

agenda

Special Meeting of Council

NOTICE IS HEREBY GIVEN THAT A
SPECIAL MEETING OF THE COUNCIL
OF THE CITY OF JOONDALUP WILL BE HELD IN
THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE,
BOAS AVENUE, JOONDALUP

ON **MONDAY, 13 FEBRUARY 2012**

COMMENCING AT 6.30 pm

PURPOSE OF MEETING

The purpose of the meeting is to give consideration to the Ocean Reef Marina Memorandum of Understanding.

GARRY HUNT
Chief Executive Officer
10 February 2012

www.joondalup.wa.gov.au

PUBLIC QUESTION TIME

Members of the public are requested to lodge questions in writing by 9.00am on Monday, 13 February 2012

Answers to those questions received within that timeframe will, where practicable, be provided in hard copy form at the Special Council Meeting.

Please Note: Section 7(4) (b) of the Local Government (Administration) Regulations 1996 states that a Council at a special meeting is not required to answer a question that does not relate to the purpose of the meeting. It is requested that only questions that relate to items on the agenda be asked.

QUESTIONS TO

council.questions@joondalup.wa.gov.au
PO Box 21 Joondalup WA 6919

www.joondalup.wa.gov.au

PROCEDURES FOR PUBLIC QUESTION TIME

The following procedures for the conduct of Public Question Time were adopted at the Council meeting held on 17 March 2009:

Questions asked verbally

- 1 Members of the public are invited to ask questions at Council Meetings.
- 2 Questions asked at an ordinary Council meeting can relate to matters that affect the operations of the City of Joondalup. Questions asked at a Special Meeting of the Council must relate to the purpose for which the meeting has been called.
- 3 A register will be provided for those persons wanting to ask questions to enter their name. Persons will be requested to come forward in the order in which they are registered, and to give their name and address.
- 4 Public question time will be limited to two minutes per member of the public, with a limit of two questions per member of the public.
- 5 Statements are not to precede the asking of a question during public question time. Statements should be made during public statement time.
- 6 Members of the public are encouraged to keep their questions brief to enable everyone who desires to ask a question to have the opportunity to do so.
- 7 Public question time will be limited to the legislative minimum of fifteen minutes and may be extended in intervals of up to ten minutes by resolution of the Council, but the total time allocated for public questions to be asked and responses to be given is not to exceed thirty five (35) minutes in total. Public question time is declared closed following the expiration of the allocated time period, or earlier than such time where there are no further questions.
- 8 Questions are to be directed to the Presiding Member and should be asked politely in good faith and are not to be framed in such a way as to reflect adversely or be defamatory on a particular Elected Member or City employee. The Presiding Member shall decide to:
 - Accept or reject any question and his/her decision is final;
 - Nominate a member of the Council and/or City employee to respond to the question;
 - Take a question on notice. In this case a written response will be provided as soon as possible, and included in the agenda of the next Council meeting.
- 9 Where an elected member is of the opinion that a member of the public is:
 - asking a question at a Council meeting, that is not relevant to the operations of the City of Joondalup;
 - making a statement during public question time;they may bring it to the attention of the meeting.

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

Questions in Writing - Residents and /or Ratepayers of the City of Joondalup Only

- 1 Only City of Joondalup residents and/or ratepayers may submit questions to the City in writing.
- 2 Questions submitted to an ordinary Council meeting can relate to matters that affect the operations of the City of Joondalup. Questions submitted to a Special Meeting of the Council must relate to the purpose for which the meeting has been called.
- 3 The City will accept a maximum of 5 written questions per City of Joondalup resident/ratepayer. To ensure equality and consistency, each part of a multi-part question will be treated as a question in its own right.
- 4 Questions lodged by 9.00 am on the day immediately prior to the scheduled Council meeting will be responded to, where possible, at the Council meeting. These questions, and their responses, will be distributed to Elected Members and made available to the public in written form at the meeting.
- 5 The Presiding Member shall decide to accept or reject any written question and his/her decision is final. Where there is any concern about a question being offensive, defamatory or the like, the Mayor will make a determination in relation to the question. Questions determined as offensive, defamatory or the like will not be published. Where the Presiding Member rules questions to be out of order, an announcement to this effect will be made at the meeting, including the reason(s) for the decision.
- 6 The Presiding Member may rule questions out of order where they are substantially the same as questions previously submitted and responded to.
- 7 Written questions unable to be responded to at the Council meeting will be taken on notice. In this case, a written response will be provided as soon as possible and included on the agenda of the next Council meeting.
- 8 A person who submits written questions may also ask questions at a Council meeting and questions asked verbally may be different to those submitted in writing.
- 9 Questions and any response will be summarised and included in the minutes of the Council meeting.

