



**MINUTES OF MEETING OF JOINT COMMISSIONERS
HELD ON 23 NOVEMBER 2004**

TABLE OF CONTENTS

No:	Item	Page
	OPEN AND WELCOME	1
	ATTENDANCES	1
	PUBLIC QUESTION TIME	2
	APOLOGIES AND LEAVE OF ABSENCE	7
	DECLARATION OF FINANCIAL INTEREST/INTEREST THAT MAY AFFECT IMPARTIALITY	7
C67-11/04	CONFIRMATION OF MINUTES MINUTES OF MEETING OF JOINT COMMISSIONERS, 2 NOVEMBER 2004	8
	ANNOUNCEMENTS BY THE CHAIRMAN WITHOUT DISCUSSION	
	WA ENVIRONMENTAL AWARDS	8
	JINAN DELEGATION	9
C68-11/04	PETITIONS	
	PETITION REQUESTING REMOVAL OF TREE FROM VERGE, BALLANTINE ROAD, WARWICK – [05981].....	10
	PETITION REQUESTING THE EXTENSION OF BRICK WALL BETWEEN OCEAN REEF ROAD AND DIRK HARTOG COVE, HEATHRIDGE – [46835, 10831, 00363]	10
	PETITION EXPRESSING CONCERN IN RELATION TO INCREASE IN CITY OF JOONDALUP RATES, REDUCTION IN EARLY PAYMENT DISCOUNT AND INCREASE IN FESA LEVY [07141]	10
	PETITION IN RELATION TO TRAFFIC BEHAVIOUR, SHERINGTON ROAD, GREENWOOD – [06981]	11
	PETITION IN RELATION TO SPRINGVALE PARK, WARWICK - [43230].....	11

REPORTS

CJ273 – 11/04	SCHEDULE OF DOCUMENTS EXECUTED BY MEANS OF AFFIXING THE COMMON SEAL - [15876]	12
CJ274 - 11/04	CUSTOMER SATISFACTION MONITOR RESULTS FOR 2004 - [09756]	15
CJ275 - 11/04	CITY OF JOONDALUP MAY 2005 ORDINARY ELECTIONS – [29068] [39564]	18
CJ276 – 11/04	RESPONSES TO GOVERNANCE REVIEW - [25548] [08122] [76541] [01139] [02154]	24
CJ277 - 11/04	MINUTES OF CBD ENHANCEMENT PROJECT STEERING COMMITTEE MEETING – 27 OCTOBER 2004 – [53469]	32
CJ278 – 11/04	WARRANT OF PAYMENTS 31 OCTOBER 2004 – [09882]	38
CJ279 – 11/04	COASTAL LIMESTONE CLIFF HAZARD POLICY – [04048]	40
CJ280 – 11/04	TENDER NUMBER 015-04/05 SUPPLY AND INSTALLATION OF SYNTHETIC RUBBER SOFTFALL ON STABILISED BASE LAYER TO EXISTING PLAY AREAS – [24565]	46
CJ281 – 11/04	TENDER NUMBER 016-04/05 SUPPLY & DELIVERY OF TREES, SHRUBS AND GROUNDCOVERS TO DESIGNATED LOCATIONS – [25565]	49
CJ282 – 11/04	LOT 118 - MARMION AVENUE, MINDARIE - PROGRESS REPORT – [41196]	54
CJ283 – 11/04	MINUTES OF THE CONSERVATION ADVISORY COMMITTEE OF 27 OCTOBER 2004 – [12168]	64
CJ284 – 11/04	CLOSE OF ADVERTISING AMENDMENT NO. 22 TO DISTRICT PLANNING SCHEME NO. 2 - PROPOSED CHANGE FROM ‘RESIDENTIAL’ ZONED LAND TO ‘LOCAL RESERVE – PARKS AND RECREATION’ AND ‘LOCAL RESERVE-PUBLIC USE’ – [26557]	66
CJ285 – 11/04	METROPOLITAN REGION SCHEME AMENDMENT NO. 1082/33 - BUSH FOREVER AND RELATED LANDS AND DRAFT BUSHLAND POLICY FOR PERTH METROPOLITAN REGION STATEMENT OF PLANNING POLICY NO. 2.8 – [65564]	70
CJ286 - 11/04	PROPOSED MIXED USE DEVELOPMENT LOT 517 (91) REID PROMENADE JOONDALUP – [89530]	76
CJ287 - 11/04	COMMERCIAL UNIT DEVELOPMENT CITY NORTH LOT 511 (65) GRAND BOULEVARD JOONDALUP – [18233]	92
CJ288 - 11/04	MEDICAL CENTRE EXTENSION LOT 715 (110) FLINDERS AVENUE, HILLARYS – [76550]	100
CJ289 - 11/04	PROPOSAL TO UNDERTAKE COMMUNITY CONSULTATION FOR A NEW SPECIAL CARE SCHOOL AT 15 CHESSELL DRIVE, DUNCRAIG – [57094]	110
CJ290 - 11/04	RETROSPECTIVE APPROVAL FOR ADDITIONS – LOT 2 (160B) WATERFORD DRIVE, HILLARYS – [43516]	114
CJ291 - 11/04	SUBDIVISION REFERRALS PROCESSED 1 – 31 OCTOBER 2004 – [05961]	128
CJ292 - 11/04	COMMUNITY FUNDING PROGRAM 2004-2005 GRANTS ALLOCATIONS - FIRST FUNDING ROUND – [74563] [75563]	129

CJ293 - 11/04	PROPOSED MODIFICATION TO THE JOONDALUP CITY CENTRE DEVELOPMENT PLAN AND MANUAL – NEW DEVELOPMENT PROVISIONS FOR THE SOUTHERN BUSINESS DISTRICT – [00152] [47504]	136
CJ294 - 11/04	FINAL ADOPTION OF AMENDMENT NO 27 (MODIFICATIONS TO SCHEDULE 3 OF DISTRICT PLANNING SCHEME NO 2) – LOTS 1, 7, 8, 9 AND 10 WHITFORDS AVENUE/TRAPPERS DRIVE, WOODVALE – [83561].....	142
CJ295 - 11/04	JOONDALUP CITY CENTRE 41 MULTIPLE RESIDENTIAL UNITS – LOT 201 (84) LAKESIDE DRIVE JOONDALUP – [86007].....	151
CJ296 - 11/04	PROPOSED (94) MULTIPLE DWELLINGS AT LOT 2259 (1) SUNLANDER DRIVE CURRAMBINE – [51510].....	157
CJ297 - 11/04	PROPOSED MIXED USE DEVELOPMENT (2 OFFICES AND 15 RESIDENTIAL UNITS): LOT 510 (5) DAVIDSON TERRACE, CNR SHENTON AVENUE, JOONDALUP – [13250]	169
CJ298 - 11/04	SUMMARY REVIEW OF COUNCIL'S TOWN PLANNING CONTROLS – [17169] [63549] [09011]	180
C69-11/04	SUSPENSION OF STANDING ORDERS LOCAL LAW – [02154] [08122] [01369]	187
C70-11/04	RELEASE OF REPORT OF THE FORENSIC AUDITOR – [70544] [63558].....	187
	REPORT OF THE ACTING CHIEF EXECUTIVE OFFICER	
C71-11/04	CEO RECRUITMENT AND APPOINTMENT PROCESS – SELECTION OF PREFERRED CANDIDATE – [20006].....	189
	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	191
	DATE OF NEXT MEETING	191
	CLOSURE	191

CITY OF JOONDALUP

MINUTES OF COUNCIL MEETING HELD IN COUNCIL CHAMBER,
JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP, ON TUESDAY,
23 NOVEMBER 2004

OPEN AND WELCOME

The Chairman declared the meeting open at 1900 hrs.

ATTENDANCES

CMR J PATERSON – Chairman
CMR P CLOUGH – Deputy Chairman
CMR M ANDERSON
CMR A FOX
CMR S SMITH

Officers:

Acting Chief Executive Officer:	C HIGHAM
Director, Corporate Services and Resource Management:	P SCHNEIDER
Director, Infrastructure & Operations:	D DJULBIC
Acting Director, Planning and Community Development:	G HALL
Manager Audit and Executive Services:	K ROBINSON
Manager, Marketing Communications & Council Support:	M SMITH
Manager, Approvals Planning and Environmental Services:	C TERELINCK <i>Absent from 1941 hrs to 1944 hrs</i>
Senior Planning Officer:	A LOHMAN
Media Advisor:	L BRENNAN
Committee Clerk:	J HARRISON
Minute Clerk:	L TAYLOR

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

PUBLIC QUESTION TIME

The following question, submitted by Mr S Magyar, Heathridge, was taken on notice at the Meeting of Joint Commissioners held on 2 November 2004.

Re: Item 253-11/04 - Warrant of Payments

Q1 Page 3 of 15 of the Warrant of Payments - EFT 803 - \$2,325.18 to CCI Legal Services Pty Ltd. I was under the impression the City had a panel of lawyers that it chose from including Minter Ellison? I do not recall this legal firm being on the Council's panel of lawyers?

A1 The City is a member of the Chamber of Commerce and Industry and sought assistance from the Chamber of Commerce and Industry in relation to an industrial relations matter. The City's Panel of Legal Consultants is non-exclusive and under the contract the City reserves the right to seek legal advice from other lawyers or law firms.

The following question, submitted by Mr S Magyar, Heathridge, was taken on notice at the Special Meeting of Council held on 5 October 2004.

Re: Consultancy Service to Assist the Recruitment and Appointment Process for a Chief Executive Officer (Tender No. 013-04/05):

Q1 How many other companies tendered for this contract and were any of those other companies the same companies that gave a presentation to the City of Joondalup in early 2001?

A1 Beilby Corporation Pty Ltd, Forstaff Group and Westaff Consulting Croup were invited to tender after expressions of interest were called. None of these companies gave a presentation to the City in 2001.

The following question was submitted by Cr C Baker (Suspended):

My question is dated 8 November 2004 and is directed to the Chairman of Commissioners. I refer to yesterday's announcement by the State Government of a contribution in the sum of \$700,000 towards a planning study to speed up the redevelopment of the Ocean Reef Small Boat Harbour. I ask:

Q1 When was the City first informed of this proposed contribution?

A1 Written confirmation of the commitment of up to \$700,000 was received from the Minister for Planning and Infrastructure on 19 November 2004.

Q2 Can you please provide ratepayers with full particulars of the said funding contribution including whether the contribution is made on the basis of a dollar for dollar contribution by the City?

- A2 The City has budgeted for \$100,000 in the 2004/2005 financial year, \$350,000 in the 2005/2006 financial year and \$500,000 in the 2006/2007 financial year for the Ocean Reef Boat Harbour Development project. The City's project managers, Clifton Coney Group, have developed a draft program to achieve the development of a concept design and structure plan at Ocean Reef Boat Harbour, which will form the basis of discussions with the State Government in the next few weeks to develop terms of reference, cost estimates and a strategy for program implementation. Once these have been determined, further information will be made available to the public.

The following questions were submitted by Mr M Sideris, Mullaloo:

Re: Governance Review, can you please advise the following:

Q1 Why the Report prepared by the Governance Review Panel is not submitted as part of the report before Council for consideration?

- A1 The Joint Commissioners first considered a report relating to the Governance Review Panel on 8 June 2004. The following comments were contained within that report:

“The Chairman of the Governance Review Panel has advised that; “I appreciate that in the development phase of the Governance Review that public release of the document was promoted as an appropriate outcome. Since then, however, the Ford Inquiry under Division 2 of Part 8 of the Local Government Act 1995, has been initiated. It will be examining, inter alia, the same matters addressed in the report of the Governance Review Panel. It is apparent that any release of the Panel’s report prior to the release of the report of the Ford Inquiry is likely to have an adverse and disruptive effect on the integrity of the Ford Inquiry. Moreover, any release other than pursuant to the Parliamentary order or authority may give rise to actions of defamation. The City must take its own legal action advice in these respects. At this time the Department countenances against release of the report – at least at this stage. It may later be appropriate for it to be released in some form after all due precautions. If there is a request from members of the public for the report to be released I submit it would be appropriate for Council to state the reasons given above but there may be real value in releasing the recommendations of the report as these relate to operational and policy matters for Council to consider”

The position outlined by the Department in relation to the disclosure of the recommendations whilst treating the balance of the report as confidential is supported.”

The Inquiry into the City of Joondalup (now being conducted by Mr Greg McIntyre) is still progressing and due to this the entire report prepared by the Panel remains confidential.

Q2 Why the Review Report (Governance) initiated by Council and not the City Officers is not received by Council?

- A2 If the question is understood correctly, recommendation 1 of the report proposes for the Joint Commissioners to receive the entire report prepared by the Governance Review Panel.

Q3 Is it intended at any stage to make or have available for the key stakeholders (the ratepayers) to review and if so when?

Q4 Is there any possibility that Review Report being placed into the public domain at any future stage and if so when?

A3&4 Response to Question 1 above applies at this stage. Further consideration may be given to the release of the final report of the Governance Review Panel following the conclusion of the Inquiry into the City of Joondalup.

Re: Tender for the Supply of Trees and shrubs etc. can you advise:

Q5 Were potential tenderers advised or canvassed prior to the advertising period to ensure that a truly competitive bid process was available to the evaluation team thereby ensuring that the City was obtaining value for money?

A5 The information was forwarded to the Joondalup Business Association as are all tender advertisements. The tender was advertised statewide and in the local community newspaper as are all tenders.

Q6 Was the nature of the non compliance by the sole bidder of an essential or non essential nature?

A6 The non compliance was of a minor nature as specified in the Council report and related to the non-essential criteria.

Q7 Has this non compliance been resolved to the satisfaction of all the evaluation panel members?

A7 Yes, the evaluation team considered that the minor non compliance would not have an impact on the services provided by the Contractor

Q8 Has a risk management assessment been conducted by the evaluation panel?

A8 A risk assessment was carried out by the panel as part of the tender evaluation process.

Mr T Sampson, Hillarys:

Q1 The residents of Hillarys were led to believe that the Shopping Centre built at Flinders Avenue and Waterford Drive was to be in the concept of a small village type community shopping centre such as the one at Warburton Avenue, Padbury. How has it already exceeded this format, these extensions were known about when the original centre was being built? This was never meant to be a Whitford City or Karrinyup Shopping Centre.

A1 This site has been zoned for retail development for a considerable period of time, there is a retail cap on the size of the centre in terms of retail floor space. The applicant can, however, apply for any number and range of things and that is what the applicant has elected to do in this particular case.

Mrs M Sampson, Hillarys:

Q1 Re: Extension to Whitfords Medical Centre – Why is Council looking at allowing the developers of the Hillarys Shopping Centre to extend the medical centre when Council has served notice on an existing tenant and owners of the shopping centre with an infringement notice regarding excessive noise levels well over levels set out by the EPA? This extension will only further add to the existing problems. These existing problems need to be rectified as a first priority before any more building commences.

A1 The City is permitted to receive any application that may be made and consider on its merits. In relation to the on going noise issues, the City's Environmental Health Services are investigating those.

Q2 Why is Council allowing residents' privacy to be compromised by this shopping centre, which overlooks residents' properties, in my case within three metres of all bedrooms and bathrooms? The half price lattice that was put up as a screen serves no purpose at all regarding our privacy or noise levels as we can be seen through this lattice and we cannot wait forever for any bougainvilleas to grow.

A2 With the current application the City is addressing the privacy issues with the new development.

Mr M Sideris, Mullaloo:

Q1 A number of children were sandboarding on our primary dunes, I contacted City Watch and was told that it is not within the City Watch's capacity to deal with as it is on the primary dune and enquiries should be directed to the police. What do we pay our City Watch for? Isn't the primary dune part of the coastal reserve strip for which this City is responsible for management? How can a City Watch officer sidestep the issue and direct me to the police?

A1 The City's Rangers do have some jurisdiction in the dunal system area. This matter will followed it up with City Watch to ensure that the correct information is provided.

Mr M Caiacob, Mullaloo:

Q1 Is the JCCDPM a structure plan of the City of Joondalup?

A1 Yes.

Q2 As the JCCDPM is a structure plan of the City of Joondalup, why was Landcorp given a deputation in relation to that Structure Plan?

A2 Landcorp is the applicant for the inclusion of a new part to the City Centre development plan and manual.

Ms M Macdonald, Mullaloo:

Re: CJ286-11/04 – Proposed Mixed Use Development Lot 517 (91) Reid Promenade Joondalup.

Q1 This report states the residential density of the site applies to the multiple dwellings. It does not apply residential density to the building comprising of 34 units called residential buildings. Clause A13 Residential/Mixed Use of the Joondalup City Development Plan and Manual as amended on 26 May 1998 states:

“The City may permit residential development up to R100B density where the City considers that this has been demonstrated to create an appropriate landmark which enhances the overall legibility and amenity of the City Centre.”

The provisions of the residential planning codes do not apply to mixed-use developments, but the provisions of the multi unit development may be used as a guide. The R Codes do not apply for density provisions specifically to residential building and they are not covered by DPS2, however the JCCDPM density provision under this clause refers to residential development. If Commissioners approve this development they will be stating that a residential building is not a development for residential purposes when clearly this is untrue. The Minister refers to it as a residential development in her letter to the Mullaloo Progress Association on 31 May 2004. A copy of this letter has been given to the Commissioners, in it the Minister states:

“However it seems to me to be flaw in the scheme that there are no explicit guidelines for this form of residential development.”

The Minister is referring to a residential building, so clearly a residential building is a residential development.

Will Commissioners take further advice on this matter as clearly the density applies to all the residential development on this site?

A1 This question will be taken on notice.

Mr S Kobelke, Sorrento:

*Q1 Re: District Planning Scheme No. 2 – Amendment No. 24 – Lot 61 Leach Street, Marmion – In the scheme amendment report, officers have indicated that the site does not possess any characteristics or attributes which would give it conservation significance. A number of experts, including well known State botanist Greg Kay of CALM, Phyllis Robinson, botanist, Friends of Trigg Bushland and Mike Bamford of Birds Australia to name a few have stated that the site is of value as an area of locally significant bushland because of its geomorphology landscape position and range of native plants species including priority four *Jacksonia sericea*. Will Commissioners call for further environmental reports, as there appears to be a significant variation from the advice given to you by the officers and the environmental experts I have mentioned?*

A1 The officer's reports were based on two separate environmental audits, but Council would be happy to look at any further information that is submitted.

Q2 Will the Commissioners ask the Conservation Advisory Committee to broaden its horizons from the north of the City and undertake an investigation of this site before it is lost to the developers eyeing sites in the south coastal ward of the City?

A2 This question will be taken on notice.

Mr S Magyar, Heathridge:

Q1 Re: CJ273-11/04 – Affixing of the Common Seal – On Page 2 of the Report there is a deed that was signed between the City for the ex gratia payment to the former Chief Executive Officer coming from the Municipal Liability Scheme. Could the Commissioners instigate a scheme whereby the authorisation for the affixing of the Common Seal be listed with the particular items. It would be helpful if it listed the relevant decisions of Council or advised where the affixing of the seal is due to delegated authority to the Chief Executive Officer.

A1 This question will be taken on notice.

Q2 Re: Late Item and supplementary information that has come to the Commissioners. Will the Commissioners be taking a short adjournment so that they can attempt to get through the extra information and give it due consideration rather than trying to do it in between listening to the questions from members of the public and deal with the actual items that are flowing during the meeting?

A2 *Response by Chairman Paterson:* The Commissioners can call for an adjournment at any stage if they so wish.

APOLOGIES AND LEAVE OF ABSENCE

Nil.

DECLARATIONS OF FINANCIAL INTEREST/INTEREST THAT MAY AFFECT IMPARTIALITY

In relation to CJ276-11/04 – Responses to Governance Review, Cmr Smith advised she is employed from time to time by the West Australian Local Government Association, however she would deal impartially with this matter.

Manager Approvals Planning and Environmental Services declared an interest that may affect his impartiality in Item CJ288-11/04 - Medical Centre Extension Lot 715 (110) Flinders Avenue, Hillarys, as one of the doctors at the practice is a personal acquaintance.

In relation to CJ296-11/04 – Proposed (94) Multiple Dwellings at Lot 2259 (1) Sunlander Drive, Currambine, Cmr Smith advised her daughter resides in Currambine, however she would deal impartially with this matter.

Cmr Smith declared an interest that may affect her impartiality in Item C71-11/04 – CEO Recruitment and Appointment Process – Selection of Preferred Candidate as she is a member of Local Government Managers’ Australia (LGMA).

CONFIRMATION OF MINUTES

C67-011/04 MINUTES OF MEETING OF JOINT COMMISSIONERS,
02 NOVEMBER 2004

MOVED Cmr Anderson, SECONDED Cmr Clough that the Minutes of the Meeting of Joint Commissioners held on 2 November 2004 be confirmed as a true and correct record, subject to the following correction:

Page 161 – Item CJ268-11/04: Point 2 of the Motion as Moved by Cmr Smith and Seconded by Cmr Fox, to be amended to read:

“2 *REQUEST the Acting Chief Executive Officer to arrange for a legal advisor to be available to answer Commissioners’ questions at the Briefing.*”

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

ANNOUNCEMENTS BY THE CHAIRMAN WITHOUT DISCUSSION

WA ENVIRONMENTAL AWARDS

The City of Joondalup has once again been successful in the State’s premier environmental awards.

On Friday 19 November 2004, the City’s submission titled “Envirocare” won the Bush, Land and Waterways category in the 2004 SGIO Western Australian Environment Awards held at the new Perth Convention Centre.

Last year the City won the Coastal and marine category for its work in managing the Joondalup coastline. The year before the City was also a finalist for initiatives undertaken in the recycling area.

Over 600 guests including Dr Judy Edwards MLA, the Minister for the Environment were present when Commissioner Peter Clough and Mike Norman received the award on behalf of the City.

The City has made great strides in the area of conservation over the last few years. Joondalup has magnificent bushland reserves and a beautiful coastline. As a Council, we are fully committed to preserving our natural heritage and winning this award shows our commitment is being recognised on a Statewide basis.

The City has formed strong partnerships with ten bushland friends' groups and the Joondalup Community Coast Care Forum as well as with many schools. The aim of these partnerships is to forge community links to protect and repair Joondalup's natural areas.

I would like to thank in particular all the volunteer groups for their tremendous contribution they have made over the years, and also all those staff that are involved in preserving and protecting the City's most important asset, its Natural Bushland Areas.

JINAN DELEGATION

The recent delegation from Jinan in China to the City of Joondalup has been a tremendous success. Our visitors enjoyed their three-day visit immensely and the City is already on the verge of results.

After talks in business, health, education, police and tourism, Jinan could send as many as 15 senior police and 30 public servants to train in Joondalup.

Our discussions proved even more fruitful than the City had hoped.

Leader of the Jinan delegation, Mr Duan Yihe, gave strong undertakings that he would push for Chinese mid-management to train in Joondalup. This is a great result and the Chinese were obviously very impressed by what they saw.

It is hoped that up to 30 mid-management public servants from Jinan will live and train in Joondalup for up to four months.

WA's Assistant Commissioner of Police, Graeme Leinert said the Chinese were considering training for up to 15 senior Chinese police at the WA Police Academy in Joondalup.

Edith Cowan University's Vice Chancellor, Millicent Poole also signed a Memorandum of Understanding with President of Jinan University Mr Cheng Xin that could lead to further exchange of students and research collaboration between the two universities.

Sincere thanks to the Manager of Strategic and Sustainable Development and her team who worked so hard to make this visit a resounding success. It was very difficult as 10 days before they arrived, the Chinese delegation still did not have visas and therefore did not have flights booked. It was not until 10 days before arriving the City had confirmation they were going to come. I also express thanks for involving two Ministers in this visit.

Thanks also to Manager, Marketing Communications and Council Support and his team for arranging the presentation in the Chamber on the Saturday afternoon.

PETITIONS**C68-11/04 PETITIONS SUBMITTED TO THE COUNCIL MEETING – 23
NOVEMBER 2004****1 PETITION REQUESTING REMOVAL OF TREE FROM VERGE, BALLANTINE
ROAD, WARWICK – [05981]**

An 8-signature petition has been received from residents of Warwick requesting the removal of a eucalypt tree situated on the verge of 15 Ballantine Road, Warwick.

The petitioners state the tree is unsafe (especially after recent stormy weather), is approximately 40 metres in height and is located close to the bend of the road, with the trunk being 1 metre in diameter.

This petition will be referred to Infrastructure and Operations for action.

**2 PETITION REQUESTING THE EXTENSION OF BRICK WALL BETWEEN
OCEAN REEF ROAD AND DIRK HARTOG COVE, HEATHRIDGE – [46835,
10831, 00363]**

A 10-signature petition has been received on behalf of residents of Dirk Hartog Cove requesting that the City fund the extension of the brick wall surrounding the Estate situated between Ocean Reef Road and Dirk Hartog Cove, Heathridge.

The request is made in an attempt to alleviate anti-social behaviour that is occurring in the locality.

This petition will be referred to Infrastructure and Operations (Infrastructure Management) for action.

**3 PETITION EXPRESSING CONCERN IN RELATION TO INCREASE IN CITY OF
JOONDALUP RATES, REDUCTION IN EARLY PAYMENT DISCOUNT AND
INCREASE IN FESA LEVY [07141]**

Two further petitions containing two and 26-signatures respectively have been received on behalf of residents of the City of Joondalup expressing dissatisfaction with the increases in City of Joondalup rates, the reduction in early payment discount and the resultant increase in FESA levy.

The original petition was presented to Council on 2 November 2004 (Item C66-11/04 refers).

These two further petitions will be referred to Corporate Services and Resource Management.

4 PETITION IN RELATION TO TRAFFIC BEHAVIOUR, SHERINGTON ROAD, GREENWOOD – [06981]

A 57-signature petition has been submitted on behalf of Greenwood residents requesting the Council to investigate ways of curbing unruly traffic behaviour in Sherington Road, Greenwood.

This petition will be referred to Infrastructure and Operations (Infrastructure Management) for action.

5 PETITION IN RELATION TO SPRINGVALE PARK, WARWICK – [43230]

A 162-signature petition has been submitted on behalf of Warwick residents requesting the Council to make the development and irrigation of Springvale Park, Warwick a priority.

The petitioners state this park is a well-used park, particularly by mothers with young children and request that funding for this work be included in the forthcoming budget, ahead of the scheduled 2006-07 capital works program.

This petition will be referred to Infrastructure and Operations for action.

It was resolved that the petitions:

- 1 requesting the removal of a eucalypt tree situated on the verge of 15 Ballantine Road, Warwick;**
- 2 requesting that the City fund the extension of the brick wall surrounding the Estate situated between Ocean Reef Road and Dirk Hartog Cove, Heathridge;**
- 3 expressing dissatisfaction with the increases in City of Joondalup rates, the reduction in early payment discount and the resultant increase in FESA levy;**
- 4 requesting the Council to investigate ways of curbing unruly traffic behaviour in Sherington Road, Greenwood;**
- 5 requesting the Council to make the development and irrigation of Springvale Park, Warwick a priority;**

be received and referred to the appropriate Business Units for action.

CJ273 – 11/04 SCHEDULE OF DOCUMENTS EXECUTED BY MEANS OF AFFIXING THE COMMON SEAL - [15876]**WARD - All**

CJ041116_BRF.DOC:ITEM 1

PURPOSE

To provide a listing of those documents executed by means of affixing the Common Seal for noting by Joint Commissioners.

Document: Contract
Parties: City of Joondalup and Wanneroo Electric
Description: Execution of Contract No 041-03/04 – Supply of electrical maintenance services
Date: 24.08.04

Document: Caveat
Parties: City of Joondalup, Roman Catholic Archbishop of Perth and Davidson P/L
Description: Withdrawal of Caveat – Lot 9503 on Deposited Plan 34971
Date: 24.08.04

Document: Agreement
Parties: City of Joondalup and WA Health Promotion Foundation
Description: Healthway Sponsorship Agreement
Date: 24.08.04

Document: Instrument of Authorisation
Parties: City of Joondalup and Main Roads
Description: Instrument of Authorisation for the use of traffic signs and devices to manage traffic during construction and maintenance
Date: 09.09.04

Document: Agreement
Parties: City of Joondalup and Department of Community Development
Description: Service Agreement for the Joondalup Financial Counselling Service
Date: 09.09.04

Document: Covenant
Parties: City of Joondalup, Roman Catholic Archbishop of Perth and Davidson P/L
Description: Restrictive Covenant restricting access to Delgado Parade, Iluka, as shown on Deposited Plan 39543
Date: 09.09.04

Document:	Contract
Parties:	City of Joondalup and Sunny Sign Company Ltd
Description:	Execution of Contract No 043-03/04 – Supply and delivery of various signs
Date:	09.09.04
Document:	Deed
Parties:	City of Joondalup and Municipal Liability Scheme
Description:	Deed of Agreement covering ex gratia contribution towards former CEO's payment
Date:	14.09.04
Document:	Agreement
Parties:	City of Joondalup and Department of Veterans' Affairs
Description:	Grants Agreement for Live Life Festival
Date:	30.09.04
Document:	Deed
Parties:	City of Joondalup and Owners of Sorrento Plaza Shopping Centre
Description:	Deed of Partial Surrender of Easement for the purposes of access and parking – 136A West Coast Highway
Date:	30.09.04
Document:	Copyright
Parties:	City of Joondalup and Lindsay Peet
Description:	Recording of historical importance
Date:	30.09.04
Document:	Copyright
Parties:	City of Joondalup and Graham Carslake
Description:	Recording of historical importance
Date:	30.09.04
Document:	Deed
Parties:	City of Joondalup and Beilby Corporation P/L
Description:	Confidentiality Deed forming part of Agreement for Consultancy Services to assist recruitment and appointment process for the CEO
Date:	05.10.04
Document:	Copyright
Parties:	City of Joondalup and Lex Bastian
Description:	Recording of historical importance
Date:	20.10.04
Document:	Accountability documents
Parties:	City of Joondalup and Department of Family and Community Services
Description:	Accountability documents and Statement of Compliance – Emergency Relief Funding – Financial Counselling Service
Date:	20.10.04

Document: DPS Amendment
Parties: City of Joondalup
Description: Final adoption of Scheme Amendment No 20 – Lot 124 Cook Avenue, Hillarys
Date: 20.10.04

Document: Structure Plan
Parties: City of Joondalup and Western Australian Planning Commission
Description: Kinross Neighbourhood Centre Structure Plan
Date: 20.10.04

Document: Caveat
Parties: City of Joondalup and Kapinkoff Nominees P/L
Description: Withdrawal of Caveat over Lot 2 (149) Trappers Drive, Woodvale – to enable registration of lease
Date: 20.10.04

Document: Contract
Parties: City of Joondalup, Roman Catholic Archbishop of Perth and Davidson P/L
Description: Restrictive Covenant to restrict vehicle access to burdened land – Lots 1384 – 1402 and 1408/09 on Plan 42963
Date: 24.10.04

Document: Contract
Parties: City of Joondalup and Sparta Enterprises T/As Stirling Paving
Description: Execution of Contract 006-04/05 – Supply and installation of preliminary works prior to road resurfacing and traffic management works
Date: 26.10.04

Document: Contract
Parties: City of Joondalup and Perkins Builders
Description: Execution of Contract 046-03/04 – Agreement for redevelopment of Craigie Leisure Centre
Date: 26.10.04

Document: Agreement
Parties: City of Joondalup and FESA
Description: Emergency Services Levy Administration Agreement – Payment Option
Date: 26.10.04

Document: S70A
Parties: City of Joondalup and K and S Attrill
Description: Notification under S70A – Ancillary accommodation – 103 Stonehaven Parade, Kinross
Date: 26.10.04

Document: Agreement
Parties: City of Joondalup and Joondalup Business Association (JBA)
Description: Financial Grant Agreement - BEC
Date: 26.10.04

Document: Covenant
Parties: City of Joondalup, Synergy WA P/L and Tonic Holdings P/L
Description: Restrictive Covenant to restrict vehicle access to or from Lot 575
(65) Wanneroo Road and Lot 1 Gorman Street
Date: 29.10.04

ATTACHMENTS

Nil.

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Smith, SECONDED Cmr Anderson that the schedule of documents executed by means of affixing the Common Seal for the period 24 August 2004 to 29 October 2004 be NOTED.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

CJ274 - 11/04 CUSTOMER SATISFACTION MONITOR RESULTS FOR 2004 - [09756]

WARD - All

CJ041116_BRF.DOC:ITEM 2

PURPOSE

To present to elected members the results from the 2004 Customer Satisfaction Monitor results.

EXECUTIVE SUMMARY

In May 2004, the City undertook its annual Customer Service Monitor where a sample size of 500 were surveyed by telephone to ascertain their level of satisfaction with the services provided by the City of Joondalup.

A sample size of 500 is statistically proven that the City would be 95% confident that the results would vary by 4.38%, up or down.

The City achieved an overall satisfaction of 73%, compared to the syndicate average of 74%.

The City sets the benchmark in the following areas:

- Planning and Building Approvals
- Leisure and Recreational Centres
- Youth Services and Activities
- Library and Information Services

The results of the monitor will assist the City in allocating resources and funding.

It is recommended that the Joint Commissioners NOTE the information contained in the 2004 Customer Satisfaction Monitor forming Attachment 1 to this Report.

BACKGROUND

The City has conducted a survey of a representative sample of residents (the Customer Satisfaction Monitor) for the last five years – (2000-2004). This survey is designed to research residents' perception of the City's performance in delivering its services and facilities, as well as the overall satisfaction with decision-making and management.

The attached report outlines the topline results from the 2004 Customer Satisfaction Monitor.

In 2003, the City amalgamated this annual survey with a new local government syndicate so as to benchmark the City's performance with 11 other West Australian local government authorities.

Founding member Councils:

City of Armadale
City of Cockburn
Town of Fremantle
City of Joondalup
City of Mandurah
City of Melville
Serpentine-Jarrahdale Shire
City of South Perth

Recently joined Councils:

Town of Vincent
Town of Bassendean
Town of Claremont

DETAILS

The 2004 Customer Satisfaction Monitor telephone survey was conducted in May 2004.

The Monitor was undertaken by an independent market research company, Australian Market Intelligence (AMI), the organiser of the LGA research syndicate.

The survey involved a telephone questionnaire to a representative sample of 500 residents in the City of Joondalup. This is statistically proven to show that if the City surveyed all residents in the City of Joondalup, the City can be 95% confident the results would only vary by 4.38% (either up or down).

The survey remained consistent with previous years to provide comparative results, some components of the survey were altered to be in line with the syndicated research to provide an indication of how Joondalup performs in relation to other Western Australian local government authorities.

Benchmarking Results:

Additional benchmarking and research syndicate information has also been provided to the City to complement the 2004 Customer Service Monitor Research.

AMI has recently completed customer satisfaction market research as part of the syndicate on behalf of the Cities of Armadale, Mandurah and Cockburn, resulting in the following benchmarking data:

- 1 The City of Joondalup has an overall satisfaction rating of 73%, being on par with industry average of 74%. The customer satisfaction of services has remained fairly constant, however, overall satisfaction with Council has fallen from 79% in 2003.
- 2 The City of Joondalup has set the benchmark with the highest satisfaction ratings for four areas:
 - Planning & Building Approvals
 - Leisure & Recreational Centres
 - Youth Services & Activities
 - Library & Information Services
- 3 Joondalup is also performing above the industry average in the following areas:
 - Conservation and environmental management (close to the benchmark)
 - Creating and maintaining parks, gardens and open spaces (close to the benchmark)
 - Graffiti, vandalism and anti-social behaviour control
 - Maintaining roads
 - Providing and maintain footpaths and cycleways
 - Controlling animals and pests
 - Providing cultural and community events

COMMENT

The annual customer service monitor is an excellent tool in establishing residents' perceptions and satisfaction with the City, which coupled with benchmarking data, continues to be a useful tool in highlighting successful and 'hot issues' for future planning. Such data will be used to allocate financial and human resources to required services and functions provided by the City.

It also provides useful information for certain sectors of the organisation to undertake more detailed research where services need attention.

ATTACHMENTS

Attachment 1 2004 Customer Satisfaction Monitor Executive Summary report and presentation

MOVED Cmr Smith, SECONDED Cmr Fox that the Joint Commissioners NOTE the information contained in the 2004 Customer Satisfaction Monitor forming Attachment 1 to Report CJ274-11/04.

Discussion ensued, with Cmrs Smith and Fox congratulating the City for participating in this survey.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1brf161104.pdf](#)

CJ275 - 11/04 CITY OF JOONDALUP MAY 2005 ORDINARY ELECTIONS – [29068] [39564]

WARD - All

CJ041116_BRF.DOC:ITEM 3

PURPOSE

To give consideration to the way in which the May 2005 ordinary elections will be conducted.

EXECUTIVE SUMMARY

The City has received a letter from the Western Australian Electoral Commission requesting notification on whether or not the City would be conducting a postal vote in the upcoming May 2005 elections. The letter also acts as the agreement from the Electoral Commissioner to conduct the election.

With the current Council under suspension pending the outcome of a Ministerial Inquiry, advice was sought from the Department of Local Government and Regional Development. The Department has subsequently advised that as the future of the elected council is unable to be decided at this stage and the Inquiry timeframe is not finalised, that the necessary decisions be obtained relating to May 2005 Ordinary Elections.

Postal elections were conducted for the City of Joondalup's 2003 ordinary elections with a voter turnout of approximately 29.7%, which was a 1.5% increase on the City's 2001 ordinary elections which were also conducted as a postal election.

Funds have been made available in this year's budget.

This report recommends that the Joint Commissioners:

- 1 *BY AN SPECIAL MAJORITY in accordance with Section 4.61(2) of the Local Government Act 1995, AGREE to conduct the May 2005 Ordinary Election and any other elections or polls that may be required as postal elections to be held on Saturday, 7 May 2005;*
- 2 *BY AN SPECIAL MAJORITY in accordance with Section 4.20(4) of the Local Government Act 1995, DECLARE the Electoral Commissioner responsible for the conduct of the Election as detailed in (1) above;*
- 3 *ADVISE the Electoral Commissioner that in the event the future of the elected Council for the City of Joondalup remains undetermined to meet the May 2005 election, that the City will not be bound by (1) and (2) above.*

BACKGROUND

The City of Joondalup Mayor and Councillors are currently suspended and may or may not be reinstated prior to the May 2005 elections. The City currently runs with five Commissioners.

Contact was made with the Department of Local Government and Regional Development concerning the City's responsibilities in relation to the forthcoming Local Government Elections due to be held on 7 May 2005. The concerns particularly related to the election schedule which commences 80 days prior to election day being 16 February 2005 and the possibility that future of the elected Council being undecided.

The City was advised by the Department to carry out the procedures for conducting the May 2005 elections in the expectation that if the elected council is reinstated, before the close of nominations on 7 April 2005, prospective candidates are able to nominate for election at those elections.

A letter has been received from the Western Australian Electoral Commission requesting whether or not the City would be conducting a postal vote in the upcoming May 2005 elections. The Commission has advised that it would assist their office by providing confirmation of a postal election before the end of November 2004, as the Commission will be planning for both the local government and State general elections.

As a result of recommendations made by the Royal Commission into the former City of Wanneroo, the inaugural elections of the City of Joondalup were conducted by means of a postal election. The change from in person to postal elections in 1999 revealed an increase of the voter participation rate from 6.51% in 1997 to 28.2% in 1999. The total costs associated with the late 'in person' election held in 1997 was approximately 870,000.

Following the success of the inaugural elections Council decided to conduct the 2001 elections and referendum again as postal. The voter participation rate for the 2001 elections and referendum was 29.7%, an increase of approximately 1.5% on the inaugural elections.

The cost of the 2001 election and referendum was \$215,000, which equates to a cost of approximately \$2.15 per elector. The cost of the City's 2003 ordinary election was \$266,670.94 (excluding GST), which equates to a cost of approximately \$2.65 per elector. The costs of the 2003 elections were as follows for a mayoral vacancy and seven (7) ward Councillor vacancies.

	Description	Amount \$
1	Returning Officer fees	4,076.77
2	Head Office allocation (Total)	142,866.31
3	Casual staff	4,589.54
4	Postage mail out	35,958.06
5	Postage reply paid	10,096.66
6	Rolls	1,020.00
7	Advertising	4,859.36
8	Printing	45,218.43
9	Scanning Centre	17,985.81
	GST	\$ 26,667.09
	TOTAL	\$293,338.03

The above breakdown of the 2003 election costs did not include items as:

- Non-statutory advertising
- Any legal expenses other than those that are determined to be borne by the WAEC in a Court of Disputed Returns; and
- One local government staff member to work in the polling place on election day.

DETAILS

Local Government as an industry is now required to consult more with the community, encourage community participation and be more open and accountable for its actions. The City of Joondalup actively supports these requirements and considers elections to be an extremely important function and critical to achieving the above objectives.

Electoral Roll

Should the City decide to conduct its election by post, the CEO will be required to supply the Electoral Commissioner with a copy of the owners and occupiers roll. The Electoral Commissioner will be responsible for co-ordinating all other aspects of the election. Past experience shows that staff here at the City would be involved in the issuing of replacement papers and other minor tasks.

The Local Government Act 1995 makes provisions for the persons to be eligible to vote at local government elections.

Electoral Commission

Having the local government election process managed by the Western Australian Electoral Commission (WAEC) whose principal activity is to conduct elections, is generally accepted as being extremely positive for the following reasons:

- The election is conducted by professional staff appointed for that sole purpose;
- The election is overseen by an independent service provider with an in depth experience and adequate resources to perform the task;
- The appointment of the Electoral Commissioner to manage Local Government Elections removes any conflict of interest that may exist between elected members and the Returning Officer (which has been traditionally the Chief Executive Officer) and other local government officers appointed for the election.

The WAEC has given the City a cost estimate to conduct the May 2005 elections in the range of \$303,000 - \$333,000, including GST to conduct the election. The cost is estimated on the following basis:

- 101,000 electors
- 7 wards
- 15 vacancies (including Mayoral)
- Response rate of approximately 30%
- Count to be conducted at the premises of the City of Joondalup

The cost is based on a full election with all positions being contested. It is unable to be determined the number of vacancies at this stage. The estimate has been provided for a full fifteen (15) vacancies. If all fifteen (15) vacancies were not contested, there would only be a marginal reduction in the costs.

Included in the estimate is:

- Statutory advertising;
 - Returning Officer and staff;
 - Preparation of the mail out list;
 - Election packages (Instructions, ballot papers etc);
 - Printing and supply of electoral rolls of residents for the use of candidates; and
- Fixed costs such as advertising, printing, mail out and Returning Officer fees are the major costs. The number of wards, candidates and elector turnout introduces variables.

Items not included in the estimate are:

- Non-statutory advertising
- Any legal expenses other than those that are determined to be borne by the WAEC in a Court of Disputed Returns; and
- One local government staff member to work in the polling place on election day.

There will be the need for the City to undertake some intense local advertising in an effort to promote the election. There will also be an associated cost in preparation of the owners/occupiers roll. These costs have not been included in the estimate provided by the Western Australian Electoral Commission.

Statutory Provision:

Nil.

Legislative Requirements

Section 4.61 of the Local Government Act 1995 enables the local government's elections to be held as either a "voting in person election" or a "postal election". The Act requires that prior to the 80th day before any election, which is the 16 February 2005, the Council is to determine the mode by which the election will take place.

The "postal election" method of casting votes is by posting or delivering them to an electoral officer on or before Election Day, and must be carried out by the State Electoral Commissioner.

A "voting in person" election is one where the principal method of casting votes is by voting in person on Election Day but also allows for votes to be cast in person before Election Day or posted or delivered in accordance with regulations. The Chief Executive Officer and staff carry out a voting in person election unless another person is appointed as Returning Officer.

