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- NOTE:
- a) The Council Committee Minutes Item numbers may be out of sequence. Please refer to Section 10 of the Agenda – Information Report - Committee Decisions Under Delegated Authority for these items.
  - b) Declaration of Councillors and Officers Interest is made at the time the item is discussed.

MINUTES OF THE SPECIAL COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS, 6 PATERSON STREET MUNDIJONG ON TUESDAY 5<sup>TH</sup> JULY, 2005. THE PRESIDING MEMBER DECLARED THE MEETING OPEN AT 2.15PM AND WELCOMED MEMBERS OF THE PUBLIC PRESENT IN THE GALLERY, COUNCILLORS AND STAFF.

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**1. ATTENDANCE & APOLOGIES:**

IN ATTENDANCE:

**COUNCILLORS:** DL Needham ..... Presiding Member  
JE Price  
AW Wigg  
WJ Kirkpatrick  
THJ Hoyer  
JC Star  
KR Murphy  
EE Brown  
IJ Richards

**OFFICERS:** Ms J Abbiss ..... Chief Executive Officer  
Mr B Coelho ..... Manager Asset Services  
Mrs E Cox ..... Acting Director Corporate Services  
Ms C Eldridge ..... Acting Director Sustainable Development  
Mr C Green ..... Manager Corporate Services  
Mrs S Rowse ..... Communications Officer  
Mrs S Langmair ..... Minute Secretary  
  
Dennis McLeod ..... McLeod Solicitors

**APOLOGIES:** Cr JA Scott  
Mr M Beaverstock ..... Director Asset Services

**GALLERY: 6**

**2. PUBLIC QUESTION TIME:**

Public Question Time commenced at 2.16pm

Ken Court – Chairman SJ Grammar School

Currently have a high school without a home. Close to appointing a Principal. Worked for three (3) years with the Tungsten Report and concept. A number of barriers to get through. Support from State and Federal Ministers for Education. Now on a short timetable – one weeks grace for principal. Transportable buildings - one month to place order. 55 parents interviewed. (64 students required for the first year) Five members of the community have underwritten the school. Highlight the fact that the timeframe is now only weeks away. Cannot commence in 2007 – 2006 commencement or no school. Faithfully followed direction laid down in the Tungsten Report, originally we looked at Byford, the Chief Executive Officer at the time said look at putting it in Mundijong. History of the school is in Council minutes. Seeking Councils support for the school, use and rental of the hall and the car park for the period of two years. Other optional sites within the Shire would be welcomed, if necessary. All parents and students have been sold on the site being here in Mundijong.

Public Question Time concluded at 2.23pm

**3. PUBLIC STATEMENT TIME:**

Nil

**4. PETITIONS & DEPUTATIONS:**

Nil

**5. PRESIDENT'S REPORT:**

Nil

**6. DECLARATION OF COUNCILLORS AND OFFICERS INTEREST:**

\* Cr Wigg declared an interest of impartiality as a member of the Serpentine Jarrahdale Grammar School Board.

\* Dennis McLeod disclosed an interest of impartiality as a long standing member of the Anglican Church however would remain present at the meeting as a legal advisor to Council.

**7. RECEIPTS OF MINUTES OR REPORTS AND CONSIDERATION FOR RECOMMENDATIONS:**

Cr Wigg declared an interest of impartiality as a member of the Serpentine Jarrahdale Grammar School Board and left the meeting at 2.24pm.

SCM01/07/05 LIMITATIONS REGARDING RESERVE 30867 AND ASSOCIATED LOCAL GOVERNMENT ACT REQUIREMENTS (A1118) (RS0136)		
Proponent:		In Brief  It is recommended that Council advise the Board of the Serpentine Jarrahdale Grammar School of the limitations that exist with regard to Reserve 30867 and the process that Council must undertake prior to considering any proposal by the Board.
Owner:	Joanne Abbiss – Chief Executive Officer	
Officer:	Joanne Abbiss – Chief Executive Officer	
Signatures Author:		
Senior Officer:		
Date of Report	01/07/2005	
Previously	OCM01.4/01/05; SM020.7/10/04; SM05.12/08/04; SM04/08/04; SM024.4/12/03; SM017/10/03; SM050/04/03; SM043.11/02/03; SM075.1/06/02	
Disclosure of Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act	
<b>Delegation</b>	<b>Council</b>	

**Background**

In 2001 a High School Working Group was established to deliver a community vision for a High School within the Shire. With five (5) government feeder schools and one (1) independent school it was felt there was a need for a secondary education facility within the Shire. Students travel to Armadale or other centres located outside the Shire boundaries for secondary education. The Shire, in the period 2001 -2005 had discussions with various parties in its endeavour to deliver the vision (*see "Confidential" attachment SCM01/07/05*). There was considerable expectation within the community that a High School would be developed.

