



**MINUTES OF COUNCIL MEETING
HELD ON 11 OCTOBER 2005**

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CITY OF JOONDALUP

MINUTES OF COUNCIL MEETING HELD IN COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP, ON TUESDAY, 11 OCTOBER 2005

OPEN AND WELCOME

The Chairman declared the meeting open at 1900 hrs.

ATTENDANCES

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

Officers:

Chief Executive Officer	G HUNT	<i>Absent from 2000 hrs to 2002 hrs</i>
A/Director, Planning and Community Development:	D DJULBIC	
Director, Corporate Services and Resource Management:	P SCHNEIDER	
A/Director, Infrastructure & Operations:	P PIKOR	
Manager, Marketing Communications & Council Support:	M SMITH	
Manager Approvals, Planning Environmental Services	C TERELINCK	
Media Advisor:	L BRENNAN	
Committee Clerk:	J HARRISON	
Minute Clerk:	G KELLY	

There were 20 members of the Public and 1 member of the Press in attendance.

PUBLIC QUESTION TIME

The following questions were taken on notice at the Council meeting held on 20 September 2005:

Mr M Caiacob, Mullaloo:

Re: Mullaloo Beach Tavern:

Q1 Will the report prepared by Mr O'Neill be presented to Council or the public?

A1 Due to the ongoing unresolved matters associated with the Mullaloo Tavern, which have legal implications, the report will not be issued at this stage.

Mr D Davies, Connolly:

Q1 Are the Commissioners aware of a letter sent to the Planning Department dated 20 August 2005 from a 91 year old resident of the village whose deteriorating health and increased medication can be contributed to this proposal. Why is the Planning Department apparently doing everything it can do to help the owner of 3 Glenelg Place, Connolly to gain approval to the detriment of the elderly rate-paying residents of the village?

A1 A check of the City's records system has revealed that an undated letter from a concerned resident was received on 30 August 2005, the day of the Council meeting. Council did not receive the copy of the letter dated 20 August 2005 that was tabled by Mr David Davies at the September meeting of Council. The content of the two letters is similar, although they are different letters.

Council has followed the directions made by the State Administration Tribunal (SAT) in relation to this appeal. The City's staff has followed the decisions made by Council in order to meet the directions provided by SAT. The matter now rests with the SAT.

The Council's technical assessment and liaison regarding this application is made independently of the wishes of the property owner and is based on the merit (or otherwise) of the application.

Mr M Sideris, Mullaloo:

Re: Agenda – 20 September 2005, Page xi, response to questions asked at the last Council Meeting.

Q1 Given the answers posted in tonight's agenda to a question asked of this Council as to why the order to comply did not refer to all floors of the building and just the basement. Can you advise?

(a) when the said plans were officially received by the City;

(b) when the said approval to construct was officially conveyed to the developer;

(c) What the said planned drawing number and issue revision status was, and the document reference on the respective document on the FOI schedule of documents list as provided to Ms M Macdonald?

A1 (a) Amended plans were received by the City on 6 October 2004;

(b) The amended building licence was issued to the builder on 17 November 2004;

(c) The architectural plans are registered as drawing numbers A101 to A303 revision BL3. The plans approved are not electronically stored therefore the "respective documents" will not be indicated on the FOI schedule of documents as clarified to Mr Sideris previously by the City and by Tim Kennedy from FOI.

- Q2 *Having regard to the response given, being the order to comply was only on the basement, because plans were submitted to other floors and subsequently approved. Can you please tell me why the effect of lift one and stair one was deemed to be acceptable for all floors apart from the basement and doesn't this negate the order to comply and effectively this Administration then put the developer through the pains of an appeal and a SAT Tribunal?*
- A2 The upper floors had the necessary building licence approval required for construction to begin. The basement stair and lift had commenced construction without approval. This resulted in a notice being issued in accordance with the Local Government Act and brought before the State Administrative Tribunal.

The following questions were submitted in writing prior to the Council meeting on 11 October 2005

Mr V Cusack, Kingsley

- Q1 *Considering that the following question was taken on notice back on 5 April 2005, and not adequately answered on 20 September 2005, can it please be included in the next council agenda and answered properly this time? It is important for those distances to be on the public record and for the Commissioners to be informed as to what they actually accepted and passed.*

“Q1 Now that Lot 62 has been subdivided (Lots 28 & 29) in order for the development to go around Walluburnup Swamp, which is clearly identified as a high acid sulphate soils risk area. Is the proposed development greater or less than 50metres away from the contours of Walluburnup Swamp? Can Council please provide the precise buffer distance that the proposed development is from Walluburnup Swamp?”

A1 The aged care facility proposed on Lot 63 (30) Hocking Drive and the subdivision of former Lot 62 (to create Lot 28) (Meath development site) is within 50 metre of the contours of the Walluburnup Swamp, located south of Whitfords Avenue.”

Can council please provide the "precise buffer distances" that the proposed independent living units, and the Aged Care facility are from the contours of Walluburnup Swamp?

- A1 The boundaries of the swamp are imprecise and subject to interpretation. The City is seeking advice from the Department of Environment for the exact boundary to be identified on site, so that the City can then provide the precise buffer distances that the proposed independent living units, and the Aged Care facility are from the contours of Walluburnup Swamp. The current boundaries shown on maps are at a scale that the distances are imprecise. Once the Department of Environment determine the location of the boundary the City will measure the sites and provide the information requested.

Mr V Cusack, Kingsley:

I refer to the answer (sic) provided in tonight's agenda and the refusal yet again to provide the buffer distances from Walluburnup Swamp to the independent living units and to the Mary Surveyor Centre on Hocking Road Kingsley.

Q1 *Can I first of all remind Council that the closing date for submissions for the aged care development is 17 October 2005. And as such can I ask Council to explain why it does not refer to the digital photograph: DLI, December 2004, prepared by the City of Joondalup: Urban Design & Policy Cartographic Section dated 05/05/2005 - djt, which clearly shows the wetland dependent vegetation - and then ask why Council is unable or unwilling to measure the buffer distances to the proposed development from that vegetation?*

A1 As outlined in the response detailed in the agenda for the meeting on 11 October 2005:

“the current boundaries shown on maps are at a scale that the distances are imprecise. Once the Department of Environment determine the location of the boundary, the City will measure the sites and provide the information requested.”

Q2 *I refer to the following statement provided in an answer to my question on 20 September 2005 which states "The Waters and Rivers Commission has advised that it is prepared to waive the buffer requirement to the portion of the wetland to allow the 1.1 ha of Pt Lot 62 to be rezoned as Urban". Can I please ask Council:*

- (a) If that statement is true?*
- (b) If that advice was provided to the City of Joondalup? And if so when?*
- (c) Did the City receive any other advice from the Water and Rivers Commission at any stage about buffer distance requirements?*

A2 (a) Apart from changing one word from “**this** portion of wetland” to “**the** portion of wetland” in the above statement to improve the context of the statement, this is a direct quote from the Western Australian Planning Commission’s document titled “Metropolitan Region Scheme Amendment No 1037/33 – North West Omnibus Amendment (No 5) – Volume 1 - Report on Submissions August 2002”. The effect of this amendment to the Metropolitan Region Scheme was to rezone certain lots (including lots 28 and 63 Hocking Road) under the Metropolitan Region Scheme from either the Rural Zone or the Parks and Recreation Reserve to the Urban Zone. The statement within this report was made in response to a late submission made by the Waters and Rivers Commission on the proposed amendment to the Metropolitan Region Scheme.

A2 (b) The information was published in a public document, but may not have been provided directly to the City for its information.

A2 (c) No.

Mr M Sideris, Mullaloo:

- Q1 *As the building construction was at the 3rd floor level on the 6th of November 2004, a definite indication of fact that construction had proceeded well beyond the basement level, and with reference to the A2 page iv in the Agenda, can you now advise why the 'Order to Comply' was not also amended to include all the unauthorized construction, or alternatively rescinded and therefore saving the developer, the City and the community unnecessary costs.*
- A1 As of 6 November 2004, construction had proceeded past the basement level. From the records available, the area under construction after the notice was served was in accordance with the approved plans and therefore was not subject to a further notice under the Local Government Act. A building licence for amended plans was issued on 17 November 2004 covering changes to the upper levels.
- Q2 *As we have been previously advised that the 'amended plans' submitted in 6 October 2004 were submitted 'for discussion' and not 'for approval', can you advise how 'for discussion' can then be deemed a revised building application for approval, bearing in mind that no documentary evidence exists that any such process occurred.*
- A2 Amended plans submitted on 6 October 2004 were lodged for approval and not for discussion. Approval was granted on 17 November 2004
- Q3 *I have been previously advised that the 'City does follow strict record keeping procedures', can you please indicate why these submitted plans identified in the answers on page iv, State record documents, are not formally recorded as having been officially received by the City, in the City's only official record keeping management system.*
- A3 The City did not have the capacity to scan large format plans when the plans in question were lodged. The drawings were however date stamped and added to the Building Licence application for the tavern development.
- Q4 *As a review of City of Joondalup Ward Boundaries is not due to be completed in the City of Joondalup until August 2007, refer CJ 205-10/05, can you please indicate why in 1999 the review of Ward Boundaries could be scheduled to occur within 13 weeks (date of Council meeting to proceed to date of resolution to advise the Local Government Advisory Board, processed and gazetted some 3 months later, and yet in 2005 it requires nearly 2 years to undertake the same process.*
- A4 The City of Joondalup was established on 1 July 1998 with no ward boundaries being established, with its inaugural elections held on 11 December 1999. The process to establish the ward boundaries commenced on 9 February 1999 and was gazetted on 27 August 1999, with the process taking nearly seven (7) months to complete. With the statutory public comment period required and a report required to evaluate public submissions and the Advisory Board process, it is expected to take several months to complete. While the Local Government Act 1995 states that a review should be within an eight (8) year period, it does not prevent a local government completing it sooner. If there are any changes to the ward boundaries and/or elected member representation that are approved by the Local Government Advisory Board, those changes are to be in place by the next ordinary election, which is scheduled for May 2007.

Mrs M Macdonald, Mullaloo:

The following questions refer to Warrant of Payments- Credit Card Payments:

Q1 *At the briefing session an officer stated that it would take an employee a day and half to produce a more detailed statement than is the recommendation for publication, that is, to state only that the bank had received a sum of money from the Council. A scan of the transaction page of the Credit card statement would take minutes and could be attached to the report and would provide the same detail as that which the City provides for cheque payments. Why is this not appropriate?*

A1 The time quoted at the Briefing Session of a day and a half referred to recasting the entire Warrant of Payments in the format suggested by the Department of Local Government & Regional Development.

Q2 *At the briefing session an officer stated that Credit Card details would have to be vetted by a Freedom of information officer before the details could appear in a report to Council. What particular information contained within the detail of a credit card statement is exempt under FOI legislation?*

A2 The vetting of information by the Freedom of Information officer related to the entire Warrant of Payments if produced in a detailed format from the finance system. It did not relate specifically to credit cards.

Q3 *The following is an extract from the minutes 2 July 2002.*

<i>Commonwealth Bank Of Australia</i>	<i>7040.93</i>
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Corporate Card – M Mathews

<i>Gartner/ Westinfo seminar 5.4.02 – Kevin Syme</i>	<i>75.00</i>
<i>Gartner/Westinfo Seminar 30.4.02 – Kevin Syme</i>	<i>75.00</i>
<i>Camprint Communications – Building Code of Australia/Class 2-9 Buildings Vol 1</i>	<i>83.00</i>
<i>Dept of Industry and Technology Seminar – K Field</i>	<i>33.00</i>

The other cards were then listed in the same format.

Why was this practice discontinued and why is it considered inappropriate to produce a report with this level of detail as is suggested by the Department of Local Government?

A3 The practice of producing detailed credit card transactions was discontinued some time ago. It is believed to have changed following enquiries with the Department of Local Government & Regional Development at the time which would have been consistent with their advice as quoted in report CJ201-10/05, ie the listed payment is being made direct to the credit card provider not to the individual vendors.

Q4 *Why isn't the advice from the lawyer, auditor and Department of Local Government attached to this report?*

A4 It is common practice for advice obtained from legal and professional advisors to be summarised in reports of Council.

The following questions relate to an answer given to my question on 20 September 2005 regarding the standing and seating area of the Mullaloo Beach Hotel.

Q5 *The answer refers to “the original plans designated floor areas and they do not show all the individual seating and the like in the plans that are approved, they are indicative only.”*

Can you direct me to any document pertaining to the calculation of patron numbers in public buildings where “the individual seating and the like” is a factor in the calculation of the standing and seating area for determining maximum patron numbers?

A5 The Health (Public Buildings) Regulations 1992 and the BCA determine maximum patron numbers.

Q6 *Why did the standing and seating area in the approved plans cover the outside balcony area of the tavern when the standing and seating area for a public building is calculated within the NLA of the Building as per attachment?*

A6 Regulation 7B of the Health (Public Buildings) Regulations 1992 provide for the measurement of external areas of public buildings where people would normally be expected to assemble. The Health (Public Buildings) Regulations make no reference to NLAs.

Q7 *Why did the City include the Balcony area in the calculation car parking bays when the DPS2 states that car bays are calculated by using the NLA of standing and seating area of a tavern and DPS2 defines NLA as “the area of all floors confined within the finished surfaces of permanent walls but with some exceptions?”*

A7 The balcony was identified as an area that would be subject to the car parking requirements set out in DPS2 as it was clearly designed for the accommodation of tavern patrons for seating or standing. The balcony railing is considered to be both permanent and a wall as allowed for under subclause 1.9.3 of the DPS2.

Q8 *If the standing and seating area were not fixed at the time of development approval and were indicative only, then there could be no increase in that area without a resulting increase in parking which would require a new development approval. Is this correct?*

A8 Before making a determination on an Application for Planning Approval, the car parking requirement for a development proposal is determined by applying the relevant parking standards to the different uses that form part of that proposal.

If changes to an approved development proposal result in an increased demand for car parking to be provided, then the applicant is required to either:

- (a) amend the development to comply with the required number of car parking spaces; or
- (b) seek planning approval for a change to the existing planning approval.

Q9 *Is the City in a position to tell the ratepayers of Mullaloo how many patrons will be allowed on the first floor of the Mullaloo Beach Hotel and if not what particular piece of information is missing to enable them to calculate patron numbers as per the attachment?*

A9 The Mullaloo Progress Association has been informed in writing of the maximum accommodation number calculated for Mullaloo Tavern. This number is 396 persons.

Ms Sue Hart, Greenwood

- Q1 *How serious is the COJ about rebuilding trust within the community?*
- A1 The CEO considers the rebuilding of trust to be a major issue.
- Q2 *Are the Commissioners and staff aware that answering ratepayers questions fully, honestly and timely would be a serious commitment to ratepayers and in itself would show integrity?*
- A2 Every question submitted is attempted to be responded to factually and in a timely manner.
- Q3 *In response to Mr M Caiacob's question re Mullaloo Beach Tavern A1 please inform ratepayers what exactly are the ongoing unresolved matters associated with the MBT?*
- A3 Some of the issues relate to legal matters, which could have implications on legal action. It is not appropriate to detail all of the items.
- Q4 *What are the legal implications regarding the MBT?*
- Q4 See A3 above.
- Q5 *Would it be a useful trust building tool for the City to present all building application and history of the MBD to ratepayers thus stopping the constant questioning by the community and the non answers from staff?*
- A5 A series of meetings have been held and extensive documentation has previously been made available to representatives of the Mullaloo Progress Association in relation to this issue.
- Q6 *If not, why not?*
- A6 Not applicable.
- Q7 *Meath Care proposal, why is the City, only now, concerned and seeking information on the Walluburnup Swamp contours and the precise buffer distances?*
- A7 In its August 2002 response to the Metropolitan Region Scheme amendment (to rezone the Meath land to Urban) the Waters and Rivers Commission advised that no buffer zone was required. Comments made at the time suggested that this was due to the degraded state of the wetland south of Hepburn Avenue. Recent research undertaken on behalf of the Council by the administration has resulted from questions raised by the public, it does not result from this issue being ignored in the past.
- Q8 *Should this have been investigated and included in the (1) first report to Council, and/or the (2) rezoning application by Meath, although the rezoning proposal from Meath for was one 1 possibly 2 stories?*
- A8 There was contact with the Department of Conservation and Land Management and the Department of Environment, being the relevant government agencies, and that information was used in relation to the determination of the Council. See also answer 7 above.

- Q9 *Was there no investigation at the rezoning application, as to the effects on the environment because Meath proposed 1 possibly 2 stories and there was no mention of excavation?*
- A9 The future form of development of the land was not contemplated when the rezoning proposal was assessed. The form of development was assessed as part of the evaluation of the intended design of the facility, which was detailed much later.
- Q10 *Could I be forgiven for thinking, after reading CJ205-10/05, and the fact that I have now heard and read the CEO make issue of the Precinct Planning Debacle twice recently, (the first at the SWREA monthly meeting incorrectly, and the second in the Community News (06/10/05), that staff at the City are manoeuvring to break/split these fantastic communities apart?*
- A10 The reference to precinct planning has been raised by the CEO as it has been the major topic of conversation by individuals representing community organisations, including ratepayer groups, as the major cause of distrust between the Council and those groups. There is no proposal or thought been given to splitting or altering community boundaries.
- Q11 *Could this be likened to the divide and conquer theory?*
- A11 No.
- Q12 *Does the City acknowledge and accept that the South Ward is a very strong Community, and along with Mullaloo are very protective of their amenity and suburbs and will stand up for the same?*
- A12 Since his appointment, the CEO has received strong representation from individuals and ratepayer groups from within the South Ward and the suburb of Mullaloo.
- Q13 *I ask that Commissioners and staff look at the Business Outstanding From Previous Meetings, briefing session agendas. is it not time to clear up these outstanding issues which date 11/04x4, 10/04, 02/05,03/05, 12/04, 04/04x3, 05/03, 08/04, 02/04, 12/04x2?*
- A13 Items of outstanding business are constantly reviewed. In the last six months there has been a significant reduction of the items listed for action. Some of the items require extensive research.
- Q14 *Is it usual for local government to have outstanding issues dating back 29 months?*
- A14 It is not unusual, as the issues of local government are particularly complex and there are many and varied views to be taken into account in the resolution of issues.
- Q15 *Would it be a good idea for reports the commissioners have requested to be presented to Council before the end of their tenure, a good housekeeping practice may I say?*
- A15 The Commissioners and the CEO have had a major focus in the last six months of completing and resolving as many outstanding reports as practicable.
- Q16 *If not why not?*
- A16 Not applicable.

- Q17 *Would it be good governance to clear the backlog?*
- A17 Whilst every attempt will be made to clear the backlog, some of the issues refer to matters raised during the term of former Councils.
- Q18 *Why is the resolution of 22/02/05 (Anderson Clough motion to defer to a Special Meeting of Council), CJ026-02/05, not recorded in Outstanding Business?*
- Q19 *Where in the Act does it refer to resolutions of Council **not** to be actioned?*
- A18&19 While the matter was deferred to a special council meeting, the decision of the Council did not specify a timeframe in which this special meeting needed to take place. As the three suspended Councillors subsequently obtained legal funding from the City's Councillors and Officers Elite Insurance policy, and a number of other suspended elected members availed themselves of this policy of insurance, a special meeting was not called to deal with the issue. While the resolution may be considered to remain outstanding it is no longer active due to the alternative actions taken by the suspended Councillors and the near finalisation of the Inquiry process.
- Q20 *Outstanding Business Action number 73446 CJ118-06/04, Payment of Mayoral Allowance, would staff please check the relevant information and clarify when and how Mayor Carlos (suspended) applied for payment of Mayoral Allowance?*
- A20 The information requested is detailed in report CJ119-06/04, a copy of which is available on the City's website.

The following questions were submitted verbally at the meeting; a summary of each question and the response given is shown below:

Mr M Caiacob, Mullaloo

Re Review of Ward Boundaries

- Q1 *The Discussion Paper on page 10 clearly indicates six options to be considered. Option 1 is to "maintain the current ward system and existing Councillor representation".*
- The attachments to the Discussion Paper on page 1 - Option 1 is for the same number of wards and Councillor representation, but is not the "current ward system" or "existing Councillor representation". As these two highly important points are in conflict and deceiving, will the Commissioners consider deferring this item until such time as the report is corrected?*
- A1 *Response by Cmr Paterson: This is a decision the Council will make tonight.*
- Q2 *The set guideline is that the Minister will not consider changes outside the 10% rule, why hasn't the existing wards and representations as they currently stand been forwarded as an option in the "Attachments to the Discussion Paper"?*
- A2 It would be pointless to submit an option that does not meet the guidelines.

Mr Caiacob tabled the following question:

Q3 *As the Report is to be sent to Edith Cowan University to ensure unbiased, what knowledge of the issues in the Joondalup electorates and representatives context are known and which local expert is to be commissioned?*

A3 This question will be taken on notice.

Mrs M Sampson, Hillarys

Q1 *Re: Lighting at the Hillarys Shopping Centre – As per Council's letter addressed to myself dated on 27 July 2005 re the approval of the office additions to the existing Medical Centre situated in the Hillarys Shopping Centre at Flinders Avenue, Hillarys. Point 2, Part H states "any floodlighting being designed in accordance with the Australian Standards for Control of obtrusive effects of outdoor lighting, AS4282 and shall be, where possible, internally directed to not overspill in nearby lots.*

Why, if this condition has been put in place for the extension, is the existing floodlighting, which is situated on the western boundary of the shopping centre which borders my property allowed to operate well outside these regulations? This particular light had been turned off for twelve months, up until June of this year because it did not comply with Council regulations, then in June 2005 it was turned back on again without any modifications to rectify the existing problem.

A1 The City will investigate the lighting and meet with Mrs Sampson.

Mr D Davies, Connolly

Q1 *With the McIntyre decision being made public today, will the City ensure that two copies of the report are made available for the ratepaying public in the City's libraries?*

A1 If the City can access copies, they will be made available at the libraries. The report is available on the web.

Mr T Sampson, Hillarys

Q1 *Re: Hillarys Shopping Centre, Flinders Avenue, Hillarys. There has been a noise problem there for two years, which has been tested and verified. A wall has been built and the top of it filled in. The Centre was supposed to put insulation inside the wall and put a roller door on it, but this has not happened. The owner has stated that he has no intention of doing it.*

A1 This question will be taken on notice and the matter investigated.

Mr J McNamara, Sorrento

Q1 *Can I seek an update from Administration on the development of a policy on height limits for commercial land use along the coastal strip?*

A1 Council originally sought expressions of interest from consultants and was not successful. A draft report is being prepared for Council's consideration as part of the November round of meetings. Part of the process will be to go out for public comment on any of the recommendations that may come out of the report.

The City has not formed any definitive decision on height. The City has received information from other parties and discussion has ensued about the process the City will use to progress this. The Local Ratepayer Association was raising issues in relation to a property in Sorrento and the implications that might have.

Q2 *With the situation with the City as described today and the continuing role of the Commissioners, there is some concern particularly along the coastal suburbs as to when this is going to happen. Can the City give some date indication so that ratepayers have a feel of the processes continuing?*

A2 The City's intent is to bring a report to Council to get scope and parameter in terms of expectation in the timeline that was suggested, which is November. The City has taken close review of the City of Stirling's situation because it caused that City considerable angst.

Mr S Kobelke, Sorrento

Q1 *Re: CJ205-10/05 – Review of the Ward Boundaries, Page 18 regarding forwarding the submission to Edith Cowan University to confirm the paper is unbiased. I refer to Pages 57 – 59 of the attachments. I know that the City is keen to reduce the number of Councillors and wards; is it possible to ask ECU to even out the clear bias of:*

- *the advantages of a reduction of elected members over the disadvantages on page 57;*
- *the advantages of a no ward system over the disadvantages on page 58 and,*
- *the disadvantages of a ward system over the advantages on page 59?*

On page 57, there are eight advantages for the reduction of elected members and five disadvantages. On the next page the advantages of a no ward system outnumber the disadvantages. Can the City even these numbers up?

A1 Council accepts the comment that there is a perceived bias. It is not the number of advantages or disadvantages that is relevant, but rather the significance of such advantage or disadvantage.

Q2 *Re: My submission on Public Question and Statement Time – Are the Commissioners aware that when the Council Meeting was held during the day to enable Joondalup school children to attend, four of those students who asked questions would not have been able to do so under the 30 minute rule, much less any of the public in attendance. Would the higher recommendation of 40 to 45 minutes avoid any ongoing source of discontent?*

A2 *Response by Cmr Paterson:* Council is giving consideration to introducing a Public Statement Time. Council in the past has been very liberal with Public Question Time and on that occasion in particular it was very important to provide sufficient time for the students. When Public Statement Time is introduced as well as Public Question Time there will be a large section of the meeting available for the community.

Mr M Sideris, Mullaloo

Q1 *Re: Questions asked from last meeting which appears in the Agenda tonight at page iv. Can you tell me why the answers to question 1 and question 2 appear to be contradictory? One implies that the plans were approved prior to construction commencing and yet it is very clear in tonight's answers that construction had commenced.*

A1 In terms of the sequence of events, the building licence for the development was granted, the builder then proceeded to build the undercroft in a manner which was not as approved. Before the building proceeded to the upper levels, amended plans were lodged and processed and at the time the upper levels were constructed there was a building licence in place for those levels of the building but the undercroft remained, not in order, in terms of the approved building licences.

Mr V Cusack, Kingsley

Q1 *Can I remind the Commissioners that I have been seeking answers to the buffer distances for the Meath Aged Care Facility since April 2005, although the City would have approved it in December 2004. In light of the fact that the City is unable or unwilling to provide the buffer distances from Walluburnup Swamp to the independent living units and to the main aged care facility, and considering that the submission period closes in six days' time, do the Commissioners consider this lack of response appropriate and will they be recommending an extension of the public submission closing date?*

A1 In relation to the second part of the question, the City cannot answer on behalf of the Commissioners. In relation to the first part, the advice that the City has is that the Department of the Environment has indicated that there is not a buffer zone. The City has sought from them further advice about the exact location of the swamp so that the City can place the detail on its documentation. There seems to be a difference in view from representatives of the community, Department of the Environment and Department of Conservation and Land Management in relation to this site. What the City is trying to do is get exact designation so that the argument is between those parties and not the City and the ratepayer group, because the City does not have the expertise to make those determinations.

Q2 *When ratepayers ask the Commissioners questions, why do they just refer them over to the City?*

A2 Commissioners, as with Councillors, rely on advice from the Administration. Commissioners will make their decisions during debate on the item.

Q3 *In the report on the Review of Ward Boundaries it gives five factors to be considered, being community of Interest, physical and topographic features, demographic trends, economic factors and the ratio of Councillors to electors in the various wards. Why has this Council singled out just one factor, the ratio of Councillors to electors and appear to have ignored the other four factors for evaluation of the present ward structure?*

A3 There has been no attempt to ignore the other factors. One of the contributing issues that play a large part in this particular matter is the elector numbers. It has to be based on the five factors, but at the end of day those factors have to take into account plus or minus 10 per cent.

C55–10/05 EXTENSION OF PUBLIC QUESTION TIME – [01122] [02154]

MOVED Cmr Anderson, **SECONDED** Cmr Smith that public question time be extended for a period of ten minutes.

The Motion was Put and

CARRIED (5/0)

Ms M Moon, Greenwood

Q1 Re: CJ206-10/05 – If this recommendation is adopted, if policies listed at point 3 in *this recommendation are determined to be revoked or amended which of these policies will go out for public consultation as they all have the capacity of impacting on community, ascetic, amenity, sense of place and sense of community values. One word can change the whole intent of the policy. Which of these policies will go out for community consultation?*

A1 The matters noted on page 27 of that item will go to the Policy Committee. Public comment will be sought on any policy where there is a legal requirement to do so.

Q2 *Re: CJ207-10/05 – It states under Regulation 6 in point 1 that a minimum of fifteen minutes is required and at point 2 that all questions raised by members of the public will be asked and answered and if the minimum is not met it can be used for other matters. Does Council believe point 2 is being met if members wanting to ask questions are denied due to the proposed time constraint?*

A2 *Response by Cmr Paterson:* If less than fifteen minutes of Public Question Time is used, the meeting will carry on with its business.

Mr S Magyar, Heathridge

Q1 *Is the Administration of the City of Joondalup going to make a submission to the Public Committee of the Legislative Assembly, that is undergoing an inquiry with four points of reference, current accountability mechanisms for Local Government in Western Australia including probity, finance and performance, the capacity of the Department to examine government finance and probity issues and the issue of whether the State Auditor General should have a role in local government processes. Is Administration aware of this inquiry and is it going to make a submission?*

A1 The City is aware of the Inquiry and will prepare a report for consideration of Council.

Q2 *Re: Governance Protocols – On paginated page 4 of the attachment, it refers to 23 or 24 reference documents that were used in preparation of the governance framework. Would Council consider putting a page on the City's website where people can get links through to any of these documents that are on line, for example there is the sustainability reporting guidelines from the Global Reporting Initiative?*

A2 This will be considered, subject to it not having the effect of slowing the network.

Mr K Zakrevsky, Mullaloo

Q1 Can the City tell me the date of the next Annual General Meeting of Electors?

A1 The draft report going before Council on 1 November 2005 is indicating the meeting to be held on 28 November 2005.

Q2 *This question is directed to Chairman Paterson personally, do you realise that your manner of responses to the public indicate arrogance and impatience and general rudeness. I think that you should reconsider how you answer.*

You are not giving generous question time, I know what the Act says and I know what it provides. On advice given, it is not only the CEO, if you had only listened we would not have had some of the problems.

A2 *Response by Cmr Paterson: I am sorry if my attitude upset you.*

APOLOGIES AND LEAVE OF ABSENCE

Nil

DECLARATIONS OF FINANCIAL INTEREST/INTEREST THAT MAY AFFECT IMPARTIALITY**Disclosure of Financial Interests**

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration.

Name/Position	Mr Peter Schneider – Director Corporate Services and Resource Management
Item No/Subject	CJ220-10/05 - Delegation of Authority to Appoint an Acting Chief Executive Officer
Nature and Extent of Interest	Potential to affect Mr Schneider's employment

Name/Position	Mr David Djulbic – Acting Director Planning and Community Development
Item No/Subject	CJ220-10/05 - Delegation of Authority to Appoint an Acting Chief Executive Officer
Nature and Extent of Interest	Potential to affect Mr Djulbic's employment

Name/Position	Mr Garry Hunt – Chief Executive Officer
Item No/Subject	CJ221-10/05 - CEO Performance Review Committee Concluded Report
Nature and Extent of Interest	Employed as Chief Executive Officer.

Name/Position	Mr Mike Smith – Manager Marketing, Communications & Council Support
Item No/Subject	C57-10/05 – Organisational Structure
Nature and Extent of Interest	Mr Smith is a potential applicant for new position(s).

Name/Position	Mr Mike Smith – Manager Marketing, Communications & Council Support
Item No/Subject	C58-10/05 – Report of the Inquiry into the City of Joondalup
Nature and Extent of Interest	Mr Smith is an affected party relating to the inquiry.

Disclosure of interest affecting impartiality

Commissioners and staff are required under the Code of Conduct, in addition to declaring any financial interest, to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making process. The Commissioner/employee is also encouraged to disclose the nature of the interest.

Name/Position	Cmr Peter Clough
Item No/Subject	CJ214-10/05 - Proposed Traffic Treatments - Chichester Drive, Woodvale
Nature and Extent of Interest	Cmr Clough resides in the suburb of Woodvale

Name/Position	Cmr Anne Fox
Item No/Subject	CJ216-10/05 - Proposed Western Power Zone Substation to be located on part of Pinnaroo Memorial Cemetery Land - Gibson Avenue, Padbury (North Of Gibson Park)
Nature and Extent of Interest	Cmr Fox resides in close proximity to Pinnaroo Memorial Cemetery. Cmr Fox indicated she would act impartially in the matter.

Name/Position	Cmr Steve Smith
Item No/Subject	CJ216-10/05 - Proposed Western Power Zone Substation to be located on part of Pinnaroo Memorial Cemetery Land - Gibson Avenue, Padbury (North Of Gibson Park)
Nature and Extent of Interest	Cmr Smith advised her son resides in the suburb of Padbury, however she would deal impartially with the matter.

