

minutes

Ordinary Meeting of Council

MEETING HELD ON **TUESDAY, 15 DECEMBER 2009**

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CITY OF JOONDALUP

MINUTES OF COUNCIL MEETING HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON TUESDAY, 15 DECEMBER 2009

DECLARATION OF OPENING

The Mayor declared the meeting open at 1909 hrs.

ANNOUNCEMENT OF VISITORS

Mayor:

TROY PICKARD

Councillors

Cr KERRY HOLLYWOOD	North Ward – <i>Deputy Mayor</i>	
Cr TOM McLEAN	North Ward	
Cr TRONA YOUNG	North-Central Ward	
Cr PHILIPPA TAYLOR	North-Central Ward	
Cr LIAM GOBBERT	Central Ward	
Cr GEOFF AMPHLETT	Central Ward	
Cr CHRISTINE HAMILTON-PRIME	South-West Ward	
Cr MIKE NORMAN	South-West Ward	
Cr JOHN CHESTER	South-East Ward	<i>Absent from 1947 hrs to 1949 hrs</i> <i>Absent from 1950 hrs to 1953 hrs</i>
Cr BRIAN CORR	South-East Ward	
Cr RUSS FISHWICK	South Ward	

Officers:

MR GARRY HUNT	Chief Executive Officer
MR CLAYTON HIGHAM	Acting Director, Planning and Development
MR JAMIE PARRY	Director, Governance and Strategy
MR MIKE TIDY	Director, Corporate Services
MR MARTYN GLOVER	Director, Infrastructure Services
MR MIKE SMITH	Manager, Governance and Marketing
MR ROBERT FARLEY	Manager Planning Approvals and Environmental Services
MR MARK McCRORY	Media Advisor
MRS JANET FOSTER	Administrative Services Coordinator
MRS ROSE GARLICK	Administrative Secretary

There were 53 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 17 November 2009:

Mrs M Macdonald, Mullaloo:

- Q1 *Council made a decision to take legal action against Turfmaster with respect to the spraying of the City's sumps. At what stage is the legal action and has a court date been set?*
- A1 The legal action is progressing through case management in the Supreme Court. A trial date has not been set.
- Q2 *What has been the cost of the legal fees to date with respect of the legal action?*
- A2 The City is diligently recording and monitoring all costs associated with the legal action.
- Q3 *What has been the cost of removal of dead trees and reinstatement of plantings in the sumps to date?*
- A3 The City is diligently recording and monitoring all costs associated with the sump remediation and revegetation program.
- Q4 *In light of the Federal Government's statement this week on sea level rises and the destruction of coastal environments has the City reviewed the proposed development of Ocean Reef Marina with respect to this statement?*
- A4 As part of the Structure Plan preparation process detailed studies will be undertaken in respect to sea level rises and the effect on the proposed development.

The following questions were taken on notice at the Annual General Meeting of Electors held on 24 November 2009:

Mr M Sideris, Mullaloo:

Re: Kite Board Surfing at Mullaloo Beach.

- Q1 *Why are kite boarders still allowed to kite from Warren Way North and why isn't the City taking on board its responsibility to provide safe beach access?*
- A1 Outside of the designated and flagged swimming areas patrolled by the surf lifesavers there are no restrictions relating to the general use of kite boards. All users of the beach are expected to do so responsibly. The City does take its responsibilities in regards to safety on the beach seriously and it will address any instance that is reported to it where users, be they kite boarders or others, are not acting responsibly.

Re: Mullaloo Beach Tavern Redevelopment.

Q2 *Please advise why the changes to the original development approval did not come to this Council even though there were significant changes to that approval?*

A2 The changes were to the internal layout of the development only, and did not result in an increase in car parking requirements for the development. The application was not required to be determined by Council.

Q3 *Can you provide the details of the following:*

- (a) total net lettable area of the Dome Café;*
- (b) the standing patronage for the Dome Café;*
- (c) the seating patronage for the Dome Café;*
- (d) the car parking requirement for the Dome Café;*
- (e) if there was any cash-in-lieu involved?*

A3 (a) The total NLA for the restaurant (Dome Café) is 274m². The dining floor space of the restaurant is capped at 131m² NLA;

(b & c) The overall patronage for the restaurant is capped at 104 persons as part of a condition of approval. The assessment does not distinguish between seating and standing capacity.

(d) The car parking requirement for the restaurant component of the development is 26.2 bays;

(e) No cash in lieu was required as no change to car parking occurred as a result of this approval.

The following written questions were submitted prior to the Council meeting:

Mrs L Tovey, Warwick:

Re: Construction of footpath in Aberdare Way, Warwick

Q1 *Why did the Council commence the construction of the footpath in Aberdare Way, Warwick on Monday 8th December 2009 with the knowledge that a petition to stop such construction (by revoking the Council Resolution passed on 10th October 2009) was delivered to the Council on Friday 27th November 2009?*

A1 The work for the Aberdare Way footpath commenced on 24 November 2009 with the removal of the existing kerb, work continued on the 27 November with the installation of the new mountable kerb. The petition was received by the City on 1 December 2009.

Q2 *Were the ratepayers of Aberdare way, Warwick asked what facilities in the area needed to be provided or upgraded prior to the decision to construct a footpath?*

A2 The City has not conducted a specific investigation regarding facilities however investigations were undertaken with regard to the footpath.

Q3 *Why does the Council not reply to rate payers letters of concerns about the facilities in Warwick, particularly Aberdare Way road surface and Aberdare Park path condition and lack of lighting.*

A3 Since March 2009, the City has received enquiries from five separate ratepayers in and around Aberdare Way regarding services. These enquiries included traffic, road and kerb repair, Aberdare Park, footpath and play equipment. In all cases the enquiries were responded to by phone or in writing.

Mr E Tovey, Warwick:

Re: Construction of footpath in Aberdare Way, Warwick

Q1 *Why did the Council fail to notify residents of Aberdare Way Warwick that they would not be able to use their caravans or boats from the morning of Friday 11th December, through the weekend of 12th and 13th of December and into the week of 14th December 2009? (Note: Boats and caravans are often not parked on the driveway but to the side of the house. A wide trench has been dug preventing access to the property other than using the crossover which is used by motor vehicles. It is currently not possible to remove a caravan or reverse it into the property safely under the current conditions.*

A1 The City apologises for specifically not advising residents that there would be access difficulties for vehicles that were parked on private property that did not normally access the property via the crossover. The standard construction letter has been amended to advise of the potential inconvenience.

Mr M Sideris, Mullaloo:

Re: Annual General Meeting of Electors

Q1 *Advise if it is the City Officers or the Council who is responsible for the answering of public questions and recommended action relating to the answers to questions to the Council.*

A1 The guidelines adopted by the Council for the submission of and answering of public questions detail the process to follow. These guidelines are found at the beginning of the briefing Session and Council Meetings agendas.

Q2 *At the AGM of Electors it was publicly confirmed that the CEO of the City of Joondalup was on a total salary package of \$296,000; then confirm which City of Joondalup Officer has a Salary Package between \$300,000 and \$309,999 as identified in Payment to Employees page 41 of the Annual Report for 2008/09?*

A2 *The table on page 41 lists by salary band the remuneration actually paid. The person in the \$300,000 to \$309,999 band is the CEO. This is higher than his remuneration package because during the 2008/09 financial year he cashed out some annual leave.*

Q3 *At the AGM of Electors the Contract of Employment of the CEO was declared as 'Confidential'. Did the CEO advise the presiding member that this declaration is contrary to the provisions of the Local Government Act, and if so what was the CEO's advice?*

A3 The response provided at the AGM of Electors pertained to the KPIs being a confidential element of the CEO's contract.

The Local Government Act 1995 prescribes what elements of the CEO's contract are to be made available publicly. These will be made available.

Dr V Cusack, Kingsley:

Re CJ272-12/09 Setting of Meeting Dates 2010

Q1 *Does Council acknowledge that it may well be 'playing into the hands' of the proponents advocating for Development Assessment Panels by only having half the number of Ordinary Meetings of Council (OMC) compared to many of the other local government Authorities in Western Australia?*

A1 No.

Q2 *Does Council still plan to hold the behind closed doors 'secret strategy sessions'? And if so why are such proposed meetings not listed on the 'public record' Council agenda, and perhaps more importantly in the subsequent Council Minutes?*

A2 Strategy Sessions provide a forum for two-way communication between Elected Members and employees on strategic or complex issues.

The sessions are conducted in accordance with the Department of Local Government's Operational Guidelines on Council Forums and therefore meet good governance requirements.

Q3 *Will Council consider reverting back to the 'pre Denis Smith days' of a briefing session, followed by an Ordinary Meeting of Council fortnightly meeting cycle, (22 OMC per year) in order to restore good governance and to overcome the delays in the development approval process?*

A3 This is a matter for Council to consider.

Mr S Brown, Hillarys:

Re: Item CJ268-12/09 – Hillarys Development, 35 Martinique Mews

Q1 *Would you please advise the Relative Level (RL) of the apexes of the six(6) 37 degree hip and pitched roofs over the third floor balconies of the multiple dwellings building?*

A1 *The RL of these has been measured at 16.4 AHD off the submitted plans.*

Q2 *Would you please advise the Relative Level (RL) of the apexes of the two (2) towers of the commercial building?*

A2 The RL for the various roof components of the commercial component of the development are 16.5 AHD; 15.4 AHD; and 14.8 AHD as indicated on the submitted plans.

Mrs M Macdonald, Mullaloo:

Re: Action against Turfmaster

Q1 *The City has stated that it is diligently recording and monitoring all costs, legal and revegetation costs, associated with the action against Turfmaster and the removal and replacement of dead trees in and surrounding sumps. Why can't the ratepayers be informed of the amount that has been spent to date on this issue as requested in my question for the meeting of November 17?*

A1 The information can not be disclosed for legal reasons as it forms part of the City's claim against Turfmaster.

Q2 *The City has stated that the legal action against Turfmaster is progressing through Case Management. Is this a form of mediation and is it compulsory to take part in this?*

A2 Case management in the Supreme Court applies to all civil actions. Case management involves the case being managed by a registrar who gives directions to the parties to try and ensure that each case settles by agreement between the parties or proceeds to trial in the quickest, most cost effective way.

Q3 *Why can't ratepayers be informed of the amount of legal and other associated costs incurred by the City undertaking a mediation process with volunteers for alleged spraying of Korella Park as previously requested by me?*

A3 All information the subject of discussion at mediation is confidential and the City is bound by a confidentiality undertaking not to release it.

Re: Ocean Reef Marina Committee

Q4 *The minutes of the Ocean Reef Marina Committee state:*

"In essence the commissioning of further detailed research is a risk mitigation strategy and will provide a greater degree of certainty that the attributes of the site, such as soil, hydrology, seabed, potential contamination and environmental values etc, are well known."

Can the City state which previous studies on, soil, hydrology, seabed, potential contamination and environmental values etc, discussing Plan 7 with Artificial Reef gives any degree of certainty and why did it inform ratepayers that the proposal was viable environmentally?

Q5 *What did previous studies state would be the adverse outcomes of construction of Plan 7 with Artificial Reef on the City's iconic Mullaloo Beach with respect to erosion of dunes, water quality and build up of seaweed on beach?*

A4-5 As previously advised, the inclusion of an artificial surf break in Concept Plan 7 was requested by the Ocean Reef Marina Committee at the meeting held 30 April 2009 and was included to provide an additional amenity within the development and to replace any existing surf breaks lost due to the proposed development.

As stated in the brochure sent to residents and ratepayers as part of the Council endorsed Community Consultation:

“Preliminary studies and research in the areas of environmental impact and sustainability, structure, planning, coastal engineering and hydrology, and financial and commercial viability have been completed and indicate that the site has **the potential** for development.”

Also as previously advised, the inclusion of the artificial surf break as an amenity or as a means of managing any possible sand sediment transfer is subject to detailed design, engineering analysis and modelling and coastal hydrology studies.

The following questions were submitted verbally at the Council meeting:

Mrs R Flemming, Ocean Reef:

Re: CJ270-12/09 – Petition Requesting Provision of Skate Park Facility – Ocean Reef/Mullaloo:

Q1 *Is the skate park going ahead in Mirror Park, Ocean Reef?*

A1 The item on the agenda proposes public consultation on the initiatives being considered for Mirror Park. The local community will be asked for their views on a general upgrade of Mirror Park, and one of the proposals in accordance with the petition received, is to incorporate a skate park. The feedback will be presented to the Council for future consideration.

Q2 *Could you please explain why the residents in the proximity of Mirror Park and Etchell Court, Ocean Reef were not approached in relation to the petition that was circulating?*

A2 The original petition was presented to Council a few months ago requesting the installation of a skate park facility. As the City was not the organiser of the petition, it is unknown why certain residents were not approached to sign it. This is a question that would need to be asked of those persons responsible for organising the petition.

Mr M Sideris, Mullaloo:

Re: Annual General Meeting of Electors:

Q1 *Advise if it is the City Officers or the Council who is responsible for the answering of public questions and recommended action relating to the answers to questions to the Council.*

A1 This question will be taken on notice.

Q2 *At the recent Annual General Meeting of Electors, there were a number of questions asked at, or submitted to that meeting, including questions by Michael Caiacob. None of those questions appear in the minutes of that meeting or in the agenda for this evening's Council meeting as taken on notice. I understand that Mr Caiacob has received responses to those questions this evening. When will the responses be placed into the public domain?*

A2 The questions and responses will not be placed into the public domain as there is no provision to present written questions at the Annual General Meeting.

Mrs L Cusworth, Ocean Reef:

Re: CJ270-12/09 – Petition Requesting Provision of Skate Park Facility – Ocean Reef/Mullaloo:

Q1 *What guidelines are used to estimate an acceptable distance from homes to a proposed skate park?*

A1 This question will be taken on notice.

Q2 *If a skate park was developed in any park and anti-social behaviour, vandalism or drug use escalated to an untenable level, would the Council be prepared to close that park?*

A2 It is unwise to comment on hypothetical scenarios, therefore a specific response is not able to be provided.

Dr V Cusack, Kingsley:

Re: CJ272-12/09 – Setting of Meeting dates for 2010

Q1 *Why are the Strategy Sessions not included as part of the proposed meeting dates?*

Q2 *Will the agendas for Strategy Sessions be published on the City's website as was the case during the time of the City's Commissioners?*

A1&2 These questions will be taken on notice.

Mr R Repke, Kallaroo:

Re: Proposed Dan Murphy Development, Currambine:

Q1 *The Council had rejected an application to build a 1500sqm² liquor store. It now appears that Dan Murphy is proceeding with a different building and is looking for tenants.*

A1 The Dan Murphy proposal was supported by the State Administrative Tribunal and that is the development progressing at present. Application for a liquor licence is required to be made through the Department of Racing, Gaming and Liquor, which is outside the jurisdiction of the Council.

Re: CJ282-12/09 – Hydrothermal Weed Control Trial

Q2 Would it not be an idea:

- (i) to make an effort to find someone to do the 'hot foam' application for testing?
- (ii) to test the hydrothermal system for a longer period to see what happens?

Q3 Is the Council aware that it takes five (5) years until chemically treated soil returns to its natural resistance to weeds?

Q4 Is the Council aware that weeds develop resistance against chemicals, in which case newer, stronger and more expensive treatments are needed which do more and more damage to non-weeds?

Q5 Would the Council not agree that ICLEI would expect a longer testing period prior to making a judgement?

In summary, should the Council not come to a different solution than that suggested in Report CJ282-12/09?

A2-5 The number of questions raised breaches Public Question Time Guidelines. These will be treated as rhetorical questions.

Dr M Apthorpe, Ocean Reef:

Re: Seed Collection at Ocean Reef Marina site:

Q1 Why has the City of Joondalup refused permission for any seed collection of native vegetation in the areas of the Ocean Reef Marina plan that are to be cleared?

Q2 Is the City of Joondalup aware that waiting until a clearing permit is issued for the bushland in question will be too late for seed collection?

A1&2 These questions will be taken on notice.

PUBLIC STATEMENT TIME

Mrs T Forder, Kallaroo:

Mrs Forder spoke in relation to CJ263-12/09 – Proposed Farmers Market at Springfield Primary School – 31 Bridgewater Drive Kallaroo.

Mr J Barker, Hillarys:

Mr Barker spoke in relation to CJ268-12/09 – Proposed 24 multiple dwellings, 8 grouped dwellings, offices, shop, convenience store and restaurant at Lot 9009 (35) Martinique Mews, Hillarys.

Mr S Brown, Hillarys:

Mr Brown spoke in relation to CJ268-12/09 – Proposed 24 multiple dwellings, 8 grouped dwellings, offices, shop, convenience store and restaurant at Lot 9009 (35) Martinique Mews, Hillarys.

Mrs L Cusworth, Ocean Reef:

Mrs Cusworth spoke in relation to CJ270-12/09 - Petition requesting provision of skate park facility – Ocean Reef / Mullaloo.

Mr C McGregor, Ocean Reef and Mr B Keogh, Mullaloo:

Mr McGregor and Mr Keogh spoke in relation to CJ270-12/09 - Petition requesting provision of skate park facility – Ocean Reef / Mullaloo.

Ms F May, Mullaloo:

Ms May spoke in relation to CJ270-12/09 - Petition requesting provision of skate park facility – Ocean Reef / Mullaloo.

Mr M Barton, Ocean Reef:

Mr Barton spoke in relation to CJ270-12/09 - Petition requesting provision of skate park facility – Ocean Reef / Mullaloo.

C92-12/09 EXTENSION OF PUBLIC STATEMENT TIME - [01122] [02154]

MOVED Cr Young, SECONDED Cr Gobbert that Public Statement Time be extended.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Mr R Repke, Kallaroo:

Mr Repke spoke in relation to the use of beaches in the City of Joondalup.

Ms H Chester, Kingsley:

Ms Chester spoke in relation to CJ265-12/09 – Proposed Amendment No 46 to District Planning Scheme No 2 to rezone Lot 9867 (63) Mulligan Drive, Greenwood from public use to urban development.

Dr M Apthorpe, Ocean Reef:

Dr Apthorpe spoke in relation to seed collection at the Ocean Reef Marina site.

APOLOGIES AND LEAVE OF ABSENCE

Apology: Cr Fiona Diaz

Leave of Absence previously approved

Cr Trona Young	26 November 2009 – 15 December 2009 inclusive
Cr Fiona Diaz	19 December 2009 – 31 January 2010 inclusive
Cr Liam Gobbert	22 January 2010 – 14 February 2010 inclusive

**C93-12/09 REQUESTS FOR LEAVE OF ABSENCE – CR TOM McLEAN,
CR RUSS FISHWICK AND CR MIKE NORMAN – [78624]**

Cr Tom McLean requested Leave of Absence from Council duties covering the period 20 December 2009 to 20 January 2010 inclusive.

Cr Russ Fishwick requested Leave of Absence from Council duties covering the period 21 January 2010 to 12 February 2010 inclusive.

Cr Mike Norman requested Leave of Absence from Council duties covering the period 5 January 2010 to 16 January 2010 inclusive.

MOVED Cr Hollywood, SECONDED Cr Amphlett that Council APPROVES the Requests for Leave of Absence from Council duties covering the following dates:

Cr Tom McLean	20 December 2009 to 20 January 2010 inclusive;
Cr Russ Fishwick	21 January 2010 to 12 February 2010 inclusive;
Cr Mike Norman	5 January 2010 to 16 January 2010 inclusive.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

CONFIRMATION OF MINUTES**C94-12/09 MINUTES OF COUNCIL MEETING, 17 NOVEMBER 2009**

MOVED Cr Norman, SECONDED Cr McLean that the Minutes of the Council Meeting held on 17 November 2009 be confirmed as a true and correct record.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION**ACKNOWLEDGEMENT OF COMMUNITY FUNDING PROGRAM GROUPS**

Mayor Pickard advised that the City has recently approved a series of Community Funding applications from several local groups.

The Community Funding Program is designed to assist and support the development of the City's many varied groups, be it sporting organisations or environmental, community or cultural groups that positively contribute to the well-being of the community.

Mayor Pickard invited the following individual representatives from the successful groups who were in attendance to receive a certificate acknowledging the funding grant and a cheque:

Toni Whiteaker of the Duncraig Lions Club;

Louise Giolitto, CEO of Joondalup Youth Support Services;

Yvonne McPherson of the Kingsley and Greenwood Ratepayers Association;

Jeff Pitt from Parents Without Partners;

John O'Brien, Manager of Volunteer Task Force;

Trish Offereins of Welcome 2 Perth;

Tracey Hennessey, Program Development Manager of Women's Healthworks;

Joy Robinson, President of Beaumaris Bowling Club;

Amanda Knight, President of Oceanside Little Athletics Club;

Steve Oliver, Ocean Reef Sea Sports Club Rear Commodore Power Boats.

Mayor Pickard congratulated each of the very important organisations in receiving funding from the City of Joondalup to help deliver specific programs.

Cr Chester left the Chamber at 1947 hrs and returned at 1949 hrs.

HEATHRIDGE CAROLS IN THE PARK

Mayor Pickard advised that the 2009 Heathridge Carols in the Park is on this Sunday (December 19) at Heathridge Park.

The very popular annual event is proudly supported by the City of Joondalup and for more than a decade has been an integral part of the community's Christmas celebrations.

He stated that every year thousands of local residents come together for this special occasion and encouraged the community to attend this great event.

Heathridge Carols in the Park has become a tradition where every year people take time out from busy schedules to reflect on the importance of faith, family and friends – which is especially important during the festive season.

Cr Chester left the Chamber at 1950 hrs and returned at 1953 hrs.

FAREWELL TO DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT - CLAYTON HIGHAM

Mayor Pickard announced that the Director of Planning and Community Development, Clayton Higham is unfortunately leaving the City in the New Year.

Mr Higham has been a long serving Director who was first appointed in 1998, the City of Joondalup's inaugural year of establishment.

Mr Higham has overseen many important and major developments in the City Centre in his time including extensions to Lakeside Joondalup Shopping City and the Joondalup Health Campus.

Mayor Pickard stated that this will be the last Council meeting for Mr Higham and thanked him on behalf of the Council for his hard work and dedication during his many years at the City.

Mayor Pickard advised that Mr Higham has been a great asset for the City and will most certainly be missed by all.

Mayor Pickard wished Mr Higham good luck in his new role as Director of Planning and Development Services at the Shire of Kalamunda.

DECLARATIONS OF INTEREST

Disclosure of Financial Interest

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	CJ278-12/09 – Request for Annual Leave – Chief Executive Officer
Nature of interest	Financial Interest
Extent of Interest	Annual Leave for Chief Executive Officer

Disclosure of interest affecting impartiality

Elected Members (in accordance with Regulation 11 of the Local Government [Rules of Conduct] Regulations 2007) and employees (in accordance with the Code of Conduct) are required 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	Mayor Troy Pickard
Item No/Subject	CJ263-12/09 – Proposed Farmers Market at Springfield Primary School – 31 Bridgewater Drive, Kallaroo
Nature of interest	Interest that may affect impartiality
Extent of Interest	A relative of Mayor Pickard resides opposite the school site at 2 Oleander Way, Kallaroo

Name/Position	Cr Kerry Hollywood
Item No/Subject	CJ263-12/09 – Proposed Farmers Market at Springfield Primary School – 31 Bridgewater Drive, Kallaroo
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Hollywood personally knows the Headmaster, whose son was a friend of one of her sons, who attended Springfield Primary School from Years 1 - 4

Name/Position	Mayor Troy Pickard
Item No/Subject	CJ265-12/09 – Proposed Amendment No 46 to District Planning Scheme No 2 to Rezone Lot 9867 (63) Mulligan Drive, Greenwood from Public Use to Urban Development
Nature of interest	Interest that may affect impartiality
Extent of Interest	Mayor Pickard is a member of the Kingsley and Greenwood Residents' Association

Name/Position	Cr John Chester
Item No/Subject	CJ265-12/09 – Proposed Amendment No 46 to District Planning Scheme No 2 to Rezone Lot 9867 (63) Mulligan Drive, Greenwood from Public Use to Urban Development
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Chester is a member of the Kingsley and Greenwood Residents' Association

Name/Position	Cr Tom McLean
Item No/Subject	CJ271-12/09 – Funding for the Small Business Centre (North West Metro) Inc
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr McLean is a member of the Small Business Centre Board - Treasurer

Name/Position	Cr Mike Norman
Item No/Subject	CJ275-12/09 – Minutes of Annual General Meeting of Electors held Tuesday, 24 November 2009
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Norman is Chairman of the 'Joondalup Community Coast Care Forum' and Co-ordinator of 'Friends of Sorrento Beach' and 'Friends of Porteous Park'.

Name/Position	Cr Mike Norman
Item No/Subject	CJ282-12/09 – Hydrothermal Weed Control Trial
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Norman is Chairman of the Joondalup Community Coast Care Forum.

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

Nil.

C95-12/09 PETITIONS

- 1 PETITION OBJECTING TO ANY PROPOSED GROWERS MARKET, POYNTER PRIMARY SCHOOL, DUNCRAIG - [07584]

A 110-signature petition has been received from residents of the City of Joondalup objecting to any proposal to hold a Growers Market at Poynter Primary School, Duncraig, irrespective of frequency and duration.

- 2 PETITION REQUESTING REVOCATION OF COUNCIL DECISION IN RELATION TO CONSTRUCTION OF A PATH IN ABERDARE WAY, WARWICK - [74506]

A 25-signature petition has been received from residents of Aberdare Way, Warwick requesting that Council revoke its decision of 13 October 2009 as follows:

- “1 *APPROVES the construction of a 1.8m wide concrete path along the eastern side of Aberdare Way, Warwick from No 61 to No 41 then continue along the northern side of the verge. The footpath would also extend through Ellersdale Park, enabling it to link with the pavilion and change rooms on the Park and the existing footpaths as shown in Attachment 5 to Report CJ236-10/09;*”

- 3 PETITION REQUESTING AN UPGRADE OF THE PUBLIC PARK ON GRADIENT WAY, BELDON; TO INCLUDE UPDATED PLAY EQUIPMENT WITH SOFT FALL, APPROPRIATE SHADE, SEATING, DRINK FOUNTAIN WITH DOG DRINKING AREA, BBQ FACILITIES AND A SAFE TOILET BLOCK- [79522]

Cr Corr tabled an 11-signature petition on behalf of the residents of the City of Joondalup requesting that Council upgrade the public park on Gradient Way, Beldon.

- 4 PETITION TO PERMANENTLY BAN THE PRACTICE OF BURNING OF GARDEN REFUSE OR OTHER WASTE IN RESIDENTIAL BACKYARDS – [10047]

Cr Fishwick tabled an 18-signature petition on behalf of the residents of the City of Joondalup to permanently ban the practice of burning of garden refuse or other waste in residential backyards.

- 5 PETITION REQUESTING THAT COUNCIL INVESTIGATES THE TRAFFIC SAFETY CONCERNS AT HALIDON PRIMARY SCHOOL, KINGSLEY – [06713, 38526]

Cr Corr tabled an 18-signature petition on behalf of the residents of the City of Joondalup requesting that Council investigates, with appropriate remedial action, the traffic safety concerns at Halidon Primary School along Matisse Way, Kingsley, at the T-junction of Matisse Way and Bargate Way and on Halidon Street; safety concerns regarding blind spots created by parking on the grass verges, U-turns across pavements, parking on the road bend, on the curb, and in designated no-parking areas.

MOVED Cr Hollywood, SECONDED Cr Young that the following Petitions be RECEIVED, referred to the CEO, and subsequent reports presented to Council for information:

- 1 **Petition objecting to any proposal to hold a Growers Market at Poynter Primary School, Duncraig;**
- 2 **Petition requesting that Council revoke its decision of 13 October 2009 with respect to construction of a path in Aberdare Way, Warwick;**
- 3 **Petition requesting an upgrade of the public park on Gradient Way, Beldon; to include updated play equipment with soft fall, appropriate shade, seating, drink fountain with dog drinking area, BBQ facilities and a safe toilet block;**
- 4 **Petition to permanently ban the practice of burning of garden refuse or other waste in residential backyards;**
- 5 **Petition requesting that Council investigates the traffic safety concerns at Halidon Primary School, Kingsley.**

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

CJ262-12/09 MONTHLY TOWN PLANNING DELEGATED AUTHORITY REPORT DEVELOPMENT, CODE VARIATIONS AND SUBDIVISION APPLICATIONS OCTOBER 2009

WARD:	All
RESPONSIBLE DIRECTOR:	Mr Clayton Higham Planning and Development (Acting)
FILE NUMBER:	07032, 05961
ATTACHMENTS:	Attachment 1 October 2009 – Decisions Planning Applications (Development Applications & R-Codes Variations) Attachment 2 October 2009 – Decisions Building Applications (R-Codes Variations) Attachment 3 October 2009 - Subdivision Applications Processed

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 a committee or an employee of the City.

The purpose of delegation of certain powers by Council, in addition to other Town Planning matters, is to facilitate timely processing of development applications, R-codes variations and subdivision applications. The framework for the delegation of those powers is set out in resolutions adopted by Council and is reviewed on a 2 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.

This report identifies:

- 1 Planning Applications (Development Applications and Residential Design Codes Variations);
- 2 Building Applications (Residential Design Codes Variations); and
- 3 Subdivision Applications

determined by those staff members with Delegated Authority powers during October 2009 (see Attachments 1, 2 and 3 respectively).

BACKGROUND

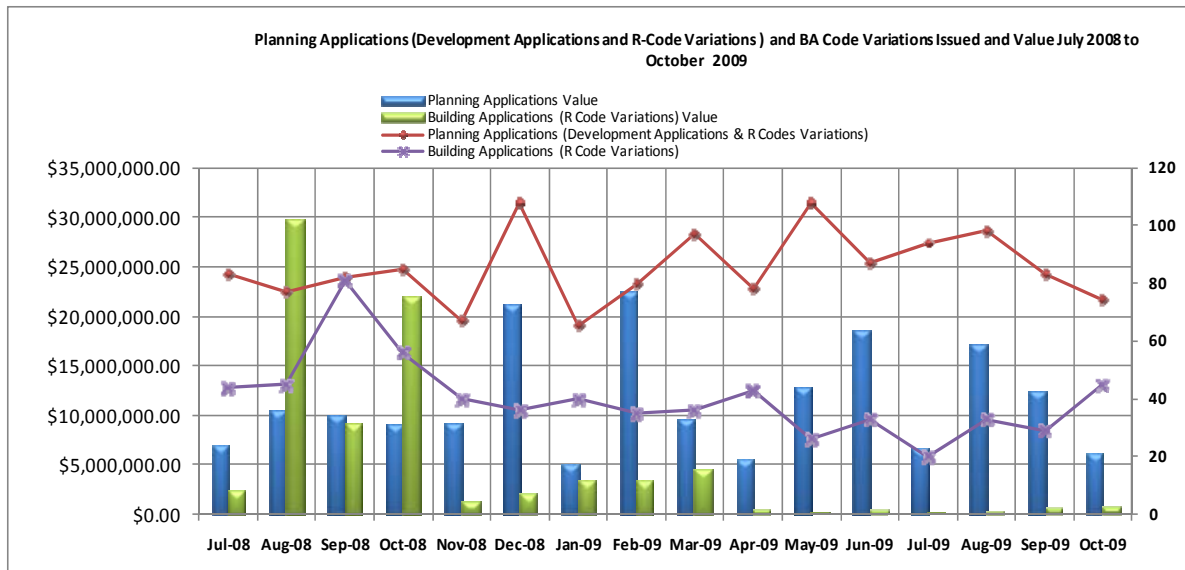
The District Planning Scheme No 2 requires that delegation be reviewed 2 yearly, unless a greater or lesser period is specified by Council. Council, at its meeting held on 13 October 2009 considered and adopted the most recent Town Planning Delegation for the period to 16 June 2011.

DETAILS

The number of applications determined under delegated authority for the period of October 2009, are shown below:

Approvals Determined Under Delegated Authority – October 2009		
Type of Approval	Number	Value (\$)
Planning Applications (Development Applications & R-Codes Variations)	74	\$ 6,078,766
Building Applications (R-Codes Variations)	45	\$ 700,161
TOTAL	119	\$ 6,778,927

The number of development applications received during the period for October 2009 was 133 (This figure does not include any applications that may become the subject of an R-Code Variation as part of the Building Licence process).



Subdivision Approvals Processed Under Delegated Authority From 1 October to 31 October 2009		
Type of Approval	Number	Potential new Lots
Subdivision Applications	0	0
Strata Subdivision Applications	2	4

The above subdivision applications may include amalgamation and boundary realignments which may not result in any additional lots.

Legislation/Strategic Plan/Policy Implications

Legislation 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.

Strategic Plan

Key Focus Area: The Built Environment

Objective: 4.1.3 Give timely and thorough considerations to applications for statutory approval.

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.

Policy

As above.

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.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Consultation may be required by the provisions of the Residential Design Codes, any relevant Policy and/or the District Planning Scheme.

Of the 74 development applications determined during October 2009, consultation was undertaken for 19 of those applications. Applications for Residential Design Codes Variations determined as part of Building Applications are required to include comments from adjoining landowners. Where these comments are not provided, the application will become the subject of a planning application (R-Codes Variation). Of the 2 subdivision applications determined during October 2009, no applications were advertised for public comment, as the proposals complied with the relevant requirements

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.

VOTING REQUIREMENTS

Simple Majority

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

- 1 development applications and R-Codes variations described in Attachments 1 and 2 to Report CJ262-12/09 during October 2009;**
- 2 subdivision applications described in Attachment 3 to Report CJ262-12/09 during October 2009.**

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ284-12/09, Page 150 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1brf081209.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Mayor Troy Pickard
Item No/Subject	CJ263-12/09 – Proposed Farmers Market at Springfield Primary School – 31 Bridgewater Drive, Kallaroo
Nature of interest	Interest that may affect impartiality
Extent of Interest	A relative of Mayor Pickard resides opposite the school site at 2 Oleander Way, Kallaroo

Name/Position	Cr Kerry Hollywood
Item No/Subject	CJ263-12/09 – Proposed Farmers Market at Springfield Primary School – 31 Bridgewater Drive, Kallaroo
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Hollywood personally knows the Headmaster, whose son was a friend of one of her sons, who attended Springfield Primary School from Years 1 - 4

CJ263-12/09 PROPOSED FARMERS MARKET AT SPRINGFIELD PRIMARY SCHOOL – 31 BRIDGEWATER DRIVE, KALLAROO

WARD: Central

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Development (Acting)

FILE NUMBER: 08077

ATTACHMENTS: Attachment 1 Location Plan
Attachment 2 Development Plan
Attachment 3 Traffic Management Details
Attachment 4 Map of Submissions Received

PURPOSE

To request Council's determination of an application for a fortnightly Farmers Market at Springfield Primary School located at 31 Bridgewater Drive, Kallaroo.

