

# minutes

## Special Meeting of Council

MEETING HELD ON **TUESDAY 23 JANUARY 2018**

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# CITY OF JOONDALUP

**SPECIAL COUNCIL MEETING HELD IN THE COUNCIL CHAMBER, JOONDALUP CIVIC CENTRE, BOAS AVENUE, JOONDALUP ON TUESDAY 23 JANUARY 2018.**

## DECLARATION OF OPENING

The Mayor declared the meeting open at 7.00pm.

## ANNOUNCEMENT OF VISITORS

Nil.

### Mayor:

HON. ALBERT JACOB, JP

### Councillors:

CR NIGE JONES	North Central Ward
CR CHRISTOPHER MAY	Central Ward
CR RUSSELL POLIWKA	Central Ward – <i>Deputy Mayor</i>
CR CHRISTINE HAMILTON-PRIME	South-West Ward
CR MIKE NORMAN	South-West Ward
CR JOHN CHESTER	South-East Ward
CR JOHN LOGAN	South-East Ward
CR RUSS FISHWICK, JP	South Ward

*to 7.01pm*

### Officers:

MS DALE PAGE	Acting Chief Executive Officer
MR JAMIE PARRY	Director Governance and Strategy
MR CHRIS LEIGH	Acting Director Planning and Community Development
MR JOHN BYRNE	Acting Manager Governance
MR STUART McLEA	Media and Communications Officer
MRS LESLEY TAYLOR	Governance Officer
MRS DEBORAH GOUGES	Governance Officer

There were 50 members of the public and one member of the press in attendance.

## DECLARATIONS OF INTEREST

### Disclosure of Financial / Proximity 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.

<b>Name/Position</b>	<b>Cr Russ Fishwick, JP.</b>
<b>Item No./Subject</b>	JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.
<b>Nature of interest</b>	Financial Interest.
<b>Extent of Interest</b>	Cr Fishwick is a joint owner of a property in Housing Opportunity Area 1 and in particular west of Davallia Road.

### Disclosures 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.

<b>Name/Position</b>	<b>Cr John Chester.</b>
<b>Item No./Subject</b>	JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.
<b>Nature of interest</b>	Interest that may affect impartiality.
<b>Extent of Interest</b>	Cr Chester's daughter owns two properties within the area the subject of Amendment Nos. 88 and 90.

<b>Name/Position</b>	<b>Cr John Chester.</b>
<b>Item No./Subject</b>	JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.
<b>Nature of interest</b>	Interest that may affect impartiality.
<b>Extent of Interest</b>	Cr Chester owns a property in Housing Opportunity Area 1, but not within the area the subject of Amendment Nos. 88 and 90.

*Cr Fishwick left the Chamber at 7.01pm.*

**PUBLIC QUESTION TIME**

The following questions were submitted verbally at the Special Council meeting:

**Mrs S Thompson, Duncraig:**

*Re: JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.*

*Q1 Upon reading the current policies and practices it has found that once a scheme amendment has been advertised and reviewed by Council it becomes a seriously entertained planning proposal which means the amendment must be given due consideration for any future planning applications. Bearing this in mind, can Council then understand why the community want to advertise as soon as possible?*

**A1** Mayor Jacob advised that it is not the case that if the matter is being advertised it can be given such due consideration.

The Acting Chief Executive Officer stated that legal advice has been sought by the City on the matter and until the amendments are approved by the Minister they are unable to be taken into account.

*Q2 Is it the case that the amendments can only become a seriously entertained proposal once they have gone to the WA Planning Commission and been given approval?*

**A2** The Acting Chief Executive Officer advised that the City can only take the amendments into account once it is known for certain that approval has been given by the Minister for Planning and that the amendments will be gazetted.

The Acting Chief Executive Officer added that even if the amendments go for public consultation and Council adopts them as the final amendment, the amendments are still required to go to the WA Planning Commission, then a recommendation from the WA Planning Commission needs to be provided to the Minister for Planning and that during this process the City is not legally able to take into account the amendments when assessing and determining development applications until the City is certain the Minister for Planning will approve and gazette the amendments.