Name/Position	Mr Peter Schneider – Director Corporate Services & Resource Management
Item No/Subject	CJ221-10/05 - CEO Performance Review Committee Concluded Report
Nature and Extent of Interest	Due to the nature of the reporting/employment relationship with the Chief Executive Officer

Name/Position	Mr Garry Hunt – Chief Executive Officer
Item No/Subject	C57-10/05 - Organisational Structure
Nature and Extent of Interest	Impacts on the role of Chief Executive Officer

Name/Position	Mr Peter Schneider – Director Corporate Services & Resource Management
Item No/Subject	C57-10/05 - Organisational Structure
Nature and Extent of Interest	This report makes reference to his position.

Name/Position	Mr Garry Hunt – Chief Executive Officer
Item No/Subject	C58-10/05 – Report of the Inquiry into the City of Joondalup
Nature and Extent of Interest	The Chief Executive Officer prepared the report – potential impact on City operations

Name/Position	Mr Laurie Brennan – Media Advisor
Item No/Subject	C58-10/05 – Report of the Inquiry into the City of Joondalup
Nature and Extent of Interest	Mr Brennan was called as a witness to the Inquiry.

Name/Position	Mr Peter Schneider – Director Corporate Services & Resource Management
Item No/Subject	C58-10/05 - Report of the Inquiry into the City Of Joondalup
Nature and Extent of Interest	Mr Schneider was a witness before the Inquiry.

CONFIRMATION OF MINUTES

C56-10/05 MINUTES OF COUNCIL MEETING, 20 SEPTEMBER 2005

MOVED Cmr Smith **SECONDED** Cmr Fox that the Minutes of the Council Meeting held on 20 September 2005 be confirmed as a true and correct record.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

ANNOUNCEMENTS BY THE CHAIRMAN WITHOUT DISCUSSION

Volunteers

I'd like to say a public 'thank you' to the hundreds of volunteers who help us serve the 160,000 residents of the City of Joondalup. Tomorrow night, Deputy Chairman Peter Clough will host a 'Thank You' Function for volunteers who assist the City with running the Eisteddfod, bus drivers and Seniors Interests.

Volunteers give invaluable help in many other areas like the Joondalup Festival, and libraries – and on behalf of all residents, thank you very much.

Wildcats

Perth Wildcats are coming to Craigie Leisure Centre for Junior Basketball Registration Day on Saturday 15 October 2005.

From 9 – 11 am, Craigie is hosting a free Registrations Day for the Junior Indoor Basketball Season, commencing on Saturday 22 October 2005. With no joining fee, it's the perfect chance for your child to develop their basketball skills.

McIntyre Inquiry

Please note that there will be a late CEO's Report tabled at the Council Meeting tonight in relation to the Inquiry Report. As you know, the Report was tabled in Parliament and made public this afternoon. The Commissioners will consider the Report's ramifications during the 35-day response period, after considering the CEO's Report on the matter tonight.

PETITIONS

Nil.

CJ204 - 10/05 DEVELOPMENT OF GOVERNANCE RELATED PROTOCOLS – [25548, 08122, 76541, 01139, 02154]

WARD: All

RESPONSIBLE DIRECTOR: Mr Garry Hunt
Office of CEO

CJ051004_BRF.DOC:ITEM 1

PURPOSE

To seek Council endorsement of the Governance Framework 2005.

EXECUTIVE SUMMARY

The Governance Framework was prepared following the recommendations of the *Governance Review – Final Report*.

The Framework is a component of the 'Welcome Pack' for newly Elected Members.

The Framework has undergone significant review and further development following Council feedback and the discovery of additional source documents.

This report provides Council with the Draft Governance Framework 2005 for endorsement.

BACKGROUND

The Governance Framework was prepared following the recommendations of the *Governance Review – Final Report*. These recommendations were presented to the Council at its meetings of 22 November and 14 December 2004 and were as follows:

Recommendation 17

Any person who is elected to the role of Mayor at the City of Joondalup should undertake a high quality course or equivalent training in the role of Mayor. Such a course will make it very clear that the Mayor needs to have –

- (a) A thorough understanding of the roles as defined in the Act;*
- (b) A sound grasp of standing orders;*

- (c) *No greater rights than other Elected Members;*
- (d) *An inalienable responsibility to treat all members with fairness and objectivity and the need to develop the Council as a team; and*
- (f) *A sound understanding of the code of conduct.*

Recommendation 19

All persons elected as Mayor at the City of Joondalup in future years should participate in the Mayors and Presidents Support program so that a skilled mentor is available to assist an inexperienced Mayor.

Recommendation 23

The City of Joondalup develop a protocol in terms of a working relationship between the Mayor and CEO. Such a protocol, which should be adopted by the Council, would define the responsibilities, requirements of both parties and the manner and timeliness that such liaison would occur.

Recommendation 34

Council develop an Elected Member training plan. Elected Members be asked to give a commitment that they will take a full training suite related to their responsibilities during their time in office. An essential part of the training plan must be a high quality induction program that includes a tour of the administration area including all the departments/service areas and a detailed update on current and committed projects.

The Council, at the meetings on 22 November and 14 December 2004, agreed to progress the development of the following: -

- *Guidelines relating to public question time*
- *Protocols and procedures relating to Strategy and Briefing Sessions*
- *Standing Orders*
- *Code of Conduct*
- *Electronic controls within the Council Chamber*
- *Induction program for Mayors and Councillors/Commissioners*
- *Roles and responsibilities;*
- *Meeting procedures;*
- *Ongoing training program focusing on:*
 - *Local Government Act 1995 and associated legislation;*
 - *Industry related support programs.*

A draft 'Welcome Pack' for Elected Members has been developed incorporating:

- *An Induction program for Elected Members – the program covers all relevant topics and includes information on potential training that the Elected Members should consider undertaking to enhance their knowledge in specific areas of their responsibilities;*
- *An ongoing Training and Development Program for Elected Members;*
- *Organisational Structure;*
- *Procedures;*
- *Entitlements/Expenses; and*
- *Code of Conduct.*

The report contained reference to the various sections contained in the Governance Framework including sections on:

- The legislative framework for local government;
- Council meetings;
- Roles and responsibilities;
- Relationships;
- Corporate Documents;
- Governance Principles;
- Governance Charter; and
- A self-assessment tool.
-

The Governance Framework was compiled following extensive research of a number of best practice documents and following discussions with a number of other Local Governments. A number of personnel have contributed to the draft document and a full list of documents used to inform the Governance Framework has now been compiled, and included in the document.

DETAILS

Issues and options considered:

Considerable research was undertaken to inform the development of the Governance Framework. The following documents have been utilised:

- Murdoch University Senate, Statement of Governance Principles;
- Governance Framework and Statement – City of South Perth;
- On Board Leadership – John Carver;
- Reinventing Your Board, A Step by Step Guide to Implementing Policy Governance – John Carver and Miriam Mayhew Carver;
- Good Governance Guide 2004 – The Principles of Good Governance within Local Government - Municipal Association of Victoria;
- Excellence in Governance for Local Government – CPA Australia;
- WALGA – Training and Development Program for Elected Members;
- Existing documentation held by the City of Joondalup;
- Corporate Governance Charter - WA Local Government Association adopted in December 2004;
- Lessons for Local Government - City of Belmont published by the Department of Local Government and Regional Development April 2003;
- Lessons for Local Government - City of South Perth published by the Department of Local Government and Regional Development;
- Extract of Minutes City of Joondalup - Responses to Governance Review - November 2004;
- Elected Members Welcome Pack - City of Joondalup - May 2003;
- Elected Member Induction - Local Government Operational Guidelines Number 4 published by the Department of Local Government and Regional Development - Updated March 2005;
- City of Wollongong Governance Manual 2004;
- Council Forums - Local Government Operational Guidelines Number 5 published by the Department of Local Government and Regional Development - January 2005;
- Managing Public Question Time - Local Government Operational Guidelines Number 3 published by the Department of Local Government and Regional Development - August 2002;

- The Business of Local Government (a training course for elected members)- a joint WALGA and Australian Institute of Company Directors Course;
- WALGA State Council performance assessment questionnaire (which was converted to relate to the City of Joondalup rather than WALGA);
- Local Government Act 1995;
- City of Joondalup Governance Review Report May 2004;
- Sustainability Reporting Guidelines – Global Reporting Initiative; and
- ASX Corporate Governance Council – Principles of Good Corporate Governance and Best Practice Recommendations.

The Consultant utilised to assist in the preparation of the Governance Framework had extensive knowledge of, and association with, the WA Local Government Association (WALGA) and drew on the documents produced by that organisation. WALGA is the peak lobbying and advocacy organisation for Western Australia's local government bodies and provides support, direction and leadership to local governments in relation to a range of issues including governance. The documents produced by WALGA are considered to be 'best practice' and were developed specifically to inform good governance in local government.

Every effort has been made by all personnel involved in the development of the framework to identify sections that have been taken from other documents, and to guarantee that appropriate permission has been granted for use of such publications. All documents used in the preparation of the Governance Framework have been appropriately recorded and acknowledged in the Framework itself.

The Induction Program, a component of the 'Welcome Pack', has been developed to focus on relationship building and group dynamics was also endorsed by the Council. The Governance Framework has also been developed with an emphasis on appropriate and effective working relationships to complement the Induction Program, and Training and Development Program.

In order to augment effective working relationships it is intended that the CEO and Directors will participate in the Induction and Training Program (including training on the Governance Framework with Elected Members).

The Framework includes a set of Governance Principles that are intended to provide the foundation for what the Council is trying to achieve (the 'what'), and a Governance Charter that provides the actions and practices that will turn the principles into reality (the 'how').

The Framework also includes a self-assessment and evaluation component. The self-assessment is intended to provide Council with an assessment of its performance against the governance principles and charter on an annual basis. The self-assessment will be used to inform an action plan for improvement (including the development of ongoing training programs).

Link to Strategic Plan:

Outcome: The City of Joondalup is an interactive community.

Objectives: To ensure the City responds to and communicates with the community.

Strategy: Provide fair and transparent decision-making processes.

Legislation – Statutory Provisions:

The Local Government Act 1995 is the principal piece of legislation governing the operations of all local governments in Western Australia and contains many sections that relate to the roles and functions of the Mayor, Councillors, Chief Executive Officer and employees. The following sections of the Local Government Act 1995 are applicable:

2.7. The role of the Council

- (1) The Council —
 - (a) directs and controls the local government's affairs; and
 - (b) is responsible for the performance of the local government's functions.
- (2) Without limiting subsection (1), the Council is to —
 - (a) oversee the allocation of the local government's finances and resources; and
 - (b) determine the local government's policies.

2.8. The role of the mayor or president

- (1) The mayor or president —
 - (a) presides at meetings in accordance with this Act;
 - (b) provides leadership and guidance to the community in the district;
 - (c) carries out civic and ceremonial duties on behalf of the local government;
 - (d) speaks on behalf of the local government;
 - (e) performs such other functions as are given to the mayor or president by this Act or any other written law; and
 - (f) liaises with the CEO on the local government's affairs and the performance of its functions.
- (2) Section 2.10 applies to a Councillor who is also the mayor or president and extends to a mayor or president who is not a Councillor.

2.9. The role of the deputy mayor or deputy president

The deputy mayor or deputy president performs the functions of the mayor or president when authorised to do so under section 5.34.

2.10. The role of Councillors

A Councillor —

- (a) represents the interests of electors, ratepayers and residents of the district;
- (b) provides leadership and guidance to the community in the district;
- (c) facilitates communication between the community and the Council;
- (d) participates in the local government's decision-making processes at Council and committee meetings; and
- (e) performs such other functions as are given to a Councillor by this Act or any other written law.

5.41. Functions of CEO

The CEO's functions are to:

- (a) advise the Council in relation to the functions of a local government under this Act and other written laws;
- (b) ensure that advice and information is available to the Council so that informed decisions can be made;
- (c) cause Council decisions to be implemented;
- (d) manage the day-to-day operations of the local government;
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;
- (f) speak on behalf of the local government if the mayor or president agrees;
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.

Risk Management considerations:

The *Governance Review – Final Report* made a number of recommendations that are being considered by the Council. The need to establish clear protocols relating to governance is critical in enhancing the decision-making process of the City of Joondalup.

The Governance Framework provides guidelines on the processes that will ensure the good governance of the City of Joondalup, and highlights a number of other documents that set down the fundamental principles of good governance.

The proposed framework establishes the respective roles and responsibilities of the Council and Management, promotes ethical and responsible decision making, promotes timely and balanced disclosure, respects the rights of the community and other stakeholders, recognises and manages risk, and encourages better performance by all participants in the governance process at the City of Joondalup.

Financial/Budget Implications:

There will be ongoing costs associated with the implementation of these protocols and principles and these costs have been budgeted for within the 2005/06 operational budget.

Policy implications:

The Governance Framework and associated documents describe the principles and key roles that will guide Council in its decision-making. The adoption of protocols and principles relating to good governance of the City of Joondalup will impact on all Council policies and the implementation of such policies.

Regional Significance:

Not Applicable

Sustainability implications:

Consideration of the recommendations of the Governance Review Panel and the establishment of a Governance Framework setting out governance principles will ensure that Council's management and organisational practices will be professional and that decisions will be informed and will take into account the needs of the community to which it is primarily accountable.

The proposed governance framework and associated documentation is designed to ensure effective, transparent and sustainable management of the City's affairs.

Consultation:

A number of 'best practice' documents have been researched in preparing the proposed protocols and principles including:

- Murdoch University Senate, Statement of Governance Principles;
- Governance Framework and Statement – City of South Perth;
- On Board Leadership – John Carver;
- Reinventing Your Board, A Step by Step Guide to Implementing Policy Governance – John Carver and Miriam Mayhew Carver;
- Good Governance Guide 2004 – The Principles of Good Governance within Local Government - Municipal Association of Victoria;
- Excellence in Governance for Local Government – CPA Australia;
- WALGA – Training and Development Program for Elected Members;
- Existing documentation held by the City of Joondalup;
- Corporate Governance Charter - WA Local Government Association adopted in December 2004;
- Lessons for Local Government - City of Belmont published by the Department of Local Government and Regional Development April 2003;
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- Extract of Minutes City of Joondalup - Responses to Governance Review - November 2004;
- Elected Members Welcome Pack - City of Joondalup - May 2003;
- Elected Member Induction - Local Government Operational Guidelines Number 4 published by the Department of Local Government and Regional Development - Updated March 2005;
- City of Wollongong Governance Manual 2004;
- Council Forums - Local Government Operational Guidelines Number 5 published by the Department of Local Government and Regional Development - January 2005;
- Managing Public Question Time - Local Government Operational Guidelines Number 3 published by the Department of Local Government and Regional Development - August 2002;
- The Business of Local Government (a training course for elected members)- a joint WALGA and Australian Institute of Company Directors Course;
- WALGA State Council performance assessment questionnaire which was converted to relate to the City of Joondalup rather than WALGA;
- Local Government Act 1995;
- City of Joondalup Governance Review Report May 2004;
- Sustainability Reporting Guidelines – Global Reporting Initiative; and
- ASX Corporate Governance Council – Principles of Good Corporate Governance and Best Practice Recommendations.

Consultation has also occurred with Judy Hughes MLA, Member for Kingsley in order to obtain her experience in induction processes in local government and state parliament, and with other local governments to ascertain their protocols for good governance.

COMMENT

Considerable emphasis is now placed on improving the quality of corporate governance. Good governance is vital to local democracy and the Governance Framework, once established, will support Council to improve governance practices. The Governance Framework is, therefore, a critical component of the Elected Members 'Welcome Pack'.

The Governance Framework has been developed to provide assistance and support to Elected Members in their role on Council, and a number of 'best practice' documents have been referenced in the compilation of the framework.

The Governance Framework will be a component of the Elected Members Welcome Pack and will complement the Induction Program and ongoing Training and Development Program. The Framework places emphasis on the 'what to' as well as the 'how to' in an effort to balance technical information with the essence of effective working relationships – both critical to good governance.

Good Governance is dependant upon the Council working together in the best interests of the whole community and this can only be achieved if the working relationships between elected members, and between elected members and the CEO and staff are courteous and based on mutual respect for the opinions and roles of others.

The Self-Assessment Tool included in the Framework is considered to be an excellent vehicle for the ongoing monitoring of Council's observance of, and adherence to, good governance as defined in the Governance Principles and Governance Charter, and a methodology for developing an action plan to address governance gaps or priorities.

The draft Governance Framework has been based on the findings and recommendations of the Governance Review. The outcomes of the Inquiry Panel are not known at this stage however it is likely that the Framework will need to be revisited following the final report of the Inquiry.

ATTACHMENTS

Attachment 1 Draft Governance Framework

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, SECONDED Cmr Clough that Council ADOPTS the Governance Framework 2005 shown as Attachment 1 to Report CJ204-10/05.

Cmr Anderson spoke in support of the motion.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1agn041005.pdf](#)

CJ205 - 10/05 REVIEW OF WARD BOUNDARIES, NAMES AND ELECTED MEMBER REPRESENTATION – [16878]

WARD: All

RESPONSIBLE DIRECTOR: Mr Garry Hunt
Office of CEO

CJ051004_BRF.DOC:ITEM 2

PURPOSE

For the Council to give consideration to the proposed discussion paper and the process involved for the review of ward boundaries and elected member representation.

EXECUTIVE SUMMARY

The Local Government Act 1995 requires all local governments to review their ward boundaries and elected member representation every eight years.

With the City of Joondalup being established on 1 July 1998 and adopting its preferred ward structure and elected member representation model on 27 August 1999, the Council is required to undertake its review by 26 August 2007. The review could take a number of months to complete and be submitted to the Local Government Advisory Board for consideration.

The review involves the preparation of a discussion paper and consultation with the community prior to the Council agreeing on a preferred option and submitting it to the Local Government Advisory Board.

It is recommended that Council AGREES to:

- 1 *CONDUCT a review of its Ward names, boundaries and elected member representation in accordance with Schedule 2.2 of the Local Government Act 1995;*
- 2 *SEEK public submissions on the discussion paper forming Attachment 1 to this Report;*
- 3 *REQUEST a further report be presented to Council following the completion of the statutory public consultation as required by Schedule 2.2 of the Local Government Act 1995.*

BACKGROUND

The City of Joondalup was established by virtue of the Joondalup and Wanneroo Order 1998 which came into operation as of 1 July 1998. The Order created two new local governments, the City of Joondalup and the Shire (now City) of Wanneroo.

The Local Government Act 1995 came into operation on 1 July 1996 and places a legislative requirement on all local governments to review their ward boundaries and elected member representation every eight (8) years.

At the creation of the City of Joondalup, there was a requirement to establish its ward boundaries, the number of wards, and elected member representation per ward.

Council at its meeting held on 9 February 1999 (Report CJ04-02/99 refers) resolved:

“That the Joint Commissioners:

- 1 *REVIEW wards boundaries and representation in accordance with the provisions of Schedule 2.2 of the Local Government Act;*
- 2 *CONDUCT the review mentioned in 1 above conjointly with the Shire of Wanneroo.”*

Following the review, Council at its meeting held on 25 May 1999 (Report CJ194-05/99 refers) considered the public submissions made and resolved:

“That the Joint Commissioners RECOMMEND to the Local Government Advisory Board that the Council favours a seven ward (two councillors per ward) proposal as detailed on Plan No 7/14 included as Appendix 1 to Report CJ194-05/99.”

A copy of the Plan No. 7/14 is attached.

On 27 August 1999 the District of Joondalup (Ward Boundaries, Representations and Elections) 1999 was gazetted.

Following this Order, the City of Joondalup is required to complete its review by 26 August 2007. Given the process to be followed it is anticipated that the review may take some time to complete prior to submitting it to the Local Government Advisory Board for consideration.

The Council at its meeting held on 17 May 2005 (Item CJ084-05/05 refers) resolved as follows:

That Council:

- 1 *AGREES to undertake a review of the City of Joondalup ward boundaries and representation in accordance with Schedule 2.2 of the Local Government Act 1995;*
- 2 *REQUESTS the Chief Executive Officer to prepare a discussion paper regarding the review of ward boundaries and elected member representation to be presented to the Council for further consideration;*
- 3 *STATES that the intention of this resolution is to progress the process and that it is also the intention that an elected Council will decide Ward boundaries at the appropriate time.*

The proposed draft discussion paper has been prepared by researching:

- Information package – Review of Wards and Representation produced by the Local Government Advisory Board;
- The discussion papers of the Cities of Melville and Swan;
- The previous discussion paper when establishing the City of Joondalup and the Shire of Wanneroo in 1999.

DETAILS

The elected Council of the City of Joondalup is currently under suspension pending the outcome of the McIntyre Inquiry. Upon completion of the Inquiry, a decision to dismiss or reinstate the elected Council will be made.

As a result of the suspension of the elected Council, the City of Joondalup is being governed by five (5) Commissioners appointed by the Minister as per the Local Government Act 1995. The structure of the elected Council consists of a Mayor, elected by the electors, and fourteen (14) Councillors across seven (7) wards, with two (2) Councillors representing each ward. The current ward structure of the City of Joondalup is as follows:

Ward Suburb (Electors)	Number of Electors	Number of Councillors	Councillor: Elector Ratio	% Ratio Deviation
Lakeside - Joondalup (4746) Edgewater (3206) Woodvale (6695)	14,647	2	1:7323	- 0.01%
Marina - Ocean Reef (5299) Connolly (2394) Heathridge (4533)	12,226	2	1:6113	16.51%
North Coastal - Burns Beach (148) Iluka (2131) Kinross (3801) Currambine (3993)	10,073	2	1:5036	31.22%
Pinnaroo - Beldon (2739) Craigie (3929) Padbury (5896)	12,564	2	1:6282	14.20%
South - Kingsley (9713) Greenwood (7314) Warwick (2916)	19,943	2	1:9971	- 36.18%
South Coastal - Sorrento (5492) Marmion (1676) Duncraig (11303)	18,471	2	1:9235	- 26.13%
Whitfords - Mullaloo (4049) Kallaroo (3625) Hillarys (6917)	14,591	2	1:7295	0.37%
Total	102,515	14	1:7322	

Issues and options considered:

The following options are available to the Council following the completion of the public consultation process, as defined by the Local Government Act 1995:

- Creating new wards in a district already divided into wards;
- Changing the boundaries of a ward;
- Abolishing any or all the wards into which the district is divided;
- Changing the name of a district or ward;
- Changing the number of offices of councillor on a council; and
- Specifying or changing the number of offices of councillor for a ward.

Advice from the Local Government Advisory Board is that the discussion paper should not detail the Council's preferred option.

Following the completion of the requested statutory process, including public consultation, a report will be submitted to the Council at which time a preferred option is to be agreed upon prior to referring the matter to the Local Government Advisory Board.

Link to Strategic Plan:

Objective 1.3	To continue to provide services that meet changing needs of a diverse and growing community.
Objective 3.3	To continue to meet changing demographic needs.
Objective 4.3	To ensure the City responds to and communicates with the community.
Strategy 4.3.3	Provide fair and transparent decision-making processes

Legislation – Statutory Provisions:

Schedule 2.2 of the Local Government Act 1995 details the process to be followed when carrying out a review of its ward boundaries and number of offices of Councillor for each ward:

Schedule 2.2 — Provisions about names, wards and Representation**1 Interpretation**

In this Schedule, unless the contrary intention appears —

“**affected electors**”, in relation to a submission, means electors whose eligibility as electors comes from residence, or ownership or occupation of property, in the area directly affected by the submission;

“**review**” means a review required by clause 4(4) or 6 or authorised by clause 5(a);

“**submission**” means a submission under clause 3 that an order be made to do any or all of the things referred to in section 2.2(1), 2.3(3) or 2.18(3).

2 Advisory Board to make recommendations relating to new district

- (1) When a local government is newly established, the Advisory Board —
 - (a) at the direction of the Minister; or
 - (b) after receiving a report made by a commissioner appointed under section 2.6(4) after carrying out a review, is, in a written report to the Minister, to recommend the making of an order to do all or any of the things referred to in section 2.2(1)(a), 2.3(2) or 2.18(1).
- (2) In making its recommendations under subclause (1) the Advisory Board is to take into account the matters referred to in clause 8(c) to (g) so far as they are applicable.

3 Who may make submissions about ward changes etc.

- (1) A submission may be made to a local government by affected electors who —
 - (a) are at least 250 in number; or
 - (b) are at least 10% of the total number of affected electors.
- (2) A submission is to comply with any regulations about the making of submissions.

4 Dealing with submissions

- (1) The local government is to consider any submission made under clause 3.
- (2) If, in the council's opinion, a submission is —
 - (a) one of a minor nature; and
 - (b) not one about which public submissions need be invited, the local government may either propose* to the Advisory Board that the submission be rejected or deal with it under clause 5(b).

** Absolute majority required.*

- (3) If, in the council's opinion —
 - (a) a submission is substantially similar in effect to a submission about which the local government has made a decision (whether an approval or otherwise) within the period of 2 years immediately before the submission is made; or
 - (b) the majority of effected electors who made the submission no longer support the submission, the local government may reject the submission.

- (4) Unless, under subclause (2) or (3), the local government rejects, or proposes to reject, the submission or decides to deal with it under clause 5(b), the local government is to carry out a review of whether or not the order sought should, in the council's opinion, be made.

[Clause 4 amended by No. 49 of 2004 s. 68(2)-(4).]

5 Local government may propose ward changes or make minor proposals

A local government may, whether or not it has received a submission —

- (a) carry out a review of whether or not an order under section 2.2, 2.3(3) or 2.18 should, in the council's opinion, be made;
- (b) propose* to the Advisory Board the making of an order under section 2.2(1), 2.3(3) or 2.18(3) if, in the opinion of the council, the proposal is:
- (i) one of a minor nature; and
 - (ii) not one about which public submissions need be invited; or
- (c) propose* to the Minister the making of an order changing the name of the district or a ward.

** Absolute majority required.*

6 Local government with wards to review periodically

- (1) A local government the district of which is divided into wards is to carry out reviews of —
- (a) its ward boundaries; and
 - (b) the number of offices of councillor for each ward, from time to time so that not more than 8 years elapse between successive reviews.
- (2) A local government the district of which is not divided into wards may carry out reviews as to —
- (a) whether or not the district should be divided into wards; and
 - (b) if so —
 - (i) what the ward boundaries should be; and
 - (ii) the number of offices of councillor there should be for each ward, from time to time so that not more than 8 years elapse between successive reviews.
- (3) A local government is to carry out a review described in subclause (1) or (2) at any time if the Advisory Board requires the local government in writing to do so.

[Clause 6 amended by No. 49 of 2004 s. 68(5) and (6).]

7 Reviews

- (1) Before carrying out a review a local government has to give local public notice advising —
 - (a) that the review is to be carried out; and
 - (b) that submissions may be made to the local government before a day fixed by the notice, being a day that is not less than 6 weeks after the notice is first given.
- (2) In carrying out the review the local government is to consider submissions made to it before the day fixed by the notice.

8 Matters to be considered in respect of wards

Before a local government proposes that an order be made —

- (a) to do any of the matters in section 2.2(1), other than discontinuing a ward system; or
- (b) to specify or change the number of offices of councillor for a ward, or proposes under clause 4(2) that a submission be rejected, its council is to have regard, where applicable, to —
- (c) community of interests;
- (d) physical and topographic features;
- (e) demographic trends;
- (f) economic factors; and
- (g) the ratio of councillors to electors in the various wards.

[Clause 8 amended by No. 49 of 2004 s. 68(7).]

9 Proposal by local government

On completing a review, the local government is to make a report in writing to the Advisory Board and may propose* to the Board the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit.

* *Absolute majority required.*

10 Recommendation by Advisory Board

- (1) Where under clause 5(b) a local government proposes to the Advisory Board the making of an order under section 2.2(1), 2.3(3) or 2.18(3), and the Board is of the opinion that the proposal is —
 - (a) one of a minor nature; and
 - (b) not one about which public submissions need be invited, the Board, in a written report to the Minister, is to recommend the making of the order but otherwise is to inform the local government accordingly and the local government is to carry out a review.
- (2) Where under clause 9 a local government proposes to the Advisory Board the making of an order of a kind referred to in clause 8 that, in the Board's opinion, correctly takes into account the matters referred to in clause 8(c) to (g), the Board, in a written report to the Minister, is to recommend the making of the order.
- (3) Where a local government proposes to the Advisory Board the making of an order of a kind referred to in clause 8, or that a submission under clause 4(2) be rejected, that, in the Board's opinion, does not correctly take into account the matters referred to in that clause —
 - (a) the Board may inform the local government accordingly and notify the local government that a proposal that does correctly take those matters into account is to be made within such time as is set out in the notice; and
 - (b) if the local government does not make a proposal as required by a notice under paragraph (a), the Board may, in a written report to the Minister, recommend* the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit that would correctly take into account those matters.

** Absolute majority required.*

- (4) Where a local government fails to carry out a review as required by clause 6, the Advisory Board, in a written report to the Minister, may recommend* the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit that would correctly take into account the matters referred to in clause 8.

** Absolute majority required.*

[Clause 10 amended by No. 49 of 2004 s. 68(8).]

11 Inquiry by Advisory Board

- (1) For the purposes of deciding on the recommendation, if any, it is to make under clause 10(3)(b) or (4), the Advisory Board may carry out any inquiry it thinks necessary.
- (2) The Advisory Board may recover the amount of the costs connected with an inquiry under subclause (1) from the local government concerned as if it were for a debt due.

12 Minister may accept or reject recommendation

- (1) The Minister may accept or reject a recommendation of the Advisory Board made under clause 10.
- (2) If the recommendation is accepted the Minister can make a recommendation to the Governor for the making of the appropriate order.

[Schedule 2.2 amended by No. 64 of 1998 s. 53; No. 49 of 2004 s. 68.]

Risk Management considerations:

The associated risk with not undertaking the review of ward boundaries and elected member representation is that the Council would not be complying with its legislative requirements. Recent amendments to the Local Government Act 1995 allows the Local Government Advisory Board to request a local government to carry out a review of its representation at any time.

Financial/Budget Implications:

There are no specific funds available to undertake the review but it will be absorbed as part of normal operations.

Policy implications:

Not Applicable.

Sustainability implications:

The review of ward boundaries and elected member representation across the City of Joondalup will:

- Attempt to provide a fair and equitable representation for the electors of the district;
- Ensure that the correct level of representation will assist individual members performing their role under section 2.10 of the Local Government Act, and;
- Aid in the ability of the Council to provide good government to the people of its district.

Consultation:

The level of community consultation for the review is governed by the Local Government Act 1995 and the Local Government Advisory Board detail the required minimum.

The review process involves a number of steps:

- Council resolves to undertake the review
- Public submission period opens
- Information provided to the community for discussion
- Public submission period closes
- The Council considers all submissions and relevant factors and makes a decision
- The Council submits a report to the Local Government Advisory Board (the Board) for its consideration; and
- (If any change is proposed) the Board submits a recommendation to the Minister for Local Government and Regional Development (the Minister).

Schedule 2.2 Clause 7 of the Local Government Act 1995 states that when conducting a review requires the City to invite public submissions for a minimum period of six (6) weeks.

It is intended that two (2) public workshops be held across the City to allow members of the public to be informed of the process. In addition to the statutory requirements and public forums, relevant community/sporting groups, residents/ratepayers associations and other public bodies will be advised of the review.

Any changes approved by the Minister, where possible, will be in place for the next ordinary election.

The advice from the Local Government Advisory Board is not to contain any preferred option of the Council in the discussion paper that is circulated for public feedback. Whilst the Council may have a preferred position, the public notice must not limit the possible responses and suggestions from the community.

COMMENT

The purpose of the review is to evaluate the current arrangements and consider other options to find the system of representation that best reflects the characteristics of the district and its people. Any of the following may be considered:

- Creating new wards in a district already divided into wards;
- Changing the boundaries of a ward;
- Abolishing any or all the wards into which the district is divided;
- Changing the name of a district or ward;
- Changing the number of offices of councillor on a council; and
- Specifying or changing the number of offices of councillor for a ward.

The Board considers that the ratio of councillors to electors is always significant. It is expected that each local government will have similar ratios of councillors to electors across the wards of the district.

The current average ratio of councillors (14) to electors (102,515) across the seven wards is one councillor to every 7322 electors. The Minister for Local Government and Regional Development has indicated that he will not consider changes to ward boundaries and representation that result in councillor/elector ratios that are greater than plus/minus 10% of the average councillor/elector ratio for the local government. Given that guideline, the current ward structure, based on current elector numbers per ward, for the City of Joondalup does not meet this requirement, with only the Lakeside and Whitfords Wards falling within the plus/minus 10% guideline.

