

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 18 DECEMBER 2018**

COMMENCING AT **6.00PM**

PURPOSE OF MEETING

The purpose of the meeting is to give consideration to the following Item:

- Proposed Shop and Warehouse/Storage at Lot 806 (11)
Injune Way, Joondalup.

GARRY HUNT
Chief Executive Officer
14 December 2018

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
17 December 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
PO Box 21 Joondalup WA 6919

www.joondalup.wa.gov.au

PROCEDURES FOR PUBLIC QUESTION TIME

The following procedures for the conduct of Public Question Time were adopted at the Council meeting held on 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.

Written questions should be sent via email to council.questions@joondalup.wa.gov.au

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.*

Civic Centre Emergency Procedures

The City of Joondalup values the health and safety of all visitors to City of Joondalup facilities. The following emergency procedures are in place to help make evacuation of the City of Joondalup Civic Centre safe and easy.

Alarms

The City of Joondalup emergency system has two alarm tones:

- Alert Tone (Beep... Beep... Beep)
- Evacuation Tone (Whoop...Whoop...Whoop)

On hearing the Alert Tone (Beep... Beep... Beep):

- DO NOT EVACUATE ON THIS TONE.
- Remain where you are.
- All designated Fire Wardens will respond and assess the immediate area for danger.
- Always follow instructions from the designated Fire Wardens.

On hearing the Evacuation Tone (Whoop...Whoop...Whoop):

- Evacuate the building immediately as directed by a Fire Warden or via the nearest safe exit.
- Do not use lifts.
- Remain calm and proceed to the designated Assembly Area (refer to site plan below).
- People with impaired mobility (those who cannot use the stairs unaided) should report to a Fire Warden who will arrange for their safe evacuation.
- Do not re-enter the building until authorised to do so by Emergency Services.



TABLE OF CONTENTS

ITEM NO.	TITLE	WARD	PAGE NO.
	DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS		viii
	DECLARATIONS OF INTEREST		vii
	PUBLIC QUESTION TIME		vii
	PUBLIC STATEMENT TIME		vii
	APOLOGIES AND LEAVE OF ABSENCE		viii
	IDENTIFICATION OF MATTERS FOR WHICH THE MEETING MAY BE CLOSED TO THE PUBLIC		viii
	REPORT		1
JSC03-12/18	PROPOSED SHOP AND WAREHOUSE/ STORAGE AT LOT 806 (11) INJUNE WAY, JOONDALUP	NORTH	1
	CLOSURE		11

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 18 December 2018** commencing at **6.00pm**.

GARRY HUNT
Chief Executive Officer
14 December 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 Tom McLean, JP.

Leave of Absence Previously approved

Cr Mike Norman	15 to 21 December 2018 inclusive;
Cr Christine Hamilton-Prime	20 December 2018 to 1 January 2019 inclusive;
Cr Christopher May	20 December 2018 to 2 January 2019 inclusive;
Mayor Hon. Albert Jacob	18 to 25 January 2019 inclusive;
Cr Russ Fishwick, JP	1 to 20 February 2019 inclusive;
Cr Sophie Dwyer	2 to 12 February 2019 inclusive.

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

REPORT**JSC03-12/18 PROPOSED SHOP AND WAREHOUSE/STORAGE
AT LOT 806 (11) INJUNE WAY, JOONDALUP**

WARD	North
RESPONSIBLE DIRECTOR	Ms Dale Page Planning and Community Development
FILE NUMBER	101954, 101515
ATTACHMENT	Attachment 1 Location plan Attachment 2 Development plans Attachment 3 Applicant's report Attachment 4 Retail sustainability assessment Attachment 5 Traffic impact statement
AUTHORITY / DISCRETION	Administrative - Council administers legislation and applies the legislative regime to factual situations and circumstances that affect the rights of people. Examples include town planning applications, building licences and other decisions that may be appealable to the State Administrative Tribunal.

PURPOSE

For Council to determine a development application for a 'shop' and 'warehouse/storage' at Lot 806 (11) Injune Way, Joondalup.

EXECUTIVE SUMMARY

An application has been received for approval of a fresh produce market (Spudshed) at Lot 806 (11) Injune Way, Joondalup.