EXECUTIVE SUMMARY

The applicant proposes to establish a fortnightly Farmers Market on Saturday mornings at Springfield Primary School, located at 31 Bridgewater Drive, Kallaroo. The Primary School is a State Government school, operated by the Department of Education and Training. The Farmers Market is an initiative of the Springfield Primary School Parents and Community Association (P&C).

The subject site is zoned Urban under the Metropolitan Region Scheme (MRS) and is Reserved under the City's District Planning Scheme No.2 (DPS2) for Public Purposes (Primary School). No parking standard is established for the land use 'Market' and as such Council is required to determine the development application.

The proposal was advertised twice, initially when the application was received, and a second time when amended plans were received. The first round of consultation was conducted for 14 days and a total of eight submissions were received with five being objections, two being non-objections and one being a letter of support. The objections received primarily raised concerns regarding traffic, parking, noise and litter. The applicant submitted a further four letters of support which were received by the school at that time. The second round of consultation was conducted for 10 days and a total of four submission were received with two being non-objections and two being letters of support.

The proposed development is supported as the fortnightly frequency of the markets is considered consistent with the DPS2 reservation. Furthermore, it is considered that the traffic generated by the market will not impact on local residential streets and thus the amenity of local residents, with car parking areas accessed directly via Bridgewater Drive.

It is recommended that Council approves the application, subject to conditions, for a period of 12 months only. Following this initial period, should the applicant wish to continue operating the markets, they will be required to apply for a renewal. This renewal application may be subject to a public consultation period and will require further assessment by the City.

BACKGROUND

Suburb/Location: Reserve 32680 (31) Bridgewater Drive, Kallaroo
Applicant: Tracey Forder (Market Coordinator)
Owner: Department of Education and Training
Zoning: **DPS:** Local Reserve (Public Purposes – Primary School)
MRS: Urban
Site Area: 34ha
Structure Plan: Not Applicable

The subject site is bounded by Bridgewater Drive to the south, and Koombana Way to the north. The western and eastern boundaries are bound by existing residential development along Barque Place, and Batavia Place.

The subject site is located in a residential R20 area, consisting primarily of single detached houses.

An application for a weekly Farmers Market at Poynter Primary School was refused by Council at its meeting held on 15 September 2009 (DA09/0694). The applicant has subsequently appealed the decision to the State Administrative Tribunal and is currently the subject of review.

DETAILS

The applicant proposes to establish a fortnightly Saturday market at the School including:

- Up to 21 stalls (stall size of 9m²) with a total market gross floor area (GLA) of 455m² inside the existing covered assembly area, on the adjacent grassed area, and a coffee van using two car bays in the existing staff car park;
- Stallholders to be generally small local producers;
- Stallholders will unload produce in the staff car park (eastern car park), and park in the western car park, and on the basketball court;
- Parking for customers will be provided in the 30 remaining bays in the staff car park (eastern car park).

It is proposed that the operating hours for the markets will be between 9.30am and 12.30pm, with stallholders permitted to commence setting up from 8.30am.

All vehicular access will be from Bridgewater Drive, with no traffic needing to enter local residential streets.

The development plans are provided in Attachment 2.

The primary focus of the markets will be what is commonly known as a 'farmers market' which includes primary farm produce and value added consumable products. The markets will also sell homemade crafts. It is anticipated by the applicant that the markets will contain 70% consumable produce and 30% homemade crafts.

Consumable produce includes eggs, fruit, vegetables, herbs, olives, flour, nuts, grains, honey and bee products, flowers, meat, seafood, cheese, milk and milk products. Value-added consumable products include oils, jams, preserves, breads, cakes and desserts whose principal ingredients are grown or produced by the stallholder. Homemade crafts include any goods handcrafted and not mass-produced. The applicant has advised that imported goods and second hand goods will not be permitted at the markets.

The applicant has advised that stallholders will be required to provide their own marquees and display equipment and will not be permitted to use amplified sound equipment such as megaphones or radios. Furthermore, it will be the responsibility of stallholders to ensure that their stall site and the area that surrounds it is kept clean and rubbish free during operating hours, and their rubbish must be taken away with them. Any rubbish which is left behind will be the responsibility of the operators to clean up and remove. Rubbish bins will be set up around the market site for use by customers and removed at the end of the day as necessary.

To ensure that customer demand is maintained at an even rate throughout the three hours of the market, end of trading day discounting will not be permitted, which should ensure that a peak trade period does not occur immediately prior to closing of the markets.

Parking and Traffic Management:

Customer parking for the market will be provided in the existing staff car park (eastern car park). Three voluntary parking attendants will be on site to direct traffic in an orderly manner in to, and out of, the school grounds. A two way traffic system will be employed with vehicle access and egress from Bridgewater Drive. Signage will also be used to ensure orderly traffic flow for vehicles entering and exiting the parking areas. Parking attendants will initially be from the school, but it is envisaged that voluntary parking attendants will be from various P&C's and/or community organisations and a gold coin donation to the voluntary group will be requested.

Issues and options considered:

Council has the discretion to:

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

Legislation/Strategic Plan/Policy Implications

Legislation City of Joondalup District Planning Scheme No.2

As the subject site is a Local Reserve, the provisions of Clauses 2.3.2, 2.3.3, and 2.3.4 apply.

2.3.2 USE OF LOCAL RESERVES

Any Local Reserve not owned by or vested in the Council may be used:

- (a) for the purpose for which the land is reserved under the Scheme;*
- (b) where such land is vested in a public authority, for any purpose for which such land may be lawfully used by that authority;*
- (c) for the purpose for which it was used at the Gazettal Date unless the land in the meantime has become vested in a public authority, or unless such use has been changed with the approval of the Council; or*
- (d) for any purpose approved by the Council but in accordance with any conditions imposed by the Council;*

but shall not be used otherwise or for any other purpose.

2.3.3 DEVELOPMENT OF LOCAL RESERVES

Unless the proposed development is a public work exempted by Section 32 of the Act, or the written approval of the Council is first obtained, no person shall:

- (a) demolish or damage any building or works;*
- (b) remove or damage any tree;*
- (c) excavate spoil or waste the land so as to destroy affect or impair its usefulness for the purpose for which it is reserved;*
- (d) construct, extend, or alter any building or structure other than a boundary fence;*
- (e) carry out or commence to carry out any other development on any Local Reserve.*

2.3.4 APPLICATION FOR PLANNING APPROVAL ON LOCAL RESERVES

2.3.4.1 The Council may consider applications for Planning Approval for land within a Local Reserve but shall have due regard to the ultimate purpose intended for the Local Reserve and the matters set out in Clause 6.8 ("Matters to be Considered by Council").

2.3.4.2 Provisions in the Scheme relating to applications for Planning Approval and the exercise of any discretion thereon shall, insofar as they are not inconsistent with this clause, apply to Local Reserves.

- 2.3.4.3 *To the extent that it is reasonable to do so, the Council shall apply or impose development standards and requirements which would be imposed for development of the kind in question on zoned land, and the Council shall for that purpose stipulate the zone most relevant for comparison.*
- 2.3.4.4 *Where any land is partly zoned under the Scheme and partly included in a Local Reserve, then the general provisions of the Scheme shall apply to the part which is zoned, and where the circumstances permit, the Council may give one decision in respect of the part of the land which is zoned and a different decision in respect of the part of the land included in the Local Reserve.*
- 2.3.4.5 *The Council shall, in the case of land reserved for the purposes of a public authority, consult with that authority before giving its approval.*

Under Clause 2.3.4 (above) Council is required to take into account the provisions of clause 6.8 in determining an application for Planning Approval on a Local Reserve.

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.*

Clause 4.8 of the DPS2 allows for a car parking standard to be established where one is not provided in Table 2:

4.8 CAR PARKING STANDARDS

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

Strategic Plan

Key Focus Area: Community Wellbeing

Objective: The Joondalup community is provided with opportunities to lead a healthy lifestyle.

Policy No Policies are applicable in this instance.

Risk Management considerations:

The proponent has a right of review against Council's decision, or any conditions included therein, in accordance with the State Administrative Tribunal Act 2004 and the Planning and Development Act 2005.

Financial/Budget Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Adjoining and nearby landowners were advised of the proposal via letter twice, once when the application was first received, and once when amended plans were submitted. Attachment 4 provides a plan indicating where submissions were received from.

1st Round of Consultation

The first round of advertising occurred for a period of 14 days. A total of 26 adjoining and nearby owners were advised in writing. Advertising closed on 23 June 2009.

A total of eight responses were received, being five objections, two non-objections and one letter of support. The applicant has also provided a further four letters of support which were submitted to the School at this time.

Objections to the proposed development raised the following concerns:

- The provided school parking is insufficient for market operations;
- The nominated parking area is over 120m away from proposed markets, whilst Batavia Place is just less than half the distance away making the existing parking situation in Batavia Place even worse. The Council has not been able to control parking on driveways and verges during the school week;
- Kallaroo is a residential zone and its zoning should not be altered;
- Neighbourhood amenity will be disturbed by increasing traffic and activity on the weekends, and also left over rubbish;
- Fresh grocery is available both at the Whitfords Shopping Centre and the Wanneroo Markets;
- The markets would be better located in an area where this type of activity is already catered for;
- The introduction of the new Child Care Centre at 34 and 36 Bridgewater Drive (previously refused by Council but overturned by the State Administrative Tribunal) will also increase activity and vehicle numbers to an unacceptable level; and
- If this proposal were to be approved it would be a precedent for other commercial activities to take place.

2nd Round of Consultation

The City conducted a second round of advertising once amended plans for the proposal were received. The City advertised to all those people who were consulted previously (26 adjoining and nearby landowners) and those who submitted comments and were outside of the consultation area.

A total of four responses were received, being two non-objections and two letters of support.

COMMENT

The main planning issues relating to the use of a primary school to operate a Farmers Market are:

- The reservation of the primary school and the appropriateness of a market;
- How the market is operated; and
- Site specific issues relating to access/egress from the site and the potential for impact on residents.

Proposed Use

In considering the proposed use and the reservation of the land the City has sought legal advice. This advice has identified:

1. The use or development of the reservation should be consistent, or at least not manifestly inconsistent, with the purpose of the reservation;
2. An acceptable use on a primary school reserve is a matter of fact and degree. Such that operating a fast food restaurant in the school grounds (even if rental proceeds went to the school or P&C) would be inconsistent, whilst an annual or once per term fete (including an ice cream van) would be consistent.

3. Rental funds from the market going to the P & C (for the direct benefit of the school) is a necessary element if the use is to be assessed as possibly consistent with the reservation. Without this benefit the use would have no 'public purpose' element, and could not be considered consistent with the public purpose reserve of the school.

Based on these principles issues specific to a Farmers Market are:

1. A Farmers Market is not necessarily manifestly inconsistent with the purpose of the reserve, as it is not dissimilar to a fete in the nature of the activity. Although, a fete is viewed to be more aligned to the public purpose of the reserve, where as a Farmers Market has a significant private element;
2. The 'commercial' or 'private' nature of the use is a relevant factor when considered with the scale and frequency, and this 'degree' may determine whether the use is consistent with the reservation.

In this context it is considered that the proposed land use is classified as a Market under DPS2. This *'means retail premises at which goods are sold from temporary stalls in individual bays leased to or otherwise occupied by independent stallholders'*.

The market will be operated by the Springfield Primary School Parents and Community Committee (P&C). The proposed market is viewed as a commercial venture, albeit one operated by the school P&C. The P&C will be the operators, with stall rental and car parking revenue being used to improve the school. Given the direct benefit the school will derive, there is considered a link/relationship between the market and the reservation.

The subject site is reserved under DPS2 for Public Purposes – Primary School. Clause 2.3.2 of DPS2 identifies the planning considerations for Council to take into account when considering the use of a reserve. As identified earlier the appropriateness of the operation of a Farmers Market from a school reserve is a question of degree and the specific circumstances of the proposal. These include the frequency of the market, the relationship between the market and the school and the size of the market.

The decision for the Council to determine is whether the frequency of fortnightly and size (21 stalls of 8m² each) of the market is sufficiently consistent with the reservation of the land for primary school purposes to approve the use.

Pertinent to this consideration is the Council's decision of 15 September 2009 relating to a Farmers Market at Poynter Primary School. In this instance the proposal was for 29 stalls (20m² to 52m² in size) with a weekly frequency. The Council refused the application for three reasons, one of which was that it considered the frequency, location, size and operation to not be consistent with the reservation.

It is considered that the greater the frequency and/ or the larger the size of the market moves it away from a fund raising mechanism for the school to one of creating a regular income stream/ commercial enterprise offering an alternative retailing experience to the general public, thus away from the 'public purpose'. Furthermore, two markets of the same frequency but of different sizes could also be viewed differently, with a large market (in number and stall size) having a stronger commercial element with a wider customer catchment and a smaller operation with a localised catchment.

Also noteworthy to this consideration is the community's expectations of what a school can reasonably be expected to be used for. It is recognised that local residents purchase a home near a school in full knowledge that it is intensely used Monday to Friday. Whether use of a portion of a school site on a fortnightly basis is acceptable is open to difference of opinion and again is likely to be based on frequency, size, location and the particular operation.

Weighing up these various factors, it is considered that a relatively small Farmers Market, held fortnightly, that directly benefits the school can appropriately be viewed in this instance as being consistent with the reservation.

Car Parking

DPS2 does not provide a car parking standard for markets, however other local governments within the metropolitan area use the following standards:

City of Wanneroo	7 per 100m ² NLA (Net Lettable Area)
City of Cockburn	1 per 20m ² GLA
City of Fremantle	1 per 20m ² GLA (not less than two)
City of Subiaco	1 per 20m ² NLA

It is considered that neither of these standards will result in sufficient parking to cater for the realistic demand generated by the markets.

It is anticipated that each stall will generate a requirement for at least 1 car parking bay for the stall holder as they will need to transport goods and equipment to the site. It could be expected that an average of 2 to 3 customers per stall will also be in attendance at the markets at any given time. It should also be noted that as the markets are proposed to be operated over a period of 3 hours plus setup, the customers will be dispersed over this time, particularly as produce will not be discounted at the end of the day for a quick sale.

It is considered that a car parking standard of 1 per 20m² GLA plus one bay per stallholder is appropriate in identifying a realistic parking demand. This would result in the proposal requiring 44 bays as shown below:

	Amount	Parking Requirement	Parking Provided
Stallholder Parking (1 bay per stallholder)	21 stallholders	21 bays	16 bays are provided in the western car park and additional room for 5 vehicles on the basketball court.
Customer Parking (1 bay per 20m ² GLA)	455m ² GLA	23 bays	30 bays are provided in the eastern car park.
Total		44 bays	

Stallholders will unload in the main staff (eastern) car park, and will be required to move their vehicles to the western car park no later than 15 minutes prior to the commencement of the markets. Access to this car park will then be prevented through the closing of existing gates for the duration of the markets.

It should be noted that there are also 12 on street parking bays adjacent to this area of the school. Although they can be utilised by customers of the markets, they cannot be considered a part of the parking provision for the development as they are outside of the lot boundary.

Traffic

The car parking areas are accessed from Bridgewater Drive (refer Attachment 1 – Location Plan). Bridgewater Drive is classed as a Local Distributor by Main Roads WA under its Functional Road Hierarchy. A Local Distributor road has a maximum daily desirable capacity of 6000 vehicles. Vehicles visiting the School will not be required to access minor residential streets.

The following traffic count was conducted on Bridgewater Drive in May 2006 and June 2007 and indicates surplus capacity available on this road.

Location	Vehicles per weekday (average)
South of Cygnet Street (June 2007)	1688
East of Oleander Way (May 2006)	1582

It is considered that Bridgewater Drive is an appropriate road and is of sufficient design to cater for the amount of traffic the markets are anticipated to generate. This should result in minimal impact on the amenity of the surrounding locality in relation to traffic, as the markets will not be accessed via any local residential streets.

Concerns have been raised regarding customers parking on verge areas to avoid paying to park on the school site. It is suggested that the operators of the markets be required to provide adequate signage directing persons to the on-site parking and discouraging verge parking.

It is also anticipated that the 12 on-street car parking bays will adequately cater for those people who do not wish to utilise the off-street car parking. Should the application be approved, operation of the car parking can be monitored and further measures introduced in the event that the approval is to be renewed.

Noise

There has been concern expressed by surrounding residents regarding noise from vehicles, people and the general operation of the market. The applicant has stated that electrical generators and sound amplification will not be permitted. Electricity can be connected to the main school building via extension leads.

The operation of the markets, like other development, would be required to comply with the Environmental Protection (Noise) Regulations 1997. However, it could be expected that noise from vehicle manoeuvring and numbers of people accessing the markets is likely to create some level of disturbance to nearby residents. For this reason the operator of the market has proposed a starting time of 8.30am for stallholder setup and 9.30am for customer access. This is not any earlier than a school day and well outside the starting time for construction work or other specified domestic activities of 7am set out by the noise regulations.

Potential Impact on City Resources

If the proposed markets were to be approved and resulted in parking or traffic problems this may impact on City resources. It is considered that the layout and location of the school and the proposed management of the markets together with the availability of on-street bays will minimise this risk.

Recommended limited Approval Period

A Farmers Market has not been previously approved or operated at a primary school within the City of Joondalup. Therefore the outcome of approval of the application and the ability of the operators to cater for a number of customers is relatively unknown. It should also be noted that the level of success of the markets, and the ability of the operators to minimise impact of the markets on the residential area is dependent on the operators. For this reason it is recommended that Council grant approval of the application for a period of 12 months only.

If the operators wish to continue operating the market past this date a renewal application will be required to be submitted. The City will then have an opportunity to review the operation of the market and advertise to surrounding landowners to ascertain any concerns or issues which arise during the initial operating period.

Conclusion

It is considered that the appropriateness of the market at the primary school is a question of degree. In this instance the proposed land use is considered to be consistent with the reservation of the land and appropriate as it:

- It will operate fortnightly.
- It will directly benefit the school and school community;
- The operating hours are limited.
- Access to the site is via a local distributor road and is unlikely to result in traffic using local residential streets.

In this instance it is considered that the location, frequency, size, and operating hours of the markets will mean that impacts such as traffic, parking, and general noise and disruption will be at the level where the proposal can be supported.

A limited approval period (12 months) will allow the City to evaluate the operation and impact of the markets at a later date. Given that there have not been markets of this description approved within a residential area previously, or at a school site, such an approach is considered prudent.

It is recommended that Council approves of the proposal subject to conditions.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Amphlett, SECONDED Cr Gobbert that Council:

- 1 EXERCISES discretion under clause 4.8.2 of DPS2 and determines that a parking standard of 1 bay per 20m² Gross Lettable Area plus 1 bay per stallholder is appropriate;**
- 2 APPROVES the application dated 2 June 2009, and amended plan and details received 20 October 2009, submitted by Tracey Forder (Market Coordinator Springfield Primary) on behalf of the owner, Department of Education and Training, for Markets (fortnightly Farmers Markets) at Springfield Primary School Reserve 32680 (31) Bridgewater Drive, Kallaroo subject to the following conditions:**
 - (a) This approval is valid for a period of 12 months from the date of approval. If the applicant wishes to continue operation of the Markets after this period, the applicant shall apply to renew the application stating whether any part of the proposal has been altered since its original approval, prior to the expiry of the approval;**
 - (b) The operating times for the markets shall be Saturday mornings between 9.30am and 12.30pm only. Stall holders shall not commence setting up before 8.30am;**
 - (c) The frequency of the markets shall not exceed once every two (2) weeks;**
 - (d) A maximum of 21 stalls is permitted within the area marked in RED on the approved plans. The maximum stall size shall be 2m x 4m;**
 - (e) No amplified sound shall be permitted without the prior written approval of the City;**
 - (f) Customer parking shall be provided in the eastern staff car park, as marked in red on the approved plans, at all times the market is operating;**
 - (g) All stallholder parking shall be provided in the western car park and on the existing basketball court as marked in RED on the approved plans. All stallholder vehicles shall be parked in this location by no later than 9.15am at which time the crossover is to be gated off to prevent customer access. Access to this parking area shall be prevented at all times during the operating hours of the markets;**
 - (h) Traffic management shall be undertaken in accordance with the submitted traffic management plan and amended details dated 19 October 2009. Where there is a conflict between these two documents the letter dated 19 October shall prevail. Directional signage and Traffic Wardens shall be provided for the duration of the operation of the markets to indicate the location of parking areas and discourage verge parking;**
 - (i) The pedestrian gate located between Springfield Primary School and Batavia Place shall be kept locked at all times the markets are operating;**
 - (j) Generators are not permitted to be used on site;**

- (k) **The area containing the market to be kept in a clean and tidy condition at all times during and following the operation of the market;**
- (l) **All temporary structures associated with the market shall be removed at the completion of the market;**
- (m) **The markets shall operate in accordance with all documentation submitted to the City as part of the application including all detail pertaining to the nature of the proposed stallholders;**

3 ADVISES submitters of its decision.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 2 refers

To access this attachment on electronic document, click here: [Attach2brf081209.pdf](#)

CJ264-12/09 PROPOSED SCHEME AMENDMENT NO 43: HOME BUSINESS CATEGORY 3

WARD: All

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Development (Acting)

FILE NUMBER: 13048

ATTACHMENTS: Attachment 1 Scheme Amendment No.43
Attachment 2 Modified Policy 7-9 Home Business

PURPOSE

To report on submissions received from existing Category 3 Home Business operators for Council to consider its response to the Minister for Planning on Scheme Amendment No 43.

EXECUTIVE SUMMARY

Scheme Amendment No 43 and the modified Policy 7-9 Home Business was initiated to remove all reference to Category 3 Home Businesses. The documents were advertised for public comment for a period of 42 days closing on 3 June 2009. No submissions were received. Council at its meeting held on 21 July 2009 resolved to adopt the Scheme Amendment and forward it to the Western Australian Planning Commission (WAPC) for determination.

On 15 September 2009 the Department of Planning requested that the landowners of existing Category 3 Home Businesses be directly notified of the proposed changes and given the opportunity to make a submission on the proposed Scheme Amendment. Further justification for the Scheme Amendment is also requested.

The Scheme Amendment was advertised directly to the two existing Category 3 Home Businesses operators for 21 days closing on 11 November 2009. One submission of no objection was received. The proposed changes will have no impact on this business owner, as it is now operating as a Category 2 Home Business.

It is recommended that WAPC be advised of the submission received.

BACKGROUND

A review of Policy 7-9 Home Businesses was presented to the Policy Committee at its meeting held on 15 December 2008. The Policy Committee recommended that Council modify Policy 7-9 Home Business by:

- Deleting all reference to Category 3;
- Amending hours of operation to read "9.00 am to 5.00 pm";
- Amending Section 3(g) by the deletion of the word "Large".

Thereafter, Council, at its meeting held on 10 February 2009, resolved to modify Policy 7-9 and initiate an Amendment to the City of Joondalup District Planning Scheme No. 2 to remove all reference to Home Business Category 3.

The main differences between the three Home Business Categories are provided as follows:

HOME BUSINESS CATEGORIES
<p>Category 1 :</p> <ul style="list-style-type: none"> • does not employ persons other than members of the household; • does not occupy an area greater than 20m² • does not display any advertising signage; • does not attract customers or regular and frequent deliveries; and • does not entail the presence of commercial vehicles of more than 1.5 tonnes.
<p>Category 2 :</p> <ul style="list-style-type: none"> • may employ 1 person not a member of the occupier's household; • does not occupy an area greater than 30m²; • may display one advertisement sign of 0.2 square metres in area; and • does not entail the presence of commercial vehicles of more than 3.5 tonnes.
<p>Category 3 :</p> <ul style="list-style-type: none"> • may employ 2 persons not a member of the occupier's household (can be increased to 4 persons in total with Council's approval); • does not occupy an area greater than 50m² (can be increased to 100m² with Council's approval); • may display one advertisement sign of 0.2 square metres in area and 2 metres in height; and • does not entail the presence of commercial vehicles of more than 3.5 tonnes.

Home Business Category 3 is the most intensive form of home business, and may involve more signage, employees, customers or floor space than a Category 1 or 2 Home Business. Removal of Category 3 will ensure that the more intensive Home Businesses cannot be considered for approval, and would remove any uncertainty as to the possible impact on residential amenity if they were to be approved.

Currently a Home Business Category 3 requires planning approval from the City prior to commencing operation in a residential area. As part of the approval process for a Home Business Category 3, a Management Plan is required to be prepared to address noise management, vehicle loading, car parking, storage, odours and other matters.

Planning approvals issued for Category 2 and 3 Home Businesses are valid for 12 months, after which the landowner is required to apply for a new approval. DPS2 requires applications for planning approval for Category 2 and 3 Home Businesses to be publicly advertised, to ensure that neighbours are made aware of new proposals and can raise any concerns during the assessment process. DPS2 also requires that the City performs an enforcement role to ensure that Home Businesses operate in compliance with their conditions of planning approval.

DETAILS

The purpose of Scheme Amendment No. 43 and the modifications to the policy are to remove all reference to Category 3 Home Businesses. The modification to the policy also includes an amendment to the hours of operation for home businesses and a minor text amendment.

Issues and options considered:

- To consider if sufficient justification has already been provided to WAPC in support of Scheme Amendment No 43.
- To provide the additional justification to WAPC in support of Scheme Amendment No 43.

Legislation/Strategic Plan/Policy Implications

Legislation

Part 5 of the Planning and Development Act 2005 enables local authorities to amend a Town Planning Scheme and sets out the process to be followed. Council supported the initiation of the proposed amendment for the purpose of public advertising at its meeting held on 17 February 2009. The proposed amendment was then referred to the Environmental Protection Authority (EPA) for comment. The EPA decided that a formal review of the amendment was not required.

Part 8.11 of District Planning Scheme No. 2 enables the Council to prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme Area and may amend or add to or rescind a Policy so prepared.

Strategic Plan

Key Focus Area: The built environment.

Objective 4.1 To ensure high quality urban development within the City Objective:

Policy Modification to Policy 7-9 Home Business.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Policy 7-9 Home Business and Scheme Amendment No 43 were advertised concurrently for a period of 42 days ending on 3 June 2009. An advertisement was placed in the local newspaper on two consecutive weeks, and a notice placed on the City's website. No submissions were received.

At the request of the WAPC Scheme Amendment No. 43 was re-advertised directly to the two existing operators of Category 3 Home Businesses for 21 days closing on 11 November 2009. One submission of no objection was received during this advertising period.

COMMENTSubmissions received

There are two current approvals for Category 3 Home Businesses, being a commercial kitchen for catering purposes and an optical wholesaling agent. One submission was received which noted that the existing business is now operating as a Category 2 Home Business. As such at the time of renewal the applicant will seek approval for a Category 2 Home Business. The proposed amendment will therefore have no impact on this business owner. No submission was received from the other Category 3 Home Business operator.

Additional Justification

The WAPC states that very little justification was provided to support the proposed Scheme Amendment No 43 and as such seeks clarification for the following matters.

Is there evidence that Category 3 home businesses are not being effectively managed under the existing assessment process and controls of DPS2 and Policy 7-9?

There are currently two Category 3 Home Businesses in operation. No complaints have been made in relation to the operation of these businesses and conditions of planning approval are considered to adequately negate potential amenity impacts.

Policy 7-9 provides guidance with regard to appropriate locations for Category 3 Home Businesses, parking requirements, rate of customer visits/deliveries, hours of operation and other potential amenity impacts. These controls have provided adequate grounds for refusal and/or conditions of approval to protect the amenity of residential areas.

What aspects of Category 3 home businesses are resulting in amenity impacts and concerns?

No recent complaints have been received with regard to amenity impacts resulting from approved Category 3 Home Businesses. Whilst Category 3 Home Businesses have the potential to increase local traffic, on-street parking and noise, these impacts are currently managed under the guidance of DPS2 and Policy 7-9.

How does the proposed amendment integrate with the City's draft Local Planning Strategy (LPS)?

The LPS gives home businesses consideration within Parts 4 & 6 regarding economy and employment. In general terms the LPS notes that 50% of future employment growth will be accommodated by the growing education and training sector in the City Centre, mobile workers, home businesses, wholesale trade and construction. Notwithstanding this, the number of applications received for home businesses between 2001 to 2006 was relatively static being a 3.6% growth for this 5 year period.

Overall the LPS seeks to encourage home businesses as an important local employment opportunity. Accordingly the following action is made:

2. *Review the provisions of the Home Occupation policy to remove existing impediments to potential home business 'incubators' and generally, to encourage more home businesses.*

It is considered that the removal of Category 3 Home Businesses is consistent with the Draft Local Planning Strategy as opportunities for growth in Category 1 & 2 Home Businesses remains.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Amphlett, SECONDED Cr Hollywood that Council:

- 1 ADVISES the Western Australian Planning Commission that Scheme Amendment No 43 was advertised to two current Category 3 Home Business operators and one submission of no objection was received;**
- 2 ADVISES the Western Australian Planning Commission that Scheme Amendment No 43 is consistent with the Council's draft Local Planning Strategy which fosters growth of Home Businesses as opportunities will remain for the growth of Category 1 & 2 Home Businesses;**
- 3 REQUESTS that the Minister for Planning determine the Scheme Amendment No 43 as proposed.**

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ284-12/09, Page 150 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 4 refers

To access this attachment on electronic document, click here: [Attach4brf081209.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Mayor Troy Pickard
Item No/Subject	CJ265-12/09 – Proposed Amendment No 46 to District Planning Scheme No 2 to Rezone Lot 9867 (63) Mulligan Drive, Greenwood from Public Use to Urban Development
Nature of interest	Interest that may affect impartiality
Extent of Interest	Mayor Pickard is a member of the Kingsley and Greenwood Residents' Association

Name/Position	Cr John Chester
Item No/Subject	CJ265-12/09 – Proposed Amendment No 46 to District Planning Scheme No 2 to Rezone Lot 9867 (63) Mulligan Drive, Greenwood from Public Use to Urban Development
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Chester is a member of the Kingsley and Greenwood Residents' Association

CJ265-12/09 PROPOSED AMENDMENT NO. 46 TO DISTRICT PLANNING SCHEME NO 2 TO REZONE LOT 9867 (63) MULLIGAN DRIVE, GREENWOOD FROM PUBLIC USE TO URBAN DEVELOPMENT

WARD: South-East

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Development (Acting)

FILE NUMBER: 100338

ATTACHMENTS: Attachment 1 Location Plan
Attachment 2 Scheme Amendment Flowchart

PURPOSE

The purpose of this report is for Council to consider initiating proposed Amendment No 46 to the District Planning Scheme 2 (DPS2) to rezone from 'Public Use' to 'Urban Development' for the purpose of public advertising.

EXECUTIVE SUMMARY

Lot 9867 (63) Mulligan Drive, Greenwood is currently designated as a Local Reserve – Public Use 'Primary School' (East Greenwood Primary School) under DPS2 and is currently developed and used as a primary school.

The Department of Education and Training has advised that the primary school is surplus to its requirements and is scheduled for closure at the end of the 2009 school year. The Department of Housing proposes to acquire the site from the Department of Education and Training for residential development. In order to facilitate the redevelopment an application has been received to rezone the site to 'Urban Development'.

The proposed amendment to DPS2 is the initial step in allowing the land to be redeveloped for residential purposes in accordance with a structure plan. The development of the structure plan will occur in the following months as a separate process. The proposed use of the land for residential development is considered to be compatible with the surrounding residential land uses.

Should the proposed scheme amendment be supported, it is required to be formally advertised for public comment prior to further consideration by Council. It is recommended that Council consents to initiating the advertising of the proposed scheme amendment for 42 days. Given the Christmas and school holiday period, advertising would not commence before 1 February 2010.

BACKGROUND

Suburb/Location: Lot 9867 (63) Mulligan Drive, Greenwood
Applicant: Department of Housing
Owner: Department of Education and Training
Zoning: **DPS:** Local Reserve – Public Use (Primary School)
MRS: Urban
Site Area: 3.86 ha
Structure Plan: Not Applicable.

Lot 9867 is located in the eastern part of Greenwood between Cockman Road and Wanneroo Road (Attachment 1 refers). The subject site is currently designated as a Local Reserve – Public Use ‘Primary School’ under DPS2 and is developed and used as a primary school (East Greenwood Primary School). Cockman Park abuts the southern side of the site. The remaining land surrounding the subject site is zoned Residential R20 and contains existing residential dwellings.

In 2007, the Minister for Education and Training announced that East Greenwood Primary School and Allenswood Primary School would be replaced by one new school on the Allenswood site (to be known as Greenwood Primary School). This would result in the East Greenwood Primary School site being surplus to the Department of Education and Training’s needs. The East Greenwood Primary school is still operating, but is scheduled to close at the end of the 2009 school year.

The development of Greenwood Primary School originally included a proposal for the primary school to share the use of the adjoining Penistone Reserve. However, Council at its meeting of 13 January 2009 refused the proposal to share Penistone Oval with the Department of Education and Training (Report JSC2-01/09 refers). Amended plans for the school were received in March 2009 which incorporated its own school oval. In April 2009, the City recommended the Western Australian Planning Commission (WAPC) grant development approval.

On 13 May 2009, the WAPC issued development approval for Greenwood Primary School on the previous Allenswood Primary School site, incorporating a school oval.

DETAILS

An application has been received to amend the DPS2 designation of Lot 9867 Mulligan Drive, Greenwood from 'Public Use – Primary School' to 'Urban Development'.

The Department of Housing and Department of Education and Training have entered into an agreement for the Department of Housing to undertake project management and planning actions on behalf of the Department of Education and Training. It is proposed that the Department of Housing will acquire the site from Department of Education and Training for residential development in due course.

