

# 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** **TUESDAY 23 JANUARY 2018**

**COMMENCING AT** **7.00pm**

### **PURPOSE OF MEETING**

The purpose of the meeting is to consider amending Council's decision dated 12 December 2017 in relation to Item CJ193-12/17 – Initiation of Scheme Amendment No. 90 to *District Planning Scheme No. 2* - Recoding from R20/60 and R20/40 to R20/30.

**DALE PAGE**  
**Acting Chief Executive Officer**  
19 January 2018

[www.joondalup.wa.gov.au](http://www.joondalup.wa.gov.au)

*This document is available in alternate formats upon request*

**PUBLIC QUESTION TIME**

Members of the public are requested to lodge questions in writing by 9.00am on  
**Monday 22 January 2018**

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](mailto:council.questions@joondalup.wa.gov.au)  
PO Box 21 Joondalup WA 6919

**[www.joondalup.wa.gov.au](http://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 19 November 2013:

Where a meeting of a committee is open to the public the procedures for public question time and public statement time apply. In this regard these procedures are amended by substituting “Council” with “Committee” to provide proper context.

### Questions asked verbally

- 1 Members of the public are invited to ask questions at Council Meetings.
- 2 Questions asked at an Ordinary Council meeting must relate to a matter that affects the City of Joondalup. Questions asked at a Special meeting of 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 full address.
- 4 Public question time will be limited to two minutes per member of the public, with a limit of two verbal 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 allocated a minimum of 15 minutes and may be extended in intervals of up to 10 minutes by resolution of Council, but the total time allocated for public questions to be asked and responses to be given is not to exceed 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 shall 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
  - or
  - 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 does not relate to a matter affecting the City
  - or
  - making a statement during public question time,
- they may bring it to the attention of the Presiding Member who will make a ruling.
- 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 Act 1992* (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 asked at an Ordinary Council meeting must relate to a matter that affects the City of Joondalup. Questions asked at a Special meeting of Council must relate to the purpose for which the meeting has been called.
- 3 The City will accept a maximum of five (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 9.00am 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 Presiding Member 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 a 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 Act 1992* (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 may 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.

### **PROCEDURES FOR PUBLIC STATEMENT TIME**

The following procedures for the conduct of Public Statement Time were adopted at the Council meeting held on 19 November 2013:

- 1 Members of the public are invited to make statements, either verbally or in writing, at Council meetings.
- 2 Statements made at an Ordinary Council meeting must relate to a matter that affects the City of Joondalup. Statements made at a Special meeting of Council must relate to the purpose for which the meeting has been called.
- 3 A register will be provided for those persons wanting to make a statement 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 full address.
- 4 Public statement time will be limited to two minutes per member of the public.
- 5 Members of the public are encouraged to keep their statements brief to enable everyone who desires to make a statement to have the opportunity to do so.
- 6 Public statement time will be allocated a maximum time of 15 minutes. Public statement time is declared closed following the 15 minute allocated time period, or earlier than such time where there are no further statements.
- 7 Statements are to be directed to the Presiding Member and are to be made 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.
- 8 Where an Elected Member is of the opinion that a member of the public is making a statement at a Council meeting, that does not relate to a matter affecting the City, they may bring it to the attention of the Presiding Member who will make a ruling.
- 9 A member of the public attending a Council meeting may present a written statement rather than making the statement verbally if he or she so wishes.
- 10 Statements will be summarised and included in the minutes of the Council meeting.

## CODE OF CONDUCT

Elected Members, Committee Members and City of Joondalup employees are to observe the City of Joondalup Code of Conduct including the principles and standards of behaviour that are established in the Code.

The following principles guide the behaviours of Elected Members, Committee Members and City of Joondalup employees while performing their role at the City:

- Act with reasonable care and diligence.
- Act with honesty and integrity.
- Act lawfully.
- Avoid damage to the reputation of the City.
- Be open and accountable to the public.
- Base decisions on relevant and factually correct information.
- Treat others with respect and fairness.
- Not be impaired by mind affecting substances.

Elected Members, Committee Members and employees must:

- (a) act, and be seen to act, properly and in accordance with the requirements of the law and the Code of Conduct
- (b) perform their duties impartially and in the best interests of the City uninfluenced by fear or favour
- (c) act in good faith in the interests of the City and the community
- (d) make no allegations which are improper or derogatory and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any person unwarranted offence or embarrassment
- (e) always act in accordance with their obligations to the City and in line with any relevant policies, protocols and procedures.

\* *Any queries on the agenda, please contact Governance Support on 9400 4369.*

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## CITY OF JOONDALUP

Notice is hereby given that a Special Meeting of Council will be held in the Council Chamber, Joondalup Civic Centre, Boas Avenue, Joondalup on **Tuesday 23 January 2018** commencing at **7.00pm**.

DALE PAGE  
Acting Chief Executive Officer  
19 January 2018

Joondalup  
Western Australia

## AGENDA

### DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

### DECLARATIONS OF INTEREST

### 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.)

### PUBLIC STATEMENT TIME

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

### APOLOGIES AND LEAVE OF ABSENCE

#### Apology

Cr Sophie Dwyer.

#### Leave of Absence Previously approved

Cr Russ Fishwick, JP	25 January to 18 February 2018 inclusive;
Cr Sophie Dwyer	21 February to 31 March 2018 inclusive;
Cr Mike Norman	22 February to 3 March 2018 inclusive;
Cr Mike Norman	6 April to 13 April 2018 inclusive.

### IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC



**REPORT****JSC01-01/18 PUBLIC ADVERTISING OF SCHEME AMENDMENT NOS. 88 AND 90**

<b>WARD</b>	South	
<b>RESPONSIBLE ACTING DIRECTOR</b>	Chris Leigh Planning and Community Development	
<b>FILE NUMBER</b>	106679, 101515	
<b>ATTACHMENTS</b>	Attachment 1	Notice to Convene Special Meeting of Council
	Attachment 2	Extract from minutes of 12 December 2017 Council meeting
<b>AUTHORITY / DISCRETION</b>	Legislative - includes the adoption of local laws, planning schemes and policies.	

**PURPOSE**

The purpose of this report is to assist Council in its deliberation on matters outlined in the Notice to Convene a Special Meeting of Council, signed by six Elected Members (Attachment 1 refers).

**EXECUTIVE SUMMARY**

At its meeting held on 12 December 2017 (CJ193-12/17 refers), Council resolved to initiate Amendment No. 90 to *District Planning Scheme No. 2*.

Together with Amendment No. 88, the amendments propose a reduction in the density coding of the entire area of Housing Opportunity Area 1 west of the Mitchell Freeway, Duncraig, from R20/40 and R20/60, to R20/30.

The December Council report outlined an intent not to consult on the amendments before the first Council meeting of 2018, in line with the City's *Community Consultation and Engagement Policy*. A copy of the minutes relating to the December 2017 Council report is attached for ease of reference (Attachment 2 refers).

A motion was put at the Council meeting held on 12 December 2017 to commence advertising of Amendments No. 88 and 90 as soon as possible, even if commencement occurs before the first ordinary meeting of Council in February 2018. The motion was considered and lost. Therefore, the current decision of Council means that consultation will not occur before 20 February 2018.

A Special Meeting of Council has been called to be held on 23 January 2018 to reconsider this motion with a view to changing the previous decision of Council.

## BACKGROUND

<b>Suburb/Location</b>	Properties within Housing Opportunity Area 1 (HOA1) west of the Mitchell Freeway, Duncraig.
<b>Applicant</b>	City of Joondalup.
<b>Owner</b>	Various.
<b>Zoning</b>	<b>DPS</b> 'Residential', 'Public Use', 'Parks and Recreation'.
	<b>MRS</b> 'Urban'.
<b>Site area</b>	Various
<b>Structure plan</b>	Not applicable.

At its meeting held on 27 June 2017 (CJ086-06/17 refers), Council resolved to initiate Amendment No. 88 to DPS2 to amend the residential density code of a portion of HOA1 bounded by Mitchell Freeway, Davallia Road, Beach Road and Warwick Road, Duncraig, from R20/40 and R20/60 to R20/30.

Following Council's resolution to initiate Amendment No. 88, the City referred the amendment to the Western Australian Planning Commission (WAPC) and Environmental Protection Authority (EPA) prior to advertising, as required by the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations).

Permission was granted to advertise Amendment No. 88, but prior to commencement of advertising, a separate petition was received from some landowners in HOA1 west of Davallia Road seeking to also include this area of HOA1 in Amendment No. 88.

Amendment No. 88 was therefore not advertised pending Council's consideration of the petition to include additional areas into the amendment.

At its meeting held on 21 November 2017 (CJ177-11/17 refers), Council resolved in part as follows:

"7 *SUPPORTS the request to include the portion of Housing Opportunity Area 1, located west of Davallia Road into Amendment No. 88 to District Planning Scheme No. 2, to reduce the density coding from R20/R40 and R20/R60 to a density coding of no higher than R20/R30 and NOTES that a report dealing with the revocation of Council's earlier decision to initiate existing Amendment No. 88 and to initiate a replacement amendment will be presented to an upcoming Council meeting*".

The City subsequently obtained advice which indicated that the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations):

- do not contain provisions which expressly allow a decision to proceed to advertise a scheme amendment to be revoked
- require that an initiated scheme amendment must be advertised
- do not contain provisions to allow an initiated scheme amendment to be modified prior to advertising.

Amendment No. 88 therefore needs to be advertised in its current form, that is, not including the portion of HOA1 west of Davallia Road.

However, in order to implement the intent of Council's decision, a report to the Council meeting held on 12 December 2017 (CJ193-12/17 refers) proposed that a new amendment be initiated to DPS2 (Amendment No. 90) to recode the portion of HOA1 west of Davallia Road from R20/40 and R20/60 to R20/30.

In acknowledgment of the concerns expressed by residents that a separate amendment for the area west of Davallia Road may not be given the same consideration as Amendment No. 88 by the WAPC, it was proposed that the City deal with the two separate amendments as though they were a single amendment, as far as possible.

It was therefore recommended that Council initiates a new amendment (Amendment No. 90) for the area to the west of Davallia and seeks the consent of the WAPC to advertise it, holding the advertising of the original Amendment No. 88 in abeyance until the City has approval to advertise Amendment No. 90.

Council's *Community Consultation and Engagement Policy* states that no public consultation is to be undertaken during the summer break, being the last Ordinary Meeting of Council in December to the first Ordinary Meeting of Council in February.

The December Council report outlined that, based on the anticipated Council meeting schedule, this would mean that no consultation could occur between Tuesday 12 December 2017 and Tuesday 20 February 2018, unless otherwise directed by the Council.