The proposal was originally considered by the City as an 'unlisted use' in accordance with the City's *Local Planning Scheme No. 3* (LPS3), and a report was consequently prepared for Council's consideration at the December 2018 Council meeting, on that basis.

The City then received correspondence from lawyers, acting for Lend Lease, which challenged the City's land use interpretation and provided an opinion that the proposed use should be considered a 'shop'.

The City sought its own legal advice, which clarified it is more appropriate to consider the proposal as both a 'shop' and 'warehouse/storage' land use as defined under LPS3. Given the advice received, the item was withdrawn at the Ordinary Council meeting held on 11 December 2018 (CJ214-12/18 refers).

The reason the item was originally included in the agenda for the Ordinary meeting of Council in December 2018 was that there is no delegated authority for determination of applications for unlisted uses.

Now that the proposal is no longer considered an ‘unlisted use’, the delegation to determine the application rests with the Director Planning and Community Development and Manager Planning Services. Notwithstanding this, in this exceptional circumstance, the item is being presented back for Council’s consideration and determination as it is considered orderly and proper governance for Council to determine the application given its original inclusion on the Council agenda.

The application was not advertised as part of the assessment process and is not considered to impact any adjoining or surrounding landowners/occupiers.

It is considered that, notwithstanding the change in land use categorisation, this does not affect the planning merits of the proposal as the proposal complies with the objectives and provisions of the City’s LPS3 and the City’s *Joondalup Activity Centre Plan* (JACP). As a result, it is recommended that Council approves the application.

BACKGROUND

Suburb/Location	Lot 806 (11) Injune Way, Joondalup.
Applicant	Planning Solutions.
Owner	Hydrox Nominees Pty Ltd.
Zoning	LPS3 Centre.
	MRS City Central.
Site area	44,260m ² .
Structure plan	Joondalup Activity Centre Plan.

Lot 806 (11) Injune Way, Joondalup (subject site) is bound by Joondalup Drive to the north-east, Injune Way to the north-west, Honeybush Drive to the south-west and Sundew Rise to the south-east (Attachment 1 refers).

The subject site is zoned ‘Central City’ under the *Metropolitan Region Scheme* (MRS), ‘Centre’ under LPS3 and is located within the ‘Joondalup West’ precinct of the City’s JACP.

The land uses ‘shop’ and ‘warehouse/storage’ are identified as discretionary (“D”) uses under LPS3.

DETAILS

The application proposes the following:

- Change of use for 4,025m² gross floor area (GFA) of the existing former Masters building from ‘bulky goods showroom’ to ‘shop’ and ‘warehouse/storage’, to facilitate the operation of a ‘Spudshed’ from the premises.
- Includes the retail sale and wholesale of fresh food products.
- Proposed to operate 24 hours per day, seven days a week.
- No more than 25 employees will occupy the Spudshed at any given time.
- Customer access to the tenancy to be provided via an internal mall approved via a previous application.
- Waste will be stored and collected via the existing waste area located at the rear of the building.
- An average of 12 deliveries per day for the Spudshed tenancy which will occur via the existing service area located to the south-western side of the building.
- No material changes to the building elevations, landscaping, vehicle access or car parking are proposed as part of this application.

The proposal generally complies with the relevant standards and requirements of the City's LPS3 and JACP, with further detail included below on the following matters:

Classification and appropriateness of land use

Original classification as an 'unlisted use'

The City initially considered the proposal to be an 'unlisted use' because the operations of a Spudshed do not fall neatly into any existing land use definition in LPS3. The most closely related land uses were considered to be 'Bulky goods showroom' and 'Shop', but neither of these land use definitions were considered entirely appropriate for the use proposed.

A **bulky goods showroom** is defined under LPS3 as:

"a) *used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purpose –*

- i) Automotive parts and accessories;*
- ii) Camping, outdoor and recreation goods;*
- iii) Electric light fittings;*
- iv) Animal supplies including equestrian and pet goods;*
- v) Floor and window coverings;*
- vi) Furniture, bedding, furnishings, fabrics, Manchester and home wares;*
- vii) Household appliances, electrical goods and home entertainment goods;*
- viii) Party supplies;*
- ix) Office equipment and supplies;*
- x) Babies and children goods including play equipment and accessories;*
- xi) Sporting, cycling, leisure, fitness goods and accessories;*
- xii) Swimming pools;*

and,

b) *used to sell by retail goods and accessories by retail if –*

- i) a large area is required for the handling, display or storage of the goods; or*
- ii) vehicular access is required to the premises for the purpose of collection of purchased goods."*

A **shop** is defined under LPS3 as:

"premises other than a bulky goods showroom, a liquor store – large or a liquor store – small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services."