The applicant has stated that the proposal promotes efficient land use through infill residential development and is in line with Directions 2031 which states that 47% of new dwellings should be infill development. The site is proposed to be developed for low to medium density single and group housing residential uses.

It is proposed to rezone the subject site to the Urban Development Zone, which requires the preparation and adoption of a local structure plan over the site by Council, prior to application for subdivision approval.

The applicant has advised that a range of site specific issues will be explored through the development of the local structure plan and will be guided by WAPC Policy 'Liveable Neighbourhoods'. Such issues will include:

- analysis of walkability and spatial connectivity;
- access to commercial and employment centres, schools, and community facilities;
- existing natural features, topography, prevailing weather conditions and other similar opportunities and constraints;
- proposed land uses and block layout including lot orientation, and distribution of lot sizes/densities;
- proposed configuration of movement network including street types, provision for public transport, cycle and pedestrian movement;
- integration with existing parkland and provision of new public open space; and
- proposed urban water management measures.

Issues:

The issues associated with the proposed amendment include:

- The suitability of the proposed urban development zoning; and
- The suitability of the future subdivision to integrate with the surrounding residential dwellings.

Options:

The options available to Council in considering the scheme amendment proposal are:

- Support the initiation of the proposed amendment for the purpose of public advertising;
- Support the initiation of the proposed amendment, with modification, for the purpose of public advertising; or
- Not support the initiation of the proposed amendment for the purpose of public advertising.

Legislation/Strategic Plan/Policy Implications

Legislation

Part 5 of the *Planning and Development Act 2005* enables local government to amend their local planning schemes and sets out the process to be followed - (Attachment 2 refers).

Should Council support the initiation of the proposed amendment for the purposes of public advertising, the proposed amendment is required to be referred to the Environmental Protection Authority (EPA) to decide whether or not a formal review is required. Should the EPA decide that an environmental review is not required, upon the City's receipt of written confirmation of this from the EPA, the City advertises the proposed amendment for 42 days.

Upon closure of the advertising period, Council is required to consider all submissions received during the advertising period and to either adopt the amendment, with or without modifications, or refuse the amendment. The decision is then forwarded to the Western Australian Planning Commission (WAPC) which makes a recommendation to the Minister for Planning. The Minister can either grant final approval to the amendment, with or without modifications, or refuse the amendment.

If Council resolves not to initiate the amendment, there is no right of review to the State Administrative Tribunal by the applicant.

It is important to note that the scheme amendment process is a separate process to the structure plan process. If the scheme amendment is ultimately approved by the Minister for Planning following the statutory advertising period, the applicant would be required to submit a structure plan for the site, which would be subject to a further public comment period.

Clause 3.12.2 of DPS2 requires that no subdivision or development can occur in the Urban Development Zone until a Structure Plan has been prepared and adopted in accordance with Part 9 of DPS2.

The proposal presently before Council is to consider the scheme amendment only.

Strategic Plan

Key Focus Area: The built environment.

Objective 4.1 To ensure high quality urban development within the City.

Policy

Not Applicable.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

The proposed amendment would enable the City to consider future residential subdivision and development on the site that will provide additional dwellings. Being an infill site, this will contribute to environmental, economic and social sustainability by providing dwellings near existing facilities and infrastructure in an established suburb.

Consultation:

Should Council initiate the proposed amendment, it is required to be advertised for public comment for a period of 42 days. All adjoining landowners would be notified in writing, a notice placed in the Joondalup Community Newspaper and West Australian newspaper and a sign placed on the site. The proposed amendment would also be displayed on the notice board at the City's administration building and on the City's website.

Whilst this report is before Council in December 2009, given the Christmas holiday period and school holidays, it is considered that advertising would not commence before 1 February 2010.

COMMENTScheme Amendment

Given that the site will no longer be used for its current reservation of Local Reserve – Public Use 'Primary School', a rezoning of the site is necessary. Rezoning to 'Urban Development' is considered to be preferable to rezoning to 'Residential', as the Urban Development zone requires the preparation and adoption of a structure plan. The Urban Development zone will ensure that future subdivision and redevelopment of the site occurs in a co-ordinated and integrated manner.

Under DPS2, the subject site has a density code of R20. The density coding of land within the Urban Development zone is considered within the structure plan itself. Therefore, the proposed amendment includes the removal of the density code from the subject site.

The applicant has indicated that the site is intended to be developed for residential purposes. Given the surrounding development is residential, development of this surplus school site for this use is considered to be appropriate.

Structure Plan

Future subdivision and development of the site must conform to the requirements of a structure plan.

The redevelopment of a relatively large infill site is an opportunity for good design outcomes to be achieved. The development of the structure plan will enable the City to consider requirements such as solar orientation of lots, minimum lot frontage, maximum front setback paved area and energy efficient building design.

In addition, issues such as the amount of open space and density will be considered during the development of the structure plan.

Community Consultation

In addition to the consultation required for the Scheme Amendment, community consultation is also required as part of the consideration of a structure plan, which will give the surrounding landowners further opportunity to comment on the proposed development of the site. However, due to the anticipated high level of community interest in the proposal, it is also recommended that the applicant submit a community involvement and consultation plan to supplement the formal consultation process. It is anticipated that the consultation plan will involve the community in the preparation of the structure plan for the site.

It is recommended that Council initiates the proposed amendment to DPS2 for the purposes of public advertising for a period of 42 days.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Chester, SECONDED Cr Corr that Council:

- 1 Pursuant to Part 5 of the Planning and Development Act 2005, CONSENTS to initiate Amendment No 46 to the City of Joondalup District Planning Scheme No. 2 to:
 - (a) Unreserve Lot 9867 (63) Mulligan Drive, Greenwood from 'Public Use' and zone to 'Urban Development;
 - (b) Change the density code for Lot 9867 (63) Mulligan Drive, Greenwood from R20 to uncoded;for the purposes of public advertising for a period of 42 days;
- 2 NOTES that, in the event that Amendment No 46 is approved, a Structure Plan is required to be prepared in accordance with Part 9 of the City of Joondalup District Planning Scheme No 2. The Structure Plan application and approvals process will require further extensive community consultation to be undertaken, prior to consideration by Council;
- 3 ADVISES the applicant that the City would anticipate a high level of community and other stakeholder interest in the subdivision and development of the site, and therefore requests a community involvement and consultation plan be submitted to the City prior to the preparation of the Structure Plan, undertaken at the applicant's cost, to supplement the formal consultation process required under District Planning Scheme No 2.

The Motion was Put and

LOST (0/12)

Against of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

MOVED Mayor Pickard, SECONDED Cr Corr that Council:

- 1 **DEFERS consideration of the requested Scheme amendment pending receipt of further information in writing from the Department of Education and Training in relation to:**

- (a) the justification for the closure of the East Greenwood Primary School facilities with particular reference to the source of the population data used by the Department and the interpretation of that data;
- (b) the potential for expansion of the new school at Allenswood to accommodate any future growth needs demonstrating where that growth can be accommodated on the school site having regard to the future population requirements.

2 REQUESTS the CEO seek the information from the Department of Education and Training with a view to submitting that information with the report to the February Council meeting.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendices 5 and 19 refer

To access this attachment on electronic document, click here: [Attach5brf081209.pdf](#)
[Attach19agn151209.pdf](#)

CJ266-12/09 METROPOLIAN REGION SCHEME AMENDMENT NO 1161/41 – ZONING & RESERVATIONS OF VARIOUS PUBLIC LANDHOLDINGS

WARD: North-Central, Central and South-East

RESPONSIBLE DIRECTOR: Mr Clayton Higham
 Planning and Development (Acting)

FILE NUMBER: 08570

ATTACHMENTS: Attachment 1 Locality Plan
 Attachment 2 Summary of proposals

PURPOSE

The purpose of this report is for Council to consider proposed Metropolitan Region Scheme (MRS) Amendment 1161-41 and endorse a submission to the Western Australian Planning Commission.

EXECUTIVE SUMMARY

The Western Australian Planning Commission (WAPC) has recently initiated the above amendment to the MRS and is seeking public comment.

The purpose of the amendment is to update zones and reservations in the MRS relating to public land. This will ensure that the MRS is kept up to date by reflecting the current use of the land and ensuring reservations match lot boundaries. A total of 5 proposals relate to land within the City of Joondalup.

The WAPC resolved to advertise the amending documents from 6 October 2009 until 29 January 2010.

The proposed amendments align with the current use of each landholding however will require some minor amendments to the City of Joondalup District Planning Scheme No.2 (DPS2). It is recommended that the WAPC be advised that the Council has no objection to proposals contained within MRS Amendment 1161-41 relating to the City of Joondalup and request the WAPC amend DPS2 accordingly.

BACKGROUND

The Metropolitan Region Scheme is a strategic level town planning scheme that applies broad land use zones and reserves to the Perth area. Local authority planning schemes provide more detailed zoning for their municipality; however, those are required to align with the MRS.

DETAILS

The amendment contains 155 separate proposals relating to various local governments.

The main purpose of this amendment is to include within the Parks and Recreation Reservation of the MRS various pieces of publicly owned land to reflect their regional significance. Additionally, some properties are proposed to be rezoned to better reflect their current use and purpose within the MRS.

A total of 5 proposals relate to land within the City of Joondalup. Locality plans and a summary of each proposal form Attachments 1 and 2 of this Report. A copy of the amendment report has been placed in the Councillors' Reading Room.

Issues and options considered:

- Advise the WAPC that the Council objects to the MRS Amendment
- Advise the WAPC that the Council has no objection to the MRS Amendment

Legislation/Strategic Plan/Policy Implications

Legislation *Planning and Development Act 2005*

The *Planning and Development Act 2005* (the Act) establishes the circumstances where an amendment to a region scheme (such as the MRS) can facilitate an amendment to a local planning scheme (such as DPS2) or where a formal request can be made to the WAPC to amend a local planning scheme as the result of a region scheme amendment.

Part 126(1) of the Act states that where a region scheme is amended to reserve a portion of land previously zoned; the local planning scheme will automatically be amended to reflect the region scheme.

Part 126(3) of the Act provides the opportunity for Council to request that the WAPC amend the local planning scheme to apply a local zoning, when a region scheme zones land Urban from a previous reservation.

In the instance that a region planning scheme is amended to zone land, other than Urban, the Council is required to initiate a separate local planning scheme amendment within 3 months of the region

scheme amendment being gazetted. The local planning scheme amendment must apply a local zone to the site that is consistent with the adopted region planning scheme amendment. As a matter of efficiency, a local planning scheme amendment can be initiated prior to the region scheme amendment being gazetted.

Strategic Plan

Key Focus Area: Not Applicable.

Policy Not Applicable.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

Not Applicable.

Regional Significance:

Not applicable – The reclassification of land is consistent with the current.

Sustainability Implications:

Bush Forever identifies regionally significant bushland to be retained and protected forever. The MRS Amendment will remove a small portion of land (Proposal 4) from Bush Forever Site 299 (Yellagonga Regional Park) as this is currently a constructed road reserve. The MRS Amendment will also include a moderately sized park (Proposal 1) in to the Bush Forever Site 299 as this landholding currently adjoins site 299 and contains similar a vegetation complex. As such the MRS Amendment will increase the conservation area associated with Bush Forever Site 299

Consultation:

Advertising is being undertaken by the WAPC and commenced 6 October 2009 and will close on 29 January 2010. The amendment document is available for inspection at the Joondalup Customer Service Centre.

COMMENT

The amendments to the MRS include a total of 5 proposals relating to land within the City of Joondalup. A summary of each proposal is provided in Attachment 2 of this Report.

The MRS amendment will correct the zonings and reservations currently applicable to five land parcels to better reflect their current land use. These include:

- 1 The reservation of a local park that is currently zoned Urban.
- 2 The application of appropriate zonings for three road reserves currently reserved as Parks and Recreation.
- 3 The application of a Public Purposes Reservation for a Water Corporation Site that is currently reserved as Parks and Recreation.

The amendments are consistent with the current and foreseeable future use of these landholdings. As such the MRS amendment is considered appropriate.

It is noted that the amendments to the MRS will require some minor changes to DPS2. For the purpose of Proposals 1 and 5 which involve the reservation of land in the MRS, DPS2 will be automatically updated at the gazettal of the MRS amendment to reflect the new reservations.

With regard to the Proposals 2, 3 and 4 which involved the application of the Urban Zone in place of a Parks and Recreation Reservation affecting three portions of road reserve, DPS2 will need to be amended to apply a local zone in place of the previous MRS reservation. The *Planning and Development Act 2005* provides the opportunity for the City to request the WAPC to amend DPS2 to apply a nominated local zone, but only where the MRS is being amended to zone land Urban. This will circumvent the need for the City to initiate and carry out a separate DPS2 amendment process. Accordingly it is recommended that the City request the WAPC amend the DPS2 as follows:

PROPOSAL	RECOMMENDED DPS2 AMENDMENT	COMMENT
<p>Proposal 2:</p> <p>Portion of Woodvale Drive proposed to be zoned Urban by MRS Amendment 1161/41.</p>	<p>Rural Zone</p>	<p>This road serves a rural purpose by providing vehicular access to the Rural Zone. Furthermore the adjoining portions of road are also zoned Rural within DPS2. As such it is recommended that the WAPC amend DPS2 to zone this portion of road Rural.</p>
<p>Proposal 3:</p> <p>Mooro Street and portion of Hocking Road, Kingsley to be zoned Urban by MRS Amendment 1161/41.</p>	<p>Residential Zone</p>	<p>This road serves a residential purpose by providing vehicular access to the Residential Zone. As such it is recommended that the WAPC amend DPS2 to zone this portion of road Residential.</p>
<p>Proposal 4:</p> <p>Woodlake Retreat to be zoned Urban by MRS Amendment 1161/41.</p>	<p>Residential Zone</p>	<p>This road currently has a dual classification (Parks and Recreation Reserve/Residential Zone). As such it is recommended that the WAPC amend DPS2 to zone this portion of road Residential to be consistent.</p>

With regard to a second portion of Woodvale Drive contained in Proposal 2, the MRS amendment will apply the Rural Zone in place of the existing Parks and Recreation Reservation. DPS2 will need to be amended to apply a local zone. However as the MRS amendment is applying a zone other than Urban a separate DPS2 amendment will need to be initiated. Given the minor nature of the change it is considered that this can be undertaken as part of the DPS2 review.

Conclusion

The proposed amendments align with the current use of each landholding; however, some proposed amendments will require DPS2 to also be amended to reflect land classification from a reserve to a zone. It is recommended that the WAPC be advised that the Council has no objection to the proposals of MRS Amendment 1161-41 relating to the City of Joondalup and request that the WAPC amend DPS2 accordingly.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Amphlett, SECONDED Cr Hollywood that Council:

- 1 ADVISES the Western Australian Planning Commission by submission that:**
 - (a) the Council has no objection to the proposals of MRS Amendment 1161-41 relating to the City of Joondalup;**
 - (b) Proposal 2 relating to the City of Joondalup also affects land relating to the City of Wanneroo and the City of Wanneroo should be advised accordingly;**
- 2 REQUESTS that the Western Australian Planning Commission amend the City of Joondalup District Planning Scheme No 2 by:**
 - (a) Zoning the portion of Woodvale Drive reflected in Proposal 2 as 'Rural';**
 - (b) Zoning Mooro Street and portion of Hocking Road, Kingsley reflected in Proposal 3 as 'Residential';**
 - (c) Zoning the portion of Woodlake Retreat Road reserve, Kingsley reflected in Proposal 4 as 'Residential'.**

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ284-12/09, Page 150 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 6 refers

To access this attachment on electronic document, click here: [Attach6brf081209.pdf](#)

CJ267-12/09 PROPOSED LAND EXCHANGE - PORTION OF LOTS 236 (59) AND 242 (63) BEACHSIDE DRIVE, BURNS BEACH

WARD:	North	
RESPONSIBLE DIRECTOR:	Mr Clayton Higham Planning and Development (Acting)	
FILE NUMBER:	23589	
ATTACHMENTS:	Attachment 1	Location Plan
	Attachment 2	Aerial photograph
	Attachment 3	Photographs of subject site
	Attachment 4	Proposed Land Exchange

PURPOSE

The purpose of this report is for Council to consider initiating a land exchange between portions of Lots 236 (59) and 242 (63) Beachside Drive, Burns Beach for the purpose of public advertising.

EXECUTIVE SUMMARY

A request has been received from the developers of Burns Beach Estate for a land exchange of 135m² between Lot 236 (future café site) and Lot 242 Beachside Drive (Public Open Space), Burns Beach. The land exchange has been requested as the developers have inadvertently constructed a portion of the open space facilities on Lot 236.

The proposed land exchange is considered to be acceptable as it is of equal area and will therefore not reduce the size of the public open space site. It will also ensure that the café site remains large enough for its intended purpose.

It is recommended that Council initiates the advertising of the closure of the portion of public open space and subsequent land exchange for a period of 21 days.

BACKGROUND

Suburb/Location:	Lot 236 (59) and Lot 242 (63) Beachside Drive, Burns Beach	
Applicant:	Whelans	
Owner:	Lot 236 (59) – Burns Beach Property Trust	
	Lot 242 (63) – Crown Land	
Zoning:	DPS:	Urban Development
	MRS:	Urban
Site Area:	Lot 236 (59) – 500m ²	
	Lot 242 (63) – 6447m ²	
Structure Plan:	Burns Beach Structure Plan	

The subject site is located north of Burns Beach Road at the western end of Grand Ocean Entrance adjacent to the coast (Attachment 1 refers). Lot 236 has been identified in the Structure Plan as a future lunch bar/restaurant/café site and Lot 242 is identified as Public Open Space.

DETAILS

A request has been received from Whelans on behalf of Peet Ltd for a land exchange of 135m² between Lot 236 and Lot 242 Beachside Drive, Burns Beach.

The land exchange has been requested as the developers have inadvertently built a portion of the open space facilities (playground equipment and retaining wall) on a portion of the proposed café site (Attachments 2 and 3 refer). In order to avoid the relocation of these facilities, the developers have requested a land exchange of equal area.

However, the land cannot simply be exchanged, as the portion of public open space (Crown land) must be formally closed. This process requires the support of Council for the public advertising of the proposal.

Issues and options considered:

Council has the option to:

- Support the proposed land exchange for the purpose of public advertising;
- Support the proposed land exchange, with modification, for the purpose of public advertising; or
- Not support proposed land exchange for the purpose of public advertising.

Legislation/Strategic Plan/Policy Implications

Legislation

Section 152 of the *Planning and Development Act 2005* requires certain land to be vested in the Crown during the subdivision process. As part of the subdivision of this part of Burns Beach Lot 242 was created and vested in the Crown for the purpose of Public Recreation.

State Land Services requires the following process for the cancellation or reduction of a public recreation reserve:

- Local Government is to advertise the proposal;
- Following the advertising period, Council is to consider any submissions received and either support the closure or not; and
- Forward the request to dispose of the reserve together with the supporting documentation to the Western Australian Planning Commission (WAPC) for their approval.

Should the WAPC support the proposal, all the information is forwarded to State Land Services for their support and finalisation of the process.

Strategic Plan

Key Focus Area: The natural environment.

- Objective:
- 2.1 To ensure that the City's natural environmental assets are preserved, rehabilitated and maintained.
 - 2.2 To engage proactively with the community and other relevant organisations in the preservation of the City's natural environmental assets.

Policy Policy 3-5 Requests for sale of public open space reserves.

The above policy provides guidelines for the assessment of requests for the sale of public open space reserves. However, this policy is not pertinent to this situation as the policy was principally designed to provide guidance on requests from residential owners adjoining public open space to purchase portion of that open space. This proposal is a land exchange, whereby the size of the public open space will not be reduced, only the location will be changed.

Risk Management considerations:

Should Council not support the proposed land exchange, there is the risk that the playground equipment and soft fall area could be removed by the future owner of the café site.

Financial/Budget Implications:

The owner is required to pay all costs associated with the land exchange.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Should Council support the proposed land exchange for the purpose of public advertising, it will be advertised by way of sign on site, notification in the paper and letters to nearby landowners. Advice will also be displayed on the City's website.

Whilst this report is before Council in December 2009, given the Christmas holiday period and school holidays, it is considered that advertising would not commence until late January 2010.

COMMENT

The proposed land exchange is of equal area and will therefore not reduce the size of the public open space site or the café site. It is considered that the proposal will not adversely affect the functioning of either site.

The proposal is not considered to impact the long term operation or management of the park. In addition, it is considered that the land exchange will not require an amendment to the Burns Beach Structure Plan. The park is still under the management of the developers (Peet Ltd), and is yet to be handed over to the City.

The land exchange is not considered to impact any of the paths within the park (Attachment 4 refers). However, the applicant has advised that if any of the paths are affected by the land exchange they would be reinstated to their current standard.

The land exchange is supported as it will ensure that the playground equipment and soft fall area are contained wholly within the public open space and thus ensure the continued use of this equipment by the general public. Should the proposal be supported by Council, the sites will be required to be surveyed prior to the land exchange.

It is recommended that Council initiates the advertising of the proposed land exchange for a period of 21 days.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Amphlett, SECONDED Cr Hollywood that Council:

- 1 CONSENTS to initiating the proposed land exchange of 135 m² between portions of Lots 236 (59) and 242 (63) Beachside Drive, Burns Beach for the purposes of public advertising for a period of 21 days;**
- 2 ADVISES the developer they will be required to pay all costs associated with the land exchange including any works required, such as the relocation or modification of the existing paths and soft fall area.**

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ284-12/09, Page 150 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 7 refers

To access this attachment on electronic document, click here: [Attach7brf081209.pdf](#)

CJ268-12/09 PROPOSED 24 MULTIPLE DWELLINGS, 8 GROUPED DWELLINGS, OFFICES, SHOP, CONVENIENCE STORE AND RESTAURANT AT LOT 9009 (35) MARTINIQUE MEWS, HILLARYS

WARD: South-West

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Development (Acting)

FILE NUMBER: 68543

ATTACHMENTS: Attachment 1 Location Plan
Attachment 2 Development Plans
Attachment 3 Perspective Drawings
Attachment 4 Map of Submitters

PURPOSE

To request Council's reconsideration of an application for 24 multiple dwellings, 8 grouped dwellings, offices, shop, convenience store and restaurant at Lot 9009 (35) Martinique Mews, Hillarys in accordance with orders made by the State Administrative Tribunal.

EXECUTIVE SUMMARY

The applicant proposes to construct a two and three storey development of multiple dwellings, grouped dwellings, offices, convenience store and restaurant on the subject site, which is within the Hillarys Structure Plan Area.

The proposal generally meets the requirements of the Hillarys Structure Plan (the Structure Plan) as adopted by Council, the City of Joondalup District Planning Scheme 2 (DPS2) and the Residential Design Codes (R-Codes). The proposed variations to the Structure Plan, and the R-Codes satisfy the relevant objectives and Performance Criteria.

The proposed buildings have a maximum height which exceeds that prescribed in Council Policy 3-4 Height of Buildings within the Coastal Area - Non-Residential Zones (Policy 3-4). The 10 metre height limit set by this Policy is consistent with the height limit set by proposed Amendment 32 to DPS2. In this regard, it should be noted that the Minister for Planning has refused Amendment 32 as the proposed height limit was not appropriately justified, and as it would not allow any discretion to be exercised where appropriate developments are proposed.

The Structure Plan also sets out height requirements and the proposal is consistent with these requirements, should Council accept that the development is of Landmark Quality.

The amended plans that are the subject of this report to Council were advertised for a period of 21 days with a total of 55 submissions being received. These submissions comprise 49 objections to the proposal, 2 comments on the proposal, and 4 letters stating no objections.

The objections raised concerns including additional traffic being generated, whether sufficient parking is provided, and the scale of the proposed development, being out of character with the existing development in the surrounding area.

It is considered that the development will contribute to the desired character of the Harbour Rise area and is compatible with other proposed developments in the locality.

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

BACKGROUND

Suburb/Location: Lot 9009 (35) Martinique Mews, Hillarys.
Applicant: Hames Sharley Pty Ltd
Owner: Paltara Pty Ltd
Zoning: **DPS:** Urban Development
MRS: Urban
Site Area: 6389m²
Structure Plan: Hillarys Structure Plan (No.20)

The subject site is located within the Harbour Rise estate in Hillarys, the entirety of which is required to be developed in accordance with the Hillarys Structure Plan (the Structure Plan).

Lot 9009 is a 'balance title' comprising the remainder of the Structure Plan Area yet to be subdivided, this being the two mixed use sites in the Harbour Rise estate. These two sites are located at 46 Angove Drive to the north of the estate, and 35 Martinique Mews (the subject site) to the south of the estate.

The subject site is located on the corner of Whitfords Avenue and Hepburn Avenue, Hillarys. Martinique Mews forms the northern boundary of the site, and Kos Link forms the eastern boundary (Attachment 1 refers).

A mix of existing residential development and vacant residential sites surround the property to the north and east. These are also within the Structure Plan Area. To the west of the subject site, on the opposite side of Whitfords Avenue is the existing Hillarys Marina.

The site is zoned Urban Development under DPS2 and is subject to the provisions of the Structure Plan. The site was designated Mixed Use under the Structure Plan in 2001, when Council resolved to amend the Hillarys Structure Plan for this purpose.

The Structure Plan Area consists primarily of residential development at various scales and densities, with two sites designated for Mixed Use developments, the subject site being the larger of the two.

Policy 3-4 – Height of Buildings within the Coastal Area (Non-Residential Zones) was adopted by Council in February 2006 as an interim measure whilst proposed Scheme Amendment 32 (adopted by Council in April 2006) was progressed. The policy sets a maximum ten metre height limit for non residential sites within 300 metres from the coast. The policy recognises the coastline within the City as a regional asset and the policy ensures the protection of its unique amenity and characteristics by controlling the height of development within the coastal area. The Minister for Planning refused Amendment 32 in early 2009 stating that insufficient justification for the height limit was provided, and it did not allow the exercise of discretion where an appropriate development may be proposed. As such, only Policy 3-4 is applicable to this application.

A similar development application was presented to the April 2009 meeting of Council for consideration (CJ094-04/09 refers). This application was refused for the following reasons:

- 1 A Shop with a floor area of 350m² NLA is not permitted under Clause 3.5.2 of the City of Joondalup District Planning Scheme No. 2. This requirement cannot be varied under Clause 4.5.1 of this Scheme as set out in Clause 3.5.3;
- 2 The proposed development does not provide adequate car parking to satisfy the requirements of the City of Joondalup District Planning Scheme No. 2, by way of a nine car parking bay shortfall for the non-residential component of the Development, and an overall shortfall of four car parking bays;
- 3 The proposed car parking shortfall of nine bays for the non-residential component of the development, and the overall shortfall of four car parking bays will result in an adverse impact on the amenity of surrounding residential properties by way of parking overflow and resultant congestion of surrounding streets;
- 4 The bulk of the proposed retaining walls on the corner of Whitfords Avenue and Hepburn Avenue will adversely impact the streetscape of these two roads and the amenity of the surrounding area; and
- 5 The proposed development is not consistent with the interests of orderly and proper planning as the height, scale and building bulk of the proposed development will adversely impact on the amenity of the locality.

The applicant subsequently requested an independent review of this decision by the State Administrative Tribunal (SAT). Through the SAT process, the applicant has modified the proposal, to address the above reasons for refusal. Following this, the SAT has issued an order that the City reconsider its decision pursuant to section 31 of the *State Administrative Tribunal Act 2004*.

The modifications to the application relate to the ground floor car parking layout, additional commercial car parking and the type and configuration of the retail component of the development to satisfy the requirements of DPS2. Modifications have also been made to the wall at the front of the development in order to slightly reduce the height, and to further articulate this component of the development.

No other changes have been made to the proposal.

DETAILS

The applicant proposes to construct a two and three storey development on the subject site, consisting of:

- 24 Multiple Dwellings;
- 8 Grouped Dwellings;
- 794m² Net Lettable Area (NLA) of Offices at ground floor and first floor levels;
- a Convenience Store of 200m² NLA;
- a Shop of 150m² NLA; and
- a Café (Restaurant) seating 48 persons, with a total floor area of 150m² NLA.

Access to the site is from Martinique Mews for residents and visitors of the residential dwellings, and from Kos Link for staff and customers of the Offices, Restaurant, Convenience Store and Shop.

Compliance with the relevant requirements of DPS2, the Structure Plan and the R-Codes is summarised below:

Standard	Required	Proposed	Compliance
Minimum Building Setbacks	Front (Hepburn Avenue): nil Front (Whitfords Avenue): nil Rear (Kos Link): 6 metres Side (Martinique: Mews) nil	Retaining: nil – 4m Building: nil – 8.8m Retaining: nil – 4.4m Building: 6.0m – 6.8m 6m 1.15m – 4.007m	Yes Yes Yes Yes Yes Yes
Internal Setbacks (Grouped Dwellings)	2.5 metres to common driveway	Nil	No
Cone of Vision (Grouped Dwellings)	7.5 metre setback from balconies and unenclosed outdoor living areas	Setbacks of nil and 2 metres from upper floor balconies overlooking outdoor living areas of adjoining grouped dwellings within the development	No
Landscaping	8% of total site area 3m wide landscaping strip adjacent to street where car parks adjoin the street. One shade tree per four car parking bays	9.5% Nil One tree per four bays	Yes No Yes
Plot Ratio	0.8	0.8	Yes
* Office Floorspace	Maximum 800m ² NLA Ground Floor 500m ² NLA Upper Floor 300m ² NLA	Maximum 794m ² Ground Floor 187m ² Upper Floor 607m ²	Yes Yes No
Total Restaurant Floorspace	Maximum 150m ² NLA	150m ² NLA	Yes
Total Retail Floorspace	Maximum 350m ² NLA	350m ² NLA	Yes
Building Height	Maximum two storeys or three storeys where development considered to be of landmark quality	Maximum three storeys	Yes (if Council consider the proposed development to be of landmark quality)
Communal Open Space	16m ² per Multiple Dwelling = 384m ²	314.85m ²	No
Appearance	Development shall consist of a number of facades, however the resultant streetscape should be cohesive.	Varied facades using a combination of design elements from dwellings in the surrounding area.	Yes
Awnings	Public frontages should have continuous awnings and/or colonnades to give pedestrian protection.	Shelter at rear of building from upper level. No awnings along Hepburn Avenue Façade.	No
Residential component	All developments shall possess a residential component	24 Multiple Dwellings & 8 Grouped Dwellings	Yes

* Whilst the maximum office floor space complies with the maximum floor space requirements, the distribution of the floor space of the lower and upper floors is not within accordance with the structure plans requirements.

Car Parking requirements for the proposed development are set out below:

Proposed Use	Required by DPS2	Provided
Office (1 per 30m ² NLA)	26.46 bays	26 bays
Shop (7 bays per 100m ² NLA)	10.5 bays	11 bays
Convenience Store (5 bays per 100m ² NLA recommended)	10 bays	10 bays
Restaurant (Greater of 1 per 5m ² of dining room or 1 per 4 guests)	12 bays	12 bays
Subtotal (Commercial Component)	58.96 (59) Bays	59 Bays
Multiple Dwellings	48 Bays (5 to be permanently set aside for visitor use)	53 bays (including 5 visitor bays)
Grouped Dwellings	18 Bays (2 to be permanently set aside for visitor use)	18 bays
Subtotal (Residential Component)	66 Bays	71 Bays
Total	124.96 (125) bays	130 Bays

The car parking for the restaurant component of the development has been calculated at a standard of one bay per four guests. The applicant has advised that a maximum of 48 patrons will be accommodated by the development, generating a requirement for 12 parking bays.

The applicant has further advised that a maximum of 35m² of internal dining area will be provided with the remainder of the space used for food preparation, serving, and ordering areas. The 12 parking bays provided allows for up to 60m² of dining area. Any alfresco dining would be the subject of a separate application for planning approval, and an assessment of such an application would take into account the constraints in place as a result of the parking provision on-site.

The applicant has provided the following justifications for the proposed development and the variations sought:

- *The development has been designed to provide an attractive and visually interesting presentation to all streets. The Martinique Mews street edge has been treated with two storey townhouse development to complement and provide a transition area between the surrounding medium density single residential development and the proposed apartment and commercial building on the subject land. The proposed development will be sympathetic to the surrounding buildings in bulk and scale;*
- *Private spaces will be used to encourage passive surveillance of the adjoining public street area;*

- *The Whitfords and Hepburn Avenue corner will be punctuated by an attractive three storey apartment building designed to create an identity worthy of a landmark building;*
- *Provision of commercial uses will provide convenient facilities to both the residents of the development and surrounding local residents. It is expected that a significant proportion of visitors will walk from the immediate surrounding area; and*
- *The development will contribute to a variety of housing type and density.*

The development plans are provided in Attachment 2.

The applicant has provided the following information in support of the proposal being considered to be of landmark quality:

A Landmark Site is one that is highly legible from the public domain (street, pathway, open space, plaza etc) and in respect of the subject site at the north east corner of Hepburn Avenue and West Whitfords Avenue and situated opposite the Hillarys Marina, it takes on regional significance. A Landmark Site provides the potential of providing an Architectural Marker in the urban fabric through the borrowed landscape of the adjacent streets view lines. Any building on such a site should therefore have a presence in keeping with the scale and significance of the site.

A Landmark Building in responding to a landmark site should have scale/bulk and height that “marks” the corner in the travellers mental picture of the town but at the same time be “well mannered” in relation to its immediate neighbouring built form. It should be noted that the nearby housing is a mix of 2 and 3 storey massing on small lots. The other key feature of a Landmark Building is that it addresses the public domain with windows/doors and outdoor living spaces, thus providing passive surveillance.

All the above criteria have been met by the subject development proposal and it is contended that it meets the vision and objectives of the original master plan that established the mixed use potential of this Landmark Site.

Issues and options considered:

Council has the options to:

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

Legislation/Strategic Plan/Policy Implications

Legislation City of Joondalup District Planning Scheme No. 2.