An amendment to the motion to initiate Amendment No. 90 was put at the Council meeting to add a new Part 6 follows:

"6 *NOTES the requirements of the City's Community Consultation and Engagement Policy with respect to consultation during the summer break and AGREES to proceed with public consultation as soon as possible even if commencement occurs before the first ordinary meeting of Council in February 2018.*"

The above motion was lost and Council resolved as follows:

- "1 *Pursuant to section 75 of the Planning and Development Act 2005 and Regulation 37(1) of the Planning and Development (Local Planning Schemes) Regulations 2015, RESOLVES to proceed to advertise Scheme Amendment No. 90 to the City of Joondalup District Planning Scheme No. 2 to:*
- 1.1 *amend the Residential Density Code Map to recode a portion of Housing Opportunity Area 1 from R20/40 and R20/60 to R20/30, as depicted at Attachment 2 to Report CJ193-12/17, for the purpose of public advertising for a period of 60 days;*
  - 2 *Pursuant to Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 NOTES that Scheme Amendment No. 90 is a complex amendment as the proposal is not consistent with the City of Joondalup Local Housing Strategy;*
  - 3 *SUBMITS Scheme Amendment No. 90 to the Western Australian Planning Commission to advise if any modifications are required to the documents prior to advertising;*
  - 4 *REQUIRES Amendments No. 88 and 90 to the City of Joondalup District Planning Scheme No. 2 to be advertised for public comment at the same time and NOTES that, following the conclusion of the advertising period, the amendments will be considered by Council within the one report;*
  - 5 *ADVISES the Western Australian Planning Commission that Council considers Amendments No. 88 and 90 to be addressing the same issue within Housing Opportunity Area 1, and REQUESTS that the amendments be considered together."*

The current decision of Council means that consultation will not occur before 20 February 2018.

A Special Meeting of Council has been called to be held on 23 January 2018 to reconsider this motion with a view to changing the previous decision of Council.

The Notice to Convene a Special Meeting of Council (Attachment 1) states:

*“In accordance with clause 5.4(a)(ii) of the Local Government Act 1995, the Councillors listed hereunder give notice to you to convene a Special Meeting of the Council to be held on 23 January 2018 for the purpose of reconsidering the amendment moved by Cr Norman and seconded by Cr Chester in relation to item:*

*CJ193-12/17 Initiation of Scheme Amendment No. 90 To District Planning Scheme No. 2 – Recoding from R20/60 And R20/40 to R20/30 as follows:*

*AMENDMENT MOVED Cr Norman, SECONDED Cr Chester that a new Part 6 be ADDED to the Motion to read as follows:*

*“6 NOTES the requirements of the City’s Community Consultation and Engagement Policy with respect to consultation during the summer break and AGREES to proceed with public consultation as soon as possible even if commencement occurs before the first ordinary meeting of Council in February 2018.”*

The Notice to Convene a Special Meeting of Council was signed by six Elected Members, being:

- Cr Russell Poliwka.
- Cr Mike Norman.
- Cr John Chester.
- Cr Christopher May.
- Cr Nige Jones.
- Cr Russ Fishwick, JP.

## **DETAILS**

In accordance with clause 5.4(a)(ii) of the *Local Government Act 1995*, a Special Meeting of Council has been called to be held on 23 January 2018 for the purpose of reconsidering the proposed amendment to add Part 6, moved at the Council meeting held on 12 December 2017, as outlined above.

### ***City of Joondalup Community Consultation and Engagement Policy***

The City’s *Community Consultation and Engagement Policy* was initially adopted in 2010 and includes a provision which states:

*“consultations are not to be conducted during the summer break (between the last Ordinary Meeting of Council in December to the first Ordinary Council in February), unless otherwise stipulated by Council.”*

In the context of this report, the summer break would be from Tuesday 12 December 2017 to Tuesday 20 February 2018.

The rationale for this provision in the policy is to limit or restrict consultation being undertaken during times of the year when residents are more likely to be on holidays and unable to make comment on a proposal and therefore providing greater opportunity for the community to engage and participate on matters that affect them.

#### Amendments No. 88 and 90

Since implementation of the City's *Local Housing Strategy* (LHS) in early 2016, development has commenced throughout all 10 HOAs. As this development has commenced, some members of the community have raised concern with some of the development occurring. This concern has resulted in a number of actions, including Amendments No. 88 and 90.

As outlined above, Council has initiated two amendments to DPS2 (Amendments No. 88 and 90) that effectively seek to down-code the entire area of HOA1 located west of the Mitchell Freeway from R20/R40 and R20/R60 to R20/R30.

Both amendments are considered to be 'complex amendments' as defined by the Regulations and therefore require consent from the Western Australian Planning Commission (WAPC) and the Environmental Protection Authority (EPA) prior to commencing advertising.

The City has received advice from the WAPC and EPA in relation to Amendment No. 88, however is yet to receive all correspondence in relation to Amendment No. 90.

At its meeting held on 12 December 2017 (CJ193-12/17 refers), Council resolved to advertise Amendments No. 88 and 90 at the same time and as such, the amendments are unable to be advertised until the outstanding correspondence is received in relation to Amendment No. 90.

One of the concerns raised by some residents is that the consultation process for matters relating to the City's LHS has been insufficient and flawed.

Accordingly, in considering the motion to commence public consultation during the summer break in order to address a concern regarding protracted statutory timeframes for progressing the scheme amendments, there is a risk that commencing consultation during this time could also be viewed as insufficient and flawed, as consultation would be undertaken at a time of year when people may be less able to engage and make comment on the amendments.

