

MINUTES

City of Joondalup

MINUTES OF
ORDINARY MEETING OF THE COUNCIL
OF THE CITY OF JOONDALUP
HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE,
BOAS AVENUE, JOONDALUP

MEETING DATE



ON TUESDAY, 31 OCTOBER 2006



City of
Joondalup

www.joondalup.wa.gov.au



**MINUTES OF COUNCIL MEETING
HELD ON TUESDAY, 31 OCTOBER 2006**

TABLE OF CONTENTS

No:	Item	Page
	DECLARATION OF OPENING	1
	ANNOUNCEMENT OF VISITORS	1
	ATTENDANCES	1
	PUBLIC QUESTION TIME	2
	PUBLIC STATEMENT TIME	17
	APOLOGIES AND LEAVE OF ABSENCE	18
	CONFIRMATION OF MINUTES	
C80-10/06	MINUTES OF COUNCIL MEETING, 10 OCTOBER 2006.....	18
	ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION	
	EXPRESSION OF APPRECIATION	18
	DECLARATIONS OF INTEREST	19
	IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY SIT BEHIND CLOSED DOORS	21
	PETITIONS	
	PETITION RELATING TO SHORT-STAY ACCOMMODATION – JOONDALUP - [15224]	21

REPORTS

CJ185-10/06	SCHEDULE OF DOCUMENTS EXECUTED BY MEANS OF AFFIXING THE COMMON SEAL - [15876]	21
CJ186-10/06	ANNUAL PLAN 2006/07 AND QUARTERLY PROGRESS REPORT FOR THE PERIOD 1 JULY - 30 SEPTEMBER 2006 [20560]	24
CJ187-10/06	2005/06 ANNUAL REPORT	26
CJ188-10/06	REVIEW OF DISTRICT PLANNING SCHEME 2 AND LOCAL PLANNING STRATEGY – [50574]	31
CJ189-10/06	MINUTES OF AUDIT COMMITTEE MEETING HELD ON 10 OCTOBER 2006 - 50068]	36
CJ190-10/06	MINUTES OF THE CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW COMMITTEE MEETINGS HELD ON 18 SEPTEMBER, 21 SEPTEMBER AND 10 OCTOBER 2006 – [74754]	39
CJ191-10/06	CEO PERFORMANCE REVIEW COMMITTEE - CEO CONCLUDED ANNUAL PERFORMANCE REVIEW REPORT - [74574]	42
CJ192-10/06	LIST OF PAYMENTS MADE DURING THE MONTH OF SEPTEMBER 2006 – [09882]	45
CJ193-10/06	FINANCIAL ACTIVITY STATEMENT FOR THE PERIOD ENDED 30 SEPTEMBER 2006 – [07882]	47
CJ194-10/06	CULTURAL FACILITY SITE ACQUISITION – [14977]	50
CJ195-10/06	TENDER 055-05/06 SUPPLY INCLUDING DELIVERY, ASSEMBLY AND ROLLOUT OF RECYCLING MOBILE GARBAGE BINS (MGB) TO RESIDENCES FOR THE CITY OF JOONDALUP – [67584]	53
CJ196-10/06	PROPOSED AMENDMENT TO THE BURNS BEACH STRUCTURE PLAN – NORTHERN RESIDENTIAL PRECINCT AND OTHER MINOR CHANGES – [29557]	59
CJ197-10/06	PROPOSED STANDARD AMENDMENTS TO STRUCTURE PLANS – [26549] [11160] [20514] [16047] [06878] [48934] [60560] [29557]	72
CJ198-10/06	PROPOSED REPEALING OF TOWN PLANNING SCHEME NO. 6 – GREENWOOD – [08771]	79
CJ199-10/06	CLOSE OF ADVERTISING FOR LOCAL PLANNING POLICY - SATELLITE DISH, AERIALS AND RADIO EQUIPMENT – [81513]	82
CJ200-10/06	PROPOSED ROAD CLOSURE FOR EXCESS ROAD RESERVE: MITCHELL FREEWAY, DUNCRAIG – [09384]	86

CJ201-10/06	MONTHLY TOWN PLANNING DELEGATED AUTHORITY REPORT, DEVELOPMENT AND SUBDIVISION APPLICATIONS – SEPTEMBER 2006 – [07032] [05961]	90
CJ202-10/06	PROPOSED CHANGES TO KINROSS SHOPPING CENTRE, RETROSPECTIVE APPLICATION FOR MINOR WORKS AND PROPOSED OFF-SITE PARKING PROPOSAL ON ADJOINING CROWN LAND – KINROSS NEIGHBOURHOOD SHOPPING CENTRE – LOT 2278 (3) & LOT 2277 (15) SELKIRK DRIVE, KINROSS – [62554]	94
CJ203-10/06	COMMUNITY SPORT & RECREATION FACILITIES FUND – [22209]	109

REPORT OF THE ACTING CHIEF EXECUTIVE OFFICER

C83-10/06	CRAIGIE LEISURE CENTRE – DEED OF SETTLEMENT AND RELEASE – [36561, 09050].....	123
-----------	---	-----

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

C84-10/06	NOTICE OF MOTION NO 1 – CR BRIAN CORR – [61581].....	128
C85-10/06	NOTICE OF MOTION NO 2 – CR JOHN PARK.....	128
C86-10/06	EXTENSION OF TIME TO SPEAK – CR PARK - [61581, 02154, 08122].....	130
C87-10/06	NOTICE OF MOTION NO 3 – CR JOHN PARK - [61581].....	131
C88-10/06	NOTICE OF MOTION NO 4 – CR RICHARD CURRIE - [61581].....	133

ANNOUNCEMENTS OF NOTICES OF MOTION FOR THE NEXT MEETING	135
--	-----

BEST WISHES	136
--------------------------	-----

CLOSURE	136
----------------------	-----

CITY OF JOONDALUP

MINUTES OF COUNCIL MEETING HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP, ON TUESDAY, 31 OCTOBER 2006

DECLARATION OF OPENING

The Mayor declared the meeting open at 1902 hrs.

ANNOUNCEMENT OF VISITORS

Nil.

ATTENDANCES

Mayor:

TROY PICKARD

Councillors:

Cr KERRY HOLLYWOOD	North Ward
Cr ALBERT JACOB	North-Central Ward
Cr STEVE MAGYAR	North-Central Ward
Cr JOHN PARK	Central Ward
Cr MICHELE JOHN	South-West Ward
Cr MARIE EVANS	South-West Ward
Cr SUE HART	South-East Ward
Cr BRIAN CORR	South-East Ward
Cr RUSSEL FISHWICK	South Ward
Cr RICHARD CURRIE	South Ward

Officers:

MR GARRY HUNT	Chief Executive Officer	<i>Absent from 2009 hrs to 2012 hrs</i>
MR MIKE TIDY	Director, Corporate Services	
MR CLAYTON HIGHAM	Director, Planning and Community Development	
MR DAVID DJULBIC	Director, Infrastructure Services	<i>Absent from 1953 hrs to 2001 hrs</i>
MR IAN COWIE	Director, Governance & Strategy	
MR MIKE SMITH	Manager, Marketing Communications & Council Support	
MR CHRIS TERELINCK	Manager, Approvals Planning & Environmental Services	
MR LAURIE BRENNAN	Media Advisor	
MS JANET HARRISON	Administrative Services Co-ordinator	
MS LESLEY TAYLOR	Administrative Secretary	

There were 15 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 10 October 2006:

Mr M Caiacob, Mullaloo:

Re: Mullaloo Tavern:

- Q1** *For the purposes of building completion, handover, liquor licensing and occupancy etc., was this development approved by the City on a level-by-level basis, a use class basis or a specific area basis or according to the approved Development Application?*
- Q2** *If the development was finally approved and signed off by the City for the purpose of building completion, handover, liquor licensing and occupancy on a level-by-level basis, a use class basis or a specific area basis etc., please provide or direct me to Council's lawful Order to depart from the single Development Application for the purpose of the above approval?*
- A1-2** The staged completion and occupancy of the building was approved on a specific area basis in accordance with the Building Licence and Development approval. This process was in accordance with the various relevant statutory provisions and did not require a specific Council resolution.
- Q3** *Please provide or direct me to Council's lawful Order authorising City's Administration permission to approve occupation of this development when the conditions of the Development Approval (commercial bin servicing from a centrally located point, landscaping consisting of one (1) tree per four (4) car bays, AS2890 compliance and conditional car bays numbers), were not complied with?*
- A3** The staged occupation of the building did not require a Council resolution. In relation to the parking, the City issued a Stop Direction Notice, which is currently before the State Administrative Tribunal (SAT). In relation to the waste collection, this occurs on site, in accordance with the approved plans, which identified the "service point for pick up and deliveries" on the ground floor level. The condition relating to landscaping was rendered superfluous when the then Town Planning Appeals Tribunal approved modified plans showing no landscaping, although the standard condition was applied by the Tribunal.
- Q4** *What is the total length of the drive-through bottle shop land, and can this length accommodate five (5) vehicles without impeding the traffic flow through the building?*
- A4** The length of the drive-through bottle shop/convenience store lane is approximately 36.5m in length as measured on the plans, which could accommodate 6 vehicles. Only 5 car parking spaces were required for the bottle shop/convenience store use. The major flow of traffic through the development will not be affected by cars in the bottle shop/convenience store drive-through lane. Access from the upper level to the ground floor level may be impeded, if there are more than 5 vehicles in the drive-through lane.

Q5 *The City was advised by the public at basement construction level that column spacings would not permit Council's car parking approval conditions to be met. Who and why did the City not stop construction at that time instead of accepting the developer's excuse of "Residents will use these smaller bays in the basement" when clearly this was false as deemed by SAT?*

A major problem in achieving compliance with AS2890.1, and the dimensions required by Condition 2 of the Development Approval is the size and location of support pillars at each level of the construction.

A5 This question contains one error and one cause for concern. In terms of the error, the City did not accept the "developer's excuse" as the question states. To clarify the situation, once again, the following occurred.

When it was established by the City that the basement was not being constructed in accordance with the approved building licence, "as constructed" drawings were requested to establish the extent of non-compliance. The modified car parking layout was then subject to a review by independent traffic engineers to determine whether the development was being constructed in accordance with condition 1 and subsequently, condition 2 of the planning approval. Discussions were then held with the owners of the site in relation to the findings of the independent parking report, following which, the City issued the Stop Direction notice which has been the subject of a review by the State Administrative Tribunal.

It is acknowledged that the City received advice from members of the public that column spacing allegedly would not permit parking approval conditions to be met. However, it is illegal for members of the public to enter and inspect building sites without the relevant approval. Consequently, the City acted, as indicated in the preceding paragraph, when it was able to establish the non-compliance on a legally sound basis. Further, it is considered inappropriate for the City to use observations of members of the public in relation to a technical issue as the basis for initiating action.

Q6 *The public were advised by the Principal Building Surveyor that he required the lift security system for the residential units to be removed in addition to the boom gates to facilitate "residents using these smaller bays in the basement" and patrons using the top deck for parking. Has the security services for the residential units been installed, was it installed during construction or after?*

A6 The Principal Building Surveyor has never spoken to, or advised, the public on this matter. The Principal Building Surveyor did advise the Elected Members at the time, that the security for the lift needed to be removed so that disabled persons could access the tavern level from the ground floor.

Q7 *Please provide a simple plan of the units' configuration:*

(i) Units 1,2,5,6,7,9 and 12 identified on the amended building plans stamped 'Received 6 October 2004' have received planning approval for the purposes of the City of Joondalup District Planning Scheme No 2 as 'Residential Building (Short Stay Apartments)' and

(ii) *Units 3,4,8,10 and 11 identified on the amended building plans stamped 'Received 6 October 2004' have received planning approval for the purposes of the City of Joondalup District Planning Scheme No 2 as 'Multiple Dwellings'.*

A7 The City is unable to provide these plans, as this would be an infringement of copyright. Further the Freedom of Information Act states that copies of the floor plans are unable to be provided if the release of plans may endanger the security of the property.

Q8 *Judge Chaney stated "There is no suggestion that the building does not comply with the 2004 building plans other than in respect of the parking layout."*

Why didn't the City or the City's lawyers advise the SAT that the commercial deliveries and landscaping did not comply to the 2004 building licence plans and the associated Development Application?

A8 Refer to answer A3 above.

Q9 *If the City audited the development after public concerns, and the public were advised that the development complied as required, why did the City argue in the SAT that there was no applicable D/A for the building as constructed?*

A9 This statement was made in the context of dealing with the change in the number of dwellings and short stay units between the mediated planning approval plans and the building as constructed.

Q10 *Following my question relating to the Mayor seeking legal advice on releasing the CEO's contract to Councillors, can I now be advised who "authorised" the Administration not to obtain this advice, which minutes is this instruction included in and when did the Committee confirm those minutes, as the minutes of 8 August have been confirmed as a true and correct set of Minutes at the last meeting with no variations or corrections required, even after I have raised the issue at the preceding Briefing Session?*

A10 As stated in the previous response to the original question, the minutes of the Chief Executive Officer's Performance Review Committee of 8 August 2006 record that a request was made by the Mayor. There was no resolution or determination by the Committee nor subsequently by Council. As previously stated it was not necessary to get legal advice to clarify the issues and to respond to the Mayor's request. No authorisation was required not to obtain the advice as the requirements of the request had been satisfied without it.

Mr M Sideris, Mullaloo:

Q1 *In respect of the cash-in-lieu parking arrangements made for the restaurant approval at Lot 9 Oceanside Promenade, formerly West Coast Highway – last known as the La Casa Restaurant, which was clearly required before construction and opening and subsequently operated as a separate business to the Mullaloo Tavern, I ask the City to please state:*

(a) *the precise date all these monies were received?*

(b) *how much precisely was paid in total?*

A1 The cash in lieu provision for the development on the Tavern site was approved by the Council on 25 September 1980.

An amount of \$40,000 was determined as the required payment for 34 bays. This amount was made up of \$30,000 for the value of the land and \$10,000 for the cost of constructing 34 bays.

The required amount was paid through an agreement to sell Lot 225 Dellamarta Road, Wangara to the then Shire in June 1981.

The land was valued at \$47,000 of which \$7,000 was paid to Mr Bellombra and \$40,000 was paid into a Reserve Fund (voucher 88) in September 1981, for the purpose of providing parking facilities to be used in conjunction with the restaurant situated at Lot 100 West Coast Highway, Mullaloo.

Q2 *With reference to the decision West Australian State Administrative Tribunal 289 and the decision of 9 October 2006 by the State Administrative Tribunal on matters DR138 and DR147 of 2006 please advise:*

(a) *why there was no reference made by the City to the requirements for access and parking bay requirements by commercial vehicles AS2890 Part 2 as required by the original lawful order by the Council of this City to the SAT in support of its action against the Mullaloo Tavern?*

A2(a) The approved plans identified an area on the ground floor as a "Service point for pick-ups and deliveries". In addition, the plans identified rear access for vehicle delivery. This had no bearing on the matter before SAT.

Q2 (b) *why there was also no reference by the City to the SAT in support of its action against the Mullaloo Tavern to the requirements for access and parking bay requirements by people with disabilities, and its failure to argue that these are to be positioned so that they satisfy a High Court decision by positioning them with dignity as these requirements were well known by the City's Principal Building Surveyor?*

A2(b) The building and disabled parking bays allow for dignified access for people with disabilities. This information was available to SAT but had no bearing on the matter before SAT.

Q2 (c) *what is the precise breakdown of parking bays for the Mullaloo Tavern today, after the mediated decision of 9 October 2006 for parking bays that fully comply with the Council's decision of CJ204 of 2002 including all of the above and the now majority of small vehicle only bays including commercial and disabled bays as well as the 59 small only car bays?*

A2(c) The matter before SAT has not been finalised and therefore, it is not possible to respond to the question at this stage.

Mr G Hall, Joondalup:

Q1 In the conclusion immediately following the Traffic Safety Audit, (P50 - City of Joondalup – Draft Agenda for Briefing Session – 3 October 2006) there is a reference to “some enhancements to local road network”. Could this reference to “some enhancements” be made more explicit and detailed in writing for residents who are keen to know exactly what the enhancements will be?

A1 Enhancements and road treatments to include:

- Closure of the right of way running north-south and parallel to Lakeside Drive at its junction with the right of way on the north side of the development using lockable bollards.
- Removal of the lighting bollards in the right of way on the northern side of the development and replacement with an alternative arrangement that does not protrude as much into the right of way.
- Short term parking on Lakeside Drive adjacent to the development including a "Loading Zone" adjacent the Convenience Store.
- Review of the parking issues in the adjacent residential streets.
- Provision of temporary access to the development site from Lakeside Drive for construction vehicles.
- The laneway adjacent to the northern boundary of the property being modified such that vehicles can enter Building A via the lane off Sittella Turn and only exit Building A left via the lane being extended to a left turn only single lane crossover at Lakeside Drive in conjunction with the closure of the Right of Way between the entry and exit point to Building A.

Q2 Similarly within the Safety Traffic Audit Page 50 a reference is made to “...several road treatments are suggested to minimise impact”. Could these treatments also be made more explicit and again in writing to alleviate residents’ concern over what they see as an inevitable increase in traffic hazards and a deterioration of our present amenities currently enjoyed in the surrounding area?

A2 Refer to response given to Question 1.

Ms H Chester, Kingsley:

Q1 Does Council have any maximum or minimum requirements for the number of Elected Members who can sit on advisory committees?

A1 There is no requirement for an elected member to be appointed to an advisory committee, therefore the minimum is nil. The maximum is 13, given that is the total number of elected members.

The following questions were submitted in writing prior to the Council meeting on 31 October 2006:

Mr John Chester, Kingsley:

Q1 Contrary to the Water & Rivers Commission recommendation, Waldeck’s Nursery Kingsley, operates its business well within the prescribed 50 metre minimum wetlands buffer around Lake Goollelal.

Because of its extreme proximity to the lake, as close as 4 metres from the water’s edge at one point, there is a strong possibility that contaminants from Waldecks operations will enter the adjacent Conservation Category Yellagonga Wetlands.

Therefore, does the City currently set any conditions on Waldeck's operations that requires them to retain within their property any stormwater or reticulation run-off that is very likely to contain fertilizer, fungicide and herbicide.

- A1 Waldecks Nursery, Kingsley is a well-established nursery site and cannot meet the desirable 50 metre buffer to Lake Goollelal. Unless specific conditions of planning approval were set at the time the nursery was approved, the City has no statutory means to control run off. The City is aware, however, that Waldecks have taken action to manage their emissions.

Waldecks Kingsley is a Greenstamp accredited nursery, and as such they have put measures in place to reduce the potential of environmental contamination through stormwater and wastewater run-off. They have a wastewater recovery project in place and plan to recycle their wastewater in the future. Waldecks Kingsley are also a member of the Sustainable Garden Centres Association of Western Australia, which is a group dedicated to delivering environmental outcomes in this state.

Stormwater run-off and wastewater is currently directed through an infiltration sump containing reeds, which acts as a filtering system for the run-off. This is intended to strip nutrients from wastewater before it enters the waterbody.

The City is currently working in liaison with the Department of Water and the Swan Catchment Council to ensure that the nursery is operating in an environmentally responsible manner. Should evidence of contamination be found, the matter will be referred to the Contaminated Sites section of the Department of Environment and Conservation for further investigation.

Mr J Kernahan, Sulo Australia Pty Ltd:

Re: Item 10 - Tender 055-05/06 – Supply including Delivery, Assembly and Rollout of Recycling Mobile Garbage Bins (MGB) to Residences for the City of Joondalup:

- Q1 *Section 1.10 – Identity of the Respondent*

“The identity of the Respondent is fundamental to the City”

Section 1.12 – Response to Specification

“It is essential that Respondents address each Specification requirement in the written offer. The offer will be used to select the preferred Respondent, and failure to provide the required information may eliminate the offer from consideration.”

Section 4.2 – Response to Selection Criteria

“It is essential that a written response addressing all criteria be provided to facilitate the evaluation process.”

Section 4.2.1 (d) – Sub Contracting

“Respondents shall state their intention, if successful, to sub-contract any of the services offered. Respondents shall provide full details of sub-contractors proposed. For any proposed sub-contractors, the following details are required on an attachment:

- Service to be sub-contracted;*
- Name and address of the proposed sub-contractor;*
- Location of factory/premises; and*
- Quality Assurance status of the proposed sub-contractor”*

Did the Council know of the information for Clause 4.2.1 (d) now provided in Item 10 of the “Draft Agenda for Briefing Session – 24.10.2006”, when the tender of Clean Sweep was submitted at the time of closing, Monday 11 September 2006? Given that this is an essential part of the Tender Evaluation process, and if the information was not known, how is it that Council has not deemed the Clean Sweep tender non-conforming?

A1 The tender as set out in Scope & Documentation clause 2.1 is for the supply, including delivery, assembly and rollout of recycling mobile garbage bins (MGB). The responsibility for determining whether a tender is compliant with the requirements and specifications rests with the City. The tender submission from Clean Sweep received at the time of the close of tenders on Monday 11 September 2006 was compliant in relation to clause 4.2.1 (d).

Q2 *Clause 1.5 – Conformity with the Request*

“Any Terms or Conditions detailed by the Respondent which are specific to the Respondents operations and or have the effect or purport to have the effect of limiting or excluding liability or which, in any way whatsoever, vary the conditions of the Request Document shall be rejected by the City and shall eliminate the Respondent’s offer from further consideration.”

What were the details of the bins to be supplied in the Clean Sweep tender? Given that it now appears that the bins are to be supplied by ‘Otto Holdings Asia Pacific Pty Ltd’, and no longer in November/December 2006? Given that neither of these responses are fact, why has Council not deemed the tender of Clean Sweep to have breached Clause 1.5 and eliminated this Respondent’s offer?

A2 Again, the tender is for the supply, including delivery, assembly and rollout of recycling mobile garbage bins (MGBs). The recommended tenderer is Clean Sweep who have undertaken to supply, including delivery, assembly and rollout of recycling MGBs in accordance with the tender requirements. Otto Holdings Asia Pacific Pty Ltd is not a tenderer. There is no evidence that Clean Sweep have breached clause 1.5.

Q3 *Page 34, Draft Agenda for Briefing Session – 24.10.06*

Clean Sweep confirmed that its Tendered Price, in accordance with clause 1.13 – Customs and Excise Duties, Taxes and Charges of the Request, includes all customs excise, levies, duties, taxes and charges and any dumping duties, if applicable.

Regarding the issue of 240 litre MGBs being dumped on the Australian market from Asia, an investigation into this claim shows that bins manufactured in Malaysia are subject to an anti-dumping duty of 6.21%.”

Through its intended purchase of dumped Malaysian MGBs for the City of Joondalup, is Council aware that they are fostering an overseas venture in its pursuit of penetration into the Australian market, at the expense of the local industry which has already suffered injury from these activities?

A3 This question is not an issue for consideration as part of the tender evaluation process. There are no criteria or specifications in the tender, that provide for any of the issues raised in this question to be used as a basis for not awarding the tender.

Mr M Caiacob, Mullaloo:

Item 6: DPS2 Review.

Q1 *I asked at the Briefing Session on 22 August 2006 why there was no DPS2 review taking place, and the reply was that there was no resolution of Council. That being the case, show me the resolution of Council to commence this review. If there is no resolution:*

- *How did this review commence?*
- *Who initiated the review?*
- *Who provided the response received to my question of 22 August 2006?*

A1 It is acknowledged that Council will need to make a formal resolution in relation to the Planning and Development Act and its associated Regulations. However, the Act makes no specific provision for community engagement in the way the report proposes. It is considered inappropriate for Council to prepare “a statement setting forth:

- (i) *the objects and intentions of the Scheme; and*
- (ii) *the anticipated format of the Scheme”*

as required by Regulation 4(3)(c) in advance of this consultation.

In an effort to provide clarity, an amendment to the report’s recommendation has been suggested to foreshadow a formal resolution following initial consultations.

Mr M Caiacob, Mullaloo:

Re: Whitford City:

Q1 *When did the City of Joondalup approve the reduction of car parking bays in the basement and on the Southern side of Whitford City Shopping Centre to enable a car washing facility, Hi-Fi enclosed installation bay and rubbish bin pick up area.*

A1 Planning Approval was granted for the car stereo installation centre on 8 September 2005 and the car washing facility in the undercroft on 5 October 2005.

Q2 *What is the total number of car bays deleted by the car washing facility, Hi-Fi enclosed installation bay and rubbish bin pick up area.*

- A2 The car stereo installation proposal resulted in a loss of 3 car parking spaces while the car wash centre in the undercroft resulted in a loss of 20 car parking spaces. At the time of the approvals, there was an excess of 104 car parking spaces for the shopping centre.
- Q3 *What is the total number of car bays required for the car washing facility and Hi-Fi enclosed installation bay, including reserved bays.*
- A3 The car wash facility required 1.05 car parking spaces and the car stereo installation facility required 3.36 car parking spaces.
- Q4 *When was the building approval granted for the partitioning and building works required to construct the car wash facility and Hi-Fi installation bays.*
- A4 A building licence was issued 21 November 2005 for the car wash facility. No building licence approval was issued for the JB Hi-Fi installation booth. Centre management has been contacted by the City in regard to the construction of the booth without a building licence being in place.
- Q5 *Does the above construction (Q4) comply with the Fire Safety Provisions of the Building Code of Australia.*
- A5 The construction of the car wash facility is in accordance with the approved plans and the Building Code of Australia, particularly parts C (fire resistance) and E (services and equipment). An inspection of the JB Hi-Fi installation booth confirmed that it too complies with the Building Code of Australia.
- Q6 *When was the fire sprinkler system adjusted to accord with Australian Standard for Automatic Fire Sprinkler Systems - AS 2118.*
- A6 The City was not on site during the construction works and therefore cannot advise when adjustments were made, however, following an inspection the City is satisfied with the sprinkler system.
- Q7 *Does the car wash have a petrol and oil trap associated with the wash down bays.*
- A7 Yes.
- Q8 *If yes, was the petrol and oil trap installed as part of this approval or a previous building approval.*
- A8 The trap was installed as part of the building licence.
- Q9 *When did the City approve of the recent building works to upgrade the ceiling of the Food Court area of Whitford City Shopping Centre.*
- A9 The works were approved on 18 October 2005.
- Q10 *Does the Food Court building alterations accord to the Fire Safety Provisions of the Building Code of Australia including smoke curtaining and AS 1668 - Air Conditioning and Ventilation.*

- A10 The construction of the Food Court is in accordance with the approved plans and the Building Code of Australia.
- Q11 *When did the City approve the canopy installed over the Southern Loading Bay of the Action Store.*
- A11 The canopy was approved on 28 September 1989 by the City of Wanneroo.
- Q12 *Does the canopy comply with the Fire Safety provisions of the Building Code of Australia including the requirements for sprinkler protection in accordance with AS2118.*
- A12 An inspection of the canopy shows that it has been constructed in accordance with the building licence approved by the City of Wanneroo.

Re: Bunnings Whitfords,

- Q13 *When did Bunnings receive Planning and building approval to change the use of the reticulated undercover wet nursery retail area at the Southern end of the store?*
- A13 The early Planning Approval files (pre-1997) are stored off-site and these have been requested. A response will be provided when the stored information has been received and reviewed.
- There has been no change in use of the undercover area needing building licence approval.
- Q14 *Does the new retail area created comply with the Fire Safety Provisions of the Building Code of Australia specifically the requirements for sprinkler protection in accordance with AS 2118.*
- A14 An inspection of the area in question has shown that it has been constructed in accordance with the licence approved by the City of Wanneroo for BBC Hardware in 1995.

Mr S Kobelke, Sorrento:

- Q1 *Local Government like all areas of Government has procedures, laws and policies. In the area of Planning there are any number of policies regarding timelines, in particular timelines for Council response to appeals, applications and comment.*

Are there any laws, policies or procedures regarding the response time the Minister is allowed in regard to an application from the City for a change to the District Planning Scheme 2. I acknowledge that the Planning and Community Development Officers are under some pressure but I would like to get a full understanding of this process and a comprehensive response would be appreciated.

- A1 No.

Re: *Burn Beach Structure Plan*

Q2 *Following on from my question at this week's Briefing Session and in regard to the last paragraph of the Conclusion on Page 45 "Following these alterations and public advertising, further consideration can be given to the building height matter, taking into account any submissions received, prior to Council deciding whether or not to adopt the amendments to the structure plan"*

On two recent occasions the Council has called for public comment on Height and Scale within the coastal area. On two recent occasions the Council has subsequently voted to adopt a 10m height for the coastal area (Policy and DPS2). Do I take it from the above Officer report that during this Burns Beach Public comment time the Council is again calling on public comment about height and scale within the coastal area?

A2 The intention is that the advertising process invites comment on the proposed amendments to Burns Beach Structure Plan only. There is no change to the Coastal Height Policy.

Q3 *Could the Council outline the discussions that have taken place with the Department of Planning and Infrastructure or the WA Planning Commission regarding the change to the DPS2 Coastal Height that passed some 7 months ago and is awaiting Ministerial approval?*

A3 No formal discussions have taken place between the City and the Department regarding the progress of this Amendment.

Q4 *Referring back to part 1 regarding the conclusion. "Following these alterations and public advertising, further consideration can be given to the building height matter, taking into account any submissions received, prior to Council deciding whether or not to adopt the amendments to the structure plan". This comment suggests that the Officers do not expect any decision from the Minister on the DPS2 Coastal Height changes for at least another 3 months, factoring in the Burns Beach public comment time etc.*

A4 The City has not received an indication when the Minister will determine the proposed District Planning Scheme amendment regarding the Height of Buildings Within the Coastal Area (Non-Residential Areas).

Q5 *Can Council confirm that if the Minister had already approved the changes to the DPS2 Coastal Height that the comments on the Conclusion would not apply and there would be no review after public advertising? Is there something in the delay from the Minister that the Officers know and is not known by others?*

A5 The comments in the Conclusion are irrespective of the Minister determining the proposed amendment. The proposed heights in the BBSP are considered excessive in relation to height provisions endorsed in other structure plans supported by the City and subsequently certified by the WAPC.

Q6 *Will the Council move to meet with the Minister and her Department as a matter of urgency so we can get a response one way or the other on the DPS2 Coastal Height matter?*

A6 This could be done, however the length of time taken by the Department and the Minister to determine this matter is not considered unusual. An update will be sought as to the progress of the District Planning Scheme amendment.

