



*City of*  
**Joondalup**

**NOTICE IS HEREBY GIVEN THAT THE NEXT  
ORDINARY MEETING OF THE COUNCIL  
OF THE CITY OF JOONDALUP  
WILL BE HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE,  
BOAS AVENUE, JOONDALUP  
ON TUESDAY, 22 FEBRUARY 2005 AT 7.00 pm**

**GARRY HUNT**  
**Chief Executive Officer**  
**17 February 2005**

<b><i>PUBLIC QUESTION TIME</i></b>
------------------------------------

*As adopted by Council on the 17 December 2002*

Public question time is provided at meetings of the Council or briefing sessions that are open to the public.

Public question time is not a public forum for debate or making public statements. The time is limited to asking of questions and receiving responses. This procedure is designed to assist the conduct of public question time and provide a fair and equitable opportunity for members of the public who wish to ask a question. Public question time is not to be used by elected members. Members of the Council are encouraged to use other opportunities to obtain information.

Questions must relate to the ordinary business of the City of Joondalup or the purpose of the special meeting.

#### **Prior to the Meeting/Briefing Session**

To enable prompt and detailed responses to questions, members of the public are encouraged to lodge questions in writing to the Committee Clerk by close of business on the Friday prior to the Council meeting or Briefing Session at which the answer is required. Answers to those questions received within that time frame, where practicable, will be provided in hard copy form at that meeting.

#### **At the Meeting/Briefing Session**

A register will be provided for those persons wanting to ask questions to enter their name, and the order of registration will be the order in which persons will be invited to ask their questions.

Public question time will be limited to the legislative minimum of fifteen (15) minutes and may be extended by resolution of the Council, but the extension of time is not to exceed ten (10) minutes in total. Public question time will be limited to two (2) questions per member of the public. When all people who wish to do so have asked their two (2) questions, the presiding member may, if time permits, provide an opportunity for those who have already asked their two (2) questions to ask further questions.

During public question time at the meeting, each member of the public wanting to ask questions will be required to provide a written form of their question(s) to a Council employee.

Where the number of required questions exceeds the number able to be asked, the member of the public may submit the unasked questions to the Council, where they would be 'taken on notice' and a written response provided.

The procedure to ask a public question during the meeting is as follows:

- persons are requested to come forward in the order they registered;
- give their name and address;
- read out their question;
- before or during the meeting each person is requested to provide a written form of their question to a designated Council employee;
- the person having used up their allowed number of questions or time is asked by the presiding member if they have more questions; if they do then the presiding member notes the request and places them at the end of the queue; the person resumes their seat in the gallery;
- the next person on the registration list is called;
- the original registration list is worked through until exhausted; after that the presiding member calls upon any other persons who did not register if they have a question (people may have arrived after the meeting opened);
- when such people have asked their questions the presiding member may, if time permits, provide an opportunity for those who have already asked a question to ask further questions;
- public question time is declared closed following the expiration of the allocated time period or where there are no further questions.

The Mayor or presiding member shall decide to:

- Accept or reject the question and his/her decision is final;
- Nominate a member of the Council and/or Council employee to respond to the question;
- Due to the complexity of the question, it be taken on notice with a written response provided as soon as possible, and included in the agenda of the next briefing session or Council meeting, whichever applicable.

**The following rules apply to public question time:**

- *question time is not to be used by a member of the public to make a statement or express a personal opinion;*
- *questions should properly relate to Council business;*
- *question time shall not be used to require an Elected Member or an officer to make a personal explanation;*
- *questions should be asked politely in good faith and are not to be framed in such a way as to reflect adversely or be defamatory on a particular Elected Member or Council employee;*
- *where a response has been provided to a question asked by a member of the public, and where that response, in the opinion of the presiding person, adequately deals with the question, there is no obligation to further justify the response;*
- *where an elected member is of the opinion that the question is not relevant to the business of the City of Joondalup or that a member of the public is making a statement, they may bring it to the attention of the meeting.*

It is not intended that question time should be used as a means to obtain information that would not be made available if it was sought from the City's records under Section 5.94 of the Local Government Act 1995 or the Freedom of Information (FOI) Act 1992. Where the response to a question(s) would require a substantial commitment of the City's resources, the Chief Executive Officer (CEO) will determine that it is an unreasonable impost upon the City and refuse to provide it. The CEO will advise the member of the public that the information may be sought in accordance with the FOI Act 1992.

### **Second Public Question Time**

Clause 3.2 of the Standing Orders Local Law allows the Council to alter its order of business, which may include a second period of public question time.

Where the Council resolves to include a second period of public question time, an additional period of 15 minutes will be allowed.

This time is allocated to permit members of the public to ask questions on decisions made at the meeting.

### **Disclaimer**

Responses to questions not put in writing are provided in good faith and as such, should not be relied upon as being either complete or comprehensive.

## **CODE OF CONDUCT**

The Code recognises these ethical values and professional behaviours that support the principles of:

**Respect for persons** - this principle requires that we treat other people as individuals with rights that should be honoured and defended, and should empower them to claim their rights if they are unable to do so for themselves. It is our respect for the rights of others that qualifies us as members of a community, not simply as individuals with rights, but also with duties and responsibilities to other persons.

**Justice** - this principle requires that we treat people fairly, without discrimination, and with rules that apply equally to all. Justice ensures that opportunities and social benefits are shared equally among individuals, and with equitable outcomes for disadvantaged groups.

**Beneficence** - this principle requires that we should do good, and not harm, to others. It also requires that the strong have a duty of care to the weak, dependent and vulnerable. Beneficence expresses the requirement that we should do for others what we would like to do for ourselves.

\* Any queries on the agenda, please contact Council Support Services on 9400 4369.

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# CITY OF JOONDALUP

Notice is hereby given that a Meeting of the Council will be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup on **TUESDAY, 22 FEBRUARY 2005** commencing at **7.00 pm**.

GARRY HUNT  
Chief Executive Officer  
17 February 2005

Joondalup  
Western Australia

## AGENDA

### 1 OPEN AND WELCOME

### 2 PUBLIC QUESTION TIME

**The following question, submitted by Mr S Kobelke, Sorrento, were taken on notice at the Meeting of Council held on 14 December 2004:**

*Q1 Re: Proposed Amendment No 24 to the City of Joondalup District Planning Scheme No. 2 which relates to the former CSIRO site.*

*Since the time that the applicant purchased the site from the CSIRO at a bargain basement price because of its zoning there has been no mention by the applicant of conserving the remnant bushland. During the past week several ratepayers have indicated that they have been told that this was being considered. Have there been any recent discussion between Council and the applicant regarding revised plans to conserve the remnant bushland?*

A1 The City has not had recent discussions with the developer Satterley and Co, with regards to plans to conserve the remnant bush land.

**The following questions, submitted by Mr D Davies, President of City of Joondalup Associations Forum, were taken on notice at the Meeting of Council held on 14 December 2004:**

*Q1 Please identify and quantify all sources, including any insurance policy, from which funds were sourced to make the \$500,000 plus payout to former CEO Denis Smith, as agreed and approved by Commissioners.*

A1 \$504,875 was funded from the Domestic Cart – Refuse Collection Reserve C24-03/04 refers. The City received a confidential contribution from Local Government Insurance Services.

*Q2 Does the above agreement contain any recovery provisions whatsoever?*

A2 The Deed of Release contained a confidentiality agreement that prevents release of its contents. Notwithstanding, it is noted that Mr D Davies is listed as a witness before the Inquiry and as such would be entitled to access the CD of documents before the Inquiry that contains a copy of the Deed of Release. These documents are subject to a suppression order that prevents disclosure to other parties.

*Q3(a) If so, please provide full details of all such recovery provisions.*

A3(a) See answer to Question 2.

*Q3(b) If not, why not?*

A3(b) N/A.

*Q4 Please advise total amounts of all ratepayer funds, expended and outstanding, for legal services provided for any matters related to the former CEO issue, and the McIntyre Inquiry by:*

- (a) Kott Gunning (including advice re Jones and Sutton – NSW District Court;*
- (b) Freehills*
- (c) Blake Dawson Waldron*
- (d) Minter Ellison (including Upper House Committee Inquiry)*
- (e) McLeod and Co*
- (f) Fiocco's*
- (g) Any other fees paid (please detail in full).*

A4 Detailed research and investigation is required to provide a response to this question. A response will be provided as soon as possible.

*Q5 Re Item C14-03/04 of Joint Commissioners of 16 February 2004 and 12 March 2004, will Commissioners please provide precise and full details of all certified copies of former CEO Denis Smith's qualifications sighted by Commissioners?*

A5 No. The City has provided all documents pertaining to Mr Smith including information pertaining to his qualifications to the Panel Inquiry.



**The following questions, submitted by Ms S Hart, Greenwood, were taken on notice at the Meeting of Council held on 14 December 2004:**

*Re: CJ299 - 12/04 Annual General Meeting of Electors Held on 22 November 2004:*

*Q1 My question relates to the motion and recommendation relating to Motion No 4 – Sorrento Beach Redevelopment:*

*Will the staff member who wrote this recommendation please explain how the recommendation refers to 'an application for a development approval for a restaurant when the motion reads 'any commercial application' and 'undertake a community consultation process' When the motion reads 'extensive community consultation'?*

*I feel insulted that staff can interpret and change the meanings of motions in their recommendations, if staff cannot understand motions and question put to Council then there needs to be some communication and consultation with the community for clarity and meaning.*

**A1** The site is located within a Regional Park and Recreation Reserve (RPRR), under the Metropolitan Region Scheme (MRS), and as such, commercial use of this land is very restricted. Most commercial uses of a RPRR are for kiosk or restaurant facilities. Most other commercial uses are not supported on land within these reserves, unless the vesting of the land and the reserve applicable to that land is amended to support the proposed commercial use. Due to the likelihood of other commercial development occurring on a site like this, the comments were focused on the notional commercial uses of this land that had previously been raised in relation to the site.

The Western Australian Planning Commission is the determining authority for development on land reserved under the MRS. Council provides comment to the authority. The development proposal submitted for comment by Council would determine the extent of advertising required.

*Q2 Motion No 3 – Policy 3.1.9 – Height and scale of buildings within a residential area.*

*It is recommended that the Joint Commissioners NOTE that the City will fully abide with Policy 3.1.9 - Height and Scale of Residential Buildings in a Residential Area, with full consideration given to the proposed Nursing Home and Aged Persons Dwelling, Portion Lot 62 and Lot 63 Hocking Road, Kingsley.*

*Does this recommendation, to only note that the City will fully abide with Policy 3.1.9, when policy 3.1.9 relates directly with the Meath proposal Hocking Road Kingsley, as Meath applied for Residential R20 for this site? Is the policy to be noted or applied to Residential Buildings in a Residential Area?*

- A2 The Council has considered Policy 3.1.9 (Height and Scale of Buildings within a Residential Area) in the determination of the application.
- Q3 What was the closing date for submission re Meath proposed aged care facility Kingsley?*
- A3 The closing date was 10 August 2004.
- Q4 Did the City consult with Meath prior to their rezoning application?*
- A4 Yes, the City was approached by Meath. This is normal procedure for most potential rezoning applicants.
- Q5 Did Meath consult with the City prior to their rezoning application?*
- A5 See A4 above.
- Q6 Did the City offer any advice as to the desirable zoning for their one possibly two storey facility?*
- A6 Yes, advice was given that a density above R20 may not be supported from a technical point of view.
- Q7 If Meath were to deliver services to the community, eg laundry service or meals on wheels, would they require rezoning to enable them to operate these business?*
- A7 A potential expansion of services may require a Development Application or a rezoning application, dependent on the nature of the proposal.
- Q8 Did the City negotiate with Meath, offer any concessions, or make any deals re the development application, eg 30 apartments assisted living has become 110 bed facility,?*
- A8 No.
- Q9 Does the City consider the height issue the only objection to this proposal?*
- A9 Other objections were raised and are reported in the Council Agenda for the meeting of 14 December 2004.
- Q10 Did the City or officers or staff enter into discussions/meet with Judy Hughes. with or without Meath?*
- A10 Yes, the Acting CEO and Manager Approvals, Planning & Environmental Services met with Mrs Hughes.
- Q11 If yes did the City provide staff, that had a good understanding/concept of this proposal to discuss this plan?*

- A11 The officers in attendance were the Acting CEO, whose substantive role is the Director Planning & Community Development and the Manager Approvals, Planning & Environmental Services. These officers were considered to be the most appropriate and credentialed people to attend this meeting.
- Q12 Did the City grant the South Ward Ratepayers and Electors Association an extension for their submission re Meath proposal Hocking Road Kingsley?*
- A12 Yes.
- Q13 Have the Commissioners read the raw data relating to submissions re Meath proposal Hocking Road Kingsley?*
- A13 The Commissioners have received briefings and there was an extensive report provided as part of the Council Agenda for the meeting of 14 December 2004.
- Q14 Do staff consider they have addressed all the concerns of the South Ward Ratepayers and Electors Association in their submission re Meath proposal Hocking Road Kingsley in their report to Commissioners tonight?*
- A14 The report has been endorsed for consideration by the Council.
- Q15 Who is responsible for the checking of information given to Commissioners at deputations is true and correct?*
- A15 The City is fortunate that it has a highly credentialed team of qualified staff who undertake the assessment of all applications. A rigorous process of peer review and the Council Briefing process enable the City to ensure that the Council reviews all of the information it needs to make informed decisions. The deputation process allows applicants an opportunity to address the Council personally. Commissioners have adequate time between deputation and the Council meeting to make any enquiries they feel are appropriate about information provided at deputations.
- Q16 It was stated by Meath, at their deputation to Commissioners last week, that a petition had been withdrawn. Can the City confirm or deny this information regarding any petition regarding Meath proposal Hocking Road Kingsley?*
- A16 The petition is not considered to have been withdrawn.

**The following questions, submitted by Mr V Cusack, Kingsley, were taken on notice at the Meeting of Council held on 14 December 2004:**

*Re: CJ329-12/04 – Aged Care Facility Proposal, Hocking Road and the potential impacts on the Yellagonga Regional Park. I am concerned that no research has been undertaken to ascertain the impact of the deep excavation on the high water table and wetlands.*

*Q1 Considering the fact that the land surrounding Lake Goollelal has been identified by the Waters and Rivers Commission as and I quote: “posing an acid sulphate soils risk”. How deep will the excavation go and what measures have been put in place to ensure the pyrites remain below the water table levels? Once pyrite is exposed to oxygen it undergoes a chemical change to form sulphuric acid which the City of Sterling found out can cause contamination of the ground water systems.*

A1 The applicants had previously carried out site investigations into the water level below the site. This enabled them to address the issues raised in the Western Australian Planning Commissions document - Planning Bulletin No 64 – Acid Sulphate Soils (refer to [www.planning.wa.gov.au](http://www.planning.wa.gov.au)). Based on the self-assessment guidelines set out in the Planning Bulletin, the development proposal was not required to be referred to the Department of Environment (DoE) for assessment. This information was provided as part of the development application.

Prior to the issue of the planning approval, the Department of the Environment was consulted regarding the development and it was satisfied that there was minimal acid sulphate risk.

The applicant is aware of the potential risk and has advised in writing that:

- (a) further investigation will undertaken over the site of the Mary Surveyor Centre (four level section); and
- (b) during excavation or construction, if the water table is encountered, work will cease until an acid sulphate management plan is approved by the DoE.

*Q2 If serious contamination of the wetlands were to occur would the City be liable for the damage or does all liability rest with the developer?*

A2 As mentioned above, the risk of acid sulphate soil is considered minimal by the DoE. Moreover, the applicant has stated in writing that excavation will not continue if the water table is encountered. If serious contamination did occur, liability would rest with the developer.

**The following questions, submitted by Mr M Caiacob, Mullaloo, were taken on notice at the Meeting of Council held on 14 December 2004:**

*Q1 Re: Mullaloo Tavern – There is approximately a 500 metre footpath fall in the two metres between the building and the main road to be restored to the City’s satisfaction whilst allowing disabled access and safe pedestrian thoroughfare on a public footpath.*

*Having been made aware of the Mullaloo Tavern’s non-conformance with a minimum requirement of Australian Standard 2890 for commercial vehicles and changes in floor levels from those of the development application, can the Commissioners please advise:*

- (a) *how they intend to deal with the non-compliance and the pavement falls with regard to public safety?*
- (b) *are there any drawings or documents prepared for reinstallation of this footpath to date?*

A1 This matter is to be considered as part of a report currently scheduled for the March meeting of Council. The timing of this report will depend on the receipt of all questions received from the Mullaloo Progress Association and the investigation of those matters raised.

Q2 *If a Council has approved a development with a 2500mm minimum car bay width and the development does not conform to that condition, does an officer under delegated authority or another later Council have the power to retrospectively approve the non-compliant building contrary to Council's initial conditioned approval and if so could that then be deemed good governance by that Council?*

A2 An officer does not have delegated authority to retrospectively approve a variation to a condition of approval.

Council has a number of options open to it in terms of a development not complying with a District Planning Scheme or an approval. The Council could:

- (a) commence legal action to prosecute the owner for non-compliance with the Scheme or an approval;
- (b) serve a notice requiring rectification work to be carried out to bring the development into conformity; or
- (c) exercise its discretion not to commence any action having regard to the merits of the matter before it.

Which course of action Council takes will be determined by the merits of the matter before it. This ability to be able to consider the merits of a matter before determining a course of action, is consider to be good governance.

In relation to the matter of the Mullaloo Tavern car parking bay widths, this matter is to be considered at the Council Meeting to be held on 22 February 2005.

Q3 *Tourism Development Plan – The boundaries of the coastal and other tourist zones are reserves and Bush Forever sites. From my involvement on the workshop I understood that development should be contained to development of facilities within existing service nodes and the Ocean Reef Marina.*

*Is that the intent of the document to allow development in the tourist zones? Or allow but restrict development to existing service nodes within the tourist zones?*

- A3 The infrastructure developments recommended within the draft Tourism Development Plan (TDP) are related to the specific service nodes, which exist or are planned (eg Ocean Reef Boat Harbour) and will require planning approvals and community consultation if any development is proposed.

The strategies proposed within the draft TDP are focussed on increasing visitor numbers and yields while enhancing the City's facilities for residents, ensuring sustainability and protection of the natural environment including the Bush Forever sites.

There is no intention and no ability to develop within Bush Forever sites within the foreshore reserve. The City has a Foreshore Management Plan that clearly outlines how the natural areas will be managed in the future.

**The following question was submitted by Dr M Apthorpe, Ocean Reef:**

*Q1 When will the City of Joondalup re-open the public access walkway to the north end of Beaumaris beach, which they have blocked off?*

- A1 The public access walkway to the north end of Beaumaris beach was reopened on 18 January 2005 after an inspection of the walkway on 17 January 2005. Residents expressed concern in regard to the safety of this access walkway. Closure was required due to the erosion of sand exposing an area of eroded uneven rock at the base of the steps, which was identified as a public safety issue for Council.

**The following question was submitted by Mr A Van Wonderen, Marmion:**

*Q1 What happened to System 6?*

- A1 The State Government's Bush Forever document states: "Bush Forever is the primary mechanism for implementing the Government's commitment to conserve regionally significant bushland in Perth. It replaces the System 6 recommendations for the Swan Coastal Plain portion of the Perth Metropolitan Region."

**The following questions were submitted by Mr C Baker, Connolly:**

*Q1 My question is addressed to the Chairman of Commissioners. I refer to the recent article in The West Australian Newspaper regarding alleged breaches of the building permit by the owners of the Mullaloo Tavern redevelopment site.*

*Can you please provide a report to ratepayers concerning the progress of the City's Costs Order in the Supreme Court against the Mullaloo Progress Association Inc, which costs were estimated to be in the vicinity of \$40-60,000?*

- A1 The Mullaloo Tavern Redevelopment has an extensive and complex history. All relevant documents relating to the matter are in the process of being identified and collated into chronological order. Once this process has been completed a report will be prepared for the Council's consideration detailing the options available to the City in respect of recovering the City's legal costs from the Mullaloo Progress Association Inc.

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

### **4 DECLARATIONS OF FINANCIAL INTEREST/INTEREST THAT MAY AFFECT IMPARTIALITY**

Chief Executive Officer, Mr Garry Hunt stated his intention to declare a financial interest in Item CJ002-02/05 – Minutes of the Selection Committee for a Chief Executive Officer as he was the appointee for the Chief Executive Officer position.

Cmr Clough stated his intention to declare a financial interest in Item CJ004-02/05 – Proposed Joondalup Shuttle Bus as he is a consultant for the Joondalup Health Campus, one of the supporters of the shuttle bus.

In relation to Item CJ004-02/05 – Proposed Joondalup Shuttle Bus, Cmr Smith advised her daughter lives in Currabine and may use the bus, however she would deal impartially with this matter.

Chief Executive Officer, Mr Garry Hunt stated his intention to declare an interest that may affect his impartiality in Item CJ004-02/05 – Proposed Joondalup Shuttle Bus, as in his position as CEO at the City of Perth he had been involved in the inaugural CAT system and participated in an overseas tour to purchase the buses.

### **5 CONFIRMATION OF MINUTES**

MINUTES OF MEETING OF JOINT COMMISSIONERS, 14 DECEMBER 2004

#### **RECOMMENDATION**

**That the Minutes of the Meeting of Joint Commissioners held on 14 December 2005 be confirmed as a true and correct record.**

### **6 ANNOUNCEMENTS BY THE CHAIRMAN WITHOUT DISCUSSION**

## 7 PETITIONS

### 1 PETITION OPPOSING THE OPERATION OF A HOME BUSINESS AT 4 ARISTRIDE AVENUE, KALLAROO – [10248]

A 37-signature petition has been received opposing the licensing of the premises and the activities taking place at 4 Aristride Avenue, Kallaroo and requesting the City to enforce the cessation of these activities.

This petition will be referred to Planning and Community Development for action.

### 2 PETITION REQUESTING WORKS TO BROADBEACH PARK LAKE NO 2, HILLARYS – [01525]

A 132-signature petition has been received requesting that the City takes action in relation to Broadbeach Park Lake No 2, Hillarys to:

- Return the lake to a clean and healthy state and eradicate the algal bloom;
- reinstate the fountain or similar aeration device to maintain the water quality;
- find a solution to the problem of the direct entry of the storm water drain on the west side of the lake which is causing the algae to bloom in spring and summer.

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

### 3 PETITION REQUESTING PROVISION OF TRAFFIC MANAGEMENT IN DOLLIS WAY, KINGSLEY – [58107]

A 50-signature petition has been received requesting the City to provide traffic management in Dollis Way, Kingsley as a matter of urgency. The petitioners are concerned at the antisocial behaviour of some motorists and the threat this poses to all residents, especially seniors and mothers with children.

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

### 4 PETITION REQUESTING CONSIDERATION OF THE PROVISION OF A LIBRARY IN GREENWOOD/KINGSLEY – [59011]

A 23-signature petition has been received from ratepayers requesting the City to consider the provision of a library to service the Greenwood/Warwick area. The petitioners ask Council to take into account, apart from those living in the area, those who work, exercise, shop and enjoy recreation at what is one of the biggest suburban shopping centres in the Kingsley area.

This petition will be referred to Planning and Community Development for action.



5      USE OF WHITFORD NODES BEACH – [02656]

A 59-signature petition has been received from residents of the City of Joondalup in relation to the following:

- (a)    dogs being brought onto the Whitford Nodes Beach;
- (b)    jetski activity on the beach;
- (c)    use of a specific area of the beach by large groups/organisations

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

**8      REPORTS**

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## **CJ001 - 02/05 SPECIAL MEETING OF ELECTORS HELD 11 JANUARY 2005 – [75029] [22548] [10400]**

**WARD - All**

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CJ050215\_BRF.DOC:ITEM 1

### **PURPOSE**

For Council to note the Minutes of the Special Meeting of Electors held on Tuesday 11 January 2005 and to give consideration to the resolutions passed at that meeting.

### **EXECUTIVE SUMMARY**

As requested by the electors of the City of Joondalup, a special meeting of electors was held on 11 January 2005 to discuss issues relating to Network City and Liveable Neighbourhoods.

In accordance with the Local Government Act 1995, any decisions made at a special meeting of electors are required to be considered by the Council at either an ordinary or special meeting of the Council.

### **BACKGROUND**

A Special Meeting of Electors was called following receipt of a 106-signature petition from residents of the City of Joondalup. The details of the matters to be discussed at the special meeting were:

- Network City – community planning strategy for Perth and Peel. What it means to every suburb in the City of Joondalup;
- Liveable Neighbourhoods – what it means to every suburb in the City of Joondalup;
- Community workshops funded by the State Government, when will these happen?
- The City of Joondalup's response and submission to the State Government on behalf of ratepayers, regarding Network City and Liveable Neighbourhood;
- Any other matter raised from the floor.

### **DETAILS**

In accordance with the provisions of the Local Government Act 1995, a Special Meeting of Electors was held on 11 January 2005 to discuss issues relating to Network City and Liveable Neighbourhoods.

There were approximately 95 members of the public in attendance. The minutes of the meeting are attached - Appendix 1 refers.

The 17 resolutions passed at the meeting are set out below in *italics*, followed by a comment and suggested course of action as to how each matter should be dealt with.

### **Electors' Resolution No 1**

*MOVED Michael Caiacob, 7 Rowan Place, Mullaloo, SECONDED Allison Walker, 27 Sweeney Way, Padbury that the City further add to its Network City submission to the Western Australian Planning Commission (WAPC) by:*

- 1 including a copy of the transcript of this meeting;*
- 2 indicating that ratepayers of the City of Joondalup support the City's concerns expressed with regards to the lack of community consultation with their communities over the Network City strategy, the lack of detail provided in the documents, and the effects to the planning status quo of the existing residential areas.*

*The Motion was Put and*

*CARRIED*

### **Officer's Comment**

The minutes of the Special Electors Meeting have been forwarded to the Western Australian Planning Commission to be included with the City's previous submission. The correspondence to the WAPC also highlighted that the ratepayers in attendance at the meeting passed the above motion.

### **Recommended Response**

**It is recommended that Council:**

- 1 NOTES that the minutes of the Special Electors Meeting held 11 January 2005 have been forwarded to the Western Australian Planning Commission to be included in the City's previous submission on the Network City strategy document.**
- 2 NOTES that the correspondence sent to the Western Australian Planning Commission highlighted that the meeting passed Motion No 1.**

### **Electors' Resolution No 2**

*MOVED Michael Caiacob, 7 Rowan Place, Mullaloo, SECONDED Sue Hart, 32 Pullan Place, Greenwood that the City further add to its Network City submission to the Western Australian Planning Commission (WAPC) by way of acknowledging that many existing landowners in the City of Joondalup have selected the density, amenity, and urban planning surrounding their properties and localities and they have selected these properties by way of informed choice.*

*The Motion was Put and*

*CARRIED*

### **Officer's Comment**

It is acknowledged that residents select their residence for many different reasons. It is also acknowledged that the way people live has changed and will continue to change, and these choices and lifestyles must also be respected and accommodated.

### **Recommended Response**

**It is recommended that Council:**

- 1 NOTES that the minutes of the Special Electors Meeting held on 11 January 2005 have been forwarded to the Western Australian Planning Commission to be included in the City's previous submission on the Network City document;**
- 2 ACKNOWLEDGES that landowners make a variety of residential living choices for a variety of reasons;**
- 3 COMMITS to continuing its consideration of the aspirations of existing residents as well as the likely future expectations of the community when evaluating town planning initiatives for the future.**

### **Electors' Resolution No 3**

*MOVED sue hart, 32 Pullan Place, Greenwood, SECONDED Ken Zakrevsky, 49 Korella Street, Mullaloo that the City of Joondalup be commended for accepting that the consultation undertaken by the State Government is less than adequate; .0774% of the community from Perth to Peel was totally inadequate for such a monumental project.*

*The Motion was Put and*

*CARRIED*

### **Officer Response:**

As outlined in the City's submission on the Network City strategy, it is strongly recommended that additional consultation must be carried out with the community in order to consider the aspirations and views of the local community.

### **Recommended Response**

**It is recommended that Council NOTES the motion expressing commendation to the City of Joondalup in regard to its position on community consultation in relation to the Network City strategy document.**

### **Electors' Resolution No 4**

*MOVED Sue Hart, 32 Pullan Place, Greenwood, SECONDED Allyn Bryant, 6b Stocker Court, Craigie that the City of Joondalup are open, honest and accountable to all ratepayers in the City by way of information and the big picture and advise us fully of any similar ideas and/or concepts associated with Network City or the like.*

*The Motion was Put and*

*CARRIED*

### **Officer's Comment**

Following assessment of the submissions made during the public comment period, should the Western Australian Planning Commission proceed with the Network City strategy, the City will ensure that the community is informed and involved in any proposals related to the Network Strategy

### **Recommended Response**

**It is recommended that Council AGREES that, should the Network City Strategy be adopted by the Western Australian Planning Commission, the City of Joondalup will inform and involve the community in proposals related to the implementation of the Network City strategy.**

### **Electors' Resolution No 5**

*MOVED Sue Hart, 32 Pullan Place, Greenwood, SECONDED Don Carlos, 45 Swanson Way, Ocean Reef that a detailed, comprehensive community consultation policy be developed and advertised for 60 days. At the time staff consult with the community, the community's concerns and issues raised are recorded in reports to Council and Commissioners without editing or omission.*

*The Motion was Put and*

*CARRIED*

### **Officer's Comment**

Council has an endorsed Policy 2.6.3 Public Participation and is in the process of developing a strategy that provides guidance to staff when undertaking public participation and community consultation projects. It is anticipated the strategy and guidelines will be presented to Council for endorsement in early 2005.

### **Recommended Response**

**It is recommended that Council NOTES the motion and considers endorsement of the public participation strategy and consulting citizen's guidelines upon their ascent to Council.**

### **Electors' Resolution No 6**

*MOVED Sue Hart, 32 Pullan Place, Greenwood, SECONDED Lyn Chilby, 4 Erica Court, Greenwood that the City of Joondalup accept and acknowledge that some aspects of Network City are dictatorial and paternalistic and we accept nothing less from the staff and the City than to protect our choices, our public open space, our amenity, and our lifestyle choices wholly.*

*The Motion was Put and*

*CARRIED*

### **Officer's Comment**

It is agreed that the choices and lifestyles of all the community should be protected and enhanced wherever possible. It is important to acknowledge that there are many views within a community and there is not one view on what constitutes amenity or lifestyle. It is agreed that the City of Joondalup residents should have choices. It must also be acknowledged that today's choices have ramifications on the lifestyles and choices of future generations, particularly in regard to the sustainability of the growth in the Perth area. In order to protect amenity in the future important decisions must be made in regard to the future growth in the Perth area.

### **Recommended Response**

**It is recommended that Council AGREES that public open space, amenity and lifestyle choices are important, and that sustainable decisions must be made to protect the choices and lifestyles of the existing and coming generations.**

### **Electors' Resolution No 7**

*MOVED Monique Moon, 6 Carew Place, Greenwood, SECONDED Sue Hart, 32 Pullan Place, Greenwood that extensive community consultation is carried out in each municipality to ensure communities are aware of the implementation intent of Network City, and what it means for their areas; identify clearly through consultation:*

- 1 each existing and proposed activity centre, activity road and transport road;*
- 2 what land uses can be expected to occur in each of the various sizes of activity centres from the local size to the regional size and activity roads and indicate in the strategy the hierarchy of these activity centres;*
- 3 identify what and how changes to existing residential, urban, and net residential densities will occur;*
- 4 ensure consultation occurs on this strategy to make the process accountable, open and honest.*

*The Motion was Put and*

*CARRIED*

### **Officer's Comment**

As expressed in the submission to the Western Australian Planning Commission, the City of Joondalup expects that the Western Australian Planning Commission will ensure that 'local dialogue' will occur with the community.

