

PUBLIC

Date: 12 January 2011

Your Ref:

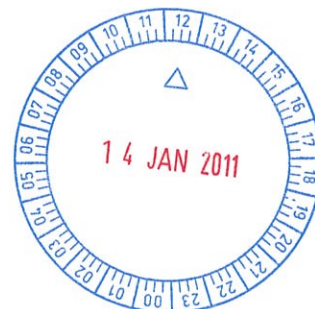
Enquiries: Sheree Edmondson  
9400 4219

Our Ref: 04028

INW10/34307

100932

focussing on the future



The Hon. Brian Ellis MLC  
Chairman  
Standing Committee on Environment and Public Affairs  
Parliament House  
4 Harvest Tce  
WEST PERTH WA 6005

Dear Mr Ellis

#### PETITION NO 92 - DESIGNATED KITESURFING AREA ON MULLALOO BEACH

Thank you for providing the opportunity to respond to the petition and submission received by the Standing Committee on Environment and Public Affairs, from the Mullaloo Beach Community Group Inc. (MBCG Inc.), regarding kitesurfing activities at Mullaloo Beach.

I provide the following information in response to the claims made within the aforementioned submission:

#### Background

In March 2009, two petitions containing 90 and 107 signatures were submitted to the City of Joondalup Council from residents requesting the banning of kitesurfing activities at Mullaloo and North Mullaloo Beaches. As an alternative to requesting a report on the matter, Council agreed to the City's recommendation that the issue of kitesurfing be reviewed in the context of all coastal activities to ensure that an holistic approach to beach management was pursued. This would ensure that all related activities, infrastructure, environmental impacts and amenity issues were taken into consideration when assessing the appropriateness of beach activity locations. As such, I oversaw the development of a *Beach Management Plan* that would, inter alia, provide a policy position on the undertaking of kitesurfing activities along the City's entire coastline (provided as Attachment 1).

Over 8 months, the City undertook a detailed process in developing a draft Beach Management Plan that was released to the public for comment. The community consultation process was one of the largest undertaken by the City to date, second only to the proposed concept plan for the Ocean Reef Marina development.

Following best practice methods, the City undertook the following initiatives:

- Randomly selected 2,200 residents across the City to provide a representative sample of the population at large as a basis for comparison. (The City received a return rate of

PUBLIC

18%, which achieves a maximum error of +/- 5% at the confidence rating of 95%. This means that there is a 95% certainty that the results obtained via the random sample method would be within 5% either side of the results obtained if a census were conducted of all households within the City of Joondalup);

- Engaged relevant Government stakeholders to provide comment on the City's Plan;
- Engaged identifiable community coastal user groups to provide comment on the City's Plan (including the holding of a community forum at the request of the MBCG Inc.); and
- Advertised the consultation period to the general public through advertisements in a locally distributed newspaper, on the City's website and through the installation of prominent signage at affected coastal locations to ensure that users of the beach, (whether local or regional), were provided with opportunity to comment.

Approximately 4,850 submissions were received by the end of the consultation period, with an average of 1,706 respondents addressing questions relating to the issue of kitesurfing.

The following questions regarding kitesurfing activities along the City's coastline were posed within the consultation survey, with the subsequent responses provided:

Question	% Support (General Public)	% Support (Random Sample)	% Oppose (General Public)	% Oppose (Random Sample)
I would feel safer if kitesurfers were required to remain within designated areas on the beach.	68%	88%	24%	5%
If designated areas were provided for kitesurfers, I would have no objection to these areas being located at:				
a) North Mullaloo	67%	76%	16%	13%
b) Pinnaroo Point	66%	85%	18%	5%
I would support kitesurfing exclusion zones in the water in front of:				
a) Mullaloo Surf Life Saving Club	74%	83%	12%	8%
b) Sorrento Surf Life Saving Club	73%	83%	13%	8%

All abovementioned questions elicited an absolute majority response in favour of the establishment of designated areas and exclusion zones in the locations proposed by the City, including North Mullaloo Beach. The opinions represent regional and local views, with over 80% of respondents being residents of the City of Joondalup.

As such, the City is confident that Council's decision to allow kitesurfing activities to be undertaken in a formalised and regulated manner within North Mullaloo is supported by both local and regional beach users.