Mr M Sideris, Mullaloo:

With respect to the recently spillage/outflow of raw sewerage that occurred near the western side of the Whitfords City Shopping Centre adjacent to the Caltex Woolworths Service Station, can Council advise:

Q1 *Precisely when did the City of Joondalup first become aware of the outflow spillage?*

Q2 *Over what period of time did the outflow spillage occur?*

Q3 *What was the rate of discharge of outflow sewerage?*

Q4 *What was the cause of the outflow spillage?*

Q5 *Did any raw sewerage outflow spillage enter the stormwater drainage system?*

Q6 *Precisely where does that section of the drainage system discharge to?*

Q7 *If the discharge is into the ocean what distance from the shoreline to the pipeulet?*

Q8 *If the discharge is into the ocean would the ocean currents cause the outflow to be forced back to the shoreline?*

Q9 *Would this outflow attract any sharks?*

Q10 *Following contamination by raw sewerage was the drainage system decontaminated what was the cost, and who paid the bill?*

Q11 *What diseases can be attributed to contact with untreated sewerage discharge?*

Q12 *What additional safeguards, measures, procedures, and policies have been established and or implemented to ensure there is no repeat outflow spillage and local residents at not placed at further risk?*

A1-12 The City received a complaint on 29 August 2006 of a spillage near the Caltex Woolworths Petrol Station, Whitford City Shopping Centre. City officers investigated the incident and found that the spillage was from a faulty grease trap pump. The spillage did not contain any effluent waste. Westfield organized disinfection and pumping out of the grease trap once Centre Management became aware of the problem. A primary and secondary back-up pump has now been installed.

Mr M Sideris, Mullaloo:

- Q1 *I have reviewed the answers to my question to Council of last meeting. I note that the questions as published are not the questions as asked. I hereby clearly state that the edited form of my question does not represent either the question as submitted orally and confirmed by email or the intent of the question as delivered to you for your consideration and response and respectfully request immediate correction.*
- Q2 *With reference to the answers given, please explain precisely how the current Council could have claimed to the current SAT hearing, the media, and to ratepayers, and the previous Council to the Supreme Court, that a 'cash in lieu' parking arrangement made with a Restaurant, separate to the old Tavern, under previous ownership, was over 20 years later and some 3 further changes of ownership later, resurrected and then said to provide - 'A further 34 carbays paid and constructed by the tavern have previously been provided on the opposite of the road. - CJ204 - 08/02, when the records of Council clearly show that all these carbays are on crown land, were constructed long before the restaurant parking agreement was ever thought of, and that that this parking agreement ceased in the eyes of Council when the property was first sold in 1993.*
- Q3 *Following on from the same answers given, will Council also explain precisely to ratepayers how the 'cash in lieu' payment said to have been paid by Mr. M Bellombra, was claimed by this Council, and presented as a matter of fact to the current SAT hearing, the media, and to rate payers, and by the previous Council to the Supreme Court, and was said before them all to have been used to provide a ' further 34 carbays paid and constructed by the tavern have previously been provided on the opposite of the road' - CJ 204 -08/02 - when the Councils own records clearly show that the claimed cash in lieu monies were specifically used for sand dune redevelopment/clearance north of Korella St Mullaloo?*
- Q4 *When will this Council explain properly to affected ratepayers precisely, when taking into account all the above facts, why this Council decided to make and continue to make a large number of such blatant misrepresentations to the State Administrative Tribunal since June 2006 and has generally presented to the Community, including the local Community Newspaper, a number of incorrect statements to the effect that the current owners of the Tavern owned and paid for the construction of car parking bays over the road when No such agreement, arrangement or payment ever occurred, especially in light of the fact that this overcrowded Public Car park existed on Crown land long before any Tavern and separate Restaurant business was ever built?*
- Q5 *In relation to the newly discovered, internal transfer record, not declared previously as a record on the City's electronic document management system, suddenly referred to in the last answers published, namely Voucher # 88, will Council please advise specifically the relevance of this claimed transaction, in relationship to the restaurant car parking agreement claimed to have been made in relation to Lot 9, when Mr. M Bellombra did not even own this land at the time when the land Lot 225 was finally resumed as directed by the Shire of Wanneroo Council, for the non payment of the due amounts as required by the Shire's conditions of purchase?*

- Q6 *Bearing in mind that the Owners of Lot 225 at that time also did not appear to have paid in full for that Land Lot at the time it was resumed for non payment of the agreed due payment by the Shire of Wanneroo, would this Council please explain why precisely they have put forward this internal transfer voucher now as providing evidence of Mr. M Bellombra's ownership rather than any receipt of the money taken, or any reference to the recorded status of that Land Lot, as clearly specified on the Land deed, and in Council records?*
- Q7 *Bearing in mind all the answers given above, how and why exactly did Mr. M Bellombra receive \$7,000 for a lot of land he did not appear to have ever fully owned, let alone at the time specified by this Council in its given answer? Would this Council please provide the record of his full payment to Council for the land this Council has now claimed that he owned at the time stated in the latest answer of Council?*
- A1-7 Members of the public were requested to submit questions by 5pm on Friday 27 October 2006. These questions were received after this time and will therefore be taken on notice.

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

Mrs M Macdonald, Mullaloo:

- Q1 *Has the issue before the State Administrative Tribunal (SAT) between Rennet Pty Ltd and the City been resolved, and are the twelve units at the Mullaloo Tavern being, or to be, strata titled?*
- A1 The matter is still before SAT and no resolution has been announced at this time.
- Q2 *As SAT brought down a decision some weeks ago, can I now have a copy of the O'Neill report and if not, why not?*
- A2 This question will be taken on notice in order to seek advice from the City's lawyers. If the release of the report is not likely to compromise the City's position before SAT, then the report will be released.

Mr R de Gruchy, Sorrento:

Re: Redevelopment of the Craigie Leisure Centre:

- Q1 *What is the monthly cost of the auxiliary heating provided at Craigie Leisure Centre for the aquatic pools and when is it expected that the geothermal bore will be able to fully cater for the entire centre?*
- A1 The monthly figure cannot be provided at this time, however the geothermal bore is heating the pools now and has been since its installation. It is understood the geothermal bore is the only heating at the centre, however this will be clarified.
- Q2 *Which firm of consultants has been contracted to carry out the feasibility study into a 50-metre pool and when do they expect to commence their activities?*
- A2 The consultancy firm ABV has been appointed and the process for engagement with the various external user groups, industry associations and schools is scheduled to commence on 20 November 2006. It is hoped to complete community consultation by the end of December with a report to Council early in 2007.

Mr de Gruchy submitted the following written question:

Q3 *Will the firm of Consultants be prepared to contact those ratepayers of the City of Joondalup, who have been involved in contacting most of the schools and colleges within Joondalup concerning the construction of a 50 metre pool at Craigie, in order to gain the benefit of their research?*

A3 This question will be taken on notice.

Mr M Caiacob, Mullaloo:

Q1 *Re: DPS2 Review: As this report and its proposal fails to give a reason for departing from the statutory provisions of the Act, fails to advise of all statutory provisions, fails to consolidate its Scheme and excludes the City from determining its own subdivisional approvals, can I be informed if this is a review, a review with no consolidation or a new Town Planning Scheme?*

A1 A similar question was raised by Mr Caiacob at the Briefing Session and a detailed response was provided. The report looks to engage the public in a process, which starts at a broad level, enabling the public to be engaged without pre-empting particular outcomes. As it moves forward, Council will need to formally resolve a range of issues in accordance with the Town Planning and Development Act. At the moment, the report is to engage the public at an early stage without commencing the formal framework.

The options mentioned by Mr Caiacob, which are within the provisions of the Town Planning and Development Act, are not proposed at this stage, this is merely to engage the community on a wide range of issues, to seek advice and engage with the community; when that advice is to hand, the Council can then consider how it will progress forward with the Town Planning Scheme review as is required by statute.

Q2 *Re: Mullaloo Tavern and landscaping. At the Council meeting on 10 October 2006 I was advised that the application that Council approved did not have substantial landscaping on it and it was required to be read in conjunction with the approval granted, ie landscaping conditions (o) and (r). Judge Chaney on 26 September 2006 found at Point 13 that the Town Planning Appeals Tribunal merely showed an outline of the outer walls of each apartment overlaid over the development approval plans. I am now advised that the condition relating to landscaping was rendered superfluous when the then Town Planning Appeals Tribunal approved those modified plans showing no landscaping or anything else other than the unit configurations, although the standard condition was applied by the Tribunal. As we have now been around the bush and as the standard condition for landscaping was upheld by the Town Planning Appeals Tribunal, I ask you to provide or direct me to Council's lawful order and the Tribunal's order varying the development application conditions to permit this development to be occupied prior to the establishment of the landscaping trees within the car park?*

A2 This question will be taken on notice.

Mr Caiacob submitted the following written questions:

Q3 *My previous question, shown below, has not been answered. As the City indicates that the landscaping condition was upheld by the Town Planning Appeals Tribunal and that the requirement to comply with commercial vehicle conditions is ongoing as advised on 10 October 2006 Council meeting, can I please have an answer to my question?*

“Please provide or direct me to Council’s lawful order authorising City’s Administration permission to approve occupation of this development where the conditions of the development approval (commercial bin servicing from a centrally located point, landscaping consisting of one tree per four car bays, AS2890 compliance and conditional car bays numbers) were not complied with.”

Q4 *On what date was the City made aware by members of the public that column spacing allegedly would not permit parking approval conditions to be met, in regards the basement of the Mullaloo Tavern?*

Q5 *On what date was it established by the City that the basement was not being constructed in accordance with the approved building licence?*

A3-5 These questions will be taken on notice.

Mr S Kobelke, Sorrento:

Q1 *Re: Inquiry into the City of Joondalup. This matter remains outstanding. When would we expect to see a final report on the Inquiry into the City of Joondalup?*

A1 This question will be taken on notice.

PUBLIC STATEMENT TIME

The following statements were submitted verbally at the meeting; a summary of each statement is shown below:

Mr R de Gruchy, Sorrento:

Mr R de Gruchy referred to the changes in net assets outlined in the Financial Statements, and spoke on the need for funding of a 50 metre pool.

Mr S Kobelke, Sorrento:

Mr Kobelke spoke in relation to voting in local government elections.

Mr M Caiacob, Mullaloo:

Mr Caiacob spoke on the review of DPS2.

APOLOGIES AND LEAVE OF ABSENCE**C80-10/06 REQUESTS FOR LEAVE OF ABSENCE**

Requests for Leave of Absence from Council duties have been received from:

Cr S Hart	13-16 November 2006 inclusive
Cr B Corr	13-20 November 2006 inclusive
Cr R Fishwick	15-17 November 2006 inclusive
Cr A Jacob	19-24 November 2006 inclusive

MOVED Cr Hart, SECONDED Cr Corr that Council APPROVES the following Requests for Leave of Absence:

Cr S Hart	13-16 November 2006 inclusive
Cr B Corr	13-20 November 2006 inclusive
Cr R Fishwick	15-17 November 2006 inclusive
Cr A Jacob	19-24 November 2006 inclusive

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

Leave of Absence previously approved

Cr T McLean	17 October 2006 to 9 November 2006 inclusive
Cr G Amphlett	22 October 2006 to 3 November 2006 inclusive
Cr J Park	2 November 2006 to 27 November 2006 inclusive
Cr R Currie	7 November 2006 to 12 November 2006 inclusive

CONFIRMATION OF MINUTES**C81-10/06 MINUTES OF COUNCIL MEETING – 10 OCTOBER 2006**

MOVED Cr Currie, SECONDED Cr Fishwick that the Minutes of the Council Meeting held on 10 October 2006, be confirmed as a true and correct record.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION**EXPRESSION OF APPRECIATION**

I would like to express my appreciation to the Deputy Mayor, Cr Sue Hart for capably fulfilling the role of Mayor for the past two weeks during my absence.

DECLARATIONS OF FINANCIAL INTEREST

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. An employee is required to disclose their financial interest and if required to do so by the Council must disclose the extent of the interest. Employees are required to disclose their financial interests where they are required to present verbal or written reports to the Council. Employees are able to continue to provide advice to the Council in the decision making process if they have disclosed their interest.

Name/Position	Mr Garry Hunt – Chief Executive Officer
Item No/Subject	CJ190-10/06 - Minutes of the Chief Executive Officer Performance Review Committee Meetings held on 18 September, 21 September and 10 October 2006
Nature of interest	Financial
Extent of Interest	Mr Hunt holds the position of CEO.

Name/Position	Mr Garry Hunt – Chief Executive Officer
Item No/Subject	CJ191-10/06 – CEO Performance Review Committee - CEO Concluded Annual Performance Review Report
Nature of interest	Financial
Extent of Interest	Mr Hunt holds the position of CEO.

Disclosure of interest affecting impartiality

Elected members 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 Elected member/employee is also encouraged to disclose the nature of the interest.

Name/Position	Mr Mike Tidy – Director Corporate Services
Item No/Subject	CJ187-10/06 – 2005/06 Annual Report
Nature of interest	Interest that may affect impartiality
Extent of Interest	Mr Tidy's brother is an employee of Deloitte, but not an auditor and not part of the audit team auditing the City of Joondalup.

Name/Position	Mr Mike Tidy – Director Corporate Services
Item No/Subject	CJ189-10/06 - Minutes of the Audit Committee held on 10 October 2006 (Item 1 – Supplementary Appointment of Auditor)
Nature of interest	Interest that may affect impartiality
Extent of Interest	Mr Tidy's brother is an employee of Deloitte, but not an auditor and not part of the audit team auditing the City of Joondalup.

Name/Position	Mr Mike Tidy – Director Corporate Services
Item No/Subject	CJ190-10/06 - Minutes of the Chief Executive Officer Performance Review Committee Meetings held on 18 September, 21 September and 10 October 2006
Nature of interest	Interest that may affect impartiality
Extent of Interest	Due to the nature of his employment relationship with the CEO.

Name/Position	Mr Mike Tidy – Director Corporate Services
Item No/Subject	CJ191-10/06 – CEO Performance Review Committee - CEO Concluded Annual Performance Review Report
Nature of interest	Interest that may affect impartiality
Extent of Interest	Due to the nature of his employment relationship with the CEO

Name/Position	Cr Kerry Hollywood
Item No/Subject	CJ196-10/06 – Proposed Amendment to the Burns Beach Structure Plan – Northern Residential Precinct and other Minor Changes
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Hollywood lives in close proximity to the Structure Plan area.

Name/Position	Cr Sue Hart
Item No/Subject	CJ198-10/06 - Proposed Repealing of Town Planning Scheme No 6 - Greenwood
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Hart resides in the suburb of Greenwood.

Name/Position	Cr Brian Corr
Item No/Subject	CJ198-10/06 - Proposed Repealing of Town Planning Scheme No 6 - Greenwood
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Corr resides in the suburb of Greenwood.

Name/Position	Cr Kerry Hollywood
Item No/Subject	CJ203-10/06 – Community Sport and Recreation Facilities Fund
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Hollywood is a social member of the Beaumaris Bowling Club.

Name/Position	Cr Russel Fishwick
Item No/Subject	CJ203-10/06 – Community Sport and Recreation Facilities Fund
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Fishwick is a member of the Sorrento Surf Life Saving Club and a Senior State Examiner for Surf Life Saving WA.

Name/Position	Mr David Djulbic – Director Infrastructure Services
Item No/Subject	CJ203-10/06 – Community Sport and Recreation Facilities Fund
Nature of interest	Interest that may affect impartiality
Extent of Interest	Mr Djulbic has been a member of the Kingsley Football Club, and his son is currently a playing member.

Name/Position	Mr Mike Smith – Manager, Marketing Communications and Council Support
Item No/Subject	CJ203-10/06 – Community Sport and Recreation Facilities Fund
Nature of interest	Interest that may affect impartiality
Extent of Interest	Mr Smith is a life member of the Joondalup Cricket Club which is a member of the Beaumaris Sports Association

IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY SIT BEHIND CLOSED DOORS

C83-10/06 CRAIGIE LEISURE CENTRE – DEED OF SETTLEMENT AND RELEASE

This Item relates to a confidential Deed of Mediation. It is not proposed that this matter be dealt with behind closed doors unless the Council wishes to debate or ask questions in relation to the confidential Deed.

PETITIONS

C82-10/06 **PETITIONS SUBMITTED TO THE COUNCIL MEETING – 31 OCTOBER 2006**

PETITION RELATING TO SHORT-STAY ACCOMMODATION – JOONDALUP – [15224]

An 11-signature petition has been received from owners of the Brookwood Complex, Joondalup requesting the investigation of any breaches of Council's by-laws, development approval and zoning regulations in relation to short-stay accommodation at the Brookwood Complex, and that appropriate action be taken to rectify these breaches as soon as possible.

MOVED Cr Hollywood, SECONDED Cr Jacob that the petition requesting the investigation of any breaches of Council's by-laws, development approval and zoning regulations in relation to short-stay accommodation at the Brookwood Complex, Joondalup be RECEIVED and referred to the CEO for action.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar, and Park

CJ185 - 10/06 SCHEDULE OF DOCUMENTS EXECUTED BY MEANS OF AFFIXING THE COMMON SEAL - [15876]

WARD: All

RESPONSIBLE DIRECTOR: Mr Ian Cowie
Governance and Strategy

CJ061024_BRF.DOC:ITEM 1

PURPOSE

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

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:	Grant Funding Agreement
Parties:	City of Joondalup and Office of Crime Prevention
Description:	Grant of \$30,000 towards Mobile Youth Service Programme
Date:	19.09.06

Document:	Section 70A
Parties:	City of Joondalup and Ian James Hulbert
Description:	Section 70A – Notification for Ancillary Accommodation – 27 Byrne Close, Padbury
Date:	19.09.06

Document:	Restrictive Covenant
Parties:	City of Joondalup and J R Turner
Description:	Lot 637 (31) Sheffield Place, Hillarys (Survey Plan 48382)
Date:	19.09.06

Document:	Restrictive Covenant
Parties:	City of Joondalup and AEGIS Aged Care Group P/L
Description:	Lot 2 (42) Woodlake Retreat, Kingsley
Date:	19.09.06

Document:	Restrictive Covenant
Parties:	City of Joondalup and Paltara P/L
Description:	Lot 9005 (21) Hepburn Avenue, Hillarys on Deposited Plan 51290
Date:	19.09.06

Document:	Restrictive Covenant
Parties:	City of Joondalup and Peet and Co Limited
Description:	Portion Lot 9001 (now Lot 100) Burns Beach Road, Deposited Plan 52094
Date:	19.09.06.

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:

Not Applicable.

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 Cr Hart, SECONDED Cr Magyar that the schedule of documents executed by means of affixing the Common Seal on 19 September 2006, be NOTED.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar, and Park

CJ186 - 10/06 ANNUAL PLAN 2006/07 AND QUARTERLY PROGRESS REPORT FOR THE PERIOD 1 JULY - 30 SEPTEMBER 2006 [20560]

WARD: All

RESPONSIBLE DIRECTOR: Mr Ian Cowie
Governance and Strategy

CJ061024_BRF.DOC: ITEM 2

PURPOSE

To present the Annual Plan 2006/07 Quarterly Progress Report for the period 1 July – 30 September 2006.

EXECUTIVE SUMMARY

The Annual Plan details the priorities for the 2006/07 financial year, and the Quarterly Progress Report provides information on progress against the milestones set for the July – September 2006 quarter.

It is recommended that Council RECEIVES The Annual Plan 2006/07 Quarterly Progress Report for the period 1 July – 30 September 2006 shown as Attachment 1 to this Report.

BACKGROUND

The City's Corporate Reporting Framework, endorsed by Council at its meeting of 14 December 2004, requires the development of an *Annual Plan* and the provision of reports against the Annual Plan on a quarterly basis. (Item CJ307-12/04 refers)

The Annual Plan establishes the annual priorities for achievement of the Strategic Plan. Quarterly progress reports are provided to monitor progress and track achievement of milestones set within each quarter.

DETAILS

Issues and options considered:

The Annual Plan contains a brief description of the key projects and services that the City intends to deliver in the 2006/07 financial year. Milestones are set for the key projects and programs to be delivered in each quarter.

The Quarterly Progress Report provides information on progress against the milestones and a commentary is provided against each milestone to provide information on progress, or to provide an explanation where the milestone has not been achieved.

Link to Strategic Plan:

This item links to the Strategic Plan through Focus Area 4 – Organisational Development.

Outcome: The City of Joondalup is a sustainable and accountable business.
Objective 4.1 To manage the business in a responsible and accountable manner.
Strategy 4.1.2 Develop a corporate reporting framework based on sustainable indicators.

Legislation – Statutory Provisions:

The Local Government Act 1995 provides a framework for the operations of Local Governments in Western Australia. Section 1.3 (2) states:

This Act is intended to result in:

- (a) *Better decision making by local governments;*
- (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 government.*

Risk Management considerations:

The quarterly progress reports against the Annual Plan provide a mechanism for tracking progress against milestones for major projects and programs.

Financial/Budget Implications:

Not Applicable.

Policy Implications:

In accordance with Policy 8-6, Communications, the Council recognises and acknowledges the importance of consistent, clear communications and access to information for its stakeholders.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

The Council receives monthly reports against the Capital Works Program which supplement the information contained in the Annual Plan Quarterly Progress Reports.

The majority of project and program milestones have been met for the July to September quarter.

ATTACHMENTS

Attachment 1 Annual Plan 2006/07.

Attachment 2 Annual Plan Quarterly Progress Report for the period 1 July – 30 September 2006.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Fishwick, SECONDED Cr Park that Council RECEIVES the Annual Plan 2006/07 – Progress Report for the period 1 July – 30 September 2006 shown as Attachment 1 to Report CJ186-10/06.

Discussion ensued.

AMENDMENT MOVED Cr Magyar, SECONDED Cr Corr that an additional Point 2 be added to the Motion as follows:

“2 REQUESTS quarterly progress reports to be presented to the Audit Committee prior to consideration by Council.”

Discussion ensued.

The Amendment was Put and

LOST (3/8)

In favour of the Amendment: Mayor Pickard, Crs Corr and Magyar **Against the Amendment:** Crs Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John and Park

The Motion as Moved Cr Fishwick, Seconded Cr Park was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar, and Park

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1brf241006.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Mr Mike Tidy – Director Corporate Services
Item No/Subject	CJ187-10/06 – 2005/06 Annual Report
Nature of interest	Interest that may affect impartiality
Extent of Interest	Mr Tidy’s brother is an employee of Deloitte, but not an auditor and not part of the audit team auditing the City of Joondalup.

CJ187 – 10/06 2005/06 ANNUAL REPORT - [79573]

WARD: All

RESPONSIBLE DIRECTOR: Mr Ian Cowie
Governance and Strategy

PURPOSE

To endorse the 2005/06 Annual Report and Annual Financial Statements, and to set a date for the Annual General Meeting of Electors.

EXECUTIVE SUMMARY

In accordance with Section 5.53 of the Local Government Act 1995, the 2005/06 Annual Report has been prepared, summarising the year's highlights and achievements, as well as including specific statutory requirements.

The City's auditors have completed the audit of Council's financial statements for the 2005/06 financial year. The abridged Financial Statements will form part of the 2005/06 Annual Report.

The Annual Report and the Financial Report will form an integral part of Council's report to the electors at the Annual General Meeting.

Section 5.27 of the Local Government Act 1995 requires that the Annual General Meeting of Electors is to be held on a day selected by the local government, but not more than 56 days after the report is accepted by the local government.

It is suggested that the most appropriate date for holding the Annual General Meeting of Electors is Monday 20 November 2006 at 7.00 pm.

BACKGROUND

Both the Annual Report and the Financial Report reflect on the City's achievements during 2005/06 and focus on the many highlights of a busy year.

The City's auditors have completed the audit of Council's financial report for the 2005/06 financial year.

As has been past practice, the Financial Report included within the Annual Report is an abridged version. The full Financial Statements, together with the notes to and forming part of the Financial Statements will be available as a separate document.

Council resolved on 27 March 2001 that Council:

“Endeavours to hold future Annual General Meetings prior to 31 October if practicable, but not later than the third week in November.”

DETAILS

Issues and options considered:

The Annual Report for the City of Joondalup and the holding of the Annual General Meeting of Electors are statutory requirements of the Local Government Act 1995. The issue to consider is the date to hold the Annual General Meeting of Electors, being aware of the decision of the Council on 27 March 2001 and the limitations in being able to finalise the necessary documentation required to be available.

Link to Strategic Plan:

Strategy 4.1 of the City's Strategic Plan 2003-2008:

“To manage the business in a responsible and accountable manner”

Legislation – Statutory Provisions:

Local Government (Financial Management) Regulation 51(2) states:

“A copy of the annual financial report of a local government is to be submitted to the Executive Director within 30 days of the receipt by the CEO of the auditor’s report on that financial report.”

Section 5.53 of the Local Government Act 1995 states:

5.53 Annual Reports

- (1) *The local government is to prepare an annual report for each financial year.*
- (2) *The annual report is to contain:*
 - (a) *a report from the mayor or president;*
 - (b) *a report from the CEO;*
 - (c) *and (d) deleted*
 - (e) *an overview of the plan for the future of the district made in accordance with Section 5.56 including major initiatives that are proposed to commence or to continue in the next financial year;*
 - (f) *the financial report for the financial year;*
 - (g) *such information as may be prescribed in relation to the payments made to employees;*
 - (h) *the auditor’s report for the financial year;*
 - (ha) *a matter on which a report must be made under section 29(2) of the Disability Services Act 1993, and;*
 - (i) *such other information as may be prescribed.*

Section 5.54 of the Local Government Act 1995 states:

5.54 Acceptance of Annual Reports

- (1) *Subject to subsection (2) the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.*

** absolute majority required*
- (2) *If the auditor’s report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor’s report becomes available.*

Section 5.55 of the Local Government Act 1995 states:

5.55 Notice of annual reports

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

The Local Government (Administration) Regulations 1996 at Clause 15 details the matters for discussion at the Annual General Meeting. They are the contents of the Annual Report for the previous financial year and then any other general business.

It is suggested therefore, that the Agenda format for the Annual Meeting of Electors be:

- Attendances and Apologies
- Contents of the 2005/2006 Annual Report
- General Business

Risk Management considerations:

The risk associated with not adopting the 2005/06 Annual Report and failure to set a date for the Annual General Meeting of Electors will result in non-compliance with the requirements of the Local Government Act 1995.

Financial/Budget Implications:

Nil.

Policy Implications:

Nil.

Regional Significance:

Nil.

Sustainability Implications:

Nil.

Consultation:

There is no legislative requirement to consult on the Annual Report, but the Local Government Act 1995 requires an Annual General Meeting of Electors to be held and the Annual Report to be made available publicly.

COMMENT

The audited financial statements for 2005/06 were submitted to the Audit Committee meeting held on 24 October 2006.

In order for the City to meet its legislative requirements, it is recommended that the Council adopts the Annual Report for 2005/06 and convenes the Annual General Meeting of Electors for Monday 20 November 2006.

ATTACHMENTS

Attachment 1 2005/06 Annual Report and Annual Financial Statements.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 ACCEPTS the 2005/06 Annual Report and Annual Financial Statements of the City of Joondalup forming Attachment 1 to Report CJ187-10/06;
- 2 CONVENES the Annual General Meeting of Electors on Monday 20 November 2006 at 7.00 pm in the Council Chamber;
- 3 ADVERTISES by public notice that the City of Joondalup Annual Report will be available from approximately 10 November 2006;
- 4 in accordance with Local Government (Financial Management) Regulation 51(2) PROVIDES a copy of the Annual Report and Annual Financial Statements to the Executive Director.

ADDITIONAL INFORMATION

The report distributed as part of the agenda for this meeting included the Annual Report without the Mayor's report. This is now attached and is submitted to be included as part of the Annual Report presented to the Council for adoption – Appendix 15 refers.

MOVED Cr Hollywood, SECONDED Cr Magyar that Council:

- 1 **ACCEPTS the 2005/06 Annual Report and Annual Financial Statements of the City of Joondalup forming Attachment 1 to Report CJ187-10/06, including the Mayor's Message distributed on 31 October 2006 forming Appendix 15 hereto;**
- 2 **CONVENES the Annual General Meeting of Electors on Monday 20 November 2006 at 7.00 pm in the Council Chamber;**
- 3 **ADVERTISES by public notice that the City of Joondalup Annual Report will be available from approximately 10 November 2006;**
- 4 **in accordance with Local Government (Financial Management) Regulation 51(2) PROVIDES a copy of the Annual Report and Annual Financial Statements to the Executive Director.**

The Motion was Put and

**CARRIED BY AN
ABSOLUTE MAJORITY (11/0)**

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

Appendices 14 and 15 refer

To access this attachment on electronic document, click here: [Attach14agn311006.pdf](#)
[Attach15min311006.pdf](#)

CJ188 - 10/06 REVIEW OF DISTRICT PLANNING SCHEME NO 2 AND LOCAL PLANNING STRATEGY – [50574]

WARD: All

RESPONSIBLE DIRECTORS: Mr Ian Cowie Governance and Strategy
Mr Clayton Higham Planning and Community Development

CJ061024_BRF.DOC:ITEM 6

PURPOSE AND EXECUTIVE SUMMARY

To seek Council's approval of the process by which District Planning Scheme No 2 (DPS2) will be reviewed and Council's agreement on key issues which will form the basis of the first round of consultation.

BACKGROUND

The *Planning and Development Act 2005* requires local governments to review their Town Planning Schemes once every five years. DPS2 is the City's scheme which was introduced in 2000. Consequently it must be reviewed.

The Act also requires each local government to develop a Local Planning Strategy (LPS). Such strategies provide the broad framework which guides the development and operation of the more detailed Town Planning Schemes. Consequently, the City needs to implement an LPS.

The development of a new Scheme and an LPS are constrained in several ways. These include:

- A requirement to be consistent with the Metropolitan Region Scheme which is adopted by the State Government;
- A need to comply with Statements of Planning Policy and other State Government planning initiatives including Bush Forever; and
- The need to obtain support from the Minister for Planning and Infrastructure before an LPS can be implemented and a new Scheme adopted.

DETAILS

A draft process plan for the review is included at Attachment 1. This identifies three phases of public consultation and the stages at which Council decision making will be required. There is a prospect that the evolution of the process may also create further opportunities for consultation.

Attachment 2 identifies the topics that Issues Papers are proposed to cover. These papers will be designed as short 'punchy' documents which raise issues, ask questions and solicit feedback. The possible contents of an Issues Paper are outlined in Attachment 3.

This report seeks endorsement of the process described in Attachment 1 and the topics for Issues Papers identified in Attachment 2.

Issues and options considered:

Council can determine whether other stages are necessary within the review and/or whether some proposed stages should be deleted. Council can also determine whether other Issues Papers should be produced and/or whether some of the proposed Issues Papers should be deleted.

Legislation – Statutory Provisions:

As indicated under 'Background', the *Planning and Development Act 2005* requires Schemes to be reviewed and an LPS to be drafted.

Risk Management considerations:

There are no specific risks associated with reviewing DPS2 and drafting an LPS. However, because these documents provide the basis for planning within the City, certain elements of a new Scheme or Strategy could be highly controversial.

Financial/Budget Implications:

The budget for 2006/07 acknowledges that the review is likely to run over a number of years, with detailed budget requirements dependent upon a number of factors. Key cost variables include:

- 1 Resources required to run engagement and consultation processes.
- 2 Extent of external planning consultancy work required.

A total of \$60,000 has been earmarked for the project in the 2006/07 budget.

It should be noted that significant public engagement strategies and analysis can cost as much as 60% of the budget for Scheme and LPS preparation. For other large Councils, the cost of Scheme review and LPS development has been between \$250,000 - \$500,000 in today's dollar terms.