### **Recommended Response**

**It is recommended that Council NOTES that the City as part of the submission to the Western Australian Planning Commission has expressed that it is expected and essential that 'local dialogues' will occur with the community in regard to the implementation of the Network City Strategy.**

**Electors' Resolution No 8**

*MOVED Monique Moon, 6 Carew Place, Greenwood, SECONDED Sue Hart, 32 Pullan Place, Greenwood that the State Government identifies what changes would need to occur to the Metropolitan Region Scheme, the Town Planning Schemes, 5AA State policies and planning framework prior to endorsing the Network City strategy. It is too late after the strategy is endorsed for communities to have input into the location of centres, the desirability for higher densities or changes to quiet streets becoming feeder roads, changes to open space and to voice environmental concerns not identified in this strategy.*

*The Motion was Put and*

*CARRIED*

**Officer's Comment**

As previously indicated, the City has expressed in its submission to the Western Australian Planning Commission, that it is expected and essential that the Western Australian Planning Commission will ensure that 'local dialogue' will occur with the community

**Recommended Response**

**It is recommended that Council:**

- 1 NOTES that the minutes of the Special Electors Meeting held 11 January 2005 have been forwarded to the Western Australian Planning Commission to be included in the City's previous submission on the Network City strategy document.**
- 2 NOTES that the City as part of the submission to the Western Australian Planning Commission has expressed that it is expected and essential that 'local dialogues' will occur with the community in regard to the implementation of the Network City Strategy.**

**Electors' Resolution No 9**

*MOVED Monique Moon, 6 Carew Place, Greenwood, SECONDED Allison Walker, 27 Sweeney Way, Padbury that where it is stated in the Strategy to provide a City plan that will be implemented and it states "will provide certainty and deliberate results" it ensures certainty for the community, just not reasonable certainty as stated under the title. What is reasonable certainty, reasonable to whom?*

*The Motion was Put and*

*CARRIED*

**Officer's Comment**

The statements within the document have been drafted by the Western Australian Planning Commission and it is therefore not possible to state with accuracy what is meant by reasonable certainty, however it is appropriate to conclude that 'reasonable certainty' relates to all stakeholders and is intended to ensure a clear approach to accommodating future growth in Perth is established.

**Recommended Response**

**It is recommended that Council SUPPORTS the concept of the Network City strategy providing certainty in the approach to planning for the future of Perth**

**Electors' Resolution No 10**

*MOVED Marilyn Zakrevsky, 49 Korella Street, Mullaloo SECONDED Ken Zakrevsky, 49 Korella Street, Mullaloo that the sentiments of all speakers at the Special Meeting of Electors be given consideration and included in the City of Joondalup's submission on Network City.*

*The Motion was Put and*

*CARRIED*

**Officer's Comment**

The sentiments of the meeting are contained in the minutes of the Special Meeting, and have been forwarded to the Western Australian Planning Commission for inclusion in the City's submission

**Recommended Response**

**It is recommended that Council NOTES that the minutes of the Special Electors Meeting held 11 January 2005 have been forwarded to the Western Australian Planning Commission to be included in the City's previous submission on the Network City strategy document.**

**Electors' Resolution No 11**

*MOVED M Macdonald, 5 Mair Place, Mullaloo, SECONDED Sue Hart, 32 Pullan Place, Greenwood that we request that the City inform the State Government that the ratepayers of the City of Joondalup require more certainty with respect to the maintenance of their lifestyle and property values than Liveable Neighbourhood Policy 3 document will provide, and request that the document contain a clause to allow ratepayers a third party right of appeal with respect to future development approvals.*

*The Motion was Put and*

*CARRIED*



**Officer's Comment**

The issue of appeal rights is not specific to the Liveable Neighbourhoods document and it would not appropriate that the document contain such a clause. Appeal rights are determined by the State Government under separate legislation. The motion will be forwarded to the Western Australian Planning Commission as part of the minutes of the Special Meeting.

**Recommended Response**

**It is recommended that Council NOTES that the minutes of the Special Electors Meeting held 11 January 2005 have been forwarded to the Western Australian Planning Commission to be included in the City's previous submission on the Network City strategy document.**

**Electors' Resolution No 12**

*MOVED Cheryl Edwardes, 8 Nadine Place, Woodvale SECONDED Allison Walker, 27 Sweeney Way, Padbury that the Commissioners of the City of Joondalup advise the State Government that the ratepayers of the City of Joondalup:*

- 1 have already voted overwhelmingly against any form of precinct planning that could threaten their current lifestyles;*
- 2 do not want to see open spaces lost forever;*
- 3 have already overwhelmingly rejected the concept of high density living in their area and any change to lifestyle should provide genuine choice and from the community up, not imposed by the State Government down.*

*The Motion was Put and*

*CARRIED*

**Officer's Comment**

It is noted the Precinct Planning only occurred in a small number of suburbs, and was not a City wide exercise. The Network City strategy is a strategic document and is not a blanket formula to be used across all suburbs. It is agreed that further consultation must be undertaken with the community before the local strategies are implemented.

**Recommended Response**

**It is recommended that Council NOTES that the minutes of the Special Electors Meeting held 11 January 2005 have been forwarded to the Western Australian Planning Commission to be included in the City's previous submission on the Network City strategy document.**

**Electors' Resolution No 13**

*MOVED Sue Hart, 32 Pullan Place, Greenwood SECONDED Allyn Bryant, 6B Stocker Court, Craigie that the City of Joondalup seriously considers developments and rezoning applications along the coastline as was discussed at the workshop for Tourism to keep the status quo and to show nature at its best to the rest of the world.*

*The Motion was Put and*

*CARRIED*

**Officer's Comment**

It is acknowledged that the coastline is an important asset to the City of Joondalup residents, and residents of Perth. All development proposals and rezoning proposals are seriously considered on their particular merits and location, and the possible impacts on the coastal environment.

**Recommended Response**

**It is recommended that Council AGREES that the coastline is an important asset to the Joondalup community and Perth residents in general, and all rezoning and development proposals are and will be seriously considered in regard to the possible impacts on the coastline.**

**Electors' Resolution No 14**

*MOVED Ken Zakrevsky, 49 Korella Street, Mullaloo SECONDED Allison Walker, 27 Sweeney Way, Padbury that everything that is brought up by the community is given serious attention and not just "noted".*

*The Motion was Put and*

*CARRIED*

**Officer's Comment**

All matters raised by the community are given appropriate attention, and recommendations are made to the Council on appropriate action where necessary.

**Recommended Response**

**It is recommended that Council SUPPORTS and ACKNOWLEDGES that issues raised by the community are given serious attention, and recommendations are made to the Council where necessary.**

**Electors' Resolution No 15**

*MOVED Katherine Woodmass, 25 Calbourne Way, Kingsley SECONDED Allison Walker, 27 Sweeney Way, Padbury that the Joint Commissioners prove that they are listening to the community by putting a motion to rescind the approval of the Meath Care facility until the impact of the excavations on the wetland and the surrounding areas is fully understood.*

*The Motion was Put and*

*CARRIED*

**Officer's Comment**

Whilst the development approval for the Meath Aged Care Facility has been issued by the City of Joondalup, processes were in place to consider the impact of excavations on the wetland, prior to determination of the application by the Council. This included consideration of the risk of acid sulphate soils at the rezoning stage, self-assessment of the risk at the development approval stage (refer to [www.planing.wa.gov.au](http://www.planing.wa.gov.au) - Planning Bulletin No. 64 Acid Sulphate Soils) and comments from the Department of Environment (DOE) specifically in relation to the development application and proposed excavation works. It was considered that the risk in relation to the development of the site through excavation and the risk of disturbing acid sulphate soils would be minimal.

An undertaking has been given by the applicants that:

- (a) further bore hole testing will occur to confirm the water table level in relation to the proposed excavation works;
- (b) a minimum clearance of 0.5 m will occur between the highest recorded water table level taken during the testing and the basement level; and
- (c) during excavation or construction, if the water table is encountered, work will cease until an acid sulphate management plan is approved by the DoE.

There is no opportunity to revoke the Council's resolution as approval has already been issued.

**Recommended Response**

**That Council NOTES that the City is satisfied with the additional advice from the Department of Environment in relation to the issue of acid sulphate soils in regards to the Aged Care Facility Site, Hocking Road Kingsley.**

**Electors' Resolution No 16**

*MOVED Katherine Woodmass, 25 Calbourne Way, Kingsley SECONDED Sue Hart, 32 Pullan Place, Greenwood that the Strategy Sessions which currently occur behind closed doors become an open session so that the City's residents can know exactly what is going on.*

*The Motion was Put and*

*CARRIED*

**Officer's Comment**

The strategy sessions have been established for some time and allow elected members and officers to discuss issues of a strategic nature. The strategic sessions allows for a more conducive environment for elected members and officers to discuss matters and generally officers an environment which can improve the working relationship between the two parties. No decisions or debate occurs at such sessions, it is an exchange of information sharing and gathering. The Council has introduced revised guidelines for the strategy sessions.

**Recommended Response**

**It is recommended that Council CONTINUES to operate the current decision making process**

**Electors' Resolution No 17**

*MOVED Beth Van Der Linden, 35 Barridale Drive, Kingsley, SECONDED Sue Hart, 32 Pullan Place, Greenwood that the green areas and trees be retained, keeping commercial areas separate to living areas, with living areas being accessible for healthy living and not for money-making ventures.*

*The Motion was Put and*

*CARRIED*

**Officer's Comment**

Financial considerations (money-making ventures) are not part of the considerations in regard to planning related decisions. The draft Network City document is not a blanket statement attempting to remove green areas or integrate commercial activities into residential areas. It is considered, however, that facilities such as schools, child care facilities, doctors' surgeries are suitable to be appropriately located in residential areas to serve the local community.

**Recommended Response**

**It is recommended that Council ACKNOWLEDGES that the draft Network City strategy is not a blanket statement about removing green areas or integrating commercial areas into residential areas.**

**Statutory Provision:**

Decisions made by electors at an Electors' Meeting are the recommendations of those electors present, on the matters discussed and considered at the meeting. As with recommendations made at Council committee meetings, they are not binding on the Council. However, the Council must consider them.

Section 5.33 of the Local Government Act 1995 detailed below covers this matter:

### **Decisions made at Electors' Meetings**

- 5.33 (1) All decisions made at an Electors' Meeting are to be considered by the Council at the next ordinary council meeting or, if this is not practicable –
- (a) at the first ordinary council meeting after that meeting; or
  - (b) at a special meeting called for that purpose,
- whichever happens first.
- (2) If at a meeting of the Council a local government makes a decision in response to a decision made at an Electors' Meeting, the reasons for the decision are to be recorded in the minutes of the Council Meeting.

### **COMMENT**

Motions carried at the Special Meeting of Electors have been addressed individually and are submitted to the Council for consideration.

### **ATTACHMENTS**

Attachment 1                      Minutes of the Special Meeting of Electors held on 11 January 2005

### **VOTING REQUIREMENTS**

Simple Majority

### **RECOMMENDATION**

#### **That Council:**

- 1        NOTES the minutes of the Special Meeting of Electors held on 11 January 2005 forming Attachment 1 to Report CJ001-02/05;**
- 2        in relation to Motions 1, 2, 8, 10, 11 and 12 of the Special Meeting of Electors held on 11 January 2005 NOTES that the minutes of the Special Electors Meeting held 11 January 2005 have been forwarded to the Western Australian Planning Commission to be included in the City's previous submission on the Network City strategy document;**
- 3        in relation to Motion 1 of the Special Meeting of Electors held on 11 January 2005, NOTES that the correspondence sent to the Western Australian Planning Commission highlighted that the meeting passed Motion No 1;**

- 4 in relation to Motion 2 of the Special Meeting of Electors held on 11 January 2005:
  - (a) **ACKNOWLEDGES** that landowners make a variety of residential living choices for a variety of reasons;
  - (b) **COMMITTS** to continuing its consideration of the aspirations of existing residents as well as the likely future expectations of the community when evaluating town planning initiatives for the future;
- 5 in relation to Motion 3 of the Special Meeting of Electors held on 11 January 2005 **NOTES** the motion expressing commendation to the City of Joondalup in regard to its position on community consultation in relation to the Network City strategy document;
- 6 in relation to Motion 4 of the Special Meeting of Electors held on 11 January 2005 **AGREES** that, should the Network City Strategy be adopted by the Western Australian Planning Commission, the City of Joondalup will inform and involve the community in proposals related to the implementation of the Network City strategy;
- 7 in relation to Motion 5 of the Special Meeting of Electors held on 11 January 2005 **NOTES** the motion and considers endorsement of the public participation strategy and consulting citizen's guidelines upon their ascent to Council;
- 8 in relation to Motion 6 of the Special Meeting of Electors held on 11 January 2005 **AGREES** that public open space, amenity and lifestyle choices are important, and that sustainable decisions must be made to protect the choices and lifestyles of the existing and coming generations;
- 9 in relation to Motion 7 of the Special Meeting of Electors held on 11 January 2005 **NOTES** that the City as part of the submission to the Western Australian Planning Commission has expressed that it is expected and essential that 'local dialogues' will occur with the community in regard to the implementation of the Network City Strategy;
- 10 in relation to Motion 8 of the Special Meeting of Electors held on 11 January 2005 **NOTES** that the City as part of the submission to the Western Australian Planning Commission has expressed that it is expected and essential that 'local dialogues' will occur with the community in regard to the implementation of the Network City Strategy;
- 11 in relation to Motion 9 of the Special Meeting of Electors held on 11 January 2005 **SUPPORTS** the concept of the Network City strategy providing certainty in the approach to planning for the future of Perth;
- 12 in relation to Motion 13 of the Special Meeting of Electors held on 11 January 2005 **AGREES** that the coastline is an important asset to the Joondalup community and Perth residents in general, and all rezoning and development proposals are and will be seriously considered in regard to the possible impacts on the coastline;

- 13 in relation to Motion 14 of the Special Meeting of Electors held on 11 January 2005 SUPPORTS and ACKNOWLEDGES that issues raised by the community are given serious attention, and recommendations are made to the Council where necessary;**
- 14 in relation to Motion 15 of the Special Meeting of Electors held on 11 January 2005 NOTES that the City is satisfied with the additional advice from the Department of Environment in relation to the issue of acid sulphate soils in regards to the Aged Care Facility Site, Hocking Road Kingsley;**
- 15 in relation to Motion 16 of the Special Meeting of Electors held on 11 January 2005 CONTINUES to operate the current decision making process;**
- 16 in relation to Motion 17 of the Special Meeting of Electors held on 11 January 2005 ACKNOWLEDGES that the draft Network City strategy is not a blanket statement about removing green areas or integrating commercial areas into residential areas.**

*Appendix 1 refers*

*To access this attachment on electronic document, click here: [Attach1brf150205.pdf](#)*

*V:\Reports\2005\special electors report 11 jan 2005.doc*

Chief Executive Officer, Mr Garry Hunt stated his intention to declare a financial interest in Item CJ002-02/05 – Minutes of the Selection Committee for a Chief Executive Officer as he was the appointee for the Chief Executive Officer position.

## **CJ002 - 02/05      MINUTES OF THE SELECTION COMMITTEE FOR A CHIEF EXECUTIVE OFFICER – [20006]**

**WARD - All**

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CJ050215\_BRF.DOC:ITEM 2

### **PURPOSE**

For Council to note the minutes of meetings of the Selection Committee for a Chief Executive Officer.

### **EXECUTIVE SUMMARY**

Minutes of meetings of the Selection Committee for a Chief Executive Officer are submitted for noting. It is recommended that Council disbands the Selection Committee now that its role is complete.

### **BACKGROUND**

At its meeting held on 8 June 2004 (Item CJ133-06/04 refers), Council established a Selection Committee for the recruitment and selection of a new Chief Executive Officer, comprising:

Commissioner J Paterson  
Commissioner M Anderson  
Commissioner P Clough  
Commissioner S Smith  
Commissioner A Fox

### **DETAILS**

Meetings of the Selection Committee for a Chief Executive Officer were held on:

- 8 July 2004
- 21 September 2004
- 14 October 2004
- 1 December 2004; 7 December 2004; 21 December 2004; 6 January 2005, 7 January 2005; 17 January 2005 and 21 January 2005.

The minutes of these committee meetings are attached for noting – Attachment 1 refers.



## COMMENT

At the Special Meeting of Council held on 21 January 2005 (Item C2-01/05 refers) Council appointed Mr Garry Hunt as the Chief Executive Officer for the City of Joondalup for a maximum period of five years. As the Selection Committee has completed its role, it is recommended that it now be disbanded.

## ATTACHMENTS

- Attachment 1            Minutes of meetings of the Selection Committee for a Chief Executive Officer held on:
- 8 July 2004
  - 21 September 2004
  - 14 October 2004
  - 1 December 2004; 7 December 2004; 21 December 2004; 6 January 2005, 7 January 2005; 17 January 2005 and 21 January 2005.

## VOTING REQUIREMENTS

Absolute Majority

## RECOMMENDATION

### That Council:

- 1        NOTES the following minutes of the meetings of the Selection Committee for a Chief Executive Officer, forming Attachment 1 to Report CJ002-02/05:**
  - (a)     confirmed minutes of 8 July 2004;**
  - (b)     confirmed minutes of 21 September 2004;**
  - (c)     confirmed minutes of 14 October 2004;**
  - (d)     unconfirmed minutes of 1 December 2004; 7 December 2004; 21 December 2004; 6 January 2005, 7 January 2005; 17 January 2005 and 21 January 2005;**
- 2        BY AN ABSOLUTE MAJORITY, DISBANDS the Selection Committee for a Chief Executive Officer.**

*Appendix 3 refers*

To access this attachment on electronic document, click here: [Attach3brf150205.pdf](#)

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**CJ003 - 02/05      2005/06 BUSINESS & COMMUNITY DIRECTORY -  
JOONDALUP BUSINESS ASSOCIATION – [03082]  
[00004]**

**WARD - All**

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CJ050215\_BRF.DOC:ITEM 3

**PURPOSE**

For Council to give consideration to supporting the production of the 2005/06 Business & Community Directory with the Joondalup Business Association.

**EXECUTIVE SUMMARY**

The Joondalup Business Association (JBA) has advised the City that it has commenced the process for the publication of the 2005/06 Business & Community Directory. It has requested that the City contributes \$50,000 plus GST to the project.

In 2000 the City produced its own Community Directory for the cost of \$32,000. In 2001 the Council resolved not to continue with the production of its own publication and contribute the funds towards the production of a business and community directory to be produced by the JBA.

The JBA has advised that for a financial contribution of \$50,000 the City would receive the following:

- Welcome page;
- 19 pages for listing Council services;
- 9 pages for Community listings;
- 10 pages for maps of the City; and
- Front and inside covers.

This year's request for funding is an increase of \$10,000 to that contributed by the City to last year's publication.

Market research conducted in late 2003, immediately following the distribution of that year's directory, revealed that the publication was a desired product for the community. However it appears that the number of businesses advertising in the directory has been declining since its inception in 2001.

The City has a number of options available to it: -

- Agree to support the directory to an amount of \$40,000 (as per last year) with certain conditions embracing the principles of previous decisions;
- Agree to an amount of \$20,000 with certain conditions as per above. This option is based on the fact that this will be the fifth year the directory has been produced and it could be assumed that the initial funding was to establish the product and now it should be self funding;
- Endorse the concept of the directory and advertise to an amount of \$10,000 and the City produces its own community directory;
- Underwrite any losses to the publication to an amount of \$40,000 but still be entitled to advertising space which will strengthen the product;
- Not support the business and community directory proposal and examine options for communicating the relevant community based information;
- Agree to the proposal as submitted by the JBA.

The publication has been running for a few years and it could be assumed that the publication should be making a profit for the JBA but indications from it is that is making a loss on the product.

It is therefore recommended that the City supports the production of the 2005/06 Business & Community Directory to an amount of \$40,000 plus GST as per last year subject to a number of conditions.

## **BACKGROUND**

The Joondalup Business Association (JBA) has advised that it has currently commenced the planning for the 2005/06 Business & Community directory and is seeking the support and the involvement of the City of Joondalup. The JBA has requested the City subscribe for its community related advertising space for the amount of \$50,000 plus GST.

The JBA (when it was known as the North West Metro Association) produced a business directory in 1999, which included Council related information at no cost to the City. In 2000, the City produced its own sixteen (16) page Council Services Directory at a cost of \$32,000 and this was distributed to every household.

In March 2001, the JBA approached the City to support a joint venture in producing a combined Business and Community directory. The City at that time agreed to subscribe to the directory to the value of \$32,000 to acquire sixteen (16) pages of Council-related information and agreed to no longer produce its own Council Services Directory.

The City has continued to support the publication since that time with further amounts of \$32,000 for the 2001/02 and 2002/03. The City initially agreed to subscribe to the directory for the 2003/04 year to the amount of \$32,000, but further agreed to increase its contribution by \$6,500 to secure the cover and inside cover of the publication. For the current edition the City subscribed for the relevant advertising to the amount of \$40,000.

<b>Year</b>	<b>City's Contribution</b>
2001/02	\$32,000
2002/03	\$32,000
2003/04	\$40,000
2004/05	\$40,000
2005/06	\$40,000 (proposed)

For the publication of the 2002/03 Business and Community Directory, the JBA agreed to the following conditions of the funding:

- 1 *Agrees to contribute an amount of \$32,000 (plus GST) to the Joondalup Business Association towards the production of the 2002/03 Business and Community Directory only;*
- 2 *Advises the Joondalup Business Association that the funding is subject to the City being granted the following for the 2002/03 edition and all future editions of the Business and Community Directory:*
  - (a) *allocation of appropriated free space for information pertaining to Council services (currently this would need to be approximately 16 full A4 pages);*
  - (b) *two representatives being included on the working party for the production of the Business and Community Directory;*
  - (c) *allocation of free editorial space for a joint City of Joondalup Mayoral Message at the front of the Directory.*

This commitment made by the JBA has been used as the basis of future subscriptions by the City to support the publication.

At the meeting of Council held on 2 December 2003, it was resolved as follows:

*“That Council AGREES to contribute an amount of \$40,000 (plus GST) to the Joondalup Business Association towards the production of the 2004/05 edition of the Joondalup Business and Community Directory with following terms and conditions:*

- 1 *the City being allocated appropriate space for information pertaining to Council services (currently this is 16 full A4 pages) with the Community front and inside cover as per 2003/04;*

- 2 *the City having two representatives on the working party for the production of the Directory;*
- 3 *the City allocated editorial space and photograph for a joint message from the Mayor and JBA President at the front of both sides of the Directory;*
- 4 *the JBA commit to continuing to develop and improve the directory's content and its appeal to a wider audience including identification of new markets and extended distribution channels within the community for the directory;*
- 5 *the print-run of the Directory is suitably increased to allow for wider distribution, and for the City to be provided a minimum of 6,500 copies for use in new resident welcome & citizenship packs, libraries, recreation centres and customer service centres, and*
- 6 *continued inclusion of Community organisation/groups listings as supplied by the City."*

The JBA failed to deliver the required extra number of copies of the directory as required by part 5 of the 2 December 2003 resolution of the Council.

## **DETAILS**

The JBA has invited the City to continue its participation for the 2005/06 Business & Community Directory by subscribing for advertising space for an amount of \$50,000 plus GST. For this subscription, the JBA has indicated that the City will receive 39 full colour pages, which includes: -

- Welcome page;
- 19 pages for listing Council services;
- 9 pages for Community listings;
- 10 pages for maps of the City; and
- Front and inside covers.

The City has only ever committed to the required number of pages necessary to communicate the relevant community related information relating to community services. It was never intended to be charged for the provision of maps and community listings. These inclusions have evolved at the request of the JBA to strengthen the publication.

The JBA has advised that at current costs its proposal represents approximately \$80,000 worth of advertising. This would be based on the schedule of fees distributed by the JBA at \$1990 per full-page advertisement. The JBA has indicated the following costings to produce 60,000 copies of the directory: -

### **2003/04 - Edition**

#### **Income**

Sale of advertising	\$103,171
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**Expenditure**

Printing	\$89,366
Distribution (direct to the door)	\$13,375
Salaries/wages/commission	\$17,699
Miscellaneous	\$3,873
<b>Total Profit (Loss)</b>	<b>(\$21,142)</b>

**2004/05 – Edition****Income**

Sale of advertising	\$140,788
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**Expenditure**

Printing	\$104,819
Distribution (direct to the door)	\$13,210
Stationery	\$1,473
Bank Fees	\$193
Salaries/wages/commission	\$30,104
Advertising	\$33
Telemarketer	\$1,327
Reimbursements/Cancellations	\$1153
Miscellaneous	\$1421

<b>Total Profit (Loss)</b>	<b>(\$12,945)</b>
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The printing costs are at that amount due to the:

- Size of the document. 2003/04 – 130 pages and 2004/05 – 105 pages.
- Stock/quality of the publication. This will vary the cost of printing. The 2004/05 edition included improvements in the quality of the paper stock.

The Options available to the City are as follows: -

**Option 1**

Provide a financial contribution to the Joondalup Business Association, in accordance with the City's budgeted amount of \$40,000 (plus GST), subject to:

- 1 the City being allocated appropriate space for information pertaining to Council services (currently this is 21 full A4 pages) with the Community front and inside cover as per 2004/05;
- 2 the City having two representatives on the working party for the production of the Directory;
- 3 the City allocated editorial space and photograph for a joint message from the Chairman of Commissioners and JBA President at the front of both sides of the Directory;

- 4 the JBA commit to continuing to develop and improve the directory's content and its appeal to a wider audience including identification of new markets and extended distribution channels within the community for the directory;
- 5 the print-run of the Directory is suitably increased to allow for wider distribution, and for the City to be provided a minimum of 6,500 copies for use in new resident welcome & citizenship packs, libraries, recreation centres and customer service centres, and
- 6 continued inclusion of Community organisation/groups listings as supplied by the City.

#### Option 2

Provide a reduced financial contribution to the Joondalup Business Association under the above terms, say to the value of \$20,000. Given that this is the fifth year the Directory will be produced, the product has proven to be strong and should therefore be self-funding.

#### Option 3

The City to endorse the concept of the Directory and provide support in the form of purchasing advertising space in the Directory, for example to the value of \$10,000, to promote the City. The City would then produce its own dedicated Council Services Directory.

#### Option 4

Underwrite any potential losses to the value of \$40,000. This limits the financial risk for the JBA, if it fails to draw the revenue from the sales of advertisements. The Council would still not produce its own Directory to provide a stronger product for the JBA with which to sell advertisements and maximise the chances of success. In order to enhance the product the City would still request the necessary advertising space to promote the Council services.

#### Option 5

That the City undertake the production of its own directory and extend an offer to the JBA to put the business listings in the Council Directory free of charge, so providing the JBA with additional benefits for members and as a tool for increasing membership.

#### Option 6

That the City not agree to support the Business & Community directory as proposed by the JBA and initiate its own dedicated Council Services directory.

#### Option 7

That the City agrees to the request as proposed by the JBA.

The City has not fully costed the option of producing its own directory. Approximate initial costs for 60,000 copies would be as follows:

- Print the City's section only – A4

Printing	\$30,000 - \$35,000
Distribution (letter box)	\$3,000 - \$5,000

- Print City only information based on 2000 edition – A5

Printing	\$20,000 - \$25,000
Distribution (letter box)	\$3,000 - \$5,000

These costs are only approximate and do not include internal operation cost in the preparation and compilation of the document. These costs may also vary depending on the final size and weight of the directory.

Upon examination of the publication it has been identified that there has been a dramatic decline in the number of businesses advertising in the directory. The initial directory of 2001/02 included 81 pages of business advertising, however the current directory has only 30 pages of business advertising. The following statistics for business advertising is as follows: -

- 2001 – 460 businesses (253 adverts & 207 line adverts)
- 2002 – 291 businesses (190 adverts & 101 line adverts)
- 2003 – 186 businesses (150 adverts & 36 line adverts)
- 2004 – 178 businesses (169 adverts & 9 line adverts)

It is no longer possible for the JBA to include the A-Z of business within the region due to the fact that the information is too expensive to acquire and reproduce. As a result of the decline in businesses advertising and the inability to reproduce the A-Z of businesses the publication mainly consists of community related information. It is estimated that there are approximately 3000 business located in the City of Joondalup with only 10% being members of the Joondalup Business Association.

### **Financial Implications:**

The City as part of its 2004/05 budget allowed for an amount of \$40,000 to assist in the production of a Business & Community directory.

<b>Account No:</b>	1 510 3720 0001 9999
<b>Budget Item:</b>	Governance Corporate Costs, Printing
<b>Budget Amount:</b>	\$126,000
<b>YTD Amount:</b>	\$26,847
<b>Actual Cost:</b>	\$40,000 plus GST

The City provides financial assistance to the JBA via other funding options including:

- attendance at events;
- annual service level agreement;
- sponsorship of Small Business Awards;
- Business and Community Directory.



The financial assistance to the JBA over the past years is:

2002/03	\$ 85,130
2003/04	\$125,310
2004/05 (as at January 2005)	\$ 63,396

### **Strategic Implications:**

#### *Strategic Plan Outcome*

*The City of Joondalup provides social opportunities that meet the community needs*

*1.3 To continue to provide services that meet changing needs of a diverse and growing community.*

*1.3.3 Provide support, information and resources.*

#### *Strategic Plan Outcome*

*The City of Joondalup is recognised for investment and business development opportunities.*

*3.5 To provide and maintain sustainable economic development.*

*3.5.1 Develop partnerships with stakeholders to foster business development opportunities.*

### **Sustainability Implications:**

The production of a joint Business & Community directory will mean the need for only one publication to be produced and assist in providing valuable information to the community and businesses.

### **Community Consultation:**

The 2004/05 directory was distributed by the JBA in September/October of 2003. In November 2003 the City undertook some research on the City's communications methods, which included some questions regarding the Business & Community directory. The results of the survey indicated a positive reaction to the directory.

- Awareness of the directory was 82% (extremely high)
- Readership/Usage of directory 49% (well above average)
- 56% rated directory as 'Very useful' (above average percentage)
- Feedback received from the Research undertaken by the City, including 300 telephone interviews, indicating that the directory in its new format has above average awareness, usage and satisfaction levels.

- All residents interviewed during in-depth interviews had retained the document in their homes with their mainstream White & Yellow Page books.
- The City received more queries with regards distribution of the 2003/04 Directory than in previous years, again highlighting an increased usage and demand of the directory.
- The City's participation enhances promotion of the Directory into the business sector, making the product as a whole more viable.

## COMMENT

This would be the fifth year that the Business & Community directory has been produced in partnership with the JBA. The research undertaken by the City has indicated that the product is strong and that there is a demand and expectation within the community for such a product.

While it is fully appreciated that the research depicts that the directory is a required product within the community, the research does not detail whether the directory is retained for purely community related information or business related information or indeed both.

There is a concern that with what appears a decline in the amount of businesses willing to advertise in the directory and the inability to be able to list all businesses within the City and not just those who choose to advertise in the directory, the publication is strongly orientated towards the community related information. There may be more benefit for the City in producing its own community information related directory.

A further concern is that the directory has been produced for the last four years and indications from the JBA is that it has never made a profit. It is known that other cases where the business association has undertaken such a venture it has managed to include the Council/Community related information free of charge. The entire project was funded by the sales of the advertising space.

When the Council agreed to fund the 2002/03 directory, it was anticipated that future editions of the publication would be done so at a profit for the JBA, therefore being able to include the Council related information at no cost to the City to strengthen the recognition and creditability of the product.

The JBA has committed to the project by engaging the services of a full time employee to increase sales revenue from advertising for this year's directory. The JBA has advised that the salary for that employee contribute to 20% of the total project cost.

In the past Council has agreed to fund the project in a way of assisting the JBA. It is a way of showing support for the business community, through the JBA, and as a local government is taking a leadership role in the economic vitality of the City. This is in addition to the many other grants provided to the JBA in local business initiatives.

It is therefore recommended that at this stage it still appears to be most effective, from both cost and communications perspectives, to continue with this joint publication. To maximise the benefit of this publication it is recommended that the City proceed with Option 1 as outlined in this report.

The level of financial contribution in Option 1 ensures the professionalism of the Directory, in particular the Community component, being maintained to the current level with pages allocated for City Services / Facilities as well as Community Services in general.