The following table provides comparison figures of councillor to elector ratios:

	Councillor : Elector Ratio
City of Joondalup – current	1 : 7322
Average of all local governments in WA *	1 : 957
Average of the 30 metropolitan local governments in WA *	1 : 2852

* Information supplied by the Local Government Advisory Board.

It is intended that, prior to seeking public feedback on the discussion paper, it will be submitted to the appropriate faculty of Edith Cowan University to ensure the paper has been written in an unbiased way.

ATTACHMENTS

Attachment 1	Discussion paper.
Attachment 2	Processes associated with reviewing ward boundaries and representation – Local Government Advisory Board.
Attachment 3	Plan No. 7/14

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council AGREES to:

- 1 CONDUCT a review of its Ward names, boundaries and elected member representation in accordance with Schedule 2.2 of the Local Government Act 1995;
- 2 SEEK public submissions on the discussion paper forming Attachment 1 to Report CJ205-10/05;
- 3 REQUEST a further report be presented to Council following the completion of the statutory public consultation as required by Schedule 2.2 of the Local Government Act 1995.

MOVED Cmr Anderson, SECONDED Cmr Clough that Council AGREES to:

- 1 CONDUCT a review of its Ward names, boundaries and elected member representation in accordance with Schedule 2.2 of the Local Government Act 1995;**
- 2 SEEK public submissions on the discussion paper forming Attachment 1 to Report CJ205-10/05;**
- 3 CONDUCT two (2) independently facilitated workshops as part of the public submission period relating to the review of ward boundaries, names and elected member representation as detailed in 1 above, in order to explain the review process and engage the community;**

- 4 **HOLD the two (2) workshops as detailed in 3 above no later than three (3) weeks prior to the scheduled close of public submissions for the discussion paper on the review of ward boundaries, names and elected member representation;**
- 5 **REQUEST a further report be presented to Council following the completion of the statutory public consultation as required by Schedule 2.2 of the Local Government Act 1995.**

Cmr Anderson spoke in support of the motion.

AMENDMENT MOVED Cmr Smith, SECONDED Cmr Fox that the following points 6 and 7 be ADDED to the Motion:

“6 MAKES the following changes to the discussion paper:

- **On Page 10:**
 - **Heading “Options to consider” to be amended to read “Matters to be considered”**
 - **The word “Option” as it relates to Options 1 to 6 inclusive to be removed;**
 - **Within “1”, remove the word “Maintain”.**
 - **Amend “2” to read “*Creation of new wards ...*”**
 - **Amend “3” to read “*Changes to the boundaries ...*”**
 - **Amend “4” to read “*Abolition of all the wards ...*”**
 - **Amend “5” to read “*Changes to the names of*”**
 - **Amend “6” to read “*Changes to the number of ...*”**
- **On the attached ward maps shown on stamped pages 69 to 73 inclusive, the word “Option” to be amended to read “Example”**
- **On the attached ward map shown on stamped page 73, the internal dark lines and the colours to be removed;**

7 the CEO making modifications to the discussion paper, as a result of the review of the document by Edith Cowan University, that do not change the substance of the discussion paper or the examples.”

Discussion ensued.

Cmr Clough sought the approval of Cmr Smith as the Mover of the Amendment to include the following addition to the amendment:

- **On the attached ward map shown on stamped page 73, the internal dark lines and the colours to be removed.**

Cmr Smith as the Mover and Cmr Fox as the Seconder agreed to this change.

The Amendment was Put and

CARRIED (5/0)

The Original Motion, as amended, being:

That Council AGREES to:

- 1 CONDUCT a review of its Ward names, boundaries and elected member representation in accordance with Schedule 2.2 of the Local Government Act 1995;
- 2 SEEK public submissions on the discussion paper forming Attachment 1 to Report CJ205-10/05;
- 3 CONDUCT two (2) independently facilitated workshops as part of the public submission period relating to the review of ward boundaries, names and elected member representation as detailed in 1 above, in order to explain the review process and engage the community;
- 4 HOLD the two (2) workshops as detailed in 3 above no later than three (3) weeks prior to the scheduled close of public submissions for the discussion paper on the review of ward boundaries, names and elected member representation;
- 5 REQUEST a further report be presented to Council following the completion of the statutory public consultation as required by Schedule 2.2 of the Local Government Act 1995;
- 6 MAKES the following changes to the discussion paper:
 - On Page 10:
 - Heading “Options to consider” to be amended to read “Matters to be considered”
 - The word “Option” as it relates to Options 1 to 6 inclusive to be removed;
 - Within “1”, remove the word “Maintain”.
 - Amend “2” to read “*Creation of new wards ...*”
 - Amend “3” to read “*Changes to the boundaries ...*”
 - Amend “4” to read “*Abolition of all the wards ...*”
 - Amend “5” to read “*Changes to the names of*”
 - Amend “6” to read “*Changes to the number of ...*”
 - On the attached ward maps shown on stamped pages 69 to 73 inclusive, the word “Option” to be amended to read “Example”
 - On the attached ward map shown on stamped page 73, the internal dark lines and the colours to be removed;
- 7 the CEO making modifications to the discussion paper, as a result of the review of the document by Edith Cowan University, that do not change the substance of the discussion paper or the examples.

Was Put and

CARRIED UNANIMOUSLY (5/0)

Appendices 2 & 15 refer

To access this attachment on electronic document, click here: [Attach2brf041005.pdf](#)

[Attach15agn041005.pdf](#)

CJ206 - 10/05 POLICY REVIEW – [26176]

WARD: All

**RESPONSIBLE
DIRECTOR:** Mr Garry Hunt
Office of CEO

CJ051004_BRF.DOC:ITEM 3

PURPOSE

To provide Council with a report detailing:

- Recommendations for the delineation of Council and City policies according to the Policy Governance Framework; and
- Recommendations for a revised Policy Manual following a review of the City Policies.

EXECUTIVE SUMMARY

Council established a Policy Committee and endorsed a new Policy Framework on 26 April 2005. (*Refer CJ064 – 04/05*). The framework separated the policies of the Council into two categories:

- 1 Council Policies - Strategic policies that set governing principles and guide the direction of the organisation to align with community values and aspirations. These policies have a strategic external focus and align with the Mission, Vision and Strategic Directions; and
- 2 City Policies - Policies that are developed for administrative and operational imperatives and have an internal focus.

Council Policies, according to the new Framework, will be developed by the Policy Committee and be subject to community consultation as determined by the Committee. City Policies are to be drafted by City officers and referred to Council for review and endorsement, and referral for public advertising where required or through a decision of Council.

Following the endorsement of the Policy Framework a review has been undertaken of the current Policy Manual to separate Council and City Policies to align with the new Policy Governance Framework prior to Council Policies being referred to the Policy Committee, and a further review has been undertaken of City Policies to ensure:

- They accurately reflect the policy positions of Council
- They are presented in a standardised format, and
- That procedural information has been removed from the Policy Statements.

This report provides recommended revisions to a number of City Policies for consideration of the Council, and a list of Council Policies for referral to the Policy Committee.

BACKGROUND

Council disbanded the Policy Manual Review Committee and established a Policy Committee at the meeting of 26 April 2005 (*refer CJO64 – 04/05*). Council endorsed the following terms of reference for the Policy Committee:

- (a) *To make recommendations to Council on the development and review of Strategic (Council) policies to identify the direction of the Council;*
- (b) *To Initiate and formulate strategic (Council) policies;*
- (c) *To devise and oversee the method of development (level and manner of community consultation) for the development of strategic (Council) policies;*
- (d) *To review the Council Policy Governance Framework in order to ensure compliance with provisions of the Local Government Act 1995.*

The report to the Council Meeting of 26 April 2005 recommended a new framework for the development and review of policies at the City of Joondalup consisting of two distinct sets of policies:

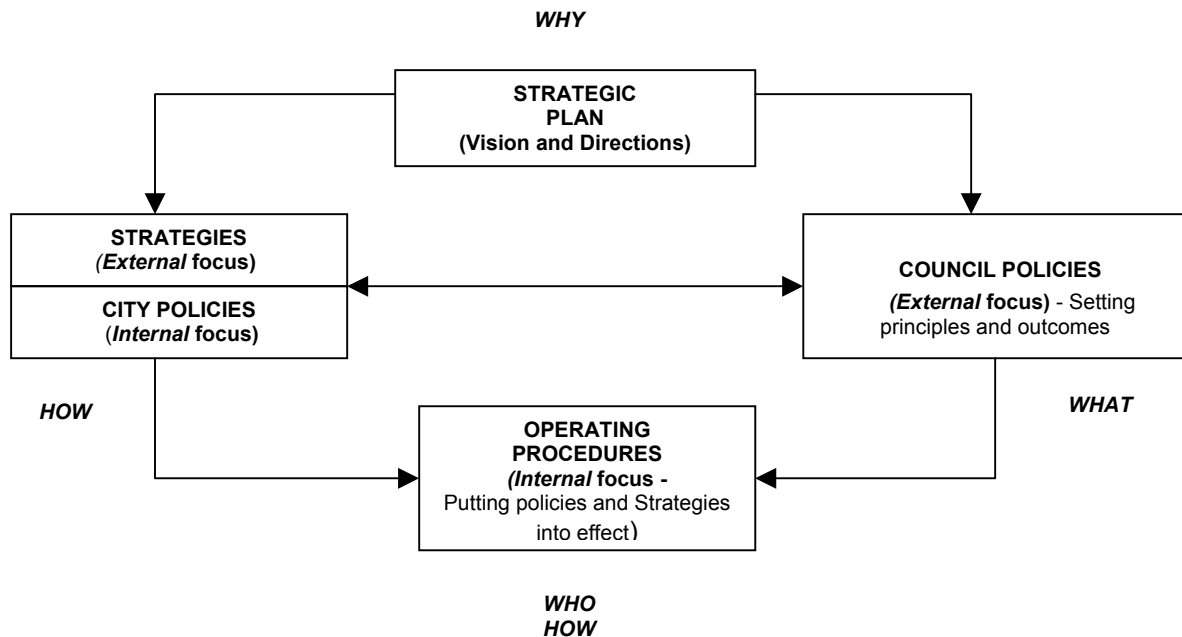
- 1 *Council Policies* - strategic policies that set governing principles and guide the direction of the organisation to align with community values and aspirations. These policies have a strategic external focus and align with the Mission, Vision and Strategic Directions.
- 2 *City Policies* - policies that are developed for administrative and operational imperatives and have an internal focus.

The Policy Framework was endorsed by Council and in accordance with that framework, Council policies are to be developed and reviewed by the Policy Committee and may be subject to community consultation processes in recognition of the community leadership role Council has in guiding the formation and development of the City, and in representing the values and interests of the broader community.

City policies will be drafted by officers for Council consideration and these policies will still require Council endorsement however this will occur as part of the normal Council meeting cycle. Council may direct that some or all City Policies be advertised for public comment prior to endorsement. In the case of Local Planning Policies it is a statutory requirement that draft policies are to be advertised, and that public submissions are to be considered prior to adoption of the policy.

The Policy Framework also delineated operating procedures from policies. Operating procedures were defined as *administrative procedures and implementation plans giving effect to the Council Policies and Strategies determined by Council and supporting sound administration of the organisation.*

Operating procedures are to be approved by the CEO unless the CEO specifically refers them to Council.

Diagram 1. Policy Framework

In order to progress the Policy Framework and to facilitate the work of the Policy Committee in the development and review of Council Policies a detailed review of the Policy Manual has been undertaken with a view to ensuring that the current policies:

- Have been accurately categorised as 'Council' and 'City' policies and therefore support the Policy Governance Framework endorsed by Council;
- Accurately reflect the policy positions of Council;
- Are policy statements and do not include procedures;
- Are presented in plain English; and
- Fulfill Council's statutory responsibilities.

DETAILS

Issues and options considered:

The review excluded some portions of the Policy Manual, specifically:

- Sections 3.1 and 3.2 – matters relating to development, many of which are subsidiary policies developed under the District Planning Scheme (DPS2) and will require a specific review process; (These local planning policies are currently being reviewed as a separate exercise in accordance with the provisions of the DPS2 and a separate report/s will be provided to Council following that review).
- Council policies (other than their categorisation) as these policies are to be referred to the Policy Committee for review and development – gaps in Council Policies have, however, been identified for referral through to the Policy Committee for consideration and further development.

Statutory Policies

There are a number of policies that are statutory requirements. In these instances, there has been some amalgamation of policies (eg – those relating to Human Resource management) and in others a return to the broader policy position.

Policies and Local Laws:

There were a number of instances identified where a slight amendment to the local law (due for review) could address the issue that the policy sought to address. An example of this is Policy 5.5.1 – Burning of Garden Refuse and Cleared Vegetation. There were other instances where the local law addressed the issue. (eg – 5.3.2 Sand drift control)

Duplication:

There were some issues identified where legislation, regulations or local laws already address the matter. For example, 5.3.3 - vehicle crossing – is covered in the Uniform Local Government Provisions;

Matters which cross Functional Areas

There are a number of areas where policies have been combined where they relate to specific resources of the City. For example matters relating to parks and reserves have been incorporated into a single policy.

Policies and Delegations

Where there is a simple delegation of authority (eg – authority to waive fees) it is questionable that a separate policy needs to be determined. If the policy is limiting the delegation then this should be contained within the delegation and as such, is simply duplicated. In some instances, the policy has been recommended for deletion, as its only purpose is to then provide a basis for a delegation of power. Given that the delegation of power is reviewed annually, this seems unnecessary.

A summary of the recommended revisions (including amalgamations and deletions) to the City Policies is shown as Attachment 1.

All policies (Council and City) have been aligned to the key focus areas contained within the Strategic Plan. Once a review has been completed of all associated management procedures and delegations, these will be cross-referenced to each policy for ease of access.

Link to Strategic Plan:

This item has a general connection to the Strategic Plan.

Legislation – Statutory Provisions:

The Local Government Act 1995 is the legislation under which Local Government bodies are constituted and contains detailed reporting and operational requirements which a Council has a duty to comply with. The Act establishes the framework for the system of local government in Western Australia.

Section 1.3 (2) states that the Act is intended to result in:

- (a) Better decision-making by local government
- (b) Greater community participation in the decisions and affairs of local governments
- (c) Greater accountability of local governments to their communities; and
- (d) More efficient and effective local government.

The degree to which this is achieved is dependant on the processes and practices for planning, and policy development.

Part 3 of the Act outlines the functions of local governments:

Section 3.1 - A *general function* to provide for good government

Section 3.4 - A *legislative function* to make local laws, and

Section 3.8 - An *executive function* to provide services and facilities.

The separation of powers and duties in relation to the Council and the Chief Executive Officers as detailed in the Local Government Act 1995 are:

Under the Act (Section 2.7) the role of the Council is to:

- (a) Direct and controls the local government's affairs;
- (b) Be responsible for the performance of the local government's functions;
- (c) Oversee the allocation of the local government's finances and resources; and
- (d) Determine the local governments policies.

Risk Management considerations:

Policy development is central to good governance. Good governance is about formalising, and making clear and consistent, the decision-making processes in the organisation. The framework proposed in this report will help facilitate decision-making and appropriate delegation of accountability and responsibility within and outside the organisation and ensure that the varying needs of the stakeholders are appropriately balanced; that decisions are made in a rational, informed and transparent fashion; and that those decisions contribute to the overall efficiency and effectiveness of the organisation.

Local Government operates under State legislation and Council is responsible for controlling the functions of the local government through its decision-making and policy development role.

The distinction between policy matters and procedural matters is central to the role of Council and the role of the CEO, and to the administration of local government. The new Policy Framework will assist Council to concentrate on policy matters rather than procedural issues, and for the CEO to provide advice to the Council and implement the decisions of Council.

Policy implications:

The report recommends changes to a number of policies of Council.

Regional Significance:

Not Applicable

Sustainability implications:

The review and development of policies will align with the strategic directions established by Council and outlined in the Strategic Plan 2003 – 2008. Council's vision is to be '*A sustainable City and community that are recognised as innovative, unique and diverse*'. The Strategic Plan determines the long-term orientation of the Council and was developed in consultation with the community. The Plan was designed to reflect the themes of economic, social and environmental sustainability as well as good governance.

The policies of Council (Council and City policies) support the achievement of the Strategic Plan and state Council's position on social, environmental, and economic matters as well as governance issues.

The policy positions of Council attempt to balance the social, environmental and economic interests of the City, and the review of policies of the Council will ensure that social, economic, and environmental changes are reflected in policy statements and objectives.

Consultation:

One of the most important roles Council has is to participate in making policy and decisions on behalf of the community. An essential part of policy making is identifying community needs, setting objectives to meet those needs, establishing priorities between competing demands and allocating resources.

The City of Joondalup values effective consultation in developing a positive relationship with its community; recognising that community input can assist in policy and decision making processes. Council also recognises the right of the community to be informed and influence decisions that affect their lives. As a result of this commitment Council has endorsed a Policy Framework that supports Council (major) policies being devised in consultation with the community.

The framework is intended to ensure that Council is in touch with the community and that the major policy decisions accurately reflect the views and aspirations of the community.

COMMENT

Setting and reviewing policies is a prime responsibility of the Council. The Policy Governance Framework will provide Council with a structure to effectively lead the development and review of Council and City Policies.

A number of the 'City' Policies contained in the current Policy Manual were deemed to be procedures or guidelines and, as such, the domain of the CEO in his role of managing the day-to-day operations of the organisation.

The review of the 'City' Policies has resulted in a number of changes to 'City' Policies in order to remove the procedural elements and to standardise the policy format.

The review has also provided a clear delineation between Council and City Policies in accordance with the Policy Framework endorsed by Council and the first meeting of the Policy Committee will review the Council Policies and make recommendations for the review and further development of Council Policies.

The revised 'City' Policies and the removal of procedures from the polices will enable the Council to fulfil its role as set out in the Local Government Act 1995, those being; directing affairs, taking responsibility for the performance of the local government's functions, overseeing the allocation of finances and resources, deciding on matters of policy, ensuring that services and facilities are integrated with and do not unnecessarily duplicate other public services, and monitoring the performance through the CEO to ensure efficiency and effectiveness in service provision.

During the review of the current Policy Manual a number of gaps were identified in City Policies, namely public access to documents, debt financing and foreshore height. These policies are currently being drafted and a separate report will be provided to Council.

The following current Council policies have been nominated as 'Council' Policies for referral to the Policy Committee for review and further development:

- Environmental Sustainability
- Leisure
- Child Care Centres
- Height and Scale of Buildings within Residential Areas
- Centres Strategy
- Setting Fees and Charges
- Code of Conduct
- Public Participation

The following policy areas have been nominated as 'gaps' in Council policies for consideration and development by the Policy Committee:

- Financial Planning – Strategic Matters
- Economic Development
- Service Delivery (range/scope/role)
- Community Development; (include leisure, cultural development etc)

Council resolved to refer the resolution of the Sustainability Advisory Committee dated 14 October 2004 concerning development of a statement of principles that commits all policies of Council to sustainability objectives to the newly formed Policy Committee, and it is recommended that this item be considered by the initial meeting of the Committee.

ATTACHMENTS

- | | |
|--------------|--|
| Attachment 1 | Summary document outlining Council and City Policies and summarising revisions to City Policies. |
| Attachment 2 | Revised Policy Manual |
| Attachment 3 | Index of Existing Policy Manual |

VOTING REQUIREMENTS

Absolute Majority

Call for Support of one-third of members of the Council

In accordance with the Local Government Act 1995, under regulations prescribed to deal with Section 5.25(e), the Chairman called for support from one-third of the members of the Council. Support for this Item was given by all Commissioners.

MOVED Cmr Smith SECONDED Cmr Fox that Council:

- 1 REVOKES the existing Policy Manual as outlined on Attachment 3 to Report CJ206-10/05 and as LAID ON THE TABLE at the Council meeting held on 11 October 2005 and appended hereto in the Official Minute Book – Appendix 17 refers;**
- 2 ADOPTS the revised Policy Manual shown as Attachment 2 to Report CJ206-10/05;**
- 3 NOTES that the following Council Policies are as previously adopted by Council and refers them to the Policy Committee for review and further development:**
 - 1-1 Leisure**
 - 1-2 Public Participation**
 - 2-1 Environmental Sustainability**
 - 3-1 Child Care Centres**
 - 3-2 Height and Scale of Buildings within Residential Areas**
 - 3-3 Centres Strategy**
 - 4-1 Code of Conduct**
 - 4-2 Setting Fees and Charges**
- 4 NOTES that all local planning policies are currently under review in accordance with the provisions of the District Planning Scheme No 2 and will be the subject of further reports to Council;**
- 5 CONVENES a meeting of the Policy Committee;**
- 6 REFERS the resolution of the Sustainability Advisory Committee dated 14 October 2005, concerning the development of a statement of principles that commits all policies of Council to sustainability objectives, to the Policy Committee.**

Discussion ensued.

The Motion was Put and

**CARRIED BY AN
ABSOLUTE MAJORITY (5/0)**

Appendices 3 and 17 refer.

To access this attachment on electronic document, click here: [Attach3brf041005.pdf](#)

[Attach17min111005.pdf](#)

CJ207 - 10/05 PROTOCOLS FOR PUBLIC QUESTION AND STATEMENT TIME – [01122, 12950, 02154, 08122]

WARD: All

RESPONSIBLE DIRECTOR: Mr Garry Hunt
Chief Executive Officer

CJ051004_BRF.DOC:ITEM 4

PURPOSE

For the Council to consider the outcomes of the public consultation period and to agree to protocols for public question and statement time.

EXECUTIVE SUMMARY

The Council at its ordinary meeting held on 14 December 2004 agreed to:

- *NOTE the request from the electors to include a public statement time at Council meetings and Briefing sessions;*
- *AGREE to give consideration to the inclusion of a public statement time when reviewing the guidelines relating to public question time;*
- *AGREE to the community being involved in developing protocols for public question time and statement time within the constraints imposed by the Local Government Act 1995 and the need for Council meetings to progress the ordinary business of the Council.*

The Council further agreed at its ordinary meeting held on 26 April 2005:

- 1 *Council AGREES to invite all members of the following committees to be part of developing the protocols for public question time and statement time:*
 - *Conservation Advisory Committee*
 - *Sustainability Advisory Committee*
 - *Senior Interests Advisory Committee*
 - *Youth Advisory Council*
 - *CBD Enhancement Committee*
- 2 *A report on the findings of the workshops be PRESENTED to Council in June 2005.*

A workshop was held where all members of the nominated committees were invited. A total of 17 committee members attended and took part in the workshop by working in groups and responding to questions pertaining to protocols for public question and statement time.

The feedback from the workshop was collated and analysed. The following is a summary of the findings:

- There is support for a time-slot for a statement time;
- By allowing public statements, the City will be better informed about matters of public interest and may receive information that better informs the decision-making process of Council;
- A timeframe of between 2 and 4 minutes should be permitted per statement with the Chair making decisions dependent on the circumstances;
- Council should respond formally to statements, if only to acknowledge and thank people making statements and records should be kept of both statement and response;
- There was a mixed response as to whether a statement should precede a question that is asked during public question time;
- Questions at Public Question Time should be limited, with support for a maximum of 2 minutes per person. Ultimately, the Chair can make these decisions dependent on circumstances;
- Most participants supported the notion that written questions should be submitted 5 working days prior to the meeting of Council where a response is requested;

Following the analysis, a proposed set of guidelines was prepared and submitted to the Council for its consideration. At the Council meeting held on 19 July 2005, Council resolved as follows:

“That Council:

- 1 *AGREES to seek public comment on the draft protocols relating to public question and statement time contained in Option 1 for a period of thirty (30) days subject to:*
 - (a) *the deletion of the reference to a response being given to statements;*
 - (b) *deletion of the requirement in Item 2 – Procedure for Public Statement Time - that statements be provided in a written form and handed to an employee;*
 - (c) *deletion of the words “will be required ...” in Item 2 – Procedure for Public Question Time” and their replacement with “will be encouraged ...”;*
- 2 *REQUESTS a further report on the protocols relating to public question and statement time following the conclusion of the public comment period as detailed in (1) above.”*

Submissions were invited by public advertisement on 9 August 2005 in the local newspaper. Copies of the draft protocols were also available on the City’s website and through its customer service centres and libraries. Public submission closed on 12 September 2005 with four (4) submissions being received.

This report recommends that Council:

- 1 *BY AN ABSOLUTE MAJORITY REVOKES Part 2 its decision C180-12/02 of 17 December 2002 as detailed on Attachment 4 to this Report and REPLACES it with the revised protocols for public question time and public statement time as detailed on Attachment 1 to Report CJ207-10/05;*
- 2 *in accordance with Clause 3.2 of the Standing Orders Local Law 1997, AMENDS the order of business for all its ordinary meetings of Council that are open to the public by placing “Public Statement Time” immediate after “Public Question Time”;*
- 3 *INCLUDES a period of time to allow members of the public to make a statement as part of its Briefing Sessions that are open to the public.*

BACKGROUND

Recommendation 1(b) of the Governance Review Panel – Final Report stated:

“1(b) Members of the public who have a specific interest in a matter may be given an opportunity to address the Council if they submit a written request to the CEO at least 24 hours before the session.”

Subsequent to this, at the Annual General Meeting of Electors held on 22 November 2004, the following motion in relation to the introduction of public statement time was moved.

“That a statement time be introduced next year by the Commissioners at Briefing Sessions and Council meetings to enable ratepayers the opportunity to voice a concern without the need to put it into question form, or arrange for a deputation, or raise a petition or communicate with the media. This motion endorses the officer’s comment for recommendation 1(b) in the Governance Review and not the Governance Review Panel’s Recommendation which is too restrictive.”

In response to the above motion, the Council at its meeting held on 14 December 2004 resolved to:

- *NOTE the request from the electors to include a public statement time at Council meetings and Briefing sessions;*
- *AGREE to give consideration to the inclusion of a public statement time when reviewing the guidelines relating to public question time;*
- *AGREE to the community being involved in developing protocols for public question time and statement time within the constraints imposed by the Local Government Act 1995 and the need for Council meetings to progress the ordinary business of the Council.*

Further to that resolution, the Council at its meeting held on 26 April 2005 resolved that:

- *Council AGREES to invite all members of the following committees to be part of developing the protocols for public question time and statement time:*
 - *Conservation Advisory Committee*
 - *Sustainability Advisory Committee*
 - *Senior Interests Advisory Committee*
 - *Youth Advisory Council*
 - *CBD Enhancement Committee*

- *a report on the findings of the workshops be PRESENTED to Council in June 2005.*

All members of the nominated committees were forwarded details in early May 2005 of a proposed workshop to be held on 23 May 2005 in an effort to commence the consultation process in developing such protocols for public question and statement time.

A total of 45 committee members were invited to attend the scheduled workshop that was held on Monday 23 May 2005. Of those invited, 17 people attended the workshop with representation of each of the committees being in attendance.

An advertisement was placed in the local newspaper on 9 August 2005 inviting members of the public to make a submission relating to the protocols. Submissions closed on 12 September 2005, with four submissions being received.

DETAILS

Following the workshop, the responses of each table were collated and were analysed accordingly in order to present a draft set of protocols to the Council for consideration. A copy of the report that summarises the findings is attached.

In summary the participants of the workshop presented the following outcomes:

- There is support for a time-slot for a statement time;
- By allowing public statements, the City will be better informed about matters of public interest and may receive information that better informs the decision-making process of Council;
- A timeframe of between 2 and 4 minutes should be permitted per statement with the Chair making decisions dependent on the circumstances;
- Council should respond formally to statements, if only to acknowledge and thank people making statements and records should be kept of both statement and response;
- There was a mixed response to whether statements should precede questions;
- Questions at Public Question Time should be limited, with support for a maximum of 2 minutes. Ultimately, the Chair can make these decisions dependent on circumstances;
- Most participants supported the notion that written questions should be submitted 5 working days prior to the meeting of Council where a response is requested.

As a result of the outcomes, draft protocols detailing two options were developed to govern the operations of a public statement and question time at Council meetings and Briefing Sessions. These were presented to the Council at its meeting held on 19 July 2005. The Council at that meeting modified Option 1 and sought public comment. A copy of the revised Option 1 is attached.

Issues and options considered:

Following the close of the public consultation period, four (4) submissions were received and are summarised as follows:

Mr A G Bryant	Comment:
<ul style="list-style-type: none"> ➤ Disagrees with the limitation of two (2) minutes per person for both a question and a statement 	<p>This proposal was submitted as part of Option 2 presented to the Council but was not pursued as the preferred option presented for public consultation</p>
<ul style="list-style-type: none"> ➤ Agrees that there should be separate allocations of time for each question and statement with an allowance of two (2) minutes per person for questions and a further two (2) minutes per statement. 	<p>The option presented for public consultation provided for separate time allocations for the asking of public questions and statements. A limit of two (2) minutes per member of the public to ask a maximum of two (2) questions. The option also allows members of the public to make a statement to a maximum of two (2) minutes.</p>
Mr M Norman Chairman Joondalup Community Coast Care Forum	Comment:
<ul style="list-style-type: none"> ➤ Strongly supportive of the introduction of a public statement time and public question time. 	<p>The Local Government Act 1995 requires the City of Joondalup to allow for a period of time to be allocated as part of its Council meeting for members of the public to ask questions. The Council has agreed to consult with the community on the possibility of the introduction of a public statement time.</p>
<ul style="list-style-type: none"> ➤ The allocation of the period of time should be limited to a maximum time of three minutes per member of the public in which they can make a statement, ask a question or both. There should be no limit on the number of questions asked or statements made; the maximum time allocated for public question/statements during the meeting should be a maximum of 30 minutes. 	<p>Option 2 as presented to the Council following the workshop, canvassed this option. The Council at its meeting on 19 July 2005, agreed to consult with the wider community on the option that separated the period of time allocated for public questions and statements.</p>

Mr S Kobelke	Comment:
<ul style="list-style-type: none"> ➤ Supports the introduction of a public statement time. 	<p>The Local Government Act 1995 requires the City of Joondalup to allow for a period of time to be allocated as part of its Council meeting for members of the public to ask questions. The Council has agreed to consult with the community on the possibility of the introduction of a public statement time.</p>
<ul style="list-style-type: none"> ➤ Suggests that the period of public question time be set at 15 minutes with two extensions of 15 minutes each being allowed, with public question time not exceeding 45 minutes in total. 	<p>The findings of the workshop on public question time revealed that the time allocated should be between 30-40 minutes. The suggested period of time for public questions set at 30 minutes in the preferred option was based on the average number of people (during the period December 2004 to June 2005) asking two questions each at a maximum of 2 minutes per person, which equalled 26.5 minutes.</p>
<ul style="list-style-type: none"> ➤ Public question time for briefing sessions should be a maximum of 30 minutes. 	<p>The provision of a period for public to ask questions at briefing sessions is not a requirement of the Local Government Act, and is something the City agreed to introduce some time ago, which exceeds its statutory obligations.</p> <p>For the ease of understanding of the procedures for public question time and statement time by the elected members, employees and members of the public, consistency for the period of time at both Council meetings and briefing sessions is preferred.</p>
<ul style="list-style-type: none"> ➤ The concept of reading the two questions in total is sometimes difficult as a person may only ask their second question based on the answer to the first. The Mayor or Presiding Member should be able to have some discretion on the matter. 	<p>This procedure was included based on:</p> <ul style="list-style-type: none"> ➤ The ability to account for the period of time per member of the public; and ➤ To allow the questions to be asked and understood by the relevant person who is required to respond. <p>The opportunity always exists for member of the public to ask questions in writing prior to the Council meeting and, where practicable, for responses to be available at the meeting. Members of the public can then use their two (2) questions at the Council meeting to ask follow up questions to the response already provided.</p>

Mr S Magyar	Comment:
<ul style="list-style-type: none"> ➤ The introduction of public statement time is supported 	<p>The Local Government Act 1995 requires the City of Joondalup to allow for a period of time to be allocated as part of its Council meeting for members of the public to ask questions. The Council has agreed to consult with the community on the possibility of the introduction of a public statement time.</p>
<ul style="list-style-type: none"> ➤ Public question time should go after public statement time. Public statement time will then need to be strongly managed to ensure good time management. 	<p>The Local Government Act 1995 requires that public question time must precede any other matter that requires a decision of the Council. Therefore public question time must be the first matter listed on the Council agenda. The proposed Standing Orders Local Law details this order of business.</p>
<ul style="list-style-type: none"> ➤ Supporting documentation detailing heads of power and other background information, such as the relationship to the Council's Strategic Plan, should have been made available on the Council's website to enable the public to make a more informed submission. 	<p>It is unclear on the point being made. The Strategic Plan is available on the City's website.</p>
<ul style="list-style-type: none"> ➤ The draft procedures are too wordy and are less likely to be read and should be rewritten to create a friendlier relationship between Council and the public. The document needs to be redrafted to rebuild trust and respect between the public and the Council. 	<p>The draft procedures have been drafted specifically to ensure clarity and consistency in dealing with public question and statement time.</p> <p>As a result of this submission, a few modifications have been made to the wording of the protocols.</p>
<ul style="list-style-type: none"> ➤ The draft procedures document is all about controlling the public and little to do with the Council, its administration and the public working in partnership for the common good. 	<p>The procedures have been drafted to set clear protocols on the governing of public question and statement time. It is agreed that the protocols set procedures in place of what is expected by members of the public during these periods. It is important to note that public question and statement time is only to be used by members of the public and not elected members or employees.</p> <p>The Standing Orders Local Law provides for the rules to govern elected members and employees during Council and Committee meetings.</p>

<p>➤ The draft Procedures Document could further enhance opportunities for Council to exceed its requirements under the Local Government Act 1995 and associated Regulations to increase public participation and accountability. More could be done in this regard.</p>	<p>The Local Government (Administration) Regulations 1996 stipulates the period of time required for public question time at Council or Committee meetings (where the Council has delegated powers).</p> <p>The City of Joondalup has public question time at Briefing Sessions as well as Council meetings for periods of time that exceed the requirements of the legislation. The Council is also considering the introduction of public statement time at these two forums, which also exceeds the legislative requirements.</p>
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A copy of Mr Magyar's redrafted protocols is attached.