Policy implications:

Planning policies are likely to be amended as an outcome of the review.

Regional Significance:

The review is solely focused on planning within the City. However, planning policy positions adopted could have regional implications (ie. the growth of the Joondalup CBD as a regional centre).

Sustainability implications:

Planning is a key mechanism for achieving sustainability. Consequently, the outcomes of the review could have significant impacts on sustainability.

The DPS/LPS exercise will have, as its core product, the iteration of sustainability objectives.

Consultation:

To occur in accordance with the process plan for the review (as given or amended). Elected Members were invited to provide comments relating to the topics of the Issue Papers. All feedback from Elected Members has been incorporated amongst the topics for Issues Papers detailed as part of the review.

COMMENT

There are a variety of ways in which a review of DPS2 could be undertaken. Similarly, there are a wide range of Issues Papers which could be prepared. This report suggests a proposed way forward for Council's consideration.

ATTACHMENTS

Attachment 1	Process Plan
Attachment 2	Issues Paper topics
Attachment 3	Framework for an Issues Paper

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council APPROVES the attached process for the review of District Planning Scheme No 2 and SUPPORTS the drafting of Issues Papers on the topics identified in Attachment 2 to Report CJ188-10/06.

ADDITIONAL INFORMATION

At the Briefing Session held on 24 October 2006, a member of the public raised a question about the City's compliance with Planning legislation in relation to the report on the review of DPS2. It was indicated that the City would provide further information in relation to the relevant legislative provisions to assist Elected Members to make a decision on this matter.

Section 88 of the Planning and Development Act (Appendix 16 refers) requires a Council to consolidate all amendments made to its Scheme in the fifth year after the Scheme was approved by the Minister or last consolidated. It is now five years since DPS 2 was approved and so, in accordance with this section, the City is required to consider its Scheme.

Section 88 also says that a Local Government "is not required to prepare a consolidation of the Scheme if the Local Government resolves instead to prepare a new Scheme". The report for Council supports the development of a new Scheme rather than consolidation for a range of reasons. These include:

- There have been a large number of amendments to the Scheme (approximately 30) and this would mean a significant consolidation.
- Elected Members have shown considerable interest in Planning matters and should have the opportunity to establish their own Scheme rather than merely consolidating past amendments.
- Joondalup is a major metropolitan Local Government with significant developments occurring. It is appropriate to address such change through a new Scheme rather than a consolidation.

Regulation 4(1) of the Town Planning Regulations 1967 (Appendix 16 refers) requires a Local Government to make a specific resolution to prepare a Scheme for any land within its district. This resolution must be recorded on a Form 1 which is included in the Regulations (Appendix 16 refers).

It should be noted that subsection (3) of this Regulation states that within 28 days of passing a resolution to prepare a Scheme, the Local Government shall forward to the Western Australian Planning Commission:

- A copy of the resolution;
- A Scheme area map; and
- A statement setting forth “the objects and intentions of the Scheme and the anticipated format of the Scheme”.

It is this third dot point or clause 3(c) that causes difficulty for the City if it formally resolves to prepare a new Scheme at this point in time. If such a resolution is made now, this clause will require the City to pre-empt the highly consultative and inclusive process which has been designed and establish “the objects and intentions for the new Scheme” in advance of the consultation. This is considered non-inclusive and may lead members of the community to question the openness of Council to receive community views if the objects, intentions and format have been resolved.

It is noted that process for consultation specified in the report goes well beyond the consultation which is required by legislation. It is this openness and desire for community engagement that led to the question about compliance with Planning law.

It is suggested that the recommendation in the report be reworded in an effort to remove doubt about Council’s intention.

Director, Infrastructure Services left the Chamber, the time being 1953 hrs.

MOVED Cr Hart, SECONDED Cr John that Council:

- 1 NOTES the attached process for the review of DPS 2 and SUPPORTS the drafting of Issues Papers on the topics identified in Attachment 2 of this report as an initial non-statutory approach to gain an understanding of community views on key Planning issues; and**
- 2 FORESHADOWS that, following an analysis of the responses received, Council will make a resolution in accordance with legislative requirements.**

Discussion ensued.

AMENDMENT MOVED Cr Magyar, SECONDED Cr Park that the Motion be amended to read as follows:

- “1 NOTES the process as outlined in Attachment 1 to Report CJ188-10/06 for the review of DPS 2 and SUPPORTS the drafting of Issues Papers on the topics identified in Attachment 2 of this report as an initial non-statutory approach to gain an understanding of community views on key Planning issues;**

- 2 **NOTES** the framework for the Issues Papers as outlined in Attachment 3 to Report CJ188-10/06;
- 3 **AMENDS** Attachment 1, page 88 - Point 8, to insert the words "or consolidation" after "DPS3".
- 4 **FORESHADOWS** that, following an analysis of the responses received, Council will make a resolution in accordance with legislative requirements.

Discussion ensued.

The Amendment was Put and

CARRIED (11/0)

In favour of the Amendment: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

The Original Motion as amended, being:

That Council:

- 1 **NOTES** the process as outlined in Attachment 1 to Report CJ188-10/06 for the review of DPS 2 and **SUPPORTS** the drafting of Issues Papers on the topics identified in Attachment 2 of this report as an initial non-statutory approach to gain an understanding of community views on key Planning issues;
- 2 **NOTES** the framework for the Issues Papers as outlined in Attachment 3 to Report CJ188-10/06;
- 3 **AMENDS** Attachment 1, page 88 - Point 8, to insert the words "or consolidation" after "DPS3";
- 4 **FORESHADOWS** that, following an analysis of the responses received, Council will make a resolution in accordance with legislative requirements.

Further discussion ensued.

was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

Appendices 4 and 16 refer

*To access this attachment on electronic document, click here: [Attach4brf241006.pdf](#)
[Attach16min311006.pdf](#)*

Director, Infrastructure Services entered the Chamber, the time being 2001 hrs.

Disclosure of Interest affecting Impartiality

Name/Position	Mr Mike Tidy – Director Corporate Services
Item No/Subject	CJ189-10/06 - Minutes of the Audit Committee held on 10 October 2006 (Item 1 – Supplementary Appointment of Auditor)
Nature of interest	Interest that may affect impartiality
Extent of Interest	Mr Tidy's brother is an employee of Deloitte, but not an auditor and not part of the audit team auditing the City of Joondalup.

CJ189 - 10/06 MINUTES OF AUDIT COMMITTEE MEETING HELD ON 10 OCTOBER 2006 – [50068]

WARD: All

RESPONSIBLE DIRECTOR: Mr Mike Tidy
Corporate Services

CJ061024_BRF.DOC:ITEM 3

PURPOSE

To submit the unconfirmed minutes of the Audit Committee to Council for noting.

EXECUTIVE SUMMARY

A meeting of the Audit Committee was held on 10 October 2006.

The item of business that was considered by the Committee was the appointment of a supplementary Auditor.

It is recommended that Council NOTES the unconfirmed Minutes of the Audit Committee meeting held on 10 October 2006, forming Attachment 1 to Report CJ189-10/06.

BACKGROUND

The Council's Audit Committee was established in May 2001 to oversee the internal and external Audit, Risk Management and Compliance functions of the City. The City has also employed an internal auditor since May 2002.

DETAILS**Issues and options considered:**

As detailed in the minutes of the meeting held on 10 October 2006.

Link to Strategic Plan:

- 4.2.1 Provide efficient and effective service delivery
- 4.3.3 Provide fair and transparent decision-making processes

Legislation – Statutory Provisions:

Section 5.8 of the Local Government Act 1995 provides for a local government to establish a committee to assist Council.

Local Government Amendment Act 2004

Amendments to the Act regarding audit include the insertion of a new division 7.1A entitled “Audit Committee”. The new division deals with the establishment, membership, decision-making and duties that a local government can delegate to an Audit Committee. It also includes a new section 7.12A dealing with “Duties of local government with respect to audits”.

Local Government (Audit) Amendment Regulations 2005

Amendments have been made on several minor issues such as definitions and interpretations. The most significant change has been the inclusion of new regulation 16, which deals with the “Functions of the Audit Committee”.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

Not Applicable.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

The unconfirmed minutes of the Audit Committee meeting held on 10 October 2006 are submitted to Council for noting only, as the matter of the appointment of a supplementary Auditor was dealt with at the Council meeting held on 10 October 2006.

ATTACHMENTS

Attachment 1 Minutes of the Audit Committee meeting held on 10 October 2006

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Magyar, SECONDED Cr Hart that Council NOTES the unconfirmed Minutes of the Audit Committee meeting held on 10 October 2006, forming Attachment 1 to Report CJ189-10/06.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2brf241006.pdf](#)

CEO left the Chamber, the time being 2009 hrs.

Disclosure of Financial Interests

Name/Position	Mr Garry Hunt – Chief Executive Officer
Item No/Subject	CJ190-10/06 - Minutes of the Chief Executive Officer Performance Review Committee Meetings held on 18 September, 21 September and 10 October 2006
Nature of interest	Financial
Extent of Interest	Mr Hunt holds the position of CEO.

Disclosure of interest affecting Impartiality

Name/Position	Mr Mike Tidy – Director Corporate Services
Item No/Subject	CJ190-10/06 - Minutes of the Chief Executive Officer Performance Review Committee Meetings held on 18 September, 21 September and 10 October 2006
Nature of interest	Interest that may affect impartiality
Extent of Interest	Due to the nature of his employment relationship with the CEO.

CJ190 - 10/06 MINUTES OF THE CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW COMMITTEE MEETINGS HELD ON 18 SEPTEMBER, 21 SEPTEMBER AND 10 OCTOBER 2006 – [74754]

WARD: All

RESPONSIBLE DIRECTOR: Mr Mike Tidy
Corporate Services

CJ061024_BRF.DOC:ITEM 4

PURPOSE

To submit the minutes of the Chief Executive Officer Performance Review Committee meetings to Council for information and endorsement of the recommendations of the Committee.

EXECUTIVE SUMMARY

Meetings of the Chief Executive Officer Performance Review Committee were held on 18 September, 21 September and 10 October 2006.

It is recommended that Council NOTES the Minutes of the Chief Executive Officer Performance Review Committee held on 18 September, 21 September and 10 October 2006 forming Attachment 1 to Report CJ190-10/06.

BACKGROUND

The Chief Executive Officer Performance Review Committee is formed for the purpose of conducting the annual performance reviews of the CEO in accordance with the following terms of reference:

- (a) *Review the Chief Executive Officer's performance in accordance with the appropriate provisions contained within the Chief Executive Officer's Employment Contract;*
- (b) *Prepare and table the concluded report, in accordance with the appropriate provisions within the Chief Executive Officer's Employment Contract to the Council at a Council meeting for consideration and actioning;*
- (c) *Review the Chief Executive Officer's performance on an on-going basis as and when deemed necessary in accordance with the appropriate provisions contained within the Chief Executive Officer's Employment contract;*
- (d) *Review the Key Performance Indicators to be met by the Chief Executive Officer;*
- (e) *Review the Chief Executive Officer's remuneration package, in accordance with the appropriate provisions within the Chief Executive Officer's Employment Contract;*
- (f) *Review the Chief Executive Officer's Employment Contract and make recommendations to Council in relation to varying the contract as and when necessary.*

The CEO's annual performance review is required to be undertaken in August of each year or as soon thereafter as is possible. The 2006 review is currently underway.

DETAILS

Issues and options considered:

As contained within the minutes of the Chief Executive Officer Performance Review Committee.

Link to Strategic Plan:

Objective 4.5 - To manage our workforce as a strategic business resource.

Legislation – Statutory Provisions:

Section 5.8 of the Local Government Act 1995 provides for a local government to establish a committee to assist Council.

Section 5.38 of the Local Government Act 1995 (the Act) states that 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 employment.

Risk Management considerations:

The performance review process is designed to evaluate and assess the CEO's performance against key performance indicators on an annual basis. The requirement for the performance review is a contractual one between the Chief Executive Officer and the Council. The Contract provides for the review to be conducted by the Chief Executive Officer's Performance Review Committee. Failure to undertake the review as required in the contract terms would risk a breach of contract.

Financial/Budget Implications:

The provisions of the Chief Executive Officer's Employment Contract in relation to performance reviews requires that the Performance Review Committee engage an independent consultant to advise it and assist it in undertaking the Chief Executive Officer's performance review. Provisions have been made within the City's consultancy budget for the engagement of a suitable consultant to assist the Committee in the performance review process.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

The minutes of the Chief Executive Officer Performance Review Committee are submitted to Council for information.

ATTACHMENTS

Attachment 1 Minutes of the Chief Executive Officer Performance Review Committee held on 18 September, 21 September and 10 October 2006.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Fishwick, SECONDED Cr John that Council NOTES the Minutes of the Chief Executive Officer Performance Review Committee held on 18 September, 21 September and 10 October 2006 forming Attachment 1 to Report CJ190-10/06.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

Appendix 3 refers

To access this attachment on electronic document, click here: [Attach3brf241006.pdf](#)

Disclosure of Financial Interests

Name/Position	Mr Garry Hunt – Chief Executive Officer
Item No/Subject	CJ191-10/06 – CEO Performance Review Committee - CEO Concluded Annual Performance Review Report.
Nature of interest	Financial
Extent of Interest	Mr Hunt holds the position of CEO.

Disclosure of Interest affecting Impartiality

Name/Position	Mr Mike Tidy – Director Corporate Services
Item No/Subject	CJ191-10/06 – CEO Performance Review Committee - CEO Concluded Annual Performance Review Report.
Nature of interest	Interest that may affect impartiality
Extent of Interest	Due to the nature of his employment relationship with the CEO

CJ191 - 10/06 CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW COMMITTEE – CHIEF EXECUTIVE OFFICER CONCLUDED ANNUAL PERFORMANCE REVIEW REPORT - [74574]

WARD: All

RESPONSIBLE DIRECTOR: Mr Mike Tidy
Corporate Services

CJ061024_BRF.DOC:ITEM 5

PURPOSE

To submit the CEO Performance Review Committee's confidential report on the outcome of their annual performance review of the CEO, for consideration by Council.

EXECUTIVE SUMMARY

The CEO Performance Review Committee (the Committee) has assessed the performance of the CEO, against the approved Key Performance Indicators (KPIs) for the reporting period August 2005 to July 2006. The Committee has also reviewed the KPIs and measures against each of the Key Result Areas (KRAs) for the next review period to July 2007.

It is recommended that Council:

- 1 *ADOPTS the CEO Performance Review Committee's Confidential Concluded Annual Performance Review Report and endorses the overall rating of "Exceeds Performance Requirements";*
- 2 *ADOPTS the Key Performance Indicators and Measures against each of the Key Result Areas for 2006/2007.*

BACKGROUND

The Chief Executive Officer Performance Review Committee is formed for the purpose of conducting the annual performance reviews of the CEO in accordance with the following terms of reference:

- (a) *Review the Chief Executive Officer's performance in accordance with the appropriate provisions contained within the Chief Executive Officer's Employment Contract;*
- (b) *Prepare and table the concluded report, in accordance with the appropriate provisions within the Chief Executive Officer's Employment Contract to the Council at a Council meeting for consideration and actioning;*
- (c) *Review the Chief Executive Officer's performance on an on-going basis as and when deemed necessary in accordance with the appropriate provisions contained within the Chief Executive Officer's Employment contract;*

- (d) *Review the Key Performance Indicators to be met by the Chief Executive Officer;*
- (e) *Review the Chief Executive Officer's remuneration package, in accordance with the appropriate provisions within the Chief Executive Officer's Employment Contract;*
- (f) *Review the Chief Executive Officer's Employment Contract and make recommendations to Council in relation to varying the contract as and when necessary.*

The CEO's annual performance review is required to be undertaken in August of each year or as soon thereafter as is possible.

DETAILS

Issues and options considered:

The Committee has met on five (5) occasions to progress the CEO's annual performance review in accordance with clause 11 Performance Development and Review, of the CEO's Employment Contract.

Meetings were held on:

- 1 & 8 August 2006 (Consultant/facilitator selection)
- 18 September 2006; (Committee discussion & preparation for interview with CEO)
- 21 September 2006. (Interview with CEO)
- 10 October 2006. (Adoption of Concluded Annual Performance Review Report and KPIs for next review period)

As a result of those meetings, the Committee has undertaken its evaluation of the CEO's performance and arrived at its own assessment, judged against the Key Performance Indicators for the period August 2005 to July 2006 inclusive.

The Committee's confidential report is submitted for Council's consideration.

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 received from the CEO are to be included by way of annexure to the Committee report and the concluded report then be referred to the next Council meeting for consideration and actioning.

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 11.3 of the CEO's Employment Contract sets out that the annual performance review is to be undertaken by the Performance Review Committee. Part 5, division 2, subdivision 2 of the Local Government Act 1995 sets out the provisions in relation to the establishment and role of committees.

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. The KPI's for the period August 2005 to July 2006 were set following the initial performance review undertaken in 2005.

Financial/Budget Implications:

In conducting the performance review under the CEO's Employment Contract, the committee is required to consult with and seek guidance from an external and independent human resources expert, or similar, to facilitate the review of the CEO's performance (Clause 11.3(e)(i)).

The cost of the appointed consultant is covered by the City's consultancy budget for 2006/07.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

KPIs for the CEO have ongoing sustainability implications underpinning them.

Consultation:

As part of the review process under clause 11(3)(e)(ii) the Committee is required to seek written comments in relation to the CEO's performance from all individual Elected Members. This has been done and the feedback incorporated into the Committee's deliberations and final report.

COMMENT

The Committee has now completed all of the processes in the CEO's performance review and its report together with any comments of the CEO, are submitted to Council for its consideration. The report incorporates a review and recommendations for key performance indicators and measures against the key result areas for the next review period to July 2007.

ATTACHMENTS

Attachment 1 Confidential Concluded Annual Performance Review Report for the CEO's Annual Performance Review 2006 (distributed under separate confidential cover at least five working days prior to the Council meeting)

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Fishwick, SECONDED Cr John that Council:

- 1 ADOPTS the Chief Executive Officer Performance Review Committee's Confidential Concluded Annual Performance Review Report forming Appendix 19 hereto in the official Minute Book and ENDORSES the overall rating of "Exceeds Performance Requirements";**
- 2 ADOPTS the Key Performance Indicators and Measures against each of the Key Result Areas for 2006/2007.**

Discussion ensued.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

Appendix 19 hereto in the official Minute Book only

CEO entered the Chamber, the time being 2012 hrs.

CJ192 - 10/06 LIST OF PAYMENTS MADE DURING THE MONTH OF SEPTEMBER 2006 – [09882]

WARD: All

RESPONSIBLE DIRECTOR: Mr Mike Tidy
Corporate Services

CJ061024_BRF.DOC:ITEM 7

PURPOSE

To present to Council the list of accounts paid under the CEO's delegated authority during the month of September 2006 to note.

EXECUTIVE SUMMARY

This report presents the list of payments made under delegated authority during the month of September 2006, totalling \$9,866,055.73.

It is recommended that Council NOTES the CEO's list of accounts for September 2006 paid under delegated power in accordance with regulation 13 (1) of the Local Government (Financial Management) Regulations in Attachments A, B and C to this Report, totalling \$9,866,055.73

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 Regulation 13 of the 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 summarises the payments drawn on the funds during the month of September 2006. Lists detailing the payments made are appended as Attachments A and B. The vouchers for the month are appended as Attachment C.

FUNDS	DETAILS	AMOUNT
Municipal Account	Cheques 76675 - 76926 EFT 7757 – 8127 net of cancelled payments Vouchers – 195A, 197A– 198A, 200A-201A	\$7,431,177.07 \$2,067,875.67
Trust Account	Cheque 201001	\$367,002.99
Total		\$9,866,055.73

Issues and Options Considered:

Not Applicable

Link to Strategic Plan:

Strategy 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 2006/7 Annual Budget as adopted by Council at its meeting of 25 July 2006, or approved in advance by Council.

Policy Implications:

All expenditure included in the list of payments is drawn from the City's accounting records.

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 2006/07-2009/10 which was available for public comment from 29 April 2006 to 29 May 2006 with an invitation for submissions in relation to the plan.

COMMENT

All Municipal Fund expenditure included in the list of payments is in accordance with the 2006/07 Annual Budget as adopted by Council at its meeting of 25 July 2006, or has been authorised in advance by Council where applicable.

ATTACHMENTS

Attachment A	CEO's Delegated Municipal Payment List for the month of September 2006
Attachment B	CEO's Delegated Trust Payment List for the month of September 2006
Attachment C	Municipal and Trust Fund Vouchers for the month of September 2006

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Jacob, SECONDED Cr John that Council NOTES the Chief Executive Officer's list of accounts for September 2006 paid under delegated power in accordance with regulation 13 (1) of the Local Government (Financial Management) Regulations 1996 forming Attachments A, B and C to Report CJ192-10/06, totalling \$9,866,055.73.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

Appendix 5 refers

To access this attachment on electronic document, click here: [Attach5brf241006.pdf](#)

CJ193 - 10/06 FINANCIAL ACTIVITY STATEMENT FOR THE PERIOD ENDED 30 SEPTEMBER 2006 – [07882]

WARD: All

RESPONSIBLE DIRECTOR: Mr Mike Tidy
Director Corporate Services

CJ061024_BR.F.DOC:ITEM 8

PURPOSE

The September 2006 financial activity statement is submitted to Council to be noted.

EXECUTIVE SUMMARY

The September 2006 year to date report shows an overall variance (under spend) of \$3.6m when compared to the year to date budget approved by Council at its meeting of 25 July 2006 (JSC25-07/06).

This variance can be analysed as follows:

- The **Operating Surplus** is \$49.9m compared to a budgeted surplus of \$46.8m at the end of August 2006. The \$3.1m variance is primarily due to additional interest income, fees and charges, contributions, reimbursements and donations and lower than budgeted expenditure in employee costs, utilities and materials and contracts.
- **Capital Expenditure** is \$2m against the year to date budget of \$2.5m. The \$0.5m under spend is due to purchasing of light vehicles and in the construction of infrastructure assets and council projects.

It is recommended that Council NOTES the Financial Activity Statement for the period ended 30 September 2006 forming Attachment A to Report CJ193-10/06.

BACKGROUND

The Local Government (Financial Management) Regulations 1996 requires the production of financial activity statements. Council approved at the 11 October 2005 meeting to accept the monthly Financial Activity Statement according to nature and type classification.

DETAILS

The financial activity statement for the period ended 30 September 2006 is appended as Attachment A.

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 requires a local government to prepare an annual financial report for the preceding year and such other financial reports as are prescribed.

Regulation 34(1) of the Local Government (Financial Management) Regulations 1996 as amended, requires the local government to prepare each month a statement of financial activity reporting on the sources and applications of funds as set out in the annual budget.

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 Activity Statement is drawn from the City's accounting records.

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 29 April to 29 May 2006.

COMMENT

All expenditures included in the Financial Activity Statement are incurred in accordance with the adopted 2006/07 Annual Budget or have been authorised in advance by Council where applicable.

ATTACHMENTS

Attachment A Financial Activity Statement for the period ended 30 September 2006.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Jacob, SECONDED Cr Magyar that Council NOTES the Financial Activity Statement for the period ended 30 September 2006 forming Attachment A to Report CJ193-10/06.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

Appendix 6 refers

To access this attachment on electronic document, click here: [Attach6brf241006.pdf](#)

CJ194 - 10/06 CULTURAL FACILITY SITE ACQUISITION – [14977]

WARD: All

RESPONSIBLE DIRECTOR: Mr Mike Tidy
Corporate Services

CJ061024_BRF.DOC:ITEM 9

PURPOSE

To advise Council of the final settlement of the purchase of the cultural facility site, Lot 1001 Kendrew Crescent, Joondalup for the sum of \$583,999.65.

EXECUTIVE SUMMARY

Council has previously given approval for the purchase of Lot 1001 Kendrew Crescent, Joondalup as the cultural facility site and authorised the preparation and execution of the necessary documents. The City originally agreed to purchase on the basis of a site area of 8,150 square metres for \$595,000. This was prior to final subdivision and survey and with a condition that the price would be adjusted on a square metre basis to the final surveyed area.

The last report to Council in December 2004 advised that the area of the site to be purchased would be 7,919 square metres and adjusted final consideration would be \$578,171.65. The final surveyed area of the land purchased, however, is 7,999 square metres. In accordance with the Contract of Sale with the Department of Education and Training after adjustment for the final surveyed area the settlement price was \$583,999.65.

It is recommended that Council:

- 1 *NOTES that the final settlement details of Lot 1001 Kendrew Crescent, Joondalup are for an area of 7,999 square metres and in accordance with the terms of the Contract of Sale with the Department of Education and Training the adjusted final settlement price was therefore \$583,999.65;*
- 2 *ACKNOWLEDGES the Chief Executive Officer's action in finalising the settlement for the purchase of Lot 1001 Kendrew Crescent, Joondalup for the purpose of the cultural facility.*

BACKGROUND

Council considered a number of reports in relation to the acquisition of a site for a cultural facility that culminated in the report considered by Council on 2 November 2004 (CJ248-11/04 refers) at which Council resolved as follows:

- 1 *AUTHORISE the preparation and execution of the necessary documents by the Acting Chief Executive Officer to give effect to a contract of sale between the City and the Department of Education and Training (DET) for the purchase of a 7919 square metre site for the purpose of constructing the Joondalup Regional Cultural Facility, for final consideration of \$578,171.65;*

- 2 *AUTHORISE the preparation and execution of the necessary documents by the Acting Chief Executive Officer to give effect to the road construction agreement between the City and the DET agreeing to contribute 50% of construction costs for a new entrance road to the TAFE site off Grand Boulevard, up to and including the proposed roundabout, currently estimated at \$385,000;*
- 3 *REQUIRE that a report detailing forward landscaping plans for the site be prepared for consideration of Council taking into account the cultural and performing arts needs of the community, which will be assessed through a collaborative consultation process involving educational institutions, performing arts groups, arts consultants and other stakeholders;*
- 4 *NOTE that a concept design review will be commissioned to ensure the Joondalup Regional Cultural Facility remains appropriate to the region and affordable to the City;*
- 5 *REQUIRE an urgent review be conducted and interim report prepared and presented at the December 2004 Council meeting with regard to the costs and options of redesigning the Council Chamber to meet the provisions of the Governance Review and allow for greater availability and usage for performing arts and other community events.*

At the time of initial agreement to purchase Lot 1001 Kendrew Crescent, Joondalup the area of the site used for negotiations was 8,150 square metres. This resulted in the initial agreed purchase price of \$595,000. The area had been determined prior to formal subdivision and it was acknowledged that the final area would be subject to survey.

By the time of the meeting on 2 November 2004 resulting in the above resolution it was recorded that the area was 7,919 square metres. It had been agreed in negotiations with the Department of Education and Training that to allow for a variation in area any increase or decrease would alter the original agreed value of \$595,000 by the rate of \$72.85 per square metre. As a consequence it was reported at the 2 November 2004 meeting that the purchase price was \$578,171.65 recognising the reduction in area at the rate of \$72.85 per square metre.

Subsequent to Council's resolution of 2 November 2004, there was a further report to Council in December 2004 in relation to adding a further condition to the Contract of Sale however it was still reported that the purchase was for 7,919 square metres at a final consideration of \$578,171.65.

It has taken some considerable period of time to achieve settlement in relation to this purchase however this was finalised on Wednesday 18 October 2006.

In dealing with the finalisation of the settlement the final surveyed area of the site was identified as 7,999 square metres not 7,919 square metres. Using the agreed adjustment formula in the Contract of Sale the final settlement price was therefore \$583,999.65.

DETAILS

Issues and options considered:

Notwithstanding the difference in area of the site of 80 square metres between that last reported to Council and the final survey, the Contract of Sale makes a provision for the possibility of such changes in the final area. On this basis officers proceeded to authorise the final settlement for the purchase of Lot 1001 Kendrew Crescent, Joondalup on Wednesday 18 October 2006.

Given the previous reports however it is important that Council be aware of the final settlement and the consideration involved and acknowledges the officer's action in finalising the settlement in accordance with the Contract of Sale.

Link to Strategic Plan:

Objective 1.1 To develop, provide and promote a diverse range of lifelong learning opportunities.

Objective 1.2 - To meet the cultural needs and values of the community.

Objective 3.1 - To develop and maintain the City of Joondalup's assets and built environment.

Objective 3.2 - To develop and promote the City of Joondalup as a tourist attraction.

Objective 3.5 - To provide and maintain sustainable economic development.

Legislation – Statutory Provisions:

Section 3.59 of the Local Government Act 1995 and Part 3 of the Local Government (Functions & General) Regulations 1996 apply in relation to land transactions. All of the statutory requirements have been completed.

Risk Management considerations:

With the settlement of the purchase now completed there are no further risk management considerations in relation to this matter.

Financial/Budget Implications:

Although the final settlement price was \$5,828 more than previously reported this will not have any material impact on the 2006/07 Budget.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

The possibility of a variation in the final surveyed area of Lot 1001 Kendrew Crescent, Joondalup was anticipated and provisions included in the Contract of Sale provided a formula for adjusting the final settlement price accordingly. The final settlement was for an area of 7,999 square metres and under the terms of the Contract of Sale the final settlement price is \$5,828 more than was previously advised to Council. The report seeks Council's acknowledgement of the final settlement price and endorsement of the officer's action in finalising settlement.

ATTACHMENTS

Nil.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Hart, SECONDED Cr Hollywood that Council:

- 1 NOTES that the final settlement details of Lot 1001 Kendrew Crescent, Joondalup are for an area of 7,999 square metres and in accordance with the terms of the Contract of Sale with the Department of Education and Training the adjusted final settlement price was therefore \$583,999.65;**
- 2 ACKNOWLEDGES the Chief Executive Officer's action in finalising the settlement for the purchase of Lot 1001 Kendrew Crescent, Joondalup for the purpose of the cultural facility.**

Discussion ensued.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

CJ195 - 10/06 TENDER 055-05/06 SUPPLY INCLUDING DELIVERY, ASSEMBLY AND ROLLOUT OF RECYCLING MOBILE GARBAGE BINS (MGB) TO RESIDENCES FOR THE CITY OF JOONDALUP – [67584]

WARD: All

RESPONSIBLE DIRECTOR: Mr David Djulbic
Infrastructure Services

CJ061024_BRF.DOC:ITEM 10

PURPOSE

This report is to seek the approval of Council to accept the tender submitted by Clean Sweep for the Supply Including Delivery, Assembly and Rollout of Recycling Mobile Garbage Bins (MGB) to Residences for the City of Joondalup (Tender 055-05/06).