It is envisaged that continuing participation from the City will assist in further improvement of the content and distribution of future editions of the Community Directory.

## **ATTACHMENTS**

Nil

## **VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

### **That:**

- 1 Council PROVIDES a financial contribution to the Joondalup Business Association (JBA), in accordance with the City's budgeted amount of \$40,000 (plus GST), for the production of the 2005/06 Business & Community Directory subject to:**
  - (a) the City being allocated appropriate space for information pertaining to Council services (currently this is 21 full A4 pages) with the Community front and inside cover as per the 2004/05 publication;**
  - (b) the City having two representatives on the working party for the production of the Directory;**
  - (c) the City allocated editorial space and photograph for a joint message from the Chairman of Commissioners and JBA President at the front of both sides of the Directory;**
  - (d) the JBA commit to continuing to develop and improve the directory's content and its appeal to a wider audience including identification of new markets and extended distribution channels within the community for the directory;**

- (e) **the print-run of the Directory is suitably increased to allow for wider distribution, and for the City to be provided a minimum of 6,500 copies for use in new resident welcome & citizenship packs, libraries, recreation centres and customer service centres; and**
  - (f) **continued inclusion of Community organisation/groups listings and regional maps as supplied by the City at no cost to the City.**
- 2 EXPENDITURE in (1) above be charged to Account No. 1 510 3720 0001 9999 - Governance Corporate Costs, Printing.**

Cmdr Clough stated his intention to declare a financial interest in Item CJ004-02/05 – Proposed Joondalup Shuttle Bus as he is a consultant for the Joondalup Health Campus, one of the supporters of the shuttle bus.

In relation to Item CJ004-02/05 – Proposed Joondalup Shuttle Bus, Cmdr Smith advised her daughter lives in Currabine and may use the bus, however she would deal impartially with this matter.

Chief Executive Officer, Mr Garry Hunt stated his intention to declare an interest that may affect his impartiality in Item CJ004-02/05 – Proposed Joondalup Shuttle Bus, as in his position as CEO at the City of Perth he had been involved in the inaugural CAT system and participated in an overseas tour to purchase the buses.

## **CJ004 - 02/05      PROPOSED JOONDALUP SHUTTLE BUS – [56564]**

**WARD - Lakeside**

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CJ050215\_BRF.DOC:ITEM 4

### **PURPOSE**

To provide information on the proposed Joondalup Shuttle Bus Service for the Joondalup City Centre.

### **EXECUTIVE SUMMARY**

The draft discussion paper for the Joondalup Shuttle Bus Service is shown in Attachment 1. The Joondalup Shuttle Bus service aims to build in the successful Campus Shuttle Bus service provided by Edith Cowan University (ECU) and will extend its route to service the Joondalup City centre and surrounds.

The City has been working with key stakeholders in the development of this proposal. The costs associated with this service would be shared between the key stakeholders Transperth (34%), ECU (33%) and the City of Joondalup (33%). The Joondalup Health Campus has also agreed to provide \$5,000 towards this initiative.

Two scenarios are presented in the discussion paper and these vary in cost according to the number of buses operating and whether they operate in a single direction or in both directions. The costs to the City over one year (fully serviced and inclusive of fuel costs) vary from \$61,050 for Scenario 1 to \$116,985 for Scenario 2. Scenario 2 is dependant on the installation of the traffic lights at the Kendrew-Grand Boulevard intersection.

There is considerable political and external interest and support for this project. The State Government has demonstrated its support for this project and is prepared to make a one-off start up contribution of \$40,000 for the cost of signage, bus stops, timetables, brochures and

service provision in the 2004/05 financial year. The State Government has also agreed to make a further \$65,000 contribution to the installation of traffic lights at the Kendrew/Grand Boulevard intersection to facilitate the right turn into Grand Boulevard and allow the two way bus service to become operational as soon as possible as outlined in Scenario 2 of the discussion paper.

In order for the City to fund the Shuttle Bus proposal, the City has identified in its 2004/05 mid year budget review process, surplus funds to enable this service to commence in February 2005.

This report recommends that Council:

- 1 NOTES the report for the Joondalup Shuttle Bus Service and associated attachments;
- 2 SUPPORTS in principle the establishment of the Joondalup Shuttle Bus service to commence in February 2005 in accordance with scenario one - (1) shuttle bus operating in an anticlockwise route, operating on a 15 minutes frequency between 8.00am to 6.00pm, Monday to Friday;
- 3 LISTS for consideration in the 2004/05 mid year budget review the amount \$25,450 to fund the service from February – June 2005;
- 4 REQUESTS the Chief Executive Officer to commence negotiations with the State Government on the contractual arrangements for the service and to address the following outstanding issues relating to the service being:
  - (a) The installation of lights at Kendrew Crescent and Grand Boulevard;
  - (b) The potential for increased revenues flowing to the State Government through increase use of train and bus links and how these revenues can be accessed to subsidise the shuttle bus service;
  - (c) Who will be responsible for ongoing monitoring and review of the service and how this will occur;
  - (d) Further discuss the feasibility of making the drop off point for the Joondalup Health Campus in the entrance to the hospital.
- 5 ACKNOWLEDGES and THANKS all the stakeholders for their contribution to the development of the proposal and advises the stakeholders of Council's position on the Joondalup Shuttle Bus proposal.

## **BACKGROUND**

The establishment of a Joondalup Shuttle Bus Service to service the Joondalup City Centre originated from the CBD Enhancement Project Steering Committee. This issue has been an ongoing item of discussion and development for the Committee since late 2003.

Edith Cowan University (ECU) initiated the ECU Joondalup Campus Shuttle Bus service in 2003 to service students travelling to and from Joondalup train station and the ECU Joondalup Campus. City of Joondalup staff, met with the TravelSmart Officer at ECU Joondalup Campus to discuss the potential to expand the highly successful Campus Shuttle Bus service for the Joondalup CBD and surrounds.

Several meetings have been convened with key stakeholders since July 2004 to discuss a Joondalup Shuttle Bus service for the Joondalup City Centre. Representatives from the City of Joondalup, ECU, West Coast College of TAFE, Joondalup Health Campus, Lakeside Joondalup Shopping Centre, Path Transit and a local Member of Parliament attended the meetings. It was agreed that the City would work with ECU to develop a proposal for all stakeholders regarding the funding and benefits of the Joondalup Shuttle Bus service for the Joondalup City Centre.

This issue was also raised at the Joondalup Regional Stakeholders Group meeting on 28 July 2004.

A draft discussion paper on the Joondalup Shuttle Bus service was distributed to stakeholders in September 2004 seeking feedback.

## **DETAILS**

The Joondalup Shuttle Bus service aims to build in the successful Campus Shuttle Bus service provided by ECU and will extend its route to service the Joondalup City centre and surrounds.

Student numbers at ECU Joondalup are predicted to double from the current approximate amount of 4,000 students, to 8,000 students by 2007, and demand for this service is predicted to rapidly increase.

As Joondalup develops into a major regional centre, visitor numbers to the City Centre are also expected to increase, putting enormous pressure on the existing transport provisions. This growth will place additional demands on other areas such parking and traffic congestion.

According to Department of Planning and Infrastructure, 83% of all trips made within the City of Joondalup are made by car. The distance travelled in over a third of trips is less than three kilometres. In addition, over 50% of trips range less than 1 km in distance and 80% of trips ranging from 1 and 3 kilometres are made by car.

Research also indicates that there is great potential for change in current commuter use within the City of Joondalup. For example, up to 44% of all trips could use alternative modes such as for walking, cycling and public transport instead of the car.

By improving the connectivity of commuters from the train to the immediate surrounds, through the introduction of a regular shuttle service, evidence suggests that there will be greater use of the public transport system. The introduction of a Shuttle Bus Service within the City Centre is one mechanism of addressing these issues and addressing the potential for change from car use to alternative commuter use. This initiative also has the potential to result in numerous benefits by alleviating the growing pressure on traffic and parking congestion in the City.

The shuttle bus entails the use of Path Transit buses, similar to those used for the Fremantle, Subiaco and Cottesloe CAT service.

The proposed route for the shuttle bus is 4.8 kilometres long and is shown in the attached map (Attachment 2 refers). Proposed positioning of bus stops and bus shelters are also shown on the map. Operation times would be between 8.00am to 6.00pm on Monday to Friday and the service would operate at a 15-minute frequency.

There are two different scenarios presented in the discussion paper. The scenarios provide different cost options based on the number of buses in operation and whether they operate in a clockwise and/or anticlockwise route. The total costs vary from \$185,000 to \$354,500.

It is proposed that the shuttle bus will initially operate as a free service to commuters and be subsidized by the City's stakeholders.

A summary of key benefits is provided in the discussion paper and this includes:

- Reduction in parking congestion;
- Reduced infrastructure requirements and costs;
- Increased funds for State Government;
- Improved health and lifestyle;
- Reduced noise impacts;
- Improved accessibility for people around CBD and surrounds (particularly the business community); and
- Social community needs.

### **Consultation:**

Several meetings have been convened since July 2004 with key stakeholders to discuss a shuttle bus service for the Joondalup City Centre. Representatives from the City of Joondalup, ECU, West Coast College of TAFE, Joondalup Health Campus, Lakeside Joondalup Shopping Centre and Path Transit attended these meetings and all have indicated strong support for this initiative.

The following issues are raised relating to the proposed Joondalup Shuttle Bus service:

- In order for Council to fund the Shuttle Bus service for potential commencement in February 2005, this item would need to be listed in the mid year budget for 2004/05 as proposed in the report;
- The opportunity to reduce the number of trips during non peak times in an effort to reduce costs will require investigation;
- The service will require monitoring and six (6) month update followed by a twelve (12) month review on the service utilisation rates will also be required;
- Further negotiations regarding contributions from stakeholders other than ECU, COJ and Path Transit will be required;
- The installation of traffic signals at Kendrew Crescent is dependant on Main Roads WA and could impose considerable additional costs to Council for traffic management required for Scenario two (2) (ie. two buses operating in a clockwise and anti-clockwise direction) if Main Roads WA do not agree to install the traffic signals;
- Clarification is required on how any revenue from the potential to introduce a 'fee for service' as a revenue source will be distributed amongst stakeholders and also how Path Transit can transfer any future revenue from increased use of public transport to the Joondalup Shuttle Bus Service; and



With regard to the suggestion to reduce the number of trips during non-peak times in an effort to reduce costs, Path Transit has advised the preferred option is to maintain a viable timetable that everyone can remember and to provide a service with regular and reliable trips throughout the given operating times.

The need to incorporate a break clause in the agreement for the provision of annual reviews to be undertaken and for an initial review after six months to assess whether amendments need to be made to the frequency of the service during non-peak periods should be addressed at the time, if and when the agreement is finalised.

Initial research into funding opportunities indicates that there are limited opportunities for funding such an initiative. However, the Australian Government Regional Partnerships is a potential funding opportunity. Funding via this source is available all year round and is available to Local Governments. Criteria via this funding source require clear benefits to the community, or where the project creates or enhances opportunities in the community. The criteria also favour projects that establish partnerships, where individuals, private sector businesses, community and /not-for-profit organizations, other organizations and any local, state and/or Australian Government agencies make a financial and/or in-kind contribution to the project. Further research will be undertaken to investigate the Regional Partnerships funding.

With regard to further negotiations with stakeholders other than ECU, COJ and Path Transit, the City has been advised that the Joondalup Health Campus has agreed to provide funding to the value of \$5,000 towards this project (Attachment 3 refers), which will directly offset contributions from ECU and the City. Transperth has agreed to this arrangement. A number of other relevant stakeholders have advised that they are supportive of the shuttle bus service but are not in a position at this stage to contribute financially. However they may be able to assist in promoting the service in other ways.

With regard to costs associated with the installation of traffic signals at Kendrew Crescent, the City has received a letter from Main Roads WA to advise that it does not support the installation of traffic signals at the Grand Boulevard/Kendrew intersection at this stage (Attachment 4 refers). However, the media statement released by Minister Alannah MacTiernan and the article in the Community News quotes the Minister as stating "This will be the case until traffic lights are installed at the Kendrew-Grand Boulevard intersection to facilitate the right turn into Grand Boulevard" and "The lights will make it possible to introduce a second bus, running clockwise, to give commuters the best level of service possible".

This, and a letter received from the Public Transport Authority (Attachment 5 refers) states that the State Government is prepared to make a contribution of \$65,000 towards the traffic lights in order to progress early delivery of a two way CAT bus operation. Approximate costs for installation of traffic lights is \$130,000.

### **Financial Implications:**

The costs associated with the establishment and ongoing costs for the Joondalup Shuttle Bus will need a partnership approach between the stakeholders in order to be viable. This is of particular importance, given the limited opportunities for revenue generation within the City of Joondalup, unlike other local governments offering a similar service. A proposed breakdown of stakeholder contributions is provided in the draft discussion paper and involves a shared funding contribution between the three major parties as follows:

Transperth	34%
Edith Cowan University	33%
City of Joondalup	33%
<b>TOTAL</b>	<b>100%</b>

Two scenarios are presented in the discussion paper and these vary in cost according to the number of buses operating and whether they operate in one direction only or in both directions.

Scenario 1: One (1) shuttle bus operating in a anticlockwise route, operating on a 15 minute frequency between 8.00am to 6.00pm, Monday to Friday and;

Scenario 2: Two (2) shuttle buses running in both clockwise and anticlockwise directions, operating on a 15-minute frequency between 8.00am to 6.00pm, Monday to Friday. Scenario 2 is dependant on the installation of traffic lights at the Kendrew-Grand Boulevard intersection.

The cost associated with each scenario over a five-year period (fully serviced and inclusive of fuel costs) is as follows:

**Scenario 1: Total cost to stakeholders Year 1 - \$185,000**

Stakeholder	% Contribution	Year 1 \$	Year 2 \$	Year 3 \$	Year 4 \$	Year 5 \$	TOTAL \$
City of Joondalup	33	61,050	62,576	64,140	65,743	67,386	<b>\$320,895</b>

**Scenario 2: Total cost to stakeholders Year 1 - \$354,500**

Stakeholder	% Contribution	Year 1 \$	Year 2 \$	Year 3 \$	Year 4 \$	Year 5 \$	TOTAL \$
City of Joondalup	33	116,985	119,910	122,907	125,980	129,129	<b>\$614,911</b>

The above figures are based on a projected estimate of a 2.5% Consumer Price Index increase from the State budget papers over a five-year period.

The State Government has demonstrated its support for this project and is prepared to make a one off start up contribution of \$40,000 for the cost of signage, bus stops, timetables, brochures and service provision in the 2004/05 financial year. The State Government has also agreed to make a further \$65,000 contribution to the installation of traffic lights at the Kendrew/Grand Boulevard intersection to facilitate the right turn into Grand Boulevard and allow the two way bus service to become operational as soon as possible as outlined in Scenario 2 of the discussion paper.

The City has also been advised that the Rottne Island Authority has indicated an interest in using the buses. If the buses were provided to another party, then Transperth would have to purchase new buses, which would incur an additional cost of \$20,000 per bus quoted in the Joondalup Shuttle Bus proposal.

**Strategic Implications:**

The establishment of a Joondalup Shuttle Bus links with the City's Strategic Plan 2003-2008 as follows:

Objectives 3.4: To provide integrated transport to meet regional and local needs.

Strategy 3.4.1: Advocate and facilitate the creation of transport linkages.

As Joondalup develops into a major regional centre visitor numbers to the City Centre are also expected to increase, putting enormous pressure on the existing transport infrastructure. This growth will also place additional demands on areas such as parking and traffic. The introduction of the Joondalup Shuttle Bus is a long-term strategic approach to addressing these issues.

**Sustainability Implications:**

The introduction of a Shuttle bus service for the City Centre has the following sustainability implications:

Social

The introduction of a Shuttle bus service for the City Centre will encourage greater use of public transport such as trains and will help alleviate the growing pressure on traffic and parking congestion in the City as it grows and develops into a regional centre.

A study undertaken by ECU indicates that in 2003, the bus carried more than 3800 passengers per week in peak periods. This represents a significant reduction in the potential number of cars entering the City Centre and surrounds and thereby potentially reducing associated noise impacts.

The Joondalup Shuttle Bus **is a fully accessible low floor bus that** will provide easy safe access in all weather conditions and improve accessibility particularly for seniors and people with disabilities.

In addition, this service will encourage greater use of public transport such as trains and will help alleviate the growing pressure on traffic and parking congestion in the City as it grows and develops as a regional centre.

Environmental

Currently, transport accounts for 14% of Australia's greenhouse gas emissions and is the most rapidly growing source. Vehicle emissions produce photochemical smog and urban haze. The 1998 State of the Environment Report identified that vehicles are the main source of emissions in urbanized areas, being responsible for 40-90% of the various pollutants in our air. Major vehicle pollutants include carbon monoxide, particulate matter, oxides of nitrogen and lead, with diesel powered vehicles contributing about two thirds of the particle matter emitted (RES, 2000).

As the Joondalup City Centre continues to grow traffic within the City is expected to markedly increase. This will result in higher amounts of vehicle emissions and pollutants entering the air, contributing further to the deterioration in air quality.

The provision of a Joondalup Shuttle bus will reduce these impacts.

### Economic

Whilst the introduction of the Joondalup Shuttle bus will incur specific costs as outlined in the section on financial implications, it represents an opportunity to leverage Council contributions with key stakeholders to share these costs.

These costs should be considered by offset costs in the long term such as the reduction of infrastructure requirements such as parking bays for each of the major stakeholders. Parking bays incur significant costs for their establishment and maintenance. A case study undertaken by ECU identified that parking bays cost around \$3,000 to \$20,000 each and maintenance and opportunity costs add to this figure. Results also indicate that on its busiest days, the introduction of ECU's Shuttle bus reduces demand for parking spaces at the Joondalup Campus by approximately 150 bays.

The Joondalup Shuttle Bus is also likely to increase the number of train commuters and thereby increase revenue for the State Government through increased passengers. ECU has demonstrated that the Shuttle Bus has been directly responsible for increasing the number of train users to Joondalup throughout the day – especially during peak times – by up to 30%. This equates to approximately \$180,000 worth of revenue from train tickets per year (based on a \$1.80 ticket, 2,500 passengers per week and 40 weeks).

### **COMMENT**

This project has generated considerable interest from external parties including the State Government, Edith Cowan University, the Inner City Residents Association and the media. This has resulted in media attention and the release of the following:

- Media statement from the Minister for Planning and Infrastructure released 11 January 2005 (See Attachment 6);
- Media release from ECU dated 18 January 2005 (See Attachment 7);
- Article in Community News, page 3, 13 January 2005 (See Attachment 8).

The City has received a letter from the Inner City Residents Association (See Attachment 9) stating that of all the residents who reviewed the draft Discussion Paper on the Joondalup Shuttle Bus, over 90% are in favour of the project. The letter also noted that the Association is disappointed that the Shuttle Bus does not service the commercial tenancies along Regents Park Road and City North, in particular the aged and student populations.

There is a clear need and in principle support for the establishment of the Joondalup Shuttle Bus Service. Whilst the City does not have funds set aside for this project in the 2004/05 financial years, the State Government's support for this project presents an opportunity to enable the commencement of the project in February 2005 and be billed for expenses in

arrears during the 2005/06 financial year. The State Government's offer of a one-off start up contribution of \$40,000 in addition to the \$65,000 contribution for the installation of traffic lights represents significant value and support for this project that may not necessarily be available should the City decide to assess this project during the 2005/06 budget deliberations.

Furthermore, it is expected that the figures provided in the draft discussion paper for the Shuttle Bus would increase by \$20,000 per bus, given the likelihood of the current Transperth buses being no longer available in mid 2005 and the subsequent need to purchase new buses at that time.

Based on the information provided there are three options available to the City as described below:

Option 1: February 2005 commencement with Council funds.

The City would officially commit to the commencement of the one way Shuttle Bus service option in February 2005, utilizing Council funds reprioritised in the mid year budget review process for 2004/05. The City would accept the State Government's offer for a one off start up contribution of \$40,000 in the 2004/05 financial year in addition to the \$65,000 towards the installation of traffic lights to facilitate the two way bus service in 2005/06.

Option 2: February 2005 commencement with State Government funds.

The City would officially commit to the commencement of the one-way Shuttle Bus service option in February 2005, utilizing State Government funds. The State Government would bill the City of Joondalup in arrears in the 2005/06 financial year for related expenses in the 2004/05 financial year. The City would accept the State Government's offer for a one off start up contribution of \$40,000 in the 2004/05 financial year in addition to the \$65,000 towards the installation of traffic lights to facilitate the two way bus service in 2005/06.

Option 3: Defer decision to the 2005/06 budget process.

The City would not officially commit to the commencement of the Shuttle Bus service in February 2005 and would decide its position following the assessment of the project through the Strategic Financial Management Committee and the 2005/06 budget deliberation process. This may incur additional costs to the City related to the likely need to purchase new buses for the service at an estimated \$20,000 per bus. The City would not be eligible for the \$40,000 'one off' start up contribution offered by the State Government. It is unknown whether the State Government proposal to provide \$65,000 financial contribution towards the installation of traffic lights would still be available.

There is considerable political and external interest and support for this project. It is recommended that the City accepts the State Government support for this project and endorse the Joondalup Shuttle Bus service for commencement in February 2005. It is also recommended that Scenario 1 be the preferred option until the installation of traffic signals at the Grand Boulevard/Kendrew intersection in an effort to keep associated costs at a minimum and until a review of the service is undertaken.

## ATTACHMENTS

Attachment 1	Draft Discussion Paper on the Joondalup Shuttle Bus Service
Attachment 2	Map showing proposed route of Joondalup Shuttle Bus service route
Attachment 3	Letter from the Joondalup Health Campus dated 20 January 2005
Attachment 4	Letter from Main Roads WA dated 29 November 2004
Attachment 5	Letter from Public Transport Authority
Attachment 6	Media Statement by the Minister for Planning and Infrastructure – released 11 January 2005
Attachment 7	Media Release by ECU dated 18 January 2005
Attachment 8	Media article on page 3, Community News, 13 January 2005
Attachment 9	Letter from the Inner City Residents of Joondalup Inc. dated 18 January 2005

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

### That Council:

- 1 NOTES the report for the Joondalup Shuttle Bus Service and associated Attachments forming Attachment 1 to Report CJ004-02/05;**
- 2 SUPPORTS in principle the establishment of the Joondalup Shuttle Bus service to commence in February 2005 in accordance with scenario one - (1) shuttle bus operating in an anticlockwise route, operating on a 15 minutes frequency between 8.00am to 6.00pm, Monday to Friday;**
- 3 LISTS for consideration in the 2004/05 mid year budget review the amount \$25,450 to fund the service from February – June 2005;**
- 4 REQUESTS the Chief Executive Officer to commence negotiations with the State Government on the contractual arrangements for the service and to address the following outstanding issues relating to the service being:**
  - (a) The installation of lights at Kendrew Crescent and Grand Boulevard;**
  - (b) The potential for increased revenues flowing to the State Government through increase use of train and bus links and how these revenues can be accessed to subsidise the shuttle bus service;**
  - (c) Who will be responsible for ongoing monitoring and review of the service and how this will occur; and**
  - (d) Further discuss the feasibility of making the drop off point for the Joondalup Health Campus in the entrance to the hospital.**

- 5 ACKNOWLEDGES and THANKS all the stakeholders for their contribution to the development of the proposal and advises the stakeholders of Council's position on the Joondalup Shuttle Bus proposal.**

*Appendix 4 refers*

*To access this attachment on electronic document, click here: [Attach4brf150205.pdf](#)*

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**CJ005 - 02/05 MINUTES OF CBD ENHANCEMENT PROJECT  
STEERING COMMITTEE MEETING – 19 JANUARY  
2005 – [53469]**

**WARD** - Lakeside

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CJ050215\_BRF.DOC:ITEM 5

**PURPOSE**

The unconfirmed minutes of the CBD Enhancement Project Steering Committee meeting held on 19 January 2005 are submitted for noting by Council.

**EXECUTIVE SUMMARY**

The CBD Enhancement Project Steering Committee met on Wednesday 19 January 2005.

Items of business discussed included:

- Swap Mart in the Joondalup City Centre;
- Review of the CBD Enhancement Project Steering Committee;
- Joondalup Night Markets;
- Replacement of CBD Enhancement Project Steering Committee Members.

A brief update was provided on the Committee's ongoing business items, which include the Inner City Public Transport Central Area Transit (CAT) service and the City of Joondalup Economic Development Strategy.

This report recommends that Council

- 1 *NOTES the unconfirmed minutes of the CBD Enhancement Project Steering Committee meeting held on 19 January 2005, shown at Attachment 1 to this Report;*
- 2 *ACCEPTS BY AN ABSOLUTE MAJORITY the resignation of Ms O'Halloran from the CBD Enhancement Project Steering Committee and thanks her for her contribution to the Committee.*

**BACKGROUND**

A meeting of the CBD Enhancement Project Steering Committee was held on Wednesday 19 January 2005.



## **DETAILS**

The minutes of the CBD Enhancement Project Steering Committee meeting held on Wednesday 19 January 2005 are provided at Attachment 1.

Items discussed at the meeting included:

### **1 Swap Mart in the Joondalup City Centre**

The Rotary Club of Karrinyup is developing a proposal to run a Swap Mart/Fresh Fruit and Vegetable Market in the underground parking area of the Joondalup Library and the West Perth Football Club is drafting a proposal for a car boot sale in an adjacent location. Both parties committed to a coordinated approach to ensure that their proposals are complementary, before submitting them to the CBD Enhancement Project Steering Committee.

### **2 Review of role and functions of the CBD Enhancement Project Steering Committee**

This item notes that the functions and future direction of the Committee has recently been reviewed and provides a summary of qualitative feedback received from interviews with Committee members. This item further presents the interim findings from the joint research project that has been undertaken between Edith Cowan University and the City of Joondalup throughout 2004.

The main issues resulting from this preliminary analysis relate to:

- The need for a more holistic approach to promotion of services available to local businesses;
- The most effective medium for promotion and marketing;
- The need for a more diverse industry spread;
- The need for a more consistent rental price structure; and
- The need to continue business skills development programs.

The report highlights the plan to develop a strategic work plan for the Committee and to clarify administrative matters related to the role and objectives of the Committee.

### **3 Joondalup Night Markets**

The attendance at the 2004/05 Night Markets has grown from approximately 1200 people at the 19 November 2004 opening night, to 2200 people at the last market held on 7 January 2005. A record crowd for the 2004/05 season was recorded on 17 December 2004, with an estimated 2,500 people in attendance. Quality entertainment and reasonable weather has led to growing attendance at the 2004/05 Night Markets.

### **4 Replacement of CBD Enhancement Project Steering Committee Members**

As a result of recent resignations, including from Ms O'Halloran who announced her resignation at the meeting, advertisements for two new Committee members have been placed in the Joondalup Community Newspaper and have been distributed to Joondalup Business Association members. A new Youth Advisory Committee (YAC) member will be sought at the next YAC meeting in February 2005. Ms O'Halloran announced her resignation from the Committee.

## COMMENT

### 1 Review of role and functions of the CBD Enhancement Project Steering Committee

In 2003 the CBD Enhancement Project Steering Committee agreed to form a CBD sub-group to involve stakeholders to look at the issues involving economic development, clustering and similar issues within the Joondalup CBD. The CBD sub-group requested that research be undertaken to provide information for the group to better understand the activities and issues of CBD businesses. A research proposal was developed in partnership with Edith Cowan University and was noted by Council (CJ055 - 03/04 refers).

As noted in the CBD Economic Enhancement Project Interim Report (Attachment Two) the aim of this research was to review the activities of the business community in the CBD and to inform the future strategic decisions for the City concerning how it will grow and develop the Joondalup CBD.

The CBD Economic Enhancement Research Project relates to the two objectives identified in Section 4 of the Committee's Terms of Reference:

- 4.1 *To make recommendations to Council in relation to creating a sustainable business environment in the Joondalup CBD that includes a coordinated approach to marketing and promotion.*
- 4.2 *To provide advice to Council on issues that affect the viability of the Joondalup CBD, and items that are referred to the Committee from the City of Joondalup Administration.*

The key findings of this preliminary research provide direction in terms of promotion and marketing, which clearly link with objective one (1). Findings related to rental price structure, industry spread and business skills development clearly relate to issues that affect the viability of the Joondalup CBD as specified in objective two (2).

The research project also provides a critical input into the development of the City's Economic Development Strategy which is currently in progress.

## ATTACHMENTS

- |              |  |
|--------------|--|
| Attachment 1 | Minutes of CBD Enhancement Project Steering Committee meeting held on 19 January 2005. |
| Attachment 2 | CBD Economic Enhancement Project Interim Report December 2004.                         |

## VOTING REQUIREMENTS

Absolute Majority

## **RECOMMENDATION**

### **That Council:**

- 1 NOTES the unconfirmed minutes of the CBD Enhancement Project Steering Committee meeting held on 19 January 2005, shown at Attachment 1 to Report CJ005-02/05;**
- 2 ACCEPTS BY AN ABSOLUTE MAJORITY the resignation of Ms O'Halloran from the CBD Enhancement Project Steering Committee, and thanks her for her contribution to the Committee.**

*Appendices 5 and 23 refer*

*To access this attachment on electronic document, click here: [Attach5brf150205.pdf](#)  
[Attach23agn220205.pdf](#)*

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**CJ006 - 02/05      FINANCIAL REPORT FOR THE PERIOD ENDING 30  
NOVEMBER 2004 – [07882]****WARD - All**

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CJ050215\_BRF.DOC:ITEM 6

**PURPOSE**

The November 2004 financial report is submitted to Council to be noted.

**EXECUTIVE SUMMARY**

The November 2004 year to date report shows an overall variance (under spend) of \$7.1m when compared to the year to date adopted budget.

This variance can be analysed as follows:

- The **Operating** position (Change in Net Assets Before Reserve Transfers) shows an actual surplus of \$34.4m compared to a budgeted surplus of \$31.0m at the end of November 2004. The \$3.4m variance is due primarily to a favourable variance in rates instalment interest and charges, government grants income, employee costs, consultancy costs, administration costs, finance related costs, contributions and minor equipment purchases.
- **Capital Expenditure** is \$1.1m under spent due to the deferral of heavy and light vehicle purchases.
- **Capital Works and Corporate Projects** expenditure is \$3.7m against a year to date budget of \$6.3m. This is a timing difference of which \$2.4m relates to normal Capital Works while \$0.2m relates to Capital Works classified as Corporate Projects. Total committed funds in relation to all Capital Works are \$11.2m.

**DETAILS**

The financial report for the period ending 30 November 2004 is appended as Attachment A.

**Statutory Provision:**

In accordance with Section 6.4 of the Local Government Act (1995) a local government is to prepare an annual financial report for the preceding year and such other financial reports as are prescribed. Regulation 34 of the Local Government (Financial Management) Regulations 1996 details those other financial reports which need to be prepared and states that they are to be presented to Council and recorded in the minutes of the meeting at which they are presented.

## **ATTACHMENTS**

Attachment 1            Financial Report for the period ending 30 November 2004.

## **VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

**That the Financial Report for the period ending 30 November 2004 be NOTED.**

*Appendix 6 refers*

*To access this attachment on electronic document, click here: [Attach6brf150205.pdf](#)*

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## **CJ007 - 02/05      FINANCIAL REPORT FOR THE PERIOD ENDING 31 DECEMBER 2004 – [07882]**

**WARD - All**

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CJ050215\_BRF.DOC:ITEM 7

### **PURPOSE**

The December 2004 financial report is submitted to Council to be noted.

### **EXECUTIVE SUMMARY**

The December 2004 year to date report shows an overall variance (under spend) of \$10.8m when compared to the year to date adopted budget.

