



Department of Local Government and Regional Development
Government of Western Australia

APPENDIX 2

Our Ref: J1-7

Mr C Higham
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City of Joondalup DOCUMENT REGISTRATION
Reference # : 72559 01173 13562
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Action Officer : CEO
Date Received : 10/09/2004
Action Required: NONE

Dear Clayton

I refer to your facsimile of 8 September 2004 seeking advice from the Department on whether the Commissioners would have a financial interest in the decision making process relating to legal representation for the City at the Inquiry into the City of Joondalup.

There is a view that has been put forward to the City that as the Commissioners receive their salaries as Commissioners only until an elected Council is returned to the City, any decision the Commissioners make that could affect the return of an elected Council may be seen as a matter in which the Commissioners have a financial interest.

Under the provisions of Section 5.60A of the *Local Government Act* (the Act) a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government in a particular way, result in a financial gain, loss, benefit or detriment. The requirement of a reasonable expectation of financial consequences means that such a possibility should not be remote or speculative.

The possibility of salary loss or gain flowing from a decision by the Commissioners on legal representation is too remote.

The Department is of the view that the Commissioners do not have a financial interest in the matter coming before Council. Accordingly there is no need for an application to be in accordance with section 5.69 of the Act or disclosure of an interest in accordance with section 5.65 of the Act.

The Department also referred the matter to the State Solicitor's Office, which has concurred with the Department's view.

Yours sincerely

Cheryl Gwilliam
DIRECTOR GENERAL

10 September 2004