#### **Issues and options considered**

Council has the option to:

- resolve to initiate public advertising of Amendments No. 88 and 90, to commence prior to the first Ordinary meeting of Council to be held on 20 February 2018 (subject to receipt of advice from relevant statutory authorities)  
or
- resolve not to change the decision made by Council at its meeting on 12 December 2017 (CJ193-12/17 refers).

**Legislation / Strategic Community Plan / policy implications**

**Legislation** *Local Government Act 1995.  
Regulation 10 of the Local Government (Administration)  
Regulations 1996.*

**Strategic Community Plan**

**Key theme** Active democracy.

**Objective** To have a community that actively engages with the City to achieve consensus and legitimacy in decision-making.

**Strategic initiative** Optimise opportunities for the community to access and participate in decision-making processes.

**Policy** *Community Consultation and Engagement Policy.*

Community Consultation and Engagement Policy

This policy, in part, states as follows:

“Consultations are not to be conducted during the summer break (between the last Ordinary Meeting of Council in December to the first Ordinary Meeting of Council in February), unless *otherwise stipulated by Council.*”

**Risk management considerations**

If consultation is commenced during the summer break, there is a risk that this will be viewed as being contrary to the objectives of the City's *Consultation and Engagement Policy* to encourage greater community participation.

There is a risk that other members of the community, who have not yet been engaged in discussion with the City about the proposed scheme amendments and density in HOA1 generally, will not have the opportunity to properly engage and have input into a process which will (if approved) reduce the development potential of their properties.

A further risk is that draft *Local Planning Scheme No. 3* (LPS3) is currently being assessed for final approval by the Department of Planning, Lands and Heritage (DPLH).

Even if the consultation process for Amendments No. 88 and 90 is expedited via a resolution of Council to consult on the matter during the summer break, there is a risk that before finalisation of Amendments No. 88 and 90, draft LPS3 will have progressed beyond a point where there is the ability to capture this subject amendment within draft LPS3. If this was to occur, a new amendment would then need to be initiated following the finalisation of LPS3 to request the reduction in the residential coding to the portion of HOA1 located west of the Mitchell Freeway.

**Financial / budget implications**

Not applicable.

**Regional significance**

Not applicable.

**Sustainability implications**

Not applicable.

**Consultation**

Amendments No. 88 and 90 are required to be advertised for 60 days and would be advertised at the same time by way of:

- letters (including Frequently Asked Questions) to all landowners within the two scheme amendment areas
- a notice placed in the *Joondalup Community* newspaper
- a notice and documents placed on the City's website
- documents available to view at the City's Administration building
- letters to relevant service authorities
- a notice placed through the City's social media platforms.

**COMMENT**

Notwithstanding any Council decision to proceed to advertise Amendments No. 88 and 90 as soon as possible, advertising cannot occur until both the WAPC and the EPA have provided its advice on Amendment No. 90. The City is yet to receive all correspondence in relation to Amendment No. 90 and is therefore not yet able to commence public consultation.

The City's *Consultation and Engagement Policy* states that, unless otherwise stipulated by Council, consultation is not be conducted during the summer break, which in the context of this report, is from Tuesday 12 December 2017 to Tuesday 20 February 2018.

In view of the fact the City is still awaiting confirmation to commence consultation, coupled with the timing of this meeting, in the event Council does resolve to commence consultation of Amendments No. 88 and 90 during the summer break, it is unlikely that it will result in a significant saving of time for the two amendments to proceed through the necessary planning process.

**VOTING REQUIREMENTS**

Simple Majority.

**RECOMMENDATION****That Council NOTES:**

- 1 the requirements of the City's *Community Consultation and Engagement Policy* with respect to consultation during the summer break;
- 2 that undertaking consultation during the summer break introduces the risk that some community members may not have the opportunity to be properly engaged and have input into a process which will (if approved) reduce the development potential of their properties;
- 3 that consultation on the proposed amendments cannot occur before the approval to do so has been received from both the Western Australian Planning Commission and the Environmental Protection Authority.

*Appendix 1 refers*

*To access this attachment on electronic document, click here: [Attach1agn180123.pdf](#)*



## **CLOSURE**

## **APPENDICES**

ITEM NO.	TITLE	APPENDIX NO.	STAMPED PAGE NO.
JSC01-01/18	<b>PUBLIC ADVERTISING OF SCHEME AMENDMENT NOS. 88 AND 90</b>	1	
	Attachment 1 Notice to Convene Special Meeting of Council		1
	Attachment 2 Extract from minutes of 12 December 2017 Council meeting		3



## 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*  * Delete where not applicable
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.*



**QUESTION TO BE ASKED AT**  
**BRIEFING SESSION/COUNCIL MEETING**

**NAME** .....

**ADDRESS** .....

**QUESTIONS**

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Please submit this form at the meeting or:

- **post** to The Chief Executive Officer, City of Joondalup, P O Box 21, Joondalup WA 6919
- **email** to [council.questions@joondalup.wa.gov.au](mailto:council.questions@joondalup.wa.gov.au)

**Please note that:**

- Questions asked at a **Briefing Session** must relate to matters contained on the draft agenda.
- Questions asked at a **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



**STATEMENT TO BE MADE AT  
BRIEFING SESSION/COUNCIL MEETING**

<b>TITLE</b> <i>(Mr/Mrs/Ms/Dr)</i>	<b>FIRST NAME</b>	<b>SURNAME</b>	<b>ADDRESS</b>