EXECUTIVE SUMMARY

Tenders were advertised on 19 August 2006 and 23 August 2006 through statewide public notice for the Supply Including Delivery, Assembly and Rollout of Recycling Mobile Garbage Bins (MGB) to Residences for the City of Joondalup. Six submissions were received from:

- Clean Sweep
- MASTEC Australia Pty Ltd
- Nylex Industrial Products
- Ossie Plastics Systems Pty Ltd
- Sulo MGB Australia Pty Ltd
- Waste Equipment Sales NSW Pty Ltd

It is recommended that Council, in relation to Tender 055-05/06 ACCEPTS the tender submitted by Clean Sweep for the Supply Including Delivery, Assembly and Rollout of Recycling Mobile Garbage Bins (MGB) to Residences for the City of Joondalup in accordance with the requirements as stated in Tender 055-05/06 for the Contract Price of \$1,846,325.00 (GST exclusive).

BACKGROUND

The City of Joondalup is implementing its Waste Strategy adopted by Council in December 2005. The Waste Strategy includes the provision for a universal recycling service.

The City provides a contracted waste and recycling service to approximately 54,600 residences, including multi residential premises. The service includes a weekly domestic rubbish service. The City is introducing a MGB recycling service, which consists of 240 litre mobile garbage bins (with yellow lids) serviced by automated one-arm trucks. It already has in place a user pays voluntary MGB recycling service with approximately 7,000 participants. The residences' existing MGBs will not be replaced with new MGBs in this roll out.

It is anticipated that the bins will be rolled out either later this year or early in the New Year subject to availability of stock.

DETAILS

Tenders were advertised on 19 August 2006 and 23 August 2006 through statewide public notice for the Supply Including Delivery, Assembly and Rollout of Recycling Mobile Garbage Bins (MGB) to Residences for the City of Joondalup. Six submissions were received from:

Tenderer	Total Contract Price (GST Exclusive)
Clean Sweep	\$1,846,325.00
Ossie Plastics Systems Pty Ltd	\$1,857,250.00
Waste Equipment Sales NSW Pty Ltd	\$1,894,300.00
MASTEC Australia Pty Ltd	\$2,325,125.00
Nylex Industrial Products	\$2,403,500.00
Sulo MGB Australia Pty Ltd	\$2,536,025.00

The first part of the tender evaluation process is to check conformance with the Compliance Criteria, in order to ensure that all essential requirements have been met.

One of the tenderers, Ossie Plastics Systems Pty Ltd, submitted an offer which did not address the qualitative criteria and as the company was newly established in 2006, the information provided in its tender submission was insufficient for the panel to facilitate assessment.

This Offer was deemed to be non-conforming and was not considered further.

The tenders submitted by Clean Sweep, Waste Equipment Sales NSW Pty Ltd, MASTEC Australia Pty Ltd, Nylex Industrial Products and Sulo MGB Australia Pty Ltd met all the essential requirements and were carried forward into the second part of the evaluation process, which involves an independent assessment of the qualitative and quantitative criteria by each member of the Evaluation Panel. Panel members assessed each of the submissions individually against the selection criteria using the weightings determined during the tender planning phase. The Evaluation Panel then convened to submit and discuss their assessments in order to ensure that the tenderers had the capability and resources to provide the Services and to make a recommendation.

Under the City's Contract Management Framework, the tender was assessed by the Evaluation Panel using a weighted multi-criterion assessment system ensuring compliance with *Regulation 18(4)* of the *Local Government (Functions and General) Regulations 1996*.

The Selection Criteria for Tender Number 055-05/06 is as follows:

Demonstrated Understanding of the Required Tasks

- Appreciation of the requirements
- Outline of the proposed methodology

Capacity

- A brief history of the company and the structure of the business
- Suitability of proposed goods and services
- Service and Maintenance – availability of parts, frequency and response times
- Details of any specialised equipment that will be used
- Local infrastructure
- Safety Management Policy

Social and Economic Effects on the Local Community

- Maintain or increase opportunities for local employment;
- Maintain or increase arrangements with both Goods and Services providers within the City
- Provide value added services to the City

Demonstrated Experience in Completing Similar Projects

- Scope of work
- Similarities between those Contracts and this requirement
- Period and dates of Contracts

The evaluation panel carried out the evaluation of the above submissions in accordance with the Qualitative Criteria and concluded that the offers submitted by Clean Sweep represented the best value to the City.

Issues and options considered:

The following issues and options were considered and included in the Request.

Respondents were requested to provide a Roll Out Plan for the MGBs and to nominate the sites they intend to utilise for delivery of the sea containers and the rollout of the MGBs. As a guide the City's car parks at nominated reserves could be made accessible to the Contractor to enable the efficient distribution of the MGBs to residences in the respective areas. The car parks on the reserves will be chosen that will pose minimum noise risks and possible disruptions to residents.

Where these reserves or car parks are considered a noise risk and create possible disruptions to residents, the City will comply with normal working hours and keep affected residents informed of the situation.

Link to Strategic Plan:

This requirement is linked to the Strategic Plan in accordance with the following items:

2 Caring for the Environment.

Objective 2.2 To manage waste effectively and efficiently in alignment with environmental sustainable principles.

Strategy 2.2.2 Plan for the development of waste management.

Legislation – Statutory Provisions:

A statewide public tender was advertised, opened and evaluated in accordance with the *Local Government (Functions & General) Regulations 1996*, where tenders are required to be publicly invited if the consideration under a contract is, or is estimated to be, more, or worth more, than \$50,000. The consideration for this contract exceeds the Chief Executive Officer's Delegated Authority in relation to the acceptance of tenders to \$250,000.

Risk Management considerations:

It is considered that awarding the contract to the recommended Respondent will represent a low risk to the City based on it being an established WA company with a team of key personnel experienced in waste management and having completed similar projects for various local councils.

Financial/Budget Implications:

The City has \$2,115,000.00 allocated in the 2006/2007 operational budget for this Contract and therefore has sufficient funds for this Contract to proceed.

	Excluding GST
Budget Amount (2006/2007) – Project F883:	\$2,115,000.00
Tendered Contract Price (based on 47,500 bins at \$38.87 per unit):	\$1,846,325.00

The City of Joondalup is a registered business entity for GST purposes. The nett effect on the price submitted by the successful tenderer is that the City pays GST but is able to claim an input tax credit for the amount of GST paid.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

The introduction of a universal recycling service is a long term sustainability initiative that will increase the diversion of waste from landfill.

It is noted that the recommended tenderer has nominated approximately 20% recycling component within the bins being supplied.

Consultation:

Late in 2005 the Waste Strategy 2005 was developed with community input. This tender is one of the key elements of the implementation plan and has community support.

In terms of the roll out, the residents around the car park may experience noise from the roll out operation. Where these residents are at risk of being impacted on from these stations, the City will communicate with them to advise them of the operational issues and expected impacts.

COMMENT

Clean Sweep achieved the highest qualitative score of 83% and is the lowest priced offer received.

It is a very well established company providing a diverse range of services covering street sweeping and waste management services which includes kerbside recycling collection and supply, delivery and repair of MGBs. The company provides such services to private enterprise, Government Agencies, and Local Government Authorities.

It has an existing fleet consisting of several small trucks and large trailers, and other purpose built equipment for loading and unloading the MGBs. Clean Sweep operates in accordance with its 'in-house' quality management system and Occupational Health and Safety policy.

The company also provides service and maintenance of the MGBs and all parts are held in stock at its warehouse in Bellevue.

Clean Sweep is currently providing services for the collection of Recycled Materials for the City and is, therefore, familiar with the layouts of the streets and suburbs within the City of Joondalup. It has demonstrated capacity to meet the rollout programme, and for bins to be delivered, assembled and rolled out to residences within an approximate timeframe of ten weeks.

Clean Sweep has also provided confirmation that its proposed Otto Mobile Garbage Bins supplied by Otto Holdings Asia Pacific Pty Ltd, a member of the Otto Group of companies based in Germany, will be manufactured in either Thailand or Malaysia based factories which are owned in a joint venture between Otto and a local company. Clean Sweep confirmed that its Tendered Price, in accordance with clause 1.13 CUSTOMS AND EXCISE DUTIES, TAXES AND CHARGES of the Request, includes all customs excise, levies, duties, taxes and charges and any dumping duties, if applicable.

Regarding the issue of 240 litre MGBs being dumped on the Australian market from Asia, an investigation into this claim shows that bins manufactured in Malaysia are subject to an anti dumping duty of 6.21%.

The proposed Otto Mobile Garbage Bins are manufactured to EN 840-1 standard and meet all aspect of the bin specifications. Clean Sweep provided confirmation of certification of conformity, and a sample bin for assessment. The sample bin was subjected to a number of robust drops from a one-arm lifter rubbish truck. The view of the Waste Management Officers' from Wanneroo and Joondalup was that the bin stood up well to the treatment and that it would perform well as a recycling or domestic bin. The City also reviewed the performance of previously purchased Otto bins that it purchased in 1988 and 1989 and these bins shown they have exceeded their shelf life as they are currently in good form and in use by the City.

Further confirmation was received from Clean Sweep's supplier Otto Holdings Asia Pacific that the Otto Mobile Garbage bins to be provided to the City of Joondalup meet the specified AS1535 (requirements to exposure of UV light) and ISO4892 (UV degradation) and that its specification for the bins will also meet Australian Standards 4123 (pending approval) when issued. The proposed Otto bins are warranted for a period of ten years for defects in material or workmanship from the date of purchase.

ATTACHMENTS

Nil.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Magyar, SECONDED Cr Jacob that Council, in relation to Tender 055-05/06 ACCEPTS the tender submitted by Clean Sweep for the Supply Including Delivery, Assembly and Rollout of Recycling Mobile Garbage Bins (MGB) to Residences for the City of Joondalup in accordance with the requirements as stated in Tender 055-05/06 for the Contract Price of \$1,846,325.00 (GST exclusive).

Discussion ensued.

To a query in relation to the consistent weighting results and whether there has been any change, it was advised this question would be taken on notice.

The Motion was Put and

CARRIED (10/1)

In favour of the Motion: Mayor Pickard, Crs Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar, and Park **Against the Motion:** Cr Corr

Disclosure of interest affecting impartiality

Name/Position	Cr Kerry Hollywood
Item No/Subject	CJ196-10/06 – Proposed Amendment to the Burns Beach Structure Plan – Northern Residential Precinct and other Minor Changes
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Hollywood lives in close proximity to the Structure Plan area.

CJ196 - 10/06 PROPOSED AMENDMENT TO THE BURNS BEACH STRUCTURE PLAN - NORTHERN RESIDENTIAL PRECINCT AND OTHER MINOR CHANGES – [29557]

WARD: North

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Community Development

CJ061024_BRF.DOC:ITEM 11

PURPOSE

This report is for Council to consider adding development provisions and making minor changes to existing provisions of the Burns Beach Structure Plan (BBSP), and to decide whether to initiate public advertising.

EXECUTIVE SUMMARY

The BBSP covers 147 hectares situated north of Burns Beach Road and west of Marmion Avenue, Burns Beach. The BBSP includes objectives, permissible land uses and development provisions to guide the future development of the site. It was adopted by the Council on 15 March 2005 and certified by the Western Australian Planning Commission (WAPC) on 3 May 2005.

The proposed amendment involves changes to both the Part 1 (Statutory Planning) and Part 2 (Explanatory Report) sections of the BBSP.

Proposed amendments to Part 1 include renaming the Special Design Precinct to the Northern Residential Precinct and adding several medium density areas with associated development provisions. Additional building and wall heights limits are also proposed for development on R40 and R60 density sites within this Precinct. A change to the definition of ground lot level for all lots in the structure plan area is proposed, along with minor amendments to existing provisions requested by the developer as well as the City to provide greater clarity.

Proposed amendments to Part 2 include updating the public open space (POS) schedule to reflect minor changes to the layout of POS resulting from subdivision approvals and the final design of the Northern Residential Precinct.

The majority of the proposed amendments are considered acceptable. Proposed development provisions for the Northern Residential Precinct relating to building and wall heights for R40 and R60 density lots in the Northern Residential Precinct are considered excessive and are not supported.

It is recommended that the amending documents be altered accordingly prior to initiating public advertising.

BACKGROUND

Suburb/Location:	Portion of Lot 9017 Burns Beach Road
Applicant:	Development Planning Strategies
Owner:	Burns Beach Property Trust
Zoning:	DPS: Urban Development
	MRS: Urban/Parks and Recreation
Site Area:	147 hectares
Structure Plan:	Burns Beach

The BBSP applies to 147 hectares of land zoned 'Urban Development' under DPS2 and is located north of Burns Beach Road and west of Marmion Avenue. The adopted BBSP facilitates the future development of approximately 1600 low and medium density dwellings, by way of its objectives, permissible land uses and development provisions.

Seven development precincts are identified in the current BBSP, being:

- G50
- Residential R20 Precinct
- Residential R40 Precinct
- Special Residential Precinct
- Local Shop Precinct
- Beach Shop/Lunch Bar and Restaurant Precinct
- Parks & Recreation Reserve
- Special Design Precinct

The structure plan was certified by the WAPC on 3 May 2005 and adopted by the Council on 9 August 2005.

Following adoption and certification of the structure plan, the subject land is being progressively subdivided for residential purposes. As at October 2006, some 319 residential lots have now been sold within the BBSP area.

DETAILS

The proposed amendments to the BBSP involves the following amendments to the Part 1 (Statutory Planning) and Part 2 (Explanatory Report) sections. The developer has requested the following amendments:

Part 1:

- Renaming of Special Design Precinct to Northern Residential Precinct;
- Inclusion of additional development provisions for the Northern Residential Precinct;
- Clarification of existing provisions in the Residential R20, Residential R40 and R60 and Local Shop precincts.

Part 2:

- Additional background information on the design philosophy of the Northern Residential Precinct;
- Amending existing areas and schedule of POS to reflect the final design of the Northern Residential Precinct and approved engineering plans resulting from subdivision approvals.

In addition, the City's officers have suggested the following amendments:

- Inclusion of provisions relating to permissible land uses;
- Deletion of "Shop" use from the Local Shop Precinct.

Attachment 2 provides a table of all proposed amendments and the City's comments. Attachment 3 shows the proposed amendments within Parts 1 and 2 of the structure plan as tracked changes.

The main proposed amendments within Attachment 2 are detailed below:

Northern Residential Precinct

The adopted BBSP identifies a 'Special Design Precinct' over the northern portion of the site. This land is characterised by naturally steep topography where the highest points of the structure plan area are located. The highest point on the site is located towards the eastern end of the Precinct and the land falls away from this high point in all directions, with the lowest point located in the north-west corner of the land. A "spine" of POS areas linked by a portion of road with paths is proposed along the north-west orientation. This "spine" serves to also facilitate the retention of stands of native remnant trees, particularly Eucalyptus trees located within POS 2.

The BBSP states that future development of this Precinct is intended to be primarily R20 density with small pockets of high-density sites. The key objective for this Precinct is to provide quality residential development whilst retaining the general landform.

Minimal provisions currently apply to this Precinct, recognising that detailed engineering design at a later stage of development of the structure plan site would determine more specific requirements to address the constraints of its topography.

Renaming of Precinct

It is proposed that the Special Design Precinct be renamed to the Northern Residential Precinct to reflect the fact that design work for this portion of the structure plan has been finalised and that particular structural or design features would not be necessary for development of the lots.

Additional Provisions

Density

The current provisions in the BBSP for this Precinct indicate that the future density of development in this area will generally be R20, with the exception of some higher density sites. The proposed amended structure plan identifies specific areas of R40 and R60 coded land.

The land identified for R60 density development is the highest residential land in the Precinct, and is adjacent to a large area of POS. Areas of R40 density are proposed adjacent to the foreshore.

Plot Ratio

The Residential Design Codes of WA (R-Codes) specify the maximum plot ratio applicable to land, depending on the density of the land. Plot ratio in the R-Codes is defined as:

“The ratio of the gross total of all floors of buildings on a site to the area of land within the site boundaries. For this purpose, such areas shall include the area of any walls but not include the areas of lift shafts, stairs or stair landings common to two or more dwellings, machinery, air conditioning and equipment rooms, non-habitable space that is wholly below natural ground level, areas used exclusively for parking of wheeled vehicles at or below natural ground level, lobbies or amenities areas common to more than one dwelling, or balconies or verandahs open on at least two sides.”

In areas coded R60, the R-Codes specify a maximum plot ratio of 0.65 for single houses and grouped dwellings in, and a maximum plot ratio of 0.70 for multiple dwellings.

The proposed amendment will increase the maximum plot ratio for single houses, grouped dwellings and multiple dwellings in areas coded R60 from 0.65 and 0.70 to 0.85.

The applicant contends that the bulk and scale of any building would not be altered through the increase in plot ratio while the increased plot ratio enables the "living spaces" and "habitable rooms" within any proposed building to be increased in size.

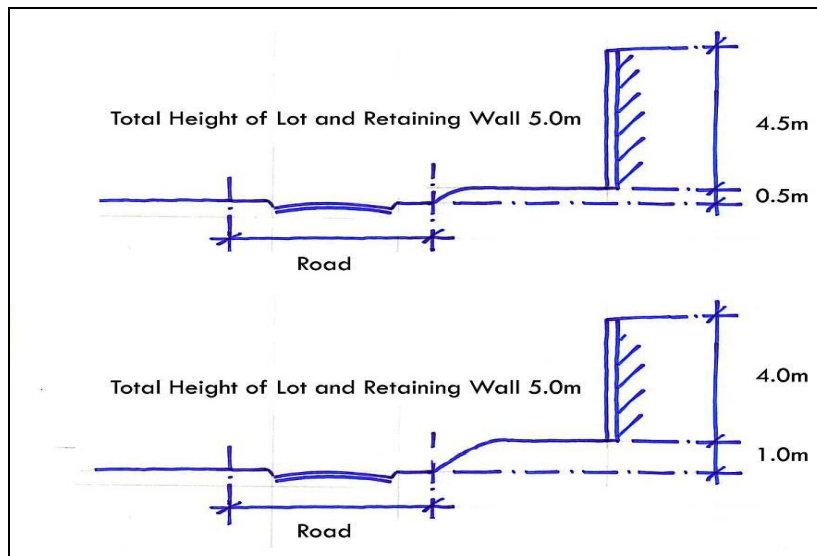
Ground Lot Level

Ground lot level is used in relation to the establishment of finished lot levels at the subdivision stage. It is not used as the reference point in determining building height under the BBSP.

The current definition in the BBSP for ground lot level is:

“GROUND LOT LEVEL shall mean the finished level of the lot relative to the midpoint of the verge that it fronts (existing or established at subdivision stage) and immediately adjacent to the lot. The finished lot level shall be +/- 0.5 metres from the level of the verge at the front of the lot, measured from the midpoint of the frontage of the lots. Lots with rear laneway access that are required to be accessed from the rear lane may be permitted to substitute +/- 1.5 metres in lieu of the +/- 0.5 metres.”

The amendment seeks to replace the difference in lot levels from +/- 0.5m with +1.0/-0.5m in relation to front verges and +/-2.0m to rear laneways. The proposal represents an increase of a further 0.5m above the level of the street verges and rear laneways (see diagram below). This is proposed to facilitate development of the Northern Residential Precinct with retaining walls no higher than 4.0 metres in height.



Proposed Increase to Ground Lot Level and Retaining Walls

The definition is proposed to be modified as follows:

“GROUND LOT LEVEL shall mean the finished level of the lot relative to the midpoint of the verge that it fronts (existing or established at subdivision stage) and immediately adjacent to the lot. The finished lot level shall be + 1.0/-0.5 metres from the level of the verge at the front of the lot, measured from the midpoint of the frontage of the lots. Lots with rear laneway access that are required to be accessed from the rear lane may be permitted to substitute +/- 2.0 metres in lieu of the +/- 1.0 metres.”

In order to reduce the impacts of raised Ground Lot Levels on the streetscape, it is proposed to ensure that the combination of retaining walls and front fencing does not present as high solid walls by including a front fencing provision. The diagram shown above in relation to the proposed increase in Ground Lot Level also shows the impact of the proposed retaining walls.

Retaining Walls

Due to the topography of the site, it is proposed that a provision be included in the structure plan to permit retaining walls to a maximum 4.0 metres in height at specific locations, as shown on Figure 3 in Part 1 of the draft amended BBSP.

The applicant’s justification for this amendment is that the increased retaining wall heights will reflect the natural topography of the site and further, that their location at the rear and side of residential blocks will not have an adverse impact on streetscape.

Building Height

A maximum total building height of 3 storeys and 12.5 metres is proposed for R40 and R60 density sites in the Northern Precinct. The maximum wall heights (standard and parapet walls) are subsequently proposed to be amended to 9.5 metres and 10.5 metres.

The current maximum building height for the balance of the site is 9.5 metres, which is the same for the Residential R20 and Local Shop Precincts. This enables the development of 2 storeys plus a loft, which is defined in the structure plan as distinct from a storey. Maximum wall heights (standard and parapet walls) are 6.5 metres and 7.5 metres respectively in these Precincts.

The applicant's justification for this part of the amendment is that the increased building height will draw attention to the high point of the subdivision and enhance the diversity and variety of housing types within the development. The applicant asserts that the transition from 2 to 3 storeys will mostly be separated by road and that the requirements of the Structure Plan and the Residential Design Codes will ensure that the interface between the two and three storey homes (where they are immediately adjacent) is appropriate and issues of overlooking, overshadowing and amenity will be addressed.

Part 2 – Amendments to Public Open Space (POS) Schedule

The adopted BBSP notes 15 POS areas. Detailed engineering design stage for the Northern Residential Precinct had not been undertaken when the BBSP was adopted, leading to a redesign of the roads to better reflect the existing topography of the land and subsequent lot arrangement.

As part of this redesign, POS 1 in this Precinct was split into three separate POS areas, being POS 1A, 1B and 1C.

Two POS areas located opposite the proposed corner store site in the remainder of the BBSP area have been split at the subdivision stage, resulting in a total of 19 POS areas being proposed over the whole site. The resulting POS areas will serve as passive recreation areas, which was always the intended use for these sites.

Accordingly, it is proposed that the POS schedule be amended to accurately reflect the POS distribution throughout the structure plan area.

Options

The options available to Council in considering the proposal are:

- Adopt the proposed amendment to the BBSP and initiate public advertising;
- Adopt the proposed amendment to the BBSP, with modifications, and initiate public advertising;
- Refuse to adopt the proposed amendment to the BBSP.

Link to Strategic Plan:

The proposed amendments to the BBSP is supported by the following objective and strategy of the City's Strategic Plan 2003-2008:

Objective 3.3 To continue to meet changing demographic needs.

Strategy 3.3.1 To provide residential living choices

Legislation – Statutory Provisions:

Clause 9.7 of the City's DPS2 (DPS2) enables Council to amend an Agreed Structure Plan subject to the approval of the Western Australian Planning Commission (WAPC). Should Council determine that the amendment to the structure plan is satisfactory, advertising of the proposal is required in accordance with clause 9.5 of DPS2.

Upon the completion of public advertising, Council is required to consider all submissions within sixty (60) days and proceed to either adopt or refuse to adopt the amended structure plan, with or without modifications.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

Not Applicable.

Policy Implications:

The following Council policies are of relevance to this proposal:

- Policy 3-4 Height and Scale of Buildings Within The Coastal Area (Non-Residential Zones); and
- Policy 7-8 - Retaining Walls (Subdivision).

The proposed amendments to the BBSP seek to enable heights of dwellings in the Northern Residential Precinct that exceed the maximum height threshold under Policy 3-4, and retaining walls exceeding the height that may be approved without Council approval under Policy 7-8. Discretion is therefore being sought in relation to these policies.

Should Council resolve to adopt the proposed amendment, it would be required to exercise discretion in relation to Policies 3-4 and 7-8.

Regional Significance:

The proposed amendment to the BBSP is of regional significance as it will facilitate the release of additional low and medium density residential land in a sought-after coastal location within the northern corridor of the Perth metropolitan area.

Sustainability Implications:

It is considered that the proposed amendments to the Northern Residential Precinct provide for small lot and medium density subdivision (R40 and R60), which will facilitate better utilisation of the existing infrastructure, community facilities and public transport system in the locality, in line with the State's planning objectives.

The road network and orientation of residential lots within this Precinct have been designed in accordance with design and sustainability principles of Liveable Neighbourhoods, which provides a guide to subdivision design.

Furthermore, the proposed increased density will provide an opportunity for a wide variety of lot sizes and building styles throughout the structure plan area.

Consultation:

Clause 9.5 of DPS2 requires structure plan proposals to be advertised in accordance with the provisions of Clause 6.7, prior to further consideration by Council. Clause 6.7 of DPS2 requires a minimum advertising period of 21 days. In view of the significance of the site and the extent of the modifications proposed, an advertising period of 35 days is recommended.

Public advertising will consist of written notification of all adjoining landowners, signs being erected on the site, an advertisement being placed in the Joondalup community newspaper and a notice being placed on the City's website.

COMMENT

Northern Residential Precinct

The renaming of this Precinct has no planning implications and is supported.

Comment on the other proposed amendments follows:

Density

There are currently no density provisions within the BBSP for the Northern Residential Precinct. The predominant density over the balance of the BBSP is R20, with several pockets of R40 largely located around POS areas, and two pockets of R60 located adjacent to the coastal road and POS 6

With regards to the Northern Residential Precinct, two pockets of R40 and two pockets of R60 density sites are proposed within the predominantly R20 Precinct, providing the opportunity for a variety of lot sizes, housing types and styles (see plan at the rear of Attachment 3a). The proposed R40 areas adjacent to the foreshore are considered to have planning merit on the basis that public enjoyment of the coast is enhanced with the higher density, in accordance with the policy measures outlined in the WAPC's State Coastal Planning Policy.

It is considered that the increased density of the R60 site, at the high point of the estate, would assist in visually emphasising this site. The provision of medium density development sites in close proximity to areas of POS is also consistent with the provisions of Liveable Neighbourhoods.

The WAPC, in considering the draft BBSP for adoption, required a modification to the structure plan to include an area of R60 density to be located adjacent to POS 6 along the foreshore, in order to facilitate future development at a higher density. The proposed amendment is consistent with this requirement.

On this basis, the proposed R40 and R60 density areas are therefore supported.

Plot Ratio

Plot ratio is a relatively minor component of residential development, and other elements of the Structure Plan and the R-Codes are already in place to control building height, site coverage, privacy and other issues relating to potential building bulk.

The proposed plot ratio increase for the R40 and R60 density sites is therefore supported.

Retaining Wall Heights

An amendment to the structure plan is proposed that would allow retaining walls over 3 metres and up to 4.0 metres as of right at the rear of properties and adjacent to POS 1A.

Retaining walls are normally constructed by developers during the subdivision stage so that they occur in a uniform and comprehensive manner.

A Building Licence is required for all retaining walls in excess of 0.5 metres in height and those in excess of 3m are issued once Council has considered and approved an application. Council approval is required for retaining walls in excess of 3.0 metres, in accordance with the City's Policy 7-8 - Retaining Walls (Subdivision).

The new Planning and Development Act (P&D Act) was gazetted in April 2006 and replaces the Town Planning & Development Act 1928. Unlike the previous planning legislation, Section 157 (1) of the (P&D Act) 2005 exempts all subdivision works from requiring development approval, provided those works are shown on the plan of subdivision, or are required to be carried out as a condition of the subdivision.

It is therefore considered important to include provisions relating to any high retaining walls where possible at the structure plan stage. This would enable comprehensive assessment of retaining walls and avoid the need to acquire separate Council approval for over-height retaining walls prior to Building Licence approval.

It is acknowledged that higher retaining walls (4.5 metres) would be required should Council not permit the proposed amendment to the definition of Ground Lot Level referred to later in this report. However, the subject retaining walls are to be constructed at the rear of properties and adjacent to an area of POS and would therefore have minimal impact on the streetscape. For this reason, regardless of Council's decision on the proposed amendment to the Ground Lot Level definition, the proposed retaining wall heights are considered acceptable.

Building Height

A maximum of 3 storeys and 12.5 metre total building height is proposed in the Northern Residential Precinct, on lots of R40 and R60 density. A maximum wall height of 9.5 metres for standard walls and 10.5 metres for parapet walls are also proposed.

As noted earlier in this report, Council's Policy 3.2 Height and Scale of Buildings Within Residential Areas and Policy 3-4 Height and Scale of Buildings Within The Coastal Area (Non-Residential Zones) generally control the building heights throughout the City.

It is noted that the development on the medium density sites would serve as landmark features by virtue of being located at prominent points near the foreshore and at the high point of the estate. The density of development on these sites in themselves would, to some degree, set them apart from the majority of lots in the estate being developed at low density (R20), without the requirement for an increased building height limit.

Opportunities for housing variety (single, grouped and multiple dwellings) exists in R40 and R60 density coded areas irrespective of building height. Whilst dwelling size would be more limited with 2 storey development, elements such as the layout and design of the dwellings provide other options for variety in housing types and form.

The BBSP allows 2 storey plus loft development with a 9.5m total height limit for residential dwellings which is already 1.0m above the height threshold of 8.5m under the Council's Policy 3.2 that applies to most other residential areas within the City. Wall heights of 6.5m and 7.5m for standard and parapet walls respectively are permissible in the BBSP.

On this basis, it is considered that the proposed building height of 12.5m is excessive and could provide a precedent in terms of other future structure plans and developments within the City. It is considered that, should Council resolve to initiate the proposed structure plan amendment, the proposed building height should be modified to reduce the maximum permissible wall total building heights 12.5m for R40 and R60 coded land in this Precinct, prior to the commencement of public advertising.

Reference to the maximum number of storeys permissible should correspondingly also be amended as a 9.5m height limit still provides adequate vertical space to construct a 2 storey plus loft dwelling.

In addition, the corresponding maximum wall heights should be reduced for standard and parapet walls from the proposed 9.5m and 10.5m to 6.5m and 7.5m respectively.

Ground Lot Level Definition

The amendment seeks to replace the difference in lot levels from +/- 0.5m with +/-1.0m in relation to front verges and +/- 1.5m to +/- 2.0m to rear laneways, which is an increase of a further 0.5m above the level of the street verges and rear laneways.

This is proposed to facilitate development of the Northern Residential Precinct with retaining walls no higher than 4.0 metres in height. The proposed definition, however, is not confined to the Northern Residential Precinct where high retaining walls may be necessary to address the topography of the land and subsequent roads and lot arrangements.

Council recently considered and endorsed a submission to the Western Australian Planning Commission (WAPC) on review of the R-Codes (CJ125-07/06 refers) objecting to a proposal to amend Clause 6.6.1 A1.4 – Fill, to increase permissible fill on lots from 0.5 metres to 1.0 metres. The basis for objection was increased privacy implications for adjoining neighbours and impacts on streetscapes.

The applicant has maintained throughout the structure plan process that the intention for the Burns Beach estate is to develop the lots in a way that recognises the natural topography of the land, to be reflected in the site works. Subdivision approvals and subsequent earthworks have been occurring for the first stages of development of the estate, within which lot levels were required to comply with the current provision. Increasing the lot levels uniformly over the balance of the estate would have some visual impact yet could still enable the land's natural topography to be taken into account.

In view of the fact that the frontages of lots would be raised up to 1.0m above the level of the road, the impact of increased lot levels needs to be considered in terms of retaining the additional fill on the affected lots. The developer has Building Guidelines in place that all purchasers are to comply through approval of building plans, prior to their submission to the City for approval. These include the fencing provisions and it is proposed to include a provision in the BBSP that limits the extent of visually non-permeable front (solid) fencing to reduce the visual impact, as noted above in the applicant's justification.