3.5 THE MIXED USE ZONE

3.5.2 *A shop may be permitted in the Mixed Use Zone, subject to Council’s discretion after giving notice in accordance with Clause 6.7, and provided the following conditions have been met:*

- (a) *Shopping floorspace does not exceed 200m² NLA;*

- (b) *The parcel of land is on a separate green title lot of not less than 1000m²;*
- (c) *The aggregate shopping NLA on any group of adjoining or adjacent lots in the Business and Mixed Use Zones must not exceed 1000m²; and*
- (d) *The direct street frontage of any lot containing a lot must be at least 20 metres in width.*

3.5.3 *The conditions specified in clause 3.5.2 are not standards or requirements for the purposes of Clause 4.5.1.*

Clause 4.5 of DPS2 allows Council to vary some standards and requirements of the Scheme where appropriate.

4.5 VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS

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

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

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

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

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

4.8 CAR PARKING STANDARDS

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

6.8 MATTERS TO BE CONSIDERED BY COUNCIL

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

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

8.11 LOCAL PLANNING POLICIES

8.11.2 *Relationship of Local Planning Policies to Scheme*

8.11.2.2 *A Local Planning Policy is not part of the Scheme and shall not bind the Council in respect of any application for planning approval but the Council shall have due regard to the provisions of any Policy and its objectives which the Policy is designed to achieve before making its decision.*

9.8 OPERATION OF AGREED STRUCTURE PLAN

9.8.3 *Without limiting the generality of the preceding subclause, under an Agreed Structure Plan:*

- (a) *in the areas designated as zones, the permissibility of uses shall be the same as set out in the Zoning Table as if those areas were zones under the Scheme, having the same designation;*
- (b) *the standards and requirements applicable to zones and R Codings under the Scheme shall apply with the necessary changes or alterations to the areas having corresponding designations under the Agreed Structure Plan. However an Agreed Structure Plan may make provision for any standard or requirement applicable to zones or R Codings to be varied, and the standard or requirement varied in that way shall apply within the area of the Agreed Structure Plan, or any*

stipulated part of that area, as if it was a variation incorporated in this Scheme; and

- (c) the development control procedures including (without limitation) the procedures for approval of uses and developments under the Scheme shall apply as if the land was correspondingly zoned or reserved under the Scheme;*
- (d) provisions duplicating or substantially to the same effect as any provisions of the Scheme shall have the same force and effect in regard to the land in the Structure Plan as if they were provisions of the Scheme;*
- (e) where land is classified as a Local Authority Reservation, the rights, provisions and procedures, and the obligation of the Council in regard to compensation shall apply as if the land was correspondingly reserved under the Scheme;*
- (f) any other provision, standard or requirement in the Structure Plan shall be given the same force and effect as if it was a provision standard or requirement of this Scheme, but in the event of there being any inconsistency or conflict between any provision, requirement or standard of the Scheme and any provision requirement or standard of an Agreed Structure Plan, the provision requirement or standard of the Scheme shall prevail;*
- (g) an Agreed Structure Plan may distinguish between provisions, requirements or standards which are intended to have effect as if included in the Scheme, and provisions, requirements or standards not so intended, and it is only the provisions so intended which have that effect. Any other provisions are for guidance or information only, or such other purpose as stipulated in the Agreed Structure Plan documents.*

As certain clauses of the R-Codes are to be varied Council is required to exercise discretion under clause 2.5 of the R-Codes. Clause 2.5.2 of the R-Codes specifies matters to be taken into consideration when exercising that discretion.

2.5.2 Discretion shall be exercised having regard to the following considerations:

- (a) the stated purpose and aims of the scheme;*
- (b) the provisions of part 1-7 of the codes, as appropriate;*
- (c) the performance criterion or criteria in the context of the coding for the locality that corresponds to the relevant provision;*
- (d) the explanatory guidelines of the codes that correspond to the relevant provision;*
- (e) any local planning strategy incorporated into the scheme;*
- (f) a provision of a local planning policy pursuant to this policy and complying with clause 2.5.3; and*
- (g) orderly and proper planning*

Strategic Plan

Key Focus Area: The Built Environment.

Objective: 4.1 – to ensure high quality urban developments within the City.

Policy

Council Policy 3-4 – Height of Buildings within the Coastal Area (Non – Residential Zones)

Council Policy 3-4 was adopted by Council in February 2006 as an interim measure whilst Scheme Amendment 32 was progressed. Following the Minister's decision on Amendment 32, the Council adopted the revised Policy 3-4 at its meeting held on 17 March 2009.

The objective of this policy is to ensure that the height of development within the coastal area protects and enhances the amenity and streetscape character of the coastal area. The policy states that buildings within 300 metres of the coast shall not exceed a height of 10 metres above natural ground level.

The Council is required to have due regard to the requirements and objectives of this policy when determining this application.

City Policy 7-1 – State Administrative Tribunal – Mediation and revised development proposals

City Policy 7-1 is an operational policy designed to assist in the manner which Mediation of State Administrative Tribunal Matters occurs.

Of particular importance is that the policy requires:

2. *In the case of any revised plans or other development matters that are presented by the applicant during the course of the SAT review, the City will request leave to advertise those revised plans or other matters for public comment, prior to establishing a position on the proposed revisions.*
3. *If leave is granted by the SAT to advertise amended plans or other development matters, the advertising is to be in the same format as the original advertising process. If the matter had not previously been advertised, the proposal is to be advertised in the normal manner appropriate to the application or development matter.*

The re-advertising of the amended proposal has been undertaken in accordance with this Policy, and the requirements of DPS2.

Risk Management considerations:

The proponent is currently exercising their right of review against Council's decision of April 2009 in accordance with the *State Administrative Tribunal Act 2004* and the *Planning and Development Act 2005*. Should Council resolve to refuse the current proposal, or to approve it subject to conditions that are not satisfactory to the applicant, the proposal will continue to proceed through the SAT process.

Financial/Budget Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

The initial proposal for this development was advertised for public comment for a period of 21 days in November and December 2008. A total of 44 submissions were received as part of that public consultation process with 40 of these being objections to the proposal.

The City sought, and was granted, permission to advertise the amended proposal in accordance with its policy on SAT Mediation and Modified Proposals (Policy 7-1).

The amended proposal was advertised for a period of 21 days from 5 November 2009 to 26 November 2009. The proposal was re-advertised by way of:

- two signs on site in the same locations as when the previous plans were advertised;
- notices in the Joondalup Weekender Newspaper for three consecutive weeks; and
- letters to all residents who were previously advised in writing, and to all residents who previously made a submission on the proposal.

A total of 55 submissions were received in response to this re-advertising. These being 49 objections to the proposal, four (4) letters stating no objections, and two (2) comments.

It should be noted that some objections relate to multiple properties that the objectors own within the area. There are also properties where multiple owners have each submitted objections to the proposal. All properties listed on the submissions of objection have been indicated on the map of submitters. Where multiple objections have been received by various owners of a single property, these have also been indicated (Attachment 4 refers).

It should also be noted that a letter of no objection was submitted by the landowner of the subject site, in relation to other landholdings within the area. All 22 properties listed on this submission are also indicated on the map of submitters (Attachment 4 refers).

The objectors to the proposal raise a number of concerns, these being:

- The development is too high/too large/only meant to be two storeys;
- The development is up to 13.27 metres above natural ground level and exceeds the City's 10 metre coastal height policy limit;
- The development will be out of character with the surrounding dwellings;
- The development proposes 9-11 dwellings more than what is allowed under the City's District Planning Scheme No. 2, and does not provide sufficient parking for these dwellings;
- The dwellings only occupy 2/3 of the area required to be occupied;
- Traffic entry and exit will be via local residential roads;

- The dwellings on the corner of Hepburn and Whitfords Avenue are raised between 1.0 and 1.7 metres above ground level and will look imposing from street level when there is a fence on top of these walls;
- There is no need for it with Sorrento Quay in easy walking distance;
- The development will cause problems in terms of noise, litter, parking, traffic, and social problems;
- Consideration of a proposal that does not comply with the requirements of relevant legislation;
- Whilst this is a mixed use site the development is not a mixed use development as defined by the R-Codes, therefore plot ratio bonuses are not applicable;
- The site consists of two separate and distinct uses, residential and commercial and does not satisfy the definition of Mixed Use Development under the R-Codes;
- Car parking provision for the restaurant does not comply;
- The commercial development is too large;
- The developer is changing the rules for their development; and
- The development should not be mixed use, but residential only.

The objections to the proposal also make reference to a number of development requirements or provisions – these being:

- Clauses: 1.6; 1.9; 4.1; 4.2; 4.3; 4.5; 6.1; 6.8; 8.11; and 9.8 of DPS2;
- The objective of Part 6.1 of the R-Codes; and
- Clauses 6.5.1; 6.5.3; and schedule 2 of the Hillarys Structure Plan.

The following is provided in response to the points of objection:

- The development is permitted to be two storeys in height, or three where Council considers the development to be of landmark quality. The comments and details sections of this report provides further information as to whether the building is considered to be of landmark quality. Advice provided by the developers on what was intended for the site is not a planning consideration;
- The development has a maximum height of 12.90 metres above natural ground level. This occurs only for part of the development at the lowest point of the site, this being the corner of Whitfords and Hepburn Avenues. The height of the building at a specific point must be measured from the natural ground level at that same point on the site. Council is required to consider the objectives of the Policy, as set out below, when determining whether the proposal is appropriate or not in regard to building height;
- The development has been designed to complement surrounding development and will be of a similar height to surrounding dwellings when placed in the context of the site and the topography of the area;
- The density of the proposed development complies with the Residential R50 density requirements of the R-Codes and does not seek to construct more dwellings than permitted. A surplus of car parking is provided for the multiple dwelling component of the development;
- The minimum site area specified by the R-Codes is used to calculate density. The dwellings are not required to occupy the entire minimum site area;
- The City has reviewed the traffic report submitted by the applicant, and the subsequent accompanying statement and is satisfied that the roads surrounding the development are able to adequately cater for the amount of traffic that the development will generate;

- The proposed walls have been reduced to a maximum height of 1.6 metres above natural ground level. This provides for a higher standard of amenity for residents utilising their outdoor living areas. The fencing or balustrades on top of the wall are proposed to be visually permeable, and this is recommended as a condition of approval. Landscaping will be provided in front of the wall to soften the impact, and the wall has been articulated to reduce the impact of the building bulk and provide visual interest;
- The need for such a development is not a planning consideration. The proposal has been submitted by the applicant, and the City is required to determine the application;
- All developments are required to comply with the Environmental Health (Noise) Regulations 1997, parking and traffic considerations are discussed further in the comments section of this report. The development is required to be well lit to discourage anti-social behaviour. A high level of passive surveillance will also occur as a result of the various land uses and their outlooks both over the development and over the surrounding streets;
- The City is required to consider all proposals that are submitted. In most instances the requirements of the DPS2, Structure Plan, R-Codes etc can be varied where it is considered appropriate to do so. Council must first consider the requirements of Clause 6.8 of DPS2 prior to making this decision;
- This application is for 24 multiple dwellings, 8 grouped dwellings, offices, shop, convenience store and restaurant. The applicant has not sought for the development to be approved as a "Mixed Use Development" and is not seeking any plot ratio bonuses;
- As outlined above, the application is for six land uses, not a "Mixed Use Development". There is no requirement for these uses to be contained within one building, and it is considered that the set-out of the proposed development may provide for a higher standard of amenity for future occupants;
- Car parking provision for the restaurant does comply, as outlined above in the details section of this report;
- All relevant requirements of DPS2, the Structure Plan, and the R-Codes have been considered in the assessment of this application;
- All aspects of the commercial development comply with the maximum floor areas set out in the Structure Plan, and the entire development complies in regard to plot ratio;
- The Structure Plan was amended in 2001 to designate the sites on the Corner of Whitfords Avenue and Hepburn Avenue; and Whitfords Avenue & and Angove Drive, both as Mixed Use; and
- All proposed land uses are Permitted (P) or Discretionary (D) under DPS2 and can be approved.

The comments on the proposal raise the following issues:

- a perspective is required of the back of the Hepburn Avenue Elevation;
- should not be more than two storey;
- not enough parking for 32 units, traffic will be a problem; and
- the development is far too bulky.

In response to these concerns it is noted that a perspective has now been developed of this façade of the building and is provided as part of Attachment 3 to this Report. All other concerns have been addressed in response to the objections (above).

The submissions stating no objection to the proposal make the following statements:

- very happy to have shops within walking distance; and
- it should all be constructed at the same time.

In response to these comments, the City cannot require the development to all be constructed at once, however if approved, the development must be substantially commenced within two years.

DPS2 defines substantial development as “*means in relation to a building the completion of the floor slab as defined in the Building Code of Australia 1988 (as amended)*”.

A copy of all submissions is available in the Councillors’ Reading Room.

COMMENT

Land Use

The site is located in the Structure Plan Area and is designated Mixed Use. The Structure Plan guides development within this area and sets out objectives whereby:

- *A diversity of land uses and housing types is encouraged;*
- *The landmark significance of the site on the corner of Hepburn Avenue and Whitfords Avenue is emphasised, and an active focus for the community is created by means of associated commercial uses;*
- *A high level of pedestrian amenity is maintained; and*
- *Development that is human in scale and provides an interesting and pedestrian friendly streetscape.*

The proposed development is focused on Whitfords Avenue and Hepburn Avenue, with three storey development to these frontages creating a landmark feature. Factors such as size, shape, design and materials contribute to the landmark quality of a development. The varying facades by way of design and shape, as well as the varying roof designs, and the colours and materials of the overall development also assist in contributing to the landmark quality of the proposal. The development to the side and rear of the site is generally two storeys in height to provide a transition between the existing residential development in the surrounding area, and the three storey component of this development.

It is noted that there are concerns regarding the potential for a liquor store component to be incorporated in the development at a later stage. The sale of liquor is not included in the current proposal, and Liquor Store is a prohibited use in the Mixed Use Zone under DPS2.

Footpaths are proposed to be incorporated surrounding the development along with substantial amounts of verge landscaping which will provide an attractive setting for the development and allow for a pedestrian interaction, particularly with the commercial component of the development. It is intended by the applicant that the restaurant, convenience store and shop will be largely accessed by residents of the complex and surrounding Harbour Rise Area, and as such it has been ensured that a high degree of pedestrian amenity is maintained. A recommended condition of approval would also seek to have the applicant provide bicycle parking at the site to further facilitate usage by local residents.

It is considered that the proposed development meets the objectives of the Structure Plan given its diversity of housing types and land uses, landmark quality development and pedestrian accessibility to the development.

Height and Scale

- Coastal Height Policies

The Western Australian Planning Commission's State Planning Policy 2.6 – State Coastal Planning Policy sets a maximum height of five storeys or 21 metres for development within 300m of the coast. The proposed development complies with the requirements of this policy.

The City's Policy 3-4 sets a height limit of 10 metres for non-residential zoned land within 300 metres from the coast. The proposed development is a maximum of 12.90 metres as measured from natural ground level, exceeding the Policy height limit by 2.90 metres at the lowest point of the site which is towards the corner of Whitfords and Hepburn Avenues. Council is required to have due regard to the requirements of this Policy when determining the application.

The objective of this policy is to ensure that the height of development within the coastal area protects and enhances the amenity and streetscape character of the coastal area. The policy recognises the coastline within the City as a regional asset and ensures the protection of its unique amenity and characteristics by controlling the height of development within the coastal area.

- Structure Plan Height Requirements

The proposed development is of a greater density and scale than surrounding residential development, however is compliant with the Structure Plan in this regard. The Structure Plan also controls building height for the surrounding residential development. The Structure Plan area is divided into a number of precincts, and the development control standards vary between precincts. The Structure Plan sets a maximum ridge height for dwellings of 9.5 metres. In certain precincts 'tower elements' are also permitted and these may be an additional three metres in height to that permitted, allowing a small portion of the dwelling to be a maximum height of 12.5 metres. The proposed development will be consistent with the height of those dwellings with 'tower elements' throughout the surrounding Structure Plan area, of which there are several already constructed that front Whitfords Avenue.

The height limit set out by the Structure Plan for the subject site, requires development to be a "minimum and maximum of two storeys", with development of a maximum of three storeys being permitted where a development of landmark quality is proposed. It is considered that the proposed development is of landmark quality by way of its varying facades, materials and finishes, the scale of the development and its location on a major intersection.

- Height and Bulk of Retaining Walls

The proposed development incorporates retaining walls to a maximum height of 1.6 metres above natural ground level on the corner of Whitfords Avenue and Hepburn Avenue. The height of this wall has been reduced from its previous maximum height of 1.8 metres above natural ground level. The proposed wall is not a variation to the requirements of the R-Codes as it forms the wall of the undercroft car park. The wall is considered to be well articulated, in order to appropriately address its prominent location. A condition of approval will require any fencing or balustrades above this wall to be visually permeable. Conditions of approval will also require that the wall is contained within the lot boundaries and is of a clean finish, and that the area in front of the wall is landscaped in order to soften the impact of the wall.

- Height, Bulk & Scale of Development

One of Council's reasons for the refusal of the previous proposal related to the height, scale and bulk of the development and its integration with the surrounding locality.

The applicant has provided additional detail on the elevation plans to show the scale of the development in relation to surrounding residential development that has been approved, and/or constructed and also what could be approved for undeveloped sites. This additional information supports the view that the proposal is not out of character with the locality and is appropriate in this regard.

In relation to the façade of the shop and convenience store fronting Hepburn Avenue, it is suggested that further articulation be provided at the pedestrian level to create a higher degree of visual interest than currently proposed. It is recommended that this be included as a condition of approval.

Variations to DPS2, R-Codes and the Structure Plan

The proposed development is subject to the provisions of DPS2, R-Codes and the Structure Plan. The proposal seeks to vary the following standards:

- Building Setbacks

The R-Codes require that the Grouped Dwelling component of the development is assessed based on the individual site area for each dwelling rather than the overall site area for the proposed development. As such the proposal includes an internal setback variation of nil in lieu of 2.5 metres to the common driveway. The proposed variation will not have an adverse impact on the amenity of the future residents or on the surrounding area as it is internal to the development and as such is supported.

- Cone of Vision (Grouped Dwellings)

Minor overlooking variations are proposed between the eight (8) grouped dwellings fronting Martinique Mews.

The balconies of the proposed Grouped Dwellings provide screening to allow a degree of privacy between the dwellings, however some minor overlooking will occur from each balcony into the courtyard of the adjoining dwelling(s). The amount of overlooking is consistent across the eight dwellings, and is expected in a development of this nature. The proposed variation will not adversely impact on the amenity of adjoining residents as a portion of the outdoor living area provided is beneath the balconies and is not visible from the street or surrounding properties. It is recommended that the variation is supported.

- Communal Open Space

The R-Codes require that Multiple Dwelling Developments provide 16m² per dwelling of communal open space. As there are 24 Multiple Dwellings proposed as part of this development, a total of 384m² is required. The communal pool area for the development is 314.85m², being a variation to this requirement.

The development is therefore required to be considered against the applicable Performance Criteria of the R-Codes. These require that adequate communal open space is provided to meet the future need of residents, having regard to the location of the development. The pool area is considered to satisfy the requirements of this, particularly having regard to the location of the development in relation to the Hillarys Marina, and the coastline.

Further, the proposal complies with the R-Codes in relation to the Overall Open Space requirements, and DPS2 in relation to the percentage of the site required to be landscaped. As such it is recommended that the variation be supported.

- Office Floor Space Distribution

The Structure Plan permits a maximum office floor space of 800m² NLA and requires the distribution of this to be 500m² on the ground floor and 300m² on the upper floor. The proposed development requests a total of 794m² office floor space, with a distribution of 187m² on the ground floor and 607m² on the upper floor. It is considered that this varied distribution of the floor space will not adversely impact on future users of the development or the amenity of the area, and that sufficient office floor space is provided at ground level, along with other non-residential land uses to provide interaction at the ground floor level.

- Continuous Awnings

The Structure Plan requires that the buildings are designed to have active frontages and to provide awnings or colonnades to provide pedestrian shelter. Shelter is provided within the internal circulation of the commercial portion of the development where customers will access the development from the car park. Shelter is not provided along the Hepburn Avenue façade of the non-residential buildings. It is considered that this could not be incorporated in such a manner that would not appear disjointed and clumsy, particularly in relation to the office building where the façade is proposed to be comprised almost entirely of glass.

The design of the facades provides a good level of articulation addressing the street, and it is considered this part of the requirement is satisfied. A recommended condition approval seeks some additional articulation of the convenience store and shop wall to create visual interest at the pedestrian level along Hepburn Avenue.

- Landscaping Strip where car parking areas adjoin surrounding streets

DPS2 requires that where a car park adjoins a street boundary, that a three metre wide landscaping strip is provided. This requirement has not been achieved for the two entrances to the site off Kos Link and Martinique Mews.

It should be noted that some landscaping is provided adjacent to the Martinique Mews entrance, and that the associated landscaping of the verge will assist in treatment of this streetscape. Vegetation or soft landscaping has not been provided adjacent to the Kos Link entrance to facilitate good vehicle sightlines, and adequate on-site parking, thereby reducing concerns about parking spill onto surrounding streets.

The development and adjacent road verges will be well landscaped where practicable, and it is considered that the objectives of DPS2 are met in this regard.

It is recommended that the variation be supported, and that a condition of approval require a landscaping plan to be submitted to the City for further approval.

Traffic Movement & Site Access

Two entrance/exits are proposed to the car parking areas for the proposed development, one off Martinique Mews and one off Kos Link. This provides a safe and efficient flow of vehicles to the car parking areas for the various components of the development and also ensures a high level of pedestrian safety through and around the site. No vehicular access to the site is permitted from either Hepburn Avenue or Whitfords Avenue. Importantly this separates residential traffic from commercial traffic.

In 2001 Council resolved to amend the Hillarys Structure Plan by way of designating the sites on the corner of Whitfords Avenue and Hepburn Avenue, and Whitfords Avenue and Angove Drive as Mixed Use. As part of this Structure Plan amendment a detailed traffic study was sought. This Traffic Study concluded that "anticipated traffic is within acceptable limits (albeit with minor residential amenity impacts for the high traffic scenario) and the access points have been found to be well located"

The applicant has provided an updated traffic statement confirming that the findings of the previous study are still relevant, and that the proposed development falls within acceptable limits in relation to traffic generation and the capacity of the surrounding road network.

Car Parking - Commercial

Should Council accept that a car parking standard of five (5) bays per 100m² NLA is appropriate for the Convenience Store component of the development, a total of 59 car parking bays is required for the commercial component of the development as set out in the details section of this report.

Council have previously approved Convenience Stores in other developments, such as within the Currambine District Centre, with a parking requirement of four (4) bays per 100m² NLA. However, to address the concerns raised by the surrounding community that the parking on-site will not be adequate, a standard of five (5) bays per 100m² is recommended. This standard is greater than the requirement for a corner store as set out by DPS2 at four (4) bays per 100m², but less than the requirement for a shopping centre of up to 10,000m² NLA, which requires seven (7) bays per 100m².

The proposed development provides a total of 59 commercial car parking bays. This consists of 26 undercroft parking bays for the office component of the development and 33 'at grade' parking for the retail and restaurant component of the development.

It is recommended that the five parallel bays in the ground floor parking area are marked and permanently set aside for short term parking of no longer than 15 minutes. This will provide for vehicle turnover throughout the car park, and also ensures that any service vehicles accessing the development are able to manoeuvre safely and easily into the service area.

Car Parking - Residential

The required amount of car parking is provided for the grouped dwelling component of the development, with a surplus of five bays being proposed for the Multiple Dwelling Component. These surplus bays are contained within the development and will be accessible only to residents. However, this will allow all multiple dwellings to be provided with two bays each, catering for a realistic demand.

It is also noted that several street embayments are indicated on Martinique Mews as 'overflow parking'. This street parking is already constructed, but is not required by this development as the car parking requirements of DPS2 and the R-Codes are met.

Conclusion

The proposed development complies with the requirements of DPS2, the R-Codes and the Structure Plan with the exception of the matters discussed above. It is considered that the proposed variations should be supported as they are minor in nature, will not adversely impact the amenity of future residents or the surrounding area, and the proposal meets the objectives for the subject site under the Structure Plan.

The subject site is an appropriate and acceptable location for development of this nature. The quality of the design of the development and proposed materials and finishes will ensure that it is in-keeping with surrounding development in the Structure Plan area.

The proposed office, restaurant, shop and convenience store floor space will contribute to the mixture of commercial and retail services that the Structure Plan Objectives seeks to provide to the surrounding community.

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

VOTING REQUIREMENTS

Simple Majority.

OFFICER'S RECOMMENDATION: That Council:

- 1 EXERCISES discretion under Clause 4.5 of District Planning Scheme No. 2 and under Clause 2.5 of the Residential Design Codes (Variation 1) determines that the:
 - (a) Grouped Dwelling Setbacks (Units 25-32) of nil in lieu of 2.5 metres to the internal driveway;
 - (b) Cone of vision Setbacks of nil and 2 metres in lieu of 7.5 metres from the balconies to the adjoining Grouped Dwelling courtyards;
 - (c) Office floorspace distribution of 607m² on the upper floor in lieu of 300m²;
 - (d) landscaping strip of nil in lieu of 3m where car parking areas adjoin the street;
 - (e) Communal open space of 314.85m² in lieu of 384m²;
 - (f) provision of pedestrian shelter at the rear of the building only;are appropriate in this instance;

- 2 Having regard to Clause 4.8.2 of the City of Joondalup District Planning Scheme No 2, DETERMINES that the car parking standard for the use "Convenience Store" shall be five (5) car parking bays per 100m² Net Lettable Area in this instance;
- 3 SUPPORTS the proposed height of a maximum of 3 storeys under clause 6.5.3(c) of the Hillarys Structure Plan and Clause 9.8 of the City of Joondalup District Planning Scheme No. 2 and DETERMINES that the proposed height is appropriate in this instance as the development is considered to be of a landmark quality;
- 4 NOTES that Policy 3-4 has been addressed and the maximum building height of 12.90 metres as measured from natural ground level, is appropriate;
- 5 APPROVES the application dated 5 December 2006, with amended plans received on 27 October 2009 submitted by Hames Sharley Pty Ltd for 24 Multiple Dwellings, 8 Grouped Dwellings, Offices, Shop, Convenience Store & Restaurant at Lot 9009 (35) Martinique Mews, Hillarys subject to the following conditions:
 - (a) The parking bays, driveways and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS/NZS2890.1-2004) and the Australian Standard for off-sreet Commercial Vehicle Facilities (AS2890.2-2002). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the City prior to the development first being occupied. These works are to be done as part of the building programme;
 - (b) All stormwater to be contained on site to the satisfaction of the City. The proposed stormwater drainage system is required to be shown on the Building Licence application and be approved by the City prior to the commencement of construction. It shall be designed to cater for the 100 year 24 hour storm event;
 - (c) The driveways and crossovers to be designed and constructed to the satisfaction of the City before occupation of development;
 - (d) Utility areas such as bins and service area, material storage and services such as air conditioners, compressors and other machinery shall be concealed from streets and public areas by an enclosure in the style and material of the building;
 - (e) Suitably screened bin storage areas are to be provided prior to the development first being occupied, in the location shown on the approved plans. Such an area must be constructed with a concrete floor, graded to a 100mm industrial floor waste gully, connected to sewer and be provided with a hose cock;
 - (f) A refuse management plan indicating the method of rubbish collection is to be submitted as part of the Building Licence and approved by the City prior to occupation of the development;
 - (g) Retaining walls being of a clean finish and made good to the satisfaction of the City;
 - (h) Any fencing installed above the retaining walls adjacent to Hepburn Avenue and Whitfords Avenue shall be visually permeable above 1.2 metres as measured from natural ground level prior to this approval;
 - (i) All construction works shall be contained within the property boundaries;

- (j) The lodging of detailed landscaping plans based on water sensitive urban design and Designing Out Crime principles, to the satisfaction of the City, for the development site and adjoining verge with the Building Licence Application. For the purpose of this condition a detailed landscaping plan shall be drawn to a scale of 1:100. All details relating to paving and treatment of verges, to be shown on the landscaping plan;
- (k) Shade trees shall be planted and maintained to the satisfaction of the City in the ground level car park at a rate of one tree per four (4) car parking bays;
- (l) The area in front of the proposed retaining walls in the south-western corner of the site, as marked in RED on the approved plans, shall be landscaped and thereafter maintained to a high standard to the satisfaction of the City;
- (m) Landscaping, reticulation and landscaping verge treatments are to be established in accordance with the approved plans prior to the development first being occupied and thereafter maintained to the satisfaction of the City;
- (n) Visitor parking bays for the Dwellings shall be marked and permanently set aside for this purpose;
- (o) The use of the Convenience Store shall not include the sale of petrol;
- (p) Any signage shall be in accordance with the provisions of the Hillarys Structure Plan and shall be the subject of a separate Application for Planning Approval;
- (q) Buildings and parking areas shall be well lit to encourage safe use after hours to the satisfaction of the City. Light spill onto surrounding streets or properties shall not be permitted;
- (r) A maximum of 48 patrons are permitted to occupy the restaurant at any given time. Any Alfresco Dining shall be the subject of a separate Application for Planning Approval;
- (s) The restaurant shall not exceed a maximum dining area of 60m² Net Lettable Area;
- (t) Each dwelling shall be provided with an adequate area for clothes drying that is screened from view from all streets;
- (u) The Hepburn Avenue façade of the Convenience Store, Shop and Restaurant, as indicated in RED on the approved plans, shall be further articulated to provide visual interest at the pedestrian level. Details of how this is to be achieved shall be submitted with the Building Licence Application for approval by the City;
- (v) No deliveries to the Convenience Store, Shop and Restaurant shall occur on weekends;
- (w) Bicycle Parking facilities shall be provided throughout the development at location(s) agreed between the City and the Applicant and thereafter maintained to the satisfaction of the City. The proposed location(s) of these facilities shall be shown on the Building Licence plans, for approval by the City. All bicycle parking shall be in accordance with the Australian Standard for Parking Facilities – Bicycle Parking (AS2890.3 – 1993);

- (x) The parallel parking bays in the commercial car parking area shall be reserved for short-term parking of no more than fifteen (15) minutes and shall be marked and permanently set aside for this purpose;
- (y) The applicant shall provide a schedule of colours and materials for the proposed development for approval by the City prior to the issue of a Building Licence;
- (z) A Construction Management Plan being submitted and approved prior to the issue of the relevant Building Licence. The management plan shall detail how it is proposed to manage:
 - the delivery of materials and equipment to the site;
 - the storage of materials and equipment on the site;
 - the parking arrangements for the contractors and subcontractors;
 - Other matters likely to impact on the surrounding properties.

MOVED Cr Norman, SECONDED Cr Hamilton-Prime that Council REFUSES the application dated 5 December 2006, and amended plans dated 27 October 2009 submitted by Hames Sharley Pty Ltd for 24 Multiple Dwellings, 8 Grouped Dwellings, Offices, Shop & Restaurant at Lot 9009 (35) Martinique Mews, Hillarys for the following reasons:

- 1 The proposed development is not consistent with the interests of orderly and proper planning as the height, scale and building bulk of the proposed development will adversely impact on the amenity of the locality.
- 2 The building does not comply with District Planning Scheme No 2 in that there will be a landscaping strip of nil in lieu of 3m where car parking areas adjoin the street;
- 3 The building does not comply with the Acceptable Development Standards of the Residential Design Codes in that the:
 - (a) Grouped Dwelling Setbacks (Units 25-32) will be nil in lieu of 2.5 metres to the internal driveway;
 - (b) Cone of vision Setbacks will be nil and 2 metres in lieu of 7.5 metres from the balconies to the adjoining Grouped Dwelling courtyards;
 - (c) Communal open space will be 314.85m² in lieu of 384m²;
- 4 The building does not comply with the Hillarys Structure Plan in relation to the distribution of the office floor space of 607m² on the upper floor in lieu of 300m².

