

# **CITY OF JOONDALUP**

## **MINUTES OF SPECIAL COUNCIL MEETING HELD IN COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP, ON MONDAY, 20 MARCH 2000**

### **ATTENDANCES**

#### **Mayor:**

J BOMBAK, JP

#### **Elected Members:**

Cr P KADAK	Lakeside Ward	
Cr L A EWEN-CHAPPELL	Lakeside Ward	
Cr D S CARLOS	Marina Ward	
Cr S P MAGYAR	Marina Ward	
Cr J F HOLLYWOOD, JP	North Coastal Ward	<i>to 1905 hrs</i>
Cr P ROWLANDS	Pinnaroo Ward	
Cr T BARNETT	South Ward	
Cr A L PATTERSON	South Coastal Ward	
Cr G KENWORTHY	South Coastal Ward	
Cr C MACKINTOSH	Whitfords Ward	

#### **Officers:**

Chief Executive Officer:	L O DELAHAUNTY
Director, Resource Management:	J B TURKINGTON
Director, Planning & Development:	C HIGHAM
Director, Infrastructure Management:	D DJULBIC
Executive Manager, Strategic Planning:	R FISCHER
Manager, Council Support Services:	M SMITH
Manager, Urban Design & Policy Services:	D BUTCHER
Publicity Officer:	L BRENNAN
Committee Clerk:	J AUSTIN

### **APOLOGIES AND LEAVE OF ABSENCE**

Apologies: Cr A Wight  
Cr J Hurst  
Cr A Nixon  
Cr A Walker

There were 14 members of the Public and 1 member of the Press in attendance.

**The Mayor declared the meeting open at 1901 hrs.**

## PUBLIC QUESTION TIME

Nil

## DECLARATIONS OF FINANCIAL INTEREST

The Chief Executive Officer referred to the declaration of financial interest made by Cr John Hollywood at the Special Meeting of Council held on 25 January 2000, and read the following statement which was made by Cr Hollywood at that time:

*“In accordance with Section 5.65 of the Local Government Act 1995, I hereby provide you with written notice of my interest in Item JSC1-01/00 – Submission on the Metropolitan Region Scheme Clarkson-Butler Amendment No 992/33 relating to Lot 2 Marmion Avenue, Burns Beach, which is scheduled to be disclosed at the Special Meeting of Council on Tuesday 25 January 2000. The nature of the interest is that the proposed amendment to the Metropolitan Region Scheme for the subject parcel of land may affect the valuation of land that I own at 9 Third Avenue, Burns Beach.”*

Accordingly, Cr Hollywood declared an interest in Item JSC02-03/00 – Metropolitan Region Scheme Amendment No 992/33 Clarkson-Butler as the proposed amendment to the Metropolitan Region Scheme for the subject parcel of land may affect the valuation of land that he owns at 9 Third Avenue, Burns Beach. Cr Hollywood stated that he would not debate this issue but he disagreed with the intent of the Local Government Act 1995 relating to declarations of financial interest and believed Council should look into this issue further.

*Cr Hollywood left the Chamber at this point, the time being 1905 hrs.*

## **JSC02-03/00      METROPOLITAN REGION SCHEME AMENDMENT NO 992/33 CLARKSON-BUTLER - [41581]**

**WARD** - North Coastal Ward

---

## SUMMARY

The Environmental Protection Authority's Bulletin No 971 relating to the Metropolitan Region Scheme (MRS) Amendment 992/33 Clarkson-Butler (Attachment 1) was released on Saturday, 11 March 2000 containing a recommendation that only 55ha of the Western Cell of Lot 2 Burns Beach be included in the Urban zone. The Environmental Protection Authority's (EPA) recommendation is not consistent with Council's resolution of 25 January 2000 as it does support partial Urban zoning of the site.

The recommendation does not address the difficulties likely to arise from the lack of control of this important area if it remains in the Rural zone and in private ownership. It is therefore recommended that an appeal be lodged against that aspect of the recommendation that would leave the balance of Lot 2 Burns Beach in the Rural zone without adequate controls.

## BACKGROUND

Council considered a report on the subject Metropolitan Region Scheme amendment at the meeting of 7 December 1999. The former Joint Commissioners resolved to support the amendment, with some exceptions unrelated to Lot 2.