Under Clause 3.2.5 of the R-Codes, front walls and fences are to be visually permeable 1.2m above natural ground level. A total fence height of 1.8m could be approved. The proposed provision would require fencing and retaining walls 1.3m above the verge level, 100mm more than the R-Codes. Fencing above this height would be permeable. The visual impact of the proposed increase in lot levels would therefore be marginal and the additional provision is considered acceptable.

Other Minor Amendments

Other, mainly textual, minor amendments are proposed to the BBSP generally aimed at providing clarity and have been included mainly at the request of the City's officers. Changes to Part 2 reflect some proposed amendments to Part 1 and also adjust the POS Schedule to reflect the approved arrangement of POS areas to date that has occurred through changes at the subdivision process. The Department for Planning and Infrastructure was consulted regarding the revised layout of POS which was subsequently supported and approved by the WAPC. Altered roads and lots layout for the Northern Residential Precinct are also proposed and are considered satisfactory. Attachment 2 provides a summary of all proposed amendments and officer comments.

It is noted that a separate report to this meeting of Council on standardising the wording of structure plans also includes land use permissibility provisions that form part of this proposed amendment. The standard wording report seeks only to provide clarity in the wording of some of the City's structure plans and does not address any other issues. However, as the Burns Beach Structure Plan report also includes the addition of design provisions which may create public interest and discussion. The relevant land use permissibility provisions for the Burns Beach Structure Plan has also been included in Report CJ197-10/06, which addresses all structure plans that do not include these provisions.

CONCLUSION

The current BBSP includes few development provisions for the northern portion of the site (the Northern Residential Precinct) due to the unknown constraints of this land with its undulating topography at the time of adopting the structure plan. Detailed landscaping and urban design assessment of the land have now been completed for this Precinct, allowing engineering design details to be finalised. This process has now advanced to the point that additional provisions are proposed to be added to the BBSP to facilitate the future development of the land.

The proposed amendments provide for a range of dwelling types to be developed on a difficult part of the BBSP site at the northern aspect, as well as providing clarity for existing provisions. Other than the proposed building height for medium density sites, the proposed amendments are considered acceptable for the purpose of achieving the objectives of the BBSP.

It is recommended that, prior to public advertising being undertaken, the structure plan be altered to reduce the maximum total building heights from 12.5m to 9.5m, and maximum wall heights for standard and parapet walls from the proposed 9.5m and 10.5m to 6.5m and 7.5m respectively. The maximum permissible storeys therefore would need to be reduced from 3 storeys to 2 storeys.

Following these alterations and public advertising, further consideration can be given to the building height matter, taking into account any submissions received, prior to Council deciding whether or not to adopt the amendments to the structure plan.

ATTACHMENTS

Attachment 1	Location Plan & Aerial
Attachment 2	Table of all proposed amendments with officer comments
Attachment 3(a)	Proposed Modifications to Burns Beach Structure Plan (tracked) - Part 1 and Plan 1
Attachment 3(b)	Proposed Modifications to Burns Beach Structure Plan (tracked) - Part 2
Attachment 4	Table 1 - The Zoning Table
Attachment 5	Structure plan process flowchart

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 Pursuant to clause 9.7 of the City of Joondalup's District Planning Scheme No 2, INITIATES public advertising of the proposed amendments to the Burns Beach Structure Plan, including additional provisions for the Northern Residential Precinct and minor changes to existing provisions, as per Attachment 3 to Report CJ196-10/06, for a period of 35 days, once the following changes to clause 9.2 Land Use and General Provisions have been undertaken:
 - (a) Dwellings shall be constructed to a maximum height of 2 storeys with loft areas within the roof space permitted;
 - (b) The maximum building height measured from natural ground level shall be:
 - (i) Maximum wall height (with pitched roof) – 6.5 metres
 - (ii) Maximum total building height to roof ridge – 9.5 metres
 - (iii) Maximum wall and total height (parapet wall with concealed roof) – 7.5 metres
- 2 NOTES that land use permissibility provisions are proposed to be included in the Burns Beach Structure Plan through the Proposed Standard Amendments to Structure Plan Report to be considered by Council at its meeting of 31 October 2006 (Item CJ197-10/06 refers).

ADDITIONAL INFORMATION

Following the Briefing Session held on 24 October 2006, further discussion occurred with representatives of Peet and Co in relation to the definition of "Ground lot level" and the area of application.

In essence, the changed definition is to only apply to the new Northern Residential Precinct, and not to the whole Structure Plan area as indicated at the Briefing Session. As a result the intent of the existing definition in the endorsed Structure Plan will continue to have effect for the remainder of the Structure Plan area.

The following revised recommendation and attached draft Structure Plan reflects the above. For ease of reading, the changes made to the draft Structure Plan are shown highlighted yellow – Appendix 17 refers.

MOVED Cr Hollywood, SECONDED Cr Park that Council:

- 1 Pursuant to clause 9.7 of the City of Joondalup's District Planning Scheme No 2, INITIATES public advertising of the proposed amendments to the Burns Beach Structure Plan, including additional provisions for the Northern Residential Precinct and minor changes to existing provisions, as per Attachment 3 to this report, for a period of 35 days, once the following changes have been undertaken:

- (a) **MODIFY Section 3.0 Definitions, by deleting the existing definition of Ground Lot Level and inserting a new definition as follows:**
- (i) **"Ground lot level" shall mean the finished level of the lot relative to the midpoint of the verge that it fronts (existing or established at subdivision stage) and immediately adjacent to the lot.**
- (b) **MODIFY Clause 5.0 Residential R20 Precinct by inserting new provision 5.2 VI as follows:**
- "The ground lot level of each lot in this precinct shall be +/-0.5 metres from the level of the verge at the front of the lot, measured from the mid point of the frontage of the lots. Lots with rear lane access that are required to be accessed from the rear lane may be permitted to substitute +/- 1.5 metres in lieu of +/-0.5 metres."*
- (c) **MODIFY Clause 6.0 Residential R40 And R60 Precinct by inserting new provision 6.2 XVI as follows:**
- "The ground lot level of each lot in this precinct shall be +/-0.5 metres from the level of the verge at the front of the lot, measured from the mid point of the frontage of the lots. Lots with rear lane access that are required to be accessed from the rear lane may be permitted to substitute +/- 1.5 metres in lieu of +/-0.5 metres."*
- (d) **MODIFY Clause 9.0 Northern Residential Precinct by inserting new provision 9.2 V as follows:**
- "The ground lot level of each lot in this precinct shall be +1 / -0.5 metres from the level of the verge at the front of the lot, measured from the mid point of the frontage of the lots. Lots with rear lane access that are required to be accessed from the rear lane may be permitted to substitute +/- 2 metres in lieu of +1 / -0.5 metres."*
- (e) **MODIFY Clause 9.2 Land Use And General Provisions as follows:**
- (i) **Dwellings shall be constructed to a maximum height of 2 storeys with loft areas within the roof space permitted;**
- (ii) **The maximum building height measured from natural ground level shall be:**
- A Maximum wall height (with pitched roof) – 6.5 metres**
- B Maximum total building height to roof ridge – 9.5 metres**
- C Maximum wall and total height (parapet wall with concealed roof) – 7.5 metres**

- 2 NOTES that land use permissibility provisions are proposed to be included in the Burns Beach Structure Plan through the Proposed Standard Amendments to Structure Plan report to be considered by Council at its meeting of 31 October 2006 (Item CJ197-10/06 refers).**

Discussion ensued.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar, and Park

Appendices 7 and 17 refer

To access this attachment on electronic document, click here: [Attach7brf241006.pdf](#)
[Attach17min311006.pdf](#)

**CJ197 - 10/06 PROPOSED STANDARD AMENDMENTS TO
STRUCTURE PLANS – [26549] [11160] [20514]
[16047] [06878] [48934] [60560] [29557]**

WARD: All

**RESPONSIBLE
DIRECTOR:** Mr Clayton Higham
Planning and Community Development

CJ061024_BRF.DOC:ITEM 12

PURPOSE

The purpose of this report is to seek Council's consent to advertise proposed standard amendments to the wording of several adopted structure plans.

EXECUTIVE SUMMARY

A structure plan is a planning tool that sets out the vision and planning framework for the future development of an area or parcel of land.

A review of the City's structure plans has revealed the wording of a number of structure plans requires amendment to bring them into line with the requirements of the City's District Planning Scheme No 2 (DPS2) and the Residential Design Codes of Western Australia (R-Codes), and with one another.

The main issues for amendment relate to land use permissibility and the circumstances under which planning approval is required for the development of a single house.

It is recommended that the following structure plans be amended to include revised wording and new provisions to address the inconsistencies in wording.

- Cook Avenue Structure Plan
- Currambine Structure Plan
- Heathridge Structure Plan
- Hillarys Structure Plan
- Iluka Structure Plan
- Kinross Neighbourhood Centre Structure Plan
- Currambine Village Structure Plan
- Burns Beach Structure Plan

The proposed amendments are considered to be minor in nature and will not materially alter the intent of the subject structure plans.

In view of the above, it is recommended that the proposed amendments be advertised for 21 days for public comment.

BACKGROUND

Suburb/Location:	Hillarys, Currambine, Heathridge, Iluka, Burns Beach & Kinross
Applicant:	Not Applicable
Owner:	Not Applicable
Zoning:	DPS: Various
	MRS: Urban
Site Area:	Not Applicable
Structure Plan:	Various (as noted)

Unless otherwise specified in a structure plan, the provisions of DPS2 apply to the development of land the subject of a structure plan. In addition, the provisions of the Residential Design Codes (R-Codes) apply to residential development, unless otherwise stated in a structure plan.

Provisions within structure plans are intended to supplement the requirements of DPS2 and the R-Codes. Due largely to changes to the R-Codes over time, and the fact that the current structure plans have been developed over several years by different planning consultants, the wording and formatting of many of the City's adopted structure plans differ from one another.

This inconsistency in the wording of structure plans has created uncertainty for landowners and City staff in relation to the development and building approval processes, particularly for residential land.

A review of the City's structure plans has revealed two main issues that need to be addressed, being land use permissibility in structure plan areas and the circumstances under which development approval is required for a single house.

DETAILS

Schedule 7 of DPS2 sets out the elements that Council may be require to be included in structure plans proposals. Structure plans are to have two parts: Part 1, which sets out the statutory requirements, and Part 2 which is an explanatory report providing background.

Part 1 is required to include definitions, objectives and development provisions relating to permissible land uses, density, building height, access, and any special provisions specific to the location and proposed form of development not adequately addressed through the provisions of R-Codes, DPS2 or Council's existing policies. A detailed plan showing proposed zones, densities, and roads and layout of areas of public open space also need to be included in Part 1.

The City's adopted structure plans have been prepared by different planning consultants over time, resulting in their content and presentation being varied.

A review of the City's adopted structure plans has identified the following as requiring amendment:

- Cook Avenue Structure Plan
- Currambine Structure Plan
- Heathridge Structure Plan
- Hillarys Structure Plan
- Iluka Structure Plan
- Kinross Neighbourhood Centre Structure Plan
- Currambine Village Structure Plan
- Joondalup City Centre Plan and Manual (JCCDPM)
- Burns Beach Structure Plan

The following adopted structure plans do not need amending:

- Caridean Street Structure Plan
- Currambine Structure Plan
- Woodlake Retreat Structure Plan
- Warwick Structure Plan

With regards to the Currambine Village Structure Plan, Council considered the intention to revoke this structure plan at its meeting on 8 August 2006 and resolved to publicly advertise the proposal (CJ135-08/06 refers). Advertising commenced on 31 August 2006 for a period of 35 days, until 5 October 2006.

Following the close of advertising, a report to Council will be prepared to allow for the consideration of public submissions and to decide on the revocation proposal. Should Council determine that the structure plan be revoked, the amendments proposed in this report may not apply.

The timing of the procedures associated with the proposed revocation and proposed amendments to the structure plans will determine whether the Currambine Village Structure Plan would need to be amended. As the structure plan is currently valid, it has been included in this report.

Exceptions to amendments

Of the structure plans identified in the above list, the JCCDPM is not the subject of this report.

The JCCDPM is a significant structure plan which relates to seven Districts within the City Centre and incorporates sub-categories of structure plans in relation to the Edith Cowan University and Arena Joondalup sites.

The JCCDPM is an important tool for guiding residential and commercial development in the Joondalup City Centre. The JCCDPM was prepared in 1995 by Landcorp and presents differently in wording and format to more recent structure plans. For these reasons, the JCCDPM does not form part of this review and is subject to a separate review.

Land Use Permissibility

Residential Areas

The subject structure plans predominantly relate to residential land. The structure plans do not include adequate provisions relating to land use permissibility. This has led to some ambiguity regarding the planning and building approval processes in these areas.

In particular, the subject structure plans do not identify the use class “Single House” as being a permitted use in residential zoned land. Subsequently, single houses in these structure plan areas currently require planning approval, creating delays for landowners and substantially increasing the workload volume of City staff.

In areas of the City not controlled by structure plans, land use permissibility in the Residential Zone is controlled through Table 1 of DPS2 (the Zoning Table). Where a proposed land use is not listed in Table 1, Council is required to determine a development application for that use based on the merits of the application. Table 1 is shown as Attachment 4 to this report.

Table 1 identifies “Single House” as a permitted use in the Residential Zone, meaning that planning approval is not required unless the proposed development does not meet the Acceptable Development Standards of the R-Codes.

In order to provide consistency throughout the residential areas of the City, it is proposed that the following provision be added to the subject structure plans under the appropriate headings:

Land use permissibility and general provisions in the (specify Precinct/Zone and density code as appropriate) shall be the same as those within the Residential zone under the Scheme unless otherwise specified in this Structure Plan.

By introducing this Clause, land use permissibility for residential areas of the subject structure plans will be controlled by Table 1 of DPS2.

It should be noted that notwithstanding the provisions of Table 1, a planning approval would still be required for a single house where any variations to the provisions of the R-Codes or the relevant structure plan are proposed.

Non-Residential Areas

The following structure plans provide for non-residential land uses:

- Currambine Structure Plan – Commercial and Community Precincts
- Hillarys Structure Plan – Mixed Use Precinct
- Kinross Neighbourhood Structure Plan – Commercial Land Use Area, Civic and Cultural Land Use Area

While these structure plans do include land use permissibility provisions, there is inconsistency in the wording of the structure plans.

It is proposed that existing provisions of these structure plans be amended, as follows:

Land use permissibility and general provisions in the (specify Zone/Precinct as appropriate) shall be the same as those within the (specify Zone) under the Scheme unless otherwise specified in this Structure Plan.

By introducing this Clause, land use permissibility for non-residential areas of the subject structure plans will be controlled by Table 1 of DPS2.

Other minor amendment – Cook Avenue Structure Plan

In Western Australia, all residential development is assessed against the Acceptable Development Provisions (ADPs) of the R-Codes. Where the ADPs are not met, applicants can request that the local government exercises discretion and approve a Codes Variation, provided that the relevant Performance Criteria (PC) of the Codes has been met.

Clause 1.5 of the Cook Avenue Structure Plan states the following:

1.5 Residential Design Codes

All dwellings are required to comply with the Acceptable Development Provisions (ADP's) of the Residential Design Codes of Western Australia (the Codes), unless otherwise provided for by the specific requirements of this Structure Plan. Any proposed development that deviates from the ADP's will be required to address the Performance Criteria of the Codes by way of an application for development approval to the City of Joondalup.

Pursuant to Clause 4.2.5 of the Scheme, Plan 1 - 'Structure Plan Map' - identifies the location of the R25 and R40 residential densities that apply to the site.

Whilst the City's other structure plans make reference to the provisions of the R-Codes, only the Cook Avenue Structure Plan refers specifically to the PC. The current wording of the structure plan is unnecessary and inconsistent with other structure plans within the City.

The Clause also incorrectly states that an application for development approval is required for a proposal to be assessed against the PC of the R-Codes. A Codes Approval Application Form for a variation to the R-Codes is required in this case. It is proposed that Clause 1.5 of the Cook Avenue Structure Plan be amended as follows:

1.5 Residential Design Codes

All dwellings are required to comply with the Residential Design Codes of Western Australia (the Codes), unless otherwise provided for by the specific requirements of this Structure Plan.

Pursuant to Clause 4.2.5 of the Scheme, Plan 1 - 'Structure Plan Map' - identifies the location of the R25 and R40 residential densities that apply to the site.

The revised clause will remove ambiguity in the approvals process for development in the Cook Avenue Structure Plan.

Attachment 2 provides a list of the specific amendments proposed and how each structure plan would read when amended in relation to the respective provisions of the structure plans. Attachment 3 shows tracked copies of extracts of the structure plans, showing the proposed amendments in relation to the respective structure plans.

Options

Council has the following options with regard to this proposal:

- Support the initiation of the proposed amendments to the structure plans;
- Support the initiation of the proposed amendments to the structure plans, with modifications;
- Not support the initiation of the proposed amendments to the structure plans for stated reasons.

Link to Strategic Plan:

The recommendation in this report is not linked to the objectives and strategies of the City's Strategic Plan 2003 –2008.

Legislation – Statutory Provisions:

Clause 9.7 of DPS2 enables Council to amend an Agreed Structure Plan subject to the approval of the Western Australian Planning Commission (WAPC). Should Council determine that the amendments to the Structure Plans are satisfactory, advertising of the proposals is required in accordance with Clause 9.5 of DPS 2.

Upon the completion of public advertising, Council is required to consider all submissions within sixty (60) days and proceed to either adopt or refuse to adopt the amended Structure Plans, with or without modifications.

Attachment 5 sets out the structure plan process.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

Not Applicable.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Should Council determine that the proposed amendments to the structure plans are satisfactory, public advertising is required in accordance with clause 9.5 which requires advertising for a minimum of 21 days.

It is considered that the proposed amendments are minor in nature and will not alter the intent and purpose of the subject structure plans. It is recommended that a 21 day advertising period be undertaken for these amendments.

Upon the completion of advertising, Council is required to consider all submissions within sixty (60) days and proceed to either adopt or refuse to adopt the amendments, with or without modifications.

COMMENT

The City's adopted structure plans have varied in format and wording over time. The amendments will remove ambiguity that currently exists relating to land use permissibility and approvals processes in the subject structure plan areas.

The proposed amendments are considered to be minor in nature and will not materially alter the intent of the subject structure plans. The amendments will provide greater consistency between the subject structure plans, the City's DPS2 and the R-Codes.

The wording of Clause 1.5 of the Cook Avenue Structure Plan to the R-Codes should also be amended to be consistent with the wording of the R-Codes and the City's other structure plans.

In view of the above, it is recommended that the proposed amendments be advertised for 21 days for public comment. Furthermore, in view of the problems associated with the different forms and content of structure plans that has occurred, the adoption of a standard structure plan template under DPS2 will be progressed as a matter of priority.

ATTACHMENTS

Attachment 1	Location plan of subject structure plans areas
Attachment 2	List of proposed amendments to structure plans
Attachment 3	Extracts of Cook Avenue, Currambine, Heathridge, Hillarys, Iluka and Kinross Neighbourhood Centre, Currambine Village and Burns Beach Structure Plans (tracked, showing proposed amendments)
Attachment 4	Table 1 – The Zoning Table
Attachment 5	Structure plan process

VOTING REQUIREMENTS

Simple Majority

MOVED Cr John, SECONDED Cr Park that Council:

- 1 Pursuant to clause 9.7 of the City's District Planning Scheme No 2, ADOPTS the proposed standard amendments to the Cook Avenue, Currambine, Heathridge, Hillarys, Iluka, Kinross Neighbourhood Centre, Currambine Village and Burns Beach Structure Plans, as shown within Attachment 3 to Report CJ197-10/06 and make these available for public comment for a period of 21 days;**

2 REQUIRES the preparation of a standard structure plan template by the City, to be adopted through an amendment to District Planning Scheme No 2.

Discussion ensued.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar, and Park

Appendix 8 refers

To access this attachment on electronic document, click here: [Attach8brf241006.pdf](#)

Name/Position	Cr Sue Hart
Item No/Subject	CJ198-10/06 - Proposed Repealing of Town Planning Scheme No 6 - Greenwood
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Hart resides in the suburb of Greenwood.

Name/Position	Cr Brian Corr
Item No/Subject	CJ198-10/06 - Proposed Repealing of Town Planning Scheme No 6 - Greenwood
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Corr resides in the suburb of Greenwood.

CJ198 - 10/06 PROPOSED REPEALING OF TOWN PLANNING SCHEME NO 6 – GREENWOOD – [08771]

WARD: South East

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Community Development

CJ061024_BRF.DOC:ITEM 13

PURPOSE

The purpose of this report is for Council to consider repealing Town Planning Scheme No. 6 (TPS6).

EXECUTIVE SUMMARY

TPS6 was gazetted in April 1972 and covered a 120 hectare portion of Greenwood bounded by Hepburn Avenue, Wanneroo Road, Warwick Road and Cockman Road.

TPS6 is a guided development scheme that facilitated the subdivision of several small rural landholdings into residential sized lots. TPS6 is now no longer required as all land has been developed and all necessary scheme costs paid.

Section 74 of the Planning and Development Act 2005 allows the Local Government to repeal a local planning scheme where it is no longer required.

It is recommended that Council resolves to repeal TPS6.

BACKGROUND

TPS6 was gazetted in April 1972 and covered an area of approximately 120 hectares bounded by Hepburn Avenue, Wanneroo Road, Warwick Road and Cockman Road.

TPS6 was a guided development scheme that facilitated the development of several small rural landholdings into a residential subdivision and set out landowner contributions, scheme costs, subdivision requirements and the provision of roads, drainage reserves, reticulated water & sewerage, school sites and Public Open Space for the suburb of Greenwood.

The general objectives of TPS6 were:

- To coordinate subdivision and development of the land within the Scheme Area;
- To plan suitable roads.
- To ensure the proper drainage of the roads or other such works.
- To make provision for the creation of drainage reserves and easements.
- To ensure the provision of reticulated water to and throughout the Scheme Area.
- To connect landholdings to sewer, and provide for sewerage works and facilities both within and outside the Scheme Area, where necessary.
- To make provision for Public Open Space.
- To make provision for Schools.

The area was progressively developed generally for residential purposes, with development having been finalised in the early 1990s. Administration of the scheme is therefore complete, with all remaining funds being disbursed and finalised through deed of releases with all TPS6 landowners in 1999.

A copy of TPS6 has been placed in the Councillors reading room for perusal.

DETAILS

Section 74 of the Planning and Development Act 2005 allows a local government to repeal a local planning scheme.

The development of the TPS6 area is now complete and on this basis, it is proposed that TPS6 be repealed.

Issues and options considered:

The options available to Council in considering the repealing of TPS6 are:

- Adopt the repeal of TPS6, execute the repeal notice and forward it to the WAPC or,
- Refuse the TPS6 repeal.

Link to Strategic Plan:

The recommendation in this report is not linked to the objectives and strategies of the City's Strategic Plan 2003 – 2008.

Legislation – Statutory Provisions:

Section 74 of the Planning and Development Act 2005 states that a local planning scheme may be repealed by a subsequent local planning scheme or an instrument of repeal prepared by the Local Government, approved by the Minister and published in the Gazette.

Risk Management considerations:

There are no apparent risks associated with repealing TPS6.

Financial/Budget Implications:

As no monies are held in the TPS6 account, there are considered to be no financial or budget implications associated with repealing TPS6.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

The repeal of TPS6 has no sustainability implications.

Consultation:

There is no legislative requirement for the City to publicly advertise the proposed repeal of TPS6, however, should the Minister grant approval, a notice must be published in the Government Gazette.

COMMENT

All subdivision and development within the area of Greenwood that were previously controlled by the provisions of TPS6 have now been completed.

Administration of the scheme is also complete, with all remaining funds having been disbursed. These administrative and financial actions were finalised through deeds of release between the then City of Wanneroo and all TPS6 landowners.

TPS6 is therefore no longer required and should be repealed.

ATTACHMENTS

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 NOTES that Deeds of Release were signed by all landowners who developed under Town Planning Scheme No. 6 – Greenwood Scheme and that there are no surplus funds to be disbursed or other monies owing in relation to this Scheme;
- 2 REPEALS Town Planning Scheme No. 6 – Greenwood Scheme and authorises the signing and the affixation of the Common Seal to the repeal notice.

MOVED Cr Corr, SECONDED Cr Hart that consideration of the proposed repealing of Town Planning Scheme No 6 – Greenwood be DEFERRED to the next ordinary meeting of Council scheduled to be held on 21 November 2006.

The Motion was Put and

CARRIED (10/1)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John and Park
Against the Motion: Cr Magyar

CJ199 - 10/06 CLOSE OF ADVERTISING FOR LOCAL PLANNING POLICY - SATELLITE DISH, AERIALS AND RADIO EQUIPMENT – [81513]

WARD: All

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Community Development

CJ061024_BRF.DOC:ITEM 14

PURPOSE

The purpose of this report is for Council to consider submissions received during the advertising period and to consider adopting as final the planning policy – Satellite Dish, Aerials and Radio Equipment without modification.

EXECUTIVE SUMMARY

At the Council meeting of 14 March 2006 (CJ041-03/06 refers), it was resolved to initiate a Local Planning Policy – Satellite Dish, Aerials and Radio Equipment for public advertising.

The policy is intended to provide parameters as to what types of equipment are considered as acceptable and ought to be allowed.

The communications equipment specified in the policy are not considered to be detrimental to the streetscape or to cause amenity issues, particularly given their size. The policy ensures that larger equipment that could be seen from the street or neighbouring properties is subject to planning consideration.

One objection was received during the public advertising period, however it is recommended that Council grant final approval to the policy and make the appropriate changes to DPS2.

BACKGROUND

The City's District Planning Scheme No.2 (DPS2) defines 'Communications Antenna' as:

"Any mast, antenna, aerial, satellite dish and other associated equipment used for the reception or transmission of television or radio signals or for other electronic communication where its vertical or horizontal dimensions exceed two metres but does not include telecommunications infrastructure."

A 'Communications Antenna' is a discretionary use in the Residential, Mixed Use, Business, Commercial, Private Clubs and Recreation zones and Rural zone. No specific development standards apply to satellite dishes, aerials or radio equipment in DPS2.

The Residential Design Codes provide some guidance on the acceptable location of communication equipment as follows:

A2.3 Antennas, satellite dishes and the like not visible from the street.

The City sometimes receives complaints from adjoining owners where communication equipment has been installed. Many of the complaints relate to devices that are large and are sited inappropriately.

There is currently no policy relating to satellite dishes, aerials and radio equipment within the City of Joondalup. A policy can assist with setting the parameters for the consideration of the exercise of discretion.

DETAILS

The proposed policy (Attachment 2 refers) would provide guidance to residents who are considering erecting communications equipment on a residential property. Communication equipment can include satellite dishes, aerials and radio equipment. The policy provides guidance with regard to the location and maximum heights of such equipment.

While some types of communication equipment may be considered appropriate, such as domestic antennas, in some instances larger equipment can be particularly problematic.

The policy states that the following are considered acceptable 'as of right' and would not require a planning approval:

- A satellite dish which is located on the roof and has a diameter of not greater than 0.9 metres. (0.9 metres is based on an average domestic Satellite Dish).
- A satellite dish (combined dish and support) which is located at existing natural ground and is 2.4 metres or less in total height (considered to be a standard size dish). The dish is to be located so as not to be visible from any street or adjoining property.
- A domestic television antenna not greater than 4 metres in dimensions.
- A radio antenna which is not greater than 2 metres in height if mounted on the roof, or does not project more than 2 metres above roof ridge if located at ground level and is not located between the street and the house.

A maximum of one of each type of communication equipment would be permitted, exclusive of a domestic television antenna.

It is noted that in order to accommodate the provisions of the draft policy, DPS2 would need to be amended in the event that the draft policy is adopted. This would give statutory effect to the above 'as of right' provisions.

Options

In considering the draft local planning policy, Council can:

- Adopt the policy for the purpose of public advertising
- Modify the draft policy, then adopt it for the purpose of public advertising
- Not adopt the draft policy.

Consultation:

The proposed policy was advertised for a period of 21 days from 30 March 2006 to 20 April 2006. Advertising was in the form of an advertisement placed in the Joondalup Times (30 March 2006) and also on the City's website.

Upon closure of advertising one submission had been received, being an objection.

Policy Implications:

It is proposed to implement a new City policy. Council has determined the City's policies as follows:

"A policy that is developed for administrative and operational imperatives and has an internal focus.

City policies are referred to Council for review and endorsement"

Risk Management considerations:

Not Applicable.

Legislation – Statutory Provisions:

Clause 8.11 of DPS2 outlines the requirements and process steps for the preparation of local planning policies. This clause enables the Council to prepare a Local Planning Policy in respect of any matter related to the planning and development of the scheme area.

Once the draft policy is prepared, it is required to be advertised by way of a notice published once a week for two consecutive weeks in a local newspaper, giving notice where the draft policy may be inspected. The draft policy is also advertised on Council's website. The specified period for advertising is not less than twenty one (21) days as required.

Link to Strategic Plan:

The following objectives in the City's Strategic Plan 2003 – 2008 are relevant to this proposal:

- Objective 1.2 To meet the cultural needs and values of the community (communication equipment is often used to gain access to a variety of overseas television programs).
- Objective 3.1 To develop and maintain the City of Joondalup's assets and built environment.
- Strategy 3.1.1 Facilitate the safe design, construction and approval of all buildings and facilities within the City of Joondalup.

Financial/Budget Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Satellite dishes, aerials and radio equipment have the ability to support and enhance the cultural wellbeing of the community. However, the size and location of the equipment can have an impact on the visual amenity of that same community.

COMMENT

The policy seeks to specify standards relating to the installation of satellite dishes, aerials and radio equipment in residential areas. The policy provides guidance as to when planning approval is required, the relevant development provisions that would apply and details relating to public advertising.

The draft policy provides a balance between a straightforward, 'as-of-right' approach to domestic communication devices, and the need to be mindful of the impact of such devices on adjoining owners.

The submission received objecting to the policy was on the grounds that firstly a radio antenna projecting 2 metres above a neighbours roof would be unsightly and secondly that the policy should be more specific with regard to maximum heights, mounting heights and visibility from neighbouring properties and the street. It is not considered that the devices listed in the policy would have amenity issues particularly given their size.

In principle, it is considered that if communication equipment are either relatively small, or cannot be seen from the street or adjoining properties, then specific planning approval should not be required. Alternatively, larger equipment that can be seen from the street or neighbouring properties should be subject to planning consideration. The policy will provide guidance relating to the size and height of devices and will ensure that impacts on adjoining owners are minimised.

It is noted that in order to accommodate the provisions of the draft policy, proposed Amendment 31 to DPS2 (Omnibus Amendment) has included a new Clause 6.1.3(m) that states that the types of communications equipment specified in the policy will not require planning approval.

