



21 January 2019

Your Reference: Petition No.87
Emailed to: (env@parliament.wa.gov.au)

Hon Matthew Swinbourn MLC
Standing Committee on Environment and Public Affairs
Parliament House
Harvest Terrace
PERTH WA 6000

Dear Mr Swinbourn

**CITY OF MELVILLE RESPONSE TO PETITION NO.87 – CROWN LOT 9789
SUBMITTED BY CATHERINE O'NEILL ON BEHALF OF THE SWAN ESTUARIES
RESERVES ACTION GROUP (SERAG)**

Thank you for your letter dated 7 November 2018 referring to the above petition tabled in the Legislative Council on 16 October 2018 by the Member for North Metropolitan, the Honourable Alison Xamon MLC. We note that the Honourable Member's submission to you dated 16 October 2018 refers to the information in the submission being provided by representatives of the petitioners, being Catherine Anne O'Neill on behalf of the Swan Estuaries Reserves Action Group (SERAG) dated and that the Honourable Members knowledge of the Wave Park proposal largely comes from the information provided by representatives of the Alfred Cove Action Group who have objected to the proposal.

To assist with your inquiries in relation to the petition, the City is happy to provide comment in relation to the manner in which the City has assessed the Wave Park proposal from URBNSURF and dealt with it in accordance with statutory process under the relevant sections of the Local Government Act 1995. We are also happy to provide a response to the petition for opposing the sale of the portion of Crown Lot 9789 by the State Government to the City of Melville.

By Way of Background - The Wave Park Proposal and Ground Lease Approval

In June 2016 the Council resolved at its Ordinary Meeting to direct the Chief Executive Officer to investigate and report to the Council suitable future recreational uses of the existing Melville Bowling Club site at Tompkins Park, Alfred Cove for a possible financial contribution towards the redevelopment of a "Sporting Hub" at Tompkins Park which would also see the building of a new bowling club facility at Tompkins Park adjacent to the Sporting Hub for the Melville Bowls Club and Mt Pleasant Bowling Club.

In September 2016 the City received an unsolicited ground lease proposal from URBSURF to build and operate a surf sports park facility on the existing Melville Bowls Club site at Tompkins Park which is currently leased to the Club and which spans a portion of Lot 39 owned in freehold by the City of Melville and portion of Crown Lot 9789 which is vested in the City of Melville for the purpose of "Recreation" with the power to lease the whole or any portion of the Reserve for up to 21 years subject to the Minister for Lands approval. The proposal was assessed by the City and considered to provide a number of benefits and opportunities to assist the City in meeting its vision and strategic goals. The City sees the future wave park sports

facility and upgraded Tompkins Park Sporting & Recreational Hub benefiting not only the local community but also the broader regional community. With the introduction of surfing as a competitive event at the forthcoming Olympic Games, community interest in surfing as a sports and recreational activity is expected to grow and the Tompkins Park Hub is expected to cater for this increased demand by the community. The relocation of both the Melville Bowls Club and the Mt Pleasant Bowling Club into the Tompkins Park Sports Hub was seen to benefit both clubs allowing them to attract new membership and ensure they are financially sustainable into the future.

The City undertook extensive detailed due diligence analysis of the proposal submitted by URBNSURF which included an Independent risk assessment of the proposal, an Independent economic impact assessment study, an Independent market valuation of the ground lease value of the site and Legal advice on the structure and ground lease and development agreement, copies of which were previously provided to your Office on 18 September 2017 by the City.

A detailed Business Case was prepared by the City and advertised publically state-wide for a period of eight weeks together with a Public Notice in accordance with Section 3.59 of the LGA 1995 calling for public submissions. Public submissions both for the proposal totalling 3,026 and against the proposal totalling 651 were audited and presented in a Report to the Council in February 2017 at which the Council resolved to progress the preparation of a draft ground lease and development agreement with URBNSURF subject to Council's final approval. In April 2017, the Council resolved to approve the ground lease agreement with URBNSURF (Perth) Pty Ltd and shortly after on 11 April 2017, the conditional ground lease agreement was signed and executed by the City under Common Seal and by the Directors of URBNSURF (Perth) Pty Ltd.