At the Council meeting of 21 December 1999, the Council considered a further report on the MRS amendment, and resolved as follows:

1. *Requests the Western Australian Planning Commission to extend the advertising period for the Clarkson-Butler Metropolitan Region Scheme Amendment No 992/33 until the end of February to allow the newly elected Council to make a further submission;*
2. *In the event that Council's request is not granted, advises the Western Australian Planning Commission that it wishes to expand on the Council's previous submission on Clarkson-Butler Metropolitan Region Scheme Amendment No 992/33, and may wish to attend a hearing and raise matters relating to Lot 2 Burns Beach.*

At the Council meeting of 25 January 2000, the Council considered a report providing various options available in respect of Pt Lot 2 Burns Beach Road, Burns. The following resolution was made:

*“..that Council advises the Western Australian Planning Commission that it does not support the urban zoning of Lot 2 Marmion Avenue, Burns Beach in the Metropolitan Region Scheme Amendment 922/33 Clarkson-Butler and advises of its intention to attend the hearing on 1 February 2000 to convey that message.”*

## DETAILS

The proposed amendment is at the stage where hearings have been held and submissions are being assessed. As part of this process it is the Environmental Protection Authority's (EPA) role to report to the Minister for the Environment on the environmental factors relevant to the proposed scheme amendment and the conditions and procedures to which the proposed scheme amendment should be subject if implemented.

Accordingly EPA Bulletin No 971, being the report and recommendations of the EPA on the subject amendment, was advertised on 11 March 2000. There is a 14 day appeal period on the report and recommendations to the Minister for the Environment, which closes on Friday 24 March 2000.

The bulletin is a lengthy document containing the Authority's report to the Minister for the Environment on the environmental factors relevant to the proposed scheme amendment. The EPA considered factors relating to six proposals contained in the amendment. One of those proposals is the rezoning of Lot 2 Burns Beach to include 170ha in the Urban zone and 120ha in Parks and Recreation Reserve.

*In assessing this proposal the EPA states “..that the additional information provided by the Responsible Authority has not demonstrated that the significant environmental values of this area would be protected in relation to vegetation, fauna and landforms. The unique values present within Pt Lot 2 Burns cannot be replicated elsewhere and will be significantly impacted by the proposal. By removing a large section of the currently intact dunal system, the current proposal will destroy the transitional dunal system, so that the intertidal zone with associate young Quindalup Dunes will be separated from the older Quindalup Dunes and the Spearwood Dunes.*

*It is the EPA’s opinion that the additional 115ha proposed for “Urban”, beyond the 55ha identified to be acceptable by the EPA in Bulletin 880, should not be implemented. The 55ha of land that was previously identified by the EPA as being acceptable for development remains the EPA position. The EPA appreciates that if all of the land proposed to “Urban” zoning is not approved, the owners of Pt Lot 2 would not agree to cede the 120ha of land to “Parks and Recreation”. This land would therefore presumably remain as “Rural” zoned land. This may not provide for adequate protection and management of the significant environmental values present on the site. The EPA therefore advises the Responsible Authority and the Local Government that the area of Pt Lot 2, outside of the 55ha considered appropriate for development, should be managed to protect its environmental values.*

The EPA considers that except for the 55ha shown in Attachment 2 the proposed rezoning of Pt Lot 2 Burns Beach to Urban should not proceed. Although there is recognition that the balance of the land (outside the 55ha) is likely to remain in private ownership in the Rural zone and acknowledgment of the lack of provision for protection and management, the only response is to advise the WAPC and the City that the area should be managed to protect its environmental values.

Prior to the scheme amendment being granted final approval it is necessary for the Minister for the Environment to reach agreement with the Minister for Planning on the environmental conditions which should apply to the scheme amendment. Following agreement being reached it is necessary for the Minister for the Environment to issue a statement that the scheme amendment can be implemented.

## **COMMENT**

EPA Bulletin No 971 is similar to the previous Bulletin No 880 of January 1998 with respect to Lot 2 Burns Beach in that it accepts that the 55ha identified can be managed to meet the EPA’s environmental objectives.