ATTACHMENTS

Attachment 1 Schedule of Submissions
Attachment 2 Draft Policy

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Hart, SECONDED Cr Hollywood that Council:

- 1 ADOPTS the Satellite Dish, Aerial and Radio Equipment Policy as shown on Attachment 2 to Report CJ199-10/06 in accordance with Clause 8.11.3 of District Planning Scheme No 2;**
- 2 NOTES the submission received and advises the submitter of Council's decision.**

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar, and Park

Appendix 9 refers

To access this attachment on electronic document, click here: [Attach9brf241006.pdf](#)

CJ200 - 10/06 PROPOSED ROAD CLOSURE FOR EXCESS ROAD RESERVE: MITCHELL FREEWAY, DUNCRAIG – [09384]

WARD: South

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Community Development

CJ061024_BR.F.DOC:ITEM 15

PURPOSE

To request Council approval to advertise a proposed road closure for portion of the Mitchell Freeway reserve, Duncraig.

EXECUTIVE SUMMARY

An application has been received to close a 302m² portion of the Mitchell Freeway Reserve. The land is surplus to the requirements of Main Roads Western Australia and a 97m² portion of this land is proposed to be purchased by an adjoining landowner. The remainder of the closed portion of surplus road reserve land (approximately 205m²) is expected to be offered for purchase by three other adjoining landowners.

Council is required to consider the road closure application made by one of the adjoining landowner's as the surplus portion of land is part of the Mitchell Freeway road reserve.

Council's statutory involvement in this process is to advertise the proposed road closure and then, upon completion of the public advertising period, consider submissions received and resolve whether or not to proceed with the closure.

The road reserve land is not owned or managed by Council and therefore Council has no entitlement to the land.

It is recommended that Council resolve to initiate the proposed closure of the portion of Mitchell Freeway reserve for the purposes of public advertising for a period of 35 days.

BACKGROUND

Suburb/Location:	Mitchell Freeway, Corner Warwick Road, Duncraig
Applicant:	Keith Davie - Owner of Lot 214 (No. 29) Sycamore Drive, Duncraig
Owner:	Crown (Main Roads WA)
Zoning:	DPS: Primary Regional Road & Residential R20
	MRS: Primary Regional Road & Urban
Site Area:	302m ²
Structure Plan:	Not Applicable

The subject land is known as Pt Lot 150 Mitchell Freeway and is located immediately south-west of the intersection of Warwick Road and Mitchell Freeway, Duncraig (refer attachment 1).

In December 2005, an amendment to the Metropolitan Region Scheme (MRS) was finalised, which sought to transfer portion of Lot 150 from 'Primary Regional Roads' to 'Urban'.

The Council is currently proposing to rezone portion of Lot 150 from 'Primary Regional Road' to 'Residential R20' through the omnibus Amendment No. 31 to District Planning Scheme No. 2 (DPS2). This rezoning will ensure the zoning of the land under DPS2 aligns with the zoning of the land under the MRS. Zoning alignment is also necessary should the closed portion of the surplus road reserve be eventually amalgamated into adjoining residentially zoned lots.

Amendment No. 31 is currently being assessed by the Department of Environment and Conservation and upon the City's receipt of its advice, will be advertised for public comment.

DETAILS

A 302m² portion of Lot 150 Mitchell Freeway, Duncraig is surplus to Main Roads WA requirements.

A 97m² portion of this land is to be disposed of by Main Roads to the applicant, who is the adjoining landowner of Lot 214 (No. 29) Sycamore Drive. This 97m² portion of the closed portion of road reserve is to be amalgamated into the residential lot and will require a future subdivision application to be submitted to, and approved, by the WAPC.

The remainder of the closed portion of surplus road reserve land (approximately 205m²) is expected to be offered for purchase by Main Roads to three other adjoining landowners. The envisaged allocation of the surplus road reserve land, together with existing and resultant lot sizes as a result of the amalgamation of the surplus road reserve land into all four adjoining residential lots, is shown in Attachment 1.

Only Lot 259 (No. 33) Sycamore Drive currently has development potential for two grouped dwellings under DPS2. All remaining lots will continue to be single residential lots as amalgamation of the surplus road reserve land as shown in Attachment 1 will not change the lots' development potential.

It is expected that the land, once acquired and amalgamated into adjoining residential lots, will be used and/or developed for private open space purposes.

Council has the option to:

- (a) Resolve to support the road closure for the purposes of public advertising, or
- (b) Resolve to not support the road closure for the purposes of public advertising.

Link to Strategic Plan:

Objective 4.2 To provide quality services within the best use of resources.

Strategy 4.2.1 Provide efficient and effective service delivery.

Legislation – Statutory Provisions:

The road closure is required to be undertaken in accordance with Section 58 of the Land Administration Act (LAA). This section of the Act outlines that the proposed road closure must be advertised for 35 days with a notice placed in a newspaper.

Council is required to consider any submissions received, resolve to close the road and forward the request to the Minister for Planning & Infrastructure for determination.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

The City is responsible for all costs associated with advertising the proposed road closure. The current budget has sufficient funds to cover these costs.

Policy implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Initial consultation was undertaken with service authorities in September 2006 in order to identify any services located within or adjacent to the subject land.

All service authorities (Telstra, Western Power, Alinta Gas and Water Corporation) have advised that they have no services or assets which would be affected by the proposed road closure.

If this proposal is supported by Council, public advertising shall occur for 35 days as required under Section 58 of the Land Administration Act, as follows:

- Nearby landowners being notified in writing;
- A notice being placed in the local newspaper;
- A sign being erected on site;
- A notice being placed on the City's website.

Upon closure of advertising, the matter will be presented to Council for its further consideration, together with details of submissions received during the advertising period.

COMMENT

The proposed road closure is primarily the result of the gazettal of MRS Omnibus Amendment No. 1088/33A - North West Districts Omnibus No. 6, which effectively excised the land from the road reserve by rezoning it from 'Primary Regional Roads' to 'Urban'.

The recent change in zoning of the land under the MRS is also addressed within the City's proposed Amendment No. 31 to DPS2 to ensure zoning alignment between the MRS and DPS2.

The allocation of the envisaged closed portions of road reserve into adjoining residential lots is shown in Attachment 1. The plan has been prepared based upon a contract for sale of the land between the landowner of Lot 214 (29) Sycamore Drive Duncraig and Main Roads WA. Whilst the resultant lot boundaries (shown in Attachment 1) appear to be irregular in shape, it is unlikely to create any amenity impact as the land directly interfaces with the Freeway road reserve.

Notwithstanding the above, the road closure process prescribed under Section 58 of the Land Administration Act needs to be followed and the Council is involved in this process as the surplus road reserve land sought to be closed is located within the City of Joondalup.

The road closure proposal has no impact upon the City or service authorities and should be advertised for public comment.

ATTACHMENTS

Attachment 1 Road Closure Plan

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Fishwick, SECONDED Cr Currie that Council INITIATES the permanent closure of the excess portion of Mitchell Freeway reserve, Duncraig, as shown in Attachment 1 to Report CJ200-10/06 for the purposes of public advertising for a period of 35 days.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar, and Park

Appendix 10 refers

To access this attachment on electronic document, click here: [Attach10brf241006.pdf](#)

CJ201 - 10/06 MONTHLY TOWN PLANNING DELEGATED AUTHORITY REPORT, DEVELOPMENT AND SUBDIVISION APPLICATIONS – SEPTEMBER 2006 – [07032] [05961]

WARD: All

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Community Development

CJ061024_BRF.DOC:ITEM 16

PURPOSE

To report on the number and nature of applications considered under Delegated Authority.

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, in addition to other Town Planning matters, 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 two yearly basis, or as required. 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 on Town Planning Delegations identifies:

- 1 Major development applications
- 2 Residential Design Codes
- 3 Subdivision applications

This report provides a list of the development and subdivision applications determined by those staff members with delegated authority powers during the month of September 2006 (see Attachments 1 and 2 respectively) for those matters identified in points 1-3 above.

BACKGROUND

The number of development and subdivision applications determined for September 2006 under delegated authority 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 September 2006		
Type of Approval	Number	Value (\$)
Development Applications	102	16,981,179
R-Code variations (Single Houses)	34	708,120
Total	136	17,689,299

The number of development applications received in September 2006 was 105.

Subdivision Approvals Determined Under Delegated Authority Month of September 2006		
Type of Approval	Number	Potential new Lots
Subdivision Applications	10	179
Strata Subdivision Applications	10	21

The District Planning Scheme No 2 requires that delegation be reviewed annually, unless a greater or lesser period is specified by Council. The Council, at its meeting of 13 December 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.

Legislation – Statutory Provisions:

Clause 8.6 of the District Planning Scheme No 2 permits development control functions to be delegated to persons or Committees. All subdivision applications 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 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 102 development applications determined during September 2006, consultation was undertaken for 27 of those applications. Of the 20 subdivision applications determined during September 2006, no applications were advertised for public comment, as the proposals complied with the relevant requirements.

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.

All proposals determined under delegated authority are assessed, checked, reported and crosschecked in accordance with relevant standards and codes.

Former CSIRO Lot 61 Leach Street, Marmion - Application SU131137.01 for 35 residential lots

The subdivision application was not supported by the City as the Structure Plan was not finalised at the time of it being considered by the West Australian Planning Commission (WAPC). The WAPC requested Council to provide it with a list of subdivision conditions and this was completed in correspondence dated 4 September 2006. The WAPC resolved to adopt the Structure Plan on 10 August 2006 and the WAPC conditionally approved the subdivision on 3 October 2006.

Lot 9001 (500) Burns Beach Road, Burns Beach (Burns Beach Structure Plan Area) – Application SU132057 for 79 residential lots and 1 foreshore reserve lot

This subdivision application relates to Stage 3 of development of the land. The application was in accordance with the Agreed Burns Beach Structure Plan and therefore supported by the City.

Lot 9001 (500) Burns Beach Road, Burns Beach (Burns Beach Structure Plan Area) – Application SU132060 for 93 residential lots, 1 primary school lot and 1 public open space lot

This subdivision application relates to Stage 6 of development of the land. The application was in accordance with the Agreed Burns Beach Structure Plan and therefore supported by the City.

ATTACHMENTS

Attachment 1 September 2006 decisions – Development Applications
Attachment 2 September 2006 decisions – Subdivision Applications

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Jacob, SECONDED Cr John that Council NOTES the determinations made under Delegated Authority in relation to the:

- 1 development applications for the month of September 2006 forming Attachment 1 to Report CJ201-10/06;**
- 2 subdivision applications for the month September 2006 forming Attachment 2 to Report CJ201-10/06.**

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

Appendix 11 refers

To access this attachment on electronic document, click here: [Attach11brf241006.pdf](#)

CJ202 – 10/06 PROPOSED CHANGES TO KINROSS SHOPPING CENTRE, RETROSPECTIVE APPLICATION FOR MINOR WORKS AND PROPOSED OFF-SITE PARKING PROPOSAL ON ADJOINING CROWN LAND - KINROSS NEIGHBOURHOOD SHOPPING CENTRE - LOT 2278 (3) & LOT 2277 (15) SELKIRK DRIVE, KINROSS - [62554]

WARD: North

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Community Development

PURPOSE

To request Council's determination for three separate applications for planning approval at Kinross Neighbourhood Shopping Centre (KNSC) and adjoining crown land (proposed community use site). This includes an application for a change of use of eleven non-retail tenancies to shop with a shortfall of car bays, retrospective approval for amendments to the existing loading dock and inclusion of trolley bays with a shortfall of car bays and an application for the construction of 25 car bays on adjoining Crown land.

EXECUTIVE SUMMARY

The KNSC, located on the northeast corner of Connolly Drive and Selkirk Drive (Lot 2278), was approved by Council at its meeting dated 11 October 2005 (CJ217–10/05 refers). The maximum retail net lettable area (NLA) approved as part of the development was 3,000m². The subject development is currently under construction and is projected for completion in early November 2006.

The vacant land (Lot 2277), adjoining the KNSC to the west, is owned by the Crown and is proposed to be set aside for community use purposes. All development on lots 2278 and 2277 comes under the direction of the Kinross Neighbourhood Centre Structure Plan.

A recent amendment to DPS2 has increased the maximum allowable NLA for the shopping centre site from 3,000m² to 4,000m².

The applicant has submitted amended plans proposing a change of use of eleven non-retail tenancies to a "shop" use, thus increasing the total retail NLA for the shopping centre to 4,000m². The applicant has not constructed the loading dock to the supermarket in accordance the original approved plans. Subsequently, the applicant has requested retrospective approval for the loading dock, which includes the loss of two car bays. The amended plans received also illustrate four trolley bays, which will result in the loss of four car bays.

The increase in retail NLA, retrospective approval for the loading dock and the inclusion of trolley bays will result in a total shortfall of 42 car bays over the site. However, the inclusion of car bay No 183 and the use of two verge bays will reduce the total shortfall to 39 car bays. Council is requested to exercise its discretion for this shortfall of car bays.

The applicant is proposing to construct 25 car bays on the adjoining site (Lot 2277), which has been established for development as a future community use site. Additional car parking concessions have been claimed through differing peak periods for the proposed shop uses and the provision of 25 bicycle racks.

The Kinross Neighbourhood Centre Structure Plan allows for an agreement to be entered into for reciprocal rights of access between lot 2278 and lot 2277. It is considered that the use of a community purpose site to cater for a shortfall of commercial parking on an adjoining site is not acceptable. The reciprocal rights of access to each of the parking areas is based on the objective that each lot has sufficient parking to cater for its own needs, but still allows for co-usage of parking.

Application 1

To preserve the amenity of the relevant locality and avoid issues such as parking overspill into adjoining properties and road verges, it is recommended that the application for a change of use of 11 non-retail tenancies to shop be refused.

Application 2

It is recommended that the application for retrospective approval for minor works to the loading dock and trolley bays is acceptable, subject to a cash in lieu payment for a shortfall of two car bays, as per the previous approval dated 11 October 2005 (CJ217–10/05 refers).

Application 3

A decision for the application of commercial parking on the adjoining community use site cannot be issued, as the MRS Form 1, application form has not been signed by the owner of the land (Department for Land Information – DLI). However, it is considered that any future application for commercial parking on the adjoining proposed community use site could not be supported. Legal advice indicates that the use of a community use site for the purposes of commercial parking would not be consistent with the intent and purpose of the proposed reserve and therefore, it would not be appropriate for the City to enter into such an agreement

BACKGROUND

Suburb/Location:	Lot 2278 (3) Selkirk Drive, Kinross Lot 2277 (15) Selkirk Drive, Kinross
Applicant:	J. Prestipino Building Designs Pty Ltd
Owner:	Adriatic United Pty Ltd (lot 2278) Crown Land – Department for Land Information (lot 2277)
Zoning:	DPS: Centre MRS: Urban
Structure Plan:	Kinross Neighbourhood Centre Structure Plan
Site Area:	1.3876ha (Lot 2278) 0.5000ha (Lot 2277)

The subject sites are zoned “Centre” under the City’s District Planning Scheme No 2, which is regulated by the criteria set out in the Kinross Neighbourhood Centre Structure Plan. The Kinross Neighbourhood Centre Structure Plan is made up of three major areas. The western most component is for “Commercial” use (Lot 2278), which is the subject of the development application. A vacant site, which is owned by the Crown and earmarked for community and civic purposes (Lot 2277), 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 Council is made aware that there have been recent discussions with the applicant for a reallocation of the retail NLA. This entails a change of use of the approved liquor store to a non-retail use (eg. Office), with a change of use for tenancies 3, 14, 15 & 16 from non-retail to shop. The approved NLA would still be a maximum of 3000m², which complies with the existing approval. There would be no additional parking implications as a result.

DETAILS

The applicant has submitted three separate applications for planning approval on Lots 2278 and 2277 Selkirk Drive, Kinross. The total number of car bays provided as part of this application is 243 car bays (inclusive of car bay no. 183 – see report below).

Application 1

The applicant is proposing a change of use of eleven non-retail tenancies to a shop use at Kinross Neighbourhood Shopping Centre. This would entail an increase in the NLA from 3,000m² to 4,000m² for the shopping centre. The change of use would result in an increase in parking demand over the site, requiring a total of 284 car bays (previous demand 247 car bays).

TABLE 1 – ON-SITE PARKING FIGURES

Land Use	Area (m ²)	Parking Ratio	Total No Car bays Required
Retail Floorspace	4,000	7 bays per 100m ²	280
Non-Retail Floorspace	116	1 bay per 30m ²	3.86
Total Required			284

The total number of parking bays provided as part of the original planning approval, approved by Council at its meeting dated 11 October 2005 (CJ217–10/05 refers), was 241 car bays.

Application 2

An application has been received for retrospective approval for the loading dock, which is currently under construction. This change will result in the loss of two car bays between the loading dock and transformer compound.

The applicant has stated that the changes made to the loading dock have been necessary in order to comply with the recommendations made through the original traffic study, carried out by Sinclair-Knight Mertz, and advice from specialist trades. The applicant has stated that it has been necessary to make the following changes:

1. Move the loading dock downwards to meet the recommendations of the traffic report;
2. Re-locate the bin store next to the loading dock (to meet electrical requirements);
3. Move the transformer compound next to the main building (to meet electrical requirements).

Furthermore, retrospective approval is sought for the loss of four car bays due to the provision of four trolley bays.

The above changes to the loading dock and trolley bays would result in the total loss of six car bays over the site.

Application 3

The applicant is proposing to provide 25 additional car bays (inclusive of one bay straddling both lots) on the adjoining Crown land to the east of the KNSC (Lot 2277). These bays are proposed to be constructed with access onto Balliol Elbow.

The applicant states that the provision of the car bays on the community use site will be of community benefit as they will be available for use by the general public, aside from those just using the shopping centre. The parking will be available for community use by those using the adjacent public open space and clubroom as well as those ratepayers who utilise the park to walk the dog. The applicant affirms that the provision of these parking bays is a justifiable community use.

(It is noted that the owner of the land (Department for Land Information) has not signed the MRS Form 1 application form, as it was originally assumed by the applicant that the land had been vested with the City. Subsequently the application is not valid. However for the purposes of this report it will be assessed on the basis of a valid planning application).

Overall Parking Justification

To cater for the change of use application to increase the total NLA of the shopping centre to 4000 m², the loss of six car bays due to the retrospective amendments to the loading dock and inclusion of four trolley bays (applications 1 and 2), the applicant has provided a combination of justification. This includes the peak usage times of the proposed shops, the provision of 25 bicycle racks, addition of car bay No 183, use of two verge bays and the construction of 25 car bays (application 3) on the adjoining Crown land (Lot 2277).

The applicant has stated that the proposed shops facing Selkirk Drive (tenancies 8-13 and 17) are proposed to include after hours trading, with the majority being food shops. The set up is proposed as follows:

TABLE 2 – SHOP USES (SELKIRK FRONTAGE)

Tenancy	Shop Use	Floor Area
No 8 (approved)	Coffee Shop	135.22m ²
No 9	Bakery (& take away)	87.83m ²
No 10 (approved)	Fish & Chips	90.27m ²
No 11 (approved)	Japanese take away	53.62m ²
No 12	Chicken take away	83.22m ²
No 13	Indian (dine in & take away)	155.85m ²
No 17 (approved)	Health Club	126.12m ²
	Total	732.13 m²

The floor area for these shops (732.13m²) represents 51.25 car bays, of which the applicant has requested a 25% concession for the after hours peak time usage of the subject shops. This concession represents 13 car bays.

Additionally the applicant is also requesting a concession of six car bays due to the differing peak demand periods for the proposed liquor store (approved) and pharmacy, siting that these uses are relatively quiet during the day.

Car bay No 183 was deleted as part of the original approval for the KNSC as it was deemed to affect the turning movements of heavy vehicles within the site. Written confirmation has been provided from a traffic consultant (Sinclair Knight Mertz) to indicate that car bay No 183 will not affect the movement of heavy vehicles and can be included in the total number of on-site car bays.

The applicant has provided details from Transperth, which indicate that they are not willing to relocate their existing bus stop along Selkirk Drive as per as condition (o) of Council's decision dated, 11 October 2005. The original planning approval required the applicant to liaise with Transperth to have a bus bay relocated to the existing southeast verge bays adjacent to the Selkirk frontage shops. The applicant has therefore requested a concession of two car bays for these verge bays, as a result of this decision by Transperth.

As per the traffic study provided as part of the original application, bicycle usage in the area was noted and the request for bicycle racks were incorporated as condition (n) of Council's decision dated, 11 October 2005. Through the provision of these bicycle racks, the applicant has requested a concession of six car bays.

The applicant is proposing to provide 25 additional car bays (inclusive of one bay straddling both lots) on the adjoining Crown land to the east of the KNSC (Lot 2277). The lot is intended for future community use purposes. The applicant is intending to construct these bays at their own cost. A concession of 25 car bays has been requested as a result of this provision, siting the community benefit that these car bays will provide.

The table below illustrates the proposed concessions requested.

TABLE 3 – PARKING CONCESSIONS

PARKING CONCESSION	TOTAL CONCESSION REQUESTED (CAR BAYS)
Differing Shop Peak Periods	19
Bus Bay (verge bays)	2
Bicycle Racks	6
Community Use Parking	25
Inclusion of car bay no. 183	1
Total Concession Requested	53 Car Bays

The total of all concessions claimed above is 53 car bays. If all concessions are granted, this will provide a surplus of 12 car bays over the site.

In requesting the above, the applicant has advised that if it determined at a later stage that there is a parking deficiency, the owner is willing to provide the additional bays as required. This could be done through the use of deck parking. However, the applicant suggests that by the time the City determines the ultimate use for the community purpose site, the owners will engage an engineering consultant to determine the car parking usage and identify if there is a parking problem.

The owners have also indicated that they are prepared to enter into a legal agreement with the City, at their cost, with a caveat reinforcing the above arrangements, which will give the City the authority to require the establishment of the shortfall of bays.

If Council concludes that the parking could not be located on the community use site, the applicant has suggested that an alternative way of treating this requirement would be to accept the shortfall in parking. This would be on the basis that, subject to a legal agreement, the owner undertakes an assessment of the parking needs should there be a perceived problem. Any such agreement could be introduced giving Council the authority to require assessment and/or placement of these bays.

As per the above, the applicant is requesting Council's discretion for a shortfall of parking over the site, retrospective approval for the amendments to the loading dock/trolley bays and the construction of 25 parking bays within the adjoining proposed Community purpose site.

Issues and options considered:

The applicant is seeking Council's discretion for a change of use of eleven non-retail tenancies to shop and retrospective approval for the changes to the loading dock and trolley bays, which will include the following:

- (i) a shortfall of 42 car bays over the site.

The applicant is seeking Council approval for the construction of the following works on the adjoining Crown land site (Lot 2277) site:

- (a) an access-way and parking area on the northern portion of the site, linking Balliol Elbow and the shopping centre site.

If Council cannot approve these works on the adjoining Crown land, then there will be implications for the shopping centre development. The recommendation within the report is not to support the works identified in (a) above for the reasons explained in the report.

Council has the discretion to:

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

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 3.2 To provide and maintain sustainable economic development.

Strategy 3.2.1 Assist in the facilitation of local employment opportunities.

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.

4.11 Car Parking – Cash in Lieu or Staging

4.11.1 The Council may permit car parking to be provided in stages subject to the developer setting aside for future development for parking the total required area of land and entering into an agreement to satisfactorily complete all the remaining stages when requested to do so by the Council.

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

4.11.3 The cash payment shall be calculated having regard to the estimated cost of construction of the parking area or areas suitable for the proposed development and includes the value, as estimated by the Council, of that area of land which would have had to be provided to meet the car parking requirements specified by the Scheme. The cash payment may be discounted and may be payable in such manner as the Council shall from time to time determine.

4.11.4 Any cash payment received by the Council pursuant to this clause shall be paid into appropriate funds to be used to provide public car parks in the locality as deemed appropriate by Council.

6.8 Matters to be considered by Council

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

- (a) interests of orderly and proper planning and the preservation of the amenity of the relevant locality;*
- (b) any relevant submissions by the applicant;*
- (c) any Agreed Structure Plan prepared under the provisions of Part 9 of the Scheme;*

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

6.12 Approval of Existing Developments

6.12.1 *The Council may give planning approval to a development already commenced or carried out regardless of when it was commenced or carried out. Such approval shall have the same effect for all purposes as if it had been given prior to the commencement or carrying out of the development, but provided that the development complies with the provisions of the Scheme as to all matters other than the provisions requiring Council's approval prior to the commencement of development.*

6.12.2 *An application to the Council for planning approval under subclause 6.12.1 shall be made on such form as the Council provides from time to time.*

6.12.3 *A development which was not permissible under the Scheme at the time it was commenced or carried out may be approved if at the time of approval under this subclause it is permissible.*

6.12.4 *The approval by the Council of an existing development shall not affect the power of the Council to take appropriate action for a breach of the Scheme or the Act in respect of the commencement of the development without approval.*

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

Not Applicable.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

No consultation was conducted. The increase in floor area (1000m²) was advertised as part of a recent Scheme amendment process (Amendment No 34). Additionally, the retrospective works to the loading dock is not expected to adversely affect the adjoining landowners.

COMMENT

The approved shopping centre, which is currently under construction and projected for completion in early November 2006, is approved for a one supermarket/shop (2,518m²), one restaurant/shop (café/deli), one liquor store, two take-away food outlets, eleven non-retail tenancies and two Automatic Teller Machines (ATM). The current approval consists of up to 3000m² of NLA.

As per Scheme Amendment No 34 of DPS2, Schedule 3 has been modified to allow a maximum floor area of 4000m² for the KNSC (Lot 2278).

Through this application the applicant is requesting the following:

- (i) Increase the NLA from 3000m² to 4000m² through a change of use application for 11 non-retail tenancies to shop (Application 1);
- (ii) Retrospective approval for amendments to the original plans, which include changes to the loading dock area and the inclusion of four trolley bays, resulting in the loss of six car bays (Application 2);
- (iii) Construction of 25 car bays on the adjoining Crown land, future community use site (Application 3).

The concept of an increase in NLA from 3000m² to 4000m² at KNSC is considered to be acceptable. This site has been approved to allow this increase in NLA as per a recent Scheme Amendment No 34.

The proposed retrospective approval for amendments to the approved plans, which includes changes to the loading dock area are also considered to be acceptable and will not have any detrimental impacts on adjoining landowners. The changes have been made to comply with condition (i) of Council's approval (CJ217-10/05 refers) dated 11 October 2005 and to also meet relevant electrical requirements. These changes have resulted in the loss of two car bays.

The provision of four trolley bays is not expected to have any detrimental impacts on adjoining landowners and is considered to be acceptable.

Parking

The main issue for this proposal is the direct impact the additional NLA, retrospective approval for the loading dock and inclusion of four trolley bays has on the overall parking requirements for the site. The original Council approval (CJ217-10/05 refers), dated 11 October 2005, required a minimum of 247 car bays. Of this, the applicant provided a total of 241 car bays. At its meeting, Council accepted the provision of four verge bays and a cash in lieu payment for two car bays to meet the shortfall of six car bays. The proposed changes, as part of this application, will result in a direct shortfall of 42 car bays over the subject site (Lot 2278).

The applicant is requesting a concession of up to 53 car bays to the requirement for parking as has been illustrated in Table 3 of this report.

As part of this concession the applicant is requesting the provision of 25 car bays (with one bay straddling the boundary) on the adjoining Crown land (Lot 2277) site. This land has been earmarked as a future community use site as has been designated within the Kinross Neighbourhood Centre Structure Plan.

Clause 6.1.2 of the Kinross Neighbourhood Centre Structure Plan requires that parking circulation be linked with the adjoining community use site (Lot 2277). Currently the City of Joondalup does not have the care and control of this site (Note: The City has written to Department for Land Information, on 11 October 2006, to request a Management Order for "Community Purposes" for Lot 2277 Selkirk Drive, Kinross). The actual development use of the site is not known at this stage.

The applicant has suggested that the provision of these bays on the proposed community use site could be a temporary measure. When the community use site is developed, Council could exercise further parking concessions or request the owners to provide the additional bays at a later stage.

It is considered that where the City has the care and control of a site, the use of the site must be consistent with the purposes for which the land is reserved. In this instance, the land is proposed to reserved for community use purposes. The provision of parking for commercial purposes (ie shopping centre) on the proposed community use site would be not consistent with the purpose of the proposed reserve.

The Kinross Neighbourhood Centre Structure Plan allows for a reciprocal rights of access agreement to be entered into between Lots 2278 and 2277. However, the concept of reciprocal rights of access is based on the aspect that each use on the site caters for its own parking needs. The use of the adjoining site to credit a 25 car bay shortfall is not considered acceptable and it is recommended that this part of the proposal is not supported.

The applicant has suggested that the differing peak usage times for the proposed shops would reduce the parking demands over the site. The applicant has requested a 13 car bay concession to be approved as a result of the differing peak periods for the proposed shops, being the shops which are proposed along the Selkirk frontage. The shops that front Selkirk Drive are proposed to be food tenancies.

The applicant also suggests that a six car bay concession could be given due to the peak periods of the proposed liquor store (tenancy 2) and pharmacy (tenancy 4). The applicant believes that the use of these two shops will be minimal during the day period.

The applicant indicates that the major peak times for the above uses would be after the supermarket and internal shops are closed (with the exception of late night trading on Thursday). Therefore the applicant is requesting a total of 19 car bays as a concession for differing peak periods of the proposed shops.

It is agreed that there can be merit in the concept of parking concessions for co-usage and peak period demands for shopping centres. However, it is difficult to know what the parking demand of a shopping centre will be when it has not opened for trading. The concept of peak periods for shop usage in relation to parking demand is difficult to clarify until a study of existing traffic movements can be completed (once the shopping centre has been operating for a reasonable period of time).

Additionally, if use approval is given for a shop, there is no guarantee that the shop use will always have after hours, peak periods. Planning approval is not required for a change of business within a tenancy, if the use is still classified as a shop (eg. Pharmacy to Clothing store). Therefore it is recommended that the parking concession of 19 car bays is not acceptable at this stage. If future parking studies reveal the parking over the site is under-utilised, then some parking concessions may be suitable.

The applicant has also requested that Council consider a parking concession of six car bays for the provision of 25 bicycle racks. The traffic study provided as part of the original application recommended that the applicant provide bicycle racks as part of the development. This was incorporated as condition (n) of Council's decision dated, 11 October 2005.

The provision of bicycle racks should not constitute a concession on vehicular parking. Development such as shopping centres should always provide for alternate means of transport. The provision of bicycle racks is considered to be of benefit to the shopping centre. If future parking studies reveal the bicycle bays are of benefit to the parking demands, then concessions may be suitable at a later stage.

Condition (o) of Council's original approval (CJ217-10/05 refers) requested that a bus bay be provided within the road verge along Selkirk Drive. This is consistent with clause 6.1.2 (xx) of the Kinross Neighbourhood Centre Structure Plan. However, the City has received advice from Transperth that they are not willing to relocate their existing bus bay to this position. The existing bus bay is currently located about 100 metres to the east of the site, along Selkirk Drive. The information received from Transperth states that if this existing bus bay were moved to KNSC, it would require that other bus bays on the route would need to be relocated to meet the relevant distance requirements between bus bays. Additionally, Transperth has advised that the bus bay and verge area outside the shopping centre is not sufficient in size to satisfy their requirements.