The Motion was Put and

LOST (5/7)

In favour of the Motion: Crs Corr, Fishwick, Hamilton-Prime, Norman and Taylor. **Against the Motion:** Mayor Pickard, Crs Amphlett, Chester, Gobbert, Hollywood, McLean and Young

MOVED Cr Amphlett, SECONDED Cr Gobbert that Council:

- 1 **EXERCISES** discretion under Clause 4.5 of District Planning Scheme No. 2 and under Clause 2.5 of the Residential Design Codes (Variation 1) determines that the:
 - (a) **Grouped Dwelling Setbacks (Units 25-32) of nil in lieu of 2.5 metres to the internal driveway;**
 - (b) **Cone of vision Setbacks of nil and 2 metres in lieu of 7.5 metres from the balconies to the adjoining Grouped Dwelling courtyards;**
 - (c) **Office floorspace distribution of 607m² on the upper floor in lieu of 300m²;**
 - (d) **landscaping strip of nil in lieu of 3m where car parking areas adjoin the street;**
 - (e) **Communal open space of 314.85m² in lieu of 384m²;**
 - (f) **provision of pedestrian shelter at the rear of the building only;**are appropriate in this instance;
- 2 **Having regard to Clause 4.8.2 of the City of Joondalup District Planning Scheme No 2, DETERMINES** that the car parking standard for the use "Convenience Store" shall be five (5) car parking bays per 100m² Net Lettable Area in this instance;
- 3 **SUPPORTS** the proposed height of a maximum of 3 storeys under clause 6.5.3(c) of the Hillarys Structure Plan and Clause 9.8 of the City of Joondalup District Planning Scheme No. 2 and **DETERMINES** that the proposed height is appropriate in this instance as the development is considered to be of a landmark quality;
- 4 **NOTES** that Policy 3-4 has been addressed and the maximum building height of 12.90 metres as measured from natural ground level, is appropriate;
- 5 **APPROVES** the application dated 5 December 2006, with amended plans received on 27 October 2009 submitted by Hames Sharley Pty Ltd for 24 Multiple Dwellings, 8 Grouped Dwellings, Offices, Shop, Convenience Store & Restaurant at Lot 9009 (35) Martinique Mews, Hillarys subject to the following conditions:
 - (a) **The parking bays, driveways and points of ingress and egress to be designed in accordance with the Australian Standard for Offstreet Carparking (AS/NZS2890.1-2004) and the Australian Standard for off-street Commercial Vehicle Facilities (AS2890.2-2002). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the City prior to the development first being occupied. These works are to be done as part of the building programme;**

- (b) All stormwater to be contained on site to the satisfaction of the City. The proposed stormwater drainage system is required to be shown on the Building Licence application and be approved by the City prior to the commencement of construction. It shall be designed to cater for the 100 year 24 hour storm event;
- (c) The driveways and crossovers to be designed and constructed to the satisfaction of the City before occupation of development;
- (d) Utility areas such as bins and service area, material storage and services such as air conditioners, compressors and other machinery shall be concealed from streets and public areas by an enclosure in the style and material of the building;
- (e) Suitably screened bin storage areas are to be provided prior to the development first being occupied, in the location shown on the approved plans. Such an area must be constructed with a concrete floor, graded to a 100mm industrial floor waste gully, connected to sewer and be provided with a hose cock;
- (f) A refuse management plan indicating the method of rubbish collection is to be submitted as part of the Building Licence and approved by the City prior to occupation of the development;
- (g) Retaining walls being of a clean finish and made good to the satisfaction of the City;
- (h) Any fencing installed above the retaining walls adjacent to Hepburn Avenue and Whitfords Avenue shall be visually permeable above 1.2 metres as measured from natural ground level prior to this approval;
- (i) All construction works shall be contained within the property boundaries;
- (j) The lodging of detailed landscaping plans based on water sensitive urban design and Designing Out Crime principles, to the satisfaction of the City, for the development site and adjoining verge with the Building Licence Application. For the purpose of this condition a detailed landscaping plan shall be drawn to a scale of 1:100. All details relating to paving and treatment of verges, to be shown on the landscaping plan;
- (k) Shade trees shall be planted and maintained to the satisfaction of the City in the ground level car park at a rate of one tree per four (4) car parking bays;
- (l) The area in front of the proposed retaining walls in the south-western corner of the site, as marked in RED on the approved plans, shall be landscaped and thereafter maintained to a high standard to the satisfaction of the City;

- (m) Landscaping, reticulation and landscaping verge treatments are to be established in accordance with the approved plans prior to the development first being occupied and thereafter maintained to the satisfaction of the City;
- (n) Visitor parking bays for the Dwellings shall be marked and permanently set aside for this purpose;
- (o) The use of the Convenience Store shall not include the sale of petrol;
- (p) Any signage shall be in accordance with the provisions of the Hillarys Structure Plan and shall be the subject of a separate Application for Planning Approval;
- (q) Buildings and parking areas shall be well lit to encourage safe use after hours to the satisfaction of the City. Light spill onto surrounding streets or properties shall not be permitted;
- (r) A maximum of 48 patrons are permitted to occupy the restaurant at any given time. Any Alfresco Dining shall be the subject of a separate Application for Planning Approval;
- (s) The restaurant shall not exceed a maximum dining area of 60m² Net Lettable Area;
- (t) Each dwelling shall be provided with an adequate area for clothes drying that is screened from view from all streets;
- (u) The Hepburn Avenue façade of the Convenience Store, Shop and Restaurant, as indicated in RED on the approved plans, shall be further articulated to provide visual interest at the pedestrian level. Details of how this is to be achieved shall be submitted with the Building Licence Application for approval by the City;
- (v) No deliveries to the Convenience Store, Shop and Restaurant shall occur on weekends;
- (w) Bicycle Parking facilities shall be provided throughout the development at location(s) agreed between the City and the Applicant and thereafter maintained to the satisfaction of the City. The proposed location(s) of these facilities shall be shown on the Building Licence plans, for approval by the City. All bicycle parking shall be in accordance with the Australian Standard for Parking Facilities – Bicycle Parking (AS2890.3 – 1993);
- (x) The parallel parking bays in the commercial car parking area shall be reserved for short-term parking of no more than fifteen (15) minutes and shall be marked and permanently set aside for this purpose;
- (y) The applicant shall provide a schedule of colours and materials for the proposed development for approval by the City prior to the issue of a Building Licence;

(z) **A Construction Management Plan being submitted and approved prior to the issue of the relevant Building Licence. The management plan shall detail how it is proposed to manage:**

- **the delivery of materials and equipment to the site;**
- **the storage of materials and equipment on the site;**
- **the parking arrangements for the contractors and subcontractors;**
- **Other matters likely to impact on the surrounding properties.**

The Motion was Put and

CARRIED (7/5)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Fishwick, Gobbert, Hollywood, McLean, and Young.
Against the Motion: Crs Chester, Corr, Hamilton-Prime, Norman and Taylor

Appendix 8 refers

To access this attachment on electronic document, click here: [Attach8agn151209.pdf](#)

CJ269-12/09 PROPOSED OFFICES, RESTAURANT, PLACE OF WORSHIP, AND MEDICAL CENTRE AT LOT 466 (57) SHENTON AVENUE, JOONDALUP

WARD: North

RESPONSIBLE DIRECTOR: Mr Clayton Higham
Planning and Development (Acting)

FILE NUMBER: 04723

ATTACHMENTS: Attachment 1 Location Plan
Attachment 2 Development Plans
Attachment 3 Site Photographs
Attachment 4 Minutes of Design Advisory Panel Meeting

PURPOSE

To request Council's determination of an application for a proposed Office, Restaurant, Place of Worship, and Medical Centre building at Lot 466 (57) Shenton Avenue, Joondalup.

EXECUTIVE SUMMARY

The application proposes to retain the existing church and office building on site for use as offices only. A new four storey building is proposed for the remainder of the site. This building will contain a café, church, car parking, medical suites, radiological clinic, and office space.

The site is located on the corners of Shenton Avenue with Grand Boulevard; and Shenton Avenue with Central Walk. This is a prominent intersection within the City Centre and the proposed building is considered to appropriately address both of these corners with a well designed building that has a high level of articulation and variety of quality materials.

The proposal is considered to meet all relevant requirements of the Joondalup City Centre Development Plan and Manual (JCCDPM), with the exception of a minor building height projection through the 60 degree recession plane. The proposal also satisfies the Requirements of Policy 3-8 – Joondalup City Centre Car Parking for Commercial Development.

The proposal was not advertised as it is not considered to result in any adverse effect.

BACKGROUND

Suburb/Location: Lot 466 (57) Shenton Avenue, Joondalup
Applicant: Myer Shircore & Associates
Owner: Perth Diocesan Trustees
Zoning: **DPS:** Centre
MRS: Central City Area
Site Area: 4075m²
Structure Plan: Joondalup City Centre Development Plan and Manual

The site is bordered to the north and west by Shenton Avenue and Grand Boulevard respectively. To the south the site is bordered by a vacant lot that has planning approval for six multiple dwellings, offices and a residential building. Central Walk adjoins the site to the east (Refer Location Plan – Attachment 1).

The site is square in shape, with an existing chapel and adjoining office building located within the south-western corner of the site (approved under DA4306). A car parking area with 18 bays adjoins the eastern facade of this building, with the remainder of the site covered in scrub vegetation.

DETAILS

The existing church and office building will remain on site and be reconfigured, with the chapel converted to additional office space. The proposed new building will be built up to the boundary line on the property's southern and eastern boundaries, and will utilise all remaining space on site. The existing car parking area for the church and office building will be removed with all parking for the uses on site provided within the proposed building (Refer site photographs – Attachment 3).

The building comprises six different levels, but will appear as a four storey building externally due to the design and building configuration used (Refer elevation and cross section plans – Attachment 2). The following table provides a breakdown of the uses on each level, as well as the resulting Net Lettable Area (NLA) and car parking requirement for the site (Refer development plans – Attachment 2).

New Building:

Level	Proposed Uses	Net Lettable Area	Car parking requirement (1 per 30m ² NLA)
One	- Basement Car Parking	N/A	N/A
Two	- Car Parking	N/A	N/A
	- Café	170m ²	5.6 bays
	- Church	405m ²	13.5 bays
	- Medical Suite 1	82m ²	2.7 bays
	- Medical Suite 2	241m ²	8 bays
	- Office	25m ²	0.8 bays
	- Meeting Room	23m ²	0.7 bays
Three	- Open Deck Car Park	N/A	N/A
Four	- Tenancy 2	88m ²	2.9 bays
	- Tenancy 3	97m ²	3.2 bays
	- Tenancy 4	126m ²	4.2 bays
	- Tenancy 5	104m ²	3.4 bays
	- Perth Radiological Clinic	1212m ²	40.4 bays
Five	- Tenancy 6	1714m ²	57.1 bays
Six	- Tenancy 7	1132m ²	37.7 bays
Subtotal		5419m²	181 bays

Existing Building:

Level	Proposed Use	Net Lettable Area	Car parking requirement
One	- Offices (existing)	1107m ²	15.66 bays (no change)
One	- Offices (change from Chapel)	163m ²	5.4 bays
Subtotal		1260m²	22 bays

Total		6679m²	203 bays
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Car Parking:

Policy 3 – 8 ‘Joondalup City Centre Car Parking for Commercial Development’ requires that the overall car parking requirement for commercial developments shall be calculated at 1 bay per 30m² NLA, comprising two components:

- (a) The private or on-site parking requirement;
- (b) The public or off-site parking requirement.

A minimum of 50% of the overall car parking requirement must be provided on site i.e. 1 bay per 60m² NLA.

As per the above table, the development requires the provision of 203 bays. The application proposes to provide 206 bays on site.

Joondalup City Centre Development Plan and Manual:

The proposed development is compliant with all requirements of the JCCDPM, with one exception. The JCCDPM states that buildings shall not project through a 60 degree recession plane inclined towards the site from a point 13.5 metres above natural ground level. However, the building encroaches marginally through the 60 degree recession plane on all sides of the building, with the exception of the Grand Boulevard façade (refer cross sections A, B, C and D – Attachment 2).

Requirement	Comment
A4 Setbacks and Heights	
A4.1 Buildings shall be built to the street property line creating an 'urban wall', excepting entries and forecourts, where approved. - Colonnades should be provided within the property.	- The majority of the building is built to the street boundary, with the proposed café indented to allow alfresco dining. - Colonnades are proposed for a portion of the Shenton Avenue façade.
A4.2 Buildings should have no side setbacks.	Compliant.
A4.4 There is no rear setback requirement.	Rear setback is nil.
B1 Design in Context	
B1.1 The design of the building elevation should reflect integrity of form and rhythm. This should be derived from compatibility in fenestration, scale, finishes, details and colour between the buildings in the street.	The building design achieves a continuity of form and use of materials across all elevations.
B1.2 Facades should address street frontages and in the case of corner properties, both street frontages.	The proposed building addresses both street frontages.
B1.3 The corners of buildings should be designed to articulate the corner, especially for landmark or nodal locations.	The building has been designed to articulate the corner.
B1.4 The design of the building façade should take into account the location and form of existing street planting and furniture to ensure a considered and integrated composition of streetscape and building.	The proposed building is compatible with the existing street planting.
B2 Active Frontages	
B2.1 At least 50% of the area of the ground floor façade shall be glazed. Window sill heights should be at, or close to, ground level. Obscured or reflective glazing shall not generally be used at ground floor level.	Compliant.
B2.2 Animating of the street space adjacent to the ground floor is to be encouraged through ground floor activity such as retailing, cafes and restaurants. Extensive blank walls should be avoided.	A café is located on the ground floor level. No extensive blank walls are proposed.

B3 Entrances and Exits	
B3.1 Entrances to buildings should have a clear identity and be accessible directly from the street. Points of access from the street to car parking should be clearly defined.	All entrances to the building are clearly defined through the use of changes in grade, colonnades and signage.
B3.2 Internal foyers should have a strong visual relationship with the street.	Clear glazing is used to the external façade of the ground floor lift lobby.
B3.3 Where a level change from pavement to interior exists, provision must be made for ramped street front access within the property boundary. Changes in level should be delineated with changes in colour or paving pattern.	Ramped access is provided to entrances on both Shenton Avenue and Grand Boulevard. Changes in colour and use of different materials have been used to delineate changes in level.
B4 Levels	
B4.1 The ground floor level of the building should be at finished pedestrian paving level to allow ease of access and contribute to the animation of the street (maximum average level difference of 0.6m).	Maximum level difference is 0.6m.
B5 Roofscape	
B5.1 The roof scape must be treated as an integral part of the building design, completing the composition.	Achieved.
B5.3 Mechanical plant and equipment should be screened from the street by the roof form, and as far as possible, from surrounding upper floors	Condition of approval.
B6 Façade: Solid-Void Ratio	
B6.1 The glazed area of the north and south faces of a building shall not exceed 75% of the total wall area, except at ground floor level.	Compliant.
B6.2 The glazed area of the east and west faces shall not generally exceed 50% of the total wall area, except at ground floor level.	Compliant.
B7 Pedestrian Shelter	
B7.1 Developments abutting streets and public thoroughfares should provide means of shelter for pedestrians in the form of either awnings or colonnades designed to maintain the continuous urban wall.	Provided for the Shenton Avenue façade. Not provided for Central Walk or Grand Boulevard.
B7.3 The ceiling clearance of structure and signage for colonnades and canopies shall be a minimum of 2.75m.	Compliant.
B8 Signage and advertising	
B8.1 Signage should be of a high quality and appropriate for use in a City Centre. Signage should be integrated with the building design. Any support structure to a sign should not be visible unless treated as an integral part of the design. Signs should not obscure windows or architectural details.	Minimal signage has been proposed as part of the development application. Signage proposed includes the physical address of the property and the name of the proposed church, including a cross symbol. This signage is considered to be appropriate to the site, integrated into the building design, and represents a necessary level of signage.

C3 Services and Servicing	
C3.1 The storage of all refuse and recyclable materials should be provided off the street.	Compliant.
C3.2 All Loading Zone parking shall be accommodated on-site and be accessed from rear or side laneways.	Compliant.
C3.3 All vehicular access ways shall provide a minimum 3.5m clear carriageway width for emergency vehicles.	Compliant.
C5 Public Safety and Security	
C5.1 Avoid obscured corners and dead-end alleys	None proposed.
C5.3 Do not create spaces with blank walls which are not overlooked from occupied space.	None proposed.
C5.4 Security and safety lighting must be provided throughout.	Condition of approval.
C7 Landscaping and Open Space	
C7.1 Where natural vegetation remains on a site, clearing should not occur until immediately prior to development.	Condition of approval.
C7.2 Existing vegetation and local species should be integrated with the development as far as possible.	Condition of approval.
C8 Materials	
C8.1 Materials used on the exterior of the building and in the public realm shall be of a robust nature; durable and resistant to vandalism.	A recommending condition of approval will require all ground level facades to be finished with a non-sacrificial anti-graffiti coating.
C8.2 Materials shall be appropriate for use in the City Centre.	The materials used are appropriate to the City Centre.

Issues and options considered:

Council has the discretion to:

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

Legislation/Strategic Plan/Policy Implications

Legislation

Development within this area is controlled by the provisions of DPS2 and the JCCDPM.

The application includes a proposed variation to the Structure Plan. Clause 4.5 of DPS2 gives Council discretion to consider this variation.

4.5 Variations to Site and Development Standards and Requirements.

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

In exercising discretion under Clause 4.5, the matters listed under Clause 6.8 require consideration:

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.*

Strategic Plan

Key Focus Area: The Built Environment.

Objective: To ensure high quality urban development within the City.

Policy 3 – 8 Joondalup City Centre Car Parking for Commercial Development

Risk Management considerations:

The proponent has a right of review against Council's decision, or any conditions included therein, in accordance with the State Administrative Tribunal Act 2004 and the Planning Development Act 2005.

Financial/Budget Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

The applicant advises that it is intended that the proposed building will achieve a 4.5 star NABERS rating. Special consideration will be given to management practices of the building and air conditioning to minimise energy use. The development also includes bicycle parking and end of journey facilities for employees.

Consultation:

The application was not advertised as the proposal is not considered to result in any significant adverse effect.

COMMENT

Land Use

The proposed land uses are Office, Medical Suite, Restaurant, and Place of Worship. These are all preferred land uses within the Central Business District of the JCCDPM.

Building Height Projection

The projection through the recession plane will not have an adverse effect on the occupiers of the building, or upon the future development of the locality. The height will contribute to the City Centre environment where development is expected to be of large scale and nature. The proposed building is considered to be an appropriate height and size for a City Centre development and will enhance the character of the City Centre. On this basis, the projection through the recession plane is supported. It is also noted that the draft Joondalup City Centre Structure Plan requires a minimum building height of five storeys.

Design

The design of the Building is generally considered appropriate for the site for a number of reasons:

- Development Site – the characteristics of the site require special consideration of the four sides of the property. The majority of the Grand Boulevard, Shenton Avenue and Central Walk facades achieve a hard building edge interaction with the public domain;
- Built Form – the contemporary design of the building, proposed materials, and manner in which the proposed development will be articulated is considered to be appropriate to the site;
- Entrances – two distinct entrances are proposed for the building, one for the chapel and another for the offices. These entrances are easily identifiable, and are integrated into the overall building design; and
- Street Activation – a number of different mechanisms have been employed in order to achieve street activation where possible. These include the strong identification of the entrances to the chapel and offices and a strong façade element to the chapel facing Grand Boulevard. This is further achieved through the use of bi-fold doors along the café frontages to Shenton Avenue and Central Walk, allowing for an interaction between the public domain and the private use. Whilst the café and alfresco area wraps around into Central Walk, the majority of the façade facing Central Walk lacks activation. It is noted that the applicant has attempted to address this concern by proposing glass screening panels to the carpark that will contain conceptual artwork.

Car Parking

Policy 3 – 8 ‘Joondalup City Centre Car Parking for Commercial Development’ requires car parking for the development to be supplied at a rate of one bay per 30 square metres of NLA.

A parking supply of 18 parking bays was required as part of the approval of the existing building. It is only considered appropriate to apply the current standards to the portion of the building being altered. As such, 87% of the building is remaining unaltered, retaining the requirement for 15.66 (16) car bays.

The total NLA for the new development on site, and the portion of the existing development being converted to offices, is 5582m², requiring the supply of 186.1 (187) bays. This brings the overall requirement for the development to 203 bays. 206 bays are proposed by the development.

45 of the proposed bays on site are to be situated in a tandem arrangement. These bays are intended to be utilised by staff only and will be marked accordingly. The proposed tandem car parking bay arrangement is considered to be appropriate in this instance as it will require the coordinated movement of cars by staff only, and as there is an adequate supply of single space car parking bays.

A total of 89 bays will be allocated to patients/visitors of the proposed medical suites and radiological clinic. The applicant has estimated the average patient visit to be 30 minutes in length. On this basis, the parking allocation can accommodate approximately 180 patients per hour. This is considered to be appropriate for the higher car parking demand and turnover associated with medical practices. The remaining supply of 72 bays (incorporating 3 motorcycle bays) available for general use is considered appropriate. It is also noted that the subject site is in close proximity to adequate public transport and public car parking bays.

Design Advisory Panel

The Design Advisory Panel met on 30 November, 2009, to discuss the proposal. The minutes of this meeting are provided as Attachment 4 of this report. As a result of this meeting, the panel raised the following ten matters to be addressed by the applicant:

1. Screening of plant and equipment on rooftop, specifically in relation to air conditioning from both the street and when viewed from nearby buildings;
2. Additional consideration being given to the activation of walkway and street frontages, especially Central Walk;
3. Amenity for persons utilising courtyard area, particularly in relation to the amount of natural light in the area due to roof overhang. It is suggested that the applicant be required to provide a shadow diagram, demonstrating the amount of light penetration in this area;
4. Provision of bicycle parking within public realm;
5. Awnings to be wrapped further around the building, along the Central Walk façade. This should extend to the corner of the car park;
6. A copy of the art work design for the digi-glass and any other architectural treatments to be provided;
7. Signage scheme to be provided to the City for approval;
8. Schedule of colours and materials to be provided to the City for approval;
9. It is suggested that shading of upper deck car park should be provided; and
10. It is suggested that the front entrance design be revisited in order to address dignity concerns for persons unable to use the stairs.

Items 1, 4, 5, 6, 7 and 8 will be required as conditions of approval. The applicant has responded to items 2, 3, 9 and 10 as follows:

Applicant response to Item 2:

We have already responded to this in our preliminary discussions with Council and have included the cafe at the north east corner, moved the transformer and exit stair further south to increase the active frontage. In addition to this we have also added digi-glass screening to the car parking area facing central Walk with floodlighting and low planting to increase the security and visual appearance. In terms of provision of tenancies to this area, advice provided from commercial agents is that we would struggle to find tenants for such a location and therefore we believe what is currently before you is the best option.

In terms of the rest of the development there is little area which is not activated other than the southern portion of the development facing Central Walk. The only other non-activated area is the exit stair to the west. As previously advised we have treated this stair so as to appear as part of the chapel with digi-glass panels. These panels will have designs on them which will be based upon stained glass windows and this 2 level treatment will, for all intents and purposes, appear as if part of the Chapel.

City Response to Item 2:

Refer to comments under 'Design' section listed above.

Applicant response to Item 3:

The courtyard is primarily for use of parishioners and visitors to the Chapel. Our original proposal was for a wall to be provided to the front of the courtyard facing Grand Boulevard. We have, at the request of Council provided a sliding gate (and partial wall to conceal gate) in lieu of a full solid wall however at times when the Chapel may be unattended this gate would be closed. The intention of the courtyard is to provide a link between the church offices and the Chapel while keeping them separate, and to provide a space where parishioners can gather before and after services. It is a space between the two buildings and happens to be south of a 4 storey building. It is quite clear that during winter months this will be in shade for most of the day and in summer months will be partially in shade until the afternoons. We do not feel it is necessary to create a sunny courtyard here and this was never the intention.

City Response to Item 3:

The City notes that the courtyard will be a predominantly shaded space due to its location south of the proposed four-storey building. However, on balance, it is considered that the provision of a courtyard within this space is a positive contribution to the site, providing amenity to the users of the chapel and building. A condition of approval will require the submission of details relating to hard and soft landscaping of the courtyard, as well as seating to be provided, in order to ensure an attractive space is provided.

Applicant response to Item 9:

There are 27 out of 203 car bays which are not under cover of the building. Given that the car parking is also to the south many of these will be in the shadow of the building (all in winter). We propose that this not be considered at this stage as we believe that about 5% of the car bays provided would be in full sun at any given time. I suggested at the meeting that we could handle this some time in the future if it was deemed necessary.

City response to Item 9:

While there is merit in minimizing large areas that can act as 'heat sinks' to buildings and reducing glare, in this instance, it is considered that a small proportion of the car parking bays provided on site are impacted, and therefore, it is considered that the amount of unshaded car parking bays provided is appropriate.

Applicant response to Item 10:

As mentioned at our meeting with DAP, the central front access steps are in essence a ceremonial entrance and do not provide direct access for disabled persons as we have carefully considered pedestrian movements around the building. Any disabled person coming to the building in a car is adequately catered for with disabled car bays on site and adjacent to lift lobbies. Any disabled person coming from the hospital will cross Shenton Avenue along Central Walk and enter the building in front of the cafe where the ramp is a very respectable 1 in 30 incline (less than half the maximum grade of 1 in 14). The same goes for able bodied persons. If this is a sticking point we would be happy to revisit it for Building License however we feel that it has adequately been considered.

City response to Item 10:

The City accepts that the majority of disabled persons arriving at the building directly from the Joondalup Health Campus will utilise Central Walk, whereby the disabled access ramp will be presented as the main entrance for all pedestrian access.

Conclusion

The proposed development complies with the requirements of the JCCDPM, with the exception of a projection through the building height recession plane. It is considered that this variation is minor in nature and will have no significant adverse effect for the development site, or the surrounding locality. This is because a building of the proposed scale is appropriate to the Joondalup City Centre, and as the building is appropriately articulated.

The development provides for a sufficient amount of car parking on site, with ample public parking also provided within the vicinity of the site.

The proposed development will be a positive addition to the City Centre. It will provide a significant amount of commercial floor space to meet the future demands of the growing City Centre. It is considered that the design of the building will positively contribute to the urban fabric of the Joondalup City Centre.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr McLean, SECONDED Cr Hollywood that Council:

- 1 EXERCISES discretion in relation to Clause 4.5 of the City's District Planning Scheme No. 2, and determines that the projection through the 60 degree recession plane is appropriate in this instance;**

- 2 APPROVES the application for planning approval, dated 24 September 2009, submitted by Myer Shircore and Associates, on behalf of the owners, Perth Diocesan Trustees, for proposed Offices, Place of Worship, and Medical Centre, at Lot 466 (57) Shenton Avenue, Joondalup, subject to the following conditions:**
- (a) The parking bays, driveways and points of ingress and egress to be designed in accordance with the Australian Standard for Off-street Car Parking (AS2890.01). Such areas are to be constructed, drained, marked and thereafter maintained to the satisfaction of the City prior to the development first being occupied. These works are to be done as part of the building program;**
 - (b) An onsite stormwater drainage system with the capacity to contain a 1:100 year storm of 24 hour duration is to be provided prior to the development first being occupied and thereafter maintained to the satisfaction of the City. The proposed stormwater drainage system is required to be shown on the Building Licence submission and approved by the City prior to the commencement of construction;**
 - (c) The lodging of detailed landscaping plans, to the satisfaction of the City, for the development site with the Building Licence Application. For the purpose of this condition, a detailed landscaping plan shall be drawn to a scale of 1:100. All details relating to paving and treatment of verges are to be shown on the landscaping plan;**
 - (d) Landscaping, reticulation and all verge treatments, based on water sensitive urban design principles, are to be established in accordance with the approved plans prior to the development first being occupied and thereafter maintained to a high standard to the satisfaction of the City;**
 - (e) A refuse management plan indicating the method of rubbish collection is to be submitted as part of the building licence, and approved by the City, prior to the development first being occupied;**
 - (f) The brick paved footpaths along Grand Boulevard and Shenton Avenue shall be continued to the property boundary in a pattern to match the existing paving, at a grade of 2%, to the satisfaction of the City;**
 - (g) Any proposed external building plant, including air conditioning units, piping, ducting and water tanks, being located so as to minimise any visual and noise impact on surrounding landowners, and screened from view from the street, and where practicable from adjoining buildings, with details of the location of such plant being submitted for approval prior to the issue of the relevant building license;**
 - (h) Obscured or reflective glazing shall not be used at ground floor level to the building facades facing Grand Boulevard and Shenton Avenue;**
 - (i) A signage strategy for the entire building shall be provided as part of the Building Licence Application, to the satisfaction of the City;**
 - (j) A detailed plan of the courtyard area shall be provided as part of the Building Licence Application. This plan shall detail proposed hard and soft landscaping, and the provision of seating, to the satisfaction of the City;**

- (k) Amended plans shall be submitted as part of the Building Licence Application that include the addition of a minimum 3m wide awning along Central Walk from the north-eastern corner of the building to the southern end of the Western Power Transformer storage area, to the satisfaction of the City;
- (l) A full schedule of colours and materials for all exterior parts to the building shall be provided as part of the Building Licence Application, to the satisfaction of the City. This schedule shall include a copy of the artwork design for the digi-glass as well as any other architectural treatments;
- (m) Bicycle parking facilities shall be provided throughout the development at location(s) agreed between the City and the Applicant and thereafter maintained to the satisfaction of the City. The proposed location(s) of these facilities shall be shown on the Building Licence plans, for approval by the City. All bicycle parking shall be in accordance with the Australian Standard for Parking Facilities – Bicycle Parking (AS2890.3 – 1993);
- (n) A Construction Management Plan being submitted and approved prior to the issue of the relevant Building Licence. The management plan shall detail how it is proposed to manage:
- the delivery of materials and equipment to the site;
 - the storage of materials and equipment on the site;
 - the parking arrangements for the contractors and subcontractors;
 - other matters likely to impact on the surrounding properties;
- (o) All ground level facades of the proposed building shall be treated with non-sacrificial anti-graffiti coating to the satisfaction of the City.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 18 refers

To access this attachment on electronic document, click here: [Attach18brf081209.pdf](#)

CJ270-12/09 PETITION REQUESTING PROVISION OF SKATE PARK FACILITY - OCEAN REEF/MULLALOO

WARD: North Central

RESPONSIBLE DIRECTOR: Mr Garry Hunt
Office of the CEO

FILE NUMBER: 08096, 51156

ATTACHMENTS: Attachment 1 Location Plan for Mirror Park, Ocean Reef

PURPOSE

Consideration of an 858 signature petition requesting provision of a skate park facility either at Mirror Park, Ocean Reef or another suitable location.

EXECUTIVE SUMMARY

At its meeting on 18 August 2009, Council received a petition signed by 858 persons requesting consideration of the provision of a skate park facility in the Ocean Reef/Mullaloo area either at Mirror Park Ocean Reef or another suitable location.

This report considers the development of a new skate park at Mirror Park, Ocean Reef by providing a review of wheeled sports facility development within the City in the past, an analysis of signatories on the petition, demographics and objectives of developing wheeled sports facilities and an overview of the current facilities at Mirror Park.

It is recommended that Council:

- 1 *NOTES receipt of the petition requesting that Council considers the provision of a skate park facility in the Ocean Reef/Mullaloo area, either at Mirror Park, Ocean Reef or another suitable location;*
- 2 *AGREES to undertake consultation to explore the issues around including a skate park in the overall upgrade of Mirror Park, Ocean Reef;*
- 3 *REQUESTS a further report once the community consultation has been undertaken in (1) above;*
- 4 *ADVISES the lead petitioner of the proposals as outlined in 1 to 3 above.*

BACKGROUND

Suburb/Location: Mirror Place, Ocean Reef
Zoning: Residential
Site Area: 5.7ha

Skate parks are utilised by people on skateboards, rollerblades, BMX bikes and scooters. The term “wheeled sports facility” is used in recognition of the broader use of skate park facilities.

A Council-endorsed Skate Park Committee was formed in March 2001. The purpose of the Committee was to investigate, develop and make recommendations for the construction of skate park facilities in the City of Joondalup. The Committee was disbanded on 17 February 2004.

Whilst operational, the Committee instigated the design and construction of the following facilities:

- Carine Open Space. This facility was jointly funded with the City of Stirling and completed in March 2002 at a total cost of \$150,000. The City of Joondalup contributed \$75,000.
- MacNaughton Park (Kinross). This facility was completed in November 2002 at a cost of \$105,000.
- Craigie Leisure Centre. This is a small facility with moveable ramps.

Over the past nine years, the City has received numerous requests for similar facilities to be developed in various suburbs including Ocean Reef and Mullaloo.

The table below details submissions received for the development of a Wheeled Sports Facility at Mirror Park, Ocean Reef or another suitable location in the Mullaloo or Ocean Reef area:

Location	Submitted By	Details	Date Received
Mirror Park	Vic Harman	Representative from Ocean Reef Residents Association.	12/6/2000
Ocean Reef	Wade Futado	A 167 signature petition requesting a Wheeled Sports Facility in Ocean Reef.	27/9/2000
Lexcen Park		Skate Park Committee engaged in community consultation – 27 voted for and 17 against.	26/4/2001
Mirror Park		Skate Park Committee engaged in community consultation – 16 voted for and 9 against.	2/7/2001
Mirror Park	4 residents	Letter opposing development of Wheeled Sports Facility in Ocean Reef.	22/7/2001
Mullaloo	1 resident	Requesting a BMX track in Mullaloo.	1/9/2003
Mullaloo	1 resident	Requesting a BMX track in Mullaloo.	2/4/2004
Ocean Reef	Pierce Martin	A 300 signature petition requesting a Wheeled Sports Facility in Ocean Reef.	16/5/2005
Ocean Reef	1 resident	Requesting a Wheeled Sports Facility in Ocean Reef.	11/1/2008
Coastal	1 resident	Requesting a Wheeled Sports Facility in a suburb along the coast.	22/5/2009

The City has also received a number of other petitions and letters in the past for wheeled sports facilities to be located in areas including Edgewater Quarry, Kallaroo and Hillarys. In October 2005 Council requested that a proposal be prepared for consideration in the 2006/07 budget deliberations, however, no further wheeled sports facilities have been developed.

It is evident from petitions and requests that the construction of a wheeled sports facility would be best suited in the central and/or southern suburbs of the City, given that facilities already exist in Kinross, Craigie and Carine. An assessment of potential sites was carried out in 2000 and 2001. The sites considered most suitable for the construction of a wheeled sports facility were:

- Kanagra Park – Greenwood
- Edgewater Quarry
- Lexcen Park – Ocean Reef
- Geneff Park – Sorrento
- Tom Simpson Park – Mullaloo
- Percy Doyle Reserve – Duncraig
- Chichester Park – Woodvale

In late 2008, the City received two further petitions – one seeking the closure of the skate park facility at McNaughton Park Kinross and one seeking the retention of the facility. Resolution CJ036-02/09 was adopted in relation to these petitions:

- 1 *NOTES the issues raised in the petitions;*
- 2 *ENDORSES the continuation of the current management strategies pending development of a Facility Management Plan for the Kinross Skate Park;*
- 3 *ADVISES the petitioners of Council's decision.*

The report contained a provision that if a Facility Management Plan is to be developed, an evaluation of its effectiveness is undertaken 12 to 18 months after implementation. Development of a Wheeled Sports Facility Management Plan is being progressed with the intent of providing guidance on the development, management and decommissioning of wheeled sports facilities in the City.

DETAILS

Signature Analysis

The following table outlines a breakdown of the suburbs from which the signatures for the petition were collected:

Number of Signatures	Suburb
115	Non-City of Joondalup
743	Heathridge, Ocean Reef, Mullaloo, Beldon
0	Immediately surrounding Mirror Park

Demographics

The demographics for young people aged 12 – 17 years taken from the 2006 ABS census data of the suburbs from which the majority of the signatures for the petition were collected are:

Suburb	Total Youth Population	Percentage of Total Youth Population
Ocean Reef	1,022	12.9%
Mullaloo	595	10.4%
Heathridge	593	9.9%
Beldon	399	8.9%

Current Facilities

The current features at Mirror Park, Ocean Reef include a children's playground, a dirt BMX track, a toilet block, car parking areas and sumps at either end of the park. There are currently plans to relocate the children's playground and a new car park at the western end of the park has recently been added.

A site map is included as Attachment 1.

