

minutes

Special Meeting of Council

MEETING HELD ON **MONDAY, 13 FEBRUARY 2012**

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CITY OF JOONDALUP

MINUTES OF SPECIAL MEETING OF THE COUNCIL HELD IN THE COUNCIL CHAMBER,
JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP, ON MONDAY,
13 FEBRUARY 2012

DECLARATION OF OPENING

The Mayor declared the meeting open at 6.36 pm.

ANNOUNCEMENT OF VISITORS

ATTENDANCES

Mayor:

TROY PICKARD

Councillors

Cr TOM McLEAN, JP	North Ward
Cr KERRY HOLLYWOOD	North Ward
Cr SAM THOMAS	North-Central Ward
Cr PHILIPPA TAYLOR	North-Central Ward
Cr GEOFF AMPHLETT, JP	Central Ward
Cr LIAM GOBBERT	Central Ward
Cr MIKE NORMAN	South-West Ward
Cr CHRISTINE HAMILTON-PRIME	South-West Ward
Cr BRIAN CORR	South-East Ward
Cr JOHN CHESTER	South-East Ward – <i>Deputy Mayor</i>
Cr TERESA RITCHIE	South Ward
Cr RUSS FISHWICK	South Ward

Officers:

MR GARRY HUNT	Chief Executive Officer
MR JAMIE PARRY	Director, Governance and Strategy
MR BRAD SILLENCE	Manager, Governance and Marketing
MR MARK THORNER	Acting Governance Coordinator

There was one member of the Public in attendance.

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.)

Mrs M Macdonald, Mullaloo:

Re: JSC01-02/12 – Ocean Reef Marina – Memorandum of Understanding.

Q1 Why is there no Agenda listed for this Special meeting in the minutes and agendas listing on the Website?

A1 The Agenda was posted on the City's website from 9.30am on Monday 13 February.

Q2 Is this meeting a confidential meeting that is will it be behind closed doors and without a recording of the debate?

*A2 This meeting is open to the public unless the Council decide to close the meeting to the public in accordance with the *Local Government Act 1995*.*

Q3 Is the Memorandum of Understanding a public document?

A3 The Council will make a determination at the meeting on when the MOU will be made publicly available.

Q4 How can Councillors give consideration to this document when there is no environmental report published listing the adverse effects of the proposed marina on Joondalup's fragile coastline?

A4 Environmental studies on the marina development impact will be prepared as part of the Structure Plan compilation process.

Q5 Will ratepayers get the opportunity to sight the Structure Plan and Business Plan before it is passed or will it be passed at a Special meeting of Council?

A5 The Council is on record as previously advising that the Structure Plan and Business Plan will be made public once formally approved by the Council. The Structure Plan and Business Planning process is in a relatively early stage of development.

PUBLIC STATEMENT TIME

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

Nil.

APOLOGIES AND LEAVE OF ABSENCE

Nil.

DECLARATIONS OF INTEREST

Nil.

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

Nil.

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.

OFFICER'S 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 Report JSC01-02/12.

MOVED Mayor Pickard, SECONDED Cr Taylor that Council:

- 1 **ENDORSES** the amended Memorandum of Understanding for signature by the Mayor and Chief Executive Officer under Common Seal as detailed in Attachment 1 to Report JSC01-02/12;
- 2 **AUTHORISES** the withdrawal of the confidentially provisions of the Ocean Reef Marina Memorandum of Understanding once it has been signed by the relevant parties to the agreement.

C01-02/12 MOTION TO GO BEHIND CLOSED DOORS – [02154, 08122]**MOVED Cr Chester, SECONDED Cr Norman that Council:**

- 1 **in accordance with Section 5.23(2)(c) of the Local Government Act 1995 and Clause 67 of the City's Standing Orders Local Law 2005, RESOLVES** to close the meeting to members of the public to consider Item JSC01-02/12 – Ocean Reef Marina – Memorandum of Understanding as this item relates to a contract which may be entered into by the City;
- 2 **PERMITS** the following employees to remain in the Chamber during discussions on Item JSC01-02/12, while the meeting is sitting behind closed doors as detailed in Part 1 above:
 - **Chief Executive Officer, Mr Garry Hunt;**
 - **Director Governance and Strategy, Mr Jamie Parry;**
 - **Manager Governance and Marketing, Mr Brad Sillence; and**
 - **Acting Governance Coordinator, Mr Mark Thornber.**

The Motion was Put and**CARRIED (13/0)**

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

There were no members of the public or press in attendance at this point, the time being 6.42 pm.

The Motion as MOVED by Mayor Pickard, SECONDED Cr Taylor was Put and**CARRIED (13/0)**

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

C02-02/12 MOTION TO RE-OPEN THE MEETING – [02154, 08122]

MOVED Mayor Pickard, SECONDED Cr Amphlett that Council in accordance with Clause 67 (5) of the City's Standing Orders Local Law 2005, the meeting be now held with OPEN DOORS.

The Motion was Put and

CARRIED (13/0)

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

Doors opened at 6.55 pm. No members of the public or press were present.

In accordance with the City's Standing Orders Local Law 2005, Mayor Pickard read aloud the motions in relation to:

JSC01-02/12 Confidential – Ocean Reef Marina – Memorandum of Understanding

CLOSURE

There being no further business, the Mayor declared the Meeting closed at 6.57 pm; the following Elected Members being present at that time:

MAYOR T PICKARD
CR K HOLLYWOOD
CR T MCLEAN, JP
CR S THOMAS
CR P TAYLOR
CR L GOBBERT
CR G AMPHLETT, JP
CR C HAMILTON-PRIME
CR M NORMAN
CR J CHESTER
CR B CORR
CR R FISHWICK
CR T RITCHIE