the revised figure of \$133,806 is still \$35,800 above the guaranteed minimum amount when expressed in 2008 dollars. The total revenue that Council has received and is anticipated to receive over the life of the contract is illustrated in Table 3

The following table sets out the financial situation with the contract and shows how the guaranteed revenue and revenue share provisions have performed.

Table 3

Year in Term	Dates	Minimum Payment to Council (1998 dollars) - under original Ctt	Adjusted Min- 1998 Dollars Post Glebe	Payments Made	Revenue share payments paid	Estimated revenue share with 15 scrolling panels
1	1/5/1999 to 30/4/2000	\$106,475	\$106,475	\$212,950		
2	1/5/2000 to 30/4/2001	\$106,475	\$106,475	\$0		
3	1/5/2001 to 30/4/2002	\$106,475		\$0		
4	1/5/2002 to 30/4/2003	\$106,475	\$68,830	\$83,388		
5	1/5/2003 to 30/4/2004	\$60,400	\$50,960	\$127,463	\$127,463	
6	1/5/2004 to 30/4/2005	\$60,400	\$50,960	\$179,245	\$179,245	
7	1/5/2005 to 30/4/2006	\$60,400	\$50,960	\$218,767	\$218,767	
8	1/5/2006 to 30/4/2007	\$60,400	\$50,960	\$192,070	\$192,070	\$42,000
9	1/5/2007 to 30/4/2008	\$60,400	\$50,960	\$133,807	\$133,807	\$39,000
10	1/5/2008 to 30/4/2009	\$60,400	\$76,560	\$133,807	\$133,807	\$39,000
11	1/5/2009 to 30/4/2010	\$86,000	\$76,560			\$40,000
12	1/5/2010 to 30/4/2011	\$86,000	\$76,560			\$40,000
13	1/5/2011 to 30/4/2012	\$86,000	\$76,560			\$41,000
14	1/5/2012 to 30/4/2013	\$86,000	\$76,560			\$41,000
15	1/5/2013 to 30/4/2014	\$86,000	\$76,560			\$43,000
16	1/5/2014 to 30/4/2015	\$86,000	\$76,560			\$45,000
17	1/5/2015 to 30/4/2016	\$86,000	\$76,560			\$43,000
18	1/5/2016 to 30/4/2017	\$86,000	\$76,560			\$47,000
19	1/5/2017 to 30/4/2018	\$86,000	\$76,560			\$48,000
20	1/5/2018 to 30/4/2019	\$86,000	\$76,560			\$49,000
		\$1,648,300	\$1,165,790	\$1,281,495	\$985,158	\$557,000

With the shortfall in revenue from the contract this financial year expected to be \$58,194, adjustments to the 3rd quarter budget review and its effect on the works programmed and funded from the contract such as the Mainstreet Improvement Programme will have to be reviewed.

This has been factored into the 2009/2010 draft budget and the draft Mainstreet Improvement programme.

6 Cost for the Supply of Bus Shelters Without Advertising Panels

Council has asked for a bus shelter to be installed under the contract without an advertising panel in order to address pedestrian safety issues at Roberts St. The cycleway at this location is on the footpath and due to the curve of the road, the width of footpath and the position of electric light poles configuration causes conflicts between cyclists and pedestrians and could cause and possible injury due to the reduction of sight distances.

While it is possible to have a non advertising shelter installed under the contract, there are costs associated. These are two fold. There is the initial cost of \$22,784 for the installation of a new shelter or \$17,741 to retrofit the existing shelter to have the advertising panel removed.

Council would also forfeit around \$944 per shelter in minimum guaranteed payments. With Utilisation Fee adjustments this figure could be as high as \$2,864 per shelter per annum. Coupled with this, there would be a cleaning fee per shelter which would need to be deducted from the revenue share payments of around \$12,320 per year per shelter.

In the case of the Roberts St shelter, due to safety issues associated with the cycleway and conflicts with persons waiting for the bus, coupled with the inability of moving the present advertising shelter location to the satisfaction of Sydney Buses, it is recommended that the shelter be retrofitted to have the advertising panel removed.

Council could consider the installation of J C Decaux scrolling panels to offset this work which is further discussed in Section 6 of this report below.

7. Options for Scrolling Panels

One of the options for increasing Council's revenue under the present J C Decaux street furniture contract would be to allow for the scrolling of designated bus shelters and phone booths in the Leichhardt area. The scrolling system would allow for another two advertising faces to be installed on the current advertising panels in these structures. These alternate the advertising on the approach face of the panel.