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

DISCLAIMER

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

CODE OF CONDUCT

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

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

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

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

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

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LATE ITEMS / ADDITIONAL INFORMATION

In the event that further documentation becomes available prior to this Special Council meeting, the following hyperlink will become active:

[Additionalinformation13.02.12.pdf](#)

CITY OF JOONDALUP

Notice is hereby given that a Special Meeting of the Council will be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup on **MONDAY, 13 FEBRUARY 2012** commencing at **6.30 pm**.

GARRY HUNT
Chief Executive Officer
10 February 2012

Joondalup
Western Australia

AGENDA

1 DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

2 PUBLIC QUESTION TIME

(Please Note: Section 7(4)(b) of the Local Government (Administration) Regulations 1996 states that a Council at a special meeting is not required to answer a question that does not relate to the purpose of the meeting. It is requested that only questions that relate to items on the agenda be asked.)

3 PUBLIC STATEMENT TIME

Statements made at a Special Meeting of the Council must relate to the purpose for which the meeting has been called.

4 APOLOGIES AND LEAVE OF ABSENCE

5 DECLARATIONS OF INTEREST

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

7 ITEMS OF BUSINESS

JSC01-02/12 OCEAN REEF MARINA - MEMORANDUM OF UNDERSTANDING

WARD: All

RESPONSIBLE DIRECTOR: Mr Garry Hunt
Chief Executive Officer

FILE NUMBER: 04171

ATTACHMENT: Attachment 1 Memorandum of Understanding

(Please Note: This Attachment is confidential and will appear in the official Minute Book only)

PURPOSE

To provide Council with a status report on the Memorandum of Understanding (MOU) for the Ocean Reef Marina, and for the Council to endorse amendments made to the MOU by the State Government.

EXECUTIVE SUMMARY

At its meeting held on 16 August 2011 (CJ151-08/11 refers), Council:

- 1 ENDORSED the draft Memorandum of Understanding between the City of Joondalup and the State Government for the Ocean Reef Marina Development;
- 2 Subject to State Government approval, AUTHORISED the signing of the Memorandum of Understanding by the Chief Executive Officer and the Mayor under Common Seal.

The Premier and his Cabinet have considered the draft MOU and minor amendments have been made.

It is recommended that Council ENDORSES the amended Memorandum of Understanding for signature by the Mayor and Chief Executive Officer under Common Seal, as detailed in Attachment 1 to this Report.

BACKGROUND

In May 2009, Council adopted the Project Philosophy and Parameters to ensure the integrity of the project and the vision of the City in bringing the Ocean Reef Marina Development Project to reality remains uncompromised (JSC5-05/09 refers).

The Commerciality section stated, inter alia, that:

The MOU would serve as a statement of the intention between the State and City (being the principal landowners) and it is not intended to be legally binding on either party.

Further, the Key Parameters endorsed by Council included:

Liaison protocol

- *Successful, sustainable partnerships with State Government departments and agencies;*
- *Transparent, co-operative communication and consultation with all relevant agencies;*
- *Transparent, co-operative communication and consultation with City of Joondalup residents and the wider community;*
- *Development of a Memorandum of Understanding with the State Government.*

The Ocean Reef Marina Draft Work Task Flow Chart also highlighted the preparation of an MOU between the City and the State Government as an essential component of the process of obtaining the necessary approvals for the development (CJ285-12/09 refers).

At its meeting held on 14 December 2010 (C71-12/10 refers), Council:

AUTHORISED the Chief Executive Officer, in conjunction with the Mayor, to initiate negotiations with the State Government to develop a Memorandum of Understanding, in accordance with the Draft Work Task Flow Chart, for the Ocean Reef Marina, incorporating (but not limited to) the development protocols and parameters listed in this Report.