**Mr D Charron, Duncraig:**

*Re: JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.*

*Q1 Can I please get an explanation as to whether there will be an issue in the event that the draft Local Planning Scheme No. 3 (LPS3) is in place prior to completion of the amendment process. What steps will be taken by the City's Planning Department and Councillors to ensure there is no issue, thereby delaying the process further?*

**A1** Mayor Jacob advised the decision to be made at the Special Council Meeting this evening is in relation to the consultation process for Amendment Nos.88 and 90.

The Acting Chief Executive Officer advised that the City is unable to say whether there will be an issue with LPS3 as the City has no control over the scheme amendment process or the process for finalising a new scheme. The Acting CEO added that the scheme amendment and the scheme itself need to go through the Department for Planning, the WA Planning Commission and finally the Minister for Planning. There are no statutory timeframes linked to these processes, thus making it difficult for the City to say with absolute certainty if the new scheme will be approved and what

modifications, if any, the City will be required to make. The Acting CEO noted that the scheme in its current form has advanced too far through the process for the City to be able to intervene with LPS3 and insert any amendments.

**Mrs E O’Callaghan, Duncraig:**

*Re: JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.*

*Q1 Can a clause be included into Amendment Nos. 88 and 90 stating that the amendments will be captured by LPS3 or failing that, that they will not be held up or nullified by LPS3?*

*A1 The Acting Chief Executive Officer advised that the City is not legally able to initiate an amendment to the draft scheme, only to the current scheme. The new scheme has advanced through the process too far for further changes and the amendments requested are still required to be consulted on, a decision from Council sought and an assessment given by the Commission still needs to occur. Due to this, the City is unable to capture the amendments in draft LPS3.*

**Mr W Cosson, Duncraig:**

*Re: JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.*

*Q1 The requirement of the City’s Community Consultation and Engagement Policy are sighted as something Council should consider when deciding whether to allow advertising during the Council recess period. Where in the rules does it stipulate that this is not allowed?*

*A1 Mayor Jacob advised that it is Council’s position not to consult over the summer period unless the Council decides otherwise.*

*Q2 According to the policy Council can advertise over the summer recess, does that sound fair to you?*

*A2 Mayor Jacob stated it is the policy of Council not to do so unless it decides otherwise.*

**Mrs T White, Duncraig:**

*Re: JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.*

*Q1 Can the advertising material be reviewed by the lead petitioners prior to being sent out to the community to ensure that clear and unbiased information is provided, with an undertaking being given to return any comments within 24 hours?*

*A1 Mayor Jacob advised this could not occur.*

*Q2 Can the residents request that their Ward Councillor, Cr Russ Fishwick, JP be provided the opportunity to review the consultation materials prior to release to the community?*

*A2 Mayor Jacob advised that the materials will be released equitably to provide everyone the opportunity to view them at the same time.*

**Mr S Cole, Duncraig:**

Re: *JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.*

Q1 *Should I wish to make a complaint about inconsistency of advertising in terms of the fact that Duncraig south has not been advertised over the Christmas period, what is the process for lodging such a complaint?*

A1 Mayor Jacob advised that a letter can be sent to the City's Chief Executive Officer, as well as the Mayor outlining the complaint.

**Mr D Nicolson, Duncraig:**

Re: *JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.*

Q1 *As previously outlined property values are unable to be considered from a planning point of view. Why has the issue of reducing development potential which equates to property value been sighted as a consideration on this occasion?*

A1 Mayor Jacob advised that the question raised does not pertain to the matter which is before Council at the Special Council Meeting this evening and ruled the question out of order.

Mayor Jacob stated that Council is not at the meeting to debate the merits of Amendment Nos. 88 or 90, but to discuss the timing of the consultation and whether Council adheres to its existing policy or decides to go out to consultation earlier. Mayor Jacob advised that Council has already unanimously decided to support Amendment Nos. 88 and 90.