If the City decides to conduct a "postal election" section 4.61 requires the following conditions be complied with:

- (2) The local government may decide to conduct the election as a postal election (special majority required);
- (3) A decision under subsection (2) has no effect if it is made after the 80th day before Election Day;
- (4) A decision under subsection (2) has no effect unless it is made after a declaration is made under section 4.20 (4) that the Electoral Commissioner is to be responsible for the conduct of the election or in conjunction with such a declaration;
- (5) A decision made under subsection (2) on or before the 80th day before Election Day cannot be rescinded after that 80th day;
- (6) For the purpose of this Act, the poll for an election is to be regarded as having been held on Election Day even though the election is conducted as a postal election;
- (7) Unless a resolution under subsection (2) has effect, the election to be conducted as a voting in person election."

Section 4.20 (4) of the Local Government Act 1995 requires that the consent of the Electoral Commission must be obtained before any decision to conduct an election by post having any effect. The WAEC has provided that consent in writing in early 2004.

Sections 4.12 and 4.14 of the Local Government Act 1995 state:

- 4.12 Any poll needed for an election to fill offices of members that are vacant when a suspended Council is reinstated is to be held on the day fixed by order under section 8.29(4).
- 4.14 Any poll needed for an election to elect a new Council after a Council has been dismissed under section 8.25 is to be held on the day fixed by order under section 8.34(1).

Sections 8.29(4) and 8.34(1) of the Local Government Act 1995 states:

- 8.29(4) An order reinstating a suspended Council is to fix a day for any poll needed for an election to fill the offices of members that are vacant.
- 8.34(1) An order dismissing a Council is to fix a day for any poll needed for the election of a new Council.
- 8.34(2) The day fixed is to be a day that is as soon as practicable after the dismissal has effect and allows enough time for the electoral requirements to be complied with, but is not to be later than two years after the dismissal has effect.

COMMENT

There are now 59 Councils, which is an increase of seven (7) from the ordinary elections of 2003, who exercise the right to conduct their elections as postal for the local government ordinary elections.

In 2001 the overall participation rate at postal elections was considerably higher than the statewide local government voter turnout figure. These higher turnout figures indicate that electors are more prepared to vote in postal elections. This has been the case for the City since the inaugural elections, which received 28.21% voter participation compared with the 6.51% recorded for the 1997 former City of Wanneroo elections.

The WAEC has requested that the City notifies its intent as to whether or not to hold an election by postal vote by the end of November 2004.

It is therefore recommended to hold the 2005 elections for the City on Saturday, 7 May 2005 and request the Western Australian Electoral Commissioner responsible to conduct it by postal vote. This recommendation is made on the basis that the City of Joondalup will be conducting an ordinary election in May 2005. If an election is required to be held after that date, further consideration will be required and appropriate decisions sought.

Account No:	1 0520 4201 F762
Budget Item:	Elections
Budget Amount:	\$300,000
YTD Amount:	\$
Actual Cost:	\$303,000 - \$333,000 (incl GST)

ATTACHMENTS

Nil.

VOTING REQUIREMENTS

Special Majority

MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners:

- 1 in accordance with Section 4.61(2) of the Local Government Act 1995, AGREE to conduct the May 2005 Ordinary Election and any other elections or polls that may be required as postal elections to be held on Saturday, 7 May 2005;**
- 2 in accordance with Section 4.20(4) of the Local Government Act 1995, DECLARE the Electoral Commissioner responsible for the conduct of the Election as detailed in (1) above;**
- 3 ADVISE the Electoral Commissioner that in the event the future of the elected Council for the City of Joondalup remains undetermined to meet the May 2005 election, that the City will not be bound by (1) and (2) above.**

The Motion was Put and

**CARRIED BY A
SPECIAL MAJORITY (5/0)**

In relation to CJ276-11/04 – Responses to Governance Review, Cmr Smith advised she is employed from time to time by the West Australian Local Government Association, however she would deal impartially with this matter.

**CJ276 – 11/04 RESPONSES TO GOVERNANCE REVIEW - [25548]
[08122] [76541] [01139] [02154]**

WARD - All

CJ041116_BRF.DOC:ITEM 4

PURPOSE

This report is to provide details and address the recommendations contained within the City of Joondalup Governance Review, 2003.

EXECUTIVE SUMMARY

A Governance Review Panel (the Panel) established in September 2003 comprising of:

- Mr Steve Cole, Director Capacity Building – Department of Local Government and Regional Development – (Chairman);
- Councillor Ian Mickel, President – Shire of Esperance;

- Mr Cliff Frewing, Executive Manager – Financial and Information Services – City of Swan and President, WA Division of Local Government Managers Australia;
- Mr Bruce Wittber, Consultant (Executive Officer).

Detailed Terms of Reference were developed for the panel with the general scope of them being for the panel to make recommendations of the level of governance being provided to the residents of the City of Joondalup.

Members of the Panel attended various meetings of the Council, including briefing and strategy sessions. The Panel also conducted a questionnaire of a majority of Councillors, CEO and Directors.

Prior to the completion of the review, the Minister for Local Government and Regional Development suspended the elected Council, pending the outcome of an Inquiry. As a result of the decision of the Minister, it was agreed to continue with the Review and present the recommendations.

Each of the recommendations has been addressed on an individual basis.

BACKGROUND

The City of Joondalup was established on 1 July 1998 as a result of the splitting of the former City of Wanneroo into two (2) new local governments.

The division of the former City of Wanneroo was overseen by five (5) Joint Commissioners, following the suspension of the former elected Council of the City of Wanneroo in late 1997. The former Council was reinstated immediately prior to the Governor's Orders disbanding the former City of Wanneroo and establishing the two (2) new local governments.

The City of Joondalup conducted its inaugural elections in December 1999 and has had subsequent elections in May 2001 and 2003.

A Governance Review Panel was established in September 2003 comprising of:

- Mr Steve Cole, Director Capacity Building – Department of Local Government and Regional Development – (Chairman);
- Councillor Ian Mickel, President – Shire of Esperance;
- Mr Cliff Frewing, Executive Manager – Financial and Information Services – City of Swan and President, WA Division of Local Government Managers Australia;
- Mr Bruce Wittber, Consultant (Executive Officer).

The following terms of reference for the governance review were agreed to by the City of Joondalup in September 2003:

The Governance Review panel will assess and make recommendations on the operations of the Council of the City of Joondalup with particular reference to –

- 1 *The development of an appropriate working relationship between elected members that will achieve good government for the City and an appropriate public image for the local government within the community.*

- 2 *Whether or not the behaviour of elected members related to their local government responsibilities, both personal and collective, is appropriate in terms of the Council's responsibilities and public perception.*
- 3 *The ordinary meetings of Council with particular regard to meeting procedures, behaviour of participants, the operation of Standing Orders and whether those Standing Orders require amendment.*
- 4 *Whether or not the relationships between elected members are having, or could be perceived to be having, an impact on the fairness, objectivity and outcome of the decisions being made by Council.*
- 5 *Whether the Code of Conduct is appropriate and adherence to that code.*
- 6 *The nature and effectiveness of the working relationship between elected members and senior employees.*
- 7 *Whether the information and advice to elected members from the executive is appropriate and sufficient and how that advice is being received and used in Council's deliberations and determination of matters.*
- 8 *The adherence to the requirements of the Local Government Act that the Mayor and CEO are to "liaise on the local government's affairs and performance of its functions."*
- 9 *The nature and effectiveness of the Council decision-making structure.*
- 10 *Whether the Council decision-making processes are fair, open and objective (in accordance with the Act and community interest).*
- 11 *Whether or not the nature and source of statements to the media regarding Council matters and decisions are appropriate, fair, reasonable and within the context of the Local Government Act.*
- 12 *The participation, nature and effectiveness of the elected member induction process and on-going development opportunities for elected members.*

The governance review report provides further background to the establishment of the review.

"The City of Joondalup experienced significant change in elected membership at the May 2003 elections. The new Council struggled with internal dissention from the start with the on-going employment of the CEO, Mr Denis Smith the primary catalyst. A Governance Review Panel (the Panel) was established in September 2003 as a means of restoring Council equilibrium and function, but unfortunately Council dysfunction accelerated so that in December 2003, the Minister for Local Government and Regional Development acted in accordance with s8.19 of the Local Government Act 1995 and suspended the Council. A panel of Commissioners has taken the place of the elected body and they will run the Council until an inquiry is held and a decision is made on whether the Council be dismissed or reinstated.

Despite the Council being suspended, the decision was taken to complete the governance review on the basis that it would document some of the issues at the City and provide guidance for an in-coming Council.”

DETAILS

The procedure for the review process was as follows:

- The Chairman (of the Panel) attended a number of meetings discussing the appointment of the Governance Review Panel and the relevant Terms of Reference. The Council in September 2003 agreed to the appointment and allocated funds for the process.
- The Governance Review Panel proceeded to develop an extensive questionnaire, addressing the Terms of Reference, with a separate document for the Mayor, Councillors, Chief Executive Officer and three Directors.
- The Executive Officer met with the CEO during October to progress the review.
- Each elected member and officer was invited to complete the questionnaire and where appropriate provide supporting documentation to justify their opinion.
- Twelve of the 15 elected members completed the questionnaire, but this did not include the Mayor.
- The CEO and three directors completed the questionnaire.

The Chairman and Executive Officer attended an ordinary meeting of the Council on 11 November 2003 and also attended a Strategic Briefing session on 18 November 2003.

The Governance Review Panel met with the Mayor and Councillors at an informal meeting on 20 November 2003 at which time the general format of the process was explained to those members in attendance. It should be noted that neither the Chief Executive Officer nor any City staff were present on this occasion.

The Panel then conducted a series of interviews commencing on 27 November 2003 and throughout the week 1-5 December 2003 with the Mayor and Councillors. Further interviews were arranged with the Executive and one Councillor on 11 December 2003. Only one Councillor was not interviewed during this period.

The Panel also took the opportunity to attend a Special Meeting of Council on Monday 1 December and 3 December together with an ordinary meeting on 2 December.

Statutory Provision:

The Governance Review was carried out in agreement between the Department of Local Government and Regional Development and the City and was to address twelve (12) Terms of Reference, as agreed by the parties. Such a review is in keeping with the provisions of Section 8.3 of the Local Government Act 1995.

Consultation:

N/A

Policy Implications:

As a result of the Governance Review, there will be the need to review a number of the corporate policies and in particular the Code of Conduct, Standing Orders Local Law and the guidelines relating to public question time.

Financial Implications:

N/A

Strategic Implications:

The City's Strategic Plan contains the following references to our Values and Guiding Principles:

Trust

- We will have an environment of openness and transparency.
- We will make information accessible.

Leadership through Partnerships and Networks

- We will develop a supportive and trusting relationship with our community.

People Management

- We will invest in best practice workforce management.
- We will encourage employee commitment and innovation.

Sustainability Implications:

The City recognises its responsibilities to work with its community towards an environmentally, socially and economically sustainable future. Consideration of the recommendations of the Governance Review Panel will enhance the social aspect of sustainability by demonstrating improved governance practices for the benefit of the community of the City of Joondalup.

COMMENT

The Panel through its report proposed a number of recommendations as a result of its observations. A copy of the complete report has been previously submitted to the Joint Commissioners.

It must be acknowledged that the operations and relationship of the elected Council at the time of the review were considerably strained. A few of the recommendations highlight this environment. The implementation of some of the suggested recommendations may be burdensome on some of the operations where an elected Council and its administration are working together effectively in the best interests of the community.

Each of the recommendations proposed by the Panel have been addressed and commented on; on an individual basis. As a result of evaluating each of the recommendations, a series of recommendations have been presented for consideration by the Joint Commissioners.

ATTACHMENTS

Attachment 1 Responses to Recommendations of Governance Review

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That the Joint Commissioners:

- 1 RECEIVE the City of Joondalup Governance Review 2003 – Final Report;
- 2 UNDERTAKE a review of the:
 - (a) guidelines relating to public question time;
 - (b) protocols and procedures relating to strategy and briefing sessions;
 - (c) City's Standing Orders Local Law;
 - (d) City's Code of Conduct;
 - (e) electronic controls within the Council Chamber;
- 3 ESTABLISH clear protocols relating to:
 - (a) the attendance of invited guests or specialist advisors to Council meetings;
 - (b) the working relationship between the Mayor and CEO that complements the relevant sections of the Local Government Act 1995;
 - (c) elected members requiring access to information and requests for action;
 - (d) necessary requirements for proposing amendments at Council meetings;

- 4 in relation to the CEO's employment terms and conditions, AGREE:
- (a) to provide all elected members with a complete copy of the current CEO's contract and details of relevant performance reviews;
 - (b) that future City of Joondalup CEO employment contract be based on one of the pro forma contracts developed specifically for Western Australian local government;
 - (c) to review the performance appraisal process for future CEOs to ensure it best suits the Joint Commissioners' requirements;
- 5 AGREE to develop a comprehensive induction programme and ongoing training programme for elected members, focusing on:
- (a) roles and responsibilities;
 - (b) meeting procedures;
 - (c) Code of Conduct;
 - (d) Local Government Act 1995 and associated legislation;
 - (e) industry related support programmes;
- 6 MAKE a submission to the Minister for Local Government and Regional Development to draft appropriate amendments to the Local Government Act 1995 to allow for alternative spokesman to be appointed by the Council other than the Mayor where resolved by the Council;
- 7 SUPPORT that recommendations 17 to 24 detailed within the City of Joondalup – Governance Review, 2003 – Final Report be referred to the Western Australian Local Government Association and the Department of Local Government and Regional Development for consideration across the industry.

MOVED Cmr Smith, SECONDED Cmr Fox that:

- 1 the Joint Commissioners DEFER consideration of Responses to Governance Review to allow it to be considered at the same time as motions from the Annual Meeting of Electors that relate to this matter;**
- 2 the Acting CEO be requested to write to the Minister advising that the community is requesting the release of the Governance Report for public information and asking whether the Minister is prepared to release the report;**
- 3 nothing in this resolution prevents the Administration from carrying out preliminary administrative tasks in connection with a review of:**

- **Guidelines relating to public question time**
- **Protocols and procedures relating to strategy and briefing sessions**
- **Standing Orders**
- **Code of Conduct**
- **Electronic controls within the Council Chamber**

Discussion ensued.

AMENDMENT MOVED Cmr Anderson, SECONDED Cmr Clough that an additional dot point be added in Point 3 as follows:

“Induction program for Mayors and Councillors/Commissioners;”

Cmr Anderson spoke to the amendment.

The Amendment was Put and

CARRIED UNANIMOUSLY (5/0)

The Original Motion, as amended, being:

That:

- 1 the Joint Commissioners DEFER consideration of Responses to Governance Review to allow it to be considered at the same time as motions from the Annual Meeting of Electors that relate to this matter;**
- 2 the Acting CEO be requested to write to the Minister advising that the community is requesting the release of the Governance Report for public information and asking whether the Minister is prepared to release the report;**
- 3 nothing in this resolution prevents the Administration from carrying out preliminary administrative tasks in connection with a review of:**
 - **Guidelines relating to public question time**
 - **Protocols and procedures relating to strategy and briefing sessions**
 - **Standing Orders**
 - **Code of Conduct**
 - **Electronic controls within the Council Chamber**
 - **Induction program for Mayors and Councillors/Commissioners**

was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2brf161104.pdf](#)

CJ277 - 11/04 MINUTES OF CBD ENHANCEMENT PROJECT STEERING COMMITTEE MEETING – 27 OCTOBER 2004 – [53469]

WARD - Lakeside

CJ041116_BRF.DOC:ITEM 5

PURPOSE

The unconfirmed minutes of the CBD Enhancement Project Steering Committee meeting held on 27 October 2004 are submitted for noting by Council.

EXECUTIVE SUMMARY

The CBD Enhancement Project Steering Committee met on Wednesday 27 October 2004.

Items of business discussed included:

- A proposed review of the functions and future of the CBD Enhancement Project Steering Committee;
- The location and design options for public toilet facilities in the Joondalup City Centre;
- 2004/05 Joondalup Night Markets: Inaugural Joondalup Waiters Race; and
- City of Joondalup Economic Development Strategy.

A brief update was provided on the ongoing business items, which include the Joondalup car boot sale/swap mart item and the Inner City Public Transport item regarding a Joondalup Central Area Transit (CAT) service.

This report recommends that the Joint Commissioners NOTE:

- 1 the unconfirmed minutes of the CBD Enhancement Project Steering Committee meeting held on 27 October 2004, shown at Attachment 1 to this Report;*
- 2 that the CBD Enhancement Project Steering Committee endorses a review of the CBD Enhancement Project Steering Committee to be completed and reported to the next meeting of the Committee;*
- 3 that the recommendation made by the CBD Enhancement Committee to provide a report back to Council on public toilet facilities in the Joondalup CBD is being progressed via a resolution made at the Council meeting held on 12 October 2004;*
- 4 that the establishment of the Corridor Development Steering Committee will achieve the aims of the recommendation made by the CBD Enhancement Committee on the establishment of a Regional Economic Development Group to progress regional economic development opportunities and strategies for the North West Metro region.*

- 5 *that the Terms of Reference for the Corridor Development Steering Committee, once finalised, will be provided to the CBD Enhancement Project Steering Committee.*

BACKGROUND

A meeting of the CBD Enhancement Project Steering Committee was held on Wednesday 27 October 2004.

DETAILS

The minutes of the CBD Enhancement Project Steering Committee meeting held on Wednesday 27 October 2004 are provided at Attachment 1.

Items discussed at the meeting included:

1 Review of the functions and future of the CBD Enhancement Project Steering Committee

The Committee discussed an ongoing issue in relation to the function, purpose and future of the CBD Committee. The Committee received a report on the background to the issue and also endorsed that a review was timely and appropriate.

The review process will provide each committee member the opportunity to comment and offer feedback on the future role of this committee.

2 Public Toilet Facilities in the Joondalup City Centre

This item deals with issues relating to the provision of a temporary solution to the need for public toilet facilities in the Joondalup Central Business District (CBD), within the Joondalup City Centre.

It has been identified that the Joondalup CBD lacks public toilet facilities. It has been reported that the public are regularly asking local businesses if they can use their private toilet facilities and it has been noted that on occasions the public are utilising the Lotteries House, the City of Joondalup Administration office and local restaurants to access toilets.

The City of Joondalup is also faced with the issue of needing to accommodate toilet facilities for the general public during scheduled events over the year such as the Summer Events calendar – incorporating 16 night markets and four summer concerts, the Extreme Youth Festival and the Joondalup Festival.

It is estimated that the ongoing cost of hire toilets to the City is between \$15,300 and \$18,800 per year. This cost provides for the minimum requirements under the State Health Department guidelines for holding such events.

A presentation on the potential site/s and types of public toilet facilities was made to the Committee.

There are currently 4 sites (under the care and control of the City) that are being considered for the location of public toilet facilities. These are:

- 1 Northern side of Reid Promenade at the end of Central Walk;
- 2 Southern side of Boas Avenue at the end of Central Walk;
- 3 West of Grand Boulevard and north of Reid Promenade (in front of the Courthouse lawn area);
- 4 Southern side of Boas Avenue, east of Davidson Terrace – close to the Joondalup Library in the Council car park.

The future plans for integrating public toilet facilities into car parking areas within the Joondalup CBD were noted. The Committee discussed this item at length with particular emphasis placed on the timeline of any such proposal being completed, why a permanent option would not be better and whether it would be more appropriate to build brick/prefabricated concrete toilets instead of Exeloo style toilets.

The Committee examined the various types of toilet options, the number of toilets at each location and the cost of toilets and made a recommendation to the Joint Commissioners to progress the public toilet facilities issue as a matter of urgency.

3 Joondalup Night Markets: Inaugural Joondalup Waiters Race

The Joondalup Night Markets will commence another season on Friday 19 November 2004 as part of the City's Summer Events Calendar. This year's markets are planned to be bigger and brighter than ever with high quality eclectic musical performances, demonstrations displays and more market stalls than ever before.

As part of the Joondalup Night Markets this year, it is proposed that the inaugural Joondalup Waiters Race will be held on the opening night of the markets on Friday 19 November 2004. The City of Joondalup and the Joondalup Business Association will coordinate the race.

The Joondalup Waiters Race will involve local restaurants and hospitality providers (from the Joondalup CBD) competing against each and will provide an excellent opportunity for local businesses to raise their profile.

The Committee fully supported the introduction of the inaugural Joondalup Waiters Race at the grand opening of the Joondalup Night Markets.

4 Economic Development Strategy (EDS)

At the meeting of Joint Commissioners on 9 March 2004, Council resolved to request the City of Joondalup's Administration to review and update the City's current EDS and any associated policies. In order to progress this resolution the City is developing an EDS with a 20-year strategic focus and an implementation time frame of 2005-2010.

The key objectives of the Strategy include:

- Promote the Learning City concept and Education cluster;
- Develop and promote the City's Health cluster;

- Diversify the City’s industry base by facilitating the development of new industries such as IT and Telecommunications;
- Diversify the skill set of the local workforce;
- Increase the vibrancy of the Joondalup CBD;
- Support Home Based Businesses (HBBs);
- Encourage Regional Tourism Development;
- Facilitate ease of access to Broadband Internet Services;
- Identify planning & infrastructure requirements to support businesses; and
- Develop strategies in co-operation with the City of Wanneroo and other neighbouring Councils to achieve sustainable regional economic development.

There are three main steps involved in developing the Strategy:

- 1 Determine what we’ve got, in terms of existing industries and labour supply;
- 2 Determine where we want to get to, i.e. what is the desirable mix of industries and labour skills;
- 3 Develop strategies to fill in the gaps and achieve our objectives.

The first step requires the development of an economic profile that will form the basis of the Strategy.

In the second step stakeholder consultation and data analysis will enable us to determine where we want to get to, and the gaps in current labour skills, industries, planning and infrastructure. The third step entails the development of strategies, again using stakeholder consultation, to fill in the gaps and achieve our objectives for economic development in the City of Joondalup.

The Committee supported the development of an EDS for the City of Joondalup and raised the issue of Regional Economic Development between the City of Joondalup and the City of Wanneroo as an item of high importance. The Committee requested that the Joint Commissioners seek support from the City of Wanneroo and the City of Stirling Council’s to form a Regional Economic Development Group to progress regional economic development opportunities and strategies for the North West Metro region.

COMMENT

1 Public Toilet Facilities in the Joondalup City Centre

The Committee made a recommendation to the Joint Commissioners as follows:

“PROGRESS as a matter of urgency the planning, design and construction of public toilet facilities in the Joondalup CBD at the preferred locations of Central Walk (north – Reid Promenade and south – Boas Avenue) and that the toilets are constructed as a triple compartment building of tilted concrete construction with integrated aesthetics.”

Officers have reviewed the recommendation and note that this issue was previously addressed at the Council Meeting held on 12 October 2004 (Item CJ226 - 10/04). The Joint Commissioners resolved to:

“REQUEST a report to be provided before the end of 2004 to identify a temporary solution to the need for public toilets in the CBD of the City of Joondalup”.

As a consequence of this resolution, work is being undertaken to achieve this recommendation and it is considered by Council officers unnecessary for another resolution to be made on the matter until after Council receives this report.

Officer’s recommendation:

NOTE that the recommendation made by the CBD Enhancement Committee to provide a report back to Council on public toilet facilities in the Joondalup CBD is being progressed via a resolution made at the Council meeting held on 12 October 2004.

2 Economic Development Strategy (EDS)

The Committee discussed the opportunity for a regional approach to Economic Development. It was agreed by the Committee that a Regional Economic Development group should be formed and the committee made the following recommendation:

“REQUESTS the Joint Commissioners to seek support from the City of Wanneroo and the City of Stirling Councils to form a Regional Economic Development Group to progress regional economic development opportunities and strategies for the North West Metro region.”

Officers have reviewed the recommendation and can advise that a Regional Economic Development group is in the process of being formed via the establishment of a Corridor Development Steering Committee.

Further to the State Government proposal to establish a North West Corridor Coordination Committee, the City of Wanneroo requested the State Government also develop a Corridor Development Steering Committee. The proposal anticipated the establishment of both a Land Development Technical Committee and an Economic Development Technical Committee and would involve both the Cities of Joondalup and Wanneroo to focus on the issues of infrastructure and economic development.

Although yet to be established, the Minister for Planning and Infrastructure has agreed in principle to establish this Steering Committee and this action was supported at a recent meeting by the Executive Team of the Cities of Joondalup and Wanneroo and the Department of Industry and Resources.

Given the intent to establish the North West Corridor Coordination Committee, it is considered unnecessary at this point to for Council to make any resolution on this matter.

Following the briefing session on 16 November 2004, a request was made by Joint Commissioners that information is sent back to the CBD Enhancement Project Steering Committee on the Terms of Reference of the proposed Corridor Development Steering Committee.

Officer's recommendation:

NOTE that the establishment of the Corridor Development Steering Committee will achieve the aims of the recommendation made by the CBD Enhancement Committee on the establishment of a Regional Economic Development Group to progress regional economic development opportunities and strategies for the North West Metro region.

NOTE that the Terms of Reference for the Corridor Development Steering Committee, once finalised, will be provided to the CBD Enhancement Project Steering Committee.

ATTACHMENTS

Attachment 1 Minutes of CBD Enhancement Project Steering Committee meeting held on 27 October 2004.

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Smith that the Joint Commissioners NOTE:

- 1 the unconfirmed minutes of the CBD Enhancement Project Steering Committee meeting held on 27 October 2004, shown at Attachment 1 to Report CJ277-11/04;**
- 2 that the CBD Enhancement Project Steering Committee ENDORSES a review of the CBD Enhancement Project Steering Committee to be completed and reported to the next meeting of the Committee;**
- 3 that the recommendation made by the CBD Enhancement Committee to provide a report back to Council on public toilet facilities in the Joondalup CBD is being progressed via a resolution made at the Council meeting held on 12 October 2004;**
- 4 that the establishment of the Corridor Development Steering Committee will achieve the aims of the recommendation made by the CBD Enhancement Committee on the establishment of a Regional Economic Development Group to progress regional economic development opportunities and strategies for the North West Metro region;**
- 5 that the Terms of Reference for the Corridor Development Steering Committee, once finalised, will be provided to the CBD Enhancement Project Steering Committee.**

Cmr Anderson spoke to the Motion.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 3 refers

To access this attachment on electronic document, click here: [Attach3brf161104.pdf](#)

CJ278 – 11/04 **WARRANT OF PAYMENTS 31 OCTOBER 2004 – [09882]**

WARD - All

CJ041116_BRF.DOC:ITEM 11

PURPOSE

The Warrant of Payments for the month ended 31 October 2004 is submitted to the Joint Commissioners for approval.

EXECUTIVE SUMMARY

This report details the cheques drawn on the funds during the month of October 2004 and seeks approval by the Joint Commissioners for the payments listed.

FUNDS	DETAILS	AMOUNT
Director Corporate Services & Resource Management Advance Account	67530 – 67952 & EFT 922-1121	\$5,728,507.44
Municipal Account	000708 – 000715 & 27A & 29A	\$17,878,657.87
Trust Account		Nil
	TOTAL	\$23,607,165.31

The Director Corporate Services & Resource Management Advance Account is an imprest account and was reimbursed from the Municipal Account during the month. The difference in total between the Municipal Account and the Director of Corporate Services & Resource Management Advance Account is attributable to the direct debits by the Westpac Bank and the Commonwealth Bank for bank charges, credit card charges, investments and dishonoured cheques being processed through the Municipal Fund. During the month, the City received a large proportion of its rates and invested the surplus cash. The investment of these funds are included as payments in the Municipal Account and is the reason for the large difference between the Municipal Account and the Director of Corporate Services & Resource Management Advance Account payments. The cheque and voucher registers are appended as Attachments A & B.

The total of all other outstanding accounts received but not paid at the close of October 2004 was **\$1,010,110.66**

CERTIFICATE OF THE DIRECTOR OF CORPORATE SERVICES & RESOURCE MANAGEMENT

This warrant of payments to be passed for payment, covering vouchers numbered as indicated and totalling **\$23,607,165.31** which is to be submitted to the Joint Commissioners on 23 November 2004 has been checked, is fully supported by vouchers and invoices and which have been duly certified as to the receipt of goods and the rendition of services and as to prices, computations and costing and the amounts shown were due for payment.

PETER SCHNEIDER
Director Corporate Services & Resource Management

CERTIFICATE OF CHAIRMAN OF COMMISSIONERS

I hereby certify that this warrant of payments covering vouchers numbered as indicated and totalling **\$23,607,165.31** was submitted to the Joint Commissioners on 23 November 2004.

.....
JOHN PATERSON
Chairman of Commissioners

Statutory Provision

The Council has delegated to the CEO the exercise of its power to make payments from the Municipal and Trust Funds, therefore in accordance with Regulation 13(1) of the Local Government (Financial Management) Regulations 1996, a list of accounts paid by the CEO is prepared each month showing each account paid since the last list was prepared. In addition regulation 13 (4) requires that after the list of payments has been prepared for a month, the total of all other outstanding accounts is to be calculated and a statement of that amount is to be presented to the Council.

ATTACHMENTS

Attachment A Warrant of Payments for Month of October 2004
Attachment B Municipal Fund Vouchers for Month of October 2004

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, **SECONDED** Cmr Clough that the Joint Commissioners **APPROVE** for payment the following vouchers, as presented in the Warrant of Payments to 31 October 2004, certified by the Chairman of Commissioners and Director Corporate Services & Resource Management and totalling \$23,607,165.31.

FUNDS	DETAILS	AMOUNT
Director Corporate Services & Resource Management Advance Account	67530 – 67952 & EFT 922-1121	\$5,728,507.44
Municipal Account	000708 – 000715 & 27A & 29A	\$17,878,657.87
Trust Account		Nil
	TOTAL	\$23,607,165.31

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 9 refers

To access this attachment on electronic document, click here: [Attach9brf161104.pdf](#)

CJ279 – 11/04 COASTAL LIMESTONE CLIFF HAZARD POLICY – [04048]

WARD - All

CJ041116_BRF.DOC:ITEM 6

PURPOSE

The purpose of this report is to seek Council’s endorsement of the Coastal Cliff Hazard Policy.

EXECUTIVE SUMMARY

A strategy was developed in response to the acknowledged risk to the public regarding limestone cliff hazards in the City’s limestone cliff areas. The Coroner determined in his report on the Grace Town cliff collapse disaster that “coastal local governments are required to provide a level of care and management for limestone cliff hazards within their boundaries and should adopt or develop cliff management policies”.

Over the past 12 to 18 months there have been two major cliff collapses. The first approximately 15 months ago at Mullaloo north where a whole section of the cliff has collapsed and the second in September 2004, at the main Burns Beach swimming area, directly adjacent to the access stairs. These incidences reaffirms the hazards of cliff collapses along the coast and that the cliffs are subject to collapse and the public are at risk.

In the development of this strategy, the former City of Wanneroo commissioned a consultant to study and report on the cliff hazards along its coastline in 1997. The report identified numerous hazards and a programme was developed to provide signage and works to ensure cliff hazards were made safe, including blocking off caves and collapsing identified hazard points.

In response to recent cliff collapses along the City's coastal limestone strips and the Coroner's report on Grace Town, Officers reviewed the programme and determined that the City should have a strategy in place based on a broader risk management approach. This would provide Council with a legal position on issues of level of care and limiting public liability risks. The strategy was developed with legal advice from Council's barristers and solicitors McLeod & Co. Aon Risk Services, Risk Consultants have also peer reviewed the strategy. Other issues the strategy addresses includes, providing a consistent approach to the limestone hazards along our coast, a limited monitoring programme, an education and public awareness component, providing the appropriate level of safety for our residents and visitors with due consideration for an environmentally sensitive and sensible approach.

The proposed policy format includes a main strategy document addressing the issues on duty of care with a risk based approach. The strategy approach is similar the Department of Conservation and Land Management's policy on hazard management and has been modified to apply to the limestone cliff hazard within the City of Joondalup.

Generally, the strategy promotes the use of Dual Use Paths (DUPs) as the vehicle to restrict public access to cliff hazards and allows for visually unobtrusive signage by attachment of signs to the fence posts and fence wire.

This cliff hazard strategy was first introduced to simultaneously address the issue of cliff hazards while the DUP was being constructed. The DUP is a constructed barrier between public access and the cliff hazards. The strategy has been implemented and has so far worked well. It is now presented to the Joint Commissioners for consideration and endorsement as a policy.

The strategy was a national 2002 winner of Emergency Management Australia's Australian Safer Communities Award Pre Disaster Category (local government stream).

There are three attachments to this report, Attachment A is the actual policy; Attachment B provides advice to the custodians of the policy on assessing the risk and Attachment C provides a background to the policy's development.

It is recommended that the Joint Commissioners adopt the Coastal Limestone Cliff Hazard policy, as outlined in Attachment A to this report.

BACKGROUND

Following the rock fall at Cowaramup Bay, Grace Town Disaster coastal local governments are required to provide a level of care and management for limestone cliff hazards within their boundaries. The Coroner's report – rider 1 stated 'to the effect that coastal local governments should adopt or develop cliff management policies'.

The former City of Wanneroo progressed the policy by commissioning Gordon Consulting in mid 1997 to assess the risks and produce a report according to the brief. Development applications were submitted and approvals were gained from the Ministry for Planning. Unconditional approvals were gained for the works programme but with a rider that the Department of Aboriginal Affairs (DAA) should be consulted on aboriginal sites in the area.

During this time a review of the report was commissioned as time had elapsed and it was necessary to determine changes in safety levels of the risk areas. This review was completed in 1998 and a number of minor works were completed, mainly the erection of signs and fences. Significantly, the two reports identified newly developed cliff hazards with some of the previously identified hazards no longer a threat due to the active nature of the cliffs. It was obvious that the previous actions to sign post the point of the hazard would cause the continuous assessment of the coastline requiring replacement or repositioning of signs on a regular basis. The nature and positioning of the signs on the cliff faces were visually intrusive and detracted from the natural beauty of the coastline.

This observation and concerns that the approach did not fully address Council's position on a number of issues, including level of care issues, the need to limit the major works programme to a minimum, especially in view of the potential to disturb aboriginal sites in the areas, it was decided that a strategy should be developed to address these concerns.

In the development of the document, a number of Councils were consulted with respect to these issues. It appears little or no work has been done on a risk management approach, rather they have progressed the issue by blocking off caves earthworks, fencing and signage. The issues of minimising exposures to public liability risks have not been addressed.

DETAILS

The strategy has been based on risk management programme and in so doing manages Council's exposure to public liability. It takes a conservative approach in this assessment and has consideration for the effect of preventative measures on the aesthetic qualities of the landscape. This approach is the same as the Department of Conservation and Land Management's policy on hazard management and has been modified to apply to the limestone cliff hazard within the City of Joondalup.

The main elements of the strategy are:

- Provides a legal base for Council limiting its exposure to public liability;
- Works and preventative measures provides for public safety for those users of the areas acting in a reasonable manner;
- Public awareness and education;
- Use of community and service groups to educate visitors and residents of the hazards and warnings, and monitoring of the hazards;
- Personal responsibility users of the area to exercise a reasonable degree of care towards the hazard;
- Monitoring to detect any new hazards and maintenance of the fences and signs; and
- A watching brief on new developments and any legal cases bought before the courts with respect to these matters.
- Also preserves the natural and foreshore areas.

User groups of the area have been identified as the general bathing public, walkers and joggers, sun bathers, divers and fishing people.

The strategy was developed with assistance from Council's barristers and solicitors McLeod and Co. A number of organisations have been contacted in relation to the policy including, the Department for Conservation and Land Administration, Western Australian Municipal Association, the Department of Aboriginal Affairs and the Australian Geological Survey Organisation which has a division specialising in geohazards.

Comment on the strategy has also been sought from risk consultants Aon Risk Services. Their comments have been incorporated into the document.

The coastal DUPs provide fencing to restrict access and the use of the fence posts to attach signs obviating the need to place signs at the point of hazards. Any works should only be of a minor nature where the hazard has been assessed to pose a safety threat and meets the criteria of a high risk area.

Council Briefing Session 24 August 2004

Council requested Infrastructure and Operations to provide a report for a strategy session regarding pedestrian access to the beaches in Ocean Reef.

Over the past 12 to 18 months there have been two major cliff collapses. The first approximately 15 months ago at Mullaloo north where a whole section of the cliff has collapsed and the second in September 2004, at the main Burns Beach swimming area, directly adjacent to the access stairs. These incidences reaffirms the hazards of cliff collapses along the coast and that the cliffs are subject to collapse and the public are at risk.

The limestone cliffs within the City are an acknowledged risk and allowing public access to the beaches along the limestone cliff areas is not advised. Cliff collapses can happen at anytime and are more prevalent in mid to late winter after heavy rainfalls. Given the key considerations for the risk assessment in this report and the liabilities council will be exposed to if an injury occurs due to a cliff collapse, it is strongly advised that public access is not granted to the cliff beaches along the City's limestone cliff areas in order that the natural environs can be preserved accordingly.

Statutory Provision:

None.

Consultation:

Department for Conservation and Land Administration, Western Australian Municipal Association, the Department of Aboriginal Affairs and the Australian Geological Survey Organisation which has a division specialising in geological hazards.

Policy Implications:

This is a new policy that will provide a way forward with respect to the City's management and care of its coastal limestone cliffs.

Financial Implications:

Signs and fences have been erected and the dual use path is complete. Ongoing maintenance of fences and signs will be part of the operation's budget.

Strategic Implications:

The City's Strategic Plan has a key focus area 'Caring for the Environment' strategy 2.1.1 'To maintain and protect natural assets and to retain biodiversity'. The policy recognises the natural beauty and environment of the City's coastal areas. The use of fencing along the coastal DUP has restricted access to the sensitive coastal areas. Tracks through the coastal heath have been closed and revegetated. Ongoing revegetation programs have been successful because of restriction of the access to these sensitive areas.

Sustainability Implications:Biodiversity

The policy protects the natural environment and biodiversity by the use of restricting access to the coastal areas.

Sense of Place and Heritage

The policy affords the community a safe environment to enjoy the natural beauty and heritage of the coastline.

Net benefit from development

The policy provides a benefit to the community by addressing public liability issues and providing a safe environment to enjoy the coastline while allowing the preservation of the coastal areas from restricting access to sensitive areas.

The policy restricts access to the DUP and therefore Council is not obliged to execute a works program to render every identified cliff hazard as safe. The cost of a works program of this nature would be high and ongoing using considerable Council resources.

COMMENT

Generally, the approach taken in the draft policy will provide a legal position for Council and in so doing limits Council's exposure to public liability.

The DUPs fences will confine people to the paths and the signs will warn them about the hazardous nature of the coastline and to keep to pathways. Except for minor works in high risk areas there should only be minor disturbance to cliffs preserving the aesthetic and natural beauty of the area.

The draft policy has been reviewed by legal and risk professionals and comments from these bodies have been taken into account in the development of the policy. The draft policy is similar to the Department of Conservation and Land Management's policy of cliff hazard but sharpens its focus for the particular circumstances within the City of Joondalup.

Given the acknowledged risk to the public along the limestone cliff area, Council is requested to endorse the intent of the draft policy to restrict public access to the limestone cliff areas and the associated beaches within the City of Joondalup.

ATTACHMENTS

Attachment A	Coastal Limestone Cliff Hazard Policy;
Attachment B	Information tool for officers assessing risks;
Attachment C	Background information on the development of the policy with a guidance on a number of factors that have been identified by the courts in Australia on previous legal cases.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That the Joint Commissioners ADOPT the Coastal Limestone Cliff Hazard Policy, as outlined in Attachment A to Report CJ279-11/04.

MOVED Cmr Smith, SECONDED Cmr Fox that the Joint Commissioners:

- 1 ADOPT the Coastal Limestone Cliff Hazard Policy as outlined in Attachment A to Report CJ279-11/04 (subject to the amendment shown in Point 2 below) to come into effect as from 1 January 2005 to provide an opportunity in the meantime for the Acting Chief Executive Officer to request the City Insurer to provide comment on and/or endorsement of the policy;**
- 2 AMEND the policy by the inclusion of the following words:**

“This policy shall not be changed without prior consultation with the City's Insurer.”

Cmr Smith spoke to the Motion.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4agn231104.pdf](#)

CJ280 – 11/04 TENDER NUMBER 015-04/05 SUPPLY AND INSTALLATION OF SYNTHETIC RUBBER SOFTFALL ON STABILISED BASE LAYER TO EXISTING PLAY AREAS – [24565]

WARD - All

PURPOSE

To seek the approval of the Joint Commissioners to choose the tender submitted by Retech Rubber Pty Ltd as the successful tenderer for the Supply and Installation of Synthetic Rubber Softfall on Stabilised Base Layer to Existing Play Areas (Tender Number 015-04/05).

EXECUTIVE SUMMARY

Tenders were advertised on 29 September 2004 through statewide public tender for the Supply and Installation of Synthetic Rubber Softfall on Stabilised Base Layer to Existing Play Areas. Tenders closed on 13 October 2004. Two submissions were received from: Retech Rubber Pty Ltd and Reclaim Industries Ltd.

It is recommended that the Joint Commissioners:

- 1 *CHOOSE Retech Rubber Pty Ltd as the successful tenderer for the Supply and Installation of Synthetic Rubber Softfall on Stabilised Base Layer to Existing Play Areas (Tender No. 015-04/05) in accordance with the schedule of rates as outlined in Attachment 1 to this report;*
- 2 *AUTHORISE the Acting Chief Executive Officer (A/CEO), on behalf of the City, to enter into a contract with Retech Rubber Pty Ltd in accordance with the tender submitted by Retech Rubber Pty Ltd, subject to any minor variations that may be agreed between the A/CEO and Retech Rubber Pty Ltd;*
- 3 *DETERMINE that the contract is to be for an initial period of 12 months with an option to extend, subject to satisfactory performance reviews, for a further maximum period of 24 months, in 12 month increments, with the total term of the contract not to exceed 3 years.*

BACKGROUND

The City of Joondalup has approximately 148 large playground areas and many small playground areas that currently have white sand as a base to comply with Australian Standards (AS/NZS 4422.1996 Playground Surfacing- Specifications, Requirements and Test Methods). These playground areas include City owned facilities catering for pre-school children, recreation centres and general play areas on parks throughout the City.

White sand has become increasingly costly to maintain with dangerous materials able to be hidden within the soil, increasing the possibility of injury and litigation. The replacement of white sand with recycled rubber complies with AS/NZS 4422.1996 and will alleviate soil contamination and decrease maintenance cost to the City.

DETAILS

Two submissions were received from: Rotech Rubber Pty Ltd and Reclaim Industries Ltd.

The first part of the tender assessment was the Conformance Audit Meeting. The purpose of this meeting is to ensure that all essential requirements have been met. Tenders not meeting all the essential criteria are deemed to be non-conforming and are eliminated from consideration. Additionally, other criteria that is not mandatory is assessed and if not met the City may eliminate the tender from consideration. The extent of non-compliance in this section would determine if the tender was further considered. Both the tenders submitted fully addressed all the essential selection criteria and satisfactorily covered the non-mandatory criteria.

The second part of the evaluation process involved an independent assessment of the qualitative criteria by each member of the Evaluation Team. Each member of the Evaluation Team assessed the Tender submissions individually against the selection criteria using the weightings determined during the tender planning phase. The Evaluation Team convened to submit and discuss their assessments, leading to a ranking of each submission in an order of merit.

Under the City's Contract Management Framework, the tenders were assessed by the Evaluation Team using a weighted multi-criterion assessment system and AS 4120-1994 'code of tendering'.

The Selection Criteria for this tender was as follows:

Performance and Experience of Tenderer in providing similar services:

- Relevant Industry Experience, including details of providing similar supply. Tenderers shall submit a Detailed Schedule of previous experience on similar and/or relevant projects.
- Past Record of Performance and Achievement with other clients / Local Government.
- Level of Understanding of tender documents and work required.
- Written References from past and present clients.
- Ability to provide usage and expenditure information.
- Company Structure.
- Qualifications, Skills and Experience of Key Personnel.
- Equipment and Staff Resources available.