Issues and options considered:

The objectives of providing appropriate facilities within the City for such activities like skateboards, roller blades, BMX bikes and scooters and having an appropriate Management Plan are to assist to:

- Provide multi-purpose sports facilities that will meet the evolving lifestyle, sporting and recreational needs of the community.
- Promote a coordinated approach to facility development, maintenance and decommissioning.

The types of factors that would be considered when developing a facility include:

- Natural surveillance.
- Proximity to houses, commercial sites and/or community facility.
- Managed facility versus maintained facility.
- Access via public transport.
- Type of facility (to incorporate new designs/styles in use).
- Multi-use versus Wheeled Sports only.
- Amenities (drinking fountains, rubbish bins, playgrounds).
- Safety issues (graffiti, vandalism, litter control).
- Available lighting.
- Current users.
- Community need and demographics.

Given that there are minor upgrades planned for Mirror Park and in light of the recent petition, there is an opportunity to undertake consultation with young people and the surrounding residents to explore the issues around including a skate park in the overall upgrade of Mirror Park.

Consultation could be undertaken utilising different tools such as online forums that may be particularly attractive to young people.

Legislation/Strategic Plan/Policy Implications:

The community consultation will be undertaken in accordance with the City's Public Participation Policy.

Australian Standards will be utilised when planning any future wheeled sports facilities within the City as will any requirements from the City's insurers.

Strategic Plan:

1.2 To engage proactively with the community.

5.1 To ensure the City's facilities and services are of a high quality and accessible to everyone.

Risk Management considerations:

The development of skate park facilities has the potential to elicit differing views from potential users and residents. The community consultation is suggested as a means of exploring the range of issues that may exist with including a new skate park facility in an upgrade of Mirror Park. If the proposal reaches the Feasibility Study stage, principles such as CPTED (Crime Prevention through Environmental Design) will be considered.

Financial/Budget Implications:

There are no funds available in the 2009/10 budget for the development and management of a new wheeled sports facility in the City.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

The petition requesting the development of a new skate park facility either at Mirror Park, Ocean Reef or another suitable locality is one of the largest received by the City in recent years and reflects the ongoing interest by young people in these type of facilities.

The planned minor upgrades to Mirror Park presents an opportunity to undertake consultation with young people and the surrounding residents to explore the issues around including a skate park in the overall upgrade of Mirror Park. This supports the objective of providing multi-purpose sports facilities that will meet the evolving lifestyle, sporting and recreational needs of the community.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Taylor, **SECONDED** Cr Young that Council:

- 1** **NOTES** receipt of the petition requesting that Council considers the provision of a skate park facility in the Ocean Reef/Mullaloo area, either at Mirror Park, Ocean Reef or another suitable location;
- 2** **AGREES** to undertake consultation to explore the issues around including a skate park in the overall upgrade of Mirror Park, Ocean Reef;
- 3** **REQUESTS** a further report once the community consultation has been undertaken in (1) above;
- 4** **ADVISES** the lead petitioner of the proposals outlined in 1 to 3 above.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 9 refers

To access this attachment on electronic document, click here: [Attach9brf081209.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Cr Tom McLean
Item No/Subject	CJ271-12/09 – Funding for the Small Business Centre (North West Metro) Inc
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr McLean is a member of the Small Business Centre Board - Treasurer

CJ271-12/09 FUNDING FOR THE SMALL BUSINESS CENTRE (NORTH WEST METRO) INC

WARD: All

RESPONSIBLE DIRECTOR: Mr Jamie Parry
Governance and Strategy

FILE NUMBER: 55469

ATTACHMENTS: Attachment 1 Small Business Centre (North Metro) Inc Annual Report 2008/09

PURPOSE

To consider funding support for the Small Business Centre (North West Metro) Inc.

EXECUTIVE SUMMARY

The Small Business Centre (North West Metro) has a Three Year Agreement to 2009/10 with the Small Business Development Corporation (SBDC), and the Cities of Joondalup and Wanneroo. The SBDC provides 52% of the funding for the Small Business Centre and the Cities of Joondalup and Wanneroo each contribute 24% of the funding for the Centre.

The Centre submitted a three-year Business Plan (2007 – 2010) which was endorsed by the Council on 19 February 2008 (*CJ009 – 02/08 refers*). The Business Plan outlined the services to be provided by the Small Business Centre, a framework for delivery, service targets and a financial plan.

The City entered into an Agreement in February 2007 to provide funding for three years to the Small Business Centre. In line with this Agreement, the Small Business Centre has requested payment of its grant for the current financial year 2009/2010.

The Small Business Centre is seeking funding support from Council for the current financial year (2009/10).

BACKGROUND

The City of Joondalup has been providing funding support for the Small Business Centre since 2004. The City first entered into an agreement to fund the Centre from 2004 to 2007.

At its meeting of 27 February 2007, (Item CJ005-02/07 - Funding Support for the Small Business Centre (North West Metro) Inc (SBC) refers), Council resolved as follows:

- “1 *NOTES the Annual Report submitted by the Small Business Centre (North West Metro) Inc. for the financial year July 2006 to June 2007;*
- 2 *ENDORSES the Small Business Centre Business Plan (1 July 2007 – 30 June 2010) submitted by the Small Business Centre (North West Metro) Inc forming Attachment 2 to Report CJ009-02/08;*

- 3 *AGREES to contribute \$55,000 net GST to the Small Business Centre (North West Metro) Inc. for the 2007/08 financial year to support small business development within the City of Joondalup, subject to an annual review in accordance with the approved business plan;*
- 4 *REQUIRES the Small Business Centre (North West Metro) Inc. to submit annual reviews of its achievements against the Business Plan for the 2007/08, 2008/09 and 2009/10 financial years;*
- 5 *AGREES to contribute funding to the Small Business Centre (North West Metro) Inc. for the 2008/09 and 2009/10 financial years SUBJECT to an annual review to the Chief Executive Officer's satisfaction. Assuming satisfaction the funding for 2008/09 will be \$55,000 net GST plus CPI (for 2007/08) and for 2009/10 will be the 2008/09 amount plus CPI (for 2008/09);*
- 6 *REQUIRES the Small Business Centre to recognise the sponsorship of the City of Joondalup, City of Wanneroo and the Small Business Development Centre on all of its marketing documentation."*

In light of these resolutions, the Small Business Centre is now seeking funding support from Council for the current financial year (2009/10).

The Small Business Centre has a Three Year Agreement to 2009/10 with the Small Business Development Corporation (SBDC), and the Cities of Joondalup and Wanneroo. The SBDC provides 52% of the funding for the Small Business Centre and the Cities of Joondalup and Wanneroo each contribute 24% of the funding for the Centre.

The Small Business Centre provides the following services to small businesses:

- Provision of business counselling, information, and guidance for establishing, maintaining, and development a business enterprise;
- Provision of access to appropriate business skills, training, personal development, and networking opportunities.

The majority of Small Business Centre services are provided free of charge to businesses in the North West region from the Joondalup and Wanneroo offices.

The City entered into an Agreement in February 2007 to provide funding for three years to the Small Business Centre. In line with this Agreement, the Small Business Centre has requested payment of its grant for the current financial year 2009/2010.

The Agreement is subject to annual reviews that demonstrate the performance of the Centre in accordance with the Centre's Business Plan to the satisfaction of the Chief Executive Officer.

The City of Wanneroo has also signed an agreement with the Small Business Centre to provide funding for three years.

Each of the Cities has agreed to contribute \$55,000 per year (CPI adjusted) through until 2009/10. The Small Business Centre also receives funding from the State Government through the Small Business Development Centre, and the Cities of Wanneroo and Joondalup are supporting the State Government's contribution by providing a combined cash funding component of approximately \$115,000 for the Centre.

Following receipt of the Annual Report for the financial year July 2007 to June 2008, on 21 April 2009 the Council agreed to contribute \$56,925 net GST plus CPI to the Small Business Centre for the 2008/09 financial year to support small business development within the City of Joondalup.

The 2007/08 Annual Report indicated a surplus of \$72,702 at that time, however the Small Business Centre wrote to the City on 14 February 2009 and formally requested that the funds be used to recruit an additional Client Coordinator to undertake the following duties:

- Undertake client follow ups;
- Provide additional support for the Manager and Facilitator;
- Take on short duration visits to free up current staff to deal with more complex client interviews.

The City agreed for the surplus funds to be utilised in the manner described above, with the assurance from the Small Business Centre that the additional staff member was to be supported without any further increase to the City's funding contribution in future years.

DETAILS

Issues and options considered:

The Small Business Centre has provided the City, as per the Agreement, with its Annual Report and Audited Accounts for 2008/09 at the same time as the request for funding for 2009/10.

In considering the Small Business Centre's request for funding, the City has reviewed the Annual Report and Audited Accounts for 2008/09.

The financial statements for 2008/09 indicate accumulated funds of \$151,552 at the end of financial year (30 June 2009) – these accumulated funds include an actual operating surplus of \$15,593 to June 30 2009. Given that the Small Business Centre does not receive funding from the SBCD until September, and from the Cities of Joondalup and Wanneroo until January, those accumulated funds are necessary to provide a cash flow to enable the Centre to continue operations until such time as funding is received from the SBCD and the Cities of Joondalup and Wanneroo.

Key Performance Indicators

For the year ending 30 June 2009, the Small Business Centre achieved the following outcomes compared to the performance targets contained within the Agreement with the City.

Session type	COJ Agreed Target 2008-2009	Actual 2008/09	% Achieved against target
New Businesses Assists (30 min +)	451	370	82%
Client sessions Existing businesses(30 mins +)	100	237	237%
Short Duration Sessions New & Existing (<30 mins)	551	1181	214%
New Business Start Ups	131	137	105%
Jobs Created	237	355	150%
Workshop Participants	126	204	162%

The achievements of the Small Business Centre are in line with the targets agreed and for the majority of Key Performance Indicators the targets set by the City have been exceeded. Performance against the Key Performance indicator of New Business Assists has been lower than expected, however there is still an 82% achievement against target.

The Small Business Centre has also provided the City with a Service Delivery Plan 2009/10 which has been formally accepted by the Small Business Development Corporation.

Link to Strategic Plan

Objective: 3.2 To increase employment opportunities within the City.

Strategy 3.2.1 The City supports local businesses in their activities.

Legislation – Statutory Provisions:

Not Applicable.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

The City has \$60,000 listed in the approved Budget for 2009/10 under:

Account No: 1-532.A5302.3291.0000
Budget Item: SBC Funding
Budget Amount: \$60,000
YTD Amount: \$0
Actual Cost: \$57,772 net GST inclusive of CPI (*CPI to June 2009 – Perth Group was 1.4%*).

Policy Implications:

Not Applicable.

Regional Significance:

The Small Business Centre represents a strategic partnership for the delivery of business support services for the North West Metropolitan region. By partnering with the City of Wanneroo and the State Government the City has been able to maximise the services available for small business development across the region that will ultimately provide flow-on benefits for the whole community.

Sustainability Implications:

The business support service offered by the Small Business Centre enhances the economic sustainability of the region.

Consultation:

Not Applicable.

COMMENT

The performance of the Small Business Centre to date is in line with agreed targets. There has, however been a high turnover of staff and the Centre Manager has recently resigned. The Small Business Centre has employed four Centre Managers since the Agreement commenced.

Despite the high turnover of Centre Managers, the performance of the Small Business Centre is meeting agreed outcomes. The net results have been that in the financial year to June 2009, 355 jobs were created in the region, and in the majority of instances the Small Business Centre has exceeded the targets set by the City.

The Small Business Centre's connection with the small business community provides the City with an opportunity to support local businesses through the funding provided and to realise some of the objectives of the City's Economic Development Plan 2007 – 2011 in terms of supporting the establishment of new small businesses, the growth of existing small businesses, and the growth of local employment opportunities.

Given the current economic climate, the work of the Small Business Centre is helping to minimise job losses and assist in creating new employment opportunities.

Given that this is the final year of the three year Agreement with the Small Business Centre, it is timely for the City, in collaboration with the City of Wanneroo and the Small Business Development Corporation, to review funding arrangements with the Small Business Centre, and to explore options for the provision of small business services to the North West Corridor in to the future.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr McLean, SECONDED Cr Amphlett that Council:

- 1 NOTES the Annual Report submitted by the Small Business Centre (North West Metro) Inc. for the financial year July 2008 to June 2009 forming Attachment 1 to Report CJ271-12/09;**
- 2 AGREES to contribute \$57,772 to the Small Business Centre (North West Metro) Inc. for the 2009/10 financial year to support small business development within the City of Joondalup;**

- 3** **AGREES that as this is the last year of the three year Agreement with the Small Business Centre the City will initiate in the first quarter of 2010, in partnership with the City of Wanneroo and the Small Business Development Corporation, a review of funding options for the provision of small business services to the North West Corridor for beyond 30 June 2010.**

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 10 refers

To access this attachment on electronic document, click here: [Attach10brf081209.pdf](#)

CJ272-12/09 SETTING OF MEETING DATES FOR 2010

WARD: All

RESPONSIBLE DIRECTOR: Mr Jamie Parry
Governance and Strategy

FILE NUMBER: 08122

ATTACHMENTS: Nil

PURPOSE

To set Council's meeting dates for the 2010 calendar year.

EXECUTIVE SUMMARY

In accordance with the Local Government Act 1995, it is necessary for a local government to give local public notice of its ordinary meeting dates for the next 12 months.

It is recommended that the current monthly timeframe for meetings be maintained, and that deputation sessions continue to be held at the commencement of Briefing Sessions.

BACKGROUND

At its meeting held on 12 December 2006, Council set its meeting dates for 2007 and introduced a rolling four-weekly cycle, which enabled the fourth week to be used to hold additional information sessions or for scheduling various committee meetings.

At its meeting held on 30 September 2008, Council adopted a revised cycle based on a monthly timeframe, that is each Tuesday was set aside for either a Strategy Session (1st Tuesday), Briefing Session (2nd Tuesday) or Council meeting (3rd Tuesday). This allowed the 4th and 5th Tuesdays (when they occur) of the month to be available for various other non-standard meetings to be scheduled where required.

DETAILS

Issues and options considered:

The proposed meeting schedule is based on the monthly timeframe that commenced in 2009. Maintaining the monthly meeting cycle will provide a level of continuity for members of the public.

The meeting scheduled in August will recognise Local Government Week, with a commencement time of 12 noon to enable attendance by high school students.

In order to accommodate the Christmas holiday period, the December meetings have been scheduled one week earlier.

Legislation/Strategic Plan/Policy Implications

Legislation Section 5.3 of the Local Government Act 1995 states:

Ordinary and Special Council meetings:

- (1) *A Council is to hold ordinary meetings and may hold special meetings;*
- (2) *Ordinary meetings are to be held not more than three months apart;*
- (3) *If a Council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure.*

Regulation 12 of the Local Government (Administration) Regulations 1996 states:

Public Notice of Council or Committee meetings

- 12 (1) *At least once each year a local government is to give local public notice of the dates on which and the time and place at which –*
 - (a) *the ordinary Council meetings; and*
 - (b) *the Committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public;*

are to be held in the next 12 months;
- (2) *A local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).*

Strategic Plan

Key Focus Area: Leadership and Governance

Objective: 1.1 To ensure that the processes of local governance are carried out in a manner that is ethical, transparent and accountable.

Policy Not Applicable.

Risk Management considerations:

Failure to set and advertise Council's meeting dates will contravene the requirements of the Local Government Act 1995.

Financial/Budget Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

It is recommended that the current monthly timeframe for meetings be maintained for 2010, subject to:

- the August Council meeting, to acknowledge Local Government Week, commencing at 12 noon; and
- the December meetings being scheduled one week earlier in order to accommodate the Christmas holiday period.

It is also recommended that deputation sessions continue to be held at the commencement of Briefing Sessions.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 SETS the following meeting dates and times for the City of Joondalup to be held at the Joondalup Civic Centre, Boas Avenue, Joondalup:

Briefing Sessions To be held at 6.30 pm in Conference Room 1	Council meetings To be held in the Council Chamber
Tuesday 9 February 2010	7.00 pm on Tuesday 16 February 2010
Tuesday 9 March 2010	7.00 pm on Tuesday 16 March 2010
Tuesday 13 April 2010	7.00 pm on Tuesday 20 April 2010
Tuesday 11 May 2010	7.00 pm on Tuesday 18 May 2010

Tuesday 8 June 2010	7.00 pm on Tuesday 15 June 2010
Tuesday 13 July 2010	7.00 pm on Tuesday 20 July 2010
Tuesday 10 August 2010	12 noon on Tuesday 17 August 2010
Tuesday 14 September 2010	7.00 pm on Tuesday 21 September 2010
Tuesday 12 October 2010	7.00 pm on Tuesday 19 October 2010
Tuesday 9 November 2010	7.00 pm on Tuesday 16 November 2010
Tuesday 7 December 2010	7.00 pm on Tuesday 14 December 2010
January 2011 - Recess	

- 2 AGREES to hold deputation sessions in conjunction with the Briefing Sessions;
- 3 in accordance with Regulation 12 of the Local Government (Administration) Regulations, GIVES local public notice of the meeting dates detailed in (1) above;
- 4 INVITES a maximum of ten (10) students from each of the high schools within the district of the City of Joondalup to attend the Council meeting to commence at 12 noon on Tuesday 17 August 2010.

MOVED Cr Hollywood, SECONDED Cr Young that Council:

- 1 **SETS the following meeting dates and times for the City of Joondalup to be held at the Joondalup Civic Centre, Boas Avenue, Joondalup:**

Briefing Sessions To be held at 6.30 pm in Conference Room 1	Council meetings To be held in the Council Chamber
Tuesday 9 February 2010	7.00 pm on Tuesday 16 February 2010
Tuesday 9 March 2010	7.00 pm on Tuesday 16 March 2010
Tuesday 13 April 2010	7.00 pm on Tuesday 20 April 2010
Tuesday 18 May 2010	7.00 pm on Tuesday 25 May 2010
Tuesday 15 June 2010	7.00 pm on Tuesday 22 June 2010
Tuesday 13 July 2010	7.00 pm on Tuesday 20 July 2010
Tuesday 10 August 2010	12 noon on Tuesday 17 August 2010
Tuesday 14 September 2010	7.00 pm on Tuesday 21 September 2010
Tuesday 12 October 2010	7.00 pm on Tuesday 19 October 2010
Tuesday 9 November 2010	7.00 pm on Tuesday 16 November 2010
Tuesday 7 December 2010	7.00 pm on Tuesday 14 December 2010
January 2011 - Recess	

- 2 **AGREES** to hold deputation sessions in conjunction with the Briefing Sessions;
- 3 in accordance with Regulation 12 of the Local Government (Administration) Regulations, **GIVES** local public notice of the meeting dates detailed in (1) above;
- 4 **INVITES** a maximum of ten (10) students from each of the high schools within the district of the City of Joondalup to attend the Council meeting to commence at 12 noon on Tuesday 17 August 2010.

The Motion was Put and

CARRIED (9/3)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Gobbert, Hamilton-Prime, Hollywood, McLean, Taylor and Young. **Against the Motion:** Crs Corr, Fishwick and Norman.

CJ273-12/09 STATUS OF PETITIONS TO COUNCIL

WARD: All

RESPONSIBLE DIRECTOR: Mr Jamie Parry
Governance and Strategy

FILE NUMBER: 05386

ATTACHMENTS: Attachment 1 Status of Petitions – 27 February 2007 to 17 November 2009.

PURPOSE/ EXECUTIVE SUMMARY

To advise Council of the status of outstanding petitions received during the period 27 February 2007 to 17 November 2009.

BACKGROUND

A report was presented to Council at its meeting held on 16 December 2008 detailing the status of outstanding petitions received during the period from February 2007 to October 2008. Quarterly reports on outstanding petitions are to be presented to Council.

DETAILS

Issues and options considered:

Attachment 1 provides a list of all outstanding petitions received during the period 27 February 2007 to 17 November 2009 with a comment on the status of each petition.

Legislation/Strategic Plan/Policy Implications

Legislation

Clause 22 of the City's Standing Orders Local Law 2005 states:

"22. Petitions

- (1) A petition received by a member or the CEO is to be presented to the next ordinary Council meeting.
- (2) Any petition to the Council is:
 - (a) as far as practicable to be prepared in the form prescribed in the Schedule;
 - (b) to be addressed to the Council and forwarded to a member or the CEO; and
 - (c) to state the name and address of the person to whom correspondence in respect of the petition may be served.
- (3) Once a petition is presented to the Council, a motion may be moved to receive the petition and refer it to the CEO for action.

Strategic Plan:

Objective: 1.2 To engage proactively with the community.

Strategy: 1.2.4 The City maintains its commitment to public engagement, allowing Deputations and Public Statement Times, in addition to the Legislative requirements to public participation.

Policy Implications:

Individual petitions may impact on the policy position of the City.

Risk Management considerations:

Failure to give consideration to the request of the petitioners and take the appropriate actions may impact on the level of satisfaction by the community.

Financial/Budget Implications:

Individual requests made by the way of petitions may have financial implications.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

The petitions are presented to Council for information on the actions taken, along with those outstanding.

VOTING REQUIREMENTS

Simple majority

MOVED Cr Amphlett, SECONDED Cr Hollywood that Council:

1 NOTES:

- (a) the status of outstanding petitions submitted to Council during the period 27 February 2007 to 17 November 2009, forming Attachment 1 to Report CJ273-12/09;
- (b) that when the application for retrospective approval for unauthorised blinds at Kulcha Café and Noodle House, Joondalup is received by the City it will be assessed and determined under Delegated Authority;
- (c) that the applications for retrospective approval for unauthorised blinds and sign at La Vita Restaurant, Joondalup will be assessed and determined under Delegated Authority;
- (d) that the application for a Farmers Market at Davallia Primary School was withdrawn by the applicant;

2 in relation to Point 1(b) to (d) inclusive above, ADVISES the petitioners accordingly.

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ284-12/09, Page 150 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 11 refers

To access this attachment on electronic document, click here: [Attach11brf081209.pdf](#)

CJ274-12/09 EXECUTION OF DOCUMENTS

WARD: All

RESPONSIBLE DIRECTOR: Mr Garry Hunt
Office of the CEO

FILE NUMBER: 15876

ATTACHMENTS: Nil.

PURPOSE

For Council to note the documents executed by means of affixing the Common Seal for the period 29 September 2009 to 24 November 2009.

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 to be executed by affixing the Common Seal or signed by the Mayor and the CEO are reported to the Council for information on a regular basis.

BACKGROUND

Nil.

DETAILS

The following documents have been executed by affixing the Common Seal.

Document:	Section 70A Notification
Parties:	City of Joondalup and M Dohler, C Rubery, T Rubery and J Dohler
Description:	To limit the occupation of the studio to be used in conjunction with the main dwelling only and not occupied as an independent household at Lot 47 (3) Albright Hill, Joondalup
Date:	29.09.09
Signed/Sealed:	Sealed

Document:	Section 70A Notification
Parties:	City of Joondalup and M A and O Mandl
Description:	To restrict the occupation of the ancillary accommodation to dependent member(s) of the family of the occupier(s) of the main dwelling on the land – Lot 53 (2) Bootie Place, Hillarys
Date:	03.11.09
Signed/Sealed:	Sealed

Document:	Section 70A Notification
Parties:	City of Joondalup and S and A D Merry
Description:	To restrict occupation of the ancillary accommodation to dependent member(s) of the family of the occupier(s) of the main dwelling on the land – Lot 565 (65) Ashmore Way, Sorrento
Date:	03.11.09
Signed/Sealed:	Sealed

Document:	Section 70A Notification
Parties:	City of Joondalup and S J and J M Greensmith
Description:	To restrict occupation of the ancillary accommodation to dependent member(s) of the family of the occupier(s) of the main dwelling on the land – Lot 180 (5) MacBean Place, Duncraig
Date:	03.11.09
Signed/Sealed:	Sealed

Document:	Amendment No 47 – District Planning Scheme No 2
Parties:	City of Joondalup and the Western Australian Planning Commission
Description:	Amendment No 47 to District Planning Scheme No 2 (DPS2) to Scheme Text to delete part (f) of Schedule 4 – change required as a result of the adoption of the City's Signs Policy 3-7. Refer minutes of Council meeting 13 October 2009 – Item CJ225-10/09
Date:	03.11.09
Signed/Sealed:	Sealed

Document:	Withdrawal of Caveat
Parties:	City of Joondalup, I D Deaney and S G Deaney
Description:	Withdrawal of Caveat (Temporary) to enable transfer of land to occur at Lot 2 (No 8) Dugdale Street, Warwick
Date:	03.11.09
Signed/Sealed:	Sealed

Document:	Section 70A Notification
Parties:	City of Joondalup and A and E Gilbert
Description:	To restrict occupation of ancillary accommodation to dependent member of family of occupiers on main dwelling of Lot 226 (28) Barridale Drive, Kingsley
Date:	24.11.09
Signed/Sealed:	Sealed

Issues and options considered:

Not Applicable.

Legislation/Strategic Plan/Policy Implications

Legislation 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.

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

Policy

Nil.

Risk Management considerations:

Nil.

Financial/Budget Implications:

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

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

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

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Amphlett, **SECONDED** Cr Hollywood that Council **NOTES** the schedule of documents covering the period 29 September 2009 to 24 November 2009 executed by means of affixing the common seal.

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ284-12/09, Page 150 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Disclosure of interest affecting impartiality

Name/Position	Cr Mike Norman
Item No/Subject	CJ275-12/09 – Minutes of Annual General Meeting of Electors held Tuesday, 24 November 2009
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Norman is Chairman of the Joondalup Community Coast Care Forum and Co-ordinator of 'Friends of Sorrento Beach' and 'Friends of Porteous Park'

CJ275-12/09 MINUTES OF ANNUAL GENERAL MEETING OF ELECTORS HELD ON TUESDAY 24 NOVEMBER 2009

WARD: All

RESPONSIBLE DIRECTOR: Mr Jamie Parry
Governance and Strategy

FILE NUMBER: 82623, 42503

ATTACHMENTS: Attachment 1 Minutes of Annual General Meeting of Electors held on 24 November 2009

PURPOSE

For the Council to note the Minutes of the Annual General Meeting of Electors held on 24 November 2009 and to give consideration to the motions carried at that meeting.

EXECUTIVE SUMMARY

The Annual General Meeting of Electors of the City of Joondalup was held on 24 November 2009 in accordance with Section 5.27 of the Local Government Act 1995 (the Act). Section 5.33(1) of the Act requires that all decisions made at an Electors' Meeting if practicable are to be considered at the next ordinary meeting of Council.

It is recommended that Council NOTES the Minutes of the Annual General Meeting of Electors held on 24 November 2009 and GIVES consideration to the motions carried at the Annual General Meeting of Electors.

BACKGROUND

The City's Annual General Meeting of Electors was held on 24 November 2009 in accordance with Section 5.27 of the Local Government Act 1995. The meeting was attended by 10 members of the public with a total of six motions carried at the meeting. The minutes of that meeting form Attachment 1 hereto.

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

DETAILS

Issues and options considered:

The Motions passed at the Annual General Meeting of Electors, at which 10 electors were present, are set out below:

MOTION NO 1

"That Council enacts the following:

- 1 tree replacement in 2010 for dead and dying trees in Korella Park, Mullaloo;*
- 2 effective grassy weed control before seed-set to be undertaken by the City in 2010 as a priority in its management program for Korella Bushland and a copy of the City's works/management plan for Korella Bushland and the Perth Biodiversity Project Survey results for Korella Bushland to be provided to the Friends Group Coordinator;*
- 3 details of the new works for Tom Simpson Park, Mullaloo at approximately \$750,000 to be provided in the February 2010 Council meeting agenda;*
- 4 Dampier Avenue bus stop seat/shelter of durable material to be replaced this year;*
- 5 after hours Ranger visits to Korella Park car park to enforce the 'no golf practice' on ovals policy."*

Officer's comment

In response to the points raised in the motion, the following comments are made:

- 1 Prior to the 2010 winter tree planting program Korella Park will be assessed to determine if further planting of trees is required in the park.
- 2 The City carries out grassy weed control in bushland areas in the order of the highest priority. The priorities have been determined in line with the results of the Perth Biodiversity Project survey. The highest ranked areas receive a greater number of resources to assist in the maintenance of the bushland. The Perth Biodiversity Project survey did not identify Korella Park as high priority and therefore resources are allocated elsewhere as the City is unable to manage all areas of bush to the highest level. The results of the Perth Biodiversity Project survey are available on request.
- 3 The \$750,000 allocated to Tom Simpson Park in 2010/11 of the 20 year Financial Plan, provides for the refurbishment of all the park furniture including playgrounds, an extension of the nature garden, increased shade trees on the perimeter of the carparks, additional footpaths connecting pedestrian nodes and asphalt resurfacing of the north and south carparks.
- 4 The Dampier Avenue bus shelter will be replaced during the 2009/10 financial year.
- 5 Rangers will undertake patrols of Korella Park in the early evenings and enforce any identified breaches of the Local Laws in relation to golf being practised in the park.

Officer's recommendation

That Council NOTES that:

- 1 prior to the 2010 winter tree planting the trees in Korella Park will be assessed to determine if further planting of trees is required in the park;
- 2 the grassy weed control in bushland areas is prioritised in line with the results of the Perth Biodiversity Project survey. The Perth Biodiversity Project survey results are available on request;
- 3 the \$750,000 allocated to Tom Simpson Park in 2010/11 of the 20 year Financial Plan provides for the refurbishment of all the park furniture including playgrounds, an extension of the nature garden, increased shade trees on the perimeter of the carparks, additional footpaths connecting pedestrian nodes and asphalt resurfacing of the north and south carparks;
- 4 the Dampier Avenue bus shelter will be replaced in the 2009/10 financial year;
- 5 Rangers will patrol Korella Park to enforce the Local Laws in relation to golf being practised in the park.

MOTION NO 2

"That the officers of the City of Joondalup at ground level be requested to communicate with the Friends Groups as to what they are going to do in the various reserves where Friends Groups are working and implement the following guiding principles and objectives of the City of Joondalup Strategic Plan:

- *work in partnership with the community to build capacity;*
- *develop community ownership and identity;*
- *develop a supporting and trusting relationship with the community."*

Officer's comment

The City is committed to supporting Friends Groups to achieve agreed goals for the improvement of natural areas through the provision of technical advice and endeavours to communicate effectively with the Friends Group as to what is planned in the various reserves. The City's Natural Areas Coordinator regularly meets with members of Friends Groups and attends meetings as required. The City is also currently revising the Natural Areas Friends Group Manual as directed by Council.

Officer's recommendation

That Council NOTES that the City will continue to support the Friends Groups.

MOTION NO 3

"That the Electors of the City of Joondalup require a proper, robust, transparent financial management plan by the inclusion of a cost benefit analysis, business plan and needs analysis with each report to Council that deals with a proposed project."

Officer's comment

The City does have a proper, robust, transparent long term financial management plan. It has undergone rigorous evaluation by the Strategic Financial Management Committee prior to adoption by Council. The plan is a high level strategic plan for long term financial planning. It is not nor does it purport to be a justification for the proposals included. The plan includes a disclaimer that makes this very clear. Business plans, needs analysis, appropriate cost benefit analysis as well as other studies in many cases, will be undertaken as required and at the appropriate time in the development of the projects and proposals.

Officer's recommendation

That Council NOTES that the Strategic Financial Management Plan provides for the long term financial management of the City.

MOTION NO 4

"That this Meeting of Electors support the City's move towards improving its sustainability reporting through the use of the global reporting initiative."

Officer's comment

The City included the Global Reporting Initiative (GRI) in its Annual Report for 2008/09 for the first time. Whilst the 2008/09 Annual Report does not include the GRI in its entirety indicators were selected that can be supported by adequate qualitative and quantitative information, providing the community and key stakeholders with information on the City's progress towards sustainable development.

The City has a responsibility to be transparent across all its operations and activities and to lead by example, and therefore has chosen 2008/09 to start including GRI in the Annual Report. Sustainability reporting will continue to be enhanced in future Annual Reports and will continue to be seen as part of the City's core business.

Officer's recommendation

That Council NOTES that the City will continue to develop appropriate sustainability indicators.

MOTION NO 5

"That this Meeting of Electors request Council to put a red or green arrow against each financial indicator to assist ratepayers to understand the financial indicators reported."

Officer's comment

The City extensively utilises the 'traffic lighting' approach in its project planning and performance reporting systems. The City is aware of the use of 'traffic lighting' in Annual Reports to assist in the ease of understanding of whether programs are performing satisfactorily, and will examine whether such an approach might be used for future reports.

Officer's recommendation

That Council NOTES that the City will assess the use of indicators in future Annual Reports to identify whether the movement from the previous year is a positive or adverse outcome.

MOTION NO 6

"That the City continue the existence of the Sustainability Advisory Committee to enable community members to assist Council to be informed on the latest issues emerging regarding sustainability."

Officer's comment

Section 5.8 of the *Local Government Act 1995* enables Council to establish committees to assist with its decision-making that are subsequently governed by Part 8 of the City's *Standing Orders Local Law 2005*. The term of Advisory Committees ended at the time of the 2009 City of Joondalup election.

The Council will consider options for future community engagement with residents and key stakeholders in early 2010. Until such time as the options are considered by Council it is considered premature to be appointing any Advisory Committees.

Officer's recommendation

That Council NOTES that a report on options for future community engagement with residents and key stakeholders is to be submitted for consideration in early 2010.

Legislation/Strategic Plan/Policy Implications**Legislation**

Section 5.33 of the Local Government Act 1995 states:

Decisions made at Electors' Meetings

5.33 (1) *All decisions made at an Electors' Meeting are to be considered by the Council at the next ordinary council meeting or, if this is not practicable –*

(a) at the first ordinary council meeting after that meeting; or

(b) at a special meeting called for that purpose,

whichever happens first.

(2) If at a meeting of the Council a local government makes a decision in response to a decision made at an Electors' Meeting, the reasons for the decision are to be recorded in the minutes of the Council Meeting.

Strategic Plan

Key Focus Area: Key Focus Area: Leadership and Governance

Objective: 1.3 Objective: To lead and manage the City effectively

Policy Not Applicable.