**Ms N Dangar, Beldon:**

Re: *JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.*

Q1 *Can I please have some clarification regarding the City of Joondalup's Community Consultation and Engagement Policy regarding the use of the word 'as' used in the following sentence 'as the CEO can actually consult on statutory planning issues'?*

A1 The Acting Chief Executive Officer advised that the wording of the policy allows the CEO to agree to the advertising of planning proposals over the summer break where there are statutory timeframes associated with them. Otherwise the Planning Commission can make the final decision or an applicant can appeal to the State Administrative Tribunal on the basis of a deemed refusal as the timeframe to assess the proposal had expired.

The Acting Chief Executive Officer stated that for processes where there is no statutory timeframe allocated to it in the legislation, the CEO is unable to agree to advertise and that then becomes a decision for Council as to whether it is necessary to consult over the Christmas period on a particular issue.

**PUBLIC STATEMENT TIME**

**The following statement was submitted verbally at the Special Council meeting:**

**Mrs S Thompson, Duncraig:**

*Re: JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.*

Mrs Thompson commented the community did not take exception to the consultation process being undertaken over the Christmas break, as in the past Council has previously advertised over that period, namely the original *Local Housing Strategy* in 2014 and more recently the draft *Local Planning Scheme No. 3*.

Mrs Thompson believed previous consultation processes had been flawed, insufficient information provided and requested that more comprehensive explanations be given, with the community being offered a 60 day timeframe in which to submit comments.

**Mrs T Walter, Duncraig:**

*Re: JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.*

Mrs Walter spoke in relation to consultation being undertaken over the Christmas break and the likelihood that the draft *Local Planning Scheme No. 3* (LPS3) would be enacted prior to Amendment Nos. 88 and 90 being approved and the ability to include those amendments as part of LPS3.

Mrs Walter urged Elected Members to expedite the process to allow advertising of the amendments immediately to ensure a favourable outcome for residents.

**Mr M Taylor, Duncraig:**

*Re: JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.*

Mr Taylor spoke in relation to advice given by the City that by undertaking consultation during the Christmas break, it introduced the risk that some community members may not have the opportunity to be properly engaged.

Mr Taylor commented that should the amendment be approved, it may reduce the development potential for property owners. He stated on previous information provided, property values were unable to be considered from a planning point of view and believed this should not be a consideration on this occasion either.



**Mr J Prince, Duncraig:**

*Re: JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.*

Mr Prince made reference to a request earlier in the meeting for members of the community to be given the opportunity to review the consultation material prior to it being published to ensure that the material contains comprehensive explanations in a clear and unbiased manner.

Mr Prince was of the opinion the material should provide an explanation of what the R-Codes mean, including an outline of the consequences of amalgamated blocks, with the differences between grouped and multiple dwellings being explained. In addition, the information should make the point that the new codes pertaining to apartments will change the rules again by allowing three storey developments in R40.

**Mrs M Cosson, Duncraig:**

*Re: JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.*

Mrs Cosson referred to correspondence received from Mayor Hon. Albert Jacob, JP in response to her statement relating to crossovers, car bays, entry and exit points with respect to 449, 451 and 453 Beach Road, Duncraig.

Mrs Cosson did not believe it was too late to reconsider or revoke planning approval previously granted, stating no building is being demolished, work has not started and currently the buildings are tenanted. The proposed building is below the crest of a hill which is dangerous with the steep downhill descent to Davallia Road and a set of traffic lights; making entry to and from the proposed buildings by residents, carers, cleaners and the like extremely dangerous, as well as to other road users.

Mrs Cosson urged the development not go ahead, believing the buildings would destroy the privacy of residents, the quiet ambience of the suburb and values of existing properties.

**Mr S Cole, Duncraig:**

*Re: JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.*

Mr Cole requested that the City take the opportunity to go out to its community to properly educate and neutrally ask what the community want in terms of their own areas.

## **APOLOGIES/LEAVE OF ABSENCE**

### **Apologies**

Cr Sophie Dwyer.  
Cr Kerry Hollywood.  
Cr Tom McLean, JP.  
Cr Philippa Taylor.