This variance can be analysed as follows:

- The **Operating** position (Change in Net Assets Before Reserve Transfers) shows an actual surplus of \$29.1m compared to a budgeted surplus of \$25.0m at the end of December 2004. The \$4.1m variance is due primarily to a favourable variance in rates instalment interest and charges, government grants income, employee costs, consultancy costs, administration costs, waste management costs, finance related costs and minor equipment purchases.
- **Capital Expenditure** is \$1.8m under spent due to the deferral of heavy and light vehicle purchases and IT related projects.
- **Capital Works and Corporate Projects** expenditure is \$4.8m against a year to date budget of \$9.7m. This is a timing difference of which \$2.9m relates to normal Capital Works while \$2.0m relates to Capital Works classified as Corporate Projects. Total committed funds in relation to all Capital Works are \$11.2m.

### **DETAILS**

The financial report for the period ending 31 December 2004 is appended as Attachment A.

#### **Statutory Provision:**

In accordance with Section 6.4 of the Local Government Act (1995) a local government is to prepare an annual financial report for the preceding year and such other financial reports as are prescribed. Regulation 34 of the Local Government (Financial Management) Regulations 1996 details those other financial reports which need to be prepared and states that they are to be presented to Council and recorded in the minutes of the meeting at which they are presented.

## **ATTACHMENTS**

Attachment 1            Financial Report for the period ending 31 December 2004.

## **VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

**That the Financial Report for the period ending 31 December 2004 be NOTED.**

*Appendix 7 refers*

*To access this attachment on electronic document, click here: [Attach7brf150205.pdf](#)*

## CJ008 - 02/05      **WARRANT OF PAYMENTS 30 NOVEMBER 2004 – [09882]**

**WARD - All**

CJ050215\_BRF.DOC:ITEM 8

### **PURPOSE**

The Warrant of Payments for the month ended 30 November 2004 is submitted to Council for approval.

### **EXECUTIVE SUMMARY**

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

<b>FUNDS</b>	<b>DETAILS</b>	<b>AMOUNT</b>
Director Corporate Services & Resource Management Advance Account	67953 – 68457 & EFT 1122 – 1328	\$6,679,824.24
Municipal Account	000716 – 000722 & 32A – 33A	\$10,782,444.19
Trust Account		Nil
	<b>TOTAL</b>	<b>\$17,462,268.43</b>

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 November 2004 was \$1,001,304.79



**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 \$17,462,268.43 which is to be submitted to Council on 22 February 2005 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 \$17,462,268.43 was submitted to Council on 22 February 2005.

.....  
JOHN PATERSON  
Chairman of Commissioners

**DETAILS**

**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 November 2004
Attachment B	Municipal Fund Vouchers for Month of November 2004

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

**That Council APPROVES for payment the following vouchers, as presented in the Warrant of Payments to 30 November 2004, certified by the Chairman of Commissioners and Director Corporate Services & Resource Management and totalling \$17,462,268.43.**

<b>FUNDS</b>	<b>DETAILS</b>	<b>AMOUNT</b>
<b>Director Corporate Services &amp; Resource Management Advance Account</b>	<b>67953 – 68457 &amp; EFT 1122 – 1328</b>	<b>\$6,679,824.24</b>
<b>Municipal Account</b>	<b>000716 – 000722 &amp; 32A – 33A</b>	<b>\$10,782,444.19</b>
<b>Trust Account</b>		<b>Nil</b>
	<b>TOTAL</b>	<b>\$17,462,268.43</b>

*Appendix 8 refers*

*To access this attachment on electronic document, click here: [Attach8brf150205.pdf](#)*

## **CJ009 - 02/05      WARRANT OF PAYMENTS 31 DECEMBER 2004 – [09882]**

**WARD - All**

CJ050215\_BRF.DOC:ITEM 9

### **PURPOSE**

The Warrant of Payments for the month ended 31 December 2004 is submitted to Council for approval.

### **EXECUTIVE SUMMARY**

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

<b>FUNDS</b>	<b>DETAILS</b>	<b>AMOUNT</b>
Director Corporate Services & Resource Management Advance Account	68458 – 68988 & EFT 1329 - 1548	\$8,579,213.53
Municipal Account	000723 – 000731 & 36A – 37A	\$14,906,941.55
Trust Account		Nil
	<b>TOTAL</b>	<b>\$23,486,155.08</b>

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 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 is 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 December 2004 was \$974,879.19

**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 \$23,486,155.08 which is to be submitted to Council on 22 February 2005 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 \$23,486,155.08 was submitted to Council on 22 February 2005.

.....  
JOHN PATERSON  
Chairman of Commissioners

**DETAILS**

**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 December 2004  
Attachment B – Municipal Fund Vouchers for Month of December 2004

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

That Council **APPROVES** for payment the following vouchers, as presented in the Warrant of Payments to 31 December 2004, certified by the Chairman of Commissioners and Director Corporate Services & Resource Management and totalling \$23,486,155.08.

<b>FUNDS</b>	<b>DETAILS</b>	<b>AMOUNT</b>
<b>Director Corporate Services &amp; Resource Management Advance Account</b>	<b>68458 – 68988 &amp; EFT 1329 - 1548</b>	<b>\$8,579,213.53</b>
<b>Municipal Account</b>	<b>000723 – 000731 &amp; 36A – 37A</b>	<b>\$14,906,941.55</b>
<b>Trust Account</b>		<b>Nil</b>
	<b>TOTAL</b>	<b>\$23,486,155.08</b>

*Appendix 9 refers*

To access this attachment on electronic document, click here: [Attach9brf150205.pdf](#)

**CJ010 - 02/05 TENDER NUMBER 025-04/05 SUPPLY AND DELIVERY OF SIX 2WD RIDE-ON ROTARY MOWERS WITH/WITHOUT TRADE-IN AND DISPOSAL OF TWO USED MOWERS – [86566]**

**WARD - All**

CJ050215\_BRF.DOC:ITEM 10

**PURPOSE**

To accept the tender submitted by Tocojepa Pty Ltd T/As Total Toro, for the supply of six new Groundsmaster 328-D mowers and the disposal of six used mowers, plant numbers 98163 to 98168 inclusive.

**EXECUTIVE SUMMARY**

The City's 2004/05 budget provided for the purchase of mobile plant, as detailed in the Fleet Replacement Program. Funding for the cost of the change-over, is to be sourced from the Mobile Plant Reserve Account.

Included in the 2004/05 budget was provision for the purchase of six replacement ride on rotary mowers together with the disposal of six 2001 Model Toro 325D mowers, plant numbers 98163 to 98168 inclusive, all of which are allocated to Operations Services.

It is recommended, in relation to Tender number 025-04/05 for Supply of Six 2WD Ride-on Rotary Mowers and Disposal of Six Used Mowers, that Council:

- 1 *DEEMS the tender submitted by E & M J Rosher Pty Ltd to be non-conforming due to failure to comply with the Specification in the Request for Tender;*
- 2 *CHOOSES the tender submitted by Tocojepa Pty Ltd T/As Total Toro, for the supply of six new Groundsmaster 328-D mowers at a total cost of \$157,200 excluding GST;*
- 3 *CHOOSES the tender submitted by Tocojepa Pty Ltd T/As Total Toro, for the disposal by trade-in of six used mowers, plant numbers 98163 to 98168 inclusive, at \$39,800 excluding GST;*
- 4 *AUTHORISES the Chief Executive Officer (CEO), on behalf of the City, to enter into a contract with Tocojepa Pty Ltd T/As Total Toro in accordance with their submitted tender, subject to any minor variations that may be agreed between the CEO and Tocojepa Pty Ltd T/As Total Toro.*

## **BACKGROUND**

The six mowers to be replaced were purchased in 2001 and have been fully utilized mowing parks, verges & median strips. All six machines are Toro 325D models and the recommended replacement mower is the Toro 328D, which superseded the 325D late in 2002.

## **DETAILS**

Two tenders were received from: E & M J Rosher and Tocojepa Pty Ltd T/As Total Toro. Regulation 18(2) of the *Local Government (Functions and General) Regulations 1996* allows for the rejection of a tender that fails to comply with any requirement specified in the invitation to tender.

The tender from E & M J Rosher Pty Ltd did not meet the specified requirements for a 3-belt operation on the cutting deck, two front and two rear jockey wheels, and welded mounting plates with internal wiring within the roll over protection frame, for the strobe warning lights.

The remaining tender met all the essential requirements and was submitted for further consideration.

Under the City's Contract Management Framework and the Code of Tendering AS 4120-1994, an Evaluation Panel, using a weighted multi-criterion assessment system, assesses conforming tenders. The Selection Criteria for Tender 025-04/05 are as follows:

- 1 Tenderers demonstrated ability to provide after sales service and product spare parts
- 2 Proposed supply meets the design and specification
- 3 Delivery date for the new supply
- 4 Whole of life costings

The conforming tender submission from Tocojepa Pty Ltd T/As Total Toro for the Groundskeeper 328-D mowers is considered by the Evaluation Panel to be the best value purchase option for the City of Joondalup.

### **Statutory Provision:**

The statewide public tender was advertised, opened and evaluated in accordance with the *Local Government (F&G) Regulations 1996*. This ensures compliance with the provision that tenders are required to be publicly invited if the consideration under a contract is expected to be or worth more than \$50,000.

In accordance with the provisions of Section 5.42 of the *Local Government Act 1995*, the Chief Executive Officer has the delegated authority to accept purchases to a limit of \$100,000. As this purchase exceeds this limit, it requires Council approval.

### **Policy Implications:**

The City's Policy 2.5.7, on purchasing goods and services, encourages local business in the purchasing and tendering process. Both tenders received, including the recommended tenderer, Tocojepa Pty Ltd T/As Total Toro, are located outside the Region.

**Financial Implications:**

Based on the Tocojepa Pty Ltd T/As Total Toro tender, the financial position excluding GST is:

<b>Make &amp; Model New Supply</b>	<b>Recommended Supply Cost</b>	<b>Recommended Disposal Return</b>	<b>Budget New Supply</b>	<b>Budget Trade</b>	<b>Budget Surplus</b>
Toro 328D	\$157,200	\$39,800	\$156,000	\$30,000	\$8,600

**COMMENT**

The net surplus on budget of \$8,600 (excluding GST) is due to the higher than expected trade in price on the old mowers, plant numbers 98163 to 98168 inclusive.

**ATTACHMENTS**

Nil

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

**That in relation to Tender Number 025-04/05, Council:**

- 1 DEEMS the tender submitted by E & M J Rosher Pty Ltd to be non-conforming due to failure to comply with the Specification in the Request for Tender;**
- 2 CHOOSES the tender submitted by Tocojepa Pty Ltd T/As Total Toro, for the supply of six new Groundsmaster 328-D mowers at a total cost of \$157,200 excluding GST;**
- 3 CHOOSES the tender submitted by Tocojepa Pty Ltd T/As Total Toro, for the disposal by trade-in of six used mowers, plant numbers 98163 to 98168 inclusive, at \$39,800 excluding GST;**
- 4 AUTHORISES the Chief Executive Officer (CEO), on behalf of the City, to enter into a contract with Tocojepa Pty Ltd T/As Total Toro in accordance with their submitted tender, subject to any minor variations that may be agreed between the CEO and Tocojepa Pty Ltd T/As Total Toro.**



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**CJ011 - 02/05      GROUPED DWELLINGS – THIRTEEN (13) SINGLE  
BEDROOM DWELLINGS (TWO STOREY) ON LOT  
743 (79A-79B) ADMIRAL GROVE, HEATHRIDGE –  
[00653]**

**WARD -** Marina

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CJ050215\_BRF.DOC:ITEM 11

**PURPOSE**

To request Council's consideration of an application for thirteen (13) single bedroom dwellings (two-storey) on Lot 743 (79A-79B) Admiral Grove, Heathridge.

**EXECUTIVE SUMMARY**

The proposal is to develop thirteen (13) new, brick and tile, single bedroom dwellings on the subject site. The proposed units are two-storey and of a semi-detached nature.

The subject site is located along Admiral Grove, Heathridge with the closest corner being Caridean Street. Adjoining the property to the west of the site is Heathridge Shopping Centre. The property adjacent, south of the subject site is, Admiral Park (open space). This property is separated by a one-way vehicular egress, which services the Heathridge Shopping Centre. The residential properties within close vicinity, are generally single residential and are zoned R20.

The subject development has its main frontage onto Admiral Grove for five (5) of the proposed units, with the remaining eight (8) units fronting the Heathridge Shopping Centre. All vehicular access is proposed to be from Admiral Grove with all parking being maintained internally.

The Minister for Planning approved the rezoning of the subject site from 'Business' to 'Centre', on 6 April 2004 (District Planning Scheme No 2 - Amendment No. 19). On 30 April 2004, under the provisions of Part 9 of the City of Joondalup's District Planning Scheme No 2 (DPS2), Structure Plan No 4 (Lots 742 & 743 Caridean Street & Admiral Grove, Heathridge) was adopted by resolution of the Western Australian Planning Commission.

It is considered that the subject development will create a suitable interface between the existing commercial and residential development in the area. The development in its current form meets the criteria as set out by Structure Plan No 4 (Lots 742 & 743 Caridean Street & Admiral Grove, Heathridge), District Planning Scheme No. 2 and the Residential Design Codes 2002, and is recommended for approval.

## BACKGROUND

<b>Suburb/Location:</b>	Lot 743 Admiral Grove, Heathridge
<b>Applicant:</b>	Iliadis & Associates Architects
<b>Owner:</b>	Department of Housing and Works
<b>Zoning:</b>	<b>DPS:</b> Centre (R40)
	<b>MRS:</b> Urban
<b>Strategic Plan:</b>	3.3 – To continue to meet changing demographic needs.
<b>Land Area:</b>	2007m <sup>2</sup>

### Application History

18 October 2004	Application received
17 November 2004	Amended plans received, modifying the proposed finished floor levels. (These plans were submitted by the applicant, without request)
20 December 2004	Further information requested, requiring amendments to new plans and compliance with all criteria as set out by the Structure Plan, which had not been completed.
30 December 2004	Requested information received, including amended plans.

## DETAILS

The proposed development has the following features:

- Thirteen (13) semi-detached, two storey, single bedroom dwellings;
- Each unit is to be brick and tile with frontages to both Admiral Grove and the Heathridge Shopping Centre;
- Vehicular access is provided from Admiral Grove;
- Car parking is to be located on-site;
- A one (1) metre pedestrian access has been provided along the western boundary (shopping centre) as part of a legal agreement between the owners of the subject property and the City.

### **Statutory Provision:**

In considering the application, Structure Plan No 4 (Lots 742 & 743 Caridean Street & Admiral Grove, Heathridge), DPS2 and the Residential Design Codes 2002 (RDC) are relevant statutory documents.

The following table summarizes the development details:

### Single Bedroom Dwellings

Standard	Required	Provided
Front/ Rear Setback: (Admiral Grove & Western Boundary)	1.0m minimum, 3.0m maximum	1.15m minimum, 1.694m maximum
Side Setbacks: (as per Structure Plan No 4)		

Southern side <i>Ground</i> <i>Upper</i>	1.5m 1.5m	1.735m 1.735m
Northern Side <i>Ground</i> <i>Upper</i>	Nil 1.5m	1.195m 1.523m
Height	As per Residential Design Codes 2002.	Structure Plans allows for setback variations.
Outdoor Living Area	Minimum 20m <sup>2</sup>	20m <sup>2</sup>
Storerooms	Minimum 4.0m <sup>2</sup>	4.0m <sup>2</sup>
Minimum Site Area	146.7m <sup>2</sup> - (as per Structure Plan No 4)	154.38 m <sup>2</sup>
Maximum Dwelling Size (Plot Ratio)	65m <sup>2</sup> - (as per Structure Plan No 4)	64.17m <sup>2</sup>

### Car Parking

Use	Parking Standard	No of Bays Required	No of Bays Provided
Single Bedroom Dwellings	1 per dwelling + 1 visitor bay for every 4 dwellings	16	16

### **Consultation:**

Consultation for the proposed development was not considered to be necessary. The proposal was advertised for public comment during the Structure Plan and Amendment process in which a draft development plan was incorporated into the application. The draft development proposal incorporated into the Structure Plan and Amendment process is considered to be similar in nature to the proposal, which is the subject of this application.

It is not required to advertise the subject application in accordance with Structure Plan No 4, DPS2 or the Residential Design Codes 2002.

### **Strategic Implications:**

The City of Joondalup recognises the changing demographic needs of the community and aims to provide a range of residential living choices.

### **COMMENT**

In general, it is considered that the development of the site for single bedroom dwellings, as foreshadowed in Structure Plan No 4 (Lots 742 & 743 Caridean Street & Admiral Grove, Heathridge) is appropriate.

As per clause 5.1.2 of Structure Plan No 4, there are certain criteria that a development must comply with for an approval to be granted.

Certain setback variations are permitted, as part of this Structure Plan, in which this development is consistent with, as shown in the table above. A nil setback has been allowed between individual dwellings and is permitted on both ground and first floors of the development. A zero lot setback for the ground floor is permitted along the northern boundary, which the applicant has not utilised in this situation, having a minimum setback of 1.195m to the storeroom of Unit 6.

Clause (V), of Structure Plan No 4, states that the application does not have to comply with Element 8 (Privacy) of the Residential Design Codes 2002. Furthermore, Clause (XIII) of Structure Plan No 4, states that the application does not have to comply with Element 9 (Design for Climate) of the Residential Design Codes 2002

Access to the site is only permissible from Admiral Grove, which the applicant has complied with in this instance. Although pedestrian access is permitted into the shopping centre site to the west, no vehicular traffic is permitted.

Clause (IX) of Structure Plan No 4 states that both visitor and residents' parking shall be located internally such that garages and parking spaces are largely hidden from the street. It is considered that the applicant has complied with this requirement in this instance.

Clause (X) of Structure Plan No 4 requires the applicant to provide a 1.0 metre wide pedestrian access way along the shopping centre boundary (west), to provide a direct link to Caridean Street. This area is to be landscaped, paved, maintained and adequately provided in terms of lighting. The applicant in this instance has provided a 1.0 metre wide brick paved access way. No details with regards to landscaping and lighting for this area have been provided. It is deemed that this could be incorporated as a condition.

Clause (XI) of Structure Plan No 4, states that the site should maintain a minimum of 40% open space. The applicant has complied with this requirement by providing over 52% of open space within the site.

Structure Plan No 4, has certain guidelines, which the applicant must comply with in relation to fencing. The structure plan does not encourage fencing along the primary street frontage, however, if fencing is to be provided, it is required that the fencing is permeable, solid or a combination of both types to a maximum height of 1.0m. Where there is fencing proposed along the primary street frontage, the side fencing within the primary street frontage area, is required to be of the same height (1.0m), same style and materials as the fencing provided in the primary street frontage. The applicant in this instance has provided fencing along the primary street frontage, being Admiral Grove, which is deemed to comply with this requirement.

Any fencing, which is proposed along the southern boundary, is required to be a maximum height of 1.8 metres with the solid component not to exceed 750mm. The plans, which have been submitted by the applicant, do not show any fencing proposed along this elevation. The existing retaining wall along the southern boundary is to be maintained.

Clause (XIX), of Structure Plan No 4, states that the applicant/ owner of the land shall enter into a legal agreement with the City of Joondalup, to create a pedestrian access way between the subject lot and the shopping centre. Furthermore, necessary notations are required to be applied on the title of the lot to ensure that the proposed dwellings are designated and used as “Single Bedroom Dwellings”. This was required, prior to the completion of the amendment or structure plan process. This requirement has not been completed to date. The applicant is aware of this issue and is currently in the process of completing this requirement.

It is considered that a determination on the proposed development should not be withheld due to the fact that Clause (XIX), of Structure Plan No 4 has not been met. This could be included as a condition of planning approval, which would be required to be fulfilled, prior to a Practical Completion Certificate being given to the applicant/owner and prior to occupation.

The applicant is proposing a variation to the finished floor level of this development application, for the units located along the Admiral Grove frontage. Small portions of the front of Units 1, 2, 3, 4 & 5 are raised from between 0.75m and 1.55m above the front boundary of the subject property.

It is noted that the existing topography of the land from the front to the rear of the subject property, increases by approximately 4.1 metres. The proposed dwellings along Admiral Grove are, for the most part, built at natural ground level. Therefore the variation in floor levels to the front portion of these units is considered to have a minor impact on the streetscape in relation to an increase in bulk. Furthermore, is not necessary for the applicant to comply with the Council’s Policy 3.1.9 for Height and Scale of Buildings Within a Residential Area under the Structure Plan. The requirements of clause 3.7.1 of the Residential Design Codes 2002 govern the heights of the proposed development, which the applicant has met.

### **Conclusion**

It is considered that the use of the subject site for the development of thirteen (13), two-storey, single bedroom dwellings is acceptable. The layout of the development maintains a suitable interface between the adjacent residential dwellings to the east and that of the adjoining commercial development to the west of the site. The development of this unimproved land is seen to be a benefit for the local community and will offer diversity in the range of living choices within the area.

It is considered that the development in its current form has met the criteria as set out by Structure Plan No 4 (Lots 742 & 743 Caridean Street & Admiral Grove, Heathridge), District Planning Scheme No. 2 and the Residential Design Codes 2002, and is therefore recommended for approval.

### **ATTACHMENTS**

Attachment 1	Location Plan
Attachment 2	Development Plans

### **VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

**That Council APPROVES the application dated 18 October 2004 submitted by Iliadis & Associates Architects, on behalf of the Department of Housing and Works for Thirteen (13) Single Bedroom Dwellings (Two Storey) on Lot 743 (79A-79B) Admiral Grove, Heathridge subject to the following conditions:**

- 1 Prior to issuance of a Practical Completion Certificate and occupation of the proposed single bedroom dwellings, the owner/s of Lot 743 (79A-79B) Admiral Grove, Heathridge shall enter into a legal agreement with the City to allow for a pedestrian access between Lot 743 (79A-79B) Admiral Grove, Heathridge and Lot 742 (83) Caridean Street, Heathridge, to the satisfaction of the City. The owner/s shall be responsible for the payment of all costs of and incidental to the preparation and execution of this legal agreement;**
- 2 The owner/s of Lot 743 (79A-79B) Admiral Grove, Heathridge shall provide necessary notations on the Certificate of Title of the land to state that the proposed dwellings are designated as “Single Bedroom Dwellings”, to the satisfaction of the City;**
- 3 The minimum distance between the gutter-line of the dwellings and the boundary shall be no less than 750mm;**
- 4 Common areas shall be landscaped and thereafter maintained to the satisfaction of the City. A landscape plan, indicating landscaping location and types, shall be submitted to the City within 30 days of the dwellings being occupied;**
- 5 All stormwater shall be collected on-site and disposed of in a manner acceptable to the City;**
- 6 The private yard areas shall be nominated and suitably screened from adjoining dwellings and the street prior to the development first being occupied;**
- 7 The parking bay/s, driveway/s, crossover and points of ingress and egress shall be designed and constructed in accordance with the Australian Standard for Off-street Parking (AS2890) to the satisfaction of the City, before occupation of the dwellings;**
- 8 The provision of three (3) visitor bays, permanently marked and maintained at all times to the satisfaction of the City;**
- 9 The proposed one (1) metre wide, pedestrian access-way, to the west of the subject site shall be landscaped, paved and maintained and adequately provided in terms of lighting, to the satisfaction of the City, prior to occupation of the dwellings;**

**Footnote:**

- 1 The applicant/owner is required to lodge an application for a building licence under the provisions of the Building Regulations and approval from the City before commencing any works whatsoever;**
- 2 In relation to Condition No. 6, please note that all fencing proposed for the subject development must comply with the requirements of Structure Plan No 4 (Lots 742 & 743 Caridean Street & Admiral Grove, Heathridge) and may require approval from the City prior to installation;**
- 3 In relation to Condition No 7, car bay grades are not to exceed 6%.**

*Appendix 10 refers*

*To access this attachment on electronic document, click here: [Attach10brf150205.pdf](#)*

## **CJ012 - 02/05 DELEGATED AUTHORITY REPORT FOR THE MONTHS OF NOVEMBER AND DECEMBER 2004 – [07032]**

**WARD - All**

CJ050215\_BRF.DOC:ITEM 12

### **PURPOSE**

To submit items of Delegated Authority to Council for noting.

### **EXECUTIVE SUMMARY**

This report provides a resumé of the Development Applications processed by Delegated Authority during November and December 2004 (see Attachments 1 and 2). Please note that figures for January are not available at the time of preparing this report.

The total number of Development Applications determined (including Council and delegated decisions) is as follows:

<b>Month</b>	<b>No</b>	<b>Value (\$)</b>
November 2004	79	5,287,116.00
December 2004	90	44,229,381.00

The number of DAs received in November and December 2004 was 96 and 83 respectively.

### **ATTACHMENTS**

Attachment 1            November 2004 Approvals  
Attachment 2            December 2004 Approvals

### **VOTING REQUIREMENTS**

Simple Majority

### **RECOMMENDATION**

**That Council NOTES the determinations made under Delegated Authority in relation to the applications described in Report CJ012-02/05, for the months of November and December 2004.**

*Appendix 11 refers*

To access this attachment on electronic document, click here: [Attach11brf150205.pdf](#)



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**CJ013 - 02/05      SUBDIVISION      REFERRALS      PROCESSED      1  
NOVEMBER – 31 DECEMBER 2004 - [05961]**

**WARD** - North Coastal, South, Lakeside, Marina, South Coastal, Whitfords

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CJ050215\_BRF.DOC:ITEM 13

**PURPOSE**

This report is to advise Council of subdivision referrals received by the City for processing in the period 1 November – 31 December 2004.

**EXECUTIVE SUMMARY**

Attachment 1 is a schedule of the Subdivision Referrals processed by the City from 1 November – 31 December 2004. Applications were dealt with in terms of the delegation of subdivision control powers by the Chief Executive Officer (C55-08/04).

**DETAILS**

Fourteen subdivision referrals were processed within the period. The average processing time taken was 20 days which compares favourably with the statutory timeframe of 42 days. The subdivision applications processed enabled the potential creation of three (3) residential lots and six (6) strata residential lots. One application was not supported and two applications were deferred. These applications are as follows:

**Ref: SU126395 – 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 and therefore prejudice the overall planning of the area.

**Ref: SU126503 – 20 Balga Way, Mullaloo**

The City requested that this application be deferred to enable the applicant to amend the current green title proposal to a survey strata proposal.

**Ref: SU127019 – 4 Sunlander Drive, Currambine**

The City requested that this application be deferred to enable the applicant to provide additional information regarding vehicle access to certain lots and the integration of the proposed dual use pathway.

**ATTACHMENTS**

Attachment 1              Schedule of Subdivision Referrals

## **VOTING REQUIREMENTS**

Simple Majority

## **RECOMMENDATION**

**That Council NOTES the action taken by the subdivision control unit in relation to the applications described in Report CJ013-02/05 for the months of November and December 2004.**

*Appendix 12 refers*

*To access this attachment on electronic document, click here: [Attach12brf150204.pdf](#)*

**CJ014 - 02/05      ART COLLECTION PURCHASES – [14158]****WARD - All**

CJ050215\_BRF.DOC:ITEM 14

**PURPOSE**

To endorse the acquisition of four artworks for the City of Joondalup art collection, as recommended by the City's Art Collection Curator.

**EXECUTIVE SUMMARY**

A meeting was held on 21 December 2004 between the Manager Community Development Services, Cultural Development Coordinator and the City's Art Collection Curator to discuss the purchase of new artworks for the collection.

It is recommended that two artworks be purchased for the City of Joondalup Art Collection:

- "Reflection", 2004 oil on canvas painting by Jo Darbyshire for \$4,400 (inc GST)
- "Stratum", 2004 oil on canvas painting by Indra Geidans for \$3,000 (inc GST)

It is noted that two further artworks have been purchased for the City of Joondalup Art Collection. These artworks are purchased as part of a Delegated Authority to the City's Art Collection Coordinator for purchase of under \$1,000:

- "Slow Infinity of Dreaming", 2004 fibre textile artwork by Elisa Markes-Young for \$750
- "Jupiter Well", 2004 Screenprint by Helicopter Tjugurrayi for \$500

**BACKGROUND**

The Art Collection has the following objectives:

- To support contemporary Western Australian Art and Artists
- To provide the citizens of the City of Joondalup access to high quality visual art within the boundaries of the region.

The objective of the collection is to establish a collection of good quality artwork by contemporary Western Australian artists with a second priority of having a regional focus.

It is a policy that artworks over the value of \$1,000 be viewed by the Art Collection Working Party for a recommendation to Council.

**DETAILS**

Details of the four artworks of interest are listed below. Recommended for purchase are those over the value of \$1,000. Those artworks under the value of \$1,000 have already been purchased at the recommendation of the City's Art Collection Curator.

<b>Artist</b>	<b>Title</b>	<b>Medium</b>	<b>Art gallery</b>	<b>Price GST inc</b>	<b>Price GST exc</b>
Jo Darbyshire	<i>Reflection</i>	Oil on Canvas	Direct from artist	\$4,400	\$ 4,000
Indra Geidans	<i>Stratum</i>	Oil on Canvas	Art Place	\$3,000	\$ 2,727
Elisa Markes Young	<i>Slow Infinity of Dreaming</i>	Textile, mixed media	Direct from Artist	\$ 750*	\$ 750
Helicopter Tjugurrayi	<i>Jupiter Well</i>	Screenprint	Fremantle Art Centre	\$ 500	\$ 455
<b>TOTAL</b>				<b>\$8,650</b>	<b>\$ 7,932</b>

\* The purchase price of this artwork does not include GST, as the artist is not GST registered.

**Financial Implications:**

Funds for the purchase of the artworks are as detailed below.

<b>Account No:</b>	1 4430 6781 0001 A007
<b>Budget Item:</b>	Art Purchases
<b>Budget Amount:</b>	\$10,000
<b>Actual Cost:</b>	\$7,932
<b>Remaining Budget:</b>	\$2,067

**COMMENT**

The Curator recommended the purchase of the following artworks for the reasons stated:

**“Reflection”, 2004 oil on canvas painting by Jo Darbyshire for \$4,400 (inc GST)**

- This artwork was recently exhibited in the 2004 Joondalup Invitation Art Award and highly commended by the judging panel.
- It is an outstanding painting that explores the theme of water and reflections; its fluid style represents both surface reflections and underwater realms. It is a cohesive culmination of several years' painting styles by the artist.
- Jo Darbyshire is a well-respected Western Australian artist. She has held international residencies, several solo exhibitions at Gallery East and regularly exhibits in Melbourne.

- Jo Darbyshire is a painting lecturer at Edith Cowan University and is well represented in State and National Collections including: Artbank, Art Gallery of WA, BankWest, Edith Cowan University, Lawrence Wilson Art Gallery, Murdoch University and Royal Perth Hospital.

**“Stratum”, 2004 oil on canvas painting by Indra Geidans for \$3,000 (inc GST)**

- This well executed artwork would be a worthy purchase for the City of Joondalup art collection and sit well with both the current collection of abstract and landscape paintings.
- As the name “Stratum” indicates, this work can be viewed on numerous levels; from the micro study of the subjects ageing & wrinkled skins to the macro view of the landscapes’ valleys and folds.
- Indra Geidans is a successful mid-career Western Australian artist who has had numerous solo exhibitions in Australia and Europe, been awarded many grants, awards and commissions for her artworks.
- Indra is well-represented in many state, national and private collections including: Art Gallery of WA, University of WA, Edith Cowan University, Bunbury City Collection, City of Bayswater Collection, Royal Perth Hospital, Federal Law Courts of Australia.

The Curator reported the purchase of the Artworks below for the reasons stated:

**“Slow Infinity of Dreaming”, 2004 fibre textile artwork by Elisa Markes-Young for \$750\***

- This artwork is part of a series “the Slow Infinity of Dreaming” where the artist has explored numerous abstract shapes and patterns in textile media. The richly coloured artworks are a well-crafted fibre works that have been knitted and stitched onto board and presented in a framed box format.
- This artwork will complement the one other textile piece that is represented in the Joondalup Art Collection.
- Elisa Markes Young is a promising local emerging artist, having won several Art Awards in 2003-2004 and has artworks represented in various collections across Western Australia.
- Elisa is an active member and Secretary of the Joondalup Community Arts Association and is represented in various collections including: City of Wanneroo, Royal Perth Hospital and various private collections.