In light of the above, the proposal was not considered a bulky goods showroom as it does not sell any of the goods listed in part a) of the definition under LPS3. In addition, the proposal sells fresh food products retail and wholesale, with a typical split of 75% retail and 25% wholesale. The majority of goods sold are primary produce (meat, vegetations, dairy, etc) and are displayed in bulk/large format. Therefore, all activities of the proposal did not comfortably fall within a shop land use definition either.

The City therefore considered it most appropriate that the proposal be considered an 'unlisted use'.

Legal advice received

After presentation of the item at the Briefing Session on 4 December 2018, but ahead of the Council meeting held on 11 December 2018, the City received correspondence from Moharich and More, lawyers acting on behalf of Lend Lease.

This correspondence requested that the Council defer consideration of the application to allow for investigation of the following matters:

- The failure to advertise the proposal.
- The failure to characterise the proposed land use as a 'shop'.
- The failure to consider whether the proposed use of the land as a shop would satisfy the requirements of the *Joondalup Activity Centre Plan* which requires land uses in the Joondalup West precinct to 'complement' the City Centre precinct.

The view expressed in the correspondence from Moharich and More is that the proposal is inconsistent with the Joondalup West precinct, and the application should be deferred to allow Lend Lease the opportunity to review the Retail Sustainability Assessment received as part of the application and to make a more detailed submission on the matter.

The City consequently sought its own legal advice, which outlined that the proposal should not be classified as an 'unlisted use' (as per the City's interpretation), but also not entirely as a 'shop' (as per the Lend Lease interpretation). Instead, the City's legal advice concluded the most appropriate land use classification(s) for the proposal are both a 'shop' and 'warehouse/storage' land use given that the applicant's Retail Sustainability Assessment indicates that 75% of the Spudshed sales will be retail and the remaining 25% will be wholesale (for example to restaurants, cafes, schools).

The legal advice explained that although the internal layout of the tenancy does not differentiate separate areas to be used for retail and wholesale sales, this is not necessary for there to be two applicable land uses. Instead, two uses can occupy the same space and share facilities without requiring the uses to be merged into a single hybrid use for the purposes of land use classification.

Appropriateness of land use

A 'shop' is defined under LPS3 as:

"premises other than a bulky goods showroom, a liquor store – large or a liquor store – small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services."

A 'warehouse/storage' is defined under LPS3 as:

"premises including indoor or outdoor facilities used for:

- (a) The storage of goods, equipment, plant or materials; or*
- (b) The display or sale by wholesale of goods."*

Both a 'shop' and 'warehouse/storage' are discretionary ("D") uses under LPS3, which means the use is not permitted unless the local government has exercised its discretion by granting development approval.

Officer comment

As a 'shop' and 'warehouse/storage' are both "D" uses, the Council is being asked to consider and determine the appropriateness of the proposed development, taking account of the objectives of LPS3 and the City's *Joondalup Activity Centre Plan (JACP)*.

In accordance with clause 16 – Zones under LPS3, the objectives for the Centre zone are as follows:

- *"To designate land for future development as an activity centre.*
- *To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme or the Activity Centre States Planning Policy."*

As the Centre zone objectives under LPS3 relate to the preparation of an activity centre plan, it is considered appropriate to consider the land use against the objective of the 'Joondalup West' precinct under the City's *Joondalup Activity Centre Plan (JACP)* specifically, which states the following:

- "a) Provide a location for businesses with larger floor space requirements such as showrooms and bulky goods premises which complement the City Centre."*

The proposal includes the large format display of goods, particularly fresh produce, which is larger scale in terms of its gross floor area; being over 4,000m². The use also requires aisle widths typically much wider than a supermarket to accommodate pallet jack manoeuvring of 500kg farm bins for display of these goods. Therefore, the activities are of a size and scale appropriate within Joondalup West precinct.