Under clause 6.1.2 (xix) Kinross Neighbourhood Centre Structure Plan on-street parking along Selkirk Drive may be credited towards the commercial centre's parking requirement. Subsequently the applicant has requested a concession of two car bays for the intended bus bay. These bays exist and are similar to those approved as a parking concession for the original approval (four bays). It is considered that this request is acceptable.

The applicant has provided information from a traffic consultant to illustrate that car bay no. 183, deleted as part of the original approval, will not restrict the turning circle movements of loading trucks. Therefore it is considered that car bay No 183 is acceptable and can be counted toward the overall car bay provision.

The new total for parking provision over the site, inclusive of two verge bays and the provision of car bay No 183, is illustrated in the table below.

TABLE 4 – PARKING REQUIREMENT/ SHORTFALL (PROPOSED)

USE	PARKING RATIO	TOTAL BAYS REQUIRED
Shop (4000m ²)	7 bays per 100sq/m	280
Non Retail (116m ²)	1 bay per 30sq/m	3.86
	TOTAL REQUIRED	284
	TOTAL PROVIDED	245
	SHORTFALL	- 39 BAYS

To cater for the shortfall in parking, a cash-in-lieu payment could be requested in accordance with clause 4.11 of DPS2. Alternatively, clause 4.5 allows the parking requirements to be varied after considering matters pursuant to clause 6.8 of DPS2 and that the Council is satisfied that the non compliance would have minimal adverse affect in terms of the amenity of the occupiers, inhabitants and users of the area.

Additionally Council must be satisfied that there is adequate provision for car parking or a reasonable expectation in the immediate future that there will be adequate provision for public car parking in the proximity of the proposed development.

Conclusion

It is considered that cash in lieu payment for 39 car bays in a neighbourhood shopping centre is excessive. To preserve the amenity of the relevant locality and avoid issues such as parking overspill into adjoining properties and road verges it is recommended that Council:

Application 1 - Refuse the application for a change of use of eleven non-retail tenancies to shop. The application will result in a significant shortfall of parking bays, which has the potential to negatively affect the amenity of the locality by reason of traffic and parking congestion.

Application 2 - Approve the application for retrospective approval for changes to the loading dock and inclusion of four trolley bays. This includes the loss of six car bays. Through this approval it is recommended that car bay no. 183 be approved as well as a concession for the two verge bays (previously a bus bay). This would result in a total shortfall of two car bays over the site, being 245 car bays in lieu of 247 car bays. It is noted that under Council's original approval (CJ217-10/05 refers) a cash in lieu payment for two car bays was deemed to be acceptable.

Application 3 - Council cannot make a valid determination on the application for the construction of 25 car bays (for the benefit of commercial parking) on the adjoining community use site (Lot 2277). This is due to the MRS Form 1 application form, having not been signed by the owner of the land (DLI).

Further, it is believed that the construction of 25 car bays (for the benefit of commercial parking) on the proposed community use site (Lot 2277) would not be consistent with the proposed purpose of the reserve and therefore, approval could not be granted to such a proposal. Legal advice has confirmed this position.

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)

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 REFUSES the application for planning approval, dated 8 August 2006, submitted by J Prestipino Building Designs Pty Ltd on behalf of the owners, Adriatic United Pty Ltd, for a change of use of eleven non-retail tenancies to shop use, on Lot 2278 (3) Selkirk Drive, Kinross as the proposal will result in a significant shortfall of parking bays, which has the potential to negatively affect the amenity of the locality by reason of traffic and parking congestion;
- 2 (a) EXERCISES discretion under Clause 6.12 of the City's District Planning Scheme No 2 and determines that the changes to the loading dock and inclusion of four trolley bays is acceptable;
- (b) APPROVES the application for retrospective approval dated 12 October 2006, submitted by J Prestipino Building Designs Pty Ltd on behalf of the owners, Adriatic United Pty Ltd for changes to the loading dock and inclusion of four trolley bays on Lot 2278 (3) Selkirk Drive, Kinross subject to the provision of a total of 247 car bays, of which, Council is prepared to accept:
 - (i) 2 verge car bays, as marked in RED on the approved plans, to satisfy the car parking requirement for this development;
 - (ii) The colours and materials of the loading dock are to match that of the existing structure to the satisfaction of the Manager Approvals, Planning & Environmental Services;

- 3 ADVISES the applicant that a determination on the application for planning approval, dated 17 August 2006, for the construction of 25 car bays on the adjoining Crown land (Lot 2277), cannot be made as the MRS Form 1 application form has not been signed by the owner of the land (DLI). In any event, such a proposal could not be approved as it would be inconsistent with the purpose of the proposed Management Order for the site.

ADDITIONAL INFORMATION

There is currently an approval in place for 3,000sqm of retail and 1,116sqm of commercial non-retail space with an approved parking allocation of 247 car bays. A recent amendment to District Planning Scheme No 2 (DPS2) permitted an increase in the maximum NLA for retail uses from 3,000sqm to 4,000sqm.

The applicant lodged a development application to convert most of the non-retail NLA to retail, to allow the centre to achieve the maximum 4,000sqm limit for retail uses. However the recommendation before Council in Part 1 for this item is to refuse the application due to insufficient car parking.

The applicant has now proposed revisions to the current application in light of the pending refusal for the change of use of eleven non-retail tenancies to shop use, due to a significant shortfall in parking bays.

Under the revised proposal received on the 31 October 2006 (Attachment 8 refers), the applicant is seeking:

- (a) To change the configuration of the tenancies so that there will be 17 tenancies in lieu of the 16 originally approved;
- (b) Retain tenancies T1, 3, 8, 9, 11, 14 and 15/16 as retail uses;
- (c) A change of use of four non-retail tenancies to shop, those tenancies being T6, 7, 10 and 13;
- (d) To keep closed four of the other retail tenancies (tenancies T2, 4, 5, 12) until such time as additional parking is provided on-site; and
- (e) Keep tenancy T17 as non-retail uses.

The change in the number of tenancies referred to (a) above will not change the total net lettable area (NLA) of the shopping centre and accordingly does not impact on the parking calculations.

Under the revised proposal, there will be twelve shop tenancies with a total NLA of 3,336sqm and one commercial non-retail tenancy with a NLA of 126sqm, which will be able to commence operations based on the revised car parking calculation shown below:

Floor Area uses	Required Bays
3,336sqm NLA of Retail (7 bays per 100sqm)	233.5 bays
126sqm NLA of Commercial Non-retail (1 bay per 30sqm)	4.2 bays
	238 bays

The revised proposal complies with the parking requirements of District Planning Scheme No 2 (DPS2) on the proviso that tenancies 2, 4, 5 & 12 do not commence trading.

Having regard to the revised plans, the component of the application for a change of use from commercial non-retail to shop can now be approved subject to appropriate conditions. Accordingly, Part 1 of the recommendation to Council can be amended by substituting the following recommendation of approval for the current recommendation of refusal in Part 1 of the agenda.

The following is the revised recommendation. It should be noted that Parts 2 and 3 of the recommendation remain unchanged.

MOVED Cr Hollywood, SECONDED Cr Jacob that Council:

- 1 APPROVES the application for planning approval, dated 8 August 2006 and the revised plans received on the 31 October 2006, submitted by J Prestipino Building Designs Pty Ltd on behalf of the owners, Adriatic United Pty Ltd, for a change of use of tenancies 6, 7, 10 and 13 from non-retail tenancies to shop use, on Lot 2278 (3) Selkirk Drive, Kinross, subject to the following conditions:**
 - (a) Tenancies 2, 4, 5 & 12 as denoted on the amended plans received 31/10/2006 are to remain closed and not used for any purpose until adequate parking is provided and a further development application submitted for consideration.**
 - (b) Any changes to the car parking layout is required to be subject of further approvals from the City**
- 2**
 - (a) EXERCISES discretion under Clause 6.12 of the City's District Planning Scheme No 2 and determines that the changes to the loading dock and inclusion of four trolley bays is acceptable;**
 - (b) APPROVES the application for retrospective approval dated 12 October 2006, submitted by J Prestipino Building Designs Pty Ltd on behalf of the owners, Adriatic United Pty Ltd for changes to the loading dock and inclusion of four trolley bays on Lot 2278 (3) Selkirk Drive, Kinross subject to the provision of a total of 247 car bays, of which, Council is prepared to accept:**
 - (i) 2 verge car bays, as marked in RED on the approved plans, to satisfy the car parking requirement for this development;**
 - (ii) The colours and materials of the loading dock are to match that of the existing structure to the satisfaction of the Manager Approvals, Planning & Environmental Services;**

- 3 ADVISES the applicant that a determination on the application for planning approval, dated 17 August 2006, for the construction of 25 car bays on the adjoining Crown land (Lot 2277), cannot be made as the MRS Form 1 application form has not been signed by the owner of the land (DLI). In any event, such a proposal could not be approved as it would be inconsistent with the purpose of the proposed Management Order for the site.**

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar, and Park

Appendix 13 refers

To access this attachment on electronic document, click here: [Attach13agn311006.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Cr Kerry Hollywood
Item No/Subject	CJ203-10/06 – Community Sport and Recreation Facilities Fund
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Hollywood is a social member of the Beaumaris Bowling Club.

Name/Position	Cr Russel Fishwick
Item No/Subject	CJ203-10/06 – Community Sport and Recreation Facilities Fund
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Fishwick is a member of the Sorrento Surf Life Saving Club and a Senior State Examiner for Surf Life Saving WA.

Name/Position	Mr David Djulbic – Director Infrastructure Services
Item No/Subject	CJ203-10/06 – Community Sport and Recreation Facilities Fund
Nature of interest	Interest that may affect impartiality
Extent of Interest	Mr Djulbic has been a member of the Kingsley Football Club, and his son is currently a playing member.

Name/Position	Mr Mike Smith – Manager, Marketing Communications and Council Support
Item No/Subject	CJ203-10/06 – Community Sport and Recreation Facilities Fund
Nature of interest	Interest that may affect impartiality
Extent of Interest	Mr Smith is a life member of the Joondalup Cricket Club which is a member of the Beaumaris Sports Association

CJ203 - 10/06 COMMUNITY SPORT & RECREATION FACILITIES FUND – [22209]

WARD: All

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning & Community Development

PURPOSE

To provide details on the applications received through the Community Sport & Recreation Facilities Fund (CSRFF) and to make recommendations to the Minister of Sport & Recreation outlining how the City has prioritised the projects.

EXECUTIVE SUMMARY

The Minister for Sport & Recreation has allocated nine (9) million dollars from the CSRFF for the 2006/07 round of applications. The City of Joondalup is required to assess, rank and rate all applications received from sporting and community groups located within the region. Four (4) community sporting groups submitted applications for consideration.

It is recommended that Council:

- 1 *NOTES the Community Sport & Recreation Facilities Fund applications and ENDORSES the project assessments, as stated below:*

Applicant's Rank		Applicant's Rating
1	<i>Sorrento Surf Life Saving Club</i>	<i>Well planned and needed by the applicant.</i>
2	<i>Kingsley Junior Football Club</i>	<i>Well planned and needed by the applicant.</i>
3	<i>Sorrento Football Club</i>	<i>Well planned and needed by the applicant.</i>
4	<i>Baumaris Sports Association</i>	<i>Not recommended.</i>

- 2 *LISTS \$66,700 for consideration in the 2007/08 draft budget subject to the Sorrento Surf Life Saving Club meeting one third (1/3) of the project's total cost, and the Club being granted \$66,700 from Community Sport & Recreation Facilities Fund;*
- 3 *LISTS \$26,458 for consideration in the 2007/08 draft budget subject to the Kingsley Junior Football Club meeting one third (1/3) of the project's total cost, and the Club being granted \$26,459 from Community Sport & Recreation Facilities Fund;*
- 4 *LISTS \$22,727 for consideration in the 2007/08 draft budget subject to the Sorrento Football Club meeting one third (1/3) of the project's total cost plus all additional capital costs to upgrade the floodlighting to 'match play' standards and the Club being granted \$22,727 from Community Sport & Recreation Facilities Fund;*
- 5 *ENDORSES that the Sorrento Football Club be levied a 'match play' floodlighting charge, in line with the City's Schedule of Fees and Charges, as part of their seasonal ground hire fees once the project is completed; and*
- 6 *ADVISES the Baumaris Sports Association that the proposed floodlight project is not recommended for Council support based on the following reasons:*
 - *the design concept submitted may jeopardise any future change of park user groups;*
 - *the scope of the project would establish a precedent regarding floodlighting levels that could not be sustained by the City;*
 - *in accordance with City Policy 7-3 "Community Facilities – Built", the City will not enter into any pre-funded loan agreements with any clubs or external organisations.*

BACKGROUND

The Department of Sport & Recreation has invited Local Government Authorities and incorporated, not for profit sporting clubs and community groups to submit applications for funding to develop basic, sustainable infrastructure for sport and recreation. The CSRFF program aims to increase physical activity and participation through the development of good quality, well designed and well utilised facilities.

This year the Department of Sport & Recreation has placed a greater emphasis on a planned approach to facility provision and applicants have been encouraged to consider planning, design and management issues to demonstrate need for their project. The CSRFF program represents a partnership opportunity for community organisations to work with Local Government Authorities and the Department of Sport & Recreation in the construction or upgrade of sporting and community facilities.

A CSRFF grant will not exceed one third (1/3) of the total completed cost of the project, with the remaining funds to be contributed by the Local Government Authority and the applicant's own cash or 'in-kind' contribution to the project. CSRFF grants are available in one of two categories:

- 1 Annual Grants
- 2 Forward Planning Grants.

Annual grants will be given to projects of a less complex nature, which have a total project value between \$1,000 and \$50,000. Grants in this category must be claimed in the next financial year.

Forward Planning grants will be given to projects of a more complex nature, requiring a period of between one and three years to complete, for grants of between \$50,001 and \$1.5 million. Grants given in this category can be claimed in either the first, second or third year of the triennium in which the funds were allocated.

The City is required to assess, rank and rate all applications from organisations that fall within its boundaries and forward these rankings and ratings to the Department of Sport & Recreation for consideration against all other submissions. An announcement of the successful applications will be made in February 2007, with grants available in the 2007/08 financial year or in another financial year as nominated by the applicant.

All applications reviewed by the City have been assessed against the following key principles:

- Project Justification
- Community Input
- Project Design
- Coordinated Planning Approach
- Financial Viability / Sustainability
- Potential to Increase Physical Activity

The City is requested, by the Department of Sport & Recreation, to place a priority ranking and rating on all applications based on the following criteria:

- Well planned and needed by the municipality
- Well planned and needed by applicant
- Needed by the municipality, more planning required
- Needed by applicant, more planning required
- Idea has merit, more preliminary work needed
- Not recommended

DETAILS

The City received four (4) applications for the CSRFF. A copy of the applications has been placed in the Council reading room for information, and a summary of the project descriptions and the breakdown of funding requested for each application has been included as Attachment 1. The assessments of the four (4) applications are as follows:

Project 1 Sorrento Surf Life Saving Club

The Sorrento Surf Life Saving Club application involves alterations to the clubroom facility including an expansion of the existing boat shed, re-development of the courtyard area into a storage compound and new external doors to the main hall. The facility is owned by the City and leased to the Sorrento Surf Life Saving Club.

The objective of the project is to:

- 1 Increase storage capacity to adequately accommodate the equipment (ie. surf skis) of individual members who may not be able to participate in club activities due to insufficient storage capabilities;
- 2 Provide on-site storage for the club's larger surf boats (presently these are stored off-site and this presents logistical issues that impact on participation);
- 3 Provide storage opportunities for current and future community user groups who book the main hall for the delivery of programs.

Currently, the number of club members able to participate in competition, training and general recreational and fitness activities is limited by the Club's ability to provide adequate storage facilities. The project proposal looks to resolve these issues with an extension to the boat shed to accommodate the Club's surf boats and the re-development of the courtyard for surf skis and similar equipment. This will greatly assist to increase participation in surf club activities and allow members easy access to their equipment.

The external doors that are included as part of the project are essential to provide access to the main hall. The proposed changes to the courtyard area will block the hall's only external access point. The new doors will enable free and safe movement for members and participants.

The City consulted with the Department of Sport and Recreation regarding Surf Life Saving Clubs being eligible for funding through the CSRFF program and more specifically this proposed project. The feedback received was encouraging and indicated that the project was within the guidelines and priorities of CSRFF.

In assessing the application, the City acknowledged that the design fitted within the aesthetics of the existing facility and that the project budget was well justified. The City rated the application as well planned and needed by the applicant. The total cost for the project is \$200,100. It is recommended that the City of Joondalup lists \$66,700 for consideration in the 2007/08 draft budget subject to the Sorrento Surf Life Saving Club meeting one third (1/3) of the project's total cost, and the Club being granted \$66,700 from CSRFF.

Project 2 Kingsley Junior Football Club

The Kingsley Junior Football Club's project application involves upgrading the floodlighting at Kingsley Park. Currently, there are four (4) light poles each twelve (12) metres high with two (2) floodlights of 1,000 watts. The proposal submitted is to increase the height of the poles, relocate them to enhance the coverage provided and increase the number of floodlights on each pole to three (3).

Kingsley Park is heavily utilised for active sports participation throughout the summer and winter seasons and for casual community use all year round. This project will greatly benefit both the Kingsley Junior Football Club and the Kingsley Amateur Football Club for training purposes and also has the support of the Kingsley Woodvale Cricket Club and the Kingsley Woodvale Junior Cricket Club.

The Kingsley Junior Football Club's project has the potential to increase physical activity opportunities for the wider local community. Improvements to the floodlighting at Kingsley Park could assist to facilitate use of the passive surrounds for unstructured activities such as walking due to the increased visibility and security that they would provide. The old lighting poles will also be available for the City to relocate to alternative passive parks and reserves for security lighting.

To assist the applicant in the contemporary design and receipt of an up-to-date cost for the project, the City and the Club agreed to undertake a strategy based on a previously approved application from the Joondalup Kinross Junior Football Club for the upgrade of floodlighting at Windermere Park. This application was successful through the CSRFF program in the 2005/06 funding round with a total project cost of \$63,500. The City saw this approach as a way of developing consistency in the upgrade of future floodlighting for its parks and reserves.

In July 2006, the City advertised a tender for the Windermere Park project. Thirteen (13) organisations sought tender documents, however no submissions were received by 8 October 2006 closing date. As a result, a price for the project could not be confirmed and the City is now in the process of re-advertising the tender.

The City approached a number of organisations to provide a quotation for the Kingsley Junior Football Club project without success. Each organisation was reluctant to provide a fully costed submission, knowing that the project would be advertised for tender in the future.

Rather than delay the Kingsley Junior Football Club's project for a further twelve (12) months, the City has recommended that the application proceed with the project cost based on the approved grant for the Windermere Park application, plus a contingency of 25%. This will result in a total project cost of up to \$79,375 (Note: the price could be less depending on the tender submissions received). The price determined is designed to take into account the dramatic increase in construction costs that have been experienced in the industry over the past two (2) years.

The design specifications for the Kingsley Junior Football Club project will be consistent with those of the tender documents prepared for the floodlighting upgrade at Windermere Park.

In assessing this application, the City considered the benefits that will be provided to the sporting clubs that use the reserve and the positive impact on physical activity opportunities for the community. The enhanced floodlighting will also enable the park to be used more efficiently, by redistributing the heavy wear and tear that occurs throughout winter more evenly across the park. This will assist to decrease costly maintenance expenditure. The new lights will not have a negative impact on local residents and represent a sound financial decision for the City.

The application is well planned and needed by the applicant. It is considered that the City should financially support the project by contributing one-third (1/3) of the total cost. The total cost for the Kingsley Junior Football Club's floodlighting project is estimated at \$79,375. It is recommended that the City of Joondalup lists \$26,458 for consideration in the 2007/08 draft budget subject to the Kingsley Junior Football Club meeting one third (1/3) of the project's total cost and the Club being granted \$26,459 from CSRFF.

Project 3 Sorrento Football Club

The Sorrento Football Club's proposed project involves upgrading the floodlighting provision to Pitch No.1 at Percy Doyle Reserve. Currently, there is no floodlighting to this ground. The application involves the installation of floodlighting to a 'match play' standard with four (4) light poles at twenty five (25) metres. The club understands that the City's policy only caters for floodlighting to training standards and as a result, the club is proposing to fully fund the cost difference between training lights and those suitable for match play.

The Sorrento Football Club was unsuccessful in applying for a CSRFF grant in last year's round of funding for a large scale project to install floodlighting on three (3) sports fields at Percy Doyle Reserve, with the total cost estimated at \$292,235.00. At its meeting on 1 November 2005 (CJ242-11/05 refers), Council resolved to:

“advise the Sorrento Soccer, Sports and Social Club that Council notes its proposed project, however more planning is required and the City will work with the club to further develop the application inline for next years funding round considerations by Council”.

In assessing this project, the City notes that the Club has downsized its original application to enable them to manage the project and associated costs in a more effective manner. The City also acknowledges the benefits that the enhanced floodlighting would provide to the Sorrento Football Club in its capacity to provide training and match opportunities for its participants. It is not anticipated that the new floodlights will have a negative impact on local residents and the project represents a sound financial decision for the City.

Consistent with City policy, the club is fully responsible for the costs associated with purchasing the additional luminaries to increase the standard of lighting from training standards to match play. It is also recommended that Sorrento Football Club be levied an annual 'match play' floodlighting charge, in line with the City's Schedule of Fees and Charges, as part of their seasonal ground hire fees once the project is completed. This is based on the additional electricity used for the lighting.

The breakdown of the proposed project costs are as follows:

	Club Contribution	Department of Sport & Recreation Contribution	City of Joondalup Contribution
Floodlighting to Training Standards	\$22,727	\$22,727	\$22,727
Additional Costs for Upgrade to Match Play Standards	\$7,273	-	-
Total Project Cost	\$30,000	\$22,727	\$22,727

The project is well planned and needed by the applicant. It is considered that the City should financially support this application by contributing one-third of the total project cost, however only to a 'training standard' provision. The total cost for the Sorrento Football Club's floodlighting project is \$75,454. It is recommended that the City of Joondalup lists \$22,727 for consideration in the 2007/08 draft budget subject to the Sorrento Football Club meeting one third (1/3) of the project's total cost plus all additional costs, being \$7,273, to increase the number of luminaries required to the floodlighting to 'match play' standards and the Club being granted \$22,727 from CSRFF.

This recommendation is consistent with City Policy 6-1 – "Reserves, Parks and Recreation Grounds" and City Policy 7-3 – "Community Facilities – Built". The Sorrento Football Club needs to agree to pay an annual 'match play' floodlighting charge as part of their seasonal ground hire fees.

Project 4 Beaumaris Sports Association

The Beaumaris Sports Association's (BSA) application is for the upgrade of floodlighting at the Iluka District Open Space. Currently, there are six (6) light poles providing floodlighting to the two (2) sports grounds. The application involves increasing the number of poles to eleven (11) and improving the lighting standards to accommodate training for small ball sports across the whole reserve. Within the project budget, the BSA has requested a Council loan totalling \$75,000 to assist in meeting their one third (1/3) contribution.

The BSA successfully applied for a grant in the 2002/03 round of the CSRFF program for the upgrade of floodlighting at the Iluka District Open Space. In approving the grant, the Department of Sport & Recreation allocated funding for the project in the 2005/06 financial year. The total cost of the project was \$260,000 with the funding breakdown listed below;

\$86,667	Department of Sport & Recreation
\$86,666	City of Joondalup
\$86,666	Beaumaris Sports Association

Council endorsed the project with full funding support (CJ256-10/02 refers). As part of the approved application, the BSA sought a pre-funded loan of \$60,000 from the City. The loan effectively increased the City's contribution towards the project to \$146,666. In 2004, the City implemented a policy stating that the "City will not enter into any such agreements with any clubs or external organisations".

In February 2006, due to changes in the scope of the project, cost escalations and a failure to meet deadlines associated with the program, the BSA chose to relinquish the grant and reapply with a revised project application in the current 2006/07 funding round.

The current proposal from the BSA was considered in the assessment process as a 'new' application. The need for this project has been identified by the BSA as part of the phased development of the facility required to meet the needs of the user clubs. The BSA consists of three member clubs, Joondalup District Cricket Club, Joondalup Lakers Hockey Club and Beaumaris Bowling Club. However, the Heathridge Soccer Club and Joondalup Brothers Rugby Union Football Club also utilise the park during the winter season. All of the clubs that utilise the park are in support of the application.

2002/2003	Sorrento Duncraig Junior Football Club	\$42,000
2004/2005	Edgewater Woodvale Junior Football Club	\$11,803
2005/2006	Joondalup Kinross Junior Football Club	\$63,500

The proposed lighting design and pole locations is considered limiting to the long-term scope of the park and may jeopardise any future variations to the sporting user groups. Floodlighting poles should be strategically placed around the perimeter of the playing area to provide maximum opportunities for multi-use sporting activities. Alternative options should be explored utilising the existing light poles and increasing the number of lights on each. This will be more cost effective and still achieve the desired improvements to the floodlighting standards provided at the park.

As part of the proposal, the BSA is requesting a Council loan of \$75,000 to supplement their one third (1/3) contribution to the project. Despite the Association being regarded as financially sustainable, this request is contrary to City Policy 7-3 – “Community Facilities – Built” and therefore should not be supported by the City.

It is recommended that the BSA review the extent of the works proposed, as the current project is deemed inappropriate. A staged approach of floodlight provision should be considered, resulting in a more affordable concept for the BSA. As a result, the application is not recommended for funding and further planning is required.

Link to Strategic Plan:

Outcome The City of Joondalup provides social opportunities that meet community needs.

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

Strategies 1.3.1 Provide leisure and recreational activities aligned to community expectations, incorporating innovative opportunities for today's environment.
 1.3.3 Provide support, information and resources.

Legislation – Statutory Provisions:

Australian Standard AS2560.2.3 - Guide to Sports Lighting for Football (All Codes).

The scope of this code sets out specific recommendations for the lighting of outdoor football grounds for all codes commonly played in Australia (Rugby League, Rugby Union, Australian Rules and Soccer). The standard provides recommendations on lighting to facilitate an adequate visual environment for ‘semi-professional’ and ‘club competition’ training and match standards of play.

Australian Standard AS2560.2.7 - Guide to Sports Lighting for Hockey – Outdoor.

The scope of this code sets out specific recommendations for the lighting of outdoor hockey grounds for standards associated with ball training for juniors and minor grade clubs, as well as major grade clubs, national and international levels.

Risk Management considerations:

Following the assessment process of the CSRFF applications, two (2) issues were specifically raised as potential risk factors:

- 1 Sorrento Surf Life Saving Club - Funding for storage areas.

It was considered that a precedent could be set regarding future funding requests for storage areas. However, following consultation with the Department of Sport and Recreation and considering the potential to increase participation in surf life saving activities, the application was deemed compliant with the guidelines and priorities of the CSRFF program;

- 2 Beaumaris Sports Association - Application and subsequent Council loan request. The Beaumaris Sports Association's request for a Council loan is contrary to City Policy 7-3. Support for this project would breach the policy and set an unsustainable precedent.

Financial/Budget Implications:

It is proposed that the funding recommendations presented to Council be listed for consideration in the City's 2007/08 draft budget, subject to approval for the projects being provided by CSRFF. The process involved for projects seeking approval through the CSRFF program, is designed to enable a comprehensive assessments to be carried out and allow adequate time for successful applications to be budgeted for in the forthcoming financial year.

Policy Implications:

The two (2) City policies that have been adhered to throughout the assessment process of the CSRFF applications are:

- City Policy 6-1 "Reserves, Parks and Recreation Grounds".

This policy is specific to sport lighting and has an objective "to support best management practice for Council controlled reserves, parks and recreation grounds while recognising community needs and community and Council responsibilities";

- City Policy 7-3 "Community Facilities – Built".

This policy addresses community proposals for capital works and requests for Council loans.

Based on these policies, the future replacement of floodlighting on City parks and reserves will be in accordance with the City Policy at the time.

Regional Significance:

Not Applicable.

Sustainability Implications:

The CSRFF aligns with the City's strategic plan and supports the goals and objectives of leisure and recreational services in the provision of increased opportunities for participation in sport and physical activity.

The City has followed a clear and equitable process to enable applicants the opportunity to meet with City staff and receive feedback on their proposed projects to ensure that their application meets the program aims and objectives.

The CSRFF program assists to facilitate the development of a healthy, equitable, active and involved community. The program also provides the opportunity for a positive effect on community access to leisure, recreational and health services.

Consultation:

The CSRFF was advertised via a formal Expression of Interest, in the Community Newspaper in June 2006. The Expression of Interest forms are designed to provide the City with details of the applicant's proposed project and enable feedback prior to a full submission being lodged. In doing so, the City aims to assist potential applicants, whilst helping to save valuable resources (time and effort) from being spent on aspects that do not meet the program guidelines.

The City received two (2) Expressions of Interest by the 30 June 2006 closing date. Council officers assessed the Expressions of Interest and a meeting was held with each applicant (Sorrento Football Club and Beaumaris Sports Association) to provide feedback on their proposed project. The two (2) applicants were presented with suggestions and directions to assist in their final application and encouraged to contact the City if they had any questions regarding their proposal prior to the closing date. It is also important to note that the Sorrento Surf Life Saving Club and Kingsley Junior Football Club did not submit Expressions of Interests, however after liaising with the City, it was agreed to allow both organisations to submit a final CSRFF application for their respective proposals.

The City, as well as the applicants, were regularly in contact with the Department of Sport and Recreation to seek guidance and clarification on certain issues / matters throughout the application process.

COMMENT

The Department of Sport & Recreation, through the CSRFF, aims to increase participation in sport and recreation with an emphasis on physical activity, through rational development of sustainable, good quality, well-designed and well-utilised facilities.

The program guidelines list floodlighting projects specifically as applications that will be considered for funding assistance. This indicates that the Department of Sport & Recreation recognises the need to improve the provision of floodlighting on active sporting fields to develop quality facilities that are safe for all participants. Improved floodlighting facilitates the important philosophies associated with sport and recreation of multi-use and shared use, whilst assisting in the long-term maintenance of the grounds by enabling even wear.

It is considered that the Kingsley Junior Football Club and Sorrento Football Club applications will have a positive impact on the provision of opportunities for increased participation in physical activity. Supporting these projects represents a sound financial commitment toward sport and recreation in the Joondalup region for clubs and the community in general.

In assessing the Sorrento Surf Life Saving Club's application, it was considered that the intent to increase their storage area to accommodate additional surf and safety equipment would also assist to increase participation in surf lifesaving activities. Currently, the number of club members able to participate in competition, training and general recreational and fitness activities is limited by the Club's ability to provide adequate storage facilities. This project would enable the clubroom to better accommodate the needs of the other current and future users, demonstrating a multiple and shared use approach to facility provision.