Serpentine Jarrahdale Grammar School (Inc) was incorporated on 11 October 2004. Since that date the Board has been very active in establishing the School. The development of the High School to date has been based on the Tungsten Feasibility Study of 2002/2003. Council administration had been seeking from the Board a proposal relating to the housing of the school as the Tungsten report identified use of the Shire administration buildings to house the High School.

In the absence of a formal proposal and the short period of time before the expected opening date of the School in January 2006, administration undertook to examine the feasibility of implementing the recommendations of the Tungsten report relating to the location of the school. On the 29 June 2005 Council's administration met with officers from the Department of Planning and Infrastructure and Council's legal advisors to discuss a number of areas requiring urgent consideration if the Tungsten Report recommendations were to be implemented.

The Council administration building is sited on Crown Reserve 30867. Any change to the current vesting order to enable leasing of the land requires Ministerial approval from the Minister for Planning and Infrastructure. The current vesting order for the site is "hall site and municipal building" and any change of use such as leasing for an education purpose would require changes to the vesting to be carried out. Previous advice obtained in 2002 and confirmed at the meeting indicated that this change would not be appropriate. It would appear that the only way the administration building could be used for the school purposes would be for Council to purchase the Reserve at market value from the State Government. It is not known if the Minister would support such a sale.

To date, in the absence of a formal proposal, Council has not commenced the process required under the Local Government Act 1995 s3.59 for the disposal of property. Community consultation and the preparation of a business plan are the prerequisites of any major trading undertaking before Council can consider the disposal of property.

Council will also need to commence the process of preparing a business plan and community consultation before it can commence the development of new administration facilities. It had previously been identified that the current administration building has reached capacity and Council would be needing to consider additional or new facilities in the future.

### **Comments**

Following the meeting on 29 June 2005 between the Department of Planning and Infrastructure, Council's legal advisers and administration it became clear that Council could not at this time enter into any contracts relating to the use of the land on which the administration building is sited without a change in vesting of Reserve 30867. Any changes to the vesting of the land was at the discretion of the Minister. The school could not use the property while vested under the current vesting orders. Further, Council has not conducted community consultation or prepared a business plan. These activities take a considerable time and the outcome cannot be guaranteed.

As the Serpentine Jarrahdale Grammar School Board is conducting interviews and aiming to progress the development of the school it is essential that Council and the Board are made aware of the constraints at the current time. It is noted that a proposal was delivered to Council on 1 July 2005. This proposal has yet to be examined and considered by Council.

### **Statutory Environment:**

Local Government Act 1995 s3.58 Disposal of Property and s3.59 Commercial Enterprises by Local Government.

### **Strategic Implications:**

Key Sustainability Result Areas

## **4 Governance**

*Objective 3: Compliance to necessary legislation*

Strategies:

1. Ensure development and use of infrastructure and land complies with required standards.
2. Develop a risk management plan.
3. Comply with State and Federal policies and Legislation and the Local Government Act in the most cost-effective way.

**Community Consultation:** Required under s.3.59 of the Local Government Act 1995

**Voting Requirements:** Normal

**SCM01/07/05 Officer Recommended Resolution**

Council advises the Serpentine Jarrahdale Grammar School Board that

- (i) The Council does not have the freedom to contract or dispose of any interest in Reserve 30867 without the consent of the Minister.
- (ii) Should the consent of the Minister be obtained for the change of vesting to fee simple, the Council must prepare and advertise for community consultation a business plan in accordance with the Local Government Act 1995 for the disposal of the Reserve 30867.
- (iii) The Council, prior to resolving to enter into any contract with the Board regarding Reserve 30867, will have to complete the following:
  - (a) obtain the necessary approvals for the new administration centre which may also involve the consent of the Minister,
  - (b) prepare and advertise for community consultation a business plan in accordance with the Local Government Act 1995.
- (iv) the outcomes of (i), (ii) and (iii) above cannot be guaranteed.