Link to Strategic Plan:

Outcome – The City of Joondalup is an interactive community

4.3 To ensure the City responds to and communicates with the community

4.3.3 Provide fair and transparent decision-making processes.

Legislation – Statutory Provisions:

The Local Government Act 1995 and associated Regulations require that a period of time be allocated at the commencement of every Council meeting for the asking of and responding to questions asked by members of the public. The rules associated with the conduct of public question time are detailed within the legislation; however, public statement time is not a statutory requirement.

Section 5.25 of the Local Government Act 1995 states:

- 1 *Time is to be allocated for questions to be raised by members of the public and responded to at —*
 - (a) *every ordinary meeting of a council; and*
 - (b) *such other meetings of councils or committees as may be prescribed.*
- 2 *Procedures and the minimum time to be allocated for the asking of and responding to questions raised by members of the public at council or committee meetings are to be in accordance with regulations.*

The Local Government (Administration) Regulations 1996 state:

Regulation 5 - Question time for the public at certain meetings — s. 5.24(1)(b)

For the purposes of section 5.24(1)(b), the meetings at which time is to be allocated for questions to be raised by members of the public and responded to are —

- (a) every special meeting of a council;
- (b) every meeting of a committee to which the local government has delegated a power or duty.

Regulation 6 - Minimum question time for the public — s. 5.24(2)

- 1 The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes.
- 2 Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in subregulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.

Regulation 7 - Procedures for question time for the public — s. 5.24(2)

- 1 Procedures for the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) are to be determined —
 - (a) by the person presiding at the meeting; or
 - (b) in the case where the majority of members of the council or committee present at the meeting disagree with the person presiding, by the majority of those members, having regard to the requirements of subregulations (2), (3) and (5).
- 2 The time allocated to the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) is to precede the discussion of any matter that requires a decision to be made by the council or the committee, as the case may be.
- 3 Each member of the public who wishes to ask a question at a meeting referred to in regulation 6(1) is to be given an equal and fair opportunity to ask the question and receive a response.
- 4 Nothing in subregulation (3) requires —
 - (a) a council to answer a question that does not relate to a matter affecting the local government;
 - (b) a Council at a special meeting to answer a question that does not relate to the purpose of the meeting; or
 - (c) a committee to answer a question that does not relate to a function of the committee.
- 5 If, during the time allocated for questions to be raised by members of the public and responded to, a question relating to a matter in which a relevant person has an interest, as referred to in section 5.60, is directed to the relevant person, the relevant person is to —
 - (a) declare that he or she has an interest in the matter; and
 - (b) allow another person to respond to the question.

Risk Management considerations:

The risk to the Council is that failure to properly consider the findings of the workshops and wider public consultation process may dilute the public participation process.

Financial/Budget Implications:

Not Applicable.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

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

Consultation:

The arranged workshop held on 23 May 2005 was Phase I of the consultation process in developing the protocols relating to public question and statement time. Wider public consultation on the option was Phase 2.

COMMENT

The process followed in preparing the draft set of protocols for public question and statement time has proven beneficial in obtaining the feedback from members of the public in determining reasonable guidelines for the operation of the time periods.

Specific comments relating to the individual submissions received have been included in this report.

Throughout the public consultation process there has been strong support for the introduction of a public statement time at both Council meetings and Briefing sessions.

The primary purpose of a meeting of the Council is to allow the Council to make informed decisions in the best interests of the City. A component of the meeting is to allow members of the public to ask questions.

The draft set of protocols generally encapsulates the findings of the workshops and the wider public consultation process. The proposed protocols establish clear and concise guidelines to enable public question and statement time to be effectively governed. It is therefore recommended that the draft set of protocols for public question and statement time as attached be approved.

The draft Standing Orders Local Law 2005 is currently advertised for public comment and submissions are due to close on 21 October 2005. The draft Standing Orders Local law 2005 allows for a public statement time.

If the Council desires to introduce a period of time as part of the Council meetings to allow members of the public to ask statements, prior to the introduction of the Standing Orders Local Law 2005, it will be necessary to amend its order of business in accordance with Clause 3.2 of the Standing Orders Local Law 1997. Currently the briefing sessions that are open to the public do not include a public statement time. If the Council desires to include a public statement time at briefing sessions, it can do so merely by resolution.

ATTACHMENTS

Attachment 1	Proposed protocols for public question time and public statement time
Attachment 2	Report on public question/statement time workshop – 24 May 2005.
Attachment 3	Protocols drafted by Mr S Magyar.
Attachment 4	Council's decision C180-12/02 of 17 December 2002

VOTING REQUIREMENT

Absolute majority

Call for Support of one-third of members of the Council

In accordance with the Local Government Act 1995, under regulations prescribed to deal with Section 5.25(e), the Chairman called for support from one-third of the members of the Council. Support for this Item was given by all Commissioners.

MOVED Cmr Anderson SECONDED Cmr Smith that Council:

- 1 REVOKES Part 2 its decision C180-12/02 of 17 December 2002 as detailed on Attachment 4 to Report CJ207-10/05 and REPLACES it with the revised protocols for public question time and public statement time as detailed on Attachment 1 to Report CJ207-10/05;**
- 2 in accordance with Clause 3.2 of the Standing Orders Local Law 1997, AMENDS the order of business for all its ordinary meetings of Council that are open to the public by placing “Public Statement Time” immediate after “Public Question Time”;**
- 3 INCLUDES a period of time to allow members of the public to make a statement as part of its Briefing Sessions that are open to the public.**

Cmr Anderson spoke to the motion.

AMENDMENT MOVED Cmr Clough SECONDED Cmr Smith that the following words be added to the end of Point 1:

“... subject to an amendment to the total question time being thirty-five (35) minutes.”

Cmr Clough spoke to the amendment.

The Amendment was Put and

CARRIED (5/0)

The Original Motion, as amended, being:

That Council:

- 1 **REVOKES** Part 2 its decision C180-12/02 of 17 December 2002 as detailed on Attachment 4 to Report CJ207-10/05 and **REPLACES** it with the revised protocols for public question time and public statement time as detailed on Attachment 1 to Report CJ207-10/05, subject to an amendment to the total question time being thirty-five (35) minutes;
- 2 in accordance with Clause 3.2 of the Standing Orders Local Law 1997, **AMENDS** the order of business for all its ordinary meetings of Council that are open to the public by placing “Public Statement Time” immediate after “Public Question Time”;
- 3 **INCLUDES** a period of time to allow members of the public to make a statement as part of its Briefing Sessions that are open to the public.

Was Put and

**CARRIED BY AN
ABSOLUTE MAJORITY (5/0)**

The Chairman commented on the proposed introduction of an appropriate timing control mechanism to assist the Chairman and members of the public during future public question and statement times.

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4brf041005.pdf](#)

CJ208 - 10/05 SCHEDULE OF DOCUMENTS EXECUTED BY MEANS OF AFFIXING THE COMMON SEAL - [15876]

WARD: All

**RESPONSIBLE
DIRECTOR:** Mr Garry Hunt
Chief Executive Officer

CJ051004_BRF.DOC:ITEM 5

PURPOSE

To provide a listing of those documents executed by means of affixing the Common Seal for noting by the Council for the period 26 July 2005 to 20 September 2005.

EXECUTIVE SUMMARY

The City of Joondalup enters various agreements by affixing its Common Seal. The Local Government Act 1995 states that the City is a body corporate with perpetual succession and a common seal. Those documents that are executed by affixing the Common Seal are reported to the Council for information on a regular basis.

BACKGROUND

Not Applicable.

DETAILS

Document: Contract
Parties: City of Joondalup and Thyssenterupp Elevator
Description: Execution of Contract No 038-04/05 – Civic Chambers, Library and Administration lift services, upgrade and maintenance
Date: 26.07.05

Document: Caveat
Parties: City of Joondalup and W P and M A Notman
Description: Withdrawal of and execution of Caveat – Lot 2 (7a) Reflection Close, Edgewater
Date: 26.07.05

Document: Deed of Agreement
Parties: City of Joondalup and Platinum No 2
Description: Execution of Deed of Agreement to satisfy previous subdivision conditions – No 18 Dugdale Street, Warwick
Date: 09.08.05

Document: Amendment
Parties: City of Joondalup and Western Australian Planning Commission (WAPC) – signing only
Description: DPS Amendment No 30 – rezoning of 157 Kinross Drive, Kinross
Date: 09.08.05

Document: Grant of Easement Deed
Parties: City of Joondalup and Halusek and Murphy
Description: Grant of Easement, 17 Hammersmith Court, Joondalup
Date: 23.08.05

Document: Caveat
Parties: City of Joondalup and M J French
Description: Withdrawal of Caveat – 660 Eddystone Avenue, Beldon
Date: 23.08.05

Document: Easement
Parties: City of Joondalup and Western Power
Description: Grant of Easement – Lot 344 Grand Boulevard, Joondalup
Date: 24.08.05

Document: Deed of Agreement
Parties: City of Joondalup and Department of Public Transport
Description: Provision of commuter parking at Joondalup Rail Transit Station
Date: 30.08.05

Document: Section 70A
Parties: City of Joondalup and B and K Heatley
Description: Notification Ancillary Accommodation – Lot 113 (10) Skiff Way, Heathridge
Date: 30.08.05

Document: Copyright
Parties: City of Joondalup and Chris Carman
Description: Recording of historical importance
Date: 06.09.05

Document: Structure Plan
Parties: City of Joondalup and Western Australian Planning Commission (WAPC)
Description: Certification of Burns Beach Structure Plan
Date: 06.09.05

Document: Caveat
Parties: City of Joondalup and Spargo and Zencich
Description: Temporary Withdrawal of Caveat – Lot 2 (6) Aboco Close, Hillarys
Date: 20.09.05

Document: Accountability Documents
Parties: City of Joondalup
Description: Financial Counselling Service – Emergency Relief Accountability documents
Date: 20.09.05

Issues and options considered:

Not Applicable.

Link to Strategic Plan:

Some of the documents executed by affixing the common seal may have a link to the Strategic Plan on an individual basis.

Legislation – Statutory Provisions:

Sub-sections (2) and (3) of section 2.5 of the Local Government Act 1995 states:

- (2) The local government is a body corporate with perpetual succession and a common seal.
- (3) The local government has the legal capacity of a natural person.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

Some of the documents executed by the City may have financial and budget implications.

Policy implications:

Policy 2.3.3 titled Use of Common Seal and the Signatories for Contract Execution has the following objective:

To provide a policy for the use of the common seal and signatories for the execution of agreements.

Regional Significance:

Not Applicable.

Sustainability implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

The various documents have been executed by affixing the Common Seal of the City of Joondalup and are submitted to the Council for information.

ATTACHMENTS

Nil

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Clough **SECONDED** Cmr Fox that the Schedule of Documents executed by means of affixing the Common Seal for the period 26 July 2005 to 20 September 2005 be **NOTED**.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

**CJ209 - 10/05 WARRANT OF PAYMENTS 31 AUGUST 2005 –
[09882]**

WARD: All

RESPONSIBLE DIRECTOR: Mr Peter Schneider
Corporate Services & Resource Management

CJ051004_BRF.DOC:ITEM 6

PURPOSE

The Warrant of Payments for the month ended 31 August 2005 is submitted to Council for approval.

EXECUTIVE SUMMARY

This report details the payments drawn on the funds during the month of August 2005, totalling \$35,928,370.52 and seeks approval by Council for the payments listed.

It is recommended that Council:

- 1 *APPROVES for payment the vouchers, as presented in the Warrant of Payments to 31 August 2005 certified by the Chairman of Commissioners and Director Corporate Services & Resource Management and totalling \$35,928,370.52;*
- 2 *APPROVES the removal of outstanding accounts information from future Warrant of Payments reports in accordance with clause 8 of the Local Government (Financial Management) Amendment Regulations (No 2) 2005.*

BACKGROUND

Council has delegated to the Chief Executive Officer the exercise of its power to make payments from the City's Municipal and Trust funds. In accordance with Local Government (Financial Management) Regulations 1996 a list of accounts paid by the Chief Executive Officer is to be provided to Council, where such delegation is made.

DETAILS

The table below details the payments drawn on the funds during the month of August 2005 and seeks approval by Council for the payments listed.

FUNDS	DETAILS	AMOUNT
Municipal Account	Cheques 72326 - 72683 EFT 3586 - 3843 Vouchers 83A – 92A	\$35,928,370.52
Trust Account		Nil
		\$35,928,370.52

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 August 2005 was \$1,582,591.05.

It is to be noted that clause 8 of the Local Government (Financial Management) Amendment Regulations (No 2) 2005 has repealed the former Regulation 13 (4), which required the total of all other outstanding accounts that remain unpaid to be calculated and reported to Council. The removal of outstanding accounts information from future Warrant of Payments reports is therefore recommended.

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 \$35,928,370.52 which is to be submitted to Council on 11 October 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 \$35,928,370.52 was submitted to Council on 11 October 2005

.....
JOHN PATERSON
Chairman of Commissioners

Issues and Options Considered:

Not Applicable

Link to Strategic Plan:

Objective 4.1.1 – Ensure financial viability and alignment to plan.

Legislation – Statutory Provisions:

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.

Risk Management Considerations:

In accordance with section 6.8 of the Local Government Act 1995, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by an absolute majority of Council.

Financial/Budget Implications:

All expenditure from the municipal fund was included in the 2005/06 Annual Budget, or approved in advance by Council.

Policy Implications:

All expenditure included in the warrant of payments is drawn from the City's accounting records, which are maintained in accordance with Policy 2.4.1.

Sustainability Implications:

Expenditure has been incurred in accordance with budget parameters, which have been structured on financial viability and sustainability principles.

Consultation:

In accordance with Section 6.2 of the Local Government Act 1995, the annual budget was prepared having regard to the Strategic Financial Plan 2005/06-2008/09 which was advertised for a 30 day period with an invitation for submissions in relation to the plan.

COMMENT

All expenditure included in the warrant of payments is in accordance with the 2005/06 Annual Budget, or has been authorised in advance by Council where applicable.

The amount of outstanding accounts at any time is not material compared to the liquid fund held by the City as it represents on average between 2% to 3% of the City's cash holdings. It is not anticipated that the removal of such information will have any significant adverse impact on the quality of information provided in the warrant of payments report and is therefore recommended.

ATTACHMENTS

Attachment A Warrant of Payments for Month of August 2005
Attachment B Municipal Fund Vouchers for Month of August 2005

VOTING REQUIREMENTS

Simple majority.

MOVED Cmr Anderson **SECONDED** Cmr Clough that Council:

- 1 APPROVES** for payment the following vouchers, as presented in the Warrant of Payments to 31 August 2005 certified by the Chairman of Commissioners and Director Corporate Services & Resource Management and totalling \$35,928,370.52;

FUNDS	DETAILS	AMOUNT
Municipal Account	Cheques 72326 - 72683 EFT 3586 - 3843 Vouchers 83A – 92A	\$35,928,370.52
Trust Account		Nil
		\$35,928,370.52

- 2 APPROVES** the removal of outstanding accounts information from future Warrant of Payments reports in accordance with clause 8 of the Local Government (Financial Management) Amendment Regulations (No 2) 2005.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 5 refers

To access this attachment on electronic document, click here: [Attach5brf041005.pdf](#)

CJ210 - 10/05 WARRANT OF PAYMENTS – CREDIT CARD PAYMENTS – [09882] [18049]**WARD:** All**RESPONSIBLE DIRECTOR:** Mr Peter Schneider
Corporate Services and Resource Management

CJ051004_BRF.DOC:ITEM 7

PURPOSE

The purpose of this report is to provide Council with information on the details to be included in the Warrant of Payments in relation to credit card payments.

EXECUTIVE SUMMARY

Council has previously requested that research be undertaken and a report be submitted on the level of detail to be provided in the Warrants of Payments in relation to credit card payments.

Particulars were obtained from the City's legal representatives, auditors, the Department of Local Government and Regional Development and other local governments.

Based on the information provided it is recommended that Council:

- 1 *AGREES that the payee name be provided on the single line credit card payments included in the Warrant of Payments;*
- 2 *AMENDS the wording of the recommendation in the Warrant of Payments report to reflect the CEO's delegated power to make payments and Council's procedural role in noting the report;*
- 3 *REQUESTS that the Director of Corporate Services and Resource Management prepare a quarterly report for the Audit Committee on the corporate credit card usage of the CEO and Mayor.*

BACKGROUND

At the Council meeting held on 22 February 2005, when considering CJ009-02/05 Warrant of Payments 31 December 2004, it was resolved inter alia that Council:

- 2 *Requests the Chief Executive Officer to provide a report to Council in due course on the detail to be provided in the Warrant of Payments in relation to credit card payments, such report to outline:*
 - *the role of the Council;*
 - *processes used by other local governments;*
 - *advice from the Department of Local Government;*
 - *legal requirements;*
 - *recommendations of the City's Auditors;*
 - *any other information considered appropriate by the CEO.*

- 3 *Requests that the current procedures continue pending the submission of the report outlined in 2 above.*

Regulation 13 of the Local Government (Financial Management) regulations 1996 states:

List of Accounts:

- (1) *If the Local Government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last list was prepared –*
- (a) *the payee's name;*
 - (b) *the amount of the payment;*
 - (c) *the date of the payment; and*
 - (d) *sufficient information to identify the transaction.*
- (2) *A list of accounts for approval to be paid is to be prepared each month showing-*
- (a) *for each account which requires council authorization in that month –*
 - (i) *the payee's name;*
 - (ii) *the amount of the payment; and*
 - (iii) *sufficient information to identify the transaction; and*
 - (b) *the date of the meeting of the council to which the list is to be presented.*
- (3) *A list prepared under sub regulation (1) or (2) is to be –*
- (a) *presented to the council at the next ordinary meeting of the council after the list is prepared; and*
 - (b) *recorded in the minutes of that meeting.*

DETAILS

In accordance with Council's resolution of 22 February 2005, information has been obtained on the details to be provided in the Warrant of Payments in relation to credit cards as follows:

- (a) **City's Legal Representatives**
- (i) **Compliance – the legal opinion is that the City's single line entry for credit card payments contained in Attachment B of the Warrant of Payments is not sufficient to satisfy regulation 13(1) for two reasons.**

First, the entry does not show the payee's name. Second, in the absence of the payee's name, Attachment B (Municipal Fund Cheques & Vouchers for the relevant month) cannot satisfy the requirement of a list under regulation 13.

The lawyers suggest that, the inclusion of the payee name i.e. Westpac Bank, would be sufficient to satisfy regulation 13(1).

In the legal representatives' view it is not necessary for the single credit card payment to be itemised into the individual credit card transaction for each card holder as it would be impractical for the City to include every sub amount relating to each invoice or account in the list, nor does regulation 13(1) require it.

In the lawyers' opinion the unique number which appears under the column headed "Payment Number" of Attachment A (CEO's Delegated Payments List for the relevant month) is sufficient to identify the transaction in accordance with regulation 13(1)(d). A person could seek further details concerning the transaction utilising the unique payment number under the first column of Attachment A.

- (ii) Role of Council - the legal representatives' short answer is that the proper role of Council is to satisfy the requirements of regulation 13. If Council takes the action as recommended in (i) above then regulation 13(1) will be satisfied and Council will be compliant.

Regulation 13(2) is not relevant to the CEO's payments made under delegated authority as specified in regulation 13(1). This is because the CEO's list of delegated payments does not require the approval of Council. The delegated payments list is merely presented to Council (for information and scrutiny) and must be recorded in the minutes. The Council does not enjoy the discretion to not approve the CEO's delegated expenditure that he has already made to a payee or payees i.e. the CEO has already exercised his delegated power, therefore it is not open to Council to resolve to disallow or rescind the payments.

- (iii) Other – for the reasons outlined in (ii) above, the lawyers suggest the Officer's recommendation be amended to reflect the language of regulation 13(1) along the following lines:

"That the CEO's List of Accounts be paid under delegated power in accordance with regulation 13(1) of the Local Government (Financial Management) Regulations 1996 at Attachment A is presented to Council for noting".

The lawyers have also provided a suggestion, for some minor changes to the headings of the documents and attachments to reflect the language of regulation 13(1).

(b) City Auditors

The auditors advise that based on their understanding of regulation 13(1) (d) of the Local Government (Financial Management) Regulations 1996, and in their opinion, the information provided on the Warrant of Payments schedule is considered sufficient to enable the identification of a transaction remitted for payment.

Specifically in relation to credit card payments, by using the voucher number identified on the Warrant of Payments schedule it is possible to trace through to a journal which allocates the credit card payment, by cardholder, to the appropriate expenditure account. In addition, a file is maintained by the Finance Officer which includes the relevant credit card statements and attached supporting documentation (i.e. receipts).

The auditors were not requested to provide advice on the role of Council, as this is not within the scope of their expertise.

(c) Department of Local Government and Regional Development.

- (i) Compliance – the Department of Local Government & Regional Development (the department) is of the view that in relation to the list of “Municipal Fund Cheques & Vouchers” that identifies the payment of credit cards, the listed payment is being made direct to the organisation that issued the card not to the individual vendor. Therefore the list would comply if the name of the organisation to which the payment is made were stated i.e., Westpac Bank.
- (ii) Role of Council – the department concurs with the advice given by the legal representatives in this regard.

Additionally the department states where the credit card is being used with authority delegated under S 5.46 of the Local Government Act 1995 and in the case of the CEO, the Council has the role of deciding how the record of exercise is to be presented. Therefore it would be acceptable for the CEO’s credit card usage to be reviewed by, for instance, the Audit Committee on a periodic basis to ensure there is no breach of the procedure covering the use of credit cards.

- (iii) Other – the department advises that in its view the reference in regulation 13(1)(d) to the word “transaction” relates to the purchase of goods, not to the payment for them. Therefore to comply, there is a need to identify the goods purchased. It does accept however in some cases there are many items purchased from a supplier that are paid for by one cheque and in these cases reasonable steps could be taken to at least identify the major purchases.

(d) Other Local Governments.

- (i) Compliance – From the Warrant of Payments reports sampled for twelve metropolitan Councils, none included credit card payments in the list of payments prepared in relation to regulation 13. This could be explained by the fact that most organisations would interpret “list of accounts paid” to equate to creditor payments and therefore not include bank fees and charges etc.
- (ii) Role of Council – all Council’s sampled had delegated power to the CEO to make payments, however the wording of the officer recommendations varied widely including that Council receive, endorse, confirm and approve the list of payments.
- (iii) Other – the majority of Council’s sampled also include a brief description of the goods being purchased for each cheque or EFT raised. Of those Councils that did not include a description, the volume of transactions processed appeared to be considerably higher than those that did.

Issues and options considered:

As explored in the “Details” and “Comments” sections of this report.

Link to Strategic Plan:

The Warrant of Payments links to the Strategic Plan outcome of: “The City of Joondalup is a sustainable and accountable business” and in particular objective 4.1 which is “to manage the business in a responsible and accountable manner”.

Legislation – Statutory Provisions:

Regulation 13 of the Local Government (Financial Management) Regulations 1996 – outlined in the “Background” section of this report.

Risk Management considerations:

Council has delegated authority to the CEO to develop procedures for the authorisation, payment and approval of accounts. The City currently has in place procedures to cover the above, inclusive of Corporate Procedure 5.9 Use of Credit/Charge Cards. These procedures were reviewed following an internal directorate examination, forensic audit and internal audit, which was the subject of a separate report to the current audit committee. The procedure covers matters such as the issue and return of credit cards, lost or stolen cards, what purchases can be made by credit cards, credit card limits and approval of expenditure, documentation requirements and management review.

Financial/Budget Implications:

Not Applicable

Policy implications:

Policy 2.4.1 – Accounting, states that the CEO is responsible for the good management of Council’s finances.

Regional Significance:

Not Applicable

Sustainability implications:

By ensuring that expenditure is incurred in accordance with procedures and within budget parameters, financial viability and sustainability is maintained.

Consultation:

No community consultation was required in relation to this report, however in researching the subject matter several external sources were directly consulted i.e. lawyers, auditors and Department of Local Government and Regional Development.

COMMENT

From the research undertaken, it is evident that the City is required to include the Payee name against its monthly credit card payment to the bank in order to satisfy the requirements of regulation 13 of the Local Government (Financial Management) Regulations 1996 (the regulations). Apart from that one amendment, the City’s single line entry for credit card payments is sufficient to satisfy regulation 13.

The role of Council in the Warrant of Payments process is to receive the list of accounts paid which is purely a procedural process due to the fact that the CEO has been delegated the power to make payments from the municipal fund or trust fund in accordance with regulation 12 of the regulations. This will necessitate a slight change to the wording of the officer recommendation in the Warrant of Payments report in the future.

In addition, based on the information supplied by the department it would be prudent, from a governance perspective, for Council to request that the Director Corporate Services and Resource Management prepare a quarterly report on the usage of the CEO's credit card for review by the Audit Committee. Although not mentioned in the department's advice, it would also be considered prudent to include the Mayor's credit card usage in such a report, for similar reasons given for the CEO.

Other changes to improve the Warrant of Payments include minor modifications to the wording of attachments, which will be made as a matter of administrative procedure.

The final issue covered relates to whether a description of the goods purchased should be provided for each cheque. Both the auditors and legal representatives state that in their opinion the Warrant of Payments is compliant without this level of detail, however in the department's opinion it should be included and within the industry, many but not all Councils do provide it. Currently, the finance system cannot handle this automatically without producing the detail for each invoice as opposed to each cheque, which would significantly add to the number of pages in the agenda attachments. Larger councils with similar transaction volumes to the City do not include this information in their payments list. Presumably the reasons for this would include interpretations of the regulations similar to those of the City's auditors and legal representatives, the amount of double handling required to summarise the information and the amount of officer time involved in reviewing the descriptions to ensure they do not breach privacy and FOI requirements.

At the moment both Council members and members of the public can and do raise questions on the details of individual cheques or EFT's at Briefing Sessions and Council meetings and are provided with the relevant information.

ATTACHMENTS

Nil

VOTING REQUIREMENTS

Simple majority.

MOVED Cmr Anderson, SECONDED Cmr Fox that Council

- 1 AGREES that the payee name be provided on the single line credit card payments included in the Warrant of Payments;**
- 2 AMENDS the wording of the recommendation in the Warrant of Payments report to reflect the CEO's delegated power to make payments and Council's procedural role in noting the report;**
- 3 REQUESTS that the Director of Corporate Services and Resource Management prepare a quarterly report for the Audit Committee on the corporate credit card usage of the CEO and Mayor.**

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

CJ211 - 10/05 FINANCIAL ACTIVITY STATEMENT FORMAT – [07882]

WARD: All

RESPONSIBLE DIRECTOR: Mr Peter Schneider
Corporate Services and Resource Management

CJ051004_BRF.DOC:ITEM 8

PURPOSE

To request Council's determination of the preferred format to be adopted for future financial reports as presented under the Local Government (Financial Management) Regulations 1996

EXECUTIVE SUMMARY

Regulation 34(3) of the Local Government (Financial Management) Regulations 1996 has been amended, prescribing the format to be used in reporting financial information to Council effective from the month of July 2005.

The amended Regulation requires a Financial Activity Statement to be presented to Council monthly and gives the Council the option to have the statement prepared by nature and classification, by program or by business unit.

The July 2005 year to date financial information has been prepared in the three prescribed formats for consideration by Council and determination as to the preferred format for future reporting.

It is recommended that Council APPROVES that future financial information presented in the monthly Financial Activity Statement according to Nature and Type classification as shown in Attachment A to Report CJ211-10/05.

BACKGROUND

The Local Government (Financial Management) Amendment Regulations (No. 2) 2005 included a replacement to Regulation 34 requiring the local government to prepare each month a statement of financial activity, reporting on the sources and applications of funds for that month as set out in the Rate Setting Statement included in the annual budget.

The former Regulation 34(3) of the Local Government (Financial Management) Regulations 1996 provided that the monthly financial reports are to be prepared in such form as the local government considers to be appropriate.

The amended Regulation 34(3) of the Local Government (Financial Management) Regulations 1996 provides that a monthly financial activity statement is to be prepared as set out in the annual budget for the Rate Setting Statement.

The only option given to Council under the amended Regulation 34(3) is to determine how the financial information will be shown in the prescribed statement, either by nature and classification, by program or by business unit.

DETAILS**Link to Strategic Plan:**

Objective 4.1.1 – Ensure financial viability and alignment to plan.

Legislation – Statutory Provisions:

Section 6.4 of the Local Government Act 1995 states:

- (1) A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.

Regulation 34(3) of the Local Government (Financial Management) Regulations 1996 as amended, states:

The information in a statement of financial activity may be shown —

- (a) according to nature and type classification;
- (b) by program; or
- (c) by business unit.

Risk Management considerations:

In accordance with section 6.8 of the Local Government Act 1995, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by an absolute majority of Council.

Financial/Budget Implications:

Not Applicable

Policy implications:

All expenditure included in the financial statements is drawn from the City's accounting records, which are maintained in accordance with Policy 2.4.1.

Regional Significance:

Not Applicable

Sustainability implications:

The Financial Activity Statement will report on the actual financial performance of the City in relation to its adopted budget, which has been structured on financial viability and sustainability principles.

Consultation:

Not Applicable

COMMENT

The new Financial Activity Statement requirements have occurred as a result of amendments to the Local Government Act 1996 and associated Regulations.

Regulation 34(3) prescribes that the information in a statement of financial activity may be shown -

- (a) according to nature and type classification; (Attachment A)
- (b) by program; (Attachment B) or
- (c) by business unit. (Attachment C)

Despite the way this sub-regulation is drafted, the Department of Local Government and Regional Development confirmed that the monthly financial information could be presented in any of the three formats listed at the discretion of the Local Government. The three formats are attached for consideration.

It has long been accepted that whilst information presented by cost objects (programs and activities) or by cost centres (business units) are useful for expense allocation and cost centre accountability purposes, they are less informative and difficult to comprehend in matters of disclosure and less effective in cost management and control.

It is therefore suggested that for more meaningful disclosure to the Council and the public, a financial activity statement presented by nature and classification would be more appropriate and is therefore recommended.

The Financial Activity Statement as recommended will be accompanied by notes providing explanations of material variances to the budget and is attached herewith for consideration.

The explanatory notes only accompany the recommended format by nature and will vary should the adopted format be different.