The Beaumaris Sports Association's application was not recommended for funding. The total project cost was assessed as excessive in comparison to previously funded applications. In addition, the request for a Council loan is contrary to City Policy 7.3 and the floodlighting concept design was deemed to be at a level that would limit the community's future use of the park and set a precedent for other projects.

ATTACHMENTS

Attachment 1 Project Descriptions and Breakdown of Funding Requested from CSRFF Applications.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 NOTES the Community Sport & Recreation Facilities Fund applications and endorses the project assessments, as stated below:

	Applicant's Rank	Applicant's Rating
1	Sorrento Surf Life Saving Club	Well planned and needed by the applicant.
2	Kingsley Junior Football Club	Well planned and needed by the applicant.
3	Sorrento Football Club	Well planned and needed by the applicant.
4	Beaumaris Sports Association	Not recommended.

- 2 LISTS \$66,700 for consideration in the 2007/08 draft budget subject to the Sorrento Surf Life Saving Club meeting one third (1/3) of the project's total cost, and the Club being granted \$66,700 from Community Sport & Recreation Facilities Fund;
- 3 LISTS \$26,458 for consideration in the 2007/08 draft budget subject to the Kingsley Junior Football Club meeting one third (1/3) of the project's total cost, and the Club being granted \$26,459 from Community Sport & Recreation Facilities Fund;
- 4 LISTS \$22,727 for consideration in the 2007/08 draft budget subject to the Sorrento Football Club meeting one third (1/3) of the project's total cost plus all additional capital costs to upgrade the floodlighting to 'match play' standards and the Club being granted \$22,727 from Community Sport & Recreation Facilities Fund;

- 5 ENDORSES that the Sorrento Football Club be levied a 'match play' floodlighting charge, in line with the City's Schedule of Fees and Charges, as part of their seasonal ground hire fees once the project is completed;
- 6 ADVISES the Beaumaris Sports Association that the proposed floodlight project is not recommended for Council support based on the following reasons:
- the design concept submitted may jeopardise any future change of park user groups;
 - the scope of the project would establish a precedent regarding floodlighting levels that could not be sustained by the City;
 - in accordance with City Policy 7-3 "Community Facilities – Built", the City will not enter into any pre-funded loan agreements with any clubs or external organisations.

ADDITIONAL INFORMATION

The Beaumaris Sports Association has submitted a request to Council to withdraw the application for a loan of \$75,000 from the City of Joondalup, as part of its CSRFF application. The change to the funding request from the Beaumaris Sports Association followed their deputation to the Briefing Session held on Tuesday 24 October 2006.

The request from the Beaumaris Sports Association addresses the recommendation for the City to not support the Association's CSRFF application in line with Council Policy 7-3 "Community Facilities – Built", the City will not enter into any pre-funded loan agreements with any clubs or external organisations. While the Association's decision to fully self-fund their 1/3 contribution towards the project is seen as a positive development, other concerns regarding the project remain and the City's recommendation not to support the application is unchanged.

The Department of Sport and Recreation has agreed to the City submitting applications after the 31 October due date, in consideration of Council's meeting agenda. City officers have received confirmation that no further extensions will be granted.

The City has noted and considered the request from the Beaumaris Sports Association.

It is proposed that the City amends its recommendation to delete the reference to the pre-funded loan.

MOVED Cr Jacob, SECONDED Cr Park that Council:

- 1 **NOTES the CSRFF applications and ENDORSES the project assessments, as stated below:**

	Applicant's Rank	Applicant's Rating
1	Sorrento Surf Life Saving Club	Well planned and needed by the applicant.
2	Kingsley Junior Football Club	Well planned and needed by the applicant.
3	Sorrento Football Club	Well planned and needed by the applicant.
4	Beaumaris Sports Association	Not recommended.

- 2 **LISTS \$66,700 for consideration in the 2007/08 draft budget subject to the Sorrento Surf Life Saving Club meeting one third (1/3) of the project's total cost, and the Club being granted \$66,700 from CSRFF;**
- 3 **LISTS \$26,458 for consideration in the 2007/08 draft budget subject to the Kingsley Junior Football Club meeting one third (1/3) of the project's total cost, and the Club being granted \$26,459 from CSRFF;**
- 4 **LISTS \$22,727 for consideration in the 2007/08 draft budget subject to the Sorrento Football Club meeting one third (1/3) of the project's total cost plus all additional capital costs to upgrade the floodlighting to 'match play' standards and the Club being granted \$22,727 from CSRFF;**
- 5 **ENDORSES that the Sorrento Football Club be levied a 'match play' floodlighting charge, in line with the City's Schedule of Fees and Charges, as part of their seasonal ground hire fees once the project is completed;**
- 6 **ADVISES the Beaumaris Sports Association:**
 - (a) **that the proposed floodlight project is not recommended for Council support based on the following reasons:**
 - **the design concept submitted may jeopardise any future change of park user groups;**
 - **the scope of the project would establish a precedent regarding floodlighting levels that could not be sustained by the City.**
 - (b) **to submit an application as part of the 2007/2008 Community Sport and Recreation Facilities Fund for a staged approach to floodlight at the Iluka District Open Space that alleviates the concerns referred to above and that considers all future use requirements.**

Discussion ensued.

AMENDMENT MOVED Cr Fishwick, SECONDED Cr John that the words "for consideration" be inserted in Point 6(b) of the Motion after the word "application."

Discussion ensued.

The Amendment was Put and

CARRIED (11/0)

In favour of the Amendment: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

During discussion on the matter, it was requested that parts of the original Motion as amended be voted upon separately.

Points 1 to 5 of the Motion were Put and CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

Point 6(a) of the Motion was Put and CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

Point 6(b) of the Motion, as amended, being:

“6 ADVISES the Beaumaris Sports Association:

- (b) to submit an application for consideration as part of the 2007/2008 Community Sport and Recreation Facilities Fund for a staged approach to floodlight at the Iluka District Open Space that alleviates the concerns referred to above and that considers all future use requirements.”**

was Put and CARRIED (10/1)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John and Park **Against the Motion:** Cr Magyar

Appendix 12 refers

To access this attachment on electronic document, click here: [Attach12brf241006.pdf](#)

REPORT OF THE CHIEF EXECUTIVE OFFICER

C83-10-/06 CRAIGIE LEISURE CENTRE – DEED OF SETTLEMENT AND RELEASE – [36561, 09050]

WARD: Central

RESPONSIBLE DIRECTOR: Mr Garry Hunt
Office of CEO

PURPOSE

To finalise contractual issues between the City, Perkins (WA) Pty Ltd (PB) and Diana Holdings Pty Ltd trading as Bunbury Drilling Company (BDC) in relation to the drilling and construction of the geothermal bores at Craigie Leisure Centre.

EXECUTIVE SUMMARY

The redevelopment of Craigie Leisure Centre included the construction of two geothermal bores to be used for heating the pools and the pool hall. Problems claimed by BDC to be latent conditions were encountered from the outset. The problems caused the completion of the project to be severely delayed.

PB and BDC claimed latent conditions caused all the problems encountered in the work and formalised claims for costs. Obviously the City formed a different view. The three parties determined to settle the disputes by mediation/conciliation. Any matters not resolved would go to an arbitration process. In an effort to resolve all issues the parties have agreed to a resolution subject to the endorsement of the Council. The Deed of Settlement and Release and the letter detailing the separate terms of agreement between the City and PB are now presented for endorsement.

It should be noted that should the City not endorse the Deed prior to 10 November 2006 the Deed expires unless extended by the other parties. Should the Deed expire or not be endorsed by the Council the matter will proceed to a formal arbitration.

To resolve the dispute and avoid costly and time consuming arbitration it is recommended that the Council:

- 1 *ENDORSES the Deed of Settlement and Release between Diana Holdings Pty Ltd, Perkins (WA) Pty Ltd and the City (marked "Confidential" and forming Attachment 2 to Report C83-10/06) in relation to the construction of the geothermal bores at the Craigie Leisure Centre;*
- 2 *ENDORSES the separate Terms of Agreement between Perkins (WA) Pty Ltd and the City as detailed in the letter from Jackson McDonald dated 20 October 2006 (marked "Confidential" and forming Attachment 1 to Report C83-10/06);*
- 3 *NOTES that such endorsements will result in the project budget being over expended;*
- 4 *AUTHORISES unbudgeted expenditure of \$230,000 in addition to the 2006/07 budgeted expenditure of \$190,000 in order to meet the terms of the Deed and Agreement referred to in Points 1 and 2 above, and legal costs;*
- 5 *NOTES that the funding of the unbudgeted expenditure in Point 4 above will be considered in the 2006/07 mid year budget review.*

BACKGROUND

At its meeting held on 31 August 2004 the Council considered tenders for the redevelopment of the Craigie Leisure Centre and awarded the contract to PB (CJ204-08/04 refers). The contract sum of \$8,547,000 included a provisional sum of \$690,000 for the construction of two geothermal boreholes. The City called tenders for the geothermal works and nominated BDC as its preferred contractor. PB then entered into a contract with BDC for the required works.

Drilling works commenced on site in April 2005. From the outset problems with the drilling were encountered. The first hole was abandoned at a depth of 50m due to unstable and below ground conditions. The second hole was drilled to the required depth of 830m however from 480m to 520m swelling/reactive clays continually caused problems to the extent that casing could not be installed. The driller claimed the problems were caused by latent conditions. At this stage of the project a report was presented to the Council detailing the issues and potential solutions. The Council resolved to continue with the geothermal project and increased the provisional sum amount to \$990,000 (JSC1-06/05 refers).

The second hole was then converted from the production hole to the injection hole that required a depth of 450m. During completion of the injection hole further problems were encountered resulting in the bore screens being contaminated with concrete. Attempts by BDC to rectify the issue were not successful. The contamination was remedied by the City using a method developed by its consultant, Worley Parsons.

The drilling of a third hole commenced using a revised drilling method to counter the previous ground conditions. At a depth of 800m drilling ceased as the driller advised that the required water temperature had been achieved. Unfortunately the drill string became stuck at a depth of 550m. Again attempts by BDC failed and the City remedied the problem.

BDC advised that they had completed construction of the bores in December 2005 some four months after the Centre was due to be completed by PB. Testing of the production bore by the City indicated that the required water temperature was not being achieved as stated by BDC. Further investigation revealed a leak in the bore casing that was rectified by BDC that enabled PB to complete the Centre. The Centre was handed over to the City on 27 June 2006.

BDC claimed that all the problems encountered were caused by latent conditions and submitted invoices over the life of the works to PB, who in turn claimed an amount from the City. The claims were assessed by the City's consultants. Costs incurred by the City to remedy the concrete contamination, stuck drill string and bore testing to identify faults were deducted from the assessed value. To date PB has been paid a total of \$596,856.21.

BDC commenced proceedings against PB, who in turn joined the City. PB claimed delay costs against the City.

The parties agreed to progress the matter through mediation/conciliation processes. The cost of the process would be shared equally and all parties agreed to pay their own costs (legal and experts) through this process and any subsequent arbitration process.

The mediation was held on 17 October 2006. The Chief Executive Office and the Senior Project Coordinator represented the City at the mediation along with its legal advisor and hydrogeology expert.

The parties have reached an agreement (attached) that will resolve the issues however Council endorsement is required to finalise the agreement.

DETAILS

Issues and options considered:

The proposed resolution will finalise the matters between the City, PB and BDC. Should the agreement not be endorsed the matter would proceed to arbitration. The City's legal representative estimates the legal and expert costs for an arbitration process would cost the City some \$250,000 to \$300,000 and could take years to complete. These costs would not be recoverable from the other parties.

Link to Strategic Plan:

Not applicable.

Legislation – Statutory Provisions:

The agreement requires Council endorsement as the proposed settlement amount is greater than the allocated budget for the project.

Risk Management considerations:

The City could determine to allow the matter to go to arbitration however the cost and time factors would need to be acknowledged.

Financial/Budget Implications:

The project budget for the Craigie Leisure Centre at the time of entering into the contract with PB was \$10,100,000. At its meeting held on 24 June 2005 the Council noted that the estimated new project budget was \$10,300,000. The payment required to settle the geothermal component dispute will result in a final project cost of approximately \$10,450,000. Legal and expert costs incurred by the City through this dispute process total approximately \$50,000 and are included in the final project cost.

Policy Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

The redevelopment of Craigie Leisure Centre included the construction of two geothermal bores to be used for heating the pools and the pool hall. Problems claimed by BDC to be latent conditions were encountered from the outset. The problems caused the completion of the project to be severely delayed. The three parties determined to settle the ensuing disputes by mediation/conciliation. Any matters not resolved would go to an arbitration process. In an effort to resolve all issues the parties have agreed to a resolution subject to the endorsement of the Council. The Deed of Settlement and Release and the letter detailing the separate terms of agreement between the City and PB are now presented for endorsement.

It should be noted that should the City not endorse the Deed prior to 10 November 2006 the Deed expires unless extended by the other parties. Should the Deed expire or not be endorsed by the Council the matter will proceed to a formal arbitration.

ATTACHMENTS

- Attachment 1 Confidential - Letter detailing separate terms of agreement between the City and PB.
Attachment 2 Confidential - Deed of Settlement and Release.
Confidential Attachments appended hereto in the Official Minute Book – Appendix 20 refers.

VOTING REQUIREMENTS

Absolute Majority

MOVED Cr Park, SECONDED Cr Magyar that Council:

- 1 **ENDORSES** the Deed of Settlement and Release between Diana Holdings Pty Ltd, Perkins (WA) Pty Ltd and the City (marked “Confidential” and forming Appendix 20 hereto in the official Minute Book) in relation to the construction of the geothermal bores at the Craigie Leisure Centre;
- 2 **ENDORSES** the separate Terms of Agreement between Perkins (WA) Pty Ltd and the City as detailed in the letter from Jackson McDonald dated 20 October 2006 (marked “Confidential” and forming Appendix 20 appended hereto in the Official Minute Book);
- 3 **NOTES** that such endorsements will result in the project budget being over expended;
- 4 **AUTHORISES** unbudgeted expenditure of \$230,000 in addition to the 2006/07 budgeted expenditure of \$190,000 in order to meet the terms of the Deed and Agreement referred to in Points 1 and 2 above, and legal costs;
- 5 **NOTES** that the funding of the unbudgeted expenditure in Point 4 above will be considered in the 2006/07 mid year budget review.

Discussion ensued.

The Motion was Put and

**CARRIED BY AN
ABSOLUTE MAJORITY (11/0)**

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

Appendix 20 hereto in the official Minute Book only

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**C84-10/06 NOTICE OF MOTION NO 1 – CR BRIAN CORR - [61581]**

In accordance with Clause 26 of the Standing Orders Local Law 2005, Cr Brian Corr gave notice of his intention to move the following Motion at the Council meeting to be held on Tuesday, 31 October 2006:

“That a report be prepared on the pros and cons of the “first-past-the-post” and “proportional preferential” voting systems so that a Council preference can be conveyed to the relevant authorities.”

Cr Corr has submitted the following comment in support of his notice of motion:

“Both systems are currently in use in Australia at different levels of Government. Both have strong points and weaknesses. What effect does each have on the number of candidates seeking election? What effect does each have on voter turnout? Is one system more democratic than the other? Many questions!!

In the months ahead, there will be much discussion on the matter and it is important that this Council makes a decision on its preference and conveys that decision to the relevant authorities.”

OFFICER’S COMMENT

A report can be prepared that indicates the relative strengths and weaknesses of the voting systems.

MOVED Cr Corr, SECONDED Cr Magyar that a report be prepared on the pros and cons of the “first-past-the-post” and “proportional preferential” voting systems so that a Council preference can be conveyed to the relevant authorities.

Discussion ensued.

The Motion was Put and

CARRIED (9/2)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Hart, Jacob, John, Magyar and Park
Against the Motion: Crs Fishwick and Hollywood

C85-10/06 NOTICE OF MOTION NO 2 – CR JOHN PARK - [61581]

In accordance with Clause 26 of the Standing Orders Local Law 2005, Cr John Park gave notice of his intention to move the following Motion at the Council meeting to be held on Tuesday, 31 October 2006:

“That Council:

- 1 REQUESTS the CEO ESTABLISHES an official list of North Metro Western Australian indigenous plants that can be purchased locally, to be planted on the City of Joondalup’s reserves, verges and properties;***

- 2** *ENDORSES the planting list be used as the primary and preferred planting list for all City controlled planting;*
- 3** *REQUESTS the Conservation Advisory Committee to review the planting list every year or more often as needed, and submit the list to Council for final approval;*
- 4** *REQUESTS the CEO to suspend further plantings until the planting list is completed and approved;*
- 5** *REQUIRES that any requests for planting that differs from the official list to be submitted to Council for approval with a justification for the use of the unlisted plants.”*

Cr Park has submitted the following comment in support of his notice of motion:

“This motion will establish a uniform planting list of North Metro Western Australian indigenous plants that the City can use as a planting guide. This will decrease the use of water on verges, reserves and other City controlled property. It will also promote the natural diversity of native species within the City.

There are over a dozen local nurseries that sell only local native plants. One has over 250 different species, while another has four acres of natural local plants. All of these nurseries grow specific species for Councils all over the metro area. All the City has to do is put in an order.

By giving Infrastructure Department the responsibility to develop the list, it will give them ownership. It is proper that the Conservation Advisory Committee is asked to do a yearly review of the official planting list as they have the expertise to determine the best plants to use. The Council has the final approval. I think it is important to demonstrate to the departments the Council's deep concern and requirement for expediency on this issue, by suspending any further planting until the list is approved.

This motion does not stop the City from planting exotic plants. It simply says that the City should have an official planting list and the basis for that list should be natural local plants. If the departments wish to plant something different from the official list, then they can with proper approval.”

OFFICER'S COMMENT

It is noted that the majority of plants currently depicted on the City's planting list are native species, notwithstanding this a review is supported that gives due consideration and includes public input to guide Council in determining a community wide acceptable outcome.

In doing so it would be appropriate to develop an overall landscape master plan that involves a vision and scoping exercise which takes into consideration existing plantings, landscaping themes, location specific issues, water availability, long term maintenance obligations and appropriate public consultation.

The development of suitable criteria and guidelines to assist the City in implementing the adopted landscape master plan throughout the City is an essential part of the master planning exercise which can be dealt with by the Council with input from the advisory committees.

MOVED Cr Park, SECONDED Cr Magyar that Council:

- 1 REQUESTS the CEO ESTABLISHES an official list of North Metro Western Australian indigenous plants that can be purchased locally, to be planted on the City of Joondalup's reserves, verges and properties;**
- 2 ENDORSES the planting list be used as the primary and preferred planting list for all City controlled planting;**
- 3 REQUESTS the Conservation Advisory Committee to review the planting list every year or more often as needed, and submit the list to Council for final approval;**
- 4 REQUESTS the CEO to suspend further plantings until the planting list is completed and approved;**
- 5 REQUIRES that any requests for planting that differs from the official list to be submitted to Council for approval with a justification for the use of the unlisted plants."**

AMENDMENT MOVED Cr Park, SECONDED Cr Magyar that the words "*to be planted on the City of Joondalup's reserves, verges and properties*" be DELETED from Point 1 of the Motion.

The Amendment was Put and

CARRIED (11/0)

In favour of the Amendment: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

C86-10/06 EXTENSION OF TIME TO SPEAK – CR PARK - [61581, 02154, 08122]

MOVED Cr Hart, SECONDED Cr Corr that Cr Park be granted an extension of time to speak.

The Motion was Put and

CARRIED (11/0)

In favour of the Motion: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

AMENDMENT MOVED Cr Magyar, SECONDED Cr Jacob that an additional Point 6 be added to the Motion as follows:

- "6 THANKS the CEO and ENDORSES the CEO's actions in commencing the preparation of scoping the development of an Environmental Management Plan and a Landscape Master Plan for the City of Joondalup as outlined in his memorandum forming Attachment 1 to C85-10/06 – Notice of Motion No 2 – Cr John Park."**

Discussion ensued.

The Amendment was Put and

CARRIED (11/0)

In favour of the Amendment: Mayor Pickard, Crs Corr, Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park

Further discussion ensued.

MOVED Cr John, SECONDED Cr Hart that consideration of Notice of Motion No 2 – Cr John Park, as amended be DEFERRED to the ordinary meeting of Council scheduled to be held on 12 December 2006 pending additional information.

The Motion was Put and

CARRIED (6/5)

In favour of the Motion: Mayor Pickard, Crs Currie, Evans, Hart, Hollywood and John **Against the Motion:** Crs Corr, Fishwick, Jacob, Magyar and Park

Appendix 18 refers

To access this attachment on electronic document, click here: [Attach18min311006.pdf](#)

C87-10/06

NOTICE OF MOTION NO 3 – CR JOHN PARK - [61581]

In accordance with Clause 26 of the Standing Orders Local Law 2005, Cr John Park has given notice of his intention to move the following Motion at the Council meeting to be held on Tuesday, 31 October 2006:

“That Council ESTABLISHES a discount for Veterans and qualified pensioners of 50% off the yearly parking fees at the Ocean Reef Boat Launch facilities, to be back dated to 1 July 2006. That this discount be added to the list of Fees and Charges and be reviewed as part of the normal 2007/08 budget process.”

Cr Park has submitted the following comment in support of his notice of motion:

“It was brought to my attention a month ago that this discount has been unofficially in effect since the Wanneroo days and has never been entered into the official list of fees and charges.

I think it is unfair to delete this discount without due notice to the ratepayers and Council even though it was an unofficial discount.

It is proper to reinstate this discount, refund monies overpaid and then revisit the fee structure at the next yearly budget review.”

OFFICER’S COMMENT

Fees for the Ocean Reef Boat Launching facility are set by Council each year as part of its annual review of fees and charges. There are two scales of fees that apply. There is a per day fee which is charged at the facility itself through a meter and there is an option for an annual fee which entitles the payer to an annual pass which can be displayed on the vehicle.

For the 2006/07 financial year the per day fee set is \$6.00, an increase of \$0.50 from the previous financial year (including GST) and the annual pass fee is \$86.00, an increase of \$3.50 from the previous financial year (including GST). The annual fee represents a substantial discount on the daily fee and is particularly attractive to seasonal fisherman such as those pulling craypots, who will use the boat launching ramp as often as daily during the season and then very infrequently for the balance.

Council has been setting the fees for boat launching facilities for many years. Other than the annual pass fee, which effectively offers a substantial discount, Council has never formally considered any other form of discount for boat launching fees. It appears that at some point in the past pensioners who were able to produce a pensioner benefits card and who wished to purchase an annual pass have only been charged 50% of the normal fee. When this error was detected during the review of fees and charges for the current 2006/07 financial year it was determined that there was no basis for the practice of offering a 50% discount and it was discontinued.

The change in practice was not advertised and previous purchasers of the annual pass at a 50% discount were not informed of the change. This led to a complaint from a pensioner.

It is understood that Cr Park's proposal is that the previous practice of giving a 50% discount for the annual pass to entitled pensioners be reinstated and formally resolved by Council for the 2006/07 financial year. The future of the discount for the 2007/08 and subsequent financial years should then be formally reviewed as part of the budget process each financial year with appropriate discussion, debate and consultation. On this basis the Notice of Motion is supported.

Section 6.19 of the Local Government Act 1995 states:

"If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of:

(a) its intention to do so; and

(b) the date from which it is proposed the fees or charges will be imposed."

If the motion is supported, it should be amended to include a Part 2, which reads as follows:

"2 GIVES local public notice in accordance with Section 6.19 of the Local Government Act 1995 of the fee in (1) above, with the fee being imposed from 1 July 2006."

MOVED Cr Park, SECONDED Cr Jacob that Council ESTABLISHES a discount for Veterans and qualified pensioners of 50% off the yearly parking fees at the Ocean Reef Boat Launch facilities, to be back dated to 1 July 2006. That this discount be added to the list of Fees and Charges and be reviewed as part of the normal 2007/08 budget process.

Discussion ensued.

AMENDMENT MOVED Cr Jacob, SECONDED Mayor Pickard that words "Veterans and" be DELETED from the Motion.

Discussion ensued. Cr Fishwick foreshadowed his intention to move a different motion should the Amendment under consideration not be successful.

The Amendment was Put and

LOST (4/7)

In favour of the Motion: Crs Corr, Hollywood, Magyar and Park **Against the Motion:** Mayor Pickard, Crs Currie, Evans, Fishwick, Hart, Jacob and John

AMENDMENT MOVED Cr Fishwick, SECONDED Cr Jacob that the words “Veterans and qualified pensioners” be DELETED and replaced with the words “in accordance with Council Budget decision as of 25 July 2006 in relation to discounted rates and charges”.

The Amendment was Put and

CARRIED (10/1)

In favour of the Amendment: Mayor Pickard, Crs Corr, Currie, Fishwick, Hart, Hollywood, Jacob, John, Magyar and Park **Against the Amendment:** Cr Evans

AMENDMENT MOVED Cr Magyar that the Motion be amended as follows:

Motion 1 be amended as follows:

- the word “*intends*” be inserted prior to the word “ESTABLISHES”
- the words “*to be backdated to 1 July 2006*” be added at the end of Point 1.

An additional Point 2 as follows:

- “2 ADVERTISES for local public comment the intention to establish a discount; effective from 1 January 2007.

Chief Executive Officer advised it was not possible to backdate the discount to 1 July 2006.

There being no Secunder, the Motion

LAPSED

Discussion ensued.

MOVED Cr Hart, SECONDED Cr Fishwick that consideration of Notice of Motion No 3 – Cr John Park, as amended, be DEFERRED to the ordinary meeting of Council scheduled to be held on 12 December 2006 in order to seek further clarification.

The Motion was Put and

CARRIED (6/5)

In favour of the Motion: Mayor Pickard, Crs Currie, Fishwick, Hart, Jacob and John **Against the Motion:** Crs Corr, Evans, Hollywood, Park and Magyar

C88-10/06

NOTICE OF MOTION NO 4 – CR RICHARD CURRIE - [61581]

In accordance with Clause 26 of the Standing Orders Local Law 2005, Cr Richard Currie has given notice of his intention to move the following Motion at the Council meeting to be held on Tuesday, 31 October 2006:

“That the City of Joondalup ADVISES the Hon. Minister for Local Government and Regional Development that it:

- 1 Strongly opposes any change to the local government voting system until such time as a full consultative process and assessment of the impact of the proposed proportional preferential voting system has been undertaken;***

- 2** *Requests the State Government to justify its reasons for proposing a change to the local government voting system that is contrary to the expressed wishes of the WA Local Government Association, the Local Government Advisory Board, the Local Government Managers Australia (WA Branch) and a majority of WA local governments;*
- 3** *Requests the State government examines the local government electoral system in its entirety rather than a piecemeal approach."*

Cr Currie has submitted the following comment in support of his notice of motion:

"The Local Government Association has commenced an aggressive campaign to oppose the proposed change to the Local Government elections from a first-past-the-post to proportional preferential type election.

First-past-the-post is an uncomplicated, easy for the electors to understand method of casting a vote and having it counted. It is acknowledged that there has been a marked decrease in the number of informal votes lodged since the introduction of first-past-the-post elections for local government.

Critics of proportional preferential voting say that as all candidates must be given a preference the voter is often be forced to vote for a candidate that he does not want elected. Also preferential voting does give the major political parties an opportunity to become overtly involved in local government elections.

If the State Government is serious in its attempts to reform local government elections it should be done with a full consultative approach of all players involved and an assessment of the impact of the introduction of preferential voting is made before introducing any further changes.

I consider the current system is working well and there is not a ground swell of opinion to dramatically change the operation of the first past the post system."

OFFICER'S COMMENT

In terms of Part 1 of the Notice of Motion, the State has entered a partnership agreement with Local Government. One element of this agreement requires the State to give three months' notice of legislative changes that will affect Local Government.

This notice was not provided in relation to the change to first-past-the-post voting. Consequently, opposition to the change on the basis that the agreed consultative process was broken appears justified.

In terms of Part 2, the State Government provided no justification for the change when the Bill was introduced to Parliament. However, the Minister has subsequently sent a letter to Local Governments providing reasons for the change. Both the City and WALGA have identified a number of issues with this letter which are outlined in the CEO's letter to the Director General of the Department of Local Government and Regional Development and on WALGA's Infopage, both of which have been made available to Elected Members.

This Part also makes reference to the wishes of a variety of other bodies. Here it is noted that the Local Government Advisory Board recommended no change to the first-past-the-post voting system, WALGA has supported the status quo which also has the support of 90% of Councils who responded to WALGA's survey, while the Local Government Managers Australia also support retention of the current system.

Part 3 of the Notice of Motion requests examination of the electoral system in its entirety. This was undertaken by the Local Government Advisory Board earlier this year in its review of structural and electoral reform. However, the State Government has decided to pick up one element of the review, the voting system, and proposes changes here.

MOVED Cr Currie, SECONDED Cr Fishwick that the City of Joondalup ADVISES the Hon. Minister for Local Government and Regional Development that it:

- 1 Strongly opposes any change to the local government voting system until such time as a full consultative process and assessment of the impact of the proposed proportional preferential voting system has been undertaken;**
- 2 Requests the State Government to justify its reasons for proposing a change to the local government voting system that is contrary to the expressed wishes of the WA Local Government Association, the Local Government Advisory Board, the Local Government Managers Australia (WA Branch) and a majority of WA local governments;**
- 3 Requests the State government examines the local government electoral system in its entirety rather than a piecemeal approach.**

During discussion on the matter, it was requested that each part of the Motion be voted upon separately.

Point 1 of the Motion was Put and

CARRIED (9/2)

In favour of the Motion: Mayor Pickard, Crs Currie, Evans, Fishwick, Hart, Hollywood, Jacob, John and Park
Against the Motion: Crs Corr and Magyar

Point 2 of the Motion was Put and

CARRIED (7/4)

In favour of the Motion: Mayor Pickard, Crs Currie, Fishwick, Hart, Hollywood, Jacob, and Park
Against the Motion: Crs Corr, Evans, John and Magyar

Point 3 of the Motion was Put and

CARRIED (7/4)

In favour of the Motion: Mayor Pickard, Crs Currie, Evans, Fishwick, Hollywood, Jacob and Park
Against the Motion: Crs Corr, Hart, John and Magyar

ANNOUNCEMENTS OF NOTICES OF MOTION FOR THE NEXT MEETING

Nil.

BEST WISHES

On behalf of fellow Elected Members Mayor Pickard congratulated Manager, Approvals Planning and Environmental Services, Mr Chris Terelinck on his recent marriage to Jean on 15 October 2006.

Mayor Pickard also congratulated Cr Park and his fiancée Sue on their forthcoming marriage on 9 November 2006 and wished them all the best for the future.

CLOSURE

There being no further business, the Mayor declared the Meeting closed at 2215 hrs; the following Elected members being present at that time:

MAYOR T PICKARD
Cr K HOLLYWOOD
Cr A JACOB
Cr S MAGYAR
Cr J PARK
Cr M JOHN
Cr M EVANS
Cr S HART
Cr B CORR
Cr R FISHWICK
Cr R CURRIE