In December 2004 a report was presented to Council which outlined contractual issues with regard to claims made by J C Decaux over the installation of street furniture. These matters were resolved to the satisfaction of all parties. In this report Council raised the subject of scrolling panels however Council, at this time decided not to proceed with this option. Council officers are again presenting the issue to Council with a full analysis of the financial implications of the contract and the matter of scrolling panels as an option to further increase revenue.

In the last column of Table 3 in Section 5 of this report, the projected increase in revenue for scrolling panels is shown. It can be seen that there are significant financial benefits to Council to allow scrolling panels on selected bus shelters and phone booths. It is estimated that Council could receive an increase in revenue of around \$40,000 per annum. This equates to around \$557,000 over the remaining life of the contract.

Leichhardt Council is the only authority with a street furniture contract with J C Decaux that does not have scrolling panels on its advertising street furniture.

A number of other Councils and authorities which have street furniture contracts with J C Decaux have permitted scrolling advertising panels. These are:

- City of Sydney including former South Sydney areas
- Sydney Harbour Foreshore Authority
- Metro Light Rail (scrolling will be activated by the end of May)
- Waverley Council
- Randwick Council
- Hunters Hill Council
- Burwood Council

In total J C Decaux have over 200 scrolling kits installed and active across its contracts in NSW. In addition J C Decaux has scrolling advertising in numerous contracts in Victoria, Queensland and around the world.

Concerns have been raised at to these scrolling panels being a distraction to passing motorists and causing accidents. Research carried out on accident figures prior to the installation of scrolling panels and after has shown that there is no increase in the number of accidents reported and/or recorded.

J C Decaux have indicated that they would be looking to scroll 15 items including shelters and phones on main roads such as Victoria Rd and Parramatta Rd where the high volumes of passing traffic would allow for maximum exposure of the panels.

LEICHHARDT MUNICIPAL COUNCIL

NOTICE OF MOTION

DIVISION:	MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN
SUBJECT:	ITEM 41 – EXTENSION OF FENCED –IN AREA, SHIELDS PLAYGROUND DARLEY ROAD, LEICHHARDT
FILE REF:	F09/
DATE:	3 August 2018
WORD PROCESSING REF:	G:\BP\Agendas\2009 Agendas\April 09\Supp Book 280409.doc

Cr Porteous

Extension of Fenced-in Area Shields Playground, Darley Rd, Leichhardt

The upgrade of the playground at Shields Playground is on this year's Playground Improvement Programme. A public meeting was held down in the park on February 18th 2009 which 9 adults and 9 children attended. Councillors were not informed of this meeting. At the meeting it was requested that as part of the upgrade the fence be extended so that it includes the adjacent garden area along the Darley Rd frontage. Currently the fenced-in area of the park is only around the play equipment and three quarters of the park remains unfenced. Staff explained at the meeting that the budget did not allow for an extension of the fence. The current budget for the playground upgrade is \$35,000.

Darley Rd is one of the busiest roads in the municipality with a speed limit of 60km per hour, Shields Playground has a very long Darley Rd frontage and as such the only part of the park that can be used by young families is the small area with play equipment which is fenced-in. It is too dangerous to allow children to run around on the rest of the park where there is no barrier to their running onto the road. Last year a similar issue was raised in relation to Lambert Park which faces onto Foster St and, at the request of Councillors, staff agreed to erect fencing to give greater safety to families using the park.

As the request for an extension of fencing at the site meeting was not supported by Council staff due to lack of funds, residents then brought this issue to the local Precinct Meeting where they have requested that the Ward Councillors request that Council support this fence extension as a priority funding item. There is a significant shortage of community open space in West Leichhardt and it is a council priority to ensure that wherever possible open space is increased and enhanced in this part of the Municipality.

It is therefore moved that:

A further site inspection of Shields Playground be held with residents, Councillors and staff to agree on the layout of the extension of the fence which is required to ensure that families are able to safely use the park.

That Council seeks to prioritise the funding of this extension of existing fencing in the park as agreed at this site meeting within the current financial year.

LEICHHARDT MUNICIPAL COUNCIL

NOTICE OF MOTION

DIVISION:	MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN
SUBJECT:	ITEM 42 FISHING ACTIVITY ON BALMAIN PENINSULA – LITTER, HYGIENE, SAFETY
FILE REF:	F09/
DATE:	3 August 2018
WORD PROCESSING REF:	G:\BP\Agendas\2009 Agendas\April 09\Supp Book 280409.doc

Cr Stamolis

Background

The community of the Balmain peninsula welcomes a wide variety of use of foreshore parks including use by persons involved in fishing activity.