From the 6 December 2010, the designated area at North Mullaloo has been in effect and the City has received no complaints or reports of incidents within the area, despite the



kitesurfing season being in full flight. It is believed that ongoing engagement and education with the public and key coastal stakeholders has resulted in high levels of compliance and an increased understanding within the community of how the sport is undertaken and the limited risks it poses to beach users if regulated and performed safely.

## **City Responses to Terms of Petition**

### ***General Comment***

The issue of establishing a designated kitesurfing area at North Mullaloo Beach and the approval of a trading licence for the operation of a kitesurfing school in this location appear to be confused by the MBCG Inc., in that all of their concerns seem to be directed at the kitesurfing school operator and not kitesurfing activities in general.

In developing the Beach Management Plan, the City considered the concerns of local residents (including members of the MBCG Inc.) regarding the undertaking of kitesurfing activities in general at Mullaloo and North Mullaloo Beaches. (The original petitions requested the banning of kitesurfing altogether, not just the revocation of the Kitesurfing School trading licence). The extensive research and community consultation process revealed that limited issues surrounded the sport of kitesurfing in this location and any potential risks could be mitigated through the introduction of new management systems and education campaigns.

Following the adoption of the Beach Management Plan and the establishment of a designated kitesurfing area, the trading licence for *Kiteboarding Perth* to operate a kitesurfing school at North Mullaloo Beach was renewed and relocated to the beach space within the new designated kitesurfing area, as it was deemed satisfactory for the safety needs of kitesurfers and other beach users.

In addition, the City considered the daily presence of a licenced and internationally certified kitesurfing trainer in this location to be beneficial, due to the school operator's experience, on-hand safety equipment and local knowledge, which could be used to mentor other kitesurfers and assist the City to achieve high levels of compliance.

### ***Points 1-3:***

In a summary response to points 1-3, safety concerns relating to kitesurfing activities within Mullaloo are considered narrow due to:

- Limited interaction between kitesurfers and other beach users, as conditions required to launch a kite (high wind speeds), deter others from attending the beach during the same periods;
- The distances between flagged swimming areas and the designated kitesurfing area greatly exceeding the recommended standards for kitesurfing safety as set by the Western Australian Kitesurfing Association (WAKSA). (Recommended distances are 100m upwind and 250m downwind of flagged swimming areas. The City's exclusion zones are: 250m upwind and 250m downwind; 250 upwind and 840m downwind and; 470m upwind and 300m downwind of 3 flagged swimming locations);
- The City witnessing and receiving very few complaints regarding inappropriate and unsafe kitesurfing practices within the area;

- The presence of a licenced and internationally certified kitesurfing instructor within the designated kitesurfing area;
- The installation of prominent signage, extensive distribution of information flyers, recruitment of 2 dedicated Beach Rangers and the establishment of a Kitesurfing Stakeholder Working Group (including representatives from WAKSA, local kitesurfers, local Surf Life Saving Clubs, Surf Life Saving WA and local kite school operators), as an effective means of implementing restrictions over a previously unregulated sport.

**Point 4:**

This alleged incident was only reported to the City upon presentation of a petition to ban kitesurfing activities at Mullaloo Beach by local residents. Details surrounding the nature of the incident are still unknown to City Officers and it is considered to be an isolated event that would be unlikely to re-occur in light of the new management systems and restrictions in place.

**Point 5:**

The current kitesurfing area at Pinnaroo Point is located between a dog beach exercise area and the Department of Transport's designated water ski area. Room for expansion in this location is therefore very limited and does not meet the needs of a popular and rapidly growing sport.

Allowing kitesurfing activities to be undertaken at North Mullaloo Beach in a regulated and restricted manner, opens up greater beach area for kitesurfers to engage in their sport safely, without concerns for congestion and potential conflict with other equally conflicting activities (i.e. off-lead dog exercising and water skiing).

**Point 6:**

The City's Beach Management Plan establishes the principles under which the regulation of activities and the provision of coastal services and infrastructure are determined. Of particular relevance to the issue of kitesurfing are the principles of:

- *Enabling a safe environment for beach users to undertake a variety of coastal activities; and*
- *Supporting activity diversity and growth within the Joondalup coastal region.*

As per pages 32-33 in the attached document, these principles underpin the City's response to resolving the issue of conflicting activities on the City's beaches. Issue Statement 20 states:

*"The City's primary focus is balancing the safety of beach users in high-risk areas while maintaining the coastline as an attractive and diverse tourist location. Recreational beach activities considered to be highly conflicting on the beach include: kitesurfing and animal exercising. A minimum 50 metre buffer zone should apply to locations where highly conflicting beach activities may impact on popular swimming destinations..."*