The proposed activities of a 'Spudshed' do not generally lend itself to the pedestrian orientated City Centre precinct within the JACP due to the typical low-intensity built form required to facilitate the business, the number of deliveries (average of 12 per day), demand for car parking and the extent of storage required. As a result, its positioning within the Joondalup West precinct is appropriate in order to complement and ensure its operations do not impact the desired built form, intensity and pedestrian environment of the City Centre precinct.

As a result, it is considered that the proposed 'shop' and 'warehouse/storage' land use is consistent with the objectives of the Joondalup West precinct under the JACP and is appropriate in this instance.

Retail Sustainability Assessment (RSA)

The subject site is located within the Joondalup Activity Centre, which is identified as a strategic metropolitan centre under *State Planning Policy 4.2: Activity Centres for Perth and Peel (SPP4.2)*.

The applicant has provided a Retail Sustainability Assessment (Attachment 4 refers) to ensure the proposal is consistent with the intent and relevant requirements of SPP4.2 and that the business will not have any undue impact on the strategic metropolitan centre as a whole.

Officer comment

The RSA prepared by Pracsys has been reviewed by the City and utilises a retail gravity model to arrive at the likely impact of the proposed retail establishment on other retail establishments in the region. This is considered to be usual practice and is consistent with the methodology employed in the City's Local Commercial Strategy that estimates long term retail floorspaces for all activity centres in the City using a gravity model.

The floorspace of 4,025m² will house bulk supermarket products such as fresh produce and will have a wide catchment of around 15km. The retail offering will not include a full range of convenience products usually found at neighbourhood centres, so it is not a direct competitor of general supermarkets over a full range of goods. The economic benefits indicate an additional 226 FTE jobs will be generated in total by the operation (includes 80 direct and 146 indirect).

In terms of impact, a number of sources and assumptions have been used to calibrate the model and are all considered reasonable and appropriate. The use of actual Spudshed turnover from other centres has been used to determine an estimated turnover for the proposed Joondalup development of \$21.6 million per annum (year one). The impacts on other centres catering for predominantly household demand assume that the Spudshed will cater for 75% retail and 25% wholesale (such as cafes and restaurants). As a result, the impacts on other centres are estimated to be below 2%, which is well below the industry benchmark of 10%. The RSA indicates it is likely that any impacts of the additional retail floorspace will be absorbed relatively quickly by the market due to natural growth of households in the catchment.

Overall, the assumptions and model used in the RSA are considered appropriate, and the impact of the business on turnover at other activity centres is less than 2%, which is well below the industry benchmark. It is also important to note that “free-market” competition between other surrounding businesses is not a valid planning consideration. The RSA instead focuses on the potential impact of the business on other surrounding activity centres and ensures the addition retail floorspace does not disrupt the wider centre hierarchy identified under SPP4.2.

Parking

In accordance with clause JW5 – *car parking and access* of the Joondalup West Precinct under the JACP, all non-residential development requires one car parking bay for every 75m² of NLA.

Officer Comment

The existing free-standing buildings (excluded from this application) on-site equate to 4,746m² of floor space, with 11,892m² of NLA proposed within the former Masters building. As a result, a total of 222 (221.84) car parking bays are required onsite in accordance with the City’s JACP.

As a total of 578 car parking bays are existing onsite, the site has a surplus of 356 car parking bays and therefore complies with the car parking standard under the JACP.

Issues and options considered

Council is required to determine the appropriateness of the discretionary land uses and may determine an application for development approval by:

- granting development approval without conditions
- granting development approval with conditions
- or
- refusing to grant development approval.

Legislation / Strategic Community Plan / policy implications

Legislation *City of Joondalup Local Planning Scheme No. 3 (LPS3).
Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations).
Joondalup Activity Centre Plan (JACP).*

Strategic Community Plan

Key theme Quality Urban Environment

Objective Quality built outcomes

Strategic initiative Building and Landscape is suitable for the immediate environment and reflect community values.

Policy None applicable.

City of Joondalup Local Planning Scheme No. 3 (LPS3)

Clause 16(2) – Table 2 Zone Objectives of LPS3

Centre Zone

- *To designate land for future development as an activity centre.*
- *To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme or the Activity Centre States Planning Policy.*

Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations).