**SCM01/07/05 NEW MOTION**

**Moved Cr Star seconded Cr Kirkpatrick**

**Council advises the Serpentine Jarrahdale Grammar School Board that**

- a)
  - (i) **The Council does not have the freedom to contract or dispose of any interest in Reserve 30867 without the consent of the Minister.**
  - (ii) **Should the consent of the Minister be obtained for the change of vesting to fee simple, the Council must prepare and advertise for community consultation a business plan in accordance with the Local Government Act 1995 for the disposal of the Reserve 30867.**
  - (iii) **The Council, prior to resolving to enter into any contract with the Board regarding Reserve 30867, will have to complete the following:**
    - (a) **obtain the necessary approvals for the new administration centre which may also involve the consent of the Minister,**
    - (b) **prepare and advertise for community consultation a business plan in accordance with the Local Government Act 1995.**
  - (iv) **the outcomes of (i), (ii) and (iii) above cannot be guaranteed.**
- b)
  - i) **Council seek immediate change in vesting so that some of Reserve 30867 is suitable for education-purposes.**
  - ii) **Council commit on achievement of this to rent the hall and carpark to the Grammar School Board without prejudice to further commitment of this site.**

Moved Cr Price seconded Cr Richards that the meeting be closed to members of the public at this point to allow Council to seek legal clarification on the item SCM01/07/05.

**CARRIED 8/0**

2.31pm Members of the public left the Council Chamber.

Moved Cr Star seconded Cr Hoyer to suspend standing orders 9.5, 9.6, 9.8 and 10.7.  
CARRIED 8/0

Cr Star left the meeting at 2.35pm and returned at 2.42pm

Cr Richards left the meeting at 2.57pm and returned at 2.59pm.  
Cr Richards left the meeting at 3.17pm.

Moved Cr Kirkpatrick seconded Cr Price to reinstate standing orders 9.5, 9.6, 9.8 and 10.7.  
CARRIED 7/0

Moved Cr Kirkpatrick seconded Cr Star to re-open the meeting to members of the public.  
CARRIED 7/0

3.25pm Members of the public re-entered the Council Chamber.

#### **AMENDMENT**

**Moved Cr Star seconded Cr Kirkpatrick that part b) of the new motion be amended to read:**

- b) i) Council seek immediate change in vesting so that some of Reserve 30867 is available for purposes consistent with the high school proposal.**
- ii) If this is achieved Council enter into negotiations with the School Board as to terms on which the school might occupy, exclusively or otherwise, the whole or some part of the hall and carpark on Reserve 30867 for a maximum of two (2) years, but on the clear understanding that such negotiations and any commitment arising out of them will not involve any further commitment by the Shire in respect of those facilities in the longer term.**

**After debate the Presiding Member then put the amendment which was  
CARRIED 5/2**

**The Presiding Member then put the amended motion**

#### **SCM01/07/05 COUNCIL DECISION**

**Council advises the Serpentine Jarrahdale Grammar School Board that:**

- a) (i) The Council does not have the freedom to contract or dispose of any interest in Reserve 30867 without the consent of the Minister.**
  - (ii) Should the consent of the Minister be obtained for the change of vesting to fee simple, the Council must prepare and advertise for community consultation a business plan in accordance with the Local Government Act 1995 for the disposal of the Reserve 30867.**
  - (iii) The Council, prior to resolving to enter into any contract with the Board regarding Reserve 30867, will have to complete the following:**
    - (a) obtain the necessary approvals for the new administration centre which may also involve the consent of the Minister,**
    - (b) prepare and advertise for community consultation a business plan in accordance with the Local Government Act 1995.**
  - (iv) the outcomes of (i), (ii) and (iii) above cannot be guaranteed.**
- b) i) Council seek immediate change in vesting so that some of Reserve 30867 is available for purposes consistent with the high school proposal.**
  - ii) If this is achieved Council enter into negotiations with the School Board as to terms on which the school might occupy, exclusively or otherwise, the whole**

**or some part of the hall and carpark on Reserve 30867 for a maximum of two (2) years, but on the clear understanding that such negotiations and any commitment arising out of them will not involve any further commitment by the Shire in respect of those facilities in the longer term.**

**CARRIED 4/3**

**Council Note:** The Chief Executive Officer advised Council against part b) of the recommendation.

**FORESHADOWED MOTION**

Cr Hoyer foreshadowed that he would move an alternate motion, being the officers recommended resolution, if the motion under debate was defeated.

Cr Wigg returned to the meeting at 3.41pm

**8. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN**

Nil

**9. CHIEF EXECUTIVE OFFICER'S REPORT**

Nil

**10. URGENT BUSINESS:**

Nil

**11. COUNCILLOR QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN:**

Nil

**12. CLOSURE:**

There being no further business the Presiding Member closed the meeting at 3.42pm.