Issues and options considered:

Not Applicable

ATTACHMENTS

Attachment A	Financial Activity Statement by Nature and associated Notes
Attachment B	Financial Activity Statement by Program
Attachment C	Financial Activity Statement by Business Units

VOTING REQUIREMENTS

Simple majority

MOVED Cmr Anderson, SECONDED Cmr Clough that Council APPROVES that future financial information presented in the monthly Financial Activity Statement according to nature and type classification as shown in Attachment A to Report CJ211-10/05.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 6 refers

To access this attachment on electronic document, click here: [Attach6brf041005.pdf](#)

CJ212 - 10/05 INTERIM FINANCIAL REPORT FOR THE PERIOD ENDED 31 JULY 2005 – [07882]

WARD: All

RESPONSIBLE DIRECTOR: Mr Peter Schneider
Corporate Services and Resource Management

CJ051004_BRF.DOC:ITEM 9

PURPOSE

To present the July 2005 financial report to Council in the standard format for information.

EXECUTIVE SUMMARY

The July 2005 year to date report shows an overall variance (under spend) of \$2.7m when compared to the year to date budget approved by Council at its special meeting of 28 July 2005 (JSC4-07-05).

This variance can be analysed as follows:

- The **Operating** position (Change in Net Assets Before Reserve Transfers) shows an actual deficit of \$3.0m compared to a budgeted deficit of \$5.1m at the end of July 2005. The \$2.1m variance is primarily due to early receipt of government grants, contributions and cost savings in employee costs, materials and contracts.
- **Capital Expenditure** is \$0.3m against the year to date budget of \$0.1m. The \$0.2m over spend is due to the purchase of heavy and light vehicles earlier than budgeted.
- **Capital Works and Council Projects** expenditure is \$1.2m against the year to date budget of \$2.0m because of delays in normal Capital Works caused by adverse weather conditions.

It is recommended that Council NOTES the interim Financial Report for the period ended 31 July 2005 as shown in Attachment A to Report CJ212-10/05.

BACKGROUND

The Local Government (Financial Management) Regulations 1996 requires the production of financial activity statements.

DETAILS

The interim financial report for the period ended 31 July 2005 is appended as Attachment A. Recent amendments to the Local Government (Financial Management) Regulations 1996 have prescribed new formats for the production of financial activity statements, which have been outlined in a separate report contained within this agenda. Once a decision on the new format has been made, the July financials will be represented to Council for noting.

Issues and options considered:

Not Applicable

Link to Strategic Plan:

Objective 4.1.1 – Ensure financial viability and alignment to plan.

Legislation – Statutory Provisions:

Section 6.4 of the Local Government Act 1995 states:

- (1) A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.

Regulation 34(3) of the Local Government (Financial Management) Regulations 1996 as amended, states:

The information in a statement of financial activity may be shown —

- (a) according to nature and type classification;
- (b) by program; or
- (c) by business unit.

Risk Management considerations:

In accordance with section 6.8 of the Local Government Act 1995, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by an absolute majority of Council.

Financial/Budget Implications:

Refer attachment A.

Policy implications:

All expenditure included in the financial statements is drawn from the City's accounting records, which are maintained in accordance with Policy 2.4.1.

Regional Significance:

Not Applicable

Sustainability implications:

Expenditure has been incurred in accordance with budget parameters, which have been structured on financial viability and sustainability principles.

Consultation:

In accordance with Section 6.2 of the Local Government Act 1995, the annual budget was prepared having regard to the Strategic Financial Plan, prepared under Section 5.56 of the Local Government Act 1995, which was made available for public comment from 21 May to 20 June 2005.

COMMENT

All expenditure included in the financial statements is in accordance with the 2005/06 Annual Budget or has been authorised in advance by Council where applicable.

This report is an interim report and will be represented to Council in the new financial format adopted by Council as outlined in a separate report within this agenda.

ATTACHMENTS

Attachment A Financial Report for the period ended 31 July 2005.

VOTING REQUIREMENTS

Simple majority.

MOVED Cmr Fox **SECONDED** Cmr Clough that Council **NOTES** the Interim Financial Report for the period ended 31 July 2005 as shown in Attachment A to Report CJ212-10/05.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 7 refers

To access this attachment on electronic document, click here: [Attach7brf041005.pdf](#)

CJ213 - 10/05 ON-STREET PARKING HAMPTON COURT, JOONDALUP – [38494]

WARD: Lakeside

**RESPONSIBLE
DIRECTOR:** Mr Peter Pikor (Acting Director)
Infrastructure and Operations

CJ051004_BRF.DOC:ITEM 10

PURPOSE

To amend the City of Joondalup Parking Scheme in accordance with Clause 33 of the City's Parking Local Law 1998 by implementing time restriction parking in Hampton Court, Joondalup.

EXECUTIVE SUMMARY

The businesses of Hampton Court are seeking to restrict parking on the road adjacent to their properties to assist in regulating and controlling moving traffic and parked vehicles. The main aim of the parking time restrictions is to share the available parking bays with as many vehicles as possible, maximising the vehicle turnover and bay use in keeping with the time limit that is applied. The proposed two hour parking restriction in Hampton Court, Joondalup is shown on Attachment 1.

It is recommended that Council AMENDS the City of Joondalup Parking Scheme in accordance with Clause 33 City's Parking Local Law 1998 by the installation of a two (2) hour parking restrictions covering two (2) parking bays on the northern side and two (2) parking bays on the southern side of Hampton Court, Joondalup between the hours of 8.00am to 5.30pm Monday to Friday and from 8.00am to 1.00pm Saturday.

BACKGROUND

The City of Joondalup has received correspondence from businesses of Hampton Court, Joondalup highlighting their concerns in relation to parking congestion with vehicle parking demand far exceeding the available number of parking bays.

The development of new businesses and strata dwellings in Grand Boulevard north of Shenton Avenue has created additional demands for on-street parking in Hampton Court. Parking demand particularly during business hours has also been exacerbated by spillover parking from the nearby Joondalup Health Campus.

Hampton Court contains a mixture of residential apartments and professional suites that have their own private parking at the rear of these properties. Parking within these properties is limited and only available for residents and tenants.

The City has written to all seven owners of these properties inviting comment on the proposed time limit restrictions.

No comments were received in relation to the City's proposal.

DETAILS

Issues and options considered:

The businesses have raised concerns that vehicles are parking on both sides of the road for long periods of time restricting the availability of parking for their customers and visitors.

In view of this, the businesses have requested that consideration be given to the installation of on road parking restrictions in Hampton Court, Joondalup. The locality of Hampton Court is shown on Attachment 2.

At an on site meeting held on the 15 May 2005 it was recognised that a requirement exists for timed parking to be installed at this location.

Link to Strategic Plan:

The recommendation in this report is supported by the following objective and strategy in the City's Strategic Plan 2003 – 2008:

Objective: 3.3 to continue to meet changing demographic needs.

Strategy: 3.3.2 Integrate plans to support community and business development.

Legislation – Statutory Provisions:

The City of Joondalup Parking Local Law 1998 was made in keeping with the requirements of the Local Government Act (1995):

33 The local government may by resolution constitute, determine, vary and indicate by signs:

- (a) Prohibitions;
- (b) Regulations; and
- (c) Restrictions,

On the parking and stopping of vehicles of a specified class or classes in all roads, specified roads or specified parts of roads in the parking region at all times or at specified times, but this authority shall not be exercised in a manner inconsistent with the provisions of this local law or any other written law.

Risk Management considerations:

Not Applicable

Financial/Budget Implications:

Account No:	1.7230.4615.0529.9999
Budget Item:	Parking Control Signs
Budget Amount:	\$68,090.00
YTD Amount:	\$11,354.00
Actual Cost:	\$200.00

Policy implications:

Not Applicable

Regional Significance:

Not Applicable

Sustainability implications:

Not Applicable

Consultation:

In each instance, a copy of the proposal was also circulated to adjacent businesses and landowners for comment. An on site meeting was held to obtain feedback on parking issues in Hampton Court, Joondalup. Comment provided at the time, supported the recommendations to improve the current on road parking.

COMMENT

The requirement for on-street parking will provide formalised parking for motorists and assist local businesses by ensuring that motorists have a more equal opportunity to park their vehicles close to where they want to do business. The proposal to restrict parking on the roads, as shown on Attachment 1, will regulate parking, maintain the general traffic flow at all times and therefore increase the level of parking availability during business hours.

As the parking proposals form an integral part of the overall on road parking strategy, the implementation of parking restrictions as per the attachment is supported.

ATTACHMENTS

Attachment 1 Parking Restrictions Hampton Court, Joondalup
Attachment 2 Locality Plan

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Clough **SECONDED** Cmr Fox that Council **AMENDS** the City of Joondalup Parking Scheme in accordance with Clause 33 City's Parking Local Law 1998 by the installation of a two (2) hour parking restriction covering two (2) parking bays on the northern side and two (2) parking bays on the southern side of Hampton Court, Joondalup between the hours of 8.00am to 5.30pm Monday to Friday and from 8.00am to 1.00pm Saturday.

Discussion ensued.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 8 refers

To access this attachment on electronic document, click here: [Attach8bfr041005.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Cmr Peter Clough
Item No/Subject	CJ214-10/05 - Proposed Traffic Treatments - Chichester Drive, Woodvale
Nature and Extent of Interest	Cmr Clough resides in the suburb of Woodvale

CJ214 - 10/05 PROPOSED TRAFFIC TREATMENTS - CHICHESTER DRIVE, WOODVALE – [04026]

WARD: Lakeside

**RESPONSIBLE
DIRECTOR:** Mr Peter Pikor (Acting Director)
 Infrastructure and Operations

CJ051004_BRF.DOC:ITEM 11

PURPOSE

The purpose is to address the petitioners' concerns in relation to excessive speed and traffic volumes in Chichester Drive, Aston Rise, Ellis Grove and Solus Grove, Woodvale.

EXECUTIVE SUMMARY

On 30 March 2004 (CJ060-03/04), a 112-signature petition from residents of Chichester Drive, Aston Rise, Ellis Grove and Solus Grove in Woodvale was presented to Council for consideration. The petitioners were requesting the City to install traffic calming devices to reduce excessive vehicle speeds and antisocial driver behaviour on these streets.

In order to assess the traffic implications of this request, Council approved the formation of a local area working group to include representatives from Chichester Drive and surrounding streets.

Meetings were held with a residents working group to define the issues and then consider possible remedial treatments.

The working group developed three proposed traffic treatment options for Chichester Drive. These options, in the form of a questionnaire, were submitted to all residents covered in the wider traffic study area. An independent Traffic Engineer subsequently collated the feedback from the residents and the findings were presented to the working group for their consideration.

There was strong support for Option 2 A, which was subsequently endorsed unanimously by the working group. This option, which has narrow traffic islands together with a painted median in Chichester Drive, Woodvale and traffic islands to selected intersecting roads, is shown on Attachment 1.

Accordingly this report recommends that Council:

- 1 *LISTS the sum of \$95,000 for consideration in the Draft 2006/07 Five Year Capital Works Budget for the Traffic Management Treatment of Chichester Drive, Woodvale in accordance with the approved working group Option 2A as shown on Attachment 1 to Report CJ214-10/05;*
- 2 *NOTES that following the installation of the traffic treatment, the Chief Executive Officer will arrange for traffic to be monitored every 3 months for a 12 months period;*
- 3 *ADVISES the petitioners accordingly;*
- 4 *THANKS the working group members for their input and time into developing the traffic treatment for Chichester Drive, Woodvale.*

BACKGROUND

On 30 March 2004 a 112-signature petition was presented to Council from residents of Chichester Drive, Aston Rise, Ellis Grove and Solus Grove, Woodvale requesting the City to install traffic calming devices to reduce excessive vehicle speeds and antisocial driver behaviour on these streets.

Council resolved to:

- 1 *APPROVE the formation of a local area working group for Chichester Drive, Aston Rise, Ellis Grove, Solus Grove and other surrounding streets;*
- 2 *CONTINUE to support the targeting of excessive speed and anti social behaviour through community involvement in the "Community Speed Watch" Program;*
- 3 *ADVISE the petitioners accordingly.*

Subsequently a local area working group was formed, being drawn from residents bounded by Trappers Drive and Timberlane Drive in Woodvale. Representatives from Main Roads WA were requested to participate in the working group meetings, however, were unable to provide a representative due to other commitments. The WA Police Service however was able to attend and provided useful input to the working group.

DETAILS

Issues and options considered:

Chichester Drive is 1.41 kilometres in length and 7.4 metres wide local road that runs from the northern end to the southern end of Trappers Drive in Woodvale and provides access to approximately 96 residential properties, the North Woodvale Primary School, Woodvale Tavern and Chichester Park.

On Chichester Drive, Woodvale the annual average daily traffic volume ranges from between 2,000-2,200 vehicles per day with the 85 percentile vehicle speed being 60 km/hr.

Following the decision of Council on the 30 March 2004, a local area working group was formed to investigate options to target excessive speed and antisocial behaviour occurring in Chichester Drive, Woodvale and surrounding streets.

The working group considered a number of options for the traffic treatment of Chichester Drive, Woodvale.

The preferred options for the traffic treatment of Chichester Drive, Woodvale were:

- 1 Narrow traffic islands;
- 2 Narrow traffic islands and intersection islands to selected side roads;
- 3 Narrow traffic islands with roundabouts at selected side roads.

A questionnaire that consisted of these three preferred options for possible traffic management of Chichester Drive was distributed within the traffic study area.

A total of 600 questionnaires were distributed and 282 replies were received (47% response).

An independent Traffic Engineer collated the feedback and presented the findings to the working group for their consideration.

The working group supported the general community feedback and consequently Option 2A was chosen as the preferred option.

This option incorporates recent approval from Main Roads WA for this 7.4m road width to have a narrow central painted median. This median treatment will be along the entire length of Chichester Drive, Woodvale.

The total estimated cost of the traffic treatment is \$95,000.

As part of the residents' working group support for the Traffic Management Concept Plan 2A, it was also requested that traffic be monitored every three months for the twelve months following the installation.

A copy of the agreed Traffic Management Concept is shown at Attachment 1.

Link to Strategic Plan:

3.1 To develop and maintain the City of Joondalup's Assets and Built Environment.

Legislation – Statutory Provisions:

Not Applicable

Risk Management considerations:

The installation of the Traffic Management Treatment will improve safety for all road users.

Financial/Budget Implications:

The estimated cost of the Chichester Drive Traffic Management Treatment is \$95,000. Currently there is no budget allocated in the 2005-2006 Financial Year for these works.

It is proposed that consideration be given in the Draft 2006/07 Five Year Capital Works Budget for the implementation of the Traffic Management Treatment of Chichester Drive, Woodvale.

Policy implications:

Not Applicable

Regional Significance:

Not Applicable

Sustainability implications:

The installation of the preferred treatment will enhance the safety of the public environment.

Consultation:

A residents' working group was formed to develop and consider the Traffic Management for Chichester Drive.

All residents and landowners in the Traffic Study area were posted a copy of a questionnaire, which included options to comment on for the Traffic Management of Chichester Drive. The feedback from residents was collated and presented to the working group for their consideration.

COMMENT

The final traffic management scheme outcome for Chichester Drive is based on being acceptable to the local community, while also satisfying the criteria of improving safety of all road users and improving amenity for local residents. This Traffic Management Treatment can be listed for funding consideration in the 2006/07 Five Year Capital Works Programme. In the interim, the City will continue to work with the Police to target excessive speed and antisocial behaviour on Chichester Drive and surrounding streets.

ATTACHMENTS

Attachment 1 Option 2A: Narrow Islands and Intersection Islands to Selected Roads.

VOTING REQUIREMENTS

Simple majority

MOVED Cmr Anderson **SECONDED** Cmr Smith that Council:

- 1 **LISTS** the sum of \$95,000 for consideration in the draft 2006/07 Five Year Capital Works Budget for the Traffic Management Treatment of Chichester Drive, Woodvale in accordance with the approved working group Option 2A as shown on Attachment 1 to Report CJ214-10/05;
- 2 **NOTES** that following the installation of the traffic treatment, the Chief Executive Officer will arrange for traffic to be monitored every 3 months for a 12 months period;
- 3 **ADVISES** the petitioners accordingly;
- 4 **THANKS** the working group members for their input and time into developing the traffic treatment for Chichester Drive, Woodvale.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 9 refers

To access this attachment on electronic document, click here: [Attach9brf041005.pdf](#)

CJ215 - 10/05 PROPOSED MULTIPLE DWELLING AND OFFICE DEVELOPMENT LOT 346 (37) PICCADILLY CIRCLE, SOUTH WEST CNR MCLARTY AVENUE, JOONDALUP – [68559]

WARD: Lakeside

RESPONSIBLE Mr David Djulbic (Acting Director)
DIRECTOR: Planning and Community Development

CJ051004_BRF.DOC:ITEM 12

PURPOSE

To request Council to determine an application for planning approval for a proposed multiple dwelling and office development in the City North Precinct of the City Centre at Lot 346 (37) Piccadilly Circle, south west cnr McLarty Avenue, Joondalup.

EXECUTIVE SUMMARY

An application has been received from SGMS Pty Ltd in City North for office and residential uses. Overall the proposal comprises 150 m² of office space (4 offices) and 962.4 m² for residential purposes (11 multiple dwellings). The proposed height of the building is three storeys. There will be a loft on top of the three storeys at the corner of Piccadilly Circle and McLarty Avenue, Joondalup.

The density, height and urban form of the development will contribute to an urban form that is compatible with the overall City Centre environment.

Variations to the residential density and the plot ratio are sought under the City's District Planning Scheme 2 (DPS2) and Joondalup City Centre Development Plan and Manual (JCCDPM). Discretion to vary the area of balconies for the multiple dwellings is requested under the Residential Design Codes (R-Codes).

The variations sought for the residential density and plot ratio are considered acceptable under the DPS2 and JCCDPM. The area of balconies meets the Performance Criteria set out in the R-Codes. Given that the development will contribute to the desired character of the City Centre area and is compatible with other developments in the vicinity, the proposed development is supported.

BACKGROUND

Suburb/Location:	Lot 346 (37) Piccadilly Circle, cnr McLarty Avenue
Applicant:	SGMS Pty Ltd
Owner:	SGMS Pty Ltd
Zoning:	DPS: Centre
	MRS: Central City Area
Lot Size:	951m ² (an allowance for the corner truncation, as set out in the R-Codes, increases the size of the lot to 965m ² for assessment purposes).

Lot 346 Piccadilly Circle, Joondalup, which is currently vacant, is located within the 'City North' area of the Joondalup City Centre, where it is designated for "General City Use". The preferred uses are residential, retail, office, accommodation, residential, leisure and entertainment, cultural facilities, community facilities and medical suites.

DETAILS

The proposed development includes the following features:

- The proposed development consists of 11 multiple dwellings and 4 office units;
- The ground level consists of residential and office units;
- The height of building is three storeys including a loft;
- The total number of car parking bays provided is 17 which includes one disabled parking bay;
- Service, vehicle access and car parking for all units are provided from the rear laneway;
- The upper level residential units are accessed via stairs located at the front and rear of the building;
- The office units address the street frontage with zero setback from both streets (Piccadilly Circle and McLarty Avenue),
- Balconies and stores have been provided for the residential units; and
- The office tenancy frontages include colonnade and pedestrian shelter awnings that extend over the road reserve.

Issues and options considered:

The applicant is seeking Council's discretion in the following areas:

- (a) residential density
- (b) plot ratio
- (c) area of balconies

Council has the discretion to:

- Approve the application
- Approve the application subject to conditions; or
- Refuse the application.

Link to Strategic Plan:

It is likely that this development proposal will contribute to meeting the projected demand for housing and commercial space for the increasing population of the City of Joondalup. The relatively high density of the development will contribute and assist in supporting the local economy.

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

Legislation – Statutory Provisions:

Development within this area is controlled by the provisions of DPS2, JCCDPM and the R-Codes.

District Planning Scheme No 2

The site is zoned "Centre" under DPS2.

When determining this application Clauses 4.2.4, 4.5, 4.8 and 6.8 of the DPS2 are relevant:

4.2.4 Subject to clause 4.2.5, the Residential Planning Code density applicable to land within the Scheme Area shall be determined by reference to the legend shown on the Residential Density Codes maps which form part of this Scheme. Unless otherwise specified on the map the R20 density code applies unless the Council determines that a higher code should apply.

4.5 Variations to Site and Development Standards and Requirements.

4.5.1 Except for development in respect of which the Residential Planning Codes apply and the requirements set out in Clauses 3.7.3 and 3.11.5, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit.

4.5.2 In considering an application for planning approval under this clause, where, in the opinion of Council, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is subject of consideration for the variation, the Council shall:

- (a) *consult the affected parties by following one or more of the provisions for advertising uses pursuant to clause 6.7.1; and*
- (b) *have regard to any expressed views prior to making its decision to grant the variation.*

4.5.3 *The power conferred by this clause may only be exercised if the Council is satisfied that:*

- (a) *approval of the proposed development would be appropriate having regard to the criteria set out in Clause 6.8; and*
- (b) *the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality.*

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*

any other matter which in the opinion of the Council is relevant.

Residential Design Codes (R-Codes)

The provisions of the R-Codes apply in regard to all residential development unless otherwise specified in DPS2 or relevant Structure Plans.

Clause 2.3.4 of the R-Codes allows for the exercise of discretion, which shall be exercised having regard to the clause 2.3.4 (2) of the R-Codes as follows:

2.3.4 (2) *Discretion shall be exercised having regard to the following considerations:*

- (i) *the stated purpose and aims of the Scheme;*
- (ii) *the provisions of Parts 2, 3 and 4 of the Codes as appropriate;*
- (iii) *the Performance Criterion of Criteria in the context of the R-Coding for the locality that correspond to the relevant provision;*
- (iv) *the explanatory text of the Codes that corresponds to the relevant provision;*
- (v) *any Local Planning Strategy incorporated into the Scheme;*
- (vi) *the provision of a Local Planning Policy pursuant the Codes and complying with sub-clause (5) below; and*
- (iv) *orderly and proper planning.*

Development Standards Table

The following table summarises the development details:

Standard	Required	Provided
Front Setback Side/Rear Setbacks	0m As per BCA	0m 0m
Plot Ratio	Maximum=1.0 or 965 m ²	1.14 or 1112.4 m ² (Consists of 962.4 m ² residential and 150 m ² office)
Height	3 storeys max Roof spaces can be utilised to provide the additional accommodation	3 storeys plus loft within roof space
Storerooms	1 per dwelling, 4m ² area	1 per dwelling, 4m ² area
Balconies	1 per dwelling 10 m ² area	1 per dwelling, 9 m ² - 16 m ²

Risk Management considerations:

Not applicable

Financial/Budget Implications:

Not applicable

Policy implications:

Not applicable

Regional Significance:

Not applicable

Sustainability implications:

Not applicable

Consultation

The proposal has not been advertised as the form of the development is in keeping with the intent of the JCCDPM and other development that has occurred in the City Centre.

COMMENT

The proposed development will integrate well with the character of the City Centre. Together with the hotel development being constructed on the adjacent Lot 345 Grand Boulevard, Joondalup and the proposed development approved by the Council for Lot 347 Hammersmith Court, Joondalup, the proposal will create an urban wall along Piccadilly Circle and McLarty Avenue, 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 overall design of development provides a three storey 'urban wall' along the road frontages with a tower element on the corner. The parking spaces are located along the Right of Way.

The glazed office fronts and pedestrian shelter will ensure that active frontages will face the streets and will help to bring life into the public spaces of the built form.

Land use

As the application provides for both multiple dwellings and office space, the proposed uses comply with the preferred General City land uses for which the lot has been earmarked under the JCCDPM.

The proposal provides four (4) office tenancies of different configurations. In this form, the office space is flexible enough in the future to accommodate other permitted uses under the JCCDPM including retail, entertainment and restaurant/café.

With a diverse mix of residential accommodation ranging from 1 to 3 bedroom units, the proposal reflects the type of residences desirable within a central area.

Residential Density

There are no specific residential density requirements in the 'general city' precinct of the City North. Therefore, 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-114. This density is consistent with other approved developments within the City Centre.

Therefore, it is recommended that Council determines that the proposed density at R-114 is considered to be appropriate given that the site is in a prominent location within the City, where higher densities are appropriate and encouraged by the principles of the JCCDPM.

Plot Ratio

For “General City Use” the JCCPDM requires that the development have a maximum plot ratio of 1.0 (965m²). The plot ratio for the multiple dwelling component is 0.99 (962.4m²) and for the commercial component is 0.15 (150m²). The overall plot ratio is therefore 1.14 (1112.4m²).

It is considered that the required plot ratio of 1.0 is counter-productive to the development of an appropriate style building that achieves the form expected, and desirable (for example a 3 storey building) for this site. Given that the proposed development complies with the majority of other development standards, in particular car parking, it is considered that the site would not be over-developed at the proposed plot ratio.

The plot ratio of the office development is considered to be appropriate as it integrates with other existing developments in the area. The development maximises the potential of this land, which is desirable, given that the adjoining area is being developed. The proposed office areas could be used in the future for other permitted uses under the JCCDPM including retail, entertainment, and restaurant/café.

It is therefore recommended that, in accordance with Clause 4.5 of DPS2 and having regard to the criteria of Clause 6.8, that Council determines that the additional plot ratio above the maximum 1.0 plot ratio for the office space is appropriate in this instance. This is on the basis that the proposed built form integrates with the surrounding areas and will not have an adverse effect upon the occupiers of the development or on the locality.

Balconies

Clause 3.4.3 of the Residential Design Codes requires each multiple dwelling to be provided with a balcony with a minimum area of 10 m² and minimum dimension of 2 metres. Six residential units have balconies with an area 9m², whilst the remaining balconies comply with the requirements of the R-Codes.

The variation (9 m² in lieu of 10 m²) is considered minor as the balconies are proportionate to the size of the dwellings proposed, provide a useable area of open space and are accessible from a habitable room. Therefore, the variation to the area of balconies meets the performance criteria under the R-Codes by providing open air space to each residential unit. It is to be noted that the balcony to the gymnasium is not assessed under the R-Codes as it is not appurtenant to a dwelling.

Conclusion

It is considered that the development will provide accommodation and office facilities to meet the future demands of the growing City Centre. It will be characteristic of the development already approved in the immediate area and will add value to the City Centre.

The proposed density, plot ratio and areas of balconies are also considered appropriate in this instance, and it is therefore recommended that the development be approved, subject to appropriate conditions.

ATTACHMENTS

Attachment 1
Attachment 2

Location Plan
Development Plans

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Smith SECONDED Cmr Clough that Council:

- 1 EXERCISES discretion under Clauses 4.2.4 and 4.5 of the District Planning Scheme No 2 and determine that the:**
 - (a) proposed plot ratio for the development of 1.14 in lieu of 1.0; and**
 - (b) development having a density of R-114,**

is appropriate in this instance;
- 2 EXERCISES discretion under Clause 2.34 of the R-codes and determines that the performance criteria of Clause 3.4.3 have been met and that the area of balconies of 9 m² in lieu of 10 m² is appropriate in this instance;**
- 3 APPROVES the application for Planning Approval dated 18 November 2004 and amended plans dated 11 August 2005, submitted by SGMS Pty Ltd for a development comprising 4 offices and 11 multiple dwellings on Lot 346 (37) Piccadilly Circle, corner McLarty Avenue, Joondalup, subject to the following conditions:**
 - (a) Any roof mounted or free standing plant or equipment such as air conditioning units, satellite dishes and radio masts to be designed and located so not to be visible from the primary street;**
 - (b) No obscure or reflective glazing being used for the commercial units fronting onto public spaces and road reserves;**
 - (c) All boundary walls and parapet walls being of a clean finish and made good to the satisfaction of the City;**
 - (d) All fencing to be designed and constructed in accordance with the attached extract from the Joondalup City Centre Plan and Manual and thereafter be maintained to the satisfaction of the City;**
 - (e) One car parking space is to be allocated to each commercial unit;**
 - (f) The footpath treatment in the adjoining road reserve to be continued to the property boundary in a design with a finished floor level that matches the existing paving and at a grade 2% rising from the kerb line, prior to the development first being occupied;**
 - (g) Suitable capping is to be provided to the satisfaction of the City along southern boundary so that any gap between the existing wall of the adjoining development on the joint boundary and the proposed parapet walls of this development is closed. The capping is to be painted to match the development;**

- (h) The ground level walls of the development to be coated with sacrificial coating to the satisfaction of the Manager, Approvals, Planning & Environmental Services;
- (i) The parking bays, driveways and points of ingress and egress to be designed in accordance with the Australian Standard for Off Street Car parking (AS2890). Such areas are to be constructed, drained and marked and thereafter maintained to the satisfaction of the City prior to the development first being occupied. These works are to be done as part of the building programme;
- (j) 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 storm water drainage system is required to be shown on the Building Licence submission and be approved by the City prior to the commencement of construction;
- (k) The ceiling clearance for the colonnade and awnings shall be a minimum height of 2.75m, measured from the finished level of the footpath.

Footnote:

- (i) 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;
- (ii) It is advised that the City will not support the erection of telecommunications infrastructure on any part of the proposed building;
- (iii) There is insufficient room along the Right of Way boundary to position the bins for collection. Bins will need to be collected from the two bin stores;
- (iv) An acoustic report will be required with the building application demonstrating that noise from the gym will comply with the Environmental Protection Act 1986;
- (v) Building plans to include mechanical ventilation details;
- (vi) The need to advise the City if any commercial units are intended for food premises to ensure suitable design of rear access, exhaust canopy & duct plumbing.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 10 refers

To access this attachment on electronic document, click here: [Attach10brf041005.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Cmr Anne Fox
Item No/Subject	<i>CJ216-10/05 - Proposed Western Power Zone Substation to be located on part of Pinnaroo Memorial Cemetery Land - Gibson Avenue, Padbury (North Of Gibson Park)</i>
Nature and Extent of Interest	Cmr Fox resides in close proximity to Pinnaroo Memorial Cemetery. Cmr Fox indicated she would act impartially in the matter.

Name/Position	Cmr Steve Smith
Item No/Subject	<i>CJ216-10/05 - Proposed Western Power Zone Substation to be located on part of Pinnaroo Memorial Cemetery Land - Gibson Avenue, Padbury (North Of Gibson Park)</i>
Nature and Extent of Interest	<i>Cmr Smith advised her son resides in the suburb of Padbury, however she would deal impartially with the matter.</i>

CJ216 - 10/05 PROPOSED WESTERN POWER ZONE SUBSTATION TO BE LOCATED ON PART OF PINNAROO MEMORIAL CEMETERY LAND - GIBSON AVENUE, PADBURY (NORTH OF GIBSON PARK) – [07104]

WARD: Pinnaroo

RESPONSIBLE DIRECTOR: Mr David Djulbic (Acting Director)
Planning and Community Development

CJ051004_BRF.DOC:ITEM 13

PURPOSE

This report is to request Council's consideration of an application for Approval to Commence Development for a proposed Western Power electricity zone substation in Padbury and to provide advice to the Western Australian Planning Commission (WAPC).

EXECUTIVE SUMMARY

The site on which the substation is proposed to be located is part of the Pinnaroo Memorial Cemetery landholding, as shown on attachment 1. The site abuts Gibson Avenue, Padbury and is north of Gibson Park.

The application was lodged following Western Power's analysis of various alternative locations for a new substation. The analysis included discussion and liaison with various stakeholder groups.

Western Power's preferred site option was advertised for public comment for 21 days. Submissions were received and these primarily relate to the following issues:

- Human health
- Visual impact;
- Change of location of the site for the substation;
- Closeness of the residential development to the proposed substation;
- Access road to the site for the proposed substation; and
- Devaluation of properties

The Department for Planning and Infrastructure (DPI) has indicated that this development would be exempt from the need to obtain the WAPC's approval. However, as the application for approval has been lodged, Council was advised to continue dealing with the application.

It is recommended that the WAPC be advised that the substation is not supported unless it is relocated further away from the nearby residents to provide adequate separation and opportunities for landscaping and screening. The proposal represents a significant change to the use of the reserve and has the potential to impact upon the residential amenity of the near neighbours.

BACKGROUND

Suburb/Location:	Gibson Avenue Padbury
Applicant:	Western Power Corporation
Owner:	Pinnaroo Valley Memorial Board
MRS Reservation:	Public Purposes-Special Uses
Site Area:	1.08 hectares

The proponent previously held a parcel of land located on the northern side of Hepburn Avenue opposite Lilburne Reserve/Dun Craig Fire Station for the proposed substation. This was the longstanding intended site for the notional substation.

The designated site was however identified as having some vegetation values, and accordingly it was listed in the State Government's Bush Forever policy. (The policy seeks to retain vegetation in an urban setting with a particular focus on the metropolitan coastal plain).