**STATEMENT**

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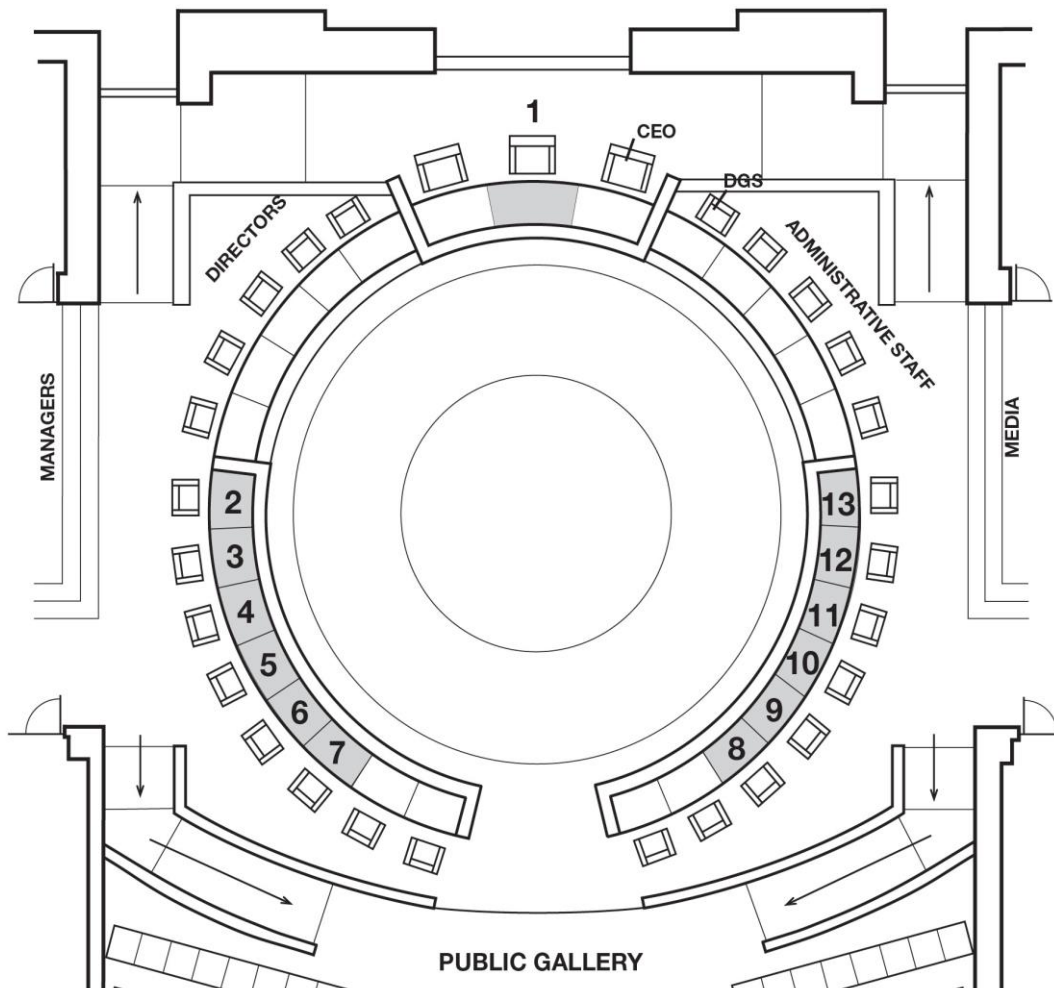
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Please submit this form at the meeting.

**Please note that:**

- Statements made at a **Briefing Session** must relate to matters contained on the draft agenda.
- Statements made at a **Council meeting** can relate to matters that affect the operations of the City of Joondalup.
- Statements made at a **Special Meeting of the Council** must relate to the purpose for which the meeting has been called.

## Council Chamber – Seating Diagram



### Mayor

1 His Worship the Mayor, Hon. Albert Jacob, JP (Term expires 10/21)

### North Ward

- 2 Cr Kerry Hollywood (Term expires 10/21)
- 3 Cr Tom McLean, JP (Term expires 10/19)

### North-Central Ward

- 4 Cr Philippa Taylor (Term expires 10/21)
- 5 Cr Nige Jones (Term expires 10/19)

### Central Ward

- 6 Cr Christopher May (Term expires 10/21)
- 7 Cr Russell Poliwka (Term expires 10/19)

### South-West Ward

- 8 Cr Christine Hamilton-Prime (Term expires 10/21)
- 9 Cr Mike Norman (Term expires 10/19)

### South-East Ward

- 10 Cr John Chester (Term expires 10/21)
- 11 Cr John Logan (Term expires 10/19)

### South Ward

- 12 Cr Russ Fishwick, JP (Term expires 10/21)
- 13 Cr Sophie Dwyer (Term expires 10/19)

**NOTICE TO CONVENE SPECIAL MEETING OF COUNCIL**

**To:** Chief Executive Officer City of Joondalup Mr G Hunt  
**From:** Deputy Mayor Cr Russell Poliwka  
**Subject:** Notice to Convene a Special Meeting of Council – Pursuant to Section 5.4 of the *Local Government Act 1995*  
**Date:** 10 JANUARY 2018

Section 5.4 of the *Local Government Act 1995* states that:

**5.4. Calling council meetings**

*An ordinary or a special meeting of a council is to be held —*

- (a) *if called for by either —*
  - (i) *the mayor or president; or*
  - (ii) *at least 1/3 of the councillors,*  
*in a notice to the CEO setting out the date and purpose of the proposed meeting; or*
- (b) *if so decided by the council.*


In accordance with clause 5.4(a)(ii) of the *Local Government Act 1995*, the Councillors listed hereunder give notice to you to convene a Special Meeting of the Council to be held on 23 JANUARY 2018 for the purpose of reconsidering the amendment Moved by Cr Norman and seconded by Cr Chester in relation to item:-

**CJ193-12/17 Initiation Of Scheme Amendment No. 90 To District Planning Scheme No. 2 – Recoding From R20/60 And R20/40 To R20/30 as follows:**

**AMENDMENT MOVED Cr Norman, SECONDED Cr Chester** that a new Part 6 be ADDED to the Motion to read as follows:

- "6 *NOTES the requirements of the City's Community Consultation and Engagement Policy with respect to consultation during the summer break and AGREES to proceed with public consultation as soon as possible even if commencement occurs before the first ordinary meeting of Council in February 2018.*"

Signed by Councillors:

- |    |             |   |                      |
|----|-------------|---|----------------------|
| 1. | Cr Poliwka: |  | Date: <u>10/1/18</u> |
| 2. | Cr Norman:  | _____   | Date: _____          |
| 3. | Cr Chester: | _____   | Date: _____          |
| 4. | Cr May:     | _____   | Date: _____          |
| 5. | Cr Jones:   | _____   | Date: _____          |

6. Cr Fishwick



10/01/2018



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Signed by Councillors:

1 Cr Poliwka

2 Cr Norman

3 Cr Chester

4 Cr May

5 Cr Jones

Date 10/1/18

Date 10/1/18

Date 10/1/18

Date 10/1/18

Date 10/1/18



**Extract from minutes of Council meeting  
Held on 12 December 2017**

**CJ193-12/17      INITIATION OF SCHEME AMENDMENT NO. 90 TO  
DISTRICT PLANNING SCHEME NO. 2 – RECODING  
FROM R20/60 AND R20/40 TO R20/30**

<b>WARD</b>	South
<b>RESPONSIBLE DIRECTOR</b>	Ms Dale Page Planning and Community Development
<b>FILE NUMBER</b>	106679, 101515
<b>ATTACHMENTS</b>	Attachment 1      Location Plan Attachment 2      Scheme Amendment Maps
<b>AUTHORITY / DISCRETION</b>	Legislative - includes the adoption of local laws, planning schemes and policies.

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**PURPOSE**

For Council to consider initiating an amendment to *District Planning Scheme No. 2* to change the residential density code of the portion of Housing Opportunity Area 1 (HOA1) located west of Davallia Road from R20/40 and R20/60 to R20/30.

**EXECUTIVE SUMMARY**

As part of a report addressing issues in Housing Opportunity Areas, at its meeting held on 21 November 2017 (CJ177-11/17 refers), Council considered a petition from some landowners in Duncraig and subsequently resolved to include the area west of Davallia Road, Duncraig, into existing Amendment No. 88. This would effectively mean that Council would need to revoke its earlier decision to initiate and advertise existing Amendment No. 88 and to replace it with an amendment to DPS2 to recode the entire area of HOA1 west of the Mitchell Freeway from R20/40 and R20/60 to R20/30.

Following this resolution, the Department of Planning, Lands and Heritage (DPLH) advised that it does not believe that the *Planning and Development (Local Planning Schemes) Regulations 2015* expressly provide for Amendment No. 88 to be rescinded at this stage. DPLH advised that Amendment No. 88 should be advertised in the form that it was initiated, and cannot be modified prior to advertising. Separate legal advice sought by the City has confirmed this to be the case.

This means that Amendment No. 88 must proceed to be advertised in its current form, that is, not including the portion of HOA1 west of Davallia Road.

However, as an alternative, Council can consider initiating a separate scheme amendment (Amendment No. 90) to recode the portion of HOA1 west of Davallia Road from R20/40 and R20/60 to R20/30 and in practical terms, where possible, treat the amendments as though they were one amendment by:

- advertising both amendments concurrently and in the same manner
- reporting on both amendments in one report to Council at the conclusion of advertising

- advising the Western Australian Planning Commission (WAPC), via a formal resolution of Council and through the amendment documentation sent to the WAPC, that the two amendments both deal with the same issue in the same Housing Opportunity Area and encourages the WAPC to view the two amendments as one issue to be dealt with holistically

If Council supports this course of action, this report provides the necessary mechanism to initiate an additional scheme amendment (Amendment No. 90) to implement the above.

## BACKGROUND

<b>Suburb/Location</b>	Properties within HOA1 west of Davallia Road, Duncraig.
<b>Applicant</b>	City of Joondalup.
<b>Owner</b>	Various.
<b>Zoning</b>	<b>DPS</b> 'Residential', 'Public Use', 'Parks and Recreation'.
	<b>MRS</b> 'Urban'.
<b>Site area</b>	Various.
<b>Structure plan</b>	Not applicable.

At its meeting held on 27 June 2017 (CJ086-06/17 refers), Council resolved to initiate Amendment No. 88 to DPS2 to amend the residential density code of a portion of HOA1 bounded by Mitchell Freeway, Davallia Road, Beach Road and Warwick Road, Duncraig, from R20/40 and R20/60 to R20/30.