Beneficial Effects of Tender/Local Content:

- The Potential Social and Economic Effect of the tender on the City of Joondalup community.

Tendered Price/s:

- The price to supply the specified goods or services.
- Discounts, settlement terms.

Retech Rubber Pty Ltd and Reclaim Industries Ltd submitted tenders that fully demonstrated their ability to provide the services required. The tender submitted by Retech Rubber Pty Ltd ranked highest in the evaluation assessment and accordingly is the recommended tenderer.

Statutory Provision:

The statewide public tender was advertised, opened and evaluated in accordance with the *Local Government (F&G) Regulation 1996*. Advertising this tender also ensures compliance with the *Local Government (F&G) Regulation 1996*, where tenders are required to be publicly invited if the consideration under a contract is expected to be or worth more than \$50,000. The consideration for this contract is expected to exceed the Chief Executive Officer's Delegated Authority in relation to the acceptance of tenders to \$100,000.

Policy 2.5.7 Purchasing Goods and Services

The City's Policy on purchasing goods and services encourages local business in the purchasing and tendering process; neither tenderer is located in Joondalup.

Financial Implications:

In accordance with Operations Services annual maintenance and capital budgets as authorised by Council

COMMENT

All tenders received were assessed in accordance with *Regulation 18(4)* of the *Local Government (Functions & General) 1996*. The assessment panel identified the tender submitted by Retech Rubber Pty Ltd as the highest rated tenderer and has recommended that the tender be chosen as the successful tenderer.

ATTACHMENTS

Attachment 1 Price Schedule

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Fox, SECONDED Cmr Clough that the Joint Commissioners:

- 1 CHOOSE Retech Rubber Pty Ltd as the successful tenderer for the Supply and Installation of Synthetic Rubber Softfall on Stabilised Base Layer to Existing Play Areas (Tender No. 015-04/05) in accordance with the schedule of rates as outlined in Attachment 1 to Report CJ280-11/04;**
- 2 AUTHORISE the Acting Chief Executive Officer (A/CEO), on behalf of the City, to enter into a contract with Retech Rubber Pty Ltd in accordance with the tender submitted by Retech Rubber Pty Ltd, subject to any minor variations that may be agreed between the A/CEO and Retech Rubber Pty Ltd;**
- 3 DETERMINE that the contract is to be for an initial period of 12 months with an option to extend, subject to satisfactory performance reviews, for a further maximum period of 24 months, in 12 month increments, with the total term of the contract not to exceed 3 years.**

Cmr Fox spoke to the Motion.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 5 refers

To access this attachment on electronic document, click here: [Attach5brf161104.pdf](#)

CJ281 – 11/04 TENDER NUMBER 016-04/05 SUPPLY & DELIVERY OF TREES, SHRUBS AND GROUNDCOVERS TO DESIGNATED LOCATIONS – [25565]

WARD - All

CJ041116_BRF.DOC:ITEM 8

PURPOSE

To seek the approval of the Joint Commissioners to choose the tender submitted by Quito Pty Ltd trading as Benara Nurseries for the Supply and Delivery of Trees, Shrubs and Groundcovers (Tender Number 016-04/05).

EXECUTIVE SUMMARY

Tenders were advertised on 29 September 2004 through statewide public notice for the Supply & Delivery of Trees, Shrubs and Groundcovers to Designated Locations. Tenders closed on 13 October 2004. One submission was received from Quito Pty Ltd trading as Benara Nurseries.

It is recommended that the Joint Commissioners:

- 1 *CHOOSE Quito Pty Ltd trading as Benara Nurseries as the successful tenderer for the Supply & Delivery of Trees, Shrubs and Groundcovers to Designated Locations (Tender No. 016-04/05) in accordance with the schedule of rates as outlined in Attachment 1 to this report;*
- 2 *AUTHORISE the Acting Chief Executive Officer (A/CEO), on behalf of the City, to enter into a contract with Quito Pty Ltd trading as Benara Nurseries in accordance with the tender submitted by Quito Pty Ltd trading as Benara Nurseries, subject to any minor variations that may be agreed between the A/CEO and Benara Nurseries; and*
- 3 *Determine that the contract is to be for an initial period of 12 months with an option to extend, subject to satisfactory annual performance reviews, for a further maximum period of 24 months, in 12 month increments, with the total duration of the contract not to exceed 3 years.*

BACKGROUND

The City of Joondalup plants groundcovers, shrubs and trees (approx 10,500 per annum) within medians, verges, parks and around City's facilities during June-July of each year to coincide with winter rains. On previous occasions the City has sought quotations in October of each year, from relevant plant nursery suppliers to grow and supply a range of plant species for the following winter planting. Due to time constraints in obtaining seed and propagation material, quality and quantity of plants can be affected due to environmental factors. The cost of plants is anticipated to exceed \$50,000 annually, as a result the City invited tenders.

DETAILS

One submission was received from Quito Pty Ltd trading as Benara Nurseries.

The first part of the tender assessment was the Conformance Audit Meeting. The purpose of this meeting is to ensure that all essential requirements have been met. Tenders not meeting all the essential criteria are deemed to be non-conforming and are eliminated from consideration. Additionally, other criteria that is not mandatory is assessed and if not met the City may eliminate the tender from consideration. The extent of non-compliance in this section would determine if the tender was further considered.

The second part of the evaluation process involved an independent assessment of the qualitative criteria by each member of the Evaluation Team. Each member of the Evaluation Team assessed the Tender submission individually against the selection criteria using the weightings determined during the tender planning phase. The Evaluation Team convened to submit and discuss their assessments, leading to a ranking of the submission in an order of merit.

Under the City's Contract Management Framework, the tender was assessed by the Evaluation Team using a weighted multi-criterion assessment system and AS 4120-1994 'code of tendering'

The Selection Criteria for Tender number 016-04/05 was as follows:

Resources and Experience of Tenderer in providing similar services:

- Relevant Industry Experience, including details of providing similar supply. Tenderers shall submit a Detailed Schedule of previous experience on similar and/or relevant projects.
- Past Record of Performance and Achievement with other clients / Local Government.
- Level of Understanding of tender documents and work required.
- Written References from past and present clients.
- Ability to provide usage and expenditure information.
- Ability to provide electronic pricing schedules.

Levels of Service as determined by the Capability/Competence of Tenderer to perform the work required:

- Company Structure.
- Qualifications, Skills and Experience of Key Personnel.
- Equipment and Staff Resources available.

Beneficial Effects of Tender/Local Content:

- The Potential Social and Economic Effect of the tender on the City of Joondalup community.

Tendered Price/s:

- The price to supply the specified goods or services.
- Discounts, settlement terms.

The tender submitted by Quito Pty Ltd trading as Benara Nurseries did not fully address all the selection criteria. The evaluation team considered the extent of non-compliance of the specific criteria, however, under *Regulation 18(2) of Local Government (Functions & General) Regulations 1996* it states:

‘A tender that is submitted at a place, and within the time, specified in the invitation for tenders but fails to comply with any other requirement in the invitation may be rejected without considering the merits of the tender’

Regulation 18(2) of Local Government (Functions & General) Regulations 1996 provides a discretion for the City to reject a tender without considering its merits.

The evaluation team has considered the minor nature of the non compliance and the impact this would have on the City if the tender was rejected and tenders recalled. Rejection of this tender would have a major impact on the City’s planting programme for June / July 2005 and would result in many varieties being unavailable, due to short time for growth. Adequate time, approximately eight to nine months, is vital in order to sow seed and develop plants to the required height as specified under the tender documentation. Benara Nurseries is a major supplier, if not the major supplier of plants and shrubs in Western Australia.

Regulation 18(4) states:

‘Tenders that have not been rejected under subregulation (1) &, (2), or (3) are to be considered by the local government and it is to decide which of them it thinks it would be the most advantageous to the local government to accept’.

The non-compliance is of a minor nature, therefore the assessment panel in accordance with Regulation 18(4) evaluated the tender.

The technology, prices, volume and the variety of plants they have to offer would surpass most nurseries in Western Australia. For the past four years the City has requested three quotations for the supply of plants and shrubs, each time Benara Nurseries was successful in winning the quotation.

It is therefore proposed to recommend Quito Pty Ltd trading as Benara Nurseries as the preferred tenderer.

Statutory Provision:

The statewide public tender was advertised, opened and evaluated in accordance with the *Local Government (F&G) Regulation 1996*. Advertising this tender also ensures compliance with the *Local Government (F&G) Regulation 1996*, where tenders are required to be publicly invited if the consideration under a contract is expected to be or worth more than \$50,000. The expected consideration for this contract is expected to exceed the Chief Executive Officer’s Delegated Authority in relation to the acceptance of tenders to \$100,000.

Policy 2.5.7 Purchasing Goods and Services:

The City’s Policy on purchasing goods and services encourages local business in the purchasing and tendering process; the tender received is located in Wanneroo.

Financial Implications:

In accordance with annual maintenance and capital budgets as authorised by Council.

COMMENT

The tender was assessed in accordance with *Regulation 18(4)* of the *Local Government (Functions & General) 1996*. In reviewing the tender, the assessment panel identified the tender submitted by Quito Pty Ltd trading as Benara Nurseries has the ability to provide the services to the City on a value for money basis.

As a part of contract management processes, the City will regularly review/monitor the Contractor’s performance and service quality to ensure services meet the City’s standards.

Subject to Council approval, the contract term will be for an initial period of twelve (12) months (commencing on 1 December 2004 and ending on 30 November 2005). There will be an option to extend the contract for a further twenty four (24) months that will be subject to suitable performance by the Contractor in annual performance reviews that ensure that the requirements of the contract have been met. Subject to a satisfactory outcome of each review an extension, in increments of twelve-month periods, will be made. The duration of the contract will not exceed three (3) years.

ATTACHMENTS

Attachment 1 Price Schedule

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Clough that the Joint Commissioners:

- 1 CHOOSE Quito Pty Ltd trading as Benara Nurseries as the successful tenderer for the Supply & Delivery of Trees, Shrubs and Groundcovers to Designated Locations (Tender No. 016-04/05) in accordance with the schedule of rates as outlined in Attachment 1 to Report CJ281-11/04;**
- 2 AUTHORISE the Acting Chief Executive Officer (A/CEO), on behalf of the City, to enter into a contract with Quito Pty Ltd trading as Benara Nurseries in accordance with the tender submitted by Quito Pty Ltd trading as Benara Nurseries, subject to any minor variations that may be agreed between the A/CEO and Benara Nurseries;**
- 3 DETERMINE that the contract is to be for an initial period of 12 months with an option to extend, subject to satisfactory annual performance reviews, for a further maximum period of 24 months, in 12 month increments, with the total duration of the contract not to exceed 3 years.**

Cmr Anderson queried whether it was possible to contact other suppliers and give advance notification of a tender and seek indications of interest or indication of prices for comparison purposes.

Director Infrastructure and Operations advised this tender went through the public tender process and was advertised, with the market place being given an opportunity to submit a tender. It may be possible to consider extending the tender and advertise for a longer period when the tender is next called. Information is also provided to the Joondalup Business Association of forthcoming tenders.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 6 refers

To access this attachment on electronic document, click here: [Attach6brf161104.pdf](#)

**CJ282 – 11/04 LOT 118 - MARMION AVENUE, MINDARIE -
PROGRESS REPORT – [41196]****WARD - All**

CJ041116_BRF.DOC:ITEM 9

PURPOSE

To provide a progress report on the various management issues associated with the ownership and development of Lot 118 Marmion Avenue, Mindarie.

EXECUTIVE SUMMARY

Lot 118 Tamala Park is an area of undeveloped land of some 432 hectares, of which approximately 195 hectares is zoned for urban or urban deferred use. The outstanding balance is linked with the landfill lease with the Mindarie Regional Council.

The land is located within the City of Wanneroo and is bounded by the North Metropolitan Coastal suburbs of Clarkson and Mindarie (North), Burns (West), Kinross (South) and Neerabup (East). (Refer to Locality Plan at Attachment 1).

The land is owned in tenancy in common by the seven Councils – Cities of Stirling, Wanneroo, Perth and Joondalup and Towns of Vincent, Cambridge and Victoria Park.

The owner Councils now wish to develop land and establish a Joint Development Agreement (JDA) to outline the agreed development objectives and principles which will govern a way forward in the development of Lot 118.

The Chief Executive Officers' Group, which has had carriage of this project to date, has prepared a presentation in relation to this project, outlining the background and proposed project, in order to provide information to the elected members from the various owner Councils. The presentation was given to the Joint Commissioners at the Strategy Session held on 19 October 2004, and it is sought that the Joint Commissioners note this progress report and endorse the Chief Executive Officers' Group recommendations, noting that specific aspects of the proposed development of Lot 118 will be subject of further detailed reports to Council in the near future.

It is recommended that the Joint Commissioners:

- 1 ENDORSE the proposed Bush Forever Negotiated Planning Solution (NPS) outlined in this report and AUTHORISE the Chief Executive Officer to complete documentation for a Negotiated Planning Solution relating to Bush Forever on Lot 118 and submit the documentation to Council for formal agreement in conjunction with recommendations relating to valuations now being obtained;*

- 2 *ENDORSE the key principles set out in the detail section of this report to guide the urban development of Lot 118;*
- 3 *SUPPORT the proposal to develop Lot 118 without involvement of a joint venture partner;*
- 4 *SUPPORT the proposal of the Chief Executive Officer to prepare a further report to Council setting out how, and under what legal structure, the owner Councils should progress the intended development of Lot 118.*

BACKGROUND

Lot 118 Mindarie consists of an area of 432 hectares and is bordered by Mindarie and Clarkson to the north, Kinross and Burns Beach to the south, Neerabup National Park to the east, and the coastal reserve to the west. The land is divided by Marmion Avenue and Connolly Drive and is comprised of a mixture of bushland, degraded/cleared land and land used for the Tamala Park regional waste disposal facility. The land is partly zoned Urban and Urban Deferred, and parts reserved for Parks and Recreation and Public Purposes under the Metropolitan Region Scheme.

Lot 118 (formerly Lot 17) was purchased by the Cities of Perth, Stirling and Wanneroo in 1984 as a strategic investment and for the location of the regional waste disposal facility (which commenced operations in 1990). The land is now owned by the Cities of Joondalup, Perth, Stirling and Wanneroo and the Towns of Cambridge, Victoria Park and Vincent. The former City of Wanneroo one-third share was divided between the new Cities of Wanneroo and Joondalup, and the City of Perth share is divided between Perth and the three Towns.

A working group of the CEOs of each of the owner Cities/Towns has been convened for a number of years to assist in resolution and progression of a wide range of issues relating to the ownership and development of the land. Under authority of the CEO Group, various consultancies have been commissioned over the years addressing planning, environmental, development management and project management, and legal issues relating to the land.

The CEO Group has recently finalised a strategic briefing discussion paper for presentation to each of the owner Councils for all to be appraised of progress in the various issues. The paper is presented below in the Detail section of this report.

Council has previously considered a range of issues associated with Lot 118, and a summary of the key items considered is provided below:

- April 2000: Special Meeting to endorse a series of position statements and action plans, and to adopt a draft Structure Plan for release for public advertising (Report CJ098-04/00 Proposed Structure Plan – Lot 17 Mindarie/Tamala Park);
- September 2001: Proposed telecommunications lease to Hutchison Australia (Report CJ368-1-/01 Telecommunication Leases – Tamala Park);

- November 2001: Consideration of a proposed management agreement and of extension/renewal of the lease to Mindarie Regional Council (Report CJ381-11/01 Mindarie/Tamala Park Management Agreement).

Elected members have also been involved in various briefings on matters relevant to Lot 118.

DETAILS

LOT 118 STRATEGIC DEVELOPMENT

The northwest corridor of Perth is one of the fastest growing development areas in Australia. Located between the Indian Ocean and the Neerabup National Park, the region offers the best of all worlds, access to the capital city job market, affordable housing and proximity to the ocean and rural lifestyles.

From Burns Beach to Two Rocks much of the land is already zoned for urban development. This area is expected to accommodate within the next 20 years an additional population of 150,000 people. The ultimate population of the Corridor could reach over 350,000 people. Major development districts include: Butler, Jindalee being developed from 2001-2015, Alkimos-Eglinton from 2005-2030 and Yanchep Two Rocks 2005-2035.

To manage the Corridor growth the City of Wanneroo and the Department for Planning and Infrastructure are currently coordinating a review of the 1992 Corridor Structure Plan.

The review is based on the principles of Smart Growth, which promote the effective use of resources to:

- Improve quality of life for current and future residents.
- Support the local economy.
- Minimise environmental impact.

The projected costs of infrastructure to support the development of the corridor over the next 30 years have been estimated at \$8.4B. To minimise infrastructure costs, development needs to be staged in a manner that maximises efficiencies in infrastructure provision. Opportunities need to be taken to minimise major infrastructure costs by taking advantage of development opportunities near existing centres or transport corridors.

Economic impact studies prepared for the City of Wanneroo indicate that the early construction of the railway linked to mixed use and higher density development centres could significantly reduce the rate of urban growth and result in significant infrastructure savings.

Lot 118 is situated at the southern end of the Corridor near to the Clarkson railway station and approximately 6km northwest of Joondalup city centre. In this location with 195 hectares of land zoned urban or urban deferred Lot 118 is of importance as strategic development site.

The development of Lot 118 could result in of more than 2000 residential lots in addition to significant employment opportunities and community facilities location near to the existing Ocean Keys Shopping Centre and the new Clarkson Railway Station.

LOT 118 POTENTIAL FUTURE LAND USE

Lot 118 is 432 hectares in area and is owned by 7 local governments in the following shares:

Town of Cambridge	1/12
Town of Victoria Park	1/12
Town of Vincent	1/12
City of Perth	1/12
City of Wanneroo	2/12
City of Joondalup	2/12
City of Stirling	4/12

Bush Forever policy and MRS zonings impact Lot 118. The current area allocations under Bush Forever and the MRS are as follows:

Total area	432.18ha
Bush Forever and POS	264.69ha
Developable land	167.49ha

Under a proposed Bush Forever Negotiated Planning Solution (NPS) with the West Australian Planning Commission (WAPC) it is possible that 14.35 hectares of Government land will be offered to the local authority owners as an offset to compensation. The NPS will also contain provisions that could allow a further 12.87 hectares of land to be removed from a POS Reservation and developed as Urban land, subject to a satisfactory structure plan and Urban development proposal.

LOT 118 MAJOR ISSUES

Before development of Lot 118 can commence a number of issues need to be addressed.

These issues are:

- 1 Settlement of Bush Forever reservations affecting the land.
- 2 A co-ordination plan to enable urban subdivision and continuing use of part of the future public open space land by the Mindarie Regional Council as a refuse landfill.
- 3 Determination of principles and strategy for development, reservation, conservation and rehabilitation of different parts of the land.
- 4 The valuation of the different portions of the land subject to Bush Forever negotiations and Urban development.
- 5 The preparation of a development timetable.
- 6 The legal structure and/or instrument to secure the equity interest of owners and to facilitate decision making and management through the life of the project.

The CEOs of the 7 owner local Governments have met regularly to address these issues. An explanation of each of the issues is set out below:

1 BUSH FOREVER NEGOTIATED PLANNING SOLUTION

The State Government Bush Forever policy has been under development since 1998. The policy seeks to bring a whole of Government approach to the setting aside of natural areas to meet the community's needs for conservation and compatible recreation as Perth grows into the 21st Century.

Some 13% of the metropolitan region is already reserved under the Metropolitan Region Scheme. Bush Forever will conserve an additional 40,000 hectares from development.

The first Bush Forever proposal suggested 298 hectares of Lot 118 should be reserved. Negotiations with the WAPC have been continuing since 1998. A meeting of owner representatives and the WAPC Chairman, Mr Terry Martin, on 13 October 2003 arrived at a potential NPS that would reduce the total Bush Forever impact on Lot 118 to 264.69 hectares, with a potential further reduction of 12.87 hectares dependant upon the outcome of a Structure Plan, yet to be prepared. The key points of the NPS are:

- Northern development area of approx. 32.42ha west of Marmion Avenue (currently MRS Urban; Area 3 on Owners Plan) removed from Bush Forever and available for development.
- Remainder of current Urban land (approx. 30ha; Area 6 on Owners Plan) to remain in Bush Forever and be reserved for conservation. The owners to cede 20ha to the Crown free of cost and the remainder to be purchased by WAPC at Urban value.
- Remainder of land west of Marmion Avenue (reserved Parks and Recreation; Area 15) to be purchased by WAPC at rural value.
- WAPC purchases finalised by end of 2004/05 financial year if agreement finalised.
- Possible land exchange of Owners land reserved Parks and Recreation (eg Area 1) for State Government land zoned Urban Deferred (Areas 11 and 19 on Owners Plan).

The conclusion of the NPS will facilitate the owners proceeding with the Structure Plan and will also facilitate a valuation of the land being jointly undertaken by the WAPC. Valuations will enable a compensation agreement. The WAPC has money set aside for a first payment of compensation in the 2004/05 financial year. This payment could potentially provide all of the initial capital funding for the urban development.

It is estimated that between 2,100 and 2,300 urban lots could be provided from the developable portion of Lot 118.

2 CO-ORDINATION WITH MINDARIE REGIONAL COUNCIL

The Owners have leased 252 hectares of Lot 118 to the Mindarie Regional Council (MRC) which conducts a refuse landfill operation within the leased area. The MRC pays a commercial rent for the lease.

License conditions for a landfill currently require a buffer of 500m to any residential development.

The buffer for the Mindarie Regional Council landfill operation currently covers an area of approximately 40 hectares of the developable urban portion of Lot 118 north and outside of the MRC lease.

Mindarie Regional Council management and the CEO group have formulated a plan that will enable buffers to recede South to the existing lease area boundary which will make available all of the urban land by 2017 which roughly coincides with the expected 10-12 year time frame for completion of the staged urban development.

The plan relies upon a southward movement of excavations and landfill operation through four major phases and up to 12 separate excavations in a carefully staged program that has been devised by the Mindarie Regional Council using SKM consulting engineers. The plan has regard for all environmental, hydrological and rehabilitation issues and has been approved as the formal management plan supporting the Mindarie Regional Council operating licence from the Department of environmental protection.

3 KEY PRINCIPLES OF JOINT DEVELOPMENT AGREEMENT

Out of a series of workshops the CEO Group has agreed the following principles for recommendation to their Councils:

Urban Design

- Provide a quality development demonstrating best urban design and development practice.
- Balance financial, sustainability, social and environmental issues.
- Have regard to:
 - Sustainability and environmental best practice.
 - Livable neighbourhoods principles and policy.
 - Mindarie Regional Council strategies relating to buffer management and site rehabilitation.
 - Staging of buffer zone development to suit landfill decommissioning.

Financial

- Develop and improve the value of the land, providing a return on investment.
- Maximise returns within acceptable/manageable risk parameters.
- Retain responsibility for major project decisions but to transfer detailed project management and delivery responsibility to an external project development manager.
- Cashflow the project with each member of the Joint Development Group (JDG) carrying financial risk and return proportional to their respective project shareholdings.
- Establish a Joint Development Agreement (JDA) to provide a clear model for project direction and management.
- Retain Bush Plan/Compensation Funds to finance the project in its early stages and to minimise Council cashflow contributions.

4 VALUATIONS

Valuations will be required to advance the NPS with the WAPC. A process for valuations has been agreed to in principle. The owners and the WAPC will obtain independent valuations and negotiate an agreed figure for each of the land parcels. In the event that agreement is not reached, arbitration will proceed according to provisions set out in the agreement documents.

The City of Stirling (on behalf of the owners) recently invited quotations from consultant valuers to value the separable portions of Lot 118 and the CEO Group endorsed the appointment of the Valuer General (Consulting Group) to carry out this task and it is anticipated that this task will be finalised in the near future.

The WAPC has guaranteed payment of compensation for a minimum of 10 hectare parcel of residential land on the west side of Marmion Avenue in the 2004/05 financial year. The valuations will determine the figure to be paid for this parcel. The valuations are therefore important to establish if the first compensation payment will be sufficient to provide each owners seed capital for the project development.

5 DEVELOPMENT TIMETABLE

The CEO Group is endeavouring to meet the target dates set out below. However, the first two items are dependent on the full and expedient cooperation of the WAPC and the owner Councils which, based on past experience, has not been without difficulty:

Completion of Bush Forever NPS	October 2004
Agreement of principles and detailing a JDA	January 2005
Election of a joint development Board representing all owner Councils	February 2005
First meeting of the JDA Board	February 2005
Project Manager brief	April 2005
Selection of Project Manager	May 2005
Commencement of development brief	June/July 2005

The notes of the CEO Project Management Strategy Workshop 16 June 2004, contain a more detailed indicative timetable covering these events.

6 LEGAL STRUCTURE

Following a series of facilitated workshops earlier in 2004, the CEO Group came to the conclusion that the most efficient and effective means of managing the development project was to establish a joint development agreement that would provide for the creation of a Board comprising 1 member from each owner local government, who would delegate extensive powers of decision making to its nominated Board member. Board members would be supported by technical officers from their respective Councils.

However, recent legal advice has revealed there is no provision under the Local Government Act for the creation of such a Board. Advice has been sought from Watts and Woodhouse and Minter Ellison on possible options for the legal structure, and representative of both firms have presented their advice to the latest meetings of the CEO Group. The possible options include the following:

- 1 A committee or 'board' comprising the seven CEO's, with each Council granting appropriate delegated powers to their CEO.
- 2 Each Council to delegate powers to a committee.
- 3 Establishment of a regional local government.

- 4 Creation of a statutory corporation or specific development authority. This option is not currently available to local governments and would necessitate regulations and/or modification of the provisions of the Local Government Act and possibly other legislation.
- 5 Establishing a Joint Venture partnership with a major land developer under a Development Brief and a formal Agreement endorsed by all of the owner Councils.

The CEO Group has previously investigated the possibility of a JV (alternative 5) and concluded that the costs of introducing a JV partner far outweighed the benefits of the owners undertaking the development using a professional project manager.

The CEO Group has yet to come to a formal conclusion on the preferred option, but it appears that the most efficient and effective means of managing the development project is to establish a Regional Council comprising 12 members proportionate to each owner Local Government's ownership share. Advantages of the Regional Council option include the following:

- 1 Efficient and effective administration of the development project, and with arrangements for voting and decision making according to ownership shares.
- 2 The options for the owners to retain ownership of the land as currently exists or to transfer it to the new Regional Council if preferred.
- 3 The owner Councils would benefit from 'separation' from the entity responsible for carrying out the development of the land. The City of Wanneroo would particularly benefit in terms of the subject land being located within its municipality and it being the planning authority responsible for determining structure plans and development applications.

CEO Working Group Recommendations:

The CEO Working Group has considered the above issues and made the following recommendations for consideration by the owner Councils.

- “1 That this report be received.*
- 2 That the proposed Bush Forever Negotiated Planning Solution (NPS) outlined in the report be endorsed and the CEO Group be authorised to complete documentation for a NPS relating to Bush Forever on Lot 118 and submit the documentation to owner councils for formal agreement in conjunction with recommendations relating to valuations now being obtained.*
- 3 That the key principles set out in section 3 be adopted to guide the urban development of Lot 118.*
- 4 That the proposal to develop Lot 118 without involvement of a joint venture partner, as set out in section 6 of this report, be supported.*
- 5 That the proposal of the CEO Group to prepare a draft Deed of Agreement and/or further report to owner councils setting out how, and under what legal structure, the owner councils will progress the intended development of Lot 118, be supported.”*

Statutory Provision:

Nil

Consultation:

Various aspects of the proposed development of Lot 118 will be subject of requirements for community consultation in due course. These include, but are not necessarily limited to preparation of the Structure Plan for the land, the proposed establishment of a regional council, and notification of a business plan for the major land undertaking.

Policy Implications:

Nil

Financial Implications:

The planning and development of Lot 118 will involve financial implications for Council, although it should be noted that all costs and returns are shared amongst the seven owner councils according to their ownership share of the land (this City's share is two-twelfths). It is also emphasised that the compensation payable to the owners under the proposed Bush Forever NPS will provide seeding capital to cover or offset initial stages of subdivisional works. Cash flow analysis based on the owners' earlier structure plan was that the development could achieve positive cash flow returns within two years of commencement.

Strategic Implications:

The development of Lot 118 will provide a cohesive system of integrated land use planning through planning that balances built form and land use, community needs and environment, and through supporting and encouraging the delivery and utilisation of a safe, effective transport network, that will encourage local and regional economic development opportunities.

The development of this land will result in significant returns on investment to the benefit of the City's ratepayers and community.

COMMENT

At this stage, it is recommended that Council note this progress report and endorse the CEO Group recommendations, noting that specific aspects of the proposed development of Lot 118 will be subject of further detailed reports to Council in the near future.

ATTACHMENTS

Attachment 1 Locality Plan

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That the Joint Commissioners:

- 1 ENDORSE the proposed Bush Forever Negotiated Planning Solution (NPS) outlined in Report CJ282-11/04 and AUTHORISE the Chief Executive Officer to complete documentation for a Negotiated Planning Solution relating to Bush Forever on Lot 118 Marmion Avenue, Mindarie and submit the documentation to Council for formal agreement in conjunction with recommendations relating to valuations now being obtained;
- 2 ENDORSE the key principles set out in the detail section of Report CJ282-11/04 to guide the urban development of Lot 118 Marmion Avenue, Mindarie;
- 3 SUPPORT the proposal to develop Lot 118 Marmion Avenue, Mindarie without involvement of a joint venture partner;
- 4 SUPPORT the proposal of the Chief Executive Officer to prepare a further report to Council setting out how, and under what legal structure, the owner Councils should progress the intended development of Lot 118 Marmion Avenue, Mindarie.

MOVED Cmr Smith, SECONDED Cmr Anderson that the Joint Commissioners:

- 1 **ENDORSE the proposed Bush Forever Negotiated Planning Solution (NPS) outlined in Report CJ282-11/04 subject to the deletion of any reference to the formation of a Joint Development Group and AUTHORISE the Chief Executive Officer to complete documentation for a Negotiated Planning Solution relating to Bush Forever on Lot 118 Marmion Avenue, Mindarie and submit the documentation to Council for formal agreement in conjunction with recommendations relating to valuations now being obtained and to include advice to Council relating to the need to prepare a Business Plan and consult the community on this matter;**
- 2 **ENDORSE the key principles set out in the detail section of Report CJ282-11/04 to guide the urban development of Lot 118 Marmion Avenue, Mindarie;**
- 3 **SUPPORT the proposal to develop Lot 118 Marmion Avenue, Mindarie without involvement of a joint venture partner;**
- 4 **SUPPORT the proposal of the Chief Executive Officer to prepare a further report to Council setting out how, and under what legal structure, the owner Councils should progress the intended development of Lot 118 Marmion Avenue, Mindarie.**

Cmr Smith spoke to the Motion.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 7 refers

To access this attachment on electronic document, click here: [Attach7brf161104.pdf](#)

CJ283 – 11/04 MINUTES OF THE CONSERVATION ADVISORY COMMITTEE OF 27 OCTOBER 2004 – [12168]**WARD - All**

CJ041116_BRF.DOC:ITEM 10

PURPOSE

The unconfirmed Minutes of the Conservation Advisory Committee Meeting held on 27 October 2004 are submitted for noting by Council.

EXECUTIVE SUMMARY

The Conservation Advisory Committee Meeting held on 27 October 2004 discussed various conservation matters within the City of Joondalup. The Committee addressed issues including the herbicide Fusilade application within natural areas and a presentation from the Department of Planning and Infrastructure on Bush Forever Amendments.

It is recommended that the Joint Commissioners NOTE the unconfirmed Minutes of the Conservation Advisory Committee Meeting held on 27 October 2004.

DETAILS

A meeting of the Conservation Advisory Committee (CAC) was held on 27 October 2004, and the minutes of the meeting are provided at Attachment 1.

The main points of discussion are as follows:

Fusilade Herbicide Application within Bushland Reserves

The application of the grass killing herbicide Fusilade in the City's bushland reserves was discussed in detail. The Committee examined recent changes to management practices in bushland reserves. Members stated that the use of bushland regenerators as part of the recent Bushland Regeneration Tender was a very positive action by Council and would result in improvements within the bushland reserves managed by the City.

Officer's Comment

For the past fifteen years the City's bushland has been sprayed with the grass control herbicide Fusilade. This has been necessary to control imported grasses that not only force out native plants but also add to the potential wild fire risk within bushland. In recent years Conservation Advisory Committee Members have expressed the view that grass weeds, along with broad-leaved weeds and woody weeds, should be controlled as part of a broad bushland management strategy that includes the use of specialised bushland regenerators to undertake the bulk of the weed control component of the work.

The recently awarded Bushland Regeneration contract will give Council broad scope to manage its valuable natural areas with best practice methodology. This approach has been fully endorsed by the Conservation Advisory Committee.

Bush Forever Amendments

Mr Kieron Beardmore, the Bush Forever Coordinator from the Department of Planning and Infrastructure, addressed the Committee on proposed amendments to the State Government's Bush Forever Strategy. The changes include a proposed MRS Amendment and a Statement of Planning Policy (SPP).

The key proposals are as follows:

- To recognise bushland protection as the primary purpose.
- To establish a planning assessment process to aid decision-making.
- To seek negotiated planning solutions balance between conservation and development.
- Principles are to avoid, minimise or mitigate any adverse impacts either direct or indirect.

Officer's Comment

The City manages a number of Bush Forever zoned sites, these are Hepburn Heights, Craigie Bushland, Warwick Bushland, Lilburne Park, Shepherds Bush Park and the coastal foreshore reserve between Burns Beach and Hillarys Marina. All these reserves are currently managed for conservation purposes by the City with the overall aim to retain biodiversity within the reserves, it is not expected that the proposed Bush Forever changes will alter the City's management practices.

The Bush Forever Policy Context and Key Facts are shown at Attachment 2.

ATTACHMENTS

Attachment 1	Conservation Advisory Committee Minutes 27 October 2004
Attachment 2	Bush Forever Amendments

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Smith, SECONDED Cmr Anderson that the Joint Commissioners NOTE the unconfirmed Minutes of the Conservation Advisory Committee Meeting held on 27 October 2004 forming Attachment 1 to Report CJ283-11/04.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 8 refers

To access this attachment on electronic document, click here: [Attach8bfr161104.pdf](#)

CJ284 – 11/04 CLOSE OF ADVERTISING AMENDMENT NO. 22 TO DISTRICT PLANNING SCHEME NO. 2 - PROPOSED CHANGE FROM ‘RESIDENTIAL’ ZONED LAND TO ‘LOCAL RESERVE - PARKS AND RECREATION’ AND ‘LOCAL RESERVE-PUBLIC USE’ – [26557]

WARD - All

CJ041116_BRF.DOC:ITEM 12

PURPOSE

This report is for the Joint Commissioners to consider submissions received during the advertising period, and to adopt as final, Amendment No 22 to District Planning Scheme No. 2 (DPS 2) without modifications.

EXECUTIVE SUMMARY

A review of the DPS 2 maps has been undertaken and a number of anomalies were found when compared to the Metropolitan Region Scheme (MRS) maps. Local Planning Schemes must align with the MRS and accordingly the purpose of the Amendment is to bring the DPS 2 into compliance with the MRS to reflect the correct reservations of the affected portions of land, and to correct current anomalies shown on scheme maps.

At the meeting on 30 March 2004, (CJ066-03/04 refers) the Council resolved to initiate Amendment No. 22 to DPS 2 for the purposes of public advertising. The advertising period closed on 6 October 2004 and one submission was received from a government agency, indicating support for the proposal.

It is therefore recommended that the Joint Commissioners:

1 Pursuant to Town Planning Regulations 17 (2) adopt Amendment No.22 to the City of Joondalup District Planning Scheme No. 2 without modifications for the purposes of:

(a) Removing the ‘Residential’ zoning and reserving to ‘Local Reserve – ‘Parks and Recreation’, the following portions of land:

- Swan Location 14322 – Reserve 46668 Selkirk Drive, Kinross;*
- Lot 91 Cranston Loop, Kinross;*
- Swan Location 13479 – Reserve 45758 Discovery Circuit, Iluka;*
- Reserve 44451 Santiago Park, Beaumaris Boulevard, Ocean Reef;*
- Reserve 46050 25 Negresco Turn, Currambine;*
- Eastern Portion of Swan Location 12639 – Reserve 44910 (Christchurch Park);*
- Reserve 42221 & 42222 No 4 and 6 Ocean Parade, Burns Beach;*
- Reserve 45751 – 36L Mayflower Crescent, Craigie.*

(b) *Removing the ‘Residential’ zoning and reserving to ‘Local Reserve – Public Use’, the following portions of land:*

- *Swan Location 13561 – Reserve 46179, Cayman Lane, Iluka;*
- *Loc 14550, Lochy Close, Kinross;*
- *Lot 1300, Lochy Close, Kinross;*
- *Swan Location 14006 – Reserve 46577, Kinross Drive, Kinross;*
- *Lot 194 Dunscore Way, Kinross;*
- *Reserve 43977 Connolly Drive, Kinross;*
- *Reserve 43967 Connolly Drive, Kinross;*
- *Reserve 44909 Christchurch Terrace, Currambine;*
- *Reserve 46051 19L Negresco Turn, Currambine;*
- *Lot 628 Tyneside Grove, Currambine;*
- *Reserve 44156 Yatala Close, Currambine;*
- *Reserve 44349 Shenendoah Mews, Currambine;*
- *Reserve 45764 Shenendoah Mews, Currambine.*

(c) *Removing the ‘Residential’ zoning from Reserve 46280, No 6 Miami Beach Promenade, Iluka, and reserving it to ‘Local Reserve – Parks and Recreation.’*

- 2 *AUTHORISE the affixation of the Common Seal, and to endorse the signing of, the amendment documents;*
- 3 *NOTE the submissions received during the advertising period and advise the submitter of the Council’s decision.*

BACKGROUND

Suburb/Location:	Various
Applicant:	N/A
Owner:	Various – refer Attachment 1
Zoning:	DPS: Various – refer Attachment 1
	MRS: Various – refer Attachment 1

DETAILS

A previous review of DPS2 in 2003, found a number of anomalies requiring rectification. To enable approval of an amendment by the Minister for Planning and Infrastructure, via the Western Australian Planning Commission (WAPC) within a reasonable time frame, only half the anomalies requiring change were contained in a previous amendment to DPS2 (Amendment No 16 refers). This amendment was endorsed by Council at its meeting of 29 July 2003 (CJ168-07/03 refers) and has subsequently been approved by the Minister for Planning. The remaining lots were included in Amendment No. 22 (Attachment 1 refers).

Amendment No. 22 proposes to change the zoning of a number of lots from ‘Residential’ and identify them in DPS2 with their intended reserve status, as ‘Local Reserve – Parks and Recreation’ and ‘Local Reserve – Public Use’. On 30 March 2004, Amendment No. 22 was brought before the Joint Commissioners for consideration of initiation and adoption for the purposes of public advertising, which has now been completed (CJ066 –03/04 refers).

For ease of reference the properties were grouped into a number of similar proposals (Attachment 4 refers):

Proposal 1

Proposal 1 affects eight (8) properties. All of these properties were set aside at subdivision stage for parks and recreation purposes and have been developed as such. However, the Scheme maps do not reflect this information accurately and this amendment serves to correct the current anomalies.

Proposal 2

This proposal affects thirteen (13) properties, all of which are used for public purposes (drainage sumps or for the supply of water to surrounding residential properties). However, the Scheme maps do not reflect this information accurately and this amendment serves to correct current anomalies.

Proposal 3

The rezoning of Reserve 46280 will correct a current anomaly in DPS2 and ensure that the land is shown with the correct reservation on the Scheme maps. The proposal will not change the current or intended use of the site. The reserving of this portion of land is not affected by the MRS Omnibus Amendment No 5.

Statutory Provision:

The Town Planning and Development Act 1928, together with the Town Planning Regulations 1967, enables local authorities to amend a Town Planning Scheme.

Under provision 17(2) of the Regulations, Council shall consider all submissions received during the advertising period. After considering all submissions, the Council shall either resolve to not proceed with the amendment, or adopt the amendment, with or without modifications and to submit three copies of the amendment document to the WAPC for recommendation to the Hon Minister for Planning and Infrastructure to grant final approval.

The procedure is summarised in Attachment 2 and the current Amendment stage has been highlighted.

Consultation:

The proposed amendment was advertised for a period 42 days from 1 September 2004 to 13 October 2004. Advertising was in the form of a sign erected on site, adjoining landowners being notified in writing and advertisements placed in the West Australian (Wednesday 1 September, 2004) and the Joondalup Community Newspaper (Thursday 2 September, 2004).

One submission of support from a government agency was received during this period (Attachment 3 refers).

Strategic Implications:

The purpose of the Amendment is to bring the DPS 2 into compliance with the MRS to reflect the correct reservations of the affected portions of land and to correct current anomalies shown on the Scheme maps. The proposal will ensure that DPS 2 reflects the current use or purpose of the land.

COMMENT

The proposed amendment will correct a number of anomalies in zonings and reserving of land found when DPS 2 was reviewed and compared to the MRS.

No objectives have been identified and therefore it is recommended that the amendment be adopted for final approval without modifications.

ATTACHMENTS

Attachment 1	Table of Amending Proposals
Attachment 2	Flow Chart
Attachment 3	Schedule of Submissions
Attachment 4	Plans of Amended Proposal

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Smith, SECONDED Cmr Clough that the Joint Commissioners:

- 1 Pursuant to Town Planning Regulations 17 (2) ADOPT Amendment No.22 to the City of Joondalup District Planning Scheme No. 2 without modifications for the purposes of:**
 - (a) Removing the ‘Residential’ zoning and reserving to ‘Local Reserve – ‘Parks and Recreation’, the following portions of land:**
 - Swan Location 14322 – Reserve 46668 Selkirk Drive, Kinross;
 - Lot 91 Cranston Loop, Kinross;
 - Swan Location 13479 – Reserve 45758 Discovery Circuit, Iluka;
 - Reserve 44451 Santiago Park, Beaumaris Boulevard, Ocean Reef;
 - Reserve 46050 25 Negresco Turn, Currambine;
 - Eastern Portion of Swan Location 12639 – Reserve 44910 (Christchurch Park);
 - Reserve 42221 & 42222 No 4 and 6 Ocean Parade, Burns Beach;
 - Reserve 45751 – 36L Mayflower Crescent, Craigie.

- (b) **Removing the ‘Residential’ zoning and reserving to ‘Local Reserve – Public Use’, the following portions of land:**
- **Swan Location 13561 – Reserve 46179, Cayman Lane, Iluka;**
 - **Loc 14550, Lochy Close, Kinross;**
 - **Lot 1300, Lochy Close, Kinross;**
 - **Swan Location 14006 – Reserve 46577, Kinross Drive, Kinross;**
 - **Lot 194 Dunscore Way, Kinross;**
 - **Reserve 43977 Connolly Drive, Kinross;**
 - **Reserve 43967 Connolly Drive, Kinross;**
 - **Reserve 44909 Christchurch Terrace, Currambine;**
 - **Reserve 46051 19L Negresco Turn, Currambine;**
 - **Lot 628 Tyneside Grove, Currambine;**
 - **Reserve 44156 Yatala Close, Currambine;**
 - **Reserve 44349 Shenendoah Mews, Currambine;**
 - **Reserve 45764 Shenendoah Mews, Currambine.**
- (c) **Removing the ‘Residential’ zoning from Reserve 46280, No 6 Miami Beach Promenade, Iluka, and reserving it to ‘Local Reserve – Parks and Recreation.’**
- 2 AUTHORISE the affixation of the Common Seal, and to endorse the signing of, the amendment documents;**
- 3 NOTE the submissions received during the advertising period and advise the submitter of the Council’s decision.**

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 10 refers

To access this attachment on electronic document, click here: [Attach10brf161104.pdf](#)

CJ285 – 11/04 METROPOLITAN REGION SCHEME AMENDMENT NO. 1082/33 - BUSH FOREVER AND RELATED LANDS AND DRAFT BUSHLAND POLICY FOR PERTH METROPOLITAN REGION STATEMENT OF PLANNING POLICY NO. 2.8 – [65564]

WARD - All

CJ041116_BRF.DOC:ITEM 13

PURPOSE

This report is for the Joint Commissioners to consider proposed Metropolitan Region Scheme (MRS) Amendment No. 1082/33 for Bush Forever related lands and the associated draft

Bushland Policy for the Perth Metropolitan Region Statement of Planning Policy No. 2.8 which affects land in the City of Joondalup.