The ground lease agreement is conditional upon URBNSURF (Perth) Pty Ltd (Lessee) achieving development approval from the relevant State Government Agencies and obtaining the necessary finances to build and operate the wave park sports facility by the end of February 2020. In addition, the City has commenced work to construct the new Bowls facility at Tompkins Park, which is projected to be completed by the end of 2019. Notwithstanding the outcome of the wave park project and whether it is approved or not by the State Government, the creation of the new Bowls Club at Tompkins Park will be completed.

Response to Catherine O'Neill's Petition No.87

In Catherine O'Neill's petition on behalf of SERAG dated 16 October 2018, she provided an explanation and reasoning as to why as a matter of urgency Lot 9789 should be included into the conservation estate as part of Alfred Cove "A" Class Nature Reserve (35066) and why the Department of Planning, Lands and Heritage (DPLH) should oppose the City of Melville's application to acquire a small portion of Crown Lot 9789 to form part of freehold Lot 39.

Response – A condition of the ground lease agreement between the City of Melville and URBNSURF (Perth) Pty Ltd requires the City to obtain unconditional approval from the DPLH to firstly obtain agreement from DPLH to transfer a small portion of Crown Lot 9789 to the City, or if this is not achieved, secondly obtain consent from the Minister for Lands for granting of the lease by the Lessor to the Lessee of the portion of Crown Lot 9789 for a term of 30 years, or if this not achieved, thirdly obtain consent from the Minister for Lands for granting of the lease by the Lessor to the Lessee of the portion of Crown Lot 9789 for a term of 21 years.

On the 18 July 2017, the City submitted a formal proposal to the DPLH to acquire a 3,315sqm portion of Crown Lot 9789 adjoining the City's freehold Lot 39 forming the ground lease site area for the proposed Wave Park. On the 13 March 2018 the City received a formal response to

its submission from the Director General of DPLH (Refer Attachment 1). The response advised that in order to maintain independence in the planning process and not to pre-empt an outcome, the Department's position will be that any decision on the sale of the portion of Crown Lot 9789 will be deferred until a Development Application from URBNSURF (Perth) Pty Ltd has been assessed by the WAPC. As seen in the attached plan showing the portion of Crown Lot 9789 which the City has sort to acquire from DPLH (Refer Attachment 2), the parcel lies well outside the "A" Class Nature Reserve No. 35066 and sits within the Recreational Reserve No. 35486. Further, when URBNSURF (Perth) Pty Ltd submits its Development Application this year, the WAPC will refer the application to DBCA and the Swan River Trust for comment and it is likely those Departments will provide comment to WAPC in relation the proximity of site to the Nature Reserve.

Response to the submission by the Hon Alison Xamon MLC - Petition No.87

The Honourable Member states in her submission dated 30 October 2018, that the sale of the portion of Crown Lot 9789 to the City of Melville for the purpose of the Wave Park has not and should not be contemplated.

Response – The whole of Crown Lot 9789 was vested to the City of Melville under Section 33 of the Land Act 1933, to be held and maintained by the City in trust for the designated purpose of Recreation with the power to lease for a term not exceeding 21 years. When assessing the Wave Park proposal prior to approving the ground lease, the City satisfied itself that the purpose of the Wave Park was in keeping the "Recreational Purpose" under the Vesting Order and complied with the site's current zoning being "Parks & Recreation" under the Local Planning Scheme No.6.

The Honourable Member states in her submission that in 2004, it was agreed between the City of Melville and the then Department of Conservation and Land Management, that only a portion of Lot 9789 between the river and up to one metre from the bike path be included in the Nature Reserve as part of the 1998 *Swan Estuary Marine Park and Adjacent Nature Reserves Management Plan* and added to Class "A" Nature Reserve No. (35066), with this position being endorsed by the Conservation Commissioner, however it has yet to be enacted via a Metropolitan Region Scheme Amendment. The City can advise that after agreement between the City of Melville and Department of Lands (DoL), in November 2008 the Deposited Plan (53400) (Refer Attachment 3) was lodged with Landgate. With the portion of Lot 9789 being (212sqm) in area to form part of Reserve No. (35066) as depicted on the plan. The Deposited Plan has been in Order for Dealings with Landgate since November 2008. The City was contacted in August 2018 by the DPLH and DBCA and understands that the Departments are still to effect the amendment to Reserve 35066.