Following Council's resolution to initiate Amendment No. 88, the City referred the amendment to the Western Australian Planning Commission (WAPC) and Environmental Protection Authority (EPA) prior to advertising, as required by the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations).

Permission was granted to advertise Amendment No. 88, but prior to commencement of advertising, a separate petition was received from some landowners in HOA1 west of Davallia Road seeking to also include this area of HOA1 in Amendment No. 88.

Amendment No. 88 was therefore not advertised pending Council's consideration of the petition to include additional areas into the amendment.

At its meeting held on 21 November 2017 (CJ177-11/17 refers), Council resolved in part as follows:

*"SUPPORTS the request to include the portion of Housing Opportunity Area 1, located west of Davallia Road into Amendment No. 88 to District Planning Scheme No. 2, to reduce the density coding from R20/R40 and R20/R60 to a density coding of no higher than R20/R30 and NOTES that a report dealing with the revocation of Council's earlier decision to initiate existing Amendment No. 88 and to initiate a replacement amendment will be presented to an upcoming Council meeting".*

## DETAILS

In accordance with Council's decision on 21 November 2017 (CJ177-11/17 refers), an amendment is required to DPS2 that includes the original Amendment No. 88 area, being the area of HOA1 bounded by the Mitchell Freeway, Davallia Road, Beach Road and Warwick Road as well as the area of HOA1 located west of Davallia Road. This amendment would therefore effectively seek to recode the entire area of HOA1 west of the Mitchell Freeway from R20/40 and R20/60, to R20/30.

The remainder of HOA1 to the east of the Mitchell Freeway would not be impacted by the proposed amendment.

The City has obtained legal advice which indicates that the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations):

- do not contain provisions which expressly allow a decision to proceed to advertise a scheme amendment to be revoked
- require that an initiated scheme amendment must be advertised
- do not contain provisions to allow an initiated scheme amendment to be modified prior to advertising.

Amendment No. 88 must therefore proceed to be advertised in its current form, that is, not including the portion of HOA1 west of Davallia Road.

However, in order to implement the intent of Council's decision, a new amendment can be initiated to DPS2 (Amendment No. 90) to recode the portion of HOA1 west of Davallia Road from R20/40 and R20/60 to R20/30 (Attachments 1 and 2 refer).

In acknowledgment of the concerns expressed at the Council meeting that a separate amendment for the area west of Davallia Road may not be given the same consideration as Amendment No. 88 by the WAPC, it is proposed that the City deal with the two separate amendments as though they were a single amendment, as far as possible.

To this end it is recommended that Council initiates a new amendment (Amendment No. 90) for the area to the west of Davallia and seeks the consent of the WAPC to advertise it, holding the advertising of the original Amendment No. 88 in abeyance until the City has approval to advertise Amendment No. 90. This will not delay progress for the residents east of Davallia Road and the subject of the original Amendment No. 88 as they would have formed part of the new, larger amendment anyway.

In practical terms, the two amendments could be treated as one large amendment by advertising both amendments concurrently, using the same letters and the same Frequently Asked Questions and then considering with the outcomes of consultation on both amendments in one report to Council at the conclusion of advertising.

The Council could then advise the WAPC, via a formal resolution of Council and through the amendment documentation sent to the WAPC, that the two amendments both deal with the same issue in the same Housing Opportunity Area and the City could encourage the WAPC to view the two amendments as one issue to be dealt with holistically.

Council could also elect to not initiate a new amendment and resolve to include the area of HOA1 west of Davallia Road into Amendment No. 88 as part of its consideration of Amendment No. 88 after advertising. It is likely however, if this approach was to be undertaken, that the Minister for Transport, Planning and Lands would direct Council to readvertise the amendment, resulting in a much longer timeframe for a final decision to be made.

## Issues and options considered

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

- resolve to advertise Amendment No. 90 with or without modifications and refer the proposal to the WAPC for advice as to whether any modifications to the documents are required before advertising, and to the EPA for advice as to whether the amendment requires a formal assessment under the *Environmental Protection Act 1986*  
or
- resolve not to proceed to advertise Amendment No. 90.

## Legislation / Strategic Community Plan / policy implications

**Legislation** *Planning and Development Act 2005.*  
*Planning and Development (Local Planning Schemes) Regulations 2015.*

### Strategic Community Plan

**Key theme** Quality Urban Environment.

**Objective** Quality built outcomes.

**Strategic initiative** Housing infill and densification is encouraged and enabled through a strategic, planned approach in appropriate locations.

**Policy** Not applicable.

*Planning and Development Act 2005 and Planning and Development (Local Planning Schemes) Regulations 2015*

Part 5 of the *Planning and Development Act 2005* along with the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) enables a local government to prepare or amend a local planning scheme and sets out the process to be followed.

Under the Regulations, scheme amendments are classified as being basic, standard or complex amendments. In resolving to proceed with an amendment, Council needs to specify the amendment type and explain the reason for that classification. As the proposed scheme amendment is not consistent with the City's *Local Housing Strategy*, it is classed as a complex amendment under the Regulations. Complex amendments are required to be referred to the WAPC for advice as to whether any modifications to the documents are required prior to advertising.

Should Council resolve to proceed with proposed Amendment No. 90 for the purposes of public advertising, the proposed amendment is required to be referred to the EPA to decide whether or not a formal review is necessary. Should the EPA decide that an environmental review is not required, and notify the City accordingly, then it will be necessary to proceed to advertise the proposed scheme amendment for 60 days, provided the WAPC has approved advertising as outlined above.