Clause 67 of Schedule 2 of the Regulations sets out the matters to be considered by Council when determining an application for development approval.

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —

- (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (c) any approved State planning policy;*
- (d) any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);*
- (e) any policy of the Commission;*
- (f) any policy of the State;*
- (g) any local planning policy for the Scheme area;*

- (h) *any structure plan, activity centre plan or local development plan that relates to the development;*
- (i) *any report of the review of the local planning scheme that has been published under the Planning and Development (Local Planning Schemes) Regulations 2015;*
- (j) *in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;*
- (k) *the built heritage conservation of any place that is of cultural significance;*
- (l) *the effect of the proposal on the cultural heritage significance of the area in which the development is located;*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following —*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*
- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
- (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslide, bush fire, soil erosion, land degradation or any other risk;*
- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*
- (s) *the adequacy of —*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *the availability and adequacy for the development of the following —*
 - (i) *public transport services;*
 - (ii) *public utility services;*
 - (iii) *storage, management and collection of waste;*
 - (iv) *access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
 - (v) *access by older people and people with disability;*

- (v) *the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
- (w) *the history of the site where the development is to be located;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*
- (za) *the comments or submissions received from any authority consulted under clause 66;*
- (zb) *any other planning consideration the local government considers appropriate.*

Joondalup Activity Centre Plan

Clause 1.5.5.1 - Joondalup West Objective:

- a) *Provide a location for businesses with larger floor space requirements such as showrooms and bulky goods premises which complement the City Centre.*

Risk management considerations

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

Financial / budget implications

The applicant has paid fees of \$295.00 (excluding GST) in accordance with the Schedule of Fees and Charges, for assessment of the application.

Regional significance

Not applicable.

Sustainability implications

As the application is for a change of land use to an existing building, an Environmentally Sustainable Design Checklist is not necessary in this instance.

Consultation

Contrary to the position outlined in the correspondence from Moharich and More, in accordance with Schedule 2, Part 8, clause 64(1) of the *Regulations*, the proposal is not required to be advertised for public comment due to the following:

- It does not relate to a non-conforming use.
- It is not an unlisted use which may not comply with the objectives of LPS3.
- It complies with the requirements of LPS3.
- It does not require a heritage assessment.
- It is not listed as a land use which requires advertising under LPS3.

It is considered that the use of an existing building and parking area for the proposed new uses will not unduly impact on neighbouring properties or the surrounding area generally.

Given this, it was not considered necessary or appropriate to advertise the proposal.

COMMENT

Moharich and More, on behalf of Lend Lease, requested that Council defer consideration of this application to allow time for Lend Lease to prepare its own RSA and then make a more detailed submission on the proposal under consideration.

This not considered reasonable given the findings of the RSA done by Pracsys, in support of the proposed new use, which indicate the proposal will not have undue negative impact on the hierarchy of centres under *State Planning Policy 4.2: Activity Centres for Perth and Peel* (SPP4.2) and will not unduly impact on the Joondalup Activity Centre as a whole.

The proposed 'shop' and 'warehouse/storage' is considered to be consistent with the objectives of the JACP and will not impact on any surrounding landowners or the streetscape.

The application is therefore recommended for approval, subject to conditions.

VOTING REQUIREMENTS

Simple Majority.

RECOMMENDATION

That Council APPROVES under clause 68(2) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* of the application for development approval, dated 6 September 2018 submitted by Planning Solutions, on behalf of the owners, Hydrox Nominees Pty Ltd., for a proposed 'Shop' and 'Warehouse/storage' (Fresh Produce Market) at Lot 806 (11) Injune Way, Joondalup, subject to the following conditions:

- 1 This approval relates to the proposed 'Shop' and 'Warehouse/storage' (fresh produce market) in tenancy 2 only as indicated on the approved plans. It does not relate to any other development on the lot;**
- 2 A Delivery and Waste Management Plan indicating the timing, location and method of deliveries and waste collection shall be submitted to the City and approved prior to occupation of the tenancy. Delivery and waste management shall then be undertaken in accordance with the approved plan;**
- 3 The subject tenancy shall not be used for any purpose other than a 'Shop' and 'Warehouse/storage' (fresh produce market) without further development approval from the City.**