**“Jupiter Well”, 2004 Screenprint by Helicopter Tjugurrayi for \$500 (inc GST)**

- This vibrant screen print is a translation from the artist’s traditional painting style into print. It depicts an aspect of the landscape that he grew up in – Jupiter Well, in the Gibson and Great Sandy Desert.

- Purchase of prints in an affordable way to collect artworks by sought after indigenous artworks. This artwork will complement other indigenous prints in the collection by Sally Morgan and Queenie McKenzie.
- Helicopter began painting in 1995 and has since participated in numerous exhibitions in Australia and in Europe. He is a much sought after artist and his paintings are held in major private and state collections.

## ATTACHMENTS

Nil.

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

**That Council:**

- 1 AGREES to the acquisition of the following art works for the Art Collection at the cost of \$6,727 (exc GST) from Account Number 1 4430 6781 0001 A007 – Art Purchases;**

Artist	Title	Medium	Art gallery	Price GST inc.	Price GST excl.
Jo Darbyshire	<i>Reflection</i>	Oil on Canvas	Direct from artist	\$4,400	\$ 4,000
Indra Geidans	<i>Stratum</i>	Oil on Canvas	Art Place	\$3,000	\$ 2,727
<b>TOTAL</b>				<b>\$7,400</b>	<b>\$6,727</b>

- 2 NOTES the purchase of the following art works for the Art Collection at the cost of \$1,205 (exc GST) from Account Number 1 4430 6781 0001 A007 – Art Purchases.**

Artist	Title	Medium	Art gallery	Price GST inc.	Price GST excl.
Elisa Markes Young	<i>Slow Infinity of Dreaming</i>	Textile, mixed media	Direct from Artist	\$ 750*	\$ 750
Helicopter Tjugurrayi	<i>Jupiter Well</i>	Screenprint	Fremantle Art Centre	\$ 500	\$ 455
<b>TOTAL</b>				<b>\$1,250</b>	<b>\$ 1,205</b>

\* this artwork does not include GST as the artist is not GST registered

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**CJ015 - 02/05 MINUTES OF THE SENIORS INTERESTS  
ADVISORY COMMITTEE MEETINGS HELD ON 17  
NOVEMBER AND 15 DECEMBER 2004 – [55511]**

**WARD - All**

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CJ050215\_BRF.DOC:ITEM 15

**PURPOSE**

To provide Council with the minutes of the Seniors Interest Advisory Committee meetings held Wednesday 17 November (confirmed) and Wednesday 15 December 2004 (unconfirmed).

**EXECUTIVE SUMMARY**

A meeting of the Seniors Interest Advisory Committee was held on Wednesday 17 November 2004 and Wednesday 15 December 2004. The minutes of these meetings are submitted for noting by Council.

*It is recommended that Council NOTES the minutes of the Seniors Interest Advisory Committee held on Wednesday 17 November 2004 (confirmed) and 15 December 2004 (unconfirmed) forming Attachments 1 and 2 to this Report.*

**DETAILS**

**Meeting held on 17 November 2004**

Lew Thorstensen conducted a presentation followed by a discussion session on the topic - **“The future of employment for seniors”**

Information from this session will be taken in to account during the review of the Seniors Plan 2004 – 2008 which will be conducted over the next few months.

At the completion of the presentation the following recommendation was put to the meeting.

**“MOVED** Kevan Rowe, **SECONDED** Audrey Poole that the City of Joondalup adopts a policy of affirmative action in the employment of seniors.”

**Officer’s Comment** – the recommendation by the committee has significant ramifications on the City and its existing Human Resources policy. The matter is considered important and therefore requires a forum by which detailed consideration can be given to taking the most appropriate action.

In order to ensure that the recommendation is given appropriate level of consideration, the matter will be incorporated within the Seniors Plan, which will be reviewed in April and May 2005.

### **Meeting held on 15 December 2004**

A presentation paper by committee member Margaret March was circulated to the committee. Margaret March did not attend the meeting. A discussion session was held on the topic - **“Information, issues and trends with regard to seniors taking part in physical activity”**

No specific actions arose as a result of this presentation, the information will however be taken into account during the review of the Seniors Plan 2004 – 2008 which will be conducted over the next few months.

The subject of discounted fees for seniors accessing the City’s Leisure Centres programs was raised during the meeting. Members of the committee were informed that the City was conducting a review of Fees and Charges for seniors as part of the Seniors Plan, and that comments would be fed to the review process.

### **ATTACHMENTS**

- |              |   |
|--------------|---|
| Attachment 1 | Minutes of the Seniors Interests Advisory Committee Meeting held 17 November 2004 |
| Attachment 2 | Minutes of the Seniors Interests Advisory Committee Meeting held 15 December 2004 |

### **VOTING REQUIREMENTS**

Simple Majority

### **RECOMMENDATION**

#### **That Council NOTES:**

- 1 the minutes of The Seniors Interest Advisory Committee held on Wednesday 17 November 2004 (confirmed) and Wednesday 15 December 2004 (unconfirmed), forming Attachments 1 and 2 to Report CJ015-02/05;**
- 2 that the Committee’s recommendation regarding affirmative action in the employment of seniors will be considered in the review of the Seniors Action Plan 2004 – 2008 to be conducted in April and May 2005.**

*Appendix 14 refers.*

To access this attachment on electronic document, click here: [Attach14brf150205.pdf](#)



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**CJ016 - 02/05      AMENDMENT OF RESOLUTION MIXED USE  
DEVELOPMENT LOT 517 (91) REID PROMENADE  
JOONDALUP – [89530]**

**WARD** - Lakeside

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CJ050215\_BRF.DOC:ITEM 16

**PURPOSE**

For Council to consider an amendment of the resolution dated 14 December 2004 for the subject development.

**EXECUTIVE SUMMARY**

At the meeting on the 14 December 2004, Council resolved to approve the development subject to conditions. There are typographic modifications needed to conditions in the resolution to reflect the change to how plot ratio is calculated and the affect of this change on car parking. Due to an amendment to the Joondalup City Centre Development Plan and Manual (JCCDPM) the plot ratio calculations have altered from gross lettable area to net lettable area.

The required modifications relate to conditions 3 'L' & 3 'V'. It is recommended that Council adopt these changes as it resolves a potential inconsistency between the two conditions and allows the resolution to be clear to the landowner, applicant and community. The inconsistency relates to the allocation of the parking spaces that are to be provided on-site.

It is important to note that the report is only to consider the amendment of the conditions not the merits of the development application.

**BACKGROUND**

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

**DETAILS**

The property is contained within the Residential\Mixed Use Precinct of the Central Business District. The applicant proposed to develop thirty-four serviced apartments, twelve multiple dwellings and one commercial ground floor tenancy.

A report on this application was first considered at the meeting held on 23 November 2004, where Council resolved to defer a decision on the matter. At the meeting held on 14 December 2004 Council then approved the development subject to conditions. The report from the meeting on 14 December 2004 is contained in Attachment 1.

The approval resolution contained potential conflicts in the conditions relating to the allocation of parking spaces. The purpose of the report is to resolve the possible conflicts, not reconsider the merits of the proposal.

During the processing of the development application, amendments to the JCCDPM were adopted by the Western Australian Planning Commission (WAPC) on 11 November 2005. The City was advised of the adoption of the amendment on 3 December 2005, some weeks after the WAPC approval.

## COMMENT

Council resolved to approve the subject development on 14 December 2004 subject to conditions. The resolution included the following conditions:

- 3 (l) Twelve bays, at one bay per dwelling, are to be allocated for the multiple dwellings & eight for the commercial unit including tandem bays.*
- 3 (v) A minimum of twenty-two car parking bays are to be provided.*

The inconsistency with the conditions, detailed above, creates a potential conflict in relation to the number of car parking bays required and the provision of the car parking bays for the separate uses. That is in relation to condition 3 'L' the commercial unit only requires 6 car-parking bays however 8 have been allocated. The change to the car parking requirements was a result of an amendment to the JCCDPM in relation to the calculation of plot ratio changing from gross lettable area to net lettable area. The reference to net lettable area refers to the calculation of plot ratio now not including a variety of areas such as stairs, stair wells and areas used exclusively for car parking.

In respect to condition 3 'V' this condition could be reworded to state that a minimum of 22 car parking bays are required if 'cash in lieu' is paid for the development's shortfall of car parking. Alternatively the condition may either be removed or a change made in the footnotes of the approval to provide further clarification. It is recommended that condition 'V' be removed. Condition 3 'L' should be amended as follows:

- (l) twelve bays, at one bay per dwelling, are to be allocated for the multiple dwellings and six bays for the commercial unit including tandem bays.*

## ATTACHMENTS

Attachment 1 Previous report from the Joint Commissioner Meeting dated 14 December 2004.

## VOTING REQUIREMENTS

Absolute Majority

**RECOMMENDATION**

**That Council BY AN ABSOLUTE MAJORITY, AMENDS its decision of 14 December 2004 at Item CJ332-12/04 for the proposed Mixed Use Development at Lot 517 (91) Reid Promenade Joondalup by:**

**1 DELETING condition 'L' as follows:**

- (l) Twelve bays, at one bay per dwelling, are to be allocated for the multiple dwellings & eight for the commercial unit including tandem bays.**

**and REPLACING it with the following condition:**

**Twelve bays, at one bay per dwelling, are to be allocated for the multiple dwellings and six bays for the commercial unit including tandem bays.**

**2 DELETING condition 'V' as shown below:**

- (v) A minimum of twenty-two car parking bays are to be provided.**

**3 RENUMBERING the conditions as appropriate.**

**CJ017 - 02/05 MIXED USE COMMERCIAL & RESIDENTIAL  
DEVELOPMENT: LOT 510 (69) GRAND  
BOULEVARD, JOONDALUP – [19436]**

**WARD** - Lakeside

CJ050215\_BRF.DOC:ITEM 17

**PURPOSE**

To request Council's determination of an application for a mixed use development in the City North precinct of the City Centre at Lot 510 (69) Grand Boulevard, Joondalup.

**EXECUTIVE SUMMARY**

An application has been received from Meynert & Associates Architects for the development of a building for one office/commercial unit and 6 multiple dwellings. Overall the proposal comprises 96m<sup>2</sup> of office space and 569m<sup>2</sup> for residential purposes. The building is 3 storeys in height and includes parking from the rear laneway. The density, height and urban form of the development is compatible with the overall City Centre environment.

Discretion is sought under the City's District Planning Scheme 2 (DPS2) in regard to plot ratio, the density for residential units and the requirements for parking. Given that the development will contribute to the desired character of the City Centre area and is compatible with existing developments in the area, the proposed development is supported.

**BACKGROUND**

**Suburb/Location:** Joondalup  
**Applicant:** Meynet & Associates Architects  
**Owner:** Equimex Pty Ltd  
**Zoning:** **DPS:** Centre  
**MRS:** Urban  
**Strategic Plan:** Joondalup City Centre Development Plan and Manual

Lot 510 (69) Grand Boulevard Joondalup 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.

19/08/2004 Application received  
24/08/2004 Additional information regarding ventilation to undercroft car park requested  
01/09/2004 Additional information received  
28/10/2004 Amended plans demonstrating changes to residential plot ration requested  
25/11/2004 Amended plans received

## DETAILS

The proposed development includes the following features:

- A mixed use development is proposed consisting of 6 multiple dwellings and 1 office or commercial unit;
- The height of the building is three storeys;
- The total number of car parking bays provided is 8;
- The upper level residential units are accessed via stairs located in the parking areas and the front entrance foyer;
- The residential units include a centrally located communal courtyard;
- The residential and office units address the street frontage with zero setback;
- Balconies have been provided for the residential units.

### Statutory Provision:

The provisions of District Planning Scheme No 2 (DPS2), the Joondalup City Centre Development Plan and Manual (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 4.2.4, 4.5, 4.8 and 6.8 of the DPS2 apply and 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 R-20 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:*

- (c) *consult the affected parties by following one or more of the provisions for advertising uses pursuant to clause 6.7.1; and*
- (d) *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. 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:

<b>Standard</b>	<b>Required</b>	<b>Provided</b>
Front Setback	0m	0m
Side Setback	As per BCA*	0m
Plot Ratio	1.0 542m <sup>2</sup> maximum	1.227 (665m <sup>2</sup> )
Height	3 storeys maximum	3 storeys
Storerooms	1 per dwelling, 4m <sup>2</sup> area	1 per dwelling, 4m <sup>2</sup>

\* Under the BCA a nil side setback can be permitted for buildings.

#### **Consultation:**

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

#### **Strategic Implications:**

It is likely that this mixed use development proposal will contribute to meeting the projected demand for housing and commercial space for the increasing population of the City Centre area.

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 creating an urban wall along the streetscape edge, which is 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 residential balconies overlook the public streets and therefore provide surveillance of public areas. The building can be accessed internally from the car parking area at the rear to both the residential and office units. The front and rear (western and eastern) facing windows on the upper storey are less than 50% of the face of the building and therefore comply with solar access requirements of the JCCDPM.

### Land Use

As the proposal provides for both residential dwellings and office space, the proposed uses comply with the General City land use for which the lot has been earmarked under the JCCDPM. The proposal provides one (1) office or commercial tenancy. In this form, the space is flexible enough in the future to accommodate the permitted uses under the JCCDPM, including retail, entertainment and restaurant/café. The residential accommodation ranges from one (1) to three (3) bedroom units and therefore, also contributes to the range of housing stock available in the City

### Residential Density

There are no specific residential density requirements in the 'general city' precinct of City North. Clause 4.2.4 of the DPS2 specifies that unless otherwise specified on the map the R-20 density applies unless Council determines that a higher code should apply. The proposal has an equivalent density of R-81. This density is consistent with other approved developments within the City Centre.

The organisation will be reviewing the JCCDPM and this is scheduled to occur in the current financial year.

It is recommended that the Council determines that the proposed density at R-81 is considered to be appropriate given that the site is in a prominent location within the City, where higher densities are appropriate and encouraged.

### Plot Ratio

For General City Use the JCCDPM requires that the development have a maximum plot ratio of 1.0 or 542m<sup>2</sup>. The plot ratio for the residential component is 1.050 being a floor area of 569m<sup>2</sup> and plot ratio for the commercial component is 0.177 or 96m<sup>2</sup>. The overall plot ratio for the development is 1.227.

It is considered that the required plot ratio of 1.0 is counter-productive to the development of an appropriate style and bask of building that achieves the form expected and desirable (for example, a 3 storey building) within the City Centre. There is no provision under the JCCDPM to vary the plot ratio requirement for the residential units but the overall plot ratio where there is a commercial unit can be altered where the total plot ration for residential does not exceed 1.0.



The plot ratio of the office development is considered to be appropriate as it will integrate 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, entertainment, and/or café.

It is therefore recommended that, in accordance with clause 4.5 of DPS2 and having regard to the criteria of clause 6.8, the Council determines that:

- The proposed plot ratio for the office space is appropriate as the built form integrates with the surrounding areas and will not have an adverse affect upon the occupiers of the development or on the locality.
- The plot ratio for the residential units, which includes the area of storerooms exclusively for the use of the residential units, be reduced to the required plot ratio of 1.0.
- A total plot ratio of 1.227 for a mixed-use residential and commercial development at Lot 510 (69) Grand Boulevard in considered appropriate in this instance.

It is recommended that the Council resolves to support the development subject to compliance with a plot ratio of 1.0 for the residential component of the development with the amended plans approved by the Manager Approvals, Planning and Environmental Services.

### **Car Parking**

The JCCDPM specifies the following car parking standards:

<b>Use</b>	<b>Parking Provision</b>	<b>No of Bays Required</b>	<b>No of Bays Provided</b>
<b>Commercial</b>	<b>1 Bay per 30m<sup>2</sup></b>	<b>3</b>	<b>2</b>
<b>Residential</b>	<b>1 bay per residential unit</b>	<b>6</b>	<b>6</b>
<b>Total</b>		<b>9</b>	<b>8 bays are provided</b>

The proposed development requires nine (9) car parking bays, eight (8) bays have been provided and as such, the applicant has requested that a shortfall of 1 bay for the commercial unit be considered along with a cash in lieu payment of \$8100.00. The approval of a shortfall of one (1) car parking bay is considered appropriate as:

- Access for the parking is via the rear lane thus minimising disruption to vehicle and pedestrian movement;
- 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, that the Council determines that a parking requirement of eight (8) 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 office and residential units comply with the required nil front setback. Essentially the design 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 and office facilities to meet the future demands of the growing City Centre. There will be the creation of an urban area that is compatible with the overall City Centre environment. Therefore the residential density, plot ratio, setback 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	Areal Photo
Attachment 2	Development Plans

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

### That Council:

- 1 EXERCISES discretion under clauses 4.2.4, 4.5, 4.8.1 of District Planning Scheme No 2 and determines that:**
  - (a) The proposed plot ratio for the development of 1.227 in lieu of 1.0;**
  - (b) The equivalent development density of R-81 in lieu of R-20;**
- 2 DETERMINES under clause 4.11 that a cash-in-lieu payment of \$8 100 for a shortfall of 1 carbay is appropriate in this instance;**
- 3 APPROVES the application dated 19 August 2004 submitted by Meynet & Associates Architects for a mixed use development comprising 1 office and 6 residential units on the proposed Lot 510 (69) Grand Boulevard, Joondalup subject to the following conditions:**

- (a) The provision of 9 car bays to be provided on site;**
- (b) The applicant is to submit an amended plan demonstrating compliance with the maximum plot ratio of 1.0 for the residential portion of the development. The amended plan is to be submitted for approved by the Manager Approvals, Planning & Environmental Services Prior to the lodging of a building licence;**
- (c) The gradient between the disabled parking bay and the building entrance at rear to be a maximum of 5%;**
- (d) Provision must be made for disabled access, parking and facilities in accordance with the Australian Standards for Design for Access and Mobility (AS 1428.1);**
- (e) The rear parking area to be open to the public at all times and two parking bays, which includes one disabled parking bay, to be marked and permanently available for the use of the commercial unit;**
- (f) 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;**
- (g) 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;**
- (h) A separate application being made to the City for Approval to Commence Development and sign licence prior to the installation of any advertising signage;**
- (i) With reference to condition (b) 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;**
- (j) 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;**
- (k) The ground floor level of the building should be at the finished pedestrian paving level;**

- (l) **Roof where pitched shall be greater than twenty-five degrees otherwise parapets shall be provided to flat roofs;**
- (m) **The glazed area of the east west facades should not exceed 50% with the exception of the ground floor;**
- (n) **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;**
- (o) **Obscured or reflective glazing shall not be used at the ground level;**
- (p) **Pedestrian shelter shall be provided to the commercial ground floor unit in accordance with the Joondalup City Centre Plan and Manual;**
- (q) **Any advertising signage shall be subject to an application for Planning Approval;**

**Footnote:**

- 1 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;**
- 2 In relation to condition 3(a) cash-in-lieu payment will be accepted in regard to the shortfall of 1 bay for the commercial unit;**
- 3 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;**
- 4 It is determined that the definition of plot ratio under the JCCDPM includes storerooms for the exclusive use of residential units;**
- 5 It is advised that the City will not support the erection of telecommunications infrastructure on any part of the proposed building.**

*Appendix 16 refers*

*To access this attachment on electronic document, click here: [Attach16brf150205.pdf](#)*

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**CJ018 - 02/05      PURPOSE BUILT SPECIAL CARE FACILITY –  
KARA EDUCATION CENTRE AT RESERVE 35844  
(15) CHESSELL DRIVE, DUNCRAIG – [57094]**

**WARD -**    South Coastal

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CJ050215\_BRF.DOC:ITEM 18

**PURPOSE**

For Council to consider approval for a new special care and rehabilitation facility at 15 Chessell Drive, Duncraig. The proposed facility will be a joint project between the Association for the Advancement of Brain Injured Children of WA (Inc) (AABIC), Nascha 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 proposed development adjoins the Percy Doyle Reserve local open space on the western and southern boundaries and the Patricia Teade Aged Persons Villas on the northern boundary. The site currently accommodates a demountable building (approximately 200m<sup>2</sup> 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 services already provided through AABIC and Nascha and adding an additional centre for VIP activities. The proposed facility would have a total area (including a covered outdoor area and covered client drop off/pick up) of approximately 1152m<sup>2</sup>.

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. At its meeting of 23 November 2004 Council unanimously carried a motion, (having regard to Clause 3.3 of District Planning Scheme No.2) to:

- “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 in accordance with the procedures set down for an “a” use in clause 6.6.3 of District Planning Scheme No.2.”*

The proposed complex complies with the development requirements of District Planning Scheme No 2 (DPS2). The proposal for a purpose built special care facility, being a use not listed was advertised in accordance with the provisions of DPS2 and there were four (4) submissions being non-objections. It is recommended that Council approves the special care facility at Reserve 35844 (15) Chessell Drive, Duncraig.

## BACKGROUND

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

The proposal is to construct a joint special care school and rehabilitation facility to be used by AABIC, Nascha (a Macedonian word meaning “ours”) 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.

AABIC is a not-for-profit organisation that aims to assist and support families of brain injured children by providing home based programs designed to improve neurological development and gross motor skills. AABIC is run by a voluntary committee who manage a program to provide loan equipment, subsidy assistance and advocacy and support to client families.

Nascha 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 severe intellectual disabilities, often combined with physical disabilities. VIP currently provides services to 82 clients operating from three centres located in residential areas of Nollamara, 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.

The land is owned by AABIC under a crown grant conditional upon the land being used for the purpose of a special school site. The Hon Minister for Planning and Infrastructure has given approval in principle for the change of the conditional tenure to “Education, Recreational, Administration and Services to People with Disabilities”, subject to the approval of the City of Joondalup.

## DETAILS

### Statutory Provision:

The provisions of DPS2 and the Residential Design Codes (R Codes) control development within this area.

Council has already made a decision (at the November 2004 Council Meeting) under Clause 3.3 of DPS2 that the proposed unlisted use is consistent with the objectives of and purpose of the Residential Zone.

The relevant clauses relating to a determination of the development application include:

#### 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.*

#### 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.*

6.8.2 *In addition to the matters referred to in the preceding subclause of this clause, the Council when considering whether or not to approve a "D" or "A" use application shall have due regard to the following (whether or not by implication or otherwise they might have required consideration under the preceding subclauses of this clause):*

- (a) *the nature of the proposed use and its relationship to the use of other land within the locality;*
- (b) *the size, shape and character of the parcel of land to which the application relates and the nature and siting of any proposed building;*
- (c) *the nature of the roads giving access to the subject land;*
- (d) *the parking facilities available or proposed and the likely requirements for parking, arising from the proposed development;*
- (e) *any relevant submissions or objections received by the Council; and such other matters as the Council considers relevant, whether of the same nature as the foregoing or otherwise.*

## **COMMENT**

### **Centre Operations**

AABIC would use the centre primarily during normal business hours for administrative purposes. 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 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. The approximate number of VIP 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 leave 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. 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 1152m<sup>2</sup> including a covered outdoor area and vehicle drop off/pick up bay. This equates to a provision of open space for the lot of 71.59%, which is over the general requirement of 50% for residential development at R20 zoning. The development would be constructed to specifically cater for the needs of clients with disabilities and would include:

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

The proposed brick and tile building would be positioned well back from the front of the lot and has been 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 ensure 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. It is recommended that a landscape plan be provided and approved by the Manager Approvals, Planning and Environmental Services.

There is currently a smaller scale facility (approximately 200m<sup>2</sup>) 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.

### Car Parking

Clause 4.8 of DPS2 provides that, where no parking standards are provided, a parking standard is to be determined. For the purpose of calculating parking requirements, under Table 2 of DPS2 the proposed development can be considered similar to a Health Centre. Application of the Health Centre car parking standards will result in the following:

<b>Ratio</b>	<b>Required</b>	<b>Provided</b>
Health Centre 1 bay per 30m <sup>2</sup> NLA	29 bays	32 bays
Totals	29 bays	32 bays

The applicant has indicated that approximately 18 staff will work at the centre, some on a part-time basis and approximately 22 VIP clients will attend the centre daily but most will travel to the centre by minibus. Given these figures, the provision of 32 parking bay is considered acceptable to accommodate the needs of the facility.

Therefore it is recommended Council exercises discretion under clause 4.8 of DPS2 and accepts the Health Centre car parking standards for the proposed development.

### Setback requirements

The setbacks for the proposed development are determined under clause 4.7 of DPS2 – Building Setbacks for Non Residential Buildings.

<b>Setback</b>	<b>Required</b>	<b>Provided</b>
Front	9.0 metres	17.0 metres minimum
Southern Side Boundary	3.0 metres	5.9 metres
Northern Side Boundary	3.0 metres	6.4 metres
Rear	6.0 metres	6.4 metres

### Community Consultation:

The proposed development was advertised for 21 days in accordance with clause 6.7.1 of DPS2 for a period of 21 days by way of a sign on site, a notice in the local paper and letters sent to 64 local residents being the properties deemed most affected by the proposal. A total of 4 submissions was received, all being non-objections.

### Concluding Comments:

Information provided by Health & Environmental Services and Building Services indicate that the internal layout of the building may need to change to comply with the relevant Acts in relation to a public building and the provision of food preparation. Discussions with the applicant have also revealed that there may be minor changes to the development plan needed

to finetune the provision of services to clients. Any changes to the development plans will require a new development approval. Given that the development will provide services to the disability sector within the northern corridor and there are no objections to the proposed development it is recommended that Council grants delegated authority to the Manager Approvals, Planning & Environmental Services to determine development applications for the proposed purpose built special care facility on the Reserve 35844 (15) Chessell Drive, Duncraig.

## **ATTACHMENTS**

Attachment 1	Location Plan
Attachment 2	Aerial Photo
Attachment 3	Development Plans
Attachment 4	Site Photos

## **VOTING REQUIREMENTS**

Absolute Majority

## **RECOMMENDATION**

### **That Council:**

- 1 EXERCISES discretion under clauses 3.3, 4.8 of District Planning Scheme No 2 and determines that:**
  - (a) 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;**
  - (b) the parking standards of 1 bay per 30m<sup>2</sup> NLA is appropriate in this instance;**
- 2 APPROVES the application dated 04 June 2004 submitted by Helen Morgan for a purpose built special care facility on the Reserve 35844 (15) Chessell Drive, Duncraig, subject to the following conditions:**
  - (a) The development requires a bin storage area which includes a hose cock and a concrete industrial floor waste that grades evenly and is connected to sewerage;**
  - (b) A landscaping plan to be provided prior to the lodgement of a building licence and approved to the satisfaction of the Manager Approvals, Planning and Environmental Services;**

- (c) **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;**
  - (d) **The gradient between the disabled parking bay and the building entrance at the rear to be a maximum of 5%;**
  - (e) **Provision must be made for disabled access and facilities in accordance with the Australian Standards for Design for Access and Mobility (AS 1428.1);**
  - (f) **The building is to comply with Health (Public Building) Regulations 1992;**
  - (g) **Where food is prepared for patrons, the kitchen shall comply with the Health (Food Hygiene) Regulations 1993;**
  - (h) **A staff toilet is required to be provided separate to patron facilities;**
- 3 BY AN ABSOLUTE MAJORITY, DELEGATES authority to the Manager Approvals, Planning & Environmental Services under Clause 8.6 of the District Planning Scheme No 2 to determine development applications for the proposed purpose built special care facility on the Reserve 35844 (15) Chessell Drive, Duncraig that are generally in accordance with the plans attached to Report CJ018-02/05;**
- 4 CHANGES to the development plans may require a new development application.**

**Footnote:**

- 1 The applicant is advised that where extensive food preparation is carried out, the floor plan may need to be amended to provide a service access to the outside.**

*Appendix 17 refers*

*To access this attachment on electronic document, click here: [Attach17brf150205.pdf](#)*

**CJ019 - 02/05 FINAL ADOPTION OF BURNS BEACH STRUCTURE PLAN NO.10 – PORTION OF LOT 9017 BURNS BEACH ROAD, BURNS BEACH – [29557]**

**WARD -** North Coastal

CJ050215\_BRF.DOC:ITEM 19

**PURPOSE**

The purpose of this report is for Council to consider the submissions received as a result of public advertising of the proposed Burns Beach Structure Plan No.10, and proposed minor modifications, for the purpose of final adoption as an Agreed Structure Plan.

**EXECUTIVE SUMMARY**

Council considered the proposed Burns Beach Structure Plan No. 10 on Portion of Lot 9017 at its meeting on 2 November 2004 (CJ 267-11/04) where it was resolved to adopt the Structure Plan and to make it available for the purposes of advertising.

The draft Structure Plan was advertised for a 28 days period from 11 November to 9 December 2004. A total of ninety-four (94) submissions were received, ten (10) of which supported or did not object to the proposal and eighty four (84) of which objected to the proposal. Sixty-one (61) of the submissions received were proforma submissions, nineteen (19) were not from residents/landowners within the immediate locality, four (4) submissions were from the same submitter and three (3) submissions were received after the close of advertising.

A summary of all submissions and responses is provided with this report for consideration by Council (See Attachments 3 & 4). The issues raised relate primarily to the retention of bushland, a desire for a buffer between the existing Burns Beach residences and the proposed lots, car parking, building height, location, extent and maintenance of public open space, traffic and safety and development of the foreshore. The issues raised in public submissions that are relevant to the Structure Plan process have been adequately addressed by the applicant, and do not alter the City's position in relation to progressing the Structure Plan.

Two necessary minor modifications were identified during the advertising period, partly as a result of the submissions received and also to provide greater clarity, both modifications being in relation to the proposed maximum building height. Since the proposed modifications do not alter the intent or details of the Structure Plan, re-advertising is not considered warranted.

It is recommended that Council:

- 1 Pursuant to clause 9.6 of the City of Joondalup's District Planning Scheme No. 2 RESOLVES that the modified Burns Beach Structure Plan No. 10 shown in Attachment 2 to this Report be adopted and submitted to the Western Australian Planning Commission for final adoption and certification;*

- 2 *Subject to certification by the Western Australian Planning Commission, ADOPTS the modified Burns Beach Structure Plan No. 10 as an Agreed Structure Plan and authorises the affixation of the Common Seal to, and the signing of, the Structure Plan document;*
- 3 *ADVISES the developer to involve the City in discussions during all stages of development of the subject site with regard to any intentions by the developer or any telecommunications carriers to locate telecommunications facilities within, or adjacent to, the Burns Beach Structure Plan No. 10 area;*
- 4 *ADVISES the applicant to include the provision of up to 120 car parking bays along the foreshore road and adjacent to POS 6, including details of the location, dimensions and form of such bays, in the Foreshore Management Plan in relation to the Burns Beach Structure Plan area, to the satisfaction of City of Joondalup.*

## **BACKGROUND**

**Suburb/Location:** Portion Lot 9017 Burns Beach Road, Burns Beach  
**Applicant:** Development Planning Strategies  
**Owner:** Burns Beach Property Trust  
**Zoning:** **DPS:** Urban Development  
**MRS:** Urban and Parks & Recreation  
**Strategic Plan:** Strategy 3.3 – Provide residential living choices to meet changing demographic needs

At its meeting on 2 November 2004, Council considered the draft Burns Beach Structure Plan for the purpose of initiation of public advertising where it was resolved:

- 1 *Pursuant to clause 9.4 of the City of Joondalup District Planning Scheme No. 2, adopt the draft Burns Beach Structure Plan No. 10 as per Attachment No.2 to Report CJ267-11/04 for the purpose of public advertising and make it available for public comment for 28 days, subject to the receipt of the following to the satisfaction of the City during the period of public consultation:*
  - (a) *further justification or alternatives to the proposed road arrangement around the proposed areas of open space, denoted as POS 8 & POS 9 on Plan 1;*
  - (b) *written advice from all telecommunications carriers currently operating in Western Australia that they do not require or intend to provide any telecommunications infrastructure, including mobile towers, in the proposed structure plan area in the near future.*
- 2 *ADVISE the applicant that the City encourages the developer to actively pursue the development of a possible future swimming beach and associated facilities located immediately north of the developable area of the subject site in conjunction with the Department of Conservation and Land Management, the Department for Planning and Infrastructure and the City of Joondalup. Consideration should be given to the impacts of development on the internal road system, car parking, the foreshore, bush land and the amenity of the future residents of Burns Beach, as well as the possible northward extension of the proposed road near the foreshore.*

Lot 9017 comprises several parcels of land over the suburbs of Currambine, Kinross and Burns Beach and is the subject of ongoing subdivision (see Attachment 1). The subject portion of Lot 9017 is located north of Burns Beach Road and west of Marmion Avenue, immediately north of the pocket of residences within the suburb of Burns Beach.