Thank you for providing the City with the opportunity to comment on Petition No.87 and we are happy to assist your Committee further in relation to this matter should you require it.

Yours sincerely



Mr Marten Tieleman
CEO - City of Melville

Attachments

1. Letter from the Director General of Department of Planning, Lands & Heritage
2. Plan showing portion of Crown Lot 9789 subject to proposed purchase by the City of Melville
3. Deposited Plan 53400



**Department of Planning,
Lands and Heritage**

Mr Jeremy Rae
Strategic Land and Property Executive
City of Melville
10 Almondbury Road
Booragoon WA 6154

Dear Mr Rae

**PROPOSED SALE OF PORTION OF LOT 9789 ON DEPOSITED PLAN 182892
TO FACILITATE THE WAVE PARK PROPOSAL, ALFRED COVE, CITY OF
MELVILLE**

I refer to your email to Jaimie Eidsvold dated 4 January 2018 and our discussion on 6 November 2017 regarding the above matter. At our meeting it was discussed whether the State could enter into a conditional contract of sale for the subject portion of Lot 9789 prior to a Development Application for the Wave Park being received and assessed by the Western Australian Planning Commission (WAPC).

I understand you are aware there is an existing A Class amendment proposal affecting both the City's freehold Lot 39 and Crown Lot 9789 which will need to be considered prior to the sale of any portion of Lot 9789. In addition, this Department is still assessing the sale proposal and awaiting referral advice from relevant state government agencies (including Department of Biodiversity, Conservation and Attractions).

In order to maintain the independence of the planning process and not pre-empt an outcome it is the Department's preference that a conditional contract of sale is not entered into prior a Development Application being determined. Accordingly, the Department's position remains that any decision on the sale of the subject portion of Lot 9789 will be deferred until a Development Application has been received and assessed by the WAPC.

Yours sincerely


Gail McGowan
Director General

7 March 2018



LEASE AREA - OPTION 3

HELD BY LANDGATE
IN DIGITAL FORM ONLY.

TYPE	CROWN
PURPOSE	SUBDIVISION
PLAN OF	LOTS 390 & 391
DISTRICT	SWAN
TOWNSITE	FILE 3082/1977V2
LOCALITY	ATTADALE CITY OF MELVILLE
FORMER TENURE	ON
LOT 39	INDEX BG34 (2) 11.16
D 17693	FIELD BOOK 10054.1
C/T 1185 / 584	
SCALE:	1 : 2000 @ A3
ALL DISTANCES ARE IN METRES	
SURVEYOR'S CERTIFICATE - Reg 54	A. Walton hereby certify that this plan is accurate and is a correct representation of the (a) * survey; and/or (b) * calculations from measurements, (c) * delete if inapplicable undertaken for the purposes of this plan and that it complies with the relevant written law 1 to which it is lodged.
Licensed Surveyor	<i>A. Walton</i> Date 25-Jan-07
LOGGED	DATE 17-Apr-07
DATE	17-Apr-07
FEE PAID	\$228.00
ASSESS. NO.	2213040
TYPE OF VALIDATION	FULL AUDIT L J F
LEGAL COMPONENT	DOCKET PLANOGRAM CERTIFIED CORRECT
DATE	29-06-2007
APPROVED BY	WESTERN AUSTRALIAN PLANNING COMMISSION
FILE	EXEMPT FROM WAPC APPROVAL
DATE	21-November-2008
DELETED UNDER S 16 P. 4 D. 48 2008	
IN ORDER FOR DEALINGS	SUBJECT TO -partial surrender of easement.
APPROVED	<i>[Signature]</i> 21/11/2006
FOR INSPECTOR OF PLANS & SURVEYS' AUTHORIZED LAND OFFICER	
INSPECTOR OF PLANS & SURVEYS' AUTHORIZED LAND OFFICER	

DEPOSITED PLAN
53400
SHEET 1 OF 1
VERSION 2