This policy position demonstrates the application of the abovementioned principles by acknowledging the regional interest in the City's coastline, the introduction and growth of new and emerging sports and the need to ensure the safety of beach users. To give effect to this policy, a clearly designated area for kitesurfing has been established to ensure that other beach users are aware of the presence of this activity in Mullaloo and are able to make a conscious decision to avoid this small section of beach should they consider themselves to be at risk in any way. This is on the basis of risk being a subjective concept that can vary between individuals. The considerable distance placed between flagged/patrolled swimming areas and the designated kitesurfing area, further limits any potential risk to beach users.

In addition, the City is not of the view that kitesurfing should be banned to the detriment of the growth of the sport and the tourism value it contributes to the City. With effective management, education and enforcement, kitesurfing is able to be undertaken with limited impact on or restriction over other beach activities.

**Point 7:**

*Kiteboarding Perth* operates on a 1-on-1, client-teacher basis. Students are always under full instruction of the school operator and are taught all safety aspects of the activity before engaging actively in the sport. On this basis, the risk that inexperienced kitesurfers, under the direct instruction of a licenced and accredited teacher, pose to other beach users is considerably less than any risk associated with recreational kitesurfers not associated with the school who undertake their activity without guidance or assistance. The MBCG Inc. does not make any reference or raise any concerns with this group of kitesurfers within their terms of petition.

In relation to the increase in numbers of kitesurfers at Mullaloo Beach, the length of the designated area restricts the amount of people able to kitesurf in this location. Therefore, it is likely that with the introduction of increased restrictions, enforcement patrols and reduced beach area, the numbers of kitesurfers at Mullaloo Beach may in fact decrease, as the ability to remain within the restricted area will prove difficult if too many kitesurfers are present.

**City Responses to Submission Claims**

1. ***"It is clear that the State is responsible for all aspects concerning public safety with kitesurfers at Mullaloo Beach."***

Almost all of the coastal reserve along the City of Joondalup coastline is vested in the City to manage. This includes the foreshore reserve and sandy beach area at Mullaloo.

The City's *Local Government and Public Property Local Law 1999* empowers the City to restrict specific coastal activities in the interests of safety, amenity and sustainability. Under this local law, the City's jurisdiction extends to 200m seawards to ensure that activities undertaken in the water, (which may impact on management prerogatives applying on the land), can be regulated.

As such, the City has specific powers and interests to regulate activities that impact on public safety along the coastline within its district. This includes kitesurfing activities. The City also has the full support of the Department of Transport (Marine Safety) in establishing and enforcing the new kitesurfing restrictions.



2. ***“Wind surfing and kitesurfing are classed by the Department [of Transport – Marine Safety] as sailing vessels with obligations under International Law...Accordingly these activities are also bound by the same regulations and restrictions as for any other wind powered craft – including the 8 knots within 200m of the foreshore stipulated in WA legislation.”***

Kitesurfing is a relatively new sport that is not currently regulated by the Department of Transport under existing WA legislation.

In recent consultation with the Department, it has been confirmed that Ministerial approval to amend the relevant legislation is currently being sought so that safety restrictions over kitesurfing activities can be implemented, this extends to the potential requirement for safety equipment to be held by all kitesurfers who navigate out past an unsafe distance.

As stated in its submission to the City on the Draft Beach Management Plan, *“currently the Department has no jurisdiction over kitesurfing activities”*.

3. ***“Until recently, the use of sail boards, surf cats and kitesurfing along Mullaloo Beach was banned and restricted to Pinnaroo. When did this change? It changed when a kitesurfing licence was issued by the local government, and done so without DEC or Minister for Lands approval.”***

Until the City recently implemented actions under its Beach Management Plan, recreational kitesurfing was undertaken in a completely unrestricted manner along the City's coastline. The purpose of the restrictions is to regulate the activity in the interests of safety by confining it to a designated area within the context of Mullaloo and excluding it from large sections of popular swimming locations in other areas. Therefore, the statement that the activity was previously banned or restricted in any way is erroneous.