The area subject of the proposed Structure Plan is approximately 291 hectares in area. It includes the 147 hectares part of the site immediately north of Burns Beach Road zoned "Urban" under the Metropolitan Region Scheme (MRS) and "Urban Development" under the City's District Planning Scheme No. 2 (DPS2) (Amendment No. 21), as well as the 144 hectares abutting this developable land to the north that is reserved for "Parks & Recreation" purposes (CJ166-07/04 refers). Any development of the northern part (144 hectares) of the site needs to be in accordance with the provisions of the MRS in accordance with the City's DPS2.

The northern part and much of the southern part of the proposed Structure Plan area were identified in the former draft Perth Bushplan and subsequent Bush Forever plan on the basis of its representation of ecological community types, maintaining ecological process, scientific or evolutionary importance and its value meeting coastal reserve criteria. The land is not, however, identified in the current draft Metropolitan Region Scheme Amendment No.1082/33 that seeks to establish Special Control Areas over Bush Forever sites as this draft Amendment post dates the gazettal of the MRS Amendment 992/33 that zoned the southern portion of the land for development.

Future urban development of the subject land has been opposed by individuals and environmental groups over the course of approximately 6 years. The City also expressed concerns about the environmental impacts of development of the subject portion of Lot 9017. As a result, an additional 24 hectares of land was reserved for conservation (northern part of the Structure Plan area) in a negotiated outcome as a result of the MRS rezoning of the land and the development area reduced accordingly. This negotiated outcome was also reflective of community concerns.

## **DETAILS**

The draft Structure Plan is intended to facilitate the future development of approximately 1600 low and medium density dwellings with density codes of R20 and R40, a primary school and associated senior- sized sporting oval, a beach shop/lunch bar/restaurant, a local shop and fifteen (15) areas of public open space (POS) distributed across the subject site, together with road and dual use and pedestrian path works external, yet adjacent to the subject site.

Five (5) development precincts and the Parks and Recreation Reserve land to the north are identified with associated objectives and development provisions, as follows:

- Residential R20 Precinct
- Residential R40 Precinct
- Special Residential Precinct
- Local Shop Precinct
- Beach Shop/Lunch Bar/Restaurant Precinct
- Parks & Recreation Reserve

In regard to the issues highlighted above, the following advice is offered:

### Road Arrangement

The applicant has been working with the City regarding the proposed road arrangement around POS 8 and 9 on the Structure Plan and has provided a satisfactory alternative. The result is a slight modification to the road width of the central boulevard and the inclusion of roundabouts along this boulevard at each end of the POS areas.

In view of the minor nature of the changes to the road arrangement and therefore the overall number of lots and lot layout, it is not considered necessary to amend the plan provided in the Structure Plan. The details of the amended road arrangement will therefore be provided and approved at the subdivision stage, as is normal practice.

### Telecommunications Infrastructure

The applicant has contacted the four main telecommunications carriers (Telstra, Optus, Hutchison and Vodafone) and requested confirmation that they have no intention of providing any telecommunications infrastructure, including mobile towers, in the Structure Plan area in the near future. A letter of response was received from Mobile Carriers Forum (MCF) on behalf of these companies (see Attachment 6) that states that the existing mobile tower located at Tamala Park adequately meets the current servicing needs.

The letter also notes that further development of Burns Beach would create a need for greater network capacity and coverage than is currently provided. In this event, a mobile telecommunications facility may indeed be necessary and MCF expressed a keenness to work with the developers of Burns Beach to achieve an efficient and integrated outcome. This advice is contrary to Council's resolution, which came from experiences of the City in relation to the locations of other mobile towers in the City. In particular, the City may be concerned where a low impact facility is proposed such that no development approval from the City is required, or where high impact facilities are proposed within public spaces such as parks. It is noted that the Telecommunications Act controls the installation of telecommunication facilities.

It is also noted that the fifteen (15) areas of POS within the Structure Plan area and the primary school/sporting oval site appear to be the only sites of sufficient area to accommodate any future required high impact telecommunications facilities. The applicant has advised that the developer has met with an officer at the Department for Planning and Infrastructure (DPI) and received verbal advice that it is not likely to object to a mobile tower being located within foreshore land adjacent to a future possible beach area north of the subject site. Conversely, the applicant suggests that a tower may be suitably located in the regional open space north of the subject site with no detrimental impacts on the reserve.

Regardless of any future need for such facilities, and the limited suitable sites in the Burns Beach area, should Council not support final adoption of the Structure Plan on the basis that the developer cannot receive the required confirmation from telecommunications carriers, such a decision is unlikely to be supported by the WAPC. This is due to the Structure Plan and development application processes being two separate processes and it would not be appropriate for the WAPC to refuse to certify the Structure Plan in the absence of any development applications for such structures. Rather, the City could request the developer to continue discussions with the telecommunications carriers and keep the City informed of any intended locations so that it may have the opportunity to comment in the early stages of planning for these facilities.



It is recommended that an advice to this effect be included in Council's resolution.

### Future swimming beach

The developer has commenced discussions with the Department of Conservation and Land (CALM), the Department for Planning and Infrastructure (DPI) and the City regarding the possible future development of a swimming beach and associated facilities immediately north of the subject site, as noted on the Structure Plan. This beach will be considered further in conjunction with a foreshore management plan that is required by the City and the DPI at the subdivision stage. Details of vehicular and pedestrian access, car parking and associated facilities, such as change rooms, toilets and possible clubrooms, would be the subject of ongoing discussions between the developer, CALM, the City and DPI as development of this area would be a long term project.

### **Statutory Provision:**

Clause 9.1 of DPS2 states that Council may require the preparation of a Structure Plan as a prerequisite to its support for a proposal to rezone or classify land in the district. Clause 3.12.2 of DPS 2 states that no subdivision or development is to commence on land zoned "Urban Development", as is the subject site.

### **Consultation:**

Clause 9.5 of DPS2 requires Structure Plan proposals to be advertised in accordance with the provisions of clause 6.7 prior to further consideration by Council. Advertising was undertaken for a period of twenty eight (28) days from 11 November to 9 December 2004. All adjoining landowners were notified in writing, three signs were erected on the site and a notice was placed in the Joondalup Community newspaper.

A total of ninety four (94) submissions were received, ten (10) of which supported or did not object to the proposal and eighty four (84) of which objected to the proposal. Sixty one (61) of the submissions received were proforma submissions, nineteen (19) were not from residents/landowners within the immediate locality, four (4) submissions were from the same submitter and three (3) submissions were received after the close of advertising.

Under clause 9.6 of DPS2, Council is to consider all submissions received during the advertising period (Attachment 3). After consideration of all submissions, the Council is to either resolve to adopt the Structure Plan, with or without modification, or to refuse to adopt the Structure Plan. Three copies of the Structure Plan are then submitted to the Western Australian Planning Commission (WAPC) for final adoption and endorsement.

### **Key Issues arising from Public Advertising**

Objections to the draft Structure Plan include the following major issues:

- retention of bushland;
- a desire for a buffer between the existing Burns Beach residences and the proposed lots in the Structure Plan area;
- car parking;

- building height;
- location, extent and maintenance of public open space;
- traffic and safety; and
- development of the foreshore.

These issues will be discussed further in this report. It should be noted that three (3) of these seven (7) issues were the subject of the 61 proforma submissions

### **Strategic Implications:**

The draft Structure Plan would facilitate the development of a variety of lots sizes, and therefore housing forms, with the future subdivision of the southern part of the subject site. Provision of a variety of residential living choices is in line with the City's Strategic Plan.

### **Sustainability Implications:**

The draft Structure Plan provides for small lot subdivision of low and medium density which will facilitate better utilisation of the existing infrastructure, community facilities and public transport system in the locality, in line with the State's planning objectives. The future subdivision and dwelling forms support sustainability principles with the lots being predominantly (69%) oriented with preferred solar orientation to maximise energy efficiency, in accordance with the WAPC's Liveable Neighbourhoods document which provides a guide to subdivision design. Furthermore, smaller lot sizes proposed assist in encouraging efficient building designs.

### **COMMENT**

A significant proportion of the objections received (61 of 94, being 65%) were in the form of a proforma letter. For clarity, a summary of the comments in the proforma letter and the corresponding comments of the City are at Attachments 4 & 5 respectively. The issues raised are discussed further under the headings of the key issues arising from public submissions.

### Environmental Issues

Many of the public submissions relate to environmental issues regarding the foreshore and dune systems in the locality, and the loss of bushland (see Attachment 3). These issues are very specific and not within the capacity of the City to fully assess, however these would have been considered by the Environmental Protection Authority (EPA), the DPI and the City during the process of amending the MRS and the City's District Planning Scheme DPS2. The extent of the land available for development has previously been defined, and it is not the purpose of the current structure planning process to revisit these boundaries. The City is therefore limited in the extent to which it can allay concerns about these environmental issues. Notwithstanding this, any development on the subject site needs to comply with policies of the Western Australian Planning Commission (WAPC) in relation to foreshore reserves and the City's requirements, which includes the preparation of a Foreshore Management Plan at the subdivision stage.

Whilst the bushland will largely be cleared with development of the subject site, the developer has expressed a desire to retain native vegetation where possible in public open space (POS) areas, in particular within proposed POS 15 on the corner of Burns Beach Road and Marmion Avenue where a stand of Christmas trees is located, as well as Banksia stand located within proposed POS 11. Moreover, the developer was required at the rezoning stage to set aside 144 hectares of bushland in the northern part of the Structure Plan area, which has been reserved for Parks and Recreation and will be vested in the Department of Conservation and Land Management (CALM) for its care and management.

### Landscape Buffer

All of the proforma letter submissions, and a number of the other submissions, included a request for a 30 metre landscape buffer zone between the existing residences in Burns Beach and the future proposed lots in the Structure Plan area (see Attachment 4). The draft Structure Plan indicates this land as part of the Residential R20 Precinct. Whilst this request has been seriously considered, there are several valid planning reasons not to request the applicant to provide a landscape buffer and these are set out in Attachment 5. The current proposal within the draft Structure Plan is considered to be the best planning outcome and is therefore supported in its current form.

### Car Parking

All of the proforma submissions, and a number of the other submissions, request additional car parking and suggest that this should be provided along Burns Beach Road near the existing Burns Beach residences. This area is road reserve land that is not within the draft Structure Plan area and the City is not currently considering the provision of car parking along Burns Beach Road.

Nevertheless, a foreshore road extending the length of the developable portion of the Structure Plan area is proposed and the City will require a significant number of bays to be constructed along this road at the subdivision stage. In addition, car parking will be required adjacent to foreshore POS 6 where a beach shop/lunch bar/restaurant is proposed. The applicant has undertaken a more thorough assessment of the car parking options in these locations and advised that up to 120 bays could be provided, as opposed to the preliminary figure of 80 bays noted within the explanatory report provided with the Structure Plan.

It is recommended that, should Council adopt the Structure Plan, the applicant be advised that the provision of up to 120 car parking bays be shown along the foreshore road and adjacent to POS 6 within the Foreshore Management Plan at the subdivision stage, including details of location, dimensions and form of the bays.

### Building Height

The proposed maximum building height in the draft Structure Plan is 10 metres. The applicant has reviewed this height further to public comments and modified the Structure Plan to reflect an allowable height of 9.5 metres, which is similar to that in the Hillarys and Cook Avenue Structure Plans. For comparison, the allowable height of buildings in the Iluka Structure Plan area, which is opposite the subject site, is in accordance with the Residential Design Codes (R Codes) at 9 metres. However, it should be noted this height is in addition to retaining walls that on occasions adds significant height in Iluka.

The difference between the allowable building height for building in the Iluka Structure Plan area and that proposed for the Burns Beach lots is that the developer of the Burns Beach Structure Plan area intends lots to be generally developed in accordance with the natural topography of the subject site with only minimal retaining (no more than 0.5 metres). This intention is reflected in the proposed definitions of “Building Height” and “Natural Ground Level” with the latter specifying finished levels of lots are to be not more than 0.5 metres greater than the level of the mid-point of the road at the frontage of each lot. The modified 9.5 metre maximum building height is therefore considered to be acceptable.

### Public Open Space

All of the proforma letter submissions suggested a reduction in the number of POS (4 instead of 15) areas as a way of reducing on-going watering and maintenance costs. It is suggested that this would reduce 1600-1800m<sup>2</sup> of POS area. It is acknowledged that the POS areas will need to be managed and maintained by the City, however reducing the number of POS areas will not necessarily alter the watering and maintenance requirements as the total overall area still needs to be the same (10% of the subdivision).

Moreover, the proposed distribution of open space across the subject site is in line with the WAPC’s Liveable Neighbourhoods document that encourages POS areas to be within walking distance of residences so they serve as neighbourhood parks and promote a community focus.

In addition, the proposed distribution of POS areas supports some of the drainage requirements for the overall site, which would otherwise result in the construction of extensive drainage sumps and, therefore, reduce the overall functionality and usability of the POS areas. No change to the POS areas is considered necessary.

### Traffic and Safety

Some public concerns have been expressed about the current traffic situation on Marmion Avenue and Burns Beach Road, as well as potential traffic and safety concerns associated with the proposed primary school site on Burns Beach Road.

The City is currently assessing a traffic report that includes existing and projected vehicular movements in the vicinity of the Structure Plan area. This assessment will be undertaken in consultation with Main Roads WA who is responsible for regional roads, including Marmion Avenue, and appropriate measures imposed as conditions of subdivision.

The location of the proposed primary school has been determined in consultation with the Department of Education, the DPI and the City. It is noted that there is no other primary school in the immediate locality and therefore it is likely to be attended by children living in the adjoining suburbs of Iluka and Kinross. Therefore, the location of the school needs to be accessible to these areas. It is less desirable option to locate a school in the middle of a residential area where traffic and noise associated with this use can significantly impact on residential amenity.

The school is proposed to be surrounded by roads to facilitate efficient traffic movements during peak traffic times and also to provide a variety of drop off/pick up places in the form of on-street car parking bays located along these roads. The details of on-street car parking bays will be assessed at the subdivision stage.

### Foreshore Development

Public submissions included various requests for a swimming beach and other associated beach facilities to be provided on the foreshore adjacent to the southern part of the Burns Beach Structure Plan area. The beach in this locality is rocky and not suitable for swimming and, therefore, the City has discouraged the inclusion of a swimming beach in the location. In addition, the dunes are also very steep in this area. Both of these factors may compromise safety if access to the beach in this locality is encouraged through the development of a swimming beach.

On this basis, a potential future swimming beach is noted on the Structure Plan adjacent to the regional reserve on the northern portion of the subject site. As is noted previously in this report, discussions are proceeding with CALM and DPI in relation to developing a beach, associated facilities and car parking in this locality.

Whilst it is in the interests of the developer to assist in the development of the foreshore, it is not reasonable for the developer to fully bear the cost of providing public facilities on land outside of the Structure Plan area. The City will continue to liaise with the developer regarding the suitable development of the foreshore as part of the Foreshore Management Plan.

### **Other Minor Modifications to Structure Plan**

Two further minor modifications to the draft Structure Plan have been identified as necessary for clarity.

### Definitions

The proposed definition of allowable building height relates to height above natural ground level, in line with the definition under the R Codes. However, no definition of natural ground level has been provided and it is proposed that the following definition be included in the Structure Plan:

*“NATURAL GROUND LEVEL” shall mean the finished level of the lot relative to the finished Australia Height Datum (AHD) level of the road that it fronts (existing or as established at subdivision stage) and immediately adjacent to the lot. The finished level of the lot shall be +/- 0.5 metres from the AHD level of the mid point of the road and measured from the midpoint of the frontage of each lot frontage.*

This definition is based on the definition under the R Codes, incorporating allowance for a variance of the finished lot levels not greater than 0.5 metres to accommodate minimal retaining only for the future lots.

The proposed “Ground Floor Level” definition is the same as the definition used in the Cook Avenue Structure Plan where it was relevant only to future development of the grouped dwelling lot in the Structure Plan area. This definition is not, however, relevant to the Burns Beach Structure Plan with the proposed modification to include a definition of natural ground level and it is therefore recommended that it be deleted.

## **Conclusion**

The Burns Beach Structure Plan site has a long history in terms of public opposition to development through the rezoning process and has attracted a high level of public scrutiny through the Structure Plan process. For this reason, Council required additional public consultation prior to submission of the Structure Plan.

Concerns raised in public submissions received during the City's advertising period have been addressed in this report, or relate to the earlier rezoning process. Some minor modifications to the Structure Plan are considered to be necessary to address some of the public concerns and to provide clarity to the provisions of the Structure Plan. Car parking concerns can be adequately addressed at the subdivision stage and details included in the Foreshore Management Plan.

In addition, some environmental issues still need to be resolved and will continue to be addressed in the context of the Foreshore Management Plan at the subdivision stage. The City's position in this regard will be conveyed to the DPI with its comments on the future subdivision.

The developer is unable to comply with Council's previous resolution in relation to telecommunications facilities because the proposed 1600 additional residences in the Structure Plan area may necessitate such facilities. Nevertheless, it is considered that the City can be adequately involved in determining a suitable location for any future required facilities through the development application process. It is recommended that the developer be advised to include the City in any such discussions to achieve a suitable planning outcome.

The City's recommendation for support of the modified Structure Plan is based on planning grounds and consideration of factors raised within this report.

## **ATTACHMENTS**

Attachment 1	Location Plan
Attachment 2	Modified Burns Beach Structure Plan No. 10 (Part 1)
Attachment 3	Schedule of Submissions
Attachment 4	Proforma letter from submitters
Attachment 5	Response to proforma letter
Attachment 6	Letter regarding future telecommunications facilities

## **VOTING REQUIREMENTS**

Simple Majority

Arising from the issues raised by the community at the Briefing Session held on Tuesday 15 February 2005, in relation to the coastal reserve, the City is seeking clarification from the Department of Planning and Infrastructure. Any further information received will be presented to the Council.

Under the provisions of District Planning Scheme No 2, the Commissioners should note that the WA Planning Commission requires that the Council consider the results of the submission period within 60 days. The applicant has agreed to await the determination of the Structure Plan until the February meeting, as this was the first available after the close of advertising and allowing for the necessary processing time. To extend that period would require the consent of the applicants. The applicants have indicated they would be reluctant to agree to an extension. Without such agreement the applicants will automatically have the right of appeal against the non-decision to the State Administrative Tribunal.

## **RECOMMENDATION**

### **That Council:**

- 1 Pursuant to clause 9.6 of the City of Joondalup's District Planning Scheme No. 2 RESOLVES that the modified Burns Beach Structure Plan No. 10 shown in Attachment 2 to Report CJ019-02/05 be adopted and submitted to the Western Australian Planning Commission for final adoption and certification;**
- 2 Subject to certification by the Western Australian Planning Commission, ADOPTS the modified Burns Beach Structure Plan No. 10 as an Agreed Structure Plan and authorises the affixation of the Common Seal to, and the signing of, the Structure Plan documents;**
- 3 ADVISES the developer that the City wishes to be included in discussions during adjoining landowner stages of development of the subject site with regard to any intentions by the developer or any telecommunications carriers to locate telecommunications facilities within, or adjacent to, the Burns Beach Structure Plan No. 10 area;**
- 4 ADVISES the applicant to include the provision of up to 120 car parking bays along the foreshore road and adjacent to POS 6, including details of the location, dimensions and form of such bays, in the Foreshore Management Plan in relation to the Burns Beach Structure Plan area, to the satisfaction of City of Joondalup.**

*Appendix 18 refers*

*To access this attachment on electronic document, click here: [Attach18brf150205.pdf](#)*

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**CJ020 - 02/05 RECONSIDERATION OF CONDITION OF DEVELOPMENT APPROVAL: LOT 2 (160B) WATERFORD DRIVE, HILLARYS – [43516]**

**WARD** - Whitfords

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CJ050215\_BRF.DOC:ITEM 20

**PURPOSE**

This report is for Council to reconsider conditions ‘C’ & ‘D’ of its resolution, dated 23 November 2004 (CJ290-11/04 refers) for the property at Lot 2 (160B) Waterford Drive, Hillarys.

**EXECUTIVE SUMMARY**

At its meeting on 23 November 2004, Council resolved to approve an application for retrospective development approval for additions on Lot 2 (160B) Waterford Drive, Hillarys.

The applicant has requested that the City reconsider conditions ‘C’ and ‘D’ of the development approval. Conditions ‘C’ and ‘D’ are as follows:

- (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;*

It is considered that condition ‘C’ should not be removed as it is not unreasonable to protect the privacy of the adjoining landowner and it cannot be adequately demonstrated that the development complies with the Performance Criteria of 3.8.1 of the Residential Design Codes (R-Codes). However, there is some scope to revoke the condition and make it more flexible to allow the landowner to choose the type of screening to achieve compliance with the Acceptable Development Provision under 3.8.1 and still maintain views. It is therefore recommended that Council revokes condition ‘C’ and replaces it with a new condition allowing greater flexibility for the applicant.

With regard to condition ‘D,’ as development has already been carried out in respect to compliance with the condition, it is not open to reconsideration under clause 6.10.2 of DPS2. The City’s solicitors have confirmed this.



## BACKGROUND

**Suburb/Location:** 160B Waterford Drive Hillarys  
**Applicant:** Mr & Mrs Baumgartner  
**Owner:** Mr & Mrs Baumgartner  
**Zoning:** **DPS:** Residential R20  
**MRS:** Urban

The original approval, including a number of variations to the R-Codes and Building Height Envelope for the development, was granted by the City on 14 March 2004, subject to conditions.

The adjoining neighbour lodged a Section 18(2) Appeal against the City's approval as he considered that the City had failed to enforce the requirements of District Planning Scheme No 2 (DPS2). During the course of the Appeal, it was discovered that the proponent had constructed the development in a manner that does not comply with the Development Approval or Building Licence issued for the proposal. To rectify the non-compliance with the Development Approval, an application for Retrospective Development Approval was lodged and approved by Council on 23 November 2003, subject to conditions. The landowners have requested Council reconsiders conditions 'C' & 'D' of its resolution.

## DETAILS

### Statutory Provision:

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.*

### R-Codes

Clause 2.3.4 of the R-Codes allow for the exercise of discretion, which shall be exercised having regard to 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 retrospective development application was advertised for neighbours comment. In regard to the proposed reconsideration of condition 'C', the adjoining neighbour objected to the overlooking, although this was not the case with the original application for Development Approval.

The adjoining landowners suggested that they did not originally object to the development because they thought the deck roof would not be fixed and understood the roof was now to be fixed in nature. The roof to the deck is a 'vergola', which is openable and not totally weatherproof according to the landowners.

With regards to condition 'D' the adjoining landowner has consistently objected to overlooking from the proposal.

### **Financial Implications:**

If the applicant appeals the matter to the State Administrative Appeals Tribunal cost will be incurred to the City.

**Community Consultation:**

Refer to consultation section.

**COMMENT****Reconsideration of Development Approvals**

The City may revoke or amend a planning approval, which has been granted prior to the commencement of the use in accordance with Section 6.10.2 of DPS2. Section 6.10.2 is as follows:

*'The Council may, on application in writing from the owner of the land in respect of which Planning Approval has been granted, revoke or amend the planning approval, prior to the commencement of the use or development subject of the Planning Approval.'*

The City has received legal advice on the application of Section 6.10.2 of DPS2 in relation to the subject development as it has already commenced. It has been advised that the City is open to use this clause to amend or revoke condition 'C' prior to the commencement of compliance with the condition. As this has not yet been achieved, it is considered that Council may revoke the condition.

With regard to conditions 'D', as compliance with this condition has already been achieved, it is not considered open to Council to reconsider the condition. The City's solicitors have confirmed this. Condition 'D' can be appealed to the State Administrative Tribunal of Western Australia, which has replaced the Town Planning Appeals Tribunal.

Council is restricted to only reconsidering the conditions requested by the landowner not any other issues relating to the development.

**Condition 'C'**

Condition 'C' of the retrospective Development Approval issued by the City is as follows:

- (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;*

**Visual Privacy**

With the original Development Application for the site, a variation to the cone of vision to the northern neighbour from the deck was approved. The retrospective Development Approval required that the deck be screened to a height of 1.6 metres with the sundeck remaining open. This was on the basis that the combined length of the deck and sundeck had increased, and therefore the combined affect on the adjoining neighbour was greater.

Both the deck and sundeck overlook the rear yard of the adjoining property including a patio area, swimming pool and clothes drying area. The overlooking is attributed to the building height and fall of the land towards the rear of the site. This was considered with the application for retrospective Development Approval that the overlooking did comply with the performance criteria of the R-Codes.

The Performance Criteria for Visual Privacy under the R-Codes is as follows:

*P1 Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking into account of:*

- *The positioning of windows to habitable rooms on the development site and the adjoining property;*
- *The provision of effective screening; and*
- *The less need to prevent overlooking of extensive back gardens, front gardens or area visible from the street.*

The landowners have put the following justifications to have the condition revoked or amended:

*We believe this decision is not orderly and proper planning because “we were given approval of 14 March 2003 by the City not to screen these windows.”*

#### Officer’s Comment

The retrospective Development Approval supersedes the original approval granted to the development and therefore compliance with the new condition is required. The departure from the approval plans altered the overall impact of visual privacy on the neighbour when the deck and sundeck were assessed together.

*‘We did not apply for retrospective planning approval on this issue, only the variations for our approved plans to our as constructed building.’*

#### Officer’s Comment

The application for retrospective Development Approval clearly states on the application form that the development is for ‘Additions’, which is reasonably construed as being the whole of the development. This is how the development has been assessed.

*‘As constructed our deck to the northern side was 50.8cm longer than originally approved and not 70cm as outlined in the COJ list of departures no iii/letter 1/7/2004 from the COJ to Modern Home Improvers. The departures of 50.8cm is entirely part of the open part of the deck (balcony), 2,519 metres instance of 2,011 metres and the part with the vergola roof is constructed with the same length as originally approved. The only difference is that it was built 67mm further away from our northern neighbour than originally approved.’*

Officer's Comment

The combined length of the deck has increased from 5.0m to 5.2m as shown in the attachments. The setback of the deck has increased from the northern boundary from 6.820 metres from 6.753 metres. The angular length (northern face) of the deck has increased from 5.0 metres to 5.7 metres. It is assumed that the landowner's reference to 50.8cm refers to the angular length (northern face) of the deck. The northern face of the deck has not been dimensioned on the plans and as such a scaled measurement has been taken. As a consequence, a discrepancy between the two figures (the City's and landowner's) may occur. Notwithstanding this, the deck has increased in length.

*'In the draft COJ agenda for the briefing session for the 26 October 2004 the Planning department comments were that the development is slightly closer to the boundary and that the variation sought is slightly greater. This is incorrect, it is the other way round. We would like to emphasise that the northern window which the COJ wants us to screen now is constructed as originally approved.'*

Officer's Comment

This issue was addressed in a memorandum to the Commissioners prior to the Council Meeting. The effect of privacy on the adjoining neighbour should be considered in regards to the combined length of the deck and sundeck.

*'The owners of 162 Waterford Drive did not object to the deck in the first instance on 4 March 2004 and the second time in regards to the open balcony.'*

Officer's Comment

This is acknowledged. Neighbours comments are considered on their planning merits in light of the development application at hand. Changes to the development from that originally approved required a reassessment of the visual privacy issues. It was the officer's professional judgement conveyed through the Council report that the deck area would require screening, as the development did not comply with the visual privacy requirements of the R-Codes.

The neighbours were of the opinion that the deck roof was fixed and therefore the area could be used permanently. However, the roof is a 'vergola' which is openable and not totally weatherproof.

*'We have lost substantial values on our home due to loss of views caused by the City condition to force us to screen the southern deck windows. Now you have already taken 60 degrees away from our property within screening of the northern deck. Now you want to take away 120 degree views and leave us with 60 degrees.'*

Officer's Comment

Property values cannot be addressed through planning controls in this case. The views from the property have been restricted to maintain the privacy of the adjoining residents. As a compromise, the sundeck area has remained unscreened, which allows 360 degree views of the surrounding area. The sundeck was allowed to remain open as it was unlikely to be used for substantial periods of time and the effect on adjoining neighbour is therefore considered minimal.

*'We have greatly improved privacy to our northern neighbours at our cost by investing in screen fencing. Before we looked straight at each other from our pools from the ground floor. It also gave the neighbour more privacy from our upper floor.'*

#### Officer's Comment

The screen fence introduced by the applicant does provide more privacy between the properties. From the upper storey the effect is minimal (refer to attached photographs).

*'We do not consider it proper planning to grant our northern neighbour objections 1.5 years after they have given us no objections claiming as their reason that they did not understand our plans.'*

#### Officer's Comment

As the development has changed from the original approval, it was reasonable to reassess the affect of visual privacy on the adjoining property. It would be contrary to orderly and proper planning to not assess visual privacy issues.

*'We designed a triangular Alfresco Area with a balcony to please our neighbours although we ended up with less space and it cost us more.'*

#### Officer's Comments

Regardless of the design of the development, the Visual Privacy requirements of the R-Codes will apply. Different designs may have impacted more or less on the adjoining landowners.

#### **Conclusion**

The subject deck and sundeck windows directly overlook the private open space of the adjoining northern neighbour's property, as illustrated in the photographs. It is not considered that the development meets the Performance Criteria of the R-Codes and therefore it is warranted to allow the condition to remain. However, it would be open to Council to amend\revoke the condition of Development Approval to permit a different form of screening to allow the landowners to maintain their views and retain the privacy of the adjoining neighbours. This may be, for example, a privacy screen near the boundary to screen the view into the adjoining property or the provision of louvers on the windows, which allows an outlook to remain, but the privacy of the adjoining development to be maintained. To allow some flexibility for the landowner in achieving compliance with the condition and to meet the requirements of the R-Codes, it is recommended that condition 'C' of the Resolution of 23 November 2004 be revoked and replaced with the following condition.

The windows to the upper storey deck, as marked in red on the approval plan shall achieve compliance with Visual Privacy Clause 3.8.1 A1 of the Residential Design Codes 2002 within 60 days of the date of this decision to the satisfaction of the Manager of Approvals, Planning & Environmental Services.

As previously mentioned condition 'D' cannot be considered as it is outside the scope of authority granted by Section 6.10.2 of DPS2.

## ATTACHMENTS

Attachment One	Site Plan
Attachment Two	Development Plans
Attachment Three	Photographs

## VOTING REQUIREMENTS

Absolute Majority

## RECOMMENDATION

### That Council:

- 1 REVOKES, BY AN ABSOLUTE MAJORITY, condition 3(C) of its Resolution CJ290-11/04 dated 23 November 2004 for Retrospective Planning Approval Lot 2 (160B) Waterford Drive, Hillarys, viz:**

*“(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.”*

**and REPLACES the condition as follows:**

- (c) The windows to the upper storey deck as marked in red on the approval plan shall achieve compliance with Visual Privacy Clause 3.8.1 A1 of the Residential Design Codes 2002 within 60 days of the date of this decision to the satisfaction of the Manager of Approvals, Planning & Environmental Services.**
- 2 ADVISES the landowners that the City is unable to consider the request for reconsideration of condition ‘D’ of Resolution CJ290-11/04 dated 23 November 2004, as it is outside the scope of authority granted by Section 6.10.2 of District Planning Scheme No 2.**

*Appendix 19 refers*

*To access this attachment on electronic document, click here:* [Attach19brf150205.pdf](#)

**CJ021 - 02/05 AMENDMENT TO RESERVE 27732 (LOCATION 14623) AND RESERVE 47851 (LOCATION 15444), WEST COAST DRIVE, SORRENTO AND INCLUSION OF UNALLOCATED CROWN LAND (141) WEST COAST DRIVE, SORRENTO INTO RESERVE 47831 – [05071]**

**WARD** - Marina

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CJ050215\_BRF.DOC:ITEM 21

**PURPOSE**

This report is for Council to consider amendment to the boundaries of Reserves 27732 and 47831 in Sorrento, in order for the existing lease with the Sorrento Surf Life Saving Club to be on a reserve that has power to lease. The Department for Planning and Infrastructure (DPI) has also requested the City to include an area of Unallocated Crown Land (UCL) into Reserve 47831 whilst considering adjustment to the subject reserve boundaries.