As a consequence of the Bush Forever listing, Western Power began to consider new options for the location of a substation. During 2004 and 2005, Western Power had discussions with various stakeholders and a new preferred site was identified on the Pinnaroo Memorial Cemetery landholding.

After settling on its preferred option, Western Power lodged an application for approval to commence development with the Council and the WAPC.

The subject site is intended to occupy a site area of approximately 1.08 hectares and is located on the eastern side of Gibson Avenue, Padbury approximately 170 metres north of the junction of Gibson Avenue and Pinnaroo Drive. Houses are located on the western side of Gibson Avenue, facing the proposed site.

The subject land is reserved as a Special Use Reserve and is earmarked as part of the Pinnaroo Cemetery. The land is under the control of the Metropolitan Cemeteries Board.

DETAILS

The proposal includes a landscaped buffer at the periphery of the site, within which three transformers, three switch rooms and one control room would be built. The structures would be set back approximately 15m from the street boundary and side boundaries. These structures will be approximately 3m in height. The extent of the proposal is shown at attachment 2.

A service driveway would be constructed from Gibson Avenue to provide occasional access for Western Power vehicles.

Cabling to and from the facility is proposed to be underground.

Issues and options

It has been established that the proposal is exempt from requiring the approval of the Council or the WAPC. The advice received from the DPI has however suggested that the application be processed given that it was lodged for determination by the WAPC.

The exemption from requiring planning approval for certain public works is contained within clause 16(1a) of the Metropolitan Region Scheme Text.

Submissions were received opposing/supporting the proposed location of the substation. The main issues associated with the proposal are the potential visual and amenity impacts on the adjoining residential properties.

Having received a development application on land reserved under the Metropolitan Region Scheme, Council is required to provide advice to the WAPC on whether it:

- supports the application with or without conditions; or
- does not support the application.

Link to Strategic Plan:

Not applicable

Legislation – Statutory Provisions:

Development on this site is controlled by the Metropolitan Region Scheme. The WAPC is the determining authority in this instance.

Development Standards under District Planning Scheme 2 (DPS 2)

The District Planning Scheme does not provide standards for consideration of a proposal of this type.

Risk Management Considerations:

Not applicable

Financial/budget implications:

Not applicable

Policy Implications:

Not applicable

Regional Significance:

Not applicable

Sustainability implications:

Not applicable

Consultation:

The proposal was advertised for public comment for a period of 21 days, with the submission period closing on 17 August 2005. Nearby owners were contacted in writing, one sign was placed on the site and an advertisement was placed in the local newspaper.

The submissions received included concerns about the following themes:

- Human health and the potential impact of electromagnetic fields (EMF)
- Visual impact of the facility;
- Change of location of the site for the substation and the preconception that it was to be built on Hepburn Avenue;
- Closeness of the residential development to the proposed substation being situated across Gibson Avenue;
- Access road to the site for the proposed substation; and
- Potential for devaluation of properties

A total of 8 submissions were received which are summarised below:

Submission	Technical Comments
<p>Western Power, being mindful of the high environmental value of the original site in Hepburn Conservation Area, which was purchased by them several years ago, approached the Friends of Hepburn & Pinnaroo Bushland, regarding the selection of an alternative site. The Friends Group agreed to represent the community in this process.</p> <p>This site was selected by a process of elimination of all possible alternative sites within the allowable area for a substation. It was found to be the only site that met all environmental, social and economic criteria.</p> <p>There has been a significant amount of negotiation between state members of parliament, relevant government departments and other organisations to reach agreement on this site.</p> <p>The site is on a part of Gibson Avenue that has no houses fronting on to it and is therefore not in direct line of sight of any houses. The site is already quite well screened from the road. Further screening is proposed.</p> <p>From an environmental viewpoint, the impact will be much less than the original site, as this site is in a badly degraded part of Pinnaroo Cemetery Reserve, affected by a couple of bad bushfires over the years and by extensive weed growth.</p> <p>Building the substation on this site will allow the original site to remain an integral part of Hepburn Conservation Area, as has occurred with the original FESA Site, to ensure that the whole area is preserved intact in its natural state for the community to enjoy.</p>	<p>The information is noted.</p> <p>Council representatives were invited to discuss the proposal on several occasions. At no time was approval (in kind or otherwise) given for the proposed development.</p>
<p>The proposal should be setback further into the bush. The access road could run beside the park.</p>	<p>Refer to comments below.</p>

<p>The substation could have been placed alongside Freeway reserve so as not to intrude on homeowners. There appears to be plenty of land between Hepburn Avenue-Ocean Reef that can be used. Western Power informed us it is going ahead and will be completed by December 2006 but we were not informed. According to Western Power, it was all finalised. Residents affected by these kinds of changes should be advised before planning takes place and not after approval when we are unable to take any action. When we bought our property we were of the understanding that the land would always be bush land as it was owned by the Cemeteries Board and would be used for cemetery purpose and not a power station.</p>	<p>The location is the result of further investigations as a consequence of the original site location being unsuitable. Various other locations were considered inappropriate because they had other constraints, including Bush Forever.</p> <p>The land is reserved under the Metropolitan Region Scheme and this application is to be determined by the Western Australian Planning Commission as submitted.</p> <p>It is acknowledged that the intended use of the land has been earmarked for considerable time as being by The Metropolitan Cemeteries Board</p>
<p>My house will be 50 metres from the transformer. Living close causes health problems cancer etc. Checked a few websites regarding cancer and magnetic fields and No. 7 Mueller Court is closer than 50 metres. It will also affect resale value of these properties and won't be staying on my property if this goes ahead.</p>	<p>The proposal will have to comply with the Environmental Protection Act. The proponent has advised that the proposal will accord with relevant guidelines.</p>
<p>Unknown effects on the health of people in the surrounding areas.</p> <p>Visual pollution for those who have to look at it.</p> <p>Devaluation of properties in the vicinity.</p> <p>Bought our home knowing it needed a lot of work but felt the effort was worthwhile because we had a lovely view across the park. Now if Western Powers proposal goes ahead our view will be of a substation.</p> <p>We are very disappointed that the original site has been changed. That site is not close to any houses where as Gibson Avenue faces on to the side of houses in the opposite streets.</p> <p>No longer will we be able to walk in the park and around the surrounding bush land as we do most days but will have to walk round the sub station.</p> <p>Hope that the City will prevent this madness from going ahead.</p>	<p>The proposal will have to comply with the Environmental Protection Act.</p> <p>Existing landscaping is to be retained where possible and further landscaping will have to be provided. Refer to comments below.</p> <p>No information has been provided to substantiate this statement and loss of value is not a proper planning consideration.</p> <p>Existing landscaping is to be retained where possible and further landscaping will have to be provided. Refer to comments below.</p> <p>The location preferred represents the best site in the opinion of Western Power.</p> <p>It is correct to conclude that part of the cemetery land will be fenced off and general public access will be precluded.</p> <p>The Western Australian Planning Commission is the determining authority in relation to this application, although the Council can raise concerns based on its own evaluations of the proposal.</p>

Against the proposal of the substation on Gibson Avenue in Padbury. My kids play in the park less than 30 meters away and wants to know why it was moved from Hepburn Avenue.	The original site was identified for conservation under "Bush Forever".
If it improves the power supply in this area which is at present third world standard, therefore totally supports it.	Comments noted.

Applicant's Response to Submissions

In support of the application, Western Power contends that the proposed substation is required to meet the growing needs of the community in the Padbury and surrounding areas.

Western Power has provided comments in an attempt to answer the issues raised by surrounding property owners during the advertising process, which is reproduced below:

Health effects of electromagnetic fields (EMFs).

This matter has been studied for by medical scientists for 30 years and no adverse health effects that can be attributed to power frequency EMFs have been found. (There are some internet sites that state the opposite but these sites are from sources without appropriate qualifications and the information from these sources do not have any scientific foundation).

EMFs are found where ever electricity is used including the home and at work. Western Power designs and operates all of its systems to comply with World Health Organisation (WHO) recommendations. The WHO recommends a limit of 1000 milli Gauss (mG) for continuous exposure 24 hours per day.

Western Power's experience with its 140 substations around the state is that at the perimeter of the substation a typical EMF level of 3 to 15 mG can be expected. This is no more than that which can be attributed to the 132kV transmission line that already runs along Gibson Avenue. EMFs due to house hold wiring and appliances can, and are commonly much greater and readings of say 100 to 300 mG near domestic meter boxes are typical for most residences.

Although all of the EMF levels referred to above are significantly less than the WHO recommended levels, these levels still reduce very rapidly with distance. For example, the levels referred to above for the domestic meter box would decrease to about 1 or 2 mG at approximately 1 metre from the box. (1 or 2 mG is the typical back ground level found everywhere). Similarly, the few milli Gauss that would be measured at the substation fence will also reduce rapidly with distance to 1 or 2 mG.

In short, small as the EMF readings are from the substation, they will not be measurable at the footpath of Gibson Avenue and will be completely masked by other electrical installations. Everyone is exposed to low level EMFs and leading epidemiologists after 30 years of research not been able to attribute them to any health problems.

Visual Impact

Western Power accepts that the issue of the visual impact of its new substations is a matter of concern to the members of the public and as a consequence it takes what ever steps that are possible in order to reduce this impact.

The position of the substation on the site makes the maximum use of the screening effects that can be gained from the natural vegetation existing on the site. The substation has been set back as far as possible so that the vegetation along the Gibson Avenue side of the site will provide a natural buffer. Where gaps occur in the natural vegetation additional plantings will be carried out by a qualified landscape consultant to fill those gaps. Plant species that are natural to the area will be used.

In consultation with the City of Joondalup and people residing in Mueller Court, immediately opposite the site tree plantings have already been completed in the verge of Mueller Court to provide further visual screening. Also, where requested by specific residents, landscaping designed to provide even more screening on private properties is being carried out.

Although the Padbury zone substation will not be completely invisible to passers by, its visual impact will be low.

Experience with recently completed zone substations such as those at Rivervale, Wanneroo and North Perth has shown that new residents to the area were happy to move onto building sites adjacent to the abovementioned examples.

Disappointment to the change of location for the site.

The original site in Hepburn Avenue was purchased by Western Power in 1993 but since that purchase it was incorporated into the Bush For Ever scheme and any development on the site would not be permitted. The new site in Gibson Avenue is not affected by the Bush For Ever arrangements. Floristic surveys carried out on the new site has indicated that no regionally significant vegetation or declared rare flora exists there.

A major road, a 132kV transmission line and a local road are between the substation and nearby residences. The nearest residence will be about 60 metres away from the building or plant in the substation yard. There are a number of locations in the Perth metropolitan area where substations are considerably closer to residences with out causing any undue impact on them.

It has to be set further back into the bush.

The position of the new site was influenced by the operational requirements of the Metropolitan Cemeteries Board (MCB), the owner of the land. Also, setting the site further back into the bush would have required the provision of two transmission line entries from the existing 132kV transmission line in Gibson Avenue to the substation. The line entries would have had a greater impact on the area and would have been visually more intrusive. As the owner of the land, the MCB's requirements had to be considered.

The access road could run beside the park.

The access road is contained within the site on the southern side, adjacent to Gibson Park.

Location of the substation adjacent to the freeway.

This option was considered in 1993 when the original site in Hepburn Avenue and the present site was being considered. This option was not deemed to be viable as access from the freeway is not possible, the line entries from Gibson Avenue would be too long and obtrusive, the land is part of Bush For Ever and the impact on cemetery operations would be very much greater.

Proximity of residence to transformer.

The transformers will be located at the rear of the site and will be about 120 metres from the nearest residence. Transformers do not generate additional EMFs and levels will be much the same as those low levels already existing in the area. Low profile control rooms, which will be about 3 metres high, will be located at the front of the site behind the vegetation buffer zone adjacent to Gibson Avenue.

The issue of EMFs and health has been addressed in the first point above.

Modern transformers now have low noise characteristics and they should not be audible at the substation perimeter fence or any residences in the area.

Proximity to significant trees.

The site was positioned so that the largest of the trees including those at the rear of the site which provide a nesting habitat for parrots will be unharmed. As stated earlier in this response, any additional plantings will be of species that occur naturally in the area. A landcare consultant will carry out the work. It is also worth noting that according to the MCB, all of the understorey vegetation in the area on which the substation will be located was planted/introduced by the MCB many years ago as the area was considered to be degraded. It will be Western Power's objective to improve the quality of the vegetation in the buffer zone over what already exists in the area. Existing walk trails at the eastern end of the site currently used by the public will not be affected.

COMMENT

The land is reserved under the Metropolitan Region Scheme as "Public Purposes - Special Uses". Consequently, any development of this land is not subject to the provisions of the DPS2. The reservation applicable to this land allows the site to be developed for "public purposes", with the Western Australian Planning Commission as the determining authority.

In addition, clause 16(1a) of the Metropolitan Region Scheme text provides that certain public works are exempt from the obligation to receive approval to commence development. This exemption does technically apply to this application.

Gibson Park is located on the southern side of the proposed substation site, with the remaining abutting land being under the control of the Pinnaroo Cemeteries Board. Residential development is located on the western side of Gibson Avenue with the nearest house located approximately 50 metres from the proposed substation site.

Visual Impact

The proposed substation will be partly visible from some of the houses along Mueller Court and from Gibson Park. However, Western Power has stated that they will have a tree-planting program around the site and at the end of Mueller Court, in order to provide a landscape screen. It is proposed to erect a 3m high palisade fence surrounding the substation and the colour will be colorbond dove grey (pale eucalyptus) which will camouflage with the bush and at the same time providing screening and security to the area.

It is considered that although the landscaping will be provided, the power lines and the light poles may still be visible from the residential properties. In this context it is suggested that Western Power be requested to relocate the substation further back into the cemetery land to mitigate these issues and allow for a wide boundary buffer to help screen the substation from the residential properties.

Environmental Impacts

The following issues were raised in the submissions.

Some of the submissions raised concerns regarding health hazards relating to EMF. Western Power has stated that it designs and operates all of its systems to comply with World Health Organisation (WHO) recommendations.

Western Power has also confirmed that all their substations are designed to comply with the Environmental Protection (Noise) Regulations 1997. Western Power stated that should a transformer not comply with the relevant regulations, they would enclose it with a suitable noise enclosure to ensure compliance with the standards.

Relative to the above, though Western Power has stated that these issues will meet the legal requirements, it is quite understandable also the concerns of the adjoining residents given that the site for the substation is located approximately 50 metres from the nearest residence. Therefore to alleviate the fears of the adjoining residents it is suggested that the site for the substation be moved further into the cemetery land to mitigate these concerns.

Lighting

It is proposed to provide six light poles, each measuring 7m in height. Western Power has stated that the lighting will be designed so that no light will spill onto neighbouring properties and will only be switched on in an emergency during the night. Western Power has advised that the likelihood of this occurring is small. The interval between the lights being switched on would be years.

Though the lights will be switched on in emergency only, they are still likely to be visually intrusive on the adjoining residential properties. In this context it is suggested that Western Power be requested to relocate the substation further back into the cemetery land.

Car parking and Traffic

It is expected that the substation will be able to provide on-site parking to vehicles accessing the site. Further, as Gibson Avenue is a local distributor, it should be capable of catering for a range of vehicle sizes.

Western Power has indicated that on rare occasions, there may be the need for a vehicle containing its Rapid Response Transformer to access the substation and this would impact upon several trees within the median strip along Gibson Avenue. It is considered that this should be investigated further with Western Power to determine whether access for this vehicle, under traffic control, could be achieved without affecting the road system or trees within the street reserve.

If it is determined that the trees or existing road design would be affected, then:

- modifications should occur at Western Power's expense and to the satisfaction of the City; and
- any reasonable and healthy trees that are to be removed, should be replaced at Western Power's expense.

As stated in the above paragraphs, it is recommended that the proposed substation be located to the east of the proposed location, with access to site remaining from Gibson Avenue only.

Conclusion

Having regard to the:

- (i) purpose of the Reserve under the Metropolitan Region Scheme;
- (ii) submissions received;
- (iii) potential visual and amenity impacts of the proposal on the adjoining residential properties;

It is recommended that the Western Australian Planning Commission be advised that the location of the proposed substation is not supported. Further, it is suggested that the site location be moved further inside the cemetery land to mitigate the concerns of local residents.

ATTACHMENTS

Attachment 1	Location Plan
Attachment 2	Development Plans

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Clough **SECONDED** Cmr Anderson that:

1 Council ADVISES the Western Australian Planning Commission that:

- (a) the proposed Western Power zone substation to be constructed on the portion of the Pinnaroo Valley Memorial Park, north of Gibson Park and abutting Gibson Avenue is not supported in the location proposed;
- (b) It is of the opinion that the proposed substation should be relocated within the metropolitan cemeteries board landholding in order to address visual and amenity concerns for the community;
- (c) it seeks the right to provide further comment on any revised location(s) for the proposed substation.

2 The submitters be ADVISED of Council's recommendation to the Western Australian Planning Commission.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 11 refers

To access this attachment on electronic document, click here: [Attach11brf041005.pdf](#)

CJ217 - 10/05 PROPOSED KINROSS NEIGHBOURHOOD SHOPPING CENTRE INCLUDING A SUPERMARKET, RESTAURANT/SHOP (CAFÉ), LIQUOR STORE, TWO TAKEAWAY FOOD OUTLETS, ELEVEN NON-RETAIL TENANCIES AND TWO AUTOMATIC TELLER MACHINES – LOT 2278 (3) SELKIRK DRIVE, KINROSS – [62554]

WARD: North Coastal

RESPONSIBLE DIRECTOR: Mr David Djulbic (Acting Director)
Planning and Community Development

CJ051004_BRF.DOC:ITEM 14

PURPOSE

To request Council's determination of an application for planning approval for a new Neighbourhood Shopping Centre on the corner of Connolly Drive and Selkirk Drive, Kinross.

EXECUTIVE SUMMARY

An application has been received for the construction of a new neighbourhood shopping centre in Kinross. The Kinross Neighbourhood Shopping Centre is proposed to be located on the north-eastern corner of Connolly Drive and Selkirk Drive.

A limit of 3,000m² of retail "net lettable area" (NLA) applies to the Kinross Neighbourhood Centre, which is set out in Schedule 3 of the DPS2.

Under the Kinross Neighbourhood Centre Structure Plan (KNCSP) the land uses that may be developed on this commercial site include a supermarket, specialty stores, offices, restaurants and café. As part of this development application, there is proposed to be a supermarket (2,518m²), restaurant/shop (café/deli), liquor store, two take-away food outlets, 11 non-retail tenancies and 2 Automatic Teller Machines (ATM).

The proposed single storey shopping centre is to be located to the southwest corner of the site, providing a main street frontage along Selkirk Drive with car parking being provided to the western and northern portions of the site. There are 7 existing kerbside parking bays located to the south of the site along Selkirk Drive.

Access to the site is proposed to be from three locations with the main access/egress being from Selkirk Drive and on the western (Connolly Drive) side of the shopping centre building. An access and service road is also proposed from Selkirk Drive, which is proposed to be located on the eastern side of the shopping centre building. The access/service road is proposed to be a shared driveway, which will be located between and on the shopping centre site and the adjoining civic and cultural site. The third access point to the rear of the shopping centre is proposed to be from Balliol Elbow, across the northern portion of the adjoining civic and cultural site owned by the COJ.

It is recommended that the subject development application be approved subject to conditions.

BACKGROUND

31/05/2005	Application received.
20/07/2005	Technical assessment finalised as far as possible based on information received.
27/07/2005	Fax sent requesting further information from the applicant.
10/08/2005	Meeting with applicant to discuss issues raised in fax sent on 27/07/2005.
12/08/2005	Amended plans received
24/08/2005	Applicant advised, via email, that issues remain outstanding.
07/09/2005	Traffic Impact Statement received.
09/09/2005	Traffic Impact Statement assessment commenced.
21/09/2005	Road Safety Audit Recommended as per SKM Traffic Impact Statement.
27/09/2005	Road Safety Audit Received (Tarsc Pty Ltd).
28/09/2005	SKM confirmation that Road Safety Audit is acceptable.

Suburb/Location:	Lot 2278 (3) Selkirk Drive, Kinross
Applicant:	J. Prestipino Building Designs Pty Ltd
Owner:	Adriatic United Pty Ltd
Zoning:	DPS: Centre
	MRS: Urban
Structure Plan:	Kinross Neighbourhood Centre Structure Plan
Site Area:	1.3876ha

Connolly Drive is located to the west of the site, with Selkirk Street and established residential land located to the south. To the north of the subject site is an adjoining public open space reserve (McNaughton Park), which includes existing playing fields, clubrooms and a skate-park. Located east of the site is vacant land owned by the City of Joondalup (COJ).

The subject site has a lot area of 1.3876ha and is currently vacant, however, much of the verge areas have reticulated lawns including street trees along both Connolly Drive and Selkirk Drive. Existing footpaths abut the northern, western and southern boundaries of the site. Also, there is an existing underpass access to the west of the site, which allows pedestrian access between the subject site and other areas, and the western side of Connolly Drive.

The subject site is zoned "Centre" under the City's District Planning Scheme No 2 (DPS2), which is regulated by the criteria as set out in the KNCSP. The KNCSP was endorsed by Council on 10 August 2004 (CJ182 – 08/04) and adopted by resolution of the Western Australian Planning Commission on 11 October 2004 (as amended).

The KNCSP is made up of three components, which include:

- "Residential" land - R40 density;
- "Civic and Cultural" land (owned by the COJ which is vacant); and
- "Commercial" land, which is the subject of this application.

DETAILS

The applicant is proposing to develop a shopping centre, built of concrete tilt-up panels with a metal deck roof. The building is proposed to be a maximum 8 metres in height stepping down to 5 metres along the street frontages.

The shopping centre is setback a minimum of 3.0 metres from Selkirk Drive having the main pedestrian entrances along the western and southern facades. These entrances are to be provided with two entry statements (awnings) providing a focus for pedestrian access.

All tenancies along the western and southern facades have individual doors with direct access from the external areas, with two of the tenancies proposing to have bi-fold doors installed. These tenancies have been provided with continuous awnings along the facades, 2.5 metres in width, with areas below being defined by planter boxes to the edge of the paved areas and umbrellas for possible cafes/ restaurants.

The current design of the proposed shopping centre has a gross floor area of 4,116m². The applicant has stated that in accordance with the KNCSP, the site can accommodate a maximum 3,000m² of retail net lettable area, of which the proposed supermarket would occupy 2,518m². The remaining 482m² is proposed to accommodate a variety of uses including:

- (i) Liquor store
- (ii) Restaurant/ Shop (Café/Deli)
- (iii) Take Away Food Outlet (Subway)
- (iv) Take Away Food Outlet (Fish and Chips)

The applicant has explained that the remainder of the floorspace is to be occupied by non-retail tenancies, such as offices, showrooms and two automatic teller machines (ATM's).

Within the site, pedestrian pathways have been incorporated into the design of the development. The pathways are 3.0 metres in width, allowing for pedestrian access through the parking areas. These areas are to be raised to facilitate traffic calming within the site. The pathways are to be integrated with the existing pedestrian/cycle pathways along the northern boundary (public open space area) and the western boundary, which leads to the existing pedestrian underpass (Connolly Drive).

Car parking for the development is proposed to be located to the western and northern portions of the site. The proposed design shows that a total of 247 on-site car bays can be provided. There are also 7 existing street bays along Selkirk Drive.

The site proposes two vehicle access points along Selkirk Drive with a possible third from Balliol Elbow. The main access is proposed to be from the western side of the shopping centre (Selkirk Drive), comprising of a two-way access/ egress point. The applicant has advised that the location of this main crossover is proposed for the convenience and safety of users, constructed as far from Connolly Drive as possible, without interfering with the existing street bays. A slip lane has also been provided along Selkirk Drive into this access point for safety purposes, whilst a two-lane egress is provided to reduce any backup of internal traffic.

The second access point from Selkirk Drive has been provided essentially as a service access to allow contractors to gain access to the bin storage areas and the loading dock, located along the eastern side of the proposed building. Further, this access way could also be used as a secondary access to the northern car parking area. This proposed access way is up to 6.85m in width, which includes up to a 3.42m strip of land on the vacant adjoining civic and cultural site. Due to difference in levels, a retaining wall of up to 1.5 metres in

height is proposed along the eastern side of the access leg (located on the civic and cultural site).

The applicant has stated that as per Clause 6.1.2, item (xi) of the KNCSP, it is intended that parking circulation be linked with the abutting Civic and Cultural Land Use Area. Consequently, the applicant is proposing to construct a vehicular access way (and 28 adjoining car parking spaces) between Balliol Elbow and the shopping centre site, across the rear of the site owned by the COJ. The car bays and the access way are proposed to be provided at the full cost of the applicant, subject to Council approval. The applicant has also advised that these parking bays and the access way will enhance circulation for the shopping centre site, as well as providing benefit for the users of the adjacent public open space.

A “traffic impact statement” has been provided by the applicant. The report indicates that the proposed internal traffic flows and access/egress from the subject property is adequate to cater for all customer vehicle movements during peak hours and service vehicle movements within the property. The traffic impact statement, prepared by Sinclair Knight Merz (SKM) dated September 2005, has taken into account the proposed future widening of Connolly Drive.

The consultant’s report to the applicant has requested that the applicant:

- provide cyclist parking to cater for observed high levels of cyclist activity in the area; and
- relocate the proposed loading dock ramp a minimum 3.5m south to allow for improved manoeuvrability for a prime mover/semi-trailer to reverse into the loading dock.

Some of the proposed car parking bays are affected by the turning circles of the prime mover/ semi-trailer and as such, the number of on-site car bays provided is required to be reduced from 247 to 241 onsite bays. The report suggests that all other areas are acceptable including the proposed access/egress points along Selkirk Drive.

The applicant considers that the proposed development is consistent with the requirements of the KNCSP as previously approved by Council.

Issues and options considered:

The applicant is seeking Council’s discretion for the following issues:

- (i) a shortfall of 6 car bays over the site; and
- (ii) a reduction in the landscaping requirement for the proposed development from 8% to 7.36%;

The applicant is proposing to construct the following works on the adjoining site owned by the COJ:

- (a) an access-way and parking area on the northern portion of the site, linking Balliol Loop and the shopping centre site; and
- (b) a service road partially on the western side of the COJ site, with a retaining wall on the eastern side of the service road.

Council's support is required for the proposed works, before it can effectively deal with the proposed development. If Council does not approve of these works on its land, then there may be implications for the shopping centre development. The recommendation within the report is not to support the works identified in (a) above at this stage, and to support the proposed works in part (b) above.

Council has the discretion to:

- Approve the application without conditions;
- Approve the application with conditions; or
- Refuse the application.

Link to Strategic Plan:

The Strategic Plan states that development within Joondalup should assist in facilitating local employment.

Legislation – Statutory Provisions:

The DPS2 and Kinross Neighbourhood Centre Structure Plan

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

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.

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.*

Risk Management considerations:

Not applicable.

Financial/Budget Implications:

Not applicable.

Policy implications:

Not applicable.

Regional Significance:

Not applicable.

Sustainability implications:

Not applicable.

Consultation:

The application was not advertised, as the development is consistent with the Kinross Neighbourhood Centre Structure Plan, which was endorsed by Council and approved by the WAPC following a period of public consultation.

COMMENT

The subject site is zoned "Centre" under the City's District Planning Scheme No 2, which is regulated by the criteria set out in the KNCSP. The KNCSP is made up of three major areas. The western most component is for "Commercial" use, which is the subject of the development application. A vacant "Civic and Cultural" site, which is owned by the COJ and earmarked for community and civic purposes, is located to the east of the subject site. The third area is a "Residential" area with a density coding of R40. This area is located to the east of Balliol Elbow, which is largely built and/or under construction.

To the north of the subject site is an adjoining public open space area (McNaughton Park) with existing playing fields, clubrooms and skate-park. Established residential land is located to the south of Selkirk Drive.

The shopping centre is proposed to be single storey in nature and is to be made up of a supermarket (2,518m²), restaurant/shop (café/deli), liquor store, two take-away food outlets, 11 non-retail tenancies and 2 Automatic Teller Machine (ATM).

Design

The proposed shopping centre is to be constructed of concrete tilt-up panels with a metal deck roof. The development is to be single storey and up to 8 metres in height, creating a building façade, which gives the impression of a two-storey structure. This feature has been requested as part of the KNCSP.

The development has been designed with active frontages towards Selkirk Drive providing no blank facades fronting the street, as per the requirements of the KNCSP. The shopping centre has been developed close to Selkirk Drive to create an appealing façade, which is not dominated by car parking areas.

A continuous awning is proposed around the southern and western façade of the building to provide protection to pedestrians from the weather as required under the KNCSP. The applicant has provided in the design of the development an entry statement above the two main entrances to the internal areas. These entry statements create clearly defined elements making clear the entries to the shopping centre. This is seen as a good design principle.

External doors for customer access have been provided for tenancies to be located on the western and southern facades to provide activity to the outside areas of the shopping centre. These tenancies have also been provided with a minimum of 70% glazing and minimum sill heights of 600mm as required under the KNCSP.

A bin storage area is proposed to be located on the eastern side of the centre as a solid enclosure, 2.7 metres in height. An internal service access has been provided to allow ease of use for tenants of the shopping centre. A pedestrian door is also provided to allow access to the bin storage area without the need to utilise the eastern service access road. The bin storage area is adequately screened from view from the street and public areas as required by the KNCSP.

The loading dock area to the shopping centre (supermarket) has been located to the northeast side of the proposed shopping centre. The location of this proposed facility is considered to be acceptable as it is not in view from the surrounding streets or residential properties. The area is buffered by the adjoining public open space and car parking area to the north, and has been screened from view to the east.

The design layout incorporates a ramp, retaining walls and planter boxes within the road reserve along Selkirk Drive. Structures within this area are not considered to be acceptable and should be located within the property boundaries. These are to be deleted from the plans.

Overall, the main street frontages, scale, setbacks, entry statements, awnings and open glazing of the shopping centre will facilitate an active building edge and a vibrant place. The proposed design has minimised the impact of service areas and bin storage areas on the general public and from the street frontages. The “main street” design is considered to complement Selkirk Drive and creates an attractive façade.

Floor Areas and Uses

Schedule 3 of DPS2 limits the retail “net lettable area” (NLA) of the Kinross Neighbourhood Centre to a maximum of 3,000m². The applicant has applied for a maximum of 3,000m² NLA with this application, and 1,116m² of non-retail floor area (including such land uses as offices and showrooms).

The supermarket (2,518m²) will encompass the bulk of the floor space. The balance of retail NLA available to the applicant is 482m². Of the remaining 482m², it is proposed to use 474m² (resulting in a spare capacity of 8m²) as follows:

PROPOSED USE	AREA (m²)
Liquor Store	184
Restaurant/ Shop (Café)	135
Take Away Food Outlet (Subway)	93
Take Away Food Outlet (Fish and Chips)	62
TOTAL AREA	474

In terms of detail, the applicant has illustrated outdoor alfresco areas on the floor plans that have been submitted. It is recommended that these be deleted from this application, as this will have implications for the overall net lettable area. It is also noted that two ATMs are proposed which are considered to be non-retail.

The uses that have been proposed for retail purposes are considered to be acceptable in relation to the KNCSP. The use of the remaining 11 non-retail tenancies has not been specified. It is recommended that a condition be imposed limiting the NLA to a maximum of 3,000m² in which planning approval must be sought for the proposed use of all other non-retail tenancies.

Parking and Access

The proposed site plan shows that there are to be 247 on-site car bays. The bulk of these bays are located on the western and northern sides of the property, with some bays being provided along the service access road to the east of the shopping centre building. Some of the parking bays within these areas are affected by the turning circles of the prime movers/semi trailers accessing the site, and will have to be modified and/or deleted. In addition, there are 7 existing street bays along Selkirk Drive of which 4 bays can be utilised as part of this development. The applicant has also shown a further 28 car bays within the northern portion of the adjoining civic and cultural site, which is land owned by the COJ.

Of the 247 on-site car bays shown on the site plan, 6 of those bays (bay no's 183-187 and 212) will have to be removed to provide adequate turning circles for prime mover/ semi-trailers to manoeuvre within the subject site. The removal of these bays would address the relevant recommendations of the "Traffic Impact Assessment" provided by SKM. It should also be noted that 2 car bays (bays 159 and 160) will also be affected by the sweep path of the prime mover/semi-trailers. These prime mover/semi-trailers would encroach into these bays when reversing into the loading dock. It is considered that these bays would not have to be removed on the basis that the deliveries by prime movers/ semi trailers would be infrequent. With an appropriate management plan for service vehicles delivering to the site, it could be ensured that deliveries by prime mover/semi-trailers to the site should not occur at peak periods. Overall, the total number of on-site car bays proposed would be reduced from 247 to 241 bays.