EXECUTIVE SUMMARY

The Western Australian Planning Commission (WAPC) has recently initiated a MRS Amendment (No. 1082/33) for Bush Forever related lands and the associated draft *Bushland Policy for the Perth Metropolitan Region Statement Planning Policy 2.8* (the draft Bushland SPP). These statutory planning measures are being introduced to ensure that bushland protection and management issues are appropriately considered and addressed in planning decisions and actions in the Perth Metropolitan Region. In particular, these measures will give statutory effect to the protection of regionally significant bushland identified in the existing *Bush Forever* strategic document.

MRS Amendment No. 1082/33 (Attachment 1 refers) proposes to:

- 1 amend the Metropolitan Region Scheme (MRS) to create Bush Forever protection areas (BFPA) over Bush Forever sites zoned and reserved in the MRS;
- 2 amend the MRS to reserve a number of Bush Forever sites and related lands for Parks and Recreation;
- 3 amend the Metropolitan Region Scheme Text to establish a BFPA and related provisions and requirements.

Draft Bushland SPP (Attachment 2 refers) provides:

- 1 a statutory policy and implementation framework for the protection and management of regionally significant bushland within a BFPA within the Perth Metropolitan Region;
- 2 policy measures for other areas of native vegetation, outside BFPA, that support the preparation of local bushland protection strategies by all local governments in the Perth Metropolitan Region.

The proposed MRS amendment and the associated draft Bushland SPP would assist with planning approval and decision-making processes to ensure better environmental protection.

It is recommended that the Joint Commissioners ADVISE the Western Australian Planning Commission that proposed Metropolitan Region Scheme Amendment No 1088/33 and the draft Bushland Policy for the Perth Metropolitan Region Statement of Planning Policy 2.8 are supported.

BACKGROUND

Suburb/Location:	Various
Applicant:	Western Australian Planning Commission
Owner:	Various
Zoning:	DPS: Various
	MRS: Various
Strategic Plan:	Caring for the Environment – <i>Strategy 2.1.1</i> Maintain and protect natural assets to retain biodiversity.

Bush Forever is a strategic document and an implementation plan, which was endorsed by Cabinet and released by the Government of Western Australia in December 2000. It is a whole-of-government initiative designed to identify, protect and manage regionally significant bushland in order to achieve a sustainable balance between the conservation of bushland and development in the Perth Metropolitan Region.

Bush Forever identifies 51,200 hectares of regionally significant bushland and any associated wetlands for protection and management in 287 Bush Forever sites. It seeks to protect and manage these sites through a variety of mechanisms. *Bush Forever* recognises the scope to use land use planning processes to protect bushland areas, while accommodating future development that is compatible with bushland protection objectives or provides for an improved environmental outcome.

Bush Forever is currently a non-statutory regional policy under the WAPC policy framework. The proposed MRS Amendment No. 1082/33 and the draft Bushland SPP 2.8 were recently initiated by the WAPC as a package of statutory planning measures, which will give statutory effect to the protection of regionally significant bushland identified in the *Bush Forever* document. At this stage, the WAPC is seeking public comment for the above proposal. The City as one of the landowners, is invited to make its submission on any issues concerning this proposal.

DETAILS

As mentioned previously, the proposal comprises two components: proposed MRS Omnibus Amendment No. 1082/33 and the draft Bushland SPP.

Proposed MRS Omnibus Amendment No. 1082/33

This component proposes to:

- (i) amend the MRS to create Bush Forever protection areas (BFPA) over Bush Forever sites zoned and reserved in the MRS; (see Attachment 3, the index plan)

The index plan (Attachment 3 refers) shows the BFPAs' locations and boundaries. Within the City's jurisdiction, BFPA sites are generally located at five main locations:

- 1 The coastline from Burns Beach to Hillarys Harbour;
- 2 The portion of Yellagonga Regional Park within the City of Joondalup;
- 3 The reserve for Warwick Leisure Centre on the Corner of Wanneroo Road Warwick Road;
- 4 Reserve 30809, CALM Wildlife Research Centre, Corner of Ocean Reef Road and Mitchell Freeway;
- 5 Craigie Open Space, Pinnaroo Valley Memorial Park and the Water Corporation's sewerage treatment works along the west side of the Mitchell Freeway between Hepburn Avenue and Ocean Reef Road.

This BFPA is also referred as Special Control Area No. 1 (SPC No. 1) and provisions for special control areas are contained in Part 6 of the *Model Scheme Text*, which were given effect by the *Town Planning Amendment Act 1999*. This regulation requires that local government town planning schemes comply with the *Model Scheme Text*.

- (ii) amend the MRS to reserve a number of Bush Forever sites and related lands for parks and recreation;

Only two of the City's Bush Forever sites are proposed to be included in Parks and Recreation reserve:

- 1 Transfer Crown Reserves 39941 and 26052 (total 16.51 hectare, between Barridale Drive and Shepherds Bush Drive, Kingsley) from the Urban zone to the Parks and Recreation reservation in the MRS (refer Attachment 5 and Page 3 of Attachment 1);
- 2 Transfer Crown Reserves 42987 and 43210 (total 21.07 hectare, corner of Hepburn Avenue and Walter Padbury Boulevard, Padbury) from the Urban zone to the Parks and Recreation reservation in the MRS (refer Attachment 6 and page 18 of Attachment 1).

- (iii) amend the Metropolitan Region Scheme Text to establish a BFPA and related provisions and requirements. (Attachment 3 refers)

The BFPA related provisions and requirements are inserted into Part 3A of the *Metropolitan Region Scheme Text* (refer Attachment 4)

Draft Bushland Statement of Planning Policy (SPP)

The second component is the draft Bushland Policy for the Perth Metropolitan Region Statement of Planning Policy 2.8 (the draft Bushland SPP), which provides a statutory policy and implementation framework for the protection and management of regionally significant bushland within a BFPA. It also provides policy measures for other areas of native vegetation, outside BFPA, that support the preparation of local bushland protection strategies by all local governments in the Perth Metropolitan Region.

The draft Bushland SPP provides three types of policy measures: general policy measures in BFPA, Specific Policy Measures in BFPA, and policy measures in local bushland areas (outside of BFPA). (refer Attachment 2, Section 5 of the document)

Statutory Provision:

Introduction of a BFPA require amendments to both the MRS and the *Metropolitan Region Scheme Text* under the provisions of Section 33 of the *Metropolitan Region Town Planning Scheme Act 1959*, both of which form part of this Omnibus Amendment 1082/33.

Once the BFPA and its related provisions are incorporated in the MRS and *Metropolitan Region Scheme Text*, local governments, under Section 35A of the *Metropolitan Region Town Planning Scheme Act 1959*, will be required to initiate amendments to their town planning schemes within three months of gazettal of the MRS amendment, to ensure consistency with the MRS.

Statements of planning policy such as the *Residential Design Codes of Western Australia*, prepared under section 5AA *Town Planning and Development Act 1928*, have statutory nature in planning process, which differentiate from general planning policies. The draft Bushland SPP is another statement of planning policy prepared under section 5AA of the Act. Therefore, it will have statutory effect in the exercise of planning approval and decision-making process.

Consultation:

The procedure for amending the MRS requires that the WAPC advertises the amendment, display plans and documentation for the initial period from 10 August 2004 until 12 November 2004, and invite submissions from affected landowners and the general public.

Notices for the proposed MRS amendment have been placed in *The West Australian*, *The Sunday Times* and local suburban newspapers. Documents and related plans have been arranged for displaying to the public at the City's Administration Building. The documentation is also available on the WAPC's website.

Strategic Implications:

The proposed MRS amendment is in line with the objectives of the City's Strategy 2.1.1 of the *Strategic Plan 2003-2008*, which seeks to maintain and protect natural assets to retain biodiversity.

Sustainability Implications:

The proposed MRS amendment will give statutory effect to the protection of regionally significant bushland identified in *Bush Forever*, which would enhance the City's capacity to ensure environmental sustainability. Furthermore, the policy measures in the draft Bushland SPP seek to closely align land use planning with environmental outcomes through planning processes set within the context of wider social and economic considerations, and represent an important step towards performance based planning for bushland protection, which also reflects the objectives of social and economic sustainability.

COMMENT

The creation of the BFPA special control area, can best be described as a policy overlay to local town planning schemes to deal with regionally significant bushland protection issues requiring special consideration that overlap zone and reserve boundaries. BFPA provisions apply in addition to the underlying local town planning scheme zoning provisions. Where there are inconsistencies, BFPA provisions will override zoning provisions. This may impact on the existing planning approval processes at both the State and local levels. However, ultimately, it will deliver an advantageous result in environmental protection and a more transparent planning process.

The creation of the BFPA special control area would formalise the planning process as it relates to Bush Forever sites. The City's proposed Ocean Reef boat harbour development is currently covered by a Bush Forever listing and is within a Parks and Recreation Reservation. In terms of the approval process, the WAPC will remain the authority that will determine any planning application, however, the WAPC will be statutorily required to consider any development under the proposed Bush Forever SPP.

The WAPC may acquire land from a BFPA and reserve it for Parks and Recreation if the bushland is considered having high conservation value. Compensation will arise in this case if the land is privately owned. There are several options available with respect to compensation, these options are listed in Appendix C of the proposed MRS amendment report (refer Appendix C of Attachment 1). The City's two Bush Forever sites reserved for Parks and Recreation will not invoke any compensation since the lands are not under private ownership.

Where private land is being included in the BFPA special control area, compensation will generally not arise, as the land is not deemed injuriously affected according to Clause 10 and 11A of the Town Planning and Development Act 1928.

The purpose of the draft Bushland SPP is to guide and inform agencies, authorities, landowners and the broader community on bushland protection and management issues when considering a proposal or in undertaking decision-making which is likely to have an adverse impact, direct or indirect, on regionally significant bushland within a BFPA. This kind of proposal or decision-making would normally trigger a formal environmental assessment by the Environmental Protection Authority (EPA) under Part IV of the *Environmental Protection Act 1986*. However, if the draft Bushland SPP is approved, a proposal will be unlikely to be formally assessed by the EPA if a reasonable outcome through a negotiated planning solution is achieved within a BFPA through compliance with the draft Bushland SPP.

Bush Forever sites that have an Urban, Urban Deferred or Industrial zoning in the MRS or are subject to prior planning and environmental commitments and approvals have been highlighted as Negotiated Planning solutions (NPS) within *Bush Forever*. The NPS criteria in the draft Bushland SPP is set out in Schedule 1 of the draft Bushland SPP (Page 17 of Attachment 2).

Conclusion

The draft Bushland SPP including the NPS criteria will provide a robust and transparent basis for decision-making and for determining reasonable outcomes and the acceptability of a proposal. This will offer more certainty to the public in terms of planning processes. Furthermore, the proposed MRS Omnibus Amendment No. 1082/33 will give Bush Forever sites a formalised statutory effect over the protection of regionally significant bushland. Hence, it enhances the capacity of both the State and local governments in protecting the natural environment in the Perth Metropolitan Region.

It is therefore recommended both the MRS amendment and the draft Bushland SPP be supported.

ATTACHMENTS

Attachment 1	Metropolitan Region Scheme Amendment No. 1082/33 Report
Attachment 2	Draft Bushland Policy for the Perth Metropolitan Region Statement of Planning Policy 2.8
Attachment 3	Index Plan (North) for MRS Amendment No. 1082/33
Attachment 4	Amendment to Scheme Text
Attachment 5	Proposal 3, Bush Forever Site 39, Kingsley
Attachment 6	Proposal 41, Bush Forever Site 303, Padbury

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Smith that the Joint Commissioners ADVISE the Western Australian Planning Commission that the changes to the Metropolitan Region Scheme proposed in Omnibus Amendment No 1088/33 and the draft Bushland Policy for the Perth Metropolitan Region Statement of Planning Policy 2.8 are supported.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 11 refers

To access this attachment on electronic document, click here: [Attach11brf161104.pdf](#)

CJ286 - 11/04 PROPOSED MIXED USE DEVELOPMENT LOT 517 (91) REID PROMENADE JOONDALUP – [89530]

WARD - Lakeside

CJ041116_BRF.DOC:ITEM 14

PURPOSE

For the Joint Commissioners to consider a mixed-use development within the Central Business District (Residential Mixed Use Precinct) with the Joondalup City Centre Development Plan and Manual (JCCDPM) area.

EXECUTIVE SUMMARY

An application was received for a proposed mixed-use development within Joondalup City Centre. The property is contained within the Residential\Mixed Use Precinct of the Central Business District.

The applicant has proposed to develop thirty-four serviced apartments, twelve multiple dwellings and one commercial ground floor tenancy. The development as proposed will create a residential density for the multiple dwelling units of R100B. Development up to this density can be considered by City, where it is demonstrated that the development will create an appropriate landmark, which enhances the overall legibility and amenity of the City Centre. Landmark sites are not specifically defined as specific properties within the Central Business District. Rather the reference to landmark sites refers to the City's ability to approve development up to the R100B standard and the suggestion that development up to this density should create a landmark.

To facilitate the development the applicant has request cash-in-lieu of car parking for 15 bays. The request is considered reasonable as there is an existing car park owned by the City directly to the rear of the site, which will be able to accommodate additional car parking demand. Moreover, the car-parking shortfall is attributed to the serviced apartments and is not expected to generate a great car parking demand.

The applicant has requested a variation to plot ratio requirements for the commercial components of the development, which includes the service apartments and the commercial ground floor tenancies. The proposed plot ratio is 1.57 in lieu of 1.0. This is a significant increase in plot ratio for the site.

It is recommended that the application be approved subject to the conditions contained with the recommendation.

BACKGROUND

Suburb\Location: Lot 517 (91) Reid Promenade Joondalup
Applicant: R-A-D
Owner: Mimi Ferguson
Zoning: **DPS:** JCCDPM
MRS: Centre

The site is currently undeveloped and abuts a Right of Way (ROW) to the north and east, existing three-storey development to the west and to the rear of the site is one of City's parking stations.

DETAILS

The applicant has requested the following discretions:

1. exceedance of the recession plane above 13.5 metres for serviced apartments on level four.
2. Determination of an appropriate residential density for the development of up to R100B as prescribed by the JCCDPM.

3. A plot ratio of 1.57 in lieu of 1.0 for the commercial component of the development (serviced apartments & commercial units).
4. Cash in lieu payment of for \$121, 500 for a shortfall of 15 car-parking bays.

Statutory Provision:

When determining this application Clauses 4.5, 4.8, 4.11.2, 4.11.3, 4.11.4 and 6.8 of the DPS2 apply and are relevant:

4.5 Variations to Site and Development Standards and Requirements.

- 4.5.1 Except for development in respect of which the Residential Planning Codes apply and the requirements set out in Clauses 3.7.3 and 3.11.5, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.*
- 4.5.2 In considering an application for planning approval under this clause, where, in the opinion of Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is subject of consideration for the variation, the Council shall:*
 - (a) consult the affected parties by following one or more of the provisions for advertising uses pursuant to clause 6.7.1; and*
 - (b) have regard to any expressed views prior to making its decision to grant the variation.*
- 4.5.3 The power conferred by this clause may only be exercised if the Council is satisfied that:*
 - (a) approval of the proposed development would be appropriate having regard to the criteria set out in Clause 6.8; and*
 - (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.*

4.8 Car Parking Standards

- 4.8.1 The design of off-street parking areas including parking for disabled shall be in accordance with Australian Standards AS 2890.1 or AS 2890.2 as amended from time to time. Car parking areas shall be constructed and maintained to the satisfaction of the Council. The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2.*

Where development is not specified in Table ,2 the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.

- 4.8.2 *The number of car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in table 2 the Council shall determine the car-parking standard. The Council shall apply irrespective of the development proposed in cases where it considered this to be appropriate.*
- 4.11.2 *Council may accept a cash payment in lieu of the provision of any required land for parking subject to being satisfied that there is adequate provision for car parking or a reasonable expectation in the immediate future that there will be adequate provision for public car parking in the proximity of the proposed development.*
- 4.11.3 *The cash payment shall be calculated having regard to the estimated cost of construction of the parking area or areas suitable for the proposed development and includes the value, as estimated by the Council, of that area of land which would have had to be provided to meet the car parking requirements specified by the Scheme. The cash payment may be discounted and may be payable in such manner as the Council shall from time to time determine.*
- 4.11.4 *Any cash payment received by the Council pursuant to this clause shall be paid into appropriate funds to be used to provide public car parks in the locality as deemed appropriate by Council.*

6.8 *Matters to be considered by Council:*

- 6.8.1 *The Council when considering an application for Planning Approval shall have due regard to the following:*
- (a) interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
 - (b) any relevant submissions by the applicant;*
 - (c) any Agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;*
 - (d) any planning policy of the Council adopted under the provisions of clause 8.11;*
 - (e) any other matter which under the provisions of the Scheme, the Council is required to have due regard;*
 - (f) any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;*
 - (g) any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;*

- (h) *the comments or wishes of any public or municipal authority received as part of the submission process;*
- (i) *the comments or wishes of any objectors to or supporters of the application;*
- (j) *any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and*
- (k) *any other matter which in the opinion of the Council is relevant.*

Consultation:

The proposal was not advertised for public consultation, as it was not required under DPS2 or the JCCDPM as the subject land uses are preferred land uses.

Sustainability Implications:

The development will provide additional high-density residential development within the city centre in close proximity to services and transport systems, which is generally in accordance with sustainable development principles.

COMMENT**Proposed development**

The applicant has proposed a mix of residential and commercial units in the form of:

- 1 One commercial tenancy
- 2 12 Multiple Dwellings
- 3 Thirty-four service apartments (twenty four small and ten large)

The development is contained within the residential\mixed precinct, which permits residential development and other uses. In this precinct the City may permit development up to R100B where the City considers that this has been demonstrated to create an appropriate landmark, which enhances the overall legibility and amenity of the City Centre. The R100B is a standard from the previous Residential Planning Codes not the current Residential Design Codes (R-Codes). It is considered appropriate for density purposes that the City uses the current R100 density under the R-Codes, as it does not change the number of dwellings permitted on the site.

The provisions of the Residential Planning Codes for multi unit development may be used as a guide in development that mixes commercial with residential uses.

Serviced Apartments

The proposed serviced apartments fall within the definition of a Residential Building as they are intended to be for short stay accommodation rather than permanent dwellings. The applicant has indicated that these apartments will be used for short stay purposes. To reinforce this it is recommended that a condition of Planning Approval be imposed limiting them to the use for short-term stays only.

Plot ratio

The maximum plot ratio on the site is 1.0 in accordance with the JCCDPM. Residential and public open space are not counted towards plot ratio as follows:

'A2.3 The provision of public open space and residential will not be counted towards plot ratio.'

The applicant has requested a variation to the plot ratio requirements for the commercial components of the development, (serviced apartments and the commercial ground floor tenancies). The multiple dwellings are not counted towards the overall plot ratio requirements in accordance with the JCCDPM.

The ground floor commercial unit and serviced apartments result in a plot ratio of 1.57 for the development, which is 716m² over the stipulated plot ratio. This is a significant increase in plot ratio over the site. The Joint Commissioners may consider reducing plot ratio of the development if they consider that the plot ratio of the development is not in keeping with the JCCDPM.

The City can vary the plot ratio requirements of the commercial component of the development in accordance with Clause 4.5.1 of the Scheme. This clause allows certain standards of the Scheme to be varied. In considering the variation, the Joint Commissioners need to consider the desirability of such a variation. The City has varied the plot ratio requirements within the City Centre previously where it was in keeping with the intent of the JCCDPM. Generally the plot ratio variations allowed previously were smaller than that proposed with this development.

Car Parking

For residential/mixed use development, car parking is generally provided at the rate of 1 bay per multiple dwelling, 1 bay per 2 serviced apartments and 1 bay per 30m² for commercial uses. With regard to the calculation of car-parking bays for the commercial unit, this is measured in accordance with the interpretation of gross floor area, which actually includes the area of the car parking bays on the ground floor. This exaggerates the car parking demand for the commercial tenancies by 2 bays. The overall demand for car parking equates to a minimum of 12 bays for the multiple dwellings, 17 for the serviced apartments and 8 bays for the commercial tenancy.

No car parking standards are specified in the JCCDPM for the proposed uses. It has generally been accepted that a car-parking ratio of 1 bay per 30m² of commercial floor space is appropriate along with one bay per residential unit. It is considered appropriate for the serviced apartments that a ratio of 1 bay per 2 apartments is supplied. This approach has recently been adopted by formal resolution of the Joint Commissioners at the Meeting held on the 8 June 2004.

In accordance with Clause 4.8.2 of the Scheme, Council can determine the car-parking standard for a development (Clause 4.8.2 is detailed with the statutory section of the report). It is recommended that the Commissioners adopt these car-parking standard for the subject application.

Using the abovementioned standards, a shortfall of 14 bays is incurred and the applicant has requested cash-in-lieu for the shortfall. Due a truncation not being shown appropriately on the site plan a car parking bays will also be lost bringing the shortfall to 15 bays. This is a significant shortfall of car parking for the development. It has previously been accepted that cash in lieu payments for car parking should not exceed 50% of the car parking required for the development. In this case that requirement is that requirement has not been met.

Ratio	Required	Provided
Commercial 1 bay per 30m ²	8	8
Serviced Apartments 1 bay per 2 apartments	17	2
Multiple Dwellings	12	12
Totals	37	22

In accordance with Clause 4.11.2 of the Scheme:

Council may accept a cash payment in lieu of the provision of any required land for parking subject to being satisfied that there is adequate provision for car parking or a reasonable expectation in the immediate future that there will be adequate provision for public car parking in the proximity of the proposed development.

With respect to cash-in-lieu of car parking (\$8, 100 per bay), the Joint Commissioners may consider the request as there is a City car park provided directly behind the proposed development, which gains access from the Right-of-Way (ROW). It would seem appropriate that this area could be used to overcome the car-parking shortfall provided on site. A cash-in-lieu payment of \$8,100 per bay is required.

In considering the cash-in-lieu payment, permanent car parking bays should be provided for the multiple dwelling units, which will house permanent residents. There are adequate bays provided on site to be able to achieve this with the commercial units. Essentially there will be a shortfall of bays for the serviced apartments.

There are six bays provided on site in tandem (one behind the other). These bays should only be used for the commercial development, as their configuration does not allow ease of use. A condition of planning approval should secure this.

Setback requirements

Setback	Required	Provided
Front	Buildings shall be constructed to the property line. (Nil)	Nil
Sides	Buildings should have no side setbacks	Nil to all boundaries except minor area setback to provide access to the bin store.
Rear	No requirement	Nil

Residential Density

The subject site is 1,239m² in area and under the R100B density a minimum of 100m² is required per dwelling. The applicant has proposed 12 multiple dwellings, which comply with the maximum residential density, permitted on the site subject to the City's approval. It is considered that the proposed development would create a significant landmark within the City Centre to warrant development up to the R100B standard. This is reinforced by its location in close proximity to the intersection of Reid Promenade and Lakeside Drive, major thoroughfares within the Central City area. The development's height and scale (five storeys) will provide a landmark to persons navigating through the City Centre and will allow the person to understand their location. Landmark sites are not specifically defined as specific properties within the Central Business District. Rather the reference to landmark sites refers to the City's ability to approve development up to the R100B standard and the suggestion that development up to this density should create a landmark.

The Joint Commissioners need to consider whether such development is appropriate with the Central Business District.

The development to the R100B density is not likely to adversely affect the amenity of the area. This attributed to existing abutting development being three storeys in height and as such the proposed development is of similar bulk and scale albeit that the subject development is one storey higher.

The proposed development, if approved, is likely to enhance the vibrancy of the City Centre, as it will provide a range of permanent and short-term accommodation coupled with commercial development on the ground floor.

Overshadowing

Due to the height of the building, overshadowing could be a potential problem. However, as the development has a north-south orientation, most of the overshadowing will be towards Reid Promenade and will not significantly affect the residential amenity of adjoining properties. This is taking into consideration that there are no outdoor private open space areas on the adjoining properties, only car parks.

Overlooking

With respect to overlooking, the subject development primarily has windows on the north and south façade, which overlook Reid Promenade and the City's carparking station. There are windows to the eastern elevation, which overlook the ROW and adjoining development to the east. It is considered acceptable that these windows overlook the property to the east of the ROW, as they are a reasonable distance away from the opening. Moreover, there is no private open space usable as an outdoor living area in the immediate vicinity of the area.

Balconies

Using the R-Codes as a guide, balconies with a minimum dimension of 2 metres and 10m² in area are required. The proposed development does not achieve the minimum balcony dimension for the multiple dwellings with the exception of the Penthouses. However, the multiple units have two separate balconies per unit of 4.80m² and 8.93m². Overall the required balcony area is exceeded notwithstanding that the area is split over two separate balconies per unit. It is recommended that this approach be supported as there is more useable balcony area provided than required under the R-Codes.

exceedance of the Rescission Plane

Within the Centre Business District buildings above 13.5m from a median point of the building must be setback at a 60⁰ angle (the rescission plane).

The serviced apartments on the upper storey exceed the rescission plane as required by the JCCPDM. The application has requested a variation to this requirement, which can be approved in accordance with Clause 4.5.1 of the Scheme. As the exceedance is only for a small section of the building it is recommended that this be approved as it is unlikely to compromise the intent of the JCCDPM or the amenity of the area.

Easements

The site contains a number of easements, which permit access around the site (the ROW) and allow the path of essential services. These easements provide that the building may encroach into the ROW provided that the height clearances are as specified with the grant of easement. The height clearance required from the easements is 4.6 metres. The development does not seem to comply with the easements shown on the certificate of title, as the easement shown on the approved plans is lesser. This will result in the loss of one car-parking bay on site as previously discussed.

As a condition of development approval the requirements of the easements should be reinforced and compliance with these standards demonstrated on the building licence application.

ATTACHMENTS

Attachment 1	Site plan
Attachment 2	Floor plans
Attachment 3	Elevations

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That the Joint Commissioners:

- 1 EXERCISE discretion under 4.5 and 4.8.2, 4.11.2 of District Planning Scheme No 2 and DETERMINE:
 - (a) that a residential density for the multiple dwellings of R100B for the site;
 - (b) a plot ratio of 1.57 in lieu of 1.0;
 - (c) that the exceedance of the recision plane above 13.5 metres for the fourth floor service apartments;are appropriate in this instance;
- 2 DETERMINE that a cash in lieu payment of \$121,500 for a shortfall of 15 bays is appropriate in this instance;
- 3 APPROVE the application for planning approval dated 27 April 2004 submitted by R-A-D on behalf of Mimi Ferguson for mixed-use development Lot 517 (91) Reid Promenade subject to:
 - (a) The boundary walls shall be of clean finish and made good to the satisfaction of the City;
 - (b) Glazing is not to be obscure on the ground floor level to the satisfaction of the City;
 - (c) At least 50% of the area of the ground floor façade shall be glazed and the horizontal dimension of the glazing shall comprise at least 75% of the total building frontage;
 - (d) Window sill heights to the ground floor shall be close or at floor level to the satisfaction of the City;
 - (e) Ground floor level of the building shall be at the finished pedestrian paving level to allow ease of access and contribute to the animation of the streetscape;
 - (f) The FFL average height above the pavement level at the property line must not exceed 600mm;
 - (g) All mechanical plant and equipment shall be screened from the street and adjoining row;
 - (h) The glazed area of building facades on the north and south faces of the building shall not exceed 75% of the total wall area except at ground level;
 - (i) Any signage on the building shall be subject to an Application for Development Approval;

- (j) All building finishes and materials used on the exterior of the building shall be robust, durable and resistant to vandalism to the satisfaction of the City;
- (k) Tandem car parking bays are to be dedicated to the use of the commercial tenancy staff car parking only;
- (l) Twelve bays, at one bay per dwelling, are to be allocated for the multiple dwellings & eight for the commercial unit including tandem bays;
- (m) Compliance with the requirement of the easements shown on the Certificate of Title for the said lot to the satisfaction of the City of Joondalup and all development is to be contained within the cadastral boundaries of the subject lot. (It is noted that the easement on the submitted plans does not appear to be correct and changes are required to be shown at the building licence stage);
- (n) Canopies shall have a minimum height clearance of 2.75 metres and have a minimum width of 2.0 metres (this includes any attached structures);
- (o) The existing footpath is to be extended to the property line at a 2% grade to match the existing grade;
- (p) No structures, including downpipes etc, are permitted within the road reserve;
- (q) The bins must be serviced from the bin store (at additional cost to the landowner) and must not be positioned along the Right-of-Way to the satisfaction of the City;
- (r) Bin store to be increase in size to be able to accommodate a minimum of 23 bins for the service apartments and multiple dwellings plus additional space to be allocated for the restaurant to the satisfaction of the City;
- (s) Entry driveway to have 1.5m to 1.5 metre sightlines to the satisfaction of the City;
- (t) The serviced apartment being used for short-term accommodation only to the satisfaction of the City;
- (u) One store of a minimum dimension of 1.5 metres and area of 4m² to be provided for each multiple dwelling in accordance with the Residential Design Codes 2002;
- (v) A minimum of twenty-two car parking bays are to be provided;
- (w) Disabled access to be provided in accordance with the Building Code of Australia;

- (x) The parking bay/s, driveways and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the City prior to the development first being occupied. These works are to be done as part of the building programme;
- (y) Disabled carparking bays located convenient to the building entrance and with a minimum width of 3.2 metres, to be provided to the satisfaction of the City. Provision must also be made for disabled access and facilities in accordance with the Australian Standard for Design for Access and Mobility;
- (z) An onsite stormwater drainage system with the capacity to contained a 1:100 year storm of a 24 hour duration is to be provided prior to the development first being occupied ad thereafter maintained to the satisfaction of the City. The proposed stormwater drainage system is required to be shown on the Building Licence submission and be approved by the City prior to the commencement of construction;
- (aa) The driveway/s and crossover/s to be design and constructed to the satisfaction of the City before the occupation of the development;
- (bb) The development is to comply with the provisions of the City of Joondalup Health Local Law 1999 for the serviced apartments to the satisfaction of the City;
- (cc) A lodging house manager is to reside continuously on the premises.
- (dd) Café/restaurant kitchen to comply with the Health (Food Hygiene) Regulations 1993;
- (ee) The communal laundry is to be maintained for the use of lodgers within those service apartments where full/separate laundry and bathroom facilities are not provided within the units;
- (ff) Mechanical services plan to be provided with the building licence application for approval to the satisfaction of the City;
- (gg) The provision of 37 car parking bays on site.

FOOTNOTE

- 1 In relation to condition 3(gg) cash-in-lieu payment will be accepted in regard to the shortfall of 15 bays.
- 2 The cash value that will be accepted for each parking bay is the sum of the construction cost and land component. The cash value that will be accepted for each parking bay is the sum of the construction cost and land component. A sum of \$8 100 per parking bay has been adopted for this purpose. Cash-in-lieu parking will contribute towards a fund for the Council to meet future parking demand within the locality.

ADDITIONAL INFORMATION

After receiving recent advice, the plot ratio and parking requirements have been recalculated. The revised figures do not affect the recommendation, apart from the fact that figures in the resolution require changing. The revised figures are as follows

The proposed plot ratio is 1.61, in the current report 1.57
This represents an area of: 760m² previously 716m².

There is now an overall shortfall of 13 bays overall in lieu of the current 15 and a change in the cash payment of \$105, 300 in lieu of the previous \$121, 300.

In answer to a query at the Briefing Session on 16 November 2004, research indicates that the cash-in-lieu amount is GST exempt.

The report describes on page 82 paragraph 4 of the agenda that there is a shortfall of car parking on site and the loss of an additional bay caused by a truncation being inappropriate shown. The 13 bays cash in lieu takes into account the additional shortfall caused by the truncation.

Revised Car Parking Table

Ratio	Required	Provided
Commercial 1 bay per 30m ²	6	6
Serviced Apartments 1 bay per 2 apartments	17	4
Multiple Dwellings	12	12
Totals	35	22

The first paragraph under the title heading of Car Parking has been reworded for clarity as request by the Commissioners as follows:

For residential/mixed use development, car parking has generally been provided at the rate of one bay per multiple dwelling, 1 bay per 2 serviced apartments and 1 per bay 30m² for commercial uses. The overall demand for car parking equates to a minimum of 12 bays for the multiple dwellings, 17 for the serviced apartments and 6 bays for the commercial tenancy.

Please note that the development is also five storeys, which is two storeys higher than the adjoining development contrary to indicated within the report.

The recommendation has been revised in order to deal with changes listed above.

REVISED OFFICER'S RECOMMENDATION

That the Joint Commissioners:

- 1 EXERCISE discretion under 4.5 and 4.8.2, 4.11.2 of District Planning Scheme No 2 and
 - (a) determine that a residential density for the multiple dwellings of R100B for the site
 - (b) determine a plot ratio of 1.61 in lieu of 1.0
 - (c) determine the exceedance of the recession plane above 13.5 metres for the fifth floor service apartments

are appropriate in this instance.
- 2 DETERMINE that a cash in lieu payment of \$105, 300 for a shortfall of 13 bays is appropriate in this instance.
- 3 APPROVE the application for planning approval dated 27 April 2004 submitted by R-A-D on behalf of Mimi Ferguson for mixed-use development Lot 517 (91) Reid Promenade subject to:
 - (a) The boundary walls shall be of clean finish and made good to the satisfaction of the City.
 - (b) Glazing is not to be obscure on the ground floor level to the satisfaction of the City.
 - (c) At least 50% of the area of the ground floor façade shall be glazed and the horizontal dimension of the glazing shall comprise at least 75% of the total building frontage.
 - (d) Window sill heights to the ground floor shall be close or at floor level to the satisfaction of the City.
 - (e) Ground floor level of the building shall be at the finished pedestrian paving level to allow ease of access and contribute to the animation of the streetscape.
 - (f) The FFL average height above the pavement level at the property line must not exceed 600mm.
 - (g) All mechanical plant and equipment shall be screened from the street and adjoining row.
 - (h) The glazed area of building facades on the north and south faces of the building shall not exceed 75% of the total wall area except at ground level.
 - (i) Any signage on the building shall be subject to an Application for Development Approval.

- (j) All building finishes and materials used on the exterior of the building shall be robust, durable and resistant to vandalism to the satisfaction of the City.
- (k) Tandem car parking bays are to be dedicated to the use of the commercial tenancy staff car parking only.
- (l) Twelve bays, at one bay per dwelling, are to be allocated for the multiple dwellings & eight for the commercial unit including tandem bays.
- (m) Compliance with the requirement of the easements shown on the Certificate of Title for the said lot to the satisfaction of the City of Joondalup and all development is to be contained within the cadastral boundaries of the subject lot. (It is noted that the easement on the submitted plans does not appear to be correct and changes are required to be shown at the building licence stage).
- (n) Canopies shall have a minimum height clearance of 2.75 metres and have a minimum width of 2.0 metres (this includes any attached structures).
- (o) The existing footpath is to be extended to the property line at a 2% grade to match the existing grade.
- (p) No structures, including downpipes etc, are permitted within the road reserve.
- (q) The bins must be serviced from the bin store (at additional cost to the landowner) and must not be positioned along the Right-of-Way to the satisfaction of the City.
- (r) Bin store to be increase in size to be able to accommodate a minimum of 23 bins for the service apartments and multiple dwellings plus additional space to be allocated for the restaurant to the satisfaction of the City.
- (s) Entry driveway to have 1.5m to 1.5 metre sightlines to the satisfaction of the City.
- (t) The serviced apartment being used for short-term accommodation only to the satisfaction of the City.
- (u) One store of a minimum dimension of 1.5 metres and area of 4m² to be provided for each multiple dwelling in accordance with the Residential Design Codes 2002.
- (v) A minimum of twenty-two car parking bays are to be provided.
- (w) Disabled access to be provided in accordance with the Building Code of Australia.

- (x) The parking bay/s, driveways and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the City prior to the development first being occupied. These works are to be done as part of the building programme.
- (y) Disabled carparking bays located convenient to the building entrance and with a minimum width of 3.2 metres, to be provided to the satisfaction of the City. Provision must also be made for disabled access and facilities in accordance with the Australian Standard for Design for Access and Mobility.
- (z) An onsite stormwater drainage system with the capacity to contained a 1:100 year storm of a 24 hour duration is to be provided prior to the development first being occupied ad thereafter maintained to the satisfaction of the City. The proposed stormwater drainage system is required to be shown on the Building Licence submission and be approved by the City prior to the commencement of construction.
- (aa) The driveway/s and crossover/s to be design and constructed to the satisfaction of the City before the occupation of the development.
- (bb) The development is to comply with the provisions of the City of Joondalup Health Local Law 1999 for the serviced apartments to the satisfaction of the City.
- (cc) A lodging house manager is to reside continuously on the premises.
- (dd) Café/restaurant kitchen to comply with the Health (Food Hygiene) Regulations 1993.
- (ee) The communal laundry is to be maintained for the use of lodgers within those service apartments where full/separate laundry and bathroom facilities are not provided within the units.
- (ff) Mechanical services plan to be provided with the building licence application for approval to the satisfaction of the City.
- (gg) The provision of 35 car parking bays on site.

FOOTNOTE:

- 1 In relation to condition 3(gg) cash-in-lieu payment will be accepted in regard to the shortfall of 13 bays.
- 2 The cash value that will be accepted for each parking bay is the sum of the construction cost and land component. The cash value that will be accepted for each parking bay is the sum of the construction cost and land component. A sum of \$8 100 per parking bay has been adopted for this purpose. Cash-in-lieu parking will contribute towards a fund for the Council to meet future parking demand within the locality.

MOVED Cmr Clough, SECONDED Cmr Smith that consideration of the application for planning approval dated 27 April 2004 submitted by R-A-D on behalf of Mimi Ferguson for mixed-use development Lot 517 (91) Reid Promenade, Joondalup be DEFERRED until the Council meeting to be held on 14 December 2004 to allow the Commissioners to consider the revised information provided on the matter.

The Procedural Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 12 refers

To access this attachment on electronic document, click here: [Attach12brf161104.pdf](#)

**CJ287 - 11/04 COMMERCIAL UNIT DEVELOPMENT CITY
NORTH LOT 511 (65) GRAND BOULEVARD
JOONDALUP – [18233]**

WARD Lakeside

CJ041116_BRF.DOC:ITEM 15

PURPOSE

To request the Joint Commissioners' determination of an application for a commercial development in the City North precinct of the City Centre.

EXECUTIVE SUMMARY

An application has been received from Vespoli Constructions for the development of a building for eight (8) commercial units within the City North Precinct of the Joondalup City Centre. Overall the proposal comprises 685m² of commercial space. The building is 2 storeys in height and includes parking from the rear laneway. The density, height and urban form of the development are compatible with the overall City Centre environment.

Discretion is sought under the City's District Planning Scheme No 2 (DPS2) in regard to parking requirement. Given that the development will contribute to the desired character of the City Centre area and is compatible with existing developments, the proposed development is supported.

BACKGROUND

Suburb/Location: Joondalup
Applicant: Vespoli Constructions
Owner: Acre Realty Pty Ltd, Mr R Harman, Ms H Harman, Mr R Reynolds and Ms U Reynolds
Zoning: **DPS:** Centre
 MRS: Urban
Strategic Plan: Joondalup City Centre Development Plan and Manual (JCCDPM)

Lot 511 is currently vacant and falls within the City North area of the Joondalup City Centre, where it is designated for General City Use. The preferred uses are residential, retail, office, accommodation, residential, leisure and entertainment, cultural facilities, community facilities and medical suites.

DETAILS

The proposed development includes the following features:

Statutory Provision:

The provisions of DPS2, the JCCDPM and the R-Codes control development within this area.

District Planning Scheme No 2

The site is zoned “Centre” under DPS2 and is subject to the Joondalup City Centre Development Plan and Manual.

When determining this application Clauses 4.5, 4.8 and 6.8 of the DPS2 apply and are relevant:

4.5 Variations to Site and Development Standards and Requirements.

- 4.5.1 Except for development in respect of which the Residential Planning Codes apply and the requirements set out in Clauses 3.7.3 and 3.11.5, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.*
- 4.5.2 In considering an application for planning approval under this clause, where, in the opinion of Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is subject of consideration for the variation, the Council shall:*
- (a) consult the affected parties by following one or more of the provisions for advertising uses pursuant to clause 6.7.1; and*
 - (b) have regard to any expressed views prior to making its decision to grant the variation.*
- 4.5.3 The power conferred by this clause may only be exercised if the Council is satisfied that:*
- (a) approval of the proposed development would be appropriate having regard to the criteria set out in Clause 6.8; and*
 - (b) the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.*

4.8 Car Parking Standards

4.8.1 *The design of off-street parking areas including parking for disabled shall be in accordance with Australian Standards AS 2890.1 or AS 2890.2 as amended from time to time. Car parking areas shall be constructed and maintained to the satisfaction of the Council. The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in Table ,2 the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.*

4.8.2 *The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in Table 2 the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.*

4.11 Car Parking – Cash in Lieu or Staging

4.11.2 *Council may accept cash- in- lieu of the provision of any required land for parking subject to being satisfied that there is adequate provision for car parking or a reasonable expectation in the immediate future that there will be adequate provision for public car parking in the proximity of the proposed development.*

6.8 Matters to be considered by Council

6.8.1 *The Council when considering an application for Planning Approval shall have due regard to the following:*

- (a) interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
- (b) any relevant submissions by the applicant;*
- (c) any Agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;*
- (d) any planning policy of the Council adopted under the provisions of clause 8.11;*
- (e) any other matter which under the provisions of the Scheme, the Council is required to have due regard;*
- (f) any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;*
- (g) any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;*
- (h) the comments or wishes of any public or municipal authority received as part of the submission process;*

- (i) *the comments or wishes of any objectors to or supporters of the application;*
- (j) *any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and*
- (k) *any other matter which in the opinion of the Council is relevant.*

Development Standards Table

The following table summarises the development details:

Standard	Required	Provided
Front Setback	0m	0m
Side Setback	As per BCA*	0m
Plot Ratio	1.0 1018m ²	0.672 (685m ²)
Height	3 storeys maximum	2 storeys

*Under the BCA a nil side setback can be permitted for buildings. Compliance with the BCA will be confirmed at the Building Licence stage.

Consultation:

The proposed development was not advertised, as the form of development as expected under the JCCDPM and is a preferred use.

Strategic Implications:

It is likely that this commercial development proposal will contribute to meeting the projected demand for commercial space for the increasing population of the City Centre area. The subject site is located close to the Joondalup Hospital and the applicant has indicated that they have identified a demand within the market for consulting rooms within this location.

It is considered that the proposal is in line with many objectives of the City's Strategic Plan and City Development.

COMMENT

Urban Design

The proposed zero setback to Grand Boulevard will contribute to the urban walls, which are expected to contribute to the civic design goals for the City. The impact of this development on any of the adjacent residential/commercial areas is likely to be minimal. The upper floor units have windows that overlook the public streets and therefore provide surveillance of public areas. The building can be accessed internally from the public street and the car parking area at the rear.