**EXECUTIVE SUMMARY**

In January 1987, the City and the Sorrento Surf Life Saving Club (SSLSC) entered into a lease agreement for use of a surf club building. The lease agreement incorrectly details the address of the Club as being on Reserve 47831, Location 15444 (165L) West Coast Drive, Sorrento (there is a small portion only of the building on Reserve 47831) and the City has power to lease on this reserve. However, most of the building is located on Reserve 27732, Location 14623 (189) West Coast Drive, Sorrento that does not have power to lease. Further, there is also a small portion of the building located on an area of UCL to the south of the surf club (Attachments 1 and 2).

Advice was taken from the DPI to ascertain the best method of rectifying the situation, and it was suggested the most efficient method would be for Reserve 27732 to have a new southern boundary to stop north of the SSLSC. The balance area of Reserve 27732, that includes the surf club building, to then be amalgamated into Reserve 47831. This then corrects the situation of the lease document being incorrectly addressed (the building is now actually on Reserve 47831) and as Reserve 47831 has power to lease, this anomaly also has been satisfactorily resolved

This adjustment of reserve boundaries has also provided the DPI with an opportunity to request the City to consider including amalgamation of an area of UCL into the adjacent Reserve 47831. With any UCL, if the DPI gets an opportunity to divest itself of it to a local government (or public utility) it endeavours to do so, especially if maintenance of the land is actually being undertaken by the local government. A copy of the SSLSC lease area is attached for information (Attachment 3).



It is therefore recommended that Council:

- 1 *SUPPORTS the amendment to the southern boundary of Reserve 27732 (189) West Coast Drive, Sorrento as shown on Attachment 1 to this Report;*
- 2 *after the adjustment indicated in 1. above, SUPPORTS the amalgamation of the balance area of Reserve 27732 (189) West Coast Drive, Sorrento into Reserve 47831 (165L) West Coast Drive, Sorrento;*
- 3 *SUPPORTS the inclusion of Unallocated Crown Land (141) West Coast Drive, Sorrento into Reserve 47831;*
- 4 *ADVISES the Department for Planning and Infrastructure accordingly and as per the details shown on Attachment 1 to this Report;*
- 5 *PROVIDES details of the level of advertising undertaken together with the results of that advertising to the Department for Planning and Infrastructure to be forwarded to the Department of Land Administration;*
- 6 *Considers and NOTES the submission received and ADVISES the submitters of Council's decision accordingly.*

## **BACKGROUND**

**Suburb/Location:** Reserve 27732 and 47831 and Unallocated Crown Land

**Applicant:** City of Joondalup

**Owner:** Crown

**Zoning:** **DPS:** Parks and Recreation

**MRS:** Parks and Recreation

**Strategic Plan:** 4.1 – To manage the business in a responsible and accountable manner.

## **DETAILS**

In January 1987, the City and the SSLSC entered into a lease agreement. The agreement enables SSLSC to lease the City owned building. As shown on Attachments 1 and 2, the SSLSC is located mainly on Reserve 27732, but has small portions of the building on Reserve 47831 and some adjacent UCL to the south. The lease agreement between the City and the SSLSC described the SSLSC as being on Reserve 20561, (now known as Reserve 47831), and though a very small portion is on Reserve 47831, the majority of the building on Reserve 27732 and Reserve 27732 does not have the power to lease. The surf club lease area is shown in Attachment 3.

In addition, the UCL is unallocated or vacant crown land that does not have a management order over it and as the City does manage this land, it is timely to include it into an adjacent reserve that does have a management order with the City. This will correctly reflect the existing situation and there will be no physical changes as a result of this modification.

The area of unallocated land is approximately 2464m<sup>2</sup> and the portion of Reserve 27732 to be included into Reserve 47831 is 6646m<sup>2</sup> (see Attachment 1).

The matter has been referred to the DPI's - Land Asset Management Services whereby it advised the City on how best to deal with the situation and it gave its conditional agreement subject to the proposal being advertised for a period of 30 days, the City reporting the matter to the Council, and the DPI's Statutory Planning Division also providing comment.

On drafting of the original lease in 1987, the error was not detected by the (then) Department of Land Administration (DOLA), as the lease between the City and the SSLSC was not forwarded to DOLA to seek approval by the Minister for Lands, as it should have been. Such approval is necessary pursuant to the provisions of the former Land Act (now section 18.2 of the Land Administration Act), and will now be sought.

#### **Statutory Provision:**

The fact that Reserve 27732 is a Section 20A 'Public Recreation' reserve, the "Guidelines for the Administration Section 20A Public Recreation Reserves" are observed. These Guidelines were produced by the Department of Land Information (DLI) and deal with excisions of reserved land. Under the Guidelines, where a portion of Section 20A reserve is to be considered for excision or amendment, it needs to be proved that such an action would not disadvantage the local community. Therefore prior to approval being granted, the City has to satisfy the Minister for Lands that the proposal has been widely publicised within the locality. A sign on site is required together with an advertisement in a local newspaper and, if considered appropriate, canvassing of landowners in proximity to the subject site. Details of the level of advertising undertaken together with the results of that advertising are required to be forwarded to the DPI with any request to amend a reserve's purpose.

#### **Consultation:**

The proposal was advertised from 19 October 2004 to 18 November 2004. Advertising consisted of adjoining landowners being notified in writing, an advertisement in the Community Paper and the West Australian and a sign was erected on the site.

Upon closure of the advertising period a total of 8 submissions were received. All of the submissions objected to the proposal. It is noted that the objections received focus on possible commercial development of the beach and/or connected to SSLSC as a result of the proposed modification. Such a commercial development is not the purpose of the proposed modification. Furthermore the actions sought to be approved will in no way represent any physical change to the subject Reserves, or any rezoning of the subject land.

#### **Policy Implications:**

Nil

#### **Sustainability Implications:**

Nil

## COMMENT

This process is intended to allow the City to correct the lease agreement it has with the SSLSC not only from the legal point of view but also to satisfy the DPI's requirements. To do this, the club building must be situated on a reserve that has power to lease. There are no formal proposals for the development of this land with the City at this time.

The lease details for the SSLSC describes the Club as being on Reserve 47831. This Reserve has power to lease, which is necessary on Crown land for lease documents to be set up. The SSLSC is in fact, mainly on Reserve 27732 and this reserve does not have the power to lease. The SSLSC is also partly on land described as Unallocated Crown Land.

The matter has been discussed with the DPI and it was agreed that the most effective way to rectify the anomaly was to include the Club site into Reserve 47831, the club will then wholly be on a reserve that does have the power to lease. At the same time, the DPI suggested that the UCL also be included into Reserve 47831.

These main issues of objection raised during the submission period included that there may be a major commercial development on the land, ratepayers have not been adequately consulted, environmental considerations have not been investigated, and the beach area should not be leased.

In response to the submissions it is noted that the proposed reserve adjustments do not relate to a commercial development, and the proposal has been advertised in accordance with the relevant guidelines consisting of a 30-day advertising period. There are no environmental considerations as the subject matter being advertised and the lease agreement relates to the surf clubrooms only and not the beach area. All submissions are detailed at Attachment 4.

It is noted that the nature of the subject reserves are not intended to be physically changed in any manner. The adjustment of boundaries to Reserve 27732 and 47831 and the inclusion of the UCL into Reserve 47831 simply rectifies an anomaly that occurred in 1987 when the lease was set up and reflects the current situation whereby the City manages the UCL. Approval is recommended accordingly.

## ATTACHMENTS

Attachment 1	Site Plan
Attachment 2	Diagram of Surf Club lease area.
Attachment 3	Schedule of Submissions

## VOTING REQUIREMENTS

Simple Majority

**RECOMMENDATION****That Council:**

- 1 SUPPORTS the amendment to the southern boundary of Reserve 27732 (189) West Coast Drive, Sorrento as shown on Attachment 1 to Report CJ021-02/05;**
- 2 after the adjustment indicated in 1. above, SUPPORTS the amalgamation of the balance area of Reserve 27732 (189) West Coast Drive, Sorrento into Reserve 47831 (165L) West Coast Drive, Sorrento;**
- 3 SUPPORTS the inclusion of Unallocated Crown Land (141) West Coast Drive, Sorrento into Reserve 47831;**
- 4 ADVISES the Department for Planning and Infrastructure accordingly and as per the details shown on Attachment 1 to Report CJ021-02/05;**
- 5 PROVIDES details of the level of advertising undertaken together with the results of that advertising to the Department for Planning and Infrastructure to be forwarded to the Department of Land Administration;**
- 6 Considers and NOTES the submission received and ADVISES the submitters of Council's decision accordingly.**

*Appendix 20 refers*

*To access this attachment on electronic document, click here: [Attach20brf150205.pdf](#)*

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**CJ022 - 02/05      PROPOSED RECORDING STUDIO (CHANGE OF USE TO USE NOT LISTED): LOT 54 (21) DELAGE STREET, JOONDALUP – [58561]**

**WARD** - Lakeside

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CJ050215\_BRF.DOC:ITEM 22

**PURPOSE**

To request the Council to determine the land use class of a proposal to conduct a recording studio within an existing warehouse development at Lot 54 (21) Delage Street, Joondalup.

**EXECUTIVE SUMMARY**

The applicant is proposing to locate a recording studio and rehearsal rooms within the Joondalup Service Industrial Area at the above address. The unit would consist of six soundproofed recording rooms and one office/storeroom. The proposed hours of operation are from 6pm-12am Monday-Friday and 12pm-12am on Sundays. The proposal is not intended to open on Saturday. As the proposed operation falls outside normal business hours, it is expected that there will be no impact upon the amenity of other uses within the lot and those of adjoining lots. The nearest residential area is approximately 200 metres away and is separated by the freeway reserve. It is not expected that noise from the lot will disturb and inconvenience any residential area. In any event, noise attenuation measures can be instituted during the Building Licence process.

Since the use for such an activity is not listed under District Planning Scheme No 2 (DPS2), the Council may determine that the use is consistent with the objectives and purposes of the Service Industrial zone and is therefore permitted.

The Service Industrial Zone is intended to provide for a wide range of business, industrial and recreational developments which the Council may consider would be inappropriate in Commercial and Business Zones. The developments may however, be capable of being conducted in a manner, which will prevent them being obtrusive, or detrimental to the local amenity. The Zone is distinct from other industrial areas within the Perth Metropolitan Region. Factory and manufacturing uses are almost non-existent and the range of land uses present includes places of worship, showrooms and recreation centres. It is considered that the proposed land use adds to the diversity of land-uses already existing within the zone and is appropriate as it satisfies the objectives of clause 3.10.

**BACKGROUND**

**Suburb/Location:** 21 Delage Street, Joondalup  
**Applicant:** Bradley Wesson and Glenn Dyson  
**Owner:** JCR Management Pty Ltd  
**Zoning:**     **DPS:** Service Industrial  
                  **MRS:** Urban

The recording studios are proposed in one of eight units located at Lot 54 (21) Delage Street, Joondalup. The subject lot is within close proximity to Winton Road and abuts other lots consisting of a mix of vacant land and showrooms on the southern, eastern and western sides.

## DETAILS

### Statutory Provision:

Clause 3.2 indicates, subject to the provisions of the Scheme, the permissibility of use classes within the various zones. However, the nature of the proposed development does fall within any of the definitions provided under Schedule 1. Therefore, Council is required to make a determination under clause 3.3 of DPS2. That clause and other relevant clauses are shown below:

#### 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 purposes 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 purposes of the particular zone and is therefore not permitted.*

#### 3.10 The Service Industrial Zone

*3.10.1 The Service Industrial Zone is intended to provide for a wide range of business, industrial and recreational developments which the Council may consider would be inappropriate in Commercial and Business Zones and which are capable of being conducted in a manner which will prevent them being obtrusive, or detrimental to the local amenity.*

*The objectives of the Service Industrial Zone are to:*

- (a) accommodate a range of light industries, showrooms and warehouses, entertainment and recreational activities, and complementary business services which, by their nature, would not detrimentally affect the amenity of surrounding areas;*
- (b) ensure that development within this zone creates an attractive façade to the street for the visual amenity of surrounding areas.*

3.10.2 *Development in the Service Industrial Zone shall conform, among other things, with the general provisions set out below.*

- (a) *Buildings shall be set back a minimum of 6 metres from the street boundary. Setbacks to side and rear boundaries shall comply with the Building Code of Australia.*
- (b) *Where a lot has a boundary with more than one street, the Council shall designate one such boundary as the frontage and may approve buildings up to a minimum distance of 3 metres from the other street boundaries.*
- (c) *That portion of a lot within 3 metres of its boundary with a road reserve shall only be used for:*
  - (i) *an approved means of access;*
  - (ii) *landscaping;*
  - (iii) *an approved Trade Display*

*and that portion of a lot between 3 metres of its boundary with a road reserve and the building line setback shall only be used for the parking, loading or unloading of vehicles, and for landscaping.*

- (a) *With the exception of lots around which authorised screen walls have been erected, landscaping to the satisfaction of Council shall be planted and maintained by the owners on all portions of the property not covered by approved buildings, storage areas, accessways or parking areas (notwithstanding that shade trees shall be planted and maintained by the owners in car parking areas to the Council's satisfaction). Owners shall plant and maintain landscaping to Council's satisfaction on adjacent street verges.*
- (b) *Screen walls 1.8 metres high to a specification approved by and to the satisfaction of the Council shall be provided to screen the rear areas of all lots where necessary to protect the amenity of any adjoining residential lots.*
- (c) *Provisions relating to Building Construction:*
  - (i) *every building shall have a façade of brick, plate glass or other approved material to all street frontages;*
  - (ii) *where under the Building Code of Australia, metal clad walls are permitted, they must have a factory applied painted finish to the satisfaction of the City Building Surveyor.*

## 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.*

6.8.2 *In addition to the matters referred to in the preceding subclause of this clause, the Council, when considering whether or not to approve a "D" or "A" use application, shall have due regard to the following (whether or not by implication or otherwise they might have required consideration under the preceding subclauses of this clause):*

- (a) *the nature of the proposed use and its relationship to the use of other land within the locality;*
- (b) *the size, shape and character of the parcel of land to which the application relates and the nature and siting of any proposed building;*
- (c) *the nature of the roads giving access to the subject land;*
- (d) *requirements for parking, arising from the proposed development;*
- (e) *any relevant submissions or objections received by the Council;*  
*and*
- (f) *such other matters as the Council considers relevant, whether of*
- (g) *the same nature as the foregoing or otherwise.*

**Consultation:**

No advertising was undertaken since the proposed use is considered consistent with the objectives of the Service Industrial zone.



## COMMENT

The primary activities that will be conducted within the premises include recording and rehearsal rooms for musicians combined with equipment hire. The unit would consist of six soundproofed recording rooms and one office/storeroom. The proposed hours of operation are from 6pm-12am Monday-Friday and 12pm-12am on Sundays. There is no intention to open on Saturday. The immediate area surrounding the proposed lot consists of two vacant lots, air conditioning and pool showrooms, offices and vehicle repair outlets.

As the proposed operation falls outside normal business hours, it is expected that there will be no impact upon the amenity of other uses within the lot and those of adjoining lots. The nearest residential area is located in Connolly, approximately 200 metres away from the subject lot and is separated by a freeway reserve. It is unlikely that noise from the subject lot will disturb or inconvenience any residential areas. In any event an acoustic consultant's report demonstrating that this proposal meets the requirements of the Environmental Protection (Noise) Regulations should be submitted.

In determining an application for a use not listed under the Scheme, the City may determine that the use is consistent with the objectives and purposes of the Service Industrial Zone and is therefore permitted. If the City determines the unlisted use is consistent, then it has to follow the procedures set down for an 'A' use in Clause 6.6.3 in considering the application for planning approval. Lastly, the City may determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.

Following a discussion with the proprietor, the maximum number of people that would be accommodated at any one time would be 26 (two staff members and 24 customers). There is no specific car-parking standard for a recording studio, and therefore, the following standard is recommended:

- 1 bay per 4 visitors; and
- 1 bay per staff member.

	<b>Persons</b>	<b>Bays Required</b>	<b>Provided</b>
Staff	2	2	Five car bays are allocated to the unit and there are 12 car parking spaces that form part of the common property
Customers	24	6	
<b>Total</b>	<b>26</b>	<b>8</b>	<b>See comments below</b>

The original development application required the provision of 48 parking spaces and 50 were provided. During the strata titling of the site, 5 car parking spaces were allocated to Unit 4 (the subject of this application) and 12 were set aside as common property (visitors). It is noted that the strata management has consented to the proposed use, which is conducted primarily outside of normal business hours. On this basis, and subject to the imposition of the appropriate conditions covering hours of operation, it is believed that demand for parking created for this use will not conflict with the demand created for parking for the other land-uses within the lot.

The Service Industrial Zone is intended to provide for a wide range of business, industrial and recreational developments which the Council may consider would be inappropriate in Commercial and Business Zones. and which are capable of being conducted in a manner, which will prevent them being obtrusive, or detrimental to the local amenity. The zone is distinct from other industrial areas within the Perth Metropolitan Region. Factory and manufacturing uses are almost non-existent and the range of land uses present include places of worship, showrooms and recreation centres. It is considered that the proposed land use adds to the diversity of land-uses already existing within the Zone and is appropriate as it satisfies the objectives of clause 3.10.

## ATTACHMENTS

Attachment 1	Locality Plan
Attachment 2	Development Plan

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

### That Council:

- 1 RESOLVES under clause 3.3 that a recording studio is consistent with the objectives and purposes of a Service Industrial Zone;**
- 2 APPROVES the application dated 25 November 2004, submitted by Bradley Wesson and Glenn Dyson on behalf of the owner, JCR Management Pty Ltd, for a recording studio at Lot 54 (21) Delage Street, Joondalup, subject to:**
  - (a) the hours of operation being from 6PM to 12AM Monday to Friday and 12PM-12AM Sunday;**
  - (b) the applicant is to be advised to submit an acoustic consultant's report demonstrating that this proposal meets the requirements of the Environmental Protection (Noise) Regulations 1997 Act prior to the issue of a Building Licence.**

*Appendix 21 refers*

To access this attachment on electronic document, click here: [Attach21brf150205.pdf](#)

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**CJ023 - 02/05 PROPOSED SINGLE HOUSE (RETROSPECTIVE APPROVAL FOR PATIO WITH SIDE SETBACK AND BUILDING HEIGHT ENVELOPE VARIATIONS): LOT 785 (10) HAYNES ROAD, SORRENTO – [14991]**

**WARD -** South Coastal

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CJ050215\_BRF.DOC:ITEM 23

**PURPOSE**

To request Council to determine a development application for the retrospective approval of a patio, that requires special consideration due to its height, at Lot 785 (10) Haynes Road, Sorrento.

**EXECUTIVE SUMMARY**

The patio formed part of a previous Development Application (DA03/0128), which also included retrospective approval for unauthorised retaining walls. The retaining walls and northern patio were granted approval on the condition that the southern patio was removed within 30 days.

Following this approval, an application was made to the Town Planning Appeal Tribunal to challenge the condition requiring removal of the said patio. The application was made outside the 60 days appeal period and therefore dismissed by the Tribunal.

A new Development Application was submitted to the City on 18 February 2004 for the patio and it is likely that an appeal will be lodged with the Tribunal should it be refused or conditionally approved.

Notwithstanding the favourable comments from the adjoining owners most directly affected by the proposal, the patio has a significant adverse impact upon the amenity of the adjoining properties. It disrupts direct access to sunlight to the outdoor living space as it is situated in the southern lot's northern boundary.

There is no evidence of similar types of development within the immediate locality. The patio detracts from the amenity of the locality and is also not supported by the property owner at 39 Jervis Way.

The variations to the proposed patio are considered excessive and it is believed that the development conflicts with the intent of the Residential Design Codes and Building Height Policy. The owners are aware that this development application may be refused and have indicated that an appeal to the State Administrative Tribunal may be forthcoming following such a decision.

## BACKGROUND

**Suburb/Location:** 10 Haynes Road, Sorrento  
**Applicant:** Glasshouse Conservatories  
**Owner:** BA Boucker, CD Boucker  
**Zoning:** **DPS:** Residential R20  
**MRS:** Urban

The patio was part of a previous Development Application (DA03/0128) which also included retrospective approval for unauthorised retaining walls. The retaining walls and northern patio were granted approval but the application was conditioned to effect removal of the southern patio on the basis that the projection through the building height envelope was considered excessive and was also the subject of an objection, which did have planning merit when compared to the objectives of the R-Codes.

Some time after the Development Application was conditionally approved, an appeal was made to the Town Planning Appeal Tribunal to dispute the condition requiring removal of the said patio. The application was made outside the 60 day appeal period and therefore dismissed by the tribunal.

A new application was made on 18 February 2004 for the patio and it is likely that an appeal will be lodged with the Tribunal should it be refused or conditionally approved.

## DETAILS

### Statutory Provision:

Clause 6.12 permits Council to give planning approval to a development already commenced or carried out. Such approval shall have the same effect for all purposes as if it had been given prior to the commencement or carrying out the development, but provided that the development complies with the provisions of the Scheme as to all matters other than the provisions requiring Council's approval prior to the commencement of the development.

Clause 6.6.2 of District Planning Scheme No 2 (DPS2) requires that the Council in exercising its discretion to approve or refuse an application, has regard to the provisions of Clause 6.8 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 for 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 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 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 2002 (R-Codes)

Developments that are in compliance with the acceptable development provisions of the R-Codes do not require planning approval or the exercise of discretion. When a development varies from the acceptable development provisions of the R-Codes, the variations can be considered pursuant to the 'performance criteria' of the R-Codes. The intent of the relevant 'performance criteria' of the R-Codes is:

- 1 to ensure adequate daylight, direct sun and ventilation for buildings and the open space associated with them;
- 2 to moderate the visual impact of building bulk on a neighbouring property;
- 3 to ensure access to daylight and direct sun for adjoining properties; and
- 4 to assist with the protection of privacy between adjoining properties.

#### Development Standards under R-Codes 2002

<b>R-Code Standard</b>	<b>Acceptable Development Standard</b>	<b>Provided</b>
Boundary Wall Length	9.0 metres	12.6 metres
Boundary Wall Height	3.0 metre max, 2.7 metre average	4.5 metres

#### Policy 3.1.9 – Height and Scale of Buildings Within a Residential Area

Policy 3.1.9 states that applications, which exceed the building threshold envelope shall be deemed to be non-complying applications for which Council's development approval is required. Non complying applications shall be processed as follow;

- (a) In cases which notified landowners have raised no concerns or objections AND the application is supported by the Manager Approval Services, the application shall be processed under delegated authority;
- (b) In cases in where notified landowners have raised concerns or objections OR the application is not supported by the Manager Approval Services, the application is to be presented to Council for determination.

**Consultation:**

The proposal was advertised to 6 nearby landowners for a period of 14 days. The advertising extended to the property owners within 15.0 metres of the subject lot.

	<b>Submission</b>	<b>Technical Comment</b>
1	Letter of Objection The construction contravenes the by-laws. It is over height.	Noted. The development does not comply with the relevant acceptable development provisions of the R-Codes.
2	Letters of no objection (3)	Noted

**COMMENT**

The southern patio requires Council consideration due to its height

The R-Codes defines natural ground level as the levels on the site, which precede the proposed development, excluding any site works unless approved by Council or established as part of the subdivision of the land preceding development. It may be argued that the previous application for this development (DA03/0128) approved the retaining wall and fill component, the natural ground level for this application should now be at the top of the retaining wall. This is not the case, as the City's previous decision used the earlier ground levels at the common boundary as a basis for determining the height of the overall development. It was resolved that the patio on top of the retaining wall was excessive and should be removed.

Notwithstanding the favourable comments from the adjoining owners most directly affected by the proposal, the patio has a significant adverse impact upon the amenity of these adjoining properties. It interferes with direct access to sunlight to the outdoor living space as it is situated in the southern lot's northern boundary. The impact is exacerbated by the patio's excessive height, which is greater than the relevant provisions of the R-Codes. The height of the patio is 4.5 metres above natural ground level instead of 3.0 metres, which represents a significant impact upon the amenity of the adjoining property.

The City's Building Height Policy can permit structures on the boundary to a maximum height of 3.5 metres. Again, the patio exceeds this requirement and measures at 4.5 metres. The intent of the policy is to ensure that all development within a residential area of significant height and scale is given appropriate consideration with due regard to the protection and enhancement of the amenity and streetscape character of the surrounding area.

Despite the positive comments from the adjoining owners most affected by the proposal, the City is required to assess the patio in accordance with the intent of the policy. There is no evidence of similar types of development within the immediate locality. The patio detracts from the amenity of the locality and is also not supported by the property owner at 39 Jervis Way.

The variations requested are considered excessive and despite favourable comments from two affected property owners, it is believed that the proposed patio conflicts with the intent of the R-Codes and the City's Building Height Policy. To approve such a development would set an undesirable precedent for the locality. The owners are aware that this development application may be refused and have indicated that an appeal to the State Administrative Tribunal may be forthcoming following such a decision.

## ATTACHMENTS

Attachment 1	Location Plan
Attachment 2	Plans of Proposal
Attachment 3	Photos of Development

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

### That Council:

- 1 REFUSES the retrospective development application submitted by Glasshouse Conservatories on behalf of the owners, BA Boucker and CD Boucker for retrospective approval of a patio to the existing dwelling on Lot 785 (10) Haynes Road, Sorrento, for the following reasons:**
  - (a) The development would be contrary to the proper and orderly planning of the locality as:**
    - (i) the development does not comply with clause 3.3.2 of the Residential Design Codes 2002 in terms of boundary wall length and height;**
    - (ii) the development does not comply with Policy 3.1.9 – Height and Scale of Buildings within a Residential Area;**
  - (b) Approval of the development would set an undesirable precedent for the locality;**
  - (c) Approval of the development would be contrary to District Planning Scheme No 2;**
- 2 ADVISES the applicant that all unauthorised structures are to be removed within 30 days of the date of this decision.**

*Appendix 22 refers*

To access this attachment on electronic document, click here: [Attach22brf150205.pdf](#)

## 9 REPORT OF THE CHIEF EXECUTIVE OFFICER

### **CJ024-02/05 MINUTES OF THE SUSTAINABILITY ADVISORY COMMITTEE MEETING, 10 FEBRUARY 2005 - [00906]**

WARD - All

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#### **PURPOSE**

The unconfirmed minutes of the Sustainability Advisory Committee meeting held on 10 February 2005 are submitted for noting by Council.

#### **EXECUTIVE SUMMARY**

The Sustainability Advisory Committee (SAC) met on 10 February 2005. Items of Business included the Public Participation Strategy process, dissemination of information to the Sustainability Advisory Committee and Sustainability Implications and Assessment in Council Reporting.

*This report recommends that Council:*

1. *NOTES the unconfirmed minutes of the Sustainability Advisory Committee meeting held on 10 February 2005 forming Appendix 1.*
2. *ENSURES adequate resources are available to implement Public Participation Strategy.*
3. *REQUESTS Meathcare to revisit the Acid Sulphate Soils self-assessment form and progress to step 2 because lots 28 and 63 are lands identified as posing significant risk of disturbing acid sulphate soils.*
4. *ACKNOWLEDGES the Sustainability Advisory Committee's concern relating to due process with the acid sulphate soil self-assessment form and wishes to work with Council on a more appropriate process;*
5. *NOTES that the Sustainability Advisory Committee requests progress reports on the City's draft sustainability matrix/tool and that the Committee be involved in the development of the matrix subsequent to internal trial processes.*

#### **DETAILS**

The unconfirmed minutes of the Sustainability Advisory Committee meeting, held on 10 February 2005 are provided at Appendix 1.



**ITEM 1 PUBLIC PARTICIPATION STRATEGY**

The Sustainability Advisory Committee requested that matters relating to public participation and community engagement be referred to the Committee for review and comment. The Committee was provided with a presentation of the development of the Public Participation strategy on 14 October 2004.

The Committee was presented with an update of the Public Participation Strategy outlining the requirements and recommendations contained within and funding and financial implications associated with implementation of the Strategy. In addition the Committee was presented with preliminary research and process mapping.

The Committee endorsed the process and methodology for the Public Participation Strategy development and implementation and requested that the Council ensure adequate resourcing is made available.

**COMMENT****Public Participation Strategy**

The Sustainability Advisory Committee made the following recommendations:

**MOVED Mr Magyar SECONDED Ms Siggers that the Sustainability Advisory Committee:**

- 3. REQUEST that Council ensures adequate resources are available to implement this important community initiative.**

To ensure this recommendation is clear in its intent the officer's recommendation specifically refers to the Public Participation Strategy in the recommendation.

**OFFICER'S RECOMMENDATION*****That Council:***

- 3. ENSURES adequate resources are available to implement Public Participation Strategy.***

**ITEM 2 DISSEMINATION OF INFORMATION TO THE SUSTAINABILITY ADVISORY COMMITTEE.**

In 2004 the Chairperson of the Sustainability Advisory Committee requested that all information and matters that are requested to be circulated to the Committee members outside of a formal agenda is required to go through a process whereby the Sustainable Development Officer will receive the request and action it to the chairperson for approval before dissemination.

The purpose of this process is to ensure that committee members are not over burdened with too much email and to ensure that the information being disseminated is relevant to the work of the Sustainability Advisory Committee.

In light of a recent request for the dissemination of information relating to a Council agenda item in December 2004 by Mr Cusack and the inability for this request to be circulated at that time, it is timely and necessary to reconsider the process previously endorsed and review the existing process.

The Committee discussed several issues relating to the dissemination of information to Committee members and resolved to pass all information through the Chairperson for dissemination.

### ACID SULPHATE SOILS SELF ASSESSMENT FORM

The Sustainability Advisory Committee resolved to suspend standing orders to discuss issues in relation to the importance of acid sulphate soils. Mr Cusack presented the Committee with maps outlining the significance of acid sulphate soils. Ms Kinnear commented on the significance of the failure in process to outline the importance of this issue for the Yellagonga Regional Park and surrounding area. Ms Kinnear expressed that the Sustainability Advisory Committee has a corrective role for this process and that the assessment process for acid sulphate soils should be independent. Cmr. Anderson indicated that there are risk management approaches that need to be added to the current approvals process for the City.

The Committee wishes to work with Council to improve the approvals process in relation to acid sulphate soils and the self-assessment forms.

### COMMENT

The Sustainability Advisory Committee made the following recommendations:

#### *That the Sustainability Advisory Committee:*

- 1. REQUESTS Meathcare to revisit the Acid Sulphate Soil self assessment form and progress to step 2 because of lots 28 and 63 are lands identified as posing significant risk of disturbing acid sulphate soils.***
- 2. ACKNOWLEDGES the Sustainability Advisory Committee's concern relating to due process with the acid sulphate soil self-assessment form and wishes to work with Council on a more appropriate process.***

Following the Committee's discussions it was considered that the process for assessment of acid sulphate soils has implications for many areas within the City of Joondalup and associated planning approvals. Consequently the Sustainability Advisory Committee deemed a transparent and independent process of assessment necessary.

Meathcare had previously carried out site investigations into the water level below the site. This enabled them to address the issues raised in the Western Australian Planning Commissions document - Planning Bulletin No 64 – Acid Sulphate Soils (refer to [www.planning.wa.gov.au](http://www.planning.wa.gov.au)). Based on the self-assessment guidelines set out in the Planning Bulletin, the development proposal was not required to be referred to the Department of Environment (DoE) for assessment. This information was provided as part of the development application.