Risk Management considerations:

The failure to consider the decisions made at the Annual General Meeting of Electors will mean that the City has not complied with Section 5.33 of the *Local Government Act 1995*.

Financial/Budget Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

The motions carried at the Annual General Meeting of Electors held on 24 November 2009 are presented to the Council in accordance with the requirements of the legislation.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Norman, SECONDED Cr Amphlett that Council:

- 1 **NOTES the Minutes of the Annual General Meeting of Electors held on 24 November 2009 forming Attachment 1 to Report CJ275-12/09;**
- 2 **in relation to Motion No 1 carried at the Annual General Meeting of Electors, NOTES:**
 - (a) **that prior to the 2010 winter tree planting the trees in Korella Park will be assessed to determine if further planting of trees is required in the park;**
 - (b) **that the grassy weed control in bushland areas is prioritised in line with the results of the Perth Biodiversity Project survey. The Perth Biodiversity Project survey results are available on request;**
 - (c) **the \$750,000 allocated to Tom Simpson Park in 2010/11 of the 20 year Financial Plan provides for the refurbishment of all the park furniture including playgrounds, an extension of the nature garden, increased shade trees on the perimeter of the carparks, additional footpaths connecting pedestrian nodes and asphalt resurfacing of the north and south carparks;**
 - (d) **that the Dampier Avenue bus shelter will be replaced in the 2009/10 financial year;**

- (e) that Rangers will patrol Korella Park to enforce the Local Laws in relation to golf being practised in the park;
- 3 in relation to Motion No 2 carried at the Annual General Meeting of Electors, NOTES that the City will continue to support the Friends Groups;
- 4 in relation to Motion No 3 carried at the Annual General Meeting of Electors, NOTES that the Strategic Financial Management Plan provides for the long term financial management of the City;
- 5 in relation to Motion No 4 carried at the Annual General Meeting of Electors, NOTES that the City will continue to develop appropriate sustainability indicators;
- 6 in relation to Motion No 5 carried at the Annual General Meeting of Electors, NOTES that the City will assess the use of indicators in future Annual Reports to identify whether the movement from the previous year is a positive or adverse outcome;
- 7 in relation to Motion No 6 carried at the Annual General Meeting of Electors, NOTES that a report on options for future community engagement with residents and key stakeholders is to be submitted for consideration in early 2010.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 12 refers

To access this attachment on electronic document, click here: [Attach12brf081209.pdf](#)

CJ276-12/09 APPOINTMENT OF DEPUTIES TO CITY OF JOONDALUP COMMITTEES

WARD: All

RESPONSIBLE DIRECTOR: Mr Jamie Parry
Governance and Strategy

FILE NUMBER: 02153

ATTACHMENTS: Nil.

PURPOSE

For the Council to consider appointing deputies to its members on committees established under the provisions of the Local Government Act 1995.

EXECUTIVE SUMMARY

The Council has established a number of committees in accordance with the provisions of the Local Government Act 1995. At the time of appointing membership to those bodies, the legislation did not allow for deputy members to be appointed on an ongoing basis to serve when the member was unable to.

The Local Government Act 1995 has recently been amended to allow deputies to be appointed. It is suggested that the Council considers appointing deputies to its Committees.

BACKGROUND

Following each ordinary election, the committees established by the Council are disbanded.

The most recent ordinary elections for the City of Joondalup were held on 17 October 2009. Subsequent to the elections, the Council at its meeting held on 17 November 2009 established committees as follows:

- Art Collection and Advisory Committee

Membership comprises of the Mayor, one (1) Councillor from each Ward, and the Chief Executive Officer -

Mayor Troy Pickard
Cr Kerry Hollywood
Cr Trona Young
Cr Liam Gobbert
Cr Christine-Hamilton Prime
Cr John Chester
Cr Fiona Diaz
Chief Executive Officer

- Audit Committee

Membership comprises of the Mayor, one (1) Councillor from each Ward, and an External Member -

Mayor Troy Pickard
Cr Tom McLean
Cr Trona Young
Cr Geoff Amphlett
Cr Christine Hamilton-Prime
Cr John Chester
Cr Fiona Diaz
Mr Robert (Andy) Cowin (External Member)

- CEO Performance Review Committee

Membership comprises of the Mayor and one (1) Councillor from each Ward -

Mayor Troy Pickard
Cr Tom McLean
Cr Philippa Taylor
Cr Geoff Amphlett
Cr Mike Norman
Cr Brian Corr
Cr Russ Fishwick

- Ocean Reef Marina Committee

Membership comprises of the Mayor, two (2) Councillors from the North-Central Ward, and one (1) Councillor from each remaining Ward -

Mayor Troy Pickard
Cr Tom McLean
Cr Trona Young
Cr Philippa Taylor
Cr Geoff Amphlett
Cr Christine Hamilton-Prime
Cr Brian Corr
Cr Russ Fishwick

- Policy Committee

Membership comprises of the Mayor and one (1) Councillor from each Ward -

Mayor Troy Pickard
Cr Kerry Hollywood
Cr Trona Young
Cr Liam Gobbert
Cr Christine Hamilton-Prime
Cr John Chester
Cr Fiona Diaz

- Strategic Financial Management Committee

Membership comprises of the Mayor and one (1) Councillor from each Ward -

Mayor Troy Pickard
Cr Tom McLean
Cr Philippa Taylor
Cr Geoff Amphlett
Cr Mike Norman
Cr Brian Corr
Cr Russ Fishwick

Legal advice confirmed that the then provisions of the Local Government Act 1995 only allowed a local government to appoint deputies to a committee or Regional Council under specific circumstances and not on an ongoing basis. This still applies to the appointment of deputies to serve on Regional Councils.

DETAILS

The Local Government Act 1995 has recently been amended to insert a new section to allow a local government to appoint persons to act as deputies.

Issues and options considered:

Council may decide to:

- Retain the status quo and operate without deputy members;
- Agree to appoint deputy members to all or some of the committees established.

Legislation/Strategic Plan/Policy Implications

Legislation

The recently proclaimed Local Government Amendment Act 2009 allowed for the following section to be included in the Local Government Act 1995:

“5.11A Deputy committee members

(1) The local government may appoint* a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.

* Absolute majority required.

(2) A person who is appointed as a deputy of a member of a committee is to be:

(a) if the member of the committee is a council member – a council member; or

(b) if the member of the committee is an employee – an employee; or

(c) if the member of the committee is not a council member or an employee – a person who is not a council member or an employee; or

(d) if the member of the committee is a person appointed under section 5.10(5) – a person nominated by the CEO.

(3) A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause;

- (4) A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member.

Strategic Plan

Key Focus Area: Leadership and Governance

Objective: 1.1 To ensure that the processes of local governance are carried out in a manner that is ethical, transparent and accountable.

Policy Not Applicable.

Risk Management considerations:

The risk of not appointing deputy members may hinder the operations of a committee due to a quorum not being achieved where members are unable to serve.

Financial/Budget Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

The inability to appoint deputies has caused a number of issues relating to the operations of committees, in particularly the need to 'count out' committee meetings due to a lack of quorum. Appointing deputies to serve on a committee will overcome this issue.

The majority of Council's committees are based on a membership of the Mayor and one (1) member from each Ward. In such cases, it is considered appropriate that the fellow Ward member be appointed as deputy.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION: That Council GIVES CONSIDERATION to the appointment of deputies to the following committees:

- 1 Art Collection and Advisory Committee
- 2 Audit Committee
- 3 CEO Performance Review Committee
- 4 Ocean Reef Marina Committee
- 5 Policy Committee
- 6 Strategic Financial Management Committee

MOVED Cr Young SECONDED Cr Amphlett that Council APPOINTS the following deputies to its committees:

1 Art Collection and Advisory Committee

Cr Tom McLean	Deputy to Cr Kerry Hollywood
Cr Philippa Taylor	Deputy to Cr Trona Young
Cr Geoff Amphlett	Deputy to Cr Liam Gobbert
Cr Mike Norman	Deputy to Cr Christine Hamilton-Prime
Cr Brian Corr	Deputy to Cr John Chester
Cr Russ Fishwick	Deputy to Cr Fiona Diaz

2 Audit Committee

Cr Kerry Hollywood	Deputy to Cr Tom McLean
Cr Philippa Taylor	Deputy to Cr Trona Young
Cr Liam Gobbert	Deputy to Cr Geoff Amphlett
Cr Mike Norman	Deputy to Cr Christine Hamilton-Prime
Cr Brian Corr	Deputy to Cr John Chester
Cr Russ Fishwick	Deputy to Cr Fiona Diaz

3 CEO Performance Review Committee

Cr Kerry Hollywood	Deputy to Cr Tom McLean
Cr Trona Young	Deputy to Cr Philippa Taylor
Cr Liam Gobbert	Deputy to Cr Geoff Amphlett
Cr Christine Hamilton- Prime	Deputy to Cr Mike Norman
Cr John Chester	Deputy to Cr Brian Corr
Cr Fiona Diaz	Deputy to Cr Russ Fishwick

4 Ocean Reef Marina Committee

Cr Kerry Hollywood	Deputy to Cr Tom McLean
Cr Liam Gobbert	Deputy to Cr Geoff Amphlett
Cr Mike Norman	Deputy to Cr Christine Hamilton-Prime
Cr John Chester	Deputy to Cr Brian Corr
Cr Fiona Diaz	Deputy to Cr Russ Fishwick

5 Policy Committee

Cr Tom McLean	Deputy to Cr Kerry Hollywood
Cr Philippa Taylor	Deputy to Cr Trona Young
Cr Geoff Amphlett	Deputy to Cr Liam Gobbert
Cr Mike Norman	Deputy to Cr Christine Hamilton-Prime
Cr Brian Corr	Deputy to Cr John Chester
Cr Russ Fishwick	Deputy to Cr Fiona Diaz

6 Strategic Financial Management Committee

Cr Kerry Hollywood	Deputy to Cr Tom McLean
Cr Trona Young	Deputy to Cr Philippa Taylor
Cr Liam Gobbert	Deputy to Cr Geoff Amphlett
Cr Christine Hamilton-Prime	Deputy to Cr Mike Norman
Cr John Chester	Deputy to Cr Brian Corr
Cr Fiona Diaz	Deputy to Cr Russ Fishwick

The Motion was Put and

**CARRIED BY AN
ABSOLUTE MAJORITY (12/0)**

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

**CJ277-12/09 REQUESTED WRITTEN UNDERTAKING FROM THE
DELEGATED LEGISLATION COMMITTEE
REGARDING THE CITY'S TRADING IN PUBLIC
PLACES AMENDMENT LOCAL LAW 2009**

WARD: North

**RESPONSIBLE
DIRECTOR:** Mr Jamie Parry
Governance and Strategy

FILE NUMBER: 23122

ATTACHMENTS: Nil.

PURPOSE/EXECUTIVE SUMMARY

To inform Council of a request for a written undertaking from the Joint Standing Committee on Delegated Legislation (JSCDL) to amend a typographical error within the City's *Trading in Public Places Local Law 1999*.

It is recommended that Council requests the Chief Executive Officer to provide the Joint Standing Committee on Delegated Legislation with a written undertaking to amend the City's *Trading in Public Places Local Law 1999* within a two year period to replace the term "14(4)(iii)" within the First Schedule with the term "14(4)(c)".

BACKGROUND

At the Meeting of 15 September 2009, Council resolved, inter alia, to:

“ADOPT the City of Joondalup Trading in Public Places Amendment Local Law 2009 in the manner prescribed in Attachment 1 to Report CJ203-09/09.”

Following Council’s adoption of the above amendment local law, the City sent a copy of the law to the JSCDL for scrutiny, in accordance with section 3.12 of the *Local Government Act 1995*.

DETAILS

On 25 November 2009 the City received correspondence from the JSCDL regarding its *Trading in Public Places Amendment Local Law 2009*. Within the correspondence, the JSCDL confirmed its position that the City had complied with the requirements of section 3.12 of the *Local Government Act 1995* in making its amendment local law and noted a typographical error in the gazettal notice.

As such, the Committee requested the City to obtain a written undertaking from its Council that the typographical error would be amended within a two year period.

This report seeks to obtain a resolution of Council to provide the JSCDL with a written undertaking that accords with its requirements.

Issues and options considered:

Not Applicable.

Legislation

This report recommends amending part of the City’s *Trading in Public Places Local Law 1999* in accordance with direction provided by the JSCDL.

In accordance with the JSCDL’s *Report 23: “Issues of Concern Raised by the Committee Between 1 May 2006 and 30 April 2007 with Respect to Local Laws”*, the City must fulfil its commitment to amend the provision within 2 years of having been notified by the Committee. Should the City fail to complete its stated commitments, the Committee will move to disallow the City’s *Trading in Public Places Amendment Local Law 2009* after a 2 year period.

Strategic Plan

Not Applicable.

Policy

Not Applicable.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

The process for amending the City's *Trading in Public Places Local Law 1999* does not place a significant financial burden on the City, as it can be incorporated into a general review of the local law within the next 2 years.

Regional Significance:

Not Applicable.

Sustainability Implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

Not Applicable.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Amphlett, **SECONDED** Cr Hollywood that Council **REQUESTS** the Chief Executive Officer to provide the Joint Standing Committee on Delegated Legislation with a written undertaking to amend the City's *Trading in Public Places Local Law 1999* within a two year period to replace the term "14(4)(iii)" within the First Schedule with the term "14(4)(c)".

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ284-12/09, Page 150 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Disclosure of Financial Interest

Name/Position	Mr Garry Hunt, Chief Executive Officer
Item No/Subject	CJ278-12/09 – Request for Annual Leave – Chief Executive Officer
Nature of interest	Financial Interest
Extent of Interest	Annual Leave for Chief Executive Officer

CJ278-12/09 REQUEST FOR ANNUAL LEAVE - CHIEF EXECUTIVE OFFICER

WARD: All

RESPONSIBLE DIRECTOR: Mr Mike Tidy
Corporate Services

FILE NUMBER: 98394, 98394B

ATTACHMENTS: Nil.

PURPOSE

To give consideration to the request for annual leave submitted by the Chief Executive Officer.

EXECUTIVE SUMMARY

The Chief Executive Officer has requested annual leave for the period 22 December 2009 to 8 January 2010, both dates inclusive.

BACKGROUND

The Chief Executive Officer commenced his employment with the City of Joondalup on 31 January 2005.

DETAILS

The Chief Executive Officer (CEO) has requested annual leave for the period 22 December 2009 to 8 January 2010 inclusive. The CEO has delegated authority to appoint an Acting CEO for periods where he is absent from work while on leave, where such periods are for less than 35 days. The Directors of the City perform the Acting Chief Executive role on a rotational basis. The Director Governance and Strategy is the officer assigned to fill the role from November 2009 until March 2010 inclusive and will act during the CEO's annual leave if approved.

Issues and options considered:

During the employment of the CEO there will be periods of time where he will be absent from the City of Joondalup on annual leave.

The CEO, in accordance with his employment contract, is entitled to twenty five (25) days leave per annum.

Legislation/Strategic Plan/Policy Implications

Legislation Not Applicable.

Strategic Plan

Key Focus Area: Implement best practice people-management policies and tools to assist in the achievement of the City's workforce objectives.

Objective: Not Applicable.

Policy Not Applicable.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

Nil.

Regional Significance:

Not Applicable.

Sustainability implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

The CEO has an entitlement in accordance with his employment contract for periods of annual leave. The dates requested are conducive to the operations of the City.

VOTING REQUIREMENTS

Simple Majority.

MOVED Cr Hollywood, SECONDED Cr Amphlett that Council APPROVES the request from the Chief Executive Officer for annual leave for the period 22 December 2009 to 8 January 2010 inclusive.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

CJ279-12/09 FINANCIAL ACTIVITY STATEMENT FOR THE PERIOD ENDED 31 OCTOBER 2009

WARD:	All
RESPONSIBLE DIRECTOR:	Mr Mike Tidy Corporate Services
FILE NUMBER:	07882
ATTACHMENTS:	Attachment 1 Financial Activity Statement for the period ended 31 October 2009

PURPOSE

The October 2009 Financial Activity Statement is submitted to Council to be noted.

EXECUTIVE SUMMARY

Council adopted the Annual Budget for the 2009/10 Financial Year at its Meeting held on 17th June - JSC10-06/09. The figures in this report are compared to the Adopted Budget figures.

The October 2009 Financial Activity Statement report shows an overall favourable variance from operations and capital of \$6,156K when compared to the 2009-2010 Adopted Budget.

This variance can be summarised as follows:

- The **Operating** surplus is \$(51K) below budget made up of higher revenue of \$140K and higher operating expenditure of \$(190K).

Operating revenue was above budget for Rates \$322K, Investment Earnings \$466K resulting from a higher level of funds invested, Contributions Reimbursements and Donations \$34K and Profit on Asset Disposals \$30K. A shortfall in revenue on Fees and Charges \$(539K), includes \$(528K) for Refuse Charges predominantly due to the post budget reduction of \$10 per service adopted by Council. Shortfalls also occurred on Grants and Subsidies \$(164K) and Other Revenue \$(10K).

The operating expenditure was above budget for Depreciation \$(1,340K) and Insurance Expenses \$(82K), mainly following the revaluation of the City's buildings in 2008/09 and Employee Costs \$(178K). Operating expenditure is below budget for Materials and Contracts by \$1,186K and Utilities \$188, reflecting mainly timing differences.

- The **Capital Revenue and Expenditure** deficit is \$4,915K below budget made up of a shortfall of revenue of \$(3,017K) and under expenditure of \$7,932K.

The revenue deficit to budget arose from Grant funding for the Seacrest Community Sporting Facility \$(1,305K) and video surveillance system at Tom Simpson Park \$(150K) having been received in the previous financial year and the rescheduling of the payment for the State Local Roads Grant \$(114K). The balance includes grant recoups which are subject to progress of works compared to the phasing in the budget and includes \$(750K) for the Connolly Drive duplication.

Capital expenditure on projects and works was lower than expected in the budget by \$7,636K. The major variances occurred on Streetscape Enhancements \$1,550K including West Coast Drive and Connolly Drive - Burns Beach Road to McNaughton Crescent \$1,410K where work is almost complete and Building Works \$696K.

Further details of the operating and capital variances are contained in the notes attached to this report.

It is recommended that Council NOTES the Financial Activity Statement for the period ended 31 October 2009 forming Attachment 1 to Report CJ279-12/09.

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

Issues and options considered:

The Financial Activity Statement for the period ended 31 October 2009 is appended as Attachment 1.

Legislation/Strategic Plan/Policy Implications:

Legislation 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 source and application of funds as set out in the annual budget.

Strategic Plan

Key Focus Area: Leadership and Governance

Objective: Objective 1.3 – To lead and manage the City effectively.

Risk Management considerations:

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

Financial/Budget Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability Implications:

Expenditure has been incurred in accordance with approved 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.

COMMENT

All expenditures included in the Financial Activity Statement are incurred in accordance with the 2009-10 Annual Budget or have been authorised in advance by Council where applicable.

Although the variance between actual and year to date budget to 31 October 2009 shows a significant surplus this needs to be treated with a great deal of caution. The bulk of this is attributable to timing and differences between expected and actual capital income and expenditure.

The opening brought forward surplus which shows an additional \$988K is also deceptive as most of this is accounted for by the 2009/10 first quarter Grants Commission Grant of \$758K which was received unexpectedly in 2008/09 but was budgeted in 2009/10.

Employee costs is a concern. At this point it is slightly overspent however a significant factor in the budget was an allowance of \$300K for staff turnover i.e. the savings made on employee costs between a position being vacated and when it is filled. Staff turnover, is currently at record low levels, and the saving is not expected to be achieved.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Amphlett, **SECONDED** Cr Hollywood that Council **NOTES** the Financial Activity Statement for the period ended 31 October 2009 forming Attachment 1 to Report CJ279-12/09.

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ284-12/09, Page 150 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 13 refers

To access this attachment on electronic document, click here: [Attach13brf081209.pdf](#)

CJ280-12/09 LIST OF PAYMENTS MADE DURING THE MONTH OF OCTOBER 2009

WARD:	All
RESPONSIBLE DIRECTOR:	Mr Mike Tidy Corporate Services
FILE NUMBER:	09882
ATTACHMENTS:	Attachment 1 CEO's Delegated Municipal Payment List for the month of October 2009
	Attachment 2 CEO's Delegated Trust Payment List for the month of October 2009
	Attachment 3 Municipal and Trust Fund Vouchers for the month of October 2009

PURPOSE

To present to Council the list of accounts paid under the CEO's delegated authority during the month of October 2009 for noting.

EXECUTIVE SUMMARY

This report presents the list of payments made under delegated authority during the month of October 2009 totalling \$10,140,936.45.

It is recommended that Council NOTES the CEO's list of accounts for October 2009 paid under delegated authority in accordance with regulation 13 (1) of the Local Government (Financial Management) Regulations in Attachments 1, 2 and 3 to Report CJ280-12/09, totalling \$10,140,936.45.

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 October 2009. Lists detailing the payments made are appended as Attachments 1 and 2. The vouchers for the month are appended as Attachment 3.

FUNDS	DETAILS	AMOUNT
Municipal Account	Cheques 85244 - 85481 and EF 8594 – 9058 Net of cancelled payments	\$7,137,336.76
	Vouchers 587A – 594A 596A 599A & 603A - 604A	\$2,976,363.69
Trust Account	Cheques 203015 – 203085	\$27,326.00
Total		\$10,140,936.45

Issues and options considered:

Not Applicable.

Legislation/Strategic Plan/Policy Implications**Legislation**

The Council has delegated to the CEO the exercise of its authority 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.

Strategic Plan

Key Focus Area: Leadership and Governance

Objective: 1.1 – To ensure that the processes of Local Governance are carried out in a manner that is ethical, transparent and accountable.

Policy

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

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 2009/10 Annual Budget as adopted by Council at its meeting of 17 June 09 or approved in advance by Council.

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:

Not Applicable.

COMMENT

All Municipal Fund expenditure included in the list of payments is in accordance with the 2009/10 Annual Budget as adopted by Council at its meeting of 17 June 2009 or has been authorised in advance by Council where applicable.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Amphlett, **SECONDED** Cr Hollywood that Council **NOTES** the CEO's list of accounts for October 2009 paid under delegated authority in accordance with Regulation 13 (1) of the Local Government (Financial Management) Regulations 1996 forming Attachments 1, 2 and 3 to Report CJ280-12/09, totalling \$10,140,936.45.

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ284-12/09, Page 150 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 14 refers

To access this attachment on electronic document, click here: [Attach14brf081209.pdf](#)

CJ281-12/09 TENDER 034/09 - MAJOR CONCRETE REPAIRS TO THE JOONDALUP ADMINISTRATION BUILDING

WARD: North-Central

RESPONSIBLE DIRECTOR: Mr Mike Tidy
Corporate Services

FILE NUMBER: 100253

ATTACHMENTS: Attachment 1 Summary of Tender Submissions

PURPOSE

This report is to seek the approval of Council to accept the tender submitted by Savcor Finn Pty Ltd for major concrete repairs to the Joondalup administration building (Tender 034/09).

EXECUTIVE SUMMARY

Tenders were advertised on 31 October 2009 through state wide public notice for major concrete repairs to the Joondalup administration building. Tenders closed on 17 November 2009. Two (2) submissions were received from:

- Savcor Finn Pty Ltd; and
- Colgan Industries Pty Ltd.

The submission from Savcor Finn Pty Ltd represents best value for the City. The evaluation panel has confidence in their ability to complete the works in the required timeframe and their breakdown of price reflects an appropriate understanding of the requirements. The evaluation panel is satisfied that they have sufficient resources and the appropriate experience to complete the City's requirements.

It is recommended that Council:

- 1 *ACCEPTS the tender submitted by Savcor Finn Pty Ltd for major concrete repairs to the Joondalup administration building in accordance with the statement of requirements as specified in Tender 034/09 for the fixed lump sum of \$447,276 (GST Exclusive and excluding any allowance for contingencies) for option B with completion of the works within sixteen (16) months from issue of the letter of acceptance;*
- 2 *INCLUDES an allocation of \$109,055 in the draft 2010/11 Budget to enable the completion of Tender 034/09 by April 2011.*

BACKGROUND

The City's administration building was constructed in the early 1980s and the main elements of the building façade are of reinforced concrete with render and brickwork. The concrete has suffered from deterioration over a number of years including cracking, spalling and delamination.

The City's requirement is for major concrete repairs to the building including the removal of asbestos, surveying, cleaning and the repair and protection of concrete elements (including rendering of the exterior of the building and repair of brickwork).

The tender was advertised with following two pricing options for completion of the works:

Option A – All works completed between January 2010 and April 2010.

Option B – The works to be staged in accordance with the following:

- North and west elevations (January 2010 to April 2010)
- South and east elevations (October 2010 to April 2011)

Option B was included to allow the City to obtain additional funds in the 2010/2011 budget if Offers exceeded the current allocation for the project.

DETAILS

The tender was advertised on 31 October 2009 through state wide public notice. It closed on 17 November 2009.

Evaluation Criteria

The qualitative criteria and weighting used in evaluating the submissions received were as follows:

Qualitative Criteria		Weighting
1	Demonstrated understanding of the required tasks	35%
2	Capacity	30%
3	Demonstrated experience in completing similar projects	30%
4	Social and economic effects on the local community	5%

Evaluation Panel

The evaluation panel comprised three members, one with tender and contract preparation skills and two with appropriate building expertise and involvement in supervising the Contract. The panel carried out the assessment of submissions in accordance with the City's evaluation process in a fair and equitable manner.

The evaluation panel obtained technical assistance on issues in regard to the tender submissions from the City's consultants, Worley Parsons.

Tender Submissions

Two (2) Submissions were received from:

- Savcor Finn Pty Ltd; and
- Colgan Industries Pty Ltd.

A summary of the tender submissions including the location of each tenderer is provided in Attachment 1.

This Contract is for a fixed lump sum with completion of the works within either four (4) months (Option A) or sixteen (16) months (Option B) from issue of the letter of acceptance.

Evaluation Summary

Tenderer	Evaluation Score	Option A Price	Option B Price	Qualitative Rank
Savcor Finn Pty Ltd	80.7%	\$433,843	\$447,276	1
Colgan Industries Pty Ltd	53.6%	\$391,537	\$418,192	2

The Tender was advertised with two pricing options for completion of the works in either one or two stages. This was in case the Offers exceeded the budget allocation for the project and therefore any additional funding required could be deferred to the 2010/2011 budget. The City budgeted \$405,000 for the project including consulting and contingencies. All Offers exceeded the budget without allowing for any contingencies. Therefore option B is the recommended option.

Colgan Industries Pty Ltd was ranked second in the qualitative assessment and first in price for both options A and B. While they demonstrated experience in projects with concrete repairs and have adequate capacity to undertake the works, they did not demonstrate sufficient understanding of the requirements. Their submission did not include a methodology or information on the protective coatings or steel corrosion protection to be used and the bill of quantities for both options did not correlate with the submitted lump sum prices. The evaluation panel sought clarification of the bill of quantities from Colgan Industries Pty Ltd which took some time to obtain and still did not resolve the discrepancies. As a consequence, the evaluation panel does not have confidence in Colgan Industries Pty Ltd's understanding of the requirements.

Savcor Finn Pty Ltd was ranked first in the qualitative assessment and second in price for both options A and B. They demonstrated a comprehensive understanding of the requirements, included a methodology and access management plan in their submission and all supporting information of the protection systems to be used in undertaking the works. They have sufficient capacity to undertake the works in the required timeframe and provided a comprehensive list of similar works undertaken. While their price for Option B was \$29,084 (6.9%) more expensive than Colgan Industries Pty Ltd, they more clearly demonstrated their understanding of the project and represent a lower financial risk to the City.

Due to the unknown nature of the repair component to the works, contingencies are expected to be required for this project. It's expected that these could add 10% to the total cost. The rates submitted by Colgan Industries Pty Ltd for contingencies were up to 285% more expensive than those submitted by Savcor Finn Pty Ltd and could add considerable cost to the Contract sum, if variations were undertaken.

Issues and options considered:

Major concrete repairs are required to prevent the further deterioration of the City of Joondalup administration building. The City does not have the internal resources or technical expertise to undertake the required works and as such requires an appropriate specialist service provider.

Legislation/Strategic Plan/Policy Implications

Legislation A state wide public tender was advertised, opened and evaluated in accordance with Clause 11(1) of Part 4 of 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 \$100,000.

Strategic Plan

Key Focus Area: Community Wellbeing

Objective: To ensure the City's facilities and services are of a high quality and accessible to everyone.

Policy 7-19 Asset Management

Risk Management considerations:

Should the contract not proceed, the risk to the City will be high as the concrete structure of the City of Joondalup administration building will continue to deteriorate without repairs being undertaken.

It is considered that the Contract will represent a low risk to the City as the recommended Tenderer is a well-established company with significant industry experience and the capacity to undertake the works in the required timeframes.

Financial/Budget Implications:

Current Year Budget Allocation for this Project 2009/2010	Projected Expenditure on these Services to 30 June 2010	Projected Expenditure on these Services over the Life of the Contract if Accepted
\$405,000	\$269,362	\$447,276 (Contract) \$ 44,700 (10% Contingency) \$491,976 (Total)

There is a budget shortfall of \$109,055. This will be required to be obtained as additional expenditure in the 2010/2011 budget.

Regional Significance:

Not Applicable.

Sustainability Implications:

The repairs to the concrete structures of the Joondalup administration building will remove asbestos found in the walkway ceilings on the northern elevation, reduce future building maintenance costs and decrease the risk to staff and public safety from falling concrete. The end result of the project will increase the visual appeal of the administration building enhancing a focal point of the City's infrastructure.

Consultation:

Not Applicable.

COMMENT

The evaluation panel carried out the evaluation of the Submissions in accordance with the Qualitative Criteria in a fair and equitable manner and concluded that the Offer representing best value for the City is that as submitted by Savcor Finn Pty Ltd for Option B.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Amphlett, SECONDED Cr Hollywood that Council:

- 1 **ACCEPTS** the Tender submitted by Savcor Finn Pty Ltd for major concrete repairs to the Joondalup administration building in accordance with the statement of requirements as specified in Tender 034/09 for the fixed lump sum of \$447,276 (GST Exclusive and excluding any allowance for contingencies) for Option B with completion of the works in sixteen (16) months from issue of the Letter of Acceptance;
- 2 **INCLUDES** an allocation of \$109,055 in the draft 2010/11 Budget to enable the completion of Tender 034-09 by April 2011.

The Motion was Put and **CARRIED (12/0)** by En Bloc Resolution prior to consideration of Item CJ284-12/09, Page 150 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 15 refers

To access this attachment on electronic document, click here: [Attach15brf081209.pdf](#)

Disclosure of interest affecting impartiality

Name/Position	Cr Mike Norman
Item No/Subject	CJ282-12/09 – Hydrothermal Weed Control Trial
Nature of interest	Interest that may affect impartiality
Extent of Interest	Cr Norman is Chairman of the Joondalup Community Coast Care Forum

CJ282-12/09 HYDROTHERMAL WEED CONTROL TRIAL

WARD: All

RESPONSIBLE DIRECTOR: Mr Martyn Glover
Infrastructure Services

FILE NUMBER: 00992, 02906, 33409

ATTACHMENTS: Attachment 1 Weed Control Trials Comparing Hydrothermal and Herbicides in the City of Joondalup dated 19 May 2009

PURPOSE

To report on the Hydrothermal Weed Control Trial involving the treatments of hydrothermal, herbicide, and unsprayed control zones, and to compare their cost and control effectiveness in the City of Joondalup 2008/2009.

EXECUTIVE SUMMARY

The purpose of this report is to compare the effectiveness and cost of hydrothermal and herbicide trial treatments through their application at various locations throughout the City of Joondalup. The sites included Shenton Avenue and Santiago Parkway in Connolly, Sheoak Street in Greenwood, Erindale Road in Warwick and Chessell Drive in Duncraig (south). The trial treatments included Hydrothermal, Hydrothermal plus Glyphosate, Glyphosate, and Glyphosate plus Pendimethalin. The duration of the trial was from May 2008 to March 2009.

The overall submitted findings concluded that hydrothermal applications were more labour intensive and less cost effective than herbicide treatments. While hydrothermal weed control methods are best utilised where environmental or health issues are significant and where off site damage to non-target plants is a high risk, the costs, effectiveness and speed of thermal control limits its scale of operation. The most effective treatment when compared over the duration of the trial was Glyphosate plus Pendimethalin.

It is recommended that Council:

- 1 *NOTES the findings in Report CJ280-12/09 on the Hydrothermal Weed Control trial that hydrothermal was the least effective and most expensive method of controlling weeds;*
- 2 *ENDORSES the use of Glyphosate and Pendimethalin for the control of weeds within the City in accordance with manufacturers' specifications.*

BACKGROUND

A report was prepared and submitted by John Banks (Arboriculturalist) and Graeme Sandral (Agronomist) in July 2007 comparing the merits of different weed control methods such as hydrothermal and herbicide application. The findings in this report suggested that while hydrothermal was more expensive than herbicides it was worth considering on a trial basis.

Council at its Ordinary Meeting of 19 February 2008 resolved the following:

"That Council LISTS for consideration as a part of the 2007/08 half year budget review \$25,000 to undertake a 12-month trial of hydrothermal weed treatment, and additional submissions be sought."

In order to undertake a suitable trial of hydrothermal weed control technology consideration was given as to how best to conduct the trial, and what locations would be suitable for both undertaking the trial and the possibility for an on-going use of the technology.

The trial consisted of a comparison of hydrothermal treatments, herbicide and an unsprayed control treatment zone and also included a combined hydrothermal plus Glyphosate treatment.

Aim: To compare the effectiveness of various weed control treatments and their costs.

Target area: Roadside kerb and footpath

- Treatments:
- 1 Hydrothermal
 - 2 Hydrothermal plus Glyphosate (Roundup™)
 - 3 Glyphosate
 - 4 Glyphosate plus Pendimethalin (Stomp™)
 - 5 Unsprayed control zone

Note: Glyphosate is known by its trade name Roundup™ and will kill most weeds. Pendimethalin, known by its trade name Stomp™, is a selective herbicide for the control of most annual grasses and certain broadleaved weeds.