Land Use

As the proposal for commercial space is a preferred general city use for which the lot has been earmarked under the JCCDPM. In this form the development is flexible enough, in the future, to accommodate the permitted uses under the JCCDPM including consulting rooms, retail, entertainment and restaurant/café.

Plot Ratio

The plot ratio of the commercial development is considered to be appropriate as it is integrated with other existing developments in the area and will generally add value to the City Centre by having quality commercial space and creating employment opportunities. The commercial premises may in the future accommodate other permitted uses under the JCCDPM including office, consulting rooms, entertainment and/or café. Please note that the proposed development complies with the required plot ratio.

Car Parking

The JCCDPM does not specify car parking standards for this precinct. Clause 4.8 of DPS2 provides that, where no parking standards are provided, a car parking standard is to be determined. The car parking ratios below are considered to be appropriate, as the standards have been consistently applied to developments throughout the City. It is recommended the Council exercises discretion under clause 4.8 of DPS2 and applies the following car parking ratios.

Use	Parking Provision	No of Bays Required	No of Bays Provided
Commercial	1 Bay per 30m ²	23	22 bays are provided

The proposed development requires 23 car parking bays, 22 bays have been provided, as such the applicant has requested that a shortfall of 1 bay be considered along with a cash in lieu payment. The approval of a shortfall of one (1) car parking bay is considered appropriate as:

- Access for the parking is via the rear lane not Regent Park Road thus minimising disruption to vehicle and pedestrian movement. The applicant had originally proposed to provide vehicle parking on site via Regent Park Road, this proposal was not supported by City of Joondalup Infrastructure Management Services due to safety issues;
- The parking shortfall and proposed cash-in-lieu requirement is only 4% of the total parking requirement;
- There is opportunity in the future, if it is determined that a need exists to modify the road reserve and provide on street parking within the locality of the proposed development.

It is therefore recommended that, in accordance with Clause 4.5 of DPS2 and having regard to the criteria of Clause 6.8, the Joint Commissioners determine that a parking requirement of 23 bays is appropriate in this instance and that the applicant pay the City of Joondalup cash-in-lieu of an additional one (1) required parking bay. The standard valuation for a car parking bay within the Joondalup City Centre is \$8100.00. This valuation is applied to conditions of development approval where cash in lieu for parking is considered appropriate.

Setbacks

Under the JCCDPM, a nil front setback is required, indicating that the desired outcome is the creation of strong urban spaces, with urban walls creating a strong presence to the street. The nil setback essentially promotes the interaction between the office tenancies and the adjoining public streets, creating animated spaces at a human scale.

Conclusion

The proposed development will be a positive addition to the City Centre. It will provide accommodation for commercial facilities and or other preferred uses to meet the future demands of the growing City Centre. There will be the creation of urban area that is compatible with the overall City Centre environment. Therefore the setbacks and car parking standards are considered appropriate in this instance.

It is therefore recommended that the development be approved, subject to appropriate conditions.

ATTACHMENTS

Attachment 1	Location Plan
Attachment 2	Development Plans

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Smith, SECONDED Cmr Fox that the Joint Commissioners:

- 1 EXERCISE discretion under clauses 4.5, 4.8.2 of District Planning Scheme No 2 and determine that the parking standards of 1 bay per 30m² for commercial space is appropriate in this instance;**
- 2 DETERMINE that a cash in lieu payment of \$8 100 for a shortfall of 1 carbay is appropriate in this instance;**
- 3 APPROVE the application dated 04 June 2004 submitted by Vespoli Constructions for a commercial development comprising 8 office units on the proposed Lot 511 (65) Grand Boulevard, Joondalup subject to the following conditions:**
 - (a) The provision of 23 car bays to be provided on site;**
 - (b) Bollards are required between the car park and regent park road as shown in red on the approved plans as barrier;**
 - (c) Prior to the issue of a building licence the applicant needs to submit a refuse management plan indicating how rubbish will be removed from site to the satisfaction of the City;**

- (d) The brick paved footpath is to be extended at a grade of 2% to the property boundary;
- (e) The gradient between the disabled parking bay and the building entrance at rear to be a maximum of 5%;
- (f) Provision must be made for disabled access and facilities in accordance with the Australian Standards for Design for Access and Mobility (AS 1428.1);
- (g) The disabled path of travel from the disabled parking bay must not be obstructed by parked vehicles;
- (h) The parking bays, driveways and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the City prior to the development first being occupied. These works to be done as part of the building programme;
- (i) An onsite stormwater drainage system with the capacity to contain a 1:100 year storm of the a 24 hour duration is to be provided prior to the development first being occupied and thereafter maintained to the satisfaction of the City. The proposed stormwater drainage system is required to be shown on the Building Licence submission and be approved by the City prior to the commencement of construction;
- (j) A separate application being made to the City for approval to commence development and sign licence prior to the installation of any advertising signage;
- (k) With reference to condition (a) design levels of the proposed development must ensure a smooth transition between the development and the adjoining pavement within the road reserve to the satisfaction of the City;
- (l) Any roof mounted or freestanding plant or equipment such as air conditioning units to be located and/or screened so as not to be visible from or beyond the boundaries of the development site;
- (m) The ground floor level of the building should be at the finished pedestrian paving level;
- (n) Roof where pitched shall be greater than twenty-five degrees otherwise parapets shall be provided to flat roofs;
- (o) The glazed area of the east west facades should not exceed 50% with the exception of the ground floor;

- (p) **Ground floor glazing for the commercial unit should be maximized. At least 50% of the area of the commercial unit shall be glazed and the horizontal dimension of the glazing shall comprise 75% of the frontage;**
- (q) **Obscured or reflective glazing shall not be used at the ground level;**
- (r) **Pedestrian shelter shall be provided to the commercial ground floor unit in accordance with the Joondalup City Centre Plan and Manual;**
- (s) **Any advertising signage shall be subject to an application for Planning Approval;**

Footnote:

A separate application is to be made to the City for Approval to Commence Development and sign licence prior to the installation of any advertising signage.

- 1 In relation to condition 3(a) cash-in-lieu payment will be accepted in regard to the shortfall of 1 bay.**
- 2 The cash value that will be accepted for each parking bay is the sum of the construction cost and land component. The cash value that will be accepted for each parking bay is the sum of the construction cost and land component. A sum of \$8 100 per parking bay has been adopted for this purpose. Cash-in-lieu parking will contribute towards a fund for the Council to meet future parking demand within the locality.**
- 3 It is advised that the City will not support the erection of telecommunications infrastructure on any part of the proposed building.**

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 13 refers

To access this attachment on electronic document, click here: [Attach13brf161104.pdf](#)

Manager, Approvals Planning and Environmental Services declared an interest that may affect his impartiality in CJ288-11/04 - Medical Centre Extension Lot 715 (110) Flinders Avenue, Hillarys, as one of the doctors at the practice is a personal acquaintance.

Manager, Approvals Planning and Environmental Services left the Chamber, the time being 1941 hrs.

CJ288 - 11/04 MEDICAL CENTRE EXTENSION LOT 715 (110) FLINDERS AVENUE, HILLARYS – [76550]

WARD - Whitfords

CJ041116_BRF.DOC:ITEM 16

PURPOSE

This report is for the Joint Commissioners to consider an extension to a medical centre at Lot 715 (110) Flinders Avenue, Hillarys in order to create additional commercial floor space within the commercial zone.

EXECUTIVE SUMMARY

An application has been received for an extension to the Hillarys Medical Centre. The proposal incorporates a number of commercial floor space uses and is an extension to the existing building. A dispensary is also included in the development, which is a retail use.

The application was advertised to the adjoining landowners for a period of twenty-one days with six objections being received. The objections received relate to increased overshadowing, loss of visual privacy, loss of acoustic privacy and general amenity concerns. There have been ongoing issues at the site in relation to light spill from the site and noise emanating from existing air conditioning systems.

The application generally complies with the requirements of District Planning Scheme No 2 (DPS2) but there are issues of planning concern relating to the impact of the building on the adjoining residential properties.

The City's officers have met with the applicants to discuss changes to the building design. The applicant declined the opportunity to redesign the building to reduce the impact on adjoining landowners. The application is recommended for refusal as it will adversely affect the adjoining residential properties.

BACKGROUND

Suburb/Location: Lot 715 (110) Flinders Avenue Hillarys
Applicant: Paterson Group Architects
Owner: Shawm Pty Ltd & Stag
Zoning: **DPS:** Commercial
 MRS: Urban

Previously the City has approved an application for the existing Shopping Centre and Medical Centre on the 18 November 2001.

DETAILS

Statutory Provision:

Hillarys Shopping Centre is classified as a Neighbourhood Centre under Policy 4.2 and is subject to development control provisions under this policy. Referral to the Western Australian Planning Commission (WAPC) is not required, as the development does not exceed the 4,500m² retail (shopping) Net Lettable Area (NLA) maximum defined by Policy 4.2. Schedule 3 of the Scheme limits the development of the site to 3,000m² NLA maximum. Any approval issued would require the floorspace limited to comply with the requirements of the Scheme.

When considering an application for Planning Approval the following clauses of DPS2 are specifically relevant to this application:

3.7 Commercial Zone

3.7.1 The Commercial Zone is intended to accommodate existing shopping and business centres where it is impractical to provide an Agreed Structure Plan in accordance with Part 9 of the Scheme.

The objectives of the Commercial Zone are to:

- (a) make provision for existing retail and commercial areas that are not covered by an Agreed Structure Plan;*
- (b) provide for a wide range of uses within existing commercial areas, including retailing, entertainment, professional offices, business services and residential.*

3.7.2 All land contained in the Commercial Zone shall specify a maximum retail net lettable area (NLA) which relates to retail floor area. The maximum NLA shall be included in Schedule 3 of this Scheme and shall bind the development of the land to no more than that area specified.

3.7.3 Notwithstanding the provisions of clause 3.7.2, the floorspace figures contained within Schedule 3 shall be adhered to except as otherwise varied by an Agreed Structure Plan for the centre locality as adopted by the Council and the Western Australian Planning Commission.

6.8 Matters to be considered by Council

6.8.1 The Council when considering an application for Planning Approval shall have due regard to the following:

- (a) *interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
- (b) *any relevant submissions by the applicant;*
- (c) *any Agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;*
- (d) *any planning policy of the Council adopted under the provisions of clause 8.11;*
- (e) *any other matter which under the provisions of the Scheme, the Council is required to have due regard;*
- (f) *any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;*
- (g) *any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;*
- (h) *the comments or wishes of any public or municipal authority received as part of the submission process;*
- (i) *the comments or wishes of any objectors to or supporters of the application;*
- (j) *any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and*
- (k) *any other matter which in the opinion of the Council is relevant.*

6.9 *Powers to determine applications for planning approval*

6.9.1 *The Council having regard to the appropriateness of any proposed application for planning approval may:*

- (a) *refuse to grant its approval;*
- (b) *grant approval without conditions;*
- (c) *grant approval subject to such conditions and requirements as it deems fit;*
or
- (d) *defer consideration or determination of the application to a later meeting if in the Council's view additional information for, or more detailed investigation of the proposal is required.*

6.9.2 *Without limiting the generality of the foregoing, the Council may, where it deems appropriate, grant a Planning Approval which:*

- (a) *if not commenced, substantially commenced, or completed as the case may be within the period of time specified in the Approval shall cease to be valid; or*
- (b) *permits the use and/or other development of land to occur for a limited period of time specified in the approval, after the expiration of which period the use and/or other development shall cease and unless otherwise stipulated by the Council the site shall be restored to the condition existing at the time when the Approval was given, unless a further Approval has been sought and obtained.*

6.9.3 *The Council shall convey its decision to an applicant by way of the form prescribed under the Metropolitan Region Scheme for such purpose, or in any format that may be determined by the Council from time to time.*

6.9.4 *If the Council in exercising any discretion is required by the Scheme or by any other written law to have due regard to any matter or thing, it shall be deemed to have had due regard to such matter or thing unless the contrary is expressly stated in the Minutes of the relevant Council Meeting or the document communicating the determination for decision to the applicant, or is otherwise proved. In any event, due regard to the matter or thing by the responsible Committee or officer of the Council under delegated authority shall be sufficient compliance.*

Consultation:

The proposal was advertised for a period of twenty-one days in accordance with the requirements of the Scheme. From the public consultation six submissions of objection were received. The issues of the submissions are summarised in the table below:

Objection	Officer Comment
Windows, the disruption and loss of privacy	It is noted that windows directly overlook into adjoining residential properties. According to the applicant, these windows will be obscure glass and thus there should be no visual privacy issues. The requirement for obscure glass should be a condition of Planning Approval if the application is approved.
Air-conditioning plant, visual and audio impact	It is noted that the air-conditioning plant is located towards the residential side of the development. All air-conditioning units would be required to comply with the requirements of the Environmental Protection (Noise) Regulations 1997. It also may be prudent to locate the air-conditioning away from residential areas. From an aesthetic perspective a privacy screen will screen the plant from view and as such it is not expected that such development will be aesthetically inappropriate.
Undercover parking, sound proofing and security	Noise from the undercover parking area is of particular concern, as the enclosed car parking area may amplify noise.
Potential for commercial floor space to be used for activities outside of normal trading hours.	Commercial areas are utilised after hours as this in the nature of the commercial zone. However, hours of operation could be addressed by a condition of Planning Approval.

Antisocial behaviour	A number of the submissions cite antisocial behaviour within the existing shopping centre as a potential problem. A Planning Approval cannot control antisocial behaviour associated with activities within the centre. However, the design of the building could assist in ameliorating such impacts.
The height of the building will completely dwarf and block out any winter sun	Noted. The building is of two-storey construction and will potentially block out winter sun to the adjoining residential properties. In terms of commercial development there is no standard relating to overshadowing of adjoining residential properties. In this sense it is considered appropriate to utilise the standards set out within this Residential Design Codes, which allow for 25% of residential properties to be overshadowing with a residential density of R 25 or under.
The actual definition of the building's usage is very obscure. What is meant by non-retail commercial floorspace.	<p>A number of different use classes can be accommodated within the Commercial Zone subject to the approval of the City. Such development may be subject to a Change of Use approval under the Scheme and at this stage the City would decide the appropriateness of the use class.</p> <p>The extent of retail\commercial uses on the site requires further clarification to finalise floorspace allocations and compliance with the Scheme.</p>
The scope of the building is excessive	The total height of the building will be approximately 8.2 maximum. In terms of the scope of the surrounding residential development the bulk of the building could be considered excessive. This is coupled with the elevation of the building above the adjoining residential properties.

Policy Implications:

The City's Policy 3.2.8 Centres Strategy applies to the subject site. Under the policy the site is classified as a Village Centre. The Policy recommends that:

Council progressively include village centre and peripheral areas, about 100 metres, in a centre zone in the Town Planning Scheme as structures plans are approved.

The Council consider any proposal for expansions of a centre or the establishment of mixed business in peripheral areas in the context of an approval structure plan based on main street principles.

It is considered that the proposal is consistent with the requirements of the Centres Strategy.

Strategic Implications:

Expansion of shopping centres should be limited to the floor space cap specified within Policy 4.2 and Schedule 3 of the Scheme. If approval is considered, the development should be conditioned to reflect the maximum retail floorspace requirements under the Scheme and Policy 4.2.

COMMENT

The additions will involve a two-storey extension of the building along the southern boundary. The extensions will match that of the existing building and thus create symmetry of design.

The addition to the Medical Centre is proposed to include a number of commercial uses. According to the applicant these may include:

- Professional offices
- Travel agents
- Video Stores
- Community radio
- Health Club
- Wellness centre
- Bank

The above-mentioned uses are approvable within the Commercial Zone. It should be noted that the Video Store and the Dispensary are considered to be a retail use under Policy 4.2 not a commercial use as purported by the applicant.

Development Standards Table

The following table summarises the development details:

Standard	Required	Provided
Front Setback	9.0m	Existing
Side Setback	3.0m	3.0m
Rear Setback	6.0m	22.2m
Net Retail NLA	Maximum 3000m ²	Subject to ongoing discussions with the landowner.
Car Parking	287	295

Building Bulk and Amenity

The building will impact on the adjoining residential development. The size of the building and proximity to the lot boundary and the elevation of the site above the adjoining residential properties exacerbate this. Whilst the site is zoned Commercial and such development as that proposed on the site can be permitted, such development should not adversely impact on adjoining residential properties. Attachment five shows the proximity of commercial development to the adjoining residential area.

The impact of the bulk of the building is exaggerated by the fall over the site from the front to the rear, however the building maintains a floor level approximately the same as the natural ground level at the front of the site. This can be seen on elevation one. The fall across the site has been used to provide undercover parking to accommodate an increase in parking demand generated by the proposal.

The building will be a maximum height of approximately 8.2 metres and has a setback of three metres from the boundary. If Policy 3.1.9 Height and Scale of Building within a Residential Area were applied as a guide to the site, the building would not comply as three metres from the boundary permits a maximum height of 6.5 metres. The 8.2 metre height should be noted as the worst-case scenario with approximately 7.8 metres being the best. The application of Policy 3.1.9 to the site, as a guide, would demonstrate that the development tends to be out of character with the surrounding residential development.

The applicant has prepared diagrams showing the extent of overshadowing over adjoining residential properties to the south of the site. Most of these properties are located below the level of the shopping centre, which exacerbates the affect of overshadowing.

From these diagrams it is evident that the adjoining residential properties will be overshadowed. The Residential Design Codes measure overshadowing on 21 June at 12 noon, as a worst case scenario. These diagrams show the overshadowing of residential properties will be increased by the proposed development. The Joint Commissioners need to consider if the overshadowing will cause a significant reduction in residential amenity for the adjoining landowners.

If the R-Codes were applied to the site the proposed development would comply with the maximum overshadowing permitted of 25% of the adjoining property.

It would seem more appropriate for the building to be designed to follow the natural ground level of the site and reduce the overall height of the building, which in turn would reduce the impact of the building on the adjoining residential properties. This though would possibly remove the under cover car parking area and may cause a shortfall of car parking.

The redesign of the building to follow the natural ground level was suggested to the applicant. The applicants expressed that they did not want to change the building design.

Visual and acoustic privacy

Visual and acoustic privacy have been considered as major concerns to adjoining residents. To mitigate visual privacy implications, windows facing the residential properties could be obscured and fixed. The applicant has demonstrated a willingness to do this.

From an acoustic perspective the location of the air-conditioning plant facing the residential properties is of concern, as it would transpose noise directly onto the adjoining residential development. The air-conditioning and other plant should be located away from the residential areas towards the shopping centre. There are already ongoing complaints from residents regarding noise from air-conditioning plant within the centre. It is noted that the applicant intends to screen the air-conditioning unit from an aesthetic perspective and comply with the Environmental Protection (Noise) Regulations.

Noise from vehicles from the undercover car parking area is of concern as it is generally amplified by partial enclosing. The noise from vehicles in this area will affect the adjoining landowners and covering of the car parking will generally exacerbate this issue. The car parking area could be physically enclosed to rectify this situation. Though this would add to the bulk and scale of the building.

Light spill

There has been an ongoing issue of compliance with the requirement of the previous condition of Planning Approval relating to light spill. Any additional lighting should be designed in such a manner so as not to affect the surrounding premises.

Car parking

There are 295 car-parking bays provided on site. The applicant has suggested that a car-parking ratio of one bay per 30m² of NLA is required as the proposed uses for the building fall within the use classes of Office, Health Centre and Bank. The Office and Health Centre use classes according to Table 2 Car Parking Standards of the Scheme require car parking at the rate of 1 bay per 30m² NLA. The bank use class is not specifically listed within Table 2, however it is considered to have the same car parking requirements as an office.

If the standard of 1 bay per 30m² of NLA were to be used to determine car parking, then the uses within the site would be restricted to such uses, or uses which have a lesser car parking demand. This could be required as a condition of Planning Approval. The car parking demand provided by the applicant for the site is summarised in the table below.

Use Class	Ratio	Required number of bays	Total
Shopping centre	As per previous Development Approval	240 (as per previous development application)	240
Medical centre	5 per practitioner 1 per 30m ²	25 4	29
Additions to medical centre	1 per 30m ²	11	11
		Total bays required	280
		Total on site	295

The land use of the proposed commercial extension will be limited to commercial floor space land uses with a car parking requirement of 1 bay per 30m² or a change of use application will be required if this application is approved.

Retail and commercial land uses

There has been ongoing debate on the percentage of retail and commercial land uses on the site. The site is restricted to a maximum of 3, 000m² of retail floor space under the Scheme. The debate regarding whether the development complies with shop floor space requirement has centred on the restaurant uses on the site. Restaurant uses are currently classified as a shop

for the purpose of calculating shopping floor space and thus count towards the overall 3 000m² allocated to the site. However, at the time of approval restaurant uses were not counted as shopping NLA and this approval remains valid. Notwithstanding this argument, there is no additional retail floor space proposed by the applicant. This is clearly demonstrated by the application as it is detailed that only 326m² of new commercial floor space has been applied for.

Conclusion

There have been valid planning concerns raised by adjoining landowners as part of the public consultation process. These concerns were put to the applicant during a meeting with the City's Officers. The applicant generally did not wish to alter the building design from that submitted. It is possible to design a building that does not adversely impact on the amenity of the adjoining residential zone to that which is proposed.

It is considered that though the residential dwellings abutting the commercial development are unlikely to enjoy standards of amenity from those who do not, the application is beyond what is considered acceptable abutting a residential area and the proposed design does not demonstrate any sympathetic relationship to the adjoining residential zone. Therefore, it is recommended that the application be refused. If the applicant is aggrieved by the decision they have a right of appeal to the Town Planning Appeals Tribunal within sixty days of the date of determination.

ATTACHMENTS

- Attachment 1: Site Plan
- Attachment 2: Floor Plans
- Attachment 3: Elevation
- Attachment 4: Overshadowing diagrams
- Attachment 5: Aerial Photograph

VOTING REQUIREMENTS

Simple Majority

ADDITIONAL INFORMATION

The City's Officers have met with the applicant regarding the proposed development and amended plans (please see attachments for amended plans – Appendix 26 refers).

The applicant has amended the roofline of the building to reduce the overall height of the building and thus potentially limit the impact of the building on adjoining properties.

The applicant has also brought the building into compliance with Building Threshold Envelope (BTE) prescribed by Policy 3.1.9. Whilst the building may comply with BTE, it has only been used as a guide in this instance. The BTE does not apply to commercially zoned land, therefore it is important to note that the BTE is not used as the basis for refusal.

The building height closest to the boundary is 6.015 metres and the overall height of the building is 8.465 metres at its height point, as shown on the attachments. The maximum ridge height is 12.650 metres from the lot boundaries. The overall wall height is approximately the same as the original plans submitted.

The applicant has indicated that the screening will be undertaken to the undercover car parking area facing the residential properties to the west. Not to the southern boundary towards the residential properties

During the Deputation Session on Tuesday night, the applicant discussed the car parking under the existing and proposed building in relation to noise. The applicant stated that the parking under the existing and proposed development was secured and access was via a security card. Essentially, this means that only staff can use the bays under the development. This is not a desirable situation as all car parking bays should be available for public access, otherwise a shortfall of car parking bays would be present on site.

There are 295 car parking bays present on site with a car parking demand of 280. There are 41 bays in total under the existing medical centre and proposed development. Therefore, it is clear that restricting access to staff only during business hours for these bays, will create a car parking shortfall as car parking bays are calculated for both staff and patron use. This situation negates the applicant's position that very little noise will generate from this area because the parking is only used by staff. The applicant has advised that the car parking would be secured after hours. This is not considered to be an issue. If the Commissioners considered approving the development, a condition of approval could be recommended to allow staff and patrons use of the undercover parking during business hours.

With regard the meeting the Officers had with the applicant prior to the report being written, this was instigated on the Officers' request to assist in resolving issues relating to the building. At this meeting it was suggested to the applicant that the building should be redesigned to assist in reducing the impact of the building on the adjoining properties. It was suggested that this redesign should follow the natural contours of the land rather than an adjustment of the roofline as submitted by the applicant. The applicant declined to do this for a variety of reasons.

With regard to the amended plans submitted by the applicant, it is not considered that these will greatly reduce the impact of the building on the adjoining residential properties when compared to the original plans submitted. Therefore no change to the recommendation is required. Moreover, the change in rooflines exposes the air condition plant, which is considered unsightly.

MOVED Cmr Smith, SECONDED Cmr Clough that the Joint Commissioners REFUSE the application for Planning Approval dated 8 March 2004 submitted by Greg Paterson architects on behalf of Shawm Pty Ltd & Stagg et al for proposed addition to Medical Centre Hillarys Shopping Centre on Lot 715 (110) Flinders Avenue, Hillarys for the following reasons:

- 1 The bulk and scale of the building is considered inappropriate adjoining a low density residential area and approval of the development would be contrary to orderly and proper planning of the locality;**

2 The size, shape and character of the parcel of land to which the application relates and the nature and siting of the proposed development exacerbate the impact of the building on the adjoining properties.

Cmr Smith spoke to the Motion.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendices 14 and 26 refer

*To access this attachment on electronic document, click here: [Attach14brf161104.pdf](#)
[Attach26min231104.pdf](#)*

Manager, Approvals Planning and Environmental Services entered the Chamber, the time being 1944 hrs.

CJ289 - 11/04 PROPOSAL TO UNDERTAKE COMMUNITY CONSULTATION FOR A NEW SPECIAL CARE SCHOOL AT 15 CHESSELL DRIVE, DUNCRAIG – [57094]

WARD South Coastal

CJ041116_BRF.DOC:ITEM 18

PURPOSE

To request Commissioners to recommend advertising for a new special care school and rehabilitation facility at 15 Chessell Drive, Duncraig. The facility is a joint project between the Association for the Advancement of Brain Injured Children of WA (Inc) (AABIC) and Valued Independent People (Inc) (VIP).

EXECUTIVE SUMMARY

The AABIC, NASCHA and VIP are seeking planning approval to undertake a joint building project at 15 Chessell Drive, Duncraig. The site currently accommodates a demountable building (approximately 200m² in area), which was erected on the lot in 1979 and used by AABIC and NASCHA to provide services to the disability sector.

The intention of the proposed development is to remove the existing demountable building located on the site and to construct a new building accommodating the facilities already provided and adding an additional new centre for VIP activities. The proposed facility would have an area of approximately 950m².

The site is currently zoned residential R20 under District Planning Scheme No 2. The proposed use is not listed within the City of Joondalup Zoning Table, however the use would be consistent with the intent of the Residential Zone within the scheme. It is recommended that the Commissioners determine that the application constitutes a use not listed and

endorses the advertising of the proposed development to affected landowners prior to making a determination on the proposed development.

BACKGROUND

Suburb/Location: Duncraig
Applicant: Helen Morgan
Owner: The Association for the Advancement of Brain Injured Children of WA (Inc)
Zoning: **DPS:** R20
MRS: Urban

The proposal is to construct a joint special care school and rehabilitation facility to be used by AABIC, NASCHA and VIP. All of these not for profit organisations provide services to clients with intellectual disabilities. The new purpose built facility would replace an existing demountable building that is used by AABIC and NASCHA.

It is considered that the proposal, which includes the removal of the existing buildings, does not constitute an extension or alteration to the existing non-conforming use as the building is proposed to be removed from the site. Therefore, the proposed new use is one which is not classified by District Planning Scheme No.2 and therefore the proposal must be treated in accordance with the use not listed provisions.

AABIC is a not-for-profit organisation that aims to assist and support families of brain injured children on a home neurological development program and other therapy programs including the development of gross motor skills. AABIC is run by a seven member voluntary committee who manage a program to provide loan equipment, subsidy assistance and advocacy and support to its client families.

NASCHA (Macedonian word meaning “ours”) is an organisation that promotes and supports independent living and integration within the community and to improve the quality of life for people with disabilities.

VIP is a not-for-profit organisation that aims to provide flexible home and neighbourhood daytime occupation, community access and participation services to people with a disability. VIP’s clients are mainly young adults with a range of moderate to severer intellectual disabilities, often combined with physical disabilities. VIP currently provides services to 82 clients operating from three centres located in residential areas of Nollamara and Girrawheen and Hamersley.

A joint development between AABIC, NASCHA and VIP would benefit these organisations and the disability sector in general by providing the additional financial and human resources required to enable the optimal development and use of the site.

DETAILS

Statutory Provision:

The provisions of District Planning Scheme No 2 (DPS2) and the Residential Design Codes control development within this area.

When determining this application Clauses 3.3 of the DPS2 apply and are relevant:

3.3 *Unlisted Uses*

If the use of the land for a particular purpose is not specifically mentioned in the zoning table and cannot reasonably be determined as falling within the interpretation of one of the use categories the Council may:

- (a) determine that the use is consistent with the objectives and purpose of the particular zone and is therefore permitted; or*
- (b) determine that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the procedures set down for an “A” use in Clause 6.6.3 in considering an application for planning approval; or*
- (c) determine that the use is not consistent with the objectives and purpose of the particular zone and is therefore not permitted.*

COMMENT

Centre Operations

AABIC would use the centre primarily for the administrative use of the secretary during the week and other members of AABIC and clients would attend the centre from time to time to access hire equipment and resources. AABIC would also hold monthly board meetings and other occasional meetings at the centre. Three (3) offices within the centre would be rented to Nascha primarily for administration and counselling services.

The centre will primarily be used for the daily operations of VIP to provide “alternatives to employment” and occasional respite services. VIP’s centre based activities contribute to the continuing education and development of clients in a number of areas including general life skills, social skills and physical skills. The approximate number of clients visiting the centre on a daily basis will be 22, these clients will be supervised by 10 staff members. Most of the clients are transported to the centre by mini bus between the hours of 8:30am and 9:30am and leaving the centre approximately between 2:30 and 3:00pm. Some clients (six to twelve) and staff will remain at the centre after 2:30pm to engage in additional activities.

Rational for the Proposal

A joint development between AABIC, NASCHA and VIP would benefit these organisations and the disability sector in general by providing the additional financial and human resources required to enable the optimal development and use of the site. The organisations have a close association in the provision of services. Part of VIP’s role is to provide “further education” to their clients many of whom participate in AABIC programs as children. Greater collaboration would assist many clients in the transition from childhood to adulthood. The proposed centre would assist in meeting the needs for disability services and facilities in the northern suburbs

Design and amenity

The proposal for the new special care school and rehabilitation facility is for a development totalling 950m². The development would be constructed to specifically cater for the needs of clients with disabilities and would include:

- Living areas
- Activity rooms
- Kitchens, bathrooms and storage facilities
- Training and meeting rooms; and
- Administrative office facilities

The proposed brick and tile building would be positioned in the north-west of the block and would conform to residential setback requirements and designed to fit in with and complement the surrounding environment. The applicant is proposing where possible to retain mature trees and shrubs and provide additional landscaping to assist in ensuring that the project is aesthetically appropriate to the residential zoning. The Percy Doyle Reserve is adjacent to the western and southern boundaries of the property and a pocket of bushland on the southern part of the reserve screens views of the property from houses located to the south and south east.

There is currently a smaller scale facility (approximately 200m²) use by AABIC and NASCHA that has been operating at the site since 1979 and the proposed development will generally not detract from the residential nature of the area. For these reasons it is recommended that the Commissioners determine that the proposed use may be consistent with the objectives and purpose of the residential zone and as such that the procedures set down for an “A” use in Clause 6.6.3 of the scheme may be initiated and the proposed development be advertised prior to the determination of the application for planning approval at 15 Chessell Drive, Duncraig

ATTACHMENTS

Attachment 1	Location Plan
Attachment 2	Development Plans

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Smith, SECONDED Cmr Anderson that the Joint Commissioners:

- 1 DETERMINE that the proposed special care school at Reserve 35844 (15) Chessell Drive, Duncraig, is a use not listed but is consistent with the objectives of and purpose of the zone;**
- 2 ENDORSE the advertising of the proposed use at Reserve 35844 (15) Chessell Drive, Duncraig in accordance with the procedures set down for an “a” use in clause 6.6.3 of District Planning Scheme No. 2.**

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 16 refers

To access this attachment on electronic document, click here: [Attach16brf161104.pdf](#)

**CJ290 - 11/04 RETROSPECTIVE APPROVAL FOR ADDITIONS –
LOT 2 (160B) WATERFORD DRIVE, HILLARYS –
[43516]**

WARD Whitfords

CJ041116_BRF.DOC:ITEM 19

PURPOSE

For the Joint Commissioners to determine an application for retrospective approval for additions to a single house at 160B Waterford Drive, Hillarys.

EXECUTIVE SUMMARY

An application has been received for retrospective approval for additions to a single dwelling at the abovementioned site. The subject additions were approved previously under delegated authority on the 14 November 2003. The application proceeded to a Building Licence and the development was constructed. However, the builder did not construct the development in accordance with the approved Planning Approval or Building Licence, hence the need for the retrospective approval.

During the initial development approval process, the application was advertised for a period of 14 days and objections were received from the adjoining neighbour. The additions were approved despite the objections from the neighbour, as it was determined that the development would not significantly impact on his property.

The adjoining neighbour has made a representation to the Minister regarding the matter under Section 18(2) of the Town Planning and Development Act (TPDA). The representation has been referred to the Town Planning Appeal Tribunal (“the Tribunal”) and is being dealt with as an appeal. Simply put, the allegation is that the City failed to appropriately enforce the requirements of District Planning Scheme No 2 (DPS2) when dealing with the development application.

The development includes a number of variations to the Codes and the development exceeds the Building Threshold Envelope (BTE) as defined by Policy 3.1.9 Height and Scale of Buildings within a Residential Area.

It is recommended that the application for retrospective approval be approved as the variations applied for and the exceedance of the BTE is assessed to not adversely impact on the adjoining neighbour or the amenity of the locality.

BACKGROUND

At the meeting held on 2 November 2004 (Item CJ268-11/04 refers) the Joint Commissioners resolved to:

- 1 *DEFER consideration of the matter of retrospective approval for additions – Lot 2 (160b) Waterford Drive, Hillarys until the next Ordinary Meeting of the Joint Commissioners to be held on 23 November 2004 to allow for an opportunity for a special briefing to Commissioners on this item;*

- 2 *REQUEST the Acting Chief Executive Officer to arrange for a legal advisor to be available to answer commissioners' questions at the Briefing Session to be held on 16 November 2004.*

The site currently contains a two storey single house, which abuts via a two-storey parapet wall another dwelling of similar design at 160A Waterford Drive.

Previously, the City approved the subject development under delegated authority on 14 November 2003. The development was approved subject to the following conditions:

- 1 Fixed obscured screening to a minimum height of 1.6 metres to portion of the southern face of the upper deck as outlined in red on the approved plan;
- 2 Amendment of the front fence to be visually permeable 1.2 metres above adjoining ground level as defined by the Residential Design Codes;
- 3 The extension to be wholly contained within the subject property and in accordance with the easement and covenant provisions cited on the certificate of title.

The original Development Application for additions was advertised during the Planning Approval process to surrounding owners. The neighbour at 160A strongly objected to the proposal for the following reasons:

*'The development encroached into the adjoining property 160A Waterford Drive.
The upper level southern boundary wall
Upper level extensions to edge of the existing balcony will give rise to overlooking of adjoining private open space and window openings.
Kitchen and living room near common wall is unacceptable in terms of acoustic privacy.
Conversion of existing garage to living room unsuitable in terms of acoustic privacy.'*

Since the development was approved the adjoining landowner made a representation to the Minister under Section 18(2) of the TPDA. That representation is now being investigated by the Tribunal. The TPDA requires the matter to be dealt with as if it were an appeal. Simply put, the representation is that the City failed to appropriately enforce the requirements of DPS2 when dealing with the development application.

The Tribunal will provide a recommendation to the Minister for Planning and the Minister will advise of any further action.

During the appeal process it has been determined that the development was not constructed in accordance with the Development Approval and Building Licence issued for the development. As such, the applicant has lodged an application for retrospective approval to have the development approved. The as constructed plans of the development show that the following elements are not in accordance with the original planning approval:

- 1 Change of southern setback to deck from 6.985 to 6.918.
- 2 Change of northern setback to deck from 6.753 to 6.820.
- 3 Change in length of deck from 5.00 to 5.200 & northern face from 5.0 to 5.7.
- 4 Increased area of open sundeck.
- 5 Change in height of gable wall of ground floor living area from approximately 2.6 metres to approximately 3.8 metres.
- 6 Change in size of ground floor living area away from common boundary wall. Eastern wall increased from 1.7 to 2.860.
- 7 New gable roof in final plans not present on Development Approval.
- 8 Minor change in dimensions of gable to carport.
- 9 Carport width has increased from 6.0 to 6.3.
- 10 Width of front elevation has increased from 11.1 to 11.8.
- 11 Change to window and balustrade style on northern deck elevation.
- 12 Change in window style to ground floor Ensuite.
- 13 Change in length of northern living area wall from 3.647 to 3.465 & 3.261 to 3.220.
- 14 Change in fence alignment to comply with Development Approval conditions.
- 15 Change in height of mullion for deck window area on elevation three from approximately 1.1 to 1.3.
- 16 Change in height of mullion for deck window area on elevation two from approximately 1.1 to 1.3.
- 17 Change in overall window length for kitchen windows from approximately 1.7 to 2.1
- 18 Change of roofline on elevation three due to additional gables to front elevations.
- 19 Change of roofline on elevation two due to additional gables to front elevations.

The application also includes the addition of a garage door, which would change the classification of the existing carport to a garage under the Residential Design Codes (R-Codes) 2002 and would create a setback variation under the R-Codes.

There are also changes to the constructed dwelling from the approved Building Licence. These changes are being addressed by Approvals Services outside the scope of this application. The Building Licence process is separate from the retrospective planning approval process.

The application has been subject to a number of 'Directions Hearings' at the Town Planning Appeals tribunal to determine how to proceed in the appeal. The last directions hearing was on 10 September 2004, where it was determined that the application would proceed to a full hearing on 22 November 2004. The purpose of this was to allow the City to consider the application for retrospective approval prior to the full hearing.

During the appeal process, the neighbouring owner has lodged an extensive list of complaints regarding the development, which do not relate to the planning approval. These relate to damage to his dwelling incurred during the alterations to the dwelling at 160B and other matters. These will be further discussed within the report.

DETAILS

Suburb\Location: 160B Waterford Drive Hillarys
Applicant: Mr and Mrs Baumgartner
Owner: Mr and Mrs Baumgartner
Zoning: DPS2: Residential R20
MRS: Urban

The proposal includes a number of variations to the R-Codes including the following:

- 1 Front setback variation of Clause 3.2.3 to the garage of 1.5 metres in lieu of 4.5 metres.
- 2 Non-compliant front setback average of 6.0 metres in respect to Clause 3.2.1.
- 3 Variation to visual privacy requirement of Clause 3.8.1 of 4.8 metres in lieu of 7.5 metres to the southern boundary and 4.9 metres in lieu of 7.5 metres to the northern boundary from the proposed deck and sundeck.
- 4 Variation to visual privacy requirement of Clause 3.8.1 of 2.2 metres in lieu of six metres from the kitchen window to northern boundary and 1.5 metres in lieu of 6 metres from the meals area to the southern boundary.
- 5 Side setback variation of Clause 3.3.1 of 1.0 metres in lieu of 1.5 metres for the garage.
- 6 Side setback variation of Clause 3.3.2 (over height parapet wall to upper floor on the southern boundary).
- 7 Upper floor side setback variation of Clause 3.3.1 to the northern boundary of 2.1 in lieu of 3.5 metres to section of kitchen wall.
- 8 Side setback variation of 1.5 metres in lieu of 1.6 metres to Clause 3.3.1.

The proposal also exceeds the requirements of the City's Policy 3.1.9 Height and Scale of Buildings within a Residential Area, particularly along the southern boundary.

Statutory Provision:

When considering an Application for Development Approval and variations to the R-Codes the following clauses are relevant.

When determining an application clause 6.8 of the DPS2 applies as follows:

6.8 Matters to be considered by Council

6.8.1 The Council when considering an application for Planning Approval shall have due regard to the following:

- (a) interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
- (b) any relevant submissions by the applicant;*
- (c) any Agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;*
- (d) any planning policy of the Council adopted under the provisions of clause 8.11;*

- (e) *any other matter which under the provisions of the Scheme, the Council is required to have due regard;*
- (f) *any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;*
- (g) *any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;*
- (h) *the comments or wishes of any public or municipal authority received as part of the submission process;*
- (i) *the comments or wishes of any objectors to or supporters of the application;*
- (j) *any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and*
- (k) *any other matter which in the opinion of the Council is relevant.*

Residential Design Codes (R-Codes)

Clause 2.3.4 of the R-Codes allows for the exercise of discretion, which shall be exercised having regard to the clause 2.3.4 (2) of the R-Codes as follows:

2.3.4 (2) Discretion shall be exercised having regard to the following considerations:

- i. the stated purpose and aims of the Scheme;*
- ii. the provisions of Parts 2,3 and 4 of the Codes as appropriate;*
- iii. the Performance Criterion of Criteria in the contest of the R-Coding for the locality that correspond to the relevant provision;*
- iv. the explanatory text of the Codes that corresponds to the relevant provision;*
- v. any Local Planning Strategy incorporated into the Scheme;*
- vi. the provision of a Local Planning Policy pursuant the Codes and complying with sub-clause (5) below; and*
- vii. orderly and proper planning.*

Consultation:

The proposal was advertised for a period of 14 days in accordance with the R-Codes and Policy 3.1.9 requirements. From this advertising one objection and one non-objection were received. The submissions are summarised in the following table.

Comment	Officer Comment
No objections	Noted.
An approval shall not be granted if neighbours oppose, and the development has a severe negative affect on the adjoining property.	Neighbours comments are relevant, but there is no right of veto over a development proposal. It is not considered that the variation to the BTE or R-Codes will detrimentally affect the enjoyment of the objector's property. This is as most of the bulk of the development is imposed an existing parapet wall and roofline on the adjoining property.
Section 4.6.2 (b) requires the Council to have regard to any expressed view prior to making a decision. The City of Joondalup has failed to do so.	No decision on the retrospective approval for the development has been made. Any submissions received are carefully considered on their planning merits.
Section 6.8 requires that the Council has regard to any expressed view. The City of Joondalup has failed to comply with this clause as well.	Refer to above Officer comment.
In transfer document F455852, referred to in the Title, an easement been made to prevent changes to the common wall, and it only allows repair and maintenance of the existing building.	Any approval issued will be conditioned so as to contain the development within the lot boundaries and comply with the requirement of the party wall easement.
The common walls protection was carefully built for preventing sound transfer through the wall. The acoustic barrier has been totally destroyed with the new development.	Whilst the Codes note the acoustic privacy should be maintained there is no actually provision for this purpose within the Codes.
<p>The plans are not drawn correctly.</p> <p>The building on deck over pool not shown on the site plan.</p> <p>My building contours are incorrectly shown as straight lines without living room and other angling parts affecting my circle of vision. My building is removed sidewise and height wise compared with 160B, and not in a straight line as with his.</p> <p>My swimming pool and outdoor area within the circle of vision is not shown at all, and the circle of vision is not shown on the drawings.</p>	<p>The plans received for the retrospective approval are believed to be substantially accurate and are the plans assessed by the City to determine the proposal. The deck is shown on the site plan.</p> <p>The City is only considering the subject development in light of its relationship with the subject lot. There is no obligation by the applicant to draw buildings on adjoining sites. The City during the planning assessment process would confirm the location of the adjoining dwelling with Building Licence plans.</p> <p>The builder has not correctly annotated the cone of vision on the submitted plans. The City's Officers have assessed the correct cone of vision.</p>

<p>His NE extension of wall from my garage to his carport is angled away from the previous wall direction and my house wall direction giving an all new severe beam loading on the common wall not shown on the drawings.</p>	<p>Beam loading and construction details are not considered with the application for a Planning Approval, rather these matters are considered with a Building Licence.</p>
<p>My existing screen wall is severely damaged and not as the drawing text said to remain, on drawing 03.05. The same text says incorrectly square gutter not to intrude on neighbour's side. This gutter has been replaced with a wider one intruding 80mm on neighbour side.</p> <p>Western window at meals area not shown as overhung window 700mm from my border and on top of my outdoor area and pool.</p> <p>Original prescribed 1.6 metre screen on balcony up to 2.0 metres from end of balcony has not been done and the joke of replacing it with sliding and overhung windows provided with temporary removable film has been approved.</p> <p>Elevation one and two incorrectly drawn at connection to my house and the new gable exceeding the envelope does not comply with height or border distance regulation.</p>	<p>Noted, the damage to the building is a civil matter. The development, if approved, will be conditioned to comply with easement over the property and be retained within the lot boundaries as appropriate.</p> <p>The westerly window is shown on the application in an appropriate fashion. It is noted that the subject window does overlook into the adjoining property to the south. This will be dealt with in the appropriate manner.</p> <p>The previous Planning Approval for the site requires the window on the deck to be screened up until approximately 2.0 metres of the westerly extent of the deck. This has been achieved by providing an obscuring film to the windows. This satisfies the previous condition. Additionally these windows have been fixed and are not openable. The City's Officers have verified this.</p> <p>It is noted that the building gables were not built in accordance with the previous approved plans. However final plans have been submitted and development will be considered on this basis.</p> <p>Variation to setback and the development exceeding the building height envelope will be considered with this application.</p>

With the submission received from the adjoining neighbour many complaints\comments are made regarding damage to his property done during the construction process. While the complaints are noted, the City does not have a role in determining the substance of such complaints. It is a civil matter and does not fall within the scope of the planning approval.