Prior to the issue of the planning approval, the Department of the Environment was consulted regarding the development and it was satisfied that there was minimal acid sulphate risk.

The applicant is aware of the potential risk and has advised in writing that:

- (a) further investigation will undertaken over the site of the Mary Surveyor Centre (four level section); and
- (b) during excavation or construction, if the water table is encountered, work will cease until an acid sulphate management plan is approved by the DoE.

### ITEM 3 SUSTAINABILITY IMPLICATIONS AND ASSESSMENT IN COUNCIL REPORTING

The City of Joondalup Administration currently includes sustainability implications within Council reports. The effectiveness of the current sustainability reporting has been recently investigated. Sustainability implications reported to date have not adequately been considered in all cases. The lack of consistency and ad hoc approach may be overcome through the development and implementation of an appropriate assessment matrix/tool for sustainability in Council Reports. This matrix will support the development of future protocols for matters to be referred to the Committee.

The Committee raised several questions relating to the implementation of a trial process for the matrix/tool and the intended timeframes for evaluation and review. The Committee commended staff for the development of the matrix from other local government initiatives. The Committee endorsed the statements contained within the matrix/tool and requested that the Council seeks a progress report in six months on the success of the trial process.

### COMMENT

#### **Sustainability implications and assessment in council reporting**

The Sustainability Advisory Committee made the following recommendations:

***MOVED Mr Wake SECONDED Mr Magyar that the Sustainability Advisory Committee:***

- 3. REQUESTS the Council SEEK a progress report after six months on the sustainability matrix/tool.***
- 4. OFFERS to be involved in the further development of the matrix tool.***

The recommendations (above) are premature for the purposes of trialling the sustainability matrix/tool and are deemed unnecessary by City officers at this time. Administrative processes will be undertaken to progress the sustainability matrix/tool, and the Sustainability Advisory Committee will have the opportunity to comment and review upon endorsing the draft statements at the meeting held 10 February 2005. Progress reports will be produced at regular intervals and will be presented to the Committee.

#### OFFICER'S RECOMMENDATION

***That Council:***

***NOTES that the Sustainability Advisory Committee requests progress reports on the City's draft sustainability matrix/tool and that the Committee be involved in the development of the matrix subsequent to internal trial processes.***

#### ITEM 4 ITEMS TO BE PRESENTED TO THE COMMITTEE

MOVED Mr Cusack SECONDED Mr Magyar that Item 4 Items to be presented to the Committee be DEFERRED until the next meeting of the Sustainability Advisory Committee scheduled to be held on 24 March 2005.

#### GENERAL BUSINESS

Nil

#### ATTACHMENTS

Attachment 1 The unconfirmed minutes of the Sustainability Advisory Committee meeting held on 10 February 2005.

#### VOTING REQUIREMENTS

Simple Majority

#### RECOMMENDATION

***That Council:***

- 1 NOTES the unconfirmed minutes of the Sustainability Advisory Committee meeting held on 10 February 2005 forming Attachment 1 to Report CJ024-02/05;***
- 2 ENSURES adequate resources are available to implement Public Participation Strategy;***
- 3 REQUESTS Meathcare to revisit the Acid Sulphate Soils self-assessment form and progress to step 2 because Lots 28 and 63 are lands identified as posing significant risk of disturbing acid sulphate soils;***

- 4 ACKNOWLEDGES the Sustainability Advisory Committee's concern relating to due process with the acid sulphate soil self-assessment form and wishes to work with Council on a more appropriate process;**
- 5 NOTES that the Sustainability Advisory Committee requests progress reports on the City's draft sustainability matrix/tool and that the Committee be involved in the development of the matrix subsequent to internal trial processes.**

*Appendix 24 refers*

*To access this attachment on electronic document, click here: [Attach24agn220205.pdf](#)*

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**CJ025-02/05      REQUEST FOR FUNDING ASSISTANCE PURSUANT TO POLICY 2.2.8 - LEGAL REPRESENTATION FOR ELECTED MEMBERS AND EMPLOYEES – ELECTED MEMBER (SUSPENDED) AND MANAGER MARKETING COMMUNICATIONS AND COUNCIL SUPPORT - [72559]**

**WARD - All**

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**PURPOSE**

For the Council to consider the operation of *Policy 2.2.8 Legal Representation for Elected Members and Employees* in respect of funding applications that have been made by a suspended elected member and a current employee.

**EXECUTIVE SUMMARY**

The report discusses the application of *Policy 2.2.8 Legal Representation for Elected Members and Employees* in relation to an application for funding by a suspended elected member and a current employee with regard to the Inquiry. (A copy of *Policy 2.2.8 Legal Representation for Elected Members and Employees* is attached to this report and marked Attachment 1.)

Request for funding pursuant to Policy 2.2.8 has been received from a suspended elected member and a current employee of the City. The recommendation in relation to these applications is for the application for funding be supported up to a further \$2,500 for Cr Allison Walker (suspended) and up to \$5,000 for Mr Michael Smith, Manager Marketing, Communications and Council Support.

**BACKGROUND**

At the Council meeting held on 29 June 2004 the Joint Commissioners adopted *Policy 2.2.8 Legal Representation for Elected Members and Employees*.

On 10 September 2003 the Joint Commissioners resolved that: -

- 1 the Joint Commissioners DETERMINE that, notwithstanding Policy 2.2.8 relating to legal representation of elected members and employees in recognition of the special nature of an Inquiry and the duty that the City has to current employees, the City undertakes to provide legal assistance for current employees to the extent that they have acted within the scope of their functions and duties;

- 2 the legal assistance in 1 above is expected to be provided for all employees through the services of one law firm and extends to appearing on behalf of the City at the Inquiry to the extent necessary to assist employees with their evidence if this is necessary and if the Presiding Member of the Inquiry gives permission for this to occur;
- 3 the legal assistance in 1 above is only to be accessed after an employee has signed a declaration to the effect that:
  - (a) he or she has acted in good faith and has not acted unlawfully or in a way that constitutes improper conduct in relation to matters that are the subject of the terms of reference of the Inquiry and;
  - (b) that he or she is aware that the legal assistance will be terminated if it becomes apparent to the Lawyer appointed by the City that he or she has acted improperly outside the scope of their proper functions and duties;
- 4 in addition to the legal assistance provided in 1 above, employees continue to have access to Policy 2.2.8;
- 5 the Human Resources Manager be advised of this determination and provided with an opportunity to withdraw (in writing) his previous application under the Policy if he wishes to do so;
- 6 the Chief Executive Officer be requested to arrange for McLeod's to undertake to provide the legal assistance in 1 above and that this is advised to Counsel Assisting the Inquiry;
- 7 the arrangements and conditions applying to legal assistance to employees is advised to Counsel Assisting the Inquiry with the request that Council Assisting reviews the decision contained in the letter at Attachment 1 to JSC32-09/04 that the officers are not capable of being jointly represented;
- 8 in addition, the co-operation of the Inquiry is sought so that staff can be advised in advance, where this is possible, if questioning is anticipated to relate to the possibility that staff have acted improperly outside the scope of their proper functions and duties so that the staff have the opportunity to make alternative arrangements.

Mr Denis McLeod of the legal firm McLeods subsequently sought and was granted leave on 27 September 2004 to represent three current employees of the City.

On 20 July 2004 the Council approved funding for suspended and former Elected Members, and a former employee. Applications for legal representation from Cr Walker (suspended) was considered and granted at that meeting.

## **DETAILS**

### *Legal Representation for Elected Members and Employees*

Section 3.1 of the *LGA 1995*, states that the general function of a local government is to provide for the good governance of persons in the district.

The City should only pay the legal expenses of suspended elected members and employees if the payment can be justified as being for the good government of persons in the City's district.

The City has received an application for additional funding from Cr Walker (suspended) and an application for initial funding from a current employee Mr Michael Smith, Manager Marketing, Communications and Council Support.

*1. Application by Cr Walker (Suspended)*

An application was received on 15 February 2005 for additional funding for legal representation from Cr Walker (suspended). (A copy of this letter has been attached to this report and marked Attachment 2.) Cr Walker (suspended) has previously applied for legal representation funding, and was awarded \$5,000. She has requested additional funding of \$2,500.00 excluding GST. She has advised that this additional money represents representation by her appointed legal representatives, being Phillips Fox. At this stage, Cr Mackintosh (suspended) has attended the hearing as a witness from 24 to 26 November 2004 and has been released from attendance in the witness box until further advised for possible cross-examination by other parties.

The application meets the requirements of clause 3.2 and 3.3(a) of the Policy.

In assessing the application, the first payment criterion has been met namely that the legal representation costs relate to a matter that arises from the performance of Cr Walker's (suspended) function as an elected member of the City.

The second criterion requires that the costs be in respect of legal proceedings. The Inquiry comes within the application of Policy 2.2.8.

The third requirement states that the elected member must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct. As mentioned in previous reports to Council, the assessment of this criterion is difficult as it deals with issues that will be addressed as part of the Inquiry process. For the purposes of assessing this criterion, Cr Walker (suspended) has given an undertaking that she acted in good faith at all times.

Under clause 4 of the Policy, an elected member or employee may make a further application to the Council in respect of the same matter. The application for additional funding therefore comes within the parameters of the Policy.

However, the Council should be mindful of the fact that the applications for additional funding currently before them are likely not to be the last and that other elected members, former and suspended, and former employees may request additional funding. In this situation, it appears prudent that a financial limit pursuant to clause 5.1(c) of the Policy be implemented. This clause enables Council to grant an application for payment of legal representation costs subject to conditions, including a financial limit. Some aspect of reasonableness should be placed on additional funding to ensure that legal representation is reasonable in the circumstances, comparable with other applicants pursuant to the Policy, and



prevent the possibility of applicants being in a potentially detrimental situation whereby they find themselves required to reimburse the City for large legal fees pursuant to clause 5.7 of the Policy should an adverse finding be made against them. Funding for Cr Walker (suspended) of up to \$7,500 will have been authorised if the Council approve her current application

It is recommended that the application for additional legal funding up to \$2,500 be approved.

As with previous applications pursuant to the Policy, legal representation funding is exclusive of GST. Payment will be made either in the form of reimbursement to the suspended elected member on presentation of an official tax invoice, or direct payment to the appointed legal firm on presentation of an official tax invoice.

Should an adverse finding be made against Cr Walker (suspended) the Policy allows for the City to reclaim the monies it has funded.

## *2. Application by Mr Michael Smith*

An application was received on 5 January 2005 for funding for legal representation from Mr Michael Smith. (A copy of this letter has been attached to this report and marked Attachment 3). He has expressed the view that he initially intends to utilise the services of Mr McLeod of McLeods in accordance with the 10 September 2004 decision of the Joint Commissioners. It should be noted that there might emerge issues that will involve a multiplicity of officers from the City whereby representation will not be possible to be performed by one practitioner. At this point in time it is not possible to be more precise and Mr McLeod will seek clarification from Counsel Assisting the Inquiry on the matters and documents that Mr Michael Smith will be examined. It is envisaged that once this information is obtained it will provide a clearer and more accurate assessment of any potential conflict of interest that may arise in terms of legal representation.

The application for legal representation funding conforms to the requirements of subclauses 3.2 and 3.3(a), (b) and (c) of Policy 2.2.8.

In assessing the application, the first payment criterion has been met namely that the legal representation costs relate to a matter that arises from the performance of Mr Michael Smith's functions as the Manager Marketing, Communications and Council Support.

The second criterion requires that the costs be in respect of legal proceedings. As mentioned, the Inquiry comes within the application of Policy 2.2.8.

The third requirement states that an employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct. The assessment of this criterion is difficult as it deals with issues that will be addressed as part of the Inquiry process.

For the purposes of assessing this criterion, Mr Michael Smith has given an undertaking that he acted in good faith at all times. Furthermore, should an adverse finding be made against him by the Inquiry, clause 7 of the policy allows for the City to reclaim the costs paid to him.

On the discussion above, it is the recommendation that the application for legal funding up to \$5,000 be approved. The amount is exclusive of GST. Payment will be made either in the form of reimbursement to the employee on presentation of an official tax invoice, or direct payment to the appointed legal firm on presentation of an official tax invoice.

## **Policy of Insurance**

Cr Walker (suspended) has recently been advised that her application under the City's Officer and Councillor Insurance Policy have been conditionally accepted. The policy covers the period from 30 June 2002 to 30 June 2005, has a limit of indemnity of \$2 million (per claim and in the aggregate) and a costs inclusive excess of \$5,000 per claim.

The indemnity to Cr Walker (suspended) is extended pursuant to Extension 3(b) of the Policy subject to the terms and conditions of the Policy and on the facts and circumstances presently known. The grant is subject to payment of \$5,000 excess per claim and to the following conditions:

1. The itemised accounts are sent to ACE within a week of being rendered by the lawyer to the Insured.
2. ACE is at liberty to direct the Insured to query any lawyer's accounts and to ask the lawyer for any accounts to be faxed.
3. ACE reserves the right to ask for funds advanced to be repaid by the Insured if:
  - 3.1 it turns out that the Inquiry does not involve an allegation that the Insured committed a Wrongful Act; or
  - 3.2 the Wrongful Act was not committed in the Insured's capacity as an Insured (that is, acting properly in his or her capacity as a Councillor or an employee); or
  - 3.3 the allegation was first made against the Insured before 30 June 2002.

## **Statutory Provision:**

The Policy does apply to the Inquiry, indeed expressly stating under the definition of 'Legal Proceedings' that these may be civil, criminal or investigative (including an inquiry under any written law). This reference to any written law applies equally to the creation of inquiry bodies made pursuant to the *Local Government Act 1995* and the *Royal Commissions Act 1968*.

## **Policy Implications:**

Policy 2.2.8 – Legal Representation for Elected Members and Employees.

## **Financial Implications:**

An amount of \$500,000 has been allocated in the 2004/2005 Budget to meet the expenses associated with the Inquiry. An amount of \$69,500 has already been approved by the Council in response to 17 applications for legal funding that have been received.

## ATTACHMENTS

- Attachment 1 Policy No 2.2.8 - Legal Representation for Elected Members and Employees.  
Attachment 2 Request for Additional Legal Assistance made by Cr Walker (suspended).  
Attachment 3 Request for Legal Assistance made by Mr Michael Smith.

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

### That Council:

- 1 in accordance with Policy 2.2.8 – Legal Representation for Elected Members and Employees APPROVES the request for assistance for legal funding made by:**
  - (a) Cr Walker (suspended) for the Inquiry into the City of Joondalup for the additional amount of \$2,500;**
  - (b) Mr Michael Smith for the Inquiry into the City of Joondalup for the amount of \$5,000;**
- 2 NOTES that the funding in (1) (a) and (b) is conditional on Cr Walker (suspended) and Mr Michael Smith in accordance with clause 3.3 (a), (b) and (c) of Policy 2.2.8 supplying to the City a signed statement that they have each:**
  - (a) read, and understood the terms of this Policy;**
  - (b) acknowledged that any approval of Legal Representation Costs is conditional on the repayment provisions of clause 7 and any other conditions to which the approval is subject;**
  - (c) undertaken to repay to the City any Legal Representation Costs in accordance with the provisions of clause 7; and**
  - (d) to the best of their knowledge acted in good faith, not acted unlawfully or in any way that constitutes improper conduct in relation to the matter to which the application relates;**
- 3 CHARGES the expenditure in 1 above to the City of Joondalup Inquiry Account.**

*Appendix 25 refers*

*To access this attachment on electronic document, click here: [Attach25agn220205.pdf](#)*

**CJ026-02/05      REQUEST FOR FURTHER FUNDING ASSISTANCE  
PURSUANT TO POLICY 2.2.8 - LEGAL  
REPRESENTATION FOR ELECTED MEMBERS AND  
EMPLOYEES – ELECTED MEMBERS (SUSPENDED)  
– [72559]**

**WARD - All**

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**PURPOSE**

For the Joint Commissioners to consider the operation of *Policy 2.2.8 Legal Representation for Elected Members and Employees* in respect of funding that has been made by three suspended elected members.

**EXECUTIVE SUMMARY**

The report discusses the application of *Policy 2.2.8 Legal Representation for Elected Members and Employees* in relation to an application for additional funding by three suspended elected members with regard to the Inquiry. (A copy of *Policy 2.2.8 Legal Representation for Elected Members and Employees* is attached to this report and marked Attachment 1.)

Request for additional funding pursuant to Policy 2.2.8 has been received from three suspended elected members. The recommendation in relation to these applications is for the applications for additional funding be conditionally supported up to a further \$7457.43 for Cr Carol Mackintosh (suspended), \$2,392.42 for Cr Paul Kimber (suspended) and \$7,447.43 for Cr Michael O'Brien (suspended).

**BACKGROUND**

At the Meeting of the Council held on 14 December 2004, it was resolved:

*“that consideration of the requests for assistance for legal funding made by:*

- 1 Cr Mackintosh (suspended) for the Inquiry into the City of Joondalup for the additional amount of \$7,457.43;*
- 2 Cr Kimber (suspended) for the Inquiry into the City of Joondalup for the additional amount of \$2,392.42;*
- 3 Cr O'Brien (suspended) for the Inquiry into the City of Joondalup for the additional amount of \$7,447.43;*

*be DEFERRED until the meeting of Joint Commissioners to be held on 22 February 2005.”*

The Joint Commissioners at the Council Meeting held on 29 June 2004 adopted *Policy 2.2.8 Legal Representation for Elected Members and Employees*.

On 20 July 2004, the Council approved funding for suspended and former Elected Members, and a former employee. Applications for legal representation from Cr Mackintosh (suspended), Cr Kimber (suspended) and Cr O'Brien (suspended) were considered and granted at that meeting.

On 24 September 2004, the Council considered and granted further funding of \$2,500 each for Cr Mackintosh (suspended), Cr Kimber (suspended) and Cr O'Brien (suspended).

## DETAILS

### *Legal Representation for Elected Members and Employees*

Section 3.1 of the *LGA 1995*, states that the general function of a local government is to provide for the good governance of persons in the district.

The City should only pay the legal expenses of suspended elected members and employees if the payment can be justified as being for the good government of persons in the City's district.

The City has received three applications for additional funding from Cr Mackintosh (suspended), Cr Kimber (suspended) and Cr O'Brien (suspended).

In terms of payment criteria, the same conditions apply to an application for additional funding as would apply to an application for initial legal representation costs. These are that the legal representation costs must relate to a matter that arises from the performance of the suspended elected members' functions, the costs must be in respect of legal proceedings that have been or may be commenced, and in performing the functions to which the legal representation relates, the suspended elected member must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct.

#### *1. Application by Cr Mackintosh (Suspended)*

An application was received on 10 December 2004 for additional funding for legal representation from Cr Mackintosh (suspended). A further application was received on 13 December 2004. (A copy of these letters have been attached to this report and marked Attachment 2.) Cr Mackintosh (suspended) has on two previous occasions applied for legal representation funding, and was awarded \$5,000 and \$2,500 respectively. She has requested additional funding of \$7,457.43 excluding GST. She has advised that this additional money represents representation and preparation of documents by her appointed legal representatives. At this stage, Cr Mackintosh (suspended) has been advised that she is required to attend the hearing in February 2004, although no exact date has been set as yet.

The application meets the requirements of clause 3.2 and 3.3(a) of the Policy.

In assessing the application, the first payment criterion has been met namely that the legal representation costs relate to a matter that arises from the performance of Cr Mackintosh's (suspended) function as an elected member of the City.

The second criterion requires that the costs be in respect of legal proceedings. The Inquiry comes within the application of Policy 2.2.8.

The third requirement states that the elected member must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct. As mentioned in previous reports to the Council, the assessment of this criterion is difficult as it deals with issues that will be addressed as part of the Inquiry process. For the purposes of assessing this criterion, Cr Mackintosh (suspended) has given an undertaking that she acted in good faith at all times.

Under clause 4 of the Policy, an elected member or employee may make a further application to the Council in respect of the same matter. The application for additional funding therefore comes within the parameters of the Policy.

However, the Council should be mindful of the fact that the applications for additional funding currently before them are likely not to be the last and that other elected members, former and suspended, and former employees may request additional funding. In this situation, it appears prudent that a financial limit pursuant to clause 5.1(c) of the Policy be implemented. This clause enables Council to grant an application for payment of legal representation costs subject to conditions, including a financial limit. Some aspect of reasonableness should be placed on additional funding to ensure that legal representation is reasonable in the circumstances, comparable with other applicants pursuant to the Policy, and prevent the possibility of applicants being in a potentially detrimental situation whereby they find themselves required to reimburse the City for large legal fees pursuant to clause 5.7 of the Policy should an adverse finding be made against them. Funding for Cr Mackintosh (suspended) of up to \$14,957.43 will have been authorised if the Council approve her current application

It is recommended that the application for additional legal funding up to \$7,457.43 be conditionally approved. It should be noted that these expenses have already been incurred by Cr Mackintosh (suspended).

As with previous applications pursuant to the Policy, legal representation funding is exclusive of GST. Payment will be made either in the form of reimbursement to the suspended elected member on presentation of an official tax invoice, or direct payment to the appointed legal firm on presentation of an official tax invoice.

Should an adverse finding be made against Cr Mackintosh (suspended) the Policy allows for the City to reclaim the monies it has funded.

In accordance with Clause 5.2 of Policy 2.2.8, it is considered appropriate that given the level of funding provided by the City, that Cr Mackintosh (suspended) be required to enter into a security agreement in the form of a bank guarantee or other arrangement to the satisfaction of the Acting Chief Executive relating to the repayment of her legal representation costs in excess of \$7,500.

2. *Application by Cr Kimber (Suspended)*

An application was received on 13 December 2004 for additional funding for legal representation from Cr Kimber (suspended). (A copy of this letters has been attached to this report and marked Attachment 3.) Cr Kimber (suspended) has applied for legal representation funding on two previous occasions, and was awarded \$5,000 and \$2,500 respectively. He has requested additional funding of \$2,392.42 excluding GST. He has advised that this additional money represents representation and preparation of documents by his appointed legal representatives. At this stage, Cr Kimber (suspended) has been advised that he is required to attend the hearing in February 2004, although no exact date has been set as yet.

The application meets the requirements of clause 3.2 and 3.3(a) of the Policy.

In assessing the application, the first payment criterion has been met namely that the legal representation costs relate to a matter that arises from the performance of Cr Kimber's (suspended) function as an elected member of the City.

The second criterion requires that the costs be in respect of legal proceedings. The Inquiry comes within the application of Policy 2.2.8.

The third requirement states that the elected member must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct. As mentioned in previous reports to the Council, the assessment of this criterion is difficult as it deals with issues that will be addressed as part of the Inquiry process. For the purposes of assessing this criterion, Cr Kimber (suspended) has given an undertaking that he acted in good faith at all times.

Under clause 4 of the Policy, an elected member or employee may make a further application to the Council in respect of the same matter. The application for additional funding therefore comes within the parameters of the Policy.

However, the Council should be mindful of the fact that the applications for additional funding currently before them are likely not to be the last and that other elected members, former and suspended, and former employees may request additional funding. In this situation, it appears prudent that a financial limit pursuant to clause 5.1(c) of the Policy be implemented. This clause enables Council to grant an application for payment of legal representation costs subject to conditions, including a financial limit. Some aspect of reasonableness should be placed on additional funding to ensure that legal representation is reasonable in the circumstances, comparable with other applicants pursuant to the Policy, and prevent the possibility of applicants being in a potentially detrimental situation whereby they find themselves required to reimburse the City for large legal fees pursuant to clause 5.7 of the Policy should an adverse finding be made against them. Funding for Cr Kimber (suspended) of up to \$9,892.42 will have been authorised if the Council approve his current application.

It is recommended that the application for additional legal funding up to \$2,392.42 be conditionally approved. It should be noted that these expenses have already been incurred by Cr Kimber (suspended).

As with previous applications pursuant to the Policy, legal representation funding is exclusive of GST. Payment will be made either in the form of reimbursement to the suspended elected member on presentation of an official tax invoice, or direct payment to the appointed legal firm on presentation of an official tax invoice.

Should an adverse finding be made against Cr Kimber (suspended) the Policy allows for the City to reclaim the monies it has funded.

In accordance with Clause 5.2 of Policy 2.2.8, it is considered appropriate that given the level of funding provided by the City, that Cr Kimber (suspended) be required to enter into a security agreement in the form of a bank guarantee or other arrangement to the satisfaction of the Acting Chief Executive relating to the repayment of his legal representation costs in excess of \$7,500.

### 3. *Application by Cr O'Brien (Suspended)*

An application was received on 11 December 2004 for additional funding for legal representation from Cr O'Brien (suspended). A further application was received on 13 December 2004. (A copy of these letters have been attached to this report and marked Attachment 4.) Cr O'Brien (suspended) has applied for legal representation funding on two previous occasions, and was awarded \$5,000 and \$2,500 respectively. He has requested additional funding of \$7,447.43 excluding GST.

He has advised that this additional money represents representation and preparation of documents by his appointed legal representatives. At this stage, Cr O'Brien (suspended) has been advised that he is required to attend the hearing in February 2004, although no exact date has been set as yet.

The application meets the requirements of clause 3.2 and 3.3(a) of the Policy.

In assessing the application, the first payment criterion has been met namely that the legal representation costs relate to a matter that arises from the performance of Cr O'Brien's (suspended) function as an elected member of the City.

The second criterion requires that the costs be in respect of legal proceedings. The Inquiry comes within the application of Policy 2.2.8.

The third requirement states that the elected member must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct. As mentioned in previous reports to the Council, the assessment of this criterion is difficult as it deals with issues that will be addressed as part of the Inquiry process. For the purposes of assessing this criterion, Cr O'Brien (suspended) has given an undertaking that he acted in good faith at all times. Furthermore, should an adverse finding be made against him by the Inquiry, clause 7 of the policy allows for the City to reclaim the funds paid.

Under clause 4 of the Policy, an elected member or employee may make a further application to the Council in respect of the same matter. The application for additional funding therefore comes within the parameters of the Policy.



However, the Council should be mindful of the fact that the applications for additional funding currently before them are likely not to be the last and that other elected members, former and suspended, and former employees may request additional funding. In this situation, it appears prudent that a financial limit pursuant to clause 5.1(c) of the Policy be implemented. This clause enables Council to grant an application for payment of legal representation costs subject to conditions, including a financial limit. Some aspect of reasonableness should be placed on additional funding to ensure that legal representation is reasonable in the circumstances, comparable with other applicants pursuant to the Policy, and prevent the possibility of applicants being in a potentially detrimental situation whereby they find themselves required to reimburse the City for large legal fees pursuant to clause 5.7 of the Policy should an adverse finding be made against them. Funding for Cr O'Brien (suspended) of up to \$14,947.43 will have been authorised if the Council approve his current application.

It is conditionally recommended that the application for additional legal funding up to \$7,447.43 be approved. It should be noted that these expenses have already been incurred by Cr O'Brien (suspended).

As with previous applications pursuant to the Policy, legal representation funding is exclusive of GST. Payment will be made either in the form of reimbursement to the suspended elected member on presentation of an official tax invoice, or direct payment to the appointed legal firm on presentation of an official tax invoice.

Should an adverse finding be made against Cr O'Brien (suspended) the Policy allows for the City to reclaim the monies it has funded.

In accordance with Clause 5.2 of Policy 2.2.8, it is considered appropriate that given the level of funding provided by the City, that Cr O'Brien (suspended) be required to enter into a security agreement in the form of a bank guarantee or other arrangement to the satisfaction of the Acting Chief Executive relating to the repayment of his legal representation costs in excess of \$7,500.

### **Policy of Insurance**

Cr Mackintosh (suspended) and Cr O'Brien (suspended) have recently been advised that their applications under the City's Officer and Councillor Insurance Policy have been conditionally accepted. The policy covers the period from 30 June 2002 to 30 June 2005, has a limit of indemnity of \$2 million (per claim and in the aggregate) and a costs inclusive excess of \$5,000 per claim.

The indemnity to Cr Mackintosh (suspended) and Cr O'Brien (suspended) is extended pursuant to Extension 3(b) of the Policy subject to the terms and conditions of the Policy and on the facts and circumstances presently known. The grant is subject to payment of \$5,000 excess per claim and to the following conditions:

1. The itemised accounts are sent to ACE within a week of being rendered by the lawyer to the Insured.
2. ACE is at liberty to direct the Insured to query any lawyer's accounts and to ask the lawyer for any accounts to be faxed.

3. ACE reserves the right to ask for funds advanced to be repaid by the Insured if:
  - 3.1 it turns out that the Inquiry does not involve an allegation that the Insured committed a Wrongful Act; or
  - 3.2 the Wrongful Act was not committed in the Insured's capacity as an Insured (that is, acting properly in his or her capacity as a Councillor or an employee); or
  - 3.3 the allegation was first made against the Insured before 30 June 2002.

The City is seeking clarification from the insurer in relation to any opportunity for retrospective payments and clarification in respect of some of the conditions attached to the acceptance of the policy, particularly in relation to repayments. Given the possibility of some costs being repaid it is considered appropriate that Cr Mackintosh (suspended), Cr Kimber (suspended) and Cr O'Brien's (suspended) payments be made conditional to them agreeing to repay all funds received from the City insurer in respect of legal expenses incurred to date and funded by the City in excess of \$5,000. The Policy has a \$5,000 excess per claim that needs to be met by individual applicants.

The indemnity provided in respect of the suspended Councillors and current employees has the potential to significantly reduce the City's exposure to significant legal costs associated with legal representation before the Inquiry.

**Statutory Provision:**

The Policy does apply to the Inquiry, indeed expressly stating under the definition of 'Legal Proceedings' that these may be civil, criminal or investigative (including an inquiry under any written law). This reference to any written law applies equally to the creation of inquiry bodies made pursuant to the *Local Government Act 1995* and the *Royal Commissions Act 1968*.

**Policy Implications:**

Policy 2.2.8 – Legal Representation for Elected Members and Employees.

**Financial Implications:**

An amount of \$500,000 has been allocated in the 2004/2005 Budget to meet the expenses associated with the Inquiry. An amount of \$67,500 has already been approved by the Council in response to 15 applications for legal funding that have been received.

**ATTACHMENTS**

- |              |  |
|--------------|--|
| Attachment 1 | Policy No 2.2.8 - Legal Representation for Elected Members and Employees.  |
| Attachment 2 | Request for Additional Legal Assistance made by Cr Mackintosh (suspended). |
| Attachment 3 | Request for Additional Legal Assistance made by Cr Kimber (suspended).     |
| Attachment 4 | Request for Additional Legal Assistance made by Cr O'Brien (suspended).    |

## VOTING REQUIREMENTS

Simple Majority

## RECOMMENDATION

**That:**

- 1 the Chief Executive Officer will review this request submitted by Cr Paul Kimber (suspended), Cr Carol Mackintosh (suspended) and Cr Michael O'Brien (suspended) in light of the comments raised by the Council at the Council meeting held on 14 December 2004 (C75-12/04 refers);**
- 2 a recommended course of action will be tabled at the ordinary Council meeting to be held on 22 February 2005.**

*Appendix 26 refers*

*To access this attachment on electronic document, click here: [Attach26agn220205.pdf](#)*

**10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

**11 DATE OF NEXT MEETING**

The next meeting of the Council has been scheduled for **7.00 pm** on **TUESDAY, 15 MARCH 2005** to be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup

**12 CLOSURE**

**DECLARATION OF INTEREST FORM, CLICK HERE: [dec interest february 2005.pdf](#)**



**QUESTION TO BRIEFING SESSION/ COUNCIL MEETING**

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

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**QUESTIONS**

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Please submit this form at the meeting or post to:

The Chief Executive Officer, City of Joondalup, P O Box 21, Joondalup WA 6919

**NOTE:** Questions must relate to the ordinary business of the City of Joondalup or the purpose of the special meeting.

FOR SEATING PLAN OF THE COUNCIL CHAMBER, CLICK HERE: [seatplan 2005.pdf](#)