Over some years, however, fishing activity has drawn concern from residents who have expressed alarm about litter, lack of hygiene, injury and risk to public health. In recent months, this activity has drawn some of the strongest concern.

Foreshore parks are very popular and attract a broad range of users. In most instances, it is possible for these parks to be used for a variety of purposes, all at the same time, with users conscious and considerate of each other.

It is expected that users of foreshore parks, which includes those celebrating functions, people conducting film activity, people having picnics, dog walkers, artists, children and all other users will observe the basic conditions which make these shared resources safe, pleasant, enjoyable, accessible and fully available to all.

Local parks are part of the limited open space which is accessible to our high-density inner-city community. Children play in these parks. Dog-owners use these areas with care and consideration.

Space is also hired out in these parks for events including weddings, while filming is also conducted in these areas.

Popular fishing locations on the peninsula

Popular areas used for fishing activity and which have had complaints about fishing activity include:

- Illoura Reserve
- Peacock Point
- Balmain Wharf
- Thornton Park
- Simmons Point Park
- Yurulbin Point

At times, there have been over 25 people involved in fishing activity at Peacock Point, some with multiple fishing rods.

On one Saturday evening (11.45pm) there were 19 people - either those involved in fishing activity or their family members - at Darling Street Wharf, Balmain East. Given the intermittent rain that night these people needed shelter.

The wharf area carries high volumes of commuter movements. It is important that the priority use of this area be to provide amenity and service to users of public transport.

Simmons Point Park and Yurulbin Point are popular locations for fishing activity.

Given the spread of areas used for fishing activity, it is important that a broad approach to resolving complaints takes place. That is, any resolution of problems needs to ensure that problems are not transferred from one part of the Peninsula to another.

Provision of amenity to persons involved in fishing

It is important that attempts are made to address deficiencies from the perspective of those involved in fishing activity. Additional bins, in more visible locations, may assist with litter problems.

Some years ago Council removed the bin at the level of the grassed area at Simmons Point Park and replaced it with a wheelie bin at street level. This is no doubt much more efficient for collection but may discourage people from disposing of rubbish properly. More obvious rubbish such as drink cartons are picked up by residents and the council worker but litter such as fishing lines and hooks are just left. They could cause serious injury to a person or pet at any time.

As with Simmons Point Park, the lack of a bin near those locations where fishing takes place increases the likelihood of litter.

At Yurulbin Point the need for a bin at the lower part of the park and more regular scrutiny by Council is needed.

Information needs to be provided to persons involved in fishing activity so that they can find the nearest toilets.

Council action is needed

Residents now request that Council intervene to resolve the following:

- Litter – this includes numerous glass and plastic bottles, paper waste, food waste, fish bait, fishing tackle, fluorescent lures, fish hooks
- Safety – fish hooks are left in many locations including on the seats and pavement at the wharf (a high volume pedestrian zone), on grassed areas which are used by all who enjoy the parks, along regularly used pathways
- Injury to park users and their pets – residents have been taken to hospital after stepping on fish hooks, children have picked up fish hooks, dogs have swallowed fish hooks or have received other injuries from these, dogs attempt to eat bait which has been left behind, however, the bait is still on a fish hook.
- Damage to trees and grassed areas – branches have been broken from trees for fires
- Lighting of fires – areas of the park show that fires have been started
- Public health - there is clear evidence that bushes and paths in Peacock Point park are being used as a lavatory; fish blood was observed in grass and paved areas, used baby nappies were found in several locations and, at times, the wharf area has extensive litter, food waste and bait during times of peak use by commuters
- Obstruction of public access to foreshore paths is caused by fishing rods lying across the path (and often the full width of the path)
- Obstruction of public access to the wharf – during evenings the steps of the wharf are like an obstacle course where commuters dodge tackle boxes, lunch boxes, rods, fish buckets, thermos flasks, knives and fishing rods.
- Clean-up – currently residents conduct clean-up activities. Early morning walkers bag all sorts of litter and dispose of this.