The objector has also made previous comments that the City cannot vary the requirement of the R-Codes. This statement is not correct in that the City can vary any of the R-Code requirements relating to the subject development. The City can further allow the BTE to be exceeded.

Policy Implications:

Policy 3.1.9 Height and Scale of Buildings within a Residential Area.

Financial Implications:

There are ongoing costs regarding the appeal being incurred by the City.

COMMENTFront setback variations

The installation of a roller door on the existing carport will cause a variation to the R-Codes, as the carport will now be classified as a garage under the R-Codes, which requires a 4.5 metre setback. The current setback for the garage is 1.5 metres. There will also be a variation to the front setback average required under 3.2.1 (A1) of the R-Codes. The extent of the front setback variation is shown in attachment 2.

It is not expected that either of the variations to the requirements of 3.2.3 (A3.5) or 3.2.1 (A1) will adversely impact on the streetscape. It is thought that the variations comply with the Performance Criteria of both relevant sections of the R-Codes as the development contributes to the desired streetscape, allows adequate views from the dwelling to the street and the development is of high quality.

Visual privacy variations

The new location of the deck will create visual privacy variations to the northern and southern properties. Regarding the variation to the northern boundary objections have been received from the adjoining landowners.

Previously, this landowner did not object to the development, although it is now noted that the development is slightly closer to the boundary and that the variation sought is slightly greater. The variation will overlook an area adjacent and into the neighbour's private open space area. The neighbour has objected to the proposal on the basis that they understood the deck area would have a vergola roof (ie not weatherproof and openable) and therefore would not be used on a permanent basis. As the structure does not have a permanent roof (ie it is openable), the neighbour objects as the room can now be permanently used. The photographs provided in the attachment show the extent of the overlooking into the site from the deck. As the development does overlook into the neighbour's outdoor entertainment area it is recommended that screening be put in place on the deck windows in accordance with the R-Codes. The applicant has not objected to the open sun deck area at the end of the enclosed deck.

The adjustment of the dimensions of the deck has created a visual privacy intrusion into the property to the south. The encroachment will overlook into a back yard area, which contains a pool area. Whilst the cone of vision encroaches into this area, it is not considered to adversely affect the neighbour's enjoyment of this area. That is, the deck has obscure screening along the southern boundary wall until the open sun deck area where there is only a clear balustrade. The cone of vision from the sun deck will protrude into the neighbour's property by approximately 2.6 metres. Given that the sun deck area is only small approximately 4m² in area and unlikely to be used for long periods of time it is recommended that this particular cone of vision be supported.

There are also visual privacy variations from the kitchen windows to the northern property boundary and meals area to southern property boundary. Variations to visual privacy requirement were approved as part of the original application for the additions. Originally the northern property owner did not object to the kitchen windows. These windows would have formed part of the previous balcony area and it is considered that the windows will have less of an impact on the adjoining property.

With regards to the meals area the neighbour originally objected to the privacy setback to the meals window of 1.5 metres in lieu of 6.0 metres. However, this same area used to be an open balcony and has been enclosed through the current application, albeit with the addition of the window. It is considered that the window is less of an impact on the neighbours and thus should be approved.

Side setback variation to garage

A side setback variation to the garage of 1.0 metre in lieu of 1.5 metres has been proposed. This variation is considered minor and will be screened by existing vegetation. The variation will not affect the amenity of the adjoining neighbour and will meet the performance criteria of the R-Codes for side setbacks.

Side setback variation over height parapet wall to upper story southern boundary

As a result of the enclosure of the former balcony to create a habitable room the existing screen wall between the two adjoining balconies has been replaced with a solid wall on the applicant's side. The solid wall is slightly higher than the previous screen wall and the roofline has been extended over. The screen wall remains on the neighbour's side.

In accordance with Clause 3.3.2 Buildings on Boundary of the Codes:

Where the wall abuts an existing or simultaneously constructed wall of similar or greater dimension.

The development would comply with the Acceptable Development Provisions of the R-Codes.

The previous development approval for the site adopted this approach as the wall is of similar dimension to that of the existing. There is less than one metre difference in the existing screen wall and proposed parapet wall height. As the walls are not of exactly the same height it is considered appropriate that a variation to the wall height be granted as the parapet wall height would not adversely affect the adjoining property as it abuts a wall of similar construction.

Therefore a wall height of 5.7 metres in lieu of 3.0 metres, and average height of 5.6 metres in lieu of 2.7 metres are considered appropriate in this instance.

The setback for the parapet wall is considered appropriate as:

- 1 There will be the provision of adequate sunlight and ventilation between the subject building and building on the adjoining property.
- 2 There will be adequate sunlight to outdoor entertainment area.
- 3 The parapet wall does not pose any adverse amount of building bulk of the adjoining property.
- 4 Privacy is protected for the adjoining property as the deck windows have an obscured film on them up to a height of 1.6 metres only the sundeck is a structure to which the adjoining property can be viewed.

The upper storey setback variation to the northern boundary (Kitchen area) is not expected to impact on the adjoining property. Due to the separation between the properties and the fact the adjoining property is located to the north of the subject site, which allows for adequate sunlight and that no objections have been received in relation to the variation, the setback variation is supported. Moreover, the wall angles away from the boundary of the affected neighbour and achieves a maximum setback of 6.820 metres.

There is also a small side setback variation to the deck of 1.5 metres in lieu of 1.6m. This is considered numerically minor and will not affect the adjoining landowner.

Building Height Envelope

The development will protrude through the Building Height Envelope as prescribed by Policy 3.1.9 Height and Scale of Buildings within a Residential Area. In accordance with the policy, applications of this sort shall be advertised for public comment for a period of 14 days. This advertising has occurred and one objection and one non-objection have been received specifically in relation to BTE.

Due to the levels of the site, the site slopes from front to back from approximately 10.54 at the front to 6.05, the BTE has been exceeded. At the time of the original approval of the building, when the houses on 160A and 160B Waterford Drive were originally constructed, it is likely that the dwelling exceeded the BTE. It should be noted that the BTE was not a development control mechanism in force at the time of construction. The original Building Licences for the site were issued in 1986 and 1989.

When determining the height of the building from natural ground level, natural ground level can be determined in the following ways in accordance with Policy 3.1.9:

Natural Ground Level shall mean:

- (a) *The contour or spot levels (RL) of previously undisturbed land notes on a site plan or site survey plan.*
- (b) *Land within areas having been recontoured with or without retaining walls as part of the approved subdivisional works shall be deemed to have natural ground level coinciding with the recontoured ground level.*
- (c) *Where the land has been previously disturbed, natural ground level shall be deemed to be based on existing records or where there are no adequate records, an estimate as determined by the Chief Executive Officer.*

The natural ground levels shown on the original building licence approval seem to indicate that the site was filled to facilitate the development of the dwellings. The attachment shows the BTE as determined from a survey lodged with the original application for the additions to the dwelling, and an estimated BTE from spot levels from the original Building Licence for the dwelling. The original spot levels have been measured against the current spot levels and area approximates only.

Any addition at all to the dwelling on the upper storey is likely to exceed the BTE and its impact on adjoining properties must be taken into account. The property most likely to be affected by the development exceeding the BTE is 160A Waterford Drive. This property is located to the south of the site. In terms of building bulk the majority of the new development, with the exception of the deck, will impact on the existing two-storey parapet walls between the dwellings. Therefore, it is unlikely that the neighbour would be adversely affected by the exceedance. The majority of overshadowing of the development would be contained on the adjoining building's parapet wall and roof and is unlikely to impact on any living area.

With regard to other neighbours, it is unlikely that the building bulk will impact on their enjoyment of their respective properties. One of the neighbours to the rear does not object to the exceedance of the BTE or the other R-Code variations. There is no adverse impact on the streetscape.

It should be noted that this assessment addresses all of the constructed additions to the house on 160B Waterford Drive, and is not limited to the aspects of the additions, which are not in compliance with the planning approval issued on 14 November 2003 under delegated authority.

ATTACHMENTS

Attachment 1	Location Plan
Attachment 2	Site Plan
Attachment 3	Elevations
Attachment 4	Floor Plan
Attachment 5	Floor Plan
Attachment 6	Photographs of the development.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That the Joint Commissioners:

- 1 EXERCISE discretion under clause 6.1.3(b) of District Planning Scheme No 2 and clause 2.3.4 of the Residential Design Codes 2002 and determine that the performance criteria under 3.2.1, 3.2.3, 3.8.1, 3.3.1, 3.3.2 have been met and that:
 - (a) Front setback variation of clause 3.2.3 to the garage of 1.5 metres in lieu of 4.5 metres;

- (b) Non-compliant front setback average of 6.0 metres in respect to Clause 3.2.1;
- (c) Variation to visual privacy requirement of clause 3.8.1 of 4.9 metres in lieu of 7.5 metres to the southern boundary and 4.9 metres in lieu of 7.5 metres to the northern boundary from the proposed deck and sundeck;
- (d) Variation to visual privacy requirement of clause 3.8.1 of 2.0 metres in lieu of six metres from the kitchen window to northern boundary and 1.5 metres in lieu of 6 metres from the meals area to the southern boundary;
- (e) Side setback variation of Clause 3.3.1 of 1.0 metres in lieu of 1.5 metres for the garage;
- (f) Side setback variation of Clause 3.3.2 (over height parapet wall to upper floor on the southern boundary);
- (g) Upper floor side setback variation of Clause 3.3.1 to the northern boundary of 2.1 in lieu of 3.5 metre to section of kitchen wall;
- (h) Side setback variation of 1.5 metres in lieu of 1.6 metres to clause 3.3.1;

are appropriate in this instance;

- 2 DETERMINE that the protrusion through the Building Threshold Envelope as defined by Policy 3.1.9 Height and Scale of Buildings within a Residential Area is appropriate in this instance;
- 3 APPROVE the application for retrospective approval dated 1 July 2004, submitted by Modern Home Builders on behalf of Mr and Mrs Baumgartner for additions to a single house Lot 2 (160B) Waterford Drive, Hillarys subject to:
 - (a) The boundary wall shall be of clean finish and made good to the satisfaction of the City;
 - (b) All the development shall be contained within the lot boundaries and be in accordance with the easements and covenants shown on the Certificate of Title;
 - (c) The northern windows of the deck shall be screened to a minimum height of 1.6 metres in accordance with the Residential Design Codes to prevent overlooking into the neighbouring property;
 - (d) The southern windows of the deck shall be screened to a minimum height of 1.6 metres in accordance with the Residential Design Codes as indicated in red on the approved plans to prevent overlooking into the neighbouring property;
 - (e) Front fence to be visually permeable 1.2 metres above adjoining ground level as defined by the Residential Design Codes.

ADDITIONAL INFORMATION

In the course of the Halvorsen hearing, held on 22 November 2000, the City's solicitor has advised that it would be prudent to provide additional information in relation to the report on the Retrospective Development Application (CJ290-11/04)

On page 109 of the report it is stated that a deck has been built slightly closer to the northern boundary than was approved. In fact, the deck has been built of a greater length than was approved. The extent of the variation is correctly described on page 105, and that assessment remains.

The following revised recommendation has been created after receiving further legal advice on the subject application. The recommendation reflects the original conditions applied to the current approval and a change to the wording of the condition relating to the easement.

MOVED Cmr Fox, SECONDED Cmr Anderson that the Joint Commissioners:

1 EXERCISE discretion under clause 6.1.3(b) of District Planning Scheme No 2 and clause 2.3.4 of the Residential Design Codes 2002 and determine that the performance criteria under 3.2.1, 3.2.3, 3.8.1, 3.3.1, 3.3.2 have been meet and that:

- (a) Front setback variation of clause 3.2.3 to the garage of 1.5 metres in lieu of 4.5 metres;**
- (b) Non-compliant front setback average of 6.0 metres in respect to Clause 3.2.1;**
- (c) Variation to visual privacy requirement of clause 3.8.1 of 4.9 metres in lieu of 7.5 metres to the southern boundary and 4.9 metres in lieu of 7.5 metres to the northern boundary from the proposed deck and sundeck;**
- (d) Variation to visual privacy requirement of clause 3.8.1 of 2.0 metres in lieu of six metres from the kitchen window to northern boundary and 1.5 metres in lieu of 6 metres from the meals area to the southern boundary;**
- (e) Side setback variation of Clause 3.3.1 of 1.0 metres in lieu of 1.5 metres for the garage;**
- (f) Side setback variation of Clause 3.3.2 (over height parapet wall to upper floor on the southern boundary);**
- (g) Upper floor side setback variation of Clause 3.3.1 to the northern boundary of 2.1 in lieu of 3.5 metre to section of kitchen wall;**
- (h) Side setback variation of 1.5 metres in lieu of 1.6 metres to clause 3.3.1;**

are appropriate in this instance;

2 DETERMINE that the protrusion through the Building Threshold Envelope as defined by Policy 3.1.9 Height and Scale of Buildings within a Residential Area is appropriate in this instance;

- 3 APPROVE the application for retrospective approval dated 1 July 2004 submitted by Modern Home Builders on behalf of Mr & Mrs Baumgartner for additions to a single house on Lot 2 (160B) Waterford Drive, Hillarys, subject to:**
- (a) the boundary wall shall be of clean finish and made good to the satisfaction of the City;**
 - (b) the development must be wholly contained within the land owned by Mr & Mrs Baumgartner;**
 - (c) the northern windows of the deck shall be screened to a minimum height of 1.6 metres in accordance with the Residential Design Codes to prevent overlooking into the neighbouring property;**
 - (d) the southern windows of the deck shall be screened to a minimum height of 1.6 metres in accordance with the Residential Design Codes to prevent overlooking into the neighbouring property;**
 - (e) Front fence to be visually permeable 1.2 metres above the adjoining ground level as defined by the Residential Design Codes.**
 - (f) Mr & Mrs Baumgartner and Mr Halvorsen be advised that:**
 - (i) it is not the City's role to determine whether the development is consistent with the party wall easement;**
 - (ii) whether the development is or will be consistent with the party wall easement is a civil matter on which the neighbours should take their own advice;**
 - (iii) the approval by the City is granted for planning purposes only; and**
 - (iv) the granting of planning approval does not purport to certify that the development is consistent with the party wall easement, and it should not be relied upon in any way in connection with the civil issues relating to the party wall easement.**

Discussion ensued. Cmr Smith tabled the following documents:

- 1 memorandum dated 16 November 2004 which includes legal advice in relation to this matter appended hereto in the Official Minute Book – Appendix 27 refers;
- 2 memorandum dated 23 November 2004 which also incorporates legal advice – Note: This memorandum has been included as Additional Information on Page 126 of these minutes.

A special briefing has been provided to Commissioners in relation to this issue, with legal representatives from McLeod and Co attending the briefing.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendices 17 and 27 refer

To access this attachment on electronic document, click here: [Attach17brf161104.pdf](#)

CJ291 - 11/04 SUBDIVISION REFERRALS PROCESSED 1 – 31 OCTOBER 2004 – [05961]

WARD - Whitfords, Pinnaroo, Marina, Lakeside, North Coastal, South

CJ041116_BRF.DOC:ITEM 2-0

PURPOSE

This report is to advise the Joint Commissioners of subdivision referrals received by the City for processing in the period 1- 31 October 2004.

EXECUTIVE SUMMARY

Attachment 1 is a schedule of the Subdivision Referrals processed by Urban Design and Policy from 1 – 31 October 2004. Applications were dealt with in terms of the delegation of subdivision control powers by the Acting Chief Executive Officer (C55-08/04).

DETAILS

Seven subdivision referrals were processed within the period. The average processing time taken was 24 days. The subdivision applications processed enabled the potential creation of six strata residential lots. Two applications were deferred and two applications were not supported. These applications are as follows:

Ref: SU1180-04 – 288 Camberwarra Drive, Craigie

This application was deferred pending determination of a development application by the City.

Ref: SU1225-04 – 16 Spur Court, Ocean Reef

This application was not supported as the proposal does not conform to the requirements of the Residential Design Codes with respect to the minimum frontage required, and the frontage of the proposed lots would not allow for sufficient vehicular access, spacing and separation of building development.

Ref: SU1257-04 – 51 Outlook Drive, Edgewater

This application was deferred pending determination of a development application by the City.

Ref: SU126269 – 500 Burns Beach Road, Burns Beach

This application was not supported as approval of the subdivision would be premature in the absence of an Agreed Structure Plan being adopted to guide the subdivision and/or development approvals.

ATTACHMENTS

Attachment 1 Schedule of Subdivision Referrals

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Smith that the Joint Commissioners NOTE the action taken by the Subdivision Control Unit in relation to the applications described in Report CJ291-11/04 for the period 22 August 2004 to 12 October 2004.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 18 refers

To access this attachment on electronic document, click here: [Attach18brf161104.pdf](#)

**CJ292 - 11/04 COMMUNITY FUNDING PROGRAM 2004-2005
GRANTS ALLOCATIONS - FIRST FUNDING ROUND
– [74563] [75563]**

WARD - All

CJ041116_BRf.DOC:ITEM 21

PURPOSE

The purpose of this report is to provide information and make recommendations on the provision of Community Funding Program grants for the 2004/2005 financial year in accordance with the Community Funding Program's policy and guidelines.

EXECUTIVE SUMMARY

The City's Community Funding Program came into operation on 1 July 1999. The Program has been developed to provide financial assistance to not-for-profit and other eligible organisations. It is intended that support be offered to a range of community development initiatives consistent with the City's strategic objectives.

Funding of \$22,000 is available in 2004-2005 in each of the Sport and Recreation Development, Community Services and Cultural and the Arts Developments Funds, and \$40,000 in the Sustainable Development Fund.

Funds will assist organisations and community groups to conduct projects, events and activities in the areas of community services provision, sport and recreation development, sustainable development and culture and the arts development.

This is the sixth consecutive financial year in which the Community Funding Program has been administered. If the recommendations in this report are adopted by the Joint Commissioners, the number of grants made by the Council will total 263 grants to organisations and community groups in the City of Joondalup, with a value of \$552,585.

It is recommended that the Joint Commissioners:

- 1 *APPROVE the grants recommended for approval under the City of Joondalup's Community Funding Program's first funding round for the financial year 2004/2005 as outlined in Attachment 1 to this report;*
- 2 *ACKNOWLEDGE and thank those members of the community who participated on the assessment panels.*

BACKGROUND

The overall objective of the Community Funding Program is to provide a framework for the provision of targeted funding, which meets Council's strategic objectives in facilitating community development, in partnership with the community. Overall, the Community Funding Program aims to support the strategic objectives of the City in the areas of sport and recreation development, culture and arts development, economic development, environment development and provision of community services.

Eligible projects, events and activities include:

- Capital projects and items;
- One-off projects, activities or events;
- Seeding grants for projects, activities or events that can demonstrate independent viability after an appropriate period;
- Projects, activities or events where all other potential sources of funding have been exhausted or are not available.

Council will not fund the following:

- Deficit funding – for organisations which are experiencing a shortfall in cash revenue or anticipated revenue;
- Retrospective funding – expenses incurred prior to the application closing date;
- Recurrent salaries and recurrent operational costs;
- Proposals where alternative sources of funding are available;
- More than one request for funding in any financial year;
- Individuals, unless they are sponsored by an eligible organisation and are residents of the City;
- Government or quasi-government agencies, with the exception of schools;
- Projects considered part of a school's core activities;
- Development or improvement of school facilities and equipment
- For profit organisations.

The program has four major fund categories as follows:

- Community Services Fund
- Culture and the Arts Development Fund
- Sustainable Development Fund
- Sport and Recreation Development Fund

Each of these fund categories has its own specific strategic objectives. In accordance with the Community Funding Policy, guidelines specific to each fund have been developed for the current financial year.

The program provides the framework for various common funding guidelines, eligibility criteria and accountability requirements that have been applied across the organisation to assess all applications for funding under the program. Applications are assessed against the following criteria:

- All eligibility criteria for funding are met;
- The application supports the mission statement, values and strategic direction of Council;
- The application addresses the funding objectives and identified priorities of the relevant fund category;
- Value for money;
- Demonstrated need;
- Community support either in cash or kind;
- Appropriate accountability processes being in place;
- Inclusion of all relevant documentation; and
- Compliance with Council's Community Funding Program Policy and Guidelines.

The objectives and funding priorities for each fund category for the 2004/2005 financial year are detailed in attachment 2. Policy 4.1.1 - Community Funding is included as Attachment 3.

Two funding rounds are conducted each year primarily to cater for organisations and community groups that operate on a calendar year or seasonal cycles. These would include events/programs arranged by schools and playgroups, which may be directly linked to the age group of the children involved. Sporting groups also need special consideration as many sports are played in either the cooler or warmer months and these groups may be disadvantaged if funding was only available annually.

DETAILS

The Community Funding Program was advertised in the local newspapers on 19 and 26 August 2004. The closing date for applications was 7 October 2004.

An information package, containing the Community Funding Program guidelines and application forms, was posted or emailed to organisations and community groups on request. The information package was also available electronically via the City's Website. Approximately 85 groups were also advised of the program by direct mail.

A number of one to one meetings were held between Council officers and representatives from various organisations and community groups who had expressed an interest in receiving assistance to complete the application forms or obtain additional information about the program.

Each application received was assessed against the generic eligibility and assessment criteria together with the specific funding objectives and priorities for the 2004/2005 financial year, as contained in the Community Funding Program guidelines.

The assessment process for the various funds is undertaken by panels which include community representatives who have the skills and knowledge to represent the interests of a range of community groups.

Community Services Fund Assessment Panel

Lew Thorstensen	Seniors Interest Advisory Committee
Lauren Boogaard	Youth Student – Edith Cowan University
Julie Eaton	A/Manager Community Development Services
Robert Evans	A/Coordinator Community Services
Geraldine Pillinger	Arts Project Officer

Culture and the Arts Fund Assessment Panel

Andrea Stimson	Stimson Artist Management, Head of Music - St Stephens School
Felena Alach	Community Artist
Gabriella Filippi	Arts Project Officer
Peter Grant	Coordinator Cultural Development

Note: Ms Felena Alach was unable to attend the panel meeting. Ms Alach was presented with the summaries of the panellists and asked to comment on these, in line with the applications. Ms Alach has indicated that the conclusions were in line with her estimation of the relative community merits and standard of each application, and therefore endorsed the recommendations made.

Sport and Recreation Fund Assessment Panel

Mr Paul Turvill	President - Heathridge Soccer Club
Mr Mike Hollet	President - Wanneroo Joondalup Teeball Club
Craig Johnson	Recreation Development Officer
Wayne Grimes	Recreation Development Officer

Sustainable Development Fund Assessment Panel

Marilynn Horgan	Sustainability Advisory Committee (Chairperson)
Will Carstairs	Sustainability Advisory Committee
Mog Piasecka	Policy Officer
Prapti Mehta	Policy Officer

Applications from the following 20 organisations have been recommended for funding:

Connolly Primary School	On Track Cycles
Duncraig Senior High School	Patricia Giles Centre
Elisa Markes-Young	Peter Cowan Writers Centre
Elli Mutton	Seniors Recreation Council of WA
Investing in Communities WA (Hillarys Branch) Inc	Soroptimist International of Joondalup
Joondalup Touch Football Association Inc	Sorrento Surf Life Saving Club
Lake Joondalup Baptist Church Inc	Sunset Coast Tourism Association Inc
Lions Club of Whitford (Inc)	Wanjoo Community Day Group
Motor Trade Association of WA/Green Stamp Program	Warwick Church of Christ
Mullaloo Surf Life Saving Club	West Coast Warblers

The following chart provides a profile of the number of applications processed:

	Applications Received	Applications Received for Funding <=\$2,500	Applications Received for Funding >\$2,500	Applications Recommended for Full or Partial Funding
Community Services Fund	12	10	2	7
Culture and the Arts Fund	11	8	3	5
Sport & Recreation Development Fund	7	6	1	3
Sustainable Development Fund	6	1	5	5
TOTAL	36	25	11	20

Financial Implications:

In the 2004/2005 financial year there is a total of \$106,000 available for distribution.

Attachment 1 to this report includes a full listing of all applications received and applications recommended for full or partial funding. A number of applications have been recommended for approval subject to the applicants agreeing to meet certain conditions of funding.

The total funding recommended for the first funding round is:

	<u>Including GST</u>	<u>Excluding GST</u>
Community Services	\$8,300.00	\$7,790.91
Culture and the Arts	\$10,167.20	\$9,621.75
Sport and Recreation	\$5,287.92	\$4,913.37
Sustainable Development	<u>\$39,666.00</u>	<u>\$36,060.00</u>
	\$63,421.12	\$58,386.03

The following chart shows a profile of the funding arrangements for each fund category:

	Funds available in 2004/2005 Financial Year	Funding Requested Including GST	Funding Recommended Including GST (Cost to City Ex GST) *	Balance of Funds Remaining
Community Services Fund 1 4410 4420 0001 9999	\$22,000	\$41,339.00	\$8,300.00 (\$7,827.27)	\$14,172.73
Culture & the Arts Development Fund 1 4430 4420 0001 A011	\$22,000	\$33,212.20	\$10,167.20 (\$9,621.75)	\$12,378.25
Sport & Recreation Development Fund 1 4530 4420 0001 9999	\$22,000	\$14,152.55	\$5,287.92 (\$4,913.37)	\$17,086.63
Sustainable Development Fund 1 2130 4420 0001 9999	\$40,000	\$48,966.60	\$39,666.00 (\$36,060.00)	\$3,940.00
	\$106,000	\$137,670.35	\$63,421.12 (\$58,422.40)	\$47,577.61

* All funds recommended for allocation include GST where applicable. The ex GST amounts reflect the true cost to the City, as the GST component of grants awarded to organisations which are registered for GST with the Australian Taxation Office (ATO) is reclaimed from the ATO by the City. The balance of funds remaining column represents the actual unused portion of the budget taking into account GST considerations.

COMMENT

In accordance with the provisions of the Community Funding Policy and Guidelines, all applicants will be advised as to the outcomes of their applications. Successful applicants will be required to enter into contractual agreements with the City for funds allocated under the Community Funding Program and the City will register the grants allocated. Successful applicants are also required to suitably acknowledge the financial support provided by the City. The nature of such acknowledgement will be negotiated with each successful applicant as part of the process of drafting the required funding agreements.

The Community Funding Policy provides that decisions regarding funding applications are final and will not be reconsidered during the financial year in which the application is made.

Should the recommendations in this report be adopted by Council, it will mean that since the introduction of the City's Community Funding Program a total of 263 grants have been allocated by the City under this program to organisations and community groups with a total value of \$552,585 as follows:

1999/2000	41 organisations	\$62,638
2000/2001	61 organisations	\$130,876
2001/2002	53 organisations	\$92,806
2002/2003	45 organisations	\$108,868
2003/2004	43 organisations	\$93,976
2004/2005	20 organisations	\$63,421

The assistance and advice provided by members of the community who voluntarily participated on the various assessment panels has been invaluable. It is recommended that their contributions be acknowledged by Council.

ATTACHMENTS

Attachment 1 – Assessment Panel Recommendations

Attachment 2 – Objectives and Funding Priorities 2004/2005

Attachment 3 – Policy 4.1.1 - Community Funding

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Smith, SECONDED Cmr Anderson that the Joint Commissioners:

- 1 APPROVE the grants recommended for approval under the City of Joondalup's Community Funding Program's first funding round for the financial year 2004/2005 as outlined in Attachment 1 to Report CJ292-11/04;**

2 ACKNOWLEDGE and thank those members of the community who participated on the assessment panels.

Discussion ensued.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 19 refers

To access this attachment on electronic document, click here: [Attach19brf161104.pdf](#)

CJ293 - 11/04 PROPOSED MODIFICATION TO THE JOONDALUP CITY CENTRE DEVELOPMENT PLAN AND MANUAL – NEW DEVELOPMENT PROVISIONS FOR THE SOUTHERN BUSINESS DISTRICT – [00152] [47504]

WARD - Lakeside

CJ041116_BR.F.DOC:ITEM 22

PURPOSE

This report is for the Joint Commissioners to consider a modification to the Joondalup City Centre Development Plan and Manual (JCCDPM) to include development provisions for the Southern Business District for lots bounded by Joondalup Drive, Hodges Drive, the Mitchell Freeway and Eddystone Avenue for the purpose of public advertising.

EXECUTIVE SUMMARY

The subject lots are located between Joondalup Drive, Hodges Drive, the Mitchell Freeway and Eddystone Avenue. The lots are zoned ‘Centre Zone’ and are located within the Joondalup City Centre, comprising a total area of 35 hectares.

The site is very prominent due to its key location adjoining the Joondalup City Centre, and as such, the site acts as a southern gateway to the City Centre.

The JCCDPM is an Agreed Structure Plan under the City’s District Planning Scheme No. 2 (DPS 2) and applies to the ‘Centre Zone’ which includes the subject site. The subject site comprises the area defined in the JCCDPM as the Southern Business District. A background data statement regarding this District is included in the JCCDPM. No objectives, permitted uses or development provisions are currently provided for this District. The JCCDPM needs therefore to be modified to incorporate these details.

It is recommended that the Joint Commissioners, pursuant to clause 9.6 of the City of Joondalup's District Planning Scheme No. 2, ADOPT the modification to the Joondalup City Centre Development Plan and Manual to include objectives, permitted uses and development provisions for the Southern Business District as per Attachment 2 to this Report and make it available for public comment for a period of 28 days.

BACKGROUND

Suburb/Location:	Lots 10, 11, 13, 902, Reserve 41707 & Pt Location 7898 Honeybush Drive, Joondalup Drive and Hodges Drive
Applicant:	Masterplan Consultants WA Pty Ltd
Owner:	Landcorp
Zoning:	DPS: Centre Zone
	MRS: Central City Area
Coding:	N/A
Strategic Plan:	Strategy 3.5 – Promote and maintain sustainable economic development

The Joondalup City Centre Development Plan and Manual (JCCDPM) is an Agreed Structure Plan adopted under the DPS2 and applies to the 'Centre Zone' which includes the subject site. The JCCDPM is divided into seven districts of different characters that are distinguished by land use activities, densities and building form. Not all districts however, have planning controls or guidelines to provide development standards. The Southern Business District, the subject of this report, is one of these districts that have only been provided with background data, stating that this district is to have "an emphasis on mixed business and technology development".

The City is currently negotiating the purchase of a 4 hectare portion of the 5.42 hectares of Lot 902 Hodges Drive to accommodate a future City works depot.

DETAILS

Location

Lots 10,11,13 and Reserve 41707 Honeybush Drive, Pt Location 7898 Joondalup Drive and Lot 902 Hodges Drive are located between Joondalup Drive, Hodges Drive, the Mitchell Freeway and Eddystone Avenue (Attachment 1). The railway reserve for the Perth City to Currambine rail line dissects the site between the Mitchell Freeway at the junction of Joondalup Drive and Hodges Drive. The subject lots are zoned Centre Zone and are located within the Joondalup City Centre. The site comprises a total area of 35 hectares.

The site is very prominent due to its key location at the junction of the Mitchell Freeway and Hodges Drive. The site is also significantly elevated on the northern portion of the site. The site is also prominent by virtue of being effectively isolated by roads from the rest of the City Centre, Edith Cowan University Campus located on the opposite side of Joondalup Drive to the east of the site and the Joondalup Gate business area located to the south.

History

Landcorp has been involved in extensive discussions with the City regarding the future development of the subject site for several years. A draft Structure Plan for the site was submitted previously in 2000, however vehicular access to the site was a major obstacle to progressing the proposal. Lot 902 has since been identified and included in this new draft Structure Plan as the site for the City's new works depot.

The future depot would be located on a 4 hectare portion of the 5.42 hectares of Lot 902. The Western Australian Planning Commission (WAPC) has approved the subdivision of Lot 902. The subdivision of Lot 902 includes the construction of a bridge over the railway reserve from Joondalup Drive that will enable vehicular access to all lots in the Structure Plan area, including the future depot site.

Structure Plans

Structure Plans may be required under Part 9 of the City's District Planning Scheme (DPS2) in order for Council to support a rezoning of land, an application for subdivision or amalgamation of lots, or in consideration of a development application. A Structure Plan normally sets out the particular development provisions for a site.

A Structure Plan consists of two parts, the first being Part 1, the statutory planning section that sets out the objectives and criteria that determine the overall detailed landuses for development upon each lot, and development provisions. The extent of detail in Part 1 will depend upon the nature of the Structure Plan area (residential as opposed to commercial or industrial) and the intent and objectives of the Structure Plan. Part 2 provides the background to the formulation of the statutory provisions.

Proposed Southern Business District Structure Plan

Since the layout of the JCCDPM does not facilitate the inclusion of new sections, it is proposed that the inclusion of the Southern Business District Structure Plan be provided as a separate document but linked to the JCCDPM. This was the approach taken with the Campus District Structure Plan within the JCCDPM and has been successful.

In this instance, Part 1 (Attachment 2) of the proposed Structure Plan addresses the following issues:

- Structure Plan Precincts, being the following:
 - Bulk Retail/Showroom Precinct
 - Bulk Retail/Showroom and/or Technology Park Precinct
 - Service Industry Precinct
 - Depot Site Precinct
 - Drainage Precinct
- Interpretations
- Future Subdivision (further to subdivision of a portion previously approved)
- Objectives, Permitted Uses and Development Provisions for each Precinct

The second component, Part 2, is the explanatory report providing the background and supporting documentation to Part 1. In this instance it includes the following:

- Land Analysis, Services/Infrastructure and Access/Road Network for the subject site;
- Town Planning Context (zoning and strategic planning background);
- Market Demand.

Modification to the JCCDPM

Only a background data statement regarding the Southern Business District is included in the JCCDPM. No objectives, permitted uses or development provisions are provided for within this District. The JCCDPM needs therefore to be modified to incorporate these details.

Statutory Provision:

Clause 9.1 of DPS2 states that Council may require the preparation of a Structure Plan as a prerequisite to the Council's support for a proposal to rezone or reclassify land in the District.

Clause 9.7 of DPS2 enables Council to amend/modify an Agreed Structure Plan subject to the approval of the Western Australian Planning Commission (WAPC). Should Council determine the amendment/modification to the Structure Plan is satisfactory, the proposal is required to be advertised in accordance with clause 9.7.

Consultation:

Clause 9.5 of DPS2 requires structure plan proposals to be advertised, in accordance with clause 6.7 of DPS2. It is recommended that the modification to the JCCDPM to include objectives, permitted uses and development provisions be advertised for a period of 28 days, with advertising consisting of all adjoining landowners being notified in writing, signs erected on site and a notice placed in the Joondalup Community newspaper.

Strategic Implications:

The proposed Structure Plan will support the City's Strategic Plan of promoting and maintaining sustainable economic development by facilitating opportunities for the commercial development of a significant portion of land within the City Centre.

Sustainability Implications:

The proposed Structure Plan will facilitate the future subdivision of the 35 hectare site for the purpose intended, as noted in the JCCDPM. In so doing, it will assist in achieving economic sustainability for the City Centre.

COMMENT

Intent of the Southern Business District

The background data statement in the JCCDPM refers to the Southern Business District as an area "with an emphasis on mixed business and technology developments". Two of the vision statements in the JCCDPM for the Joondalup City Centre are to create a regional social and cultural focus and to optimise economic and employment opportunities. It is considered that the proposed structure plan will achieve this objective.

The location of the Southern Business District provides an ideal location for linkages between technology based enterprises and the ECU, located opposite the site. However, it is not envisaged that a large, single purpose technology park is viable or in demand. Therefore, it is considered appropriate that the technology park type uses will be integrated with other uses in the precinct.

In addition, new forms of retail have evolved which demand greater land areas yet also require good exposure to the public. The proposed development provisions for the Southern Business District take these factors into account.

The Permitted Uses within the proposed Precincts enable a range of uses to be approved excluding Residential use. The subject site is isolated because it is wholly bounded by main roads. This isolation, along with the fact that it is 1 kilometre from the City Centre at its northern point and therefore not within walking distance, does not readily lend the site to Residential use. Mixed use development of this site is therefore not considered appropriate or necessary to achieving the overall development objectives of the Centre Zone.

Alternative Commercial uses on this site would therefore be appropriate, similar to the Joondalup Gate development located immediately adjacent to the subject site, south of Eddystone Avenue.

Proposed Land Uses

The Southern Business District Structure Plan is proposed to be comprised of four development Precincts and a drainage Precinct.

The ‘Bulk Retail/Showroom’ and ‘Bulk Retail/Showroom and/or Technology Park’ Precincts are proposed in the most accessible locations along Joondalup Drive and Eddystone Avenue. These are intended to provide large premises for factory direct items of a bulky nature and large scale category/theme based retail outlets on lots between 0.5-1.0 hectare in area that would be created as part of the subdivision process. In addition, an opportunity exists for the Bulk Retail/ Showroom and/or Technology Park Precinct, located on the northern portion of the site, to accommodate research and/or educational facilities, expanding on the non-commercial theme of Edith Cowan University located on the western side of Joondalup Drive.

The ‘Service Industry’ Precinct would enable development in line with the land north of Hodges Drive (Winton Road Service Industrial) area while the Depot Site Precinct would primarily enable the development of the City’s works depot, in association with adjacent Service Industry landuses.

The proposed permitted land uses for the Bulk Retail/Showroom Precinct have been based on the permitted uses for ‘Business’ zoned land in the City, which is the zoning applicable to Joondalup Gate development. The development provisions for the Depot Site Precinct are based on the plans developed for the City and submitted for Planning Approval.

Car parking provisions for all Precincts have been based on the DPS2 provisions for the particular land uses, varying only for the Depot Site Precinct since there is no specific car parking requirement for a works depot in DPS2, and in the Bulk Retail/Showroom and Bulk Retail/Showroom and/or Technology Park Precincts where no Scheme provision applies.

The WAPC does not require public open space (POS) to be provided at the subdivision stage on land to be developed for commercial and industrial purposes. Therefore, POS does not need to be accommodated in the proposed Structure Plan.

It is recommended that Joint Commissioners resolve to modify the JCCDPM to include details regarding the Southern Business District for the purpose of advertising for a period of 28 days.

ATTACHMENTS

Attachment 1	Location plan
Attachment 2	Draft Structure Plan (Part 1)

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Smith, SECONDED Cmr Anderson that the Joint Commissioners, pursuant to clause 9.6 of the City of Joondalup's District Planning Scheme No. 2, ADOPT the modification to the Joondalup City Centre Development Plan and Manual to include objectives, permitted uses and development provisions for the Southern Business District as per Attachment 2 to Report CJ293-11/04 and make it available for public comment for a period of 28 days.

Discussion ensued, with Cmr Anderson encouraging interested ratepayers to make a submission.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 20 refers

To access this attachment on electronic document, click here: [Attach20brf161104.pdf](#)

CJ294 - 11/04 FINAL ADOPTION OF AMENDMENT NO 27 (MODIFICATIONS TO SCHEDULE 3 OF DISTRICT PLANNING SCHEME NO 2) – LOTS 1, 7, 8, 9 AND 10 WHITFORDS AVENUE/TRAPPERS DRIVE, WOODVALE – [83561]

WARD - Lakeside

CJ041116_BRF.DOC:ITEM 23

PURPOSE

This report is for the Joint Commissioners to consider submissions received during the public advertising period and to adopt as final, Amendment No. 27 to District Planning Scheme No.2 (DPS2), with minor modification.

EXECUTIVE SUMMARY

The reason for the amendment is to rectify an anomaly identified in the processing of Amendment 1 to DPS2 in order to facilitate the inclusion of all ‘Commercial’ zoned lots comprising the Woodvale Centre into Schedule 3 of DPS2 and to allocate marginal retail floorspace increases to each of these lots. Schedule 3 of the City’s DPS2 sets out retail floorspace (nett lettable area) limits for all ‘Commercial’ and ‘Centre’ zoned lots. The City has subsequently received information from the landowners of Lots 1, 7, 8, 9 and 10 and has undertaken a review of retail floorspace allocation for these lots utilising the Department for Planning and Infrastructure’s 2001/2002 land use and employment survey data. The proposed amendment therefore seeks to include Lots 1, 7, 8, 9 and 10 within the Woodvale Centre into Schedule 3 of DPS2 and allocate marginal retail floorspace increases for each of these lots.

The Joint Commissioners at their meeting on 20 July 2004, (CJ168 – 07/04 refers) resolved to initiate Amendment No. 27 for the purposes of public advertising. The advertising period closed on 27 October 2004 and a total of two (2) submissions were received. One submission was from Western Power stating that they have no objection to the proposed amendment. The other submission was from a consultant acting on behalf of the landowner of Lot 1 (BP service station) stating that they do not object to the proposed amendment, provided that an additional 230m² (total of 420m²) of retail floorspace be allocated to Lot 1 in order to facilitate future redevelopment of Lot 1.

The planning merits behind the request to increase the retail floorspace allocation for Lot 1 (BP Service Station) that were contained within the submission received during the advertising period has been investigated and it is considered appropriate in this instance to incorporate this request.

The proposed amendment will therefore need to be slightly modified to reflect the increase in retail floorspace allocation sought over Lot 1 (BP Service Station) only. Given the very minor nature of this additional modification to the proposed amendment, further advertising of the modification is not required.

It is recommended that the Joint Commissioners:

- 1 *Pursuant to Town Planning Regulation 17 (2) ADOPT Amendment No 27, to the City of Joondalup's District Planning Scheme No 2 subject to the following modification;*

Increasing the retail floorspace figure within Schedule 3 for Lot 1 (941) Whitfords Avenue, Woodvale from 200m² to 430m²;

- 2 *Upon advice from the WAPC with respect to the above modification, AUTHORISES the affixation of the Common Seal to, and endorses the signing of the amendment documents;*
- 3 *NOTE the submissions received and advise the submitters of the Joint Commissioners' decision.*

BACKGROUND

Suburb/Location: Woodvale Boulevard Centre, Corner Whitfords Avenue and Trappers Drive, Woodvale
Applicant: City of Joondalup
Owner: Various Landowners
Zoning: **DPS:** Commercial
MRS: Commercial
Strategic Plan: No relevant strategy in Strategic Plan

The Joint Commissioners at their meeting on 17 February 2004 (CJ026 – 02/04 refers) resolved to:

- 1 *RESCIND that part of Point 2 of Council's resolution of 29 April 2003 to report CJ097 – 04/03, viz:*

“ADVISE the proponent to arrange for a legal agreement, dated 14 May 1992, between Foodland Property Holdings Pty Ltd and the City of Wanneroo and other parties, with respect to Lot 6 Whitfords Avenue, Woodvale, to be modified during the advertising period, to enable the proposed expansion of the supermarket to occur. The legal document shall be modified at the proponent's expense to the satisfaction of the City.”