In terms of whether the issuing of trading licences attracted kitesurfers to these locations, the following response is provided. Kitesurfers congregate in areas that are conducive to kitesurfing, that is, wide sandy beaches with little reef and prevailing wind conditions. These areas happen to be located within the City of Joondalup at Pinnaroo Point and Mullaloo Beach. As such, kitesurfers were kiting in these locations before the City issued trading licences to operate kite schools at Pinnaroo Point and North Mullaloo. In fact, of the 30 kitesurfers that may kite in each of these locations at any one time, no more than 3 would be associated with the schools, as they operate on a 1-on-1, client-teacher basis. The kite schools are also subject to time, seasonal and location restrictions under their agreed licence conditions, to ensure that beginner kitesurfers are effectively supervised and managed. The licence conditions are monitored and reviewed by City Officers to ensure that compliance is achieved and the conditions remain appropriate.

In addition, the City does not require approval from DEC or Minister for Lands to issue trading licences for recreational activities on its beaches under its *Trading in Public Places Local Law 1999*.

4. ***“In order to launch kites, the kitesurfer requires areas which involve foreshore reserve, including the primary dunes to set up kites. This is causing damage to the foreshore which is environmentally sensitive.”***



The City has seen no evidence of kitesurfers rigging within coastal reserves and believes that such an activity is unlikely to occur given that fencing has been installed along the coastal side of the dunes at Mullaloo to prevent access. The reason kitesurfers utilise this section of the beach is that it is so wide it can accommodate their rigging needs, without disturbing passers-by or being forced in the coastal reserve area. The width of North Mullaloo beach is approximately 56m, compared to 36m-25m elsewhere along the City's coast.

5. **"Extract from WAKSA website –**

***"We advocated to the Mayor that the designated kite zones as outlined in the Draft Beach Management Plan are the least safe and least appropriate option for the management of kiting generally and that we have specific reservation about the location of the designated zone for North Mullaloo."***

The City believes this quote to have been taken out of context. It was an early position of WAKSA that was revised when presented with the alternative option of banning kitesurfing at Mullaloo altogether. Their concern for safety related to the size and location of the proposed designated area, of which Council amended in adopting its Beach Management Plan. It also related mainly to issues of congestion for kitesurfers in attempting to remain in concentrated areas and not so much to general beach users.

In addition, WAKSA's statement related to an early proposal to have two designated areas, which would have limited the launching and landing of kites to 700m of beach. Council amended this proposal on the advice of WAKSA by only applying a designated area within Mullaloo, effectively opening up more beach area for kitesurfers to launch and land at a safe distance from popular swimming locations.

The statement is also contradictory, in that WAKSA's concerns for beach users north of the Mullaloo designated kitesurfing area opposes their general argument that most people do not attend the beach when kitesurfers are undertaking their activity, due to the strong winds necessary to launch a kite (a minimum of 15 knots). Therefore, the likelihood of interaction with swimmers and kitesurfers in this location is very limited. WAKSA have since explained that their main concerns with the concept of a designated area is the potential for unreasonable enforcement mechanisms should a kitesurfer unintentionally land outside of this location due to a force of nature that is beyond their control. The City is continually liaising with the kitesurfing community and Surf Life Saving Clubs to ensure that a reasonable and acceptable approach to the implementation and enforcement of the activity is reached, which considers both the safety of kitesurfers and other beach users.

## **Conclusion**

The Council, coastal stakeholders and majority of the community have indicated their support for the continuation of kitesurfing activities at Mullaloo Beach. In addition to this in principle support, the implementation process has resulted in largely positive feedback from the public due to the City's ongoing communication and engagement approaches.

The concerns raised by some local residents through the MBCG Inc. forum are unfortunate, however, they are being effectively managed by an increase in targeted beach patrols (now undertaken daily), the introduction of a 24 hour incident reporting hotline and constant information updates through the City's website. It should also be noted that the City has received significant support for kitesurfing activities from Mullaloo residents not associated

with the MBCG Inc., therefore, whilst the local views of this group are acknowledged, the City does not believe they represent the opinions of all Mullaloo residents.

Council were aware of these views when endorsing its final position, which was supported by extensive information garnered through significant research and consultation with all beach users. Concerns for safety were balanced against the need to foster activity diversity at City beaches and respect for the regional value of the coast. The City is confident that the final decision to allow kitesurfing activities to continue within Mullaloo has achieved an effective balance of these considerations.

I trust this information is of assistance to you. Should you require further assistance, please contact Sheree Edmondson, by email at [sheree.edmondson@joondalup.wa.gov.au](mailto:sheree.edmondson@joondalup.wa.gov.au) or by phone on 9400 4219.

Yours sincerely



**GARRY HUNT**  
Chief Executive Officer