Some suggestions to assist with resolution

Steps that could be taken to assist in resolving some of these issues could include:

- Production of a brochure advising persons involved in fishing activity of their responsibilities in using local parks, detailing issues of safety, hygiene, safety, obstruction of access and other
- Brochures should be written in several languages
- Hand delivery of the brochure to fisherpersons

- Providing amenity for persons involved in fishing activity such as bins and plastic tidy bags
- A program of ongoing 'sporadic' monitoring by Council, especially weekends
- Checking for licences
- Caution to persons involved in fishing activity that fines will result from poor behaviour
- Signage - directions to toilets
- Advising persons involved in fishing activity that litter, lack of hygiene and safety, and potential injury poses the same risks to them, their children and their pets as it does to anyone else

RECOMMENDATION:

- Council to summarise policy on use of foreshore parks by persons involved in fishing activity.
- Council to find out and report on policy regarding use of ferry wharves by persons involved in fishing activity.
- Council to produce a brochure advising persons involved in fishing activity of the conditions of use of local parks and their responsibilities in using local parks. The brochure should detail issues relating to litter, safety, hygiene, obstruction of access and other.
- Brochures should be written in several languages.
- Brochures should be hand delivered to persons involved in fishing activity where it can be explained to these persons and any questions can be answered by Council rangers. At this meeting, persons involved in fishing activity should be advised that litter, lack of hygiene and safety, and potential injury poses the same risks to them, their children and their pets as it does to anyone else
- Council to investigate the provision of amenity for persons involved in fishing activity such as bins and plastic tidy bags, signage (e.g. directions to toilets)
- A program of ongoing 'sporadic' monitoring by Council should take place, especially weekends. This would include checking for licences and provide the opportunity to distribute the brochure to all users.
- Council should support the efforts of residents who clean-up these foreshore parks every morning by scheduling an early morning clean-up every day, 7 days per week, so that these areas are clean, accessible and safe for all other use that might occur during the day.

Site meeting - Easter Monday Morning

A site meeting was conducted from 9.00am-10.00am commencing at Balmain Wharf then moving to Illoura Reserve and finishing at Peacock Point. Cr John Stamolis, Ms

Val Moss (Chairperson, Balmain/White Bay Precinct Committee) and twenty residents were present.

EMAIL: from Cr STAMOLIS to residents

Dear all

I would like to discuss, with residents, the use of the Balmain Wharf area (including Illoura Reserve and Peacock Point) by people who are fishing.

There have been a number of concerns about litter, injury, obstruction to the wharf, damage to the park and other which may be as a result of fishing activity.

I would like to hear your comments about this (either at the meeting or by email).

I will be at the ferry wharf at 9.00am, Easter Monday.

Please send this message to others.

Thank you

John Cr John Stamolis (INDEPENDENT)

COMMENTS FROM RESIDENTS

Comment:

There is a large proportion of those assembled who believe that closing the Point area to fishing on the grounds that it is too small an area to function as a popular fishing spot is the only solution to the problem.

The conditions have to be policed to work, and that falls to the willingness of the ranger to make very frequent visits and report back.

Thinking of the bins - I believe one would be ample - the rubbish is not huge in volume, just offensive and dangerous. Two bins would look ugly and serve no additional purpose. The users may have to walk a few extra metres to dump their rubbish but the park will look better for it.

The provision of additional signage in community languages and at an agreed height is an action of fairness in giving the fisherpeople the benefit of the doubt regarding littering, etc., and a chance to conform. It is to be hoped that that will solve the toilet problem.

I am not in favour of spending thousands to provide a toilet for a group in such circumstances. Bell's cafe will have public toilets there and the wharf has two .

It appears that these people have chosen to fish there with their families for many hours at a stretch without having considered whether there are toilets. Whose responsibility is it to clean up that mess in the bushes ? - not Council workers. But it can't stay there.

Did we have a suggestion about how to overcome their commandeering of the sandstone foreshore walkway? It is very hard for residents to ask them to move their lines, tackle, etc so that other park users can walk in the park.

Improved signage, a bin, and leaflets setting out the responsibilities and obligations of park users in community languages are the suggestions I remember that came out of the meeting, together with a sunset clause regarding acceptable behaviour. Have I forgotten anything?

One month is more than ample time to expect a total change in behaviour. If the problem persists after that in any form at all, the Council must prohibit that little park to fishing.

As you would have heard, a number of residents have confronted the fisherpeople already, and I believe more will do so, as it will take a while before the suggested measures are in place. There is a feeling of outrage among some.