And replace the above resolution with the following amended wording:

“ADVISE the proponent to arrange for a legal agreement, dated 14 May 1992, between Foodland Property Holdings Pty Ltd and the City of Wanneroo and other parties, with respect to Lot 6 Whitfords Avenue, Woodvale, to be modified prior to the Hon Minister for Planning and Infrastructure's final approval being granted to Amendment 1, to enable the proposed expansion of the supermarket to occur. The legal document shall be modified at the proponent's expense to the satisfaction of the City.”

- 2 *Pursuant to Town Planning Regulations 17 (2) ADOPT Amendment 1 to the City of Joondalup District Planning Scheme No 2 without modification;*
- 3 *AUTHORISE the affixation of the Common Seal to, and endorse the signing of, the amendment documents;*
- 4 *NOTE all submissions received during the advertising period;*
- 5 *ADVISE all persons who made submissions of Council's decision accordingly;*
- 6 *REQUEST that the landowners of Lots 1, 6, 7, 8, 9 and 10 Trappers Drive/Whitfords Avenue, Woodvale provide the City with current floor plans and retail floor space (NLAm²) figures for existing development upon each of the abovementioned lots, together with the above landowners advising the City of their future intention with respect to retail floor space expansion so that the City can undertake a review of retail floor space allocation with the view to including these lots in Schedule 3 of District Planning Scheme No 2. Upon finalisation of this, the restrictive covenant on Lots 6, 8, 9 10 and 11 will be lifted.*

The City's DPS2 includes retail floorspace limits for centers, with these limits shown within Schedule 3. The limits are intended to guide retail expansion of new and existing centres and to allocate a hierarchy of centers across the City.

When DPS2 was developed, the retail floorspace limits contained within Schedule 3 were often applied to specific commercial development upon specific lots within the centre. For the Woodvale Centre, there is a retail floorspace limitation of 7650m² on Lot 6 that hosts the existing Woodvale Boulevard shopping centre, however other lots comprising the entire centre are not listed.

Given the Commercial zoning of these other lots, retail (shop) land use proposals can be considered upon these lots, which in turn contributes to the function of the entire centre. The proposed amendment seeks to acknowledge this by allocating a retail floorspace restriction for those lots within the Woodvale centre that are not currently included within Schedule 3 of DPS2.

It should be noted that some the lots that comprise the Woodvale centre have an existing restrictive covenant upon their title that restricts retail floorspace to a specified amount. The current retail floorspace restriction applicable to each lot is listed within the table below. Restrictive covenants were placed upon the certificate of title for these lots to ensure retail floorspace allocation was controlled when the land was first developed, approximately 10 years ago.

Previous Resolution of Joint Commissioners relating to Amendment No 27

At their meeting on 20 July 2004, the Joint Commissioners resolved the following:

- 1 *Pursuant to Section 7 of the Town Planning and Development Act 1928 AMEND the City of Joondalup's District Planning Scheme No 2 for the purpose of modifying Schedule 3 (Commercial and Centre Zones) by including the following lots and corresponding retail floorspace NLA (m²) figures under the columns headed 'Description of Centre and Commercial Zones' and 'NLA (m²)' respectively for the Woodvale (Woodvale Boulevard) locality;*

Lot 1 (941) Whitfords Avenue - 200
Lot 7 (3) Trappers Drive - 200
Lot 8 (1) Trappers Drive - 600
Lot 9 (937) Whitfords Avenue - 540
Lot 10 (933) Whitfords Avenue - 300

- 2 *ADOPT Amendment No 27 accordingly for the purpose of public advertising;*
- 3 *Forwards Amendment 27 to the Western Australian Planning Commission for its consent to advertise.*
- 4 *Upon written receipt of the Western Australian Planning Commission's consent to ADVERTISE Amendment 27 and prior to the advertising period commencing, forwards the proposed Amendment to the Environmental Protection Authority in order to decide if an environmental review of the proposed amendment is required.*

Public advertising has now closed and the purpose of this report is for the Joint Commissioners to consider the submission received and to adopt Amendment No 27 as final, with minor modification.

DETAILS

Location & Land uses/Development

The entire Woodvale Centre is located on the northwest side of the intersection of Trappers Drive and Whitfords Avenue, Woodvale (Attachment 1). The following lots and corresponding land uses/development comprise the entire Woodvale centre;

Lot 1 – BP Service station and workshop
Lot 6 – Woodvale Boulevard Shopping Centre
Lot 7 – Woodvale Park Medical Centre
Lot 8 – Liquorland, Thai restaurant and Income Tax Professionals
Lot 9 – Kingsley Woodvale Medical Centre (Former Pizza Hut restaurant)
Lot 10 – Red Rooster

Proposal

It is proposed that Lots 1, 7, 8, 9 and 10 within the Woodvale Centre be included within schedule 3 of DPS2 and a retail floorspace restriction be applied to each lot, as these lots all have a 'Commercial' zoning under DPS2.

Clause 3.7.2 of DPS2 states that all land in the commercial zone shall specify a maximum retail net lettable area (NLA) which relates to floor area. The maximum NLA shall be included in Schedule 3 of this Scheme and shall bind the development of the land to no more than the area specified.

Lot 6 (the Woodvale Boulevard Shopping Centre) is currently included within Schedule 3 of DPS2, which has a retail floorspace restriction of 7650m² that was allocated to this lot through Amendment 1 to DPS2. Adjoining Lot 11 is zoned 'Business' and has a retail floorspace restriction of 200m² in accordance with the definition of a 'shop' under DPS2, which was facilitated by Amendment 10 to the City's DPS2. Lot 11 is therefore not included within the proposed amendment as retail floorspace for this lot is restricted in accordance with the definition of a 'shop' under DPS2.

The following table sets out existing retail floorspace restrictions, DPI retail survey figures, landowner's request for retail floorspace increase (including the additional request for a further retail floorspace increase of 230m² for Lot 1) and recommended (and resultant modified) changes to retail floorspace restrictions for Lot 1 and all other lots comprising the Woodvale centre;

1	2	3	4	5	6	7
Lot No	Area of lot	Existing retail limitation (legal agreement/ Schedule 3 of DPS2)	DPI Survey 01/02 floor space figures ^ Existing retail NLA	Lot owner's requested retail NLA m²	Recommended retail NLA limit within Schedule 3 of DPS2#	Retail Floorspace (NLA m²) increase (Column 6 minus (-) Column 3)
1	3626m ²	Nil/None	120m ²	200m ² + additional 230m ² = 430m ² total	430m ²	430m ²
6	26865m ² existing + 354m ² (proposed expansion)	7650m ² (Amendment 1 to DPS2)	4800m ²	7650m ² (Amendment 1 to DPS2)	Nil – 7650m ² already allocated within Schedule 3 through finalisation of Amendment 1 to DPS2	Nil
7	1934m ²	Nil/None	84m ²	Not stated	200m ²	200m ²
8	1661m ²	300m ²	499m ²	650m ²	600m ²	300m ²
9	2200m ²	180m ²	540m ²	Not stated	540m ²	360m ²
10	1200m ²	70m ²	240m ²	300-350m ²	300m ²	230m ²
Total	37840m²	8200m²	6283m²	8800-9080m²	9820m²*	1520m²

Notes:

- * The entire Woodvale Boulevard Centre is identified within the City's Centres Strategy as a Small Town Centre with a maximum retail NLA of 10,000m².

Recommended NLA increase for each lot is based on landowners request, the capability of existing commercial buildings to accommodate retail floorspace increases and the ultimate limitation of 10,000m² NLA for the entire centre. Where the lot owner has not requested a specific NLA allocation, the DPI survey 01/02 figure and/or the DPS2 convenience store definition which limits retail NLA to 200m², has been applied.

^ DPI Survey 01/02 floor space figures includes retail and vacant floor areas only.

The above figures exclude non retail type land uses located within the centre that were identified within the DPI 01/02 survey, such as professional offices, medical practitioners and banking institutions, and as such, the figures identified above vary to those previously reported to the Commissioners in considering Amendment 1 to DPS2.

Retail floorspace figures alter over time due to such factors such as office type land uses changing to retail (shop) type land uses. In essence, as the lots comprising the centre are zoned 'Commercial', a myriad of various land uses can potentially be hosted within the centre, not just retail (shop) land uses.

The recommended retail floorspace increases in the above table are considered marginal. The retail floorspace increases recommended (#) are based on the capacity of existing development on each lot to be used entirely for retail (shop) type land uses in the future. Recommended NLA increases for each lot are also based on the capability of existing commercial buildings to accommodate retail floorspace increases and the ultimate retail floorspace limitation of 10,000m² NLA for the centre that is applicable under the City's Centres strategy. Where the lot owner's request for retail floorspace increases has not been stated, the DPI survey 01/02 figure and/or DPS2 convenience store definition, which limits retail NLA to 200m², has been applied.

It should be noted that the maximum retail floorspace restriction proposed is unlikely to be achieved unless existing buildings are demolished or redeveloped (extended) and additional car parking provided to satisfy DPS2 requirements for any development seeking to create additional retail floorspace in the future.

Consultation

The Town Planning Regulations 1967 required that the Amendment to be advertised for a period of forty-two (42) days. The required advertising, consisting of written notification to all adjoining and effected landowners, a sign being erected on the site and a notice being placed in The West Australian on 15 September 2004 and the Joondalup Community newspaper on 16 September 2004, has been undertaken and closed on 27 October 2004.

Under Section 17 (2) of the Town Planning Regulations 1967, Council shall consider all submissions received during the advertising period (Attachment 3). After consideration of all submissions, the Council shall either resolve to not proceed or to adopt the amendment, with or without modification, and to submit three (3) copies to the Western Australian Planning Commission for final adoption and endorsement.

The advertising period closed on 27 October 2004 and a total of two (2) submissions were received, one from Western Power stating that they have no objection to the proposed amendment and the other from a consultant acting on behalf of the landowner of Lot 1 (BP service station) stating that they do not object to the proposed amendment, provided that an additional 230m² (total of 420m²) of retail floorspace be allocated to Lot 1 in order to facilitate future redevelopment of Lot 1.

The reasons behind this request are summarised as follows;

- The further 230m² increase retail floorspace allocation (total of 430m²) for Lot 1 is considered marginal.
- The increase sought would not exceed the overall retail floorspace limit of 10,000m² adopted for the Woodvale Centre under the City's Centres Strategy.
- The current retail floorspace to land ratio associated with Lot 1 is lower than the ratios applicable to other lots subject to the proposed amendment. The requested retail floorspace increase (230m²), and resultant floorspace to land ratio would be generally consistent with that allocated to Lot 7 (Woodvale Park Medical Centre).

In order to allocate a fair and equitable amount of retail floorspace across all lots subject to the proposed amendment, the requested increase in retail floorspace associated with Lot 1 is considered reasonable and acceptable.

The requested increase is considered acceptable given that it represents a marginal increase and collectively, the total retail floorspace allocation for the entire Woodvale Centre remains under the 10,000m² retail floorspace restriction applicable (9820m²).

Given the very minor nature of this additional modification to the proposed amendment, further advertising of the modification is not considered to be warranted.

Relevant Legislation

Section 7 of the Town Planning and Development Act 1928 (as amended) together with Town Planning Regulations 1967 enable local authorities to amend a Town Planning Scheme and sets out the process to be followed (Attachment 2).

Relevant Policies

The Western Australian Planning Commission (WAPC's) Statement of Planning Policy No 9 – Metropolitan Centres Policy Statement for the Perth Metropolitan Area (MCPSMA)

The purpose of the WAPC's Statement of Planning Policy No 9 – Metropolitan Centres Policy Statement for the Perth Metropolitan Region is to provide a broad regional planning framework to coordinate the location and development of retail and commercial activities in the metropolitan region. A key guideline is the control of retail floor space. Retail or shopping centres are assigned maximum floor areas in the interests of protecting adjoining amenity and the viability of the centres themselves. Centres, for example, can be described as "neighbourhood", "district" or "strategic" centres.

The Woodvale centre is not identified within Policy No. 9 as a District Centre. Accordingly, the centre could be assumed to be a neighbourhood centre for the purposes of determining where the Woodvale centre sits in the hierarchy of centres within the Perth Metropolitan area. The recommended floor area for neighbourhood centres is 4500m².

The WAPC's approval would be required if the centre exceeded 4500m² of net lettable area unless the size of the centre was consistent with a strategy approved by the WAPC.

City of Joondalup Centres Strategy

The City's Centres Strategy fulfils the purpose of a local planning strategy and Council resolved to modify and adopt the Centres Strategy as a planning policy at its meeting on 28 November 2000. It should be noted, however, that at the meeting of 23 July 2002, Council resolved to review the City of Joondalup's Policy 3.2.8 – Centres Strategy.

Progress has been made with respect to the review of the City's Centres Strategy with the City recently obtaining the DPI's 01/02 land use and employment survey data. Under the City's current budget proposals, the review of the City's Centres Strategy (F805 – Commercial Centres Policy Review) has been allocated \$10,000. Given the funding allocated to the project, the City is currently assessing options with respect to the review.

The Woodvale Centre is classified as a small town centre within the City's Centres Strategy. The primary function of a small town centre is to provide weekly retail, service and community facilities. The types of retail facilities appropriate for Small Town Centres include: minor discount department stores, supermarkets, speciality stores and convenience stores. A maximum floorspace of 10,000m² has been specified for the entire Woodvale Boulevard Centre in Policy 3.2.8 – Centres Strategy. The Strategy concludes:

“Implicit in the above statements is that expansion of commercial uses (of which retailing as defined in the Metropolitan Centres Policy (1999) is only a part) is a primary objective of this strategy and must be encouraged at all levels of the shopping centre hierarchy.”

“The basis for this recommended strategy is that the Council should be positive and proactive towards expanding the retail and commercial base in the City as a primary means of generating employment.”

COMMENT

The Western Australian Planning Commission (WAPC's) Statement of Planning Policy No 9 – Metropolitan Centres Policy Statement for the Perth Metropolitan Area (MCPSMA)

Under this policy, the Woodvale Boulevard Centre is equivalent to a neighbourhood centre and accordingly the aggregate floor area should not exceed 4500m². Nevertheless, this policy clearly states that proposals in excess of the above floorspace guide may be supported subject to sufficient justification being provided. A key consideration for the WAPC is whether such a proposal would be consistent with the requirements of a relevant local planning strategy or commercial strategy.

It should be noted that Amendment 1 to DPS2 sought to increase the retail floorspace limitation upon lot 6 to over 4500m². The WAPC consented to this amendment being advertised, and subsequently granted final approval to the amendment, thus consenting to the expansion of the centre (7650m²) above its retail hierarchy limit (4500m²) stipulated within this Policy.

Amendment 27 to DPS2 was also referred to the WAPC, with the WAPC also consenting to the amendment being advertised, thus consenting to the expansion of retail NLA for the greater Woodvale center, including the existing and recently expanded shopping center upon Lot 6 (9820m²) above its retail hierarchy limit (4500m²) stipulated within this Policy.

City of Joondalup Centres Strategy (Policy 3.2.8)

The proposal complies with all requirements of the City's Centres Strategy (Policy 3.2.8). The expansion of the greater Woodvale Boulevard Centre (including the recent expansion of the supermarket within the Woodvale Boulevard Shopping Centre upon Lot 6 Whitfords Avenue and Lot 3 Trappers Drive, Woodvale) is consistent with the primary function of small town centres as defined in the policy. Furthermore, the proposal would result in the entire centre being permitted to develop a total net retail floor area of approximately 9820m² (formerly 9590m²), which remains within the floor space limit of 10000m² cited in the City's Centres Strategy.

City of Joondalup District Planning Scheme No. 2 (DPS2)

It is also noted that Clause 3.7.3 of DPS2 provides for the floorspace figures contained within Schedule 3 to be varied by an Agreed Structure Plan for the centre locality. There is no Agreed Structure Plan for the Woodvale Boulevard Centre.

Conclusion

The proposed amendment seeks to rectify an anomaly identified through processing Amendment 1 to the City's DPS2, where it was found that Lots 1, 7, 8, 9 and 10 were not contained within Schedule 3 of DPS2. The proposed amendment seeks to include these lots within schedule 3, and whilst doing so, allocates marginal retail floorspace increases for each lot in accordance with the review undertaken by the City utilising the DPI's 01/02 survey data.

Subject to an increase in the proposed retail floorspace figure for Lot 1 Whitfords Avenue, Amendment No 27 is recommended for final adoption.

ATTACHMENTS

Attachment 1	District Planning Scheme No 2 zoning map and site plan
Attachment 2	Scheme Amendment process flowchart
Attachment 3	Schedule of submissions

VOTING REQUIREMENT

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Smith that the Joint Commissioners:

- 1 Pursuant to Town Planning Regulation 17 (2) ADOPT Amendment No 27, to the City of Joondalup's District Planning Scheme No 2 subject to the following modification;**

Increasing the retail floorspace figure within Schedule 3 for Lot 1 (941) Whitfords Avenue, Woodvale from 200m² to 430m²;

- 2 Upon advice from the Western Australian Planning Commission with respect to the above modification, AUTHORISE the affixation of the Common Seal to, and endorses the signing of the amendment documents;**
- 3 NOTE the submissions received and advise the submitters of the Joint Commissioners' decision.**

Cmr Anderson spoke to the Motion.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 21 refers

To access this attachment on electronic document, click here: [Attach21brf161104.pdf](#)

**CJ295 - 11/04 JOONDALUP CITY CENTRE 41 MULTIPLE
RESIDENTIAL UNITS – LOT 201 (84) LAKESIDE
DRIVE JOONDALUP – [86007]**

WARD Lakeside

CJ041116_BRF.DOC:ITEM 24

PURPOSE

To request the Joint Commissioners' determination of an application for 41 multiple residential units within the Lakeside District of the Joondalup City Centre. Discretion is sought to vary the standard requirements for residential density, car parking, open space and side setbacks.

EXECUTIVE SUMMARY

An application has been received for 41 multiple dwellings (residential units). The proposal is four storeys in height and incorporates a basement parking facility that is partially below the existing ground level. In some areas, the basement carpark will appear as an undercroft to the main building. The units will be located in two separate buildings, however, the development will present as a continuous built form.

The site is located within the Lakeside District of the Joondalup City Centre and has a residential zoning of R60. The Joondalup City Centre Development Plan and Manual (JCCDPM) designates the lot as a landmark site within the Lakeside District, as a result Council has discretion to approve a density bonus of up to R100. The DPS2 in conjunction with the Joondalup City Centre Development Plan and Manual has no provision to alter the density above R100 for properties in the Lakeside District. The proposal has substantial variations to the relevant requirements and provisions for the area including the permitted residential density (greater than R100), the required number of parking bays, open space and side setbacks. Given the extent and nature of the variations and that the Council has no discretionary authority to approve development greater than R100, refusal is therefore recommended.

BACKGROUND

Suburb/Location:	Joondalup
Applicant:	Webborton Holdings
Owner:	Western Australian Land Authority (Landcorp)
Zoning:	DPS: Centre
	MRS: Urban
Strategic Plan:	Joondalup City Centre Development Plan and Manual

Lot 201 is currently vacant and falls within the Lakeside District area of the Joondalup City Centre, where it is designated for Landmark Apartments. The site is 3705m² and directly adjoins Greenshank Park to the south and east and an access lane via Sittella Turn on the northern side from which it is recommended that vehicles will enter the development.

Details of Proposal

The proposal consists of 41 residential units comprising of:

Unit Type	Average Area per Unit (m ²)	Number of Units
1 Bedroom	85m ²	8
2 Bedroom	134.3m ²	25
3 Bedroom	144m ²	8

The proposal also includes the following:

- a basement carpark for 73 bays;
- swimming pool and gymnasium

DETAILS

Statutory Provision:

The subject land is located within the Lakeside District of DPS2. The Scheme requires development to be in accordance with an approved Structure Plan. In this case the relevant approved Structure Plan is the Joondalup City Centre Development Plan and Manual (JCCDPM). Variations to the standard requirements are sought for residential density, car parking and side setbacks. The variations are discussed in detail further within the report. Comment in relation to the specific requirements of the JCCDPM is outlined below.

The proposal incorporates a number of variations to the standard requirements of the JCCDPM. Provisions of the Scheme enable Council to consider such variations to the standard requirements of the plan. These provisions include:

4.5 Variations to Site and Development Standards and Requirements.

4.5.1 *Except for development in respect of which the Residential Planning Codes apply and the requirements set out in Clauses 3.7.3 and 3.11.5, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.*

4.8 Car Parking Standards

4.8.2 *The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in Table 2 the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.*

6.8 Matters to be considered by Council

6.8.1 *The Council when considering an application for Planning Approval shall have due regard to the following:*

- (a) *interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
- (b) *any relevant submissions by the applicant;*
- (c) *any agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;*
- (d) *any planning policy of the Council adopted under the provisions of clause 8.11*
- (e) *any other matter which under the provisions of the Scheme the Council is required to have due regard;*
- (f) *any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;*
- (g) *any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;*
- (h) *the comments or wishes of any public or municipal authority received as part of the submission process;*
- (i) *the comments or wishes of any objectors to or supporters of the application;*

- (j) *any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and*
- (k) *any other matter which in the opinion of the Council is relevant.*

Residential Design Codes (R-Codes)

Clause 2.3.4 of the R-Codes allows for the exercise of discretion, which shall be exercised having regard to the clause 2.3.4 (2) of the R-Codes as follows:

2.3.4 (2) *Discretion shall be exercised having regard to the following considerations:*

- (i) *the stated purpose and aims of the Scheme;*
- (ii) *the provisions of Parts 2,3 and 4 of the Codes as appropriate;*
- (iii) *the Performance Criterion of Criteria in the context of the R-Coding for the locality that correspond to the relevant provision;*
- (iv) *the explanatory text of the Codes that corresponds to the relevant provision;*
- (v) *any Local Planning Strategy incorporated into the Scheme;*
- (vi) *the provision of a Local Planning Policy pursuant the Codes and complying with sub-clause (5) below; and*
- (vii) *orderly and proper planning.*

Consultation:

The proposed development was not advertised, as the form of development is expected under the JCCDPM.

COMMENT

Joondalup City Centre Development Plan and Manual (JCCDPM)

The subject land is located within the Lakeside district of the JCCDPM. The JCCDPM outlines all the relevant built form and land use requirements for the subject land. Within the district, the site is designated “Landmark Apartment Developments”. In planning and urban design terms, the site is identified as having landmark qualities that can in part be attributed to its Central City location.

Development Standards Table

The following table summarises the development details:

Standard	Required	Provided
Front Setback	0m	0m
Side Setback	maximum 2.0m	maximum 4.0m
Height	2 storeys minimum	4 storeys maximum 13.0m
Open Space	60% 2223m ²	35% 1298m ²
Storerooms	1 per dwelling, 4m ² area	1 per dwelling, 4m ²

Site planning

Land use and character

Residential development is identified as the preferred use on the site. The proposal is in accordance with this aspect of the plan.

Residential density

The standard density permitted on the site is R60. The proposal is equivalent to R111. The JCCDPM gives Council the discretion to consider a maximum density bonus from R60 to R100 where the development would achieve the following:

- (a) “creates an appropriate landmark”; and
- (b) enhances the overall legibility and amenity of the Lakeside District and the City Centre.

The residential density of R100 permits a minimum site area of 100m² per unit. Given that the lot has an area of 3705m² the site would permit 37 units, a 30% bonus may be applied for the provision of single bedroom units no greater than 60m² but in this instance all single bedrooms units proposed have an area greater than 60m².

Car Parking

The plan requires - “car parking to be provided out of sight of primary frontages”. The parking areas are provided internally to the development and are accessed from the laneway via Sitella Turn. The parking areas will not be visible from the primary frontages of Lakeside Drive or Sitella Turn. The number of car parking bays required is determined as per the Residential Design Codes. A total of 82 bays (including 8 visitor bays) are required. The total number of bays proposed is 74 bays resulting in a shortfall of 8 bays. The parking requirement has been determined according to the standard provisions of the Residential Planning Codes.

R-Codes parking requirement for Multiple Dwellings	Required Bays
41 units @ 0.35 spaces per dwelling	14.35 parking bays
Plus 0.015 spaces per m ² of plot ratio 4510m ² @0.015	67.65 parking bays
Total	82 Parking Bays, 74 provided

Setbacks

The applicant is seeking variations to the standard setback requirements of 4.0 metres in lieu of 2.0 metres for the southern side of the building facing Greenshank Park. The objective of the 0-2 metre setback is to encourage development that “interacts with the street”. Once again, this requirement is a key element in the emerging built form character of the Lakeside District and Joondalup City Centre. The setback requirements specifically stated under the JCCDPM cannot be varied by Council.

Pedestrian Shelter

For residential developments the plan requires awnings to be constructed over entrances to provide all weather protection. The proposed development provides no pedestrian shelter along Lakeside Drive or at entrances to the building.

COMMENTS

The proposed density bonus and variations to car parking, setbacks and open space are considered substantial and may have an adverse impact on the adjoining area.

The R-Codes allow for a further 30% density bonus for single bedroom dwellings with maximum plot ratio area of 60m². The eight (8) one bedroom units proposed as part of the subject development have an area greater than 60m², but even taking into account a density bonus allowable under the R-Codes, the maximum permitted number of units for the site at a R100 density is 39 units. This is based on a calculation of 8 units x an average area per unit of 85m² x 30% single bedroom density. Given that the proposed development (41 units) has a density greater than R100 and the JCCDPM only gives Council the discretion to consider a maximum density coding of R100, it is therefore recommended that the application be refused.

The proposed development has external fixtures and finishes that are not of high quality, provides no pedestrian shelter along Lakeside Drive and generally provides minimal interface and or surveillance of the south facing park side boundary. The design and quality of the building is arguably not worthy of a “Landmark Apartment Development” which will enhance the overall amenity of the area and therefore attract a residential density bonus from R60 to R100.

The applicant had been advised that a density bonus greater than R100 could not be supported but the applicant requested that the development be presented to the Commissioners for determination.

ATTACHMENTS

Attachment 1	Location Plan
Attachment 2	Development Plans

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Clough, SECONDED Cmr Smith that the Joint Commissioners REFUSE the application for 41 multiple residential units at Lot 511 (84) Lakeside Drive Joondalup for the following reasons:

- 1 the application exceeds the maximum permitted bonus residential density of R100;**
- 2 the application exceeds the open space requirement of 60% in accordance with the Residential Design Codes 2002;**

- 3 the application has a parking shortfall of 8 parking bays in accordance with the requirements of the Residential Design Codes 2002;**
- 4 the development has setbacks greater than the maximum permitted setbacks under the Joondalup City Centre Development Plan and Manual;**
- 5 the development will not enhance the overall amenity and legibility of the area in accordance with the requirements of the Joondalup City Centre Development Plan and Manual;**
- 6 the development is contrary to the orderly and proper planning of the locality.**

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 22 refers

To access this attachment on electronic document, click here: [Attach22brf161104.pdf](#)

In relation to CJ296-11/04 – Proposed (94) Multiple Dwellings at Lot 2259 (1) Sunlander Drive, Currambine, Cmr Smith advised her daughter resides Currambine, however she would deal impartially with this matter.

CJ296 - 11/04 PROPOSED (94) MULTIPLE DWELLINGS AT LOT 2259 (1) SUNLANDER DRIVE CURRAMBINE – [51510]

WARD - North Coastal

CJ041116_BRF.DOC:ITEM 25

PURPOSE

For the Joint Commissioners to consider an application for ninety-four multiple dwellings at Lot 2259 (1) Sunlander Drive, Currambine.

EXECUTIVE SUMMARY

An application has been received for ninety-four multiple dwellings (including 20 single persons dwellings) within the residential zone abutting the Currambine Railway Station. The proposal includes a number of variations to the Residential Design Codes (R-Codes) and Policy 3.1.9 Height and Scale of Buildings within a Residential Area, which provides for a building height envelope (BTE).

The variations to the R-Codes are considered to be minor and consistent with the intent and purposes of both the R-Codes and District Planning Scheme No 2 (Scheme). The proposed development through the BTE is also considered appropriate to facilitate development on the site to the current R80 density. Development to this density will support the usage of the adjoining Currambine Train Station.

BACKGROUND

Suburb/Location: Lot 2259 (1) Sunlander Drive Currambine
Applicant: Oldfield Knott Architects
Owner: Goldzen Holdings Pty Ltd
Zoning: **DPS:** Residential R80
MRS: Urban (Abuts Railway & Primary Regional Road Reserve)

The applicant has requested a number of discretions under the R-Codes, which are as follows:

- Reduced store setbacks to the primary street of nil in lieu of 2.0 metres.
- Reduced setback of nil between all multiple dwellings.
- Reduced communal open space of 860m² lieu of 1, 504m².
- Reduced side setback of 1.5 metres in lieu of 4.6 metres for units, E8, E10 and E17 to the north-eastern and south eastern lot boundaries.
- Plot ratio variation to single person's dwellings of a maximum of 63.8m² in lieu of 60m².
- Variation to the maximum driveway aggregate width of 12m in lieu of a maximum 9.0m.
- A visual privacy variation of 1.5m in lieu of 7.5m to the north-eastern lot boundary.
- Variation to pedestrian access requirements of one set of stairs serving three units in lieu of 2 units at one level.
- Variation to On Site Parking Provision for Single Persons Dwellings

DETAILS

Statutory Provision:

In considering the subject application, the following clauses of the Residential Design Codes and District Planning Scheme No 2 require consideration:

Residential Design Codes 2.3.4 (2)

Discretion shall be exercised having regard to the following considerations:

- *The stated purpose and aims of the Scheme;*
- *The provisions of Parts 2, 3, and 4 of the Codes, as appropriate;*
- *The Performance Criterion or Criteria in the context of the R-Coding for the locality that correspond to the relevant provision;*
- *The explanatory text of the Codes that corresponds to the relevant provision;*
- *Any Local Planning Strategy incorporated into the Scheme;*
- *A provision of a Local Planning Policy pursuant to the Codes and complying with sub-clause (5) below; and*
- *Orderly and proper planning.*

3.2.1 Set Back of Buildings Generally Performance Criteria

Buildings set back an appropriate distance to ensure they:

- *Contribute to the desired streetscape*
- *Provide adequate privacy and open space for dwellings*
- *Allow safety clearance for easements for essential service corridors*

3.3.1 Building Set Back from the Boundary Performance Criteria

Buildings set back from boundaries other than street boundaries so as to:

- *Provide adequate direct sun and ventilation to the building*
- *Ensure adequate direct sun and ventilation being available to adjoining properties*
- *Provide adequate direct sun to the building and appurtenant open spaces.*
- *Assist with protection of access to direct sun for adjoining properties.*
- *Assist in ameliorating the impact of the building bulk on adjoining properties.*
- *Assist in protecting privacy between adjoining properties.*

3.4.5 Landscaping Requirements Performance Criteria

All grouped and multiple dwellings communal open space are fully developed with appropriate planning, paving and other landscaping that:

- *Meets the project needs of the residents*
- *Enhances security and safety for residents*
- *Retains significant existing trees; and*
- *Contributes to the streetscape.*

3.5.1 On Site Parking Provision

- *the type, number and size of dwellings*
- *the availability of on street and other off site parking*
- *the location of the proposed development in relation to public transport and other facilities.*

3.5.4 Vehicular Access Performance Criteria

- *Vehicular access provides so as to minimise the number of crossovers, to be safe in use and not detract from the streetscape.*

3.5.5 Pedestrian Access Performance Criteria

Provision of safe and comfortable access for pedestrians between the communal car parking areas or public streets and individual dwellings.

4.1.3 Single Bedroom Dwellings Performance Criteria

- *Dwellings that provide limited accommodation, suitable for one or two persons.*

District Planning Scheme No2

6.8 Matters to be considered by Council

6.8.1 The Council when considering an application for Planning Approval shall have due regard to the following:

- (a) interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
- (b) any relevant submissions by the applicant;*
- (c) any agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;*
- (d) any planning policy of the Council adopted under the provisions of clause 8.11;*
- (e) any other matter which under the provisions of the Scheme the Council is required to have due regard;*
- (f) any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;*
- (g) any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment **in so far** as they can be regarded as seriously entertained planning proposals;*
- (h) the comments or wishes of any public or municipal authority received as part of the submission process;*
- (i) the comments or wishes of any objectors to or supporters of the application;*
- (j) any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and*
- (k) any other matter which in the opinion of the Council is relevant.*

Consultation:

The application was advertised for a period of 21 days in accordance with the Scheme and for the buildings exceeding the BTE. No submissions were received.

The application was also referred to the Public Transport Authority (PTA) and Main Roads Western Australia (MRWA). The PTA has advised that it has no objections to the proposal, however, the building design should encompass methods that reduce noise transmission from the adjoining railway line and Currambine Station.

Main Roads have advised they have no objections to the proposal subject to their standard conditions.

Policy Implications:

Policy 3.1.9 Height and Scale of Buildings within a Residential Area.

Sustainability Implications:

The proposed development will provide high-density development in close proximity to a major transport node. This will facilitate better use of this transport system in accordance with sustainable development principles. The utilisation of the R80 density code should be supported by the City.

COMMENT

Zoning

The site is zoned 'Residential' and has a density code of R80. The subject site abuts a railway station and the zoning of the site is considered appropriate to maximise the use of the railway station. The proposed development is below the maximum development potential under the current R80 zoning of the site.

General Development Requirements

Standard	Required	Provided
Minimum site area per dwelling	125m ² per dwelling	94 dwellings
Max plot ratio	1.0	<1.0 (8,264m ²)
Minimum open space	60%	>60%
Communal open space	16m ² per dwelling = 1,504m ²	860m ²

Front Setback

For the purposes of the application, Sunlander Drive, Burns Beach Road and Citadel Way have been considered as the primary street setback. The proposed development complies with the required 4.0 metre front average setback. This maintains the desired streetscape. Store rooms are proposed within the front setback area for a portion of the development fronting Burns Beach Road. The location of the stores within the front setback is a variation to the R-Codes, as they are required to be setback 2.0 metres. The proposed setback reductions are not expected to adversely affect the existing streetscape along Burns Beach Road and will assist in providing screening for the properties. The proposed variations should be considered acceptable and meet with the Performance Criteria of the R-Codes.

Side Setbacks

There are setback variations to Block E to the north-eastern and south-eastern boundary of 1.5m in lieu of 4.6 metres. The setback variation is determined to meet the Performance Criteria of the R-Codes, as it will not detrimentally impact on any adjoining residences and is also consistent with the intent of the Scheme.

The R-Codes require under Clause 3.3.1 that separate multiple dwellings or grouped dwellings on the same site or facing portions of the same multiple dwelling, are setback from each other as though there were a boundary between them.

In regard to this requirement, the blocks of multiple dwellings do not achieve the separations required by the R Codes as they share common boundary walls. This is not considered to affect the amenity of the surrounding locality or the development itself and is common in such development. It is considered that the variation to the R-Codes meets the performance criteria of the codes and as such should be approved.

Car parking

In accordance with the R-Codes, car parking is required to be provided at the rate of 0.35 spaces per dwelling plus 0.015 spaces per square metre of plot ratio area, to a maximum of two spaces per dwelling. For single persons dwellings parking is provided at the rate of 0.75 bays per unit.

In regards to single persons dwellings the 0.75 bays per unit applies when the dwelling has a plot ratio of greater than 60m². Ten of the single persons dwellings are under this requirement being a minimum of 58m². It is considered that this is a minor variation to the R-Codes and the 0.75 bays per unit should apply to the undersize units.

At least one space per dwelling is to be provided for the exclusive use of each dwelling and not less than ten percent of the required spaces are required to be provided for visitors. The parking requirements are summarised within the following table:

Ratio	Required	Provided
Multiple Dwellings 0.35 per dwelling	30	170
0.015 plot ratio	108	
Ten percent visitors	16	
Single Bedroom Dwellings	15	
Totals	153	

Each dwelling within the development has at least one bay allocated for its exclusive use and in many cases each dwelling has two bays. These have been provided either in tandem or throughout the site.

The applicant has provided 170 car-parking bays on site of which 14 are allocated for visitors and the remaining 156 have been allocated for the exclusive use of residents. It is recommended that 153 bays be allocated for the exclusive use of residents and 16 for visitor parking in accordance with R-Code requirements.

Building Threshold Envelope

The proposed development exceeds the BTE, which basically includes the area above the ceilings of the dwellings (roof space), which is shown in attachment 2. Considering the density of the site, the application of the BTE is problematic if the full potential of the site is to be achieved. That is, the height limitations provided by the BTE restrict the development of multiple dwellings, which are the only type of dwellings that could reasonably be built on the site to achieve the R80 density.

The proposed development through the BTE is considered acceptable considering that it is characteristic of the type of development contemplated by the R80 density code (i.e. it is expected that development within the R80 will be multiple storey) and that it is unlikely to impact on the residential amenity of the adjoining residential development. The proposal achieves a great deal of separation from adjoining residential dwellings and issues such as building bulk and overshadowing are not considered to be of concern.

Landscaping

A landscaping plan should be provided with the application for a building licence demonstrating compliance with R-Code requirements. Landscaping should be provided along the Burns Beach frontage to assist in maintaining the privacy of the adjoining dwellings and to lessen the impact of the development on Burns Beach Road. This will be a recommended condition of approval.

Access

The applicant has proposed two vehicular accesses, one from Citadel Way and the other from Sunlander Drive. This is considered appropriate for the scope of the development.

Access from the Sunlander Drive entry\exit has been recommended by the City's engineers to be limited to left-in\left-out as there is a traffic conflict between the existing Service Station entry\exit on the opposite side of the road. The access road to Citadel Way will not have such limitations.

It is not expected that the development will greatly impact on the existing residential road network as the majority of traffic is expected to access the site via Burns Beach Road which has a deal of separation between it and the adjoining residential development. Moreover, Burns Beach Road is classified as an Other Regional Road, which is expected to carry large volumes of vehicular traffic.

The applicant has proposed two crossovers exceeding the aggregate of 9.0m required by Clause 3.5.4 of the Codes as two crossovers of 6m each, a total of 12.0m have been proposed. A variation to this standard is consider appropriate because of the number of dwellings proposed on site and the desirability to provide more than one point of access to the site.

Visual Privacy

The proposed development will not create visual privacy variations outside of the existing lot boundaries with the exception of balconies from units E10 to E12. The land to which the balconies overlook is zoned residential but is defined to be part of the Mitchell Freeway Reserve and is owned by Main Roads Western Australia.

At the closest point the balconies, in line with the cone of vision, will be 1.5 metres from the adjoining property in lieu of 7.5 metres and thus create a variation to the R-Codes. As this land is unlikely to be developed for residential purposes and is designated for freeway uses it is recommended that the variation be approved as it complies with the performance criteria of the R-Codes relating to visual privacy.

Within the lot boundaries the upper floor units of the proposed dwellings will overlook the ground floor units open living areas. It is recommended that the application consider screening balconies and windows to minimise overlooking issues.

Open Space Areas

Multiple dwellings are required to have a balcony of 10m² with a minimum dimension of 2 metres. Some of the multiple dwellings do not have balconies this is recommended as a condition of planning approval.

The ground floor units have been provided with a courtyard area of similar dimension to the balconies, which is also required by the R-Codes. These ground floor courtyard areas do not appear directly accessible from a habitable room. This is recommended as a condition of Planning Approval along with these areas being defined for the exclusive use of the particular unit.

A minimum of 16m² of open space is required to be provided per multiple dwelling. This equates to 1,504m² of the site. For the purposes of the application areas around the units themselves have not been counted as communal open space as they are fenced and not readily accessible for all residents of the unit.

The applicant has not provided the minimum of 1,504m² this but has provided a central communal facility including a Gym, Communal Pavilion and BBQ area in the middle of the site of 860m². This facilities are expected to be large enough to meet on site demand It is recommended that the Joint Commissioners support the shortfall of communal open space, as each dwelling has an adequate area of private open space and the communal open space provided on site is considered sufficient to meet resident demand. Moreover, it is considered that the communal open space provided meets the performance criteria of 3.4.5 of the R-Codes.

Plot Ratio

The development complies with the plot ratio requirements over the site of 1.0. However single bedroom dwellings are required to have a maximum plot ratio of 60m² in accordance with the R-Codes. The proposed single persons dwellings exceed the requirement in some cases by a maximum of 3.8m². This variation is considered minor and meets the Performance Criteria of the R-Codes.

Pedestrian Access

In accordance with Clause 3.5.5 of the R-Codes when multiple dwellings are served by stairs only, stairs are provided so that for normal access purposes no more than two dwellings at each floor are served by each staircase. In the proposed development up to three units are served by one staircase at one level. This is not considered to be problematic, as the staircases will still provide safe and comfortable access as required by the performance criteria of the R-Codes and thus a variation should be granted.

Acceptability of the development proposal

The proposed development, if approved, will provide a residential development akin to what is expected adjoining a suburban railway station and transport nodes. The minor R-Code variations proposed by the development are not expected to adversely impact on the surrounding residential development or the amenity of the locality.

The proposed variation to the BTE is considered to be appropriate as it imposes unrealistic expectations on high-density development with its height limitation of 8.5 metres. It is not expected that approval of the development protruding through the BTE will adversely affect development within the surrounding locality.

It is recommended that the proposed development be approved as the proposal accords with the intent and purposes of both the R-Codes, Scheme and BTE.