The above treatments were repeated within a number of streets and in different locations in order to compare the treatments. This provided an opportunity to ensure that statistically valid data was recorded. This also provided the ability to compare a blend of hydrothermal and Glyphosate treatments which may provide an alternative and an ability to consider a reduced herbicide regime.

The contract for undertaking the trial was awarded to John Banks (Arboriculturist) and Graeme Sandral (Agronomist).

Hot Foam Method

Consideration was also given to including the hot foam method of weed control and suppliers of the technology were contacted. Unfortunately the City was unable to locate any contractors who undertake this process within Western Australia.

DETAILS

Issues and options considered:

A meeting was held with Graeme Sandral in May 2008 to discuss the commencement of the Hydrothermal and Chemical Weed Control Trial. After a preliminary site investigations a series of streets were chosen according to their weed coverage. Target areas to be treated were roadside kerbs and footpaths with no house frontage. The first treatment for the Hydrothermal and Chemical Weed Control Trial commenced in May 2008 and included the sites of Shenton Avenue median in Connolly, Santiago Parkway footpath in Connolly, Sheoak Street footpath in Greenwood, Sheoak Street kerb in Greenwood, Erindale Road kerb in Warwick and Chessell Drive roadside kerb in Duncraig (see Attachment 1, pages 5-7 for map locations of trial sites).

The hydrothermal treatment was applied in the same location at three different times throughout the growing season, specifically in May, August and November. The hydrothermal plus Glyphosate treatment was undertaken with the hydrothermal treatment applied in May and Glyphosate applied over the same area in August. The Glyphosate treatment was applied in May and August and the final treatment of Glyphosate plus Pendimethalin was applied once only in May (see trial schedule below).

Hydrothermal and Chemical Weed Control Trial Schedule 2008

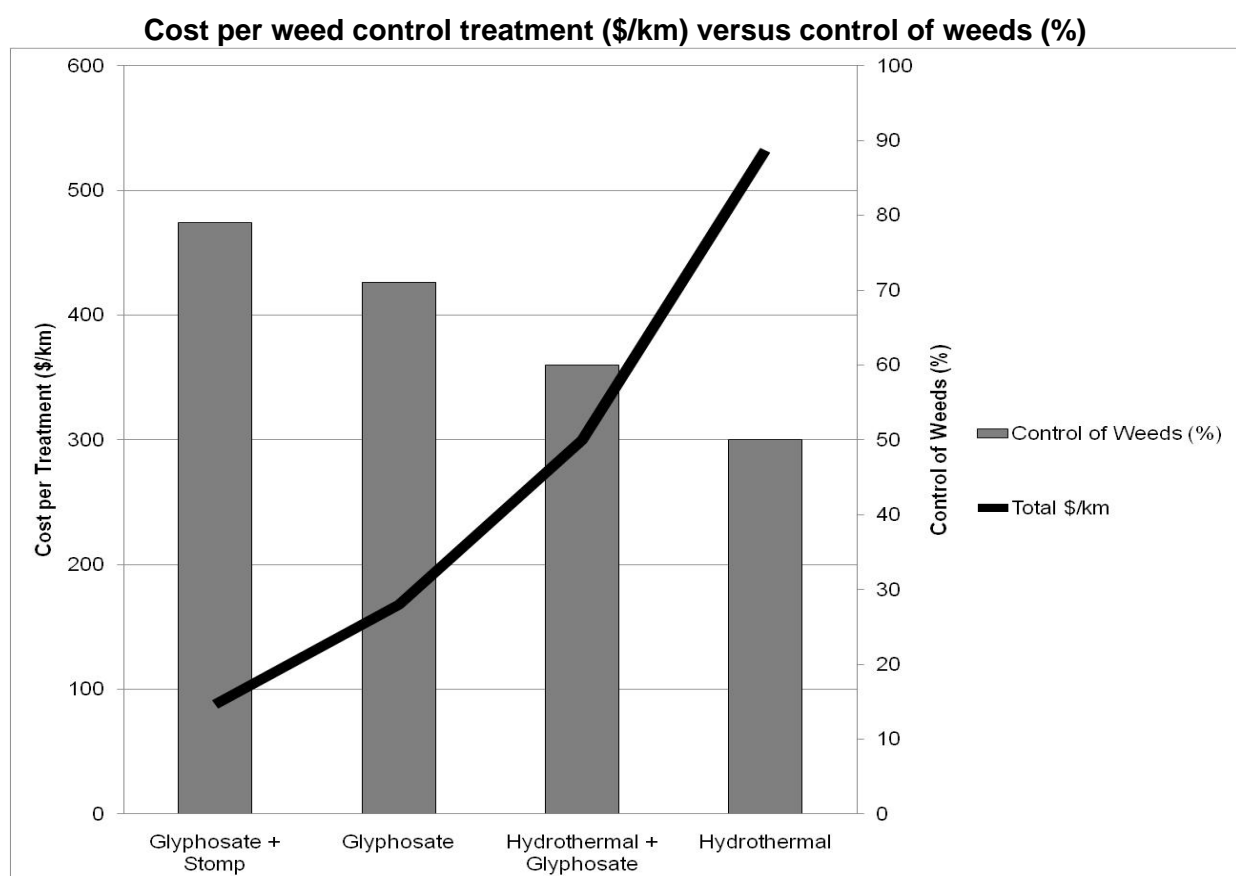
Treatment	May	August	November
1) Hydrothermal	Hydrothermal	Hydrothermal	Hydrothermal
2) Hydrothermal plus Glyphosate	Hydrothermal	Glyphosate	No application
3) Glyphosate	Glyphosate	Glyphosate	No application
4) Glyphosate plus Pendimethalin	Glyphosate plus Pendimethalin	No application	No application
5) Unsprayed control	No application	No application	No application

Summary of Results

Assessment of weed control

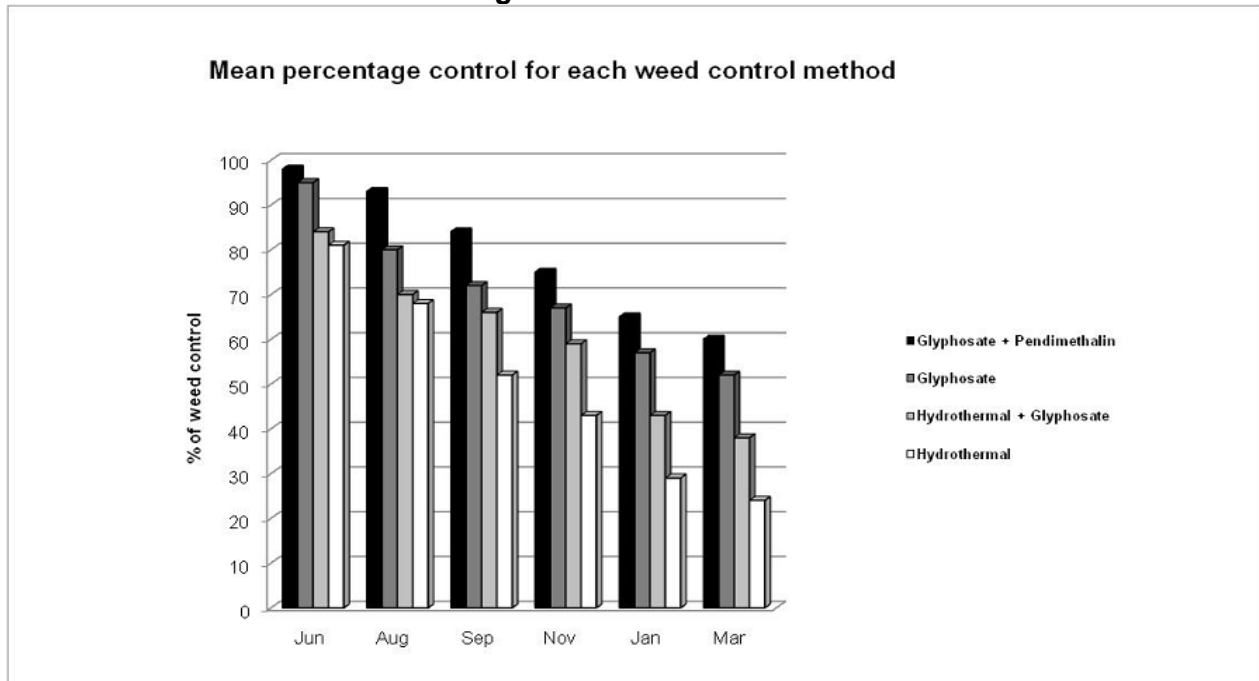
The proportion of green weed present at each location was recorded in May prior to all weed control treatments being applied. Assessments of weed control were then made in June, August, September, November, January and March.

All control methods were effective for the June and August measurement times when meaned over all sites. The most effective treatments for the June to November period were (in order of effectiveness): Glyphosate plus Pendimethalin, Glyphosate and hydrothermal plus Glyphosate. Weed control results beyond November were more variable; however the most effective treatment in general terms over this period (January to March) was Glyphosate plus Pendimethalin. Hydrothermal was the least effective treatment at all trials on all occasions.



The graph below demonstrates the mean percentage of weed control achieved over all sites during the trial using Glyphosate plus Pendimethalin, Glyphosate, Hydrothermal plus Glyphosate and Hydrothermal.

Mean Percentage of Weed Control for All Sites



The complete report is included in Attachment 1.

Current Weed Control Management in the City of Joondalup

The City of Joondalup commenced weed control management in-house in late February 2009 using herbicide control methods. The new weed control team includes seven full time weed control staff, and the plant and equipment includes three dedicated spray units and one dedicated all-terrain vehicle (ATV) four wheel motor bike. The provision of the in-house team provides the City with significant flexibility in delivering on weed control.

Legislation/Strategic Plan/Policy Implications

Legislation

Control of declared noxious weeds – Division 3, Section 42 – Agriculture and Related Resources Protection Act 1976.

The Australian Pesticides and Veterinary Medicines Authority is responsible for assessment, product registration, quality assurance and compliance of agricultural chemicals.

Herbicides are used in accordance with material safety data sheets and manufacturers' specifications.

Strategic Plan**Key Focus Area:** The Natural Environment**Objective:** To ensure that the City's natural environmental assets are preserved, rehabilitated and maintained.**Policy** Not Applicable.**Risk Management considerations:**

The report by Banks and Sandral also highlighted the possible potential of firstly, weeds to develop a resistance to using herbicides as the City's only means for its weed eradication program and secondly weed substitution. To combat weed resistance to herbicide it is important for the City to spray at the recommended rates to avoid the building of herbicide resistance in local weed populations. By spraying at below recommended rates this has the potential to build herbicide resistance. In addition to this the use of Glyphosate and Pendimethalin, rather than the sole use of Glyphosate would also reduce the likelihood of herbicide resistance of weeds. Weed substitution is the situation where an existing weed species is eradicated from an area and is then replaced by an infestation of an alternative or different weed species. Weed substitution will be considered in the City's in house spraying program and managed where necessary.

Financial/Budget Implications:

The report confirms that the cost of thermal weed control relative to traditional herbicide methods is up to two to three times more expensive per treatment, and the kill rate on weeds is lower. When this is translated into yearly weed control the thermal treatment will require one and a half to two more applications as compared with herbicide control. Therefore on a yearly basis the additional cost of the thermal weed control treatment may be significantly more expensive than herbicide application. This is due to the higher cost per application and the higher number of applications required achieving the same results.

Trial Treatment Cost:

The table below provides the costs per kilometre for each treatment and indicated that Glyphosate plus Pendimethalin was the most cost effective means of weed control.

Trial Cost per Kilometre of Treatment				
Treatment	May	August	November	Total
Hydrothermal	\$216	\$158	\$158	\$532
Hydrothermal plus Glyphosate	\$216	\$84	\$0	\$300
Glyphosate	\$84	\$84	\$0	\$168
Glyphosate plus Pendimethalin	\$88	\$0	\$0	\$88

Regional Significance:

Not Applicable.

Sustainability Implications:Environmental

The City has adopted five on-ground projects as part of ICLEI's project Local Action for Biodiversity. The Hydrothermal Weed Control Trial is one of these projects.

Consultation:

Not Applicable.

COMMENT

Taking into consideration the report results it can be determined that herbicides are more cost effective and achieve a higher kill rate of weeds when compared to thermal weed control methods. There is significant cost advantage and speed of application with herbicides that makes them preferable to large scale operations (as is the case in the City of Joondalup) than thermal methods.

Thermal weed control is effectively a contact, non-systemic means of controlling weeds. This means that if part of the target weed is not treated there remains a risk that the whole target plant will survive. In addition to this, non-systemic weed control is less effective against some perennials because:

- (i) they store carbohydrate reserves in their crown and root system,
- (ii) the crown and root system are often protected by woody tissue or are imbedded under the soil surface and consequently protected from the effects of the treatment.

Weed control using herbicides for pathways and roadside kerbs involves between two to three applications per annum while thermal treatment requires three to six applications per annum, hence weed control by herbicides is more cost and time effective than thermal application. Herbicides do not represent an undue risk to health or the environment when the manufacturers' specifications are followed and they are used in environments as directed.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 NOTES the findings in Report CJ282-12/09 on the Hydrothermal Weed Control trial that hydrothermal was the least effective and most expensive method of controlling weeds;
- 2 ENDORSES the use of Glyphosate and Pendimethalin for the control of weeds within the City in accordance with manufacturers' specifications.

MOVED Cr Norman, SECONDED Cr Chester that Council:

- 1 **NOTES the findings in Report CJ282-12/09 on the Hydrothermal Weed Control trial that hydrothermal was the least effective and most expensive method of controlling weeds;**

- 2 **ENDORSES** the use of Glyphosate and Pendimethalin for the control of weeds within the City in accordance with manufacturers' specifications;
- 3 **REQUESTS** that the City continues to investigate techniques and technologies to reduce the City's reliance on herbicides for the control of weeds and a report on the progress be presented to Council in February 2012;
- 4 **REQUESTS** that the City provide information to the public, via the City's website on the ways in which the use of pesticides (herbicides, insecticides and fungicides) can be reduced in the garden.

C96-12/09 EXTENSION OF TIME TO SPEAK – [65597]

MOVED Cr Corr, **SECONDED** Cr Chester that Cr Norman be permitted an extension of time to speak for a further five (5) minutes.

The Motion to Extend was Put and

CARRIED (11/1)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman and Taylor **Against the Motion:** Cr Young.

AMENDMENT MOVED Mayor Pickard **SECONDED** Cr Young that the words '*and report on the progress be presented to Council in February 2012*' be removed from Point 3 of the Motion.

The Amendment was Put and

CARRIED (11/1)

In favour of the Amendment: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Taylor and Young **Against the Amendment:** Cr Norman

The Original Motion as amended, being:

That Council:

- 1 **NOTES** the findings in Report CJ282-12/09 on the Hydrothermal Weed Control trial that hydrothermal was the least effective and most expensive method of controlling weeds;
- 2 **ENDORSES** the use of Glyphosate and Pendimethalin for the control of weeds within the City in accordance with manufacturers' specifications;
- 3 **REQUESTS** that the City continues to investigate techniques and technologies to reduce the City's reliance on herbicides for the control of weeds;
- 4 **REQUESTS** that the City provide information to the public, via the City's website on the ways in which the use of pesticides (herbicides, insecticides and fungicides) can be reduced in the garden.

Was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 16 refers

To access this attachment on electronic document, click here: [Attach16brf081209.pdf](#)

Montague Park is in Kallaroo, bordered by Montague Way, Clifton Gardens, Dee Why Grove and Whitfords Avenue (See Attachment 2 – Aerial photograph). Montague Park is classified as a Local Open Space, which is an area that is not used for active sport and recreation.

The play equipment in Montague Park is currently **not** listed for replacement or additional equipment over the next five years, however this is currently under review.

DETAILS

A site inspection carried out by the City on 18 November 2009 confirmed that some of the existing equipment is new and in good condition (Attachment 3 refers) and some of the units are old and well worn and no longer compliant to Australian Standards (Attachment 4 refers). However, the units that are no longer compliant would have been compliant when installed.

The play equipment currently in place consists of the following individual units spread out in a loose group:

- Two free-standing slides connected to steps and a platform (not compliant);
- A new 4-way rocker (compliant);
- A Noughts & Crosses panel (not compliant); and
- A relatively new Double Swing Set, (which can be made compliant by adjusting the seat settings and the sand soft-fall underlay).

The park has sufficient alternative areas where the playground equipment can be moved away from its existing location, which is bordered on the southern side by large Sheoak trees (*Casuarina*) which shed prickly cones. Due to the trees being on the southern side of the playground, limited shade to the play equipment is provided, hence the request for provision of a shade structure.

The City's current process in providing new play equipment in Public Open Spaces is to consolidate the equipment within a limestone retaining wall, where possible and to provide rubber soft-fall underlay. Shade sail provision to parks is currently listed in each year of the Five Year Draft Capital Works Program.

Issues and options considered:

The issues and options considered are identified as follows:-

- 1 The City has a duty of care of ensuring play equipment is safe at all times and to remove any items that are considered a safety hazard.
- 2 When the playground equipment is upgraded new equipment will be installed that is compliant to current standards.
- 3 The City will remove any equipment that is unsafe now or becomes unsafe but will only consider replacing and/ or upgrading the non-compliant and old play equipment according to its Asset Ranking for upgrading, relative to the City's other playgrounds that are in a similar or worse condition.
- 4 There will be very little play equipment remaining at Montague Park upon removal of the old' and non-compliant equipment. In this event it may move the park higher up the ranking for replacement and upgrading.

Legislation/Strategic Plan/Policy Implications

Legislation

The applicable Australian Standards are AS 4685.1-6 (amended 2006 and 2008) and AS/NZS 4422 1996 (amended 1999). The legislation is not retrospective but will apply to new equipment that is supplied and installed.

Strategic Plan

Key Focus Area: To engage proactively with the Community and other relevant organisations in the improvement of the City's playground and park assets.

Objective: To facilitate healthy lifestyles within the community.

Policy:

Montague Park is classified as a Local Open Space, which is an area that is not used for active sport and recreation but serves the needs of the local community. The next nearest park is Castlecrag Park which is approximately 440m walking distance away. Consequently in terms of needs the playground is important to the immediate district.

Risk Management considerations:

The City has a 'Duty of Care' where playground equipment has been identified as being a potential safety hazard and is required to remove such equipment if deemed to be unsafe.

Financial/Budget Implications:

The costs to remove and upgrade the play equipment at Montague park are identified as follows:-

Removal and cartage	\$1,000
Earthworks and reinstatement of old playground	\$3,000
Retaining wall	\$4,500
New Combo-unit (incl. Safety Audit)	\$15,000
Rubber soft-fall	\$37,575
Temporary Fencing	\$585
Sealing	\$1,000
Irrigation adjustments	\$1,000
Shade Sails (100 metres square over combination unit only)	<u>\$13,000</u>
<u>Total (Excluding GST)</u>	<u>\$76,660</u>

Regional Significance:

Not Applicable.

Sustainability Implications:

Montague Park is a coastal park and it is anticipated to have a higher than average maintenance and replacement requirement in terms of rust as well as wear and tear to the playground equipment.

The City officers have determined that the slides have a remaining life span of six to 12 months while the noughts and crosses panel should be removed because of wear.

The swings are currently three years old and should last up to ten years. The Four-way Rocker was installed in September 2007 and will not require replacement for at least eight years.

Consultation:

Proposed consultation of residents in the park perimeter will be carried out in relation to the relocation of the playground, upon approved listing on the Five Year Draft Capital Works Program by Council and in the year the works are to be carried out.

COMMENT

It is recommended that the non-compliant play equipment be removed if and when it becomes a safety hazard and that the park be placed on the Five Year Draft Capital Works Program for upgrading and replacement of the playground equipment to current Australian Standards.

In addition, elements of the playground should be relocated away from the Casuarina trees to eliminate the current problem of children's feet being subjected to the 'prickly cones.' The new location of the play equipment has yet to be determined and will be finalised as part of the consultation process in the year it is replaced.

VOTING REQUIREMENTS

Simple Majority

MOVED Cr Amphlett, SECONDED Cr Hollywood that Council:

- 1 LISTS the upgrade and relocation of the playground at Montague Park, Kallaroo for consideration in the Five Year Draft Capital Works program;**
- 2 ADVISES the Petition Organiser of Council's decision.**

The Motion was Put and CARRIED (12/0) by En Bloc Resolution prior to consideration of Item CJ284-12/09, Page 150 refers.

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 17 refers

To access this attachment on electronic document, click here: [Attach17brf081209.pdf](#)

C97-12/09 COUNCIL DECISION – EN BLOC RESOLUTION - [02154] [08122]

MOVED Cr Amphlett, SECONDED Cr Hollywood that pursuant to the Standing Orders Local Law 2005 – Clause 48 - Adoption of Recommendations En Bloc, Council ADOPTS Items CJ262-12/09, CJ264-12/09, CJ266-12/09, CJ267-12/09, CJ273-12/09, CJ274-12/09, CJ277-12/09, CJ279-12/09, CJ280-12/09, CJ281-12/09 and CJ283-12/09,

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young

REPORT OF THE CHIEF EXECUTIVE OFFICER**CJ284-12/09 MINUTES OF POLICY COMMITTEE MEETING
HELD ON 8 DECEMBER 2009**

WARD:	All	
RESPONSIBLE DIRECTOR:	Mr. Jamie Parry Governance and Strategy	
FILE NUMBER:	26176	
ALT FILE NUMBER:	100385	
ATTACHMENTS:	Attachment 1	Unconfirmed Minutes of Policy Committee meeting held on 8 December 2009
	Attachment 2	Draft City Policy 5-7 – Memorials in Public Reserves

PURPOSE

To submit the unconfirmed minutes of the Policy Committee to Council for noting and recommend appropriate action in relation to the decisions of the Committee.

EXECUTIVE SUMMARY

A meeting of the Policy Committee was held on 8 December 2009 to consider the following matters:

- Item 1 Setting of Meeting Dates for 2010
- Item 2 Draft Memorials Policy

BACKGROUND

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

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

Council policies are to be developed and reviewed by the Policy Committee and may be subject to community consultation processes in recognition of the community leadership role Council has in guiding the formation and development of the City, and in representing the values and interests of the broader community. Officers may be requested by the Policy Committee to draft specific policies as required for referral to the Policy Committee.

City policies are to be developed and drafted for Policy Committee consideration and recommendation to the Council. The Policy Committee may determine, if appropriate, to request that a City Policy be subject to public comment prior to recommending it for Council adoption.

DETAILS

Issues and options considered:

The Motions carried at the Policy Committee meeting held on 8 December 2009 are shown below, together with officer's comments:

Item 1 Setting of Meeting Dates for 2010

The following motion was carried at the Committee meeting:

"That the Policy Committee APPROVES the following meeting dates for 2010:

*7.00 pm on Tuesday 23 February 2010;
7.00 pm on Tuesday 25 May 2010;
7.00 pm on Tuesday 24 August 2010;
6.00 pm on Tuesday 23 November 2010."*

Officer's comment

No further comment required.

Item 2 Draft Memorials Policy

The following motion was carried at the Committee meeting:

"That the Policy Committee RECOMMENDS that Council ADOPTS the Draft City Policy 5-7 Memorials In Public Reserves in the format provided in Attachment 1 to this Report, subject to the following amendments:

- 1 Deletion of reference to wall plaque;*
- 2 In-ground memorial plaque concrete surround to be a maximum of 300mm by 200mm, with stainless steel/brass plaque to be a maximum of 200mm by 150mm;*
- 3 Benches to conform to the City's street furniture standards."*

Officer's comment

The amendments requested by the Policy Committee have been made and the revised Memorials Policy is provided at Attachment 2 to this Report.

Legislation/Strategic Plan/Policy Implications

Legislation Not Applicable.

Strategic Plan

Key Focus Area: Leadership and Governance

Objective: To lead and manage the City effectively.

Policy

As detailed in this Report.

Risk Management considerations:

Not Applicable.

Financial/Budget Implications:

Not Applicable.

Regional Significance:

Not Applicable.

Sustainability implications:

Not Applicable.

Consultation:

Not Applicable.

COMMENT

Relevant officer's comments have been made regarding the matters considered by the Committee.

VOTING REQUIREMENTS

Simple majority

MOVED Cr Hollywood, SECONDED Cr McLean that Council:

- 1 **NOTES** the unconfirmed minutes of the Policy Committee meeting held on 8 December 2009, forming Attachment 1 to Report CJ284-12/09;
- 2 **AGREES** to the following dates for meetings of the Policy Committee to be held in 2010:
 - 7.00 pm on Tuesday, 23 February 2010;
 - 7.00 pm on Tuesday, 25 May 2010;
 - 7.00 pm on Tuesday, 24 August 2010;
 - 6.00 pm on Tuesday, 23 November 2010;
- 3 **ADOPTS** City Policy 5-7 – Memorials in Public Reserves as outlined in Attachment 2 to Report CJ284-12/09.

The Motion was Put and**CARRIED (12/0)**

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 20 refers

To access this attachment on electronic document, click here: [Attach20agn151209.pdf](#)

CJ285-12/09 MINUTES OF THE OCEAN REEF MARINA COMMITTEE MEETING HELD ON 8 DECEMBER 2009

WARD: All

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

FILE NUMBER: 04171

ATTACHMENTS: Attachment 1 Minutes of the Ocean Reef Marina Committee meeting held on 8 December 2009
Attachment 2 DRAFT - Work Taskflow Chart
Attachment 3 Additional Information – Community Consultation Report (September 2009): Qualitative Responses – Additional Amenities

PURPOSE

To submit the minutes of the Ocean Reef Marina Committee meeting to Council for noting and recommend appropriate action in relation to the decisions of the Committee.

EXECUTIVE SUMMARY

A meeting of the Ocean Reef Marina Committee was held on 8 December 2009 to consider the following matters:

- Item 1 Ocean Reef Marina Development – Structure Plan Progress Report
- Item 2 Ocean Reef Marina Community Reference Group – Community Consultation Briefing

It is recommended that Council:

- 1 *NOTES the unconfirmed minutes of the Ocean Reef Marina Committee meeting held on 8 December 2009 forming Attachment 1 to this Report;*

- 2 *PROCEEDS with the preparation of a Structure Plan and Business Case for the Ocean Reef Marina Development in accordance with the Draft Work Taskflow Chart, dated December 2009, as detailed in Attachment 2 to this Report;*
- 3 *ENDORSES the Ocean Reef Marina Committee to GIVE further consideration to:*
 - (a) *the items listed in Attachment 3 to this Report – Community Consultation Report - for the items identified as highly desirable and desirable as part of the Structure Plan Development process;*
 - (b) *the ideal location for an artificial reef and supporting infrastructure within the development area;*
 - (c) *an additional layer of car parking;*
 - (d) *additional trailer ramps;*
- 4 *APPOINTS Mr Albert Jacob MLA, Member for Ocean Reef, as an observer to the Ocean Reef Marina Community Reference Group.*

BACKGROUND

The objective of the Ocean Reef Marina Committee is *to provide leadership for, and oversight of, the Ocean Reef Marina project.*

DETAILS

Issues and options considered:

The Motions carried at the Ocean Reef Marina Committee held on 8 December 2009 are shown below, together with officer's comments.

Item 1 Ocean Reef Marina Development – Structure Plan progress Report

The following motion was carried at the Committee meeting:

“That the Ocean Reef Marina Committee:

- 1 *NOTES the Ocean Reef Marina Development – Structure Plan Progress Report dated 8 December 2009;*
- 2 *NOTES the recommendation endorsed at the Council Meeting of 5 May 2009 namely:*

“That Council:

- 1 *NOTES the contents of the Ocean Reef Marina Development – Structure Plan Progress Report dated 24 April 2009 and Concept Plan 7 as the latest plan in the progress towards a Structure Plan for the Ocean Reef Marina Site, with the inclusion of an artificial reef to the south of the development site;*
- 2 *ENDORSES:*
 - (a) *Concept Plan 7 as the plan to be progressed towards a Structure Plan for the Ocean Reef Marina Site”*

- 3 *RECOMMENDS that Council proceed with the preparation of a Structure Plan and Business Case for the Ocean Reef Marina Development in accordance with the Draft Work Taskflow Chart, dated December 2009, as detailed in Attachment 2 to this Report.*

Officer's Comment

The Committee's resolution is supported.

Item 2 Ocean Reef Marina Community Reference Group – Community Consultation Briefing

The following recommendation was presented to the Committee meeting:

“That the Ocean Reef Marina Committee:

- 1 *NOTES the report related to the Ocean Reef Marina Community Reference Group - Community Consultation Briefing dated 8 December 2009;*
- 2 *RECOMMENDS that Council considers the appointment of Mr Albert Jacob MLA, Member for Ocean Reef, as an observer to the Ocean Reef Marina Community Reference Group.*”

The following motion was carried at the Committee meeting:

“That the Ocean Reef Marina Committee REQUESTS that Council:

- 1 *NOTES the report related to the Ocean Reef Marina Community Reference Group - Community Consultation Briefing dated 8 December 2009;*
- 2 *ENDORSES the Ocean Reef Marina Committee to GIVE further consideration to:*
 - (a) *the items listed in Attachment 3 – Community Consultation Report for the items identified as highly desirable and desirable as part of the Structure Plan Development process;*
 - (b) *the ideal location for an artificial reef and supporting infrastructure within the development area;*
 - (c) *an additional layer of car parking;*
 - (d) *additional trailer ramps;*
- 3 *GIVES consideration to the appointment of Mr Albert Jacob MLA, Member for Ocean Reef, as an observer to the Ocean Reef Marina Community Reference Group.*”

Officer's Comment

The Committee's resolution is supported.

Legislation/Strategic Plan/Policy Implications

Legislation Not applicable.

Strategic Plan

Key Focus Area: The Built Environment

Objective 4.2: To progress a range of innovative and high quality urban development projects within the City

Strategy 4.2.1 Develop a concept for, and commit to, the development of land at the Ocean Reef Marina Site.

Policy Public Participation Policy 1.2

Development of the consultation process for the Ocean Reef Marina Concept Plan was informed by the Policy and in alignment with the Public Participation Strategy (2006).

Risk Management Considerations:

The focus on the top line of support for the project in the analysis may be unpalatable for the minority who rejected the notion of developing the site, or the Concept Plan or some of the features within it. However, further exploration of minority views would not add value to the outcome of the consultation at this time.

Financial/Budget Implications:

An amount of \$750,000 has been allocated from the 2009/2010 budget for the preparation of a Business Case and Structure Plan for the Ocean Reef Marina development.

Regional Significance:

Not Applicable.

The survey used for the consultation did not explore matters associated with local sustainability although some inferences could be drawn from the qualitative feedback provided, given a longer reporting time frame.

Consultation:

As detailed in the Report.

COMMENT

Not applicable.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION: That Council:

- 1 NOTES the unconfirmed minutes of the Ocean Reef Marina Committee meeting held on 8 December 2009 forming Attachment 1 to Report CJ285-12/09;
- 2 PROCEEDS with the preparation of a Structure Plan and Business Case for the Ocean Reef Marina Development in accordance with the Draft Work Taskflow Chart, dated December 2009, as detailed in Attachment 2 to Report CJ285-12/09;
- 3 ENDORSES the Ocean Reef Marina Committee to GIVE further consideration to:
 - (a) the items listed in Attachment 3 to Report CJ285-12/09 – Community Consultation Report - for the items identified as highly desirable and desirable as part of the Structure Plan Development process;
 - (b) the ideal location for an artificial reef and supporting infrastructure within the development area;
 - (c) an additional layer of car parking;
 - (d) additional trailer ramps;
- 4 APPOINTS Mr Albert Jacob MLA, Member for Ocean Reef, as an observer to the Ocean Reef Marina Community Reference Group.

Additional Information

Advice has been received that Alison Angel from the Ocean Reef Sea Sports Club has resigned from the Ocean Reef Marina Community Reference Group (ORM-CRG).

Under the original decision of the Council, two representatives from the Ocean Reef Sea Sports Club were appointed on the ORM-CRG.

As the original member Alison Angel is no longer able to represent the group, the Ocean Reef Sea Sports Club has requested Sandra Foster fill that vacancy.

MOVED Cr Young, SECONDED Cr Taylor that Council:

- 1 **NOTES the unconfirmed minutes of the Ocean Reef Marina Committee meeting held on 8 December 2009 forming Attachment 1 to Report CJ285-12/09;**
- 2 **PROCEEDS with the preparation of a Structure Plan and Business Case for the Ocean Reef Marina Development in accordance with the Draft Work Taskflow Chart, dated December 2009, as detailed in Attachment 2 to Report CJ285-12/09;**
- 3 **ENDORSES the Ocean Reef Marina Committee to GIVE further consideration to:**
 - (a) the items listed in Attachment 3 to Report CJ285-12/09 – Community Consultation Report - for the items identified as highly desirable and desirable as part of the Structure Plan Development process;**
 - (b) the ideal location for an artificial reef and supporting infrastructure within the development area;**
 - (c) an additional layer of car parking;**

(d) additional trailer ramps;

4 APPOINTS Mr Albert Jacob MLA, Member for Ocean Reef, as an observer to the Ocean Reef Marina Community Reference Group;

5 APPOINTS Sandra Foster to the vacant position on the Ocean Reef Marina Community Reference group representing the Ocean Reef Sea Sports Club.

The Motion was Put and

CARRIED (12/0)

In favour of the Motion: Mayor Pickard, Crs Amphlett, Chester, Corr, Fishwick, Gobbert, Hamilton-Prime, Hollywood, McLean, Norman, Taylor and Young.

Appendix 21 refers

To access this attachment on electronic document, click here: [Attach21agn151209.pdf](#)

MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

ANNOUNCEMENTS OF NOTICES OF MOTION FOR THE NEXT MEETING

Nil.

CLOSURE

There being no further business, the Mayor declared the Meeting closed at 2132 hrs; the following Elected Members being present at that time:

MAYOR T PICKARD
Cr K HOLLYWOOD
Cr T McLEAN
Cr T YOUNG
Cr P TAYLOR
Cr L GOBBERT
Cr G AMPHLETT
Cr J CHESTER
Cr B CORR
Cr C HAMILTON-PRIME
Cr M NORMAN
Cr R FISHWICK