Comment:

We live in XXXXXXXXXX, Balmain East and use the wharf and reserve at least twice a day. We have had a few experiences with the people fishing in the area. Aside from the litter associated with fishing like old bait, hooks, lines, sinker etc. there have also been the odd fish that has been caught and left on the bank to rot. Our dog has eaten some of the bait lying around which has given her an upset stomach which isn't a lot of fun. Thankfully she hasn't swallowed a hook however it can only be a matter of time.

On one occasion I saw a fish caught that was undersize and rather than put it back the father had his young son club it to death, which he seemed to enjoy, and then left it there.

Another situation occurred the other week when a man asked me to help him remove a large fishing hook from his big toe. He had been taking his young daughter for a walk. He was wearing thongs however the hook found it's way into the inside of his toe and we could not remove it despite both of us trying to pull it out with a great deal of effort and a lot of gritting teeth. We eventually decided he needed to go to Balmain Emergency where they had to remove it for him.

Comment:

If it helps I can say that I picked up 15 fish hooks 2 weeks ago at Peacock Point - and a lot of discarded fishing line and plastic. My suggestion is that the approach should be educational and that fishermen (and women) should be educated (by Council Rangers ? - this means they will need to be rostered on at about 10 pm Friday and Saturday nights) about the damage their discarded fishing lines and fishhooks do to fish and other fauna as well as dogs and humans. Thanks again for your great job re dog walking,

Comment:

I walk every morning around these areas and I do find that sometimes the fishing lines can be dangerous as I don't always see whether they are cast or not. When there is only one person and one fishing rod that is easier to work around. I do find

the litter issue frustrating though. If the people fishing can respect the environment and clean up after themselves then I don't have a problem with them being there.

Comment:

The XXXXX support the freedom to fish – we have never noticed any problem, obstruction, damage etc.

Comment:

People who fish in our area never cease to amaze me. They leave full packets of prawns and chicken on the edge of the park (rather than simply tipping the contents into the sea and therefore feeding the fish they wish to catch eventually). Similarly, they leave plastic, fishing lines etc which are a real hazard to birds and fish (and the reason I pick up the rubbish every morning). Many dogs have had trips to the vet because of fishing hooks left lying around.

I would not, however, support any thought of banning or regulating fishing as some have suggested. Perhaps a few extra bins would help

Comment:

They seem considerate and have never blocked our access. They are usually more recent arrivals in Australia and I feel give a good multicultural flavour to our area. The only worry is that they may not realise the fish are unsafe to eat, being, we understand very contaminated - may be there should be a multi-language sign saying this?

Comment:

Fishing is a problem around the wharf area. Litter and fishing waste, hooks and line are often discarded and left in the park and environs. Bait is the main issue and fish hooks. Several dogs have picked up hooks in their paws. Hooks are a danger to children, especially if not wearing shoes in the swimming area and the small beach. These people are, from my observation, not locals- nor do they seem to be regulars. They seem to be opportunistic fishers from outside the district. This could be one reason for their lack of responsibility and 'ownership' of their litter. Hope these comments are helpful.

LEICHHARDT MUNICIPAL COUNCIL

NOTICE OF MOTION

DIVISION:	MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN
SUBJECT:	ITEM 43 ADOPT A PARK PROGRAM
FILE REF:	F09/
DATE:	3 August 2018
WORD PROCESSING REF:	G:\BP\Agendas\2009 Agendas\April 09\Supp Book 280409.doc

Councillors Howison and Byrne

Background

Council has an informal Adopt a Park program, whereby residents are able to have some involvement in the maintenance of Leichhardt Municipality's parks on an ad hoc basis. Some residents have expressed a desire to be more involved in their local parks, with increased support from council in the form of guidance and resources, and recognition from the community of their contribution.

It is anticipated that a formal Adopt a Park program could provide a positive sense of community ownership of community assets, opportunities for local events and community connectivity, and improved maintenance of local parks.

It is envisioned that this concept would be discussed with the community as part of the tour of local parks being planned by Leichhardt Council.

Recommendation:

That Council Officers explore the feasibility of and develop proposals for formalising an Adopt a Park program, which would provide recognition and support to members of the community who wish to take a more active role in maintenance of their local parks. Issues to address in a feasibility report would include; insurance and public liability implications, budget impacts of providing support in the form of gardening resources and official forms of recognition (e.g. t-shirts, window or letterbox stickers), and forecast commitment in terms of staff time. A report should be brought to Council for the June Ordinary meeting.