When Council considered Bulletin No 880 in February 1998, the former Joint Commissioners resolved:

- 1. Not proceed with the appeal in respect to the Environmental Protection Authority’s Report and Recommendations in respect of Pt Lot 2 Burns Beach.*
- 2. Endorse further officer level interactions between the City and the Department of Environmental Protection to clarify the processes by which areas of regional significance are assessed and protected.*

There is a disparity between Council's resolution of 25 January 2000 that it does not support the Urban zoning of Lot 2 Burns Beach and the recommendations contained in EPA Bulletin No 971. There is also a disparity between Council's resolution of 25 January 2000 not to support urban development on Lot 2 and its previous resolution of February 1998 not to appeal an EPA recommendation that 55ha of the site be included in the Urban zone.

When this matter has previously been considered, recommendations to the Council have been framed from an overall planning perspective having regard for all relevant issues. Council in its decision gave greater weighting to environmental and conservation issues. The recommendations in EPA Bulletin No 971 would not achieve the objectives of either the Council's resolution (in that 55ha of the site would be included in the Urban zone) or the previous recommendation to the Council (in that the remainder of the site would remain in private ownership and control).

The importance of public control is highlighted by the EPA acceptance that the owner is unlikely to transfer the remaining land to public ownership and comments to the Responsible Authority (WAPC) and the Local Government that the area should be managed to protect its environmental values. If any portion of Lot 2 remains in the Rural zone under the MRS, that portion will retain certain development rights that could be determined on appeal and not be consistent with the protection and management of the environmental values of the site. Also, if any portion of the site remains in private ownership it may prove very difficult to control public access and management of the vegetation. Although the EPA draws the issue to the attention of the WAPC and the City, it does not address the issue of spending public funds to protect environmental values of private land.

Council now has the option of lodging an appeal against the recommendations contained in EPA Bulletin No 971 prior to Friday, 25 March 2000. From a perspective consistent with Council's resolution of 25 January 2000 it would seem to be logical to appeal the recommendations to seek to eliminate the Urban zoning from this site. Consistent with previous advice, however, which has taken into consideration the broader planning issues as well as the conservation and environmental issues, that aspect of the recommendation to include 55ha in the Urban zone can be supported but the aspect to leave the remainder in the Rural zone is not supported. Therefore, recognising the importance of the conservation and environmental values of the site and the need for public control and management to protect these values, it is recommended that an appeal be lodged against this aspect of the EPA recommendations.

Director, Development and Planning gave a short presentation in relation to Metropolitan Region Scheme Amendment No 992/33 – Clarkson Butler and the recommendations of the Environmental Protection Authority.

**OFFICER'S RECOMMENDATION That Council:**

1. **NOTES** the decision to reaffirm Urban zoning for 55ha in the south eastern corner of Lot 2 Burns Beach;
2. **EXPRESSES** concern with the failure to provide a framework for the protection and management of the remaining part of Lot 2 Burns Beach held to have significant environmental value;

3. **LODGES** an appeal with the Minister for Environment regarding the ramifications of leaving the greater proportion of Lot 2 Burns Beach zoned Rural.

**MOVED Cr Patterson, SECONDED Cr Kenworthy that Council:**

1. **NOTES** the decision to reaffirm Urban zoning for 55ha in the south eastern corner of Lot 2 Burns Beach;
2. **EXPRESSES** concern with the failure to provide a framework for the protection and management of the remaining part of Lot 2 Burns Beach held to have significant environmental value;
3. **LODGES** an appeal with the Minister for Environment regarding the ramifications of leaving the greater proportion of Lot 2 Burns Beach zoned Rural;
4. **EMPHASISES** that without a better framework for the protection and management of the remainder of Lot 2 Burns Beach, Council wishes to signal an indication that it will reconsider its resolution made at the Special Meeting of Council held on 25 January 2000.

Discussion ensued. Cr Magyar requested that his opposition to the motion be recorded.

**The Motion was Put. There being an equal number of votes, the Mayor exercised his casting vote and declared the Motion** **CARRIED**

## **CLOSURE**

There being no further business, the Mayor declared the Meeting closed at 1930 hrs; the following elected members being present at that time:

J BOMBAK, JP  
P KADAK  
L A EWEN-CHAPPELL  
D S CARLOS  
S P MAGYAR  
P ROWLANDS  
T BARNETT  
A L PATTERSON  
G KENWORTHY  
C MACKINTOSH