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

Council may also decide not to proceed to advertise a proposed amendment.

### **Risk management considerations**

Draft *Local Planning Scheme No. 3* (LPS3) is currently being assessed for final approval by the Department of Planning, Lands and Heritage (DPLH).

There is a risk that should Amendment No. 90 to DPS2 be initiated now, given the statutory processes to be undertaken, it is possible that draft LPS3 will have progressed beyond a point where there is the ability to capture this subject amendment within draft LPS3. If this was to occur, a new amendment would then need to be initiated following the finalisation of LPS3 to request the reduction in the residential coding to the portion of HOA1 located west of the Mitchell Freeway.

### **Financial / budget implications**

The City, as the proponent is required to cover the costs associated with the scheme amendment process. The costs incurred are for the advertising of the scheme amendment which could include letters to all owners, and placing a notice in the local newspaper and on the City's website. The total cost of advertising is estimated to be \$2,700. A notice will also be placed in the *Government Gazette* in the event that the scheme amendment is approved.

### **Regional significance**

Not applicable.

### **Sustainability implications**

Not applicable.

### **Consultation**

Should the WAPC permit Amendment No. 90 to be advertised, it is required to be advertised for public comment for 60 days. It is proposed that Amendment No. 88 and Amendment No. 90 would be advertised at the same time by way of:

- letters to all landowners within the two scheme amendment areas (approximately 797)
- a notice placed in *the Joondalup Community newspaper*
- a notice and documents placed on the City's website
- documents available to view at the City's Administration building
- letters to relevant service authorities
- a notice placed through the City's social media platforms.

Council's *Community Consultation and Engagement Policy* states that no public consultation is to be undertaken during the summer break, being the last Ordinary Meeting of Council in December to the first Ordinary Meeting of Council in February.

Based on the anticipated Council meeting schedule, this would mean that no consultation could occur between Tuesday 12 December 2017 and Tuesday 20 February 2018, unless otherwise directed by the Council.

Therefore, even if the EPA and the WAPC grant permission to advertise proposed Amendment No. 90, consultation on Amendments No. 88 and 90 will not commence until late February.

## COMMENT

It is not legally possible to modify Amendment No. 88 to include the portion of HOA1 west of Davallia Road, and Amendment No. 88 must be advertised in its current form. Therefore, a separate scheme amendment is required to meet the intent of Council's resolution at its meeting held on 21 November 2017 (CJ177-11/17 refers).

The effect of Amendments No. 88 and 90 would be to recode the area of HOA1 west of the Mitchell Freeway from R20/40 and R20/60 to R20/30. It is considered appropriate to advertise the amendments at the same time, and for Council to consider the submissions on the amendments together. It is also considered appropriate to request that the WAPC consider both amendments together, given that they apply to the same HOA, and with the intent that they essentially be one amendment.

Should Council initiate Amendment No. 90, it should be noted that the City has received advice that it would only be appropriate to give weight to the provisions of the amendment once there is certainty that the amendment will be approved.

## VOTING REQUIREMENTS

Simple Majority.

**MOVED Cr Dwyer, SECONDED Cr Hamilton-Prime that Council:**

- 1 Pursuant to section 75 of the *Planning and Development Act 2005* and Regulation 37(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, RESOLVES to proceed to advertise Scheme Amendment No. 90 to the *City of Joondalup District Planning Scheme No. 2* to:**
  - 1.1 amend the Residential Density Code Map to recode a portion of Housing Opportunity Area 1 from R20/40 and R20/60 to R20/30, as depicted at Attachment 2 to Report CJ193-12/17,**

**for the purpose of public advertising for a period of 60 days;**
- 2 Pursuant to Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* NOTES that Scheme Amendment No. 90 is a complex amendment as the proposal is not consistent with the *City of Joondalup Local Housing Strategy*;**

- 3 SUBMITS Scheme Amendment No. 90 to the Western Australian Planning Commission to advise if any modifications are required to the documents prior to advertising;
- 4 REQUIRES Amendments No. 88 and 90 to the *City of Joondalup District Planning Scheme No. 2* to be advertised for public comment at the same time and NOTES that, following the conclusion of the advertising period, the amendments will be considered by Council within the one report;
- 5 ADVISES the Western Australian Planning Commission that Council considers Amendments No. 88 and 90 to be addressing the same issue within Housing Opportunity Area 1, and REQUESTS that the amendments be considered together.

**AMENDMENT MOVED Cr Norman, SECONDED Cr Chester** that a new Part 6 be ADDED to the Motion to read as follows:

“6 *NOTES the requirements of the City’s Community Consultation and Engagement Policy with respect to consultation during the summer break and AGREES to proceed with public consultation as soon as possible even if commencement occurs before the first ordinary meeting of Council in February 2018.*”

**The Amendment was Put and**

**LOST (4/8)**

**In favour of the Amendment:** Crs Chester, Jones, Norman and Poliwka.

**Against the Amendment:** Mayor Jacob, Crs Dwyer, Hamilton-Prime, Hollywood, Logan, May, McLean and Taylor.

**The Motion as Moved by Cr Dwyer and Seconded by Cr Hamilton-Prime**

**Was Put and**

**CARRIED (12/0)**

**In favour of the Motion:** Mayor Jacob, Crs Chester, Dwyer, Hamilton-Prime, Hollywood, Jones, Logan, May, McLean, Norman, Poliwka and Taylor.