### **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**

Nil.

**REPORT****Disclosure of Financial / Proximity Interest**

<b>Name/Position</b>	<b>Cr Russ Fishwick, JP.</b>
<b>Item No./Subject</b>	JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.
<b>Nature of interest</b>	Financial Interest.
<b>Extent of Interest</b>	Cr Fishwick is a joint owner of a property in Housing Opportunity Area 1 and in particular west of Davallia Road.

**Disclosures of interest affecting impartiality**

<b>Name/Position</b>	<b>Cr John Chester.</b>
<b>Item No./Subject</b>	JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.
<b>Nature of interest</b>	Interest that may affect impartiality.
<b>Extent of Interest</b>	Cr Chester's daughter owns two properties within the area the subject of Amendment Nos. 88 and 90.

<b>Name/Position</b>	<b>Cr John Chester.</b>
<b>Item No./Subject</b>	JSC01-01/18 - Public Advertising of Scheme Amendment Nos. 88 and 90.
<b>Nature of interest</b>	Interest that may affect impartiality.
<b>Extent of Interest</b>	Cr Chester owns a property in Housing Opportunity Area 1, but not within the area the subject of Amendment Nos. 88 and 90.

## **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.

## **OFFICER'S 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.

Cr Poliwka indicated his intent to move an alternate motion previously circulated to Elected Members, that sought to amend Council's decision of 12 December 2017 (CJ193-12/17 refers).

## **CALL FOR ONE-THIRD SUPPORT**

Regulation 10 of the *Local Government (Administration) Regulations 1996* prescribes the following procedure for dealing with revoking or changing decisions made at Council or Committee Meetings:

*"If a decision has been made at a Council meeting, then any motion to revoke or change the decision must be supported by at least one-third of the number of offices (whether vacant or not) of members of the Council.*

*If supported by one-third of the members, then any decision to revoke a resolution of the Council is required to be passed by an Absolute Majority."*

Mayor Jacob called for support from one-third of the members of Council for the alternate motion to amend Council's decision at its meeting held on 12 December 2017 (CJ193-12/17 refers). Support was given by Crs Poliwka, Norman, Chester, May and Jones.

**MOVED Cr Poliwka, SECONDED Cr Chester that Council BY AN ABSOLUTE MAJORITY AMENDS** its decision dated 12 December 2017 (Item CJ193-12/17 refers) by adding three new parts as follows:

- “6     *NOTES the requirements of the City of Joondalup Community Consultation and Engagement Policy which states inter alia that;*
- “*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”;*
- 7     NOTES that a precedent has been set in relation to the *City of Joondalup Community Consultation and Engagement Policy* whereby the Council at its meeting held on 11 December 2012 when considering Item CJ289-12/12 – Revised Draft *Local Housing Strategy* - resolved to consult with landowners newly included within a Housing Opportunity Area with letters being sent out at the end of January and the land owners being requested to provide feedback by 22 February 2013;
- 8     AGREES to initiate public advertising of Amendment No. 90 and Amendment No. 88 to the *City of Joondalup District Planning Scheme No. 2* which is to commence immediately upon receipt of advice from the relevant statutory authorities even if that advice is received prior to the first ordinary meeting of Council to be held on 20 February 2018.”

**The Motion was Put with the following vote outcome**

**(5/3)**

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

**Against the Motion:** Mayor Jacob, Crs Hamilton-Prime and Logan.

As the motion required an absolute majority vote, being seven members of Council and this was not achieved, Mayor Jacob declared the motion **LOST**

*Appendix 1 refers*

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

## **CLOSURE**

There being no further business, the Mayor declared the meeting closed at 7.54pm the following Elected Members being present at that time:

MAYOR HON. ALBERT JACOB, JP  
CR NIGE JONES  
CR CHRISTOPHER MAY  
CR RUSSELL POLIWKA  
CR CHRISTINE HAMILTON-PRIME  
CR MIKE NORMAN  
CR JOHN CHESTER  
CR JOHN LOGAN