Council also:

NOTED that a report detailing the outcome of negotiations as detailed above and a draft Memorandum of Understanding will be submitted to a future meeting of Council for consideration.

Premier Colin Barnett expressed his support for an MOU between the City and the State Government for the Ocean Reef Marina at a briefing meeting held in March 2011. Following this briefing a draft MOU was prepared in consultation with the Office of the Premier.

At its meeting held on 16 August 2011, Council endorsed the draft MOU and subject to State Government approval, authorised the signing of the MOU by the Chief Executive Officer and Mayor under Common Seal.

DETAILS

Following authorisation by the Council, negotiations with the Office of the Premier resulted in the preparation of a draft MOU for the Ocean Reef Marina that articulates the shared commitment of the Parties to:

- 1 Acknowledge the substantial community support for the development of the Ocean Reef Marina.
- 2 Recognise and accept the iterative approach undertaken by the City for the development of a Concept Plan for the Ocean Reef Marina.
- 3 Acknowledge that as land owners of the site, together with the Water Corporation, they have a vested interest in a collaborative approach to developing the site in accordance with community expectations and their previously stated objectives for the site.

- 4 Acknowledge that the City cannot deliver a project of this size and complexity independently and that liaison with designated State Government agencies will be necessary to determine the optimum arrangements for achieving the approval of a Structure Plan.
- 5 Recognise that supplementary agreements with designated State Government agencies will be required as the Project progresses.
- 6 Recognise the necessity for observing due process and having proper regard for the environmental, planning and other regulatory functions of State Government agencies.
- 7 Acknowledge the substantial financial investment in the project made by the City to date and acknowledge that some level of State Government financial support will need to be given.

In August 2011 the draft MOU was forwarded to the Office of the Premier for consideration and approval by the Premier and his Cabinet.

Minor wording changes have been made by the State Government to the document approved by the Council at its meeting held on 16 August 2011.

The proposed amendments, which are highlighted in the attached document (and which are additions to the original MOU – no deletions have been made), retain and maintain the intent of the MOU in defining the relationship between the City, State Government and its various departments and agencies in bringing the project to fruition.

Issues and options considered:

Not Applicable.

Legislation/Strategic Plan/Policy Implications

Legislation

The City is governed by the requirements of the Local Government Act in relation to dealings involving commercial undertakings and land development.

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:

Recognition that the project will conform to the City's governance framework and is aligned with the Project Philosophy and Parameters Report as endorsed by Council (JSC5-05/09 refers).

Risk Management Considerations:

The Risk Assessment Report (December 2009) identifies developing a relationship with the State Government through a Memorandum of Understanding as a risk treatment strategy for the approvals process.

Financial/Budget Implications:

The finalisation of the MOU for the Ocean Reef Marina Development will ensure that the necessary expenditure for the preparation of a Business Case and Structure Plan is in accordance with the endorsed 2011/12 budget for the project.

Regional Significance:

The development of the Ocean Reef Marina will become a significant tourist/visitor destination and a key focal point within the northern Perth corridor.

Sustainability Implications:

Progression of the structure planning process will facilitate a number of studies/reports that address key issues pertaining to sustainability ie economic feasibility, environmental sustainability. The undertaking of these studies is aligned with the Project Philosophy and Parameters Report as endorsed by Council (JSC5-05/09 refers).

Consultation:

The draft MOU was prepared in consultation with senior officers from the Office of the Premier.

COMMENT

The minor amendments made to the document by the State Government do not alter the MOU's intent or purpose.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council ENDORSES the amended Memorandum of Understanding for signature by the Mayor and Chief Executive Officer under Common Seal as detailed in Attachment 1 to this Report.



**DECLARATION OF
FINANCIAL INTEREST/INTEREST THAT MAY AFFECT
IMPARTIALITY**

**To: CHIEF EXECUTIVE OFFICER
CITY OF JOONDALUP**

Name/ Position	
Meeting Date	
Item No/ Subject	
Nature of Interest	Financial Interest * Interest that may affect impartiality* <i>* Delete where not applicable</i>
Extent of Interest	
Signature	
Date	

Section 5.65(1) of the Local Government Act 1995 states that:

"A member who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by that member must disclose the nature of the interest:

- (a) in a written notice given to the CEO before the meeting; or*
- (b) at the meeting immediately before the matter is discussed.*