Clause 6.1.2 (xix) of the KNCSP states that verge bays shall be located along Selkirk Drive and may be credited towards the overall parking requirement for the neighbourhood centre. There are 7 existing verge bays along Selkirk Drive. Of these bays, 5 are considered to be of benefit to the shopping centre and could be included as part of the overall total number of car parking spaces. However, the traffic report provided by SKM has shown that prime movers/ semi-trailers would be required to drive across the kerb whilst negotiating a left-out turn. To address this issue, the number of existing kerbside bays within the road verge would need to be reduced from 5 to 4. The verge layout in this area would need to be amended to accommodate this turning movement from the site.

There are 3 other kerbside car bays in Selkirk Street (southeast), which is recommended for use as a new public bus stop, in accordance with criteria set out in Clause 6.1.2 (xx) of the KNCSP. This will require the applicant to liaise with the Public Transport Authority (PTA) for the possible relocation of the existing bus stop (which has no embayment) located on the eastern side of the corner for Selkirk Drive and Balliol Elbow.

The use of the 4 verge bays by the shopping centre is considered to be acceptable. These car bays are expected to be well utilised by the shopping centre patrons. Additionally the use of 3 existing verge bays for a recessed public bus stop is not considered to be detrimental to the surrounding residential properties and is also expected to be well utilised by patrons of the shopping centre.

The following table illustrates the available parking for the development.

TABLE 1 – ON-SITE PARKING FIGURES

Land Use	Area (m2)	Parking Ratio	Total No Car bays Required
Retail Floorspace	3,000	7 bays per 100m ²	210
Non-Retail Floorspace	1,116	1 bay per 30m ²	37
Total Required			247
Total Provided (not including verge bays)			241
Shortfall			6

Having regard to the above table, there is a shortfall of 6 car bays over the whole site.

As per Clause 6.1.2 (xix) of the KNCSP, these verge bays are required to be provided and may subsequently be credited towards the overall parking requirement for the site. It is considered that a credit of 4 existing verge bays towards the overall parking requirement would be acceptable in this instance. With the inclusion of the 4 existing verge bays, the overall shortfall would then be reduced to 2 car bays.

As per the requirements set out in Clause 4.11 of DPS2 – “Car parking – Cash in Lieu or Staging”, it is deemed that the applicant should provide a cash-in-lieu payment for the net shortfall of 2 car bays. This payment shall be utilised by the City to provide these two car bays in the future. Where possible, these bays should be provided within close proximity of this development.

The submitted development plans have illustrated the provision of 28 car bays on the adjoining civic and cultural site (Note: These car bays have not been included in the table above). These car bays are proposed to be provided at the full cost of the applicant. The applicant has also stated that the basis for the provision of these proposed car bays is to provide better access to and from the shopping centre; and additional parking for users of the shopping centre and the adjoining public open space to the north.

Clause 6.1.2 of the KNCSP requires that parking circulation be linked with the adjoining civic and cultural land. The “Development Plan” and “Illustrative Plan” within the KNCSP for the civic and cultural site is also indicative of the parking provided on the applicant’s plans. However, there are no current design proposals for the adjoining civic and cultural site. The timing for development of this site has not been scheduled and may still be many years before any certainty of the purpose, design and use is approved.

It is understood that the proposed car bays and access way on the COJ owned site may offer some benefit for the users of the adjoining public open space reserve. However the location of these bays, for the customers of the shopping centre, is not ideal being located some 90 - 120 metres away from the closest entrance of the shopping centre. Existing on-site parking bays are already available for the users of the adjoining public open space. Consequently, the provision of these parking bays is not considered to be a critical component of the shopping centre development. Therefore, the development of the proposed parking bays and access way on the COJ site is not supported at this stage.

Access to the proposed shopping centre site is proposed to be via two main points along Selkirk Drive. The main vehicular access point to the west of the proposed shopping centre incorporates a single-lane ingress and dual-lane egress crossover. A vehicular slip lane is proposed to be constructed on the northern side of Selkirk Drive to allow vehicles to enter the subject site without causing traffic inference for vehicles passing through. The applicant has stated that the proposed dual-lane egress point will reduce any back up of traffic around this access point and thereby reducing any traffic issues for vehicles endeavouring to enter the site.

Initial concern was raised by the City concerning the location of this access point in relation to the future dual-lane road widening along Connolly Drive, to the west. The traffic report provided by SKM and subsequent road safety audit (Tarsc Pty Ltd) has determined that the proximity of the proposed western access point, in relation to the future road widening of Connelly Drive, is sufficient.

The second proposed access point, which is to be located to the east of the shopping centre, is principally been designed for use as a service road. This access way is to be provided as a shared access between the proposed shopping centre development and the adjoining civic and cultural site. The shared access way is considered to have various benefits to both parties, which include the:

- provision of a single access point, rather than a separate crossover for each site;
- greater flexibility in design; and
- more efficient use of land.

The proposed eastern access way will allow service vehicles to access the bin storage areas and loading dock areas within the site, while separating this activity from the rest of the shopping centre. The traffic report provided by SKM illustrates that a mountable kerb will have to be provided to allow service vehicles to negotiate a left-turn into the service access area.

A number of parking bays have been provided within this service access. Some have been allocated for customer use and others are for staff use. The use of the more centrally located bays for staff is considered to be more acceptable. The reasoning for this would be that the expected use of these bays would be for longer periods of time thus reducing the level of traffic movements and conflict between staff vehicles, pedestrians and services vehicles.

Due to the gradient of the land the proposed service access will require the construction of a retaining wall on the eastern side of the service access, which is within the civic and cultural site. The retaining wall would be up to 1.5 metres in height. The provision of this retaining wall is considered to be acceptable. The retaining wall will allow the civic and cultural site to remain on a higher level than that of the shopping centre and will also provide some buffer between the service access and bin storage areas of the shopping centre. The provision of a future access way between the service road and the COJ owned site is possible with modifications to the proposed retaining wall. This could include a ramp system,

however, the details of this would not be known until the design of the future development on civic and cultural site is finalised.

A loading dock area has been provided to the northeast of the building. This is proposed for the use of the supermarket within the shopping centre site. The applicant is proposing to provide a 1.8 metre high solid wall screen to the loading dock, which is above the requirement set out in the KNCSP.

Pedestrian access to the site has also been provided in the form of 3.0m wide pedestrian pathways linking the western edge of the building to the adjoining northern public open space reserve and providing a connection to the underpass to the west of the site (under Connolly Drive). These internal paths are proposed to link up with the existing pathway network, which surrounds the site. The pathways have been raised in height above the driveways to double as traffic calming measures within the site. These pathways are considered to be acceptable and form part of the requirements set out in Clause 6.1.2 of the KNCSP.

The report provided by SKM has observed a high level of cyclists utilising the existing outer lying path system around the site. As part of their recommendations, SKM have stated that 25 bicycle racks should be provided on site to cater for this activity. It is recommended that this requirement be adopted as a condition of approval.

The access and parking proposals provided for this development are appropriate subject to imposition of certain conditions of approval. These conditions would include the deletion of the proposed parking on the civic and cultural site and minor amendments to the internal parking bays and access within the site. The shortfall of 2 bays is not considered to be detrimental to the overall development or the surrounding locality.

Landscaping

The subject site is 13,876m² in area of which 8% (approximately 1,110m²) is required to be landscaped as per the KNCSP and Clause 4.12 of the City's DPS2. This includes a requirement for a 3m wide landscaping strip to be provided along all street frontages.

The applicant has provided a landscaping strip along the Connolly Drive street frontage, which for the most part, complies with the minimum 3.0m width. There are two small portions on the corner truncation area of Connolly Drive and Selkirk Drive, which are less than this requirement. These variations are considered to be minor and acceptable in the overall context of the location and design of the proposed landscaping strip.

The applicant has requested that discretion be given for the overall landscaping area requirement. This is due to the requirement in the KNCSP for active street frontages to be provided along Selkirk Drive where ordinarily a 3.0m landscaping strip would be required. In the applicant's calculations, 25% of the 3.0m strip along Selkirk Drive has been included in the overall provision, totalling an area of 126m².

Site Area	13,876m ²
3.0m Buffer and Boundary Landscaping	790.83m ²
Internal Landscaping	194.05m ²
25% of Main Street setback	126.44m ²
Trees – 32 @ 1m ² per tree	32.0m ²
Trees – 10 @ 0.5m ² per tree	5.0m ²
Total	1148.32m²

This total represents 8.27% landscaping of the site.

The original development application plans showed shade trees within the parking areas at a rate of 1 tree per 8 car bays. As per Clause 4.12 of the City's DPS2, shade trees need to be provided at a rate of 1 tree per 4 car bays. The addition of these trees was not included in the applicant's original landscaping calculations. Amended plans have been received showing compliance with this requirement.

There are existing street trees located within the street verge areas around the sites. Due to the location of the main western access point, the applicant will be required to remove one existing street tree. The loss of this street tree is considered acceptable provided that all other existing street trees are retained. It is also noted that much of the verge areas around the site are grassed, reticulated and well maintained.

There is some existing mature vegetation within the site, which could be retained and/or transplanted. The applicant will be encouraged to retain/relocate any of these mature trees where possible.

The proposed variation to the overall landscaping requirement within the site is considered acceptable. The existing grassed areas, public open space reserve and the adjoining civic and cultural site all offer an opportunity to blend the shopping centre landscaping into the surrounding locality and as such, the proposed reduction in the landscaping area will not have a negative impact on the surrounding areas.

Lighting and Security

The applicant has provided lighting throughout the development. It is recommended that sufficient lighting should be provided around the subject site at all times to deter theft and anti-social behaviour.

It is noted that the service vehicle access to the east of the site has been provided with two security gates. These have been provided adjoining the loading dock and bin storage areas. It is considered that once the civic and cultural site is developed, this area would be largely concealed providing minimal surveillance from the street. The provision of gates will restrict vehicular and pedestrian access after hours, providing enhanced security.

Conclusion

The proposed Kinross Neighbourhood Shopping Centre is considered to meet the objectives of the KNCSP and the City's DPS2. The shopping centre creates an active focus for the community offering a convenient and diverse range of retail and commercial uses, as well as encouraging employment and new business into the area.

The design and scale of the proposed building is appropriate for the area promoting a high standard of "Main Street" built form and an active edge to complement Selkirk Drive streetscape and creates an attractive façade to the street for visual amenity and interaction.

The well-integrated pedestrian pathway and cycle system assists in creating a people friendly environment, offering a choice of environmentally friendly transport methods in accessing the site and the surrounding areas.

The development is seen to be a benefit to the residents in the local area and is therefore recommended for approval.

ATTACHMENTS

Attachment 1	Location Plan
Attachment 2	Site plans, floor plans and elevations
Attachment 3	Kinross Neighbourhood Centre Structure Plan – Plan 3 (development Plan) and Plan 4 (illustrative plan)
Attachment 4	SKM – Turning circles and loading dock plan (Figure 1)

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson SECONDED Cmr Fox that Council:

- 1 EXERCISES discretion under clause 4.5.1 of the City's District Planning Scheme No. 2 and determines that a reduction in the landscaping requirement from 8% to 7.36% is appropriate in this instance;**
- 2 EXERCISES discretion for the 4 existing verge bays to be credited towards the overall parking provision for the development as, set out in clause 6.1.2 (xix) of the Kinross Neighbourhood Centre Structure Plan;**
- 3 APPROVES the application for planning approval, dated 31 May 2005, submitted by J. Prestipino Building Designs Pty Ltd on behalf of the owners, Adriatic United Pty Ltd for the Kinross Neighbourhood Shopping Centre including a supermarket, restaurant/shop (café), liquor store, two takeaway food outlets, eleven non-retail tenancies and two automatic teller machines on Lot 2278 (3) Selkirk Drive, Kinross subject to the following conditions:**
 - (a) The provision of a total of 247 car bays, of which, Council is prepared to accept:**
 - (i) 4 verge car bays; and**
 - (ii) cash in lieu payment for two spaces, at \$4,450 each;****to satisfy the car parking requirement for this development;**
 - (b) The retail net lettable area of the development shall not exceed 3000m² as identified in the Kinross Neighbourhood Centre Structure Plan and Schedule 3 of the City's District Planning Scheme No 2;**
 - (c) The owners of Lot 2278 (3) Selkirk Drive, Kinross shall submit an application for reciprocal rights of access over the common access way that is located on the development site and the adjoining Civic and Cultural Land Use site. The reciprocal access is to be approved prior to practical completion and occupancy of the shopping centre. The owners of Lot 2278 (3) Selkirk Drive, Kinross shall be responsible to pay for all costs of and incidental to the preparation of the easement, including all stamping and registration fees to the satisfaction of the Manager Approvals, Planning and Environmental Services;**
 - (d) The proposed parking area provided within the adjoining Civic and Cultural Land Use site and proposed access from Balliol Elbow being deleted as marked in RED on the approved plans;**

- (e) **The parking bay/s, driveway/s and points of ingress and egress to be designed in accordance with the Australian Standard for Off-street Car parking (AS2890) unless otherwise specified by this approval. Such areas are to be constructed, sealed, drained, permanently marked and thereafter maintained to the satisfaction of the Manager Approvals, Planning and Environmental Services prior to the development first being occupied;**
- (f) **A minimum of six (6) disabled car parking bays being provided and located convenient to the entrances and pedestrian pathways of the centre, to the satisfaction of the Manager Approvals, Planning and Environmental Services;**
- (g) **The internal parking layout being modified to remove car bays numbers 183, 184, 185, 186, 187 and 212 which are affected by the turning circles requirements of prime movers/ semi-trailers within the site (SKM report September 2005). These areas, as marked in RED on the approved plans, shall be redesigned to the satisfaction of the Manager Approval, Planning and Environmental Services;**
- (h) **Car bays numbers 237, 238, 239, 240, 241 and 242 located centrally along the service access, shall be permanently marked as staff bays only, to the satisfaction of the Manager Approval, Planning and Environmental Services;**
- (i) **The proposed docking ramp down be moved south by a minimum of 3.5 metres to allow for a prime mover/ semi-trailer to adequately manoeuvre and reverse into the loading dock area (SKM report September 2005) to the satisfaction of the Manager Approval, Planning and Environmental Services;**
- (j) **Appropriate verge treatments being provided and incorporated into the building licence to facilitate safe turning movements in and out of the proposed crossovers along Selkirk Drive, to address the turning circles requirements of prime movers/ semi-trailers (SKM report September 2005). These areas, as marked in RED on the approved plans, shall be redesigned to the satisfaction of the Manager Approval, Planning and Environmental Services;**
- (k) **The car park shall be designed to ensure slow speeds incorporating speed control devices such as minor level changes where necessary to the satisfaction of the Manager Approval, Planning and Environmental Services;**
- (l) **The applicant to provide pram ramps and crossover facilities between the verge areas on the southern side crossovers along Selkirk Drive to the satisfaction of the Manager Approval, Planning and Environmental Services;**
- (m) **A management plan being provided and approved prior to practical completion for service vehicles including the transport of rubbish and deliveries to the centre, to the satisfaction of the Manager Approval, Planning and Environmental Services;**

- (n) **The provision of a minimum 25 bicycle racks convenient to the entrances of the proposed shopping centre, to the satisfaction of the Manager Approval, Planning and Environmental Services;**
- (o) **A bus bay shall be provided on Selkirk Drive within the existing verge bay located to the southeast side. The applicant shall liaise with the Public Transport Authority and any other departments, as necessary, for the possible relocation of existing nearby bus stop(s) to this area, to the satisfaction of the Manager Approval, Planning and Environmental Services;**
- (p) **Services areas, bin and material storage areas shall be located away from public areas and screened from view of the street and public areas at all times, to the satisfaction of the Manager Approval, Planning and Environmental Services;**
- (q) **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 beyond the boundaries of the development site to the satisfaction Manager Approval, Planning and Environmental Services;**
- (r) **The pedestrian pathways, landscaping areas, parking areas and/or associated access ways shall not be used storage (temporary or permanent) and/or display and/or be obstructed in any way at any time, without the prior approval of the Manager Approvals, Planning and Environmental Services;**
- (s) **The lodging of detailed landscape plans, to the satisfaction of the Manager Approvals, Planning and Environmental Services, prior to any site works commencing. The detailed plans should identify those existing mature trees that are to be retained or relocated on the site;**
- (t) **Landscaping and reticulation to be established in accordance with the approved plans prior to the development first being utilised and thereafter maintained to the satisfaction of the Manager Approvals, Planning and Environmental Services;**
- (u) **All existing street trees shall be retained other than the tree located at the site of the proposed western crossover on Selkirk Drive, as denoted on the approved plans;**
- (v) **All ramps, retaining walls and structures of the like, which are proposed to be located within the road reserve, shall be moved so that they are located entirely within the boundaries of the subject property;**
- (w) **No alfresco areas have been approved as part of this application. Any proposals for alfresco areas will require the submission of a separate application for planning approval;**
- (x) **All retaining walls within the subject site shall be of clean finish and made good to the satisfaction Manager Approval, Planning and Environmental Services;**
- (y) **An overall signage strategy for the shopping centre shall be submitted for approval to the satisfaction of the Manager Approval, Planning and Environmental Services;**

- (z) Any blank wall of the development, including any retaining walls shall be coated with a non-sacrificial anti-graffiti coating, to the satisfaction of the Manager Approval, Planning and Environmental Services;**
- (aa) Installation of lighting to the building, streets, parks and car parking areas, to encourage safe use after hours and deter theft and anti social behaviour, to the satisfaction of the Manager Approvals, Planning and Environmental Services;**
- (bb) Any floodlighting being designed in accordance with Australian Standards for the Control of Obtrusive Effects of Outdoor Lighting (AS4282) and shall be where possible, internally directed to not overspill into nearby lots;**
- (cc) The applicant shall submit plans and details illustrating an onsite stormwater drainage system with the capacity to contain a 1:100 year storm of a 24-hour duration. The proposed stormwater drainage system is required to be approved by the City prior to the commencement of any site works and thereafter maintained to the satisfaction of the Manager Approvals, Planning and Environmental Services;**
- (dd) Any amendments to the application as marked in RED on the approved plans shall be provided to the satisfaction of the Manager Approval, Planning and Environmental Services;**
- (ee) The applicant/owner is to submit a detailed plan showing compliance with condition 2 (a). The remaining tenancies are not permitted to be used as Retail Net Lettable Area as defined in Appendix 4 of Statement of Planning Policy No. 9 - Metropolitan Centres Policy Statement for the Perth Metropolitan Region;**
- (ff) The recommendations outlined within the SKM Traffic Impact Statement (September 2005) and subsequent Road Safety Audit (Tarsc Pty Ltd 23/09/2005) to be implemented at the applicant's cost prior to the occupation of the development, to the satisfaction of the Manager Infrastructure Management Services.**

FOOTNOTES:

- 1 In relation to Condition (j) the applicant is advised to liaise with the City's Infrastructure Management Services for any amendments to the verge area and existing verge parking;**
- 2 A building licence will be required to be submitted and approved prior to any shop fit-outs being undertaken;**
- 3 The applicant is advised that the tree species shall be such that it has high branch free stems to allow surveillance and visibility of shop fronts, including large canopies to achieve adequate shading of car parking areas and the western facing portion of the building.**

Cmr Anderson spoke to the motion.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 12 refers

To access this attachment on electronic document, click here: [Attach12brf041005.pdf](#)

CJ218 - 10/05 MONTHLY TOWN PLANNING DELEGATED AUTHORITY REPORT – AUGUST 2005 – [07032]

WARD: All

RESPONSIBLE DIRECTOR: Mr David Djulbic (Acting Director)
Planning and Community Development

CJ051004_BRF.DOC:ITEM 15

PURPOSE

To provide an explanation of the town planning delegated authority report included in this agenda and to submit items of Delegated Authority to Council for noting.

EXECUTIVE SUMMARY

The provisions of clause 8.6 of the text to the District Planning Scheme No 2 allows Council to delegate all or some of its development control powers to those persons or committees identified in Schedule 6 of the Scheme text.

The purpose of delegation of certain powers by Council to staff is to facilitate timely processing of development applications and subdivision applications. The framework for the delegation of those powers is set out in resolutions adopted by Council and is reviewed generally on a yearly basis. All decisions made by staff, acting under delegated authority as permitted under the delegation notice, are reported to Council on a monthly basis.

The normal monthly report identifies the major development applications that have been determined under delegated authority. A second approval process exists which deals with requests for Council to exercise its discretion to vary an acceptable standard of the Residential Design Codes for a single house. This process is referred to as “R-Codes variation approval for single houses” (this was introduced by the 2002 R-Codes).

This report provides a list of the development applications determined by those staff members with delegated authority powers during August 2005 (see Attachment 1) and now include the codes variations referred to above.

The number of “development applications” determined for August 2005 (including Council and delegated decisions) and those applications dealt with as an “R-code variations for single houses” for the same period are shown below:

Approvals Determined Under Delegated Authority – Month Of August 2005		
Type of Approval	Number	Value (\$)
Development Applications	99	11,204,761,
R-Code variations (Single Houses)	56	3,317,674
Total	155	14,522,435

There were two development applications determined by Council during this month at a value of \$2,200,000. The number of development applications received in August 2005 was 109. This figure does not include any applications that may become the subject of the R-Code variation process.

BACKGROUND

Suburb/Location:	All
Applicant:	Various – see attachment
Owner:	Various – see attachment
Zoning:	DPS: Various
	MRS: Not applicable

The District Planning Scheme No 2 requires that delegation be reviewed annually, unless a greater or lesser period is specified by Council. The Joint Commissioners, at their meeting of 19 July 2005 considered and adopted the most recent Town Planning Delegation.

DETAILS

Issues and options considered:

Not Applicable

Link to Strategic Plan:

The strategic plan includes a strategy to provide quality value-adding services with an outcome to provide efficient and effective service delivery. The use of a delegation notice allows staff to efficiently deal with many simple applications that have been received and allows the elected members to focus on strategic business direction for the Council, rather than day-to-day operational and statutory responsibilities.

City development is a key focus area of the City's Strategic Plan. The proposals considered by staff acting under delegated authority relate closely to the objectives of providing for a growing and dynamic community.

The Council adopted the Delegation of Authority instrument after detailed consideration, in accordance with the Strategic Plan objective of providing a sustainable and accountable business.

The delegation is necessary due to the large volume of development applications received for development within the City. It is a key instrument in providing a range of services that are proactive, innovative and using best practice to meet organisational and community needs. This is also a strategy of the City's Strategic Plan.

Legislation – Statutory Provisions:

Clause 8.6 of the District Planning Scheme No 2 permits development control functions to be delegated to persons or Committees.

Risk Management considerations:

The delegation process includes detailed practices on reporting, checking and cross checking, supported by peer review in an effort to ensure decisions taken are lawful, proper and consistent.

Financial/Budget Implications:

Not Applicable

Policy implications:

Not Applicable

Regional Significance:

Not Applicable

Sustainability implications:

Not Applicable

Consultation:

Consultation may be required by the provisions of the Residential Design Codes 2002, any relevant Town Planning Scheme Policy and/or the District Planning Scheme.

Of the 99 applications determined during the report summary period, consultation was undertaken for 51 of those applications.

All applications for an R-codes variation require the written support of the affected adjoining property owner before the application is submitted for determination by the Coordinator Planning Approvals. Should the R-codes variation consultation process result in an objection being received, then the matter is referred to the Director Planning and Community Development or the Manager, Approvals, Planning and Environmental Services, as set out in the notice of delegation.

COMMENT

Large local governments utilise levels of delegated authority as a basic business requirement in relation to Town Planning functions. The process allows determination times to be reasonably well accepted and also facilitates consistent decision-making in rudimentary development control matters. The process also allows the elected members to focus on strategic business direction for the Council, rather than day-to-day operational and statutory responsibilities.

Without such a mechanism, it would be exceptionally difficult for the Council to be properly informed to make decisions itself, regarding approximately 70-110 planning applications per month.

All proposals determined under delegated authority are assessed, checked, reported and crosschecked in accordance with relevant standards and codes.

The delegation notice itself outlines specific delegations to respective levels and the limits to those levels of determination. The delegation allows the Director Planning & Community Development and Manager Approvals, Planning & Environmental Services to implement aspects of the District Planning Scheme No 2 that relate to the determination of certain types of development applications, and to process subdivision applications.

The Coordinator Planning Approvals and Senior Planning Officers (Planning Approvals) have authority to approve development applications that are in compliance with the District Planning Scheme No 2 or with minor variations to the applicable standard.

In addition to the major development applications dealt with under delegated authority, the Residential Design Codes and the District Planning Scheme provisions require an applicant to seek Council's written approval to exercise its discretion to vary an Acceptable Standard of the Residential Design Codes for a development that relates to a single house or additions to a single house, such as patios, outbuildings, carports, garages, retaining walls, etc. As this type of written approval requires an exercise of discretion, they are required to be reported to Council in accordance with the notice of delegation.

Where a development does not require planning approval (complying development), the application is dealt with as a building licence only. Should a building licence application be received and it is identified that an R-Codes variation is required, then the applicant will be requested to seek the relevant approval.

ATTACHMENTS

Attachment 1 August 2005 Approvals – Development Applications
Attachment 2 August 2005 Approvals – R-code variations for Single House

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Anderson, **SECONDED** Cmr Clough that Council **NOTES** the determinations made under Delegated Authority in relation to the applications described in Report CJ218-10/05 for the month of August 2005.

The Motion was Put and **CARRIED UNANIMOUSLY (5/0)**

Appendix 13 refers

To access this attachment on electronic document, click here: [Attach13brf041005.pdf](#)

CJ219 - 10/05 SUBDIVISION REFERRALS PROCESSED BETWEEN 1 AND 31 AUGUST 2005 – [05961]

WARD: South, Whitfords, North Coastal, South Coastal

RESPONSIBLE DIRECTOR: Mr David Djulbic (Acting Director)
Planning and Community Development

CJ051004_BRF.DOC:ITEM 16

PURPOSE

This report is to advise the Council of subdivision referrals received by the City for processing in the period 1-31 August 2005.

EXECUTIVE SUMMARY

Attachment 1 is a schedule of the Subdivision Referrals processed from 1–31 August 2005. Applications were dealt with in terms of the delegation adopted by the Council in August 2005.

BACKGROUND

Suburb/Location:	Refer Attachment 1
Applicant:	Refer Attachment 1
Owner:	Refer Attachment 1
Zoning:	DPS: Various
	MRS: Various

DETAILS

Issues and options considered:

Five subdivision referrals were processed within the period. The average time taken to provide a response to the Western Australian Planning Commission was 12 days, which compares with the statutory timeframe of 30 working days. The subdivision applications processed enabled the potential creation of one (1) residential lot and six (6) strata residential lots.

Link to Strategic Plan:

City Development is a key focus area of the City's Strategic Plan. The proposals considered during the month relate closely to the objectives of providing for a growing and dynamic community.

Legislation – Statutory Provisions:

All proposals were assessed in accordance with relevant legislation and policies, and a recommendation made on the applications to the Western Australian Planning Commission.

Risk Management considerations:

The delegation process includes details practices on reporting, assessment, and checking to ensure recommendations are appropriate and consistent.

Financial/Budget Implications:

Not Applicable

Policy implications:

Not Applicable

Sustainability implications:

Not Applicable

Consultation:

No applications were advertised for public comment for this month, as either the proposals complied with the relevant requirements, or were recommended for refusal due to non-compliance.

COMMENT

Not Applicable

ATTACHMENTS

Attachment 1 Schedule of Subdivision Referrals

VOTING REQUIREMENTS

Simple Majority

MOVED Cmr Fox, **SECONDED** Cmr Clough that Council **NOTES** the action taken by the subdivision control unit in relation to the applications described in Report CJ219-10/05 for the month of August 2005.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)*Appendix 14 refers*

To access this attachment on electronic document, click here: [Attach14brf041005.pdf](#)

REPORT OF THE CHIEF EXECUTIVE OFFICER**Disclosure of Financial Interests**

Name/Position	Mr Peter Schneider – Director Corporate Services and Resource Management
Item No/Subject	CJ220-10/05 - Delegation of Authority to Appoint an Acting Chief Executive Officer
Nature and Extent of Interest	Potential to affect Mr Schneider's employment

Name/Position	Mr David Djulbic – Acting Director Planning and Community Development
Item No/Subject	CJ220-10/05 - Delegation of Authority to Appoint an Acting Chief Executive Officer
Nature and Extent of Interest	Potential to affect Mr Djulbic's employment

CJ220 - 10/05 DELEGATION OF AUTHORITY TO APPOINT AN ACTING CHIEF EXECUTIVE OFFICER – [00384] [13399] [18058] [00561]

WARD: All

RESPONSIBLE DIRECTOR: Mr Garry Hunt
Office of CEO

PURPOSE

For the Council to give consideration to delegating authority to the Chief Executive Officer to be able to make appointments to the position of Acting Chief Executive Officer during periods of absence not exceeding one (1) calendar month.

EXECUTIVE SUMMARY

The Local Government Act 1995 provides that a local government is to appoint a person to the position of Chief Executive Officer (CEO) to ensure that the statutory provisions of the role are performed.

While the authority rests with the Council to appoint a CEO, the power to appoint a person to Act as CEO during periods of absence may be delegated.

During the employment of the permanent CEO there will be periods of time where he/she will be absent from the City of Joondalup for planned or unplanned purposes. It is therefore necessary to appoint another employee of the City to act in the position of CEO to ensure the statutory functions of the position are performed.

It is suggested that the power to appoint an employee of the City to act as CEO for periods of less than one (1) calendar month be delegated to the CEO. For any appointments for employees to act as CEO greater than one (1) month will be referred to the Council for consideration.

Any appointments to the acting CEO role will be only employees that hold the position of director and classified as a senior employee of the City of Joondalup, and will be based on workload and availability of the employee.

BACKGROUND

The Local Government Act 1995 requires that a local government employ a person to be the Chief Executive Officer.

In the past where the CEO is scheduled to be absent from the City and unable to fulfil the statutory duties of the position of the CEO, a report has been presented to the Council recommending another employee be appointed to the role of Acting CEO during the identified period of absence.

DETAILS

The CEO, throughout the course of his/her employment with the City of Joondalup, will be entitled to take periods of annual and sick leave and may be absent from the City for other reasons, which will prevent him/her from fulfilling his statutory obligations. As a result of these circumstances occurring from to time and for other circumstances it is advisable that a process be in place by which another employee of the City can be appointed to the role of Acting CEO.

Issues and options considered:

An option is to delegate the authority to the CEO to be able to appoint another employee of the City who is employed as the status of 'Director' and designated as a senior employee under the provisions of the Local Government Act 1995.

The alternative option that could be considered is to require the Council to maintain the power to appoint persons to the position of the CEO, regardless of the appointment being permanent or on an acting basis.

Link to Strategic Plan:

Outcome:	The City of Joondalup is recognised as an employer of choice.
Objective 4.5:	To manage our workforce as a strategic business resource.
Strategy 4.5.4	Implement best practice people-management policies and tools to assist in the achievement of the City's workforce objectives.