Appendix 1 refers

To access this attachment on electronic document, click here: [Attach1agn181218.pdf](#)

CLOSURE

APPENDICES

ITEM NO.	TITLE	APPENDIX NO.	STAMPED PAGE NO.
JSC03-12/18	PROPOSED SHOP AND WAREHOUSE/ STORAGE AT LOT 806 (11) INJUNE WAY, JOONDALUP	1	
	Attachment 1 Location plan		1
	Attachment 2 Development plans		2
	Attachment 3 Applicant's report		4
	Attachment 4 Retail sustainability assessment		27
	Attachment 5 Traffic impact statement		56



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

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

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

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

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

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



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

NAME

ADDRESS

QUESTIONS

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

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

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

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

STATEMENT

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

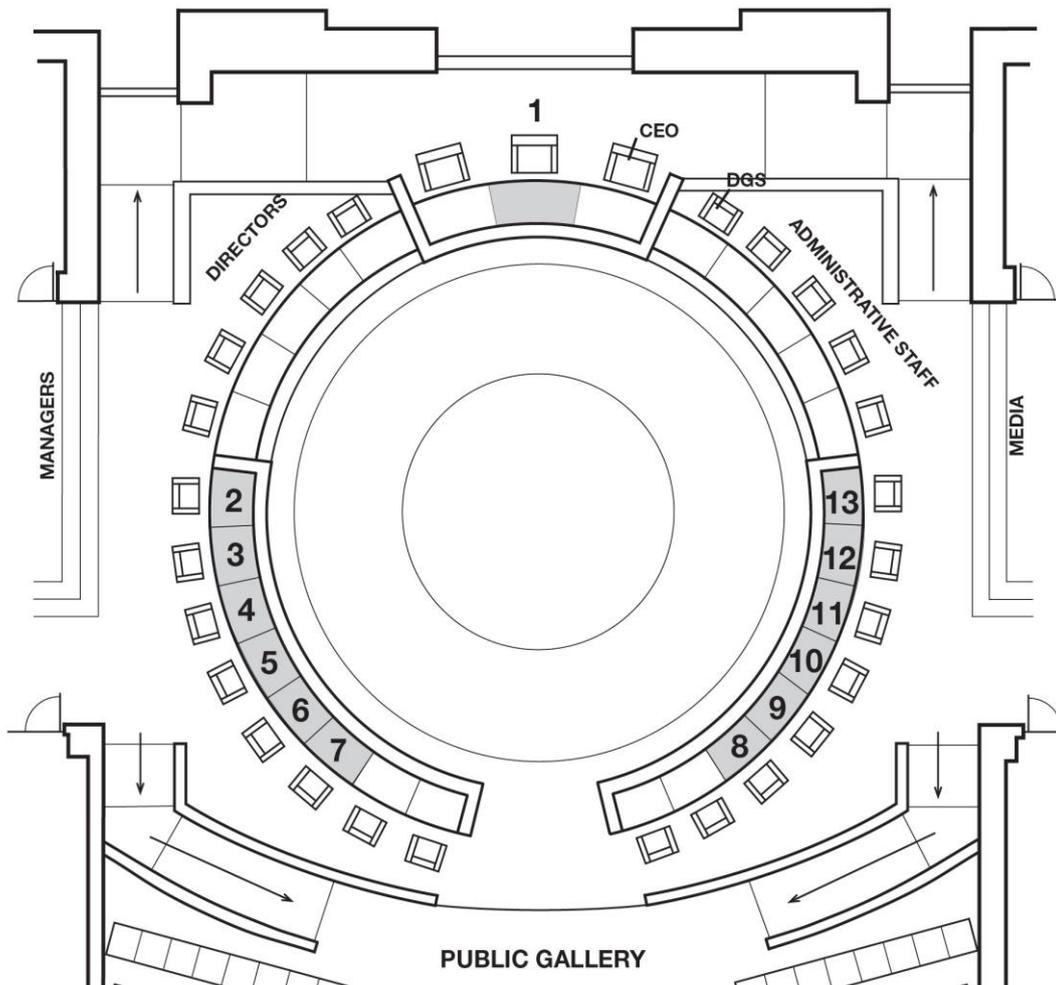
.....

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)