ATTACHMENTS

Attachment 1	Location Plan
Attachment 2	Development Plans

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Clough, SECONDED Cmr Fox that the Joint Commissioners:

- 1 EXERCISE discretion under clauses 2.3.4 of the Residential Design Codes and that:**
 - (a) Reduced storeroom setbacks to the primary street of nil in lieu of 2.0 metres;**
 - (b) Reduced setback of nil between all multiple dwellings;**
 - (c) Reduced communal open space of 860m² lieu of 1, 504m²;**
 - (d) Reduced side setback of 1.5 metres in lieu of 4.6 metres for units, E8, E10 and E17 to the north-eastern and south eastern lot boundaries;**
 - (e) Plot ratio variation to single person's dwellings of a maximum of 63.8m² in lieu of 60m²;**
 - (f) Variation to the maximum driveway aggregate width of 12m in lieu of a maximum 9.0m;**
 - (g) A visual privacy variation of 1.5m in lieu of 7.5m to the north-eastern lot boundary;**

- (h) Variation to pedestrian access requirements of one set of stairs serving three units in lieu of 2 units at one level;**
 - (i) Variation to on site parking provision for single persons dwellings;**
- are appropriate in this instance;**
- 2 DETERMINE that a portion of the buildings through the Building Height Envelope is appropriate in this instance;**
- 3 APPROVE the Application for Planning Approval dated 27 April 2004 submitted by Oldfield Knott Architects on behalf of Goldzen Pty Ltd for ninety-four multiple dwellings on Lot 2259 (1) Sunlander Drive, Currambine subject to:**
 - (a) All stores shall have a minimum dimension of 1.5 metres and an area of 4m² as required by the Residential Design Codes;**
 - (b) Clothes drying areas shall be provided in accordance with the Residential Design Codes 2002 to the satisfaction of the City. ;**
 - (c) All uncovered car-parking areas shall be screened landscaped.**
 - (d) Landscaping shall be provided between each six consecutive car parking bays to the satisfaction of the City;**
 - (e) Unroofed visitors' bays are to be screened and landscaped to the satisfaction of the City;**
 - (f) Lighting shall be provided to communal open space, car parking areas and pathways in accordance with the Residential Design Codes 2002 to the satisfaction of the City;**
 - (g) Separate pedestrian paths providing wheelchair access connecting all entries to buildings with the public footpath and car parking areas shall be provided in accordance with the Residential Design Codes 2002 to the satisfaction of the City;**
 - (h) Fences and walls to be reduced to 750mm in height or visually truncated where they adjoin vehicular accessways;**
 - (i) Visitor car parking areas to be clearly marked and signposted to the satisfaction of the City;**
 - (j) Communal accessways to be no closer than 3m to a wall with a major opening unless screened Residential Design Codes 2002 to the satisfaction of the City;**

- (k) Any retaining walls over 500mm are to be the subject of a separate Application for Planning Approval to the satisfaction of the City;**
- (l) Windows and balconies should be screened as appropriate to reduce overlooking into ground floor courtyards and private open space;**
- (m) Access to and from Sunlander Drive to be restricted to left in and left out only;**
- (n) A refuse management plan is required to be submitted for approval indicating number of bins, frequency of servicing and on site management to the satisfaction of the City. Bin stores shall be provided for each block of units in close proximity to such units to the satisfaction of the City;**
- (o) Tandem car parking bays shall be allocated to the same multiple dwelling;**
- (p) Wheel stops are required where bays are perpendicular to other bays;**
- (q) The parking bays, driveways and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS2890). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the City prior to the development first being occupied. These works are to be done as part of the building programme;**
- (r) Disabled car parking bays located convenient to the building entrance and with a minimum width of 3.2 metres, to be provided to the satisfaction of the City. Provision must also be made for disabled access and facilities in accordance with the Australian Standard for Design for Access and Mobility (AS 1428.1);**
- (s) An onsite stormwater drainage system with the capacity to contain a 1:100 year storm of a 24 hour duration is to be provided prior to the development first being occupied and thereafter maintained to the satisfaction of the City. The proposed stormwater drainage system is required to be shown on the Building Licence submission and be approved by the City prior to the commencement of construction;**
- (t) Store doors shall not open out into parking bays;**
- (u) Columns for roof coverings are to be set back 750mm from the front of the bay, and the bay dimension shall be taken from the face of the columns;**
- (v) Disabled bays are to be minimum of 3,200mm wide and require additional reversing space where adjacent to the sliding security gates;**

- (w) A traffic statement being provided from a qualified traffic consultant, which addresses the location and operation of the proposed access onto Sunlander Drive to the satisfaction of the city. Modifications to the existing traffic islands at the applicant cost to the satisfaction of the City may be required;
- (x) Every residential unit shall be provided with a laundry, toilet, shower and kitchen;
- (y) The development shall comply with the Health Act 1911 and relevant regulations made thereunder, the City of Joondalup Health Local Laws 1999 and the Sewerage (Lighting, Ventilation and Construction) Regulations 1974;
- (z) Swimming pool component shall comply with the Health (Swimming Pool) Regulations 1963. The applicant is advised that plans and specifications are required to be submitted to the Executive Director of Public Health for approval prior to construction;
- (aa) Swimming pool areas shall be provided with a first aid area to the satisfaction of the City;
- (bb) Communal areas shall comply with the Health (Public Building) Regulations 1992;
- (cc) Development shall comply with the Building Code of Australia;
- (dd) Bins stores shall be provided with a concrete floor that grades evenly to an industrial floor waste gully connected to sewer and shall be provided with a hose cock;
- (ee) Each ground floor unit shall be provided with a courtyard with a minimum dimension of 2 metres and area of 10m², which is suitably defined for the exclusive use of that unit;
- (ff) Compliance with the requirements of Main Roads Western Australia in regard to the adjoining Primary Regional Road under the Metropolitan Region Scheme;
- (gg) Access above ground level to all multiple dwellings to be totally protected from the weather;
- (hh) All dwellings are to be provided with a balcony in accordance with the Residential Design Codes 2002;
- (ii) Compliance with the requirements of the easements over the property to the satisfaction of the City;

- (jj) **Pedestrian access to be provided separate from vehicular access design in accordance with AS1428.1 2001 and to be barrier free and at least 1.2m in width between the public streets and dwellings;**
- (kk) **Building shall incorporate measures to reduce noise transmission from the adjoining railway station;**
- (ll) **The lodging of detailed landscaping plans to the satisfaction of the City for the development site with the Building Licence application. For the purpose of this condition a detailed landscaping plans shall be drawn to a scale of 1:100 and show the following:**
 - (i) **the location and type of existing and proposed trees and shrubs within the car park area;**
 - (ii) **any lawns to be established;**
 - (iii) **areas to be reticulated or irrigated;**
 - (iv) **compliance with the landscaping requirements of the Residential Design Codes.**

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 23 refers

To access this attachment on electronic document, click here: [Attach23agn231104.pdf](#)

CJ297 - 11/04 PROPOSED MIXED USE DEVELOPMENT (2 OFFICES AND 15 RESIDENTIAL UNITS): LOT 510 (5) DAVIDSON TERRACE, CNR SHENTON AVENUE, JOONDALUP – [13250]

WARD - Lakeside

CJ041116_BRF.DOC:ITEM 26

PURPOSE

To request the Joint Commissioners' determination of an application for a mixed use development in the Central Business District of the City Centre.

EXECUTIVE SUMMARY

The applicant proposes to construct a 4 storey mixed use development with two commercial tenancies on the ground floor and fifteen (15) residential units above. The development includes 20 car parking bays, which are accessed via the Right of Way at the rear of the lot.

Since the Joondalup City Centre Development Plan and Manual (JCCDPM) does not specify residential densities for 'General City' land-uses, each development application that contains a residential component must be referred to the Commissioners for determination. In this case, the proposed residential density is R-145 (145 dwellings per 10 000m²).

The development complies with the plot ratio requirement. The considerable residential component assists in maximising the potential of the land, which is highly desirable from the City's perspective. The residential component will add value to the City Centre by providing patronage to the businesses below and elsewhere within the Central Business District.

The development does not comply with the parking requirements. The applicant has sought a cash-in-lieu payment for the car parking shortfall. Given that the car bay shortfall is modest and considering the proximity of a nearby car parking station, it is considered that a shortfall of 5 bays for the subject development is acceptable in this instance. It is recommended that a cash-in-lieu payment calculated at \$8 100 per bay be a condition upon any approval.

It is considered that the development will provide accommodation and office facilities to meet the future demands of the growing City Centre. It will be characteristic of the development already approved in the immediate area and add value to the City Centre.

The density and car-parking provisions are considered appropriate in this instance and considering that the proposal complies with all other City policies, it is therefore recommended that the development be approved, subject to appropriate conditions.

BACKGROUND

Suburb/Location: Lot 510 (5) Davidson Terrace, cnr Shenton Avenue, Joondalup
Applicant: Rad
Owner: Mimi Miu Kuen Ferguson
Zoning: **DPS:** Centre
MRS: City Centre

The proposed Lot 510 (currently vacant) is 1035m² in area and falls within the Central Business District of the Joondalup City Centre, where it is designated for General City Use. The preferred uses are residential, retail, office, accommodation, leisure and entertainment, cultural facilities, community and medical suites.

DETAILS

The proposed development includes the following features:

- 1 A mixed use development consisting of 15 residential units and 2 office units;
- 2 The ground level consists of two office units, a bin store and 9 storage areas for the residences above;
- 3 Floors 1, 2 and 3 consist of 15 residential units, 6 of which have their storage area adjacent to the unit;
- 4 A bin storage area has been provided to the south-eastern corner of the lot.
- 5 The height of the building is four storeys (13.5 metres at its highest point);

- 6 The total number of car parking bays provided is 20, including one staff disabled car parking bay and four other staff bays for the commercial units;
- 7 Service vehicle access and car parking is provided from the rear laneway;
- 8 The upper level residential units are accessed via a lift and flight of stairs centrally located within the building;
- 9 The lower and upper floors address the street frontages with nil setbacks from Shenton Avenue and Davidson Terrace;
- 10 Balconies and stores have been provided for the residential units; and;
- 11 The commercial tenancy frontages include pedestrian shelter awnings that extend over the road reserve.

Statutory Provision:

Development within this area is controlled by the provisions of District Planning Scheme No 2, the Joondalup City Centre Development Manual Plan and Manual (JCCDPM) and the R-Codes.

District Planning Scheme No 2

The site is zoned “Centre” under DPS2.

When determining this application Clauses 4.2.4, 4.5, 4.8, 4.11 and 6.8 of the DPS2 are relevant:

4.2.4 Subject to clause 4.2.5, the Residential Planning Code density applicable to land within the Scheme Area shall be determined by reference to the legend shown on the Residential Density Codes maps, which form part of this Scheme.

Unless otherwise specified on the map the R20 density code applies unless the Council determines that a higher code should apply.

4.5 Variations to Site and Development Standards and Requirements.

4.5.1 Except for development in respect of which the Residential Planning Codes apply and the requirements set out in Clauses 3.7.3 and 3.11.5, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.

4.5.2 In considering an application for planning approval under this clause, where, in the opinion of Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is subject of consideration for the variation, the Council shall:

(a) consult the affected parties by following one or more of the provisions for advertising uses pursuant to clause 6.7.1; and

(b) have regard to any expressed views prior to making its decision to grant the variation.

4.5.3 *The power conferred by this clause may only be exercised if the Council is satisfied that:*

- (a) *approval of the proposed development would be appropriate having regard to the criteria set out in Clause 6.8; and*
- (b) *the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.*

DPS2 outlines that cash-in-lieu of parking may be considered as follows:

4.8 *Car Parking Standards*

4.8.1 *The design of off-street parking areas including parking for disabled shall be in accordance with Australian Standards AS 2890.1 or AS 2890.2 as amended from time to time. Car parking areas shall be constructed and maintained to the satisfaction of the Council.*

4.8.2 *The number of on-site car parking bays to be provided for specified development shall be in accordance with Table 2. Where development is not specified in Table 2 the Council shall determine the parking standard. The Council may also determine that a general car parking standard shall apply irrespective of the development proposed in cases where it considers this to be appropriate.*

4.1 *Car Parking – Cash-in-lieu or Staging*

4.11.1 *The Council may permit car parking to be provided in stages subject to the developer setting aside for future development for parking the total required area of land and entering into an agreement to satisfactorily complete all the remaining stages when requested to do so by the Council.*

4.11.2 *Council may accept a cash payment in lieu of the provision of any required land for parking subject to being satisfied that there is adequate provision for car parking or a reasonable expectation in the immediate future that there will be adequate provision for public car parking in the proximity of the proposed development.*

4.11.3 *The cash payment shall be calculated having regard to the estimated cost of construction of the parking area or areas suitable for the proposed development and includes the value, as estimated by the Council, of that area of land which would have had to be provided to meet the car parking requirements specified by the Scheme. The cash payment may be discounted and may be payable in such manner as the Council shall from time to time determine.*

4.11.4 *Any cash payment received by the Council pursuant to this clause shall be paid into appropriate funds to be used to provide public car parks in the locality as deemed appropriate by Council.*

6.8 *Matters to be Considered by Council;*

6.8.1 *The Council when considering an application for Planning Approval shall have due regard to the following:*

- (a) interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
- (b) any relevant submissions by the applicant;*
- (c) any Agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;*
- (d) any planning policy of the Council adopted under the provisions of clause 8.11;*
- (e) any other matter which under the provisions of the Scheme, the Council is required to have due regard;*
- (f) any policy of the Commission or its predecessors or successors or any planning policy adopted by the Government of the State of Western Australia;*
- (g) any relevant proposed new town planning scheme of the Council or amendment or proposed Metropolitan Region Scheme Amendment insofar as they can be regarded as seriously entertained planning proposals;*
- (h) the comments or wishes of any public or municipal authority received as part of the submission process;*
- (i) the comments or wishes of any objectors to or supporters of the application;*
- (j) any previous decision made by the Council in circumstances which are sufficiently similar for the previous decision to be relevant as a precedent, provided that the Council shall not be bound by such precedent; and*
- (k) any other matter which in the opinion of the Council is relevant.*

Residential Design Codes (R-Codes)

The provisions of the R-Codes apply in regard to all residential development.

Clause 2.3.4 of the R-Codes allows for the exercise of discretion, which shall be exercised having regard to the clause 2.3.4 (2) of the R-Codes as follows:

“2.3.4(2) Discretion shall be exercised having regard to the following considerations:

- (i) the stated purpose and aims of the Scheme;*
- (ii) the provisions of Parts 2,3 and 4 of the Codes as appropriate;*
- (iii) the Performance Criterion of Criteria in the context of the R-Coding for the locality that correspond to the relevant provision;*
- (iv) the explanatory text of the Codes that corresponds to the relevant provision;*
- (v) any Local Planning Strategy incorporated into the Scheme;*
- (vi) the provision of a Local Planning Policy pursuant the Codes and complying with sub-clause (5) below; and*
- (vii) orderly and proper planning.*

Development Standards Table

The following table summarises the development details:

Standard	Required	Provided
Front Setback	0m	0m
Side Setbacks	As per Building Code of Australia (0m)	0m
Rear Setbacks	As per Building Code of Australia (0m)	0m
Plot Ratio	1.0	0.287
Height	13.5m at boundary	13.5m at boundary
Storerooms	1 per dwelling, 4m ² area	1 per dwelling, 4-5.8m ² area
Balconies	1 per dwelling 10m ² area	1 per dwelling, 10-32m ²

The proposed development complies with the above requirements.

Consultation:

The proposal has not been advertised, as the form of the development is that expected in the City Centre and contains the preferred land-uses stipulated in the JCCDPM.

Strategic Implications:

It is likely that this mixed use development will contribute to meeting the projected demand for housing and commercial space for the increasing population of the City of Joondalup. The commercial space will encourage residents to interact with their neighbourhood and localise commercial opportunities as opposed to utilising other commercial centres. The relatively high density of the development will contribute and assist in supporting the local economy.

COMMENT

The development will integrate well with the character of the City Centre. The proposal will create urban walls along Shenton Avenue and Davidson Terrace, which is expected to contribute to the civic design goals for the City. The impact of this development on any of the residential/commercial areas is likely to be minimal.

The overall design of the development provides a four storey 'urban wall' along the road frontages and Right of Way to the south.

The glazed office fronts and pedestrian shelter will ensure that active frontages will face the streets and will help to bring life into the public spaces adjacent to the building.

Land Use

As the proposal provides both residential dwellings and office space, the proposed uses comply with the general city preferred land use for which the lot has been earmarked under the JCCDPM.

The proposal provides two (2) commercial tenancies of varying configuration. In this form the office is flexible enough to accommodate the permitted uses under the JCCDPM in the future, including retail, entertainment and restaurant/café functions.

The fifteen (15) residential dwellings vary in size from 85m² to 100m² and provide two bedrooms per unit, which reflects the type of residences desirable within a central area.

Residential Density

The JCCDPM does not specify residential densities for the ‘General City’ precinct of Central Business District. Clause 4.2.4 of DPS2 specifies that unless otherwise specified on the map an R-20 density applies unless Council determines that a higher coding is justified. It is clear from the JCCDPM that an R20 coding was not intended for land in this locality. The JCCDPM foreshadows buildings of substantial bulk and providing a variety of land-uses that would collectively contribute to the sustainability of the City Centre. The proposal has an equivalent density of R-145.

It is recommended that the Joint Commissioners determine that the proposed density at R-145 is considered to be appropriate given that the site is in a prominent location within the City, where higher densities are appropriate and are encouraged by the principles of the JCCDPM.

Plot Ratio

For developments in ‘General City’ designated lots, the JCCDPM permits a maximum plot ratio of 1.0. The plot ratio includes the Gross Leaseable Area (GLA) for retail and commercial uses. Therefore, the plot ratio for the proposed development is 0.287.

The plot ratio of the commercial development is considered to be appropriate as it integrates with other development within the area. Although the plot ratio is considerably under the City’s requirements, the sizeable residential component assists in maximising the potential of the land, which is highly desirable from the City’s perspective. The residential component will add value to the City Centre by providing patronage to the businesses within the immediate area and elsewhere within the Central Business District.

Car Parking

The JCCDPM does not specify car parking standards for this precinct.

Clause 4.8 of DPS2 provides that where no parking standards are provided, a car parking standard is to be determined. The car parking ratios below are considered to be appropriate and have been consistently applied to developments throughout the City.

It is recommended the Joint Commissioners exercise discretion under clause 4.8 of DPS2 and applies the following carparking ratios:

Use	Parking Provision	No of Bays Required	No of Bays Provided
Commercial	1 bay per 30m ² GFA (287÷ 30)	10	5
Residential Units	1 bay per residential unit	15	15
Total		25	20 bays are provided (including one disabled bay)

From the table it is noted that the development does not comply with the parking requirements. There is a sufficient car parking bay provision for the proposed residences but there is an overall shortfall of five (5) bays for the commercial floor space. The applicant has sought a cash-in-lieu payment for the commercial car-parking shortfall.

The Joondalup City Centre Public Parking Strategy (JCCPPS) states that 86 bays are available at the car parking station (P4) accessible from Davidson Terrace. The station is intended to complement the car parking requirements of the lots adjacent, including Lot 510 Davidson Terrace. It is also intended that the current car park will be upgraded to a multi-level station capable of providing 245 bays.

It is noted that there is an adequate provision of car bays for the proposed residences. It is reasonable to assume that commercial car parking shortfall will be ameliorated since the demand generated will be during business hours on week days only. This demand can be satisfied by the parking station nearby and will not conflict with the residential bays.

Given that the car bay shortfall is modest and considering the close proximity of the car parking station, it is considered that a shortfall of 5 bays for the subject development is acceptable in this instance. It is recommended that a cash-in-lieu payment calculated at \$8,100 per bay be implemented as a condition upon any approval.

Glazing/Awnings

JCCDPM requires that at least 50% of the area on the ground level façade shall be glazed and the horizontal dimension of the glazing shall comprise 75% of the total building frontage for uses other than residential. The development exceeds this requirement along both Davidson Terrace and Shenton Avenue. It is considered that the facades will reduce the harshness of the 'urban wall' and provide visual interest to pedestrians.

The awnings for 'General City' developments are to extend 2 metres across the verge and maintain a minimum clearance of 2.75 metres from the ground level. Generally, the proposed development complies with these requirements. At the southern part of the Davidson Terrace frontage, part of the awning does not maintain the minimum ground clearance of 2.75 metres. At its worst point, the awning is 2.2 metres from the natural ground level. Therefore, a condition requiring the awning to measure 2.75 metres should be attached.

Store Rooms

When assessing any residential development, the R-Codes are to be used as guide. Therefore, balconies and storerooms are compared against the relevant R-Code provision. Clause 3.4.3 of the Residential Design Codes requires an enclosed, lockable storage area, constructed in a design and material matching the dwelling, with a minimum dimension of 1.5 metres with an internal area of at least 4m² for each multiple dwelling.

The storerooms provided meet all the above requirements with six (6) of the units directly integrated with them. The remaining nine (9) storerooms are all located on the ground floor adjacent to either the entry lobby or the car parking area. They are considered adequate to the needs of the residents and are without detriment to the amenity of the locality.

Balconies

Clause 3.4.3 of the Residential Design Codes requires each multiple dwelling to be provided with a balcony with a minimum dimension of 2 metres. The applicant has provided a balcony with a minimum dimension of 2 metres and area varying from 10.07m² to 32.26m².

The balconies meet the acceptable development standards, provide a useable open space and are accessible from a habitable room.

Conclusion

It is considered that the development will provide accommodation and office facilities to meet the future demands of the growing City Centre. It will be characteristic of the development already approved in the immediate area and add value to the City Centre.

The density, plot ratio, glazing, and car-parking provisions are considered appropriate in this instance and it is therefore recommended that the development be approved, subject to appropriate conditions.

In accordance with Clause 4.5, 4.8.2 and 4.11 of DPS2 and having regard to the criteria of clause 6.8.2 and the JCCPPS, the Joint Commissioners determine that the proposed car-parking provisions and cash payment in lieu of the shortfall is appropriate as the nearby car parking station will alleviate demand and will not have an adverse effect upon the occupiers of the development or on the locality.

ATTACHMENTS

Attachment 1	Locality Plan
Attachment 2	Development Plan

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Smith, SECONDED Cmr Anderson that the Joint Commissioners:

- 1 EXERCISE discretion under clauses 4.2.4, 4.5 and 4.8.2 of the District Planning Scheme No. 2 and determine that:**
 - (a) The parking standards of 1 bay per 30m² of commercial space and 1 bay per residential unit;**
 - (b) The development having a density of R-145;**

are appropriate in this instance.
- 2 DETERMINE that a cash in lieu payment of \$40 500 for a shortfall of 5 bays is appropriate in this instance;**
- 3 APPROVE the application dated 29 March 2004 submitted by R-A-D for a mixed use development comprising 2 offices and 15 residential units on Lot 510, (5) Davidson Terrace corner Shenton Avenue, Joondalup, subject to the following conditions:**
 - (a) Any roof mounted or free standing plant or equipment such as air conditioning units, satellite dishes and radio masts to be designed and located so not to be visible from the primary street;**
 - (b) The awning towards the south of the development is to be altered to maintain a minimum clearance of 2.7 metres from the ground level as marked in red on the approved plans;**
 - (c) The columns adjacent to parking bays 5 & 9 are to be relocated to conform with AS 2890.1 – 1993 clause 5.2 to the satisfaction of the City;**
 - (d) The change in grade for car bays must not exceed 6%, whilst disabled bays must not exceed a grade of 2.5%;**
 - (e) No obscure or reflective glazing being used for the commercial units fronting onto public spaces and road reserves;**
 - (f) All boundary walls and parapet walls being of a clean finish and made good to the satisfaction of the City;**
 - (g) All fencing to be designed and constructed in accordance with the attached extract from the Joondalup City Centre Development Plan and Manual and thereafter be maintained to the satisfaction of the City;**
 - (h) Five car bays, including the disabled bay are to be allocated to the commercial tenancies;**

- (i) The bin area shall be provided with dedicated pedestrian access path, separate from any adjacent car bay;
- (j) The provision of 20 car bays to be provided on site;
- (k) The parking bays, driveways and points of ingress and egress to be designed in accordance with the Australian Standard for Off-Street Car parking (AS2890). Such areas are to be constructed, drained and marked and thereafter maintained to the satisfaction of the City prior to the development first being occupied. These works are to be done as part of the building programme;
- (l) An on-site stormwater drainage system with the capacity to contain a 1:100 year storm of a 24-hour duration is to be provided prior to the development first being occupied and thereafter maintained to the satisfaction of the City. The proposed storm water drainage system is required to be shown on the Building Licence submission and be approved by the City prior to the commencement of construction.

FOOTNOTE:

A separate application is to be made to the City for Approval to Commence Development and sign licence prior to the installation of any advertising signage.

- 1 In relation to condition 3(j) cash-in-lieu payment will be accepted in regard to the shortfall of 5 bays;
- 2 The cash value that will be accepted for each parking bay is the sum of the construction cost and land component. The cash value that will be accepted for each parking bay is the sum of the construction cost and land component. A sum of \$8 100 per parking bay has been adopted for this purpose. Cash-in-lieu parking will contribute towards a fund for the Council to meet future parking demand within the locality;
- 3 It is advised that the City will not support the erection of telecommunications infrastructure on any part of the proposed building.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 24 refers

To access this attachment on electronic document, click here: [Attach24brf161104.pdf](#)

CJ298 - 11/04 SUMMARY REVIEW OF COUNCIL'S TOWN PLANNING CONTROLS – [17169] [63549] [09011]

WARD - All

CJ041116_BRF.DOC:ITEM 27

PURPOSE

To provide Commissioners with information about the performance and potential for improvement of Council's Town Planning Controls.

EXECUTIVE SUMMARY

The Commissioners have recently reviewed and adopted a fresh delegation notice for Town Planning matters. In considering this issue, comments have been made about the suitability of Council's planning controls, the alignment between various types of controls and the potential gaps.

At the 12 October 2004 meeting of the Joint Commissioners, a resolution was adopted requesting a report for the consideration of the Commissioners on this matter.

It is recommended that the Joint Commissioners:

- 1 *INITIATE the proposed enhancements and clarifications to the District Planning Scheme, policy and Structure Plans as resources allow;*
- 2 *NOTE that a project plan will be developed for the tasks foreshadowed in this Report as a component of the next available budget review;*
- 3 *ADVISE The Western Australian Planning Commission of the Council's concerns and suggestions regarding enhancements to the Residential Codes and seek support for the Codes to be altered to reduce ambiguity and assist with interpretation;*
- 4 *NOTE the content of this report and acknowledge the significant resources required to carry out a wholesale review of the City's Planning Controls.*

BACKGROUND

At the 12 October 2004 meeting of the Joint Commissioners it was resolved that Joint Commissioners:

REQUIRE a report be prepared for the November 2004 round of Council meetings, such report is to identify the resources required and the timetable for a review of strategic documents and policies associated with administration of the Town Planning Scheme and R Codes within the City of Joondalup.

A fully detailed review of standards would take an estimated 12 months to complete as a discrete project, with the outcome being a detailed schedule of issues to rectify and align.

This report is necessarily prepared as a high level summary to give an indication of the depth of the issues and the inter-relationship between standards as they currently apply. It is focussed on alignment between planning controls and options for improvement. This would assist with the technical application of the various controls and may improve shared understanding of those requirements.

The Council's planning controls come in various forms. Some of the controls are subsets of others, while some are overarching. The alignment between controls and planning intentions can become less than clear for several key reasons:

- 1 Planning controls can be developed by different groups of decisions makers, either successive Councils, or by State government.
- 2 Planning controls can be developed at different times, thereby becoming out of step with changed community expectations.
- 3 The intended interpretation of controls can be lost over time, or through testing of issues on appeal or through the courts.

The City of Joondalup and all other local governments face each of these challenges with the implementation and development of planning controls.

The volume of applications processed by the City is substantial. A small percentage of applications may generate contention and debate when assessed against the performance based focus of today's planning requirements, and these are brought to the Commissioners' attention through the Council meeting process. It must be remembered that those applications represent a very small percentage of applications processed by the Council and, for the majority of applicants, the existing collection of controls and policies does allow for appropriate development to occur.

In the recent past, development controls adopted by each level of government have become more performance based and have included ever increasing opportunities for consultation and negotiation (often involving community groups or near neighbours). This is a substantial change to the previous practice of prescriptive development standards that could be applied efficiently and quickly, with less perceived subjectivity being shown by the Council.

The impact of this shift has not been understood by government, in terms of impact on resourcing proper town planning activities, but it has seriously impacted on the ability to resource and plan ahead and to deliver forward planning initiatives, such as policy development, the evolution of planning schemes, or to provide effective lobbying where changes and initiatives are mooted by state government.

Societal trends for more dense urban development and higher community expectations regarding amenity have lead to additional community scrutiny on the standards of the day. People look for the standards to provide a panacea to all problems encountered by living nearer to neighbours than they ever did.

Inevitably, the standards cannot suit various viewpoints, especially when often opposing points of view are put, based purely on localised or parochial interests.

From an overall perspective, the Council's planning controls must also provide for the planning good of the greater municipality and for considered change and evolution of the built environment to provide for the demands and needs of existing and future residents.

It is against this background that the City's planning controls need to perform and to be judged.

DETAILS

This report focuses upon various controls as explained below:

- 1 The Residential Design Codes (adopted by the State Government in October 2002);
- 2 The District Planning Scheme No 2 (adopted by the then Council in 2000);
- 3 Structure Plans (adopted at various times and subject to continual evolution and review);
- 4 Council policies (adopted at various times and subject to a process of continual review).

In terms of primacy, the various standards are recorded in the order of their importance.

COMMENT

The City processes approximately 5000 applications per year under the applicable planning controls, much of it without contention or extended debate. Where contention does arise for a very small percentage of applications, this should not be seen as a measure of the broad effectiveness of controls.

Each different type of planning control requires a separate process (under statute) for it to be altered. Proposed changes to standards come under public scrutiny and include a complex approval process. This means that changes to standards are resource hungry. Changes require:

- 1 Considerable time to move through the process.
- 2 Sustained support from decision makers to ensure consistency of decisions.
- 3 An accurate view of the desired future to ensure that standards will be relevant when they do come into effect.

In terms of the City's planning controls, they have several discrete types.

State Planning Policies

The State develops policy for adoption by all Councils. It is mandatory for those controls to be considered by the Local Government when it is considering applications, or when it is developing its own controls.

An example of such a state control is the Residential Design Codes (R Codes). The R Codes, adopted in 2002, automatically form part of the City's DPS and are required to be enforced in accordance with the manual and gazetted provisions. In order to change the R Codes, it would be necessary to have the agreement of the State Government, advised by the Western Australian Planning Commission. Notably, even though the R Codes have been in effect for just 2 years, resources are being applied to a minor review at present, in acknowledgement of the issues that have arisen from the new standards.

The R Codes are the most contemporary control in terms of age that the City applies and yet the new Codes also cause most of the contention that the staff face on a day-to-day basis. Compared to the previous R Codes, it is evident that the new R Codes are:

- 1 Ambiguous in parts
- 2 Difficult to understand
- 3 Overly restrictive in certain aspects
- 4 Silent in regard to some types of development and
- 5 Overly detailed regarding certain development controls and objectives.

Detailed suggestions about changes are included in the attachment.

The District Planning Scheme

District Planning Scheme (DPS) No 2 was adopted in late 2000, following a review and development process that extended for more than 10 years prior to that time. At times, the review was a full time job for an individual staff member of the City. The DPS represents an amalgam of ideas of various Councils over various periods of time and in some respects clarity of planning intentions has been lost in regard to some parts of the Scheme.

The DPS is subject to continual testing on appeal (relating to decisions issued) and in the application of standards. This provides a starting point for a continual review process of the DPS, and has resulted in numerous revisions of the DPS to date.

The DPS would ordinarily require the development of supporting strategy documents to discuss trends, establish aims and make connections between key elements of the local government in terms of its built environment and the intended future. In the case of the City's DPS, the Scheme was adopted without the finalisation of a Housing Strategy for the area. In addition, the Commercial Strategy was in a draft form and has been openly suggested as requiring a review.

Both these projects have been the subject of changed budget bids over the past few years, having been deferred as a result of other corporate priorities. For the current budget, an amount is set aside for the commencement of the Commercial Strategy review with the assistance of external consultants. This is programmed for an imminent start.

In terms of the DPS format, the Schedule attached gives an overview of the areas of improvement that would be of assistance to all stakeholders in regard to its implementation and to assist with the understanding of the DPS.

Amendments to the DPS follow a statutory process and are checked to ensure alignment with the State Government's model Scheme Text and for alignment with overarching state policies. A consultation and assessment process is also required to ensure local planning interests are considered. The process for minor DPS amendments takes approximately 12 months, based on the City's current experiences.

Since the adoption of the DPS, 17 amendments have been finalised, with 7 being in progress at the current time.

Council Policies

The Council adopts policies to assist with the implementation of the DPS. The typical reason for adoption of policies is to provide some criteria to assist with the application of discretion or to assist with the establishment of parameters by which planning decisions and recommendations are made.

Over time however, Councils also adopt policies at times to cover issues that the DPS may be silent upon. (e.g. telecommunications)

The Council may also adopt policy as a statement of its preferred direction on issues under the guise of Planning Statements, when in fact they amount to a philosophical position on issues.

The Council has a range of adopted policies, which come under continual review and scrutiny, both through their application, and also by way of regular review as required by the Local Government Act.

The review process for policies includes a requirement for advertising and the consideration of public submissions. The process for policy development and adoption can take as little as 6 months, but can take longer dependent upon the availability of resources. For example, City staff has been working on a policy for the control of signage for approximately 3 years, as other projects and priorities has allowed.

The attached schedule provides a critique of the performance of policies and suggestions for improvements.

Structure Plans

Structure Plans (SP) are adopted under a process established by the DPS. The City has 8 Structure Plan areas within the municipality. They guide the subdivision of undeveloped land, and express road patterns, open space allocation, key linkages and the like. In the case of the City's DPS, SPs can also be used to facilitate development and redevelopment of other areas, dependent upon planning objectives and implications.

The City's SPs have been adopted at various times in accordance with codes and standards, some of which are now superseded or altered. As a result, they can be difficult to interpret, especially where:

- 1 The Structure Plan makes reference to incorporating provisions of the R Codes;
- 2 The Structure Plan is silent in regard to applicable provisions;
- 3 The Structure Plan may be silent in terms of grounds for exercising discretion

The attachment provides a schedule of suggested areas for improvement to SPs to aid in application of provisions or understanding of the planning objectives.

In summary, the key theme issues that emerge are as follows:

- 1 The exercise of discretion and the origin of power to exercise that discretion;
- 2 The definition of land uses (particularly commercial land uses);
- 3 The relationship of Structure Plans to the DPS;
- 4 The establishment of appropriate guidance to assist with the exercise of discretion.

The attached schedule gives an overview list of the clauses and provisions of the City's planning controls that would benefit from clarification and redrafting. It is intended that the detailed work undertaken on those clauses would pick up the theme issues mentioned above.

A proviso also needs to be borne in mind in regard to these recommendations. The proposals presented herein are intended to provide for a technical review of standards and the alignment of those to the desired controls.

Changes to strategic town planning direction would require a consolidated and sustained amount of research before proposals are developed. For example to conduct that exercise for the DPS alone, it is estimated that substantial consultancy resources would be required. Estimates put the project of a strategic town planning scheme review at over \$100,000 if conducted in 2004.

Statutory Provision:

A review of each level of planning control includes separate statutory processes, and may require the approval of the Western Australian Planning Commission or the Minister for Planning in addition to the approval of the Council, depending on what sort of control is proposed to be amended.

Consultation:

Consultation may be required as a component of any proposed change to planning policy or planning controls.

Policy Implications:

Town Planning Policies are subject to continual review. This report provides an overview of the connections or lack thereof between policies and other controls.

Financial Implications:

If a detailed review of controls were implemented, the likely costs would require investigation. The City does not have sufficient resources available to deliver a consolidated review of all its planning controls within a short time frame, but does undertake continual enhancements as a part of normal work delivery.

A consolidated review of all levels of controls within a short time frame would be very resource hungry and has not been planned or foreshadowed in business planning for the current year. A project plan could be developed showing options for the conduct of this task.

The City is however committed to its program of policy review on a rolling basis and also the commencement of the Commercial Strategy review in house.

Strategic and Sustainability Implications:

A review of all levels of planning controls has the potential to make planning direction and broad objectives more consistent through the various controls, and to bring in themes of consolidation and sustainability.

ATTACHMENTS

Schedule 1 Listing of suggested improvement areas for R Codes, DPS, Structure Plans and policies.

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Smith, SECONDED Cmr Clough that the Joint Commissioners:

- 1 INITIATE the proposed enhancements and clarifications to the District Planning Scheme, policy and Structure Plans as resources allow;**
- 2 NOTE that a project plan will be developed for the tasks foreshadowed in Report CJ298-11/04 as a component of the next available budget review;**
- 3 ADVISE the Western Australian Planning Commission of the Council's concerns and suggestions regarding enhancements to the Residential Codes and seek support for the Codes to be altered to reduce ambiguity and assist with interpretation;**

- 4 NOTE the content of Report CJ298-11/04 and acknowledge the significant resources required to carry out a wholesale review of the City's Planning Controls.**

Discussion ensued.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 25 refers

To access this attachment on electronic document, click here: [Attach25brf161104.pdf](#)

**C69-11/04 SUSPENSION OF STANDING ORDERS LOCAL LAW – [02154]
[08122] [01369]**

MOVED Cmr Smith, SECONDED Cmr Anderson that in accordance with clause 8.1 of the City of Joondalup's Standing Orders Local Law, and as a case of urgent necessity, clause 3.12 of the City's Standing Orders Local Law, which requires seven (7) days' prior notice in writing for a motion to be considered BE SUSPENDED in order to consider the following motion:

“That due to questions and motions raised at the Annual Meeting of Electors held on 22 November 2004, the Joint Commissioners CONSIDER releasing the report of the Forensic Auditor into the employment contract of the former Chief Executive Officer that is currently marked confidential subject to:

The Acting CEO being requested to contact the following for comment on this proposed course of action, asking them to provide any information they consider should be taken into account by the Council when it makes its decision:

- **Deloitte Touche Tohmatsu, the Forensic Auditor**
- **Mr McIntyre, who is conducting the current Inquiry into the City of Joondalup**
- **Fiocco's Lawyers”**

Cmr Smith spoke to the Motion.

The Motion was Put and

**CARRIED BY AN
ABSOLUTE MAJORITY (5/0)**

**C70-11/04 RELEASE OF REPORT OF THE FORENSIC AUDITOR – [70544]
[63558]**

MOVED Cmr Smith, SECONDED Cmr Anderson that due to questions and motions raised at the Annual Meeting of Electors held on 22 November 2004, the Joint Commissioners CONSIDER releasing the report of the Forensic Auditor into the employment contract of the former Chief Executive Officer that is currently marked confidential subject to:

The Acting CEO being requested to contact the following for comment on this proposed course of action, asking them to provide any information they consider should be taken into account by the Council when it makes its decision:

- Deloitte Touche Tohmatsu, the Forensic Auditor
- Mr McIntyre, who is conducting the current Inquiry into the City of Joondalup
- Fiocco's Lawyers"

AMENDMENT MOVED Cmr Clough, SECONDED Cmr Fox that the following words be included after the words "*consider releasing.....*"

"at the Council meeting immediately following receipt of the information outlined below;"

The Amendment was Put and

CARRIED UNANIMOUSLY (5/0)

The Original Motion, as amended, being:

That due to questions and motions raised at the Annual Meeting of Electors held on 22 November 2004, the Joint Commissioners CONSIDER releasing, at the Council meeting immediately following receipt of the information outlined below, the report of the Forensic Auditor into the employment contract of the former Chief Executive Officer that is currently marked confidential subject to:

The Acting CEO being requested to contact the following for comment on this proposed course of action, asking them to provide any information they consider should be taken into account by the Council when it makes its decision:

- Deloitte Touche Tohmatsu, the Forensic Auditor
- Mr McIntyre, who is conducting the current Inquiry into the City of Joondalup
- Fiocco's Lawyers

was Put and

CARRIED UNANIMOUSLY (5/0)

REPORT OF THE ACTING CHIEF EXECUTIVE OFFICER

Comr Smith declared an interest that may affect her impartiality in Item C71-11/04 – CEO Recruitment and Appointment Process – Selection of Preferred Candidate as she is a member of the Local Government Managers' Australia (LGMA).

C71-11/04 CEO RECRUITMENT AND APPOINTMENT PROCESS - SELECTION OF PREFERRED CANDIDATE – [20006]

WARD - All

PURPOSE

To agree to the shortlist of applicants for the position of Chief Executive Officer, and following the conducting of interviews with the shortlisted applicants, authorise the CEO Selection Committee to negotiate terms and conditions of employment with the preferred candidate.

BACKGROUND

At its meeting on 8 June 2004, the Council appointed a Selection Committee to undertake the recruitment and selection of a new Chief Executive Officer. Following an expression of interest process, the Selection Committee appointed Beilby Corporation Pty Ltd as successful tenderer to assist in the recruitment and selection process.

At a Special Meeting on 5 October 2004, the Joint Commissioners adopted the position description, remuneration package and advertising process for the recruitment of the CEO (refer JSC33-10/04). The Joint Commissioners also resolved to instruct Beilby Corporation to undertake profiling of the CEO role with senior staff, Commissioners and community representatives as nominated by the CEO Selection Committee. At a meeting of the Selection Committee on 14 October, the Committee recommended the following community representatives to assist with the profiling of the CEO role:

- Kate Maasen - Joondalup Youth Advisory Council
- Marilyn Horgan - Sustainability Advisory Committee
- Mike Norman - Conservation Advisory Committee
- Kevan Rowe - Seniors Interest Advisory Committee

- 3 NOMINATE the Deputy Chairperson of the CBD Enhancement Project Steering Committee, David Curry, as a community representative to assist with profiling of the CEO role.

DETAILS

The position was advertised from 8 October 2004 to 29 October 2004 in The West Australian, the Australian Financial Review, the Local Government Job Directory and Seek Executive/Career One online services. During the advertising period, profiling of the role with the community representatives was also undertaken.

At the close of the advertising period, 28 applications had been received.

On 8 November 2004, a briefing took place with Beilby Corporation Pty Ltd and the Selection Committee members to discuss the CEO profiling, and the preliminary shortlist of seven candidates, as recommended by Beilby Corporation Pty Ltd.

Following this meeting, Beilby Corporation Pty Ltd undertook preliminary interviews with the seven recommended candidates, and carried out psychometric testing, together with qualification and referee checks.

On 23 November 2004, a further briefing of the Selection Committee members took place prior to the Council meeting, to discuss and agree on a the candidates recommended by Beilby for further interview.

COMMENT

The recruitment consultant, Beilby Pty Ltd, has provided a confidential memorandum to Commissioners under separate cover recommending a shortlist of three for further interview.

Attached separately to this memorandum are individual, confidential assessments of all seven shortlisted candidates, with relevant recommendations.

It is recommended that the Council endorses these candidates for interview by the CEO Selection Committee.

To streamline and expedite the process, it is also recommended that the CEO Selection Committee be authorised to negotiate the terms and conditions of employment with the preferred candidate, following the interview process. In order to undertake this, it is further recommended that the Selection Committee prepare a draft contract of employment.

It should be noted that the proposed contract of employment and the final appointment of the CEO will be made by the Council as required by the Local Government Act 1995, and that the preferred candidate be made aware of this at the time of negotiations.

ATTACHMENTS

Attachment 1 Confidential memorandum and attachments from Beilby Corporation Pty Ltd (provided to Commissioners under separate cover)

VOTING REQUIREMENTS

Absolute Majority

MOVED Cmr Smith, SECONDED Cmr Fox that the Joint Commissioners:

- 1 NOTE that recruitments consultants, Beilby Corporation Pty Ltd, have briefed the Commissioners on the recruitment process for the CEO position;**
- 2 AGREE to the shortlist of three applicants for interview, as recommended by Beilby Corporation Pty Ltd, as detailed in the confidential memorandum appended hereto in the Official Minute Book;**
- 3 REQUEST Beilby Corporation Pty Ltd to contact the three candidates as detailed in their confidential memorandum appended hereto in the Official Minute Book, to invite them to be interviewed by the CEO Selection Committee, in conjunction with personnel from Beilby Corporation Pty Ltd;**
- 4 REQUEST the CEO Selection Committee to recommend to the Council the preferred candidate (if any) following interviews, as detailed in (3) above;**
- 5 AUTHORISE the CEO Selection Committee to negotiate the terms and conditions of employment and prepare a draft contract of employment within the parameters of the Local Government Act 1995, for a term of up to five (5) years and the advertised remuneration package, with the preferred candidate;**
- 6 ADVISE the preferred candidate that the negotiations and final appointment, as detailed in (5) above will need to be subject to endorsement of the Council.**

The Motion was Put and

**CARRIED BY AN
ABSOLUTE MAJORITY (5/0)**

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

DATE OF NEXT MEETING

The next meeting of the Joint Commissioners has been scheduled for **7.00 pm** on **TUESDAY, 14 DECEMBER 2004** to be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup

CLOSURE

There being no further business, the Chairman declared the Meeting closed at 2010 hrs; the following Commissioners being present at that time:

CMR J PATERSON
CMR P CLOUGH
CMR M ANDERSON
CMR A FOX
CMR S SMITH