Legislation – Statutory Provisions:

Section 5.36 of the Local Government Act 1995 states:-

5.36. Local government employees

- 1 *A local government is to employ:*
 - (a) *a person to be the CEO of the local government; and*
 - (b) *such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.*

- 2 *A person is not to be employed in the position of CEO unless the council —*
 - (a) *believes that the person is suitably qualified for the position; and*
 - (b) *is satisfied* with the provisions of the proposed employment contract.*

**Absolute majority required.*

- 3 *A person is not to be employed by a local government in any other position unless the CEO:*
 - (a) *believes that the person is suitably qualified for the position; and*
 - (b) *is satisfied with the proposed arrangements relating to the person's employment.*

- 4 *If the position of CEO of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed;*

- 5 *For the avoidance of doubt, subsection (4) does not impose a requirement to advertise a position before the renewal of a contract referred to in section 5.39.*

Section 5.37(1) of the Local Government states: -

5.37. Senior employees

- 1 *A local government may designate employees or persons belonging to a class of employee to be senior employees.*

Section 5.39 (1), (1a) and (2) of the Local Government Act 1995 states: -

5.39. Contracts for CEO's and senior employees

- 1 *Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section;*
 - 1(a) *Despite subsection (1) —*
 - (a) *an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and*
 - (b) *a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2-year period, without a written contract.*
- 2 *A contract under this section —*
 - (a) *in the case of an acting or temporary position, cannot be for a term exceeding one year;*
 - (b) *in every other case, cannot be for a term exceeding 5 years.*

Section 5.42 of the Local Government Act 1995 details which powers and duties may be delegated to the CEO and section 5.43 of the Local Government Act 1995 places certain limitations on what powers and duties can be delegated, as follows:

5.42. Delegation of some powers and duties to CEO

- 1 *A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.*

**Absolute majority required.*

- 2 *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*

5.43. Limits on delegations to CEOs

A local government cannot delegate to a CEO any of the following powers or duties:

- (a) *any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;*
- (b) *accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
- (c) *appointing an auditor;*
- (d) *acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*

- (e) *any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;*
- (f) *borrowing money on behalf of the local government;*
- (g) *hearing or determining an objection of a kind referred to in section 9.5;*
- (h) *any power or duty that requires the approval of the Minister or the Governor; or*
- (i) *such other powers or duties as may be prescribed.*

Risk Management considerations:

The Local Government Act 1995 requires every local government to have a person appointed to the position to CEO, either in a permanent or temporary capacity. Failure to have someone employed within the role will mean many statutory duties assigned to the position of CEO will not be able to be performed.

Financial/Budget Implications:

Not Applicable

Policy implications:

There are no policy implications, however there will be a requirement to amend the corporate delegated authority manual if it is agreed to delegate the power to appoint an Acting CEO.

Regional Significance:

Not Applicable

Sustainability implications:

Not Applicable

Consultation:

Not Applicable

COMMENT

The Local Government Act 1995 requires that it is the Council that has the power to appoint a person to the position of CEO. However, the power to appoint a person to the position of CEO on an acting basis may be delegated by the Council to the CEO.

Circumstances may arise relating to the permanent CEO being required to be absent from the City of Joondalup for various reasons such as annual or sick leave. In these circumstances it is appropriate that the CEO be delegated the authority to be able to appoint another employee of the City who is employed as a 'Director' and is designated as a Senior Employee of the City as per the Local Government Act 1995.

It is recommended that in accordance with good governance principles, the ability for the CEO to appoint a person to the Acting position of CEO should not be for periods of no more than one (1) calendar month. All appointments for a City employee to act in the position of CEO greater than one (1) calendar month must be referred to the Council for consideration.

If the delegation is granted it is proposed that an arrangement be put in place whereby the position of Acting CEO is rotated amongst the Directors. Each Director will be assigned to a particular three-month period. If the CEO is absent from the City for a period less than one (1) calendar month, the Director assigned to the period during which the absence falls will automatically assume the role of Acting CEO. This would ensure, should there be any unforeseen circumstances, illness, accident or similar to the CEO, that an individual has already been designated to assume the role for that particular period and obviate the need for a Special Council meeting to be called in the event that unexpected situations arise.

It is believed this is an appropriate measure in terms of risk management. The intention would be that the appointment of a designated Acting CEO would be programmed in a way that is mindful of other work commitments and programmes of the individual Directors. It would be the intention of the CEO to advise elected members when a senior employee is assigned to be the designated Acting CEO, when circumstances require, for the forthcoming three (3) month period.

ATTACHMENTS

Not Applicable

VOTING REQUIREMENTS

Absolute Majority

MOVED Cmr Anderson SECONDED Cmr Smith that Council:

- 1 DELEGATES to the Chief Executive Officer the power to make appointments to the position of Acting Chief Executive Officer based on:**
 - (a) the City employee holding the substantive position of 'Director' and is designated a 'Senior Employee' as required by the Local Government Act 1995;**
 - (b) Appointments being for no longer than one (1) calendar month, with all other appointments to the position of Acting Chief Executive Officer referred to the Council for determination;**
- 2 NOTES that the Chief Executive Officer will advise elected members when a senior employee is to be designated Acting CEO, when circumstances require, for the following three (3) month period.**

The CEO made reference to the comment in the report that there were no financial budget implications. The CEO advised that there are financial implications, in that Directors will be paid a higher duty allowance during the period they serve as Acting CEO, and that allowance is invariably 80% of the CEO's designated salary

Cmr Smith sought the definition of 'calendar month'.

Cmr Anderson, with the approval of Cmr Smith as seconder, advised he wished the Motion to be **WITHDRAWN**

MOVED Cmr Smith **SECONDED** Cmr Anderson that Council:

- 1 DELEGATES to the Chief Executive Officer the power to make appointments to the position of Acting Chief Executive Officer based on:**
 - (a) the City employee holding the substantive position of 'Director' and is designated a 'Senior Employee' as required by the Local Government Act 1995;
 - (b) Appointments being for no longer than thirty-five (35) days, with all other appointments to the position of Acting Chief Executive Officer referred to the Council for determination;
- 2 NOTES that the Chief Executive Officer will advise elected members when a senior employee is to be designated Acting CEO, when circumstances require, for the following three (3) month period.**

The Motion was Put and

**CARRIED BY AN
ABSOLUTE MAJORITY (5/0)**

Disclosure of Financial Interests

Name/Position	<i>Mr Garry Hunt – Chief Executive Officer</i>
Item No/Subject	<i>CJ221-10/05 - CEO Performance Review Committee Concluded Report</i>
Nature and Extent of Interest	<i>Employed as Chief Executive Officer</i>

Disclosure of interest affecting impartiality

Name/Position	<i>Mr Peter Schneider – Director Corporate Service & Resource Management</i>
Item No/Subject	<i>CJ221-10/05 - CEO Performance Review Committee Concluded Report</i>
Nature and Extent of Interest	<i>Due to the nature of the reporting/employment relationship with the Chief Executive Officer</i>

The CEO left the Chamber at this point, the time being 2000 hrs.

CJ221 - 10/05 CEO PERFORMANCE REVIEW COMMITTEE - CONCLUDED REPORT – [74574]

WARD: All

RESPONSIBLE DIRECTOR: Mr Peter Schneider
Corporate Services and Resource Management

PURPOSE

To submit the CEO Performance Review Committee's concluded confidential report on the outcome of the CEO's initial performance review, for consideration of Council.

EXECUTIVE SUMMARY

The CEO Performance Review Committee (the Committee) provided its assessment report of the CEO's performance against his Key Performance Indicators (KPIs) to Council at its meeting of 20 September 2005. The report was provided to the CEO at the same time it was submitted to Council and a comment period was provided for.

The CEO has endorsed the report as an accurate reflection of the review, therefore that report becomes the concluded report, which is resubmitted to Council for consideration in accordance with the CEO's Employment Contract.

It is recommended that Council ADOPTS the Performance Review Committee's Concluded Initial Performance Review Report as LAID ON THE TABLE at the Council meeting held on 11 October 2005 and marked 'Confidential'.

BACKGROUND

At the Council meeting held on 20 September 2005, when considering late Item No. 2 Performance Review Committee - CEO Initial Performance Review, Council resolved as follows:

- 1 ENDORSES the Performance Review Committee's satisfactory findings and conclusions about the CEO's performance during the period 31 January 2005 to 31 July 2005, inclusive;
- 2 ENDORSES further discussion between the CEO and the Performance Review Committee to review and vary the Key Performance Indicators going forward with recommendations to be referred to Council;
- 3 CONGRATULATES the CEO on his achievements in relation to meeting the relevant conditions of his Employment Contract relating to Key Performance Indicators.

The following related reports have previously been considered by Council:

C53-09/05	Minutes of the Chief Executive Officer Performance Review Committee
C46-08/05	Chief Executive Officer - Performance Review Committee
CJ104-06/05	Chief Executive Officer - Performance Review Committee
C2-01/05	CEO Recruitment and Appointment

DETAILS

Issues and options considered:

The Committee met on several occasions between 19 July and 6 September 2005 in order to progress the CEO's initial performance review in accordance with the relevant clauses of the CEO's Employment Contract.

As a result of those meetings the Committee arrived at its own assessment, judged against the Key Performance Indicators (KPIs) for the period 31 January to 31 July 2005, inclusive.

The Committee's confidential report was presented to the Council meeting of 20 September 2005 where it was considered and endorsed by Council.

The review process specified within the CEO's Employment Contract allows for a comment period by the CEO, on the matters contained within the report. Any such comments and comments in reply thereto of the committee or any individual member of the committee are to form an appendix to the Committee's report and the concluded report tabled at the next Council meeting.

The CEO has endorsed the report as an accurate reflection of the review, therefore the Committee's report endorsed by Council at its meeting of 20 September 2005, now becomes the concluded report.

Link to Strategic Plan:

Objective 4.5 - To manage our workforce as a strategic business resource.

Legislation – Statutory Provisions:

In accordance with section 5.38 of the Local Government Act 1995 the performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.

Clause 11.2 of the CEO's Employment Contract requires that his performance is to be reviewed initially within thirty days after the sixth month of his employment under his contract.

Risk Management Considerations:

The performance review process is designed to evaluate and assess the CEO's performance against Key Performance Indicators on a periodic basis and the Performance Review Committee is required to refer its concluded report to the Council for consideration and actioning. Schedule 2 of the CEO's Employment contract details the initial Key Performance Indicators to be achieved by the CEO.

Financial/Budget Implications:

Not applicable.

Policy Implications:

Not applicable.

Regional Significance:

Not applicable.

Sustainability Implications:

KPIs for the CEO have ongoing sustainability implications underpinning them.

Consultation:

Not applicable.

COMMENT

The CEO has endorsed the Committee's report as an accurate reflection of his review therefore the original report becomes the concluded confidential report, which is to be tabled for consideration by Council.

ATTACHMENTS

Attachment 1 - "Confidential Report" Chief Executive Officers Concluded Initial Performance Review (to be tabled at the Council meeting).

VOTING REQUIREMENTS

Simple majority.

MOVED Cmr Smith **SECONDED** Cmr Fox that Council **ADOPTS** the Performance Review Committee's Concluded Initial Performance Review Report as **LAI**D ON THE **TABLE** at the Council Meeting held on 11 October 2005 and marked 'confidential' and appended hereto in the Official Minute Book as Appendix 18.

Discussion ensued.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

Appendix 18 refers.

The CEO entered the Chamber at this point, the time being 2002 hrs.

Disclosure of Financial Interests

Name/Position	Mr Mike Smith – Manager Marketing, Communications & Council Support
Item No/Subject	C57-10/05 – Organisational Structure
Nature and Extent of Interest	Mr Smith is a potential applicant for new position(s).

Disclosure of interest affecting impartiality

Name/Position	Mr Garry Hunt – Chief Executive Officer
Item No/Subject	C57-10/05 - Organisational Structure
Nature and Extent of Interest	Impacts on the role of Chief Executive Officer

Name/Position	Mr Peter Schneider – Director Corporate Services & Resource Management
Item No/Subject	C57-10/05 - Organisational Structure
Nature and Extent of Interest	This report makes reference to his position.

C57-10/05 ORGANISATIONAL STRUCTURE – [62570]**Note:**

This Late Item was listed in the Agenda for the Council meeting to be held on 11 October 2005, under the preliminary subject heading of “Appointment of Senior Employee – Director”

WARD: All

RESPONSIBLE Mr Garry Hunt
DIRECTOR: Office of the CEO

PURPOSE

To consider a proposal to modify the organisational structure at the Executive level.

EXECUTIVE SUMMARY

A detailed review of the organisational structure has been undertaken over the last six months by the CEO. The approach utilised has involved:

- analysis of senior executive roles;
- review of governance and policy;
- analysis of operations of the CEO Unit;
- organisational review process;
- comparison with organisational structures in other local governments of a comparable size; and
- review of capacity to deal with industry sector issues;
- Identification of organisational risks.

The focus of the review has been in regard to:

- the capacity of the organisation to meet the strategic objectives defined by the Council;
- the need to address the legislative requirements of the Local Government Act and other relevant legislation;
- ensuring the organisation has the capacity to meet contemporary management requirements and to achieve, or exceed, industry benchmarks.

The proposed structure addresses organisational deficiencies in governance identified in the *Governance Review – Final Report*, and will also assist with the implementation and ongoing development and monitoring of the newly developed *Governance Framework*.

This report presents a revised preferred organisational structure that includes an additional Directorate (Governance and Strategy), fewer direct reports to the Chief Executive Officer, and greater focus, coordination and alignment in the priority areas of governance and strategy.

It is recommended that Council endorses the proposed Organisational Structure, shown as Appendix 1 to this report that includes the creation of a new Directorate, Governance and Strategy, and the establishment of a new Senior Employee position titled, Director Governance & Strategy.

It is further recommended that Council:

- Retitles the position of Director Corporate Services and Resource Management to Director, Corporate Services; and
- Retitles the position of Director Infrastructure and Operations to Director, Infrastructure Services.

The title of Director Planning & Community Development is to remain unchanged.

The proposed changes can be accommodated within the total budget for the 2005/06 financial year.

BACKGROUND

In 1998 the Council endorsed an organisational structure comprising the CEO and four Directorates titled Community Development, Resource Management, Development Services, and Business Units. This structure is shown as Appendix 2 to this Report.

Subsequently, in 2002 the Council of the day endorsed a revised organisational structure reducing the number of directorates from four to three. The Directorates endorsed were, Planning and Community Development, Infrastructure and Operations, and Corporate Services and Resource Management. This is the current organisational structure and is shown as Appendix 3 to this Report.

This structure includes a number of business units reporting directly to the CEO namely, Audit and Executive Services, Marketing, Communications and Council Support, Strategic and Sustainable Development, and Human Resources.

Following the appointment of a new CEO in February 2005, an organisational review was initiated in June 2005 with the aim of establishing whether the goals and resources of the City were appropriately aligned to the strategic direction set by the Council.

The Review was conducted by three Project Teams (Organisational Development, Service Review, and Process Review) that reported directly to the overall Project Team led by the CEO. The review was deliberately high level in nature and the work of each of the Project Teams focussed on the following phases in relation to their specific area of review:

- An assessment of the overall functioning of the organisation and the driving forces for business operations;
- Factors impacting on business operations (current and future); and
- Sources of problems and areas for improvement.

A separate analysis by the CEO identified significant issues and gaps in governance matters and highlighted the need for greater emphasis and coordination to be deployed to this area.

In addition to the Organisational Review findings, the CEO, in consultation with the Executive Management Team, has reviewed the current organisational structure in order to identify opportunities for structural configurations that will enhance alignment in key areas and, therefore, service delivery and the achievement of strategic imperatives.

DETAILS

The present structure has three Directors and four Managers reporting directly to the CEO (Audit and Executive Services; Marketing, Communication and Council Support; Strategic and Sustainable Development; and Human Resources) in addition to the three Directors. This structure is logistically problematic in that the time needed to provide support to these direct reports is extensive, and the CEO has, through the inclusion of these business units in his directorate, assumed major responsibility for operational matters, which has resulted in reduced time to focus on leadership, stakeholder liaison, change management and strategic oversight.

Reporting lines were an important consideration in the development of the preferred structure.

Areas of concern with the current structure include:

- Three Directors;
- Four Managers directly reporting to the CEO in relation to day-to-day operations;
- A lack of focus and time available for:
 - strategic projects of importance;
 - development and management of networks and partnerships with key stakeholders;
 - the requirement of the CEO under the current structure to be actively involved with administrative matters relevant to governance;
 - Greater focus needed on invigorating the business sector of the Joondalup CBD.

The proposal to employ an additional Senior Executive will enable the backlog of matters to be addressed and will provide the CEO with the necessary structure and support to enable greater focus by the CEO on:

- Strategic direction and priorities; and
- Preparing the organisation to meet and manage community needs and expectations.

Purpose of the Position

- To provide governance advice to assist in the formulation and development of the strategic direction of the City;
- To provide professional and technical governance advice to the Chief Executive Officer, Council and staff to enable policy formulation on matters of a governance and strategy nature;
- To provide management and direction to the Governance and Strategy Directorate and to ensure that all governance and policy objectives of the City are achieved;
- To provide strategic direction and management advice on organisational development, governance, strategy and marketing within the City;
- To develop, in conjunction with other members of the Executive, policy objectives and direction for the City;
- To contribute to the resolution of corporate issues by actively participating in the Executive Management Team.

It was projected that considerable savings would be realised from the organisational restructure in 2002. It is difficult to substantiate whether this is the case or not however what is apparent is that the lack of a senior executive resource has impacted financially on the operations of the City. It is considered that the organisation would have been better placed to deal with the governance issues that arose if a senior executive had been in place, with the appropriate authority to address such matters in a timely and expedient manner.

Issues and options considered:

The Directors have been consulted during the review and analysis process and have been provided the opportunity to comment on the proposed new structure.

There is a need for the CEO to be responsible and have time available for strategic issues, 'politically sensitive' and potentially controversial issues.

The most recent restructure in 2002 resulting in the reduction of senior executive resources has not achieved its intended objectives.

The City of Joondalup is the second largest Local Government in Western Australia by population and the third largest by budget and comparisons with the organisational structures of local authorities of a similar size show that, in all instances, four directorates or more are in place:

Local Government	Number of Directorates
City of Mandurah	Four (plus corporate lawyer)
City of Stirling	Four (plus Deputy CEO)
City of Melville	Five
City of Swan	Six
City of Wanneroo	Four

Whilst the situation at other Local Governments is not a reason in itself to modify the structure, it does highlight the Industry norm.

Link to Strategic Plan:

Key Focus Area: Organizational Development

Outcome: The City of Joondalup provides quality value-adding services

Objective 4.2: To provide quality services with the best use of resources

Legislation – Statutory Provisions:

Relevant legislative provisions:

5.2 Administration of local governments

The Council of a local government is to ensure that there is an appropriate structure for administering the local government.

5.36 *Local government employees:*

- (1) *A local government is to employ –*
 - (a) *A person to be the CEO of the local government; and*
 - (b) *Such other persons as the Council believes are necessary to enable the functions of the local government and the functions of the Council to be performed.*

5.37 *Senior employees:*

- (1) *A local government may designate employees or persons belonging to a class of employee to be senior employees;*
- (2) *The CEO is to inform the Council of each proposal to employ or dismiss a senior employee and the Council may accept or reject the CEO's recommendation but if the Council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.*

5.41 *Functions of CEO:*

The CEO's functions are to:

- (a) *Advise the Council in relation to the functions of a local government under this Act and other written laws;*
- (b) *Ensure that advice and information is available to the Council so that informed decisions can be made;*
- (c) *Cause Council decisions to be implemented;*
- (d) *Manage the day-to-day operations of the local government;*
- (e) *Liaise with the Mayor or President on the local government's affairs and the performance of the local government's functions;*
- (f) *Speak on behalf of the local government if the Mayor or President agrees;*
- (g) *Be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);*
- (h) *Ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- (i) *Perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.*

Risk Management considerations:

Some of the risks facing the City are:

- Governance matters
- Services not meeting community needs and expectations
- Capacity to develop policy

The preferred organisational structure has been designed to position the City to better manage its community's future demands, expectations and values, and to identify and manage business risks.

Financial/Budget Implications:

The costs associated with the new position, including on-costs such as setting up an additional office, purchase of computer equipment, and telephone rental are estimated at \$297,000.

It is proposed that the total employment contract will equate to the current market value, which is in the vicinity of \$155,000 - \$165,000.

It is anticipated, however, that the new Director will not be employed until February 2006 at the earliest; therefore costs to be borne in the 2005/06 financial year will be approximately \$120,000. This amount can be funded from existing budget allocations.

Account No:	
Budget Item:	
Budget Amount:	\$ See below
YTD Amount:	\$
Actual Cost:	\$

Policy implications:**Policy 8-5, Employment.**

This policy outlines the City's role as an employer of staff and details legislative requirements with regards to equal opportunity employment and occupational health and safety.

The policy also refers to all staff holding the position of Director as senior employees in accordance with the Local Government Act.

Regional Significance:

The proposed restructure will provide an increased level of executive support and therefore enable the CEO to assign increased time and effort to regional matters and priorities.

Sustainability implications:

The preferred organisational structure will ensure the sustainability of the organisation and community through:

- Enhanced corporate governance (culture, processes, strategy and planning);
- Enhanced leadership (guidance and direction) and responsiveness (participation and consultation); and
- Greater efficiencies and alignment in operations and service delivery.

Consultation:

Not Applicable

COMMENT

The preferred organisational structure has been developed in order to ensure optimum delivery of services to the City's customers and stakeholders, and to support the strategic initiatives on the current and future agenda.

The current structure:

- Has too many direct reports to the CEO; and
- Does not support a coordinated approach to the management of governance matters

There is a compelling argument for the establishment of a fourth directorate given the increasing emphasis on governance, the likely potential demands following the report of the *Inquiry into the City of Joondalup*, and the need to support Elected Members in the near future.

Changes to the organisational structure will facilitate greater efficiencies and enhanced service delivery however, irrespective of where particular functions are located there is a continuing need for open and transparent communication between and across the various functions and business units of the City.

The proposed restructure has also provided the opportunity to review the titles of the current Directorates, and modifications are recommended to the Director Corporate Services and Resource Management, and the Director Infrastructure and Operations. The recommended title changes provide greater clarity to the community and the organisation on the role of these Directorates.

ATTACHMENTS

- Appendix 1 Proposed Organisational Structure
- Appendix 2 Organisation Structure 1998.
- Appendix 3 Current Organisational Structure

VOTING REQUIREMENTS

Absolute Majority

MOVED Cmr Anderson SECONDED Cmr Smith that Council:

- 1 ADOPTS the organisational structure shown as Appendix 1 to Report C57-10/05;**
- 2 ENDORSES the establishment of a new position of Director Governance & Strategy, and that this position be assigned Senior Employee status, in accordance with Section 5.37 of the Local Government Act 1995;**
- 3 AUTHORISES budget funds to be made available from the 2005/06 financial year for this new position;**
- 4 AUTHORISES the CEO to commence recruitment of this position;**
- 5 RETITLES the position of Director, Corporate Services and Resource Management to Director, Corporate Services;**

6 RETITLES the position of Director Infrastructure and Operations to Director, Infrastructure Services.

Discussion ensued.

The Motion was Put and

**CARRIED BY AN
ABSOLUTE MAJORITY (5/0)**

Appendix 16 refers

To access this attachment on electronic document, click here: [Appendix16min111005.pdf](#)

Disclosure of Financial Interests

Name/Position	Mr Mike Smith – Manager Marketing, Communications & Council Support
Item No/Subject	C58-10/05 – Report of the Inquiry into the City of Joondalup
Nature and Extent of Interest	Mr Smith is an affected party relating to the inquiry.

Disclosure of interest affecting impartiality

Name/Position	Mr Garry Hunt – Chief Executive Officer
Item No/Subject	C58-10/05 – Report of the Inquiry into the City of Joondalup
Nature and Extent of Interest	The Chief Executive Officer prepared the report – potential impact on City operations

Name/Position	Mr Peter Schneider – Director Corporate Services & Resource Management
Item No/Subject	C58-10/05 - Report of the Inquiry into the City Of Joondalup
Nature and Extent of Interest	Mr Schneider was a witness before the Inquiry.

Name/Position	Mr Laurie Brennan – Media Advisor
Item No/Subject	C58-10/05 – Report of the Inquiry into the City of Joondalup
Nature and Extent of Interest	Mr Brennan was called as a witness to the Inquiry.

C58-10/05 REPORT OF THE INQUIRY INTO THE CITY OF JOONDALUP

WARD: All

RESPONSIBLE DIRECTOR: Mr Garry Hunt
Office of CEO

PURPOSE

To formally table the Report of the Inquiry into the City of Joondalup.

EXECUTIVE SUMMARY

The City was notified by the Department of Local Government and Regional Development on 6 October 2005 that the Report of the Inquiry into the City of Joondalup would be made available to the City on Tuesday 11 October 2005 at or about 2.00pm in accordance with section 8.23 of the *Local Government Act 1995*. The Commissioners already have a copy of the report that has also been circulated to the suspended Council members. The City has in accordance with s. 8.23(4) 35 days after receiving the report or such longer period as the Minister allows, to give the Minister written advice setting out:

- (a) the things that it has done or proposes to do to give effect to the recommendations in the report; or
- (b) if the report recommends that the council be dismissed, its comments on that recommendation.

The City's submission in respect of the above will be determined on the content of the report.

BACKGROUND

On 26 May 2004, under the terms of section 8.16 of the *Local Government Act 1995* the Minister for Local Government and Regional Development announced the appointment of the Panel to inquire into and report on the operations and affairs of the City of Joondalup. Mr Greg McIntyre was the single member Panel appointed. The formal hearings commenced in July 2004 and continued until June 2005.

The Terms of Reference of the Inquiry Panel was as follows:

The Inquiry Panel is to - Inquire into all matters considered relevant to the activities of the Council and its Chief Executive Officer (CEO) during the period 13 March 2001 to 4 December 2003, including events predating this period that are relevant, to determine whether there has been a failure to provide good government at the City of Joondalup.

- (i) Without limiting the generality of the inquiry, inquire into:
 - (a) the processes associated with the selection and appointment of Mr Smith as CEO;
 - (b) decisions made by the Council, or purported to have been made by the Council, in relation to the selection, employment and retention of Mr Smith as CEO;
 - (c) advice provided by any parties in relation to the selection, appointment and retention of Mr Smith as CEO;
 - (d) the terms of the contract of the CEO and in particular the performance assessment provisions and their application;
 - (e) adherence to the provisions of the contract of employment by the CEO and the Council; and
 - (f) the provision, cost and use of legal advice associated with all aspects of the appointment and on-going employment of the CEO; and
- (ii) with specific reference to the period 5 May 2003 to 4 December 2003, address the effect on the government provided by the Council of the conduct of Mr Smith, the Mayor and Councillors, and the operations of the Council; and
- (iii) inquire into any other matters coming to the Panel's attention during the course of the inquiry but only to the extent to which the Panel regards it necessary for the purpose of reporting on whether there has been failure to provide good government in the City of Joondalup.

DETAILS

The Minister tabled the Report in Parliament on 11 October 2005. The Panel made twenty-five (25) recommendations. These are as follows:

- 1 It is recommended that the Council be dismissed;
- 2 An assessment is made of the arguments for and against the continuation of elected councils as opposed to appointed boards of commissioners for local government;
- 3 The role of Councils should be to set policy and as a watchdog against unresponsiveness, incompetence and corruption and away from the administration of service provision;
- 4 If recommendation 3 is not followed, then Councils should be fashioned and procedures adopted more akin to those of a cabinet style of government, including principles of cabinet secrecy and solidarity;
- 5 If neither of recommendations 3 or 4 is regarded as desirable, then serious consideration should be given to the appropriate role, responsibilities and procedures of elected Councils;
- 6 Consideration should be given to whether it remains appropriate for the local government Council and electors of a local district to decide that a Mayor is to be elected by the electors of a district. The recommendation of this Inquiry is that the Mayor should continue to be popularly elected by the electors of this district;
- 7 A CEO of a local government performs statutory functions under the LGA and so, like other public sector CEO should be appointed by the Governor, or the Local Government Commission proposed by this report, to perform those functions and the LGA should be amended to so provide;

- 8 A statutory body, such as the Local Government Commission proposed by this Report, should be responsible for the appointment and supervision of all CEOs for all local authorities within the State. Such a statutory body would be obliged to consult with the elected Council of each local government as to the specific requirements of the district. The statutory body should be accorded powers similar to those given to the Public Sector Standards Commissioner under the *Public Sector Management Act 1994* and should have power to set salaries and allowances similar to the powers set out under the *Salaries and Allowances Act 1975*;
- 9 A Local Government Commission should be established to appoint and supervise CEO's and assume the functions of the Minister and Executive Director under Part 8 of the *Local Government Act 1995* with power to perform the functions of a Commissioner under Part 2, Division 7 of the LGA and the functions of the Advisory Board under Part 2, Division 8 of the LGA;
- 10 There should be established a Local Government Assistance Authority to perform the present role of the Capacity Building Division of the DLGRD and co-operatively manage or assist in providing the educational and assistance roles being provided by voluntary local government industry associations to local governments;
- 11 The proposed Local Government Commission and Local Government Assistance Authority be funded from a combination of State and Commonwealth local government funding;
- 12 Local authorities should ensure that they obtain media advice and the assistance of media research when the public media is reporting on matters relevant to the local authority, to assist them in identifying publicly reported problems related to a local authority and responding appropriately;
- 13 A committee of the Council of the City of Joondalup should be established to supervise the answering of public questions and report on and recommend action relating to the answers to questions to the Council;
- 14 A local government, when recruiting a CEO should verify the professional and academic qualifications of candidates for appointment;
- 15 Local governments should engage a media research officer or consultant to identify information concerning the public reputation of any candidate for the position of CEO;
- 16 Local governments should require authorities from candidates for the position of CEO to obtain information from police and other regulatory authorities as to any record of convictions or investigations and conclusions of regulatory authorities relevant to the candidate;
- 17 Local governments should not hesitate to obtain alternative legal advice or a second opinion, where elected members are divided or hesitant about any advice given;
- 18 When elected members are considering advice from legal practitioners they should be careful to follow legal advice, so as to ensure that they are not otherwise acting improperly, but Councillors, employees and legal advisors should be careful also to ensure that a distinction is drawn between advice which is legal advice and advice which is strategic advice, and be aware of the discretion which remains in elected members to make decisions inconsistent with strategic advice;

- 19 The meeting procedures for local authorities should preclude the provision of written legal advice without adequate time to read and understand it before it is acted upon;
- 20 Contracts of employment of senior employees of a local authority are generally legal documents of a degree of complexity which should preclude their execution without legal advice as to the content of the contract and the process leading to execution;
- 21 Local authorities and the DLGRD should co-operate to keep a central register of legal advices which may be of general assistance to local governments, in so far as that may occur without impacting on the need to preserve legal professional privilege;
- 22 A policy should be established by the Council of the City of Joondalup which facilitates full access to legal advice by elected members;
- 23 The City of Joondalup should consider establishing Council Committees to conduct some aspects of the business of the Council, as a means of establishing co-operative working relationships between elected members;
- 24 The Code of Conduct of the City of Joondalup should be reviewed and a process of adjudication of alleged breaches by an independent referee added, and elected members should be trained in its content;
- 25 Section 8.2(1) of the LGA should be amended to permit the Executive Director to require any person in a local government to provide any relevant information in that person's possession.

With regard to the recommendations, the City will provide a response to the Minister in due course.

As to the recommendation to dismiss the Council, the City has not formulated a response. This will be considered after the City has had the opportunity to fully read the report.

Link to Strategic Plan:

The recommendations will affect the City's strategic outcome and impact on the City's reputation as an accountable organisation.

Legislation – Statutory Provisions:

Part 8 of the *Local Government Act 1995*.

Risk Management considerations:

The recommendations contained in the Report of the Inquiry into the City of Joondalup may negatively impact on the City's reputation.

Financial/Budget Implications:

Not applicable.

Policy implications:

Not applicable.

Regional Significance:

Not applicable.

Sustainability implications:

Not applicable.

Consultation:

Nil.

COMMENT

Nil.

ATTACHMENTS

Report of the *Inquiry into the City of Joondalup* has been tabled separately to Commissioners.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cmr Anderson, SECONDED Cmr Clough that:

- 1 the Report of the Inquiry into the City of Joondalup be RECEIVED by Council;**
- 2 the Council REQUESTS the Chief Executive Officer to draft for its consideration a response to the Minister with regard to the recommendations made in the Inquiry Report.**

A query was raised as to whether a further report would be submitted to Council in November 2005 or to a Special Meeting of Council. The CEO was unable to provide a timeframe at this stage, however an interim report will be provided to Commissioners on the intent of providing the response to the Minister within the required timeframe.

The Motion was Put and

CARRIED UNANIMOUSLY (5/0)

The above motion was read aloud to the members of the public.

Appendix 19 refers. *To access this attachment on electronic document, click here:*
[Attach19min111005.pdf](#)

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

DATE OF NEXT MEETING

The next meeting of the Council has been scheduled for **7.00 pm** on **TUESDAY, 1 NOVEMBER 2005** to be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup

CLOSURE

There being no further business, the Chairman declared the Meeting closed at 2008 hrs; the following Commissioners being present at that time:

CMR J PATERSON
CMR P CLOUGH
CMR M ANDERSON
CMR S SMITH
CMR A FOX